COURSE DATA

Data Subject	
Code	35244
Name	Comparative constitutional law
Cycle	Grade
ECTS Credits	4.5
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Study (s)

Degree	Center	Acad. year	Period
1303 - Degree in Law	Faculty of Law	4	First term

Subject-matter

Degree	Subject-matter	Character
1303 - Degree in Law	37 - Comparative constitutional law	Optional

Coordination

Name	Department
FLORES JUBERIAS, CARLOS	55 - Constitutional Law, Political and Administrative Sciences

SUMMARY

The Teaching Guide proposed for this subject proposes a journey through the historical evolution and theconstitutional actuality of the main political regimes of the present time, capable of complementing theknowledge -obviously more profound- that the student will already possess regarding historical evolutionand the constitutional structure of our own country, and that which other subjects of this Degree willprovide on our most immediate environment, the Valencian Community.

In such a journey -following the suggestion of García Pelayo- the double technique of studying in anindividualized way the "diverse constitutions that are considered as the most genuine and exemplaryrepresentation of a kind or genre of constitutional-juridical organization", and reducing "the constitutionsof particular States to collective groups, but each of them endowed with its own singularity with respectto the others, so that it operates through the reduction of individual singularities to collectivesingularities" have been combined. The first of these criteria -the individualized study of specifc regimeshasbeen followed, among others, in the cases of the United Kingdom, Germany, Italy, France, the UnitedStates, Japan or China. The second, on the contrary, is the one that has been preferred when dealingwith the constitutional models of the Latin American countries, or those of the Islamic world, on the Lawunderstanding that -with varying intensity- each of these groups of countries framed

constitutionalrealities endowed of estimable and differentiated similarities, in turn, as a whole of the models of theirenvironment.

The selection of the cases to be analyzed is confessedly "Eurocentric". And it is so because weunderstand that the objectives we have listed as justifying the use of comparison are likely to be muchbetter satisfied when the elements with respect to which this operation arises are close elements -comparability is a prerequisite for comparison- than when they are remotely related. But it is, certainly, toa much lesser extent than other programs or manuals to use, as can be deduced by seeing lessons orepigraphs often absent in other forums. Such an option for a "moderate Eurocentrism" derives from aconviction in the need to overcome cultural, historical and ideological barriers in our task ofunderstanding the world around us, especially when that external world surrounds us from as close asthe Arab countries or the nations of Latin America.

PREVIOUS KNOWLEDGE

Relationship to other subjects of the same degree

There are no specified enrollment restrictions with other subjects of the curriculum.

Other requirements

The proposed program is based on the assumption that students who complete it have already passed the two subjects that in the first and second year of the Degree are devoted to the study of Spanish Constitutional Law and, consequently, have a reasonably finished idea what is a state, what is the function and what the content of a constitution, and what elements are those that define a political regime.

OUTCOMES

1303 - Degree in Law

- Recognise the importance of law as a system for regulating social relations.
- Know the content and application of each of the branches of the legal system.
- Understand the constitutional regulatory framework, the political institutions of the State and their functioning.
- Know the community and international regulatory framework, its institutions and their functioning.
- Be able to use legal sources (legal, jurisprudential and doctrinal).
- Be able to read and interpret legal texts.
- Be able to communicate correctly both orally and in writing in the field of law.
- Develop critical awareness for the analysis of the legal system and develop the legal dialectic.
- Acquire basic knowledge of legal arguments.

- Be able to use information and communication technology to obtain and select legal information.
- Know, understand and know how to apply the interrelation between law and other non-legal disciplines.

LEARNING OUTCOMES

In view of the foregoing, the general objective of this subject is to provide students with the basicknowledge that will enable them to understand in their most essential lines the political and territorialorganization of several of the States most geographically and politically close to us, most influential in thedevelopment of democratic constitutionalism, or of greater weight in the international community. Havingthis in mind, the lessons of this subject will be directed more specifically:

- To understand the concept of the State, to be able to identify its basic political institutions, distinguishthe different phases in the evolution of the State up to the present day, and to critically evaluate itsdegree of democratic quality.

- To understand the institutional dynamics which define the parliamentary, presidential andsemipresidential systems and their practical application, and more specifically, to understand what is theconstitutional position of the Head of State and its responsibilities, how elections are carried out, what isthe function of the Parliament, as is the backbone - if it exists - of the confidence relationship betweenthe Government and Parliament; what is the composition and competence of the Constitutional Court orequivalent body, and how the country in question is territorially organized.

