



The effectiveness of access to justice in Brazil

A efetividade do acesso à justiça no Brasil

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ABSTRACT

The present work seeks to present some of the elements related to the origin of the concept of access to justice in the Brazilian legal system, to discuss at what stage of effectiveness this right is available to citizens, as well as to outline an analysis of some of the reasons that are indicated in the literature as responsible for the ineffectiveness of this guarantee. This paper ends by presenting some novelties and improvements in the judicial framework and other areas to facilitate access to justice by citizens. The present research was carried out through a qualitative and descriptive approach, using bibliographic research in books, articles and legal journals.

Keywords: Access, Effectiveness, Justice.

1 INTRODUCTION

A few centuries ago, conflicts were resolved when the parties were submitted to a precarious kind of arbitration, and a third person, who had no interest in that matter, was called to act as an arbitrator. According to Wambier, this "The stage of civilization was, without a doubt, the embryo of the system of dispensing justice now adopted in the civilized world."¹

With the passage of time, Law emerged, and the Three Powers emerged thanks to the work "Spirit of the Laws" by the political philosopher Montesquieu. With this, the science of Law has taken upon itself the obligation to apply the laws, in order to protect and maintain social order, development and the common good.

¹WAMBIER, Luiz Rodrigues. Advanced Course in Civil Procedure, Volume 1: General Theory of the Process of Knowledge. 9. Rev. Ed., current. & ampl. São Paulo: Editora Revista dos Tribunais, 2007, p. 38



As the State was the holder of the regulation of social relations, it was the only one that could get involved in litigation to resolve them, and from then on self-protection was prohibited, that is, citizens were forbidden to resolve their issues by their own means.

As a result, the State was obliged to create mechanisms that could assist in its new task, because since it was solely responsible for resolving the conflicts of individuals, it should do so effectively. With this comes the right of access to justice.

The objective of this work is precisely to analyze whether access to justice has mechanisms within the Brazilian legal system to perform its functions effectively to meet all the demands of citizens. If the answer is no, then what would be the possible problems that would be preventing its effectiveness? Finally, some examples of advances in access to justice in Brazil will be presented.

2 THE CONSTITUTIONAL GUARANTEE

As the State became responsible for resolving conflicts involving citizens, who expressed their dissatisfaction with certain laws or sought the realization of rights contained in others, it was necessary to create jurisdiction, which had a public nature and was considered the way in which the Judiciary acted to protect the common good.

With the passage of time, the ability to seek the Judiciary to protect one's private sphere and avoid the violation of one's rights by others became the guarantee of access to justice, which generated as a consequence the right of action.

We can see that at the international level, access to justice is present in the Inter-American Convention on Human Rights:

Article 8(1) Everyone has the right to be heard, with due guarantees and within a reasonable time, by a competent, independent and impartial judge or tribunal, previously established by law, in the investigation of any criminal accusation against him/her, or for the determination of his/her rights or obligations of a civil, labor, fiscal or any other nature.²

In the Democratic States of Law, with Brazil being included in this list, the guarantee of access to justice was given a constitutional nature, which is present in the Magna Carta of 1988, in article 5, item XXXV, which has in its text the following words:

Article 5 – All are equal before the law, without distinction of any kind, and Brazilians and foreigners residing in the country are guaranteed the inviolability of the right to life, liberty, equality, security and property, in the following terms:

²IACHR. Inter-American Court of Human Rights. Available at: http://www.cidh.oas.org/basicos/portugues/c.convencao_americana.htm



XXXV – the law shall not exclude from the consideration of the Judiciary any injury or threat to a right;³

The fact that the guarantee of access to justice receives a constitutional status is significant when we talk about its degree of importance within the Brazilian legal system, because now, all other norms must be in line with it, under penalty of being considered unconstitutional, in addition, it makes it so that none of the three powers of the State can interfere, and also obliges it to create and carry out affirmative measures that seek its full and effective functioning.

By analyzing the literalness of the above-mentioned clause, we can see that the legislator had the precaution of protecting not only the injuries that have already happened to the citizen, but also the "threat" to some right that he would suffer at a later time.

