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Hiil POLICY BRIEF

Community Justice Services

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Building on the merits of informal justice and alternative dispute resolution processes, many countries have developed community justice or informal justice programmes. Although informal justice processes come in many different forms, they tend to have a participatory nature, strive for consensus, focus on social harmony and promote restorative (conciliatory) solutions. They are similar to mediation, but can also have elements of adjudication. Another advantage of informal justice processes or community justice services is that the community can help to ensure compliance of decisions.

Community justice services seem to be an indispensable element of a justice system that provides equal access to justice for all. Gradually, policymakers are finding out how to scale the programmes to a regional or country level. In this policy brief, we list a number of critical success factors that we developed with insights from leading

experts in the field of community justice services. We also used our experience in innovation labs for community justice services and benefited from our work with justice startups implementing projects in communities. The findings in this policy brief aim to inform municipal authorities, ministries of justice and leaders in the court system about the way they can scale community justice services, whilst respecting the needs and capabilities in the communities they intend to serve.

We expect community justice services to grow, because formal justice systems cannot serve people at sufficient scale for all their pressing justice problems. Community justice services have to overcome barriers to growth, by finding sustainable revenue models, by developing an oversight and monitoring system connected to the formal justice institutions, and securing a long term commitment from national governments or donors.

1. Justice close to home: A gamechanger?

When working on access to justice for all, experts and practitioners point towards informal dispute resolution in communities as a way to close the access to justice gap¹. Speaking about informal justice, one leading author mentions the perceived advantages that mirror the weaknesses of the formal justice system: financially more sustainable, fast, close to people’s homes, grounded in local culture, and easier to understand. Although informal justice processes come in many different forms, they tend to have a participatory nature, strive for consensus, focus on social harmony, and promote restorative (conciliatory) solutions. They are similar to mediation, but can also have elements of adjudication. Another advantage of informal justice processes or community justice services is that the community can help to ensure compliance of decisions².

Justice needs surveys show that informal justice and conciliatory processes are appreciated by users³. There is clear potential for growth. Unleashing this potential requires overcoming a number of risks and disadvantages, including lack of predictability and coherency, discrimination and exclusion of marginalized groups, weak procedural safeguards, and use of sanctions that do not conform with human rights and criminal justice standards⁴.

1.1 Scaling models for community justice services

Building on the advantages of informal justice and alternative dispute resolution processes, many countries have developed programmes that have the ambition to scale towards the country level. This comes with increased standardisation and formalisation of the services, for which we found a number of models that are being used internationally.

Local delivery model	Focus justice problems	Focus in services	Follow-up services if not successful	Main revenue streams
Civil legal aid lawyers	Disputes and crimes	Mediation, advocacy, navigating adjudication	Legal aid lawyers, formal court adjudication	Fees, NGOs, Ministry of justice
Community paralegals	Disputes and crimes Issues with companies and state Institutions	Education, mediation, monitoring, advocacy	Legal aid lawyers, formal court adjudication	NGOs. Community contributions
Informal justice by local leaders and others	Disputes and crimes	Mediation, adjudication	Any	Time from volunteers and officials
Justices of the peace	Minor disputes and crimes	Mediation, adjudication	Referral to formal court adjudication	Judiciary
Judicial facilitators	Disputes and crimes	Education, mediation	Integration with local court adjudication	Judiciary
Local (informal courts)	Minor disputes and crimes	Mediation, adjudication	Enforcement in community	Local government
Houses of Justice	Disputes and crimes	Information, advice, referral	Any	Ministry of justice

1 Wojkowska, E. (2004). Doing Justice: How informal justice systems can contribute, UNDP; Ubink J., (2011). Customary justice: perspectives on legal empowerment, legal and governance reform: Lessons learned, International Development Law Organisation; Coburn, N. (2013). Informal justice and the international community in Afghanistan, United States Institutes of Peace; Coyle, D. and Dalrymple, S. (2011). Snapshots of informal justice provision in Kaski, Panchthar and Dhanusha Districts, Nepal.

2 Harper, E., (2021). Customary Justice: From Program Design to Impact Evaluation.

3 Hiil, (2012). Towards basic justice care for everyone: Challenges and promising approaches.

4 Ibid.

The literature reviewing various forms of community justice programmes and interventions in a particular country is vast⁵. On our [Justice Dashboard](#) the reader can find references to examples and to the models.

