

LAWYERS & JUDGES IN THE BRITISH EMPIRE • Legal Studies 450, Section 012
Prof. Mitra Sharafi
Spring 2008

Class Time: TTh 4-5.15pm
Class Location: Social Sciences 4308

E-mail: sharafi@wisc.edu
Phone: (608) 265-8428
Office: Law 6112 (*Directions: the Law Building is the modern building halfway up Bascom Mall on the left. When you enter from Bascom Mall, take the elevators or stairs that are down the hallway to your right to reach my office*)
Office Hours: by appointment
Course Page: via Learn@UW link on right of UW-Madison website (under “My UW-Madison”)

Course description:

This course explores British colonialism through the prism of lawyers and judges, both European and non-European. The legal profession did much of the work of running the British Empire--and of dismantling it. Lawyers, particularly from colonized communities, also served as cultural “translators” or middlemen in interpreting colonized cultures for the colonial state. Among other themes, the course explores racialized and gendered lawyering; material culture and everyday life; mobile and diasporic lawyering; and debates over collaboration and professional monopolization. The use of primary source material will be emphasized.

Course Grades & Requirements:

Your final grade will be based upon:

- **10%: Map quiz** on T, Feb.5
- **30%: Primary source report** (8-10 pages; due Th, April 10), including **research proposal & annotated bibliography** (1-2 pages; due T, Feb. 26). Written assignments should be double-spaced in 12-point font with 1-inch margins. They should be submitted via digital dropbox on our Learn@UW course page.
- **40%: Final exam** (F, May 16, 7.25pm+)
- **20%: Class participation** (including attendance)

Course Materials:

All readings for the course are included in the course reader, available at the Copy Center (not the Book Mart) on the 2nd floor of the UW Law School (on Bascom Mall).

Course Reading Schedule:

- **T, Jan. 22:** Introduction

**PART 1: BIG DEBATES IN THE HISTORY OF THE LEGAL PROFESSION
& BRITISH COLONIALISM**

- **Th, Jan. 24:** Sociology of the Professions
 - Richard L. Abel, *The Legal Profession in England and Wales* (Oxford: Basil Blackwell, 1988), 285-308
- **T, Jan. 29:** Lawyers & Liberal Regimes
 - Terence C. Halliday and Lucien Karpik, "Politics Matter: A Comparative Theory of Lawyers in the Making of Political Liberalism" in Halliday and Karpik, eds., *Lawyers and the Rise of Western Political Liberalism: Europe and North America from the Eighteenth to Twentieth Centuries* (Oxford: Clarendon, 1997), 15-64
- **Th, Jan. 31:** Colonial Forms of Knowledge
 - Edward Said, *Orientalism* (New York: Vintage, 1978), 1-12
 - Bernard Cohn, "The Census, Social Structure and Objectification in South Asia" in Cohn, *An Anthropologist among the Historians and Other Essays* (Delhi: Oxford University Press, 1987), 224-54
- **T, Feb. 5:** Colonialism & Collaboration
 - O. Adewoye, "Sapara Williams: The Lawyer and the Public Servant," *Journal of the Historical Society of Nigeria* 6:1 (Dec. 1971), 47-65

Map Quiz (10%)

PART 2: LAWYERS & JUDGES IN BRITAIN...

- **Th, Feb. 7:** Overview of Lawyering in Britain
 - Daniel Duman, "The late Victorian Bar: a prosopographical survey" in E. W. Ives and A. H. Manchester, eds., *Law, Litigants and the Legal Profession*. London: Royal Historical Society, 1983, 140-54
 - W. Wesley Pue, "Lawyers and Political Liberalism in Eighteenth- and Nineteenth-Century England," in T. C. Halliday and L. Karpik, eds., *Lawyers and the Rise of Western Political Liberalism: Europe and North America from the Eighteenth to Twentieth Centuries* (Oxford: Clarendon, 1997), 167-9,194-206
- **T, Feb. 12:** Imperial Legal London:
Privy Council Appeals & Colonial Law Students

- Sarah Mary Bilder, *The Transatlantic Constitution: Colonial Legal Culture and the Empire* (Cambridge, Mass.: Harvard University Press, 2004), 116-41
- Lord Haldane, "The Work for the Empire of the Judicial Committee of the Privy Council," *Cambridge Law Journal* 1 (1923) 143-55

