
The control of constitutionality in comparative perspective: models, scope and challenges in contemporary constitutionalism

El control de constitucionalidad en perspectiva comparada: modelos, alcances y desafíos en el constitucionalismo contemporáneo

Integração de tecnologias emergentes nos processos de ensino-aprendizagem universitários.

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Abstract

Judicial review has been consolidated as an essential pillar of contemporary constitutionalism, ensuring the normative supremacy of the Constitution and the effective protection of fundamental rights. Within this framework, the present study aimed to analyze judicial review from a comparative perspective, identifying its main models, scope, and challenges in the context of the constitutional rule of law. Methodologically, the research was conducted under a qualitative legal approach, through a narrative review with systematic elements. To this end, high-impact academic databases such as Scopus, Web of Science (WoS), and Scielo were consulted, along with relevant doctrinal and jurisprudential literature, prioritizing recent studies while not excluding essential classical contributions. The analysis focused on constitutional review systems in Europe and Latin America in order to establish meaningful comparisons. The results showed that classical models—diffuse and concentrated—present both strengths and limitations, which has led to the evolution toward hybrid systems that combine elements of both approaches. Likewise, a trend toward convergence of models and an expansion of judicial review was identified, particularly in Latin America. However, significant challenges were also observed, such as interpretative fragmentation, the judicialization of politics, and difficulties in the effective enforcement of decisions. It was concluded that judicial review remains a fundamental mechanism for safeguarding the constitutional rule of law; however, its effectiveness depended on institutional, political, and cultural factors that shape its implementation and real scope.

Keywords: Judicial review, Comparative law, Constitutional justice, Constitutional court

Resumen

El control de constitucionalidad se ha consolidado como un pilar esencial del constitucionalismo contemporáneo, al garantizar la supremacía normativa de la Constitución y la protección efectiva de los derechos fundamentales. En este marco, el presente estudio tuvo como objetivo analizar el control de constitucionalidad en perspectiva comparada, identificando sus principales modelos, alcances y desafíos en el contexto del Estado constitucional de derecho. Metodológicamente, la investigación se desarrolló bajo un enfoque cualitativo de carácter jurídico, mediante una revisión narrativa con elementos sistemáticos. Para ello, se consultaron bases de datos académicas de alto impacto, como Scopus, Web of Science (WoS) y Scielo, así como literatura doctrinal y jurisprudencial relevante, priorizando estudios recientes sin excluir aportes clásicos indispensables. El análisis se centró en los sistemas de control constitucional en Europa y América Latina, con el fin de establecer comparaciones significativas. Los resultados evidenciaron que los modelos clásicos —difuso y concentrado— presentan fortalezas y limitaciones, lo que ha propiciado la evolución hacia sistemas híbridos que combinan ambos enfoques. Asimismo, se identificó una tendencia hacia la convergencia de modelos y una expansión del control constitucional, especialmente en América Latina. No obstante, también se observaron desafíos relevantes, como la fragmentación interpretativa, la judicialización de la política y las dificultades en el cumplimiento efectivo de las decisiones. Se concluyó que el control de constitucionalidad continúa siendo un mecanismo fundamental para la garantía del Estado constitucional de derecho; sin embargo, su eficacia dependió de factores institucionales, políticos y culturales que condicionan su implementación y alcance real.

Palabras clave: Control de constitucionalidad, Derecho comparado, Justicia constitucional, Tribunal constitucional

