

Constitutional Law: Civil Rights and Civil Liberties

PSC 411-B, Fall 2008

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In America, we tend to revere our founding document to an extent that seems quite unusual to the citizens of other constitutional democracies. We know that our constitution was the first of its kind, and most of us know that it starts with something like “We the people...” We also know that the Constitution provides a prescription for the protection of individual rights and liberties. These prescriptions, however, are generally far less precise than we might expect.

In order to determine what the text of the Constitution actually requires, we use “constitutional law.” Constitutional law can give us answers to questions regarding the balance of liberty and equality, but these answers are typically far from precise, and far from indisputable. What remains is a gray area where the important questions of power and privilege are discussed, debated, and advanced according to the changing needs of government and society.

The main aim of this course is to peek into this gray area of constitutional jurisprudence and attempt to make sense of the vagaries of this venerated document. We will begin by learning about the tools used by judges and lawyers to address these questions. We will also examine the institutional constraints within which these actors operate, and the effect that these constraints have on the resulting constitutional law. From here, we will learn about the process of incorporation through which the Bill of Rights was nationalized. We will then examine the history and status of constitutional jurisprudence in some of the most important and controversial areas of American law. We will trace the path of legislation and litigation on topics like freedom of speech, abortion, gun control, religion, crime and punishment, and discrimination. Through this process, we will become aware of the way that history and circumstance unite with legal analysis to produce constitutional law. Finally, we will try our hand at “doing” constitutional law. As a class, we will don the “robes and wigs” of those who shape constitutional law. With any luck, we will develop a deeper understanding of the complex process of determining the meaning of the Constitution in the contemporary American circumstance.

Course Objectives

After completing this course, the successful student will:

- 1) Have a working knowledge of the constitutional jurisprudence relative to the protection of individual rights and liberties;
- 2) Understand the process of constitutional law and be able to “think like a constitutional lawyer”;
- 3) Analyze the merit of particular legal arguments and approaches, both from a socio-political perspective and a legal perspective;
- 4) Convince others of a particular legal argument or stance, addressing the best arguments on either side of the debate.

Required Texts

- ✓ Epstein, Lee and Thomas Walker. 2007. *Constitutional Law for a Changing America: Rights, Liberties and Justice*. 6th ed. ISBN: 0-87289-478-9
- ✓ Pohlman, H.L. 2005. *Constitutional Debate in Action: Civil Rights and Liberties*, 2nd ed. Rowman & Littlefield. ISBN: 0-7425-3667-X.
- ✓ *Additional Readings* available in-class or on the WebCampus website.

Course Requirements

WebCampus Quizzes

In this course, all readings should be completed *prior* to the indicated class period. In addition, a series of mini-quizzes will be conducted *via* the course Blackboard website. These quizzes are meant:

- 1) to encourage you to stay up-to-date with your readings;
- 2) to help prepare you for the examinations
- 3) to provide an efficient way for you to earn points toward your final score; and
- 4) to help me know which topics are generally understood, and which need more attention during class.

There will be **25** quiz opportunities offered over the course of the semester. Each of these will be available online prior to the class period, but will be removed 15 minutes prior to the class meeting time. Late submissions of these quizzes will not be accepted. In the calculation of your final grade, your quiz average will be calculated over your **20** grades.

Debate Participation & Paper

In this course, class participation assumes class *preparation*. You will be expected to complete the reading assignments *before* the class period for which they are assigned. This will allow you to come prepared with any questions you have about the material. While there will be opportunities for participation in every class meeting, we will be having 6 debates based on the material from the *Constitutional Debate in Action* book. Near the beginning of the term, you will be asked to choose a debate in which to participate. Every student will have the opportunity to star in at least one of these debates, and a portion of the debate participation score will be based on this performance. Your presentation will be accompanied by a 5 page paper reviewing the academic scholarship on your topic. While your presentation will be from a partisan perspective, your paper will not be. In addition, each student in the "gallery" will critically evaluate performers in the debate, and will be graded on this evaluation. These evaluations will assume a working knowledge of the reading, and will make up the remainder of the debate participation score.

Case Briefs

As a class, you will compile a comprehensive set of one-page case briefs for each of the cases covered this term. This task will be divided evenly among the students in the class. All students will be assigned cases in the first week of the course. Each brief you create will be presented in class at the appropriate time. You will be expected to present the brief in class and to be an expert in that case. You must brief the *full case* (not just the book excerpt). Your brief must be submitted prior to the specified class period *via* WebCampus, and will be subject to suggestions by your fellow students. This brief will then be graded and will become part of *everyone's* course notes. For this reason, it is imperative that you complete your briefs with diligence according to the style sheet (to be distributed). Please be aware that it is *not* acceptable to consult online briefs in the construction of your work (as this would be cheating).

