Giving Aid to Those Most in Need: Assessing Brazil's Covid-19 Emergency Income Benefit for Workers

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Abstract

During the COVID-19 pandemic, Brazil enacted Law 13.982/2020, providing for an emergency income benefit to alleviate hardship for informal, self-employed and unemployed workers. Between April 7 and May 15/2020, 118,291,454 aid applications were made, of which 59,291,753 (50%) were granted. In August 2020, the number of beneficiaries reached almost 67 million, with an expenditure of US\$ 25 billion. If we include the beneficiaries' family members, more than half of the Brazilian population, or around 126.2 million people, benefitted from this aid, which reduced extreme poverty to 3.3 % of the population or seven million people, the lowest rate in forty years. The benefit ended in early 2021, but it was later reinstated in April 2021.

Despite the extensive coverage of the benefit, there were significant gaps as shown by the number of rejected applications and subsequent appeals filed before the Federal Courts seeking redress. This paper uses qualitative analysis of court rulings to better understand the strengths and weaknesses of this policy response. We use data from the Federal Court of Accounts (FCA) and Federal Court decisions within the State of Ceará during April 2020 to March 2021. The FCA had previously identified two problems, one in unjustified inclusion of beneficiaries (7.3m) and another in the exclusion of potential worthy recipients (3.3m). There were many problems including accessing online channels to appeal against administrative decisions denying the benefit or even applying for it in the first place. An analysis of judicial decisions issued in 2020 by Federal Judges in the State of Ceará suggests several failures in the program. This study examines and evaluates one approach to providing relief for informal workers, an endemic problem in developing economies. The aid program was timely even if not perfect. Our study suggests that further improvements are possible and policymakers need to take note for the future. For example, digital exclusion could be addressed by resorting to the already existing network of social assistance programs.

Keywords: COVID-19 Pandemic, Court Rulings, Income Benefit, Informal Workers.

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Introduction

The Federal Government of Brazil has been widely criticized for its unwillingness to recognize the full extent of the COVID-19 pandemic and for its failure to provide national coordination on social distancing, mask mandates and vaccine procurement. Given the lack of leadership from the Federal Government, the Federal Congress took matters into its hand by approving Law #13.979/2020, providing for sanitary and social distancing measures (GOMES; DIAS, 2020). Provinces and municipalities enacted the majority of other needed measures. The Federal Government's absence from a coordinated and centralized response to the pandemic are the main reasons why Brazil accounts for 10 to 12% percent of all COVID-19 fatalities in the world, although the country's share of the global population is only 2,7% (DIAZ-QUIJANO *et al.*, 2021).

The Federal Congress followed up with Law #13.982 in March 2020, to provide for an emergency income benefit (*auxílio emergencial*) to alleviate the loss of income for informal, self-employed and unemployed workers. In addition to this, Provisional Measure 927 - later enacted as Law 14.020/2020 - provided for an emergency program, aimed at maintaining jobs and income for formal workers, which was reinstated in 2021 by Provisional Measure 1045 (*Programa Emergencial de Manutenção do Emprego e da Renda*). In this study, we will focus on the emergency income benefit - EIB guaranteed to informal workers.

Around R\$293 billion (US\$58,13 billion) were spent in 2020 to guarantee relief for informal workers affected by social distancing measures and lockdowns.² Between April 7 and May 15/2020, 118,291,454 EIB applications were made, of which 59,291,753 (50%) were granted. In August 2020, the number of beneficiaries reached almost 67 million.³ If we include the beneficiaries' family members, more than half of the Brazilian population, or around 126.2 million people, benefitted from the EIB. It reduced extreme poverty from 6.5 % to 3.3 % of the population (seven million people) - the lowest rate

¹ OUR WORLD IN DATA. Coronavirus (COVID-19) Deaths. Available at https://ourworldindata.org/covid-deaths?country=IND~USA~GBR~CAN~OWID_WR

² BRASIL. TRIBUNAL DE CONTAS DA UNIÃO. Balanço sobre Auxílio Emergencial é destaque da Sessão Plenária de 24 de fevereiro. Brasília, 24/02/2021. Available at https://portal.tcu.gov.br/imprensa/noticias/destaques-da-sessao-plenaria-de-24-de-fevereiro.htm.

