

# Leave policies and social inequality in Brazil

Leave policies  
and social  
inequality

Bila Sorj and Alexandre Fraga

*Universidade Federal do Rio de Janeiro, Rio de Janeiro, Brazil*

515

## Abstract

**Purpose** – The purpose of this paper is to examine the relationship between leave policies and social inequalities. It seeks to analyze the historical course of maternity and paternity leave legislation in Brazil, and also provides quantitative evidence that access to leave is impacted by social stratification, revealing different inequalities.

**Design/methodology/approach** – To investigate access to leave policies, this study uses data from the Pesquisa Nacional por Amostra de Domicílios Contínua Anual de 2017 (Annual National Continuous Household Sampling Survey of 2017), conducted by IBGE/Brazil.

**Findings** – The results point out the existence of inequalities in the conceptions of leave policies in Brazil, and lead to quantitative confirmation that access to leave is stratified and permeated by inequalities of gender, class, race and age.

**Social implications** – By pointing out the social inequalities resulting from the contributory scheme of maternity and paternity leave, the results of this paper may generate debate on the transformation of leave into a universal right of citizens and impact public policy agenda in the future.

**Originality/value** – This is the first Brazilian study to analyze the relationship between leave policy and social inequality through quantitative data, showing the existence of social stratification of gender, class, race and age concerning the employed population's access to maternity and paternity leave.

**Keywords** Brazil, Rights, Legislation, Social inequalities, Maternity leave, Paternity leave

**Paper type** Research paper

Received 19 July 2019  
Revised 28 November 2019  
Accepted 2 December 2019

## Introduction

Comparison among dozens of countries around the world regarding maternity, paternity and parental leave policies (Blum *et al.*, 2018) reveals a wide variety of types, perspectives and practices. This multiplicity of possible paths can be explained by observing particular social, historical, cultural and political contexts, as well as the welfare state model adopted, the societal arrangement between the productive and reproductive spheres, and gender norms. All these dimensions have major impacts on the specific trajectory of leave legislation, design and implementation of leave policies in any given country, as well as their resulting inequalities.

This paper specifically examines the relationship between leave policies and social inequalities in Brazil. Studying this relationship in Latin American countries is a relevant topic since their labor markets are marked largely by contingents of workers in informal activities. Because these activities are not regulated by labor laws, many workers do not have access to the benefits of leaves. Identifying the socioeconomic profile of the excluded allows us to understand the limits of these policies. However, in recent decades, processes of productive restructuring, rising precarious jobs, and diversification of contract forms have also affected the labor markets of the Northern Global countries, replacing the question of social inequalities at the center of the debate about maternity, paternity and parental leave policies (Dobrotić and Blum, 2019; Moss *et al.*, 2019). Studying leave policies taking into account the multiple social inequalities of gender, ethnicity, and migration status becomes an increasingly global issue.

The first objective of this paper is to analyze the historical course of legislation governing maternity and paternity leave in Brazil in order to identify the most significant political and legal milestones over the years, as well as the conceptions that underpinned them. The second objective is to show that access to leave policies is impacted by social stratification. Since the take up of leaves are conditional upon social security contribution, and, to a large extent, formal worker status, the leaves laws always excluded a large part of



the employed population. To this second objective, quantitative data from the Pesquisa Nacional por Amostra de Domicílios Contínua Anual de 2017 (Annual National Continuous Household Sampling Survey) are used to verify if there are gender, class, race and age inequalities in obtaining parental leave.

### **The State, modernity and the emergence of maternity leave**

The trajectory, implementation, and expansion of maternity and paternity leave in Brazil has had at least three important political and legal milestones: the 1943 Consolidation of the Labor Laws, the 1988 Constitution, and the 2008 Programa Empresa Cidadã (Citizen Company Program). This evolutionary path was initially impacted by a significant external event: Convention No. 3 of the International Labor Organization. Since its foundation in 1919, this organization has advocated for the protection of the health of working mothers and children. To this end, in 1919, Convention No. 3 established that pregnant women should not work for six weeks after childbirth, and should receive sufficient money to support themselves and the child(ren).

Under the influence of this Convention, ratified by Brazil in 1934, and the legislation already in force in some parts of the country since 1917, the right to maternity leave gained impact nationwide with the 1943 *Consolidação das Leis do Trabalho* (CLT) (Consolidation of the Labor Laws) during the Vargas regime (1930–1945). The leave granted women six weeks before and six weeks after giving birth (to be paid by the employer), totaling 84 days. Subsequently, as of 1973, this leave began to be funded by the *Previdência Social* (Social Security), at the full salary level. As for paternity leave, the CLT granted fathers the right to be absent from work for one day, without any salary deduction, in order to “register the newborn child.”

