

Legal Realism and Early Law:
The influence of American legal doctrine
on the study of non-Western law 1920-1960

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Abstract

This research project examines how a legal doctrine called American legal realism affected the study and understanding of law in early and non-Western societies from the 1920s to the 1960s. Even today, the ways lawyers educated in Western law schools encounter alien legal cultures can be divided to either willingness to understand cultural otherness or the need to propagate Western legal norms. The objective of this study is to expose the intellectual roots of these traditions by demonstrating how the concepts of law and legal procedure formulated by legal realists during the early 20th century were adopted by legal anthropologists and historians. My claim is that through this transfer of ideas, influences and ideas dating from the 19th century legal debates in Europe gained new currency separated from the foundations where they were created. This intellectual transmission and its implications shall be demonstrated by references in academic works and journals, and the detailed analysis of contacts between authors. The argument will be elaborated with concrete examples such as the understanding of legal disputes and the formulation of contracts. The study forms a part of a larger post-doctoral study on the history of the notion of primitive law from the 19th century to the 1960s.