LUMEN ET VIRTUS

Institutional perceptions regarding the goals of the National Council of Justice: Progress or setback?

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ABSTRACT

The present study aims to analyze, based on the data collected, what are the perceptions of the servants of justice regarding the form of fixation and existence and the goals established by the CNJ. To this end, it identifies what the goals are and their main objectives, presents who are responsible for the fulfillment of the goals within the institutional dynamics of a court and what are their potential positive and negative points and finally, it demonstrates the concrete perceptions of the civil servants regarding the existence and setting of these objectives. The hypothesis is that the members responsible for its compliance, preponderantly, agree with the establishment and existence. However, based on their practical experiences, they identified a series of deficiencies regarding its structuring and compliance.

Keywords: National Council of Justice, Compliance Goals, Public Servants, Institutional Vision.

INTRODUCTION

The justice system, which is made up of the most diverse courts and bodies in the country, aiming to improve jurisdictional provision and provide due access to justice, uses resources and strategies to make these points a reality. However, the measures taken must be studied and understood as to their effectiveness, given the whole scenario that has accompanied the judicial reality for a long time, characterized, preponderantly, by an idea of slowness and decision-making deficiencies.

In the path of implementation and execution of these improvements, the National Council of Justice (CNJ) plays a fundamental leading role. It is the body responsible for the inspection and monitoring of judicial institutions to improve jurisdictional provisions. According to the institution's

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website, the CNJ is a public institution that aims to improve the work of the Brazilian judicial system (CNJ, 2021).

In the exercise of this attribution, the aforementioned body establishes and creates several actions and measures, among them, is the setting of annual goals that seek to improve central points within the jurisdictional field. The goals are set in a way that binds the state, federal, and labor courts (CNJ, 2021).

However, even with this objective of improvement, some difficulties are identified regarding the implementation and effective fulfillment of the goals, considering that these are predominantly based on quantitative criteria. This fact does not work as a clear indication as to the advance or setback in the provision of jurisdictional activity, an example that evidences this measurement by more restrictive and numerical paths, is the annual report generated by the Council, called "Justice in Numbers" (CNJ, 2021a).

Thus, from each starting point, that is, from the jurisdictional party, and from the members that make up the judiciary, it is possible to extract some contributions on how to rethink and advance in the formulation and fulfillment of the respective goals. So that it aims not only to meet numerical criteria, but also that allow real access to justice and is also based on a universe that can be fulfilled in the face of the reality of the members of the public service.

To this end, the research seeks, precisely, to highlight the perception from the point of view of the members who make up the judiciary and who are properly responsible for the direct fulfillment of the goals established by the National Council of Justice. Listening to these agents based on their experiences and practical experiences can contribute, rigorously, to the form and institutional design that is given to the goals. Therefore, understanding their construction, their criteria of existence and fixation, are necessary assumptions to later visualize how they behave in the reality of the servants of justice.

Approaches a brief theoretical assumption, based on conceptual information collected, about what the National Council of Justice is, what are the goals set by, and what they seek to generate within the judicial reality. It has a qualitative-quantitative nature, while a questionnaire was carried out with characteristics of a semi-structured interview, with employees of the Court of Justice of Ceará.

From the participation of these members and their answers, it was possible to know their current perception of the goals and the main obstacles that permeate this institutional vision, which is sometimes not noticed or valued to fix and building. The civil servants who participated in the research occupy the various positions and structures within the specified Court of Justice, which allows, in a way, a broad and unlimited view of the reality of fulfilling the purposes established by the supervisory body.

THE NATIONAL COUNCIL OF JUSTICE AND THE SETTING OF GOALS

The judicial power consists of one of the powers that constitute the current formulation and division. For it to be possible for it to function properly and to constantly seek to improve the jurisdictional provision and guarantee effective access to justice, the need for supervision and monitoring is undeniable.

