



**SYLLABUS**  
**CONSTITUTIONAL LAW**  
**(SPA 1224 IUP/4 credits) – Second Semester of 2015/2016**

**Course Description:**

This course will explain, elaborate, and discuss of Indonesian constitutional structure, especially in normative, empirical, and comparative sense. Therefore, in this course, the law students will deepen comprehensively topics of Constitutional Law which consists of Introduction to constitutional law, Sources of constitutional law, History of Indonesian Constitutional Law, The formation/Establishment and history of the 1945 Constitution, Classification of the Constitution, Substance of the Constitution, The form and Structure of the State, Rule of Law, General Election, Parliamentary System, Parliamentary System in Indonesia, Indonesia's Judicial System, Indonesia's Executive System, State Financial Management, Central and Local Government Relation, Citizenship, and Human rights.

**Objective:**

After undertake course of Constitutional Law, law students are expected to have appropriate knowledge, comprehension, and skills to overcome issues on constitutional law by theory or practice based on positive laws and principles in constitutional law.

**Lecturers:**

1. Andi Sandi Ant. T. T., S.H., LL.M. (Constitutional Law Department Faculty of Law UGM)
2. Mahaarum Kusuma Pertiwi, S.H., M.A., M.Phil. (Constitutional Law Department Faculty of Law UGM)

**Teaching Method:**

This course will be conducted through both lecturing and discussion. Lecturing will be used particularly when the topics of the course deal with some theoretical issues concerning constitutional law. Further, discussion will be privileged when topics discussed in the class address issues on constitutional law specifically in practical perspectives. The used of these methods give more opportunities to the students to absorb more information from the lecture and their fellows as well as to develop their analytical skills.

**Class:**

- a. Monday (13.00-15.00) at Room BC 206
- b. Overall there will be approximately 27 meetings held in this course. Attendance list will be circulated in each of the meeting. Students with less than 80% attendances will be disqualified from the course and therefore are not entitled to be graded.
- c. Class Coordinator: .... (Cell.No.: ...; email: ...)



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**Assessment:**

The grading components are as follows:

- |    |                                       |        |
|----|---------------------------------------|--------|
| 1. | Class participations/Analytical skill | : 10%  |
| 2. | Assignments on the subject discussed  | : 10%  |
| 3. | Mid term exam                         | : 40%  |
| 4. | Written exam (final exam)             | : 40 % |

**The final grade will be given in the form of: A, B, C, D, and E.**

**Class Assignments:**

- a. It will be two assignments: before and after midterm assignments. The class assignment is a compilation of 7 (seven) clippings that related to specific topic discussed in the class. Each clippings should be commented based upon literatures, journals, regulations, and etc. The comments should be in 500-1000 words (Font 12, and Line Spacing 1,5).
- b. It is a group assignment. Each group should consist: 9-10 students. Student Grouping for class assignment based on attendance list:
  - Group 1: attendance list no.1-no.10;
  - Group 2: attendance list no.11-no.19;
  - Group 3: attendance list no.20-no.28;
  - Group 4: attendance list no.29-no.37;
  - Group 5: attendance list no.38-no.46.
- c. Due date for the assignments are on .... for the first class assignment; and on ... for the second class assignment.
- d. The class assignments should be **submitted trough eLisa**.

**Suggested Readings/References:**

1. Arend Lijpart (terj.) Sistem Pemerintahan
2. Arent Lijphart, Democracies
3. Arent Liphart (ed), Parliamentary Versus Presidential Government
4. Azhary, Negara Hukum Indonesia, Analisis Yuridis Normatif Tentang Unsur-unsurnya, UI 1995
5. Bagir Manan, Hubungan Antara Pusat dan Daerah Menurut UUD 1945
6. Bagir Manan, konvensi Ketatanegaraan, Armico Bandung



