DELIVERING JUSTICE, RIGOROUSLY

A guide to people-centred justice programming
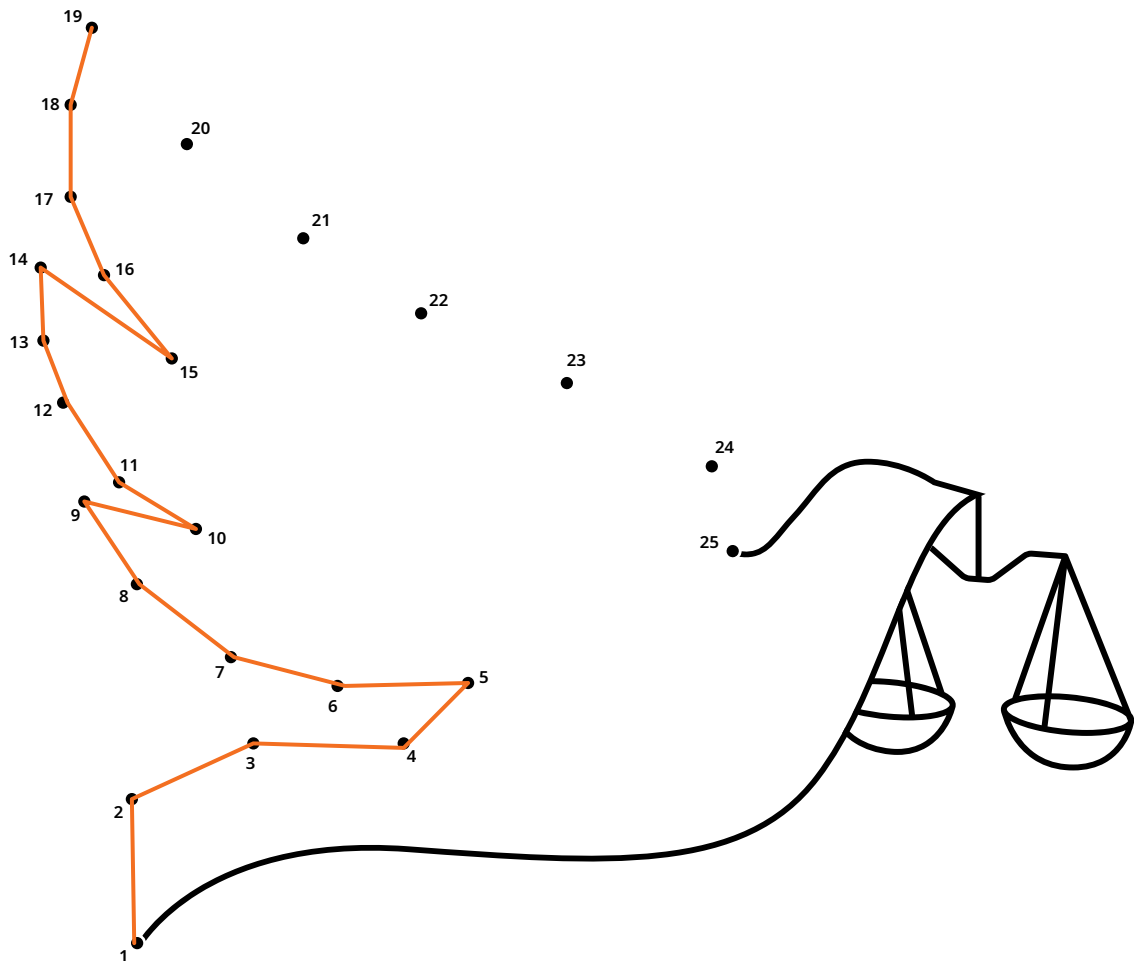
CONTENTS

EXECUTIVE SUMMARY

This report presents an evidence-based, people-centred approach to the delivery of justice. It aims to inform the work of a growing group of leaders who are responding systematically to the demand for fair, effective procedures that address populations' dispute resolution needs. It builds on the work of many scholars, practitioners and committees who laid out the case for a pivot towards people-centred justice, both at the national and international level.

The report shows how a mission-oriented approach, led by an interdisciplinary task force, can spark overdue progress in how societies organise their justice systems to prevent and resolve conflicts. It explores how people-centred justice can be programmed, based on rigorous R&D and innovation. For each type of dispute, evidence-based prevention and resolution processes can be developed, tested and implemented, building on best practices and a growing body of interdisciplinary research.

Strategies to implement such systems are emerging. Pressing justice problems are being categorised and data on their resolution collected. Innovative justice interventions are being trialled and rolled out. This will improve the service delivery models of courts, law firms and government agencies and help them, as well as new players, to resolve conflicts in game-changing ways. It will also help us tackle the increasingly urgent tasks of strengthening social cohesion, reducing inequality and rebuilding trust in institutions.

People need fair, effective and responsive procedures for resolving and preventing conflicts

The world's justice systems too often fall short in their duty to resolve conflicts. For individuals, families, businesses and communities, timely, affordable and responsive justice services are difficult to access. When adequate justice provision is unavailable, people turn away from the justice system and seek solutions elsewhere, often with negative impacts on peace and social cohesion.

Those responsible for justice systems also suffer from this ineffectiveness. Government officials face cumbersome procedures which allow those with power or money to prevail, opening the door to inequality and corruption and aggravating popular

discontent. An increasing number of judges, prosecutors, lawyers, police officers and social workers feel that formal procedures are inadequate, ineffective and costly. These professionals often resort to informal processes that are neither clearly defined nor effectively monitored.

Families, communities and the economy will benefit

The whole of society will benefit if formal and informal conflict resolution procedures in the justice system become more responsive to people's needs. Outcomes will be fairer and decisions taken by judges will more likely be accepted. Greater respect for the law will improve responses to criminal activities. Lawyers will be more effective in helping entrepreneurs to establish and manage businesses.

The economic case to invest in better and more sustainable conflict resolution processes is robust. Increases in conflict resolution rates lead to impressive macro-economic gains. They result in higher productivity, lower transaction costs, improved wellbeing and lower healthcare costs. At present, fewer than one-third of the most impactful justice problems are resolved fairly. Doubling or tripling this rate would allow for millions of improved relationships, higher levels of trust between people, and healthier lives.

Doing nothing, on the other hand, is a high-risk gamble that could jeopardise our way of life. In 2021, only two of the world's 25 most populous countries saw improvements in the World Justice Project's Rule of Law Index. In an increasingly polarised world where trust in institutions is weakening across the board, justice systems that allow conflicts to fester and intensify are a liability. If our societies are to reduce violence, tackle corruption, protect the environment, address inequality and repair broken social contracts, they will need revamped justice systems that respond effectively - and cost-effectively - to people's needs.

Current justice providers face major barriers when trying to meet demand

At present, politicians propose laws and procedures; judges decide cases by applying and interpreting the law; and lawyers assist their clients through settlement and litigation. Outside this formal system, people often help themselves and their fellow citizens via a variety of informal justice processes including mediation, advice services and complaints mechanisms. Local leaders experiment with participatory democracy. Municipalities try out new forms of decision making with regard to projects in their community. NGOs distribute information on people's rights and offer help to victims.

Building more effective conflict resolution systems is thus dependent on individuals attempting to introduce changes in a setting of broad constitutional checks and balances. There is no mechanism, however, to promote system-wide progress towards better outcomes. Stalemates between progressive groups and more cautious factions are common. Justice institutions, including ministries, judiciaries and associations of conflict resolution professionals, need better incentives, more trust in each other's motives and ways to share accountability for the performance of the overall conflict resolution system. Changemakers do not have the business models and structures that generate the necessary resources for the needed innovation. Initiatives may benefit small groups, but equal access to justice for all - the objective of Sustainable Development Goal 16 - remains a distant goal. Demand for effective conflict resolution and just outcomes is much greater than what current systems can incrementally deliver.

Larger-scale transformation will require a sound evidence base and a willingness to embrace innovation. Justice systems are slowly opening up to R&D, following the tracks of the healthcare sector where investment in research, evidence-based practice and sustainable financing has led to rapid gains in quality and almost universal coverage of basic services.

The justice sector urgently needs to test promising "justice treatments" and scale up the implementation of those that work. As we show in this report, conflict prevention and resolution can be supported by web-based applications, for example, and delivered by networks of community justice workers. Frontline judges and legal professionals have begun to design simplified procedures such as tech-enabled one-stop shop dispute resolution procedures. Enlisting the mediation and conflict prevention skills of citizens is helping communities to resolve their own problems.

A dedicated task force should embrace this mission

A dedicated task force of justice leaders and experts is needed to ensure better outcomes. This report details how task forces can make a case to policy-makers for reform of justice systems (Chapter 1) and how they can mobilise resources to implement it (Chapter 2).

Successful task forces can benefit from mission-oriented approaches. The challenge of systematically promoting people-centred and evidence-based justice requires a government-led approach, similar to those that led to the development of technologies such as GPS and the internet. Task forces can scope out their work and set an agenda early. They can formulate indicators regarding the outcomes they want to achieve. They should develop the capacity to work in a multidisciplinary way and to engage diverse capabilities from outside the formal justice system. They need to be aware of how implementation happens and how to scale up effective interventions. And they must focus on the most pressing justice problems and on services that can be truly game-changing (Chapter 3).

Five strategic interventions for people-centred justice are needed

Chapters 4-8 of this report detail five strategic interventions that can guide such task forces. Each builds on international best practices. We discuss methods for justice data collection and for promoting evidence-based practice. And we make recommendations for scaling justice provision, improving the regulatory environment for legal services and expanding the movement for people-centred justice.

GRAND CHALLENGE

Peaceful, inclusive, safe and just society

MISSION

80% pressing conflicts of people, SMEs and in local governance are prevented or resolved through fair agreements or decisions

| Outcomes that people can generally accept | People are respected, heard and participate: procedural justice | Timely, affordable services for all involved |

AREAS OF INTEREST & CROSS-SECTOR

Effective courts, lawyers and informal justice

Innovative justice services

Justice professionals with autonomy

Resilience and self-help in human relationships

RIGOROUS PEOPLE-CENTRED JUSTICE PROGRAMMING

Data about problems and impact

Know how on effective treatments and prevention

Scalable, sustainable models for achieving agreements and decisions

Ecosystems and people-centred justice movement

Regulation, financing and procurement for (innovative) justice services
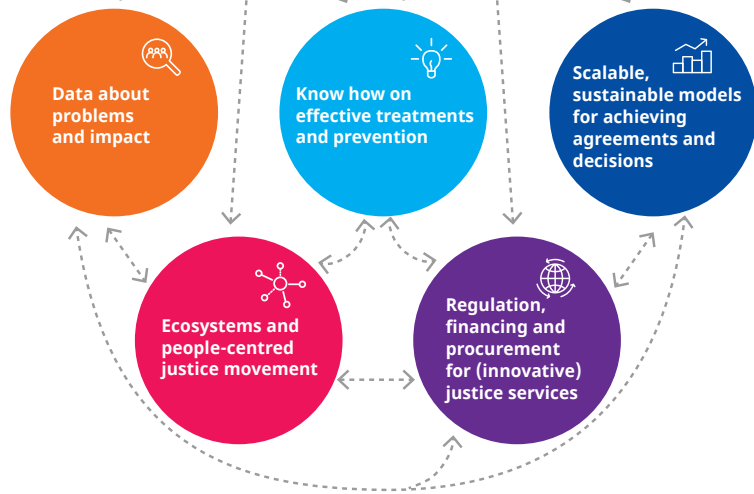
Inspired by the mission-oriented innovation approach by Mariana Mazzucato

1. Data is a crucial starting point (Chapter 4). By regularly **monitoring the prevalence of justice problems and their impact on people and societies, the rate at which problems are resolved and the outcomes achieved**, governments can more effectively prioritise their efforts. Regular quantitative and qualitative surveys can help ensure continuous improvements in people's "justice journeys." Standardising approaches to monitoring the quality and reach of processes and outcomes is critical for systematic evaluation and comparison of interventions.

2. To increase the effectiveness of justice systems in preventing and resolving problems, task forces will need to **make a strong case for evidence-based practice** (Chapter 5). Resolution rates and prevention will improve if the treatments found to be most effective become known and are promoted. Linking evidence to practice will demand systematically defining outcomes for pressing justice problems and monitoring progress towards them.

   Embracing evidence-based practice can ensure that the justice journey is optimised for different types of conflict. Task forces can develop guidelines for specific problems, and ensure their implementation through strategies including financial incentives and other rewards that are of proven effectiveness in promoting evidence-based working. Overcoming resistance from legal professionals will require careful persuasion efforts. Learning from other sectors, for example by testing interventions in randomised controlled trials, can help enhance the robustness of results and fortify the case for change.

3. The third challenge is **to make effective treatment of the most pressing justice problems available to all potential users** (Chapter 6). To reach the majority of the population, task forces can consider a number of service delivery models that have the potential to scale in an affordable and financially sustainable way. Standardised interventions with proven outcomes are more likely to appeal to users and governments and therefore to be financially sustainable. This in turn will provide a better business case for investment. But while standardisation can increase efficiency and reach, a balance must be found between delivering a one-size-fits-all service and respecting the differing needs of individual users who may be under great stress.

   If they are to prove financially sustainable by reaching large numbers of users, justice services will need to be accompanied by concerted awareness-raising efforts. There is evidence that once people become aware of effective justice services, even those from low-income communities are more willing to pay for them than policy-makers generally expect. Transitioning from reaching hundreds of users to many thousands will require a scaling plan and a leadership team with specialist scaling skills. Learning from other sectors can guide justice leaders in their efforts to reach the most marginalised.

4. **Innovation requires new types of regulation, budgeting and public-private partnerships** (Chapter 7). The licensing barriers for new justice interventions, processes and services are high and unsophisticated compared to regulation in other sectors. Incumbent providers of legal services can often block innovations that threaten their position. A task force should ensure independent regulation of legal services, dispute resolution procedures and legal education programmes, with the aim of allowing game-changing models and interventions to compete on a level playing field with existing offerings.

   Procurement of useful innovations from the private sector also needs attention. Developing fruitful public-private partnerships will require task forces to be aware of and respond to often-polarised political sensitivities. Building coalitions for change in the service of more effective justice services will be important - and examples of successful cross-party coalitions are already emerging. Making the case for innovation quotas in budgets can help ensure consistent improvements in service provision over time.

5. The fifth strategic intervention is to **create and sustain a broad movement for people-centred justice** (Chapter 8). Task force leaders will benefit from collaborating with stakeholders from national planning agencies, national and local governments and civil society. Stakeholder dialogues will allow for exploring strategies and identifying opportunities at the same time as increasing trust between institutions.

   Sustaining momentum will require continued proof of effectiveness. This will rely on regular data collection and transparent reporting of results. Task force members will need to hold justice services accountable for these results, with resolution rates and effective prevention of justice problems among the core measures of success. Engaging not only with policy-makers but also with the media and the public will be key to maintaining popular support for reforms and to keeping the pressure on practitioners to change.

Owning people-centred, inclusive and peaceful societies

The bottom line of this report is that societies need to find a way to take ownership of their systems for conflict resolution and prevention. The economic value of preventing and resolving conflicts is immense. Individual wellbeing and social cohesion are at stake.

We cannot sit back and expect that the current procedures and rule systems will respond to this demand. For reasons set out in this report, we see that the key players in the system itself - politicians, policy-makers, civil servants, judges, attorneys, journalists or village elders - are unable to do what is necessary, at least not at the scale and depth that is needed.

A dedicated, targeted, programming effort is needed to complement the good work of justice practitioners. In order to achieve the goal of peaceful inclusive societies, with equal access to justice for all (SDG 16), we should measure outcomes. Evidence about what works will help to prevent and solve many more conflicts in time. Promising justice services can reach far more people, anchoring public support and accountability. Incentive structures can be improved and better aligned with shared values. If conflict resolution thus becomes more effective, we are more likely to achieve almost everything that really matters.

METHODOLOGY AND PARTNERSHIPS

HiiL's mission is to ensure that the most pressing justice problems can be prevented or resolved at scale. This report is based on the belief that a task force can lead the efforts of a particular country or tackle a particular type of justice problem. In Chapters 1-3 it explains how such a task force could make the case for people-centred justice, be constituted, and set an agenda. Chapters 4-7 summarise HiiL's investigation into the R&D and innovation needed to achieve this mission. Chapter 8 explains why a broad movement is needed to make this happen.

The report is based on the insights, methods and tools that have been developed in the sector - including HiiL's contributions to this body of knowledge - and on experiences acquired during our work with justice leaders, courts of law and legal assistance organisations. A literature review was undertaken for each chapter. Our experience is based on work in Africa and the MENA region, and in Bangladesh, Indonesia, Ukraine, the United States of America, Canada and western Europe. The organisations HiiL works with help people who lack access to justice. Our experience has shown how legal assistance organisations have to cooperate in a structured way with law firms, courts, the police and government bodies to deliver more effective justice.

Our Justice Needs and Satisfaction survey has been undertaken in 19 countries. Unlike other legal needs survey methods, our method emphasises the

outcomes people achieve for their problems (HiiL no date.-a). Based on the survey data, literature and trends, we have investigated which types of processes, agreements and decisions are most likely to prevent or resolve justice problems (HiiL 2018). We have developed a series of tools to support evidence-based resolutions and the prevention of justice problems — including 15 building blocks for prevention/ resolution and a method for guideline development adapted from the health care sector based in which we developed 45 recommendations for the top five justice problems (HiiL n.d.-b; HiiL n.d.-c; HiiL n.d.-d). At present, we are working with justice practitioners on templates to implement evidence-based practices and standards to monitor outcomes.

The Accelerator unit for justice innovators has allowed HiiL to stay close to the realities and experiences of more than one hundred justice startups over the past six years (HiiL n.d.-e). Why did they succeed or fail? What do they and their funders need? In the Charging for justice trend report, HiiL (2020) summarised the main barriers and enablers to delivering effective resolution for justice problems. Our coaching with startups identified seven service delivery models or 'gamechangers' for justice services with potential for scaling (HiiL n.d.-f). At present, we are investigating the critical success factors for these gamechangers and models to finance them sustainably through contributions from parties to conflicts, the community and taxpayers (HiiL 2022d).

Through our programmes, HiiL has found that the regulatory environment of courts and legal services makes evidence-based work and scalable and sustainable services difficult to operationalise. In its report, Charging for Justice, HiiL (2020) investigated how the financial and regulatory environment can be improved. In parallel, we also started to design step-by-step strategies to overcome such barriers.

These strategies benefit from intensive dialogue and project cooperation with colleagues and experts working on UN SDG 16.3, which promises "equal access to justice for all." The OECD, Pathfinders for Justice, USAID and the Ministry of Foreign Affairs of the Netherlands are leading efforts to develop people-centred justice approaches OECD 2021; Pathfinders 2019; USAID 2022; Government of Netherlands 2022). In countries where HiiL has organised stakeholder dialogues and innovation labs, chief justices, court leaders, NGO directors and ministers have shared their visions. Experts from the World Justice Project, IAALS, the American Bar Foundation, UNHCR, OGP, UNDP and the World Bank are interacting with a growing group of university researchers focusing on responsive, human-centred design and evaluating

innovative programmes (World Justice Project n.d.-a; Montague 2022; American Bar Association 2022; UNHCR 2018; UNDP and Australian Development Cooperation 2016; Open Government Partnership 2018).

HiiL is based in The Hague, the international city of peace and justice, where many of these interactions take place and where the city government is supporting R&D and innovation to service the population more effectively.

To support this growing movement, HiiL has developed early prototypes to quantify the contribution of programmes to SDG 16.3, national GDP and people's wellbeing. In several countries, we are interacting with national planning agencies and with the leaders of the justice sector to develop a national people-centred justice programme.

On 20 April 2022, a dialogue between justice leaders from Kenya, Netherlands, Nigeria, Tunisia, Uganda and the United States of America compared notes on people-centred justice programming. The benefits of and impediments to evidence-based work were discussed. The annex to this report summarises this dialogue.

THE SUPPORTING CASE STUDIES CAN BE FOUND IN THE ANNEX:
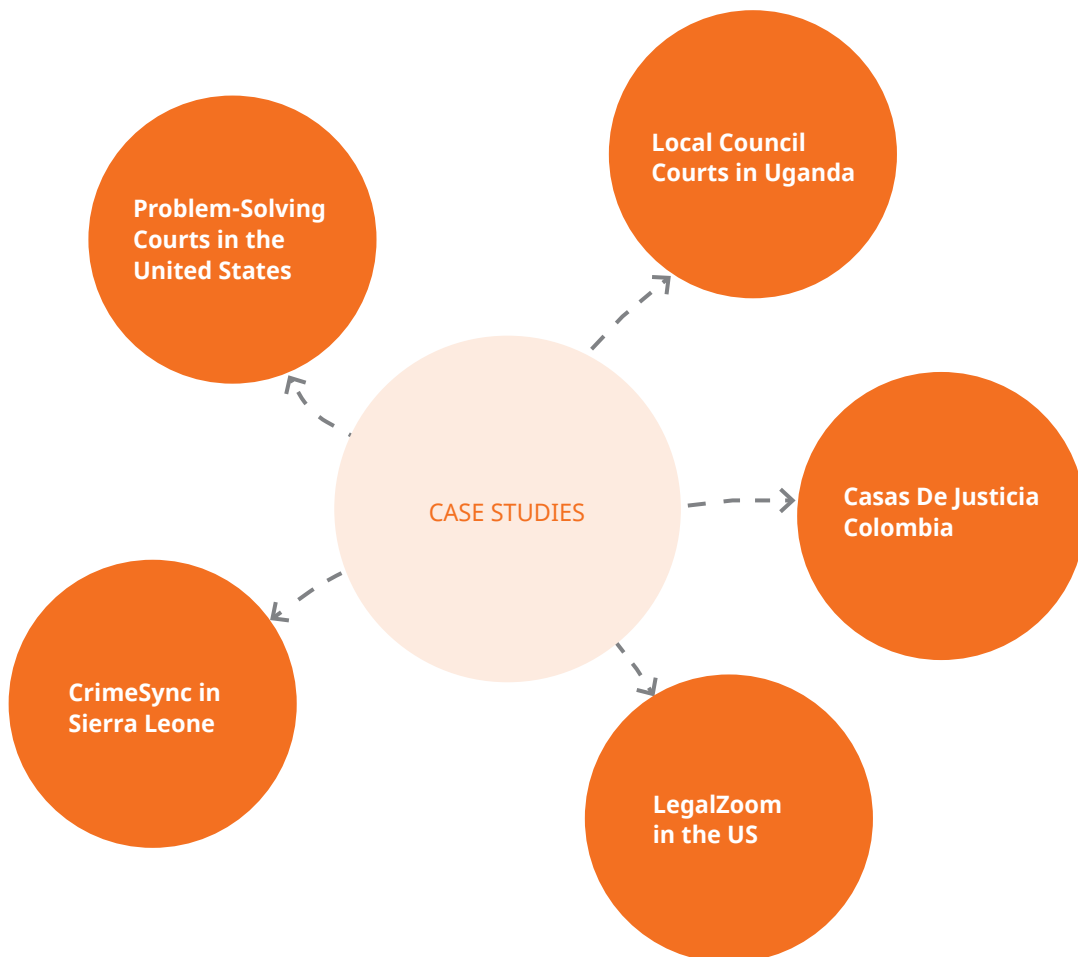
References

American Bar Foundation, (2020). ABF access to justice research network members.
URL: www.americanbarfoundation.org/research/summary/1057. Accessed on July 18, 2022.

Government of Netherlands, (2022). The Hague is setting the stage for global justice.

HiiL, (2018). Understanding justice needs: The elephant in the courtroom.

HiiL, (2020). Charging for justice: SDG 16.3 Trend Report 2020.

HiiL, (2022). Game-changing factors that improve innovation in justice delivery.

HiiL, (n.d.-a). Collecting data on justice needs. URL: https://www.hiil.org/what-we-do/measuring-justice/.
Accessed on July 7, 2022.

HiiL, (n.d.-b). Building blocks. Justice Dashboard. URL: https://dashboard.hiil.org/building-blocks/.
Accessed on July 7, 2022.

HiiL, (n.d.-c). Guideline method. Justice Dashboard. URL: https://dashboard.hiil.org/treatment-guidelines/guideline-method/. Accessed on July 7, 2022.

HiiL, (n.d.-d). Guidelines for justice problems. URL: https://dashboard.hiil.org/treatment-guidelines.
Accessed on July 7, 2022.

HiiL, (n.d.-e). Justice innovators. URL: https://www.hiil.org/what-we-do/the-justice-accelerator/innovators/.
Accessed on July 7, 2022.

HiiL, (n.d.-f). The gamechangers. Justice Dashboard. URL: https://dashboard.hiil.org/the-gamechangers.
Accessed on July 18, 2020.

Montague, K. (2022). IAALS launches allied legal professionals in an effort to increase access to quality legal services and help reduce barriers to representation. IAALS.

Nazifa Alizada, Rowan Cole, Lisa Gastaldi, Sandra Grahn, Sebastian Hellmeier, Palina Kolvani, Jean Lachapelle, Anna Lührmann, Seraphine F. Maerz, Shreeya Pillai, and Staffan I. Lindberg. 2021. Autocratization Turns Viral. Democracy Report 2021. University of Gothenburg: V-Dem Institute.

OECD, (2021), *OECD framework and good practice principles for people-centred justice*, OECD Publishing, Paris.

Open Government Partnership, (2018). Opening justice: Access to justice, open judiciaries, and legal empowerment through the Open Government Partnership. Publisher: Open Government Partnership.

Pathfinders, (2019). Task Force on Justice, Justice for All – Final Report. (New York: Centre on International Cooperation, 2019).

UNDP and Australian Development Cooperation, (2016). Equal access to justice through enabling environment for vulnerable groups.

UNHCR, (2018). Toward Durable Solutions: Legal aid & legal awareness Factsheet January - December 2021.

USAID, (2022). USAID rule of law policy: A renewed commitment to justice, rights and security for all.

World Justice Project, (2021). Rule of law index. Publisher: World Justice Project.

World Justice Project, (n.d). Rule of law research consortium. URL: https://worldjusticeproject.org/our-work/research-scholarship/rule-law-research-consortium. Access on July 18, 2022.

1

MAKING THE CASE FOR PEOPLE-CENTRED JUSTICE

Reforming justice: moving up the policy agenda

Conflicts are an inevitable part of life. Preventing disputes, and managing them carefully, is the daily business of courts, government agencies, and political institutions. Professionals in conflict resolution are helping people who are mired in disputes about land, family conflicts, or work or environmental issues. The civil justice system provides formal procedures. Judges, lawyers, social workers, and other "justice practitioners" often resort to informal negotiation or mediation as well.

Government officials need to make decisions on how best to use land or to allocate access to public services. They have to do this following the rules of administrative procedure, which is the formal framework for reconciling the needs of the people, the natural resources available on the planet, and the pursuit of profit by enterprises on the basis of a nation's laws. Within this framework, or as an alternative approach, they use many types of informal processes for participation and achieving consensus (Bernstein and Rodriguez 2022).

In case of violence, theft or fraud, police and prosecutors apply the rules of criminal procedure. This is the primary way to protect victims, sanction perpetrators, and restore harmony in the community. Like their colleagues in government agencies and the practice of civil justice, these justice practitioners often turn to informal or alternative ways to enable people to cope with the consequences of crime.

Often, justice practitioners struggle to support people who seek access to justice. Formal procedures tend to be slow and bureaucratic. Informal processes are not well organised. What happens during negotiations in the corridors of power is not transparent. Government agencies and business owners complain about tedious administrative procedures which makes it hard for them to reconcile environmental challenges and economic progress. All pillars of the justice system tend to be overburdened. Only a minority of victims receive adequate intervention from criminal justice systems. Those causing harm are seldom treated in the ways that are most likely to prevent future crime or help victims to recover. Too often, only those with power, money, or extreme determination can handle the complexity of justice procedures, thereby opening the doors to inequality and corruption.

Survey data on justice needs are widely available and can support the potential for a rigorous R&D effort to improve justice systems. The World Justice Project, HiiL, and other research groups have collected data on justice problems, impact, and justice journeys in more than 100 countries (World Justice Project n.d.-b). The general trend is that few people rely on formal justice institutions when they have to cope with conflicts or crimes. The justice gap has now been quantified and is considerable in almost every major country surveyed (World Justice Project 2019). The unmet demand for justice is striking.

In sum, justice systems need to do a better job of serving their people and justice practitioners need better tools to solve conflicts. Leaders across the world acknowledge the need to upgrade legal systems. During the 2010s, the World Bank financed justice sector reforms through multi-million dollar loan agreements in Azerbaijan, Kazakhstan, Kenya, Morocco and Peru, to name just a few (World Bank n.d.). The European Commission and United Nations Development Programme (UNDP) have supported reforms in civil and criminal justice (European Commission n.d.; UNDP n.d.). The United Nations Office on Drugs and Crime (UNODC) coordinated efforts to improve standards in criminal justice (UNODC 2016). UN Habitat developed methods to prevent and resolve problems related to land and housing (UN Habitat n.d.; UN Habitat 1999).

In Canada and elsewhere, chief justices support task forces and think tanks on access to justice (The Canadian Bar Association 2021). Many countries in Africa and Latin America have justice sector development plans (Republic of Uganda n.d.; Republic of Kenya n.d.; Government of Brazil 2021). Ministers of justice in Argentina, France, Portugal, and the UAE have established groups in their justice ministries to lead innovation efforts, each of which has introduced ambitious new justice services.

Political agendas vary but many reform efforts go in similar directions. Reforms span the globe and have been initiated under a broad variety of democratic and autocratic regimes. Canada is leading online-supported adjudication (HiiL 2022c). Argentina and France have invested in houses of justice (Government of Argentina n.d.; French Republic n.d.). The Supreme People's Court organised efforts to scale up and professionalise the Chinese court system, encouraging mediation as well as rule-based adjudication. Russia set up a countrywide system of informal local courts tasked to resolve disputes (Hendley 2017). In January 2017, outgoing US President Barack Obama published

an article in *Harvard Law Journal* outlining a strategy for criminal justice reform. In a rare instance of bipartisan cooperation in the United States, his successor Donald Trump signed the First Step Act, which aims to improve the rehabilitation of offenders and the protection of victims (Wikipedia 2022). Governments in Italy, Germany, and the Netherlands promise justice system reforms in coalition agreements. Political parties may have different priorities - being tough on crime; providing access to justice for the disadvantaged; securing economic growth based on private initiative; preserving the environment; or serving the police and the legal profession as powerful constituencies - but even so, improvements can be agreed upon.

Each of the 47 member countries of the Council of Europe have committees and groups that implement reforms in the judiciary, the prosecution, and the legal aid system. The Organisation of American States and USAID have supported justice reform initiatives throughout Latin America (Organisation of American States n.d.). To address large-scale injustices, countries have set up truth and reconciliation commissions or special tribunals that are tasked with finding solutions for injustices and preventing them from recurring.

Some examples of task forces with ambitious strategies are Michigan Justice for All Commission, Supreme People's Court China, Systems of Civil Justice Task Force of Canada, Access to Justice Task Force of Australia, the Justice Reform Commission of Peru. Find more examples of task forces from across the globe that work on access to justice on the National Centre for State Courts website. It includes the Access to Justice Committee of the Law Council of Australia, Access to Justice Asia, Access to Justice in China, United Nations Development Project Tajikistan, and the Japan Federation of Bar Associations.

People-centred and evidence-based reform

Not all reform efforts have been successful, however. Several have been temporary and many law reform commissions have lost their momentum. Programmes have been criticised for spending too much on legislation, on the construction of courthouses, or on police training. Reform agendas contain long lists of findings and recommendations, but are not always specific on how these can be prioritised or implemented. Thousands of local pilot programmes

fail to scale. Task force leadership is often dominated by people trained as lawyers, which is reflected in reports calling for changes in legislation and budget increases for legal institutions.

Upgrading justice systems is increasingly seen as a shared challenge. Peaceful and inclusive societies, with access to justice for all and effective, accountable and inclusive institutions, are a UN Sustainable Development Goal. Reports by the European Commission for the Efficiency of Justice (CEPEJ) – the Council of Europe organisation that collects justice system data – show considerable differences in the way justice systems are organised, funded and scaled (CEPEJ 2020). The European Union offers the following best practices on justice reform and cooperation with partner countries.

EU BEST PRACTICES ON JUSTICE REFORM

- **Legal empowerment:** People, especially vulnerable groups, need to be aware of their rights and the services at their disposal.

- **Equal access to justice:** We need to ensure that everyone, irrespective of where they are located, has access to justice. This means focusing not only on institution building in capital cities, but also on supporting and reforming regional and local institutions, as the most vulnerable people usually live in remote rural areas.

- **Institutional accountability:** Focus on oversight mechanisms to enhance transparency and hold justice institutions accountable for their commitment to change.

- **Research-based actions:** Comprehensive research helps to understand local dynamics. Applying a scientific method is key to developing indicators that measure the results and impact of interventions on people's lives.

- **System-wide perspective:** When analysing and reforming the justice sector, we need to consider all aspects, including civil, criminal, public, and international law, as well as traditional justice mechanisms.

- **Service delivery approach:** Justice sector support needs to move to a service delivery approach. The constraints that impair justice delivery need to be addressed.

- **Results-focused approach:** Each intervention needs to be implemented with realistic objectives and expected results, taking into account the specific context and whether it is resistant or favourable to change. A suitably long timeframe needs to be set in order to ensure the success of an intervention.

- **Balancing different types of actions:** Financial support or investment in equipment or facilities is not enough in itself, but needs to be combined with technical assistance to help local actors build their capacities. Political dialogue throughout the entire reform process is also essential to ensure that local actors are on board and take ownership of the reform process.

- **Human rights and gender equality:** Human rights and gender equality must be protected and promoted throughout the reform process.

- **Donor coordination:** Donor duplication should be avoided and cooperation between low-income countries should be promoted (South South cooperation).

The emerging consensus is that reform should be people-centred and evidence-based. The OECD, the Open Government Partnership, Pathfinders for Justice, The Elders, the European Union, and USAID are among those leading the efforts to develop people-centred justice approaches (OECD 2021; Open Government Partnership 2019; The Elders, n.d.; European Commission n.d.; USAID 2022). They are supported by an increasing number of country governments forming the Justice Action Coalition (Justice Action Coalition 2022). Another main player is the International Institute for Democracy and Electoral Assistance (IDEA), the intergovernmental organisation that works on developing inclusive and accountable institutions (Government of Canada 2021). IDLO and UNDP, the leading international legal development cooperation organisations, have developed people-centred rule of law strategies, informed by specialists in law and development from ODI and IDRC (IDLO 2020; UNDP 2021; Manuel and Manuel 2021; IDRC 2022).

The policy briefs and strategies produced by these experts have a number of common elements. People-centred legal and justice services should be based on and respond to an empirical understanding of the legal needs and legal capabilities of those who require or seek assistance (OECD 2021). People-centred justice should be available across the justice chain and provided in a range of formats, programmes, and services types. Prevention of injustice, proactivity, and timeliness are key in this paradigm. The system should provide seamless referrals and integrated services through collaboration between legal, justice,

and other service providers. People should be able to access all the services they need to solve the legal and related non-legal aspects of their problems. Regardless of the entry point for assistance, they should receive appropriate treatment for their problem. People-centred justice services should be continually improved upon through evaluation, evidence-based learning, and the development and sharing of best practices.

A new paradigm requiring a major transition

This approach is different from how legal systems have traditionally been reformed. Until now, even the most effective task forces have relied on piecemeal reforms that current legal institutions allow for. At present, politicians must propose laws and procedures, hoping they will be accepted by legislative bodies and that justice practitioners will implement them in individual cases. Judges can decide cases by applying, and sometimes tweaking, the law in order to make it more responsive. Reformers can hope that lawyers turn to processes that are more likely to lead to fair and sustainable settlements. They can advocate that litigation becomes more focused on effective solutions for conflicts and less costly. People may become more effective in helping themselves or their fellow citizens in a variety of informal justice processes that are sometimes half-formalised, such as mediation or ombuds procedures. Local leaders experiment with participatory democracy or with new forms of decision-making on major projects in their community. NGOs distribute information on people's rights and offer to help victims.

Progress in governance and effective conflict resolution systems is thus dependent on individuals trying to introduce change. They do so in a setting of broad constitutional checks and balances, but in which there is no mechanism to ensure systematic progress towards better outcomes. Institutional accountability as described by the EU in its policy document is also lacking.

In this report, we explore the answer to this much bigger reform challenge. We explore how a next generation of task forces could launch and manage the systematic R&D and innovation needed to implement people-centred justice in a country based on the recommendations of the many policy briefs and strategies that are building the paradigm. For instance, reform agendas need to have both state-of-the-art ways to measure outputs, outcomes and impact of the most pressing justice problems and a results-based approach with clear objectives. Neither is commonly found in the justice sector. Research and an evidence-based working approach when interacting with parties in a justice problem should be combined with systematic improvements in the

delivery and scaling of justice services. The service delivery approach requires coordination between broad national programmes and local institutions. Traditional justice mechanisms can work alongside formal courts. Political dialogue – in which high-level participants take ownership of and accountability for justice institutions – in combination with regulatory and financial regimes that stimulate and support continuous innovation are also needed.

Making the case for systematic programming: speaking to the heart

Systematic programming for people-centred justice starts with making the case. Although the reasons for setting up a task force may be evident, a strong initial proposal is needed to ensure it receives adequate resources. The following suggestions may help to inform this proposal.

Justice task forces are often established in situations of broadly shared indignation. A particular group is victimised or a high profile crime has been committed. A task force is formed to rectify the injustice. Justice speaks to hearts and minds. Both can be addressed. Injustice is easy to spot, emotionally. Anger has been called the emotion of injustice. Compassion and outrage are quickly triggered.

Justice, and the ways to achieve it, are emotionally more complex than injustice. Justice comes from being heard, feeling respected, obtaining remedies, and sharing resources fairly (Sabbagh and Schmitt 2016). Assuming responsibility for one's role in an injustice, forgiving someone who caused harm, preventing future harm or exacting retribution, these are moral choices that can be confusing (Carlsmith and Robinson 2002). Most police fiction and media reports have the shape of a whodunit, thereby simplifying or overlooking this complexity. The storyline of justice ends when the good guys find out what happened and make an arrest. This is when the complex task of delivering justice really begins. Detectives don't work on rehabilitation. You don't see them working with youth in poor neighbourhoods to prevent crimes.

A task force will therefore often be initiated in a setting where the media call for retribution. We think a task force will be better positioned if it can connect to the feelings of people involved in everyday disputes and to society's collective awareness that at least a degree of social harmony must be restored. In a world full of discord and polarisation, the need to agree on a peaceful way forward can be emphasised.

A task force may also want to connect to concrete situations that people are familiar with: How would the country look if all land conflicts were resolved quickly and fairly? What would the effect on work life be if all workers had a sound and balanced contract, and were able to access their benefits via a user-friendly platform? How would people feel if conflicts that inevitably arise were resolved by a one-stop court procedure, leading to settlement agreements tailored to individual needs? What if domestic violence was prevented and treated in an evidence-based way, delivering the outcomes women need in order to feel safe?

In our projects, we encounter many reasons to consider people-centred justice programming. Change-makers and their funders mention the following qualitative reasons to support justice programmes: less polarisation; reduced need for migration; human rights protection; protection of the vulnerable; prevention of civil unrest; crime prevention through improved conflict resolution; and greater government accountability for public services.

Quantifying the burden of injustice and how justice contributes to GDP

The rational, quantitative business case for people-centred justice can be built on data that are now widely available. Quantifying the annual burden of particular types of justice problems can help make the case for investment. This can be calculated in a similar way as the burden of disease. The number of new problems per year in a country can be derived from legal needs surveys. Impact can be quantified using data on self-reported severity, consequences (for example, violence, loss of income, stress-related illness), and money and time spent on resolution. The cost of state resources used to address these justice problems should be factored in as well.

This is how such a calculation might look. In a typical city or state with a population of 8 million, 1 million people on average will experience a pressing justice problem annually. Of these, 500,000 problems will have a major negative impact. If the average negative impact of a land problem in an African country of 8 million people is estimated to be $1000, and the resolution rate is 30%, the burden of land injustice in this country can be quantified at approximately $90 million per year (see the numbers in the infographic, based on HiiL 2018).

JUSTICE NEEDS AND SOLUTIONS IN A MEGACITY OR COUNTRY OF 8 MILLION PEOPLE

1 million problems per year

500,000 problems
with **major negative impact**

500,000 problems
with **some negative impact**

Family:
100,000

Crime:
140,000

Land:
130,000

Employment:
110,000

Neighbours:
130,000

Other:
390,000

No action or not solved 420,000	Ongoing 250,000	Resolved partially 90,000	Resolved completely 240,000
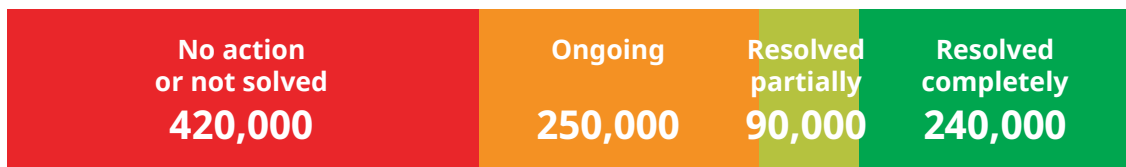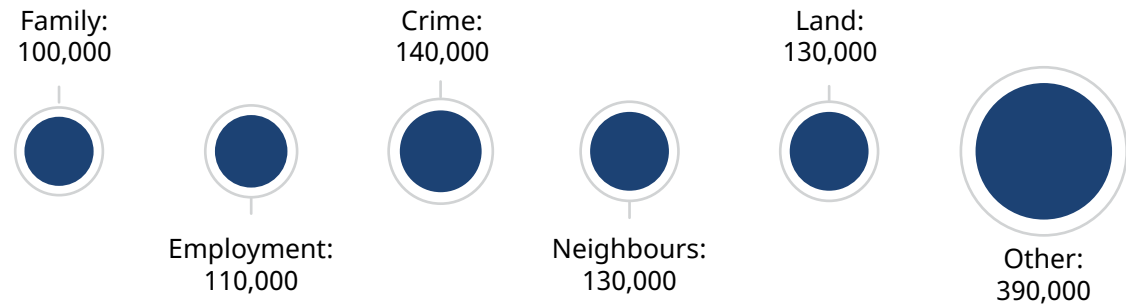
Negative impact continues
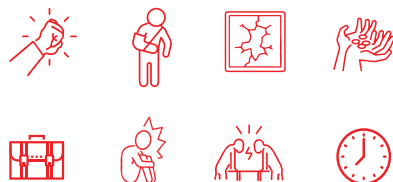
Most helpful process

50,000 court tribunal
80,000 public authority

30,000 informal third party
40,000 agree with mediation
70,000 agree
60,000 other

Quantifying the potential contribution of justice to GDP is more complicated, but possible. Resolving a land justice problem may increase the productivity of a farmer who is able to cultivate formerly disputed land. Solutions that address the consequences of deadly crimes can contribute to the recovery of survivors and the reintegration of perpetrators into the economy. When people are relieved of an existential threat to their livelihood and can manage their relationships through more effective contracts, their contribution to the economy can grow. Justice also sits well with the movement towards broader concepts than those focussed on GDP; greater fairness will improve well-being.

The growing body of literature has revealed a variety of ways in which programmes have quantified the size of the social and economic benefits of justice system interventions (Moore and Farrow 2019; Weston 2022). For instance, the Dutch Ministry of Justice and HiiL asked Ecorys, an economic advisory agency, to calculate the economic and social benefits of achieving 80% resolution rates to justice problems in the Netherlands. We defined this as 80% of justice problems being resolved either by agreement or by a decision in a way viewed as sufficiently fair by the person who experienced the problem. The calculation was based on an extrapolation from three justice problems: separation, work conflict, and access to social security/services.

Ecorys estimated a 0.15% contribution to GDP of increasing the resolution rate to 80% (Ecorys 2021). This excludes export opportunities for justice services and improvements in the national investment climate through better access to justice. $1 successfully invested is projected to lead to $4 saved on transaction costs (the resources spent on attempting resolution) and a $14 gain in productivity (the increased productivity if people involved can devote their attention to other activities then trying to cope with the impact of conflict). On top of this contribution to GDP in the narrow economic sense, the calculation yielded contributions to well-being: a $51 gain in quality of life and $10 saved in public services costs (including the costs of health care).

There are also the economic and environmental gains of faster, more effective procedures to resolve conflicts regarding allocation of land to various types of use. The interests of current populations, of future housing needs, transportation requirements, water management, nature, and entrepreneurial activities need to be reconciled. In theory, the costs and benefits of projects can be assessed, with overall beneficial projects approved, provided there are adequate measures protecting the interests at risk, or that there are adequate compensatory measures

for those interests that cannot be fully protected. In practice, this decision making is often slow and can be frustrated by litigation tactics of a small group. People who are affected face considerable bureaucratic barriers when they try to be heard. Comparative administrative law, which should lead to the systematic assessment of what works best when organising these processes, is at an early stage of describing different systems (Pünder 2013; Asimow 2015). Initial exploratory research should be followed by systematic research and development, and broad implementation of innovations.

The calculations above do not provide final answers. The economic modelling of the benefits of conflict resolution and accessible justice is at an early stage. It can be improved with better data collection and continued testing of assumptions. The negative effects of unresolved justice problems have to be quantified in more detail, allowing for individual coping strategies. Some people move on from their problems, while others feel resentment and report more significant consequences; for example, violence, damage to relationships, loss of time and money, stress, and other health issues.

Failing to create credible pathways to peaceful, inclusive societies is a high-risk gamble

When justice institutions fail to give people a voice and provide remedies, this contributes to feelings of frustration and neglect among communities. Governments around the world rightly see this as a threat to stability. Ministries of justice experience this as a variety of challenges that became apparent during a ministerial meeting in 2020.

A MINISTERIAL MEETING ON PEOPLE-CENTRED JUSTICE

In October 2020, ministers of justice representing 20 countries gathered for a meeting co-hosted by Pathfinders for Justice, the OECD, and the Open Government Partnership to share their experiences in dealing with the COVID-19 crisis (Muller 2020). The ministers sought to ensure the safety of justice practitioners in their respective ministries. They shared concerns about budgets and how they worked hard to maintain the proper functioning of existing procedures.

COVID-19 outbreaks in prisons, for example, forced them to take tough decisions.Some of the ministers alluded to a desire for deeper innovation. They sensed there was little to be gained from locking up additional people. They looked beyond their own ministry for cooperation with civil society. All ministers shared experiences about moving justice services and delivery online. The Belgian minister proposed a 'giant leap' – to build a single digital platform through which citizens could access all justice services. Latvia is working on this already. The private sector can help the public sector bring these digital solutions to scale, drawing inspiration from the way innovation and scale has been achieved in the health sector.

Frustration with complex procedures has made 'simplifying procedures' an increasingly popular mantra. Ministers of Justice are also increasingly focused on broadening, decentralising, and expanding legal help through collaboration with civil society organisations.

The COVID-19 crisis also revealed a lack of preparedness on the part of ministries to adapt their services. Much was learned on how to implement changes quickly. Procedural rules were changed in a matter of days. Because ministers had to do all of this during the early months of 2020, the value of sharing international best practices became more apparent. More generally, ministers are looking for solutions that have proved to be effective elsewhere.
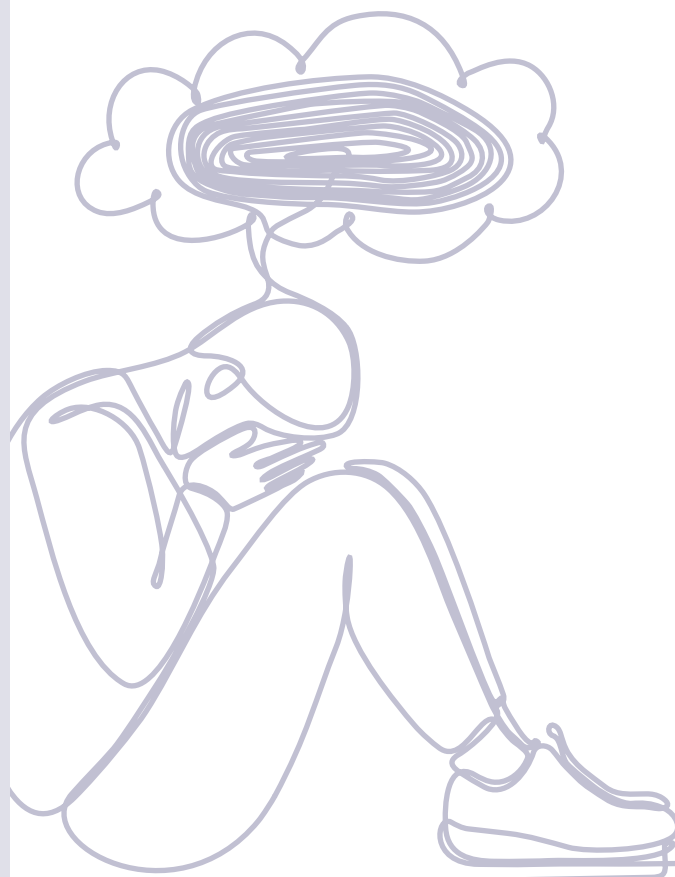
The underlying challenges and patterns suggest systemic risks. Conflict prevention and resolution are what societies hope to achieve by promoting the rule of law. Worldwide trends suggest that not taking this task as seriously as other sustainable development goals is a high-risk gamble. In 2021, only two of the world's 25 most populous countries saw improvements in the World Justice Project Rule of Law Index: Germany and the Democratic Republic of Congo (World Justice Project 2021). According to the V-Dem Institute (2022), only 4% of countries are on track to improving democracy. V-Dem uses a broad, people-centred definition of democracy that includes electoral democracy, rule of law and protection of rights, participatory democracy, and deliberative democracy. The results are an indicator of societies' conflict resolution capabilities.

V-Dem's data show not only a strong trend towards more autocratic regimes, but also how difficult it is for countries to move towards greater participation, dialogue, inclusiveness, and accountability. When democratic governments cannot deliver on peace, inclusivity and access to justice, elected autocrats provide the only alternative for voters. The world urgently needs credible pathways towards people-centred, inclusive, and well-functioning justice systems. Rigorous R&D and innovation can guide a gradual transition towards systems of governance that can resolve conflicts in a peaceful, inclusive, accessible, and equal manner.

Assessing the current system

Another way to make the case for people-centred justice is to assess how justice sector institutions are perceived by the population and justice practitioners.

In our 2018 Trend Report 'Understanding Justice Needs: The elephant in the courtroom', we suggested a low-cost and simple way to diagnose the condition of the current system. It can be applied to a national justice system, to a single institution, or to the supply chain of one type of justice problem.

9 INDICATORS FOR ASSESSING URGENCY

1.
Backlogs: Are they decreasing and is this decrease sustainable?

2.
Capacity: How many problems do formal institutions solve compared to the number of pressing justice problems?

3.
Prioritisation: Are institutions helping the people who need it most or does successful access depend on money, stamina and other resources?

4.
Motivation: Is the motivation of front line justice practitioners increasing or decreasing?

5.
Workload per case: Are adversarial processes increasing or decreasing the workload over time?

6.
Digitisation: Are online and IT systems increasing the number of cases handled and/or improving outcomes for citizens?

7.
Confidence: To what extent do justice leaders believe in how the work is done and try to attract more cases to help people more effectively?

8.
Support: What percentage of citizens is willing to support the courts and justice sector institutions, and believe the system will solve their problems?

9.
Funding: To what extent can donors and Ministries of Finance be convinced to invest in better justice services?
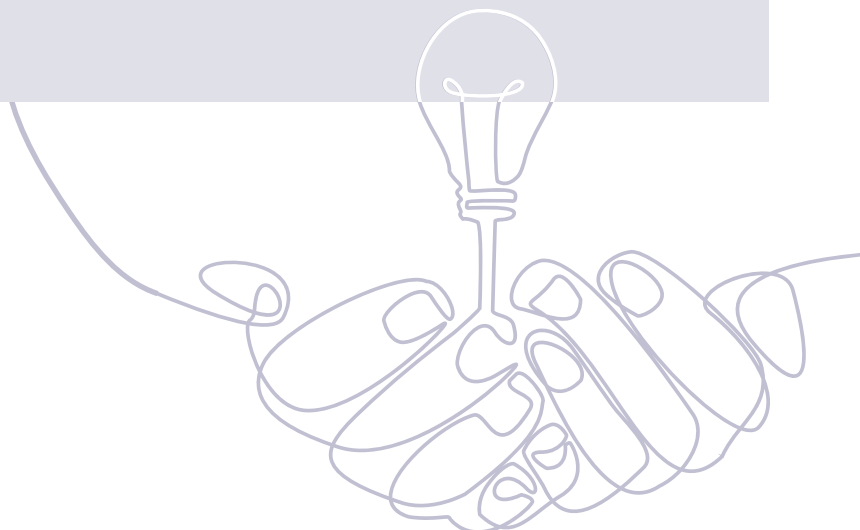
In India, Tata Trust (2020) sponsored an <u>assessment of the capabilities of the justice institutions</u> in each state. The indicators, which were collected in 2019, were not positive and were summarised in a strongly-worded message:

> *Sadly, taken collectively the data paints a grim picture of justice being inaccessible to most. Findings highlight that each individual subsystem is starved for budgets, manpower and infrastructure; no state is fully compliant with standards it has set for itself; gender and diversity targets are improving only sluggishly, and are not likely to be met for decades; and governments are content to create ad hoc and patchwork remedies to cure deeply embedded systemic failures. Inevitably, the burden of all this falls on the public.*

Signals of system stress may help convince individual leaders in the justice sector to take action. Whether a negative assessment motivates funders or outsiders to help, on the other hand, remains to be seen. A negative appraisal, and a sense of crisis, may also lead to denial or resignation. In 1974, the US government created the Legal Services Corporation to address the nationwide access to justice crisi. Numerous task forces have since used this language. If a crisis continues for half a century, is it really a crisis? Or is it a disease with no cure in sight?

A more positive case – one that quantifies how solutions can contribute to well-being – is likely to be more effective. Pathways out of a crisis – and an explanation of how a task force can identify and facilitate them – need to be provided. At present, newly established task forces can benefit from a <u>growing body of knowledge</u> on how to position the need for justice reform.
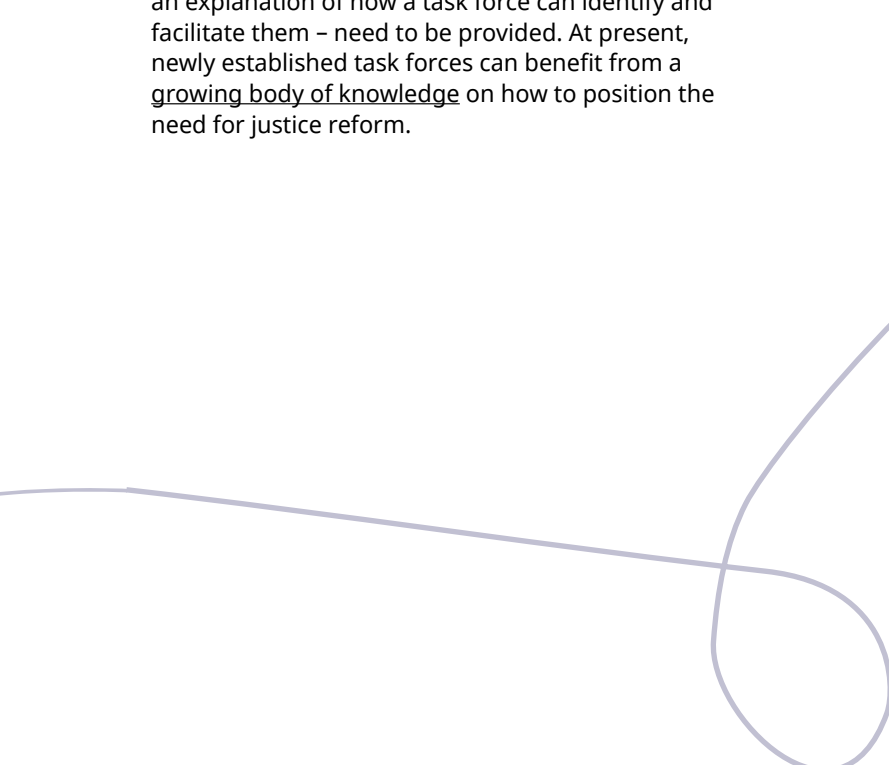
References

Asimow, M. (2015). Five Models of Administrative Adjudication. American Journal of Comparative Law, 63(1), pp.3-31.

Bernstein, Anya and Rodriguez, Cristina. (2022). The Accountable Bureaucrat (March 26, 2022). Yale Law Journal, Vol. 132.

Carlsmith, K. M., Darley, J. M., & Robinson, P. H. (2002). Why do we punish? Deterrence and just deserts as motives for punishment. Journal of Personality and Social Psychology, 83(2), 284–299.

CEPEJ, (2020). European judicial systems: CEPEJ evaluation report.

Clara Sabbagh and Manfred Schmitt, (2016). Handbook of Social Justice Theory and Research.

Ecorys.(2021). MKBA innovatieve rechtsvoorzieningen.

European Commission, (n.d.). Justice and the rule of law. URL: https://international-partnerships.ec.europa.eu/policies/peace-and-governance/justice-and-rule-law_en. Accessed on July 27, 2022.

European Commission, (n.d.). Justice and the rule of law. URL: https://international-partnerships.ec.europa.eu/policies/peace-and-governance/justice-and-rule-law_en#best-practices. Accessed on 28th July 2022.

First Step Act. Wikipedia (2022). URL: https://en.wikipedia.org/wiki/First_Step_Act. Accessed on August 8, 2022.

French Republic, (n.d.). What are the houses of justice? URL: https://www.vie-publique.fr/fiches/268688-justice-de-proximite-les-maisons-de-justice-et-du-droit-mjd. Accessed on August 14, 2022.

Government of Argentina, (n.d.). Access to justice centres. URL: https://www.argentina.gob.ar/justicia/afianzar/caj. As accessed on August 14, 2022.

Government of Brazil, (2021). National plan for public security and social defence 2021-2030.

Government of Canada, (2021). International IDEA - Joint statement on democracy. URL: https://www.canada.ca/en/global-affairs/news/2021/12/international-idea---joint-statement-on-democracy.html. Accessed on July 28, 2022.

Hendley, K. (2017). The Unsung Heroes of the Russian Judicial System: The-Justice-of-the- Peace Courts. The Journal of Eurasian Law, Duke University.

Hermann Pünder, (2013). German administrative procedure in a comparative perspective: Observations on the path to a transnational ius commune proceduralis in administrative law. International Journal of Constitutional Law, 11(4), pp.940-961.

