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# Public hearings and the dispute for symbolic and economic capital at the Brazilian Supreme Federal Court [1]

## *Audiências públicas e a disputa por capital simbólico e econômico no Supremo Tribunal Federal*

## *Audiencias públicas y la disputa por capital simbólico y económico en el Tribunal Supremo de Brasil*

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## Abstract

*This empirical research investigates the paradox of the persistent interest of civil society in the public hearings of the Brazilian Supreme Federal Court, despite consolidated evidence regarding their democratizing dysfunctions. The research problem focuses on understanding why professionals and institutions continue to seek participation in these events, considering that multiple academic studies have documented their ineffectiveness as a mechanism for democratizing constitutional jurisdiction. The justification lies in the need to comprehend the real motivations of participants, going beyond analyses that merely identify dysfunctions without explaining the persistence of social interest. The theoretical framework adopted is the critical and sociological thinking of Pierre Bourdieu on symbolic power and the functioning of the legal field. Methodologically, we employed content analysis of 79 academic studies on the subject, examination of procedural acts convening the hearings, and analysis of recurrent participation patterns among specific professionals. The development is structured into four stages: mapping the academic consensus on dysfunctions; critical reassessment of participants' motivations; empirical analysis of strategic conduct; and examination of the hearings as spaces of dispute for symbolic and economic capital. Our central hypothesis holds that the persistent interest stems from participants' recognition that these hearings represent valuable opportunities for the accumulation of symbolic and economic capital. The results demonstrate that the hearings function as professional showcases that provide prestige, national media visibility, and economic appreciation of professional activities. We conclude that civil society has strategically understood the real functions of these events, using them as instruments for professional projection within the legal field.*

**Keywords**: public hearings; Brazilian Supreme Court; civil society; strategic participation.

## *Resumo*

*Esta pesquisa empírica investiga o paradoxo do interesse persistente da sociedade civil nas audiências públicas do Supremo Tribunal Federal, mesmo diante de evidências consolidadas sobre suas disfuncionalidades democratizantes. O problema de pesquisa centra-se na compreensão de por que profissionais e instituições continuam postulando a participação nesses eventos, considerando que múltiplas pesquisas acadêmicas documentaram sua ineficácia como mecanismo de democratização da jurisdição constitucional. A justificativa reside na necessidade de compreender as motivações reais dos participantes, superando análises que se limitam a constatar disfuncionalidades sem explicar a manutenção do interesse social. Adota-se, como marco teórico, o pensamento crítico e sociológico de Pierre Bourdieu sobre o poder simbólico e o funcionamento do campo jurídico. Metodologicamente, utilizamos análise de conteúdo de 79 pesquisas acadêmicas sobre o tema, exame de atos processuais de convocação de audiências e análise de padrões de participação recorrente de profissionais específicos. O desenvolvimento estrutura-se em quatro etapas: mapeamento do consenso acadêmico sobre disfuncionalidades; reavaliação crítica das motivações dos participantes; análise empírica da atuação estratégica; e exame das audiências como espaços de disputa por capital simbólico e econômico. Nossa hipótese central sustenta que o interesse persistente decorre do reconhecimento pelos participantes de que as audiências constituem oportunidades valiosas para acúmulo de capital simbólico e econômico. Os resultados demonstram que as audiências funcionam como vitrines profissionais que proporcionam prestígio, visibilidade midiática nacional e valorização econômica das atividades profissionais. Concluímos que a sociedade civil compreendeu estrategicamente as funções reais desses eventos, utilizando-os como instrumentos de projeção profissional no campo jurídico.*

***Palavras-chave:*** *audiências públicas; Supremo Tribunal Federal; sociedade civil; participação estratégica.*

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***Resumen***

*Esta investigación empírica analiza el paradigma del interés persistente de la sociedad civil en las audiencias públicas de la Corte Suprema Federal, incluso ante evidencia consolidada sobre sus disfuncionalidades como instrumentos democratizantes. El problema de investigación se centra en comprender por qué profesionales e instituciones continúan solicitando participar en estos eventos, considerando que múltiples estudios académicos han documentado su ineficacia como mecanismo de democratización de la jurisdicción constitucional. La justificación se basa en la necesidad de comprender las motivaciones reales de los participantes, superando análisis que se limitan a constatar disfuncionalidades sin explicar el mantenimiento del interés social. Se adopta, como marco teórico, el pensamiento crítico y sociológico de Pierre Bourdieu, especialmente su noción de poder simbólico y del funcionamiento del campo jurídico. Metodológicamente, se utiliza análisis de contenido de 79 investigaciones académicas sobre el tema, examen de actos procesales de convocatoria de audiencias y análisis de los patrones de participación recurrente de determinados profesionales. El desarrollo se estructura en cuatro etapas: mapeo del consenso académico sobre las disfuncionalidades; reevaluación crítica de las motivaciones de los participantes; análisis empírico de la actuación estratégica; y examen de las audiencias como espacios de disputa por capital simbólico y económico. Nuestra hipótesis central sostiene que el interés persistente se debe al reconocimiento, por parte de los participantes, de que las audiencias constituyen oportunidades valiosas para acumular capital simbólico y económico. Los resultados demuestran que las audiencias funcionan como vitrinas profesionales que otorgan prestigio, visibilidad mediática nacional y valorización económica de las actividades profesionales. Concluimos que la sociedad civil ha comprendido estratégicamente las funciones reales de estos eventos, utilizándolos como instrumentos de proyección profesional en el campo jurídico.*

***Palabras clave:*** *audiencias públicas; Corte Suprema Federal; sociedad civil; participación estratégica.*

## 1 Introduction

Established academic research has systematically revealed the dysfunctions of public hearings held by the Brazilian Supreme Federal Court (STF). These studies identify recurring issues: low attendance by justices at the events; absence of effective interaction between participants and judges; limited consideration of the material produced in subsequent deliberations; and the merely procedural use of the information presented.

