The judicial branch management from the perspective of the ex-councilors: Analysis of the relationship between the CNJ and the State Court from 2004 to 2013

A gestão do Poder Judiciário sob a ótica de ex-conselheiros: Análise da relação entre o CNJ e a justiça estadual de 2004 a 2013

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ABSTRACT
We sought to analyze the interaction of the CNJ with state courts in the quest for improved efficiency in State Justice from 2004 to 2013 from the perspective of former members of the CNJ. The questions to be answered were: How have the efforts and actions of the state courts adapted to the requirements of the CNJ in order to improve the efficiency of jurisdictional provision? To what extent has there been a convergence of efforts and achievements between the CNJ and the State Courts to order to improve efficiency? Twenty former members of the CNJ were interviewed, and thematic analysis was used as the content analysis technique. The categories established for analysis were related to the predominance of divergence (distrust and resistance), the predominance of convergence (acceptance and integration) and the alternation of scenarios (relativism and context of autonomy). Respondents pointed to a convergence of efforts which gained strength to the extent to which ignorance and mistrust relating to the CNJ were gradually dissipated.

Keywords: judicial branch, State Courts, National Council for Justice

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1. Introduction

Perceptions of the judicial branch frequently associate it with long and excessive delays in settling disputes, high costs for users, a sense of impunity and a lack of transparency in its activities. At the same time, there have been changes in how courts are managed, making it possible to point to improvements in the level of satisfaction of Brazilian citizens in relation to the judicial system as from the second half of the first decade of this century. Monitoring of the performance of the courts, prompted by greater transparency, provides evidence of better management of the judicial systems, although there remain areas where improvement is needed. All this makes it possible to alter some of the ingrained ideas in Brazilian society concerning the judicial branch (Falcão, 2009). The main landmark was Constitutional Amendment (CA) 45/2004, better known as the "Judicial Reform", which sought to provide a response for improving performance, by setting up an administrative regulatory body, the National Council for Justice (CNJ). The CNJ's mission is to exercise administrative and financial oversight of all Brazilian courts, including the higher courts (Oliveira, 2017).

Little research has been conducted into the management of the judicial branch in the academic field of Public Administration, even with the greater availability of data, diagnoses, transparency mechanisms and monitoring of courts conducted and disclosed by the CNJ (Nogueira, 2011; Oliveira, Nogueira, & Pimentel, 2018). Surveys have therefore demonstrated a gap in knowledge concerning the role of the CNJ in improving the performance of the State Justice segment. The aim of this research was to analyze interaction between the CNJ and state courts in the quest for improved levels of efficiency in State justice in the period 2004 to 2013, from the perspective of former members of the CNJ. The main questions to be answered were: How did the efforts made, and action taken, by the State courts of justice respond to the requirements imposed by the CNJ with a view to improving the efficiency of performance of the court system? To what extent was there a convergence of efforts and attainment of outcomes between the CNJ and the State courts for an improvement in efficiency?

The study starts by characterizing the management of the judicial branch through the activities of the National Council for Justice and then details the methodological procedures adopted. This is followed by analyses of disproportionate representation on the CNJ and the council's relationship with the State courts of justice. The article concludes with final considerations and references.

2. Management of the judicial branch through the National Council for Justice

Management of the judicial branch in Brazil is intertwined with the history of the CNJ and may be traced back to some years before the council's creation. Attempts to establish control of the judicial system can be identified earlier in the country's history. The CNJ was not the first institution with the format of a Council for Justice in the Brazilian legal and constitutional system. The first move in this direction was the creation of the Higher Council of the Judiciary (Constitutional Amendment 7/1977), under the military regime. The judges appointed to the Federal Supreme Court (STF) and took disciplinary and action in relation to the judiciary, and in particular to conduct by judges considered to be inappropriate. The Council interfered little, as the period of renewed political openness ensued, and the Council was abolished by the new Federal Constitution (CF) of 1988 (Sadek, 2004; 2006; Sampaio, 2007; Peleja Júnior, 2011).