HiiL, (2018). Understanding justice needs: The elephant in the courtroom.

HiiL, (2018). Understanding justice needs: The elephant in the courtroom.

HiiL, (2022c). Policy brief: One-stop shop dispute resolution. HiiL.

International Development Law Organization, (2020). Strategic Plan 2021-2024.

International Development Research Council, (2022). Closing the justice gap with research on legal empowerment. URL: https://idrc.ca/en/research-in-action/closing-justice-gap-research-legal-empowerment. Accessed on July 28, 2022.

Justice Action Coalition, (2022). Justice 2023: Pivoting to people-centred justice.

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

Moore, L. and Farrow, T. (2019). Investing in Justice: A Literature Review in Support of the Case for Improved Access, Report prepared for the Task Force on Justice, Canadian Forum on Civil Justice. Taskforce on Justice and Canadian Forum on civil justice.

Muller, S. (2020). An emerging ministers of justice movement. Global dashboard- Blog covering international affairs and global risks.

OECD, (2021). OECD Framework and Good Practice Principles for People-Centred Justice.

Open Government Partnership and Republic of Sierra Leone, (2019). Third Action Plan: Sierra Leone Action Plan 2019-2021.

Open Government Partnership, (2019). Justice. URL: https://www.opengovpartnership.org/policy-area/justice/. Accessed on July 28, 2022.

Organisation of American States, (n.d.). OAS Judicial Facilitators: More justice for more people. URL: https://www.oas.org/en/media_center/press_release.asp?sCodigo=E-046/16. Accessed on August 8, 2022.

Pathfinders, (2019). Justice for all: Report of the taskforce on justice.

Republic of Kenya, (n.d.). Strategic plan 2019-2023.

Republic of Uganda, (n.d.). Access to justice strategic plan 2021-2025.

Tata Trusts, (2020). India Justice Report: Ranking states on police, judiciary, prisons and legal aid.

The Canadian Bar Association, (2021). No turning back: CBA task force report on justice issues arising from Covid-19.

The Elders, (n.d.). Access to justice. URL: https://theelders.org/programmes/access-justice. Accessed on July 28, 2022.

UN Habitat, (1999). Innovative and effective approaches to housing.

UN Habitat, (n.d). Land. URL: https://unhabitat.org/topic/land. Accessed on 27 July 2022.

UNDP, (2021). People-centred approaches to rule of law, security and human rights : Secondary impacts of Covid-19.

UNDP, (n.d). Global thematic programme for accelerating access to justice for human development.

UNODC, (2016). Compendium of United Nations standards and norms in crime prevention and criminal justice.

USAID, (2022). USAID rule of law policy: A renewed commitment to justice, rights and security for all.

V-Dem Institute, (2022). Democracy Report 2022: Autocratization Changing Nature? University of Gothenburg.

Weston, M. (2022). The Benefits of Access to Justice for Economies, Societies, and the Social Contract: A Literature Review, 2022. Open Government Partnership and Pathfinders.

World Bank, (n.d.). Projects. URL: https://projects.worldbank.org/en/projects-operations/projects-summary. As accessed on July 27, 2022.
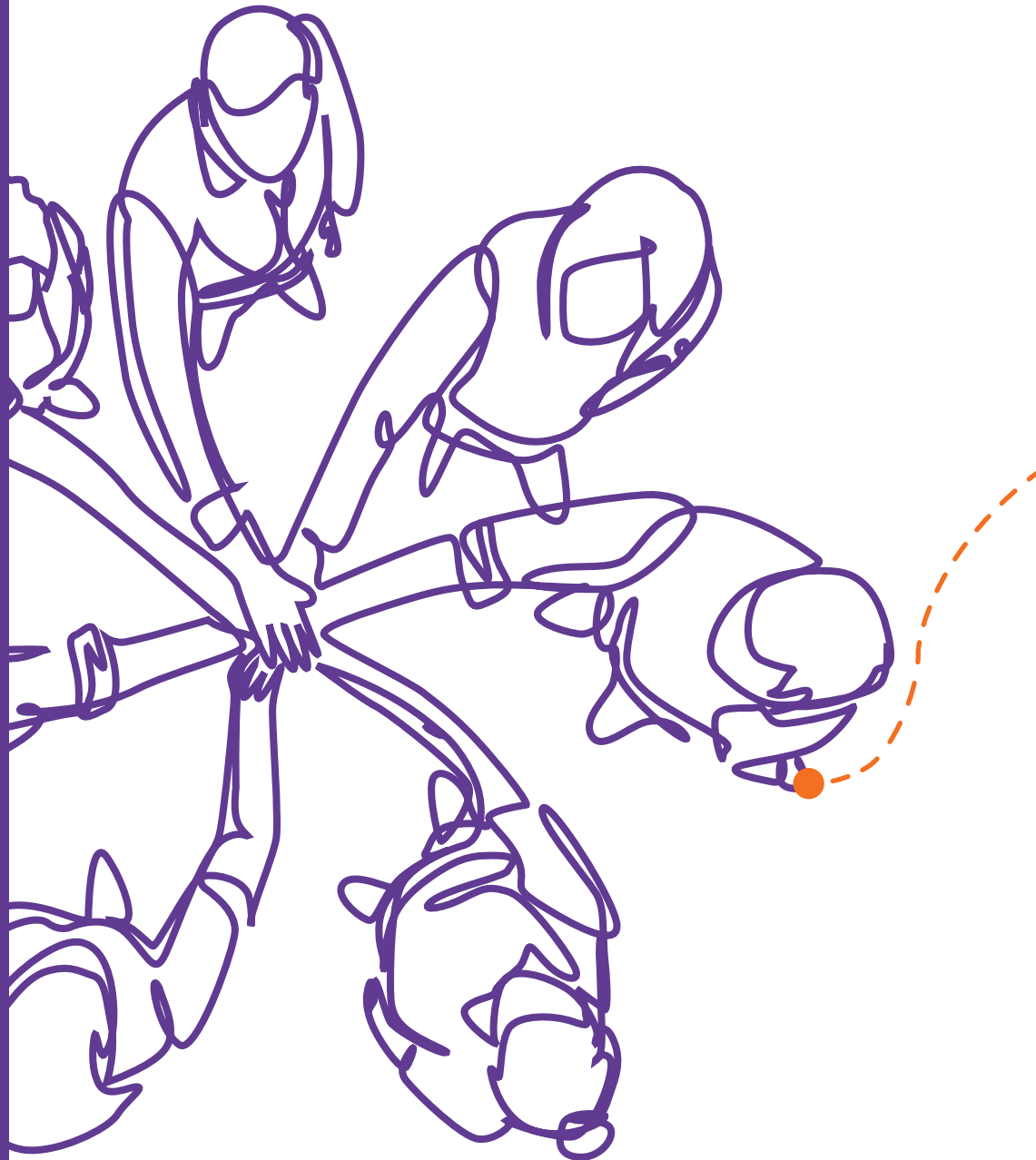
World Justice Project, (2021). 2021 Insights: Highlights and data trends from the WJP Rule of Law Index.

World Justice Project, (n.d.). Atlas of Legal Needs Surveys. URL: https://worldjusticeproject.org/our-work/research-and-data/atlas-legal-needs-surveys. Accessed on 26 May 2022).

World Justice Project (2019). Measuring the justice gap.

2 OWNING PEOPLE-CENTRED JUSTICE

The transition towards people-centred and evidence-based justice systems requires effective leadership. Why is that not emerging by itself and in response to the clear demand for better and more effective conflict resolution? In this chapter, we start with describing the lack of incentives and cooperation structures that require a task force to step in. We then describe how a task force can be formed and start to assume ownership. We detail how justice task forces are currently formed and resourced. We also argue that - given the scale of the challenge - a mission-oriented approach should be considered.

The impediments to taking ownership

Task forces are needed and used in many places. They probably are brought into existence because current players are unlikely to be able to jointly create the necessary momentum. A number of impediments show up many times and task forces need to be aware of them.

The first impediment they will encounter is preference for the status quo. The justice sector is dominated by well-organised professionals. Bar associations, court leadership structures and ministries can easily be paralysed by stalemates between progressive groups and more cautious factions. The more conservative leaders in courts and law firms represent groups of legally-trained professionals who fear losing control and their well-defined positions within the system as judge, attorney or prosecutor. These professionals have paid high fees for their training and invested many years in climbing the ladder in law firm partnerships or court hierarchies. They, and their representatives, have little incentives to invest in new ways of working. Improved conflict resolution also needs to be attractive for them.

In the worst cases, positions in the legal system are abused as a source of power. High-level judges and civil servants may have political loyalties that are stronger than their commitment to the rule of law and equal access to justice for all. Complicated legal procedures with many steps for serving documents or towards organising a court hearing are an opportunity for corruption.

Secondly, it is hard to locate ownership on the macro level. At present, legislatures, police, prosecution, providers of legal services, and courts act independently without any organisation taking ownership for effective resolution of conflicts or safeguarding fair relationships. Each supreme court, court of appeal, district court and legal aid boards has a narrowly defined task and role. Legislatures exist at local, provincial, national and supranational levels, without any organisation ensuring that their combined outputs are effective for people, safeguard the environment and allow businesses to flourish. In the United States or Nigeria, for example, each state has its own bar association and lawyers are likely to be organised at the level of major cities or counties. Such organisations or associations are mainly tasked with ensuring that lawyers act responsibly when they represent their clients.

Other organisations exist primarily to correct the decisions of other justice sector organisations. Appeal courts second guess decisions of front line judges and their decisions can be corrected by the highest courts. Ombuds services correct government agencies. Disciplinary bodies correct lawyers. Prosecutors independently select the cases they receive from the police. Human rights committees and inspections provide another layer of checks and balances.

The third impediment is that the many independent and autonomous organisations in the legal sector lack the resources to implement evidence-based and people-centred strategies. Each organisation tends to be overburdened and focused on daily operations. Leadership is often busy with managing heated controversies on justice matters reported on by the media . Courts and other organisations in the sector have few strategists, small R&D units, and practically no budget for innovation. Strategic plans are generally focused on strengthening what they do, instead of reinventing how things can be done.

Independence and lack of incentives are also problematic. Justice politicians and policy makers must respect the autonomy of justice sector organisations. They are generally hesitant to push courts, legal aid boards and other independent justice organisations to increase their overall performance. Economists have often pointed out that organisations in the justice sector have insufficient incentives to adapt and deliver the outcomes societies need, which explains why justice services often fail to meet demand. Being independent for good reasons, and often having a monopoly position, their accountability needs to be organised in a sophisticated way. A task force should understand the incentive structure of this sector and the ways that demand for justice meets supply.

Demand for justice is much more diffuse than demand for water or better roads. People coping with conflict or crime do not know exactly the outcomes they want nor what is reasonable to expect. They need fair outcomes for injustices only a few times in their lives. This hardly makes them powerful consumers of justice services.

When an individual needs a fair solution, the other party may push in a different direction. In order for justice to be achieved, the need for it must exist between people who are involved in an injustice or want to ensure their relationship will be fair and functional in the future. It may also happen in the shadow of an intervention by a court or a government agency, who may have to intervene to impose a solution. The interaction between the parties originally involved in a conflict and third parties is complicated. Demand for justice and supply come together in a blur of emotions, conflict, debate, escalation and polarisation. Seen from the third party supplying justice services, demand for justice comes from two parties who often seem to go in opposite directions. People seeking access to justice are dependent on the third party and are likely to be in this situation for the first time. So they are unlikely to vocally demand effective treatment, good service and efficient solutions.

The submission problem requires that the demand for fair solutions from two parties is channelled into a single request for an effective treatment delivered by an effective service model. On the supply side, the involvement of courts or other third parties with similar powers leads to some form of government monopoly. Access to people-centred justice therefore needs to be increased by strengthening the incentives of courts and other institutions to make use of society's innovation potential.

Finally, coordination and cooperation requires trust between organisations in the justice sector. This is a fifth impediment. Created to provide checks and balances, and becoming more active when other organisations fail, justice sector organisations are likely to distrust their peers. Courts and legal aid organisations can sometimes be wary of a ministry of justice that controls their funding. Established justice institutions may distrust actors from the private sector, fearing their positions are threatened.

Bringing together a task force

Task forces are initiated in a variety of ways, inspired by the challenge and unaware of the full range of impediments that they will have to deal with. Depending on how the case for people-centred justice has been made, the initiators may come together as an independent initiative with private funding. Academics and leading judges are often involved in access to justice task forces. Bar associations may form groups to investigate innovation of legal services. NGOs may also play a role.

Most often, task forces are formed under the auspices of a Ministry of Justice, chief justice, attorney general, or chief prosecutor. In England and Wales, a government decision to digitalise the courts led to the establishment of a task force. We saw decisions to establish a task force being formalised as memoranda of understanding between a Ministry of Justice and an NGO or a UN organisation supplying the resources. In Sierra Leone, justice innovation has been linked to the national development strategy (Open Government Partnership and Republic of Sierra Leone, 2019). In countries where the rule of law is an international concern, a group of ambassadors or a UN organisation may suggest setting up a task force.

These examples illustrate that task forces need some form of legitimacy and political space. Justice leaders need this to be able to participate in a private initiative. Ministers of Justice, chief justices, senior civil servants, or politicians specialising in justice matters are likely to be involved. They are the main players in the justice sector. Ministers can take initiatives that go beyond business as usual. Chief justices can reach out to leaders from the police, the prosecution, and the legal profession.

In most countries, a minister of justice has a coordinating role. He or she represents the justice sector in a government. Depending on the constitutional arrangements, a minister of justice may also be in charge of the budgeting processes. The justice department can provide resources for a task force. Often the ministry of justice will have a role in implementing programmes which will require new legislation that the ministry can initiate. Task forces, therefore, tend to seek cooperation with ministers or chief justices, and need to be aware of how these officials view the need for reform.

In our work, we have found that the composition of a task force needs careful consideration. Leaders from the judiciary, the prosecution and the ministry will probably participate and will need the informal backing of top-level executives in their organisations. Academics from various disciplines can contribute by strengthening the evidence-based approach that is needed. Ideally, participating academics will also have experience with implementation. Providers

of innovative legal services need to be represented as well. Legal scholars often provide legitimacy and represent the current norms that can inspire but which also need to be challenged. Change agents with experience in transitions are needed. Practising lawyers, judges, or forensic therapists are aware of how services actually work - and how they create bottlenecks. Civil servants know about budgeting and the processes of changing rules.

COMPOSITION OF A TASK FORCE NEEDS CAREFUL CONSIDERATION

Task forces should ensure that the voices of citizens are heard. This can be achieved by including experienced users as members or by consulting them regularly in focus groups. User data should be readily available so that it can inform dialogue at critical junctions. Civil society leaders, who give voice to the demand for justice, can help sustain a task force's momentum (see Chapter 8 'Strengthening the movement'). Founders of justice startups can inspire the group and bring a "can do" entrepreneurial mentality, as well as expertise in standardising, scaling, and developing sustainable financial models.

All these views must be integrated through facilitation, including step-by-step processes to guide the task force through different stages of programming. In advanced task forces, this is achieved by a team of facilitators experienced in the dynamics of the legal sector and in addressing major challenges in the delivery of public goods. Rather than having one chairperson overseeing the process, task forces today often have an informal group of co-leaders, with complementary tasks and skills, assisted by a team of facilitators.

Navigating a special public sector

A task force operates in a justice ecosystem that requires skilful navigation. In Chapter 8, we describe in detail how the impediments to the transition towards evidence-based and people-centred justice can be dealt with. But the task force will need to deal with these impediments at an early stage.

They may want to explore how ownership works, considering how the responsibility for fair solutions is organised as a series of checks and balances, rather than an integrated approach to delivering justice outcomes to people and society. It may help them to see how ownership for justice delivery is distributed between legislative bodies, courts, prosecution, police and the organised legal profession. Each of these institutions is bound by law, but acts independently. They are accountable to citizens in general via laws that prescribe what people are allowed to do and how institutions should make decisions.

Legal training and working on justice also results in a specific culture that a task force needs to navigate. The justice sector comprises vocal practitioners advocating solutions. Managers with legal training are accustomed to making decisions by carefully deliberating two alternatives. Intuitive ways of dealing with conflict, inspired by adversarial procedures, can poison the relationships between leaders in the sector. In some countries where HiiL works, we have seen vocal groups of legal professionals cultivate a hostile relationship with ministers or court leaders. Lawyers go on strike. Leaders who take up people-centred justice programming will need a unique set of skills, resources and resilience to navigate these challenges.

Justice leaders work within a complicated operational structure that needs to be managed, led and resourced. Public institutions (courts, prosecution, police) and private organisations (providers of legal services, informal justice providers) each have a role. The task force may want to explore how the sector resembles the health or education sector in that a multidisciplinary, cross-sectoral, public-private, inter-agency collaboration is needed to make progress.

The justice sector is also a special type of public service and that will be a next issue to consider. Justice is not delivered to one patient or student, but created between people. Practitioners facilitate this and may have to intervene to impose a solution. Government is expected to provide the third party view, but is also a litigant in many cases. Demand for and supply of justice must work together in an environment of strong emotions, conflict and debate that is normally absent from schools and hospitals. Communication is often disturbed by accusations, defensiveness or denial. Media make money by competing for the attention of viewers with stories on crime and conflict.

During the convening stage, the commitment of task force members will be tested and further developed. In the initial stakeholder dialogue in HiiL's programmes, the task force members collectively work on developing personal relationships. Typically, a task force engages with data, revisits the case for setting up the group and develops a shared understanding of the urgency of the issues to be resolved. Each task force member learns about the motivations of the others and the work each member is already doing to achieve the task force's mission. The task force members also learn about the ways their work will be facilitated during the months ahead.

Envisioning equal access for all

Early on, the task force may want to exchange visions for the future. Having assessed the urgency of the problem being addressed, the members of the task force are now challenged to explore a way forward. If equal access to justice for all in personal injury cases is what they are looking for, how can this be achieved? What does justice for all for everyday crime in their country look like? Will all people ideally be served by the police, prosecutors, courts and lawyers? Outlining a typical justice journey through a pressing justice problem is a good starting point. This can provide a step-by-step overview of existing systems and the bottlenecks where innovative interventions may be most needed. Task force members are likely to have alternatives in mind. What are the outcomes that people with justice problems actually need? Which promising services can be scaled and how can they be brought into the legal system?

For justice leaders, making financial ends meet is a continuous challenge and it is helpful to bring in this element in the conversation early on. Instead of calling on outsiders to provide funding, task force members can take ownership of this challenge by thinking about possible revenue streams and rewards. If they do the math, they will probably see that free justice services for all are unlikely to be funded by taxpayers, even if politicians would support this as a matter of principle. Or can the new services they foresee be more cost effective, which will imply substantial increases in productivity and substantial cost savings?

Even at this early stage of their work, task force members may want to explore sustainable funding

models. These should include what people already pay for justice services on the market and what they pay as contributions for government services. How are other public services such as health care, education, water, electricity and internet funded – and what can be learned from these examples?

Task force members are likely to come in with different perceptions on what is most urgent. Some members will have a very practical attitude, zooming in immediately on the simplified procedures that are needed or the network of justices of the peace that needs to be established. Other task force members frustrated by the current way of working in their country are likely to find comfort in the knowledge that delivering people-centred justice is a common challenge internationally, and not a personal failing of individual leaders in their country. Being part of an international SDG 16 movement in which a consensus is emerging has proven to be stimulating for task forces in countries with poor reputations for rule of law.

Assuming many members of the task force are trained in law, they can also be invited to reflect on the rules that govern justice services. Which rules are helpful and essential? Which are barriers, difficult to observe or unimportant? A task force should think ahead. When new types of conflict resolution processes and new service delivery models are needed, a clear track for developing, testing and large scale implementation will be needed. What kind of regulation will be needed to support this?

A mission approach to programming and execution

The task force has to reflect on programming methods that may be assumed by incoming task force members. In the justice sector, we often see that redesign is allocated to committees, which typically produce a report with recommendations that have to be implemented via legislation or in existing organisations. Committee reports, however, are unlikely to be implemented. We find it essential that experienced implementers participate in the design of the programme. This ensures that the programme is designed for execution. But how can the task force ensure that this happens?

When looking for a programming method, the task force may want to be guided by the mission-oriented approach to tackling grand societal challenges. The task force, looking at how it made the case for the transition to people-centred and evidence-based working in the justice sector, may decide that it is working on a challenge at that level. Mariana Mazzucato, who is the leading thinker of this approach, suggests we need to think bigger and mobilise our resources in a way that is as bold and inspirational as the moon landing - this time for the most 'wicked' social problems of our time (Mazzucato 2021). Her research shows that governments played an indispensable role in major technological breakthroughs in the 20th century and that they are best placed to facilitate such breakthroughs (Mazzucato 2013). The box below summarises advice on how a task force might operationalise the mission-oriented way of working.

A MISSION APPROACH TO PROGRAMMING AND EXECUTION

Mariana Mazzucato identified five criteria for selecting missions. They should:

1. Be bold, inspirational, with wide societal relevance

2. Have a clear direction: targeted, measurable, and time-bound

3. Be ambitious, but have realistic research and innovation actions

4. Be cross-disciplinary, cross-sectoral and cross-actor innovation, and

5. Drive multiple, bottom-up solutions. (Mazzucato 2021)

Azoulay and colleagues (2019) describe how work on missions can be managed. Flexible and adaptive portfolio management is recommended. This can benefit from lessons provided by other innovation and funding agencies across the world, such as Yozma in Israel, Sitra in Finland, the Government Digital Service in the United Kingdom, or organisations like DARPA or ARPA-E in the United States. The defining characteristics of the DARPA model are:

1. Organisational flexibility.
   a. Independence from branches of government.
   b. Flat internal structure
   c. Hiring outside standard government recruitment processes
   d. Fixed term employment of directors and project managers
   e. Flexible contracting mechanisms

2. Bottom-up program design

3. Discretion in project choice

4. Active project management

Azoulay and colleagues (2019) recommend that the ARPA model works best when a technical field is relatively unexplored and has pathways with great potential, but also some friction. This seems to be a good description of the R&D challenge in the justice sector. They also recommend:

- Setting a goal and target for the overall programme and matching goals and targets for sub-programmes, with social and economic outcomes as goals and targets.

- Sub-programme managers should be technical champions. They have to report on the goals and targets, but have discretion, relying on their expert judgement. They are not subject to peer-review, but informed by advice.

- Sub-programme managers should work with "engineering teams."

- They have complementary and potentially competing approaches.

Harrell's (2020) 'A Civic Technologist's Practice Guide' has many additional recommendations, including how the task force work can be promoted:

- Pitch work to executives in terms that people who are not experts in technology can understand.

- Keep critiques of the existing system respectful and clearly anchored to a key value of public service or stewardship. Remove speculation about ulterior motives or intellectual capacity.

The mission approach, summarised in the box above is based on setting concrete goals and targets. It is about R&D efforts that are ambitious and realistic. It is appropriate where work should be done between disciplines, between silos and between actors. In the following chapter, we will suggest how this approach can be applied to the challenges we are facing.

Resourcing a people-centred justice programme

A task force needs adequate resources. Rigorous programme design requires a variety of methods and skills. Assuming the task force members are leaders with other jobs to execute, they will need support from an interdisciplinary team experienced in justice sector reform.

An evidence-based approach to justice delivery can be attractive for national planners. An initial business case – quantifying programming costs and potential benefits as mentioned in Chapter 1 – will show the programme's value. It will also indicate how the programme can be implemented. Budgets can become available through coalition agreements. Contributions from international donors (in lower-income countries) are more likely when a systematic approach to reform is taken.

Ministries, donors and social impact investors require accountability. They look for clear and consistently monitored outputs and outcomes. When the case for systematic programming is made, it should come with indicators to measure progress and impact.

Costing the work of task forces realistically is a next step. A typical budget may include the items described below. The programming phase, where the framework of the programme is designed, can last between 12 and 24 months. It typically leads to a number of outputs and one or more plans for each of the strategic R&D and innovation interventions. These plans need to be funded in a sustainable way and tested during the programme activities. They typically relate to implementing evidence-based working, investing in, and scaling one or more game-changing service delivery models and to the enabling environment. Depending on the scale of the ambition, a plan for building a broad movement can also be included.

BUDGETING A PEOPLE-CENTRED JUSTICE
PROGRAMME: ITEMS FOR A SYSTEMATIC APPROACH

Phase 1: Initiating

→ Making the case: a project plan

→ Convening: assembling the task force and supporting team

Phase 2: Owning and scoping

→ Stakeholder dialogues: building the team

→ Prioritising justice problems, setting goals, defining indicators, agreeing on targets, identifying initial pathways

Phase 3: Programming strategic interventions

→ Data collection: surveying the epidemiology of justice problems, resolution rates and outcomes

→ Ensuring outcomes: defining outcomes, developing monitoring tools and evidence-based guidelines, creating an implementation plan

→ Highlighting promising existing gamechangers (quick wins)

→ Acceleration: scouting potential gamechangers, upgrading implementation plan, working towards commitments from investors

→ Stakeholder dialogues: selecting gamechangers, creating a plan for the enabling environment (budgeting, regulation, procurement, political environment), securing investors for gamechangers

→ Innovation labs: renewing/designing gamechangers, standardising delivery, creating a financial plan, scaling strategy and investment plan, enhancing leadership and teams

Phase 4: Implementation by stakeholders supported by the task force

➜ Collecting data and monitoring progress

➜ Executing the plan for evidence-based working

➜ Executing strategies to scale effective interventions

➜ Maintaining and improving the enabling environment

➜ A local unit provides continuous momentum and support for reform

➜ Maintaining momentum and incentives: engaging with the public, developing international standards
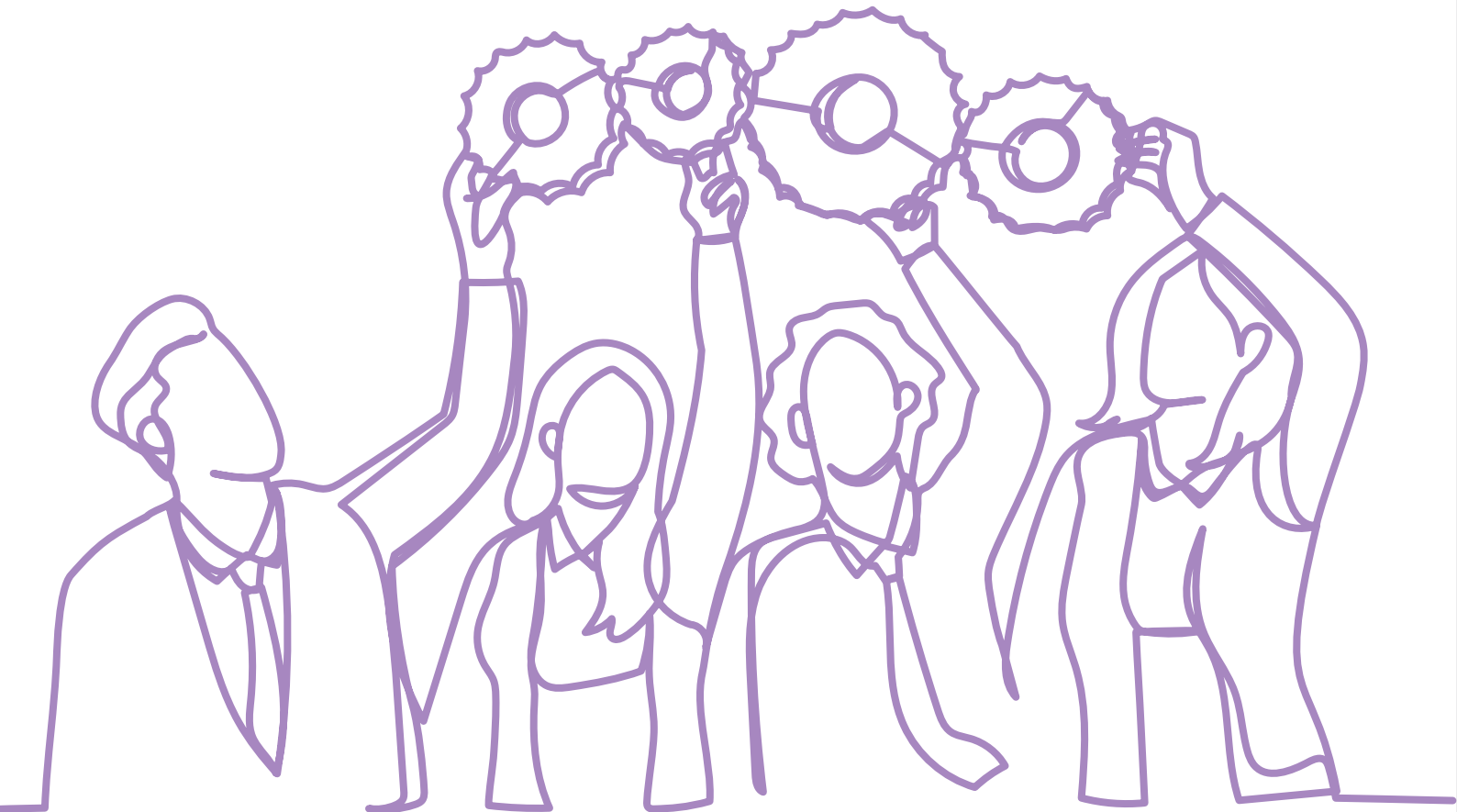
References

Harrell, C. (2020). A Civic Technologist's Practice Guide.

Mazzucato, M. (2013). The Entrepreneurial State: debunking public vs. private sector myths, 2013. Public Affairs.

Mazzucato, M. (2019). Governing missions in the EU, 2019: Independent expert report. European Commission.

Mazzucato, M. (2021). Mission Economy, A moonshot guide to changing capitalism. Harper Collins.

Muller, S. (2020). An emerging ministers of justice movement. Global dashboard- Blog covering international affairs and global risks.

Open Government Partnership and Republic of Sierra Leone, (2019). Third Action Plan: Sierra Leone Action Plan 2019-2021.

Pierre Azoulay et al. (2019). Funding Breakthrough Research: Promises and Challenges of the "ARPA Model", NBER/ Innovation Policy and the Economy.

3 AGENDA-SETTING: PRESSING PROBLEMS, GOALS AND GAMECHANGERS
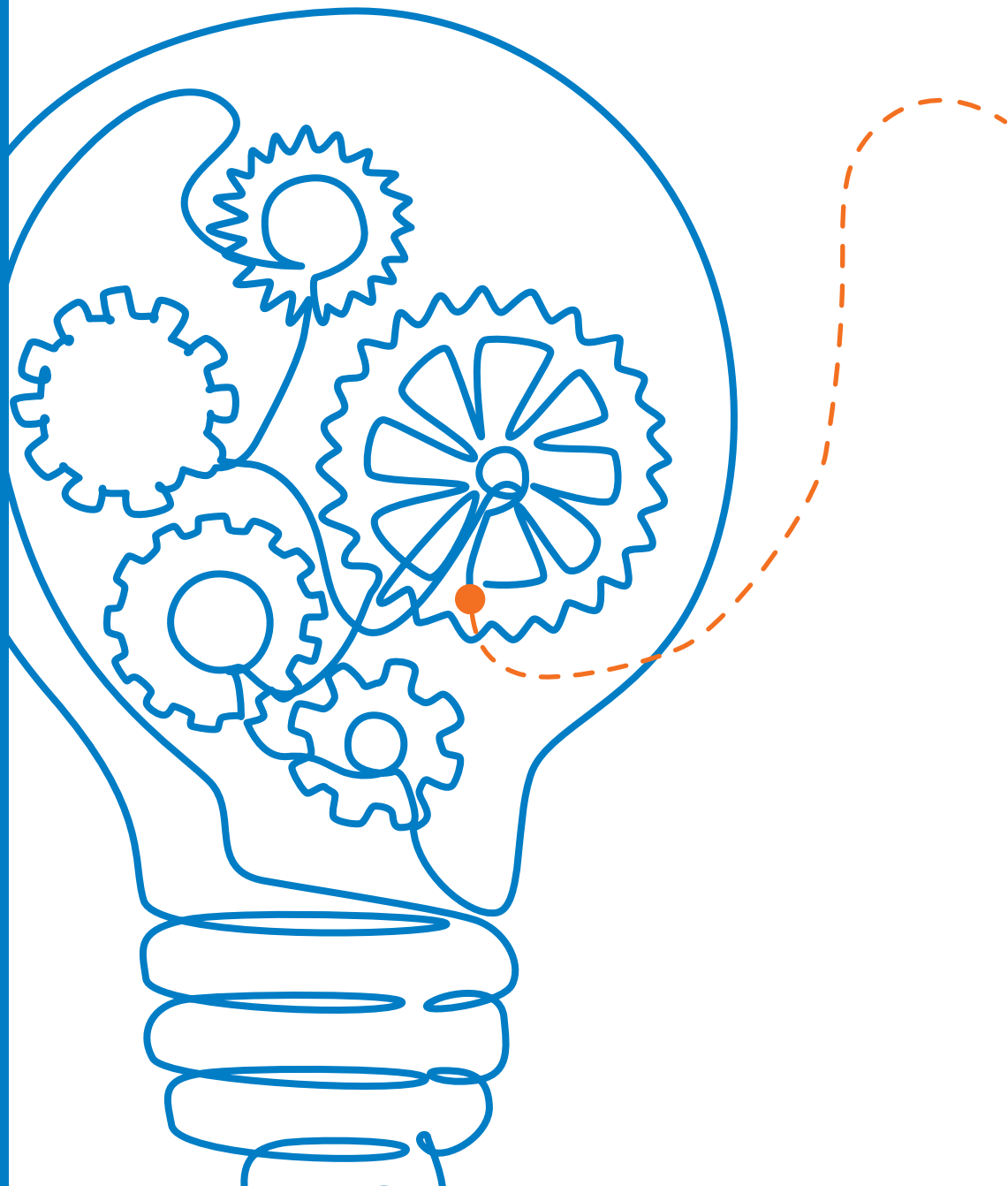
In this chapter we explore how task forces can scope their work. They may be assigned a specific type of justice problem. They may also be expected to improve access to justice for all civil justice problems, for example, or to improve access to justice in general. Connected to this, they may select a particular type of justice service delivery model that they set out to implement in the country.

Before zooming in on a direction for a solution, a task force may want to take the time to jointly internalise lessons learned. Justice innovation has often failed. We listed a number of common justice innovation traps, detailing the reasons why they should be avoided.

During this process, task force members develop a joint understanding of the level of reform they are going to pursue. Task forces can generally be expected to focus on renewing and eventually replacing current services, rather than upgrading them.

Prioritising justice problems

Surveys of justice needs provide data on the most pressing justice problems. Task force members may want to connect to these needs by sharing personal stories of injustice. In the stakeholder dialogues that HiiL facilitates, lived experiences of people and data complement each other.

In this way, task force members are reminded that the most pressing justice problems are related to the satisfaction of core human needs. One of these core needs is to forge and maintain good family ties, even in times of hardship. Another is positive and empowering work that provides an adequate income. Access to land and housing are core needs as well and quality of life in communities requires good relationships with neighbours. Businesses need certainty on how they can invest and the environmental impact of activities needs to be minimised.

These core human needs are at stake when families separate, workers sent home, tenants evicted, and when neighbours become a source of noise, irritation or trash. People also want access to essential government services: health care, water, electricity and education. Debt relief and social benefits protect against poverty. People want to be safe from crime and violence, and to be protected against accidents.

Task forces can set priorities in a rigorous way. Although quantifying impact is not straightforward, justice problems can be ranked according to frequency and severity.

We recommend that task force members establish the resolution capacity needed based on the number and severity of problems that occur each year. The numbers in the graph found in Chapter 1 give an idea of the capacity needed by a country to prevent and resolve its most pressing justice problems. These estimates can be adjusted based on a country's size. More precise numbers can be obtained from a legal needs survey or from administrative data (if all relevant problems of that type are recorded by a government agency).

Setting goals, indicators and targets

SMART
goals

Meaningful
indicators

Ambitious
targets

Task forces typically select either a problem type to work on, or up to five of the most pressing problem types. They may then set goals. One goal may be to prevent domestic violence in a country, or to resolve land conflicts efficiently and effectively. Clear goals, expressed in outcomes for people, enable task forces to assess whether the programme implementation has been successful.

Some programmes have multiple goals and that can be confusing for implementers. Houses of justice in Colombia (see annex of this report) aim to increase the efficiency of existing services, to extend the reach of government in low-income neighbourhoods and rural areas, and to expand access to justice. These goals may need to be aligned and rephrased as outcomes for people, in accordance with emerging best practices. In HiiL programmes, we advise stakeholders to phrase objectives in a SMART way: specific, measurable, assignable, realistic and time-related (Doran 1981).

A goal directly linked to the challenge addressed in this report, for example, would be to develop the capabilities and methods to resolve or prevent the most pressing conflicts in an evidence-based and people-centred way.

Measuring progress towards a goal requires indicators. Indicators for conflict resolution can be defined in several ways. The indicator for SDG 16.3 proposed by the UN is the "number of persons who experienced a dispute during the past two years who accessed a formal or informal dispute resolution mechanism, as a percentage of all those who experienced a dispute in the past two years, by type of mechanism." This indicator focuses on accessibility to existing institutions. In the people-centred justice approach, outcomes for people are key, so resolution rates for problems can be a good indicator. A task force may also decide to take into account the fairness or effectiveness of solutions. One way to operationalise this is to quantify the problems reported in surveys as fairly resolved and add that to the number of problems that respondents consider on track towards a fair resolution, because some problems will still be in progress at the moment the results are measured.

In a programme developed for the Netherlands, HiiL proposed the following indicator: "the percentage of pressing justice problems resolved by a decision or agreement that is evaluated as fair by the disputants." This information is available from the legal needs survey data that are collected every four years in the Netherlands. Selecting meaningful indicators is crucial. Mediation programmes are expected to have a high rate of settlement. This indicator is also increasingly used by courts. The rate of settlement needs to be combined, however, with an indicator that captures the quality of the resolution.

Disposition times are another indicator commonly used by courts. The number of months it takes from filing a case to the date judgement is rendered can be easily monitored. In Russia, the justices of the peace must decide cases within two months and are reported to be mostly successful in doing so (Hendley 2017). Here again, another indicator may be needed to reflect whether the court's intervention was helpful. Moreover, disposition time indicators do not include the time between the emergence of a problem and the filing of a case in court. People-centred surveys therefore tend to ask about the time between the emergence of a problem and its resolution.

Recidivism is an indicator that should be used carefully. It measures whether someone who has committed a crime is again arrested or convicted. Data suggests that a second arrest is more likely to be for a minor offence. On the other hand, domestic violence may occur repeatedly before it is reported to the police. Moreover, recidivism measures seek prevention rather than resolution. They are unrelated to whether a victim has received restorative justice and only weakly related to whether community harmony is restored.

Task forces should think twice before selecting indicators related to inputs. Ministries often set targets for the number of policemen in the street or for the number of judges, for example. Sometimes budgets for legal aid or for courts are presented as indicators in policy documents. Research has shown that increases in budgets are not necessarily associated with better outcomes for people.

Once indicators have been established, targets can be set. Fair resolution rates for high-impact problems currently hover around 30%. Alternative dispute resolution (ADR) programmes often report resolution rates of 50% or higher. Task force members can investigate these rates and assess whether increasing the resolution rate to - for instance - 55% in two years and to 70% in four years could be a target. For the Dutch programme, we proposed a target of 80% for resolving pressing conflicts by a decision or agreement considered as fair by the disputant. The indicator in 2019 stood at 32% . The percentage of problems resolved by the decision of an authority or by agreement between the parties is at 39% (5% decision, 34% agreement). In the past, it has been as high as 60%. When a decision or agreement is achieved, Dutch citizens tend to accept them as fair (73% for decisions, 84% for agreements). The 80% indicator is thus ambitious, but seems achievable via rigorous R&D and innovation efforts.

- The World Justice Project has proposed a number of civil justice indicators.

- The Council of Europe European Commission for the Efficiency of Justice (CEPEJ) collects data on court disposition times and various other indicators.

- For criminal justice indicators, see International Centre for Criminal Law Reform and Criminal Justice Policy (2015), Justice Indicators and Criminal Justice Reform a Reference Tool.

Selecting strategies

When setting targets, task force members will have strategies in mind to achieve them. A strategy is a route to meeting the goal, taking into account existing and foreseeable contexts, and the available capacity and resources. There may be more than one strategy towards a goal. Elements of strategies the task force might consider include improvements in treatment and service delivery through potentially game-changing models, or improvements to the enabling environment.

Stakeholders may start by discussing who will provide new interventions and the treatment of justice problems; they may launch game-changing services, or be responsible for improvements. Early discussions may bring competing interests of agencies and service providers to the fore, which can hinder progress. At this crucial moment, the task force should remain focused on achieving the best possible outcomes for people. What are the best processes for resolving the problem(s) identified by the task force? What is the best model for service delivery? Dialogue and R&D about this should be undertaken independently from "who" delivers the treatments or is best capable of offering a game-changing service. Who will be responsible should be decided when assessing the available and needed capabilities. Ideally, this will be decided on a level playing field by an independent assessor.

Strategies can be tested in relation to the goals and targets. What share of the population will the game-changing service reach? What increase in the resolution rate is expected once a new treatment has been implemented? What are the political push and pull factors that will negatively or positively impact the implementation of a particular improvement?

In projects HiiL has participated in, task forces have often opted for ADR or mediation as an element of the strategy used. This is a high-level vision that needs to be more concrete. Is ADR or mediation a way to resolve justice problems that need to be broadly applied by justice practitioners? If so, how can this be developed in an evidence-based way? Alternatively, are private sector arbitrators and mediators the preferred actors responsible for service delivery? If so, will they be able to reach 80% or more of the target group?

Strengthening community justice services is another popular strategy for task forces. HiiL has worked with task forces focused on holistic approaches to family justice or on the justice needs of rural populations in post-conflict countries. Previous task forces that have addressed land disputes have looked at improving registration of land ownership. Committees tasked with redress for systemic injustices have developed criteria for victim compensation.

The hypotheses embodied in the strategies need to be tested during the programming phase. Before a task force definitively selects a game-changing service, the stakeholders need to assess the feasibility of its implementation. Is the strategy likely to achieve the goal and move the indicator forward? Are there organisations ready to deliver it? Is the financial model sound?

HiiL has developed a method on developing pathways to meet specific justice goals that have been agreed upon by a group of committed justice leaders. These pathways are flexible and can be adapted to fit varying contexts and goals.
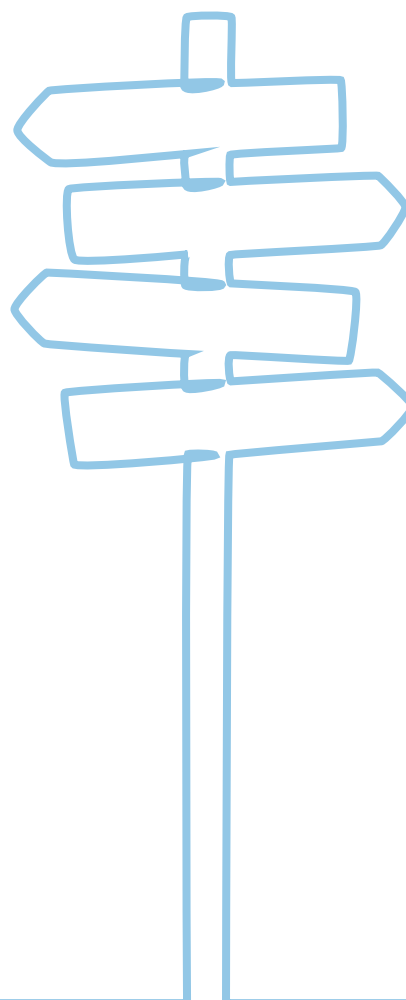
A mission approach example

In the flowchart below, a so-called mission map is sketched. It represents the five strategies outlined in Chapters 4 to 8 of this report. Data collection on problems and outcomes is combined with developing evidence-based treatments for the selected justice problems, which could be work conflicts, land use issues, domestic violence or the most common types of property crime. How to inform people, how to give them voice, how to involve them in designing solutions for the issues, and how to establish fair monetary contributions; at each step, the most effective interventions will be designed and continuously improved during implementation. Treatments will then need to be delivered in all situations by using the most effective service delivery models, which could include community justice services, online-supported one-stop procedures,

or user-friendly contracts. An enabling regulatory environment that supports continuous R&D will drive this process, fuelled by practitioners, an ecosystem of innovators, and more vocal users. This open environment, supported by a stronger evidence base on what works and more sustainable delivery models, will rapidly make providers of justice services and justice practitioners more effective. New services can emerge and self-helpers will become more confident. Outcomes that people can generally accept will be clarified and will be more frequently the endpoints of more effective treatments that will also deliver on the most prominent procedural justice needs. The improved service delivery models ensure that solutions will be accessible for everyone against reasonable, foreseeable costs. Instead of being overburdened and under-resourced, justice services become financially sustainable, serving far more people, achieving many more tangible results for their users and safeguarding new revenue streams.
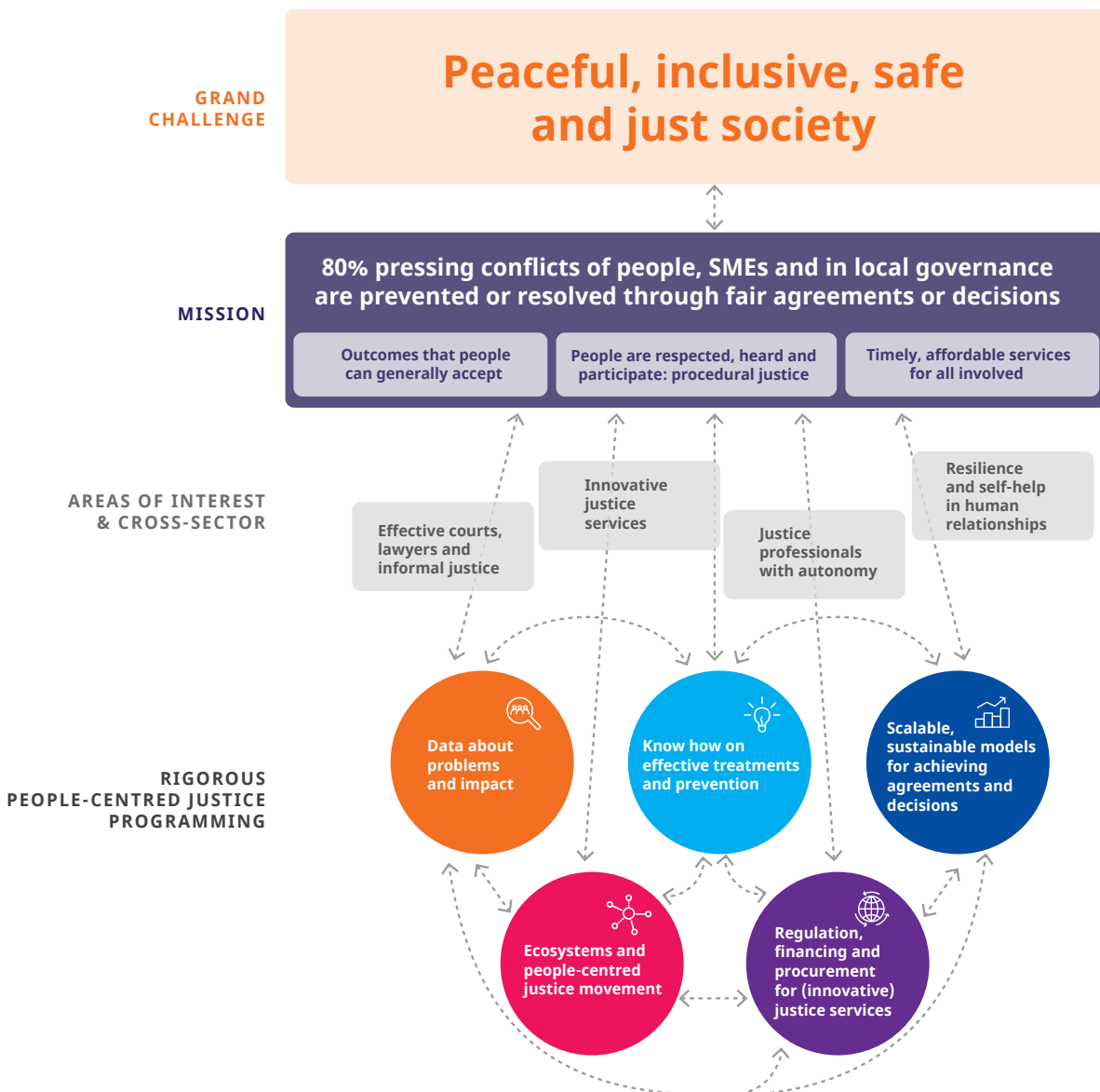
A mission map such as the one above provides a theory of change for a programme. The outputs of the programme provide intermediate and more remote outcomes, ultimately leading to the measurable impact of resolved or prevented problems. Between each of the elements of the results chain, progress can be monitored and measured. Resources can be reallocated towards the nodes that are most promising. Bottlenecks can be targeted.

Justice innovation traps: learning from experience

Learning from failure is crucial. HiiL has worked with a number of task forces over the past ten years. Hundreds of innovators have come to us with their ideas and initiatives. We have taken leaps of faith ourselves and have made every imaginable innovation mistake. The failures in justice innovation and court pilots are as instructive as are the successes. Here we share four points that we suggest future innovators avoid, as they can lead to costly delays and wasted energy.

⚠️

Piloting without sustainable revenues in sight: A recurring mistake is to start pilots but postpone thinking about <u>revenues and rewards</u>. Doing justice equals doing good, so innovators often assume that somebody will pick up the bill. Early on, this may be the case, and the task force may be misled by this. Many NGOs love justice innovation and are happy to spend significant sums on a pilot that protects the rights of women or children, for example. Politicians love free mediation centres. Big law firms love pro bono programmes. Prosecutors love programmes that divert cases from courts and bring multi-disciplinary teams into the room to decide on the best treatments. Judges pilot a lot.

The question a task force should ask about any pilot is: is this financially sustainable as a scaled venture? If the pilot is akin to building a fancy school in Tanzania to fix the national education system, or flying doctors to remote places to improve community health services where local networks of providers already exist, it should be reconsidered.

People love to spend money on something tangible. Some innovators repeatedly secure grants and awards. But grants seldom work in the long-run.

Effective justice services need a sustainable stream of revenues that exceed costs. This way, justice practitioners can be rewarded for their efforts, money can be saved, and the service can be scaled and continuously improved. There are no shortcuts. The consequences of this are discussed in Chapter 6.

⚠️

Fixing services that do not yet deliver fair outcomes: Innovative lawyers often propose improvements to current processes; for example, tools to increase the number of productive hours at law firms, or referral sites that match lawyers and clients. Courts try hard to decrease their backlogs, refer cases to mediation, or spend millions to digitise their files and procedures.

MORE OF THE SAME: WHAT IS THE EFFECT ON RESOLUTION RATES OF THESE MEASURES OFTEN CONSIDERED BY REFORMERS?

- Better planning of court cases

- Greater integration of courts, police and prosecution

- Programmes to reduce backlogs

- Court appearance reminders

- Diversion of cases to mediators

- Pro bono services provided by major commercial law firms

- Limited time for lawyers to argue their cases

- Anti-corruption measures

- Laws written in user-friendly language

- Improved processes for updating laws

The task force is likely to receive many suggestions to first upgrade current processes and services (UNODC and UNDP 2016; Law Commission of India; Republic of Kenya 2012). More digitisation, better access to court houses, improved scheduling of court hearings, or limits to the number of pages in documents filed – these can seem like effective upgrades. Many countries launch huge projects to update their codes of criminal and civil procedures. Judges and lawyers typically have many ideas on how to improve services provided by the courts. Expanding legal aid by lawyers has broad support. Alternatively, task force members may want to build on trends in investments in legal tech and in the allocation of court resources. In our 2020 trend report, Charging for Justice, we found that most investments go to startups that increase the efficiency of law firms or legal departments of major businesses. We also described the hundreds of millions of dollars spent on upgrading court IT. We estimated that only 2.5% of investments in legal tech go to services that target individual customers with legal needs.

It is tempting to believe that these proposed improvements will ultimately lead to better outcomes for people with justice problems. Task force members should be invited to test their assumptions by sketching how this trickle-down mechanism would work in practice. A task force should investigate whether such a mechanism is realistic, and whether working on these improvements is the best way to spend precious time and money.

Will resolution rates be increased? Will people get substantially better outcomes? What impact will they have in a typical justice journey? The task force can use the criteria in the table below to assess the proposed upgrades.

USING INDICATORS TO ASSESS PROPOSED UPGRADES

Description of upgrade	Example: Improved enforcement of court judgments with monetary sanctions. This happens through (1) investing in a network of debt collectors, (2) improved ways to collect debts from employers and banks and (3) improved ways to sell debtor's assets
Assessment criteria:	**Example of assessment:**
What is the expected increase in resolution rates for the most pressing justice problems?	Four percent of pressing problems are decided by the courts. In 25% of cases involving a pressing family, land or crime problem, money payment is an essential component of resolution 70% -> 85% compliance = 0.3% Is thus the expected increase in resolution rates.
Which people (with high impact justice problems) will benefit from this upgrade?	Mostly companies collecting debts and governments collecting fines. A small number of individuals who have personal injury cases or who collect child support or unpaid wages via a court procedure will also benefit.
How many pressing injustices will be prevented per year?	Evidence for court sanctions and effective enforcement preventing injustice is inconclusive.
What is the investment needed for this upgrade?	Programme of several millions of euros.

Assessment criteria:	Example of assessment:
What are the yearly costs of sustaining this upgrade?	The cost of maintaining the network minus the debt collection fees that can be collected from debtors and creditors.
What are possible negative side effects and how can they be avoided?	Increased debts for indebted persons, which can be avoided by better debt restructuring
How likely is the programme to be successful in implementing the proposed interventions?	Estimated 60%.
What are the best alternative ways to invest this amount in people-centred justice and allocate an annual budget for this?	Calculate the investment and annual costs. Compare with alternative ways of investing/spending this amount.

Another tool to let task force members reflect on upgrades is to conduct studies visualising current justice journeys, such as those conducted by RMIT University (2016). These visuals often reveal that people need to interact with a range of professionals and agencies to address their problem. A victim of an accident may have to deal with the police, medical experts, insurance companies, lawyers, social security agencies, the prosecution, a mediator and a court. Each of these actors has different bureaucratic procedures that come with many formalities.

Mapping current justice journeys will help the task force and providers of future gamechangers strengthen the case for more fundamental renewal. It will also make it easier to identify the crucial elements of treatments. Many task forces indeed consider replacing existing services. Stakeholders they consult want to introduce alternative dispute resolution methods or renew the connection between formal and informal justice in their countries. They want to set up new types of specialised courts. They suggest diverting cases from the criminal justice system to new justice services. They recommend investing in legal information provision as an alternative to letting each person be informed by a lawyer. More often than not, task forces agree to replace existing services with alternatives or cautiously integrate newly-designed services into the existing justice system.

Missing the submission problem: Many legal innovators look at court procedures and assume they can do better. They design smart arbitration procedures, delivering decisions in two months. Others start offering online mediation services with highly skilled mediators. Many lawyers have mobilised their IT-savvy friends to design algorithms for settling monetary claims in a rational way. Judges, too, often reflect on possible improvements to their work processes - In pilot projects in the Netherlands and Belgium, judges have developed procedures that allow claimants to walk in with a problem and tell their story, upon which the judge will invite the other party for a dialogue. In most countries, some judges have tried to design more sophisticated procedures to deal with construction conflicts or personal injury.

The first question that these legal innovators should be asked is: how will you ensure that the parties submit to your new process? The usual answer from innovators is that the parties will love the procedure and prefer it to the unpleasant experience of the procedure currently offered.

This is not how things work. The graveyard of justice innovation houses many seemingly smart procedures that have been offered as a voluntary option. The stumbling block is that new ways of resolving disputes have to be sold to all parties to a conflict. A conflict is by definition a situation where people do not agree on the way forward. Most of the time, one party needs a solution more urgently than the other. Solutions that claim to benefit only one of the parties are unreliable because it is difficult to understand the nature of the problem by looking only at it from one side.

Effective dispute systems are likely to be "mandatory." From a people-centred perspective, this means that they contain incentives for both parties to participate, even if the process is difficult or the outcome may be discomforting. So strategies to develop game-changing services involving a third party start by fixing this submission problem, which may be quite a challenge.

Inability to remove legal hats and take other expertise onboard: Many reform attempts suffer from an excessively or exclusively legal lens. Solutions are suggested in the form of new laws, additional information about laws or additional legal services. The reality of justice reform is that many other skills and resources are needed. These cannot be gathered from IT experts or managers alone – they need to be integrated into better resolution processes and service delivery models. To generate impact, justice innovators must consider a wide range of perspectives and be prepared to wear many hats: that of a creative designer, a policy maker, a user, and a donor or investor. The prospect of becoming a justice entrepreneur overnight by creating a solution to fix the justice system is exciting to many young lawyers and judges. But to make a real difference, innovators must be prepared to work with other stakeholders who may have conflicting interests. This is challenging but essential work. Working collaboratively rather than in silos can help innovators avoid introducing solutions that are certain to fail.
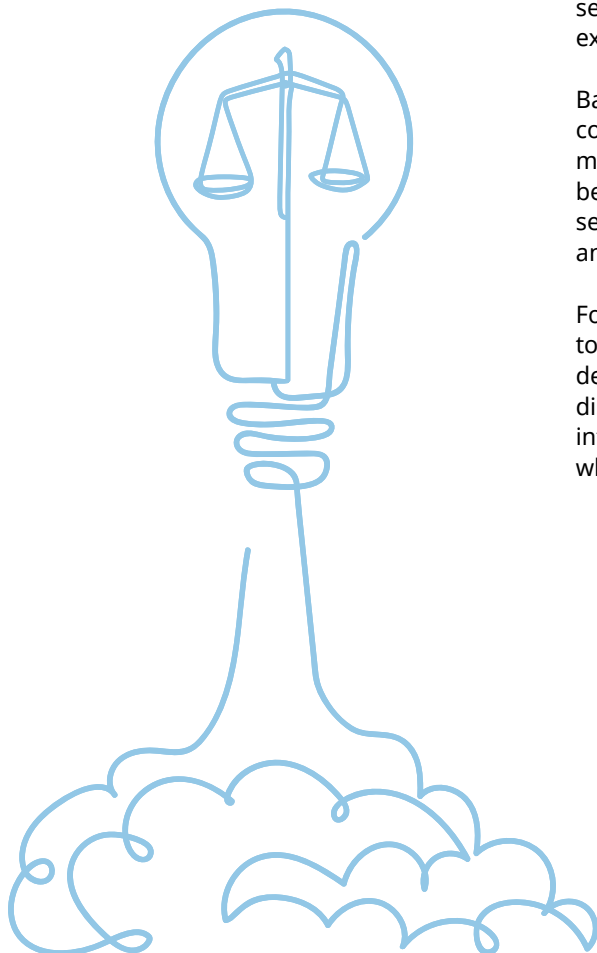
Selecting promising service delivery models: seven potential gamechangers

After deciding which pressing justice problems to select for implementing evidence-based practice, and testing early stage innovation suggestions, the task force will have to explore the possible service delivery models. Even when justice practitioners have the tools and methods to achieve high resolution rates in individual cases, these tools and methods will only improve the overall resolution rates in a country if they are available to every citizen, business and government agency. Currently, service delivery models are not scalable. Courts tend to be involved in around 5% of conflicts, and lawyers in perhaps 10-20% of cases. Government agencies have difficulties managing all conflicting interests regarding land use or delivering social services. Informal justice is irregularly provided in communities. Police and prosecution have limited capacity to deal with all kinds of of crime.

