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Cultural Expertise Mentorship Mentor's Guide

Anna Ziliotto and Livia Holden

Focus

This mentorship guide focuses on the role and contents of a mentorship programme on cultural expertise. Being a mentor is a significant responsibility which is almost always provided pro bono but can be a rewarding experience, especially in those fields such as the one of cultural expertise, where there are not many sources available because of their novelty. Here is a guide to help cultural expertise mentors to fulfil their roles effectively.

1. *Understand Your Role:*
 - Clarify your role and responsibilities as a mentor, including the expectations and boundaries. Cultural expertise is a very broad field and cultural expertise mentors often know better a specific aspect or a specific application. Share your domain of interest and specialisation with the mentee.
 - Recognize that your primary goal is to support and guide your mentee's personal and professional development. This means to identify the extent but also the limitations of your role.
2. *Establish Rapport:*
 - Build a positive and trusting relationship with your mentee.
 - Initiate regular communication and establish an open line of dialogue.
 - Show empathy, respect, and active listening skills to create a safe space for your mentee to share their thoughts and concerns.
3. *Set Clear Expectations:*
 - Discuss and agree upon the goals and objectives of the cultural expertise mentorship program. Since cultural expertise is such a broad framework it is important to establish the extent of the mentorship also in terms of contents (Will the mentorship cover the theory only or also the practice or a mix of both?).
 - Help your mentee set realistic and achievable goals that align with their aspirations. Although the full mentorship programme on cultural expertise is foreseen having an average length of 6 months, mentees may be particularly interested in one or several sessions instead of the full programme.
 - Establish a timeline and regular meeting schedule to maintain consistency and accountability. Take notes of your work as mentor, the progress of the mentee, and any particular challenge that may arise together with the identified and adopted solutions.
4. *Tailor Your Approach:*
 - Mentees on cultural expertise are likely to be graduate in anthropology or law but can also be members of the legal professions and experienced social scientists who act as experts in court but never had a formal training on cultural expertise. Understand your mentee's learning style, strengths, and areas for improvement.
 - Adapt your mentoring style and strategies to meet their individual needs.
 - Offer guidance, resources, and feedback in a way that is constructive and supportive.
5. *Foster Growth and Development:*
 - Encourage continuous learning and personal development.
 - Suggest relevant workshops, courses, or networking opportunities.
 - Promote critical thinking, problem-solving skills, and independent decision-making.
6. *Provide Constructive Feedback:*
 - Offer timely and constructive feedback to help your mentee improve.
 - Focus on both strengths and areas for development.
 - Use a balanced approach that highlights achievements and offers suggestions for growth.

Remember, effective mentoring requires patience, understanding, and adaptability. By following this guide, you can make a positive impact on your mentee's life and contribute to their personal and professional success.

Academic Roadmap

Month 1 – Cultural expertise before cultural expertise

In the first month of the mentoring program, the mentor will focus on exploring the concept of “cultural expertise before cultural expertise” in the variety of social scientists’ involvement with law. The mentor will delve into historical instances that exemplify this phenomenon and analyse its implications.

“Cultural expertise before cultural expertise” refers to situations where social scientists engage with law and provide expertise that aligns with the definition of cultural expertise, even though they may not explicitly label it as such. This can occur either because the concept of cultural expertise had not been formally defined at the time, or because the social scientists themselves were unaware of the existence of the defined term “cultural expertise”. In these cases, social scientists offer their knowledge and insights on cultural matters relevant to legal contexts without specifically categorizing it as cultural expertise. The mentor will thoroughly examine such cases from the past and present, highlighting the specific contexts and persons involved.

Furthermore, the mentor will shed light on the various areas of application for “cultural expertise before cultural expertise”. These may include, but are not limited to, the following:

- 1) legal proceedings involving Indigenous communities: Indigenous peoples, anthropologists and social scientists with deep understanding of Indigenous cultures, and legal systems that implicitly or explicitly recognise a plurality of sources of law;
- 2) cross-cultural dispute resolution: cases involving clashes or misunderstandings, in which experts of cultures can contribute to mediation and resolution processes by bridging gaps in understanding and facilitating effective communication;
- 3) Immigration and asylum cases: anthropological knowledge and cultural expertise can play a crucial role in evaluating claims related to persecution, perceived cultural identity and belonging, and the impact of returning individuals to their countries of origin.

In addition to exploring the applications of “cultural expertise before cultural expertise”, the mentor will also address the main criticisms levelled against anthropologists and social scientists who engage with law. Some common critiques include:

- Lack of legal training: Critics argue that although social scientists may possess cultural expertise, their lack of formal legal education may limit their understanding of legal frameworks and procedures.
- Objectivity and bias: There are concerns that anthropologists and social scientists may bring their own biases and preconceived notions into their analysis and recommendations, potentially undermining the fairness and impartiality of legal proceedings.
- Ethical considerations: Engaging with legal cases raises ethical questions regarding informed consent, confidentiality, and the potential impact on the communities being studied. Critics emphasize the need for robust ethical guidelines and standards in this field.

Mentee milestones

The mentee's milestones will involve scrutinizing case studies that shed light on various aspects of this engagement, including colonial and imperialist collaborations, instances of racism, discussions on rights from a colonial perspective, participation in counterinsurgency programs, and considerations of women's rights in culturally diverse situations.

Milestone 1: Engaging in Critical Thinking. The mentee will be provided with readings and resources that highlight criticisms of social scientists’ involvement with law in the absence of strong

ethics and a well-articulated theoretical framework. The mentor will encourage the mentee to critically analyse these sources, identify key arguments and counterarguments, and engage in thoughtful discussions or written reflections. This milestone will foster the mentee's ability to think critically, evaluate different perspectives, and develop informed opinions on the ethical and theoretical challenges faced by social scientists in their engagement with law.

