



Organization of State and Separation of Powers (course syllabus)

Prof. Dr. Marco Aurelio Moura dos Santos

Course: LAW	Thematic Core: Legal Technical Studies	
Course Component Name: Organization of State and Separation of Powers		Course Code:
Credit Hours: 4 Class Hours	(x) Classroom () Laboratory () Distance Learning	Stage: 4th Stage

Course Description: A study of the forms of State organization. Examination of the foundational elements of federalism in Brazil and the primary related institutions. An exploration of the structure of the Brazilian Federal State, detailing the organization of federative entities - Union, States, Municipalities, Federal District, and Territories - and the division of material and legislative competences. Federal and state intervention. Analysis of the theory of separation of powers and its main impacts on the exercise of political power. Legislative Branch in Brazil, with a focus on the Statute of Congress Members and the Legislative Process. Examination of the role of Audit Courts. Analysis of the Executive Power within Brazilian presidentialism, including the prerogatives and responsibilities of the President of the Republic. Overview of the Judicial Branch in Brazil and a description of institutional guarantees and judicial protections. Examination of the essential functions for justice in Brazil and their main duties. Defense of the State and Democratic Institutions, along with the roles of the Armed Forces and Public Security. This detailed syllabus combines theoretical grounding with interactive learning, providing a comprehensive understanding of State Organization and Separation of Powers in Brazil.

Course methodology	Expository Classes <i>Problem based learning</i> Case method The active and critical participation of students will be sought in all classes, who must carry out prior reading based on the bibliography and texts indicated and available on <i>Moodle</i> .
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CLASS BY CLASS COURSE PROGRAM

Week 1: Introduction to the State and Forms of Organization

Component: Explore the definitions of state organization, focusing on the various forms (unitary, federal, confederative) and their historical development.

○ **Readings:**

- *The Constitution of Brazil: A Contextual Analysis* by Afonso Virgílio Silva.
- *Constitutional Erosion in Brazil* by Emilio Peluso Neder Meyer
- *Constitution of the Federative Republic of Brazil*. (English version). https://www.stf.jus.br/arquivo/cms/legislacaoConstituicao/anexo/Brazil_Federal_Constitution_EC_125.pdf

- **Activity: Socratic Debate** – Groups discuss different forms of state organization, comparing the Brazilian federal model to other systems worldwide (USA, Germany etc)

Week 2: Constituent Elements of the State and Federalism in Brazil

- **Component:** Examine the constituent elements of the Brazilian state, with a focus on the pillars of federalism and intergovernmental relationships.

○ **Readings:**

- *A Contextual Analysis* by Afonso Virgílio Silva.
- *Constitutional Erosion in Brazil* by Emilio Peluso Neder Meyer
- *Constitution of the Federative Republic of Brazil*. (English version). https://www.stf.jus.br/arquivo/cms/legislacaoConstituicao/anexo/Brazil_Federal_Constitution_EC_125.pdf

- **Activity: Case Study** – Students analyze and present on Brazilian federalism versus U.S. federalism, highlighting differences and similarities in federal structure and autonomy.

Week 3: Structure of the Brazilian Federal State

- **Component:** Investigate into the distribution of powers and responsibilities within the federal entities of Brazil (Union, States, Municipalities, Federal District, and Territories).

○ **Readings:**

- *A Contextual Analysis* by Afonso Virgílio Silva.
- *Constitutional Erosion in Brazil* by Emilio Peluso Neder Meyer
- *Constitution of the Federative Republic of Brazil*. (English version). https://www.stf.jus.br/arquivo/cms/legislacaoConstituicao/anexo/Brazil_Federal_Constitution_EC_125.pdf

- **Activity: Collaborative Mapping** – Students create a collaborative mind map outlining the roles and functions of each Brazilian federal entity.



Week 4/5: Legislative and Material Competencies of Federative Entities

- **Component:** Study the division of legislative and material competencies among Brazilian federal entities and the importance of concurrent and exclusive powers.

○ **Readings:**

- *A Contextual Analysis* by Afonso Virgílio Silva.
- *Constitutional Erosion in Brazil* by Emilio Peluso Neder Meyer
- *Constitution of the Federative Republic of Brazil*. (English version). https://www.stf.jus.br/arquivo/cms/legislacaoConstituicao/anexo/Brazil_Federal_Constitution_EC_125.pdf

- **Activity: Interactive Panel** – Groups present on exclusive, concurrent, and supplementary competencies of federal entities, applying real-world examples.

Week 6: Federal and State Intervention

- **Component:** Analyze legal grounds and processes for federal and state intervention, along with case studies on the impacts of intervention on governance.

○ **Readings:**

- *A Contextual Analysis* by Afonso Virgílio Silva.
- *Constitutional Erosion in Brazil* by Emilio Peluso Neder Meyer
- *Constitution of the Federative Republic of Brazil*. (English version). https://www.stf.jus.br/arquivo/cms/legislacaoConstituicao/anexo/Brazil_Federal_Constitution_EC_125.pdf

- **Activity: Role-Playing Simulation** – Students role-play federal and state authorities debating a hypothetical case of federal intervention.

Week 7: Theory of Separation of Powers and Impact on Political Power

- **Component:** Explore Montesquieu's theory of separation of powers and its modern application within the Brazilian system.

○ **Readings:**

- *A Contextual Analysis* by Afonso Virgílio Silva.
- *Constitutional Erosion in Brazil* by Emilio Peluso Neder Meyer
- *Constitution of the Federative Republic of Brazil*. (English version). https://www.stf.jus.br/arquivo/cms/legislacaoConstituicao/anexo/Brazil_Federal_Constitution_EC_125.pdf

- **Activity: Guided Debate** – Pairs debate the merits and limitations of separation of powers, comparing Brazil's presidential system to other models.