Between the years 1930–1945, the Vargas administration carried out not only a profound reorganization of the National State, which became highly interventionist, but also a radical economic change in the country, stimulating urbanization and industrialization based on import substitution. The state emphasized the importance of regulating women’s participation in the labor market, oscillating between recognition and legitimation of the new public spaces occupied by women, and regulation of a differentiated female labor status. In the latter case, the need to protect women in their maternal condition was defended. In this sense, maternity protection laws, especially those of a restrictive nature, such as the prohibition of night work and in unhealthy, dangerous and harsh conditions, were aimed at safeguarding women’s health, especially reproductive health.

At the same time, the state promulgated measures as incentives to increase the birth rate, promoting a certain family model based on formal marriage, established domestic economics in the school curriculum for girls as a compulsory subject, and idealized the maternal figure as a supporting pillar of the nation (Ostos, 2012). Although working women benefited from the implementation of the labor reforms in the 1930s and 1940s, Vargas’ political and social program favored male-dominated occupations in the industrial and service sectors. Trade unionists, seeking to assign the working class an honorable masculinity, demanded a “family wage” for male heads of households, while female workers withdrew from the relatively well-paid industrial sectors and entered the informal labor market (Caulfield and Schettini, 2017).

In this context, paid domestic work, the largest employment category for women, remained unregulated as a “peculiar” contractual relationship. In other words, the CLT excluded a few occupational groups from its norms, among them domestic servants. Over time, some rights were granted to this category, such as maternity leave guaranteed by the 1988 Constitution. However, only in 2013 were domestic workers’ labor rights equated with those of other urban workers. Thus, the construction of the modern national State was consolidated based on principles that legitimized the male role as the family provider (breadwinner), reproducing strong gender inequalities.

The Consolidation of the Labor Laws defined maternity leave as a right linked to employment, akin to other social rights that were only recognized and applied to the segments included in the formal labor market. The characteristics of this welfare state model were conceptualized as “regulated citizenship” (Santos, 1979) and “meritocratic-particularist-corporate welfare” (Aureliano and Draibe, 1989). Thus, based on the individual’s capacity to contribute, and their type of engagement in the labor market, this regime took as reference for social rights the position at the productive structure level, and not the status of citizen, which would be independent of any requirements, including those occupational.

This welfare model was so broad that it regulated many social rights. Health, for example, based on this conception, was also dependent on the existing social security system. Therefore, only a portion of the population had access to health care services, which were heavily concentrated in large urban centers. Likewise, social assistance was not a public policy, but it functioned as benevolence promoted by philanthropic entities. This model stratified society between those who had social protection and those who did not. Although it has been reformed over time, extending its coverage to groups of workers formerly excluded from the social protection system, access to maternity and paternity leave has come to depend on workers’ social security contributions. As the costs of this contribution are high relative to the income of workers in the informal economy, the exercise of this right has not achieved significant results, as will be seen below.

### **Democratization and extension of rights**

The declaration of the 1988 Constitution marked the beginning of a redemocratization process after a long period of military rule (1964–1985). Under the impetus of this change, the traditional construction of social protection through occupational categories was weakened, as was the case with access to the health system and social assistance, which have gained universality since 1988. However, maternity and paternity protection continued to be governed by labor legislation and depended on formalized worker status or the social security contributions of self-employed or unemployed workers. The new Constitution extended the scope of protection as well as the duration of leave in the formal work sector. It guaranteed employment security for pregnant employees (from the confirmation of pregnancy up to five months after giving birth), and extended the period of maternity leave from 84 to 120 days, paid in full by the National Social Security Institute (INSS).

In turn, paternity leave was extended to five days, but, unlike maternity leave, it continued to be funded by the employer, just as it had been since the 1943 CLT, when the father had only one day’s leave. The vast difference between the leave period for the mother and for the father shows that such policies preserve the same initial profile: they are dissociated by gender and centered on the maternal figure. It is no wonder that modern day Brazil is distinguished by being one of the Latin American countries that has the longest maternity leave periods and yet the shortest paternity leave.

The extension of maternity protection mirrored the significant increase in female participation in the labor market as of the 1980s. Due to a pronounced drop in fertility, below the level of population replacement (Alves, 2016), there was a marked increase in the level of female schooling (exceeding that of men), cultural changes regarding gender roles and women’s participation in the labor market (Bruschini, 2007). However, women’s involvement in the labor market has declined in recent years due to a lack of dynamism in the economy. Despite this expansion, women have continued to occupy jobs that are the lowest paid and unprotected by law. Family responsibility, attributed to women, is a crucial element in explaining the persistence of gender inequalities in the labor market. As more women are engaged in activities with reduced working hours and greater flexibility, there has been an effort to reconcile them with personal and family life (Sorj, 2004; Sorj and Fontes, 2012; Wajnman, 2016).

