

GENDER IMBALANCE IN BRAZILIAN APPELLATE COURTS AND FAIR TRIAL: A SOCIO-LEGAL INVESTIGATION

Does the gender imbalance in Brazilian appellate courts affect the right to a fair trial in its impartiality aspect?



RESEARCH QUESTION

BACKGROUND

Brazilian Constitution guarantees to both women and men equal access to public office. Yet, Brazilian appellate courts display a shocking gender imbalance (see Graph 1).

Research¹ shows that female judges are more likely to be interrupted by lawyers when compared with their male peers. Also, evidence² indicates that when the judge-rapporteur is a woman, other judges are more likely to dissent. It might affect the **right to a fair trial**.

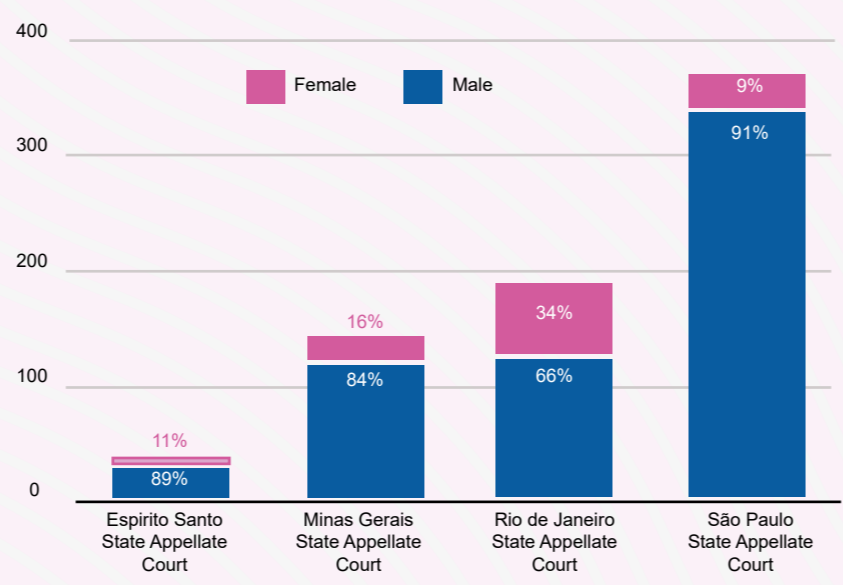
The **right to a fair trial** entitles any person to a fair and public hearing by an **impartial** and independent tribunal established by law. However, there is a gap in the literature about the effects of the gender imbalance on the court's **impartiality** and, consequently, on the **fair trial**. This study seeks to address this gap.

Disclosing the impact of gender imbalance in court's **impartiality** may add a valuable contribution to the literature, **reassessing the right to a fair trial**.

- Scrutinising how courts operate in practice
- Exploring the authority dynamics in courts

SOCIO-LEGAL STUDY

Graph 1. Judges by gender in the appellate courts of southeast of Brazil (total and %, in 2019)



RESEARCH DESIGN

- Aims:** understand how an appellate court with an unequal number of female and male judges operates in real life, revealing the experiences of those involved in and affected by the decision-making process
- Underlying philosophy:** interpretivism
- Method:** qualitative mono-method; use of semi-structured interviews with Brazilian judges, lawyers and litigants focusing on a 'thick description' of their perceptions on the effects of gender imbalance on the court's impartiality
- Ethical considerations:** participants fully anonymised; use of encrypted documents; data stored in the University server for 10 years

- Evaluate gender imbalance and court's impartiality
- Revise the understanding of the right to a fair trial

REASSESSING FAIR TRIAL



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¹ Loughland A, Female Judges, Interrupted: A study of Interruption Behaviour during oral argument in the High Court of Australia (2019) Melbourne University Law Review, Vol. 43 Issue 2, p822-851
² Cesario Alvim Gomes J at all, Gender relations and judicial behaviour in the Brazilian supreme court: do justices distrust female rapporteurs? (2018) Brazilian Journal of Public Policy 8, p855