THE JUDICIAL PRECEDENT AS A TOOL FOR RESEARCH AND STUDY OF COOPERATIVE LAW: THE BRAZILIAN EXPERIENCE

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Abstract: This article aims to present, through comparative, historical and statistical method the importance of the judicial precedent for the research and study of Cooperative Law from the approach between the common law and the Brazilian legal system, traditionally tied to the civil law system. Although the Codes are the main sources of Brazilian Law, judicial precedent conquered relevant space in the Brazilian legal system due to the culture of valuing standardization of jurisprudential understanding tied to the technological modernization of the Brazilian legal structure. Based on that, the OCB System, as an entity that represents Brazilian cooperatives, has refined the research work and study of Cooperative Law through monitoring and disclosure of judicial decisions to strengthen the cooperative movement in Brazil.

Keywords: *Civil law, Common law, Stare decisis, Control of constitutionality, Brazilian system of precedents, Cooperative Law.*

The approach of the legal systems: civil law and common law.

We seek to establish in this work that the procedural reform tied to the technological modernization of the Brazilian judicial structure contributes to the progress of research and study of Cooperative Law, creating opportunities for the knowledge and strengthening of the sector before the Judicial Branch through procedural and institutional action strategies.

For a better understanding of contemporary Brazilian law, it is opportune to comprehend the approach of the traditional legal systems: civil law and common law. Although the formation of these traditional legal systems is tied to different histories of power, both have gone through a long evolutionary process that culminated on the approach and, consequently, in the construction of diverse legal systems by several countries, as the Brazil.

The civil law system, also denominated as the Roman-Germanic system, originated from the codified Roman system, but the legal reasoning of the common law tradition took shape over many centuries,

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culminating in the full development of the stare decisis concept in the nineteenth century. The civil law system was adopted by the countries of continental Europe such as France, Italy, Germany, Spain, Portugal and, consequently, countries colonized by them such as Brazil, Argentina, Colombia and Mexico. As the legal reasoning of the civil law tradition is logical-deductive, the decisions are the result of the application of the law, which is the main source of the legal system.

The common law, also denominated as the Anglo-Saxon system, it was created in England and influenced almost every country from the former British colonies, such as the United States of America, Canada, Australia and New Zealand. The common law doctrine established for judges the legal duty to respect previous legal decisions, also called precedents, since they were sources of English Common Law. In this legal system, the use of codified principles in decisions is not usual.

The evolution of civil law is marked, among others factors, by the constitutionalist movement that allows the judge to decide on the validity and effectiveness of a law before the Constitution, giving the power to rebuild the law in an interpretive way. Thus, when the law is absent or incompatible with the Constitution, the judge is authorized to adapt it to protect the constitutional principles and the fundamental rights of the citizen.

The definition of concepts such as "public order", "social interest", "good faith" and "dignity of the human person" has a discretionary role for the judge, who integrates the normative command with his own opinions, since the solution cannot be fully found in the legal rule (BARROSO, 2005, p. 11). Since the law could be interpreted in many ways, the emergence of different decisions for equal cases became an unavoidable consequence.

Aware of the possibility of different decisions for equal cases, the common law evolved its legal reasoning and developed the institute called *stare decisis*, which comes from the Latin *stare decisis et non quieta movere* and means "to stand by decided matters." The apex of the legal evolution of *stare decisis* occurred at the end of the 19th century, a historic moment in which the English House of Lords recognized the need to tie inferior judges and courts to their own decisions, precisely so that similar cases were treated in the same way (expressed as "treat like cases alike").

Thus, even though the precedents have been fundamental to the development of common law tradition, the *stare decisis* is the institute that ensures the equality and legal certainty in contemporary jurisdiction, since it binds the legal rule interpretation to the legal duty of respect to the judicial precedents.

The Brazilian system of precedents

Although the Brazilian legal system is affiliated with the civil law tradition, since its rights and obligations rest predominantly on the legal rule, as established in Article 5, *caput* and section II of the Federal Constitution of 1988 (CF of 1988)[2], there is no doubt that the contemporary Brazilian judge approaches the judge affiliated to the common law tradition.

