


Would the Judiciary Deciding by the Toss of a Coin Be a Better Option for Brazil?

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Abstract

The article explores the dilemma between speed and judicial accuracy in the Brazilian judicial system. The sluggishness of legal proceedings is identified as one of the main problems, with the average duration of a case in Brazil exceeding seven years. This delay undermines access to justice and public confidence in the legal system. The study highlights the importance of balancing efficiency and decision quality, recognizing that delayed justice is a form of injustice. Game theory is introduced as a tool to examine the current dynamics of the Brazilian judicial system. While this theory has insurmountable limitations for directly resolving conflicts submitted to the judiciary, it serves as a valuable instrument for understanding strategic interactions within the system and may be useful in improving its institutional design. The article proposes reforms that prioritize efficiency without compromising decision quality, such as simplifying procedures and strengthening consensual dispute resolution methods. Public participation in defining judicial policies is also suggested as a means to enhance the system's transparency and efficiency.

Keywords

Brazilian Judicial System, Speed vs. Accuracy, Public Confidence, Access to Justice, Decision Quality

1. Introduction

The tension between speed and accuracy is a central dilemma in modern courts, especially in the contemporary Brazilian judicial system. While speed aims to

resolve disputes quickly, ensuring timely access to justice, accuracy focuses on the quality and fairness of decisions. However, achieving a balance between these two goals can be challenging, as accelerating the process may compromise the depth of analysis required for sound judgments.

Speed in the courts is seen as essential for an efficient justice system. In Brazil, the constitution guarantees a speedy trial, recognizing the negative social and economic effects of long delays. When cases drag on for years, it's harder for people to get justice, and it undermines trust in the legal system. To address this, initiatives like electronic court systems and alternative dispute resolution methods, such as mediation and arbitration, have been crucial in speeding up cases.

On the other hand, the pursuit of speed cannot compromise judicial accuracy. Hasty decisions, made under pressure to meet deadlines or reduce backlogs, can result in injustices, increasing the number of appeals and perpetuating litigation. Judicial accuracy is essential for the legitimacy of the system, as erroneous decisions not only frustrate the parties but also compromise the educational function of law in promoting behaviors aligned with social and legal norms (Cappelletti & Garth, 1988).

This tension between speed and accuracy is clearly manifested in the daily practice of the judiciary. In complex cases, such as public civil actions or claims with multiple parties, a thorough analysis of the facts and evidence is indispensable to ensure a just decision. However, such analysis may be incompatible with reduced deadlines. On the other hand, in repetitive or less complex demands, such as tax executions or consumer actions, excessive formalism can unnecessarily prolong the process, compromising speed without adding value to accuracy.

The challenge, therefore, lies in building a system that prioritizes efficiency without sacrificing the quality of decisions. Reforms such as simplifying procedures, valuing binding case law, and strengthening consensual methods of dispute resolution can contribute to this balance. As Dinamarco argues, the process is not an end in itself but a means of realizing substantive law, and should be shaped to serve both efficiency and justice simultaneously (Dinamarco, 2022).

This article delves into the problem of protracted judicial decisions, contextualizing them in light of the concept of justice and the reality of the elevated average processing time for legal proceedings in Brazil. Subsequently, the research introduces the concept of game theory, exploring its application within the legal sphere, and culminates in the proposition of a radical allegory: the substitution of the current decision-making method in the Brazilian Judiciary with the flip of a coin. Through this provocative metaphor, the study analyzes the potential advantages and challenges of this hypothetical substitution, from the perspective of game theory. Furthermore, considering that game theory elicits relevant debates regarding individual decision-making processes, the research expands the analysis to the collective sphere, exploring how institutional designs can influence the adoption of desirable behaviors in a democratic society. Finally, aiming to incorporate additional elements of social complexity into the study, multi-round games are analyzed, investigating how the institutional framework of the Judiciary Branch can

positively or negatively impact a national development project.

