Brazilian institutional balance: the role of the Attorney General of the Union in the relationship among the three Branches of Government

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Abstract: This article analyzes the role of the Attorney General of the Union (AGU) in promoting and maintaining institutional equilibrium among the branches of government in Brazil, especially in the context of political crises and institutional tensions. It discusses the importance of the constitutional principles of independence and harmony among the branches, as well as the AGU's function in defending the Constitution, resolving conflicts, and fostering interinstitutional dialogue. The article further highlights the AGU's involvement in constitutional review and in mediating conflicts among the Executive, Legislative, and Judiciary branches, thereby contributing to democratic stability and effective governance.

Keywords: Attorney General of the Union; interinstitutional dialogue; separation of branches of government; democracy

On December 10, 2024, the results of the quantitative research "The democracy we have and the democracy we want" (Ipespe, 2024) were presented, promoted by the Democracy Observatory of the Attorney General of the Union (AGU) and the Institute of Social, Political and Economic Research (Ipespe).

In fact, when quantitative research is carried out on any topic, the aim is to listen to public opinion in order to identify the population's thoughts, as well as to promote and encourage greater citizen participation.

In this regard, I note that the explanation of that study states that "[...] research and debates on democracy contribute to educating citizens on the principles of guaranteeing fundamental rights, strengthening institutions, independence of powers, popular participation, and peaceful resolution of conflicts." (our emphasis). But not only that. Listening to "[...] public opinion helps to identify frustrations with the functioning of democracy and signs of its weaknesses that can be exploited by authoritarian movements".

Among the data collected there, I believe it is important to highlight the interviewees' opinion about the Powers of the Republic, so that, regardless of the political-ideological position of the respondent, only 14% believe that they are completely independent. In general terms, 18% believe they are independent most of the time, while 31% responded that, frequently, one interferes with the other. In turn, it is striking that 27% think that they are not independent, with there being total interference of one over the other.

It is also interesting to note that around 2/3 of those interviewed (65%) see the relationship between the Powers as conflicting, to the detriment of 25% who see it as harmonious, despite independence and harmony being fundamental principles of our Federal Constitution (art. 2).

Well then. The Federal Constitution of 1988, in its art. 2, dealt with the fundamental principle of independence and harmony between the Powers of the Federative Republic of Brazil, detailing that, without any subordination, the Legislative, Executive and Judiciary are independent and harmonious among themselves.

The preservation of this principle, a concern of the constituent legislator, who listed the separation of Powers among the constitutional clauses (art. 60, § 4°, III), is justified by the need to guarantee a good relationship between State institutions, notably because harmonious independence between the Powers is fundamental for the protection of democracy.

In this line of understanding, Georges Abboud (2019, p. 1,272) asserts that "the separation of Powers is a structuring principle of our constitutional democracy; therefore, it constitutes a normative parameter for the control and adaptation of all acts of any Powers, including those emanating from constitutional jurisdiction".

Let us see that the principle of separation of powers was based on the idea of preventing arbitrary action and protecting society against authoritarian outbursts. Therefore, dividing the functions of the State between different bodies would avoid the undesirable concentration of power in one body, entity or person. It would therefore be necessary to limit power.

The definition and dissemination of the principle of separation of powers were strongly influenced by Montesquieu's ideas and the French Revolution. However, this concept had already been suggested previously by thinkers such as Aristotle, John Locke and Rousseau, who also developed theories on the separation of powers. This principle was legally consolidated in the constitutions of the former English colonies in America and formalized in the United States Constitution of 1787. With the French Revolution, it became a constitutional dogma, being recognized in art. 16 of the Declaration of the Rights of Man and of the Citizen of 1789, which stated that a society without separation of powers could not be considered constitutional. This understanding reinforces the relevance of the separation of powers as a fundamental mechanism for guaranteeing human rights, a role that it continues to play to this day (Silva, 2011, p. 109).

