**Objective**: This course will look at the historical and current relations between corporations, race and democratic society. There is a deep relationship between how we think of corporations’ rights and the social-political space they occupy and the space for marginal groups, especially people of color and women. This relation is seldom explored or understood. This failure has important implications for our democracy, civil rights, and our economy. To the extent that we discuss this at all, it is framed in terms of public and private. This is a mistake that obscures the dynamic between people and corporations and what is at stake.

**Readings:** Most of the assignments in this course will be cases, law review articles, or book chapters. Many of the readings will be excerpts. Please note that the syllabus is subject to change, and that additional assignments may be provided during the course of the semester.

**Note:** *Please copy Legal Assistant Jake Feltham, jfeltham@law.berkeley.edu, on all communications with Professor powell.*

*Week 1: Consciousness the self and inclusion*

* *Thematizing Inclusion: Young. Inclusion and Democracy*: pp. 11-14 posted
* *Difference: Minow* pp. 19-31, 79-80 posted
* *Illusion of the Self: Wilson* pp. 43-50
* *Racing to Justice* chapter six
* *Primer Kang: posted*

*Week 2: Slavery, Personhood and Citizenship*

* *Dred Scott v. Sanford*, 60 U.S. 393 (1856).
  + Read pp. 397-431 (C. Justice Taney on the citizenship question and plea in abatement), and pp. 564-590 (Justice Curtis Dissenting on the citizenship question and plea in abatement).
* 13th, 14th, and 15th Amendments
  + Read in their entirety.

*Week 3: Jim Crow and Corporate Personhood*

* *The Slaughterhouse Cases*, 83 U.S. 36 (1873)
  + Read Justice Miller’s opinion and Justice Field’s dissent
* *Santa Clara County v. Southern Pacific R. Co.,* 118 U.S. 394 (1886).
* Charles Black, “Human Rights and the States,” *A New Birth of Freedom: Human Rights, Named and* Unnamed, Chapter 2. (See handout)

*Week 4: The Revolution of 1937*

* *Plessy v. Ferguson,* 163 U.S. 537 (1896)
  + Be sure to read Justice Harlan’s dissent.
* Lochner v. New York, 198 U.S. 45 (1905)
* United States v. Carolene Prods. Co., 304 U.S. 144 (1938).
* Cass Sunstein, “The Revolution of 1937,” The Partial Constitution, Chapter 2 (see handout).
* john powell, *Constitutionalism and the Extreme Poor: Neo-Dred Scott and the Contemporary “Discrete and Insular Minorities*,” 60 Drake L. Rev. 1069 (2012).

*Week 5: The Public-Private Distinction*

* *Dartmouth College v. Woodward*, 17 U.S. 518 (1819).
* *Marsh v. Alabama*, 326 U.S. 501 (1946).
* *Shelly v. Kraemer*, 334 U.S. 1 (1948).
* The Dartmouth College Case and the Public-Private Penumbra,” Judge Henry Friendly (1969)
* David Rothkopf. “How the Rule of Law Backfired,” *Power Inc.: The Epic Rivalry Between Big Business and Government and the Reckoning that Lies Ahead*, Chapter 6 (see handout).

*Week 6: The Powell Memo & The Expansion of Corporate Rights*

* The Powell Memo, available online at <http://reclaimdemocracy.org/corporate_accountability/powell_memo_lewis.html>
* *Citizens United v. Fed. Election Comm’n.* 558 U.S. 310 (2010).
* *Money Unlimited, How Chief Justice John Roberts orchestrated the Citizens United decision.* Jeffrey Toobin. The New Yorker, May 21, 2012.
* *Optional: First National Bank of Boston v. Bellotti*, 435 U.S. 765 (1978)

*Week 7: Beyond Public/Private*

* Richard Rothstein, *Race and public housing: Revisiting the federal role*, Economic Policy Institute, 17 Dec. 2012. <http://www.epi.org/publication/race-public-housing-revisiting-federal-role/>
* john a. powell & Stephen Menendian, *Beyond Public/Private: Understanding Excessive Corporate Prerogative*, 100 KY. L.J. 84 (2011/12).

Week 8: The Political Restructuring Doctrine

* *Hunter v. Erickson*, 393 U.S. 385 (1969).
* *James v. Valtierra*, 402 U.S. 137 (1971).
* *Crawford v. Board of Education of the City of Los Angeles*
* *Washington v. Seattle School Dist. No 1*, 458 U.S. 457 (1982).
* *United States v. Cantrell*, 433 F.3d 1269 (9th Cir. 2006).
* *Cantrell Petition to the US Supreme Court*

*Week 9: Disparate Impact Doctrine Under Attack*

* *Ricci v. DeStefano*, 557 U.S. 557 (2009).
* *Mt. Holly Gardens Citizens in Action, Inc. v. Twp. of Mount Holly,* 658 F.3d 375 (3d Cir. 2011) *cert. granted in part,* 133 S. Ct. 2824 (U.S. 2013).
* *Petition for Cert, Mt. Holly Gardens, to US Supreme Court*

*Week 10: Voting Rights*

* Shelby Cnty., Ala. v. Holder, 133 S. Ct. 2612 (2013).
* *The Triumph of Tokenism: The Voting Rights Act and the Theory of Black Electoral Success.* Lani Guinier. Michigan Law Review, Vol. 89, No. 5 (Mar., 1991), pp. 1077-1154.

*Week 11: Othering, Belonging, Marginality and Accommodation*

* john powell, “Introduction,” *Racing to Justice*, pp. XVII-XXV (see handout).
* john powell, “Poverty and Race Through a Belongingness Lens,” (Policy Matters, vol. 1, iss. 5, April 2012) (see handout).
* Andrew Solomon, “Son” and “Father,” *Far From the Tree, Parents Children and the Search for Identity*. Chapters 1 & 12 (see handout).

*Week 12: LGBTQ Constitutional Rights and Othering*

*TBD*

*Week 13: Present Papers in Class*

*Week 14: Present Papers in Class*