2. Delayed Justice Is Not Justice

Several authors emphasize that delayed justice is, in essence, a form of injustice, as an excessively slow judicial decision tends to lose its relevance and effectiveness. Cappelletti and Garth argue that procedural delay constitutes one of the greatest obstacles to effective access to justice, since, even if the final decision is technically correct, it may arrive too late to meet the parties' needs (Cappelletti & Garth, 1988). For the authors, justice that is not delivered in a reasonable time is equivalent to the denial of rights, weakening society's trust in the legal system.

Bedaque also criticizes procedural delay, considering it a true "disguised injustice" (Bedaque, 2006). He highlights that the slowness in judging a case can render the judicial provision useless, especially in cases that require quick responses, such as demands involving urgent rights or situations of extreme vulnerability. Thus, even if the outcome of the process is formally just, it may be ineffective in resolving the concrete conflict.

Watanabe, in turn, reinforces that the right to a fair trial within a reasonable time is an indispensable element for the effectiveness of justice (Watanabe, 2002). The author argues that judicial delay is incompatible with the constitutional principles of human dignity and state efficiency.

For him, a judicial decision that takes too long to be rendered fails to fulfill its role of guaranteeing rights in a timely manner, frustrating the parties' legitimate expectations and exacerbating the feeling of legal insecurity.

Ferrajoli criticizes judicial slowness as a structural violation of fundamental rights (Ferrajoli, 2002). He highlights that time is an essential component of due process of law and that excessive delay in resolving disputes compromises the effectiveness of procedural guarantees. For the author, slow justice is a problem that transcends the technical issue and affects the very essence of what it means to protect people's rights.

A notorious example of how delayed justice is tantamount to injustice is the Herzog Case¹, which involved the death of journalist Vladimir Herzog during the military dictatorship in Brazil. Only in 2018, decades after the occurrence, the Inter-American Court of Human Rights held the Brazilian State responsible for the violation of Herzog's human rights, recognizing the delay in justice as a form of injustice (Conselho Nacional de Justiça (CNJ), 2025).

Another example is the Ximenes Lopes Case², in which the Inter-American Court of Human Rights condemned Brazil in 2006 for the death of Damião Ximenes Lopes, which occurred in 1999 in a psychiatric clinic. The decision highlighted the sluggishness and ineffectiveness of the Brazilian judicial system, evidencing that delayed justice represented an injustice to the victim and his family members (Conselho Nacional de Justiça (CNJ), 2025).

¹<https://www.cnj.jus.br/wp-content/uploads/2023/03/caso-herzog-seriec-353-por.pdf>

²<https://www.cnj.jus.br/wp-content/uploads/2023/03/caso-ximenes-lopes-seriec-149-por.pdf>

These cases and authors, from different perspectives, converge on the idea that speed is indispensable for the realization of justice. A slow judicial decision, even if technically correct, tends to be unjust in practice, as it does not meet the immediate needs of the parties and compromises the function of the process as an instrument of social pacification and protection of rights. The delay in judgment, therefore, is not merely an administrative problem, but an ethical and legal obstacle to the effectiveness of the justice system.

3. How Long a Lawsuit Takes to Be Judged in Brazil

The time required for a lawsuit to be judged in the Brazilian judiciary, from filing to the final judgment, varies greatly depending on the type of action, the complexity of the case, and the court level involved. According to the “Justice in Numbers 2023” report, prepared by the National Council of Justice (CNJ), the average processing time for a lawsuit in Brazil, considering all stages, is approximately 7 years and 3 months. This period reflects the multiple phases of the process, from the initial analysis to the exhaustion of appeals in higher courts (*Conselho Nacional de Justiça (CNJ), 2023*).

