

ANTHROPOLOGY AND LAW, Paper S8 2008 Alan Macfarlane

LENT TERM 2008 The History of Legal Anthropology

Lecture 1: groundwork for the comparative study of law

Definitions of law, its nature and functions; difficulties of comparing legal systems, formalist, substantivist, etic and emic; some attempted solutions to provide a comparative framework; the 'reasonable man' as an answer; the great divide, status and contract (embedded and separated); some implications of the great divide; separation and rule of law; equality before law; individual rights.

Lecture 2: correlations and implications of socio-legal structures

Aims of justice; role of judge; finality of decisions; enforcement of decisions; relevance and separation of spheres; evidence and witnesses; truth and fact; the role of juries.

General:

- Bohannan,P.(ed.) *Law and Warfare* (1967).
Bohannan,P. *Social Anthropology* (1969) (sections on law)
Cardozo,B. *The Nature of the Judicial Process* (1922).
Diamond,A.S. *Primitive Law, Past and Present* (1971).
Gluckman,M. *Politics, Law and Ritual in Tribal Society* (1965).
Geertz, C. 'Fact and Law in Comparative Perspective' in *Local Knowledge* (1983)
H.L.A.Hart, *The Concept of Law* (1961)
Hoebel,E.A. *The Law of Primitive Man* (1954).
Kradler,L.(ed.) *Anthropology and Early Law* (1966).
Maine,Henry. *Ancient Law* (various edns from 1861).
Malinowski,B. *Crime and Custom in Savage Society*(1926).
Moore, S.F. 'Law and Anthropology', in *Biennial Review of Anthropology* (1969).
Nader, L.(ed.) *Law in Culture and Society* (1969).
Nader, L. & Todd (eds.), *The Disputing Process...*(1978).
Pound, Roscoe, *Introduction to the Philosophy of Law* (2nd edn, 1954).
Radcliffe-Brown, A.R. *Structure and Function in Primitive Society* (1952), chs. 11,12
Roberts,Simon, *Order and Dispute* (1979).
Roberts, Simon, 'Law and Dispute Processes' in *Companion Encyclopedia of Anthropology* (ed. T.Ingold, 1994)
Starr, June & Collier, Jane F. (eds.) *History and Power in the Study of Law: New Directions in Legal Anthropology*. (1989)

Some classic case studies

- Bohannan,P. *Justice and Judgment among the Tiv* (1957).
Fallers,L.A. *Law without Precedent* (1969).
Gluckman,M. *The Judicial Process among the Barotse...*(1955).
Llewellyn K. & Hoebel, E.A., *The Cheyenne Way* (1953).
Rosen, L. *The Anthropology of Justice; law as culture in Islamic society* (1989).