Resumo

O controle de constitucionalidade tem se consolidado como um pilar essencial do constitucionalismo contemporâneo, ao garantir a supremacia normativa da Constituição e a proteção efetiva dos direitos fundamentais. Nesse contexto, o presente estudo teve como objetivo analisar o controle de constitucionalidade sob uma perspectiva comparada, identificando seus principais modelos, alcances e desafios no âmbito do Estado constitucional de direito. Metodologicamente, a pesquisa foi desenvolvida sob uma abordagem qualitativa de caráter jurídico, por meio de uma revisão narrativa com elementos sistemáticos. Para tanto, foram consultadas bases de dados acadêmicas de alto impacto, como Scopus, Web of Science (WoS) e Scielo, além de literatura doutrinária e jurisprudencial relevante, priorizando estudos recentes sem excluir contribuições clássicas essenciais. A análise concentrou-se nos sistemas de controle de constitucionalidade na Europa e na América Latina, a fim de estabelecer comparações significativas. Os resultados evidenciaram que os modelos clássicos —difuso e concentrado— apresentam tanto potencialidades quanto limitações, o que tem impulsionado a evolução para sistemas híbridos que combinam ambos os enfoques. Ademais, identificou-se uma tendência de convergência entre modelos e uma expansão do controle de constitucionalidade, especialmente na América Latina. No entanto, também foram observados desafios relevantes, como a fragmentação interpretativa, a judicialização da política e as dificuldades no cumprimento efetivo das decisões. Concluiu-se que o controle de constitucionalidade continua sendo um mecanismo fundamental para a garantia do Estado constitucional de direito; contudo, sua eficácia dependeu de fatores institucionais, políticos e culturais que condicionam sua implementação e alcance real.

Palavras-chave: Controle de constitucionalidade, Direito comparado, Justiça constitucional, Tribunal constitucional

Introduction

Contemporary constitutionalism is configured as a legal paradigm in constant evolution, characterized by the centrality of fundamental rights, the normative supremacy of the Constitution, and the consolidation of institutional mechanisms aimed at ensuring its effectiveness. In this context, the Constitution is no longer conceived as a mere political document but rather as a binding legal norm endowed with direct normative force and capable of producing effects throughout the entire legal system. This transformation has also entailed a reconfiguration of the role of the State and of the bodies responsible for interpreting and applying constitutional norms, particularly regarding the protection of fundamental rights and freedoms (Pegoraro & Gaitán, 2001).

From a philosophical-legal perspective, contemporary constitutionalism is grounded in a conception of justice that articulates principles, values, and human rights as the structural axes of the normative system. In this regard, the Constitution not only establishes the basic rules for the organization of political power but also incorporates an axiological content that guides the actions of public authorities and legitimizes the legal order as a whole. As Barranco Avilés (2012) argues, the relationship between the Constitution, human rights, and the philosophy of law helps explain the transition toward a constitutional State model in which legality is deeply linked to the effective protection of fundamental rights.

Within this framework, constitutional review emerges as one of the most relevant instruments for ensuring constitutional supremacy and the coherence of the legal system. This mechanism allows for the verification of the conformity of legal norms and public acts with the Constitution, preventing the enforcement of provisions contrary to its principles and values. Thus, constitutional review not only fulfills a normative cleansing function but also acts as an institutional guarantee of fundamental rights and as a limitation on the exercise of state power (Barragán Romero, 2000).

The consolidation of the constitutional rule of law has reinforced the importance of constitutional review as an essential element in maintaining the balance of powers and safeguarding constitutional legality. Indeed, constitutional review constitutes a key instrument for implementing the principle of constitutional supremacy, ensuring that all legal norms remain subordinate to the Constitution. In this regard, Rocha Chacón (2021) emphasizes that constitutional review represents a concrete manifestation of the normative nature of the Constitution and of its function as the standard of validity for the legal system.

Despite its theoretical and practical relevance, constitutional review does not manifest itself uniformly across different legal systems; rather, it adopts diverse institutional and procedural configurations. From a comparative perspective, it is possible to identify differentiated models, such as concentrated review, diffuse review, and mixed systems, each with particular features regarding competent bodies, procedures, and legal effects. This diversity reflects both the legal traditions of each country and differing conceptions concerning the role of the constitutional judge and the relationship among the branches of government (Quiroz Castro & Peña Merino, 2017).

However, the plurality of constitutional review models also raises important questions regarding their effectiveness and coherence. In some contexts, the existence of multiple review mechanisms has not necessarily guaranteed greater constitutional protection; on the contrary, it has generated institutional tensions, legal uncertainty, and difficulties in the uniform application of the law. Such is the case in certain Latin American experiences, where scholars have identified what has been termed a "constitutional review disorder," characterized by fragmented criteria and weaknesses in the effective implementation of constitutional decisions (Mendieta González & Tobón Tobón, 2018).

This issue is compounded by the increasingly active role of judges in constitutional interpretation, which has generated debates concerning the limits of judicial discretion and the legitimacy of judicial decisions in constitutional matters. In this sense, the expansion of constitutional review has entailed greater judicial intervention in areas traditionally reserved for the legislative and executive branches, thereby posing challenges in terms of institutional balance and respect for democratic principles. Paredes Paredes (2020) warns that the reasonableness and proper justification of judicial decisions become essential elements in preventing excesses in the exercise of constitutional review.

