



THE JUSTICE GAP AND POVERTY: LEARNING FROM HOUSEHOLD SURVEYS IN JORDAN AND COLOMBIA

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Introduction: Background: Poverty and the justice sector intersect in several ways. The poor, like other citizens, rely on justice sector services to resolve personal disputes and hold government and private sector entities accountable for weak or non-delivery of services. The justice sector can also play role in terms of poverty status, namely how its services affect an individual's falling into, or escaping from, poverty. Understanding the justice gap for individuals in poverty can help governments target justice sector services more accurately. Doing such can result not only in enhanced delivery of services, but also create links with anti-poverty programs.

The elusiveness of the justice gap in relation to poverty remains in most countries is primarily due to lack of comprehensive data on how the poor interact with the justice sector. Few middle or low income countries systematically collect and analyze data necessary to assess interactions. Data may be collected for civil, criminal or family law cases, but not all three. And categories of data are not always harmonized across service providers.

Even where more comprehensive data is available, it is rarely correlated with income or expenditure levels of service beneficiaries, making comparisons with the poor and general populations impossible.

Or the data may not be available to the general public.



A number of different data sources can be useful in assessing gaps, including: caseload data from legal services providers; surveys of court and legal aid users; household surveys; surveys of service providers; and focus group discussions with leaders and members of poor communities. Household surveys perhaps provide the most comprehensive data, but surveys covering legal needs and interaction with justice sector institutions are still quite rare, with most being conducted in upper income countries. Surveys of service providers and beneficiaries, and focus groups with poor communities, are useful in determining needs and priorities but often lack the ability to make comparisons with the general population.

The Surveys: Two household surveys conducted somewhat recently household in Jordan and Colombia shed some light on the justice gap and poverty in upper middle income countries, and will help add to the literature on justice sector needs for the poor. In 2011, the Justice Center for Legal Aid and the Departments of Statistics conducted the Statistical Survey on the Volume of Demand of Legal Aid Services (Legal Aid Survey), a survey

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involving a sample of 10,000 households throughout Jordan, including both urban and rural settings. In 2012, the Ministry of Justice and Rights in Colombia conducted the Encuesta Nacional de Necesidades Jurídicas Insatisfechas² (ENNJI) to help determine the extent of unmet justice sector needs. The survey was conducted only in urban areas of Colombia³, and data was disaggregated to compare the needs of the general population, those in extreme poverty and those with disabilities.

Key Findings: *The poor are more likely to experience legal problems.* In Jordan, families with expenditure levels below 500 JD per month accounted for 69% of those reporting legal problems, with families in the lowest expenditure quartile (< JD 250 per month) four times as likely as those in the highest category (over JD 1000 per month) to report a legal problem (24% and 6%, respectively). However, those in the expenditure quartile (JD 250-499) were most likely to report legal problems. This category represents those above the poverty line, but who are vulnerable to poverty and often swing above and below the poverty line throughout the year. In Colombia, the extreme poor are considerably more likely to report having a dispute than the general population - 66% versus 43%, respectively. Those with incomes of less than \$700 per month encountered disputes considerably more frequently than those earning over \$700 per month.

Figure 1- Reported legal disputes, by poverty and monthly income levels (Source: ENNJI)

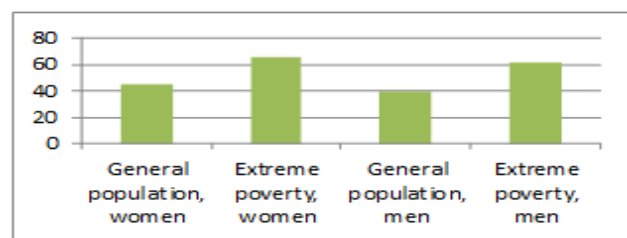


² Available at <http://www.encuestaminjusticia.co/>

³ The survey was administered in the following cities: Bogotá, Medellín, Cali, Barranquilla, Bucaramanga, Cartagena, Pasto, Montería, Tunja, Neiva, Pereira, Villavicencio, Florencia y Quibdó.

