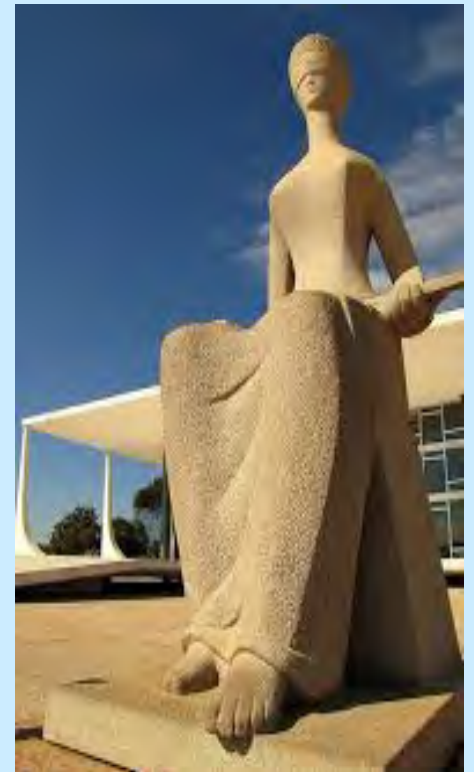


# National Council of Justice

## Bursting the Judicial Bubble

Maria Tereza Aina Sadek



# Main Point

- **The NCJ has the potential to change the Judicial Power and the justice system, but its future is uncertain and there are many challenges.**



# What is the NCJ?

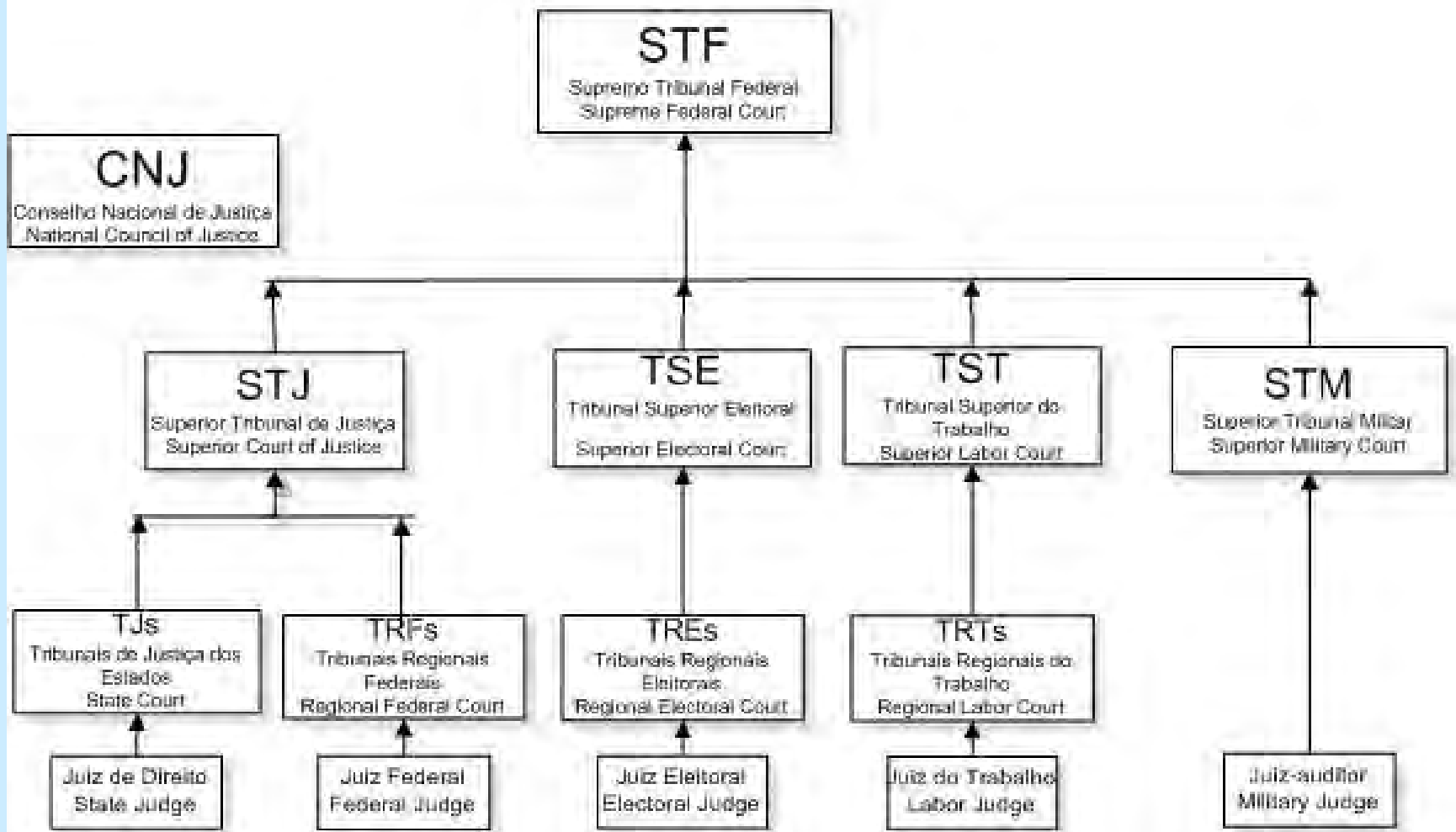
- **A body of external control of the Judicial Power created by the 45th Constitutional Amendment in 2004.**
- **The 1988 Constitution – with its 245 articles – did not include any mention of external control of the Judicial Power.**
- **Different from European and Latin American counterparts.**

