



AMERICAN
CONSTITUTION
SOCIETY FOR
LAW AND POLICY

Barry University
Dwayne O. Andreas School of Law
LAW REVIEW



**Sixth Annual ACS Constitutional Law Scholars Forum
Virtual Conference Live Stream
March 26, 2021
Free FL Bar CLE Credits
Barry Law Students Professionalism and Cultural Competency Credits**

Program Schedule

Virtual Coffee Gathering: 8:30 a.m. This is an opportunity for presenters and attendees to visit and chat with each other before the start of the conference.

Meeting link: <https://barry-edu.zoom.us/j/88056783740?pwd=ZWdiUmVEM0puc3UzUFJ6QzZxdmJ5UT09>

Welcome: 8:50 a.m.

Meeting link: <https://barry-edu.zoom.us/j/88056783740?pwd=ZWdiUmVEM0puc3UzUFJ6QzZxdmJ5UT09>

Session 1: 9:00-11:00 a.m.

Panel A: The Judiciary

Meeting link: <https://barry-edu.zoom.us/j/85680813074?pwd=WnphMVJGOUVnbTFJZ0VOM3hpN1lvZz09>

Dr. David Orentlicher	Judicial Consensus
Dr. Ahmed Oudah AL-Dulaimi	From Negative to Positive Legislator? On the New Role of Constitutional Courts as Lawmakers
Professor Meg Penrose	First Among Equals: Looking Back at the 1971-1972 Supreme Court Term

Professor Kent Greenfield

A New Constitutional Court

Panel B: Rights and Regulations during a Pandemic

Meeting link: <https://barry-edu.zoom.us/j/82744293118?pwd=UUpZRIJ2dTlrdFhPL2hKUU9wcjJFUT09>

Dr. Keigo Obayashi

Responding to a Pandemic and Constitution: Cost and Benefit in the Moderate Model

Dr. Boldizsár Szentgáli-Tóth

Too much or too little?: The role of constitutional courts during the COVID-19 pandemic

Professor Noah Smith-Drelich

The Constitutional Right to Travel Under Quarantine

Panel C: Comparative and International Law

Meeting link: <https://barry-edu.zoom.us/j/88056783740?pwd=ZWdIUmVEM0puc3UzUFJ6QzZxdmJ5UT09>

Dr. Vladimir Nazarov

Constitutional Base of Law

Dr. Bashar Malkawi

Role and Structure of Parliaments in Arab Countries: The Status Quo

Professor Csongor István Nagy

The Diagonality of EU Rule of Law: Why Should the European Union Rely on US Constitutional Ideas to Overcome Its Biggest Constitutional Crisis?

Sheikh Sultan Aadil Huque

Linguistic Discrimination Faced by Indigenous Tribal Communities (ITMS) of India & Violation of Constitutional Rights

Panel D: The First Amendment: Speech and Press

Meeting link: <https://barry-edu.zoom.us/j/82300678739?pwd=MGxlcS9BQ21TdmVnQjUybDE3V2JlZz09>

Dr. Barbara Pfeffer-Billauer

Regulating Harmful Speech Via Compelled Speech and Government Speech

Dr. Barbara Pfeffer-Billauer

Creating a New Category of Speech: Science Speech

Professor Ana Santos Rutschman

Vaccine Misinformation And The Regulation Of Speech In Social Media

Session 2: 11:10 a.m.-12:40 p.m.

Panel A: Constitutional Structure and Federalism

Meeting link: <https://barry-edu.zoom.us/j/85680813074?pwd=WnphMVJGOUVnbTFJZ0VOM3hpN1lvZz09>

Emily Chertoff, Esq.