Milestone 2: Scrutinizing Case Studies. The mentee will delve into specific case studies that exemplify the complexities and controversies surrounding social scientists' collaboration with legal systems. The mentor will guide the mentee through an examination of the following cases:

- a. *Collaboration with Colonial and Imperialist Governments:* The mentee will explore instances where anthropologists and social scientists collaborated with colonial and imperialist governments, critically analysing the ethical implications and the impact on local communities.
- b. *Instances of Racism:* The mentee will examine cases where social scientists' engagement with law perpetuated or contributed to racial biases and discrimination. They will analyse the consequences of such actions and reflect on the ethical obligations of social scientists in addressing systemic racism.
- c. *Discussions on Rights from a Colonial Perspective:* The mentee will study cases related to land titles and treaties protecting the rights of Indigenous peoples in North America, focusing on the colonial perspective that often-influenced legal decisions. They will critically evaluate the implications of this perspective and the challenges it poses to the rights and autonomy of Indigenous communities.
- d. *Participation in Counterinsurgency Programs:* The mentee will explore programs like the Human Terrain System, which involved anthropologists in counterinsurgency operations. They will examine the ethical dilemmas faced by social scientists in these situations and reflect on the potential consequences for their professional integrity and the communities they study.
- e. *Considerations of Women's Rights:* The mentee will examine discussions surrounding women's rights within culturally diverse situations, both in European and non-European legal contexts. They will critically analyse the challenges faced by social scientists in navigating cultural relativism and universal human rights frameworks, exploring the potential impact on gender equality and justice.

A. Readings for the Mentee

Forte, Maximilian C. 2011. "The Human Terrain System and Anthropology: A Review of Ongoing Public Debates." *American Anthropologist* 113, no. 1: 149-153.

This article analyses the advent of the US Army's Human Terrain System (HTS) and the reasons why it failed to attract anthropologists to provide "cultural knowledge" for more effective counterinsurgency in Iraq and Afghanistan. Furthermore, the article introduces the debates between HTS supporters and anthropological critics regarding issues of research ethics, the role of anthropological research in war, and the reputation of the discipline.

Holden, Livia. 2020. "Cultural Expertise and Law in Ancient and Modern History Introduction: Why a history of cultural expertise?" *Law and History Review* 38, no. 1: 25-27.

This article was developed within the European Research Council's Cultural Expertise in Europe: What is it for? (EURO-EXPERT) project and reformulates the emerging notion of cultural expertise as a concept that can broadly explain the use of the social sciences in dispute resolution and in connection with rights claims. The article argues for an integrated definition of cultural expertise that covers the larger range of phenomena explored throughout socio-legal studies.

Lewis, Diane. 1973. "Anthropology and Colonialism." *Current Anthropology* 14, no. 5: 581-602. I'dk it's a bit weird because I don't use Insta for work but I accepted it because it's your work

This article examines some of the biases inherent in the role of the anthropologist, which can be viewed as an academic manifestation of colonialism. The article analyses how colonialism structured the relationship between anthropologists and the people they studied and had an effect on the methodological and conceptual formulations in the discipline.

B. Additional readings for the Mentor

Bano, Samia, ed. 2017. *Gender and Justice in Family Law Disputes: Women, Mediation, and Religious Arbitration*. Waltham, MA: Brandeis University Press.

This edited volume analyses new methods of family law dispute resolution (such as arbitration, mediation, and conciliation) that have created new forms of legal culture affecting minority communities around the world. The volume offers insights into how women's personal autonomy and decision-making capabilities are expressed through multiple formal and non-formal dispute resolution mechanisms and as part of their social and legal realities; into the "multicultural challenges" that give rise to questions of power, authority, agency, and choice; and into debates around secularism, citizenship, belonging and identity.

Parashar, Archana. 2013. "Religious Personal Laws as Non- State Laws: Implications for Gender Justice." *The Journal of Legal Pluralism and Unofficial Law* 45, no. 1: 5-23.

This article focuses on the role of legal scholars in shaping the discourse related to personal religious laws as more or less suitable vehicles for achieving gender justice in the context of family law in India, as it creates a space for the enforcement of norms or laws that do not conform to constitutional requirements and yet enforced by the state. The article argues that legal scholars must take responsibility for the significant power they wield as discourse creators and acknowledge the power to name legal practices and play a role in deconstructing the concept of personal religious law.

Month 2 – Theoretical trends that have impacted the definitions of cultural expertise

The mentor will guide the mentee's understanding of cultural expertise by introducing them to various theoretical frameworks and approaches. These approaches include early anti-colonialism, classical legal pluralism, new legal pluralism, multiculturalism, interculturalism, global legal pluralism, critical studies, and de-colonial studies. By familiarizing the mentee with these different perspectives, the mentor aims to provide a comprehensive understanding of how cultural expertise is defined today.

To begin, the mentor will explain the key points of each approach. *Early anti-colonialism* refers to the resistance and critique of colonialism and its impact on cultural dynamics. *Classical legal pluralism* focuses on the coexistence of different legal systems within a society. *New legal pluralism* builds upon this idea and emphasizes the recognition of diverse legal orders, including informal and customary systems. *Multiculturalism* promotes the acknowledgement and appreciation of various cultural identities within a society. *Interculturalism*, on the other hand, emphasizes interaction and dialogue between different cultures. *Global legal pluralism* explores the presence of multiple legal systems at the global level. Critical studies involve a

critical examination of power dynamics and societal structures. Lastly, *de-colonial studies* seek to dismantle the remnants of colonialism and address its enduring effects.

As the mentor presents each approach, they will highlight the elements that differentiate one from the other. For example, while classical legal pluralism focuses on legal systems, multiculturalism emphasizes cultural identities and diversity. Interculturalism places an emphasis on active engagement between cultures, while global legal pluralism explores legal systems from a global perspective. Critical studies delve into power dynamics and social structures, whereas de-colonial studies specifically address the legacy of colonialism and its impact on cultures and societies.

Furthermore, the mentor will discuss the main criticisms associated with each approach. These criticisms may include concerns about the potential marginalization of certain cultures or the difficulty of accommodating diverse legal systems within a unified framework. Additionally, some approaches may face criticism for not adequately addressing power imbalances or for insufficiently addressing the deep-rooted effects of colonialism.

Throughout the mentorship process, the mentor will encourage the mentee to engage with relevant literature by authors such as Ralph Grillo, Rama Srinivasan, and Kaius Tuori. This will allow the mentee to develop their own perspectives and formulate their own views on the theoretical framework of cultural expertise.

In addition to studying the theoretical framework, the mentee will be encouraged to explore the scope and potential applications of cultural expertise. By doing so, the mentee can gain a deeper understanding of how cultural expertise can be practically utilized in various fields and contexts.

