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What's Law Got To Do with It?: Anthropological Engagement with Legal Scholarship

Deepa Das Acevedo

Among law and society fields, legal anthropology has experienced markedly high highs and low lows. Its parent disciplines, law and anthropology, have fluctuated from intense and productive engagement with one another to mutual disregard for each other's ways of knowing. Most commentary on the trajectory of this interdisciplinary relationship has bemoaned anthropology's (ir)relevance to legal scholarship, but this introduction and the symposium essays that follow invert the usual narrative by asking how—and why—formal law might matter to anthropology. The symposium is part of a dual special issue that grows out of a multi-year conversation between legal anthropologists representing varied institutional and intellectual backgrounds. Drawing on that conversation and on the essays it has produced, this introduction argues that anthropologists would do well to abandon their prepositional attitude to formal law and, instead, to build on the strengths of anthropological analysis by "cultivating attentiveness" to things legal.

There is a great deal to say, and even more that has been said, on academic law's misappropriations of anthropology.[1] Like the well-rehearsed squabbles of long-standing marriages, much of it reduces to three or four themes that resurface *ad nauseum* and in such minimally altered format that the participants can conclude each encounter without breaking a conceptual sweat. "You generalize everything!" moans the

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Deepa Das Acevedo is Assistant Professor, University of Alabama School of Law, Tuscaloosa, United States. Email: ddasacevedo@law.ua.edu

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1. Complaints about law's engagement with anthropology are discussed in this introduction's sibling essay, Das Acevedo 2022; Kingsley and Telle 2018, 61 (arguing that legal scholars "have successfully kept 'law' as limited to spheres of state dominion, even though law is enormously varied across time and space"); Peletz 2018, 96 (arguing that "anthropological frames *are* relevant to a small section of law students and legal professionals . . . [but] these issues, many of which tend to be treated in law school curricula as relatively peripheral or 'soft' domains of inquiry"); Conley and O'Barr 1993, 44 (arguing that legal scholars often forget that law is best studied in context); Conley and O'Barr 2005, 13 (arguing that law and society "has sometimes come up short . . . in its explanation" of the gap between law on the books and law in action); Rosen 1977, 568 (discussing judicial hostility toward anthropological testimony on social background).

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anthropologist. "I'd love to stop," the legal scholar retorts, "but laws aren't made-to-order."[2] "You reify culture!" the anthropologist exclaims, to a somewhat bewildered response that "if I can't talk about culture with *you*, then where should I go?" The particulars may change (although they often do not) without causing the least alteration to the belief, held firmly by at least a few anthropologists of each generation, that lawyerly engagement with their discipline is inadequately frequent and frequently inadequate.[3]

But what about law's potential contributions to anthropology? The rest of this introductory essay provides context for one-half of an effort, now several years in the making, to think through the intersection of law and anthropology with others who, by inclination or by necessity, would like there to be one. It is one-half of that effort because it is addressed to anthropologists and their qualitatively minded sympathizers; its companion—appearing elsewhere—is addressed to legal scholars.[4] That these conversations have occurred at all is exciting; that they appear separately is telling.

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To ask the question about law's contributions to anthropology is to invite momentary silence followed by an indignant rejoinder: "Why are lawyers so fixated on formal law?"

Now this response, as one of my colleagues in this venture has pointed out, is rather like asking the members of a religion department why they are always droning on and on about religion. Lawyers have not disowned law the way that anthropologists have disowned culture; they talk about it often, with gusto, and while giving every indication of intellectual enjoyment.[5] More to the point, although any lawyer worth her salt would instantly recognize the retooling of the question to be an instantiation of that venerable classroom strategy called "fighting the hypo," there are, much more often than not, no lawyers present to issue that charge or any others. Instead, the person doing the asking is almost always herself, like myself, an anthropologist-lawyer in addition to being an anthropologist of law, and consequently she has considerable skin in the game as well as more than a pinch of salt in the wound.[6] She is not a disinterested party.

2. To be sure, legal scholars often criticize the simplification, abstraction, and "lumping" effects of law. See, for example, Gordon 1987, 200 (advancing the Critical Legal Studies argument that "the categories, abstractions, conventional rhetorics, reasoning modes and empirical statements of our ordinary discourses in any case so often *misdescribe* social experience as not to present any defensible pictures of the practices that they attempt to justify"); Barkow 2019, 30 (criticizing "excessively lumpy laws" in the criminal law context). But the one-size-fits-all approach has its defenders, both within the legal academy (Michaels 2013) and pertaining to law and governance more generally (Glickman 2021).