In the State Judiciary, which concentrates the majority of lawsuits in the country, first-instance judgments usually take 3 to 4 years. Appeals to the second instance can add another 1.5 to 3 years to the process, resulting in an average total time of 6 to 8 years until the final judgment. In the Federal Judiciary, processes tend to be slightly faster in the first instance, with decisions rendered in about 2 to 3 years, while appeals at this level can extend the proceedings by another 2 to 3 years, totaling between 5 and 7 years of average duration.

The Labor Justice, in turn, is often pointed out as one of the fastest, especially in the first instance, where cases are judged in about 6 months to 1 year. However, appeals to the Regional Labor Courts (TRTs) and the Superior Labor Court (TST) can increase the total period to about 3 to 4 years, depending on the complexity of the issue. This relatively faster performance is due to the nature of labor disputes, which often require quick solutions to guarantee the protection of workers’ fundamental rights, according to *Martins (2020)*.

When it comes to cases that reach higher courts, such as the Superior Court of Justice (STJ) and the Supreme Federal Court (STF), the average time increases considerably. In these cases, the process can take an additional 5 to 10 years, due to the large volume of cases and the complexity of the issues analyzed. According to *Cappelletti and Garth (1988)*, this factor reflects one of the main characteristics of the Brazilian judicial system: high litigation rates and the broad possibility of appeals, which often result in lengthy periods for the final resolution of disputes.

In recent decades, several reforms have been implemented to address the issue of procedural delays. Among these, initiatives such as the Electronic Judicial Process (PJe) and the encouragement of self-composition methods like mediation and arbitration stand out. The arbitration law was approved in 1996 (Law 9.307/1996), and later amended in 2015 to allow the public administration to be a party in

proceedings submitted to this form of dispute resolution (Law 13.129/2015). In the same year, legislation was also enacted that formally introduced mediation into the Brazilian legal system as a mechanism for resolving conflicts both between private entities and in cases involving the public administration (Law 13.140/2015). The PJe, in turn, dates back to 2013, when Resolution 185 of the National Council of Justice (CNJ) was published, establishing the Electronic Judicial Process System—PJe as a platform for processing information and carrying out procedural acts, and setting the parameters for its implementation and operation.

Despite the adoption of these measures, the Brazilian Judiciary still faces structural and operational challenges in dealing with the high demand for lawsuits. The extensive use of available remedies, from appeals to extraordinary appeals, significantly extends the processing time. On the other hand, digitization and technological modernization have shown potential to reduce deadlines in some areas, although the results are still uneven across the country.

Therefore, the average processing time of a lawsuit in the Brazilian Judiciary is influenced by a series of systemic and procedural factors, resulting in timelines that often exceed seven years, especially in more complex cases or those involving higher courts. This reality reinforces the need for further structural reforms and investments in efficiency to ensure a faster and more accessible justice for society.

4. Game Theory

Game theory is a discipline that lies at the intersection of mathematics, economics, and social science, focusing on the study of strategic interactions among rational agents. These agents, often referred to as “players”, are decision-makers who seek to maximize their own payoffs or minimize losses in scenarios where their choices depend, in part, on the actions of others. Game theory, therefore, provides analytical tools to model and predict the outcomes of these interactions, making significant contributions to fields such as economics, politics, biology, and technology.

A game is defined by its core elements: players, strategies, payoffs, and rules. Players represent the participants in the system, and each of them has a set of strategies, or possible actions. The choices made result in payoffs, which correspond to the rewards or penalties received, depending on the rules of the game. This structure is clearly described by Neumann and Morgenstern, in a foundational work that highlights how individuals should behave in situations of conflict or cooperation (Neumann & Morgenstern, 1944).

Games can be classified in various ways. In cooperative games, players can form coalitions and coordinate actions to achieve common goals, while in non-cooperative games, each agent acts independently, seeking to maximize their individual outcomes. Additionally, there are important distinctions between zero-sum games, in which one player’s gain is exactly equal to another player’s loss, and non-zero-sum games, in which it is possible for all participants to benefit simultaneously. This distinction is crucial in economic and political contexts, as it helps to model negotiations and markets (Dixit & Nalebuff, 1991).

