

## LAW, SLAVERY, AND RACE

Professor Ariela Gross  
Winter 2015  
Tuesday 4:15-7:15

**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? The course will begin with the origins of New World slavery, race and racism, and move chronologically to the present day.

**EVALUATION AND EXAMINATION:** All students will be required to read and to participate in classroom discussion and attendance is required. Students will prepare two questions for discussion for 10 out of 18 class meetings; participation and discussion questions together will count for 25% of the grade. Students may also choose to read and prepare a short (10 minute) presentation on the optional reading for a class, which will substitute for 4 class meetings' discussion questions. The presentation should integrate the optional and the required reading into an introduction to the themes for discussion. In Section (01) there will be a one-day take-home essay exam. Students taking the course to receive "R" research credit are required to write a research paper of approximately 26 pages in length on a topic that they choose (in consultation with the professor). After the term begins, students accepted into the course can transfer from section (01) into section (02), which meets the R requirement, with consent of the instructor.

### TENTATIVE COURSE SCHEDULE AND READING ASSIGNMENTS:

#### 1. January 6, 4:15 -5:30 p.m. Introduction: What Is Slavery? What is Race?

#### 2. January 6, 6:00 - 7:15 p.m. 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*.

#### 3. January 13, 4:15 - 5:30 p.m. Slave Codes and “Legal Transplants”

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

Code Noir (1685).

Louisiana Black Code of 1806.

#### **Optional:**

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

#### 4. January 13, 6:00 - 7:15 p.m. Race in the Colonial Era

Kathleen Brown, "Engendering Racial Difference, 1650-1670," Chapter 4 of *Good Wives, Nasty Wenches, Anxious Patriarchs: Gender, Race, and Power in Colonial Virginia*.

Maria Elena Martinez, "The Black Blood of New Spain: *Limpieza de Sangre*, Racial Violence, and Gendered Power in Early Colonial Mexico," *Wm. & Mary Q.* (2004).

**Optional:**

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

**5. January 20, 4:15 - 5:30 p.m. Slavery and Freedom: Manumission and Freedom Suits**

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

**Optional:**

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

Martha Jones, "African-American Claims-Making in the Age of *Dred Scott v. Sandford*."

**6. January 20, 6:00 - 7:15 p.m. Race in the U.S. and Latin America, Nineteenth Century**

Morrison v. White, Trial Transcript (1858).

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

Ariela Gross, *What Blood Won't Tell*, Introduction & Chap. 2.

Richard Turits, "Race Beyond the Plantation: Slavery, Free Persons of African Descent, and the Problem of Collective Identities in Spanish Santo Domingo."

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

Ariela Gross, *What Blood Won't Tell*, Chap. 1.

**7. January 27, 4:15 - 5:30 p.m. Slavery, Marriage and Family**

Adrienne Davis, "'Don't Let Nobody Bother Yo Principle': The Sexual Economy of Slavery."

State v. Samuel, State v. John.

**Optional:** Margaret Burnham, "An Impossible Marriage: Slave Law and Family Law."

Dylan Penningroth, "Family and Property in Southern Property," in *The Claims of Kinfolk: African American Property and Community in the Nineteenth-Century South*.

**8. January 27, 6:00 - 7:15 p.m. Slavery, Race and Sexuality**

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

Harriet Jacobs, *The Autobiography of Linda Brent*, excerpts.

**Optional:** Materials from The Celia Project.

**9. February 3, 4:15 - 5:30 p.m. The Law and Commerce of Slavery**

Johnson v. Wideman, 24 S.C.L. 325 (1839).

Icar v. Soares (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.

**Optional:** Debra Blumenthal, *Enemies and Familiars: Slavery and Mastery in Fifteenth-Century Valencia*, "Talking Tools."

**10. February 3, 6:00 - 7:15 p.m. Slavery and the U.S. Constitution, Part I: National Politics**

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.

**11. February 10, 4:15 - 5:30 p.m. Slavery and the U.S. Constitution, Part II: The Federal System**

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

Dred Scott v. Sandford.

**Optional:** Prigg v. Pennsylvania.

**12. February 10, 6:00 - 7:15 p.m. 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.

Report of Colonel Aurelio Aguilera, Guantanamo, 1879.

The case of Andreas Queseda.

**13. February 17, 4:15 - 5:30 p.m. 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."

SKIP Civil Rights Cases, Gross, "Of Portuguese Origin"

**14. February 17, 6:00 - 7:15 p.m. Race and Jim Crow in the Twentieth Century, Part I**

Peggy Pascoe, "Miscegenation Law, Court Cases, and Ideologies of 'Race' In Twentieth-Century America," 83 *J. Amer. Hist.* 44 (June 1996).

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

**Optional:** Angela Onwuachi-Willig, *According To Our Hearts*;

Gross, *What Blood Won't Tell*, Chaps. 3-8.

**15. February 24, 4:15 - 5:30 p.m. Race and Jim Crow in the Twentieth Century U.S., Part II**

Pete Daniel, "The Vortex of Peonage," *The Shadow of Slavery*, chap. 2.

A Sharecropper's Contract (1882).

Narrative of Leon Alexander, in *Remembering Jim Crow*.

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.

**16. February 24, 6:00 - 7:15 p.m. Race and Jim Crow, Part III**

Walter Oshinsky, "American Siberia," and "Parchman Farm," *Worse Than Slavery*.

Michelle Alexander, *The New Jim Crow*, chap. 6.

**17. March 3, 4:15 – 5:30 p.m. Race & Affirmative Action Compared**

Daniel Sabbagh, "U.S. Affirmative Action in Comparative Perspective."

Tanya Kateri Hernandez, "Brazil: At the Forefront of Latin American Race-Based Affirmative Action Policies and Census Racial Data Collection," in *Racial Subordination in Latin America*.

*Grutter v. University of Michigan*.

**18. March 3, 6 – 7:30 p.m. The Memory of Slavery, Reparations Movements and Racial Politics Today**

Mary Frances Berry, *My Face is Black Is True: Callie House and The Struggle for Ex-Slave Reparations*, 6-49.

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."