3. A very recent articulation of this view appeared in a *Journal of Legal Anthropology* forum (Kingsley and Telle 2018), while a not-too-much-earlier iteration was published in 2003 by *PoLAR: Political and Legal Anthropology Review* (Riles 2003). The archetype, of course, remains the two Wenner-Gren conferences organized by Laura Nader in 1964–65 and, in particular, the proceedings of the second conference, which were published as Nader [1969] 1997.

4. See Das Acevedo 2022 and accompanying articles.

5. Matthew Engelke (2018, 28) notes that "'Culture' is in the paradoxical position of being the most commonly used and commonly contested term in anthropology," while Martin Paleček and Mark Risjord (2012) explain successive shifts in the discipline, each of which has critiqued the concept of culture in a different way.

6. To be sure, there are exceptions: there is occasionally a historian or philosopher or, it does happen, the rare legal scholar who also cares about the relationship between anthropology and law. See, for instance, Kahn 1999; Engle 2001; Parker 2003. But what for each of them is a pleasant excursion into the gardens of

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She is the most interested kind of party there is because she has come to understand that the rift between her parent disciplines is wholly, if quietly, mutual. Where did the love go?

It is not merely that lawyers seem indifferent and occasionally dismissive with respect to anthropological ways of knowing: it is that anthropologists of law are themselves quite happy to maintain an arm's length distance from their object of study. Many of us in anthropology are still anxious to establish that our concerns lie solely with law "in action" or "on the ground" rather than law that is perched, however precariously, "on the books." Others among us are committed to exploring "the life of the law" in ways that are often remarkably light on the law and yet heavy on the life. Our monographs and articles still "move beyond" with determination, only rather than traversing geographic borders in search of the exotic Other we now tend to move beyond courts, beyond states, beyond rules as well as processes, and beyond universalizing concepts (none more so than "law" itself), as if law's ends or effects—justice, power, inequality, and the like—are more easily and usefully analyzed than law itself.

The handy bits of verbiage we rely on to convey all this are part and parcel of what has become an intentionally prepositional scholarly attitude. "I don't study law," these snippets say, "that's not what I do. I work around, above, below, at the intersection or in the interstices of things that might, if you like, if you insist, be considered legal." And while we may conventionally maintain that snippet speak of this sort merely serves to translate what is exceedingly complex into terms that are more appropriate for the need of the hour, whether cocktail or office—in other words, that they do the necessary and benign work of rendering us intelligible to non-specialists—it is all too clear that the snippets' real target is ourselves. We who study *things legal* via people, places, and practices, we who eschew the mindless technicalities of the judge, the lawyer, and the legislator: we put ourselves on notice with every "on" and "beyond" that the stuff of law proper belongs elsewhere. An anthropology of law is not the occasion, we are saying to ourselves, to linger in the arid environment of case law or statute. Everything juicy will be sucked out of you. Naturally, there is room in the world for shriveled masses of doctrinal obsession, but it is—the irony beggars belief—somewhere over there.

Over there. The anthropology of law has, it seems, its very own savage slot.[7] We have not taken on the technicalities.[8] We have continued to move, by inch and by mile, away from them. And we have done so in the service of a more creative, sensitive, authoritative study of law.

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others is, for the anthropologist-lawyer, a battlefield, minefield, or really any kind of field other than the one she expected to inhabit for around twelve months during graduate school and the occasional summer thereafter.

7. Michel-Rolph Trouillot (2003), of course, did not argue that anthropology has a "savage slot" but that it fills the slot by curating and providing content for the image of the Savage that was so integral to the West's imagination of itself. My point is that anthropology treats doctrine, formal law, or whatever else we choose to call it, as a kind of savage slot and allots the maintenance of this slot to lawyers.

8. Annelise Riles (2005) divided the legal academy into two camps, the culturalists and the instrumentalists and placed anthropologists of law into the former category alongside legal historians, law and society scholars, jurisprudes, constitutional law scholars, and others. She argued that culturalists believe "the technical dimensions of law are a mundane and inherently uninteresting dimension of the law" but that "it is a mistake for Culturalists to ignore the technical aspects of legal thought." Riles's article has been well cited—as of April 14, 2022, WestLaw notes fifty-one citations in law reviews, while HeinOnline notes fifty-two—but her mandate, to my mind at least, has not been sufficiently heeded.