Based on lessons learnt, HiiL has developed three criteria to identify potentially game-changing service delivery models. A game changer must be a service delivery model that is: (1) able to deliver effective treatments consistently; (2) financially sustainable; and (3) scalable as a service (or as a combination of services) to 80, 90 or even 100% of the population experiencing the problem.

Based on these criteria, we suggest that task forces consider seven promising types of service delivery models. Other models are likely to exist and should be explored as well if found to be promising, but the seven models sketched below have a clear potential and are being pursued by many justice entrepreneurs.

Focusing on gamechangers will help innovators to design innovations that have the potential to deliver effective and sustainable justice services. The discussion will help policy makers to channel funds into viable innovations and formulate regulations in which these gamechangers can thrive.

1. COMMUNITY JUSTICE SERVICES

Community justice services deliver solutions according to treatment guidelines effectively and to each person who needs them. Usually these services integrate formal and informal justice, and may take the form of: houses of justice; paralegals; justices of the peace; judicial facilitators; or community tribunals (HiiL n.d.-g).

Early stage examples of this game-changing service delivery model include justices of the peace, *facilitadores judiciales* and paralegal programmes in many countries, Casas de Justicia in Columbia, Local Council Courts in Uganda, and Abunzis in Rwanda. Case studies on Casas de Justicia and Local Council Courts can be found in the annex of this report. Bataka Court in Uganda shows how a private player can bring standardisation and regular monitoring and evaluation to a method of addressing disputes that is often considered informal and ad-hoc.

The Sierra Leone Legal Aid Board is another example of how community justice services developed at scale - through the participation of the public sector and donor agencies - brought down the unit cost of delivering justice. The tribal-state joint jurisdiction wellness courts in the United States effectively try to bridge the gap between formal and informal justice systems.

Community justice services exist in every type of country (low-, medium-, and high-income). They are more likely to exist in rural settings than in cities. Some are delivered by a panel of ordinary citizens, while others are overseen by individuals with authority in the community. Procedures are more likely to be standardised in high-income countries and more likely to be free-form in low-income countries (HiiL 2022a). Informal community justice has been incorporated by governments into organisations of judicial facilitators or by private initiatives into paralegal networks. Houses of justice and justices of the peace belong to the same family: the former as an interdisciplinary service facilitating resolution and the latter as an adjudication service with a simplified procedure.

The origin of the community justice service may limit its potential to scale. Sometimes community justice services are related to traditional justice within a tribe. In Ethiopia, different informal justice services cover different states, depending on which tribe has the majority. Community justice services may also have roots in a religion or be connected to a local or central government. In Switzerland, each canton has a separate system of local dispute settlement services. In some countries in the Sahel region of Africa, the government's geographic reach is limited, meaning services initiated by the government may not achieve national scale. If a local tribe has developed a specific way of settling disputes, this may not be acceptable to people from other tribes in the same region. In Colombia, houses of justice are seen as mechanisms for establishing government authority in remote areas.

Community justice services sometimes scale across borders. Facilitadores judiciales programmes exist in several South American countries, and paralegal models can be found in many African countries (HiiL 2022a).

HiiL's (2022a) policy brief on Community Justice Services outlines the reasons why we expect this gamechanger category to grow and the barriers that community providers will have to overcome in order to achieve long-term sustainable growth. These include the following:

- Standardising effective working methods in a setting of scarce resources

- Monitoring outcomes

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

- Making community justice services affordable and financially sustainable

- Building scale from the ground up

2. USER-FRIENDLY CONTRACTS

Services that provide safe, certified and user-friendly contracts or other legal documents to people, ensuring fairness in families, at work, among neighbours, and between small businesses and their partners, as well as between governments and stakeholders in the use of land (HiiL n.d.-h).

Creative Contracts in South Africa is a notable example of contract visualisation. While LegalZoom in the United States is an online information platform, it also provides easy to access contracts for everyday legal issues, especially those pertaining to SMEs. Platforms such as DIY Law in Nigeria, VakilSearch in India, and Avodocs in Ukraine are examples of successful document automation platforms that address the needs of small and medium enterprises.

Contracts and legal documents are needed to prevent conflicts or help manage them constructively. If user-friendly and effective, marriage, work and housing contracts can support fair and effective relationships between people. A major mining, energy or housing development project can only be successful if it is based on consent from the community, including groups that benefit from it and those who have to cope with adverse consequences.

User-friendly contracts can be implemented in a variety of settings. Well-balanced marriage contracts are more likely to be successful in settings where it is already customary or legally required to have a formal marital agreement. Laws on taxes may make it more (or less) likely that an employment or rental contract will be set in a formal document (HiiL n.d.-h).

Visual contracts may be needed more in settings where a significant portion of the population is illiterate. That said, many people – regardless of their literacy – prefer visuals over texts. Along with visuals, user-friendly contracts also incorporate plain language and avoid unnecessary clauses when drafting contracts. So far, visual contracts have been used to draft employment contracts, informed consent forms for medical procedures, and non-disclosure agreements. A combination of visual, plain language and simplified contracts have been developed for procurement contracts, sales contracts by General Electric in the United States and not-for-profit organisations like World Commerce and Contracting in the United Kingdom (HiiL 2022b). The potential for innovation in contracting is vast, particularly for long-term relationships, where regular evaluation and updating can be included in the service delivery model (Fenwich, Compagnucci and Haapio 2022).

In the policy brief on user-friendly contracts, we identify the critical success factors for organisations that provide user-friendly contracts involved in scaling and improving the quality of service delivery (HiiL 2022b). These include the following:

- Optimising the user-experience

- Showing and optimising the benefits for client companies

- Changing the mindset of lawyers and companies on contracting

- Developing a sustainable financial model

- A supportive regulatory environment

3. ONE-STOP SHOP DISPUTE RESOLUTION

Tribunals or platforms offer one-stop dispute resolution services for employment, family or other justice problems by connecting advice, negotiation, facilitation and adjudication in a seamless way. These services tend to be offered on multi-channels, that include online, telephone, chat-based and complimenting in-person services. They need to be mandatory for the defendant, or have another solution for the submission problem, in order to be effective and scalable (HiiL n.d.-i).

Tribunals and online platforms offering one-stop dispute resolution are part of the next generation of civil justice. They build on a major trend towards supplying ADR and mediation services in connection with adjudication. Examples of One Stop Shop Dispute Resolution include Civil Resolution Tribunal in Canada, Uitelkaar.nl in the Netherlands and SAMA in India. Online dispute resolution modules are now often operated by individual courts in the United States and elsewhere, with functionalities ranging from online filing to online mediation or online negotiation support.

One-stop shop procedures that integrate information, negotiation, mediation and adjudication support are mostly found in high-income countries. Ombudsman procedures also may include facilitation and adjudication in the form of (binding) recommendations (Wikipedia 2022). These are most commonly found in higher-income countries and their task is usually limited to the relationship of citizens with government agencies. In some countries, this ombudsman model is also applied to consumer complaints. England and Australia have numerous ombuds services for a range of consumer products.

If the government in a particular country has already developed a one-stop shop procedure for a different purpose (for example, for licences needed by companies), a one-stop shop procedure in courts is probably more likely to be accepted. In Islamic countries, the Qadi culture – where mediation and adjudication are more integrated and procedures do not assume representation by a lawyer – can be helpful as well.

In a policy brief, we identify the critical success factors for scaling One-Stop Shop Dispute Resolution Mechanisms, focusing on how public-private partnerships, outcome monitoring and specialisation can strengthen the case for this gamechanger category (HiiL 2022c). The success factors also include some of the following:

- User-centred design of the specialised, one stop process

- Solving the 'Submission Problem': Getting the other party to the table

- Monitoring outcomes

- Form effective public-private partnerships

- Government stimulating initiatives: opening the regulatory doors

- Sustainable revenue model

4. PROBLEM-SOLVING COURTS

Problem-solving practices or courts that bring defendants, victims, lawyers, public defenders, community leaders and prosecutors together to effectively address criminal behaviour. Key features of a problem-solving treatment include rehabilitation, interdisciplinary collaboration, and accountability that have to be delivered to many people (HiiL n.d.-j).

Problem-solving courts are a collaborative criminal justice innovation focused on individualised treatment and accountability. We examples of this gamechanger category in the United States in the form of Mental Health Courts and Drug Courts. The Truth and Reconciliation Commission in South Africa is another prominent example of bringing rehabilitation and restoration into focus in addressing criminal disputes.

Problem solving criminal justice services operate with the understanding that punishment is a limited, and not always effective, response to harmful behaviour. Victims, perpetrators and the communities in which they live need more than a guilty verdict with a fine or a prison sentence.

Problem-solving courts, dealing with common types of crime, have mostly been established in high-income countries such as the United States and Australia. Therapeutic justice and restorative practices on which problem-solving courts are based are used in different parts of the world, but the extent to which they are used largely depends on the approach of the judicial officers in power. In low-income countries, community justice services may deliver informal justice in a way that resembles the solutions delivered by the problem-solving courts.

5. CLAIMING SERVICES

Claiming services help people access vital public services quickly and at low cost. This delivery model is appropriate for social security benefits, proof of personal identity, healthcare benefits and similar outcomes. These services are supported online, combined with help desks or local in-person assistance (HiiL n.d.-k).

Online supported claiming has been finding traction in many countries. While many platforms focus on minor issues such as seeking compensation for defective consumer goods or compensation for flight delays, others focus on more serious issues. Examples include Haqdarshak in India, which provides access to government benefits to people living in rural areas through a combination of an online platform and local assistance, and JustFix.nyc in the United States which works on tenant rights.

Such claiming platforms empower citizens who need vital (government) services. Claiming platforms help people to navigate bureaucratic procedures and thus make services more equally accessible. Their effectiveness depends on the maturity of the public administration and judiciary in a given country. Services that provide access to digital identity such as iVerify in Nigeria and Peleza in Kenya have proven to be particularly useful in lower-income countries. In the United States, Turbotax is a private service that helps people file their tax returns. In other countries, the government has set up user-friendly tax filing portals. The more public services are effectively delivered by the state, the less claiming platforms are needed.

Claiming in high-income countries is now mostly supported online, matching high levels of access to the internet. In India, a sophisticated virtual platform — Haqdarshaq — is being taken door-to-door by local agents at the village level. Hybrid services are sometimes also needed for vulnerable groups in high-income countries (including migrants and illiterate or differently abled people). As part of these hybrid services, social workers and legal aid lawyers can deliver help offline.

6. PREVENTION PROGRAMMES

Prevention programmes or services that are supported by apps to ensure safety and security from violence, theft and fraud (HiiL n.d.-l).

Prevention programmes can take many different forms, from awareness campaigns, to programmes geared to legal empowerment, or to tools that can aid prevention or escalation of a legal issue. Yunga in Uganda and Ushahidi in Kenya are examples of programmes that help prevent legal disputes through the use of different technologies.

Prevention of theft and violence is becoming more widespread with the introduction of low-tech devices. WhatsApp groups and more sophisticated neighbourhood watch apps exist in different parts of the world. These programmes rely on neighbours coming together. Prevention programmes also rely on co-creating protection with the law enforcement agencies that will be alarmed or informed so they can take further action.

7. ONLINE INFORMATION AND ADVICE AND FOLLOW-UP SERVICES

People-centred online information and advice and follow-up services that help people solve justice problems in a step-by-step, fair and effective way that is consistent with their legal entitlements (HiiL n.d.-m).

Examples of this gamechanger category are many and are found in many countries. However, those that provide a clear value proposition to users beyond the provision of information are few. A2J Author in the United States and Mero Adhikar in Nepal can be considered good illustrations of step-by-step and clear follow-up services that can be integrated into online information platforms, aiding progress towards scale and sustainability.

Online information and advice services tend to be run by law firms, individuals, startups, non-profit organisations, or sometimes even the government as in the case of the website of Citizens Advice in the United Kingdom. These services are a helpful starting point in an individual's justice journey. As we will see in later sections, however, web portals and mobile apps need substantial investment to become effective self-help guides that lead to higher rates of resolution. Successful examples of these are still rare, even in high-income countries.

SEVEN GAMECHANGERS CATEGORIES
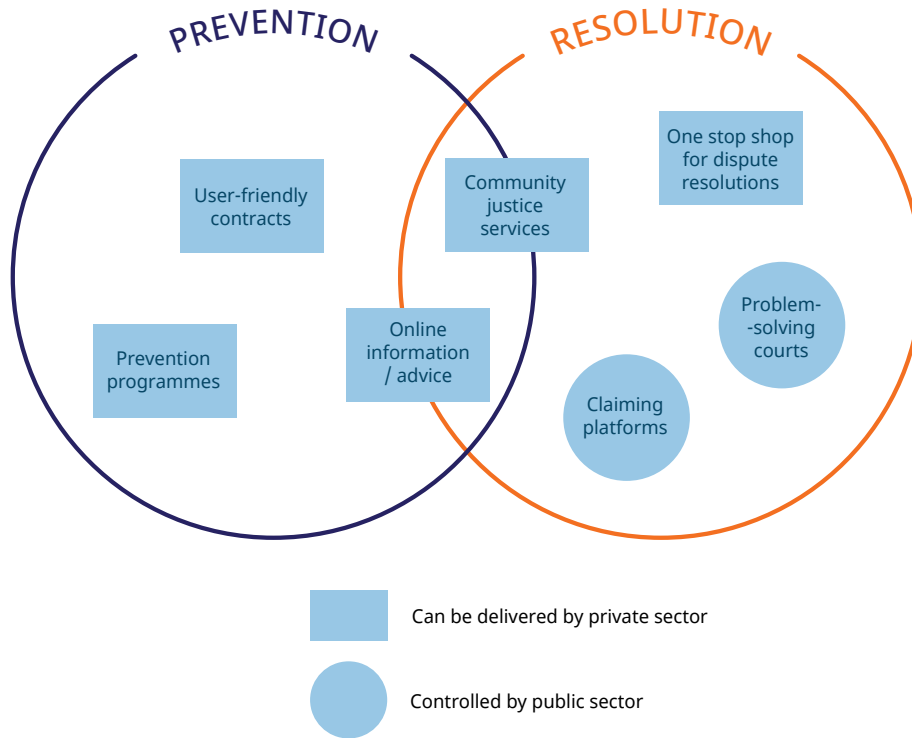
If evidence-based treatments and game-changing services are indeed needed, rigorous programming demands that the task force goes beyond incremental change. The following chapters show how a task force can lead strategically.

References

Fenwick, M., Corrales Compagnucci, M., & Haapio, H. (2022). Research Handbook on Contract Design. Edward Elgar Publishing Ltd.

Hendley, K. (2017). The Unsung Heroes of the Russian Judicial System: The Justice-of-the- Peace Courts. The Journal of Eurasian Law, Duke University.

HiiL, (2020). Charging for justice: SDG 16.3 Trend Report 2020.

HiiL, (2022a). Policy brief: Community justice services. HiiL.

HiiL, (2022b). Policy brief: User-friendly Contracts. HiiL.

HiiL, (2022c). Policy brief: One-stop shop dispute resolution. HiiL.

HiiL, (n.d.-g). Community justice services. URL: https://dashboard.hiil.org/the-gamechangers/community-justice-services/. Accessed on July 31, 2022.

HiiL, (n.d.-h). User-friendly contracts. URL: https://dashboard.hiil.org/the-gamechangers/user-friendly-contracts-and-other-legal-documents/. Accessed on July 31, 2022.

HiiL, (n.d.-i). Online information, advice and representation. URL: https://dashboard.hiil.org/the-gamechangers/online-information-advice-and-representation/. Accessed on July 31, 2022.

HiiL, (n.d.-j). Problem-solving courts. URL: https://dashboard.hiil.org/problem-solving-courts-for-criminal-cases/. Accessed on July 31, 2022.

HiiL, (n.d.-k). Claiming services helping people to access vital public services. URL: https://dashboard.hiil.org/claiming-services-helping-people-to-access-vital-public-services/. Accessed on July 31, 2022.

HiiL, (n.d.-l). Prevention programmes or services. URL: https://dashboard.hiil.org/claiming-services-helping-people-to-access-vital-public-services/. Accessed on July 31, 2022.

HiiL, (n.d.-m). Online information, advice and representation. URL: https://dashboard.hiil.org/the-gamechangers/online-information-advice-and-representation/. Accessed on July 21, 2022.

Huge Domains, (n.d.). Legalfacile.com. URL: https://www.hugedomains.com/domain_profile.cfm?d=legalfacile.com. Accessed on July 27, 2022.

Law Commission of India, (2017). Assessment of statutory frameworks of tribunals of India: Report number 272. Government of India.

Ombudsman, (2022). Wikipedia. URL: https://en.wikipedia.org/wiki/Ombudsman. Accessed on August 1, 2022.

Republic of Kenya, (2012). Judiciary transformation framework.

RMIT University, (2016). Pathways towards accountability: Mapping the journey of perpetrators of family violence- Phase 1.

UNODC and UNDP, (2016). Global study on legal aid: Global report.

4

STRATEGY 1:
DATA ON PROBLEMS,
IMPACT AND OUTCOMES
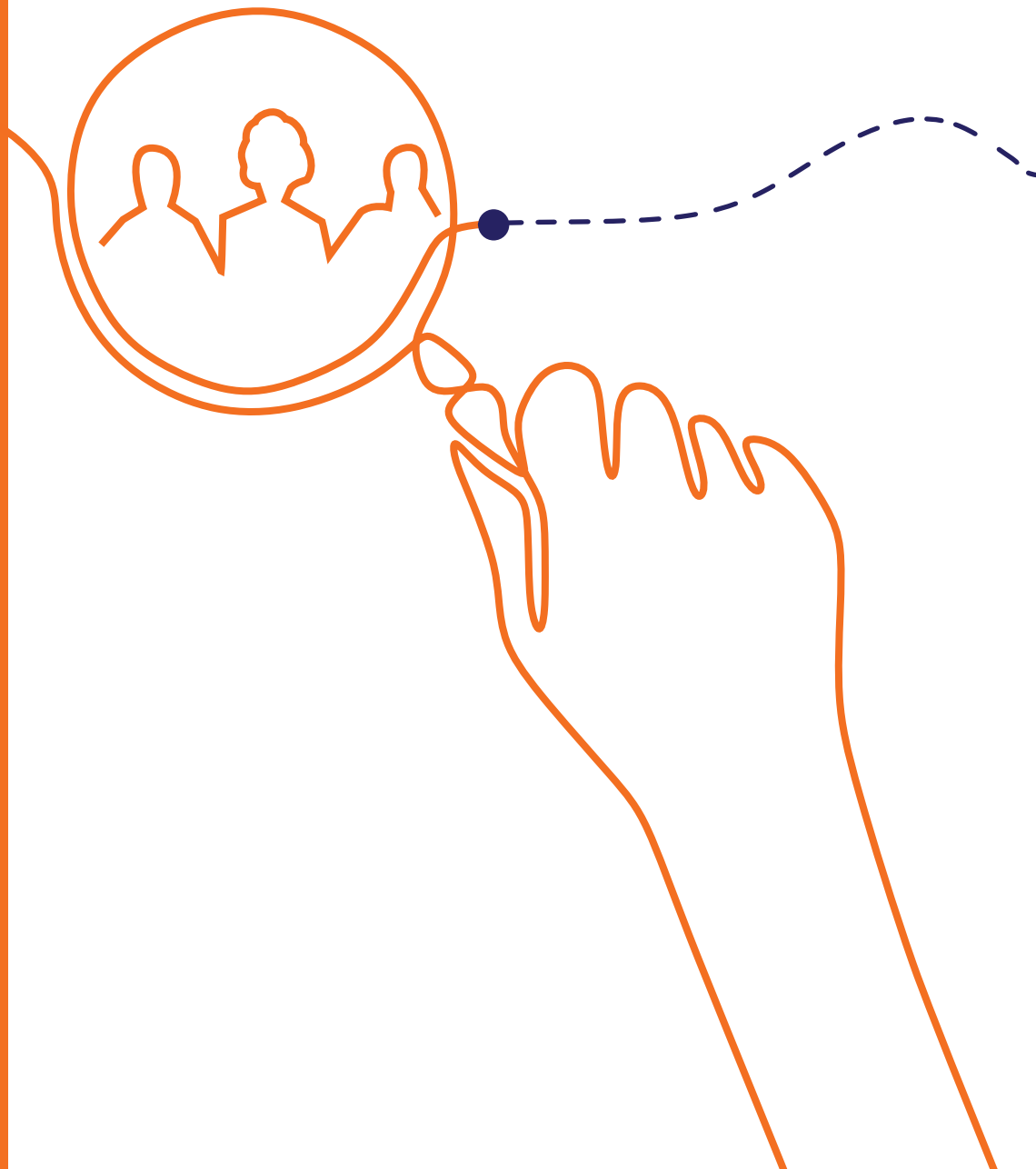
Effective people-centred justice critically depends on the availability of data on the effects on people of injustices and justice interventions (Chapman et al. 2021). What is the impact of an unsolved land problem, for example? Which interventions are implemented to allocate rights to use the land and do these result in a solution with outcomes that are acceptable to the parties? Data collected at the level of service delivery provide information on the quality of a particular service. Data collected and published at a national level make it possible to monitor the extent to which justice problems are prevented and resolved within a broader population.

Measuring justice delivery: the benefits of further standardisation

A standardised approach to monitoring the quality of processes and outcomes is crucial for increasing the quality of justice interventions that together make up a resolution process. A standardised set of outcomes allows a series of interventions that add up to a treatment to be compared and evaluated systematically. Currently, evaluation studies for justice interventions each make use of their own methods.

Ideally, practitioners and researchers would use similar methods to monitor the quality of the process and outcomes of, for example, personal injury cases.

When HiiL (n.d.-n) developed its measuring justice methodology, standard indicators of procedural justice existed: voice, neutrality, respect, and trust. Further standardisation is needed to measure the quality of justice outcomes across other dimensions, such as distributive justice, restorative justice, effectiveness and transparency.

Measuring the time, money and emotional costs needed to obtain resolution has proven to be difficult. People go through complicated processes to achieve justice and generally find it difficult to disentangle the costs of resolution from the impact of the problem. A better methodology to measure the burden of seeking justice is needed. A clear and consistent finding is that the emotional costs of this process should not be ignored. The existence of secondary victimisation as a concept - being victimised by the procedure after being victimised by a crime or accident - is a case in point. International standards for monitoring problems, impact, outcomes and justice journeys are being developed.
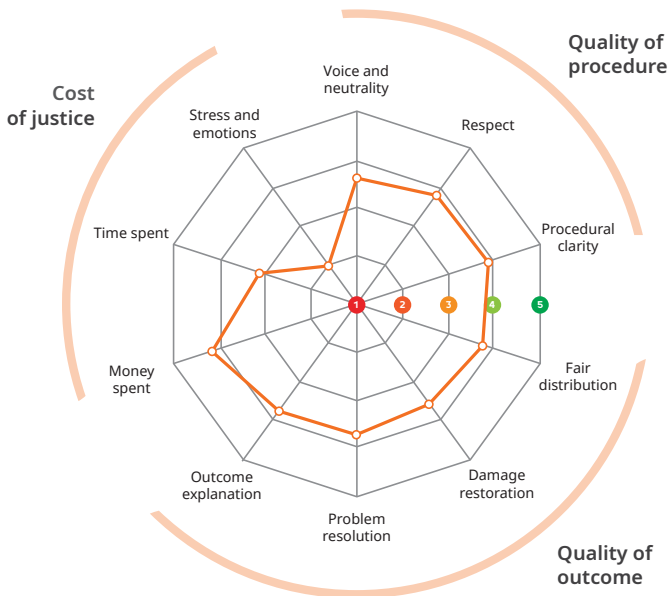
Regular national surveys: needed and difficult to fund

Countrywide data is needed. Ideally, data enables the task force and the providers of justice services to monitor progress towards people-centred justice. Widening justice gaps, or increases in the burden of injustice, can signal a need to redirect resources or to develop new treatments.

Data on the economy are published on a quarterly or monthly basis. Crime statistics are typically published on a yearly basis. Data on justice problems, impact, vulnerable groups and outcomes achieved can be collected through standardised annual - or more frequent - surveys. For most sustainable development goals, time series data exist that show trends in performance for different countries. Our World in Data has become a core hub for this data (University of Oxford and Global Change Data Lab n.d.). Few time series related to justice are available (ibid). Data comparisons occur mostly between countries, while survey repetitions are few and far between (HiiL n.d.-o).

When publishing data about justice problems in the population, the task force should reflect on actionability. What information should be shared with which audience? Who can take action on which elements of the data? How do they learn about the data? By conducting Justice Needs and Satisfaction Surveys in a wide range of countries over the years, HiiL has learned how data can be made more actionable (HiiL n.d.-p).

Survey data are often presented as percentages of populations (OECD and Open Society Foundation 2019). However, for a team looking to scale up a

gamechanger and do capacity planning, for example, the number of potential users is more meaningful than a percentage. This can easily be estimated from survey data. Disaggregation is key. Data users often request that data be grouped by type of justice problem. Breakdowns of specific issues (i.e. divorce or child support) and specific complications (i.e. violence, loss of job, personal injury, relational problems) are also useful. In some cases, however, sample size may become a problem, because a survey will not always capture many people with one particular type of justice problem.

Data about impact and outcomes achieved must always be interpreted. User stories can be used to represent and illustrate the average justice journey. Do people need more information to resolve their justice problem? Is contacting the other party for meaningful negotiation their main bottleneck? Do they need more interpersonal respect? Was the amount of money they received through the resolution process unfair? Justice journey maps can answer these questions in a memorable and engaging way.

Survey results are much easier to interpret if they include benchmarks. International rankings such as those provided by the World Justice Project and comparisons to neighbouring countries can be helpful (World Justice Project n.d.). However, few countries consistently perform at a level high enough to be visible in national surveys. Most high-performing services operate at a small scale. Few countries have scaled a particular service to the entire target group. When selecting benchmarks, this needs to be taken into account.

Securing resources for annual surveys is a challenge. Victimisation surveys, once done in a standardised way across Europe, have been discontinued (University of Lausanne n.d). Legal needs surveys are administered irregularly. National statistics offices are now asked to include questions about justice in their large population surveys (Statistics South Africa 2019).

Surveys can be carried out in person, in people's homes, through panels organised by data collection companies, or through social media. Each method has pros and cons in relation to representativeness. Collecting social media data creates an opportunity to monitor trends in justice needs in real time. HiiL (n.d.-q; n.d.-r) experimented with this during the COVID-19 crisis by comparing social media trends with the observations of experts. Conversations on social media can be searched using keywords that are associated with particular justice problems. Trends in problems can thus be monitored during times of crisis, whereas in normal times the number of family problems or land problems is likely to be rather stable.

Triangulation with other data

Survey data need to be compared with other justice data. In most of the countries where HiiL has carried out a Justice and Needs Survey (JNS), the World Justice Project has collected basic access to justice data in the three largest cities (World Justice Project 2019). Courts sometimes collect user experience data. These forms of justice data can be used to enrich existing survey data.

Access to justice reform programmes are executed by private, public or civil society organisations. Sharing performance and output data with the task force (and the public) in open formats should be part of implementation activities planned by the task force. Indicators for which there is no valid, reliable and regular data have little value.

A flaw of current survey methods is that they miss people who are in prison, are homeless, or who are hiding from the authorities. Some people may have problems that they are ashamed to talk about and deny. Depending on how questions are asked, surveys may miss the gravest injustices: people dying or disappearing. Survey companies contact people at home, through phone calls, through email or through social media. Reaching the populations excluded by these methods requires a more creative approach.

Data on the number of people in these hard-to-reach categories can be used as a proxy. Estimates of these numbers are available in many countries. Each individual who is incarcerated, homeless or unregistered is very likely to experience their situation as a justice problem. More reliable data on the problems these people have can be obtained by surveying segments of these populations.

References

Chapman, Peter et al., (2021). Grasping the Justice Gap: Opportunities and Challenges for People-centred Justice Data. Washington, D.C.: World Justice Project; New York: Pathfinders for Peaceful, Just and Inclusive Societies; Paris: OECD.

HiiL, (n.d.-n). Justice Dashboard - Methodological Note. URL: https://dashboard.hiil.org/justice-dashboard-methodology/. Accessed on August 1, 2022.

HiiL, (n.d.-o). Country comparison page. URL: https://dashboard.hiil.org/country-comparison-page/. Accessed on August 1, 2022.

HiiL, (n.d.-p). Projects. URL: https://www.hiil.org/projects/?_sft_service=service-1. Accessed on August 1, 2022.

HiiL, (n.d.-q). Delivering justice in the Covid-19 crisis (web report).

HiiL, (n.d.-r). Justice in the Covid-19 crisis: What people are saying on social media (web report).

OECD and Open Society Foundations (2019). Legal Needs Surveys and Access to Justice. Paris: OECD Publishing.

Statistics South Africa, (2019). Governance, public safety and justice delivery. Republic of South Africa.

University of Oxford and Global Change Data Lab, (n.d.). Our World in Data.

University of Oxford and Global Change Data Lab, (n.d.). Promote just, peaceful and inclusive societies. Our World in Data. URL: https://sdg-tracker.org/peace-justice. Accessed on August 1, 2022.

World Justice Project, (2019). Global insights on access to justice: Findings from the World Justice Project general population poll in 101 countries.

World Justice Project, (n.d.). Research and data. URL: https://worldjusticeproject.org/our-work/wjp-rule-law-index. Accessed on August 1, 2022.

5

STRATEGY 2: PROMOTING EVIDENCE-BASED PRACTICE

The second strategy a task force should consider aims to increase the effectiveness of what is done to prevent or resolve justice problems: evidence-based practice. Justice services are transitioning from executing processes prescribed by rules of procedure to offering a more complete set of interventions needed to prevent or resolve justice problems. Including separate interventions into effective justice journeys for people experiencing a justice problem is a major challenge. Currently, only 30-40% of justice problems are resolved. Between 70% and 90% of people facing a justice problem take action to resolve it. This means that many people take no action or get stuck. High-impact problems have even lower resolution rates. Few people achieve high-quality outcomes.

In this chapter, we describe building blocks for evidence-based practice. Treatments generally consist of a process where people exchange information, get to a better understanding of their respective needs, and make decisions jointly or are guided by a third party to implement them. Bringing together effective interventions into a comprehensive treatment for land grabs, work conflicts, domestic violence or other pressing justice problems is needed. This will depend on investigating the outcomes that people experiencing these problems generally need.

Interventions that can achieve these results will then need to be selected via literature research and collection of best practices from the field. This requires substantial R&D efforts and can eventually lead to treatment guidelines that are broadly accepted by justice practitioners. Implementing evidence-based practice, and integrating the necessary interventions into existing and new service delivery models, is the next step. Increasing the effectiveness of interventions can have huge benefits. For a specialised provider of evidence-based justice services it may be possible to increase resolution rates from 35% to 70%. Is this realistic? Seventy percent is the resolution rate often found in evaluations of programmes that implement mediation on a voluntary basis, without specialisation, and leave the specific type of mediation to the individual mediator. Judicial decisions tend to have a compliance rate of 50% or more. If the most effective ways of working can be brought together in evidence-based guidelines and if such treatments can be implemented in 80% of the country within ten years, the burden of injustice will be cut by half. If game-changing justice services standardise this way of working, the burden of injustice could be resolved even more quickly. Evidence-based working offers a clear path to achieving the goals and targets a task force has set.

Making the case for evidence-based working

In our work, we have learned that the case for evidence-based practice needs to be made carefully. A starting point may be that legal professionals are accustomed to applying evidence-based practice standards to the work of doctors and other professionals. Evidence-based working is often promoted by experts in corrections, and forensic or therapeutic interventions. Family courts hear evidence on appropriate treatments for distressed families in separation cases.

However, implementing evidence-based practice in courts or legal services may lead to resistance from legal professionals who believe that it is first and foremost their individual skill set and experience that matters. They may describe a lawyer's representation of a client's interests and a judge's handling of a case as a form of art. In common law countries, trials may be equated with "the real way" to deliver justice, even though trials have become rare events and most solutions result from negotiated settlements.
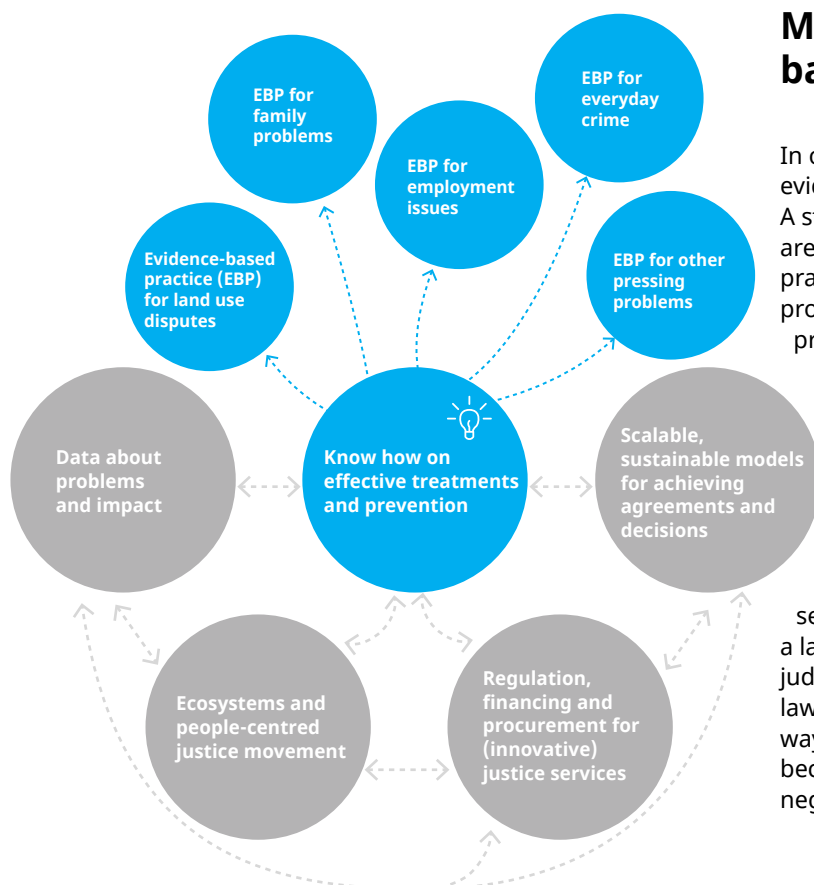
We also meet development professionals and legal experts who hesitate to talk about best practice and research-based interventions. They are motivated by respect for the autonomy of communities to develop their own ways of delivering justice. Or they are uncertain whether international best practice will work in local settings. In the following discussion, we explore how the case for evidence-based working can be made and how this resistance can be overcome.

When a task force studies the <u>data</u>, its members will usually find that the supply side of the "market for fair solutions" is very fragmented. Individuals in cities are served by independent practitioners or by small law firms. Courts operate in one county and within a given court; each judge develops an individual way of working. Informal justice is delivered at the village level by volunteers. Between providers, there is little structured interaction and learning. In such a fragmented market, the benefits of standardisation and sharing know-how are considerable.

Moreover, the way people are supported to achieve fair solutions is largely shaped by the roles of justice practitioners within institutions. In responding to a case of domestic violence, for example, the police may calm things without doing their due diligence to ascertain whether similar reports from the same household have been made already or investigate whether the violence is a persistent issue. A prosecutor may begin preparing for a court case. A doctor might focus on medical treatment. An NGO offering a safe house may or may not have a room available. A lawyer may start negotiating a solution or preparing a civil court case. Each professional helper is most likely to apply the interventions he or she specialises in and that align with the business model of his or her practice. Interventions applied by different practitioners in the same case may even conflict or work against each other. This often happens when the parties involved consult different types of practitioners: for example, when a husband consults a lawyer specialising in financial divorce settlements and the wife turns to a family mediator focusing on future family relationships, this can lead to additional conflict.

Within a professional role, the interventions and overall treatment for justice problems may not be that well described. NGOs and the police may have scripts for their interventions, informed by best practice and research. Lawyers in small law firms or judges are more likely to rely on their own judgement than on the collective intelligence of their peers. Their effectiveness can be increased if they would accept the principles of evidence-based practice.

Justice practitioners intervene in ways that heavily impact people's lives. Their actions have effects on people's rights to freedom, their family relationships, their property rights, their work, their personal security, their housing, their farmland and their access to government services. Whether making such interventions with due regard for the likely effects on people's lives can be seen as an ethical duty is something that can be explored with stakeholders (see box for suggestion).

EVIDENCE-BASED WORKING: AN ETHICAL DUTY FOR JUSTICE PRACTITIONERS?

In the fields of medicine, psychotherapy and social work embracing evidence-practice is increasingly seen as an ethical imperative. Using evidence wisely, also when evidence is scarce, is seen as an essential duty of professionals. Take the example of domestic violence. Helping to solve a domestic violence problem requires thoughtful interventions that lead to a response that is fair, effective, proportionate and sustainable, with sufficient control by the survivor and without undesirable side-effects. Different forms of domestic violence exist, each requiring a different approach. Any intervention should aim to prevent new violence in a way that is tailored to the situation at hand. Outcomes may include access to housing and improvements to the financial situation of family members. If domestic violence leads to criminal prosecution, a mother may have to raise her children alone with a family income that has been dramatically reduced.

There is an enormous body of knowledge about the diagnosis of domestic violence and the effectiveness of different interventions. Different forms of therapies have been tested on outcomes for both the survivor and the perpetrator.

Can an individual practitioner be expected to keep up with this research and develop the best way to work with domestic violence cases? Is it acceptable that this knowledge is not used when a professional intervenes in ways that shape the future of women, men and children?

How might a Hippocratic oath for justice practitioners – similar to those used in the medical professions – be worded? When lawyers and judges vow to uphold the constitution, what can be added to their pledge to ensure they do no harm that could be avoided by systematically learning from colleagues and research?

- Harvard Law School's Access to Justice Lab promotes evidence-based working by encouraging justice practitioners to use lessons learnt in randomised control trials (RCTs). It uses RCTs to evaluate potential solutions to justice problems then generalises these results into actionable findings (Harvard Law School n.d.).

- See reports by international groups of experts and ministers of justice who have promoted evidence-based working in the chapter 'Owning people-centred justice' .

- To find out more about evidence-based practice in the justice sector, read: Watkin, M. (2017). How do we tell what's working? Disrupting the justice evaluation model. Centre for Court Innovation; New York University, (n.d.). BetaGov. URL: https://www.betagov.org/index.html. Accessed on August 14, 2022; OECD, (2020). Access to justice and the Covid-19 pandemic: Compendium of country practices; National Institute of Justice, (n.d.). Reliable Research. Real Results. URL: https://crimesolutions.ojp.gov/. Accessed on August 14, 2022. ; National Resource Centre on Domestic Violence, (n.d.). About the project, Domestic violence evidence project. URL: https://www.dvevidenceproject.org/about-the-project/. Accessed on August 14, 2022.; National Institute of Corrections, (n.d.). Evidence-based practices. URL: https://www.dvevidenceproject.org/about-the-project/. Accessed on August 14, 2022.

Defining and monitoring outcomes

Evidence-based working is results-oriented, meaning it begins with the outcome in mind. Defining and monitoring outcomes is crucial. In individual cases, justice practitioners are increasingly trained to ask disputants about their interests – their wishes, worries and needs – and perhaps about the solutions they propose to serve these interests. For particular types of justice problems, the interests and solutions follow the same pattern. In personal injury cases, for example, victims tend to need information about what happened, recognition of harm, psychological support and help to reorganise their personal and professional lives. Insurance companies generally want financial

predictability. It is also in their interest that victims are motivated to find adequate sources of income, because that is likely to reduce their liability.

Task force members may engage with these outcomes through an exercise along the following lines. Imagine a paradigmatic case of land grabbing. Remember an accident in which people died and others could have prevented it. Think about a conflict between neighbours involving lots of noise, hostile communication and threats of violence. Then close your eyes and imagine how these people live and act six months from now. What does peace and justice look like for them? What is in their settlement agreement?

Defining outcomes can start as simply as that. In a conflict between neighbours, outcomes that are likely to be valued are: absence of nuisance, resolution of border issues, improved communication, satisfaction with relationships, absence of violence and the fear of violence, and restoration for the harm done.

Defining outcomes systematically may require an analysis of hundreds of settlement agreements for a particular type of justice problem. Research can identify trends and commonalities. Focus groups can select the most important elements of these agreements and identify key issues that need to be resolved in a typical case. HiiL has begun this kind of people-centred outcomes research.

Outcomes can also be defined and monitored in more general terms. On the basis of a literature research, HiiL developed survey questions that measured the quality of an outcome across four dimensions: distributive justice, restorative justice, effective problem resolution and transparency (meaning an explanation of why this outcome and not another one).

Once the outcomes have been identified, monitoring can begin. Providers of justice services can monitor outcomes during the process and after the service has been delivered. With questions such as, "to what extent has the nuisance in your neighbourhood already diminished?", clients can be asked to monitor their progress as well.

PROBLEM-SOLVING COURTS:
OUTCOMES MONITORING IN THE COMMUNITY

Measuring and monitoring people-centred outcomes was key to the early success of problem-solving courts. Because the problem-solving approach was so different from the status quo, demonstrating evidence that it worked was necessary for building political and financial support. This meant clearly articulating the goals of problem-solving courts and finding ways to measure progress towards them.

The extent to which a particular (problem-solving or traditional) court monitors progress towards these people-centred outcomes depends on its ability to track compliance and behaviour change among participants. This can be achieved through regular compliance reviews, which provide an ongoing opportunity for the court to communicate with participants and respond to their concerns and circumstances. Investing in electronic data systems that track and coordinate information makes it easier for a court to monitor its overall impact on case outcomes and to improve the quality of its mandates.

Successful outcome monitoring depends crucially on a court's ability to develop strong relationships with researchers. Without this, early problem-solving courts like the Red Hook Community Justice Center would not have been able, for example, to quantify the impact of a seven-day jail stay in terms of budget, jail population, and arrests per month. Strong research partnerships made it possible to compare successful and unsuccessful court participants, which was necessary to assess and improve the quality of the court's services.

Outcome monitoring at the Red Hook Community Justice Center was not without its challenges. Because most people who come before the court are charged with less serious crimes, their treatment mandates are relatively short. The short amount of time the Red Hook staff and service providers have to work with these participants means that outcomes related to individual progress are not likely to show a full picture of the court's impact. The Red Hook Community Justice Center addressed this by measuring outcomes related to the court's impact on the community. What was the effect on social cohesion and stability, it asked, when someone's brother, father, or son was allowed to remain in the community instead of being incarcerated?

- The OECD (2019) makes a strong case for focusing on and monitoring outcomes.

- For examples of outcomes that HiiL has identified in the past, visit the Solving and Preventing page on the Justice Dashboard (HiiL n.d.-s). These examples are partly justice problem-specific and partly based on the aforementioned dimensions of distributive justice, restorative justice, effective problem resolution and transparency of the outcome. These dimensions are monitored in HiiL's Justice Needs and Satisfaction Survey 2.0.

- For more information on how problem-solving courts monitor outcomes, see the case study on Problem-Solving Courts in the annexure to this report.

Sharing best practice and research through treatment guidelines

Evidence-based treatment guidelines are the primary tools to inform practitioners about best practices and research. Such guidelines contain recommendations for selecting interventions and planning treatments that are most likely to achieve positive outcomes for the parties involved.

The methods for developing and using guidelines in the medical sector are well established and can be applied to the justice sector. In the justice sector, evidence-based working is at an early stage. Justice practitioners increasingly share best practices and participate in skills training. Research on mediation techniques is increasingly available. The body of knowledge on ways to adjudicate disputes is growing. Different types of support for negotiations are being tested.

Most of the evidence given in the justice sector consists of expert opinions or project evaluations. Few interventions have been tested in randomised controlled trials - although Harvard Law School's Access to Justice Lab is beginning to change this. Developing guidelines is likely to gradually improve the quality of research and practice. Guidelines generate dialogue about what works, bring attention to the decisions that matter most during treatment, and highlight where new research is needed.

An indirect benefit of working with guidelines is that it may help to reorganise expertise on what works in legal and justice processes aiming to prevent and resolve conflicts. The prevailing research culture in political science, legal science, and socio-legal research is to describe and explain current practices or to criticise proposals for reform. Legal theory and law and economics research tend to be theoretical. Conflict resolution, negotiation theory, innovation of justice services, regulation of legal services, and reform of legal procedures is studied by small groups. Each of these topics is an emerging academic discipline, loosely embedded in social sciences and law faculties; they are led by small groups of experts in academia and justice institutions. However, rigorous people-centred justice programming requires these disciplines to be connected. Instead of describing current practice, strong research and development capabilities are needed, similar to those that exist for tech, health care, and agriculture.

People-centred guidelines describe interventions and treatments from the perspective of the people involved. What actions do parties need to take in order to resolve a conflict on terminating a work relationship? What practitioner-led interventions are most likely to deliver outcomes that allow the worker and the employer to move on?

Addressing the consequences of violence committed by youth in a community requires a holistic approach. Resolving a family conflict happens through interventions that involve husbands, spouses and children. People-centred justice guidelines are thus different from those developed by police, prosecution, courts, therapists or social workers. Practitioners tend to focus on the interventions they can deliver for individual clients and on the rules they want to enforce. Guidelines for people-centred justice aim to combine these third party perspectives alongside the perspective of the parties involved. In this way, they are multidisciplinary by nature.

Guidelines aim to inform practitioners about what works. They provide a common vocabulary between different professionals working together on the same case. It is left to the professional to apply this knowledge to the individual case in a responsible way. The following box describes how individual treatments can be designed informed by evidence.

PROBLEM-SOLVING COURTS: COMBINING INDIVIDUALISED TREATMENT WITH EVIDENCE-BASED PRACTICE

Problem-solving courts have introduced a number of interventions that have been proven to deliver people-centred outcomes for the communities they serve. Although different interventions work for different populations, direct engagement with participants and the delivery of individualised treatments are key elements of the problem-solving orientation that all problem-solving courts share.

Direct engagement means that the judge at once speaks to participants directly and that they are actively engaged in producing a positive change in their lives. This effort to ensure that participants feel heard and respected, and experience the process as fair, is supported by research on procedural justice.

Individualised treatment means that the interventions delivered are tailored to the specific problems of each participant. This requires that the court offers a continuum of treatment modalities and services to respond to the variety and degrees of need that participants present. This service plan must be revisited by the court on a regular basis and adjusted depending on the participant's progress.

Despite this shared approach to justice delivery, different problem-solving courts have identified different types of treatments and ways to monitor whether they work that are unique to the population they serve.

Community courts such as the Red Hook Community Justice Center generally work with the residents in their neighbourhood to identify what is important to them, rather than impose a predetermined set of solutions.

Certain interventions have been proven to improve outcomes for communities, victims, and individuals with justice system involvement when applied to low-level cases. These interventions include: using validated screening and assessment tools; monitoring and enforcing court orders; using rewards and sanctions; promoting information technology; enhancing procedural justice; expanding sentencing options (to include community service and shorter interventions that incorporate individualised treatment); and engaging the community.

- For more information about best practices and research undertaken by problem-solving courts, see Centre for Justice Innovation, (2019). Problem-solving courts: An evidence review.

- Examples of recommendations can be found on the Family Justice page and Land Justice page on HiiL's (n.d.-t; n.d.-u) Justice Dashboard.

- HiiL (n.d.-v) has developed a method for Developing Evidence-Based Guidelines. Justice guidelines are collections of recommendations that support justice practitioners to prevent and resolve different types of justice problems in an evidence-based way. Central to the process of developing guidelines is bringing together literature on what works for people (evidence-based practice) and best practices from local justice practitioners (practice-based evidence).

- See case study on 'Problem-Solving Courts' in the annexure of this report to learn more about usage of evidence-based practices.

Developing effective treatments: recurring building blocks

An effective treatment for a justice problem can be deconstructed like a set of Lego. Land disputes require reliable ways of mapping territories. Burglaries committed by individuals with substance use disorders can be addressed with tailored treatment and restitution for victims. Each category of justice problem requires a specific set of interventions that fits the outcomes needed for that type of problem.

Some interventions can be used across many problem types. The practice of law has patterns and stages. Dispute resolution practices move from containing a conflict towards opening lines of communication, negotiation, mediation and adjudication (see graphic below).
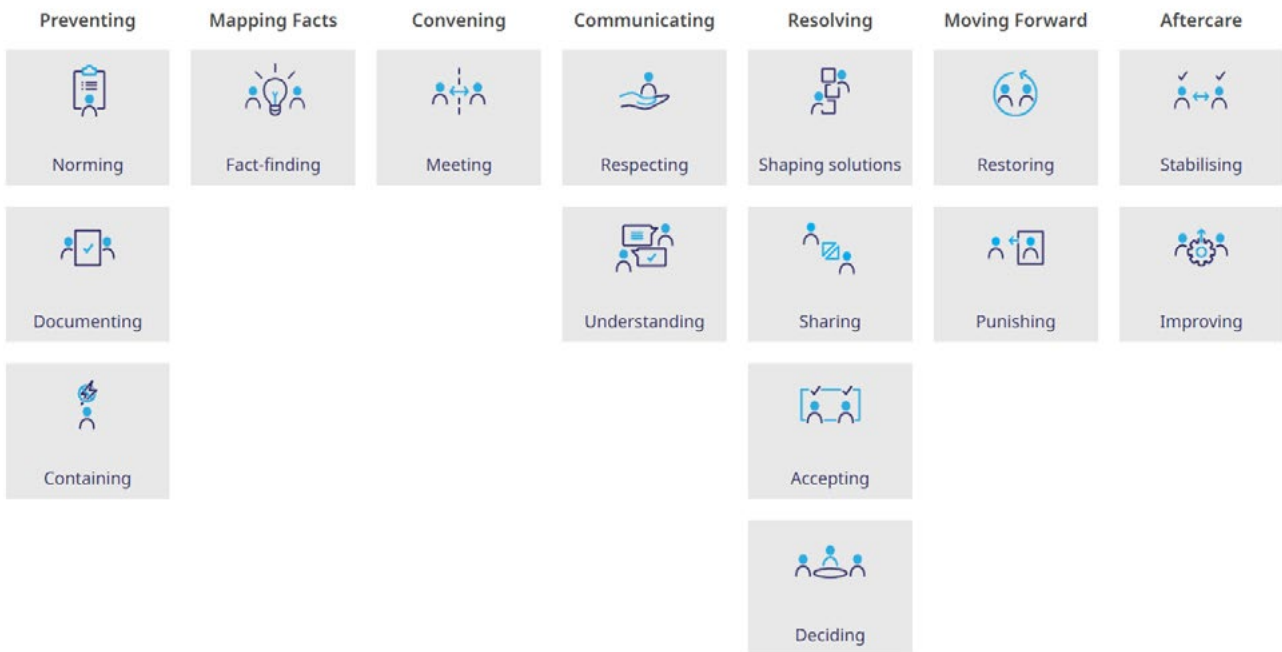
These building blocks can be used to create effective step-by-step treatments, in a similar way as standardised treatments are being developed in the health care sector (HiiL n.d.-b). In the justice sector, this is sometimes referred to as dispute system design. One international trend is to use combinations of mediation and adjudication. In courts, judicial mediation is developing.

The building blocks unpack legal advice, mediation, informal justice and court adjudication into concrete treatment tasks undertaken by disputants and those who guide them. Mediation is a catchphrase for a series of interventions aiming at improving communication, reestablishing interpersonal respect and identifying needs, issues and possible solutions. Each of these tasks can be optimised.

Adjudication is also a complex activity. In order to solve a real life conflict, it is generally insufficient to establish the facts and then apply the law. Crucially, people seeking justice do not work from the substantive rules that need to be applied, but from the problem they experience and the criteria that are helpful in reaching a solution that works for them. "Sharing" the burdens of injustice takes place using formulas and other objective criteria for allocating compensation, contributions, debts or assets. Adjudication also includes taking decisions on issues that the parties cannot agree on and creating conditions for acceptance of the outcomes. Ensuring compliance, as well as adjusting the results to new realities, is also needed. Sanctions are in reality a bundle of interventions serving different objectives: restoring harm or punishment.

CAN EVERY JUSTICE PROBLEM BE SOLVED?

Court leaders in the United States have expressed an ambition to provide 100% access to justice. Equal access to justice for all is also the ambition of Sustainable Development Goal 16.3. Is this realistic?

Historically, legal institutions have been optimistic about their ability to resolve a diverse range of justice problems. Courts now deal with genocide, claims about slavery and environmental degradation. Criminal networks are dismantled by the same police forces working to respond to incest and intimate partner violence. Speech is regulated through defamation claims in courts and by content moderation on social media.

Theoretically, every conflict can be understood in terms of the procedural and substantive interests of the people involved. Conflict resolution therefore consists of maximising the interests of both parties through integrative (win-win) solutions and distributive (win-lose) bargaining. In the conflict resolution context, win-win solutions are measures that improve relationships and generate future gains, such as apologies, measures to prevent future harm and measures to undo harm where still possible. If the harm caused cannot be undone, if the costs of remedies are substantial, or if control over assets is at stake, monetary transfers or a reallocation of assets can be part of the solution. This raises distributive issues over which the parties have to bargain.

Over time, legal systems have created algorithms to decide on distributive issues: schedules for the calculation of damages, formulas for child support, norms for severance pay, guidelines for acceptable levels of noise and formulas for contributions to victim compensation funds. Theoretically, it is possible to design a formula for any distributive issue in any type of conflict. Such formulas can be simple or consist of a more complicated schedule, which differentiates outcomes according to the needs or contributions of specific groups. Once a formula is developed, it can be presented to a diverse group of experts, citizens or stakeholders and calibrated until it achieves maximum support.

When framed as a process of supplying procedural justice, integrative problem solving and improving the acceptability of distributive outcomes, conflict resolution becomes an optimisation process. Economists have also designed a criterion for when this optimisation process should come to an end. They recommend minimising the sum of error costs and decision costs. If additional attempts to improve the outcomes are more costly than the probability of an error in the outcomes multiplied by the probability of an error, the process should stop.

Interpreted in this way, each justice problem can be resolved, although in real life, this framework may be difficult to implement.
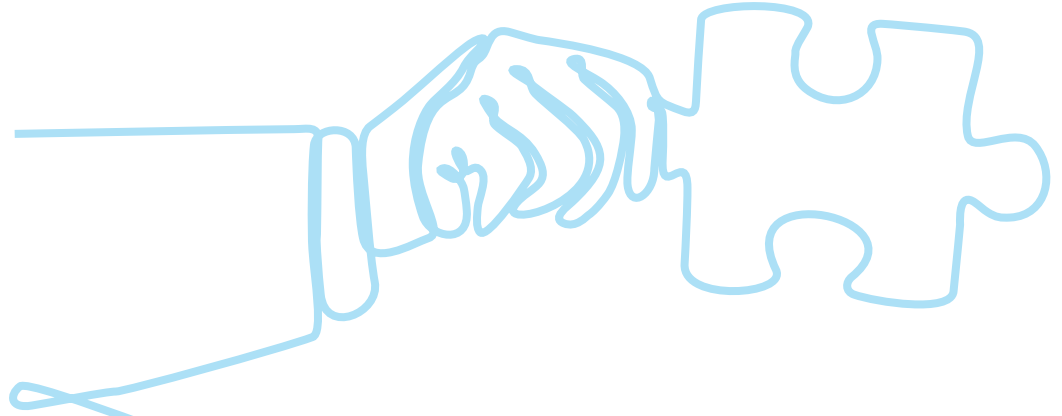
Dispute system design is now an established field of research. Methods to develop dispute resolution systems are described in a number of handbooks (Amsler Martinez and Smit 2020; Hodges 2020; Oetzel and Ting-Toomey 2013), which are a valuable resource for innovators. Task forces can use them when designing standardised treatments for employment disputes, family conflicts, personal injury problems and much more.

- HiiL is working on a systematic overview of building blocks for dispute resolution processes. The ambition is to identify the interventions that are often used in "treatments" of different categories of justice problems.

- For sharing rules regarding distributive (who gets how much) issues, see: Verdonschot, J.H. (2013), Sharing rules that work: Developing law as practical and concrete guidelines for fair sharing, Wolf Legal Publishers (WLP). This study investigates the effects and design principles for sharing rules.

- In the mediation literature, sharing rules are discussed as objective criteria, a concept introduced by Fisher, R., Ury, W., and Patton, B. (1991), Getting to Yes: Negotiating Agreement Without Giving In, Penguin Books: New York: NY.

Involving two parties: solving the submission problem

The building block of 'Meeting' in the graphic above deserves additional attention, because it is so central to designing effective treatments (HiiL n.d.-w). As discussed in Chapter 3, many innovators that came to us with smart mediation and arbitration procedures ignored the submission problem. Five out of the seven gamechangers can only work for the person with the justice problem if the other party can be convinced to participate.

The essence of a conflict or a crime is that somebody else is causing trouble for you. This person needs to cooperate for there to be a solution. Any intervention by the police, court, mediator or other third party will only work if the second party is available.

The submission problem is inherent to every dispute. Solving debt problems requires the cooperation of creditors. Victims, or the prosecutors acting on their behalf, need perpetrators to cooperate. A divorce happens between two people who decide they do not get along well and want to legally separate.

The other party should somehow submit to the use of the justice service to solve the problem as the original party sees it. This is unlikely to happen in the context of a conflict or crime, because it is not usually in the interest of the other party to do so or because communication has broken down. Sometimes the entire effort of one party to a conflict is focused on 'avoiding submission'. Expensive lawyers are hired and legal loopholes are found to argue that a court has no jurisdiction or that mediation is inappropriate for the case.

The submission problem should be solved first, because otherwise the service will not benefit many people or will only benefit the people who least need it: parties who are both motivated and able to solve the problem by themselves.

One solution to the submission problem is to make the justice service mandatory. Courts make adjudication mandatory. Governments have been hesitant to make mediation mandatory when starting pilots with it. When they learned that voluntary mediation is growing very slowly – even when supported by awareness raising campaigns – they often made mediation mandatory or obliged litigants to consider mediation before starting a court case (Rhee 2021). This happened in a number of European countries, in South Africa, in China and in jurisdictions in Australia, Canada and the United States.

