

ATA 524
Legal Reforms in Turkish History:
Modernity, Constitution and Justice in the (Semi) Periphery

(Fall 2020)

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This is an introductory course exploring the intersections of law and society around selected themes. Major lines of socio-legal inquiry will be introduced to capture the place of legality in the history of modern Turkey.

The basic requirements of the course are:

- 1) (Attendance and) participation in class discussions (20%)
- 2) Six short response papers (30 %)
- 3) A final research paper (50%)

Schedule

1- October 22- Introduction

Duncan Kennedy (2006) “Three Globalizations of Law and Legal Thought” in Trubek, David and Alvaro Santos (eds.) The New Law and Economic Development: A Critical Appraisal (Cambridge), pp. 19-73

James Whitman (1996) “The Moral Menace of Roman Law and the Making of Commerce: Some Dutch Evidence”, Yale Law Journal (v. 105: 1841-1889)

2- November 5- Rationality, Legitimacy, Legality

Roger Cotterrell (1995) Law’s Community: Legal Theory in Sociological Perspective (Clarendon), Ch. 3 *Legality and Legitimacy: The Sociology of Max Weber* (pp. 134-159)

Trubek, David (1972) “Max Weber on Law and the Rise of Capitalism” Wisconsin Law Review, (v. 1972, n. 3, pp. 720-753)

Peter Baehr (2001) “The “Iron Cage” and the “Shell as Hard As Steel”: Parsons, Weber, and the Stahlhartes Gehäuse Metaphor in the *Protestant Ethic and the Spirit of Capitalism*” History and Theory (v. 40: 153-169)

3- November 12- Re-organizing the Ottoman Legal Domain

Avi Rubin (2011) Ottoman Nizamiye Courts: Law and Modernity (Palgrave MacMillan)

Fatmagül Demirel (2009) Adliye Nezareti (Boğaziçi Üniversitesi Yayınları)

4- November 19- Imperial Powers and (Semi?) Peripheral Legal Formations

Antony Anghie (2004) Imperialism, Sovereignty and the Making of International Law (Cambridge), Ch 2- *Finding the Peripheries: Colonialism in Nineteenth Century International Law* (excerpts, pp. 32-65)

Turan Kayaoğlu (2010) Legal Imperialism: Sovereignty and Extraterritoriality in Japan, the Ottoman Empire and China (Cambridge), pp. 1-65

Umut Özsu (2016) "Ottoman International Law?" Journal of the Ottoman and Turkish Studies Association (v. 3, n.2, pp. 369-376)

Mostafa Minawi (2020) "International Law and the Precarity of Ottoman Sovereignty in Africa at the End of the Nineteenth Century", The International History Review (published online)

5- The Deeper Works of Law? (November 26)

Bernard Cohn (1989) "Law and the Colonial State in India" in June Starr and Jane F. Collier (eds.) History and Power in the Study of Law: New Directions in Legal Anthropology (Cornell University Press) pp. 131-152

Talal Asad (2003) Formations of the Secular: Christianity, Islam, Modernity (Stanford), Ch. 7 - *Reconfiguration of Law and Ethics in Colonial Egypt* (pp. 205-256)

Timothy Mitchell (2002) Rule of Experts: Egypt, Technopolitics, Modernity (University of California Press), Ch. 2 - *Principles True in Every Country* (pp. 54-79)

6- Marxism, Law and Property (December 3-10)

Karl Marx, Debates on the Law on the Theft of Wood

Karl Marx, On the Jewish Question

Karl Marx, The Secret of Primitive Accumulation

Mark Neocleous (2012) "International Law as Primitive Accumulation; Or, the Secret of Systematic Colonization", European Journal of International Law (23-4: 941-962)

Brenna Bhandar (2014) "Critical Legal Studies and the Politics of Property" Property Law Review (v. 3, pp. 186-194)

Aytekin, Atilla A. (2009) "Agrarian Relations, Property and Law: An Analysis of the Land Code of 1858 in the Ottoman Empire" Middle Eastern Studies (v. 45, n. 6, pp. 935-951)

7- Sovereignty, Property, Violence: Foundations? (December 17)

Taner Akçam & Ümit Kurt (2012) Kanunların Ruhü: Emval-i Metruke Kanunlarında Soykırımın İzini Sürmek (İletişim)

Uğur Ümit Üngör and Mehmet Polatel (2011) Confiscation and Destruction: The Young Turk Seizure of Armenian Property, Chs. 2-3- "*Ideological Foundations: Constructing the Turkish Economy*" & "*Legal Foundations: Using the Justice System for Injustice*" (15-60)

Ayşe Parla & Ceren Özgül (2016) "Property, Dispossession and Citizenship in Turkey; Or, the History of the Gezi Uprising Starts in the Surp Hagop Armenian Cemetery" Public Culture (28: 617-653)

8- Constitutionalism in the Ottoman Empire and Beyond (December 24)

Andreas Kalyvas (2008) "Popular Sovereignty, Democracy and the Constituent Power" Constellations (v. 12, n. 2, pp. 223-244)

Nader Sohrabi (2011) Revolution and Constitutionalism in the Ottoman Empire and Iran (Cambridge), Chs. 1-2

Noemi Levy Aksu (2016) "An Ottoman Variation on the State of Siege: The Invention of Idare-i Örfiyye during the First Constitutional Period", New Perspectives on Turkey (55: 5-28)

One more article TBA

9- "Constituting" the Republic (December 31- January 7)

Ruth Miller (2005) Legislating Authority: Sin and Crime in the Ottoman Empire and Turkey (Routledge)

Jothie Rajah (2012) Authoritarian Rule of Law: Legislation, Discourse and Legitimacy in Singapore (Cambridge), Ch. 1, *Law, Illiberalism and the Singapore Case* (pp. 1-53)

Boğaç Erozan (2012) "Hukuk-ı Esasiye Ders Notları (1926-1927) Üzerine: Ahmet Ağaoğlu, Siyasal ve Entelektüel Bağlam", Ahmet Ağaoğlu ve Hukuk-ı Esasiye Ders Notları (1926-1927), (yayına hazırlayan Boğaç Erozan) içinde, Koç Üniversitesi Yayınları, pp. 19-76

Joakim Parslow (2016) "Theories of Exceptional Executive Powers in Turkey, 1933-1945" New Perspectives on Turkey, 55: 29-54

10- The Republican Legal Complex (January 14)

Ceren Belge (2006) "Friends of the Court: The Republican Alliance and the Selective Activism of the Constitutional Court of Turkey" Law and Society Review, 40(3)

Dicle Koğacıođlu (2012) "Hukukçu Otobiyografileri ile 12 Eylül Yasallığının Dinamiklerini Düşünmek" European Journal of Turkish Studies (v. 15)

More articles TBA

11- Authoritarian Present? (January 21)

Saygun Gökarıksel & Umut Türem (2019) "Banality of Exception: Law and Politics in Post-Coup Turkey" South Atlantic Quarterly, 118(1): 175-187

Deniz Yonucu (2018) "The Absent Present Law: An Ethnographic Study of Legal Violence in Turkey" Social and Legal Studies, 27(6): 716-733

Mert Arslanalp & Deniz Erkmen (2020) "Mobile Emergency Rule in Turkey: Legal Repression of Protests During Authoritarian Transformation" Democratization, 27 (6): 947-969