Citizenship Beyond Borders: The New Immigration
Federalism

Professor G. Michael Parsons

Selective Structuralism

Panel B: Law and Religion

Meeting link: <https://barry-edu.zoom.us/j/82744293118?pwd=UUpZRIJ2dTlrdFhPL2hKUU9wcjJFUT09>

Professor Antony Kolenc

“No Help You God”: The Intersection of Religious Liberty
and the Federal Rules of Evidence

Aparna Singh, Research Scholar

Constitutional Protection of Essential Religious Practices in
Indian Reformatory Secularism

Dr. Scott Douglas Gerber

“We Who Differ With Regard To Religion Will Keep The
Peace With One Another”: The Intellectual History of
European Laws about Religious Toleration Prior to the
Planting of English America

Panel C: International Law & the Territories

Meeting link: <https://barry-edu.zoom.us/j/88056783740?pwd=ZWdIUmVEM0puc3UzUFJ6QzZxdmJ5UT09>

Dr. Jason Buhi

Reconstituting China’s Peripheries: Twenty Years of the
Macau Basic Law

Professor Andrew Hammond

Territorial Exceptionalism and the American Welfare State

Panel D: Gender Equality

Meeting link: <https://barry-edu.zoom.us/j/82300678739?pwd=MGxIcS9BQ21TdmVnQjUybDE3V2lJZz09>

Professor Melina Girardi Fachin

Multilevel Feminist Constitutionalism

Dr. Danaya Wright	Adventures in the Article V Wonderland: Justiciability and Legal Sufficiency of the ERA Ratifications
Cornelia Weiss, Esq.	The Creation and Degradation of Women’s Rights Under the Constitutions Erected in the German Laender Under Occupation by the U.S. in Post-WWII Occupied Germany

Session 3: 12:50-2:50 p.m.

Panel A: Race Discrimination, the Thirteenth Amendment, and Equal Protection

Meeting link: <https://barry-edu.zoom.us/j/85680813074?pwd=WnphMVJGOUVnbTFJZ0VOM3hpN1lvZz09>

Professor Gabriel “Jack” Chin	The Blueprint for Dred Scott: United States v. Dow and the Multi-Racial Jurisprudence of White Supremacy
Professor Reginald Oh	Thick Discrimination and Equal Protection
Professor David Simson	Hope Dies Last: The Progressive Potential and Regressive Reality of the Antibalkanization Approach to Racial Equality

Panel B: Constitutional Criminal Procedure

Meeting link: <https://barry-edu.zoom.us/j/82744293118?pwd=UUZRIj2dTlrdFhPL2hKUU9wcjJFUT09>

Professor Eang Ngov	More Than Friends: Recognizing Dichotomous Relationships in the Fourth Amendment Third Party Doctrine
Joseph Alfe	Digital Privacy Concerns and the Fourth Amendment: Law Enforcement Overreach in Digital Surveillance
Professor Michael Gentithes	It's Exigent Circumstances, Stupid! Reconceiving Warrant Exceptions in Officer-Citizen Interactions
Professor Brian Owsley	Geofencing and Geofence Warrants

Panel C: Free Speech

Meeting link: <https://barry-edu.zoom.us/j/88056783740?pwd=ZWdIUmVEM0puc3UzUFJ6QzZxdmJ5UT09>

Dr. Timothy Shiell	Anti-Orthodoxy and Inclusion as a Foundation for Free Speech Justifications
Dennis Wall	Stipulated Limitations on Disclosure of Information: The role of the First Amendment
Jennifer Safstrom	Time to SLAPP Back: Advocating Against the Adverse Civil Liberties Implications of Litigation that Undermines Public Participation
Dr. Cynthia Boyer	Tweeter in Chief: Government Speech, Regulation, and Social Media

Panel D: Crime, Punishment, and the Constitution

Meeting link: <https://barry-edu.zoom.us/j/82300678739?pwd=MGxlcS9BQ21TdMvNjUybDE3V2JlZz09>

Dr. Raff Donelson	Natural Punishment
Dr. Michael Conklin	Botched Statistics on Botched Executions: Refuting Austin Sarat's Claims
Professor Brendan Conner	Fine Tuning: Reconciling Eighth Amendment "Fines" and Police- and Prosecutor-Led Civil Enforcement Post-Timbs
Professor Russell Christopher	Positive Autonomy, Consent, and Coercion

Panel E: Judicial Review

Meeting link: <https://barry-edu.zoom.us/j/89506017424?pwd=bitSTUNRVFJaRWxTZk1YSjhoM3d3UT09>

Professor Meghan Boone	Perverse & Irrational
Professor Scott Dodson	Article III and the Political-Question Doctrine
Dr. Rachel Bayefsky	What \$1 Can Buy: Nominal Damages and Article III

Session 4: 3:00-4:30 p.m.

