



CHALLENGING CORRUPTION¹

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RESUMO

Nesta palestra feita em maio de 2006, em Sydney, Austrália, na 8ª Conferência Bienal da Associação Internacional das Mulheres Juízas, foram apresentadas as medidas tomadas, no Brasil, pelo Conselho Nacional de Justiça no sentido de combater a corrupção no Sistema Judicial Brasileiro, ao fomentar uma cultura de transparência, planificação e eficiência.

Destacam-se, no texto, as medidas e políticas estratégicas realizadas por esse novo órgão de controle do Poder Judiciário, dividindo-as em dois segmentos: o das estratégias e políticas do CNJ relativas à função de controle ético-disciplinar dos membros do Sistema Judicial, vinculadas ao princípio constitucional da moralidade administrativa, e, as estratégias e medidas relativas à função de planejamento, demonstrando o amadurecimento da democracia brasileira através da sofisticação dos mecanismos de combate à corrupção.

Palavras-chave

Sistema judicial. Conselho Nacional de Justiça. Corrupção. Democracia. Princípios constitucionais. Moralidade.

ABSTRACT

This is a speech made in May 2006, at Sydney, Austrália, during The International Association of Women Judges 8th Biennial Conference, where we have presented the measures taken, in Brazil, by the National Council of Justice in order to challenge corruption in Brazilian Judicial System, by promoting a culture of transparency, planning and efficiency, highlighting the strategy and political measures conducted by CNJ and dividing them into two segments. The first one is "Strategy and political measures" of CNJ related to ethical-disciplinary control function of the judges, linked to the constitutional principle of morality. The other one is "Strategic Planning of the Judicial System", demonstrating the maturation of the Brazilian democracy through the sophistication of the fighting corruption mechanisms.

Key-words

Judicial System. National Council of Justice. Corruption. Democracy. Constitutional principles. Morality.

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1. INTRODUCTION

First of all, I would like to thank the *International Association of Women Judges* (IAWJ) president Jane Mathews for the kind invitation to represent Brazil in this panel, here in the lovely city of Sydney. Also, allow me to start my speech making an announcement.

We are delighted to announce that, for the first time in Brazil, we have a woman as the Supreme Court's Chief Justice. Her name is Ellen Gracie Northfleet, and she will be holding her seat for the next two years.

Chief Justice Ellen Gracie Northfleet is a member of IAWJ – International Association of Women Judges, and since she was not able to attend this meeting, she sent us her message on DVD, which will be shown on Saturday afternoon. The DVD contains not only Chief Justice Northfleet's message, but also an evaluation of the results of a research done by the Brazilian Judges' Association on the increasing participation of women in the Brazilian Judiciary System.

Our delegation is offering a copy of the "Women Judges of Brazil" DVD to each country present at this meeting. We would like to ask each delegation chief to report to us at the end of this session to receive a copy.

Now, let's start our panel theme, "*Challenging Corruption*".

We all know that corruption is an universal and timeless problem. It is not an apanage of any particular institution or country. It is a problem of humankind, which has not yet reached the necessary consciousness level to renounce selfishness, and to embrace solidarity. This situation, in turn, reflects upon societies and institutions.

In Brazil, the 1988 Federal Constitution and the subsequent seasoning of democracy have promoted the sophistication of mechanisms to fight corruption.

Our Federal Constitution introduced an important principle existing solely in our country, that has been used as reinforcement to the punishment culture-the Administrative Morality.

Within this political context and in the spectrum of the Brazilian Judiciary Power reform, in June 2005 it was created the CNJ - National Council of Justice, to control the administrative and financial activities of the Judiciary System, as well as, the disciplinary ethic control of its members. The CNJ - National Council of Justice is also in charge of the surveillance for the compliance to the principles of legality, impartiality, morality, publicity, and efficiency in the judiciary administration sphere.

It is important to explain to you the CNJ's structure, even if briefly, and to introduce the political strategy and measures taken by the CNJ in its first year of operation.

2. NATIONAL COUNCIL OF JUSTICE'S STRUCTURE

Let's have a glimpse at the CNJ structure.

The CNJ was created by the Constitutional Amendment nº 45/2004, which deals with the reform of the Judiciary Power, and was implemented in June 2005. It is composed of fifteen members, nine judges and six representatives drawn from legal institutions and the Congress, and it is presided by the Supreme Court's Chief Justice.

