

Access to Justice and Social Protection

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Governments in developing countries are increasingly expanding social protection coverage (Banerjee et al. 2024). However, the effectiveness of these policies and the populations ultimately covered hinge on their implementation. The literature shows that the procedures required to access benefits can significantly influence targeting outcomes: in some cases, they help screen out less deserving beneficiaries (e.g., Alatas et al. 2012), but they often disadvantage vulnerable groups unable to navigate these barriers (e.g., Deshpande and Li 2019). This paper investigates the role of access to justice in securing social protection benefits and explores its implications for equity and effective targeting.

The justice system can influence social protection coverage in developing countries through two mechanisms. First, when governments lack administrative capacity, they may delegate benefit delivery to third parties, which may fail to fulfill their obligations, making the justice system crucial for enforcement. Second, when benefit eligibility decisions are open to disputes, it is the justice system that often adjudicates claims from denied applicants. This role is particularly relevant for the growing number of countries that include income security provisions directly in their constitution.¹ In practice, barriers such as financial

costs, lack of information, judicial bias, inadequate legal aid, delays, and geographical distance hinder access to justice, ultimately leading to unequal access that can affect the targeting of social protection.

We examine these mechanisms in the context of Brazil, focusing on two distinct populations. After job loss, workers' access to government-mandated severance payments — the main form of job displacement insurance in developing countries (Gerard and Naritomi 2021) — depends on employer compliance, making the labor justice system essential for enforcement. The elderly poor who are not covered by the contributory pension system can apply for social pensions, but disputes over the government's definitions of income, household composition, and poverty criteria make federal courts key adjudicators in cases of denied benefits. We combine comprehensive data for a sample of labor and federal court cases with administrative records on employment, social pension benefit applications and receipts, and household characteristics. The goal is to study how the personal characteristics of potential plaintiffs affect their likelihood of using the courts to ensure access to social protection benefits.

This paper contributes to a small but growing literature on bridging the gap between *de jure* and *de facto* legal rights. For example, recent studies demonstrate that legal aid can reduce barriers to justice across various contexts (e.g., Hoynes, Maestas and Strand 2022; Blattman, Hartman and Blair 2014). By contrast, empirical studies on the financial costs of judicial access often lack detailed data on individual plaintiffs (e.g., Adams and Prassl 2017), resulting in limited evidence on how resource disparities, for example, affect access to jus-

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¹Currently, 54% of countries (including Brazil) include income security protection in their constitution,

with 72% of these provisions adopted after the 1980s (Sprague, Raub and Heymann 2020).

tice (Antsygina and Kurmangaliyeva 2022).

I. Displaced workers

Latin America is renowned for its extensive policies to protect workers with formal labor contracts (Heckman et al. 2004), yet enforcement remains inconsistent. For instance, in a special Access to Justice module of Brazil’s annual Household Survey (*PNAD*), respondents identified employment disputes as the leading cause of severe conflicts—ranking above family disputes and crime—and cited the justice system as the primary mechanism for resolution (IBGE 2009). Relevant to our application, Sadka, Seira and Woodruff (2024) highlights widespread non-compliance by Mexican employers with mandated severance payments after job loss, creating a significant burden on Mexico’s Labor Courts.

We combine data from two main sources to understand how workers’ circumstances affect their likelihood of suing an employer after separation. We use the Brazilian matched employer-employee dataset (*RAIS*) and draw a 5% random sample of full-time workers with a permanent contract who separated from a private-sector employer between 2013 and 2017. We stratify the sample by monthly earnings prior to separation, education, gender, race, and the presence of a labor court in the municipality. We also use data from proprietary sources on the near universe of cases filed in first-degree labor courts. We can match employment relationships to court cases because the data identify workers and firms, as well as plaintiffs and defendants, by their unique IDs. For the sample of matched lawsuits, we obtain information on case outcomes and legal representation. In our sample, 7.2% of workers sue their employer, with 92.7% of cases filed after receiving mandatory notice of separation.²

Figure 1 provides evidence of a strong income gradient for the probability of filing a labor suit against an employer and the probability of winning in court conditional on filing. Workers in the top earnings decile

²For additional details on the data used throughout the paper, see Britto, Pinotti and Sampaio (2022).

are about two times as likely to sue and to win conditional on suing compared to workers in the bottom decile.

