

Syllabus

Court Cases and the Writing of African History

Dr. Mariana Dias Paes



Course Description

Throughout the centuries, Africans engagement with the law was broad, rich and complex. While European conceptions of law were disseminated around the world during colonial expansion, we should not simply assume that they were the exclusive or even the most important normative framework operating in colonial societies and in colonial courts. African populations' agency, their vernacular understandings of law, as well as non-European legal systems clearly played a pivotal role in the daily making of law in the continent. Court cases are privileged documents to re-construct the history of law in Africa. They allow researchers to better understand how the interaction of different historical agents shaped law and the resolution of conflicts in colonial societies. "Court Cases and the Writing of African History" introduces students to research in the field of African history using court cases. The seminar presents basic knowledge on how to work with this type of documents. In order to achieve this goal students will work with transcriptions of court cases and other legal documents. The course also focuses on how African court cases' collections are linked with broader debates on digital humanities, historical memory, and documentary heritage.

Class Schedule

23.01 (14:00-17:00) – Law and Justice Administration in Africa

Reading

BISHARA, Fahad Ahmad. "Imagining Oceans of Law: Oman and East Africa, circa 1910." *Itinerario*, v. 42, 2018, pp. 168-182.

24.01 (14:00-17:00) – Judicial Officials

Reading

REGINALDO, Lucilene. “André do Couto Godinho.” *Oxford Research Encyclopedia of African History*, 2021.

25.01 (14:00-17:00) – Litigants

Reading

MARQUEZ, John. “Witnesses to Freedom: Paula’s Enslavement, Her Family’s Freedom Suit, and the Making of a Counterarchive in the South Atlantic World.” *Hispanic American Historical Review*, v. 101, 2021, pp. 231-263.

26.01 (14:00-17:00) – Judicial collections in African Archives

Reading

DICKERMAN, Carol et al. (1990). “Court Records in Africana Research.” *History in Africa*, 17, pp 305-318

27.01 (14:00-17:00) – Basic tools to the analysis of court cases

Reading

DIAS PAES, Mariana. “Legal Files and Empires: Form and Materiality of the Benguela District Court Documents.” *Administrory – Zeitschrift für Verwaltungsgeschichte*, v. 4, 2019, pp. 53-70.

Additional Reading

AKANDE, Rabiat. “Secularizing Islam: The Colonial Encounter and the Making of a British Islamic Criminal Law in Northern Nigeria (1903-58).” *Law and History Review* 38, 2019, 459-493

ALENCASTRO, Luiz Felipe de. *The Trade in the Living: the Formation of Brazil in the South Atlantic, Sixteenth to Seventeenth Centuries*. Albany: State University of New York Press, 2018.

BENTON, Lauren. “The Legal Regime of the South Atlantic World, 1400-1750: Jurisdictional Complexity as Institutional Order.” *Journal of World History*, v. 11, 2000, pp. 27-56.

BENTON, Lauren. *Law and Colonial Cultures: Legal Regimes in World History, 1400–1900*. Cambridge: Cambridge University Press, 2002.

BENTON, Lauren; ROSS, Richard (eds). *Legal Pluralism and Empires, 1500–1850*. New York: New York University Press, 2013.

BENTON, Lauren; and FORD, Lisa. *Rage for Order: The British Empire and the Origins of International Law, 1800–1850*. Cambridge: Harvard University Press, 2016.

BONATE, Liazzat. “Portuguese Colonialism and Islamic Law in Northern Mozambique.” *History in Action* 6, 2018, 15-25

