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HOWARD UNIVERSITY SCHOOL OF LAW  
CONSTITUTIONAL LAW I SECTION 2

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PROF. STEVEN D. JAMAR

202-806-8017

## Spring 2014 Final Exam Instructions

April 25, 2014

### General Instructions

1. You have three (3) hours for the exam.
2. Times noted for the questions reflect the amount of time I estimate it would take to answer each question. Please note that although the time noted for each question does relate somewhat to the points for that question, it does not do so in a strict one-to-one fashion.
3. The exam is two (2) pages long, excluding this instructions page.
4. There are three (3) questions worth 50 points, 30 points, and 90 points respectively for a total of 170 possible points.
5. If you are not typing your exam, write legibly and clearly in blue or black ink.
6. Use substantive headings as appropriate.
7. Respond to the question asked, not to questions that might have been asked. Even though the fact pattern may be based on one of the hypothetical problems discussed during the semester, the call of the question may be different and the facts may have been revised. In your responses, do not spend time on matters that are not relevant just to show me how much you know. This exam tests professional judgment as well as knowledge of the material we covered in the course.
8. One or more of the matters you are asked to assess for constitutionality may have a clear answer. For such matters you should provide as complete an explanation as is appropriate so that the reader will understand your analysis and why the matter is not a close one. Other matters may be less certain of outcome and may depend upon filling a gap in the current legal doctrine. For such issues policies and principles at stake are particularly appropriate to discuss.

### Permissible exam materials

The exam is closed book. No materials other than the exam itself, blank scratch paper, the laptop with the exam software, and (for those not using the exam software) exam books are allowed.

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SPRING 2014 FINAL EXAM

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**Question 1. 50 points. Estimated time: 40 minutes.**

The United States signed the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1980. It has never been ratified by the Senate. Assume that it has been ratified and is thus binding on the United States. However, under the doctrine of non-self-executing treaties, for it to have the force of law within the United States, Congress must enact implementing legislation.

Assume CEDAW obligates the United States to take affirmative steps to eliminate of all acts of violence against women by people, organizations, governmental bodies, or businesses. Assume Congress enacts a law (duly signed by the President) that provides that anyone committing a violent act against a woman is guilty of a felony punishable by not less than one and not more than 10 years in prison, depending upon the severity of the harm and other circumstances clearly articulated in the law.

P.T. Bulle was convicted under the statute for raping a woman in Metropolis in the state of Gotham. Bulle and the woman are both from Metropolis and the rape happened in the city in her apartment.

**Bulle appeals his conviction on the grounds that the federal law is unconstitutional. Is it? Discuss fully.**

**Question 2. 30 points. Estimated time: 30 minutes.**

A senator is considering introducing a law under which states will be given large grants for urban renewal, provided the state raises the minimum wage to 100% of the poverty level in that state (the cost of living varies from state to state and so the poverty level does as well). The funds would be required to be spent on infrastructure and capital projects like hospitals, roads, subways, sewer systems, and so on. A state must obtain permission for each project from the federal agency charged with administering the funds before the funds will be disbursed.

**The senator has requested your evaluation of the constitutionality of this proposed law. Advise her.**

**Question 3. 90 points. Estimated time: 90 minutes.**

Assume a federal privacy law prohibits all private entities, state and local governments and all of their branches and agencies, and the federal government and all of its branches and agencies from disclosing private financial information to anyone outside the entity lawfully collecting the information in the operation of its business or administrative or governing functions, unless there is a court-ordered warrant or subpoena allowing or requiring it to so disclose the information. Assume that the sort of informational privacy addressed by the law is protected under the substantive due process clause of the 14th Amendment and the 5th Amendment.

The State of Penslandia lawfully (including constitutionally) gathers financial information in the course of its tax collecting functions and in the course of its lawful regulation of businesses operating in the state. In the past several years Penslandia has made millions of dollars each year selling its information to data miners who use it to engage in targeted advertising.

Pry Vatliaf has instituted suit in federal court against the State of Penslandia and against Maek Somonie, Director of the State of Penslandia Financial Information Office, the office charged with administering the collection and selling of the financial data for the state. Somonie is sued both in his official capacity as director of the Penslandia Financial Information Office and individually.

**Identify and evaluate fully the possible defenses of Penslandia and Maek Somonie.**

**End of Exam**