The nine judges represent several segments of the Brazilian judiciary structure:

1. The Supreme Court's Chief Justice Ellen Gracie Northfleet, who currently presides the CNJ.
2. A minister from the Superior Court of Justice
3. A minister from the Superior Labor Court
4. A representative from the Federal Courts
5. A federal judge
6. A representative from the State Courts
7. A state judge
8. A representative from the Labor Courts
9. A labor judge

The representatives drawn from legal institutions and the Congress are two attorneys-at-law appointed by the Brazilian Bar Association (OAB), one member of the Federal Attorney's Office, one member of the State Attorney's Office, a representative from the Federal Senate (Senado Federal), and a representative from the House of Representatives (Câmara dos Deputados). The Council operates in the same building as the Supreme Federal Court, in Brasilia, the capital of Brazil.

3. CNJ'S STRATEGY AND POLITICAL MEASURES TO FIGHT CORRUPTION

The presentation will be divided in two segments. The first one will contain the strategy and the measures related to the ethic-disciplinary control over the Judiciary Power members. The second segment will include the strategy and the measures related to planning.

3.1. Ethic-disciplinary control over the Judiciary Power members

In order to exert this control, CNJ adopted a policy to fight impunity, with support in the constitutional principle of morality. To reach this goal, the following measures were taken last year:

- a. Creation of the National Administrative Office of Brazilian Justice (Corregedoria Nacional da Justiça Brasileira), through which judges that are accused of functional infractions are disciplinarily prosecuted.
- b. Two normative acts were issued:
 1. The prohibition of nepotism in the Judiciary Power, with the dismissal of all the judges relatives who were hired without having passed public exam, mandatory for taking position within Brazilian public offices.
 2. Application of a constitutional income limit for all members of the Judiciary in the country. It is mandatory for all judges to disclose their income.

It is also important to say that there is an Ombudsman project currently being developed for the 97 courts of Brazil.

Notwithstanding the importance of its disciplinary role, in my view, CNJ's main function is to develop the National Judiciary Systems' strategic planning, and to promote a culture of transparency and efficiency. (Annual Report from 2005, www.cnj.gov.br)

3.2. Strategic Planning of the Judiciary System

By promoting the culture of transparency, efficiency, and planning, the structural conditions that facilitate corruption practices will be removed.

By developing a national planning for the Judiciary System, CNJ has been adopting preventive measures, conducive to eliminate the factors that are favorable to the practice of corruption.

In order to implement this policy, the following action has been taken:

- a. a) Development of CNJ's website and a procedural follow-up system. Creation of a public consultation module.
- b. b) Creation of the National Database Bank of the Judiciary Power, with the publication of procedural statistics on CNJ's website. Improvement and national standardization of statistic procedures.

Implemented in the form of a Services' Portal, this central data base (BNDPJ) is an important tool for the Judiciary System planning, with data from the "Justice in Numbers" research.

In the judicial field, the BNDPJ was installed to become an instrument of management, transparency, and performance evaluation of the national judiciary systems. With this tool, it is offered to the Brazilian citizen the access to exercise social control.

Another guiding aspect of the "Justice in Numbers" research is efficiency.

The elements of efficiency are speed, quality, cost, equity, and the degree of access to justice. The constitution of a large and centralized national database will create awareness over the degree of congestion, cost, and access to the judicial system.

The database centralization and visibility in a single place, with the management of the CNJ, prevents the problem of plurality of sources and indicatives on the same subject, and as a result, inhibits corruption in many pulverized segments of Brazilian Justice.

While it supplies the society with transparent data on the operation of the Judiciary Power-the judges' number, the cases' number, the trials' length, the cases' cost, the BNDPJ enables a wider social control of the Judiciary System and prevents the practice of corruption.

The National Council of Justice expects, with the adoption of the aforementioned preventive and repressive measures, to raise, in a short period of time, the national society's and the international community's trust in our country's Judiciary System

I thank you once again, on my behalf and on the Brazilian delegation's, for the opportunity to talk about the policies and measures adopted by the Brazilian Judiciary System to defy corruption, and I would like to register that the achievement of such panel, in which women judges coming from the worlds' five continents meet to discuss this theme, is a concrete proof that important steps are being taken to ban corruption from the Judiciary System sphere. And beyond that, it is an invitation to renew our hopes for a more fraternal and compassionate world.

At last, we have learned yesterday that here in Australia a boomerang makes the connection between earth and sky. We, women judges from Brazil, invite all of you to be-like a boomerang-a connection between heart and mind, and more than that, a connection between our hearts and our minds all around the world. Let's try it.