[2] From now, the Federal Constitution of 1988 will be mentioned throughout this article only as CF of 1988.

The influence of common law conceptss, such as the doctrine of precedents and *stare decisis*, culminated in the affirmation of a system of precedents adapted to the characteristics of a civil law system and, consequently, to the promotion of legal precedents to a formal source of the Brazilian law. The approach of the traditional legal systems is notoriously tied to the constitutionalist conception of the supremacy of the Constitution over other legal rules. Those rules ceased to be the main source of the law and were tested for their constitutional validity, effectiveness and consistency with the Brazilian Constitution, especially with the principles and fundamental rights contained therein.

The activity of constitutional jurisdiction gained strength from the CF of 1988, which amplified the power granted to the judges and courts to interpret the legal rules and to decide if they are contrary to the Constitution. This control, known as "judicial review", is carried out under two modalities, called diffuse control and concentrated constitutionality. The concentrated control of constitutionality is monopolized by the Supreme Federal Court[3], its decisions may declare the unconstitutionality of the law and have binding effectiveness (known by the Latin term *erga omnes*)[4].

The diffused control of constitutionality, in its turn, is carried out by any judge and court (including the Supreme Federal Court itself). Their decisions may declare particular legal rules unconstitutional. However, in this control modality, court decisions have no binding effect. Thus, the legal rule is not eliminated from the legal system and its ineffectiveness is restricted to the parties involved in the conflict (knows in Latin as *inter partes*).

The power assigned to judges and courts to interpret legal rules with texts full of indeterminate concepts and open rules allows them to give judicial decisions without binding effect. That permitted a proliferation of different decisions in identical situations. For Wambier (2009, p. 22), the continental dimensions of the country combined with a decentralized judicial structure were also factors that contributed to a wide range of different of rulings.

Hence, it became clear that the absence of any system to bind judges and courts to earlier decisions violated constitutional precepts such as predictability, coherence, stability, equality and legal certainty, potentially inducing "social unrest" and "discrediting" judicial decisions (DONIZETE, 2017, p. 1467).

During a long evolutionary process, the culture of ignoring one's own judicial decisions on identical matters, as if each judge and court were not taking part in a system, gave rise to a judicial duty of self-reference which formed the basis for sustaining the precedent system as it was developed in Brazil (known as binding precedent).

To mitigate the damage resulting from the multiplicity of different constitutional decisions on identical cases, the SFC created a system of vertical precedents. The innovation was brought by the Constitutional Amendment nº 45/2004, which instituted the binding *súmulas*[5]. The constitutional amendment allows the

[3] From now, the Supreme Federal Court will be mentioned throughout this article only as SFC.

[4] In the Brazilian Constitutional system, the constitutional control is concentrated in the SFC, which is responsible for the process and ruling of the autonomous actions involving constitutional controversies (direct action of unconstitutionality, declaratory action of constitutionality, direct action of unconstitutionality by omission and allegations of disobedience of fundamental precepts, which are typical of the abstract constitutional control, as defined in article 103 of CF of 1988). SFC. Available in: <http://www2.stf.jus.br/portalStfInternacional/> Access in: Aug 19, 2018.

[5] "The S*úmula* is Brazil's concession to *stare decisis*. Since 1964, questions that have become firmly settled by the Supreme Court's decisions are published in capsule form, with a number assigned to each rule of law. These numbers of the *Súmula* are summarily cited to dispose of the issue in the future litigation. The S*úmula* can be modified, but on constitutional issues the votes

SFC to issue a statement of binding *súmula* that will aim at the validity, the interpretation and the efficiency of legal rules, whenever there is a conflict that engenders serious legal uncertainty and a relevant multiplication of lawsuits on an identical issue, which must be observed throughout the Judiciary and Public Administration, according to the article 103-A of the CF of 1988.

