

Legal History Seminar: Law and Revolution

Professor Ghachem
Rm. 121
207-228-8230
malick.ghachem@maine.edu

Law 787
Fall 2012
T 10:00 – 12:00

Office hours: Tues. 1-3pm, whenever my door is open, and by appt.

This seminar has two basic purposes. First, it is designed to provide an introduction to the constitutional and legal history of the Atlantic revolutionary era. The geographic and chronological ranges of the seminar are defined in terms of the American, French, and Haitian revolutions (roughly 1760s to the 1820s). (Students interested in aspects of Atlantic history – whether European, Canadian, African, or Latin American – that fall outside of these parameters are welcome to write papers in their areas of special interest.) The second objective of the seminar is to encourage focused, comparative discussion of one of the great themes of modern Western legal and constitutional history: the relationship between law and revolution. How did legal authority and revolutionary change interact in this period? What was the relationship between the revolutionary movements and the “rule of law”, and what changes did those movements introduce into the legal cultures of the Atlantic world? Was this in fact a transformative period in Atlantic history, or did the fundamental wellsprings of legal and constitutional change essentially predate the events of the Atlantic revolutions themselves? Was law a counterpoint to or an enabler of revolutionary violence? Of democracy? Through a reading of recent (as well as some classic) constitutional historiography and political theory, as well as the writing of a research paper, the seminar will take up these and related questions.

Seminar Requirements:

1. Attendance at seminar meetings and class participation (25% of final grade).
2. Paper of 20-25 pages analyzing and narrating a primary source related to the themes of the seminar (50% of final grade). A *précis* of 3-5 pages is due at Week 4 of the seminar (see Oct. 9 assignment for more details). Students will meet with the instructor during Week 5 to discuss topics and sources. Students who wish to complete their upper-level writing requirement in conjunction with this seminar may do so by enrolling for one extra unit of credit and submitting a research paper that conforms to the specifications of the ULW requirement.
3. One 15-20 minute oral presentation of the readings for one of the seminar sessions (25% of final grade). This presentation should also be reduced to writing (no more than 3-4 pages, outline form is fine) and circulated to the instructor and all seminar participants by email no later than 5pm the day before the relevant session. Presentations should include the following elements:
 - a. A brief overview of the events/chronology at issue in the readings.
 - b. A discussion of how the authors use their source materials.
 - c. For sessions that involve more than one author, a statement of what is at stake in any interpretive conflicts that you can identify in the readings and

where you stand vis-à-vis those conflicts. For sessions that involve only one author, an evaluation of what you see as the author's principal contribution to the understanding of her subject matter.

- d. A few questions for the group to discuss.

Schedule of meetings and reading assignments:

Books marked with an * are required texts and have been ordered at the USM Bookstore. All other reading assignments will be placed on library reserve, posted to the Blackboard, or distributed in hard copy as the semester progresses.

Seminar Introduction

Sept. 4: Orientation Meeting.

Thomas Bender, "A Season of Revolutions: The United States, France, and Haiti," in *Revolution! The Atlantic World Reborn*, ed. Thomas Bender, Laurent Dubois, and Richard Rabinowitz (London, UK: New York Historical Society, in association with D. Giles Ltd., 2011): 13-42.

If you are unfamiliar with the general histories and chronologies of the American, French, or Haitian revolutions, I recommend skimming through one or more of the following short introductory texts between now and the first two or three weeks of the seminar:

Gordon S. Wood, *The American Revolution: A History* (New York: Modern Library, 2002). [available as an e-book on URSUS]

William Doyle, *The French Revolution: A Very Short Introduction* (New York: Oxford University Press, 2001). [available on library reserve]

Jeremy Popkin, *A Concise History of the Haitian Revolution* (New York: Wiley-Blackwell, 2012). [available as an e-book on URSUS]

Overviews of early modern Atlantic history and historiography can be found in the following three sources, among others:

Jack P. Greene and Philip D. Morgan, eds., *Atlantic History: A Critical Appraisal* (New York: Oxford University Press, 2009).