In light of the foregoing, it is pertinent to analyze constitutional review from a comparative perspective that allows for the identification of its principal models, scope, and challenges within the framework of contemporary constitutionalism. Such an approach not only contributes to a better understanding of different national experiences but also facilitates the identification of best practices and possible reforms aimed at strengthening the effectiveness of constitutional review. Furthermore, comparative analysis makes it possible to reveal the tensions and convergences existing among different legal systems, as well as the common challenges they currently face.

Accordingly, the general objective of this article is to analyze constitutional review from a comparative perspective by examining its models, scope, and challenges within the framework of the constitutional rule of law. To this end, the following research questions are proposed: What are the principal models of constitutional review and what are their distinctive characteristics? What scope does this mechanism have in protecting constitutional supremacy and fundamental rights? And what are the main challenges it faces in the contemporary context? Through these questions, the study seeks to contribute to academic reflection and legal debate on one of the fundamental pillars of modern constitutionalism.

Methodology

This study is grounded in a qualitative legal research approach aimed at understanding and interpreting models of constitutional review from a comparative perspective. Consistent with the nature of the research object, a narrative literature review incorporating systematic elements was adopted, enabling the integration of relevant doctrinal, normative, and jurisprudential sources. Such an approach is particularly suitable within legal scholarship, where analysis extends beyond the quantification of data and requires the critical interpretation of legal texts and the theoretical constructs underpinning contemporary constitutionalism (Maldonado et al., 2021; Vásquez, 2024).

The narrative review was selected due to its capacity to provide a comprehensive examination of the diverse doctrinal traditions and comparative experiences surrounding constitutional review. Unlike strictly systematic reviews, this approach offers greater flexibility in the identification, selection, and interpretation of sources, thereby facilitating the development of a critical and argumentative legal discourse. Nevertheless, systematic procedures were incorporated throughout the search, screening, and organization stages to ensure methodological rigor. In legal research, a coherent articulation between normative interpretation and doctrinal analysis is essential, and this objective is achieved through a structured and methodologically sound review of the specialized literature (Adame Goddard, 2020).

Regarding data sources, priority was given to internationally recognized academic databases, including Scopus, Web of Science (WoS), and SciELO. These platforms provide access to peer-reviewed and indexed scholarly literature, ensuring the quality, reliability, and relevance of the materials examined. In addition, specialized books, edited book chapters, and institutional documents relevant to the study of constitutional review were included. The selection of these sources was guided by the need to support the analysis with robust and up-to-date academic evidence, in accordance with contemporary standards of scientific publication in legal studies.

The inclusion criteria were established on the basis of thematic relevance, academic rigor, and publication currency. Studies addressing constitutional review, comparative constitutionalism, constitutional interpretation, and the role of constitutional courts—particularly within European and Latin American contexts—were considered eligible for inclusion. Conversely, works lacking a direct connection to the research topic, as well as publications characterized by insufficient academic quality or the absence of peer-review processes, were excluded. This selection process enabled the construction of a coherent theoretical corpus, minimizing thematic dispersion and strengthening the consistency of the analysis.

With respect to the temporal scope, the review primarily focused on publications produced during the last decade in order to capture contemporary theoretical approaches and emerging legal debates. However, seminal works and foundational doctrinal contributions were also incorporated, given their enduring relevance for understanding the historical evolution and conceptual foundations of constitutional review. The combination of recent and classical sources provides a balanced perspective that reflects both continuity and transformation within contemporary constitutionalism.

Furthermore, the study adopts a comparative analytical framework centered on constitutional review models in Europe and Latin America. This perspective facilitates the identification of similarities, differences, and emerging trends in the institutional design of constitutional control mechanisms, while also enabling an assessment of their effectiveness across diverse legal and political settings. Comparative analysis constitutes a fundamental methodological tool in legal research, as it enhances the understanding of complex legal phenomena and supports the formulation of improvement proposals grounded in international experiences. Accordingly, the comparative exercise extends beyond the mere description of institutional arrangements and encompasses a critical evaluation of their scope, effectiveness, and limitations.

