

History of Constitutions

Academic Year: (2023 / 2024)

Review date: 28-05-2022

Department assigned to the subject: Criminal Law, Procedural Law and History Law Department

Coordinating teacher: BERMEJO CASTRILLO, MANUEL ANGEL

Type: Electives ECTS Credits : 3.0

Year : Semester :

REQUIREMENTS (SUBJECTS THAT ARE ASSUMED TO BE KNOWN)

Not applicable

OBJECTIVES

The aim of this subject is to provide students with an in-depth introduction to the complex historical and conceptual reality that explains and justifies the central role played by Constitutions in the legal systems of present day democratic societies. Therefore, beginning with their remote medieval origins, the student will be introduced to the evolution of constitutional thought, through the gradual building and consolidation of the essential defining notions and principles of the new model of the State established as a result of the liberal revolutions, such as sovereignty, legality, separation of powers, or recognition and protection of individual and collective rights. But he or she will also have to opportunity to analyze and compare the different realization and formulation adopted by them through the most important historical constitutional texts, This will allow the student to become aware of the direct link existing between the solutions contained in each Constitution, including the current Spanish Constitution, and the particular political, economic and social circumstances at the moment of their writing.

DESCRIPTION OF CONTENTS: PROGRAMME

First part: Constitutionalism and Constitutions

1. The idea of constitution in the classical world: politeia and res publica
2. Medieval order and mixed constitution
3. The doctrines of sovereignty and absolutism
4. English constitutionalism
5. Colonial origins of North American constitutionalism
6. Birth and Constitution of the United States
7. The constitutional culture of the French Revolution
8. The liberal State and the state constitution
9. The crisis of the liberal system
10. The constitutional State

Second part: Main topic: the Spanish Constitutions

1. Statute of Bayonne
2. Constitution of Cadiz of 1812
3. Royal Statute of 1834 and Constitutions of 1837 and 1845
4. Constitution of 1869
5. Federal Constitution of 1873
6. Constitution of 1876
7. Constitution of 1931
8. Interruption of constitutional order during the Franco regime

LEARNING ACTIVITIES AND METHODOLOGY

The teaching methodology is based on a combination of introductory explanations by the professor for each topic and the active participation of the student through preparing and presenting papers, individual and group oral presentations and participation in debates based on topics from the presentations. To facilitate these activities, the student will have access to documents consisting of a program and a list of constitutional and doctrinal texts that will be analyzed and commented on.

An extensive system of tutoring will be established, aimed at solving issues and problems related to

classes and materials and to the orientation for the preparation of essays and oral and written presentations.

At the end of the course the student should be able to:

1. Understand the juridical nature of the Constitution as the supreme source of the legal system.
2. Identify cultural factors that explain the evolution of constitutionalism
3. Perceive political, social and economic transformation in legislative changes.
4. Identify and understand the determinant legal conceptions of the political organization and law in force in contemporary Western societies.
5. Appreciate the historical dimension of legal, political and social institutions.
6. Analyze the keys to interpret the development of the State in Spain.
7. Acquire the ability to argue the analysis and interpretation of the norms from a historical perspective.
8. Perceive the historical dimension of the law and reflect on the factors that determine its evolution.

ASSESSMENT SYSTEM

The continuous assessment is based on the following criteria:

- Regular class attendance and class participation: 10%.
- Written projects and oral presentations: 20%
- Participation in class debates and whether the participation in these is interesting and opportune: 5%
- Attending tutorials and the interest, preparation and knowledge demonstrated in them: 5%
- Written examinations on class content: 60%. There will be at least two tests based on the professor's lectures and reading provided to the students. However, passing these exams is obligatory in order to take into consideration the other parts of the continuous assessment system when averaging the student's grade. The students could pass the subject through the continuous assessment system without final exam.

Alternatively the final exam counts 60% of the final grade for those students who choose not to take part in the continuous assessment system. Students who have not passed the subject with the continuous assessment system or those who wish to improve their grade can also take a final exam, different from the one mentioned above.

% end-of-term-examination:	60
% of continuous assessment (assignments, laboratory, practicals...):	40

BASIC BIBLIOGRAPHY

- B. CLAVERO SALVADOR Manual de Historia constitucional de España, Madrid, Alianza, 1989
- M. FIORAVANTI Constitución: De la antigüedad a nuestros días., Madrid, Trotta, 2001

ADDITIONAL BIBLIOGRAPHY

- F. Tomás y Valiente: La Constitución de 1978 y la historia del constitucionalismo español., Anuario de Historia del Derecho Español, 50 (1980), pp. 721-751..
- M. Fioravanti: Los derechos fundamentales. Apuntes de historia de las constituciones., Madrid, Trotta, 1996..
- N. Mateucci: Organización del poder y libertad. Historia del constitucionalismo moderno., Madrid, Trotta, 1998..