

Teaching Constitutional History in Brazil: an Experience in an Undergraduate Legal History Course Employing Active Teaching Methods

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1. *Introduction*

Constitutional History is a relatively recent area of study within Brazilian Legal History. Previously, some works in Constitutional Law have touched upon this topic. For instance, Waldemar Martins Ferreira's book¹ (well-known for its anti-Vargas stance) aiming to align Brazil with a liberal tradition of Constitutionalism. In the realm of institutional history, specific works include volumes about the Federal Supreme Court by Leda Boechat Rodrigues² and Emilia Viotti da Costa³. With the current growth of Legal History in Brazil, there are now groups dedicated to Constitutional History in various regions such as Brasilia⁴, Mossoró⁵, as well as other places like Florianópolis⁶, Curitiba⁷, and São Paulo⁸, where researchers are actively working on this subject.

When delving into the teaching of Constitutional History, we encounter a significant challenge in navigating this subject. There isn't a singular approach but rather

a multitude of perspectives to explore, both broad and specific. To illustrate, let's outline the various approaches taken by different institutions:

- At the University of Brasília (UnB)⁹, the Ph.D. Program offers a research line focused on Constitution and Democracy, organized into sublines. One such subline centers on "Narratives, Constitutional History, and State Building," which includes courses such as "History of Public Law," "History of Brazilian Political Institutions," and "Historical and Sociological Dimensions of Constitutionalism," alongside seminars covering specific topics.

- The Federal University of "Semi-Árido" (UFERSA)¹⁰ in Mossoró, Rio Grande do Norte, incorporates two courses within its Ph.D. Program: "Historical and Sociological Dimensions of Constitutionalism," evidently influenced by UnB (with faculty members who are UnB alumni), and "Brazilian Political Constitutional Thought."

- At Uninter¹¹ in Curitiba, the Ph.D. Program offers the course "History of Public Law."

- The University of São Paulo (USP)¹² integrates the study of Constitutionalism into the LL.B. curriculum through the course "History of Political Ideas in Brazil."

- The Federal University of Santa Catarina (UFSC)¹³ in Florianópolis includes the course "History of Public Law and Constitutionalism" within its Ph.D. Program. Moreover, these topics are also covered in compulsory courses such as Legal History in LL.B. and History of Legal Culture in LL.M.

Despite the various approaches, whether they focus on Public Law (distinguishing between Constitutional and Administrative Law) or Political Theory (separating the Legislative, Executive, and Judiciary branches), they all center around Constitutionalism as the common thread binding these discussions. The experiences of the French and American revolutions in the 18th century, along with the reforms in Iberia during the 19th century, are crucial, as we will explore further, as is the Brazilian constitutions during both the Monarchy and the Republic.

My journey followed a similar path. During my tenure as a professor at the Federal University of Uberlândia (UFU)¹⁴ in the State of Minas Gerais, my initial role involved teaching a master's course on fundamental rights, and I introduced a syllabus on "History of Public Law and Constitutionalism" into the overall program. Concurrently, in the LL.B. course, I instructed on "History of Legal Thought," where discussions on Enlightenment and Liberalism naturally led to exploration of Constitutionalism.

This trajectory continued when I transitioned to Associate Professor at UFSC. In my classes on "Legal History" for first-year students, I delved deeper into Constitutional History, particularly focusing on the legal debates of the 18th and 19th centuries and began incorporating examination of the legal landscape in the 20th century. However, I have not yet had the opportunity to teach the course "History of Public Law and Constitutionalism" at the LL.M. and Ph.D. levels in Florianópolis.

Before delving into the core of our discussion, I want to emphasize two aspects that I find significant but cannot elaborate on here. Firstly, it's crucial to address the lack of diversity among colleagues teaching constitutional history in Brazil. The field predominantly comprises white men, like me, with few exceptions like Rio de Janeiro¹⁵. It's imperative to promote diversity among legal and constitutional history scholars¹⁶. Secondly, there's a concerning lack of emphasis on teaching constitutional history, or legal history in general¹⁷, not only in Brazil¹⁸ but also elsewhere¹⁹. We have limited opportunities to reflect on our teaching practices, particularly with other legal historians²⁰. While we frequently discuss our research, we often neglect the equally fundamental aspect as the legal education²¹.

The aim of this article is to outline my teaching approach in Legal History, with a particular focus on Constitutional History. The first section will lay out the foundation of my teaching methodology, which is rooted in a Comparative Constitutional History perspective. Here, I will discuss the selection of sources and the approaches I employ. In the second section, I will delve into the specifics of my teaching practice, high-

lighting the use of active methodologies to incorporate questions about Brazilian Constitutional History into my Legal History course.

2. *Teaching Comparative Constitutional History: Sources and Approaches*

In my current Legal History course, aimed at first-year Bachelor of Laws students, I've structured the curriculum into three main sections. But before that, I've proposed a section "zero" that serves as an introduction, covering methodological issues and fundamental concepts essential for studying legal history.

The first section, the most extensive, provides an overview of Western Legal History, with a focus on the connections between Continental Europe and Latin America, particularly Portugal and Brazil. The second section delves into the History of Brazilian Law during the Republic era. Lastly, the third section concludes with a brief general summary, aiming to tie together all the key aspects covered.

Throughout the course, I employ active teaching methodologies. The introductory section leans towards theory, though I incorporate some activities. For the legal history timeline, I strike a balance between traditional lectures and in-class exercises. Finally, the discussion on the history of Brazilian law is conducted in an interactive manner.

Focusing on content aspects, I've divided the legal timeline into five blocks: 1. Antiquity, with a focus on Roman Law; 2. The Middle Ages, discussing the *ius commune* tradition (including aspects of pub-

lic law such as tyrannical governance); 3. Pre-Modern Law, exploring early Brazilian legal developments during colonialism, *polizei*, and the conflicts between state law (*ordonnances*) and *ius commune*; 4. Modern Law, examining the emergence of declarations of rights, constitutions, and codification of law; and 5. Contemporary Law, discussing legal theories and human rights following World War II.

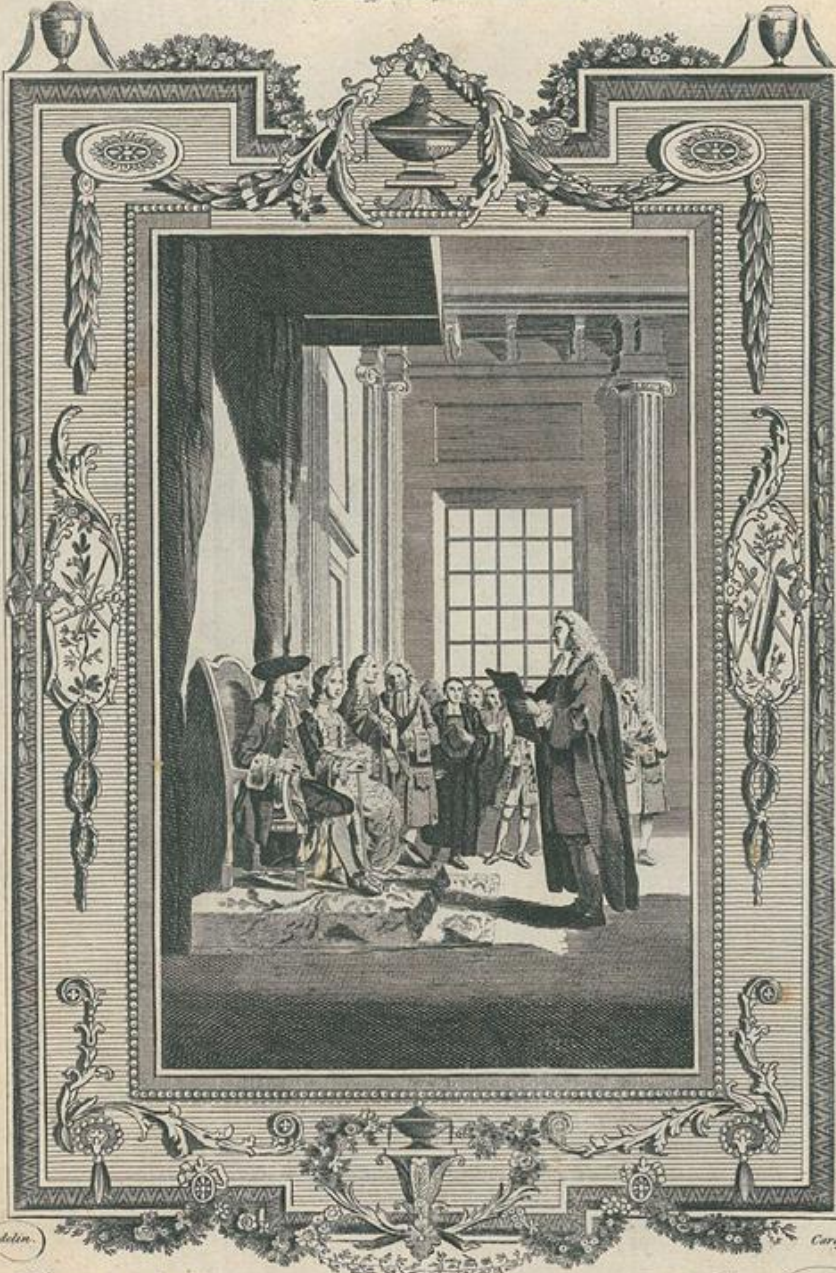
In this article, I will focus on my strategies for engaging with arguments on Constitutionalism. Specifically, I will discuss the iconography of declarations of rights and constitutions, constitutional and declaration preambles and constitutional processes in metropolises and their colonies, with a particular focus on England and the United States, France and Haiti, and Portugal and Brazil.

