

## Course Overview

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Upon establishment of a nation state, laws governing state organizations would become a necessity. The importance of structuring state organizations and legal arrangements governing state organizations requires an understanding of the definition of Constitutional Law (CL) and the sources of Constitutional Law as well as the factors that assist in the stipulation of Constitutional Law. The terminology of Constitutional Law or CL in Indonesian language is called Hukum Tata Negara or Constitutional Law. Discussion on the definition of Constitutional Law is crucial not only for understanding state organizations and state institutions, but also for understanding that the dynamics of the scope of Constitutional Law develop along with various changes in other fields, especially in politics and human rights guarantee as well as strengthening the regions within a unitary state. Constitutional Law sources in this module are discussed in order to understand the urgency that laws governing state organizations must be formed on the basis of Constitutional Law legal sources, both materially and formally. An understanding of Constitutional Law legal sources is important because laws that are formed based on values serving as the philosophy of life and goals of the Indonesian nation and based on the principle that lower laws may not conflict with higher laws, it will produce laws that are appropriate and ideal for Indonesia.

Constitution is the main study object of constitutional law course-subject, as such, in studying Constitutional Law, an understanding of constitutional theory and Constitution that applies to a country as a nation is important. Constitutional theory is something that must be understood not only to understand state organization legal arrangements, but also especially in order to understand the protection of citizens' human rights as guaranteed in the constitution (constitutional rights). Constitution is a social contract between the state and the citizens. As the highest regulation in a country, constitution must regulate fundamental matters in the legal relations of various legal subjects that exist in a country.

Every nation in the world applies certain form and structure of the state and governmental system in compiling, managing, and administering state organizations. The form and structure of the state, as well as the system of government are things that must be understood not only to understand state organization, but also to understand how a state is organized. The form and structure of the state, as well as the system of government determines the division of powers between state institutions and the distribution of authority between the central and local governments, or between the federal and the state government.

As discussed in the definition of Constitutional Law, the dynamics of the scope of Constitutional Law are developing not only as laws governing state organizations and state institutions, but also developing that these legal arrangements include the guarantees for human rights in the Constitution. This shows that regulation on human rights is fundamental, especially in relation to the protection of citizens' constitutional

rights. Various theories on Constitutional Law course-subject, including theories on the separation of state powers, social contract, democracy, rule of law, and constitution, emerged and developed to guarantee human rights for citizens and limit state power. Every Constitution in the world, even the Constitution in one-nation that is considered a country that restricts the freedom of human rights of its citizens, regulates human rights guarantees for its citizens. Having citizenship is a guaranteed human right. Citizens seen from the perspective of the theory of popular sovereignty is the reason for the formation of the state, namely to guarantee and protect its citizens. Regulations regarding citizens are one of the substances of the Constitution, and are the main study object of Constitutional Law, so an understanding of who is a citizen of a country is important in studying Constitutional Law and of course includes the guarantee of citizens' constitutional rights in the Constitution and the Law. The Constitutions of various countries regulates about a person who becomes a citizen and is further regulated in a separate law that specifically regulates citizens and human rights guarantees for citizens and residents.

Every nation that declares a democratic country and a rule of law, will regulate general elections and political parties in its laws and regulations. Legal Arrangements regarding elections are regulated in various Constitutions, however political party arrangements in the Constitution are generally regulated in the Constitutions stipulated after World War II, especially the Constitutions of European countries. In discussions on democracy and the rule of laws, general elections and political parties are the main elements, so they play an important role in the administration of a democratic country which is also a rule of law because there is almost no state that is not based on law in the administration of state life. Discussion about general elections becomes more important in Indonesia (as) being a country that applies a system of presidential government.

Initially, all power in the state was in the hands of the king before the introduction of the separation of powers in the state. However, in its development the power of Parliament was eventually institutionalized not only in Western European countries but in almost all countries worldwide and was generally elected in the elections. The existence of parliament in a country is very important as a form of people's sovereignty. Parliament is the main state institution set forth in various Constitutions in each country. The existence of parliament in a country is a prerequisite for a democratic legal state. Various countries in the world regulate parliamentary authority in a limited way in their respective Constitutions, including the relationship between parliament and other main state institutions regulated in the Constitution.

Another development in the constitutional system is the recognition of the presidency in republican countries. Presidential Institution as one of the main state institutions in a republican country that applies presidential or semi-presidential system of government, is of course a state institution that must be regulated in the Constitution. The form of a republican state is used in the Constitution of Indonesia, both in the 1945 Constitution before and after the amendment, the Constitution of the United Republic of Indonesia (RIS Constitution), and the Provisional Constitution of the Republic of Indonesia (UUDS RI).

Judicative power is one of the main state institutions in a country, republican or monarchy. Judicative power is an independent and impartial power. The Constitution of various countries stipulates that judicative power is an independent power, separate from the legislative and executive power. Even though in countries that apply parliamentary system of government, only the legislative and executive powers are united in parliament, while the judicative power is a separate power to protect the freedom of citizens. In its development, judicative power has even strengthened, associated with the concept of checks and balances, both for the executive and the legislature. The strengthening of judicative power even gives the authority of the Judicative Power to cancel laws that contradict to the Constitution which are the authority of the Constitutional Court, the main state institution formed after the amendment to the 1945 Constitution. With the establishment of Constitutional Court, the Judicative Power in Indonesia consists of two Courts, namely the Supreme Court (MA) and the Constitutional Court (MK).

## Competency Map Constitutional Law/IEHKUM4201/3 Credit Units

