

National Council of Justice, Separation of powers and judicial review: A Brazilian case study

Consejo Nacional de Justicia, la separación de poderes y la revisión judicial: Un estudio del caso de Brasil

Gabriel Dias Marques da Cruz
Posdoctorado en Derecho Público
Universidad de São Paulo.
Profesor de la Facultad de Derecho y Ciencia Política,
Universidad Federal de Bahia (Brasil).

gabriel_dmc@yahoo.com.br

Recibido: 15/08/2013

Aprobado: 21/11/13

*«Para que no se pueda abusar del poder,
es preciso que el poder detenga al poder»*
Charles Louis de Secondat. Barón Montesquieu

ABSTRACT

This paper studies the impact of the creation of a new organ inside the Brazilian Judiciary structure, named the “National Council of Justice”, which was the result of a specific constitutional amendment. The emersion of this new power created a huge discussion about the principle of separation of powers in the country, specially faced by the Supreme Court in Case n° 3367, decided in 2006. Firstly, the article shows the main arguments used by the most important Brazilian Court to confront the issue. Moreover, this research aims to present, in an original way discussed in the author’s PhD thesis, a new function personally advocated for this “National Council of Justice” regarding the systematization of judgments under Brazilian judicial review framework. It could bring a new understanding of division of functions in Brazil and possibly in Latin America, considering the reality of its development by one entity which doesn’t belong to the democratic circuit.

KEYWORDS

National Council of Justice, separation of powers, judicial review, the power structure.

RESUMEN

En este artículo se estudia el impacto de la creación de un nuevo órgano dentro de la estructura del Poder Judicial brasileño, llamado el “Consejo Nacional de Justicia”, que fue el resultado de una enmienda constitucional específica. La emersión de este nuevo poder ha creado un gran debate sobre el principio de separación de poderes en el país, especialmente frente a la Corte Suprema en la sentencia n° 3367, del año 2006.

Por lo tanto, en primer lugar, el artículo muestra los principales argumentos utilizados por las más importantes Cortes de Brasil para enfrentar el problema. Por otra parte, esta investigación tiene como objetivo presentar, de una manera original discutido en la tesis doctoral del autora, una nueva función defendido personalmente por este “ Consejo Nacional de Justicia “ con respecto a la sistematización de las sentencias marco de revisión judicial brasileño. Podría traer una nueva comprensión de la división de funciones en Brasil y posiblemente en América Latina, teniendo en cuenta la realidad de su desarrollo por una entidad que no pertenece al circuito democrático.

PALABRAS CLAVE

Consejo Nacional de Justicia, separación de poderes, revisión judicial, estructura del poder.

INTRODUCTION

This research aims to study the impact of the creation of the National Council of Justice with regard to the debate about the possible violation of the separation of power principle, a subject discussed by the Supreme Court in assessing the unconstitutionality lawsuit No. 3367. In addition, after making a comparison with the institutional reality of some institutions in Europe and Latin America, the paper proposes the development of a new function for the National Council of Justice under judicial review, solution inspired on the Doctoral thesis defended by the author on the subject.

Therefore, the research was divided into three topics that summarize the essence of the paper: (I) the creation of the National Council of Justice, here we intended to present the reasons why this institution was created in Brazil; (II) the analysis of ADI 3367, lawsuit filed before the Supreme Court and which questioned whether the creation of the National Council of Justice would violate the separation of power principle, the specific focus of the investigation; (III) justification for a new role for the National Council, an initiative that has the potential of improving judicial review in Brazil to ensure greater systematization of decisions given under the specific control of constitutionality and which can serve as inspiration for other institutional realities.

1. THE CREATION OF THE NATIONAL COUNCIL OF JUSTICE IN BRAZIL

The debate concerning the necessary changes to improve the judiciary is an old one, and it has the aim of making its performance more efficient and expeditious. One could say that this debate has even of more significant relevance in Latin America, since this region historically does not have the same institutional solidity which can be observed in more developed countries, and the judiciary has a

role in rescuing the hope for better days in a society which is still trying to guarantee fundamental rights. Brazil fits into this context: although it has made significant advances in recent years in its social indicators it still needs to advance the process of institutional strengthening.

