Annual Review of Anthropology

Law, Anthropology, and Their Languages

Elizabeth Mertz[1,2] and Justin Richland[3]

[1]Department of Anthropology, American Bar Foundation, Chicago, Illinois, USA; email: emertz@abfn.org

[2]Department of Law, University of Wisconsin, Madison, Wisconsin, USA

[3]Department of Anthropology, University of California, Irvine, California, USA

Annu. Rev. Anthropol. 2025. 54:25.1–25.17

The *Annual Review of Anthropology* is online at anthro.annualreviews.org

https://doi.org/10.1146/annurev-anthro-041422-012037

Keywords

legal language, legal anthropology, linguistic anthropology, metapragmatics, interdisciplinary translations, outsider scholarship

Abstract

This article combines perspectives from linguistic anthropology and outsider scholarship to examine the academic discourses of law and anthropology. Inclusion of outsider scholarship is not only an issue of politics and ethics within the academy, but also a crucial corrective to limited epistemologies, ontologies, and methods within standard Eurocentric forms of analysis. We begin in Sections 1 and 2 with an overview of relevant scholarly foundations, and then consider in Section 3 the persistent conceptual division between formal law and law in action, long questioned in legal and anthropological thinking. To move the discussion further, Section 4 excavates underlying legal metapragmatic assumptions using the example of the "depublication" of legal precedents. Section 5 examines the New Legal Realist movement as another case of attention to metalinguistic norms undergirding translation between law and social sciences. We conclude in Section 6 that the most promising places for conversations between law and anthropology are at marginalized but cutting-edge spaces.

1. INTRODUCTION

The corner of the US academy where anthropology meets law is admittedly a small space, and yet it is a corner with many interesting lessons to contribute to wider conversations. On the one hand, the vast majority of legal scholarship takes little account of anthropological research, and vice versa. On the other hand, with a long history of interdisciplinary efforts and a growing cohort of anthropologists teaching in law schools, we can observe a variety of strategies for bridging genres—or for acknowledging difficulties. Looking outside the mainstreams of anthropology and legal scholarship, we see that legal writing and clinical legal scholars, along with law-and-literature law professors, are in many ways ahead of their more doctrinal peers in considering the legal semiotic dimensions of law (e.g., Amsterdam & Bruner 2002, Amsterdam & Hertz 1992, Berenguer et al. 2023, Stanchi 2023, White 1990).

At the same time, legal and applied anthropologists have had hands-on experience with legal language and institutions for some time. Legal anthropologists have analyzed law and legal communication for many years, sometimes moving across boundaries to serve as expert witnesses or advisors in legal cases, or even as jurists or active mediators (e.g., Hinton 2023, Renteln 2004, Richland 2021, Rodriguez 2014). These latter kinds of encounters arguably offer the most direct and intense anthropological work on ethics, practice, and translation among these disciplines and their cultures (including disciplinary and bureaucratic cultures/structures), as well as among a variety of languages, registers, and discourses.[1] Of course, the fields of linguistics, sociolinguistics, semiotics, and discourse analysis have been fertile areas for examinations of legal and other kinds of communication (Danet 1980, Mertz 1994, Mertz & Rajah 2014, Philips 2000, Rajah 2022, Richland 2013, Richland & Weichselbraun 2014, Riles 2006). The intervention of raciolinguistic perspectives has furthered our ability to recognize how marked and unmarked racial and linguistic assumptions skew our understandings of language—assumptions that are semiotic, linguistic, epistemological, cultural, and social all at the same time (Alim et al. 2016, Flores & Rosa 2023, Rosa 2019, Smalls et al. 2021). And within and beyond anthropological and legal scholarship, critical race, feminist, queer, Indigenous, and other "outsider" scholars using narrative and mixed methods—and intersectional perspectives—have moved interdisciplinary research further: challenging epistemological assumptions, historicizing abstract concepts to connect them with practices, and creating bridges largely ignored by both fields' mainstreams (Ballakrishnen 2023; Beliso-De Jesús & Pierre 2020; Borrows 2016; Crenshaw 1989, 1991; Harris 1993; Kannabiran & Ballakrishnen 2021; Matsuda 1989; Rahim 2021; Simpson 2014).

Today, there is a rich world of interdisciplinary scholarship from these perspectives that is pushing us to further our reflexive understanding of social power as it affects our own disciplines' semiotic practices (Baker 2021, Beliso-De Jesús et al. 2023, Brodkin et al. 2011, Deeb & Winegar 2016, Harrison & Harrison 1999, McClaurin 2001, Mertz 2026, Mullings 2005, Smith & Garrett-Scott 2021, Thomas 2024). This scholarship has intensified a call to draw thinkers from outside the Eurocentric academic mainstream into the heart of disciplinary frameworks, in the process offering new thinking about stale divisions between theory and method, science and humanities, and other familiar dualisms. This is a matter of politics and ethics within the academy, to be sure, but it is also crucial to any comprehensive grasp of epistemology, of hidden ontologies, or of adequate method in the social sciences (Harrison 1991, Tuhiwai Smith 1990). In examining the space in which legal and anthropological discourses can meet, then, we have been inspired by marginalized academic discourses whose insights helped us grasp possible bridges.

[1] On methodological/theoretical issues and the benefits of combining law, anthropology, language, and semiotic perspectives in translating among disciplines, see Gal (2016) and Silverstein (2016).

Using larger frameworks for thinking about the languages of anthropology and law, we can discover areas of fruitful possibility but also of stubborn incommensurability (Kahn 2022; Merry 2006a, 2016; Mertz 2016; Tejani 2022). We suggest that systematic attention to language and semiotic practices offers an opportunity to proceed with a greater awareness of these processes. For example, semiotic scholarship allows us to analyze the metalinguistic assumptions beneath our interdisciplinary conversations. Outsider scholarship lays bare the shared colonial legacies of disciplines that imagine themselves worlds apart, but also crosses those disciplines in ways that highlight systematic approaches for moving forward. Rather than relying on anecdotal accounts of how anthropology and law, imagined in ideal typical terms, speak to one another, we can use semiotic and outsider approaches to examine interdisciplinary conversations as they occur in a wide variety of settings and forms.

This article takes up the challenge of contributing to that systematic approach by bringing rich veins of research together. We approach this task with humility, aware that it can be only partially realized and eager for correction on our own blind spots. In Section 2, we lay out the linguistic, anthropological, legal, and critical foundations on which we build. In Section 3, we consider the misleading conceptual division between formal law and law in action, examining the ways in which anthropological and legal discourses alike have moved past this empty debate, despite its perennial reappearance as a red herring. This mistaken dualist division is typical of postcolonial and Western approaches and is also maintained in part through tacit metalinguistic assumptions. We put some of those assumptions under a microscope in Section 4, using the example of the "depublication" of legal precedents. Section 5 examines the New Legal Realism (NLR) movement as another case of attention to the metalinguistic norms undergirding translation between law and social sciences, including anthropology, and using linguistic anthropological theory. We conclude in Section 6 by arguing that some of the most promising places for conversations between law and anthropology are at marginalized but cutting-edge spaces in both fields.

2. CONVERSATIONS: LAW, ANTHROPOLOGY, LANGUAGE, AND SEMIOTICS

It would be impossible to touch on all the scholarship pertinent to our topic. Fortunately, we can presuppose many useful overviews of the literatures on law and language, law and anthropology, colonial legacies within anthropological and legal scholarship, legal semiotics and semiotic anthropology, discourse analyses of law, and other cross-fertilizations—citations to which are scattered throughout this review. In addition, we build on the massive scholarship across these areas.

