

BRAZILIAN JUDICIAL SYSTEM: HISTORY AND COMPARATIVE DATA DURING THE COVID-19 PANDEMIC

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- **ABSTRACT:** The Brazilian System is studied based on quantitative data spanning from the Constitution of 1988 to the present day. During this period, there has been a notable growth and strengthening of judicial institutions, accompanied by a significant increase in societal demand. The research aims to gather information on cases, judges, members of the Public Prosecution, public defenders, lawyers, law courses, and law students to obtain three types of data. The first type includes historical series that enable interpretations of events that have taken place over time in Brazil. The second type consists of comparative data, particularly based on information provided by the European Council regarding predominantly European countries, in order to draw parallels with the situation in dozens of countries. The third type of data is created for interpreting the first two types, including doctrinal considerations or new research undertaken to understand the main findings. With this tripartite approach, the goal is to comprehend the Brazilian judicial system in itself and in comparison, with other countries.
- **KEYWORDS:** Brazilian Judicial System; access on to justice; history of Constitutional Law in post-1988; comparative law; quantitative data on the Judiciary.

SISTEMA JUDICIÁRIO BRASILEIRO: HISTÓRICO E DADOS COMPARATIVOS DURANTE A PANDEMIA DE COVID-19

- **RESUMO:** O Sistema Judiciário Brasileiro é estudado com base em dados quantitativos que abrangem o período desde a Constituição de 1988 até os dias atuais. Durante esse período, houve um notável crescimento e fortalecimento dos órgãos do sistema judiciário, acompanhado por um aumento significativo na demanda da sociedade. A pesquisa visa coletar informações sobre processos, magistrados, membros do Ministério Público, defensoria pública, advogados, cursos de direito e estudantes de direito, a fim de obter três tipos de dados. O primeiro tipo inclui séries históricas, que permitem interpretações dos eventos ocorridos ao longo do tempo no Brasil. O segundo tipo são dados comparativos, especialmente com base em informações fornecidas pelo Conselho Europeu sobre países predominantemente europeus, a fim de traçar paralelos com a situação em dezenas de países. O terceiro tipo de dados é criado para a interpretação dos dois primeiros tipos, incluindo considerações doutrinárias ou novas



pesquisas próprias para a compreensão dos principais resultados. Com essa abordagem tripartite, busca-se compreender o sistema judicial brasileiro em si e em comparação com outros países.

- **PALAVRAS-CHAVE:** Sistema Judiciário Brasileiro; acesso à justiça; História do Direito Constitucional no pós-1988; direito comparado; dados quantitativos sobre o Judiciário.

1. Introduction

This paper provides information about the Brazilian Judiciary System since the promulgation of the Constitution of 1988, which marked the reestablishment of democracy in Brazil and the beginning of a period of increased judicial protagonism. The research is divided into an initial section that addresses the main factors that have influenced the system in recent years. These initial data are based on doctrine and highlight the relevant elements that have contributed to the configuration of the current scenario. In this edition, specific data on the Covid-19 pandemic are also presented in the initial section.

In the subsequent sections, this study predominantly adopts a quantitative approach with interpretation based on doctrine. The research seeks to unify data that is published in a scattered manner in Brazil in order to present them in a comparable way to most analyses in this field, with special emphasis on the method and structure of the report by *Council of Europe - European Commission for the efficiency of justice*, which is also used by the CNJ (National Council of Justice) and the report *Justiça em Números* (Justice in Numbers). Brazilian data is collected from original sources whenever possible.

The main objective is to present both the absolute number and the number per 100,000 inhabitants of the main elements that compose the Judiciary System in some countries, including the number of cases in the system (pending cases), new cases per year, judges, members of the Public Ministry, public defenders, lawyers, and data on legal education (law courses and students). Historical series are created and comparisons are made using national and foreign data. These main data, combined with the search for doctrine, provide interpretations and eventually lead to the search for other data presented specifically in the work (such as the number of days a prisoner awaits trial, major litigants, or information about the Brazilian population effectively served by the public defenders).

- WAGNER SILVEIRA FELONIUK
- CARLOS OTAVIANO PASSOS
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Regarding the data presentation method, it is important to highlight some considerations. This article is the result of continuous data collection and is updated annually as a new publication. As a result, excerpts from the introduction and some analyses remain unchanged from previous years when they continue to be valid. Additionally, changes in the numbers compared to previous years occur, even in identical tables. This is mainly due to changes in population data published by the Brazilian Institute of Geography and Statistics (IBGE) and eventual corrections made by the CNJ regarding previously published data on the Judiciary. The data presented in this article will always be updated to reflect the most recent information available.

It is important to emphasize that the disclosure of such comprehensive data takes years to occur, so the interpreted data generally refer to at least the previous year. In the case of Europe, some data may be published up to four years after the period to which they refer. The quantitative data are presented considering the existing contingencies and limitations, and the year to which they refer is inserted with the greatest possible clarity.

The research starting point was an article published over ten years ago by two American researchers, Ramsayer and Ramsusen (2010). They made relevant comparisons between some countries, and from this production, the absence of a similar research in Brazil was identified. Although there are comprehensive reports, such as *Justiça em Números* from the CNJ, which addresses the Judiciary, there are no publications that encompass the necessary elements for a broader comparative analysis. Furthermore, there is no uniformity or standardization of the available data in Brazil – each institution publishes only its own data, with different levels of detail, according to their main concerns. This research continuously seeks to analyze the Brazilian Judiciary System by unifying national data and inserting it into the international scenario.

Internal discussions about the size and difficulties of the Brazilian Judiciary System are common, so having comparative data and historical series can contribute to a better understanding by those interested in the subject. In the past thirty years, Brazil has undergone profound changes in this area, and there is much to be learned by analyzing the experience of other countries.

2. Effects of Covid-19 and system responses

A search for an interpretation of the Brazilian judicial system over the past thirty years was recently published (Feloniuk, 2022, p. 201-223). It presented an interpretation that



aimed to be broader, and a year later, few changes have occurred. During this short period of time, the judicial system was marked by the effects of the Covid-19 pandemic and the apparent decrease in the Judiciary's involvement in conflicts within the political system.

The argument presented here is that, at least at this moment, Lula's election seems to mark a period in which the actions of the Judiciary have a less apparent effect on the daily facts of national politics. The Lava Jato Operation, started in 2014, continues to have an impact both on its own and on the general behavior of the Judiciary. Although its effects have not been undone, the initial steps seem to indicate greater self-restraint, similar to the period before 2014, albeit with the marks of the events of the last decade. However, this new behavior is so recent that there is no certainty about its existence, nor can it be concluded that it will persist in this way.

The second aspect was the pandemic. The Brazilian judicial system faced unprecedented challenges due to the Covid-19 pandemic. In the face of this atypical situation, a national strategy was adopted to ensure the continuous functioning of the Brazilian judicial system during the pandemic. On March 16, 2020, just six days after the declaration of a pandemic by the World Health Organization (WHO), the CNJ issued Ordinance No. 53, establishing the creation of a committee responsible for overseeing and monitoring the virus prevention measures implemented by the country's courts (Lima; Neto, 2020).

To ensure the continuity of activities and prevent the spread of the virus, the Brazilian judicial system implemented various measures. On March 17, 2020, Recommendation No. 62 was issued, which specifically addressed preventive measures for the criminal justice and socio-educational systems (Lima; Neto, 2020). On March 19, 2020, there was an expansion of the CNJ's Internal Rules to allow for extraordinary sessions of the Virtual Plenary. Additionally, Resolution No. 313 established the "Extraordinary Judicial Recess" for the National Judiciary, suspending in-person work in judicial units, except for the Federal Supreme Court (STF) and the Electoral Justice. This resolution also regulated the dispatch of judges and the conduct of conciliation, instruction, and trial hearings through videoconferencing (Lima; Neto, 2020).

The Extraordinary Judicial Recess was established as a national standard to ensure the continuity and provision of judicial activities. This model operated through remote working and virtual assistance, ensuring access to justice and seeking to curb the spread of the new coronavirus. The guidelines for this Extraordinary Judicial Recess were established in National Council of Justice Resolution 313/2020, aiming to standardize the functioning of legal services (Lima; Neto, 2020).

- WAGNER SILVEIRA FELONIUK
- CARLOS OTAVIANO PASSOS
- TIAGO LELES DE OLIVEIRA

To keep the population informed about the measures adopted during the pandemic, the CNJ created an icon dedicated exclusively to the Coronavirus on its official website. Through this icon, information and news related to the pandemic were disseminated, including detailed reports tracking the progress of cases in the courts during this period. In addition, the CNJ provided a portal with weekly indicators of the Brazilian judiciary's productivity (Lima; Neto, 2020).

Even before the pandemic, in 2016, the Brazilian judicial system began a paradigm shift with the national regulation of remote working through CNJ Resolution No. 227, dated June 15, 2016. However, during the health crisis, this form of work gained greater prominence and adoption (Lima; Neto, 2020). However, the transition to the digital environment brought challenges. While regular litigants demonstrated greater adaptability and sometimes gained advantages over occasional litigants, the incorporation of procedural procedures in this format did not lead to a reevaluation at an equal pace of procedural principles and institutes, according to Pedron, such as the adversarial process, orality, and the notion of jurisdiction. These principles aim to ensure fairness between the parties, but there were discrepancies in the ability to adapt to the new environment (Pedron *et al.*, 2020).

