Equal Access to Justice for Inclusive Growth

PUTTING PEOPLE AT THE CENTRE

OECD

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BETTER POLICIES FOR BETTER LIVES

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Foreword

Equal access to justice and legal empowerment are intrinsic goods; they are also fundamental components of inclusive development, good governance, public policy performance and the rule of law, as underlined by the UN Sustainable Development Agenda.

The law shapes and pervades the everyday lives of people and businesses. Lack of legal empowerment and unequal access to justice generate significant socio-economic costs for individuals and societies: they narrow economic opportunities, reinforce the poverty trap and undermine human potential. Poor, marginalised and vulnerable populations, including women, youth, disabled people, indigenous and migrant groups, and small and medium-sized enterprises, are disproportionately affected, leading to further disadvantage and inequality.

This report draws on over five years of research and collaboration with OECD Member and partner countries, focusing on the necessary steps to establish access to justice for all. These steps start with a better understanding of people's legal needs and how access to justice affects many areas of life, including physical and mental health, employment, productivity and family stability.

Justice systems are made up of a series of complex pathways or "justice chains" from the viewpoint of individuals, families and communities. The report provides guidance on how to effectively measure and address people's legal needs and incorporate people-centred perspectives when designing and planning responsive and integrated legal and justice services.

Under the purview of the Public Governance Committee, the OECD Public Governance Directorate established a platform for dialogue, the OECD Global Roundtables on Equal Access to Justice, to deepen and further our collective understanding of effective people-centred access to justice and the crucial role it plays as a contributor to inclusive and sustainable growth.

"Justice delayed for some is sustainable growth denied for all" could be a maxim of the Sustainable Development Agenda. To support countries in addressing this challenge, the OECD is ready to support current global efforts to bring justice closer to all people.

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Abbreviations and acronyms

ABS	Australian Bureau of Statistics
ADR	Alternative Dispute Resolution
CALD	Culturally and Linguistically Diverse
CBA	Cost-Benefit Analysis
CBA	Canadian Bar Association
CLAC	Community Legal Advice Centre
CLAN	Community Legal Advice Network
CLSD	Co-operative Legal Service Delivery
CQFD	Court Quality Framework Design
ECFS	Electronic Case Filing System
ECODIR	Electronic Consumer Dispute Resolution
ELAP	Elderly Legal Assistance Programme
ELSRP	Evolving Legal Services Research Project
FDR	Family Dispute Resolution
GCDR	Government Centre for Dispute Resolution
GIS	Geographic Information System
HiiL	Hague Institute for Innovation of Law
ICT	Information and Communications Technology
ISR	Integrated Safety Response
KPI	Key Performance Indicator
LASDD	Legal Assistance Services Data Digest
LGA	Local Government Area
LJFNSW	Law and Justice Foundation of New South Wales
LNS	Legal Needs Survey
LSRC	Legal Services Research Centre
MA2J	Measuring Access to Justice Project
MSCT	Most Significant Change Technique
NGO	Non-Governmental Organisation
NLAS	Need for Legal Assistance Services
NPA	National Partnership Agreement
NSW	New South Wales
ODR	Online Dispute Resolution
OECD	Organisation for Economic Co-operation and Development
OSJI	Open Society Justice Initiative
PLEI	Public Legal Education and Information
SDG	Sustainable Development Goal
SEIFA	Socio-Economic Index for Areas (Australia)
SIM	Sequential Intercept Model
SME	Small and Medium-sized Enterprise
SRL	Self-Represented Litigant
UNDP	United Nations Development Programme

Executive summary

Access to justice is an integral part of the UN 2030 Agenda for Sustainable Development. It is an important dimension of inclusive growth and the well-being of individuals and societies. Sound justice systems also underpin the rule of law, good governance, and efforts to tackle inequalities and development challenges.

Growing evidence highlights a complex relationship between unequal access to justice and broader socio-economic gaps. The inability to access justice can be both a result and a cause of disadvantage and poverty. Unmet justice needs can lead to social, physical and mental health problems, lost productivity, and reduced access to economic opportunity, education, and employment.

Unresolved legal problems prevent people, businesses and society as a whole from reaching their full potential

Legal problems - concerning family, land, employment, and community or neighbourhood issues - are ubiquitous; they arise from everyday life and are experienced by many on a daily basis. Moreover, legal problems often spark, and can lead to a cluster effect with other justice or social difficulties.

Legal needs are not exclusive to any category of citizen, household or company. Nonetheless, they tend to affect some groups of the population more than others, including women, children/youth, the elderly, the disabled, single parents, internally displaced people, and indigenous communities. Businesses also face specific legal issues (e.g. related to tax, regulation, employment or payment of invoices, debt and goods or services). These issues are particularly challenging for small and medium-sized enterprises, which may not have the necessary time and capacity to identify and resolve them.

Common barriers to accessing justice range from financial cost, time and the complexity of justice systems to geographical distance, lack of legal capability and language skills. Consequently, only a fraction of people decide to take legal action, with the proportion of unresolved issues reaching as high as 50% in some OECD Member and partner countries.

Yet, the failure to resolve even a trivial legal matter can lead to a cycle of decline with spiralling problems and costs to individuals, communities and societies.

Putting people at the centre of a justice services continuum

Leaving no one behind in accessing justice requires rethinking the traditional approaches to delivering legal and justice services, focusing first and foremost on responding to people's needs. Services need to be "personalised" and responsive to the individual and the situation.

This report brings together lessons derived from people-centred service delivery, access to justice principles and indicators, and promising practices in the delivery of legal and justice services in OECD and partner countries. It identifies and discusses potential measurement tools and indicators to help governments and other entities carry out necessary reform and compare changes in access to justice over time and from place to place. The report provides countries with tools to ensure the justice chain responds to the needs of their people.

The OECD has developed a framework for ensuring that justice pathways and services are responsive to the needs of people. The framework consists of four stages, each stage addressing a key question:

- ***Who*** **experiences legal needs and** ***what*** **legal needs do they have?**
- ***Where*** **and when are these needs experienced?**
- ***What works*** **to meet these needs most effectively?**
- ***How*** **should these services be delivered and evaluated?**

The report sets out a series of people-centred service design and delivery criteria applicable to the entire legal and justice chain. Such service criteria include evidence-based planning, equality and inclusion; availability, accessibility, prevention, proactivity and timeliness; appropriateness and responsiveness; outcome focus and fairness collaboration; and integration and effectiveness. They serve as a starting point for continuous learning and development of evidence-based good practices to ensure that everyone has access to high-quality legal and justice services that meet their needs.

Chapter 1. People-centred justice services: An actionable policy for inclusive growth

This chapter provides the rationale for the report, its objectives and the methodological approach to data collection.

Introduction

This report highlights the ways in which equal access to justice can contribute to inclusive growth and sustainable development. It identifies the main drivers for developing policy processes and institutional frameworks that can identify and respond to the legal and justice needs[1] of individuals, families, communities, small and medium-sized enterprises (SMEs) and others. It highlights active measures to advance equal access to justice and provides actionable recommendations to governments which are supported by examples of good practices from OECD and partner countries. The report also proposes common criteria for the design and delivery of people-centred legal and justice services based on current knowledge of what works to meet the population's legal and justice needs.

Rationale of the report

Access to justice[2] is an important dimension of inclusive growth according to the United Nations' 2030 Agenda for Sustainable Development (SDG Agenda) and its Sustainable Development Goals (SDG). Many OECD countries recognised access to justice as a fundamental and/or human right. Growing evidence sets forth effective access to justice as a compelling means of tackling inequality and as a contributor to individual and societal well-being. The inability to access legal and justice services can be both a result and a cause of disadvantage, poverty and inequality, both in income and non-income scenarios such as employment opportunities, educational attainment and health conditions, all of which are important determinants of sustainable growth.

Cross connections are uncovered between meeting the legal needs of the community, facilitating people's ability to participate fully in the economy and impact their productivity, health, employment and relationships in order to achieve inclusive economic growth. Growing evidence shows that tailoring justice services to the specific needs of the population matters not only for better access to justice but also for achieving policy outcomes that go beyond the justice sector (e.g. better healthcare, education, gender equality, employment, housing and good governance, including broader trust in government).

Justice is seen as both a right and a vital public service that upholds laws, defends human rights and supports institutions in a manner consistent with human rights, such as the right to equality and non-discrimination. Effective access to justice is enshrined in numerous international, regional and national[3] constitutional instruments as a fundamental human right[4] and is widely recognised as such in both national[5] and international[6] jurisprudence – although varying in nature and intensity and usually in the form of the right to a fair trial. The human rights approach to access to justice encompasses the individual's right to have recourse to judicial and non-judicial dispute resolution bodies to obtain a remedy in case her/his rights have been violated, and to have the right to a fair trial with independence and impartiality, availability, accessibility, affordability, timeliness and effective means of redress or remedies. The long-standing international standard of prohibition of denial of justice is a corollary of access to justice establishing that justice is to be administered with minimal standards of fairness (Paulsson, 2005[1]).

Access to justice serves as an enabler of the rule of law and good governance. It has been on the policy agenda of OECD Member and partner countries for many years. This report aims to facilitate the implementation of country commitments to enable equal and inclusive access to justice under the SDG Agenda, specifically, SDG 16, Target 3 to

"promote the rule of law at the national and international levels and ensure equal access to justice for all". Goal 16 is a catalyst for achieving other SDGs.

In recent decades, successive waves of reforms sought to improve access to justice in countries. Initially, these reforms focused on improving access to formal justice: courts and lawyers. Courts have been and continue to be seen as the central suppliers of justice. They are crucial in establishing "the shadow of the law" in which everyday activities and transactions occur. Early reforms, therefore, focused on improving access to justice through establishing legal aid and similar services that improve access to courts and representation for those in financial need.

Subsequent waves of reforms focused on structural inequalities within justice systems, including attempts to simplify judicial and court processes and improve the information available to assist citizens' participation in justice processes. These reforms often used more informal approaches, including the establishment of administrative tribunals and ombudschemes and alternative dispute resolution (ADR) mechanisms.

To a large extent, these reforms were driven from within the formal justice system. While directed at what was understood to be in the public interest and in order to meet people's and businesses' justice needs, these reforms were often based upon assumptions about what their legal needs were and what citizens did when confronted with a legal or justice problem; i.e. problems that raise legal issues and the most effective ways to address those needs (Mulherin, 2016[2]).[7] By the late 1990s, some OECD and partner countries began to recognise that traditional justice system institutions and processes might not always be appropriately structured and focused in order to provide access to justice from peoples' views and experience (Macdonald, 2001[3]). The shift towards a people-centred perspective is perceived as the guiding principle that links the inclusive growth and justice agenda. People-centricity acknowledges that specific population groups, and in particular people living in conditions of disadvantage (e.g. low-income earners, women, minorities, indigenous persons, disabled people, the elderly), may have additional legal needs and face extra barriers in resolving their legal and justice problems.

To this end and to respond to the needs of different groups of people, OECD and partners countries are increasingly incorporating people-centred perspectives when determining legal and justice service needs and developing responsive, integrated approaches and services to meet these needs. Evidence concerning good practices and "what works" is emerging yet far from complete and there are few avenues for comparative exchange. Even rarer is the opportunity to systematically review good practices. Having comprehensive evidence is particularly important given the complexity of justice problems and of accessing resolutions as well as the intricacies of justice and inclusive growth. Furthermore, there can be tension between a more expansive concept of access to justice and a lack of growth in resources to meet legal needs. The tension may be particularly profound in the context of great inequalities, rising income inequality and unequal access to public services. This trend reinforces the need for a robust business case for people-centred legal and justice services, in order to understand what works and to ensure that legal and justice services are cost-effective and beneficial to the user.

Objectives

This report aims to identify key trends across OECD countries and provide guidance for good practices on:

- **Identifying the links between access to justice** and other dimensions of inclusive growth and the well-being of individuals, families, SMEs and communities. Why does access to justice matter? What do we know about the dynamics of unmet legal and justice needs? How does justice fit into modelling inclusive growth? What evidence do we have concerning unmet legal needs and meeting these needs? How can we increase our capacity to understand and measure the important bi-directional relationships between socio-economic inclusion and access to justice?
- **Identifying and measuring needs**. What are the stages of planning for people-centred legal and justice services? What approaches and methodologies can be employed to identify and measure legal and justice needs? Why are these measurements important? What steps can be taken to overcome limitations in data? What tools can be used to ensure inclusivity in identification and measurement processes?
- **Mapping legal and justice needs**. What purpose does the mapping of legal needs serve? What approaches and methodologies can be employed to map justice needs? At what level of detail should mapping occur? What tools can be used to ensure inclusivity in mapping processes?
- **Designing people-centred legal and justice services**. What types of services work to meet legal and justice needs and contribute to inclusive growth? What is the range of legal and justice services? What guiding principles can assist in designing effective services? What are the lessons from other sectors that can assist in this design process? What tools can be used to ensure inclusivity in policy and service design processes?
- **Delivering people-centred legal and justice services**. How can institutional frameworks be used to plan the effective delivery of services? How can these strategies be maximised to contribute to inclusive growth and sustainable development? How can people-centred legal and justice services be evaluated? What tools can be used to ensure inclusivity in planning and evaluation processes?

Methodology and content

The report is informed by findings from OECD Roundtables on Equal Access to Justice convened in 2015, 2017 and 2018; advisory sessions organised in 2017 and 2018:[8] joint OECD-OSJI events held in 2015, 2016[9] and 2018; a joint workshop with the Task Force on Justice of the Pathfinders of Just, Inclusive and Peaceful Societies in 2018, as well as a wide range of international events dedicated to promoting access to justice for all. These events collectively established a platform for dialogue to deepen our understanding of effective access to justice and the crucial role it plays as a contributor to inclusive and sustainable growth. The report draws from crosscutting expertise and country practices in evidence-based policy tools, as well as criteria pertaining to people-focused access to legal and justice services. It also collates evidence that seeks to underpin cost-effective policies in the field of justice.

This report further draws on OECD mapping (prepared through desk research) of country practices on what works to foster effective access to justice in OECD countries. The mapping was developed through content-research of various websites, including those of governments, academic institutions and international organisations.

This report also rests on several legal needs surveys carried out across a spectrum of countries at the national and subnational levels. The surveys were conducted by international organisations such as the World Justice Project and the Hague Institute for Innovation of Law (HiiL) and by countries with the participation of government officials in collaboration with national and international organisations.

Literature reviews were conducted to explore the conceptual and practical implications central to access to justice considerations, and to trace the diversity of practices concerning interventions on legal and justice services. The economic and political science literature offered insights on the existence of a relationship between economic development and the presence of robust public institutions, including justice systems, while at the same time underlining the role of positive externalities such as poverty reduction and improved governance in fostering growth.

Scope

The report outlines a comprehensive, holistic and people-centred approach to access to justice. The concept captures citizens' and businesses' paths to justice (focusing on formal justice and dispute resolution processes), legal needs, barriers in accessing justice (complexity, cost, length of proceedings, alternatives, etc.), the mechanisms available to meet justice needs and the sectoral as well as high-level social and economic impacts of unmet legal needs. As mentioned, comprehensiveness, as well as user perspective, are particularly important. The concept of access to justice is studied from a bottom-up view, placing the focus on the people and organisations that need justice. This approach recognises that justice needs are intricate phenomena implying complex individual and social processes. The bottom-up approach acknowledges that access to justice is rarely a linear process but rather iterative and a highly entangled sequence of steps that impact the person's experience with access to justice.

Strengths and limitations

Table 1.1 summarises the strengths and limitations of the report.

Table 1.1. Strengths and limitations of the report

Strengths	Limitations
Good-practice examples and guidance to policymakers who are designing or redefining their justice agenda to foster inclusive growth.	Good practices and "what works" are emerging but are far from complete.
The analysis draws on both original data collected by the OECD and existing data collected by other organisations.	Potentially incomplete picture due to the limitations of publicly available information (given that websites and other sources may not be up to date and comprehensive).
Information is cohesively gathered on what we know works in identifying, measuring, mapping, designing, delivering and evaluating people-centred legal and justice services into a preliminary outline of common criteria.	The data necessary to measure access to justice in a holistic manner does not yet exist, thus rendering difficult to assess the effectiveness of justice and legal interventions.
Provides a comprehensive overview of tools and strategies for delivering people-centred legal and justice services and institutional frameworks that can be used to plan the effective delivery of services.	

Organisation of the report

The report is structured as follows: Chapter 1 provides the rationale for the report, its objectives and the methodological approach to data collection; Chapter 2 highlights the elements of costs and impacts associated with unmet legal needs and provision of legal and justice services; Chapter 3 introduces a framework for planning people-centred legal and justice services and identifies good practices for identifying and measuring the needs for these services; Chapter 4 highlights the main approaches to mapping legal needs as a method to better understanding legal and justice needs, where and when they are needed, and the location of service providers; Chapter 5 reviews principles and good practices for designing people-centred legal and justice services and provides an overview of evidence of "what works" in meeting legal and justice needs; Chapter 6 continues to consider "what works" and provides an overview of good practices for delivering and evaluating these services consistent with the goals of contributing to inclusive growth and enhanced individual and community well-being. A concluding section consolidates what we know works in identifying, measuring, mapping, designing, delivering and evaluating people-centred legal and justice services into a preliminary outline of common criteria. Examples from OECD and partner countries are highlighted throughout the report and potential future steps to close evidence and policy gaps are identified.

Notes

[1] "In broad terms, legal need arises whenever a deficit of legal capability necessitates legal support to enable a justiciable issue to be appropriately dealt with. A legal need is unmet if a justiciable issue is inappropriately dealt with as a consequence of effective legal support not having been available when necessary to make good a deficit of legal capability" (OECD-OSJI, 2019[4]).

[2] While there are no internationally agreed upon definitions in this area this report adopts a broad and multidimensional definition of access to legal and justice services, which covers access to legal information and legal services, including counsel and representation to access to formal (such as courts) and alternative dispute resolution, and their enforcement mechanisms.

According to the World Justice Project, access to justice is "the ability of all people to seek and obtain effective remedies through accessible, affordable, impartial, efficient, effective and culturally competent institutions of justice"; For the European Union Agency for Fundamental Rights, "the right of access to justice encompasses the right to a fair trial and the right to an effective remedy as guaranteed by Article 47 of the EU Charter of Fundamental Rights, Articles 6 and 13 of the ECHR, and Articles 2 (3) and 14 of the International Covenant on Civil and Political Rights". "Access to justice includes not only the rights of the accused in the criminal process and respondents in the civil process, but also the rights of victims and claimants. It is not only a right in itself, but an enabling right in that it allows individuals to enforce their substantive rights and obtain a remedy when these rights are violated". UNDP defined access to justice as "the ability of people to seek and obtain a remedy through formal or informal institutions of justice for grievances in compliance with human rights standards". "There is no access to justice where citizens, especially marginalised groups, fear the system, and see it as alien; where the justice system is financially inaccessible; where individuals have no lawyers; where they do not have information or knowledge of rights; or where there is a weak justice system. For UNDP, access to justice involves normative legal protection, legal awareness, legal aid and counsel, adjudication, enforcement, and civil society oversight" (UNDP, 2005[5]).

[3] The European Convention of Human Rights, Article 6, Paragraph 1 and Article 13; the Universal Declaration of Human Rights, Article 10; the International Covenant on Civil and Political Rights, Article 14, Paragraph 1; the European Union Charter of Fundamental Rights of the European Union, Article 4, Paragraph 2 and Article 47.

[4] 6th amendment of the United-States Constitution.

[5] See for instance, in the United States, Snyder v. Massachusetts, 291 U.S. 97, 116-17 (1934); Lisenba v. California, 314 U.S. 219, 236 (1941).

[6] See for instance, the Court of Justice of the European Union (CJEU), Joined cases C-128/09, C-134/09 and C-135/09, Antoine Boxus and Others v. *Régions wallonnes*, 2011; C-506/04, Graham J. Wilson v. *Ordre des avocats du barreau de Luxembourg*, 2006; the European Court of Human Rights (ECtHR), Golder v. the United Kingdom, No 4451/70, 1975; Ibrahim Gürkan v. Turkey, No. 10987/10, 2017; the United-Nations Human Rights Committee, Wolf v. Panama, Communication No. 289/1988, U.N. Doc. CCPR/C/44/D/289/1988 (1992) (the accused refused attendance to relevant proceedings); Thomas v. Jamaica, Communication No. 272/1988, U.N. Doc. CCPR/C/44/D/272/1988 (1992) (the accused was not informed of his appeal date until after it had taken place).

[7] See also: discussion in Access to Justice Taskforce (2009[6]); Macdonald (2001[3]).

[8] OECD, Advisory stream meetings, "Measurement of Access to Justice" (2016), "Identifying What Works in Terms of Strategies, Programmes and Legal and Justice Services Models" (2017), "Exploring the Links between Access to Justice and Inclusive Growth" (2018) on justice in 2016, 2017 and 2018.

[9] OECD-OSF, "Delivering Access to Justice for All," New York, September 2016; OECD-OSJI (2016), "Understanding Effective Access to Justice", Technical Workshop, 3-4 November 2016; joint sessions; OECD-OSJI Technical Workshop – Paris, 3-4 November 2016; OECD-OSF high-level event – New York, September 2016.

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Chapter 2. Understanding the links between access to justice, inclusive growth and people's well-being

This chapter aims to highlight the links between access to justice and various determinants of inclusive growth and people's well-being. It draws together growing evidence about the costs of unmet legal needs and the benefits of meeting these needs and identifies potential future steps to strengthen the case for investing in access to justice.

Inequality and access to justice

While the global economy is recovering, market insecurity and the low-income rate continue to persist in several OECD countries (OECD, 2018[1]). The OECD Policy Framework for Inclusive Growth highlights that the richest 20% earned 5 times on average the income of the poorest 20% in OECD countries in 2014 when it comes to real disposable household income (OECD, 2018[2]). Moreover, inequalities of education, health, employment and earnings, wealth and well-being compound over the course of life (OECD, 2017[3]) and in turn may negatively affect multiple children's well-being outcomes in the short and long term (Becker and Tomes, 1979[4]; Corak, 2013[5]).

These inequalities have multiple consequences. As noted in the OECD Bridging the Gap report (2017[6]), assessing the impact of inequalities is crucial in order to take action and combat them. OECD work has documented that the impacts of inequalities span many areas. First, inequalities lower investment in human capital among the poorest 40%, jeopardising productivity growth. Second, rising inequalities put further pressure on public social budgets, often going hand in hand with larger transfers and smaller revenues. Third, high inequalities may also be hindering trust in public institutions, constraining governments' capacity to act and weakening structural reform implementation efforts (OECD, 2017[6]).

Growing evidence establishes a complex relationship between unequal access to justice and broader socio-economic inequalities. While income inequality can be a major contributor to inequality in access to justice, unequal access to justice may perpetuate existing inequalities in other non-income outcomes, including educational attainment, health conditions and employment opportunities, which are important determinants of growth and well-being (OECD, 2015[7]). Inequality is both a driver and a consequence of lack of effective access to justice and therefore actionable policies focused on meeting people's legal and justice needs are an important mechanism to intervene in this negative self-reinforcing dynamic. Yet we have only begun to understand and quantify the impact of unmet legal needs and the benefits of providing appropriate legal and justice services to assist in resolving these problems.

The Inclusive Growth Framework for Policy Action recognises the role of access to justice in promoting access to opportunities for all (Box 2.1), including education for life and throughout life, addressing inequalities in healthcare, redesigning tax systems and enhanced tax administration, helping people to adapt to change and stay engaged in labour markets, reducing gender gaps and preventing ageing unequally. The rule of law necessitates that laws and regulations shape access to education, health and other social benefits. Laws also support active labour market policies and fair employment conditions, including those related to, for example, gender disparities and ageing in the workplace. Thus, access to justice facilitates the fair and effective function of all of these laws, policies and programmes.

Access to justice also aims to give all businesses the chance to thrive through ensuring the fair and effective functioning of regulatory frameworks, restructuring and displacement programmes, programmes to address skill mismatch, access to finance, research and development, and equitable financial markets that channel resources into productive activities.

Box 2.1. OECD Framework for Policy Action on Inclusive Growth

The Framework for Policy Action on Inclusive Growth aims to help governments sustain and ensure a more equitable distribution of the benefits from economic growth, which is supported by a dashboard of indicators. It consolidates OECD key policy recommendations around three broad principles, as follows:

- Invest in people and places that have been left behind through: i) targeted quality childcare, early education and life-long acquisition of skills; ii) effective access to quality healthcare, justice, housing, infrastructures; and iii) optimal natural resource management for sustainable growth.

As illustrated in Figures Figure 2.1 and Figure 2.2, access to justice is at the centre, radiating out into many inclusive growth policies and programmes, not because it is the outcome or end goal but because it is an integral part of facilitating the laws, policies and programmes that in turn enable growth, prosperity and individual and community well-being. Access to justice is the inescapable "AND": health and justice, employment and justice, gender and justice, education and justice, etc.

Figure 2.1. Enabling people to create prosperity and flourish

Source: OECD (2017[8]), *OECD Inclusive Growth Initiative*, OECD, Paris.

Figure 2.2. Giving all businesses the chance to thrive

Source: OECD (2017[8]), *OECD Inclusive Growth Initiative*, OECD, Paris.

The dynamics of unmet legal needs

Shift to focus on "everyday" legal problems

The law shapes and pervades all citizens' and businesses' lives; rich or poor, profitable or unprofitable, from birth to after death. Today the law underlies nearly every aspect of people's lives, including health, employment, education, housing and entrepreneurship. These sectors depend upon sound legal frameworks for their operations and legitimacy. Any problem or dispute arising within these sectors, by necessity, brings into play laws and regulations. This means that legal problems are so common that the majority of people will experience legal and justice needs routinely over the course of their lifetime (e.g. debt, neighbourhood issues). Contrary to conventional approaches that consider legal problems to be a rare and unexpected event, legal problems are ubiquitous. They flow from everyday life and are experienced by many every day. This insight has important ramifications for our understanding of why access to justice matters as well as its relationship to inclusive growth and individual and community well-being.

The most common legal problems seem to arise from circumstances routinely experienced across the population, based on stages of life and demographic vulnerability. Young people's efforts to, for example, secure homes and employment, are associated with exposure to particular types of legal issues. As people get older, the consolidation of families, arrival of children, home ownership, increased consumption and debt are associated with vulnerability to different legal issues. And, as people enter their later years, increased need for medical treatment and care and diminishing powers of decision-

making (e.g. guardianship issues) are associated with other specific types of legal vulnerability. At the same time, certain populations may experience particular legal needs based on their socio-economic situation. For example, low-income earners, women, minorities, indigenous persons, disabled people and the elderly may have additional legal needs and face extra barriers in accessing justice services.

Since the mid-1990s – with the build-up fuelled by legal aid reform (Coumarelos et al., 2012[9]), empirical research into legal needs, mostly through the implementation of large-scale surveys, shed important light on the nature of legal issues faced by different groups of individuals, patterns of related problems and needs, the wide range of disputing behaviour and pathways to justice employed by people, and the adverse impact of unresolved legal problems.[1] At least 50 legal needs surveys[2] were conducted in more than 30 countries and territories including: Australia, Canada, England and Wales (United Kingdom), Hong Kong (China), Japan, the Netherlands, New Zealand, Northern Ireland (UK), Scotland (UK), the Slovak Republic, Chinese Taipei, Ukraine and the United States (OECD-OSJI, 2019[10]). Over the same period, extensive sub-national surveys were also conducted in China (Michelson, 2008[11]), Indonesia (Gramatikov et al., 2014[12]), Russia[3] and Yemen (Barendrecht et al., 2014[13]), along with smaller surveys in countries such as Bangladesh and Egypt (Gramatikov and Verdonschot, 2010[14]). The World Justice Project (WJP) deployed a common legal needs and dispute resolution module in major urban areas in more than 45 countries in 2017 and plans to reach more than 100 in 2018, generating the first standardised data set on legal needs and dispute resolution across countries (World Justice Project, 2018[15]). These surveys were conducted as nationally representative samples or focused on specific populations or geographies.

Legal needs surveys have now been carried out over time and across a spectrum of countries, jurisdictions and legal traditions, illuminating consistent patterns and dynamics. They provide an important evidence base for recognising and specifically addressing people's legal and justice needs, including marginalised groups, as a central strategy for achieving socio-economic inclusion. They have contributed greatly to our understanding of the prevalence of legal problems and to the short- and long-term negative consequences of unresolved legal problems.[4] These findings are summarised in Box 2.2. Of particular note is the consistent finding that people living in disadvantaged circumstances seem to be particularly prone to legal problems. Legal needs surveys across a number of OECD and partner countries show that legal problems are far from randomly distributed across the population. There is increasing (although limited) evidence that disadvantaged groups are typically those that are most vulnerable to legal problems, resulting from uneven exposure to the circumstances that can give rise to legal and social problems and/or their lower ability to avoid or mitigate problems. Wexler summarised that "the poor are always bumping into sharp legal things" (Wexler, 1973[16]).

The shift toward focusing on everyday legal problems illuminates the connection between justice and inclusive growth which can be hidden in a focus on more formal conceptions of the justice system.

Box 2.2. Lessons learned from legal needs surveys

Results of legal needs surveys (both civil and criminal) made important contributions to understanding common obstacles to accessing justice experienced by both individuals and businesses and paved the way to reforms. The survey results concerning the incidence of civil legal problems and their impact are remarkably similar across countries and time. Common findings are:

- Civil legal needs arise frequently, touch upon fundamental issues and can create minor inconvenience or great personal hardship.
- Civil legal problems are a "pervasive and invasive presence in the lives of many" (Ontario Civil Legal Needs Project, 2010[17]).
- The disruption caused by unresolved legal problems is significant and can cause cascading problems for individuals and families.
- There is an important connection between unresolved legal problems and broader issues of health, social welfare and economic well-being.
- Age, country of birth, disability status, personal income and education level are statistically independent predictors of reporting legal events.
- While every group experiences civil needs, the poorest and most vulnerable experience more frequent and more complex, interrelated civil legal problems.
- In some studies, gender, ethnic/racialised background and Aboriginal influenced the experience of civil legal problems.
- Legal problems tend to cluster, meaning that problems tend to co-occur and can be grouped together (clusters vary across jurisdictions).
- Legal problems have an additive effect with every additional problem experienced, the probability of experiencing more problems increases and this is especially true for low-income earners and members of disadvantaged groups.
- The justice system is poorly understood and/or perceived to be inaccessible by many and this complexity can in and of itself be seen as a barrier to access.
- The vast majority of justiciable problems are resolved outside of the formal justice system.

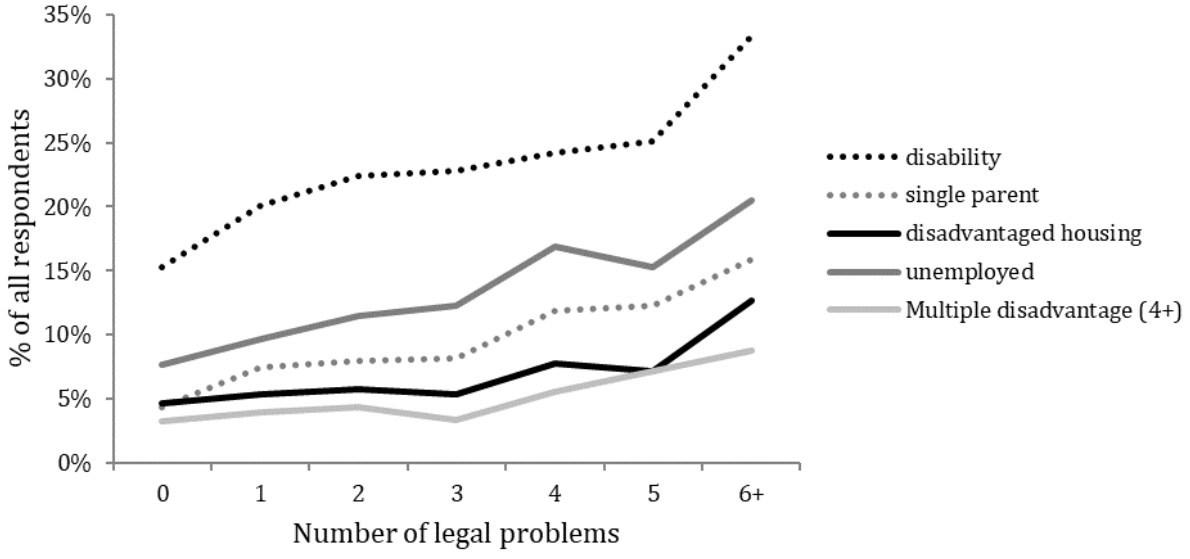
While the findings are generic at some level, it is wrong to conclude that the experience of civil legal problems is uniform. Certain groups are more vulnerable and this vulnerability compounds the effects of unresolved legal problems and makes it more challenging for them to navigate the justice system.

Source: OECD-OSJI (2016[18]), *Understanding Effective Access to Justice*, Summary of Proceedings, Technical Workshop, 3-4 November 2016.

Unmet legal needs tend to reinforce disadvantage

Everyday legal problems are a reality for many people in OECD and partner countries but that does not mean that they are experienced in the same way by all. As illustrated in Australia, people living in conditions of disadvantage are particularly likely to experience legal problems (Figure 2.3) and tend to experience more difficulty in accessing the legal and justice assistance they require, notably due to financial and other barriers. Legal needs surveys provide insight into the self-reinforcing nature of disadvantage and the ways in which unmet legal needs can contribute to a cycle of decline which inhibits economic productivity and contributes to further socio-economic exclusion.

Figure 2.3. Proportion of disadvantaged Australians by number of legal problems faced, 2008



Source: Pleasence, P. et al. (2014[19]), *Reshaping Legal Assistance Services: Building on the Evidence Base*, Law and Justice Foundation of New South Wales.

Surveys showed that legal problems compound and are experienced in combination with other types of problems including social, economic and health issues. These different types of problems can interact in ways that have an additive or cascading negative effect. For example, social problems can lead to legal action, while legal problems, such as domestic violence, family/relationship breakdown, injury from accident, housing, employment and discrimination, may precipitate social problems (Currie, 2007[20]; Forell, McCarron and Schetzer, 2005[21]; Grunseit, Forell and McCarron, 2008[22]; Karras et al., 2006[23]; Pleasence, 2006[24]) and/or exacerbate those already in existence (Coumarelos and Wei, 2009[25]; Currie, 2007[20]; Currie, 2007[26]; Pleasence, Balmer and Buck, 2008[27]; Pleasence and Balmer, 2009[28]).[5] Similarly, a medical problem can lead to a cascading number of economic, social and legal problems.

Surveys also found that many people do not recognise the legal dimensions of problems they experience nor separate out legal problems from other issues they face.[6] Many do not pursue legal remedies and are unaware of legal assistance services or are otherwise unable to access these services. Although the data is limited, there can be an inverse relationship between legal need and ability to access assistance. The inability to obtain

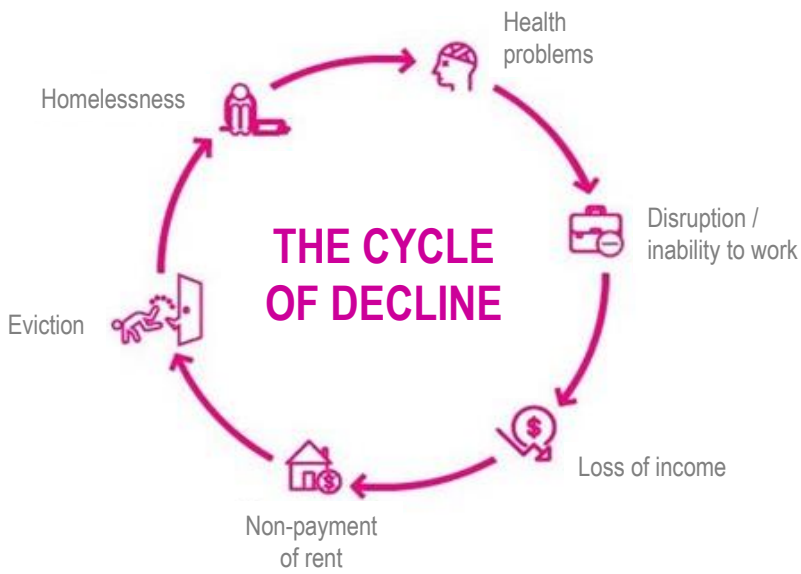
legal and justice services is often found to have a disproportionate impact on low-income earners and other disadvantaged groups (such as people with a disability, mental illness, single parents, unemployed people and people living in disadvantaged housing) precisely because of their lack of individual economic resources (Balmer, 2010[29]).[7] In addition to the economic and cost barriers in accessing justice, there is a wide range of structural, institutional and capability factors that impinge upon access to justice, such as complexity, time, individual capability, geographical and physical constraints.

There are numerous potential justice pathways that can be taken when faced with legal problems, ranging from "lumping" problems (i.e. taking no action) to instituting formal legal process. Relatively few legal problems are resolved through the formal justice system even though courts and tribunals continue to play an important role in the protection and enforcement of rights. A high percentage of legal problems, somewhere between 35%-41% in some OECD and partner countries, are unresolved (Barendrecht et al., 2012[30]). In some cases, even when the problems were settled, the outcome could be perceived as unfair or the process unduly stressful. Thus, an understanding of patterns of responses to legal problems and of people and business decision-making, as well as their actual experiences in this regard, seems important in assessing levels of access to justice.

In many countries, unequal access to and discrimination in sectors such as health, employment, education, housing and entrepreneurship create real barriers to economic participation, especially for traditionally marginalised or vulnerable populations (youth, the elderly, women, refugees). Providing people access to justice enables them to tackle these inequalities and to participate in legal processes that promote inclusive growth and individual and community well-being.

Evidence derived from legal needs surveys illuminates how the inability to access legal and justice services can be both a result and a cause of poverty. People who are more vulnerable to socio-economic exclusion typically report more legal problems than other groups. Furthermore, as legal problems tend to trigger and cluster with other legal and non-legal problems, these same groups appear to experience an increased rate of non-legal challenges as well. Yet the failure to resolve legal problems can contribute to a "cycle of decline" in which one problem leads to another with escalating individual and social costs and reinforces poverty and socio-economic exclusion (Figure 2.4).

Figure 2.4. A cycle of decline



Source: Adapted from Tyler, T. et al. (2011[31]), *Poverty, Health and Law*, Carolina Academic Press, Durham, North Carolina.

Towards understanding the impacts of access to justice and unmet legal needs

This section highlights the costs of unmet legal needs and the effects of people-centred legal and justice services, framed by our current understanding of the dynamics of unmet legal needs and their relationship to inclusive growth, sustainable development and individual and community well-being.

Inadequate access to justice is measured in terms of costs related to the impact of unmet legal needs including, for example, social costs, physical and mental health costs, lost productivity, reduced access to economic opportunities for individuals and businesses, and foregone education and employment opportunities. Increased access through the provision of people-centred legal and justice services could generally have three types of measurable impacts: effects on the legal and justice systems; sectoral impacts or benefits; and high-level socio-economic impacts.

The examples of costs and benefits listed in Figures Figure 2.5 and Figure 2.6 are not exhaustive and are derived from research, data and evidence that are currently available. While not depicted in the graph, it is recognised that the relationships between the elements listed are not linear and access to justice can serve as both a cause and effect of many variables (with different directions and channels of relationships). It is anticipated that over time a stronger understanding of these relationships will be established contributing both to a stronger business case and more effective legal and justice services. Costs and benefits examples are discussed in greater detail below and in the OECD White Paper on Building the Business Case for Access to Justice (forthcoming[32]).

Figure 2.5. Understanding the costs of unmet legal needs

Impact of unmet legal needs: Direct and indirect costs

There is increasing yet uneven evidence that the impacts of unmet legal needs can be costly to individuals, communities and societies at large. As highlighted at the OECD Roundtables, when legal problems relating to family, employment, discrimination, housing or other remain unresolved, they can lead to further legal and other social and health-related problems and costs. These costs can be borne both by individuals and by social and health services, income support, disability plans, employment insurance and other services. Some estimates from the United Kingdom government show that unresolved disputes and serious legal problems may cost the economy up to GBP 3.5 billion annually (GBP 1.5 billion in costs to public services and GBP 2 billion in lost income through loss of employment) (DCA, 2016[33]).

These costs reflect the consequences of a range of unmet legal needs, from unemployment, increased workplace absence, health and social consequences, which in turn put pressure on healthcare and welfare systems and public budgets. As legal and justiciable problems tend to occur in clusters (both justiciable and other social or health problems), many respondents in several legal needs studies indicated that the legal problems they experienced had contributed to or caused adverse effects in several areas of life, including consequences for physical and mental health, alcohol or drugs use, the occurrence of family violence and other areas of personal life and feelings of personal safety and security (Currie, 2007[20]). The higher the number of problems, the likelier the health and social consequences (Currie, 2007[20]).