Of course, the conceptual borrowing between law and anthropology arguably goes back to near anthropology's beginnings and continues throughout its history, at least in the Anglophone tradition. Many histories start from Henry Maine (1861) and Lewis Henry Morgan (1877)—both law trained—whose theories of human societal progress traced a path, at least in Maine's (1861, p. 101) terms, "from status to contract." The signal collaboration between Boas student E. Adamson Hoebel and the renowned jurist and legal realist Karl N. Llewellyn resulted in an ethnography that furthered the conversation between law and anthropology and arguably cemented the anthropology of law as a unique subfield. That ethnography, *The Cheyenne Way* (Llewellyn & Hoebel 1941), centered on "trouble cases," viewed as similar to Western legal cases (see also Mehrotra 2001). In the twentieth century, lawyer-anthropologists like Sally Falk Moore, Rebecca French, John Conley, Elizabeth Mertz, Annelise Riles, and others became faculty at law schools, while anthropologist-lawyer Justin Richland became a justice of the Hopi Supreme Court. After the turn of the new millennium, increasing numbers of joint-degree anthropologist-lawyers joined the legal academy, raising once more the question of how and whether the two

fields could productively communicate with one another (e.g., Cabatingan 2023, Das Acevedo 2022, Kahn 2022, Li 2023, Offit 2022, Omari 2025, Tejani 2022).

Within anthropology, in addition to Hoebel, scholars like Bronisław Malinowski, Max Gluckman, Paul Bohannan, and Leopold Pospíšil had continued to develop the subfield, raising issues such as how or whether to define law cross-culturally, whether we should be using indigenous languages when discussing so-called legal concepts in "other" cultures, and how law should be studied. Critiques of founding legal anthropological methods and theories proliferated through the late twentieth century, with subsequent work focusing on law as process, as dispute resolution, as field, as tool of colonialism and/or resistance, and more (Brenneis 1984, 1988; Moore 1969, 1978; Starr & Collier 1989; Starr & Goodale 2002). The many debates over core questions have been well-covered in previous writings. They include the relative autonomy of law; the roles of structure and agency in political and legal change; the influences of culture, power, and institutional structures of/in law; the centrality of history, colonialism, and capitalism in the development of neoliberal law; the importance of professional ideals as opposed to monopoly and competition in legal professions; how race, class, gender, sexuality, religion, and more play out in legal fields and outcomes; the impacts of so-called globalization; and of course much more (Bourdieu 1987; Clarke 2009; Goodale 2009, 2017; Greenhouse 1986, 2011; Merry 1990, 2006a; Nader 1965, 1996; von Benda-Beckmann & von Benda-Beckmann 2009).

Anthropologists figured prominently in the foundation of the Law & Society Association, which brought together law professors and social scientists studying law from across many disciplines. Laura Nader, Sally Falk Moore, Sally Engle Merry, Jane Collier, Carol Greenhouse, and others were important contributors to theory, method, and substantive insights in the growing discipline, which created a vibrant interdisciplinary space that eventually connected scholars around the world. Law professors picked up anthropological insights in developing some of the most effective translations of social science insights into doctrinal scholarship achieved to date (e.g., Macaulay 2005, written by one of the founders of both the law-and-society movement and the relational contract school of contract theory in law schools).

Many scholars working at the edge of anthropology and law have focused on the role of language, meaning, and semiotic dimensions of legal processes, joining their colleagues who study legal semiotics and the sociolinguistics of law (Bernstein 2023; Brenneis 1984, 1988; Conley et al. 2019; Danet 1980; French 2001; Goodrich 1984; Greenberg 2025; Greenhouse 1986; Hull 2012; Kevelson 1991, 1988; López-Espino 2023; Mertz 1994, 2007; Philips 2000; Richland 2013; Richland & Weichselbraun 2014; Riles 2006; Riner 2023). Studies of language playing out in legal settings like courtrooms have documented the role of legal discourse in naturalizing and fostering inequality (e.g., Eades 2008, 2010; Matoesian 2001).

Narrative has always been a key method for critical race scholars; these legal scholars have also, unsurprisingly, been drawn to studying the language of law (Barnes 2016, Berenguer et al. 2023, Obasogie 2013). Other impactful researchers have looked at language, discourse, and literature to parse the meaning of law (Constable 2005, Cover 1983, White 1990). Interdisciplinary work on legal language within legal scholarship has taken a broad range of perspectives, ranging from roots in philosophy to literature to forensic linguistics (Mertz & Rajah 2014). With these foundations in mind, we consider some specific arenas in which law, anthropology, and outsider perspectives can come together to shed light on persistent puzzles.

3. FORMAL LAW, LAW IN ACTION, RIGHTS, AND REFUSALS

Western or Global North theories have often centered on a highly idealized construct of "the law" as if it existed as a single, homogeneous entity floating apart from realizations of law in peoples'

lives. This conceptual law can exist as an ideal apart from any spoken or written tradition, or it can take written form as so-called law in books. The opposition between law in books and law in action became famous in the United States during the Legal Realist movement, which sought to introduce consideration of law "on the ground" into US legal training and thought. While some caricatures treated the realists as if they ignored doctrine, any careful reading of their work shows that they took formal law quite seriously (Macaulay 2005, Tamanaha 2016).[2]

The troubled duality between law as an abstract ideal and/or formal doctrine, and legal processes as the stuff playing out in institutions and everyday life is a conceptual framework informed by a set of ideas emerging in very particular social times and places. Take, for example, the idea of rights, which has been both exalted in liberal legal theory and trashed by critical legal theorists. Too often, scholars lionizing or demonizing rights alike presume to know what is meant by reference to some abstract legal definition that is shared by all reasonably informed persons, across all sociolegal contexts in which rights get claimed. As such, there is no need to consider the actual moments in which rights discourses are deployed, or what they mean for the actual social actors who are invoking them in the unfolding of their everyday lives. And this attitude can extend to moments when the deployment of rights discourses might even include their disavowal. Indeed, the failure of rights discourse may be embedded in the deep structures underlying a court's own apparent creation of rights (see, e.g., Rahim 2020). Taking a different perspective, critical race theorist Patricia Williams (1992, pp. 158–59, 163–64) refuses to accept the polarity between law as form and legal process as practice:

> The problem, as I came to see it, is not really one of choosing rhetoric, of formal over informal, of structure and certainty over context, of right over need. Rather it is a problem of appropriately choosing signs within any system of rhetoric. . . . From this perspective, the problem with rights discourse is not that the discourse is in itself constricting but that it exists in a constricted referential universe. . . To say that blacks never fully believed in rights is true. Yet it is also true that blacks believed in them so much and so hard that we gave them life where there was none before. . . "Rights" feels new in the mouths of most black people. It is still deliciously empowering to say. . . . The concept of rights, both positive and negative, is the marker of our citizenship, our relation to others.

Here Williams delves into the meaning of a formal legal concept: rights. She accepts that this legal form can be empty for some, but also maintains the importance of keeping the concept—indeed, of insisting on it. Actual people have to breathe life into the empty form, and, she argues, it is the people least privileged in the liberal legal system who are best placed to do that. Her formulation breaks through a metalinguistic fiction that imagines rights can exist in abstract referential content divorced from their embodiment in social relations.

