COURSE DESCRIPTION: This course will explore the interaction of law, slavery and race in the United States, as well as from a comparative perspective. We will read original documents, including excerpts of trial transcripts, appellate opinions, treatises, codes, and first-person narratives. We will study the way law, politics and culture interacted to shape the institution of slavery and the development of modern conceptions of race. Course lectures and discussions will focus on questions such as: Did different legal regimes (Spanish, French, British) foster different systems of race and slavery in the Americas? How did/does law work “on the ground” to shape the production of racial hierarchy and creation of racial identities? In what ways did slavery influence the U.S. Constitution? How has race shaped citizenship in the U.S., and how can we compare it to other constitutional regimes? How did race shape systems of labor and criminal justice, from Reconstruction through the present day? How have civil rights movements shaped the law during the twentieth century, and how has the meaning of “civil rights” changed? How have race, gender, and sexuality intersected in the regulation of families, marriage, sexual violence and sexual harassment, from slavery through the present day? The course will begin with the origins of New World slavery, race and racism, and move chronologically to the present day.

No Prerequisites or co-requisites

COURSE OBJECTIVES: This course aims to teach students legal and historical approaches to analyzing important social problems. Students will learn the history of a key institution in the United States and the Atlantic world, slavery; understand how ideas about race developed through legal and cultural practices; analyze key texts on the topics of law, slavery, and race; and understand the connections between slavery in the past and regimes of racial inequality in the present. Students will learn to read legal materials, including trial records, appellate judicial opinions, and statutes, and to use those sources as evidence for legal and historical arguments.

EVALUATION AND EXAMINATION:

Participation/Blackboard (20% of grade): All students will be required to attend class, to read the assigned readings, and to participate in classroom discussion as well as discussion on Blackboard. Participation will be evaluated by students’ preparation, thoughtfulness, respect for others, and performance on short written reflections.
Examinations (40% of grade): There will be one in-class midterm exam comprised of short-answer and essay questions based on the reading and class discussion that will count for 15% of the grade. The final exam (25%) will be a take-home essay that will cover primarily but not exclusively material from after the midterm. Final exams will be due according to the day and time published in the Schedule of Class. Students with documented learning disabilities can be accommodated for examinations (as needed) by the University’s Office of Disability Services and Program (DSP), located in Student Union 301, Mon-Fri 8:30 a.m. - 5 p.m., 740-0776.

Papers (40% of grade): Students will write one 5-7 page paper (15%) and one 7-10 page paper (25%). For each paper, students will be provided with several topics to choose among. Students may also design their own paper topic in consultation with the course grader. Papers will be graded down 1/3 of a grade for each day (1-24 hours) late. You cannot pass the course without turning in both papers.

COURSE MATERIALS: The assigned materials will be posted on the class Blackboard page, under “Course Documents,” with the exception of one book in March, Stories of Scottsboro, which will be available at the bookstore, or on Kindle.

Students occasionally seek recommendations for more general overviews of American legal history, as well as on American history more generally. On reserve at the law library are Kermit Hall, The Magic Mirror (1991) and Lawrence Friedman, A History of American Law (3d ed. 2005). For those who feel in need of more basic background in U.S. history, I have also placed on reserve Brands et al., American Stories (4th ed. 2017), an excellent U.S. history textbook (of which I’m a coauthor ©) and The Cambridge History of Law in America, a very good collection of essays on legal history. I am also happy to discuss individually with students other sources that may be of help. From time to time, I will post on the class page links to some of the numerous useful websites that treat in depth various matters relevant to the course.
COURSE SCHEDULE AND READING ASSIGNMENTS:

August 20, 2018

1. Introduction: What Is Slavery? What is Race?

August 22, 2018

2. Origins of New World Slavery, The Slave Trade, Race and Law

   David Brion Davis, "The Origins and Nature of New World Slavery," *Challenging the Boundaries of Slavery*. 

