This course examines the interaction between law and society in America from the period of European colonization through the mid 19th century. Some of the themes we will examine are: the interaction between native and European legal systems; the adoption and adaptation of European law, particularly English and Dutch law, to the circumstances of the American colonies; the development of the profession of law; shifts in women’s legal status and their relationship to everyday practices and opportunities for women; transformations in the law of servitude, slavery, race, and emancipation; and the role of political ideology and events in shaping American law. Witches, judges, women, lawyers, bankrupts, laborers, Native Americans, African Americans, servants and slaves are some of the groups we encounter in assessing the forces that shaped American legal culture and its institutions. The course is not about famous landmark court decisions, but about the everyday laws, beliefs, assumptions, and legal structures that affected people’s lives.

The course assumes no prior knowledge of law. As an upper-division course, however, it does assume some background in historical approaches, how to read primary documents and secondary works (books and essays), and how to go about writing an essay. The official pre-requisite for this course is U3 or U4 status; the advisory prerequisite is History 103 (U.S. history to 1877). The reading, writing, and other expectations are commensurate with an upper-division history course. The reading averages, over the course of the semester, approximately 50 pages weekly.

The questions woven into the class schedule (below) relate to the material that will be presented in class, as well as to the assigned reading. Think about these questions as you read to help you understand the themes of the reading. The questions help you to understand the objectives of the readings and related classes, as well as the course objectives. If provided, use the Reading Questions on BlackBoard to further help you answer the question, “What am I supposed to get out of this reading?”

**Learning Goals**
--Become familiar with major developments in the first 250 years of American history, with emphasis on legal developments.
--Analyze relationships among legal developments, social and demographic factors, beliefs, and culture.
--Recognize that laws and legal institutions (e.g., courts, legislatures, administrative offices) evolve in connection with values and the characteristics of societies, and, at the same time, that the characteristics of societies are shaped by its laws and legal institutions.
--Read secondary essays and books closely and critically, and respond to authors’ evidence, arguments, and conclusions.
--Read primary documents critically to understand contemporary developments and ideas from diverse perspectives.
--Discuss course materials regularly, thoughtfully, critically, and civilly with peers and develop a sophisticated understanding of the historical period and process.
--Synthesize diverse course materials and apply evidence and ideas to new questions, especially through in-class discussion and papers and essay exams.
--Draw connections between legal ideas, structures, and problems and the role of law in society in American history, and debates, questions, and values in the United States today.

Requirements and expectations

Assignments and Grading

Class engagement and in-class quizzes, 20%. For quizzes, some will be announced in class and some unannounced. There will be no make-ups, but one in-class quiz will be dropped. These are principally quizzes to assure good discussions of the reading, to encourage and reward on-time reading and thinking about the reading, and to get students thinking about connections between readings and lecture content. Contributions to discussions, or lack of contributions, will be noted in this category.

Response papers, 10%. Two out of a choice of three brief response papers, responding to a question posed and due as follows: February 4th, March 13th, and March 27th. No response papers will be accepted late, by email, or outside class, as the purpose of the response paper is to get you thinking about the reading that will be discussed in class on the date the paper is due. Only two response papers will be accepted.

Papers. Each paper assignment will specify an essay question and deadline instructions, including information on posting to SafeAssign and policy on late submissions. A Style Sheet on BB will specify formatting, etc.

** Paper One, 25%. Minimum 900, maximum 1200 words on question to be assigned. Due Thursday, February 27th.
** Paper Two, 30%. Minimum 1000, maximum 1250 words on question to be assigned. Due Tuesday, April 29th.

Final exam, 15%. Friday, May 16, 11:15-1:45. Format TBA.

The Writing Center offers help to students at various stages of assignments, and I encourage you to take advantage of it. Make appointments over the Web (and do so with lead time): http://www.stonybrook.edu/writhet/writingcenter.shtml

Reading

Journal articles, essays in edited volumes, short excerpts from books, and primary documents are all available on our class BlackBoard site, on E-Reserve, or through the links provided on the syllabus.
In addition, the following books are required reading and are available at the campus bookstore. We will use them in the order they are listed. Please be aware that the bookstore returns any unsold books early in the semester, so plan ahead and do not rely on purchasing them at the campus bookstore after about the sixth week of the course. Do not resell the Snyder book early in the semester. It might be required for the second paper.


