
GLOBAL
HEALTH
LAW
JOURNAL

Global Health Law Journal

GLOBAL HEALTH LAW JOURNAL

VOLUME 3 - Nº 01 - 2025



GLOBAL HEALTH LAW JOURNAL

Health Law, International Health Law, Comparative Health Law, Health Policy, Health Cases, Medical and Biomedical Law

Global Health Law Journal

FEATURED AUTHORS

VOLUME 3 - Nº 01 – 2025

Carolina Aparecida Galvanese de Sousa

Daniel Freire e Almeida

Guilherme de Castro Machado Rabello

Jéssica Maria Grassi

Márcio Gonçalves Felipe

Maria Cristina Pontes de Oliveira

Mariana Guanabara

Renato Braz Mehanna Khamis

Ricardo Dourado dos Santos

Tatiana Barone Sussa

Verônica Scriptore Freire e Almeida

Editorial – Volume 3 – nº 01- 2025

We are pleased to present the latest issue of the **Global Health Law Journal-GHLJ**, which not only contains six exceptional articles, but also showcases the academic research of our master's in health law students at Santa Cecilia University.

Professors, master's students, postgraduate students and health professionals also contribute in an extraordinary way to the Global Health Law Journal-GHLJ, and it is a privilege to share their own academic work with you all.

The **Global Health Law Journal-GHLJ** is a biannual production, an open access, peer reviewed, and the outcome of a collaborative, widespread, and international effort.

The **GHLJ** strives to offer an opportunity for interdisciplinary discussion on topics in health law, international health law, comparative health law, health policy, health cases, medical, and biomedical law.

The Journal targets a broad and diverse audience of academicians, professionals, and students in Law, Medicine, Biomedicine, as well as policy makers, law operators, and legislators in health care.

Articles must be related to health law, international health law, comparative health law, health policy, health cases, medical and biomedical law, Medicine, and Biomedicine.

Articles can be submitted in English, Spanish, French, Italian or Portuguese.

Submissions to the Global Health Law Journal are peer-reviewed by our distinguished Editorial Board and reviewers, consisting of internationally recognized experts.

In short, the Global Health Law Journal is looking to become a dynamic and engaging forum for comparative and interdisciplinary research and commentary.

It has been created and raised in an innovative, cooperative and participatory spirit, and will always continue its commitment to these values.

We hope you will enjoy the Global Health Law Journal, and that you can contribute to future issues.

Verônica Scriptore Freire e Almeida

Editor-in-Chief

EDITORIAL BOARD

Editor-in-Chief:

Verônica Scriptore Freire e Almeida - *Ph.D and Postdoctoral.*

Editorial Board:

Abbas Poorhashemi - *Ph.D and Postdoctoral - CIFILE - (Toronto, Canada).*

Ana Maria F. Palma Marques de Almeida – *Ph.D and Postdoctoral - Universidade Estadual Paulista- UNESP (São Paulo, Brasil).*

Ana Paula Zavarize Carvalhal - *Ph.D - Instituto Brasiliense de Direito Público -IDP (Brasília- Brasil).*

André Dias Pereira – *Ph.D – Faculdade de Direito da Universidade de Coimbra -FDUC (Coimbra- Portugal).*

Andrea Garín – *Ph.D- University of Heidelberg (Santiago -Chile).*

Cláudio Roberto Cordovil Oliveira – *Ph.D and Postdoctoral -Fundação Oswaldo Cruz - Fiocruz (Rio de Janeiro – Brasil)*

Danilo Fontenele Sampaio Cunha – *Ph.D - Centro Universitário 7 de Setembro- UNI7 (Fortaleza, CE, Brasil).*

Diogo José Paredes Leite Campos – *Ph.D - Faculdade de Direito da Universidade de Coimbra -FDUC (Coimbra- Portugal), Universidade Autónoma de Lisboa (Lisboa-Portugal).*

Edith Maria Barbosa Ramos – *Ph.D and Postdoctoral - Universidade Federal do Maranhão (São Luís, MA, Brasil).*

Global Health Law Journal

Elisa Mattias Sartori – *Ph.D and Postdoctoral - Ilapeo Faculty – (Curitiba, PR, Brasil).*

Ellen Cristina Rivas Leonel – *Ph.D - Universidade Federal de Goiás - UFG (Goiânia, GO, Brasil).*

Fernando Reverendo Vidal Akaoui – *Ph.D - Universidade Santa Cecília -UNISANTA (São Paulo, SP, Brasil).*

Gabriel Wedy – *Ph.D – Universidade do Vale do Rio dos Sinos- UNISINOS (Porto Alegre, RS, Brasil).*

George Marmelstein Lima – *Ph.D – Centro Universitário 7 de Setembro - UNI7 – (Fortaleza, CE, Brasil).*

Joaquin Cayon-De Las Cuevas – *Ph.D - Universidad de Cantabria - (Santander, Spain)*

Luciano Pereira de Souza – *Ph.D - Universidade Santa Cecília -UNISANTA (São Paulo, SP, Brasil).*

Marcelo Lamy – *Ph.D – Universidade Santa Cecília - UNISANTA (São Paulo, SP, Brasil).*

Marcello Novoa Colombo Barboza – *Ph.D and Postdoctoral- Centro Universitário Lusíada-UNILUS (São Paulo, SP, Brasil).*

Marisa Aizenberg – *Ph.D and Postdoctoral – Universidad de Buenos Aires (UBA) – (Buenos Aires, Argentina).*

Mónica Romano e Martinez Leite de Campos – *Ph.D - Universidade Portucalense (Porto, Portugal).*