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7. C. F. Strong, a History of Modern Political Constitutions, Publisher: Capricorn Books. Place of Publication: New York. Publication Year: 1963.
8. Denny Indrayana, Indonesian Constitutional Reform 1999-2002 An Evaluation Of Constitution-Making In Transition, Kompas Book Publishing, 2008
9. Geovanni Sartori, Comparative Constitutional Engineering
10. Harsono, Perkembangan Pengaturan Kewarganegaraan (dari masa ke masa)
11. JCSimorangkir, Penetapan UUD dilihat dari segi Hukum tata negara Indonesia, Gunung Agung, Jakarta, 1984
12. Jimly Asshiddiqie, Format Kelembagaan Negara dan Pergeseran Kekuasaan dalam UUD 1945
13. Jimly Asshiddiqie, Konstitusi dan Konstitusionalisme, Kompas, 2005
14. Jimly Asshiddiqie, Pengantar Ilmu Negara Indonesia Jilid I, Setjen MK, 2006
- 15. Jimly Asshiddiqie, The Constitutional Law of Indonesia, Swwt and Maxwell Asia, 2009**
16. KC Wheare, Modern Constitution, Oxford University Press, 1966
17. Moh Kusnardi dan Harmaily Ibrahim, Pengantar Hukum Tata negara Indonesia Pusat studi HTN FH UI
18. Randall Peerenboom (Ed.), Asian Discourses of Rule of Law: Theories and Implementation of Rule of Law in Twelve Asian Countries, France and the United States, New York: Routledgecurzon, 2004.
19. Sri Sumantri, Prosedur dan sistem Perubahan konstitusi, Alumni bandung 2006
20. Sudargo Gautama, Warga Negara dan Orang Asing.
21. Sudikno Mertokusumo, Mengenal Hukum, Liberty
22. Timothy Lindsey (ed), Indonesia: Law and Society, Sydney: The Federation Press, 1999.
23. The 1945 Constitution as Amended 4 times (1999-2002),
24. The 1945 Constitution,
25. The 1949 Federal Constitution
26. The 1950 Provisional Constitution
27. Law No.12 of 2011 concerning the Formulation of Law and Regulation
28. Law No.15 of 2011 concerning Management of General Election
29. Law No.8 of 2012 concerning General Election for the member of DPR (House of Representative), DPD (Regional Representative Council), DPRD (Local House of Representative)
30. Law No.2 of 2008 concerning Political Party as Amended by Law No.2 of 2011.
31. Law No.42 of 2008 Concerning Presidential Election
32. Law No.23 of 2014 Concerning Local Governance



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33. Law No.6 of 2014 Concerning Village
34. Law No. 12 of 2006 Concerning Citizenship of the Republic of Indonesia
35. Law Concerning Human Rights
36. Law Concerning Central Bank (BI)
37. Law Concerning Supreme Audit Institution (BPK)
38. Law Concerning Gubernur, Regent, and Mayor's Election
39. Law Concerning Judiciary
40. Law Concerning Constitutional Court
41. Law Concerning Ordinary Court
42. Law Concerning Administrative Court
43. Law Concerning Religious Court
44. Law Concerning Military Court

**Class:**

MEETING	TOPIC	READING ASSIGNMENT
1st	<b>INTRODUCTORY:</b> <ul style="list-style-type: none"><li>- Class Management</li><li>- Topics</li><li>- Introduction of Constitutional Law</li></ul>	The Constitutional Law of Indonesia: Chapter 1: Pp:1-43
2nd	<b>SOURCE OF CONSTITUTIONAL LAW</b> <ul style="list-style-type: none"><li>- Meanings</li><li>- Formal and Material Source of Law</li><li>- Source of Constitutional Law:<ul style="list-style-type: none"><li>- Constitution</li><li>- Law/Act/ Ratified International Treaties</li><li>- Constitutional Court and Supreme Court;s Verdicts</li></ul></li></ul>	The Constitutional Law of Indonesia: Chapter 4: Pp 175-231



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	<ul style="list-style-type: none"> <li>- Konvensi</li> </ul> Related Literatures: <ol style="list-style-type: none"> <li>a. Sudikno Mertokusumo, Mengenal Hukum Bab V</li> <li>b. Moh. Kusnardi dan Harmaily Ibrahim, Hukum Tata Negara Indonesia, Bab III.</li> </ol>	
3rd	Futher elaboration and discussion regarding Source of Constitutional Law: <ul style="list-style-type: none"> <li>- Constitution</li> <li>- Law/Government Regulation in Lieu of Law/Ratified International Treaties</li> <li>- Convention</li> </ul> Related Literatures: <ol style="list-style-type: none"> <li>a. Moh. Kusnardi dan Harmaily Ibrahim, Hukum Tata Negara Indonesia, Bab III.</li> <li>b. Bagir Manan, Konvensi Ketatanegaraan, Armico Bandung.</li> <li>c. Sudikno Mertokusumo, Mengenal Hukum, Liberty.</li> </ol>	Idem.
4th	Futher elaboration and discussion regarding Source of Constitutional Law: <ul style="list-style-type: none"> <li>- Court Decisions ( CC and SC):               <ul style="list-style-type: none"> <li>- Meaning of Final and Binding</li> <li>- CC's Verdict as Source of Constitutional Law</li> <li>- SC's Verdict regarding review of regulations toward the Law</li> </ul> </li> </ul>	Idem.
5th	<b>THE HISTORY OF INDONESIA'S CONSTITUTIONS: NORMATIVE PERSPECTIVE</b> <ul style="list-style-type: none"> <li>- The 1945 Constitution (1st Period);</li> <li>- The 1949 Constitution of the United States of Republic Indonesia;</li> <li>- The 1950 Provisional Constitution of Republic Indonesia;</li> <li>- The 1945 Constitution (2nd Period)</li> <li>- The 1945 Constitution of Republic of Indonesia (general)</li> </ul> Related Literatures: <ol style="list-style-type: none"> <li>a. All of the Constitutions</li> </ol>	The Constitutional Law of Indonesia: Chapter 2: Pp.43-117