Given this scenario of dysfunctions widely documented in academic literature, a paradoxical question arises: why does civil society remain interested in participating in these events? Paradoxically, in recent years, public interest in the hearings has increased. This is demonstrated by the actions of justices when they convene hearings and subsequently decide on the admission of participants and the denial of the requests made. The growing number of applications to participate reveals a phenomenon that merits in-depth empirical investigation.

Our central hypothesis is that the persistent interest of civil society in public hearings does not arise from a naive belief in the officially proclaimed purposes. On the contrary, we argue that participants have strategically understood the true function of these events. Public hearings constitute valuable opportunities for the accumulation of symbolic and economic capital by the professionals involved, using as a theoretical framework the critical and sociological thought of Pierre Bourdieu (2011) in “The Symbolic Power”.

This article empirically investigates how public hearings operate as professional showcases. They provide prestige, national media visibility, direct access to decision-makers, and economic appreciation of participants’ professional activities. Civil society has come to understand that these events represent strategic instruments for professional projection and accumulation of symbolic power in the legal field.

The legal field establishes a clear demarcation between those who master the necessary codes to engage in the specialized discursive contest and laypersons, who are systematically excluded from this realm due to the lack of technical knowledge essential to decode legal language. This division not only sets a hierarchy of competencies but also configures two distinct and conflicting worlds, where the power to interpret and apply the law becomes the privilege of a specific professional category (Bourdieu, 2011, p. 236).

The opacity inherent to traditional legal knowledge generates cognitive and value structures that operate through a conceptual grammar inaccessible to the uninitiated, thereby consolidating exclusive control over the elaboration and commercial distribution of this particular symbolic asset represented by legal services. Such a mechanism of exclusion not only preserves the interpretative authority of the legal field but continuously reproduces the conditions of its own legitimacy through the deliberate maintenance of this linguistic and cultural barrier (Bourdieu, 2011, p. 243).

The research is structured into four methodological stages. The first maps the academic consensus regarding the dysfunctions of public hearings, systematizing established critiques in the scientific literature. The second stage critically reassesses participants’ motivations, moving beyond analyses that merely point out problems without explaining the sustained social interest. The third stage develops an empirical analysis of the participants’ strategic conduct, investigating how hearings are used for professional projection. The fourth examines the hearings as arenas of symbolic capital competition within the legal field.

## 2 State of the art: academic consensus on the dysfunctions of public hearings

To understand the paradox of the persistent interest of civil society in public hearings, it is necessary first to map the academic consensus on their dysfunctions. To this end, we gathered 79 academic studies[2] on public hearings at the STF, found in major repositories of theses and dissertations. The collection included works from Google Scholar, the Brazilian Digital Library of Theses and Dissertations, the Capes Theses and Dissertations Catalog, the Capes Journals Portal, and Scielo.

Between 2007 and 2022, 12 doctoral theses[3], 26 master's dissertations[4], and 41 scientific articles and book chapters on the topic were produced[5]. This significant volume of research allows for a precise mapping of the consolidated academic diagnosis regarding public hearings.

Within these studies, two major research currents can be identified[6]. The first, more normative, views public hearings as an effective mechanism for procedural openness of the Court. According to this current, dialogue with civil society has been productive for improving the moment of constitutional deliberation.

Defending public hearings as a tool for opening constitutional jurisdiction, works by Ruas (2007); Gonçalves (2008); Vale and Mendes (2009)[7]; Silva (2010); Moraes (2011); Neto (2012); Queiroz (2012); Costa (2013); Dantas (2014); Santos (2016); Amorim and Oliveira (2017); Lulia and Domingues (2018); and Burlamaqui (2019) stand out[8].

This normative current is grounded in theoretical assumptions about the democratizing potential of social participation, often relying on conceptual frameworks from deliberative democratic theory. These studies tend to evaluate public hearings based on their stated purposes, adopting ideal criteria of democratic functioning without necessarily subjecting those premises to systematic empirical verification.

Another current, with an empirical focus, understands that there are significant dysfunctions concerning what is expected of public hearings. This second current produces more realistic interpretations of the phenomenon, recognizing the practical limits of its adoption. That is, under the discourse of fostering civil society participation in the Court's deliberations, these studies detect dysfunctions relative to what is expected from public hearings[9].

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2 Monographs for the completion of undergraduate or lato sensu postgraduate studies were not included in the inventory, as they are academic studies with the purpose, as a rule, of a mere bibliographic review.

3 In ascending chronological order: Moreira (2011); Queiroz (2012); Santos (2013); Bonfim (2014); Godoy (2015); Nogueira (2015); Rocha (2016); Duarte (2017); Oliveira (2017); Pereira (2018); Sales Thiago (2019); e Falavinha (2020).

4 In ascending chronological order: Ruas (2007); Gonçalves (2008); Suptitz (2008); Guimarães (2009); Espíndula (2010); Silva (2010); Vestena (2010); Almeida (2011); Moraes (2011); Carvalho (2012); Leitão (2012); Lima (2013); Backes (2014); Dantas (2014); Fogaça (2014); Leite (2014); Oliveira (2014); Reis (2014); Andrade (2015); Duarte (2016); Duarte (2016); Silva (2016); Ferreira (2016); Maia (2017); Victor (2017); e Silva (2019).

