



Interview CARLOS VELLOSO

Former
Justice of the
Brazilian
Supreme
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(Supremo
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INTERVIEW WITH CARLOS VELLOSO, FORMER JUSTICE OF THE BRAZILIAN SUPREME COURT (SUPREMO TRIBUNAL FEDERAL)

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Presentation

Born on January 19, 1936, in Entre Rios de Minas, in the Campo das Vertentes region, Carlos Mário da Silva Velloso dreamed of becoming a soccer player and an aviator. However, the influence of his father, who was a public prosecutor and judge, led him toward a distinguished legal career. After earning his law degree from the Faculty of Law at the Federal University of Minas Gerais (UFMG) in 1963, Velloso successfully passed competitive examinations to become a public prosecutor, a sectional judge, and a judge of law, and was appointed as a federal judge in Minas Gerais in 1967. Alongside his judicial career, he taught at the Law Schools of UFMG, UNA, the Brasília University (UnB), and the Catholic University of Minas Gerais (PUC-Minas), where he also served as director. In 1978, he was appointed minister of the former Federal Court of Appeals (Tribunal Federal de Recursos — TFR) which, with the 1988 Constitution, would give way to the Superior Court of Justice (Superior Tribunal de Justiça — STJ) and the Regional Federal Courts (Tribunais Regionais Federais — TRFs). In 1990, he was chosen as justice of the Brazilian Supreme Court (Supremo Tribunal Federal — STF), serving as its president from 1999 to 2001. He retired in 2006 upon reaching the mandatory retirement age of 70, after more than half a century of public service. He is also a retired full professor at the UnB Law School. Since 2006, he has been practicing private law as a partner at Advocacia Velloso, based in Brasília. In this interview, Velloso shares reflections on his legal career, which established him as one of the most prominent constitutional scholars in Brazil.

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1. As a child, you dreamed of becoming a soccer player and an Air Force pilot. Still young, during a trip to Rio de Janeiro, you made an unusual visit to the then headquarters of the Brazilian Supreme Court (STF), the Federal Palace of Justice. Could you tell us more about that episode and how you discovered and developed your vocation for Law?

Yes, as a boy, already a fan of Atlético Mineiro, I wanted to become a soccer player. While studying at Santo Antônio School in São João del Rei, I thought about becoming a pilot and even wanted to apply to the Air Cadets Preparatory School (Escola Preparatória de Cadetes — EPC) in Barbacena, but my mother wouldn't allow it. She thought airplanes ate children. Later, while studying in Belo Horizonte at the Central State School, enrolled in the Classical Course [the humanities education track], I traveled to Rio de Janeiro for a visit. This was around 1956. In Rio, I decided to visit the Brazilian Supreme Court, which my father, a judge in Minas Gerais, often praised and admired. I was stopped at the entrance because I was wearing a casual shirt. But I convinced the guard: "Sir, I've come from far away. I already work as a court clerk at the Belo Horizonte courthouse." The guard gave in: "Go up those stairs and take a look at the courtroom, the Court is in session." I went up and watched the Court in session. At the best moment, the guard called me back: "You've seen plenty," and asked me to leave.

I could never have imagined that, over forty years later, I would one day preside over that very institution. Unforgettable moments. By then, I already wanted to study Law. But before that, I enrolled in the Philosophy program at the UFMG Faculty of Philosophy. I didn't complete the degree, but it was still a very enriching experience. In the end, my vocation for Law spoke louder.

2. After finishing middle school at the Santo Antônio School in São João del Rei, you moved to Belo Horizonte in 1954 to attend secondary school at the Central State School (Colégio Estadual Central, currently Escola Estadual Governador Milton Campos, in the Lourdes neighborhood). What memories do you have of the capital of Minas Gerais and of the school at that time?

In 1954, I enrolled in the science education track (Curso Científico) at Santo Antônio School. At the same time, I was hired as a clerk at the Registry Office of the 3rd Criminal Court. By the end of that year, I realized I should pursue the humanities track, known as "Classical Course" (Curso Clássico). I took the entrance exams for the Classical Course at the Central State School and, following the advice of the school's principal, I enrolled in the first year of the program in 1955, completing it in 1957.