The idea of oversight of the judicial system was raised again in 1992, when an organized group of representatives of the Legislative Branch called for greater transparency and oversight of the Brazilian judiciary. There was wide debate about how this new Council should operate, involving a Parliamentary Committee of Inquiry to intensify the whole process, with three successive changes in its chairmanship before it reported. On the other hand, the main dynamic observed in this historical period was the political efforts made to set up an institution for external oversight of the judicial branch or to set up another collegiate judicial body involving representatives from other institutions (from the Public Prosecution Service, the Bar Association and members of the Legislative Branch). The judiciary made great efforts to resist this movement, rejecting the proposal, in particular, because of the possibility of it being declared unconstitutional by the STF itself (Sampaio, 2007; Sadek & Arantes, 2010; Peleja Júnior 2011).

Article 103-B of the Federal Constitution added the CNJ to the Brazilian judicial system as a judicial body with internal oversight and advisory responsibilities, as not as another trial court body. Hierarchically speaking, it is therefore placed below the STF, but above the higher courts (Vieira; Pinheiro, 2008; Nogueira, 2010). In this case, the CNJ promotes judicial policies through resolutions and recommendations to be followed by the courts in all segments of the judicial system. Even so, there is an understanding that the judicial reform's main impact on the STF was to provide it with the procedures for 'general repercussion' and binding precedent, causing a reduction in the demand for its services and allowing a greater number of trials to proceed more swiftly (Falcão, Cerdeira, & Arguelhes, 2011; Falcão, Abramovay, Leal, & Hartmann, 2013).

The CNJ comprises fifteen members appointed for a two-year term of office, reappointment being permitted. The fifteen members are: i) The presiding judge of the STF (Federal Supreme Court); ii) a justice of the Higher Court of Justice (STJ), nominated by that court; iii) a justice of the Higher Labor Court (TST), nominated by that court; iv) an appeal court judge of the Court of Justice, nominated by the STF; v) a state judge nominated by the STF; vi) a judge of the Federal Regional Court, nominated by the STJ; vii) a federal judge, nominated by the STJ; viii) a judge of the Regional Labor Court, nominated by the TST; ix) a labor judge, nominated by the TST; x) a member of the Union Public Prosecution Service, nominated by the Attorney-General of the Republic; xi) a member of the state Public Prosecution Service, chosen by the Attorney-General of the Republic from a list of names indicated by the competent body of each state institution; xii) two attorneys, nominated by the Federal Council of the Brazilian Bar Association (OAB); xiii) two citizens, with notable legal knowledge and unblemished reputation, one nominated by the Chamber of Deputies and another by the Federal Senate. It may be noted that the majority of members are judges, reinforcing its function as a body exercising internal oversight over the judicial branch (Nogueira, 2010).

The CNJ exercises not only administrative oversight, but also acts as inspectorate, applying penalties in the event of misconduct or irregularities on the part of judges or courts. By exercising oversight over the courts, political agents can use the Council as a further tactical instrument in the institutional judicial environment. For example, Fragale Filho (2011; 2013) has demonstrated how the dimensions of agenda setting, composition of the council and the possibilities of constructing the decision-making process within the CNJ are also subject to external influences due to the low level of institutionalization of the body.

Political standards are also clearly visible within this supervisory body for the judicial system, affecting how the institutions acts. Fragale Filho (2011; 2013) accordingly stresses the importance of reaching a better understanding of the composition of the CNJ in order point to patterns of action in the council's record. Changes can be observed in the institutional design of the initial composition of the CNJ, generating concerns about changes of course that may occur with increased political engagement on the part of appointees. In line with this view, Falcão and Rangel (2013) point to elements that could guide the procedures for appointing judges and citizens to sit on the CNJ. They suggest regulating the selection processes for appointees, giving consideration to the following aspects: management capacity or skills; moral independence, or impartiality in the exercise of administrative and financial oversight. Another idea is to provide for safeguards against appointments that suggest nepotism and candidates found guilty of administrative misconduct (Falcão & Rangel, 2013). Oliveira (2019) has sought

to analyze the appointment criteria and motivations for membership of the CNJ from the standpoint of former council members from the first five terms of office. In terms of motivations, it was found that candidates possessed leadership profiles, as well as demonstrating an interest in helping to gather statistical data and in taking part in a body that would deal with disciplinary issues. Of the different criteria for nomination, the most common were invitation/nomination by the presiding judge of a higher court, pointing to the influence exercised by those courts over this newly instituted body.

