

Between Legal Authority and Epistemic Competence: A Case Study of the Brazilian Supreme Court

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Abstract : The objective of this paper is to analyze the role played by the institute of the public hearings in the Brazilian Supreme Court. The public hearings are regulated since 1999 by the Brazilian Laws nº 9.868, nº 9.882 and by the Intern Regiment of the Brazilian Supreme Court. According to this legislation, the public hearings are supposed to be called when a matter of circumstance of fact must be clarified, what can be done through the hearing of the testimonies of persons with expertise and authority in the theme related to the cause. This work aims to investigate what is the role played by the public hearings and by the experts in the Brazilian Supreme Court. The hypothesis of this research is that: (I) The public hearings in the Brazilian Supreme Court are used to uphold a rhetoric of a democratic legitimacy of the Court's decisions; (II) The Legislative intentions have been distorted. To test this hypothesis, the adopted methodology involves an empirical study of the Brazilian jurisprudence. As a conclusion, it follows that the public hearings convened by the Brazilian Supreme Court do not correspond, in practice, to the role assigned to them by the Congress since they do not serve properly to epistemic interests. The public hearings not only do not legitimate democratically the decisions, but also, do not properly clarify technical issues.

Keywords : Brazilian Supreme Court, constitutional law, public hearings, epistemic competence, legal authority

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