

DISCIPLINA: <b>COMPARATIVE CONSTITUTIONAL LAW</b>	CÓDIGO: <b>GRDDIRATCE0135</b>
PROFESSOR: <b>THOMAZ PEREIRA</b>	CARGA HORÁRIA: <b>30h</b>
<p><b>EMENTA</b></p> <p>This course will explore constitutional law through a comparative lens. We will discuss how different constitutional democracies grapple with concepts of separation of powers, federalism, judicial review, human dignity and social rights, among others. Special focus will lie on how these concerns intersect with the fashioning of identities and communities, and on how constitutional law can only be truly understood as existing in a normative universe that integrates history, culture and institutions.</p>	
<p><b>OBJETIVOS GERAIS</b></p> <p>Constitutional law will be analyzed in its different dimensions of (i) a theoretical form of legitimating power, (ii) a product of a specific political history and culture, and (iii) a normative framework that constitutes and regulates political institutions.</p>	
<p><b>OBJETIVOS ESPECÍFICOS</b></p> <p>The course has two purposes: first, to introduce students to the relevant topics in comparative constitutional law; and second, through comparison of the experiences of different constitutional democracies, to encourage critical thinking about fundamental issues regarding constitutional law and theory. The division of the program in two parts reflects these two fundamental concerns.</p>	
<p><b>METODOLOGIA</b></p> <p>This seminar will meet once a week and its focus will be on deep discussions regarding the required readings. This will require student's active participation, which will comprise a significant part of the grade. Students are expected to do the readings in advance of each class, and student's engagement in the classroom discussion should reflect this. Each student will be assigned to write two short response papers during the course of the term. The final examination will be in the form of a 48 hours take at home exam.</p>	
<p><b>PROGRAMA</b></p> <p><b>Part I – Constitutions and Constitutionalism: History, Culture and Institutions</b></p> <p><b>Class 1 (February 13): Introduction and Background:</b></p> <p><b>Class 2 (February 20): The Function of a Constitution</b></p> <p><b>Class 3 (March 6): Comparative Law and Courts</b></p> <p><b>Class 4 (March 13): Constitutions and Constitutionalism</b></p> <p><b>Class 5 (March 20): History, Political Culture and Institutions</b></p> <p><b>Class 6 (March 27): Constitutional Law, Human Rights and Democracy</b></p> <p><b>Part II – Selected Topics of Comparative Constitutional Law</b></p> <p><b>Class 7 (April 10): Judicial Review</b></p> <p><b>Class 8 (April 17): Proportionality</b></p> <p><b>Class 9 (April 24): Freedom of Expression</b></p> <p><b>Class 10 (May 8): Abortion and Reproductive Rights</b></p> <p><b>Class 11 (May 15): Gender Equality and Discrimination</b></p>	

**Class 12 (May 22): Regulating Sexuality**

**Class 13 (May 29): Basic Needs – Social Security, Housing and Food**

**Class 14 (June 5): The Judicialization of “Mega Politics”**

**CRITÉRIOS DE AVALIAÇÃO**

1. Students will be graded on the class participation. 2. During the course of the term, each student will be assigned to write two short (5 pages) response papers on the week’s readings. 3. For the final examination students will be asked to answer one or more questions - the questions will be sent electronically to all students and they will have 48 hours to hand in their answers. The breakdown for grading in the class is as follows: 1. Class Participation: 20%; 2. two short response papers: 30% (15% each); 3. Final examination: 50%.

**BIBLIOGRAFIA OBRIGATÓRIA**

Vicki C. Jackson; Mark Tushnet (eds.), *What is Comparative Constitutional Law*, in COMP. CONST. LAW (2d ed. 2006), pp. 141-155.

Bruce Ackerman, *The Rise of World Constitutionalism*, 83 VA. L. REV. 771 (1997), pp. 771-775.

Dieter Grimm, *The Achievement of Constitutionalism and its Prospects in a Changed World*, in THE TWILIGHT OF CONSTITUTIONALISM? (Petra Dobner & Martin Loughlin eds., 2009), pp. 3-22.

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Alec Stone Sweet, *Constitutions and Judicial Power*, in *Comparative Politics* (Daniele Caramani ed., 2008), pp. 217-239.

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Dieter Grimm, *Proportionality in Canadian and German Constitutional Jurisprudence*, 57 U. OF TORONTO L. J. 383 (2007), pp. 383-397.

*Lüth*, (1958) 7 BVerfGE 198 (Fed Const’l Ct) [Germany]

*New York Times Co. v. Sullivan*, (1971) 376 US 254 483 (Sup Ct) [United States]  
*R. v. Butler*, [1992] 1 SCR 452 (Sup Ct) [Canada]  
*Von Hannover v Germany*, (2004) [European Court of Human Rights]  
*Roe v Wade*, (1973) 410 US 113 (Sup Ct) [United States]  
*Abortion I Case*, (1975) 39 BVerfGE 1 (Fed Const'I Ct) [Germany]  
*R v Morgentaler*, (1988) 1 SCR 30 (Sup Ct) [Canada]  
*Attorney General v X and Others*, (1992) 1 IR 1 (Sup Ct) [Ireland]  
*Edwards v Canada*, [1930] AC 124 (JCPC) [Canada]  
*Alice Miller v Minister of Defence*, (1995) HCJ 4541/94 (High Ct Jus) [Israel]  
*Beatrice Fernandez*, [2005] 3 MLJ 681 (Fed Ct) [Malaysia]  
*Police Pensions Case*, (2009) 3-3-1-41-09 (Sup Ct, en banc) [Estonia]  
*Loving v Virginia*, (1967) 388 US 1 (Sup Ct) [United States]  
*Lawrence v Texas*, (2003) 539 US 558 (Sup Ct) [United States]  
*Reference re Same-Sex Marriage*, [2004] 3 SCR 698 (Sup Ct) [Canada]  
*Civil Partner Pensions Case*, (2009) 1 BvR 1164/07 (Fed Const'I Ct) [Germany]  
*Olga Tellis v Bombay*, [1985] 3 SCR 545 (Sup Ct) [India]  
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*C-370 of 2006*, (Const'I Ct) [Colombia]

**BIBLIOGRAFIA COMPLEMENTAR**

Será indicada posteriormente.