- BONATE, Liazzat. "Muslim Family in Northern Mozambique: Sharia, Matriliney and the Official Legislation in Paquitequete." *Islamic Africa* 11, 2021, 184-207
- BOOTH, Alan. "European Courts Protect Women and Witches: Colonial Law Courts as Redistributors of Power in Swaziland (1920-1950)." *Journal of Southern African Studies* 18, 1992, 252-275
- BROWNE, Randy, Lisa Lindsay, John Wood Sweet. "Rebecca's Ordeal, from Africa to the Caribbean: Sexual Exploitation, Freedom Struggles, and Black Atlantic Biography." *Slavery & Abolition*, 2021
- BURNS, Kathryn. *Into the Archive: Writing and Power in Colonial Peru*. Durham: Duke University Press, 2010
- BURRILL, Emily. *States of Marriage: Gender, Justice, and Rights in Colonial Mali*. Ohio University Press: Athens, 2015.
- BURRILL, Emily, Richard ROBERTS, Elizabeth THORNBERRY. *Domestic Violence and the Law in Colonial and Postcolonial Africa*. Ohio University Press: Ohio, 2010
- CALAFAT, Guillaume. "Jurisdictional Pluralism in a Litigious Sea (1590-1630): Hard Cases, Multi-Sited Trials and Legal Enforcement between North Africa and Italy." *Past & Present*, v. 242, supplement 14, 2019, pp. 142-178.
- CAMARINHAS, Nuno. "Justice Administration in Early Modern Portugal: Kingdom and Empire in a Bureaucratic Continuum." *Portuguese Journal of Social Science* 12, 2013, 179-193
- CANDIDO, Mariana. "African Freedom Suits and Portuguese Vassal Status: Legal Mechanisms for Fighting Enslavement in Benguela, Angola, 1800-1830." *Slavery & Abolition* 32, 2011, 447-459
- CANDIDO, Mariana. *An African Slaving Port and the Atlantic World: Benguela and Its Hinterland*. Cambridge: Cambridge University Press, 2013
- CANDIDO, Mariana. "Understanding African Women's Access to Landed Property in Nineteenth-Century Benguela." *Canadian Journal of African Studies*, 2020
- CASTELNAU-L'ESTOILE, Charlotte. *Páscoa et ses deux maris: une esclave entre Angola, Brésil et Portugal*. Paris: PUF, 2019.
- CHANOCK, Martin. *Law, Custom, and Social Order: the Colonial Experience in Malawi and Zambia*. Cambridge University Press: New York, 1985
- CHAUDHURI, Sukanta; FIORMONTE, Domenico; and RICAURTE, Paola (eds.). *Global Debates in the Digital Humanities*. Minneapolis: University of Minnesota Press, 2022.
- CHRISTELOW, Allan. *Muslim Law Courts and the French Colonial State in Algeria*. Princeton: Princeton University Press, 2016
- CHRISTIE, Nancy, Michael GAUVREAU, Matthew GERBER (eds.). *Voices in the Legal Archives in the French Colonial World: The King is Listening*. London: Routledge, 2020
- CONKLIN, Alice. "Colonialism and Human Rights, a Contradiction in Terms? The Case of France and West Africa (1895-1914)." *American Historical Review* 103, 1998, 419-442
- CORCORAN, Erin; HOOPER, Louise; and LAWRENCE, Benjamin. "Asylum Courts, Transnational Petitioning, and Digital Dispersal in Africa." *History in Africa*, v. 47, 2020, pp. 243-267.
- CURTO, José. "Struggling Against Enslavement: The Case of José Manuel in Benguela, 1816-20." *Canadian Journal of African Studies* 39, 2005, 96-122
- CURTO, José. "The Story of Nbena, 1817-1830: Unlawful Enslavement and the Concept of Original Freedom in Angola". LOVEJOY, Paul, David TROTMAN (eds.). *Transatlantic Dimensions of Ethnicity in the African Diaspora*. Bloomsbury: London, 2003, 43-64
- CURTO, José, Frank LUCE, Catarina MADEIRA-SANTOS. "The Arquivo da Comarca Judicial de Benguela: Problems and Potentialities." *Africana Studia* 25, 2015, 11-32

DALY, Samuel Fury Childs. "From Crime to Coercion: Policing Dissent in Abeokuta, Nigeria, 1900–1940." *The Journal of Imperial and Commonwealth History* 47, 2019, 474–489

DALY, Samuel Fury Childs. *A History of the Republic of Biafra: Law, Crime, and the Nigerian Civil War*. Cambridge: Cambridge University Press, 2020

DALY, Samuel Fury Childs. "The Portable Coup: The Jurisprudence of 'Revolution' in Uganda and Nigeria." *Law and History Review* 39, 2021, 737-764

DIAS PAES, Mariana. "Shared Atlantic legal culture: the case of a freedom suit in Benguela." *Atlantic Studies, Global Currents*, v. 17, issue 3, pp. 419-440.