Raimundo Nonato Chaves Neto – *Ph.D – Faculdade de Direito da Universidade de Lisboa - FDUL (Lisboa, Portugal).*

Rosa Maria Ferreiro Pinto – *Ph.D - Universidade Santa Cecília -UNISANTA (São Paulo, SP, Brasil).*

Sandra Mara Campos Alves – *Ph.D- Fundação Oswaldo Cruz- FIOCRUZ – (Brasília- Brasil)*

Verônica Scriptore Freire e Almeida – *Ph.D and Postdoctoral - Universidade Santa Cecília – UNISANTA (São Paulo, SP, Brasil).*

Wei Dan – Ph.D – Faculty of Law University of Macau (Macau, China)

Global Health Law Journal

Table of Contents

GLOBAL HEALTH LAW JOURNAL - Volume 3 - nº 01- 2025

1- INSUFFICIENT ENVIRONMENTAL PROTECTION MEASURES VIOLATE HUMAN RIGHTS: ELDERLY SWISS WOMEN WIN LAWSUIT AGAINST THE COUNTRY OVER CLIMATE CRISIS

Ricardo Dourado dos Santos

Verônica Scriptore Freire e Almeida

……15

2- ACORDO PANDÊMICO E OS DESAFIOS DA COOPERAÇÃO INTERNACIONAL EM SAÚDE

Mariana Guanabara

Jéssica Maria Grassi

……53

3- OFF-LABEL MEDICINES AND THE RIGHT TO HEALTH: REGULATORY CHALLENGES, LEGAL IMPLICATIONS AND COMPARISON BETWEEN BRAZIL, THE UNITED STATES AND THE EUROPEAN UNION.

Tatiana Barone Sussa

Renato Braz Mehanna Khamis

……105

4- A EFETIVIDADE DOS TEMAS 1069 E 952 DO STF DIANTE DA EFICÁCIA TERAPÊUTICA ALTERNATIVA POSSIBILITADA PELA IMPLEMENTAÇÃO DO PATIENT BLOOD MANAGEMENT (PBM) NAS ENTIDADES DE SERVIÇO DE SAÚDE

Carolina Aparecida Galvanese de Sousa

Guilherme de Castro Machado Rabello

.....137

5- IMPACT OF THE SLOWNESS OF THE JUSTICE SYSTEM ON THE MENTAL HEALTH OF THE PARTIES INVOLVED

Maria Cristina Pontes de Oliveira

Verônica Scriptore Freire e Almeida

.....183

6- UM PROGRAMA AMBIENTAL VOLUNTÁRIO HOSPITALAR A PARTIR DO PACTO GLOBAL DA ONU E DO GLOBAL GREEN AND HEALTHY HOSPITALS

Márcio Gonçalves Felipe

Daniel Freire e Almeida

.....213

IMPACT OF THE SLOWNESS OF THE JUSTICE SYSTEM ON THE MENTAL HEALTH OF THE PARTIES INVOLVED [1]

Maria Cristina Pontes de Oliveira[2]

Verônica Scriptore Freire e Almeida [3]

[1] **How to cite:**
OLIVEIRA, Maria Cristina Pontes de; FREIRE E ALMEIDA, Verônica Scriptore. Impact of the Slowness of the Justice System on the Mental Health of the Parties Involved. **Global Health Law Journal**, Santos-Brazil, v. 03, n. 01, p. 183-212, 2025, available at: https://ojs.unisanta.br/index.php/GHL/index

[2] **Maria Cristina Pontes de Oliveira**:
Stricto Sensu Post-Graduation Health Law:
Individual and Collective Dimensions Master's Degree – Santa Cecilia University.
ORCID: https://orcid.org/0009-0007-0878-7345.

[3] **Verônica Scriptore Freire e Almeida**:
PhD in Economic Law - Faculty of Law - University of Coimbra, Portugal (2009-2016).
Master in Economic Law - Faculty of Law - University of Coimbra, Portugal (2005-2008).
Conducted research in Washington DC, USA, during a period of PhD Academic Research (2015-2016) and Post-Doctoral Academic Research (2016-2017) at Georgetown University - Law Center.
Permanent Professor at the Postgraduate Program - Masters in Health Law – Santa Cecilia University (UNISANTA).
Lawyer, acting, in Brazil and abroad, in the areas of International Law, Digital Law, Health Law, Trust Law, Economic Law and International Relations.
E-mail: veronicafreire@unisanta.br .

Impact of the Slowness of the Justice System on the Mental Health of the Parties Involved

DOI: https://doi.org/10.5281/zenodo.17027595

Abstract

The present study will examine the slowness of the judicial system and its impact on the mental health of victims and parties involved in legal proceedings. The problem situation involves identifying how the delay in resolving court cases contributes to mental health problems, including stress, anxiety and depression. It seeks to understand the causes of delays, evaluate their psychological effects, and propose solutions to mitigate these adverse effects. A qualitative analysis of the current situation was carried out based on a literature review and comparative analysis. The rationale for this study lies in the urgent need for reforms in the justice system to protect the mental health of victims and ensure the efficiency of the process. The main hypothesis is that the slowness of the judicial system is directly correlated with the increase in mental health problems. At the end of the study, it will be found that the delay has a significant impact on the mental health of the parties involved and requires structural reforms and specific interventions to mitigate these adverse effects and that it is not enough just to claim state compensation. The proposed solutions vary, but all emphasize the urgency of improving the efficiency and effectiveness of the system.