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Where *did* the love go?

Because, truth be told, there once was a great deal of love. Not the kind of contemptuous familiarity that now lures anthropologists, willy-nilly, into rehashing the many sins of liberal legalism and far more than the insouciant dalliances that see law folk engaging in two or three conversations before announcing their discoveries to be empirically grounded—no. The love affair between anthropology and law was formative for one and deeply influential for the other; it was the kind of love that gets called Shakespearean or at least meet-cute and that lives on in conversations and publications long after its central characters are specks in the atmosphere. It was graduate student Hoebel attending Llewellyn's ([1941] 2002) law school seminars and then going on to write *The Cheyenne Way* with him; it was Geertz ([1983] 2003) delivering the Storrs Lectures at Yale; it is the Gluckman-Bohannan debate living on in the corners of international and comparative law theory some sixty years after it happened. You loved each other once, sighs the anthropologist-lawyer, can't you do so again?

Hankering after reconciliation in this way says a great deal about the anthropologist-lawyer, not all of it flattering. But beyond the nostalgia and the pique, both undeniable, lies a sense that, as far as things legal are concerned, anthropology has indeed sought refuge within its enclave.[9] We have our theories, our methods, and our regularly issued calls to reimagine, abandon, or simply burn down the discipline—few things are as predictive of success in academic anthropology as a proposal to do away with it—and, as another one of my colleagues here observed, we find all this to be more than enough.[10] It is easier these days to get legal scholars to think about culture, however clumsily, than to get anthropologists to think about law, however formally.

Again, it was not always this way. The rift between law and anthropology only began to emerge in the middle of the twentieth century once the latter distanced itself, belatedly, from the notion that there is an "us" and a "them" and that the most worthwhile task for an anthropologist of law was to collect, convey, or translate "their" rules for "our" edification and enjoyment. The rift deepened as anthropology, turning inwards in order to better look outwards, jumped into the writing culture movement of the 1980s, waded through the postmodern crisis of the 1990s, and emerged into the new millennium only to find itself floating in a veritable sea (or what appears to be a sea) of ontologies. To be critical, which is now largely the same thing as being anthropological, is to pull away the veil of form and reveal the chaotic potentialities underneath. To be radical, one must go further and be against form altogether. We are, in more than one sense, firmly committed to marginality and to messiness.[11]

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9. Carol Greenhouse (2011, 8; internal quotations omitted) quotes the 1995 American Anthropological Association (AAA) presidential address given by James Peacock as suggesting that one of three possibilities for the discipline was to "seek refuge in our enclave … as living dead."

10. Many of anthropology's most vibrant discussions have emerged from the discipline's well-documented propensity for reflexive rubbernecking (see, for example, Jobson 2020).

11. Anthropology's commitment to marginal perspectives, uncovering messiness, and (in the legal context) "garbage cases" is usually discussed in terms that are either deeply critical or decidedly glowing. For a more temperate perspective, see Comaroff 2018, 72 (observing that "anthropology will always represent an epistemic exterior"). On "garbage cases," see Yngvesson 1988, 414 (in which a court clerk's office uses the term to describe "citizen complaints," as opposed "to 'serious' complaints brought by the police," on "everyday" and fundamentally "nonlegal matters").

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To be sure, the legal academy did not remain static while anthropology rebirthed itself with the phlegmatic dependability of the phoenix. Just as surely, many of law's transformations during this period served to reduce anthropology's relevance to the study of formal law beyond anything that anthropologists ourselves could have contrived and without even really identifying us as a target. The complicity of law in the decline of legal anthropology is, quite literally, the subject of another essay, several in fact, and only one of which is mine.

But anthropologists are mistaken if we think that our marginality is not also of our own making. Taking the logic of law over-seriously—save as a twisted, inverted, or otherwise unintended version of itself—has achieved the status of a grave anthropological failing, possibly even an anthropological sin: there is nothing, observed a member of our group, that cuts quite like the slur of functionalism. No lawyers' snipes, no accusations of anecdata can compare. What then of the anthropologist-lawyer, haunted by a suspicion that stuff does stuff sometimes and laboring in both field and federal database on the naive assumption that, to talk about law, we must, on occasion, read it?