A fundamental concept in game theory is the Nash equilibrium, introduced by [John Nash \(1950\)](#) in 1950. It describes a situation in which no player can improve their outcome by unilaterally changing their strategy, given that the others keep theirs unchanged. This implies that the equilibrium is not necessarily the best possible outcome for all players, but represents a strategic stability. Another relevant aspect is the dominant strategy, which refers to the best choice for a player, regardless of the actions of others.

The prisoner's dilemma, a classic illustration in game theory, demonstrates how individual choices can lead to suboptimal outcomes for all parties involved. Two suspects of a crime are interrogated separately, with the options of cooperating (remaining silent) or defecting (confessing). If both prisoners remain silent, the result would be a lenient sentence for both. However, if one betrays while the other remains silent, the betrayer goes free and the betrayed receives a severe sentence. Each individual's decision directly influences the sentence received, but the individual pursuit of a better outcome often results in both betraying, leading to moderate sentences for both. In this scenario, defecting is the dominant strategy (as both expect to receive no sentence), leading to a suboptimal outcome (moderate sentence for both), differing from the Nash equilibrium (lenient sentence for both). According to [Axelrod, 1984: p. 8](#)), this example reveals the nuances between individual and collective interest, highlighting the relevance of the theory in studies of human behavior and strategic interaction ([Axelrod, 1984: p. 8](#)).

Extrapolating from the allegory to real-world scenarios, one can hypothesize that numerous social situations yield suboptimal outcomes due to the widespread adoption of dominant strategies, which prioritize short-term individual gains, leading to a lack of cooperation among individuals. As will be further argued in this work, a cooperative state among social actors is not merely attained through direct mutual trust between groups but is facilitated by the presence of reliable and stable institutions. These institutions mediate social relations between groups, providing appropriate incentives and disincentives within a longer time horizon, thereby inhibiting short-term opportunistic behaviors.

Therefore, game theory is a powerful tool for understanding and solving complex problems, contributing to the development of strategies in various fields. Its applicability extends from financial markets to the development of artificial intelligence algorithms, demonstrating its versatility and importance in the modern era.

5. Game Theory Applied to Law

Game theory studies how people make decisions when those decisions affect others. This is closely related to law, which is about making rules and solving disputes. Game theory can help us understand why people behave the way they do in legal situations, like when they're in court or negotiating a deal. It can also be used to create better laws and policies.

A central concept in game theory is the Nash equilibrium, which occurs when

no player can improve their position without harming the other party, assuming that all other players remain on their current strategies. In the context of law, this can be observed, for example, in judicial processes and extrajudicial agreements. When two parties enter into a lawsuit or a negotiation, they are, in practice, making strategic decisions based on the actions of the other. The Nash equilibrium can be reached, for example, when both parties decide to resolve the dispute through a settlement, instead of pursuing a prolonged and costly litigation.

Game theory can also help us understand how people act in court cases. It's like the prisoner's dilemma, where two people have to decide whether to work together or not. If they both work together, they might get a better outcome, but if one person tries to cheat, both might lose. In court cases, people often choose to fight, even though they would both be better off settling. This is because they're worried about what the other person will do. So, game theory can help us see why people sometimes make choices that aren't the best for everyone.

Another example of game theory's application in law can be observed in negotiation agreements. In many cases, parties prefer to reach an amicable solution before resorting to the judiciary, due to the costs and uncertainties involved in a trial. Here, game theory can be applied to understand the bargaining and negotiation strategies of the parties. Litigants must evaluate the advantages and disadvantages of accepting a settlement, considering the possible outcomes if they continue to litigate. Negotiation can be modeled as a non-zero-sum game, in which both parties can benefit from a joint solution if they cooperate, but have the option to "compete" for a more favorable outcome, which may result in a worse scenario for both.

