**LS 1xx – Law and American Pacific Empire through World War II**

[Semester Date]

[Lecture Location] on [Days] from [time]

[Discussion 1 Location] on [Day] from [time]

[Discussion 2 Location] on [Day] from [time]

**Synopsis**

Professor

Kyle DeLand (he/him)

delandks@berkeley.edu

GSI

[name (pronouns)]

[email link]

*Office Hours*

Days/Times: [day + time 1]; [day + time 2]; by appointment.

Please sign up [here](https://www.wejoinin.com/sheets/tioby) or arrange an appointment by email.

At Café Zeb, inside Berkeley Law School, or via Zoom if arranged in advance (link under the bCourses -> Zoom tab)

Contact with the Teaching Team: Please correspond with the teaching team by email. We will endeavor to respond to all weekday emails within 24 hours. However, this does not extend to weekends – do not expect a reply to a 9pm Friday email until the following Monday morning.

***Course Overview:***

In this lecture course in the Legal Studies Program, we will study the history of law and American imperialism in the Pacific Rim from the first Pacific whalers, fur traders, and missionaries of the early 1800s to the occupation of Japan and Philippine independence following the end of World War II. Over this period, the states and societies of the Pacific Rim experienced multiple legal and social revolutions and we will explore these across case studies of Oregon Territory, California, Hawai’i, Alaska, and the Philippines. We will critically examine the transformation from the “First” American continental empire to the “Second” American overseas empire, usually dated to 1898, through the lenses of race, indigeneity, capitalism, legal pluralism, and power.

Of course, the United States did not find an empty ocean, but one filled with competing states and empires. The scope of the class includes transimperial and comparative studies of the British Empire in Australia, British Columbia, and New Zealand, the Empire of Japan, Indigenous North American polities, Polynesian States like the Kingdom of Hawai’i, and the Qing Empire and Chinese Pacific Diaspora. We will study bilateral treaties and diplomacy amongst these states as well as the emergent fields of international law.

In addition to international legal topics, the course has a major focus on constitutional law, particularly citizenship and civil rights; the emergence of the modern immigration state through Chinese, later Asian, Exclusion; the control and ownership of land through property law; and the role of criminal law and surveillance both in American colonies and on the “Mainland.”

**Grades & Assignments**

All grades will be posted to bCourses. Major writing assignments will have rubrics provided. You may inquire about your overall grade or individual assignment grades at any time - though your first stop should be with the GSI before discussing a grading matter with the Professor.

***Grade Distribution***

Discussion Section Participation (20%)

Reading Worksheets, total (20)

Primary Source Analysis Paper 1 (15)

Primary Source Analysis Paper 2 (15)

Final Research Paper (30\*)

 \*Topic proposal (5)

 \*Annotated bibliography (5)

 \*Detailed Outline & Thesis Draft (5)

 \*Final draft (15)

***General Policies***

Disabled Students’ Program Accommodations: All DSP accommodations will be honored and supersede the below policies when called for in the letter. Do not hesitate to reach out with questions or concerns the teaching team or the [DSP office.](https://dsp.berkeley.edu/)

Participation: Participation in discussion sections constitutes 20% of the course grade. It will be graded on a 0-3 scale for each session, which includes attending and speaking up but also may include in-class writing, small-group work, and discussions on bCourses, subject to GSI discretion.

Absences: Each student has 1 unexcused discussion absence for the semester. Please email the teaching team with brief explanation to have an absence excused.

“For completion:” Some assignments, like Reading Worksheets and some participation assignments, will be graded “for completion.” That means if you put in a good faith effort to finish the assignment you will receive full credit – there are no right or wrong answers.

Late Assignments: Late assignments will be accepted up to 1 week after the due date with a grade penalty of -5% pts per day late. It is *always* better to submit late than not submit at all!

Short Extensions: You may request a single 2-day extension by email for any writing assignment over the course of the semester. No explanation required. Requests should be submitted 24-hours ahead of the due date, so plan ahead! These short extensions will always be granted.

Long Extensions: Extension requests for longer than 2-days should be discussed in office hours, if possible, and may be granted depending on the circumstances.

Regrade Policy: You may appeal to the teaching team for a “regrade” on an essay provided that you submit a paragraph explaining your reasoning with specific references to your own work and the rubric.

***Reading Assignments***

Readings should be completed *before*the lecture for which they are assigned. Readings have two purposes: (1) to provide historical content and (2) to model historical and legal writing. All readings will be posted as .pdfs under the Files tab on bCourses organized by the week we will discuss them (see schedule below).