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In the spring of 2018, just after scrambling onto a perch in the legal academy, I invited a handful of anthropologists to join me for a roundtable discussion at that year's meeting of the American Anthropological Association.[12] That a variety of law job allowed me to continue engaging with anthropology deserves more than parenthetical observation. Tenure-stream appointments may be disappearing in both fields but they are doing so at vastly different rates and, even when acquired, they impose significantly different conditions of work on those who hold them. I knew that as a law professor—even one at a school outside the rarified "Top 14" where I had been educated and professionalized—I would have the necessary reserves of time and money to reach across disciplinary divides in ways that did not self-evidently fall on the path to tenure.[13] There is, in other words, more than one reason to think that a stable stable of anthropologists of law may in the United States be increasingly populated by anthropologist-lawyers.

I asked the invitees to consider whether law—*formal* law—was still useful to anything that might be considered legal anthropology. It was an unabashedly personal question. For three years of law school, one-and-a-half years in a legal fellowship, and a six-month hiring process, I had been swallowed by an escalating campaign to convince law school hiring committees that they would benefit from adding an anthropologically inflected voice to their faculty rosters. I wanted to know whether anthropologists

12. Readers should note that much of this mini-history appears, almost verbatim, in the introductory essay to this symposium's sibling publication (Das Acevedo 2022).

13. To give just one example, the American Association of Law Schools' conference fee structure does not facilitate (or meaningfully accommodate) participation by non-law school faculty: a dual-credentialed colleague housed in a disciplinary department was informed that she would have to pay a fee several times the non-member rate, amounting to over one thousand dollars for registration alone. As a law professor, however, I could attend the AAA meetings as a non-member. I can also become an AAA member, pay the member rate for the AAA's annual meetings, and be elected or appointed to leadership positions within the AAA as well as its subsections, like the Association for Political and Legal Anthropology—and, in fact, I have done all these things. As my colleague put it, "law professors can find anthropologists. Anthropologists cannot always find law professors."

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needed as much convincing about law as law folk did about anthropology. “Today,” I wrote in the roundtable abstract, “those of us interested in ‘things legal’ are much more likely to focus on what is *adjacent* to law—artifacts, institutions, performativity, learning processes, the paper materials of law, its literal forms.” But does that mean that “a contemporary anthropology of law” has no space left for “the content of rules”?

The San Jose meeting turned out to be an otherworldly experience thanks to the 2018 California wildfires. I passed the first part of my first evening in the kind of frantic hunt for N-95 masks that would become almost banal just eighteen months later, and the second part of my first evening in the sort of martini-enlivened commiseration with friends that now seems almost mythological. Understandably, if predictably, the conference stirred apocalyptic emotions and prophetic inclinations in many anthropologists. But for those of us gathered in one of the temporary and ceiling-less cubicles to which roundtables are often relegated, not solely at the “AAAs,” it became clear that this conversation about anthropology and law was fueled by neither the chaos outside nor the chaos brewing within. It was, moreover, a conversation that would be far from over at the end of an hour and forty-five minutes. A surprisingly large group had assembled in the open-air cubicle, and the liveliness of our conversation set against the din and traffic of the cubicles around us gave our exchanges the feel of a family parliament being held in a public restroom. A tenured professor asked if there was something uniquely technocratic about law that could help account for the challenges in engaging with it anthropologically. A graduate student worried that legislation was too political for anthropologists of law and too legal for anthropologists of politics. There was clearly more to be said, and there were more people to draw into the conversation.

That 2018 roundtable brought together Lee Cabatingan (UC Irvine), Leo Coleman (Hunter), Véronique Fortin (Sherbrooke), Jeff Kahn (UC Davis), and Katherine Lemons (McGill). Meghan Morris, who was then a postdoctoral fellow at the American Bar Foundation and scheduled to join us, could not attend. Instead, Meghan (now at Cincinnati), along with Anya Bernstein (SUNY Buffalo), Matt Canfield (Leiden), Gwen Gordon (Wharton),[14] and Anna Offit (Southern Methodist), took part in a second roundtable on the same theme and under similarly cavernous conditions that was held at the 2019 meeting of the Law and Society Association in Washington, DC. Véronique, Leo, and I participated in both conversations.