Panel A: Democracy and Governance

Meeting link: <https://barry-edu.zoom.us/j/85680813074?pwd=WnphMVJGUUVnbTFJZ0VOM3hpN1lvZz09>

Professor Joshua Ulan Galperin	The Public Role in Private Governance
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Professor Michael Froomkin &
David Froomkin

Fixing the Senate: A User's Guide

Panel B: Presidential Limits

Meeting link: <https://barry-edu.zoom.us/j/82744293118?pwd=UUpZRIJ2dTlrdFhPL2hKUU9wcjJFUT09>

Dr. Björn Arp

Presidential Term Limits and the Right to Political Participation

Dr. Michael Conklin

Yes, Self-Pardons Are Constitutional, Even for Donald Trump

Professor A. Christopher Bryant &
Professor Kimberly Breedon

Bringing a Fork to a Gunfight: The Senate Acquittal on the Second Article of Impeachment and the Future of Congressional Oversight

Panel C: Separation of Powers

Meeting link: <https://barry-edu.zoom.us/j/88056783740?pwd=ZWdIUmVEM0puc3UzUFJ6QzZxdmJ5UT09>

Professor Loren Jacobson

Resurrecting Schechter Poultry and Panama Refining: A Call for a “Heightened Scrutiny” Nondelegation Doctrine as Applied to Congressional Delegations to the President

Professor Bijal Shah

Faithful Execution in Presidential Administration

Dr. Jorge M. Farinacci-Fernós

The Transformation of the Territorial Clause: From Temporary Incorporation to Permanent Non-Incorporation

Session 5: 4:40-5:40 p.m.

Panel A: First Amendment Speech

Meeting link: <https://barry-edu.zoom.us/j/85680813074?pwd=WnphMVJGUUVnbTFJZ0VOM3hpN1lvZz09>

Professor David Sloss

Information Warfare and the First Amendment

Dr. Ken Levy

May State Universities Fire Professors Who Endorse Trumpism?

Panel B: Race and Public Health

Meeting link: <https://barry-edu.zoom.us/j/82744293118?pwd=UUpZRIJ2dTlrdFhPL2hKUU9wcjJFUT09>

Professor Etienne Toussaint American Waste Land: Slavery, Swamps, and Specters of Colonial Modernity

Professor Christopher Ogolla Constitutional Challenges of Using Race-Based Medicine during a Pandemic

Panel C: The Second Amendment and National Security

Meeting link: <https://barry-edu.zoom.us/j/88056783740?pwd=ZWdIUmVEM0puc3UzUFJ6QzZxdmJ5UT09>

Professor Michael Ulrich Second Amendment Rights and Race: The Constitutional Relevance of Disparities in Gun Violence

Professor Robert Knowles LOVEINT

Panel D: Political Parties and Voting Rights

Meeting link: <https://barry-edu.zoom.us/j/82300678739?pwd=MGxIcS9BQ21TdmVnQjUybDE3V2JlZz09>

Dr. Wayne Batchis Political Parties and the Switch from Equal Protection to the First Amendment

Professor Brian Leonard Is Shelby County v. Holder the new Plessy v. Ferguson?

Panel E: Parenthood and Reproductive Rights

Meeting link: <https://barry-edu.zoom.us/j/89506017424?pwd=bitSTUNRVFJaRWxTZk1YSjhoM3d3UT09>

Professor Emeritus Jeffrey Parness Federal and State Constitutions on Nongendered Parenthood

Professor Sonya Garza Judicial Bypass in 2021: Substantial Obstacles or Absolute Ban?

Session 6: 6:00-6:45 p.m.

Meeting link: <https://barry-edu.zoom.us/j/88056783740?pwd=ZWdIUmVEM0puc3UzUFJ6QzZxdmJ5UT09>

Professor Howard Katz Plenary Session on Pedagogy

Zoom Links and Dialing Information

The following information will enable access to the presentations in Panels A, B, C, D, and E throughout the day. They are the same Zoom links that are individually listed in the above presentation schedule.