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	<ul style="list-style-type: none"> <li>b. JCT Simorangkir, Penetapan UUD Dilihat Dari Segi Ilmu Hukum Tata Negara Indonesia, Gunung Agung, Jakarta, 1984.</li> <li>c. Denny Indrayana, Indonesian Constitutional Reform 1999-2002 An Evaluation Of Constitution-Making In Transition, Kompas Book Publishing, 2008.</li> </ul>	
6th	<p><b>THE FORMATION/ESTABLISHMENT AND HISTORY OF THE 1945 CONSTITUTION</b></p> <ul style="list-style-type: none"> <li>- The Intitution that drafted the 1945 Constitution</li> <li>- Process &amp; Procedure of the amendment of the 1945 Constitution (the 1<sup>st</sup> up to the 4<sup>th</sup> amendment</li> </ul>	Idem.
7th	<p><b>CLASSIFICATION OF CONSTITUTION</b></p> <ol style="list-style-type: none"> <li>1. Written and unwritten constitution</li> <li>2. Documentary and non documentary constitution.</li> <li>3. Flexible and rigid constitution</li> <li>4. Supreme and not supreme constitution</li> <li>5. Parliamentary and Presidentialism constitution</li> <li>6. Supreme and not Supreme constitution</li> <li>7. Political Constitution vs. Socio-Economic Constitution</li> <li>8. Based on their Type of State Based Upon the Law's Principles thats are applied</li> <li>9. Liberal and Nominal Constitution</li> </ol> <p>Related Literatures:</p> <ul style="list-style-type: none"> <li>a. C. F. Strong, a History of Modern Political Constitutions, Publisher: Capricorn Books. Place of Publication: New York. Publication Year: 1963.</li> <li>b. KC Wheare, Modern Constitution, Oxford University Press, 1966</li> <li>c. Sri Sumantri, Prosedur dan sistem Perubahan konstitusi, Alumni bandung 2006</li> </ul>	
8th	<p><b>SUBSTANCE OF THE CONSTITUTION</b></p> <ul style="list-style-type: none"> <li>- Protection of human rights</li> <li>- Structure of the Government</li> </ul>	-----



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	- Limitation and division of power	
9th	<b>FURTHER ELABORATION OF SUBSTANCE OF THE CONSTITUTION</b>	----
10th	<p><b>THE FORM AND STRUCTURE OF THE STATE</b></p> <ul style="list-style-type: none"> <li>a. Form of Government: Kingdom vs. Republic</li> <li>b. The Structure of the State: Unitary vs. Federal</li> <li>c. Government system: presidential vs. parliamentary</li> <li>d. How about Indonesia?</li> </ul> <p>Related Literature:</p> <ul style="list-style-type: none"> <li>a. Arend Lypard (terj.), Sistem Pemerintahan.</li> <li>b. Arent Lijphart, Democracies</li> <li>c. Arent Liphart (ed), Parliamentary Versus Presidential Government</li> <li>d. Geovanni Sartori, Comparative Constitutional Engineering</li> </ul>	The Constitutional Law of Indonesia: Chapter 5. Pp.231-310
11th	<p><b>FURTHER ELABORATION OF FORM AND STRUCTURE OF THE STATE</b></p> <p>Related Literature:</p> <ul style="list-style-type: none"> <li>a. Jimly Asshiddiqie, Konstitusi dan Konstitusionalisme Indonesia, Kompas, 2005.</li> </ul>	Idem
12th	<p><b>STATE BASED ON THE LAW</b></p> <ul style="list-style-type: none"> <li>a. What is rule of law?</li> <li>b. Rule of law in the Indonesian Constitution</li> <li>c. People's sovereignty as one of the characteristics and the settings in the constitution</li> </ul> <p>Related Literatures:</p> <ul style="list-style-type: none"> <li>a. Jimly Asshiddiqie, Konstitusi dan Konstitusionalisme Indonesia, Kompas, 2005.</li> <li>b. Azhary, Negara Hukum Indonesia Analisis Yuridis Normatif Tentang Unsur-Unsurnya, UI, 1995</li> </ul>	The Constitutional Law of Indonesia: Chapter 3: Pp.117-125