Book List: Please purchase or rent the following books -

* Daniel Immerwahr, *How to Hide an Empire: A History of the Greater United States* (2019)
* Mae Ngai, *The Chinese Question: The Gold Rushes, Chinese Migration, and Global Politics* (2021)

Worksheets: Each reading will be accompanied by a quick reading worksheetto be completed and submitted under the Assignmentstab on bCourses by [lecture start time]. Cumulatively, these are worth 20% of the course grade and will be graded “for completion.”

Optional Readings: Most weeks, there will be optional secondary or primary source readings under the relevant files folder. These may include the notes/bibliography from assigned readings, additional chapters from a book, or other related scholarly materials. You may find these sources helpful for your written assignments.

***Writing Assignments***

Primary Source Analyses: Over the course of the semester, each student will be required to write two Primary Source Analyses, each worth 15% of the course grade, on weeks of their choice, submissions to be due the following Friday by 11:59pm. Each will be roughly 1,000 words and incorporate an analysis of the secondary source readings for that week. Each will have a prompt or guiding question (detailed below in Schedule).

Final Research Paper: A research paper on a topic of student choice will serve as the final paper for this course. The final draft, worth 15% of the course grade, should be 2,500 words (~10 pages), excluding citations, and is due by the last day of finals. Three preliminary assignments will build up to this final paper over the course of the semester.

1. A Topic Proposal (5% of course grade) due Week 8: (details in Appendix)
2. An Annotated Bibliography (5% of course grade) due Week 13: (details in Appendix)
3. A Detailed Outline & Draft Thesis (5% of course grade) due Week 15: (details in Appendix)

*Formatting & Citations*

All writing assignments can be written in Microsoft Word (free Cal download, [here](https://software.berkeley.edu/microsoft)) or converted to a .docx format if written in Pages, Google Docs, or another word processor.

* Format: Please use Times New Roman, size 12 font, double spacing, and 1-inch margins. Please include a title, the word count, and number your pages in the header. Your work should be proofread for errors.
* Citations: When you cite, please use [Chicago style](https://www.chicagomanualofstyle.org/tools_citationguide.html.):
	+ We will cover how to do this in class. If you’re unsure *how* to cite something, then try your best and include the author’s name, date, and page number. An incorrect citation will get a note from the teaching team about how to fix it but will not affect your grade; *failing* to cite ideas or words that are not your own will affect your grade.
* All assignments will be submitted via bCourses in .docx or .pdf file format.

Academic Honesty: All work submitted must reflect your own work and the ideas and quotes of others should be cited. Your work will be analyzed by Turnitin software.

Word Limits: Written assignments have a word limit. This limit excludes citations. You may exceed the limit by 100 words before grade penalties will be applied. Note: 250 words roughly translates to one page.

Difficulty: If you have difficulty with the writing assignments please bring it up with the teaching team. This is a good topic for office hours. You might also consider seeking assistance from the [Student Learning Center Writing Program](https://slc.berkeley.edu/writing).

Large Language Models (AI Chatbots): In general, I would discourage you from using AI language models like ChatGPT, for reasons stated.[[1]](#footnote-1) However, should you find these tools useful keep the following in mind:

You *must* substantially edit, revise, and check the work. Treat any AI-generated text as a *very* rough draft. For reasons of:

* Honesty: The submitted assignment *must* be substantially your own and not AI-generated text.
* Quality: My experience with ChatGPT suggests that, unedited, it will produce a “C”-quality undergraduate essay (at best).
* Falsehoods: Large Language Models can “hallucinate” and make up facts and even court cases. See this [video](https://www.youtube.com/watch?v=oqSYljRYDEM&ab_channel=LegalEagle) on how this has gone wrong in legal settings. Submission of an assignment with such obvious falsehoods *will* be considered evidence of academic dishonesty by the teaching team and result in a grade of 0 for the assignment.

***Primary Sources***

As part of learning legal/ historical research and writing we will be reading and analyzing primary sources, those texts created during the time period under study. A good example would be appellate court case decisions.

Through the library, we have access to many databases, some of which are highlighted below. We will learn about navigating the library catalogue for research during the semester. A great place to start is the [Legal Studies Research Guide](https://guides.lib.berkeley.edu/Legal-Studies-Research-Guide). This page lists additional resources as well as contact information for helpful librarians!

