



CAMPUS DE JACAREZINHO
CENTRO DE CIÊNCIAS SOCIAIS APLICADAS
PROGRAMA DE PÓS-GRADUAÇÃO EM CIÊNCIA JURÍDICA

PORTARIA Nº 07/2022-PPGD

Súmula: Autoriza a realização de disciplina na modalidade remota, para o Programa de Pós-graduação em Ciência Jurídica e estabelece outras providências.

O Professor Doutor Fernando de Brito Alves, Coordenador do Programa de Pós-graduação em Ciência Jurídica do Centro de Ciências Sociais Aplicadas, Campus de Jacarezinho da Universidade Estadual do Norte do Paraná, no uso de suas atribuições regimentais,

Considerando o previsto no art. 3º, parágrafo único da Instrução de Serviço no 01/2022-PROPG,

RESOLVE,

Art.1º. Autorizar o Professor Jairo Néia Lima, a ministrar disciplina na modalidade virtual, conforme calendário que segue no anexo I desta Portaria. A disciplina será ministrada na língua inglesa.

Art. 2º. Os alunos interessados deverão enviar pedido de matrícula através do e-mail inscricaomd@uenp.edu.br, até o dia 08 de abril próximo.

Art. 3º. Esta portaria entra em vigor na data sua publicação, revogadas as disposições em contrário.

Secretaria do Programa de Pós-Graduação em Ciência Jurídica do Centro de Ciências Sociais Aplicadas, *Campus* de Jacarezinho da UENP. Jacarezinho (PR), aos cinco dias do mês de abril do ano de dois mil e vinte e dois. Eu, _____(Maria Natalina da Costa), SECRETÁRIA DA PÓS-GRADUAÇÃO EM CIÊNCIA JURÍDICA, digitei e subscrevi.

ASSINADO NO ORIGINAL
Prof. Dr. Fernando de Brito Alves
Coordenador do Programa





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ANEXO I – PORTARIA 07/2022-PPGD

TODAS AS ATIVIDADES SERÃO DESENVOLVIDAS EXCLUSIVAMENTE NA LÍNGUA INGLESA

DISCIPLINA COMUM ÀS LINHAS DE PESQUISA DO MESTRADO E DOUTORADO

DISCIPLINA	PROFESSOR	DATAS E HORÁRIOS DAS AULAS
JUDICIAL REVIEW FROM A SKEPTICAL VIEW 45HS	Dr. Jairo Neia Lima	03/05/22 – das 19:00 h às 22:00 h 10/05/22 – das 19:00 h às 22:00 h 17/05/22 – das 19:00 h às 22:00 h 24/05/22 – das 19:00 h às 22:00 h 31/05/22 – das 19:00 h às 22:00 h 07/06/22 – das 19:00 h às 22:00 h 14/06/22 – das 19:00 h às 22:00 h 21/06/22 – das 19:00 h às 22:00 h 28/06/22 – das 19:00 h às 22:00 h 05/07/22 – das 19:00 h às 22:00 h 12/07/22 – das 19:00 h às 22:00 h 19/07/22 – das 19:00 h às 22:00 h 26/07/22 – das 19:00 h às 22:00 h 02/08/22 – das 19:00 h às 22:00 h 09/08/22 – das 19:00 h às 22:00 h

INFORMAÇÕES IMPORTANTES:

1. É obrigatória a frequência de 75%.
2. Esse calendário poderá sofrer alterações de acordo com a necessidade do Programa ou do Professor, porém nesse caso todos serão avisados com antecedência.



**UNIVERSIDADE ESTADUAL DO NORTE DO PARANÁ
LAW SCHOOL
POSTGRADUATE PROGRAM IN LAW**

PROF. JAIRO LIMA

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<https://uenp.academia.edu/JairoLima>

SYLLABUS

COURSE TITLE:

JUDICIAL REVIEW FROM A SKEPTICAL VIEW

1 – DESCRIPTION, OBJECTIVES, AND METHODOLOGY

1.1) Course description: Judicial review of legislation corresponds to a practice in several jurisdictions where courts can uphold constitutional law. This course will introduce students to the theoretical elements of judicial review through the exploration of arguments around the debate of its legitimacy. It will be investigated perspectives where the advantages of courts are under skepticism. Furthermore, students will learn the main analytical categories in contemporary constitutional thought to better evaluate the way the Brazilian constitutional review system is put in practice.

1.2) Course objectives: a) Methodological: to foster the English academic reading and argumentation. b) Thematic: to familiarize students with the main contemporary debate on the legitimacy of judicial review; to cultivate them the ability to identify latent constitutional problems; to equip them with the intellectual tools necessary to properly conceptualize and analyze judicial review in Brazil.

1.3) Methodology: In order to foster internationalization, lectures will be held on Zoom synchronous meetings. Students are expected to have their cameras on at all times to participate in the discussion. Professor Jairo will adopt EMI (English as a medium of instruction) methodology, which is adequate for groups with different levels of proficiency and students who are not native speakers.