In Brazil, as well as in many other less socio-economically developed countries, the forms of articulation between work and family are varied. For lower socio-economic classes, solidarity networks between family members, neighbors and friends play a crucial role in mothers' availability and ability to engage in paid activities. On the other hand, for the middle and upper classes, the prevailing practice is "delegation," that is, part of domestic and care work is transferred to domestic workers (Hirata and Kergoat, 2007). Employing around six million workers in Brazil and leading, in absolute numbers, the international ranking of this occupation, domestic service is predominantly female, with a low level of formalization and remuneration. Moreover, this profile presents an overwhelming predominance of Afro-descendant women, which adds another dimension to the inequality of women's conditions in the labor market (Sorj, 2013; Fraga, 2013, 2016).

It is important to emphasize that maternity protection alone does not guarantee a more favorable articulation between work and family. In addition to the structural factors in the labor market, some of them mentioned above, the low supply of daycare (0–3 years) constitutes a major obstacle to ascension and permanence of women in better quality employment. The 1988 Constitution universalized the right to a daycare and recognized it as a right of the child, a family choice and a State duty. This institution has thus ceased to be linked only to social assistance policy and become an integral part of the national education policy.

The policy regarding daycare has not fulfilled the role of contributing to the reconciliation of work and family. Since 2005, it has been observed that the percentage of children aged 0–3 years enrolled in Infant Education experiences constant growth, but still only 25.7 percent of children were enrolled in these programs in 2015. Differences in access according to socio-economic level are remarkable: in the poorest 25 percent of the population, only 15.1 percent of the children aged up to three attended Infant Education, while the attendance in the richest quartile was 41.1 percent (Leite, 2017). There remains a high demand for such services, measured by the proportion of children aged 0–3 enrolled in daycare, or whose parents/guardians express interest in daycare or school enrollment in urban areas. Whatever the criterion adopted: income range, educational level of the household head, or occupation of those responsible for the child, the demand is over 70 percent.

Besides the shortage of daycare and the low level of coverage for low-income families, these establishments only operate part-time. Such vulnerabilities of this policy bring negative results for the permanence of mothers in the labor market. As pointed out by Machado and Pinho Neto (2016), a mother's employment is stable until the fourth month after childbirth, indicating compliance with the legislation, but it falls dramatically after this period, either because she is dismissed or because she herself decides to leave the job. However, the likelihood of leaving the company is not consistent. The probability is lower for employees with a higher educational level, indicating that this group is more protected in the formal labor market.

### **Extension of leave as a discretionary corporate act**

A new political milestone for maternity and paternity leave occurred in the Workers Party government in 2008, through a new law, No. 11.770/2008, that established the Programa Empresa Cidadã (Citizen Company Program), aimed to extend maternity leave from 120 to 180 days, and paternity from 5 to 20 days on full remuneration. The 50 percent increase in maternity leave led to debates among feminists that had already been taking place since the time of the 1988 Constituent Assembly. On the one hand, it was considered that the extension of maternity leave, on full salary, would be a fair recognition by the State of the social function of motherhood. Counter to this, other feminists argued that the systematic expansion of maternity leave, compared to the shorter duration of paternity leave, would contribute to the notion that childcare is solely a maternal responsibility, thus fueling gender inequality (Pinheiro *et al.*, 2009).

In this debate, however, it was the voices of educators, psychologists and pediatricians that gained prominence, evoking the argument that increased maternal and paternal presence enhances the well-being of children. Above all, support for the extension of paternity leave was celebrated, due to the increasing importance given to encouraging “responsible parenthood.” Mobilizing non-governmental and governmental organizations to promote social programs focused on parents, the prevailing discourse associates the low or absent father involvement with their children to the growth of youth violence (Moreira and Toneli, 2013).

Thus, a series of social programs, such as promoting shared custody, speeding up the recognition of paternity for children born out of wedlock, and reducing the number of people without recognized paternity, aims to constitute new gender norms and sensitize men to assume legal, affective and moral responsibility for their children. Paternal absence for newborn children is understood here mainly as an injustice against children. By contrast, the feminist demand for expansion of maternal and paternal leave, as well as the coverage of public services such as daycare and early childhood education, are primarily understood as policies to improve women’s living conditions, increase their economic autonomy and gender equality.

The new law introduced in 2008 implemented changes in the legal parameters of leave, creating new contours in terms of social inequalities. Participation in the Citizen Company Program is voluntary, and the company is able to deduct from its income tax the full amount paid during the leave extension as an operating expense. Therefore, the company does not bear the financial costs. Whether or not the company decides to extend the maternity leave provision, the decision to accept it or not depends entirely on the employee. Thus, only a minority of the companies participate in the program, and these are predominantly large national enterprises and multinationals.

