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Law, Legal Pluralism and Human Rights: Toward an Understanding of 'Anthropology of Law'

Mohammad Nasir Uddin*

Introduction

Anthropology of Law is not much explored an area in comparison to other subfields of the discipline. If properly explored, it would readily be able to prove its germaneness as a field of study in the context of Bangladesh. One point of view is that the legal system prevailing in Bangladesh needs to be understood in its socio-cultural context as well as it requires to be analysed from critical historical perspective. The peoples of Bangladesh experience the contentious character of existing legal process in their everyday life. Rifts and flaws underlying the total judicial system are now very much explicit and time is now ripe to question the inherent injustices of this system. In fact, we need to give critical look to the very characteristics of the laws, legal institutions, law enforcing agencies, and other components of legal-judicial system. Least we should forget that these are the instrumental tools through which the ordering and disciplining of the people is ensured in today's state. In other words, we need to examine the genealogy of the state-run legal system and its concomitant institutions and agencies.

If we do not understand the genesis of our political ideas we shall be compelled to remain their prisoners rather than enabled to become their masters" (J. Dunn 1991 in Benda-Beckmann 1997: 2). Such wisdom is equally true in case of our legal system. The inadequacies and limitations that our legal framework has inherited through its colonial lineage need to be addressed and uncovered inclusively if we mean to eliminate those. In our endeavour to address these issues what we need to remember is:

* Lecturer, Department of Anthropology, Jahangirnagar University

> 'Colonialism pulled entire legal systems across national borders and imposed them on very different socio-cultural systems. Pockets of formerly autonomous indigenous peoples have become incorporated within nation-states as a result of European expansion in the last three centuries. The process of nation-state formation have produced multi-ethnic societies in which local groups struggle to maintain autonomous legal systems while national interests endeavor to unify and standardize these diverse systems.' (Merry 1992)

Viewing legal process(es) from critical and historical point, as it has been stated above, is not the only perspective that anthropology of law offers. In fact, a 'shift toward historical analysis while retaining a view of law as politics' (Vincent 1996) is a more recent trend in anthropology of law that has got acceleration from the overall ascendance of postmodern viewpoints.

This paper seeks to illuminate the divergent perspectives that constitute or has constituted the field of 'anthropology of law'. The paper begins by outlining the development of this field of study. It is assumed that this will provide a brief sketch of its scope. Next, the paper focuses on some of the central issues that arises on the occasions of explaining the relationship between law and society and at this stage issues of legal pluralism and human rights get special emphasis. It is concluded that there is a clear need for interdisciplinary approach for properly explaining the issues related to law and human rights. This exploration might make feel the urge of legal and judicial reforms in Bangladesh and anthropological perspective has strong role to play in all such endeavors.

'Anthropology of law' or 'Legal anthropology': the beginning

What we are talking about as anthropology of law is sometimes described, especially by the lawyers, as *legal anthropology* (Vincent 1996). Since legal anthropology refers to the interdisciplinary study of law and anthropology, Clifford Geertz has labelled this as a centaur discipline (Geertz 1983). As a distinct subfield it got clear recognition not earlier than at the beginning of 1940s (Vincent 1996:330), though it had all the potential to emerge as one of the basic subdisciplines of anthropology from the very beginning of the discipline and it could have developed, at least, in the early decades of last century. The prime cause is that in the formation of anthropological ideas the jurists and legal historians had important contributive role, and almost all the scholars writing the history of the discipline has made the recognition, as one of them writes:

> '.....The writings of ancient Greek philosophers and travellers, medieval Arab historians, medieval and Renaissance European travellers, and the later European philosophers, ***jurists*** and scientists of various kinds, are all plausible precursors (of anthropological ideas); (Barnard 2000:15 *emphasis added)*

In reality it took much time and even at the period when it got recognition, it was law professors, not anthropologists, who took the initiative. Karl Llewllyn, a law professor, constructed a genealogy for legal anthropology and argued its relevance for the study and teaching of jurisprudence (Vincent 1996). Sir Henry Summar Maine (1822-1888), one of the early evolutionists in anthropology, is generally acknowledged as the founding ancestor of this sub-discipline. 'By training and education, he belonged to law discipline. He was the founder of Comparative Jurisprudence in England. For some time, he was also a professor of Jurisprudence in Cambridge and Oxford. He came to India in connection with the study of primitive law in primitive societies. In 1869 he became the vice-chancellor of Calcutta University' (Upadhay and Pandey 1996: 43).