With the mentor's guidance the mentee will develop a comprehensive understanding of the theoretical foundations of cultural expertise, critically analyse different approaches, and explore the practical implications of cultural expertise in diverse domains.

Mentee milestones

By achieving four milestones, the mentee will have a strong foundation in the theoretical framework of cultural expertise, an understanding of its practical applications, knowledge of key turning points, and the ability to develop and articulate their own perspectives.

Milestone 1: Formulating Views on Theoretical Framework: The mentee will be asked to read works by Ralph Grillo, Rama Srinivasan, and Kaius Tuori. These readings will provide a foundational understanding of the theoretical framework surrounding cultural expertise. The mentee's milestone will be to formulate their own views and interpretations based on these readings. This involves critically analysing the authors' perspectives, identifying commonalities and differences, and synthesizing their ideas into a coherent understanding of cultural expertise.

Milestone 2: Exploring the Scope of Cultural Expertise: The mentee will be encouraged to delve into the scope and breadth of cultural expertise beyond the theoretical framework. This milestone involves conducting further research and exploration to identify the various fields and applications where cultural expertise plays a significant role. The mentee will explore how cultural expertise is utilized in areas such as intercultural communication, policy-making, law, education, healthcare, and more. By identifying these diverse fields of application, the mentee can gain a comprehensive understanding of the practical implications and relevance of cultural expertise in different contexts.

Milestone 3: Reflecting on Turning Points: During month 2, the mentor will highlight significant turning points in the development of cultural expertise. These turning points will include historical events, key scholarly contributions, or paradigm shifts within the field. The mentee's milestone will be to reflect upon these turning points and understand their impact on shaping the current definitions and perspectives of cultural expertise. By examining these turning points, the mentee can develop a nuanced understanding of how cultural expertise has evolved over time and the factors that have influenced its development.

Milestone 4: Synthesizing Knowledge and Developing a Personal Framework: As the mentee progresses, they will be encouraged to synthesize the knowledge gained from the readings, exploration of the field's scope, and reflection on turning points. The mentee's milestone will be to develop their own personal framework of cultural expertise. This framework should incorporate the various theoretical perspectives, understand the fields of application, and reflect the mentee's own critical analysis and interpretations. The mentor will guide the mentee in refining their framework, ensuring coherence, and supporting the mentee's ability to articulate their own views on cultural expertise.

A. Readings for the Mentee

Grillo, Ralph. 2023. "Cultural Expertise and Multiculturalism." In *Cultural Expertise, Law, and Rights: A Comprehensive Guide*, edited by L. Holden, 86-97. London: Routledge.

This chapter analyses how anthropologists and other social experts are involved in legal proceedings and what happens in their encounters with the law and lawyers from the perspective of multiculturalism. The chapter focuses on the role of cultural experts, who play a significant role in the process of boundary negotiation in conflicts that largely stem from immigration and the settlement of workers and refugees.

Srinivasan, Rama. 2023. "Cultural Expertise as Decolonisation." In *Cultural Expertise, Law, and Rights: A Comprehensive Guide*, edited by L. Holden, 32-43. London: Routledge.

This chapter discusses theory and praxis of decolonization and outlines the role of cultural expertise as an effective instrument for the dismantling of inequitable colonial structures. The chapter focus on the main intellectual traditions that have shaped the field of "decoloniality" and ways in which cultural expertise can build on the conceptual strengths of decoloniality without inheriting its shortcomings.

Tuori, Kaius. 2013. "The Disputed Roots of Legal Pluralism." *Law, Culture and the Humanities* 9: 330–335.

This article analyses the concepts of legal pluralism advanced by Felix S. Cohen (one of the leaders of the American legal realism movement of the 1930s, who introduced legal pluralism to America) and his contemporaries Karl Llewellyn and A. Arthur Schiller, and the impact of the different traditions of legal pluralism on American legal discourse.

B. Additional readings for the Mentor

Tamanaha, Brian Z. 2008. "Understanding Legal Pluralism: Past to Present, Local to Global." *Sydney Law Review* 30, no. 3: 375-411.

This article analyses the notion of legal pluralism in law-related fields and the multiple, often uncoordinated legal bodies that co-exist or overlap. The article outlines the history of legal pluralism, new forms of legal pluralism that emerged during colonisation and contemporary legal pluralism; it examines the academic debate on legal pluralism; and it articulates an approach to contemporary legal pluralism that combines insights from legal anthropology, comparative law, international law and globalisation studies.

Woodman, Gordon R. 1998. "Ideological Combat and Social Observation: Recent Debate about Legal Pluralism." *The Journal of Legal Pluralism and Unofficial Law* 30, no. 42: 21-59.

This article reviews the literature that has discussed the concept of legal pluralism. The article starts from the use of the expression "legal pluralism" and focuses on the ways in which it is increasingly used in legal anthropology, sociology of law and legal theory, as well as critical reflections on it, clarifying the concept in order to use it as accurately as possible.

Month 3 – Cultural defence, cultural expertise, (inter)cultural mediation, and cultural competence

In the third month of the mentoring program, the mentor will focus on several key concepts related to cultural defence, cultural expertise, (inter)cultural mediation, and cultural competence. The mentor will explain the notions of cultural mediation and cultural competences, highlighting their development in the 1960s as a set of skills aimed at improving access to public life and promoting better communication in multicultural settings.

The mentor will then discuss how these concepts were reformulated as intercultural mediation and intercultural competence, emphasizing their connection to the Alternative Dispute Resolution movement in the United States. This reformulation underscores the importance of flexibility and considering the cultural backgrounds of parties involved in conflicts. The mentor will explore the evolution of these concepts and their significance in fostering effective communication and understanding across cultures.

Next, the mentor will delve into the notion of cultural defence, primarily observed in American courts. The mentor will explain how cultural defence is conceptualized and its function, which involves the use of cultural arguments to mitigate sentences in criminal cases. The mentor will also highlight the epistemological elements that differentiate cultural defence from cultural expertise.

Cultural expertise, on the other hand, will be defined as the special knowledge deployed by experts of laws and cultures to assist decision-making authorities in assessing evidence within socio-legal contexts. Unlike cultural defence, cultural expertise extends beyond the realm of criminal cases and emphasizes the notion of special knowledge and ethical duty towards decision-making authorities. The mentor will emphasize the importance of the expert's positionality and explain that cultural expertise can be applied to a wider range of legal fields and systems, as it is not limited to the defence position.