*Useful Databases:*

Hathitrust (for historical books): [link]

NexisUni (for legal cases): [link]

*California*

California Digital Newspaper Collection (for historical California newspapers): <https://cdnc.ucr.edu/>

California State Assembly Statutes (for statutes): <https://clerk.assembly.ca.gov/archive-list?archive_type=statutes>

The Bancroft Library (for archives): [http://www.oac.cdlib.org/institutions/UC+Berkeley::Bancroft+Library](http://www.oac.cdlib.org/institutions/UC%2BBerkeley%3A%3ABancroft%2BLibrary)

**Student Well-Being**

Life happens during every semester. All of us, including the teaching team, may face stress, anxiety, depression, sickness, grief, etc. during our class. As far as you are comfortable, you may discuss these issues with the teaching team. However, we are not mental health professionals so please consider reaching out to Campus [Mental Health](https://uhs.berkeley.edu/mental-health) Services. If you experience course difficulties, of any kind, it is important to stay in contact with the Professor and GSI so that we can provide suitable accommodations and support.

**Schedule of Assignments**

**Week 1: Course Introduction – the Greater United States**

Readings

* Course Syllabus and Schedule
* Daniel Immerwahr, “Looking Beyond the Logo Map,” *How to Hide an Empire* (2019)
* Sarah A. Topol, “The America That Americans Forget,” *NYT Magazine* (July 7, 2023). Available [here](https://www.nytimes.com/2023/07/07/magazine/guam-american-military.html)

**Week 2: Two American Empires, Continental and Overseas**

Readings

* Aziz Rana, “Introduction: Liberty and Empire in the American Experience,” *The Two Faces of American Freedom* (2014).
* Immerwahr, “Indian Country.”
* Thomas McCormick, “From Old Empire to New: The Changing Dynamics and Tactics of American Empire,” *Colonial Crucible: Empire in the Making of the Modern American State* (2009).

Primary Source Analysis (PSA) prompt: Q1: How and why did the characteristics of American Empire change in the Pacific? Q2: In what respects did American Empire stay the same in the "mutation" from Old to New?

* Hubert How Bancroft, *The New Pacific* (1899), excerpts.

Supplemental/ Optional

* “How to Read Primary Sources.”

**Week 3: “White Gold,” “Soft Gold,” and the Commercial Pacific World**

Readings

* David Igler, “Seas of Commerce,” *The Great Ocean* *Pacific Worlds from Captain Cook to the Gold Rush* (2017).
* David Igler, “The Great Hunt,” as above
* Immerwahr, “Everything You Always Wanted to Know about Guano”

PSA prompt: Q1: How did the Guano Islands Act and the (later) *Jones* case expand American Empire to new places? Q2: What do these laws reveal about "commercial" actors and "informal" imperialism?

* The Guano Islands Act (1856)
* *Jones v. United States*, 137 US 211 (1890)

Supplemental/ Optional

* Orin Kerr, “How to Read a Legal Opinion”

**Week 4: From Illahee to Oregon Territory**

Readings

* Gray H. Whaley, “So Many Little Sovereignties, 1792-1822,” *Oregon and the Collapse of Illahee: U.S. Empire and the Transformation of an Indigenous World, 1792-1859* (2010).
* Thomas Richards, Jr. “The White Yeomen’s Republic of Oregon,” *Breakaway Americas: The Unmanifest Future of the Jacksonian United States* (2020).

PSA prompt: Q1: What characteristics made Oregon colonization distinctive as a "quasi-utopian" project? Q2: How did Native Peoples fit, or fail to fit, in this scheme?

* Hall J. Kelley, “Memorial of Hall J. Kelley, Praying A Grant of Land in the Oregon Territory for the Purpose of Establishing a Colony Thereon” (1839).
* Elijah White, *A Concise View of Oregon Territory* (1846).

Supplemental/Optional

* Maranville, “How to Read a Statute” (4 pages)

**Week 5: The Conquest of California**

Readings

* Thomas Richards, Jr. “The Seigneurial Republic of California,” *Breakaway Americas* (2020)
* Benjamin Madley, “Legislating Exclusion and Vulnerability: 1846-1853,” *An American Genocide* (2017)

PSA prompt: Q1: Why were the 1851-2 reservation treaties rejected by the American colonists? Q2: What consequences followed from this rejection, and exclusion from other legal frameworks, for Indigenous Californians?

