This seminar offers an opportunity to engage in both historical and legal analysis on an issue that has been central to the social, economic and constitutional history of the United States. We will explore the ways in which slavery, long defined in the Americas as the ownership of property in human beings, interacted with the structures and practices of law, both in the United States and in the Caribbean and Latin America. We will examine how law addressed the category of "slave" and codified the power of slave owners, and how those held as slaves interacted with legal institutions and practices, both civil and criminal.

We will also briefly consider selected instances of contemporary slavery and human trafficking, and explore several legal strategies that have been used to combat such practices, including the use of domestic criminal law (including statutes aimed at human trafficking), of international law, and (in the case of Brazil) longstanding labor law and very recent constitutional guarantees.

Course readings include monographic works by legal scholars and historians, a key memoir (Twelve Years a Slave), and files from Supreme Court cases and everyday legal challenges. We will pay particular attention to the cases of Prigg v. Pennsylvania; The United States v. The Libellants and Claimants of the Schooner Amistad; and Dred Scott v. Sandford, from the United States Supreme Court; Eulalie v. Long & Mabry from the Louisiana Supreme Court; and the modern case of Siliadin v. France, from the European Court of Human Rights.

Students will work together on panels for the oral presentation of specific cases. Each student will submit two short papers (3 to 4 pages), followed by a longer (8 to 10 pages) final paper. Students wishing to carry out more extensive primary research may also enroll for one supplementary credit of directed research (as Law 900), in which case their research papers will be longer.

Course Requirements

Those taking the course for two credits will complete the following requirements, each of
which counts for the indicated percentage of the final grade:

- Participation in class discussion and contribution to the CTools site discussion [30%].
- Two short writing assignments. [20%]
- Participation in a panel discussion one of selected cases [20%].
- An 8 to 10 page analytic paper on a topic related to your panel’s case [30%].

Those adding an additional research credit will complete the following:

- Participation in class discussion and contribution to the CTools site discussion [30%].
- Two short writing assignments [20%].
- Participation in a panel discussion one of five selected cases [20%].
- A 15- 20 page research paper on a topic related to your panel’s case, drawing substantially on unpublished primary sources [30%].

Readings

Copies of the following two books, which will be assigned in their entirety, have been ordered in paperback editions at Ulrich’s and the other local bookstores:

Solomon Northup, *Twelve Years a Slave* (various editions available).
Melton McLaurin, *Celia, a Slave* (University of Georgia Press/ Avon Books).

A few copies of the following, of which we will read only selected chapters, have also been ordered. Purchase of this title is entirely optional:

Arlette Farge, *The Allure of the Archive* (Yale University Press, 2013.)

Additional readings listed in the syllabus, as well as the selected chapters from the Farge book, will be on reserve (physical and/or electronic), and posted on the CTools site. Electronic reserves are accessed through http:/lexcalibur.lib.law.umich.edu.

Five panels will be formed in the seminar, each of which will focus on a single case or episode that highlights the relationships between law and slavery:

Panel 2. Conspiracy or personal feud? The murder investigation recounted in *Death of an Overseer*
Panel 4. Freedom Suits in Comparative Perspective: *Dred Scott v Sandford* (1857) and *Eulalie v. Long & Mabry* (1856)

Full records of the U.S. Supreme Court cases, the Louisiana Supreme Court Case, and the ECHR case will be placed on electronic reserve, and additional materials for the work of the panels will be available on the CTools site. Members of the panel will choose approximately 20 pages of primary documentation on the case to be read by the entire class, and will prepare a collective one-hour oral presentation and discussion of their case. Each panel member will do further work on a topic related to the group’s focus case, which will form the basis for his or her final paper.

Laptop Use: In order to make it easier for everyone to concentrate on discussion, no laptops, tablet computers, or smartphones are to be used during the sessions of the seminar.

**SCHEDULE OF SESSIONS**

**Week I. Wednesday, September 4.**

Introduction to Course Procedures. Preliminary Discussion: Examining slavery and freedom in historical perspective. The problem of law and slavery: natural law, positive law, and the law of nations.

Note: The first week’s readings are available on CTools, and in paper from Barbara Brown, in 945 Legal Research. We will work through the letters by Joseph Harris and Octave Johnson line by line as a way of beginning our discussion of vernacular understandings of rights that emerged from within slave societies.

*Required readings:*


Letter of Joseph J. Harris, 27 December 1864, in Ira Berlin et al., eds., *Freedom’s Soldiers*, p. 140.

*First week’s assignment:*

In preparation for our discussion, please underline key passages in these readings where you find slavery intersecting either with formal law (civil, criminal, or international) or with ordinary
people’s understanding of rights due to them, of obligations that rest on various members of society, or of penalties for wrongdoing.

**Week 2. Wednesday, September 11.**

Slavery in the making of the Atlantic world. Laying the legal groundwork for slavery.