While the entitlement to leave set forth in the 1943 Consolidation of Labor Laws and the 1988 Constitution was mandatory for all formalized labor contracts, the new law maintained its application as an obligation only in the federal public sector, and made it discretionary for private sector companies. This indicates that, in contrast to the inclusive approach of the labor legislation and the 1988 Constitution, as far as formal employees are concerned, the extended leave benefit has become a business prerogative, and the right to enjoy it the employee’s choice. In this manner, the new law began to strengthen employer authority while at the same time individualizing use of the benefit by the employee. Finally, paternity leave follows the logic of conditionalities, that is, the father has to prove he deserves it by participating in a responsible parenthood program or orientation activity, provided by online courses lasting, on average, 12 h.

Thus, besides the inequalities already contained in the previous legislation, the Citizen Company Program introduced differentiation among the formal workers in the private sector, bringing forward many of the provisions of the 2017 labor reform, which privileged the negotiated over the legislated, validating the spectrum of benefits negotiable between employees and employers. Taken together, therefore, these different laws, constituted over time, albeit with specificities, by being based on differentiations of contributory capacity, type of engagement in the labor market, and the period to be enjoyed by the father and the mother, made leave unequal right from the start.

### **Stratification of social security contributions and unequal access to leave**

Despite the legislation changes in the last 70 years, the link to status as a formalized worker or social security contributor remains an important feature for obtaining access to maternity and paternity leave. The differentiations established in these laws guide the leave policies and impact the distribution of the population into those who are protected and those who are not, generating and reproducing deep social inequalities. In this sense, the specific objective of this section is to show, through analysis of quantitative data, the existence of social stratification of the social security contribution, and the consequent access to maternity and

paternity leave, as much in relation to the type of occupation and employment link as to gender, race, income, educational level and age. For this purpose, the database used is the 2017 National Continuous Household Sampling Survey[1].

As mentioned earlier, in order to be entitled to 120-day maternity leave and 5-day paternity leave, which can be extended to six months and to 20 days, respectively, in both the public service and the private sector, it is necessary to contribute to social security. Legally, all those who start paid work, whatever the job may be, must make contributions to the National Institute of Social Security (INSS). Those who do not exercise paid work, may, if they wish, register as optionally insured from the age of 16, and make the monthly payments. It is therefore clear that to a great extent, access to leave appears to be linked to worker status. This indicates that not working, and most likely not being able to afford to contribute to social security on his/her own, even for just a period, will result in loss of protection. However, this inequality in obtaining leave reveals not only differentiation between the condition of employment and unemployment, but also a distinction as regards the type of work performed and the type of link established. Depending on the occupation engaged in and the degree of formality experienced in the relationship, there will be inequality regarding the contribution to social security, and, as a consequence, the use of leave.

Among the employed population in the 16–49 range (considered the reproductive years), amounting to over 69m, 65.1 percent contribute to social security and 34.9 percent do not, as presented in Table I. In relation to the percentage of employed men and women who contribute to the INSS, the figures are close, with 66.9 percent of women, slightly more than men at 63.7 percent.

As seen in Table I, being employed does not necessarily guarantee contribution to social security, and, therefore, access to leave. As such, when the contribution to social security is investigated in relation to the type of work and link, it is clear that there is occupational stratification in obtaining this benefit. In some work positions all incumbents are granted leave: private sector employees with a formal contract, domestic workers with a formal contract, employees in the public sector with a formal contract, statutory civil servants and members of the military. In these occupations, 100 percent of both the men and the women contribute to the INSS.

Other employment links and occupations allow more limited access to leave. Furthermore, the percentage of workers who contribute to social insurance is lower. Among these groups are employees in the private sector without a formal contract (only 11.6 percent of men and 19.5 percent of women contribute) and self-employed workers (only 27.6 percent of men and 31.5 percent of women contribute).

In addition to this occupational stratification, there is also racial inequality in terms of contributions to social insurance, and, as a consequence, access to leave. In Table II, it is clear that there is an existing racial inequality. White populations present the highest proportion of social security contributions, above 70 percent. Those who are not white

**Table I.**  
Employed population aged 16–49, by existence of contribution to the official social security, according to gender – Brazil, 2017

Gender	Social security contribution		Total
	Contributor	Non-contributor	
Men	63.7% 24,588,286	36.3% 14,036,475	100% 38,624,761
Women	66.9% 20,502,374	33.1% 10,161,226	100% 30,663,600
Total	65.1% 45,090,660	34.9% 24,197,701	100% 69,288,361

**Sources:** IBGE, Microdados da PNAD Continua Anual, 2017, Devised by the authors

(primarily black and mixed-races populations) constitute a significantly lower percentage, close to 60 percent, which reveals a pronounced lack of access to leave in these groups.

Stratification of income, ranging from half a minimum salary to more than five, also influences the percentage of contribution to social security. This percentage range is immense, from 5.9 to 90.9 percent among men, and from 8.2 to 93.5 percent among employed women (see Table III). The population that earns up to one minimum salary, that is, those in the first two income classes, has comparatively much less access to maternity and paternity leave than those who earn higher amounts. In the other income brackets, the proportion of contribution to the INSS is above 70 percent, and, in the case of the higher earners, it exceeds 90 percent.