5 In ascending chronological order: Medeiros (2007); Gonçalves (2008); Vale e Mendes (2009); Santos (2009/2010); Lira (2011); Vieira e Corrêa (2011); Neto (2012); Ajouz e Silva (2013); Barbosa e Pamplona (2013); Costa (2013); Lisbôa (2013); Medina e Freire (2013); Mendes e Mendes (2013); Cardoso (2014); Lacombe, Legale e Johann (2014); Leal (2014); Bravo (2015); Filho (2015); Leal (2015); Oliveira e Silva (2015); Tushnet (2015); Santos (2016); Amorim e Oliveira (2017); Marona e Rocha (2017); Sombra (2017); Leal, Herdy e Massadas (2018); Lulia e Domingues (2018); Pinhão (2018); Burlamaqui (2019); Camargo, Andrade e Burlamaqui (2019); Nunes (2019); Correa, Borges e Pinhão (2019); Gouvêa e Dantas (2019); Feitosa e Pimentel (2020); Freitas Paulo (2020); Guimarães (2020); Maia e Rocha (2020); Pinto (2020); Siqueira, Ramiro e Castro (2020); Robert e Menezes (2021); e Pereira e Fortes (2022).

6 The proposed division into two large groups of research was intended to facilitate understanding of the academic debate on the topic of public hearings at the STF. However, this does not prevent other classifications from being made, especially since, from this universe of works that was collected, some works communicate with these two large currents. Even so, when organizing this bibliography, seeking the essential proposal of each author of the research, it seemed to us that there are scholars who believe that public hearings would be improving the deliberative model of the Supreme Federal Court, while other researchers would be more attentive to the defects perceived in the institutional practice of the Court when it convenes and holds these events.

7 It is worth clarifying that Gilmar Mendes is, at the same time, a producing agent of the process, due to his position as minister, and an external agent who understands the process, considering that he is also a professor and researcher.

8 In the same sense, the following academic researches are listed in ascending chronological order: Medeiros (2007); Espíndula (2010); Almeida (2011); Lira (2011); Moreira (2011); Carvalho (2012); Leitão (2012); Barbosa e Pamplona (2013); Mendes e Mendes (2013); Santos (2013); Bonfim (2014); Cardoso (2014); Fogaça (2014); Lacombe, Legale e Johann (2014); Leal (2014); Oliveira (2014); Oliveira e Silva (2015); Nogueira (2015); Tushnet (2015); Maia (2017); Oliveira (2017); Victor (2017); Pereira (2018); Camargo, Andrade e Burlamaqui (2019); Maia Rocha (2020); e Pereira e Fortes (2022).

9 There is a small group, composed of 3 (three) academic studies, that bring a different approach from the others. These are the studies produced by Carvalho (2012); Siqueira, Ramiro and Castro (2020); and Guimarães (2020), which see the exercise of lobbying in public hearings. Carvalho (2012, p. 135-137), for example, understands that lobbying in public hearings held by the STF contributes to the expansion of public debate around constitutional matters, improving the social control of the Court and making public the social forces with interests in the matter debated, publicizing the arguments of pressure groups, allowing the STF to critically evaluate this action. Carvalho (2012), for us, is part of the group of studies that defends public hearings as an efficient mechanism for procedural openness of the Supreme Court. On the other hand, Guimarães (2020, p. 264-265) understands that public hearings have served as a space for the strategic action of the actors involved, and that the exercise of lobbying in itself is not negative for constitutional jurisdiction, but that it needs to be better clarified for the participants and for society in general. According to the author, the mode of access, admission and organization structure of the hearings needs to be improved, otherwise the negative results of lobbying exercised in the Legislative Branch will also be present in these public hearings convened by the STF. A similar conclusion was reached by Siqueira, Ramiro and Castro (2020). These last two studies, in our view, are part of the group of studies that support dysfunctionalities of public hearings based on empirical diagnosis.

This empirical approach adopts methodologies of direct observation of institutional phenomena, privileging the analysis of concrete results over proclaimed intentions. This methodological approach makes it possible to identify significant discrepancies between official objectives and the actual functioning of the hearings, revealing institutional dynamics that remain invisible when the analysis is limited to normative aspects.

Detecting problems in the public hearings held by the STF, studies by Supititz (2008); Guimarães (2009); Santos (2009/2010); Vestena (2010); Medina and Freire (2013); Backes (2014); Leite (2014); Leal (2015); Godoy (2015); Fragale Filho (2015); Duarte (2016); Silva (2016); Marona and Rocha (2017); Sombra (2017); Leal, Herdy and Massadas (2018); Sales Thiago (2019); Feitosa and Pimentel (2020); Falavinha (2020); and Robert and Menezes (2021) appear[10].

Despite numerous academic studies normatively arguing that public hearings at the Supreme Federal Court would be serving the democratizing purpose of constitutional jurisdiction, empirical research that has focused on examining this legal phenomenon has shown a different reality.

Fontanhia and Santos (2019, p. 285-286) argue that the importance of studies on judicial institutions lies in deconstructing the idea - very peculiar to law - that these institutions have life. Behind this conception, according to the authors (2019, p. 287), research with this focus identifies institutional changes, in relation to social transformations, through understanding the behavior of those who participate in this social practice.