*Required readings:*

Selections from the law code of Alfonso X El Sabio (1221-84), king of Castile, as reproduced in Samuel Parsons Scott, translator, and Robert I. Burns, S.J., editor, *Las Siete Partidas* 5 volumes (Philadelphia: University of Pennsylvania Press, 2001). I have included the introduction, which you can skim, as well as the following laws for careful reading:

- **Volume Three. The Third Partida.**
  - Title XVI. Concerning Witnesses. Law XII and Law XIII [pp. 670-671]
- **Volume Four. The Fourth Partida.**
  - Title V. Concerning the Marriages of Slaves, [pp. 901-903].
  - Title XXI. Slavery; Title XXII. Freedom; Title XXIII, Status [pp. 977-987]

Early Virginia slave statutes and cases, as transcribed in Warren Billings, *The Old Dominion in the Seventeenth Century*, pp. 148-174.

The *Code Noir*. Translated excerpts in Dubois and Garrigus, *Slave Revolution in the Caribbean, 1789-1804*, pp. 49-54. [Original in French also on CTools for those who are interested.]

Selections from the Louisiana Civil Code of 1825 [On CTools]

*Writing assignment #1 (approximately 3 pages, due in class on Sept. 11).* Choose some particular sphere of slave life regulated by law (such as marriage, manumission, or the ownership of property by slaves), and reflect on the similarities and differences that you see in the codes or laws of any two different kingdoms, colonies, or territories (medieval Spain, the French Antilles, the colony of Virginia, the state of Louisiana).

**Week 3. Wednesday, September 18.**

Slavery in plantation societies in the 17th and 18th centuries. Legal pluralism, challenge, and contradictions. Early anti-slavery.

*Required readings:*


*Supplementary reading:*


**Week 4. Wednesday, Sept. 25.**

The Haitian Revolution, antislavery, and the puzzle of shifting jurisdictions, Pt 1.

*Required readings:*

Laurent Dubois, *Avengers of the New World*, chaps. 4-7; pages 91-170.


*Supplementary reading:*


NOTE: At the September 25 session, we will form the five panels, and set aside some time at the end of class for each group to meet, to exchange ideas and email addresses, so that the members can arrange to meet outside of class to allocate responsibilities among themselves. The first responsibility of each group will be to select 20 pages of primary material on their case to assign for the whole class to read.

**Week 5. Wednesday, October 2**

Discerning “the exercise of the powers attaching to a right of ownership”; Persons as property and the puzzle of shifting jurisdictions, Pt. 2.

*Required readings:*


**Supplementary readings:**


**Week 6. Wednesday, October 9.**

The ban on the international slave trade and its violation: The *Antelope* and the *Amistad*.

**Required readings:**


Selections of primary materials on the Amistad case: [to be chosen by Panel #1]

**Supplementary readings:**

[see CTools site, Resources, for various essays by Michael Zeuske and Orlando García on the available Cuban documents on the Amistad case]


*Presentation of the* Amistad case by Panel #1.

**Wednesday October 16. Class will not meet. [Under the Law School Academic Calendar, this Wednesday is to be treated as a Monday.]**

**Week 7. Wednesday, October 23.**

The exercise of authority inside and outside the law: Slaveholders interrogating enslaved suspects.

**Required readings:**

Melton McLaurin, *Celia, a Slave*
Michael Wayne, *Death of an Overseer: Reopening a Murder Investigation from the Plantation South*, pages t.b.a. by members of Panel 2.

**Supplementary readings:**


Primary materials on *Death of an Overseer* chosen by Panel #2. [See CTools site and http://www.prescientia.com/doa/ for additional materials]

*Presentation of Death of an Overseer by Panel #2.*

**Week 8. Wednesday, October 30.**

Personal liberty laws, fugitives from slavery, and the complexities of federalism.

**Required readings:**


[Primary and other secondary readings on Prigg to be assigned by Panel #3]

*Presentation of Prigg v. Pennsylvania (1842) by Panel #3.*

**SPECIAL EVENT: FRIDAY, NOVEMBER 1**

*Special Public Event at the Law School. November 1. Depending on your schedule, please plan to attend one or both of the sessions of this special international workshop on slavery, law, and human rights. Two Brazilian historians – Keila Grinberg and Beatriz Mamigonian – and two jurists – Cristiano Paixão and Leonardo Barbosa – will be delivering papers on Brazil, in addition to UM scholars Sueann Caulfield and Rebecca Scott.*

**Required reading:**

Papers by Beatriz Mamigonian and Keila Grinberg, prepared for the November 1 Workshop.

**Week 9. Wednesday, November 6.**

The phenomenon of illegal enslavement and challenges to it.