Since 55.2 percent of male non-contributors and 73.1 percent of female non-contributors earn up to a minimum salary, low income is an important factor in explaining this situation, especially for women. In this sense, it is possible to observe that the contributors have average monthly incomes higher than the non-contributors. In 2017, in all six income groups, women presented a higher proportion of social security payments than men, even though their average income was lower, reaching R\$798.56 (US\$258.5) among non-contributors, which was lower than the minimum salary of R\$937 (US\$303.31). This seems to show that the concern to contribute to the INSS is greater among women, despite earning less, and also women make more effort to gain access to leave.

Level of education is another variable that influences contribution to social security, revealing yet another inequality in access to leave. With the exception of the proportion of the employed population with incomplete secondary education that contributes to social security compared to that of the population with complete primary education, in the other

**Table II.**  
Employed population  
aged 16–49, by  
existence of  
contribution to the  
official social security,  
according to gender  
and race – Brazil, 2017

Race	Men		Women	
	Contributor	Non-Contributor	Contributor	Non-Contributor
White	71.4%	28.6%	74.0%	26.0%
	11,774,401	4,710,615	10,540,064	3,708,221
Non-white	57.8%	42.2%	60.5%	39.5%
	12,603,863	9,213,126	9,762,087	6,363,203

**Sources:** IBGE, Microdados da PNAD Contínua Anual, 2017, Devised by the authors

**Table III.**  
Employed population  
aged 16–49, by  
existence of  
contribution to the  
official social security,  
according to gender,  
monthly income  
groups and average  
monthly income –  
Brazil, 2017

Monthly income	Men		Women	
	Contributor	Non-contributor	Contributor	Non-contributor
Up to half a minimum salary	5.9%	94.1%	8.2%	91.8%
	221,190	3,512,668	372,203	4,189,717
More than half to 1 minimum salary	43.1%	56.9%	56.1%	43.9%
	3,211,484	4,240,040	4,128,071	3,235,383
Over 1 to 2 minimum salaries	72.0%	28.0%	83.3%	16.7%
	10,711,660	4,160,955	9,687,633	1,945,213
Over 2 to 3 minimum salaries	78.8%	21.2%	86.3%	13.7%
	4,607,129	1,239,884	2,826,835	449,647
Over 3 to 5 minimum salaries	83.7%	16.3%	89.3%	10.7%
	3,156,804	615,879	1,960,490	234,370
Over 5 minimum salaries	90.9%	9.1%	93.5%	6.5%
	2,680,018	267,050	1,527,142	106,896
Total	24,588,286	14,036,475	20,502,374	10,161,226
Income (R\$)	63,440,096,787	16,028,332,320	41,613,869,423	8,114,348,710
Average monthly income	R\$ 2,580.09	R\$ 1,141.91	R\$ 2,029.71	R\$ 798.56

**Sources:** IBGE, Microdados da PNAD Contínua Anual, 2017, Devised by the authors

ranges, there is always growth in relation to the previous educational level, as observed in Table IV. This variation is very significant, from 31.6 to 88.1 percent among men and from 34.5 to 87.9 percent among women. This reveals that those employed without education, with incomplete or complete primary education and incomplete secondary education, even also with stratification among them, have more difficulty to access their right to leaves than those with full secondary education and with further education complete or incomplete. For most levels of education, women present lower contribution percentages than men.

Finally, there is a stratification of the contribution to social security in relation to the age of those employed. The possibility of access to leave is less in the two youngest age groups, from 16 to 19 years (36.1 percent among males and 41.6 percent among females) and 20 to 24 years old (58.3 percent among males and 62.3 percent among women) than in the other five groups, which have close percentages (see Table V). For men, the proportion of social security payments

**Table IV.**  
Employed population aged 16–49, by existence of contribution to the official social security, according to gender and educational level – Brazil, 2017

Educational level	Men		Women	
	Contributor	Non-contributor	Contributor	Non-contributor
No education and less than 1 year of study	31.6% 384,518	68.4% 833,535	34.5% 161,064	65.5% 305,620
Incomplete primary education or equivalent	43.4% 3,885,285	56.6% 5,057,574	42.0% 1,896,967	58.0% 2,619,627
Complete primary education or equivalent	55.0% 2,020,153	45.0% 1,649,762	53.5% 1,183,263	46.5% 1,030,438
Incomplete high school education or equivalent	54.0% 1,833,871	46.0% 1,564,468	50.0% 1,031,849	50.0% 1,033,667
Complete high school or equivalent	72.8% 9,839,856	27.2% 3,682,695	69.2% 7,988,552	30.8% 3,561,060
Incomplete further education or equivalent	74.8% 1,751,351	25.2% 589,959	70.5% 1,689,010	29.5% 706,717
Complete further education	88.1% 4,873,253	11.9% 658,481	87.9% 6,551,670	12.1% 904,097
Total	24,588,286	14,036,475	20,502,374	10,161,226