   “The Interesting Narrative of the Life of Olaudah Equiano, or Gustavus Vassa, the African, Written by Himself.” Vol 1: Chap. II. 
   Docsouth.unc.edu/neh/equiano1/equiano1.html#p45

August 27, 2018

3. Slave Codes and “Legal Transplants”

   Las Siete Partidas, Title XXI Concerning Slaves (1251-65).

   Code Noir (1685).

   Carolina Act for the Better Ordering of Slaves (1690).

   Optional:


August 29, 2018

4. Race in the Colonial Era


   Optional:
Jennifer L. Morgan, "Some Could Suckle Over Their Shoulder": Male Travelers, Female Bodies, and the Gendering of Racial Ideology, 1500-1700."

September 5, 2018

5. Slavery and Freedom: Manumission and Freedom Suits - Comparisons

Alejandro de la Fuente & Ariela Gross, "Slavery and Freedom: Manumission and Freedom Suits in Cuba, Louisiana, and Virginia, 1500s-1700s."

Keila Grinberg, "Freedom Suits and Civil Law in Brazil and the United States."

Optional:

September 10, 2018

6. Slavery and Freedom: Manumission and Freedom Suits – Primary Sources

St. Louis Circuit Court Records, selections.


September 12, 2018

7. Race in the U.S. and Latin America, Nineteenth Century

Morrison v. White, Trial Transcript (1858).

Bryan v. Walton, Trial Transcript (1853, 1856, 1864).


Optional:

Tanya Kateri Hernandez, "Spanish American whitening the race – the un(written) laws of 'blanqueamiento' and 'mestizaje,'" Racial Subordination in Latin America.
September 17, 2018

8. Slavery, Race and Sexuality


State v. Celia, A Slave (trial transcript & online materials).


Optional: Materials from The Celia Project.

September 19, 2018

9. The Law and Commerce of Slavery


Icar v. Suares (transcript).

Henry Bibb, Narrative of the Life of Henry Bibb, an American Slave, 101-11 (Chapter IX).

Solomon Northup, Twelve Years a Slave (1853) 78-88 (Chapter VI).

Gross, Slavery, Antislavery & The Coming of The Civil War, 280-98.


September 24, 2018

10. Slavery and Criminal Law

State v. Mann.

State v. Will.

Sally Hadden, Slave Patrols, excerpts.

Slave Code of North Carolina (1854) (excerpts)

T.R.R. Cobb, An Inquiry into the Law of Negro Slavery in the United States of America (1858), 36-41, 97-101

Optional: Eugene Genovese and James Oakes on State v. Will and State v. Mann.
September 26, 2018


Slavery-Related clauses of the U.S. Constitution.

Frederick Douglass, Speech on The Dred Scott Decision.

John C. Calhoun, Resolutions.

Ariela Gross, Slavery, Antislavery & The Coming of the Civil War, 298-312.

October 1, 2018


Somerset v. Stewart, Lofft 1, 98 Eng. Rep. 499 (K.B. 1772)

Dred Scott v. Sandford.


October 3, 2018     Mid-Term Review

October 8, 2018     In-Class Midterm

October 10, 2018

13. Emancipation and the Meaning of Freedom

Mississippi "Black Code" (1866)

Congressional Joint Committee on Reconstruction (1866) -- Hearings on Mississippi

Henry Ravenel's Journal and selected WPA narratives.

Leon Litwack, Been In The Storm So Long, 263-74.

Letter from Jourdan Anderson to his former master.


The case of Andreas Queseda.
October 15, 2018

14. Citizenship after Slavery

Civil Rights Act of 1875.

Plessy v. Ferguson.

Rebecca Scott, Degrees of Freedom: Louisiana and Cuba after Slavery (2005), 253-269.

Rebecca Scott, "Public Rights, Social Equality, and the Conceptual Roots of the Plessy Challenge."

October 17, 2018

15. African American Marriage and Citizenship During Reconstruction

Nancy F. Cott, Public Vows, 77-104


Optional: Laura Edwards, “Marriage is the Foundation of all our Rights”; Katherine M. Franke, Wedlocked.