³ BRASIL. AGÊNCIA BRASIL. Dataprev aprova auxílio emergencial para 8,3 milhões de brasileiros. Disponível em https://agenciabrasil.ebc.com.br/economia/noticia/2020-05/dataprev-aprova-auxilio-emergencial-para-83-milhoes-de-brasileiros. 15 May 2020.

in forty years.⁴ The benefit ended in early 2021, but it was later reinstated in April 2021. The 2021 EIB is supposed to last for four months.

Despite the extensive coverage of the benefit, there were significant gaps as shown by the number of rejected applications and subsequent appeals seeking redress filed before Federal Courts. This paper uses qualitative analysis of court rulings to better understand the strengths and weaknesses of this policy response. We use data from the Federal Court of Accounts (FCA) and Federal Court decisions within the State of Ceará during April 2020 to March 2021.

The FCA had previously identified two problems in the concession of the EIB: the unjustified inclusion of some beneficiaries (7.3m) and the exclusion of potentially worthy recipients (3.3m).⁵ A better data check and crosschecks are required in order to identify people who do not meet the eligibility requirements. Some improvements on this matter were made by the legislation enacted in 2021 that reinstated the benefit. In addition to these two problems, there were challenges in accessing online channels to appeal against administrative decisions denying the benefit or even applying for it in the first place (Bartholo et al., 2020, at 11).

Litigation against the Federal Government, as the analysis of judicial decisions issued in 2020 by Federal Judges in the State of Ceará suggests, points to several failures in the program. There is no way for potential beneficiaries to update or correct data used by the Government to assess their eligibility. Official databanks consider particular dates to determine if a person is employed for instance but if he or she is in fact unemployed, filing a lawsuit seemed the most effective way to correct the data, although the process is costly both to the system and to workers.

This study allows us to examine and evaluate one approach to providing relief for informal workers, an endemic problem in developing economies. We would be able to compare the errors across formal and informal workers to see if the program resulted in less favorable treatment of informal workers. The aid program was timely even if not perfect. Our study suggests that further improvements are possible and policymakers need to take note for the future. Digital exclusion could be addressed by resorting to the already existing network of social assistance programs in Brazil, e.g., as part of the Unified Social Assistance System (SUAS) at the Municipalities level. Social workers of such services could identify and assist potential beneficiaries in applying online.

This paper is divided as follows: first, in Section I, we refer to the main legal features of the emergency income benefit. Then in Section II, we point out to the main problems identified by audits

⁴ BRASIL. GOVERNO DO BRASIL. Auxílio emergencial tem impacto positivo na vida de 126 milhões de brasileiros. Available at https://www.gov.br/pt-br/noticias/assistencia-social/2020/08/auxilio-emergencial-tem-impacto-positivo-na-vida-de-126-milhoes-de-brasileiros. G1. Extrema pobreza se manteve estável em 2019, enquanto a pobreza teve ligeira queda no Brasil, aponta IBGE. https://g1.globo.com/economia/noticia/2020/11/12/extrema-pobreza-se-manteve-estavel-em-2019-

https://g1.globo.com/economia/noticia/2020/11/12/extrema-pobreza-se-manteve-estavel-em-2019-enquanto-a-pobreza-teve-ligeira-queda-no-brasil-aponta-ibge.ghtml.