2.1 *The Visual Representation of Declarations and Constitutions*

One of the initial elements I introduce in my courses to stimulate and engage students in the discussion is visual support. While it may not be feasible to delve deeply into detailed concepts of iconography or legal iconology²², it's crucial to place these images in context. That's why I always begin by showcasing Eugène Delacroix's "Le 28 Juillet. La Liberté guidant le peuple." This painting serves as a reminder that it depicts not the French Revolution of 1789, but the events of 1830²³, highlighting the differences in the constitutional discourse between these two periods.

An interesting observation stemming from this episode is the prevalence of artis-

London Published by Mrs. Hogg at the King-Arms N. 6. Peter street Fleet.



Wade delin.

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The BILL of RIGHTS ratified at the Revolution by King William, and Queen Mary previous to their Coronation.



tic interventions in constitutional matters. Both painting and the press have played vital roles in celebrating and communicating the emergence of constitutionalism, allowing us to delve deeper into the historical context beyond mere textual analysis of the constitutions and the individuals involved.

Beginning with the Glorious Revolution in England and the enactment of the Bill of Rights, John Cary's "The Bill of Rights ratified at the Revolution by King William, and Queen Mary, previous to their Coronation" (circa 1783-1797) offers a fascinating insight. As the title suggests, acceptance of the declaration's terms was a prerequisite set by Parliament before the king and queen could be crowned. This depiction encapsulates the emergence of a new power dynamic under the unwritten English Constitution, characterized by the principle of "the king in parliament".

Taking a cue from the developments in the metropolis, nearly a century after the American colonies asserted their rights and

embarked on the journey to independence, they proceeded to adopt constitutions, culminating in the establishment of a federal constitution encompassing all states. In Virginia, where this process began, I often refer to Jack Clifton's oil painting, "Adoption of the Virginia Declaration of Rights" (circa 1794). In this portrayal, George Mason, who penned the initial version of the 1776 Declaration of Rights, addresses the assembly while others listen and take notes, indicating the revisions the text underwent during debates in the House of Burgesses. These documents are not merely composed of philosophical elements but also incorporate political and legal arguments, often influenced by circumstances, such as the omission of any mention of slavery.

The second most recognized image among students regarding constitutionalism is the tableau "Declaration of the Rights of Man and of the Citizen" by Jean-Jacques-François Le Barbier (circa 1789), which contains the entire text of the French

declaration. While the concept and imagery were clear at the time, they may not be as obvious today. The idea of presenting the declaration in a *tableau* is intriguing, as it connects the text to other sacred texts, albeit now secular rather than religious. This image serves as a form of official propaganda and is rich in iconographic symbols:

- The "eye of Reason" casts its light upon France, symbolizing the overthrow of absolute monarchy.

- The laurel garland represents power.

- The woman on the left personifies France, adorned with a crown and a blue coat adorned with *fleur-de-lys*. She has broken free from the chains of absolute monarchy by divine right. The clouds behind her symbolize the obscurantism and lack of fundamental freedoms of the *Ancien Régime*, which are fading away.

- The woman on the right embodies Freedom, holding a scepter in her right hand, guiding her with the radiant eye of reason, and a triangle symbolizing equality among men (though not women, as criticized by Olympe de Gouges in her "Declaration of the Rights of Woman and of the Female Citizen" of 1791). Her left hand indicates the new rules that will govern relations among the French people.

- The serpent biting its tail, an Ouroboros, represents the eternal cycle of life and the immutable nature of rights. It encircles a red cap: the Phrygian bonnet, worn by liberated slaves as a symbol of their freedom.

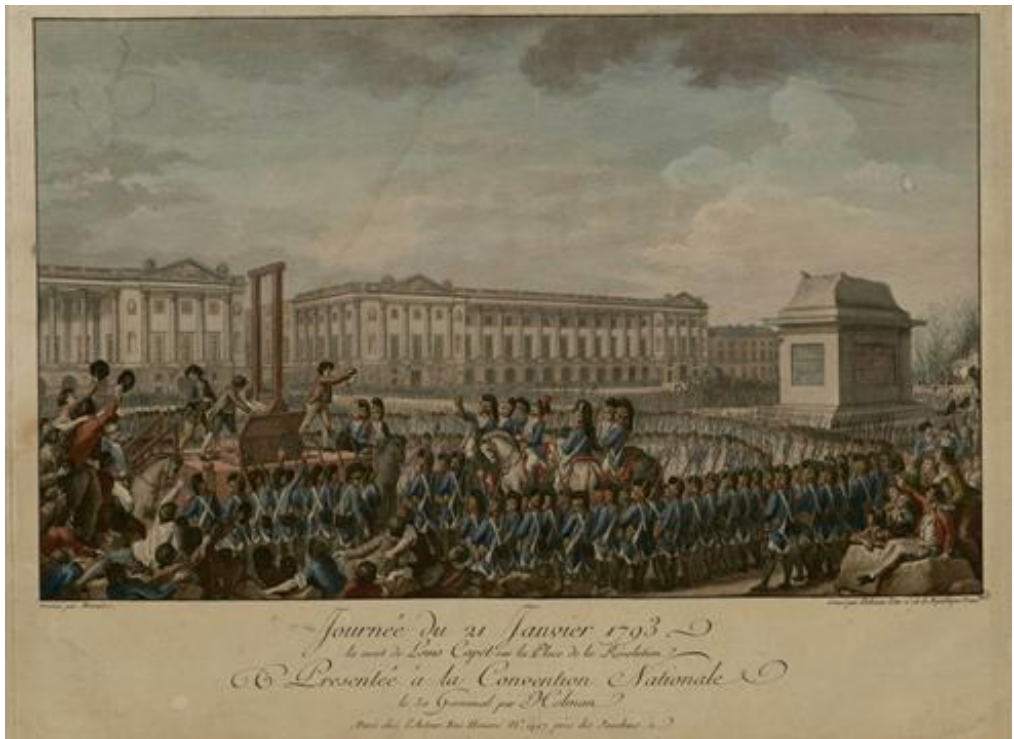
- The beam represents France's military strength, under control to ensure that the French people will not initiate aggression but possess the means to defend themselves if attacked.

Examining these details is crucial because, in general, people may not realize

that France at that time was not a republic but had transitioned into a constitutional monarchy. Some symbols, like the red cap, could confuse students. As previously noted, the Phrygian bonnet is typically associated with Marianne, the symbol of the French Republic. Therefore, this reinterpretation was necessary to align the declaration with the republican tradition and differentiate it from the English Bill of Rights, despite their strong historical connections, particularly regarding the original reasons for convening the Estates-General.

It's no coincidence that France's tradition celebrates radical solutions during the revolution, such as the execution of Louis XVI. A vivid depiction of this spirit can be found in "Journée du 21 janvier 1793 la mort de Louis Capet sur la place de la Révolution: présentée à la Convention nationale le 30 germinal" by Isidore Stanislas Henri Helman (well-known for Charles Monnet's engraving), created between 1793 and 1794. The scene of the guillotine's imposition upon the French king in the Place de la Révolution is rich with symbolism. For instance, the empty pedestal in front of him once held an equestrian statue of his grandfather, Louis XV. When the monarchy was abolished on September 21, 1792, the statue was torn down and melted.