Examinations

There are two examinations in this course. Both examinations will be closed book. You will need to bring a *blank* bluebook to each exam. The midterm exam will be held on **10/16** in class. The final exam for this course will be held on **12/11** at 6:00 p.m. The final exam will assume a thorough knowledge of all material covered in the course, but will be weighted toward the post-midterm material.

University Policies

Academic Misconduct

Academic integrity is a legitimate concern for every member of the campus community; all share in upholding the fundamental values of honesty, trust, respect, fairness, responsibility and professionalism. By choosing to join the UNLV community, students accept the expectations of the Academic Misconduct Policy and are encouraged when faced with choices to always take the ethical path. Students enrolling in UNLV assume the obligation to conduct themselves in a manner compatible with UNLV's function as an educational institution." An example of academic misconduct is plagiarism: "Using the words or ideas of another, from the Internet or any source, without proper citation of the sources." See the "Student Academic Misconduct Policy" (approved December 9, 2005) located at: <http://studentlife.unlv.edu/judicial/misconductPolicy.html>.

Copyright Policy

The University requires all members of the University Community to familiarize themselves with and to follow copyright and fair use requirements. You are individually and solely responsible for violations of copyright and fair use laws. The university will neither protect nor defend you nor assume any responsibility for employee or student violations of fair use laws. Violations of copyright laws could subject you to federal and state civil

penalties and criminal liability, as well as disciplinary action under University policies. To familiarize yourself with copyright and fair use policies, you are encouraged to visit the following website:
<http://www.unlv.edu/committees/copyright>.

Academic Accommodations

The Disability Resource Center (DRC) coordinates all academic accommodations for students with documented disabilities. The DRC is the official office to review and house disability documentation for students, and to provide them with an official Academic Accommodation Plan to present to the faculty if an accommodation is warranted. Faculty should not provide students accommodations without being in receipt of this plan. UNLV complies with the provisions set forth in Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, offering reasonable accommodations to qualified students with documented disabilities. If you have a documented disability that may require accommodations, you will need to contact the DRC for the coordination of services. The DRC is located in the Student Services Complex (SSC), Room 137, and the contact numbers are: Voice (702) 895-0866, TTY (702) 895-0652, fax (702) 895-0651. For additional information, please visit: <http://studentlife.unlv.edu/disability>.

The Writing Center

One-on-one or small group assistance with writing is available free of charge to UNLV students at the Writing Center, located in CDC-301. Although walk-in consultations are sometimes available, students with appointments will receive priority assistance. Appointments may be made in person or by calling 895-3908. The student's Rebel ID Card, a copy of the assignment (if possible), and two copies of any writing to be reviewed are requested for the consultation. More information can be found at: <http://writingcenter.unlv.edu>.

Grading Policy

Weighted Assessment List:

Blackboard Quizzes	20 %
Case Briefs	20 %
Debate Participation	20 %
Midterm Exam	20 %
Final Exam	20 %

Grading Scale:

A	Exceptional	90-100	%
B	Good	80-89	%
C	Average	70-79	%
D	Marginal	60-69	%
F	Unacceptable	<60	%

Tentative Course Schedule

The schedule of topics is listed in the table below. Please note that the relevant book chapters are listed, but that there will be additional reading material for each topic. This material will be made available on WebCampus at least a week in advance of our discussion on the topic. At the end of each course period, you will get specific instructions about which readings will be required for the next class.

Week	Date	Topic	Book Chapters
1	8/26	The Supreme Court	E&K1
2	9/2	The Court's Power	E&K2-3
3	9/9	Freedom of Religion	E&K4, Pohlman 6
4	9/16	Freedom of Speech	E&K5, Pohlman 4
5	9/23	Freedom of the Press	E&K6
6	9/30	Limits of Free Speech	E&K7
7	10/7	The Second Amendment	E&K8
8	10/14	The Right to Privacy	E&K9; Pohlman 3
9	10/21	Rights of the Accused: Investigations	E&K10
10	10/28	Rights of the Accused: Trial & Punishment	E&K11
11	11/4	Racial Discrimination	E&K12; Pohlman 1
12	11/11	Sex Discrimination	
13	11/18	Affirmative Action	Pohlman 2
14	11/25	Voting & Elections	E&K13; Pohlman 5
15	12/2	Study Week	
16	12/9	Final Exam @ 6:00 p.m.	
The midterm will be held in class on 10/16.			