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. Students will be required to submit two discussion questions each week that there is a discussion section; questions are due by noon of the day of each discussion section. 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 TA. 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.

Paper 1 (5-7 pages) is due at noon on Thursday, September 20; the course TA will not answer questions regarding Paper 1 after 9:00pm of Wednesday, September 19. Paper 2 (7-10 pages) is due at noon on Thursday, November 1; the course TA will not answer questions regarding Paper 2 after 9:00pm of Wednesday, October 31.

COURSE MATERIALS: The assigned materials will be posted on the class Blackboard page, under “Course Documents.”

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 24, 2020

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

August 26, 2020

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


   “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 31, 2020

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:

   Christopher Tomlins, Freedom Bound: Law, Labor and Civic Identity in Colonizing English America, 1580-1865, 405-509.

Discussion Section #1: Close readings of Slave Codes (Las Siete Partidas, Code Noir, and Carolina Act)

September 2, 2020

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 7: 2020: No Class: Labor Day Holiday

September 9, 2020

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


Selected freedom suits from St. Louis Circuit Court Records, Virginia Chancery Court Records.

Optional:

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

September 14, 2020

6. 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.

Discussion Section #2: Close readings of freedom suits (choose from online sources)

September 16, 2020

7. Slavery, Race and Sexuality
Adrienne Davis, “‘Don’t Let Nobody Bother Yo Principle’: The Sexual Economy of Slavery.”

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


Optional: Materials from The Celia Project.

September 21, 2020

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.


Discussion Section #3: Close readings of Celia case materials

September 23, 2020: Paper 1 due by 12:00 P.M. on Wednesday

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.

Discussion Section #4: Close readings of State v. Mann, State v. Will, and codes
September 28, 2020: Class Cancelled: Yom Kippur

September 30, 2020


   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 5, 2020


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

   Dred Scott v. Sandford.


Discussion Section #5: Mid-Term Review

October 7, 2020       In-Class Midterm

October 12, 2020

13. Emancipation and the Meaning of Freedom

   Reconstruction Chronology – U.S.

   Mississippi "Black Code" (1866)

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

   The Reconstruction Amendments

   Henry Ravenel's Journal and selected WPA narratives.

Letter from Jourdan Anderson to his former master.


The case of Andreas Queseda.

**Optional:** C. Vann Woodward, “Forgotten Alternatives”

**Discussion Section #6:** Discuss research paper, topics, and strategies

**October 14, 2020**

**14. Citizenship after Slavery**

Civil Rights Act of 1875.

Civil Rights Cases (1883)

Plessy v. Ferguson.

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

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

**October 19, 2020**

**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”

**Discussion Section #7:** What are civil rights? What is citizenship?

**October 21, 2020**

A Sharecropper’s Contract (1882)


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


October 26, 2020

**17. Lynch Law and Disfranchisement**


Robert M. Goldman, "Massacre at Colfax Courthouse," Chapter 3 of *Reconstruction and Black Suffrage: Losing the Vote in Reese and Cruikshank* (Univ. of Kansas Press, 2001), 42-51


**Discussion Section #8:** Close reading of Class 17 materials.

October 28, 2020

**18. Race and Jim Crow in the Twentieth Century, Part I: The Scottsboro Case**

Film: The Scottsboro Boys

November 2, 2020


U.S. v. Thind (1923)
Optional:
Tanya Kateri Hernandez, "Spanish American whitening the race – the un(written) laws of 'blanqueamiento' and 'mestizaje,'" Racial Subordination in Latin America.

Gross, What Blood Won't Tell, Chap. 3

Discussion Section #9: Discuss The Scottsboro Boys.

November 4, 2020

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


November 1, 2020: Paper 2 due by 12:00 P.M. on Thursday

November 9, 2020


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

Beryl Satter, Family Properties: How the Struggle Over Race and Real Estate Transformed Chicago and Urban America, chap. 2.

Optional: Tom Sugrue, Sweet Land of Liberty, excerpts.

Discussion Section #10: Close reading of Class 21 materials.

November 11, 2020

22. Race and Civil Rights: Part I

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

Ken Mack, Representing The Race, excerpts.

November 16, 2020: Paper 2 due by 12:00 P.M. on Monday

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

Discussion Section #11: What difference did Brown make?

November 18, 2020


Kimberlé Crenshaw, “Demarginalizing The Intersection of Race and Sex” (1989)


November 23, 2020

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


Parents Involved vs. Seattle.

Daniel Sabbagh, “U.S. Affirmative Action in Comparative Perspective”

Discussion Section #12: What’s the future of affirmative action?

November 30, 2020

27. Race Today: The Memory of Slavery, Reparations Movements and Racial Politics Today

Ariela Gross, “’All Born to Freedom’: Comparing the Law and Politics of Race and the Memory of Slavery in the U.S. and France”
Ta-Nehisi Coates, “The Case for Reparations,” excerpts

Mayor Mitch Landrieu’s Speech on Confederate Monuments

**Discussion Section #13:** What difference does history make?

**December 2, 2020**

**28. 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/](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/](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/](http://equity.usc.edu/) or to the Department of Public Safety [http://capsnet.usc.edu/department/department-public-safety/online-forms/contact-us](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/](http://www.usc.edu/student-affairs/cwm/) provides 24/7 confidential support, and the sexual assault resource center webpage [sarc@usc.edu](mailto: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](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](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/](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.