Bernard Bailyn, *Atlantic History: Concept and Contours* (Cambridge, MA: Harvard University Press, 2005).

Nicholas Canny and Philip Morgan, eds., *The Oxford Handbook of the Atlantic World, c.1450 – c.1850* (New York: Oxford University Press, 2011).

Part One: Old Regime Legal Cultures

Sept. 11: British America.

* Gordon S. Wood, *The Radicalism of the American Revolution* (New York: Vintage, 1991), pt. I.

Sept. 17: NO CLASS

Sept. 25: Absolutist France.

* Dale Van Kley, ed., *The French Idea of Freedom: The Old Regime and the Declaration of Rights of 1789* (Stanford, CA: Stanford University Press, 1994), pp. 1-20 (Declaration and intro.), chaps. 1-2, 7-8 (essays by Bien, Van Kley, Birn, and Kaiser).

Oct. 2: The Colonial Caribbean.

* Malick W. Ghachem, *The Old Regime and the Haitian Revolution* (New York: Cambridge University Press, 2012), intro. and chaps. 1-4.

Part Two: From Reform to Revolution

Oct. 9: Republicanism (or, How Change Came to America).

* Wood, *The Radicalism of the American Revolution*, chaps. 6-9.

Précis (3-5 pp.) of research paper due today. Your proposal should include a description of the primary source to be analyzed and narrated, a discussion of its relationship to the events and themes of the seminar, and a preliminary bibliography.

Oct. 16: Lawyers and Magistrates in Pre-Revolutionary France.

* Van Kley, *The French Idea of Freedom*, chaps. 4 and 6 (essays by Baker and Bell).

Mandatory conferences with instructor to discuss paper topics this week.

Oct. 23: The Expansion of Rights in the French Atlantic.

Dominique Rogers, "On the Road to Citizenship: The Complex Route to Integration of the Free People of Color in the Two Capitals of Saint-Domingue," in *The World of the Haitian Revolution*, ed. David Patrick Geggus and Norman Fiering (Bloomington: Indiana University Press, 2009), 65-78.

* Van Kley, *The French Idea of Freedom*, chap. 3 (essay by Singham)

* Ghachem, *The Old Regime*, chap. 5.

Part Three: Slavery, Law, and Revolution

Oct. 30: The American Revolutionary Encounter with Slavery.

* Wood, *Radicalism*, chaps. 10-12.

* George William Van Cleave, *A Slaveholders' Union: Slavery, Politics, and the Constitution in the Early American Republic* (Chicago, IL: University of Chicago Press, 2010), intro, chaps. 1-2.

Nov. 6: Slavery and the Constitution.

* Van Cleave, *Slaveholders' Union*, chaps. 3-4.

Nov. 9: Haitian Revolutionary Law (**Makeup class, 12:00 – 2:00pm, Room 117**).

* Ghachem, *The Old Regime*, chap. 6.

Part Four: Revolutionary Legacies

Nov. 13: American and French Democracy Compared (I).

* Wood, *Radicalism*, chaps. 13-14.

* Hannah Arendt, *On Revolution* (New York: Penguin, 2006), pp. tba.

Lynn Hunt, "The World We Have Gained: The Future of the French Revolution," *American Historical Review* 108, no. 1 (2003): 1-19.

Nov. 20: American and French Democracy Compared (II).

* Wood, *Radicalism*, chaps. 15-19.

* Arendt, *On Revolution*, pp. tba.

Nov. 27: Slavery and Empire in the New Republic.

* Van Cleave, *A Slaveholders' Union*, chaps. 5-6, conclusion

* Ghachem, *The Old Regime*, conclusion

* Arendt, *On Revolution*, pp. tba.

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Final papers due in instructor's mailbox on Wed., Dec. 12th by 4:30pm.