During the context of the Covid-19 pandemic, Portaria No. 61 was also established on March 31, 2020. This ordinance determined the provision of the Emergency Videoconferencing Platform, called Webex, for conducting hearings and trial sessions. This platform was made available free of charge and experienced significant usage between April and December 2020, with over 20,000 users served and approximately 1.2 million meetings conducted (Souza; Carmosa, 2022).

To deal with the challenges posed by the pandemic, the Judiciary implemented several other regulations. Among them, noteworthy are Resolution No. 337, dated September 29, 2020, which determines the use of videoconferencing for hearings and official acts in each court; Law No. 13,994, dated April 24, 2020, which enables remote conciliation in Special Civil Courts (JECs); Resolution No. 322, dated March 1, 2020, from the CNJ, establishing minimum rules for the gradual resumption of in-person services, with in-person attendance only when strictly necessary. Additionally, Resolutions No. 341, dated October 7, 2020, which mandates courts to provide rooms for conducting witness testimonies via videoconferencing, and No. 354, dated November 19, 2020, which allows the fulfillment of procedural acts and judicial orders in digital form, were promulgated. Another relevant initiative is Resolution No. 372, dated

February 12, 2021, issued by the CNJ, which establishes the videoconferencing platform called Balcão Virtual (Virtual Bar).

In addition to these regulations, during the pandemic, the Supreme Federal Court (STF) played a key role in ensuring human rights and observing legality in political matters. In response to the challenges posed by the health crisis, the STF issued thousands of decisions during the first year of the pandemic, totaling over 10,000 (Mattos *et al.*, 2022). Among the noteworthy cases are ADI 6341, which strengthened the powers of the other federative entities (states and municipalities) in relation to the federal government; ADPF 709, which provided protection to indigenous peoples against land invasions; and ADI 6341, in which the court overturned a provisional measure that did not consider Covid-19 infection as an occupational disease.

These measures had a significant impact on various areas and instances of the judicial system, including access to and provision of legal services, trial sessions, and judges' orders. The adoption of these measures demonstrated the Brazilian judicial system's adaptability to challenges and highlighted the importance of technology in the development of legal activities.

From a quantitative standpoint, the impacts of the pandemic on the Judiciary are profound, as shown in Table 2. When comparing the numbers of new cases registered in 2020 to those in 2019, we observe a significant reduction of 17.62%. This decrease reflects the challenges faced by the judicial system during the initial period. However, in 2021, the second year of the pandemic, considerable improvements were made in combating the disease and a progressive adaptation of the system to operate remotely, with the resumption of activities and extensive use of remote working. As a result, a decrease of 9.75% in the number of new cases was observed compared to 2019. These data highlight both the Judiciary's adaptation to the pandemic and the efforts made to ensure the continuity of legal services in a challenging context.

With these two important elements presented for the judicial system, it is appropriate to present the quantitative data and the considerations regarding them.

3. Number of cases and comparative data

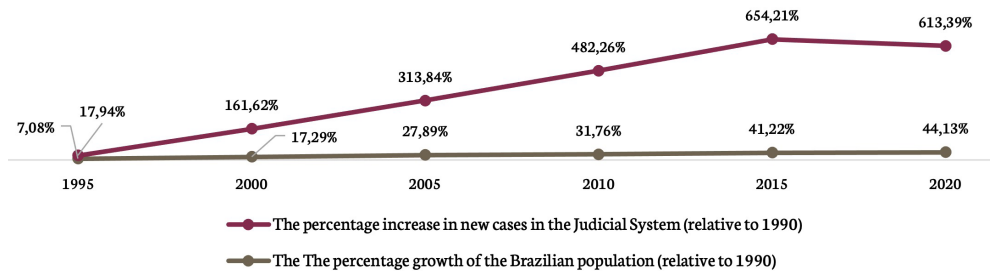
Since 1990, Brazil has experienced a remarkable increase in the volume of new cases per year¹ in its Judiciary System. The year 1990 was chosen because prior to that, there

¹ The term "new cases" refers to all the cases that entered the Brazilian Judicial System during the course of a year.

- WAGNER SILVEIRA FELONIUK
- CARLOS OTAVIANO PASSOS
- TIAGO LELES DE OLIVEIRA

is a scarcity of available quantitative data, as most of the information before the CNJ reports relied on scattered academic works. The number of new cases per 100,000 inhabitants grew from 2,498 in 1990 to 12,974 in 2021, reflecting a significant increase over these years.

CHART 1 • INCREASE IN NEW CASES COMPARED TO POPULATION GROWTH



SOURCE: IBGE, 2022; SADEK, 2004, P. 13; CNJ, 2005; CNJ, 2011; CNJ, 2016, P. 43; CNJ, 2022.

When analyzing the progression of cases per 100,000 inhabitants, following the international method that also takes population growth into account, we observe the following numbers. Considering the population increase, the judiciary system recorded a growth of 394.95% between 1990 and 2020. These numbers highlight the significant challenges that the system faces.

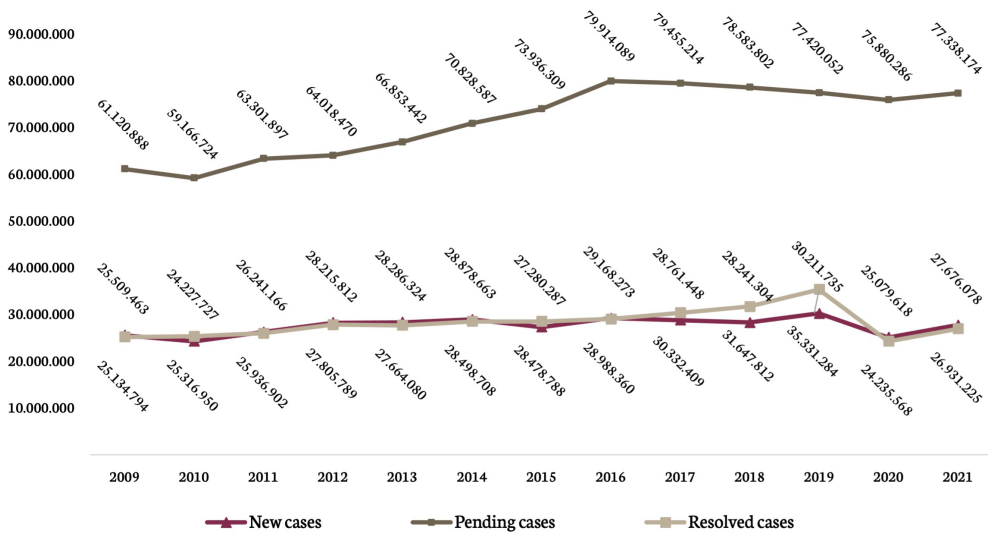
TABLE 1 • BRAZILIAN POPULATION AND NUMBER OF CASES PER 100,000 INHABITANTS

Year	1990	1995	2000	2005	2010	2015	2020
Brazilian population	144,764,945	155,019,293	169,799,170	185,150,806	190,755,799	204,450,649	213,317,639
New cases per 100,000 inhabitants	2,498	2,752	5,573	8,084	11,04	13,343	12,186
Percentage increase in new cases per 100,000		10.16%	123.09%	223.61%	341.95%	434.14%	394.95%

SOURCE: IBGE, 2022; SADEK, 2004, P. 13; CNJ, 2005; CNJ, 2011; CNJ, 2016, P. 43; CNJ, 2022.

It is also observed, through the graph below, that Brazil faces a significant problem of pending cases, as evidenced by the higher number of new cases compared to their resolution. This indicates the existence of delays in the judicial system. Procedural delay is a chronic challenge faced, which led to the inclusion of the right to a reasonable duration of the process as an individual right in the Constitution in 2004 (CRFB, Article 5, LXVII). However, it is important to note that in the years leading up to the Covid-19 pandemic, there was a trend of reduction in pending cases. On the other hand, in the first year of the pandemic, there was an interruption in this trend, with a decrease in the Judiciary’s production surpassing the drop in demand.

CHART 2 • NEW CASES, PENDING CASES, AND CLOSED CASES IN BRAZIL (2009-2021)



SOURCE: CNJ, 2010, P. 184; CNJ, 2011; CNJ, 2012, P. 450; CNJ, 2013, P. 297; CNJ, 2014, P. 39; CNJ, 2015, P. 57; CNJ, 2016, P. 43; CNJ, 2022.

In the reference year, 2021, after three consecutive years of a decrease in the number of pending cases, an increase was observed. The Judiciary adapted to the pandemic, but not at the pace of the demand. Arguments stating that remote work increases productivity should be viewed with caution. Perhaps the loss of efficiency is only due to the adaptation phase, but it cannot be denied that there was a reduction in efficiency during this period.



- WAGNER SILVEIRA FELONIUK
- CARLOS OTAVIANO PASSOS
- TIAGO LELES DE OLIVEIRA

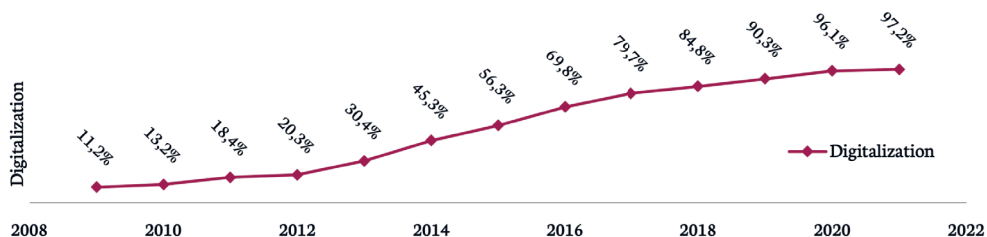
TABLE 2 • NUMBER OF NEW CASES DURING COVID-19 PANDEMIC

Year	2019	2020	2021
New cases in the Judiciary	30,211,735	25,079,618	27,676,078
Decrease in new cases compared to 2019 (pre-pandemic)		-16,99%	-8,38%

SOURCE: CNJ, 2022.