Empirical research has consolidated four main diagnoses on the dysfunctionalities of public hearings, as shown in the table below:

**Table 1.** Academic consensus on dysfunctionalities of public hearings

| Identified dysfunctionalities | Description | Authors of academic research |
|---|---|---|
| Discretionary methodology | There are no objective criteria for convening, selecting participants and conducting the work[11]. | Santos (2009/2010); Backes (2014); Leite (2014); Andrade (2015); Duarte (2016); Silva (2016); Duarte (2017); Marona e Rocha (2017); Leal, Herdy e Massadas (2018); Nunes (2019); Gouvêa e Dantas (2019); Sales Thiago (2019); Falavinha (2020); Freitas Paulo (2020); Guimarães (2020); Siqueira, Ramiro e Castro (2020)[12]; |
| Low attendance of ministers | Only the rapporteur attends in full; other ministers are sporadically present. | Santos (2009/2010); Vestena (2010); Backes (2014); Leite(2014); Andrade (2015); Godoy (2015); Silva (2016); Leal, Herdy e Massadas (2018); Sales Thiago (2019); Siqueira, Ramiro e Castro (2020)[13]; |
| Absence of effective debate | Ritualistic events without significant interaction between participants and ministers[14]. | Supititz (2008); Santos (2009/2010); Backes (2014); Andrade (2015); Cavasin Leandro (2015); Godoy (2015); Duarte (2016); Duarte (2016); Duarte (2017); Marona e Rocha (2017); Leal, Herdy e Massadas (2018); Sales Thiago (2019); Pinto (2020); Freitas Paulo (2020); Feitosa e Pimentel (2020); Siqueira, Ramiro e Castro (2020); Robert e Menezes (2021)[15]; |
| Little consideration of content | Material produced in hearings rarely influences subsequent decisions. | Supititz (2008); Vestena (2010); Vieira e Corrêa (2011); Medina e Freire (2013); Backes (2014); Leite (2014); Andrade (2015); Cavasin Leandro (2015); Godoy (2015); Duarte (2016); Silva (2016); Sombra (2017); Leal, Herdy e Massadas (2018); Gouvêa e Dantas (2019); Sales Thiago (2019); Falavinha (2020); Freitas Paulo (2020); Feitosa e Pimentel (2020)[16]; |

Source: State of the art research. Prepared by the author.

[10] The following academic researches are also in the same sense: Vieira and Corrêa (2011); Ajouz and Silva (2013); Lima (2013); Lisbon (2013); Reis (2014); Leandro (2015); Bravo (2015); Andrade (2015); Rocha (2016); Duarte (2016); Duarte (2017); Ferreira (2017); Pinhão (2018); Nunes (2019); Silva (2019); Gouvêa and Dantas (2019); Corrêa, Borges and Pinhão (2019); Pinto (2020); Freitas Paulo (2020); Guimarães (2020); and Siqueira, Ramiro and Castro (2020).

[11] Included in this description, which reveals a discretionary action by the rapporteur who calls the public hearing, is also the observation of constant selectivity (perhaps elitist) in the criteria for admitting participants. In this sense, there are studies by Supititz (2008); Santos (2009/2010); Lima (2013) and Andrade (2015). When examining the phenomenon of dialogical constitutionalism, specifically the case of public hearings called by Supreme Courts in Latin America, Gargarella (2013) denounced this elitism, arguing that, despite the fact that dialogical solutions are imbued with an ideal of deliberative democracy that dampens much of the criticism about the defense of judicial supremacy, in practice, far from being naive, these hearings promote dialogue between elites, ultimately resulting in typical instances of judicial decisionism.

[12] This problem, detected in the discretionary methodology, was reproduced in 16 academic studies over a period of 11 years.

[13] This focus on the low presence of ministers was also reproduced in 11 academic studies over a period of 11 years.

[14] Santos (2009; 2010) noticed this excess of formalism and found that the environment, which was anything but spontaneous, distanced the event precisely from the idea that Minister Gilmar officially supported in his vote in ADI 3510/DF, that the STF would, in fact, be “a house of the people, just like parliament”.

[15] Over the course of 13 years, the problem of the lack of effective debate was repeated in no less than 17 academic studies.

[16] The problem of little consideration given to the content produced in public hearings was reproduced in 18 studies over 12 years.

An important finding is that, even among empirical research with a critical bias, there was a successive reproduction of the same academic questions. These had already been answered by previous studies, with similar conclusions, showing the persistence of the situation over more than a decade.

In any case, what drew the most attention was that, in the period from 2018 to 2020, studies were published arguing that public hearings had brought the STF and the Judiciary itself closer to society, despite the existence of empirical data consolidated over the years to the contrary[17].

The temporal persistence of these dysfunctions, documented over more than a decade of research, suggests that they are structural characteristics of the mechanism, not circumstantial deviations that can be corrected through minor procedural adjustments.

As if that were not enough, this academic consensus on the dysfunctions makes the phenomenon we investigated even more intriguing. If the empirical evidence is so clear about the democratizing ineffectiveness of public hearings, why has civil society's interest not diminished? Why, on the contrary, has it increased significantly?

Between 2009 and 2020, for example, the number of participations admitted increased substantially. In public hearing No. 4 (Brazil, 2009), on the judicialization of health, 36 participations were admitted (Brazil, 2009). In public hearing nº 30, on climate change, 62 participations were admitted (Brazil, 2020).

The answer to this question requires a critical reassessment of the real motivations of the participants. Our hypothesis is that civil society has understood that public hearings, regardless of their official purposes, offer valuable opportunities for accumulating symbolic and economic capital.

## 3 Critical reassessment: the true motivations of the participants

Several empirical studies previously referenced herein conclude that public hearings have not adequately broadened democratic participation in the Supreme Federal Court's deliberative processes, resulting in a scenario of frustration with the use of this mechanism. We therefore propose a critical reassessment aimed at deconstructing the ideal that such hearings were implemented to democratize constitutional jurisdiction.

A critical reassessment of public hearings requires examining not only their official purposes but also their practical functions for the different actors involved. While the academic literature has focused on dysfunctions from the perspective of democratizing constitutional jurisdiction, little attention has been paid to the incentives that sustain civil society's interest.

Accordingly, we propose that a critical reassessment of public hearings is necessary to rethink the idea that they function — or could function — as a democratic mechanism for procedural pluralization of constitutional jurisdiction, since it helps uncover an objective reality that we deem essential to understanding the phenomenon under study[18].