In a sense, the allegories of Haitian independence are also marked by bloodshed. During that era, the Island of Saint-Domingue was a French colony. From the images of the slave revolt in 1791, through the wars against France and the struggle for independence, numerous scenes of violence are depicted. Generally, these images aim to be shocking, portraying black individuals in peasant attire killing white people. Surprisingly, one of the more epic





paintings portrays a battle between Haitians and Poles. The Polish Army had allied with Napoleon, hoping for his assistance against Russia, Prussia, and Austria. This event was captured by January Suchodolski in "Battle of San Domingo" (also known as the Battle for Palm Tree Hill) in 1845. Initially convened to suppress a prison riot, the soldiers found themselves on the field facing rebels fighting for freedom. Some of the Polish men switched sides and joined the rebellion. Referred to as "the White Negroes of Europe" by Jean-Jacques Dessalines, Haiti's first head of state, they were granted Haitian citizenship after independence²⁴. In Haitian constitutions, all citizens are referred to as *Noirs*.

The images depicted in the first "Haitian" constitution vary significantly, as evident in the lithograph "Le 1er Juillet 1801, Toussaint-L'Ouverture, empowered by the people of Haiti and under the auspices of the Almighty, proclaims himself Governor-General, accompanied by legally ap-

pointed representatives, in the presence and under the Constitution of the Republic of Haiti," created by Villain in 1801. This refers to the unique constitution of the Saint-Domingue colony in 1801, which liberated the black population of the island following a slave revolt. Christian symbolism was prominently featured, including depictions of God, a bishop, a mother with a child, and the people blessing the text held by Toussaint Louverture, the leader of the newly autonomous region of Saint-Domingue. Napoleon's disregard for the crucial clause regarding the end of slavery led to the war for independence and the adoption of the Constitution of 1805, which reinstated the image of a nation of free black men²⁵.

Now, let's delve into the Portuguese-Brazilian experience. It's intriguing because, following the British-North American and French-Caribbean experiments²⁶, the Luso journey absorbed many aspects of previous independence movements.





The Liberal Revolution of Oporto in 1820 hastened the convening of Extraordinary General Courts (an assembly reminiscent of the *Ancien Régime*, akin to the French General Estates or Cádiz in Spain). Since 1808, following the Napoleonic invasion, Prince Regent John VI and the entire Lusitanian court had been relocated to Rio de Janeiro. Then, in 1815, he declared a change in Brazil's status, transforming it from a colony into part of the United Kingdom of Portugal, Brazil, and the Algarve. This arrangement failed to satisfy both the Portuguese, who felt distant from power, and the Brazilians, who remained under Luso rule. When the courts were convened, only four delegates from Brazil were included. This marked the beginning of the independence process, exacerbated by Prince John's return to Lisbon, leaving his son Peter in Brazil to maintain control. However, in September 1822, Brazil declared its independence, prompting Portugal to declare its own constitution.

Turning to Portugal, we encounter "Allegory of the Constitution of 1822" by Domingos Sequeira (1822). In this composition, the characters are depicted within a monumental architectural setting where a crowned female figure, personifying Lusitania, stands prominently on a platform, expressing gratitude for her liberation. Flanking her are figures representing Strength and Reason. At the forefront of the platform, dressed in white, stands Liberty, whom the surrounding people implore for. It's a profoundly dramatic scene indeed.

We didn't come across significant allegorical representations of the Brazilian Constitution of 1824. Instead, the focus is on Pedro I, the first emperor of the newly independent nation, as depicted in "Dom Peter I, Emperor of Brazil" by Henrique José da Silva (1825). This artwork captures the drama of Peter's decision for Brazil, his heroic declaration of independence, and his glorious coronation.



It's also pertinent to discuss the Imperial Constitution, as Peter I dissolved the elected constituent assembly in 1823 and appointed a State Council to complete the task. The issue revolved around the question of whether the assembly or the dynasty held true constituent power. The emperor refused to be governed, leading to the emergence of a fourth power, the Moderator, inspired by Benjamin Constant's concept of neutral power.

In the Brazilian monarchy, the crown held the ultimate authority. The emperor served as the head of government, appointing ministers (executive power), selecting senators and influencing the Chamber of Deputies (legislative power), and appointing judges (judiciary power).

In conclusion, it's evident how illuminating images can be in presenting revolutionary and constitutional themes. The intricacies captured in paintings, lithographs, and other artistic mediums are highly educational, often delving into aspects that may not be entirely clear in declaration and constitutional texts. However, we shouldn't overlook the significance of these written documents themselves. In the next topic, I'll discuss how I incorporate them into my classes.

2.2 *The Preambles of Constitutions and Declarations*

Preambles are intriguing texts. Generally, they are often overlooked or relegated to a secondary position because, as we learn in Constitutional Theory, they lack enforceability. In essence, we cannot directly derive rules from these texts. However, in Legal

History, this is not a hindrance; on the contrary, preambles can be highly useful for understanding legal texts²⁷ or may even be subject to analysis themselves.

Firstly, I'd like to highlight the presence of the sacred. In the case of the British Bill of Rights, it's interesting to observe the presence of clergy in the Lords Chamber: «Whereas the Lords Spiritual and Temporal and Commons assembled at Westminster, lawfully, fully and freely representing all the estates of the people of this realm, did upon the thirteenth day of February in the year of our Lord one thousand six hundred eighty-eight present unto their Majesties, then called and known by the names and style of William and Mary, prince and princess of Orange, being present in their proper persons, a certain declaration in writing made by the said Lords and Commons in the words following, viz.» God is also invoked in the French Declaration of 1789: «Therefore the National Assembly recognizes and proclaims, in the presence and under the auspices of the Supreme Being, the following rights of man and of the citizen: [...]». Secularization would come in the subsequent phases of the revolution. Similarly, constitutions in the Catholic world—Spain, Portugal, and Brazil—would assert (in capitalized letters) the blessing of the Holy Trinity upon the preamble text.

The language used wasn't neutral. The notion of "declaring" rights was carefully considered²⁸. Unlike "constituting," which implied a current political action, declarations focused solely on rights already in existence. These were described as "certain" and "inherent" (in Virginia), or as "natural, unalienable, and sacred," to all people "may remind them unceasingly" (in France). Particularly in England, and initially in the

United States and France, declaring rights was simpler than establishing them, even when the content was novel: the liberties under the old regime were vastly different from those post-revolutions and new constitutions, akin to political treaties.

Other linguistic uses corroborate this. The declaration of rights by the “good people” of Virginia signaled allegiance to the new order established in the colonies. As previously mentioned, the French Declaration of the Rights of Man and of the Citizen explicitly excluded not only women but also slaves and Jews²⁹. Similarly, the famous “We the People” in the preamble of the American Constitution didn’t encompass all residents of the new states, evident from a mere reading of the electoral processes outlined within the document.

The preamble of the Brazilian Imperial Constitution was particularly noteworthy. Similar documents, such as those of Spain and Portugal, emphasized the connection between the new text and the old laws of the nation, striving for national prosperity under this revised political agreement. As mentioned earlier, the drafting process was contentious, leading to the dissolution of an elected assembly and its replacement with a council appointed by the emperor. The Brazilian preamble reflected this, explaining how the final text, influenced by the emperor’s intervention, was deemed favorable, while also highlighting the desired oath of allegiance to the emperor by the new composition of the national assembly.

In short, preambles serve as crucial sources for observing aspects often overlooked when comparing constitutional texts, which tend to be similarly abstract. As discussed, this approach often limits the scope of rights to bourgeois men, with pre-

ambles providing more genuine insights into the contexts. Consequently, they are valuable for classroom use, allowing students to grasp the nuances of each case.

2.3 *The Constitutional Process in Metropolises and Their Colonies*

To conclude this section, I aim to outline my strategy for decolonizing the teaching of Constitutional History while acknowledging a broader context. I explore the emergence of constitutionalism in the shadow of colonialism, a paradox when considering abstract liberal ideals. By examining the experiences of England and the United States, France and Haiti, and Portugal and Brazil from a comparative perspective, we can prompt students to ponder why these historical narratives matter, how they relate to our (peripheral) experiences, and which strategies proved effective in each case.