Article 3 of the 2015 Code of Civil Procedure expressly guarantees access to justice, making clear once again the importance given to this right in the Brazilian legal system:

Article 3 – Threats or injury to rights shall not be excluded from judicial review, except for disputes voluntarily submitted to arbitration in accordance with the law.⁴

However, as previously stated, the constitutional status given to this guarantee obliges the State to create measures that seek to make it effective, because by claiming for itself the obligation to resolve citizens' conflicts and prohibiting them from resolving them by their own means, through self-protection, the State is obliged to provide tools that guarantee the proper functioning of its jurisdictional protection

We can see this in Wambier's text below:

In the light of contemporary values and needs, it is understood that the right to judicial review (guaranteed by the principle of the inalienability of judicial review, provided for in the Constitution) is the right to effective and effective protection.⁵

There is no doubt that the promotion of access to justice is of paramount importance, but it must be emphasized that this is only a means to an end, that is, it is an instrument that the population uses to seek the realization or protection of their rights before the State.

When a citizen seeks to defend his right in court, he expects a judicial decision favorable to his demand, one that is capable of having some impact on his daily life, that is, the population

³BRAZIL. Federal Constitution, 1988. Available in: http://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm

⁴BRAZIL. Law 13.105, of March 16, 2015. Code of Civil Procedure. Available at: http://www.planalto.gov.br/ccivil_03/_ato2015-2018/2015/lei/13105.htm

⁵WAMBIER, Luiz Rodrigues. Ibid. p. 321.



expects that judicial decisions are capable of modifying their lives, and consequently, their social relations.

This fact is demonstrated in Wambier's words:

It is not just a matter of ensuring access to the Judiciary. The procedural mechanisms (i.e., the procedures, the means of instruction, the effectiveness of the decisions, the executive means) must be able to provide fair, timely and useful decisions to the parties under jurisdiction – concretely ensuring the legal interests due to the one who is right.⁶

With the passage of time and with the effect of globalization, the population is increasingly informed of its rights, so the merely declaratory sentences of the same no longer please it, it is necessary that the right recognized in the judicial sphere generates effects and changes in the lives of those who seek it.

As written by Marinoni e Mitidiero:

It became clear that today the effective realization of the substantive right is much more important than its simple declaration by the judgment on the merits. Hence, the need to understand the action as a fundamental right to adequate and effective judicial protection, as a right to an adequate action, and no longer as a simple right to a trial and to a judgment on the merits.⁷

What can be seen is that the State has the obligation to provide the population with an apparatus of mechanisms and instruments that can serve as a framework for guaranteeing their rights.

Cavalcante states about this:

The simple declaration of a right in the legal texts is not enough, for it to be realized, the citizen must have the certainty and security that its enjoyment will not be denied, and that there will be at his disposal a channel capable of compelling and submitting to the legal order all those who unjustifiably try to prevent him from exercising his rights and guarantees. Such a channel is embodied in access to justice.⁸

As previously stated, ensuring proper access to justice goes far beyond simply ensuring that the individual has access to the Judiciary, what is sought is its effectiveness, that is, when a norm is created, it must be analyzed with the eyes of effectiveness and access to justice.

In Cavalcante's words:

⁶WAMBIER, Luiz Rodrigues. *Ibid.* p. 70.

⁷MARINONI, Luiz Guilherme; MITIDIERO, Daniel. Code of Civil Procedure commented article by article. São Paulo: Editora Revista dos Tribunais, 2008, p. 95

⁸CAVALCANTE, Tatiana Maria Náufel. Citizenship and Access to Justice. Available at: <http://www.egov.ufsc.br/portal/sites/default/files/anexos/32195-38277-1-PB.pdf>. p.15.



Access to a fair legal order is intrinsically linked to the issue of citizenship, especially because the right of access to justice is a right that guarantees other rights and a way of ensuring the effectiveness of citizenship rights.⁹

When analyzed in the field of effectiveness, we can see that access to justice will be a strong tool in the fight against social inequality, as we can see in the words of Rodrigues:

Access to justice can therefore be seen as the fundamental requirement – the most basic of human rights – of a modern and egalitarian legal system that seeks to guarantee, and not merely proclaim, the rights of all.¹⁰

From the axiological point of view of justice, access to justice does not mean mere access to the organs of the Judiciary, but rather a whole complex of rights and values that are fundamental to the maintenance of the fundamental rights of all individuals.