# Hierarchy

- **Second position in the constitutional hierarchy – just below de STF**
- **Above all the other courts**

# Poder Judiciário

(Fluxo Processual)



Composed of 15 members who are over than thirty-five and below sixty-six years of age, for a term of two years, with one continuation allowed, including:

- **One Justice from the Federal Supreme Court, appointed by the respective Court**
- **One Justice from the Superior Tribunal of Justice, appointed by the respective Court;**
- **One Justice from the Superior Tribunal of Labor, appointed by the respective Court;**
- **One Justice from a State Tribunal of Justice, appointed by the Federal Supreme Court;**
- **One state judge, appointed by the Federal Supreme Court;**
- **One judge from a Federal Regional Tribunal, appointed by the Superior Tribunal of Justice**
- **One federal judge, appointed by the Superior Tribunal of Justice;**
- **One judge from a Regional Court of Labor, appointed by the Superior Tribunal of Labor;**
- **One labor law judge, appointed by the Superior Tribunal of Labor;**
- **One member from the federal Public Prosecutor's Office, appointed by the Attorney General of the Republic;**
- **One member of the state Public Prosecutor's Office, chosen by the Attorney General of the Republic among the names appointed by the competent bodies of each State institution;**
- **Two lawyers, appointed by the Federal Council of the Brazilian Bar Association;**
- **Two citizens, of notable juridical learning and spotless reputation,**
  - **one appointed by the Chamber of Deputies and the other appointed by the Federal Senate.**

# Members of the NCJ

**15 in total, each with 2 year terms:**

- **9 representatives from the JP;**
- **1 representative from the Public Prosecutor's Federal office;**
- **1 from the P.P. State Office.**
- **2 lawyers appointed by the Brazilian Bar Association;**
- **2 citizens appointed by House of Representatives/Senate and named by the President;**

# What are the main duties of the NCJ?

- **Control and plan administrative aspects without interfering with jurisdictional independence of the JP.**
- **Democratize justice.**
- **Improve administrative efficiency, morality, and transparency.**
- **Guarantee unity and autonomy of the JP.**



# NCJ: Institutional Construction

- It is not a continuous and evolving process
- Different rhythms, distinct strategies
  
- **RESULT: expansion or retraction of the institution**

# Relationship between President and Inspector



President	Inspector	Relationship
Nelson Jobim (2004-2006)	Antonio de Padua Ribeiro	
Ellen Gracie Northfleet (2006-2008)	Cesar Asfor Rocha	
Gilmar Mendes (2008-2010)	Gilson Dipp	
Cezar Peluso (2010-2012)	Eliana Calmon	
Carlos Ayres Britto (2012)	Eliana Calmon	
Joaquim Barbosa (2012-2014)	Francisco Falcão	
Ricardo Lewandowski (2014-Present)	Nancy Andrighi	

# Administrative Achievements

There is still room for improvement

- **Establishment of clear and pre-determined goals;**
- **Digitalization, systematization, and standardization of data/information regarding courts and proceedings;**
- **Inspections in prisons.**

# Non-Achieved Goals

- suits related to improbity and crimes against Public Administration surrendered until 2011 should have been judged by the end of 2013 (only 62,000 out of 114,000 have been judged; (54%))
- The above goal was reset in 2013 adding up to the suit entered in 2012
- Only 110,000 out of 198,000 corruption-related have indeed been judged.

(continued)

- **Regarding State Justice, which bears most of the corruption suits, in the total of 105,000 suits only very small tribunals have achieved the goals, i.e. Amapa(95%) and Acre (88%)**
- **In contrast, the worst are Piaui (21%) and Bahia (only 8%.)**

# Important Decisions

- **Resolution against nepotism;**
- **Regulation of the participation of judges in conferences and meetings;**
- **Establishment of a salary cap**
- **Ability to investigate magistrates.**

# Difficulties for the Future

- **Lewandowski is critical of the powers given to the NCJ, although he is the current President; Not much is likely to be done under his presidency**
- **Continuing conflicts between members and the presidency of the council;**
- **Loman;**
- **What will be the impact of the new age limit (the cane amendment) on the NCJ?**