In this policy brief, we focus on how to scale such programmes in a systematic way, building on our data collection and our work with justice innovators and justice leaders in Africa, the MENA region, Latin America and Europe. In the past, we did case studies on Houses of Justice in Colombia, Local Council Courts in Uganda, Gram Nyayalaya in India, Abunzi in Rwanda, Judicial Facilitators in Latin America and worked with community paralegal programmes and organisations offering community mediation in a range of countries.

1.2 Local problems, local and similar solutions

Community justice services tend to work on justice problems between people living closely together, such as neighbour problems, land issues, family problems, and problems with the local authorities. They address justice issues via mediation and conciliation as well as focus on bringing together people within the community so they contribute to solutions, which conform to social norms. Community justice services are more common in rural areas than in cities and are more prevalent across middle and low income countries. These services are provided by community authorities, trusted members of the community, or public officials elected or endorsed by the

community. They can relate to customary justice in a tribe, or they may have roots in a religion. Community justice services can be connected to local or central government, with the potential to scale across borders.

Community justice services have been an important facet of the communities they serve historically. They not only have a substantial reach in providing people-centred justice but they also achieve a considerable impact on people's lives. They emerge organically and exist close to the people whose justice challenges they address. They are also the most frequently resorted to justice service delivery models across different countries. However, our analysis shows that there are barriers to scaling community justice services and issues with their effectiveness.

At times, they face issues with integration with the formal legal systems especially in getting their decisions recognised or enforceable by the formal justice system. Funding challenges also remain. Owing to their informal nature, which grants them effectiveness, community justice services may be more likely to be dominated by power structures that exist in the community.

This policy brief takes into consideration the discussions that emerged during the roundtable conversations of the HiiL Working Group on Community Justice Services as well as cases developed by the members of the Working Group in analysing different characteristics of community justice services and makes policy recommendations for increasing their effectiveness.

⁵ Röder, T. J. (2012). Informal justice systems: challenges and perspectives. *Innovations in Rule of Law*, 58; Conteh et al., (2012). The Costs and Benefits of Community-based Justice in Sierra Leone, Technical Report; Chirayath, L., Sage, C., & Woolcock, M. (2005). Customary law and policy reform: Engaging with the plurality of justice systems.

1.3 Methodology

To answer the question “How might we increase access to justice for people by scaling and improving community justice services?”, we formed a working group of external experts. To guide the discussions with working group members, we identified the following questions:

- ↳ How might we improve the effectiveness of community justice services?
- ↳ How might we support community justice services with standardisation and tools?
- ↳ How might we connect community justice services with the formal justice system?
- ↳ How might we develop the enabling environment for community justice services?
- ↳ How might we make community justice services affordable and sustainable?
- ↳ How might we build community justice services into a scalable operation?
- ↳ How might we market a community justice services delivery model?

The working group engaged with these design questions and from this dialogue emerged the critical success factors that can help in scaling community justice services.

To select members for the group, we identified six experts that represented diverse demographics and expertise (innovator, policymaker, investor, legal professional, civil society) from within and outside HiiL’s network.

They are:

- Marcus Manuel, Senior Researcher, Overseas Development Institute, UK
- Gard Benda, Founder, Bataka Court Model, Uganda
- Maha Jweied, Fellow, Center on International Cooperation, USA
- Juan Botero, Associate Professor, Universidad Javeriana Law School, Colombia and Consultant, HiiL
- Chhavi Rajawat, Former Sarpanch, Soda Village, India
- Christopher Marshall, Team Leader, Western Balkans Rule of Law Initiative, Chemonics

*Klaus Decker, Senior Public Sector Specialist from the World Bank, who joined us in the initial phase of the consultation.

We organised six roundtable discussions between June 2021 to February 2022 to facilitate the conversations on the design questions among the experts.

This policy brief summarises the findings of the round table discussions and lessons learnt from experiences of working group members in setting up community justice services including:

- Sierra Leone Legal Aid Board, Sierra Leone
- Bataka Court Model, Uganda
- Houses of Justice, Colombia
- Tribal-State Joint Jurisdiction Wellness Courts, USA

2. Critical success factors

In the sections below, we identified five critical success factors based on discussions with working group members and examples of community justice services that emerged from the conversations during the round tables. We also include main takeaways from the cases that we worked on with support from the members of the working group.