Keywords: Slowness, Judicial system, Mental health**.**

Introduction

The judicial system plays an essential role in guaranteeing rights and resolving conflicts. However, the slowness in the processing of cases has generated a series of negative consequences, especially in the mental health of the parties involved, such as victims, defendants and family members. This article seeks to explore the relationship between judicial slowness and problems such as stress, anxiety, and

DOI: https://doi.org/10.5281/zenodo.17027595

depression, in addition to proposing solutions to mitigate these adverse effects.

The problem situation investigated involves the identification of how the delay in the resolution of legal proceedings contributes to the increase in mental health problems, including stress, anxiety and depression, among the parties involved and the rationale for this study is based on the urgent need for reforms in the judicial system to protect the mental health of victims and ensure the efficiency and effectiveness of the judicial process.

The study adopts a qualitative approach, which allows for an in-depth exploration of the subjective and systemic aspects related to judicial delays and their impacts. This approach is particularly relevant to understanding the psychological and social effects of delays in judicial proceedings, since these issues are difficult to quantify and require interpretive analysis. The theoretical basis of the study was built from a comprehensive literature review. Sources include: Brazilian and International Law: The research examines Constitutional Amendment No. 45 of 2004 and the Pact of San José de Costa Rica, highlighting the principle of procedural speed and its legal implications. Academic Studies and Legal Reports: Includes works that discuss the relationship between judicial delay,

DOI: https://doi.org/10.5281/zenodo.17027595

mental health, and fundamental rights. Comparative Sources: Analysis of international texts, such as publications in "The Guardian", that discuss similar problems in the United Kingdom. This review allowed us to contextualize the problem in different legal realities and identify gaps in the existing literature, using a comparative analysis to contrast the Brazilian reality with that of other countries, particularly England and Wales. This method highlighted similarities: slowness as a structural problem that affects the efficiency of the judiciary and the mental health of the parties, and differences: specific measures and approaches adopted in different judicial systems to mitigate delays, such as structural reforms proposed in the United Kingdom compared to suggestions for state compensation in Brazil.

The comparative analysis, in turn, provided insights into possible solutions and practices that could be adapted to the Brazilian context. The main hypothesis of the study is that the slowness of the judicial system is directly correlated with the increase in mental health problems, such as stress, anxiety, and depression, in the parties involved. This rationale was tested throughout the study, based on evidence extracted from the literature and from the cases analyzed.

The research explored the psychological disorders that result from judicial inefficiency. This analysis involved:

DOI: https://doi.org/10.5281/zenodo.17027595

Theoretical Discussion on Mental Health: Using WHO concepts to define and contextualize mental health. Relationship with the Judicial System: Examination of the emotional and psychological impact caused by slow judicial proceedings, especially in sensitive cases, such as family disputes and damages.

The study culminates in the proposition of solutions, which include: Structural Reforms: Investment in judicial infrastructure, increase in magistrates and technological support. Support Measures: Implementation of psychological support programs for the parties involved. Speed Initiatives: Proposals such as extending court opening hours, similar to those suggested in the UK. These solutions were formulated based on the findings of the study and the analysis of international best practices.

In the end, the research validated its main hypothesis and reaffirmed the need for structural reforms and specific interventions to mitigate the negative effects of judicial delays on mental health. The emphasis is placed on a more efficient and humane system, which balances procedural speed with emotional protection of the parties involved. The results and discussions of this work revolve around the following main questions: Direct Psychological Impact, the study confirms a

DOI: https://doi.org/10.5281/zenodo.17027595

direct relationship between judicial delays and the worsening of mental health conditions. Among the problems identified, such as Stress and anxiety: The prolonged wait for judicial decisions generates uncertainty and emotional exhaustion, especially in cases involving family, criminal or labor disputes, Depression and isolation: Individuals reported feeling abandoned by the judicial system, increasing the risks of depression and social isolation, Aggravated psychological traumas: In sensitive cases, such as sexual abuse or compensation for moral damages, prolonged waiting time amplifies the initial trauma; Economic and Social Vulnerability, such as Labor Lawsuits: The delay in resolving labor disputes directly affects the livelihood of workers, aggravating financial and psychological problems, Civil Cases: The wait for compensation and court decisions prolongs social conflicts, such as land and property disputes, Overloaded Judicial System: the Brazilian judicial system is characterized by an excess of lawsuits, lack of infrastructure and work overload.

Despite measures such as Constitutional Amendment No. 45/2004, slowness remains a significant obstacle, the lack of investments in technology and training contributes to inefficiency. Speed versus Quality is a paradox, as the need to speed up processes often collides with the quality of judicial

DOI: https://doi.org/10.5281/zenodo.17027595

decisions. The study points out that haste can lead to wrong or superficial decisions, aggravating the problem. It is necessary to find a middle ground that guarantees speed without compromising the detailed analysis of the cases.

Mental health is treated as a neglected aspect in the judicial system. While the predominant focus is on procedural efficiency, little is done to protect vulnerable parties from the psychological impact of delay. Psychological support programs during the procedural process were suggested as an essential measure to mitigate the adverse effects. The Brazilian judicial system has structural flaws, such as lack of infrastructure, excessive procedural formalities and low use of technologies to speed up the process and the Brazilian legal culture still values bureaucracy, which delays the progress of simple cases. The Brazilian study suggests state compensation as a legal remedy for delays. However, this has been criticized as a reactive solution that does not solve the causes of the problem. Structural reforms and preventive measures such as streamlining processes and digitalization are more effective in addressing the problem at source. In England and Wales, it is suggested to expand the opening hours of the courts and to pay more judges who work beyond hours. These ideas, if implemented in Brazil, could help reduce the backlog of

DOI: https://doi.org/10.5281/zenodo.17027595

lawsuits. In Brazil, it is necessary to invest in training magistrates and civil servants, in addition to improving the infrastructure of the judicial system. The discussion emphasizes that judicial reforms must put people at the center. Justice cannot be just a technical system; needs to meet the emotional and social needs of the parties involved.