Belo Horizonte was already a lively city, though far from the bustle we see today. The main form of entertainment was going to the movies. Watching films at Cine Metr pole, Gl ria, Guarani, Path , or in Savassi was the highlight of our leisure time. That’s where young romances would begin. In 1955, I joined the Minas Tennis Club (Minas T nis Clube), where I remain a member to this day. This club played an important role in the development of many young people. There, I practiced swimming, played volleyball and basketball, and took part in chess tournaments. At the club’s “dancing masses” and “prayer gatherings,” many relationships began, and some even ended in marriage.

3. After enrolling in the Faculty of Philosophy at UFMG in 1958, you briefly studied Law at the Catholic University of Petr polis, but returned to Belo Horizonte in 1960 to complete your Law degree at UFMG. How would you describe the environment you encountered and which figures left a mark during that first experience at Afonso Pena’s old house⁴?

That’s right. I was drawn to the Philosophy program under the influence of my Philosophy teacher in the Classical Course, Arthur Versiani Velloso — a great teacher, a profound thinker. But he was the one who ultimately pulled me out of the Faculty of

Philosophy. We had classes on Saturdays. The school was located on the top floors of the Acaiaca building. One Saturday afternoon, we were waiting for class to start when Professor Velloso arrived. He was a large man, with white hair blowing in the wind. Without any preamble, he called me over to the window and pointed toward the Law School: “Young man, your place is over there.”

The Catholic University of Petr polis had just opened applications for its entrance exam at the beginning of the 1959 academic year. I didn’t hesitate, I took the exam and completed my first year of studies there. While in Belo Horizonte, I would attend lectures at the UFMG Law School. After passing a public examination to become a staff member at the Regional Labor Court of Minas Gerais (Tribunal Regional do Trabalho — TRT), officially taking office on February 13, 1960, I transferred to UFMG, where I completed my degree with the celebrated Class of 1963.

4. Between 1967 and 1977, you served as a federal judge in Minas Gerais, dealing with highly significant cases — including expropriations for the construction of roads and hydroelectric plants such as Furnas and Tr s Marias. What was it like to be a judge during the height of the military dictatorship, which forcibly retired justices of the Brazilian Supreme

⁴ N.T.: Vetusta Casa de Afonso Pena, in free translation, “Afonso Pena’s old house” is a common way to refer to the Law School of UFMG by its students, professors,

employees, and other members. Afonso Pena was the founder and first director of the institution, and became, years later, the President of Brazil.

Court and shut down the Congress with Institutional Act No. 5 in 1968⁵? Were you ever submitted to pressure or received “messages” from the regime?

In 1967, there were six federal judges in Minas Gerais — three full judges and three substitutes. We began our work on Espírito Santo Street. Later, the Federal Court was housed on Carijós Street, between Espírito Santo and Bahia Streets. As judges, we were very close friends. A strong sense of camaraderie prevailed. Pereira de Paiva and Fernando Pinheiro were at the 1st Court; Sebastião Reis and João Toledo at the 2nd Court; and I worked with Gilberto Lomônaco at the 3rd Court. After Gilberto’s passing, Euclides Reis Aguiar took his place. Paiva had come from the Public Treasury Court of Minas (Vara dos Feitos da Fazenda Pública de Minas Gerais), where he had distinguished himself as a judge. Sebastião Reis came from the Ministry of Finance (Ministério da Fazenda), where he held a high-ranking position. He was also a university professor of Tax Law. I came from the federal civil service, having entered through a public examination.

In 1964, I passed the exam to become a state prosecutor in Minas Gerais, and in 1965 and 1966, I passed the exams to become a sectional judge and a state judge in Minas. I was also practicing law at the time. Fernando Pinheiro and João Toledo were prominent attorneys, and Gilberto

Lomônaco was a judge in the Military Justice (Justiça Militar da União).

Yes, I ruled on cases that drew media attention, but I never heard of any government interference in our decisions. The judiciary was highly respected. I never received any form of “pressure.” I once ruled on a writ of mandamus that, according to some, would get the judge removed if granted. It concerned students who had passed but exceeded the number of available seats in the UFMG Medical School. I granted the writ and ordered the students to be enrolled — and nothing happened.

5. You met historical political figures from Minas Gerais, such as Milton Campos, Tancredo Neves, and Juscelino Kubitschek. Could you share any memories or lessons from your interactions with them?

