



Interview

HUMBERTO THEODORO JÚNIOR

Former judge,
professor
emeritus at
UFMG Law
School, and
lawyer

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About Humberto Theodoro Júnior

Born in Ituiutaba (MG), Humberto Theodoro Júnior graduated from the Triângulo Mineiro Law School in 1961 and, since then, has built a career marked by coherence, erudition, and a strong commitment to a legal practice oriented toward justice and human dignity. After serving as a judge in several districts of Minas Gerais, he retired as an appellate judge of the Minas Gerais Court of Justice (TJMG) in 1986, beginning a new phase characterized by intense activity as a lawyer, professor, and scholar. In 1987, he earned his doctoral degree from the UFMG Law School, where he would go on to assume the professorship in Civil Procedure in 1996 and be named emeritus professor in 2018. He has participated in numerous jurist committees responsible for drafting legislation, most notably the one that prepared the preliminary draft of the 2015 Code of Civil Procedure (CPC). Author of more than fifty books and hundreds of articles published in Brazil and abroad, he remains one of the foremost figures in Brazilian legal thought, with a contribution that spans generations. In this exclusive conversation with CAAP Journal – where he served on the Editorial Board in the mid-2000s – “HTJ,” as he is known among peers, or Humberto “Teodoro” among his students, reflects on the ten years since the CPC came into force and shares memories of his long and meaningful relationship with the Afonso Pena Law School.

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1. Ten years after its enactment, has the 2015 Civil Procedure Code fulfilled the historical role you envisioned – as a tool to overcome formalism and bring the legal process closer to material justice?

HTJ: Given the deep and long-standing crisis faced by our justice system, it is unrealistic to expect that a simple procedural reform could fully satisfy all the major demands of society within just a few years. What's at stake are cultural issues and habits whose eradication, although necessary, cannot be achieved by legislation alone. Nonetheless, the civil judicial process shows positive signs aligned with the prospects opened by the 2015 CPC, even though we are still far from realizing everything the legislator envisioned.

2. You have always advocated for the effectiveness of judicial relief. Has the 2015 Civil Procedure Code managed to deliver this effectiveness in practice, or does it still get lost amid the culture of excessive litigation and structural delays?

HTJ: The 2015 CPC aimed more at the efficiency of judicial relief than merely its effectiveness. Unfortunately, there is still much to be done in this regard, since the huge backlog of cases and the excessively long duration for final decisions – flaws that persist to this day – are incompatible with the fundamental guarantee of a fair and swift process. Generally speaking, the obstacles to full effectiveness and efficiency of the CPC system lie on two levels: first, the lack of proper resources

and staffing within the judiciary to faithfully implement the innovative framework; and second, the persistence of parties and courts clinging to outdated jurisprudential interpretations, often incompatible with the ideal of a fair process shaped by the Constitution and the CPC.

3. Much has been said about the 2015 Civil Procedure Code fostering a culture of cooperation and good faith. Ten years later, do you believe that the cooperative/shared spirit has truly taken root in everyday judicial practice with the effective implementation of our constitutional model of procedure?

HTJ: Unfortunately, cultural changes do not happen simply through the enactment of new ethical standards in legal texts. Doctrinal literature has well understood the spirit and offers many useful lessons for spreading what a truly cooperative process really means. Some reflections of this ideal can be seen in court jurisprudence. However, everything is still in its early stages and far from realizing the fundamental project outlined by the Code regarding this aspect of a fair process.

4. What is your assessment of the system of qualified precedents established by the 2015 Civil Procedure Code?

HTJ: Certainly, the most significant social innovation has been the broad establishment of jurisprudential law

through a system of precedents designed to enable fundamental guarantees such as the uniform application of the law, legal certainty, reduction of litigation, and shortening of proceedings.

The most significant obstacle to the full success of the precedent system established by the Brazilian legislator lies in the predominant doctrinal approach that analyzes and evaluates the jurisprudential law system from the perspective of common law, whereas the CPC's institution is deeply adapted to our traditions, which are longstanding and faithful to the historical characteristics of civil law. Nevertheless, praise is due to the guidance that has been emerging from the Superior Courts, which focus on the technique of clearly drafting summaries and theses incorporated into judgments intended to form binding precedents, thereby minimizing the painstaking research and discovery of the *ratio decidendi* typical of common law techniques – something that has little or almost nothing to do with the Brazilian legal system.

5. With the rise of technology and artificial intelligence in the Judiciary, how do you assess the challenge of maintaining impartiality, the reasoning behind decisions, and the guarantee of substantial adversarial process in the face of the use of automated systems?

HTJ: Artificial intelligence (AI) is an achievement and a reality that cannot be

ignored or suppressed by the Judiciary. What must not happen is the complete transfer of the decision-making act to the computer; the formulation of the essence of decisions must always be imposed on the judge or court, relying on human rationality and sensitivity. The judge's work can and should be materially facilitated by automation assistance, but it must never be replaced by it.

6. If you could suggest today a new reform or adjustment to the Code, which technique, principle, or practice would you consider essential to improve for the future of Brazilian justice?

HTJ: The 2015 CPC is new and up-to-date with the most modern trends in Brazilian and foreign procedural law, leaving no justification for a profound reform. For us to truly have a civil procedure that is even more accessible, swift, and fair, it is enough that parties, judges, and scholars strengthen their efforts toward the real, effective, and efficient application of all the innovative potential contained in our current procedural legal framework.

7. Alongside your career as a judge and lawyer, you have built a solid academic career. Which values from the legal education of your time do you believe should be reclaimed by young students and professionals, even in the face of the technological and cultural transformations of contemporary law?

HTJ: The great revolution that law underwent in the 20th century was the overcoming of legal positivism and the establishment of a legal order aligned not only with rules but, above all, embracing ethical and moral values and principles – primarily based on human rights, the core of the constitutional order of our times. In my view, the task of law teachers should be to make students feel the presence and relevance of the Constitution in understanding and applying the law, regardless of the branch of the legal system under consideration.

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