Social norms and other incentives may help as well. In the realm of consumer disputes, the submission problem is addressed by exposing non-cooperation on the part of the company that has delivered the defective product or failed to deliver the service on time. The reputation of the other party may be at stake if he or she refuses to cooperate with a dispute resolution process in the community. Non-cooperation can be sanctioned by ostracising a community member who does not submit to a dispute resolution mechanism.
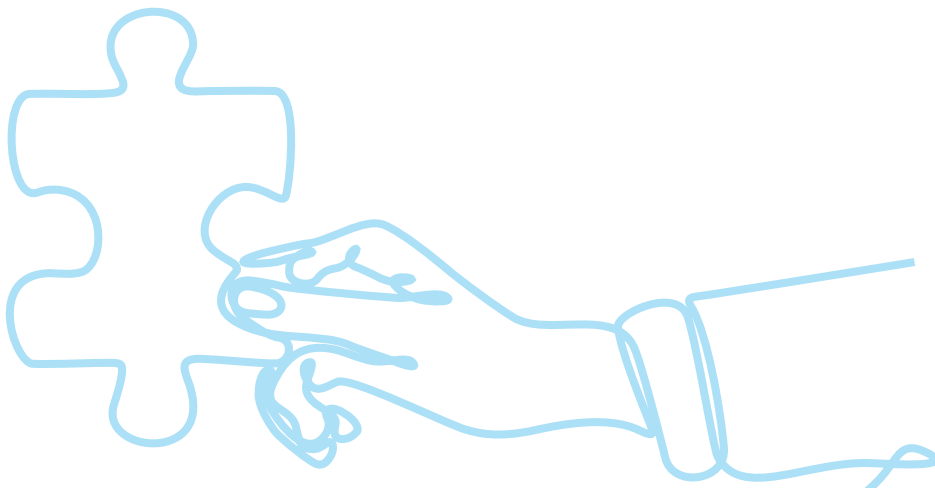
💡
- Solutions for the submission problem are explored in the Meeting building block on HiiL's Justice Dashboard (HiiL n.d.-w).

- The literature on mandatory mediation is extensive. It mostly finds that voluntary mediation leads to a settlement at a slightly higher rate than mandatory mediation. The number of disputes resolved by a mandatory mediation programme (with sufficient capacity) is vastly higher than the number of disputes resolved by a voluntary program, however.

Turning top-down legal thinking into people-centred design

When designing effective resolution processes by combining interventions and using the building blocks, inspiration can be taken from human-centred design and service design concepts. These approaches bring a people-centred perspective to laws and legal procedures.

For example, one legal maxim is that everybody should know the law and that lack of knowledge of the law can be remedied with legal information. From a human-centred design perspective, the questions to ask are: What information about the law do people with justice problems need? When do they need it? How do they want to be informed? What other information might they need to resolve their problem?

Designers of legal services have learned that information on how to resolve a justice problem is most valuable when it arrives in time. Information about communication skills such as active listening, effective negotiation and mediation is more likely to be helpful than information about broad constitutional rights.

Another legal maxim is that decisions need to be enforceable. When discussing community justice services, lawyers often note that the outcomes of informal justice processes are difficult to enforce. From a service design perspective, the questions to ask are: What will make people want to comply with an agreement? What makes people think that the other parties involved will comply?

Community justice services are more likely to deliver effective agreements in settings where there is some form of social control that increases the probability of their compliance. If the local policeman is willing to have a talk with an uncooperative person, that helps as well. Asking a judge from the formal system to assist with enforcement may also increase the likelihood that agreements are complied with and sustainable.

Recent measures to limit the spread of COVID-19 remind us of what works to encourage compliance: the example set by people you identify with; monitoring by members of the community; reputation in the community and the threat of being excluded by it (ostracism); the threat of other sanctions; reciprocity (comply with your own obligations first, and the other party is more likely to comply); and rewards. All of these are known to incentivise compliance.

💡

- Useful criteria for people-centred legal information can be found in HiiL's (2012) trend report 'Towards basic justice care for everyone: challenges and promising approaches'.

- Legal design initiatives are emerging in many jurisdictions. The Legal Design Lab at Stanford Law School is a leading initiative. A Legal Design Summit took place in Helsinki in 2019.

- Systematic approaches to designing treatments can also take inspiration from service design (Wikipedia 2022).

- The procedural justice literature has extensively investigated the positive relationship between respectful (human-centred) processes, resolution rates, satisfaction with outcomes and compliance.

Implementing evidence-based working

The task force next needs to ensure implementation. Guidelines have no effect unless the interventions they recommend are put into practice. The task force therefore must develop a strategy to implement evidence-based working. How can a wide range of justice practitioners – each working individually and sometimes in remote places – be stimulated to follow the recommendations?

Implementation science has become a field of study. Researchers in this emerging field investigate how evidence-based practices can be implemented. Building on experience from health care, mental health care, social work and other professional services, they have tested a range of options to stimulate evidence-based working. Many of these

options are available in the context of justice services. If demand for high-quality justice services increases, so will the willingness of justice practitioners to work with an evidence-based approach. Legitimacy of the recommended practices, supported by legislation and formal acceptance, also helps. Learning collaboratives can be set up. Training programmes offering certificates and train-the-trainer programmes are effective as well.

The role of leading judges, academics, ombuds services and legal professionals is crucial: they can set an example of how best to resolve justice problems and emphasise the value of working based on evidence. Procurement processes of courts, ministries or legislative bodies can be designed in a way that gives preference to game-changing services that are evidence-based. The table below gives an overview of findings on implementing evidence-based working.

CONDITIONS FAVOURABLE TO EVIDENCE-BASED PRACTICE (EBP)

Conditions that support evidence-based practice	Assessment of the likelihood of conditions being met in settings where justice problems are resolved
Demand for best practices from users	No data available.
Involving stakeholders in planning and advisory boards	Can be achieved.
Legislation, mandates and formal adoption	Rule-following is more likely to be effective in the justice sector than in other sectors.
Long-term cost effectiveness of EBP	Integrated simplified processes are less costly than current court procedures. May require investing more resources in informal justice.
Preferential contracting	NGOs and donors are more likely to fund "evidence-based" practices than other projects.
Consistency of EBP with culture, values and beliefs	Most judges, informal justice providers, and frontline justice practitioners already believe in and actively promote mediated and peaceful resolutions. Codified best practices are likely to strengthen this belief and empower them.

Conditions that support evidence-based practice	Assessment of the likelihood of conditions being met in settings where justice problems are resolved
Leadership behaviour	Many leading justices and ministers promote evidence-based working and greater reliance on informal justice providers.
Removing inconsistent organisational signals	Validated best practices can remove the ambiguity around mediation, informal justice and slow, complex formal justice by integrating the best elements of each.
Learning collaboratives	Can be organised.
Task shifting in low- and middle-income countries via best practices is effective in under-resourced settings (community health care workers are an example)	Empowering local justice providers and paralegals via best practices is likely to be effective.
Training (online)	Training in mediation techniques is available everywhere in the world. This is less true for adjudication practices.
Consultation and support by peers	No data.
Compatibility, complexity, trialability, observability, and relative advantage of EBP	EBP is often compatible with beliefs of justice practitioners and simplifies processes (compared to implementing complex legislation).
Modular approach (elements of best practices applied more broadly)	Some guideline recommendations are applicable across a variety of justice problem types (see building blocks).
An implementation strategy with multiple reinforcing interventions is more effective	A strategy that combines many of these interventions to implement evidence-based working may be costly.

Source: Stirman 2017.

Justice practitioners are more likely to adopt a new way of working if it is consistent with their values and beliefs. The more the recommended practices fit the workflow and the environment in which they work, the more they will be implemented. In a court setting that is supposed to apply a codified, adversarial procedure, evidence-based practice is less likely to be followed then in a setting where procedures are more informal and flexible. Financial incentives and other rewards for evidence-based working are also known to be effective.

Best practices are more likely to be applied by practitioners for whom applying standardised solutions is satisfying. Research on implementing evidence-based practice suggests that delegating standardised treatments to practitioners with fewer years of training is effective. These kinds of practitioners are more likely to adhere to and enjoy working according to standards. This is good news for communities looking to implement best practices with the help of paralegals or judicial facilitators. Academically trained practitioners, on the other hand, are sometimes more intrigued by exceptions to the rule. They like to use their skills to discover a solution for a rare or new problem. In a more optimal division of labour, these types of practitioners would focus on enriching and testing evidence-based justice guidelines.

- Implementation science is a discipline reported on by a journal that covers the latest insights (Biomed Central 2022). COVID-19 has provided many new learnings on this topic as well.

- HiiL is currently developing a method to generate an effective implementation strategy in cooperation with organisations of justice practitioners.

References

Amsler, L.B., Martinez,J. and Smit, S. (2020). Dispute System Design: Preventing, Managing, and Resolving Conflict. Stanford University Press: Stanford, California.

Biomed Central (2022). Implementation Science. URL: https://implementationscience.biomedcentral.com/. Accessed on August 1, 2022.

Evidence based Practice. Wikipedia, (2022). URL: https://en.wikipedia.org/wiki/Evidence-based_practice. Accessed on August 1, 2022.

Gleicher, L. (2010). Implementation Science in Criminal Justice: How Implementation of Evidence-based Programs and Practices Affects Outcomes. Illinois Criminal Justice Information Authority.

HiiL, (n.d.-b). Building blocks. Justice Dashboard. URL: https://dashboard.hiil.org/building-blocks/. Accessed on July 7, 2022.

HiiL, (n.d.-s). Solving and preventing. URL: https://dashboard.hiil.org/solving-and-preventing/. Accessed on August 1, 2022.

HiiL, (n.d.-t). Family justice. URL: https://dashboard.hiil.org/problems/family-justice/. Accessed on August 1, 2022.

HiiL, (n.d.-u). Land justice. URL: https://dashboard.hiil.org/problems/land-justice/. Accessed on August 1, 2022.

HiiL, (n.d.-v). Evidence-based justice: The guideline approach.

HiiL, (n.d.-w). Meeting. URL: https://dashboard.hiil.org/building-blocks/meeting/. Accessed on August 1, 2022.

Hodges,C. (2020). Delivering Dispute Resolution: A Holistic Review of Models in England and Wales.

Legal Design Summit, (n.d.). Legal Design Summit: Design thinking will change the practice of law. URL: http://www.legaldesignsummit.com/. Accessed on August 1, 2022.

OECD, (2019). Equal Access to Justice for Inclusive Growth: Putting People at the Centre. OECD Publishing: Paris.

Oetzel, J. and Ting-Toomey,S (eds). (2013). The SAGE Handbook of Conflict Communication, Integrating Theory, Research, and Practice.

Rhee, H.V. (2021). Mandatory Mediation before Litigation in Civil and Commercial Matters: A European Perspective, Access to Justice in Eastern Europe, 4(12), pp. 7–24.

Service Design, (2022). Wikipedia. URL: https://en.wikipedia.org/wiki/Service_design. Accessed on August 1, 2022.

Stanford Law School, (n.d.). The legal design lab. URL: https://law.stanford.edu/organizations/pages/legal-design-lab/#slsnav-our-mission. Accessed on August 1, 2022.

Stirman, S.W. et al, (2017). Bridging the Gap Between Research and Practice in Mental Health Service Settings: An Overview of Developments in Implementation Theory and Research, Behaviour Therapy, 47(6), pp. 920-93

6

STRATEGY 3: STRENGTHENING AND SCALING JUSTICE SERVICES
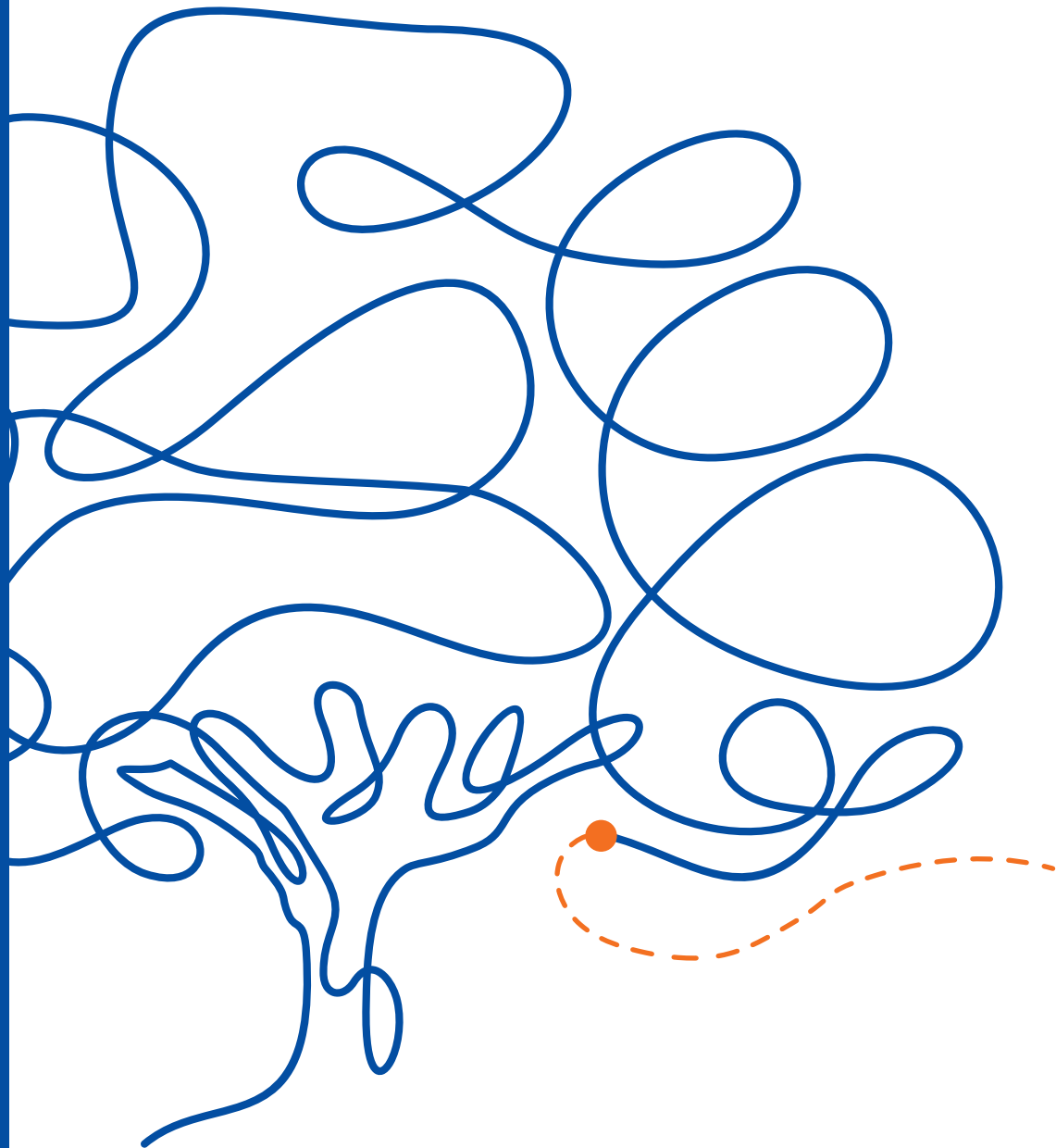
Having ensured that justice services can provide high-quality treatments, the task force should turn to effective delivery of such treatments. Together, the available services need to reach tens or hundreds of thousands of people for each pressing justice problem every year. To achieve this, services need to be able to deliver each of the interventions needed in a seamless and scalable way. In order to achieve scalability, the way the service is organised should be financially sustainable. In simple economic terms, the service provider should ensure that the marginal cost of serving one more user with a justice problem is considerably lower than the extra revenue this user will generate. This margin can then be reinvested to improve the service, achieve further scale, manage risks and reward investors.

We now explore what is needed to turn a promising and game-changing service into an investable opportunity. A sound plan for a scalable justice service has a number of mutually reinforcing elements, which are described below.

Pilots, startups and new courts: the early initiatives with potential

Game-changing justice services are being developed. Community justice services exist in many countries. Mature startups deliver contracts online. Problem-solving courts are widespread. These promising service delivery models started small: in the first neighbourhood where Colombia's houses of justice were piloted; in a single court in Brooklyn; or the first version of LegalZoom's website.

Entrepreneurial judges, lawyers and IT professionals have turned ideas for new services into pilots and justice startups. These startups and pilots are an important part of the justice ecosystem. The number of innovation attempts in the justice sector is substantial. In 2011, Oxfam alone supported 800 rule of law programmes, most aimed at better justice services for vulnerable groups. Courts around the world often run multiple pilots in parallel.
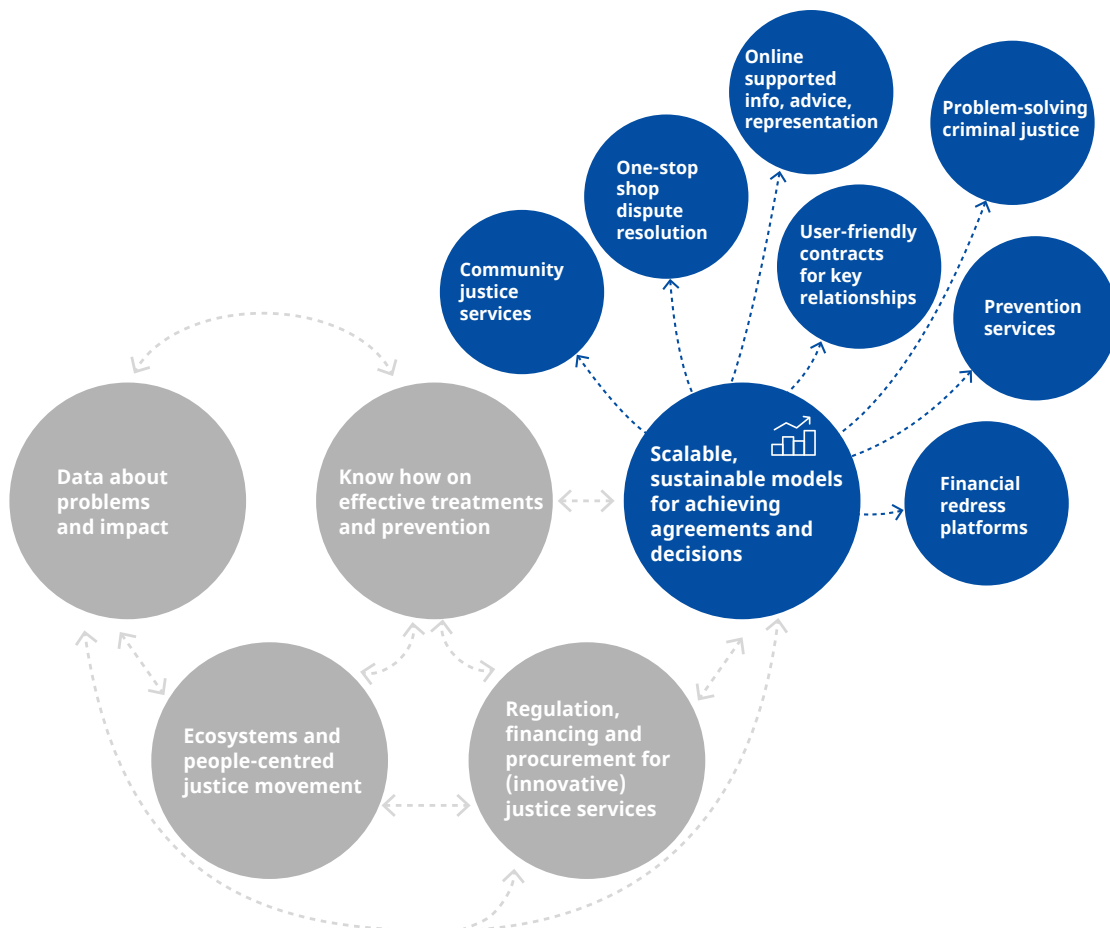
Once the taskforce has decided which gamechangers are needed, it can cooperate an accelerator programme to select the most promising existing service providers. The infographic below identifies examples of early stage services that follow the path of promising game-changing service delivery models. They are taken from the HiiL Accelerator Programme that scouts, selects and supports justice startups.

EARLY STAGE GAMECHANGERS SCOUTED AND/OR SUPPORTED
BY THE HIIL ACCELERATOR PROGRAMME

Community justice services
→ Bataka Court Model (Uganda) HiiL Accelerator cohort 2018-19
  → Houses of Justice/ Casas de Justicia (Colombia)

User-friendly contracts
→ Creative Contracts (South Africa)
  HiiL Accelerator cohort 2017-18

One-stop dispute resolution
→ Uitelkaar.nl (Netherlands)
  HiiL Accelerator cohort 2013-14

Problem-solving courts
→ Mental Health Courts/ Therapeutic Jurisprudence (US)
  HiiL Accelerator cohort 2013-14

Claiming platforms
→ Haqdarshak (India) HiiL Accelerator cohort 2018-19

Prevention programmes (fraud, violence)
→ Yunga (Uganda) HiiL Accelerator cohort 2019-20
→ Ushahidi (Kenya) HiiL Accelerator cohort 2015-16
→ Appruve (Nigeria) HiiL Accelerator cohort 2019-20

Online legal information /advice
→ DIYLaw (Nigeria) HiiL Accelerator cohort 2015-16

G A M E C H A N G E R S

Alternatively, the task force can support initiatives to develop a new service. The Civil Resolution Tribunal (CRT) in British Columbia is an example of this. The CRT was set up as a result of an initiative by a group of justice leaders in the Canadian province of British Columbia. The first problem-solving court in the United States was also created as a new court instead of a pilot within an existing court.

Governments often choose to set up new tribunals outside the existing court structure. Ombuds services, specialised tribunals and houses of justice did not emerge from existing courts. This follows a more general innovation practice. Mature, large organisations that want to break new ground have learned that the corporate structure – with all its regulations and social norms – is not ideal for innovative ventures. Typically, they base their startups outside the existing organisation. Eventually, when the new way of serving users has matured, it can be brought back into the corporate structure. This happened with the many separate tribunals in England and Wales (for employment, social security and child support, immigration and asylum, mental health) that later became part of an overarching organisation of courts and tribunals.

- The HiiL Accelerator Programme works with justice startups (HiiL n.d.-x). These innovators are primarily in the private sector, but also include entrepreneurs working from within justice sector organisations. Justice innovation hubs have been set up in Johannesburg, Kampala, Kieve, Lagos and Nairobi.

- Several ministries of justice run their own innovation programmes, including the ministries of Netherlands, Singapore and the United Arab Emirates (Singapore Ministry of Law 2020; Alfaham 2021; Ministry of Justice and Security Netherlands n.d.).

- To learn more about the houses of justice in Colombia, see the case study Casas de Justicia in the annexure to this report.

- To learn more about LegalZoom, see the case study LegalZoom in the United States in the annexure to this report.

- To learn more about the growth of problem-solving courts, see the case study Problem-Solving Courts in the United States in the annexure to this report.

Proving the concept: conducting a feasibility study and piloting

Let us consider a service that already exists, or has been piloted. In business language, it should have market validation. In language more fitting to government services, a feasibility study is needed. Unless the selected service is already on track towards effectiveness, scale and sustainability, it can be regarded as a pilot or an early-stage startup. A pilot and the experiences of a startup deliver a wealth of knowledge about justice needs, effective treatments, possible revenue models and barriers to bringing the service to scale.

The validation or feasibility study confirms to what extent the service is already effective, and what should be improved. This work is usually carried out in partnership with independent evaluators. It identifies a gamechanger's main barriers to scale. A feasibility study consolidates the learnings from the existing service or pilot with knowledge from other sources. It details what improvements are needed and assesses how likely it is that these improvements can be made. The feasibility study identifies the main points of attention for the gamechanger and explains how they will be addressed.

Standardising delivery and individualisation

Small-scale justice services are often distinctive in how they are delivered. A mediator sets up a restorative justice programme with the local police. A judge develops ways of talking with the parties during a court hearing and achieves many settlements. Family lawyers in a city form a network with therapists so that couples who are in the course of separating can be helped more effectively.

This can lead to early successes and increases in the resolution rate. But such initiatives depend on the skills and experience of a particular person or group. An online platform referring people to lawyers is only as effective as the lawyer who ends up handling the case. If each lawyer listed on the platform has their own approach to solving conflicts, with varied outcomes and rates of success, what do users gain from this platform?

Scaling implies standardisation and effective outcomes, which is closely linked to evidence-based practice and to financial sustainability. Better quality

services are more likely to lead to a revenue model that is sustainable and scalable. Users, governments and communities are more likely to pay for a service that solves most land problems or most domestic violence issues. This, in turn, will provide a better business case for investments.

In an effective and investable service delivery model, outcomes are well-defined and monitored, making the quality of the service visible (Bal et al. 2019).

Standardised, effective treatments need to be delivered through standardised channels. Generally, the user side can be a justice worker in a community or a website. Additional assistance can be organised through a telephone, help desk, or chat function. Research clearly shows that people today expect hybrid service delivery models, offering multiple ways to interact and exchange information (Creutzfeldt and Sechi 2021). The guidelines for treating the justice problem need to be translated into practical steps for employees operating each channel, including scripts for key interactions with users. Once tasks are defined and allocated, the time that they take can be estimated. This further standardisation can lead to new gains in efficiency.

At the same time, the individual person seeking justice should feel heard and be served as an individual. Justice problems often have a high impact and cause distress. People need to feel they are listened to and that they are respected. This is a challenge for any court, police station or startup delivering justice services.

Individualisation should be built into every delivery model for justice services. Disrespect is the most common feeling associated with injustice. For justice services, therefore, treating customers respectfully and not as a case or a number to be processed is crucial. Effective legal help offered online should be combined with options of, for exzmple, in-person or telephone assistance.

Value proposition and delivery channels

In order to benefit from a service, users need to know that it exists. Individually, they are unlikely to encounter more than one land problem, one major crime issue or one separation in their lifetime, so most will not immediately know where to seek a solution. Searches on the web or consulting friends should lead to the game-changing service. Substantial investments in marketing are needed for this. Currently, people go to many different agencies and individual service providers, each of which is trying to compete for attention online or in communities. Widespread awareness can be achieved, however. Colombia's houses of justice are known by 70% of the population, even though only 2% of the population (10% of the poor) use them.

Awareness on its own is not sufficient. Game-changing services need to develop a clear value proposition. In HiiL's work with justice innovators, this has proven to be an important element in bringing a service to scale. Gamechangers aim to offer a standardised service with a high resolution rate. Traditional justice services are not always clear about such outcomes, however. A lawyer, for example, typically tells a client that he or she may either win or lose the case depending on how a judge sees it. Research conducted by the Legal Services Board of England and Wales revealed how difficult people find the task of selecting legal services. This is due to the stress of the situation, their limited knowledge, and a lack of consistent and objective information. Generally, they prefer providers that offer clear and useful outcomes, and provide the needed specialised skills in an honest and professional way. They focus on good rapport, understanding and responsiveness as proxies for a favourable customer experience.

Building on these insights, the value proposition for a one-stop procedure for land conflicts, for example, could include a stable agreement about rights of use and ownership, delivered by a specialist platform in a responsive manner. For clients of services providing user-friendly contracts, the value proposition can be a satisfying and effective employment relationship or a happy and prosperous family life, with clear indicators of the mechanism's track record. A defendant struggling with substance use and repeated police involvement would like to know what a problem-solving process would deliver for him. How would his life change after participating in the process?

The value proposition of justice services provided by courts needs the most work. Judges routinely tell parties to a conflict that a decision will not solve their problem. Prosecutors in the United States and Uganda, for example, talk about diversion, that is keeping cases out of court and sending them elsewhere. This suggests that the service a court provides is not effective and that a new value proposition is needed. Community justice services, by contrast, have a more convincing value proposition: a peaceful resolution that restores social harmony and is supported by the community.

👉 To learn more about the houses of justice in Colombia, see the case study Casas de Justicia in annexure to this report.

Bringing in sustainable revenues: the financial model

A justice service cannot scale without a sustainable revenue model. Task forces are likely to underestimate the potential of justice services to generate sustainable revenues. In our 2020 Trend Report, Charging for Justice, we investigated in detail the possible sources of revenues for justice services. Generally, we found that the demand for fair solutions and the impact of justice problems is huge. Substantial revenues can be expected if the value proposition is clear and the service consistently delivers fair solutions or prevention. Here we provide some of the highlights from this report.

People with justice problems are prepared to spend on solutions. Surveys that have investigated willingness to pay find that this is considerable, even in low-income countries. This can be explained by the significant impacts that justice problems have on people's lives and by the large benefits of finding a solution. Although the high price of lawyers - that is, the cost of the service they provide - is generally seen as a barrier to justice, legal needs surveys paint a different picture. Only a small percentage of people with justice problems who do not use a lawyer mention price as the main barrier to resolution.

Based on these data, our report hypothesised that the quality of justice services is the main obstacle when it comes to willingness to pay. From a user perspective, hiring a lawyer is unattractive. The outcomes are uncertain and one of the possible end points of the justice journey, a court judgement, may not deliver the result a user hopes for.

Game-changing justice services, which focus on the outcomes people need, can be more attractive for users and, in turn, increase their willingness to pay. Smart fee systems can be developed, with pay structures that make use of services more attractive. Smart fee systems optimise who pays for what and when they pay. For instance, user contributions are possible even when the target is a low-income group. In Uganda, the Local Council Courts charge fees from users in rural areas which helps to cover the costs of the tribunals. Providers of justice services can also consider taking contributions from the other ("defending") party to the dispute, who may have deeper pockets, being a landlord or an employer. In many countries, court fees are also collected from defendants or rules exist that allocate legal costs to defendants. The community, too, is often prepared to contribute to the costs of justice delivery. A municipality may hope to de-escalate conflicts in order to prevent costs downstream. Volunteers may

be willing to act as third parties. Civil servants may act as mediators. Government subsidies for courts or legal aid are of course common. An effective gamechanger can attract targeted subsidies for the most vulnerable users.

The size of a smart fee should have some relationship to the costs of the service delivered. Pay-as-you-go systems have been developed in which accessing information is free, but support to achieve a settlement generates a fee. This fee can increase if a client needs mediation, adjudication or additional interventions that may be required in complicated situations. Government subsidies or cross-subsidisation can be used to avoid a situation where the people who need a solution most are unable to afford it. Germany implements cross-subsidisation through fee schedules that charge high fees to corporate plaintiffs with substantial financial claims.

Task forces can also consider the timing of contributions. Court fee systems are often poorly designed, so providers of problem-solving courts or one stop tribunals should look into them. The user – who is likely to suffer financially from the justice problem – often has to pay up front, many months or even many years before the court provides relief. This arrangement also misses the opportunity to incentivise courts to deliver judgments earlier on. Smart fee systems optimise all of this.

Vital public services like health care would ideally be free at the point of service for a basic package. The same is achievable for vital justice services, but this needs time. In order to achieve an ideal health care system, countries engaged in decades of innovation, resulting in improved quality of services leading to greater willingness to pay; increased revenues leading to greater investment in better services; the development of private and public insurance models; government coordination; and willingness to contribute to the health of fellow citizens. All of this helps to ensure 100% access. But trying to start with free justice services for all is unlikely to succeed and was not the trajectory taken by other public services.

Scaling the service: reaching the target population

The transition from reaching hundreds of people to covering a country's entire population is best done on the basis of a scaling plan. Setting up or improving community justice services is often done geographically, area by area. One-stop shop procedures are most often implemented for a single problem type at a time.

Contracting platforms typically develop standardised wills, family relationship contracts, employment contracts or rental contracts before they go live. This kind of minimum product package is needed before scale can be achieved. Integrating customer feedback to achieve the optimum product-market fit is also important.

LEGALZOOM: SCALING AND IMPROVING

LegalZoom is often characterised as a 'disruptive innovation' or an innovation that brought about a paradigmatic shift. Time and again, the company has introduced cutting-edge services that have had success in the commercial market and simultaneously made legal services more affordable. To date, the company has over 4 million customers. An important factor that has enabled LegalZoom to scale is the company's problem-solving outlook.

LegalZoom did not become complacent once its first venture – legal documents – became commercially successful. Rather, it sought to resolve other problems people faced, one of which was obtaining legal advice from qualified lawyers for a modest fee. To address this problem, the company offered a prepaid legal plan to customers. As per the plan, customers can schedule unlimited 30-minute consultations with lawyers on personal and business matters for a fee starting from 10 dollars a month.

By diversifying its services, LegalZoom was able to tap into different sections of the market, expand its customer base and position itself as an attractive innovation to investors.

As one interviewee in the case study said,

> Many times, innovators are [so] carried away by the strengths of their innovation that they forget to further innovate. After all, the innovator is trying to resolve problems. By limiting the innovation to a certain set of problems, the innovation limits its own growth. Instead, if the innovator adopts an attitude where he or she is looking to resolve new problems, it automatically broadens the scope of the innovation. By continuing to address problems, the innovation boosts its own effectiveness and ability to reach out to more people than before.

Read more in our case study on LegalZoom

Rolling out a service is a specialism. High fidelity to the treatments that have been agreed to is crucial. The leadership and staff needed to ensure that the service is rolled out effectively are usually different from the leadership and staff needed at the initial innovation stages. Useful experiences can be obtained from other public services, such as financial inclusion and providing electricity to low-income areas in the world. These services have made important strides in recent years in achieving scale. These services often started as private sector initiatives backed by impact investors. Later, such services can be included in or validated by the relevant government agency. In these ways, justice services can reach many more users.

Securing investments: an investment plan that entices funders

The task of securing investments for justice services warrants a separate report. Here, we mention a few key learnings from our work.

One insight is that the public and private justice sectors use different kinds of investment approaches and invest for different reasons. In the public justice sector, major investments are made in court buildings and IT infrastructure. These investments often seem only to cover the costs of maintaining services that are slipping. Investment plans for the public justice sector are often accompanied by talk about "dilapidated" court buildings and "paper files." New court buildings and paperless offices are the deliverables.

Our view on investment is closer to that of the private sector. Investments should aim to expand justice services and improve their quality, and should not be confused with maintenance. An investment plan details the resources needed for the game-changing service to scale. Investments come in different rounds to support the scaling process. As a service reaches more people, its revenues grow. The investments are needed to finance the scaling process until further scaling can be paid from the growing revenue stream.

The justice sector can do a much better job in securing investments. The Overseas Development Institute, a development think tank, has investigated funding mechanisms for justice in several studies and found that investments in justice by international donors have stalled (Manuel, Manuel and Desai 2019). Private investments in people-centred justice are also minimal in comparison to investments in legal tech initiatives that primarily serve major law firms and businesses (HiiL 2020).

M-PESA AND SCALING JUSTICE SERVICES

The proliferation of mobile phones in developing countries is contributing to more equal treatment of vulnerable groups. Their use – in financial inclusion, increasing access to education, and many other Sustainable Development Goals – cannot be underestimated.

M-PESA is a large-scale mobile phone-based payment service based in Kenya that works towards ensuring financial inclusion. The scaling history of M-PESA provides interesting lessons. Launched as a public-private partnership by Vodafone and Safaricom with the support of a grant from the UK government, the initiative began as a pilot programme. The overwhelming positive response M-PESA received from Kenyans encouraged the company to scale it across the country.

Initially, the service was launched as a phone-based micro-lending initiative. However, after realising that customers were using the product for a number of alternative purposes, the team decided to change the value proposition to allow people to make payments through the application.

Studies of M-PESA provide evidence of this public-private partnership's success in increasing financial resilience and saving as well as in allocating resources more efficiently. In 2016, a research paper by MIT estimated that the initiative had lifted 2% of Kenyans out of poverty. It also found that the impact of M-PESA on female-headed households was more than twice the average measured.

Leaders in the justice sector may want to consider similar public-private partnerships. Hospitals, police stations, supermarkets and social media platforms are examples of services that already operate huge networks, mastering the associated logistics. Under what conditions could the delivery of justice outcomes happen with the help of these channels or by licensing their expertise?

A second observation is that game-changing justice services cannot scale on the basis of the usual grants of a few 100,000s euros from NGOs and international donors. The resources necessary to bring a service to scale will generally require investments in the range of millions and tens of millions of euros. This kind of money is needed to sustain a strong team, to validate a product, and for standardising the service and execution of the scaling plan. This includes awareness raising (marketing).

A third insight is that compared to the social benefits of a game-changing justice service, the investments required are small. The gamechangers tend to have low fixed costs compared to other investments in national infrastructure, such as internet connections, electricity grids and networks of hospitals with extensive medical equipment. For example, fixed costs for community justice programmes consist of the money needed to develop treatment guidelines, standardised working methods, IT infrastructure, and a team that can ensure delivery of consistent and high-quality services by justice practitioners in communities.

Delivering justice primarily involves sharing information and connecting people through sophisticated interactive processes. An infrastructure for data collection on outcomes is also crucial. This infrastructure requires considerable investment but once the necessary laws, processes and interaction formats are in place, justice services can be brought to city neighbourhoods and rural areas at much lower cost than those necessary to extend road and 5G networks.

The team leading the game-changing service should carefully consider what type of investors will best match their mission. Private investors may be guided by a short-term horizon and financial returns. Innovators in the HiiL Accelerator that come from the start-up scene are often interacting with the type of investors who stimulate them to move towards additional revenue streams that can be accessed easily. Conflict resolution is more complex than providing contracts and documents, for example, and requires more sophisticated revenue models, Justice sector investors sometimes struggle to understand that more substantial growth can come from linking services to courts and other government justice services. Understandably, they are reluctant to support scaling plans that need the cooperation of government agencies. They see this as high-risk and unpredictable.

Social impact investors and public-private partnerships may be more suitable sources of funding for game-changing justice services. In five of the seven gamechanger models, the submission problem of having to satisfy two parties with different objectives is a barrier to growth. Cooperation with the government can solve this problem and open up a path to rapid expansion. Investing in lobbying for a level playing field may be a way to secure access to the market for mandatory services that are certified by the government.

Enhancing leadership and teams with specific scaling skills

Setting up or substantially scaling a gamechanger requires effective leadership. Private investors are extremely conscious of the teams of the innovative ventures they consider funding. For justice services implemented by governments, these teams should also be a major point of attention.

Access to the right mentorship is important at different development stages of an innovation. This is especially important when an innovation is expanding, raising additional funding and increasing the market share for the justice service it offers. Whether the service is based within a government agency or startup, it needs growth in user numbers. Simultaneously, the organisation will be scaling and partnerships need to be strengthened.

In the scale-up phase, innovation leaders need a fixation on managing growth. In our innovation practice, we have noticed that justice innovators are often heavily involved in improving the service. Many judges and lawyer-innovators continue to handle individual cases during pilots. IT experts continue to improve the innovation's web interface while also leading a team. Successful leaders of scaleups are leaving this to others and only work on the conditions for increasing the number of users, the revenues and the supporting networks.

A team should have a range of skill sets and methods. Scale-up programmes mention up to 20 different capabilities (ScaleUpNation n.d.). For example, they focus on developing an innovation's competitive edge - a unique advantage that makes the service distinctive.

Data on private sector scale-ups illustrate what kind of teams are successful in bringing a justice service to scale. Most services that scale are established by three or more founders with previous experience in setting up new activities. Half of the founders in the justice sector are insiders, and the most successful founders have set up many ventures. They tend to have considerable experience in previous management roles.

PROBLEM-SOLVING COURTS: SOME PROMISES AND PITFALLS OF SCALING

According to our case study, strong leadership is essential to problem-solving courts' ability to deliver the treatment outcomes people need at scale. Without the leadership of visionary judges and other leaders aiming to do things differently, these courts would never have come into existence in the first place.

Because of the tendency to hold on to the status quo, individual problem-solving courts rarely get off the ground without a strong champion. The reason for this can be traced to problem-solving principles and practices: the goal is not to force people to change, but to make them change because they want to.

Problem-solving courts require committed leadership. This can sometimes pose problems for the courts' long-term stability. For example, a community court in North Liverpool in the United Kingdom was championed by prominent national politicians. Their leadership was important for the court's establishment and initial funding, but changes in national leadership and the lack of local support were major factors in the court's ultimate demise.

Problem-solving courts - as well as similar innovations - may also struggle when their early champions move on. To avoid this and prepare for the eventual departure of the personalities driving change, it is important to put the courts' internal methods of working in writing. As previously discussed, it is also necessary to obtain evidence that the court's approach works, as in the long run this is a more important driver of funding than is good leadership.

Mid-level leadership within problem-solving courts matters. Since staff are often employed and supervised by various partner agencies – rather than the director of the project as a whole – it is important they be selected with care, trained in the project's mission, policies and practices, and incentivised to work as part of a single team.

Read more in our case study on problem-solving courts in the US

References

Alfaham, T. (2022). Ministry of Justice launches 2023-2026 strategic plan. URL: https://wam.ae/en/details/1395303025955. Accessed on August 9, 2022.

Bal, N., Fogel, A., Kloman, S.D., & Sarin, S. (2019). Expanding access to justice with social impact financing. Social Finance.

Creutzfeldt, N. and Sechi, D. (2021). Social welfare [law] advice provision during the pandemic in England and Wales: A conceptual framework. Journal of Social Welfare and Family Law, pp. 153-174.

HiiL, (2020). Charging for justice: SDG 16.3 Trend Report 2020.

HiiL, (2020). Charging for justice: SDG 16.3 Trend Report 2020.

HiiL, (n.d.-x). Developing game-changing justice services. URL: https://www.hiil.org/what-we-do/the-justice-accelerator/. Accessed on August 2, 2022.

Manuel, M., Manuel, C. and Desai, H. (2019). Universal access to basic justice: Costing sustainable development goal 16.3. Overseas Development Institute.

Ministry of Justice and Security Netherlands, (n.d.). Innovate with JenV. URL: https://www.innoveermeemetjenv.nl/. Accessed on August 9, 2022.

Ministry of Law, Singapore,(2020). The Road to 2030: Legal industry technology & innovation roadmap effort.

Nesta, (n.d.). DIY Toolkit. URL: https://www.nesta.org.uk/toolkit/diy-toolkit/. Accessed on August 9, 2022.

ScaleUpNation, (n.d.). The art of scaling. URL: https://scaleupnation.com/the-art-of-scaling/. Accessed on August 2, 2022.

Tavneet, S. and Jack, W. (2016). The long run poverty and gender impacts of mobile money. Science, 354(6317).

7

STRATEGY 4: IMPROVING THE ENABLING ENVIRONMENT

The demand for effective solutions for pressing justice problems is both evident and substantial. New methods to resolve problems are available, as are supporting technologies. Yet in most countries the gamechangers needed to resolve all pressing conflicts effectively have not yet emerged. If a task force wants this to happen, its members need to think about how the financial and regulatory environment can enable it to do so.

Evidence-based treatments and service delivery models operate in the regulatory environment for legal services. In many countries, only lawyers who graduated from law schools are allowed to give legal advice. Regulations also restrict the business models lawyers are allowed to use. Dispute resolution services by courts are regulated by rules of procedure. Moreover, newly developed services need to find a place in budgets and procurement systems.

Introducing game-changing justice services is not for the politically naive. A task force needs to pave the way. It should work on reforming regulatory, relational and financial systems so that they can better accommodate scalable models for justice services and effective interventions. The guiding principle of this strategy is to ensure a level playing field that allows game-changing justice services models, treatments and interventions to compete with existing offers. A task force needs to work on this from the start, in parallel with the first three strategies. Strategic timing

and early wins are crucial. As we will see in the next sections, this can be difficult, but task force members have many levers of change available for their strategic use.

Timing of dialogue on regulation of justice services

This is what can happen if the enabling environment is not addressed early on:

The task force has been established and its members have jointly assumed ownership of improving the enabling environment. Domestic violence problems have been prioritised and goals and targets have been agreed upon. One or more gamechangers have been selected. Scaling-up work on the gamechangers has started, ensuring that effective treatments will be more widely available. The task force is now convinced that game-changing services can be organised, become sustainable and reach most people with justice problems, either in communities, online or through specialised one-stop court procedures. The task force reports to the ministry. It is thanked for its great work and...five years later a member of parliament asks the minister to set up a committee to investigate the urgent and pressing problem of avoidable domestic violence.

Working to create the enabling environment should be undertaken in parallel with executing other strategies and should start early on. If it starts too early, however, it will have insufficient momentum. Justice innovation has a chicken and egg problem. Civil servants or politicians responsible for regulation will always ask what changes in the laws are needed for a particular innovation. Rightly so, because they have seen many major law reform projects fail. They need to see a new justice service working at scale before they will consider revising the regulatory framework.

Unfortunately, many innovations will become stuck in the early prototype stage. Innovative services offering evidence-based interventions can only grow into gamechangers if they can land in a positive enabling environment where they are welcomed and rewarded with access to a market made up of people with pressing justice problems. Without this reward in sight, few justice insiders and few entrepreneurs from outside the sector will start the complicated ventures that can lead to game-changing justice services.

Our experience is that a powerful example of a game-changing service — or at least a prototype and a strong initial validation by a task force — is needed to create momentum for regulatory innovation. As we will see below, the US regulatory environment for legal services needed the example of LegalZoom before it could begin opening up.

The need to improve the enabling environment can be illustrated by the initial results of the strategy for evidence-based working. The task force can demonstrate that the codified way of dealing with conflicts and crime through adversarial procedures is much less effective than what practitioners currently do and what research recommends.

If the task force acts too late, it will lose momentum and deplete its budget. As a result, teams working on innovative services may give up and the frustrations with outdated ways of working will increase. The public will continue to have the impression that justice sector institutions perpetuate injustices.

Ideally, the enabling environment needs to be created within two or three years. This is the normal cycle of government and the time horizon for a minister of justice. For investors, this is an acceptable time frame for an initial round of funding. Within this timeframe, the task force must operate strategically, choosing from a number of options, as outlined below.

Transforming the political environment: possible coalitions

In the HiiL model of justice transformation, creating the enabling environment consists of separate stakeholder dialogues with a focus on integrating gamechangers into laws and budgets. Members of the task force will need to align their work schedule with the rhythms of governance in ministries and parliaments. This is the world of national development plans, coalition agreements, ministerial budgeting and court financing. It is also the world of experts deciding on revisions of codes of procedure and bar associations that have a crucial role in legal services regulation.

The task force will need to reflect on political sensitivities. A political economy analysis may be helpful. In many countries, this analysis will show a political arena that is polarised between conservatives and liberal progressives. It is likely that the political economic analysis will reveal that justice policies are shaped within a framework in which conservative parties emphasise toughness on crime, national identity and respect for authority, whereas progressive parties focus on social safety nets, inclusion and participation. Family justice can be heavily politicised by ideas on family values or by gender stereotypes. In employment justice, progress may be difficult without the consent of trade unions. Legal aid is more likely to be promoted by left-wing parties than by parties representing the interests of businesses.

People-centred justice can best be framed as a technical and neutral approach aimed at better treatments and more effective justice services. That said, coalitions still need to be formed between groups that hold power. Breakthroughs in the form of justice policies that have gained broad support have occurred. Recently, many governments have succeeded in reforming criminal justice. In the United States, a coalition was forged between Republicans wanting to save prison costs and reduce recidivism and Democrats wanting more humane, effective treatments and less incarceration.

Several coalitions are possible. In the European Union, economic considerations have created momentum to deregulate legal services. In England and Wales, where there is a strong legal services industry, independent regulators have been created as a first step. In the United States, coalitions of politicians, leading justices, vocal minorities in the legal profession, a new generation of law professors

and innovative legal service providers have formed in several states. The drive to innovate and make justice more accessible is becoming stronger than the tendency to defend the adversarial legal system. In African countries, ministers (or attorney generals) and leading judges are inclined to open up the legal system to community justice services, which are more consistent with local values related to social harmony and justice. These coalitions are supported by NGOs and donors who work from a development and human rights perspective. The case for justice reform is also made by national planners who need to deliver economic growth.

A task force can perhaps not actively create such coalitions, but it can certainly contribute to them. We have seen in Canada, Nigeria and the United States that coalitions sometimes form at the provincial or state level, and then extend to other states. Smaller states and city states move forward more easily than do big countries.

Budgeting for people-centred justice: increasing the share of the pie

A more technical element of the enabling environment is the budgeting process. This is where an investment plan for a game-changing justice services is likely to land. Investments need to be budgeted. If the sustainable revenue streams for the gamechanger include permanent subsidies from the government, then subsidies need to be secured in a budget (HiiL 2020).

The public justice sector consists of several agencies. The most visible are the courts, prisons, prosecution and police. Countries may also have a forensic laboratory, a legal aid board, probation services, immigration authorities and agencies providing registries.

These agencies either compete for a slice of the ministry of justice budget, or have to negotiate a share of the general state, county government or municipality budget. Each agency can try to generate additional income from citizen contributions. The government budget allocated to the justice sector is occasionally increased, but more often it will remain proportional to the government budget or a percentage of GDP.

How can the task force find money for better treatments and service delivery models in this environment? We offer several options to be further explored by task force members. There is no simple answer yet regarding what works.

The task force can present the investment plan to the authorities responsible for the budget, showing the fixed costs that need to be funded upfront and a clear trajectory towards breaking even. With limited investment needed and outcomes defined and ready to be monitored, the plan may compare favourably to plans to increase the capacity of police or courts. Task force members can try to convince participants in the budgeting process that a separate budget line for innovation is appropriate, and to reserve 2% or 3% of the total budget for this. This is an objective indicator for investing in research and development that is generally accepted but usually not yet met in government justice budgets. Task force members could even make the argument that systems for conflict resolution need to catch up with a multi-year investment in the range of - say - 10% of budgets that has to be provided from the national budget.
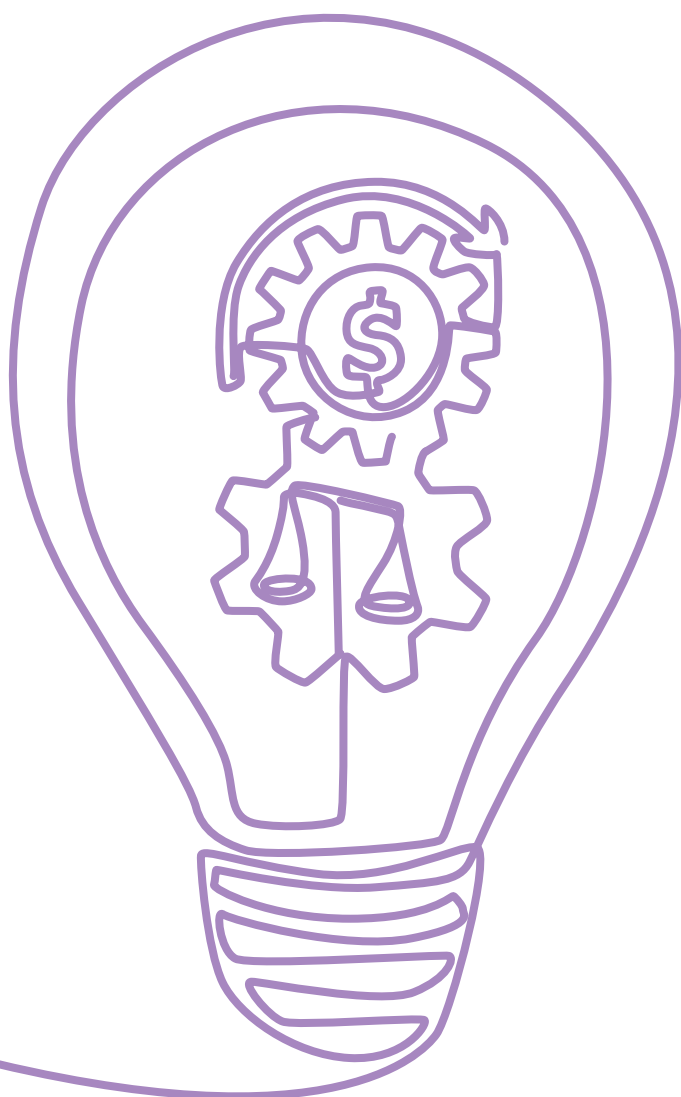
If a new game-changing service requires subsidies from the annual budget, a new agency can be established. This happened in Sierra Leone, where the $1 million annual budget for the legal aid board budget represents 10% of the total budget for the judiciary and courts (Manuel 2020). In some Latin American countries, community justice services (judicial facilitators) are subsidised as a percentage of court budgets. In these examples, the negotiations took many years and potentially game-changing justice services were brought to scale gradually, which helped to make the case for opening up the regulatory environment but also created little urgency to adjust the budgets rapidly.

Task forces must consider how this new budget line will affect the budget for courts, police, prisons, prosecution and other agencies. In times of budgetary constraints, stopping doing "non-essential" new things has proven to be an easy way out for core justice institutions.

The task force may therefore prefer to promote an objective budgeting method, where outcomes and their costs are compared. Performance-based budgeting methods are slowly being introduced in the justice sector. Ministries of finance, donors or philanthropists may require budget holders to accept such methods.

A task force can anticipate this shift towards new ways of budgeting by providing an alternative budget for justice services that is based on outcomes for people. As explained in our Charging for Justice 2020 report, core funding for current justice sector institutions could be combined with outcome-based funding for preventing and resolving justice problems. The justice problems experienced by people can be the baseline for this, with agencies invited to show how their activities and outputs contribute to prevention and resolutions. This should include how courts contribute to the "shadow of the law". One of the outcomes courts achieve - but are not paid for in most systems - is that their existence and availability as an adjudicator convinces people to agree to fair and speedy resolutions. Just by being there and available ready to intervene, courts settle many disputes.

Another approach for a task force is to team up with existing agencies. Courts or police can reallocate their budgets to game-changing procedures and prevention programmes. They may face internal pressures when doing this - legal aid lawyers may resist investments in legal information websites, for example, or courts of appeal may resist shifting budgets to one-stop shop procedures.

The most likely pathway to funding is to demonstrate that game-changing justice services can increase the overall budget and contribute to better performance by existing agencies. Better outcomes — through one-stop tribunals and problem-solving courts, for example — can increase revenues for the judiciary. In the United States, drug courts benefited significantly from the fact that federal funding was increased and contingent on participation in rigorous evaluations that they might not otherwise have been able to afford. This research enabled them to demonstrate their cost-effectiveness and secure sustainable funding streams early on. Furthermore, legal aid boards can increase their revenues and provide better outcomes when they set up community justice services and online platforms. Police can invest in prevention programmes that reduce crime and therefore the costs of policing.

A task force can set an example to encourage thinking about strategies to increase revenues. We have learned that revenues are not a concept that court leaders automatically connect to. We recommend exploring this topic in depth by investigating different sources of funding and building a common understanding of how sustainable funding rewards practitioners. Rewards come in different forms: for example, being part of a highly effective team, having access to the methods and tools to be effective, more time to handle complex cases and opportunities for professional growth.

Court leaders may also be made aware of other revenue streams. One example is charging fees with a healthy profit margin to businesses with complex court cases. In many countries, court fees are set by legislation and schedules are not regularly adjusted. In China, this is done differently (Ng and He 2017). Chinese courts have to optimise their funding. This funding process is discussed openly and in relation to the incentives it may generate. Courts may become too dependent on contributions from the local government and this may be a reason for the central government to step in with funding. A few courts have asked major local companies for contributions, knowing that they can benefit from law and order. Some courts have also been successful in generating more commercial cases that bring in higher court fees, but these can come at the expense of serving the justice needs of the broader population. Researchers Kwai Hang Ng and Xin He found that some courts offer reductions of prison sentences in return for higher fines. A transparent dialogue about funding options is needed. It can reveal the trade-offs that exist in any financial system for a public service. Justice services cannot be assumed to be different from other parts of public life.

Some countries have found interesting avenues for cross-subsidisation. The best-funded court systems are probably those of Germany and Austria (CEPEJ 2020). Their dispute resolution services are paid from registration fees which cross-subsidise services for the broader population. In their remuneration schedules for lawyers, large claims subsidise small claims. In Sweden, most people have insurance for legal expenses, which tends to be included in the indemnity insurance for their house.

In low-income countries, international donors like the European Union, the World Bank and aid agencies may be willing to make funding for the justice sector conditional. For example, they can make funding for courts or the police contingent on the implementation of service delivery models that are effective and on promoting evidence-based practice. A task force may want to reconcile the donor need for tangible outcomes with the need of justice sector leaders for additional revenue streams.

Levelling the playing field: independent certification of justice services

The enabling environment for justice services consists of regulation of legal services, rules of procedure and rules for legal education. Community justice programmes, one-stop shop procedures and problem-solving courts can only function if rules of procedure allow them to. There are many ways in which the regulatory environment influences what can be offered to the public and who can be involved (see box with the most common examples)

EXAMPLES OF REGULATORY BARRIERS

When designing and delivering effective justice or legal services, suppliers may face a variety of regulatory barriers. The following list summarises a number of common ones.

⚠ Evidence-based treatments for justice problems are very likely to have elements of diagnosis and advice. In the United States, Germany and many other countries, following their model of regulation, legal advice may only be delivered by licensed lawyers. This is a substantial barrier for the development of services that offer tailor-made advice through guided pathways.

⚠ Lawyers are trained to follow a treatment model for legal diagnosis and litigation advice which may not conform with "what works". Legal education tends to be heavily regulated, with a focus on learning laws and applying these laws, rather than assisting clients to effectively negotiate agreements and resolve disputes.

⚠ Common building blocks of effective treatments include meeting (opening a communication channel between the parties), respecting (re-establishing interpersonal respect) and understanding (investigating and acknowledging the interests of both

parties). These building blocks have no place in (adversarial) procedures that courts of law have to follow according to rules of procedure.

⚠ Ombuds, complaints and other alternative adjudication mechanisms tend to follow an adversarial model where one party starts a procedure with a complaint or claim, and the other party defends or issues a counterclaim. This model, laid down in rules of procedure that tend to have their basis in legislation, may be incompatible with more effective processes that facilitate a fair, balanced agreement between the parties.

⚠ The rules of procedure that courts and participants in litigation must follow are oriented towards fact-finding, establishing whether parties violated rules and sanctioning, with a strong focus on punitive measures. This is at odds with the needs many parties have, to acknowledge their contribution to what went wrong, to recognise the harm done, to continue relationships, to find a way forward and to re-establish harmony within the community.

From a "what works" perspective, collaborative processes such as mediation or facilitation may need to be integrated with decision making by neutral third parties. Most rules of procedures for courts and other adjudicators only mention mediation as a possibility if both parties opt in, whereas adversarial processes are prescribed unless both parties opt out.

Laws may provide a barrier to implementing sustainable delivery models for effective treatments. Effective delivery models are likely to use a mix of channels for delivery: online, paper-based information, telephone, volunteer assistance, in-person help by trained practitioners following protocols and specialised help by university graduates for complicated issues. Current regulations tend to be biased towards delivery by trained lawyers and to ignore other channels.