Finally, the research is supported by qualitative analytical techniques, including documentary review, hermeneutic interpretation, and thematic categorization of information. These methodological tools facilitate the organization and systematization of the collected data, thereby contributing to the development of coherent and theoretically grounded arguments. As noted by Espinoza Freire (2020), qualitative research in educational and legal contexts is distinguished by its capacity to examine complex phenomena through a holistic, ethical, and context-sensitive lens. Likewise, the incorporation of elements derived from grounded theory contributes to the emergence of analytical categories from the reviewed literature, enhancing the interpretive depth and explanatory potential of the study (Espinoza-Freire, 2024).

Development

Classical Models of Constitutional Review

Constitutional review constitutes one of the fundamental pillars of modern constitutionalism, serving as a mechanism designed to ensure the supremacy of the Constitution over legal norms and governmental acts that conflict with its provisions. Throughout its historical evolution, various theoretical models have emerged to explain how legal systems organize constitutional review. Among these, the diffuse model and the concentrated model stand out as classical paradigms that have significantly influenced the institutional design of numerous states. These models not only reflect distinct legal traditions but also embody divergent conceptions regarding the role of judges, the structure of the judiciary, and the relationship between law and politics (Mezzetti, 2009).

The diffuse model of constitutional review, originating in the United States, is characterized by allowing all judges, regardless of their hierarchical position, to exercise constitutional review in specific cases brought before them. This system is grounded in the doctrine of judicial review established in *Marbury v. Madison* (1803), which recognized the authority of courts to

disregard laws that are inconsistent with the Constitution. Within this framework, constitutional review is incidental, concrete, and produces *inter partes* effects, meaning that judicial decisions affect only the parties involved in the dispute (López Hidalgo, 2022).

From a theoretical standpoint, diffuse review is closely associated with a judicialist conception of constitutional law, whereby judges act as direct guardians of constitutional supremacy. This approach favors the decentralization of constitutional review and promotes a legal culture in which constitutional norms are routinely applied by all judicial actors. Nevertheless, one of the principal criticisms of this model concerns the potential for interpretative fragmentation, as different courts may adopt conflicting positions regarding the constitutionality of the same legal provision (López Hidalgo, 2019).

By contrast, the concentrated model of constitutional review, developed by Hans Kelsen, establishes a specialized body—typically a constitutional court—vested with exclusive authority to exercise constitutional review. This model is characterized by abstract and principal review with *erga omnes* effects, meaning that constitutional court decisions have general applicability and may invalidate legal provisions within the legal system. Its implementation has been particularly influential throughout continental Europe and numerous Latin American countries (Díaz-Bravo, 2016).

The concentrated model follows a logic of centralized constitutional interpretation aimed at ensuring coherence and uniformity in the application of constitutional norms. It also contributes to greater legal certainty by producing decisions with general effects, thereby reducing the proliferation of contradictory interpretations. However, this model has likewise been criticized, particularly regarding the risk of politicization of constitutional courts and the excessive concentration of authority in a non-elected institution (Garrote Campillay, 2020).

From a theoretical perspective, both models are rooted in distinct conceptions of constitutionalism. Whereas the diffuse model emphasizes the role of ordinary judges as defenders of constitutional supremacy, the concentrated model prioritizes the existence of a specialized institution acting as the supreme interpreter of the Constitution. In the Ecuadorian case, the 2008 Constitution adopts a predominantly concentrated model while incorporating certain elements of diffuse review, reflecting a broader trend toward the hybridization of constitutional review systems (López Hidalgo, 2019).

Contemporary Hybrid Models

In the contemporary context, the rigidity of classical models has gradually given way to hybrid systems of constitutional review that combine elements of both diffuse and concentrated models. This evolution responds to the need to adapt constitutional review mechanisms to increasingly complex legal realities, where effectiveness must be balanced with the participation of multiple institutional actors. Hybrid systems are characterized by the coexistence of multiple avenues of review, both abstract and concrete, as well as by interaction among different judicial bodies (Viveiros, 2011).