A striking example of Indigenous experts who have seen through that fiction comes from Hopi "refusals" to share traditional knowledge or *navoti* (Richland 2005, 2008, 2021; see also Simpson 2014). In one instance that is a window into this metalinguistic wisdom, Hopi elders resisted a Hopi tribal jurist who tried to insist that they share abstract legal principles rather than giving their judgment on a particular case:

> . . .the judge appeared motivated to insist on this [abstracting] metadiscursive frame in an effort to get the elders to produce testimony concerning custom and tradition already transformed from particularized comments on a specific set of events to more abstract, generalized principles amenable to the

[2]The "original" American Realists included scholars like Karl Llewellyn, who, along with his wife, Soia Mentschikoff, was the prime architect of a highly influential "uniform law," the Uniform Commercial Code (UCC)—adopted across the United States as quintessential formal law for commercial exchanges (Macaulay 2005). The irony of supposing that he and others in that movement ignored technical formal law is considerable.

> Anglo American–style adjudicatory processes of the court. But use of this metadiscursive frame had another consequence. . . . It did not allow for the elders to conduct explicit discussion of the actual world or the taking of action in it. (Richland 2005, p. 264)

The elders recognized that the generalizing linguistic discourses and ideologies of Anglo-American law masked a power move that would rob them of authority. In refusing to share "the village's knowledge," they also insisted on a metalinguistic ideology that recognized intersections of language, law, and power. This refusal of supposedly neutral requests to render Hopi law in abstractions "saw through" the metalinguistic fiction that has animated a great deal of mainstream legal theorizing in the United States. Extending this insight to regulatory interactions with contemporary non-Indigenous US agents, Richland (2021) has recently argued that Hopi refusals to transmit their knowledge ironically involve less a shutting down of relations but rather something more like a self-determining invitation to the US government to engage with them.

Williams's discussion of rights and the Hopi suspicion of extractive legal knowledge share a sense that formal categories of law and the legal practices enacting them belong together, intertwined and grounded in the lives of the people who are its subjects but also supposedly its source and beneficiaries. There are long histories in critical race studies, Indigenous scholarship, anthropology, realist legal scholarship, and sociolegal studies of approaches that simultaneously consider formal law and law within social life. Thus, the oft-recurring claim that researchers studying law in action have failed to pay attention to formal law is a red herring. Consider Moore (2018, p. 17), an attorney and anthropologist, reflecting on developments on Kilimanjaro during the 1960s and 1970s:

> Disputes [over land transfers] were addressed through a many-layered set of resources. There was the possibility of expulsion from the kinship group, or the intervention of customary authority; there were appeals to official contacts, allusions to customary law and to the formal laws of the national government—and all operating in overlapping domains.

Moore famously served as a staff attorney for the International Tribunal at Nuremberg during investigations and trials of Nazis, in addition to working at a law firm, prior to training in anthropology. Her subsequent work combined attention to the myriad levels at which formal and informal law intertwined in everyday life, including attention to the details of formal law (Moore 1973, 1978, 1986).

In a recent article published in *American Anthropologist*, anthropologist Darryl Li (2023) makes a compelling case for taking the formal dimensions of lawyering seriously as objects of and for ethnographic inquiry. He describes a trend in the work, especially, of law-trained anthropologists who, like Li himself, are increasingly engaged in modes of "anthropological theorizing from the experiential world of legal form" (Li 2023, p. 561). He calls this trend "ethnographic lawyering" and explores its contours in scholarship that, for example, takes up the legal concepts of "collateral" (Riles 2011) to analyze the reasoning practices of financial analysts in Japan, "jurisdiction" (Richland 2013) to understand confrontations between Hopi epistemologies and US regulations, or "conspiracy" (Li 2023) as a connected set of legal forms to unpack the journey of terrorism cases involving Al-Qaeda in US federal courts (see also Gordon 2023, providing anthropological traction on the legal concept of corporate personhood). A semiotic take on these and other examples of ethnographic lawyering suggests that formal legal reasoning can be analytically deployed in ways that make clear its indexical grounding both within and outside of law texts, in shifters that operate on multiple levels: analytical, empirical, legal, anthropological, linguistic. Puzzling out how these indexical orders are and are not transparent to one another forces readers to pay attention to the demands that different disciplinary semiotic practices put on them (see also Bernstein 2023, Canfield 2023).

It is interesting to compare this approach with work in legal anthropology that considers how legal concepts common to international arenas such as the United Nations transform when they enter struggles in different localities—a linguistic process that Merry (2006a) dubbed "vernacularization." Arguably, a similar process happens every time legal concepts are invoked in the actual semiotic processes that constitute the everyday work of social institutions, wherever they are located. This is true, for example, in international courts themselves. While these tribunals are part of the central apparatus of international law interpretation, they are nonetheless locales in which the interplay of language, formal law, and institutional structuring are on full display. This insight emerges, for example, from Richard Wilson's work tracking complex metalinguistic struggles in international criminal courts over the connection between speech acts and genocide. As Wilson (2016, p. 257) writes, "hate speech is commonly understood as derogatory speech exhibiting racial ethnic or religious bias, often linked to a program of persecution, whereas incitement to commit genocide requires that the speech act be clearly directed toward destroying a protected group in whole or in part." Wilson explores how formal legal requirements of "specific intent" took shape within a nexus of metalinguistic theories about the relationship between speech and action, evidentiary requirements, courtroom conventions, and the historical development of a legal institution. Likewise, Jessica Greenberg (2025) has examined the European Court of Human Rights, looking at the semiotic and social processes that shaped interactions among formal doctrinal categories, institutional discourses, professional visions, and legal outcomes of unclear impact.

While much ink has been spilled over a perceived division between formal law and law in action, both critical race theory and semiotic analysis have demonstrated the inseparable nature of these supposedly opposite polarities. This kind of dualism is frequently found in postcolonial and Western approaches and is also maintained in part through tacit metalinguistic assumptions. But, as evidenced in the example from Hopi Tribal Court, people from outside mainstream law can cut through those assumptions to refuse attempted semiotic theft of their own law, viewed as at once ideational and materially embedded. Similarly, Williams's writings on rights deftly revealed the folly of imagining rights as separable into abstract versus concrete, or doctrinal versus lived. This kind of holistic vision is found, in differing forms, in a great deal of outsider writings that have yet to be invoked by scholars within mainstream law, anthropology, or language studies. Those outsider writings give us sophisticated visions for unpacking the very dilemmas the mainstreams seek to resolve (e.g., Alim et al. 2016; Baker 2021; Ballakrishnen 2023; Barnes 2016; Beliso-De Jesús & Pierre 2020; Beliso-De Jesús et al. 2023; Berenguer et al. 2023; Borrows 2016; Brodkin et al. 2011; Crenshaw 1989, 1991; Deeb & Winegar 2016; Flores & Rosa 2023; Harris 1993; Harrison 1991; Leonard 2021; Mitchell 2005; Mullings 2005; Napoleon & Friedland 2014; Obasogie 2013; Smalls et al. 2021; Smith & Garrett-Scott 2021; Thomas 2024; Tuhiwai Smith 1990).

4. SEMIOTIC BREAKTHROUGHS: WHERE LEGAL ACTORS PERCEIVE THEIR OWN METALINGUISTIC FABLES

Thus, as discussed above, anthropologists have been pointing to the variety of ways in which language and ideas about language run to the heart of the exercise of legal power, across a number of cultural contexts and traditions. Jurisprudence has also long focused on core aspects of language in legal power, imagining, for example, that the "command" of an imagined sovereign is a core source of authority [Austin 1955 (1832)]. It is rarer, though, for the real-life, concrete dynamics of legal language and their authorization through metalinguistic ideologies to be consciously recognized by legal actors themselves. Occasionally, however, we see moments of conflict or controversy about how much the authority of law and its power depend on their materialization in the details of actual language practices and the meanings attributed to those practices.