Kazuo Watanabe, sums up the above in his words:

The problem of access to justice cannot be studied within the narrow limits of existing judicial bodies. It is not just a matter of enabling access to justice as a state institution, but of enabling access to a fair legal order.¹¹

Unfortunately, even with the indisputable degree of importance of this right, there are still some certain obstacles that prevent it from functioning fully.

3 PROBLEMS AND CHALLENGES

With the passage of time, new facts emerge and with it a new legislative apparatus is needed to regulate these new social relations. As expressed by Segundo Cappelletti and Garth (1998),¹² using the example of the preamble of the French Constitution of 1946, which had in its body a new list of rights that were only present in the most modern constitutions, such as the right to health, education, material security and work, that is, the emergence of these rights demanded from the State a positive posture regarding their effectiveness.

Capelletti and Garth compliant:

The expression "access to justice" is admittedly difficult to define, but it serves to determine two basic purposes of the legal system – the system by which people can assert their rights and/or resolve their disputes under the auspices of the State, which, first, must

⁹Horse. Ditto.

¹⁰RODRIGUES, Horácio Wanderlei. Access to justice in the Contemporary State: conception and main obstacles. In: SALES, Lília Maia de Moraes; LIMA, Martonio Mont'Alveme Barreto (Org). Constitution, Democracy, Judiciary and Development – Studies in honor of José de Albuquerque Rocha. Florianópolis: Conceito, 2008. p. 249.

¹¹WATANABE, Kazuo. Access to Justice and Modern Society, in Participation and Process, São Paulo, Ed. RT, 1988.

¹²CAPELLETTI, Mauro. GARTH, Bryant. Access to Justice. 1st edition, Porto Alegre: Sérgio Antônio Fabris, 1998. p. 11.



be truly accessible to all; Second, it must produce results that are individually and socially just.¹³

Unfortunately, the creation of norms recognizing these new rights does not directly mean their enforcement, and this fact generates as a consequence a greater distance between reality and legality. As expressed by Sadek (2009, p.175), "the non-coincidence between the real and legal worlds warns of the need to build mechanisms that guarantee their approximation".¹⁴

It is worth emphasizing all the importance of creating the norms that typify the new rights, because it is necessary to understand that Law is a science of should-be, so it will always be in search of becoming something perfect, complete, and for some doctrinaires, even utopian.

In Democratic States of Law, norms that do not yet have great influence in the practical field, that is, that lack effectiveness, both because they are newly created and because they do not have instruments to make them effective, must evolve so that they can meet the demands of the less favored classes, thus being able to protect their individual and social rights.

In Cavalcante's words:

Access to justice, therefore, goes beyond the possibility that the people have to enjoy the services of the Judiciary, "means: above all, a commitment to overcome the obstacles that prevent or hinder a large portion of the population from having access to a just legal order."¹⁵

However, when the rights prescribed in the norms are not complied with or when there are no means to enforce them, social instability occurs as a consequence, which requires the rapid creation of mechanisms capable of concretizing such norms, finally bringing the substantive law to the pragmatic world.

It is of paramount importance that the guarantee of access to justice be treated as a true guide of the Contemporary State, making its norms, together with procedural law, seek to overcome the inequalities that prevent a large part of the population from having effective access.

As Oliveira puts it:

Liberalism and capitalism brought the idea that time is money, so that the productivity of an activity is the faster it is realized. It turns out that judicial protection, organized in a bureaucratic and formalistic structure, is not able to respond with the speed desired by society.¹⁶

¹³CAPELLETTI; GARTH. Ibidem. p. 9.

¹⁴SADEK, MTA. Access to justice: a gateway to social inclusion. In LIVIANU, R., coord. Justice, citizenship and democracy [online]. Rio de Janeiro: Edelstein Center for Social Research, 2009. p. 175.

¹⁵CAVALCANTE. Ibid. p. 15.

¹⁶OLIVEIRA, Nirlene da Consolação. Legal language and access to justice. 2016. Available at: http://revistapensar.com.br/direito/pasta_upload/artigos/a121.pdf. p. 10.



Studies show that access to justice has evolved slowly, because as new rights emerge, new mechanisms are discussed and created to enforce existing rights. However, in view of the unquestionable importance of the right to access to justice already justified here, some problems are present at various levels, which will be partially presented below.

