Is Brazil starting to see real justice?

THE OTHER SHOE HAS dropped. When the Supreme Court found José Dirceu and many of his colleagues guilty in the mensalão trial that began in August, there was considerable enthusiasm for the ruling, but there was also considerable cynicism about whether the sentences would be meaningful. Now we know. On November 12 the Court announced that the former aide to former President Lula da Silva is being sent to jail for nearly 11 years. As Supreme Court President Carlos Ayres Britto commented about the importance of the trial, "The Supreme Court is changing Brazil's culture."

It's true that the culture of corruption is being changed, with help not only from the Supreme Court but also from the president, who has been adamant about clearing out members of her administration as soon as they came under a shadow. And the Court also allowed the trial to be broadcast live on television, a move toward transparency that could certainly be a model for a number of other areas of Brazilian governance. In recent years the Supreme Court has also been willing to take on a variety of other tough cases, as Kalinka Iaquinto spells out in her report on the judiciary in this issue.

But one area of the culture of the Brazilian judiciary needs some change of its own. It took seven years from the time the vote-buying scandal was exposed before Dirceu and his co-defendants went on trial. In the August issue, as the case went to trial, our political columnist, João Augusto de Castro Neves, called it 'just one example that justice moves more slowly where there is political and economic power." Although he also said that the trial "is part of a broader process of increased oversight and more accountability in Brazil's public administration," it is nevertheless true, as the old saying goes, that "justice delayed is justice denied."

Bringing accused parties to trial in a reasonable time is a more just way for the legal system to operate.

The Sixth Amendment to the U.S. Constitution guarantees to all persons accused of criminal wrongdoing the right to a speedy trial, but in the English-speaking world the right to a speedy trial is an ancient liberty that goes back to the Assize of Clarendon promulgated during the reign of Henry II (1154–1189). True, Brazilian law is based on the Portuguese civil law system, not the British common law tradition, but it's not too late to recognize that bringing accused parties to trial in a reasonable time is a more just way for the legal system to operate. In the U.S. a delay of one year in bringing a defendant to trial following arrest can trigger a presumption that the Sixth Amendment has been violated, although longer delays may be permitted to accommodate the schedules of important witnesses and to allow the lawyers in certain circumstances to prepare more fully.

The Supreme Court and the administration are to be commended for their clear commitment to dealing with the corruption problem. Now it may be time for the courts to also think about how to move more quickly so that not only will justice be done, but it will be seen to be done while the facts of a case are still fresh. Maybe, in fact, the courts can learn something from the president about moving faster.