Indeed. I had the opportunity to know and interact with Milton Campos and Tancredo Neves. With Juscelino (JK), not as much. I met him around 1975 at Professor Pedro Aleixo’s house, during Aleixo’s election to the Academia Mineira de Letras. They practiced politics in a very different time from today, when politicians were distinguished by their civility, intelligence, knowledge, and their deep respect for the public good.

⁵ N.T.: Institutional Act No. 5 (AI-5), issued in 1968 during Brazil’s military dictatorship (1964–1985), was the most repressive decree of the regime. It granted the president broad authoritarian powers, including the

ability to close Congress, suspend civil and political rights, censor the press, and dismiss public officials and judges.

Milton was a model public servant. He served as governor of Minas Gerais, federal deputy, and senator. He was also a tenured professor of Political Science at the Federal University of Minas Gerais. Tancredo — which few people know — began his career as a state prosecutor before entering politics. He served as Minister of Justice during Getúlio Vargas's second administration. When Vargas's government was under threat in 1954, most of his ministers hesitated. Tancredo, however, then Minister of Justice, stood ready to resist. He became renowned as a skilled politician, serving as federal deputy, senator, and governor of Minas. Elected president of the Republic in the transition to democracy, he fell ill before taking office and died months later.

JK, as mayor of Belo Horizonte, created the Pampulha complex, our postcard image, and helped launch the careers of Oscar Niemeyer, Burle Marx, and others. He built Brasília, Furnas, Três Marias, paved thousands of kilometers of roads, established the automobile industry in Brazil, and much more — all in just five years of intense work. He was a great and remarkable president of the Republic.

6. You have been teaching since 1967. You taught Tax Law at UNA, and Constitutional Law at PUC-MG, UFMG, and the University of Brasília (UnB), and have published landmark works such as *Temas de Direito Público* (Del Rey, 1994). Even after retiring from academia, you continue to give lectures

and keynote conferences that fill auditoriums. How do you view the intersection between academic work and the judiciary?

It is healthy to be both a judge and a professor. I have always found this combination to be beneficial and enriching. Professors study the law in its pure form, they develop doctrine. Judges, on the other hand, are constantly faced with concrete facts. They study and apply the law with those facts in mind, building what I call “islands of legal knowledge.”

Being both judge and professor is fruitful, because it makes the judge more eclectic. One may produce theoretical work without losing touch with reality. The same applies to prosecutors who also teach. And the reverse is true as well: professors who are judges, prosecutors, or public attorneys also stay grounded in reality. That is a very positive thing. As Miguel Reale taught, “Law is the normative integration of facts according to values.” In other words, the trilogy — fact, value, and norm — must be observed when assessing any legal case.

7. While still a judge at the Federal Court of Appeals (TFR), you contributed to redesigning the structure of the judiciary branch during the redemocratization period, engaging in discussions with Sepúlveda Pertence, José Afonso da Silva, Afonso Arinos, and other collaborators of the 1988 Constituent Assembly. Almost four decades later, how do you assess the structure of our higher courts? Which

aspects have proved to be effective, and which might still be improved?

This question involves complex issues that would require much more space and time to analyze thoroughly. At the time, I served as a judge on the former Federal Court of Appeals (TFR). The discussions with Sepúlveda Pertence — whose name I pronounce with much fondness, as we had been classmates and friends since our time at the Central State School — were indeed fruitful. Back when I was still a federal judge in Minas Gerais, I had written a paper proposing a restructuring of the higher courts. I suggested the creation of three superior courts: one for private law, one for public law (the TFR), and one for criminal law, with the TFR becoming regionalized. These courts would handle federal common and constitutional litigation, with appeals to the Brazilian Supreme Court (STF) restricted to constitutional matters. The Supreme Court would retain both diffuse and concentrated judicial review.

Pertence asked me, “Why three courts? One is enough, with three different rooms: one for public law, one for private law, and another one for criminal law, with the option to create more as needed.” He said it with his characteristic wit, for he had a great sense of humor, and then added, “Let’s stick to having just one garage chief.”

Today, we have the Superior Court of Justice (STJ) organized into three sections, and the Regional Federal Courts (TRFs). Pertence was part of the Commission of Notables, chaired by Afonso Arinos and

appointed by President Sarney to draft a constitutional proposal. Professor José Afonso da Silva, a renowned constitutional scholar, was an advisor to the Constituent Assembly, nominated by constituent Mário Covas. We submitted several questions to him on different occasions.