* Unratified Treaty K (1852)
* California Assembly, Report on Reservations (1852)
* “Dr. Wozencraft’s Policy,” *The Western American* (1852)

**Week 6: Chinese Diaspora and the “Chinese Question”**

Readings:

* Mae Ngai, “Two Gold Mountains,” *The Chinese Question: The Gold Rushes and Global Politics* (2021).
* Mae Ngai, “Bigler’s Gambit,” as above
* Kornel S. Chang, “Brokering Empire,” *Pacific Connections: The Making of the U.S.-Canadian Borderlands* (2012)
* [Optional] Henry Knight Lozano, “Cane and Coolie Labor, 1850s-1880s,” *California and Hawaii Bound: U.S. Settler Colonialism and the Pacific West, 1848-1959* (2021)

PSA prompt: Q1: How did the Anglo-American politician and journalist Henry George understand the Chinese role in American colonization? What were his motives in writing "The Chinese in California"? Q2: Based on our secondary readings, what did George fail to understand about Chinese migrant labor and emigration?

* Henry George, "The Chinese in California, *NY Tribune* (1869)

**Week 7: American Law in the Kingdom of Hawai’i**

Readings:

* Sally Engle Merry, “The First Transition: Religious Law,” *Colonizing Hawai’i: The Cultural Power of Law* (2000)
* Merry, “The Second Transition: Secular Law,” as above
* Lilikalā Kame’eleihiwa, “The Moment of Māhele,” *Native Land and Foreign Desires: Pehea Lā E Pono Ai?* (1992)

PSA Prompt: Q1: How and why did Hawaiian law transform under the religious and secular transformations described by Merry? Q2: Where can these changes be seen in the Great Māhele and the 1852 Hawaiian Constitution?

* Hawaiian Constitution of 1852

**Week 8: Fur Seals, Alaska, and International Law**

Research Paper Topic Proposal Due

Readings

* Stuart Banner, “Alaska: Occupancy and Neglect,” *Possessing the Pacific* (2007), (29 pages).
* Rebecca McLennan, “The Empire of Law Goes to Sea,” *Journal of Diplomatic History,* Vol. 44, No. 5 (2020).
* [Optional] Rebecca McLennan, “The Wild Life of Law: Domesticating Nature in the Bering Sea, c. 1893,” *Looking for Law in all the Wrong Places* (2019).

PSA Prompt: Q1: Why did American officials, like Gov. Brady, try a "new" policy of *terra nullius* regarding Native Alaskan land claims? Q2: How did the Tlinget understand their own land claims and how did they appeal to the government for redress?

* “Tlinget Chiefs Meeting with Gov. Brady” (1898) published in “The Canoe Rocks” (1970)

**Week 9: Chinese Exclusion, Anti-Asian Reaction, and Transpacific Reform**

Readings

* Mae Ngai, “Roar of the Sandlot”
* Mae Ngai, “Exclusion and the Open Door”
* Zhongping Chen, “Kang Youwei and the Rise of Overseas Chinese Political Reforms from North America,” *Transpacific Reform and Revolution: The Chinese in North America 1898-1918* (2023)

PSA Prompt: Q1: What might explain the apparent legal paradox between the striking down of Article XIX and the Chinese laundry act and the upholding of Chinese Exclusion? Q2: How did exclusion fit into the larger relationships between the United States, the Qing Empire, and the Chinese diaspora?

* Article XIX: Chinese, California Constitution of 1879
* *Yick Wo v. Hopkins* (1886)
* *Chae Chan Ping v. United States [Chinese Exclusion Case]* (1889)

**Week 10: The Spanish-American War, Hawaiian Annexation, and the Imperial Constitution**

Reading:

* Immerwahr, “Teddy Roosevelt’s Very Good Day”
* Immerwahr, “Empire State of Mind”
* Owen Lynch, “US Constitution and Philippine Colonialism,” *Colonial Crucible* (2009)

PSA prompt: Q1: What was the "trilemma" facing the American Government in 1898? Q2: How did the US Supreme Court resolve these tensions in the *Downes* “Insular Case”?

* *Downes v. Bidwell* (1901)

**Week 11: Police, Property, and Power in the American Philippines**

Readings

* Immerwahr, “Shouting the Battle Cry of Freedom”
* Alfred W. McCoy, “Colonial Coercion,” *Policing America’s Empire* (2009)
* Rebecca Tinio McKenna, “A Hope for Something Unusual Among Cities,” *American Imperial Pastoral: The Architecture of US Colonialism in the Philippines* (2017)
* [Optional] Jeremi Suri, “The Limits of American Empire: Democracy and Militarism in the Twentieth and Twenty-First Centuries,” *Colonial Crucible* (2009)

PSA prompt: Q1: Considering the history of land expropriation we have studied in our course - in California, Oregon, Alaska, etc. – why did the US Supreme Court decide against the Insular Government in favor of Mateo Cariño? Q2: What does this suggest about the character of American colonization in the Philippines?

