

Harvard University

Expository Writing 20 Personhood in U.S. Constitutional Law Spring 2022

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According to philosopher Thomas Hobbes, the world—including human selfishness—is violent, immoral, and ultimately unjust. Therefore, societies establish supreme laws to uphold contracts, preserve property, serve the general welfare, and secure peace. However, a problem arises from Hobbes' standpoint: if societies thrive upon arbitrary authority, it is only insofar as beneficiaries are able and willing to abide by the law. But given that humans are naturally uncooperative in the Hobbesian worldview, societies must invent something that recognizes and is in turn recognized by the law: a “person.” As a result, humans, non-human entities, and corporations can be “personated.” Jurisprudence consequently grapples with criteria whereby persons are defined. While Hobbes is not the architect of the U.S. Constitution, his influence on the issue of personhood is most apparent when we ask, “who are the ‘we’ in ‘we the people?’” What counts as a person? No question is more urgent in the course of U.S. events than when personhood is defined by the Supreme Court. From *Dred Scott v. Sandford* to *Brown v. Board of Education*, from *Roe v. Wade* to *Citizens United v. FEC*, this course explores numerous landmark decisions that have made and unmade people.

This course includes a possible field trip—pending advice and Covid restrictions—to the [John Adams Courthouse](#), home to the Supreme Judicial Court of Massachusetts as well as the Massachusetts Appeals Court, the oldest appellate court in the Americas.

Schedule

Unit One

We begin in Unit One by focusing on race and citizenship, asking questions about how personhood figures into the history of U.S. slavery and segregation. Considering these questions through writing assignments based in slow, careful, and deliberate *analysis*, this unit culminates in a Close Reading Essay where you *interpret* a majority or dissenting opinion selected from a single case. In this single-source assignment, you will learn how to locate a judicial argument's foremost assumptions and commitments, interrogate its *key terms*, and explain *what is at stake* in granular detail. Most importantly, you will start to notice how fruitful writing is not about having the right answers, but about asking the right questions.

Unit One Sources:

Dred Scott v Sandford (1857), *Plessy v Ferguson* (1896), *Brown v Board of Education* (1954)

Unit Two

Having practiced actively reading a primary source and economizing your *evidence* through a focused lens, you will enter Unit Two prepared to ask bigger questions, raising the stakes of your writing. In this unit, we will continue investigating Supreme Court decisions on the topics of gender and civil liberty, going beyond court documents to view extracts from the [Justice Sotomayor](#) and [Justice Gorsuch](#) confirmation hearings as a means to survey issues of prejudice in the law even when confirming Justices. Assignments will incorporate multiple perspectives into your thinking, building towards your *thesis-driven Comparative Analysis Essay*. In this essay—which is more complicated and nuanced than your previous essay—you will make an *arguable* claim in reference to your two chosen texts, navigating different viewpoints with an emphasis placed on how you *structure* and *transition* through your argument. By the end of this unit, you will notice that learning how to write is about communicating with an audience as you situate your opinions in a wider conversation.

Unit Two Sources:

Loving v Virginia (1967), *Minor v Happersett* (1875), *Buck v Bell* (1927)

Unit Three

Highlighting some of the most contentious cases within the Supreme Court's purview in recent decades, Unit Three deals with a range of topics including abortion. By appreciating that framing a debate around a dilemma is as much about curating your *sources* as about *orienting* your reader, this unit affords you the greatest freedom and responsibility for selecting materials to study and cite when writing your final essay. While we will read scientific, sociological, and philosophical articles in addition to reading legal decisions as a group, assignments completed in preparation for your independent Research Essay welcome a variety of interdisciplinary approaches. Intervening in a

conversation on your own terms and taking a *stance* therein, you are invited to employ supplemental research methods of your choosing when crafting your essay. By engaging the primary and secondary source documents, thoughtfully supporting your thesis with choice evidence, this essay brings all the previously exercised writing skills together in an opportunity to cultivate your own investments in U.S. Constitutional discourse which, in turn, makes for informed and interesting writing.

