

# BRAZIL<sup>1</sup>

## General Information

Brazil is a federal republic with twenty-six states and one Federal District. It covers a total area of 8,514,215.3 sq. km. In 2004 the country's population was 179,443,000<sup>2</sup> and 81.7% of its inhabitants lived in urban areas. Between 2000 and 2005, annual population growth was 1.2%. Illiteracy was estimated at 11.1% for 2005 among Brazilians over the age of fifteen, well below the rate of 18% reported in 1990. Population age distribution has shifted, with the under-fifteen group dropping to 28.8% of the total population in 2000, compared to 34.7% in 1990. The 15-34 age group remained relatively stable (it was 36.5% in 2000 and 36.4% in 1990). ECLAC estimated life expectancy for 2000-2005 at 69 years. The poverty rate remained stable at 31.5% between 1999 and 2001, while extreme poverty rose slightly from 12.9% to 13.2%. The World Bank reported 2% GDP growth for 2002, and no growth for 2003.<sup>3</sup> Per capita income in 2002 was US\$2,860, dropping to US\$2,710 with a purchasing power parity of US\$7,510 in 2004. Urban unemployment increased 0.6% to 12.3% between 2002 and 2003.<sup>4</sup>

## Judicial System Highlights

- On December 8, 2004, Constitutional Amendment 45 entered into force, modifying the rules governing the structure and functioning of the Judicial Branch.
- One of the main innovations was the creation of the National Council on Justice (*Consejo Nacional de Justicia*).
- In 2003 Brazil had 7.7 judges per 100,000 inhabitants, with 73% of judges serving in the ordinary justice system.
- In 2004 the federal justice system budget represented 0.97% of the federal budget. The justice administration allocation represented 3.66% of total public spending.<sup>5</sup>
- Brazil has 3,154 public defenders, or 1.86 per 100,000 inhabitants.<sup>6</sup>
- Between 1997 and 2003 the congestion rate in Brazil's first instance courts was 80% or higher and that of the second instance courts was 70% or higher. In 2003, the Superior Federal Court reached a clearance rate of 124%, while ordinary state justice cleared an average of 68% of cases filed that year.
- In 2003, 3,792.5 crimes were committed per 100,000 inhabitants. In July 2004 there were 187.4 inmates per 100,000 inhabitants, with prison overcrowding at 83.17%.

## 1. Institutions

Brazil's justice system reflects continental European written procedure and consists of the Judicial Branch, the Public Prosecutor's Office (*Ministério Público Federal*), the Ministry of Justice and the Public Security Forces.

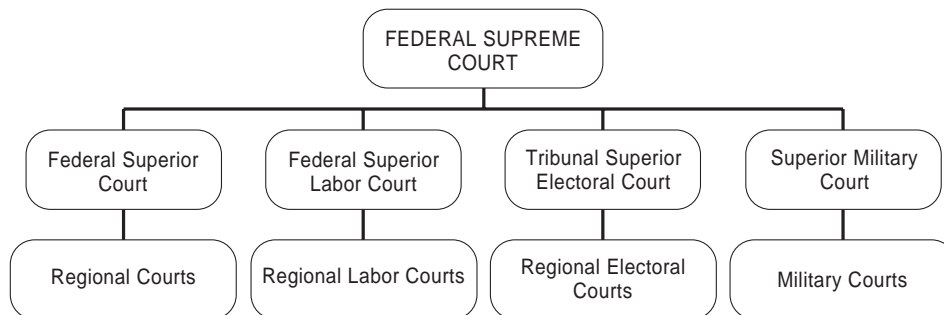
### Judicial Branch

Brazil has federal and state judicial branches. The Federal Judicial Branch is divided into five regions and its most important agencies are the Federal Supreme Court and the Superior Courts, which have nationwide jurisdiction. In addition, each of the five judicial regions has a federal regional court, which mainly hears applications for appeal. Last, each judicial region has a variable number of judicial sections, which have first instance courts in all areas. The labor jurisdiction is unique in that it is divided into twenty-four judicial regions, each of which has its own regional labor court.

The diagram below presents a detailed vision of the federal justice system:

<sup>1</sup> This chapter relied on information provided by the *Ministério da Justiça* and the *Defensoria Pública Geral da União* as well as institutional websites and JSCA reports.

Figure 1  
Federal Justice System



At the state level, each of the twenty-six states has its own second instance court. This is also true of the Federal District. In addition, each state is divided into “*comarcas*” with first instance courts in the various areas of justice.

#### *Federal Supreme Court*

Brazil’s *Supremo Tribunal Federal* is responsible for upholding the Federal Constitution. It also has original jurisdiction over the following matters:

- The presentation of information regarding unconstitutionality of federal or state laws to the country’s President, Vice President, Congress, ministers and Attorney General in common criminal infractions;
- The resolution of requests for extradition submitted by foreign governments.

It is also responsible for using extraordinary appeals to decide cases that have been resolved in only or last instance when the decision is found to go against the Constitution.

#### *Federal Superior Court*

The main responsibilities of this court include:

- Trying cases in which governors or appeals court judges are charged with common crimes;
- Resolving disputes regarding competence that arise among different courts;
- Resolving disputes regarding attributions that arise among administrative officials.

