



Universidade Presbiteriana

Mackenzie

Programa de Pós-Graduação em Direito Político e Econômico

Course Syllabus Template

Department/Faculty: Law School
Graduate Program: Political and Economic Law
Degree <input checked="" type="checkbox"/> Academic Master's <input type="checkbox"/> Doctorate (PhD) <input type="checkbox"/> Professional Master's
Course Name Economic Constitutional Law
Professor(s) Dr. Cláudio Lembo / Dr. Monica Herman S. Caggiano
Office hours: 48 class hours
Course Overview It analyzes the constitutional treatment of the economic process and of economic rights.



Topics outline

Part One General Theory of Economic Constitutional Law

1.- Social Constitutionalism

The Three Generations of Rights. Economic and social rights. Characters. The Constitutionalization of Economic and Social Rights.

2.- Theory of Constitutional Norms

Substantive and formal Constitutional Norms. Explicit and Implicit Constitutional Norms. Principles and Rules. Applicability of Constitutional Norms.

3.1.- The Role of the Constitution

Constitution – guarantee; Constitution – balance; Constitution – directive. Expansive Constitution. Plastic constitution.

3.2.- Elements of an Economic Constitution

The role of the State. Private Sector and Public Sector. Regime of the Means of Production. Analysis of the main elements.

4.- Purpose and Principles of the Economic Organization

Purpose of the constitution and of the principles or values that complement it.

Types of Economic Organization

Typology of constitutions in the light of the design of the economic organization they establish.

5.- Constitutional Models

The "economic" Weimar constitution. The German Constitution of 1949. The Italian Constitution of 1947. The Portuguese Constitution of 1976. The Spanish Constitution of 1978. The Soviet model.

Part Two

The Economic side in the Brazilian constitutional history

6.- Historical evolution. The 1988 Constitution.

Moments and documents of the evolution. The elements of the economic Constitution in the text of 1988. The role of the State. Private Sector and Public Sector.

6.1.- Evolution and improvement of the economic Constitution.

Constitutional amendments and their effects on the process of transformation of the economic Constitution.

7.- The Economic Constitution and Competition Law.

The institutionalization of competition in the constitutional structure of the economic system. Regulation instruments.

8.- The State as a normative and regulating agent.

Law and Regulation. Regulatory Agencies. The Platform of Partnerships.



Part Three

Theory of Social Constitutional Law

9.- The constitutionalization of workers' economic rights: the issue of minimum thresholds and the flexibilization of Labor Law

10.-The construction of an economic model of individual work relations. The case of collective dismissal

11.- The construction of an economic model of collective work relations. The case of trade union freedom

12.- EXAM

Letter Grade Assignment

Grade A (Excellent) - Grade points between 9 and 10

Grade B (Good) - Grade points between 8 and 8.9

Grade C (Satisfactory) - Grade points between 7 and 7.9

Grade D (Unsatisfactory) - Grade points between 0 and 6.9

Methodology: classes, seminars and research laboratory.



Texts, Materials, and supplies

- **Bagnoli**, Vicente, *Introdução ao Direito da Concorrência*, São Paulo, Ed. singular, 2005.
- **Caggiano**, Monica Herman, *O desenho econômico na Constituição brasileira de 1988. O Direito de Concorrência e o CADE*.
-, *O Controle do Mercado por Via de Tabelamento*, in RDP 100/41.
- **Lembo**, Cláudio, **Caggiano**, Monica Herman. *Direito constitucional econômico*. Barueri, Manole/CEPES, 2007.
- **Espino**, José Ayala, *Instituciones Y Economia. Uma Introduccion al Neoinstitucionalismo Económico*, México, Fondo de Cultura Económica, 2000.
- **Fé**, Pedro González de la, **Martín-Cejas**, Roberto Rendeiro (coordinators), *Políticas de Privatización. Aspectos teóricos, experiencias y casos prácticos*, Madrid, Espanha, Ed. Dykinson S.L., 2003.
- **Ferreira Filho**, Manoel Gonçalves, *Direito Constitucional Económico*, São Paulo, Saraiva, 1989.
- **Galán**, Juan Ignacio Font, *Constitution Económica Y Derecho de la Competência*, Madrid, Tecnos, 1987.
- **Gonçalves**, Marcos Peixoto Mello, *Pluralismo Organizado. Uma Nova Visão do Direito Económico*, São Paulo, Ed. Quartier Latin, 2002.
- **Grau**, Eros Roberto, *A Ordem Económica na Constituição de 1988. Interpretação e Crítica*, São Paulo, Malheiros Editores, 1998.
- **Laubadère**, André de e **Devolvé**, Pierre, *Droit Publique Économique*, Paris, Dalloz, 5th ed., 1986.
- **Laubadère**, André de, *Direito Público Económico*, Coimbra, Almedina, 1985.
- **Lembo**, Cláudio, *O Futuro da Liberdade*, São Paulo, Loyola, 1999.
- **Lembo**, Cláudio. *A pessoa. Seus direitos*. Barueri, Manole, 2007
- **Lindblom**, Charles E., *Democracia y Sistema de Mercado*, México, Fondo de Cultura Económica, 1999.
- **Colson**, Jean Philippe, *Droit Public Économique*,
- **Farjat**, Gérard, *Droit Économique*,
- **Marques Neto**, Floriano de Azevedo, *Agências Reguladoras Independentes. Fundamentos e seu Regime Jurídico*, Belo Horizonte, Ed. Fórum, 2005.
- **Mattos**, Paulo (**coordinator**), *Regulação Económica e Democracia. O Debate norte-americano*. São Paulo, Ed. 34 Ltda., 2004.
- **Maurano**, Adriana, *A Função Normativa das Agências Reguladoras*, São Paulo: Editora Scor, 2006.

- **Moncada**, Luís S. Cabral de, *Direito Económico*,

- **Coma**, Martin Bassols, *Constitucion Y Sistema Económico*, Madrid, Spain, Ed. Tecnos, 1988.
- **Bentivegna**, Calogero, *Elementi di Diritto Público dell'economia*,
- **Cavallo**, Bruno, *Manuale di Diritto Pubblico dell'economia*,
- **Moreira**, Vital, *Economia e Constituição*,
- **Posner**, Richard A ., *El análisis económico del derecho*, México, Fondo de Cultura Económica, 1998.



- **Quadri, Giovanni**, *Diritto Pubblico dell'Économia*,
- **Roemer, Andrés** (compiler), *Derecho Y Economía: Uma Revisión de la Literatura*, México, Centro de Estudos de Governabilidad Y Políticas Públicas, Instituto Tecnológico Autônomo de México e Fondo de Cultura Econômica, 2002.
- **Sáez, José Luis** (coordinador), *Economia Y Política em la transición y la democracia*, Papeles de la Fundación FAES, n 64 Madrid, Spain, 2001.
- **Santos, António Carlos**, **Gonçalves, Maria Eduarda**, **Marques, Maria Manuel Leitão**, *Direito Econômico*, Coimbra, Portugal, Almedina, 1991.