DICKERMAN, Carol. "The Use of Court Records as Sources for African History: Some Examples from Bujumbura, Burundi." *History in Africa* 11, 1984, 69–81

DICKERMAN, Carol. "African Courts Under the Colonial Regime: Usumbura, Ruanda-Urundi, 1938-62." *Canadian Journal of African Studies* 26, 1992, 55-69

DULLEY, Iracema. "Chronicles of Bailundo: a Fragmentary Account in Umbundu of life before and after Portuguese colonial rule." *Africa* 91, 2021, 713-741

EL HAMEL, Chouki. *Black Morocco: A History of Slavery, Race, and Islam*. Cambridge: Cambridge University Press, 2013

ELIAS, Taslim. *Africa and the Development of International Law*. Brill: Leiden, 1988

FERREIRA, Roquinaldo. "Slaving and Resistance to Slaving in West Central Africa." ELTIS, David (ed.), *The Cambridge World History of Slavery*. Cambridge: Cambridge University Press, 2011, 111-131

FERREIRA, Roquinaldo. *Cross-Cultural Exchange in the Atlantic World: Angola and Brazil during the Era of the Slave Trade*. Cambridge: Cambridge University Press, 2012.

GOCKING, Roger. "Colonial Rule and the Legal Factor in Ghana and Lesotho." *Africa* 67, 1997, 61-85

GRAY, Richard. "The Papacy and the Atlantic Slave Trade: Lourenço da Silva, the Capuchins and the Decisions of the Holy Office." *Past and Present* 115, 1987, 52-68

GREEN, Toby. "Baculamento or Encomienda? Legal Pluralisms and the Contestation of Power in the Pan-Atlantic World of the Sixteenth and Seventeenth Centuries." *Journal of Global Slavery*, v. 2, 2017, pp. 310-336.

GREEN, Toby, Philip Havik, Felipa Ribeiro da Silva. *African Voices from the Inquisition: volume 1, The Trial of Crispina Peres of Cacheu, Guinea-bissau (1646-1668)*. Oxford: Oxford University Press, 2021

GRINBERG, Keila, Cristina Nogueira da Silva. "Soil Free from Slaves: Slave Law in Late Eighteenth and Early Nineteenth Century Portugal." *Slavery & Abolition* 32, 2011, 431-446

HÉBRARD, Jean; and SCOTT, Rebecca. *Freedom Papers: An Atlantic Odyssey in the Age of Emancipation*. Cambridge: Harvard University Press, 2012.

HERZOG, Tamar. *A Short History of European Law: The Last Two and a Half Millennia*. Cambridge: Harvard University Press, 2018.

HERZOG, Tamar. "Immemorial (and Native) Customs in Early Modernity: Europe and the Americas." *Comparative Legal History*, v. 9, 2021, pp. 3-55.

HESPANHA, António Manuel. "Form and Content in Early Modern Legal Books." *Rechtsgeschichte– Legal History* 12, 2008, 12-50

HESPANHA, António Manuel. „Uncommon Laws: Law in the Extreme Peripheries of an Early Modern Empire.“ *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte: Germanistische Abteilung* 130, 2013, 180-204

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HYND, Stacey. "Killing the Condemned: the Practice and Process of Capital Punishment in British Africa, 1900–1950s." *The Journal of African History* 49, 2008, 403-418

HYND, Stacey. "Law, Violence and Penal Reform: State Responses to Crime and Disorder in Colonial Malawi, c. 1900–1959." *Journal of Southern African Studies* 37, 2011, 431-447

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JEPIE, Shamil, Ebrahim MOOSA, Richard ROBERTS (eds.). *Muslim Family Law in Sub-Saharan Africa: Colonial Legacies and Postcolonial Challenges*. Amsterdam: Brill, 2010

KELLY, Jill. *To Swim with Crocodiles: Land, Violence, and Belonging in South Africa, 1800-1996*. East Lansing: Michigan State University Press, 2018

