

Harvard University

Expository Writing 20 Personhood in U.S. Constitutional Law

Fall 2021

Instructor: Dr. Ross Martin
Email: rossmartin@fas.harvard.edu

Office Location: TBD
Office Hours: TBD



According to 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 capable 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 develops argumentative writing through exploring 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 critical but curious 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)

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, extension 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	20%
Comparative Analysis Essay Revision	25%
Research Essay Revision	30%
Pre-Draft Assignments	15%
Participation	10%

Additional Resources

Foundational Documents

[Magna Carta](#)

[Declaration of Independence](#)

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

[Informative Media \(more forthcoming\)](#)

[Professor Laurence Tribe's Testimony Opposing Judge Robert Bork's Supreme Court Nomination](#)
[Justice David Souter's Harvard's 359th Commencement Address](#)

[Helpful Resources \(more forthcoming\)](#)

[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.



Policies and Campus Resources:

TBD