One example is the long-standing practice of depublication in the California judicial system (Gathegi 2005, Grodin 1984, Dubois 1988, Uelmen 1993). Pursuant to a power granted to it by a 1966 constitutional amendment,[3] and the statutory provisions of appellate procedure that interpret it,[4] the California Supreme Court can on its own, or on the motion of another party, order the published opinion of a lower court of appeal to be removed from the *Official Reports*, which is the record of all published opinions of the California judicial system. The court is empowered to depublish without conducting any public proceeding on the question and, indeed, without providing any rationale for why it has chosen to depublish what was theretofore a duly authorized legal judgment (Grodin 1984). At various times since the passage of the 1966 amendment, the California Supreme Court has depublished regularly, albeit with different rates of frequency. For example, from 1987 to 1993, the first years of the conservative Lucas Court, the California Supreme Court depublished more appeals opinions (586) than it published its own original opinions (555) (Gathegi 2005). More recently, the practice has decreased (only 17 of the more than 11,000 written opinions of California Courts of Appeal were depublished by the Supreme Court), but the court still retains the power (Gathegi 2005).

The depublication authority of the California Supreme Court is nonetheless controversial. The practice has been criticized almost from its inception by lawyers and laypersons alike (Biggs 1979). But first ask yourself why. What does depublication threaten? Does it silence dissent? Does it eliminate legitimate legal controversy? Are the previously published legal texts really no longer accessible, even today, where the digital revolution has made even the most off-handed of published statements available for eternity? If so, how? If not, why not?

It turns out that depublication does not actually result in the erasure of the case from public (legal) consciousness (e.g., Ewick & Silbey 1998, Merry 1990), or in the barring of access to its content by those who would want to read it (Richland 1990). The opinion often remains available for reviewing, with some of the leading unofficial reporters (like West) continuing to allow searches to discover the opinion, albeit with a note attached stating that it has been depublished. In fact, depublication doesn't even result in the reversal of the decision itself, or of the subsequent legal consequences for the parties to the specific controversy it addresses (Uelmen 1993). Rather, what depublication does is remove the authority of the opinion as a binding precedent on subsequent decisions by those lower courts subject to its legal interpretations. It prohibits legal actors from citing the opinion for the purposes of arguing that it supports their interpretation of a relevant principle of law. And it does so with no public proceeding or with any requirement that the Supreme Court provide any rationale for its judgment (Gathegi 2005). Critics thus point to the fact that depublication neither reverses a bad judgment nor allows a lower court decision to remain good law (even though its removal was never publicly argued or explained) to justify why they are wary of what one writer calls a practice of "censorship" (Biggs 1979, p. 1583).

Defenders of the practice suggest that, given the annual caseload of the California Supreme Court, the depublication process offers an efficient, cost-effective way of quickly disposing of opinions that the court deems likely to confuse, complicate, or otherwise hamper effective application of the law (Grodin 1984, Uelmen 1993). They argue that insofar as the Supreme Court is

[3]Article 6, Section 14, of the Constitution of the State of California reads: "The Legislature shall provide for the prompt publication of such opinions of the Supreme Court and courts of appeal as the Supreme Court deems appropriate, and those opinions shall be available for publication by any person. Decisions of the Supreme Court and courts of appeal that determine causes shall be in writing with reasons stated" (Section 14 added November 8, 1966, by Prop. 1-a. Res.Ch. 139, 1966 1st Ex. Sess.).

[4]Rule 976(c)(2) of the California Rules of Court provides: "An opinion certified for publication shall not be published, and an opinion not so certified shall be published, on an order of the Supreme Court to that effect."

statutorily constrained to take up only that small fraction of the appellate opinions whose review it deems "necessary to secure uniformity of decision or to settle an important question of law" [California Rules of Court 8.500(b)(1) (2005)], there are countless lower court opinions that are erroneous but that it does not review because they do not actually put settled law in doubt. Like the US Supreme Court, the California Supreme Court is not an error-correction court—and, thus, depublication's defenders say that critics' argument that the practice leaves an erroneous decision undisturbed is, in itself, insufficient to move the court to grant review (Richland 1990).

So, if the problem or promise of depublication is not really about removing a judicial opinion from public access or undoing its impact on the parties to the underlying case, what makes its impact on the opinion's precedential value so controversial? We venture that it is something in the normative expectations that legal practitioners (and others) in the United States share about legal authority and the textual memorialization and circulation of judicial texts that drives the concerns about this particular practice and the court's reliance on it. It reveals that what the power and authority of legal precedent depend on is something that rests at the intersection of meaning and materiality, normative commitments, and the actuality of their specific instances of expression, as they are brought together in the saying (or writing) of the law in language—what one of us has called "juris-diction" (Richland 2013).

We argue that this is one of those contexts in which the actions of legal practitioners and laypersons alike reveal how their taken-for-granted view of language's role in law informs how they envision law's authority and power more generally. Depublication causes so much consternation for critics and advocates alike because it makes patent how the legitimacy of state actions taken in the name of law turn on ideologies regarding, at least partly, a performative (one might even say magical) thinking about how language, text, and communication fuse meaning to doing, an interpretive commitment to an empirically observable phenomenon and its real-world consequences, more generally.

The critics of depublication seem concerned with the way in which it reverses the normative course of precedential authority. While critics note that the California Supreme Court almost always disproportionately depublishes the opinions of appellate courts known to espouse an opposing political bent (Uelmen 1993), we suggest that this kind of ideological shaping happens all the time—and is often complained about (usually by those who see themselves as the political opposition of those who sit on the offending court). Sometimes it happens during ostensibly open deliberation and argumentation in the course of regular appellate court business. But of course, silencing of a surreptitious sort also happens whenever the court declines to accept a petition to review an appellate opinion, and does so even despite valid arguments that a correctable error was committed below. Thus, even the critique cited above is not entirely persuasive. That is to say, whether in jurisdictions where high courts have depublication authority or in those where they do not, what emerges is a common law jurisprudence that combines the normal course of explicit judicial decision-making, plus the surreptitious deauthorization of appellate judgments—through either depublication or declining to review. All of this transpires with no trace of a rationale or explanation of any kind from the court.

We argue that the enduring critiques of depublication actually come from a different set of concerns, namely two intersecting impulses about law and about the imagined, communicative dimensions of its form and practice—impulses that drive critics' deep discomfort on this issue. The first communicative dimension of law that is troubled by depublication turns on critics' understandings of legal precedent and, in particular, on a violation of the normative expectations of the temporal sequencing of its authoritativeness. This is the normative, idealist component evident in the very term precedent, namely that a legal ruling's authority is that it expresses a normative principle that precedes the later rulings regarding which it will be treated as authoritative.

Depublication violates a bedrock principle of Anglo-American jurisprudence (and the rule of law generally, perhaps) that only those laws that are knowable in advance can be treated as binding on those whose acts are subsequently subject to it. The trouble with depublication, at least partly, is that it takes an otherwise duly ordered legal judgment, which would be authoritative for later cases, and, afterward, simply strips its efficacy, without any explicit reversal or analysis and with no recourse for using the act of its depublication as itself precedential. Depublication is normatively troubling because its effect is like when a high court declines to take a lower court decision on review, insofar as no rationale is offered for the decision, except that depublication also reaches down into the lower court decision and undoes it, as if it has reversed it—not for the purposes of determining the specific rights in the underlying case at hand, but only to nullify its precedential value.

