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QUESTIONING COLONIALISM AND 'CUSTOMARY' LAW

Readings:

- **Yadudu**, *Colonialism and the Transformation of the Substance and Form of Islamic Law in the Northern States of Nigeria*
- **Comaroff**, *Colonialism, Culture, and the Law: A Foreword*
- **Marco Temporal Case in Brazil**
 - [Cultural Survival: What Happens After the Marco Temporal Ruling?](https://www.culturalsurvival.org/news/how-long-does-victory-last-what-happens-after-marco-temporal-ruling-brazil)
<https://www.culturalsurvival.org/news/how-long-does-victory-last-what-happens-after-marco-temporal-ruling-brazil>
 - [APIB Official Statement on Marco Temporal](https://apiboficial.org/marco-temporal/?lang=en)
<https://apiboficial.org/marco-temporal/?lang=en>

Objective

What is **customary law**, and who defines it? Colonial legal systems often restructured or invented traditions to serve the interests of the state. This assignment invites you to examine how **colonial legal frameworks shaped what we call "customary law"** and how **these historical structures continue to impact indigenous legal struggles today**—especially in the case of **Marco Temporal in Brazil**. Through **Yadudu's analysis of colonialism's impact on Islamic law in Nigeria**, **Comaroff's discussion of law as a colonial weapon**, and the **ongoing legal battles over indigenous land in Brazil**, you will explore how law is **not only historical but also deeply political in shaping access to justice**.

Prompt

This assignment has **two parts**:

1. Developing a Critical Question

- As you read **Yadudu's analysis of Islamic Law** and **Comaroff's discussion on colonialism and customary law**, think critically about **how colonial legal systems shaped what is considered "customary law."**
- Develop **one open-ended question** that challenges dominant narratives about **colonialism, law, and power**.
- Your question should be **complex**—it should **invite discussion rather than have a simple answer**.

Example of a Strong Question:

"If colonial rule institutionalized 'customary law' to serve its own legal framework, can post-colonial states ever fully reclaim pre-colonial legal traditions? Or are these systems permanently altered by the legacy of colonial power?"

2. Brief Reflection on the 'Marco Temporal' Debate

- After crafting your question, **write a short response (250-350 words, about one page)** explaining how the **Marco Temporal case in Brazil** connects to the broader themes of **colonial legal legacies and the control of historical narratives**.

- You do not need a full essay—just a concise, thoughtful reflection.
- Consider:
 - How does the legal reasoning behind Marco Temporal **reflect colonial-era legal justifications** for controlling land?
 - Do you see similarities between **how "customary law" was shaped under colonial rule** and the way Marco Temporal defines Indigenous land rights today?
 - What does this case tell us about **who has the power to define legal rights and history?**

Format & Submission

Guidelines:

- ✓ **Step 1:** Develop **one critical question** based on the readings.
- ✓ **Step 2:** Write a **250-350 word reflection** connecting your question to the **Marco Temporal case**.
- ✓ Use **specific examples from the readings** to support your analysis.
- ✓ Submit as a **Word or PDF document** via Brightspace.

Grading Criteria

- ✓ **Depth of Critical Question** – Thought-provoking, complex, and tied to the readings.
- ✓ **Engagement with Readings** – Clear connections to Yadudu, Comaroff, and Marco Temporal.
- ✓ **Comparative Insight** – Analyzes colonial legal frameworks and their modern legacies.
- ✓ **Clarity & Organization** – Logical flow, well-structured response.

Final Thought

Does the law serve justice, or does it serve history? The Marco Temporal case forces us to reconsider whether legal rights should be tied to a single moment in time—or whether they must account for the full weight of colonial history. Let's rethink how colonialism shaped what we call "customary law."



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