In some cases this court also has competence in ordinary and special appeals matters. Congress works with this institution to supervise the administration and budget of the federal justice system on primary and secondary levels.

#### *Superior Labor Court, Regional Labor Courts and Labor Courts*

Labor Justice is responsible for conciliating and handling individual and collective litigation among workers and employers, including external public legal entities and public administration agencies.

The labor courts (or *Varas do Trabalho*) resolve individual conflicts that arise between employer and employee in the first instance. Its competence is determined by the locality in which the employee offers his or her services. In general, each court is composed of a labor judge and a substitute. There are currently 1,109 labor courts in Brazil.<sup>7</sup>

The regional labor courts hear ordinary appeals of the decisions made by the labor courts. They also resolve collective disputes among workers’ associations and their employer or employers. There are currently twenty-four regional labor courts.<sup>8</sup>

The Superior Labor Court, which is headquartered in Brasilia, has national jurisdiction. Its main function is to unify case law in this area. It is therefore responsible for hearing appeals of decisions issued by the regional labor courts. The Superior Labor Court is composed of seventeen members, who are called *ministros*.<sup>9</sup>

#### *Military Courts and Judges*

The military jurisdiction handles all martial crimes provided for by law. There are twelve districts, and the Superior Military Court is composed of fifteen justices or *ministros*.

#### *State Courts and Judges*

The Federal Constitution grants all Brazilian states the authority to organize their own justice systems. Each state therefore has a state court

empowered to review the decisions of the first instance state courts, among others. The Federal Constitution also grants states the option of having their own military court for processing and judging military police and military firefighters for legally specified crimes.

There are also special state courts presided over by professional and non-professional judges who are trained to handle conciliation procedures and to rule on small claims civil matters and minor criminal offenses through a summary procedure.

**Table 1**  
**Number of Judges per Court**  
Source: Judicial Branch Reform Secretariat, Ministry of Justice

Court	Judges	%
Superior Courts	76	0.6
Regional (Federal) Courts	133	1.0
Federal First Instance Courts	988	7.2
Regional (Federal) Labor Courts	440	3.2
Federal First Instance Labor Court	2,067	15.1
Courts of Justice	948	6.9
Ordinary Appeals Courts	321	2.3
Ordinary First Instance Courts	8,687	63.6
Total	13,660	100

In 2003 Brazil had 7.7 judges per 100,000 inhabitants, 86% of whom were sitting in first instance courts. Of these, 63.6 % heard ordinary justice matters. Judges sitting in second instance courts accounted for 13.4% of the total, with 9.2% of these hearing ordinary matters. 73% of judges work in the ordinary jurisdiction. This number is directly proportional to the number of cases that this area receives. The labor jurisdiction receives 12.5% of all cases and has 18.3% of the nation's judges. The federal justice system receives 11.9% of all cases and includes 8.2% of all sitting judges. Superior Court judges account for 0.6% of the total, while this jurisdiction receives 2.4% of all cases filed.<sup>10</sup>

### Federal Justice

**Table 2**  
**Number of Judges in Federal Jurisdictions, 2004**  
Source: Regional Federal Courts

	Number of Judgeships	Positions Occupied	Positions Vacant
First Instance	1,486	1,001	485
Second Instance	139	134	5

In 2004 there were 0.66 federal judges<sup>11</sup> per 100,000 inhabitants considering occupied positions and 0.95 per 100,000 inhabitants considering all existing judgeships.

### Budget

**Table 3**  
**Judicial Branch Budget 1996- 2004**  
Source: SAF/STF

Year	Budget in Local Currency	Budget in Current Dollars <sup>12</sup>	% of the Total Public Budget
1996	R\$ 3,682,395,168	3,796,283,678	1.18
1997	R\$ 4,234,072,389	4,110,749,892	0.98
1998	R\$ 5,880,625,847	5,297,861,123	1.34
1999	R\$ 6,295,170,040	5,202,619,867	1.15
2000	R\$ 7,079,292,510	3,932,940,283	0.70
2001	R\$10,303,772,739	5,311,223,061	1.25
2002	R\$11,947,289,547	5,194,473,716	1.51
2003	R\$12,475,048,508	3,564,299,573	1.23
2004	R\$14,377,343,618	4,992,133,200	0.97

In 2004 the Judicial Branch had a budget of R\$ 14,377,343,618, equal to 0.97% of the total public sector budget for that year. This represents a 31.5% increase over the percentage of the total budget that it received in 1996.<sup>13</sup>

In 2003 the federal courts collected \$64M *reales* (approximately US\$21.3 million) from court fees, which are applied to civil and commercial suits. In general there is a one-time charge that covers all procedures throughout the suit and either the claimant or respondent must pay, and this will include legal costs. The amount charged varies from state to state.<sup>14</sup>

### Ministry of Justice

The Ministry of Justice is the Executive Branch institution responsible for the justice sector. Its duties include overseeing and upholding the legal system and constitutional rights and guarantees, and securing respect for human rights by ensuring legal assistance both in and out-of-court as provided by law.

The scope of its authority includes:<sup>15</sup>

- Addressing general complaints
- Addressing complaints regarding federal policies
- Ensuring comprehensive, free judicial and extra-judicial legal assistance for the needy as provided for by law

- Defending property owned by the State and all bodies under direct or indirect Federal Administration
- Coordinating, organizing and proposing actions of the government to discourage the abuse, illegal trafficking, and the unauthorized production of narcotic substances and physically and psychologically addictive drugs
- Assisting the President in all matters not addressed by another Ministry.