Additionally, the mentor will introduce the concept of culturally motivated crime, which refers to acts committed by members of minority groups or cultures that are considered crimes by the legal system of the dominant culture but may be approved or supported by the minority group. The mentor will discuss the differences in treating the concepts of cultural defence and culturally motivated crimes in common law and civil law systems. Moreover, the mentor will address concerns about the stigmatization of social groups to which the perpetrators of

culturally motivated crimes belong, emphasizing the need for nuanced and fair treatment within legal frameworks.

Throughout the month, the mentor will provide explanations, facilitate discussions, and encourage the mentee to critically analyse these concepts. The mentee will gain a comprehensive understanding of cultural mediation, cultural competence, cultural defence, cultural expertise, and the complexities surrounding culturally motivated crimes, enhancing their knowledge in navigating multicultural settings and legal contexts.

Mentee milestones

The mentor will guide the mentee through a series of milestones aimed at deepening their understanding of culturally motivated crime, cultural defence, cultural expertise, and multicultural jurisprudence. These milestones will involve reading specific texts, exploring applications of cultural defence, understanding the distinctions between cultural expertise and cultural defence, and engaging in a discussion on an essay from the volume *Multicultural Jurisprudence* edited by Alison Dundes Renteln and Marie Claire Foblets.

Milestone 1: Reading Jeroen Van Broek's Definition of Culturally Motivated Crime: The mentee will read Jeroen Van Broek's definition of culturally motivated crime, providing an insight into the concept and its implications. The mentor will guide the mentee in critically analysing the definition, exploring its key elements, and discussing its significance in understanding crimes committed by members of minority groups within the context of the dominant culture's legal system.

Milestone 2: Exploring Historical Applications of Cultural Defence: The mentee will explore the historical applications of cultural defence within legal systems. The mentor will provide relevant resources and case studies that highlight instances where cultural defence has been utilized in criminal cases. The mentee will critically analyse the effectiveness, limitations, and ethical considerations associated with the use of cultural defence, fostering a comprehensive understanding of its historical applications.

Milestone 3: Understanding Differences between Cultural Expertise and Cultural Defence: The mentee will delve into the distinctions between cultural expertise and cultural defence. The mentor will facilitate discussions and provide readings that highlight the epistemological and practical differences between these concepts. The mentee will critically analyse the roles, ethical implications, and applications of cultural expertise and cultural defence, gaining a nuanced understanding of their unique contributions within legal contexts.

Milestone 4: Discussing an Essay from "Multicultural Jurisprudence": The mentee will choose an essay from the volume *Multicultural Jurisprudence* edited by Alison Dundes Renteln and Marie Claire Foblets. The mentor and mentee will engage in a discussion on the chosen essay, exploring its main arguments, critiques, and implications within the field of multicultural jurisprudence. This discussion will encourage critical thinking, reflection, and the application of theoretical concepts to real-world situations.

A. Readings for the Mentee

Foblets, Marie-Claire, and Alison D. Renteln. 2009. *Multicultural Jurisprudence: Comparative Perspectives on the Cultural Defense*. Oxford, Portland, OR: Hart Publishing.

This edited volume addresses the ways in which cultural information is used in judicial decisions and analyses how courts can and should accommodate litigants' claims by taking into account their cultural background. Each chapter offers examples of cultural defense in many countries in Western Europe, North America and elsewhere. The aim of this volume is to demonstrate the need to reconsider the proper use of cultural evidence in legal proceedings.

Holden, Livia. 2019. "Beyond Anthropological Expert Witnessing: Toward an Integrated Definition of Cultural Expertise." In *Cultural Expertise and Socio-Legal Studies. Studies in Law, Politics, and Society*, edited by L. Holden, 181-204. Bingley (UK): Emerald Insight.

This article explores expert witnessing in anthropology and the raison d'être of cultural expertise as an integrated socio-legal concept that accounts for the contribution of the social sciences to dispute resolution and the protection of human rights. The article provides an historical profile of the emergence and reception of anthropological expertise as expert witnessing, examines theoretical reflections on the engagement of anthropologists in law, and explores the potential of anthropological expertise as a broader socio-legal notion in common law and civil law legal systems.

Van Broeck, Jeroen. 2001. "Cultural Defence and Culturally Motivated Crimes (Cultural Offences)." *European Journal of Crime, Criminal Law, and Criminal Justice* 9, no. 1: 1-32.

This article defines the concept of cultural crimes or culturally motivated crimes and analyses the different aspects of this topic, the problems and discussions that may arise.

B. Additional readings for the Mentor

Renteln, Alison Dundes. 2004. *The Cultural Defense*. Oxford, New York: Oxford University Press.

This book discusses the ways in which cultural practices conflict with the law and analyses, through examples of court cases, how courts take culture into account. Through the analysis of numerous cases from the United States and around the world in which cultural issues take centre stage, the author demonstrates that there are recognisable patterns for cultural arguments used in court and that their regularity can provide judges with a starting point for creating a body of law that takes culture into account.

Rosen, Lawrence. 1977. "The Anthropologist as Expert Witness." *American Anthropologist* 79, no. 3: 555-578.

This article explores how the appearance of anthropologists as expert witnesses in a wide range of legal cases raises a number of significant questions about the appropriateness of anthropological knowledge in legal proceedings and raises difficult ethical issues for participants and the profession.

Month 4 – Cultural expertise and Indigenous expertise

In Month 4, the mentor's role is to provide insights on the evolving definitions of cultural expertise and Indigenous expertise, while also guiding the mentee's understanding of these concepts.

The mentor begins by explaining the initial definition of cultural expertise provided by Livia Holden in 2009, helping the mentee grasp the components of cultural expertise and the ethical conditions for its use. They emphasize the mentor's role in understanding cultural norms, values, and practices for effective intercultural communication.

The mentor then discusses the broader definition of cultural expertise formulated in 2019, which recognizes the dynamic nature of culture and the diversity within cultures, while also highlighting the importance of ethical engagement. The mentor should guide the mentee in the understanding of the component of cultural expertise as special knowledge, specific set of circumstances, and independence of the experts within a sound ethical framework. They guide the mentee in recognizing the contextual and power dynamics that shape intercultural interactions, fostering critical reflection on power, privilege, and inequality.