The Brazilian system constitutes a paradigmatic example of a hybrid model, in which mechanisms of diffuse review exercised by ordinary courts coexist with concentrated review mechanisms entrusted to the Federal Supreme Court. This dual structure broadens the scope of constitutional oversight while facilitating the review of legal norms in both concrete and abstract contexts. Nevertheless, it also presents challenges related to institutional coordination and jurisprudential consistency (Viveiros, 2011).

Across Latin America, hybrid systems have gained increasing prominence, particularly in contexts characterized by the judicialization of politics. In this regard, Castagnola and Pérez-Liñán (2024) argue that hybrid models may generate forms of judicial activism “by default,” whereby courts assume a leading role in response to the inactivity or weakness of other

branches of government. This phenomenon underscores the significance of institutional design in shaping the balance among public powers.

One of the most notable trends in contemporary constitutional review systems is the convergence of traditional models, reflected in the adoption of mixed mechanisms intended to combine their respective advantages. Within this context, republican deliberativism advocates a conception of constitutional review aimed at fostering dialogue among institutional actors and enhancing the democratic legitimacy of judicial decisions (Olivares, 2018).

Recent constitutional reforms have also introduced significant innovations, including the expansion of access to constitutional justice, the incorporation of public-interest constitutional actions, and the consolidation of conventionality control. These developments reflect a broader tendency toward the expansion of constitutional review as a mechanism for protecting fundamental rights and strengthening the rule of law (Quirós, 2024).

The Chilean constitutional framework following the 2005 constitutional reform illustrates this evolution toward a more complex and articulated system in which the Constitutional Court plays a central role while coexisting with other forms of constitutional review exercised by the ordinary judiciary. This process demonstrates the adaptive capacity of constitutional systems in response to new political and legal demands (Garrote Campillay, 2020).

Comparative Analysis

Comparative analysis of constitutional review enables the identification of similarities and differences in how various legal systems safeguard constitutional supremacy. In Europe, the predominant model is concentrated review, with constitutional courts exercising abstract review and issuing decisions with general effects. These courts have become key actors in the protection of fundamental rights and in the resolution of disputes among branches of government (Perotti Pincirolì, 2024).

Within the European context, particular attention must be paid to the interaction between national constitutional courts and the European Court of Human Rights. This interaction has given rise to a multilevel system of rights protection that has strengthened conventionality control and promoted greater harmonization in the interpretation of fundamental rights, although it has also generated tensions concerning the constitutional sovereignty of states (Perotti Pincirolì, 2024).

In Latin America, constitutional review has expanded significantly as a result of democratization processes and the adoption of new constitutions incorporating extensive catalogues of rights. Within this context, countries such as Ecuador and Colombia have developed robust systems of constitutional justice characterized by specialized constitutional courts and mechanisms providing direct access to constitutional adjudication (Godoy, 2009).

A comparative examination of Ecuador and Colombia reveals important similarities in the institutional structure of constitutional review and in the central role assigned to constitutional courts. Nevertheless, differences remain regarding the articulation of review mechanisms and the scope of judicial decisions. In both countries, constitutional review has played a decisive role in protecting rights and consolidating the constitutional state (Godoy, 2009).

Representative cases throughout the region demonstrate how constitutional review has been employed to address situations of constitutional crisis, particularly states of emergency. Comparative analysis between Ecuador and Colombia highlights the importance of constitutional courts as guarantors of limits on executive power, while also illustrating the challenges associated with safeguarding fundamental rights during emergency situations (Solórzano Figueroa & Rodríguez de la Rosa, 2025).

Likewise, the evolution of constitutional jurisprudence in countries such as Argentina and Colombia illustrates the role of constitutional review in defining the limits of constitutional

amendment powers. This issue is essential for preserving constitutional identity and preventing reforms that undermine the fundamental principles of the legal order (Altavilla, 2022).

Effectiveness of Constitutional Review

The effectiveness of constitutional review constitutes a central criterion in evaluating systems of constitutional justice, as it refers to their capacity to produce tangible effects in protecting both the Constitution and fundamental rights. One of the key dimensions of this assessment concerns compliance with constitutional judgments, which depends on legal, political, and institutional factors (Cortés-Escárraga & Ríos-Quintero, 2017).

The effective implementation of judicial decisions is indispensable for ensuring the authority of constitutional courts and the vitality of the rule of law. In practice, however, compliance may be hindered by resistance from other branches of government or by the absence of adequate enforcement mechanisms. Consequently, the effectiveness of constitutional review depends not only on the quality of judicial decisions but also on their practical implementation (Cortés-Escárraga & Ríos-Quintero, 2017).