It is also necessary to understand that constitutionalism has developed over centuries, with the main aim of curbing the excesses of Public Power, so that "[it is] the political-legal phenomenon of constitutionalism that puts brakes on and rationalizes power" (Abboud, 2019, p. 1,279).

However, as Uadi Lammêgo Bulos points out, the classical doctrine of the separation of powers establishes the distinction between legislation, administration and jurisdiction, conferring these functions on distinct and independent bodies, a principle that influenced both the Declaration of the Rights of Man and of the Citizen of 1789, in its art. 16, and the Federal Constitution of 1988, in its art. 2. It is important to note, however, that in the Brazilian context this separation should be interpreted in a relative way, considering the need for balance and collaboration between the powers for the functioning of the State, which is why the balance between the powers in Brazil cannot be rigidly conducted according to the proposal of classical theorists, especially Montesquieu, since the institutional dynamics of the country require a more flexible interpretation of the separation of powers (Bulos, 2010, p. 1,041).

In the same vein, Professor José Afonso da Silva teaches that the principle of separation of powers is no longer as rigid as it once was, since "[t]he expansion of the activities of the contemporary State has imposed a new vision of the theory of separation of powers and new forms of relationship between the legislative and executive bodies and between these and the judiciary" (Silva, 2011, p. 109). The system of checks and balances imposes calibrated interference to achieve the public interest and ultimately benefit the community.

In a more traditional view and in classical constitutionalism, the Legislative Branch, by exercising the important role of issuing legal norms for the Executive and Judicial Branches to apply, has always held a privileged and expressive position over all other functions (Bulos, 2010, p. 1,040).

Minister Luís Roberto Barroso, in an academic work, states that, until the consolidation of the Constitutional Rule of Law, from the end of the Second World War (1939-1945), a model known as the "Legislative Rule of Law" prevailed, in which the Constitution was seen primarily as a political document, whose rules had no direct applicability and depended on development by the legislator or administrator. He also notes that the control of constitutionality by the Judiciary was non-existent or, when present, had a secondary role and little impact. In this context, the law occupied a central position, and Parliament exercised supremacy over the other institutions.

The author also states that, with the transition to the Constitutional Rule of Law, the Constitution began to be recognized as a binding legal norm, not only determining the form of production of laws and normative acts but also establishing limits on their content and imposing duties of action on the State. This new model shifted the axis of power, giving primacy to the Constitution and judicial control, consolidating the supremacy of the Judiciary, especially through a constitutional court or supreme court, responsible for the final and binding interpretation of constitutional norms (Barroso, 2013, p. 240).

To better understand the topic, it is necessary to recognize, first of all, that the role and organization of the State itself – and not just the Judiciary – vary according to historical circumstances and national contexts.

As Justice Barroso noted, particularly in the post-World War II period, the role of the Judiciary expanded significantly, especially the role of the Supreme Courts. The Judiciary assumed a central role in the protection of human rights, in the promotion of justice at national and international levels, and in the re-establishment of a fairer and more balanced international system.

However, it is also necessary to recognize that the role and size of the Public Power itself – and not only of the Judiciary – vary according to historical circumstances and national contexts. In absolute and relative terms, the State, in its three functions, is larger today than it was in the eighteenth century. Furthermore, the capacity for action and the resources available to the State vary considerably between different countries.

Now, when we analyze the State during the Industrial Revolution in the United Kingdom and, later, with the consolidation of the Welfare State, we notice a notable strengthening of the executive function. A clear example is the significant increase in public spending, which jumped from around 10% of the Gross Domestic Product (GDP) in the 19th century to approximately 45% after 1945. This increase reflects the expansion of the State's responsibilities in areas such as health, education, social security and infrastructure.

Therefore, it is important to keep in mind that historical, economic and social processes transform the State, the law, and, consequently, the balance between Powers.