I have chosen as the specific focus of this article the analysis of an instrument to strengthen Judiciary control, represented by the creation of the National Council of Justice in 2004. Among other important functions, the entity was established based on the perceived need to strengthen two relevant points in Judiciary action: (I) achieve genuine administrative, financial and functional control of the judiciary, by more rigorously inspecting any flaws observed in its activities, (II) develop a plan for the Judiciary Power, establishing goals for the Judiciary in order to improve its functionality.

The National Council of Justice now has its own prevision in the Brazilian Constitution, and the basic profile of its functions is found in Article 103–B. As one reads this article it is possible to realize, first of all, that there is a concern with the Members of the Council, which are mostly members of the Judiciary.

The National Council of Justice has 15 members with a two–year term, and only one reappointment is admitted. In it the most prominent is the President of the Supreme Court, who is also the President of the Council. The Judge of the Superior Court of Justice, who is chosen to serve in the Council, was given a Corregidor position, who is the person responsible for answering to complaints about deviations and taking appropriate action. The Council also occupies a strategic position in the context of the Brazilian judiciary, since the Supreme Court, the highest court of the Judiciary Power, can only review its decisions.

One could say that, ten years after its creation, the National Council of Justice has emerged as a successful solution for Brazilian adjudicative

practice and that it has also changed the profile of Brazilian courts. It represented “(...) a sort of flagship of the so-called Judicial Reform”. It is also viewed as a sentinel in the search for the efficiency of that power. It was noticed for editing several normative acts which deal with the functioning of the judiciary, giving Brazilian Justice a more systematic strategic vision.

Given our focus, it is worth to briefly mention some international experiences of control of the Judiciary, which is an important step to contextualize the Brazilian debate on the subject.

2. BRIEF ANALYSIS OF INTERNATIONAL EXPERIENCES OF JUDICIARY CONTROL

The creation of a Judiciary supervisory body in Brazil did not represent an unprecedented initiative, and one can consider previous international experiences of extreme relevance. The following research had two main emphases: (I) a summary of the main function of Councils, (II) its members.

For historical reasons, it's worth mentioning that France's was a pioneer in the Law of Judicial Organization on August 30, 1883. So their experience in the design of its **Supreme Judicial Council is well respected**. Currently, the Council is responsible appointing Judges and for their disciplinary control. It can be more broadly applied since the 2008 Constitutional Reform, and it is always serving the purpose of ensuring the independence of the judiciary. Details about its members are specified in Article 65 of the 1958 French Constitution, having “(...) the competent formation à l'une des Egard magistrats du siège et une competent formation à l'Egard des magistrats du parquet”. As Francis Hamon and Michel Troper mentioned, it is no longer lead by the President since 2008, this was done in order to increase its independence. This is an important supervisory experience, which can serve as an inspiration to other international experiences.

In **Portugal**, on the other hand, there is the **Supreme Judicial Council**, a body aimed at ensuring the

independence of the judiciary according to the wording of Article 203 of the 1976 Constitution. And which has functions which are similar to those performed by the Brazilian National Judicial Council. It is the responsibility of this Council to appoint and promote Judges of the Courts as well as to take disciplinary actions. The Portuguese Council had only judges as its members at first, on a second stage it became mixed, with most members being of the judiciary, but having also external elements. Finally, from the review of 1997, the Supreme Judicial Council admits that most of its members are not Judges.

In **Spain** one can find the **General Council of the Judiciary Power**, a constitutional body, collegiate and autonomous composed of mixed elements, including both judges and external members. Its aim is to ensure independence in its judicial functions, being responsible for the appointment of Magistrates and their climbing in the career ladder, inspecting judicial activities and performing disciplinary functions. The Council has administrative functions and it was established under Article 122 of the 1978 Constitution based on the Italian model. It has 20 members that are chosen by Congress and Senate from Judges and Magistrates, as well as from jurists of recognized competence. Moreover, there is also the President, who is chosen by the Plenary Council.

In Italy, there is a **Supreme Judicial Council**, which is an autonomous body of the ordinary Magistrates, and which is also responsible for appointing Judges and handling their careers, as well as for the scope of disciplinary actions, according to article 105 of the Italian Constitution. Its membership is based on Article 104 of the Constitution, which provides the presence of three members by right: the President, the President of the Court of Cassation and the Attorney – General of the Court of Cassation. In addition, there is a prevision mentioning that two-thirds of the members of the Council shall be elected from among the members of the Judiciary, with remnant one third chosen from among University professors and lawyers. Since 2002 there has been

a fixed number of 24 elected members, divided according to the guidelines above mentioned, of which 16 members are judges and 8 are not. It is worth mentioning Tania Groppi's warning concerning the Italian system of judicial review, which is not able of coping with the demands of a pluralistic society, and which needs greater cooperation among judges and legislators in order to solve constitutional issues. This conclusion represents an even greater challenge for the actions of the Council 2.

