

27703 - Foundations of Constitutional Law

Syllabus Information

Academic year: 2023/24

Subject: 27703 - Foundations of Constitutional Law

Faculty / School: 102 - Facultad de Derecho

Degree: 421 - Degree in Law

ECTS: 6.0

Year: 1

Semester: First semester

Subject type: Basic Education

Module:

1. General information

The subject Fundamentals of Constitutional Law aims to provide students with an account of the elements or factors that make up the constitutional state of our time, with a deliberative, participatory and social imprint; therefore, it overcomes the unidimensional in which the dogmatism of the legal-liberal state model was organized.

It is also intended to provide students with an account of the origin, meaning and function of the notion of the normative Constitution, the main trends in contemporary constitutionalism and the problems that afflict some of the most important instruments and actors of the constitutional State.

The Fundamentals of Constitutional Law subject is characterized by the exposition and discussion of principles and rights assumed by the universal legal heritage. For this reason, it is aligned with many of the goals set out in the so-called 2030 Agenda. In this sense, those most closely related to the subject are listed here according to a criterion of priority and generality:

(1) End poverty, (3) Health and wellness, (4) Quality education, (8) Decent work and economic growth, (10) Reducing inequalities, (11) Sustainable cities and communities, (16) Peace, justice and strong institutions.

2. Learning results

In order to pass this subject, the students shall demonstrate they has acquired the following results:

Ability to distinguish the models and forms of state and explain the functions of political integration performed by the modern constitutional State.

Clarify the role played by political parties and to characterize the various forms of political participation and factual elements of constitutional distortion.

Explain the concept of the Constitution, its various manifestations, its basis in the idea of constituent power, its functions and normative content, and its relationship with the rest of the legal system and, finally, its guarantees against threats and infringements of the normative program incorporated into it.

Distinguish the different stages of Spanish constitutionalism and identify its main features.

3. Syllabus

A. CONCEPTUAL INTRODUCTION AND DEVELOPMENT OF THE CONSTITUTIONAL STATE

A. I. CONCEPTION, VALUE, AND FRAMEWORK OF CONSTITUTIONAL LAW

T. 1. The Law. The different legal frameworks

T. 2. The State. Elements: special reference to power and sovereignty.

T. 3. Concept of Constitution

T. 4. Dogmatic Structure

T. 5. Organizational Structure: institutional distribution and territorial distribution

T. 6. Typologies

T. 7. Virtuality and Methodical Object

A. II. THEORY OF THE STATE

T.8. Pre-state political formations

T.9. Absolutist State

T.10. Liberal State. Civil rights

T.11. Democratic State. Political rights

T.12. Social State. Social rights

T.13. Globalized State. Collective rights

B. ELEMENTS OF THE CONSTITUTIONAL STATE

- T.14. Conceptual and contextual introduction
- T.15. Popular Sovereignty
- T.16. Essential system of fundamental rights: civil, political, social and collective rights
- T.17. State guarantor
- T.18. Division, Control and Accountability of Power
- T.19. Participatory organization
- T.20. Integral conception of security and sovereignty
- T.21. Plural society. Respect and autonomy of minorities. Special mention of ethno-pluralism and the national question
- T.22. Effective majority principle. The question of organized civilian power
- T.23. Transparent Public Administration and Public Opinion Regime
- T.24. Culture of peace. Promoting and guaranteeing the jus-humanist nature of international society

C. CHARACTERISTICS AND EVOLUTION OF SPANISH CONSTITUTIONALISM

- T.25. Nominalist liberalism: Constitutions of 1812, 1834, 1837, 1845.
- T.26. Democratic revolution. The Constitution of 1869, I Republic and Project of 1873.
- T.27. Bourbon-doctrinary restoration. The Constitution of 1876.
- T.28. Social constitutionalism: II Republic and Constitution of 1931.
- T.29. The corporate-authoritarian regime. Fundamental Laws.
- T.30. Transition and Political Reform Law

4. Academic activities

Within the framework of the aforementioned, the system organizes a set of theoretical classes in which the student must apprehend the concepts and categories explained by the teacher. Likewise, there are a series of practical classes that in this subject are not based on positive assumptions but, due to their eminently theoretical nature, must be redirected to a deep dialectic debate on theory and practical reality.

Specifically, the following types of activities are carried out:

Lectures on the theoretical-conceptual framework, related to elements and institutions of the constitutional State.

Practical teaching based on the deliberative model. Individual or group tutoring.

Personal study.

Activities not exclusively related to the program but related to the syllabus of the subject, as mentioned in the case of AT6.

5. Assessment system

Students must demonstrate that they have achieved the intended learning results by means of the following assessment activities To this end, they will perform:

Final Objective Test.

A number of questions should be answered on the lessons of the corresponding Program.

In the evaluation of this theoretical test, the knowledge acquired will be evaluated, weighing the capacity of argumentation, exposition and theoretical-practical relation. The value of the test will be 70% of the final grade.

In order to pass the subject, the student must have obtained at least a passing grade in this examination. That is to say, if the final objective test is not passed, the passing grade, or higher, obtained in the continuous evaluation will not be added.

Continuous Assessment

The other 30% of the final grade will be obtained through a continuous evaluation throughout the term.

Such qualification will come from different elements, such as objective tests on the theory, practical cases, thematic expositions, interventions in class, critical book reviews and the intervention and attendance, both in practical and theoretical classes.

This grade will be announced at the end of the corresponding class period, and before the date of the final objective test.

Students who wish to improve the grade obtained by continuous evaluation may take a complementary **test** corresponding to 30% of the grade obtained during the final exam in either of the two calls.

Activities Type 6 (AT6)

Those referred to as AT6 (works on books, film forums, debates, conferences, specialized conferences, institutional visits) may contribute - where appropriate - an extra grade of up to one point. This extra grade does not have an exact quantification but is the result of an objective weighting that the teacher can do if they deem it so based on the sum of activities performed in this type of TA6. Likewise, in no case may it reduce the grade obtained by the aforementioned binomial, through which the maximum grade can be reached.