The associated costs can be direct and indirect.[8] Direct costs are the actual dollar expenditure related to leaving legal needs unaddressed (for individuals, entities and the

country). They range from spending on healthcare to related services such as physicians and mental health professionals or employment insurance (which can be experienced at all levels including individual, organisational and state). For employers or the society, for example, these costs may include payments made for temporary work absences (e.g. from employer, government or social insurance), payments for inability to work (e.g. from government or social insurance), allowances for household production of healthcare (e.g. by government or social insurance) and allowances for household production of social care (e.g. by government or social insurance). Indirect costs include a wide range of costs resulting either from lost productivity of both paid work and household chores (e.g. the number of days people were unable to perform paid work) or lost opportunities (Box 2.3).

Box 2.3. Examples of indirect costs of unmet legal needs

Lost productivity from workplace absence and unemployment – People with unmet legal needs, for instance, related to health, can lose time from their regular activities due to injury or other workplace issues such as harassment, discrimination or unlawful dismissal. These groups of people may also be at greater risk of other health problems, such as chronic pain and sleep disturbances, which can interfere with or limit daily functioning (McCauley, Raveill and Antonovics, 1995[34]). Another measure that aims to capture the economic impact of unmet legal needs is the present value of lifetime earnings (PVLE), which measures the expected value of lost earnings that people with legal problems would have otherwise contributed to society had they been able to reach their life expectancies (National Center for Injury Prevention and Control, 2003[35]).

Economic costs – Unmet legal needs may generate significant negative social and health consequences, which in turn may generate economic implications, including formal labour market effects (i.e. reduced supply of labour), change in consumption rates and standards of living, production of extra health and social care, and lost household production. In parallel, inability to resolve legal problems may diminish access to economic opportunity, reinforce the poverty trap and undermine human potential, all of which can affect growth.

Business costs – Although data is limited and there is no common methodology to measure the impacts of legal (justiciable) problems, some studies show that these problems may have a negative knock-on effect for businesses. Some of the most common negative impacts include loss of income, business disruption, the incurring of additional costs, damage to business relationships, loss of reputation and damage to employee relations. In extreme cases, legal problems were said to have led to businesses ceasing trading. Problems concerning trading and intellectual property were associated with loss of income, problems concerning tax and regulation with the incurring of additional costs, while issues concerning employment were more likely than others to impact on the capacity to work.[9] These areas may serve as the basis for further research.

Mental health costs – Indirect costs can arise when the increased stress and emotional strain caused by unmet legal needs have an impact on mental health (e.g. the number of visits to healthcare practitioners, lost productivity, etc.). These costs can be quantified at the individual, government and community levels. For example, a Canadian study shows that experiencing justiciable problems (such as those related to employment, including personal injury, harassment and unfair dismissal, or those related to the purchase of major

consumer goods or separation and divorce) can compromise people's feelings of security and safety (Currie, 2007[20]). There is strong evidence of the impacts of mental illness on other life outcomes and lost production. It is important to note that vulnerable groups (e.g. people with lower than high school education or low-income earners, persons with disabilities or members of minority groups) are more likely to report experiencing extreme stress or emotional health problems as a result of unresolved legal problems.

Physical health costs – Some studies point to important healthcare costs associated with unmet legal needs, as a result of service use estimates (at the levels of an individual, state and healthcare system). For example, the aforementioned Canadian study showed that among the respondents who said they experienced a physical health problem as a consequence of a legal problem, more than three-quarters reported increased visits to doctors or healthcare facilities (Currie, 2007[20]). Employment-related problems (harassment in the workplace, workplace health and safety issues and unfair dismissal), harassment by a collection agency, family law problems (separation and divorce), and two specific personal injury problems (traffic accidents and workplace injuries) were among those most frequently affecting people's physical health resulting in additional medical costs. Most importantly, members of minority groups and older people appeared to more likely experience health or social consequences of legal problems.[10] Increase in reported drug and alcohol use (although small) was reported to be linked to justiciable problems related to employment, workplace harassment and unfair dismissal.[11]

Social costs – Certain unresolved legal and justiciable problems (related to family law or perceived harassment at work) experienced by parents were found to affect their children in several ways. Most of these problems are related to behaviour in the home or at school (although to a lesser degree).[12] Other costs of unmet legal needs range from the continuation of domestic violence to having children live in foster care (when they cannot be kept with grandparents), to housing-related costs and children living in poverty when a family loses their home.[13]

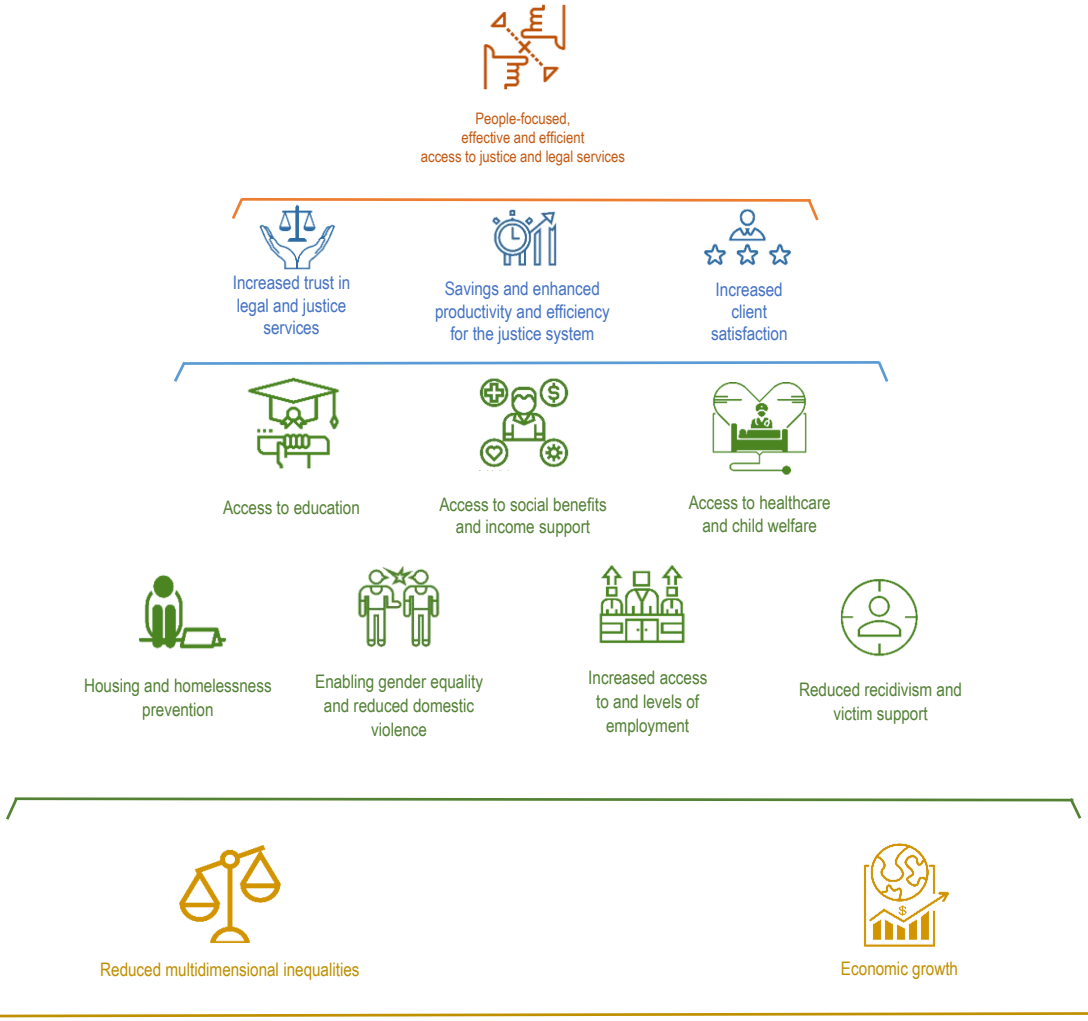
Other potential costs include foregone education and employment opportunities in case of lack of access to legal and justice services.

Sources: McCauley, D., J. Raveill and J. Antonovics (1995[34]), "Local founding events as determinants of genetic structure in a planet meta-population", *Heredity*, Vol. 75, pp. 630–636; National Center for Injury Prevention and Control (2003[35]), *Costs of Intimate Partner Violence Against Women in the United States*, Department of Health and Human Services, Centers for Disease Control and Prevention, Atlanta; Currie, A. (2007[20]), *The Legal Problems of Everyday Life: The Nature, Extent and Consequences of Justiciable Problems Experienced by Canadians*, https://www.justice.gc.ca/eng/rp-pr/csj-sjc/jsp-sjp/rr07_la1-rr07_aj1/rr07_la1.pdf.

Exploring the effects of meeting legal needs

This section highlights a number of measurable direct and indirect benefits attributable to meeting particular legal needs in particular circumstances (Figure 2.6).

Figure 2.6. Potential effects of legal and justice services



Several country studies found multiple benefits in addressing legal needs and providing access to legal assistance and access to justice programmes for individuals, families and communities. The range of legal and justice services include legal literacy initiatives, public legal education programmes, primary and secondary legal aid programmes, individual casework and initiatives to facilitate the resolution of disputes (such as alternative dispute resolution mechanisms, community paralegal initiatives, integrated approaches to deliver justice and other human and business services, legal service provided by non-legal organisation, restorative justice, specialised courts and broader court systems, see Figure 5.1). These programmes cover many public policy domains affecting socio-economic inclusion and cohesion, economic growth and more broadly, people's well-being (e.g. immigration, community care, debt, housing, education rights and employment and welfare benefits) (NEF Consulting, 2008[36]). This section highlights the emerging evidence on the impact of different services on achieving broader policy outcomes in these areas.

Housing and prevention of homelessness

Housing disputes or evictions, foreclosures, tenancies, repairs, privacy, harassment and discrimination, issues related to utility payments and rent, vital services (heating) and lease-breaking all constitute a high proportion of legal needs in many countries. For example, according to 2016 World Justice Project data, housing disputes (related to landlord-tenant conflicts) accounted for up to 12% of the most important disputes reported and experienced by individuals in OECD and partner countries covered by the study (although with significant variance, from 2.7% in Japan to 12% in Germany). In the United States in 2013, cases related to housing constituted 27.4% of all cases funded by the Legal Services Corporation. The Ontario Legal Needs Survey identified that housing or land problems constituted about 10% of the most common legal incidences in Canada (Dylag, 2014[37]; Ontario Civil Legal Needs Project, 2009[38]; 2010[17]). The situation has been exacerbated by the recent recession and foreclosure crises across a number of countries, where many low-income tenants face eviction or substandard living conditions.[14]

A number of studies show that legal assistance programmes are found to contribute to improved outcomes for individuals, preventing clients from requiring emergency shelter and related healthcare and social services. This helps reduce demand for government expenditure and other social costs, such as unemployment, disrupted education for children, reduced productivity and family instability.

For example, mainly US-based research demonstrates that tenants who receive full representation in eviction cases are more likely to remain in their homes. A 2009 study found that tenants with full representation had better legal and personal outcomes than tenants who received limited or no representation (55%, 18% and 14% respectively maintained their homes) (White House Legal Aid Interagency Roundtable, 2014[39]). These results were confirmed in a number of randomised control trials. The New York City Housing Study found that warrants of eviction reduced from 44% in cases where the party had no legal representation to 24% in cases where the party received full pro bono legal representation (Serron, van Ryzin and Frankel, 2001[40]).

In addition, further studies demonstrated the benefits of increased housing retention at the community level. In 2009, the Massachusetts Legal Assistance Corporation (MLAC) helped prevent or delay evictions for 1 851 households. MLAC estimated that, of the individuals whose evictions was delayed or avoided, 25% would have required government-funded shelter services should they have lost their homes. Combined with other activities, MLAC estimated that the joint impact of these interventions saved the community more than USD 8.4 million in shelter costs (Granberry and Albelda, 2006[41]).

Evidence highlights that there are additional benefits stemming from increased housing retention at both the individual and community level, particularly for tenants with disabilities, substance abuse problems and other conditions that may be exacerbated by housing instability, although they are often difficult to quantify. Some of the key individual outcomes of housing support may include (NEF Consulting, 2008[36]):

- **Ability to live independently** – The legal service interventions of legal services and representation can improve a person's capacity to live alone (indicators: living in own flat, amount of rent paid) and improve personal or family security when escaping a violent partner.

- **Improved diet and health** – Accessing allowances (disability, incapacity benefit) can lead to an improved diet (indicators: 30% of the received benefits being spent on food).
- **Enhanced employment prospects** – Improved stability and consistent attendance in education programmes can improve the likelihood of obtaining and maintaining employment.
- **Improved living environment** – With the indicator of one's ability to furnish a flat, there is an increase in self- reported well-being including by reducing health risk.

At the state level, some outcomes may include:

- **Reduced costs of dealing with homelessness** – A good financial approximation is the cost to the government of maintaining a person who would otherwise be homeless in a first stage hostel.
- **Improved tax revenue** – The ability of an individual to become employed can help the government improve its tax revenue. The tax resulting from the work identified as one of the outcomes is used as the financial proxy for this outcome, as well as the income benefit saved.

Reducing domestic violence

There is a growing body of evidence demonstrating that providing legal services to victims of domestic violence can reduce its prevalence and the associated cost to governments.

Exploring this further, a victim's capacity to successfully obtain a restraining order against an abusing party is important in preventing future incidents of violence and associated emotional, social and financial costs. Notably, one study found that this capacity increased from 55% to 69% when the victim was supported by a legal advocate (Elwart et al., 2006[42]). Similarly, a two-year review of the impact of Iowa Legal Aid services found that the provision of legal services improved the economic self-sufficiency, safety and psychological well-being of female victims of domestic violence (Boone, 2009[43]).

There also exists emerging evidence of economic impacts in this area. A study conducted in Wisconsin placed the estimated costs incurred by the average domestic violence victim, in terms of medical care, psychological counselling, lost earnings, police resources and the incarceration of their abusers, at USD 3 400 (Elwart et al., 2006[42]). In the United Kingdom, the estimated 2012 cost of gender-based and intimate partner violence was EUR 13.7 billion (EIGE, 2012[44]). Another study estimated that the provision of legal aid services resulted in an average saving of USD 3 630 per family (accounting for emergency medical care, shelter, counselling and education) (Abel and Vignola, 2010[45]).

Supporting socio-economic inclusion through access to social benefits

In many OECD countries, various transfer programmes aim to prevent extreme hardship and enable individual and family well-being (OECD, 2016[46]). Access to social benefits remains an important safety net for millions of people across OECD and partner countries with people more likely to be economically self-sufficient when benefits are effectively

distributed. According to 2016 data from the World Justice Project, disputes relating to the provision of social benefits (including social security, unemployment, disability, child support and tax benefits) also represent a significant legal need. For example, a large share of disputes related to access to public benefits were reported as the most important out of all disputes experienced by individuals over the course of 12 months, although this varies across the countries (e.g. in Sweden [18.6%], Germany [17.4%], Australia [12.7%], the Netherlands [14.9%] and Korea [7%]). In the resolution of social benefit disputes, there is evidence that claimants who had legal representation received more favourable outcomes than those who did not (Krent and Morris, 2013[47]).

A Pennsylvania Economic Impact Report lists a number of possible benefits stemming from the provision of legal services, including the positive impact of crime prevention and reduction on families and communities, the benefits of consistent school attendance by children who may otherwise experience homelessness or domestic abuse, as well as the increased income of clients who were involved in employment-related disputes (Pennsylvania Interest on Lawyers Trust Account Board, 2012[48]).[15] In addition, when legal aid programmes assist non-citizen clients to obtain work authorisation, those clients subsequently spend money and pay taxes (Immigration Policy Center, 2009[49]).

Enhanced consumer financial protection and debtor relief

One common legal problem that can trigger a cycle of decline if left unattended relates to money problems. Consumer or finance cases, that is, matters involving bankruptcy, debt collection, debtor relief, contracts, warranties, creditor harassment, loans, public utilities, deceptive sales practices, etc., represent a significant proportion of legal needs and the cases filed by legal aid. For example, in Canada, according to the Department of Justice survey consumer problems (-22.0% of all reported incidences) or debt problems (-20.4%) were among the top 3 incidences reported to be experienced by Canadians in 2006 (Dylag, 2014[37]). The 2016 World Justice Project data also identifies business debt disputes as among the most common experienced by individuals (e.g. 9.3% in Belgium, 12.4% in Poland, 6.7% in Sweden).

There are a number of agencies charged with protecting consumers and combatting fraud through enforcement (including investigations and lawsuits). Legal aid programmes, often working in partnership with other entities, aim to educate the public on consumer protection issues, correct harm caused by consumer fraud and help consumers assert their rights (White House Legal Aid Interagency Roundtable, 2015[50]). While evaluations of these initiatives are scarce, a number of studies indicate their value to resolving consumer problems. For instance, an evaluation of legal secondary consultations provided by the Consumer Action Law Centre in Australia found their positive impact in achieving good outcomes for their clients (Consumer Action Law Centre, 2016[51]).

Access to healthcare and support for medical-legal problems

While not widespread, health-related legal needs, that is, disputes relating to health insurance, home and community-based care, private health insurance, long-term healthcare facilities, quality of care, denial of access to universal healthcare and violence in healthcare settings, among other things, represent a notable share in some countries. These legal needs often aggregate with other complex needs given that disadvantaged social groups, particularly people from low socio-economic backgrounds also tend to experience higher levels of health issues. Furthermore, legal needs research that medical problems tend to cluster with various legal problems. For example, a medical crisis can

trigger employment, education or housing issues affecting both the individual and his or her family.

Some countries established medical-legal partnerships designed to improve health and life outcomes for patients (Box 5.11). There are examples of health agencies and teams working with legal aid providers "to detect, address and prevent health-harming social conditions that have their roots in legal problems" and to help secure healthcare coverage by appealing erroneous administrative denials of benefit.

A number of studies also showed that the provision of legal assistance through these medical/legal partnerships are found to generate a range benefits, including reduced healthcare debts and claims, improved prenatal behaviour and pregnancy outcomes, reduced levels of child abuse, higher maternal employment rates and overall enhanced well-being (PwC, 2009[52]). A recent study by the medical-legal partnership LegalHealth found that the provision of legal services to cancer patients resulted in reduced stress and improved compliance with treatment (Retkin, Brandfield and Bacich, 2007[53]). Similarly, a 2015 randomised control trial at Boston Medical Center incorporated medical-legal partnership services into an intervention for families of healthy new-borns receiving primary care. The study showed that low-income families assigned to the intervention group were found to have an increase in the use of preventive healthcare and had greater access to concrete support (Sege et al., 2015[54]).

Supporting child welfare and families

Family-related disputes represent a substantial proportion of legal needs in many countries. For example, in Queensland, Australia, family law matters comprise approximately 93% of cases where legal advice and representation is provided (PwC, 2009[52]). Children and families at large, especially those in low-income groups, can be exposed to a host of challenges which may involve legal issues. These challenges may relate to substance abuse, mental health conditions and domestic violence, often occurring simultaneously, which may result in children being removed from the home and placed in the child welfare system, generating suboptimal outcomes. Other challenges relate to errors in granting rights to public benefits (which may have an impact on family and hence children's well-being), difficulties or errors in securing child support, bullying or otherwise problematic behaviour in schools and so on. For example, child custody disputes represent a relatively important ratio of significant disputes experienced by individuals, in accordance with 2016 data from the World Justice Project (3.9% in Australia, 4.1% in the Netherlands, 4.7% in Peru). Legal assistance can help families access necessary public benefits by supporting them with paperwork and dealing with erroneous denials, enforcing child support orders, explaining education laws and school discipline policies to help keep children in school and advising and representing parents of children with special needs in schools. Legal assistance can also support children's education and well-being by addressing other legal issues affecting families, such as immigration, debt, housing or domestic violence (White House Legal Aid Interagency Roundtable, 2016[55]).

Studies have started collecting evidence of the impact of legal assistance programmes on improving child welfare. For example, a study examining the impact of a specialised Family Treatment Drug Court for families affected by drug addiction found that the court achieved better outcomes for mothers with drug addictions than other, non-specialised, courts. The study found that mothers were more likely to attend substance abuse treatment services and were two-times more likely to complete one treatment episode

than those who did not enter the specialised court programme. Additional data from the study indicated that the programme influenced key child welfare variables given that mothers were more likely to be reunited with their children (Courtney and Hook, 2012[56]).

In cases related to custody disputes, one study found that providing legal representation to parents increased the likelihood that spousal support or alimony would be awarded. Another study found that when one party in a contested custody case is represented by an attorney and the other is not, it is more likely that sole custody will be awarded to the party with legal representation (Smith and Brewer, 2011[57]).

While access to education has not been reported among major legal needs in member countries, some legal problems nonetheless arise in this area, especially for those groups living in remote communities and other disadvantaged groups. These include lack of transportation, poor quality education, poor sanitation, erroneous refusal to provide access to higher education, bullying and discrimination in higher education and others. Further research is required to deepen evidence based on the impact of legal assistance and justice services on equal access to quality education.

Supporting positive outcomes for migrants and immigrants

A number of legal assistance programmes focus on helping immigrants and migrants integrate into their new communities. These programmes are often reported to result in improved access to employment and government benefits and a reduction in the risk of poverty, including child poverty (Pastor and Scoggins, 2012[58]).

Reduced recidivism and enhanced victim support

In the criminal context, the provision of legal assistance has also been linked to reducing reoffending and enhanced victim support. Several countries developed a range of programmes (health, social, employment) to support victims of different crimes (abuse, domestic violence, forced labour, etc.), especially those in vulnerable groups. Many of these programmes include legal assistance components to help meet victims' short- and long-term needs to stabilise their lives (e.g. secure housing, medical assistance, public benefits, immigration relief, education, employment and child custody orders).

On reduction of recidivism, several studies identified the following interventions as effective (in different circumstances and cases): educational and vocational programming, substance abuse treatment, drug courts, sex offender treatment, mental health treatment, cognitive behaviour programmes and programmes for juvenile offenders (family-based programmes) (Przybylski, 2008[59]). One study on the effectiveness of mental health courts in reducing the risk of recidivism and violence by people with mental disorders found that participation in a mental health court programme was linked to longer periods without new criminal charges or charges for violent crimes (McNiel and Binder, 2007[60]). Another US study of a drug court over a 10-year period found significantly reduced recidivism for participants up to 14 years of age (as compared to those who did not participate), lower investment costs (USD 1 392 less) as compared to the business-as-usual, and total savings of over USD 79 million over the 10-year period as a result of reduced recidivism for participants in the drug court (Finigan and Carey, 2007[61]). Further research would be beneficial to explore the full range of impacts and benefits of these programmes, both on short-term results and longer-term outcomes.

Supporting employment

Equal access to employment opportunities is key to increased social inclusion and poverty reduction. Data from the World Justice Project and other legal needs surveys show that employment-related problems are relatively widespread and can be associated with significant health and social problems. For example, according to the World Justice data in 2016 workplace-related legal incidents were reported among the most serious legal needs ones in Australia (11.8%), Belgium (9.9%), Colombia (6.3%), China (12.9%), Japan (14.3) and Poland (7.5%), among others. In Canada, 17% of all disputes reported by individuals were related to employment (Farrow et al., 2014[62]). Examples of employment-related legal problems may include deprivation of benefits, discrimination or harassment, unpaid wages and wage gaps, forced reduced hours, erroneous termination, unsafe work, suspensions, expulsions and others. There are also barriers to employment for those re-entering the workforce after incarceration.

All OECD countries put in place various programmes to support the unemployed and the employed. Some of them partner with legal aid programmes to help employees secure wages and benefits, ensure workplace safety or address discriminatory treatment, as well as provide support in job searches for vulnerable groups when legal issues are involved (reinstate a suspended driver's license, secure certificates of rehabilitation, etc.). The information on the effectiveness of these interventions is scarce and varying. For example, the evaluation of the "Early Conciliation" service found that in more than half of the cases both claimants and employers were able to find a settlement (Downer, Harding and Ghezelayagh, 2016[63]), although a randomised control trial study of legal assistance from a law school clinic regarding administrative appeals to administrative judges of initial rulings on eligibility for unemployment benefits did not find any statistically significant impacts on the probability of success of unemployment claims (Greiner and Pattanayak, 2012[64]). As such, further efforts to explore in greater detail the impacts of these programmes on accessing employment and other related outcomes will help to understand their effectiveness.

Enhancing efficiency and savings

The economic impacts of access to justice, particularly through the provision of legal assistance, can be envisaged at multiple levels, including direct benefits and savings for individuals and families, and those that are indirect, such as improved court efficiency, increased economic investment within local communities, increased employment and associated tax revenue (Abel and Vignola, 2010[45]). While further research is needed to quantify various economic effects, some examples include:

- Court efficiency – By assisting and representing clients, particularly self-represented and disadvantaged litigants, legal assistance services are found to prevent court congestion and improve the allocation of existing resources. In several studies, judges, court staff and opposing parties testified that having legal aid lawyers to assist vulnerable clients improves the efficiency of the court process and produces fairer results.[16] The availability of legal aid was found to promote the resolution of legal issues at an early stage and ensures that matters are appropriately streamlined. It also increases the diversion of cases away from the courts into alternative dispute resolution mechanisms (PwC, 2009[52]).[17,18] A recent study in California found that legal workshops and clinics provided by legal aid services reduced the number of court hearings and the time spent by court staff at the public counter. The study found that for every dollar spent on the

legal aid clinics, the courts saved USD 4.35. When taking into account the savings accrued by litigants who did not attend the eliminated court hearings, the savings increased to USD 7.70 for every dollar spent.

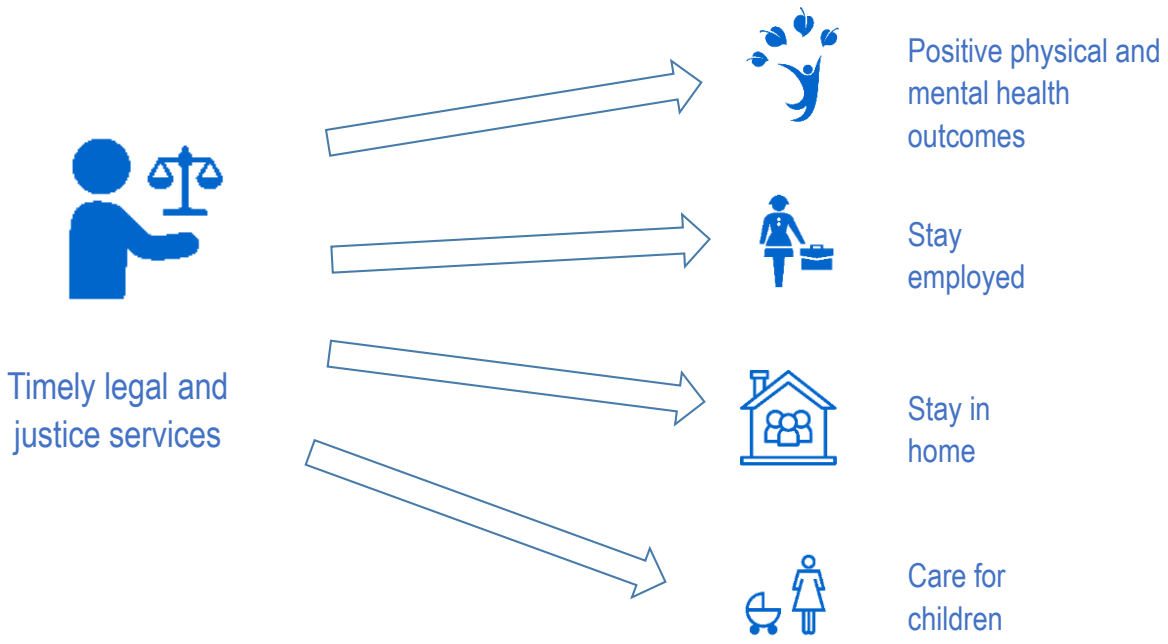
- Induced impacts[19] – Studies showed that legal aid programmes can help secure case outcomes which may be associated with a range of monetary benefits for clients, including increased income, lump-sum payments, increased property value, consistent government benefits, work authorisation, child support, etc.[20]
- Economic impacts on local economies – The economic impact on a local economy could include a multiplier effect resulting from the funds that come to, stay and are processed throughout communities that otherwise would be lost. For example, legal representation may result in reimbursements for individuals, small businesses and healthcare and other service providers for the cost of emergency services. These reimbursements are then invested in local economies and used to purchase additional goods and services, and recipients of that money use it again in the same manner. For low-income groups, the impact of the multiplier effect can be the most significant as they are more likely to spend their income on goods and services (The Perryman Group, 2009[65]).[21]

Reducing overall inequalities

Studies to date provided evidence of the positive effects of people receiving timely legal and justice services to overcome their legal problems. These benefits extend to sectoral benefits in a range of public policy areas (e.g. health, benefits, living conditions) and directly and indirectly to economic growth. Together these legal and justice interventions can contribute to inclusive growth and sustainable development and help to reduce overall inequalities. Like many areas of complex social policy, the links between meeting people's legal needs and heightening inclusive growth are increasingly systematic but not necessarily causal.[22]

People-centred legal and justice services can intervene in and halt the "cycle of decline" and can extend to a "process of advancement" (Figure 2.7). The positive effects are likely to be greater to the extent that broader strategic outcomes such as inclusive growth, social inclusion, anti-poverty are designed into access to justice policies and services. Legal assistance services that target systemic change in addition to serving individual needs can assist in reducing overall inequalities.

Figure 2.7. Process of advancement



Key findings

- Contrary to conventional approaches that consider legal problems to be a rare and unexpected event, legal problems are ubiquitous, they flow from everyday life and are experienced by many on a daily basis. This insight has important ramifications for our understanding of why access to justice matters and its relationship to inclusive growth and individual and community well-being.
- Legal needs surveys now have been carried out over time and across a spectrum of countries illuminating consistent patterns and dynamics. They provide an important evidence base for recognising and specifically addressing people's legal and justice needs, including marginalised groups, as a central strategy for achieving social inclusion. Insights from legal need surveys provide insight into the self-reinforcing nature of disadvantage and the ways in which unmet legal needs can contribute to a cycle of decline which inhibits economic productivity and contributes to further social exclusion.
- Access to justice is at the centre radiating out onto many inclusive growth policies and programmes not because it is the outcome or end-goal, but because it is an integral part of facilitating the laws, policies and programmes that in turn enable growth, prosperity and individual and community well-being. Access to justice is the inescapable "AND" – health and justice, employment and justice, gender and justice, education and justice, and so on.
- Inadequate access to justice is measured in terms of costs related to the impact of unmet legal needs including, for example, social costs, physical and mental health costs, lost productivity, reduced access to economic opportunities for individuals

and business, and foregone education and employment opportunities. Increased access through the provision of people-centred legal and justice services have three types of measurable impacts: effects on the legal and justice systems, sectoral impacts or benefits, and high-level socio-economic impacts.

- There is increasing yet uneven evidence that the impacts of unmet legal needs can be costly to individuals, communities and societies at large. The associated costs can be direct and indirect. Direct costs are the actual dollar expenditure related to leaving legal needs unaddressed (for individuals, entities and the state). Indirect costs include a wide range of costs resulting either from lost productivity of both paid work and household chores (e.g. the number of days people were unable to perform paid work) or lost opportunities.
- Several country studies found multiple benefits in addressing legal needs and providing access to a wide range of legal assistance and access to justice programmes, for individuals, families and communities. There is evidence of positive sectoral impacts in areas such as housing and the prevention of homelessness, enabling gender equality and reducing domestic violence, supporting inclusion through facilitating access to social benefits, enhancing consumer, financial protection and debtor relief, facilitating access to healthcare and support for medical-legal problems, supporting child welfare and families, supporting positive outcomes for migrants and immigrants, reducing recidivism and enhanced victim support, supporting employment and promoting equality and diversity and promoting equal access to education.
- The high legal total economic impact of access to justice, particularly through the provision of legal assistance, can be envisaged at multiple levels, including direct benefits and savings for individuals and families, and those that are indirect, such as improved court efficiency, increased economic investment within local communities, increased employment and associated tax revenue.
- Equal access to justice can contribute to reducing overall inequalities by intervening in the "cycle of decline" that can be initiated by unresolved legal problems and contribute instead to a "cycle of advancement'.
- Further empirical and conceptual work is required to strengthen the business case and contribute to more effective legal and justice services.

Notes

[1] For an overview of legal needs research, see Pleasence (2016[68]).

[2] The figure would be higher still if it included surveys containing only small sections asking about civil legal problem experience, such as the 2008-09, 2009-10, 2012-13 and 2013-14 Scottish Crime and Justice Surveys.

[3] Details of the Russian survey kindly provided by M. Gramatikov.

[4] See OECD (2015[69]).

[5] Additive is a way of describing, statistically, that the experience of one problem increases the likelihood of further problems. See for example, Pleasance et al. (2004[76]); Currie (2007[20]); Gramatikov (2007[75]); Chen et al. (2012[74]); Couramelos (2012[9]).

[6] A substantial literature has developed around the conceptual model of legal disputing behaviour developed by Felstiner, Abel and Sarat (1981[71]), which depicts how problems must be recognised as such before action can be taken to resolve them. More recently, this conceptual model has been expanded and explored through empirical investigation including *inter alia* in Pleasance et al. (2014[19]).

[7] See also Attorney General Holder E. (2015[77]).

[8] Various studies cited in this note used different measurement strategies to understand the costs of unaddressed legal (justiciable) problems (through legal needs surveys, by asking individuals about the consequences when no action was taken to resolve a legal problem, actual costs of services obtained by individuals to deal with these consequences, e.g. the costs of shelters, etc.).

[9] This discussion is based on OECD (2015[69]).

[10] Ibid.

[11] Ibid.

[12] Ibid.

[13] The benefit-cost analysis is limited to the direct impacts of legal aid on the court system and does not include advice or information and education services that legal aid provides. It can be assumed that these services would have significant net benefits to the justice system, particularly because they provide early intervention and prevent matters from being escalated unnecessarily through the system. However, the direct nexus between these services and efficiency benefits to the justice system is difficult to isolate and, therefore, to avoid complexity, they have not been included in this analysis (PwC, 2009[52]).

[14] See OECD (2018[72]); White House Legal Aid Interagency Roundtable (2016[55]).

[15] In New Hampshire, for example, researchers estimated that the state's three major legal services programmes – New Hampshire Legal Assistance, Legal Advice and Referral Center, and New Hampshire Pro Bono – brought in USD 14.3 million of SSI/SSD benefits for elderly and disabled people, USD 8.6 million of Medicare Benefits for people with disabilities, USD 1.7 million in federal tax refunds and savings for low-income clients, USD 12.8 million in child and spousal support in 2011 (Smith, n.d.[70]).

[16] This effect was summarised by the Blue Ribbon Taskforce on Legal Aid in New York: "Evidence before the Task Force clearly establishes that the provision of civil legal services is the essential ingredient for resolving disputes before they get to court and settling them efficiently and effectively when cases do end up in court. The absence of counsel often results in just the opposite, which is in no one's interest. Thomas Richards, the Rochester Corporation Counsel and the former

CEO of Rochester Gas & Electric, put it this way: Relatively simple aspects of the process take more time and are more likely to be adjourned or repeated. The outcome is less likely to be understood and accepted by the unrepresented party. All of this adds time and frustration and expense that's borne by everyone and ultimately leaves society with a less effective legal system" (Abel and Vignola, 2010[45]).

[17] In relation to increased efficiency, the avoidance of costs to the justice system represents a considerable benefit from legal aid. In order to assess this, a benefit-cost analysis was undertaken which modelled a world with no legal aid. There are a number of areas where legal aid provides efficiency benefits to the justice system including: i) the resolution of legal issues at an early stage and streamlining of matters appropriately through the justice system by the provision of legal advice, information and education; ii) the diversion of cases away from the courts through the provision of dispute resolution mechanisms, e.g. legal aid commissions' family dispute resolution services, the increased efficiency of court processes by having duty lawyers on hand to help self-represented litigants (SRLs) address the court and present relevant information; iii) the increased efficiency of the court associated with otherwise self-representing litigants having legal representation.

[18] The benefit-cost analysis is limited to the direct impacts of legal aid on the court system and does not include advice or information and education services that legal aid provides. It can be assumed that these services would have significant net benefits to the justice system, particularly because they provide early intervention and prevent matters from being escalated unnecessarily through the system. However, the direct nexus between these services and efficiency benefits to the justice system is difficult to isolate and, therefore, to avoid complexity, they have not been included in this analysis.

[19] One approach to calculating the total economic impact of a programme may involve estimating the total new expenditure streams that result from the programme's activities, then analysing both short- and long-term effects of this spending.

[20] See The Perryman Group (2009[65]).

[21] See also: Abel and Vignola (2010[45]). The multiplier effect tends to be bigger when a community is larger and more self-sufficient, as the money can circulate around the community several times. See: Bingham (1994[66]); Ginsberg, and Miller-Cribbs (2005[67]).

[22] See for example, in the health policy field, the literature of the social determinants of health (Braveman et al. (2011[73])).

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Chapter 3. Identifying and measuring legal and justice needs

This chapter presents the four-step framework for planning people-centred legal and justice services. It further elaborates its first step: identifying and measuring the needs for these services and good practices.

Introducing the four-stage planning process for people-centred legal and justice services

Shifting from a system focus to a people focus

Past efforts to enhance access to justice tended to focus on the justice system perspective. In measuring access to justice, governments and international organisations historically mainly centred on measuring institutional performance, particularly as it relates to criminal justice (Dandurand, Kittayarak and MacPhail, 2015[1]). Many justice system indicators and performance measures are framed from this perspective. While important for achieving efficiency and sound functioning of the justice system, these measurement approaches are rarely based on an understanding of the types of justice problems people have, what institutions they engage, the effectiveness of dispute resolution mechanisms: what works, for whom and for what types of legal and justice needs.

One of the most important current trends in public service, as highlighted in the different OECD roundtables, is the shift towards people-centred perspective as the guiding principle. In a government-centred or institution-centred perspective, users are the passive recipients of services, whereas, in a user-, citizen-, or people-driven perspective, people voice their demands and needs, contribute to shaping the policy agenda and evaluate service content and delivery. In accordance, the OECD Serving Citizens framework highlights the governments have the responsibility to serve its people and provide public services including justice services that should be designed to meet the expectation and needs of their citizens (OECD, 2015[2]).

The people-centred approach flows directly from and is consistent with the legal needs research and inclusive growth frameworks outlined in Chapter 2. There is profound evidence that people experience service needs in ways that do not match with traditional justice pathways and formal institutional arrangements (e.g. problems that have legal and non-legal components).

This shift toward the people-centred approach can be summed up in one phrase, "people ought to be the universal denominator", in measuring access to justice and setting up service delivery (IDLO, 2015[3]). Two comprehensive Canadian reports take as their starting point the need for substantial change in legal and judicial culture to facilitate greater access to justice (Action Committee on Access to Justice in Civil and Family Matters, 2013[4]; CBA, 2013[5]). Cultural change is seen as a precondition for the development and implementation of specific measures. The focus of this cultural shift is towards a people-centred justice system or "putting the public first" – the system focuses on people's needs, not those of justice system professionals and institutions. This focus is based on all people, especially members of vulnerable or marginalised groups. People-centricity flows from and reinforces the concept of justice as a public service.

The value of people-centred access to justice innovation is multidimensional. People's needs and experiences are key to identifying innovation potential in and provide the rationale for reflecting on the delivery of legal and justice services. The perspective of individuals, families and communities provides important input from the "outside in" about how this potential can best be realised, by suggesting how services can be more responsive to people's needs and through the co-development of reforms guided both by service providers and users. A deep understanding of people's daily realities, their diverse situations and experiences help guide policy implementation. An appreciation of people's capabilities, situations and experiences can illuminate how these realities could serve as resources or challenges in implementation justice programmes and services. This people-

focused perspective must also guide evaluation so that we can measure the extent to which legal and justice services contribute to the fair resolution of legal issues and problems, positive case outcomes, and broader outcomes such as reduction of disadvantage and increased socio-economic inclusion.

Systematic planning for people-centred services

The main challenge in delivering people-centred access to justice services is to ensure they meet justice needs, integrate user experience and that service provision extends "to the 'right' mix of services, to the 'right' clients, in the 'right' areas of law and in the 'right' locations and at the 'right' time" (Pleasence et al., 2014[6]).

The design and delivery of "good" legal and justice policy involve systemic planning processes[1] based on four questions:

- What types of legal and justice are experienced by whom?
- Where and when are these needs experienced?
- What works in designing services that meet these needs?
- Where to deliver services and how should they be evaluated?

All of these questions are posed and answered from the perspective of those experiencing the legal and justice needs. It is important to note that the approaches to measuring needs and formulating policies and services must be tailored to specific populations in each country context (and their legal environment), in particular taking into account the situation of vulnerable individuals, families and communities and those living in conditions of disadvantage.

This report brings together research evidence, examples of country practices, tools and models that can assist OECD and partners countries to carry out each of these four stages of systematic planning. Potential measurement tools and indicators are identified and discussed with a view to assisting governments and other entities to implement necessary reform and compare changes in access to justice over time and from place to place.