In 2004 the Ministry of Justice had a budget of R\$ 4,448,700,000, or US\$1,544,687,500.

### ***Public Prosecutor's Office***

Brazil's *Ministério Público* is considered an essential part of the justice system. It has functional and administrative autonomy, and its powers, which are set out in Article 129 of the Federal Constitution, include:

- Undertaking criminal prosecution as provided for by law
- Ensuring effective respect for government branches and essential public services and upholding the Constitution, and taking the measures required to protect them
- Undertaking public civil actions required to protect the public and social heritage, the environment and others of broad-based and collective interest
- Defending the rights and interests of indigenous communities in court
- Undertaking external oversight of police activity
- Ordering police authorities to undertake investigative acts as it deems appropriate

The Prosecutor General (*Procurador General de la República*) leads this service and is appointed by the President and confirmed by the Federal Senate. State Prosecutor Generals are appointed by governors based on a shortlist presented by the state's Public Prosecutor's Office.

The institution is divided among the Federal Public Prosecutor's Office and the twenty-five independent state prosecutor's offices. The Federal Office includes all federal prosecutor offices, the labor prosecutor, the Federal District and Territories Prosecutor's Office and the Military Prosecutor's Office.

In 2004 the Federal Prosecutor's Office was allocated a budget of R\$ 1,500,000,000, equal to US\$520,833,333.

### ***Public Defender's Office***

The *Defensoria Pública Geral da União* is linked to the Executive Branch through the Ministry of Justice. The state-level Public Defender's Offices are overseen by the governor of the respective state or by an undersecretary appointed by the governor. A recent constitutional amendment granted these agencies functional and administrative autonomy and made them responsible for formulating their own budget plan within the limits set out by legal budget guidelines. The states must bring their Public Defender's Offices in line with these new constitutional provisions.

The primary function of the Public Defender's Office is to provide free, comprehensive legal assistance to citizens who demonstrate an inability to pay for private counsel. In addition, it may:

- Recommend or encourage extra-judicial settlements between parties
- Provide legal representation to plaintiffs in private criminal matters
- Provide legal representation in civil cases and criminal defense
- Act as special guardian (*curador especial*) as provided for by law
- Defend children and adolescents
- Uphold the rights of persons held in custody
- Ensure due process for all defendants represented in judicial proceedings using all resources and means available
- Act in conjunction with the special courts in less serious matters
- Defend the interests and rights of consumers where they are infringed upon

The jurisdiction of public defenders is limited to the Superior Military Court, Superior Court of Justice, Superior Federal Court (3<sup>rd</sup> instance), regional federal courts (2<sup>nd</sup> instance) and first instance bodies.

The highest authority of the Public Defender's Office is appointed by the President and confirmed by the Senate.

Brazil's public defense system consists of a national office and state-level offices. (Twenty-three states and the Federal District have independent public defender's offices. These offices have yet to be established in three states.<sup>16</sup>) There are 3,154 public defenders in Brazil, or 1.86 per 100,000 inhabitants.<sup>17</sup> From 2001 to 2003, they assisted in 3,404,575 matters, including 1,205,223 in 2003 (906,808 civil and

298,414 criminal cases). During the same period public defenders appeared at 1,650,284 court hearings (645,287 in 2003).

Table 4  
Budget and Resources of the Public Defender's Office

Source: Defensoría Pública de la Unión

Item	2004	2003	2002
Total Public Budget	R\$11,994,140	R\$13,123,919	R\$5,764,040
Public Budget in Dollars	US\$4,393,457	US\$4,807,296	US\$2,111,369
Number of Computers	264	212	186
Number of Computers with Internet Connectivity	264	212	186
Number of Public Defenders	96	106	108
Female Public Defenders	38	44	48
Legal Clerks ( <i>Letrados adjuntos</i> ) in the Public Defender's Offices	01	01	01

Between 2002 and 2004 the Public Defender's Office budget rose by 8%.<sup>18</sup> The number of cases that it handled between 2001 and 2003 grew exponentially: 7,551 cases in 2001, 54,261 in 2002, and 133,730 in 2003; in other words, the number of cases grew seventeen-fold during this three-year period.<sup>19</sup>

## Police

Article 144 of the Federal Constitution provides for the Federal Police, Federal Highway Police, Federal Railway Police, Civil Police, Military Police and the Military Fire Brigade.

The Federal Police are responsible for criminal offenses that threaten the political and social order or State property, services and interests or those of the nation's autonomous public entities and corporations, as well as any other institution whose activity has inter-state or international scope. Its duties also include prevention and control of illegal traffic in drugs and goods; policing of maritime, aviation, and border areas; and exclusive competence as the federal judicial police.

Judicial police functions consist of working with the Judicial Branch to provide the information required for the investigation of court cases, carry out investigative procedures at the request of the judge or public prosecutor, and execute arrest warrants.

The Federal Police force has 8,511 officers and 3,204 administrative staff. There are twenty-seven regional superintendents, eighty-two delegations, fifteen temporary posts and one training center.

The 2004 Federal Police budget was R\$ 634,000,000, equal to US\$220,138,888.

