

Constitutional Law-LLMs (LAW 221 - 001) – 4 Credits

George Mason University, Antonin Scalia Law School, LLM Program
Spring 2022

Tuesdays & Thursday 6:05 pm-8:05 pm

Ibnul A. Khan, Adjunct Professor

Captain Mika'il Ali, Adjunct Professor

Major Salahudin Ali, Adjunct Professor

Senator J. Chapman Petersen, Adjunct Professor & Advisor

Learning Outcomes: This course will introduce students to some of the foundational concepts and questions of United States constitutional law. We will begin by considering the nature and function of a constitution in general, along with methods of constitutional interpretation that have played an important role in U.S. constitutional jurisprudence. We will then spend the majority of the term examining two core aspects of the U.S. Constitution: its provision for government structure and the distribution of power, and its protections for individual rights. Our study is not intended to be an exhaustive survey of the field of constitutional law but rather an introductory exploration of key concepts and rulings that illustrate how the U.S. Constitution is interpreted and applied. The focus of our inquiry into structural provisions of the Constitution will be the separation of powers, congressional power, and federalism. The focus of our study of civil rights and civil liberties will be the First and Fourteenth Amendments, including equal protection, individual liberty, and freedom of speech and belief. Students will learn how to read constitutional cases to understand their holdings and arguments, trace the development of legal rules, and analysis and critique the Supreme Court's constitutional interpretations. The course will also provide instruction on and an opportunity to work through Uniform Bar Exam questions that test Constitutional Law topics. Therefore, the Course should also teach you the requisite skills necessary for properly answering Constitutional Law questions on the bar exam. For the review and discussion on Week 13, you are welcome to send questions no later than ten (10) days prior to the class, which I will aim to answer on Week 13.

Class Format & Grading: **Each “Week” will consist of two classes.** The format for this class is part lecture, part discussion. Students will receive a grade based on class participation (20%) and one final exam (80%). Students should attend every class/discussion session having read and be prepared to discuss the materials assigned for that session. As contributions to class discussion, thoughtful and informed questions are as valuable as cogent and defensible answers. The class will be conducted via remote means when necessary.

Attendance: The course follows the Law School's attendance policy. If a student is absent for any reason more than 20% of the course, then the student is not eligible for credit. A student who misses more than 25% of a class session will be counted as absent from that class session. Missing a class session will generally count against the participation grade except in extraordinary circumstances, such as serious illness, religious holidays, or family emergencies. If you need to miss class due to extraordinary circumstances, please email me about the absence in advance (when possible).

Use of Computers In Class: Computers are allowed in class; however, off-topic use of computers (such as playing games during class) may count against your class participation grade also, as it is distracting both to others.

Disability Accommodations: Students with disabilities or chronic medical conditions who are seeking in-class and/or exam accommodations should contact the Office of Disability Services (DS, ods.gmu.edu). This is the only office that can make a determination as to whether accommodations are required. The law school and instructors work with DS to implement approved accommodations. Students with questions about this process can contact Assistant Dean, Christine Malone at cmalone4@gmu.edu to learn more about seeking accommodations and how they are implemented.

Required Course Materials:

- Choper, Fallon et al., *Leading Cases in Constitutional Law* (“LCCL”) (2020 ed.)
- Assigned supplemental reading materials

Instructors: The instructors for this course are Ibnul A. Khan, Senator J. Chapman Petersen, Major Mika’il Ali, and Major Salahudin Ali. Mr. Khan and Mr. Petersen work together at Chap Petersen & Associates, PLLC—located in Fairfax, Virginia—and litigate cases in D.C., Maryland, and Virginia primarily involving contracts, torts, and business disputes. Major Mika’il Ali is a Commissioned Marine Corps Officer and Judge Advocate currently assigned to United States Marine Corps Training & Education Command and provides legal advice on matters under the cognizance of the Staff Judge Advocate to the Commandant of the Marine Corps. His area of focus consists national security law, cyber security, and data governance. Major Salahudin E. Ali is a Commissioned Marine Corps Officer and Judge Advocate, currently assigned to the National Geospatial-Intelligence Agency as a Marine Corps National Legal Fellow and provides comprehensive legal services on matters under the cognizance of the General Counsel, National Geospatial-Intelligence Agency. His area of focus consists of the intersection of law and technology.

Contact Information and Appointments: The best way to get in touch with the instructors for this course is via email: ikhlan13@gmu.edu; mali31@gmu.edu; sali44@gmu.edu; and jpeter42@gmu.edu . Given that the course will be conducted via remote means, the best way to speak with the instructors privately is to set up a meeting in advance with one of the instructors.

