CONSTITUTIONAL LAW
FERNANDO PASTOR-MERCHANTE

1- SUBJECT DESCRIPTION

The curriculum of every lawyer must include the study of the origin, justification and elements of the State as a model of social organization as well as the analysis of the Social and Democratic State model, subject to the rule of law, and its founding principles.

Constitutional Law, as a part of the area of Public Law, deals with the system of the sources of Law, fundamental rights, duties and freedoms as well as with the guarantee system, not only from a National point of view but also taking into account the European and the International perspective.

This course is a core one and its essential in the training of any lawyer, since the skills and competences to be learnt would be necessary in further courses. Besides, the unique European and International approach given to this specific course as part of the IE LLB program, will train future lawyers to pursue their careers in an international, multidisciplinary and multicultural environment with the capacity to learn from experience and incorporate further knowledge in a progressive self-directed and autonomous way.

2- OBJECTIVES AND SKILLS AIMS

2.1. OBJECTIVES

This course aims are:

1. To introduce students to the nature of constitutions and the principal constitutional concepts

2. To develop in students an understanding of:
   • the ordering of power within the state,
   • the relevant history and special features of the Spanish Constitution in comparison, where appropriate, with other modern constitutions,
   • the key constitutional concepts,
   • the main institutions of government as well as the territorial division of the power,
   • the general rights, freedoms, and civil liberties of the individual in relation to the state and taking into account the ECHR,
   • the basic principles of constitutional review.
3. To encourage a critical assessment of the Spanish constitution by reference to scholarship and proposals for reform

2. 2. LEARNING OUTCOMES

By the end of the module, students will be expected to be able to:

1. Describe the key concepts, rules and institutions of Constitutional law.

2. Discuss the relationship between the concepts of separation of powers, independence of the judiciary and rule of law.

3. Describe the key issues of the development of Constitutionalism in West Europe with a reference to the case of Spain.

4. Describe the Government framework structures and principles common to European Constitutional systems.

5. Describe the system of constitutional review and the mechanisms ensuring the supremacy of the Constitution.

6. Describe the legal framework of fundamental rights in European Constitutional systems taking into account its membership to supranational organizations.

3- CONTENT

SESSION 1
Introduction to the subject. – Methodology. – Readings, materials and explanation of the work plan.

SESSION 2
Key concepts of Constitutional Law and related disciplines. Fundamentals of State Theory.

SESSION 3
General Theory of Constitutionalism (I).

SESSION 4
General Theory of Constitutionalism (II). Key issues of European and Spanish Constitutional History.

SESSION 5
General Theory of the Social and democratic State subject to the Rule of Law within the European West Constitutionalism (I).

SESSION 6
General Theory of the Social and democratic State subject to the Rule of Law within the European West Constitutionalism (II).

SESSION 7
The Constitutional system. Elements (I)
SESSION 8
The Constitutional system. Elements (II)

SESSION 9
The Continental Western European, the Anglosaxon and the US Constitutional Model.

SESSION 10
European systems of the sources of law within the Constitution (I). The Constitution and the legal order.

SESSION 11
European systems of the sources of law within the Constitution (II). The typology of sources of law (acts issues from the Parliament). The Constitution and International Law.

SESSION 12
European systems of the sources of law within the Constitution (III). The typology of sources of law (acts issues from the Government).

SESSION 13
The Constitution, EU and International Law.

SESSION 14
Constitutional Amendment.

SESSION 15
Course review. Midterm assessment.

SESSION 16

SESSION 17
Fundamental Rights and Freedoms (II). Typology. Special consideration to political rights.

SESSION 18
Fundamental Rights and Freedoms (III). Guarantees and suspension.

SESSION 19
Social rights and its legal value.

SESSION 20
The European Convention of Human Rights. An overview.

SESSION 21
The Executive Power (I)
SESSION 22
The Executive Power (II)

SESSION 23
The Legislative Power (I).

SESSION 24
The Legislative Power (II).

SESSION 25
Government Framework.

SESSION 26
Territorial Organization of the State. Federalism. The Spanish system of the “Autonomous Communities”.

SESSION 27
Comparative Models of Judicial Review.

SESSION 28
The Constitutional Court (I). Composition, powers, organization.

SESSION 29
The Constitutional Court (II). Procedures. Special consideration to the Individual appeal for the protection of fundamental rights.

SESSION 30
Course review

4- METHODOLOGY AND ECTS WEIGHTING

4.1. GENERAL METHODOLOGY

The general methodology will include instructor presentations and explanations of key concepts and situations dealing with national and foreign constitutional issues. Decisions of foreign Supreme/Constitutional Courts will be used. Students are supposed to engage in discussion dealing with last developments and news dealing with Constitutional Law. As a general rule, the so called ‘Socratic method’ will be used.

Active participation in class, case presentations, group assignments and debates are a precondition for the success of the course. Students are expected to be the leading role in the class and encouraged to demonstrate a deeper knowledge of the course topics through an independent research activity.

Students are expected to attend and be prepared for all class meetings. Questioning in class will be part of the general methodology.
4.2. ECTS WEIGHTING

6 ECTS x 25 student work hours = 150 hours, divided as follows:

- 45 hours: lectures and class sessions, including practical exercises, cases, presentations and student discussion.
- 82.5 hours: student personal learning and reflecting, including class preparation, class readings, individual assignments, etc.
- 20 hours: assignments preparation (including midterm exam).
- 2.5 hours: Final Written exam.

5- EVALUATION SYSTEM

5.1. GENERAL OBSERVATIONS

Students are expected to attend and be prepared for all class meetings. Class participation will be figured into the final grade along with the grade on the final examination.

Evaluation will be based on a student’s attendance to the class, active participation during lectures, student engagement into discussions, student exercises and presentations, and student exam. Evaluation of discussions will focus on how students synthesise and analyze information from the readings and lectures.

5.2. EVALUATION AND WEIGHTING CRITERIA

- Class attendance, active participation and written assignments: 30%
- Midterm exam: 30%
- Final exam: 40%

Students failing the midterm exam will have the possibility to do a final exam including midterm contents.

Each student has four attempts over two consecutive academic years to pass this course. Attendance at 70% of the classes is compulsory and an absence of more than 30% will result in a grade of 0.0 for the subject. In addition, students not fulfilling the attendance requirement will automatically lose two attempts to pass the course and will thus only have two last attempts to do so during the following academic year.

RETAKE EXAM

If a student’s course grade is below 5.0, the student is required to take the retake exam to pass the course.

The maximum grade that students can obtain in the retake exam period is 8.0.

A student who has missed over 30% of the class meetings will not be allowed to take the retake exam, but will only have two attempts left to pass the course during the following academic year.