## Important Recent Legal and Institutional Changes

On December 8, 2004 Constitutional Amendment 45 introduced a federal reform that modified the rules governing the structure and functions of the Judicial Branch. It includes the following provisions:

- A summary of ruling trends in superior courts that are binding on lower instance rulings;
- Guarantee of quick judicial and administrative case processing;
- Updating of Constitution to reflect international human rights treaties and conventions;
- Officially acceptance of the International Criminal Court's jurisdiction in Brazil;
- The National Justice Council, which will play an important role in Judicial Branch management and planning;
- Introduction of productivity as a criteria for evaluation of judicial promotions;
- Creation of the *Escuela Nacional de Formación y Perfeccionamiento de Magistrados* (National Judicial Training and Development Academy), which will operate in conjunction with the Superior (formerly Appeals) Court of Justice;
- Creation of itinerant justice agencies that act in conjunction with the regional (federal) courts, federal labor courts, and state courts;
- Establishment of a special jurisdiction for agrarian matters.

The Judicial Branch Reform Secretariat was established to facilitate the reform process in conjunction with the Legislative Branch and develop justice modernization projects in collaboration with the Judicial Branch itself and other institutions associated with this sector. The reform also created the National Justice Council and the Public Prosecutor's Office National Council (*Consejo Nacional del Ministerio Público*)<sup>20</sup> as autonomous bodies responsible for the external oversight of the Judicial Branch and

the Public Prosecutor's Office, respectively. These agencies are not yet operational.

A number of legislative bills accompanying the amendment have been submitted to Congress. They are aimed at modifying infra-constitutional provisions governing civil and labor procedure and provisions regarding the execution of judicial and extra-judicial titles and mediation.<sup>21</sup>

During the second half of 2004 the Ministry of Justice launched its legal information system (SISNORMA), which made a compendium of systematized legislation available to the public via Internet. This system includes parliamentary debate and processing of legislative bills up to their publication in the Official Gazette. Since its implementation the system has received more than 6,000 searches for information. Over the same period the Global Legal Information Network (GLIN) was also launched in Brazil. This international network allows citizens to access legislation from fifty-two countries. A further development in this area is the new project to establish a network connecting all states to the National Program to Integrate Justice and Public Security Information (INFOSEG), which integrates and provides public access to information on criminal identity, capture warrants and prison population across all Brazilian states.

## 2. Procedures

Brazil's criminal procedure system was inherited from the European continental system, in particular from Germany and Italy.

### *Criminal Cases*

Criminal procedure is initiated with a complaint filed by the Public Prosecutor's Office before the judge. The investigation is carried out by the Public Prosecutor's Office and overseen by the judge, who convenes the parties to present their final arguments. These may be presented orally in a hearing convened for this purpose. However, in general the arguments are presented in written form at the request of the judge, who then pronounces sentence, which may be appealed by either party. After appeals are ruled upon, parties may recur to a superior instance if it is thought that the appellate ruling may have violated ordinary law. Decisions may be appealed to the Supreme Court if there is a dispute among courts from different regions. Lastly, if the ruling

violates a constitutional provision an extraordinary appeal must be made to the Federal Supreme Court.

### *Civil Suits*

The system is mainly written and its stages or key acts are the initial filing of suit, the response, the hearing, and the ruling, which is subject to appeal, except in the special courts, which have their own procedures (minor offenses and civil cases as provided by law).

## 3. Case Volume and Movement

### *Federal Justice*

Table 5  
First Instance Federal Court<sup>22</sup>  
Source: Tribunales Regionales Federales

Year	Cases Filed	Cases Disposed	Cases Pending	% Congestion Rate
1997	901,489	413,272	2,116,963	N/D
1998	838,643	494,493	2,331,214	83
1999	1,079,158	552,990	2,608,573	98
2000	1,097,964	593,961	2,848,538	84
2001	1,002,095	584,818	3,086,728	85
2002	1,368,061	657,161	3,753,093	85
2003	2,107,941	1,165,488	4,889,988	80

Note: The congestion rate is calculated as  $(\text{cases filed that year} + \text{cases pending from the previous year} - \text{cases disposed that year}) / (\text{cases filed that year} + \text{cases pending from the previous year})$ .

Between 1997 and 2004, the number of cases filed in first instance federal courts rose by 134%, with an annual average increase of 15%. The number of cases disposed increased by 182% between 1997 and 2004. However, congestion increased despite the increase in the number of cases resolved. The number of cases pending has increased by 13% yearly.

Table 6  
Second Instance Federal Courts  
Source: Tribunales Regionales Federales

Year	Cases Filed	Cases Disposed	Cases Pending	% Congestion Rate
1997	316,899	213,253	621,805	N/D
1998	357,280	253,107	682,323	74
1999	548,826	327,702	956,026	73
2000	591,887	451,771	1,000,013	71
2001	545,501	417,657	963,272	73
2002	538,104	381,423	913,876	75
2003	352,878	304,284	861,804	76

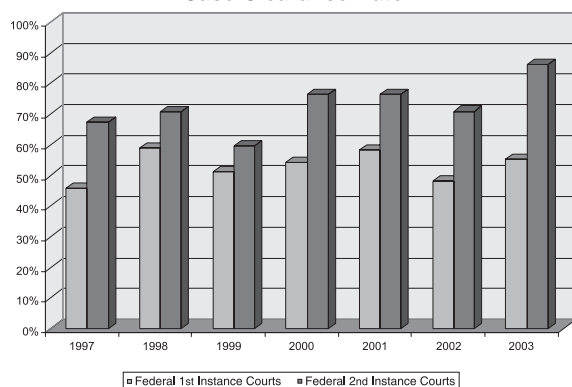
The number of cases increased 11% between 1997 and 2003. In the second federal instance, 43% more cases were resolved in 2003 than in 1997, and the congestion rate is lower than in the first instance federal courts.