Beside the previously mentioned European experiences, the creation of Judiciary Councils has also echoed in Latin America, and the Brazilian experience is an example, which is the main focus of this study. Our region unfortunately has often only uncritically copied institutions that were designed in different institutional realities, and it is still a challenge to construct our own solutions for our specific problems, as noted by Jorge Esquirol.

A brief analysis of the experiences previously mentioned with regard to discipline of the judicial function reveals a constant concern with career development of the Judges and the ethical rule of their actions. In Brazil, however, the creation of the National Council faced a strong objection, based on the argument that it would disrespect the separation of power principle. This is what we shall discuss in the next part of this article.

3. ADI 3367 AND THE SEPARATION OF POWER PRINCIPLE

Disagreeing with the creation of the National Council of Justice, the Association of Brazilian Magistrates – AMB proposed in the Supreme Court, a direct action of unconstitutionality. In Brazil, the judicial review actions may be filed by various entities, as defined in Article 103 of the Federal Constitution. In this particular case, the AMB mentioned Articles 1 and 2 of Constitutional Amendment No. 45/04, arguing that the creation of the National Council of Justice violated two constitutional principles: (I) the separation of power principle, (II) the federal pact 2. This is the most direct and thorough questioning

faced by the Council in the judicial sphere, which has been mentioned in several papers written in Brazil on the subject.

3.1. The winning position: the constitutionality of the National Judicial Council

It is worth examining the arguments used by the current winning point of view in the Supreme Court, which defends the constitutionality of the creation of the National Council of Justice.

In this sense, the Rapporteur of the case, **Juge Cezar Peluso**, after making a historical analysis of the development of the separation of power principle, held to be possible the creation of the National Council of Justice according to the Brazilian Constitution, stating that “(...) it is an organ of the judiciary (art. 92, IA), composed mostly of members of the same Power (article 103–B), appointed without direct interference of other Powers. 2 “ Juge Peluso tried to emphasize that the two attributions conferred by Constitutional Amendment to the National Council of Justice did not preclude the exercise of judicial functions and its performance, in fact, they contribute to enhance the functioning of the judiciary.

Since the specific focus of this research is on separation of powers, I will now examine the votes of the other Justices who participated in this argument. In this sense, the **Juge Eros Grau** is noteworthy. After mentioning that the principle of separation of powers “(...) is one of the most effective myths of the liberal state, crowned by the statement in article 16 of the Bill of the Rights of Man and of the Citizen of 1789 (...) 2, he said that Montesquieu never advocated an absolute separation of powers, and neither did he defended its impenetrability 3. Montesquieu would have just argued for a distinction among the powers and their balance 2. Faced with the absence of a universal model of separation of powers, each political society should adopt its particular separation profile. Juge Eros Grau mentioned the absence of external control of Judiciary Power through the National Council of Justice, stating that the presence of members

who are not part of the judiciary is not sufficient to justify the interference of a power over the other since members of the Council do not represent the agencies responsible their appointment. Finally, this Justice cast the same vote as the Rapporteur Justice.

Then, the **Juge Joaquim Barbosa** voted. He pointed out that the argument that the creation of the National Council of Justice would violate the principle of separation of powers is not impressive, since the concept itself has been adapted throughout history. He mentioned that the principle does not mean a watertight division among the powers and that separation of powers should be seen as “(...) dispersion / diffusion of power (...)”. Finally, he expressed that most members of the National Council of Justice come from the Judiciary, and thus together with Justice Eros Grau, he agreed with the position of the Rapporteur Justice.

The opinion of the Rapporteur Justice was also agreed by the **Juge Carlos Britto**, who reinforced the above arguments, highlighting the fact that the National Council of Justice is an agency of the judiciary itself, which settles the claim of external control. Likewise, the **Juge Gilmar Mendes**, spoke saying that he believed that there was no disregard for the principle of separation of powers in the creation of the National Council. The **Juge Celso de Mello**, in turn, cited the compatibility between the idea of social and external audits for the Republic, and then he totally agreed with point of view of Juge Cezar Peluso. In the same way the **Juge Nelson Jobim**, mentioned having proposed a design of the Council as early as 1987. Furthermore, he emphasized the whole debate concerning the members of the Council and, at the end, he voted in favor of the Rapporteur Justice.

