

**Constitutional
Studies
Comprehensive Exam and
Reading List**

**Revised
12/13/19**

The Constitutional Studies comprehensive examination is an open-book, written exam, to be completed and submitted no later than 6 hours after the exam is distributed. The 6-hour limit is firm, with exceptions at the discretion of the Director of Graduate Studies only for physically or linguistically handicapped students and documented events of an extraordinary nature, not including equipment problems for which the student is presumed responsible. Failure to meet the deadline means failure on the exam.

The exam will consist of three questions. No answer can be longer than 1,700 words. Answers must be the student's own, and students are urged to take special care to avoid suspicion of plagiarism. All quotes, paraphrases, and copied material (charts, tables, etc.) must be accompanied with full references. Answers sent PDF must be doubled-spaced; students must save copies of their answers in PDF for future production as the DGS may request.

The field of Constitutional Studies at Notre Dame is divided into four subfields: (1) Philosophy of Law and Constitutional Interpretation; (2) American Constitutional Law and Judicial Politics; (3) Comparative Constitutional Systems and Law; (4) International Law and Human Rights. Students must answer at least one question in (a) Philosophy of Law and Constitutional Interpretation, *and* (b) American Constitutional Law and Judicial Politics. For their third answer, students choose to answer a question from *either* (c) Comparative Constitutional Systems and Law *or* (d) International Law and Human Rights.

The field faculty will make every effort to grade the comps within three weeks of completion.

Constitutional Studies Subfield Reading Lists

(1) Philosophy of Law and Constitutional Interpretation

Aristotle, *Nicomachean Ethics*, Book 5

Aristotle, *Politics*, Books 1, 3, 7-8

Thomas Aquinas, *Summa Theologiae*, I-II, Q. 90-108

John Austin, *The Province of Jurisprudence Determined*

Publius, *The Federalist Papers*: 1, 6, 9, 10, 14-17, 23, 25, 37, 39-49, 51, 57, 62-63, 70-72, 78, 84

Sotirios Barber and James Fleming, *Constitutional Interpretation: The Basic Questions*

Sotirios Barber, *Welfare and the Constitution*

John Hart Ely, *Democracy and Distrust*

Ronald Dworkin, *Freedom's Law: The Moral Reading of the American Constitution*

H.L.A. Hart, *The Concept of Law*

Michael S. Moore, "Law as a Functional Kind"

"A Natural Law Theory of Interpretation"

John Finnis, *Natural Law and Natural Rights*

(2) American Constitutional Law and Judicial Politics

A. U. S. Supreme Court Cases

American political scientists specializing in constitutional studies are expected to know the landmark cases of American constitutional history. These cases are reprinted in the standard casebooks of American constitutional law, which students preparing for the comp should consult. As for which of these cases might appear in a given comp, students might look at recent course offerings and talk to the professors who are writing questions for the comp.

B. Scholarly Treatises and Articles

Bruce Ackerman, *We the People: Foundations*

Robert Dahl, "Decision-Making in a Democracy: The Supreme Court as a National Policy-Maker"

Walter Murphy, *Elements of Judicial Strategy*

Herbert Storing, *What the Anti-Federalists Were For*

Michael Zuckert, *The Natural Rights Republic:*

"The Political Science of James Madison,"

"Federalism and the Founding,"

"Natural Rights and Modern Constitutionalism,"

"Completing the Constitution: The Fourteenth Amendment"

Keith Whittington, "'Interpose Your Friendly Hand': Political Supports for the Exercise of Judicial Review by the United States Supreme Court"

H.W. Perry, *Deciding to Decide: Agenda Setting in the United States Supreme Court*

Lawrence Baum, *Judges and Their Audiences: A Perspective on Judicial Behavior*

Lee Epstein and Jack Knight, *The Choices Judges Make*

Gerald Rosenberg, *The Hollow Hope: Can Courts Bring About Social Change?*

(3) Comparative Constitutional Systems and Law

Ran Hirschl, *Constitutional Theocracy*

Ran Hirschl, *Towards Juristocracy: The Origins and Consequences of the New Constitutionalism*

H. Patrick Glenn, *Legal Traditions of the World*

John Henry Merryman and Rogelio Pérez-Perdomo, *The Civil Law Tradition: An Introduction to the Legal Systems of Europe and Latin America*

Paul Brand and Joshua Getzler, *Judges and Judging in the History of the Common Law and Civil Law*

Lawrence Rosen, *The Justice of Islam: Comparative Perspectives on Islamic Law and Society*

Tom Ginsburg, *Comparative Constitutional Design*

Aalt Willem Heringa and Philipp Kiiver, *Constitutions Compared: An Introduction to Comparative Constitutional Law*

(4) International Law and Human Rights

Mary Ellen O'Connell, *The Power and Purpose of International Law*

Beth Simmons, *Mobilizing for Human Rights: International Law in Domestic Politics*

Sara McLaughlin Mitchell and Emilia Justyna Powell, *Domestic Law Goes Global: Legal Traditions and International Courts*

J.G. Merrills, *International Dispute Settlement*

Sir Hersch Lauterpacht, *An International Bill of the Rights of Man*

Antonio Cassese, *International Law*

Mary Ann Glendon, *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights*

Charles Beitz, *The Idea of Human Rights*

Charlotte Bunch, Women's Rights as Human Rights: Toward a Re-Vision of Human Rights, *Human Rights Quarterly* 12:4

Susan M. Okin, Feminism, Women's Human Rights, and Cultural Differences, *Hypatia* 13:2