Another relevant dimension concerns the institutional impact of constitutional review, particularly regarding the horizontal effect of fundamental rights. This perspective recognizes that rights must be protected not only against state action but also within relationships among private actors, thereby expanding the scope of constitutional review and reinforcing its regulatory function within social and economic life (Lleras, 2009).

Nevertheless, the effectiveness of constitutional review also encounters practical limitations arising from factors such as institutional capacity, administrative efficiency, and human rights governance. Resource constraints, excessive bureaucracy, and institutional weaknesses may impair the ability of constitutional justice systems to fulfill their functions effectively (Wunder Hachem & Gabardo, 2018).

Within this context, the principle of administrative efficiency assumes particular relevance, as it requires public institutions to operate effectively and in a results-oriented manner. Failure to comply with this principle may generate legal consequences that hinder the implementation of constitutional decisions and, ultimately, weaken the protection of fundamental rights (Wunder Hachem & Gabardo, 2018).

Finally, human rights governance emerges as a comprehensive framework aimed at coordinating the various actors and mechanisms involved in rights protection. This approach emphasizes institutional coordination, citizen participation, and accountability as essential elements for strengthening the effectiveness of constitutional review and ensuring its impact on social reality (Zavala de Alba, 2015).

Discussion

The findings of this study demonstrate that constitutional review, far from constituting a homogeneous mechanism, is a dynamic and continuously evolving institution within contemporary constitutionalism. In this regard, the classical models—diffuse and concentrated review—remain fundamental theoretical references; however, they are insufficient to fully explain the complexity of contemporary constitutional systems, which are increasingly characterized by processes of hybridization and convergence. This evolution confirms that constitutional review is shaped not only by normative structures but also by specific political, cultural, and institutional contexts (Mezzetti, 2009; Quirós, 2024).

With respect to the diffuse model, its principal strength lies in the democratization of constitutional review, as it enables all judges to participate in safeguarding constitutional supremacy. Nevertheless, as highlighted in the theoretical analysis, this model presents significant limitations, particularly regarding jurisprudential coherence. The possibility that

different courts may adopt divergent interpretations creates risks of legal uncertainty, potentially undermining the effectiveness of the constitutional system as a whole. This challenge has been especially evident in several Latin American jurisdictions, where judicial institutions continue to face structural constraints and governance challenges (López Hidalgo, 2019).

Conversely, the concentrated model offers substantial advantages in terms of interpretative uniformity and legal certainty by centralizing constitutional review within a specialized judicial body. However, the concentration of constitutional authority also raises concerns regarding the democratic legitimacy of constitutional courts and their potential politicization. Indeed, the increasing involvement of constitutional tribunals in politically sensitive matters has generated ongoing debates concerning the limits of judicial activism and the necessity of accountability mechanisms applicable to constitutional adjudicators themselves (Díaz-Bravo, 2016; Garrote Campillay, 2020).

Within this context, hybrid models emerge as a response to the limitations inherent in traditional systems by combining elements of both diffuse and concentrated review. The coexistence of multiple forms of constitutional oversight enhances the breadth and flexibility of constitutional protection, while simultaneously creating challenges related to institutional coordination and jurisdictional clarity. As noted by Castagnola and Pérez-Liñán (2024), ambiguity in the allocation of constitutional competences may give rise to forms of judicial activism “by default,” whereby courts assume functions extending beyond their traditional institutional role.

Moreover, the trend toward model convergence reflects a broader transformation of constitutionalism aimed at reconciling the effectiveness of constitutional review with democratic legitimacy. In this regard, republican deliberativism provides a valuable theoretical framework by advocating an approach grounded in institutional dialogue and the participation of diverse actors in constitutional interpretation. This perspective contributes to overcoming the traditional dichotomy between judicial review and democracy, fostering a more nuanced, participatory, and pluralistic understanding of constitutional governance (Olivares, 2018).