Topic: ACS Constitutional Law Scholars Forum Panel A

Time: Mar 26, 2021 09:00 AM Eastern Time (US and Canada)

Join Zoom Meeting

<https://barry-edu.zoom.us/j/85680813074?pwd=WnphMVJGOUVnbTFJZ0VOM3hpN1lvZz09>

Meeting ID: 856 8081 3074

Passcode: 961005

Dial by your location

- +1 312 626 6799 US (Chicago)
- +1 646 558 8656 US (New York)
- +1 301 715 8592 US (Washington DC)
- +1 346 248 7799 US (Houston)
- +1 669 900 9128 US (San Jose)
- +1 253 215 8782 US (Tacoma)

Meeting ID: 856 8081 3074

Passcode: 961005

Find your local number: <https://barry-edu.zoom.us/j/85680813074?pwd=WnphMVJGOUVnbTFJZ0VOM3hpN1lvZz09>

Topic: ACS Constitutional Law Scholars Forum Panel B

Time: Mar 26, 2021 09:00 AM Eastern Time (US and Canada)

Join Zoom Meeting

<https://barry-edu.zoom.us/j/82744293118?pwd=UUpZRIJ2dTIrdFhPL2hKUU9wcjJFUT09>

Meeting ID: 827 4429 3118

Passcode: 040171

Dial by your location

- +1 646 558 8656 US (New York)
- +1 301 715 8592 US (Washington DC)
- +1 312 626 6799 US (Chicago)
- +1 669 900 9128 US (San Jose)
- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)

Meeting ID: 827 4429 3118

Passcode: 040171

Find your local number: <https://barry-edu.zoom.us/j/82744293118?pwd=UUpZRIJ2dTIrdFhPL2hKUU9wcjJFUT09>

Topic: ACS Constitutional Law Scholars Forum Panel C

Time: Mar 26, 2021 09:00 AM Eastern Time (US and Canada)

Join Zoom Meeting

<https://barry->

[edu.zoom.us/j/88056783740?pwd=ZWdiUmVEM0puc3UzUFJ6QzZxdmJ5UT09](https://barry-edu.zoom.us/j/88056783740?pwd=ZWdiUmVEM0puc3UzUFJ6QzZxdmJ5UT09)

Meeting ID: 880 5678 3740

Passcode: 47328

Dial by your location

+1 312 626 6799 US (Chicago)

+1 646 558 8656 US (New York)

+1 301 715 8592 US (Washington DC)

+1 346 248 7799 US (Houston)

+1 669 900 9128 US (San Jose)

+1 253 215 8782 US (Tacoma)

Meeting ID: 880 5678 3740

Find your local number: <https://barry-edu.zoom.us/j/88056783740>

Topic: ACS Constitutional Law Scholars Forum Panel D

Time: Mar 26, 2021 09:00 AM Eastern Time (US and Canada)

Join Zoom Meeting

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[edu.zoom.us/j/82300678739?pwd=MGxIcS9BQ21TdmVnQjUybDE3V2JlZz09](https://barry-edu.zoom.us/j/82300678739?pwd=MGxIcS9BQ21TdmVnQjUybDE3V2JlZz09)

Meeting ID: 823 0067 8739

Passcode: 913687

Dial by your location

+1 312 626 6799 US (Chicago)

+1 646 558 8656 US (New York)

+1 301 715 8592 US (Washington DC)

+1 346 248 7799 US (Houston)

+1 669 900 9128 US (San Jose)

+1 253 215 8782 US (Tacoma)

Meeting ID: 823 0067 8739

Find your local number: <https://barry-edu.zoom.us/j/82300678739>

Topic: ACS Constitutional Law Scholars Forum Panel E

Time: Mar 26, 2021 09:00 AM Eastern Time (US and Canada)

Join Zoom Meeting

<https://barry->

[edu.zoom.us/j/89506017424?pwd=bitSTUNRVFJaRWxTZk1YSjhoM3d3UT09](https://barry-edu.zoom.us/j/89506017424?pwd=bitSTUNRVFJaRWxTZk1YSjhoM3d3UT09)

Meeting ID: 895 0601 7424

Passcode: 717855

Dial by your location

+1 646 558 8656 US (New York)

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 669 900 9128 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

Meeting ID: 895 0601 7424

Find your local number: <https://barry-edu.zoom.us/j/kcSKcTGDaO>

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