⁵ BRASIL. TRIBUNAL DE CONTAS DA UNIÃO. Balanço sobre Auxílio Emergencial é destaque da Sessão Plenária de 24 de fevereiro. Brasília, 24/02/2021. Available at https://portal.tcu.gov.br/imprensa/noticias/destaques-da-sessao-plenaria-de-24-de-fevereiro.htm.

on the part of the FCA. Thirdly, in Section III, we analyze qualitative data on 50 rulings issued by Federal Courts in the State of Ceará. Lastly, we draw some conclusions from our analysis to propose some changes that could improve the effectiveness of such aid to informal workers. In light of these findings, we consider why Brazil's income transfer programs, especially the Family Grant (*Bolsa Família*), were not so successful, even before the pandemic, at preventing people from sliding into poverty and extreme poverty, as some studies have highlighted.

I. Emergency income benefit: main legal features

In its initial 2020 version, the EIB provided a transfer of roughly US\$ 118 every three months for up to two persons per family.

The cumulative requirements were: a) to be over eighteen years old; b) not to have a formal job; c) not receive a social security or any other federal benefit, or unemployment insurance or a federal income transfer program benefit, with the exception of the Family Benefit; d) a family income per capita of up to half the minimum wage or total monthly family income of up to three minimum wages⁶; e) not having received, in 2018, taxable income per year above US\$ 5,776 (R\$ 28,559.70); and f) work as an individual self-employed microentrepreneur (MEI)⁷, or an individual contributor to the General Social Security System, or an informal worker.

Informal workers might be employed, self-employed or unemployed, intermittently employed. They might be registered in the Unified Registry for Social Programs of the Federal Government (CadÚnico)⁸ or who meet the requirement described in (d) above through self-declaration.

CadÚnico is an "instrument for identification and socio-economic characterization of low-income Brazilian families". It is "mandatorily used to select beneficiaries and integrate Federal Government social programs aimed at serving this public" (Article 2, Decree 6135/2007). Its database identifies the beneficiaries eligible for over twenty public social protection programs. According to Barreto el al. (2019):

The CadUnico database contains identifiable records with socioeconomic and demographic data, as well as household characteristics pertinent to every person who has applied for any governmental social benefit since 2003. By 2015, more than 114 million people were registered in CadUnico, representing 57% of the entire Brazilian population.

For workers who were not registered in CadÚnico, the government provided a digital platform in a federal public bank (CAIXA|Auxílio Emergencial) for individual to give a self-declaration of a

⁶ 2020 Minimum wage in Brazil was US\$211(R\$1.045,00).

⁷ According to Complementary Law # 128/2008. See Lenz et al. 2020.

⁸ According to Decree 6135/2007.

family income per capita of up to half the minimum wage or total monthly family income of up to three minimum wages.

Brazil's main cash transfer program, from well before the pandemic, was the *Bolsa Familia*, created in 2004 by Law #10.836, by the unification of previous social programs. The *Bolsa Familia* is a conditional income transfer program, focused on poor and extremely poor families (NEVES et al., 2020). In 2020, around 41 million people received *Bolsa Familia* benefits, with an average value of R\$190,00 or US\$ 37,6 per month. Until 2013, *Bolsa Familia* contributed to a reduction in poverty and extreme poverty in Brazil. But from 2014 on, and especially during the pandemic, the program revealed some deficiencies and was unable to provide adequate income security to the most vulnerable, especially to informal workers. Some of the reasons were: the system's inability to reach eligible but "invisible" individuals, inadequate indexation of the value of the grant against inflation,, which led to the exclusion of many individuals over time, and budgetary constraints, that limited the number and value of grants that could be given. Concerning this last aspect, Neves (et al., 2020, at 12) explains that:

In 2016, the Brazilian government approved a constitutional amendment that established a limit for public investment in social policies, which, together with other fiscal austerity measures, resulted in a loss of budget in the areas of health, education and social assistance. Hence, the number of households covered by the Brazilian Cash Transfer Program reduced between 2019 and 2020 and the waiting list for access to the Program increased.

Such deficiencies gave momentum to a growing discussion on the need to improve cash transfer programs in Brazil and even introducing some kind of basic income in the country. Since 2004, there is a law providing for the gradual introduction of such basic income - Law 10.835/2004 - establishing the Citizenship Basic Income (*Renda Básica de Cidadania*), which has been never implemented due to lack of budgetary allocations.