Thus, most Justices of the Supreme Court –namely **Juges Cezar Peluso, Eros Grau, Joaquim Barbosa, Carlos Brito, Gilmar Mendes, Celso de Mello and Nelson Jobim**– held, in the case examined, that the National Council of Justice is an body with administrative, control, financial and functional

purposes, and its creation does not violate the principle of separation of powers.

This conclusion was reached, according to the transcript votes, from the consideration that the Council: (I) does not exert external control of the judiciary, since it is part of the judiciary itself, (II) it does not infringe the judicial function, but merely having control and supervision tasks, (III) it does not have questionable members, since most of the members of National Council of Justice come from the Judiciary itself.

3.2. The position of the minority: violation of the principle of separation of powers

Nonetheless it is important to examine the arguments of the opposing view in the court. In particular, we highlight the view of the Juge **Ellen Gracie**, who argued that the creation of the National Council violates the principle of separation of powers. This Justice considered improper the participation of external members to the Judiciary as members of the National Council of Justice, which is a disregard to what she called “(...) a qualified independence of the Judiciary Power (...)”. At the end, she was in favor of a partial declaration of unconstitutionality because the presence of members who have no relation to the judiciary would violate the separation of powers.

The **Juge Carlos Velloso** joined the vote of the Juge Ellen Gracie. When casting his vote, he cited the Judicial Council in France, noting that “(...) in France, when the issues are related to the magistrates, the members who are not a magistrate, do not vote (...)”. He supported the need for the creation of a Council to control the administrative and financial operations of the judiciary and the proper discharge of official duties of judges and officials in Brazil, but he also disagreed with the presence of members who are not of the magistrate, but who are part of the Council of the Judiciary.

The **Juge Sepúlveda Pertence** was also contrary to members of the Judicial Council with no relation to the Judiciary. Although he did not disagreed

with the creation of the National Council, he criticized the interference of the Legislature as far as its members are concerned, highlighting that the Supreme Councils of Italy and Portugal have imposed restrictions on the participation of certain people in the Council. But Brazil did not do that, here citizens can serve terms and they can be reappointed to positions in the Council. Finally, unlike the other Justices who were part of the unsuccessful minority, Judge Sepúlveda Pertence only disagreed with the presence of citizens in the Council, but he did not consider the presence of lawyers and prosecutors a problem.

In turn, **Justice Marco Aurélio** held totally unfounded the action of unconstitutionality presented, having an isolated position in the context of the trial.

4. THE NATIONAL COUNCIL OF JUSTICE AND JUDICIAL REVIEW: IN DEFENSE OF A NEW FUNCTION

Thus, in view of the dismissal of the argument that the National Council of Justice would represent a breach of the principle of separation of powers, and since a decade has passed since its creation in Brazil, it is worth reflecting on the next steps regarding the development of the Council. In this sense, I propose a new role for the National Council, a novelty that has the potential of contributing to the improvement of judicial review in Brazil or in other countries that have the same problem.

Like other constitutional experiences of American influence, the Brazilian judicial review ensures that any Judge or Court may, in an action submitted to it, disregard any law or normative act on grounds of unconstitutionality. In this situation, the Brazilian practice of judicial review has absorbed the American system, which is based on the famous case *Marbury vs. Madison* in the year 1803. This case is a notorious decision reference of judicial review, and even before the existence of relevant precedents, it continues to bear special significance. Wolfgang Hoffmann– Riem, writing about the case, believed it was a “velvet revolution” in the context of global control.

It is worth elucidating however, that the Brazilian model of control was also influenced by Hans Kelsen's solution in Austria in 1920 by taking actions of constitutionality direct control to the Constitutional Court. Which would avoid the lack of decision uniformity, a typical problem of the American system. The design of the Constitutional Court would derive, according to Mario Lozano, from the Kelsenian pyramidal construction of legal positivism itself. It is worth mentioning, however, that the proliferation of the solution built by Kelsen only occurred after the end of World War II, allowing such features to build a European model of control, which was stressed by Pasquale Pasquino. There are also several reasons why the American model was adopted by European countries after the War, as pointed out by John Ferehohn, but this is beyond the scope of this research.