There is a need for a change in the mentality of legal operators, from a bureaucratic approach to a more humanized and citizen-centered one. Solutions such as artificial intelligence and digital platforms can streamline processes and reduce waiting time, and the preparation of magistrates must include a practical and empathetic vision, going beyond technical knowledge.

At the end of the study, it is concluded that the slowness of the judicial system has a significant impact on the mental health of the parties involved, and the conclusion emphasizes the need for immediate and continuous government actions to improve the efficiency of the judicial system and protect the mental well-being of affected individuals.

1. Judicial Delay: Concepts and main Causes

The approval of Constitutional Amendment No. 45 of 2004 represented a significant milestone for the Brazilian legal

DOI: https://doi.org/10.5281/zenodo.17027595

system, by consolidating the principle of procedural speed as a fundamental right, guaranteed by article 5, item LXXVIII, of the Federal Constitution, which provides as follows:

> LXXVIII - Everyone, in the judicial and administrative spheres, is assured the reasonable duration of the process and the means to ensure the speed of its processing. (Included by Constitutional Amendment No. 45, of 2004) (See ADIN 3392)

This normative advance sought to meet the growing demand for greater efficiency in the Judiciary, recognizing that the delay in the processing of cases compromises not only the right to justice, but also the dignity of the parties involved. By attributing constitutional status to procedural speed, the amendment reinforced the State's obligation to ensure effective and timely judicial provision, in line with democratic principles and the full protection of fundamental rights.

Marquesi and Bontempi point out that:

> "although Brazil was already a signatory to the Pact of San José de Costa Rica, of 1969, which provided that every prisoner has the right to a reasonable duration of the process, it was only in November 1992, by Decree 678, that the Pact was promulgated at the domestic level. Doctrine and jurisprudence have tried to determine the status that the Pact should have in the domestic legal system, and the issue was resolved by the Federal Supreme Court (STF) when it decided that the Pact has a supra-legal nature, that is, on a lower level than the Federal Constitution and above the infra-constitutional order, concluding that the right to a

DOI: https://doi.org/10.5281/zenodo.17027595

reasonable duration of the process was already included in the national system even before EC 45. Thus, the inclusion of item LXXVIII to article 5. it did no more than raise this fundamental right at the constitutional level, not clashing with the Pact, but conforming to it". (MARQUESI AND BONTEMPI, 2019, p. 145)

Contrary to the principle of procedural speed, the slowness of the Brazilian judicial system stands out as one of the main obstacles to the realization of the right to justice. Despite being constitutionally guaranteed by Constitutional Amendment No. 45 of 2004, the right to a reasonable duration of the process faces practical challenges, such as the excess of judicial demands, the lack of adequate infrastructure and the work overload of magistrates and civil servants. This slowness not only compromises the efficiency of the system, but also directly affects the rights and dignity of the parties involved, generating a sense of injustice and aggravating conflicts.

Valente mentions that the slowness of the Judiciary has long been an issue of substantial importance for the Brazilian population, which is increasingly skeptical of the possibility of having their disputes resolved in a fair and effective way. While the excessive number of demands makes it impossible for judges to judge them in a timely manner, this amount also does not give them the necessary time to analyze each case with the care and attention that should be sent to it. (Valente, 2008)

Thus, judicial slowness proves to be a paradox, putting in check the realization of one of the fundamental pillars of the Democratic Rule of Law.

Pereira, identifies that:

"the difficulties in defining the concept of Slowness of Justice also pose several problems in the operationalization of the concept of empirical investigation. For example, what can be considered Slowness of Justice, when it is common sense that we do not have a common European definition to

DOI: https://doi.org/10.5281/zenodo.17027595

> measure it. Therefore, the different cultures and contingencies of the State may affect the adoption of different definitions of the Slowness of Justice." (PEREIRA, 2012, p.19)

2. Mental Health: A Brief Theoretical Analysis.

Mental health refers to an individual's state of emotional, psychological, and social balance, which influences how they think, feel, and behave in relation to themselves and the environment around them. It is a fundamental aspect of well-being that affects the ability to deal with life's challenges, relationships and make appropriate decisions. In this sense, even daily activities are affected. Mental health is not limited to the absence of psychological disorders, but also encompasses the presence of skills such as resilience, self-esteem, and effective stress management. Biological, psychological, social, and environmental factors contribute to the maintenance or impairment of mental health, highlighting the importance of preventive care, appropriate diagnoses, and appropriate interventions.

For the World Health Organization, WHO:

> "Mental health is a state of mental well-being that allows people to cope with the stresses of life, realize their skills, learn well and work well, and contribute to their community. It has intrinsic and instrumental value and is an integral part of our well-being. At any given time, a diverse set of individual,

DOI: https://doi.org/10.5281/zenodo.17027595

> family, community, and structural factors can combine to protect or harm mental health. While most people are resilient, people who are exposed to adverse circumstances – including poverty, violence, disability and inequality – are at higher risk of developing a mental health condition. Many mental health conditions can be effectively treated at relatively low cost, but health systems remain significantly under-resourced and treatment gaps are wide around the world. Mental health care is often poor in quality when delivered. People with mental health conditions often also suffer stigma, discrimination and human rights violations."