In 2021, Brazil's Supreme Court ordered the Executive to start implementing the Citizenship Basic Income from 2022 on, prioritizing the poor and extremely poor, and to allocate the appropriate funds needed to do so.¹¹ The Court also urged the Congress to improve and even merge existing cash transfer programs in order to secure better protection for the most vulnerable.

The EIB has been more successful as it was not subject to the constraints of budgetary limits. It reached many "invisible" beneficiaries who were not registered in CadÚnico. Brazil's FCA pointed out that, in May 2020, 19,2 million beneficiaries of the emergency benefit were registered in CadÚnico and were already receiving *Bolsa Família*; 10,4 million beneficiaries were also registered in CadÚnico,

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⁹ BRASIL, SENADO, 2020.

¹⁰ BRASIL, DEUTSCHE WELLE, 2020, https://www.dw.com/pt-br/o-futuro-incerto-do-bolsa-fam%C3%ADlia-sob-bolsonaro/a-52453963. NERI, 2020.

¹¹ STF. STF determina que governo implemente o programa de renda básica de cidadania a partir de 2022. http://portal.stf.jus.br/noticias/verNoticiaDetalhe.asp?idConteudo=464858&ori=1

but did not receive *Bolsa Família*; and 29,3 million beneficiaries registered through Caixa/Auxílio Emergencial online platform and were never registered in CadÚnico.¹² These data provide strong evidence that it was necessary to expand coverage to include more beneficiaries in the existent cash transfer programs.

The emergency benefit was extended, for four additional months, until the end of 2020, by Provisional Measure 1.000/2020. There was an interruption from January to March, 2021 and then Provisional Measure 1.039/2021 reinstated the benefit, from April, 2021 for an additional four months. Its value was reduced, and it varies from US\$ 29,7 to US\$ 74,4 (R\$150,00 to R\$375,00). Some changes concerning eligibility and controls were made in order to prevent payment to ineligible applicants following recommendations from FCA.

II – The flaws in the emergency income benefit program implementation

The main weaknesses in the emergency income benefit were: first, its discontinuity from January to March 2021; the reduction of its value, from April 2021 onwards; the unjustified inclusion of beneficiaries (7.3m); and the exclusion of potential worthy recipients (3.3m) (BRASIL. TRIBUNAL DE CONTAS DA UNIÃO. 2021).

Provisional Measure 1039/2021 introduced stricter eligibility requirements, such as, exclusion of those who own property worth more than US\$59.523 (R\$300.000,00) and those who are spouses, companions, sons/daughters, stepsons/stepdaughters of income tax declarers.

Concerning the exclusion of potential beneficiaries, the SUAS – Unified Social Assistance System, played an important role. Organized since 2005, SUAS is a Government-run system aimed at guaranteeing protection for vulnerable families and individuals. Its organs and services spread across States and Municipalities and are structured in different levels of complexity. One of its features is the active search of potential beneficiaries for its programs. However, during the pandemic, SUAS was not referred to in rules and regulations concerning the EIB. That's one reason why around 3,3 million people were excluded, according to FCA - the majority of whom were black or brown, uneducated, between 33 to 44 years of age and residing in the countryside or in peripheral areas (BRASIL. TRIBUNAL DE CONTAS DA UNIÃO, 2020). One may conclude that the excluded beneficiaries were victims of illiteracy or the digital divide.

This conclusion stresses the need to combine both traditional methods, i.e., human-based, as well as new technologies, such as digital apps, for identifying vulnerable individuals. Brazil's current

1/%2520?uuid=023a2dd0-f372-11ea-b1cb-732e93a42653.