Sustainable delivery models require reliable revenue streams, with an adequate mix of payments by the "buyers of services," the other party to a conflict, the community that

benefits from restored harmony, the taxpayer and private donors. Detailed legislation may be in place for the way lawyers and other providers of legal services are compensated. Court fees are often set by outdated legislation.

Effective organisations tend to have a balanced mix of disciplines in their top level management and are likely to be funded by outside investors. In most countries, laws require the top level management in legal services firms or courts to consist mainly of legal professionals. Investors are faced with many restrictions as well.

In theory, courts of law would be perfectly placed to organise and run a dispute system with all the components that make it work. This would require making, buying and integrating many additional elements. Procurement rules can be a huge barrier to the cooperative arrangements that need to be developed in order to make this work.

To implement a single game-changing service, many of the rules may need to be changed. In 2013, HiiL helped Dutch courts design a one-stop procedure for neighbour conflicts. The design conflicted with existing rules on formulating claims, serving documents, and defending against claims and court judgments. The mediation services built into the new procedure raised issues regarding mediation by courts being allowed, representation by lawyers and confidentiality of mediation. Informal communication with judges, and the storing of data on the cloud, have led to additional discussions about interpretation of the rules. In 2021, the Dutch were still using formal and costly civil legal actions that can take up to two years to solve a pressing nuisance problem and the new procedure is still not implemented.

Innovators providing game-changing services are thus likely to be entangled in a web of incompatible rules. Incumbents, who deliver documents and handle cases in the traditional way, want innovators to follow the same rules. Unsurprisingly, this is their understanding of a level playing field. In the justice sector, incumbents derive extra power from their proximity to the system that enforces the rules. Bar associations and courts apply these rules in the way they are used to, working from precedent. They are not equipped to

consider the effectiveness of new solutions for users compared to the current solutions. They mostly do this without having the intention to make life difficult for justice start-ups or to block game-changing services; they just want to uphold the rule of law in their own backyard.

The result is that many innovators face an uphill struggle. Either they shrink their services to fit the regulation, or they face long legal battles and risk facing sanctions that destroy their business. Bar associations frequently bring suits against providers of innovative services. Services that have scaled across jurisdictions may be burdened with legal challenges from multiple local bar associations at once.

Innovators and incumbents both need a level playing field. The current regulatory regime for legal services and court procedures stifles innovation. This is perhaps the single biggest barrier to access to justice: the solutions and services that work often cannot be implemented.

LEGALZOOM: REGULATORY REGIMES STIFLING INNOVATION

The American Bar Association prohibits non-lawyers from practising law. Because of this, LegalZoom has been sued by individual lawyers and accused by state bar associations on the charge of unauthorised practice of law (UPL).

Here, the bone of contention is not the provision of blank legal documents or forms per se, which is permissible by law. Rather, what ruffles feathers is the provision of customised and personalised legal documents to customers. LegalZoom's software asks the customer to answer a series of questions specific to the legal document requested. The software assesses the individual's needs, marital status and location. Based on this information, it creates a customised legal document. This service offered by LegalZoom has been considered tantamount to UPL by various state bar associations and lawyers.

The UPL statute is meant to protect consumers from fraudulent individuals who may pose as lawyers and damage the interests of the people. However, critics reason that if well regulated, non-lawyers can provide effective legal services at a fraction of the cost of a lawyer.

A turning point came when the State Bar Association of North Carolina issued cease and desist letters to LegalZoom on the charge of UPL. LegalZoom fought back by filing a case against the State Bar Association stating it was promoting monopolistic practices in the field of law. The two sides reached a settlement in 2015 in which the State Bar agreed to support online providers of legal services provided the latter enacted regulations to protect the interests of consumers. This is when LegalZoom found support from other national public institutions. The Antitrust Division of the Department of Justice and Federal Trade Commission supported this agreement and acknowledged that LegalZoom filled a lacuna in the provision of affordable legal services.

Despite the commercial success of LegalZoom, the company faced litigation on charges of UPL for years. It took State Bar Associations and administrative bodies a long time to realise that such companies play a pivotal role in increasing access to justice and that rules and regulations need to be modified to allow such companies to flourish. These regulations should be modified not only to accommodate different types of legal service providers in the market, but also because new legal service providers need to be monitored in order to protect consumer interests.

LegalZoom possessed the financial resources and resilience needed to withstand pressure from a tough regulatory environment. Not all legal innovators may be able to do the same. How can the task force protect fledgling innovations and ensure they can flourish?

A regulatory sandbox is an emerging tool for this and one that a task force can promote. A regulatory sandbox allows the regulation of an innovation to be designed in sync with the innovation itself. A regulatory sandbox is similar to the regulatory environment for medical experiments. Clinical trials allow for comparing innovative treatments with current ones under conditions that control the risks for trial participants and optimise the potential benefits of innovations. The sandbox can allow for experimentation and deliver the conditions for a licence to operate the new treatment or service delivery model.

The rest of the world looks forward with interest to the experiments carried out in this historic sandbox as it will provide important lessons for other justice systems, innovators and legal regulators.

In most countries that are reassessing the regulation of legal services, experts advise moving in the direction of regulation based on the treatments that are applied and the risks involved. They advise removing most restrictions on how law firms and other providers of justice services can be owned and governed, whom they can employ and who can take part in management. Details of service delivery models can be left to the suppliers.

A task force should consider a more substantial system change, which would really create a level playing field. Detailed regulation of legal services and procedural rules – which stifles the development of effective treatments by courts, police, prosecution and lawyers – can be replaced with a certification system.

Under a certification system, which is common in health care services, any effective new treatment or service can be proposed and evaluated. A court or agency can then design and develop a treatment, collect evidence about its effectiveness, and ask for approval by an independent evaluator. The same procedure can be followed by a law firm, startup or public-private partnership.

THE UTAH REGULATORY SANDBOX:
THE FUTURE IS HERE

In August 2020, the Supreme Court of the State of Utah in the United States unanimously authorised a two-year "legal regulatory sandbox" pilot programme intended to bridge the access to justice gap (Utah Supreme Court n.d.). The programme's mandate is to make it possible for non-lawyers and other agencies to experiment with innovative justice models and approaches to the system of law and justice. The effort is billed as a solution to the failure of the justice system to provide legal representation to poor, working-class and middle-class Americans. The changes followed the task force report entitled: "Narrowing the Access-to-Justice Gap by Reimagining Regulation".

In a statement, Utah Supreme Court Judge Deno Himonas said,

We cannot volunteer ourselves across the access to justice gap. We have spent billions of dollars trying this approach. It hasn't worked. And hammering away at the problem with the same tools is Einstein's very definition of insanity. What is needed is a market-based approach that simultaneously respects and protects consumer needs. That is the power and beauty of the Supreme Court's rule changes and the legal regulatory sandbox (DeMeola 2020).

New businesses and initiatives participating in the sandbox will be overseen by a new regulator: the Office of Legal Services Innovation. The regulator will work directly under the supervision of Utah's Supreme Court (Utah Supreme Court n.d.).

- The Institute for the Advancement of the American Legal System (IAALS) established the Unlocking Legal Regulation Knowledge Center, a resource base of current legal scholarship and state recommendations for those interested in unlocking legal regulations.

- Independent regulators for legal services are replacing self-regulation by lawyers. They have been proposed or are being set up in Scotland, England and Wales, and Germany. A leading analysis is Hadfield, G.K. and Rhode, D. L. (2016), How to Regulate Legal Services to Promote Access, Innovation, and the Quality of Lawyering, Hastings Law Journal, (67)5.

- To learn more about the level playing field, see The International Task Force on Justice and HiiL (2019), Innovating Justice: Needed and Possible.

- The dialogue on regulation is also prominent in leading legal innovation blogs curated by William Henderson and Mark Cohen Henderson n.d.; Cohen n.d.).

- The Consultative Group to Assist the Poor (2020) published a guideline for building a regulatory sandbox. Jeník, Ivo, and Schan Duff (2020), "How to Build a Regulatory Sandbox: A Practical Guide for Policy Makers" Technical Guide, Washington, D.C.: Consultative Group to Assist the Poor.

Procurement system: improving make-or-buy decisions

In most countries, your doctor is likely to be a private entrepreneur. Water is cleaned and brought to your tap by specialised companies. Electricity and public transport are other examples of public goods usually sold to citizens by the private sector. In the justice sector, work is outsourced to law firms, bailiffs, translators and foundations delivering probation services. Arbitrators and mediators are resolving disputes for parties who overcome the submission problem and jointly opt out of courts. Prison services and forensic therapeutic interventions are organised through different public-private partnerships.

A task force better avoids a discussion about privatisation, because this creates value-laden discussions about market versus government in a sector that is obviously delivering public goods. A preferred approach is to help government agencies consider their make or buy decisions. New interventions, treatments and service delivery models are developed by private and public initiatives. In order to benefit from private sector innovation, government agencies should be able to procure innovations from this sector. If the private sector offers services superior to those the nearest government agency can offer, it should be empowered to do so. In some countries, courts have a poor track record of digitising and modernising procedures. Until recently, they have tended to build custom case management systems – in spite of the fact that several providers offer configurable case management systems that can be accessed for a reasonable fee. As we have seen, many innovators have designed smart procedures that could be implemented by courts, shifting the innovation risk to the private sector.

As the examples above illustrate, task forces and ministries of justice would achieve better results if they allowed selected organisations to offer effective procedures and interventions. Currently, mandatory one-stop procedures are only provided by courts organised by governments or new government organisations (ombuds services, tribunals and administrative agencies). In future, the provision of these procedures could be outsourced to spinoffs from courts, led by an entrepreneurial judge, NGOs with a track record in justice services, IT companies selling case management systems with online dispute resolution capabilities, or start-ups run by lawyers-turned-justice entrepreneurs. The relevant regulatory body could allow private services certified by an independent government agency to be offered.

Alternatively, it could contract one of the organisations mentioned above as the manager of a service with trusted judges paid by the state as adjudicators. A range of public-private partnership options exist.

Prevention programmes and community justice services have to make similar procurement decisions. User-friendly contracts, claiming platforms, and information and advice websites are more likely to be delivered by private companies. Private and public organisations can both supply similar services with similar outcomes for people. A claiming platform set up by a foundation or a startup is in a way a substitute for a user-friendly procedure hosted by a government agency. Information and advice websites can be run by startups, NGOs or government legal aid boards.

The task force may want to help the ministry of justice to design a procurement system that deals with these issues in an objective way. When a government procures a service, the playing field for competitors should be level. In order to get citizens the best deal, government agencies should be viewed as competitors.

An effective procurement strategy includes the option to buy or co-develop new technologies in a way that is fair to innovators and governments. HiiL has worked with many innovators who feel their innovations have been copied by government agencies. Contemporary procurement rules are being redesigned to optimise innovation and can provide inspiration on such matters.

- The European Commission has undertaken initiatives to increase the uptake of innovative goods and services in public procurement practices (European Commission n.d.).

- The right to challenge is a mechanism through which communities or citizens can challenge a government agency with a proposal to deliver a public good in a better way than is provided by the agency. See example from the United Kingdom (Government of UK n.d.).

Navigating vested interests: a pathway towards growth

The task force will need to invest much of its thinking in how to ensure a level playing field. One risk of this approach is that the task force is held up in lengthy discussions with the incumbent agencies currently delivering solutions. Interacting with different offices inside ministries or with bar associations can be complicated and time-consuming.

One possible way forward is to apply a method that is at the core of people-centred justice reform: to focus on outcomes and start designing the arrangement that delivers the most sustainable solution. In this case, the ideal agreement would increase revenues for justice sector agencies, incentivise reforms of treatments and services and make it possible to stop ineffective activities (by allowing adequate transition periods or providing compensation).

In the infographic below, we provide a general outline of such an agreement based on HiiL's Charging for Justice report (2020).

Investment (by the World Bank, OECD countries or major foundations) in basic technologies for delivering fair solutions that can be used worldwide.

Attracting private and public investment by ensuring that evidence-based, scalable and financially sustainable services can become the default for specific categories of disputes and crimes. These services should observe value-based regulation.

Focusing on local delivery of solutions for the most urgent and frequent justice problems. Supporting local delivery with world-class know-how.

Allowing justice sector organisations to reinvest the extra revenues.

Opening up regulatory space for developing well-defined, scalable, financially sustainable services for specific target groups. Courts, other current providers of services, and innovative newcomers should be allowed to develop gamechangers.

Setting an inspiring goal of 100% coverage of effective solutions for the most urgent and frequent justice problems.

Safeguarding core funding for the broad social goals of the justice system and introducing smart fees. This means increasing contributions by beneficiaries and government agencies for effective services, while decreasing general subsidies.

References

CEPEJ, (2020). European judicial systems: CEPEJ evaluation report.

Cohen, M. (n.d.). LegalMosaic (blog). URL: https://www.legalmosaic.com/blog-2/blog-medium-2-2/.
Accessed on August 3, 2020.

DeMeola, Z. (2020). Utah Supreme Court Makes History with Vote to Establish Regulatory Sandbox. IAALS (Blog).

European Commission, (n.d.). Innovation procurement. URL: https://single-market-economy.ec.europa.eu/single-market/public-procurement/strategic-procurement/innovation-procurement_en. Accessed on August 3, 2022.

Government of UK, (n.d.). Community right to challenge: Statutory guidance. URL: https://www.gov.uk/government/publications/community-right-to-challenge-statutory-guidance. Accessed on August 3, 2022.

Harvey, F. (2015). Paris climate change agreement: the world's greatest diplomatic success. The Guardian.

Henderson, W. (n.d.)Legal Evolution (blog). URL: https://www.legalevolution.org/. Accessed on August 3, 2020.

HiiL, (2020). Charging for justice: SDG 16.3 Trend Report 2020.

Manuel, M. (2020). Speaking notes, OECD webinar, 22 October 2020. Overseas Development Institute.

Ng, K., & He, X. (2017). Economic Embeddedness: The Political Economy of Court Finances. In *Embedded Courts: Judicial Decision-Making in China* (pp. 142-166). Cambridge: Cambridge University Press.

Utah Supreme Court, (n.d.). What we do. URL: https://utahinnovationoffice.org/about/what-we-do/.
Accessed on August 2, 2022

8

STRATEGY 5: STRENGTHENING THE MOVEMENT
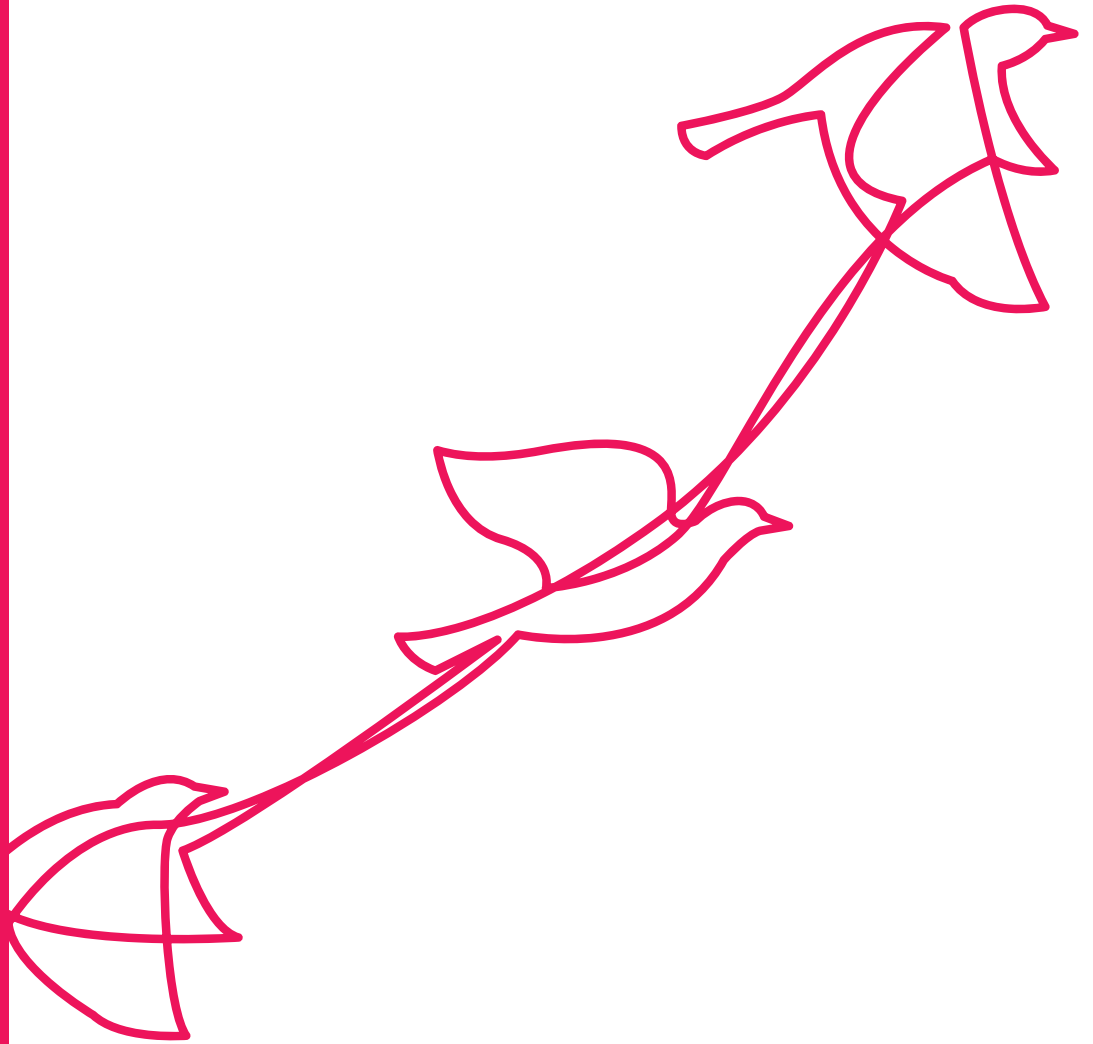
The task force must ensure momentum is sustained. When considering this fifth strategic intervention, we can assume that the task force has been assembled and progress has been made towards evidence-based working. A sizable minority of justice practitioners has committed to this. Learning communities regularly discuss what works. Together with the disputants they assist, these justice practitioners monitor progress on outcomes for land governance disputes or personal injury cases. Resolution rates are improving. A project plan for scaling and enhancing at least one game-changing justice service is being implemented. The service reaches new groups of users every week. Task force members have improved the enabling environment, so the gamechanger is well regulated and subsidies to serve the poorest have been secured. Future game-changing justice services can thrive in this environment.

A task force should anticipate this advanced stage. Maintaining momentum and building the movement for people-centred justice is key. The task force must now ensure the justice sector continues on the path towards higher resolution rates and more effective prevention. In this chapter, we revisit the impediments towards rigorous R&D and innovation in the justice sector discussed in chapter 2. These impediments explain HiiL's conviction that relying on piecemeal reform is unrealistic and that a strong mission-oriented approach is needed to overcome them. Leaders in the justice system are likely to bring about the necessary change in collaboration with other relevant stakeholders. A broad movement is required, one that is supported by national planning agencies, the high prioritisation of justice by national and local governments, and international cooperation towards making legal systems more responsive.
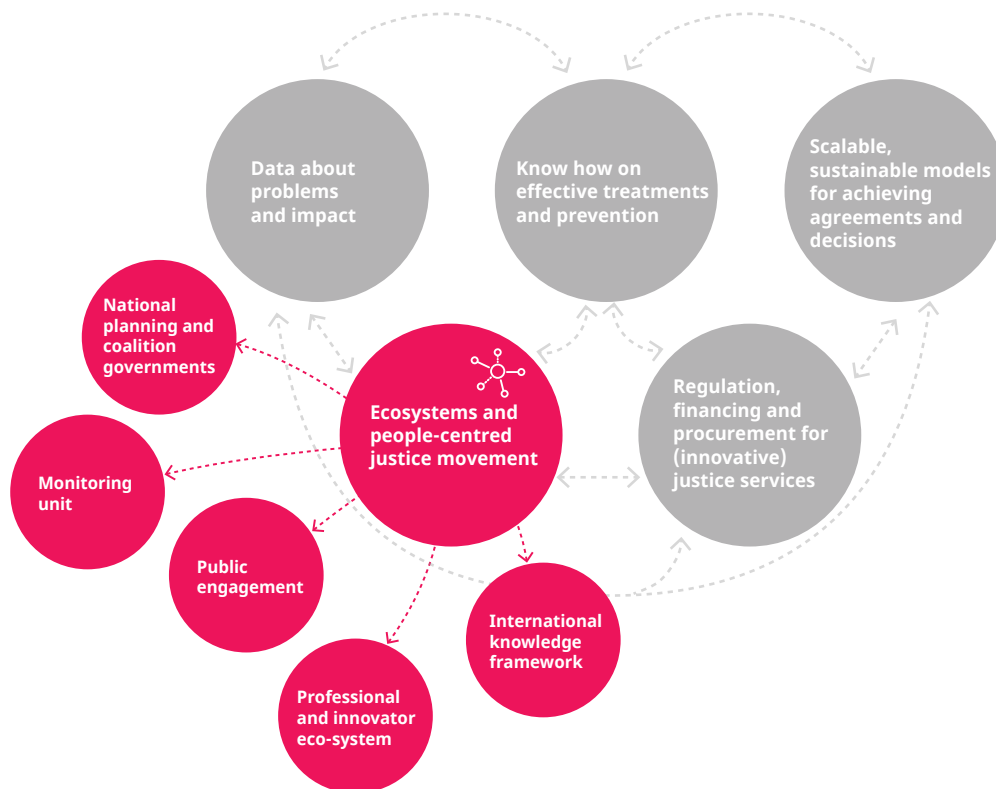
Engage with the tools and networks of national planning

In order to achieve the mission, the task force needs support from outside the justice sector. Given the incentive structure, a task force will have to continuously assume that internal motivation to change, ownership and resources will have to be supplemented by players outside the justice sector. The transition from rule- and interpretation-based delivery of justice towards evidence-based and people-centred justice is unlikely to be achieved by justice practitioners in the current setting which will take time to change.

As described in Chapter 2, national planning agencies and coalition governments will continuously have to be involved in improved conflict resolution and people-centred justice reform, integrating it in their agendas. This is also the level where resources can be allocated and the mission-oriented approach can be pursued. Executing this mission requires flexible and adaptive portfolio management. The evidence-based approach would be applied to a variety of justice problems and some problem types will see more progress than others. It will be hard to predict which service delivery model will scale first and which will follow more slowly. During the implementation period, the task force must also safeguard its independence from everyday politics. This can be done if the task force focuses on R&D and innovation capabilities and incentives.

In order to achieve this, the task force will have to ensure that people-centred justice is integrated in the processes and language of long term national planning. Effective conflict resolution and prevention represents an enormous economic value, promotes social cohesion and increases government effectiveness. National planners, interdisciplinary government think tanks and coalition governments are natural partners for the task force. They can help the task force to overcome the impediments discussed in Chapter 2 (preference for the status quo, lack of ownership on the macro level, lack of resources, lack of incentives and trust between organisations). The box below is an illustration of how justice leaders are currently experiencing these challenges.

A JUSTICE DIALOGUE

To understand the enablers and impediments to rigorous R&D and people-centred innovation, we organised a Justice Dialogue with high-level participants from Nigeria, Kenya, Uganda, the Netherlands and the United States. All participants had significant expertise on issues at the forefront of applying people-centred justice approaches.

The dialogue focused on developing an integrated approach to people-centred justice and the five main emerging investments of people-centred justice programming: data, evidence-based practice, game-changing justice services, the enabling environment, and engagement and accountability.

Based on this premise, the dialogue created an interactive conversation on implementing and scaling the people-centred approach in the justice space. In particular, it focused on the following questions for panellists to share their thoughts and experiences:

- *Why is it important to invest in systematically improving dispute-resolution systems in a people-centred way?*

- *What are the enablers and impediments for the change-making justice practitioners to make people-centred justice happen?*

- *How can we ensure the broad uptake of innovations in the justice space? What are some of the best practices?*

The Dialogue aimed to elicit input from participants on the following main hypotheses - which serve as the enablers and impediments to people-centred justice:

- *Time and resources to develop a programme must be available.*

- *Learning more about the contents of the programme is essential.*

- *The right financial, performance and ethical incentives must be in place to bring about change.*

- *There must be a certain degree of trust and cooperation between independent justice sector organisations.*

Stakeholders shared their thoughts and experiences on these hypotheses in smaller breakout sessions. Key ideas from these sessions were then shared with the larger group. In addition to endorsing the enablers and impediments mentioned above, the following are the key takeaways from the Dialogue:

1. People-centred justice requires making the case to succeed and scale.

2. Bringing the right stakeholders together is important, and includes:

   - users (public, communities)

   - stakeholders in the system (e.g. judges, lawyers)

   - stakeholders who can be justice champions

   - other sectors relevant to the conversation

3. Creating an enabling environment for change is key. This includes:

   - rules and regulations

   - changing the risk parameters and understanding the risk of doing nothing

   - importance of trust, incentives, and outcome indicators

A more detailed account of the Justice Dialogue can be read here.
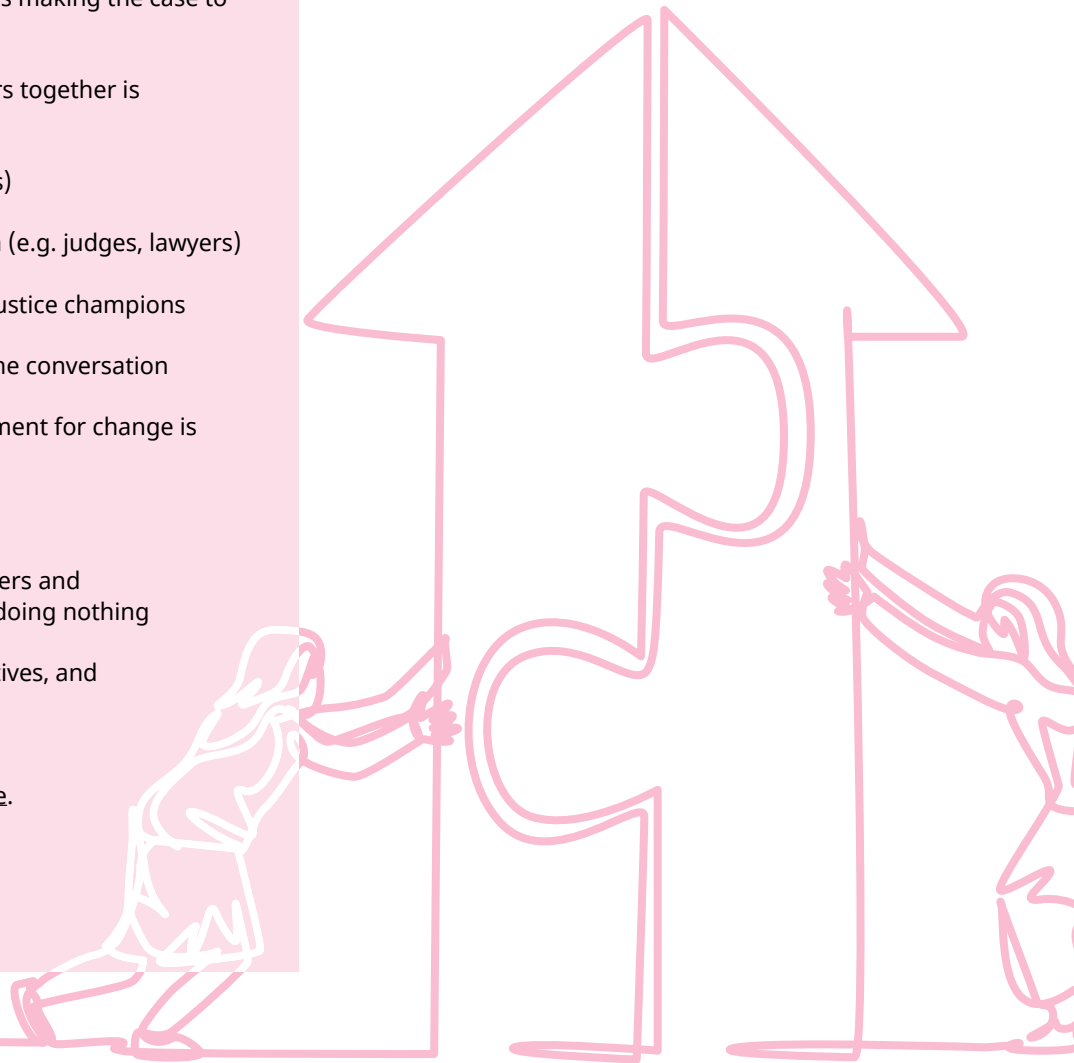
In order to build the bridge towards national planning and interdisciplinary government think tanks the task force needs to speak their language. Programme activities have to be captured in logframes with theories of change, outputs, outcomes and impacts. The impediments to working people-centred and evidence based need to be translated into the analytical tools of economists. The box below is an example of how the different barriers to change look like if they are analysed as market failures, government failures and transformation failures.

MARKET, SYSTEM AND TRANSFORMATION FAILURES

Economists analyse the question of why demand for a good - fair solutions to justice problems and peaceful, inclusive relationships in our case - is not met by adequate supply. They do this through the lense of market, system and transformation failures (Frenken en Hekkert, 2017). In submitting a proposal to the Dutch National Growth fund we were asked to provide this analysis to show why people-centred justice was a wicked problem that needed a mission-oriented and coordinated approach. The following is a summary of the analysis provided by HiiL. We believe it is relevant for most countries because justice sectors tend to be organised in a similar way.

Market failures:

1.

The submission problem. Two or more parties in a conflict need to agree on a trajectory to a solution that they buy into. Most of the time there is one party who needs a fair, effective solution more urgently than the other one. This explains why governments have a judiciary in the first place and why voluntary, agreed mediation or arbitration is rarely used. Incentives are needed if parties are to comply with the conflict resolution process. The judiciary creates this incentive by delivering a judgement by default in accordance with the demand of the asking party if the defendant does not participate in the resolution process.

2.

External effects: increasing complexity. This is often mentioned as a barrier. It is studied under the heading of administrative costs. The literature speaks of hyperlexis, a law-heavy world and rule-jungling. More and more public and private regulators produce more and more norms and procedures. An increasing number of parties are made responsible for the prevention of problems that are not part of their core business. Banks, for example, are now responsible for detecting and preventing money laundering in far away countries. The effect of all this activity is that for the resolution of a single justice problem (for example, separation or a conflict between business partners), more rules can be applied, procedures at different agencies can be started, or parties can be involved that could have prevented the problem. Increasingly, problems end up in civil justice, criminal justice and administrative trajectories. This complexity increases dispute resolution costs, as well as leading to overburdened institutions and delays. For citizens and companies that have to solve conflicts, this leads to high costs of engaging with the legal system or of outsourcing this task to lawyers.

3.

External effects: the adversarial system. An action a person takes to address a justice problem creates costs for other parties. Complaints, accusations, requests for information need to be responded to. The costs of responding are not taken into account by the initiator. In a complex legal system, it may even be attractive to impose costs on the other party in order to improve one's own bargaining position.

4.

Monopolies and insufficient incentives. Courts of law have a monopoly over mandatory dispute resolution (and the submission problem makes it unlikely that voluntary dispute resolution procedures will work). Police and prosecution also have a monopoly over the use of evidence gathering methods and starting criminal prosecution.

5.

Information-asymmetry. This is a well recognised failure in the market of legal services (Garoupa and Markovic 2021). Individuals and SMEs do not regularly "buy" justice services. Justice practitioners serving them know far more about these services than they do. Increased complexity widens this information gap.

6.

Collective action problems. The demand side hardly organises itself. In some countries, associations of victims or people in detention may exist, but they are far less organised than the supply side. Judges, police and lawyers tend to have vocal associations that are subsidised, based on mandatory membership and have regular consultations with ministries and lawmakers. Few justice systems have inspections, consumer boards or independent advice councils that represent the needs of the users. Disciplinary bodies for lawyers and judges focus on professional rules and less on "what works" for users of the justice system.

System failures:

1.

Lack of knowledge and competencies. Key roles in the justice system for practitioners, as well as leading roles in institutions, can only be taken on by law graduates. Legal education and exams giving access to law professions tend to be strictly regulated. Knowledge of key laws and applying these rules to concrete cases is what law schools teach. Debate and litigation skills are far more prominent in curriculums than are the negotiation, mediation, counselling and adjudication skills that are needed for prevention and resolution of legal problems. The theoretical and conceptual knowledge needed for these must come from social sciences that are not integrated into the justice sector. Political science, legal scholarship, philosophy of law, sociology of law, and law and economics tend to describe what lawyers and judges do. The skills and methods of applied justice research and development need to be developed. The sector lacks a discipline comparable to public health for the health sector, or urban planning for the construction sector.

2.

Out-of-date regulation. Regulation of justice markets consists of regulation of legal professions, of procedures, of legal insurance and of legal education. Regulations have focused on safeguarding the independence of justice institutions and the integrity of justice practitioners. Regulatory regimes should also safeguard other needs of users, including effectiveness, accessibility and sustainable financial models (see Hadfield 2021; Garoupa and Markovic 2021).

Transformation failures:

1.

Governments and the justice sector leadership have not developed a joint and encompassing vision on the problem.

2.

Security has a much higher priority than do just and effective outcomes for people seeking justice.

3.

There is little articulation of the demand. In the judiciary, ministry and other justice sector institutions, demand from big business and organisations - served by powerful law firms - is felt much more strongly than demand for justice by individuals or small businesses. Major criminal cases attract a lot of attention. These sub-sectors attract most of the talent and are dominant when resources have to be shared.

4.

In the organisation of the justice sector legislation, police, legal aid (or more broadly legal services) and courts are silos. Citizens are dependent on their interaction, however, for effective prevention and resolution.

Enablers of change

Inviting economists, policy makers and think tanks to work on these issues will help the task force to overcome the impediments, next to the strategies detailed in the preceding chapters. Stakeholder dialogues as described in Chapter 7 will be used to explore the mission, the strategies, and the impediments for innovation in the sector, as well as the opportunities connected to systemic change. When stakeholders meet, trust between institutions can grow. Partnerships can be formed. Stakeholders, and the sector more broadly, will experience the stages of rigorous R&D and innovation.

Learning about familiar and new tasks in dispute resolution processes as described in Chapter 5 will demystify the consequences of the transition to "what works." Justice practitioners are more likely to buy into innovation when they see examples of costs, fees and financial contributions, as reviewed in Chapter 6, so that they can understand how their organisations can become more sustainable and grow. Resources will be mobilised. Strategic and R&D capacities will be increased dramatically, much more in line with the 3% of GDP that is spent on R&D in the national economy, and perhaps upwards to the 10% that is allocated to the fastest growing sectors (see Chapter 7).

A task force will also feel more empowered to challenge justice institutions. Institutions that have better plans, obtain better results for people, and demonstrate greater dedication to evidence-based working can receive more support.

Gradually, the task force will seek ways to transform itself into a more permanent institution or find a place in one of the existing institutions. In the preceding chapters we discussed a number of ways to improve incentives that a task force will consider and that need to be institutionalised. Monitoring outcomes and developing robust national indicators helps. Higher resolution rates and greater satisfaction with outcomes should be emphasised in order to bring more stakeholders on board. Individual justice practitioners deserve rewards for helping to resolve what often amounts to a crisis in an individual's life or in a community in search of a sustainable and economically viable future. Improving relationships, resolving conflict and preventing crime should be recognised as valuable contributions to society.

Financially, a game-changing justice service should benefit from the high-quality justice outcomes it delivers and its relatively broad reach. People who are satisfied with a fair outcome are more likely to express their appreciation. Similarly, a person dissatisfied with an unhelpful court decision should be able to express their needs. Confining feedback on justice outcomes solely to a formal appeal can be dehumanising. An alternative would be to see whether outcomes could be improved after an agreement is reached or a decision made. In dispute resolution language this is known as aftercare.

Continuously researching and expressing user needs is required as well. The Legal Services Board in England and Wales, for example, regularly publishes valuable research on consumer needs. Online contracting platforms, information and advice services as well as claiming platforms can be stimulated to respond to user needs (HiiL n.d.-h; HiiL n.d.-i; HiiL n.d.-k). A task force can facilitate research into evidence-based treatments and fidelity to these treatments in the service delivery model of the seven gamechangers. Following up on recommendations can be made part of the certification or approval process.

Collecting more data and holding justice services accountable for the outcomes they deliver should be high on the long term agenda of the task force. If improvements stall, the task force can consider additional incentives. On a level playing field, a low-quality incumbent will invite more competition from newcomers. The task force can identify areas where such competition is needed in an annual report on access to justice. Resolution rates and effective prevention (leading to a lower number of justice problems) could become central to performance reviews of leading officials.

Many econometric studies are now being published that investigate what incentives and organisational features influence judicial performance. Melcarne, A. and Ramellosee, G.B. (2015), Judicial independence, judges' incentives and efficiency, Review of Law & Economics; Voigt, S. (2016), Determinants of judicial efficiency: a survey, European Journal of Law and Economics.

Creating public engagement

People-centred justice builds on what people need, on the ways that people already create justice by themselves, and on the ways that justice practitioners help them. Can a task force assume that voters and politicians will be ready to support this cause?

Once the underlined initial case for people-centred justice has been made, a task force needs continuous political and public support. Leaders in the justice sector and justice practitioners will change their ways more readily if they feel they have public support. Engaging with the public can even be considered a key element of the task force's strategy.

The justice sector's track record of public engagement is mixed. Recent research confirms criminal justice policies are strongly influenced by an often punitive public mood, which in turn is influenced by (often inaccurate) reporting on crime rates. Cases highlighted in the media tend to be outliers, not the average divorce, personal injury or theft in a shop. If the media exaggerates the bad intentions of perpetrators, their articles attract more views. Netflix series depict justice as an adversarial game, driven by a flow of accusations, claims and defensiveness, culminating in verdicts that provide relief. This is also how civil justice cases are often portrayed in the mainstream media.

Research undertaken by the Canadian Forum of Civil Justice reveals how lawyers typically talk about access to justice (Moore and Farrow 2019). Too often, they equate it with legal aid for the poor and criminal defence. This is not likely to appeal to middle-class voters. Better positioned messaging would focus on the justice problems that most people encounter during their lifetime and how tackling them can address the problem of governing communities in a non-polarised way. The public identifies more easily with groups who have been the victims of particular injustices. Media reports of this kind of systematic injustice often drive politicians to set up task forces. Funding for reparations is more widely accepted by the public in such cases, and politicians are happy to step in.

Another positioning option – in line with expert advice to focus on outcomes – is to zoom in on peaceful resolutions. In many countries around the world, fear of civil unrest and war is widespread. In the United States and Europe, many people are wary of polarisation. Peaceful resolution is too soft; law and order is too harsh. Proponents of people-centred justice must find a middle ground here.

Successful task forces develop a continuous public engagement strategy. If the work of the task force remains behind closed doors, the movement for people-centred justice can easily stall. A website where the media and the general public can follow progress is advisable. Indicators may have a central place on such a website. An infographic explaining the idea of systematic programming can be used to visualise how people in a country make progress towards fairer resolutions and signal what the task force plans to do next.

Professional and trade organisations for people-centred justice

Many people are shaping people-centred justice. These individuals would benefit from being organised and brought together. Increasingly, frontline judges, lawyers and prosecutors view solving justice problems as their mission. Many of them now work closely with professionals from other disciplines. Fewer and fewer see applying the law to cases as their core role. Many apply mediation techniques and use problem-solving methods in their everyday work. For many experienced justice practitioners, law is becoming more of a tool and a support structure to achieve fair results than the command structure they learned to follow in the early years of their career .

In addition, there is a growing number of courts, startups, law firms and companies offering innovative justice services. Together, they can be a powerful force that sustains the movement towards people-centred justice. First, this ecosystem needs to be organised. Together, they can demand a level playing field.

Currently, justice innovators and people-centred justice practitioners are less well organised than bar associations, organisations of judges, and formal justice sector institutions – all of which have ready access to ministries and politicians. Politicians and ministries need (and often want) a balanced representation of interests from the justice sector. A task force may be able to take on this challenge, or help to ensure that it is taken up.

Supporting the movement: a people-centred justice unit

A task force will be a crucial driver in maintaining the momentum of the initial phase of people-centred justice programming. Over time, the task force may consider setting up a permanent unit. Depending on the scope of the task force, this national unit may focus on one type of justice problem, a number of the most pressing ones, or a combination of gamechangers.

The main criterion for this unit would be its ability to maintain momentum via a gradual and sustainable improvement in resolution and prevention rates. The means to do this would be based on the five strategic interventions described in this report. The unit would therefore focus on:
(1) regularly monitoring and publishing data on justice problems, their impact and outcomes;
(2) further implementing evidence-based working;
(3) ensuring gamechangers are scouted, implemented and scaled;
(4) representing the needs of innovators and citizens in their efforts to improve the enabling environment; and
(5) engaging in the activities described in this chapter to strengthen the movement.

Initially, the focus of the permanent unit may be to sustain the work of the task force. Regular meetings in which task force members are assigned tasks to follow up on the progress of the strategic interventions would still be needed. New members of the task force would need to be recruited on a continuous basis. A core group of eight members, with a broader task force of 30 members, have worked best to date.

In order to carry out these activities successfully, the members of the local people-centred justice unit will need a broad variety of skills. The leadership of the unit should consist of people with a high-level network and access to the media.

Determining how a centre like this could become sustainable is still a work in progress. Currently, the user-focused perspective of the justice system is not safeguarded in a systematic way. In some countries, innovation centres at universities are taking on this role, often led by ex-ministers or ex-chief justices. The university affiliation ensures a research orientation. It also has the disadvantages of a university bureaucracy, and funding may be limited.

University centres tend to be more vocal than research or training centres connected to the judiciary, the ministry of justice or the legal aid board. The latter often provide good data, but are less active in providing external incentives. In sum, the task force will have to carefully weigh the options for establishing a permanent unit.

Examples of knowledge centres are: IAALS (Institute for the Advancement of the American Legal Systen, Denver), Centre for Innovative Justice (Melbourne), Namati Legal Empowerment Network, Centre for Justice Innovation (New York), Judiciary Training Institute (Nairobi), National Centre for State Courts (Washington), Harvard Access to Justice Lab, Legal services consumer panel (London), Federal Justice and Legal Research and Training Institute (Addis Ababa), International Legal Aid Group, Datos Abiertos de la Justicia Argentina, Self-represented litigants network. Barefoot Law in Uganda is a laboratory for new treatments and services.

Organising the international body of knowledge

Increasing access to justice for all is a UN Sustainable Development Goal. SDG 16.3 is a common goal for every country. Data collected on justice problems confirm they are largely similar in all countries and that solutions are likely to be similar. Comparative dispute resolution research confirms that mediation styles and preferred interventions differ as much between individual mediators as between the countries in which they operate. Decision-making by individual judges or community panels follows similar patterns everywhere. Information about rules is shared through similar channels: websites, telephone help desks and advice by legal professionals. Innovations developed by justice startups are comparable as well. The similarities have been consistently identified by researchers in the fields of comparative dispute resolution and comparative law (Moscati, Palmer and Roberts 2020; Nolan-Haley 2020).

Sustainable development goals are common challenges for humankind. They are textbook examples of a moonshot challenge. The effort to

develop vaccines for Covid-19 and to organise how they are effectively delivered to every country demonstrates what international cooperation can achieve and how it can be improved. In order to make this happen, much groundwork was needed.

What might task forces – working together across borders – ask from a major foundation supporting Sustainable Development Goal 16.3? The following international public goods can substantially enhance the delivery of people-centred justice.

Elements of a standardised knowledge infrastructure	Examples and inspiration
Taxonomy of justice problems	OECD review of legal needs studies provides a taxonomy. Legal Issues Taxonomy by Stanford Legal Design Lab. ICD-11, DSM-5
Standard ways to measure the impact of justice problems	Legal needs studies have experimented with visual and numerical impact rating scales. HiiL's JNS has different impact measures. Global burden of disease methodology.
Standard ways to determine the resolution rate and other key indicators	UNDP, WJP, OECD and OSJI have worked on a civil justice indicator.
Standard outcome monitoring tools for the most pressing justice problems	See OECD study on monitoring. HiiL on outcome monitoring.
Standard methods for developing treatment guidelines	WHO handbook for guideline development. HiiL guideline methodology for justice interventions.
Treatment guidelines for the most pressing justice problems	National Institute of Corrections evidence-based practice. Many jurisdictions have best practices for probation services (UK example). HiiL examples of recommendations for family justice and land justice.
Recommendations for community justice services	WHO guidelines on health policy and system support to optimise community health worker programmes, 2018.
Model laws enabling innovative court procedures, innovative legal services and innovative treatments	Regulatory sandbox rules, Designs of legal services regulation, laws governing innovation in construction industry, health care and other public services.

International cooperation has delivered similar public goods in the past. The World Health Organisation (WHO) and other international standardisation bodies can provide valuable information on lessons learned. In this report, we again and again emphasised the benefits of evidence-based approaches and economies of scale. Most task forces will work on a national level to secure these benefits. On an international level, the benefits of cooperation and collective learning are similar and as significant.
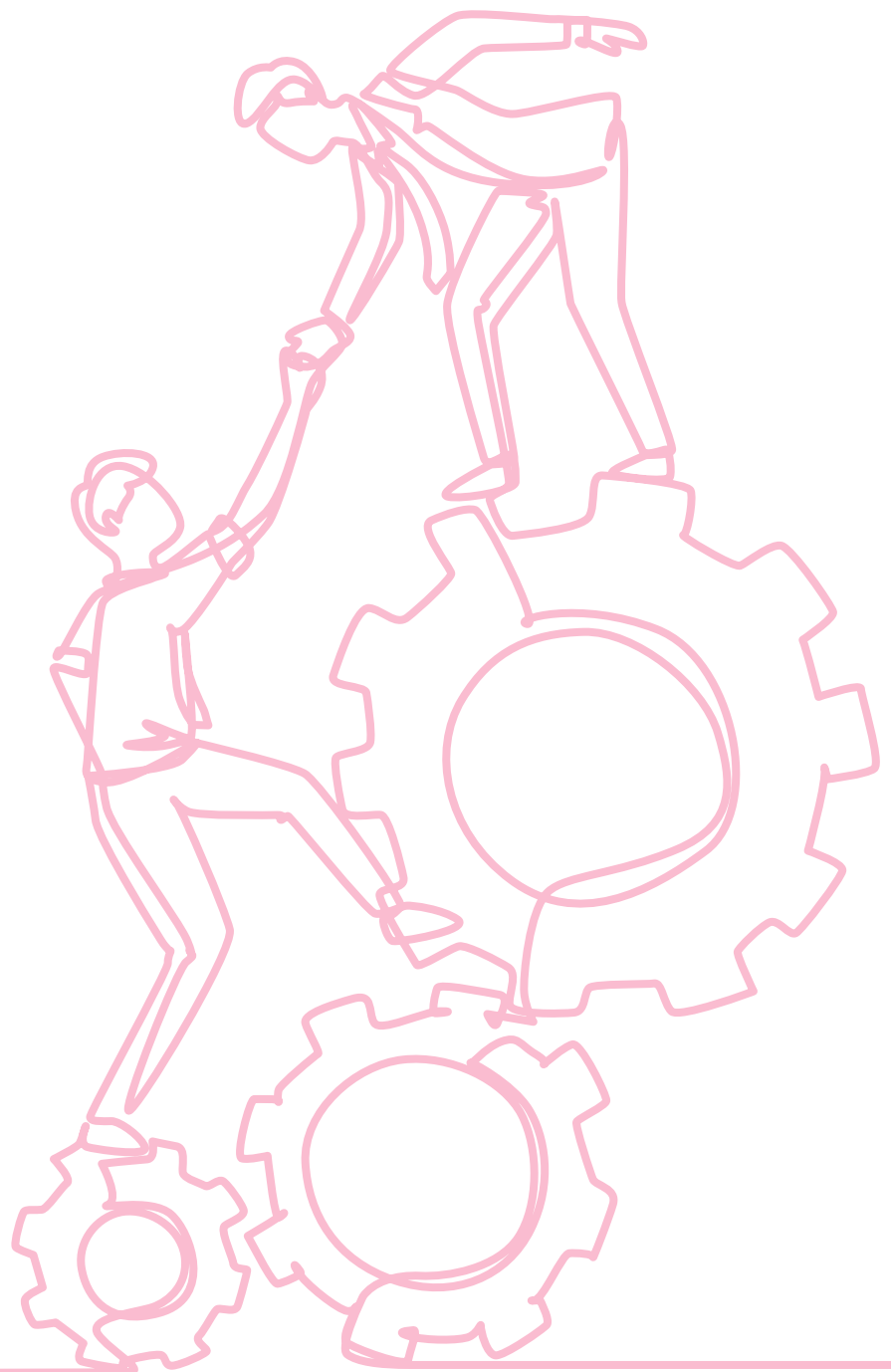
References

Frenken, K. and Hekkert, M. (2017). Innovation policy in times of societal challenges. MeJudice: Economen in debat. URL: https://www.mejudice.nl/artikelen/detail/innovatiebeleid-in-tijden-van-maatschappelijke-uitdagingen. Accessed on August 6, 2022.

Garoupa, N. and Markovic, M. (2021). Deregulation and the Lawyers' Cartel. University of Pennsylvania Journal of International Law, Forthcoming, George Mason Law & Economics Research Paper No. 21-16, Texas A&M University School of Law Legal Studies Research Paper 21-30.

Hadfield, G.K.(2021). Legal Markets. *Journal of Economic Literature*.

HiiL, (n.d.-h). User-friendly contracts. URL: https://dashboard.hiil.org/the-gamechangers/user-friendly-contracts-and-other-legal-documents/. Accessed on July 31, 2022.

HiiL, (n.d.-i). Online information, advice and representation. URL: https://dashboard.hiil.org/the-gamechangers/online-information-advice-and-representation/. Accessed on July 31, 2022.

HiiL, (n.d.-k). Claiming services helping people to access vital public services. URL: https://dashboard.hiil.org/claiming-services-helping-people-to-access-vital-public-services/. Accessed on July 31, 2022.

Moore, L. and Farrow, T.C.W. (2019). Investing in justice: A literature review in support of the case for improved access. Canadian Forum on Civil Justice.

Moscati, M., Palmer, M. & Roberts, M. (Eds). (2020). Comparative Dispute Resolution. Edward Elgar Publishing Limited: UK.

Nolan-Haley, J. (2020). International Dispute Resolution and Access to Justice: Comparative Law Perspectives. Journal of Dispute Resolution.

ANNEX

CASE STUDY

"CASAS DE JUSTICIA" IN COLOMBIA

Out of every 1000 disputes that arise in Colombia today, how many of them are peacefully resolved through institutional dispute resolution channels and how many lead to a downward spiral of conflict which ultimately results in violence? A regular citizen who recently came to the *Casa de Justicia* (House of Justice) in a low-income neighborhood in Chiquinquirá, in search for the State's help to collect an unpaid debt, was so frustrated with the system´s inadequacy to assist him, that he left in anger, admonishing that he might better "pay some tough guys to go and collect the debt for him." (DeJusticia, p. 101).

Is the Colombian justice apparatus' systemic failure to deal with everyday disputes one of the key reasons behind the civil war that has torn the country apart for over 50 years? As Couture advises, "Primitive man's reaction to injustice appears in the form of vengeance... to do justice by his own hand. Only at the cost of mighty historical efforts has it been possible to supplant in the human soul the idea of self-obtained justice by the idea of justice entrusted to authorities" (Couture, 'The Nature of Judicial Process', p. 7).

The Colombian programme of *Casas de Justicia*—multi-door, community dispute resolution centers—provides a valuable opportunity to test multiple dimensions of people-centred access to justice at scale in a developing country setting. Launched as a pilot project in two large low-income neighborhoods in Bogotá (Ciudad Bolívar) and Cali (Aguablanca) a quarter of a century ago, the programme has expanded into 158 venues[1] in 132 municipalities throughout the country. Multiple reasons make this programme interesting for case study purposes: (i) Its long duration (25 years). (ii) The programme's large scale in terms of both geographical reach and number of users—between 70 and 80% of the general public in Colombia knows of the programme (La Rota, p. 174; DeJusticia, P. 78). (iii)

Its focus on underserved populations—*Casas de Justicia* are located mostly in low-income neighborhoods throughout the country. (iv) The programme's diverse settings of implementation (given large socio-economic and cultural differences across Colombian regions[2]), as well as its multiple justice delivery goals and available services across cities, which enable comparison of service models within one general framework. And finally, (v) the availability of data about the programme.

In spite of the programme's multiple shortcomings, the *Casas de Justicia* have become the reference point of Justice for vast segments of the Colombian population, particularly for disadvantaged groups. While there are many critics, the programme's general acclaim has made it an example that has been studied by other countries, and which many believe contains some of the key ingredients for successful expansion of access to justice for marginalized populations in the Global South.

Programmeme description

A World Bank´s comprehensive review of access to justice in Colombia describes the programmeme as follows (Varela and Pearsons, p. 175):

The Casas de Justicia are multiagency venues that provide information on rights, legal advice, and conflict resolution services. A variety of conciliation options are offered, together with administrative and some formal justice services (Decree 1447 of 2000). Since 1995, the Ministry of the Interior and Justice, with support from USAID, has constructed a system of Casas de Justicia comprising some 81 houses [158 as of Oct. 2020]. Originally designed for cities with populations in excess of 100,000, Casas de

---

1   As of October, 2020, the *Programa Nacional de Casas de Justicia y Centros de Convivencia Ciudadana* (National Program on Houses of Justice and Citizen Coexistence Centers) includes 116 *Casas de Justicia* and 42 *Centros de Convivencia*.

2   While Colombia is classified by the World Bank as an upper middle-income country, internal variations across regions cover the span of the developing world. Socio-economic indicators of some of the country´s regions, e.g., the Pacific coast, are comparable to those of the world's least developed nations. Variations in terms of ethnicity are also significant. Finally, some regions have experienced longstanding internal armed conflict, while others are relatively peaceful, which translates into diverging levels of exposure to violence and diverse dispute resolution needs.

Justicia provide rapid solutions to everyday interpersonal disputes and neighborhood conflicts. Other issues they address include personal identity verification, domestic and sexual violence, and criminal cases of lesser gravity. Services for displaced populations are also provided, and matters of institutional abuse are considered.

Since 2005, a regional model—consisting of a main justice house in a medium-sized municipality and satellite houses in neighboring, much-smaller towns— has been developed to reach municipalities in zones severely affected by armed conflict. As many as 20 [42 by Oct. 2020] of the new justice houses have adopted this model, seeking to cooperate with government efforts to reestablish a state presence in such territories. Many of the new facilities will serve Afro-Colombian and indigenous communities in rural-conflict and post conflict situations, a critical step for achieving peace in Colombia.

The purpose of the Casas de Justicia is to facilitate "one-stop" access to legal help for poor people in marginalized or conflictive neighborhoods, and to promote peaceful-dispute resolution and social cohesion. Although they vary in design, Casas de Justicia incorporate local prosecutors, public defenders, municipal human rights officers, municipal neighborhood affairs units, comisarías de familia, legal aid specialists, social workers, and psychologists in a variety of conciliation services. Many justice houses also include other entities such as nongovernmental women's organizations, youth mediation services, children's playrooms, and university law clinics, and personnel such as forensic doctors, community police officers, and representatives for ethnic-communities.

Casas de Justicia eliminate or reduce common access barriers and bring justice closer to the people, both physically and culturally. Procedures are free of charge, easy to arrange, and informal. Legal representation (having a lawyer present) is not required. Disputes are resolved in a timely manner. However, the sustainability of the houses is dependent on the continued participation of various institutions from the justice sector, some of which have insufficient staff to assign to small town projects; municipal political will to assume justice and conflict resolution commitments; and municipal budgets for justice services. Unfortunately, all of these factors are compounded when justice houses are located in small, war-torn areas.

Programmeme's overall impact: (mostly) a success story

According to the Colombian Ministry of Justice, central authority in charge of the general direction of the *Casas de Justicia* programme, from 15 to 20 million cases have been handled by this multi-door, community dispute resolution centers, form its foundation in 1995[3]. (DeJusticia, p. 77-78; Ministerio de Justicia, 2013). However, according to DeJusticia and La Rota, Lalinde and Upimny (2013, p. 107), by 2013 only 1.8% of the cases handled by any sort of administrative authorities were actually resolved by the *Casas de Justicia* programme. Overall, the most prevalent use of the *Casas de Justicia* programme according to DeJusticia where in family disputes, criminal matters, document petitions, conflicts related to leases and public utilities, employment disputes among others (DeJusticia, p. 54).

A critical element of this analysis is the justice delivery gap in the *Casas de Justicia* programme: While the numbers vary across sources, it appears that the programme is widely known and highly popular among the general public, but not really widely used. (Awareness 70-80% - Overall use 2%. Use among the poor: 10%)[4]. Sources also diverge widely about impact; while some data suggest 50% of disputes are effectively resolved within a short time (and high user satisfaction), others find that the programme is nothing more than a highly institutionalized placebo which seeks to defuse neighbor grievances among marginalized communities rather than to actually resolve them (Bucheli, Solano and Recalde 2017).

Finally, the programme must be assessed in terms of level of achievement of its multiple goals, including that of diverting disputes away from the court system to try and resolve them through alternative administrative procedures and official and private ADR methods. In fact, participation of the formal judicial branch in the *Casas de Justicia* remains relatively marginal throughout the country today[5]. While some of them (e.g., Ciudad Bolivar) include two small claims courts as part of the services offered, in most of *Casas de Justicia* the most common type of state agencies present are administrative agencies, mostly at the municipal level (e.g., the office of the municipal ombudsman; the Police Inspector or the community

---

3 It should be noted that according to DeJusticia, (p.49, 78) the official figure of users regarding the *Casas de Justicia* program is not accurate, as the program does not have reliable means of receiving and processing data on users and services at large scale across the country.

4 DeJusticia; Ministerio de Justicia y el Derecho; USAID; World Bank.

5 For instance, the *Consejo Superior de la Judicatura* as main administrative body of the Colombian Judiciary is not formally involved in the development of the *Casas de Justicia* program according to its foundational Law and Decree.
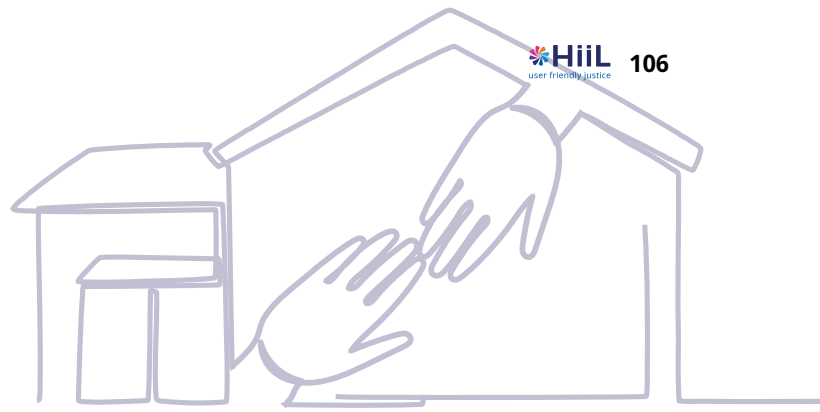
development office). Agencies at the national level such as work and labor inspectors from the Ministry of labor, a delegate of the National Registry office or the *Instituto Colombiano de Bienestar Familiar* (minors defense agency), are also commonly present. (Ministry of Justice, 2012, p. 12)[6].