Maine published a number of books on ancient laws and customs, among which *Ancient Law*, published in 1861, is most famous. Other books include *Early Law and Custom* (1861), *Village communities in East and West* (1871), *Lectures on Early history of Institutions* (1875), *Popular Government* (1890). In the preface of *Ancient Law* Maine declared that he wanted to examine some of the earliest ideas of mankind as they are reflected in ancient law and to point out the relationship of those ideas to modern thought. It meant Maine was interested in the evolution of law in Western world (*ibid.*: 43). While discussing the development of law, he advanced a grand theory within the framework of rigid evolutionary model that placed all human societies on a sequence of development progressing from the most primitive stage to his own Victorian England. On the other hand, Maine lacked interest in what he regarded as the backward races of mankind (Harris 1968:190). In *Ancient Law* he says, 'I confine myself in what follows to the progressive societies' (Maine 1861:23, quoted in Harris 1968:190). These societies consisted exclusively of "Aryan" peoples, for 'civilization is nothing more than a name for the old order of the Aryan world' (Maine, (1869) in Harris 1968:190).

Anyhow, the over deterministic evolutionary scheme of Maine eventually fell into disrepute and he made a more enduring contribution to legal anthropology with his identification of a fundamental distinction between those societies in which legal rights and responsibilities rested on social status, and those in which they rest on contractual agreements among individuals. He aptly summed up this transformation in the phrase 'from Status to Contract'. In like vein, it should also be noted that Maine perceived an opposition between East and West linked to a distinction between religion and law. Such projects lead some analysts to place Maine squarely within the colonialist enterprise of glorifying European culture.

The journey continues

Bronislaw Malinowski (1884-1942) is considered to be the first prominent anthropologist with whom the modern anthropology of law has begun. Malinowski's '*Crime and Custom in the Savage Society*' was published in 1926 as one of his several monographs on Tobriand society. Malinowski's conception of 'law' has changed several times during the course of his career. Before conducting field research, he restricted the term 'law' to social norms, which enjoy an organised, more or less, regulated and active social order.

At one stage Malinowski opined that while describing native condition, it would be an obvious mistake to use such terms as law, legal, criminal, and civil law, in strict sense as they are defined in jurisprudence. Later he intensively observed the conditions of native life and concluded that there a distinction can be made between civil law and criminal law. Civil law is a set of rules regulating the social mechanism in its stationary normal course. Criminal law is the safety arrangements, putting things aright whenever there is any hitch in their normal course. Malinowski observes that there are various ways of reacting to murder, adultery, theft and evil magic among the natives. Under the title, "Rudimentary measures corresponding to criminal law" Malinowski discusses this aspect of native peoples life (Upadhay and Pandey 1996: 43).

Malinowski criticized Maine's evolutionary scheme, perhaps still the dominant paradigm in legal anthropology, for resting on a fundamental misunderstanding of the nature of governance and social control in so-called primitive societies (Malinowski 1926:56).

Malinowski's uniqueness and basic distinction from Maine is that he forwarded a strong ethnographic approach to the study of legal issues. He called for extended fieldwork in order to study by direct observation of the rules of custom as they function in actual life (*ibid.*:126). Whereas Maine simply took it for granted that there was no need to discuss the origin of institutions in a framework larger than that of Aryans and propounded a theory manifestly restricted to Europe and India, Malinowski introduced a wider anthropological perspective highlighting intensive fieldwork tradition. Maine dismissed the study of societies like Trobinad's on the ethnocentric ground that these societies are slaves to static rules, whereas Malinowski's patient ethnographic approach yielded a complex system encompassed even civil and criminal rules, and a system of enforcement (*ibid.*:58-59). Yet Malinowski was not merely interested in recording the Tobriand's particular set of legal rules. He rather sought to explore the cultural context of their law, and to appreciate its rationality: "We are met by law, order, definite privileges and a well-developed system of obligations" (*ibid.*:21).