Week 8/9: Legislative Branch in Brazil

- **Component:** Review the legislative structure, roles, and responsibilities within the Brazilian Congress, including the legislative process.

○ **Readings:**

- *A Contextual Analysis* by Afonso Virgílio Silva.
- *Constitutional Erosion in Brazil* by Emilio Peluso Neder Meyer
- *Constitution of the Federative Republic of Brazil*. (English version).
<https://www.stf.jus.br/arquivo/cms/legislacaoConstituicao/anexo/BrazilFederalConstitutionEC125.pdf>

- **Activity: Legislative Workshop** – Groups draft a mock bill on a social issue, following Brazil's legislative steps from proposal to committee review.

Week 10/11: Executive Branch and Presidentialism in Brazil

- **Component:** Examine the structure and powers of the Brazilian presidency, with an emphasis on presidentialism and executive responsibilities.

○ **Readings:**

- *A Contextual Analysis* by Afonso Virgílio Silva.
- *Constitutional Erosion in Brazil* by Emilio Peluso Neder Meyer
- *Constitution of the Federative Republic of Brazil*. (English version).
<https://www.stf.jus.br/arquivo/cms/legislacaoConstituicao/anexo/BrazilFederalConstitutionEC125.pdf>

- **Activity: Cabinet Simulation** – Groups simulate a presidential cabinet session, presenting a plan to address a hypothetical national issue.

Week 12/13: Judicial Branch and Institutional Guarantees

- **Theoretical Component:** Study the Brazilian judicial system, its independence, and institutional guarantees that protect judicial integrity.

○ **Readings:**

- *A Contextual Analysis* by Afonso Virgílio Silva.
- *Constitutional Erosion in Brazil* by Emilio Peluso Neder Meyer.
- *Constitution of the Federative Republic of Brazil*. (English version).
<https://www.stf.jus.br/arquivo/cms/legislacaoConstituicao/anexo/BrazilFederalConstitutionEC125.pdf>

- **Activity: Roundtable Discussion** – Invite a guest from the legal field to discuss judicial independence, followed by a student discussion on institutional guarantees.



Week 14: Essential Functions to Justice

- **Component:** Discuss the roles of public defenders, the Public Prosecutor's Office, and other essential functions/institutions that support the Justice Branch in Brazil.

○ **Readings:**

- *A Contextual Analysis* by Afonso Virgílio Silva.
- *Constitutional Erosion in Brazil* by Emilio Peluso Neder Meyer.
- *Constitution of the Federative Republic of Brazil*. (English version).
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- **Activity: Mock Trial** – Students conduct a simulated trial, experiencing roles such as defense, prosecution, and judging.

Week 15: Defense of the State and Democratic Institutions

- **Component:** Examine the role of the Armed Forces and Police in defending democratic institutions and maintaining order (The State of Defense and Siege, Public Security)

○ **Readings:**

- *A Contextual Analysis* by Afonso Virgílio Silva.
- *Constitutional Erosion in Brazil* by Emilio Peluso Neder Meyer.
- *Constitution of the Federative Republic of Brazil*. (English version).
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- **Activity: National Security Debate** – Groups debate the responsibilities and limits of the Armed Forces and Police in preserving democratic order.

Active Learning Strategies in the Course

- **Project-Based Learning:** Students develop a constitutional analysis project, focusing on how power structures influence social justice issues in Brazil.
- **Blended Learning Techniques:** Activities are complemented by online discussions and readings, promoting continuous engagement and critical thinking.
- **Self-Assessment and Peer Feedback:** After each activity, students reflect on their learning and receive feedback, enhancing comprehension and peer interaction.



Basic bibliography

BARCELLOS, Ana Paula. *Curso de direito constitucional.* Rio de Janeiro: Forense, 2023. (Digital version available on Minha Biblioteca Virtual).

MENDES, Gilmar Ferreira; BRANCO, Paulo Gustavo Gonet. *Curso de direito constitucional.* São Paulo: Saraiva, 2024. (Digital version available on Minha Biblioteca Virtual).

MORAES, Alexandre de. *Direito constitucional.* São Paulo: Atlas, 2024. (Digital version available on Minha Biblioteca Virtual).

SARLET, Ingo Wolfgang; MARINONI, Luiz Guilherme; MITIDIERO, Daniel Francisco. *Curso de direito constitucional.* São Paulo: Editora Revista dos Tribunais, 2024. (Digital version available on Minha Biblioteca Virtual).

SILVA, Virgílio Afonso. *The Constitution of Brazil: A Contextual Analysis (Constitutional Systems of the World).* Oxford: Hart, 2018.

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TAVARES, André R. *Manual do Poder Judiciário Brasileiro.* Available on Minha Biblioteca, 2nd edition, Grupo GEN, 2021. (Digital version available on Minha Biblioteca Virtual).

MORAES, Guilherme Peña D. *Curso de Direito Constitucional.* Available on Minha Biblioteca, 14th edition, Grupo GEN, 2024.

MEYER, Emilio Peluso Neder. *Constitutional Erosion in Brazil: Progresses and Failures of a Constitutional Project.* Oxford: Hart, 2021.

PIRES, Antônio Cecílio Moreira (org.). *Perspectives, Possibilities, and Challenges of Public Law.* Collection on perspectives, possibilities, and challenges of law. Coordinated by Felipe Chiarello Souza Pinto, Gianpaolo Smanio, Michelle Asato Junqueira. Troth Editora, 2024 – articles by professors from the Faculty.

TANAKA, Sônia Yuriko K. (org.). *Direito Constitucional.* Available on Minha Biblioteca, Grupo GEN, 2015 – articles by professors from the Faculty.