By the time we convened for that second iteration, I had started to entertain hopes of bringing back to Tuscaloosa as many of these folks as I could fit around an actual, if not actually round, table. Alabama Law had included funding for just such an event in its offer of employment to me—again, a mundane but momentous factor in the pursuit of cross-disciplinary conversations—and our dean allowed me to spend it on a two-day affair that would, I hoped, provide a slightly more familial environment for our parliamentary debates. I was even able to include two graduate students working at the intersection of law and anthropology: Neil Kaplan-Kelly (who had asked the question about legislation back in 2018) and Katherine Culver (a linguistic anthropologist-lawyer in the making).

14. Gwen Gordon’s untimely passing while this special issue was in development is discussed in a preface and postscript accompanying her contribution to this issue.

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We all know what happened to events in 2020.

Several months after we were to have assembled in Tuscaloosa, it became clear to me that there was still considerable interest in the conversations that had begun in 2018. Our revised plan for a series of virtual workshops in early 2021 also featured a revised list of participants: Véronique, Leo, and the two graduate students were unable to continue on with us, while Katherine could join the sessions but could not contribute an essay to be workshopped during them. But the new format and schedule also allowed us to include three new participants: Vibhuti Ramachandran (UC Irvine), Riaz Tejani (Redlands), and Matthew Erie (Oxford). Over four sessions between February and March 2021, we devoted around an hour to discussing each of their essays.

Finding homes for those essays has been a regrettably easy process. Both the student editors at the *Alabama Law Review* (*ALR*) and the editor-in-chief of *Law & Social Inquiry* (*LSI*) welcomed a self-consciously meta-discursive project and worked to accommodate its peculiarities. At the *ALR*, a series of three editors-in-chief and their faculty advisor, Jenny Carroll, relocated the essays from one volume to the next and ensured that they appear as a cohesive unit within a single issue. At *LSI*, Chris Schmidt offered generous guidance before the symposium was approved and exceptional kindness afterwards.

But I knew, more or less, that this would be the case. I suspected that, like many student-operated law reviews, the *ALR* would do its best to accommodate a faculty request, and I guessed that emerging division of labor between law and society journals meant that *LSI* would be receptive to a discussion about disciplinary confluences between law and anthropology.[15] Indeed, around fifteen years ago, *LSI* had published one-half of another, broader effort to bring law and social science into conversation with one another: the New Legal Realism project.[16]

Easy is not the antithesis of good, but like a relationship that sticks it has a way of clarifying the limitations in everything that came before or never at all. I felt that these mostly meta-discursive essays would have been a tough sell to the *Law & Society Review* which, despite being the flagship journal of an organization that I and many of my colleagues in this venture consider our intellectual home, has traditionally tilted toward empirical (and sometimes quantitative empirical) scholarship.[17] I was even more confident that attempts by relatively junior scholars to engage with law, rather than with the more ethereal concepts plausibly associated with it or with the artifacts and practices adjacent to it, would have likely not suited any of the journals published by the

15. For a critique of this division of labor and the general disfavoring of theoretical works that the author ascribes to the *Law & Society Review*, see Liu 2016. In the interests of full disclosure, I have since joined the editorial advisory board of *Law & Social Inquiry* and served as an associate editor of the *Law & Society Review*; nevertheless, the proposal for this symposium was submitted and approved before I joined *Law & Social Inquiry*'s advisory board.

16. For introductions to the New Legal Realism symposium issues, see Erlanger et al. 2005; Gulati and Nielsen 2006.

17. For instance, Sida Liu (2016, 1023) observes that "the five most cited the LSR [*Law & Society Review*] articles are all theoretical essays," but—drawing on prior studies by two former *Law & Society Review* editors—adds that "this form of sociolegal writing has largely disappeared from the LSR in the early twenty-first century" and that "the value of theory writing has been less appreciated than in the earlier years of the journal." The current board and editor-in-chief, it should be noted, are admirably committed to making the *Law & Society Review* as welcoming as possible to a broad range of methodological approaches, disciplinary conventions, and types of contribution.

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American Anthropological Association, even the one expressly devoted to political and legal anthropology. And I was absolutely certain given the popularity of substantive legal symposia—the Law of X, the Theories of Y—as well as the ever-increasing allure of economic analysis, that no law review save my own would have been willing to take us on.