In this sense, in the current dynamics, the National Council of Justice (CNJ) fulfills the role of a body that controls the administrative and financial performance of the Judiciary, supervising the performance of the entire judicial structure, starting with judges and other civil servants who are members of the justice system (WATANABE AND CARVALHO, 2018). In this way, it uses goal setting, which seeks, preponderantly, to assess the activity provided by the judiciary, based on quantitative information and data (DEMARCHI, 2017).

The institution of this body, which makes use of these various verification tools, took place from Constitutional Amendment 45, which founded this new visualization of the judicial structure and inspection entities. Thus, the website of the National Council of Justice itself indicates that, consubstantially, its function within the justice system is to "promote the development of the Judiciary for the benefit of society, through judicial policies and the control of administrative and financial performance." (CNJ, 2021b).

It is also seen that the Council is constantly adapting its organizations and tools, so much so that, in 2018, its mission was not constituted by the definition presented above, but rather consisted of "contributing to the jurisdictional provision being carried out with morality, efficiency and effectiveness for the benefit of society" (WATANABE AND CARVALHO, 2018). To this end, a reconfiguration in the form and institutional design of what is sought by the agency is perceived.

On the same informative page, the Council informs that it not only has this activity of immediate action, but also has a reference to a new design of the judiciary from a programmatic perspective when it signs what they called a "vision of the future", which consists of "an organ of excellence in governance and management of the Judiciary, to ensure efficiency, transparency, and social responsibility of the Brazilian Justice" (CNJ, 2021b).

In more detail, it establishes that its functions consist of acting in the

> Transparency and control: • In Judicial Policy: ensure the autonomy of the Judiciary and compliance with the Statute of the Judiciary, issuing normative acts and recommendations. • In Management: define the strategic planning, goal plans and institutional evaluation programs of the Judiciary. • In the Provision of Services to the Citizen: to receive complaints, electronic petitions and representations against members or bodies of the Judiciary, including against its auxiliary services, services and bodies providing notarial and registration services that act by delegation of the public or official power. • In Morality: judge disciplinary proceedings, ensuring ample defense, and may determine removal, availability or retirement with subsidies or earnings proportional to the length of service and apply other administrative sanctions. • In the Efficiency of Judicial Services: to carry out, foster and disseminate best practices aimed at the modernization and speed of the services of the Judiciary bodies. Based on the statistical report on procedural movement and other indicators

> relevant to jurisdictional activity throughout the country, formulate and execute judicial policies, programs, and projects aimed at the efficiency of Brazilian justice (CNJ, 2021b)

From this definition, some words are shaped as the keywords of the activity provided by this organization, such as: inspection, provision of services, guarantee of morality, efficiency, transparency and control of judicial activity.

In order for all these perspectives to be possible to be fulfilled and visualized in practice, the use of various tools and instruments are necessary, among them, the goals are considered the main ones (DEMARCHI, 2017). For this reason, the National Council sets goals on an annual basis based on previous reports that are also constituted based on past goals, which denounce the points of improvement and the points of deficiencies of the Judiciary.

It is in this sense that reports on the results achieved by the courts in terms of meeting goals are also released. Among the various ways of publicizing these objectives achieved, the report called "Justice in Numbers" is the best known and disseminated. Consistent, in this case, in a large compilation of data generated by the council itself, realigned into an analytical report, made available on the website for wide consultation (CNJ, 2021a).