In 2003 the Federal Supreme Court accepted 87,186 cases and resolved 107,867, disposing 22% more cases than were filed that year. The Superior Court disposed 216,999 cases and 216,493 were filed. The latter represents a 38% increase over the number of cases filed in 2002, indicating that productivity increased along with the demand for judicial services.<sup>23</sup>

Table 7  
Caseload per Judge 2003

Instance	Cases Filed	Cases Pending at End of Year	No. Judges <sup>24</sup>	Caseload per Judge
<b>First Instance</b>	2,107,941	4,889,988	1,001	6,990
<b>Second Instance</b>	352,878	861,804	134	9,064

Figure 2  
Case Clearance Rate



Between 1997 and 2003, Brazil's federal justice system was not able to process and resolve the enormous number of cases filed, and is therefore backlogged. The situation is more complicated in the first instance federal courts, in which the clearance rate during the period in question has never surpassed 60%. In contrast, the clearance rate in the second instance federal courts was over 80% in 2003.

In 2003, 87,186 cases were filed before the Federal Supreme Court and 107,867 were resolved, for a clearance rate of 124%. The Superior Court and the Superior Military Court reported clearance rates of 100%, while the Superior Electoral Court has a clearance rate of 148% and the Superior Courts a rate of 79%.<sup>25</sup>

## Ordinary Justice

In 2003, 11,939,606 cases were filed before the courts of ordinary justice in first instance, and 8,196,115 were disposed. The second instance courts received 720,109 cases and disposed 572,851.

Table 8  
Cases Filed and Disposed in 2003

State	Cases Filed	Cases Disposed	Clearance Rate
Acres	58,078	47,847	82%
Alagoas	46,766	21,020	45%
Amazonas	58,750	14,850	25%
Amapá	44,752	32,822	73%
Bahía	ND	ND	ND
Ceará	ND	ND	ND
Distrito Federal	221,542	197,503	89%
Espirito Santos	176,434	113,269	64%
Goiás	208,307	144,243	69%
Maranhao	ND	ND	ND
Minas Gerais	1,029,959	564,112	55%
Mato Grosso do Sul	181,766	94,076	52%
Mato Grosso	239,155	115,966	48%
Panamá	121,405	66,686	55%
Paraíba	168,194	160,976	96%
Pernambuco	179,601	95,075	53%
Piauí	ND	ND	ND
Paraná	ND	ND	ND
Rio de Janeiro	1,316,479	609,714	46%
Rio Grande do Norte	ND	ND	ND
Rondonia	105,181	91,731	87%
Roraima	20,320	15,000	74%
Rio Grande do Sul	1,088,087	741,608	68%
Santa Catarina	679,472	374,442	55%
Sergipe	99,315	86,741	87%
Sao Paulo	5,845,111	4,541,332	78%
Tocantis	50,932	39,902	78%
<b>TOTAL</b>	<b>11,939,606</b>	<b>8,169,115</b>	<b>68%</b>

There was an average clearance rate of 68% at the state level in 2003, which indicates the system is backlogged. Notably, nine states had clearance rates of less than 60%.

## Labor Justice

In 2003, 1,706,778 cases were filed in the first instance labor courts, and 1,640,958 were disposed. The second instance labor courts received 469,524 cases and resolved 457,124. In contrast to the situation in the ordinary courts, the clearance rates among the labor courts reached 96%, which indicates this jurisdiction's ability to meet the demand for labor judicial services. Finally, in 2003 the Superior Labor Court received 123,417 cases and disposed 97,455, for a clearance rate of 78%.

## 4. Crime Rates

Table 9  
Crime Rates in Brazil

Type of Crime	2003	Rate per 100,000 Inhabitants	2002	Rate per 100,000 Inhabitants	2001	Rate per 100,000 Inhabitants
Total	6,707,955	3,792.5	5,677,763	3,251.3	5,13,972	2,977.6
Voluntary manslaughter	40,630	23.0	41,083	23.5	39,707	23.0
Attempted murder	35,082	19.8	37,501	21.5	36,219	21.0
Bodily harm	618,097	349.5	602,514	345.0	564,322	327.4
Sex with a minor	14,280	15.90	14,220	16.04	14,709	16.80
Indecent assault	10,093	5.7	14,276	8.2	13,012	7.5
Kidnapping and extortion	375	0.21	583	0.33	571	0.33
Robbery	855,897	483.9	764,815	438.0	712,306	413.2
Theft	2,124,572	1,201.2	1,838,988	1,053.1	1,661,999	964.1

The number of crimes reported in Brazil rose by 27% between 2001 and 2003. The number of robberies rose by an average of 17% annually, and number of thefts by 25%. The murder rate remained stable. The crime of sex with a minor dropped by 3% annually over the period in question, and kidnapping and extortion by an average of 18% per year.