KONATE, Dior. *Prison Architecture and Punishment in Colonial Senegal*. Lanham: Lexington Books, 2018

LAWRANCE, Benjamin, Emily Lynn OSBORN, Richard ROBERTS (eds.). *Intermediaries, Interpreters, and Clerks: African Employees in the Making of Colonial Africa*. Madison: University of Wisconsin Press, 2006

LINDEN, Mieke van der. *The Acquisition of Africa: The Nature of Nineteenth-Century International Law*. Leiden: Brill, 2016

LOFKRANTZ, Jennifer. "Intellectual Discourse in the Sokoto Caliphate: The Triumvirate's Opinions on the Issue of Ransoming, ca. 1810." *The International Journal of African Historical Studies* 45, 2012, 385-401

LUONGO, Katherine. *Witchcraft and Colonial Rule in Kenya (1900-1955)*. Cambridge: Cambridge University Press, 2011

LYDON, Ghislaine. *On Trans-Saharan Trails: Islamic Law, Trade Networks, and Cross-Cultural Exchange in Nineteenth-Century Western Africa*. Cambridge: Cambridge University Press, 2009

MACARTHUR, Julie. "Prosecuting a Prophet: Justice, Psychiatry, and Rebellion in Colonial Kenya." *African Studies Review* 63, 2020, 805-830

MALASPINA, Elisabetta Fiocchi. "Techniques of empire by land law: the case of the Italian colonies (nineteenth and twentieth centuries)." *Comparative Legal History* 6, 2018, 233-251

MANN, Gregory. "What was the Indigenat? The 'Empire of Law' in French West Africa." *Journal of African History* 50, 2009, 331-353

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MANSOUR, Mansour H. *The Maliki School of Law: Spread and Domination in North and West Africa 8th to 14th Centuries*. London: Austin & Winfield, 1995

MARGLIN, Jessica. *Across Legal Lines: Jews and Muslims in Modern Morocco*. New Haven: Yale University Press, 2016

MARGLIN, Jessica. "Written and Oral in Islamic Law: Documentary Evidence and Non-Muslims in Moroccan Shari'a Courts." *Comparative Studies in Society and History* 59, 2017, 884-911

MARGLIN, Jessica. "Jews, Rights, and Belonging in Tunisia: Léon Elmilik, 1861-1881." *L'Année du Maghreb* 23, 2020, 167-184

MARGLIN, Jessica. "Extraterritoriality and Legal Belonging in the Nineteenth-Century Mediterranean." *Law and History Review*, v. 39, issue 4, 2021, pp. 679-706.

MILLER, Joseph. *Kings and Kinsmen: Early Mbundu States in Angola*. Oxford: Oxford University Press, 1976

MOORE, Sally Falk. *Social Facts and Fabrications: "Customary" Law on Kilimanjaro (1880-1980)*. Cambridge: Cambridge University Press, 1986

MOORE, Sally Falk. "Treating Law as Knowledge: Telling Colonial Officers What to Say to Africans about Running 'Their Own' Native Courts." *Law & Society Review* 26, 1992, 11-46

NETO, Maria da Conceição. *In Town and Out of Town: A Social History of Huambo (Angola), 1902-1961*, PhD thesis, University of London, 2012

NETO, Maria da Conceição. "The Colonial State and Its Non-Citizens: 'Native Courts' and Judicial Duality in Angola." *Portuguese Studies Review* 25, 2017, 235-254

PETIT, Carlos. "The Colonial Model of the Rule of Law in Africa: the Example of Guinea."