Among the elements that exert a strong influence on the system, in addition to the pandemic, the digitization of processes stands out. Digitization is a crucial step in reducing delays and expanding access to justice in the country. In this regard, Brazilian judicial bodies have been directing efforts towards computerizing processes. According to the report produced by the CNJ in 2022 (p. 194), approximately 97.2% of the cases currently filed in the courts are electronic. In addition to this data, the report also reveals that the average duration of an electronic case is nearly one-third shorter than that of a physical case.

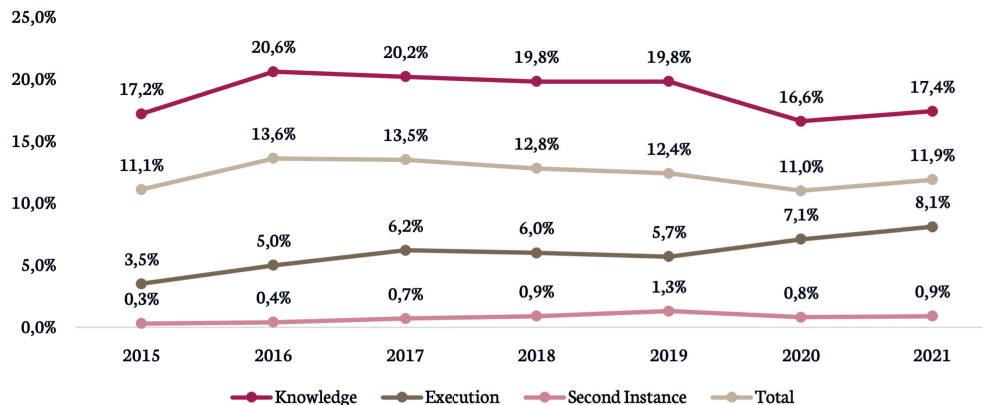
CHART 3 • DIGITALIZATION OF CASES IN BRAZIL (2008-2022)



SOURCE: CNJ, 2022, P. 187.

The CNJ report also highlights two other factors. The first is the use of conciliation as a means to achieve extrajudicial results, and the second is the specialization of judicial branches. Regarding conciliation, it is relevant to consider the new Code of Civil Procedure. Despite normative efforts, the advancement of extrajudicial solutions increased by only 4.2% after the mandatory requirement of a preliminary conciliation meeting, indicating limited effectiveness. The percentage experienced a decline during the year 2020 due to the lack of in-person work at the courts, as indicated by the CNJ. However, with the resumption of in-person judicial hearings, the percentage started to grow again, but it did not deviate significantly from its normality.

CHART 4 • CONCILIATION RATE



SOURCE: CNJ, 2022.

There are three other factors, previously studied², that deserve to be mentioned. The first is the establishment of the CNJ, which was established by Constitutional Amendment No. 45 of 2004. The CNJ's main objective is to propose means to improve the judicial system in Brazil, as well as to perform a correctional function. The CNJ's role is crucial in combating procedural delays in the country, seeking to improve procedures and ensure the efficiency of the Brazilian justice system (Scarpino Jr. *et al.*, 2014, p. 67).

Another relevant aspect to be highlighted, related to the previous topic, is the impact of the institutional disposition of the Judiciary to be held accountable for results, which intensified with the creation of the CNJ. Although there was some resistance in the early years, mechanisms of control were established through statistics from all courts. Furthermore, it is important to emphasize the widespread acceptance of this approach by jurists, demonstrating acceptance of the need to assess and improve the productivity of the Brazilian judicial system.

Finally, it is worth mentioning another determining factor for the advancement of productivity in the Judiciary, which is the structure that supports the justice system in Brazil. This includes not only the significant number of judges, as mentioned earlier, but also the presence of a wide range of dedicated personnel and other agents ultimately responsible for resolving cases in the courts. The work of judges involves

² To see more, refer to Feloniuk, 2021, p. 125-129.



- WAGNER SILVEIRA FELONIUK
- CARLOS OTAVIANO PASSOS
- TIAGO LELES DE OLIVEIRA

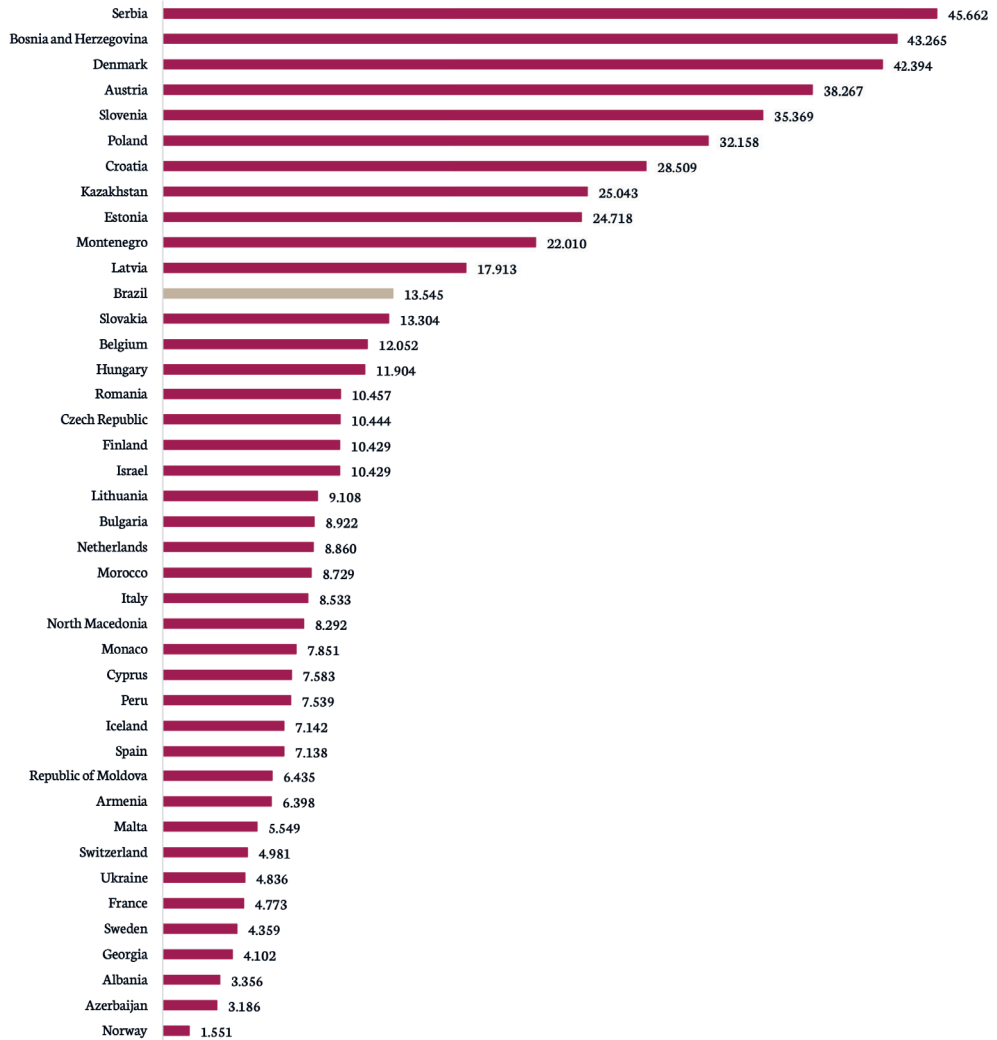
managing a team of professionals who assist in decision-making. Over the years, not only has the number of judges increased, but also various supporting careers in the Judiciary and other institutions. This strengthened structure contributes to the efficiency and speediness of processes, allowing the justice system to fulfill its fundamental role in Brazilian society.

Data regarding this last factor, from the year 2021, reveals a significant ratio of over twenty people working in the Judiciary for each judge. While the number of judges is 18,035, the total workforce consists of 424,911 individuals, including employees, assistants, outsourced personnel, and interns (CNJ, 2022, p. 54). This information highlights the importance of a considerable group of professionals in supporting the productivity of judges. Although this is a positive data point, it is important to monitor this dynamic, especially due to the significant changes that have recently taken place. In 2009, when the total workforce was first reported, there were 16,108 judges and only 329,000 individuals in the workforce (CNJ, 2010, p. 5). This means that the workforce has increased by over 100,000 people, proportionally much more than the number of new judges.

Although the pandemic has affected the process, a partial conclusion is that the number of cases seemed to be following a downward trend in relation to the overall timeframe. The gradual reduction in the number of pending cases awaiting a verdict indicates that the measures adopted by the Judiciary are having an effect in speeding up the processing time of cases in the judicial instances.

Another perspective for comparison relates to international data. In comparison to other countries, Brazil had a total of 13,545 new cases per 100,000 inhabitants in 2018 (the latest available set of European data). In contrast, countries like Norway had only 1,551 new cases, Azerbaijan had 3,186 new cases, and Albania had 3,356. At the other end of the spectrum, former Yugoslavian countries such as Serbia (45,662) and Bosnia and Herzegovina (43,265) lead in terms of case filings in their national judicial systems.