Then comes the period when legal anthropology first got wider recognition, and it has already been mentioned here that the work of great legal scholar and reformer Karl Llewllyn was very instrumental in case of such development. Llewllyn accomplished his work in collaboration with another great figure E. Adamson Hoebel. Hoebel's several publications on legal topics mark him definitively as an extraordinary anthropologist of law from America. He is well known for his ethnographic work among Native North Americans (Barnard and Spencer 2000:578). He and Llewllyn worked on dispute settlement among Cheyenne. In 1941 they published their most notable book *The Cheyenne Way*. This is regarded as a classic text in legal anthropology, particularly for its clear articulation of the case study as the primary unit of analysis which established this approach as a model for the study of tribal law. Another significant fact about this work is that it is the early example of an interdisciplinary approach to the study of law, a trend that would become more compelling over time. In 1954 Hoebel published his more theoretical work *The Law of Primitive Man: A Study of Comparative Legal Dynamics* which set out, in his view, the various types of legal systems, and assessed their levels of complexity and perfection. From this some reviewer concludes that Hoebel

represented somewhat of a return to the explicitly evolutionary approach first articulated by Maine. Hoebel's other works include *Man in the Primitive World* (1949), and with T. Weaver, *Anthropology and the Human Experience (1979).*

The next two decades, 1950s and 1960s, saw legal anthropologists being largely concerned with law as an aspect of social control and the imposition of sanctions. During this time legal anthropologists were seen to view legal procedures as a means of enforcing social rules. The approach dominating this period is generally termed as *rule-centered approach.*

A crucial debate emerged during this time about the relationship between legal and anthropological method, and particularly over the question of whether legal anthropologists should apply Anglo-American legal categories to the study of non-western societies. This polemic was not different from the well-known formalist-substantivist debate dominant in economic anthropology during the same frame of time. (For a brief sketch of this debate in economic anthropology over the universal applicability of the basic premises of conventional economics, see Leclair and Schneider 1968: Introduction).

The debate in anthropology of law regarding the applicability of Anglo-American legal categories was centered primarily on two leading figures in legal anthropology during this period - Max Gluckman and Paul Bohannan - though by no means was it limited to these two. Incidentally this is the period during which the number of scholars who identified themselves as legal anthropologists grew considerably. Paul Bohannan's *Justice and Judgment among the Tiv* is a remarkable work which was first published in 1957. In the debate Bohannan's position was that the use of western legal categories would serve as a barrier to understanding and representing other culture. He favoured considerable use of native legal terms that are not easily translated into English, but whose meanings be explained. On the other hand, Max Gluckman who is famous for his legal ethnographies of the Barotse in central Africa, considered Bohannan's approach to be both overcautious and itself a barrier to fruitful comparative analysis. His work *The Judicial Process among the Barotse of Northern Rodeshia* was published in 1955. Having trained as a lawyer and at home with jurisprudential discourse, he deliberately sought operational field procedures that straddled the two domains - western jurisprudence and broader notions of order and dispute settlement (Vincent 1996).

However, it becomes explicit that the contention between Bohannan and Gluckman was not so much about the nature of law itself, but rather about the nature of legal anthropology and the debate raised issues about representation, language, and cultural comparison. Anyhow, later legal anthropologists can think them fortunate that in a conference held in 1966 they two debated these issues and their remarks were published three years later as part of a larger collection. Laura Nader edited the collection titled *Law in Cultures and Society* (1969). *Concepts in the Comparative Study of Tribal Law* was the article authored by Gluckman, while Bohannan authored *Ethnography and Legal Comparison in Legal Anthropology* published in the collection.

The rule-centered approaches were then challenged by action-oriented processual model. S.E. Merry states the development this way:

> 'The processual model of law, of which dispute processing was a part, was derived from extended case analysis and Malinowskian notions of social action. It challenged older rule-centred approaches and generated acrimonious debate during the 1960s' (Merry 1992:359).

The development of this processual anthropology of law 'led to a focus on courtroom procedure and dispute settlement that had much in common with the American legal realists (among them Llewlleyn), whose work was highly compatible with the work of the anthropologists' (Vincent 1996).

In the 1970s, thus, it became an important debate within legal anthropology as to what the focus of study should be: rules or process. It was namely the debate between rule-centred approach and processual model of analysis. Laura Nader's edited work *The disputing Process - Law in Ten Societies* (1978) (edited in collaboration with H.F. Todd) produced a florescence of studies of village law using a choice-making model of action, a focus on local places, and it pioneered the dispute-processing theory. This perspective reestablished the centrality of ethnographies of law to studies of socio-cultural organization. Disputing was examined in its socio-cultural framework, but there was no explicit focus on national or transnational contexts (Merry 1992: 359).

Some scholars endeavoured to synthesize the rule-centred approach and processual approach instead of accepting them as mutually exclusive. In her book, *Law as process: An Anthropological Approach* (1978), Sally Falk Moore showed that rules could be incorporated into the processual model of law. This approach she applied in her historical study of Chagga law: *Social Facts and Fabrications: Customary Law in Kilimanjaro, 1880-1980* (1989). This study by Moore shows the way how "traditional" law gets changed in the context of major political and economic changes while at the same time it remained in some ways continuous with the past.