Former colonies, whether in revolutionary or reformist contexts, shared a common background but diverged in their futures. On one hand, these experiences were united by certain factors, notably the prevalence of Contractualism, particularly evident in the influence of John Locke’s theory. On the other hand, the uniqueness of these experiences led to different constitutional arrangements: the United States adopted a republic, Haiti experienced an erratic succession of regimes, and Brazil established a monarchy. Moreover, external factors played a significant role in the success of the United States, the struggles of Haiti, and the fluctuations of Brazil. How each nation dealt with slavery was central to their trajectories.

The United States and Brazil viewed Haiti as a cautionary example to avoid: the idea of a “civilized” nation³⁰ governed by free black people was deemed unacceptable at the time. Slavery persisted in the United States until the Civil War of the 1860s, while Brazil abolished it gradually through a series of laws controlling the transition, culminating in the 1870s and 1880s. Politicians often cited the perceived “anarchy” of “negroes” in Haiti as justification for maintaining slavery³¹. While the constitution of Haiti declared the nation free, American and Brazilian texts remained silent on this foundational aspect of their countries’ histories.

Hence, it’s evident that the processes of constitutionalization weren’t just interconnected at the center but also extended to the periphery, and this connection wasn’t solely directed from the center outward. Another illustration is the Portuguese constitutional charter of 1826, which Peter IV, also known as Peter I of Brazil following his father John VI’s death, imposed. This constitution also granted moderating power to the emperor, a fact that intrigued Carl Schmitt³².

As we’ve observed through visual representations and preamble texts, constitutionalism’s circular nature is marked by continuous interaction and influences from various directions. This complex mosaic isn’t straightforward to present, but it’s imperative for our students not to adhere to traditional, linear narratives centered around the Global North. Teaching Constitutional History in a country like Brazil presents an opportunity to delve into cutting-edge Legal History methodologies and serve as an example of how North America and Europe could reassess their trajectories. To achieve this, in my opinion, we

must not only alter the discourse, but also reform our practices, as I’ll discuss in the following section.

3. *Teaching Brazilian Constitutional History: Using Active Methodologies in a Legal History Course*

As I mentioned earlier, my Legal History course is divided into three main sections: a methodological introduction, an overview of Western legal history focusing on Constitutional History in modernity, and an in-depth study of Brazilian Legal History during the Republic. To teach this course, I employ active methodologies, blending traditional lectures with interactive exercises. During the general overview, I incorporate both vertical lessons and exercises, but I shift towards student-led activities when we delve into discussions about Brazilian law.

My objective in this segment is to highlight the activities related to Constitutional History, which typically take place in the final weeks of the course and follow a chronological sequence. To achieve this, I present two activities within the legal-historical panorama, covering legal modernity and contemporary law, as well as a guided activity focusing on Brazilian Law during the Republic.

In the Legal Modernity module, I propose a Moot Court exercise to delve deeply into concepts such as Constituent Power and Constitutional arrangements. This interactive simulation allows students to actively engage with the principles and processes that shape constitutional structures.

In the Contemporary Law module, the activity explores the interaction between International Human Rights and National Fundamental Rights, using Art as a vehicle to understand the advancement of rights for vulnerable groups. Through the analysis of artistic expressions, students gain insight into the evolving landscape of rights and their impact on a global and national scale.

Finally, in the History of Brazilian Law section, I guide students through simulations of Supreme Court historical cases, particularly those from authoritarian periods. These simulations involve re-evaluating past cases to assess the independence of judges during dictatorships. This exercise encourages students to critically evaluate judicial decisions in challenging political contexts and explore the complexities of maintaining judicial integrity during turbulent times.

3.1 Legal Modernity: Constituent Power and Constitutional Arrangements - Historical Characters' Moot Court

The initial activity presented to students is a "moot court"³³, a method widely recognized in International Law and common law jurisdictions for practicing the rhetorical aspects of certain subjects. In this exercise, two teams of students are given a predetermined amount of time to present arguments on a previously chosen theme, taking turns to engage in rounds of discussion. Nowadays, moot court groups are highly developed in many universities, and some competitions have gained considerable renown.

In my course, the moot court exercise also involves a role-playing component³⁴. In addition to discussing a specific argument, students are required to assume the roles of historical figures.

The focus of the discussion is the emergence of constitutionalism in Brazil, particularly centered around the constitutional assembly of 1823 and the Constitution of 1824. The key figures involved are the Brazilian emperor, "Dom Pedro" (Peter I of Brazil, following Peter IV of Portugal), and the congressman "Frei Caneca" (Friar "Mug," a nickname derived from his family business, a ceramics fabric). Having previously discussed above the Brazilian monarch, we can now introduce his adversary.

Frei Caneca, a member of the Carmelite order and a politician, was part of a movement of liberal clergy in Brazilian politics during that period³⁵. He served as a deputy for the province of Pernambuco in the National Assembly, but was later implicated, tried, and executed for his involvement in the Equator's Conference, a secessionist movement in Brazilian North-East zone.

While it's important to note that these two historical figures did not engage in a direct debate, examining Frei Caneca's congressional speeches and Dom Pedro's decrees reveal a crystallization of the two main political factions in imperial politics: liberals versus conservatives. These opposing stances shaped the arguments during the constitutional debate that defined Brazil's transition to an independent state.

In these discussions, two key arguments stand out: the nature of Constituent Power and the constitutional arrangements of powers and functions. Concerning the first argument, I've chosen to focus on the dilemma of precedence between the sov-

ereignty of the national assembly and the power of the dynasty. On one hand, the congressmen engaged in constituent work declared themselves free to deliberate on all matters. On the other hand, the emperor perceived certain issues as personal prerogatives beyond the purview of the people's representatives. In essence, the question boils down to whether the constitution was an imperial concession or a product of popular movement. As previously discussed, the outcome was the dissolution of the assembly, the establishment of a council, and the introduction of a constitution imposed by the monarch.

Regarding the second argument, I've chosen to examine the establishment of the Moderator Power, the fourth branch outlined in the constitutional charter. This serves multiple purposes: firstly, it allows the emperor to appoint agents across all three powers, including ministers, senators, and ordinary judges. Secondly, it grants him the authority to intervene in the exercise of powers; since the government acts in his name, he has the power to dissolve the chamber of deputies and call for legislative elections, as well as the authority to pardon criminal convictions. Thirdly, the emperor is deemed "inviolable and sacred" and is not held accountable by law or politics, as he is considered the "perpetual defender of the nation."

This discussion is intriguing because it reflects themes present in the Western legal and political tradition of the era. Specifically, two French figures, Benjamin Constant and Abbé Sieyès, serve as notable examples. Constant's concept of Neutral Power³⁶ bears striking parallels to the Brazilian experience of Moderator Power, making him a direct reference point. While Sieyès's

influence may be less obvious, a closer examination reveals that the ideas of the Brazilian friar draw clear inspiration from the French abbot³⁷. It's noteworthy that both figures were clergymen engaged in politics within a liberal framework. I encourage students to delve into the works of Sieyès and Constant to gain deeper insights into the Brazilian constitutional context.

The class will be divided into six groups: two representing Dom Pedro, two representing Frei Caneca, and two acting as juries. Each trio will tackle different aspects of constitutional power. The first trio will debate constituent power fundamentals, while the second will focus on moderator power.

Each group must prepare a written memorandum (1-3 pages) and engage in two rounds of 5-minute oral debates. During the debates, each group can designate two representatives. Dom Pedro's and Frei Caneca's groups must submit their memorandums to the jury groups 48 hours before the presentation.

Following each debate, the jury will articulate the reasons for selecting the best debater. To support their arguments, Dom Pedro's groups will reference the decrees concerning the opening and dissolution of the Constituent Assembly of 1823; Frei Caneca's groups will utilize his speeches from that assembly, and the jury groups will refer to the Imperial Constitution of 1824. Additionally, selected texts from Benjamin Constant and Abbé Sieyès will be used.

The evaluation criteria consist of a score ranging from 0 to 10, divided into five points for memorandums (assessing both form and content, including writing style, use of bibliography, and adaptation), four points for oral debates (evaluating form,

content, rhetoric, and coherence with the memorandums), and one point by the costumes according to the assigned character (king, clergyman, or judge), aiming to add a playful dimension and alleviate the tension inherent in this type of exercise.