CHART 5 • EW CASES PER 100,000 INHABITANTS (2018)



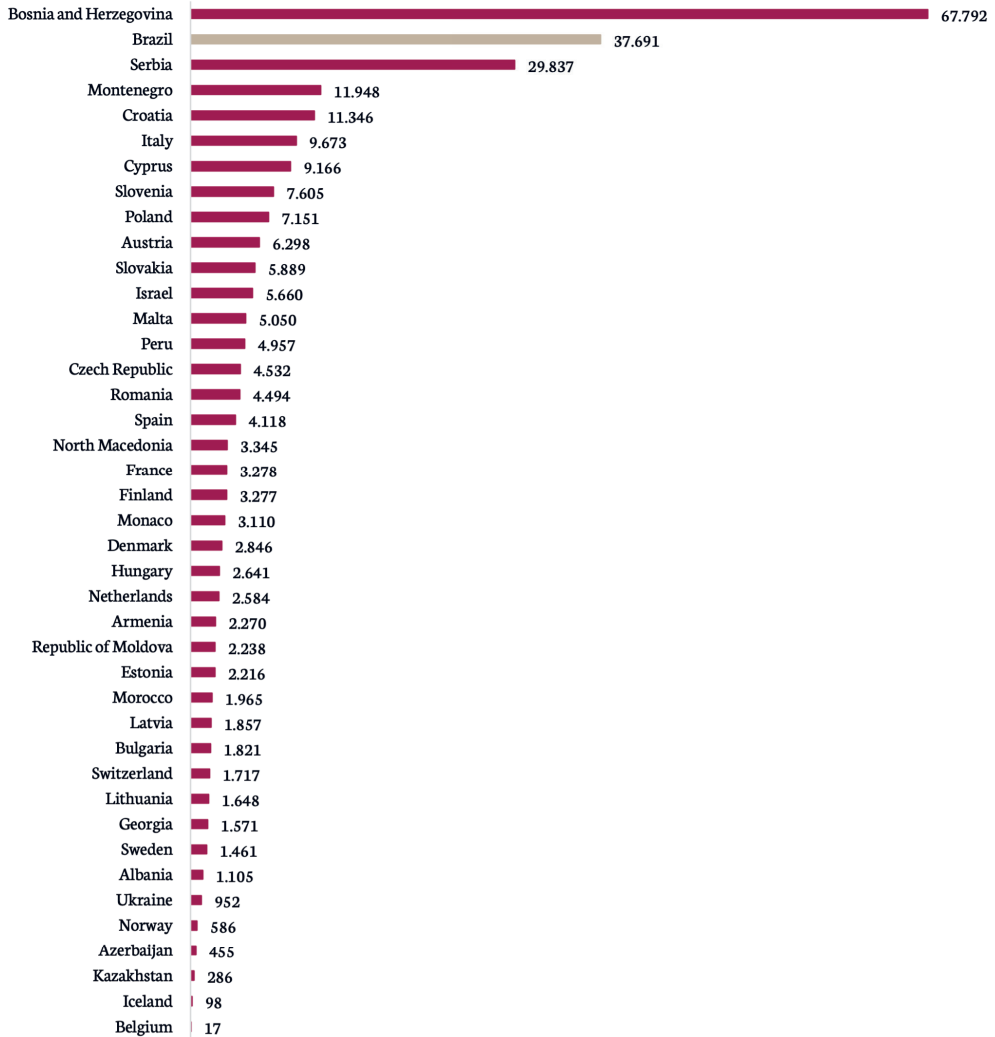
SOURCE: WB, 2022; CNJ, 2022.

When analyzing the number of pending cases per 100,000 inhabitants, Brazil surpasses Serbia with a total of 37,691 pending cases per 100,000. For comparison purposes, at the top of the table, some countries barely reach a thousand cases awaiting judgment, and the majority of the researched countries do not exceed the mark of four thousand cases.



- WAGNER SILVEIRA FELONIUK
- CARLOS OTAVIANO PASSOS
- TIAGO LELES DE OLIVEIRA

CHART 6 • PENDING CASES PER 100,000 INHABITANTS (2018)



SOURCE: WB, 2022; CNJ, 2022.

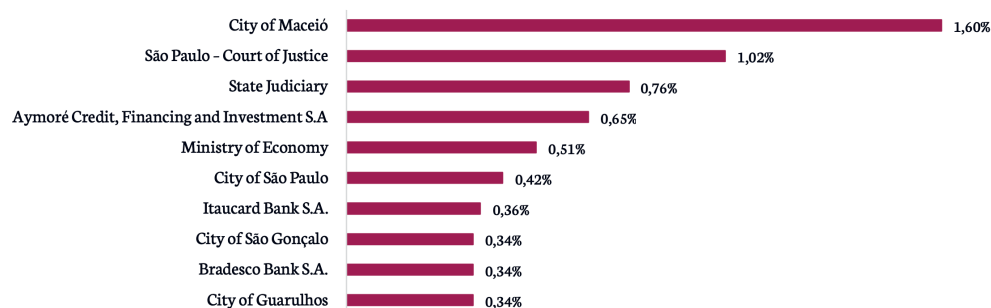
The high number of pending cases in the Brazilian judicial system has several detrimental effects. The delay in resolving cases penalizes individuals who await justice. Additionally, the existence of a large number of open cases creates legal uncertainty in social and economic relations, making planning and decision-making difficult. In cases involving family and criminal matters, the effects are even more impactful, affecting

the personal and emotional lives of those involved. Compared to other countries, Brazil faces an excessively high backlog of cases, surpassing what would be considered normal or desirable.

It is crucial to seek solutions for the judicial system. One promising approach is to analyze the major litigants in Brazil and understand the reasons behind the high number of cases. Through the recently implemented Major Litigants (Grandes Litigantes) tool by the CNJ, we have access to data from January 2023 (CNJ, 2023). This data indicates the percentage of new cases initiated by litigants in the last 12 months in special courts and the first instance throughout the country.

The analysis reveals that a significant number of cases in Brazil are related to tax issues and debts with financial institutions. Both fields offer opportunities for the implementation of public policies that prevent the need to resort to the judicial system to resolve these conflicts. Such policies can have a positive impact on reducing the case-load and expediting justice.

CHART 7 • TOP LITIGANTS IN BRAZIL BY NEW CASES IN FIRST INSTANCE AND SMALL CLAIMS COURTS (2023)



SOURCE: CNJ, 2023.

Brazil stands out on the international stage with a significant number of new cases, reaching the mark of 13,545 new cases per 100,000 inhabitants, positioning itself in the upper third of the comparative table. Although this statistic, by itself, is cause for concern and indicates the need to seek alternative solutions, the real problem lies in the backlog of cases, revealing a reality of chronic delays that directly affects the fundamental rights of citizens. The Covid-19 pandemic seems to have further aggravated this situation; however, it is important to note that its effects may not be long-lasting.

- WAGNER SILVEIRA FELONIUK
- CARLOS OTAVIANO PASSOS
- TIAGO LELES DE OLIVEIRA

With the resumption of normal activities and the implementation of effective measures, a gradual decrease in cases is expected. The reduction of the backlog of cases is undoubtedly the greatest challenge faced by the Brazilian judicial system.

4. Data about magistrates

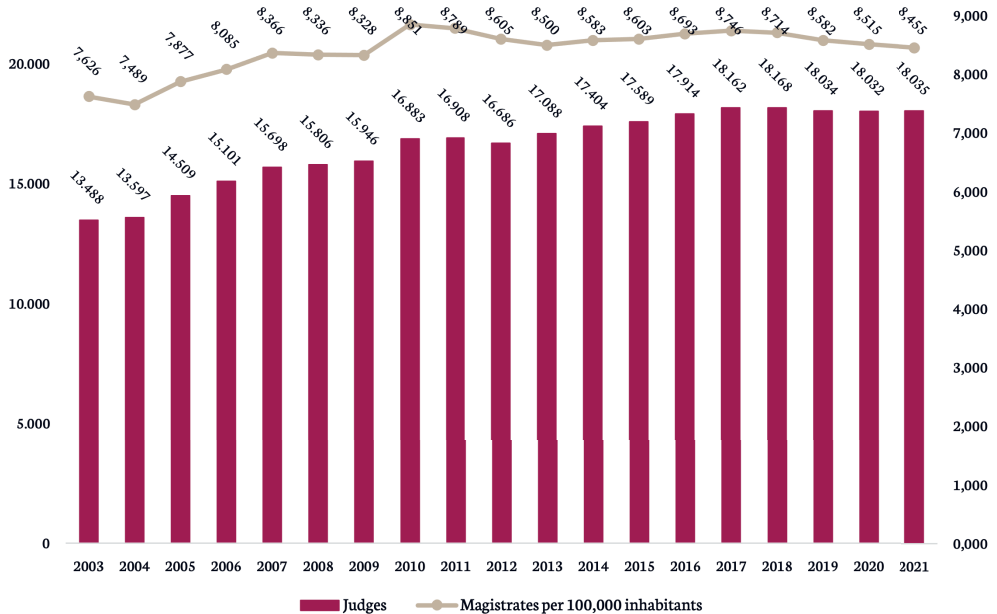
In 1990, Brazil had 6,371 magistrates operating in the judicial system (Silveira, 1990, p. 96-106). Since then, there has been a significant increase in this number, reaching 18,035 magistrates in 2021 (the table below shows data from 2003 onwards, when there were already 13,488, as this is the first serialized published data). This growth of 183.08% compared to 1990 can be considered one of the central factors that contributed to the increased productivity observed in the Brazilian judicial system. However, even with the increase in the number of magistrates, the challenge of dealing with the high number of cases persists, highlighting the need for additional measures to address the existing workload.