Governments, researchers, service providers and others around the world increasingly recognise the need for sound and comprehensive evidence to underpin the development of good policy and cost-effective service delivery. A wide range of methodologies can be utilised to develop the information required for planning people-centred legal and justice services. These include wide-scale legal needs surveys, tailored surveys, analysis of administrative data compiled by legal, justice and other governmental institutions, and research projects using a variety of methods (e.g. content analysis, observation studies, participatory research). Other potentially useful data sources include data held by local councils and contained in planning and research reports and toolkits. On-the-ground knowledge held by local legal and human services, as well as other stakeholders, can also contribute usefully to planning legal services. Often a combination of approaches is necessary to gain a full understanding of legal needs and how, when and where to meet them, within a given country context (see below).

In some areas of human services, such as health, the tradition of evidence-based policy and decision-making is well established. While not suggesting existing evidence-based research is sufficient and comprehensive for all decisions in all areas, the intent to underpin policy decisions with sound cost-benefit, cost-effectiveness and other evidence-based approaches is widely accepted in many sectors, e.g. health, across OECD and partner countries.

In comparison to some other human service sectors, the legal sector has not historically been well grounded in co-ordinated, robust, evidence-based research and analysis. This lack of data can be attributed in part to the fact that the information tends to be scattered across government departments and agencies as well as private service providers. Issues related to marginalised populations tend also to be data poor. Additionally, the justice portfolio tends to account for a relatively small portion of government expenditures, particularly if costs related to policing and corrections are excluded.

Effective people-centred legal and justice services that provide appropriate access to justice for all parts of society, contribute to inclusive growth and individual and community well-being and is affordable for both the state and individuals, families and small and medium-sized enterprises (SMEs), will likely only be achieved when government, policymakers, service providers and ordinary citizens have access to comprehensive, reliable and clear information to inform their decision-making. Five key audiences for such information and analysis are:

- Policymakers (predominantly government).
- Key service provider agencies (e.g. courts and tribunals; Alternative dispute resolution mechanisms, ADR).
- Other service provider agencies (such as legal aid and other legal assistance service providers which often operate as clients of state agencies).
- Individuals, families and other entities experiencing legal needs.
- Social scientists working in associated fields.

The need for enhanced information and data is an issue that cuts across the four planning stages. While some of the information sought or questions to be answered may vary with the issue/legal matter type, the client and the jurisdiction, there will also be many aspects of commonality. The emerging challenge for justice sectors is to identify and implement cost-effective strategies to obtain and sustain this evidence base.

Getting started: Identifying and measuring legal need

Step 1 rationale

The first stage in systematic planning for people-centred legal and justice services is to identify and measure legal needs. The central questions are: who experiences legal needs and what legal needs do they have? Are those needs currently being met? An elaboration of these broad questions is set out in Box 3.1. Posing these questions from the perspective of the individual, family, community or SME is a prerequisite for policy and service design and planning.

Box 3.1. Identifying and measuring legal needs

When seeking to identify the legal needs of the community, the questions to be answered for policymakers and service providers might include:

- What is the prevalence of legal problems across the community in a particular time period?
- What are the types/areas of law of the legal problems experienced?
- Are some demographic groups of individuals more likely to experience different types of legal problems?
- Are some demographic groups of individuals more likely to experience multiple legal problems?
- What do people do (including different demographic groups) when faced with legal problems?
- For those who seek assistance, who do they seek assistance from? How do they come to that service provider? What are their motivations (e.g. rational economic motivation, proving a point, etc.)?
- Why do some people not seek assistance?
- How do people resolve, or seek to resolve, their legal problems?
- Where are the geographic areas of high legal needs?
- What are the adverse consequences on other aspects of life (health, employment, housing or other areas of social engagement) experienced by those experiencing legal need?
- What are the costs of meeting the identified legal needs? What are the costs of not meeting the need?

Legal assistance services

The full range of legal services targeted at poor and disadvantaged people would include services such as: legal aid, community legal centres, legal centres targeting particular groups (such as women, indigenous people, refugees, etc.), pro bono services provided by the profession, and others.

Identifying the needs is only the first step. To provide effective legal services ensuring people have effective access to justice that allows them to enforce their rights and fully participate in economic and social life, regardless of economic or social disadvantage, the following information may be relevant for policymakers and service providers:

- Where are the areas (geographic, areas of law, etc.) of greatest legal need?
- What types of services are most effective and cost-effective to meet which needs for which groups and in what circumstances?
- What services are available to meet the identified needs of individuals in their own geographic location?
- How can the most appropriate services be made available at the right time and place across the geographic and legal breadth of jurisdictions?
- How can we monitor and evaluate changing needs and the impact of service

delivery to ensure the legal needs of the community continue to be met in the most effective and efficient way?

Formal dispute resolution processes (e.g. court, tribunal and ADR services)

When seeking to provide an evidence base to inform decision-making in civil justice in relation to the operation of formal civil dispute resolution organisations and processes (e.g. courts, tribunals, mediation services, etc.), questions to be answered (at any given time/period) might include:

- Who is suing whom in a particular court/tribunal?
- What types of civil claims are being litigated or mediated?
- Of what value are the claims being pursued?
- What matters are defended and by whom?
- Who has legal representation and who does not?
- How are matters finalised? How long does it take to reach certain outcomes in a particular court/tribunal?
- What is the cost to the state of certain types of conduct? What is the cost to litigants of pursuing certain matters? (Forell and Mirrlees-Black, 2016[7]; Forell and Mirrlees-Black, 2016[8])?

For potential users of civil courts and tribunal services, other questions may be important in order to enable them to make decisions about the most efficient avenue for resolving their disputes or legal problems. Their questions might include:

- How long do various stages of the likely civil litigation process take and, in particular, what is the expected timeframe to obtain resolution?
- What is likely to be the personal/organisational time and effort (i.e. such as court attendance, etc.) required to obtain that resolution?
- What costs are likely to be incurred?
- On recorded experience of similar matters, what are the chances of success?

Sources: Coumarelos, C. et al. (2012[9]), *Legal Australia-Wide Survey: Legal Need in Australia in Access to Justice and Legal Needs*, Law and Justice Foundation of New South Wales; Pleasence, P. et al. (2014[6]), *Reshaping Legal Assistance Services: Building on the Evidence Base*, Law and Justice Foundation of New South Wales, Sydney; Forell, S. and C. Mirrlees-Black (2016[7]), *Data Insights in Civil Justice: NSW Local Court*, Law and Justice Foundation of NSW, Sydney.

This section considers three main people-centred approaches to identifying and measuring the legal needs of the community:

- Service provider administrative data.
- Legal needs surveys.
- Target studies (often complementary/supplementary to the other methodologies).

The possibilities and challenges of each of these methodologies are discussed and examples of country practices are provided. To begin, a case study of the Access to Justice and Legal Needs Program of the Law and Justice Foundation of New South Wales (NSW) (Australia) imparts an introduction to these methodologies and how they can be

employed together to establish a more comprehensive understanding of legal needs (Box 3.2).

Box 3.2. The Access to Justice and Legal Needs Program of the Law and Justice Foundation of New South Wales (Australia)

The Law and Justice Foundation of New South Wales' (Australia) Access to Justice and Legal Needs research programme (A2JLN) adopted three separate but interrelated methodological streams in order to identify the legal needs of the community, with a particular emphasis on the needs of disadvantaged people. After an initial phase of public and key stakeholder consultations, during which the objectives and approaches for the research programme were refined, the programme adopted four methodological strategies:

- **Administrative data (service provider data)** – Recognising that legal service providers were providing services to citizens daily and recording data in relation to this service delivery, the programme began by seeking to obtain access to and then harmonise this data. After an initial scan of many data sources, for reasons of manageability and to ensure a lower socio-demographic citizen focus, the programme settled on data from Legal Aid, Community Legal Centres and from LawAccess (a free, telephone and online advice, referral and information service). This approach – the first of its kind that we were aware of – revealed both the potential and the challenges of using this "administrative data" identify and measure legal needs. This potential and the challenges are discussed elsewhere in this report.
- **Legal needs surveys (LNS)** – It became clear during the initial phase of the A2JLN programme that there was some concern across the sector in relation to how much of the existing legal need was actually reaching the formal legal service providers, despite the fact that workloads seemed to be high. In other words, the service provider data was really revealing what could be called "expressed need" or "patent need" (the needs that people actually took action through the legal service providers to resolve), but not necessarily the "unexpressed need" or "latent need" (that need that existed but did not reach formal legal service providers). The programme then adopted a strategy of legal needs surveys to identify the legal need that existed in the community – including both the need that was reaching the legal service providers but also the need that was not.
- **Targeted studies** – It was nevertheless appreciated that there are certain priority groups that will often be missed in both these sources. Certain disadvantaged groups will be unlikely to use services and, depending on how conducted, respond to surveys. Older people (especially those in residential care), homeless people, people with mental illness or intellectual disability, and people in remote indigenous communities fall in this category. Therefore, a range of complementary studies needed to be undertaken to "fill the gap" with those groups. The A2JLN programme, therefore, included a strategy of targeted qualitative and mixed-method approaches to identify the legal needs of groups such as older people, people with mental illness, prisoners and homeless people.
- **Participation in law reform processes** – During the establishment phase of the

A2JLN programme, it was recognised that for there to be appropriate and sustainable access to justice, citizens needed to be able to realistically participate in law reform processes. As the A2JLN programme progressed, it became clear that little insight on this aspect was being revealed from the existing three strategies, and so a separate research project to examine participation in law reform processes was undertaken, resulting in a report "By the people, for the people?" (Nheu and McDonald, 2010[10]).

Sources: Law and Justice Foundation of NSW; Nheu, N. and H. McDonald (2010[10]), *By the People, For the People? Community Participation in Law Reform: Summary Report*, Law and Justice Foundation of NSW, Sydney.

Administrative data

Administrative data is data collected continually by a range of service providers[2] and agencies as they interact with clients or users, in accordance with regulatory requirements (e.g. vehicle registration, taxation purposes) and to administer government-funded programmes (Productivity Commission, 2013[11]). In the legal and justice sector, administrative data can include data collected by courts, tribunals, ADR agencies, community justice centres and legal aid providers in relation to the demographic characteristics of clients, the matters assistance is sought for, the services provided, and the like.

Administrative data:

- usually originates as a means of government and other agencies reporting to their funders for accountability purposes
- is collected primarily for "administrative" and management reasons, and not generally for research purposes
- is collected routinely with each provision of service, should also be distinguished from data obtained through bespoke research, using methodologies and data collection to answer specific questions
- should be distinguished from what might be called "official data" such as data collected and produced by national statistics agencies, such as national census data, etc.

Systems are often designed to have some degree of flexibility, to allow for changes in the information collected, and also ad hoc data collection, i.e. capture strategically important information when needed (whether internally or externally specified).

Administrative data forms a treasure trove of information." In Australia, for example, the Productivity Commission, the premier national economic analysis agency, long argued that "administrative datasets could be instrumental in gaining insights into whether government programmes:

- Meet their stated objectives – do they work or are other influences at play?
- Operate as intended – do recipients respond to (dis)incentives, are there unanticipated (good or bad) effects on recipients or the community?
- Are delivered effectively – are there queuing or discouragement effects?

- Deliver services in the right places – are services located near people in need?"

This information, in turn, underpins deeper assessments "about whether the particular policy mix is coherent or whether other policy initiatives work to hinder desired outcomes" (Productivity Commission, 2013[11]).

In the National Center for Access to Justice's Justice Index, the presence and absence of policies account for a form of administrative data. Core categories of data important to analysis of access to justice include: i) data about presence and absence of policies; ii) data about degree to which policies are implemented; iii) data about whether the policies, even if implemented, are able to accomplish their intended goals; iv) data about actual impact of justice system policies as experienced by people; and v) data about the impact of justice system policies as experienced in communities. The value of data is considered at its peak when these different categories of data are all available for comparison and when different forms of data within each category are also available.

It is important to emphasise that administrative data is not in itself people-centred since the information collected is framed by institutional concerns and priorities: administrative data is institution- or system-centred. Nevertheless, when well collected and managed, administrative data can provide valuable information to monitor and evaluate service provision and answer key information requirements. In addition to information about legal need discussed below, greater access to and analysis of administrative data could, for example:

- Provide greater insight into understanding disadvantage.
- Assist in connecting knowledge across human service disciplines, such as to health, to allow us to better "connect the dots" among the human factors contributing to inclusive growth.
- Allow analysis of the interactions between welfare and work (Productivity Commission, 2013[11]).

However, conducting research with data derived from service providers and agencies is not without problems. The use of some administrative data may raise issues related to their privileged status. Key advantages and disadvantages of administrative data are summarised in Table 3.1.

Table 3.1. Advantages and disadvantages of using administrative data for policymaking

Advantages	Disadvantages
Collected for operational purposes, so no additional collection costs, but will incur extraction and cleaning costs	Information collected is restricted to data for administrative purposes and limited to users of services and administrative decisions
Collection not additionally intrusive to target population	Lack of researcher control over content
Regularly, sometimes continuously, updated	Proxy indicators sometimes have to be used
Can provide historical information and allow consistent time-series to be built up	May lack contextual/background information
Collected in a consistent manner, if part of a national system	Changes to administrative procedures can change definitions and make comparisons over time problematic
Subject to rigorous quality checks	Missing or erroneous data. Possible incentive to fabricate responses to access benefits
Near full coverage of population of interest	Quality issues with variables may be less important (e.g. address details not updated)
Reliable at the small area level	Metadata – lacking or of poor quality
Counterfactuals/controls can be selected post hoc	Data protection issues
Captures those who may not respond to surveys	Access by researchers dependent on support of data providers
Potential for data sets to be linked to produce powerful research resources	Underdeveloped theory and methods

Source: Smith, G. et al. (2004[12]), *The Value of Linked Administrative Records for Longitudinal Analysis*, Report to the ESRC National Longitudinal Strategy Committee.

Administrative data in the civil justice sector

The present state of administrative data in the legal and justice sectors has yet to reach its full potential and the level of other areas, e.g. social policy. In many countries, justice sector administrative data can often lack consistent terminologies, definitions and data collection protocols, within jurisdictions as well as between jurisdictions.[3] This may not be surprising. The civil justice sector tends to be fragmented, diffuse and complex – partially as a consequence of the proliferation of service providers and the institutional independence of various actors and entities (CBA, 2013[5]). These conditions also exist in the criminal justice system, but it has achieved a higher degree of coherence through focused collaboration. Furthermore, legal system reforms in many countries over the last 50 years, in particular, saw major increases in legislative intervention in people's day-to-day lives (and thus the creation of legal rights and responsibilities), many intended to improve access to justice for individuals. However, such changes generally occurred in a piecemeal fashion, responding to particular priority needs and issues arising in different jurisdictions at different times, often under the responsibility of different government portfolios, with different funding and reporting requirements.

As governments and other justice agencies moved to a more evidence-informed basis for policy development, initiatives have begun to identify the utility of presently collected administrative data for policy development/service provision purposes and to improve this data over time.[4] For example, as part of Latvia's Justice for Growth approach, Latvian court managers use administrative data as a tool for systematic planning more people-centred services including to link court management reforms with the needs of individuals and businesses and using this perspective to inform priorities. The courts are also exploring ways of merging available data to inform future reforms.

Using administrative data for insight into legal need

Administrative data on the use of legal and justice services can include information on various types of cases, use of legal assistance services, the numbers of unrepresented parties before the courts and tribunals, use of ADR mechanisms that are connected to the formal justice system, and so on. This data can be mined for insight into the extent of legal need by contributing a picture of the:

- demographic groups that access particular legal services
- nature of the expressed legal needs
- pathways people follow to resolve the problem (or not) and the outcomes they achieve.

Communities, governments, service providers and researchers often turn first to available administrative data relating to usage of existing legal services as a means of identifying legal need. For example, by looking at the data collected daily by legal and justice service providers, it may be possible to gain insight into questions such as:

- How many people are currently accessing services (such as legal aid, community legal centres, but also for courts, tribunals and ADR processes)?
- Who those people are (i.e. what socio-demographic groups do they represent)?
- Where do they live and where are the legal services needed?
- What are the legal matters they enquire about?
- Who inquires about which problem/matter types?
- Are there socio-demographic groups that seem under-represented?
- What pathways do people take to reach this legal service, and what subsequent pathway may be taken after the particular service to resolve the legal problem (Mirrlees-Black and Williams, 2016[13])?

As noted above, administrative data is inherently limited in its ability to contribute to a full understanding of the extent of legal need in the community because it is collected for broader purposes with different definitions. Moreover, it is important to note that, as with all data, this data is a reflection of the method of how it is obtained. Legal service delivery administrative data is shaped by many factors, which are summarised in Box 3.3.

Box 3.3. Factors shaping legal service delivery administrative data

Problems experienced – The problems recorded by service providers will usually only reflect the problems/matters that the particular service provider deals with and not the wider range of problems across the broad community, and for which no service may necessarily be available. Thus, unless the particular service handles a comprehensive range of legal problem types, what will be recorded will be the problems service providers actually deal with, not the number, range or severity of problems clients may actually experience.

Only what is recognised as "legal" – Research consistently finds that many people do not recognise problems as "legal". If they do not, it is unlikely they will go to a legal service provider for assistance, and thus will not appear in the administrative data.

Ready, willing and able to act – Many people, particularly disadvantaged people with

complex lives and multiple problems, often lack the legal literacy, capability and psychological preparedness to seek out legal assistance for legal problems they experience. Some people also may have a different cultural approach to seeking legal help.

Financial and other eligibility requirements – Public and not-for-profit legal services providers almost always have limited funding and as a result, will limit the matters/clients they can serve in accordance with a range of eligibility criteria. Clients/matters that fall outside these criteria will not appear in the administrative data.

Availability of service – geography – Physical proximity demonstrated in many situations to be a key factor in a citizen's access to available legal services. That is, if service provision locations are too far away or otherwise inaccessible, many potential clients may not seek them out.

Availability of service/resources-budget constraints – Resource limitations will impact on service availability and hence its use.

Data classification taxonomies, quality and harmonisation – Different providers often collect data using independent frameworks and methods.

Data accessibility – While the data may be collected at an individual office level, it might not be available in a useable form for regional/jurisdictional planning and analysis.[5]

To address the various inconsistencies in how variables are defined, recorded, collected and classified, substantial work may be required to improve consistency and harmonisation before useful analysis is possible.

A key factor in the usefulness of administrative data on legal service delivery for any purpose is the consistency and quality of its collection, across multiple service locations and service providers, and its harmonisation across regions and jurisdictions. At present, many legal and justice service providers developed their system for the collection of administrative data outside the framework of overarching, consistent, evidence-based frameworks. In some countries, steps are taken or contemplated to improve the consistency in justice sector data (Box 3.4).

Box 3.4. Civil data improvement programme in England and Wales

"England and Wales reported plans for civil data improvement as part of their court reform programme, which aim to transform justice services and change the way they are delivered. A major emphasis is placed on IT and digitisation, with the idea of better capturing point of contact data with users. Various core data and key performance indicators (KPIs) are being developed as well as ways to understand the customer experience and satisfaction with service. For example, 48 000 claims have been issued through the reformed Online Civil Money Claim service in public test mode since Spring 2018, with user satisfaction currently at 88%. Following an exercise to specify data requirements the service will also collect enhanced Management Information in the future."

Source: Ministry of Justice, United Kingdom.

For example, in Australia, the Law and Justice Foundation's Access to Justice and Legal Needs (A2JLN) programme's strategy utilising legal service delivery data involved a detailed attempt to harmonise legal assistance sector data for analysis purposes without substantive changes to the manner of data collection in the different agencies. This approach was chosen in light of the magnitude of the challenge of encouraging change in data collection practices across many different agencies. A successful example of the use of administrative data as a measurement tool is the Legal Assistance Services Data Digest (LASDD) developed by the Law and Justice Foundation of New South Wales (NSW). This resource draws together data held by a number of publicly funded legal assistance providers in NSW and allows users to analyse/produce reports on:

- types of legal matters for which inquiries are made
- demographic characteristics of assistance seekers
- pathways that service users take to resolve their problems
- changes in legal inquiries over time
- the rate and number of inquiries for particular population groups and geographic areas of NSW
- spatial displays of the association between legal need and census-based measures of socio-economic disadvantage (LJFNSW, 2014[14]).

Given the wide variation in data collection protocols, definitions (or sometimes the lack of them) and practices likely existing across jurisdictions, short-term progress to improve harmonisation may only be likely through the detailed consideration of unit-record data at the lowest level of data collected and then adopting concordance/conversion processes. However, longer-term results may best be achieved by the progressive adoption of common and agreed data definitions and protocols. Using this approach recent attempts in Australia were made to begin the process to facilitate the harmonisation of data collection across all legal assistance service providers, culminating in the publication of an Australian National Legal Assistance Data Standards Manual for legal assistance services[6] (Box 3.5).

Box 3.5. Australian National Legal Assistance Data Standards Manual (NLADSM)

The Australian NLADSM aims to "give best practice guidance to legal assistance service providers to facilitate the collection of consistent and comparable data". The standards are underpinned by the following rationale:

> *"To achieve a national, integrated system of legal assistance, service providers must work together to improve access to justice, address disadvantage and maximise service delivery within the resources available.*
>
> *Consistent and comparable data collection provides the foundation for a strong, reliable evidence base that informs legal assistance policy and supports planning and resource allocation decisions to ensure that limited resources are directed to areas where services will have the greatest benefit. A reliable evidence base also provides a comprehensive overview of legal assistance services delivered and the people and organisations accessing those services and helps service providers respond to current and emerging legal need. Finally, reliable evidence demonstrates how effectively the legal assistance system, and the justice system more broadly, is functioning in Australia."*

Source: Australian Government (n.d.[15]), *National Legal Assistance Data Standards Manual*, Attorney-General's Department.

The work of the Australian Attorney-General's Department-sponsored Civil Justice System Evidence-based project, and now the NSW Department of Justice's civil court and tribunal data project, are other manifestations of moves (although far from comprehensive) towards improved data collection and spatial displays usage practices. As part of the establishment of this latter strategy, research is currently being directed to examine in detail the administrative data collected in all New South Wales civil court and tribunals for the purpose of determining how useful it is to answer key questions, but also to inform improvement in data collection practices.[7]

Legal needs surveys

Legal needs surveys were introduced in Chapter 2 in the form of a high-level summary of the evidence derived from surveys carried out in over 50 countries across more than 30 jurisdictions over the past 2 decades. It is important to note that legal needs surveys are the best means of obtaining the most representative understanding of legal need from the people's perspective. A growing trend of innovative countries is implementing legal needs surveys for service planning. Colombia employed a national legal needs survey as the starting point for its access-to-justice plan as part of its National and Regional Development Plan (Box 3.6).

Box 3.6. Colombia Legal Needs Survey

Colombia implemented one of the most comprehensive legal needs surveys to date. Building from legal-needs methodologies tested by the Colombian civil society organisation Dejustica, a national survey was carried out in collaboration between the Department of National Planning and National Statistical Office in 2016. The survey data can be disaggregated by geographical area, by gender and other identity characteristics.

Colombia developed an Effective Access to Justice Index (*Índice de Acceso Efectivo a la Justicia*) based on the survey results to inform their long-term justice plan. Colombia's index explores six dimensions of access to justice: i) a favourable environment (which is concerned with structural and institutional barriers to justice that lie outside of the justice system); ii) legal capability; iii) legal assistance; iv) fair procedure; v) compliance with judicial decisions; and vi) access to institutions. The legal needs module of the Colombian National Quality of Life Survey contributes to 10 of 24 indicators, focusing on legal capability, legal assistance, access to justice institutions, procedural fairness and enforcement. Availability of legal aid is a cross-cutting factor.

In addition to the index, Colombia is using the survey data to: close the gaps between supply and demand, identifying the barriers for access to justice of vulnerable population; develop a ten-year justice plan; plan and design appropriate, timely, integrated and targeted justice services, sustainability reforms and indicators for monitoring evolution.

Source: National Planning Department, Colombia.

Given the in-depth coverage of this topic in other documents including OECD-OSJI (2019[16]), the report provides only an overview of legal needs survey methodologies and compares the differences between the identification and measurement of legal needs through surveys and administrative data.

Since the 1970s ABA/ABF national survey of legal needs, the 1994 Comprehensive Legal Needs Study in the United States and the Hazel Genn's 1999 Paths to Justice Study in the United Kingdom (Genn, 1999[17]), a new approach to access to justice research and reform through legal needs surveys has been taken and continues to evolve. Legal needs surveys focus on the perspective of the individual by identifying their legal and justice needs and the pathways they follow to resolve them rather than merely what was generally believed to be what people wanted or needed. To achieve this aim, such research included substantial surveys of what legal problems were actually experienced by citizens and what action they took (or did not take) in response to these legal problems.

These surveys do not rely on individuals being able to identify a problem as "legal" or having a possible legal resolution, nor do they assume that everyone with a legal problem seeks to take action to defend them. Individuals do not need to have come into contact with the legal and justice sector in order to report the experience of a legal problem. Survey responses are based not on opinion but rather on the recollection of problems, impacts of the problems, action taken in response to the problems and outcomes of the problems. Legal needs surveys are regarded internationally as giving "clear indications on the trends of justiciable problems […], the ways they are solved and on the number of them that are not solved in a satisfactory manner" (Barendrecht et al., 2012[18]). The results of legal needs surveys (both civil and criminal) made an important contribution to

understanding common obstacles to accessing justice experienced by both individuals and businesses and have paved the way for some reforms.

In recognition of the importance of this methodology, the OECD collaborated with Open Society Justice Initiative (OSJI) to develop a conceptual framework and toolkit to assist countries to employ person-based surveys to better shape justice policy and inclusive growth and development outcomes, and to further harmonise civil justice measures at the national and global levels (Box 3.7).

Box 3.7. OECD-OSJI Guidance on Understanding Legal Needs and Effective Access to Justice for Inclusive Growth

Understanding legal needs calls for collecting good data. Legal needs surveys are a specialised form of survey research and should adhere as far as possible to best practices in field research.

OECD-Open Society Justice Initiative (OSJI) guidance is designed to assist planners, statisticians, policymakers and advocates to develop, administer and use legal needs more effectively. Best practices build upon the lessons and experience of the past 25 years of legal needs surveys to suggest effective strategies for measuring access to justice at a local, national and global level. The toolkit discusses common pitfalls, key lessons and effective practice in the implementation of legal needs surveys. The toolkit answers common questions in developing, deploying and using legal needs surveys:

- What are the essential elements of legal needs survey methodologies?
- How should justiciable problems be defined and what problems should surveys include?
- What period of time should surveys cover?
- How can the types of legal and social support people do (or do not) seek and receive be best captured?
- How can the processes and institutions involved in resolving problems be best captured?
- What forms of outcome and impact associated with legal issues can be captured?
- Are there elements that can be used in surveys across jurisdictions and contexts?
- How can surveys contribute to indicators to measure progress on access to justice?

In seeking to answer these questions, the toolkit sets out a framework for the conceptualisation, implementation and analysis of legal needs surveys, providing guidance and tools in a modular way and allowing application into different types of surveys.

Source: Extract from OECD-OSJI (2019[16]), *Legal Needs Surveys and Access to Justice*, OECD, Paris.

While findings from legal needs surveys are necessarily at odds with administrative data depending on the jurisdiction, comparing them may highlight that legal needs surveys reveal a different ordering of legal problems (Table 3.2).

Table 3.2. Contrasting top 10 legal issues from needs survey and administrative data results: Example from New South Wales (Australia)

Problem group - respondents with problems (2012)	Number	%	Problems enquired about (2015)	Number	%
Consumer	862	21.0	Live with/spend time with	31 736	10.9
Crime	575	14.0	Tenancy	14 338	4.9
Housing	534	13.0	Fines and other driving/traffic offences	12 490	4.3
Government	439	10.7	Property settlement	10 683	3.7
Personal injury	316	7.7	Money owed by client	10 213	3.5
Accidents	307	7.5	Domestic violence related assault/harassment	9 274	3.2
Credit/debt	260	6.3	Pensions/allowances	8 862	3.0
Rights	257	6.2	Consumer credit	8 761	3.0
Employment	254	6.2	Apprehended Domestic Violence Order (ADVO)	8 736	3.0
Money	244	5.9	Family – other	8 501	2.9
Family	176	4.3	Visas/residency	8 447	2.9
Health	148	3.6	Money owed to client	7 307	2.5

Note: The picture would be very different if a different type of service data were used for comparison.
Sources: Data from 'Problem group - respondents with problems' is from Coumarelos, C. et al. (2012[9]), *Legal Australia-Wide Survey: Legal Need in Australia in Access to Justice and Legal Needs*, Law and Justice Foundation of New South Wales; Data from 'Problems enquired about' is from LJF Legal Assistance Services Data Digest: LawAccess NSW, Legal Aid NSW (Advice) and NSW Community Legal Centres (2015);

In the Australian example highlighted in Table 3.2, the survey data is drawn from a representative sample of the population, through the exploration of a broad range of legal problems (although not exhaustive) and using a methodology that does not require the respondent to know whether the problem is legal or not. It is not dependent upon issues of client eligibility for service delivery nor upon the limited range of services or legal matters dealt with by a particular agency. Further, it does not rely upon the individual taking action through a legal and justice service provider to address the problem.

By contrast, the administrative data has limitations as described above. Importantly, while it provides more detailed information in some areas than legal needs surveys will (e.g. address of service user, specific legal problem type, pathways to and from the agency, etc.) and does not rely on the client's memory to report certain facts, the administrative data is not usually obtained from a representative sample of the population.

Administrative data obtained from legal service providers sometimes better reflect the issue of differing degrees of severity of legal problems than a legal needs survey (depending on the methodology employed). While the legal and justice service provider data will be limited to those matters that were brought to (and assisted by) the service provider for assistance and resolution, and not representing a broader range of problems experienced by the community, they nevertheless potentially represent more serious matters that required assistance from a formal legal service provider. This may indeed be

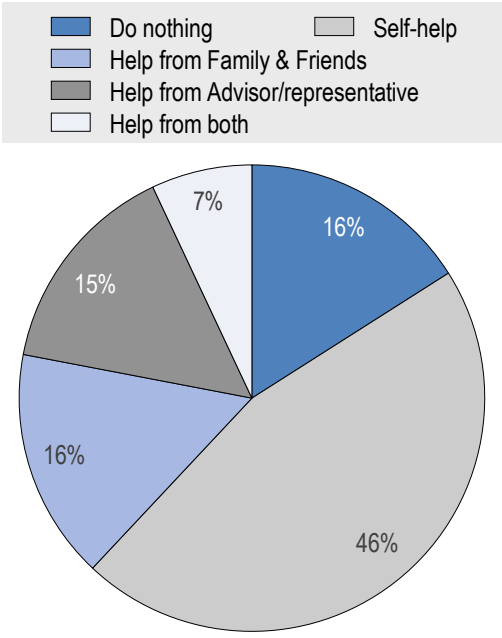
analogous to the difference in the contrasting pictures one obtains from health data obtained through hospital admissions as compared to data from population health surveys.

As such, while consumer, crime and housing matters were most often experienced across the population, the administrative data reflects that people seek legal advice and assistance from formal legal advisors for matters concerning the custody and residence of children post separation (as indicated by the category "Live with/spend time with") than for any other matter.

Another general strength of legal needs surveys is the insight they provide in relation to the sources of advice used by citizens when faced with a legal problem. Surveys from a number of countries demonstrated that only a relatively small proportion of matters experienced by the community are resolved through legal processes or with the assistance of formal legal assistance services. For example, in Australia, only 3.4% of matters are resolved through courts and tribunals and a further 3.4% resolved through formal dispute resolution and complaint handling processes. These findings are also demonstrated in other similar jurisdictions: in Canada, only 7% of people use formal court or tribunal processes to resolve their legal problems (CFCJ, 2016[19]). Further, in terms of advice seeking, many people who experience a legal problem seek advice or assistance to resolve it and only a small portion of those seek assistance from a legal assistance service. In the US, a recent study found that:

> *"When third parties other than family and friends became involved, these seldom included lawyers or courts. Situations that were selected for detailed follow-up in the life histories provide rich information about how people handle these kinds of events. In these life histories, very few situations involved courts or tribunals of any kind: 8% of the total situations were selected for in-depth follow-up. Of the small number of situations with some kind of court involvement (n=36), people sought advice or other assistance from attorneys in just over two-fifths (42%) of cases. In situations with no court involvement, they sought the assistance of attorneys in 5% of cases" (Sandefur, 2014[20]) (Figure 3.1).*

Figure 3.1. How people handle civil justice situations: Percent handled by each means, middle city



Source: Sandefur, R. (2014[20]), *Accessing Justice in the Contemporary USA: Findings from the Community Needs and Services Study*, American Bar Foundation, University of Illinois at Urbana-Champaign.

These are important findings in the context of the examination of measurement and planning in the interests of access to justice. While legal service administrative data reveals the matters for which assistance is sought, and thus something about the legal needs of the people that take their problems to the service, this nevertheless represents only a small portion of the legal need in the community. Service provider data is of limited utility for robust identification of the legal needs of the community.

This data also serves other important related purposes, as discussed further in the report, including:

- Identifying the number and type of services delivered to priority clients.
- Matching/"mapping" the delivery of legal services against relevant measures of need as a means of determining relative greater and lesser areas of service and possibly areas of deficiency.
- Monitoring the impact of reforms and changes over time.

Targeted legal needs studies: Focusing on vulnerable groups or specific sectors

Legal needs surveys and administrative datasets both assist in the identification and measurement of legal needs and contribute to the planning and evaluation of people-centred legal and justice services. Even in combination, however, these two measurement approaches may not provide a full picture of legal needs: the needs of certain groups may not be measured and even for those needs measured, the information gathered may be insufficient for planning purposes.

Both these methodologies can miss certain populations given that disadvantaged groups are often less likely to use services and respond to surveys. Older people (especially those in residential care), homeless people, people with mental illness or intellectual disability, and people in indigenous or remote communities often fall into this category. People who are vulnerable and/or living in conditions of disadvantage are more likely to have legal needs, particularly complex ones, and a restricted ability to access legal and justice services. From an inclusive growth and sustainable development perspective, these tend to be the groups that need to be prioritised.

A range of supplementary or targeted legal needs studies can be utilised to "fill the gap" with those groups and issues to ensure that a comprehensive understanding of legal needs is obtained. Targeted complementary studies, usually of particular groups or areas of legal needs, can add a greater depth to our knowledge of legal and justice needs in the community. Further, insight gained from major survey legal needs studies may need updating and enhancing more frequently than full-scale legal needs studies can be conducted.

In Australia, for example, to complement the legal needs surveys and administrative data analysis, specific legal needs studies were conducted targeting the elderly (Ellison et al., 2004[21]), prisoners (Grunseit, Forell and McCarron, 2008[22]), people who are homeless (Forell, McCarron and Schetzer, 2005[23]), people with a mental illness (Karras et al., 2006[24]), indigenous people (Cunneen and Schwartz, 2008[25]) and others. Such complementary studies can be tailored to allow in-depth investigations of the barriers experienced by each of these group in accessing justice, and methodologies can be designed to suit the needs and types of problems faced by each priority group. Similarly, in Canada, complementary and supplementary studies focused on groups such as abused women unrepresented in the family law system (Luke's Place Support and Resource Centre for The Denise House, 2008[26]), Aboriginal peoples and their access to legal information (Zalik, 2006[27]), and migrant youth (Mah, 2011[28]) among others, while in New Zealand, studies included those targeted at people with an intellectual disability (Mirfin-Veitch et al., 2014[29]) and indigenous people (Black et al., 2013[30]), and in the United States, low-income earner (LSC, 2009[31]).

In England and Wales (United Kingdom), individual service providers and justice institutions are taking active measures to develop a targeted understanding of their clients' or users' justice needs and how they experience the justice system on an ongoing basis. For example, an ongoing court-based project in Sweden designed to increase public confidence and trust in the courts and contribute to the systematic quality enhancement of court functions conducted both internal and external dialogue on how their court is functioning and perceived to be functioning. This initiative included interviews with people involved in a court case directly after the case was concluded. The interview process identified a number of obstacles faced by people that affect the quality of their access to justice including, for example, shortage of legal information provided to the citizens regarding court procedures. This input from the users of court services informed a number of key policy reforms both in terms of how judges interact with parties and on common policies for reception in courthouses, information for parties and on the ways in which judgments are written. These reforms already had a positive impact and the Swedish courts are committed to continuing this people-focused approach on an ongoing basis.

Other survey data to understand people's experience

In addition to legal needs surveys, other types of survey data can be used to assist in the planning process. For example, in Israel, legal aid providers made a shift from "gate-keepers" to "justice facilitators through a planning process that involved surveying 1 000 legal aid clients, lawyers from private practice who provide legal aid and public service legal aid lawyers. This data led to a diagnosis of the problems in legal aid delivery experienced by people trying to access the service (including difficulty providing the necessary documents, long waiting periods, misunderstanding the process). Too much lawyer time was spent on reviewing applications and the process was too bureaucratic. Reforms based on input resulted in a restructuring of the application process, a direct access pilot project and a targeted strategy to assist youth to overcome obstacles experienced by specific groups of individuals (including a specialised application for soldiers, outreach interviews and the establishment of First-Aid-Legal-Aid Stations in a number of courts). This process also resulted in the development of a specialised legal aid service for children and youth. Ongoing planning activities will include an alumni advisory board, satisfaction surveys on an ongoing basis and empirical research.

Key findings

- A shift toward people-centred legal and justice services and justice as a public service is key to meeting legal needs in a way that contributes to inclusive growth and individual and community well-being.
- A systematic planning based on people's actual needs and experiences, and those of SMEs, is required to ensure that service provision extends "to the 'right' mix of services, to the 'right' clients, in the 'right' areas of law and in the 'right' locations and at the 'right' time".
- The design and delivery of "good" legal and justice policy involve systemic planning processes based on four questions:
  - Identification and measurement of legal need: who experiences legal needs and what legal needs do they have?
  - Mapping of legal need: where and when are these needs experienced?
  - Design of services: what works to meet these needs most effectively?
  - Delivery of services: how should these services be delivered and evaluated?
- There is profound evidence that people experience legal needs in ways that do not always match up with traditional justice pathways and formal institutional arrangements (e.g. problems that have legal and non-legal components).
- People's needs and experiences should be the starting point for identifying innovation potential, provide the rationale for the design and delivery of legal and justice services, guide policy implementation and evaluation of policy and services.
- A wide range of methodologies can be utilised to develop the information required for planning people-centred legal and justice services. These include: wide-scale legal needs surveys; tailored surveys; analysis of administrative data compiled by legal, justice and other governmental institutions; research projects

using a variety of methods; data held by local councils and on-the-ground knowledge held by local legal and human services, as well as other stakeholders.

- Targeted legal needs surveys are often required to identify and measure the needs of specific disadvantaged populations since their situation is insufficiently captured by general legal needs surveys or administrative data.
- While legal needs surveys are the best single means of obtaining the most representative understanding of legal needs from the people's perspective.
- A key factor in the usefulness of administrative data on legal service delivery for any purpose will be the consistency and quality of its collection, across multiple service locations and different service providers and its harmonisation across regions and jurisdictions. The present state of administrative data in the legal and justice sectors has yet to reach its full potential.
- Encouragement of flexibility in the design of data systems for key agencies would allow/promote the capture of strategically important information when needed (whether internally or externally specified).
- In comparison to some other human service sectors, the legal sector has not historically been as well grounded in co-ordinated, robust, evidence-based research and analysis. The emerging challenge for justice sectors is to identify and implement cost-effective strategies to obtain and sustain this evidence base.

Notes

[1] Systematic evidence-based analysis is an essential element of all good policy. It is particularly important for social services with such a major share of budget outlays (Productivity Commission, 2013[11]).

[2] While the paper is here speaking primarily about service provider data more generally, the range of legal sector service providers might include: courts, tribunals, mediation and dispute resolution centres, legal aid offices, community legal centres, Aboriginal legal centres, telephone advice services, etc.

[3] This perspective arises from the work across a range of legal assistance sector as well as court and tribunal data over a number of years in NSW, Australia, by the Law and Justice Foundation of NSW.

[4] In Australia, two examples include: The Commonwealth Attorney-General Department, Civil Justice System Evidence-based Project, https://www.ag.gov.au/LegalSystem/Pages/Anevidencebaseforthecivilljusticesystem.aspx; The NSW Department of Justice/Law and Justice Foundation of NSW, Civil Courts and Tribunal Data Program, http://www.lawfoundation.net.au/ljf/app/5141D05E8AC0EF1D85258078004EC072.html.

[5] Based on presentation by Mirrlees-Black (2016[13]).

[6] Only focused on legal assistance services, and not necessarily comprehensive.

[7] See: The Civil Courts and Tribunal Data Program from the NSW Department of Justice/Law and Justice Foundation of NSW, http://www.lawfoundation.net.au/ljf/app/5141D05E8AC0EF1D85258078004EC072.html.

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Chapter 4. Mapping legal and justice needs

This chapter presents the second step of the systemic planning for people-centred legal and justice services. It highlights the main approaches to mapping legal needs as a method to understand them better, where and when they are needed, and the location of service providers.

