COURSE OVERVIEW

This course examines the place of law and human rights in 19th and 20th century imperialism. It focuses on the connections between legal and judicial encounters in colonial contexts and related human rights movements. Law was the primary tool for asserting imperial power abroad. It was the "cutting edge of colonialism", crucial to the imperial “civilizing mission” and instrumental to justifying and legitimizing conquest and control. Imperial laws and legal institutions guaranteed the maintenance of social order on a scale conducive to colonial interests. However, because they were adaptable, colonial legal systems also had the potential to empower suppressed peoples and define human rights struggles. Imperial legal encounters therefore produced hybrid legal cultures and influenced anti-colonial impulses that have shaped the contemporary human rights movement.

Colonial law was therefore both an instrument of empire building and a site of resistance and negotiation. This course aims to go beyond the coercive aspects of colonial law to examine the ways in which law manifested the “tensions of empire,” providing subordinated peoples with the possibility to contest their subordinate positions. Along this line, we will explore how colonial and imperial laws were imbued with markers of difference, and constituted along the lines of race, class, gender, ethnic and cultural identities. The goal of the course is to offer students a thematic and comparative understanding of colonial legal encounters and the connections with global human rights.

COURSE REQUIREMENTS

Seminar Presentation/Reflection papers (10% x 2) 20% (Due one week after presentation)
Seminar Participation 20%
Historiographical Review of books/articles 20% Due Oct. 23
(25% more for PhD participants) Research Paper 40% Due Dec. 4

Textbooks
- HIST 700 Courseware (Available at the bookstore)

Seminar Presentation/Facilitation
Each student will sign up for at least 2 seminar topics during the first two weeks of the term and will be required to make seminar presentations on the selected topic and readings. The presenters will be responsible for leading the seminar discussion focusing on the main issues or ideas covered in the
readings and raising questions for class discussions. The actual presentation should take no more than 20 minutes and ample time should be left for class discussion. The presenter/facilitator will subsequently write and submit a 3-5-page reflection paper outlining his/her own interpretations of the assigned readings and class discussions. Reflection papers are due in class a week after the presentation. Assessment of seminar presentation will be based on both oral presentation and reflection paper following these criteria: evidence of preparation and understanding of the material, coverage of the material, clarity of thought and expression, quality of discussion/questions and time management. **Weight: 20%**

**Seminar Participation**
Active and meaningful participation is expected of all students. Students are expected to do the assigned readings and come prepared for class discussions on the topic of the week. Assessment of seminar participation will be based on the frequency, quality and relevance of comments and questions. **Weight: 20%**

**Historiographical Review**
In this course we will engage with the key scholarly and historiographical debates concerning law and human rights in the context of Empire. Students will select 2 books ([3 for PhDs]) from the course supplemental readings this outline and find 2 academic articles ([3 for PhDs]) from peer-reviewed journals that address themes in imperial/colonial legal or human rights topics upon which they intend to write their research paper. Historiographical reviews should not simply be summaries of the author’s arguments. Reviews should explore the manner in which scholars have approached and examined the subject, the different points of view or schools of thought that they have advanced, and the ways that scholars have interpreted available historical evidence to support their arguments. Attention should also be paid to any connections or contrasts between the reviewed books and articles. Materials already assigned for this course are not eligible for review. Historiographical reviews should be approximately 10-15 pages and are due on Oct. 22. ([20-30 pages for PhDs]) **Weight: 20%**

**Research Paper**
This is the major writing assignment for this course. Research papers should be on a topic on any aspect of this course but must be approved by the instructor. In writing the paper, it is expected that some primary sources will be used (where available) and references drawn from the historiographical review earlier written. The research paper should be between 18-22 pages of text, but no more than 25 pages in total length. Pages within the body of the paper must be numbered. Details of this assignment will be discussed in seminar. Research papers are due on Dec. 3. **Weight: 40%**

**PhD Participants**
PhD participants taking this course will be required to do 25% additional readings drawn from the supplemental reading list in this syllabus.

---

**COURSE POLICIES**

**Academic Integrity:**
You are expected to exhibit honesty and use ethical behaviour in all aspects of the learning process. Academic credentials you earn are rooted in principles of honesty and academic integrity. Academic dishonesty is to knowingly act or fail to act in a way that results or could result in unearned academic credit or advantage. This behaviour can result in serious consequences, e.g. the grade of zero on an assignment, loss of credit with a notation on the transcript (notation reads: “Grade of F assigned for academic dishonesty”), and/or suspension or expulsion from the university. It is your responsibility to understand what constitutes academic dishonesty. For information on the various types of academic
dishonesty please refer to the Academic Integrity Policy, located at http://www.mcmaster.ca/academicintegrity
The following illustrates only three forms of academic dishonesty: Plagiarism, e.g. the submission of work that is not one’s own or for which other credit has been obtained. Improper collaboration in group work. Copying or using unauthorized aids in tests and examinations.

Email Communication
It is the policy of the Faculty of Humanities that all email communication sent from students to instructors (including TAs), and from students to staff, must originate from the student’s own McMaster University email account. This policy protects confidentiality and confirms the identity of the student. Instructors will delete emails that do not originate from a McMaster email account.

Avenue to Learn
In this course we may be using Avenue to Learn. Students should be aware that, when they access the electronic components of this course, private information such as first and last names, user names for the McMaster e-mail accounts, and program affiliation may become apparent to all other students in the same course. The available information is dependent on the technology used. Continuation in this course will be deemed consent to this disclosure. If you have any questions or concerns about such disclosure please discuss this with the course instructor.