**Sources:** IBGE, Microdados da PNAD Continua Anual, 2017, Devised by the authors

**Table V.**  
Employed population aged 16–49, by existence of contribution to the official social security, according to gender and age ranges – Brazil, 2017

Age range (years)	Men		Women	
	Contributor	Non-contributor	Contributor	Non-contributor
16–19	36.1% 843,505	63.9% 1,492,124	41.6% 638,779	58.4% 896,076
20–24	58.3% 3,192,037	41.7% 2,287,664	62.3% 2,444,235	37.7% 1,477,780
25–29	66.1% 3,944,150	33.9% 2,020,938	69.1% 3,255,512	30.9% 1,458,671
30–34	67.0% 4,485,337	33.0% 2,214,008	70.0% 3,751,146	30.0% 1,608,540
35–39	68.1% 4,661,583	31.9% 2,184,196	69.6% 3,913,820	30.4% 1,710,368
40–44	65.8% 3,981,043	34.2% 2,070,934	68.6% 3,530,324	31.4% 1,615,623
45–49	66.3% 3,480,630	33.7% 1,766,611	68.0% 2,968,559	32.0% 1,394,169
Total	24,588,286	14,036,475	20,502,374	10,161,226

**Sources:** IBGE, Microdados da PNAD Continua Anual, 2017, Devised by the authors



---

increases across the age spectrum until reaching the highest percentage in the 35 to 39 age group (68.1 percent). For women, there is also a growing movement to reach the highest range, from 30 to 34 years (70.0 percent).

This means that, in general, the protection in relation to leave is much lower in the younger ranges and slightly lower in the older ones. With reference to the 2017 Civil Registry Statistical Survey, conducted by IBGE[2], it is possible to compare these data with the percentage of live births in relation to the age of the mother. While women's highest social security contribution rates are those between 30 and 34 and between 35 and 39, the highest birth rates are between 20 and 24 (24.8 percent) and between 25 and 29 (23.7 percent). This is a problem especially in the 16–19 and 20–24 age groups, since, although they have considerably less protection in relation to leave, they represent the mothers of more than 40 percent of the babies born in the country in 2017.

### Conclusion

According to the idea of “regulated citizenship” (Santos, 1979), this status in Brazil, since the 1930s, has been embedded in employment, its formality and its recognition by the State, and those who exercise it could have access to a larger or smaller set of rights. The promulgation of the 1988 Constitution, among many of its measures, created the Unified Health System (SUS), whereby the State having, for example, an obligation to guarantee health to all citizens, represented a greater universalization of rights. The outcome was a weakening of the relationship between employment and citizenship (Fraga, 2009). However, the analysis of the contribution to social security indicates that access to leave is linked to the status of the worker, and influenced by the type of occupation in which he/she is engaged in, revealing, in a certain sense, continuity of “regulated citizenship.”

Analysis of the microdata from the Annual National Continuous Household Sampling Survey of 2017 made it possible to examine the social security contributions of the employed Brazilian population aged 16 to 49, the age range corresponding to the reproductive age and the possibility of enjoying the maternity and paternity leave guaranteed by the 1988 Constitution. This paper showed that social insurance was influenced by other variables, which would layer and rank the population studied, showing unequal access to leave among the members of these different strata. The data confirmed the existence of social stratification of the contributions in relation to one's position in the labor market and their job category, gender, race, income, education level and age.

It is clear that access to leave policies in Brazil is complicated by the inequalities of gender, age, class and race. Gender inequality is observed in the data, which showed that the proportion of employed women contributing to social security is higher than that of men, although the difference is only 3.2 percentage points. However, as their average monthly income is lower and the percentage of women's contributions is higher than that of men in almost all the more informal occupations (e.g. self-employment), there seems to be greater effort and concern among women to maintain their contributions. There was also age inequality, in which the possibility of obtaining leave is much lower in the younger age brackets, precisely those that concentrate a large part of the mothers who gave birth in, for example, 2017, according to data from the IBGE Civil Registry Statistical Survey.

Class inequality was verified by means of three variables: type of occupation, income and educational level. Regarding the first variable, while some occupations and links with a formal contract, military members and public servants provided access to maternity and paternity leave to all, for others without a formal contract and contributing at their own expense, there was a far more limited range. With regard to the other two variables, the difference in the contribution to social security in relation to income and education level between the lowest and the highest strata was immense. To complete this picture, racial

inequality has become evident in the fact that white people present a significantly higher percentage than non-whites in their INSS contributions.