Therefore, Brazil has a reality in which there are **two different control traditions**, and it receives other external influences, which makes its complexity evident. It does not have, however, a Constitutional Court similar to the Austrian one, because it opted for the control of a Supreme Court of the Judiciary Power, following, in particular, the tendency of Latin American countries, as illustrated by Donald Horowitz.

Given the focus of this research, I will now examine a specific trait of the American influence control in Brazil, which is also known as concrete control: the absence of statistical and detailed knowledge concerning cases in which unconstitutionality was declared by the Judges and by the Courts.

The national practical experience shows that there is no systematic knowledge of several cases in which judges and courts decide to oust the application. Namely, of the law that offends the Constitution. In Brazil the possibility of declaring unconstitutionality is guaranteed, but on the other hand, there is no systematization of laws are usually declared unconstitutional by the Justice in concrete cases, nor is it possible to know which the arguments are commonly used to support unconstitutionality.

This gap proves to be problematic, as this lack of knowledge enables the proliferation of judicial decisions that exclude the application of laws passed by the Brazilian legislature, and which continue to be the general rule in the country. This point needs to be better elucidated: in the general control of Brazilian constitutionality the law is enforced **only** in case some judges or courts have such understanding. In short, the law is still valid in the abstract framework, and its application is rejected only in individual case.

From surveys conducted in this Doctoral thesis, I argue that the National Council of Justice should edit resolution mapping parameters concerning the need for communication to the Council, by electronic means, about any case where there is a decision of unconstitutionality. Therefore, I advocate the creation of a “National Registry of Unconstitutionality Decisions”. This would enable the National Council of Justice to truly know the situations in which a law was not enforced due to fact that it disrespect the Constitution. The previously mentioned registry could be created in a simple way, based on the existence of similar registries, which were also designed by the Council for other issues in which the need of systematization had been noticed long before.

The paradoxical conclusion is that Brazil still has not systematized knowledge on a subject that should receive **greater attention**: the cases in which a law is declared unconstitutional by the judiciary.

It is worth noting that the National Judicial Council has regulatory power and it may, according to the Brazilian Federal Constitution, edit acts necessary to carry out its function having as parameter the existence of a previous legal provision. The resolution of creating the National Registry of Unconstitutionality Decisions is in accordance with the assumptions previously mentioned, and it would result in greater knowledge of the purpose of such a relevant issue.

It would be the responsibility of the National Council the new function of registering cases of

judicial review in Brazil, allowing open public debate on the issues which are the most discussed and arguments handled in court.

It is worth mentioning the importance of having a judiciary which functions appropriately and which ensures rights in places where the process of institutional strengthening is still slow. In this sense, a discussion about the democratic legitimacy of the judiciary is important, even though it is also peculiar in constitutional experiences such as the one in Brazil, where judicial decisions are frequently the way to guarantee rights that are not guaranteed by other Powers. In this sense, the debate of procedural and substantial theories has its own purposes, which cannot be approached with the desired depth due to the limitations of the research.

Therefore, by preserving the general traits that characterize the complexity of control practices in Brazil, the creation of the National Registry would be able of **drawing a statistical framework** of laws and normative acts. Which were declared unconstitutional by Judges and Courts in a concrete control of constitutionality, promoting its dissemination and actual knowledge on part of other actors in the Judiciary Power and on part of society.

By being aware of the reality of a concrete control we could ensure not only the doctrinal and jurisprudential understanding of the existing cases, but we could also acquire an important understanding of the practical functioning of public policies designed by the Legislative Power, which are the most common obstacles to its implementation. This perspective has greater importance in a region such as Latin America, where there is institutional instability and where the system is not mature enough to set aside the fear of having to face repeatedly a restrictive regime where fundamental rights are not guaranteed.

Thus, since the argument that the creation of the National Council of Justice would violate the separation of powers was not considered valid, now is the right time to create the body, which

would be **an interface** between the Judiciary and the Legislative Power, through the creation of the National Registry of Unconstitutionality Decisions. The National Council of Justice, which was at first charged of being responsible for the violator of the principle of separation of powers, can now function as a harmonization tool.

CONCLUSION

This study comes to two conclusions. First, one must recognize the importance of fact that the Supreme Court declared the constitutionality of the National Judicial Council. Allowing it to operate under the supervision of the Judiciary due to the fact that the argument that its creation would violate the principle of separation of powers was dismissed. This means that there is recognition of the legitimacy of the Brazilian Council, which is authorized to perform important tasks to control the career of Magistracy and to carry out disciplinary actions; the same measures were adopted by European and Latin American Councils.

