

# Constitutional Law SPRING 2023

## Syllabus

<b>Meeting Time and Location:</b>	M 2:30pm- 4:00pm & T,Th 9:00am -10:30am
<b>Faculty Information:</b>	Professor Daniel I. Morales <a href="mailto:dimoral2@central.uh.edu">dimoral2@central.uh.edu</a> 341G Office Hours: By appointment
<b>Course Materials:</b>	Richard D. Friedman & Julian Davis Mortenson, Constitutional Law: An Integrated Approach (2021)

**Course Description:** This introductory course will cover the text of the United States Constitution, the power of judicial review over federal and state legislation, and the scope of (and limitations on) the federal government's power via sources such as commerce, spending, taxing, war and enforcement sections of the post-Civil War amendments. It will cover constitutional constraints on the allocation of federal power amongst the executive, legislative and judicial branches. Individual rights guaranteed by the Constitution will also be addressed, including rights to free speech and religious freedom under the first amendment, as well as rights such as due process and equal protection created or incorporated by the 14th amendment. The course will also briefly consider the treatment of Indians, immigrants and territories under the Constitution.

**Course Requirements:** Class attendance and participation are mandatory. If you are unprepared you must send me an e-mail (please don't give me any reasons) by 9:30 a.m. the day of class. You may do this only four times over the course of the semester, after that your grade will be lowered. If I find that you are unprepared when I call on you and you have not e-mailed me by 9:30, I will dock your grade. Should an illness or an event in your personal life interfere with your ability to prepare over an extended period of time (i.e., more than four classes), see me privately, please.

**Method of Instruction:** I will teach this course using a combination of case analysis, statutory interpretation, lecture, and problem-solving. Some of your reading assignments ask you to complete problems ahead of class. You should be prepared to discuss your answers during our class time. Working the problems ahead of time will not only enrich our class discussion but will also serve as good practice for the exam.

**Method of Evaluation:** Your grade for this course will be based on a final scheduled exam at the end of the semester and the quality of your class participation. Your grade also may be lowered for consistently poor participation or for multiple absences. I will grade your exam essay answers based on the following criteria:

- knowledge of the material in the course
- analysis of the legal and factual issues presented
- clarity, cogency, and organization of argument
- accurate and appropriate use of legal terminology
- quality of expression

**How to Reach Me:** TBA, but I am happy to make alternate arrangements. As exam time approaches, I will schedule additional hours. I will also typically be available immediately after each class.

**Schedule of Assignments:** Each class moves at its own pace. I will give the next class assignment at the end of each class. If you miss class, please get the assignment from a classmate. If you are out of town and need to read ahead, please contact me and I can give you an estimate of where I think we will be. Readings listed here are tentative and subject to change

Class 1: The Constitutional Text and What Came Before  
CB XIV-LXV and 1-24

What portions of the text of the Constitution stand out to you? Why?  
What were the main shortcomings of the Articles of Confederation?  
What was the process put forward to Amend the Articles of Confederation?

Class 2: Ratification Debates, Adoption, and the Scope of Enumerated Powers  
CB 24-52

Class 3: Getting the Constitution off the Ground  
CB 53-71

Class 4: Antebellum Controversies and Equilibrium  
CB 71-93

Class 5: Native Americans and the Republic  
Native American Status and *Johnson v. McIntosh*, 21 U.S. (8 Wheat.) 543 (1823)  
and case selections  
*Cherokee Nation v. Georgia* 30 U.S. (5 Pet.) 1 (1831)

Class 6: Antebellum Slavery  
CB 94-127

Wendell Phillips, "The Constitution: a Pro-Slavery Compact," in *Against Slavery: An Abolitionist Reader*, ed. Mason Lowance (2000), pp. 241-245

Class 7: Succession and the Civil War  
CB: 127–156

Class 8: Reconstruction and Its Failure  
CB 156-184

Class 9: Regulatory Demands and Developments and the New Deal  
CB 184-206

Class 10 Who Can be American?  
*Chae Chan Ping v. United States*, 130 U.S. 581 (1889)  
*Downes v. Bidwell*, 182 US 244 (1901)  
*Balzac v. Porto Rico*, 258 U.S. 298 (1922)

Class 11: Reconsidering Judicial Review  
CB 253-263

Niko Bowie Remarks

Class 12: Congressional Power and the Commerce Clause  
CB 349-353, 375-400

Class 13: The New Deal Commerce Clause  
CB 413-453

Class 14: The Rehnquist Court Commerce Clause and the Taxing Power  
CB 454-467

CB 467-500

Class 15: The Tenth Amendment  
CB 500-525

Class 16: Obamacare on Trial  
CB 525-557

Class 17: Taxing Power  
CB 557-588

CB 608-639

Class 18: Federalism Constraints on the States  
CB 640-642; 649-662; 672-682

Class 19: Presidential Power  
CB 695-723

Class 20: Presidential Power Continued  
CB 723-730; 740-749; 812-825

Class 21: Presidential Power Continued  
CB 880-908

Class 22: Equal Protection  
CB 953-982

Class 23: Equal Protection  
CB 982-1008

Class 24: Equal Protection  
CB 1008-1025

Class 25: Equal Protection  
CB 1035-1055; 1072-1080

Class 26: Equal Protection  
CB 1086-1110

Class 27: Equal Protection

CB 1110-1159

Class 28: Gender Discrimination

CB 1198-1207; 1217-1237

Class 29: Procedural Due Process

CB 1267-1282; 1287-1297

Class 30: Substantive Due Process

CB 1305-1330

Class 31: Substantive Due Process

CB 1331; 1365-1369; 1394-1428

Class 32: Substantive Due Process

CB 1480-1491; 1501-1520

Class 33: Substantive Due Process

CB 1520-1544