- To become familiar with contemporary democratic constitutions. Be able to locate, use, understand andinterpret them. To gain critical awareness in legal analysis and develop adequate legal reasoning in thecontext of an increasing trend towards convergence between systems. To be able to communicate, orallyand in writing, in the legal language, and analyze legal problems and be able to synthesize and solvethem. To be able to use the new information and communication technologies in the location andselection of legal information, and especially to become familiar with the main national and internationaldatabases on Constitutional Law.

- To be able to approach other constitutional cultures in Europe and beyond through the analysis ofcomparative law, thus consolidating a "European constitutional feeling", and acquiring a more criticalview of the virtues and shortcomings of the Spanish political system and the way in which it operates, inorder to be able to exercise an active, critical and well-informed way his/her civic and political rights.

DESCRIPTION OF CONTENTS

1. Lesson 1. The political regime of the United Kingdom

1.- The relevance of the British constitutional tradition and its gradual conformation: a) The origins of the British Parliament; b) The era of royal primacy; c) The English Revolution; d) The gradual appearance of parliamentarism; e) The rise of the executive; f) Integration in Europe.
2.- The sources of British constitutional law.
3.- The political institutions of the United Kingdom: a) The Crown: meaning and constitutional function; b) The House of Commons: electoral system, powers and organization; c) The House of Lords: its reforms

and the debate about its future; d) Government, Cabinet and Prime Minister.
4. The British two-party system and its slow erosion: the British political forces: a) Conservatives and Labour; b) Liberals and eurosceptics; c) Nationalist parties.
5.- The process of devolution: the new political institutions of Northern Ireland, Scotland and Wales.

2. Lesson 2. The political regime of the Federal Republic of Germany

1.- The historical evolution of Germany: a) From the Unification to the Weimar Republic; b) The Nazi period; c) The Bonn Basic Law and its historical circumstances; d) German reunification.
2.- General characteristics and political principles of the regime.
3.- Federal institutions: a) The Federal President; b) The Bundestag: electoral system and powers; c) The Bundesrat and its role in the legislative process; d) The Federal Chancellor and the formula of "rationalized parliamentarism"; e) Constitutional justice in Germany.
4.- The German party system before and after reunification: a) The constitutional limits to pluralism; b) Christian Democrats and Social Democrats; c) Liberal, green and postcommunist parties.
5.- The German federal system.

3. Lesson 3. The Italian political regime

1.- The historical evolution of Italy: a) From Unification to Fascism; b) The Republic until the political reforms of the nineties; c) Partitocrazia, its collapse and the path towards a false bipolarity.
2.- The Italian political parties, before and after the crisis of the nineties.
3.- The fundamental political principles of the Italian political regime.
4.- The Italian political institutions: a) The Presidency of the Republic; b) The Italian bicameral model and its reform projects; c) The Government and its relations with the cameras; d) The Constitutional Court.
5.- The Italian regional system and its permanent questioning

4. Lesson 4. The French political regime

1.- The relevance of French constitutional history: a) The French Revolution: its ideological substratum and its constitutional concretions; b) Monarchical restorations of the 19th; c) The III and the IV Republics; d) The establishment of the V French Republic.
2.- The defining characteristics of the semi-presidential model.
3.- The constitutional institutions of France: a) The President of the Republic and its attributions; b) The Government and the Administration; c) President-Prime Minister relations: cohabitation; d) The Parliament; e) The high jurisdictional and advisory bodies.
4.- The party system in France.

5. Lesson 5. The political regime of the Russian Federation

1.- The values and the political culture of the US.
2.- The formation and historical evolution of the US political system: a) The American Revolution; b) The Philadelphia Convention and the Constitution of 1787; c) From the Civil War to the struggle for civil rights.
3.- The US political parties: a) Origin and evolution; b) Ideological and sociological profiles; b) The internal functioning of the parties and their repercussions on the political system.
4.- The political institutions of the United States: a) The election of the Senate and the House of Representatives; b) Organization and powers of the Congress; c) The election of the President of the US; d) The powers of the President and the question of his responsibility: the impeachment; e) The role of the Supreme Court as guarantor of rights and freedoms.
5.- The changing American federalism.