To further illustrate the growing role of the Judiciary in the reconstruction of new paradigms of Justice in the post-World War II period, we can cite the case of the Warren Court, which refers to the period in the history of the U.S. Supreme Court, from 1953 to 1969, marked by progressive decisions that paved the way for the affirmation of civil rights for Afro-descendant populations. Some important decisions from this period include, for example, the declaration of the unconstitutionality of racial segregation in public schools, as well as the declaration of the unconstitutionality of a law that prohibited the use of contraceptives by married couples, recognizing the right to privacy.

This rise of the Judiciary, observed in different countries, is not without criticism or conflict. The proactive and retractive stance of the courts is often the subject of criticism, e.g., When discussing judicial activism and self-restraint, Luís Roberto Barroso differentiates judicial activism and judicial self-restraint based on methodological approaches. Judicial activism, when legitimately exercised, seeks to extract the maximum potential of the constitutional text, interpreting its principles and undetermined legal concepts to construct specific rules of conduct. Self-restraint, on the other hand, is characterized by granting greater space for the action of the political powers, adopting a stance of deference to the decisions of the Legislative and Executive branches, both in their actions and in their omissions.

Furthermore, Barroso emphasizes that, when fundamental rights or democratic procedures are not at stake, judges and courts must respect the legitimate choices of the legislator and show deference to the reasonable exercise of administrative discretion, avoiding replacing these decisions with their own political assessment (Barroso, 2014).

When analyzing ADI 5,468/DF, reported by Minister Luiz Fux, in addition to judging the merits of the action, the Plenary approved the establishment of the following thesis:

> Except in serious and exceptional situations, the Judiciary Branch shall not be entitled, under penalty of violating the principle of separation of powers, to interfere in the function of the Legislative Branch to define revenues and expenses of the public administration, amending budget bills, when the conditions set forth in art. 166, § 3º and § 4º, of the Federal Constitution are met. (our emphasis)

In the same sense, when judging RE 684612-RG (General Repercussion Theme 698), reporting for the judgment by Minister Roberto Barroso, he established the thesis below:

> 1. The intervention of the Judiciary in public policies aimed at the realization of fundamental rights, in the event of absence or serious deficiency of the service, does not violate the principle of separation of powers. 2. The judicial decision, as a rule, instead of determining specific measures, should indicate the purposes to be achieved and order the public administration to present a plan and/or the appropriate means to achieve the result. 3. In the case of health services, the shortage of professionals can be filled by public selection or, for example, by the reallocation of human resources and by hiring social organizations (OS) and civil society organizations of public interest (Oscip). (our emphasis)[1]

For Abboud (2019, p. 1,276), "[...] activism arises from the invasion of one Power into the sphere of another, without constitutional authorization to do so". According to the prestigious author, a more in-depth analysis of the separation of Powers in Brazil must go beyond the traditional classifications

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[1] In the same sense, Theme 220 of General Repercussion: "The Judiciary is permitted to impose on the public administration an obligation to do, consisting of the promotion of measures or the execution of emergency works in prison establishments to give effect to the postulate of human dignity and ensure that inmates have their physical and moral integrity respected, in accordance with the provisions of art. 5, XLIX, of the Federal Constitution, and the argument of the reserve of the possible nor the principle of separation of powers cannot be invoked against the decision" (RE 592581-RG/RS, rapporteur Minister Ricardo Lewandowski).

of state functions, focusing on verifying possible violations of the principle of limitation of power, essential for any constitutional democracy. In this sense, it is necessary to assess the extent to which this limitation is being respected, especially with regard to the actions of the Judiciary and its relationship with the other powers of the Republic (Abboud, 2019, p. 1,281).

Obviously, our 1988 Constitution already has a remedy for these and other problems arising from the eventual and unwanted overlapping of one Power over another. [2]To avoid or minimize them, dialogue between the three Powers of the Republic must be valued. That is why it must be remembered that the Powers in Brazil are not and should not be only independent, [3]but also harmonious (Abboud, 2019, p. 1,272).[4]

Since 2013, Brazil has been experiencing a political crisis with profound consequences for relations between the branches of government. From 2019 onwards, the crisis changed levels, as the relatively strengthened federal executive branch sought, through different instruments, to subjugate the legislative and judicial branches, as well as the political opposition, and even the other federative entities. The result was a series of crises between the branches of government, with serious repercussions for democratic governance.