Shifting the focus to Indigenous expertise, the mentor explains that it encompasses specialized knowledge applicable to Indigenous people and First Nations peoples. The mentor's role is to facilitate the mentee's understanding of the unique cultural, historical, and social contexts of Indigenous communities. They stress the importance of appreciating the specific challenges faced by Indigenous communities and developing a deep understanding of their cultures, languages, traditions, and knowledge systems.

Importantly, the mentor integrates the principles of self-governance and prior consent connected with Indigenous expertise. They guide the mentee in recognizing the significance of self-governance for Indigenous communities, which includes their right to make decisions about their own affairs and have control over their resources and territories. The mentor also emphasizes the importance of prior consent, wherein Indigenous communities should be engaged and involved in decision-making processes that affect them, respecting their voices and agency.

Furthermore, the mentor underscores their role in promoting cultural safety, cultural humility, and the decolonization of knowledge and practices when working with Indigenous communities. They guide the mentee in understanding the principles of self-determination, empowerment, and collaboration in the context of Indigenous expertise.

Mentee milestones

Milestone 1: Define Cultural Expertise: The mentee's first milestone is to define cultural expertise based on the definitions provided by Livia Holden in 2009 and in 2019. They should be able to articulate the components of cultural expertise, such as special knowledge, set of specific circumstances and independence of the expert according to the ethical conditions that govern its use. The mentee should also demonstrate an understanding of the importance of cultural expertise for the evaluation of evidence in the legal process.

Milestone 2: Explore the Legal Framework and International Law and the definition of Indigenous Expertise: The mentee's second milestone is to explore, from a historical perspective, the legal framework and international law related to the right to self-government and the consent of Indigenous peoples. They should research and study key legal instruments and documents, such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), ILO Convention No. 169, and relevant case law. The mentee should develop an understanding of the historical context that led to the recognition of Indigenous rights and self-determination at the international level and Indigenous expertise should rely on the voices of Indigenous peoples.

Milestone 3: Examine the Right to Self-Government: Building upon their exploration of the legal framework, the mentee should focus specifically on the right to self-government of Indigenous peoples. They should delve into the principles and concepts underlying this right, including the recognition of Indigenous governance systems and the ability of Indigenous communities to make decisions about their own affairs. The mentee should be able to explain how the right to self-government contributes to the preservation of Indigenous cultures and the empowerment of Indigenous communities and contribute to the definition of Indigenous expertise.

Milestone 4: Study the Consent of Indigenous Peoples: The next milestone for the mentee is to study the concept of consent in the context of Indigenous peoples. They should examine the historical background and legal developments that have shaped the recognition of the right to prior consent. The mentee should understand the significance of obtaining the free, prior, and informed consent of Indigenous communities in decision-making processes that affect their rights, lands, and resources. They should explore case studies and examples that highlight the importance of consent as a crucial principle in Indigenous rights and self-determination in relation to Indigenous expertise.

Milestone 5: Synthesize Findings and Draw Connections: In the final milestone, the mentee should synthesize their study on cultural expertise and Indigenous expertise. They should be able to draw connections between the principles and concepts of cultural expertise and Indigenous expertise. The mentee should demonstrate an understanding of how cultural expertise and Indigenous expertise, when applied with respect for the rights and voices of Indigenous communities and affected communities, can contribute to effective engagement and collaboration.

A. Readings for the Mentee

Higgins, Noelle. 2023. "Cultural Expertise and Indigenous Rights." In *Cultural Expertise, Law, and Rights: A Comprehensive Guide*, edited by L. Holden, 201-214. London: Routledge.

This chapter outlines indigenous expertise as the special knowledge and experience of Indigenous peoples that identifies and describes relevant facts in light of their history, background and context and facilitates the explanation of Indigenous concepts to non-Indigenous audiences. The chapter focuses on the world heritage framework in relation to Indigenous peoples and analyses how Indigenous peoples living in numerous states around the world have inherited and practised unique cultures and traditions and ways of relating to the natural world.

Holden, Livia. 2020. "Cultural Expertise and Law: An Historical Overview." *Law and History Review* 38: 1–18.

This article outlines the use of anthropological expertise in the form of expert witnessing or expert information, takes a historical approach to understanding why socio-legal studies has not developed a conceptualisation that encompasses the variety of types of engagement of social scientists, and analyses the link between law and culture in the history of legal anthropology. The article concludes with a reformulation of the concept of cultural expertise as an umbrella concept encompassing the current range of socio-legal instruments that utilise cultural knowledge for conflict resolution.

Holden, Livia. 2023. "What is Cultural Expertise?" In *Cultural Expertise, Law, and Rights: A Comprehensive Guide*, edited by L. Holden, 11-19. London: Routledge.

This chapter explains the concept of cultural expertise and its current formulation and positions it in relation to cultural defence and culturally oriented crimes. The chapter identifies the danger of bias in cultural expertise, offers ways to minimise it, and proposes three cases that highlight the conditions for the ethical engagement of anthropologists as experts.

B. Additional readings for the Mentor

Loperena, Christopher, Mariana Mora, and R. Áida Hernández-Castillo. 2020. "Cultural Expertise? Anthropologist as Witness in Defense of Indigenous and Afro- Descendant Rights." *American Anthropologist* 122, no. 3: 588–594.

This article critically analyses the use of anthropologists as expert witnesses in four court cases concerning indigenous and Afro-descendant territorial claims in Mexico, Nicaragua, Honduras, and Chile. The article focuses on anthropologists as witnesses in courts and the contradictions that racial, gender and social wrongs can generate in some contexts, rather than healing them, shedding light on broader disciplinary debates concerning the role of anthropologists in the legal field and ethnographic knowledge.

Trigger, David. 2004. "Anthropology in Native Title Cases: Mere Pleading, Expert Opinion or Hearsay?" In *Crossing Boundaries: Cultural, Legal Historical and Practice Issues in Native Titles*, edited by S. Toussaint. Melbourne: Melbourne University Press.

This article analyses the problems for anthropologists working on native title as a legal process. The article discusses recent federal court decisions requiring anthropologists to prepare expert reports that comply with the Evidence Act (Cth) of 1995 and the importance for anthropologists to properly understand native title law.