3.1. EXPENSE

The first problem perceptible in the advancement of access to justice is not in the legal field, but is the most serious of all, as it is related to several factors, which is the high cost of resolving claims in court, because statistically, the population with low financial condition occupies a larger share in many countries.

We can see in the words of Rodrigues that this problem is aggravated by "the fact that the constitutional principle of equality is applied directly between the parties in its merely formal reading, not taking into account the existing social, economic and cultural differences".¹⁷ It can be extracted from these statements that the initial concern of the legislator was with formal equality, and not with effective equality, which is the material one, which will bring justice to the practical field in the lives of the individuals who seek it.

Capelletti and Garth portray this problem clearly in the excerpt below:

People or organizations that have considerable financial resources to be utilized have obvious advantages when proposing or defending claims. First of all, they can pay to litigate. Each of these capabilities, in the hands of a single party, can be a powerful weapon; The threat of litigation becomes both plausible and effective. Similarly, one party may be able to spend more than the other and, as a result, present its arguments more efficiently.¹⁸

Maintaining a lawsuit can demand high financial values, a problem that is aggravated in the low-income population, because in a few lines, we can list some expenses such as: amounts of legal costs, preparation of evidence, expenses with witnesses (such as accommodation, if they live in other cities) and also with expenses that correspond to another problem that will be better detailed later in this work.

Capelletti and Garth also bring an aggravating factor to this problem that occurs in some countries:

The cost of the process is also further aggravated in systems that oblige the loser to bear the burden of loss. "In this case, unless the potential litigant is certain to win — which is

¹⁷RODRIGUES. Ibid. p. 251.

¹⁸CAPELLETTI; GARTH. Ibidem. p. 21.



extremely rare, given the normal uncertainties of the process — he or she must face an even greater risk than in the United States.¹⁹

The statement that guarantees access to justice in the constitutional body benefits the portion of the population that lacks greater financial resources, but in practice, this guarantee does not work in its entirety, because in many cases, in addition to the expenses mentioned above, there is the need to hire the assistance of a lawyer, which generates another problem.

3.2. LEGAL AID

The second major problem that the population faces in the search for effective access to justice is the need for the assistance of a lawyer in many cases. The constitutional body itself brings article 133, which deals with the obligation of the assistance of the lawyer:

Art. 133. The lawyer is indispensable to the administration of justice, being inviolable by his acts and manifestations in the exercise of his profession, within the limits of the law.²⁰

We can mention some exceptions to this obligation, such as: alimony actions, *habeas corpus* and actions in the Special Court (up to 20 minimum wages).

But it is necessary to point out that in many of these cases in which the individual acts alone in defense of his rights, he will be in a severe position of disadvantage in the face of all the bureaucracy and technicality of the judicial bodies. Not to mention that many lay people are unaware of the literalness of the laws, and as a result, they fail to know many of their rights.

But analyzing the mandatory use of a lawyer in certain judicial procedures, we realize that two points should be highlighted: the first deals with the financial impossibility that a large portion of the population suffers, and the second is related to the level of technical quality of these professionals available in the current market and who will be hired to play a crucial role in the lives of many people.

Even the posture that the citizen must have within some bodies of the judiciary distances him and intimidates him from carrying out his defense without the assistance of a professional, as we can see in the words of Oliveira:

As in the case of Baroque architecture, which was designed to impress the faithful by making them insignificant figures in the face of the power of the Catholic Church, the sumptuousness of the legal spaces, added to the complex internal organization of such bodies, as well as the intimidating character that, in general, the courtrooms and their respective judges reveal are psychological factors that prevent access to the Judiciary.²¹

¹⁹CAPPELLETTI; GARTH. Ibidem. p. 17.

²⁰BRAZIL. Federal Constitution of 1988.

²¹OLIVEIRA. Ibid. p. 10.



The clothing required to perform some acts, such as the mere entry into forums, conditions the citizen to prefer to spend on hiring a lawyer than to lose his right claimed, as can be seen in the excerpt below:

The requirement of certain types of clothing to enter forums and courts ends up confirming to the common citizen that the space where the Justice lives will never be the place where he will claim his rights with the necessary ease.²²

However, low-income citizens are not completely abandoned by the state, as we can see in Curi's words:

Article 133 of the Federal Constitution provides that "the lawyer is indispensable to the administration of justice, being inviolable by his acts and manifestations in the exercise of his profession, within the limits of the law". The caput of article 134 of the same provision defines the Public Defender's Office as the "institution essential to the jurisdictional function of the State, incumbent upon it to provide legal guidance and defense, at all levels, of those in need, in accordance with article 5, LXXIV."²³

In other words, the Magna Carta itself brings a positive point for individuals who are unable to afford the expenses of the process, which is the assistance provided by public defenders' offices, however, in contemporary Brazil, such institutions do not cover all the districts of the territory, thus leaving many citizens without free assistance.

