

**VENICE COMMISSION**  
**76TH PLENARY SESSION**

**Modalities of cooperation between Brazil and the Venice Commission**

Mr. President of the Venice Commission, Jan E. Helgesen, Mr. Secretary General Gianni Buquicchio, distinguished participants of the 76<sup>th</sup> Plenary Session of the Venice Commission.

It is a great pleasure to participate in this Session both as a representative of the Brazilian state, in its capacity as observer, and as a representative of the Ibero-American Conference of Constitutional Justice.

Democracy, human rights and the rule of law are the three fundamental principles of this Commission, which are developed through cooperation activities on issues of constitutional and electoral law, constitutionality control, and through studies and reports related to issues of transnational relevance.

These activities – aimed at nurturing legal models that can contribute to the development of democracy – ensure international recognition to the work undertaken by the Venice Commission.

In these undertakings it is important to always bear in mind that constitutions are historical documents. Every constitution is a constitution in time and space, the product of a nation's history and culture. For this reason, values such as democracy, human rights and the rule of law take on different features and are judicially and factually realized according to the peculiarities of each country.

It is this historic and cultural individuality that enables the development of original experiences in different legal systems, and these experiences should be shared.

Recognizing the supremacy of the constitution – and of its binding force in relation to all the branches of government – makes it inevitable to discuss not only forms and ways to defend the Constitution, but also the necessity of constitutionality control for public decisions making, especially laws and normative acts.

However, the methods of judicial review are rather diverse, and the idea of a jurisdictional control of the conformity of laws to the constitution, to be carried out by an organ of the Judicial Branch or by a constitutional court, is still a recent development for many countries.

Moreover, the constitutional affirmation of economic and social rights has brought new challenges to constitutionality control, with the judicial review of demands for the fulfillment of the State's assistential duties.

In this context, particular importance is attributed to the search for models that provide real solutions to the problem of making the constitutional duty of fulfilling fundamental rights consistent with the constitutional limit of the independence and harmony among the Executive, Legislative and Judicial Branches.

Thus, cooperation among States with the goal of sharing the diverse experiences of distinct constitutional jurisdictions presents itself as an extremely important initiative for the consolidation and improvement of different models of constitutional jurisdiction.

The dialogue between constitutional courts may be undertaken in several ways. It is important to highlight the significance of constitutional courts invoking foreign precedent as an institutional (interface) mechanism among different jurisdictions, thereby incorporating the experience of a foreign entity for the proceedings of a constitutional ruling of another State.

In this case, the use of comparative law by different constitutional courts presents itself as a specific question. In order for this use to be done adequately, it is necessary that: (i) the decisions of different constitutional courts be easily accessible to judges from other countries; (ii) information be available on the effective relevance of those decisions for the legal system where they originated; and (iii) the legal system and the institutional context of each country be known so as to enable the understanding of the grounds and consequences of those decisions.

The international dialogue between the courts charged with judicial review is extremely useful to the development and consolidation of the different constitutional jurisdictions. Nevertheless, true communication requires effective knowledge of the institutional reality of those with whom we communicate.

Important efforts in this direction are the activities performed by the Venice Commission to encourage a productive exchange on constitutional issues with the purpose of strengthening constitutional justice, as demonstrated by this Plenary Session and CODICES – a databank of constitutional precedents kept by the Venice Commission in cooperation with the Association of Constitutional Courts using the French language (ACCPUF), the Ibero-American Conference of Constitutional Justice, the network of Asian Constitutional Courts, the Southern African Judges Commission and the Union of Arab Constitutional Courts and Councils. These are initiatives that should be stimulated. Brazil and the Ibero-American Conference of Constitutional Justice, that I represent here today, are proud to be a part of them.

Thank you very much.