

**Course Syllabus Template**

Department/Faculty: Law School
Graduate Program: Political and Economic Law
Degree <input checked="" type="checkbox"/> Academic Master's <input checked="" type="checkbox"/> Doctorate (PhD) <input type="checkbox"/> Professional Master's
Course Name: Legal Foundations of Citizenship and the Brazilian State
Professor(s) José Carlos Francisco
Office hours: 48 class hours
SUMMARY: Normative force and meanings of Constitution. Formal constituent power and material and manifestations of citizenship. Legal effectiveness of fundamental principles in the order of 1988 and neoconstitutionalism. Rule of law. Popular power and democracy. Legal sense of citizenship. Forms and systems of government in Brazil. Republicanism and separation of powers. Implementation of fundamental rights, duties and guarantees. Judicialization as a guarantee and instrument of citizenship. Geopolitical organization of power and state forms. Citizenship, State and economic system. Legal security and its essential manifestations.
JUSTIFICATION: The thematic clipping of the research line "Citizenship modeling the State" leads to central legal issues gathered in this discipline. Starting from the meanings of the Constitution (including analysis in the pyramid system and in the network system) and its transformations through the performance of the Constituent Power (formal and material), the development of the work is done by the legal (critical and vertical) of fundamental principles in the constitutional order of 1988 (and of the risks of neoconstitutionalism), through the diversity of meanings of the rule of law (with its progressive and adjective perspectives) and the challenges of democracy and popular power in complex and large-scale societies. Having presented several legal meanings of citizenship (with prevalence for its affirmation as guiding principle of rights and fundamental duties), forms and systems of government in Brazil are analyzed, with accountability of republicanism and the separation of powers. The realization of fundamental rights, duties and guarantees is addressed in the view of vertical and horizontal theory, including judicialization as a guarantee and instrument of citizenship, aspect that connects with the geopolitical organization of power and forms of State and corresponding roles for socioeconomic development. The discipline ends with a critical analysis of legal security (in its essential manifestations) in the dynamic and complex contemporary society.
GENERAL OBJECTIVE: At the conclusion of the course, the student should be able to apply, in a critical and vertical manner, the full (and network) legal order related to the research line "Citizenship modeling the State", especially in the elaboration of his dissertation or thesis.



SPECIFIC OBJECTIVES: The student should develop the following skills:

- to contextualize the national order with foreign systems and the new international context related to the central themes of citizenship, the State and intergovernmental organizations;
- define the positive law applicable to subjects studied in the development of scientific research of the line "Citizenship modeling the State";
- detect possible legal, social, cultural and economic constraints for the implementation (even if progressive) of the objectives and objectives studied in their academic analysis;
- apply normative, doctrinal, jurisprudential and customary paradigms in the development of their academic work.

METHODOLOGY: Active work methodologies, having collective discussion forums and expository-participatory classes as basic references.

EVALUATION: Critical participation in the collective forums of debates and evaluation of the topics treated with minimum parameters of support texts distributed before class. The final grade will be made obeying the general regulation of Post Graduation.

BASIC BIBLIOGRAPHY:

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- DIMOULIS, Dimitri (Org.) *Dicionário Brasileiro de Direito Constitucional* 2^a ed. revista e ampliada. 2^a ed., São Paulo: Ed. Saraiva, 2012;
- FERREIRA FILHO, Manoel Gonçalves. *Estado de Direito e Constituição*, 4^a ed., São Paulo: Ed. Saraiva, 2007;
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- GARCÍA-PELAYO, Manoel. *As transformações do Estado Contemporâneo*, trad. Agassiz Almeida Filho, Rio de Janeiro: Ed. Forense, 2009;
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- RAMOS, Elival da Silva. *Ativismo Judicial: parâmetros dogmáticos*, 2^a ed., São Paulo: Ed. Saraiva, 2015;
- REIS NOVAIS, Jorge. *Contributo para uma Teoria do Estado de Direito*, Coimbra: Almedina, 2006;
- SARLET, Ingo Wolfgang. *A eficácia dos Direitos Fundamentais – Uma teoria geral dos direitos fundamentais na perspectiva constitucional*, 13 ed., Porto Alegre: Livraria do Advogado Editora, 2018;
- TAVARES, André Ramos. *Teoria da Justiça Constitucional*, São Paulo: Ed. Saraiva, 2005;



COMPLEMENTARY BIBLIOGRAPHY:

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- BOBBIO, Norberto, e VIROLI, Maurizio. *Direitos e Deveres na República: os grandes temas da política e da cidadania*, trad. Daniela Beccaccia Versiani, Rio de Janeiro: Elsevier, 2007;
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- BÖCKNFÖRDE, Ernst-Wolfgang. *Estudios sobre el Estado de Derecho y la Democracia*, Madrid: Trotta, 2000;
- BURDEAU, Georges. *O Estado*, trad. Maria Ermantina de Almeida Prado Galvão, São Paulo: Martins Fontes, 2005.
- BURDEAU, Georges; HAMON, Francis; TROPER, Michel. *Droit Constitutionnel*, 39ª édition, Paris: Librairie Générale de Droit et de Jurisprudence – L.G.D.J., 2018;
- DAVID, René. *O direito inglês*, trad. Eduardo Brandão, ver. Isabella Soares Micali, 2ª ed., São Paulo: Ed. Martins Fontes, 2006;
- DÍAZ, Elías. *Estado de Derecho y sociedad democrática*, Madrid: Taurus, 2010;
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- FLEINER-GERSTER, Thomas, colab. de HÄNNI, Peter. *Teoria Geral do Estado*, trad. Marlene Holzhausen, São Paulo: Ed. Martins Fontes, 2006;
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- GRIMM, Dieter. *Constituição e Política*, trad. Geraldo de Carvalho, coord. e super. Luiz Moreira, Belo Horizonte: Ed. Del Rey, 2006;
- GOYARD-FABRE, Simone. *Os princípios filosóficos do direito político moderno*, trad. Irene A. Paternot, São Paulo: Ed. Martins Fontes, 1999;
- HÄBERLE, Peter. *Hermenêutica Constitucional: A Sociedade Aberta dos Intérpretes da Constituição: Contribuição para a Interpretação Pluralista e “Procedimental” da Constituição*, trad. de Gilmar Ferreira Mendes (*Die offene Gesellschaft der Verfassungsinterpreten. Ein Beitrag zur pluralistischen und “prozessualen” Verfassungsinterpretation*), Porto Alegre: Sérgio Antonio Fabris Editor, 2002;
- HESSE, Konrad. *A força normativa da Constituição*, trad. de Gilmar Ferreira Mendes (*Die normative Kraft der Verfassung*, J.C.B. Mohr – Paul Siebeck, Tübingen), Porto Alegre: Sergio Antonio Fabris Editor, 1991;
- _____. *Elementos de Direito Constitucional da República Federal da Alemanha*, tradução da 20ª edição alemã por Luís Afonso Heck, Porto Alegre: Sergio Antonio Fabris Editor, 1998;
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SALDANHA, Nelson. *O Estado Moderno e a Separação de Poderes*, São Paulo: Ed. Saraiva, 1987;
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TRIBE, Laurence H.. *American Constitutional Law*, 3^ª ed., New York : Foundation Press, 2000;
VERDÚ, Pablo Lucas. *La lucha por el Estado de Derecho*, 4^ª ed., Bolonia: Real Colegio de España, 1975;

CLASS SCHEDULE

Class	Date	Subject Matter
01		Normative force and meanings of Constitution: senses and species of Constitution (system in pyramid and system in network). Formal constituent power and material and manifestations of citizenship.
02		Legal effectiveness of fundamental principles of the order of 1988 and the challenges of neoconstitutionalism;
03		Adjective analysis of the rule of law and its progressive vision: liberal rule of law; Democratic and Social State; Rule of Law in the Brazilian Constitution of 1988; The rule of law in an international perspective;
04		Popular power and democracy as a presupposition of citizenship. Challenges of democracy and popular power in complex and large-scale societies. Democracy by parties and participatory democracy;
05		Legal meanings of citizenship. Citizenship as a fundamental principle: the citizen in antiquity, the subject of the Old Regime and the citizen in the Rule of Law. The fundamental rights, guarantees and duties of the citizen in the Modern State. People, nation and foreigners;
06		Forms and systems of Government: Republicanism, separation of powers, presidentialism and parliamentarism in Modern States;



		Accountability.
07		Fundamental rights, guarantees and duties: Human Rights, Fundamental Rights, Humanitarian Rights and Human Rights; Internal Theory and External Theory on limits to the exercise of fundamental rights.
08		Access to the Judiciary as a guarantee and instrument of citizenship: Constitutional Justice and judicial activism and passivity in civil law systems; theory of unconstitutionality, and the citizen as responsible for the legal system;
09		The geopolitical organization of power and state forms: Unitary State, Federative State and other subnational conformations;
10		Role of society and State attributions in socioeconomic organization: individualism and solidarity; the State as a direct agent and regulator of the macroeconomic process; responsibilities of citizenship and the state in economic development;
11		Legal Security: legitimacy, legality, exclusive subjects of the law and legitimate expectation for stability in relations between citizen and State. Critical analysis of legal security (in its essential manifestations) in the dynamic and complex contemporary society
12		Evaluation