The Code of Civil Procedure of 1973 already acknowledged, albeit timidly, the force of precedents, but it was the reform of the Brazilian procedural law in 2015 that led the procedural culture of valuing precedents to its apex. The Code of Civil Procedure of 2015[6] assigned to judges and courts the legal duty of observance of a list of binding precedents[7], whose particularities will not be dealt with in this work, whose aim is to provide a brief clarification of selected concepts and their applicability in the Brazilian law.

In fact, the CCP of 2015 deals with several legal techniques, such as precedents, *súmulas* and distinguishing and overruling processes, without, however, making any distinction between them, which may cause some terminological confusion.

A precedent can be defined, in Câmara's words (2017, p. 367), as a "judicial decision, given in a prior case, which is used as the basis for the formation of another judicial decision, rendered in a subsequent case". At this point, it is worth noting that in common law, one who determines that a judicial decision is a precedent is the judge of the next case. In Brazilian law, the new procedural law already mentions which judicial decisions will have an effective binding precedent (CÂMARA, 2017, p. 377).

It is also important to note that only a certain part of the precedent has binding effectiveness. This is because the precedents are divided into two parts, the *ratio decidendi*, Latin expression that means "grounds for deciding" and *obiter dictum*, Latin expression that means "something said in passing" (TUCCI, 2004, p. 177). The *ratio decidendi* is the decisive foundation for the construction of the precedent and, therefore, it is the binding part of the decision. The *obiter dictum*, on the other hand, is not part of the central nucleus of the precedent and, therefore, have no binding efficacy, being endowed only with a persuasive character.

The new CCP also sets out the hypothesis where precedents may no longer be observed by judges and courts. However, the noncompliance with precedents must be tied to the use of distinguishing or overruling precedent techniques. In the first hypothesis, the judge must distinguish the precedent from the case that is sub judice, demonstrating that it is a situation whose outlines impose a different legal solution. In the second hypothesis, the judge must demonstrate that the precedent was surpassed due to the evolution of the society and/or the legal system and therefore it does not apply to the case that is sub judice.

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of at least 3 ministers are necessary to open the question". This definition of *Súmula* is presented by Kenneth Karst and Keith S. Rosenn in "Law and development in Latin America: A Case Book", 1975, p. 104.

[6] From now, the Code of Civil Procedure of 2015 will be mentioned throughout this article only as CCP of 2015.

[7] According to Article 927 of the CCP of 2015, the judges and courts will observe: the decisions of the Supreme Federal Court in concentrated control of constitutionality; the statements of binding *súmulas*; the decision in an incident of the assumption of competence or resolution of repetitive demands and in judgment of extraordinary and special repetitive resources; the statements of *súmulas* of the Supreme Federal Court in constitutional matter and of the Superior Court of Justice in infra constitutional matter; and the guidance of the plenary or special body to which they are attached.

Another technique widely used in the Brazilian legal system is the case law, which can be defined as a "set of judicial decisions handed down by the courts, establishing a consistent line of decisions on a given matter, allowing a understanding of how courts interpret a particular legal rule" (CÂMARA, 2017, p. 368).

When it comes to drawing a distinction between precedent and case law, Taruffo (2014, p. 141) explains that when referring to precedent, reference is made to a decision relating to a particular case, whereas when referring to caselaw, reference is made to a plurality of decisions relating to several sub judice cases. Thus, it can be concluded that a line of constant case law is based on the examination of a set of judicial decisions, and that each of these decisions can be considered, when analyzed individually, a precedent.

The Brazilian procedural law also determined that the courts should regulate their caselaw and maintain it in a stable, correct and coherent manner, as established in Article 296. Regarding the attributes of caselaw, some considerations deserve to be presented in this article. The stability of case law requires consistent and uniform lines of decisions on certain matters, which cannot be arbitrarily abandoned or modified so as to promote a fluctuation of legal doctrine and, consequently, compromise the principles of legal certainty, protection of trust and equality. The integrity of case law must be based on the history of decisions on a given matter. Therefore, the judge is required to respect everything that has been previously decided on the same matter in court.