3. Relationship Between Judicial Slowness and Psychological Disorders

The relationship between judicial slowness and psychological disorders is a topic of great relevance, as it highlights the human and social impact of an inefficient judicial system. Delays in resolving lawsuits often expose the parties involved to prolonged periods of uncertainty, which can trigger or aggravate mental health problems such as stress, anxiety, and even depression. This situation is especially critical in cases involving sensitive emotional issues, such as family disputes, compensation for moral or material damages, and criminal proceedings.

The prolonged waiting time for a judicial decision creates an environment of psychological vulnerability, where people face not only the expectation of the outcome, but also the

DOI: https://doi.org/10.5281/zenodo.17027595

feeling of powerlessness in the face of a system that seems ineffective.

José Jácomo Gimenes, points out that:

> "A parody with a constructive objective is inescapable: the formatting of the top of our Judiciary does not work as it should, it bureaucratizes and makes the judicial system unviable, it is a brake on the development of the country, but the actors included in the ample comfort space of the judicial system are very well, they do not want change, so do not look up, do not see the mega problem, The continuous damage to society has no relevance, the suffering Brazilian people is of no importance.
> The amount of procedural competence of the Supreme Court is laughable. In 2020, it received 74 thousand cases (nonsense compared to its counterparts), incompatible quantities for a court of 11 ministers. The numbers are staggering, they make the efficiency and agility expected of our higher court unfeasible. The slowness spreads throughout the Judiciary and generates a ruinous structural defect, good for those who want to escape justice and for those who profit from systemic inefficiency." (GIMENEZ, 2022)

In addition, judicial delays can aggravate economic and social problems, increasing the level of pressure on the parties. For example, in the case of labor disputes, the delay in resolving the conflict can deprive the worker of essential resources, aggravating his financial and psychological situation. In criminal cases, the delay in justice can have an impact both on the

DOI: https://doi.org/10.5281/zenodo.17027595

victims, who continue to relive the trauma, and on the defendants, who live with uncertainty about their future.

The relationship between judicial slowness and psychological disorders highlights the importance of interventions that seek procedural speed, combined with support mechanisms for the parties involved, but that do not result in long-winded, unfounded and mistaken decisions. Mediation and conciliation programs, psychological support during the procedural process, and structural reforms in the judicial system are measures that can minimize the impacts of this relationship, promoting a balance between the efficiency of the system and the mental health of citizens.

Prof. José Augusto Delgado points out that lawsuits can take years to resolve, resulting in frustration and despair. Slowness is a systemic problem that affects the efficiency of the judiciary and public trust in it.

The text published in the newspaper "The Guardian" focuses on chronic delays, specifically mentioning that victims of serious crimes, such as rape and sexual abuse, can wait up to six years for their cases to be tried. This is just one particularly devastating aspect for victims of serious crimes who require a quick resolution for their well-being.

DOI: https://doi.org/10.5281/zenodo.17027595

4. Comparative Analysis

The comparative analysis between what England and Wales and Brazil proposes based on the articles published: "Victims of crime die while waiting for justice while the legal system of England and Wales is "on its knees" and "The delay in the delivery of the jurisdictional provision of the state indemnity, by José Augusto Delgado, Adjunct Professor UFRN (Retired); Honorary member of the Brazilian Academy of Tax Law and Professor of Law at the Catholic University of Pernambuco (UNICAP), he reveals both similarities and differences in the context of judicial delays and their impacts on the mental health of victims and the parties involved. Both explore the severity of delays in judicial proceedings, but with slightly different emphasis and contexts.

The article published in The Gardian Newspaper, in February 2024, under the title "Victims of crime die while waiting for justice while the legal system in England and Wales is "on its knees", addresses the serious delays in judicial proceedings and their devastating impacts on the mental health of victims, in England and Wales. As reported by Baroness Helen Newlove, victims' commissioner for England and Wales, some victims wait up to six years for their cases to be tried, especially in

DOI: https://doi.org/10.5281/zenodo.17027595

cases of rape and sexual abuse. This delay results in serious mental health problems, including suicide.

Baroness Newlove criticized the insufficiency of government measures to address these delays, highlighting the need for more robust and creative actions to improve the justice system. Despite initiatives such as the opening of "supercourts" and the increase in the number of judges, delays persist, reaching record levels. She proposed that courts operate longer and that judges be paid additional to work evenings and weekends to deal with the backlog of cases. Newlove also stressed the importance of new legislation enshrining victims' rights, although he expressed concern that without significant changes, legislation moving through the House of Lords would be ineffective. The news concludes with a call for structural reforms and practical measures to ensure that victims receive justice in a timely manner and to protect their mental health and well-being.

The article authored by Prof. José Augusto Delgado, is based on the understanding that the jurisdictional party must seek state compensation, as a result of this delay, presenting a perspective focused on state compensation as a response to judicial delay. The author argues that society can no longer tolerate the slowness of justice, either due to the inefficiency of

DOI: https://doi.org/10.5281/zenodo.17027595

forensic services or the indolence of judges. He suggests that the State should be held civilly liable for the damage caused by the delay in the delivery of the jurisdictional provision, regardless of the difficulties that may arise when seeking this reparation, highlighting that:

> "Reality shows that it is no longer possible for society to endure the slowness of justice, either because of the inefficiency of the forensic services or because of the indolence of its Judges. It is time to demand a position from the State to solve the denial of justice for delaying the delivery of the jurisdictional provision. **The administered has no other path than to turn against the very State that delayed his Justice, and demand civil reparation for the damage**, regardless of the fact that in this way he also faces the same difficulty." (emphasis added) (DELGADO, 1998, p.123)

In the Brazilian context, uncertainty and the exhausting wait for justice result in anxiety, depression, and other serious mental health problems. The prolonged wait intensifies the suffering of the parties involved, negatively affecting their quality of life.