The expansion of the judicial system in Brazil came at a high cost, but the results obtained have been positive. The investment in this expansion aimed to address the challenges of procedural delays and strengthen the effectiveness of justice in the country. The expansion of the number of magistrates, as well as the creation of new judicial structures, has proven to be essential to meet the growing demand and ensure access to justice for all citizens.

Strengthening the judiciary was a central objective to bolster Brazilian democracy. An autonomous and efficient judicial system is necessary to guarantee the protection of individual rights, the impartial application of the law, and the maintenance of the rule of law. Significant progress has been made towards this goal.

However, compared to other countries, Brazil has a low number of magistrates. While over half of the analyzed countries have at least 14 incumbent magistrates per 100,000 inhabitants, Brazil has a significantly lower number, which was 8.74 in 2021 (the number later reduced to 8.45). This disparity can be identified as one of the reasons for the procedural delays faced by the Brazilian judicial system. Over the past thirty years, the number of new cases has been about three times higher than the number of new magistrates appointed, which reinforces the need for public policies.

CHART 8 • JUDGES IN BRAZIL



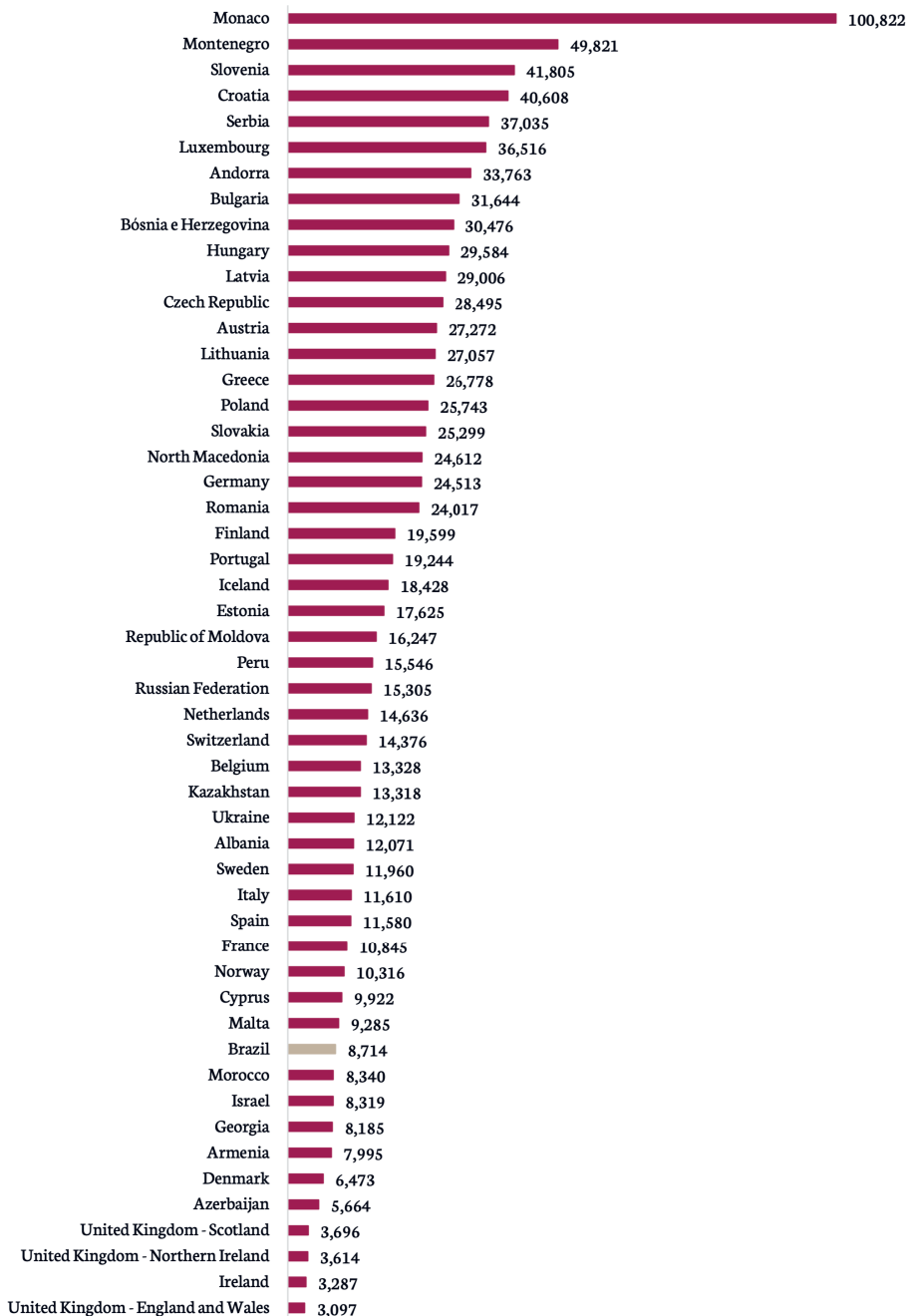
SOURCE: CNJ, 2018, P. 67; CNJ, 2022, P. 97.

The Brazilian judicial system faces a challenging paradox, wherein there is a high number of pending cases and, at the same time, potentially insufficient magistrates to handle this demand. The discrepancy between these two aspects reflects a concerning reality where the capacity for judgment and resolution of cases does not keep up with the pace of incoming demands.

In the face of this paradox, it is essential to prioritize the improvement of legislation, drive the advancement of technological means, and encourage the adoption of new forms of conflict resolution. While it is possible to consider expanding the number of magistrates, it is crucial to approach this issue with caution, considering the recent trend of reduced backlog of cases before the pandemic. In this context, it is fundamental to keep the judicial system fully operational, ensuring the appropriate replacement of retiring magistrates and the distribution of personnel among existing courts. However, it is advocated to avoid haphazard and purely numerical expansion. Finding a careful balance is necessary to ensure that the judicial system fulfills its function efficiently and remains accessible to all citizens.

- WAGNER SILVEIRA FELONIUK
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CHART 9 • JUDGES PER 100,000 INHABITANTS (2018)



SOURCE: WB, 2022; CNJ, 2022.



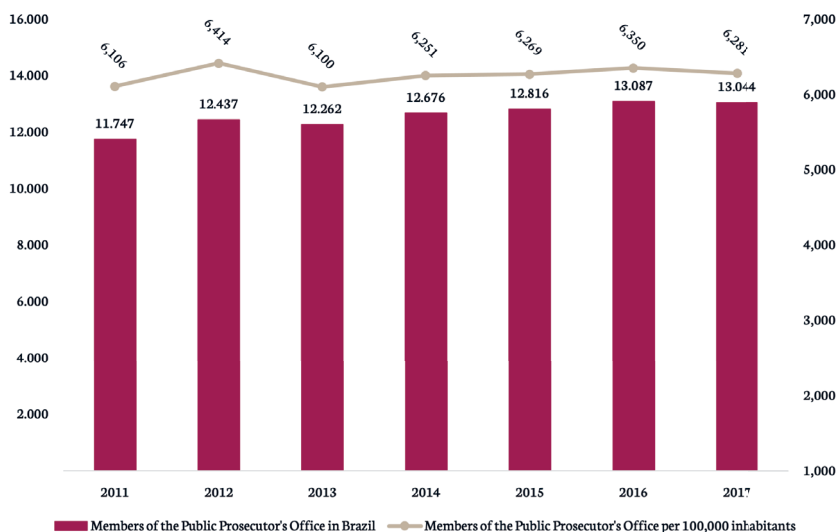
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5. Data about public defenders and members of the Public Prosecutor’s Office

In addition to the previously mentioned data on the number of magistrates and their roles in the Judiciary, it is important to highlight that there are still gaps in information regarding other legal public careers. Although these careers play a fundamental social role, the availability of data is limited, as most of the information comes from studies commissioned by institutions or unions that do not have regular publication intervals. In this section, we will address the data concerning the Ministério Público (Public Prosecutor’s Office) and the Defensoria Pública (Public Defender’s Office), highlighting the growth of these institutions over the years, as indicated by available studies and records.

Regarding the Public Prosecutor’s Office, it is observed that there have been no significant changes in the number of positions occupied in the last decade. The year 2018 recorded the highest number of public prosecutors, with 13,115 professionals working throughout the country. However, when considering this quantity in relation to the ratio of prosecutors per 100,000 inhabitants, there is a slight percentage decrease compared to the beginning of the historical series. This indicates that, although there has been an increase in the absolute number of prosecutors, population growth has also had an impact on this ratio, making it slightly negative.