Furthermore, game theory can be instrumental in analyzing public policy within a legal framework. By modeling how the decisions of legislators and other actors influence legal norms, it is possible to understand how the various parties involved in the legislative process (government, opposition, civil society, etc.) interact strategically to achieve specific objectives. For instance, in the formulation of laws, the strategic behavior among groups can be analyzed to predict how they may make concessions to achieve a desired outcome. A classic example would be the process of forming political coalitions and negotiating legal reforms.

From a broader perspective, game theory can also illuminate the behavior of legal institutions and how they interact within a more complex system, where the roles of judges, lawyers, and other parties influence the dynamics of the judicial process. From this approach, one can understand, for example, how judges may adopt decision-making strategies in cases involving legal resources and uncertainties, seeking to balance efficiency and justice.

Game theory provides a powerful lens through which to understand how judicial and legal decisions are not merely a matter of mechanical application of the law, but involve complex strategic interactions among the parties involved. It helps model the choices of individuals, negotiations, and conflict resolution

strategies within a legal context, offering a deeper understanding of the dynamics of law.

6. Justice in a Toss of a Coin

The notion of resolving legal disputes through a random process akin to a coin toss may seem preposterous. However, upon reflection, it elicits significant discussions regarding expediency, legitimacy, and the incentives the legal system offers to individuals. When this proposition is analyzed through the lens of game theory, particularly the prisoner's dilemma, intriguing parallels emerge between the perception of justice and human behavior in the face of risks and rewards.

One of the potential advantages of a system that resolved disputes through the toss of a coin would be the complete elimination of judicial delay. The decision would be instantaneous, obviating the lengthy timeframes that often render justice irrelevant for the parties involved. Moreover, the operational cost of such a simple method would be nearly non-existent, as it would not require judges, lawyers, or complex infrastructure. The apparent neutrality of the coin would also preclude allegations of partiality, since the draw is not influenced by human subjectivities.

However, the disadvantages of such a system are insurmountable. A lottery completely disregards the merits of the issues involved, resulting in arbitrary decisions that disregard the rights of the parties and the fundamental principles of law. Such a system would erode trust in the Judiciary, leading individuals to seek private, often violent, solutions to their conflicts. Furthermore, the extreme unpredictability generated by a lottery would create legal uncertainty that would compromise social and economic stability.

Drawing a parallel with the prisoner's dilemma from game theory, the proposal of an immediate trial by the toss of a coin presents interesting implications. In the dilemma, individuals make strategic decisions based on incentives and expected consequences. If a potential criminal knew that the trial would be swift and that there would be a 50% chance of conviction, he might reconsider committing the crime. The certainty of a rapid outcome and the perception of immediate risk would act as disincentives, aligning with the idea that the probability of punishment is one of the most effective factors in deterring illicit behavior (Soares, 2019: p. 248).

On the other hand, in a slow and ineffective judicial system, the perception of impunity prevails. A criminal or civil offender who believes that the trial will take years to be concluded, even if it eventually results in a conviction, may interpret this delay as a temporary reward. This perception of inefficiency encourages the practice of crimes and various illicit acts, while victims and citizens in general lose confidence in the system as an instrument of protection and justice.

Reflection on this theme reveals a central dilemma: justice cannot be merely expeditious or merely substantive; it must be both to fulfill its purpose. While the provocation of the toss of a coin serves as an extreme metaphor to question

judicial slowness in Brazil, the solution does not lie in randomness, but in reforms that prioritize efficiency without sacrificing the quality of decisions. A judicial system that balances celerity and legitimacy not only discourages illicit practices but also strengthens society's trust in its institutions, consolidating the rule of law and promoting justice as a fundamental value.