Clearly, democracy demands competition, exposure of conflicts, opposition, criticism and independence. In order for it to operate in a functional manner, and not degenerate into tyranny or demagogy, it also requires dialogue, respect for minorities and cooperation between the government and the opposition, between the branches of government and between the federative entities.

Now, we know that authoritarian populism tends to create successive institutional crises. Constant confrontation with the National Congress, the media and the Judiciary are part of the classic arsenal of charismatic and authoritarian leaders. Crises often erupt for artificial reasons, since they help to keep the support base energized. We have clearly observed this process in Brazil over the last few years.

However, this dynamic needs to be interrupted. That is why, since 2023, we have been seeking to find an agreement between the different parties, further valuing political activity. Reestablishing a harmonious relationship between the Powers has been our main focus.

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2 The STF has already decided that, "[i]n respect of the principle of separation of powers, provided for in art. 2 of the Federal Constitution, when there is no evidence of disrespect for constitutional norms, the Judiciary is prohibited from exercising jurisdictional control in relation to the interpretation of the meaning and scope of merely procedural norms of the Legislative Houses, as this is an internal corporate matter " (RE 1297884-RG/DF – Theme 1,120, rapporteur Minister Dias Toffoli).

3 The Supreme Court has already ruled that: "Legislative oversight of the administrative action of the Executive Branch is one of the counterweights of the Federal Constitution to the separation and independence of the Powers: however, it is an interference that only the Constitution of the Republic can legitimize. From the primary importance of 'checks and balances' in the paradigm of division of powers, it follows that the infra-constitutional norm – including, in relation to the federal norm, the constitution of the member states – is not allowed to create new interferences of one Branch in the orbit of another that do not derive explicitly or implicitly from a rule or principle of the Fundamental Law of the Republic. The power of legislative oversight of the administrative action of the Executive Branch is granted to the collective bodies of each chamber of the National Congress, at the federal level, and to the legislative assembly, at the state level; never to its members individually, except, of course, when they act in representation (or presentation) of their House or committee" (ADI 3,046/SP, Rel. Min. Sepúlveda Pertence; emphasis added). In the same sense: ADI 2.911/ES, reported by Minister Ayres Britto; and ADI 3.252-MC/RO, reported by Minister Gilmar Mendes.

4 Abboud argues that "[...] it is an essential requirement for the correct fight against judicial activism in Brazilian law, the separation of powers will be the starting point of our analysis". For the aforementioned author, "[t] he existence of separation of powers is a condition of possibility to prevent the Judiciary from overriding the other powers through activist action" (Abboud, 2019, p. 1,272, our emphasis).

In an article published in Folha de São Paulo on 6/31/2023, just 6 months after the new government, I was able to highlight that the reduction in litigation in the Supreme Federal Court demonstrated the resumption of democratic normality resulting from

> [...] a clear movement by different government sectors that, following the directive of the President of the Republic, worked to restore democratic normality and, in doing so, contributed to easing tensions in the Executive's relationship with the other branches of government and with other federative entities. (The reduction [...], Folha de São Paulo, 2023)[5]

Therefore, it is worth highlighting the important role of the Attorney General's Office (AGU) in promoting and maintaining harmony between the Powers, since, without a doubt, this promotion of balance is intrinsic to its constitutional and legal attributions.

The 1988 Federal Constitution, by assigning the AGU the important role of performing the essential functions of the Judiciary, gave it the mission of contributing to the consolidation of the Democratic Rule of Law and the effectiveness of the Brazilian legal system. Meanwhile, the Attorney General of the Union, as head of this institution endowed with functional and administrative autonomy, is tasked with preserving legal certainty and the supremacy of the Constitution.