Unit Three Sources:

Roe v. Wade (1973), Tooley's "Abortion and Infanticide" (1972), *Citizens United v. FEC* (2010), Blair's "Of Corporations, Courts, Personhood, and Morality" (2015)

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Writing Process

Writing essays for Expos includes pre-draft assignments, draft cover letters, rough and final drafts, individual instructor conferences, and peer workshops.

Due Dates

You should complete your assigned readings and tasks ahead of listed due dates on the schedule since your homework informs our in-class discussion. All readings and assignment handouts will be made available on Canvas. Issues related to accessing course materials do not excuse missing due dates or being unprepared: if you ever need a resource, please contact me and I will help you to complete your work on time. Because Expos courses move quickly and build from unit to unit, extensions are forbidden excluding serious issues outside of your control. In any case, you must be in contact with me if you anticipate falling behind and I will do whatever I can to keep you on track. Unless you notify me in advance about extenuating circumstances that will prevent you from submitting your work, I will lower your grade for the assignment by one letter for each day that it is late.

Grading

Close Reading Essay Revision	25%
Comparative Analysis Essay Revision	30%
Research Essay Revision	35%
Engagement	10%
Pre-Draft Assignments	Included in Engagement and Essay grades

Policies and Campus Resources

Accommodations for Students with Disabilities

If you think you will require some flexibility in deadlines or participation in the course for reasons of a documented disability, please schedule a meeting with me early in the semester so we can discuss appropriate accommodations. (To be eligible for such accommodations, you need to have provided documentation to the Accessible Education Office ahead of time. Please let me know if you are unfamiliar with that process.) The Accessible Education Office works closely with Expos courses, and we will develop a plan that is appropriate for your needs. Please note that it is always your responsibility to consult with me as the need for those accommodations arises.

Counseling and Mental Health Services

<https://camhs.huhs.harvard.edu>

Academic Resource Center

<https://academicresourcecenter.harvard.edu/services>

Writing Center

<http://www.fas.harvard.edu/~wricntr>

Policy on Electronic Submissions

You will submit your work electronically this semester through our Canvas site. (Email and/or print copies are acceptable alternatives.) As you send or upload each document, it is your responsibility to ensure that you have saved the document in a form compatible with MS Word. It is also your responsibility to ensure that the file you are sending is not corrupted or damaged. If I cannot open or read the file you have sent, the essay will be subject to a late penalty.

Policy on Course Materials

The work we do together in class—discussions, exercises, workshopping essays—is intended for the members of our class. Students are not allowed to record class and are not allowed to post video or audio recordings or transcripts of our class meetings. (Students needing course recordings as an accommodation should contact the [Accessible Education Office](#).) While samples of student work will be circulated within the course (and all work you do may be shared with your classmates), you may not share fellow students' work with others outside the course without their written permission. As the *Handbook for Students* explains, students may not “post, publish, sell, or otherwise publicly distribute course materials without the written permission of the course instructor. Such materials include, but are not limited to, the following: video or audio recordings, assignments, problem sets, examinations, other students' work, and answer keys.” Students who violate any of these expectations may be subject to disciplinary action.

Harvard College Writing Program Policy on Attendance

The Writing Program attendance policy is intended to make sure that you get everything you can out of your Expos course. Because Expos has fewer class hours than some other courses; because the course is largely discussion-based; and because instruction in Expos proceeds by sequential writing activities, your consistent attendance is essential to your learning in the course.

While I of course encourage you to be present everyday in class, you are allowed two unexcused absences for the semester with no consequence. Some absences (religious holidays and medical situations) are automatically considered excused; some family circumstances may also be counted as excused absences. If you miss two unexcused classes, I will ask you to meet with me to discuss any issues that may be keeping you from attending, and to advise you on your plan for catching up on the missed work. If you miss a third class, you will be required to meet with your Resident Dean about those absences, so that your Dean can give you any support you may need to help you get back on track in the class. Missing four classes--the equivalent of two full weeks of the semester--puts you at risk for missing crucial material necessary to complete your work. Unless there is a medical or other emergency issue preventing consistent engagement with the class, students who miss four classes will receive a formal warning that they are eligible to be officially excluded from the course and given a failing grade.