Figure 2 shows that these positive correlations hold controlling for key individual characteristics: gender (a dummy for being female), education (separate dummies for having a high-school degree or a college degree), race (a dummy for being non-white), and distance to the court (a dummy for not having a labor court in the municipality of employment). The regressions also control for various job and firm characteristics as well as time fixed effects, state fixed effects, and municipality characteristics.³

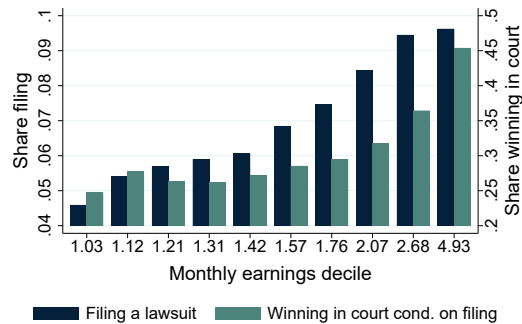


FIGURE 1. SHARES FILING A LABOR SUIT AND WINNING IN COURT CONDITIONAL ON FILING BY EARNINGS DECILE

Notes: The figure displays the shares of workers that file a lawsuit against their employer within 2 years of separation, as well as the shares of workers that win in court conditional on filing a lawsuit. Shares are displayed by decile of monthly earnings prior to separation; we report the median earnings in each decile expressed as multiples of the minimum wage.

An advantage of our setting is that we observe settlements in the data: out-of-court settlements between firms and workers are not allowed in Brazil. As a result, we can show in Figure 2 that higher earners are more likely to win in court because they are both less likely to settle and less likely to lose or withdraw their case once filed. A lower likelihood of settling is consistent with the idea that resource constraint re-

³Specifically, we further control for month of separation fixed effects, age, tenure, firm size, white-collar occupation, industry, state fixed effects, municipality population and GDP, a dummy for earning less than the minimum wage, and type of separation.

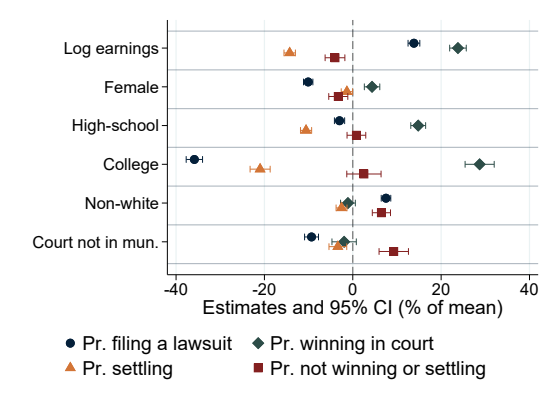


FIGURE 2. OLS REGRESSIONS: INDIVIDUAL CIRCUMSTANCES, LABOR SUIT FILING AND CASE OUTCOMES

Notes: Point estimates are displayed with their 95% confidence intervals and are expressed as percentages of the outcome variable mean. The regression sample includes 2,043,273 observations for case filing and 143,196 observations for case outcomes conditional on filing.

duce workers' bargaining power and their ability to wait for a favorable outcome. A lower likelihood of losing is consistent with an income gradient in legal support: we find that workers in the top decile have 23% more lawyers working on their case compared to those in the bottom decile.

The results in Figure 2 are also consistent with geographical distance to the court being a relevant barrier to accessing justice: not having a court in the municipality of employment reduces case filing and the likelihood of winning conditional on filing. The correlations for other individual characteristics are more nuanced. Women and workers with higher education levels are less likely to file a lawsuit but more likely to win in court conditional on filing; while the reverse pattern holds for non-white workers.

II. Elderly poor

A significant portion of social protection expansion in developing countries is driven by non-contributory pensions (World Bank 2022). These programs are meant to provide income floors for populations who are unable to work and lack sufficient contribution history to qualify for other social security schemes. However, disputes over the determination of eligibility are com-

mon: data made available by the social security administration indicates that, between 2012 and 2020, a large share of beneficiaries of non-contributory pensions in Brazil (*Benefício de Prestação Continuada*, or BPC) were only awarded benefits after filing a lawsuit — over 25% for disability pensions and 5% for old-age pensions.

