

Slavery and the Law From Ancient Times to the Present

HIST 402J/AFAM 334

Spring 2012, Wednesdays 2:30-4:30

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Course Description:

This course will be focused on the relationship between slavery and the law, principally in the Atlantic World, as it has developed and changed from ancient times to the present. From Ancient Babylon (6th century BCE) through most of the nineteenth century, laws relating to slavery attempted to govern the relations between masters and slaves. Some laws defined property in people, others penalized abusive masters, more governed rebellious slaves, and some codified the routes to manumission. Beginning in the late eighteenth century in a process that did not end until the early twentieth, a growing number of societies began to abolish slavery outright, a momentous transformation that culminated with the League of Nations abolition of slavery in 1926. Nevertheless, forced labor, the ownership of people, debt bondage, and the movement of people against their will – in short, all of the practices of racial slavery in the eighteenth and nineteenth centuries – persist in the twenty-first century. Some modern day abolitionists estimate that there are now approximately 20 million people who suffer levels of oppression that can be considered slavery. Thus, the question of the relationship between slavery and the law remains a factor in the lives of people around the world, those who are still enslaved, as well as the prosecutors, legal scholars, activists and historians who study slavery and continue to work toward its abolition.

Required texts

The following books are available at the Yale Book Store.

Stanley Engerman, et. al., eds., *Slavery* (Oxford Reader, 2001)

Adam Hoschild, *King Leopold's Ghost: A Story of Greed, Terror, and Heroism in Colonial Africa* (Houghton Mifflin, 1998)

David Oshinsky, *Worse than Slavery: Parchman Farm and the Ordeal of Jim Crow Justice* (Free Press, 1997)

Frank Tannenbaum, *Slave and Citizen: The Negro in the Americas* (1946; Beacon Press, reprint, 1992)

Class Format:

Class meetings will have two components. Every week we will discuss the assigned readings, and then either Rugemer or Gorsuch will give a brief lecture to introduce and contextualize the reading for the next week. At the start of some sessions, beginning on February 14 and then periodically thereafter, each student will briefly discuss their research projects and the class will provide feedback.

PART ONE: CHATTEL SLAVERY FROM ANCIENT TIMES THROUGH THE 19TH CENTURY

Jan 11 Introduction to the Course

Overview of the history of slavery by Rugemer; focused remarks on the relationship between slavery and the law by Gorsuch

Jan 18 Definitions of Slavery

PRIMARY SOURCE READINGS: Selections from *Slavery*, #s 1-9; 23, 26, 36, 37, 38, 39, 52

LECTURE: Gorsuch on definitions of slavery

Jan 25 Comparing Laws of Slavery

SECONDARY SOURCE READINGS:

Frank Tannenbaum, *Slave and Citizen*

Alejandro de la Fuente, "Slave Law and Claims-Making in Cuba: The Tannenbaum Debate Revisited," *Law and History Review* 22 (Summer 2004): pp. 339 - 369 [available through JSTOR]

PRIMARY SOURCE READINGS: Selections from *Slavery*, #s 43-45, 49, 50

LECTURE: Rugemer on the expansion of slavery in the British Empire from the middle of the eighteenth century to 1789

Feb 1 Reconstituting Slavery in the New World: The U.S. and Jamaica, 1770-

PRIMARY SOURCE READINGS :

Declaration of Independence (1776)

excerpts from James Ramsay's *Essay on the Treatment and Conversion of African Slaves* (1784) (available on line via library website)

excerpts from the Constitutional Convention Debates (1787)

excerpts from the United States *Constitution* (1789)

<http://memory.loc.gov/ammem/amlaw/lwfr.html>

excerpts from Jamaica's "Consolidated Act," [1696].

excerpts from "The Jamaica Code Noir," 1788.

both available on line via library website

***Preliminary Prospectus Due (see page 4 of the syllabus)**

Feb 8 PRESENTATION: An Introduction to the Primary Sources at the Yale University Libraries for the Study of Slavery and the Law

LECTURE: Gorsuch on slavery law and politics in the United States

Feb 15 Law of American Slavery and Abolition

PRIMARY SOURCE READINGS:

Indenture contract from St. Clair County Court, Illinois Territory, 1807-1818.

13th, 14th and 15th Amendments of the United States Constitution;

Selections from the *Congressional Globe*, 39th Congress debates and proceedings

<http://memory.loc.gov/ammem/amlaw/lwfr.html>

SECONDARY SOURCE READINGS: Thomas Morris, *Southern Slavery and the Law*, Chapter 18 "Emancipation: Conceptions, Restraints, and Practice." [course website]

LECTURE: Rugemer on the abolition of the transatlantic slave trade, 1807-1862

***Annotated Bibliography Due (see page 4 of the syllabus)**

Feb 22 Treaties to suppress the International Slave Trade

PRIMARY SOURCE READINGS:

Anglo-Portuguese Treaty of 1842, *British and Foreign State Papers*, vol. 30, pp. 527-581. (on course website)

James Macqueen, "Africa-Slave Trade-Tropical Colonies," *Blackwood's Edinburgh Magazine* 55 (June 1844): 731-748.