Step 2 rationale

The second stage of systematic planning for people-centred legal and justice services is closely related to the identification and measurement of legal needs: it investigates where and when these legal needs are experienced, the greatest and the most needed. Undertaking this exercise across a geographical area or determining at which stage in a process assistance is required assists governments and service providers to plan and deliver services where and when they are most appropriate. Mapping of legal needs is by definition a people-centric exercise since it requires policymakers to look closely at the location where individuals and groups require services.

Mapping helps informs policymaking and targeting of resources. Six approaches to mapping are discussed in this chapter. The first section outlines data analytics approaches that use proxies as legal needs: official sources of social, economic and demographic data, administrative data and other complementary and local data sources. These approaches are sometimes combined. The two following sections review other methodologies that are independent of legal needs surveys: mapping the location of existing legal and justice services, community-based mapping projects and journey mapping of particular justice processes to better understand legal needs in specific contexts and locations.

Data analytics and predictive models: Locating legal needs by proxy

National legal needs surveys provide an important foundation for mapping legal needs. It helps gain a sound understanding of who has experienced what kinds of legal needs at a jurisdictional (national or state) level. Similarly to other fields of government activity, small area modelling is necessary to identify legal needs in greater detail at the regional and sub-regional levels within jurisdictions.

To do so, countries may find it useful to "map" (or estimate) legal needs down to sub-regional or lower levels corresponding to lower levels of political governance and/or levels useful for planning and delivering services (at least down to the level at which individual legal and justice services are planned and delivered). Legal needs surveys are often unable to provide detailed needs analysis down to small geographic areas, or even below the national or state levels. Sample sizes are usually such that only for larger geographic entities will there be sufficient survey respondent numbers to allow estimates of important parameters to be made.

A number of mechanisms can be used as alternative mechanisms to estimate the legal needs for smaller geographic entities, using insights drawn from:

- official sources of social, economic and demographic data
- administrative data
- other complementary and local data sources
- official sources of social, economic and demographic data.

Official sources of social, economic and demographic data

For those countries which undertook a national legal needs survey, there generally exist sufficient insights into the key demographic groups and other variables that impact upon legal needs. For instance, insights might include which demographic groups are most vulnerable to particular types of legal problems and the demographic groups more or less

likely to take appropriate action to address those problems. Where this is the case, it is possible to utilise official sources of data – such as national statistics agency data concerning social, economic and demographic features of the country – to estimate legal needs down to smaller geographic areas. This can be done through the development of bespoke proxy indicators of legal needs or by simply focusing attention on particular demographic groups or locations (such as in rural, regional or remote areas), in accordance with national priorities.

This section focuses first on the potential use of proxies for legal needs to map these needs using the example of an Australian case study in New South Wales.

Developing and applying proxies for locating legal need: New South Wales case study

Geographical identification through general disadvantage indicator

There are a number of ways to approach the development of proxy indicators of legal needs that take into account relevant factors in the right balance. Area-based measures of general disadvantage, such as the Australian Socio-Economic Index for Areas (SEIFA), developed by the Australian Bureau of Statistics (ABS), are considered to be a proxy for the location of legal needs in the Australian context, given the general correlation of higher levels of an individual's disadvantage with higher levels of legal needs experienced by that individual. However, such indicators might be limited as indicators of legal problem prevalence, in part because the experience of legal problems is widespread and not necessarily related to the characteristics included in the index (People et al., 2015[1]) (depending upon how the index is constructed).

Using the Australian example, based on the LAW Survey findings (Coumarelos et al., 2012[2]), about half of Australian residents experience a legal problem every year. Some people, due to their personal circumstances, are at increased risk of experiencing a problem, e.g. single parents, people with a disability and the unemployed. Having more than one type of disadvantage increases the risk significantly. However, it is important to note that not everyone who experiences a legal problem will identify it as such and not everyone who does require or prefer a legal response will seek legal assistance. Table 4.1 shows the average percentage of each priority group that experienced at least one legal problem in a year.

Priority target group identification through legal capability indicator

Given that the experience of legal problems is relatively widespread and not everyone may require or prefer a legal response, an alternative approach to service planning may be to focus on the use of priority/target group data to map legal needs and identify who is most likely to need access to legal assistance services once a problem is experienced, i.e. focus on those people who are least likely to have the personal or financial resources to manage their own problems and are most likely to be eligible for legal assistance services.

To facilitate this alternative approach to service planning, the Law and Justice Foundation in New South Wales, Australia, developed the Need for Legal Assistance Services (NLAS capability) indicator founded on the concept of legal capability.[1] Other earlier predictive models were developed by the Community Legal Service in England (United Kingdom) and also compared to general deprivation indexes as a means to map local legal needs (Pleasence et al., 2001[3]).

Table 4.1. Average percentage of priority groups that experienced at least one legal problem in 2012

Population over 15 years old (15+)	50
Financially disadvantaged – personal income (15+)	46
People with low education (15+)	44
Unemployed (15+)	64
Single parent (15+)	72
Children and youth (15-24 years old)	53
People aged 65 and over	28
People with a disability	62
Indigenous Australians (15+)	55
Culturally and linguistically diverse people (15+)	42
Outer regional/remote (15+)	47

Note: These figures are for groups that in some cases vary from the Australian Bureau of Statistics Census definitions.
Source: Coumarelos, C. et al. (2012[2]), *Legal Australia-Wide Survey: Legal Need in Australia in Access to Justice and Legal Needs*, Law and Justice Foundation of New South Wales.

Legal needs research consistently highlighted that some people are less capable of managing legal problems themselves. Legal capability is defined as the personal characteristics or competencies necessary for an individual to resolve legal problems effectively. It generally comprises capabilities across a number of domains including sufficient cognitive, communication and literacy skills to successfully seek and obtain legal information or assistance (McDonald and People, 2014[4]). People with low legal capability are often less able to use self-help and unbundled services effectively and are unlikely to have the option of using a private lawyer due to financial constraints.

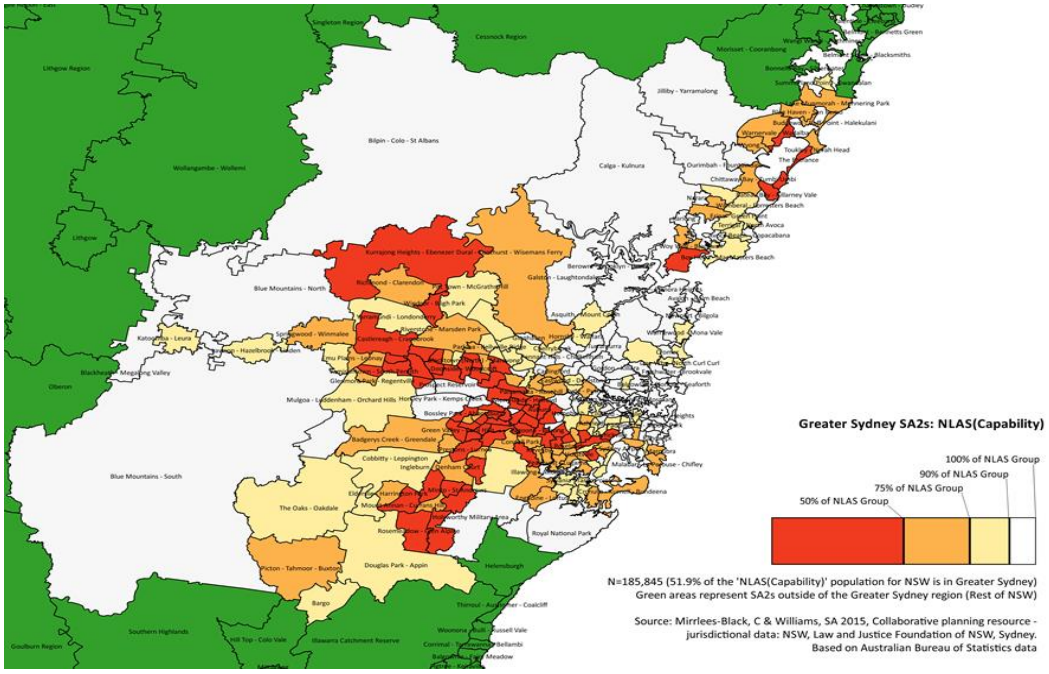
Legal capability cuts across all priority groups and problem types. The NLAS (Capability) indicator provides a proxy measure of legal capability by identifying people aged 15 to 64 with low personal income who also have a low level of education. As such it identifies those people likely to have limited access to personal financial resources and likely to have low knowledge and skill achievement. Other aspects of capability such as psychological readiness to act are not currently included in the indicator. Older people, due to their lower average income and lower average educational attainment are not included in the NLAS indicator as to do so would skew the profile to that of older people. Instead, it is recommended that the priority group "people aged 65 and over" is taken into account separately when planning services, recognising that overall, they are at a lower risk of experiencing legal problems.

The NLAS (Capability) indicator identifies 8% of the Australian population aged 15 to 64 as most likely to be in need of legal assistance services. Low capability clients are likely to have complex needs, and delivering services to these clients will present additional challenges and resource requirements, particularly when they are located in more remote areas. Although the absolute number of potential clients in these areas may be small, the lack of alternative accessible options for assistance may increase the relative priority of providing services to these communities.

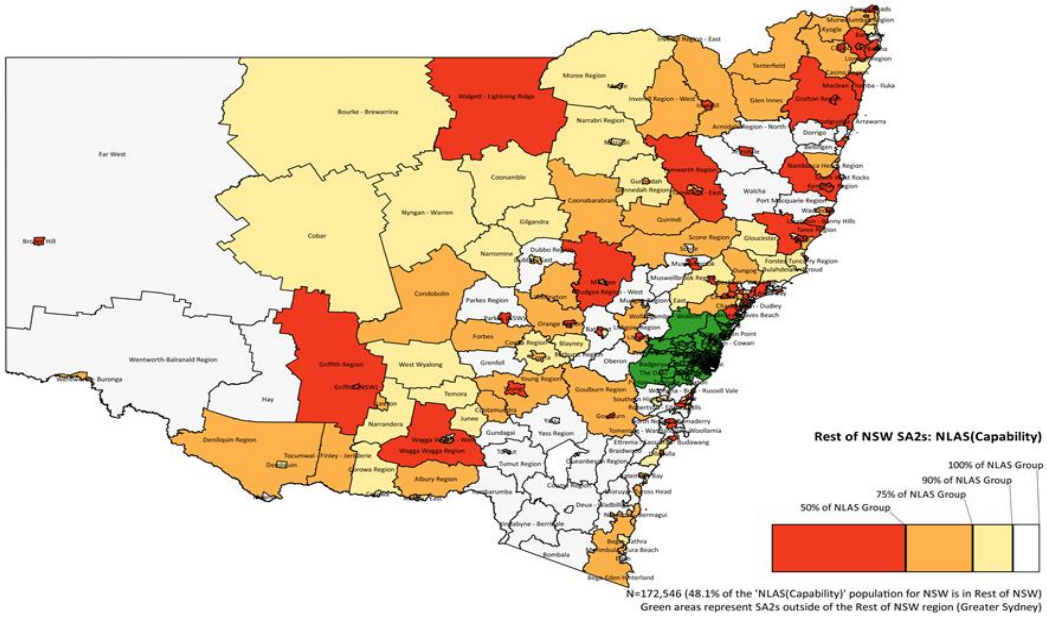
Figure 4.1 displays the NLAS (Capability) indicator for the Greater Sydney area and for the remainder of the State of New South Wales respectively. These maps can assist service planning to determine where the greater number of legal assistance services are likely to be needed to meet the legal need in the community.

Figure 4.1. Legal capability proxy in New South Wales: Need for Legal Assistance Services (NLAS) capability

A. Greater Sydney



B. Rest of New South Wales



Note: Using the Australian Bureau of Statistics (ABS) geographic area "SA2". SA2s generally have a population range of 3 000 to 25 000 persons and an average population of about 10 000 persons.
Sources: Based on Australian Bureau of Statistics Data (ABS); Mirrlees-Black, C. and S. A. Williams (2015[5]), *Collaborative Planning Resource - Jurisdictional Data: NSW*, Law and Justice Foundation of NSW, Sydney.

In developing the NLAS indicator, the Law and Justice Foundation believed that, due to quite different characteristics and geographic distributions of key target populations, it might be useful to develop some specifically targeted indicators. Thus, in addition to the NLAS (Capability) indicator preferred for general use, two other NLAS indicators were created, focusing on two different target groups: indigenous persons and persons belonging to culturally and linguistically diverse communities, referred to in Australia as culturally and linguistically diverse (CALD).

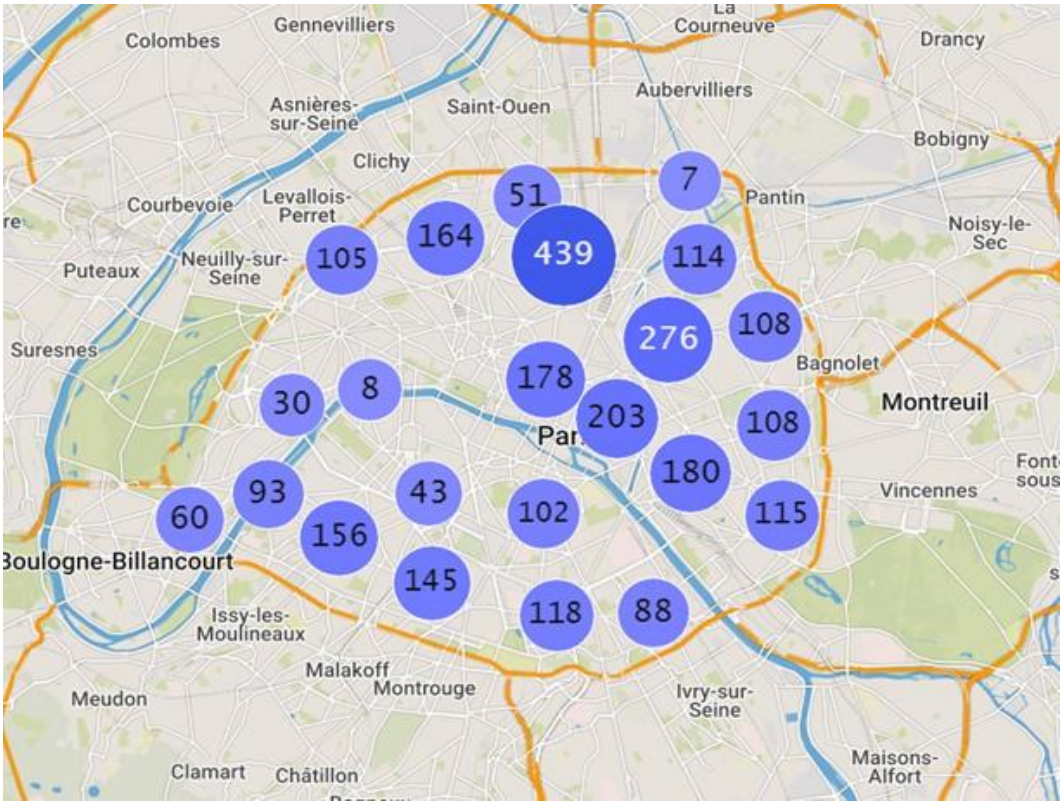
Using proxies in other countries

Many OECD and partner countries collect reliable census and related data that can be used as a useful proxy to locate legal needs and the need for legal services.

Social housing

People living in disadvantaged housing and public housing have been shown in legal needs surveys to be one of the groups highly vulnerable to legal problems. Assuming that those living in social housing are likely to be on low income, the location of social housing tenants might be a useful proxy for mapping the local need for legal assistance services. Figure 4.2 maps social housing across Paris and is an example of a mapping exercise that could be applied across all regions of France and other countries.

Figure 4.2. Legal need proxy: Social housing in Paris



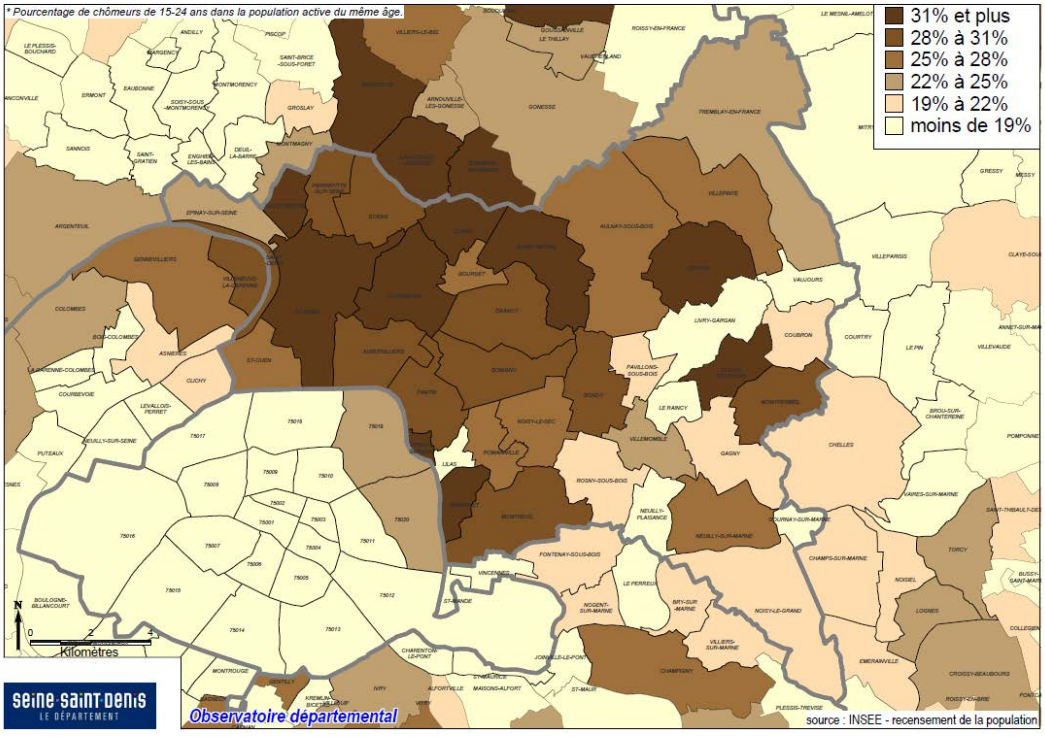
Source: Mairie de Paris (2016[6]), *Logements sociaux financés à Paris*, https://opendata.paris.fr/explore/dataset/logements_sociaux_finances_a_paris/map/?location=12,48.85945,2.33388.

Unemployment rates

Similarly, a number of legal needs surveys have highlighted that unemployed people are also highly vulnerable to a greater number of legal problems in any period and, being likely to be on low income, are likely to also be a useful proxy for the location of the need for legal assistance services. Figure 4.3 highlights the varying rates of unemployment among 15-24 year-olds in the Saint-Denis area of France, to the north-east of Paris.

Figure 4.3. Legal need proxy: Unemployment rate

Among 15-24 year-olds in the Saint-Denis area of France, 2008

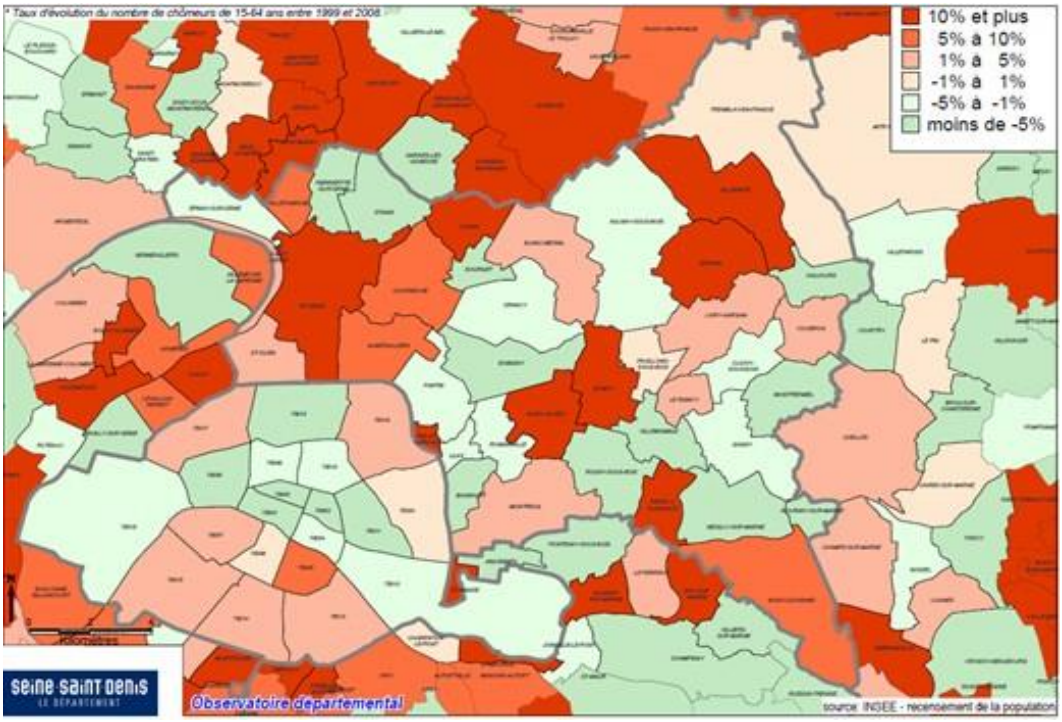


Source: INSEE – Recensement de population (2008) in Observatoire Départemental - Seine Saint Denis (2013[7]), *Panorama Cartographique d'Indicateurs Sociaux*.

Rigorously obtained census data can also be useful as it can allow for the mapping of trends and thus can assist in the forecasting and planning for legal services into the future. Figure 4.4, again from the Saint-Denis area of France, highlights the rate of change in the number of unemployed people in various areas within the same to near region between 1999 and 2008. This sort of data and mapping can be very useful for planning for change of legal needs over time.

Figure 4.4. Legal need proxy trend: Rate of change of unemployed

Between 1999 and 2008, Saint-Denis area of France



Source: INSEE (2008[8]), *2008* Population *Census*.

Priority demographic groups

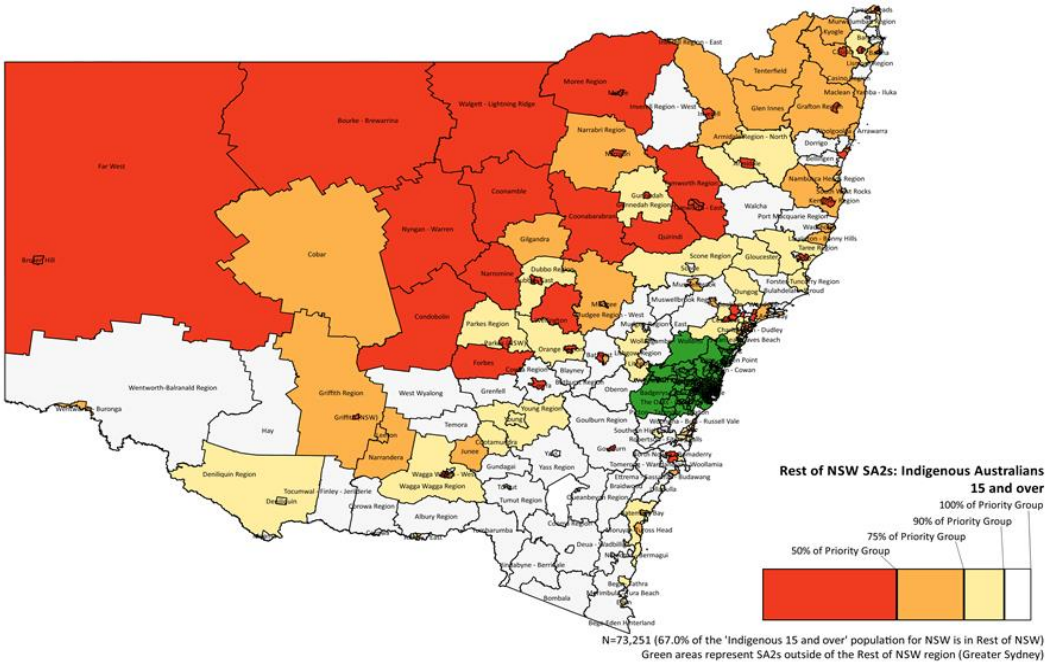
In Australia, the 2015 National Partnership Agreement (NPA) on Legal Assistance Services between the Commonwealth of Australia and the states/territories identifies a number of priority groups for legal assistance services. The NPA requires that Australian states and territories use an evidence base to identify priority clients and the geographic locations in which people have the highest levels of legal needs. The Law and Justice Foundation of NSW has developed a Collaborative Planning Resource (LJFNSW, 2018[9]) to support this activity by providing information for each jurisdiction on the geographic distribution of:

- the priority groups for legal assistance services identified by the NPA
- those people most likely to be in need of legal assistance services for financial or other reasons.

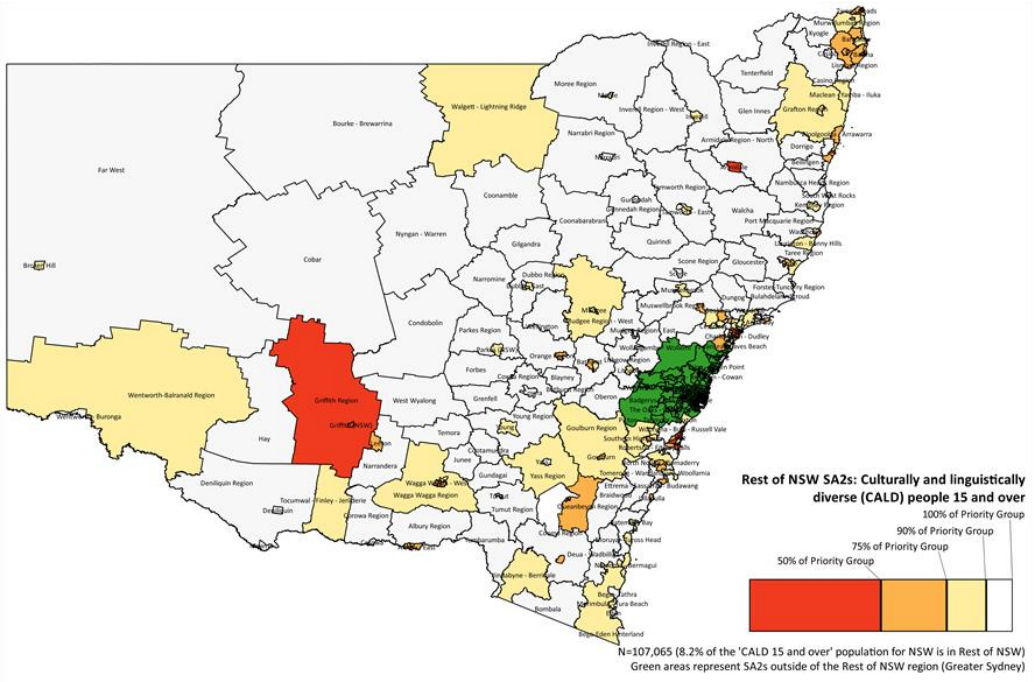
Figure 4.5 highlights the application of this approach, mapping the distribution of two different groups – indigenous Australians and people from a culturally and linguistically diverse background (CALD). Note the contrast in the distribution of target groups across the state and the implications this would have for legal service providers targeting indigenous and CALD people.

Figure 4.5. Geographic distribution of legal needs, based on priority groups in New South Wales

A. Indigenous Australians aged 15 and over



B. Culturally and Linguistically Diverse people (CALD)



Note: Using the Australian Bureau of Statistics (ABS) geographic area "SA2". SA2s generally have a population range of 3 000 to 25 000 persons and an average population of about 10 000 persons.
Sources: Based on Australian Bureau of Statistics Data (ABS); Mirrlees-Black, C. and S. A. Williams (2015[5]), *Collaborative Planning Resource - Jurisdictional Data: NSW*, Law and Justice Foundation of NSW, Sydney.

With robust national census data or the equivalent, there can be a certain degree of confidence in the location of the key demographic groups or other correlating variables down to lower geographic area entities. The key limitation of this approach is that it assumes that the characteristics of a particular demographic group observed in the legal needs survey findings at the state or national level can apply uniformly across all members of the demographic group in all areas, no matter how aggregated or disaggregated. While this could be a reasonable approach and only ever yield estimation, it may be that the use of complementary and other local data (discussed below) can be used to provide a more nuanced understanding at a local level for planning.

Administrative data

Administrative data concerning the delivery of legal services is important, particularly in providing insights where services are being delivered. Administrative data obtained from legal and justice service providers and agencies generally involve large datasets representing "populations" of service users. It may highlight sufficient evidence for small geographic entities that facilitates the data to be plotted or mapped at a finer geographic scale. Indeed, when services are delivered, most agencies collect some geographic information about the residence of the clients or the location of the incident. In this aspect, administrative data can be more versatile than survey data in mapping legal needs. However, as noted above, administrative data is mainly a reflection of the services delivered rather than adequate representation of the legal needs. There are a number of limitations, therefore, in using administrative data as a proxy for legal needs.

Another component of identifying and measuring legal needs is to locate existing legal and justice services. The legal and justice service infrastructure is often different between countries and each country will have a range of different services that are structured, targeted and operate differently.

While limited in scope, this relatively simple mapping provides a snapshot of regional variations (particularly urban-rural divisions) and a starting point for inquiry into the more contextualised assessment of legal needs. A similar but broader approach was taken by the American Bar Foundation in the first stage of its Access Across America project which features a state-by-state portrait of the services available to assist the United States public in accessing civil justice.

Substantial limitations to the use of administrative data as a proxy for legal needs exist. Whether it be in relation to the use of legal assistance services (e.g. legal aid) or the court or tribunal services, administrative data may leave out people with legal needs that do not use the service (see also Table 3.1).

Some of the challenges that may be faced in mapping the legal services include:

- Complexity in jurisdictions where there are numerous providers operating in different sectors (public, charitable and private).
- Some geographic areas may be well serviced by specific legal service providers and others may not.
- Services can be provided by local face-to-face services and remotely by services through telephone, Internet and periodic outreach.
- Many services provided to assist people's legal needs are provided by quasi-legal and non-legal services, the private sector or other unregulated sectors.

- Some services will be provided by publicly funded legal assistance services and others may be provided through the pro bono support of the legal profession.
- Some legal problems may be resolved or legal needs met through the provision of legal information, community legal education and the provision of limited unbundled services, while others will need substantial legal representation to resolve.

Other complementary and local data sources

Other data sources (beyond administrative data on the provisions of legal and justice services) reveals more fine-grained local level data including (Mirrlees-Black and Williams, 2015[5]):

- fines, state debt recovery
- social security data, such as disability pension, unemployment benefits, supported housing data, etc.
- school attendance data
- bankruptcy
- refugee settlement
- traffic and work-related accident
- police and crime data
- local government and community level population profiles
- local transport and accessibility data
- locations of other relevant human services
- initial decision making by state departments. So not just who is getting benefits, etc., but also making applications that are being denied – e.g. benefits, tax, housing, immigration, etc. High concentrations of negative decisions could indicate pockets of legal needs or places where people might be at risk of decline, or indeed sources of pressure on the tribunal system.

Various analytical and statistical tools can be employed to correlate these types of data with legal needs. For example, the Geographic Information Systems (GIS) represents a new set of analytical techniques adopted by the social sciences. It has the potential of increasing the effectiveness in determining the level of legal needs for the poor, measuring how services are delivered and determining the effectiveness of different programmes aimed at meeting these needs (Meeker, 2005[10]). GIS has been used for over two decades and is actively supported by the US National Institute of Justice in the criminal law enforcement context (Meeker, 2005[10]). GIS offers the ability to manipulate and link different data sources, apply different analytical techniques and determine spatial implications. This technique is used in several US jurisdictions to provide more detailed information about needs related to specific legal problems and contribute to access to justice.

GIS provides a technology to link different datasets together to gain a better picture of the neighbourhoods and the spatial concentrations of social issues such as domestic violence (Box 4.1).

Box 4.1. Capturing and linking data to respond to domestic violence

Many legal and justice agencies can be involved in responding to domestic violence and therefore capture relevant data:

- Legal aid programmes have address data on clients who are seeking assistance for domestic violence problems.
- Law enforcement agencies have data on calls for service and crime incidents involving domestic violence.
- Battered women's shelters have data indicating the neighbourhoods where their clients are coming from.
- Hospitals and emergency room facilities will have data the location of domestic violence victims.
- The courts have data on the location of those seeking restraining orders.
- The federal government has census information about the location of poverty, minorities, unemployment and age distributions.
- County assessor offices have parcel map data on zoning, property valuations and tax delinquencies.

Source: Meeker, J. (2005[10]), *Utilizing GIS to Study Legal Needs Issues: An Analysis of the LSC OIG Southern California Mapping Project*.

This, in turn, can be extremely important in determining where to focus resources and checking the effectiveness of programmes directed to specific areas. It also may be helpful in providing predictive models to anticipate where problems are likely to occur. Steps can be taken to address confidentiality concerns, ethics and laws that may prohibit the sharing of information among service providers (including for example through protecting individual identity). GIS has been used by the Legal Aid Society of Orange County (LASOC) to identify and map needs and to develop responsive services (Meeker, 2005[10]).

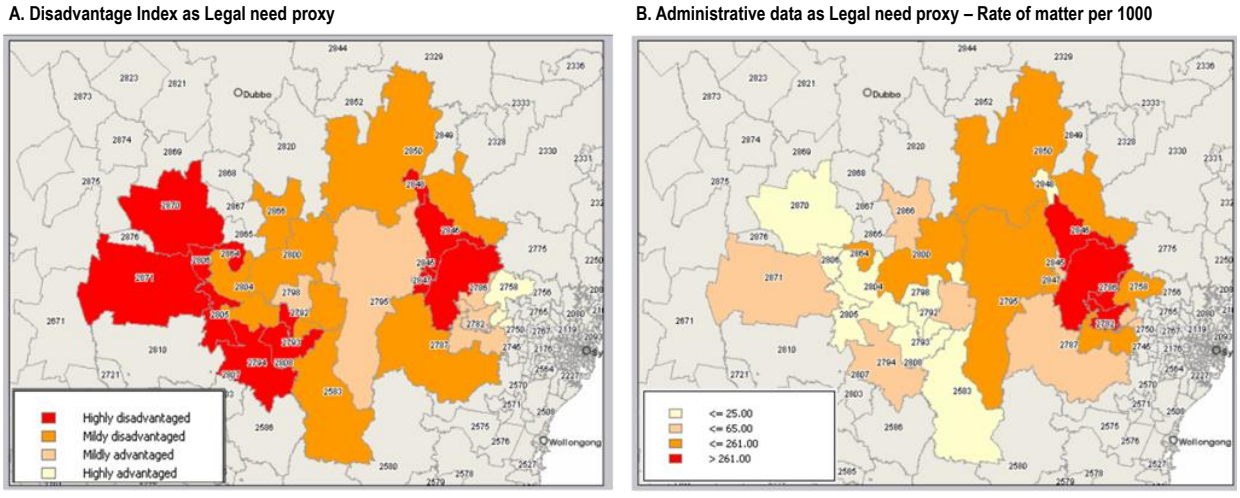
Contrasting administrative data on the location of existing legal and justice services with legal need proxy indicators

One of the optimal possibilities to map the location of legal needs appears to be using the insights gained from the prevalence of legal needs through legal needs surveys, and then using appropriate proxy indicators from robust national and state statistics sources to estimate the net legal needs down to useful local regional levels. The administrative data concerning legal and justice service delivery becomes crucial in contrasting levels of service delivery to mapped levels of legal need, and revealing areas of over or under provision of services.

Approximations based on map correlations of supply and likely demand can be enlightening. Figure 4.6, for example, highlights the impact of geography and the availability of services on the usefulness of service delivery data as a proxy measure for legal needs in Australia. Disadvantage (as measured by the Australian Bureau of Statistics) is used as a proxy for legal need (Panel A)[2] and is contrasted with the

administrative data on service delivery as shown in Panel B. The correlation between the eastern halves of the two maps reflects the location of legal assistance services that are available to clients, whereas the lack of correlation on the left-hand side reflects the lack of services available in the western part of the region.

Figure 4.6. Contrasting types of legal need proxy: Geographic disadvantage and the availability of services



Note: Disadvantage index: Central Tablelands, Cooperative Legal Service Delivery Program (CLSD) – Index of relative socio-economic advantage and disadvantage, as measured by the Australian Bureau of Statistics; Central Tablelands CLSD.
Rate of matter per 1 000.
Source: ABS, SEIFA, 2006 Census, LJF Legal Assistance Services Data Digest: LawAccess NSW, Legal Aid NSW (Advice) and NSW Community Legal Centres 2015.

In Ontario (Canada), a report presents the geographic distribution of civil legal services in the province and also examines its relationship with the demographic characteristics of the general population and its lawyers and paralegals (Baxter and Yoon, 2011[11]; 2014[12]). In this study, the distribution of lawyers and paralegals across the territory represents the supply and demographic statistics of the general population serving as proxies for the demand for civil legal services.

More involved mapping involves linking information about legal needs with information about existing services to assist in planning where services should be delivered. This type of mapping is discussed in Chapter 6.

Community-based mapping projects

Mapping can be carried out as a collaborative form of needs assessment that involves community members and service inventories to develop an understanding of community needs. An early approach to assist legal and justice service providers in identifying local legal needs was developed by the Legal Services Research Centre (LSRC) in England and Wales (United Kingdom) (Pleasence et al., 2001[3]). The LSRC developed guidelines for the conduct of local needs surveys and explored the efficacy of predictive need models developed by the legal aid providers. At its base, mapping local legal needs requires information about legal needs (or proxies thereof) and supply of services, but also advice-seeking behaviour. Even where predictive needs models are accurate, efficacious and up

to date (which can be difficult to achieve), local knowledge and understanding are always required to properly carry out legal needs assessments.

The Canadian Forum on Civil Justice in mapping legal needs also undertook a community-based approach in the province of Alberta (CFCJ, 2010-11[13]). The reports from this participatory research initiative provide data on legal needs, what legal assistance services are available, how they are co-ordinated, who accesses these services, how the available services align with community legal needs and how legal services can be improved. These mapping projects are often designed as community-based, collaborative research initiatives with extensive involvement of a range of individuals and organisations in project design, execution and analysis. As a result of the multiple perspectives, including people-focused ones, community-based mapping research can go beyond recording geographical distribution to include multiple perspectives on service accessibility, effectiveness and gaps within the context of local/regional social networks and relationships (Stratton, 2009[14]).

Similar mapping exercises were taken on a national level focusing on legal aid in Sri Lanka (The Asia Foundation-UNDP, 2009[15]) and one is ongoing in Afghanistan (Day and Rahbari, 2017[16]) with a specific focus on establishing priorities for improving access to justice. A Scottish legal needs assessment combined survey research, the development and testing of a proxy model of local needs and focus groups with local partners (Law et al., 2004[17]).

Other smaller scale projects taking this approach map the gaps between the identified legal needs of specific segments e.g. women and particularly indigenous women (Rhaman, 2010[18]), and the services available to them in areas of British Columbia, Canada. Courts also employed community-based mapping exercises, for example in the development of self-help services through the production of an access to justice map for rural and remote areas that describes issues, services, gaps, priority needs and a service vision (Reid and Malcolmson, 2008[19]).

The results of community-based mapping can contribute to the design of people-centred legal and justice services in a number of ways by:

- Mapping social capital/infrastructure.
- Highlighting the need for services and agencies to work together.
- Helping individuals and the community identify legal needs.
- Devising more innovative methods for researching legal needs on a smaller scale (Stratton, 2009[14]).

Mapping projects contribute to a refined understanding of needs within a geographic area, the capacity of existing services to meet these needs and identify gaps in service, the degree of effective collaboration between providers and the ease of pathways.