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	<p>c. Randall Peerenboom (Ed.), Asian Discourses of Rule of Law: Theories and Implementation of Rule of Law in Twelve Asian Countries, France and the United States, New York: Routledgecurzon, 2004.</p> <p>d. The 1945 Constitution as Amended 4 times (1999-2002),</p>	
	<b>Mid Term Test</b>	
13th	<p><b>GENERAL ELECTION:</b></p> <ul style="list-style-type: none"> <li>- Principles of GE</li> <li>- GE's System</li> </ul> <p>Related Literatures:</p> <ul style="list-style-type: none"> <li>a. The 1945 Constitution of Republic Indonesia</li> <li>b. Law No.15 of 2011 concerning Management of General Election</li> <li>c. Law regarding Political Party</li> <li>d. Law regarding Elections for HoR, RRC, and Local Parliament's Members</li> <li>e. Law regarding Presidential Election.</li> <li>f. Law regarding Gouvernor, Regent, and Mayor's Election</li> <li>g. Geovanni Sartori, Comparative Constitutional Engineering.</li> </ul>	The Constitutional Law of Indonesia: Chapter 9: Pp.597-639.
14th	<p><b>Continued:</b></p> <p>Elections for HoR, RRC, and Local Parliament's Members</p> <p>Presidential Election.</p> <p>Gouvernour, Regent, and Mayor's Election</p> <p>General Election Commission</p>	Idem
15th	<p><b>PARLIAMENTARY SYSTEM</b></p> <p>1. Various Parlementary Systems:</p> <ul style="list-style-type: none"> <li>- Unicameral</li> <li>- Bicameral</li> <li>- Tricameral</li> </ul> <p>2. Parliamentary System in Indonesia's Constitutions</p> <p>Related Literatures:</p> <ul style="list-style-type: none"> <li>a. Jimly Asshiddiqie, Format Kelembagaan Negara dan Pergeseran Kekuasaan dalam UUD 1945</li> </ul>	The Constitutional Law of Indonesia: Chapter 3:Pp.125-174





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	<ul style="list-style-type: none"> <li>b. Jimly Asshiddiqie, Konstitusi dan Konstitusionalisme Indonesia, Konpres, 2005.</li> <li>c. Geovanni Sartori, Comparative Constitutional Engineering.</li> </ul>	
16th	<p><b>INSTITUTIONAL DESIGN OF INDONESIA'S PARLIAMENT</b></p> <ul style="list-style-type: none"> <li>a. Parliament : Functions and powers</li> <li>b. People consultative Assembly (the MPR)</li> <li>c. the House of Representative (the DPR)</li> <li>d. the Regional Representative Council (the DPD)</li> <li>e. Relationship between those three institutions</li> </ul> <p>Related Literatures:</p> <ul style="list-style-type: none"> <li>a. JCT Simorangkir, Penetapan UUD dilihat dari segi Hukum tata negara Indonesia, Gunung Agung, Jakarta, 1984</li> <li>b. Jimly Asshiddiqie, Format Kelembagaan Negara dan Pergeseran Kekuasaan dalam UUD 1945</li> <li>c. Jimly Asshiddiqie, Konstitusi dan Konstitusionalisme Indonesia, Konpres, 2005.</li> <li>d. Bahan Sosialisasi Amandemen UUD 1945</li> <li>e. Law regarding PCA, HoR, RRC, and Local Parliament</li> </ul>	Idem.
17th	<p><b>INDONESIA'S JUDICIAL SYSTEM</b></p> <ol style="list-style-type: none"> <li>1. Constitutional Powers of Judiciary:</li> <li>2. Institutional, Function, and Authorities of Judiciary: CC-SP-and Judicial Commission (JC)</li> </ol> <p>Related Literatures :</p> <ul style="list-style-type: none"> <li>a. Jimly Asshiddiqie, Konstitusi dan Konstitusionalisme Indonesia, Konpres, 2005.</li> <li>b. Law regarding Judiciary</li> <li>c. Law regarding Constitutional Court</li> <li>d. Law regarding Ordinary Court</li> <li>e. Law regarding Administrative Court</li> <li>f. Law regarding Religious Court</li> <li>g. Law regarding Military Court</li> </ul>	The Constitutional Law of Indonesia: Chapter 7: Pp: 409-492