The theory behind the programme—why is this programme potentially replicable across developing countries? What exactly is replicable?

The literature identifies four theoretical models of justice delivery that are behind the *Casas de Justicia* programme in Colombia (see, e.g., DeJusticia, p. 23): The first one is the *Efficiency Model*, in which the programme's main goal is to divert cases away from the judicial system by providing alternative dispute resolution systems (ADR) trough multi-door courthouses, where litigants may use other ways to resolve their disputes rather than taking them to an overburdened court system. This model, originally proposed by Harvard Law professor Frank Sander in 1976[7], was enthusiastically adopted by the United States Agency of International Development (USAID) and implemented in Colombia and many other countries (e.g., Guatemala, Paraguay, Dominican Republic and Argentina), over the past three decades (Hernández, 2012, p. 363-393). The original *Casas de Justicia* in Colombia were set up with USAID help, and the same donor has continued to support the programme until today.

The second model is the *Access Model*, it which the programme's main goal is to reduce conflicts in society by enhancing access to justice for marginalized communities. This model has been implemented in Europe (France, Spain) through a variant of the multi-door courthouse called *Justicia de proximindad* (justice of proximity), which not only seeks to resolve disputes but also to prevent them through an alternative approach to justice that is multi-disciplinary in nature and reaches out to the community (see, e.g., Herrera; Carretero; Armenta Deu 2006). While the original

impetus behind the Colombian *Casas de Justicia* was USAID's efficiency model, most of these Houses have been set up under the access model—with the goal of expanding access to justice to underserved populations, by bringing multiple agencies and private dispute resolution venues under the same roof, in the poorest neighborhoods and violence thorn small towns. While this model also seeks to prevent and resolve disputes away from the court system, its emphasis on prevention and community outreach sets it apart.

According to multiple studies, some of the *Casas de Justicia*'s shortcomings are tied to the programme's ambivalence between enhancing efficiency and widening access, i.e., to the contradiction between competing goals (DeJusticia p. 25; Bucheli, Solano and Recalde 2017).

The third model proposed in the literature for the establishment of the *Casas de Justicia* in Colombia is the *State consolidation model*, in which a programme originally intended for large cities (over 100,000 population), has been taken to smaller towns in regions severely affected by armed conflict, in order to help cement the State presence (Varela and Pearsons, p. 175; DeJusticia, p.41)[8]. This model is one of territorial expansion of the State in a conflict and post conflict setting.

Finally, some authors have argued that *Casas de Justicia* do not really seek to prevent or resolve disputes, but rather to simply defuse them. According to this critical perspective, the Houses are not more than listening devises (much like a peer support group) where marginalized populations can take their disputes to an "authority" and be heard, but without any real expectation of resolving the dispute. We call this the *Placebo justice model*.

The above description shows the programme´s richness for purposes of testing multiple dimensions of citizen-centered access to justice at scale in a developing country setting. The diversity of contexts

---

6 In some cases, other special agencies are present in the *Casas de Justicia*. For example, in municipalities that have a relevant presence of indigenous or ethnic communities, a office of Ethnic affairs the Ministry of Interior is present.

7 "In 1976, [Harvard Law School professor Frank Sander] delivered a seminal paper, "Varieties of Dispute Processing," at the Pound Conference. In it, Professor Sander put forth the notion of the multi-door courthouse—a multifaceted dispute-resolution model currently used in several settings in the United States and abroad" (Sander and Hernández Crespo, 2008, p. 667).

8 For example, in the design of development of the *Casas de Juticia* program, a three-category scheme was envisioned, where municipalities were prioritized according to their population. (Ministerio de Justicia, 2012, p. 34).

and design variations of the programme suggest the following key variables for consideration:

- Supply-driven Justice delivery vs. Demand-driven delivery through multiple dispute resolution systems (including a centralized triage system).

- Inter-agency coordination system (horizontal - by function/jurisdiction & vertical - by levels of government).

- Dispute resolution (conflict-solving model) vs. Conflict prevention.

- Retributive, Distributive and Restorative justice goals.

- Public-private partnership on justice delivery at the local level.

Some of these variables were identified in HiiL's latest Trend Reports as key determinants of people-centred justice delivery.

Programme analysis

The following pages assess the *Casas de Justicia* programme in terms of the five dimensions defined in the first part of this publication

PROBLEMS AND IMPACTS

People-centred justice focuses on the most pressing injustices that people experience. How and to what extent has the *Casas de Justicia* programme measured and mapped the most prevalent justice problems in Colombia? Those of greatest impact? Those that are most difficult to resolve and therefore tend to remain ongoing? Those affecting the most vulnerable populations? While assessments of the programme diverge, the weight of the evidence indicates that the programme has been generally effective in addressing the most pressing justice needs of the most vulnerable urban population. According to the programme national director at the Ministry of Justice (interview, October 8, 2020), with 158 venues[9] in 132 municipalities

throughout the country, the programme has reached about 70% of its target population. Given that about three quarters of Colombians live in these cities, in terms of reach, the programme has been successful. In terms of user satisfaction, the programme is generally regarded as better than the alternative (the formal court system). While measuring effectiveness is extremely difficult, some data suggests that about 50% of disputes are resolved at the *Casas de Justicia*. In terms of timeliness, the programme's informal approach (without the need for a lawyer) makes it generally faster than the court system, and in those Houses where there are courts (e.g., small claims courts at Ciudad Bolivar), some evidence suggests that proceedings are handled significantly more efficiently and speedily than in regular courts. Finally, some studies have found the programme's significant influence on shaping social representations of justice among target communities, with meaningful impacts on dispute resolution practices (Navarro Carrascal and Diafeiria 2010).

In terms of targeting the most prevalent justice needs among the most vulnerable populations, the programme has been remarkably successful in urban settings. According to the Ministry of Justice, close to 50% of all petitions for conciliation or redress at the houses of justice during the year 2013, were filed by people belonging to the poorest sextile of the Colombian population ("estrato 1"), and another 45% by people belonging to the second and third lowest sextile (Dejusticia, p. 55-56), and this trend remains generally unchanged until today. This means that the programme has overwhelmingly served the low- and middle-income urban population, as it was originally intended. Since unattended justice needs are disproportionately higher among low-income people in Colombia (Corporación Exelencia en la Justicia; Ministerio de Justicia; La Rota, Lalinde and Uprimny, 2013, 2017), the programme has succeeded in targeting the most prevalent justice needs among the most vulnerable urban populations.

Evidence on the programme's effectiveness in rural areas remains disputed. An important share of violence and crime in Colombia take place in rural settings. Not only the drug and guerrilla conflicts are overwhelmingly rural, but according to Colombian´s National Police (2019), many crimes are also more prevalent in rural areas, including burglary and kidnappings. It is unclear whether the gentle-hand approach to justice of the houses of justice model (which is largely centered around ADR options) is

---

9 As of October, 2020, the *Programa Nacional de Casas de Justicia y Centros de Convivencia Ciudadana* (National Program on Houses of Justice and Citizen Coexistence Centers) includes 116 *Casas de Justicia* and 42 *Centros de Convivencia*.

effective to address the most pressing justice needs of the rural population. The capacity and effectiveness of administrative agencies and procedures to resolve disputes in rural setting, where the State presence in Colombia has been traditionally weak (García Villegas), is also limited—dispute resolution services in large segments of the country have been effectively delivered for decades by guerrilla and paramilitary groups. *Casas de Justicia* do not seem a viable option to address the most pressing injustice that people suffer in rural settings.

Finally, one highly popular component of the programme's outreach efforts is the mobile Houses of Justice, where the various participating institutions deliver justice off site, at various neighborhoods or in rural areas. While this programme is widely popular among both the public and the officers that were interviewed for this study, there is no evidence of its effectiveness. One expert called it "justicia golondrina" (swallow justice), after the bird that only comes from time to time, without leaving any meaningful footprint. Several experts consider that this kind of programme is extremely difficult to sustain under the current model and level of resources, and thus not effective. Moreover, some suggest that it may be counterproductive, as it creates unreasonable expectations of access among the public that turn into frustration for lack of follow up. In a middle-income country setting, expanding access beyond available means may lead to overreach and it may ultimately harm the legitimacy and effectiveness of the justice system.

DEFINING AND MONITORING OUTCOMES

People-centred justice aims for solutions people need to move on with their lives. How and to what extent has the *Casas de Justicia* programme researched and identified the outcomes that people expect from justice processes? Does the programme deliver these outcomes? Is there an efficient and effective data collection and monitoring system to track the programme's operation and a system of indicators that tracks whether processes deliver these outcomes and allow people to move on?

Evidence on defining and monitoring outcomes suggest that most houses of justice have been set up without sufficient evaluation of the prevailing justice needs of the community.[10] Officers suggest that justice needs among the poor are so prevalent in Colombia, that little or no assessment is necessary, as

long as the inter-agency alignment is present to set up one of these houses (DeJusticia; interviews). Most experts believe that variations in justice needs across cities and regions in Colombia are of such magnitude, that the model should not be implemented as a one-size-fits-all approach or under the assumption that it will be used. In fact, over the years some houses have turned into "white elephants," mostly empty buildings where very little service is provided (due to issues of financial and political sustainability, which are addressed below).

Multiple studies (*Casas de Justicia* de Medellin; DeJusticia; USAID; Programmea Nacional de *Casas de Justicia* y Convivencia Ciudadana) indicate that the programme's information system is deficient and not generally used. Each house captures data on cases coming in, but very little information is available on whether disputes were actually solved, so that people could move on with their lives. Anecdotal evidence and general surveys on user satisfaction suggest that the service provided at some of the *Casas de Justicia* is far superior to the alternative (the formal court system).

Finally, according to Bucheli, Solano and Recalde's (2017) thorough analysis of the Casa de Jusitica in Aguablanca, Cali (one of the two original pilot projects, which has been in operation for over 25 years), the Casa de Justicia serves the purpose for the government to demonstrate that it is doing something while in reality it is doing little more than numbing the pain, without really curing the underlying injury:

> *In the House of Justice, the emphasis on measurement indicators and outcomes in terms of 'number of cases dealt with' contribute to generating an image of justice as social proximity. This is a successful state measuring, counting, reporting, but an empty, passive and absent state in formulating alternative solutions for those who speak. As a result, it represents the paradox of attending by disappearing. (p. 202)*

The authors state that while many people are listened to, very few are actually served with meaningful solutions. Thus, they suggest that this House is little more than a listening device or support group, not a real solution to justice needs.

---

10 The *Casas de Justicia* program provides that before opening a house of justice, the municipality must conduct thorough research on legal needs and a diagnosis of the most prevalent types of conflict in the proposed area (Ministerio de Justicia, 2012, p. 39). Nonetheless, as the adoption of the program is discretionary by the municipalities, the house may be set up without regard to actual legal needs.

Other authors are even more critical of the programme, suggesting that it may have actually help to keep gross human rights violations hidden, under the cover of the do-it-yourself justice template of the houses of justice. According to Stacey Hunt (2010):

> *Justice Houses were supposed to reduce violence and impunity by helping citizens negotiate the complex legal system and report crimes. Yet the Houses primary programming focuses on teaching civilians how to resolve their own justice problems. Victims of human rights violations are taught mechanisms of peaceful conflict resolution and community justice, including reconciliation, tolerance for difference, and conflict mediation. Based on three months of interviews, archival research, and participant observation at the Justice Houses, I explore the differentiated effects on and responses from community members. I illustrate the local perversion of globalized discourses of conflict resolution and restorative justice. Finally, I demonstrate how these discourses and policies have perpetuated impunity for both crimes against humanity committed by paramilitaries as well as for routinized forms of gender, sexual, and domestic violence.*

Unfortunately, weaknesses in the programme´s data collection and analysis system, as well as uneven participation among diverse agencies across houses around the country and unequal commitment from local authorities, makes it extremely difficult to assess whether existing data on justice delivery at the houses of justice are nothing more than "people listened to" (or case files moved from one desk to the other without real impact on people´s lives), as Bucheli, Solano and Recalde (2017) suggest, or whether these figures effectively represent over 20 million justice needs actually met, as the Ministry of Justice claims. Anecdotal evidence collected in this research in several houses across the country, suggest that while some users left the house with a sense of having received an answer to their needs, others felt that the authorities "did more to confuse them than to actually help them". In the absence of reliable data on outputs and outcomes, the programme´s success remains unproven.

EVIDENCE-BASED SOLUTIONS

People-centred justice enables citizens and justice workers to systematically improve the ways to achieve solutions. How and to what extent has the *Casas de Justicia* programme introduced interventions that are evidence-based and consistently deliver the justice outcomes that people in the target population look for? Has the programme used outcome-based monitoring to continuously improve these interventions and replace interventions that have proven ineffective?

While there have been various assessments of the programme (DeJusticia; USAID; Ministerio de Justicia; Colprensa) the programme has remained essentially unchanged since its formalization under Decree 1477 of 2000. These studies have identified some of the programme's strengths but also very significant weaknesses, which have not been addressed. A further review is currently underway under the auspices of the Ministry of Justice and the National Planning Agency, which may lead to reform.

Virtually all assessments of the programme conducted over the past two decades indicate that decisions on resource allocation, prioritization of cases, and expansion and reduction of services (through the construction of new houses or through adding or removing agencies involved in existing ones), are made on the basis of purely bureaucratic considerations or on the good intentions of government officers, rather than out of careful, evidence-based determination of needs and results in the community (DeJusticia; Buchely et al. 2017) Moreover, the lack of proper outcome monitoring prevents evidence-based adjustment of services— since neither the houses nor the individual agencies regularly follow situations of conflict over time, they do not know whether, how and to what extent, a particular justice situation evolves into a downward spiral of conflict that ultimately leads to violence.

Abundant anecdotal evidence collected during the interviews suggest that current handling of justice needs on a per-case basis is ineffective and it represents a missed opportunity. While both the House coordinator and the reception point (triage system) try to integrate a multi-agency response to incoming cases, a particular situation is normally handled by one agency (e.g., a debt collection problem may end up as a case for police mediation, for equitable conciliation, or become a case for the small claims court). Rarely is this case considered on a multi-agency basis in the context of the whole situation, e.g., in a debt collection case, the justice machinery is not designed to systematically ask whether the debtor was unable or unwilling to pay, and why.

Various officers and small claims court personnel at the Casa de Justicia of Ciudad Bolivar (the first one and one of the largest) told us about several cases in which they were able to coordinate highly effective inter-agency responses to particular cases, to address the whole underlying situation rather than the specific case at hand. For instance, in one eviction case that was brought before a small claims judge

against an elderly person, the judge practiced an in-situ assessment of the case and saw the appalling situation in which this elderly person was living. Out of her own initiative, the judge issued letters to various government agencies, requesting assistance for the defendant. Moreover, since the judge was unable to confirm that the landlord was the legal owner of the small room in which the defendant lived, she delayed the eviction process while allowing for other municipal government agencies to intervene. At the end, Social Services (*Secretaria de Inegración Social*) intervened; they took the elderly person and provided him with a proper dwelling. Other agencies assisted as well. The successful outcome of this case is in part a consequence of the physical proximity of officers under the same Casa de Justicia—since they go for coffee or lunch together and get to know each other, they informally refer cases to one another and try to let justice prevail in the broader context of the whole situation of cases brought before them. However, this holistic approach to justice is the exception rather than the rule.

In the above example and many other cases that were handled in this holistic way, inter-agency coordination at the Casa de Justicia was mostly a personal choice of the officers involved, out of compassion. In purely bureaucratic terms, the judge in the above case did not do what she was supposed to do—she deliberately delayed the eviction case on a technicality, in order to protect the elderly person in need. While the outcome was correct, this success story does not as much reflect the system's overall merit as an well-oiled machine, as the good nature and judgment of a handful of officers involved.

The *Casas de Justicia* programme is designed to bring agencies under the same roof and to enable users to go through a triage system to allocate cases more efficiently. It is not designed to consider justice needs in the broader context of whole situations—in which, as it is almost always the case, one particular justice need is inevitably related to many others. Debt collection issues, family violence, labor or neighbor disputes, and criminal cases, are rarely independent of each other; they are often multiple faces of the same underlying situation. From this perspective, the programme represents a step in the right direction, without fully reaching the end goal.

INNOVATIONS AND DELIVERY MODELS

People-centred justice creates new service delivery models, reaching millions of people sustainably. How and to what extent has the *Casas de Justicia* programme scaled their people-centred service

delivery model to deliver justice outcomes for a larger target population? Is the programme sustainable? Does it consider public-private partnerships or smart (user) contributions? (*See*, HiiL Trend Report 2020, *"Charging for Justice"*).

As it was explained above, the *Casas de Justicia* programme have been enormously successful in delivering people-centred justice at scale to marginalized populations throughout most large and medium-sized urban centers in Colombia. They are, indeed, the reference point of Justice for most low-income people in the country, handing over 20 million cases in the past two decades. Yet, the programme also has equally large room for improvement.

Lack of consistency of service delivery (independence of political winds at the national, regional and municipal level) and issues of financial sustainability, are two persistent and highly related problems facing the *Casas de Justicia* throughout the country. These twin problems are largely related to the programme's design, as it is explained below.

Since the service delivery model depends upon voluntary participation of multiple independent agencies that belong to different levels of government (national, regional, local), and to different branches of government (executive, judiciary and independent control organisms), coordination among them represents a major bureaucratic challenge. Several issues have been consistently identified by multiple studies:

⚠

Deficient coordination at the House. Individual officers from multiple agencies serve under the same roof, but they have little incentive to coordinate among them. Each employee has a different line of command outside the House—the House coordinator is not the boss of any of them. The House coordinator lacks authority to mandate coordination or to punish service delivery failure. For instance, there is virtually nothing the House coordinator can do if one day one of the officers simply do not show up at work at the House because this person was temporarily assigned by his/her agency's boss to do something else that day or week (or even month). Even in cases where the House coordinator "knows" that the worker is missing at the House because he/she is illegally conducting political campaigning at the neighborhood for the current major or the political party, the House coordinator lacks any power to punish this behavior (interviews with experts, confirmed by interviews with officers and direct observation).

Lack of inter-agency coordination. Inter-agency coordination mechanisms created by the basic law governing the programme (Decree 1477 of 2000), have systematically failed over the past two decades. While coordination is supposed to happen through regular inter-agency meetings at various levels (national, regional, local, and at individual houses), these meetings are extremely rate (the top level coordination meeting has not taken place is several years), and there are no consequences for the agencies or for the individual officers for this deficiency.

Deficient funding model. Funding sustainability and service delivery (which agencies participate and what services are offered at particular houses), depend upon voluntary participation of the agencies, through relatively weak inter-agency contracts. This leads to situations in which, as one of the officers involved told us, "if there is coffee one day, sugar may be missing" (figuratively speaking). We witnessed a situation in one of the houses where an extremely competent CRI officer (triage person at the House's reception of information center), one day was simply transferred without prior notice to another duty outside the house by this person's local government agency. As a consequence, the House's triage system was severely affected for several weeks, until a proper replacement could be found, and the contract signed. It is equally important to note that part of the programme's sustainability model is based on contributions from the municipalities, which in many cases do not consider the programme a priority (DeJusticia).

Employee turnover. High employee turnover makes capacity training and coordination less efficient and often frustrating to other officers involved.

Lack of participation of private entities in the programme. Decree 1477 de 2000 provides that legal clinics of Law schools of all types of universities (public or private) can participate in the services provided in the Casas de Justicia. The reason is that in Colombia, all law students are able to choose to participate in internship programmes in order to develop working skills, and in many cases, this internship programmes are mandatory for obtaining the law degree. Secondly, some local chambers of commerce offer ADR referral services at the houses. Unfortunately, these two services seem to be the only examples of private

cooperation agreements available at the *Casas de Justicia* programme, as current regulations do not really foster other types of collaboration of the private sector in its development.

All of the above factors compound among them into a negative circle loop, which ultimately affects the quality of the services offered to people.

Finally, regarding public-private partnerships or smart (user) contributions, as mentioned above, the houses have been generally successful in securing partnerships with the legal clinics of local universities and local chambers of commerce, to provide in-site conciliation and legal advice services to users. Since the primary target of the Houses of Justice are marginalized communities, all services are provided free-of-charge—smart (user) contributions are not present.

ENABLING ENVIRONMENT

People-centred justice pushes for a financial, regulatory and legal regime that makes it happen. How and to what extent have regulatory and financial systems created/enabled by the government supported the *Casas de Justicia* programme and made it possible for this service/activity to scale? How and to what extent have the outcomes-based, people-centred services delivered by the *Casas de Justicia* programme been allowed to become the default procedure? How and to what extent has the *Casas de Justicia* programme stimulated (or benefitted from) investment into justice research and development?

As explained above, the basic regulatory framework remains essentially unchanged since year 2000. A comprehensive review of the programme is currently underway and preliminary conclusions of this study suggest the need to implement regulatory changes, particularly in order to improve inter-agency coordination mechanisms.

Secondly, also mentioned above, the *Casas de Justicia* have become the default avenue for handling conflicts at low-income neighborhoods throughout the country's urban centers. Expansion to rural areas have proven problematic, in light of logistical and financial challenges, and due to the pervasive violence still affecting large parts of the country.

Finally, the *Casas de Justicia* programme have not stimulated (or benefitted from) investment into justice research and development. The basic theoretical models in which the programme is based, were developed several decades ago.

LEADERSHIP AND PATHWAYS

People-centred justice requires effective leadership, rising to the challenge of a paradigm change, with new skills and relationships, discovering pathways to a justice system that does not let people down, and truly ensures equal access to justice for all. How and to what extent have justice sector leaders' skills and collaborations enabled/hindered the *Casas de Justicia* programme to increase access to justice by delivering the outcomes people need at scale? How and to what extent has the *Casas de Justicia* programme contributed to/benefited from new high-level strategies or pathways towards people-centred justice in Colombia? To what extent has the *Casas de Justicia* programme contributed to/played a role in a broader paradigm shift towards people-centred justice?

Evidence is mixed. Despite all the programme's difficulties and shortcomings, it has significantly contributed to a paradigm shift about people-centred justice in Colombia, which may be successfully improved and even replicated in many countries throughout the Global South. Its focus on bringing justice closer to users (particularly those most in need), through inter-agency coordination at the local level, has been a remarkable success. The chaotic expansion and implementation of the programme throughout the country, its dearth of reliable data on outputs and outcomes, and uneven service delivery across municipalities, are weaknesses in need of attention, which will require major changes at both the regulatory and operational levels.

A note on methodology

Data for this case study comes from:

- A literature review including some high-quality assessments published as stand-alone books or in peer-reviewed journals; articles in periodicals; and some "gray literature" (unpublished academic papers and student dissertations).

- Official reports from the Colombian Ministry of Justice and other governmental bodies.

- Semi-structured phone interviews with high-ranking government officials as well as officers at Houses of Justice.

- Several visits to the largest and oldest house (Ciudad Bolivar in Bogotá) in 2019 and early 2020, and brief visits to other houses in 2019. Due to the COVID public health emergency, the Houses have been closed to the public for most of 2020, which impeded further fieldwork.

1. As of October, 2020, the Programmea Nacional de Casas de Justicia y Centros de Convivencia Ciudadana (National Programme on Houses of Justice and Citizen Coexistence Centers) includes 116 Casas de Justicia and 42 Centros de Convivencia.

2. While Colombia is classified by the World Bank as an upper middle-income country, internal variations across regions cover the span of the developing world. Socio-economic indicators of some of the country´s regions, e.g., the Pacific coast, are comparable to those of the world's least developed nations. Variations in terms of ethnicity are also significant. Finally, some regions have experienced longstanding internal armed conflict, while others are relatively peaceful, which translates into diverging levels of exposure to violence and diverse dispute resolution needs.

3. It should be noted that according to DeJusticia, (p.49, 78) the official figure of users regarding the Casas de Justicia programme is not accurate, as the programme does not have reliable means of receiving and processing data on users and services at large scale across the country.

4. DeJusticia; Ministerio de Justicia y el Derecho; USAID; World Bank.

5. For instance, the Consejo Superior de la Judicatura as main administrative body of the Colombian Judiciary is not formally involved in the development of the Casas de Justicia programme according to its foundational Law and Decree.

6. In some cases, other special agencies are present in the Casas de Justicia. For example, in municipalities that have a relevant presence of indigenous or ethnic communities, a office of Ethnic affairs the Ministry of Interior is present.

7. "In 1976, [Harvard Law School professor Frank Sander] delivered a seminal paper, "Varieties of Dispute Processing," at the Pound Conference. In it, Professor Sander put forth the notion of the multi-door courthouse—a multifaceted dispute-resolution model currently used in several settings in the United States and abroad" (Sander and Hernández Crespo, 2008, p. 667).

8. For example, in the design of development of the Casas de Juticia programme, a three-category scheme was envisioned, where municipalities were prioritized according to their population. (Ministerio de Justicia, 2012, p. 34).

9. As of October, 2020, the Programmea Nacional de Casas de Justicia y Centros de Convivencia Ciudadana (National Programme on Houses of Justice and Citizen Coexistence Centers) includes 116 Casas de Justicia and 42 Centros de Convivencia

10. The Casas de Justicia programme provides that before opening a house of justice, the municipality must conduct thorough research on legal needs and a diagnosis of the most prevalent types of conflict in the proposed area (Ministerio de Justicia, 2012, p. 39). Nonetheless, as the adoption of the programme is discretionary by the municipalities, the house may be set up without regard to actual legal needs.

References

Armenta Deu, T. (2006). *Justicia de Proximidad*. Barcelona: Marcial Pons.

Buchely, L., Solano, D., & Recalde, G. (2017). ¡Escucha! Experiencias alternativas de acceso a la justicia en Santiago de Cali. Tensiones justicia-Estado en casas de justicia, fundaciones y comedores comunitarios. *Estudio Socio Jurídico*, 20(1), 179-206.

CONSEJO NACIONAL DE POLÍTICA ECONÓMICA Y SOCIAL -CONPES-. Documento No. 2744 de 30 de noviembre de 1994. Justicia para la Gente: Plan de Desarrollo para la Justicia 1994-1998.

Faundez, Julio. NON-STATE JUSTICE SYSTEMS IN LATIN AMERICA CASE STUDIES: PERU AND COLOMBIA UNIVERSITY OF WARWICK. January 2003.

García, M., Espinosa, J. R., & Lalinde, S. (2015). *Casas de Justicia: Una buena idea mal adminsitrada* (Publication No. 23). Bogotá D.C.: DeJusticia.

Hernandez, M. (2008). A Dialogue Between Professors Frank Sander and Mariana Hernandez Crespo: Exploring the Evolution of the Multi-Door Courthouse. *University of St. Thomas Law Journal, 5*(3), 665-674.

Hernandez, M. (2012). Rom Noise to Music: The Potential of the Multi-Door Courthouse (Casas de Justicia) Model to Advance Systemic Inclusion and Participation as a Foundation for Sustainable Rule of Law in Latin America. *Journal of Dispute Resolution*, *2012*(2), 1-90.

Hunt, Stacey. (2010). *The Political Injustice of Communal Coexistence: The Erasure of Paramilitary Violence and Reproduction of Domestic Violence at Justice Houses and Coexistence Centers in Colombia*.

Illera, M., García, A., & Ramírez, M. (2012). Justicia de paz y conciliación en equidad: ¿Formas alternativas de resolución de conflictos comunitarios en Barranquilla. *Revista De Derecho*., spetial edition, 307-329.

La Rota, M. E., Lalinde, S., & Uprimny, R. (2013). *Encuesta Nacional de Necesidades jurídicas: Análisis general y comparativo para tres poblaciones* (Rep.).

La Rota, M. E., Lalinde, S., & Uprimny, R. (2017). *Encuesta Nacional de Necesidades jurídicas: Análisis general y comparativo para tres poblaciones* (Rep.).

Ministerio de Justicia. (2012). *Programa Nacional de Casas de Justicia: La Justicia entra por Casa* (Tech.). Bogotá D,C,: Imprenta Nacional de Colombia.

Ministerio del Interior. *Rendición de Cuentas_ Programa Nacional de Casas de Justicia y Convivencia Ciudadana 2017-2018*. Imprenta Nacional de Colombia.

Navarro Carrascal, O.E., and Diafeiria, G., "Representaciones sociales de la justicia en un grupo de usuarios y de no usuarion de las Casas de Justicia en Medellín". *Revista de Psicología* Universidad de Antioquia. Vol. 2. No. 3. January-July, 2010.

PERCEPCIÓN DE LA LABOR POLICIAL EN LAS CASAS DE JUSTICIA Y LOS CENTROS DE CONVIVENCIA CIUDADANA. José Ferney Trujillo Poliandra Claudia Patricia Cáceres Cáceres

Centro de Pensamiento Estratégico y Proyección Institucional, Oficina de Planeación, Policía Nacional de Colombia. NOVUM JUS • ISSN: 1692-6013 • E-ISSN: 2500-8692 • Volumen 14 N 281 o . 2 • Julio - Diciembre 2020 • Págs. 281-304.

Rodrígurz, J. D., Gómez, C., Duarte, Y. A., & Cadavid, J. A. (2019). Seguridad ciudadana, violencia y criminalidad: Una visión holística y criminología de las cifras estadísticas del 2018. *Revista Criminalidad*, 61(3), 9-58.

USAID Colombia. Success Story. Bringing Justice to Rural Colombia.

Varela, D., Pearson, A., Cordonier, M., & Nmehielle, V. (2014). Institutional Responses to Social Demands: Enhancing Access to Justice in Colombia. In 1066994963 812484424 H. Cissé (Ed.), *The World Bank Legal Review* (Vol. 5, pp. 165-189).

CASE STUDY

LOCAL COUNCIL COURTS IN UGANDA

Introduction

During the guerilla war that took place in the National Resistance Movement (NRM) of 1981-86, Resistance Councils were established to mobilise people as well as resolve disputes in areas dominated by rebels. In 1987, when the country was undergoing decentralisation, the Resistance Council Judicial Statute of 1988 granted judicial authority to the Resistance Councils and renamed them Local Councils (LCs) (Khadiagala 2001).

By granting LCs judicial authority, the NRM sought 'to foster participatory democracy and political inclusiveness' (Khadiagala 2001, p.64.). The mandate required the Local Councils to conduct meetings with community members regularly and address problems collectively. At that time, the formal judiciary in the country was in the process of being restored. In their absence, Local Council Courts filled the gap of unmet justice needs of the people in Uganda (World Bank 2009).

Over time, the Local Councils became an alternative to the traditional, adversarial approach of the formal court system. Their primary objective was to enable popular justice that emphasises indigenous values of communal harmony, cooperation, compromise and conciliation (Khadiagala 2001, p.64) . Local Council Court members or judges therefore were given the flexibility to adjudicate cases using common sense and wisdom (Khadiagala 2001, p.56). Local norms and social ties influence the sanctions imposed by Local Council Court members (Khadiagala 2001, p.64). The involvement of community members made Local Council Courts more accessible and affordable, especially for the citizens living in rural areas.

We chose Local Council Courts as an example of an informal justice system that delivers people-centred justice for these reasons and more. As we will see below, the model of the Local Council Courts is user-friendly. They have been designed to suit the needs of the majority of the people in Uganda. The widespread usage of Local Council Courts in Uganda distinguishes them from informal justice systems that often operate in small geographies.

For the purpose of collecting data for this case study, we tried to contact members of Local Council Courts, government functionaries that oversee their administration and development, members of civil society organisations and academics. Unfortunately, most of the stakeholders were hard to establish contact with. Very often, stakeholders did not take ownership of this justice system. Some stakeholders were willing to share their experience of working with Local Council Courts, but had expertise only in certain domains and were unable to give us a holistic view of Local Council Courts. Similarly, literature on Local Council Courts is scant. Therefore, lack of adequate data posed a limitation while developing this case study.

Yet, we present this case study because we believe that there is much to learn from what we do know. In the below sections, we summarise, synthesise and examine the strengths and weaknesses of this unique dispute resolution mechanism as it exists today, with the hope that justice workers can build further on it and perhaps sketch a roadmap to consolidate the position of alternative, community-based justice services such as these that exist elsewhere in the world and are better suited to deliver justice than any other justice system.

How do Local Council Courts function?

The 2006 Local Council Courts Act led to formation of Local Council Courts in Uganda at the village (LC1), parish (LC2), town (LC3), division (LC4) and sub-county (LC5) level. The Ministry of Local Government oversees the functioning of Local Council Courts. Members or judges of the Local Council Courts are residents of the locality the LCC has jurisdiction over. Members of Local Council Courts may or may not have academic qualifications but it is essential that they are highly respected in the community, persons of integrity, have a high moral character, and speak the local language. Decisions of Local Council Courts derive their legitimacy from the fact that members of LCC are influential figures in the community (Government of Uganda 2006).

Unlike the time-consuming manner in which cases are adjudicated in formal justice systems, procedures in Local Council Courts are not complex. The Local Council Courts use the local language rather than English: the working language of the formal court system. Both factors enable the delivery of speedy and user-friendly justice. Disputing parties have to represent themselves before the Local Council Courts in their community, or nominate a person who can speak on their behalf. Representation by lawyers is not permitted (Ibid).

The Local Council Courts provide relief to victims in the form of reconciliation, compensation, restitution, costs, apology, fine, declaration or any other recourse deemed appropriate by law and social norms (Ibid).

Local Council Court members are paid a fee of 10,000 shillings (2.3 euros) for every session they participate in by the government. The party approaching the LCC is also required to pay a nominal fee, which varies depending on the type of grievance for which the plaintiff seeks resolution (Ibid).

Local Council Courts are linked to the formal system through a system of appeals from the village court through to the Magistrates courts: decisions of the village executive committee court (LC I) can be appealed to the parish executive committee court (LC II). Appeals from there are possible to the sub-county executive committee court (LC III), and in turn to the Chief Magistrates Courts (Ibid).

How and to what extent have Local Council Courts measured and mapped the following as a first step towards people-centred justice?

- Most prevalent justice problems within the target population

- The justice problems with greatest impact on the target population

- The justice problems that are most difficult to resolve and therefore tend to remain ongoing

- The groups most vulnerable to (systemic and daily) injustices within the target population

- External/hidden factors that make solving justice problems very difficult

Nationwide surveys assessing the justice needs of Ugandans conducted in 2016 and 2020 show that the most pressing justice problems that Ugandans face are related to land, crime, family, employment and neighbours (HiiL 2016; HiiL 2020). The Local Council Courts deal with these very problems, along with a few others. To illustrate, as mandated by the Local Council Courts Act 2006, the Local Council Courts deal with civil matters ranging from debts, contracts, property damage, trespassing, and customary matters such as land issues, family disputes, identification of customary heirs, underage pregnancies or elopement among women, and customary bailment. They also deal with minor criminal matters including assault and battery (Khadiagala 2001).

Although the above mentioned surveys indicate that these are the most pressing problems in the everyday lives of Ugandans, these problems were not identified or mapped in a systematic way. Rather, they were identified based on common knowledge of justice problems that exist in Uganda.

In theory, the Local Council Courts were meant to provide an alternative dispute resolution mechanism to women and the poor and marginalised section of the population who cannot afford and access the formal justice system. However, studies indicate that elites in the community use this community based justice service members of the Local Council Courts for their own benefit (Rugadya and Nsamba as cited

in Kemigisa and Namara 2018). Moreover, patriarchal relations make women vulnerable to gender biases even while seeking justice from members of the Local Council Courts, as they are often composed of men (Ibid). The Local Council Courts Act 2006 reserves two seats for women in the Local Council Court as a way to ensure gender justice, but no other measures were undertaken to address the problems that women and marginalised people face (Government of Uganda 2006). Thus, the problems of vulnerable sections of the population were not measured or mapped in a satisfactory manner.

How and to what extent have Local Council Courts researched and identified the outcomes that people expect from justice processes in the target population?

The Local Council Courts were established to deliver outcomes to people that align with the principles that Ugandan society is based on: communal harmony, cooperation, compromise and conciliation (Khadiagala 2001). In that regard, as per the 2006 Act, the remedies that are available to people who seek help from the Local Council Courts are restitution, compensation, reconciliation, community service, apology, and warning not to engage in future harmful behaviour. These remedies or outcomes that Local Council Courts offer were not based on research per se, but on intimate knowledge of principles that underlie Ugandan society.

Additionally, apart from a broad framework of principles, people also want specific types of outcomes for each type of justice problem. For example, in a land justice problem, people may want multiple outcomes such as fair ownership of land, compensation for loss of income, agreement on use of land and so on. In case of a family justice problem, people may desire outcomes along the lines of secure housing and income for all, fair division of property and debts, no violence, respectful communication and so on (1). Local Council Courts did not map such outcomes for the different types of justice problems that they deal with. This can be explained by the fact that focus on outcomes that people want from justice processes is a recent recommendation that has emerged in international development. So it does not come as a surprise that Local Council Courts did not conduct research to identify the outcomes that people want from justice processes.

How and to what extent have Local Council Courts determined whether existing justice processes deliver these outcomes and allow people in the target population to move on?

Local Council Courts did not undertake assessments to determine whether existing justice processes deliver the outcomes that people want. As it is, the formal justice system in Uganda was known to be inaccessible to most of the citizens in the country for a number of reasons.

First, it is common knowledge that it follows complex procedures. Given that the majority of the people are unfamiliar with the ways of the justice system, making it difficult for them to keep up with the processes. The formal justice system also functions in adversarial ways, departing from local values of reconciliation, compromise and communal harmony.

Second, court proceedings are conducted in the English language. Although English has been recognised as one of the official languages in 1962 after Uganda gained independence from Britain, it is still a language of the elite and privileged. The majority of the Ugandan population speaks indigenous languages such as Luganda, Swahili, Bantu, Nilotic. All in all, 40 languages are used in Uganda - none of which have been adopted by the formal justice system (with the exception of English). Thus, language poses another barrier to accessing the formal justice system. Third, the costs associated with lawyers and the formal courts further discourage people from approaching the formal justice system (Ministry of Local Government Uganda 2014).

How and to what extent have Local Council Courts created a system for monitoring whether new, people-centred justice processes deliver these outcomes and allow people in the target population to move on?

There is little evidence of a formal system that regularly monitors outcomes delivered by the Local Council Courts. In the coming few sections, we will discuss studies conducted by academics, local civil society organisations and international development organisations that track whether the Local Council Courts deliver outcomes that people need to move on do exist, but these studies are time-bound assessments and not a systematic way of monitoring outcomes.

How and to what extent have Local Council Courts introduced interventions that are evidence-based and consistently deliver the justice outcomes that people in the target population look for?

Consider:

▪ Causes/underlying problems

▪ Combinations of interventions

Uganda's Ministry of Local Government - with the help of local civil society organisations - has introduced evidence-based interventions directed towards standardising and formalising the functioning of Local Council Courts in the country. Although evidence indicates that these interventions have brought about an improvement in the outcomes that justice processes deliver to people, the explicit focus of most of the interventions was on the process of delivering justice and not outcomes (Kemigisa and Namara 2018).

As a result, the interventions do not focus on providing people the outcomes that they want - corruption-free Local Council Court, fair adjudication of cases, no gender bias (Khadiagala 2001; World Bank 2009, p.46). So the interventions introduced by Local Council Courts are evidence-based but do not consistently deliver the justice outcomes that people look for.

Literature indicates that various international organisations such as the UNDP, Legal Aid Basket Fund, UNCDF, Nordic Consulting Group, Defence for Children International (DCI) have conducted an evaluation of the functioning of Local Council Courts in collaboration with the Ministry of Local Government over the years. Based on these evaluations, the government of Uganda - along with international aid organisations such as UNDP, UNCDF - has taken steps to improve the functioning of the Local Council Courts (UNDP 2013; Kemigisa and Namara 2018; Khadiagala 2001). Civil society organisations based in Uganda such as Democratic Governance Facility (DGF) and International Law Institute- African Centre for Legal Excellence (ILI-ACLE) have also supported capacity building initiatives for the Local Council Courts (Kemigisa and Namara 2018).

The evidence gathered in these evaluations indicates that Local Council Courts lack standardised, up-to-date operational guidelines. The members of Local Council Courts are not adequately trained and are unaware

of their rights and responsibilities as well as basic laws (Ibid). To remedy these issues, The Ministry of Local Government along with the support of UNDP, DGF, ILI-ACLE developed the Local Council Court Guidelines and a training manual for LCC members that is available in nine local languages. A Training of Trainers was also conducted at the district level and awareness campaigns were undertaken through local radio stations (Ibid).

The trainers trained by the MoLG along with the Democractic Governance Facility (DGF) and International Law Institute - African Centre for Legal Excellence successfully trained nearly 90 percent of the LC3 members across Uganda. The training included topics such as the role of Local Council Courts in administering justice, legal framework of Local Council Courts, human rights enshrined in the Constitution of Uganda, principles, ethics and standards of judicial conduct, fee structure, jurisdiction, quorum of Local Council Courts, language of court, role of witnesses, proceedings and judgement, remedies and appeal. Apart from training programmes, efforts were made to streamline the maintenance and collection of records and registers maintained by members of the Local Council Courts throughout the country (Kemigisa and Namara 2018).

Training was also given on essential laws such as the Children's Act and Domestic Violence Act and on laws governing customary land. To increase the capacity of members of the Local Council Courts in resolving justice problems of people, mediation training was also provided. In another instance, the UNDP supported capacity building of Local Council Courts through legislative enactments and developing regulations and manuals and providing training for local councillors in Uganda (UNDP 2013).

A study conducted by DCI in 2000 showed that Local Council Courts did not prioritise cases pertaining to petty crimes committed by children. Instead, these cases were channelled to the formal justice system. This resulted in children receiving custodial sanctions rather than being treated with rehabilitative measures. To address this problem, DCI conducted training and sensitisation of Local Council Court members (UNHCR n.d.).

How and to what extent have Local Council Courts used outcome-based monitoring to continuously improve these interventions and replace interventions that have proven ineffective?

HiiL made efforts to contact institutions in Uganda who are responsible for overseeing the functioning of Local Council Courts but were unsuccessful in reaching them. Based on the limited evidence that we could collate from interviews with Local Council Courts members, civil society organisations and academics, and the available literature, it appears that Local Council Courts do not use outcome-based monitoring to improve interventions or replace ineffective interventions. Rather, they have focused on improving the procedure of delivering justice.

Literature as well as interviews conducted by HiiL indicates that the processes of the Local Council Courts are not standardised nor institutionalised (Kemigasa and Namara 2018; A. Ballamu, personal communication, November 19, 2020; LASPNET NGO, personal communication January 12, 2020). Members of the Local Council Courts often lacked knowledge of their own roles and responsibilities as well as that of laws that govern common justice issues such as land and family problems. Therefore, the interventions that have been implemented focused on building capacity of the LCC members and formalising LCC processes. Very few interventions directly train members of Local Council Courts on delivering better outcomes to people.

How and to what extent has Local Council Courts scaled their people-centred service delivery model to deliver justice outcomes for a larger target population?

Local Council Courts have become a fixture in the judicial system throughout Uganda. On average, each Local Council Court handles two cases per week. This means that close to 80,000 cases per week are heard and resolved in these courts across the country. Overall, 80 percent of Ugandans access justice through Local Council Courts (Ministry of Local Government in Uganda 2014).

A nationwide assessment of justice needs of citizens in Uganda revealed that Local Council Courts are present even in the most remote areas of the country and that the majority of Ugandans seek information and advice from their social networks and the Local Council Courts (Local Council Courts). People approach Local Council Courts to resolve problems related to crime, justice, land, employment and family disputes (HiiL 2016; HiiL 2020).

How and to what extent have Local Council Courts funded their service delivery model in a sustainable way?

We tried to obtain data on the funding model of Local Council Courts via primary as well as secondary research but we were unable to find any substantial evidence. The only document that mentions sources of funds that are available to Local Council Courts is the Local Council Courts Act 2006. As mentioned before, the Act makes provision for user fees that are to be paid by the plaintiff. The amount to be paid depends on the nature of the justice problem (Government of Uganda 2006).

Interviews conducted with members of the Local Council Courts at the village level as well as literature indicate this amount is not sufficient to cover the expenses incurred by the Local Council Court while adjudicating a case (A. Ballamu, personal communication, November 19, 2020; Kemigasa and Namara 2018). Moreover, people who seek intervention of Local Council Courts in their justice problems do not have financial capacity to cover all expenses related to the case. So the members of Local Council Courts used their personal funds to be able to meet expenditures related to cases. Local Council Courts also lack the physical infrastructure such as courtrooms and offices, resources such as stationery and human resources (ILI-ACLE as cited in Kemigisa and Namara 2018).

Information on funding models of LCs at the higher level is not available. On the basis of the evidence at hand, it can be inferred that Local Council Courts are underfunded and that they do not have a sustainable financial model.

To what extent has Local Council Courts leveraged the following sustainable financing strategies?

• Public-private partnerships

• Smart (user) contributions

As mentioned before, we tried to obtain data on sources of funding available to Local Council Courts via primary as well as secondary research but we were unable to find any substantial evidence. The Local Councils Courts Act 2006 makes provision for user fees, but there is no mention of public-private partnerships anywhere in literature or in primary research conducted by HiiL.

Expanding on the former, although the Local Council Courts Act requires users to contribute financially to the adjudication of their own cases and thereby

partially cover for the expenses related to functioning of Local Council Courts, the users themselves lack the financial capacity to do so (A.Ballamu, personal communication, November 19, 2020; Kemigasa and Namara 2018). The term smart user contribution refers to payments taken from users over a period of time so that they are not pressed for funds at the time of experiencing a justice problem. It also includes requiring parties to the conflict who are better positioned financially to pay for costs that arise in the process of adjudication of the problem (HiiL 2020). Going by these definitions, Local Council Courts do not employ smart user contributions.

How and to what extent have regulatory and financial systems created/enabled by the government supported Local Council Courts and made it possible for their services/activities to scale?

The Local Council Courts are governed by Uganda's Ministry of Local Government but also supported by other justice institutions in the country, such as the Justice, Law and Order Society (JLOS), Uganda Law Reform Commission and so on. They are widely recognised by regulators for bridging the justice gap experienced by the poor and vulnerable, however this acknowledgement has not yet materialised into consistent and steady support to bolster the performance of Local Council Courts.

In the recent past, the capacity building initiatives spearheaded by the Ministry of Local Government and civil society organisations have supported the standardisation of Local Council Courts, but since they were done in an ad hoc and irregular manner, gains are likely to be short-lived (Kemigisa and Namara 2018). Having said that, the lack of support from regulatory systems has not prevented Local Council Courts from scaling and delivering justice to people throughout Uganda, as indicated by nationwide assessments of justice needs of Ugandans undertaken in 2016 and 2020 (HiiL 2016; HiiL 2020).

Interviews conducted with members of Local Council Courts, civil society organisations as well as literature indicates that Local Council Courts at the village (LC1)and parish level (LC2) have not been formally constituted since 2001 (A. Ballamu, personal communication, November 19, 2020; LASPENT Ngo, personal communication, January 12, 2020; JLOS 2017). While this has not kept Local Council Courts from scaling, it is indicative of the lack of support from regulatory institutions in cementing the base of Local Council Courts in Uganda's judicial system.

Literature too, indicates that Local Council Courts have received wavering support from public institutions over the years. In its second Strategic Investment Plan (SIP) 2006-2011, JLOS identified strengthening the capacity of Local Council Courts as one of its key goals (JLOS 2006). In contrast, the third SIP of JLOS (2012-2017) only briefly mentions Local Council Courts. It speaks about giving priority to strengthening the Local Council Courts, but does not outline a detailed plan for their improvement (JLOS 2012). The fourth Strategic Development Plan 2017-2020 of JLOS speaks about re-establishing LC1, as they have not been formally constituted since 2001 which further indicates that support for Local Council Courts varied in the second decade of the 21st century (JLOS 2017).

How and to what extent have the outcomes-based, people-centred services delivered by Local Council Courts been allowed to become the default procedure?

As previously mentioned, Local Council Courts are used extensively throughout Uganda. About 80 percent of the population relies on Local Council Courts to resolve their justice problems (Ministry of Local Government in Uganda 2014). It is important to note here that the Local Council Courts have existed throughout the country despite not being formally established since 2001. As mentioned before, Local Council Courts at the village (LC1) and parish (LC2) level, where members of the Local Council Courts are elected democratically, the elections have not been

conducted. As a result, members who were elected when the courts were first established have continued to serve as members. To conclude, LC1 and LC2 have become the default procedure despite lacking a formal base.

Information about the functioning of Local Council Courts at the town, division and sub-county level is not available, so it can be determined whether Local Council Courts functioning at higher levels have become a default procedure.

Another impediment to Local Council Courts becoming a default procedure is the limited capacity of Local Council Courts to enforce their decisions. When the Local Council Courts forcefully tried to enforce decisions, they risked losing support of the public. Additionally, many Local Council Courts report having a poor relationship with the police which makes it all the more difficult to enforce decisions or investigate cases. And because the members of Local Council Courts live in the same locality as the litigants, they are fearful of imposing decisions on sensitive matters (Nordic Consulting Group and Danish Embassy in Kampala as cited in World Bank 2009). Thus, the positionality of the members of the Local Council Courts although gives them familiarity with the issues being discussed, it also limits their ability to make fair and independent decisions. This can discourage people from seeking help from Local Council Courts.

Other factors that can potentially affect the ability of Local Council Courts to become a default procedure are nepotism, cronyism and bribery (Ibid). Given that the members of Local Council Courts are selected from the community, they are susceptible to favouring certain groups of people. Members at LC1 and LC2 also perform the function of executive council or elected leaders, which further raises questions on whether they can deliver justice independent of conflict of interest. The low compensation given to members pushes them to take bribes from people. All of these factors together can erode the confidence of people in Local Council Courts and potentially keep them from becoming a default procedure.

How and to what extent has Local Council Courts stimulated (or benefitted from) investment into justice research and development?

The Local Council Courts have benefitted from investment made by the Ministry of Local Government, local civil society organisations and international development organisations in justice research and development to a limited extent. Several development organisations such as the World Bank, Nordic Consulting Group, UNDP, Legal Aid Basket Fund,

UNCDF, Defence for Children International (DCI) have conducted research to assess the functioning of Local Council Courts (World Bank 2009; Kemigisa and Namara 2018). As previously mentioned, this research has informed the design of interventions that built capacity of members of the Local Council Courts and standardised and formalised the functioning of Local Council Courts. In some cases, it has spurred international aid organisations such as ActionAid to provide financial support to improve the infrastructure (court rooms, stationery) available to Local Council Courts (Actionaid 2017). But this financial support has been of sporadic nature, so ascertaining its benefit to Local Council Courts is difficult.

These interventions have also not addressed all weaknesses of the Local Council Courts. For example, research indicates that members of the Local Council Courts have biases against women and vulnerable groups which the interventions that have been implemented so far have not tried to remedy (Khadiagala 2001; Rudadya & Nsamba as cited in Kemigisa and Namara 2018). Moreover, interventions are undertaken on an ad hoc basis, the gains for Local Council Courts from investment in research and development become modest, despite having much more to gain.

On the other hand, Local Council Courts have contributed to research on informal and community-based justice services in the sphere of international development. The widespread use of Local Council Courts in Uganda has prompted justice workers at the international level to start a conversation about the benefits of community justice services and their relevance in other countries where the formal justice system falls short.

How and to what extent have justice sector leaders' skills and collaborations enabled/hindered Local Council Courts to increase access to justice by delivering the outcomes people need at scale?

HiiL's experience of working in Uganda in 2016 and 2020 (2) indicates that leaders in the justice sector in Uganda are making efforts to strengthen the performance of Local Council Courts. But so far, little action has been taken to formulate or implement an action plan for the same. Hence, it can be said that Local Council Courts have not in the recent past benefited from skills and collaborations of justice leaders to increase access to justice.

How and to what extent has Local Council Courts contributed to/benefited from new high-level strategies or pathways towards people-centred justice in Uganda?

Evidence on the contribution of Local Council Courts to high-level strategies towards people-centred justice in Uganda is not available. So it is not clear if Local Council Courts have contributed to high-level strategies towards people-centred justice in Uganda.

In the past, Local Council Courts, as mentioned before, have benefited from aid and programmatic interventions of development organisations and the Ministry of Local Government. Other than that, establishing and strengthening LCI and LCII has been mentioned as a goal in the Fourth Strategic Development Plan (2017-2020) of Uganda (JLOS 2017). Prior to that, strengthening the capacity of Local Council Courts has also been mentioned in Strategic Investment Plan 2012-2017 of Uganda (JLOS 2012).

But evidence on action taken to implement these goals is not available. To conclude, although Local Council Courts make it to high-level discussions on people-centred justice in Uganda, it is hard to ascertain if intention is being translated into action. In other words, it is not clear if Local Council Courts benefited from these high level strategies in concrete ways.

To what extent has Local Council Courts contributed to/played a role in a broader paradigm shift towards people-centred justice?

Organisations that work on justice issues at the international level often take the Local Council Courts as an example of an informal justice system that is accessible and affordable to the people. Local Council Courts have emerged as alternative justice systems and shown that grassroots organisations are also capable of delivering justice. Its roots in indigenous values of reconciliation and compromise set it apart from formal justice systems that deliver justice in adversarial ways. Therefore, in international development, Local Council Courts are perceived to be an example of a successful informal justice system that can be replicated in contexts where formal justice systems are inaccessible to the poor and vulnerable. Therefore, the inherent nature of Local Council Courts and their popularity among the people of Uganda has contributed to a paradigm shift at the international level in how people-centred justice can be delivered.

1. For more information on outcomes to justice problems, see Problems page on the Justice Dashboard by HiiL.

2. HiiL conducted nationwide assessments of justice needs of people in Uganda. In the process it worked with several civil society organisations and justice practitioners in Uganda.

References

Actionaid (2017). Strategies for Justice: Access to Justice for Women.

Government of Uganda. Local Council Courts Act 2006

HiiL (2016). Justice Needs in Uganda: Legal problems in daily life

HiiL (2020). Charging for Justice Report

HiiL (2020). Justice Needs and Satisfaction in Uganda 2020: Legal problems in daily life.

Interview with a representative of LASPNET ngo in Uganda dated January 12, 2020

Interview with Allan Balamu, a member of LC-1 in Uganda dated 19 November 2020.

JLOS (2006). Strategic Investment Plan 2006-2011.

JLOS (2017). Fourth Strategic Development Plan.

JLOS. (2012). The Third JLOS Strategic Investment Plan 2012-2017.

Kemigisa, M. and Namara, R. (2018). Capacity Building of Local Council Courts and Transformational Leadership for Policy Advocacy in Uganda, Consortium for International Management, Policy and Development.

Khadiagala, L. (2001). The Failure of Popular Justice in Uganda: Local Councils and Women's Property Rights. Development and Change, 32, 55-76.

Ministry of Local Government (2014). Decentralisation and Local Development in Uganda.

UNDP (2013). Rule of Law and Access to Justice in Easten and Southern Africa: Showcasing Innovations and Good Practices.

UNHCR (n.d). Protecting the rights of children in conflict with the law.

World Bank, (2009). Uganda Legal and Judicial Sector Study Report.

PROBLEM-SOLVING COURTS IN THE US

Introduction

Problem-solving courts are specialised courts that aim to treat the problems that underlie and contribute to certain kinds of crime (Wright, no date). "Generally, a problem-solving court involves a close collaboration between a judge and a community service team to develop a case plan and closely monitor a participant's compliance, imposing proper sanctions when necessary" (Ibid). In the past three decades, problem-solving courts have become a fixture in the American criminal justice landscape, with over 3,000 established nationwide. All 50 states have appointed a statewide drug court coordinator, and at least 13 have introduced the broader position of statewide problem-solving court coordinator (Porter, Rempel and Mansky 2010; J. Lang, personal communication, October 28, 2020).

What does it mean for a court to be problem-solving?

Although a number of different types of problem-solving courts exist across the US, they are generally organised around three common principles: problem-solving, collaboration, and accountability (Porter, Rempel and Mansky 2010, p. iii.).

Problem-solving courts are focused on solving the underlying problems of those who perpetrate or are affected by crime. This includes reducing recidivism as well as rehabilitating participants (with the exception of domestic violence courts, as elaborated below), victims and the broader community (Ibid. p. iii.).

Problem-solving courts are also characterised by interdisciplinary collaboration among stakeholders in and outside of the criminal justice system. Dedicated staff who have been assigned to the problem-solving court work together to develop court policies and resolve individual cases in a relatively non-adversarial way. Ongoing collaboration between court staff and public agencies, service providers and clinical experts is also essential for providing appropriate treatment to problem-solving court participants (Ibid. p. 38). Because problem-solving courts aim to address the impact of crime on the community and increase public trust in justice, they also have frequent contact with community members and organisations and regularly solicit local input on their work (Ibid. p. 39).

Problem-solving courts aim to hold individuals with justice system involvement, service providers and themselves accountable to the broader community. For individuals with justice system involvement, this means holding them accountable for their criminal behaviour by promoting and monitoring their compliance with court mandates. In order to comply, problem-solving court participants must understand what is expected of them, regularly appear for status hearings, and have clear (extrinsic and intrinsic) incentives to complete their mandates.

For service providers, this means providing services based on a coherent, specified and effective model, and accurately and regularly informing the court about participants' progress. Problem-solving courts are also responsible for assessing the quality of service delivery and making sure models are adhered to (Ibid. p. 43-44).

Lastly and perhaps most fundamentally, problem-solving courts must hold themselves to "the same high standards expected of participants and stakeholders" (Ibid. p. 44-45). This means monitoring implementation and outcomes of their services using up-to-date data.

What does problem-solving justice look like in practice?

Problem-solving justice comes in different forms. The original, best known, and most widespread problem-solving court model is the drug court. The first drug was created in 1989, after a judge in Miami Dade county became frustrated seeing the same drug cases cycling through her court and began experimenting with putting defendants into treatment (P. Hora, personal communication, October 16, 2020). This approach (elaborated in the sections that follow) gradually gained traction, and there are now over 3,000 drug courts across the US (Strong and Kyckelhahn 2016).

This proliferation of drug courts helped stimulate the emergence of three other well-known problem-solving court models: mental health, domestic violence and community courts (Porter, Rempel and Mansky 2010, p. iii.). Mental health courts are similar to drug courts in that they focus on rehabilitation, but different in that they aim for the improved social functioning and stability of their participants rather than complete abstinence (Ibid. p. 51). Domestic violence courts are unique in that they do not universally embrace participant treatment and rehabilitation as an important goal. Instead, many - thought not all - are primarily focused on victim support and safety and participant accountability and deterrence (Ibid. p. 52).

