

Ambedkar University, Delhi

Proposal for Launch of a Course

(To be approved by the Board of Studies and the Academic Council)

1. Title of the Course – **Law and Modernity**
2. Name of the School/Centre proposing the course: **School of Law, Governance, Citizenship (SLGC)**
3. Programme(s) which this course can be a part of:
4. Level at which the course can be offered: Predoctoral / Masters / PGDiploma / BA Hons. / Diploma / Certificate Masters: **Masters**
5. If it is a stand-alone course, how can it be scheduled? :(e.g., as a summer/winter course, semester-long course, regular or evening course, weekend course, etc.):
Semester Long
6. Proposed date of launch: Winter semester 2018
7. Course Team: (coordinator, team members etc.): Ngoru Nixon
8. Rationale for the Course (Link with the institutional vision, how it fits into the programme(s), Availability of literature and resources, Expertise in AUD faculty or outside, how it would be beneficial to those who take this course, etc.):

To talk about modernity is to be confronted with varied concerns ranging from questions about its identification with the West, the narrative of progress/emancipation and the repudiation of it, to the claims of the existence of not one but 'multiple modernities' or 'alternative modernities' etc. Much of the anxiety and distrust about modernity stem from the understanding of it in terms of the binary conception of reason/science vs. religion/myth or secular vs. faith and so on. It remains as a predicament of our time marking the relation between the modern state and society or the West and the non-west.

Secularization is commonly conceived in terms of the disenchantment of the world brought forth by modern science and rationality. The course seeks to engage the students in a discussion of how secularization germinated and emerged from Christian theology and the implication it effectuated in the constitution of the imagery and the conceptual staging of the modern secular law and the sovereign. This entwined phenomenon and event is not just the concern of the western world but of the larger world we inhabit today which has had been traversed by the experience of the West

either through colonial imposition or importation. Therefore, the engagement with the West is not to privilege “Western modernity” but to rather engage in the spirit of what Gayatri Spivak has described as ‘persistently to critique a structure that one cannot not (wish to) inhabit’.

9. **Course Description:**

The course examines the relation between secularization and the emergence of modern law. This entails an engagement by way of looking at the secularization process. What is involved in the task is to complicate the understanding of secularization beyond the reductive thesis of disenchantment. Drawing on the conception which traces the sources of modern secular law in Christian theology and thinking, the course proceeds to examine how Christian eschatology, method and practice remain embedded in the constitution of the imagery and the conceptual staging of the modern secular law and the sovereign. The course further looks at the mode/process of secularization (considering the Christian lineage) in the colonial context where the encounter is with a religious world-view but of a different kind. This exercise includes examining how it underlies and informs colonial discourse and practices.

The course comprises five modules:

Module I – Modernity, Secularization and Law

The opening module discusses the process of secularization to delineate the emergence of modern law. It is commonly held that secularization is the outcome of the disenchantment of the world engendered by modern science and rationality. The narrative feeds and draws on the binary conception of reason/science against religion/myth etc. Modern law, according to this understanding, is the result of purely rational enterprise and procedure. The module complicates this understanding by tracing the source of modern secular law in Christian tradition and theology.

Week 1 and 2

Essential Readings:

Berman, Harold J. *Law and Revolution: The Formation of the Western Legal Tradition*. Harvard University Press, 1983. (Extracts).

Byrne, James N. *Religion and the Enlightenment: From Descartes to Kant*. Westminster John Knox Press, 1997. (Chapter-1 Changing Ideals)

Sullivan, Winnifred Fallers, et al. ed. *After Secular Law*. California: Stanford University Press, 2011. (Chapter 1).

Additional Readings:

Gauchet, Marcel. *The Disenchantment of the World: A Political History of Religion*. Princeton University Press, 1999.

Kant, Immanuel. "An Answer to the Question: 'What is Enlightenment?' *In Kant: Political Writings*, edited by H.S. Reiss. Cambridge University Press, 1991.

Taylor, Charles. *A Secular Age*. The Belknap Press of Harvard University Press, 2007.

Weber, Max. *The Protestant Ethic and the Spirit of Capitalism*. London and New York: Routledge, 2005.

Module 2 –law and the sacred

In the second module, the religious underpinning of modern law is further foregrounded through critical engagement with the assumption of its rational foundation. Attempt will be made to show how law persists with the characters of God by referring to the Natural law tradition.

Week 3, 4

Essential Readings:

Edwards, Charles. "The Law of Nature in the Thought of Hugo Grotius." *The Journal of Politics*, Vol, 32. No. 4 (Nov., 1970).

Fitzpatrick, Peter. "Legal Theology: law, modernity and the sacred." *Seattle University Law Review* 32, No. 2 (2008): 321-341.

Sarat, Austin, Lawrence Douglas, and Martha Merrill Umphrey. eds. *Law and the Sacred*. Stanford University Press, 2006. (Extracts).

Additional Readings:

Aquinas, Thomas. *Selected Writings*. Penguin Books, 1998.

Fitzpatrick, Peter. *The Mythology of Modern Law*. London and New York: Routledge, 1992.

Locke, John. *Two Treatises of Government*. Cambridge University Press, 1988. (extracts)

Module 3- The Sovereign and the Sacred

In this module, the discussion will focus on Hobbes's conception of the sovereign or the figure of the Leviathan to foreground the mark of Christian eschatology and beliefs underlying it. Hobbes's conception's of the sovereign remains crucial in understanding the modern state beyond the claim of liberal-democracy.