## 5. Prison Population

Brazil's prison administration is handled at the state level and organized in accordance with each state's policy. Some states have a Secretary of Prison Administration, while in others the Secretary of Justice or of Public Security oversees prison administration through an Office or Superintendent.

The National Penitentiary Department (DEPEN) implements national prison policy and supports the National Criminal Policy and Prison Council. It is responsible for managing the federal prison system. By this year (2005), said system will have 1,000 spaces for highly dangerous criminals. The increase is designed to lower the frequency of prison riots and rebellions and support efforts to disband organized crime.

The performance of the prison system varies from state to state. Some have adopted a purely state-level system, with fully public prison administration. Others have opted for a mixed system, contracting out services such as medical care, cleaning and maintenance and food services. Management of federal prisons is predominately public.

As of June 2004 there were 331,457 individuals in custody in Brazil, or 187.4 per 100,000 inhabitants. The system's total holding capacity is 180,953, though prisons overcrowding currently stands at 83.17%.

## 6. Related Areas

### *Alternative Dispute Resolution*

A number of legislative bills have been presented to introduce and govern the use of mediation for civil proceedings since 1998. The last was filed in 2004. These bills look to modify the Civil Procedure Code and include mediation as a dispute resolution mechanism before and during the trial. Pre-trial mediation is optional and can be implemented in or out of court. Mediation has been made mandatory for some special proceedings. There are requirements for those wishing to be judicial mediators and a directory of mediators which local courts are required to maintain up to date.

### *Race and the Administration of Justice*

Although Brazil has had legislation against racial discrimination since 1951, at that time racism was not seen as a widespread problem. By the end of the 1980s the legal system began to shift towards a broader understanding of discrimination, as evidenced in the new Federal Constitution of 1988 and new criminal anti-racism legislation (Law 7.716).

However, the public sector response to racist practices against Afro-descendants only began to gain momentum at both the state and federal levels during the second half of the 1990s, in particular in the preparatory process for the World Conference on Racism. Efforts undertaken in this context include the creation of new public institutions and the design of public policies on this issue. However, most initiatives have come from the Executive and Legislative Branches and the Judicial Branch has yet

to implement similar efforts. There is no consistent jurisprudence on the issue and Afro-descendants continue to have poor access to justice.<sup>26</sup>

### ***Legal Profession***

According to the *Conselho Federal da Ordem dos Advogados*, Brazil has a total of 450,891 attorneys, or 255 per 100,000 inhabitants.<sup>27</sup>

Figures obtained from the Higher Education Council for 2003 reported 508,424 students

registered in the country's law schools, or 287 per 100,000 inhabitants. That same year 64,413 students graduated from law school. Law students account for 13.1% of all registered university students.<sup>28</sup>

## **7. Judicial Reform and International Cooperation Projects Underway**

Table 10 describes international cooperation projects that are being implemented in Brazil:

**Table 10**  
**International Cooperation Projects**

Name of project or program	Description	Funding source and amount (where available)	Implementing agency	References
Modernization of Brazil's Judicial System	Aims: to increase the management efficiency of the system; strengthen the Ministry of Justice as the entity that formulates and coordinates public justice policy; support the design and implementation of investment projects to be negotiated among different justice sector institutions.	UNDP	Ministry of Justice through the Justice Reform Secretariat	<a href="http://www.mj.gov.br/reforma">www.mj.gov.br/reforma</a>
Litigation Studies	Study on cases with the State as defendant and the twenty companies brought to trial, to establish a model for improving their services.	World Bank	Ministry of Justice through the Justice Reform Secretariat Goal for July 2005.	<a href="http://www.mj.gov.br/reforma">www.mj.gov.br/reforma</a>
Prosecutor's Office Performance	Study on the points of congestion in the work of public prosecutor offices; implementation of a pilot management improvement project based on informatics.	World Bank	Ministry of Justice through the Justice Reform Secretariat Goal for July 2006.	<a href="http://www.mj.gov.br/reforma">www.mj.gov.br/reforma</a>
Study on Class Actions	A study on the number and nature of class action suits in the country and the effectiveness of judicial rulings in this type of case.	World Bank	Ministry of Justice through the Justice Reform Secretariat Goal for July 2007.	<a href="http://www.mj.gov.br/reforma">www.mj.gov.br/reforma</a>
Innovare Award	Award for best practices in judicial administration for building a database, in collaboration with the Vale do Rio Doce, with the Getúlio Vargas Foundation (Universidad de Brasil) and the Brazilian Magistrates' Association.	Vale do Rio Doce	Ministry of Justice through the Justice Reform Secretariat	<a href="http://www.mj.gov.br/reforma">www.mj.gov.br/reforma</a>