CHART 10 • MEMBERS OF THE PUBLIC PROSECUTOR'S OFFICE IN BRAZIL



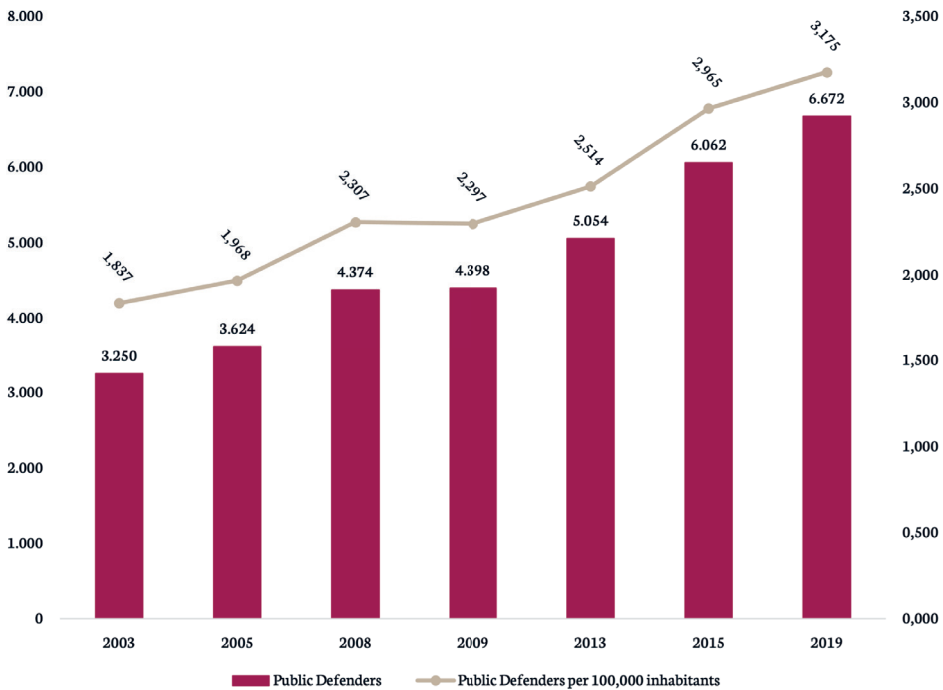
SOURCE: CNMP, 2012, P. 45 E 271; CNMP, 2017, P. 31; CNMP, 2018, P. 31; CNMP, 2022.



- WAGNER SILVEIRA FELONIUK
- CARLOS OTAVIANO PASSOS
- TIAGO LELES DE OLIVEIRA

The Public Defender's Office, as a nationally institutionalized body within the judicial structure, has a recent history, consolidating itself definitively only with the promulgation of the Constitution of 1988. The Constitution imposed on the states the obligation to create institutions that would facilitate access to justice for the vulnerable population. The first Public Defender's Office was established in 1954, and it was only in 2012 that the last state, Santa Catarina, implemented the institution. The career of public defenders has experienced considerable growth and expansion of its ranks. However, even so, it is the legal profession with the lowest number of personnel in comparison to others when viewed on a per capita basis.

CHART 11 • PUBLIC DEFENDER'S OFFICE IN BRAZIL



SOURCE: MJ, 2009, P. 107; IPEA; ANADEP, 2013, P. 46; MJ, 2015, P. 16; IPEA; ANADEP, 2021, P. 15; BRASIL, 2020, P. 4.

As observed in the graph above, despite the growth in the number of public defenders in the last two decades, both in absolute terms and in the consolidation of the institution within the judicial system, the ratio of public defenders to 100,000 inhabitants is still low compared to private lawyers. Between 2003 and 2019, there was a

significant increase in this ratio, from 1.83 to 3.1 public defenders per 100,000 inhabitants. In absolute numbers, the quantity of public defenders rose from 3,250 in 2003 to 6,673 in 2019.

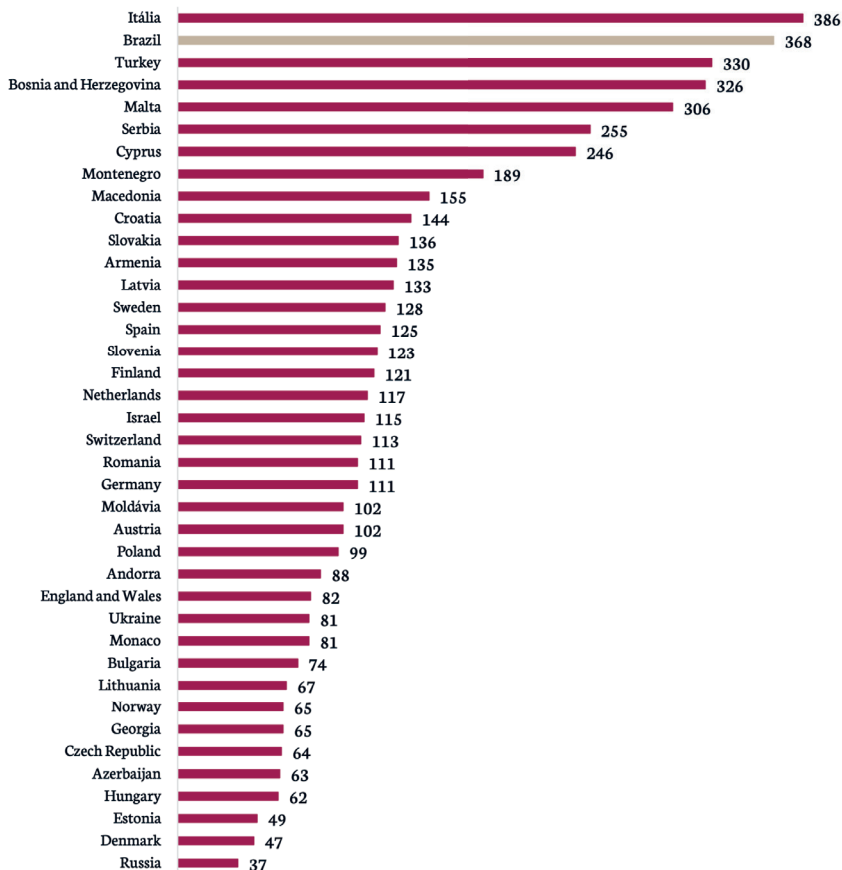
The Public Defender's Office served, based on financial vulnerability, individuals over 10 years old with a family income of up to 3 minimum wages. It was estimated that approximately 40% of the population would fall under these criteria (Gonçalves; Brito; Filgueira, 2015, p. 44-45). Despite significant progress, there is a ratio of only 3.17 public defenders per 100,000 inhabitants or 7.93 public defenders for the specific target population. These numbers are well below the 558.76 lawyers registered with the Ordem dos Advogados do Brasil (Brazilian Bar Association) (OAB) per 100,000 inhabitants in the same year of 2019.

These data highlight the ongoing need for expansion and strengthening of the Public Defender's Office and better public policies for private lawyers in order to ensure access to justice and the defense of the rights of people who rely on this essential service. As studied earlier, the lack of public defenders likely has a significant impact on crucial numbers for the protection of the dignity of Brazilians:

[...] the CNJ conducted a mapping of the prison system in 2017. The main data indicated that there were 654,372 prisoners in Brazil, with 221,054 (34%) being pretrial detainees (CNJ, 2017, p. 3). States like Alagoas and Sergipe have over 80% of their prison population awaiting trial (CNJ, 2017, p. 5). The survey also included the waiting days for a final judgment, showing a significant variation between states, with the longest wait time in Pernambuco, where a person in custody waits for an average of 974 days for a trial (CNJ, 2017, p. 8). The national average waiting time for a trial, used in the statistic below, indicates that a prisoner waits for an average of 368 days in Brazil (CNJ, 2017, p. 8). It is important to note that the European data includes all criminal actions, while the Brazilian data only refers to those who are incarcerated. It is likely that several legal systems prioritize faster trials in this situation of confinement, and the European data would be lower than the presented figures if they were fully equivalent (Feloniuk, 2020).

- WAGNER SILVEIRA FELONIUK
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CHART 12 • DAYS AWAITING TRIAL IN DETENTION (2017)



SOURCE: CNJ, 2017; FELONIUK, 2020; CE, P. 2016.

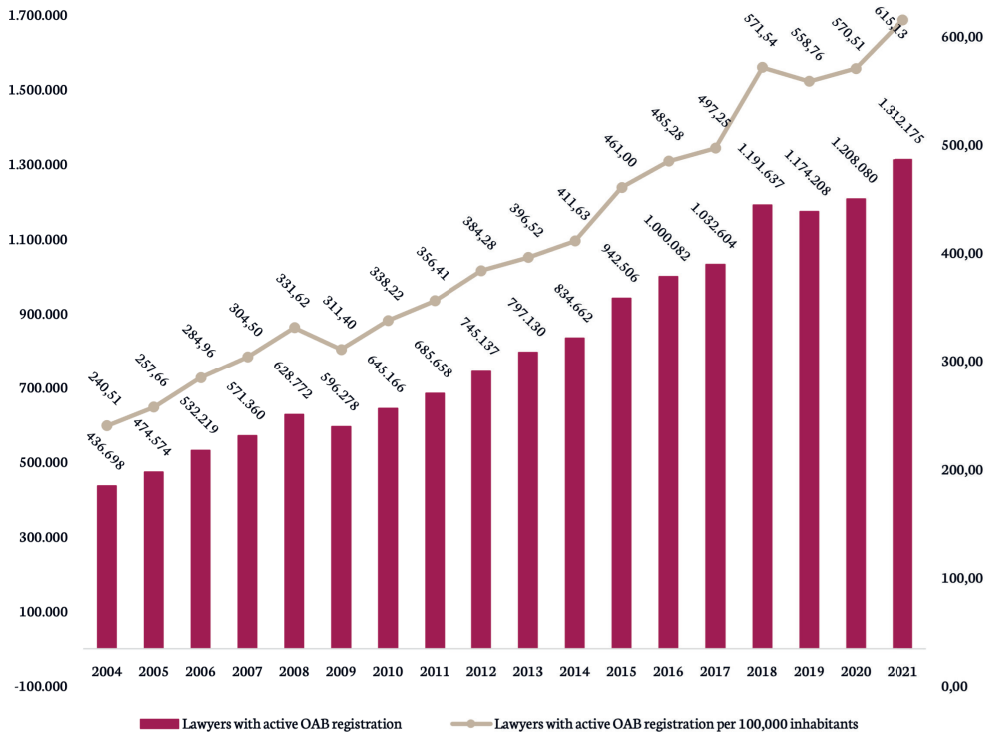
6. Data about lawyers

Over the past decade, there has been a significant increase in the number of actively registered lawyers in the Ordem dos Advogados do Brasil (OAB), largely due to the expansion of higher education in the country, driven by educational public policies implemented by the Federal Government and the intense interest of society in this field. Programs such as Universidade para Todos (University for All) (Prouni), Sistema Unificado (Unified System) (Sisu), and Financiamento Estudantil (Student Financing) (Fies) have contributed greatly. Brazil has witnessed a significant leap, going from 436,698 lawyers in 2004 to 1,312,175 in 2021, representing an average of 615 lawyers



per one hundred thousand inhabitants. This corresponds to approximately 0.61% of the Brazilian population having an active registration with the OAB. These numbers highlight the relevance of the legal profession in the country, reflecting both the demand for legal services and access to educational opportunities in the legal field, but they are very high numbers.