In the case of a medical problem, you should contact me before the class to explain, but in any event within 24 hours. In the case of a medical absence, you may be required to provide a note from UHS

or another medical official to confirm that absence as excused; protracted or repeated illness will require such documentation. Absences because of special events or extracurricular involvement are not excused absences. If such circumstances lead you to want to miss more than two unexcused absences, you must petition the Associate Director of the Writing Program for permission.

Harvard College Writing Program Policy on Completion of Work

Because your Expos course is a planned sequence of writing, you must write all the assigned essays to pass the course, and you must write them within the schedule of the course (not in the last few days of the semester after you have fallen behind). If you are unable to complete your work on time due to medical or family issues, please contact me before the deadline to discuss both the support you might need as well as a possible new arrangement for your deadline. Communication about your situation is essential so that we can determine how best to help you move forward. If we have not already discussed your situation and you fail to submit at least a substantial draft of an essay by the final due date in that essay unit, you will receive a letter reminding you of these requirements and asking you to meet with me and/or your Resident Dean to make a plan for catching up on your work. The letter will also specify the new date by which you must submit the late work. If you fail to submit at least a substantial draft of the essay by this new date, and if you have not documented a medical problem or been in touch with your Dean about other circumstances, you are eligible to be officially excluded from the course and given a failing grade.

Policy on Collaboration

As in many academic situations, our Expos class will be a setting that involves frequent collaboration--we will develop ideas together through class discussion, peer review, and draft workshops. The following kinds of collaboration are permitted in this course: developing or refining ideas in conversation with other students and through peer review of written work (including feedback from Writing Center tutors). It is a form of academic integrity to acknowledge the impact someone had on your essay; you can do this in a footnote at the beginning of the paper. As stated in the *Student Handbook*, "Students need not acknowledge discussion with others of general approaches to the assignment or assistance with proofreading." However, all work submitted for this course must be your own: in other words, writing response papers, drafts or revisions with other students is expressly forbidden.

Policy on Academic Integrity

One of the essential elements of the Expos curriculum is the work we do on effective source use, appropriate acknowledgement of sources, and expectations for citing sources in academic writing. In each unit, we will work on strategies for working with the ideas of other authors and sources, and how to develop your own ideas in response to them. Most forms of academic writing involve building on the ideas of others, contributing ideas of your own, and signaling clearly for readers where each idea comes from. This complex relationship with sources is part of our work through the whole semester, and you should always feel free to ask me questions about this material.

As we become familiar with the expectations of an academic audience, we will also work on strategies to avoid errors in citation and unintentional plagiarism. As with all your courses, the expectation in Expos is that all the work that you submit for this course must be your own. That work should not make use of outside sources unless such sources are explicitly part of the

assignment. Any student submitting plagiarized work is eligible to fail the course and to be subject to review by the Honor Council, including potential disciplinary action.

Additional Resources

Foundational Documents

[Magna Carta](#)
[Declaration of Independence](#)
[Articles of Confederation](#)
[Federalist Papers](#)
[U.S. Constitution](#)
[Bill of Rights](#)

Informative Media

[Annette Gordon-Reed's "Law and Race-Making in Early America"](#)
[Conversation with Six Supreme Court Justices](#)
[Professor Laurence Tribe's Testimony Opposing Judge Robert Bork's Supreme Court Nomination](#)
[Justice David Souter's Harvard's 359th Commencement Address](#)
[Richard Posner on Constitutional Interpretation](#)

Helpful Resources

[U.S. Supreme Court](#)
[U.S. Courts](#)

Recommended Thinking Place

Throughout the semester, you might find yourself in need of a quiet location to reflect as you think about your assignments. Mount Auburn Cemetery, the crown jewel of the American Rural Cemetery Movement, is a peaceful thirty-minute walk from Harvard Yard, and a fabulous thinking place.