Poverty is a stronger predictor of legal problems than gender. In Colombia, both extremely poor women and men were more likely to report legal problems than their counterparts in the general population, with extremely poor men more likely to report legal problems than women in the general population (62% versus 45%, respectively). (Figure 2) Poor women were the most likely to report legal problems (66%). In Jordan the story is somewhat different. Of those reporting legal problems, 75% were men and only 25% women. This may be partly explained by women’s weaker agency and lower social and economic participation in Jordan, which limits the type of interactions that could lead to legal problems. Social norms may also pressure women against registering complaints. However, those in the lower expenditure categories – under JD 250 per month, which corresponds roughly with poverty levels, and between JD 250-499 per month, which includes those who suffer chronic poverty – account for more than two-thirds of those reporting problems. This suggests poverty is also a stronger predictor of legal problems.

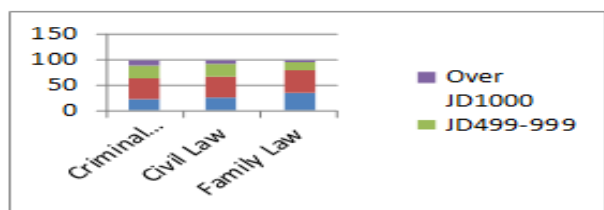
Figure 2 - Involvement in disputes, gender and extreme poverty, Colombia (Source: ENNJI)



The poor are more likely to face certain types of legal problems that reflect their vulnerabilities. Poorer persons in Jordan are most likely to be involved in problems related to family law, and less likely to report criminal law problems. Family law covers issues such as marriage/divorce, child support and custody, alimony, dowries and inheritance. Family law is also the category with the greatest variation between the two higher and two lower expenditure categories, representing the largest gap between richer and poorer respondents. (Figure 3) Within the category of family law, the poor are more likely

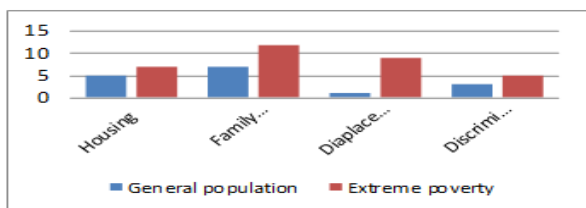
to face legal problems related to alimony and inheritance. With civil law the primary gap is related to labor law violations, such as wrongful termination. Problems related to domestic violence are more common with the poor, but reported problems are low and likely under-reported. The extreme poor in Colombia are more likely to be in disputes on housing, family law, displacement /disappearance and discrimination. (Figure 4) The largest gap between the general population and the extreme poor involves displacement problems caused by the armed conflict which has particularly impacted the poor. Higher incidence of discrimination is at least partly due to the over-representation of minorities, such as indigenous persons and Afro-Colombians, in poverty.⁴

Figure 3 - Frequency of case type by expenditure category, Jordan (Source: Legal Aid Survey).



The poor are generally less likely to use state and non-state dispute resolution bodies. In Colombia, the majority of persons facing legal problems did nothing about them. The extreme poor were less likely than the general population to access state or non-state institutions (24% versus 32%)

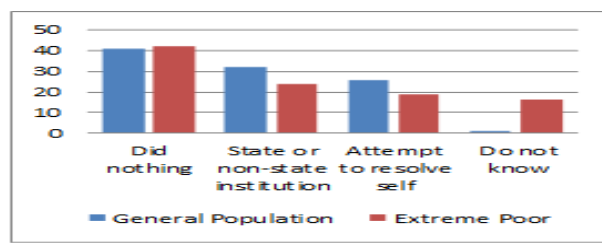
Figure 4- Types of disputes, general population and extreme poor, Colombia (Source: ENNJI)



⁴ Indigenous persons account for 0.4% of the general population but 1.3% of the extreme poor, while Afro-Colombians account for 4% of the general population and 7% of those in poverty. Persons of mixed African and indigenous ancestry account for 1% of the general population and roughly 4% of those in extreme poverty.

and less likely to attempt to resolve disputes themselves (19% versus 26%, respectively). (Figure 5) The extreme poor were less likely to take any type of action to resolve problems regardless of its perceived impact, and considerably more likely to have no knowledge of the status of their legal problems. These findings are relatively consistent with global trends, with the poor less likely to take action due primarily to a combination of limited financial resources to access courts and lawyers, lack of awareness, and expectations that taking action will not benefit them. The majorities of both the extreme poor and general population accessed administrative over judicial bodies within the state sector, but the extreme poor were more likely than the general population to use judicial bodies.

