

**CONSTITUTIONAL LAW****SYLLABUS**

**Professor:** Jorge Silva Sampaio

**Course Description**

Constitutional review is a subfield of constitutional law that examines the nature and justification of judicial review, as well as how judicial review should be conducted by courts—namely, the methodological operations required to assess the constitutionality of statutes and other legal norms—and the different models of review. This course focuses on key topics such as the normative justification of constitutional review and its connection to debates on the nature of law, its relationship with fundamental rights and principles, constitutional interpretation, legal balancing and proportionality, as well as the different models of review, namely diffuse, concentrated, and mixed systems.

**Course Goals**

The primary aim of the course is for students to understand not only the nature, problems, and justification of constitutional adjudication, but also its relationship with constitutional norms and fundamental rights, as well as the operations required for the identification and application of constitutional law. Additionally, the course aims to enable students to grasp the fundamental features of the Portuguese system of constitutional review, so as to compare it with their own systems of judicial review.

**Topics**

## PART I – PHILOSOPHY OF CONSTITUTIONAL ADJUDICATION

- § 0. The Nature of Law and Constitutional Review
- § 1. Constitutionalism and Catalogues of Fundamental Rights
- § 2. Philosophical Foundations of Constitutional Review
- § 3. Constitutional Supremacy and Constitutional Review

## PART II – THEORY AND METHODOLOGY OF CONSTITUTIONAL ADJUDICATION

- § 4. Constitutional Norms and Fundamental Rights Positions
- § 5. Constitutional Interpretation
- § 6. Constitutional Conflicts and Legal Balancing
- § 7. Constitutional Principles Governing Restrictions on Fundamental Rights
- § 8. Validity and Unconstitutionality
- § 9. Constitutional Precedent

§ 10. Judicial Deference

PART III – CONSTITUTIONAL ADJUDICATION IN THE PORTUGUESE LEGAL SYSTEM

§ 11. Models of Constitutional Adjudication

§ 12. Constitutional Review in the Portuguese Legal System

12.1. Constitutional Court and Constitutional Judges

12.2. Object of Review

12.3. Standards of Review

12.4. Types of Review

**Schedule of Topics and Readings**

To be further communicated.

**Assignments and Grades**

Participation in classes and in a debate (topic: TBA) and resolution of a written exercise during a class (50%)

Final paper – 6-10 (1.5 spacing) pages (50%)

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