Later trends in anthropology of law

Till the second half of 1970s or even the beginning of 1980s, thus anthropologists generally tended to focus on local situation while analyzing legal phenomena. Thereafter anthropologists show a trend that national and international contexts increasingly become important in understanding local situations. This transformation is related with the developments of outlooks like World system theory, theories of domination and resistance, and increased emphasis on historicity of social organization. These significant shifts within legal anthropology can be better understood by focusing in particular on the emergence of cultural and historical approaches.

J. Starr and J. F. Collier's edited work *History and Power in the Study of Law: New Directions in Legal Anthropology* (1989) is considered as an important collection in this regard that criticizes micro-level disputing studies and shows how the framework of dispute analysis can be expanded to historical time and the world system (*ibid.*: 359). In fact, here they have tried to reorient the anthropology of law away from viewing law as a conflict towards viewing law as power, and studying its creation, distribution, and its transmission.

A discourse-oriented and postmodernist critique also began to emerge in the 1980s that started to question the traditional categories of legal anthropologists. Case method that had long been the paradigmatic unit of analysis is viewed critically in *Rules versus Relationship: The Ethnography of Legal Discourse* (1990) by John M. Conley and William M. O'Barr. This work, in fact, raises the question of whether the case method reflects a universal human understanding about law, or is simply the projection of Anglo-American values onto others.

Though even in the 1990s dispute processing continues to remain a core methodological approach, it is coupled by a greater concern with meaning and power. Studies of how legal institutions and actors create and transform meaning have been added to the examinations of processes of dispute in social context. J. L. Comaroff and S. Robert's *Rules and Processes: The Cultural Logic of Dispute in an African Context* (1981) is one of such works on disputing that has analyzed it as a process of making and transforming meanings in which both disputants and third parties exercise roles of unequal power (*ibid.*:360).

Another noteworthy perspective added in contemporary legal anthropology is the one that has been launched by Clifford Geertz. In *Local Knowledge: Further Essays in Interpretative Anthropology* (1983) Geertz challenged the categories of legal anthropology and raised serious concerns about the ability of anthropologists and legal thinkers to combine their approaches as part of an interdisciplinary project. He advocated the comparative analysis of law parallel to the comparative analysis of myth, ritual, ideology, art, or classification systems focused on structures of meaning, especially on the symbols and systems of symbols through whose agency such structures are formed, communicated, and imposed (Geertz 1983: 169-182).

Anyhow Merry (Merry 1992) identifies four new ingredients in contemporary anthropology of law. *First* is the shift toward a national and international context. This means that transnational processes are becoming more important now in theorizing about the nature of local legal phenomena. *Second* is the increased interest in cultural analysis. In this view law is closely linked to culture, to the representation as well as regulation of social life. *Third* is a renewed interest in legal pluralism. This new sense of legal pluralism is used as a way of talking bout the multiplicity of coexisting legal systems and their interconnections. *Fourth* is increased attention to power and the ways law constructs and reconstructs power relations. In this view law is considered no longer as only a mode of social control, it is also a constitutive system that creates conceptions of order and enforces them.

Being enriched with these new ingredients legal anthropologists make another important shift - a shift of focus. They move toward the study of the United States. It was, in fact, a shift of focus from law among tribal and

peasant peoples to law among urban sophisticates. This movement brought an overall transformation in the outlook of the theoreticians of this field:

> 'As legal anthropologist started to work more intensively in the United States, Britain and other industrialized nations, their analytic frameworks were enriched and expanded by the theoretical orientations of related disciplines in the social sciences and law, particularly those of law and society and critical legal studies. The new research setting, in which national and transnational processes are inescapably present, has challenged earlier theories that focused only on local places. ... theories of order maintenance and social control growing out of the structural-functional paradigm have gradually given way to theoretical models more appropriate to a world in which transnational processes exercise enormous power' (Merry 1992: 360-361).

S.E Merry's *Getting Justice and Getting Even: Legal Consciousness among Working Class Americans* (1990) is one of such works that represent part of this unfolding program to examine the ordering of American life using traditional tools of anthropology. According to Vincent this work of Merry has identified the tendency of officialdom to direct poor litigants to mediation rather than law. Vincent also comments that ethnographers working at the grassroots have found an unwillingness to embark on litigation, even a culture of avoidance (Vincent 1996).

