

## Sociolegal Seminar Reading List

Fall 2009  
Professor Sally Engle Merry  
New York University

The Sociolegal Seminar provides an introduction to social scientific scholarship on law and legal institutions, using sociolegal theory and method as a way of understanding the law. It joins legal and social scientific approaches, drawing primarily from sociology, anthropology, history, and political science. This course covers many of the basic theoretical issues and debates in the field of sociolegal studies and explores some of the methodologies of the discipline.

The course begins with an intellectual history of the field and includes many of the classic articles and books. It also examines its major contemporary debates and some of the recent literature. Topics include courts and disputing, crime and justice, the legal profession, legal culture and legal consciousness, race/class/gender dimensions of law, law and colonialism, legal pluralism, and human rights and transnational law. Methodologically, the course will examine qualitative methods such as interviewing and ethnography and the analysis of narratives. The law and society field exam reading list provides a longer set of readings for the materials this course will cover. The course is open to law students and social science graduate students.

### Required Books

Feeley, Malcolm. (1979) 1992 reprint. *The Process is the Punishment: Handling Cases in a Lower Criminal Court*. New York: Russell Sage.

Merry, Sally Engle. 1990. *Getting Justice and Getting Even*. Chicago: University of Chicago Press.

McCann, Michael. 1994. *Rights at Work: Pay Equity Reform and the Politics of Legal Mobilization*. Chicago: University of Chicago Press.

Tyler, Tom. 2006 (1990). *Why People Obey the Law*. Princeton, NJ: Princeton University Press.

Valverde, Mariana. 1998. *Diseases of the Will: Alcohol and the Dilemmas of Freedom*. Cambridge: Cambridge Univ. Press.

Goodale, Mark and Sally Engle Merry, eds. 2007. *The Practice of Human Rights*. Cambridge: Cambridge Univ. Press.

Law review articles are available on Lexis/Nexus or Hein Online.

### **Law on the Books and Law in Action**

Roscoe Pound, 1910. "Law in Books and Law in Action." 1910. *American Law Review* 44: 12.

Lon Fuller, 1934. "American Legal Realism." *Univ. of Pennsylvania Law Review* 82: 429.

Stuart Macaulay. 1963. "Non-Contractual Relations in Business." *American Sociological Review* 28: 55.

Mnookin, Robert and Lewis Kornhauser. 1979. "Bargaining in the Shadow of the Law: The Case of Divorce." *Yale Law Journal*. Vol. 88(5):950-997.

Read sections from the Symposium: "The New Legal Realism", 2006. *Law and Social Inquiry* 31 (4): 797-997.

### **The Disputing Process**

Felstiner, William L.F., Richard L. Abel and Austin Sarat. 1981. "The Emergence and Transformation of Disputes: Naming, Blaming, Claiming." *Law and Society Review*. Vol. 15(3/4):631-654.,

Galanter, Marc. 1983. "Landscape of Disputes: "What We Know and Don't Know (and Think We Know) About Our Allegedly Contentious and Litigious Society." *University of California at Los Angeles Law Review*. Vol. 31:5-71.

Merry, Sally Engle. 1990. *Getting Justice and Getting Even*. Chicago: Univ. of Chicago Press.

### **Legal Pluralism and the Nature of Law**

Malinowski, Bronislaw. 1926. *Crime and Custom in Savage Society*, Part I.

Moore, Sally Falk. 1973. "Law and Social Change: The Semi-Autonomous Social Field as an Appropriate Subject of Study," *Law and Society Review*. Vol. 7(4):719-746.

Merry, Sally Engle. 1988. "Legal Pluralism." *Law and Society Review*. Vol.22(5): 869-896.

Roberts, Simon. 1998. "Against Legal Pluralism." *Journal of Legal Pluralism*. Vol. 42:95-106.

Wilson, Richard A. 2000. "Reconciliation and Revenge in Post-Apartheid South Africa: Rethinking Legal Pluralism and Human Rights." *Current Anthropology* 41: 75-98.