COSTA, Pietro, Danilo ZOLO (eds.). *The Rule of Law: History, Theory and Criticism*. New York: Springer, 2007, 467-512

PIERCE, Steven. *Farmers and the State in Colonial Kano: Land Tenure and the Legal Imagination*. Bloomington: Indiana University Press, 2005

RANGER, Terence. "The Invention of Tradition in Colonial Africa." HOBBSAWM, Eric, Terence RANGER (eds.). *The Invention of Tradition*. New York: Cambridge University Press, 1983, 211-262

RAY, Carina. *Crossing the Color Line: Race, Sex, and the Contested Politics of Colonialism in Ghana*. Athens: Ohio University Press, 2015

REUTHER, Jessica Catherine. "Irresponsible Boys, Promiscuous Girls: Maturity, Gender, and Rape Myths in the Criminal Tribunals of Colonial Dahomey, 1924-1940." *La Revue d'histoire de l'enfance irrégulière* 20, 2018, 67-84

ROBERTS, Richard. "Text and Testimony in the Tribunal de Première Instance, Dakar, during the Early Twentieth Century." *Journal of African History* 31, 1990, 447-463

ROBERTS, Richard. "The End of Slavery, Colonial Courts, and Social Conflict in Gumbu, 1908-1911." *Canadian Journal of African Studies* 34, 2000, 684-713

ROBERTS, Richard. *Litigants and Households: African Disputes and Colonial Courts in French Soudan, 1895-1912*. Portsmouth: Stanford University Press, 2005

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SACKEYFIO-LENOCH, Naaborko. *The Politics of Chieftaincy: Authority and Property in Colonial Ghana, 1920-1950*. Rochester: University of Rochester Press, 2014

SANTOS, Vanicléia Silva. "Africans, Afro-Brazilians and Afro-Portuguese in the Iberian Inquisition in the Seventeenth and Eighteenth Centuries." *African and Black Diaspora-An International Journal* 5, 2011, 49-63

SCHMIDT, Elizabeth. "Negotiated Spaces and Contested Terrain: Men, Women and the Law in Colonial Zimbabwe (1890-1939)." *Journal of Southern African Studies* 16, 1990, 622-648

SHADLE, Brett. "Changing Traditions to Meet Current Altering Conditions: Customary Law, African Courts and the Rejection of Codification in Kenya (1930-1960)." *Journal of African History* 40, 1999, 411-431

SHUTT, Alison. "Litigating Honor, Defamation, and Shame in Southern Rhodesia." *African Studies Review* 61, 2018, 79-98

SIKAINGA, Ahmad. "Shari'a Courts and the Manumission of Female Slaves in the Sudan, 1898-1939." *The International Journal of African Historical Studies* 28, 1995, 1-24

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STOCKREITER, Elke. *Islamic Law, Gender, and Social Change in Post-Abolition Zanzibar*. New York: Cambridge University Press, 2015

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- THORNTON, John. "I Am the Subject of the King of Congo: African Political Ideology and the Haitian Revolution." *Journal of World History*, v. 4, issue 2, 1993, pp. 181-214.
- THORNTON, John. *A History of West Central Africa to 1850*. Cambridge: Cambridge University Press, 2020
- VAN HULLE, Inge. *Britain and International Law in West Africa: The Practice of Empire*. Oxford: Oxford University Press, 2020.
- VARELA, Laura Beck. "The Diffusion of Law Books in Early Modern Europe: A Methodological Approach." MECCARELLI, Massimo; and SASTRE, María Julia Solla (eds). *Spatial and Temporal Dimensions for Legal History: Research Experiences and Itineraries*. Frankfurt am Main: Max Planck Institute for European Legal History, 2016, pp. 195–239.
- WALLER, Richard. "Witchcraft and Colonial Law in Kenya." *Past and Present* 180, 2003, 241-275
- WOTSHELA, Luvuyo. *Capricious Patronage and Captive Land: A Socio-political History of Resettlement and Change in South Africa's Eastern Cape, 1960-2005*. Pretoria: Unisa Press, 2018
- WRIGHT, Marcia. "Justice, Women, and the Social Order in Abercorn, Northeast Rhodesia, 1897-1903." HAY, Margaret Jean, Marcia WRIGHT (eds.). *African Women and the Law: Historical Perspectives*. Boston: Boston University Press, 1982, 33-50
- YUSUF, Abdulqawi. "Pan-Africanism and International Law." *Recueil des Cours de l'Académie de Droit International* 361, 2014, 165-359
- ZIMUDZI, Tapiwa. "African Women, Violent Crime and the Criminal Law in Colonial Zimbabwe (1900-1952)." *Journal of Southern African Studies* 30, 2004, 499-518