7. The Judiciary under the Institutional and Democratic Perspective

Criticism of the functioning of the Brazilian Judiciary is a recurring issue in discussions about the effectiveness of public institutions in the country. Slowness, high costs, and unequal treatment between rich and poor are problems that, when analyzed from an institutionalist perspective, reveal the weaknesses of the judicial system and the need for a profound structural reform. Institutions are fundamental to the proper functioning of society (North, 1990: p. 3), who in his work states that institutions are determinants for the development and stability of a nation, being fundamental to shape the behavior of individuals and the functioning of markets. The same can be applied to the Judiciary, which, if not efficient, ends up compromising the population's trust in its institutions.

The first critical issue raised in relation to the Brazilian Judiciary is its slowness. The judicial system in Brazil is notoriously slow, with cases dragging on for years before reaching a final decision. Research such as that by Canotilho highlights that procedural expediency is essential for the effectiveness of justice, since delay not only harms the parties involved but also weakens the very role of the Judiciary in maintaining public order and social trust (Canotilho, 2004: p. 499). When the trial of a case takes years, justice loses its impact, harming mainly citizens who do not have the capacity to wait for so long, which further exacerbates inequality in access to the Judiciary.

Another critical point is the high expenditure of the Judiciary in Brazil. The spending of the Brazilian judiciary, when compared to GDP, is one of the highest in the world, as pointed out by several studies, such as those carried out by the Association of Federal Judges of Brazil (AJUFE) and other independent bodies. The "loss" of resources with exorbitant salaries and privileges of judges, which often exceed the constitutional limit, creates a distortion in the way public money is allocated. In a critical analysis by Max Weber, the author observes that the state bureaucracy, when inefficient and excessively costly, ends up generating a mismatch with the real needs of the population, creating a system that, although formally efficient, becomes dysfunctional for the common good (Weber, 1999; *Associação dos Juizes Federais do Brasil*, 2025).

Furthermore, the unequal treatment between rich and poor in the Brazilian judicial system is a factor that cannot be ignored. There are a number of reports, studies, and academic articles that point to the favoring of the wealthy in judicial decisions. The Brazilian Justice system has been accused of treating defendants unequally depending on their social class. In a study published by the newspaper

Folha de São Paulo (2018), it was shown that wealthy defendants tend to have a greater chance of obtaining favorable decisions in criminal proceedings, often through more effective legal strategies, such as the use of renowned lawyers and financial resources to prolong the process. However, this inequality is not only perceived in criminal proceedings, but also in other areas of law, such as the distribution of resources in civil actions.

Given these problems, recognizing that the concept of justice is not synonymous with the will of the majority (Rawls, 1999: p. 313), the proposal to democratize the management of the Judiciary, without resorting to the direct election of judges, but allowing for more active popular participation, offers an interesting alternative. The idea of periodically submitting to popular vote the choice of policies for the Judiciary, such as defining the number of judges and allocating resources, could result in greater transparency and efficiency in the use of public funds. This type of democratic participation in the design of legal institutions is advocated by authors such as Robert Dahl, who proposes that political institutions should be shaped according to the needs and desires of the population, as long as this does not compromise the fundamental principles of justice (Dahl, 1989: p. 218). By allowing the population to decide, for example, whether they prefer that a certain amount be used to hire more judges instead of paying exorbitant salaries, society could create a more efficient and democratic Judiciary, aligned with the principles of equity and social justice.

The implementation of democratic reforms is contingent upon the institutional strengthening of the National Council of Justice (CNJ). The CNJ holds responsibilities related to the administrative and financial oversight of the Judiciary, in addition to ensuring the fulfillment of judicial duties. Among its missions is the definition of strategic planning, goal plans, and institutional evaluation programs for the Judiciary. It is understood that strengthening this entity involves increasing popular participation in its decisions, whether through the implementation of democratic mechanisms of popular sovereignty provided for in Article 14 of the Federal Constitution of Brazil (plebiscite and referendum), or by altering its composition, which is currently quite corporatist, with 9 out of 15 members being from the judiciary and only 2 being citizens without a direct relationship with the Judiciary.