All of this troubling of legal understandings of precedent suggests a second component that makes the normative violation caused by depublication unique: that, insofar as the depublished opinion remains available for review and circulation and, insofar as it is still binding on the parties to it, the opinion is still "good law," at least as between the litigants, so that its materiality has normative significance and efficacy, even if it isn't as precedent. Indeed, at least some critics, especially those citing the experiences of appellate judges whose opinions have been depublished, also point to the significantly greater output of judicial labor that goes into preparing an opinion for publication (a weighty decision that is not given for most or even many appellate judgments)—only to be wasted when the opinion's authority is, without explanation, stripped through depublication (Gathegi 2005, Uelmen 1993).

Importantly, neither of the two component complaints about depublication—the normative or the material—raises the same kind of outrage on its own. As mentioned above, selective review of lower court opinions involves much the same opaque normative shaping that happens every time the Supreme Court declines to review an opinion of a lower court of appeal. And while it is true that a depublished case loses its precedential authority, the labor that went into getting it published is still very much on display insofar as the text of the opinion remains readily available for viewing and circulation and can, in some cases, be referenced by lawyers, just not cited for its precedential value (or its disavowal upon being depublished).

The depublished opinion is thus a kind of legal zombie, what one might call a "walking dead letter" of the law. It is trapped by the purgatory of the depublication power, materially and formally accessible but lacking the spirit of law. And this is what is so fascinating. It reveals the extent to which, at least for the legal actors canvassed by scholars of depublication cited above, law's authority is imagined as efficacious only when it brings the norms of legal authority to bear in, on, and through a specific admixture of semiotic facts of legal language. Depublication and its controversial endurance reveal just how much law's institutional legitimacy depends upon, at least for the professionals who enact it, an ideological forging of norm to fact, idea to matter, in a manner that trades on language's significatory capacities but also on the generative determinateness with which language deploys a finite set of forms to point to, reference, or otherwise impact an infinite number of acts, effects, and objects in the world.

Given that law, like language, works (and works at) the crossroads of the ideational and the material, it is perhaps not at all surprising that linguistic ideologies of ideal and concretized texts ramify at nearly every point on the scale that we might imagine to operate between the details of everyday microlinguistic practice to the most macrosociological formations. Nor is it surprising that those ideologies break through to consciousness only very occasionally and awkwardly. As noted above, this deficit in mainstream thought has for some been time been overcome by outsider and semiotic scholars, but such breakthroughs continue to be rare within standard law and legal scholarship.

5. SEMIOTIC ANALYSES OF INTERDISCIPLINARY TRANSLATION: THE NEW LEGAL REALISM

Turning to a different legal–linguistic metapragmatic breakthrough, we consider an intellectual movement with anthropological and interdisciplinary roots that just celebrated its twentieth anniversary: New Legal Realism (NLR) (Omari et al. 2024, Tejani 2021). Self-consciously formulated to communicate between law and social science, NLR has drawn on semiotics and linguistic anthropology to tackle the "translation" problem posed by the very different epistemological and discursive foundations of different fields (Gal 2016, Matoesian 2016, Silverstein 2016). One continuing problem in interdisciplinary communication is the very invisibility of those differences, which arises largely because of assumptions of linguistic transparency that bedevil academic participants as much as they do participants in court proceedings (compare, e.g., López-Espino 2023 and Mertz 2016).

Anthropologist Susan Gal (2016, pp. 216–17) shed light on this problem by excavating the meaning of translation in this context, identifying a "double effect":

> . . .a similarity between two utterances or practices is coupled with an apparent change or difference. . . . It is therefore important to remember that any two texts (or objects, practices) have innumerable qualities and properties, many of which can be picked out as similar in some way. Thus similarity and difference are always judgments relative to those who judge and to their roles, situations, and projects [citation omitted]. We have to ask: In what way is *this* a translation of *that*?

Gal emphasizes the importance of linguistic ideology in setting the frameworks in which we are answering that question—whether consciously or unconsciously. As she and others have noted, a dominant linguistic ideology in Anglo-American speech situations tends to favor a "referentialist" or "denotational" interpretation. It is an "ideology [that] limits our view to words-as-labels, eschewing attention to contextual meaning (*pragmatics*, *indexicality*)" (Gal 2016, p. 219).

It is this referentialist assumption that often makes interdisciplinary conversations so difficult. Assuming that by their specialized disciplinary lexicons they are all simply denoting the same things using different terms, anthropologists, lawyers, and legal scholars alike often assume that they do not need to learn much about the underlying worldviews or language practices of other disciplines; they just need to find the equivalent label in their own. Carried into the courtroom, that assumption allows jurists, guided by formal law, to imagine that they can bleach the content of what is communicated of any social content, as if intonation or facial expressions or implicit cultural implications from the worlds outside the courtroom could not still "leak" through to influence ostensibly objective adjudicatory processes (Silverstein 2016; see also Matoesian 2016, Silverstein 2022).

In an attempt to counteract this referentialist set of assumptions, NLR publications have always included commentary on interdisciplinary communication while bringing together a mix of scholars from different disciplines working in similar areas (Erlanger et al. 2005, Gulati & Nielsen 2006, Talesh et al. 2021, Tejani 2016, Twining 2016). An NLR position paper published in a law review (Omari et al. 2024) was coauthored by two anthropologists and a legal scholar from the Global South; it used ethnographic case studies to illustrate the conditions under which formal law and social movements can interact to create directly opposite effects. Consider the following cautionary note the authors strike about failing to heed the theoretical implications of law's materialized normativity "on the ground":

> Following the central tenets of NLR, a holistic and historical approach is needed to fully assess legal and policy outcomes and to theorize them adequately. In the case of Colombia, that which is corporate law may be turned by a social movement to emancipatory ends. In the Brazil case, that which was intended as an inclusive and antipoverty policy at the outset was turned by a social movement to

> oppressive ends. . . . That [these movements] have contrasting relationships with neoliberalism, law, and policy is not an illustration of some abstract and socially deracinated principle of law's "functional indeterminacy." Instead, it is a reminder of NLR's commitment to a grounded theory of law that focuses on the contestation between social actors in the legal process. (Omari et al. 2024, p. 229)

In compelling ways, there is a fascinating homology in the joining of ideology and materiality in the method of NLR inquiry and in the critical concerns expressed by legal actors around depublication. Both reveal a serious consideration of formal law that understands its efficacies as they emerge in the materialities of everyday legal activity, and largely as mediated by discourse. Where this is the source of the trouble in the case of depublication, it is a central feature of NLR as a scholarly movement. Moreover, both point, as a matter of practice (whether of law or social science, or both) to a commitment to combining bottom-up and top-down perspectives on questions of law's power and authority that is not only methodological but also epistemological and ethical (Erlanger et al. 2005, Klug & Merry 2016, Macaulay 2005, Mertz 2016). The recent position paper (Omari et al. 2024) also illustrates long-standing, foundational NLR commitments to global perspectives, outsider research viewpoints, and empiricism (Barnes 2016, Fineman 2005, Garth 2006, Merry 2006b, Mitchell 2005).