Calling a process regrettable but its outcome otherwise is likely to please no one, and that, to put none too fine a point on it, *is* the point. We should *none of us* be particularly pleased at the way anthropology and law have pulled away from one another. A legal anthropology that makes do without attention to substantive law is often missing an important piece of the ethnographic puzzle; it is, in effect, substituting the anthropologist's highly prepositional analytic frame for the folk concepts of her interlocutors. Indeed, to say that the logics of law offer little insight for its study has always seemed to me to be an attitude that is at best peculiar and at worst exemplary of the kind of intellectual hubris that law and society scholars, anthropologists as much as any others, more often ascribe to law folk.[18]

It follows, therefore, that we should none of us feel absolved from contributing to this estrangement. Anthropologists are entirely willing to disparage the instrumentalism, functionalism, and quantitative obsessions of contemporary legal scholarship —and, it seems, we are also (still) willing to disparage our disciplinary brethren if they do not abide by our own ideas of what constitutes an "appropriate anthropology."[19] What many of us, at least in the anthropology of law, are apparently unwilling to do is the gritty and sometimes uncomfortably compromising work of engaging with disciplinary perspectives that are outside our own, which is a decidedly awkward thing to have to say about a field that built itself—and bills itself—on the translation of plural perspectives.

The essays in this symposium, along with their companions elsewhere, work to correct these missteps. Anya Bernstein develops a long-standing theme in her work, whether addressed to anthropologists or law folk—namely, the importance of unpacking the preconditions and modes of legal interpretation. Here, she uses landmark administrative law cases to show how a "doctrine about law … turns out to be also a doctrine about language," one that "posits a clear and inherent distinction between interpretation and implementation" and ultimately presents judges as "neutral expositors of meanings" while characterizing "agencies as normative deciders" of policies. Matthew Canfield calls on ethnographers to consider that legal technicalities may not always occlude ideas and assumptions but may actually serve to re-politicize relations of power, rendering them more "visible and open to contestation." Gwendolyn Gordon critiques corporate law scholarship's attitude to one of its own foundational premises—the existence of non-corporeal persons—for being simultaneously rigid and indeterminate. She notes that "[w]hen legal and social lines are drawn, it is because

18. For an example of law and society scholarship that combines and calls for a wholehearted embrace of ethnography that does not skimp on legal doctrine, see Scheppele 2004.

19. In a set of commentaries that was published by the "Public Anthropologies" feature of *American Anthropologist*, Leniqueca Welcome (2020) states that "[t]he only appropriate anthropology for our times is anthropology involved in dismantling our current white supremacist, imperialist, hetero-patriarchal, ableist, and capitalist formations and building a world where scholarship and activism against the like are no longer necessary. … Any other way of doing anthropology we can let burn."

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they matter" and advocates adopting an "anthropological perspective" in order to contextualize and historicize those boundaries. And Vibhuti Ramachandran asks how ethnography helps reveal formal "law's imbrication in a broader field of neoliberal government shaped by both postcolonial law and NGO-led global anti-trafficking campaigns."

The essays do not advance a unified agenda (that is far too stifling) and they do not follow a prescribed format (that is far too boring). Geographically, they are wide-ranging, covering India, New Zealand, the United States, and the Committee on World Food Security. Two of them (Canfield and Ramachandran) are concerned with law beyond the nation-state, and two of them (Gordon and Bernstein) explicitly consider what is anthropological about the anthropology of law—on which, more shortly. Most of them draw quite heavily from ethnographic fieldwork, perhaps to offer reassurances that taking law seriously nonetheless leaves room for disciplinary orthodoxies. More than these superficial similarities, however, what they share with one another as well as with their sibling essays elsewhere is a commitment to bridging anthropology and law by paying close attention to how the logic of law manifests or is mobilized in particular contexts; at the very least, they all ask a question that has become increasingly rare in legal anthropology: what *does* law have to do with it?

That, in the end, is how we bring the love back.

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Asking legal anthropologists to pay attention to law seems quixotic or silly, I expect. "We can't get away from law!" the anthropologist cries. "It's everywhere, overdetermined, and dull." In this view, as I have argued here at some length, the best anthropology of law is the one that remains determinedly prepositional by skirting around, between, below, or outside the desiccated mass of legal formality. The occasional citation to a statute or a courtroom dispute may be allowable, even admirable, but it is ancillary to the main event and should be understood as such lest the anthropologist succumb to a fetishistic (and apparently irresistible) focus on law.