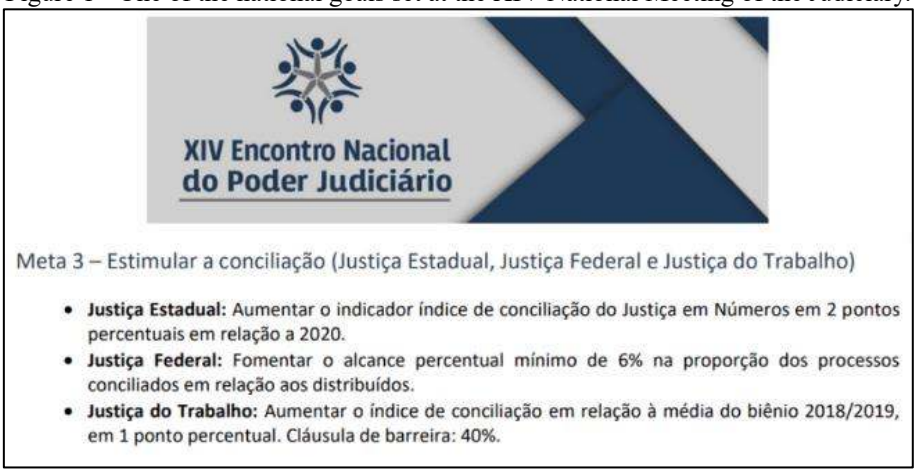
During 2021, the cut given to the type of report mentioned was different, in view of the occurrence of the COVID-19 pandemic. Thus, virtualization and the use of numerical bases were the main issues highlighted by the report that united the data from the last year in question. Also presenting which appeals proved to be a possible path for judicial provision in the midst of such an atypical period, mentioning the "100% Digital Court", "Virtual Desk", "Justice 4.0", among other mechanisms (CNJ, 2021a).

The goals play an important role in this organizational and administrative policy of the judiciary, as will be seen later. However, the predominantly numerical basis of quantitative criteria is a factor that must be questioned, since this single criterion is not able to guarantee a good implementation of the actions that are stimulated by the setting of goals.

The annual reports show this very restrictive way of setting these targets. In the current year of 2021. The XIV National Meeting of the Judiciary (CNJ, 2021c) took place. The presidents of the courts gathered, together with the CNJ, set the National Goals for the Brazilian Judiciary.

The initiative is undeniably important to ensure better efficiency in the provision of jurisdiction. Nevertheless, it is from the report of goals that one notices the very demarcated quantitative factor and a certain forgetfulness of the consideration of qualitative factors of the goals, the so-called manifestation of jurimetrics (LUVIZOTTO; GARCIA, 2020) For example, Goal 3 is cited, precisely based on expanding the performance of the judiciary through self-composition methods:

Figure 1 - One of the national goals set at the XIV National Meeting of the Judiciary.



Source: Website of the National Council of Justice[3]

The observation of the example of the goal demonstrated above allows us to see how, manifestly, the number one criterion is strongly highlighted. It is in this sense, to recognize the important role of goals, but also to understand that there are some assumptions that are important for their setting and observation, that the next topic will be worked on.

MAIN OBJECTIVES OF THE GOALS WITHIN THE JUDICIARY

Recognizing the accentuated degree of judicialization of the demands, the goals establish parameters in an attempt to enable the judiciary to have a good activity provided and guarantee true access to justice and not a simple access to the judiciary. From this perspective, Cappelletti and Garth (1988) understand that "access to justice" is admittedly difficult to define, but it serves to determine two basic purposes of the legal system – the system by which people can claim their rights and resolve their disputes under the auspices of the State.

From this perspective, it is not enough just to guarantee access to the judicial route, it is essential that the evaluative parameters also seek to ensure good access and effective delivery of the intended good of life (CARDOSO, 2014). On the other hand, for this delivery to be possible, this visualization of possibilities, studies and strategies cannot take place only in a unilateral perspective, that is, it is important to consider the jurisdictional, but also the judicial reality and the possibility or not of meeting these goals within an institutional perspective (NOGUEIRA, 2010).

On the website of the National Council of Justice, the direct role of the goals is not clearly highlighted, however, the need for a participatory construction of these is demonstrated, despite this purpose, participation still takes place predominantly from the presidents of the courts, which is a good representation, but at the same time may not be able to transmit to the process of construction of the goals, to the peculiarities of the judicial reality in order to achieve them.

