

Dr Abi Adams: What is the value of Justice?

My name is Abi Adams. I am an economist at the University of Oxford, and together with my colleague in the Oxford Law Faculty, Jeremias Prassl, we investigate the economic incentives at play in the justice system.

Dr Jeremias Prassl: In 2017 our research resulted in the whole system of UK employment tribunal fees being scrapped.

Abi: I want to understand how we can best design the courts so they run as efficiently as possible whilst maintaining access to Justice.

In 2013 fees of up to £1,200 were introduced for bringing claims to the tribunal. The effect was dramatic: within months, claims fell by 70%. Although there were fee waivers in place for people with low incomes, many people were concerned that the fees made it too difficult for workers to enforce their rights.

Michael Reed, Principal Legal Officer, Free Representation Unit: That's a very dramatic fall in cases where individuals are bringing claims for the wages that they haven't been paid, the holiday pay that they haven't got, or complaints about unfair dismissal, discrimination – the sort of common-or-garden claims that a Citizen's Advice Bureau or law centre or solicitor's firm will see every day.

Jeremias: Against this backdrop we set out to research whether adverse economic incentives could be thought of as a barrier to justice. In English law Magna Carta has guaranteed access to justice for centuries. It's a great lofty principle, but there's one problem with it:

How can we translate it into an actual hard, empirical test?

Abi: To do this we had to develop a new approach, combining economic theory and statistical analysis with legal principles. We drew on a range of data sources to show that because employment disputes generally involved small amounts of money, the fees often made it irrational for a worker to pursue a claim even if they had a good chance of winning.

Our research became a central contribution to the court case fought by Unison against the fees, which was heard by the Supreme Court in 2017.

Dinah Rose, QC, Instructed by Unison trade union: There's an economic theory that underpins this called the theory of rational choice which is developed in a fascinating article in the Modern Law Review by Adams and Prassl and they have teamed up to produce an article which addresses the lawfulness and the economic rationality of the fees order.

Abi: The Supreme Court was swayed by these arguments, declaring the fees as a violation of the fundamental right of access to justice.

Jeremias: This resulted in an immediate impact on tens of thousands of claimants who might otherwise have been deterred from bringing their case to the courts.

Michael: Now the fees have gone the most immediate impact has been that the number of cases has increased again, but a much wider group benefit from the halo effect of employers knowing that that's an option, and that's encouraging them to play by the rules in the first place.

Abi: We are now beginning to work on the design of online courts: How can we design a digital justice system that protects access to justice?

A question best answered by lawyers and economists working together.

End screen:

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Outstanding Impact in Public Policy Winner, Dr Abi Adams, University of Oxford

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