Until then, the first point of the obligation to hire a lawyer was discussed, which was related to the financial capacity of the citizen, but as for the second point, I revolve around the quality of these professionals in the market, because for the correct exercise of this profession it is necessary to constantly update and learn about the various laws that arise over time.

In other words, it is concluded that a legal practitioner who has gaps in his technical knowledge of the area will hinder or even make impossible the access to justice of people who seek him in search of the defense of his rights.

3.3 JUDICIAL DELAYS

Even if all the problems previously presented here were solved, it would be useless if their solutions took years and years to cause any impact on the lives of citizens, and this is precisely what item LXXVIII of article 5 of the Federal Constitution seeks to protect:

²²OLIVE TREE. Ditto.

²³CURI, Juliana Araújo Simão. The problem of access to justice in Brazil. Legal Scope. 2011. Available at: <https://ambitojuridico.com.br/cadernos/direito-constitucional/a-problematICA-do-acesso-a-justica-no-brasil/>



Article 5 – All are equal before the law, without distinction of any kind, and Brazilians and foreigners residing in the country are guaranteed the inviolability of the right to life, liberty, equality, security and property, in the following terms:
LXXVIII – To all, in the judicial and administrative spheres, the reasonable duration of the process and the means to ensure the speed of its processing are assured.²⁴

However, as much as the reasonable duration of the process is now considered a fundamental right, and with this it can be claimed by every citizen, it has not fully fulfilled its purpose.

The relationship between access to justice and the reasonable duration of the process is most evident in the words of Rodrigues:

It is incumbent upon the legal system to contain mechanisms to meet, in the most complete and efficient way, the request of those who seek to exercise their right to judicial provision. To this end, it is necessary that the process has mechanisms capable of carrying out the due jurisdictional provision, that is, ensuring the jurisdictional party effectively its right, within a reasonable period of time. In addition to being effective, it is imperative that the decision is also timely.²⁵

When a trial does not take place or when it takes much longer than necessary, the existence of a deficiency in the system can be perceived, as many rights cannot wait so long to be enforced, causing many individuals to give up their rights as a result of judicial delay.

According to Cappelletti and Garth:

The effects of this delay, especially when inflation rates are considered, can be devastating. It increases costs for the parties and pressures the economically weak to abandon their causes, or to accept settlements for much lower amounts than they would otherwise be entitled to. The European Convention for the Protection of Human Rights and Fundamental Freedoms explicitly recognizes, in Article 6, paragraph 1, that justice that fails to perform its functions within "a reasonable time" is, for many people, an inaccessible justice.²⁶

These were some of the main problems listed in the doctrine on access to justice, it is important to emphasize that the solution of them will not lead to the complete and full functioning of access to justice, but it will certainly be able to speed up and safeguard many violated rights of citizens.

Thus, it can be seen that there are several obstacles to be overcome in this journey of effective access to justice, but Brazil has already been taking some steps on this path, some of which we will demonstrate below.

²⁴BRAZIL. Federal Constitution of 1988.

²⁵RODRIGUES. Ibid. p. 262.

²⁶CAPPELLETTI; GARTH. Ibidem. p. 20.



4 PROGRESS AND AFFIRMATIVE ACTION

Since before the current Federal Constitution of 1988, Brazil has already taken simple steps towards effective access to justice. We can cite two great examples before the 1988 constitution, as demonstrated by Araújo:

In 1981, the tutelage in the field of collective defense was born, with the enactment of Law No. 6,938, which regulated the National Environmental Policy. In 1984, with Law No. 7,244, there was the emergence of the Small Claims Court, which undoubtedly facilitated access to justice.²⁷

With the advent of the current constitution, a large list of fundamental rights emerged and among them access to justice gained its express place in the constitutional body, making it now the obligation of the State to enforce it.