Month 5 – Cultural expertise and human rights

In Month 5, the mentor's focus is on illustrating the connections between cultural expertise and the recognition and protection of fundamental human rights, emphasizing the role of cultural diversity in this context. The mentor guides the mentee in exploring the debates surrounding the perception that cultural arguments may conflict with human rights and highlights the crucial role of cultural experts in safeguarding and promoting fundamental human rights.

- 1) Cultural Expertise and Cultural Diversity: The mentor starts by highlighting the close connection between cultural expertise and the appreciation of cultural diversity. They explain that cultural expertise involves understanding and engaging with the description of diverse cultural norms, values, and practices. Cultural diversity encompasses the range of different cultural expressions and identities that exist within a society. The mentor guides the mentee to recognize that cultural expertise is instrumental in navigating cultural diversity, promoting understanding, and fostering respect for different cultural perspectives.
- 2) Fundamental Human Rights: The mentor then introduces the mentee to the concept of fundamental human rights, emphasizing key rights such as freedom of thought, freedom of conscience, freedom of religion, freedom of non-refoulement (the principle of not returning someone to a place where they may face persecution), freedom of movement, rights of belonging, and the right to self-government. The mentor explains

that these rights are universal, inherent, and indivisible, applying to all individuals regardless of their cultural background and the role of cultural expertise in explaining perceptions of belonging to specific social groups in view of international protection and protection from persecution and violence.

- 3) Perception of Conflict between Culture and Human Rights: The mentor guides the mentee in exploring the debates surrounding the perception that cultural arguments may conflict with human rights. They explain that cultural relativism has been criticised for justifying practices that violate fundamental human rights. The mentor encourages the mentee to critically examine this perception and recognize that human rights are based on universal principles and that cultural expertise should be used to ensure a substantial protection of human rights and not to challenge these fundamental rights.
- 4) Role of Cultural Experts in Protecting Human Rights: The mentor emphasizes the crucial role of cultural experts in safeguarding and promoting fundamental human rights. They explain that cultural experts have the knowledge, understanding, and sensitivity to navigate complex cultural contexts while upholding the principles of human rights. The mentor guides the mentee to recognize that cultural experts play a significant role in facilitating dialogue, promoting cultural awareness, and advocating for the protection of human rights within diverse cultural contexts by assisting the courts in the evaluation of the evidence.
- 5) Finding Common Ground: The mentor encourages the mentee to explore ways in which cultural expertise and human rights intersect and contribute to the implementation of international human rights laws. They highlight the importance of cultural experts working collaboratively but independently with human rights courts, communities, and policymakers to bridge gaps and address potential conflicts. The mentor guides the mentee to recognize that cultural expertise can contribute to fostering cultural sensitivity, understanding, and respect for human rights, ultimately promoting inclusive societies.

Mentee milestones

Milestone 1: Understand the Connections between Cultural Expertise and Human Rights: The mentee's first goal is to gain a comprehensive understanding of the connections between cultural expertise and human rights. They should explore how cultural expertise contributes to the recognition and protection of fundamental human rights, such as freedom of thought, conscience, religion, non-refoulement, movement, rights of belonging, and the right to self-government. The mentee should be able to articulate how cultural expertise promotes understanding, respect, and inclusivity within diverse cultural contexts while upholding universal human rights principles.

Milestone 2: Understand the Connections between Cultural Expertise and Cultural Diversity: The mentee's second goal is to understand the connections between cultural expertise and cultural diversity. They should recognize that cultural expertise plays a crucial role in navigating and appreciating diverse cultural norms, values, and practices. The mentee should grasp how cultural expertise fosters intercultural understanding, respect, and dialogue, contributing to the preservation and celebration of cultural diversity. They should also understand that cultural diversity enhances societal cohesion and enriches human interactions.

Milestone 3: Identify a Case Law from the European Court of Human Rights and Discuss the Potential Implications of Cultural Expertise: The mentee's third goal is to identify a relevant case law from the European Court of Human Rights (ECtHR) that involves cultural expertise. They should conduct research to find a case where cultural expertise played a significant role

in addressing human rights issues within a specific cultural context. The mentee should analyse the potential implications of cultural expertise in the case, discussing whether it influenced the understanding and application of human rights, promoted cultural sensitivity, and contributed to fair and just outcomes. They should consider the impact of the case law on future legal interpretations and the development of cultural expertise as a valuable tool in human rights contexts.

A. Readings for the Mentee

Arajärvi, Noora. 2023. "Cultural Expertise and International Human Rights Law." In *Cultural Expertise, Law, and Rights: A Comprehensive Guide*, edited by L. Holden, 188-200. London: Routledge.

This chapter explains the procedural requirements for providing cultural expertise and appointing cultural experts and analyses the differences in the use of cultural expertise in the European Court of Human Rights and the Inter-American Court of Human Rights. The chapter focuses on the context in which cultural expertise is invoked in international human rights law, how cultural expertise is presented in different regional human rights courts, and the role of cultural experts in human rights disputes.

Loperena, Christopher A. 2020. "Adjudicating Indigeneity: Anthropological Testimony in the Inter-American Court of Human Rights." *American Anthropologist* 122, no. 3: 595-605.

This article examines the role of cultural evidence in legitimising the rights claims of the Garifuna (one of the nine officially recognised "ethnic groups" in Honduras) and how specifically ethnographic treatments of Indigenous cultural practices are circumscribed within the dominant interpretative frameworks and modes of legal recognition. The article is based on the cultural evidence that emerged in the October 2015 sentence by the Inter-American Court of Human Rights on two cases concerning the alleged complicity of Honduran state institutions in the violation of the Garifuna common property rights and focuses on the anthropological concepts that link indigenous subjectivity to the land and the essentialised notions of Garifuna ethnic and racial difference.

Trigger, David. S. 2023. "Cultural Expertise and Indigenous People in Australia." In *Cultural Expertise, Law, and Rights: A Comprehensive Guide*, edited by L. Holden, 244-255. London: Routledge.

This chapter explores different ways in which anthropologists in Australia have been engaged as expert witnesses in Indigenous land claims and cultural defences against prosecutions for hunting protected fauna for subsistence. Based on case studies, the article illustrates some types of methodological approaches for anthropological work in the legal field.

B. Additional readings for the Mentor

Goodale, Mark. 2006. "Toward a Critical Anthropology of Human Rights." *Current Anthropology* 47, no. 3: 485-511.