The British article points out that the stress and anxiety caused by delays in trials have driven some victims to suicide. Prolonged uncertainty exacerbated by excessively long waits exacerbates mental health problems, highlighting extreme cases of negative impact, such as suicide.

DOI: https://doi.org/10.5281/zenodo.17027595

In Brazil, the government has tried to implement reforms to address the problems of delays, but these actions have been insufficient. The need for deeper structural reforms is constantly emphasized, suggesting that current measures do not adequately address the root of the problem.

In England and Wales, despite the opening of "supercourts" and the increase in the number of judges, these actions have also been insufficient to address the backlogs. There is a criticism about the inadequate distribution of resources, especially when compared to other priority areas of the government, such as the accelerated resources for asylum cases.

The Brazilian article suggests greater efficiency in the functioning of the courts and the creation of a faster and fairer judicial system, which can better meet the needs of the parties involved and the search for compensation as a result of the delay in the jurisdictional provision.

In England and Wales, recommendations include extended court operation and additional pay to judges for work outside normal hours. These measures are seen as necessary to deal with the backlog of cases and improve the efficiency of the justice system.

DOI: https://doi.org/10.5281/zenodo.17027595

The slowness of justice is not a problem exclusive to Brazil and Wales. In Europe, this problem has been monitored by the European Court of Human Rights. According to Aline Pinheiro, editor-in-chief of Consultor Jurídico Magazine:

> "The court has already established jurisprudence recognizing the right to compensation of those who take years to know their verdict, whether guilty or innocent. Now, little by little, the court has been ordering countries to fix the legislation to speed up the process. Italy, Russia, Greece and even Germany were notified by the court. The latest country to receive a call from the court was Romania, which was ordered this week to compensate three people who had to wait a decade for their cases to be concluded. In one of them, the defendant was eventually convicted and, even so, the European judges set the compensation. The judicial slowness transforms even the guilty into victims of justice, is what the court has understood." (PINHEIRO, 2013)

The European Court of Human Rights has never established the maximum time for a case to last. According to the article:

> "It depends on the complexity of the case, the judges usually say. But the court's judgments have maintained a certain consistency in understanding that a decade for the conclusion of any case is too much. It exceeds the limits of reasonableness. In judging a case against Greece, the judges even estimated that seven years is the maximum time that a criminal case can take. More than that, no". (PINHEIRO, 2013)

DOI: https://doi.org/10.5281/zenodo.17027595

In Portugal, according to Guilherme Alberto Mendes Pereira:

> "The political environment, namely, complex, confusing, and contradictory legislation, training and careers of judicial magistrates, infra
> -structures of the Courts, government policies and bureaucracy, condition the normal progress of justice in Portugal." (PREIRA, 2012, p. IV)

It is interesting to mention that in the work of the same author, he analyzes the Brazilian scenario, through research carried out by IDESP Institute of Economic, Social and Political Studies of S.Paulo, carried out between 1996 and 1997, in various groups of companies with the objective of knowing the opinion of businessmen about the performance of the Brazilian Judiciary.

> "To identify how and to what extent this performance affected their decisions. In general, the surveys carried out detected a very strong reaction from entrepreneurs, who mentioned the malfunctioning of the judicial system with a very low negative degree in the performance of the economy. However, he could not explain how this occurred. On the contrary, the perception of entrepreneurs is, somewhat paradoxically, that the judicial system does not significantly affect, at least for the most part, the investment decisions and activities of companies. The prevailing feeling is that companies have found mechanisms to avoid the Judicial, and that in many cases companies do not have a clear understanding of how these procedures harm their performance." (PEREIRA, 2019, p. 27)

DOI: https://doi.org/10.5281/zenodo.17027595

Research indicates that business owners perceive the malfunctioning of the judicial system as highly harmful to the economy, although they cannot clearly explain how this occurs. Paradoxically, many believe that the Judiciary does not significantly affect the investment decisions or activities of companies. The prevailing feeling is that companies have developed mechanisms to avoid the judicial system, but they often do not fully understand how this posture undermines their performance.

For the author, Brazilian companies avoid contact with the judicial system as much as possible, even if this results in economic losses, such as loss of business or production inefficiencies. This stance, although it protects economic groups from the uncertainties of the Judiciary, harms the economy as a whole. In addition, the lack of preparation of many judges stands out, who, although they have solid theoretical knowledge of Law, lack practical experience and experience in real-life cases. Graduates with a focus on careers in the Public Prosecutor's Office or the judiciary, they face challenges when judging complex issues, such as family issues, with which they have little contact beyond the academic or theoretical. A stint in law could fill these gaps in practical

DOI: https://doi.org/10.5281/zenodo.17027595

knowledge. Many magistrates also show timidity or fear of making decisions, fearing censure from higher courts.

> "The answers to these questions confirm a conclusion that transpires throughout the IDESP investigation: Brazilian companies are so organized that they avoid any contact with the Judiciary, even if it implies the loss of possible business or transactions, using machines instead of workers, producing efficiently, etc.. The judicial system has little effect on the lives of economic groups and/or companies because they avoid it to the limit, but it is precisely because companies adopt this paradigm that the economy is strongly harmed." (PEREIRA, 2019, p. 28

The Judiciary, despite its guarantees, attributions and structure, has not yet fully advanced in the promotion of equitable justice, as would be expected in a democratic State of Law. Judicial decisions in several European countries often aim to preserve the privileges of the dominant classes, while keeping the less favored, or excluded, classes within pre-established limits.