"British and American Slavery." *Southern Quarterly Review* 8 (Oct. 1853): 369-401. both available on line via library website

SECONDARY SOURCE READINGS: excerpts from Special Issue of the *William and Mary Quarterly* 66, *Abolishing the Slave Trades: Ironies and Reverberations* (Oct. 2009).

LECTURE: Gorsuch on the 1926 League of Nations slavery convention.

Feb 29 No Class Meeting: Prospectus due (see page 4 of the syllabus)

March 3 – March 18 SPRING BREAK

PART TWO: MODERN SLAVERY

Mar 21 The Problem of Modern Slavery in International Law

PRIMARY SOURCE READINGS: 1926 League of Nations Slavery Convention; 1930 International Labor Organization Convention on Forced Labor; 1956 UN Convention on Slavery; "The Enquiry Commission into Liberia, *Journal of the Royal African Society*, 1931".

SECONDARY SOURCE READING: Adam Hoschild, *King Leopold's Ghost*

LECTURE: Gorsuch on slavery in the 20th century

Mar 28 The "Except Clause" of the 13th Amendment

SECONDARY SOURCE READING: David M. Oshinsky *Worse than Slavery*

LECTURE: Gorsuch lecture on slavery in the 21st century

April 4 The 21st Century Abolitionist Movement

A Conversation between Ed Rugemer and James Brewer Stewart, historian of American abolitionism and founding director of Historians Against Slavery

PRIMARY SOURCE READINGS: read *Historians Against Slavery* website
SECONDARY SOURCE READING: James Stewart, *Holy Warriors*

April 11 **Modern Slavery and Abolition in the United States**

A Conversation between Allison Gorsuch and Marian Grove, legislative assistant to Senator Amy Kloubachar

PRIMARY SOURCE READINGS: *United States of America v. Maksimenko* (United States District Court, Eastern District, 2005); Statement of "Katya" Trafficking Victim from Ukraine Before the House Judiciary Committee (2007) Trafficking Victims Protection Act. (available on course website).

***Rough Draft Due (see page 4 of the syllabus)**

April 18 **Prosecuting Slavery in International Court: Siliadin and Rantsev**

PRIMARY SOURCE READINGS: *Siliadin v. France*, 73316/01, Council of Europe: European Court of Human Rights, 26 July 2005; *Rantsev v. Cyprus and Russia*, Application no. 25965/04, Council of Europe: European Court of Human Rights, 7 January 2010; abridged (available on course website).

FINAL PAPERS DUE the last day of reading week

FINAL RESEARCH PAPER: FOUR ASSIGNMENTS

The final paper for this course should be 20-25 pages long, based on primary historical material or contemporary legal documents as well as secondary sources. There will be three assignments preceding the final paper; these are opportunities to develop your idea and receive feedback.

1. PRELIMINARY PROSPECTUS

due January 31 via email to Professors Rugemer and Gorsuch

What is your historical question? What is the geography and the time period in which you will explore this historical question? Are you interested in a particular case? A set of legal relationships? Be ready to present your project idea to the class.

2. ANNOTATED BIBLIOGRAPHY

due February 14 via email to Professors Rugemer and Gorsuch

Construct a bibliography of primary and secondary sources for your research project (at least ten books and articles, as well as several primary sources). "Annotated" means that you will write 2-3 sentences about each book/ article summarizing its

argument, sources, and scope. If you have changed your mind about your topic, rewrite the 500 words essay and turn in with your bibliography. Be ready to talk about your topic and the primary sources you intend to explore.

3. The PROSPECTUS/ HISTORIOGRAPHICAL ESSAY/ BIBLIOGRAPHY:

due Feb 28th via email to Professors Rugemer and Gorsuch

The prospectus is a short essay of about 1,000 words that explains the research project you will undertake. The text needs to include two parts: 1) a description of the topic and the historical question that you have decided to explore (this is an expanded version of the essay you have written); 2) a summary of some of the historiography that relates to your historical question. What have historians already written about your topic? Append to your prospectus/ historiographical essay an expanded bibliography of primary and secondary sources that you will use for your project.

4. ROUGH DRAFT

due April 10 via email to Professors Rugemer and Gorsuch

Write at least 10 pages of text and prepare a detailed outline of the remainder of the paper.

Grading

Final grades will be based upon five separate elements of your performance: (1) the mid-term exam, (2) the rough draft, (3) the final paper, (4) attendance and the quality of participation in the discussions, which includes the in-class writing assignments, (5) and the final exam. Final grades will be calculated based on the following formula:

Discussion Participation	20%
Preliminary Prospectus	5%
Annotated Bibliography	10%
Prospectus	15%
Final Paper	50%

Final grades will be calculated on a four point scale: A 4, A- 3.67, B+ 3.33, B 3, B- 2.67, C+ 2.33, C 2, C- 1.67, D+ 1.33, D 1.00, D-.67, F 0; see page 27 of the YPCS (the blue book).

Academic Honesty

We take academic honesty very seriously. All written work must be the original creation of the student. Nothing may be copied from other publications, the internet, or another student's work. For Yale's policies on academic see:

<http://yalecollege.yale.edu/content/academic-honesty> and follow the appropriate links.