Department of Sociology
Faculty of Social Sciences
South Asian University - New Delhi

Sociology of Law
(Optional Course for MA)
Total Credits: 04

Objectives of the Course

Max Weber, in his magnum opus ‘Economy and Society’, distinguished between two approaches of studying law in terms of their differing objectives. The jurist, assuming the empirical validity of the legal propositions, examines each of them and tries to determine its logically correct meaning in such a way that all of them can be combined in a system which is logically coherent, i.e., free from internal contradictions. The sociologist, on the other hand, contemplates the interconnections of human activities as they actually take place. As Weber explains, “one exists in the ideal realm of the ‘ought,’ while the other deals with the real world of the ‘is.’” This course will focus on the latter approach: but will supplement it by examining the underpinnings of the former. The aim will be to develop tools to analyze and interrogate the intersections of the normative and the empirical.

In this course we will first examine classic debates about the nature of modern law in social theory. We then move on to the contemporary sociology of law tradition, focusing on classic legal ethnographies and some central debates of legal anthropology. We will also briefly examine the sociological tradition within legal academia. Next, we will study modern law in its colonial avatar, focusing on its South Asian history. These three modules will prepare the ground for our principal and final object of study: sociological studies of law in South Asia.

Selected portions will be prescribed from these prescribed texts for the course.

Unit I. Law and modern social theory:

This module will focus on the intersections of law with modern social theory. There will be three principal components. The first will deal with the concerns vis-à-vis law of classical social theory -- Marx, Weber and Durkheim—its central problem being understanding the role of law in the rise of modernity and capitalism as well as examining the peculiarly modern nature of the new legal form. The second component will concentrate on Foucault’s insights on proliferation of disciplinary norms in the modern era and their relation to the juridical institutional fields. And the third component will examine the Weimar era writings on law and the state of exception by Walter Benjamin and Carl Schmitt, and will then revisit these key texts through their influential re-readings by Derrida and Agamben.


Nikolas Rose and Mariana Valverde. 1998 “Governed by law?”, *Social & Legal Studies* vol. 7 no. 4 541-551


**Unit II. The traditions of sociology of law**

This module will introduce some key traditions of doing sociological research on law, particularly the ethnographic approach. There will be broadly four components in this module. We will first read some classic ethnographies in this field- studying both the “rule-centred” and “processual” approaches to legal ethnography. We then move on to more contemporary legal ethnographies with discursive and genealogical concerns being foregrounded. In our third module, we will study the tradition of sociological study of law within legal academia, with its formulation of ‘sociological jurisprudence’ and the American ‘law and society’ approach. In our fourth and fifth module, we will tackle two key areas of debate that sociology of law has had to respond to — the issue of Legal pluralism and popular justice; and human rights versus cultural relativism.


Merry, Sally Engle. 1998. “Legal Pluralism,” 22 Law and Society Review 894


Unit III. Law, History and Colonialism

This module will focus on the modern history of law outside the West, as framed by the colonial encounter. The legitimacy of the colonial rule of law was continually reframed by the dialectic of finding law in the colonies (religious or customary law) and giving law to the colonies (codification)- and the readings will reflect on this tension. While the focus will be on South Asian legal history, analogous debates in Africa will also be studied. The aim will be to trace the genealogy of legal concepts that continue to over-determine the postcolonial present: in particular customary and religious personal law.


Unit IV. Sociology of law in South Asia

This course will culminate with its main focus: sociological research on law in South Asia. In this
module, we will study ethnographies from throughout the region. Two main concerns emerge: the project of the postcolonial state to reconfigure social relations through law with its impact on gender, caste and community; and statist attempts to deal with popular justice forms and experiments to revive them.