There are good reasons for this, in addition to the bad ones I've focused on. An anthropologist who reads laws without reading law invites the same deserved criticisms as a legal scholar who studies people by talking to one or two handy specimens. We resolve nothing by falling into the easy words-on-a-page and "walking tape recorder" assumptions about one another's work that make frequent appearances outside the academy and are virtually inescapable inside it.[20] Or, disciplines that are habitually devalued by others ought not to devalue each other.

But this does not mean that anthropologists cannot be attentive to law any more than it means that legal scholars cannot be attentive to culture, society, or any other suitably contestable noun to describe the aggregate human condition. *Cultivating attentiveness* is, in fact, what many of us in this small venture recognize to be both the method and the purpose of anthropological analysis, far more than the ludicrously

20. Diana Forsythe's (1999, 140–41) image of "walking tape recorders" is one that I have found especially useful in my efforts to explain what anthropology is *not*.

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old-fashioned stranger-in-a-village paradigm of Malinowskian fieldwork.[21] This kind of attentiveness is, in borrowed terms, what makes anthropology "surprising, insightful, novel, useful, meaningful."[22] It inheres in the extent to which an ethnographer "is capable of *attending* to things that her interlocutors might attend to differently (ignore, naturalize, fetishize, valorize, take for granted, etc)."[23]

To be sure, most of us still (as all of us here did) learn to cultivate attentiveness through an early stint of immersive ethnography, which makes fieldwork inextricable from the analytic stance and renders that foundational experience something more than the antiquated hazing ritual it is often made out to be. There is a real sense in which much of the discipline believes that ethnography, however novel, is what makes one "think like an anthropologist," just as many American law folk, push comes to shove, believe that three years of legal education are what allows one to "think like a lawyer."[24] They're not wrong—and yet, as the words themselves suggest, attentiveness *can* be cultivated in other ways. There are different modes of attentiveness, different aptitudes for any one of them, and different demands according to the nature of the ethnographic encounter. Cultivating attentiveness to law outside the usual processes of legal professionalization takes time and it takes respect: two things that anthropologists excel at according to their interlocutors but could expend a little more generously on their colleagues down the hall.

What does cultivating attentiveness to law afford the legal anthropologist? As with the semiotic—or indeed, the moderately plain English—meaning of that term, it supplies, allows, and even invites possibilities without necessitating them.[25] It opens up interpretive paths that need not be taken, unlike the proverbial mountain that must be climbed because it is there, but that also *could* not be taken absent a consideration of law. And in doing so, it allows the anthropologist of law to rest assured in the fullness of her account whether or not that account is full of things that we might consider legal.[26]

Because both anthropologists and legal scholars are fond of a good story, I will close with two. A great deal of my work is inspired by the Indian Constitution, which among its more unusual features includes both an express avowal of secular governance and an

21. It also strongly resembles what others have recommended as the purpose and method of anthropology. See, for example, the discussion of "imaginative sociologies" in Comaroff and Comaroff 1992, 184. See also Clifford Geertz (1975, 47) describing Bronisław Malinowski not only as an "ancestral figure" for contemporary anthropology but also as "the man who had perhaps done the most to create ... [t]he myth of the chameleon field-worker perfectly self-tuned to his exotic surroundings—a walking miracle of empathy, tact, patience, and cosmopolitanism."

22. The quotations in this paragraph are from Rajan 2015, 1. Although I have found the idea of cultivated attentiveness useful for years and have occasionally made explicit reference to it (see Das Acevedo 2018, 797), it was only very recently that I first considered it in some depth and in relation to legal analysis (Das Acevedo 2021, 113–16).

23. Many of us in this exchange have been circling around similar phrases for some time. For "ethnographic attitude," see Bernstein, "Saying What the Law Is," in this issue; for "ethnographic attention," see Gordon, "Legal and Cultural Construction," in this issue.

24. For exceptionally smart reflections on what each mode of thinking—and training—involves, see Mertz 2007; Engelke 2018.

