

Rechtskulturen

Forum
Transregionale
Studien

Recht / im Kontext



Rechts- kulturen Colloquium

Mon 20 Feb 2012

18:00—20:00

The Rechtskulturen Colloquium meets monthly at Humboldt University Law School for a presentation and discussion of the Fellows' research projects.

Humboldt-Universität zu Berlin,
Juristische Fakultät, Room E 25,
Unter den Linden 9,
Berlin-Mitte

RECHTSKULTUREN —
Confrontations Beyond Comparison
www.rechtskulturen.de

Race, Caste and Law

Dalit and African American Responses to
Legal Conservatism

Krishna Swamy Dara (RECHTSKULTUREN Fellow)

Comment: Sarah Elsuni (Berlin)

“Law as an ideology and apparatus has been instrumental in constituting and perpetuating various forms of social inequities. Contrary to the claim of rule of law apologists that law fails to protect the weak and the vulnerable, it is in fact, in my opinion, that law produces vulnerable subjects. It is a means through which a communal majority imposes its domination over the communal minorities. The radical critiques of law offered by the left and the postmodernists lead us to legal nihilism.

However, disadvantaged groups like African Americans, Dalits, Women, and Sexual Minorities desire to make law a powerful means for radical social change. The preceding century has been a struggle to gain formal equality by fighting to remove discriminatory laws and practices. The struggle ahead is for substantive equality and rights. For this purpose, the network of legal institutions and legal culture needs to be radically altered in order to make the rule of law a means that ensures the demands of social justice. To this end, African Americans and Dalits have developed an internal critique of law. The critical legal studies movement, especially the critical race theory attempts to expose the systemic race practices sustained by the American adjudicative bodies. My paper will critically examine the theory's relevance in a country like India where caste oppression is inflicted on Dalits through atrocities.”

(Krishna Swamy Dara)