**Classroom protocols**

*The University at Stony Brook expects students to maintain standards of personal integrity that are in harmony with the educational goals of the institution; to observe national, state, and local laws and University regulations; and to respect the rights, privileges, and property of other people. Faculty is required to report disruptive behavior that interrupts faculty’s ability to teach, the safety of the learning environment, and/or students’ ability to learn to Judicial Affairs.*

Your prompt attendance in each lecture is expected. Take notes in class. Write down information and ideas that reinforce main themes. Themes discussed in class can help you look at reading materials critically and with greater understanding, and enable you to synthesize material from different elements of the course. Examples and information from your notes can provide critical depth in replying to essay questions.

A positive learning environment includes eliminating distractions to yourself and to other students while you are in class. Each student is expected to turn off his or her cell phone. It is not appropriate to leave class to receive or make telephone calls. You should arrive to class on time and remain in class for its duration. Come prepared with your notebooks and writing implements. Do not engage in private discussions, games, text messaging, Web surfing, and so forth while in class. If use of your laptop distracts other students, you will not be allowed to continue to use it in class.

You really cannot multitask effectively; the studies that have been done lean overwhelmingly to this conclusion, regardless of the age of the multitasker.

For University policies and the Student Code of Conduct, consult the Students’ Welcome Center on the university website at <http://www.stonybrook.edu/sb/newstudents/index.shtml>.

**Email**

You can email instructors through BB. If you email directly (i.e., not through BB), be sure to indicate “H371” in the subject line of any emails to Prof. Rilling (<donna.rilling@stonybrook.edu>) or the Teaching Assistant (as above) so messages are not confused with spam and deleted unread. Add to the class number a subject specific to the reason you are emailing. Be sure to sign your name to your message. Observe English grammar, punctuation, and spelling (not “txt”) – even when emailing from your phone – so that
your message is understood correctly. Before emailing, make sure that your question is not already answered in the course materials.

Email is useful for brief questions, but you need to come to office hours for involved ones, such as the kind that arise in writing papers. To ensure your privacy as a student, grades will not be discussed over email.

**Caveat emptor:**

When you miss class, it is your responsibility to find out what you missed. Your first source should be a classmate.

You must complete all major assignments (the two major papers and the final) to be evaluated for a passing grade in the course. This rule holds even if you are taking the course grade/pass/no credit.

If you have significant personal, health, or family circumstances that interfere with your coursework, you should discuss the matter with the Dean of Students, who can then advise all your instructors as to accommodations that might be made to enable you to complete the course successfully. That will mean that you will not have to bare your soul to several instructors, but just to one individual who can act on your behalf and also answer your questions. It will be your responsibility, however, to discuss with the instructor strategies for completing the coursework.

The University Senate has authorized that the following required statements appear in all teaching syllabi on the Stony Brook Campus. This information is also located on the Office of the Provost website:


**Americans with Disabilities Act:**

If you have a physical, psychological, medical or learning disability that may impact your course work, please contact Disability Support Services, ECC (Educational Communications Center) Building, room128, (631) 632-6748. They will determine with you what accommodations, if any, are necessary and appropriate. All information and documentation is confidential.

**Academic Integrity:**

Each student must pursue his or her academic goals honestly and be personally accountable for all submitted work. Representing another person's work as your own is always wrong. Faculty are required to report any suspected instances of academic dishonesty to the Academic Judiciary…. For more comprehensive information on academic integrity, including categories of academic dishonesty, please refer to the academic judiciary website at http://www.stonybrook.edu/uaa/academicjudiciary/

**Critical Incident Management:**

Stony Brook University expects students to respect the rights, privileges, and property of other people. Faculty are required to report to the Office of Judicial Affairs any disruptive behavior that interrupts their ability to teach, compromises the safety of the learning environment, or inhibits students' ability to learn.