My experience with this exercise has been very positive. The students have been actively engaged and have presented well-constructed memorandums and debates. One concern, however, has been the attire, as some students seemed more focused on their costumes than on their arguments. It's the professor's role to maintain the necessary seriousness to either uphold or redirect the focus. Following all presentations, feedback is provided for each group, followed by a closing speech to the entire class, linking the highlighted aspects to the broader themes of the previously discussed module.

In this regard, the activity helps to illustrate how Brazil's initial constitutional experience intersects with the tradition of liberal constitutionalism and its constraints. For instance, the inclusion of the concept of moderator power in the constitutional text, though rare, indicates the ongoing debate within the political sphere. Thus, moderator power in Constitutional History isn't a uniquely Brazilian phenomenon (like the "jaboticaba," a Brazilian fruit used figuratively to denote something exclusive to Brazil)³⁸. On the contrary, the debate over the alignment of political powers and legal functions (whether the Executive branch solely administers, the Parliament solely legislates, and the Judiciary solely adjudicates) was under construction and in contention during that period and beyond.

Regarding the issues raised by students during the exercise, several key points

should be noted. Frei Caneca's groups benefit from their strong grounding in Enlightenment tradition, which allows them to easily connect their arguments with their backgrounds in political and legal thought. On the other hand, Dom Pedro's groups have the advantage of historical victory. Despite the challenges prevailing political and legal norms, the Brazilian imperial constitution endured for almost a century, making it the longest-lasting in our tradition.

Another significant issue highlighted is the polarization within the contemporary Brazilian political debate, where left-wing students align with Frei Caneca's discourse and right-wing students with the emperor's speech.

Additionally, there is a current argument circulating in radical right-wing circles about the survival of moderator power in our present-day Constitution of 1988. This presents a notable paradox since the 1988 Constitution is celebrated as the "Citizen Constitution" following a democratic process that incorporated popular aspirations. The heterodox idea posits the role of the military forces in resolving impasses when branches of government are in conflict, based on a provision in the constitutional text concerning "the guarantee of law and order". This provision essentially places the Army, Navy, and Aeronautics under the same constitution and, consequently, under the authority of the Executive, Legislative, and Judicial branches, with particular emphasis on the President, who serves as the commander in chief of all forces³⁹.

Despite the complexities of this debate, it opens up dialogue about the utilization of the past and the continuities and ruptures within Constitutional History. While challenging, it underscores the importance of

legal history in law courses⁴⁰ and the civil obligation of legal education to uphold constitutional values⁴¹, even in contexts where academic freedom may be contested⁴².

In my opinion, this activity is highly valuable as it encourages students to analyze present-day issues through a historical lens. It provides an opportunity to delve into fundamental notions of constitutionalism, grounding these concepts in primary sources and understanding Brazilian particularities within the broader context of Global Constitutional History.

3.2 Contemporary Law: International Human Rights and National Fundamental Rights - Art, Rights, and Vulnerable Groups

The second activity proposed for students resembles a “vernissage” or soirée. In this exercise, each team of students can present an artistic expression focused on predefined themes. The manifestation should be partially original or, at the very least, a collage of existing pieces, encompassing mediums such as music, photography, paintings, digital art, etc. The aim of this exercise is to elicit personal impressions about the topics and observe how legal thought begins to influence students’ reasoning.

Groups may choose to exhibit photography or painting collections, showcase fiction or non-fiction films, stage theatrical plays, or perform musical concerts. Subsequently, they are required to upload a file containing their presentation materials (video recordings, photos, scripts, etc.) onto the Moodle online platform and present or perform them in the classroom. The evaluation criteria consist of a score rang-

ing from 0 to 10, divided into five points for the support material (assessing both form and content, including text writing, use of legal texts, and adaptation) and five points for the presentation (assessing aesthetics and coherence with the script).

I have selected eight issues sensitive to the Brazilian reality: #1: women; #2: black people; #3: children; #4: indigenous and traditional (such as *quilombolas*, *ribeirinhos*, etc.) people; #5: the prison population; #6: religious minorities; #7: LGBT+ people; and #8: persons with disabilities. Some of these topics are addressed by specific human rights conventions (e.g., CEDAW for women), while others are addressed more broadly in international treaties (e.g., LGBT+ people).

The exercise, titled “Art, Rights, and Vulnerable Groups,” draws upon primary sources such as the Universal Declaration of Human Rights (1948), the American Convention on Human Rights (1969), also known as the “Pact of San Jose, Costa Rica,” and the Constitution of the Federative Republic of Brazil (1988). The objective is to determine whether the vulnerable group chosen by each team is protected by these documents and whether their rights can be classified as international human rights or national fundamental rights. Following this initial analysis, teams may research additional declarations, conventions, international treaties, and domestic legislation pertaining to their chosen subject.

Subsequently, teams are tasked with comparing “law in the books” to “law in action” regarding their respective topics and presenting this contrast through art. Generally, students respond well to mediums such as music, cinema, and other forms of art, and some demonstrate genuine talent in their

execution. While factors such as shame, shyness, or other psychological, moral, or religious considerations may occasionally interfere, it is rare for an entire group to be unable to produce an acceptable result.

This activity delves into the discussion of how rights are articulated. Firstly, international documents such as the Universal Declaration and the American Convention on human rights primarily focus on civil rights, encompassing individual liberties (such as life, liberty, equality, and property) and political rights (such as the right to vote and be elected). These texts establish legal protections based on a traditional notion of equality, rooted in formalistic legal principles, while also incorporating a humanitarian perspective, which asserts that no right should be denied to any individual. It's important to note the liberal essence of these rights, which are designed to shield individuals from state interference, a crucial consideration especially in the aftermath of World War II when all states were tasked with safeguarding the new global order. Notably, communist countries advocated for the inclusion of social rights in the 1948 Declaration, expressing their dissent by abstaining from the vote when these rights were not included⁴³. The situation only began to change after the decolonization of Africa, marked by the signing of the International Covenant on Economic, Social, and Cultural Rights in 1966.

Moreover, national constitutions have increasingly been tasked with implementing social rights, following the examples set by Mexico (1917) and Germany (1919), and later incorporated into the second Brazilian republican constitution (1934). The liberal tradition of constitutionalism and international law regards human rights as pos-

sessing universal value, with fundamental rights being temporal and spatial variations of these universal rights⁴⁴. The post-Cold War era witnessed a shift in the international order towards acknowledging the intersectionality of human rights, leading to conventions addressing specific groups such as women (1979) and children (1989). This was instrumental in recognizing the collective and diffuse nature of these rights, as reflected in newer constitutions like Brazil's 1988 Federal Constitution.

Lastly, it is essential to consider the practical significance of these conventions in protecting vulnerable groups. While the existence of norms is crucial for recognition, the role of courts, including constitutional courts and human rights courts within regional integration systems, is vital in interpreting and applying these norms in cases where legal texts are ambiguous or lacking. For instance, despite the absence of a specific convention on LGBT+ rights, courts in the Inter-American system⁴⁵ and Brazil⁴⁶ have addressed issues related to LGBT+ discrimination. Courts play a pivotal role in responding to legal challenges within constitutionalism and international law, even in cases where clear guidelines may be lacking⁴⁷.

In conclusion, this exercise offers students the opportunity to explore various approaches to situating human rights within a constitutional framework. In contrast to the previous exercise, this one delves into contemporary notions of constitutionalism, thereby facilitating a deeper understanding of Brazilian particularities within the international order. It serves as yet another tool for connecting classroom discussions to the broader context of global constitutional history.

3.3 *History of Brazilian Law: Supreme Court and Authoritarianism - Rejudging Historical Cases*

The third activity planned for students serves as a distinctive approach to the module on the History of Brazilian Law. Rather than following the typical vertical class-horizontal class sequence (comprising lectures and activities), this exercise fosters active learning through independent research by student teams. Each team is tasked with studying a specific historical period, with initial literature recommendations provided. Subsequently, the presentations are shared with other teams, collectively constructing a comprehensive panorama.