Legal pluralism and legal anthropology

One of the most important perspectives hold by contemporary legal anthropologists is the that of legal pluralism. It enables them to give critical look to the interconnectedness of law, society, politics and history. It is considered as a concept that places legal issues in their real heterogeneous contexts:

> 'Analytically, legal centralism and legal pluralism are contending processes. Legal centralism impinges on local knowledges and peripheral situations of resistance, contingencies or simply pure contradictions. Anthropologists analyse competing legal registers, each with its own historical trajectory and historical consequences. They view legal pluralism in the light of historical struggles over sovereignty, nationhood and legitimacy' (*ibid.*:332).

According to Benda-Beckmann's observation 'it has become customary for many scholars and legal politicians to summarize the coexistence of different normative orders within one socio-political space as 'legal pluralism' or 'legal plurality' (Benda-Beckmann 1997:1). But in his view legal pluralism is not to be understood as so simple a phenomenon. Though it was originally introduced with a modest ambition it has gradually become a subject of emotionally loaded debates. Some has full-heartedly embraced this concept, while others have rejected it vehemently. 'For some it is an old-fashioned concept from colonial legal science, while others hail it as a post-modern concept. What we observe is not an analytical clarification, but an increasing politicization and ideologization of the concept itself' (*ibid.*: 2)

There has been a debate as to who first gave present connotations to the term - anthropologists or lawyers. While reviewing conceptual politics and legal pluralism, Benda-Beckmann sees that for some writers 'it has become fashionable to associate the concept of legal pluralism with legal anthropologists and their ideological or professional concerns, such as "proving" that native people "had law", or to go on with their work after state formation and capitalist economy had destroyed their 'primitive' or 'archaic' law' (*ibid.*: 2). But Benda-Beckmann himself finds that the legal complexity which the concept indicates, and the increasing use of the term was largely the work of the lawyers. He is very critical about the position anthropologists maintained regarding the use of the term for long. Relying mainly on the works of Dutch scholars and the English Scholars of African law the term was popularized, according to Benda-Beckmann, mainly by the lawyers. Anthropologists were reluctant at first to use the term. Both in evolutionist and structuralist-functionalist legal anthropology, legal pluralism did not play a role. On the contrary, in the great legal anthropological monographs of the 1950s and 1960s, the co-existence of state and tribal and village law was 'edited out' (Moore, quoted in *ibid.*: 1). It has also been identified that while early anthropologists, including Malinowski, were concerned in demonstrating the functional equivalence of law and spoke of law in 'primitive' societies, they did not discuss the problems arising out of the co-existence of these laws with state legal forms.

Anyhow, legal pluralism does not mean mere the acceptance of a plurality of law; it sees this plurality *as a positive force* that needs to be utilized rather than be eliminated. The co-existence of local, national, and transnational legal systems were described as legal pluralism in the past. But this meaning of legal pluralism has gone through transformation, as Merry describes it:

> "Past usage often produced static analyses of plurality that failed to explore the interactions between the systems or the implications of power inequalities among them. More recently, however studies of legal pluralism have focused on the mutually constitutive nature of these systems rather than their separateness. Moreover, definitions of the constituent orders have expanded to include a range of informal societies, sometimes called private governance, which are found in societies with pervasive state law (such as the United States) as well as in postcolonial nations. Consequently, plurality of legal systems now appears to be fundamental characteristic of all societies, not only those with colonial histories. One or more of these systems is often the product of transnational processes." (Merry 1992: 358)

From such a point of view Merry finds it important to look at local processes within a national and transnational context and wishes to examine a theory of legal pluralism closely linked to questions of culture and power. According to Merry's analysis a focus on the dialectic and mutually constitutive relations between state law and other normative orders emphasizes the interconnectedness of social orders and the vulnerability of local places to structures of domination far outside their immediate worlds. 'This theoretical position considers how state law penetrates and restructures other normative orders and how non-state normative orders resist and circumvent penetration or how they even capture and appropriate state law. It also examines how, in turn, informal normative orders or systems of private governance affect state law' (*ibid.*: 358)

Apart from the relationship between state law and other normative orders, another important issue that gets importance in the discussions on legal pluralism is the relationship between 'customary law' and European colonial law. The traditional or indigenous laws of colonized

people have been labeled as "customary law" by the colonial governments. But 'one of the major insights granted by work on law in colonial situation is that the customary law implemented in "native courts" was not a relic of timeless pre-colonial past but instead a historical construct of the colonial period' *(ibid.*: 364). Thus legal pluralism emerges as a strong analytical device that can 'provide the basis to make visible crucial questions and dilemmas. It provides the basis for seeing state legal ideology and claims as what they are, normative constructions, legal ideologies and claims' (Benda-Beckmann 1997:31).