5. Results and Discussion

The analysis of the impacts of the 2006 Drug Law (Law No. 11,343/2006) shows a series of contradictions between the declared objectives and the practical results observed. Although it was implemented with the intention of

DOI: https://doi.org/10.5281/zenodo.17027595

decriminalizing the use of drugs for personal consumption, the legislation contributed to the increase in incarceration, especially among small-time traffickers. This is largely due to the lack of clear and objective criteria to differentiate users from dealers, leaving room for subjective interpretations by the authorities. This ambiguity has led to the disproportionate application of the law, affecting mostly black and poor young people from the peripheries, reinforcing social and racial inequalities historically rooted in Brazil.

Prohibitionism, adopted as the basis of drug policy in the country, proved to be ineffective in achieving the objectives of reducing the consumption and trade of illicit substances. On the contrary, the repression strengthened the criminal factions, which found in the prison system a fertile environment for recruitment and organization. These organizations have not only expanded their power, but they have also intensified urban violence, further hampering public safety efforts.

Another critical point identified is the fragmentation of the public security system and the absence of efficient coordination between police institutions and the judiciary. This dismantling contributes to a widespread perception of impunity, while efforts focus on egregious crimes, such as the trafficking of small amounts of drugs. On the other hand, more complex crimes,

DOI: https://doi.org/10.5281/zenodo.17027595

such as homicides, often go unsolved, aggravating the population's sense of insecurity and distrust in institutions.

Given this scenario, alternative proposals emerge that seek to break with the prohibitionist paradigm and promote more inclusive and effective policies. Social movements, such as the Brazilian Platform on Drug Policies (PBPD), have advocated for a public health-centered approach, with a focus on harm reduction, social welcoming, and the guarantee of human rights. The recent decision of the Federal Supreme Court (STF), which decriminalized the possession of small amounts of marijuana for personal use, represents an important milestone in this debate. Although limited, this decision signals a shift in the treatment of the drug issue, prioritizing education and awareness about criminalization.

The results obtained highlight the need for a review of public policies on drugs in Brazil. The ineffectiveness of the current model requires a broader approach, which considers public health as a central axis and promotes greater social equity. It is essential to rethink the role of the justice and security system, prioritizing integrated actions that meet social demands and ensure greater efficiency in combating the structural problems that permeate the issue of drugs in the country. Thus, this study reinforces the urgency of opening space for a critical

DOI: https://doi.org/10.5281/zenodo.17027595

and reasoned dialogue about the future of drug policies, focusing on solutions that meet the needs of Brazilian society.

Conclusion

The studies offer complementary views, but it is necessary to point out that the Brazilian study can be considered ineffective for several reasons:

Focus on Reparation rather than Preventive Solution: Professor José Augusto Delgado's study proposes a reactive solution, focusing on state compensation after the damage has already occurred. On the other hand, the article published in The Guardian emphasizes the need for structural reforms and practical measures to avoid judicial delays and their negative impacts from the beginning.

Potential to Increase Judicial Burden: By encouraging jurisdictional parties to seek civil redress, Prof. José Augusto Delgado's study may inadvertently contribute to the overload of the judicial system, adding more cases and increasing existing slowness, as well as failing to address the serious mental health problems caused by judicial delays, which are the central focus of the English study. Financial compensation, while important, does not adequately address the emotional and psychological distress of victims.

DOI: https://doi.org/10.5281/zenodo.17027595

Need for More Robust and Creative Actions: Newlove's critique of the lack of effective government measures is a crucial point missing from the Brazilian study. Newlove's proposal to extend court hours and compensate judges for overtime is a practical solution that aims to reduce delays directly.

All studies converge in the identification of judicial delays as a critical problem that negatively affects the mental health of victims and parties involved. Although the contexts are different, with Brazil and Portugal dealing with an overburdened justice system in general terms and the UK facing specific chronic backlogs in serious cases, the need for deep structural reforms is a common theme. The proposed solutions vary, but all emphasize the urgency of improving the efficiency and effectiveness of the justice system to protect the mental health and rights of victims.

However, it is necessary to consider that the Brazilian study offers a limited view in suggesting state compensation as a solution to judicial delays and the English study provides a more comprehensive and purposeful analysis, focusing on structural reforms and practical measures to solve the problem at its root. The emphasis on prevention and the protection of victims' mental health makes the English study approach more effective

DOI: https://doi.org/10.5281/zenodo.17027595

and aligned with the urgent needs of the justice system and victims.

It can be seen, therefore, that the inefficiency linked to a slowness of justice is not only worrying because of the injustices it causes, especially among the poorest. The fear that the common citizen had of being called to justice practically disappeared. Nowadays, it is rare to find someone who has not been a party to some lawsuit, either as a defendant, plaintiff or involved in union, civil, criminal or collective actions, including lawsuits against the State.

The main reform that must happen in the Judicial System to reduce slowness is the change of mentality. Although it is common to hear people refer to "Justice" in practice, many decisions show a greater concern with legality than with the search for justice itself. To ensure true access to justice, it is necessary to focus on implementing a system that is more efficient and sensitive to people's needs.

The slowness of justice has structural and sometimes temporary causes. Everyone agrees that it is important to speed up processes, but there are disagreements when the proposed solutions are ineffective or put legal certainty at risk, which should always be a priority.