PART 3: ...AND IN THE EMPIRE

- **Th, Feb. 14:** Gendered Lawyering: Women in the Colonial Legal Professions
 - *Guest lecture by Prof. Mary Jane Mossman
(Osgoode Hall Law School, York University, Toronto, Canada)*
 - Mary Jane Mossman, *The First Women Lawyers: A Comparative Study of Gender, Law and the Legal Professions* (Oxford: Hart, 2006), 191-237
- **T, Feb. 19:** Overview of Lawyers & Judges in the Empire
 - David Lemmings, *Professors of the Law: Barristers and English Legal Culture in the Eighteenth Century* (Oxford: Oxford University Press, 2000), 225-47
 - Daniel Duman, *The English and Colonial Bars in the Nineteenth Century* (London: Croom Helm, 1983), 121-42
- **Th, Feb. 21:** Lawyers & Legal Education
 - Assaf Likhovski, *Law and Identity in Mandate Palestine* (Chapel Hill: University of North Carolina Press, 2006), 106-23
 - Motilal C. Setalvad, *My Life: Law and Other Things* (London: Sweet & Maxwell, 1971), 1-10
- **T, Feb. 26:** Distrusting Colonial Lawyers
 - Bruce Kercher, "A Convict Conservative: George Crossley and the English Legal Tradition" in Rob McQueen and W. Wesley Pue, eds, *Misplaced Traditions: British Lawyers, Colonial Peoples* (Annandale, Australia: Federation Press, 1999), 17-30
 - *Research proposal and annotated bibliography for primary source report due today***
(1-2 pages; by digital dropbox via Learn@UW course page)
- **Th, Feb. 28:** Lawyers & Professionalization
 - Donald M. Reid, *Lawyers and Politics in the Arab World* (Minneapolis: Bibliotheca Islamica, 1981), 1-9, 380-99
- **T, March 4:** Judges & Magistrates
 - *Film: "Lost World of the Raj: Pomp & Power" (BBC documentary, 2007)*
 - George Orwell, *Burmese Days* (London: Penguin, 1989), 1-13 + plot summary

(2 pages)

- Norval Morris, "The Brothel Boy: A Fragment of a Manuscript" (by Eric Blair AKA George Orwell), *Occasional Papers from the Law School, University of Chicago*, No. 18 (Chicago: University of Chicago, 1982), 1-17
- William Digby, *Forty Years of Official and Unofficial Life in an Oriental Crown Colony being the Life of Sir Richard F. Morgan [in Ceylon]* (London: Higginbotham and Longmans, 1879), vol. 2, 270-82
- Thomas Strangman, *Indian Courts and Characters* (London: Heinemann, 1931), 20-2

- **Th, March 6:** Court Clerks, Translators & Other Junior Officials
 - David Pratten, "The District Clerk and the 'Man-Leopard Murders'" in Lawrance, Osborn and Roberts, eds., *Intermediaries, Interpreters, and Clerks: African Employees in the Making of Colonial Africa* (Madison: University of Wisconsin Press, 2006), 220-47

- **T, March 11:** Colonial Lawyering & the History of the Book
 - Sarah Mary Bilder, *The Transatlantic Constitution: Colonial Legal Culture and the Empire* (Cambridge, Mass.: Harvard University Press, 2004), 15-30
 - M. P. Jain, *Outlines of Indian Legal History* (Bombay: Tripathi, 1966), 652-4
 - Daniel Boorstin, *The Mysterious Science of the Law: An Essay on Blackstone's Commentaries* (Chicago: University of Chicago Press, 1996), 1-8

- **Th, March 13:** Material Culture
 - Rob McQueen, "Of Wigs and Gowns: A Short History of Legal and Judicial Dress in Australia" in Rob McQueen and W. Wesley Pue, eds, *Misplaced Traditions: British Lawyers, Colonial Peoples* (Annandale, Australia: Federation Press, 1999), 31-58

- **Sat., March 15 – Sunday, March 23:** *Spring Break*

- **T, March 25:** Everyday life
 - Eanna Hickey, *Irish Law and Lawyers in Modern Folk Tradition* (Dublin: Four Courts Press, 1999), 58-90
 - Thomas Strangman, *Indian Courts and Characters* (London: William Heinemann, 1931), 151-61

- **Th, March 27:** Distinctive Legal Cultures
 - Constance Backhouse, "Gender and Race in the Construction of 'Legal Professionalism': Historical Perspectives"
(speech available through Law Society of Upper Canada website:
http://www.lsuc.on.ca/media/constance_backhouse_gender_and_race.pdf)

- **T, April 1:** Legal Culture Clashes

Film Clip: A Passage to India (1984)

- Norman Macleod, "A Box of Mangoes" (excerpts from unpublished manuscripts at the Highland Council Archives, Scotland), 1-2
- Frank Beaman, "Legal Reminiscences from Colonial Bombay" [excerpts from column in *Bombay Law Review* (1925)], 1-4
- E. M. Forster, *A Passage to India* (New York: Harcourt, Brace & World, 1924), 217-31 + plot summary (3 pages)