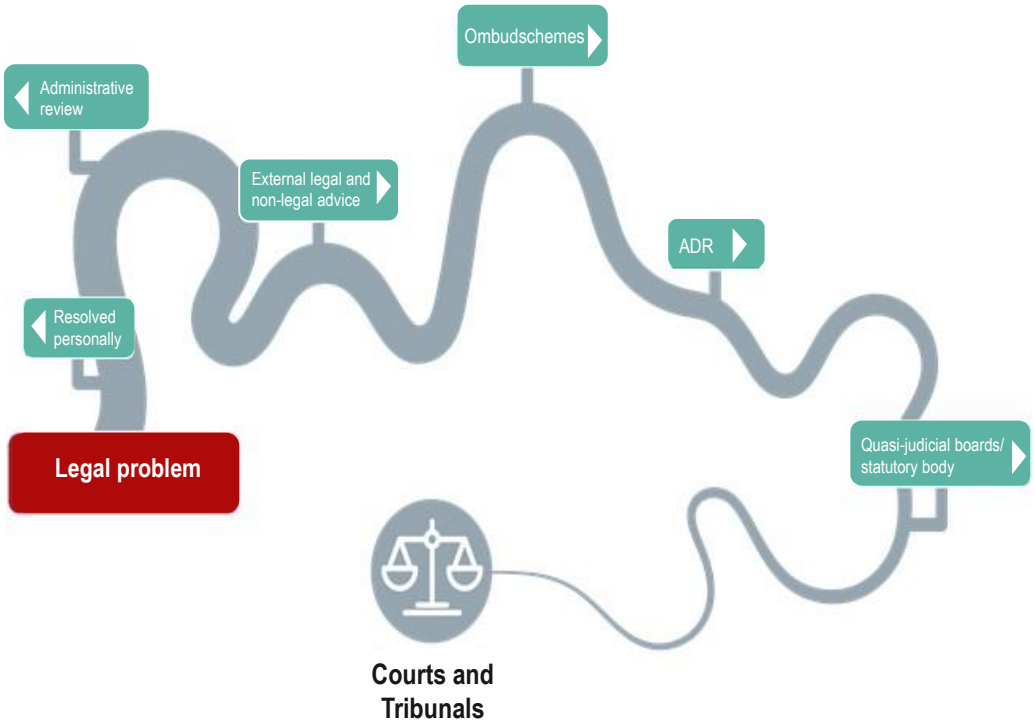
Common conclusions include the problematic fragmentation in the legal assistance sector and inequality of access.[3] They also contributed to our understanding that legal problems occur in complex social contexts that often require a multi-sector collaborative response. The collaborative design aspect of these initiatives can assist in effective co-ordination practices among service providers over the long term.

Justice system and journey mapping

Another people-centred methodology for mapping legal needs tracks the justice pathways used by individuals, families or small and medium-sized enterprises (SMEs) to address legal problems and/or the pathways established by various services and agencies for this purpose. This approach usually referred to as "journey mapping" is extensively used by the corporate sector and more recently by public service providers.[4]

Justice systems or journeys can be mapped at various levels including a specific legal process or procedure within a court or other institution and based on a legal problem or issue involving multiple legal and justice services providers and other types of service providers (e.g. health services) (Figure 4.7).

Figure 4.7. Justice pathway example



Source: Adapted from Attorney-General's Department of Australia (2009[20]), *A Strategic Framework for Access to Justice in the Federal Civil Justice System, A Guide for Future Action*, Access to Justice Taskforce.

These mapping approaches are temporal rather than geographic and can help to refine the identification and measurement of legal needs. Similarly to community-based mapping, justice system or journey mapping creates opportunity for dialogue and the building of relationships between service providers.

One example of journey mapping was carried out as part of the British Columbia Supreme Court Self-Help initiative and involved mapping current patterns in service referrals experienced by unrepresented litigants (Reid, Senniw and Malcolmson, 2004[21]). The research tracked every time a respondent mentioned a referral to major service providers. The results were mapped in a diagram showing the enormous range of potential referral patterns and arrangements.

Another approach is to take this list of individual tasks and render it as a "journey map": a visual diagram of the typical steps an individual goes through in accessing a court or tribunal. Journey mapping is a design tool that helps service providers understand and improve the experience of the user of their services.[5] A study conducted by the National Center for State Courts identified the discrete tasks that unrepresented litigants must perform in various types of civil cases (Abel, 2010[22]). In her review of this study, Abel considers this list to be the most comprehensive list of self-representation tasks developed to date. More typically, journey mapping would be less detailed than a step-by-step listing of discrete tasks but would provide a higher level of synthesis. Pro Bono Net, an organisation that supports the delivery of legal services on a pro bono basis throughout the United States utilises journey mapping to better understand and serve legal needs in specific justice pathways.[6] The Hague Institute for Innovation of Law (HiiL) also employs process mapping in its justice reform initiatives (Muller et al., 2012[23]). Portugal used this approach on a broader scale to enhance access to justice by simplifying people's justice system journeys as described in Figure 4.2.

Box 4.2. Portugal's "*Justiça mais próxima*"

"*Justiça mais próxima*" (Closer Justice Plan) aims to make the justice system more transparent, human and closer to the citizen. It was based on 360-degree review that placed people completely at the centre, a radical shift that questioned the way court business had been carried out over many years. The plan comprises more than 120 initiatives including the "*Justiça mais próxima*" and real time dashboards, innovative working spaces and methodologies, a pilot court project. Some of the main changes that have positively increased access to justice include creating a new citizen's pathway through the justice system that is facilitated by simplified signage, a digital kiosk, a Court Sessions Directory, and user-friendly systems for presence confirmation and queue management, offering people a greater range of ways of interacting with the court (such as phone attendance). In addition to improving user experiences, these reforms have also resulted in cases moving faster through the system (reduction in pending cases) and substantial resource savings. The pilot project is being evaluated and plans are being developed to roll the strategy out across the country.

Source: Ministry of Justice, Portugal.

The Portuguese experience suggests that the methods employed in justice reform are key. People-centred justice services should be designed and developed from the outside in by: continuously questioning the status quo, putting yourself in the shoes of the citizen (ideally with different citizen profiles), continuously monitoring the quality of the provided service, asking for feedback from different perspectives/stakeholders, continuously communicating results and making decisions on the basis of evaluations and analysis. This approach entails working collaboratively, using proof of concepts, agile methods and active listening.

This type of process mapping can be used both to gain a better understanding of legal needs, to develop legal services that provide effective assistance and/or to undertake reform to simplify justice processes. A broader system mapping approach can be used to

build a visual portrait of how individuals progress through a complex system involving both justice and other sectors and map their needs and possible points of intervention within the process from their perspective. For example, many societies respond to child maltreatment through a range of legal, health and social services responses and it can be of benefit to map these systems to identify legal and other needs of various people affected in these situations (WHO, 2015[24]). This form of mapping may be particularly relevant in addressing complex legal needs where an individual must navigate more than one facet of the justice system (e.g. mixed criminal and civil legal needs).

Justice system mapping is used with more frequency in the criminal context, particularly as a way of integrating justice and health services, particularly in the United States. For example, the Sequential Intercept Model (SIM) provides the organising framework for information and activities leading to the creation of relatively simple maps. These maps can be used to facilitate the integration and co-ordination of services and can be geared to identifying particular points in the justice process where health services such as drug treatment or health insurance coverage can be offered (Joplin, 2014[25]). The Oregon Center on Behavioral Health and Justice is in the process of developing these detailed maps for each county (local district).[7]

Key findings

- Mapping where legal needs are experienced across a geographical area, or at which stage in a process assistance is required, assists governments and service providers to plan and deliver services where and when they are most appropriate.
- National legal needs surveys provide an important foundation for mapping legal needs. Yet legal needs surveys are often unable to provide detailed needs analysis down to small geographic areas, or even below the national or state levels.
- There are different data analytics approaches that build on legal needs survey and legal needs proxy indicators: official sources of social, economic and demographic data, administrative data and other complementary and local data sources.
- Administrative data concerning the delivery of legal and justice services is key, particularly in providing insights where services are being delivered. However, there may be substantial limitations to the use of administrative data as a proxy for legal needs.
- One of the optimal possibilities to map the location of legal needs appears to be the use of the insights gained from the prevalence of legal needs through legal needs surveys, and then the use of appropriate proxy indicators from robust national and state statistics sources to estimate the net legal needs down to useful local regional levels. The administrative data concerning legal and justice service delivery becomes crucial in contrasting levels of service delivery to mapped levels of legal needs, and revealing areas of over or under provision of services.
- These approaches are sometimes combined. The two following sections review other methodologies that are independent of legal needs surveys: mapping the location of existing legal and justice services, community-based mapping projects and journey mapping of particular justice processes to better understand legal needs in specific contexts and locations.
- Mapping can also be carried out as a collaborative form of needs assessment that involves community members and service inventories to develop an understanding of community needs (both community-wide needs and needs of specific populations). These projects contribute to a refined understanding of needs within a geographic area, the capacity of existing services to meet them and identify gaps in service, the degree of effective collaboration between providers and the ease of pathways.
- Journey mapping is another people-centred methodology for mapping legal needs and tracks the justice pathways used by individuals, families or SMEs to address legal problems and/or the pathways established by various services and agencies for this purpose.
- Justice systems or journeys can be mapped at various levels including a specific legal process or procedure within a court or other institution and based on a legal problem or issue involving multiple legal and justice services providers and other types of service providers (such as health services). These mapping approaches are temporal rather than geographic and can help to refine the identification and measurement of legal needs. Like community-based mapping, justice system or journey mapping can create opportunity for dialogue and the building of relationships between service providers.

Notes

[1] Note that this section is largely extracted from Mirrlees-Black and Williams (2015[5]).

[2] For the purpose of this paper we rely on rely on the Australian Socio-Economic Index for Areas (SEIFA), while we do not recommend it in practice (People et al., 2015[1]).

[3] See for example, CFCJ (2010-11[13]).

[4] See for example: Customer Journey Mapping: An Introduction (prepared by Oxford Strategic Marketing for the Customer Insight Forum, Government of the United Kingdom).

[5] For example, Customer Journey Map tool at www.servicedesigntools.org/tools/8.

[6] Probononet provides training on process mapping to legal assistance providers in 2015 www.probono.net/calendar/event.553727-LSNTAP_Community_Training_Series_Process_Mapping_for_Civil_Legal_Services.

[7] See the Completed Oregon SIM Maps at http://www.ocbhji.org/resources/completed-sim-maps.

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Chapter 5. Designing people-centred legal and justice services

This chapter reviews principles and good practices for designing people-centred legal and justice services and provides an overview of evidence of "what works" in meeting legal and justice needs.

Step 3 rationale and overview

The third phase of planning focuses on designing people-centred legal and justice services that meet the legal needs that have been identified, measured and mapped. Legal needs research gives profound insight into the everyday nature of legal and justice problems and the potentially serious consequences of failing to meet these needs. Weaving these insights with drivers of inclusive growth and sustainable development creates a new narrative concerning how and why the justice system needs to shift to incorporate people-centric measurement, policies, services and delivery models.

One of the central insights is that legal need is essentially functional: "It does not exist independently of an associated end. People do not need legal services, they need the ends which legal services can bring about – even if the end is one of a sense of fairness" (Pleasence et al., 2001[1]). The design of people-centred legal and justice services integrated a focus on the ends or outcomes to be achieved and these may not always directly connect to the law even in the context of legal services. The extent to which legal and justice services are required will vary from case to case and therefore "[W]hat type and level of legal service is required is as important a question as whether legal services are required at all" (Pleasence et al., 2001[1]).

Chapter 2 provided a high-level summary of legal needs survey findings concerning the extent of legal needs and the dynamics of unmet legal needs. These surveys also provide an important evidence base concerning people's experiences in navigating justice systems and seeking legal assistance as summarised in Box 5.1. As mentioned, these findings are generally consistent across jurisdictions and one important starting point in designing people-centred legal and justice services that work.

A central focus of the OECD Access to Justice work is identifying strategies that work to provide equal and people-centred access to justice and promote socio-economic inclusion and the sharing of good practices in this regard. The question of '"what works' works" is not a simple one as it involves a number of dimensions: what works, for whom, in what circumstances, at what cost and how do we know (Pleasence et al., 2014[2])?

The discussion of the complex question of '"what works' works" is divided: Chapter 5 reviews principles, practices and evidence that assist in the design of policies and services that work and Chapter 6 reviews policies, practices and evidence that assist in the delivery of policies and services that work.

The first section of this chapter elaborates the concept of people-focused access to legal and justice interventions as a continuum of legal and justice services. The second section identifies what works in the design of people-centred delivery of a legal assistance, legal aid and justice services based on: lessons derived from the experience with user/client/citizen-centric approaches in other public sector fields, access to justice principles and indicators currently used by governments and non-governmental organisations, and emerging promising practices based on experience and evaluation in OECD and partner countries. A final section sets out key findings and policy recommendations and identifies areas for further research.

Box 5.1. Legal needs survey findings of what works

The central points that can be drawn out from the body of research concerning people's experience in navigating justice systems and seeking assistance with legal problems are:

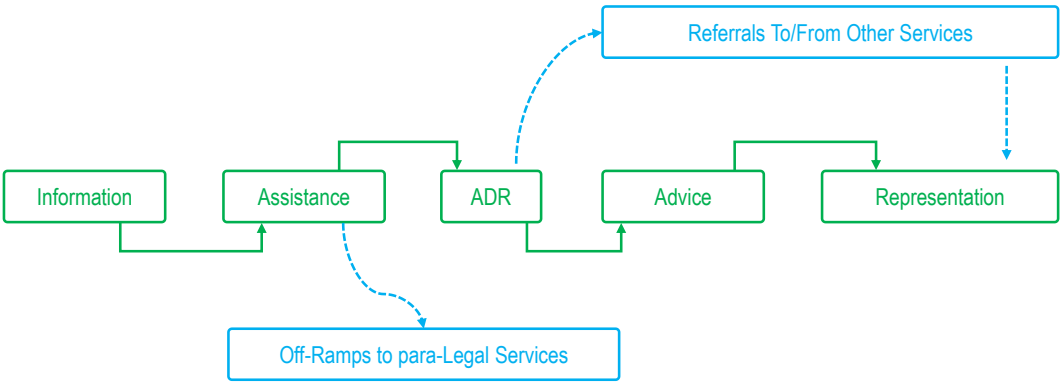
- Information failure is a significant issue: people do not understand legal events, what to do or where to seek assistance. People do not seek traditional legal advice, but rely on non-professional sources of advice and generally available information.
- People do not generally seek to use courts or formal justice mechanisms as a means of obtaining assistance in relation to legal issues.
- More information should be made available and it is important to find ways to encourage more people to rely on the existing resources that are available to them.
- Multiple, diverse, and integrated access points and service responses are needed: access to a wider range of entry points is key.
- Access to reliable information and assistance about legal processes and sources of self-help should be made available.
- More tailored legal services are required.
- Additional support to lawyers and paralegals who provide essential services to low- and middle-income people is essential.
- Service models and priorities must be targeted, designed and delivered to meet the specialised needs of these communities.

Continuum of legal services and spectrum of justice services

People-centred justice services encompass a growing spectrum of processes and procedures in addition to formal judicial and non-judicial proceedings: alternative mechanisms for dispute resolution such as mediation, online dispute resolution, paralegals, public legal education providers, community advocates, collaborative service provision from legally-trained and other professionals, and pre- and post-resolution support.

The justice service continuum is generally seen as a graduated scheme from least interventionist, such as the passive provision of legal information, to advice, various forms of limited legal assistance, partial or limited forms of legal representation (such as "limited scope" or unbundled legal services) to full representation in various alternative dispute resolution (ADR) processes, non-judicial and judicial fora (Figure 5.1). Legal needs studies established that the everyday legal needs experienced by most people never reach a courtroom.

Figure 5.1. A continuum of legal and justice service model



Source: Adapted from Currie, A. (2009[3]), "The legal problems of everyday life", in R.L. Sandefur (ed.), *Access to Justice: Sociology of Crime Law and Deviance*, Vol. 12, Emerald.

Legal services have traditionally been conceived as the work of lawyers with the centrepiece being the private law model of "full representation". Full representation might involve a combination of most, if not all, of the following activities: information gathering; legal and other research and analysis; advice and counselling; commencing or defending proceedings; negotiations and mediation; interim proceedings; trials and hearings; law reform and systemic activities; and referrals. Thus, legal services involve complex and continuous obligations to clients. In many countries, public legal services, often referred to as legal aid, were based on this comprehensive model of full legal representation provided by lawyers and in some countries, this is still true.

The range of services on the spectrum of justice services and the continuum of public legal services varies from country to country and evolves over time (Box 5.2). In some cases, a justice service provider operates a single service (e.g. a specialised mediation process) and in other cases, a range of justice services are provided by one entity (e.g. problem-solving court, justice access centre). This services continuum is also offered by some private sector service providers such as legal insurance schemes and private law firms as well as by non-governmental organisations (NGOs) or charitable programmes, often referred to as pro bono programmes.

Ensuring equal access to justice means both providing the right mix of legal and justice services and putting in place effective diagnostic and referral systems to assist help people to access the service or services that works for them, and facilitating collaboration between services and among service providers (see Chapter 6).

Service priorities are vary between and within jurisdictions, given differences in people's legal needs, current service infrastructure, geography, demographics and the challenges faced. At the same time, valuable lessons can be extrapolated from sharing information about what services work best under a specific circumstance. There is an important dynamic between the substantive law, the complexity of procedures and operation of justice services, and the need for legal services (Engler, 2010[4]). In general terms, the more complex the law and procedure, the greater the need for legal assistance. Conversely, simplification of procedures may reduce the need for assistance.

Box 5.2. Continuum of selected public legal assistance services in France

Access to legal knowledge is a fundamental element of the *pacte social* (social pact). It is implemented through 101 *conseils départementaux de l'accès au droit* (CDAD – county councils for legal access) as well as a proximity judicial network including 147 *Maisons de la justice et du droit* (MJD – law and justice houses) and 1 515 *points d'accès au droit* (PAD - access to law points) and *relais d'accès au droit* (RAD - access to law relay points).

Access to law points

Points d'accès au droit (PAD) are permanent and free centres that primarily provide local information on rights and duties to people with legal difficulties, thanks to legal professionals or lawyers, and qualified stakeholders. Their main characteristics are permanence (unlike occasional services), a multidisciplinary team and services and the existence and organisation of reception. Some PADs are specialised in a particular type of audience (young or isolated people, prisoners, compulsory hospitalised patients, foreigners, etc.). Since 2016 this network is extended to jurisdictions which provide legal information or guidance prior or as an alternative to a judge's referral.

Law and justice houses

Maisons de la justice et du droit (MJD) work on preventing and dealing with petty crime, the amicable settlement of disputes, organising themed surgeries and specialised legal consultations.

Access to law relay points (network)

Relais d'accès au droit (RAD) cover all access to law mechanisms that are co-ordinated by the CDAD and do not meet PAD criteria. This access point is available in various locations including *Centres communaux d'action sociale* (social action municipal centres), *Maisons du citoyen* (citizens' houses) and mobile support, e.g. "justice bus" run by bars such as *Bus Solidarité du Barreau de Paris* or linked to associations.

Multi-service information and mediation points

Points d'information et de médiation multiservices (PIMMS) are organisations designed to stem the process of exclusion of the most vulnerable groups in urban districts and to facilitate access to public services. 66 PIMMS are located throughout the territory.

Public service houses

The *Maisons de services au public* (MSAP) are tools for equal access to public service and enable an efficient network of contact points for populations in rural areas, medium-sized towns and priority neighbourhoods in cities. They ensure free and unrestricted access to digital or computer tools, allowing people to fulfil dematerialised administrative procedures. More than 1 300 MSAP are available in France.

Source: Ministry of Justice, France.

As people tend to experience legal problems in connection with other social, economic or health problems, this underscores the importance of integrating or "joining up" legal and justice services with other human services (such as health, education and housing).[1]

In addition, there is a growing recognition that access to justice should cover also the access to the enforcement of judicial and extrajudicial decisions. One of the often-cited barriers in several systems is the lack of policies and mechanisms ensuring the access to follow-up of people involved in some way in a dispute. Once the dispute is settled, in many cases, there are only limited mechanisms for the oversight of the execution of the judicial or extrajudicial ruling (e.g. insolvency or labour dispute cases).

Identifying what works in service design

The OECD's efforts to identify current approaches to designing and delivering access to justice and legal assistance confirm that access to justice strategies are pursued differently and vary widely in OECD and partner countries. Countries have different ways of conceptualising and measuring access to justice, which in turn shapes the design of legal and justice services.

Practices that "work" in designing legal and justice services build on three sources of policy, research and evidence: lessons from another sector; access to justice principles and indicators developed by various bodies (national and international); and promising practices in delivering people-focused services in OECD and partner countries.[2]

Lessons from other sectors

Experience from other sectors suggests that a user-centred approach to enhancing access to services promises to raise quality, reduce waste and – most importantly – improve other life outcomes and well-being. At the same time, the shift from a justice system perspective to a people-centred perspective, while easy to grasp in general terms, can be difficult to operationalise. To this end, justice and legal services may be able to learn from the experience of other sectors.

The Canadian Institute for Citizen-Centred Service, an organisation dedicated to pursuing excellence in public sector service delivery, highlights six implications of this shift to people-focused services (although it needs to be recognised that many [and, in many jurisdictions, most] legal and advice services fall outside of government [and NGO] services and funding):

- Services should be conceived and executed from the "outside in," not inside out, with the needs, perspectives, improvement priorities and satisfaction of citizens foremost in mind.
- Users of government services are not just "clients" – they are consumers of government services but also bearers of rights and duties in a framework of democratic community and as such, citizens "own" the organisations that provide public services and have civic interests that go well beyond their own service needs.
- Many are "involuntary clients," whose service relationship with government derives not from choice but rather from their obligations as citizens or from the rights of other citizens; therefore, fairness is key.

- Providers of public services have to balance the distinct interests and needs of different categories of citizens within the broader framework of the public interest. The satisfaction of immediate "clients" needs to go hand in hand with the confidence of all citizens in the institutions of government.
- Perhaps most importantly, service delivery in the public sector should be citizen-centred because every act of service is a "moment of truth" and citizens form an impression – positive or negative – about the effectiveness of public institutions and the potential of democratic government. The service experience either increases or decreases confidence in public institutions and in the degree to which they are capable of fulfilling their democratic missions. It thus enhances or diminishes confidence in the potential of their democratic citizenship (Institute for Citizen-Centred Services, n.d.[5]).

Citizen-centred reforms have "bottom-up, results-oriented dimensions [that] focus public entities on outcomes and impacts rather than inputs and process, and centres attention on citizens as the final principals of public entities" (Andrews and Shah, 2003[6]). The main differences between citizen-centred reform and other common reform approaches are the:

- overall arrangement of reform around a participatory-decentralisation element
- central focus on results
- inclusion of an evaluations component.

Citizen-centred governance incorporates "citizens' concerns at every stage of the service design and delivery process; that is, citizens' needs become the organising principle around which the public interest is determined and service delivery is planned". Repeated Canadian surveys found that the top factors contributing to citizen satisfaction with public sector service delivery are timeliness, outcome, staff going the "extra mile" to help individuals get what they need, fairness and knowledge. More recently, the discussion is also moving towards considering citizens as "prosumers of services" where the "citizen-collaborator" identifies service needs and helps to shape their fulfilment. These trends reflect the increasing opportunities offered by technologies to different government services and information (including legal assistance justice services), notably via net communities and websites where citizens spend their time on line, increase choice and enable greater customisation of services (Flumian, 2009[7]).

Another study found that four central concepts underlie effective citizen-centred service delivery that achieves improved outcomes for the individual, their family and the country as a whole. These concepts are:

- Integrated outcomes-based policy: Looking at what outcomes are desired; how the current government offerings achieve that; and the opportunities to reduce overlap, duplication and address the gaps in the service offerings available.
- "No Wrong Door" service delivery: Looking at the design, availability and alignment of service delivery channels and optimising the service delivery in each of them. No Wrong Door makes sure that wherever the citizen goes, they can get access to all the services they need.
- Intelligent processing: Understanding how to take account of priority, complexity and risk so that processing applications for services and benefits are automated where possible and only ask people to do the things that are truly required.

- Collaborative governments: Understanding the overlap between departments, governments and non-governmental organisations and leveraging their collaborative nature to achieve the outcomes that government desires and citizens need (Duggan, 2013[8]).

However, to be truly transformational, the four concepts need to be "implemented together with a deliberate focus on understanding the positive impact they can have on the citizen and their families".

The shift to people-centred legal and justice services mirrors the shift to patient-centred care within healthcare systems. There appear to be many similarities between healthcare and legal and justice services. Barriers to health and justice are complex and multiple strategies are required to overcome these barriers. Relatively recently, there has been an increased understanding of the important role of health literacy and health capability in achieving and maintaining good health, just as there now are growing efforts to understand the importance of legal literacy and legal capability in achieving access to justice. Legal needs research underscored the dynamic between unresolved legal problems and poor health outcomes and between health challenges and increased legal problems, as well as the links between health literacy and legal capability (CLEO, 2015[9]). The concept of legal health itself is gaining currency as a way of empowering people to take charge of their legal affairs as a preventative strategy to avoid the growth of legal problems (CBA, 2013[10]).

Recently, there has been recognition that "data generated by health systems, however, are too concentrated on health system inputs and activities. There remain substantive gaps in what is known about the experience of patients, and the outcomes of care from the patient's point of view" (OECD, 2017[11]). The next stage involved developing patient-centred indicators to gather this information in a harmonised manner across countries. Similarly, in many countries, justice system data is concentrated on inputs and activities, particularly linked to cases in the formal justice system (court and tribunals); a people-centred approach requires a shift in criteria and data collection (see discussion above in Chapter 3).

In the healthcare context, patient centredness can be defined as "the degree to which a system actually functions by placing the patient/user at the centre of its delivery of healthcare and is often assessed in terms of patient's experience of their healthcare" (Kelley and Hurst, 2006[12]). Three dimensions are selected as the basis for patient-centred health quality indicators: effectiveness, safety and patient centredness (or responsiveness). In turn, these dimensions are applied across the key stages of the care pathway: staying well (preventive care), getting better (acute care), living with illness or disability (chronic care) and care at the end of life (palliative care) (OECD, 2017[13]) (Box 5.3).

In the health information systems field, the move towards people-centric developments was guided by the objectives of empowerment (repositioning citizens in the health system) and health literacy (using information intelligently in day-to-day health- related decisions) (Sakellarides, Pedro and Mendes, 2009[14]).

The design of people-focused legal and justice services could integrate these healthcare developments by focusing on indicators of responsiveness across the various stages of the justice pathways from prevention to post-resolution. Lessons from the health sector also show that the ability to effectively implement a culture shift towards people-focused

services will in many cases depend on the effectiveness of the public communication campaign to overcome resistance to change.

Experience in the field of building financial literacy is also helpful in planning legal and justice services that work. According to the OECD work on financial literacy, one of the key lessons in developing responsive measures is that there is no one one-size size-fits fits-all approach. The implementation of surveys to learn about levels of financial literacy and identify priority groups is critical. There is the potential for a nationally co-ordinated approach to financial education that consists of an adapted framework which:

- Recognises the importance of financial education and defines its meaning and scope at the national level in relation to identified national needs and gaps.
- Involves the co-operation of different stakeholders as well as the identification of a national leader or co-ordinating body/council.
- Establishes a roadmap to achieve specific and predetermined objectives within a set period of time.
- Provides guidance to be applied by individual programmes in order to efficiently and appropriately contribute to the strategy.

It may be feasible to adopt this type of framework to guide countries' efforts on the legal literacy front and of the OECD supporting this process as it has done in the financial literacy field. Given these parallels, there are opportunities for inter-sectoral exchange and networking concerning good people-centric practicses.

Box 5.3. OECD healthcare quality indicators

The OECD developed a set of healthcare quality indicators and a framework for performance measurement. These are based on a 4-year review of healthcare systems in 15 OECD countries. In the OECD's work to measure and improve healthcare system performance, healthcare quality is understood to comprise three dimensions: effectiveness, safety and patient-centredness (or responsiveness). These dimensions are applied across the key stages of the care pathway: staying well (preventive care), getting better (acute care), living with illness or disability (chronic care) and care at the end of life (palliative care).

To facilitate the provision of high-quality care, governments and professional and patient groups use a consistent set of tools, such as standardisation of clinical practices, monitoring of capabilities, reports on performance or accreditation of healthcare organisations. The way these tools are shaped and used varies, rightly, from system to system depending on local needs and traditions. Three key lessons have been learned from this review to date:

- Systemic changes on where and how healthcare is delivered will optimise both quality and efficiency.
- Healthcare systems need to engage patients as active players in improving healthcare while modernising the role of health professionals.
- Healthcare systems need to better employ transparency and incentives as key quality improvement tools.

Table 5.1. Key policies and institutions that influence healthcare quality

Policy	Examples
Health system design	Accountability of actors, allocation of responsibilities and legislation
Health system inputs (professionals, organisations, technologies)	Professional licensing, accreditation of healthcare organisation, quality assurance of drugs and medical devices
Health system monitoring and standardisation of practice	Measurement of quality of care, national standards and guidelines, national audit studies and reports on performance
Improvement (national programmes, hospital programmes and incentives)	National programme on quality and safety, pay for performance in hospital care, improvement programmes within institutions

Source: OECD (2017[13]), *Caring for Quality in Health: Lessons Learned from 15 Reviews of Health Care Quality*, https://doi.org/10.1787/9789264267787-en.

Access to justice principles and promising practices

Access to legal and justice services, like health services, is a complex concept. Given the relative paucity of empirical evidence about which interventions result in effective or meaningful access to justice, decision-makers rely on a range of guiding principles, indicators and other criteria to guide the policy development process. These criteria integrate theories about access to justice and can be seen as predictors of, or proxies for, "what works". Criteria for what works can also be derived from emerging promising practices in promoting accessibility and people-centricity of legal and justice services.

Many accesses to justice initiatives across OECD countries are framed within the context of broad guiding principles that provide coherence to reforms and shape indicators and criteria for success. The current dialogue on the Sustainable Development Goals (SDG) agenda "provides a unique opportunity to expand on the indicators proposed in such context and create a comprehensive set of indicators measuring the accessibility, availability, acceptability and quality of justice and the systems that support its delivery." It also offers an opportunity to incorporate the people-centred focus both in measuring accessibility and delivery of legal and justice services.

The vast number of access to justice principles and the survey of promising practices can be synthesised into seven people-centred design criteria:

1. accessibility
2. availability
3. prevention, proactivity and timeliness
4. appropriateness and responsiveness
5. empowerment
6. equality and inclusion
7. outcome-focus and fairness.

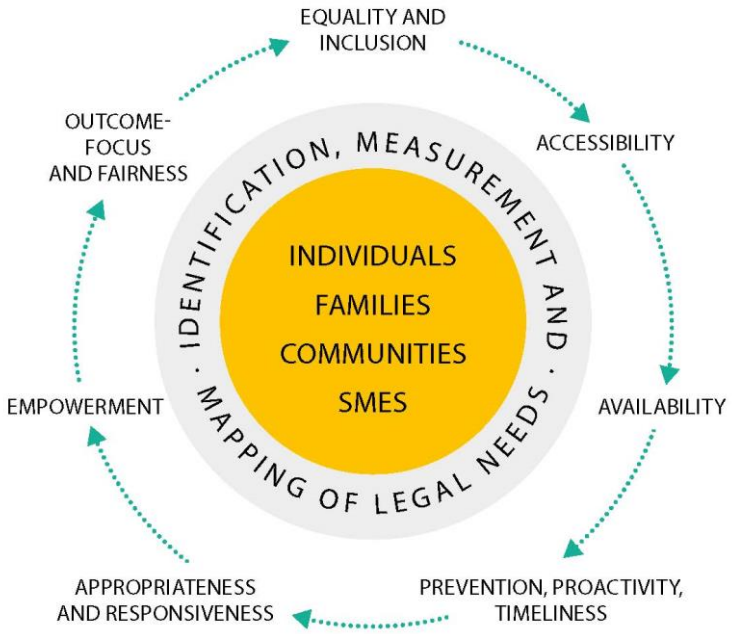
These principles can be understood as operating along the justice chain. Equality and inclusion, accessibility and availability are the foundation and set the underlying policy orientation. People-centred legal and justice services also focus on the qualitative aspects

of service design. People-centred legal and justice services prioritise proactively prevention and timeliness and are appropriate and responsive to needs. These services respond to the legal needs that are identified, measured and mapped and are designed to promote empowerment and inclusion, and focus on substantive outcomes and fairness (Figure 5.2).

Some of these criteria and the way they are defined and utilised by various entities are derived from the justice system or legal service provider considerations and priorities rather than focusing foremost on a people-centred perspective. An attempt is made to reframe the principles and criteria to ensure they are people-centric.

By definition, principles are stated at a high level of abstraction and these can be adapted by countries to suit the local context. Examples of good practices drawn from research reports and programme evaluations help to make the principles more concrete and provide examples of strategies and indicators that align with them.

Figure 5.2. Design criteria for people-centred legal and justice services



Equality and inclusion

People-centred legal and justice services extend beyond the requirements of a fair and effective justice system to larger societal objectives whether framed as inclusive growth or substantive equality, poverty reduction, social justice and social inclusion. By definition, the normative core of access to justice is equality and social inclusion. This is manifested in SDG 16 which recognises the connection between legal empowerment and development and especially in Target 16.3 to "promote the rule of law at the national and international levels and ensure equal access to justice for all". Legal and justice services would be seen as "working" when they are provided on the basis of equality and inclusion and when they contribute to greater social inclusion and equality.

Legal and justice services can promote social inclusion by targeting the resolution and identification of broader issues which may be the cause of specific legal problems. Service providers whose mandate includes wider legal advocacy goals in addition to providing legal assistance are one example.

Equality and inclusion as guiding principles also require legal and justice service providers to pay attention to the specific needs and experiences of vulnerable and marginalised groups. People-centred services need to be based on knowledge about who they are designed to service and pay attention to the legal needs of particular groups of individuals. Otherwise, these services run a serious risk of reinforcing barriers for vulnerable groups rather than reducing them. For example, the delivery of legal and justice services through information and communications technology (ICT) may create carriers for low-income earners.[3]

As discussed in Chapter 3, the Law and Justice Foundation of New South Wales (LJF of NSW) in Australia conducted legal needs surveys as part of its broader programme, which also included the identification of expressed need (through the collection and analysis of legal assistance service provision data) and in-depth targeted studies of particularly disadvantaged groups, including older people, homeless people, people with a mental illness and prisoners. In some countries, targeted legal service and justice services are available for these groups. One Australian example is the Homeless Persons Legal Service Clinics, which is found to generate a range of positive impacts, such as improved contacts between clients, lawyers and courts, clients reporting being better "informed about their legal rights and options, and having addressed legal issues that are directly or indirectly related to their homelessness, feel better and less distracted about moving forward generally." This type of programme was found to be generally accessible to the target group (Smith, 2011[15]).

Many countries, including Germany, Iceland, Ireland and the United Kingdom make legal information available in a number of languages or in a range of accessible formats, including audio or video formats, or via telephone lines. Spain launched a service addressed to persons with hearing and speech disabilities. Users can download the application "Texmee" which enables communication with the Ministry of Justice via text message in real time.

Many legal service providers make their services available to vulnerable or marginalised groups. For example, in Japan services are available to assist foreigners (translation provided) (Immigration Bureau of Japan, n.d.[16]). Most European countries provide specialised legal assistance to refugees and migrants. Australia, Canada, New Zealand and the United States all have specialised courts, other justice services, and legal assistance and legal aid services dedicated to meeting the needs of indigenous persons. For example, evaluation of the Community Court pilot in Kalgoorlie (Australia) showed that specialised court processes, which were designed to be relatively informal, with a rehabilitative focus and to appeal to the Aboriginal community, contributed greatly to increasing the cohesiveness of the Aboriginal community within Kalgoorlie. The majority of involved stakeholders felt that the tailored Community Court process resulted in an experience that is more meaningful and culturally appropriate. The pilot was found to improve the relationship between the court and Aboriginal people and was thought by some to have led to better access to court services (Aquilina et al., 2009[17]). Sharing knowledge, ideas and experiences has been an important part of a learning process in Canada to move towards reconciliation with Indigenous people (Box 5.4). Recently, the

province of Nova Scotia opened a special court in Wagmatcook First Nation that incorporates indigenous restorative justice traditions.

Box 5.4. Reconciliation with Indigenous peoples in Canada

In partnership with Indigenous peoples and the provinces and territories, Canada is moving to adopt culturally relevant laws, policies and practices that respond to the needs of Indigenous peoples. In some cases, jurisdictions are working with indigenous communities so that they recover ways of governing themselves including fostering Indigenous legal practices and principles into their approach to justice. There are many examples throughout the country where elders are being included in proceedings and traditional elements such as prayers, smudging ceremonies and blanketing ceremonies have become elements of the process.

Source: Department of Justice, Canada.

Meeting the legal needs of women

The OECD equal access to justice work has a particular focus on identifying good practices with respect to meeting the legal needs of women and girls to advance gender equality, inclusive growth and sustainable development. This section provides an overview of some of the barriers to women's access to justice and promising practices design to overcome these barriers. To some extent, it can be seen as a case study of approaches to ensuring equality and inclusion in the design of people-centred legal and justice services that may be relevant to strategies to respond to the particular needs of other vulnerable or disadvantaged groups.

A full appreciation of the requirements of both formal and substantive equality is required as a lack of understanding of the two undermines adoption of gender-responsive measures into service design. Formal equality requires that laws, rules, processes and institutions should not exclude individuals by making reference to personal characteristics that are arbitrary, such as race, socio-economic class, gender, religion and sexuality. Ensuring women's equal access to justice in substantive terms goes beyond this formal requirement and means taking into account and addressing the multiple and complex "jigsaw of obstacles" to justice including socio-economic barriers (fear and shame, lack of knowledge of laws and procedures, economic dependence and care duties, gendered impact of austerity measures) and legal and procedural barriers (lengthy and costly procedures, discriminatory practices, judicial stereotypes) (Council of Europe, 2017[18]).

Broader policy perspectives can play a significant role in tackling inequalities in the sector. Several countries have introduced specific public policies on gender equality in several countries, i.e. national action plans, gender-sensitive practices in state agencies and ministries. Many international instruments have also been adopted, i.e. World Bank Gender Equality Strategy; Council of Europe Gender Equality Strategy; 2015 OECD Recommendation on Gender Equality in Public Life and 2013 OECD Recommendation on Gender Equality in Education, Employment and Entrepreneurship. These action plans can assist in designing women-centred legal and justice services.

Flowing from the general point that people-centred legal and justice services involve putting people's needs at the centre and following them throughout the design, delivery and evaluation of services, women's specificity must be integrated across the continuum

of services. A gender equality perspective must be integrated into the justice system as a whole: from reporting/initiating a legal process to the execution of judgments, including data collection at each stage of the justice pathway (Marchiori, 2015[19]). It appears crucial to get gender and diversity on board in access to the justice policy framework, including access to the justice system and system of governance – judiciary, legal professions, etc. In this regard, the justice sector may be useful in terms of promoting gender equality and gender development (IDLO, 2013[20]). On the other hand, access to justice for women may not only reduce inequalities but also improve the quality of the whole justice system. Gender gap analysis can provide important insights with high significance for all types of diversities.

Equality and inclusion require that legal and justice services are designed on the basis of evidence-based measures of the legal needs of women. For example, Columbia is using desegregated data from national legal needs survey to inform its overall gender equality strategy. Women's dissatisfaction is highest in the area they consider to be their greatest legal need (family matters). Women experience a range of unmet legal needs, particularly in the following areas: healthcare, family issues, felonies, problems with neighbours, housing but also in education, ownership of economic assets, access to social and welfare benefits, employment, gender-based violence, political participation, etc.

Over the course of the OECD roundtables, a consensus emerged that there is lack of gender-disaggregated data to inform the design of legal and justice services to ensure that women are served on the basis of equality and inclusion. There is a need for engendering data collection and analysis as confirmed by a number of international actors (World Bank, European Agency for Fundamental Rights [FRA,] Council of Europe, UN Women, UN Economic and Social Council [ECOSOC], Committee on the Elimination of Discrimination against Women [CEDAW], OECD). To date, the main focus is on the supply side and factual data while the demand side and perception data are collected less often. The following areas have been highlighted as potential priorities for data collection:

- Mediation and ADR (on a comparative scale).
- Women participation to access to justice policy design.
- Rulings enforcement (potential multiplying effects on inequalities).
- Access to legal aid and counselling.
- Case outcomes.
- Attrition (in other than rape cases).
- Position of women in the justice profession and gender training for justice professionals (OECD, 2017[21]).

Difficulties in filling the gaps in gender data have also been identified. Some of the ways to overcome these difficulties include:

- Focus on the de facto situation – the reality of women's lives in different country contexts with a view to unearthing "sticky" biases and patterns of discrimination persisting even when de jure equality is achieved.
- Correlate justice-related data with demographic-economic-socio-cultural data (e.g. geographic location of courts with availability of means of transportation to women).
- Contextualise quantitative data through qualitative research (OECD, 2017[21]).

In order to address the legal needs of women and assist in overcoming the barriers identified above, legal and justice services may need to be designed to specifically target women. For example, these can take the form of targeted legal assistance in form of legal aid, legal counselling and mediation services. For example, in some Australian and Canadian jurisdictions, specialised legal assistance services are provided to women experiencing relationship breakdown and/or violence.[4] Other legal advocacy services focus on systemic gender equality issues rather than services to individuals.[5]

There is also a room for gender-sensitive services, such as specialised domestic violence courts, special support and sensitiveness to victims of gender-based violence, sexual crimes, etc. Examples include Women's Centres in Chile (Box 5.5).

Box 5.5. Women's Centres in Chile

In 2000, SERNAM (*Servicio Nacional de la Mujer y la Equidad de Género*) launched the "Centres for Integral Care and Prevention in Domestic Violence", instances formed by interdisciplinary teams throughout the country, providing specialised care to those who live interfamily violence. Since 2005, the Centres for Integral Care and Prevention of Interfamily Violence have been called "women's centres", maintaining their purpose and objectives. There are currently 103 Centres distributed in the 15 regions of the country. The objective of the women's centres is to contribute, at the local level, to reduce violence against women, especially that which occurs in the relationships of partners, through the implementation of a model of integral intervention with emphasis on community prevention and attention to women who are victims of violence.