[3]Available at: https://www.cnj.jus.br/wp-content/uploads/2021/01/Metas-Nacionais-aprovadas-no-XIV-ENPJ.pdf Accessed on: 20 Dec. 2021.

Because each goal sometimes has a specific direction, it can be agreed that, broadly, the main objective of the goals is to seek to improve jurisdictional performance in specific points that still need improvement and adaptations, as examples, we can cite the goals that aim to stimulate the judgment of older cases; judge more existing cases than the number of cases distributed; encourage the performance and implementation of self-composition practices in the courts; prioritize processes that concern domestic violence, femicide, and violence against women, among other situations (CNJ, 2021c).

It is noted that the issues that the goals aim to achieve and address are points that actually need attention by the community, the judiciary and the entire justice system. Nevertheless, but if real and effective results are achieved, these need to be shown possible compliance and close to the reality of the judiciary and its agents.

It is for these reasons that listening to and perceiving the issues raised by the servants of justice should be a central point taken into account in the way of construction and setting of goals. So that it is possible to deliver a good jurisdictional service to the community and that access to justice occurs in a material and not merely symbolic way (CARDOSO, 2014). In this sense, the next topic stops to deal a little with the main conceptions and indications of the agents who are directly linked to the fulfillment of these issues within the judiciary.

PERCEPTIONS OF JUSTICE SERVANTS REGARDING THE GOALS OF THE CNJ

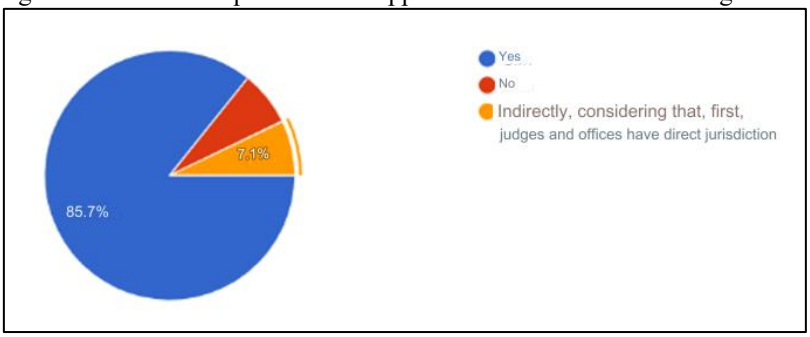
In order to be able to collect the information that will be presented below, a court was chosen, in this case the Court of Justice of Ceará, due to the greater proximity that made it possible to carry out the research even in a pandemic period and limitations regarding face-to-face communication relationships. In this way, a kind of questionnaire was structured, with closed and open questions that made it possible both to generate objective data, as well as to open space for the justice servers to put their perceptions and contribute to the study in a broad way.

The questions included had the institute of seeking, first, to verify whether or not the civil servants worked directly with the goals that are set by the National Council of Justice, to allow them to express their broad opinion on how they are created and formulated today and whether they are understood to be maintained or not, in addition to opening space for them to make suggestions regarding the criteria that are used to set them.

The total number of respondents was fourteen civil servants, among the most diverse positions that structure judicial performance, among them: judicial analyst, supervisors of secretariats and judicial units; operational and judicial assistants and judicial technicians. All of them are also components of various districts that form the TJ/CE, thus allowing a much broader and multifaceted view as to the perceptions that will be demonstrated.

Of the overall number, 85.7% understood that they have a direct role in meeting the goals established by the CNJ, that is, the vast majority of respondents recognize themselves as part of this compliance system. On the other hand, 7.1% understood that they do not work directly with the goals, as well as 7.1% presented a different answer from the others, in the sense that they understood that they work with the goals, however, only indirectly, considering that only judges and offices have this first direct access.

Figure 2 - Graph generated from the questionnaire applied as to whether or not the goals were directly met.