Efforts have been made since 2009 to establish uniform standards, with the setting of national targets connected to one of the strategic goals. In essence, this idea was to assign targets that were to be attained in the same year as they were set. The targets were proposed by the CNJ, voted on and endorsed by the presiding judges of all the courts in the country during the Annual Meetings of the Judiciary. This was a meeting held in the previous year, at which information could be provided on targets from the start of the year, so that efforts could be planned to achieve the targets. These procedures added to the centralization and standardization of the Judicial System (Glick, 1983), as well as implementing the *Balanced Scorecard* (BSC) concept as a tool for measuring attainment of targets (Kaplan; Norton, 2004). The BSC was adopted in courts with help from a consultancy firm, Target 1 was set for 2009 (Gangemi & Fernandes, 2010).

The lessons learned from the targets in the first two years (2009 and 2010) were crucial to adjusting course in subsequent years. The failure by the courts to meet most of the targets attracted recurrent criticism from the press. It should be noted that certain targets were very challenging, exposing the great difficulty experienced by the Judicial System in fully attaining them. The CNJ addressed serious problems in measuring productivity and prompted an increase in information measurement in courts which were not properly prepared, as well as having indicators focused on the short term (Bouckaert & Balk, 1991; Fragale Filho, 2007).

2.1 The Judicial System from an administrative perspective and the context of efficiency

A number of changes were proposed by the CNJ itself to readjust the strategic focus: setting of targets by segments of the judicial system (for example, the State courts could have different targets from the electoral courts); reduction in the number of targets (there was no obligation to have ten targets each year); announcing targets earlier for subsequent years (targets were announced for the next two years), facilitating the allocation of budgetary resources directly to target attainment projects; focus on targets not attained in previous years and recognition of attainment (designed to ensure continued efforts and recognized the merits of

judicial units that succeeded in meeting targets). These changes were fundamental in increasing the level of attainment and made it clear that the CNJ was taking administrative action in the following areas: management; oversight; organization; standardization of procedural processes and judicial routines; judiciary and social policy. The CNJ has also addressed controversial issues in public services such as tackling nepotism, rules on payment of judicial demands (*precatórios*); restriction on the number of civil servants seconded from other authorities and changes to the rules on promotion of judges on the career path (Oliveira, 2017).

In dealing with matters relating to its own management, the Brazilian judicial system has always lacked procedures allowing it to have a minimum level of information on its administrative organization. Freitas (1987) was a pioneer in the Brazilian judicial system in working with the idea of efficient justice. He was misunderstood in his time and this perception remained unchanged until the mid-2000s. It was difficult to respond more accurately to a number of questions concerning the number of judges or staff, the number of new cases (proceedings), the number of cases finalized, the courts' budgets and other basic administrative data for an organization of this size (Sadek, 2004; Azevedo, 2010; Nogueira, Oliveira, Vasconcelos, & Oliveira, 2012). In attempt to address this problem, a management data collection drive started up on several fronts, ranging from more aggregated data to more individualized data, as well as identifying the main users of jurisdictional services (technically called litigants).

Starting in 2006, the CNJ has collected and collated statistical data relating to aspects of the performance of Brazilian judicial organizations. After statistical processing, the data have been presented as indicators grouped in areas such as: inputs, budget allocations, litigation rate and access to the courts (DPJ, 2014; 2018). These data are disseminated in an annual report entitled Justice in Numbers. The data presented as considered in aggregate form, as they provide a consolidated picture of the courts. The data is subdivided by area of competence and jurisdiction at the macro level (2nd Degree; 1st Degree; Appeal Benches, Small Claims Courts), but even so the data does not reflect the situation of segments of the justice system or of judicial units on a separate basis (DPJ, 2014; 2018; Nogueira et al., 2012).

Macieira and Maranhão (2010) point to the importance of working with management concepts in judicial units, using them as tools for the adoption of good practices from the ground up in the judicial system. In line with this, with a view to creating a data base dealing with the issues of greatest relevance at the micro level, the CNJ undertook the Open Justice program in late 2007. This was a program managed by the Corregedoria Nacional de Justiça (National Justice Ombudsman) to provide increased information on transparency, as well as information facilitating access to the courts. The Open Justice system provides data both

on both judicial bodies (1st and 2nd degree) and also extra-judicial bodies (notarial offices), but only refers to the jurisdiction of the state justice systems, also known as the common courts. Castro (2011) has stressed the importance of this data base in providing disaggregated data in relation to the report *Justice in Numbers*, allowing it to serve as a better tool for analysis and design of judicial policies, considering the peculiarities of individual judicial units. In view of the heterogeneous nature of the Brazilian judicial system, this program makes it possible to analyze in greater detail the monthly evolution of shortcomings and successes of around nine thousand jurisdictional units all over the country. The level of detail makes it possible to furnish information such as: number of employees, backlog of cases, number of stay applications, number of court orders and interlocutory decisions, the number of cases distributed and resolved (judgments and ratified agreements).

