



Cultural Expertise Mentorship

Mentee Guide

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Structure

This mentorship plan includes focus and objectives of the mentorship, duration, criteria for the selection of mentees and mentors, list of activities in which mentors and mentees will engage, and the academic roadmap of the mentorship. Each section of the academic roadmap includes readings and case-studies. The mentorship plan concludes with a section on further readings.

Focus

This mentorship plan responds to the demand from university students and graduated in the social sciences as well as from members of the legal professions to explore the principles and the potential of cultural expertise. We argue that a well-structured mentorship plan on cultural expertise can significantly enhance an individual's understanding of the ways inclusion can be pursued in various professional sectors and further researched from an academic perspective. By knowing the principles and the academic trends that have informed the theoretical framework of cultural expertise the mentee can develop a broader worldview and competences that can be useful for professional development. The mentor's guidance and support will be instrumental in shaping the mentee's knowledge and skills on cultural expertise and fostering a deep appreciation for cultural diversity and social inclusion.

Objectives

The objective of this mentorship plan is to share knowledge and sources about the cutting-edge theoretical, ethical, and applied framework of cultural expertise. The mentorship will provide guidance, resources, and support to help the mentee gain a comprehensive understanding of cultural expertise's definitions, the trends that have informed these definitions, the fields and conditions for its use, and the ethical considerations that must guide its adoption.

Duration

The full mentorship program is designed to last for six months. However, the duration can be adjusted based on the mentee's specific needs and progress.

Mentor Selection

The mentor should possess extensive knowledge and experience in the subject of cultural expertise and on the particular in the field in which the mentee wants to develop skills and acquire knowledge. The mentor should also be an effective communicator, supportive, and enthusiastic about sharing their expertise.

Mentee Selection

The mentee should have a genuine interest in cultural expertise and a willingness to commit to the mentorship program. They should possess a basic understanding of the social sciences (ideally an undergraduate degree in anthropology, sociology, or law with an interdisciplinary component), demonstrate openness, appreciation, and respect for social diversity and social inclusion.

Mentorship Activities

1. **Establishing Goals**: The mentor and mentee will have an initial meeting to discuss the mentee's goals and expectations for the mentorship program. This will help set a clear direction for the mentorship journey.
2. **Theoretical overview of cultural expertise**: The mentor will guide the mentee through various readings and case-studies that will help the mentee to understand the principles and ethics of cultural expertise. This may include reading culturally relevant literature, watching movies or documentaries, attending conferences, visiting museums, or engaging with a research project.
3. **Research and Study**: The mentee will conduct independent research under the mentor's guidance. The mentor will provide a list of recommended resources, such as books, articles, academic journals, and online platforms, to deepen the mentee's knowledge and understanding.
4. **Personal Reflection and Journaling**: The mentee will maintain a journal to document their observations, insights, and reflections throughout the mentorship program. This will encourage self-reflection and critical thinking about their exploration of cultural expertise.
5. **Discussions and Debates**: The mentor and mentee will engage in regular discussions to exchange ideas, clarify doubts, and explore different perspectives. These discussions can take place through face-to-face meetings, video conferences, and online platforms.
6. **Project Development**: Towards the end of the mentorship program, the mentee will work on a project that demonstrates what they have learnt about their cultural expertise. This could be a research paper, a presentation, or any other creative output that showcases their understanding of cultural expertise.
7. **Feedback and Evaluation**: The mentor will provide constructive feedback and guidance to the mentee throughout the program. Regular evaluations will help track the mentee's progress and identify areas for improvement.

8. *Continued Learning*: After completing the mentorship program, the mentee will be encouraged to continue their exploration and study independently. The mentor can suggest further resources and provide guidance for ongoing learning.

Academic Roadmap

Month 1 – Cultural expertise before cultural expertise

The mentor will thoroughly examine all historical instances that qualify as “cultural expertise before cultural expertise” in the context of social scientists’ involvement with law, according to current definitions. The mentee will engage in critical thinking based on readings that highlight criticisms of social scientists’ engagement with law in the absence of strong ethics and a well-articulated theoretical framework. These readings encompass case studies involving the collaboration with colonial and imperialist governments, instances of racism, discussions on rights from a colonial perspective concerning land titles and treaties protecting the rights of Indigenous peoples in North America, participation in counterinsurgency programs in Latin America and Southeast Asia (such as the Human Terrain System, which involved anthropologists in counterinsurgency operations in Iraq and Afghanistan), and considerations surrounding women’s rights within culturally diverse situations in Europe and non-European legal contexts.

Readings

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.

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.

Question & Answer

What is cultural expertise before cultural expertise?

What have been the areas of application of cultural expertise before cultural expertise?

What are the main criticisms made against anthropologists and social scientists involving with law irresponsibly?

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

The mentor will introduce the mentee to the early anti-colonialism, the classical legal pluralism, the new legal pluralism, the multiculturalism, the interculturalism, the global legal pluralism, critical studies, and de-colonial studies to show how all these trends have informed the current definitions of cultural expertise.

The mentee will be requested to read Ralph Grillo, Rama Srinivasan, and Kaius Tuori to formulate their own views about the theoretical framework on cultural expertise by exploring its scope for further elaboration and fields of application.

Readings

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.

Question & Answer

What are the differences between classical legal pluralism and new legal pluralism?

What are the main criticisms to the multiculturalist approach?

What are the main points of the decolonial approach?

What is the relationship between these scholarly trends and the theoretical framework of cultural expertise?