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¹² BRASIL. TRIBUNAL DE CONTAS DA UNIÃO. Processo TC 016.827/2020-1. Available at https://pesquisa.apps.tcu.gov.br/#/documento/acordao-completo/*/PROC%253A01682720201/DTRELEVANCIA%2520desc%252C%2520NUMACORDAOINT%2520desc/

Government, however, has emphasized on line platforms whenever it addresses the issue of reforming cash transfer programs. If this is the path to be followed, more exclusion can be expected.

In our analysis of 50 rulings issued by Federal Courts in the State of Ceará, from Abril 2020 to March 2021, other problems were discovered. Their correction may lead to a better design of the policy examined in this paper and to better protection of the most vulnerable people in Brazil.

III The Data

In this section we examine 50 court decisions from Federal Courts in the state of Ceará from April 2020 to March 2021 in the website of the Federal Justice in Ceará – www.jfce.jus.br. These cases are drawn from a total of 8349 law suits filed during the period¹³. After collecting the decisions, we read the decisions to extract the following information shown in here in Table 1.

Table 1: Questions asked of the 50 Cases in our analysis

- 1. Court's Location
- 2. What is the plaintiff 's sex?
- 3. Did the applicant benefit from the EIB receive any other aid before the request of the EIB?
- 4. Did the applicant receive unemployment insurance?
- 5. Did the claimant who was denied EIB have annual taxable income above R\$28,559.70?
- 6. Did the applicant have an employment relationship prior to requesting EIB?
- 7. Was the applicant a member of a family benefiting from the *Bolsa Familia* Program?
- 8. In the decision of the Special Federal Court, were there inconsistencies in the composition of the family group?
- 9. Did the family have a member registered in the CadÚnico who had already received the EIB?
- 10. Does the plaintiff have dependents in his/her family composition?
- 11. Is there any discrepancy between the information in the Single Registry and the self-declaration signed by the plaintiff?
- 12. Did the decision attribute a greater degree of confidence to the Federal Government's Single Registry for Social Programs system (Cadúnico) or to the request for emergency aid made in the Caixa Econômica Federal application (Solic.)?
- 13. What document or information on the EIB plaintiff's record generated the controversy in the case?
- 14. Is the EIB plaintiff a public official?
- 15. Did the plaintiff present evidence for the denial of the information that he/she was a civil servant?
- 16. Was there extinction without resolution of merit?
- 17. Was the EIB granted?

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¹³ These cases were found by searching for the terms, "assistance law" (*direito assistencial*) and "emergency assistance" (*auxílio emergencial*), within the total universe of law suits in Federal Courts during this period.

Table 2: Summary Features 50 Federal Court Decisions on COVID-19 Emergency Aid to Workers

Case Characteristics	Results
1. Location	22% Fortaleza
	78% Interior
2. Plaintiff Sex	42% Female
3. The applicant received another type of assistance before the request of the EIB	14%
4. The applicant received unemployment insurance	4%
5. Did the claimant who was denied emergency aid have annual taxable income above R\$28,559.70?	2%
6. The applicant had an employment relationship prior to requesting emergency aid.	14%
7. The applicant was a member of a family benefiting from the <i>Bolsa Família</i> Program.	16%
8. Inconsistencies in the composition of the family group found in the decision of the Special Federal Court.	38%
9. Did the family have a member registered in the CadÚnico who had already received the aid?	32%
10. Applicants with dependents in his/her family.	2%
11. The court decision placing confidence on the Federal	Solic. 58%
Government's Single Registry for Social Programs system (Cadúnico) or on the request for emergency aid made through the Caixa Econômica Federal application (Solic.)	Cadúnico: 8%
12. Discrepancy found between the information in the Single Registry and the self-declaration signed by the applicant?	38%
14. The emergency aid applicant was a public official.	4%
15. Did the applicant present evidence for the denial of the information that he was a civil servant?	2%
16. Extinction without resolution of merit?	24%
17. Aid granted by the Court	46%

If the application was filed through the Caixa Economica's digital register, and if it were refused, the applicant could access the Social Security Technology and Information Company (*Empresa de Tecnologia e Informações da Previdência Social*) Dataprev website (https://auxiliocultura.dataprev.gov.br/auxcultura/#/) to find out the reason for refusal. According to IPEA (BARTHOLO et al., 2020, at 12), the most common reasons were:

being younger than 18 years old; already being register in the CadÚnido or in the *Bolsa Família* (in this case, there was no need to do the digital solicitation); already receive a social benefit; have a formal employment relationship; family income above the criterion or earnings taxable above the limits defined in the law; there are already two beneficiaries of IEB in the family.