25. For more on "affordances" in a specifically semiotic key, see Kahn 2022, 800.

26. Note that I am not simply arguing that anthropologists should become more like lawyers. As Marilyn Strathern has argued with respect to feminism and Iris Jean-Klein and Annelise Riles (2005, citing Strathern) have argued with respect to human rights, vibrant interdisciplinary engagement depends on disciplinary difference. What I am arguing for is more engagement, not less difference.

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equally explicit authorization for the state's regulation of religious life. Indian courts, legislators, and statutory actors regularly determine, for instance, whether something is a "real" Hindu practice, and, in several Indian states, they are nose deep in the business of operating religious institutions. During the course of a perfectly average day, I watched a bench of what Americans would call the federal judiciary approve a replacement chauffeur for a temple board president, determine if local police can lease office space within temple grounds, assess the relative share of devotee offerings owed to a junior priest who also performs the duties of a senior priest, and inquire into the validity of an annually appearing and ostensibly miraculous star. When I "went to the field," as anthropologists still say, it was to learn how all the parties involved in this delightful complexity made sense of a situation that, to me, seemed permeated by contradiction.

What I saw, in the end, was not a married-bachelor contraption that combines secular governance, howsoever defined, with its equally shifting antithesis. Nor was it the sort of relentless conceptual clash first suggested to me by the constitutional prose I had read in the comfort of my North American living room. Instead, over and over again, I saw a kind of push-pull dynamic between two contrasting theories of religion-state and especially *citizen*-state relations, a vibrant and open-ended process that would have been mostly invisible without ethnography and mostly inexplicable without law. Judicial efforts to simultaneously expand and limit state authority over religion signaled an emphatically "both, and" approach to the distinctive universes spelled out in formal law, and those efforts were part of what I came to understand as a "dynamic equilibrium" in Indian constitutionalism (Das Acevedo 2016).

In a parallel reality, I study gig work in the United States. Now, at the dawn of legal scholarship in this area, which is to say around 2014, the question on everyone's minds was whether or not Uber drivers and TaskRabbit taskers could even be slotted into the binary classification system at the core of labor regulation in this country. By the time I began fieldwork, in 2016, it had become conceivable that gig workers could be either "employees" (who receive what is globally considered to be a paltry suite of protections) or "independent contractors" (who receive even less). In short order, conversations about gig work returned to more familiar territory, namely, the deficiencies of our binary system, its curious persistence in the face of repeated reform efforts, and the still more curious phenomenon of struggling workers—some, anyway—who actually prefer to be independent contractors.

This time my fieldwork led me to airport parking lots, Instacart recruiting sessions, innumerable Uber rides, and the exceptionally enjoyable care of a small dog named Regan. I started out by trying to gauge which classification status gig workers preferred—a research question that, besides being rather distastefully positivist, was also remarkably unsuited to the strengths of ethnographic inquiry. What I ended up with was a sense that both types of classification are valued because they facilitate freedom at work, but that the freedom at issue is markedly different. Encoded into the binary system we love to hate (and, more correctly, within the doctrinal test we use to implement it) is an understanding of freedom that is thin, negative, and classically liberal; in the language of Philosophy 101, it is "freedom from." But peeking through via the odd statute and judicial opinion, as well as via a few valiant efforts to establish new doctrinal tests, is a thicker, neo-republican variety of freedom that is not "freedom to" but rather freedom as "non-domination." Gig workers, I argued, "are genuinely attached to

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different visions of freedom at work," but, notably, those different visions "can also be found in our work law." More notably still, it is "the tension between these two conceptualizations of freedom [that] explains our fixation—and our dissatisfaction" with the doctrinal test that has bedeviled American work law for over a century (Das Acevedo 2018).

Cultivating attentiveness to the substance of law, as these stories suggest, is neither for the purist nor the faint of heart, but its rewards are commensurate with its obstacles. It allows us to think with law, not around it, and to do so in a world populated by humans rather than numbers or models. It marks the closure of a historical circle that began, more or less, with legal anthropologists trying to do elsewhere what they, rightly or wrongly, thought legal academics did at home. For the anthropologist, long accustomed to avoiding the content of rules out of a certainty that they are boring or, perhaps, a suspicion that they are operating in ways she does not grasp and would not approve of, a cultivated attentiveness to law brings with it both empowerment and an ethic of care. "You make me more myself," the anthropologist could say, should say. "You make me better myself."

That's what law's got to do with it.

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