The women's centres operate under the recently created Ministry of Woman and Gender Equality.

Source: Ministry of Woman and Gender Equality, Chile (n.d.[22]), *Servicio Nacional de la Mujer y la Equidad de Género Programa Centros de la Mujer*.

Gender equality in accessing justice is also hindered by legal and justice system personnel at all levels that have biased attitudes and behaviour towards women and through stereotyping and discriminatory practices. Active steps may need to be taken to overcome these forms of discrimination are often unintentional and the individuals and bodies engaging in these practices may not be aware of their negative impact. Ensuring the gender-sensitivity of legal and justice services involves training, increased gender balance and diversity in legal and justice sectors, and improved data collection (Box 5.6).

Box 5.6. Steps towards gender-sensitivity of legal and justice services

Training initiatives within the justice sector to improve awareness of the specific legal needs of women and girls, particularly those who are most vulnerable – the impact of gendered stereotypes within the justice system could be perceived both as a barrier to accessing the courts and receiving a just outcome. There exists the need for training initiatives within the justice sector that highlight specific legal needs, particularly of vulnerable women and girls. These training initiatives would ensure that members of the judiciary, legal professionals, court officials and law enforcement officers are better

equipped to identify biases, tackle stereotyping and eliminate discriminatory practices both within the courtroom and in the dispensation of justice.

Increased gender balance and diversity – the gender balance and diversity within the judiciary and justice sector can serve as a source of improved access to justice for all women. There is an ongoing disparity between the number of male and female judges across higher levels of the judiciary, in both developed and developing countries. Closing this gap, particularly in the senior courts, would promote greater balance in legal decision-making and ensure women have a voice in high-level, ground-breaking legal cases. It is believed that parity requires both a concerted effort across the justice sector to support women in all stages of their legal careers and a greater emphasis on identifying diverse candidates for judicial appointments. Policymakers should take an active role and consider the implementation of explicit targets or quotas to fast-track the process if the situation does not change.

Improved and disaggregated data collection, analysis and monitoring of women's legal needs – the improved data collection, analysis and monitoring of women's legal needs is necessary for progress. Regular and accurate gender-disaggregated data collection is needed to identify specific legal needs and ensure that programmes and initiatives are targeted effectively. The collection of data is also important for the effective evaluation of existing measures and the illustration of the links between access to justice and gender equality. In advancing these important issues, national governments could be identified as integral to utilising the knowledge gained in their respective territories and disseminating their findings. There is great value in ongoing discourse and enhancing the broader understanding and awareness of the relationship between equal access to justice, gender equality, inclusive growth and sustainable development.

Source: OECD (2017[23]), *Highlights, Towards Gender Equality Before the Law*, International Women's Day, March on Gender 2017.

Accessibility

Accessibility is a foundational principle that underlies all initiatives to ensure service meet the needs of individuals, families, communities and small and medium-sized enterprises (SMEs) thereby fostering inclusive growth and sustainable development. Accessibility is closely related to the principle of equality and inclusion. People-centred legal and justice services should be designed to overcome the range of barriers to access at work in each country. Common types of barriers include:

- Cost-related barriers (e.g. direct cost of services, fines, time, transportation).
- Structure-related barriers (e.g. formality and language, views of justice, court buildings and court personnel).
- Social barriers (e.g. lack of information, perceptions of bias).
- Specific barriers faced by at-risk groups (e.g. women, younger persons, older persons, migrants, ethnic minorities, linguistic minorities, persons with disabilities) (Australian Government, 2009[24]).

The first step toward ensuring accessibility is understanding barriers from a people-centric perspective. A range of strategies and techniques can be then employed to overcome these barriers in a responsive manner.

Information and communications technology (ICT) is increasingly seen as a key enabler to overcome a range of barriers and make legal and justice services more accessible (OECD, 2015[25]). ICT is used to automate current processes and make them more efficient and accessible to citizens and businesses, create new pathways to justice and provide direct access to justice services. After a slow start compared to other sectors, new tools and applications are now appearing at a rapid rate. Five specific developments can be identified:

- interactive web initiatives
- integrated legal assistance services
- online dispute resolution (ODR) and telephone-based ADR services
- increased use of technology in courts and tribunal
- "one-stop shops" for government services.

There is evidence that people-centred strategies employing telephone and audio-visual technology, the Internet and software applications help to overcome some barriers to accessing justice and have the potential to create justice system efficiencies (Smith, 2014[26]; Staudt, 2009[27]; Productivity Commission, 2014[28]). For example, the United Arab Emirates recently implemented a smartphone application allowing to follow judicial cases or make an inquiry about a document[6] and the Chile Atiende is a multi-service public portal. ICT, even simple technologies such as telephone lines, can be used to make the justice system more accessible as demonstrated in the evaluation of telephone-based legal assistance in Pennsylvania. Another important initiative is the move towards e-courts that facilitate initiating claims, filing of documents, tracking of court dates on line which is a priority for French and Korean courts (Box 5.7). Technology may be especially beneficial when integrated in concert with the simplification of procedures, such as simplified e-court procedure for cash benefits in Poland.

Box 5.7. ICT enabled accessibility to courts in OECD countries

In **Korea**, the Supreme Court's IT support centre for the judiciary provides technological and professional support to the courts and registration offices nationwide. Among other activities, the centre provides an e-litigation system: the Electronic Case Filing System (ECFS). This system allows litigants and their attorneys to file and manage cases and allows access to court information and procedures electronically. All court documents, documentary and digital evidence can be filed without visiting the courts. Thus, the parties will be able to use ECFS to promptly check the current status of the proceedings. Judges and clerks have also the possibility to check cases' status and to view case records. Moreover, they have access to an Integrated Case Management system.

In **the United States**, there is telephone-based legal assistance provided by Pennsylvania legal aid programmes, funded under Pennsylvania's Access to Justice Act. Evaluation evidence suggests that advice and brief services are not only effective but essential. For example, the client survey revealed that:

- One out of every three recipients of advice-only or brief services reported positive outcomes that were tangible and measurable. For example, they were granted custody of their children, obtained the public benefits they applied for or avoided a crisis such as eviction or foreclosure.

- A majority of recipients met some or all of their goals in seeking legal help. They were able to consult a lawyer or paralegal, find out what their legal rights were and get an expert perspective on what they should do about a legal issue they faced.
- Almost half of the cases produced complete or partial solutions to clients' legal problems.
- Six out of ten recipients achieved results they deemed favourable. In some cases, the result was dealing with a major crisis, such as a suspension of heating fuel delivery in the midst of winter. In other cases, it was the resolution of a lingering dispute, such as repairs promised by a landlord but never delivered.
- Eight out of ten recipients reported that the legal aid programme was helpful to them. Often all that clients desired was simply to talk with a legal advocate to learn the legal implications of the situations they were facing and to get advice about what to do.

Moreover, the client survey confirmed that when these services are delivered by telephone, they are not only effective but can also provide more convenient access to some services and enable a sharp increase in the number of individuals getting legal help than would be possible if delivered exclusively through in-person methods with the same amount of resources.

These findings provide evidence that from a client's perspective, telephone-based advice and brief services appear to provide not only broader and more convenient access to services but real solutions to legal problems and outcomes that the majority of clients deem favourable, even in some cases where the facts of the situation are not favourable to the client's preferred outcome.

Sources: Chile Atiende (n.d.[29]), *Homepage*, https://www.chileatiende.gob.cl/ ; Smith, K., K. Thayer and K. Garwold (2012[30]), *Final Report on the Assessment of Telephone-Based Legal Assistance Provided by Pennsylvania Legal Aid Programs Funded Under the Access to Justice Act*, The Resource for Great Programs, Inc.

The emerging use of technologies, such as online dispute resolution (ODR), social media, cloud computing, smartphones, mobile software applications and mobile computing, is also showing good results (Wolf, 2012[31]; Cabral et al., 2012[32]) (Box 5.8). ICT is also being employed to provide online tools to assist people through:

- aggregating information from a range of websites[7]
- providing comprehensive advice and referrals[8]
- the diagnosis of legal problems and possible steps to take to address them[9]
- guided interviews (Staudt, 2009[27])[10]
- guided pathways leading the user interactively through difficult issues[11]
- guides to procedures before specific courts and tribunals[12]
- programmes that assist a user to build court forms with a visual interface

- automated document assembly[13]
- assisting with the presentation of evidence.[14]

Box 5.8. Online dispute resolution (ODR) platforms in Europe, the United Kingdom and the United States

To facilitate access to justice for citizens settling disputes with a low financial value, in consumer disputes and other types of conflicts, more and more countries are introducing ODR platforms. For example, in the United Kingdom, Claims Portal (https://www.claimsportal.org.uk/) has been developed as an electronic tool to process low-value personal injury claims in road traffic accidents and low-value personal injury case claims (employers' liability and public liability). With the use of this portal, citizens who have for example been injured in a car accident can submit their claim for financial compensation through the claims portal.

In the field of consumer disputes, the ODR mechanism introduced by eBay can be found as one of the most successful best-practice examples. The eBay ODR solution offers two types of services for solving a dispute between the buyer and the seller of a product: a free web-based forum which allows users to attempt to resolve their differences on their own and a solution where a mediator is requested.

At the level of the European Union, an EU directive has been introduced for solving cross-border consumer disputes through the introduction of ADR and ODR platforms. As a result of this, European citizens with a consumer problem (e.g. concerning the guarantee of a product) can settle their disputes through a network of European Consumer Centres (ECC-net, n.d.[33]).

A different form of ODR concerns the use of video conferencing solutions by mediators in settling disputes between parties. Instead of situations where parties visit a mediator's office, they can have access to a mediator with the use of online tools. The most simple and low-cost solution for online mediation is the use of Skype for mediation sessions, whilst there are also mediators applying more advanced video conferencing tools to interact with parties.

There is evidence that ODR is an effective strategy for increasing access as long as it is appropriately targeted and user evaluations have given ODR positive ratings both in terms of process and outcome (Gramatikov and Klaming, 2011[34]). The main advantage of ODR is simplicity and the potential to save both time and monetary costs. ODR may also reduce stress and negative emotions associated with face-to-face resolution processes (Gramatikov and Klaming, 2011[34]). These services are also increasingly being used in by courts and tribunals in commercial and consumer matters.[15] For example, Consumer Protection BC has a self-help online tool for consumers to settle disputes with businesses. This is a relatively simple form of ODR that is delivered by email.[16] One of the benefits of ODR is that the platforms offer a guided opportunity to prepare for the mediation process through the intake forms. Research has demonstrated that parties in employment disputes who use this function on the Juripax platform are better prepared for mediation, are more likely to engage on a more level playing field, feel more empowered to make decisions on their own, engage in a more resolution-focused mindset, and achieve time and costs savings of up to 30% (JURIPAX, n.d.[35]).

In Poland, the XVIth Civil Division of the Lublin Regional Court (now the VIth Civil Division of the Lublin-West Regional Court) was inaugurated on 4 January 2010. It is known as the "electronic court" (e-court) and considers cases under an electronic writ of payment proceedings. It covers "the whole territory of Poland regardless of the defendant's domicile or seat" and is "competent to examine civil pecuniary claims (including commercial and labour claims)". It lacks competency over non-pecuniary claims and family law claims. As of 1 October 2011, 2 million lawsuits were lodged in the e-court and in some 1.6 million cases, payment orders have been issued (Ministry of Justice, Poland, n.d.[36]). Fees for online-reviewed cases are allegedly three times lower than for traditional courtroom proceedings (Miguel-Stearns, 2010[37]). This system also exists in Austria,[17] Germany[18] and in the United Kingdom.[19]

Sources: UK Civil Justice Council (2015[38]), *Online Dispute Resolution for Low Value Civil Claims*, Civil Justice Council; ECC-net (n.d.[33]), *European Consumer Centres Network*, https://ec.europa.eu/info/live-work-travel-eu/consumers/resolve-your-consumer-complaint/european-consumer-centres-network_en; Gramatikov, M. and L. Klaming (2011[34]), "Getting divorced online: Procedural and outcome justice in online divorce mediation", *Tisco Working Paper Series On Civil Law And Conflict Resolution Systems*, Tilburg University; JURIPAX (n.d.[35]), *Online-Mediation*, http://www.juripax.com/EN/odr.php; Ministry of Justice, Poland (n.d.[36]), *E-court Basic Information - EPU*, https://www.e-sad.gov.pl/Subpage.aspx?page_id=35; Miguel-Stearns, T. (2010[37]), *Poland e-Courts Gain Popularity (blog)*, Yale Law School.

Adoption of ICT tools is sporadic, however, and their use is far from widespread, also linked to significant investments required for their implementation. Furthermore, "digital delivery" revolution might not be universally accessible (Smith, 2014[39]). Careful planning is needed to prevent technological innovations from creating or reinforcing existing barriers to equal justice. There is a risk that these reforms may raise the "spectre of a digital divide that institutionalises a two-tiered system incapable of delivering appropriate justice to low-income persons" (Cabral et al., 2012[32]). Even with the dramatic rise in digital access across income levels, access to technology cannot be equated with "digital literacy and the capacity to identify best forms of assistance" (Smith, 2014[39]). Implementing technological solutions with a clear strategic purpose is essential as a risk of scarce resources being wasted is possible. Civic engagement can also provide important opportunities to co-design services to ensure effective service design and responsiveness.

The integration of ICT into the design and delivery of legal and justice services is just one mechanism for overcoming barriers. Other approaches will need to be harnessed to ensure full accessibility. Another important dimension is ensuring that the laws, as well as legal and justice services, are accessible. Complexity and formality are barriers to accessibility. Access to justice interventions should "work to reduce the net complexity of the justice system. For example, initiatives that create or alter rights, or give rise to decisions affecting rights, should include mechanisms to allow people to understand and exercise their rights". Substantive law reforms can be extremely effective in reducing barriers to accessing justice. In Canada, for example, the development of child support guidelines has greatly simplified the laws concerning parental responsibilities following separation and divorce thereby reducing barriers to accessing justice in these cases.

Connecting legal and justice needs and the availability of legal aid appears to be a challenge in many countries. This issue is partly related to low, or even declining, public legal aid financing and coverage, set against a growing number of people eligible for

legal aid in many countries; in some jurisdictions, legal aid is mainly available in criminal matters, less in family and other civil matters, although there is a wide variation across the countries. There are also few countries providing legal aid for disputes addressed by alternative dispute resolution (ADR) services. At the same time, some studies point to the economic and business case for funding legal aid: not only did investment in legal aid services foster economic growth by increasing jobs, reducing work days missed due to legal problems, creating more stable housing, resolving debt issues and stimulating business activity at the local level (CBA, 2013[10]), countries are looking to review and adjust legal aid policy settings. For instance, Scotland recently completed a government-established independent review of legal aid. In New Zealand, the review targets regulatory review with narrow legislative changes and wider access to justice component, and the report will include advice on whether the legal aid policy settings should be adjusted (Box 5.9). Israel is considering legal aid for involuntary commitment and for victims of murder or manslaughter crime (family members).

Box 5.9. Legal Aid review in New Zealand

The Ministry of Justice in New Zealand has undertaken a review of legal aid policy settings. This is the first three-yearly cabinet-mandated review, with a report to be provided to the Minister of Justice in October 2018. The scope of annual reviews includes targeted regulatory review with narrow legislative changes and wider access to justice component. The report will include advice on whether legal aid policy settings should be adjusted.

Source: Ministry of Justice, New Zealand.

To facilitate navigation across multiple (potential) justice pathways, some countries are developing simple gateways into the system of legal service or one-stop shops (Box 5.11; see also Chapter 6).

Box 5.10. *Service d'accueil unique du justiciable*

In France, the SAUJ (*Service d'accueil unique du justiciable*) is a new type of courthouse front desk with an enlarged competency to better meet people's needs. The SAUJ has three goals: provide all citizens with the same quality of general legal and justice information, provide personal information about the events in each proceeding and simplify the access of legal proceedings thereby making some procedures easier to access without legal representation. France's justice website, Portalis, serves a complementary function to the SAUJ. Initially serving as a general information portal, it expanded to become a portal for the SAUJ, allowing individual parties to access information about their cases on line. Future expansion plans include enhanced online access for citizens, serving as a "virtual office" for judges and clerks, extended electronic communications in justice matters and partnerships with other service providers. Further down the road, it is envisioned that by 2021, Portalis will provide online replacements for nine types of legal applications currently made in person, and by 2022, the total dematerialisation of civil justice.

Availability

Traditionally availability was determined from a formal, justice system perspective with a focus on the availability of formal mechanisms such as courts and tribunals. From a people-centric perspective, availability is a broader concept extending to the continuum of the legal and justice services discussed earlier in this chapter.

From this perspective, availability can be seen as encompassing five main components:

1. Legal framework – the rights and entitlements, regulations and safeguards defining the space within which citizens and the state can negotiate access to justice and justice outcomes.
2. Justice machinery – the institutions and human resources essential to the provision of justice services.
3. Legal services – the elements that enable people to seek remedies through the justice system.
4. Understanding of legal and justice needs – the understanding of the diverse legal and justice needs of the population.
5. Sound enforcement machinery.

Strategies to ensure that these components are available include assessment of legal and justice needs for both the general population and for vulnerable and disadvantaged groups and the design of a range of services that can be tailored to these needs. A people-centred perspective recognises that there are various pathways to justice and these components should "mirror the unfolding of the justice chain" as it is experienced by individuals, families, communities and SMEs. This may call for the development of an expansive "toolkit", which could include a range of possible service types and strategies to employ or adapt to meet the particular legal need to be addressed. For example, disadvantaged people and groups, who are a priority for certain legal assistance services, tend to have low capability, which means that they are often less able to use self-help and unbundled services effectively, and therefore more likely to require more intensive assistance to resolve the legal problems. Designing and implementing a continuum of legal and justice services as discussed above is a good practice fulfilling the availability criteria.

Prevention, proactivity and timeliness

People-focused legal and justice services aim to intervene at an early stage of legal problems and to facilitate the prevention of legal problems. This requires a shift away from formal mechanisms for dispute resolution and towards meeting the "upstream" needs of individuals, families and SMEs for timely assistance. One possible analogy is that in many OECD and partner countries, legal and justice services provide an ambulance at the bottom of a cliff, whereas what often seems to be needed is proactive services and a focus on early resolution that act as a stronger barrier at the top of the cliff to prevent people from falling off when legal problems remain unresolved.

The National Centre for Preventative Law is housed at the California Western School of Law and is dedicated to preventing legal risks from becoming legal problems. One aspect of this work is fostering "multidimensional lawyering" which broadens the traditional focus of lawyering as advocacy to include proactive and preventive roles, skills and mentalities.[20]

In Australia, the Family Law Violence Prevention Legal Services integrate prevention and early intervention services into the provision of legal aid. These include, for example, working with vulnerable groups of women (in particular young Aboriginal women), programmes designed to promote social and emotional well-being, facilitate community networks to reduce social isolation, raise awareness about family violence and its underlying causes and impacts. Finnish municipal councils[21] and the Icelandic Debtor's Ombusdperson[22] provide financial and debt advice services which help people to cope with money matters, potentially preventing more serious legal and financial problems.

In the United States, the foreclosure mediation programme aimed to give homeowners who were able to save their homes the opportunity to do so and to provide them with a process that treated them in a dignified way. The mediation programme helped homeowners to submit their packet and facilitate the preparation of the paperwork and interaction with lenders. The programme was found to help between 50% and 76% of homeowners who complete the respective programmes reach an agreement to keep their home and almost all reported being treated fairly and with respect (Shack, 2015[40]).

Traditionally, most justice system resources were spent on formal court procedures with the trial at its apex. Many courts and tribunals now provide alternative procedures in both civil and criminal matters including judicial mediation, conciliation and judicial settlement conferences. These initiatives aim to assist people to resolve their disputes at an earlier stage. All courts in Denmark, with the exception of the Supreme Court, have since 2008 offered mediation in civil, probate and enforcement cases. On 1 July 2014, new rules were introduced that are intended to encourage judges and attorneys to focus more on settlement and mediation, and efforts are being made to increase awareness and use of mediation.

The mandates of ombuds offices and some administrative tribunals include procedures to prevent future legal disputes. In other cases, mediation and other ADRs are made available as standalone justice pathways. New Zealand provides a number of specialised resolution services including to assist people who have disputes related to the building of their homes and employment relationship problems.[23] Belgium provides a range of specialised mediation centres such as the Brussels Business Mediation Centre, Telecommunications Mediation Centre, Consumer Mediation Service as well as Electronic Consumer Dispute Resolution (ECODIR) which helps consumers and businesses prevent or resolve their complaints and disputes on line using a quick, efficient and affordable service. In British Columbia, Canada, the new Civil Resolution Tribunal provides assisted online dispute resolution for a range of small claims matters.[24]

Proactive services are critical to improving access to justice for poor and disadvantaged individuals and groups. Recent studies have emphasised the importance of investing in more effective front-end services and early intervention (CBA, 2013[10]; Action Committee on Access to Justice in Civil and Family Matters, 2013[41]). Evidence-based best practices that incorporate proactivity criteria include: well-designed outreach; intake; diagnosis and seamless referral services. In turn, the following practices can facilitate intake, diagnosis, referral and outreach:

- Gateways to legal services that are simple, well-signposted and accessible, whatever their form.
- A systematic approach to diagnostic triage and tailoring of services by implementing standard tools and procedures to identify client need and capability.[25]

- Screening: comprehensive client intake, diagnostic triage and referral to appropriate legal services or at least a preliminary legal diagnosis (this was the core of the idea of the former community legal aid centres and networks in the UK).
- Tools for easy client identification, including standard checklists and questionnaires[26] (legal health checklists like the Halton Community Legal Service (Currie, 2015[42]); I-Help[27]).
- Software packages to identify and prioritise legal matters, streamline referral and flag client capability issues.
- Indicators to streamline intake process and/or diagnostic triage and referral.
- Diagnostic expertise: whether or not unbundled services are enough to meet a client's needs, a determination which often involves professional expertise (Pleasence et al., 2014[2]).

These intake, diagnostic and referral tools work most effectively if employed actively, not simply passively when a client contacts the legal aid service provider.

A proactive attempt to reach people experiencing legal difficulties through outreach is an equally critical component (Currie, 2015[42]; Pleasence et al., 2014[2]). Outreach is sometimes described as "putting assistance" in people's paths through, for example, co-location of services in community centres, courts and hospitals. Additional features of successful outreach services include:

- Pre-planning and needs analyses (in that they reach clients who otherwise would not have received legal assistance).
- Linking with clients (identifying ways to actually connect with "hard-to-reach clients," including location in places that can be easily reached [e.g. by public transport] and often visited by potential clients, such as welfare, medical and homelessness centres, indigenous and mental health services, child and family centres and prisons).
- Effective referral pathways, including building relationships with key "problem noticers" such as staff from various social agencies and community members who may notice a client has a legal problem and refer them to the outreach legal service (Box 5.11).
- Tailoring service delivery to people with complex needs (e.g. building familiarity and trust, providing flexibility, timely services, consistency, confidentiality and communicating effectively with clients) (Digiusto, 2016[43]).

Evidence demonstrates that effective outreach is targeted to meet priority legal needs and fill service gaps, engage clients, provide appropriate service delivery (taking into consideration the specific needs and capabilities of the target group), be client centred and provide strong referral pathways (Pleasence et al., 2014[2]). Indeed, a systematic review of evaluations conducted by the NSW Law and Justice Foundation showed that "outreach legal services can reach clients with complex needs and who had not sought assistance before from mainstream legal service providers, or who otherwise would not have received legal assistance. However, to achieve these outcomes, outreach services need to be appropriately located and connected with target groups and their support agencies." The outreach legal services have also been found to provide positive outcomes for clients, including people with complex needs, in a wide range of areas, including housing and

tenancy, management of fine- related debt and driving restrictions, access to children and other family matters, access to welfare payments. Advice provided through outreach services in many cases was found to prevent legal issues from escalating in seriousness, which occurs when problems remain unaddressed, although further research is needed in this area.

Box 5.11. Effective location of legal outreach services

The Review of Evaluations of legal outreach services conducted by the NSW Law and Justice Foundation identified the following successful outreach locations as places:

- where there is currently a gap in legal service delivery to the target groups
- which the target groups are familiar with and trust, such as places they already access
- where (to ensure potential client numbers) there is a flow of target-group clients through the service. For instance, more clients access a community centre or welfare agency on a given day than a hostel which has a small number of residents staying for several months
- that are physically accessible to target clients, including clients with disabilities and clients living in remote or regional areas
- that have private spaces in which clients and advisors can meet and discuss confidential issues.

The review also indicates that to most effectively use the host agency or community members as a source of referral, the following needs to be in place:

- Initial and ongoing relationships need to be forged between the host agency (and/or other referring agencies) and the outreach legal service.
- "Problem noticers" benefit from training by the outreach service in how to identify whether clients have relevant legal issues and what the outreach service can do for their clients.

The best sources of referrals are sources that are already trusted by the client group, such as case workers, community members or friends.

Source: Digiusto, E. (2016[43]), "Effectiveness of public legal assistance services", *Justice Issues*, Vol. 16, Law and Justice Foundation of NSW.

One benefit of effective outreach is that it can lead to the identification of bottlenecks and areas requiring modernisation of the legal framework; for example, in medical-legal partnerships (Box 5.12). An evaluation of a paralegal programme also showed that paralegals were helping to solve legal cases and emerging problems, and provide broader legal advice thereby enlarging the pool of problems accessing the justice system.

Muchany recent access to justice reports emphasise the importance of early intervention in contributing to positive outcomes and contributing to efficient, less costly services (CBA, 2013[44]). Early intervention can provide legal services before a legal crisis hits and prevent escalation, ideally assisting in breaking the cycle of disadvantage. To contribute to positive outcomes, legal and justice services must not only catch a problem early, but

must also prevent escalation of the problem: "If early intervention services focus on providing less intensive services early, there is a risk that these services will not be enough to prevent the escalation of issues for disadvantaged clients and later services will also be required for this target group." (Pleasence et al., 2014[2]).

An Australian report (Pleasence et al., 2014[2]) highlights the question: when is early? Legal problems do not always follow a linear process and some issues arise suddenly. To link early intervention with stages in a legal process is to ignore the people-centred approach and maintain the traditional justice system focus. The report concludes: "A more inclusive framework may better take this approach – a and focus on the timeliness of assistance relative to the experience of the client rather than defining the effectiveness of the service delivery in terms of what may be an arbitrary point in the legal process."

Timeliness promotes a people-focus, delivering services consistent with how people experience legal issues and how they seek help. One example of a promising practice in this regard is duty counsel in family matters, who are able to provide valuable and timely assistance at many stages of the legal process. Several evaluations showed that there is generally a high level of support for the expanded duty counsel model among clients and stakeholders. One study showed that a large majority of client survey respondents (80%) believed that they received quality service from the duty counsel lawyer. Some of the key cited advantages cited included file continuity (the practice of opening and maintaining written client files) which was seen to save time, improve the consistency of advice that duty counsel give to clients, and ultimately result in fewer delays in the court process. Another promising practice is to recognise patterns of legal needs that develop around transition points and provide legal assistance services to reach disadvantaged clients at those critical times (related to life cycle methodologies discussed above) (Pleasence et al., 2014[2]).

Box 5.12. Medical-Legal Partnerships

One example of effective outreach practices comes from Medical Legal Partnerships (e.g. in the United States, Canada), when legal services are provided in hospital location. For example, some of the outcomes of the evaluation of the medical-legal partnership for children suggest an overall increase in knowledge and trust between medical providers, social workers and attorneys, greater understanding and identification of legal issues and a high rate of referral for legal services, particularly by medical providers.

The study also reported that, as a result of the project, "many more families had access to community resources to which they were entitled. Examples of the kinds of resources accessed are: special education services in public schools; disability accommodations in the schools; in-home nursing care; subsidised housing; and government benefits. Data from legal cases that have been closed to date indicate that patients are receiving legal assistance in the following areas: 20% government benefits, 18% housing, 17% education, 14% Medicaid, 11% family law, 6% consumer rights, 6% other, 4% immigration, 2% disability rights and 2% private insurance.

Legal outcomes show that out of the 209 closed cases, 36 increased their income because they accessed a new benefit, increased an existing benefit or had a reduction in debt due to legal intervention. Findings from the subgroup of 24 families interviewed found that 8 of these families reduced their debt by reducing uncovered medical expenses or

increasing the amount of benefits they were receiving. In addition, 35 families obtained needed educational services, 38 families improved housing conditions, prevented an eviction or obtained a housing subsidy and several families maintained custody of their children as a result of the legal intervention. Many of the families served have multiple legal needs and often more than one outcome was achieved as a result of the legal intervention".

Source: Extract from Grossman, K. (2011[45]), *Evaluation of the Medical-Legal Partnership for Children, MLPC Evaluation Report: Summary of Findings from Years One-Three*, Community Engagement Initiative, University of Washington.

Appropriateness and responsiveness

Many statements of access to justice principles take a primarily justice system-centric stance in defining appropriateness, whereas the concept of responsiveness clearly encapsulates the importance of design services from the perspective of the individual user.

Appropriate legal and justice services are proportionate, simple and sustainable (Action Committee on Access to Justice in Civil and Family Matters, 2013[41]). The criteria of appropriateness incorporate efficiency, in terms of time and resources expended by both the justice system and by people who seek to access it. The justice system should be structured to create incentives to encourage people to resolve disputes at the most appropriate level. Legal and justice services are appropriate when they are provided on a timely basis and where early resolution is promoted whenever possible. Appropriateness also means that resources are directed to reflect how people access the system.

In many countries, small claims courts provide tailored and fast track procedures that are proportionate to the amount of money at issue. These are found to free up court time and resources, reduce backlogs and improve access to justice for people and SMEs (Harley and Said, 2017[46]). Indeed, the EU Eurobarometer survey found that the ability to carry out proceedings in writing and without a lawyer encouraged claimants to protect their rights (European Commission, n.d.[47]).[28] Judicial mediation programmes are found to provide incentives for early resolution of disputes.

There is also increasing evidence that alternative dispute resolution (ADR) mechanisms (conciliation, mediation and evaluation), for instance in taxation, when used appropriately and respecting procedural justice, can save time and cost and may facilitate trust and acceptance of government decision making. It is also found that the faster and more efficient resolution of tax-related disputes may promote better relationships between government and taxpayers.[29]

Appropriateness and efficiency also mean addressing recurring problems on a systemic basis rather than over and over again in individual cases. Some legal problems are dealt with appropriately through law reform. Similarly, some legal issues "may be symptomatic of broader non-legal issues. The justice system should have the capacity to direct attention to the real causes of problems that may manifest as legal issues". In OECD and partner countries, many ombuds offices have the mandate and power to address systemic legal issues. In Australia, Canada and the United States, community-based legal clinics provide legal aid for systemic litigation and law reform activities (Australian Government, 2009[24]).

Appropriateness incorporates the value of localised flexibility. The types and combinations of legal and justice services that will work depends on local circumstances. In some cases, "local" may refer to a neighbourhood, a rural versus urban setting or some other relevant spatial boundary. Canada's Alberta Legal Services Mapping Project aimed at achieving access to justice for citizens through a co-ordinated and holistic approach that closely takes into account local social conditions and needs as reflected by the "One Client, One Place" initiative. The receptiveness and participation rate was found to be significant. Participants had notably positive attitudes towards a service provider (Lieb, 2011[48]).

Increasing evidence from OECD and partner countries shows that in order to provide effective access to justice, legal and justice services need to be "personalised" or responsive to the individual and the situation. Tailored or proportional justice services include simplified court procedures and specialised ADRs, as discussed above.

Comprehensive legal services are best able to respond to the varying needs for assistance taking into account a person's capabilities, the complexity of their legal issue or issues, and the severity of the potential impact of the problem. Information, education and minor assistance services can help many people address their legal issues and problems and resolve their disputes. However, this is not always the case: "international research has consistently identified that the most vulnerable are less likely than others to have the skills and psychological readiness to achieve legal resolution on their own or with minimal assistance. These clients will require more intensive support beyond information, education, advice and minor assistance" (Productivity Commission, 2014[28]).

For example, legal help hotlines were also found to be effective access tools, particularly where they are a "front end" not "dead end" service, integrated with full or partial legal assistance and representation services, and provide follow up (Smith, 2013[49]; Pearson and Davis, 2002[50]). The value of hotlines expands with the depth of service offered (Smith, 2013[49]). How services dovetail together is important in matching assistance with the needs and capabilities of clients. Dovetailing could ensure, for example, that legal advice is made available directly after community legal education or that outreach services have direct links to casework where additional assistance is required. For example, the evaluation of Family Legal Services of the Legal Services Society considered the continuum of family legal services (representation through legal aid, family LawLine, family duty counsel, out-of-court advice lawyers, aboriginal community legal workers and legal information outreach workers) and found that different types of services were effective in addressing different types of issues (Legal Services Society, 2012[51]). The evaluation found that services such as LawLine, Legal Aid Intake, community advocacy services and Family Justice Counsellors tend to be used by clients as front-end services (i.e. used earlier by clients).

An overview of development in legal assistance services concludes that there are efficiency gains to be made from ensuring that clients receive appropriate levels of support: "Resources are wasted both when levels of support are insufficient to bring about effective outcomes and when they are in excess of what is required" (Pleasence et al., 2014[2]). This, in turn, depends on an appropriate diagnosis of the situation and capability assessment discussed in the previous section.

Within a jurisdiction, this holistic, multifaceted approach may include a raft of strategies, such as self-help strategies for more straightforward problems and more able sections of the community, together with more intensive assistance strategies for disadvantaged people who are less able to resolve problems alone. Similarly, technology-based legal

service delivery has the potential to broaden access through opportunities of scale, capital and centralised service delivery, but may be less appropriate for the needs and capability of more marginalised sections of the community. Thus, in any given jurisdiction, the suite of strategies which take account of differing need and capability can include:

- legal information and education strategies
- self-help tools
- accessible legal services
- community legal education and referral training for non-legal problem noticers, relevant to the legal problems of their clients
- integrated legal services (able to assist with a range of legal problem types)
- integrated responses to legal and non-legal needs, including networking and service partnerships
- tailoring of services for specific problems
- tailoring of services for specific demographic groups.

Empowerment

The empowerment criteria can be summed up as follows: "The system empowers people. It builds people's capacity to participate, by managing their own matters and having a voice in the system as a whole". Individuals are empowered to resolve disputes between themselves when appropriate, without recourse to the institutions of the justice system (Australian Government, 2009[24]). This criterion expands the view of the purpose of legal and justice services beyond assistance in resolving a legal problem, to include focusing attention and resources on preventing legal problems and disputes and helping to build resilience through post-resolution follow-up and support. People are empowered in their relationship to legal and justice service providers and with a greater ability to solve problems at an early stage.

Legal and justice services build empowerment through strategies that increase legal awareness, legal literacy, legal capability and trust and confidence in the justice system. Making legal information easily accessible is key. Most OECD and partner countries provide a wide range of legal information services in a large range of formats. What is important is ensuring that the type of information provided works for different types of clients. In Ireland, there are a variety of web-based sources of legal information including those offered by the national government, the Law Society of Ireland, the human rights organisation Free Legal Advice Centres which focuses on assisting people from disadvantaged groups, and specialised agencies such as Inclusion Ireland, a self-advocacy website assisting people with disabilities.[30] In Israel, Pathlegal provides free online legal information and answers to common legal questions.[31] The website also allows people to submit questions to a panel of lawyers. In Spain, the Administration of Justice Portal contains information about the judicial bodies in the civil, commercial, criminal, family and labour legal systems providing in-court mediation services as well as about the various out-of-court mediation services offered through various professional associations. In Estonia, Juristaitab, a free legal assistance portal, is provided in co-operation between the Ministry of Justice and the Lawyers Association to help people find answers to legal questions that they encounter in everyday life.[32] In Finland, Suomi.fi is a one-stop portal

for Finnish public sector online services for citizens.[33] The portal contains links to sites that provide information and services for citizens.

Today there are many examples of web-based sources designed to empower people to address their legal problems themselves or to link them to needed assistance: legal information and referral websites,[34] online video instruction,[35] interactive information services[36] and social media.[37] A promising practice is to link legal and justice services with other public services through "life-event" approaches, which aim to provide relevant services to specific user groups, focusing on their specific needs in phases of their lives or in specific life situations (OECD, 2009[52]). This can help with referral pointers, improve resource efficiency and reach of services to those who need them.

Web-based services offer an element of universality because they are potentially available to anyone who has access to the Internet. Further, some countries are implementing web-based services in view of the funding constraints, as they are seen to be less expensive than in-person advice services. Web-based advice services have the potential to provide assistance to a large number of people experiencing legal problems who, for a variety of reasons, use self-help strategies to resolve their problems. The information available for the review of "Virtual Legal Help Services" on the BC Small Claims Court and Supreme Court Websites suggests that the websites are highly effective tools for providing greater access to justice (Currie, 2014[53]).

People are also empowered by increasing their legal literacy and legal capabilities through sharing of information, skills development and service provision that engages clients as active participants in the legal process. Evaluations of legal education/literacy programmes show that they have the potential to change participants' behaviour in positive ways and improve their outcomes. For example, according to the systematic review undertaken by the LJF of NSW, two studies on the effectiveness of public legal education show that these programmes were associated with changes in participants' knowledge, skills or motivation, although precise correlation is difficult to establish. In addition, these programmes have a potential to increase court efficiency, as demonstrated in the study by (Ellis and Anderson, 2003[54]), which found that programme participants in the Canadian divorce education programme used fewer court resources (fewer case conferences and mentions) and managed to finalise their cases sooner than non-participants (Wilczynski, Karras and Forell, 2014[55]).

The Dutch legal aid service, Jurisdisch Loket, makes its services available at many legal services counters around the country and through Rechtwijzer (Signpost to Justice), an online legal guidance website which is also a virtual first stop for legal aid. The website offers a database of template legal letters so that individuals can initiate a legal process, a roadmap to justice which is a "decision tree" that helps people find solutions for their legal problems in an interactive manner, and an online dispute resolution platform. An evaluation of this service showed that particularly people dealing with serious conflicts, which are characterised by high levels of escalation and stress, seem to find their way to Rechtwijzer. The evaluation also highlighted that Rechtwijzer (along with other legal advice websites such as Juridisch Loket) is an important source of information and legal aid at the start of the conflict process, especially for low-income groups (Bickel, Dijk and Giebels, 2015[56]). An interactive smartphone application is also available.[38] Similarly, Indonesia has developed the Legal Smart Channel. Some other legal aid providers have also developed easy-to-use interactive versions of standardised court forms.[39]

In New Zealand, the Community Law Manual is published on an annual basis and sets out legal information related to many areas of community and personal life in an

accessible way. People can search the manual on line by asking legal questions.[40] Some legal information services integrate a "live chat" function so that people seeking information and assistance can ask questions and be provided with tailored information that responds to their situations.[41] In the US, many legal aid providers support legal self-help centres at courthouses and public libraries, and in some cases the courts, often working in conjunction with other service providers, provide self-help services[42]

A specific strategy is encouraging people to take responsibility for their "legal health" in the same way that they do for their physical and mental health. For example, the Women's Legal Services Tasmania has published a booklet called "Legal Health Checkup – What Shape Is Your Legal Health In?" (Women's Legal Services Tasmania (n.d.[57]). As mentioned above the Legal-Health Check-Up Project in Ontario (https://www.legalhealthcheckup.ca/en/) aims to address this issue by extending legal aid. This form of project asks clients about everyday legal problems concerning income, housing, education, employment, family and social and health support. The Canadian Bar Association has also developed a wide range of legal health checklists designed to be used directly by individuals (CBA, n.d.[58]) (legal checklists are also used by service providers as a diagnostic tool and these are discussed below in the section on prevention, proactivity and timeliness).

There are important areas of overlap and synergy between legal literacy and capability and financial literacy and capability. Financial literacy programmes assist consumers and investors in improving their understanding of financial products and concepts; and through information, instruction and/or objective advice to develop the skills and confidence to become more aware of financial risks and opportunities, to make informed choices, to know where to go for help and take other effective actions to improve their financial well-being. It is a combination of knowledge, attitudes and skills.

Empowerment can also be advanced through culturally appropriate justice services. For example, an evaluation of five Indigenous youth courts in New Zealand found that young offenders showed improved behaviour including a better understanding of their responsibilities, had improved communication skills and had established positive relations with the community (Kaipuke Consultants, 2012[59]).

The life events methodology, as demonstrated from the broader service delivery experience and lessons learned, is seen as having the potential to improve service delivery for disadvantaged groups. In France, for example, this approach was used to study administrative barriers to recent immigrants, which were found to be persistent in all areas of life. Similarly, studies of the experiences of disabled people also showed that administrative procedures related to the life event of "disability" are very complex and helped to identify bottlenecks in government services (OECD, 2016[60]). Similarly, one Australian legal assistance service provider designed legal information geared toward addressing legal issues that are triggered by life events such as becoming employed, getting married, buying a home and so on (Women's Legal Services Tasmania, n.d.[57]) and one for legal issues faced by women over the age of 50 and their families (Women's Legal Services Tasmania, 2016[61]).