CHART 13 • LAWYERS IN BRAZIL



SOURCE: OAB, 2004; OAB, 2005; OAB, 2006; OAB, 2007; OAB, 2008; OAB, 2009; OAB, 2010; OAB, 2011; OAB, 2012; OAB, 2013; OAB, 2014; OAB, 2015; ECJ, 2016; OAB, 2017; OAB, 2018; OAB, 2019; OAB, 2020; OAB, 2021.

When comparing the data, the increase in the number of lawyers in Brazil is truly impressive. Only Israel surpasses Brazil in this aspect. Based on the latest available data from 2018, Brazil had an average of 571.54 lawyers per one hundred thousand inhabitants, a number much higher than countries like Portugal (314.75), Spain (306.01), the United Kingdom (270.31), Germany (199.15), and France (99.79).

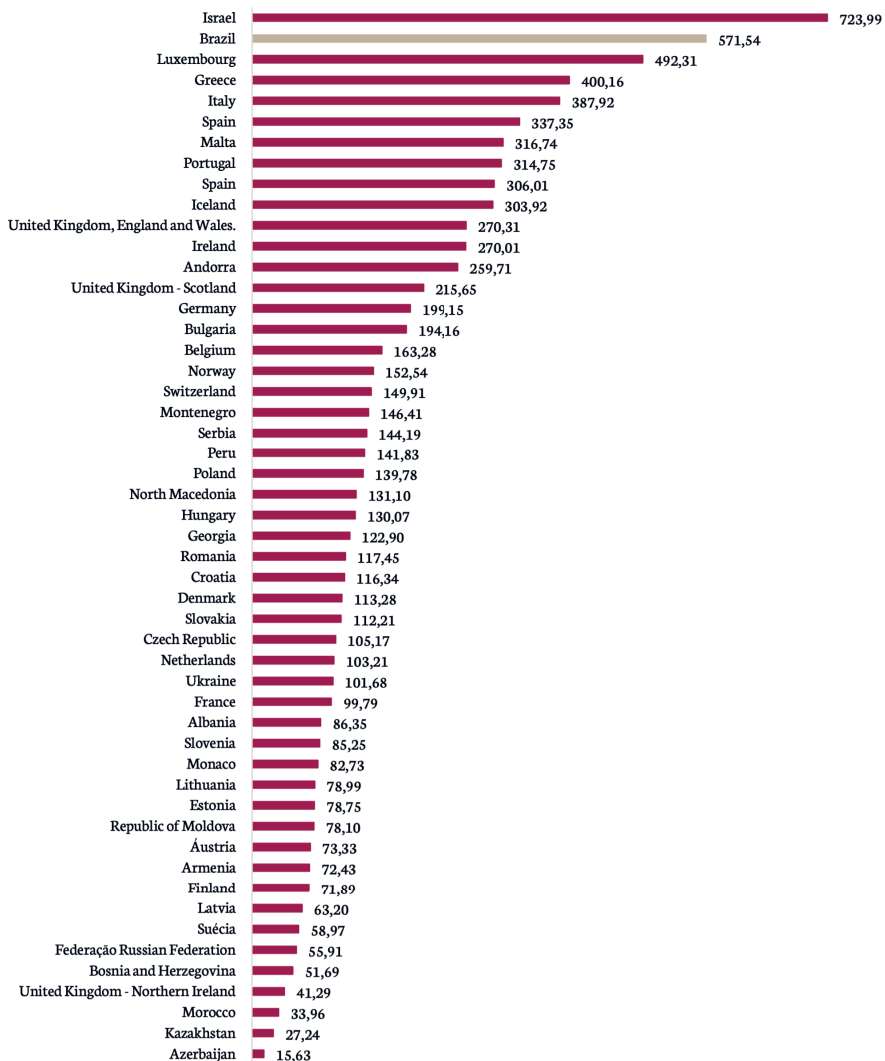
Between 2008 and 2018, Brazil even surpassed the United States in the number of lawyers, as seen in a previous specific study (Feloniuk, 2020b). By the end of 2018, the



- WAGNER SILVEIRA FELONIUK
- CARLOS OTAVIANO PASSOS
- TIAGO LELES DE OLIVEIRA

United States had 413 lawyers per 100,000 inhabitants, considerably less than Brazil. In summary, the exponential growth in the number of lawyers in Brazil has elevated the country from a relatively low position on the ranking, at the beginning of the century, to the second place in terms of the quantity of lawyers compared to the data from the European Council. There is nothing preventing Brazil from taking the first position in a few years.

CHART 14 • LAWYERS PER 100,000 INHABITANTS (2018)



SOURCE: OAB, 2018; WB, 2022.



Knowing more about this number and its increase directly depends on information about the training of new jurists in Brazil.

7. Data on the training of jurists and legal courses

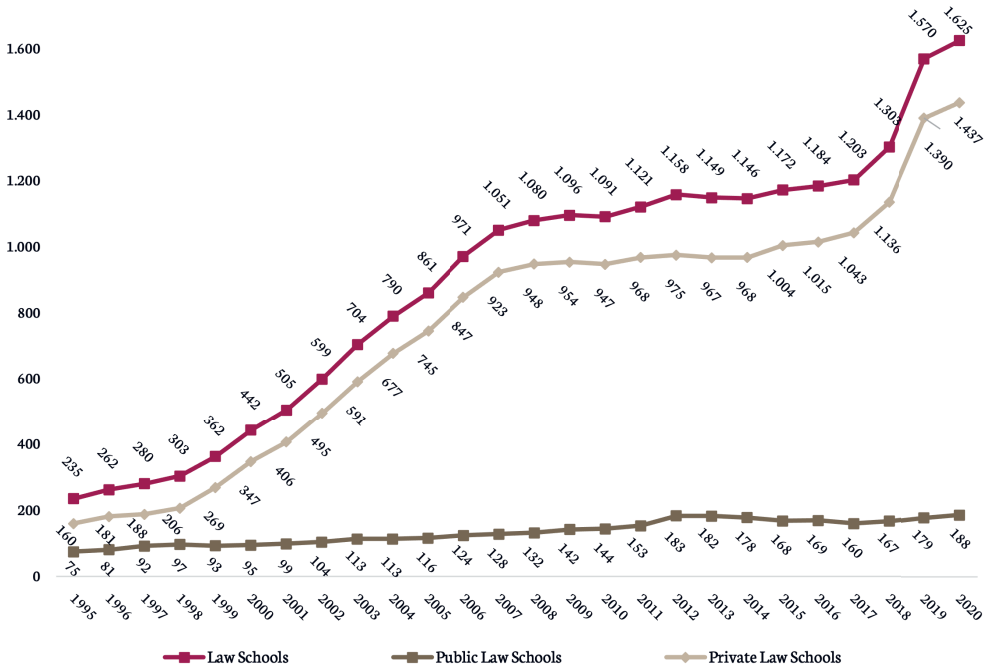
The significant increase in the number of undergraduate law programs has had an impact on the growth of the number of lawyers in Brazil. Currently, the country has approximately 1,625 undergraduate law programs, one of the highest numbers in the world (likely the highest³), as warned by legal experts almost a decade ago (Duque, 2015). Historical data dating back to the first two programs during the empire in 1827 show a much slower progression in the 20th century. By 1925, there were only six programs; in 1962, there were 60; in 1974, 122; in 1982, 130; and in 1999, 362 (Silva, 2000, p. 10). In other words, in a little over 20 years, almost 1,300 programs were created, while in the 200 years preceding that period, there were just over 300.

This expansion in the number of programs has contributed to the formation of a larger pool of professionals qualified to practice law, meeting the demand for legal services in different regions of the country. However, it is important to emphasize the need to ensure the quality of education, which has received deserved criticism, by constantly improving curricula and educational guidelines to ensure excellent legal practice that aligns with social demands. Additionally, as the number of pending cases demonstrates, the contribution of such a significant expansion has not been felt as it could have been, had there been more appropriate public policies and legislation.

3 As published in a previous study: "There are available data from various countries, but in general, there is a significant inconsistency between the numbers in the tables found, and consultations of the known data from Brazil and the United States confirm the low reliability. Among the most accessible sources, Wikipedia contained correct information about the United States and could possibly be used to estimate other countries. For example, it lists 23 law schools in China, 152 in India, 58 in France, 23 in Pakistan, 17 in South Africa, 20 in Turkey, 6 in Sweden, and 15 in Poland." (Feloniuk, 2017, p. 56-74).