3. Methodological procedures

The changing membership of the CNJ over successive terms of office is reflected in its greater or lesser influence in the institutional environment to which the state justice systems belong. The period 2004 to 2013 was chosen as it corresponds to the period when the CNJ has collected annual data on Brazilian courts and published them in the *Justice in Numbers* reports (DPJ, 2014; 2018). In addition, it represents a decade as from the creation of the CNJ and the effects of the judicial reform.

The sample was taken from former members of the CNJ, providing a longitudinal perspective. The following criteria were adopted for selecting the sample: i) Chairperson; ii) *Corregedor* (Ombudsman); iii) representatives of state justice systems; iv) representatives of the state public prosecution services; v) members nominated by Brazilian Bar Association; vi) members nominated by legislative branch (citizens representing the Federal Chamber and the Senate); vii) members representing other segments of the judicial system, but who were directly involved in committees or projects geared to improving operational efficiency in the courts. These criteria served to select samples in accordance with the changing CNJ membership. Table 1 provides a summary of the contacts and the number of interviewees per term of office.

TABLE 1. Summary of sample of interviewees per term of office

TERM OF OFFICE	TOTAL	CONTACTED	INTERVIEWEES*	TOTAL	CONTACTED
1	15	8	6	53.3%	75.00%
2	17	10	6	58.8%	60.00%
3	15	6	5	40.0%	83.33%
4	15	6	4	40.0%	66.67%
5	15	8	2	53.3%	25.00%

* Some interviewees were reappointed and served more than one term of office.
Source: Prepared by the author.

In relation to each term of office, more than 60 percent of the former members were contacted (three interviewees were reappointed and were therefore counted in more than one term of office). Only the members in the 5th term of office were more difficult to interview, leading to a rate of 25 percent. The quantity of interviews per term of office are considered valid, as they make it possible to obtain a reasonable quantity of information and opinions, by providing a longitudinal perspective on the structure and work of the CNJ within then institutional judicial system.

The interviews complied with research protocols to preserve the identity of respondents, providing a safe environment in which they could express their opinions, and there were cases or situations that involved the behind-the-scenes details of CNJ meetings and sessions. The protocols were as follows: i) the interview script was sent in advance; ii) interviews were conducted separately and privately; iii) interviews were not recorded; iv) taking of notes and observations during the interview; v) allowing interviewees freedom to product drafts or notes while they were interviewed; vi) the participants were not informed of each other's answers; vii) the questions asked were limited to the field identified for investigation; viii) the interviewee was asked to sign the research protocol and a copy of the interview script was left with the interviewee (Thiry-Cherques, 2008).

Table 2 presents a summary of information concerning the interviews conducted: i) Identification code for (a) interviewee (a); ii) Date of interview; iii) Place of interview; iv) Interview duration in minutes; v) Period for which (a) interviewee (a) belonged to CNJ; vi) Indication of CNJ term of office; vii) Current occupations of (a) interviewee (a), one identified as main and other as subsidiary, when there was a secondary occupation. The identification code may be understood using this key:

- LEG = Citizen nominated by Legislative branch;

- MAG = Judge nominated by STF, STJ or TST;
- MPE = Public prosecutor nominated by PGR;
- OAB = Attorney nominated by OAB (Brazilian Bar Association).

The interviews were conducted between June and October 2014.