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**Tentative Schedule**
Wk 1, 1/28 & 1/30
Introduction to the course, to legal history, and to English law in the 16th century
Read for Thurs.: Snyder, Terri L., Brabbling Women, intro (pp. 1-18). Please bring the book or other material to class whenever it is on the syllabus as assigned or otherwise announced that we will be discussing it in class. I urge you to bring as much as the reading as possible, but in particular the documents, in hard copy form. If discussions fail because students do not have accessible versions of the reading under discussion, I will insist on hard copy materials.

Wk 2, 2/4 & 2/6
Tues.: RESPONSE PAPER DUE. The question and instructions are on BB.
What were the main characteristics of English law at the time of colonization in America? How did these characteristics affect law in Virginia? How did imperial goals and preconceptions affect the legal culture of the Virginia colony? How did the characteristics of Chesapeake colonization shape the legal systems of early Virginia?
Read for Tues.: Snyder, Brabbling Women, 19-66. AND bring to class Lowther’s Indenture Contract (1 page, BB).
Read for Thurs.: Snyder, Brabbling Women, 67-116.

Wk 3, 2/11 & 2/13
What could young English people anticipate for their future, how did English law reflect and reinforce those expectations, and how did law in the Chesapeake colonies perpetuate or change English concepts? How did law reinforce social inequalities in early America? What were the limitations to using law for these purposes? How English was the law of Virginia and Maryland (i.e., the Chesapeake region)? How did the particular characteristics (which characteristics?) of the early Chesapeake colonies, especially Virginia, shape a hybrid legal culture? How did English legal culture shape the characteristics of Chesapeake society?
Read for Tues.: Snyder, Brabbling Women, 117-144 AND Christine Daniels, “‘Liberty to Complaine’: Servant Petitions in Maryland, 1652-1797.” In The Many Legalities of Early America, ed. Christopher L. Tomlîns and Bruce H. Mann, 219-49. Chapel Hill, N.C., 2001. (The Daniels essay is on E-Reserve.)
For Thursday: Print out for class discussion, York Labor Complaints (1685-1712) from York County, Virginia, Deeds, Orders, and Wills. Virtual Jamestown, Virginia Center for Digital History, University of Virginia http://www.virtualjamestown.org/yorklaborcomplaints.html (but also on BB)

Wk 4, 2/18 & 2/20
How did the goals of the settlers of New England shape their societies and their legal systems? How was the law similar and different from that which developed in the Chesapeake? What factors account for those differences? How did English legal concepts differ from Native American concepts? How did each group adapt over the first two centuries of colonial settlement? How were notions of sovereignty and property changed in both cultures? How did English and other European laws and concepts legitimize conquest?


Wk 5, 2/25 & 2/27

Thurs.: PAPER ONE DUE.

How did the goals of the settlers of New England continue to shape their societies and their legal systems? How was the law similar and different from that which developed in the Chesapeake? What factors account for those differences?

Wk 6, 3/4 & 3/6

What did English Puritans and settlers of New England believe about witches? How do we explain the Salem witchcraft phenomenon? What laws governed witchcraft investigations? How did the witchcraft trials of the 1690s test those laws, and signal changes in evidentiary standards?

Who was most likely to be accused of witchcraft and on what grounds, and who was most likely to be found guilty? What social transgressions made men and women susceptible to being accused?


Print and bring to class, the Testimony of William Stacy against Bridget Bishop, from the Salem witchcraft papers, Volume 1: verbatim transcripts of the legal documents of the Salem witchcraft outbreak of 1692, edited by Paul Boyer and Stephen Nissenbaum. (One page, BB)

Wk 7, 3/11 & 3/13

What was the extent of Anglicization in New England law? Were colonial laws and legal institutions becoming more like England’s, or less? What factors influenced changes in the law and movement toward or away from Anglicization? How did political struggles and considerations, as well as local social disputes and animosities, influence legal change? How educated were New Englanders in law, and whence did they acquire their knowledge? What advantages did legal knowledge hold for individuals? How did the developments described by Lund play out in the witchcraft trials?