Finally, the consistency of case law is based on equal treatment of similar cases. The legal duty of non-contradiction mitigates the multiplication of decisions made in a discretionary or arbitrary manner, since "it is not for the judge or court simply to opt for a decision that seems" better "or" fairer" (CÂMARA, 2017, p. 373).

Once a line of constant case law has been identified on a certain matter, the court that has signed it must issue a *súmula* statement, as established in Article 926, paragraph 1. The *súmula* statement, in its turn, consists of a summary of the dominant case law of a court, with explicit reference to the precedents that gave rise to it.

Even without detailing the whole system of precedents, we can observe the strong influence of common law and its techniques in Brazilian civil procedural law. Whilst there are contrary currents to the affirmation of the system of precedents, there is no doubt about the development of a culture of valuing precedents in Brazil.

Thus, we agree with Barroso (2018, p. 213) that the Brazilian system of precedents reinforced three essential values for the Judicial Branch: predictability, isonomy and efficiency. The legal duty of observance of a list of binding precedents already established by the courts increases the predictability of the law, guaranteeing greater legal certainty to the citizen. The application of the same solutions to similar cases reduces the production of conflicting decisions by the Judicial Branch and ensures that the same situation receives the same treatment, promoting isonomy. Finally, the respect for precedents allows the resources available to the judiciary to be optimized and used in a rational manner. If judges are obliged to follow the principles already developed by the courts, they will not waste time and other resources reconsidering problems that have already been resolved.

Although the system of precedents has been in force since 2015, it is still premature to conclude on its success. We believe that is a challenge for the Brazilian Judiciary and a great opportunity to strengthen the culture of valuing judicial precedents. The system of precedents will gradually be matured in the Brazilian civil procedural law, introduced into the routine of courts, judges, lawyers and citizens, and in parallel the difficulties and consequences of using common law institutes will arise.

Research and Study of Cooperative Law

Brazilian cooperative legislation has undergone an evolutionary process, of which the apex was Law 5.764/71, also known as the Cooperative Law[8]. That Law is the legal framework which regulates the National Cooperative Policy establishing the legal regime of cooperative societies. In addition to this law, other specific legislation was instituted with the purpose of regulating the legal relations established by certain cooperatives, such as Law 9.867/99, which deals with the creation and operation of social cooperatives; The Complementary Law 130/2009, which regulates the Credits Unions; and Law 12.690/2012, which deals with the organization and operation of work cooperatives.

The CF of 1988 upholds the cooperative movement in several articles with the purpose of assuring the autonomy of co-operative constitutions and operations and setting up mechanisms aimed at developing the cooperative movement. The Civil Code of 2002 also provides some aspects of cooperative societies, such as their characteristics and the legal nature of the responsibility of the cooperative members before the cooperative society.

Although Brazilian cooperative legislation establishes the specific rules of constitution, registration, organization, and dissolution of this peculiar societal model, it is not immune to the dynamic aspects of social and legal phenomena, as well as the other legal rules of Brazilian Law.

Therefore, we understand that the search for the solution of conflicts involving cooperatives will not be exhausted by cooperative legislation, since it is full of general and abstract commands that must be interpreted and applied by judges and courts. This arises from the interpretative techniques applicable to the legal rules, as established in the CF of 1988. In this context, judicial precedent conquered relevant space in the Brazilian legal system and created an impact on the cooperative movement as a tool for the research and study of Cooperative Law, as an autonomous branch of Law[9].

The advance of judicial precedents is also tied to the technological modernization of the Judicial Branch. The advent of globalization and the digital age, combined with the exponential increase in the judicialization of social conflicts and the facilitation of access to justice, have given rise to a new organizational culture in the Brazilian judicial structure.

With the purpose of seeking faster solutions and to unburden the courts, the Brazilian Judicial Branch has surrendered to the irreversible process of technological modernization. This understanding is further

[8] From now, the Law 5.764/1971 will be mentioned throughout this article only as Cooperative Law.
[9] See more at the references: ANDRIGHI, Fátima Nancy. 2003.

reinforced by the CCP of 2015 which requires the courts to carry out a wide dissemination of precedents, preferably through the internet, as established in Article 927, § 5.