The Superior Court of Justice, created by the 1988 Constitution, consists of at least 33 justices. As the number of appeals addressed to it continues to grow, which is indeed happening, one solution would be to increase the number of justices and perhaps even create one or two more specialized sections. The Constitution provides the means, or at least the framework, to enable that. In my view, the judiciary’s structure has improved.

8. Given your long-standing public service, there was an expectation that you would be appointed to the Brazilian Supreme Court by President-elect Tancredo Neves in 1985. However, with Tancredo’s death, the presidency was assumed by José Sarney, who ultimately appointed other names. You were later nominated by President Fernando Collor in 1990, to fill the vacancy left by Francisco Rezek, who stepped down to become Collor’s Minister of Foreign Affairs. Could you tell us more about the behind-the-scenes of that appointment?

That is true. My name had been considered by Tancredo, according to reports from the Minas Gerais political figures who advised him — among them Renato Azeredo, Genival Tourinho, and Hélio Garcia, all of

whom I knew well. But Tancredo was never able to take office due to his serious illness. President Sarney then appointed an excellent jurist, Justice Carlos Madeira, my colleague at the STJ, who honored the Brazilian Supreme Court with his service.

Later, my name was put forward to President Sarney by Minister Oscar Corrêa, who had previously served on the Supreme Court and, after retiring, became Minister of Justice under Sarney. This episode is recounted in the memoir *O Código da Vida*, by Saulo Ramos, who at the time was the Consultant General of the Republic.

Under President Collor, my name was first suggested by Vice President Itamar Franco. I also had the support of the Minas Gerais Bar Association (OAB/MG), then chaired by Professor Jair Leonardo Lopes. Collor wished to honor the superior courts — the Superior Court of Justice (STJ) and the Superior Labor Court (TST) — and asked them to submit nominations. The TST nominated Marco Aurélio Mello, and the STJ, I believe, nominated me.

Then-Minister of Justice Bernardo Cabral played a key role in the process. Francisco Rezek, who had resigned from the Supreme Court to head the Ministry of Foreign Affairs — he was a professor at the Rio Branco Institute, responsible for training Brazil's diplomats — spoke highly of me to the President, whom I did not yet know personally. President Collor himself later told me this when he summoned me to his office to confirm my nomination. I succeeded Rezek on the Brazilian Supreme Court and was sworn in on June 13, 1990.

9. You served on the Brazilian Supreme Court for sixteen years (1990–2006), including two years (May 1999 to May 2001) as its President. How do you assess this period, and are there any cases that particularly marked your time on the Court?

There were many. I would highlight, above all, the impeachment of President Collor and the original criminal proceedings to which he was subjected, because they were particularly painful for me. I was the rapporteur for nearly all the writs of mandamus filed during that time, and I also took part in the judgment of the criminal case. For further reference, I recommend the book *Os grandes julgamentos do Supremo* [The Great Judgments of the Supreme Court], edited by Justice Luiz Fux and published by GZ in 2020. The newspapers of the time covered those rulings extensively.

10. From your early years as a federal judge to your time in the Brazilian highest courts, you were one of the pioneers in introducing technology to the judiciary. Among the notable milestones we could list: i) your role in implementing the first computer-based vote count during the 1974 parliamentary elections in Minas Gerais; ii) the national electronic re-registration of voters prior to the 1986 elections for the Constituent Assembly; and iii) the debut of electronic voting machines in the 1996 municipal

elections, during your presidency of the Superior Electoral Court (Tribunal Superior Eleitoral — TSE). How do you assess the impact of technology on the judiciary and society in recent decades?

One must belong to their own time. Times change, and we change with them, as Virgil wrote. In 1974, I was a judge on the Regional Electoral Court (*Tribunal Regional Eleitoral* — TRE) of Minas Gerais. I was appointed to chair the vote-counting commission for that year's parliamentary elections, alongside my dear late colleagues, Justices Ayrton Maia and Bernardo Figueira. The Computer Revolution was on the horizon. I proposed to my colleagues that we carry out the count electronically. They agreed, and we submitted the proposal to the Court. It was approved. With significant help from a court employee, Roberto Siqueira, an IT technician, we set the plan in motion. The Court leased an IBM computer. The count took a little longer than usual, as we did not have the opportunity for proper training. Rumors circulated that the count was being handled by the National Intelligence Service⁶ (*Serviço Nacional de Informações* — SNI). But when the results were announced, it was a great victory for the opposition. Itamar Franco was elected senator, and his first speech in the Senate was to praise the Electoral Court of Minas Gerais. This is recorded in the Senate archives.