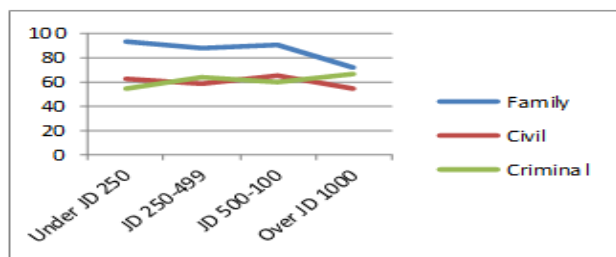
Figure 5 - Actions taken to resolve disputes (Source: ENNJI)



Jordanians, on the other hand, were much more likely to take action, with 66% of those in the general population with legal problems bringing them to either courts or the public prosecution. Accessing a court was most likely for family law problems (90%), and less likely for civil and criminal cases (61%). There are differences in whether poorer and wealthier respondents accessed courts. (Figure 6) Respondents from all expenditure categories were most likely to go to court for family law problems. This is not surprising, since many problems related to family law, such as marriage, divorce, child custody and inheritance, can be resolved only through courts. More interesting is that the survey suggests that the poor are more likely than others to access family courts. One possible explanation is the poor are relatively more dependent on family-related financial assets, including alimony, child support, dowries and inheritance, have on their

lives. Family courts do have lower fees than civil courts and do not require that parties be represented by a lawyer, thus costs are lower.

Figure 6 - Frequency by which problems brought to courts or public prosecution, Jordan (Source: Legal Aid Survey)



The poor have less access to lawyers, especially private ones. Lawyers can be an effective tool in understanding legal rights and navigating dispute resolution mechanisms. Issues of fairness can arise in particular when one party is represented by a lawyer but the other, usually a person with less financial means, is not. Of those who went to court, the poor were considerably more likely to do so without the assistance of a lawyer. Those in the lowest expenditure quartile were twice as likely as those in the next lowest quartile to lack legal (28% versus 14%, respectively), and almost five times as likely to be unrepresented that those in the highest expenditure quartile (6%). This trend extends to Colombia where monthly income is a strong predictor of use of lawyers, with 9% of those earning less than \$700 per month accessing lawyers for legal problems in general versus 18% of those earning over \$700 per month. Extremely poor Colombians were less likely to have access to a private lawyer (45% versus 89% for the general population) and more likely to access one through a legal aid assistance scheme from a state entity, such as legal clinic or the Defensoria del Pueblo. Roughly one-third (34%) of the extreme poor felt the assistance of a lawyer provided no benefit in their case, versus only 13% of the general population. This likely reflects the reduced resources available to publicly-provided lawyers relative to private lawyers.

Conclusion: Analysis of the data from these household surveys will help build an evidentiary basis for addressing the unique needs of the poor within the justice sector. The findings are broadly consistent with the primary factors determining the justice gap in relation to the poor, namely that the poor are more likely to experience legal problems, these problems are often directly tied to vulnerabilities linked with poverty, and the poor have less access to assistance through courts and lawyers. As such, the findings not only inform the global debate on how to best address the justice and poverty gap, but also provide a tool for justice sector professionals and civil society organizations to improve targeting of services to benefit the poor.

There are a number of additional areas where data should be developed to understand the intersection of the justice sector and poverty. These include: the extent to which the poor are affected by multiple, related disputes caused by a legal problem; whether the poor suffer from biased delivery of services by public officials and private service providers; understanding how poor people resolve disputes; and assessing to what extent justiciable legal problems can force persons into poverty if left unaddressed, or lift them from poverty if resolved. This data would also answer some of the questions on how the justice sector can be integrated in poverty alleviation measures.

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