**Special guests:** Profs. Beatriz Mamigonian (Federal University of Santa Catarina, Brazil), Keila Grinberg (Federal University of the State of Rio de Janeiro), Cristiano Paixão (University of Brasilia, and staff attorney, Public Ministry of Labor), and Leonardo Barbosa (staff attorney,
Brazilian Chamber of Deputies).

Required readings:

Part I: Illegal enslavement in the nineteenth-century United States

Solomon Northup, Twelve Years a Slave. [You may use any available edition, but make sure also to read the introduction from the LSU Press edition, which has been posted on CTools.]

As you read Northup’s account, please make a note of each point at which he engages law or some form of administrative process. In class we will work through the account, and see whether we can collectively assemble a full inventory and analysis of those moments when law either entangles or empowers him, or both. We will also discuss the dimensions and dynamics of the phenomenon of illegal enslavement in both the United States and Brazil.

Note: The film Twelve Years a Slave (http://www.foxsearchlight.com/12yearsaslave/), starring Chiwetel Ojiofor, Paul Giamatti, and Brad Pitt, will be opening on October 18. We will try to find an opportunity to view it somewhere in the Ann Arbor area, if possible.

Pt. II. Illegal enslavement in the twenty-first century: domestic responses


Discussion with our guests on the activities of the Brazilian Public Ministry of Labor (MPT), and debates in the Brazilian parliament on the possibility of a constitutional amendment raising the penalties for enslavement and the use of slave labor.

Supplementary:


Week 10. Wednesday, November 13.

Assignment: Each student should hand in a prospectus describing the topic of his or her research project (1 pg), accompanied by a list of the key relevant sources that have been located. SAVE this prospectus when it is returned to you with comments, and staple it to your final paper when you submit the paper in December.

Citizen, subject, property? Freedom suits, juridical personality, and the question of claims-making.

Required readings:


Dred Scott and Eulalie v. Long & Mabry, case records to be chosen by Panel #4 (Note: the Paul Finkelman volume on Dred Scott is on reserve in the Law Library, and may be an easier source for scanning sections of the decision.).

Supplementary readings:


Presentation of Dred Scott and Eulalie v. Long & Mabry by Panel #4.


Dismantling slavery, building citizenship? The Civil War and Reconstruction.


Berlin, Generations of Captivity, Epilogue, pp. 246-270.

Supplementary reading, skim for reference and context:

Eric Foner, Reconstruction, chap. 9, “The Challenge of Enforcement” (pp. 412-459).

Early in the Reconstruction period, Congress held hearings on the use of violence and intimidation against freedpeople, often by the Ku Klux Klan, in order to determine whether federal legislation was necessary and justified. These hearings, which were generally held in the
states themselves, were then compiled into several volumes, titled “Report of the Joint select committee appointed to inquire into the condition of affairs in the late insurrectionary states. . .” They are available in the originals in the library, and as digital scans on the Making of America web site: http://www.hti.umich.edu/cgi/t/text/text-idx?c=moa;idno=ACA4911. A photocopy of the complete table of contents is also available in the Law Library reserve room, to assist you in orienting yourself in the text.

Writing assignment #2, due in class: Choose one state, and review a selection of the testimony, being careful to note in each case who the speaker is. Transcribe [do NOT just cut and paste mechanically] one page of testimony that you think illuminates the relationship between law and extralegal violence. Analyze that testimony in context, drawing on the interpretations in Berlin and Foner and on your reading of the surrounding testimony. (Your paper should be approximately three pages, plus the one page of transcribed testimony).

**Week 12. Wednesday, November 27.**

Joint session with the seminar of Veronica Santarosa. [Location t.b.a.]

What, exactly, is it that historians do? And how do they do it? Thinking about the materiality of evidence, visual sources, oral histories.


Images: Selection of digitized primary sources. Shared discussion of documents, ideas, discoveries in the research of the instructors and of the students.

**Week 13. Wednesday, December 4.**

Defining contemporary slavery in international law.

*Required readings:*


*Siliadin v. France*. Selections from Case File and decisions [on CTools]

*Presentation of Siliadin v. France by Panel #5.*
Final Papers

*Guidelines for the final papers, which are due by 5 PM on Monday, December 9:*

Each paper will deal analytically with a topic related to the panel of which the student is a member. The choice of the specific topic is up to you, subject to approval by the instructor. Those enrolled in the course for an extra hour of research credit should plan to build their papers around manuscript or printed primary materials, beyond those assigned for the course.

Follow a consistent standard citation form – either Blue Book or Chicago Manual of Style. Edit and proofread carefully, and submit a **paper copy** to Prof. Scott’s mailbox, 9th floor, Legal Research, and then post a backup copy (in MSWord, Wordperfect, or pdf) on the CTools site, in the Drop Box. Papers will be evaluated on the clarity of the argument, the use of evidence to support the writer’s assertions, and the linking of the material to the broad themes of the course.