A significant aspect of this activity is its focus on the Vargas Era (1930-1945) onwards. As previously mentioned, in the broader Western context, I emphasized the Imperial Constitution of 1824. During the feedback session for the exercise, I advanced the discussion to include constitutional review. This is crucial at that time because the Brazilian legal framework lacked judicial review, relying instead on the traditional *référé législatif* supplemented by opinions from the Council of State⁴⁸. Therefore, I introduced the concept of judicial review in the American context and its adoption in Brazil post the proclamation of the Republic in 1889. The transition to the new regime transformed the former Supreme Tribunal of Justice, akin to a *Cour de Cassation*, into a Supreme Court upon the establishment of federal justice in 1890. This system persisted through the enactment of the first Republican Constitution in 1891. Building upon this foundation, we can transcend the limitations posed by prima-

ry sources, given that all case files from the First/Old Republic in the Supreme Court are manuscripts.

Each group is assigned a specific period of Brazilian constitutional history: #1: Vargas Era; #2: Democratic Interval (1946-1964); #3: Military Dictatorship (1964-1985); and #4: New Republic (1985-present). Corresponding to each period, I have designated one case from the Federal Supreme Court to be rejudged by the groups. Given that I teach two Legal History courses simultaneously (one in the morning and one in the evening), I have selected two cases from each era, sourced from the Brazilian Supreme Court's website under the "historical judgments" section⁴⁹:

#1: Vargas Era:

- In the case of Olga Benario⁵⁰, a German Jewish woman trained by the Komintern to assist the Brazilian Communist Party in starting a revolution, she was expelled by President Vargas. At that time, she was pregnant with Luiz Carlos Prestes, the party's leader. They were arrested in 1936 following the failed military coup promoted by the Communist Party in November 1935. They lived undercover as a common couple, using the same cover to clandestinely enter Brazil and then began dating. They never officially married, so Olga couldn't claim the right to remain in Brazil. Before the birth of their child, she wasn't recognized as the mother of a national. The habeas corpus wasn't issued to release Olga, but to keep her imprisoned as a rebel alongside Prestes and other communists. It was also a ploy to ensure the childbirth happened in Brazil. The Supreme Court ruled that Olga should be "free beyond [Brazilian] borders." She was deported by Brazilian authorities to Nazi Germany on a ship, and after giving

birth to her daughter Anita in prison, she was sent to a concentration camp and murdered in a gas chamber⁵¹.

- Regarding the case of the National Liberation Alliance⁵², a left-wing coalition established in 1935 advocating for land reform, cessation of external debt payments, and nationalization of foreign companies, it included workers, low-level military personnel (*tenentes*), communists, and intellectuals. Its motto was "bread, land, and freedom." Following the "Red Riot" in November 1935, the party was dissolved by presidential decree. The party leadership took legal action (*Mandado de Segurança*)⁵³ to maintain its activities, but this was denied by the Supreme Court. Subsequently, in November 1937, Vargas staged a *coup d'état*, leading to the extinction of all political parties⁵⁴.

#2: Democratic Interval (1946-1964):

- The case involving the annulment of the Brazilian Communist Party's registration⁵⁵ occurred at the end of the Estado Novo regime in 1945 when Vargas granted amnesty to communists. They re-entered electoral politics, and in 1946, elected Prestes as a senator and a dozen federal deputies, including the writer Jorge Amado. In 1947, a legal suit was filed against the party in Electoral Justice, accusing it of undermining national sovereignty by being part of the Communist International. The electoral court banned the party, and its leaders appealed to the Supreme Court not to reverse the decision but to use a habeas corpus to gain access to the party's headquarters and retrieve documents. The court rejected the appeal, arguing the common nature between a civil association and a political party. The communists sought to avoid a repeat of the 1936 experience when

Prestes was arrested, and documents found in his house were used to prosecute other supporters⁵⁶.

- In the case of Café Filho's "impeachment"⁵⁷, Vargas' vice-president who assumed the Executive after his suicide in 1954, President Café Filho suffered from a heart condition the following year. After his recovery, he was prevented from returning to power. In this case, there wasn't a high crime as outlined in the Constitution, and rather than facing prosecution by deputies and judgment by senators, the National Congress, supported by the Army, prevented Café Filho's return, citing his inadequate health. Café Filho appealed to the Supreme Court through a *Mandado de Segurança* to return to the presidency, but the court upheld the victory of force over the law. Subsequently, the Army blocked the next successor, the Chamber of Deputies' president, Carlos Luz, and supported the Federal Senate's president, Nereu Ramos, who completed the term of office⁵⁸.

#3: Military Dictatorship (1964-1985):

- The case of Mauro Borges⁵⁹, governor of the state of Goiás, stands out. He came under investigation by the military police after the 1964 coup because he was suspected of being disloyal to the new regime. According to the state constitution, the head of state could only be prosecuted by the legislative assembly. When the army besieged the governor's palace, Governor Borges appealed to the Supreme Court, seeking a preventive habeas corpus — an order to declare any future imprisonment illegal. This case is notable because it marked the first time the court granted an individual *ad limina* decision in a habeas corpus, where the rapporteur decided alone and then presented the case to his colleagues. The court upheld

the initial decision and granted the order to block the arrest. As a result, the President sought approval from Congress and gained the authority to decree a federal intervention in Goiás. Borges was removed from office and lost his political rights under the dictatorship⁶⁰.

- Another significant case is that of Vito Miracapillo⁶¹, an Italian missionary priest in a small town in the state of Pernambuco, who refused to conduct a service on Independence Day. The priest justified his decision not only with traditional arguments about the separation between state and church but also by presenting social questions typical of Liberation Theology, a leftist strand of Catholic thought. Consequently, he was considered an enemy of Brazil due to the association of that theology with Marxism, leading the President to sign his expulsion decree. In response, Miracapillo presented a habeas corpus to the Supreme Court to remain in Brazil. Despite showing deference to governmental discretion, the tribunal deemed the presidential act legal⁶².

#4: New Republic (1985-nowadays):

- In this period, two notable cases revolve around the impeachment of Fernando Collor⁶³, the first president elected after the military dictatorship. He confronted the Supreme Court with several *mandados de segurança* during and after the political process in the Chamber of Deputies and Federal Senate, questioning the use of the Impeachment Act of 1950 in accordance with the 1988 Constitution. In the first case⁶⁴, Collor argued a lack of respect for his right to a fair trial because the Congress Regiment was not adhered to regarding the composition of the accusation committee and the time allotted to present his defense.

Although the first appeal was not accepted, he was granted an extended deadline to prepare his defense.

- In the second case⁶⁵, following the impeachment, Collor contested the punishment imposed on him. The Brazilian Constitution states that the consequences of impeaching a president include the definitive removal from office and the loss of political rights for eight years. Although the Congress's condemnation deemed both punishments necessary, Collor argued that they should be analyzed separately. However, the Supreme Court upheld the Congress's decision.

The objective of these simulations is to rejudge these notable historical cases, with students assuming the roles of legal actors (attorneys, prosecutors, and judges)⁶⁶. To facilitate this, classes are divided into larger groups, typically combining two smaller groups from previous class activities. These groups are responsible for studying the case in depth, including the historical context, court practices, relevant constitutional and legal provisions, and division of roles before executing the simulation. This role-playing exercise is comprehensive, requiring students to draft their arguments and present them in a simulated courtroom setting.

To enhance the authenticity of the simulation, I provide students with robes similar to those worn in the Brazilian Supreme Court. While suits and ties are not mandatory, most groups opt for formal attire, embracing the courtroom aesthetic. Although our university lacks a dedicated space for this activity, students and I make efforts to transform the classroom, utilizing the Supreme Court's plenary layout to arrange chairs and incorporate symbolic elements

such as the position of the chief justice and other justices, attorneys, prosecutors, secretaries, etc.

The activity is evaluated on two fronts. Individual role-play grades are based on a scale from 0 to 10, assessing the students' written submissions aligned with their assigned roles, their ability to rejudge the case in line with its historical and legal contexts, and their proficiency in employing legal terminology and understanding legal institutions relevant to the case. Group grades are also scored on a scale from 0 to 10, focusing on the presentation of the judgment summary (including photos and videos) on the Moodle online platform and the oral presentation in the classroom, which encompasses time management (5 minutes per student), adherence to courtroom rituals adapted to the classroom setting, characterization (costumes, environment), and pre and post-presentation organization.

This activity's complexity serves to educate budding legal students on the functioning of legal judgments while fostering a critical perspective on the justice system. Incorporating historical analysis adds depth to the examination, illustrating the evolution of courtroom practices throughout the 20th century across different political epochs in Brazil.