We examine the role of the justice system in awarding old-age BPC. The scheme targets individuals aged 65 or older who lack sufficient contributions for contributory pensions and live in households with per capita income below one-quarter of the minimum wage. We focus on Brazilians born in 1952. This cohort turned 65 in 2017, allowing us to observe whether they applied for BPC, had their application denied, but eventually obtained benefits through judicial processes. Specifically, we use data on the universe of denied BPC applications, which is available from 2013 to 2020 with the filing date, and data on the universe of BPC payments, which is available from August 2016 to December 2020. We measure income per capita in the Brazilian Social Registry (*Cadastro Unico*), which captures families' socioeconomic conditions and covers roughly two-thirds of the Brazilian population.⁴ We compute individuals' contribution history using the matched employee-employer data from 1985. Finally, we observe whether someone sues the social security administration to receive BPC using data from proprietary sources on the near universe of cases filed in first-degree federal courts.

The top panel in Figure 3 shows that individuals who meet the income criteria - with income per capita below one-quarter of the minimum wage - are much more likely to apply and to be granted benefits by the program administration compared to individuals with higher income per capita. However, a non-negligible share of individuals still apply and have their application approved even above the income threshold.

⁴It aims to include all families with per capita income below 50% of the minimum wage, with total income below 300% of the minimum wage, or with any member who has ever been a beneficiary of a federal social welfare program.

More interestingly for our purpose, the bottom panel in Figure 3 shows a positive income gradient for the likelihood of filing a lawsuit among denied BPC applicants, up to a per capita income of twice the eligibility threshold or one-half of the minimum wage. Beyond that income level, the gradient becomes negative. This suggests that financial resources facilitate the use of the justice system to obtain benefits, but that a higher income only matters up to a point given that it must also ultimately reduce the likelihood of success.

Notably, the bottom panel in Figure 3 also shows that there is a negative income gradient in the likelihood of being granted the benefit by the court conditional on filing a case. Thus, the positive gradient relative to the likelihood of filing a lawsuit, observed for income levels up to one-half of the minimum wage, is not driven by potentially lower case merits among poorer denied applicants (after all, applicants with income below the threshold are much less likely to have their application denied.)

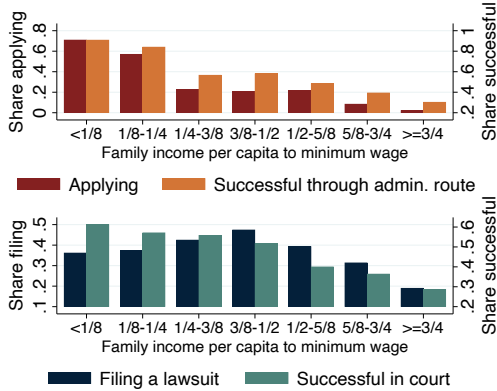


FIGURE 3. SOCIAL PENSION OUTCOMES BY FAMILY INCOME PER CAPITA

Notes: The top panel displays the shares applying for an old-age BPC pension, and the shares granted the benefit by the program administration conditional on applying. The bottom panel displays the shares filing a lawsuit among unsuccessful applicants, and the shares granted the benefit by the court conditional on filing. Shares are displayed by bin of family income per capita, measured in *Cadastro Unico* in the year the individual applies for social pension benefits (or in the year after turning 65 for those who don't apply). Income bins include the lower bound and exclude the upper bound.

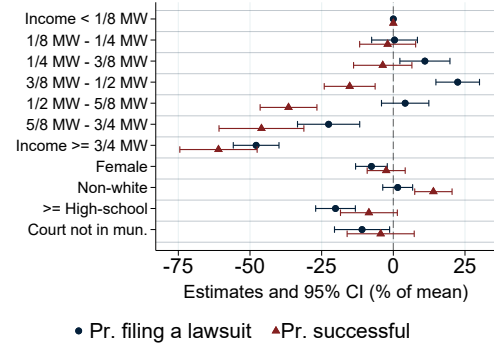


FIGURE 4. OLS REGRESSIONS: INDIVIDUAL CIRCUMSTANCES, CASE FILING, AND SOCIAL PENSION RECEIPT

Notes: Point estimates are displayed with their 95% confidence intervals. The regression sample includes 11,355 observations for case filing and 4,271 observations for case outcome conditional on filing.