This article discusses the role of anthropology in addressing the various theoretical, practical and phenomenological problems underlying human rights and suggests ways in which human

rights can be reformulated so that their original purposes, those embodied in documents such as the 1948 Universal Declaration of Human Rights, have a better chance of being realised.

Riles, Annelise. 2006. "Anthropology, Human Rights, and Legal Knowledge: Culture in the Iron Cage." *American Anthropologist* 108, no. 1: 52-65.

This article focuses on the problem of the "iron cage" of legal instrumentalism that is common to both anthropologists who seek to describe human rights culture and jurists who critically engage with the human rights regime. The article reconfigures an ethnographic method as a matter of what the author calls "circling back", as opposed to cultural description, which offers a respite from the hegemony of legal instrumentalism.

Month 6 – Ethics and deontologies

In Month 6, the mentor's focus is on ethics and deontologies related to cultural expertise, specifically the role of cultural experts in assisting judges when dealing with matters that surpass the ordinary experience and knowledge of the court. The mentor explains the ethical and deontological standards that cultural experts must adhere to, emphasizing key principles such as neutrality, independence, and the principle of doing no harm. The mentor also addresses the guiding principles for cultural experts providing expertise in court from the point of view of the legal procedure, the challenges they may face, and the potential advantages and disadvantages associated with the engagement as cultural experts.

The main key points are:

- **Role of Cultural Experts in Assisting Judges:** The mentor begins by explaining the role of cultural experts in assisting judges when cases involve matters that go beyond the ordinary experience and knowledge of the judge. Cultural experts provide special knowledge and understanding of cultural norms, practices, and contexts to enhance the judge's understanding and decision-making process. They play a crucial role in bridging the gap between the legal system and diverse cultural perspectives.
- **Ethical Guidelines for Cultural Experts:** The mentor outlines the ethical guidelines that cultural experts engaged in providing expertise must follow. These guidelines include:
 - ***Neutrality:*** Cultural experts should maintain impartiality and avoid bias when presenting their expertise. They should provide objective and balanced assessments based on their knowledge and understanding.
 - ***Independence:*** Cultural experts should maintain independence in their work, free from external influences that could compromise their objectivity or integrity. They should not have any conflicts of interest that may undermine their credibility or the reliability of their expertise.
 - ***Principle of Doing No Harm:*** Cultural experts should prioritize the well-being and rights of the individuals or communities they work with. They should ensure that their expertise and actions do not cause harm or negatively impact the individuals or communities involved.
- **Guiding Principles for Cultural Experts in Court:** The mentor discusses the guiding principles for cultural experts providing expertise in court. These principles include:

- *Cultural Sensitivity*: Cultural experts should approach their work with sensitivity and respect for diverse cultural perspectives, ensuring that their expertise reflects an understanding of the complexities and nuances of different cultures.

- *Clarity and Transparency*: Cultural experts should clearly communicate their findings, methodologies, and limitations to the court and all relevant parties. They should be transparent about the sources and evidence they rely on to support their expertise.

- *Professionalism and Competence*: Cultural experts should maintain a high level of professionalism and competence in their field of expertise. They should continually update their knowledge and skills, keeping abreast of current research, developments, and best practices.

- **Ethical Challenges and Considerations**: The mentor highlights the ethical challenges cultural experts may face, such as navigating conflicting cultural perspectives, addressing power imbalances, and addressing expectations of cultural authenticity and representation. They guide the mentee in understanding the potential advantages of using cultural expertise, such as promoting cultural understanding, avoiding cultural biases, and enhancing the fairness and accuracy of legal proceedings. They also address the potential disadvantages, such as the risk of essentializing cultures, the potential for misuse or misinterpretation of cultural expertise, and the need for careful mitigation of the risks involved in providing cultural expertise.

Mentee milestones

Milestone 1: Critically Discuss the Advantages and Disadvantages of the Cultural Expert's Role in Court: The mentee's first milestone is to critically discuss the advantages and disadvantages of the cultural expert's role in court. They should examine the potential benefits of cultural expertise, such as promoting cultural understanding, enhancing the fairness of legal proceedings, and avoiding cultural biases. At the same time, they should also consider the potential drawbacks, such as the risk of essentializing cultures, the potential for misuse or misinterpretation of cultural expertise, and the need for careful mitigation of the risks involved in providing cultural expertise. The mentee should provide a balanced analysis, considering both the positive and negative aspects of incorporating cultural expertise in legal contexts.

Milestone 2: Select Three Cases from the CULTEXP Database and Analyse the Use of Cultural Expertise: The mentee's second milestone is to select three cases from the CULTEXP database using keywords or searching by country. They should provide reasons for their choices, considering the relevance of the cases to the topic of cultural expertise. After selecting the cases, the mentee should thoroughly analyse each one, examining how cultural expertise was employed. They should consider the form that cultural expertise took in these cases, whether cultural experts were appointed, and by whom they were appointed. The mentee should engage in a detailed discussion about the contribution that cultural expertise made to the understanding of these cases, highlighting its impact on the legal proceedings and outcomes.

Milestone 3: Develop the Analysis of Chosen Cases Based on Specific Questions: The mentee's third milestone is to develop the analysis of the chosen cases based on specific questions. They should answer the following questions for each case:

- What form does cultural expertise take in these cases? Describe how cultural expertise was utilized and applied in each case, whether through expert testimonies, reports, or other means.

- Were cultural experts employed, and if so, by whom were they appointed? Identify whether cultural experts were involved in the cases and provide information about their appointment, such as whether they were appointed by the court, legal teams, or other parties to the process.
- What contribution did cultural expertise make to the understanding of these cases? Analyse and discuss the specific contributions that cultural expertise made to the understanding of the cases. Consider how cultural expertise enhanced the court's understanding of cultural contexts, practices, or perspectives and its impact on the legal analysis and decision-making process.

A. Readings for the Mentee

Cole, Charmaine. 2023. "Cultural Expertise and Ethics." In *Cultural Expertise, Law, and Rights: A Comprehensive Guide*, edited by L. Holden, 20-31. London: Routledge.

This chapter focuses on the professional ethics of cultural expertise and encourages reflection on the risks and unintended consequences of anthropologists' engagement in cultural expertise.

Grillo, Ralph. 2017. "Anthropologists Engaged with the Law (and Lawyers)." *Antropologia Pubblica* 2, no. 2: 3-24.