TABLE 2. nformation about interviewees and interviews conducted

CODE	LOCATION	DURATION (MIN)	PERIOD AT CNJ	TERM OF OFFICE	CURRENT OCCUPATIONS	
LEG01	Law Firm	73	2005-2007	1	Lawyer	–
LEG02	Hotel	44	2005-2009	1st and 2nd	Lecturer	–
MAG01	Judge's Office	42	2005-2007	1	Judge	–
MAG02	Judge's Office	32	2011-2012	4	Judge	Appeal Court Judge
MPE01	Class Entity	40	2007-2011	2nd and 3rd	Public Prosecutor	–
MAG03	Judge's home	75	2007-2009	2nd	Retired Judge	Retired Appeal Court Judge
MAG04	Judge's Office	55	2008-2009	3	Judge	Higher Court Justice
OAB01	Law Firm	67	2009-2012	3rd and 4th	Lawyer	–
OAB02	Class Entity	56	2007-2009	2	Lawyer	Class Representative
MAG05	Judge's Office	71	2007-2009	2nd	Judge	–
MAG06	Law Firm	48	2005-2007	1st	Lawyer	Retired Judge
OAB03	Law Firm	52	2005-2007	1st	Lawyer	–
MAG07	Judge's home	65	2005-2006	1st	Lawyer	Retired Judge
MAG08	Judge's Office	78	2011-2012	4th	Judge	–
LEG03	University	43	2009-2011	3rd	Lecturer	–
MAG09	Judge's Office	28	2009-2011	3rd	Judge	Higher Court Justice
MAG10	Judge's Office	85	2013-2014	5th	Judge	Member of the CNJ
MAG11	Judge's Office	39	2008-2009	2nd	Judge	Higher Court Justice
MAG12	Judge's Office	55	2013-2014	5th	Judge	Member of the CNJ
MAG13	Hotel	90	2011-2012	4th	Retired Judge	Higher Court Justice

Source: Prepared by the author.

The interviewees were informed that the interview would last an average of 45 minutes, as this was the average time observed in the exploratory interviews and structured interviews in the previous stage. The total duration of the interviews was almost 19 hours, with an average of approximately 57 minutes each. The amplitude was approximately 1 hour (62 minutes). The longer interviews were with interviewees with greater experience and more involvement in the management of the courts while working at CNJ. When interviews were shorter, this was due to two factors: i) lack of familiarity with management issues, and ii) time restrictions due to interviewee's schedule.

After the interviews, the notes were transferred to the interview reports that served as the basis for scoring the main points and identifying relations with the theoretical frame of reference. This was a moment of comparison with the categories established in advance and taken from the literature studied. When books, articles and documents were mentioned by the interviewees, we sought to add them to the documentation in the documentary and bibliographical research phase.

Efforts were made to interview the largest possible number of CNJ members and former members, although saturation in terms of responses was observed as from the 14th interview. The other interviews were still conducted because of the relevance of the respondents in the process of structuring the CNJ. Saturation consists of the moment when the addition of further information and data in a research project does not alter the understanding of the phenomenon under study (Creswell, 2009; Thiry-Cherques, 2008; 2009). The number of interviews conducted was therefore linked to ex-post criteria. The quantity was on the basis of the responses obtained and not pre-determined, as it is not possible to define in advance the saturation point and consequently the number of observations required (Thiry-Cherques, 2008; 2009).

Thematic or categorical analysis was adopted as the main technique for content analysis. According to Bardin (2011), this type of analysis consists of breaking down the text into units and categories, in order to discover the cores of meaning that make up the communication. The categories established for analysis were these: i) Predominance of divergence (mistrust and resistance); ii) Predominance of convergence (acceptance and integration); iii) Alternating scenarios (relativism and context of autonomy).

Interview reports were drawn up on the basis of the data collected in the fieldwork. The analytical procedures were carried out by means of tabulations in Microsoft Excel 2010, and descriptive analysis used for the respective processing. Data were segmented by questions in the interview script and in line with the prior categories and the categories established *a posteriori*.

4. The disproportionate vision of the CNJ

The introduction of the CNJ in the Brazilian judicial system was not welcomed from the start, or rather, from the early stages of the debate concerning the Judicial Reform. As it was not known how the new institution would operate and because it was perceived as a supervisory body, its creation was not welcomed by most of the judiciary. The historical context of the period preceding the creation of the CNJ received attention from the former council members who were more involved during the debate and discussions concerning the plans for the Judicial Reform.

One of the aspects discussed was the criteria and definitions for appointing the representatives who would sit on the CNJ. Interviewee MAG 06 recalled the dissatisfaction felt at the time at the fact that the state justice systems would be proportionally under-represented in relation to the number of cases processed, the volume of spending, the number of judges and the number of court personnel. Data in the Justice in Numbers (DPJ, 2014) report for 2013 clearly demonstrate this distortion, insofar as the state justice systems accounted for approximately 55 percent of spending by the judicial system, 69 percent of judges and 65 percent of personnel, as well as 78 percent if the total number of cases processed, as may be seen in Figure 2.