As an advisory body to the Executive and representative of the Union, federal public attorneys promote legal certainty for public policies and defend the actions of all three branches of government, always seeking to prevent and resolve institutional differences in order to realize fundamental rights.

The representation of the entire Union places the AGU in a privileged position to contribute to the independence and harmonious dialogue between the Powers and with the other federative entities. Furthermore, the consultative function places the members of the institution in all ministries, agencies and federal foundations, allowing participation in public policy cycles throughout the national territory.

As an advisory body to the Executive Branch and a representative of the Union, the institution provides legal security for public policies and defends the actions of all branches of the Brazilian State. It seeks to prevent and resolve institutional disagreements in order to enforce fundamental rights. However, we live in an era of dialogue, and it is important to highlight, in particular, the moderating role of the AGU through consensual methods of peacemaking.

Therefore, the mediation role through consensual methods of conflict resolution deserves to be highlighted. Now, in a context of growing institutional crises and political tensions, the AGU has been standing out by seeking conciliatory solutions that aim to reestablish dialogue and strengthen governability.

Thus, so that disputes do not degenerate into successive institutional crises, especially those arising from artificial reasons, it is necessary to keep the door open for frank inter-institutional dialogue between the different forces, federative entities and Powers, always seeking new consensuses.

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[5] Data from the AGU Legal Intelligence System (Sapiens) show that, in the first six months of these last four years, the following numbers of concentrated control actions were filed with the Supreme Court: 72 (2019); 144 (2020); 105 (2021); and 89 (2022). These numbers, as can be seen, reveal a high level of litigation in response to measures taken by the previous government. On the other hand, new information extracted from Sapiens, relating to the first half of 2023, showed a significant reduction in concentrated control actions compared to the first half of the previous four-year period. In that year, in the same period, only 46 lawsuits of this nature were filed with the STF. The notable reduction is even more impressive when one takes into account the increase in the Court's general backlog, of around 17.7% (3,000 cases) when comparing the first half of 2022 and 2023.

As an institution, the Attorney General's Office has evolved in promoting harmony between the Powers – consequently strengthening the desired independence –, offering concrete solutions to complex institutional crises that could be aggravated by the lack of dialogue.

In extrajudicial mediation, the existence and success of the Federal Administration Mediation and Conciliation Chamber (CCAF) stands out, whose purpose is the administrative resolution of interfederative conflicts involving public bodies, autonomous agencies, public foundations, public companies and mixed economy companies.

In the judicial sphere, above all, the AGU has acquired an important role in the STF, with emphasis on legal statements that assist this Court in the composition of disputes in the scope of control actions and those of general repercussion. It is worth mentioning three important examples in which the impasse gave way to consensus: the approval of the Rio Doce Basin agreement (Pet 13.157/DF, reported by Justice Roberto Barroso), the criteria for the provision of medicines by the SUS (RE 1366243-RG/SC – General Repercussion Theme 1.234, reported by Justice Gilmar Mendes), and the new rules for the distribution of parliamentary amendments (ADPF 854/DF, reported by Justice Flávio Dino).

The Rio Doce Basin agreement (Brazil, 2024a) led by the AGU is a good example of this! After years of negotiations and dialogues, we renegotiated and improved the 2022 proposal, increasing the amounts to be paid by companies (R$170 billion) and promoting reparations for victims and the environment.

Another strong mediating role was the definition of criteria to be observed in lawsuits involving the supply of medicines by the SUS. Legal discussions about the distribution of medicines, especially when they are not incorporated into the public health system, are not new. Years passed and several decisions were handed down, often at odds with each other. There was no prospect of a solution. Once again, consensus prevailed.

We were able to contribute to the outcome of the definition of criteria to be observed in lawsuits for the supply of medicines by the SUS (General Repercussion Theme 1,234) (Brazil, 2024b). We moved towards a broad agreement on judicial jurisdiction, funding, supply criteria and transparency. The impact of this solution goes beyond structural organization, rescuing decision-making based on scientific evidence. Health, science and the Brazilian population win.