Source: Virtual form for conducting the survey[4]

From this last answer, which was based on an indirect action, it is possible to immediately extract a very representative element of the judicial reality. Often, because the civil servant does not act in a finalistic way in the construction of a production that impacts the results and the achievement of the goals, he does not see himself as an integral part and that directly conditions the impacts on the fulfillment or non-fulfillment of them. However, this must be an outdated view, since the entire judicial composition and structure work together in a system of interdependence so that it is possible to reach the final established parameters.

Subsequently, the perception of the civil servants about the existence of the goals set by the CNJ was questioned. Among the answers presented, the recognition of the need for the existence of the goals was clear in all the answers, however, some observations were made, which directly influence the delivery and fulfillment of what is intended.

The first observation dealt with the lack of the existence of goals that are consistent with the reality seen by the judiciary, including the fact that if this proportionality that enables the fulfillment of the goals does not occur, they end up having a result different from what is sought by them. Some reports are pertinent to be mentioned in this sense:

> "In a way they are necessary for the server to have more focus and commitment, but they are somewhat often suffocating, stressful, we take more hours than usual to achieve them" (sic).
>
> "Goals are important, as long as they can be achieved. The goals set by the CNJ are unattainable" (sic).

[4]Available at: https://docs.google.com/forms/d/1ZC0W1KodpLa0AxAnS8A7LKhol9I6aq6f174NqrJBVB0/viewanalytics

> "It is always good to have goals, but the organizational structure and individualization of goals according to reality must be considered. In addition, the goal must also take qualitative criteria and not just quantitative, given that there are risks arising from this, such as an increase in cases returning to the 1st degree for trials, the annulment of certain first-degree demands, etc., thus increasing the life of the process unnecessarily" (sic).

It is noteworthy that the questionnaire aimed to preserve the anonymity of the participating civil servants. However, the reports indicated are sufficient to show that the recognition of this usefulness in setting goals, but an institutional mismatch that directly impacts their reach, in view of its exponential parameters.

In this sense, he was also asked specifically about the criteria used by the CNJ to build the goals. With the answers presented, it was possible to notice that this is the central point of institutional dissatisfaction of the civil servants and that it demands more questions and suggestions regarding its formulations. In this regard, some perceptions of the interviewees stand out:

> "Exactly the part that needs improvement." (sic).
>
> "The criteria are confusing and do not have their use justified and are constantly submitted to an effectiveness test" (sic).
>
> "Relatively closed, restricted"
>
> "Disproportionate to the reality of the judicial units".
>
> "They could be better evaluated"
>
> "The criteria are well defined, however, sometimes they become unattainable, given the large number of lawsuits that are in progress, in addition to the various external demands of the public service to be carried out by civil servants and magistrates" (sic).
>
> "They must be reviewed, weighing several points. One goal, for example, that would be interesting is to establish a percentage of cases whose sentences are not reviewed and changed. There are courts in Brazil with a review rate above 60%, which demonstrates a possible failure in the system of established goals"

In this sense, it is noted that the narrative is reiterated that the criteria are not compatible with reality and that thus the result obtained often does not generate an effective impact for the jurisdiction. The report regarding the return of the processes to the judiciary directs that the care and the need to turn to a qualitative approach to the goals is a point of urgent reformulation. Thus, it is necessary that the goals be formulated from a notion that applies the internal notion and possibilities of fulfillment, without compromising the due access to justice by the community. The dual dialogue between these two central points, without disregarding any of these times, can generate more fluid goals of compliance and consequently a more effective judicial provision.

In view of the concerns regarding the formulation of the goals, a space was also proposed for the same servants to propose improvements that they understood to be appropriate within this reality. Some observations and contributions were highlighted:

> "I believe that the adoption of goals aims to give more rationality, speed and efficiency to the Brazilian Judicial System, although it is not the only viable solution, as the Judiciary must also reinforce its staff with more judges and, especially, civil servants, considering that the fulfillment of the goals is the responsibility of a reduced staff, which can make the search for achievement a mirage" (sic).