2.1 Standardising effective working methods in a setting of scarce resources

Community justice services differ from village to village, from tribe to tribe. For example, studies show that in the Sahel region, each local tribe may have its own way of settling disputes, which may not be acceptable to another tribe in the same region⁶. Even among community justice services that did not emerge organically but have been systematically set-up as in the case of Houses of Justice in Colombia, working methods could benefit from further standardisation. Dispute resolution methods could depend less on the good nature and judgement of individual justice practitioners, more on best practices established by inter-agency coordination⁷.

There is much to gain by standardising the practical steps that justice workers take to resolve a problem. A standard process can guide disputing parties through the various phases of dispute resolution, and give them an understanding of what to expect in terms of fees charged, documents required and the estimated time taken to resolve a dispute. There are two dimensions of standardising working methods, one is working methods within an organisation and two is dispute resolution methods offered to users.

With the help of experiences shared by the working group members, we have developed the following insights on standardisation and effectiveness:

- What can help in standardising dispute resolution methods offered to users are guidelines on how to resolve and decide disputes⁸. Community health care workers and other helping professions tend to be effective because they can access evidence about what works through guidelines. These guidelines can offer best practices on dispute resolution techniques such as mediation and practical steps that justice workers can apply when resolving a dispute, instead of dealing with cases individually.
- Specialisation is recommended. Best practices for family dispute resolution are different from those for issues at work or neighbour disputes.
- On the flip side, standardising may not be suitable in all contexts, especially if resources available to justice workers are limited. In such situations working with what is available becomes imperative. For instance, an extensive fact-finding process regarding the level of noise in a community may be too expensive. So ideally, guidelines should offer options for less costly solutions if resources are limited.
- Guidelines and other ways to standardise procedures should be used by providers of community justice as a means to an end, not as rules that need to be observed. Currently, informal justice is effective because it is flexible. Justice practitioners should use their experience and their intuition as well.
- Standardisation requires resources and time for reflection. The experience of [Joint-Jurisdictional Wellness Courts in Minnesota](#) shows that a well-resourced organisation can achieve standardisation

6 HiiL (n.d). [Community Justice Services](#), Last accessed on 22/02/2022

7 Botero, J., (2021). Case study Houses of Justice in 'Delivering Justice, Rigorously'.

8 HiiL, (2021). [Delivering Justice, Rigorously](#).

and develop high quality methods, even if the target group is small and has very specific needs.

- The example of Bataka Courts suggests that guidelines can also be used in order to standardise adjudication processes.
- The experience of Bataka Courts demonstrates that guidelines can be used in training modules to further increase the capacity of justice workers, including how their work is embedded in the laws of the state, rules and procedures of the justice system and conforms with international human rights. They can also be used to standardise the adjudication processes. Selection processes for community justice workers can be standardised as well. Experts believe that community justice services work best when the justice workers are chosen by the local communities themselves, especially in the case of a closely-knit community. If communities select or nominate people who they trust the most, they will be more likely to accept the decisions of the community justice workers. This will also increase compliance and help the community justice workers in gaining legitimacy.
- In order to empower the disadvantaged and to promote equal access to justice for all, programmes may want to ensure that women, the poor and minorities become members of panels and/or are selected as community justice workers.

2.2 Monitoring outcomes

Although community justice services are used frequently and legal needs surveys show they tend to be quite effective in resolving disputes, outcomes of the

community justice services have not always been viewed in a positive light. Studies indicate that community justice providers are sometimes not very effective in resolving disputes. Outcomes may also be unfair to certain members of the community, especially the minority and marginalised members. Questions are also raised about the patriarchal nature of existing power structures and bias against women at the community level⁹.

NGOs, government agencies or international donors investing in community justice services want to be sure that engagement with community justice services leads to respect for human rights¹⁰, protection of the rights of all members of the community and brings people the outcomes they want from dispute resolution. But how can they ensure the quality of the overall programme improves over time? And how can they avoid that an isolated example of questionable behaviour in one village damages the reputation of a countrywide programme?