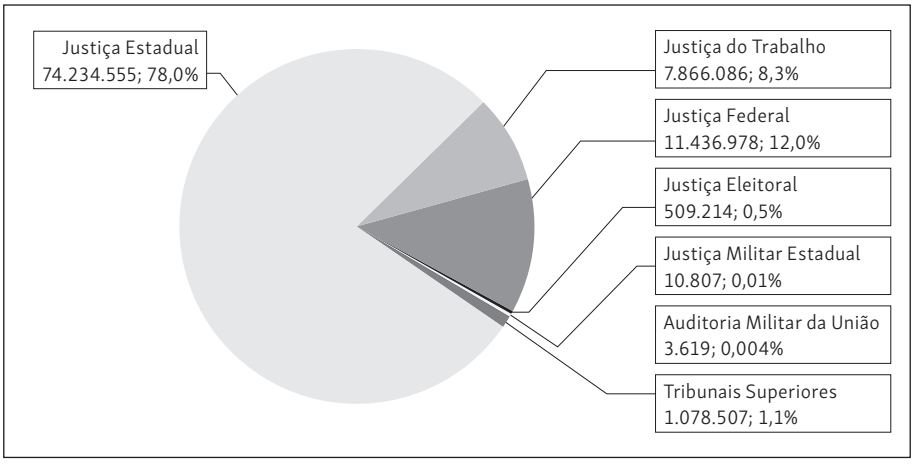

FIGURE 1. Total number of cases ending by Justice System segment
Source: DPJ (2014, p. 33).

More recent data from the *Justice in Numbers* (DPJ, 2018) report backs up the idea that the judicial units making up the state justice systems outnumber the other segments of the judicial system. Figure 2 illustrates the predominance of the 10,035 divisions and small claims courts in the state judicial systems, located in 2,697 districts and representing more than half of the units making up the national judicial system. In terms of representativeness, these judicial units are to be found in approximately 48.4 percent of all Brazilian municipalities.

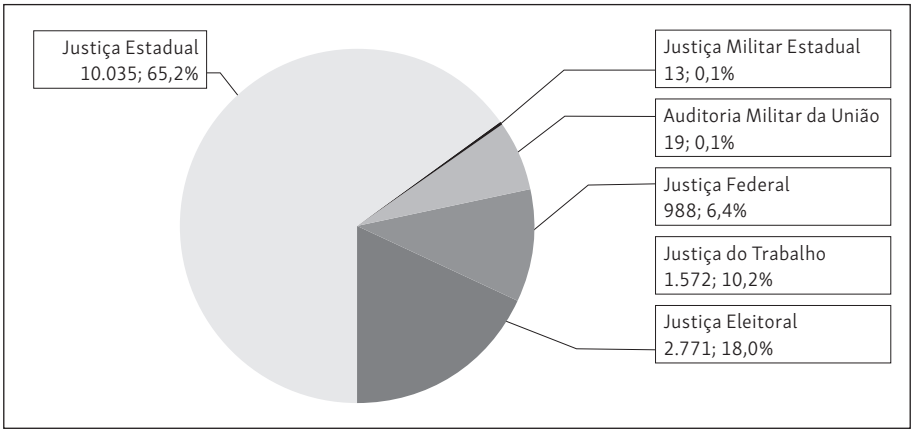

FIGURE 2. 1st degree judicial units, by branch of justice, in 2017
Source: DPJ (2018, p. 18).

The different reports merely reinforce the view held by MAG 06 that the under-representation of the state justice segment is one of the main reasons for the mistrust of the CNJ as regards the needs of that segment. This argument was taken into consideration by other representatives of the segment (MAG03; MAG05; MAG08), who had not been present in the discussions prior to the creation of the CNJ.

Another point of divergence was on the two members to be chosen by the Legislative Branch in order to represent society. Interviewee LEG02 recalled that the main obstacle was the concern felt by judges at having a member of the CNJ with a legislative mandate (federal deputy or senator). Judges were afraid of this supervision and argued for independence and harmony between the Branches established by the Federal Constitution. According to MAG 07, pressure was applied principally by the Chamber of Deputies, which wanted to place its members on the CNJ, to widen the disciplinary focus against the judicial system. In the Senate there