⁶ N.T.: The SNI was Brazil's intelligence agency during the military dictatorship, created in 1964 and dissolved in 1990. It collected, processed and disseminated

Twenty years later, while serving as President of the Superior Electoral Court (1994-1996), and with the Electoral Justice system already engaged in the digital transformation that had begun under President Néri da Silveira in 1987 with the creation of the National Voter Registry, we decided to make voting itself digital. Electoral fraud was widespread, especially in the manual vote-counting process.

I convened legal scholars, political scientists, and IT experts from various courts and government agencies, including the Army, Navy, and Air Force, through the Aeronautics Institute of Technology (ITA). This large commission, which included representatives from Minas Gerais, such as Professor Carmen Lúcia of PUC/MG (now a justice on the Supreme Court); attorney Orlando Vaz Filho; and scholars from UFMG (Raul Machado Horta, Oscar Dias Corrêa, Rubens Costa, José Alfredo de Oliveira Baracho, Aloísio Gonzaga de Andrade Araújo, Anis José Leão), came to be known in the press as the "Commission of Notables." We established five working groups: Electoral Code Reform, Political Party Reform, Electoral System Reform (proportional, majoritarian), Campaign Finance Reform, and Voting Digitization.

Guided by this commission, we assembled a task force of legal experts and IT technicians from the electoral courts, coordinated by Paulo Camarão of the Superior Electoral Court (TSE). The task force included participants from the

information relevant to national security, and advised the President of the Republic during those years.

National Institute for Space Research (INPE), Aeronautics Institute of Technology (ITA), Eletrobrás, and specialists designated by the Army and Navy. This team developed the prototype of the electronic voting machine, which was put to public bidding at the end of 1995.

The machines were delivered in early 1996. On May 13 of that year, the TSE distributed them to the regional courts. They were used in the 1996 municipal elections, in which over one-third of the electorate, out of nearly 100 million voters, cast their ballots electronically. In 1998, it was two-thirds; by 2000, more than 100 million Brazilians were voting electronically. Just imagine the chaos it would be today to collect the votes of roughly 150 million people across this continental country, and to count them manually, from North to South, amid thousands of challenges and appeals delaying the results!

11. In a recent interview with Revista do CAAP (2024), former Justice Francisco Rezek criticized the excessive use of single-judge rulings and the overreach of jurisdiction in some matters taken up by the Brazilian Supreme Court (STF). How do you view the Court's current role? Is there too much judicial protagonism to the detriment of the other branches of the State? And going further: do you believe, to use Guizot's phrase, that "politics has entered the halls of justice" more than in previous times?

I agree with Justice Rezek. The number of single-judge rulings has become excessive, undermining the credibility of a Court that is over a century old and steeped in distinguished tradition. In a recent lecture I gave at the Federal Regional Court of the 1st Region (TRF1), I emphasized that when the Supreme Court rules in plenary, particularly in constitutional matters, which are its proper domain as a constitutional court, it rules well.

A good example: during the COVID-19 pandemic, the Court properly exercised its constitutional authority by affirming the concurrent powers of states, the Federal District, and municipalities in managing the public health crisis, which was being neglected by the federal government, despite the high death toll. The shared and concurrent responsibilities of governors and mayors are clearly established in the Constitution (Articles 23, 24, and 30). For the federal pact to function, and for the powers of each governmental entity to be preserved, there must be a court capable of enforcing those powers. The Supreme Court upheld the Constitution, and in doing so, it saved lives. The Constitution was put to the test and emerged victorious.

Another factor that has tarnished the Court's image is its role in criminal matters, particularly the so-called "privileged forum" (*foro privilegiado*), which is inconsistent with republican principles and ought to be abolished.

I certainly agree with Guizot when he states that when politics enters the courtroom, justice flies out the window. I cannot speak

to specific cases of such intrusion, but I would like to affirm my confidence in the Brazilian judiciary. We have honorable judges in Brazil. In 2001, during my term as President of the STF, I attended a meeting of presidents of supreme courts from around the world in San Francisco, California. There, the Brazilian judiciary was cited as an international reference. Our judges enjoy guarantees of independence and impartiality, and our courts possess administrative and financial autonomy, as well as self-governance.

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