Outcome focus and fairness

People seek legal and justice services as a means to an end and therefore these services need to be designed with a focus on outcomes and fairness. The outcome focus is particularly important for linking equal access to justice to inclusive growth and sustainable development as well as to individual and community well-being. Even

services that do not lead to a positive substantive outcome can contribute to social inclusion and trust in institutions to the extent that they provide a sense of fairness to individuals and others in their interactions in the justice system.

Fairness is central to justice systems, even though the meaning of fairness can be contextualised to specific legal systems and the means to ensure fairness can differ from country to country.[43] Fairness is seen in broad terms here beyond the legality of procedures and is linked to enabling people to effectively resolve disputes in a manner consistent with human rights standards. For example, the American Bar Association's rule of law framework includes "fair procedure" as essential access to justice criteria. Indicators of fair procedure include: to what extent do justice institutions, whether formal or informal, ensure citizens have an opportunity to effectively present their case? Resolve disputes impartially and without improper influence? Where disputes are resolved by mediation, citizens can make voluntary and informed decisions to settle (ABA, 2012[62])? People-centred legal and justice services are designed to contribute to fairness.

Traditionally the justice system's concern has been with fairness of procedures but fair outcomes are equally important. The justice system should be fair and accessible for all, including those facing financial and other disadvantages. Access to the system and to fair results should not be dependent on the capacity to afford private legal representation. Outcomes should be in accordance with national legal norms and human rights principles and standards (UNDP, 2014[63]; Northern Ireland, 2011[64]).

People-focused services shift the attention away from the traditional prominence placed on process by justice system players to a people-centred emphasis on outcomes. Formerly the fact of providing high-quality service to ensure fair procedures was the key output for legal and justice service providers. Service providers and funders are beginning to grapple with the more difficult assessment of "what happened" as a result of the service provision. At this stage, our capacity to measure outcomes and trace them to the provision of specific legal or justice services is very limited because it is very complex to establish causal connections. However, an outcomes focus can assist in the design of services. For example, the UK Legal Services Commission established target benefits to be achieved through the provision of legal assistance services in relation to specific categories of legal problems. This assisted providers in designing responsive, outcome-focused services (Table 5.2).

Table 5.2. UK Legal Services Commission's target benefits to be achieved by service provision

Category of legal problem	Outcome benefits examples
Consumer contract	Sum owed or liable reduced Goods or services are replaced or repaired
Community care	Provision of service secured or costs covered Vulnerable adult is effectively protected
Debt	Debt reduced or written off Affordable payment arrangements
Employment	Increased periodical payment or lump sum Employer's adverse action is delayed or prevented
Housing	Client is housed, re-housed or retains home Repairs or improvement
Immigration	Humanitarian protection or citizenship granted
Family	Lump sum or property adjustment Client's liability to pay the other party is reduced or avoided
Clinical negligence	Damages, periodical payments or an apology Policy change (Other party's action benefits people other than clients)
Mental health	Statutory recommendation for guardianship or supervised aftercare Reclassification of the form of mental disorder
Personal injuries	Damages, periodical payments or an apology

Source: Adapted from Digiusto, E. (2016[43]), "Effectiveness of public legal assistance services", *Justice Issues*, Vol. 16, Law and Justice Foundation of New South Wales.

From the perspective of designing people-focused legal and justice services, it is useful to conceptualise this outcome-focus in broad and inclusive terms even though our ability to measure outcomes is limited at present. The range of potential outcomes can be conceptualised in at least three general categories:

- Procedural outcomes include factors such as the client's level of satisfaction with the process and the level of stress experienced. Satisfaction has several dimensions: did the client feel well-prepared, perceive the process to be fair, perceive that she or he was heard, and so on. Procedural outcomes can also be measured through external criteria including human rights norms and reinforcing trust in the justice system.
- Substantive outcomes can again be measured from the perspective of the individual's satisfaction with the outcome (initial and long-term) but the outcome can also be measured against an objective standard (evaluation relative to other similar cases). Other qualitative objectives include empowering the individual through information, education and building legal capabilities. Substantive outcomes can also be measured against overarching societal goals such as inclusive growth, poverty reduction and social inclusion.
- Systemic outcomes include the extent to which there is feedback from the process and outcomes into the justice system. Such feedback can encourage learning and innovation and consideration of whether the legal assistance contributed to resilience and prevention of future disputes.

Box 5.13 provides an overview of the various approaches to conceptualising and measuring outcomes proposed and/or applied in current literature and research projects.

Legal and justice services can be designed to effectively contribute to a number of integrated procedural, substantive and systemic outcomes. A service could, for example, be designed with these objectives:

- clients/users gained knowledge to solve problems
- clients/users obtained resolution to their legal problem and non-legal aspects of their problem
- resolution is durable
- clients/users obtained access to the legal system or an intended benefit of the law
- clients/users had their voice heard in the legal system (Buckley, 2013[65]).

Seeking clarification of an outcome focus and prioritisation of specific types of outcomes facilitated the design of people-centred legal and justice services. This same broad conceptualisation can also be used to measure the effectiveness of services. People-centric approaches to evaluation are considered in Chapter 6.

Box 5.13. Approaches to conceptualising outcomes in the design of legal and justice services

The development of meaningful outcome indicators is a key component of planning legal assistance and other access to justice interventions and is an emerging priority on the access-to-justice research and policy agenda. Indicators can be developed related to service, outcomes, outcomes and systemic outcomes. There is some overlap between indicators. This overlap illustrates differences in approach to conceptualisation.

Service outcomes

- Accessibility of legal assistance services.
- Proactive identification of legal needs and related non-legal needs.
- Contribution to the resolution of legal and other related issues.
- Responsiveness to the existing legal capability of the individual and contribute to enhanced legal capability.

Process outcomes

- Level of satisfaction with the process as measured against various dimensions of satisfaction (e.g. well prepared, perception that process fair, perception that s/he was heard).
- Level of stress experienced during the resolution process.
- Promoting a feeling on the part of the individual that the process was fair and that their story was told, thereby increasing the litigant's willingness to accept the result of the resolution (favourable or unfavourable).
- Educating the client as to their best interests or as to what is possible given legal and factual constraints, thereby adjusting the client's goals.
- Comprehensively addressing legal and non-legal dimensions of an individual's problems/needs; intervene in common patterns of cascading effects/cycle of decline.

- Whether clients gained knowledge to solve problems.
- Whether clients had their voice heard in the legal system.
- Whether different levels of legal assistance result in proper referrals to agencies and to programmes designed to assist with resolving problems and challenges.
- Whether the individual benefit from the full factual and legal development of the case.
- Comprehensive process outcomes through the stages of a legal resolution: a good client interview; clients with chaotic lifestyles attend interviews, appointments and court dates; clients are better able to plan and organise their legal affairs; improvement in the client's interaction with the legal system; consideration of issues before a court or tribunal enhanced because the lawyer asked questions/raised issues and brought the client's story before the court; client is better able to understand their legal position and the options open to them; a process is undergone where the client is listened to, respected and given fearless advice of their legal position; relationships and trust building with other legal and non-legal support agencies enabling client referral and support; holding of authority to account; a holistic service delivered to the client through collaboration, networking, community legal education and joined-up services.

Substantive outcomes

- Whether clients obtained a legal resolution.
- Whether different levels of legal assistance result in the resolution of problems and challenges.
- Creation of a lasting outcome that prevents recurrence of same and/or similar problems in the future.
- Whether clients obtained access to the legal system or an intended benefit of the law.
- Whether likely negative consequences of unresolved problem were avoided.
- The likelihood of obtaining a better (or "desired," or "more favourable") substantive outcome with the service.
- Outcomes that recognise the underlying purpose of the social programmes that form the setting for legal interventions.
- Outcomes that recognise the importance of litigants' perceptions of fairness, both of the process and of the outcomes of adjudicatory processes.
- How the substantive outcome in a specific case compares with the expected outcome (based on an external objective standard).[44]
- Outcomes that engage long-term health and functioning changes (e.g. socio-economic status, physical health, mental health, substance use, criminal justice involvement, child functioning).

Justice system process and outcome indicators

- Assuring that each person subject to official decision-making and/or state coercive power is treated with dignity.

- Contribution to consistency and fairness in legal outcomes.
- Protection of legal rights and support of social norms.
- Enhance co-ordination and collaboration between service providers; ensure the provision of an integrated service; and easy-to-navigate justice pathways.
- Making adjudicatory systems run more smoothly.
- Court and tribunal efficiency outcomes.
- Contribution to public confidence in the justice system and justice institutions.
- Are there unintended outcomes for the justice system?

Socio-economic outcome indicators

- Improvement in the individual or family's socio-economic situation, even if the legal outcome is the same, perhaps because the legal assistance includes referrals to other official and community resources.
- Improvement in an SME's functioning and capacity for growth.
- Contribution to specific policy goals such as the reduction of homelessness, eviction rates, gender-based violence, child poverty.
- Contribution to the health of population and sub-groups within a population.
- Increase in the ability of individuals to effectively participate in and contribute to the economy and society.
- Contribution to a reduction in inequality in meeting basic needs and accessing public services.
- Contribution to inclusive growth/reduction of poverty.
- Contribution to the economic functioning and sustainability of small businesses.
- Are there unintended societal outcomes?[45]

Key findings and future research

- Legal needs surveys provide an important evidence base concerning people's experiences in navigating justice systems and seeking legal assistance and are one important starting point in designing people-centred legal and justice services that work.
- People-centred justice services encompass a growing spectrum of processes and procedures including a range of alternative mechanisms for dispute resolution such as mediation, online dispute resolution, pre- and post-resolution support, in addition, more formal judicial and non-judicial proceedings.
- People-centred legal services can include a continuum of services and a range of service providers (including paralegals, public legal education providers, community advocates, collaborative service provision from legally-trained and other professionals, and so on). The continuum is generally seen as a graduated scheme from least interventionist such as the passive provision of legal

information, to advice, to various forms of limited legal assistance, to partial or limited forms of legal representation (such as "limited scope" or unbundled legal services) to full representation in various ADR processes, non-judicial fora and judicial fora.

- Ensuring equal access to justice means both providing the right mix of legal and justice services and putting in place effective diagnostic and referral systems to assist people to access the service or services that work for them and facilitating collaboration between services and among service providers.
- Experience from other sectors suggests that a user-centred approach to enhancing access to services promises to raise quality, reduce waste and – most importantly – improve other life outcomes and well-being.
- A number of principles for people-centred design can be understood as operating along the justice chain. Equality and inclusion, accessibility and availability are the foundation and set the underlying policy orientation. People-centred legal and justice services prioritise proactively, prevention and timeliness and are appropriate and responsive to needs. These services respond to the legal needs that have been identified, measured and mapped and are designed to promote empowerment and focus on substantive outcomes and fairness.
- Legal and justice services would be seen as "working" when they are provided on the basis of equality and inclusion and when they contribute to greater social inclusion and equality. Legal and justice services can promote social inclusion by targeting the resolution and identification of broader issues which may be the cause of specific legal problems.
- Equality and inclusion as guiding principles also require legal and justice service providers to pay attention to the specific needs and experiences of vulnerable and marginalised groups.
- Flowing from the general point that people-centred legal and justice services involve putting people's needs at the centre and following them throughout the design, delivery and evaluation of services. Women's specificity must be integrated across the continuum of services.
- People-centred legal and justice services should be designed to overcome the range of barriers to access at work in each country. The integration of ICT into the design and delivery of legal and justice services is just one mechanism for overcoming barriers but careful planning is needed to prevent technological innovations from creating or reinforcing existing barriers to equal justice.
- People-focused legal and justice services aim to intervene at an appropriate and early stage of legal problems and to facilitate their prevention. Proactive services, such as outreach programmes, are critical to improving access to justice for poor and disadvantaged individuals and groups.
- Increasing evidence from OECD and partner countries shows that in order to provide effective access to justice, legal and justice services need to be "personalised" or responsive to the individual and the situation.
- People-centred legal and justice services should enable people's participation through empowerment: people are empowered in their relationship to legal and justice service providers and with a greater ability to solve problems at an early

stage and individuals are empowered to resolve disputes between themselves when appropriate, without recourse to the institutions of the justice system.

- People seek legal and justice services as a means to an end and therefore these services need to be designed with a focus on outcomes and fairness. People-focused services shift the attention away from the traditional prominence placed on the process by justice system players to a people-centred emphasis on outcomes. Legal and justice services can be designed to effectively contribute to a number of integrated procedural, substantive and systemic outcomes.
- There remains much that we do not know about "what works". Further analysis could focus on the refinement of different criteria on the basis of robust evidence and their possible translation into indicators and tools to support accessibility and the design of people-centricity of legal and justice services. Some people-centred tools could include methodologies for integrating behavioural insights and community-based approaches and problem-solving justice to develop tailored solutions for vulnerable groups (e.g. for tackling gender-based violence, strengthening indigenous outcomes, juvenile justice) and what works to strengthen legal capability and literacy as a prevention and empowerment measure, with a focus on current initiatives and their measurable impacts in strengthening legal education and literacy.
- The understanding of "what works" approaches could also be further refined through focused comparative and national case studies of what works for whom looking at how best to respond to the legal needs of particularly vulnerable groups, perhaps integrating a life cycle methodology of legal needs of group members at specific junctures. The OECD could support countries in overcoming the gaps in gender data through the creation of tools and facilitating exchanges on good practices related to gender equality in the access to justice context.

Notes

[1] An important distinction can be made between recurrent (e.g. companies, banks, trade unions) and one-time users (e.g. individuals), which can have implications for mapping the demand for legal and justice services and fore-information-on-what-works.

[2] The Law and Justice Foundation of New South Wales has conducted a number of systematic reviews of evaluations of the provided services, which could offer a good model and methodological approach. In other policy areas, there is also a trend to improve the quality of public and private services through enhancing the evidence base for social policy and practice.

[3] See discussion in OECD (2015[25]).

[4] Specific examples include: Women's Legal Services Victoria and Queensland (Australia), RISE Legal Clinic (Vancouver, Canada), Barbra Schlifer Commemorative Clinic (Toronto, Canada).

[5] See, for example, Canada's Women's Legal Education and Action Fund and California's Women's Law Centre.

[6] Government of Dubai, Dubai's Courts' Smartphone Applications.

[7] For example: LawAccess NSW (www.Lawaccess.nsw.gov.au); Clicklaw (www.clicklaw.bc.ca); Advicenow (www.advicenow.org.uk).

[8] For example: Your Legal Rights (www.yourlegalrights.on.ca); Éducaloi (www.educaloi.qc.ca).

[9] For example: Rechtwijzer (www.rechtwijzer.nl); LawHelp (www.lawhelp.org).

[10] A2J Author is an "interview builder" designed to help authors simplify diagnostic interviews, document preparation and guided instructions delivered over the Web to self-represented litigants.

[11] For example: Rechtwijzer (www.rechtwijzer.nl); Also developed by for profit legal services providers (www.roadtrafficrepresentation.com).

[12] For example: LawAssist, LawAccess NSW (http://www.lawaccess.nsw.gov.au/Pages/representing/Representing-yourself.aspx).

[13] A2J Author, Hotdocs and others discussed in Staudt (2009[27]). In the US, there is a national document assembly server, the National Public Automated Documents Online (www.npado.org).

[14] Through electronic trial technology (Productivity Commission, 2013[85]).

[15] Partial online services are available by the Dispute Settlement Centre of Victoria Australia and full services are now available from the British Columbia Civil Resolution Tribunal and will soon be from the Netherland's Rechtwijzer 2.0.

[16] For example: Consumer Protection BC (www.consumerprotectionbc.ca/odr).

[17] Austrian Courts, Electronic order for payments.

[18] German Courts, Application for orders for payments.

[19] HM Courts & Tribunal Service, Online Money Claim.

[20] See: National Center for Preventive Law (http://www.preventivelawyer.org/main/default.asp?pid=multi-dimensional.htm).

[21] See: Finnish Competition and Consumer Authority (https://www.kkv.fi/en/facts-and-advice/payment-bills-debt-collection).

[22] See: Islandic Debtors' Ombudsman (https://www.ums.is/en).

[23] See: Employment New Zealand (https://employment.govt.nz/resolving-problems/steps-to-resolve/mediation).

[24] See: Civil Resolution Tribunal (https://www.civilresolutionbc.ca).

[25] See discussion in Pleasence et al. (2014[2]), pp. 150-153.

[26] Ibid., p. 151.

[27] The i-HELP checklist was developed in the US for use in medical-legal partnerships (hospital based legal services). i-HELP stands for: Income supports, Housing and utilities, Education and Employment, Legal status (e.g. immigration), Personal and family stability.

[28] Special Eurobarometer 395, 54.

[29] The report focuses on a sample of taxation and superannuation disputes involving 118 finalised alternative dispute resolution (ADR) processes that were conducted between July 2013 and June 2014. This report considers the effectiveness, cost, perceptions and approaches used in the ADR process. It explores data about disputes (de-identified) as well as structured survey material (qualitative and quantitative) from all who were involved in ADR processes – taxpayers, representatives, experts, staff of the Australian Taxation Office (ATO) and ADR practitioners. ACJI surveyed (on line or by telephone) all participants who have been involved in the sample of finalised dispute resolution processes, including taxpayers and their advisors, ATO staff and dispute resolution practitioners. For more information: Sourdin (2015[66]).

[30] See: FLAC Legal Advice Clinics (https://www.flac.ie/help/centres).

[31] See: Path Legal (http://www.il.pathlegal.com).

[32] See: Eesti Õigusbüroo (http://www.juristaitab.ee).

[33] See: Suomi (www.suomi.fi/suomifi/suomi).

[34] Clicklaw Wikibooks is an example of a project using a wiki structure to make available a detailed book or pamphlet-sized description of the law that allows users to print, copy and re-use the resource as long it is for non-commercial purposes.

[35] Pro Bono Law Alberta and the CBA-Alberta Branch: YouTube videos for unrepresented clients going to court (www.pbla.ca/news/).

[36] See: New York's Live Help Program, LawHelp (www.Lawhelp.org).

[37] Midland Information Debt and Legal Advocacy Service (MIDLAS).

[38] The Jurisdisch Loket smartphone application has been developed in order to assist people in their preparation for consultations with legal aid services. Smartphone users can download this application at no cost on smartphone application stores. The application contains the contact details of important legal aid institutions, enables users to make sound recordings and scan necessary documents, and keeps track of a user's appointments with legal aid services.

[39] Examples include: Illinois Legal Aid Online (https://www.illinoislegalaid.org).

[40] New Zealand, Community Law, manual is updated annually (http://communitylaw.org.nz/legal-information).

[41] Examples include: the Justice Education Society in British Columbia Canada has an "ask Jes" function which provides free legal help, Justice Education Society (http://www.justiceeducation.ca/) and the Illinois Legal Aid Online.

[42] Examples include: Maricopa Superior Court Self-Service Center in Arizona (www.superiorcourt.maricopa.gov/SuperiorCourt/LawLibraryResourceCenter).

[43] Concepts related to fairness are not universal. Depending on the language in which this term is translated, it can be understood to related to, and embrace, different concepts, such as: justice; equity; impartiality; objectivity; legality.

[44] For example, one of the performance standards for the former UK Community Legal Assistance Centres was that the outcomes of cases achieve "substantive benefit" for the client. Whether a client has received a substantive benefit is based on the outcome reported for the client. For specialist help (generally-speaking from a lawyer), those outcomes that were considered to have a substantive benefit were determined with respect to the outcome codes for reporting closed matters pursuant to the contract for legal services (e.g. for consumer contract problems, the outcome benefits were "the sum owed or liability is reduced" and/or "goods or services are replaced or repaired" (Fox et al., 2010[67]).

[45] Sources consulted in the preparation of this overview: Greiner and Pattanayak (2011[68]); Trude and Gibbs (2010[69]); Goldberg and Predeoux (2009[70]); Fox et al. (2010[67]); Buckley (2013[65]); Engler (2010[4]; 2010[71]); Selbin et al. (2012[72]); Northwest Pacific Consulting (2009[73]); Digiusto (2016[43]); Steinberg (2011[74]); Abel (2010[83]); Smith and Patel (2010[75]); Curran (2012[76]; 2012[84]); Albiston and Sandefur (2013[77]); Legal Services Society (2012[78]); Bunham (2011[79]); Trude and Gibbs (2010[69]); Brookings Institution (2015[80]); Curran and Crockett (2016[81]); Owen and Portillo (2003[82]); Productivity Commission (2014[28]).

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Chapter 6. Delivering and evaluating people-centred legal and justice services

This chapter considers the fourth step, including "what works" in delivering and evaluating legal and justice services. It provides an overview of good practices consistent with the goals of contributing to inclusive growth and enhanced individual and community well-being. It also consolidates what we know works in identifying, measuring, mapping, designing, delivering and evaluating people-centred legal and justice services into a preliminary outline of common criteria for people-centred access to justice.

Step 4 rationale and overview

The fourth and last stage of planning for people-centred legal and justice services involves matching the services to meet needs by focusing on how these services can be most effectively planned, delivered and evaluated. This stage brings together and builds on the first three stages of identifying and measuring legal needs, mapping needs and designing legal and justice services that will work to meet these needs. Planning the delivery of services involves the next level of policy questions:

- Are those needs being met?
- Are services being delivered where the need is?
- Are appropriate types of services being matched to each type of need?

Figuring out what works in people-focused access to justice may require rethinking the traditional approaches to delivering the full continuum of legal and justice services that focus first and foremost on responding to people's legal and justiciable needs. It requires countries to evaluate the effectiveness of services and measure their impact.

This chapter sets out the principles, criteria, evidence and good practices related to planning and evaluating the delivery of people-centred legal and justice services to foster inclusive growth, sustainable development, and individual and community well-being. The first section provides an overview of the planning of legal and justice service delivery: levels of planning, frameworks for planning, the use of research and the location of services. The second section identifies main criteria for people-centred delivery models: comprehensive and individual needs assessments; seamless referral and service integration; coherence; and effectiveness. The third section reviews issues related to implementing people-centred evaluation of legal and justice services and provides an overview of promising evaluation methodologies. A fourth section sets out key findings. A final concluding section brings together the key findings into a set of common criteria to guide the planning, design and delivery of people-centred legal and justice services.

Planning the delivery of legal and justice services

Multiple planning levels

Most countries have mechanisms in place for the planning of legal and justice services.[1] These mechanisms may vary with the level and nature of legal and justice infrastructure and also in relation to the constitutional frameworks of each country. In most countries, this means that planning will take place across multiple levels and involve a range of entities. For example, in large federal jurisdictions, it is likely that planning will need to occur at multiple levels, including the:

- national/strategic level
- state/jurisdictional level
- regional and/or local (tactical) levels.

Each level of governance is likely to have both shared and unique requirements in terms of legal needs assessments data and information.

While there are significant differences across countries, the national/strategic level's focus tends to generally be the setting of priorities (for example, priority groups for

assistance), securing cross-sectoral and cross-government collaboration (to allow for legal and other human services to work collaboratively to address the holistic needs of citizens), and the allocation of resources on a needs basis to the state jurisdictional levels. To carry out this task, national/strategic level policymakers and planners would benefit from legal needs assessments of the national and jurisdictional level, as well as service delivery administrative data.

Depending on the size (geographically and demographically) of the state or province, policymakers and planners at the state/jurisdictional level may well focus in a similar way to those at the national level. That is, they will focus on setting priorities for addressing legal needs within their jurisdiction, securing and facilitating cross-sectoral collaboration, and then allocation of resources by region and/or other criteria to facilitate the detailed planning the delivery of services at a more appropriate level. To carry out this work, jurisdictional level policymakers will use appropriate legal needs assessment data and service delivery data at least down to a regional level.

Except in very large jurisdictions (where it may be necessary to have regional and local levels of planning), it is likely that regional and local planning, which would include the planning of individual legal and justice services, will be merged. At this level, service providers and planners will be primarily focused on detailed planning within their jurisdiction. This will include planning of individual services delivery to priority clients. It is necessary to consider the context of planning in collaboration with other local services to ensure their coordination and integration as to cover as many legal needs as possible. Overall, planning may ideally occur in a holistic way, featuring key criteria for the delivery of people-focused legal and justice services.

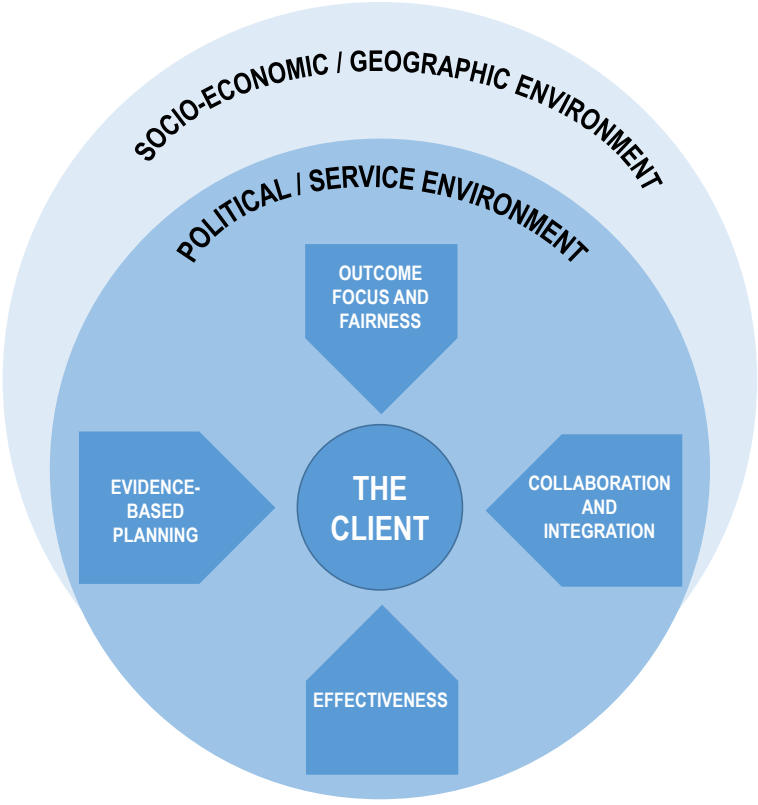
As discussed in Chapter 3, to carry out this work, service providers and planners will gain from legal needs assessment data approximated down to the lowest geographic entity level at which legal service administrative data is also obtained and can be compared. In addition, the local/tactical level is where local information and other legal and non-legal datasets, as well as other complementary and supplementary legal needs assessments, will be important.

Framework for planning service delivery

The development of people-centred legal and justice services occurs in the context of existing socio-economic, geographic, political and service environments, with their opportunities and constraints in terms of resources and infrastructure (Coumarelos et al., 2015[1]). These pre-existing environments can pose challenges to planning, including historic fragmentation of accountability, policy, funding and delivery. This fragmentation is an understandable product of the incremental evolution of legal and justice policy and service delivery, particularly where there are multiple levels of government responsibility, multi-portfolio government responsibilities, institutional independence within the justice sector, etc.

The planning of service delivery, therefore, occurs within pre-existing strategic frameworks and national priorities. In addition, limited funding can impose considerable constraints on planning and improving legal services. Thus, sometimes, change may only be possible through reconfiguring existing resources and working methodologies (e.g. via service innovation, collaboration or efficiency).

Figure 6.1. Framework for planning people-centred legal and justice services



Source: Based on Pleasence, P. et al. (2014[2]), *Reshaping Legal Assistance Services: Building on the Evidence Base*, Law and Justice Foundation of New South Wales, Sydney.

Any consideration of priorities and approaches in the delivery of people-centred legal and justice services must be undertaken within the context of each country's particular circumstances. Each country will have specific geographic, demographic and economic factors influencing its justice policies. They each have existing service and infrastructure frameworks, which, in turn, will be shaped by national priorities and approaches to access to justice. Research and data collection and monitoring processes should accord with national (and state) priorities and objectives. Justice policies and approaches can also be attuned to the broader national socio-economic priorities for inclusive growth and sustainable development. The results of local legal needs assessments can also be woven into these broader frameworks.

For example, differing national priorities may manifest to varying degrees in how competing access to justice considerations are weighed. Prioritisation may be particularly important in the context of an expansive understanding of legal needs within the framework of inclusive growth and sustainable development. Traditionally, legal and justice services have focused on the resolution of legal problems through the formal justice system (courts and administrative tribunals). The people-focused recognition of the importance of everyday legal problems and their impact on socio-economic status and health leads to a more extensive, encompassing concept of access to justice. One metaphor is the iceberg: the 10% above the water reflects the approximately 7% to 10% of people who make use of the formal justice system to resolve their problems but 90% of the problems lie below the water line. Delivering services to meet these needs can be

challenging especially in the context of inadequate resources and static budgets. Examples of competing considerations and national priorities are set out here to illustrate this point.

One central choice in the context of prioritising legal and justice services is providing assistance to the majority of the population (or a large proportion of it) or to alternatively focus on providing services to the most in need of public assistance. Legal and justice processes and concepts are often difficult and alienating for much of the population. Targeting "light" services to provide a minimum effective level of assistance (information, self-help guides and advice) can address the legal needs of many highly capable citizens. On the other hand, targeting services at the most disadvantaged and the most in need is more likely to require a greater level of investment per client as "light" services will often not be sufficient to meet their needs (Pleasence et al., 2014[2]; McDonald and Wei, 2016[3]).

If targeting those "most in need", different countries will likely have different target groups identified for priority attention and support. For example, in France, the contemporary legal aid system has two components: i) *accès au droit*, which gives all low-income earners the necessary resources to have equal access to legal information; and ii) *aide juridictionnelle*, which co-ordinates funding public legal representation to those who fall below a certain financial threshold (Pro Bono Institute, 2016[4]). The essential criterion for receiving *aide juridictionnelle* is financial need. The system distinguishes between full and partial aid, depending on the claimant's financial situation. If full legal aid is granted, it will cover all the costs of the proceedings, including the fees paid directly to the attorneys or other practitioners (bailiff, notary, etc.). People who benefit from specific welfare benefits (namely the Solidarity Allowance for Elderly, the Income of Active Solidarity or the Temporary Waiting Allowance) and victims of particularly serious crimes (torture, rape, etc.) do not need to provide proof of income and can automatically benefit from the *aide juridictionnelle*.[2]

In Australia, national priorities for legal assistance services are outlined in the National Partnership Agreement on Legal Assistance Services (NPA). Under the NPA, the national government (the "Commonwealth") outlines how they distribute funding to Legal Aid Commissions and Community Legal Centres in each individual state and territory. The NPA outlines the priority groups that are to receive this funding. It stipulates that services should be targeted at people experiencing financial disadvantage, and, where appropriate, to also plan and target their services at people falling within certain groups (Council of Australian Governments, 2010[5]). The selection of these groups is informed by the legal needs research, the LAW Survey (Coumarelos et al., 2012[6]) in particular, and includes the following:

- Children and young people (up to 24 years).
- Indigenous Australians.
- Older people (aged over 65 years).
- People experiencing, or at risk of, family violence.
- People experiencing, or at risk of, homelessness.
- People in custody and prisoners.
- People residing in rural or remote areas.
- People who are culturally and linguistically diverse.
- People with a disability or mental illness.

- People with low education levels.
- Single parents (Council of Australian Governments, 2010[5])

When targeting those "most in need," some countries (or states within federal countries) may target particular areas of law for priority attention and support. For example, in Canada, in the province of British Columbia, civil legal aid for representation is available for low-income earners (whose income is below the threshold the Legal Services Society [LSS] defined in its financial guidelines) and whose legal matter falls within one of the following four categories:

1. Family law.
2. Child apprehension.
3. Mental health and prison-related issues.
4. Immigration.

Legal services prioritise (sometimes exclusively) criminal legal assistance, or broader assistance to include civil and family law matters. Traditionally, much attention to legal procedure and legal aid focuses on criminal law matters, as these matters have the potential to impact the life and liberty of citizens in the most obvious manner. Legal needs research over at least the last two decades has highlighted the importance of civil and family law legal needs experienced by citizens in many jurisdictions. Nevertheless, a key theme of difference between countries is likely to be the relative priorities and proportions of legal assistance effort devoted to the different areas of law and the different institutions in the legal system.

Another prioritisation question is whether to focus services mainly on the provision of legal advice in court proceedings or taking a broader, holistic approach to the inclusion of out-of-court (and sometimes quasi-legal and non-legal) services to meet particular legal needs. Within a context emphasising criminal law, the focus of legal assistance is often in court-based proceedings and representation. However, as legal needs research has suggested recently, the importance of placing greater attention on civil and family law matters. Moreover, the attention has increasingly begun to be placed on services outside of court contexts. In its 2014 biannual assessment of the efficiency of legal services in Europe, the Council of Europe Commission for the Efficiency of Justice (CEPEJ) began for the first time to seek data from countries in relation to the legal aid services provided out of court (CEPEJ, 2014[7]). Countries also have different infrastructure policies and priorities for providing legal assistance. For example, some countries (such as France) may emphasise a primarily centrally managed and structured legal assistance sector. In some other countries, some legal assistance sectors are left largely to the private and non-government sectors, sometimes with little funding provided by government. For many countries, however, the legal assistance infrastructure includes a mix of:

- State-funded formal legal aid services.
- State-supported community legal or quasi-legal services, often principally operated by non-governmental organisations (NGOs).
- Pro bono and reduced fee services provided in certain circumstances by legal professionals, and by courts and tribunals.
- National priorities may also be evident in legislative and policy developments. For example, approaches to address key national problems or legal needs priorities can be seen in key legislative and policy work, such as the legislative

and policy implementation to combat discrimination in Finland (Committee on the Elimination of Racial Discrimination, 2012[8]).

Using research evidence in planning and delivering legal and justice services

Research evidence is one of a number of factors to consider in planning and establishing the delivery of people-centred legal and justice services at different levels. Table 6.1 describes the types of questions that are likely to be relevant to planning services that the legal needs research evidence can help inform. The figure also presents some other key considerations for planning and provides examples of other data and information relevant to these considerations. It is important to note that the figure does not provide an exhaustive list of questions or information to be considered in planning, and the relevant considerations will vary depending on the level (such as national/regional/local) and type of planning and the specific context.

Table 6.1. Service planning and delivery evidence based on legal needs research

Questions	Examples of relevant information
Strategic priorities and resources	
Service priorities *What are the strategic service priorities?*	National priorities Jurisdictional/state plans and policy Organisational plans and policies of individual service agencies
Resources & existing environment *What resources are available?* *What is the existent strategic, political, socio-economic and service environment?*	Federal/national funding State funding Other funding Information on current legal services and other infrastructure
Who and where	
Priority clients *Who are the priority clients with high need for legal assistance services and where are they located?*	Data on location of financially disadvantaged people with low capability Data groups with high need of legal assistance Other census, sociodemographic and administrative data (e.g. from local council, courts, legal and human services)
Legal needs *What are the legal needs of these priority groups?*	Data legal problem of target group Administrative data held by legal services Local knowledge of legal and human services and stakeholders
Legal capability *What is the legal capability of the priority groups and what access barriers do they face?*	Concerning responses of target groups and the constraints they face Local knowledge of legal and human services and stakeholders
What and how	
Appropriate and Accessible services *What services would be appropriate to the needs and capabilities of these groups?* *How can service be made accessible to these groups (i.e. via what modes of delivery)?*	Data on appropriate and accessible services fro target groups Local knowledge of legal and human services and stakeholders
Proportionate service *What services to these groups would be proportionate, affordable and sustainable?*	Funding sources relevant to these services Local knowledge of legal and human services and stakeholders
Gaps in existing service *What are the gaps in appropriate and accessible services to these groups?*	Information from legal assistance services on: types of local legal services (e.g. specialist or generalist; in office or outreach by telephone; online video link) and types of assistance offered by these services (e.g. CLEI; advice; minor assistance; representation) Information from human services and other stakeholders
Service innovation *What are the opportunities to serve these groups including ideas for new service delivery strategies?*	Data on appropriate and accessible services for target groups Information on current legal services in the area Information on human services in the area Service innovation from other areas, jurisdiction, countries

Source: Adapted from Coumarelos, C. et al. (2015[1]), *Collaborative Planning Resource - Service Planning*, Law and Justice Foundation of NSW, Sydney.

Importantly, service planning is necessarily shaped by strategic priorities, available resources and the existing political, socio-economic and service environment. Thus, strategic frameworks concerning priorities, funding and the current service environment are key considerations for legal planning. Other potentially useful data sources include data held by local councils and data contained in planning and research reports and toolkits. On-the-ground knowledge held by local legal and human services, as well as other stakeholders, can also contribute usefully to planning legal services.

Matching service delivery to meet need: Where the services are delivered

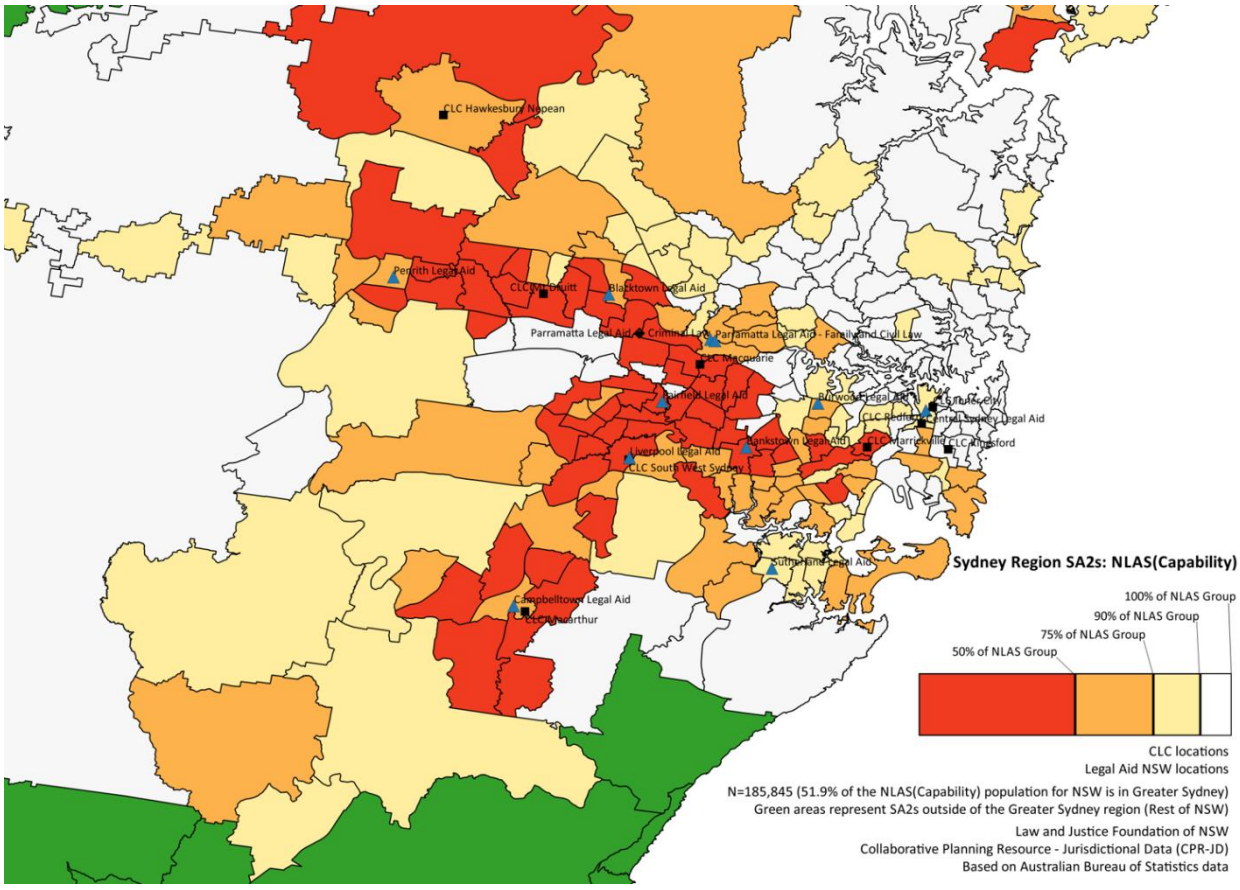
The goal of the planning process is to provide the most appropriate services based on the specific legal needs and capabilities of the particular individual, and are delivered where and when they are needed. One of the first steps in matching service delivery to meet legal needs is to gain an understanding of where services should be delivered. Also relevant to service planning is geography and existing infrastructure within a jurisdiction. For instance, in some rural areas, distance, poor public transport and fewer on-the-ground services may be relevant considerations in planning services. Conversely, population density and diversity, and complex human service environments may influence planning in urban areas. In addition, there may be a benefit in service providers considering their role within the broader system of available services. What gaps exist in service provision? How can these gaps be filled to successfully meet the needs and capabilities of clients, avoiding doubling up services, and capitalising on relevant opportunities for networking and co-ordination of services?