### **Marxist Theories of Law and Resistance**

Maureen Cain and Alan Hunt. *Marx and Engels on Law*. Chs. 2 and 3 to p. 81.

E. P. Thompson. 1973. "The Rule of Law." From *Whigs and Hunters: The Origins of the Black Act*.

Elizabeth Mertz and Mindie Lazarus-Black, 1994. "Introduction." *Contested States*. New York: Routledge.

### **Legal Culture and Legal Consciousness**

Ewick, Patricia and Susan Silbey. 1998. *The Common Place of Law*. Chicago: University of Chicago Press. Part I.

Nielsen, Laura Beth. 2000. "Situating Legal Consciousness: Experiences and Attitudes of Ordinary Citizens About Law and Street Harassment." *Law and Society Review*. Vol. 34(4):1055-1090.

Silbey, Susan. 2001. "Legal Culture and Legal Consciousness" *International Encyclopedia of Social and Behavioral Sciences*.

Silbey, Susan. 2005. "After Legal Consciousness." *Annual Review of Law and Social Science* 1: 323-68.

### **Rights and Rights Mobilization**

McCann, Michael. 1994. *Rights at Work: Pay Equity Reform and the Politics of Legal Mobilization*. Chicago: University of Chicago Press. Introduction and selected chapters.

Recommended:

Scheingold, Stuart. 2004. *The Politics of Rights: Lawyers, Public Policy and Political Change*. Ann Arbor, Mich.: University of Michigan Press.

### **Courts, the Legal Profession, and Inequality**

Feeley, Malcolm. (1979) 1992 reprint. *The Process is the Punishment: Handling Cases in a Lower Criminal Court*. New York: Russell Sage.

Hagan, John and Ron Levi. 2005. "Crimes of War and Force of Law." *Social Forces*. Vol. 83(4):1499-1534.

### **Human Rights and International Law**

Goodale, Mark and Sally Engle Merry, eds. 2007. *The Practice of Human Rights*. Cambridge: Cambridge Univ. Press.

### **The Social Psychology of Compliance**

Tyler, Tom. 2006 (1990). *Why People Obey the Law*. Princeton, NJ: Princeton University Press.

### **Governmentality**

Foucault, Michel, "Governmentality.", Chapter 4 in *The Foucault Effect*.

O'Malley, Pat. 1999. "Governmentality and the Risk Society." *Economy and Society* 28: 138-148.

Valverde, Mariana. 1998. *Diseases of the Will: Alcohol and the Dilemmas of Freedom*. Cambridge: Cambridge Univ. Press.

Scott, James. 1998. "State Projects of Legality and Simplification" in *Seeing Like a State*. New Haven, Conn.: Yale University Press.

## **Law , Development, and Social Change**

- Trubek, David and Marc Galanter. 1974. "Scholars in Self-Estrangement: Some Reflections on the Crisis in Law and Development Studies in the United States." *Wisconsin Law Review*. Vol. 4:1062-1102.
- Corothers, Thomas (ed.) 2006. *Promoting the Rule of Law Abroad*. Carnegie Endowment for International Peace. Part I: Framing the Challenge. Pp. 1-30.
- Upham, Frank. 2006. "Mythmaking in the Rule-of-Law Orthodoxy." In *Promoting the Rule of Law Abroad*. Carnegie Endowment for International Peace. Pp. 75 – 105.
- Weilenmann, Markus. 2009. "Project Law – A Power Instrument of Development Agencies: A Case Study from Burundi." In *The Power of Law in a Transnational World: Anthropological Enquiries*. Ed by Franz von Benda-Beckmann, Keebet von Benda-Beckmann, and Anne Griffiths. New York: Berghahn Books.
- Rajagopal, Balakrishnan. 2007. "Invoking the Rule of Law: International Discourses."
- Comaroff, John and Jean. 1991. *From Revelation to Revolution, Vol. I*. Introduction.
- Davis, Kevin E. and Michael B. Kruse. 2007. "Taking the Measure of Law: The Case of the *Doing Business* Project." *Law and Social Inquiry* 32 (4): 1095-1119.