October 22, 2018

16. Post-slavery Labor Systems

A Sharecropper’s Contract (1882)


Walter F. White, "'Work or Fight' in the South," The New Republic, 18 (March 1, 1919), 144-46


October 24, 2018

17. Lynch Law and Disfranchisement


**October 29, 2018**

18. Race and Jim Crow in the Twentieth Century, Part I


Optional:

Tanya Kateri Hernandez, "Spanish American whitening the race – the un(written) laws of 'blanqueamiento' and 'mestizaje,'" *Racial Subordination in Latin America*.


**October 31, 2018**

19. Race and Jim Crow in the Twentieth Century, Part II: The Scottsboro Case

Film: The Scottsboro Boys

**November 5, 2018**

20. Race and Jim Crow in the Twentieth Century, Part III: Criminal Justice

TBA

**November 7, 2018**


Ira Katznelson, When Affirmative Action Was White, chaps 1-2.


Tom Sugrue, *Sweet Land of Liberty*, excerpts.

**November 12, 2018**

**22. Race and Civil Rights: Part I**

Risa Goluboff, *The Lost Promise of Civil Rights*, excerpts.


**November 14, 2018**

**23. Race and Civil Rights: Part II**

Westminster v. Mendez

Ariela Gross, “The Caucasian Cloak.”

Brown v. Board of Education

Milliken v. Bradley

Derrick Bell, Brown v. Board of Education and the Interest Convergence Dilemma

**November 19, 2018**


Kim Crenshaw, Demarginalizing The Intersection of Race and Sex

Angela Harris, Race and Essentialism in Feminist Legal Theory

Rogers v. American Airlines

Price Waterhouse v. Hopkins

**November 26, 2018**

**26. Race and Civil Rights, Part IV: Colorblind Constitutionalism**

Neil Gotanda, A Critique of “Our Constitution is Colorblind”

Adarand v. Pena.

Parents Involved vs. Seattle.
November 28, 2018

27. Exam Review

Statement on Academic Conduct and Support Systems

Academic Conduct
Plagiarism – presenting someone else’s ideas as your own, either verbatim or recast in your own words – is a serious academic offense with serious consequences. Please familiarize yourself with the discussion of plagiarism in SCampus in Section 11, Behavior Violating University Standards [https://scampus.usc.edu/1100-behavior-violating-university-standards-and-appropriate-sanctions/]. Other forms of academic dishonesty are equally unacceptable. See additional information in SCampus and university policies on scientific misconduct, [http://policy.usc.edu/scientific-misconduct/].

Discrimination, sexual assault, and harassment are not tolerated by the university. You are encouraged to report any incidents to the Office of Equity and Diversity [http://equity.usc.edu/] or to the Department of Public Safety [http://capsnet.usc.edu/department/department-public-safety/online-forms/contact-us]. This is important for the safety whole USC community. Another member of the university community – such as a friend, classmate, advisor, or faculty member – can help initiate the report, or can initiate the report on behalf of another person. The Center for Women and Men [http://www.usc.edu/student-affairs/cwm/] provides 24/7 confidential support, and the sexual assault resource center webpage sarc@usc.edu describes reporting options and other resources.

Support Systems
A number of USC’s schools provide support for students who need help with scholarly writing. Check with your advisor or program staff to find out more. Students whose primary language is not English should check with the American Language Institute [http://dornsife.usc.edu/ali], which sponsors courses and workshops specifically for international graduate students. The Office of Disability Services and Programs [http://sait.usc.edu/academicsupport/centerprograms/dsp/home_index.html] provides certification for students with disabilities and helps arrange the relevant accommodations. If an officially declared emergency makes travel to campus infeasible, USC Emergency Information [http://emergency.usc.edu/] will provide safety and other updates, including ways in which instruction will be continued by means of blackboard, teleconferencing, and other technology.