Community courts "seek to address crime, public safety, and quality of life problems at the neighbourhood level. Unlike other problem-solving courts...community courts do not specialise in one particular problem. Rather, the goal of community courts is to address the multiple problems and needs that contribute to social disorganisation in a designated geographical area. For this reason, community courts vary widely in response to varying local needs, conditions, and priorities" (Lee et al. 2013). There are now over 70 community courts in operation around the world (Lee et al. 2013, p.1). Some are based in traditional courthouses, while others work out of storefronts, libraries or former schools. Though they typically focus on criminal offences, some community courts extend their jurisdiction to non-criminal matters to meet specific needs of the communities they serve as well (Ibid. p. 1.). Regardless of location and jurisdiction, all community courts take a proactive approach to community safety and experiment with different ways of providing appropriate services and sanctions (Wright n.d.).

Other less common problem-solving models include veterans courts, homeless courts, reentry courts, trafficking courts, fathering courts, and truancy courts (Ibid).

The principles and practices of problem-solving justice can also be applied within non-specialised courts that already exist. In a 2000 resolution that was later reaffirmed in 2004, the Conference of Chief Justices and Conference of State Court Administrators advocated for, "Encourag[ing], where appropriate, the broad integration over the next decade of the principles and methods of problem-solving courts into the administration of justice to improve court processes and outcomes while preserving the rule of law" (Porter, Rempel and Mansky 2010, p. 3). Key features of a problem-solving approach to justice - which will be elaborated in the sections that follow - include: individualised screening and problem assessment; individualised treatment and service mandate; direct engagement of the participant; a focus on outcomes; and system change (Ibid. p. iv).

Problems + Impacts

How and to what extent have problem-solving courts measured and mapped the following as a first step towards people-centred justice?

- The most prevalent justice problems within the population served

- The justice problems with greatest impact on the population served

- The justice problems that are most difficult to resolve and therefore tend to remain ongoing

- The groups most vulnerable to (systemic and daily) injustices within the population served

As their name suggests, problem-solving courts emerged to address the most prevalent, impactful, and difficult to resolve justice problems within the populations they serve. The first drug (and Drinking While Driving or DWI) courts were created as a response to the increase in individuals with substance use disorders in the criminal justice system and their levels of recidivism. Similarly, mental health courts "seek to address the growing number of [individuals with mental health needs] that have entered the criminal justice system" (Wright n.d.). As one interviewee put it, "The biggest mental health provider [in Los Angeles] is the county jail" (B. Taylor, personal communication, October 5, 2020).

Drug and mental health problems are among the most common issues faced by individuals responsible for both minor and more serious crime. These issues are difficult to resolve because judges - who have historically had little understanding of treatment and addiction - are inclined to hand down harsh sentences when defendants relapse or fail to complete their court mandate (B. Taylor, personal communication, October 5, 2020). This trend was particularly acute in the 1980s, when the war on drugs resulted in draconian sentencing laws that reduced judicial discretion (P. Hora, personal communication, October 16, 2020).

In order to understand and meet the needs of their unique populations, problem-solving courts track measures of problem prevalence and severity. As noted in the first section, early and individualised screening and problem assessment is a key feature of problem-solving justice. The purpose of such screenings is to "understand the full nature of the [participant's] situation and the underlying issues that led to justice involvement."

For drug courts, relevant measures of problem severity may include: drug of choice; years of drug use; age of first use; criminal history; and treatment history (Porter, Rempel and Mansky 2010, p. 50). Mental health courts typically assess the nature and severity of their participants' underlying mental health issues, and may also look at participant stability (in terms of health care, housing, compliance with prescribed medications, and hospitalisations) (Ibid. p. 51).

Domestic violence courts and community courts are somewhat unique in that the primary population they serve include victims and members of the community as well as individuals with justice system involvement. Domestic violence courts focus on assessing the needs of victims of domestic violence in order to connect them with safety planning and other individualised services. Likewise, in addition to identifying the problems that impact individual participants, community courts focus on assessing the problems that impact the underserved (and also often disserved) neighbourhoods where they work. These should be identified through outreach in the relevant community but often include concentrations of lower level crimes - such as vandalism, shoplifting, and prostitution - as well as distrust of traditional justice actors (Ibid. p. 55-56).

Now that technical assistance is broadly available for problem-solving courts across the US, individualised screening and problem assessment has become increasingly data-driven and informed by validated needs assessment tools (B. Taylor, personal communication, October 16, 2020).

Over the years, problem-solving courts have also become more adept at identifying groups within the populations they serve that are particularly vulnerable to injustice. The advancement of brain science, for example, has influenced many problem-solving courts to treat participants under 25 differently and give them an opportunity to age out of crime. Young people transitioning out of foster care are particularly vulnerable to justice involvement given their sudden lack of family support. Trafficked individuals, who used to be treated as criminals, are now widely recognised as victims (Ibid). Specialised problem-solving courts, diversion programs, and training initiatives have emerged to understand the unique needs and vulnerabilities of this population (Wright n.d.).

Problem-solving courts have also become more aware of racial inequities in the populations selected to receive treatment (B. Taylor, personal communication, October 16, 2020). Drug court participants in particular are often disproportionately white, with racial breakdowns that do not mirror the racial breakdowns of those arrested. This is largely a result of eligibility requirements tied to federal drug court funding, which has historically restricted individuals with violent criminal histories from participating. Drug courts have also been accused of cherry-picking participants who were most likely to be successful to improve their numbers and receive more funding. Both of these phenomena have had the effect of excluding disproportionate numbers of people of colour from drug treatment (Ibid). In addition to taking steps to mitigate these inequities, drug courts have increasingly come to recognise that cherry-picking low-risk cases reduces their effectiveness overall (P. Hora, personal communication, October 16, 2020).

Defining + Monitoring Outcomes

How and to what extent have problem-solving courts researched and identified the outcomes that people in the target population expect from justice processes?

In 1993, the first community court was set up in the Midtown neighbourhood of New York City (Lee et al. 2013, p.1). Inspired by the Midtown model, the Red Hook Community Justice Center was established in a particularly disadvantaged area of Brooklyn seven years later. Like the Midtown Court, the goal of the Red Hook Community Justice Center was "to replace short-term jail sentences with community restitution assignments and mandated participation in social services" (Taylor 2016).

In the planning stages however, residents of Red Hook were not happy to learn that a new court was being introduced in their community. Though sustained community outreach, Red Hook court staff were able to change these negative perceptions and convince residents they wanted to do something different. They began by asking the community what outcomes were most important to them (B. Taylor, personal communication, October 5, 2020).

This early engagement helped the Red Hook planners realise that tracking outcomes related to people's presence in the court would not be enough to assess the court's impact in the community. They would also need to look at outcomes that were meaningful to residents, asking questions like: How can we disrupt crime hot spots? How safe does the community feel? Do residents feel safe walking to the park, or the train? At what times? (Ibid).

Although the Red Hook community court model has since been replicated in different parts of the world, the experiences of two of these international courts illustrate that identifying the outcomes that community members expect from justice processes can sometimes be a challenge.

In 2005, England opened its first community court: the North Liverpool Community Justice Centre (NLCJC). A 2011 evaluation of the NLCJC acknowledged its innovative approach and "potentially transformative effect on criminal justice" but also noted:

> *How and why the Centre needs to connect with the public it is charged with serving remains one of the most complex and enduring concerns for staff…how consistently and how effectively the 'community' was contributing to the workings of the Centre provided a constant source of uncertainty" (Mair and Millings 2011).*

After eight years of operation, the NLCJC was closed in 2013. Observers have since noted that a lack of grassroots community engagement in the planning and operation of the NLCJC was among the primary reasons that it ultimately failed to take hold (Murray and Blagg 2018; J. Lang, personal communication, October 28, 2020).

One year after the NLCJC opened in England, the Neighbourhood Justice Centre (NJC) was piloted in the Collingwood neighbourhood of Melbourne, Australia. At the time, Collingwood had the highest crime rate in Melbourne, high rates of inequality, and a high concentration of services. This combination made it an ideal location for Australia's first community court.

Modelled on the Red Hook Community Justice Centre in Brooklyn and spearheaded by the State Attorney General at the time, Rob Hulls, the NJC pilot was focused on improving the community's relationship with the justice system through local, therapeutic and procedural justice. Like Red Hook, it was designed based on evidence and an analysis of gaps in existing justice services. Despite shifting political winds - including "tough-on-crime" rhetoric on the one hand and complaints of more favourable "postcode justice" available only for the NJC's participants on the other - the NJC managed to secure ongoing state government support (J. Jordens, personal communication, October 19, 2020).

Unlike the NLCJC, the NJC remains in operation today. The procedurally just design of the NJC building and approach of its magistrate, David Fanning, have earned the court significant credibility and legitimacy in the Collingwood community (Halsey and Vel-Palumbo 2018; J. Jordens, personal communication, October 19, 2020). Community and client engagement have continued to be a key feature of the NJC's work, helping to reduce recidivism and increase compliance with community-based court orders (Halsey and Vel-Palumbo 2018) .

In spite of its success, some observers note that the NJC's outreach efforts have not gone as far as they could have. Early consultations with a group of community stakeholders regarding the design and governance of the NJC were discontinued in the Centre's later years. Although the reason for this is unclear and may well have been legitimate, the result was that key representatives of the community lost direct and regular access to NJC leadership over time (J. Jordens, personal communication, October 19, 2020).

These examples illustrate that even under the umbrella of a one-stop-shop community court, identifying expected justice outcomes in the community as a first step towards problem-solving justice - and continuing to do so even after the court is well-established - is not a given. The extent to which this is achieved depends on the approach of the particular court and its efforts to create a reciprocal and collaborative relationship with the surrounding community.

How and to what extent have problem-solving courts determined whether existing justice processes deliver these outcomes and allow people in the target population to move on?

Problem-solving courts generally - and community courts and drug courts in particular - are created with the explicit intention to address gaps in existing justice processes.

Community courts are typically established in communities that have been historically underserved and disproportionately incarcerated to provide a more holistic response to crime and increase trust in the justice system.

In the early days of the Red Hook Community Justice Center, the community's deep distrust of law enforcement emerged as a key challenge for the Center's work. Red Hook staff approached this challenge by inviting police officers into the court and showing them the data they had collected on the justice outcomes that residents were experiencing. They helped the officers understand that by not addressing the root causes of crime in the Red Hook community, they were delaying crime rather than stopping it (B. Taylor, personal communication, October 5, 2020).

Over time, the court's relationship with law enforcement has improved. In 2016, the Justice Center launched its "Bridging the Gap" initiative, which creates a safe space for young people and police officers to get to know each other and discuss difficult topics that offer the chance to explore the other's perspective (Red Hook Justice News 2016; Sara Matusek 2017).

Similarly, the proliferation of drug courts across the country was a response to high rates of recidivism among individuals with substance use disorders, which persisted in spite of tough-on-crime sentencing practices. During the so-called "war on drugs" in the mid-1980s, judges across the country gradually began to realise that handing down increasingly long sentences to people with substance use disorders was not working.

One such person was the late Honourable Peggy Hora, a California Superior Court judge responsible for criminal arraignments. Like other judges repeatedly confronted with defendants grappling with substance use disorders in the 1980s and 90s, Judge Hora initially felt that incarceration was the only tool available to her. Not much research had been done on incarceration at the time, so its detrimental effects were not yet widely known (P. Hora, personal communication, October 16, 2020).

Determined to understand why the defendants that came before her seemed to be willing to risk everything to access drugs - even their freedom and the right to see their children - Judge Hora took a class on chemical dependency. This experience brought her to the realisation that "everything they were doing was wrong." She quickly built relationships with people at the National Institute on Drug Abuse and began engaging with drug treatment research at a national level (Ibid).

Judge Hora eventually went on to establish and preside over the nation's second drug court in Alameda County, California. After learning more about procedural justice and seeing evidence that early drug courts worked and saved money in the long run, she helped promote the model across the country and around the world (Ibid).

How and to what extent have problem-solving courts created a system for monitoring whether new, people-centred justice processes deliver these outcomes and allow people in the target population to move on?

Outcomes monitoring is an essential component of problem-solving justice. As Rachel Porter, Michael Rempel, and Adam Manksy of the Center for Court Innovation set out in their 2010 report on universal performance indicators for problem-solving courts:

> *It is perhaps their focus on the outcomes generated after a case has been disposed that most distinguishes problem-solving courts from conventional courts. Like all courts, problem-solving courts seek to uphold the due process rights of litigants and to operate efficiently, but their outcome orientation demands that they seek to address the underlying issues that precipitate justice involvement (Porter, Rempel and Mansky 2010, p. 1.).*

Measuring and monitoring people-centred outcomes was also key to problem-solving courts' early success. Because the problem-solving approach was so different from the status quo, showing evidence that it worked was necessary for building political and financial support. This meant clearly articulating the goals of problem-solving courts and finding ways to measure progress towards them (B. Taylor, personal communication, October 14, 2020).

In their report, What Makes a Court Problem-Solving? Porter, Rempel, and Mansky identify universal indicators for each of the three organising principles of problem-solving courts. They include: (under problem-solving) individualised justice and substantive education for court staff; (under collaboration) links with community-based agencies and court presence in community; and (under accountability) compliance reviews, early coordination of information, and court data systems (Porter, Rempel and Mansky 2010, p. 57). Many of these problem-solving principles and practices can be (and are) applied and monitored in traditional courts.

To ensure delivery of individualised justice for example, any court staff can engage the individuals appearing before it by making eye contact, addressing them clearly and directly, and asking if they have any questions about the charges or their mandate (Ibid). This kind of engagement can "radically change the experience of litigants, victims, and families" and "improve the chance of compliance and litigant perceptions of court fairness" (Ibid). Similarly, any court can prioritise and track its use of alternative sanctions - such as community service or drug treatment - and its efforts to link individuals to existing services in the community (Ibid).

The extent to which a particular (problem-solving or traditional) court monitors progress towards these people-centred outcomes depends on its ability to track compliance and behaviour change among participants. This can be achieved through regular compliance reviews, which provide "an ongoing opportunity for the court to communicate with [participants] and respond to their concerns and circumstances" (Ibid. p. 60-61). Investing in electronic data systems that track and coordinate information also makes it easier for a court to monitor its overall impact on case outcomes and improve the quality of its mandates (Ibid).

Successful outcomes monitoring also depends crucially on a court's ability to develop strong relationships with researchers. Without this, early problem-solving courts like the Red Hook Community Justice Center would not have been able to, for example, quantify the impact of a 7-day jail stay in terms of budget, jail population, and bookings per month. Strong research partnerships also made it possible to compare successful and unsuccessful court participants, which was necessary to assess and improve the quality of the court's services (B. Taylor, personal communication, October 14, 2020).

Outcomes monitoring at the Red Hook Community Justice Center was not without its challenges, however. Because most people who come before the court are charged with less serious crimes, their treatment mandates are relatively short. The short amount of time the Red Hook staff and service providers have to work with these participants means that outcomes related to individual progress are not likely to show a full picture of the court's impact. The Red Hook Community Justice Center addressed this by also measuring outcomes related to the court's impact on the community. What was the effect on social cohesion and stability when someone's brother, father, or son was allowed to remain in the community instead of being incarcerated? (B. Taylor, personal communication, October 5, 2020).

Another challenge faced by community courts broadly is that traditional outcomes monitoring systems are not well-equipped to acknowledge the reality that everything is connected. Where does one draw the line between service providers and justice providers? If a restorative justice process facilitated under the supervision of the court fails to reconcile the parties in conflict but has a positive impact on the lives of the support people who participate, should it be considered a success or failure?

A former Red Hook staff member involved in the court's peacemaking initiative shared a story of a young, devout woman with a new boyfriend who mistreated her and who her children strongly disliked. When she tried to throw him out, the boyfriend would use her Christian values against her and convince her to let him stay. Eventually, he punched someone and was arrested on assault charges. His case was referred to a restorative justice circle for resolution. In the circle, the boyfriend was very aggressive and as a result, his case was sent back to court. The woman and her children asked if they could continue meeting in circle without him because they found it helpful (Ibid).

After a series of circle sessions together, the woman came to realise that her abusive boyfriend was using drugs and found the courage to kick him out. In his absence, the woman and her children were able to reconcile and reunite. The woman returned to school and her oldest son found a job. The criminal case that started the process was ultimately unresolved, but from a more holistic and common sense perspective the impact of the circles on the family was positive (Ibid). How should success be measured in this case? This is a challenge that community courts attempting to measure and monitor people-centred justice regularly face.

Evidence-Based Solutions

How and to what extent have problem-solving courts introduced interventions that are evidence-based and consistently deliver the justice outcomes that people in the target population look for?

Problem-solving courts have introduced a number of interventions that have proven to deliver people-centred outcomes for the communities they serve. Although different interventions work for different populations, direct engagement with participants and the delivery of individualised treatments are two key elements of the problem-solving orientation that all problem-solving courts share (Porter, Rempel and Mansky 2010, p. 29-30).

As described in the previous section, direct engagement means that the judge speaks to participants directly and becomes actively engaged in producing positive change in their lives (Ibid. p. 30-31). This effort to ensure that participants feel heard, respected and experience the process as fair is supported by research on procedural justice.

Individualised treatment means that the interventions delivered are tailored to the specific problems of each participant. This requires that the court offer "a continuum of treatment modalities and services to respond to the variety and degrees of need that participants present." This service plan must be revisited by the court on a regular basis and adjusted depending on the participant's reported progress (Ibid. p. 29-30).

Despite this shared approach to justice delivery, different problem-solving courts have identified different types of treatments and ways of monitoring whether they work that are unique to the populations they serve.

Community courts like the Red Hook Community Justice Center, for example, generally work with the residents in their neighbourhood to find out what is important to them rather than imposing a predetermined set of solutions.

The Neighbourhood Justice Centre in Melbourne did this through a unique problem-solving process that took place outside of the courtroom and which participants could opt into voluntarily. In a confidential, facilitated discussion based on restorative and therapeutic justice principles, participants were given an opportunity to share their perspective on the problems they were facing and empowered to become collaborators in their own rehabilitation.

Important takeaways from this process would be reported back to the court's magistrate so he could help them move forward - for example by changing their methadone (1) dose or changing the number of treatments they received per week. The collaborative nature of the sessions helped ensure that the treatment plans mandated by the court were realistic for participants. Though the content of these sessions was unpredictable and varied, the co-design process remained constant (J. Jordens, personal communication, October 19, 2020; Halsey and Vel-Palumbo 2018).

With that said, certain interventions have proven to consistently improve outcomes for communities, victims, and individuals with justice system involvement when applied to low-level cases. These include: using (validated) screening and assessment tools (2); monitoring and enforcing court orders (3); using rewards and sanctions; promoting information technology (4); enhancing procedural justice (5); expanding sentencing options (to include community service and shorter interventions that incorporate individualised treatment); and engaging the community (6).

In 2009, the National Institute of Justice funded a comprehensive independent evaluation of the Red Hook Community Justice Center to assess whether it was achieving its goals to reduce crime and improve quality of life in the Red Hook neighbourhood through these interventions (Lee et al. 2013, p. 2.). The evaluation found that:

> The Justice Center [had] been implemented largely in accordance with its program theory and project plan. The Justice Center secured the resources and staff needed to support its reliance on alternative sanctions, including an in-house clinic and arrangements for drug and other treatment services to be provided by local treatment providers…The Justice Center's multi-jurisdictional nature, as well as many of its youth and community programs, evolved in direct response to concerns articulated in focus groups during the planning process, reflecting a stated intention to learn of and implement community priorities (Ibid. p. 4).

Using a variety of qualitative and quantitative research methods, the evaluation also concluded that Red Hook had successfully: changed sentencing practices in a way that minimised incarceration and motivated compliance; provided flexible and individualised drug treatment; sustainably reduced rates of misdemeanour recidivism among young people and adults; and reduced arrests in the community.

In spite of the robust evidence supporting their approach, many community courts experience resistance to their efforts to help participants address underlying issues of substance use and mental disorders through treatment. As Brett Taylor, a Senior Advisor for Problem-Solving Justice and former defence attorney at the Red Hook explains:

> *Some critics of community courts say that [this] is not the job of courts and should be handled by other entities. In a perfect world, I would agree. However, in the reality of the world today, people with social service needs continue to end up in the courts. Court systems across the country have realised that if defendants with social service needs are not given treatment options, those defendants will be stuck in the revolving door of justice and continue to clog the court system….Although it may not comport with the vision of success that many defence attorneys had upon entering this work, I can tell you that nothing beats seeing a sober, healthy person approach you on the street and hearing, 'Thank you for helping me get my life back on track' (Taylor 2016, p. 25).*

In contrast to the broad and community-based approach to treatment taken by community courts, drug courts focus specifically on providing drug treatment. In the words of Judge Peggy Hora, drug treatment is "painful and difficult." Because of this, drug courts start with external changes as their goal, but ultimately aim for internal change. This means appropriately matching participants with evidence-based treatment and using neutral language that assists, supports, and encourages participants along the way. Because relapse is such a common feature of recovery, drug courts focus on keeping people in appropriate treatment as long as necessary for them to eventually graduate from the program (P. Hora, personal communication, October 16, 2020).

Drug court treatments have become increasingly evidence-based since the 1990s due to a growing movement toward performance measurement in the non-profit sector:

> *The emergence of drug courts as a reform of courts' traditional practice of treating drug-addicted offenders in a strictly criminal fashion coincided with renewed interest in performance measurement for public organisations. The argument for measuring the performance of drug courts is compelling because they are a recent reform that must compete with existing priorities of the judicial system for a limited amount of resources. This makes it incumbent upon drug courts to demonstrate that the limited resources*

> *provided to them are used efficiently and that this expenditure of resources produces the desired outcomes in participants (Rubio et al. 2008, p. 1).*

This movement was further strengthened by the development of a cutting edge performance measurement methodology known as the "balanced scorecard." Created for the business sector, the balanced scorecard method aims to go beyond traditional measures of success and get a more balanced picture of performance by incorporating multiple perspectives. This method was adapted to create CourTools, a set of ten performance measures designed to evaluate a small set of key functions of trial courts (Ibid. p. 2).

Because "the nature of addiction and the realities of substance use treatment require extended times to disposition for drug court participants," many of the performance measures developed for conventional trial courts (such as reduced time to disposition) are not directly applicable to drug courts. However, the increased application of performance measurement to courts and the creation of CourTools in particular helped make way for the development of the first set of nationally recommended performance measures for Adult Drug Courts in 2004 (Ibid. p. 4).

Developed by a leading group of scholars and researchers brought together by the National Drug Court Institute (NDCI) and published for the first time in 2006, these included four key measures of drug court performance: retention; sobriety, in-program recidivism; and units of service (Ibid. p. 5).

Retention refers to the amount of time drug court participants remain in treatment. "Longer retention not only indicates success in treatment but also predicts future success in the form of lower post treatment drug use and re-offending" (Ibid. p. 5). Sobriety - both during and after treatment - is another important goal of drug courts. "As the participant proceeds through the program, a trend of decreasing frequency of failed [drug] tests should occur. Research has shown that increasing amounts of time between relapses is associated with continued reductions in [drug] use" (Rubio et al. 2008, p. 5). In-program recidivism is the rate at which drug court participants are re-arrested during the course of their participation. This is expected to be lowered through a combination of "judicial supervision, treatment, and rewards and sanctions" unique to drug courts (Ibid. p.5; US Government and Accountability Office, 2005). Finally, units of service refers to the dosages in which drug court treatment services - including, but not limited to substance use treatment - are delivered. These are usually measured in terms of days or sessions of service provided (Rubio et al. 2008, p. 5).

Since their development, these four measures of drug court performance have been actively promoted by leading technical assistance providers like the Center for Court Innovation (CCI) and the National Center for State Courts (NCSC) (Ibid. p. 6). They have since been adopted and adapted by a number of states across the US. The NCSC facilitates this process, but decisions about what specifically to measure are made by the advisory committee convened by the state-level agency responsible for drug courts (Ibid). Additional performance measures used by some states relate to, for example: accountability, social functioning, processing, interaction with other agencies, compliance with quality standards, and juvenile drug court measures, family drug court measures, and domestic violence drug court measures (Ibid. p. 10).

In 2007, the NCSC surveyed statewide drug court coordinators from across the country about their use of state-level performance measurement systems (SPMS). Out of 45 states that completed the surveys, 58% were using a SPMS in their drug courts. Most of these were adult drug courts (Ibid. p. 14). Although the frequency with which these states reported performance measurement data varied from quarterly to annually, the majority did provide data to a central agency (Ibid. p. 15).

The development and widespread use of SPMS have helped drug courts deliver treatments that are increasingly evidence-based in the sense of consistently delivering the outcomes that their participants need. However, the NCSC survey found that the state-level performance measures used were not entirely balanced in that they typically focused more on the effectiveness of drug courts than their efficiency, productivity, or procedural satisfaction (Ibid. p. 20). The NCSC therefore recommended that a more balanced, national and uniform set of drug court performance measures be developed to measure performance more holistically and facilitate comparisons of performance across states (Ibid. p. 18).

How and to what extent have problem-solving courts used outcome-based monitoring (discussed in the previous section) to continuously improve these interventions and replace interventions that have proven ineffective?

Because of their problem-solving orientation and focus on outcomes, problem-solving courts are by their nature adaptive and capable of developing new treatment modalities to meet different kinds of needs. As Brett Taylor, Senior Advisor for Problem-Solving at the Center for Court Innovation put it, "the problem-solving court environment creates a space in which there is more room for creativity. If you were

to redesign the justice system now, there wouldn't be only courts you could go to, there would be different justice mechanisms and modalities available to treat different levels of issues. Perhaps that is why new modalities develop within problem-solving courts" (B. Taylor, personal communication, October 19, 2020).

A clear example of this creative and outcomes-based approach to improvement was the way the problem-solving dialogue process developed at the Neighbourhood Justice Center (NJC) was adapted over time to meet changing demands in the community. As Jay Jordens, a Neighbourhood Justice Office at the NJC who introduced the process explains: "different problems would arise that would demand a re-design of the court's approach" (J. Jordens, personal communication, October 19, 2020).

For example, the NJC began to notice that people responsible for family violence were participating in problem-solving dialogues without sharing this part of their history. In response, the NJC developed a tailored problem-solving process for people who were respondents to a family violence order in which this part of their past would be addressed from the start. The NJC also began facilitating support meetings for victims of family violence, including for example parents who were being mistreated by their children. The process was designed to solicit feedback about the new approach after victims had tried it. Eventually, it earned the support of the police in the community because it consistently delivered outcomes for a unique population (Ibid).

A second adaptation of the problem-solving process at the NJC was made when court staff noticed that many young people were opting out. Many of the court-involved young people in the Collingwood community were refugees from South Sudan who were experiencing the effects of intergenerational trauma. Realising that the process as it was originally imagined was too interrogative for this population, the NJC began holding circles with the young person, their mother, and one or two support workers. A facilitator would begin by asking humanising questions of everyone in the circle. Although the young person would often pass when it was their turn to speak, participating in the circle gave them an opportunity to listen, relax, and improve their relationships with the adults sitting in the circle with them. These problem-solving circles were designed to prioritise safety concerns and would often result in an agreement among the participants to get external support and/or attend family therapy.

Jay Jordens notes that such adaptations were possible in spite of, not because of, an operational framework of specialisation within the court that made collaboration a choice rather than an expectation among Centre staff. "We aren't there yet where these processes are intuitive," he explained, "we still need to actively facilitate them" (Ibid).

Because of their systematic approach to outcomes monitoring and performance measurement, drug courts have made a number of improvements to the treatment they provide as well. First and foremost, they have learned to avoid net widening: "the process of administrative or practical changes that result in a greater number of individuals being controlled by the criminal justice system" (Leone n.d.).

Specifically, drug courts have learned that putting the wrong people in the wrong places results in bad outcomes. An example of this is cherry picking the easiest cases for drug treatment: a common practice among drug courts in the early years of their development that later proved to be harmful. Evidence has shown that drug courts are most effective when they focus on treating high-risk, high-needs participants who are most likely to reoffend (P. Hora, personal communication, October 16, 2020). Cherry picking low-risk cases in order to inflate measures of success means putting them in more intensive treatment than they need and failing to appropriately match treatments with risk. Over time, this entraps people in the criminal justice system unnecessarily and reduces drug courts' potential to meaningfully reduce crime (B. Taylor, personal communication, October 19, 2020).

Cherry picking low-risk cases for drug treatment has also resulted in racially biased outcomes. Because of the ways racial bias is embedded in the American criminal justice system, young white defendants have historically been more likely to be assessed as low-risk and eligible for specialised treatment than participants of colour. Participants of colour who were selected for drug court programming also tended to flunk out or leave voluntarily at higher rates than white participants.

In response to these trends, drug courts developed a toolkit on equity and inclusivity to examine the data and understand why this was happening. They introduced HEAT (Habilitation Empowerment Accountability Therapy), a new drug treatment modality geared towards young black men which was recently evaluated with very positive results. They have also worked harder generally to ensure that treatments are culturally appropriate for the different populations they serve.

Drug courts have also become more sophisticated at treating different kinds of drug addiction. The Matrix Model, for example, was developed to engage a particularly difficult population - stimulant (methamphetamine and cocaine) users - in treatment. Previously considered "untreatable" by many drug courts, stimulant users treated using the Matrix Model have shown statistically significant reductions in drug and alcohol use, risky sexual behaviors associated with HIV transmission, and improved psychological well-being in a number of studies (P. Hora, personal communication, October 16, 2020; National Institute of Drug Abuse 2020).

Drug court judges who once took a "blaming and shaming" approach have shifted towards a more people-centred one, as evidenced by changes in the language used to describe participants. In response to research in the medical sector demonstrating that people who are described as addicts receive lower quality care and fewer prescriptions, drug courts have increasingly replaced the term "addiction" with "substance use disorder" (P. Hora, personal communication, October 16, 2020).

In line with this shift, attitudes towards medically assisted drug treatment have also changed dramatically over the years. Whereas most drug courts previously did not allow the use of methadone in treatment, the field has now clearly adopted medically assisted treatment after finding that it was consistent with improved graduation rates, among other outcomes. Though not universally accepted, it is now considered a best practice supported by decades of research (Ibid).

On a more systematic level, a 2007 analysis of performance measurement data collected by the state of Wyoming provides an example of how drug courts have started to use this data to improve the quality of their treatments and overall impact. Based on results related to the key measures of drug court performance introduced in the previous section - retention, sobriety, in-program recidivism and units of service - the NCSC made a number of programmatic recommendations for drug courts across the state. First, they suggested that drug courts aim to support participants' education and employment-related needs, as both attainment of a diploma and employment at admission to treatment were associated with increased graduation rates. They also recommended that additional resources be made available for young participants of colour, who were found to have higher rates of positive drug tests and recidivism than young white participants (Rubio et al. 2008, p. 17).

Innovations + Delivery Models

How and to what extent have problem-solving courts scaled their people-centred service delivery model to deliver justice outcomes for a larger population?

Many problem-solving courts across the US continue to start in the way the first problem-solving courts did: with judges deciding to do things differently. With that said, the proliferation of problem-solving courts across the country can be traced to three primary factors: science and research; technical assistance; and changes in legal education.

Research has helped bring problem-solving courts to scale by showing that the problem-solving approach to justice, if properly implemented, can be effective. Research on procedural justice and advancements in understanding of the science of addiction have been particularly important in this respect. Increased awareness of major studies in these areas have helped the field shift towards evidence-based working and helped legal professionals learn from past mistakes. More and more judges realise that relapse is part of recovery, and that mandated treatment within a drug court structure delivers positive outcomes for participants (B. Taylor, personal communication, October 19, 2020).

Once a number of problem-solving courts had been established around the country, technical assistance providers emerged to help them take a data-driven approach. This means working with communities to look at the numbers and identify the biggest crime problems they are struggling with and introducing a problem-solving court that is responsive to those issues. It also means using screening and needs assessment tools to make informed sentencing decisions and match participants to appropriate treatments. Technical assistance has helped problem-solving courts increase their impact and effectiveness and over time deliver outcomes for larger populations (Ibid).

As problem-solving courts like the Red Hook Community Justice Center have become better known, law students and young legal professionals have become more aware of and enthusiastic about problem-solving justice as an alternative to adversarial ways of working (Ibid). This represents a significant shift from the early days of problem-solving courts, when judges and lawyers alike were reluctant to embrace non-conventional conceptions of their roles as legal professionals. Prosecutors called problem-solving courts "hug-a-thug" programs. Defence attorneys resisted the idea of a court being a cure-all

for their clients. Judges insisted that they "weren't social workers" and shouldn't be doing this kind of work (P. Hora, personal communication, October 16, 2020). Service providers were concerned too: they feared that involving the justice system in treatment would ruin their client relationships.

Over time, judges have come to see that their roles could expand without violating something sacrosanct about being a judge. In 2000, the Conference of Chief Justices and Conference of State Court Administrators adopted a resolution supporting the use of therapeutic justice principles. Since then, experience presiding over a drug court has come to be seen as a positive in judicial elections (Ibid).

Despite early concerns that problem-solving courts were "soft on crime," prosecutors and defense attorneys have largely come on board as well. Research has demonstrated that when problem-solving courts acknowledge their gaps in knowledge and defer to service providers for clinical expertise, they can be successful in supporting treatment. As a result of advances in research, the emergence of problem-solving technical assistance, and important cultural shifts, drug and mental health courts are now widely recognised as appropriate and welcome additions to the field (Ibid). This acceptance has facilitated their spread nationally and as far as Australia and New Zealand.

Court numbers are not the only relevant measure for evaluating the extent to which problem-solving courts have successfully scaled, however. In addition to horizontal scaling of courts across the country, vertical integration of problem-solving principles and practices within particular jurisdictions is an important indicator of problem-solving courts' spread and influence (J. Lang, personal communication, October 28, 2020).

As explained in the introduction, the principles and practices of problem-solving justice can be and are increasingly applied by traditional justice actors and in existing, non-specialised courts. Police departments across the country are learning that they can divert defendants to treatment from the get-go, without necessarily waiting for a case to be processed through the courts (Ibid). A prominent example of police-led diversion is LEAD (Law Enforcement Assisted Diversion) in Seattle, "a collaborative community safety effort that offers law enforcement a credible alternative to booking people into jail for criminal activity that stems from unmet behavioural needs or poverty" (Law Enforcement Assisted Diversion, n.d.). The Seattle LEAD model was externally evaluated and found to deliver a range of positive outcomes for individuals with justice system involvement and the community (LEAD National Support Bureau n.d.-a). The model has been

replicated successfully and is now operating in over thirty-nine counties in the US (LEAD National Support Bureau n.d.-b).

Cases that do reach court are also increasingly diverted outside of it. Prosecutors and judges who are not operating within a problem-solving court can nevertheless apply problem-solving principles by linking defendants to services and making use of alternative sentences in lieu of jail time. This "problem-solving orientation" has allowed problem-solving justice to be applied in more instances and settings without necessarily setting up new problem-solving courts. One indication that problem-solving courts have already scaled "horizontally" in the US - and that this "vertical" scaling is the latest trend - is the fact that the US government's drug courts funding solicitation in 2020 no longer includes a category for the creation of a new drug court (J. Lang, personal communication, October 28, 2020).

Evidence of this trend towards vertical scaling can be found as far away as Australia. As a specific alternative to horizontal replication, the Neighbourhood Justice Centre (NJC) has developed resources to support judges at the Melbourne Magistrates Court to adopt a problem-solving approach to their work. Over time, this court has become a "laboratory of experimentation" for problem-solving principles and practices as well as other complementary technologies (i.e. therapeutic or procedural justice approaches) that need to be tested before broader roll-out. In a similar vein, New York City's courts have carried the innovative principles and practices of community courts into centralised courthouses in Brooklyn and the Bronx rather than creating more Red Hooks (Ibid).

How and to what extent have problem-solving courts funded their service delivery model in a sustainable way?

Drug courts have been successful in obtaining large and sustainable streams of federal funding due to the strong research partnerships they developed from the start. Early data collection and evaluation persuaded funders that the problem-solving approach would deliver positive outcomes and save money by reducing incarceration costs. The fact that Florida Attorney General Janet Reno - who set up the nation's first drug court in 1989 - worked with Assistant Public Defender Hugh Rodham (7) in Miami Dade County also helped make drug courts a success and capture the attention of the federal government early on.

Importantly, federal funding for drug courts was often conditional upon their participation in rigorous evaluations. This demonstrated the effectiveness of the drug court model in a way that may not have been possible had the drug courts had to fund the research themselves, and justified their continued funding (P. Hora, personal communication, October 16, 2020). In recent years, states and counties have become a significant source of funding for drug courts as well (J. Lang, personal communication, October 28, 2020).

Although the federal government has also helped fund other types of problem-solving courts, drug courts are by far the most sustainably funded. Only recently has the government made it possible for community courts to apply for direct funding, or indirect funding as subgrantees of the Center for Court Innovation. The long-term funding for many community courts is provided by local municipalities (Ibid). Funding community courts is a unique challenge because in addition to standard line items like project director and case worker salaries, they must find a way to cover less conventional expenses support for community volunteers and circle participants (often in the form of food, which the government is not willing to fund) (B. Taylor, personal communication, October 19, 2020).

Direct federal funding for other kinds of problem-solving courts is very limited. What funding has been made available to them has gone primarily towards research and the establishment of state-level coordinators and problem-solving court infrastructure. This has helped to increase awareness of the problem-solving principles and practices at the state level and encouraged their application in different areas (P. Hora, personal communication, October 16, 2020).

Private foundations have supported various aspects of problem-solving justice initiatives in certain parts of the country, but have not yet committed to doing so in a sustained way (J. Lang, personal communication, October 28, 2020).

To what extent have problem-solving courts leveraged the following sustainable financing strategies: public-private partnerships and smart (user) contributions?

Community courts in New York - including the Red Hook Community Justice Center and the Midtown Community Court - have benefitted from public-private partnerships to the extent that their planning and operations have been led by the Center for Court Innovation, a public-private partnership between the New York court system and an NGO. Over the years, these courts have also partnered with local "business improvement districts" to supervise community service mandates and offer employment opportunities to program graduates (Ibid).

Some treatment courts do also charge a nominal participant fee, which can range from $5-$20 per week (Wallace 2019). These user contributions can be used for grant matching, among other things. Charging people for their participation in problem-solving programming is generally not regarded as good practice, however (J. Lang, personal communication, October 28, 2020).

More broadly, problem-solving courts and community courts in particular can be said to be financially sustainable in that they often save taxpayer money (Wallace 2019). Although it takes time to realise the benefits of the upfront costs of creating and running a drug court for example, research has demonstrated that once established, the associated cost savings range from more than $4,000-$12,000 per participant (Office of National Drug Court Policy 2011). The Red Hook Community Justice Center alone was estimated to have saved local taxpayers $15 million per year (primarily) in victimisation costs that were avoided as a result of reduced recidivism (Halsey and de Vel-Palumbo 2018). The cost savings associated with problem-solving courts have helped them to continue to be competitive applicants for federal, state and local, and sometimes private grant funding over the years and in spite of changing political winds (Wallace 2019).

Enabling Environment

How and to what extent have regulatory and financial systems created/enabled by the government supported problem-solving courts and made it possible for this service/activity to scale?

Most if not all states in the US have allowed drug courts to become part of state legislation, which makes possible their continued operation (P. Hora, personal communication, October 16, 2020).

How and to what extent have the outcomes-based, people-centred services delivered by problem-solving courts been allowed to become the default procedure?

Problem-solving courts have not been allowed to become the default procedure in that adversarial courts and procedures remain the standard way of responding to crime in the US. In the words of Judge Hora, "There is no question that the number of people served is growing, but this remains only a drop in the bucket. For every person served there are 6-7 who aren't" (Ibid). However, the expanding presence of problem-solving courts has helped the justice sector shift away from the excessively punitive state sentencing laws and tough-on-crime rhetoric of the late 1980s towards a more restorative and evidence-based way of working (B. Taylor, personal communication, October 5, 2020).

Problem-solving courts have enabled cultural change by demonstrating to lawyers and judges that defendants do better when they are able to access treatment, while at the same time allowing these traditional legal players to act as intermediaries and retain a gatekeeping role. As discussed in previous sections, police, prosecutors, and judges alike have grown increasingly comfortable with diverting cases from the adversarial track to community-based treatment (Ibid).

It is a paradox that the US has developed and spread the problem-solving courts model as the country with the highest incarceration rates in the world. Former Senior Advisor of Training and Technical Assistance at the Center for Court Innovation, Julius Lang, speculates that this punitive backdrop is what has allowed alternatives to incarceration to flourish in the US and become so highly developed. At the same

time, countries with lower baseline penalties that have set up problem-solving courts, such as Canada and Australia, have developed creative means of engaging defendants who need treatment since there is less of a threat of incarceration (J. Lang, personal communication, October 28, 2020).

How and to what extent have problem-solving courts stimulated (or benefitted from) investment into justice research and development?

Problem-solving courts have both stimulated and benefited from investment into justice research and development. As discussed in the previous sections, the success of problem-solving courts in the US can be attributed in large part to their strong research partnerships.

From the start, "problem-solving courts always took responsibility for their own research and their own outcomes" (Ibid). Problem-solving justice initiatives run by the Center for Court Innovation, for example, always worked directly with researchers. This produced a huge amount of evaluation literature, which was important for securing the buy-in and funding necessary to continue operating (B. Taylor, personal communication, October 14, 2020).

The fact that federal funding has incentivised high-quality evaluations has also gone a long way to build a foundation of evidence demonstrating drug courts' effectiveness (P. Hora, personal communication, October 16, 2020).

Leadership + Pathways

How and to what extent have justice sector leaders' skills and collaborations enabled/hindered problem-solving courts to increase access to justice by delivering the outcomes people need at scale?

Strong leadership has been essential to problem-solving courts' ability to deliver the treatment outcomes people need at scale. Without the leadership of visionary judges and other leaders aiming to do things differently, they would never have come into existence in the first place.

Because of the tendency to maintain the status quo, individual problem-solving courts also rarely get off the ground without a strong champion. The reason for this can be traced to problem-solving principles and practices themselves: the goal is not to force

people to change, but to make them change because they want to. In the same way, effective leaders can persuade system actors that problem-solving justice is the way to achieve common goals (B. Taylor, personal communication, October 14, 2020).

Community courts in particular require strong leadership. This can sometimes pose problems for the courts' long-term stability. For example, a community court in North Liverpool was championed by prominent national politicians. Their leadership was important for the court's establishment and initial funding, but changes in national leadership and the lack of local support were major factors in the court's ultimate closure (J. Lang, personal communication, October 28, 2020).

As mentioned above, community courts may struggle when their early champions move on. To avoid this and prepare for the eventual departure of the personalities who are driving change, it is important to put the courts' internal ways of working into writing. As previously discussed, it is also necessary to obtain evidence that the court's approach works, as this is a more important driver of funding than good leadership in the long-run (B. Taylor, personal communication, October 5, 2020).

Mid-level leadership within problem-solving courts also matters. Since staff are often employed and supervised by various partner agencies - rather than the director of the project as a whole - it is particularly important that they be selected with care, trained in the project's mission, policies and practices, and incentivised to work as part of a single team (J. Jordens, personal communication, October 19, 2020).

How and to what extent have problem-solving courts contributed to/benefited from new high-level strategies or pathways towards people-centred justice in the US?

High-level strategies at the state level and in the form of technical assistance have benefitted problem-solving courts significantly by facilitating their replication. This is particularly true of drug courts, for which state-wide coordination mechanisms were set up at an early stage.

Recognising that substance use disorder was a major problem, and persuaded by the same research as federal legislators, state officials began to set up mechanisms that would allow them to receive federal drug court funding. This also allowed them to strategise about which counties would most benefit from drug courts (or other problem-solving courts), and which standards to impose.

Together, state-wide coordination mechanisms created an infrastructure for the improvement and replication of drug courts nationwide, and made it easier to apply problem-solving practices and principles in new settings. Whereas trainings on brain science and what's working in treatment used to be reserved for drug court judges, there are now few states that do not include them in judicial training for all new judges. The same can be said for trainings for prosecutors, defence attorneys, and service providers (P. Hora, personal communication, October 16, 2020).

The emergence of technical assistance providers specialising in problem-solving justice such as the Center for Court Innovation, Justice System Partners, the National Center for State Courts, and the Justice Management Institute have also helped problem-solving courts to coordinate and replicate in strategic ways. By developing listservs and organising conferences, these organisations have enabled people in various problem-solving courts to support each other across state and international lines. Over time, these efforts have created shared principles and legitimacy around the movement for problem-solving justice (J. Lang, personal communication, October 28, 2020).

TO WHAT EXTENT HAVE PROBLEM-SOLVING COURTS CONTRIBUTED TO/PLAYED A ROLE IN A BROADER PARADIGM SHIFT TOWARDS PEOPLE-CENTRED JUSTICE?

As mentioned in the introduction, a fifth key feature of the problem-solving orientation is system change. By educating justice system stakeholders about the nature of behavioural problems that often underlie crime and aiming to reach the maximum number of cases within a given jurisdiction, problem-solving courts seek to make broader impact within the justice system and community (Porter, Rempel and Mansky 2010, p. 32-33).

Since the first drug court was set up in 1989, legal professionals have become increasingly aware that many people with social problems end up in the justice system: a system that was never intended to address those problems. Problem-solving courts have contributed to a broader paradigm shift towards people-centred justice to the extent that they have helped these professionals:

- Acknowledge this issue;

- Recognise that lawyers are not equipped to deal with this issue (American law schools do not prepare them to);

- Connect with service providers in the community;

- Leverage the coercive power of the justice system in a positive way;

- Encourage success in treatment programs using procedural justice.

By taking a collaborative approach to decision-making, delivering individualised justice for each participant while at the same time holding them accountable, educating staff, engaging the broader community, and working to produce better outcomes for people, problem-solving courts have demonstrated what people-centred criminal justice can look like in the US and around the world.

1. Methadone is a synthetic opioid used to treat opioid dependence. Taking a daily dose of methadone in the form of a liquid or pill helps to reduce the cravings and withdrawal symptoms of opioid dependent individuals.

2. "A screening tool is a set of questions designed to evaluate an offender's risks and needs fairly quickly…An assessment tool is a more thorough set of questions administered before an offender is matched to a particular course of treatment or service." Taylor 2016, p. 7.

3. "The main monitoring tool community courts use is compliance hearings, in which participants are periodically required to return to court to provide updates on their compliance." Taylor, 2016, p. 9.

4. "Community courts have promoted the use of technology to improve decision-making. Technology planners created a special information system for the Midtown Community Court to make it easy for the judge and court staff to track defendants…Information that's reliable, relevant, and up-to-date is essential for judges to make the wisest decisions they can." Taylor 2016, p. 12-13.

5. In community courts, "judges often speak directly to the offender, asking questions, offering advice, issuing reprimands, and doling out encouragement. This reflects an approach known as procedural justice…Its key components, according to Yale Professor Tom Tyler, are voice, respect, trust/neutrality, and understanding." Taylor 2016, p. 15.

6. "Community courts emphasize working collaboratively with the community, arguing that the justice system is stronger, fairer, and more effective when the community is invested in what happens inside the courthouse." Taylor 2016, p. 22.

7. Hugh Rodham was the brother of Hillary Clinton, who would become the First Lady a few years later.

References

Amanda Cissner and Michael Rempel. (2005). <u>The State of Drug Court Research: Moving Beyond 'Do They Work?'</u>, Center for Court Innovation.

Brett Taylor. (2016). <u>Lessons from Community Courts: Strategies on Criminal Justice Reform from a Defense Attorney</u>. Center for Court Innovation, p. 3.

Cheryl Wright, (n.d.). <u>Tackling Problem-Solving Issues Across the Country</u>. National Center for State Courts (NCSC).

Cynthia Lee, Fred Cheesman, David Rottman, Rachael Swaner, Suvi Lambson, Michael Rempel and Ric Curtis. (2013). <u>A Community Court Grows in Brooklyn: A Comprehensive Evaluation of the Red Hook Community Justice Center.</u> National Center for State Courts, Center for Court Innovation, p.1.

David Wallace. (2019). <u>Treatment Court: Is Yours Sustainable? (Part Four)</u>. Justice Speakers Institute.

David Wallace. (2019). <u>Treatment Court: Is Yours Sustainable? (Part One)</u>. Justice Speakers Institute.

Dawn Marie Rubio, Fred Cheesman and William Federspiel. (2008). <u>Performance Measurement of Drug Courts: The State of the Art</u>. National Center for State Courts, Volume 6, p. 1.

George Mair and Matthew Millings. (2011). <u>Doing Justice Locally: The North Liverpool Community Justice Centre.</u> Centre for Crime and Justice Studies.

Halsey and de Vel-Palumbo. (2018). <u>Courts As Empathetic Spaces: Reflections on the Melbourne Neighbourhood Justice Centre</u>. Griffith Law Review, 27(4).

Interview with Brett Taylor, Senior Advisor for Problem-Solving Justice, Center for Court Innovation, October 5, 2020.

Interview with Brett Taylor, Senior Advisor for Problem-Solving Justice, Center for Court Innovation, October 14, 2020.

Interview with Brett Taylor, Senior Advisor for Problem-Solving Justice, Center for Court Innovation, October 16, 2020.

Interview with Brett Taylor, Senior Advisor for Problem-Solving Justice, Center for Court Innovation, October 19, 2020.

Interview with Jay Jordens, Education Program Manager - Therapeutic Justice, Judicial College of Victoria, October 19, 2020.

Interview with Judge Peggy Hora, President, Justice Speakers Institute, October 16, 2020.

Interview with Julius Lang, Senior Advisor, Training and Technical Assistance, Center for Court Innovation, October 28, 2020.

<u>Law Enforcement Assisted Diversion (LEAD)</u>, King County.

LEAD National Support Bureau, (n.d.). <u>Evaluations</u>.

LEAD National Support Bureau. (n.d.). <u>LEAD: Advancing Criminal Justice Reform in 2020</u>.

Mark Halsey and Melissa de Vel-Palumbo. (2018). <u>Courts As Empathetic Spaces: Reflections on the Melbourne Neighbourhood Justice Centre.</u> Griffith Law Review 27 (4).

Matthew Leone, <u>Net widening</u>, Encyclopaedia of Crime and Punishment, SAGE Reference.

National Institute of Drug Abuse (2020). The Matrix Model (Stimulants), Principles of Drug Addiction Treatment: A Research-Based Guide

Office of National Drug Court Policy. (2011). Drug Courts: A Smart Approach to Criminal Justice.

Rachel Porter, Michael Rempel and Adam Mansky. (2010). What Makes a Court Problem-Solving? Universal Performance Indicators for Problem-Solving Justice. Center for Court Innovation, p. 1

Red Hook Justice News. (2016). Bridging the Gap: Youth, Community and Police.

Sarah Matusek. (2017). Justice Center celebrates Bridging the Gap birthday. The Red Hook Star Revue.

Sarah Murray and Harry Blagg. (2018). Reconceptualising Community Justice Centre Evaluations - Lessons from the North Liverpool Experience. Griffith Law Review 27 (2).

Suzanne Strong and Tracey Kyckelhahn. (2016). Census of Problem-Solving Courts, 2012. Bureau of Justice Statistics.

US Government and Accountability Office, 2005.

CASE STUDY

LEGALZOOM

Introduction

The traditional justice system often fails to meet the everyday legal needs of people. To bridge this gap, the people-centred justice movement emphasises on delivering outcomes that people want to their legal problems. LegalZoom, a technology-based venture, prioritises the needs of the underserved sections of society and provides effective and user-friendly solutions to the most typical and common legal problems.

LegalZoom is an online legal services provider based in the United States of America. LegalZoom's goal is to 'make legal help accessible to average Americans' (LegalZoom no date.-a). It provides legal documents to small businesses and individuals without requiring them to hire a lawyer. To small businesses, it offers documents required for business formation, business name registration, intellectual property (copyrights, patents). To individuals, the company offers documents required for personal use such as wills, uncontested divorce, power of attorney, name change and prenuptial agreements (Shipman 2019). Since 2010, the company has offered legal plans in which customers receive lawyer-provided advice (hereafter termed as legal services), again for a relatively modest fee (LegalZoom n.d.-a).

Established by law school graduates Brian Lee and Brian Liu, along with Edward Hartman- an internet entrepreneur and litigator Robert Shapiro, LegalZoom has become a forerunner of legal innovation in the US. It has served over 4 million customers to date (LegalZoom n.d.-a). It is the largest provider of legal services to small businesses as well as largest filer of trademarks, having filed over 250,000 trademarks, in the USA (Chowdhury 2017). The company estimates that an American citizen uses its forms to write a will every three minutes (Minkoff 2019). LegalZoom's network of lawyers are eligible to serve clients in all 50 states in the USA (Chowdhury 2017). The company's simple but unconventional approach to resolving ordinary people's legal problems and its large customer base make it particularly well-suited for this case study on how the private sector can pave the way for people-centred justice.

HOW DOES LEGALZOOM WORK?

LegalZoom offers online legal help to people in the form of legal documents and advice. It offers several types of legal documents to customers based on their needs. First, the customer is required to indicate the type of document he or she needs. After that, a software asks the customer to answer a series of questions specific to the legal document requested and to assess the individual's needs, marital status, location. Based on the answers provided by the customer, the software adds or skips questions (McClure 2017).

The final product of this process is a customised document that addresses the individual's specific needs. An employee of LegalZoom then reviews the document to check for spelling, grammar, punctuation and checks for overall consistency and completeness (LegalZoom n.d.-b). The finalised document is then sent to the customer or the relevant government department via private shipping carriers, USPS or electronic delivery. Along with the finalised document, customers also receive detailed instructions and information on next steps. Once the document reaches the specified destination, the customer is notified (Ciulla 2018). This self-help service is accompanied by an option of getting help from a legal professional who will undertake the documenting work on behalf of the customer (LegalZoom n.d.-c).

Along with the document preparation service, LegalZoom also offers individuals and small businesses legal advice from lawyers on a subscription basis. This allows subscribers to select a lawyer from LegalZoom's network of lawyers and consult with him or her for 30 minutes for the duration of the plan.

In LegalZoom's Business Advisory Plan, the customer receives advice on contracts and business agreements, copyrights, trademarks and other intellectual property protections, personal legal matters including property, family law and estate planning. The subscription plan is available for 6 months or one year at a price of 31.25 USD per month. The Legal Advantage Plus plan offers customers advice on financial issues such as bankruptcy, contracts, legal agreements and lawsuits, employment issues including termination, compensation disputes and employment agreements, family matters and estate planning for a monthly sum of 11.99 USD (LegalZoom n.d.-d).

This sets LegalZoom apart from existing legal service providers. The company emerged as an alternative to traditional legal service providers and introduced efficient, affordable legal services for the benefit of small business owners and individuals in the USA.

HOW AND TO WHAT EXTENT HAS LEGALZOOM MEASURED AND MAPPED THE FOLLOWING AS A FIRST STEP TOWARDS PEOPLE-CENTRED JUSTICE?

- most prevalent justice problems within the target population

- The justice problems with greatest impact on the target population

- The justice problems that are most difficult to resolve and therefore tend to remain ongoing

- The groups most vulnerable to (systemic and daily) injustices within the target population

- External/hidden factors that make solving justice problems very difficult

When facing a legal problem, most Americans either seek the help of a lawyer, look for advice from friends and family members or turn to legal aid services who offer legal assistance to low income groups. Those who do not have the financial resources to tackle their legal problem and are not eligible to receive help from legal aid professionals fall through the cracks. LegalZoom addresses the legal needs of this section

of the population who lie in the middle of the socio-economic spectrum (C. Rampenthal and J. Peters, personal communication, October 1, 2020).

Today, several internet based legal service providers exist to provide businesses and individuals essential legal documents at a reasonable price. These include Rocket Lawyer, Avodox, Patentbot, Incfile and UpCounsel. However, back in early 1999, when LegalZoom was founded, few online legal service providers of its kind existed.

The founders of LegalZoom, Liu and Lee, identified a gap in the transactional needs of people when the two would be frequently approached by friends and family for advice on preparing legal documentation. This led him to the realisation that the lack of sophisticated but affordable legal documentation is one of the most commonplace problems that ordinary people face. They founded LegalZoom to bridge this gap.

As this idea was germinating in the mind of the entrepreneurs, online businesses were gaining currency; stocks were being traded online and travel services were increasingly offered online. Inspired by the number of services being offered online, Liu and Lee with the help of technologist Hartman, launched LegalZoom, an online service that would address legal needs of small businesses and individuals who could not afford the legal fees of lawyers (Harris n.d.).

In addition to legal documentation, LegalZoom provides advice from independent lawyers. This has resulted in another section of the population receiving essential legal services at an affordable price. People who could not afford to engage the services of a lawyer completely and were not eligible to receive assistance from legal aid services, can now decide how, when and for which service they engage a lawyer. In other words, the company has unbundled the wide range of legal services offered by lawyers using technology to suit the preferences of the customers. For a competitive price, customers can choose to have short online chats with lawyers (limited access) or engage a lawyer's expertise completely.

HOW AND TO WHAT EXTENT HAS LEGALZOOM RESEARCHED AND IDENTIFIED THE OUTCOMES THAT PEOPLE EXPECT FROM JUSTICE PROCESSES IN THE TARGET POPULATION?

LegalZoom sought to cater to the legal needs of small businesses and middle-income individuals. At the time of its inception, there existed little data on the justice needs of Americans. So the company was not founded on hard, evidence-based data and facts per se. The founders had to rely on observational data to identify

what people want from existing justice services (C. Rampenthal and J. Peters, personal communication, October 1, 2020).

For instance, prior to the setting up LegalZoom, the founders realised through interactions with friends and family members that going to a lawyer for transactional legal needs, such as creating a will, was very expensive for ordinary people. Thereafter when LegalZoom was in its nascent stage, circa 2000-2003, the use of the internet was taking off. People searched 'how to get a divorce in the cheapest possible way', 'how to set up a business', 'how to make a will' etc, which indicated to LegalZoom the kind of legal services people most needed (Ibid).

Another approach that the company has adopted to identify the outcomes that people want from justice processes is to understand the underlying needs of the customer. To illustrate this point, the interviewees quoted the example of Henry Ford. If Henry Ford were to ask people what they wanted, people would ask for faster horses. But what they actually wanted was a faster mode of transportation (Ibid). Similarly, LegalZoom tries to unravel the fundamental needs of the people using the information it obtains in its interactions with clients.

LegalZoom's commercial success indicates that this approach of the company to understand the outcomes that people want has proven to be effective. However, there is scope for the company to systematically and empirically research and identify the outcomes that people want from justice processes. This can help LegalZoom in better defining the outcomes that people want and thereby improve the services and products it offers.