Systematically monitoring outcomes is a critical success factor related to these challenges. For each type of dispute, a number of desirable or undesirable outcomes can be identified. Disputants, practitioners and/or community members can be asked to what extent each of the outcomes has been achieved. Quantifying these results helps in highlighting areas where existing justice services are successful and where they are failing to meet people's needs. Impact data also helps to attract investors looking for measurable returns and social impact. It enables governments who undertake performance-based budgeting to identify service delivery models that are effective in resolving disputes¹¹.

With the help of experiences shared by the working group members, we have developed the following insights on monitoring the outcomes, noting that few

9 International Development Law Organisation, (2019). [Navigating complex pathways to justice: Women and customary and informal justice systems](#).

10 UN Women, Unicef, UNDP Publication, (2017). [Informal Justice Systems, Charting a course for human-rights based engagement - A summary](#).

community justice systems have introduced systematic outcome monitoring yet:

- Service providers need to fully understand the outcomes that people want from the resolution of the justice problem. For example, they need to examine the kind of outcomes that people may want from a family dispute, employment dispute and so on. A successful monitoring of outcomes has been developed by the Joint-Jurisdictional Wellness Courts in Minnesota that address problems related to driving while intoxicated and substance abuse. These courts have monitored restorative justice outcomes in terms of driver licences being reinstated, participants becoming employed or continuing their education, abusive relationships ending, long-term sobriety and reduction in recidivism.
- User satisfaction with outcomes can be monitored across four dimensions: distributive justice, restorative justice, effective problem resolution and transparency of the outcome (meaning: why this outcome and not another one)¹².
- A simple starting point to monitor outcomes can be that justice workers who live in proximity of local communities ask people if the interventions that were used to resolve disputes were effective and whether a change in approach is required.
- To monitor these outcomes, eventually a systematic data collection and analysis team and procedure needs to be established. This process may grow step-by-step from asking a few simple questions to users.
- User satisfaction surveys can capture the experience of users of the dispute resolution system, in terms of procedural fairness, cost effectiveness, and outcome of the dispute. Similarly, legal needs

surveys can also examine if people are generally satisfied with the outcomes offered by community justice services in a country.

2.3 Combining the strengths of informal justice and rights-based dispute resolution

Formal justice systems in lower and middle income countries have been derived from their colonial past, and they have replaced the traditional ways of solving disputes or the informal justice systems¹³. Today, informal justice systems are coming into prominence again, thanks to their dispute resolution methods such as mediation and focus on restoring relationships and harmony in the community. They are seen as successful because they are oriented towards solutions and outcomes that enable people to continue working and living together. A similar trend is present in high income countries where mediation or ombudsman procedures are alternatives to the formal, adversarial procedures operated by courts.

A formal court procedure aims at fair and transparent processes, ensuring equality of arms between the parties, whereas community justice outcomes sometimes have been found to discriminate against women, the poor and marginalised groups. This point also has been raised in relation to mediation in high income countries. A critical success factor for community justice services is to combine the strengths of the two types of procedures. Protection of fundamental rights that the formal justice system is designed to protect may be successfully combined with restorative ways of resolving disputes that community justice services promote.

11 Hiil, (2020). Charging for Justice: SDG 16 Trend Report 2020.

12 Hiil, (2021). *Delivering Justice, Rigorously*.

13 Botero, J.C, (2013). *The three faces of justice: Legal traditions, legal transplants and customary justice in a multicultural world* (thesis), Georgetown University.

The Working Group members began by asking firstly why such an integration is needed and if it is, what could be the nature of such an integration? To answer the question of how to integrate formal and informal justice systems, we developed the following insights using experiences of working group members:

- An example of integration between the formal and informal justice systems is the system of judicial facilitadores that operates in eight countries in Latin America. The programme, funded by the Organisation of American States, trains volunteers from local communities in resolving disputes using mediation and conciliation. Facilitators show the settlements they achieved to judges and obtain their feedback. The volunteers discuss progress on operational plans in monthly meetings with local judges who supervise the programme¹⁴.
- Another link between formal and informal justice can exist through a system of appeals. In other words, if disputing parties are not satisfied with the outcome delivered by the informal justice system, they can approach the formal justice system for further action. Many informal justice systems have set up appeal mechanisms. For example, Local Council Courts in Uganda allow disputing parties to appeal decisions in the court of the chief magistrate¹⁵.
- In the context of low-income countries, functionaries of the formal justice system may want to consider keeping aside the formal dress code of robes, gowns and wigs as well as the elaborate courtrooms when collaborating with community justice workers. This is because people, and also community justice workers, can find it intimidating to interact with government officials who have received formal education and training and are

higher above in the hierarchy in the justice system. In absence of markers such as the formal dress code, and courtroom set up and infrastructure, the functionaries of the formal justice system are likely to look more approachable.