A significant challenge lies in discerning whether alternative decisions were feasible in the past, thus prompting questions about the independence of the Brazilian Supreme Court. There are no easy answers, as law alone cannot account for all contextual factors. Cooperation from disciplines such as Political Science, Sociology, Anthropology, Psychology, and even Genealogy is essential for drawing meaningful conclusions. Legal disciplines, including Jurisprudence, Le-

gal History, and Constitutional Law, offer insights into why the Supreme Court may adhere to or diverge from constitutional principles, and the extent to which it may align with or resist governmental or parliamentary actions.

For instance, during the Vargas Era, cases were adjudicated under the declaration of *état de siège*, which imposed constraints prescribed by the Constitution itself, particularly in managing writs such as *habeas corpus* and *mandado de segurança*, aimed at safeguarding individual rights. In these instances, procedural rules acted as formidable barriers. However, extralegal considerations, such as the perceived communist threat or a formalistic interpretation of the law, influenced outcomes. Moreover, the judiciary's role varied across democratic and authoritarian regimes, with courts sometimes legitimizing political decisions, as seen in the banning of the communist party, or refraining from challenging politics to maintain legitimacy, as in the deposition of President Café Filho. Cases selected to represent the Military Dictatorship era demonstrate the enduring effects of long-term authoritarian rule, with the Supreme Court initially asserting its independence (Governor Borges's case) but later exercising greater caution (Priest Miracapillo's case). In the early years of the New Republic, the Supreme Court began testing its expanded powers under the current Constitution through judicial review, with a presidential impeachment serving as a litmus test for the judiciary's influence.

These cases collectively depict the Supreme Court as a conservative institution, eliciting feelings of injustice among students upon reading the selected decisions. The challenge lies in assessing whether

past Brazilian constitutions were similarly conservative. While the presence of a bill of rights or guarantee writs may not suffice to drive civilizational progress, it is imperative for the Supreme Court to recognize its role in upholding the rule of law.

Finally, as an activity that deals not only with content issues but also performance, certain social questions may arise. Secondary concerns such as clothing can represent broader issues. Some students protest, arguing that they don't have a suit to use in simulations. I always remind them that it's not mandatory, but what they really want to say is, "We don't feel like we belong in this world" (the world of the justice system). Some protest against the elitism of the courts; however, it's mostly an economic argument. This is important because in such cases, they not only face limitations in acquiring clothes but also books and other necessities. In a country marked by inequality like Brazil, this cannot be ignored; it affects their ability to stay in university and enter the job market. Additionally, clothing may raise gender issues. Noting that the Supreme Court's composition lacks any woman as judges, some female students wear suits and ties. It's a clever strategy to highlight a limitation of this exercise: how can we replicate courtrooms with only male judges in mixed-gender classes? These students highlight the paradox of trying to adhere closely to the symbols (where formal clothing is one), while knowing that these clothes were originally designed only for men. The first woman justice in the Brazilian Supreme Court, Ellen Gracie Northfleet, was appointed only in 2000.

I am very confident in this activity. Despite complaints from regular students about the effort required to prepare for

the simulation, my experience shows great overall engagement and satisfaction. Not only does it help them better understand legal history, but it also provides insight into legal professions in practice. The students present well-written memorials and engage in oral debates, delving into the historical context. Regarding the issues raised by students during the exercise, some seem content to adhere to the law passively, repeating old arguments from each case, while others strive to find creative solutions within the historical context, exploring alternative outcomes that align with our older constitutions. In any case, it's not about lack of interest in the activity, but rather different approaches to confronting the legal phenomenon that highlight varying visions of Constitutionalism. In today's Brazil, where the Supreme Court plays a leading role in the political arena and amidst electoral polarization, it's natural to see contrasting views on the law.

Thus, this complex exercise appears suitable for showing students the directions taken by the Supreme Court during the 20th century and serves as a good way to illustrate Brazilian republican constitutions in action. Simultaneously, it serves as a persuasive introduction to the justice system for students.

Conclusions

This article aimed to showcase my teaching approach in Brazil, particularly in a Brazilian LL.B. course focusing on Legal History for first-year students. I utilized active methodologies to center on Constitutional History within a broader range of teaching

possibilities, considering the various approaches to the field in Brazil.

In the first section, I outlined the foundations of my teaching methodology. Drawing from a comparative constitutional history perspective, I introduced the sources utilized and outlined how I structure classes vertically. I employed visual aids, such as iconography depicting declarations of rights and constitutions, to enhance understanding of revolutions and the enactment of constitutions. By focusing on constitutional and declaration preambles, I emphasized their significance in revealing overlooked aspects and bringing historical experiences to life, essential from a legal-historical standpoint. Additionally, I compared constitutional processes through the lens of the metropolis-colonies dichotomy, exploring cases such as England-United States, France-Haiti, and Portugal-Brazil, highlighting the circulation of constitutionalism ideas and diverse directions of influence. This decolonial approach was particularly relevant for students accustomed to narratives centered on the Global North.

In the second part, I delved into the active methodologies employed to teach Brazilian Constitutional History. Utilizing moot court scenarios featuring historical figures such as Dom Pedro and Frei Caneca, students were encouraged to analyze the evolution of constitutionalism in Brazil and grasp different constitutional frameworks. By introducing fundamental notions of constitutionalism, students could contextualize Brazilian particularities within global constitutional history. Through the exhibition of art and discussions on vulnerable groups and human rights, students were prompted to consider the integration

of global human rights into national constitutions and explore issues of jurisdictional tutelage. Simulating historical cases of the Supreme Court provided a platform for debating creative and deferential constitutional hermeneutics, showcasing the evolution of Brazilian jurisprudence throughout the last century, and offering insight into legal professions.

Given the constraints of the course, I had to prioritize certain aspects while highlighting others. For instance, while it was not feasible to delve into topics such as original and derivative constituent power, which are significant, especially given the numerous amendments to the 1988 Constitution, or to address issues like academic freedom, often threatened in Brazil, or explore alternative teaching methodologies like Problem-Based Learning. Nevertheless, it's important to recognize the multitude of methods available to foster historical debate on Constitutionalism.

Ultimately, teaching Constitutional History in Brazil presents an opportunity to expand legal history methodologies and serves as an example for how the Global North can reassess their approaches, which often tend to be self-centered or unidirectional. Ensuring student engagement⁶⁷ and autonomy⁶⁸ is crucial in the field of Legal History, and depending solely on traditional narratives is no longer sufficient to achieve this objective. Achieving this objective, in my view, necessitates a critical review of discourses and practices and the sharing of perspectives to pave the way forward.