The above statement shows the internal awareness of institutional points that need improvement so that this impulse in the improvement of judicial activity is possible, not limited only to the approach to the goals. The fact of seeing the achievement of these as a "mirage" has great symbolic value in representing how, within the judicial organization, the servants feel in front of the established metrics and how the effect can be, in fact, of dissatisfaction and of a mediator compliance.

Another concern that generates a delay in the fulfillment of these issues was the lack of assistance regarding training and the period that is spent to carry out this training, while at the same time the goals need to be observed. The following account mentions this issue:

> "The TJCE, or CNJ, could offer training for better handling of the systems so that we know how to filter and produce more" (sic)

> "We all know that the judiciary has been facing an acceleration in the filing of lawsuits for years. And we also know that there is a deficiency due to the reduced number of servers. Also due to the lack of technological structure in some courts. However, this cannot be a justification for the neglect, for the inefficiency of some. I believe that the goals should remain. Whether they like it or not, they force the public servant to act harder. The jurisdictional party cannot be penalized for the lack of structure of the judiciary or any other reason".

The time spent trying to learn how to use the judiciary systems impacts the direct productivity of the servants, as well as the time directed to their training and learning, also impact. In this sense, this would be a problem that directly correlates to the issues of the goals and that should be thought about and considered, above all, by the National Council of Justice, since it is a problem that can permeate several perspectives of the judiciary.

It is also recognized by the institutional vision occupied by the civil servants, the need and lack of participation and greater dialogue in the institution of the goals. As seen, at the National Meeting of the Judiciary, responsible for establishing the annual goals, the representativeness of other perspectives, such as those of other members of the judiciary and the community itself, is still minimal. This reality is even recognized by the professionals themselves:

> "Although it needs improvements in its formulation, especially by stimulating quantity rather than quality, and greater space for the participation of more people in its definition, the CNJ's system of goals presents itself as an important tool to guide judicial activity and a parameter for measuring the activity of the courts" (sic).

In this sense, the recognition of the importance and role played by the goals is recognized by the civil servants. Being the common point of discussions and debates, only the integration of forms,

methods and ways to better structure them and also, how to think within the judicial reality, points that can be improved and more capable for the supply and achievement of an effective jurisdictional activity.

FINAL CONSIDERATIONS

The National Council of Justice seeks, through its supervisory and administrative activity, to improve the jurisdictional provision and allow full and effective access to justice. To this end, it uses several resources, especially the so-called goals, as mentioned earlier. The role of the goals is to help set parameters that must be achieved by the agents of the judiciary.

However, some issues that permeate the formulation and setting of goals need to be debated and considered for their reformulation. Some deficient criteria, such as the delimitation of only quantitative criteria, show a problem in insufficient institutional compliance with these, as well as a lack of quality analysis that would consequently generate a better jurisdictional provision and non-resumption of the demand to the judiciary.

In this process of improvement, several points of view must be considered, those of the jurisdictional, the National Council of Justice, the justice system as a whole and also the members who make up the basis for the fulfillment of these goals, not only the positions of representation and presidency of the judicial bodies. The servants of justice who act as the main agents in the fulfillment of these measures, present a series of questions and suggestions that need visibility.

From this, interviewing a series of public servants, working in the most diverse positions in the judiciary, the study showed sensitive points that permeate the forensic reality of those who deal directly with the goals of the CNJ. In addition to demonstrating that everyone clearly recognizes the importance and positive impact of establishing plans and goals, but also indicates several issues that need to be represented with regard to their formulation and also regarding the judiciary as a whole, so that the jurisdictional party actually receives an adequate response, in a timely manner and that generates concrete effects on its achievements.

Opening space for listening to these agents is, therefore, one of the resources that the Council must make use of, in order to improve the institutional design of the goals and also to outline our possible methodologies for the fulfillment of this new Judiciary.

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