For Tucci, disclosure of precedents is essential for lawyers to optimize the legal orientation of parties when there is a conflict of interests. For judges, "the science is indispensable so that they can respect the binding effectiveness of precedents, since without knowing them they will not be able to apply them to the sub judice cases" (TUCCI apud NEVES, 2017, 1408).

The technological modernization of the Judicial Branch allowed the development of tools for the research and study of Cooperative Law, through the virtual monitoring of judicial decisions that discuss Cooperative Law handed down in all the courts of the country by any interested party. The Brazilian cooperative movement has seen in these technological tools an opportunity to improve the mission of representation, defense, and promotion of cooperatives, which play a relevant role for the economic and social development of Brazil. We will describe, next, how the cooperative movement organizes itself to fulfill these skills.

The cooperative movement is represented by OCB System, composed of the Organization of Brazilian Cooperatives (OCB), National Confederation of Cooperatives (CNCoop) and National Cooperative Learning Service (Sescoop), each with a specific goal, but all focused on the development of cooperatives. The OCB was founded in 1969 at the Fourth Brazilian Cooperatives Congress to represent Brazilian cooperatives as required by Article 105 of the Cooperative Law.
The Sescoop was created only in 1999, with the purpose of education regarding the cooperative movement, social promotion and monitoring. Finally, in 2005, the CNCoop was created for union representation. The OCB System is represented throughout Brazil through its units which are present in each of the 27 states. These organizations contribute to the development of local cooperatives, which is often the only alternative method of income distribution, job creation and social inclusion in several municipalities.
According to data from the OCB System of 2016, there are more than 6.6 thousand cooperatives running in 13 branches of economic activities[10], which are developed in rural and urban environments and are transformed into products and services. Surpassing 13.2 million cooperative members, the Brazilian cooperatives also generate around 377 thousand formal jobs. In 2017, cooperative sales reached a total value of US$6.1 billion in 147 counties[11].

Among the actions carried out by the OCB System, addressed in this work are the use of binding precedents, and the monitoring and disclosure of judicial decisions to assist the Superior Courts. The Superior Courts have begun to use the elaboration of strategies of action as a tool within the system of binding precedents established by the CCP of 2015. Therefore, the new procedural law attributed binding effectiveness, vertical and horizontal, to the decisions passed by the Superior Courts set out in Article 927 and so ensured equality and legal certainty, according to the *stare decisis* doctrine derived from the common law. Through this tool, the OCB intensified its actions before the Judicial Branch in lawsuits, whose outcomes can affect the lives of millions of Brazilian cooperative members because of their binding effectiveness.

[10] The Brazilian cooperative movement is running in 13 economic sectors: agribusiness, consumer, credit, education, special, housing, infrastructure, mineral, production, healthcare, worker, transport, tourism, and leisure. OCB System. Available in: <http://www.ocb.org.br>. Access in: Aug 15, 2018.
[11] OCB System. Available in: <http://www.ocb.org.br>. Access in: Jun 24, 2018.

To exemplify this action, we can mention the participation of the OCB System in the judgment of the Brazilian Forest Code by the SFC, which was amended by Law 12.651/2012 and generated many debates and controversies in the Judicial Branch with the potential impact on agribusiness. To ensure that the legislative advances for the productive sector achieved by the new Forest Code did not lose effectiveness through its interpretation by the Judicial Branch, during the years 2016 and 2017, the OCB System monitored another thousand lawsuits, especially in the State Court of Justice of São Paulo and Minas Gerais. In addition, it served as *amicus curiae*[12] in four Direct Actions of Unconstitutionality (ADIs4901, 4902, 4903, and 4937) in progress in the SFC, in order to contribute to the understanding of the reality of thousands of families engaged in agribusiness. The SFC concluded the trial in 2018 with the declaration of constitutionality of most articles, maintaining the balance between protecting the environment and agribusiness[13].

