

NORONHA ADVOGADOS

GLOBAL LAWYERS

Sao Paulo | Rio de Janeiro | Brasília | Curitiba | Porto Alegre | Recife | Belo Horizonte



London | Lisbon | Shanghai | Miami | Buenos Aires

JUDICIARY IN BRAZIL: AN OVERVIEW

Presentation made for the Delegation of the Ministry of Justice of China

Durval de Noronha Goyos Jr.

Senior Partner - Noronha Advogados

São Paulo– May 10, 2009.

JUDICIARY IN BRAZIL: AN OVERVIEW

1. INDEX;
2. ORIGIN OF THE BRAZILIAN LEGAL SYSTEM;
3. UPDATE OF THE LEGAL INFRASTRUCTURE IN BRAZIL – I;
4. UPDATE OF THE LEGAL INFRASTRUCTURE IN BRAZIL – II;
5. GENERAL OVERVIEW: BRAZILIAN FEDERAL CONSTITUTION;
6. THE BRAZILIAN CONSTITUTIONAL FRAMEWORK BRAZILIAN JUDICIARY;
7. LABOUR LAW;
8. LITIGATION: NATURE OF CASES;
9. BRAZIL: NEW JUDICIAL CASES PER YEAR;
10. NUMBER OF JUDGES;
11. BRAZIL: NEW JUDICIAL CASES PER JUDGE PER YEAR;
12. MINISTRY OF JUSTICE;
13. ADVOCACY OF THE FEDERAL UNION (AGU);
14. ATTORNEY GENERAL OFFICE;
15. BRAZILIAN BAR ASSOCIATION.

ORIGIN OF THE BRAZILIAN LEGAL SYSTEM

LAW FIELDS

ORIGIN

Constitution

Portugal

Commercial + Civil + Corporate

France

Civil Procedure + Criminal Procedure

Germany

Labour + Criminal

Italy

Competition Law + Insurance+
Bankruptcy

United States

Consumer Law

EU

UPDATE OF THE LEGAL INFRASTRUCTURE IN BRAZIL - I

LAW

ADMISSION EFFECT

Constitution	1988
Code of Consumer's Defence	1990
Franchising	1994
Safeguard Law	1994
Intellectual Property	1996
Arbitration	1996
Public Bid + Contracts	1998
Sport Law	1998

UPDATE OF THE LEGAL INFRASTRUCTURE IN BRAZIL - II

LAW

ADMISSION EFFECT

Anti-trust + Competition Law	2000
Corporate Law	2001
Civil Code	2003
Reform of the Judiciary – “Brazilian National Council of Justice”	2004
Bankruptcy Law	2005
Reform of the Penal Code	2005
Reform of the Code of Civil Procedure	2006
Reform of the Code of Criminal Procedure	2008

GENERAL OVERVIEW: BRAZILIAN FEDERAL CONSTITUTION

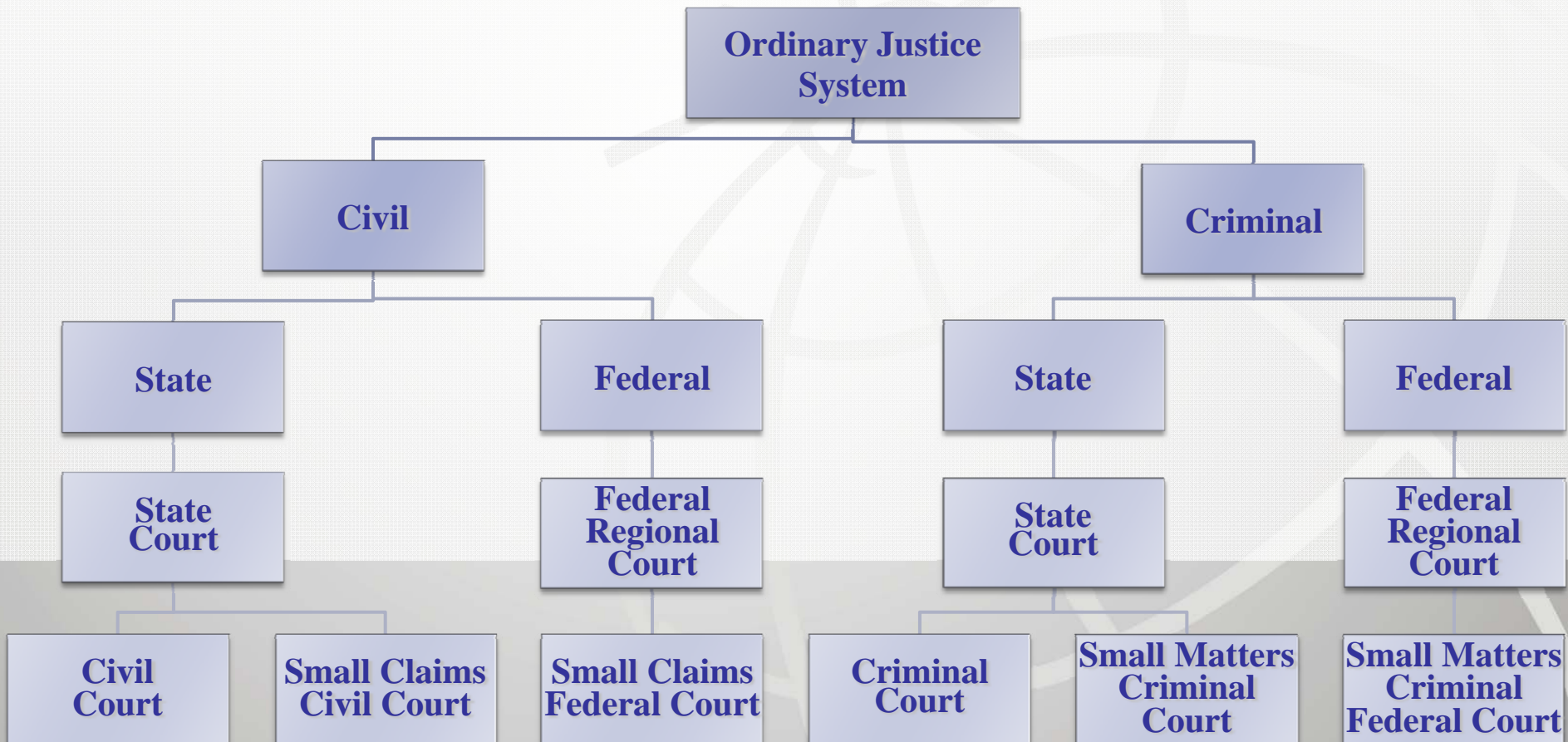
The Brazilian Federal Constitution guarantees to all workers:

- ☑ protection against arbitrary dismissal;
- ☑ national uniform minimum wage;
- ☑ unemployment benefit;
- ☑ maternity and paternity leaves; and
- ☑ occupational accident insurance.

THE BRAZILIAN CONSTITUTIONAL FRAMEWORK

BRAZILIAN JUDICIARY

HIGHER COURTS



STF FEDERAL SUPREME COURT



STJ SUPERIOR COURT OF JUSTICE



TST SUPERIOR LABOUR COURT



TRT

2ND INSTANCE - SÃO PAULO



LABOUR LAW

1. CONSTITUTION OF 1988

- Minimum Wage (today – R\$ 465,00)
- Maximum duration of the day's work
8 hours per day
44 hours per week
- Overtime Pay: + 50%
- Annual Vacation: + 1/3
- Mandatory Fund for Unemployment Benefit (FGTS): 8,5%



2. LABOUR CODE

- National Institute of Social Security (INSS) : 8% - 11%

LITIGATION

NATURE OF THE CASES



Administrative and Public Law	29%
Civil	16%
Labour Matters	16%
Tax Matters	14%
Criminal Law	13%
Consumer Law	4%
Others	8%

Brazil:

NEW JUDICIAL CASES PER YEAR

State Circuit

17 million

Labour Circuit

3 million

Federal Circuit

1 million

TOTAL

21 million



Brazil:

NUMBER OF JUDGES

State Circuit	11.118
Labour Circuit	3.085
Federal Circuit	1.447
<u>TOTAL</u>	15.650



Brazil:

NEW JUDICIAL CASES PER JUDGE PER YEAR

Federal Circuit

14 thousand

State Circuit

8 thousand

Labour Circuit

8 thousand



MINISTRY OF JUSTICE - I

ROLES:

- to defend the legal system, political rights and constitutional guarantees;
- National Security: Federal Police;
- to defend the National Economy: financial crimes and consumer rights;
- administration of the national prison system;
- dealing with nationality and immigration issues;
- etc.



MINISTRY OF JUSTICE - II

ORGANIZATION FRAMEWORK

Minister: Mr. Tarso Genro

- Direct Assistance Agencies (Headquarter office, Amnesty Committee, Legal Assistance and Executive Secretary);
- Singular Agencies (Public Legal Aid, Federal Police Department, Federal Highway Police, National Penitentiary Department, Legal Matters Secretary, Economic Law Secretary, Judiciary Reform Secretary, National Justice Secretary and National Public Security Secretary);
- Collegiate Agencies (Federal Managing of Natural Rights Defense Council– “CFDD”; National Piracy And Intellectual Property Control Council– “CNCP”; National Criminal and Penitentiary Policies Council– “CNCP”; and National Public Security Council – “Conasp”); and
- Related Entities (Autarchy: Administrative Concil of Economic Defense – “CADE” and Indigenous National Foundation – “FUNAI”).

