Lawrence Rosen: Taking the Road Less Traveled By

When Lawrence Rosen (J.D. '74) has appeared in court, it has more often been a qadi’s court in Morocco than a Western court of law. An anthropologist who specializes in Islamic law, Rosen is also a lawyer who believes that legal concepts can be illuminated by studying their cultural context. Last year, in recognition of his distinguished work in anthropology and law, he was awarded a five-year prize fellowship from the John D. and Catherine T. MacArthur Foundation. It will enable him, he says, to “trespass more freely across disciplinary boundaries.”

Rosen’s dual interest in anthropology and law is long-standing. As an undergraduate at Brandeis University, he decided to study anthropology, and he also became concerned with American social legal problems, such as rights of minorities. His specialization in Islamic law, however, came about partly by chance. He came to the University of Chicago as a graduate student in anthropology and planned to do fieldwork in Indonesia, but when fighting broke out there in 1965, he made arrangements to go to Morocco. He spent a summer studying Arabic and in January 1966 arrived in Sefrou. Working initially with Clifford and Hildred Geertz, he began a study of family structure that soon involved him in observing Islamic court proceedings.

After receiving his Ph.D. in 1968, he was a postdoctoral fellow first at the University of Illinois in Champaign-Urbana and then with the Committee for Comparative Study of New Nations at the University of Chicago, where he got to know Law School faculty members Max Rheinstein, Harry Kalven, and Stanley Katz. In 1970 he was invited to be-
come a member of the Institute for Advanced Study in Princeton, but the desire to develop the legal side of his research brought him back to Chicago in 1971 as a law student.

Rosen chose the Law School because its faculty were willing to treat him as a serious law student and not as a "resident social scientist." He emphasizes, however, that cross-cultural concerns like his were not new to the Law School. Karl Llewellyn and Soia Mentschikoff, for example, had done extensive work with Pueblo Indians. Between his second and third years of law school, Rosen worked for the Native American Rights Fund on the legal problems of Indians. He taught Indian law at Duke University, where he became associate professor of anthropology and law after receiving his J.D., and he has written about Indian law.

Since 1977 he has been a professor of anthropology at Princeton University, where he teaches courses in anthropology and law, American Indians and law, and American law and society. He has also been adjunct professor of law at Columbia University since 1978. At Columbia he teaches family law and an optional first-year course in law and anthropology. Such a course, he believes, allows students to combine what they have learned as undergraduates with their new knowledge of the law. It allows them to regard the law in its social and cultural setting at the outset of their legal training.

That kind of perspective, Rosen thinks, should not be confined to legal anthropology but can help clarify how fundamental legal concepts work in our own society. One of the projects he hopes to pursue during the term of his MacArthur fellowship is a study of the exercise of judicial discretion, primarily in very low-level courts. Judicial discretion has been thought of either as impossible to study or as rigidly determined by precedent, but Rosen's study of Islamic courts has led him to a different view. Islamic people feel close to the courts and use them extensively, while Westerners feel alienated from theirs. Rosen believes, however, that related principles of discretion and equity are operating in different cultural and social contexts. The justice of the qadi, the Islamic law judge, is not really capricious, though it may appear so to a casual observer, nor is Western justice wholly determined by rules. "Rather," Rosen has written, "one can show that discretionary judgments and equitable assessments are fused by principles and standards which are incomprehensible without an understanding of how cultural precepts shape them as would the study of social relations be incomplete without an understanding of their judicial articulation."

The MacArthur prize has freed Rosen from administrative tasks (he was about to become chairman of his department at Princeton) and other academic responsibilities at a crucial moment in his own work. But, more important, the prize has fostered his inclination to cross over disciplinary lines, something his colleagues in both anthropology and law have not always approved wholeheartedly. He now feels able to follow leads and avenues of inquiry he might otherwise have abandoned as too peripheral. Many will be dead ends, but some, he feels sure, will not. The prize has no strings attached. It sets you completely free, but, Rosen says, "I'm not going to become a ballet dancer or invent a new kind of hula hoop —I'm going to do what I do." His plans for the next five years, in addition to teaching half-time at Princeton, include finishing a book about Moroccan society, tentatively titled "Bargaining for Reality: The Social Construction of Modern Arab Society"; writing a book about Islamic law; and developing a legal case book combining law and anthropology.

Rosen's legal work has not been entirely academic. He is a member of the North Carolina and federal bars and has worked on a number of cases in consultation with other attorneys. Although he feels he cannot reconcile clients' needs or litigation schedules with his research, he still has a strong interest in social legal problems and would like to do more volunteer legal work if he can find an appropriate vehicle.

Rosen plans a brief trip back to North Africa but intends to do his next major fieldwork in the United States, studying family courts and American Indians. Although he has nearly finished his Moroccan research, however, he maintains a strong regard for Moroccans, who accepted him warmly and gave him ready access to their society and courts. When he returned for his third visit in 1978, he felt that he was going home.

At home in at least two cultures and two legal systems, Rosen is uniquely qualified to increase the understanding of both. His career is in some ways a logical extension of the interdisciplinary tradition of the University and the Law School, but the intellectual territory he has reached is his own.