This set of inequalities in relation to leave can be explained in part by the way in which this policy has been conceived and proposed over time. The conception of leave as something tied to formalized worker status was motivated, to a large extent, by the belief that the process of social and economic development of the country would incorporate and formalize a large part of the workforce in contractual activities, similar to the experience in developed countries. After a few decades, this promise was not fulfilled, and, following changes in legislation, various rights then came to include all workers and any individual provided that there was a monthly contribution to the social security, such as the benefit of maternity and paternity salaries.

However, this legal provision has not ensured a wide coverage of leave. On the contrary, by making maternity and paternity leaves a contributory benefit, it has come to depend on the level of income of individuals in a highly unequal society. Aggravated by the economic crisis of recent years, reflected in low growth, unemployment, increased precarious work, and, given the failure of leave policies to reduce social inequalities, the debate about the transformation of leave into a universal citizenship model right may be included in a public policy agenda in the future. We hope that with this research, in which it has been possible to identify socioeconomic and racial groups on the margins of the benefits of current leave policies, public policy-makers can develop more inclusive leave policies models.

#### Notes

1. Continuous PNAD is a national survey produced by the Brazilian Institute of Geography and Statistics (IBGE) that investigates demographic, housing, educational, income and work aspects.
2. The Civil Registry Statistical Survey gathers information on live births, deaths, marriages and divorces in Brazil, provided by registry offices, public notaries, family law courts, forums and civil courts.

#### References

- Alves, J.E. (2016), "Ocupação e nível educacional: o desperdício do bônus demográfico feminino", Portal EcoDebate, available at: [www.ecodebate.com.br/2016/03/04/ocupacao-e-nivel-educacional-o-desperdicio-do-bonus-demografico-feminino-artigo-de-jose-eustaquio-diniz-alves/](http://www.ecodebate.com.br/2016/03/04/ocupacao-e-nivel-educacional-o-desperdicio-do-bonus-demografico-feminino-artigo-de-jose-eustaquio-diniz-alves/) (accessed June 4, 2019).
- Aureliano, L. and Draibe, S.M. (1989), "A especificidade do 'Welfare State' brasileiro", *Economia e desenvolvimento: reflexões sobre a natureza do bem-estar*, Vol. 1, MPAS/CEPAL, Brasília, pp. 86-178.
- Blum, S., Koslowski, A., Macht, A. and Moss, P. (Eds) (2018), "International review of leave policies and related research 2018", available at: [www.leavenetwork.org/lp\\_and\\_r\\_reports/](http://www.leavenetwork.org/lp_and_r_reports/) (accessed November 15, 2018).
- Bruschini, M.C.A. (2007), "Trabalho e gênero no Brasil nos últimos dez anos", *Cadernos de Pesquisa*, Vol. 37 No. 132, pp. 537-572.
- Caulfield, S. and Schettini, C. (2017), "Gender and Sexuality in Brazil since Independence", Oxford Research Encyclopedia of Latin American History, available at: <https://oxfordre.com/latinamericanhistory/view/10.1093/acrefore/9780199366439.001.0001/acrefore-9780199366439-e-296> (accessed June 2, 2019).
- Dobrotić, I. and Blum, S. (2019), "Inclusiveness of parental-leave benefits in twenty-one European countries: measuring social and gender inequalities in leave eligibility", *Social Politics: International Studies in Gender, State & Society*, available at: <https://doi.org/10.1093/sp/jxz023> (accessed November 20, 2019).
- Fraga, A.B. (2009), "Avanços e continuidades da Constituição de 1988: o caso dos empregados domésticos e trabalhadores rurais", in Carvalho, M.A.R., Araújo, C. and Simões, J.A. (Eds), *A Constituição de 1988: passado e futuro*, Hucitec/Anpocs, São Paulo, pp. 249-273.