- **Th, April 3:** Mobile Lawyering
 - Thomas Strangman, *Indian Courts and Characters* (London: William Heinemann, 1931), 162-76
 - William Digby, *Forty Years of Official and Unofficial Life in an Oriental Crown Colony being the Life of Sir Richard F. Morgan [in Ceylon]* (London: Higginbotham and Longmans, 1879), vol.1, 105-13 + vol. 2, 211-27

- **T, April 8:** Diasporic Lawyering
 - Yuri Slezkine, *The Jewish Century* (Princeton: Princeton University Press, 2004), 4-39
 - Yash P. Ghai, "Law and Lawyers in Kenya and Tanzania: Some Political Economy Considerations" in Dias, Luckham, Lynch and Paul, eds, *Lawyers in the Third World: Comparative and Developmental Perspectives* (Uppsala, Sweden: Scandinavian Institute for African Studies, 1981), 147-50

- **Th, April 10:** ****Primary Source Report (30%) due by the end of the day****
(by digital dropbox on Learn@UW course page).
No class today.

- **T, April 15:** Colonial Lawyering & Race

Film clip: Gandhi (1982)

 - Martin Chanock, *The Making of South African Legal Culture 1902-1936: Fear, Favour and Prejudice* (Cambridge: Cambridge University Press, 2001), 221-40

- **Th, April 17:** Mixed Race Lawyers & Judges

**Film clip: "Lost World of the Raj: Home from Home"*
(BBC documentary, 2007)*

 - William Digby, *Forty Years of Official and Unofficial Life in an Oriental Crown Colony being the Life of Sir Richard F. Morgan* (London: Higginbotham and Longmans, 1879), vol. 1, 41-51
 - Frank Anthony, *Britain's Betrayal in India: The Story of the Anglo-Indian Community* (Bombay: Allied Publishers, 1969), i-xiii, 148-57

- **T, April 22:** Family Life and Colonial Lawyers & Judges

*Film: "Lost World of the Raj: Sex & Sensibility"
(BBC documentary, 2007)*

- Elizabeth Buettner, *Empire Families: Britons and Late Imperial India* (Oxford: Oxford University Press, 2004), 110-45
- **Th, April 24:** Gendered lawyering: Masculinity & the Colonial Legal Professions
 - W. Wesley Pue, "British masculinities, Canadian lawyers: Canadian legal education, 1900-1930," in Rob McQueen and W. Wesley Pue, eds, *Misplaced Traditions* (Annandale, Australia: Federation Press, 1999), 80-122
- **T, April 29:** Lawyers & Judges as Legal Ethnographers
 - Assaf Likhovski, *Law and Identity in Mandate Palestine* (Chapel Hill: University of North Carolina Press, 2006), 192-210
 - John Mensah Sarbah, "Preface" to Henry William Hayes Redwar, *Comments on Some Ordinances of the Gold Coast Colony, with Notes on a Few Decided Cases* (London: Sweet & Maxwell, 1909), v-xiv
- **Th, May 1:** Religion & Colonial Lawyering
 - Harold Dick, "Cultural Chasm: 'Mennonite' Lawyers in Western Canada 1900-1939" in W. Wesley Pue and David Sugarman, eds, *Lawyers and Vampires: Cultural Histories of Legal Professions* (Oxford: Hart, 2003), 329-66
- **T, May 6:** Resisting Colonialism: Independence Struggles

*Film clips: *Gandhi* (1982) &
The Fall of the British Empire (Time-Life documentary, 2001)*

 - Thomas Strangman, *Indian Courts and Characters* (London: Heinemann, 1931), 127-43, 209-13
 - Mohandas Karamchand Gandhi, *The Law and the Lawyers* S. B. Kher, ed. (Ahmedabad: Navajivan, 2004), 118-25, 234-7, 228-31
- **Th, May 8:** Post-colonial Reverberations
 - Kusha Haraksingh, "Context and Dominion: The Law in Independent Trinidad and Tobago" in Rob McQueen and W. Wesley Pue, eds, *Misplaced Traditions* (Annandale, Australia: Federation Press, 1999), 151-170
 - Jane Perlez and David Rohde, "Lawyers resist Emergency Rule by Musharraf," *New York Times* (6 Nov 2007)
- **T, May 13, 7pm+:** Final Review: Big Themes (optional session; location TBA)
- **F, May 16, 7.25pm+:** *Final Exam (40%)* (location TBA)