

WORDS BEYOND THE PANDEMIC: A HUNDRED-SIDED CRISIS

Coord.: José Reis
A collective work by CES

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Centro de Estudos Sociais
Universidade de Coimbra



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JUSTICE REFORMS

Conceição Gomes

The marks of neoliberal governance that have guided public policies – with special emphasis on the binding period of the Memorandum of Understanding signed by the Portuguese State and the European Central Bank, the European Commission and the International Monetary Fund (Troika) – have also had a strong impact in the field of justice. The efficiency associated with productivity, focused on quantitative production and parameterised evaluation, the tendency to replace the foundations of judicial citizenship with a cost-benefit rationality in court mobilisation, the focus on delay and quantity response, seeking above all to reduce the volume of judicial cases, largely dominated by business-related debt collection actions, are goals that have guided the many types of reforms of the last two decades. They are associated with a model of intervention dominated by individual reforms. Despite the lack of methodologically credible assessments, legal changes and experiences have been introduced one after another, not only at the pace of governments, but within the legislature itself, pushing the justice sector into a permanent situation of *reform upon reform*. Regardless these reforms, the perception is one of paralysis in the justice system. Disguised as change with respect to the broadening of citizenship and quality in the courts' functional performance, such paralysis has strongly conditioned the conflict pattern of court mobilisation.

The reformist pattern has not been able to significantly change the structural-functional stability of the judicial system in responding to violations of human and fundamental rights and the legitimate interests of citizens, to old and new social vulnerabilities. Nor does it show any signs of special awareness of “social emergencies” such as domestic violence, the many forms of violence against children, and occupational accidents. The reconfiguration of the courts' role depends very much on the regeneration capacity of public policy construction and implementation models. It is therefore essential to develop a strategic agenda for justice reform, its central axis being citizenship and the quality of justice. Four guidelines should be highlighted in this agenda: i) the strengthening of the mechanisms of transparency and (internal and external) accountability of the judiciary, so as to reduce the opacity and social distance of the justice system and facilitate public scrutiny of the courts' functional performance; ii) better understanding of the multi-institutional and multidisciplinary dimension of the courts' actions, developing effective collaborative models of communication and articulation; iii) broad reform in the legal education and professional training of judicial actors, creating a judicial culture conducive to democratic change; iv) effective implementation of the constitutional principle of the right of access to justice for all citizens, with no exclusions, whether of a cultural, social or economic nature.