- Fraga, A.B. (2013), *De Empregada a Diarista: as novas configurações do trabalho doméstico remunerado*, Editora Multifoco, Rio de Janeiro.
- Fraga, A.B. (2016), *O serviço doméstico sob os holofotes públicos: alterações na articulação entre trabalho produtivo e reprodutivo no Brasil (Estado, mercado e família)*. Tese de Doutorado em Sociologia, Universidade Federal do Rio de Janeiro, Rio de Janeiro.
- Hirata, H. and Kergoat, D. (2007), “Novas Configurações da Divisão Sexual do Trabalho”, *Cadernos de Pesquisa*, Vol. 37 No. 132, pp. 595-609.
- Leite, M. (2017), “Como são a procura e oferta de creches no Brasil?”, Idados Consultoria, available at: [http://idados.org.br/blog/como\\_e\\_a\\_procura\\_e\\_oferta\\_de\\_creches\\_no\\_brasil/](http://idados.org.br/blog/como_e_a_procura_e_oferta_de_creches_no_brasil/) (accessed May 18, 2017).
- Machado, C. and Pinho Neto, V. (2016), “The labor market consequences of maternity leave policies: evidence from Brazil”, available at: [https://bibliotecadigital.fgv.br/dspace/bitstream/handle/10438/17859/The\\_Labor\\_Market\\_Consequences\\_of\\_Maternity\\_Leave\\_Policies\\_Evidence\\_from\\_Brazil.pdf?sequence=1&isAllowed=y](https://bibliotecadigital.fgv.br/dspace/bitstream/handle/10438/17859/The_Labor_Market_Consequences_of_Maternity_Leave_Policies_Evidence_from_Brazil.pdf?sequence=1&isAllowed=y) (accessed March 10, 2019).
- Moreira, L.E. and Toneli, M.J.F. (2013), “Paternidade Responsável: problematizando a responsabilização paterna”, *Psicologia & Sociedade*, Vol. 25 No. 2, pp. 388-398.
- Moss, P., Duvander, A. and Koslowski, A. (Eds) (2019), *Parental Leave and Beyond: Recent International Developments, Current Issues and Future Directions*, Policy Press, Bristol.
- Ostos, N.S.C.de (2012), “A questão feminina: importância estratégica das mulheres para a regulação da população brasileira (1930–1945)”, *Cadernos Pagu*, No. 39, pp. 313-343.
- Pinheiro, L., Galiza, M. and Fontoura, N. (2009), “Novos arranjos familiares, velhas convenções sociais de gênero: a licença-parental como política pública para lidar com essas tensões”, *Revista Estudos Feministas*, Vol. 17 No. 3, pp. 851-859, available at: <https://dx.doi.org/10.1590/S0104-026X2009000300013> (accessed April 15, 2018).
- Santos, W.G. (1979), *Cidadania e Justiça: a política social na ordem brasileira*, Campos, Rio de Janeiro.
- Sorj, B. (2004), “Reconciling work and family: issues and policies in Brazil”, *Conditions of Work and Employment*, Series No. 8, ILO, Geneva, January 1.
- Sorj, B. (2013), “Le marché de l’emploi domestique en Amérique latine: changements et permanences”, in Maruani, M. (Ed.), *Travail et genre dans le monde. État des savoirs*, La Découverte, Paris, pp. 345-355.
- Sorj, B. and Fontes, A. (2012), “O ‘care’ como um regime estratificado: implicações de gênero e classe social no Brasil”, in Hirata, H. and Guimarães, N.A. (Eds), *Cuidado e cuidadoras: as várias faces de trabalho do care*, Editora Atlas, São Paulo, pp. 103-116.
- Wajnman, S. (2016), “‘Quantidade’ e ‘qualidade’ da participação das mulheres na força de trabalho brasileira”, in Itaborá, N.R. and Ricoldi, A.M. (Eds), *Até onde caminhou a revolução de gênero no Brasil. Implicações demográficas e questões sociais*, ABEP, Belo Horizonte, pp. 45-58.

### Further reading

- Brasil (1943), “CLT – Consolidação das Leis do Trabalho”, Decreto-Lei n.º 5.452, de 1º de maio.
- Brasil (1988), *Constituição da República Federativa do Brasil*, Senado, Brazilian Senate, Brasília.
- Brasil (2008), Lei n.º 11.770, de 9 de setembro. Cria o Programa Empresa Cidadã, destinado à prorrogação da licença-maternidade mediante concessão de incentivo fiscal, e altera a Lei no 8.212, de 24 de julho de 1991.
- IBGE (2017a), “Estatísticas do Registro Civil” (database), available at: [www.ibge.gov.br/estatisticas-novoportal/sociais/populacao/9110-estatisticas-do-registro-civil.html](http://www.ibge.gov.br/estatisticas-novoportal/sociais/populacao/9110-estatisticas-do-registro-civil.html) (accessed May 10, 2019).
- IBGE (2017b), “Microdados da PNAD Contínua Anual” (database), available at: [www.ibge.gov.br/estatisticas/sociais/trabalho/17270-pnad-continua.html](http://www.ibge.gov.br/estatisticas/sociais/trabalho/17270-pnad-continua.html) (accessed February 5, 2019).
- ILO (1919), “Convention concerning the employment of women before and after childbirth”, Convention n.º 3, Maternity Protection Convention.

**About the authors**

Bila Sorj is Professor of Sociology at Federal University of Rio de Janeiro (UFRJ), Brazil. She co-ordinates the Nucleus for Studies on Sexuality and Gender (NESEG) in the Postgraduate Sociology and Anthropology Program at UFRJ. She is Member of the board of directors of the international network MAGE (Marché du Travail et Genre).

Alexandre Fraga is Postdoctoral Scholar in the Postgraduate Sociology and Anthropology Program in UFRJ, Brazil. He is Member of the Nucleus for Studies on Work and Society (NETS/UFRJ), and Associate Member of the International Network on Leave Policies and Research. Alexandre Fraga is the corresponding author and can be contacted at: alexbfraga@yahoo.com.br