In the passage of time, new instruments emerged that could facilitate this access, such as Complementary Law No. 80/94, which established the Public Defender's Office, and in its very first article we can find the following words:

Article 1 - The Public Defender's Office is a permanent institution, essential to the jurisdictional function of the State, and it is incumbent upon it, as an expression and instrument of the democratic regime, fundamentally, to provide legal guidance, the promotion of human rights and the defense, at all levels, judicial and extrajudicial, of individual and collective rights, in an integral and free manner, to the needy, thus considered in the form of item LXXIV of article 5 of the Federal Constitution.²⁸

Another great step came with Law No. 9,099/95, which instituted the Special Civil Courts, whose main characteristics are the words of its article 2, which are: orality, simplicity, informality, procedural economy and speed, seeking, whenever possible, conciliation or settlement²⁹.

But some more revolutionary and modern tools have also emerged outside the legislative environment, such as the Administrative Control Procedure (PCA) No. 0003251-94.2016.2.00.0000, which was unanimously approved by the National Council of Justice (CNJ), which allows the use of the Whatsapp messaging application by the courts to send judicial subpoenas.

²⁷ARAÚJO, Thicianna da Costa Porto. Access to Justice and Effectiveness of the Process. Revista Tema. v.8. n. 12. 2009. Available at: <http://revistatema.facisa.edu.br/index.php/revistatema/article/view/17>. p. 3.

²⁸BRAZIL. Complementary Law No. 80/94, of January 12, 1994. He established the Public Defender's Offices. Available at: http://www.planalto.gov.br/ccivil_03/leis/lcp/Lcp80.htm

²⁹BRAZIL. Law No. 9,099/95, of September 26, 1995. It instituted the Special Civil and Criminal Courts and makes other provisions. Available at: http://www.planalto.gov.br/ccivil_03/leis/l9099.htm



And the benefits are already accounted for by the users of this change, as we can see in the words of one of the user magistrates:

In addition to cost reduction, there is also a reduction in the stress of servers who do not need to listen to complaints from dissatisfied parties, unlike what happens when communication acts are practiced over the phone.³⁰

Another major advance was the creation of the Judicial Centers for Conflict Resolution and Citizenship (Cejuscs), which have carried out a huge number of judgments ratifying agreements, which generates a great relief from the judicial machine. To demonstrate the benefits of these centers, it is enough to present the data for the year 2018, in which "the Judiciary issued approximately 4.4 million judgments ratifying agreements between the parties involved in lawsuits"³¹.

Access to justice in Brazil is not yet a fundamental right of the citizen in full effectiveness, but the country has been moving towards addressing such shortcomings, and it is expected that over the years, more mechanisms and instruments will be created or improved to guarantee this very important right to citizens.

5 FINAL THOUGHTS

Currently, in a relative way, Brazil has complied with the guarantee of access to justice. People who go to the judiciary in order to solve their problems are able to get some response from the State, so in general terms, we can simplify access as acceptable.

However, just guaranteeing access will not be enough for a long time, because as new rights emerge, new mechanisms and instruments will also be available.

It is necessary to emphasize that the problems analyzed above must be fought vehemently, otherwise they may expand to uncontrollable levels.

It is increasingly necessary to create alternative measures to the judiciary, extrajudicial solutions, to relieve the system more and more, because as the population increase is constant, the increase in litigation will also be.

Faced with problems related to the costs and paid assistance of a lawyer, Brazil must invest more in its Public Defender's Offices, because as demonstrated, they are constitutionally responsible for the legal assistance of those in need. It should create new public defender's offices

³⁰CNJ News Agency. Judges use WhatsApp to assist procedural acts in 12 states. 2018. <https://www.cnj.jus.br/juizes-usam-whatsapp-para-auxiliar-atos-processuais-em-11-estados-2/>.

³¹CNJ News Agency. The Judiciary ratified 4.4 million agreements in 2018. 2019. Available at: <https://www.cnj.jus.br/judiciario-homologou-44-milhoes-de-acordos-em-2018/>.



in order to cover a larger portion of the country, taking into account that the municipalities farthest from the large capitals suffer more from the absence of such bodies.

In conclusion, in order to increase the effectiveness of access to justice in Brazil, solutions must be at all levels, both economic, structural and even educational, because a well-informed citizen can often avoid certain problems that would end up in a lawsuit.



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