Human Rights and Indigenous Rights

Anthropologists have been exploring various dimensions of human rights and indigenous rights issues during the past few decades. In case of human rights they have been working on the possibilities of a culturally sensitive conception of universal human rights to support the claims of indigenous peoples and other similar subordinated groups. Human rights have been understood 'as a discourse with multiple political uses as well as rhetorical strategy for subordinated peoples to assert claims to such diverse rights as freedom from child labor and wife battering, rights that resonate with globally recognized moral systems. Some advocates link land rights to human rights discourse, claiming that aboriginal land rights are also human rights' (Merry 1992: 369).

The 1948 Universal Declaration of Human Rights (UDHR), which outlined a ''common standard of achievement'' for the future of human rights, has become the cornerstone of debates in the works of the anthropologists. One of the manifestations of such debate is that George N. Appel (2002: 421) is even reluctant to use the term "human rights" and he prefers to use the term "fundamental human rights". He makes this preference, in his view, 'to contrast with the UN documents and the recent concept of basic human rights'. And in his consideration, 'basic human rights and the related concept of basic human needs fail to respond to the anthropological understanding of human nature.'

Besides UDHR there have been many other international instruments for the accomplishment of universal human rights. In fact, the number, scope, and implementation strategies of international human rights

treaties and conventions has increased over the past decades. The UDHR itself was not a binding treaty, but rather a declaration of principles and aspirations. The most visible trend in the development of human rights over the past decades has been in the increased number and range of treaties which elucidate or add to the principles of the UDHR. Most notable are the two international covenants – the International Covenant on Civil and Political Rights (ICPPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) – which transformed many of the principles of the UDHR into binding treaties when the covenants came into force in 1976. These are supplemented by a vast number of more specific instruments (e.g. the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Elimination of all Forms of Discrimination against Women; the Convention on the Rights of the Child) and regional conventions (the European Convention on Human Rights in 1953, the American Convention on Human Rights in 1978, and the African Charter on Human and Peoples' Rights in 1983).

All these charters, declarations and covenants have far reaching impacts in shaping the discourse and the politics of indigenous groups. George N. Appel (2002) has observed that there are some fundamental paradoxes over the rights of indigenous peoples in these human rights documents. In way of identifying these paradoxes he continues the observation that the right to own property and the right to practice one's religion is guaranteed in the UDHR. But it also included are rights to a standard of living adequate for health and well-being, including food, clothing, housing, and medical care, and education. 'The conflict arises in that the standard of living, the form of education, are the type of medical care are determined by individuals who are external to the indigenous people and their society and who usually find the indigenous way of life incomprehensible and devoid of value. Furthermore, the provision of medical care and education almost universally undermines the indigenous group's religion. And resettlement in order to provide health and social services, which is a common justification for resettlement, only results in the local group losing their rights to their property in trees and lands (Appell 2002: 430).

Thus, anthropologists take the international instruments for human rights as problematic ones and demand them to be more culture

sensitive. In most cases this position is derived from the traditional anthropological stance of cultural relativism. There has been a general notion that universal standard for human rights profess a challenge to the anthropological perspective of cultural relativism. And a lot of discussions have also taken place regarding the question as to how anthropologists can deal with the issues of universal human rights with their conventional disposition toward cultural relativity. But some anthropologists have also argued that the apparent challenge between universal human rights and cultural relativity is based on an inadequate understanding of the meaning of cultural relativity (Merry 1992).

Conclusion

Anthropology of law has gone through remarkable journey of transformation and has already achieved the desired level of academic maturity. In Bangladesh we might find the special relevance of this sub-discipline in understanding the issues of legal plurality, human rights and rights of indigenous peoples. Here a strong coexistence of state legal system and popular justice can be observed. While our formal judiciary is a 'construction' of colonial rulers, its invention, development and current status need to be understood from a postmodern discursive point of view. At the same time the socio-cultural dynamics of popular justice and formal justice requires an in-depth exploration. Other than these areas, insights of legal anthropology can effectively be put to use in unpacking the dilemmas and limitations of our policing strategies and prison policies. Alternative processes for dispute resolution, informal forums, local courts or traditional regulations and institutions, conventional social security systems - all these domains of serious concern might be explored and understood better if legal anthropological perspectives were in action.

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