STF public hearings currently reach a national audience through full broadcasts on TV Justiça and major social media platforms. Occupying such a space means gaining visibility in a privileged forum, providing personal and professional prestige to the speaker.

This visibility is not merely symbolic. It translates into tangible economic capital. Professionals participating in hearings add economic value to their professional activities. As professional showcases, hearings increase the interest of organizations and institutions in the involvement of these professionals in events of all kinds.

Sessions and hearings at the Brazilian Supreme Court represent the apex of visibility in the national legal field. Participation entails entering a space of maximum symbolic power, with long-term repercussions for the professional careers of those involved.

Empirical analysis reveals significant patterns of recurrent participation that corroborate our hypothesis regarding the strategic motivations of participants.

Débora Diniz took part in five STF public hearings: nº 1 (embryonic stem cells) (Brazil, 2007); nº 3 (termination of pregnancy in cases of anencephaly) (Brazil, 2009); nº 4 (judicialization of health) (Brazil, 2009); nº 17 (religious education in public schools) (Brazil, 2015); and no. 23 (voluntary interruption of pregnancy) (Brazil, 2018).

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17 In this sense, there are researches published by Lulia and Domingues (2018); Burlamaqui (2019); and Maia and Rocha (2020).

18 A study on the behavior of amicus curiae at the US Supreme Court found that lawyers specializing in constitutional jurisdiction currently actively coordinate which cases should reach the court and which third-party voices should be heard, commissioning briefs from allied professionals. This phenomenon is referred to by the authors of the study as the "amicus machine." See Larsen and Devins (2016) in the article entitled "The Amicus Machine." In Italy, observing the behavior of the Italian Constitutional Court, which recently adopted social listening mechanisms following a procedural reform that took place in 2020, the author Massimo Luciani (2020) assesses that this change still leaves many doubts due to the dysfunctions he points out, including the lack of clear criteria on who can be an amicus and how to ensure that external participation enriches the legal debate.

Daniel Sarmento participated seven times as a speaker: nº 1 (embryonic stem cells) (Brazil, 2007); nº 5 (affirmative action in higher education) (Brazil, 2010); nº 12 (campaign financing) (Brazil, 2013); nº 17 (religious education) (Brazil, 2015); nº 32 (reduction of police lethality) (Brazil, 2021); and nº 33 (prison monitoring) (Brazil, 2021).

Oscar Vilhena Vieira participated in four public hearings: nº 1 (embryonic stem cells) (Brazil, 2007); nº 5 (affirmative action) (Brazil, 2010); nº 12 (campaign financing) (Brazil, 2013); and nº 17 (religious education) (Brazil, 2015).

This recurrence is not incidental. It indicates that certain professionals have understood the strategic value of these spaces. Repeated participation suggests that the benefits obtained — in terms of symbolic and economic capital — justify the investment of time and resources required.

Those admitted to participate in hearings accumulate specific symbolic capital by establishing proximity with the Court. This proximity manifests in several concrete ways: (i) direct access to justices' chambers, where professionals may present briefs and establish privileged communication channels; (ii) interaction with technical teams, creating institutional relationship networks; (iii) access to academic meetings, formal dinners, and charitable events where ideas can be shared with decision-makers; and (iv) influence over specific interests, by defending causes in privileged informal contexts.

Although these practices may be lawful, legitimate, and republican, they enhance symbolic capital and influence. They are concrete incentives for participation in public hearings, regardless of their democratizing effectiveness.

Participation in STF hearings thus reveals and reproduces significant asymmetries in the legal field. Retired Supreme Court justices, now practicing lawyers, also appear as speakers, leveraging their previously accumulated symbolic capital.

At the hearing on campaign financing, Carlos Ayres Britto and Carlos Mário Velloso were heard (Brazil, 2013). Both were presented as ministers, not as lawyers, despite advocating for specific interests. This highlights the high degree of symbolic power asymmetry in the field and raises concerns about the procedural parity of representation[19].

The phenomenon of symbolic asymmetry in public hearings is also evident in the socioprofessional composition of admitted speakers. A quantitative analysis of their professional profiles reveals a significant concentration in categories with high cultural capital: university professors from prestigious institutions, lawyers from large firms, representatives of well-structured NGOs, and former public officeholders. This sharply contrasts with the underrepresentation or absence of less prestigious professional categories, grassroots popular organizations, and social movements lacking formal institutional structures.

The selectivity in the admission of participants operates through apparently technical criteria - professional qualifications, thematic expertise, capacity for substantive contribution - which, in practice, function as mechanisms for reproducing pre-existing social hierarchies. The selection filters systematically favor actors who already have cultural capital legitimized by the academic and legal fields, perpetuating exclusions that the mechanism is supposed to overcome. In this sense, public hearings may be functioning as spaces for the democratic legitimization of decisions that, in reality, reproduce the same logics of power that characterize other instances in the legal field.

The perpetuation of these asymmetries becomes particularly relevant when we consider that public hearings are often presented as democratizing innovations in Brazilian constitutional jurisdiction. The contrast between the official discourse of participatory openness and the empirical reality of elitist selectivity highlights contradictions that deserve in-depth critical analysis, especially considering that these dynamics may be contributing to the symbolic legitimization of institutional practices that, in essence, preserve traditional structures of political exclusion.

Thus, public hearings, far from democratizing access to the Court, may be reproducing and legitimizing preexisting hierarchies in the legal field. The same actors who already enjoyed prestige use these spaces to further expand it.

The process of hierarchical differentiation in the legal field establishes what Bourdieu (2011, 226, 232-233) calls "legal sense," a mechanism by which certain professional actors obtain legitimacy, through acquired expertise, to enter and work in this specialized space. These professionals dedicate themselves to the development and marketing of products and the provision of legal services, establishing a competitive dynamic of an interpretative nature that generates distinct professional categories. Among these, academics stand out, whose attention is predominantly focused on hermeneutic elaborations of a theoretical nature, and legal practitioners, whose focus is on issues of immediate practical application.