*Civil Society Organizations*

Table 11  
Civil Society Organizations

Name of the Organization	Organization	Contact Person	E-mail	Street address Postal	Phone/Fax	Web Page
AMB – Headquartered in Brasília	National association of judges from all judicial instances	Rodrigo Calaço	amb@amb.com.br	SCN-Q. 2-BI. D-Torre B/ Sala - 1302Shopping Liberty Mall Brasília, DF - 70712-903	Phone: (61) 2103-9000 Fax: (61) 2103-9030	www.amb.com.br
Associação Nacional dos Membros do Ministério Público - CONAMP	National association of prosecutors	President: João de Deus Duarte Rocha		SRTVS - Quadra 701Centro Empresarial Assis Chateaubriand - Bloco II - salas 634/636 Brasília - DFCEP:70340-906	Phone: (61) 225-1353 Fax: (61) 322-5887	
Colégio Permanente de Presidentes de Tribunais de Justiça do Brasil	Forum of Chief Justices from Brazil's State Supreme Courts	President: Dês. Fernandes Filho	colpre@tjmg.gov.br	Av. Afonso Pena, 1420, 3º andar, Centro, CEP-30130-005 Belo	Horizonte – MG Phone: (31) 3237-6509 / Fax: 3237-6811	
Associação dos Magistrados da Justiça do Trabalho - ANAMATRA	National Association of Labor Court Judges	President: Grijalbo Fernandes Coutinho	presidencia@anamatra.org.br	SHS Qd. 06 Bl. E Conj. A - Sls. 604 a 608 - Ed. Business Center Park Brasil XXI- Brasília / DF CEP: 70316-000 –	(61) 322-0720 / 322-0996 / 322-0266 / 321-7388 / 321-9961 / 323-1619	www.anamatra.org.br
Conselho Federal da OAB	The National Bar Association, which governs and disciplines attorneys in Brazil	President: Roberto Antônio Busato	ligiaj@oab.org.br	SAS Qd. 05 - Lt. 01 - Bl. M - Brasília - DF	Phone: (61) 316-9600/ 9607	www.oab.org.br
Associação dos Juizes Federais - AJUFE	Association of Federal Judges of Brazil	President: Jorge Antonio Maurique	maurique@ajufe.org.br	SRTVS Qd. 701 Bloco HE.D. Record Sala 402 Brasília/ DF	(61) 321-8482	www.ajufe.org.br
Associação Nacional de Procuradores da República	National Association of Federal Public Prosecutors	President: Nicolao Dino de Castro e Costa Neto	anpr@anpr.org.br	SAF Sul quadra 04 Conjunto C bloco B. sala 113/114- Brasília DF - 70050-900	Phone: (61) 3201-9026/9027 Fax: (61) 3201-9023	www.anpr.org.br
Associação Nacional dos Procuradores do Trabalho	National Association of Public Prosecutors of the labor courts	President: Sebastião Vieira Caixeta	presidente@anpt.org.br e anpt@anpt.org.br	SBS Quadra 2 - Bloco «S» - salas 1103/1104 - 11º andar Brasília/DF - CEP: 70070-904	Phone: (61) 325-7570 & 224-3275	www.anpt.org.br
Associação dos Magistrados da Justiça Militar Federal - AMAJUM	National Association of Military Justice Judges	President: Carlos Augusto Cardoso de Moraes Rego	moraesrego@btrturbo.com	Praça dos Tribunais Superiores, Edifício Sede do Superior Tribunal Militar. 7º andar / Sala 707. Brasília – DF CEP: 70098-900	Phone: (61) 313-9208/9153/9142	
Instituto Brasileiro de Direito Processual - IBDF	National group that brings together Brazilian procedural specialists	President: Ada Pellegrini Grinover	adapell@pbrasil.com.br		Phone: (11) 3031 3749	
ANADEP	National Association of Public Defenders	President: Dr. Leopoldo Portela Júnior	anadep@terra.com.br	Endereço: SCS Quadra 01 Bloco M Ed. Gilberto Salomão, sala 203.Cidade: Brasília - UF: DF- CEP 70.305-900	Phone-fax: (61)226-1768 Mobile:(31) 9982-9368	

## 8. Websites

### **Federal Supreme Court (Supremo Tribunal Federal)**

<http://www.stf.gov.br>

This site offers institutional information, news, a list of procurements and publications and online search engines for case law and cases in progress. Portuguese-language site.

### **Ministry of Justice (Ministério da Justiça)**

[www.mj.gov.br](http://www.mj.gov.br)

This official website contains information on the history and structure of the Ministry of Justice, news, links to government and justice sector web pages and information on judicial procedures and justice agencies. Portuguese-language only.

### **Federal Superior Court (Superior Tribunal Federal)**

[www.stj.gov.br](http://www.stj.gov.br)

This website offers institutional information, procurements, information on court justices, related news, data on foreign judicial systems and references to legal websites. The quick search feature finds cases in progress by party name, docket number, and attorney name, among other parameters.

### **Federal Public Prosecutor's Office (Ministério Público Federal)**

<http://www.pgr.mpf.gov.br>

This website provides institutional information and an online search engine for cases as well as related news and competitive hiring processes. Users may also access a directory of the public prosecutor's offices and information on constitutional law, criminal law, consumer rights, environmental law, indigenous communities and topics related to other minority groups. Links to web pages of regional and state prosecutor offices. Portuguese-language site.

### **Public Defender's Office (Defensoria Pública Geral da União)**

<http://www.mj.gov.br/defensoria>

This website contains institutional information, news, job opportunities and procurements, and legislation as well as a directory of public defender's offices at the state and federal levels. Portuguese-language site.