6. Lesson 6. The political regime of the United States

1.- The values and the political culture of the US.
2.- The formation and historical evolution of the US political system: a) The American Revolution; b) The Philadelphia Convention and the Constitution of 1787; c) From the Civil War to the struggle for civil rights.
3.- The US political parties: a) Origin and evolution; b) Ideological and sociological profiles; b) The internal functioning of the parties and their repercussions on the political system.
4.- The political institutions of the United States: a) The election of the Senate and the House of Representatives; b) Organization and powers of the Congress; c) The election of the President of the US; d) The powers of the President and the question of his responsibility: the impeachment; e) The role of the Supreme Court as guarantor of rights and freedoms.
5.- The changing American federalism.

7. Lesson 7. Latin American political regimes

1.- General lines of political evolution in Latin America: independence, liberalism, authoritarian parentheses, democratic transitions and populist drifts.
2.- The general characteristics of Latin American constitutionalism: a) Mimetism, instability, exceptionalism, personalism and centralism; b) The so-called "new Latin American constitutionalism".
3.- A typical example: Bolivia: a) The political evolution of Bolivia: liberalism, dictatorships, democratization and populisms; b) The transition to democracy in Bolivia; c) The crisis of Bolivian democracy and the fruits of its constituent process.

8. Lesson 8. The political regimes of the Muslim world

1.- The place of religion, state and law in Muslim societies.
2.- Unity and diversity in the Islamic world: a) Theocracies; b) Absolute and limited monarchies; c) Authoritarian regimes of a secular nature; d) The Arab springs: changes and continuities.
3.- A typical example: Morocco: a) The religious foundations of power: the king as commander of the believers; b) The executive and normative powers of the king; c) The king and his economic power: the majzen; d) Parliament, parties and elections in Morocco; e) The status of human rights.

9. Lesson 9. The political regime of Japan

1.- The weight of the Japanese political tradition and the persistent tendency towards its westernization.
2.- The Political Constitution of occupied Japan and its application: a) The Tenno and its role as a symbol; b) The Diet and its relations with the cabinet; c) The disputed neutrality of Japan.
3.- The political forces in Japan: a) The Japanese system of parties; b) The other political actors of Japan.

10. Lesson 10. The political regime of the Peoples Republic of China

1.- Historical evolution of the Chinese political regime: a) The Chinese Revolution and its meaning; b) Maoism and demaoization; c) Perspectives of change: toward an authoritarian capitalism?
2.- The political institutions of the Chinese political regime: a) The Chinese Communist Party; b) Government institutions; c) Territorial tensions.
3. The question of human rights in China.

WORKLOAD

ACTIVITY	Hours	% To be attended
Theoretical and practical classes	45,00	100
Study and independent work	45,00	0
Readings supplementary material	21,00	0
TOTAL	**111,00**	

TEACHING METHODOLOGY

The theoretical classes and the applied activities referred in this guide will be taught throughout thefifteen weeks of the first semester of the course in the days and classroom determined by the Faculty ofLaw. In case any class has to be suspended for justified reasons, this circumstance will becommunicated with as much anticipation as possible, and will be provided for its recovery before the endof the course.

The theoretical classes will consist of an oral presentation by the professor in charge of the mostrelevant aspects of each lesson of the syllabus. Classes will focus not only on the analysis of the relevantconstitutional texts, but also on their historical background, their political context, and their futureprospects. In order to fully benefit from the scheduled classes, students are expected to read theassigned materials, regarding which the teacher's oral presentations are considered to be complementary, immediately before attending the class. Their active participation in the classes, askingquestions, demanding a greater clarification of the most complex questions, or proposing additionalexplanations about the special interest aspects of the syllabus, will be especially welcome. Althoughattendance at theoretical classes is not compulsory, students are expected to attend them regularly,since this will be a determining factor in their adequate preparation for the evaluation process.Notwithstanding the above, and given that the reduced number of teaching hours foreseen in the syllabusmakes it impossible to provide a complete and complete approach to all the relevant aspects of thevarious topics that make up the program in the classroom, mere assistance to class -not even when thisoccurs with the best possible attitude- in no way can be considered sufficient for the

adequatepreparation of the subject. That is why the autonomous study by the student of the manuals proposed,the consultation of the legal texts that are cited and -in addition- an adequate use of the office hours toclarify doubts or request more details constitute irreplaceable elements of assistance in the preparationof the program.

