

UNIVERSITY OF CALIFORNIA, SAN DIEGO

DEPARTMENT OF ETHNIC STUDIES

WINTER 2009

ETHNIC STUDIES 189: POSTCOLONIALISM AND LAW

Prof. Mark Harris

Lecture: Tues 3.30-4.50 Thurs 3.30-4.50 Sequoyah 148

Office Hours: Tues (5-6.30) & Thurs (1-2 pm.) or by appointment

Ext.: **E-mail:** maharris@ucsd.edu

Office. Location: SS Room 247

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 – while simultaneously asking whether the colonial project, in fact, ever “ends”. 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. The course is intended to engage with the question of the post-colonial moment as it plays/ed out in range of sites; from Algeria and the war of independence against the French, to the Indian ousting of the British Imperial presence to the struggle against the Portugese and Spanish colonizers in Latin America.

REQUIRED READINGS

Ashcroft, B et.al. (eds.), *The Postcolonial Studies Reader*, (2006) ** earlier editions have most of the materials but do not include the sam

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

COURSE EVALUATION

Attendance & Course Participation	20 %
Mid Term Paper – due week six	30 %
Final Paper - due end of week ten	50 %

TEACHING SCHEDULE

Weeks One to Three

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 (in South American nations, parts of Africa and other sites 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).

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. The readings for these weeks will also reflect upon the application of subaltern studies or postcolonial readings of the Latin American nations, given that there has been an historical tendency to focus upon the African and Indian theorists.

Reading

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

Anibal Quijano "Coloniality of Power, Eurocentrism and Latin America" *Nepantla: Views from South* 1.3

Dussel, E., Europe, Modernity, and Eurocentrism *Nepantla: Views from South* 1.3 p.465f

Additional reading

Mudimbe, V.Y, *The Invention of Africa: Gnosis, Philosophy and the Order of Knowledge*,

Week Four

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.

Week Five

Colonial violence – Fanon and the Wretched of the Earth

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 Sartre 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, F., *The Wretched of the Earth*

Week Six

Writing the nation

In the consideration of the post-colonial society we can reflect upon the importance of the “nation” as the rallying point against the colonial/imperial presence. In this class we reflect upon Fanon’s cautionary observations on the nature of national consciousness. We also consider how nations, after the moment of independence, respond to or engage with the task of assembling a national narrative.

Reading

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

Gonzalez de Allen, G., “Enrique Dussel and Manuel Zapata Olivella: An Exploration of De-colonial, Diasporic, and Trans-modern Selves and the Politics of Recognition”, *Worlds and Knowledges Otherwise*, Fall 2006

Vieira, E., “Epistles of Possession...”, *Interventions* 2(3) 2000: 309-327

Week Seven

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. The extent to which law’s violence is used to subjugate the subaltern is considered but also the manner in which, in the period after independence, how the law emerges as a significant dimension to the creation of the modern nation.

Reading

Bernard Cohn, "Law and the Colonial State in India," *History and Power in the Study of Law*, eds. J. Starr and J. Collier (Ithaca, NY: Cornell UP, 1989) 131-152

Comaroff, J & Comaroff, J., “Law and Disorder in the Postcolony: An introduction”, in Comaroff, J & Comaroff, J (eds) *Law and Disorder in the Postcolony*, Chicago, 2006, pp.1-56.

Sally Merry, "Law and Colonialism: Review Essay," *Law and Society Review* 25.4 (1991): 889-922,

Engle Merry, S., “Law and Postcolonialism” in Sarat, A (ed), *Blackwell Companion to Law*, 2004

Rao, E., “Discipline and the other body”, *Interventions* 3(2) 2001:159-168

Taussig, M., “Culture of Terror -Space of Death: Roger Casement’s Putamayo Report” *Comparative Studies in Society and History*, 26 (1984), 467-97

Weeks Eight and Nine

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*, pp.163-256

Additional reading

McClintock, Anne. *Imperial leather: race, gender, and sexuality in the colonial contest*. New York: Routledge, 1995.

Blunt, Alison. Rose, Gillian. *Writing women and space: colonial and postcolonial geographies* New York: Guilford Press, 1994.

Spivak, Gayatri Chakravorty. *A critique of postcolonial reason: toward a history of the vanishing present*. Cambridge, Mass.: Harvard University Press, 1999

Rajan, R Sunder & Park, You-Me “Postcolonial Feminism/Postcolonialism and Feminism”, in Schwartz, H & Ray, S (eds) *Companion to Postcolonial Studies*, Cambridge

Week Ten

Reflections: Diaspora, Globalisation and post-colonial meanings

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.425-90