Modifications to Course Outline
The instructor and university reserve the right to modify elements of the course during the term. The university may change the dates and deadlines for any or all courses in extreme circumstances. If either type of modification becomes necessary, reasonable notice and communication with the students will be given with explanation and the opportunity to comment on changes. It is the responsibility of the student to check their McMaster email and course websites weekly during the term and to note any changes.

Extensions or Accommodations
Extensions or other accommodations will be determined by the instructor and will only be considered if supported by appropriate documentation. Absences of less than 5 days may be reported using the McMaster Student Absence Form (MSAF) at www.mcmaster.ca/msaf/. If you are unable to use the MSAF, you should document the absence with your faculty office. In all cases, it is YOUR responsibility to follow up with the instructor immediately to see if an extension or other accommodation will be granted, and what form it will take. There are NO automatic extensions or accommodations.

Reading List
Most of the readings for this course are available in the courseware pack and online journal courseware available from the bookstore. Most journal articles will be found either on the Scholars Portal or JSTOR database.

Timetable
Week 1: Sept. 4  Introduction
Week 2: Sept. 11 Theorizing Law and Empire
Week 3: Sept. 28 Conceptualizing Human Rights
Week 4: Sept. 25 Law and Empire Building 1
Week 5: Oct. 2  Law and Empire Building 2
Week 6: Oct. 9 No class
Week 7: Oct. 16 Law, Labour and Liberty
Week 8: Oct. 23 Legal Engagement and Contestation – Review Paper Due
Week 9: Oct. 30 Criminalization and Social Control 1
COURSE SCHEDULE

Week 1: Sept. 4.
- Introduction / Course Overview

Week 2: Sept. 11.
Theorizing Law and Empire
- Ann Laura Stoler and Frederick Cooper “Between Metropole and Colony: Rethinking a Research Agenda” in Tensions of Empire: Colonial Cultures in a Bourgeois World, Frederick Cooper and Ann Laura Stoler eds (1997). [Courseware]

Week 3: Sept. 18.
Conceptualizing Human Rights
- Alison Dundes Renteln, “The Concept of Human Rights” in International Human Rights: Universalism versus Relativism. [Courseware]

Week 4: Sept 25.
Law, and Empire Building I
Week 5: Oct. 2.
Law and Empire Building II

Week 6: Oct. 9. NO CLASS: Work on historiographical Review Papers

Week 7: Oct. 16.
Law, Labour and Liberty
- Allison Gorsuch, Legacies of Empire: Race and Labor Contracts in the Upper Mississippi River Valley, in Legal Histories of the British Empire
- Dana Rabin, "Empire on Trial: Slavery, Villeinage, and Law" in Imperial Britain, in Legal Histories of the British Empire
- Barry Wright, "Macaulay's India Law Reforms and Labour in the British Empire," in Legal Histories of the British Empire

Week 8: Oct. 23. Historiographical Review Papers Due
Legal Engagement and Contestation
- Philip Girard, “Imperial Legacies: Chartered Enterprises in Northern British America,” in Legal Histories of the British Empire
- Stephanie Po-yin Chung, "Understanding ‘Chinese Customs’: Sinchew rulings in the Straits Settlements, 1830s-1870s," in Legal Histories of the British Empire
- John Strawson, "Translating the Hedaya: Colonial Foundations of Islamic Law," in Legal Histories of the British Empire
- Shaunnagh Dorsett, "Travelling Laws: Burton and the Draft Act for the Protection and Amelioration of the Aborigines 1838 (NSW)," in Legal Histories of the British Empire
- Bonny Ibhwawo, "Asserting Judicial Sovereignty: The Debate over the Abolition of Privy Council Jurisdiction in British Africa," in Legal Histories of the British Empire

Criminalization and Social Control 1
- Renisa Mawani, “Sovereignties in Dispute: The Komagata Maru and Spectral Indigeneities, 1914” in Legal Histories of the British Empire
Week 10: Nov 6.
Criminalization and Social Control 2

Week 11: Nov. 13.
Courts, Land and Property Rights

Week 12: Nov. 20.
Lawyers, Magistrates and Judges
- John McLaren, “Navigating the Scylla of Imperial Politico-Legal Aspirations and Charybdis of Colonial Micro-Politics in the British Empire: The Case of the Judges,” in *Legal Histories of the British Empire*
- Nandini Chatterjee, "Law, Culture and History: Amir Ali’s Interpretation of Islamic Tradition,” in *Legal Histories of the British Empire*
- Bridget Brereton, “A Judicial Maverick: John Gorrie at Large in the Victorian Empire,” in *Legal Histories of the British Empire*

Week 13: Nov. 27.
Decolonization, Human Rights and the Legacies of Imperial Law

Week 14: Dec. 4. Final Essay Due
Course Review
RECOMMENDED SUPPLEMENTAL READINGS

Theorizing Empire
- Dane Kennedy, *The Last Blank Spaces: Exploring Africa and Australia* (2013)
- Frederick Cooper and Ann Laura Stoler, *Tensions of Empire: Colonial Cultures in a Bourgeois World* (1997)

Law and Empire - General

Law and Empire in Asia

Law and Empire in the Middle East

Law and Empire in Africa
- Bonny Ibhawoh, *Imperial Justice: Africans in Empire’s Court* (2013)
Colonial Law in the Americas

Colonial Legal Practitioners

Human Rights and Empire

Human Rights and Decolonization

Human Rights in World History