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[19] It is worth noting that both were presented as ministers, not as lawyers. Although they were in that space legitimately defending interests and substantive positions, this fact reveals the high asymmetry of symbolic power in the field and raises questions about the procedural parity of representation.

At the center of this hierarchical structure, judges occupy a particularly important position within the system, since their interpretative decisions acquire concrete effectiveness in social reality. This centrality grants them a significant margin of autonomy in the exercise of the specific legal authority they have for the interpretation of normative texts. Such autonomy enables genuine creative activity in the decision-making process, an activity that inevitably preserves components of discretion and arbitrariness inherent in the interpretative act.

The actual content of the legal norm, as manifested at the time of the judicial decision, results from a symbolic dispute between professionals who possess technical skills and social capital in unequal measures. Each of these actors, according to their capacity for influence, mobilizes and articulates the legal instruments and resources available in the system, strategically exploring the existing normative possibilities. In this process, they transform legal rules into symbolic instruments of power, using them as an argumentative arsenal designed to ensure the success of their respective positions in the interpretative clashes that characterize forensic practice and statements in public hearings. (Bourdieu, 2011, p. 234).

## 4 Empirical evidence of strategic behavior

The recognition that strategic behavior occurs in public hearings is not new in the academic literature. Guimarães[20] (2020, p. 239), for instance, demonstrated the presence of lobbying practices within STF hearings and acknowledged that justices behave strategically in relation to other branches of government, civil society, and their fellow justices.

She notes that both the Court and external actors engage strategically around public policy matters. For Guimarães, such strategic conduct—both by the STF and civil society—takes place within the broader context of the Judiciary's expansive role in interpreting rights and public policies.

Justices act strategically within legal parameters, drawing upon open-ended norms and constitutional principles. Similarly, external actors pursue these forums in compliance with procedural rules, but with objectives that go beyond the hearings' official purposes.

Our hypothesis, however, differs. The interest in participating in public hearings is justified by the fact that expert professionals accumulate tangible power and symbolic capital. More importantly, these benefits translate into concrete economic value for their professional activities.

Professionals who have participated in STF public hearings are able to charge higher fees for consultations, using such participation as a competitive credential.

Likewise, attorneys who have taken part in hearings can justify elevated fees based on this experience. Participation also facilitates academic publication, invitations to serve on examination boards, and paid speaking engagements.

Organizations seek out professionals with STF hearing experience to represent them in high-profile legal matters.

The hearings function as professional showcases that boost institutional interest in having these individuals involved in various events. This transcends the specifics of legal practice, creating a "virtuous" cycle of economic valorization.

In our research, we found no reports of prominent scholars invited by the STF ever declining to participate in public hearings. This occurs despite widespread awareness of the dysfunctions extensively documented in academic studies.

This universal acceptance of invitations reinforces our hypothesis. Professionals understand that, regardless of the hearings' democratizing effectiveness, they offer tangible benefits in terms of symbolic and economic capital.

The absence of public refusals or open criticism of the mechanism by potential participants suggests a tacit understanding of the value of these spaces. Even those who academically criticize public hearings do not refuse participation when invited.

Some specific cases illustrate how public hearings are strategically utilized by participants.

At hearing nº 1, which addressed embryonic stem cell research (Brazil, 2007), professionals from different fields capitalized on the topic's high media resonance to establish themselves as national authorities in the bioethics debate.

[20] It is worth noting that Lívia Gil Guimarães participated as a speaker at the 23rd public hearing called to debate a woman's right to have an abortion in the first three months of pregnancy. She participated in the hearing as a representative of the Center for Legal Practice in Human Rights at USP (Brazil, 2018).

In hearing nº 12, on campaign financing (Brazil, 2013), the participation of former STF justices acting as attorneys demonstrated how symbolic capital accrued in the judiciary is converted into advantages in legal practice.

At hearing nº 23, on voluntary interruption of pregnancy (Brazil, 2018), the polarized nature of the subject ensured maximum media exposure for participants, projecting them nationally in their respective areas of activity.

These cases show how socially resonant topics are strategically leveraged by participants to maximize symbolic and economic gains.

The analysis of these specific cases reveals recurring strategic patterns in how participants use public hearings. There is a clear tendency for professionals to specialize in topics that guarantee greater media visibility and social resonance, building academic and professional careers around such areas of expertise. This strategic specialization allows the same actors to be systematically invited whenever relevant topics emerge in public debate, consolidating their status as national references in their fields.

Moreover, participation in highly visible hearings often serves as a launchpad for other professional engagements. Those who distinguish themselves in these forums frequently receive invitations to join government commissions, legislative working groups, advisory councils, and other influential spaces. This dynamic creates a feedback loop where participation in hearings generates additional opportunities to accumulate symbolic capital, which in turn facilitates future participation.

Another relevant aspect is the use of hearings as laboratories for testing arguments and discursive strategies that are later employed in other public debate arenas. Speakers use national visibility to solidify their theoretical and political positions, relying on the prestige of the Supreme Court to legitimize their particular perspectives on controversial constitutional issues. This strategic instrumentalization of hearings goes beyond the official objective of informing judicial decisions, becoming a tool for constructing intellectual and political leadership on nationally relevant topics.

## 5 Public hearings as arenas for symbolic and economic capital disputes

Following Bourdieu's (2011) theoretical perspective on symbolic power, public hearings can be understood as arenas of prestige dispute within the legal field. Participants are not merely seeking to influence the Court's decisions—they are accumulating symbolic capital that translates into lasting professional advantages.