Another example of institutional action is the defense of cooperative acts carried out by cooperative societies. The OCB System has acted as an *amicus curiae* in two lawsuits in the SFC (REs 672.215 and 597.315), in which judgments are still pending. The aim is to assist the ministers in the correct understanding of the concept of tax treatment appropriate to the cooperative act.

The importance of the OCB System's actions in these lawsuits with general repercussions lies in the binding power of the *ratio decidendi* of decisions, which will have an indiscriminate impact on all Brazilian cooperatives, since they will be applied to individual or collective processes that deal with similar matters, as well as to future cases, with the exception of the hypothesis of revision of the legal interpretation, as established in Article 986 of the CCP of 2015.

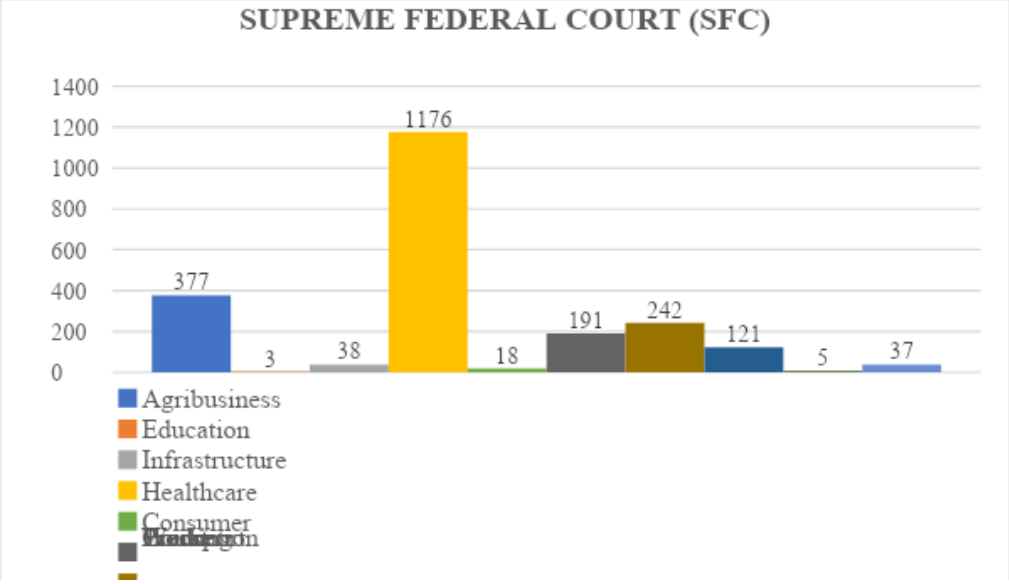
Regarding the monitoring and disclosure of judicial decisions carried out by the OCB, we believe that this work was only possible due to the technological modernization of the Brazilian judicial structure, since it allows the investigation of decisions in the Courts websites, from the combination of varied search criteria such as keywords, legislation, date of judgment and type of decision, for example.

In order to demonstrate this monitoring work carried out by the OCB System, we will present, in a series of graphs, relevant statistical data from researches conducted in the courts. The criteria applied in these surveys are restricted to the decisions collection, from June 2016 to June 2018, in two Superior Courts, SFC and Superior Court of Justice (SCJ)[14], and in allState Courts of Justice present in Brazil, using the "cooperative" keyword[15].
The studies carried out in the Superior Courts indicate that approximately 40.000 decisions were mapped out, of which 23.468 were analyzed, of which 2.208 were handed down in the SFC and 21.260 were

[12] As established in Article 138 of the CCP of 2015, the judge has power to admit the participation of *amicus curiae* in the process in order to assist the judge when there is relevance of the issue; the specificity of the issue raised in the lawsuit; and the social impact of the dispute.
[13] OCB System. Available in: <http://www.ocb.org.br/noticia/21018/stf-conclui-julgamento-do-novo-codigoflorestal>. Access in: Jun 24, 2018.
[14] From now, the Superior Court of Justice will be mentioned throughout this article only as SCJ.
[15] Brazilian Judiciary System: The Supreme Federal Court, highest judicial body in Brazil, with a seat in the Federal Capital, Brasília/Distrito Federal, has jurisdiction over the entire national territory. The Judicial Power is also composed by the following bodies: National Council of Justice; Superior Court of Justice; Federal Regional Courts and Federal Judges; Labor Court; Regional Labor Courts and Judges; Electoral Court; Regional Electoral Courts and Judges; Military Court; Military Courts and Judges; Courts and Judges of the States, the Federal District and the Territories. SFC. Available in:<http://www2.stf.jus.br/portalStfInternacional/cms/verPrincipal.php?idioma=en_us> Access in: Aug 19, 2018.