was little resistance on this point if compared with the radical proposals from the party leaderships in the Chamber of Deputies. Interviewee MAG07 laid significant stress on this fear felt by judges and as a way of avoiding this encroachment, he argued that if the legislation were approved with the possibility of a member of the Legislative Branch sitting on the council, this would certainly be deemed unconstitutional by the STF. In this case, there was the risk of the CNJ taking on a political discourse directed exclusively at repressive measures against judges and the courts. The solution found, according to LEG02, was to include citizens nominated by each of the two legislative chambers, who should be persons of unblemished reputation and significant legal knowledge. This arrangement would more easily secure approval from the judiciary, even though creation of the CNJ was not welcome. It should also be noted that these nominations by the Legislative Branch were frequently questioned, mainly in relation to the criteria for nominating the citizens in question (Fragale Filho, 2011; 2013; Falcão; Rangel, 2013; Oliveira, 2019). However, these aspects will be examined in other sections.

There are also recurrent comments about the importance of the presiding judge of the STF at the time, former minister Nelson Jobim, in the political coordination for implementing the Judicial Reform. Interviewees LEG02, OAB03; MAG05, MAG13 acknowledge that the role of the former minister was essential in ensuring the creation of the CNJ and working with the initial structuring of the body. They tend to point to the political experience and skill of the former minister as making a great difference to this achievement, as he was able to establish a good dialogue with the representatives of the three branches, of the Brazilian Bar Association, the Public Prosecution Service and class bodies. Accordingly, resistance to approval of the Judicial Reform diminished, but even so resistance from various quarters needed to be faced after the creation of the CNJ as the bod responsible for administrative and financial oversight of the courts and for overseeing the conduct of judges.

5. The relationship between the CNJ and the State courts of justice

Ignorance of how the CNJ might operate was the main reasons for the initial resistance to the new body from the courts and the judiciary. The idea of control was something new for the judges and courts, mainly those connected to the State justice systems, because there had been no national councils responsible for oversight of their conduct. MAG 07 pointed out that the early resistance came from within the membership of the CNJ, due to the appointment of certain members who were actually opposed to the existence of a supervisory body for the judicial system. However, he was aware that the CNJ could operate along two different lines upon the creation of the body: the first geared to efficiency and the second

to investigation of irregularities. In his work as member he therefore sought to lay stress on efficiency in order to ensure that the new body could establish itself. MAG07 stressed that he sought to establish a working agenda for the CNJ that rose above political divisions and received broad support from the judiciary, as for example in combating nepotism. Although the CNJ had been targeted by legal proceedings in the STF brought by the Brazilian Association of Judges (AMB), it was accepted by the judiciary that nepotism should be brought to an end in the judicial system, as noted by Sadek (20016) in a survey conducted of the AMB's own membership.

Most of the interviewees stress that the early relations between the CNJ and the courts were marked by a high level of disagreement. In addition to opposition exerted internally (as mentioned by MAG07) and in the courts (through the cases brought by AMB), resistance was also generated mainly by the larger courts in the state justice segment (represented principally by the TJSP and TJRJ). According to LEG02 and MAG12, there was dissatisfaction at a senior level in these courts, due to the fact that the CNJ was a new body that issued orders for changing management procedures or requested clarifications from a well-established or important court, or one that enjoyed prestige among Brazilian legal institutions. MPE01 stressed that the fact that the council members had the status of Ministers of State served to demonstrate to the courts that the CNJ was above them and that they should provide the information requested and comply with its resolutions and recommendations. On the other hand, MAG02 and MAG09 pointed out that the CNJ faced resistance from all the state Courts of Justice, as the body was set up to put an end to the absence of oversight in this segment. They expressed the idea that the CNJ had been set up principally to oversee the state justice systems. This argument contests the position taken by Falcão, Cerdeira and Arguelhes (2011) and Falcão et al. (2013) who suggest that the judicial reform addressed principally the STF and that a further reform was needed. However, this research provides a picture of the CNJ as a body that seeks to promote national integration. It is then believed that the resistance arose as a movement against the attempts at standardization originating from the idea of a national judicial system, as pointed to by MAG07 and MAG11. It was felt that the courts of justice were losing their autonomy at this early stage, as the recommendations and resolutions altered the way many courts operated and were organized. It served as a way of imposing moral standards when irregularities were involved, but also as a means of establishing good practices which had already been adopted by certain courts, such as, for example, the adoption of Strategic Planning with a time horizon of at least five years and the creation of an internal oversight body (Azevedo, 2010).