The legal field, like any social field in Bourdieu (2011, p. 220), is characterized by struggles for positions of prestige and power. STF public hearings represent the apex of this symbolic hierarchy, functioning as spaces where symbolic capital is both displayed and accumulated.

The prestige of having participated in STF hearings transcends the specific event. It becomes a lasting credential that enhances one's professional standing in various dimensions: academic, legal practice, consulting, and media. It is a differentiator that persists throughout a professional's career.

Thus, public hearings may paradoxically contribute to the reproduction of legal field hierarchies rather than democratizing them. The same prestigious professionals and institutions that already held symbolic capital use hearings to expand it further. Those who already possess prestige gain easier access to hearings, which in turn enhance their prestige, thereby facilitating future participation.

Conversely, professionals without prior symbolic capital face greater difficulty in being selected as participants, perpetuating exclusion. One notable example was the exclusion of Indigenous representatives from hearing nº 17 on religious education in public schools—despite Minister Barroso's stated intent to promote broader popular participation (Brazil, 2015, p. 69).

A relatively small number of professionals participate repeatedly, concentrating both symbolic and economic benefits.

The segment of civil society that remains engaged in hearings is predominantly composed of actors who already hold significant symbolic capital, which severely limits the democratizing capacity of the mechanism.

The concentration of participations in a relatively narrow group of professionals evidences the formation of a specialized elite in public hearings, a phenomenon that warrants in-depth sociological analysis. These "hearing specialists" develop specific competencies suited to these spaces: they master the communication codes appropriate to the formal legal setting, possess rhetorical skills tailored to oral presentation formats, understand the implicit expectations of justices, and know how to position their arguments within relevant legal controversies.

This specialization creates substantial entry barriers for professionals who, despite possessing technical expertise in their respective fields, are unfamiliar with the specific codes required for effective participation in hearings. The need to adapt technical knowledge to the expectations of the legal field constitutes an additional filter that favors actors already acquainted with legal language and procedures. As a result, professionals from areas such as public health, education, social assistance, or environmental protection may find their contributions limited not by the quality of their knowledge, but by the difficulty of translating it into the specific codes valued in the hearing environment.

The institutionalization of these symbolic barriers produces long-term effects on the configuration of public debate over constitutional issues. Theoretical and practical perspectives that do not conform to the established formats tend to be systematically excluded, impoverishing the diversity of approaches available for judicial decision-making. This discursive homogenization may compromise the deliberative quality of hearings, reducing them to exercises in reaffirming pre-existing consensuses among closely aligned professional groups, rather than serving as spaces for genuine confrontation of diverse perspectives on complex constitutional problems.

Accordingly, our critical reassessment of this social listening mechanism suggests that civil society actors have strategically grasped the true function of public hearings. Far from being naive about their democratizing limitations, they deliberately use them as instruments for accumulating symbolic and economic capital.

Professionals weigh the time and resource investment against potential professional projection benefits. They carefully select which hearings to engage in, prioritizing topics with greater public resonance or relevance to their field. Moreover, they use participation as a platform for further professional and media-related activities.

This strategic awareness explains why interest in hearings has not diminished despite empirical evidence of their dysfunctions. Participants reap tangible benefits, even if different from the officially stated purposes.

The strategic use of public hearings to accumulate symbolic capital has implications for the legitimacy of the STF itself. If these events are perceived more as opportunities for professional projection than as effective mechanisms for democratic participation, this may affect the credibility of the Court; in other words, the STF may be being used by external actors for purposes that do not coincide with the constitutional purposes of the Court.

The perception that the hearings are “theaters” for professional projection may diminish the seriousness with which they are perceived by society. It is important to mention, by way of illustration, public hearing No. 30, which addressed the climate fund and environmental public policies, in which the then Minister of the Environment, Ricardo Salles, participated. Months earlier, he had declared, in a ministerial meeting, that, since the people were concerned about COVID-19, this would be the time to “move on and change all the [environmental] regulations, simplifying the norms” (BBC News Brasil, 2020). Thus, an individual who had previously declared his low regard for the Brazilian legal system for environmental protection was admitted to a public hearing at the Supreme Court in a constitutional proceeding triggered by facts that allegedly indicated the degradation of the state structure for environmental protection.

If hearings serve primarily to reproduce hierarchies, their democratizing function is compromised. These risks require careful reflection on how public hearings can be reformulated to effectively fulfill their democratizing purposes.

## 6 Implications of the critical reassessment

Our critical reassessment suggests that public hearings may be deemed “successful” from a perspective different from that traditionally adopted in academic literature. If the criterion is the ability to generate benefits for participants in terms of symbolic and economic capital, they are unequivocally effective.

Hearings effectively fulfill the role of professional showcases, providing tangible benefits to those involved.

The Court manages to project an image of openness to civil society, regardless of the actual effectiveness of such openness, while the events generate significant media coverage, keeping the STF in the national spotlight.

This redefinition of success helps explain why hearings persist and even expand, despite negative academic assessments of their democratizing capacity. They meet the real needs of the actors involved, even if those needs differ from the officially proclaimed objectives.

An important implication of our findings is the need for greater transparency regarding the actual functions of public hearings. Acknowledging that they serve as spaces for accumulating symbolic and economic capital would allow for a more honest debate about their role within the justice system.

Society could hold more realistic expectations about what to expect from public hearings.

Success criteria could be redefined based on the functions actually performed, not merely those declared.

Potential reforms could focus on addressing the real problems identified, rather than targeting dysfunctions that may not be the most relevant.

This transparency does not necessarily imply condemning the hearings, but rather better understanding their practical functions. This would allow for more conscious development of the mechanism and, eventually, the creation of new instruments that effectively justify the adoption of this form of social listening.