Finally, it is important to highlight the efforts of the AGU, in partnership with the National Congress, in creating new rules for the proper distribution of parliamentary amendments. The result of this meeting between the government, the National Congress and the STF has already resulted in the approval (Brazil, 2025) by the Plenary of the Supreme Court of the work plan jointly prepared by the Executive and Legislative Branches, which detailed new measures to provide greater transparency to the execution of parliamentary amendments to the federal budget.

These and other examples lead us to the conclusion that conflict is best resolved through harmony and congruence. This is not about ignoring the important role of the judge in stating the law, but about also giving social actors the responsibility for interpreting the Constitution. Indeed, institutional dialogue is the key to resolving disputes between the branches of government, with the AGU playing the primary role of a conciliatory body.

In times of polarization, strengthening a culture of conciliation and cooperation is vital to resolving disputes peacefully and constructively, pointing to institutional dialogue as the master key to resolving disputes between the Powers.

Furthermore, it is important to emphasize that the leading role of the Legislative Branch in legislative activity does not dispense with the action and interaction with the other Branches. As an expression of the Legislative Branch, the activity of legislating, it is worth mentioning, does not occur in isolation, requiring dialogue with the Executive Branch and, eventually, with the Judiciary.

I say this because the dialogical relationship, which may be hindered by misunderstandings inherent in tensions between the branches of government, requires mechanisms for coordination and conflict resolution. The role of the AGU, as an institution constitutionally dedicated to defending the rule of law and harmony between the branches of government, therefore stands out.

And it is in this context that the AGU is also able to play a relevant role in promoting harmony between the Powers, whether through its competent consultancy and legal advice to the Executive, or through the defense of the constitutionality of normative acts before the Federal Supreme Court.

As a defender of the primary public interest, the Attorney General's Office is fully capable of acting to preserve the balance between the Powers and ensure that the legislative process respects the Constitution.

In this sense, considering that the Executive Branch is responsible for sanctioning and promulgating laws, in addition to their regulation and execution, the AGU supports the President of the Republic and his ministries in drafting decrees and other normative acts, ensuring that they are in accordance with the Constitution and current laws.

In turn, it is necessary to highlight another important facet of the AGU. Our Constitution prescribed specific conditions and procedures to enable each of the Branches of the Republic to carry out constitutional review of the rules in light of the 1988 Constitution.

As we know, in Brazil, the aforementioned control is predominantly carried out through jurisdictional means, since the Citizen Constitution entrusted the Supreme Federal Court (STF), a body with legitimacy, with the mission of guardian of the Constitution.

Among others, the role of legis defender attributed to the Attorney General of the Union gains prominence within the scope of said control and establishes a close and dynamic relationship with the actions of the Legislative Branch. This is because the AGU offers a technical and legal perspective, without political interference, acting as a true interlocutor between the powers of the Republic in the control of constitutionality, in order to corroborate the strengthening of the system of checks and balances.

To the Supreme Federal Court, among other important functions, the Federal Constitution attributed the competence to process and judge, originally, the direct action of unconstitutionality (ADI), the declaratory action of constitutionality (ADC) of a federal law or normative act, as well as the argument of non-compliance with a fundamental precept (ADPF), resulting from the 1988 CF.

When dealing with the filing of ADI and ADC, our Constitution granted the Attorney General of the Union, after being cited, the defense of the contested rule or act, when its unconstitutionality is assessed, in theory, by the Federal Supreme Court, under the terms of art. 103, § 3º (Brazil, 1988).[6]

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[6] "Art. 103. The following may file a direct action of unconstitutionality and a declaratory action of constitutionality:

[...]

§ 3 When the Supreme Federal Court assesses the unconstitutionality, in theory, of a legal norm or normative act, it will previously cite the Attorney General of the Union, who will defend the contested act or text."

