

UNIVERSITY OF CALIFORNIA, SAN DIEGO

DEPARTMENT OF ETHNIC STUDIES

SPRING 2006

ETHNIC STUDIES 189: LAW AND THE (POST) COLONIAL MOMENT

Prof. Mark Harris

Lecture: Tues 12.30 – 1.50 Thurs 12.30 -1.50

Office Hours: Tues (2.00 – 3.00 p.m.) & Thurs (2.30-4.30.) or by appointment

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COURSE DESCRIPTION

"Postcolonialism" is defined in a wide range of ways, reflecting the focus of different disciplines. This subject seeks to examine how the law is crucial to the construction of the colonial project and how it is involved in the period that follows the end of colonialism. We will commence this subject with an examination of how the law is crucial to the establishment and confirmation of colonial states. We then consider the manner in which nationalist or liberation struggle is also dependent upon the law in validating the newly emergent nation states. Our discussion then turns to an examination of the concept of the "postcolonial" state and what this means for the identity of the population of these former colonies and their relationship to the colonizer.

REQUIRED READINGS

Ashcroft, B et.al. (eds.), *The Postcolonial Studies Reader*, ** make sure you have the most recent edition of this text

Fanon, F *The Wretched of the Earth*, Penguin, 1967

Said, E, *Orientalism*, Harmondsworth (UK), Penguin, 1985

COURSE EVALUATION

Attendance & Course Participation	40 %
Mid Term Paper – due week six	25 %
Final Paper - due end of week ten	35 %

TENTATIVE SCHEDULE

Introduction- The Question of Postcoloniality

In our first week we will frame the questions and issues that will be the subject of our discussion in the ensuing weeks. In particular we will consider the question of whether there can be identified, with any degree of certainty, the moment at which the colonial presence is displaced. In the event that the colonizer's rule can be supplanted, what does this mean for those who have been colonized? Is it correct to argue that the experience of colonialism and, by implication, post-coloniality, share common features around the globe? Alternatively, can it be argued that there are fundamental differences between those nations which achieve independence from the former colonial masters (such as India or Algeria) as compared to the experience of what might be termed the "settler-colonies", where the colonizer has remained and ultimately has given rise to a new national identity (for example, Australia or Canada or New Zealand).

Reading

Ashcroft et al, *Post Colonial Studies Reader*, pp.9-70 (see in particular the extracts from Spivak, JanMohammed and Said)

Weeks Two and Three: The Colonial Experience – Representation and Resistance

Over the next two weeks we will consider the manner in which the colonial experience gives rise to representations of the "Other", with particular emphasis upon Edward Said's seminal text *Orientalism*. It is Said's contention that the Orient was constructed in binary opposition to the Occident (the West) and, accordingly, the Orient exists only as a signifier of all things that are inferior and less-than the Occidental equivalent. In light of the argument that the population of the Orient have no capacity to influence the representations that are made about them (through a variety of discourses, but including novels, painting, official discourse) we then examine whether it is possible for the colonized peoples to challenge and resist the hegemony of colonialism.

Reading

Said, E., *Orientalism*

Ashcroft et al, *Post Colonial Studies Reader*, pp.93-116 (most recent addition)

Week Four

Inside/Outside the Law: The Role of Law in the colonial setting

In any analysis of colonial societies it is clear that the law is implicated in the production of the colonial subject and the confirmation of the power of the colonizer. We will discuss Fitzpatrick's re-reading of the nexus between myth and law and how this has ramifications for the construction of race and the other

Reading

Fitzpatrick P, *The Mythology of Modern Law*, pp.63-91 (to be distributed)

Week Five

The Battle of Algiers – view video

During this week's classes we will view Gillo Pontecorvo's 1966 film *The Battle of Algiers*. The film utilizes a *faux* documentary style to chronicle the struggle of the Algerian people for independence from French colonial rule in the period from 1957 to 1964. Amidst the escalating violence perpetrated by both sides, the film traces the radicalization of a petty criminal, Ali la Pointe, who joins the Algerian resistance movement, the National Liberation Front (FLN). While the film's narrative does not continue to the moment of liberation it provides a poignant illustration of the issues that arise in the moment of colonial struggle.

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Week Six

The Colonial Struggle and Representations of “the other”

This week's class takes up the issues raised in the Battle of Algiers and considers the writings of Franz Fanon in his seminal work, *The Wretched of the Earth*. It is worth noting that Fanon's writing was championed by Jean-Paul Sartre (see the preface to *The Wretched of the Earth*). During the height of the Algerian struggle for independence Sartre commented upon the manner in which the indigenous Algerian population (remembering that there were French colonists who were born in Algeria and who were referred to as *pieds-noirs*) were represented in the colonial thinking. He noted:

This rebellion is not merely challenging the power of the settlers, but their very being. For most Europeans in Algeria, there are two complementary and inseparable truths: the colonists are backed by divine right, the natives are sub-human. This is a mythical interpretation of reality, since the riches of the one are built on the poverty of the other. In this way exploitation puts the exploiter at the mercy of his victim, and the dependence itself begets racialism. It is a bitter and tragic fact that, for the Europeans in Algeria, being a man means first and foremost superiority to the Moslems. But

what if the Moslem finds in his turn that his manhood depends on equality with the settler? It is then that the European begins to feel his very existence diminished and cheapened

From this statement by Satre we move to Said's account of the construction of the Orient through a variety of colonial discourses and consider his assertion that "the Orient was almost a European invention" which was "based on the Orient's special place in European Western experience".(1979:1)

Reading

Fanon, *The Wretched of the Earth*

See also: Ashcroft et al, *Post Colonial Studies Reader*, pp.117-136

Weeks Seven and Eight

Identity and the quest for "authenticity": Ethnicity, Indigeneity, Race and Feminism

In this class we will consider the manner in which ethnicity, race and indigeneity are imbricated within the postcolonial discourse – noting the manner in which essentialist discourses can be deployed to limit and circumscribe the possibilities for representation of the ethnic or indigenous "other". We will also reflect upon, with particular reference to the writings of Spivak, the question of how conditions can be such that the subaltern (woman) can claim the space to speak.

Reading

Ashcroft, B (et al) *The Postcolonial Studies Reader*, (see generally parts 6 to 9, from the most recent edition of the text)

Week Nine

Race, space and place in the post-colonial landscape

Place and displacement, Ashcroft et al. observe, "are crucial features of the post-colonial discourse". In this class we will examine the ways in which notions of place and space are constructed and the methods which are used to map out superior claims to the space. The construction of the colonial space and the importance of naming place are dealt with in extracts by Lee and Carter respectively, however this class is not limited to these considerations of the nexus between race and place.

Ashcroft B (et al) *The Postcolonial Studies Reader*, pp.345-370

Harris, M "Mythologising "Recollections of Squatting in Victoria: Law's Intersection with Colonial Memory" in *Law, Social Justice and Global Development*, at <http://www2.warwick.ac.uk/fac/soc/law/elj/lgd/>

Week Ten

Reflections: Globalisation and the survival of the Ethnic/Indigenous Other

In the final class we will review the trajectory of the course and reflect upon the issues that have arisen and the questions that (in all likelihood) remain unanswered. One tentative issue for reflection is the contradiction that exists between the trend towards globalization that homogenizes and essentialises other cultures, against the increasing claims for distinct group or cultural rights that are being articulated by ethnic and Indigenous minorities. We will also consider what the role of the law is and how the law is deployed by various actors (NGOs, activist organizations, national governments) in response to the questions that confront the post-colonial future.

Reading

Ashcroft, B (et al) *The Postcolonial Studies Reader*, pp.461-90