passed in the SCJ. Chart 1 presents the SFC figures, with emphasis on decisions involving cooperatives in the healthcare (1176), agribusiness (377) and credit (242).

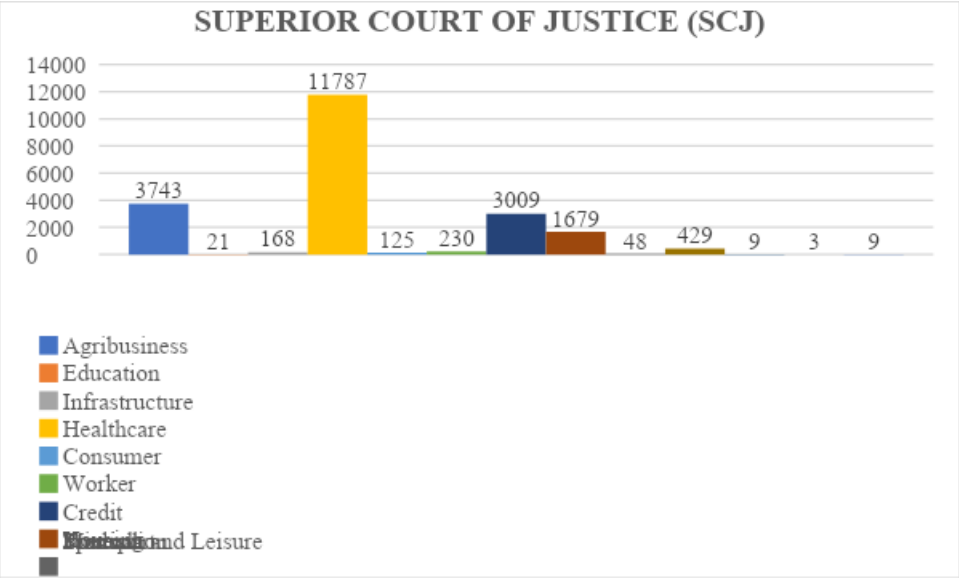
Chart 1: Figures of cooperatives in the SFC, from June 2016 to June 2018.



Source: OCB System, 2018

The SCJ ruled on matters involving cooperatives of all branches, with emphasis on the number of healthcare (11.787), agribusiness (3.743), credit (3.009) and housing (1.679), according to SCJ figures presented in Chart 2 below.

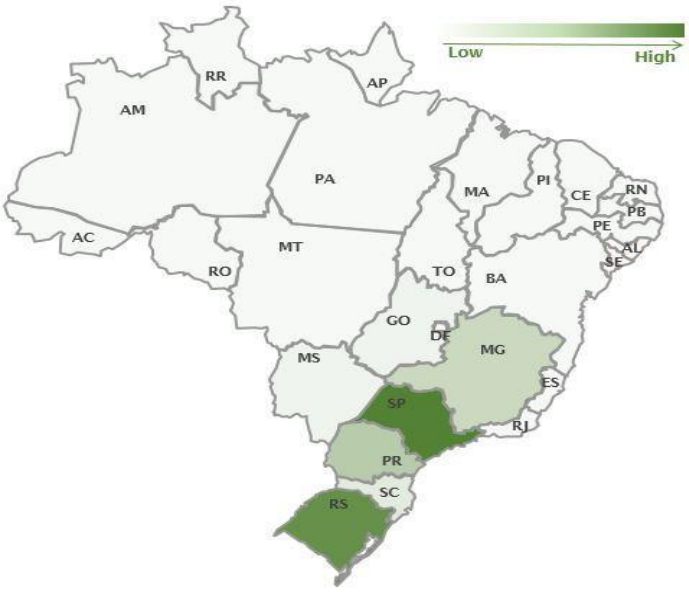
Chart 2: Figures of cooperatives in the SCJ, from June 2016 to June 2018.