From a comparative perspective, the analysis reveals significant differences between Europe and Latin America regarding the design and operation of constitutional review systems. Whereas Europe is predominantly characterized by consolidated concentrated-review systems with highly institutionalized constitutional courts, Latin America exhibits greater diversity in constitutional arrangements and a more expansive use of constitutional review linked to democratization processes. Although this expansion has strengthened the protection of fundamental rights, it has also generated institutional tensions and challenges associated with the effective implementation of constitutional decisions (Perotti Pincioli, 2024; Godoy, 2009).

The experiences of Ecuador and Colombia are particularly illustrative in this regard, demonstrating how constitutional courts have assumed a central role in safeguarding rights and constraining public power. Nevertheless, comparative studies also reveal persistent difficulties in situations involving states of emergency, where balancing public security and the protection of fundamental rights becomes especially complex. Under such circumstances, constitutional review faces the challenge of functioning as an effective limitation on executive authority without unduly restricting the State’s capacity to respond to crises (Solórzano Figueroa & Rodríguez de la Rosa, 2025).

Another critical issue emerging from the literature concerns the effectiveness of constitutional review, understood not merely as the capacity to produce legally sound decisions but also as the ability to ensure their practical implementation. Scholarly consensus suggests that one of the most significant weaknesses of constitutional justice systems lies in the enforcement of constitutional judgments, particularly when such decisions require structural reforms or affect politically sensitive interests. The absence of effective enforcement mechanisms and

institutional resistance frequently limits the transformative potential of constitutional adjudication (Cortés-Escárraga & Ríos-Quintero, 2017).

Regarding institutional impact, constitutional review has progressively expanded beyond the traditional vertical relationship between the State and individuals to encompass the horizontal application of fundamental rights. This development has strengthened rights protection in areas such as economic activity and private legal relationships, reinforcing the role of constitutional courts as guarantors of the legal order in a broader sense. However, this expansion also raises important questions concerning the limits of constitutional adjudication and the risks associated with the excessive judicialization of social and political life (Lleras, 2009).

At the same time, the practical limitations of constitutional review remain crucial for understanding its overall effectiveness. Factors such as institutional capacity, administrative efficiency, and human rights governance directly influence the extent to which constitutional decisions can produce tangible social outcomes. In contexts characterized by weak institutions or insufficient resources, constitutional review risks becoming a predominantly formal exercise with limited practical impact on social reality (Wunder Hachem & Gabardo, 2018; Zavala de Alba, 2015).

Ultimately, the discussion highlights that the principal challenge facing constitutional review within contemporary constitutionalism is achieving an appropriate balance among effectiveness, legitimacy, and coherence. Addressing this challenge requires not only improvements in the institutional design of constitutional review systems but also the strengthening of constitutional culture, judicial independence, and accountability mechanisms. In this respect, comparative analysis offers valuable insights for the development of reforms aimed at enhancing the performance of constitutional review and consolidating its role as a fundamental instrument for safeguarding constitutional supremacy and the effective protection of fundamental rights (Quirós, 2024).

Conclusions

The comparative analysis of constitutional review allows the conclusion that this mechanism has become a cornerstone of contemporary constitutionalism, insofar as it safeguards the normative supremacy of the Constitution and functions as a fundamental constraint on the exercise of state power. Throughout this study, it has been demonstrated that constitutional review not only performs a legal function of normative scrutiny and correction but also plays a pivotal role in the protection of fundamental rights and the preservation of the balance among public powers (Mezzetti, 2009; Rocha Chacón, 2021).

Regarding the classical models of constitutional review, the findings indicate that both diffuse and concentrated review possess strengths and limitations that largely depend on the institutional context in which they operate. The diffuse model is distinguished by its decentralized nature and its capacity to foster a broad constitutional culture among judges, whereas the concentrated model provides greater interpretative uniformity and legal certainty. Nevertheless, neither model appears entirely sufficient on its own to address the complexities of contemporary constitutionalism, thereby explaining the gradual evolution toward hybrid systems of constitutional review (López Hidalgo, 2019; Díaz-Bravo, 2016).

In this regard, contemporary hybrid models emerge as an alternative framework that seeks to integrate the advantages of traditional systems while providing greater flexibility and broader constitutional oversight. However, their implementation raises significant challenges, particularly concerning coordination among judicial bodies and the clear allocation of constitutional competences. Comparative experience demonstrates that the effectiveness of these models largely depends on institutional design and on the capacity of legal systems to

prevent interpretative conflicts and ensure jurisprudential coherence (Castagnola & Pérez-Liñán, 2024; Viveiros, 2011).