Week 5, 6

Essential Readings:

Agamben, Giorgio. *Stasis: Civil War as a Political Paradigm*. California: Stanford University Press, 2015. (Chapter-2: Leviathan and Behemoth).

Hobbes, Thomas. *Leviathan*. Penguins Books, 1985. (Extract)

Lloyd, Howell A. "Sovereignty: Bodin, Hobbes, Rousseau." *Revue Internationale de Philosophie*, Vol.45, No. 179 (4): 353-379.

Additional Readings:

Agamben, Giorgio. *Homo Sacer: Sovereign Power and Bare Life*. Stanford University Press, 1998.

Rousseau, Jean-Jacques. *The Basic Political Writings*. Cambridge: Hackett Publishing Company, 1987. (pp.141- 227).

Schmitt, Carl. *Political Theology: Four Chapters on the Concepts of Sovereignty*. Translated by George Schwab. Cambridge: The MIT Press, 1985.

Module 4- Law and the Pastoral Power

The fourth module, continuing with the running theme of the course, examines Foucault's concept of pastoral power. Signifying Christianity's notion of salvation, Foucault draws on the concept to analyse the imbrication of law and disciplinary power characterising the modern state.

Week 7, 8

Essential Readings:

Foucault, Michel. *Discipline and Punish: The Birth of the Prison*. Translated by Alan Sheridan. New York: Vintage Books, 1995. (Chapter 3).

Foucault, Michel. *Security, Territory, Population: Lectures at the College De France, 1977-1978*. Translated by Graham Burchell. New York: Palgrave Macmillan, 2007. (Extracts)

Siisiainen, Lauri. "Foucault, Pastoral Power, and Optics." *Critical Research on Religion*, Vol. 3, No. 3 (2015): 233-249.

Additional Readings:

Foucault, Michel. "The Subject and Power." *Critical Inquiry*, Vol. 8, No. 4 (Summer, 1982).

Foucault, Michel. *The Birth of Biopolitics: Lectures at the College De France, 1978-1979*. Translated by Graham Burchell. New York: Palgrave Macmillan, 2004.

Nietzsche, Friedrich. *On the Genealogy of Morals*. Translated by Walter Kaufmann and RJ Hollingdale. Vintage Books, 1989.

Module 5- Colonialism, Secularization and Law

The last module examines the mode/process of secularization (considering the Christian lineage) in the colonial context where the encounter is with a religious world-view but of a different kind. It includes looking at how the entailing mode and process of secularization underlies and informs the colonial discourse and practices.

Week 9, 10, 11, 12

Chatterjee, Partha. *Nation and Its Fragments: Colonial and Postcolonial Histories*. Delhi: Oxford University Press, 1994. (Chapter 2- The Colonial State)

Chatterjee, Partha. *Dead Man Wandering: The Case that Shook a Century*. Ranikhet: Permanent Black, 2016.

King, Richard. *Orientalism and Religion: Postcolonial theory, India and 'the mystic East'*. London and New York: Routledge, 1999. (Extracts).

Mani, Lata. "Contentious Traditions: The Debate on Sati in Colonial India." *Cultural Critique*, No.7 (1987).

Mehta, Uday. *Liberalism and Empire*. University of Chicago Press, 1999 (extracts).

Prakash, Gyan. "Body Politics in Colonial India," In *Questions of Modernity*, edited by Timothy Mitchell. University of Minnesota Press, 2000.

Yelle, Robert A. *The Language of Disenchantment: Protestant Literalism and Colonial Discourse in British India*. Oxford University Press, 2012. (Extracts).

Yelle, Robert A. "The Hindu Moses: Christian Polemics Against Jewish Ritual and the Secularization of Hindu Law under Colonialism." *History of Religions*, Vol. 49, No. 2 (November, 2009).

Additional readings:

Anidjar, Gil. "Secularism." *Critical Inquiry*, Vol. 33, No. 1 (2006): 52-77.

Cohn, Bernard S. *Colonialism and Its Form of Knowledge: The British in India*. Delhi: Oxford University Press, 1997.

Gandhi, M.K. '*Hind Swaraj*' and Other Writings. Edited by Anthony J. Parel. Cambridge University Press, 2007.

Scott, David. "Colonial Governmentality." *Social Text*, No. 43 (Autumn, 1995).

Said, Edward W. *Orientalism*. New York: Vintage Books, 1979.

Assessment Methodology:

A combination of class presentations, short essay, written project and end-semester.

Rough break-up:

Class Presentations: 20%

Short Essay: 10%

Written Project: 30%

End Semester: 40%

Signature of Course Coordinator(s)

Note:

1. Modifications on the basis of deliberations in the Board of Studies may be incorporated and the revised proposal should be submitted to the Academic Council.
2. Courses which are meant to be part of more than one programme, and are to be shared across schools, may need to be taken through the Boards of Studies of the respective schools.
3. In certain special cases, where a course does not belong to any particular school, the proposal may be submitted directly to the Academic Council.

Recommendation of the School of Studies:

The proposal was discussed by the Board of Studies in itsmeeting held on.....and has been approved in the present form.

Signature of the Dean of the School