DOI: https://doi.org/10.5281/zenodo.17027595

Judicial services must meet the needs of society efficiently and fairly, considering that citizens who seek justice do so in the hope of seeing their rights protected and their conflicts resolved in a timely manner. However, when the system fails to meet these objectives, generating excessive delays and late decisions, the feeling of frustration and helplessness prevails. This weakens confidence in the Judiciary, since the slowness in the procedural process often prevents justice from being achieved at the time when it is most needed. To ensure that Justice meets its purpose, it is essential to invest in structural reforms, process optimization and a greater commitment to speed, without giving up equity and legal certainty.

In any case, what we noticed with the study and comparative analysis is that, many times, the focus of the discussions is on the reorganization of the judicial system, while the needs of the people who depend on judicial decisions end up being relegated to the background. This approach ignores the human impact of delay, which directly affects the lives of those who wait for a sentence to resolve conflicts, guarantee rights or end uncertainties. Without considering the citizen as the center of the proposed solutions, any reform of the system risks being incomplete and unable to fulfill its main function: to deliver justice effectively and in a timely manner.

DOI: https://doi.org/10.5281/zenodo.17027595

The results and discussions highlight the complexity of judicial delay, its negative impacts on mental health, and possible solutions to mitigate this problem. The main message is that justice needs to be efficient and humane, ensuring quick decisions without sacrificing quality or ignoring the well-being of the parties involved.

References

BRAZIL. [Constitution (1988)]. Constitution of the Federative Republic of Brazil of 1988. Brasília, DF: Presidency of the Republic, 1988. Available at: https://www.planalto.gov.br/ccivil_03/Constituicao/Constituicao.htm, accessed on 12/02/2024

DELGADO, José Augusto, THE DELAY IN THE DELIVERY OF THE JURISDICTIONAL PROVISION. LIABILITY OF THE STATE INDEMNIFICATION. Legal Newsletter of the Ministro Oscar Freire Saraiva Library, v.10, ... 1, p. 89-103, jul/dez. 1998 Available at: https://www.stj.jus.br/publicacaoinstitucional/index.php/informativo/article/download/332/294, accessed on 12/03/2024

DAS, Shanti. "Victims of crime die while waiting for justice while the legal system in England and Wales is 'on its knees'. The Guardian, February 3, 2024. Available at: The Guardian

GIMENES, José Jácomo. The top of the Judiciary is inefficient, don't look up https://www.conjur.com.br/2022-fev-14/gimenes-cupula-judiciario-ineficiente-nao-olhe-cima/, accessed on 12/03/2024

MARQUESI, Roberto Wagner; BONTEMPI, Alessandro. Procedural slowness and the civil liability of the state. Revista

DOI: https://doi.org/10.5281/zenodo.17027595

do Direito Público, Londrina, v. 14, n. 1, p. 139-159, Apr. 2019. DOI: 10.5433/1980-511X2019v14n1p139. ISSN: 1980-511X.
WHO: https://www.who.int/health-topics/mental-health#tab=tab_1, accessed on 12/02/2024
PEREIRA, Guilherme Alberto Mendes, Master's Dissertation in Public Administration Area of Specialization in Public Management, University of Minho, Portugal, School of Economics and Management "The Slowness of Justice in Portugal: The perception of the judges of the Courts of 2nd Instance, University of Minho School of Economics and Management"
PINHEIRO, Aline, Revista consultor jurídico (legal consultant) available in https://www.conjur.com.br/2013-dez-01/corte-europeia-tenta-obrigar-paises-resolver-lentidao-judicial/, accessed on 02/12/2024)
VALENTE, Rachel Soares. Civil liability of the State for violation of the right to a reasonable duration of the process. 2008. Monograph (Specialization) - Cândido Mendes University, Rio de Janeiro, 2008

How to cite:

OLIVEIRA, Maria Cristina Pontes de; FREIRE E ALMEIDA, Verônica Scriptore. Impact of the Slowness of the Justice System on the Mental Health of the Parties Involved. **Global Health Law Journal**, Santos-Brazil, v. 03, n. 01, p. 183-212, 2025, available at: https://ojs.unisanta.br/index.php/GHL/index .

Global Health Law Journal



Submissions - Call for papers

Submissions to the **Global Health Law Journal** are peer-reviewed by our distinguished Editorial Board and reviewers, consisting of internationally recognized experts.

Please send your submission* to: **global@unisanta.br**

Articles can be submitted in English, Spanish, French, Italian or Portuguese.

If you have any questions about the Global Health Law Journal, please contact our Editor-in-Chief Verônica Scriptore Freire e Almeida.

e-mail: global@unisanta.br



*__Guidelines__:

Title of the article: Arial 14 in Bold, 1.5 spacing

Authors: right aligned, Arial 12, 1.5 spacing

Presentation (mini-CV) of the authors: insert a footnote for each author: Arial 10, single space, skipping a line between each author.

Abstract: Title in Arial 12 – abstract text in Arial 11, single space. Keywords: up to 5, separated by a comma.

Article text and Titles within article: Arial 12, 1.5 spacing.

-Use the "Author-Date" style, as follows: (NOBEL, 2025, p. 127).

Direct citation (more than 3 lines): Arial 10 font, single spacing, 4 cm indentation.

Footnotes: Arial 10, single spacing

References: Arial 12, single spaced, with 5 pt (after). Example: NOBEL, Alfred. Health Law. New York: Basic Books, 2023.

Please send your submission to: global@unisanta.br


GLOBAL
HEALTH
LAW
JOURNAL