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

The mentor will explain the notions of cultural mediation and cultural competences, developed in the 1960s as set of skills that help the cross-linking of the cultural and social spheres with the aim to improve access to the public life and promote a better communication in multicultural settings, and then reformulated as intercultural mediation and intercultural competence to stress and connected with the Alternative Dispute Resolution movement in the United States, which insisted on the importance of flexibility and the consideration of the cultural background of the parties of the conflict. The mentor will also explain the notion of cultural defence, its conceptualisation and functions primarily in American courts and the epistemological elements that differentiate cultural defence and cultural expertise. Whereas cultural defence was conceived as the use of cultural arguments for the purpose of mitigation of the sentence in criminal cases, cultural expertise is understood as the special knowledge deployed by the experts of laws and cultures for assisting decision-making authorities in the assessment of evidence with information on the socio-legal backgrounds of facts and persons involved. Thus, cultural expertise includes but is not limited to cultural defence, stresses the notion of special knowledge and ethical duty toward the decision-making authority, revolves especially around the positionality of the experts, and is applicable to a wider range of legal fields and legal systems than cultural defence because it is not connected with the position of the defence. Finally, the mentor will explain the concept of culturally motivated crime as an act performed by a member of a minority group or culture, which is considered a crime by the legal system of the dominant culture, but which is approved or even supported by the minority group, the different treatment of the concepts of cultural defence and culturally motivated crimes in common law and civil law systems, and the main concerns about the stigmatisation of the social groups to which the perpetrators of culturally motivated crimes belong.

The mentee will be requested to read the definition of culturally motivated crime from Jeroen Van Broek and the and explore potential applications of cultural defence by discussing an

essay of your choice from the volume *Multicultural Jurisprudence* edited by Alison Dundes Renteln and Marie Claire Foblets.

Readings

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.

Question & Answer

What are the features of cultural defence?

What are the implications of the definition of culturally motivated crimes provided by Jeroen Van Broek?

How the concepts of cultural defence and culturally oriented crime connect with cultural expertise?

Month 4 – Cultural Expertise and Indigenous Expertise

The mentor will explain the evolving definition of cultural expertise from the first definition provided by Livia Holden in 2009 to the broader definition formulated in 2019, and the definition of Indigenous expertise as a special knowledge applicable to Indigenous people and First Nations peoples. In addition, the mentor will explain the role of the voice of the beneficiaries as the main difference between the two definitions.

The mentee will explore from a historical perspective the legal framework and international law relating to the right to self-government and freedom of Indigenous peoples.

Readings

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.

Question & Answer

What is the meaning of Indigenous expertise?

How does the Indigenous expertise differ from the cultural expertise?

Who are the beneficiaries of cultural expertise and Indigenous expertise?

Month 5 – Cultural Expertise and Human Rights

The mentor will illustrate the main connections of cultural expertise with cultural diversity and the recognition and protection of fundamental human rights such as freedom of thought, freedom of conscience, freedom of religion, freedom of non-refoulement, freedom of movement, rights of belonging and the right to self-government.

The mentee will identify a case law from the European Court of Human Rights and discuss the potential implications of cultural expertise.

Readings

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.

Question & Answer

How does the theoretical framework of cultural expertise connect with human rights?

Are there any conflicts between cultural diversity and the prohibition of harmful cultural practices in human rights law?

Why are cultural experts needed in human rights disputes?

Month 6 – Ethics and Deontology

The mentor will explain the role of the cultural expert in assisting judges for those matters that exceed the ordinary experience and knowledge of the judge and the ethical and deontological standards that the cultural expert must adhere to. In particular, the mentor will explain the ethical guidelines that the expert engaged in cultural expertise must follow, such as neutrality, independence and the principle of doing no harm.

The mentee will critically discuss the advantages and disadvantages of the cultural expert's role in court.

The mentee is requested to select three cases from the CULTEXP database by using keywords or searching by country. The mentee should provide reasons for their choices, analyse the selected cases, and engage in a discussion about how cultural expertise was employed. The mentee should develop their analysis based on the following questions: What form does cultural expertise take in these cases? Are cultural experts employed, and if so, by whom were they appointed? What contribution did cultural expertise make to the understanding of these cases?

Readings

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.

Question & Answer

What are the guiding principles of an expert who is involved in cultural expertise?

What are the ethical challenges for cultural experts providing cultural expertise in court?

What kinds of potential advantages or disadvantages should be considered when engaging with cultural expertise?

Further Reading

Campbell, John R. 2023. "Cultural Expertise and Asylum and Refugee Laws." In *Cultural Expertise, Law, and Rights: A Comprehensive Guide*, edited by L. Holden, 141-150. London: Routledge.

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.

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.

Hirsch, Susan F., and Moore Brigit R. A. "Cultural Expertise and Conflict Resolution." In *Cultural Expertise, Law, and Rights: A Comprehensive Guide*, edited by L. Holden, 215-227. London: Routledge.

Holden, Livia, ed. 2011. *Cultural Expertise and Litigation: Patterns, Conflicts, Narratives*. Abingdon: Routledge.

———. 2019. *Cultural Expertise and Socio-Legal Studies. Studies in Law, Politics, and Society*. Bingley (UK): Emerald Insight.

———. 2020. "Cultural Expertise and Law: An Historical Overview." *Law and History Review* 38(1): 29–46.

———, ed. 2021. *Cultural Expertise and the Legal Professions*. Special Issue. *NAVEIÑ REET: Nordic Journal of Law and Social Research*, 11.

———, ed. 2023. *Cultural Expertise, Law, and Rights: A Comprehensive Guide*. London: Routledge.

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.

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

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(1): 123–142.

Toivanen, Reetta. 2022. "Protecting Indigenous Identities? An Example of Cultural Expertise on Sámi Identity." *Pluralism and Critical Social Analysis* 54(2-3): 210-230.

Zenker, Olaf. 2016. "Anthropology on Trial: Exploring the Laws of Anthropological Expertise." *International Journal of Law in Context* 12(3): 293–311.

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>