

Law and Society and Human Rights

Recommended Level of Instruction: This assignment is designed for an upper-level, political science class about the sociolegal field of “Law and Society.” The assigned readings do not assume familiarity with political science (all are written by anthropologists) or human rights. The assignment is intended to come near the end of the semester as a means of applying concepts from the entire semester. Given that many of the articles are about the rights of women, children, and sexual minorities, this lesson can be easily adopted for classes on these topics, or on women’s rights more specifically.

Keywords: law and society; women’s rights; sexual rights; CEDAW; legal consciousness

Objectives: Students will be able to integrate ideas from Law and Society to the problems involved in the study and implementation of human rights. Students will be able to evaluate human rights issues with core concepts from Law and Society.

Reading(s)/ Material(s):

Merry, Sally Engle. 2006. “Transnational Human Rights and Local Activism: Mapping the Middle.” *American Anthropology* 108(1): 38-51.

Merry, Sally Engle. 2003. “Constructing a Global Law – Violence Against Women and the Human Rights System.” *Law & Social Inquiry* 28(4): 941-77.

Murray, David A.B. 2006. “Who’s Right? Human Rights, Sexual Rights and Social Change in Barbados.” *Health & Sexuality* 8(3): 267-81.

Synopsis of Material: The readings offer studies of human rights consistent with a Law and Society perspective. Merry’s “Transnational Human Rights and Local Activism” serves as an overview that addresses the process of internalizing and interpreting international human rights norms. Merry’s other piece on “Constructing a Global Law ...” focuses explicitly on CEDAW and the issue of women’s rights. Merry argues that although CEDAW does not have an enforcement mechanism, that the reporting requirements cause countries to reflect upon their own practices, and this reflection can help to shape human rights practices. Finally, Murray’s piece looks at the struggle for “sexual rights” in Barbados. Murray asks the difficult question, is rights talk and rights claiming the most appropriate way to push for protections of various sex- or gender-based minorities. While human rights language is being used in Barbados, Murray works through the advantages and disadvantages of using human rights in this specific context. Taken together, these three readings address three different aspects of human rights, including two different movements for human rights.

Recommended Background Information: The assignment is designed to have human rights serve as a “new” topic in a Law and Society course. To make the most of the assignment, students need to be familiar with at least some of the following Law and Society concepts:

Legal consciousness; law and social change; rights talk; law as a “club;” gap studies or gaps between law on the books and law in practice

Most of these concepts (with the exception of “law as a ‘club’”) are found explicitly in the assigned readings. Gran’s working paper about Law and Society’s connections to human rights (available here:

<http://www.case.edu/artsci/soci/Gran/documents/GranLawandSocietyPerspectiveofHumanRights031008.pdf>) is informative as background for the instructor.

Discussion Questions/Activity: This activity can be used as an in class discussion, or as a short writing assignment, preferably towards the end of the semester. The readings are geared towards the application of concepts the students learned earlier in the semester to a new topic. This allows students to demonstrate that they understand several fundamental insights from Law and Society, and can employ these concepts to analyze new topics and debates. The following questions can be used to formulate a short-paper writing assignment (2-3 pages) or can be used as the basis of discussion questions in class:

How does the Law and Society concept of legal consciousness apply to the study of human rights?

How do the processes of internalizations and translation (or vernacularization) of international human rights norms and regulations relate to legal consciousness?

In what ways can culture function as an “obstacle” or as an aid to human rights discussions and implementation?

Based on the insights from Law and Society scholarship, can the use of human rights talk lead to positive social change? If so, when and in what ways? If not, why?

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