This proposal also has the potential to reduce public spending on the Judiciary, creating a leaner but equally efficient system if resources are allocated intelligently. As Tilly argues, the redistribution of resources and the organization of public institutions according to collective needs can increase the effectiveness of democracy and improve service to citizens (Tilly, 2007: p. 117). By reducing immoral privileges and better allocating resources, it would be possible to have a Judiciary that acts more quickly, without sacrificing the quality of decisions, in addition to creating an environment of greater trust in institutions.

An efficient Judiciary is essential to guarantee legal certainty, social stability, and trust in a country's institutions. According to Acemoglu and Robinson, solid

and predictable institutions play a central role in economic and social development, providing the foundation for building a stable and investment-friendly environment (Acemoglu & Robinson, 2012). When the rules are clear and applied reliably, investors feel encouraged to allocate resources to long-term projects, assured that their rights will be respected. This same scenario encourages citizens to invest in their skills and adopt behaviors aligned with social and legal norms, contributing to economic growth and social cohesion.

8. The Judiciary and Multi-Round Games: A Tool or a Trap for the National Development Project

On the other hand, the inefficiency of the Judiciary generates profound and comprehensive impacts, going beyond legal uncertainty and social disharmony. Sen argues that dysfunctional institutions amplify inequalities, as the most vulnerable directly depend on public services to ensure basic rights (Sen, 1999). However, the dysfunction of the Judiciary has an additional side effect that cannot be ignored: it contributes, even if unintentionally, to the advancement of neoliberal policies that seek to reduce the size of the State as a whole.

From the perspective of game theory, social actors, upon observing the history of inefficiency and waste in public policies—including the functioning of the Judiciary—adjust their strategies based on the “previous rounds”. As the Judiciary lacks democratic mechanisms of planning and control that allow for efficient budget adjustment or specific size reduction, the perceived options to address the issue end up falling on the general reduction of the State. This solution, defended by many capitalist sectors, is seen as the most practical way to reduce the tax burden and increase profits. However, this approach ignores the devastating effects on the poorest population, which is the main dependent on public services. Piketty warns that state retraction policies often deepen inequalities, compromising social cohesion and creating a vicious cycle of poverty and exclusion (Piketty, 2014).

This phenomenon demonstrates how the dysfunctionality of the Judiciary can, unintentionally, catalyze austerity policies and state dismantling, strengthening a neoliberal logic. The absence of specific democratic mechanisms to plan, control, and adjust the Judiciary within the budgetary sphere limits the possibilities of reforms focused on efficiency. Instead, the most accessible solution for political and economic actors becomes the general reduction of the State, an approach that, although convenient for certain groups, jeopardizes social stability and the State’s capacity to promote justice and equity.

To avoid this cycle, it is imperative to adopt reforms that promote the efficiency of the Judiciary and, at the same time, strengthen its democratic accountability. Rawls emphasizes that institutions should be perceived as equitable and responsive to social needs, which requires greater transparency and mechanisms of social control (Rawls, 1999). The creation of democratic instruments specifically aimed at the planning and control of the Judiciary is an essential measure to prevent its dysfunctionality from continuing to fuel policies of state retraction and exacerbating

inequalities.

The relationship between the functionality of the Judiciary and the model of State adopted by a nation is a considerable matter. A Judiciary that balances efficiency and legitimacy not only promotes legal certainty and attracts investments, but also prevents its own inefficiency from contributing to policies of state dismantling. Structural reforms that prioritize the efficiency and democratization of the Judiciary are indispensable to ensure that it fully fulfills its role in promoting justice, consolidating the Rule of Law, and strengthening the democratic and social foundations of a nation.