This article examines a series of case studies documenting the "impact" of anthropological research outside the academy in Europe and North America, especially on issues related to ethnic, cultural and religious minorities. The article focuses on how anthropologists acting as cultural mediators or interpreters have had to interact with the law, lawyers and others whose disciplinary mindset may be very different from their own, and the many obstacles they have faced.

Holden, Livia. 2022. "Anthropologists as Experts: Cultural Expertise, Colonialism, and Positionality." *Law & Social Inquiry* 47, no. 2: 669-690.

This article addresses the position of anthropologists and the impact of anthropological theories on cultural expertise. The article analyses the concept of cultural expertise and the related concepts of culturally motivated crime and cultural defence, discusses what can be learnt from the use of cultural expertise in the colonial past, and argues that the concept of procedural neutrality and its reformulation in the form of critical assertion help anthropologists to carve out an independent role for themselves in the legal process.

B. Additional readings for the Mentor

Fluehr-Lobban, Carolyn. 2003. *Ethics and the Profession of Anthropology: Dialogue for Ethically Conscious Practice*. Walnut Creek, CA; Oxford: Altamira.

This volume analyses the challenge posed to anthropologists to engage in a dialogue about their commitment to professional ethical conduct. Each chapter addresses what it means to conduct anthropological research ethically and describes a series of crises in the discipline that have affected anthropological research.

Thuen, Trond. 2004. "Anthropological Knowledge in the Courtroom: Conflicting Paradigms." *Social Anthropology* 12, no. 3: 265-287.

This article discusses the framing of anthropological knowledge produced in the legal context in land claim cases brought by Aboriginal peoples, where anthropologists are often called upon to testify as experts for the plaintiffs or the court. The article explores how anthropological knowledge can be handled in court and argues that, rather than abandoning the anthropological position of rejecting essentialist versions of "cultures" in order to adjust testimony to the legal profession's preconceived notions of "custom" and "tradition" as objective criteria for legal treatment, a pluralist conception is required.

Videos on @culturalexpertise Youtube Channel (check the channel for most recent uploads)

Noora Arajärvi. EURO-EXPERT Policy Launch.	https://www.youtube.com/watch?v=G3l6TYNKG7c&t=2404s
Livia Holden. Cultural Expertise: Theory, methods, and findings.	https://www.youtube.com/watch?v=WiaThxD6oAU&t=10s
Victoria McCloud. Respect and Reflecting Diversity in Court: The 2021 edition of the UK's Equal Treatment Bench Book.	https://www.youtube.com/watch?v=irWI9LR1FPo
Julie Fraser. Understanding Law as Culture: The Importance of Cultural Competences in Implementing International Law.	https://www.youtube.com/watch?v=BNSYkwAOrWE

Further Reading

Asad, Talal. 1973. *Anthropology and the colonial encounter*. London: Ithaca Press.

Colajanni, Antonino. 2014. "Ricerca 'pura' e ricerca 'applicata'. Antropologia teoretica e antropologia applicativa a un decennio dall'inizio del terzo millennio / 'Pure' and 'applied' research. Theoretical and applied anthropology a decade after the beginning of the third millennium." *DADA Rivista di Antropologia post-globale* 2: 25-40.

Fuller, Chris. 1994. "Legal Anthropology: Legal Pluralism and Legal Thought." *Anthropology Today* 10, no. 3: 9-12.

Good, Anthony. 2007. *Anthropology and Expertise in the Asylum Courts*. Abingdon: Routledge.

Goodale, Mark, and Sally Engle Merry. 2017. *Anthropology and Law: A Critical Introduction*. New York: New York University Press.

Gormley, Donald C. 1955. "The Role of the Expert Witness." *Ethnohistory* 2, no. 4: 326-346.

Holden, Livia. 2011. *Cultural Expertise and Litigation: Patterns, Conflicts, Narratives*. Milton Park, Abingdon, Oxon; New York, N.Y.: Routledge.

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Holden, Livia, and Azam Chaudhary. 2013. "Daughters' Inheritance, Legal Pluralism, and Governance in Pakistan." *The Journal of Legal Pluralism and Unofficial Law* 45, no. 1: 104-123.

Lawrance, Benjamin N., and Gayla Ruffer, eds. 2015. *Adjudicating Refugee and Asylum Status: The Role of Witness, Expertise, and Testimony*. New York: Cambridge University Press.

Lenzerini, Federico. 2014. *The Culturalization of Human Rights Law*. Oxford: Oxford University Press.

Lucas, George R. 2009. *Anthropologists in Arms: The Ethics of Military Anthropology*. Lanham, MD: AltaMira Press.

Morris, Barry, and Rohan Bastin. 2004. *Expert Knowledge: First World Peoples, Consultancy and Anthropology*. New York: Berghahn.

Ngin, ChorSwang. 2018. *Identities on Trial in the United States: Asylum Seekers from Asia*. Lanham, MD: Lexington Books.

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Pels, Peter. 1997. "The Anthropology of Colonialism: Culture, History, and the Emergence of Western Governmentality." *Annual Review of Anthropology* 26: 163-183.

- Rodriguez, Leila. 2018. "Introduction: Cultural Expert Testimony in American Legal Proceedings." *Studies in Law, Politics and Society* 74: 1-10.
- Rosen, Lawrence. 2017. *The Judgement of Culture: Cultural Assumptions in American Law*. London: Routledge.
- . 2020. "Expert Testimony in the Social Sciences: A Historical Overview of Contemporary Issues." *Law and History Review* 38, no. 1: 123–142.
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- Solovey, Mark. 2001. "Project Camelot and the 1960s Epistemological Revolution." *Social Studies of Science* 31, no. 2: 171-206.
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- Tramontana, Enzamaría. 2010. "The Contribution of the Inter-American Human Rights Bodies to Evolving International Law on Indigenous Rights over Lands and Natural Resources." *International Journal on Minority and Group Rights* 17, no. 2: 241-263.
- Wakin, Eric. 1992. *Anthropology Goes to War: Professional Ethics and Counterinsurgency in Thailand*. Madison: Center for South East Asian Studies.
- Zenker, Olaf. 2016. "Anthropology on Trial: Exploring the Laws of Anthropological Expertise." *International Journal of Law in Context* 12, no. 3: 293–311.