Post-Colonial Constitutionalism

Prof. Dr. James Fowkes – fowkes@uni-muenster.de (This seminar will be conducted in English)

This seminar will consider a topic currently attracting more and more attention around the world, including in Germany. How should we understand constitutionalism in post-colonial settings: that is, in places that were historically subject to colonialism but are now formally independent? It is a question that potentially affects all aspects of constitutional law and practice. What does a
post-colonial text look like? Does it mean rejecting Western constitutional features, in favour of more indigenous models? Does that mean rethinking even such basic features as the nation-state, the separation of powers, or electoral democracy? What does this mean for other aspects of constitutional practice, such as how courts operate, or for other related institutions, as reflected in calls to decolonize universities or the syllabus of legal education? How much does this require us to develop alternative theoretical perspectives or frameworks, in order to be able to talk about things in some sense free of colonial influences?
And how much is this a necessary part of the project of sustaining constitutional democracy against its opponents, in an increasingly post-colonial world?

Topics

In this seminar, students will meet individually with the instructor to work out a topic of their interest, relating to one or more of these questions and the broader theme of the seminar. I do not assign topics. This is for several reasons, including that identifying an issue worth researching is an important skill, and that there is value to the freedom to work on what you are most interested in working on.

I will exercise some control over topics, so that they do not overlap too much, and to ensure students are taking on a manageable topic that can produce a good paper. But it is usually possible for everyone to write in their preferred area.

Possible papers might examine particular systems: for example, how a chosen constitutional text (or its interpretation and implementation) seeks to be post-colonial or is attacked for failing to do so. Papers on any country or region will be welcome here. Papers might also examine particular themes, such as post-colonial approaches to interpretation, indigenous systems of law and government, and so on. Papers might also engage with the rich theoretical literature on post-coloniality and what it means or involves, as well as on related theoretical initiatives such as Global South Constitutionalism. Inter-disciplinary approaches, such as those from history, economics or political science, are very welcome. I am also happy to discuss other ideas.

Requirements

Papers for bachelor thesis topics are expected to be 10 000 words; for those writing regular seminar papers 6000 – 8000 words, and for those taking the 'short' version 3000 – 4000 words. All word limits are *inclusive* of footnotes (but Bachelor students will need to submit their finalized topics in both German and English for the marking sheets. This is **not** the same as registration; Bachelor students must ensure they are properly registered to fulfil their thesis requirements during the seminar.

Students taking the seminar as a Kolloquium, without writing a full paper, will be expected to submit a discussion paper, which forms the basis for their oral presentation in the seminar. The discussion paper should be an outline of the argument to be presented of no more than 3000 words. You should acknowledge your sources in the text with a brief citation – e.g. '(Fowkes, 2020)' – and include the full citation in a bibliography (which is not included in the word count).

There is no prescribed format, provided all sources are duly cited to avoid plagiarism. That means that I require you to cite your sources, but I do not require a particular form of citation, or other particular formalities.

All participants will then present their paper during the seminar, in 10-15 minutes, followed by a group discussion. Presentation software such as Powerpoint may be used but is not required.

For those writing a paper (including Bachelor students), your presentation and participation in group discussion counts 25% of the seminar mark, and the written paper 75%. For those doing an oral presentation with a discussion paper (Kolloquium), your participation in the group discussion counts 20% of the seminar mark, and your presentation 80%: I will take your written outline into account, but (as required by the new rules) the assessment will be of your presentation in the seminar. Kolloquim students will be assessed together with a second assistant examiner (Beisitzerin/Beisitzer).

There is a choice between writing a seminar paper or giving a colloquium presentation for students in focus areas 1d, 6, 8b, and 9 only. All other students complete a traditional seminar with both a paper and oral exam. It would be helpful if you could emphasize this more clearly on your registration forms to avoid misunderstandings.

Interested students should register via Wilma III by Monday, 19 January 2026. When registering in Wilma III, please indicate the format in which you wish to complete the seminar (colloquium, home assignment only, seminar with both partial exams, separately graded).

Additionally, please register via email by Monday, 19 January 2026 with Ms Silke M. Russell (silke.russell@uni-muenster.de) at the Chair of International and Comparative Public Law, also specifying your preferred exam format.

Please submit copies of your previous academic performance records, relevant subject knowledge, and – if applicable – your intermediate exam results.

This registration is binding on the student.

Dates – to be announced

I expect to hold the seminar during June 2026, but still need to confirm some dates. We will have a first meeting on Tuesday, 20 January 2026, at 12.00 p.m. in room JUR 322 (Karl-Bender-Saal) and (depending on enrolment, topics etc.) we may also meet once at the start of the summer term.

Papers will be due two weeks before the seminar date. (Bachelor students who start their 12-week deadline late may contact me to arrange a later submission date, but all papers must be submitted before the seminar meeting.) I will provide instructions on submission closer to the time.