Even though a first interpretation, the grammatical one, leads to the understanding that the Attorney General of the Union will always defend the contested act or text, the STF, over time, promoted a progressive and substantial change in the interpretation of the aforementioned constitutional provision.

In the trial of ADI 72-QO/ES, Minister Sepúlveda Pertence, then rapporteur of the case, stated that "the Attorney General of the Union or whoever acts in his place – having been appointed as a 'special curator for the presumption of constitutionality of the contested normative act' – is not entitled to argue and conclude in favor of the merits of the direct action".

In 2001, when judging ADI 1.616/PE, reported by Justice Maurício Corrêa, the Supreme Court evolved to understand that "The duty referred to in the constitutional imperative (CF, art. 103, S 3°) must be understood with temperaments. The Attorney General of the Union is not obliged to defend a legal thesis if this Court has already established its understanding of its unconstitutionality". At that time, the rapporteur's vote stated the following:

> The duty referred to in the constitutional imperative (CF, art. 103, § 3°), in my opinion, must, due to the obviousness of the hypotheses in which, in a repeated manner, the Court's jurisprudence has already consolidated in favor of a thesis contrary to the contested act, be understood with temperaments, in such a way that the manifestation of the Attorney General of the Union does not become, in cases of this order, an insurrectionary gesture, but one of logic and common sense. (our emphasis)

As can be seen, the rule of submission of the AGU to the unconditional defense of infra-constitutional norms would not be logical and reasonable, notably in cases where the Court's iterative jurisprudence would eliminate the presumption of constitutionality of the norm to be defended.

Furthermore, the AGU's role in direct unconstitutionality actions is essential to ensure balance between the branches of government. The autonomy granted to the AGU does not authorize it – and should not do so – to act in isolation or against the interests of the Legislative Branch. On the contrary, the AGU collaborates with the Legislative Branch, offering technical support for drafting laws and acting as a partner in building a more efficient and fair legal system.

Furthermore, this action by the AGU is strategic to preserve the presumption of constitutionality of laws and to defend the regularity of the legislative process, reinforcing the legitimacy of the normative acts passed in Parliament.

The recognition of the final interpretation of the norm contributes to the political and legal relevance of the position, and the strengthening of the functional independence and autonomy of the AGU guarantees impartiality and cooperation with other institutions in the defense of the Constitution. In fact, it strengthens the constitutional mission of the AGU as defender of the Constitution and the stability of the political system.

As can be seen so far, the Attorney General of the Union (AGU) plays a crucial role within the Brazilian legal system, especially in the area of concentrated control of constitutionality. This function involves defending the constitutionality of the rules that emanate from the legislative process and providing legal advice to the Executive Branch. The AGU's role as a guardian of the rules reflects the complex and interdependent relationship between the three branches of government in the formulation and implementation of laws.

We have also seen that legislative activity in Brazil occurs in an environment of constant interaction between the three branches of government, an expression of the system of checks and balances, so that the preservation of the balance between the Executive, Legislative and Judiciary branches –

essential for the functioning of the Democratic State of Law – finds in the work of the AGU one of its main guarantees. By promoting legality, legal certainty and inter-institutional cooperation, the AGU reinforces the legitimacy of legislative action and contributes to democratic stability.

That is why I have no doubt that we must focus on rehabilitating politics as a place for the convergence of positions and the creation of consensus, as well as on resuming respectful and harmonious dialogue between the Powers to reduce unnecessary tensions.

This perspective is a modest version of the Aristotelian assertion that man is, by his nature, a political animal and is not a loner, insofar as "the human being is a social being and naturally destined for collective life" (Aristotle, 2020, p. 275).

In this sense, including the lesson of Jeremy Waldron (2003, p. 109): "it is in the legislature that our representatives discuss justice; it is in the legislature that we disagree about justice, where we have second thoughts about justice, where we review our sense of justice or update ourselves".