AGU

ADVOCACY OF THE FEDERAL UNION

ROLES:

- Advising the President, as well as the members of the Executive branch, the federal agencies and public foundations;
- Mediate conflicts involving federal public entities;
- Defend all Federal entities in litigation in which the Federal Union is a part.



ATTORNEY GENERAL

ROLES:

- to defend social and individual rights, for example, the right to life, liberty and health;
- ensure the compliance with Brazilian Law as well as international treaties signed by Brazil;
- etc.



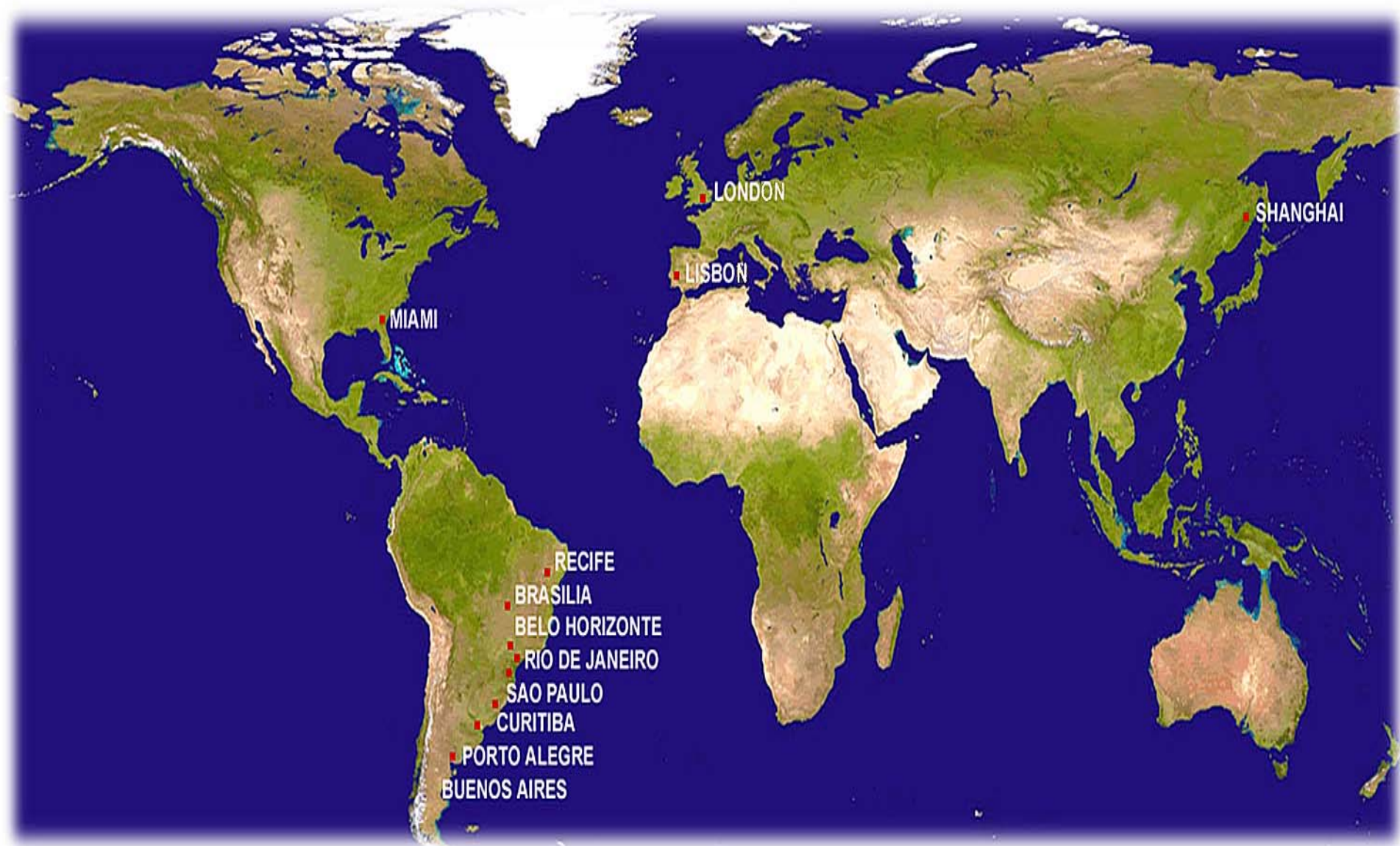
BRAZILIAN BAR ASSOCIATION

ROLES:

- Defend the Constitution; the democratic state of justice; human rights; social justice; fight for the application of the law; the demand of a fast judgment and improvement of the culture and the legal institution.
- Promoting Law practice, selection and defense of lawyers within Brazil.
- Brazil has today approximately 523.000 lawyers.



NORONHA ADVOGADOS





Durval de Noronha Goyos Jr.

dng@noronhaadvogados.com.br

www.noronhaadvogados.com.br