- WAGNER SILVEIRA FELONIUK
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- TIAGO LELES DE OLIVEIRA

CHART 15 • UNDERGRADUATE LAW PROGRAMS IN BRAZIL



SOURCE: INEP, 1996; INEP, 1997; INEP, 1998; INEP, 1999; INEP, 2000; INEP, 2001; INEP, 2002; INEP, 2003; INEP, 2004; INEP, 2005; INEP, 2006; INEP, 2007; INEP, 2008; INEP, 2009; INEP, 2010; INEP, 2011; INEP, 2012; INEP, 2013; INEP, 2014; INEP, 2015; INEP, 2016; INEP, 2017; INEP, 2018; INEP, 2019; INEP, 2020; INEP, 2021.

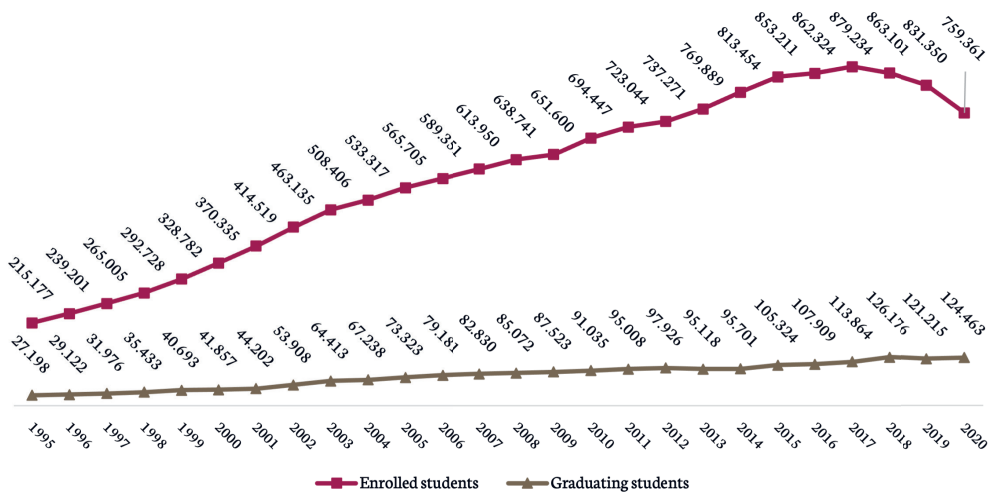
Specifically, regarding the years 2017 and 2018, it is important to highlight that the Ministry of Education (MEC) had reduced the number of authorizations for the opening of new courses for almost half a decade, taking into consideration the opinions of universities, legal experts, and the OAB. However, the Temer government adopted a policy of reviewing the backlogged requests and, according to the press, tended to approve their creation, resulting in a significant increase in the number of courses (Pinho, 2019).

The expansion of the number of undergraduate law programs in the country had a direct impact on the availability of spots and, consequently, the increase in the number of lawyers. The graph below shows a comparison between the number of incoming students and graduates in law courses over the past 25 years, highlighting a significant increase during the years of higher education expansion in the country, followed by a trend of stabilization and decline in recent years.



However, it is important to note that this recent trend can apparently be attributed to two factors. Firstly, the ongoing economic crisis that the country faced in the mid-2010s, which may have impacted the demand for undergraduate law programs. Additionally, the recent declaration of a health emergency due to the Covid-19 pandemic had significant effects on the economy and Brazilian higher education, influencing the demand for higher education courses. These conjunctural events may explain the observed trend of stabilization in recent years.

CHART 16 • STUDENTS ENROLLED IN UNDERGRADUATE LAW PROGRAMS IN BRAZIL



SOURCE: INEP, 1996; INEP, 1997; INEP, 1998; INEP, 1999; INEP, 2000; INEP, 2001; INEP, 2002; INEP, 2003; INEP, 2004; INEP, 2005; INEP, 2006; INEP, 2007; INEP, 2008; INEP, 2009; INEP, 2010; INEP, 2011; INEP, 2012; INEP, 2013; INEP, 2014; INEP, 2015; INEP, 2016; INEP, 2017; INEP, 2018; INEP, 2019; INEP, 2020; INEP, 2021.

8. Final considerations

The data reveals an impactful scenario. While the population has grown by 44.13% since the 1990 census, the number of new cases per year has increased by 613.39% (data from 2020). We have gone from a society with 2,498 cases per hundred thousand inhabitants to one with 12,186. In this scenario, the capacity to adjudicate actions has improved, but it has not been sufficient: the pending cases has increased from 63 million to 75 million in just the last ten years.

This scenario needs to be viewed from two perspectives, one rooted in the mid-2010s and the other connected to the pandemic. The former provides us with a positive



- WAGNER SILVEIRA FELONIUK
- CARLOS OTAVIANO PASSOS
- TIAGO LELES DE OLIVEIRA

view, as the backlog of cases awaiting judgment had been declining since 2016. The number of new cases per capita seems to have stabilized around 11,000 to 13,000 per hundred thousand inhabitants. The pandemic, on the other hand, resulted in a 16.99% decrease in new cases in 2020 and an 8.38% decrease in 2021. The capacity to adjudicate cases was negatively impacted, resulting in a sudden increase in the backlog, even with fewer cases to be judged. Thus, an increase in new cases is expected in the post-pandemic period, along with a recovery in the decision-making capacity. It is possible to envision a resumption of the trend of reducing the backlog, which for society means a decrease in procedural delays and significant harm.

Brazil finds itself in a scenario of high litigation rates, but it is not outside the patterns observed in many other countries. The central challenge faced by society is to avoid the accumulation of pending cases, and in this regard, the comparative data shows us the severity of the situation. It is essential to seek solutions to expedite the judicial process, ensuring an efficient response from the judicial system to the demands of the population.

Part of this challenge was addressed through digitization, which now encompasses 97.2% of cases. Mediation also plays a relevant role, although it has maintained a stable rate, occurring in approximately 10% to 13% of cases for many years, regardless of legislative reforms. The implementation of procedural legislation aimed at expediting procedures, the oversight exercised by CNJ, and the considerable increase in support staff in the judiciary have also had a significant impact.

However, special attention should be paid to the last-mentioned data (support staff in the judiciary). In 2009, the CNJ declared that the judiciary had a total of 329,000 active professionals, with 16,000 judges. In 2021, the number of judges increased to only 18,000, but the total number of professionals reached 424,000. This means that nearly 100,000 additional professionals are working in the judiciary today (excluding the Public Prosecution Service, Public Defenders, or attorneys). This represents a significant cost borne by society, which deserves further attention and justification.

Regarding public careers, there has been stability in the number of judges, which has remained around 18,000 members since 2017. While this number may seem high considering the vast Brazilian population, it averages only 8.5 judges per hundred thousand inhabitants, one of the lowest rates within the surveyed countries and two to three times lower than the European standard. Therefore, the continued need to implement public policies aimed at increasing the efficiency of these active judges is

evident (not to advocate for a systematic increase in judges if other solutions were leading to a reduction in the backlog).

Regarding the Public Defender's Office, there has been a truly remarkable advancement. The number of members per hundred thousand inhabitants increased from 1.8 to 3.2 between 2003 and 2019. Despite this substantial improvement, the numbers still appear surprisingly low, considering that their target audience represents almost 40% of the Brazilian population. In comparison, the number of private lawyers is 615.1 per hundred thousand inhabitants.

Regarding the Public Prosecutor's Office, the number of members remains at around 13,000, a significantly lower value compared to the judiciary, about 5,000 members less, which requires attention to ensure an adequate presence in the courts. The institution has undergone profound changes since the promulgation of the Constitution, and its institutional and political role is different today, and its stagnation is noteworthy in this sense.

The number of lawyers in Brazil continues to increase significantly, resulting in a supply of legal services for those who can afford it but likely creating a saturated market situation for professionals. In 2004, there were 436,000 lawyers; by 2009, this number had risen to 596,000; in 2014, it reached 834,000; and in 2019, it reached 1.19 million. Currently, as this article is written in 2023, the number of lawyers has already reached 1.41 million. Therefore, the contingent of professionals is very high. Compared to other countries, Brazil has the second-highest number of lawyers per hundred thousand inhabitants, two to three times higher than most European countries. This continuous upward trend may indicate market saturation and additional challenges for professionals in the field.

This increase in the number of lawyers was accompanied by an exponential growth of undergraduate law programs. In 1995, there were only 235 courses in Brazil. Currently, that number stands at 1,625, with data updated until 2021. Public policies such as Fies and Reuni contributed to the increase in the number of courses, and more recently, with the support of the government at the time, hundreds of new courses were created starting in 2017. Brazil has one of the largest numbers of undergraduate law programs in the world, likely the country with the highest number.

On the other hand, there is a counterpoint to consider. Despite the increasing number of law schools, there has been a decline in the number of enrolled students. In 1995, there were 215,000 enrolled students. The peak was reached in 2017, with

- WAGNER SILVEIRA FELONIUK
- CARLOS OTAVIANO PASSOS
- TIAGO LELES DE OLIVEIRA

879,000 students enrolled in law courses across the country. However, since then, this number has been progressively decreasing. Currently, the total is only 759,000. There is a downward trend in student enrollment every year, and it seems to be accelerating in the past two years. This decrease can be attributed to several factors, such as economic hardships, the impacts of the pandemic, and a greater awareness in society regarding the reality of the job market. These elements may be discouraging new students from entering the field of law.

The challenges faced by the Brazilian judicial system persist. Among them, notable ones include reducing the backlog of pending cases, ensuring access to justice for the poorest individuals, and implementing consistent public policies for establishing new law schools. Fortunately, it seems possible to find solutions to these challenges, and significant efforts have been made for years to address the first two (increasing productivity and hiring public defenders), as well as a direct response from society regarding the third (lower demand for the law degree). Despite its shortcomings, the judicial system continues to operate and has shown reasonable resilience in the face of the impacts of the pandemic.

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