Moreover, since the issue of legitimacy of the Council was already settled, I recommend an advance in the action of National Council of Justice: the creation of a National Registry of Unconstitutional Decisions. Which would be a tool, linked to the systematization of judicial review decisions. This would be based on the premise that systematic knowledge of cases in which any specific law or normative act was considered unconstitutional, would allow greater reflection on the development and implementation of public policies. An issue that has even greater importance in the case of a Nation, which has as its constitutional objective to attain the status of a free, just and socially conscious society.

BIBLIOGRAPHIC REFERENCES

• Cappelletti, M. (1993). *Juizes Legisladores? Tradução de Carlos Alberto Alvaro de Oliveira*. Porto Alegre: Sergio Antonio Fabris.

• Cléve, C. (1995). *A fiscalização abstrata de constitucionalidade no direito brasileiro*. São

- Paulo: Revista dos Tribunais,
- Cunha Júnior, D. (2009). *Curso de Direito Constitucional*. 3 ed. Salvador: JusPODIVM.
 - Ely, J. (1980). *Democracy and Distrust. A Theory of Judicial Review*. Fourteenth printing. Cambridge, Massachusetts and London, England: Harvard University Press.
 - Esquirol, J. (2009). *Writing the law of Latin America*. The George
 - Ferejohn, J. (2002). *Constitutional Review in the Global Context. Legislation and Public Policy*. (Vol. 6).
 - Fernandes, B. (2012). *Curso de Direito Constitucional*. 4 ed. Salvador: JusPODIVM.
 - Freitas, V. *A eficiência na administração da Justiça*. Revista da AJUFERGS/03
 - Hamon, F. Troper, M. (2011). *Droit Constitutionnel*. 32 édition. Paris: L.G.D.J.
 - Hoffmann–Riem, W. *Two Hundred Years of Marbury v. Madison: The Struggle for Judicial Review of Constitutional Questions in the United States and Europe*. German Law Journal. Vol. 5, Nº 6. pp. 685–701.
 - Horowitz, D. (2006). *Constitutional Courts: A Primer for Decision Makers*. Journal of Democracy. Vol. 17. Number 4. pp. 125–136.
 - Kelsen, H. (1942). *Judicial Review of Legislation: A Comparative Study of the Austrian and the American Constitution*. The Journal of Politics. Vol. 4. Nº 2. pp. 183–200.
 - Losano, M. (2005). *Derecho Turbulento. En busca de nuevos paradigmas en las relaciones entre derechos nacionales y normativas supraestatales*. DOXA. Cuadernos de Filosofía Del Derecho. 28. Alicante. Pp. 159–182.
 - Mendes, G. (1990). *Controle de constitucionalidade: aspectos jurídicos e políticos*. São Paulo: Saraiva.
 - Mendes, G. Coelho, I. & Branco P. (2008). *Curso de Direito Constitucional*. 2 ed. São Paulo: Saraiva.
 - Mendes, G. (1995). *Evolução do Direito Constitucional brasileiro e o controle de constitucionalidade da lei*. Revista de Informação Legislativa. Ano 32. Nº 126. Pp. 87–102.

- Nelson, W. (2000). *Marbury v. Madison: the origins and legacy of judicial review*. Kansas: University Press of Kansas.
- Pasquino, P. (1998). *Constitutional Adjudication and Democracy. Comparative Perspectives: USA, France, Italy*. *Ratio Juris*. Vol. 11. Nº:38. P. 50.
- Silva, M. (2011). *Curso de Direito Constitucional*. 7 ed. Rio de Janeiro: Lumen Juris.
- Streck, L. Sarlet, I. & Clève, C. (2005). Os limites constitucionais das Resoluções do Conselho Nacional de Justiça (CNJ) e Conselho Nacional do Ministério Público (CNMP). *Revista da ESMESC*. V. 12. N. 18.
- Tavares, A. (2009). *Curso de Direito Constitucional*. 7 ed. São Paulo: Saraiva.
- Washington International Law Review. Vol. 40693–732.

PAGINAS WEB

- GROPPPI, T. Corte Constitucional y Principio de Efectividad. Biblioteca Jurídica Virtual del Instituto de Investigaciones Jurídicas de la UNAM. Disponível em: www.juridicas.unam.mx. Acesso em: 23/03/14: 241–271.