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18th	<p><b>THE EXECUTIVE</b></p> <ol style="list-style-type: none"> <li>1. The executive in the Indonesian constitution</li> <li>2. The position of the President as head of state and head of government</li> </ol> <p>Related Literatures :</p> <ol style="list-style-type: none"> <li>a. Jimly Asshiddiqie, <i>Konstitusi dan Konstitusionalisme Indonesia</i>, Kompas, 2005.</li> </ol>	The Constitutional Law of Indonesia: Chapter 5: Pp.271-310
19th	<p><b>CONTINUED</b></p> <ol style="list-style-type: none"> <li>3. The position of the Vice President in the Indonesian governmental system</li> <li>4. Cabinet and the executive agency (LPND) according to the Constitution</li> <li>5. Position, powers and functions of Cabinet</li> <li>6. The position of authority and function executive agency</li> </ol>	Idem.
20th	<p><b>STATE FINANCIAL MANAGEMENT</b></p> <ol style="list-style-type: none"> <li>1. Supreme Audit Institution</li> <li>2. Central Bank</li> </ol> <p>Related Literatures :</p> <ol style="list-style-type: none"> <li>a. Law regarding Supreme Auditory Board</li> <li>b. Law regarding State Financial</li> <li>c. Law regarding Central Bank</li> </ol>	The Constitutional Law of Indonesia: Chapter 10: Pp.653-712
21st	<p><b>HUBUNGAN PUSAT DAN DAERAH:</b></p> <ol style="list-style-type: none"> <li>1. The principles</li> <li>2. Households Regional System</li> <li>3. How Charging of the Regional government</li> </ol> <p>Related Literatures :</p> <ol style="list-style-type: none"> <li>a. Bagir Manan, <i>Hubungan Antara Pusat dan Daerah Menurut UUD 1945</i></li> <li>b. Bagir Manan, <i>Perjalanan Historis Pasal 18 UUD 1945</i>.</li> </ol>	The Constitutional Law of Indonesia: Chapter 6: Pp.338-408
22nd	<p><b>CONTINUED....</b></p> <ol style="list-style-type: none"> <li>1. The Governance agencies in the Region : Local Parliament and head of local government</li> <li>2. Recruitment Process for Local Government Agencies</li> </ol> <p>Related Literatures:</p> <ol style="list-style-type: none"> <li>a. Law No. 5 of 1974</li> </ol>	Idem.



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	<ul style="list-style-type: none"><li>b. Law No. 22 of 1999</li><li>c. Law No. 32 of 2004</li><li>d. Law No.23 of 2014 as amended twice with Law No.8 of 2015</li><li>e. Law No.6 of 2014 Concerning Village</li></ul>	
23rd	<p><b>CITIZENSHIP</b></p> <ul style="list-style-type: none"><li>1. The principles of citizenship</li><li>2. <i>Ius soli, ius sanguinis</i></li><li>3. <i>Apatride, bipatride,</i></li><li>4. Active system , passive system</li></ul> <p>Related Literatures :</p> <ul style="list-style-type: none"><li>a. Harsono, Perkembangan Perngaturan Kewarganegaraan (dari masa ke masa)</li><li>b. Sudargo Gautama, Warga Negara dan Orang Asing.</li><li>c. Law No. 12 of 2006 regarding Republic Indonesia's Citizenship</li></ul>	The Constitutional Law of Indonesia: Chapter 8: Pp.530-559.
24th	<p><b>HUMAN RIGHTS</b></p> <ul style="list-style-type: none"><li>1. Human Rights in Indonesia's Constitution</li></ul> <p>Related Literatures :</p> <ul style="list-style-type: none"><li>a. The 1945 Constitution of Republic Indonesia</li><li>b. Law No.39 of 1999 regarding Human Rights</li></ul>	The Constitutional Law of Indonesia: Chapter 8: Pp.493-530.
<b>Final Test</b>		