- Judicial professionals from the district or similar levels of the formal legal machinery can participate alongside the community leaders to resolve disputes in a more overseeing role. The community leaders can simplify proceedings to suit the needs of local communities while the judiciary can ensure disputes are resolved in a fair and transparent manner. People who cannot travel long distances to visit a court can benefit from the participation of such a neutral third party instead of community members who may have biases. This may be a way to achieve protection of fundamental rights that the law guarantees.

2.4 Making community justice services affordable and financially sustainable

Resolving disputes through customary justice in rural communities is generally affordable in terms of transaction costs. The fees remain minimal, operating procedures are flexible and community gathering places are accessible for people¹⁶.

Many community justice services in high income countries rely on the work of volunteers¹⁷. In low-income countries, they are funded by grants from international donors, local nonprofits or sometimes through village-level contributions as in the case of Bataka Courts. This leads to grant and donor dependence, not allowing a scalable and sustainable service to emerge. Those funded by the government

14 Quintanilla, E. (2004). Support for the Administration of Justice in Nicaragua: The Rural Judicial Facilitators Program. World Bank.
15 Hiil, (2021). *Case Study on Local Council Courts* in Uganda.

do not receive adequate funds so their infrastructure and service delivery is affected¹⁸.

The system may only exist in some rural communities, or be piloted in one part of a city, not reaching countrywide coverage. In order to achieve consistent quality, guidelines and operational working methods need to be developed and improved. Training is needed. Monitoring outcomes for each justice problem that is being addressed requires interaction between users and practitioners. Aggregating outcome data on a programme level requires a registration system and analysis.

With the help of experiences shared by experts, we recommend the following insights and approaches to make the community justice services affordable and sustainable:

- Making the case for funding of community justice services is important. Justice is underfunded in absolute and relative terms (compared to other sectors)¹⁹. Making the case includes demonstrating and improving the return on investment for community justice services, as well as improving delivery mechanisms²⁰.
- Along with national public and donor based funding, community justice services can make use of user contributions, contributions by NGOs in the community or funding through local taxes. These services tend to make extensive use of volunteers and free public resources such as school buildings and local government offices.
- Development finance institutions and impact investors can be a temporary source of revenue for setting up a more sophisticated system of community justice services. To attract this kind of capital, community justice services need to monitor outcomes with the help of indicators.
- For sustainable funding, community justice services should become a government-provided or government-supported service, with a reliable stream of contributions by users or communities. Ministries of justice must then have a separate line for community justice services. In the case of the Sierra Leone Legal Aid Board, the government has funded the services substantially at 9% of the justice budget, which is much higher than most of the OECD countries that offer community justice services. However, it must be noted that such high levels of funding are not sustainable. So it becomes important to utilise other sources of funding such as user contributions and volunteers who can help in subsidising the cost of operating the community justice service. Offering efficient community justice services at a national level can lead to very substantial economies of scale. Estimates from experience of Sierra Leone Legal Aid Board indicate that unit costs in low-income contexts can be cut from \$500 to just \$25 per client, a 25-fold reduction²¹.
- The resources needed by community justice services are small compared to the ones needed by courts and lawyer services. A partial shift in funding from the formal to informal justice systems could help in improving services delivered by community justice workers²².

16 Harper, E., (2021). *Customary justice: From programme design to impact evaluation*, International Development Law Organisation.

17 Victoria State Government, *Australia. Justice and Community Safety*. Last accessed on 20 March 2022; *Magistrates Association*, UK. Last accessed on 20 March 2022.

18 Hiil, (2021). *Case Study on Local Council Courts* in Uganda.

19 Manuel, M. and Manuel, C., (2021). *People-centred justice for all: A route to scaling up access to justice advice and assistance in low-income countries*.