Of course, the homologies are not perfect. Given that critiques of depublication were coming from inside the profession of law, they proposed normative remedies that sought to use the legal system's own levers to right itself, and without conscious consideration of the underlying metapragmatic assumptions at issue. NLR's interdisciplinary commitments have been different. Indeed, from a methodological perspective, there is arguably a limit to how far NLR's kind of interdisciplinary translation effort can go, given the incommensurability problems in legal spaces that have been well-documented by anthropological scholars and others. Those problems are overtly acknowledged and discussed within NLR scholarship as part of the movement's commitment to critical empirics. At the same time, just working under the name and tradition of legal realism was itself an act of translation that claimed space in the US legal pantheon, leading to a broader conversation with legal scholars interested in that tradition than might otherwise have occurred (e.g., Caballero Perez 2022, Dagan 2017; see also Garth 2006, 2022). Notwithstanding these differences, the parallels between approaches to the law that forefront metalanguage, whether from within its own house or adjacent to it, suggest a valuable set of scholarly locations for considering how anthropological modes of inquiry can productively rethink the intersection of law, language, and outsider perspectives from a vantage point that accounts for the ideational and the material, without reducing one to the other (e.g., Klug & Merry 2016, Omari et al. 2024). Semiotic and outsider scholarship have informed NLR, but much more could be done in both regards, as well as in terms of bringing those scholarly approaches together (Barnes 2016). With this in mind, scholarship centering raciolinguistic concerns while also drawing on semiotics seems particularly promising (e.g., Alim et al. 2016, Bucholtz 2019, Reyes 2021). Conscious attention to underlying metalinguistic assumptions and moments of transparency can help us understand how, whether, and in what respect interdisciplinary exchanges are effective translations.

6. MEETING AT—AND RECENTERING—THE MARGINS

Law professor Mari Matsuda (1989, p. 9) has argued for a concept of multiple consciousness as jurisprudential method:

> The jurisprudence of outsiders teaches us that these details and the emotions they evoke are accessible to all of us, of all genders and colors. We can choose to know the lives of others by reading, studying, listening, and venturing into different places. . . . Abstraction, criticized by both feminists and scholars of color, is the method that allows theorists to discuss liberty, property, and rights in the aspirational

> mode of liberalism with no connection to what those concepts mean in real people's lives. Much in our mainstream intellectual training values abstraction and denigrates nitty-gritty detail. Holding on to a multiple consciousness will allow us to operate both within the abstractions of standard jurisprudential discourse, and within the details of our own special knowledge.

If this sounds like an anthropological approach, then perhaps it is to lawyer–law professors like Matsuda we should be looking in a quest for better translations. A common theme running through critical race theory scholarship has been the need to overcome dichotomies that separate abstract theory and law from the nitty-gritty of daily life, with the abstract ranked above the concrete. This theme shows up in many places, from conceptualizing rights to inchoate ideas about what publication has to do with making law real to struggles over translating interdisciplinary work in ways that avoid falling into those dualisms. In her recent article in this journal, anthropologist Deborah Thomas (2024, p. 97) sounds a similar note in urging a "pluriversal conceptualization of political life" to "reframe normative Enlightenment binaries."

It is no accident that we have yet to develop this conversation as a part of mainstream legal or linguistic anthropology. As Beliso-De Jesús et al. (2023, p. 422) point out that "much of the work on white supremacy has been cultivated outside of anthropology, principally by Black studies, Indigenous studies, and critical and race and ethnic studies." And Flores & Rosa (2023, p. 425) have called for "deuniversalizing Eurocentric ways of being and knowing" within linguistic anthropology. We echo other white scholars in recognizing our own limitations in this regard, while also seeking continuously to open new doors and understandings in our work (Bucholtz 2019). Both law and anthropology have yet to bring the margins into the center. We hope here to have at least indicated just how much mainstream views have been missing, because anthropology and law have many discourses within which to intersect. Attending to marginalized voices and the edges of disciplines opens exciting possibilities for those seeking a translation between anthropology and law. Metapragmatic framing often naturalizes and hides academic and professional hierarchies, but raciolinguistic semiotic analyses provide opportunities to examine those frames in new and productive ways.

Thus, Williams's (1992) writing on rights as discourse, as hope, as empty category, and as a vessel into which life can be poured, all at once, elegantly overcomes a stalemate in understanding formal law in its relation not only to social reality but also to social agency and change. Mari Matsuda, John Borrows, Val Napoleon, and other outsider scholars have shown us ways to bridge many traditional divisions within the study of law. Hopi elders had it figured out before we did. Perhaps the mainstreams of our shared disciplines can at last start to listen.

DISCLOSURE STATEMENT

The authors are not aware of any affiliations, memberships, funding, or financial holdings that might be perceived as affecting the objectivity of this review.

LITERATURE CITED

Alim HS, Rickford J, Ball A, eds. 2016. *Raciolinguistics: How Language Shapes Our Ideas About Race*. Oxford University Press

Amsterdam A, Bruner J. 2002. *Minding the Law*. Harvard University Press

Amsterdam A, Hertz R. 1992. An analysis of closing argument to a jury. *N. Y. Law Sch. Law Rev.* 37:55–122

Austin J. 1955 (1832). *The Province of Jurisprudence Determined*. Weidenfeld & Nicolson

Baker LD. 2021. The racist anti-racism of American anthropology. *Transform. Anthropol.* 29:127–42

Ballakrishnen S. 2023. Of queerness, rights, and utopic possibilities. *Socio-Legal Review*, Aug. 1. **https://www.sociolegalreview.com/post/of-queerness-rights-and-utopic-possibilities-an-interview-with-dr-swethaa-s-ballakrishnen**

Barnes M. 2016. Afterword to NLR 10th anniversary special issue: everything old. *UC Irvine Law Rev*. 6:241–53
Beliso-De Jesús A, Pierre J. 2020. Special section: Anthropology of white supremacy. *Am. Anthropol.* 122:65–75
Beliso-De Jesús A, Pierre J, Rana J. 2023. White supremacy and the making of anthropology. *Annu. Rev. Anthropol.* 52:417–35
Berenguer E, Jewel L, McMurty-Chubb T. 2023. *Critical and Comparative Rhetoric*. Bristol University Press
Bernstein A. 2023. Saying what law is. *Law Soc. Inq.* 48(1):14–30
Biggs J. 1979. Censoring the law in California: decertification revisited. *Hastings Law J.* 30:1577–96
Borrows J. 2016. *Freedom and Indigenous Constitutionalism*. University of Toronto Press
Bourdieu P. 1987. The force of law: toward a sociology of the juridical field. *Hastings Law J.* 38:814–53
Brenneis D. 1984. Grog and gossip in Bhatgaon: style and substance in Fiji Indian conversation. *Am. Ethnol.* 11(3):487–506
Brenneis D. 1988. Language and disputing. *Ann. Rev. Anthropol.* 17:221–37
Brodkin K, Morgen S, Hutchinson J. 2011. Anthropology as white public space? *Am. Anthropol.* 113(4):453–68
Bucholtz M. 2019. The public life of white affects. *J. Socioling.* 23:485–504
Caballero Perez A. 2022. New Legal Realism: a promising legal theory for interdisciplinary and empirical research about the 'law-in-action.' *Novum Jus* 16:209–28
Cabatingan L. 2023. *A Region Among States: Law and Non-Sovereignty in the Caribbean*. University of Chicago Press
Canfield M. 2023. The anthropology of legal form: ethnographic contributions to the study of transnational law. *Law Soc. Inq.* 48(1):31–47
Clarke K. 2009. *Fictions of Justice: The International Criminal Court and the Challenge of Legal Pluralism in Sub-Saharan Africa*. Cambridge University Press
Conley J, O'Barr WM, Riner RC. 2019. *Just Words: Law, Language, and Power*. University of Chicago Press. 3rd ed.
Constable M. 2005. *Just Silences: The Limits and Possibilities of Modern Law*. Princeton NJ: Princeton University Press
Cover R. 1983. *Narrative, Violence and the Law: The Essays of Robert Cover*, ed. M Minow, M Ryan, A Sarat. University of Michigan Press
Crenshaw K. 1989. Demarginalizing the interaction of race and sex: a Black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics. *Univ. Chicago Leg. Forum* 1989(1):139–167
Crenshaw K. 1991. Mapping the margins: intersectionality, identity politics, and violence against women of color. *Stanford Law Rev*. 43:1241–99
Dagan H. 2017. Contemporary legal realism. In *Encyclopedia of the Philosophy of Law and Social Philosophy*, ed. M Sellers, S Kirste. Springer
Danet B. 1980. Language in the legal process. *Law Soc. Rev.* 14(3):445–564
Das Acevedo D. 2022. Sweet old-fashioned notions: legal engagement with anthropological scholarship. *Ala. Law Rev.* 73(4):719–32
Deeb L, Winegar J. 2016. *Anthropology's Politics: Disciplining the Middle East*. Stanford University Press
Dubois P. 1988. The negative side of judicial decision making: depublication as a tool of judicial power and administration on state courts of last resort. *Villanova Law Rev*. 33:469–514
Eades D. 2008. *Courtroom Talk and Neocolonial Control*. Mouton de Gruyter
Eades D. 2010. *Sociolinguistics and the Legal Process*. Multilingual Matters
Erlanger H, Garth B, Larson J, Mertz E, Nourse V, Wilkins D. 2005. Is it time for a New Legal Realism? *Wis. Law Rev*. 2005(2):335–63
Ewick P, Silbey SS. 1998. *The Common Place of Law: Stories from Everyday Life*. University of Chicago Press
Fineman M. 2005. Gender and law: feminist legal theory's role in New Legal Realism. *Wis. Law Rev.* 2005(2):405–31
Flores N, Rosa J. 2023. Undoing raciolinguistics, unsettling (socio)linguistics. *J. Socioling.* 27(5):421–27
French R. 2001. A conversation with Tibetans? Reconsidering the relationship between religious beliefs and secular legal discourse. *Law Soc. Inq.* 26(1):95–112
Gal S. 2016. Processes of translation and demarcation in legal worlds. In *Translating the Social World for Law: Linguistic Tools for a New Legal Realism*, ed. E Mertz, W Ford, G Matoesian. Oxford University Press