At this juncture of the article, having addressed the interface between game theory and law under various circumstances, it is pertinent to elucidate the dual nature of this theory's application to the issue of judicial time. On one hand, regarding the decisional aspect, it aids in perceiving a problem, yet, in doing so, reveals its own inadequacy as a means of resolving that problem. Deciding by a coin toss would be faster, more economical, and not necessarily unjust, but it would be unacceptable. On the other hand, in the institutional sphere, with repeated-round games as a backdrop, it assists in designing institutions better suited to the contemporary complexity of social and political dynamics. This is because it elucidates the development of strategic relationships between different actors and the Judiciary, considering the institutional insufficiencies related to the latter and the responses offered by social actors to these problems.

9. Conclusion

The tension between procedural expediency and judicial accuracy is not merely technical, but also ethical and political, involving choices about which values should prevail in different contexts. The solution requires a judiciary attentive to the complexity of demands and committed to both efficiency and justice, recognizing that both are indispensable for the full realization of the law and for the consolidation of a democratic state.

Several scholars agree that expeditiousness is essential to ensure the realization of justice. A delayed judicial sentence, even if technically flawless, often results in practical injustice, as it fails to meet the urgent demands of the parties involved and undermines the role of the process as a means of promoting social peace and securing rights. Thus, slowness in judgment is not limited to being an administrative failure, but rather constitutes an ethical and legal challenge to the effectiveness of the judicial system.

The average duration of a lawsuit within the Brazilian judicial system is determined by several systemic and procedural factors, often leading to timelines that exceed seven years, particularly in more complex matters or those involving higher courts. This scenario highlights the urgency of implementing structural reforms and investing in actions that promote greater efficiency, ensuring more agile and accessible justice for the population.

Game theory is a valuable resource for analyzing and solving complex problems,

assisting in the formulation of strategies in various areas. Its application ranges from the financial sector to the creation of algorithms for artificial intelligence, demonstrating its adaptability and relevance in the contemporary world. In the legal field, game theory provides a valuable perspective for understanding that judicial and legal decisions go beyond the simple application of the norm, involving complex strategic interactions between the interested parties. This approach allows for modeling the choices of individuals, the negotiations, and the strategies used in conflict resolution, offering a broader and more detailed view of the dynamics that permeate Law.

Although the metaphor of the toss of a coin illustrates in an extreme way the criticism of judicial delay, the solution does not lie in arbitrariness, but in reforms that prioritize agility without compromising the quality of decisions. Reflecting on this theme exposes a crucial dilemma: justice cannot be merely swift or merely substantial; it must combine both aspects to achieve its objective. A judicial system that manages to balance speed and legitimacy not only discourages illicit practices, but also reinforces society's trust in its institutions, strengthening the Rule of Law and promoting justice as an essential value.

The Brazilian Judiciary faces serious institutional problems that compromise its essential function of guaranteeing justice in a rapid, effective, and equitable manner. The lack of celerity, the high expenditure, and the inequality in the treatment of cases require a profound reform that, undoubtedly, should include greater popular participation in the definition of public policies related to justice. The proposal to periodically submit the choice on the model of the Judiciary to popular suffrage could be a way to make the system more efficient, transparent, and aligned with the needs of the population, in addition to enabling a fairer redistribution of public resources. In this way, it would be possible to create a Judiciary that, instead of being a reflection of dysfunctionality and privilege, would be a true instrument of equity and social trust.

The correlation between the effectiveness of the Judiciary and the type of state model adopted by a country is a noticeable phenomenon. A judicial system that combines efficiency and legitimacy not only ensures legal certainty and favors the flow of investments, but also prevents its own inefficiency from leading to the implementation of policies that result in the reduction of the State's role. Far-reaching reforms that focus on improving efficiency and democratizing the Judiciary are fundamental to guarantee that the judicial system adequately fulfills its functions of promoting justice, reinforcing the Rule of Law, and strengthening the democratic and social structures of a nation.

Conflicts of Interest

The authors declare no conflicts of interest regarding the publication of this paper.

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