



The
University
of Sydney



Sydney Sawyer Seminar

Session Three

Atlantic Justice: Property, Rights and Indigeneity

Friday, 17th July 2009, 1-5pm

Holme & Sutherland Rooms, University of Sydney

Discussant/Chair

Prof Duncan Ivison

Speakers

Jennifer Pitts

Sankar Muthu

Andrew Fitzmaurice

Abstracts

Jennifer Pitts (University of Chicago)

Europe, empire, and the boundaries of international law

European imperial expansion coincided with the rise of international law as an increasingly self-conscious endeavour. The eighteenth and nineteenth centuries saw the consolidation of a narrowly European but putatively universal legal order. European understandings of global legality came to hold that the international order was European in origin and character but universally authoritative, that it should dominate others and then absorb them as they grew sufficiently civilized. And yet some thinkers during the period grappled with the problem of making cross-cultural moral judgments, and undertaking legal engagements around the globe, while avoiding the assumption that European standards or practices were invariably normative for all. They tried, that is, to avoid both a quietist moral relativism and a triumphalist assertion of Europe's right to foist a legal order on the world. With the dominance of progressivist thinking in the nineteenth century, however, universal judgments, in law as in political and cultural thought more broadly, came to be imagined almost exclusively in terms of just such an imposition. Recovering the perspective of ecumenical strands of eighteenth-century thought, and dissident nineteenth-century ideas, may help us to imagine global legality in ways that might avoid the unpalatable choice of civilizing empire in the name of universal human rights or sovereign immunity at all costs.

Sankar Muthu (University of Chicago)

Global Connections in Enlightenment Political Thought

Sankar Muthu will be talking about various aspects of global connections in the eighteenth century and how they were theorised by Enlightenment thinkers.

Andrew Fitzmaurice (University of Sydney)

Sir Travers Twiss and the doctrine of territorium nullius

This paper will look at the role of a prominent English international lawyer in the negotiations in Berlin in 1884/5 over the rules governing colonisation. While Africa was the focus of this Berlin conference, the destiny of the Pacific was also on the table. One outcome of the conference was the creation of a doctrine which would raise the bar in the tests applied to non-European peoples if they were to avoid being subject to colonisation. Another, ironically, was to justify non-state organisations as founders of colonies. This paper looks at the development of these doctrines through the actions of one participant in the conference. It does so in order to show how the tools of international law were shaped by, and shaped, the professional practices and the personal lives of the people who wielded them.