- ¹ W. Martins Ferreira, *História do Direito Constitucional Brasileiro*, São Paulo, Max Limonad, 1954.
- ² L. Bocchat Rodrigues, *História do Supremo Tribunal Federal*, Rio de Janeiro, Civilização Brasileira, 1965 (4 v.).
- ³ E. Viotti da Costa, *O Supremo Tribunal Federal e a construção da cidadania*, 2 ed., São Paulo, Unesp, 2006.
- ⁴ Research group "Percursos, narrativas, fragmentos: história do direito e do constitucionalismo", in <<http://dgp.cnpq.br/dgp/espelho/grupo/4979486258943273>>, January 2024. See, for example, A.L.C.L. Seelaender, *Preaching Against the Earthquake. The Rise of State Intervention and the Resistance to It in Brazilian Constitutional and Administrative Law*, and C. Paixão, M. Meccarelli, *Constituent power and constitution-making process in Brazil: concepts, themes, problems*, both in «Giornale di storia costituzionale», n. 40, 2020.
- ⁵ Research group "História do constitucionalismo brasileiro: a construção social da cidadania e mudança constitucional no Brasil entre 1920 a 1988", in <<http://dgp.cnpq.br/dgp/espelho/grupo/212250>>, January 2024. See, for example, M. Casseb Continente, *History of Constitutional Review in Brazil (From Foundation to Nowadays)*, in «Giornale di storia costituzionale», n. 40, 2020.
- ⁶ Research group "IUS COMMUNE - Grupo Interinstitucional de História da Cultura Jurídica", in <<http://dgp.cnpq.br/dgp/espelho/grupo/24008>>, January 2024. See, for example, A. Dal Ri Jr., L. Dal Ri, *Reception of norms of international law in the Brazilian Constitutional Experience: Doctrinal Conceptions about Executive Power overlays Between the Empire and the Republic (1824-1988)*, and D. Nunes, *Antônio Manuel Hespanha and the Brazilian Constitutional History*, both in «Giornale di storia costituzionale», n. 40, 2020.
- ⁷ Research group "Direito, História e Poder Judiciário", in <<http://dgp.cnpq.br/dgp/espelho/grupo/386951>>, January 2024. See, for example, W. Guandalini Jr., *Moderating Power in the 19th century Brazilian Constitutional Doctrine*, in «Giornale di storia costituzionale», n. 40, 2020.
- ⁸ Research group "História do Direito e do pensamento jurídico brasileiro", in <https://pos-graduacao.direito.usp.br/linhas_de_pesquisa/historia-do-direito-e-do-pensamento-juridico-brasileiro/>, January 2024. See, for example, R. Mafei Rabelo Queiroz, *Abuse of Rhetorical Power and Presidential Impeachment in Brazil: Reflections from Legal History*, in «Giornale di storia costituzionale», n. 40, 2020.
- ⁹ Universidade de Brasília (UnB), Programa de Pós-Graduação em Direito, Lista de Oferta (syllabus), <<http://ppgd.unb.br/documentos/relatorios-de-atividades>>, January 2024.
- ¹⁰ Universidade Federal Rural do Semi-Árido (UFERSA), Programa de Pós-Graduação em Direito, Lista de Oferta (syllabus), <<https://ppgd.ufersa.edu.br/disciplinas/>>, January 2024.
- ¹¹ Centro Universitário Internacional (UNINTER), Programa de Pós-Graduação em Direito, Lista de Oferta (syllabus), <<https://www.uninter.com/mestrado/wp-content/uploads/2023/08/HISTÓRIA-DO-DIREITO-PÚBLICO.pdf>>, January 2024.
- ¹² Universidade de São Paulo (USP), Programa de Pós-Graduação em Direito, Lista de Oferta (syllabus), <<https://direito.usp.br/docentes/>>, January 2024.
- ¹³ Universidade Federal de Santa Catarina (UFSC), Programa de Pós-Graduação em Direito, Lista de Oferta (syllabus), <<https://ppgd.ufsc.br/curriculo-mestrado/>>, January 2024.
- ¹⁴ Universidade Federal de Uberlândia (UFU), Programa de Pós-Graduação em Direito, Lista de
- Oferta (syllabus), <<http://www.cmdip.fadir.ufu.br/sites/cmdip.fadir.ufu.br/files/Anexos/Bookpage/EMENTA%20-%20PDI048%20-%20História%20do%20Direito%20Público%20e%20do%20Constitucionalismo.pdf>>, January 2024.
- ¹⁵ Research group "Grupo de Pesquisa Corpografias Gênero, Raça e Direito", in <<https://ippur.ufrj.br/pesquisa/laboratorios-nucleos-e-grupos-de-pesquisa/>>, January 2024. See, for example, C.P. Carvalho, *Transition to democracy and the Brazilian presidential system post-1946: the relationship between institutional design and political instability*, in M. Meccarelli, C. Paixão, Cl. Roesler (ed.), *Innovation and transition in Law: experiences and theoretical settings*, Madrid, Dykinson, 2020, pp. 225-246.
- ¹⁶ In that way, I would venture to mention the collection "Novos Rumos da História do Direito" (New Routs to Legal History), departed from my related course at UFSC's Ph.D. on Law, where I am opening space to these new agents to present situated perspectives (including on constitutional history) by themselves. See D. Nunes (ed.), Ph. Oliveira de Almeida, V.H. dos Santos, M.D. Barbosa (Coord.), *A Cor da História & a História da Cor* (Coleção Novos Rumos da História do Direito – vol. 1), Florianópolis, Habitus, 2022 and D. Nunes (ed.), A.L. Sabadell, B. Madruga da Cunha (Coord.), *Resistências e reivindicações femininas na cultura jurídica do século XX* (Coleção Novos Rumos da História do Direito – vol. 2), Florianópolis, Habitus, 2024, available also as ebook at Lus Commune webpage, in <<https://iuscommune.paginas.ufsc.br/livros/>>, January 2024.
- ¹⁷ G.N. Bechara *A história do direito nos cursos jurídicos de graduação: trajetória e situação contemporânea*, Dissertation (LL.M.), Florianópolis, Universidade Federal de Santa Catarina, 2015.

- ¹⁸ We have the classical article by W.M. Ferreira, *A história do direito nos cursos jurídicos do Brasil*, in «Revista da Faculdade de Direito da Universidade de São Paulo», n. 45, 1950, pp. 429-446, and the recent discussion by R.M. Fonseca, *O deserto e o vulcão. Reflexões e avaliações sobre a História do Direito no Brasil*, in «forum historiae iuris», June 15, 2012.
- ¹⁹ See, for example, I.C. Pilarczyk, A. Fernandez, B. Young (eds.), *Law, Life, and the Teaching of Legal History: Essays in Honour of G. Blaine Baker*, Montreal- Kingston, McGill-Queen's University Press, 2022; R.M. Jarvis, *Teaching Legal History: Comparative Perspectives*, London, Wildy, Simmonds and Hill Publishing, 2014; K. Modeer, P. Nilsen (eds.), *How to Teach European Comparative Legal History: Workshop at the Faculty of Law, Lund University, 19-20 August 2009*, Lund, Lund University Press, 2011.
- ²⁰ A good example to change this situation was the recent online seminar from the journal "Comparative Legal History", by the European Society of Comparative Legal History, "Dialogues on Teaching Comparative Legal History" on October 19, 2022, in <<http://esclh.blogspot.com/2022/09/online-seminar-journal-comparative.html>>, January 2024.
- ²¹ On Brazilian debate, see J. Garcez Ghirardi, *Métodos de Ensino em Direito: conceitos para um debate*, 2 ed., São Paulo, Almedina, 2020; M. Feferbaum et al., *Ensino Jurídico e inovação: dicas práticas e experiências imersivas*, São Paulo, Almedina, 2020; G. Forma Klafke, M. Feferbaum, *Metodologias ativas em direito: guia prático para o ensino jurídico participativo e inovador*, São Paulo, Atlas, 2020; J.-R. Capella, *A aprendizagem da aprendizagem: uma introdução ao estudo do direito*, Belo Horizonte, Fórum, 2011.
- ²² To a brief overview on the issue, see C. Martyn, *Introdução à Iconologia Histórica do Direito*, in A. Dal Ri Jr., C. Dias Corrêa, D. Nunes (eds.), *ANAIS XVI Encontros de História do Direito da UFSC: Printing & Iconology as Legal-Historical Sources*, Florianópolis, UFSC, 2020, pp. 12-37; and for a complete analysis, see St. Huygebaert, G. Martyn, V. Paumen, E. Bousmar, X. Rousseaux (eds.), *Art of law: artistic representations and iconography of law and justice in context, from the Middle Age the First World War*, Cham, Springer, 2018.
- ²³ L. Lacchè, *La libertà che guida il popolo: le tre gloriose giornate del luglio 1830 e le "Chartes" nel costituzionalismo francese*, Bologna, Il Mulino, 2002.
- ²⁴ S.G. Dapia, *The Polish Presence in Latin America: An Introduction*, in «Polish American Studies», n. 69/1, 2012, pp. 5-8.
- ²⁵ On the Haitian constitutional experience in the 19th century, see M.V. Lustosa Queiroz, *Constitucionalismo Brasileiro e o Atlântico Negro: a experiência constituinte de 1823 diante da Revolução Haitiana*, 4 ed., Rio de Janeiro, Lumen Juris, 2023, p. 79-112.
- ²⁶ And the Spanish-Central and South American one, which I touch upon in class but won't elaborate on here to save time and space. See J.F. Esteban Lorente, *La Constitución Española de 1812 en Goya*, in «Anales de Historia del Arte», Volumen Extraordinario, 2008, pp. 365-374.
- ²⁷ A. Walmott Borges, *Preâmbulo da Constituição e a Ordem Econômica*, Curitiba, Juruá, 2003, pp. 34-54.
- ²⁸ L. Hunt, *Inventing Human Rights: A History*, New York, W.W. Norton & Company, 2007, pp. 113-145.
- ²⁹ Ivi, pp. 146-175.
- ³⁰ A. Ribeiro da Silva Jr., *Civilização e barbárie na ciência do direito internacional*, Dissertation (LL.M.), Florianópolis, Universidade Federal de Santa Catarina, 2015.
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