From a comparative perspective, a clear distinction can be observed between European and Latin American constitutional review systems. While Europe is characterized predominantly by consolidated concentrated-review models supported by highly institutionalized constitutional courts, Latin America exhibits greater diversity in institutional arrangements and a significant expansion of constitutional review mechanisms. This expansion has contributed substantially to the strengthening of fundamental rights protection, yet it has also generated institutional tensions and challenges regarding the effective implementation of constitutional judgments (Perotti Pincioli, 2024; Godoy, 2009).

Furthermore, the cases examined highlight the crucial role of constitutional courts during periods of crisis, particularly under states of emergency, where a delicate balance must be maintained between the protection of fundamental rights and the preservation of public security and order. In such contexts, constitutional review becomes an indispensable instrument for preventing abuses of power. Nevertheless, its effectiveness depends heavily on judicial independence and the institutional strength of the bodies entrusted with constitutional adjudication (Solórzano Figueroa & Rodríguez de la Rosa, 2025).

With respect to the effectiveness of constitutional review, one of the principal challenges lies in the effective enforcement of constitutional judgments. The existence of legally robust and well-reasoned judicial decisions does not, by itself, guarantee a meaningful impact on social and institutional reality. Effective constitutional justice requires not only sound adjudication but also adequate enforcement mechanisms and an institutional culture that respects and complies with judicial authority. Consequently, the effectiveness of constitutional review should be understood as a comprehensive process encompassing both the quality of constitutional decisions and their practical implementation (Cortés-Escárraga & Ríos-Quintero, 2017).

Moreover, the expansion of constitutional review into areas such as the horizontal application of fundamental rights reflects a significant transformation in the scope of constitutional adjudication. Constitutional judges are no longer limited to overseeing state action; they increasingly intervene in legal relationships among private actors, thereby extending constitutional influence over social and economic life. While this development strengthens rights protection, it also underscores the need to establish clear limits in order to avoid excessive judicialization of social relations and public affairs (Lleras, 2009).

Finally, the study concludes that the principal challenge facing constitutional review in contemporary constitutionalism is the achievement of an appropriate balance among effectiveness, democratic legitimacy, and interpretative coherence. Meeting this challenge requires strengthening the institutional design of constitutional justice systems, promoting judicial independence, and ensuring effective accountability mechanisms. In this respect, comparative analysis serves as a valuable tool for identifying best practices and guiding reforms aimed at improving the operation of constitutional review across diverse legal and political contexts (Quirós, 2024).

In summary, constitutional review remains a fundamental pillar of the constitutional rule of law. However, its effectiveness depends on multiple factors that extend beyond the strictly legal sphere. Its consolidation as an effective mechanism for safeguarding constitutional supremacy and protecting fundamental rights requires not only an adequate normative framework but also robust institutions, a strong constitutional culture, and a political environment committed to the principles of democratic constitutionalism.

Limitations of the study

This study is subject to several limitations inherent to its methodological approach and scope. As a narrative review incorporating systematic elements, the selection of sources, although rigorous, may not encompass the entirety of the existing academic literature on constitutional review, particularly within broad and evolving comparative contexts. Furthermore, the analysis focuses primarily on Europe and Latin America, thereby limiting the inclusion of potentially relevant experiences from other regions. Finally, the theoretical nature of the study precludes an empirical assessment of the actual impact of the constitutional review models examined in specific contexts, an aspect that could enrich future research.

Future research

Future studies should further develop empirical analyses of constitutional review, particularly regarding the implementation of constitutional judgments and their impact on social and institutional realities. Expanding the comparative framework to include regions such as Africa and Asia would also contribute to a more comprehensive understanding of constitutional review models worldwide. Additionally, further research is needed on the growing significance of conventionality control and the interaction between national and international courts. Finally, emerging issues such as the impact of artificial intelligence and digitalization on constitutional adjudication warrant closer scholarly attention.

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Declaration of conflict of interest

The author declares that there are no personal, academic, institutional, or financial conflicts of interest that could have influenced the preparation, analysis, or findings of this study. Furthermore, it is affirmed that the research was conducted independently, objectively, and in accordance with the ethical principles governing scientific research.

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