### **Instituto Brasileiro de Ciências Criminais, IBCCRIM**

<http://www.ibccrim.org.br>

Site of IBCCRIM, the Brazilian Institute of Criminal Sciences, a non-governmental organization founded in 1992 that now has more than 4,500 members across the country, including attorneys, judges, prosecutors, jurists, sociologists, police officials and students. The site has current information on case law, doctrine, events, book reviews, monographs and Brazilian and international studies in the field of criminal law. The portal offers subscriptions to a monthly newsletter, a journal of monographs and weekly bibliographic reports. Contains public sections and also databases for members. Portuguese-language site.

## 9. Basic Directory

### **Supremo Tribunal Federal**

Address: Praça dos Três Poderes

70175-900 Brasília - DF

Phone: (55-61) 2474017 - 2174019

Fax: (55-61) 2174020

[www.stf.gov.br](http://www.stf.gov.br)

### **Ministério da Justiça**

Address: Esplanada dos Ministérios, Bloco T, 4º andar

70064-900 Brasília - DF

Phone: (55-61) 4293101

Fax: (55-61) 2243398

Email: [gabinetemj@mj.gov.br](mailto:gabinetemj@mj.gov.br)

[www.mj.gov.br](http://www.mj.gov.br)

### **Ministério Público Federal**

Address: SAFS, Quadra 4, conj. 6, Bloco A – Cobertura

70050-900 Brasília – DF

Phone: (55-61) 30315600

Fax: (55-61) 3031-6493

[www.pgr.mpf.gov.br](http://www.pgr.mpf.gov.br)

### **Defensoria Pública Geral da União**

Address: Esplanada dos Ministérios,

Ministério da Justiça, Anexo 2, 2º andar, Sala 226

70064-900 Brasília - DF

Phone: (55-61) 2266578

Fax: (55-61) 3224638

E mail: [dpgu@mj.gov.br](mailto:dpgu@mj.gov.br)

[www.mj.gov.br/defensoria](http://www.mj.gov.br/defensoria)

### **Instituto Brasileiro de Ciências Criminais - IBCCRIM**

Address: Rua XI de Agosto N°52, 2º Andar

010118-010 Sao Paulo

E mail: [ibccrim@ibccrim.com.br](mailto:ibccrim@ibccrim.com.br)

[www.ibccrim.com.br](http://www.ibccrim.com.br)

## Notes

- <sup>2</sup> ECLAC, *Statistical Yearbook for Latin America and the Caribbean*.
- <sup>3</sup> World Bank, *World Development Indicators*.
- <sup>4</sup> ECLAC, *Statistical Yearbook for Latin America and the Caribbean*
- <sup>5</sup> *Diagnóstico do Poder Judiciário*, Ministry of Justice, Brazil 2004.
- <sup>6</sup> *Estudo Diagnóstico*, Public Defender's Office, Ministry of Justice, Brazil 2004.
- <sup>7</sup> See <http://www.tst.gov.br/>.
- <sup>8</sup> *Ibid.*
- <sup>9</sup> *Ibid.*
- <sup>10</sup> *Diagnóstico do Poder Judiciário*, Ministry of Justice, Brazil 2004.
- <sup>11</sup> Includes first and second instance judges.
- <sup>12</sup> Calculation based on the exchange rate on the first business day of the following year.
- <sup>13</sup> Calculation based on dollar amount.
- <sup>14</sup> For more information, see Vargas Viancos, Juan Enrique, "Financiamiento de la Justicia: Las Tasas Judiciales (estudio exploratorio)," JSCA, 2004. See <http://www.cejamericas.org/doc/documentos/jev-tasas-judiciales.pdf>.
- <sup>15</sup> Decreto Nro. 1.796 de 1996.
- <sup>16</sup> However, Public Defender's Offices cover only 53% of municipalities in states where they have been established.
- <sup>17</sup> Ministry of Justice, *Estudo Diagnóstico, Defensoria Pública no Brasil*, Brazil, 2004.
- <sup>18</sup> Calculated using dollar amount.
- <sup>19</sup> *Ibid.*
- <sup>20</sup> In Portuguese, the *Secretaria de Reforma do Judiciário, Conselho Nacional de Justiça* and *Conselho Nacional do Ministério Público*.
- <sup>21</sup> The full project documents can be found at: <http://www.mj.gov.br/reforma> (click on "Proyectos infraconstitucionais").
- <sup>22</sup> Includes cases against the Union. As there are no administrative courts in Brazil, all such cases are brought before the federal courts.
- <sup>23</sup> Ministry of Justice, *Diagnóstico do Poder Judiciário*, Brazil, 2004.
- <sup>24</sup> Number of judges in 2004.
- <sup>25</sup> Ministry of Justice, *Diagnóstico do Poder Judiciário*, Brazil, 2004.
- <sup>26</sup> For more complete information, see "Judicial Systems and Racism against Individuals of African Descent," JSCA, March 2004. Available at <http://www.cejamericas.org>.
- <sup>27</sup> Available at <http://www.oab.org.br/relatorioAdvOAB.asp>
- <sup>28</sup> Available at [http://www.inep.gov.br/superior/censosuperior/relatorio\\_tecnico.htm](http://www.inep.gov.br/superior/censosuperior/relatorio_tecnico.htm).
- <sup>29</sup> For more information see [www.mj.gov.br/reforma](http://www.mj.gov.br/reforma).