3/13: RESPONSE PAPER DUE. Question and instructions on BB.
Wk 8, 3/18 & 3/20 – Spring Break

Wk 9, 3/25 & 3/27

How was Dutch imperialism different from English imperialism? What goals did the Dutch have for New Netherlands? How did goals and expectations relate to the circumstances and characteristics of early colonization in New Netherlands?

What are some of the important differences between Dutch and English law in the 16th and 17th centuries? How did these differences affect various people in the New Netherlands? How did they affect women’s status and rights? How did Dutch goals and legal cultures shape New Netherlands? What contrasts and similarities were there between the Dutch New Netherlands colony and that of English Virginia?

In what ways did the Dutch in America experience change under the English empire? How did Dutch laws change or persist under English rule? What groups were able to benefit from these changes, and which did not? How persistent was the Dutch legal culture in colonial New York?

Were Africans in the New Netherlands better off under Dutch rule and subject to the Dutch-New Netherlands legal system than they were under English dominion?

Read for Tues.: NY Slave Code, 1644 (BB)


3/27: RESPONSE PAPER DUE. The question and instructions are on BB. This is the final chance to do a response paper.

Wk 10, 4/1 & 4/3

What accounts for the rise of slave societies, and when do some regions move toward slavery (rather than servitude)? To what degree did definitions of servitude and slavery hinge on race and religion? What were the laws regarding slavery in the 17th & 18th centuries, and how close did the circumstances “on the ground” come to the laws? What were the models for the law of slavery, since English law contained no such precedents? How did the status of slaves vary, depending on the demographic and economic characteristics of the region? How did these factors affect opportunities for slaves, for slaves to gain freedom, and for free persons of color generally?

Read for Thurs: Extracts from the South Carolina Slave Code of 1740 (BB).

(See what the act looks like in its original form:
http://www.teachingushistory.org/tTrove/documents/Scansof1740SlaveCodes.pdf)


Wk 11, 4/8 & 4/10

How did the status of slaves vary, depending on the demographic and economic characteristics of the region? How did these factors affect opportunities for slaves, for slaves
to gain freedom, and for free persons of color generally? What was the status of slaves and free blacks in revolutionary and post-revolutionary America? Did the Revolution affect their legal status? =>

Read for Tues.: Slaves’ Petition to the Massachusetts Legislature, 1777. http://historymatters.gmu.edu/d/6237 (BB)
Read for Thurs.: Wolf, Almost Free, entire.

Wk 12, 4/15 & 4/17
What factors after the revolution changed or reinforced slavery, or allowed for state and private emancipations? What did freedom mean for African Americans in the North? What legal, political, and social protections did they enjoy? What were the limitations of these protections? What dangers did they face? What motivated white Northerners in enforcing or thwarting the laws of slavery? What about white Southerners—how do you understand their roles in upholding the legality of slavery and the status of freed blacks?


Wk 13, 4/22 & 4/24
Did the American Revolution revolutionize women’s legal and political status? What were the limits to revolutionary change?

Wk 14, 4/29 & 5/1
How did transformations in the economy relate to legal changes, and vice versa, regarding work, workers, and business?
Tues: PAPER TWO DUE.

Wk 15, 5/6 & 5/8
Can court decisions of the early nineteenth-century be explained by Horwitz’s arguments?

Final: Friday, May 16, 11:15-1:45. Format TBA, Room TBA.
Revised schedule

Read for Tuesday, 2/18:
York Labor Complaints (1685-1712) from York County, Virginia, Deeds, Orders, and Wills. Virtual Jamestown, Virginia Center for Digital History, University of Virginia [http://www.virtualjamestown.org/yorklaborcomplaints.html](http://www.virtualjamestown.org/yorklaborcomplaints.html) (but also on BB)
Be sure to bring the reading to class.

Read for Thursday, 2/20:

An additional Response Paper question has been added and applies to the reading for 2/20. You may use it to fulfill one of the required papers. See Blackboard.