The CNJ's work in promoting management tools and focusing on improving efficiency levels caused smaller and medium sized courts to understand and accept the role of the new body, as pointed out by LEG02, OAB02, MPE01, LEG03 and MAG11. These courts started to benefit from the management guidelines provided by the CNJ. However, it may be understood that there is a transition towards acceptance of the CNJ and that the courts started to converge in their efforts to implement change. In response to the open question in the questionnaire, most of the respondents said that there was now a degree of convergence between the CNJ and the courts.

Another five respondents said that there was a transition process between convergence and divergence in the relationship between the CNJ and the courts. The main argument used here was the possibility of interference by the CNJ in the autonomy of management enjoyed by the courts. MAG08 comments that CNJ should defend the autonomy of the courts, but recurrently presents itself as the first institution that interferes unduly in the state courts. This scenario generates constant tension between convergence and divergence of efforts in the relationship between the CNJ and the courts of justice, On the other hand, MAG10 argues that the courts tend to use this talk of autonomy only when this is convenient for them. He supports the arguments of alternating scenarios of convergence and divergence of efforts, but believes that the CNJ presents a broader vision of the national scenarios and seeks to reduce variability in the sector, principally when facing the difficulties caused by cultural differences and differences of resources around the country. This means that the socio-economic context experienced by each court in its particular State plays a more significant role as a difficulty to be faced in a process of national integration.

The other five respondents say that divergences still predominate in the relationship between the CNJ and the courts. The main argument relates to the remoteness of the CNJ, which generates problems of communication and understanding of local situations. It points to a vision of national integration that prejudices the state courts, as they have particularities that are not understood by the council members, the majority of which are from federal courts or are attorneys who promote and defend national interests. In this case, it can be perceived that the respondents are against the proposed process of national integration, as they believe it is easier to solve problems locally. The national outlook does not always pay attention to local difficulties which are more urgent but end up no being prioritized because they need to respond to or comply with orders or guidelines from the CNJ. A conflict can therefore be perceived between the national scenario and the local context.

Table 3 presents a summary of the respondents by study categories.

TABLE 3. Summary of study categories

SUMMARY		
QUANT.	**CATEGORY**	**INTERVIEWEES**
5	Predominance of divergence (mistrust and resistance)	MAG06; OAB03; LEG03; MAG09; MAG13;
10	Predominance of convergence (acceptance and integration)	LEG02; MAG01; MAG02; MPE01; MAG03; MAG04; OAB01; OAB02; MAG07; MAG11;
5	Alternating Scenarios (relativism and context of autonomy)	LEG01; MAG05; MAG08; MAG10; MAG12;

Source: Prepared by the author.

6. Final considerations

The CNJ's participation is seen as important and fundamental for the State justice segment because of the following aspects: i) development of management tools; ii) imposition of moral standards and oversight of judges and courts; iii) improved provision of services; iv) institutions coordination between the judicial branch system and other branches or institutions connected to the Brazilian judicial system.

The interviews provided a broad view of the role of the CNJ over a decade. In general, the respondents pointed to convergence of efforts between the CNJ and the State courts of justice which gradually became stronger as the ignorance and mistrust of the CNJ was dispelled. The CNJ is seen more positively when it plays the role of coordinator of projects that sought to improve and consolidated standardization of judicial services and public policies developed to tackle controversial problems in the judicial system (community service in prisons; paternity suits; fighting corruption, etc.). Cyclically alternating convergence and divergence was observed, as the understanding changes with the perception of the loss of autonomy on the part of the courts. The autonomy of the State courts of justice is used as the main argument for the relationship with the CNJ to be changed, generating resistance in the processes of centralization and standardization.

The main difficulties were encountered with regard to the lack of diary openings on the part of possible interviewees, which hindered the process. In some cases, it was observed that they were resisting being interviewed. It is believed that some former council members are not interested in addressing or recalling their experiences on the CNJ. Informally, some of the interviewees went so far as to comment that we probably would not get responses from some former members, as they were not in favor of the CNJ or had been members for other interests which were not connected to the core work of the CNJ.

It is believed that they may be differences in the actions of the CNJ in the federal justice, employment justice, electoral justice and military justice segments. In relation to the first two of these segments, the differences may be the result of the actions and influence of other councils which act within these segments, Whilst in the last two, they may be due to the very particular workings of those segments. In operational terms, it is suggested that focus groups be organized with current and former council members. This would make it possible to compare opinions between research participants who made it possible to observes other forms of action by the CNJ.