

Comissão de Juristas - Análise Lei de Impeachment

De: Ranieri L. Resende [REDACTED]
Enviado em: sexta-feira, 15 de julho de 2022 10:18
Para: Comissão de Juristas - Análise Lei de Impeachment
Assunto: Impeachment: Publicação Internacional Recente - Global Journal of Comparative Law (Leiden, v. 11, n. 2, jul. 2022)
Anexos: article-glcl-impeachment-ranieri.pdf; ATT00001.htm

Você não costuma receber emails de ranierilr@uol.com.br. [Saiba por que isso é importante](#)

Prezada Fabiane Pereira de Oliveira,
DD. Relatora da CJNLIMP (Senado),

Haja vista a oportunidade institucional em aberto, segue anexo artigo de minha autoria acerca do tópico do *Impeachment*, publicado esta semana no periódico *Global Journal of Comparative Law* (Brill | Nijhoff), o qual, penso, poderá ser útil aos trabalhos em curso no âmbito da Comissão de Juristas responsável pela elaboração de anteprojeto de lei para atualização da Lei nº 1.079/50:

RESENDE, Ranieri L. Impeachment: A Mechanism between Political Accountability and Legal Responsibility? Common Law Sources and the Brazilian Originalist Model. **Global Journal of Comparative Law**, Leiden, v. 11, n. 2, p. 222-253, jul. 2022. DOI: <https://doi.org/10.1163/2211906X-11020003>. Disponível em: <https://brill.com/view/journals/gjcl/11/2/gjcl.11.issue-2.xml>

Caso considerado viável e adequado, solicito seja referido material acadêmico repassado, conjuntamente, aos cuidados dos demais membros do eg. Colegiado, com vistas a subsidiar eventuais relatórios e propostas.

Antecipadamente grato pela gentil atenção.

At.,

Ranieri L. Resende

[LATTES](#) - [ORCID](#) - [ACADEMIA](#) - [SSRN](#) - [RESEARCHGATE](#)

Impeachment: A Mechanism between Political Accountability and Legal Responsibility? Common Law Sources and the Brazilian Originalist Model

Ranieri L. Resende | ORCID: 0000-0003-4869-7460

PhD. in Law, Postdoctoral Researcher, Federal University of Rio de Janeiro, Rio de Janeiro, Brazil; Visiting Postdoctoral Research Fellow (2020), Max Planck Institute for Comparative Public Law and International Law, Heidelberg, Germany; Visiting Doctoral Researcher (2017–2018), New York University School of Law, New York, NY, USA; Excellence Fellow (2018–2019), Rio de Janeiro Research Foundation, Rio de Janeiro, Brazil
ranierilr@ufrj.br

Abstract

This paper seeks to analyze impeachment as a mechanism of institutional control of political actors, searching for its historical and theoretical bases in common law, so as to uncover the sources of the Brazilian originalist model. The Brazilian model deserves special attention due to its highly distinct, descriptive constitutional hypotheses. Before attempting to define the nature of impeachment, the main objective was to place the general idea of responsibility within the theoretical scope of representative democracy, accounting for potential failures resulting in frustration of expectations of constituencies and/or abuse of power by representatives. While identifying structural distinctions between political accountability and legal responsibility, it was appropriate to bring forth the requirement of legal violation in classical Athenian precedents (*eisangeliai*). In the end, this analysis goes over historical mutations of the impeachment mechanism: a) establishment of procedural parameters (British first cases); b) inceptive prerequisite of legal violation (Stuart period); c) attemptable specification of appropriate legal hypotheses (US); d) constitutional provision of precise categories of legal violation (Brazil).