How and to what extent has LegalZoom determined whether existing justice processes deliver these outcomes and allow people in the target population to move on?

LegalZoom was founded with the very objective of addressing the gap left by existing justice processes in delivering the outcomes that people want. The founders of the company were aware that far too many lawyers in the USA charge exorbitant fees for providing even the most basic services, making it difficult for ordinary people to access them.

Moreover, the everyday experiences of the friends and family members of the founders of the company revealed to them that services that provide advanced, user-friendly and affordable legal documents are absent in the market. To verify this finding, the company undertook preliminary market research

(Ibid). Together, these data points indicated that existing justice services fell short of delivering outcomes that people desire.

How and to what extent has LegalZoom created a system for monitoring whether new, people-centred justice processes deliver these outcomes and allow people in the target population to move on?

LegalZoom designs its products specifically to meet the outcomes that people look for.

The representatives of LegalZoom explain that they are constantly trying to resolve problems that people face while accessing justice (C. Rampenthal and J. Peters, personal communication, October 21, 2020). Thus, LegalZoom's problem-solving outlook ensures to some extent that its products and services are best positioned to deliver the outcomes that people want.

In the following years to come, LegalZoom can consider setting up a full-fledged monitoring outfit that tracks whether its products and services are delivering the outcomes that people want.

How and to what extent has LegalZoom introduced interventions that are evidence-based and consistently deliver the justice outcomes that people in the target population look for?

Consider:

• Causes/underlying problems

• Combinations of interventions

LegalZoom introduces interventions that are user-centred. Before introducing a new product or service, the company undertakes surveys and focus group discussions with customers and larger public alike. Through these methods, they try to understand how people would like to access a particular legal service. For example, they asked people: "Have you gone to a lawyer?", "Why did you go to a lawyer?", "Did you go in person?", "Did you talk on the phone?, "What do you think about accessing this service online?" (Ibid).

The company also interacts with their existing customers and tries to unpack legal problems from the customer's point of view. It works to understand their needs, their experience using a product, and their preference for different solutions that can address their needs. In one such conversation, a customer revealed to representatives of LegalZoom that she prefers the company's online services because other lawyers discriminated against her because of the

colour of her skin. The online services offered by LegalZoom protect her from racial or gender biases that individual lawyers may carry (Ibid).

That being said, what is still missing is an evidence-based approach to introducing interventions that consistently deliver the justice outcomes that people want. The products and services that LegalZoom has introduced are user-centred and effective in resolving people's problems. However, they are not based on rigorous evidence which demonstrates the effectiveness of these interventions at delivering the outcomes that people want.

How and to what extent has LegalZoom used outcome-based monitoring to continuously improve these interventions and replace interventions that have proven ineffective?

On the basis of data collected for this case study, it appears that LegalZoom undertakes user-testing to improve or replace a product or service. LegalZoom interacts with 5-15 customers on a weekly basis. When introducing a new product or service, the company designs and tests three variations each and tests them on customers to identify which one they prefer. It then iterates the design of the service or product based on the customers' feedback. Thereafter, it introduces the revised product or service among customers, requests their feedback, and again reworks its design based on the feedback they receive. This is done 4-5 times, by which time the product or service is free from most inefficiencies (Ibid).

Although user-testing is an effective way of designing products, systematically monitoring outcomes that people receive can inform the company about the user's end to end journey of using its products and services while trying to resolve a legal problem. This information can add value to LegalZoom's understanding of the outcomes people want and enable the company to tailor its products and services to better fit the needs of people.

How and to what extent has LegalZoom scaled their people-centred service delivery model to deliver justice outcomes for a larger target population?

Marketing and branding played a critical role in scaling the services that LegalZoom provides.
– Representative of LegalZoom (C.Rampenthal and J.Peters, personal communication, October 1, 2020)

Founded in 1999, LegalZoom expanded quickly between 2000 and 2003, thanks to the penetration of the internet in all corners of the US. Although initially the company was not widely known, LegalZoom leveraged the platform provided by the newly emerging internet to advertise itself. This gave LegalZoom a competitive advantage because at that time, most other legal firms did not indulge in online marketing thus allowing the company to market itself at a competitive price across all 50 states (Ibid). It helped the company increase its visibility and create a national customer base.

Other key factors that helped LegalZoom in scaling its services were its customer focus, problem-solving orientation, and innovation mindset. As one interviewee said,

Many times, innovators are carried away by the strengths of their innovation, that they forget to further innovate. Afterall, the innovator is trying to resolve problems. By limiting the innovation to a certain set of problems, the innovation limits its own growth. Instead, if the innovator adopts an attitude where he or she is looking to resolve new and more problems, it automatically broadens the scope of the innovation. By continuing to address problems, the innovation boosts its own effectiveness and ability to reach out to more people than before (Ibid).

This zeal to solve problems is evident in the company's evolution. It went from offering DIY legal forms to providing services of lawyers in combination with legal documentation at a competitive price. Consequently, LegalZoom could reach out to people who had previously shied away from using standalone DIY forms and diversify its clientele.

Coming to the question of to what extent LegalZoom has scaled its services, as mentioned before, so far LegalZoom has provided services to over 4 million customers and filed 250,000 trademarks (Chowdhury 2017). The company operates in all 50 states of the USA. LegalZoom estimates that every 3 minutes, a customer sets up a LLC and every 4 minutes, a last will is created using the company's documentation service. One in five LCCs in California and nearly one in six non-profits are launched with LegalZoom. Customers have completed over 550,000 consultations with LegalZoom plan attorneys (C. Rampenthal and J. Peters, personal communication, October 21, 2020).

How and to what extent has LegalZoom funded their service delivery model in a sustainable way?

One of LegalZoom's main lessons in having a sustainable financial strategy is to have a for profit business model, even if the innovation is working on a social cause. The reason for this being for profit organisations often lack the organisational structure and funding that is required to scale operations. The funding constraint further limits their ability to hire and recruit talented persons.

Secondly, LegalZoom evolved from being a company that offers legal documents for purchasing on an item-by-item basis into one that offers legal services for a subscription plan. While selling documents related to will, trademarks, LCCs to customers, the company was already making profits. It is only when the company started providing legal plans that it switched to a subscription based model.

The company chose a subscription based model because typically, prepaid legal plans are offered for a subscription. In legal services, where acquisition cost is high, the subscription model helps companies that provide transactional legal services and have a higher volume of customers at a lower cost. It gives them more room to work with the acquisition costs.

Apart from subscriptions from users, LegalZoom draws financial resources from venture capitalists and private equity funding. Although the subscription model is a profitable financial strategy, the company relies on venture capital and private equity for strategic and growth purposes. Like any other private company, it is likely that the company will have to look for more sustainable sources of funding in the future.

To what extent has LegalZoom leveraged the following sustainable financing strategies?

• Public-private partnerships

• Smart (user) contributions

LegalZoom relied on private equity funding, venture capital and user contributions in the form of subscription fees to sustainably finance its operations. It did not undertake a public-private partnership model or incorporate smart user contributions in its business model.

In the initial years of Legal Zoom, venture capitalists were not willing to invest in the company due to the dotcom bubble burst. Instead, the founders raised funds from friends and family. They raised $333,500 in the first go (Harris n.d.; Cremades 2019). Over a

period of time, the friends and family members of the founders invested around $1 million. Bringing Mr. Shapiro on board early on also helped with the company's fundraising efforts, and his influence brought several investors in. Most of these were very small amounts in comparison to equity raises from professional investors.

Thereafter, the company has relied on private equity funding and venture capitalists. In 2018, the company's valuation boosted upto $2 billion after it received secondary investment from Francisco Partners, GPI Capital, Franklin Templeton Investment Funds, Neuberger Berman Investment Advisors and Institutional Venture Partners (Amore 2018). This chunk of investment is among the largest investments in the history of the legal technology industry (LegalTechNews 2018).

Prior to that, private equity firms such as Permira invested $200 million dollars in the company in 2012. This was around the time when LegalZoom wanted to go public, but instead opted for a private equity investor. Other investors who have a stake in the company are venture capitalist firm Bryant Stibel.

How and to what extent have regulatory and financial systems created/enabled by the government supported LegalZoom and made it possible for this service/activity to scale?

The legal regulatory system in the US- namely lawyers and several state bar associations - created significant barriers for LegalZoom over the years. They accused the company of being engaged in unauthorised practice of law (UPL), on the basis that the state legal ethics rules prohibits anyone but a lawyer to practice law (American Bar Association n.d.).

In a 2010 class action lawsuit, the District Court in Missouri concluded that LegalZoom is engaged in UPL. LegalZoom settled the case by paying compensation of $15,000 to the plaintiffs who were a part of the class action, as well its customers in Missouri. It also made certain undisclosed changes in its business policy (Moxley 2015). In addition to Missouri, LegalZoom faced lawsuits in Ohio, Alabama and Connecticut. The State Bar Associations of Connecticut, Pennsylvania and North Carolina also accused the company of unauthorised practice of law in the past. It was only in South Carolina that the Supreme Court ruled in favour of LegalZoom and unequivocally stated that the company does not engage in unauthorised practice of law (McClure 2016).

In 2012, when LegalZoom was considering going public, the company identified on-going cases and

threat of lawsuits based on unauthorised practice of law as a risk associated with its business (LegalZoom 2012). Although this did not actively prevent LegalZoom from going public, it is clear that the UPL accusations were a matter of concern for the company.

Despite these challenges, LegalZoom's popularity allowed it to continue to operate and expand its services. The company's trajectory of lawsuits and accusations of unauthorised practice of law saw a turning point when the State Bar Association of North Carolina had issued cease and desist letters to LegalZoom on the charge of unauthorised practice of law. Here, LegalZoom fought back by filing a case of promoting monopolistic practices in the field of law against the State Bar Association.

Eventually, LegalZoom and the State Bar Association of North Carolina reached a settlement in 2015 in which the State Bar agreed to support online providers of legal services provided the latter enact regulations to protect the interests of consumers. That's when LegalZoom found the support of other national public institutions. The Antitrust Division of the Department of Justice (DOJ) and Federal Trade Commission (FTC) supported this move and acknowledged the way in which LegalZoom filled a lacuna in the provision of affordable legal services (Moxley 2015). They stated that:

> *Overbroad scope-of-practice and unauthorized-practice-of-law policies can restrict competition between licensed attorneys and non-attorney providers of legal services, increasing the prices consumers must pay for legal services, and reducing consumers' choices.*

> *… Interactive software for generating legal forms may be more cost-effective for some consumers, may exert downward price pressure on licensed lawyer services, and may promote the more efficient and convenient provision of legal services. Such products may also help increase access to legal services by providing consumers additional options for addressing their legal situations (Department of Justice and Federal Trade Commission 2016).*

This was the first time that a state bar association had taken formal action against LegalZoom with regards to UPL. By clearing its name off the UPL allegations, the company was finally able to put the UPL accusations to rest.

After the company reached a settlement with the State Bar Association of North Carolina, the company's then General Counsel released a statement heralding the start of a new pathway to increase access to justice. He says *'The tide is turning. From rear guard actions that try*

to stop LegalZoom to how we can work with technology and companies like LegalZoom to start expanding access to people who need affordable legal services' (Rogers 2015).

While the company encountered obstacles in its home country, it was able to expand its services in others. The United Kingdom adopted a new Legal Services Act in 2007 that created a regulatory structure allowing alternative business structure (ABS) firms. ABS firms have some form of non-lawyer involvement in the ownership and/or management of the firm (McMorrow 2016).

Taking advantage of this opportunity, LegalZoom acquired the ABS licence and has bought a legal firm in the UK with the intention of building a new-age law firm that brings together technology, lawyers and experts from other fields. Since then, LegalZoom has offered online services to business owners, persons interested in selling or buying a home, and individuals interested in making a will. In April 2020 LegalZoom sold its law firm, which is an ABS, to Metamorph Group in the United Kingdom. Although LegalZoom did not operate in the UK for a long time, this example demonstrates that modern legal practices set by regulatory bodies were beneficial to the company in scaling its activities (Rose 2020).

How and to what extent have the outcomes-based, people-centred services delivered by LegalZoom been allowed to become the default procedure?

> *With respect to LegalZoom, the train has left the station.They've got a couple million satisfied customers and it's going to be really hard for anyone to shut them down ,*
> says Deborah Rhode, a legal scholar in the US (Ambrogi 2014). "

LegalZoom fought a long battle in order to be accepted by legal practitioners and institutions. It received recognition by regulatory bodies and federal authorities for providing an essential legal service only in 2016. Prior to that recognition, the company adopted varying strategies on a case by case basis to respond to and overcome legal challenges of unauthorised practice of law.

One, it negotiated settlement deals with relevant state authorities in which it made certain modifications to the way it operates. In another case, it sued the State Bar Association of North Carolina for protecting lawyers' monopolies that hurt the interests of consumers. Three, it countered the arguments made by the state authorities and continued to operate with no legal repercussions. LegalZoom was able to do this

because by then, its client-base had expanded and its services were being used by millions of Americans. This prevented many state legislatures from taking formal action against the company (Barton 2015).

When LegalZoom was challenged in South Carolina, the Supreme Court of the state found the company not guilty of UPL (McClure 2016). In Ohio, the Supreme Court refrained from arriving at a conclusion and deferred its decision. In Alabama, the plaintiff himself dismissed the lawsuit (GlobalNewswire 2011). The Connecticut Unauthorised Practice of Law Committee and the Pennsylvania Bar Association Unauthorised Practice of Law Committee considered LegalZoom's legal services in violation of UPL, but did not take further action to penalise the company (McClure 2016).

In the state of Missouri, the court concluded that LegalZoom is engaged in UPL but allowed the company to function if it made certain modifications. Similarly, in the state of Washington, LegalZoom was required to arrive at a settlement with Attorney General Rob McKenna in 2010 (Beahm 2010). The settlement included disclaimers that LegalZoom should provide to protect the interests of consumers.

Likewise, the Supreme Court of North Carolina permitted LegalZoom to operate subject to certain conditions needed to protect the interests of consumers. The two parties reached an agreement after clashing for a long period of time. An important factor that prompted the State Bar Association of North Carolina to reassess its order that LegalZoom cease operations was LegalZoom's lawsuit accusing the North Carolina State Bar of violating antitrust laws, protecting monopoly of lawyers and stifling competition (Brown 2016).

This agreement set a precedent not observed before by LegalZoom or any other online legal service provider. The State Bar also agreed to review the definition of UPL to accommodate online legal service providers like LegalZoom, discouraging other UPL lawsuits against LegalZoom in the future (Rogers 2015). Thus, this agreement signalled the end of LegalZoom's UPL woes and paved the way for other similar online legal service providers to function without the threat of allegations of UPL.

Along with LegalZoom, there exist several other online service providers such as Rocket Lawyer, Avodox, Patentbot, Incfile and UpCounsel. These service providers coexist with traditional legal service providers such as law firms. Therefore, even as the use of online legal services has become widespread, it cannot be said that these services have become the default procedure.

How and to what extent has LegalZoom stimulated (or benefitted from) investment into justice research and development?

Evidence suggests that LegalZoom has not directly benefited from investment into justice research and development in the USA.

How and to what extent have justice sector leaders' skills and collaborations enabled/ hindered LegalZoom to increase access to justice by delivering the outcomes people need at scale?

LegalZoom has reaped the benefits of working with justice workers in both direct and indirect ways. The company learnt to look at justice problems with a new perspective and was inspired to do new projects. Justice leaders who were advisors to the company helped it in navigating the regulatory landscape in the USA and UK (C. Rampenthal and J. Peters, personal communication, January 20, 2021). Given that LegalZoom has faced multiple challenges with respect to accusations of unauthorised practice of law, advice from justice leaders on how to manoeuvre the regulatory landscape is likely to have helped the company in avoiding further complications with respect to the legal identity and functioning of the company in the USA.

As for the UK, it is likely that the advice from justice leaders helped the company in expanding its operations internationally (from being a company that works solely in the USA, to moving to the UK) for the first time. Both ways, it enables the company to work smoothly and in providing its services to people in different geographies and thereby deliver the outcomes that people need at scale.

Literature indicates that justice leaders within public institutions in the USA have also helped LegalZoom. During the legal battle between the State Bar Association of North Carolina and LegalZoom on the issue of unauthorised practice of law, the then President of the State Bar Association of North Carolina Ronald Gibson, and his predecessor Ronald G. Baker Sr., were instrumental in chalking out a settlement between the two parties (Rogers 2015).

This settlement not only allowed LegalZoom to operate without any obstacles in the state of North Carolina, but it was also the first time that a regulatory institution had deemed the services provided by the company as not falling under the umbrella of unauthorised practice of law. The company has faced allegations of UPL several times, this virtually cleared the company's name in the eyes of regulatory institutions thus enabling it to function with fewer obstacles than before in the USA. Being able to operate seamlessly in a given geography again allows the company to continue in scaling and thereby delivering outcomes that people need at scale.

How and to what extent has LegalZoom contributed to/benefited from new high-level strategies or pathways towards people-centred justice in the US?

LegalZoom is cautious when participating in the formulation of high-level strategies towards people-centred justice. A significant portion of people-centred justice entails delivering services for free to those in our systems that need it the most. Many entities, including non-profit companies and NGOs have been working to increase access to justice for years - and have made strides in doing so. Being a profit-making company, LegalZoom is aware that its motives may be questioned, which in turn could hurt or pull focus from the movement of innovating the justice system. So when participating in high-level strategies, LegalZoom makes sure to focus on the end goal of innovating to improve access. That being said, LegalZoom, along with many other stakeholders in the legal system, has interacted with the Supreme Court of Arizona,

Washington, Illinois and Florida about reforms required to increase access to justice for the people (C. Rampenthal and J. Peters, personal communication, October 21, 2020).

One interviewee highlighted a paradox in the legal profession:

> *We want to be enablers and facilitators. We don't want to be drivers. The drivers need to come from the states. They need to come from the regulators, they need to come from educators and academia because their motives are not looked at suspiciously (since they are not for profit). But we all know that the only way these work, as true solutions, is to show that there is profit in them. Not for profits usually lack the organisational structure and funding required to scale operations. Besides, a lot of justice issues simply are not attractive to private equity and venture capital. Therefore the private sector plays an important role in bridging the justice gap (Ibid).*

LegalZoom may have been wary of actively contributing to high level strategies to enable people-centred justice, but it unwittingly brought about changes in the way online legal service providers are perceived by regulatory bodies such as state bar associations.

In 2015, while settling the dispute with the North Carolina State Bar Association, LegalZoom and the State Bar Association agreed to support legislation that gave interactive legal service providers the green light to function legally, subject to the condition that they follow the terms of the settlement agreement that LegalZoom and the State Bar Association crafted. The State Bar Association also gave its word that it would lend support to legislation that would bring clarity to the definition of 'unauthorised practice of law', which as of now is vague and was used to challenge LegalZoom's legality. This agreement is a step in the direction of expanding the capacity of non-traditional actors to provide legal services and thereby loosen the monopoly of lawyers over the practice of law (Carter 2015).

This agreement took the form of the 'An Act to Further Define the Term 'Practice Law', passed by the General Assembly of North Carolina in 2015. This Act exempts interactive legal service providers from the definition of practice of law and includes other terms of agreement that LegalZoom and State Bar had decided upon (Justia US Law n.d.).

To what extent has LegalZoom contributed to/ played a role in a broader paradigm shift towards people-centred justice?

LegalZoom is often characterised as a 'disruptive innovation' - or an innovation that brought about a paradigmatic shift (Cohen 2014). Time and again, the company has introduced cutting edge business models that have had success in the commercial market and simultaneously made legal services affordable than before. It began its business at the low-cost, high-volume end of the market and eventually moved up the ladder to provide high-end services that require the specialised and technical skills of lawyers (Barton 2015). Both times, it refashioned the way legal services are provided.

Not the first provider of online legal forms, it certainly offered the most sophisticated and efficient legal documentation (Schindler 2012).

With its prepaid legal plan that offers unlimited 30 minute consultations from lawyers on new personal and business matters for a fee starting from 10 dollars a month, LegalZoom entered into the business of offering personalised services of lawyers. People who previously could not afford the hourly rates of lawyers, can now obtain legal services from LegalZoom's pre-vetted network of lawyers at an affordable price. This new product of the company dramatically alters people's access to justice.

People can decide the degree of lawyer involvement, starting from brief online interactions with lawyers to long-term engagements. This upends the way the legal services have previously been delivered by shifting the focus away from a lawyer-oriented business model to consumer-oriented business model. Zooming out to a larger landscape of legal system, the company has created a 'template for how, when, and for what service level lawyers are required for different tasks and functions' (Cohen 2014). It commodifies services of lawyers in a way never seen before - markets will now determine 'who and what is the appropriate resource to deploy for a specific task, matter, or portfolio based upon its value to the client?' (C.Rampenthal and J.Peters, personal communication, October 1, 2020).

Moreover, in the discourse and practice of the legal profession in the USA, LegalZoom demonstrated the potential of online legal service providers to provide efficient and reliable legal services thus paving the way for other online service providers. Taking inspiration from LegalZoom, traditional legal firms are also trying to take advantage of the company's model of employing non-lawyers to help customers in preparing legal documents. Although such a change in regulations can make people susceptible to incompetent advice from unqualified or under qualified professionals, if these non-lawyer service providers are also regulated, it will help law firms to cut costs, increase efficiency and provide cheaper services to customers (Habte 2017). Thus not only is LegalZoom influencing the role of online legal service providers, it is also stimulating changes in the practice of law by traditional legal service providers, for the benefit of the people.

References

Ambrogi, R. (2014). 'Latest legal victory has LegalZoom poised for growth', ABAJOURNAL

American Bar Association (n.d.). Rule 5.5 'Unauthorised Practice of Law'

Amore, S. 2018. LegalZoom valued at $2 billion following investment. Los Angeles Business Journal.

Barton, B (2015). Lessons from the rise of LegalZoom, Bloomberg Law. URL: https://news.bloomberglaw.com/business-and-practice/lessons-from-the-rise-of-legalzoom

Beahm, J. (2010). WA State AG: 'DIY Legal Forms Aren't a Substitute for an Attorney (blog). FindLaw. com

Brown, C. (2016). LegalZoom: Closing the justice gap or unauthorised practice of law. North Carolina Journal of Law and Technology, 17(5).

Carter, T. (2015). LegalZoom resolves $10.5M anti-trust suit against North Carolina State Bar. ABA Journal.

Chowdhury, A (2017). How LegalZoom provides businesses with affordable legal assistance. Forbes

Ciulla, M. (2018). Mapping LegalZoom's disruptive innovation. The Journal of Business, Entrepreneurship and the Law, 11(1).

Cohen, M. (2014). Legal Innovation is not an oxymoron — its farther along than you think. Forbes.

Department of Justice & Federal Trade Commission, Comment Letter on North Carolina HB 436 at 10 (June 10, 2016)

Email correspondence with Chas Rampenthal and James Peters of LegalZoom, dated January 20, 2021

GlobalNewswire. 2011. 'Alabama Lawsuit Against LegalZoom Dismissed', NBC news.

Habte, S., (2017) IP firm files $60M Antitrust Suit v/s LegalZoom, State Bars. Bloomberg Law.

Harris (n.d) & Cremades, A.2019. This entrepreneur built a 2 billion dollar business with 1000 employees by disrupting the legal industry. Forbes.

Harris, J. (n.d) Brian Liu. From Scratch: A show about the entrepreneurial life.

Interview with Chas Rampenthal and James Peters, October 1, 2020

Interview with Chas Rampenthal and James Peters, October 21, 2021.

Judith A. McMorrow. (2016) "UK Alternative Business Structures for Legal Practice: Emerging Models and Lessons for the US." Georgetown Journal of International Law 47(2), 665-711.

Justia US Law (n.d.). North Carolina General Statutes § 84-2.2 (2016)

LegalTechNews. 2018. 'LegalZoom announces 500 million investment, among largest in legal tech history', Legal Zoom

LegalZoom, (n.d.-a) About Us. As accessed on November 19, 2020

LegalZoom, (n.d.-b). Piece of mind Review. Access on December 6, 2020.

LegalZoom, (n.d.-c) Trademark registration. Accessed on January 29, 2021

LegalZoom, (n.d.-d). Attorneys. Accessed on January 29, 2021.

LegalZoom. (2012). United States Securities and Exchange Commission Amendment No.5 to form S-1. Washington, D.C.

McClure, E. (2017). Legalzoom and online legal service providers: Is the development and sale of interactive questionnaires that generate legal documents the unauthorized practice of law. Kentucky Law Journal, 105(3), 563-586.

Minkoff, R. 2019. New York takes online document. New York State Bar Association, Journal, September/October 2019.

Moxley, L. (2015). Zooming Past the Monopoly: A Consumer Rights Approach to Reforming the Lawyer's Monopoly and Improving Access to Justice. Harvard. Law. & Policy Review, 9.

Rogers, J. 2015, 'Settlement allows LegalZoom to offer legal services in N.C'. LegalZoom.

Rose, N. (2020). Exclusive:US legal giant sells its ABS to consolidator. Legalfutures.

Schindler, L (2012). Skirting the ethical line: The quandary of online legal forms. 16 Chap L.Rev.184.

Shipman, C (2019). Unauthorized Practice of Law Claims against LegalZoom-Who Do These Lawsuits Protect, and Is the Rule Outdated. Geo. J. Legal Ethics, 32, 939.

CASE STUDY

CRIMESYNC

CrimeSync exemplifies the individual grit and determination in attempting to change the domain of justice delivery. CrimeSync is the brainchild of Sorieba Daffae, a young lawyer and changemaker navigating the complexities of criminal justice institutions in his country Sierra Leone. The software platform brings different agencies together under one roof as they work on criminal justice collectively. CrimeSync is the winner of HiiL's Annual Innovating Justice Challenge 2019 (Justice Hub 2019).

The data and facts presented in this case study were collected during conversations between HiiL and Soreiba on October 1st and 15th 2020, respectively. The text has been condensed and edited for clarity.

How and to what extent has CrimeSync measured and mapped the most prevalent justice problems as the first step towards achieving people-centred justice?

Sorieba Daffae wanted to combine his background in technology and law to work towards solving societal problems, especially access to justice and the rising rate of crime throughout Sierra Leone.

The police in Sierra Leone release nationwide crime statistics every year. Soreiba analysed data of the past five years to identify patterns. He also referred to reports such as the Afrobarometer and one of the UNODC's Analysis on Crime. HiiL provided support in fine tuning classification of crimes. HiiL's Justice and Needs Satisfaction survey conducted in multiple countries in Africa showed crime as one of the most prevalent justice problems experienced by people. This helped to confirm significant issues in the criminal justice system and how it responds to crime.

For Sorieba, the question that emerged from the data involved institutional capacity. Is the system simply not equipped to deal with a large volume of cases or is the system insufficiently dealing with the cases?

He started to get acquainted with the system itself first by speaking to professionals within the justice system to understand the institutional structure. Sorieba visited prisoners and interacted with officers to know the inner workings of the prisons and the courts. These conversations led to a detailed understanding of the system and pointed to Soreiba that, in fact, the underperforming criminal justice system can attend to 50% more volume. The challenge to be solved: help make the system more efficient.

He saw that there was no repository that recorded details of the case. The officer investigating it would make it difficult for victims, complainants and even the police officers to keep a track of the status of cases.

After studying the system thoroughly for 6 months, he identified the blockages. The available data showed that the number of pre trials was roughly always around 52%. More than half of the inmates in prisons were stuck without adequate legal recourse.

In many occasions, the inmates were already in prisons for more time than the highest duration of punishment possible under the crime in which they were booked. This troubled him greatly and decided to do something about this problem.

How and to what extent has CrimeSync researched and identified the outcomes that people expect from justice processes in the target population?

Sorieba analysed what different functionaries of the criminal justice system such as prison officers, police, judges to identify objectives wanted to achieve. The insights helped him to outline the activities and processes that would need streamlining if the objectives had to be achieved. Accordingly, he designed a software called CrimeSync, a platform to record and monitor data in the prison, which would outline the number of inmates, the alleged crime, time spent in the jail and a number of other details.

He then conducted step-by-step training with the prison officers for seamless execution of the processes. For instance, if a prisoner officer's objective is to allow seamless identification of inmates that need to go to court the next morning, Sorieba would ask the officer the steps that the prisoner would have to go through. In this way, he gave control to the justice functionaries in the design of CrimeSync. It became a participatory process, in which functionaris of the criminal justice system were actively involved. To cultivate a sense of ownership of CrimeSync among the justice workers, Sorieba would say that 'This is your initiative. Technology is just the facilitator in this process, the rest is up to you.'

How and to what extent has CrimeSync determined whether existing justice processes deliver these outcomes and allow people in the target population to move on?

Before designing the product, Sorieba referred to crime statistics published annually by the police in Sierra Leone. He conducted analysis using data that dated back upto 5 years to find the gaps in the justice system in Sierra Leone.

To assess whether statistics align with experiences of persons in the justice system, he conducted visits to the prisons in the country. Over there, he interacted with prison officers and unearthed tragic stories of inmates who were imprisoned in the jail without even a fair trial and had ultimately served their prison sentence as a result of the delay in the trial process. The data, coupled with stories that emerged from the prison system, helped Sorieba determine that existing justice processes were falling short of people's expectations.

How and to what extent has CrimeSync created a system for monitoring whether new, people-centred justice processes deliver these outcomes and allow people in the target population to move on?

To measure its impact on the system, CrimeSync examines if the number of cases closed and the number of under-trial prisoners reduced over time.

Unfortunately, data on the time taken to resolve a case prior to implementation of CrimeSync is not available. So there is no benchmark against which it can measure the improvement brought about in the time required to resolve a case. CrimeSync conducted preliminary research to measure the time taken to clear a case in a paper-based system but it was a rough study that did not give clear results.

However, Crimsync collects feedback from its users (the prison authorities in this case) to understand if it improved the efficiency and quality of life of the functionaries of the criminal justice system.

How and to what extent has CrimeSync introduced interventions that are evidence-based and consistently deliver the justice outcomes that people in the target population look for?

Consider:

• Causes/underlying problems

• Combinations of interventions

According to Sorieba, CrimeSync has helped reduce the prison population in Sierra Leone by 30%. But it's not just about numbers but it's about personal stories of individuals who were lost in the system. CrimeSync identified people who were in prisons for petty crimes or trivial matters. For instance, a Kenyan woman was mistakenly imprisoned. She was in prison for 3 months. The Crimsync team was conducting checks with some partners who are engaged in advocacy, that's when they discovered her. When the authorities realised this mistake, her case was taken over immediately and she was released. One of the imprisoned boys lied to the police about his age, told them he was 16/18, but really he was 14. The platform has been able to bring data that was not available before, in front of the authorities and many people have benefited from this.

With the help of the CrimeSync software, the prison management system categorizes criminals by doing an assessment, called as violence risk assessment. It is a scientific tool that's a part of CrimeSync. It measures the profile of the prisoners so that all petty criminals are not put together with hard core criminals.

How and to what extent has CrimeSync used outcome-based monitoring to continuously improve these interventions and replace interventions that have proven ineffective?

To measure its impact on the system, the software examines if the number of cases closed and number of prisoners under-trial has reduced. Unfortunately, data on the time taken to resolve a case prior to implementation of the CrimeSync software is not available. So there is no benchmark against which it can measure the improvement brought about in the time required to resolve a case. CrimeSync conducted preliminary research to measure the time taken to clear a case in a paper-based system but

it was a rough study that did not give clear results. However, the software collects feedback from its users to understand if CrimeSync improved the efficiency and quality of life of the functionaries of the criminal justice system.

How and to what extent has CrimeSync scaled their people-centred service delivery model to deliver justice outcomes for a larger target population?

Sorieba and his team built Enterprise Architecture deliverables. They wrote 4 sets of documents, the first one is about business architecture. This document profiles the roles and responsibilities of all stakeholders: the police constable, superintendent, the judge, chief justice, registrar of office. Each of these documents is 165 pages. It's a granular document. It details every process for instance evidence management and how the minister of justice receives information from police. Sorieba documented these steps with the help of judges. It was a year-long process. These documents provide an overview of the criminal justice system to people who are not familiar with it. Then he replicated what he piloted. It worked seamlessly. It's been appraised by so many people across the world, including Interpol that they are working the software now. It's a locally-made product of international standards.

CrimeSync is trying to get the intellectual property rights but they are covered by confidentiality agreements with partners and local registrations. So far, they have filed for 28 patents.

CrimeSync has been piloted in two prisons: Pademba prison and a female correctional centre in Freetown.

There are only two separate detention facilities for women in Sierra Leone, the largest of which is the Freetown female correction centre. It houses 90 women and their children (1). These prisons deal with the biggest offenders in Sierra Leone (Mahtani and O'Gorman 2018). Both of them account for 51% of the prison population in the country. It took Sorieba a year to implement CrimeSync in the 2nd prison, after finishing with the first. As of now, the software is used in all 21 prisons across the country.

To ensure that justice workers outside of the prison system also can benefit from the services it provides, CrimeSync is conducting pilots with paralegals in various communities. Through its recently launched app, Paralegals can use CrimeSync to manage cases: record cases, survivors.

One of the organisations uses this platform to profile the victim: name, contact information, medical

information, hearing details if they are supposed to go to court, take pictures of evidence and store them. They are deploying it for various organisations. And they call it Crimesync-mini. This app is being funded by the Open Society Foundation.

Sorieba has given a demo of the product to 8 French speaking countries in the African Union. Right now, the team of CrimeSync is also discussing how to expand its services to other legal jurisdictions such as common law and civil law. Its making efforts to expand geographically as well as sectorally.

How and to what extent has CrimeSync funded their service delivery model in a sustainable way?

Sorieba developed the software with the intention of selling it to clients for free and then charging them for value added services and other featured services on the platform.

The Government of Sierra Leone invested in the prototype of Crimesync. There are two sources of revenue. First is the government. Currently, Sorieba and his team are trying for the government to pay for the services that platform provides.

The organisation has also received funding from international stakeholders such as UNDP, DFID, Open Society Foundation, HiiL and EU. The international actors are not a stable source of income. At times, they bring in a lot of money, at times, none.

Sorieba engaged with Google in Ghana. Google is an entrusted authority with what they can do with AI in predictive analysis, where the next crime will take place, who the criminals are. They want to inject some more AI into it so we are trying to work something out with them.

The team is trying to design services for private practitioners to diversify its source of income, through the parent organisation: Fix Solutions.

To what extent has CrimeSync leveraged the following sustainable financing strategies?

• Public-private partnerships

• Smart (user) contributions

The government of Sierra Leone pays for some of the services. But the organisation is facing challenges in terms of being sustainably financed. "The justice space is not commercialised. Sustainable funding is a challenge. How to get the government to fund these

initiatives, if someone can help us in creating a model on that, it would be great. Medical sector, education sector have evolved in a way that private players have become important stakeholders in the field. But justice is stuck."

Fix Solution, the parent organisation, is a for profit company. It is a software development company that works across sectors. It handles issues other than crime. It has developed a travel portal, tools needed to resolve the Covid-19 crisis among other projects. The initiative is turning out to be lucrative. This for profit company helps CrimeSync in staying afloat, especially by paying salaries of staff members.

Sadly for CrimeSync, many organisations, people and government officials like the idea. They say it is very innovative and much needed but they are not willing to pay for it.

CrimeSync gets revenue through maintenance from all the institutions it servers and some organisations subsidizing the platform. It also receives donor funding but the main source of funds is mostly the revenue generated from the system itself.

It now plans on extending its services to private law firms as they need help in managing their basic cases and setting internal processes.

How and to what extent have regulatory and financial systems created/enabled by the government supported CrimeSync and made it possible for this service/activity to scale?

Direct quote from Sorieba:

> *Someone asked me "In 5 years time, what can go wrong that will derail your innovation?" My answer would be that I don't want CrimeSync to be a surveillance tool. This is the biggest fear that I have. Such a tool can be misused in many ways and we need to find a way of managing this problem.*

How open is the government to an evidence-based approach?

Direct quote from Sorieba

> *The government is not averse to everything, it's about how you convey a message to them. If you say that the police are wasting resources, then such a statement carries a connotation. The empathy with which you convey messages to those in the system matters. We have to walk in the shoes of the police inspector. The people who are in charge of the system are not averse to change, they are not bad people. The way I present matters. I have to have a dialogue with them to give feedback. It is important to involve those in the system in the process of change and let them be the owner of the initiative. When they say CrimeSync is Sorieba's initiative, I say no it is yours.*

How and to what extent have the outcomes-based, people-centred services delivered by CrimeSync been allowed to become the default procedure?

CrimeSync software is now being included in the training programmes offered to the upcoming batches of new police recruits. The judges are also required to use it. The software is more or less embedded in the system to a significant extent.

How and to what extent has CrimeSync stimulated (or benefitted from) investment into justice research and development?

The innovation has *stimulated* the following research and policy action:

CrimeSync has proven to be catalytic in increasing usage of data among policy makers in the space of the criminal justice system in Sierra Leone. The software creates a Dashboard in consultation with stakeholders such as the Chief Justice, Vice President incharge of national security, ministers, head of police, and national security. The indicators on the Dashboard are developed in consultation with what the stakeholders would like to see. The Dashboard acts as a repository of statistics on crime and justice and features detailed data on the profile of the criminals as well as the victims, how to financially optimise the functioning of prisons by identifying prisoners who are adding burden on the infrastructure of the prisons, and a few other themes.

Data is also collected on the overall system as well. For example, when it comes to the economy of justice, Sierra Leone spends 8.9 million dollars in major prisons across the country. They spend this money to guard, feed and house the prisoners. Some of these prisoners have committed traffic offences that are worth around 200 dollars, but the expenditure of keeping those prisoners is around 2000 dollars. Data such as this prompts action. It also makes it possible to analyse prisoners from the parameters of gender, economic and social or for example, educational backgrounds in understanding the type of crime committed.

The innovation has *benefitted* from the following research and policy action:

Benefitted from: 1) Interpol is particularly interested in fingerprint technology developed by Sorieba and his team. Infact, CrimeSync is the first private company to integrate with Interpol's I-24/7 system. (I-24/7 is the global police communications system used by Interpol. It facilitates cross border policing efforts by allowing countries to contact each other, and the General Secretariat via a secure network. It also allows them to

access Interpol's police databases and services in real-time, from both central and remote locations).

2) CrimeSync has created a national situation room for the West African Police Information System funded by the Interpol Global and Interpol European Union. That situation room provides an insight into criminal happenings, criminal offences across the country in one glance. It will show everything happening in all prisons of the country.

3) Sorieba and his team are trying to engage with Google in Ghana. Google is an entrusted authority with what they can do with AI in predictive analysis, where the next crime will take place, who are the criminals.

How and to what extent have justice sector leaders' skills and collaborations enabled/ hindered CrimeSync to increase access to justice by delivering the outcomes people need at scale?

CrimeSync has legal ambassadors such as lawyers, judges, police officers who promote the use of technology and citizen's engagement in the legal field. The organisation is trying to bring private practitioners on board and get them to lobby for CrimeSync.

How and to what extent has CrimeSync contributed to/benefited from new high-level strategies or pathways towards people-centred justice in Sierra Leone?

Benefited from: CrimeSync has proved to be catalytic in increasing usage of data among policy makers. It is creating a Dashboard in consultation with stakeholders such as the Chief Justice and other justice leaders as well as policy makers. These stakeholders suggested indicators that they would like to see on the Dashboard. The Dashboard acts as a repository of statistics on crime and justice in Sierra Leone. It features data on gendered crime, how to financially optimise the functioning of prisons by identifying prisoners who are adding burden on the infrastructure of the prisons, and a few other themes.

Contributed to: According to Sorieba, 1) The police have now developed a code of practice to use the CrimeSync software that is embedded in their internal operations manual.

2) CrimeSync has acted as a catalyst in the formulation of a law on data privacy in Sierra Leone. Sorieba has actively participated in the formulation of this law.

3) The data on prisoners collected by CrimeSync indicates regions in which small business owners are

going bankrupt and facing legal repercussions such as imprisonment due to the bankruptcy. Sorieba shared this data with the Finance Ministry of Sierra Leone to encourage them to make cash transfers to the small business owners. Consequently, the Finance Ministry is now addressing the needs of such people whose legal problems were symptomatic of larger socio-economic problems.

To what extent has CrimeSync contributed to/ played a role in a broader paradigm shift towards people-centred justice?

Data collected by CrimeSync has highlighted larger socio-economic problems that plague Sierra Leone. Imprisonment of women for non-criminal matters is one such problem. The collected data by the software shows that women in Sierra Leone are often arrested for being unable to repay debt and other such reasons where they are unable to meet their financial obligations. They are booked under the offence of 'fraudulent conversion.' CrimeSync identified one region in the country that accounts for 39% of fraudulent conversion cases. Over 85% of them are women. Sorieba is taking up the case of these women with the Finance Ministry. He proposed the solution that there is a need for cash transfers among communities that will prevent women from falling in the debt-imprisonment trap. As a result, the Ministry of Finance is taking cash transfers into consideration in the financial plan.

How has COVID-19 affected CrimeSync?

The attention of the justice sector institutions in Sierra Leone has been redirected to protecting the public health emergency protocols and or legislations. There is reduced reporting of crimes as access to the police during this pandemic appears to be limited. The use of the fingerprint component of Crimesync in prisons and police has been suspended to avoid contact between subjects. The organisation had plans to expand to other locations in the country but they are now stalled due to the pandemic.

How has CrimeSync adapted to the pandemic?

A single case was recently detected in the biggest detention facility (with more than 1,500 inmates). The CrimSync team has had to work from home, which has brought on additional challenges of aligning processes and maintaining productivity. In a move to adapt to the new rules and regulations announced to contain the spread of Covid-19, the organisation is enhancing its mobile products. SMS campaigns with a partner (OSIWA) on sexual and gender based violence to targeted communities have also been organised. CrimeSync is also rolling out value added service products to support citizens' reporting of crimes.

The majority of female prisoners are arrested for minor, petty offences such as theft, loitering, disorderly behaviour or debt. These laws are vague, poorly defined and disproportionately affect the poor. Many women spend excessive time in prison waiting for their trial to be heard or serving sentences simply because they cannot afford to pay the alternative fine (Mahtani and O'Gorman 2018).

References

Justice Hub (2019). How to fix Sierra Leone's criminal justice system through tech innovation.

Mahtani, S. and O'Gormon (2018). Inside Sierra Leone's maximum security prison for women. Aljazeera.

KEY TAKEAWAYS

THE JUSTICE DIALOGUE

Introduction

The HiiL virtual Justice Dialogue took place on Wednesday, 20th April 2022 from 09:00hrs-13:00hrs CEST.

High-level participants from Nigeria, Kenya, Uganda, the Netherlands and USA participated in this Dialogue, which served as a basis for HiiL's plenary "People-centred justice: how to make it happen systematically?" taking place on 1st June at the World Justice Forum. All the participants have significant expertise on issues at the forefront of applying people-centred justice approaches. The names and designations of the participants are shared in the table at the end of this report.

HiiL's policy brief "Delivering people-centred justice: Rigorously" served as a basis for this Dialogue. The brief focuses on developing an integrated approach on people-centred justice (PCJ) and details five main investments of people-centred justice programming that we see emerging: data, evidence-based practice, game changing justice services, enabling environment as well as engagement and accountability.

The Justice Dialogue built on this premise and created an interactive conversation about implementing and scaling the people-centred approach in the justice space. In particular, it focused on the following questions for the participants to share their thoughts and experiences:

FOCUS QUESTIONS:

(?) *Why is it important to invest in systematically improving dispute resolution systems in a people-centred way?*

(?) *What are the enablers and impediments for the changemaking justice practitioners to make people-centred justice happen?*

(?) *How can we ensure the broad uptake of innovations in the justice space? What are some of the best practices?*

The Dialogue started with an opening speech by Dr Sam Muller, CEO and HiiL and a presentation on HiiL's approach to people-centred justice by Prof (Dr) Maurits Barendretch. This presentation can be accessed here.

The Dialogue aimed to get inputs of the participants on the four main hypotheses - which serve as the enablers and impediments to people-centred justice:

ENABLERS AND IMPEDIMENTS TO PEOPLE-CENTRED JUSTICE:

➔ Time and resources to develop a programme need to be available

➔ Learning more about the contents of programming is essential

➔ Right incentives must be in place for the change
  ▪ Financial, performance, ethical

➔ And finally, there must be a certain degree of trust and cooperation between independent justice sector organisations

Stakeholders shared their thoughts and experiences on the above questions in small breakout sessions. Later, they shared key ideas from the breakout sessions with the larger group.

Key takeaways from the Dialogue

1. Why is it important to invest in systematically improving dispute resolution systems in a people-centred way?

The following key takeaways emerged during the Dialogue on the above question:

1.1 Current systems need a shake-up: Participants agreed that justice systems need a big shake-up and require a more people-centred approach. One stakeholder shared that currently, in the US justice system, a citizen has to finish 193 tasks to resolve one justice issue. The current structures impede the economic benefits that the justice system brings.

1.2 Focus on people's problems: It is important to invest in people-centred justice because this is how we focus specifically on people's problems and those that are the most pressing justice needs of people. PCJ focuses on the data collected that leads us to align on innovations and how those can address what is needed.

1.3 Boosts investment: Developing PCJ programming gives external investors in the economy the confidence to invest in the system. Investors will not come when conflicts perpetuate. Governments need to invest in a dispute resolution mechanism to ensure that investors are attracted to their countries. Stability is fruitful for economic growth and investments. Conflicts impede investment. Knowing and being able to count on the rules that apply is critical for economic activity. When the government invests in systematic improvement of dispute resolution, it helps with investment and growth of the economy. For example, investors who are interested in purchasing land, may not want to enter into a community where there is no stability and peace. In the case of land disputes, investing in dispute resolution systems helps with social and communal cohesion.

1.4 PCJ helps in preventing disputes: PCJ also helps prevent disputes. It does so by following the approach of the health care system, where it is systematically addressing root causes (in the justice sector).

1.5 Risk of not doing anything is very high: The fear of change among   current stakeholders keeps change from taking place. More public outrage may be needed to bring change. Additionally, when you don't resolve the justice issues, they spill over into others such as assault, crime and so on. At the end of the day, it affects people's ability to live harmoniously and to contribute to society. There is always room for incremental innovation in the justice system. Status quo is harmful to a lot of people - and we must ask ourselves "what are we willing to risk with innovation?"

2. What are the enablers and impediments for the changemaking justice practitioners to make people-centred justice happen?

Most stakeholders validated the four hypotheses and emphasised that the enablers are also impediments. The same also applies to different components of PCJ.

2.1 Data:

- Data, data, data! Data is crucial in that it provides evidence for the ideas or messages that you may want to convey. Data is also about humanising the experience, for instance, taking a minister or parliamentarian along to showcase the justice experience of people.

- Lack of data is problematic and is pervasive. Without data you cannot know if you are making progress or not. Sometimes practitioners wander around in the dark and do not address the main issues with the help of data. When collected it enables practitioners to focus on the right issues.

- We need data on understanding what people need and expect, what the justice system is trying to accomplish and what it can deliver, and what people are expecting.

- Justice providers are helped by the data to decide on how we prioritise issues that are pertinent to the people. It can ensure resources are spent on resolutions and tools that people actually need and directing services towards those goals.

- Data collection has to be integrated in day to day systems. Data makes decision-making more objective. It introduces a layer of objectivity that helps in addressing the problems where data is not included. Part of why it is so difficult to introduce change is because people often do not see the capacity to continuously collect that data.

- In the USA, sometimes data is seen as supplemental to the opinion of lawyers or judges. We need to redefine data and showcase its benefits. Data is hugely important, and we do a lot of work in qualitative data. Some powerful data is the qualitative collective side - the emotions that underline the experience, collateral consequences - which often gets missed in the process.

- Regulatory sandboxes look at the results of innovations. We need data about demands and services. It all needs to come together in a big control room / dashboard. If you don't know the needs you continue with institutional approaches to justice.

2.2 Mindset:

- The mindset of justice practitioners is a very important criterion - as an enabler and as impediment. In a traditional system like that of justice delivery, it is often difficult to move out of current mindsets and embrace new innovations and approaches. Mindset is also an enabler when the leadership is open-minded.

- A judge, for example, focuses on the institutional justice system and sees the people who come before him/her, as if from outside of the system. If you continue to keep that mindset, people will continue to be dissatisfied. Those in the system need to accept and embrace the people-centred justice system. That will allow for an institutional shift from the traditional mindset.

2.3 Trust in Public Systems:

- Trust is a critical factor. While lack of trust is an impediment, a system that fosters trust is a very strong enabler for change. It takes time to create systems inducing trust between different actors and players in the system. This has to be factored in at all levels.

- Creating change goes back to establishing trust among the key stakeholders. Focus on what their needs are and empathising with the actual people who will be using new products/services on offer. This helps the process of scale. Changemakers must take two things seriously: a) build trust, b) understand your audience.

2.4 Incentives:

- Sometimes even the best of the initiatives are not always applied in practice or implemented. How do we solve the problem of having innovation that is then not used? How do we ensure that the innovation we have is implemented? We need the right incentive structure.

- Legal practitioners at times create impediments for change initiatives by encouraging people to resort to the formal justice mechanisms and by it as the only point of redressal. It becomes an issue of self-preservation for them. The economic incentives of legal practitioners then guide how people interact with the system.

- A strong push back from the legal practitioners is a big impediment across countries. The current business model for lawyers prevents change from taking place. If decisions are transferred away from the legal system, then they lose their fees and income.

- Justice innovations find this resistance directly. For example, DIY Law got a strong opposition from the Nigerian Bar in the beginning. They had to work with the Bar. They chose to have conversations about helping people and expanding access and stepping back from the economic question. It was framed in a way where they positioned themselves as delivering justice to people that is affordable and easy to access. They chose not to undermine the legal profession but rather cooperating together to deliver what people need.

- Right incentives can be developed and stakeholders can be mobilised by making service delivery effective. This can be a win-win-win situation for clients, lawyers, and innovations in the justice sector. It would also be an opportunity for lawyers to be more efficient in providing their services. When conversations are framed saying "The change creates an opportunity for lawyers to engage with people", it is a more collaborative approach. However, there are occasional instances where authorities focus more on financial and political aspects of change rather than fulfilling the needs of people.

- Different agencies work in silos. Human rights organisations, governments and other stakeholders lack a coordination mechanism, which is integral to implementing people-centred justice. A central coordinating mechanism is needed to facilitate dialogue, enable access to data and understanding on what works.

- Investing in people-centred justice from the government should not be limited only to finances. A more holistic investment is when people-centred justice is complemented within the existing institutions of justice.

2.5 Technology is a strong enabler for change.

2.6 Making a strong case:

- Making a case for people-centred justice depends on who the case is being made to. The case to be made for a private citizen differs from the one made to a practitioner on the field.

- The case can also be made in the form of outrage. Make the case in every single way, so make it for SMEs, for the vulnerable people, for GDP and economic growth, for issues related to women's safety.

- Bringing different people together is also an important factor - as it is necessary to have a broad understanding and acceptance of people-centred justice from across the spectrum. An ecosystem has to be mobilised.

3. How can we ensure the broad uptake of innovations in the justice space? What are some of the best practices?

3.1 Scaling the innovation landscape:

- We need to appreciate that justice needs vary. After taking this into consideration, there is a need to tailor the innovation to specific justice needs. Formal justice systems might be losing ground but are still very important. There is a need for linkages (informal and formal), to be explored and put in place. Information about justice needs and justice journeys is needed in order to design services that fit these needs. Solutions may also look different in different cases. For example, developing guidelines can be a strong means for reconciliation between the parties.

- Innovation requires sufficient thought and proper planning. For innovation within the public institutions to happen, it needs the reorientation of stakeholders within the government to take on the challenges that come with change. The issues are not just about addressing the financial needs but also perspective and understanding on how a common ground can be created across the board in reframing the issue, or partnering with other stakeholders, including being open to private organisations and their value add.

- A successful intervention sometimes can lead to more people reporting their justice issues to the police or the courts. In terms of report rates, there may be higher numbers but at times different impact matrices may be needed to understand how the system responds to change.

- When there is more awareness and a greater demand to push for better services, it gives suppliers in the private and public sectors an idea of where people and innovators should focus their investments and energies.

- Innovations can be scaled by finding a balance between making an impact vs. something that can become self-sufficient. A better way to scale is via collaboration of projects.

- Services around dispute resolution that are designed around needs provide better solutions. With better functioning services you are preventing other legal problems down the line (such as land problems that can escalate into crime and neighbourhood problems).

3.2 The role of community justice services:

- Community justice systems are for many people the first point of contact. Allowing issues to be resolved on the community level can at times be faster, cheaper and more relevant. It is also important to allow the community to support the resolutions.

- Communities are diverse.So justice needs as well as potential resolutions sought vary. There are also complaints about dealings with the formal system. Connecting formal and informal systems is critical. In Lagos, the informally set up Citizens Mediation Centre is very successful. People can write and ask if they can be helped with their ongoing dispute. The centre will invite the parties and try to negate the issue. This was very successful and over 20,000 resolutions are possible each month.

- Empowering people is very important. People can be made aware that they can resolve disputes by themselves through taking part in the dialogue and understanding their rights. People can be made to understand what services and alternatives are available to them (mediation, certain offices and departments, etc). Disputes can be resolved through community based solutions that are most familiar to the people, their culture and the needs of the given community. This is cheaper, faster, more relevant to the people's lives, fits their cultural context and that translates into more acceptance. Leave the formal system for only the most critical issues.

- What is needed to make people-centred justice work or to enhance accessibility in the rural and local communities (people might know where to go and who to talk to) is informing people about what's available to them and providing easy access to these options. The typical innovator perspective is needed here to understand what is working and what is delivering for people.

- Thinking of community in a different sense also helps. For example, there are now online communities of homeowners. Such examples show that community is not only physical.

- In Uganda, in 2007, the Lord's Resistance Army, a rebel group, and Ugandan army started making efforts to explore avenues for peacemaking and conflict resolution in different communities. The justice sector was mandated to explore new avenues to reach justice in communities. One of the approaches was through the traditional justice mechanisms. But it was also observed that other informal justice actors (NGO, religious institutions, opinion leaders) could contribute to this. Guidelines were needed to streamline this. So the commission has developed guidelines for the use of informal justice systems. These guidelines identified cultural practices that do not violate human rights that are allowed to be performed in reconciliation attempts. Guidelines also helped to inform the decisions made by the various actors and to mediate conflicts.

- The question is: how do we identify the individuals in communities that are needed to promote community justice? We have to be careful in what capacity these individuals contribute. Community should not be defined in a narrow sense. We have to be cautious of the capacity in which we are drawing people in.

3.3 What is needed to make people-centred justice work?

- Access to peace is access to justice. Justice is fundamentally based on peace and security and rule of law.

- It is about creating awareness of fundamental rights. Making the institutions promoting human rights work stronger. Focusing on how we can get them to fulfil their mandate more effectively. How can the courts and judiciary work better? Access to the internet and radio will help in raising awareness and helping people in knowing and exercising one's rights.

- Importance of awareness: In order to sustain people-centred justice you need rights and people who know their rights so that they push the suppliers for better services.

- Involving the right set of stakeholders - a multistakeholder approach - can address half of the problems with the lack of people-centred approach.

- A strong communication approach helps people-centred justice programming.

- People-centred justice also needs newer models of service delivery that can scale and can take the shape of concrete programmes on ground.

3.4 Nurturing and investing in an ecosystem for change:

- The government has a big role to play in enabling the change. Enabling regulations and policies have to be created for change to be sustainable.

- We need a stable environment within the countries to make people-centred justice happen. Security and a peaceful background are paramount to realise people-centred justice.

- Governments can legislate to make change sustainable (for example, by mandating the use of alternative dispute resolution mechanisms before approaching a lawyer).

- We spend a lot of time telling the government how to work with the private sector but the reverse is also true. It's about understanding the environment from both sides.

- Scaling people-centred justice is a cross-sectoral work. The approach is mirrored in SDG16. The notions of triggering the business sector on how their actions impact the justice sector also need to be examined. The newer technologies, such as facial recognition software, create potentially harmful effects which also need dialogue.

Summary

We had a number of hypotheses about what makes people-centred justice happen: time and resources, knowledge, incentives and trust. A big enabler is conversations like these that bring a diverse group of people together to share different perspectives.

THREE HEADLINES

1.

Make the case (if you want to make it work, you have to make the case)

2.

Bring the right stakeholder together (it's change management)

- users (public, communities)

- stakeholders in the system (judges, lawyers)

- stakeholder who can be a justice champion (somebody who is pulling it off)

- the other sectors (that you may need to bring along)

3.

Creating the enabling environment

- the rules and regulations

- changing the risk parameters (risk of change vs risk of doing nothing)

- importance of trust, incentives, outcome indicators

List of the participants

Akingbolahan Adeniran
Partner, Awodi & Co.
Former Attorney General, Ogun State, Nigeria

Paul Kimalu
Director, Planning and Organisational Performance
Judiciary Kenya

Jane Adongo
Senior Sociologist
Uganda Law Reforms Commission

Justice Khobo
Innovative Justice Reform Judge
Kaduna State, Nigeria

Natalie Anne Knowlton
Director, Special Projects
Institute for the Advancement of the American
Legal System (IAALS), USA

Angela Lungati
Executive Director
Ushahidi, Kenya

Maha Jweied
Non-Resident Fellow
Center on International Cooperation, New York
University, USA

Rose Wachuka
Chief of Staff, Office of the Chief Justice of the Republic
of Kenya and President of the Supreme Court of Kenya

Folusho Obienu
Director of Citizens Rights
Ogun State, Nigeria

Chinedu Agu
Secretary of Imo State Bar Association,
Imo State, Nigeria

Gerald Abila
Founder
BarefootLaw, Uganda

Odunoluwa Longe
Co-founder
TLP Advisory, Nigeria/UK

Authors

Prof. Dr. Maurits Barendrecht
Programme Director the Netherlands

Isabella Banks
Justice Sector Advisor

Juan Carlos Botero
Justice Sector Advisor

Kanan Dhru
Justice Innovation Advisor

Manasi Nikam
Knowledge Management Officer

The report was designed by Paulina Kozlowska,
Visual Communications Designer at HiiL.

About HiiL

HiiL (The Hague Institute for Innovation of Law)
is a social enterprise devoted to user-friendly justice.
That means justice that is easy to access, easy to
understand, and effective. We will ensure that
by 2030, 150 million people will be able to prevent
or resolve their most pressing justice problems.
We do this by stimulating innovation and scaling
what works best. We are friendly rebels focused on
concrete improvements in the lives of people.
Data and evidence are central in all that we do.
HiiL is an equal opportunity, international employer.
We are based in The Netherlands, in the City of Peace
and Justice, The Hague.

www.hiil.org
dashboard.hiil.org

Download digital report from www.hiil.org or read
online report at dashboard.hiil.org in order to access
hyperlinked resources.