In this line of understanding, I believe that, despite the difficulties and threats – and the attacks of January 8th do not allow us to forget –, Brazilian democracy has been strengthened by the resumption of dialogue and coordination between the Powers and the federative entities, so that public policies are already benefiting from this new moment.

There is no doubt that the work of the three Powers will only be successful if they all submit to the principle of harmony, which does not mean the domination of one over the other nor the usurpation of powers, thus building an awareness of collaboration and reciprocal control, in order to avoid distortions and abuses (Silva, 2011, p. 111).

It is important to note that the demonstrated performance of the AGU follows the path of effective compliance with the constitutional text, since there is no other path to be pursued other than effective compliance with the Federal Constitution of 1988.

Finally, the functions of legislating, judging and executing are no longer separate from each other, and attention must also be paid to the atypical nature of each of them (Bulos, 2010, p. 1,041). However, the specific and intrinsic characteristics of the activities of each of the Powers are responsible for the harmony and cooperation between the Executive, the Legislative and the Judiciary, avoiding, with the successful performance of the Attorney General's Office, major impasses that have repercussions at the institutional level.

References

BBOUD, Georges. Processo constitucional brasileiro. 3rd ed., rev., updated and expanded. São Paulo: Thomson Reuters Brasil, 2019.

A REDUÇÃO da litigiosidade no Supremo. Folha de S. Paulo, 2023. Available at: https://www1.folha.uol.com.br/opiniao/2023/07/a-reducao-da-litigiosidade-no-supremo.shtml. Accessed on: March 20, 2025.

ARISTOTLE. Nicomachean Ethics [electronic book]. Translation, additional texts and notes by Edson Bini. São Paulo: Edipro, 2020.

BARROSO, Luís Roberto. O novo direito constitucional brasileiro: contribuições para a construção teórica e prática da jurisdição constitucional no Brasil. 1st reprint. Belo Horizonte: Fórum, 2013.

BRAZIL. Office of the Attorney General of the Union. Celebrado acordo sobre fornecimento de medicamentos de alto custo pelo SUS. 2024b. Available at: https://www.gov.br/agu/pt-br/comunicacao/noticias/celebrado-acordo-sobre-fornecimento-de-medicamentos-de-alto-custo-pelo-sus. Accessed on: March 20, 2025.

BRAZIL. Constitution (1988). Constituição da República Federativa do Brasil. Brasília: Planalto. Available at: https://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm. Accessed on: March 26, 2025.

BRAZIL. Presidency of the Republic. Novo acordo de Mariana é homologado pelo STF. 2024a. Available at: https://www.gov.br/planalto/pt-br/acompanhe-o-planalto/noticias/2024/11/novo-acordo-de-mariana-e-homologado-pelo-stf. Accessed on: March 20, 2025.

BRAZIL. Supreme Federal Court. STF homologa plano que dá transparência às emendas ao Orçamento da União. 2025. Available at: https://noticias.stf.jus.br/postsnoticias/stf-tem-maioria-para-homologar-plano-que-da-transparencia-as-emendas-ao-orcamento-da-uniao/. Accessed on: March 20, 2025.

BULOS, Uadi Lammêgo. Curso de direito constitucional. 5th ed., rev. and updated, in accordance with Constitutional Amendment No. 64/2010. São Paulo: Saraiva, 2010

INSTITUTO DE PESQUISAS SOCIAIS, POLÍTICAS E ECONÔMICAS. A democracia que temos e a democracia que queremos. 2024. Available at: https://www.gov.br/agu/pt-br/comunicacao/noticias/70-da-populacao-preferem-a-democracia-a-qualquer-outra-forma-de-governo/PESQUISAOBSERVATRIODEMOCRACIAIPESPEFEBRABAN.pdf. Accessed on: January 2025.

SILVA, José Afonso da. Curso de direito constitucional positivo. 34th ed., rev. and updated. São Paulo: Malheiros, 2011.

WALDRON, Jeremy. The Dignity of Legislation. Translated by Luís Carlos Borges. São Paulo: Martins Fontes, 2003.