

Private means of access to the public: an analysis of judges' elections in Rio de Janeiro's Court

In this paper, we discuss the political dimensions of judges' elections in collegiate courts in Brazil. These elections are influenced by the Brazilian Constitution which imposes that 20% of collegiate courts must be composed of former members of the Public Ministry and former lawyers. Candidates must have a "notorious legal knowledge", an "unblemished reputation", more than ten years of effective professional activity, and the nomination of the prosecutors' association or the Bar. Those elected judges sit in courts of second instance, where political-administrative decisions and judicial policies are made (such as the distribution of judges in the courts of first instance and the courts' expenses.)

We tried to analyze the elections of the Bar's nominees (mainly because they are usually seen as a source of democratization) so that they can introduce new perspectives to the courts. So far, socio-legal scholars have not widely explored this subject. Based on Pierre Bourdieu's work, and supplemented by Poulantzas' relational state theory, this paper seeks to understand the judiciary as a body that is intersected by groups willing to boost their material and symbolic capital. More specifically, this paper seeks to understand the disputes and the correlation of power in judges' elections in the Rio de Janeiro Court of Justice (TJRJ), specifically regarding the Bar's nominee. Thus, we adhere to the idea that the judiciary, as part of the state, is a field where classes and class fractions struggle.

The article merges analysis of written and unwritten rules using qualitative and quantitative methods. Regarding the written rules, we analyze the normative acts that guide the elections. As for the unwritten rules, we subscribe to a qualitative method, implemented by a semi-structured interview with a defeated candidate. We also conducted an analysis, rooted in prosopography, of the past trajectory of successfully-elected Bar's nominees.

As for the quantitative method, statistics describe data gathered from the 2018 Court of Justice Yearbook and online sources. We conclude that these elections follow specific dispute dynamics that are undemocratic. To be elected, candidates need to circulate in relevant social spaces and accumulate valuable resources, such as personal relationships with renowned families, large law firms, economic groups, and the political class. Therefore, the power relations that shape these elections hinder the judiciary's true democratization and permeability to different perspectives.

KEYWORDS: *State; Public; Judiciary; Judges' elections.*