2 – DETAILS

2.1) Schedule: Tuesday, 7pm – 10:00pm – 15 meetings;

2.2) Number of credits: 3 (45 hours);

2.3) Audience: Master and PhD students;

2.4) Enrollment capacity: min. 5 and max. 15;

2.5) Proficiency level: intermediate¹.

2.6) Inaugural class: 3rd, May;

2.7) Final class: 9th, August.

3) CONTENT:

1 – THE GROUNDS OF A PRACTICE

1.1 – The US Marbury vs. Madison experience

NELSON, William. *Marbury v. Madison: the origins and legacy of judicial review*. University Press of Kansas, 2000, p. 41-70.

1.2 – The Kelsenian Constitutional Review

KELSEN, Hans. Judicial review of legislation: A Comparative Study of the Austrian and the American Constitution. *The Journal of Politics*, v. 4, n. 2, 1942.

1.3 – Becoming a global trend

GINSBURG, Tom. The Global Spread of Constitutional Review. In: WHITTINGTON, Keith; KELEMAN, Daniel (Eds.). *Oxford Handbook of Law and Politics*, 2008.

1.4 – The European experience

SWEET, Alec Stone. Why Europe rejected American judicial review and why it may not matter. *Michigan Law Review*, v. 101, 2003.

1.5 – Judicial review in Latina America

COUSO, Javier. The Changing Role of Law and Courts in Latin America: From an Obstacle to Social Change to a Tool of Social Equity. In: GARGARELLA, Roberto;

¹ Can understand the main points of clear standard input on familiar matters regularly encountered in work, school, leisure, etc. Can deal with most situations likely to arise whilst travelling in an area where the language is spoken. Can produce simple connected text on topics which are familiar or of personal interest. Can describe experiences and events, dreams, hopes & ambitions and briefly give reasons and explanations for opinions and plans.

DOMINGO, Pilar; ROUX, Theunis. *Courts and social transformation in new democracies: an institutional voice for the poor?* Ashgate, 2006.

2 – LET THE GAMES BEGIN: judicial review under debate

2.1 – In favor of courts

DWORKIN, Ronald. *Freedom's Law: the moral reading of the American constitution*. Oxford University Press, 1996. Introduction.

HAREL, Alon; KAHANA, Tsvi. The easy core case for judicial review. *Journal of Legal Analysis*, v. 2, n. 1, 2010.

ROSANVALLON, Pierre. *Democratic legitimacy: impartiality, reflexivity, proximity*. Princeton University Press, 2011. Chapter 8.

2.2 – Judicial review: it is not that obvious

WALDRON, Jeremy. Judges as moral reasoners. *International Journal of Constitutional Law*, Volume 7, Issue 1, January 2009.

WALDRON, Jeremy. The rule of law and the role of courts. *Global Constitutionalism*, v. 10, 2021.

2.3 – Critiques to the criticism

DYZENHAUS, David. Are legislatures good at morality? Or better at it than the courts? *International Journal of Constitutional Law*, Volume 7, Issue 1, January 2009.

FABBRIZI, Valerio. The Debate on Constitutional Courts and Their Authority between Legal and Political Constitutionalism. *Philosophica Critica*, vol. 2, no. 2, 2016.

2.4 - We, the court: judicial supremacy

MICHELMAN, Frank. Living with Judicial Supremacy. *Wake Forest L. Rev*, 589, 2003.

3) ESCAPING FROM THE DICHOTOMY

3.1 - Less is more: passive virtues

BICKEL, Alexander M. *The Least Dangerous Branch: Supreme Court at the Bar of Politics*. Yale University Press; 1986. Chapter 4.

POSNER, Richard A. The Meaning of Judicial Self-Restraint. *Indiana Law Journal*. v. 59, n. 1, p. 2-24, 1983.

3.2 – Weak judicial review

DIXON, Rosalind Dixon. The forms, functions, and varieties of weak(ened) judicial review, *International Journal of Constitutional Law*, Volume 17, Issue 3, July 2019.

HAREL, Alon; SHINAR, Adam. Between judicial and legislative supremacy: A cautious defense of constrained judicial review, *International Journal of Constitutional Law*, Volume 10, Issue 4, October 2012.

3.3 – Deliberation and courts

HUTT, Donald. Deliberation and Courts: The Role of the Judiciary in a Deliberative System. *Theoria*, v. 64, n. 3, 2017.

3.4 – Sharing authority

KYRITSIS, Dimitrios. *Where our protection lies: separation of powers and constitutional review*. Oxford University Press, 2017. Chapter 6.

3.5 – Proportionality and judicial review

KLATT, Matthias. Positive rights: Who decides? Judicial review in balance. *International Journal of Constitutional Law*, Volume 13, Issue 2, April 2015.

4) GRADING

Students should present a short seminar during the classes and answer a written test at the end of the course. The seminar will count for 30% and the test 40% of the course grade. Class participation is of great relevance and is an integral component of this course. Students are expected to attend class on a regular basis regularly and to be fully prepared to discuss the readings according to the schedule. Participation in class will count for 30% of the course grade.