Source: OCB System, 2018

The mapping carried out by the OCB System also covered about 80.000 decisions handed down in the State Courts of Justice, of which 2.617 were made available. In Chart 3, it is possible to verify which are the State Courts of Justice that most discuss matters involving cooperatives, with emphasis on São Paulo, Rio Grande do Sul, Paraná and Minas Gerais, which together amount to almost 70.000 decisions.

Chart 3: Cooperatives in the State Courts of Justice



	UF	DATE
1	BA	753
2	PE	387
3	ES	298
4	CE	734
5	RJ	850
6	SE	38
7	SP	26.390
8	AC	158
9	MA	33
10	RS	24.023
11	PA	284
12	GO	1.600
13	RO	156
14	MS	1.674
15	SC	3.716
16	RN	116
17	PR	10.272
18	DF	374
19	MG	7.330
20	PB	576
21	TO	486
22	AL	356
23	AM	362
24	PI	8
25	MT	241
26	AP	14
27	RR	163
TOTAL		**81.392**

Source: OCB System, 2018

In addition to statistical data, the work of monitoring and disclosure of judicial decisions carried out by the OCB System is broken down into other actions, including the identification of the main issues discussed in the courts involving cooperatives and the disclosure of decisions favorable to cooperatives through a newsletter called Cooperatives in the Courts.

From the information collected, we could identify that the most discussed issues in the Judicial Branch involve tax matters and corporate matters. These issues are often discussed because of the lack of knowledge of Cooperative Law by society and by the Judicial Branch itself.

This information is a real tool as it contributes to the drafting of action plans as well as the convergence of the organization's efforts to places and people who need legal and institutional assistance. They also allow the OCB System to act to ensure that the peculiarities of cooperative societies are understood and contemplated in the formulation of legislation and public policies.

The disclosure of favorable decisions to cooperatives through the newsletter Cooperatives in the Courts has been used as an important working tool and support for lawyers in the development of procedural strategies. Since 2016, the newsletter has issued more than 2.617 favorable decisions in cooperative lawsuits with the goal of informing advocates about the cooperative panorama in the Judicial Branch, allowing the anticipation of procedural strategies, due to the acknowledgment of the predominant understanding in the courts.

From the foregoing considerations, we believe that the procedural reform tied to the technological modernization of the Brazilian judicial structure contributes to the progress of research and study of Cooperative Law, creating opportunities to increase knowledge of, and influence by, the sector within the Judicial Branch through procedural and institutional action strategies.

Final considerations

From the perspective of Brazilian experience, this article aims to demonstrate that the use of judicial precedent as a tool for research and study of Cooperative Law was a logical consequence of the evolution of the legal reasoning of the traditional civil law and common law systems, which resulted in the approximation between these two systems.

The advent of constitutionalism and the spread of the doctrine of precedents and *stare decisis* of the common law tradition are factors that allowed the rapprochement between the traditions and the emergence of legal systems of a hybrid nature in several countries.

Although Brazil is affiliated with the civil law tradition, there is no doubt that the contemporary civil law judge resembles the common law judge when he interprets legal rules and fills gaps left by the Law's general and abstract commands so as to resolve a case that is sub judice.

The strong influence of the culture of valuing judicial precedents in the activity of contemporary jurisdiction resulted in the reform of the Brazilian procedural law and in the affirmation of a system of precedents, whose repercussion in the Brazilian scenario was intensified as a result of the process of technological modernization of the Brazilian judicial structure.

Considering this, the OCB System acts in favor of cooperatives using the judicial precedent as a tool for the research and study of Cooperative Law in the development of strategies of procedural and institutional action in pursuit of the strengthening of the cooperative movement in Brazil.

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