Garth B. 2006. Taking New Legal Realism to transnational issues and institutions. *Law Soc. Inq.* 31(4):939–45
Garth B. 2022. New Legal Realism and empirical legal studies in the United States. *Frontiers of Socio-Legal Studies*, March 30. **https://frontiers.csls.ox.ac.uk/new-legal-realism/#continue**
Gathegi J. 2005. Officially mandated disappearing information: the legal depublication phenomenon. *Gov. Inf. Q.* 22 (3):423–39
Goodale M. 2009. *Surrendering to Utopia: An Anthropology of Human Rights*. Stanford University Press
Goodale M. 2017. *Anthropology and Law: A Critical Introduction*. NYU Press
Goodrich P. 1984. Law and language: an historical and critical introduction. *J. Law Soc.* 11(2):173–206
Gordon G. 2023. Legal and cultural construction of the Maori corporate person. *Law Soc. Inq.* 48(1):50–63
Greenberg J. 2025. *Justice in the Balance: Democracy, Rule of Law and European Court of Human Rights*. Stanford University Press
Greenhouse C. 1986. *Praying for Justice: Faith, Order, and Community in an American Town*. Cornell University Press
Greenhouse C. 2011. *The Paradox of Relevance: Ethnography and Citizenship in the United States*. University of Pennsylvania Press
Grodin J. 1984. The depublication practice of the California Supreme Court. *Calif. Law Rev.* 72:514–28
Gulati M, Nielsen LB. 2006. A New Legal Realist perspective on employment discrimination. *Law Soc. Inq.* 31(4):797–800
Harris C. 1993. Whiteness as property. *Harvard Law Rev.* 106(8):1707–91
Harrison FV, ed. 1991. *Decolonizing Anthropology: Moving Further Toward and Anthropology for Liberation*. American Anthropological Association
Harrison IE, Harrison FV, eds. 1999. *African-American Pioneers in Anthropology*. University of Illinois Press
Hinton AL. 2023. *Anthropological Witness: Lessons from the Khmer Rouge Tribunal*. Cornell University Press
Hull M. 2012. Documents and bureaucracy. *Annu. Rev. Anthropol.* 41:251–67
Kahn J. 2022. Anthropology, law and the problem of incommensurability. *Ala. Law Rev.* 73(4):783–801
Kannabiran K, Ballakrishnen S. 2021. *Gender Regimes and the Politics of Privacy: A Feminist Re-Reading of* Puttaswamy versus Union of India. Zubaan
Kevelson R. 1991. *Peirce and Law: Issues in Pragmatism, Legal Realism, and Semiotics*. Peter Lang Group
Kevelson R, ed. 1988. *Law and Semiotics*. Springer
Klug H, Merry SE. 2016. Introduction. In *The New Legal Realism*, Vol. 2: *Studying Law Globally*, ed. H Klug, SE Merry. Cambridge University Press
Leonard WY. 2021. Toward an anti-racist linguistic anthropology: an Indigenous response to white supremacy. *J. Linguist. Anthropol.* 124(1):118–29
Li D. 2023. How to read a case: ethnographic lawyering, conspiracy, and the origins of Al Qaeda. *Am. Anthropol.* 125(3):559–69
Llewellyn KN, Hoebel EA. 1941. *The Cheyenne Way*. University of Oklahoma Press
López-Espino J. 2023. Off-the-record: metapragmatic distinctions and linguistic sympathy among interpreters in a California child welfare court. *Am. Anthropol.* 125:225–38
Macaulay S. 2005. The new versus the old legal realism: "Things ain't what they used to be." *Wis. Law Rev.* 2005:365–403
Maine H. 1861. *Ancient Law*. John Murray
Matoesian G. 2001. *Law and the Language of Identity: Discourse in the William Kennedy Smith Trial*. University of Chicago Press
Matoesian G. 2016. Some further thoughts on translating law and social science. In *Translating the Social World for Law: Linguistic Tools for a New Legal Realism*, ed. E Mertz, W Ford, G Matoesian. Oxford University Press
Matsuda M. 1989. When the first quail calls: multiple consciousness as jurisprudential method. *Women's Rights Law Rep*. 11:7–10
Mehrotra A. 2001. Law and the "other": Karl N. Llewellyn, cultural anthropology, and the legacy of *The Cheyenne Way*. *Law Soc. Inq.* 26(3):741–75
McClaurin I, ed. 2001. *Black Feminist Anthropology: Theory, Politics, Praxis, and Poetics*. Rutgers University Press
Merry SE. 1990. *Getting Justice and Getting Even: Legal Consciousness Among Working-Class Americans*. University of Chicago Press

Merry SE. 2006a. *Human Rights and Gender Violence: Translating International Law into Local Justice*. University of Chicago Press

Merry SE. 2006b. New Legal Realism and the ethnography of transnational law. *Law Soc. Inq.* 31(4):975–95

Merry SE. 2016. *The Seductions of Quantification: Measuring Human Rights, Gender Violence, and Sex Trafficking*. University of Chicago Press

Mertz E. 1994. Legal language: pragmatics, poetics and social power. *Annu. Rev. Anthropol.* 23:435–55

Mertz E. 2007. Semiotic anthropology. *Annu. Rev. Anthropol.* 36:337–53

Mertz E. 2016. "Can you get there from here?" Translating law and social science. In *Translating the Social World for Law: Linguistic Tools for a New Legal Realism*, ed. E Mertz, W Ford, G Matoesian. Oxford University Press

Mertz E. 2026. White professional vision. In *The Total Linguistic Fact*, ed. L Fleming, N Harkness, C Nakassis. University of Toronto Press. In press

Mertz E, Rajah J. 2014. Language-and-law scholarship: an interdisciplinary conversation and a post-9/11 example. *Annu. Rev. Law Soc. Sci.* 10:169–83