In the case of **the applied activities**, the class will consist of a discussion of the materials previouslypresented to the students, on which they will have had to draw their own conclusions, and on thesubsequent delivery of these. To this end, during the week prior to its completion, the professor in chargewill send the students newspaper clippings, documents, or normative texts related to the political andinstitutional life of the States that will be studied, so that in the day indicated for it, in writing, and in aspace of no less than five and no more than ten pages in each case, the students express their opinionabout it or answer the questions proposed by the professor with finished and well articulated argumentsand exposing their points of view in a coherent and well-grounded manner, thereby proving hisknowledge of the subjects on the agenda and his mastery of the doctrinal and normative sources used. Ineach case, the question that arises will revolve around topics already seen in the program, and will besubsequently evaluated.

The **complementary activities** are intended to provide different points of view to the study of some ofthe topics addressed during the course, through the use of different methods to approach them.Students will alternate lectures of visiting professors with film screenings, followed by the appropriatedebate in both cases, which will take place on the days and in the places that for each of them arespecified.

Finally, and in order to complement the global and systematic analysis of the contents of the subject withmore specific analysis of relevant aspects of the program, the professor in charge will make available tothe students a series **of assigned readings**. These will be facilitated through the Virtual Classroom, inalternate weeks.

Those students who need to abide by the provisions of the Regulation on academic attention to studentswith disabilities, approved by the Governing Council of the Universitat de València no. 127/2010 can tellthe professor of the subject, either personal way or through intermediation of the Unitat per a theIntegració de Persones amb Discapacitat of the Universitat de València in order to adopt the opportunemeasures for its full access to the education system.

EVALUATION

With regard to the grading phase, in accordance with the regulations included in the “Verifica” of the LawDegree and the agreements adopted by the Academic Committee of the Degree, the final grade of each student will derive from the results of a final, written test, which will mean 70% of the grade, and of aseries of continuous evaluation tests, which will jointly represent the other 30% of the final grade.

• In the aforementioned written test, questions intended to be responded in a summary, precise andrigorous manner, and broader issues to be addressed with well structured arguments based on a broadglobal knowledge of the subject will be combined. Both kind of questions will focus on topics clearlyincluded in the syllabus of the subject and whose importance has been noted throughout the course. Thedate of the test will be determined by the Office of the Dean of the Faculty and announced conveniently.The grading of these tests will be carried out with rigor and equity, and in it it will be appreciated in aspecial way that the student is able to expose his/her concepts with an adequate spelling and a clearand rigorous language, avoiding vagueness, redundancy and evasiveness. Rules regulating the revisionof the qualifications at the University of Valencia will aply.

• Students may choose to take their test orally, in which case the professor will ask him/her threequestions chosen at random, give him/her a few minutes of reflection so that he/she can properlystructure his answers, and proceed to listen to them. The exam will be recorded, unless the studentwaives that right.

• The tests of continuous evaluation will be those indicated in the proper section of applied activities andcomplementary activities. The first ones must be delivered at the moment of their realization (that is:neither before nor after the corresponding session, and only previous attendance to it), in writing (neverby email), and they will be jointly evaluated with a maximum of 2.00 points depending on the degree ofinvolvement and effort of the student in the learning process and the skills and attitudes shown duringthe development of said activities. The second ones will be evaluated with a maximum of 1.00 pointsdepending also on the degree of involvement of the student in the learning process and on the skills andattitudes shown during the development of said activities.

The final grade will result from the addition of the above-mentioned grades, as long as the written testscore is at least 3.00 (out of 7.00 points). In case of doubt, the active participation of the student in classwill be taken into account as much as possible.

In case the overall grade of the subject is suspended in the first call, for the second the student maychoose between (a) keep the grade of his written exam and present again the tests of continuousevaluation, (b) keep the qualification of these and carry out the written examination again and (c)repeatboth of them. Under no circumstances will grades be kept beyond the end of the academic year.

It should be pointed out, finally, that the students are expected -both in the development of the classesand at the time of their examinations and other written tests- an honorable and integral behavior,adequate for university students. The opposite will result in the requirement of the legally establishedresponsibilities.

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Basic

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Additional

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ADDENDUM COVID-19

This addendum will only be activated if the health situation requires so and with the prior agreement of the Governing Council

English version is not available