* *Cariño v. Insular Government* (1909)

**Week 12: A Troubling Resemblance - Japanese Settler Colonialism and the United States**

Readings

* Sidney Xu Lu, “From Hokkaido to California: The Birth of Malthusian Expansionism in Modern Japan,” *The Making of Japanese Settler Colonialism: Malthusianism and Trans-Pacific Migration, 1868-1961* (2019)
* Charles McClain, “The Development of the Anti-Japanese Agitation in the United States I,” *Japanese Immigrants and American Law: The Alien Land Laws and Other Issues* (1994)
* McClain,” The Development of Anti-Japanese Agitation in the United States II,” as above

PSA Prompt: Q1: To what extent did the Japanese exclusion movement mirror the earlier Chinese exclusion movement in ideology, politics, and law? Q2: How can we explain the important differences?

* Arguments Against the California Alien Land Law (1920)
* Japanese Exclusion League, “Japanese Immigration and Colonization” (1921), excerpts

**Week 13: Philippine Independence and War in the Pacific**

Annotated Bibliography Due

Reading

* Immerwahr, “Fortress America”
* Immerwahr, “Warfare State”
* Immerwahr, “There Are Times when Men Have to Die”
* Immerwahr, “Decolonizing the United States”

PSA Prompt: Q1: Why did colonial policy toward Philippine independence change during the 1930s? Q2: What legal consequences did the Pacific War produce for American citizens and subjects of Asian ancestry across Greater America?

* *Korematsu v. United States* (1944)

**Week 14: The Allied Occupation of Japan**

* Rande W. Kostal, “Occupying the Legal Other,” *Laying Down the Law: The American Legal Revolutions in Occupied Germany and Japan* (2019)
* Kostal, “Constitutions,” as above
* Kostal, “Liberal Courts,” as above

PSA Prompt: Q1: What roles did liberal law play in the occupation of Japan? Q2: In what respects did this version of law differ from the role of law we have discussed in this class? Use property law as a useful example.

* Ward, “Land Reform in Japan 1946-1950, the Allied Role (1990), excerpts
* Wolf Ladejinsky, “Farm Tenancy in Japan” (1947)

**Week 15: The Cold War and a New Pacific**

Detailed Outline due

Readings

* Sources for research paper
* TBD

**Finals**

Final Paper due via bCourses by 11:59pm on the last day of finals [date]

**Appendix**

Topic Proposal (5% of course grade) due Week 8: In 300-words or fewer, summarize the proposed topic of your 10-page research paper. Please describe the **topic overall**(i.e. land ownership in Hawai’i) as well as the **specific subject matter**of your paper (i.e. the Great Māhele and the effects of private property introduction on Hawaiian society), keeping in mind the length of the project. For a rule of thumb, think about this paper **as two primary source analyses stuck together.** Based on the subject matter of our class, a **comparative**project structure could prove fruitful so consider this as an option. Include a **research question**that you will try to answer (i.e. How did the Great Māhele change the landscape from 1850 to 1900 in Oahu?) If you have any **primary sources**in mind already please include them. Remember, this is a proposal not a contract! You can and will change your topic as we go.

Annotated Bibliography (5% of course grade) due Week 13: For this annotated bibliography you will provide a minimum of five sources related to your research paper topic. Of these, three must be scholarly Secondary Sources and two must be Primary Sources. Each should contain a full citation including author, title, date of publication, etc. After each source citation, write 2-3 sentences describing the text and how it relates to your research project.

For example, for the hypothetical Great Māhele Project:

Citation: *In re Kamehameha IV Estate,* 2 Haw. 715 (1864)

Summary: This court case, decided by the Supreme Court of the Kingdom of Hawai’i in 1864 concerns the real estate owned by the late monarch Kamehameha IV. It is a dispute between Kamehameha V and Queen Emma over who should inherit the King’s lands. The key legal issue is whether the King held his lands as “private property” or as Sovereign “crown lands” which relates to my study of land tenure in the Kingdom of Hawai’i.

A Detailed Outline & Draft Thesis (5% of course grade) due Week 15: the detailed outline and draft thesis should include the following elements:

1. A draft of your introductory paragraph, setting out the scope of your paper, and a clear and specific thesis statement addressing your research question.
2. Outlined paragraphs with a draft topic sentence and 4 arguments, questions, summaries, sources or quotes used, etc. These can be bullet points, sentences, or a mix of both. While there is no word limit or minimum, plan to have between 10-15 paragraphs total in your outline.
3. An updated bibliography (without annotations).
1. I will keep you updated if Berkeley or the Legal Studies Program supersede these policies over the course of the semester. [↑](#footnote-ref-1)