Some cases appear to be "inconclusive". In these cases, the applicant received any of the following responses:

i) you marked that you were head of the family, but did not inform any member of your family; ii) you do not have information on your sex in the federal government databases; iii) you informed someone in your family with information incorrect a ID and date of birth; iv) there was an incompatibility on data that you and other person in your family informed; and v) you have informed someone in your family who has a death certificate in some basis of the federal government. (BARTHOLO et al., 2020, at 12).

These reasons match the ones explored in our questionnaire. As highlighted here, in most cases, a lawsuit seemed to be the easiest way to challenge the grounds for dismissal or inconclusive request. Of the 50 cases we examined, 46% were ruled in favour of the plaintiff while 24% did not proceed further because of various reasons, e.g., withdrawn, resolved outside the court, etc. In the 46% of the cases, the administrative decision was wrong which points to the need to facilitate better processing of applications administratively, without resorting to the Judiciary. In particular, more accurate information on the composition of family members and on previous employment relationships, which have already ended, could be recorded.

Around 42% of the plaintiffs were women. But we have no data on the number of women who have applied, received, rejected or accepted upon appeal. As the EIB focuses on the poor and extreme poor, it privileges women and black people – the two groups most affected by the pandemic. The correlation between the sex and having a family registered in CadÚnico was significant: women were 15% more likely than men to be in a poor family. More data are needed for us to draw conclusions if women are effectively being able to access the EIB and what are the specific obstacles they face.

Concerning family relations (questions 7-10), the EIB was restricted up to 2 beneficiaries per family. In case the beneficiary is a female single parent, the EIB is doubled. From May 2020 onwards, mothers younger than 18 years old were included in the EIB.

Conflicts related to another type of assistance or unemployment insurance being already received could be previously resolved by better cross-checking of data and the possibility of administratively altering information by the applicant. The same can be argued with regard to the change in the job situation of the applicant, who, for example, has lost a job or its functional linkage to the public service.

Chart 3

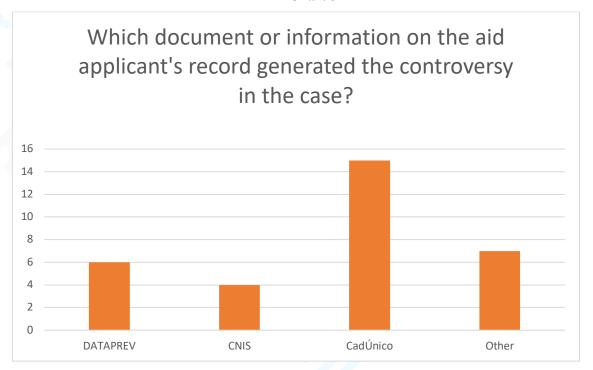


Chart 3 indicates that the disagreement over eligibility, most of the time, resulted from conflicting information on CadÚnico, CNIS (the National Register of Social Information - *Cadastro Nacional de Informações Sociais*) and on DATAPREV. On 58% of the decisions, the court placed more confidence on information supplied by the applicant than on the information available through CadÚnico. Therefore, our conclusion is that the public databases on social information need to be more accurate in order to respond to emergency situations and the development of social benefits that can reach everyone. There is a clear need to make it easier for individuals to correct the information in these public databases. It is grossly unfair to use incorrect or outdated information on public databases to deny public services to the needy poor. Further, it adds insult to injury when going to court becomes the only way to seek redress.

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