



## **Anthropology and Law**

### **Potential Research Topics**

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The list set out below provides some suggestions of possible topics for your seminar papers in this course. For each of these topics, you should apply pertinent anthropological concepts and analyses to critically examine the social and legal issues described. These topics are described in general terms below, and you should further narrow and focus your particular paper topic before proceeding. This list is by no means exhaustive, and you can develop a different topic for your paper after consulting with me.

To get an idea of the range of topics that have been addressed in legal anthropology, you can also scan through the bibliographies of sources and internet resources that I have posted on the course web site with the subject themes of “Anthropology and Law,” “Social Norms and Law,” “Analyses of Social Group Identities,” and “Racism, Law, and Social Science.”

You can prepare your research paper based solely on library research, or conduct your own, small-scale, empirical research to obtain data to include in your analysis. For example, you could observe particular judicial proceedings, such as a local court hearing, and analyze the forms of discourse used by the parties and judge, the types of strategies they appear to employ, and the ways they comport themselves in that setting. Similarly, you could examine transcripts of such proceedings, court opinions, or other forms of legal documents to obtain similar data for your analysis. However, you should not conduct any surveys or interviews without obtaining the formal consent of the subjects. Be sure to discuss your topic area and planned methods of research and analysis with me before you proceed.

1. Examine legislative or judicial rules that invoke the existence of particular identity categories. For example, examine the doctrine of coerced speech under First Amendment jurisprudence, and the Supreme Court’s treatment of certain identities or social practices as expressed or inherent characteristics of some persons.
2. Apply anthropological analyses of indigenous concepts of property and communal resources to examine land rights disputes between an indigenous group and a national government (such as the United States, Britain, Canada, or other nation) asserting jurisdiction over the territories claimed by that indigenous group. Alternatively, examine actual or potential claims by an indigenous group for intellectual property rights to their cultural knowledge (such as traditional medicinal knowledge appropriated by western, pharmaceutical business interests), and related disputes with other

governments or commercial interests seeking to make use of that knowledge.

3. Examine particular cases of disputes or policy initiatives concerning human rights for children and the related clashes of cultural and legal rules, beliefs and practices.

4. Analyze the cultural dynamics and exercises of authority and power relationships reflected in language uses in particular legal settings, such as a court proceeding or mediation setting.

5. Examine ongoing issues in the Native American Graves Protection and Repatriation Act (NAGPRA) and challenges raised in the “Kennewick Man” lawsuit. For example, evaluate an appropriate rule for the level of proof a Native American group should be required to provide in order to successfully assert a cultural and historical link to particular remains.

6. Analyze the social and structural dynamics of particular alternative dispute resolution processes and related questions of differential access to courts. Alternatively, compare and contrast the strengths and weaknesses of dispute resolution processes in a non-western culture with one or more resolution processes in the United States.

7. Examine particular cases of disputes or policy initiatives concerning human rights for young women involved in female circumcision rituals and the related clashes of cultural and legal rules, beliefs and practices.

8. Examine particular legislative or judicial rules that utilize a racial category and evaluate the usefulness of such a rule in view of anthropological analyses and critiques of racial categories.

9. Examine particular legislative or judicial rules that utilize categories of gender or sexual orientation and evaluate the usefulness of such a rule in view of anthropological analyses and critiques of such categories.

10. Analyze the social and judicial dynamics of the Supreme Court’s decisions in *Lawrence v. Texas* (2003) and *Obergefell v. Hodges* (2015) concerning sexual conduct and marital status and the legal entitlements associated with such status.

11. Identify and examine an area of conduct for which expected behavior is addressed by an established social norm (i.e., a rule, distinct from formal laws, accompanied by threatened social sanction for inappropriate behavior) and which is also addressed by a specific, formal law. Analyze the degree to which the imposition of a formal law enhances or detracts from the effects of the social norm, and the various functions and effects one can attribute to such a formal law that addresses conduct that is already the subject of an established social norm.

12. Examine particular cases invoking a “cultural defense” in criminal law proceedings and evaluate the strengths and weaknesses of that doctrine.