20 Ibid.

2.5 Building scale from the ground up

There are many barriers to scale the community justice practices. Only a few countries succeeded in successfully scaling community dispute resolution mechanisms to a level where they resolve 20% or more of justice problems. The models mentioned in section 1 each have their own trajectory towards achieving regional or national coverage.

Scaling should occur by developing a model that can be replicated and then piloted to test effectiveness and sustainability. Using experiences of experts, we have developed the following insights on scaling:

- Scaling will not be effective if the goal also seeks to preserve uniqueness in practices followed for dispute resolution at the community level, which may differ depending on the context, culture and geography²³. HiIL's case studies on Houses of Justice in Colombia and Local Council Courts in Uganda reveal that working methods remained ad hoc. The local justice workers or members of the community justice service adopted a general model of service provision to what suited them or to the context. What results is a variety of different local services, with uncertain results and impact overall.
- The origin of the community justice service itself may limit its potential to scale²⁴. In Ethiopia for example, different informal justice services cover different states, depending on which tribe has the majority. In the Sahel region, each local tribe may have its own way of settling disputes, which may not be acceptable to another tribe in the same region²⁵.
- Some approaches have been tried and failed. Mobile courts that go to the community level in Bogota, Columbia for example, are popular. But in terms of costs per case resolved and sustainability, mobile courts are not attractive. We have not seen any other country where mobile courts exist as a sustainable model for a region or a country.
- Existing structures can be used and strengthened. Locally chosen community leaders may work in a country like Uganda where communities already bring certain issues to them. In Serbia, there are fewer identifiable structures and places that people would choose to visit. In some countries administrative bodies exist at the local level that already deal with disputes. Elected representatives may be drivers of change, but also be part of power structures that compete with neutral, third parties delivering community justice.
- The role of national organisations such as the Legal Aid Board in Sierra Leone can be important in achieving scale as well.
- If we start by thinking "How to achieve scale?" we will realise that we need something that is more transformational. Setting ambitious goals at the outset is important - even if providing justice through community mechanisms at scale will take another 20 years is an ongoing progress. The routine project-thinking of "How are we going to solve this problem in two years?" may not help.

21 Ibid.

22 Knake, R. N. (2018). *The Legal Monopoly*, by Renee Newman Knake.

23 International Development Law Organisation, (2019). *Practitioner Brief: Navigating complex pathways to justice: engagement with customary and informal justice systems*.

24 Harper, E. (2021). The enduring utility of customary justice in fragile and post-conflict states: why development actors need to stop searching for magic bullets and solve the political economy and human rights challenges associated with justice programming. *The Journal of Legal Pluralism and Unofficial Law*, 53(3), 342-355.

25 HiIL, (n.d). *Community Justice Services*, HiIL Justice Dashboard, Last accessed on 22/02/2022

3. Outlook

Community justice services or informal justice are an indispensable element of a justice system that provide equal access to justice for all. Although informal justice processes come in many different forms, they tend to have a participatory nature, strive for consensus, focus on social harmony and promote restorative (conciliatory) solutions. They are similar to mediation, but can also have elements of adjudication. Another advantage of informal justice processes or community justice services is that the community can help to ensure compliance of decisions.

Building on the advantages of informal justice and alternative dispute resolution processes, many countries have developed programmes that have the ambition to scale towards the country level. This comes with increased standardisation and formalisation of the services, for which we found a number of models that are being used internationally.

We expect standardising and outcome monitoring to be used increasingly, so that community justice providers can ensure quality and protect women, the poor and minorities. Policymakers can build the capacity of community justice workers with the help of guidelines that describe step-by-step processes for resolving justice problems.

When considering external interventions in community justice services, policymakers are now likely to be oriented towards strengthening the fabric of the community, stimulating the parties to conflicts to identify outcomes that are effective for their relationships, whilst promoting dialogue about improving relationship structures.

We expect community justice services to grow, because formal justice systems cannot serve people at sufficient scale for all their pressing justice problems. Community justice services have to overcome barriers

to growth, by finding sustainable revenue models, by developing an oversight and monitoring system connected to the formal justice institutions, and securing a long term commitment from national governments or their donors.

Read the case of

- [Sierra Leone Legal Aid Board, Sierra Leone](#)
- [Bataka Court Model, Uganda](#)
- [Houses of Justice, Colombia](#)
- [Tribal-State Joint Jurisdiction Wellness Courts, USA](#)

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