Our conclusions suggest that effective democratization of constitutional jurisdiction will require mechanisms different from the current model of public hearings. If hearings primarily serve as spaces for reproducing preexisting hierarchies, their democratizing capacity is structurally limited.

The current format could be restructured to minimize symbolic capital asymmetries, by introducing restrictions such as cognitive complexity filters, shared decision-making authority beyond the Chief Justice, and a prohibition on participation by individuals or entities with for-profit motives.

The purposes of hearings could be redefined more realistically, recognizing their limited democratizing potential.

This does not mean that hearings should be abolished, but that their limitations must be acknowledged and that complementary mechanisms or alternatives should be developed to justify the use of this social listening tool as an instrument for enhancing deliberative quality.

Our analysis raises important ethical questions about participation in public hearings. If they primarily serve to accumulate individual symbolic capital, to what extent is this compatible with the public interest that should guide constitutional jurisdiction?[21]

Professionals who participate in hearings have an ethical responsibility to contribute meaningfully to public debate, not merely to seek personal gain. Likewise, the Court has a duty to structure hearings in ways that maximize their public function and minimize their private instrumentalization.

These ethical considerations are essential for ensuring that public hearings fulfill their intended role in Brazil's democratic legal system.

The ethical implications of instrumentalizing public hearings for personal symbolic capital accumulation extend beyond the immediate responsibilities of individual participants. The very institutional structure that enables and facilitates such instrumentalization raises questions about whether the current design of hearings aligns with the constitutional purposes they are intended to serve. If the system consistently favors the pursuit of private benefits at the expense of the public interest, this suggests the need for structural reforms that go beyond appeals to individual responsibility.

In this context, the institutional responsibility of the Supreme Federal Court becomes particularly relevant. As guardian of the Constitution, the Court has a duty to ensure that its procedures genuinely serve the public interest and are not co-opted for the promotion of private agendas (Leal & Bolesina, 2012).

Furthermore, the academic community that studies and participates in these hearings bears an ethical responsibility to produce critical analyses that contribute to the technical refinement of the mechanism. This includes the duty to go beyond merely descriptive or apologetic analyses, offering rigorous diagnoses that identify structural problems and propose viable alternatives. Maintaining a complacent silence about known dysfunctions may amount to complicity in perpetuating practices that undermine the democratic legitimacy of constitutional jurisdiction.

These ethical considerations highlight the need to establish more rigorous standards for evaluating the effectiveness of public hearings.

## 7 Final considerations

This study investigated why civil society remains interested in public hearings held by the Supreme Federal Court, despite consolidated evidence of their democratizing dysfunctions. Our central hypothesis was confirmed: the persistent interest does not stem from belief in the official purposes, but from a strategic understanding that these events provide valuable opportunities for accumulating symbolic and economic capital.

Civil society actors who participate in public hearings have come to understand that they function as professional showcases that offer prestige, national media visibility, access to decision-makers, and tangible economic appreciation

[21] A good literary reference for thinking about this problem can be found in the book by Conrado Hubner Mendes (2023) entitled "The discreet charm of magistocracy: vices and disguises of the Brazilian Judiciary".

of their professional activities. This understanding explains recurring participation patterns and the universal acceptance of invitations.

Professionals who engage in hearings are not naive about their democratizing limitations; rather, they consciously use these events as instruments for professional projection and accumulation of symbolic power within the legal field, aiming to obtain tangible benefits regardless of the official goals' effectiveness.

Our analysis revealed that public hearings may paradoxically contribute to the reproduction of legal field hierarchies rather than democratizing them. The same prestigious professionals and institutions that already possessed symbolic capital use the hearings to expand it further.

This creates dynamics of social reproduction in which those who already hold prestige gain easier access to hearings, which in turn reinforce their prestige, facilitating future access. The segment of civil society that engages with hearings is predominantly composed of those who already possess significant symbolic capital.

The practical realization of law constitutes, according to Bourdieu (2011, p. 234), the final product of a symbolic struggle among legal practitioners endowed with heterogeneous technical competencies and social capital. This disparity in resources determines the varying capacities of each professional to articulate and deploy the legal tools available in the normative system. The process reveals itself as an interpretive battlefield in which disparities in training, experience, and institutional standing translate into distinct strategic advantages in the construction and defense of legal arguments.

In this competitive context, each actor mobilizes resources according to their relative strength in the field, systematically exploring the normative possibilities and transforming legal provisions into instruments of symbolic power.

Our conclusions suggest the need to redefine the academic debate around public hearings. Rather than focusing exclusively on their democratizing potential—repeatedly challenged by empirical evidence—it is necessary to acknowledge their practical function as spaces for accumulating symbolic and economic capital.

This redefinition does not imply condemning hearings, but rather better understanding their real functions. It would allow for more conscious development of the mechanism and, eventually, the creation of complementary instruments to minimize this private instrumentalization and the resulting legitimacy deficit of constitutional jurisdiction.

Recognizing that public hearings serve purposes different from those officially proclaimed is the first step toward a more honest debate on the democratization of constitutional jurisdiction in Brazil. Only through such a realistic understanding will it be possible to develop mechanisms that genuinely enhance social participation in constitutional deliberations.

This study offers a theoretical contribution to the field by applying Bourdieu's (2011) theory of symbolic capital to the analysis of public hearings, providing a more convincing explanation for their persistence than traditional approaches. Empirically, it offers robust evidence of participation patterns and the real motivations of the actors involved.

The methodology developed — combining content analysis of academic literature, examination of procedural acts, and analysis of participation patterns — can be replicated in studies of other social participation mechanisms within the justice system.

This research focused specifically on the behavior of civil society. Future studies might explore comparisons with public hearings in other Constitutional Courts to assess whether the patterns identified in Brazil are replicated in different institutional contexts.

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