Mitchell T. 2005. Destabilizing the normalization of black land loss: a critical role for legal empiricism. *Wis. Law Rev.* 2005(2):557–615

Moore SF. 1969. Law and anthropology. *Bienn. Rev. Anthropol.* 6:252–300

Moore SF. 1973. Law and social change: the semi-autonomous social field as an appropriate subject of study. *Law Soc. Rev.* 7(4):719–46

Moore SF. 1978. *Law as Process: An Anthropological Approach*. Routledge & Kegan Paul

Moore SF. 1986. *Social Facts and Fabrications: "Customary" Law on Kilimanjaro*. Cambridge University Press

Moore SF. 2018. *A life of learning*. Occas. Pap. 75, American Council of Learned Societies. **https://www.acls.org/wp-content/uploads/2021/11/75-2018-SallyFalkMoore.pdf**

Morgan LH. 1877. *Ancient Society*. C.H. Kerr

Mullings L. 2005. Interrogating racism: toward an antiracist anthropology. *Annu. Rev. Anthropol.* 34:667–93

Nader L. 1965. The anthropological study of law. *Am. Anthropol.* 67:3–32

Nader L. 1996. *Law in Culture and Society*. University of California Press

Napoleon V, Friedland H. 2014. Indigenous legal traditions: from roots to renaissance. In *Oxford Handbook of Criminal Law*, ed. M Dubber, T Hörnle. Oxford University Press

Obasogie O. 2013. Critical Race Theory and empirical methods. *UC Irvine Law Rev*. 3:183–86

Offit A. 2022. *The Imagined Juror: How Hypothetical Jurors Influence Federal Prosecutors*. NYU Press

Omari J. 2025. Political disinformation in the Anthropocene. *Wash. Lee Law Rev.* 81:2027–93

Omari J, Rueda-Saiz P, Wilson R. 2024. New Legal Realism at 20: rethinking law in and era of populism and social movements. *Conn. Law Rev.* 57(1):181–230

Philips SU. 2000. Constructing a Tongan nation-state through language ideology in the courtroom. In *Regimes of Language: Ideologies, Polities, and Identities*, ed. P Kroskrity. School for Advanced Research Press

Rahim A. 2020. Diversity to deradicalize. *Calif. Law Rev.* 108:1423–86

Rahim A. 2021. Race as unintellectual. *UCLA Law Rev*. 68:632–90

Rajah J. 2022. *Discounting Life: Necropolitical Law, Culture, and the Long War on Terror*. Cambridge University Press

Renteln AD. 2004. *The Cultural Defense*. Oxford University Press

Reyes A. 2021. Postcolonial semiotics. *Annu. Rev. Anthropol.* 50:291–307

Richland J. 2005. "What are you going to do with the village's knowledge?' Talking tradition, talking law in Hopi Tribal Court. *Law Soc. Rev.* 39(2) 235–71

Richland J. 2008. *Arguing with Tradition: The Language of Law in Hopi Tribal Court*. University of Chicago Press

Richland J. 2013. Jurisdiction: grounding law in language. *Annu. Rev. Anthropol.* 42:209–26

Richland J. 2021. *Cooperation Without Submission: Indigenous Jurisdictions in Native Nation–US Engagements*. University of Chicago Press

Richland J, Weichselbraun A. 2014. Language and law. In *Oxford Bibliographies in Anthropology*, ed. LD Baker. Oxford University Press

Richland K. 1990. Depublish or perish: why depublication is good for the California judicial system. *Los Angeles Law. Mag.* 13:1–7

Riles A, ed. 2006. *Documents: Artifacts of Modern Knowledge*. University of Michigan Press
Riles A. 2011. *Collateral Knowledge: Legal Reasoning in the Global Financial Markets*. University of Chicago Press
Riner RC. 2023. Legal language and its ideologies. In *The New Wiley Blackwell Companion to Linguistic Anthropology*, ed. A Duranti, R George, RC Riner. Wiley Blackwell
Rodriguez L. 2014. A cultural anthropologist as expert witness: a lesson in asking and answering the right questions. *Pract. Anthropol.* 36(3):6–10
Rosa J. 2019. *Looking Like a Language, Sounding Like a Race: Raciolinguistic Ideologies and the Learning of Latinidad*. Oxford University Press
Silverstein M. 2016. Performative risks in risking performance. In *Translating the Social World for Law: Linguistic Tools for a New Legal Realism*, ed. E Mertz, W Ford, G Matoesian. Oxford University Press
Silverstein M. 2022. *Language in Culture: Lectures on the Social Semiotics of Language*. Cambridge University Press
Simpson A. 2014. *Mohawk Interruptus: Political Life Across the Borders of Settler States*. Duke University Press
Smalls KA, Spears AK, Rosa J. 2021. Introduction: language and white supremacy. *J. Linguist. Anthropol.* 31:152–56
Smith CA, Garrett-Scott D. 2021. We are not named: Black women and the politics of citation in anthropology. *Fem. Anthropol.* 2(1):18–37
Stanchi K. 2023. The rhetoric of rape through the lens of *Commonwealth v. Berkowitz*. *Int. J. Semiot. Law* 37:359–78
Starr J, Collier J, eds. 1989. *History and Power in the Study of Law: New Directions in Legal Anthropology*. Cornell University Press
Starr J, Goodale M, eds. 2002. *Practicing Ethnography in Law: New Dialogues, Enduring Methods*. St. Martin's Press
Talesh S, Mertz E, Klug H, eds. 2021. *Research Handbook on Modern Legal Realism*. Edward Elgar
Tamanaha B. 2016. Legal realism in context. In *The New Legal Realism*, Vol. 1: *Translating Law-and-Society for Today's Legal Practice*, ed. E Mertz, S Macaulay, T Mitchell. Cambridge University Press
Tejani R. 2016. "Fielding" legal realism: law students as participant-observers? In *The New Legal Realism*, Vol. 1: *Translating Law-and-Society for Today's Legal Practice*, ed. E Mertz, S Macaulay, T Mitchell. Cambridge University Press
Tejani R. 2021. Anthropology. In *Research Handbook on Modern Legal Realism*, ed. S Talesh, E Mertz, H Klug. Edward Elgar
Tejani R. 2022. The life of transplants: why law and economics has "succeeded" where legal anthropology has not. *Ala. Law Rev.* 73:733–52
Thomas D. 2024. Refusal (and repair). *Annu. Rev. Anthropol.* 53:93–109
Tuhiwai Smith L. 1990. *Decolonizing Methodologies: Research and Indigenous Peoples*. Zed Books
Twining W. 2016. Legal R/realism and jurisprudence: ten theses. In *The New Legal Realism*, Vol. 1: *Translating Law-and-Society for Today's Legal Practice*, ed. E Mertz, S Macaulay, T Mitchell. Cambridge University Press
Uelmen G. 1993. Publication and depublication of California Court of Appeal opinions: Is the eraser mightier than the pencil? *Loyola Los Angeles Law Rev.* 26:1007–32
von Benda-Beckmann F, von Benda-Beckmann K, eds. 2009. *The Power of Law in a Transnational World: Anthropological Enquiries*. Berghahn Books
White JB. 1990. *Justice as Translation*. University of Chicago Press
Williams P. 1992. *The Alchemy of Race and Rights: Diary of a Law Professor*. Harvard University Press
Wilson R. 2016. When law and social science diverge: causation in the international law of incitement to commit genocide. In *The New Legal Realism*, Vol. 2: *Studying Law Globally*, ed. H Klug, SE Merry. Cambridge University Press