Figure 4 shows that the correlations between income per capita and the likelihood of both filing a lawsuit and obtaining benefits conditional on filing hold controlling for gender, education, race, and distance to the court, as in Figure 2.⁵ As with displaced workers, individuals without a local court, women, and those with higher education levels are less likely to use the justice system. The estimate is positive but small and insignificant for non-whites. Results for obtaining benefits conditional on filing a case are less precise, except for non-whites, who have a higher probability of success.

III. Conclusion

This paper highlights key stylized facts about how access to justice interacts with social protection in Brazil. Income appears to enable workers to leverage judicial enforcement for labor protections. Even for pensions targeting the poor, higher income is initially associated with a higher likelihood of denied applicants seeking recourse through the justice system. Although these findings are not causal – un-

⁵The regressions also control for years of contribution, household composition, municipality GDP and population, and state fixed effects. We do not include separate dummies for having a college degree, as college graduation rates are low among the poor in Brazil.

observed differences in the underlying need to sue may vary across income levels – they suggest systematic disparities in access to justice among those seeking social protection. In contexts where the justice system serves as a critical enforcement mechanism, such as healthcare protections in Colombia (Londoño-Vélez and Saravia 2024), it becomes first order to understand the implications of various barriers to access justice.

REFERENCES

- Adams, Abi, and Jeremias Prassl.** 2017. “Vexatious Claims: Challenging the Case for Employment Tribunal Fees.” *The Modern Law Review*, 80(3): 412–442.
- Alatas, Vivi, Abhijit Banerjee, Rema Hanna, Benjamin A Olken, and Julia Tobias.** 2012. “Targeting the poor: evidence from a field experiment in Indonesia.” *American Economic Review*, 102(4): 1206–1240.
- Antsygina, Anastasia, and Madina Kurmangaliyeva.** 2022. “Settlements under unequal access to justice.” *Journal of Economic Behavior and Organization*, 193: 237–268.
- Banerjee, Abhijit, Rema Hanna, Benjamin A. Olken, and Diana Sverdlin Lisker.** 2024. “Social Protection in the Developing World.” *Journal of Economic Literature*, 62(4): 1349–1421.
- Blattman, Christopher, Alexandra C Hartman, and Robert A Blair.** 2014. “How to promote order and property rights under weak rule of law? An experiment in changing dispute resolution behavior through community education.” *American Political Science Review*, 108(1): 100–120.
- Britto, Diogo G. C., Paolo Pinotti, and Breno Sampaio.** 2022. “The Effect of Job Loss and Unemployment Insurance on Crime in Brazil.” *Econometrica*, 90(4): 1393–1423.
- Deshpande, Manasi, and Yue Li.** 2019. “Who is screened out? Application costs and the targeting of disability programs.” *American Economic Journal: Economic Policy*, 11(4): 213–248.
- Gerard, François, and Joana Naritomi.** 2021. “Job displacement insurance and (the lack of) consumption-smoothing.” *American Economic Review*, 111(3): 899–942.
- Heckman, James J, et al.** 2004. “Introduction.” In *Law and Employment: Lessons from Latin America and the Caribbean*. 1–108. University of Chicago Press.
- Hoynes, Hilary W, Nicole Maestas, and Alexander Strand.** 2022. “Legal Representation in Disability Claims.” National Bureau of Economic Research Working Paper 29871.
- IBGE.** 2009. *Pesquisa Nacional por Amostra de Domicílios (PNAD): Módulo especial sobre Acesso à Justiça*. Rio de Janeiro, Brazil: Instituto Brasileiro de Geografia e Estatística (IBGE).
- Londoño-Vélez, Juliana, and Estefanía Saravia.** 2024. “The Impact of Being Denied a Wanted Abortion on Women and their Children.” *Working Paper*.
- Sadka, Joyce, Enrique Seira, and Christopher Woodruff.** 2024. “Information and Bargaining through Agents: Experimental Evidence from Mexico’s Labour Courts.” *Review of Economic Studies*, 91(6): 3677–3711.
- Sprague, Aleta, Amy Raub, and Jody Heymann.** 2020. “Providing a foundation for decent work and adequate income during health and economic crises: Constitutional approaches in 193 countries.” *International Journal of Sociology and Social Policy*, 40(9/10): 1087–1105.
- World Bank.** 2022. *Charting a Course Towards Universal Social Protection: Resilience, Equity and Opportunity for All*. Washington, DC: The World Bank.