Notes:

List of Assigned Readings and Tests

The schedule for readings and tests follows. Any changes to a session’s readings will be announced in class in advance of that session. We generally assign about 40-60 pages of reading per week—.

Note that the midterm will be given during class time, and the final test will be given on May 3, 2022 at 6 pm.

- 1. What follows is a list of cases and topics.**
- 2. If any class is subject to change due to a conflict or emergency, sufficient notice will be given.**

Week 1 – Tuesday, January 18, 2022; Thursday January 20, 2022:

The U.S. Constitution: content, function, rationale, interpretive authority

- Class 1: The U.S. Constitution, including all amendments, LCCL, Appx. B. *The Federalist* #10, #51, #78 (online).
- Class 2: LCCL, pg. 1-34

Week 2 – Tuesday, January 25, 2022; Thursday January 27, 2022:

Techniques of Constitutional Interpretation Purpose or text?

- Class 1: *Modes of Constitutional Interpretation*, CRS Report # R45129
- Class 2: LCCL, pg. 241-245; 247-256; and 281-296 (Focus on Interpretation Techniques)

Week 3 – Tuesday, February 1, 2022; Thursday February 3, 2022:

Government Structure: Separation of powers

- Class 1: LCCL, pg. 103-143
- Class 2: LCCL, pg. 809-810; 830-834; and 885-889.

Week 4 – Tuesday, February 8, 2022; Thursday February 10, 2022:

Government Structure: Congressional power and federalism Commerce power in the New Deal and Civil Rights eras

- Class 1: LCCL, pg. 37-7
- Class 2: LCCL, pg. 79-103

Week 5 – Tuesday, February 15, 2022; Thursday February 17, 2022:

Individual Rights: Equal Protection:

- Class 1: LCCL 705-735
- Class 2: LCCL 735-770

Week 6 – Tuesday, February 22, 2022; Thursday February 24, 2022:

Individual Rights: Equal Protection:

- Class 1: LCCL 770-801
- Class 2: LCCL 801-848

Week 7 – Tuesday, March 1, 2022; Thursday March 3, 2022:

Individual Rights: Equal Protection:

- Class 1: LCCL, pg. 187-219
- Class 2: LCCL, pg. 221-269

Week 8 – Tuesday, March 8, 2022; Thursday March 10, 2022:

Individual Rights: Substantive Due Process / Modern doctrine

- Class 1: LCCL, pg. 269-314
- Class 2: LCCL, pg. 314-321

Week 9 – Tuesday, March 22, 2022; Thursday March 24, 2022:

Individual Rights:

- Class 1: Skim Federalist Paper # 10 (pay particular attention to language regarding the cause of factions and how to control their affects); LCCL, pg. 331-381
- Class 2: LCCL, pg. 381- 430

Week 10 – Tuesday, March 29, 2022; Thursday March 31, 2022:

Individual Rights: Freedom of Speech

- Class 1: *LCCL*, pg. 430-481
- Class 2: *LCCL*, pg. 481-529

Week 11 – Tuesday, April 5, 2022; Thursday April 7, 2022:

Individual Rights: Freedom of Speech

- Class 1: *LCCL*, pg. 529-576
- Class 2: *LCCL*, pg. 576-619

Week 12 – Tuesday, April 12, 2022; Thursday April 14, 2022:

Individual Rights: Free Exercise of Religion

- Class 1: *LCCL*, pg. 621-662
- Class 2: *LCCL*, pg. 662-705

Week 13 – Tuesday, April 19, 2022; Thursday April 21, 2022:

5th Amendment: Takings Clause & Final Review

- Class 1: 5th Amendment: overview of Takings Clause (review 5th Am. to Constitution)
Condemnation and Inverse Condemnation

Taking;

Without compensation;

Claim under state and federal law;

Kelo v. City of New London, 545 U.S. 469 (2005)

Rose Mary Knick, Petitioner V. Township of Scott, Pennsylvania, et al., 588 U.S. ____
(2019) (Supp. 212-38);

Williamson Cty. Planning v. Hamilton Bank, 473 U.S. 172 (1985)

Condemnation in Practice – Examples and Litigation

**cases can be found in Westlaw or LexisNexis*

- Class 2: **Review and discussion:** Weeks 1-13
Part I: Judicial Review; Civil War Amendments; Separation of Powers; Federalism
Part II: Individual Rights; Equal Protection; Due Process; Freedom of Speech; Freedom
of Religion; Takings Clause
Discuss Final Exam

Final exam session – May 3, 2022 at 6PM

[FINAL EXAM covering all Weeks 1-13]