In this course, we will study and analyze various topics in U.S. legal history from the Civil War to the Civil Rights Movement. General themes that we will be examining include how law shaped the transition from slavery to freedom, how it participated in creating the modern nation, the ways in which it defined and created citizenship, and how various social movements used the courts as part of wider grass roots campaigns. We will treat law as reflecting and shaping politics, society, the economy, and culture. Readings will include a wide-range of secondary scholarship. The class will be particularly concerned with what methodologies various authors have used and the stories that they tell (or do not tell).

Students will be asked to read approximately a book every two weeks or one law review article a week. In some weeks, there is more reading than in other weeks, so plan ahead. Each student will be required to hand in a bi-weekly (every other week) critique paper discussing the reading. The paper should be 250-400 words and include your informed thoughts about the reading, including how it compares to other works that we have studied. I am interested in your ideas and analysis, not a summary of the reading.

Students are expected to come prepared to discuss the readings. Informed participation in class discussion is crucial. At the end of the semester, there will be a take home examination consisting of essay questions. In terms of grading, the critique papers will be worth 50% of your grade and the exam 50%. Since class attendance is so important, the grade that you receive may be raised by as much as one increment (e.g. from a B to a B+), or in extraordinary cases two increments (e.g. from a B to an A-), for superior class participation. Grades may be lowered by the same amount for lack of attendance, preparation, or participation.

I reserve the right to change this syllabus to reflect the interests of the class as well as newly published scholarship.

Class 1
What is Legal History? Where Do We Find Law?
Hendrick Hartog, Pigs and Positivism

Week 2 and 3
What Does Love Have to Do with It? Marriage, Federalism, and the American State
Hendrick Hartog, Man and Wife in America.

Week 4 and 5
(Re)construction of the Political Economy: Free to be a Slave?
Amy Dru Stanley, From Bondage to Contract
Week 6 and 7
Thinking about the History of Pain, Suffering, and Tort Law
Barbara Welke, *Recasting American Liberty, Gender, Race, Law, and the Railroad Revolution*

Week 8
Progressive Legal Thought
Herbert Hovenkamp, *The Mind and Heart of Progressive Legal Thought*, 81 *Iowa Law Review* 149. (This is a very short essay, print it out.)


Week 9
Imagining the Origins of Civil Liberties
John Fabian Witt, *Crystal Eastman and the Internationalist Beginnings of American Civil Liberties* 54 *Duke Law Journal* 705 (Print out article)

Week 10
Re-Visiting the New Deal
Barry Cushman, *Rethinking the New Deal Court*, 80 *Virginia Law Review* 201 (Print out article)

Week 11 and 12
The Civil Rights Movement
Mary Dudziak, *Cold War Civil Rights: Race and the Image of American Democracy*

Week 13
Race and Feminism