The mapping of legal needs described in Chapter 4 can be used both for the purposes of identifying and measuring legal needs and as an important input for planning the location of services. Experience shows that attempts to map the delivery of services should be based on existing and available legal services infrastructure.

Service delivery mapping can be carried out at two levels – the macro level and the micro level.

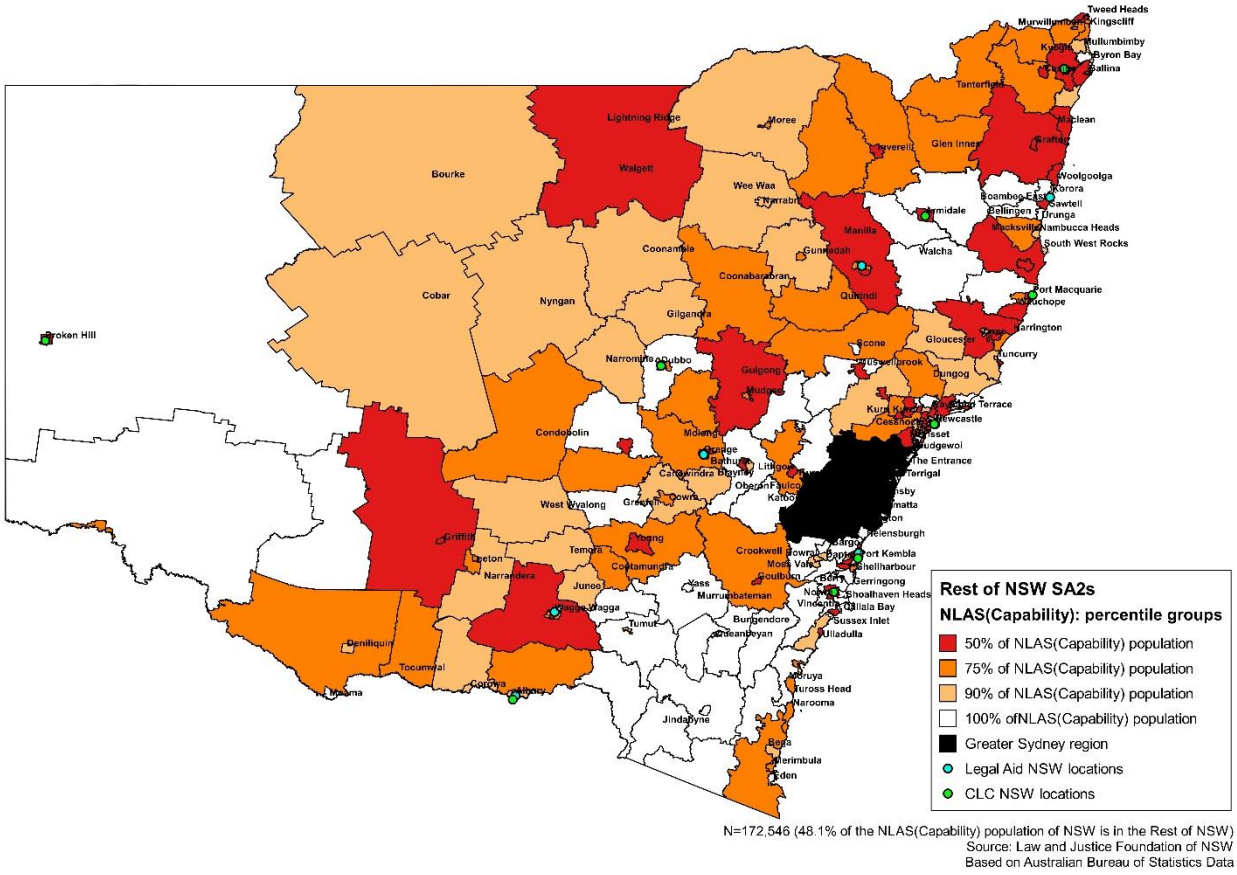
Macro-level mapping could involve plotting the locations of service facilities and identifying the types of services delivered at various points within a region. This could reveal that legal services appropriate for particular target communities are located in the areas of greatest need and/or greatest number of those target groups. However, it may not often have the information about what services are actually being delivered, to which clients in that particular area, as well as which services are provided remotely into that target area by out-of-area services, such as specialist services, etc. For example, Figures Figure 6.2 and Figure 6.3 contain main service locations for legal assistance services in Sydney, Australia, and then New South Wales, plotted against the Need for Legal Assistance Services (NLAS). These maps have the potential to also provide information about part-time and outreach location service points.

Figure 6.2. Sydney region SA2s: NLAS (capability) and service locations



Sources: Based on Australian Bureau of Statistics data; Mirrlees-Black, C. and S. A. Williams (2015[9]), *Collaborative Planning Resource - Jurisdictional Data: NSW*, Law and Justice Foundation of NSW, Sydney.

Figure 6.3. Rest of NSW SA2s NLAS (capability): Percentile groups



Sources: Based on Australian Bureau of Statistics data (ABS); Mirrlees-Black, C. and S. A. Williams (2015[9]), *Collaborative Planning Resource - Jurisdictional Data: NSW*, Law and Justice Foundation of NSW, Sydney.

While the macro level of planning can provide an "at a glance" picture of whether legal services are located in the general proximity of where the greatest legal need is expected, it may not provide sufficient insight as to where the legal services are actually being delivered. In other words, a service being located in a certain region does not necessarily mean that the services are actually targeted to priority clients within that region. It also provides limited information on which citizens within a certain region are receiving services from locally based legal service providers or remotely from jurisdictional-level specialist legal services.

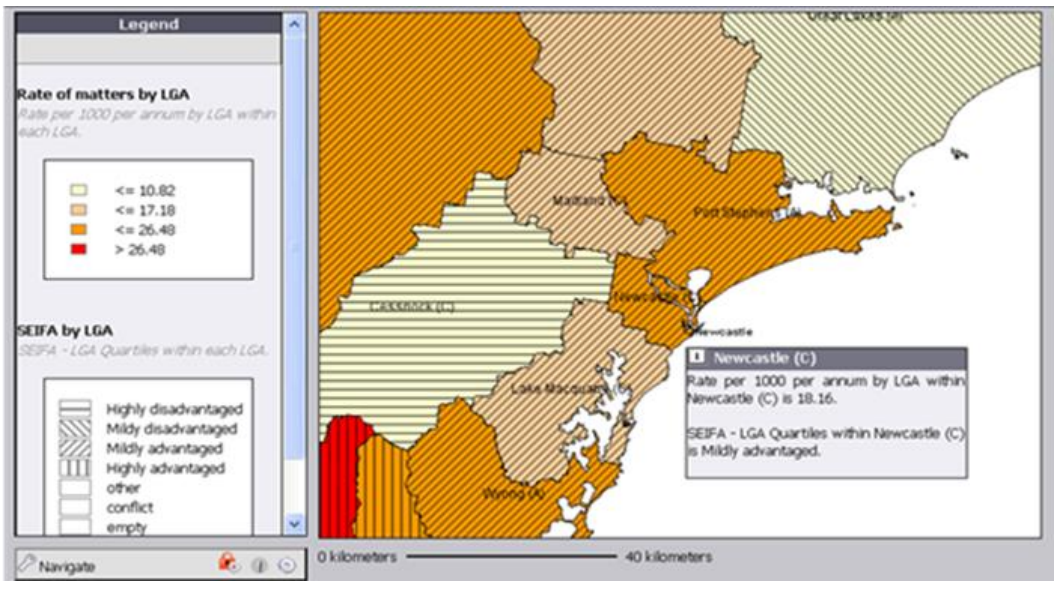
For governments, service planners, legal and justice service providers and others to gain a sound picture of where legal services are being delivered and whether these coincide with where the proportion of levels of legal needs exist, it could be important to undertake micro-planning, which could provide a greater level of detail.

Mapping at the "micro" level may involve the use of detailed administrative data – particularly client tracking data – collected on each individual for each service rendered to that person. This could include demographic profiles and descriptors of the type of legal matter processed by the service provider. Using this data facilitates mapping the types and quantum of services where they are actually delivered.

Administrative data can provide important information in mapping service delivery against need, particularly if it is collected robustly and consistently within services and on the range of services available within a jurisdiction. This data can help identify the location of delivery of services and can be mapped to contrast with where the relevant measure or proxy of legal needs (such as the Australian need for legal assistance services [NLAS]) indicates the level of need or the likely demand for legal assistance services.

The increasing range of data analysis and mapping software tools provide an opportunity for easy matching of service delivery against legal need data. For example, Figure 6.4 compares the rate of legal service provision (per thousand persons per annum, by local government area) in the Newcastle area of Australia, with a recognised measure of disadvantage (Australian Socio-Economic Index for Areas, SEIFA) used as a proxy for legal needs. This map could have been developed based upon a different geographic entity (such as postcode) and using numbers of services provided as opposed to a rate per thousand persons.

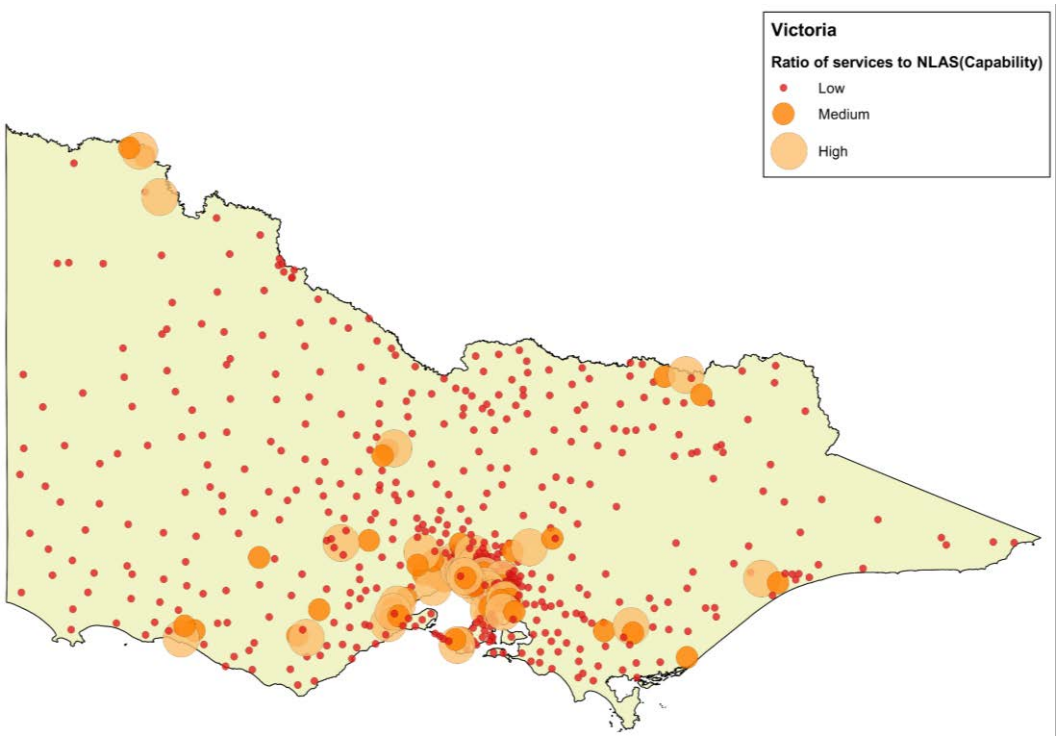
Figure 6.4. Matching Service delivery against a proxy measure of legal need (socio-economic disadvantage index



Note: Australian Socio-Economic Index for Areas (SEIFA) by Local Government Areas (LGA).
Source: LJF Legal Assistance Services Data Digest: LawAccess NSW, Legal Aid NSW (Advice) and NSW Community Legal Centres 2015.

Alternatively, this data contrast could be represented as in Figure 6.5. In this example, the approach taken has been one that develops a visual indicator (the different sized circles) to indicate the size of the ratio of legal services provided to NLAS capability.

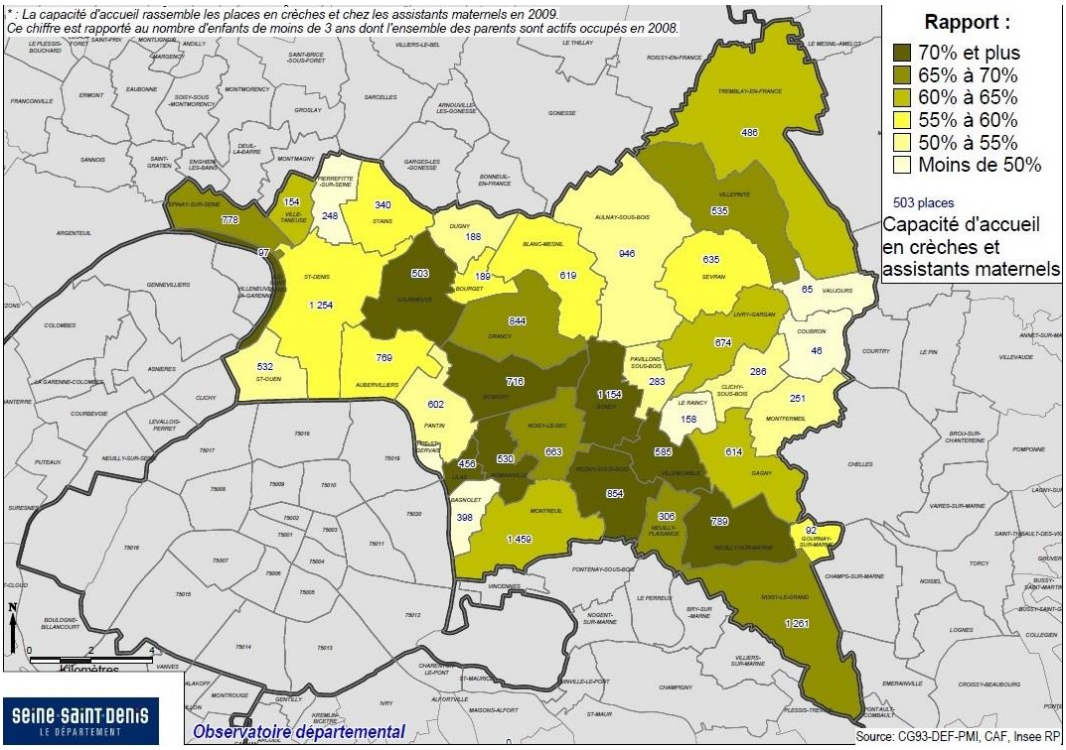
Figure 6.5. Victoria: Ratio of services to NLAS (capability)



Note: This map does not use actual data. It is an example for illustrative purposes only.
Source: Mirrlees-Black, C. and S. Williams (2016[10]), *Collaborative Planning Resource: Presentation to Federation of Community Legal Centres*, (Victoria) Inc., Melbourne, Victoria.

While not representing legal or justice sector data; Figure 6.6 contrasts the number of places in early childhood centres (i.e. supply) with the number of infants of employed parents (i.e. demand) in the Saint-Denis area in France. It is recognised that legal need is a less precise quantity and the services provided in the justice sector are much more diverse than the simple indicator of the availability of places in early childhood centres (that is, each individual legal service provided to a client will be different depending upon the client and the particular legal need, and the services provided by each different service will be different in nature as well). The map nevertheless demonstrates the potential usefulness of such a data collection and mapping exercise.

Figure 6.6. Comparison between the number of places in early childhood centres (Service provision) and the number of infants of employed parents (legal need proxy)



Note : 2009 data
Source: CG93-DEF-PMI, CAF, Insee RP in Observatoire Départemental - Seine Saint Denis (2013[11]), *Panorama Cartographique d'Indicateurs Sociaux*.

Despite the potential of this approach to mapping, there are also has a number of limitations. For example, the administrative data collected can be quite variable across (and even within) different jurisdictions. Service fragmentation where people use multiple services may overestimate the number of people receiving the service. It may also vary not just in terms of the scope of the collected information but in data quality. As noted earlier, variation in terms, definitions, how legal matters are defined, how services are defined, categorised and provided, may potentially impinge upon the quality and reliability of the data – at least until same standard protocols and practices are adopted. This approach would be most effective if the administrative data capture a sufficiently comprehensive range of variables from the full range of legal and related service providers that are providing legal services to the community. For that to occur, it may require an appropriate system of common data definitions and data collection protocols to ensure that the data collected are consistent and comparable between and within organisations across jurisdictions.

What works in the delivery of legal and justice services?

Determining what works in the delivery of people-centred legal and justice services involves tailoring services to meet the actual needs of individuals, families, communities, and small and medium-sized enterprises (SMEs) based on the evidence gathered through the processes to identify, measure and map legal needs. Tailoring services involve identifying:

- the most effective means to meet particular legal needs for particular groups in particular locations
- how to ensure that those services are delivered when and where they are needed by the most efficient means.

The concept of people-centred legal and justice services itself underscores the notion that "one size does not fit all". The promising practices regarding designing these services set out in Chapter 5 provide a guide, but need to be applied to the particular needs of the particular individual, in their particular circumstances. The challenge in developing workable delivery systems is brought into high relief by what we know about legal needs:

- the clear inequality in the experience of legal problems
- legal problems not existing in isolation from other problems
- the links between this inequality in experienced legal needs and socio-economic disadvantage
- the links between socio-economic disadvantage and lower personal capability for resolving legal problems.

It is important to bear in mind that there is not a single perfect solution for any particular circumstance but also in the context of what is possible and realistic given the geography, infrastructure and other relevant factors.

The evidence suggests that there will be no single or "ideal" model of service delivery. Rather, strategies are better "made to measure" – appropriately matched to the diverse legal need and capability of clients, and informed by the existing service infrastructure and gaps across the community.

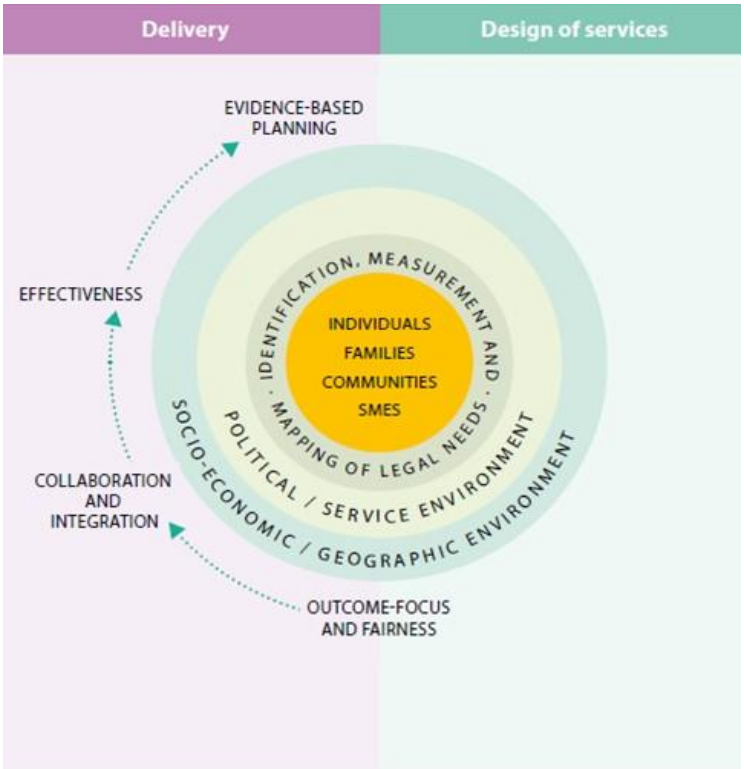
Taking a similar approach as in Chapter 5 on what works for designing services, this section takes a range of access-to-justice guiding criteria and principles, and integrates them with promising practices for the delivery of people-centred legal and justice services.

The vast number of access to justice principles and the survey of promising practices can be synthesised into three people-centred delivery criteria:

- evidence-based planning
- collaboration and integration
- effectiveness.

These delivery criteria build on the general design criteria for what works with a view to ensuring that legal and justice services actually work to meet the needs of individuals, families, communities and SMEs in specific contexts (Figure 6.7).

Figure 6.7. Delivery criteria for people-centred legal and justice services



Evidence-based planning

Access to justice programmes is most successful when they address needs identified by reliable research. Planning for people-centred legal and justice services is often found effective when it is based on knowledge of the client group and the environment. In the past, and still to a large extent today, services tend to be problem-focused (e.g. type of legal issue, area of law) rather than client-focused. In these cases, it can be difficult to detect and address related legal and non-legal problems and may lead to poorer, less sustainable outcomes. People-centred service delivery often implies that service responses "focus on mitigating the total impact of legal problems on a person's life, rather than considering each legal problem separately".

Chapters 3 and 4 outlined interesting practices for comprehensive needs assessments, including: legal needs surveys, qualitative needs assessments, collection of data on use and satisfaction, and mapping projects of legal and justice services relative to need. These assessments provide important information about the prevalence of legal problems experienced by specific groups, in particular circumstances, and/or by location. Life cycle methodologies can also be employed to understand patterns of legal problems as they are commonly experienced by people at specific stages of life, for example upon entering the workforce or in old age, e.g. legal health checks tailored to specific age groups (Box 6.1).

A determination of the type and depth of legal justice service that will work best in a given situation requires further individual consideration of the capability of the person and the importance/complexity of the legal problem they face. Country experience shows

that service models need to be flexible and nuanced to be responsive to individual client needs and informed by mapping legal needs with the location of services.

Legal empowerment is impaired under some conditions including, for example, resource deficiency, lack of personal skills and/or abilities and knowledge, power misbalances in important relationships and institutional failures (Pleasence et al., 2014[2]). A wide range of factors determines individual legal capacity, and legal capability (and literacy) is often particularly low among disadvantaged groups.[3] These factors are not static and there is an important dynamic between legal problems and capabilities. Some life events affect personal capability (e.g. relationship breakdown, victims of domestic violence) and also give rise to legal issues. Legal problems can contribute to illness, which in turn affects capability. This relationship can be seen in specific situations but also in persistent patterns.

It is difficult to overstate the importance of integrating an understanding of personal and legal capability into the design and delivery of legal and justice services. The impact can be summed up as follows:

> *"Legal capability has the potential to confound socio-legal studies and vex evaluation of legal service provision. Unless differential client legal capability is taken into account, evaluation of legal services may not provide an accurate picture of whether or not certain forms and modes of legal service provision 'work'. Capability factors may obscure the particular problem and people circumstances affecting appropriateness." (Pleasence et al., 2014, p. 161[2])*

Promising practices include legal capability assessment and screening tools (Marchiori, 2015[12]). Assessments cannot be made solely on a one-time basis, since some clients, even disadvantaged ones, initially appear capable and problems only become noticeable later in the process.

Box 6.1. Life cycles and legal needs

Legal needs research demonstrated that legal and non-legal problems often tend to cluster. These clusters of problems can also be seen as coinciding with specific periods in a person's life and/or with transitions in a person's lifetime. Service delivery approaches in other sectors often incorporate life-cycle and life-event methodologies to facilitate and tailor the delivery of services to clients to ensure great accessibility. Some examples of legal services tailored to different needs and legal problems depending on life stage or life events are highlighted below.

Children

The Office of the Children's Lawyer in Canada, Ontario, represents children under the age of 18 in court cases involving custody and access and child protection, as well as in civil, and estates and trusts cases. The Office of the Children's Lawyer employs both lawyers and clinicians (social workers), who work on a fee-for-service basis across the province. Clinicians prepare reports for the court and help lawyers who are representing children.

Youth

In 2010, the General Secretariat for Youth of the Greek State launched a programme

called "Youth Legal Aid" aiming to provide free legal aid to minors and socially vulnerable target groups of young citizens (up to 30 years old).

Elderly

The Elderly Legal Assistance Programme (ELAP) enables older Americans 60 years of age and older to receive access to lawyers and paralegals who provide representation in non-criminal legal cases, information on many issues of interest to seniors, and community education to prevent harm that may potentially be caused by not having access to legal assistance. ELAP addresses issues regarding income; consumer protection; abuse, neglect and exploitation; healthcare; housing; long-term care and more. Services are provided in every county. The only kinds of cases and issues addressed by this programme are civil matters. The programme provides direct services to those persons 60 years of age and older who are in the greatest social and/or economic need, limited English speaking persons, and rural or low-income minorities.

Sources: General Secretariat for Youth, Greece; Ministry of the Attorney, Ontario, Canada (n.d.[13]), *The Office of the Children's Lawyer*, https://www.attorneygeneral.jus.gov.on.ca/english/family/ocl; Department of Human Services, Georgia, US (n.d.[14]), *Elderly Legal Assistance Program*, https://aging.georgia.gov/elderly-legal-assistance-program.

Collaboration and integration

The next step in expanding access to justice is providing integrated and holistic services. This is fundamental to the everyday legal problems' paradigm of access to justice that views legal problems as aspects of the normal activities of everyday life and, therefore, experiencing legal problems as a human process. In addition, it is well established that legal problems trigger other legal problems and legal problems trigger and are triggered by a range of non-legal problems. Thus, many people, particularly the disadvantaged, experience clusters of interconnected legal and non-legal problems that, like Gordian knots, cannot be disentangled. Indeed, legal needs research demonstrates that people can experience problems that can give rise to needs for a range of services – not only legal and justice services – and that they undertake a wide range of pathways to justice. Legal and justice services, while increasingly aiming to centre on clients, tend to be generally focused more on types of legal problems rather than on clients' needs, which may mean that people need to assess several services to get effective help.

Fragmentation of legal and justice service providers and limited co-ordination are often reported as other systemic difficulties in some countries. Legal and justice services are often provided by a diverse range of private and public institutions, which sometimes also differ across regions within countries. Some legal and justice service providers operate in a sectoral fashion and fairly autonomously, with different types of legal jurisdiction and eligibility criteria, which requires citizens (and economic actors as appropriate) to deal with them separately (Coumarelos et al., 2012[6]; Forell, McCarron and Schetzer, 2005[15]).[4]

The bigger the range of separate services and service providers, the greater the difficulty an individual may have in navigating the justice system. Fragmentation and lack of integration create obstacles for individuals seeking assistance, particularly members of vulnerable and disadvantaged groups, and can lead to delays. Research showed that individuals who are turned away from more than one service can suffer from "referral fatigue" and are more likely to leave legal problems unresolved even when they have

serious consequences (Buckley, 2010[16]; Coumarelos et al., 2012[6]; Pleasence, 2006[17]). Promising practices include robust seamless referral systems such as a "no wrong number, no wrong door policy" (Pleasence et al., 2014[2]) and active or "warm" referrals between agencies for people who access the justice system through a "side door" (Forell and Gray, 2009[18]; Buckley, 2010[16]; Coumarelos et al., 2012[6]; Pleasence, 2006[17]).

The requirement for integrated services extends beyond legal and justice services to include referrals to other types of human services in order to address an individual's problems comprehensively and holistically. This flows from a people-centred approach and addresses the reality that many people experience problems that have both legal and other dimensions. Fragmented approaches and limited co-ordination of both public and private (pro bono) legal services, as well as social services, can present a particular challenge for those in especially difficult situations and facing multiple legal problems. This means that these groups may be required to identify separate legal and other service providers for each problem, which may have different eligibility criteria and in itself present a barrier to accessing justice (Pleasence et al., 2014[2]). A related challenge which was identified in a number of studies is linked to long waiting times for legal services and assistance, which may aggravate the legal problem as well as complicate and increase the cost of the resolution process.

In order to overcome these problems, the planning of delivery of people-centred legal and justice services should be guided by the principles of collaboration among service providers and integration of services. As noted in the review of lessons from other sectors, citizen or user-centric services include a focus on the availability and alignment of service delivery channels and optimising the service delivery in each of them. Good practices for facilitating collaboration and integration of services include:

- Recognising multiple pathways to justice.
- Facilitating navigation through simple gateways.
- Providing seamless referral and service integration.
- Conceptualising service delivery as including non-traditional legal/justice actors and institutions.
- Promoting co-operative service delivery.
- Working toward greater coherence within the justice sector.

The provision of a continuum of legal services and a spectrum of justice services increases the availability of options that can be tailored to meet the needs of an individual, dealing with a specific problem or problems, at a given time and in particular circumstances. An effective intake system that is able to diagnose an individual's situation and legal needs is a critical first step in targeting services. Another important empirical finding from the legal needs research is that people pursue a range of justice pathways (Pleasence, 2016[19]). Differing forms of assistance may be required at various points along these justice pathways – from prevention to post-resolution support. From a public expenditure perspective, integrated services can enjoy competitive and economic advantages (Currie, 2015[20]). Legal assistance websites operating on a jurisdiction-wide basis (national, regional, state, province or municipality) are effective entry points for citizens navigating the justice system (Ribadeneyra, 2012[21]). Legal needs research has demonstrated that many people, particularly vulnerable populations, do not know where to seek legal help and these portals can address this initial barrier (LSC, 2013[22]). Australian national access to justice website, Foolkit[5] (stands for free legal toolkit)

version 7.0, would be a relevant example. One author concludes: "It is difficult to overestimate the importance of these state-wide websites as foundational building blocks for transformational delivery changes. These sites provide the Internet framework on which to hang new services and new approaches to collaboration. Their authenticity and interface consistency make these sites viable platforms for information and service delivery innovation across the country" (Staudt, 2009[23]).

Joined-up services or one-stop shops are an important form of service integration and seamless referral, best exemplified by problem-solving judicial or non-judicial initiatives. In the Czech Republic, the Probation and Mediation Service also focuses on integration with social services.[6] In Chile, a public multiservice network seeks to link the benefits and services provided by public institutions with citizens, through different service channels: points of care throughout the country, an online portal with simple and direct access to information and a call centre delivering orientations on public services.

Box 6.2. Examples of people-focused services: Problem-solving courts

Some OECD countries have established problem-solving courts. These courts use their authority "to address the underlying problems of defendants, the structural problems of the justice system including jail and prison overcrowding by diverting certain offenders from incarceration and custody, and the social issues of communities". They apply a holistic view and the "judicial case processing is partnered with treatment providers and community groups to follow up and support victims and offenders alike in order to reduce recidivism" (OECD, 2016[24]).

Most OECD countries have streamlined problem-solving principles in certain fields of criminal justice, i.e. without introducing a fully-fledged court. In this context, the case-management process or track is differentiated according to the circumstances of the case or of the defendants (e.g. juvenile offenders). These diversion schemes embody a problem-solving approach outside of a problem-solving court.

Family-Justice Centres

Family-Justice Centres are initiatives that aim to improve the position of domestic-violence victims. Although not a problem-solving court, they share the ambition of domestic violence courts to help victims and hold offenders accountable. Family-Justice Centres provide co-located, one-stop, multidisciplinary services to victims of family violence. A Family-Justice Centre may "offer comprehensive medical and legal services, counselling to victims and children, links to the court system, as well as access to on-site professionals providing civil legal services, job training and placement assistance, public-benefits assistance, advocacy, and safety planning" (OECD, 2016[24]).

Family-Justice Centres aim to fill the gap between collaboration and service integration by creating collaborative service arrangements leading to enhanced services for clients through specifically created partnerships. This continuum as envisaged in Family-Justice Centres links together various steps, e.g. co-operation, co-ordination and collaboration leading to the creation of integrated, wrap-around services.

Family and domestic violence courts

Domestic violence courts exclusively deal with cases related to intimate abuse. Although they function under the umbrella of problem-solving courts, they are different in the sense

that protection of the victim rather than treatment and recovery of the offender has priority. Victims are provided with extensive services such as counselling, shelter and advocacy. Offenders are commonly required to participate in batterers' intervention programmes and report to the judge on compliance. Yet, most domestic violence courts still emphasise the offenders' accountability over his or her rehabilitation. Using a "carrot and stick" approach, the offender will receive a suspended sentence (probation) depending on his or her treatment or protective-order compliance. However, domestic violence cases qualify for diversion programmes under certain court models.

In England and Wales (United Kingdom), Specialist Domestic Violence Courts (SDVCs) are led by the public prosecution service. SDVCs' primary concern is with victims. Lay magistrates preside over court sessions. SDVCs are characterised by multi-agency information sharing, fast-tracking of cases and the offer of comprehensive and immediate victim services. Safe courthouses and facilities are features of this innovation. Review hearings are not part of the court procedure. An exception to that rule is the Croydon court where a defendant's compliance with community rehabilitation orders is reviewed after three months. Different types of domestic violence court models exist. An important distinction is between dedicated courts and integrated court systems. In an integrated domestic violence court, one judge handles criminal cases related to domestic violence as well as the accompanying civil matters such as custody, visitation, civil protection orders and matrimonial matters. These courts work on the "one family, one judge" principle. In non-integrated courts, the family court judge might be uninformed of a protection order issued during criminal proceedings. Similarly, a criminal court judge might be unaware of relevant family court proceedings relating, for example, to divorce or child-protection. The objectives of an integrated family domestic violence court are: "1) a more holistic and multi-disciplinary approach to family problems; 2) more effective judicial monitoring to increase accountability for offenders and compliance with court orders; 3) improved judicial decision making as a result of the judge having more information about the family; and 4) better access to and co-ordination of support services (i.e. legal and social services) for the victims and children" (OECD, 2016[24]).

Sources: OECD (2016[24]), *Northern Ireland (United Kingdom): Implementing Joined-up Governance for a Common Purpose*, https://doi.org/10.1787/9789264260016-en; Government of New Zealand, Ministry of Justice.

Family and/or victim-focus models are developed in OECD countries (Box 6.2). In Austria, the White Ring is a victims' support hotline which is integrated with other service providers.[7] In Australia, the Aboriginal Family Violence Prevention and Legal Service Victoria ensures that legal services are integrated with related service provision.[8] The Family Violence Court in Victoria, Australia, "employs a 'one stop shop' model, which deals with all related matters within the jurisdiction of the Magistrates' Court" (Productivity Commission, 2013[25]). An evaluation found that "there appear to be considerable benefits, from the perspectives of victims and families, in enabling specialised courts to address issues across different legal frameworks" (Productivity Commission, 2013[25]). The Australian Productivity Commission recommends the extension of this practice so that all family violence courts deal with both criminal proceedings and protection orders in relation to family violence and provide related services to meet legal and related needs. In New Zealand, reducing domestic violence and improving the family court system remains a constant priority (Box 6.3).

Box 6.3. Reducing domestic violence in New Zealand families: Whānau Violence Legislation Bill

A cross-government initiative aims at reducing the impact of family and sexual violence. Within this framework, the Family and Whānau Violence Legislation Bill aims to make changes toward breaking the pattern of family violence and reducing the harm and cost inflicted on those who suffer violence and wider New Zealand society. Changes include increasing access to risk and needs assessments and services, more accurately recording family violence offending in the criminal justice system, enabling the introduction of codes of practice and new information sharing provisions.

Changes include increasing access to risk and needs assessments and services, more accurately recording family violence offending in the criminal justice system, enabling the introduction of codes of practice, and new information sharing provisions.

In addition to modernising the Domestic Violence Act, the Australian government has proposed several targeted improvements, including:

- Extending the maximum duration of Police Safety Orders from 5 to 10 days to provide victims with more time to put safety arrangements in place.
- Enhancing the principles so that decision-makers recognise that family violence:
  - includes behaviour that may appear to be minor or trivial when viewed in isolation, but forms a pattern of behaviour that causes cumulative harm, and
  - often includes coercive or controlling behaviour.
- Amending the definition of family violence to explicitly recognise that violence includes dowry-related violence, in order to increase public awareness of the issue.
- Amending the definition of family relationship to make it clear that the definition can cover a caretaker/carer and a recipient of a care relationship.
- Requiring assessors and providers to take into account victims' views, unless it is unsafe or otherwise inappropriate to do so.

These are targeted improvements which will work to modernise the Domestic Violence Act and will ensure that the new Family Violence Act provides a greater focus on victims' needs and is usable for the wider social and justice sector.

Source: Government of New Zealand, Ministry of Justice.

Joined-up services in Australia "increased collaboration and co-operation between legal assistance providers themselves and other service providers to ensure clients receive "joined up" service provision to address legal and other problems" (Productivity Commission, 2013[25]). There are an almost infinite variety of joined-up initiatives. They can be place-, issue-, client- or education-based, to name just a few (Productivity Commission, 2013[25]). One of the promising practices is to have input from clients in planning stages.

Another area of integrated legal and justice services relates to insolvency and bankruptcy needs (Box 6.4).

Box 6.4. Integrated justice services to address insolvency and bankruptcy

Addressing all facets of the problem leads to better and more lasting outcomes. From a public expenditure perspective, integrated services can enjoy competitive and economic advantages (Currie, 2015[20]). For example, Ireland found that it was insufficient to enact innovative personal insolvency legislation in 2013 to address the needs of people in chronic mortgage arrears. Reviews of the effectiveness of the legislation over several years revealed that a purely legal solution was insufficient, even after further law reform measures were undertaken. In 2016, taking a people/client focus, the Ministry of Justice talked to those working with people in mortgage, including the State Courts agency, the Ministry for Social Protection, the national Insolvency Service, the Citizens Information Service, the State Legal Aid Board and the Ministry for Finance. Working together, an effective cross-agency solution was designed to address a cross-agency problem. Today, the Abhaile ("Homeward") Service provides people with serious mortgage arrears on their homes with a single point of contact in the state, which analyses their financial circumstances, working with them and negotiating solutions with their lenders or referring them to experts for free legal or insolvency advice. This service creates and funds the path to resolution of difficulties for the people concerned and accompanies them until they find the solution. The service also provides duty lawyers to assist mortgage arrears clients at each court session dealing with repossession cases. The money advice advisors are present in the court building on such days and it is now normal for judges to recommend these services to a person with mortgage arrears arriving alone in court.

In Korea, courts also developed a integrated and co-ordinated one-stop shop approach for people facing bankruptcy. The courts took the lead in creating a business agreement with the various service providers and entities involved in bankruptcy cases. The starting point is the person's needs: what is their final goal in a bankruptcy case? How can the courts and partners help them to achieve this goal? By visiting a court, the individual can consult on bankruptcy/debtor rehabilitation, access education and skills for managing credit and finance, get assistance to develop skills for getting a job, access job referrals and receive advice on family law problems. Korean courts have also taken a problem-solving justice approach in the Juvenile Division to understand and address the underlying needs of youth coming into conflict with the law. The services provided extend to educational and job opportunities.

Sources: Currie, A. (2015[20]), *Extending the Reach of Legal Aid: Report on the Pilot Phase of the Legal Health Check-Up Project*, https://www.legalhealthcheckup.ca/bundles/legalcheck/pdf/legal-health-check-up-pilot-evaluation.pdf; OECD Policy Roundtables on Equal Access to Justice.

Seamless referral and integrated services require greater co-operation and collaboration among legal and justice service providers and with other human services, including information sharing. Evidence demonstrated that collaboration and co-operation between legal assistance providers themselves, organisations and institutions, breaking down the silos between the justice system and other government services, can contribute to effective service delivery, better outcomes and cost-efficiency (Pleasence et al., 2014[2]).

Box 6.5. Information sharing to reducing domestic violence in New Zealand

Whānau Violence Legislation Bill introduces provisions relating to enabling safe and appropriate information sharing to prevent and stop family violence. The new information-sharing provisions allow family violence agencies and social services practitioners to share information for specified and limited purposes relating to family violence.

An agency or practitioner who receives a request to disclose personal information for those purposes must consider disclosing the information but cannot be compelled to do so. The bill will provide immunity from civil, criminal or disciplinary proceedings for sharing information, unless the information is shared in bad faith.

The Ministry of Justice developed a guidance document, which seeks to clarify and simplify the rules around information sharing in an accessible form.

Source: New Zealand Ministry of Justice (n.d.[26]), "Sharing information safely: Guidance on sharing personal information under the Family and Whānau Violence Legislation Bill", https://consultations.justice.govt.nz/policy/information-sharing-guidance-fv-sector/user_uploads/draft-guidance-fv-information-sharing.pdf.

A recent evaluation of the Cooperative Legal Services Delivery Program of New South Wales found that this central agency is "a high value for money programme and a successful model for increasing networking between legal and non-legal agencies, sharing information, improving referral paths, increasing knowledge of non-legal services about legal issues, and in providing additional legal services to address the gaps for disadvantaged populations" (Ryan and Ray, 2014[27]) (Box 6.6). Indeed, a 2015 OECD report on integrated social services highlighted the value of co-ordinated policies and services for members of vulnerable groups (OECD, 2015[28]).

Enhanced collaboration is not simply a question of institutional arrangements. It begins with an attitude and predisposition that informs legal aid service delivery attuned to client needs: "The challenge is to encourage people to affect change in a fundamental way to ensure that they have appropriate assistance ("no wrong door") to address their broader needs (e.g. need for mental health services, need for housing)" (Department of Justice Canada, 2014[29]).

Legal and justice services will work to meet people's needs to the extent they are part of a coherent system. The administration of justice is a process involving a chain of decisions by several actors and, therefore, "the system needs to be addressed as a whole, from the entry point to the end point of the process" (UNDP, 2014[30]). Coherence requires "systems thinking", a continuum of services that dovetail together, integration of services, collaboration among service providers and an effective triage or referral function that enables people to be directed to the most appropriate destination for resolution, irrespective of how they make contact with the system. In Canada and the United States, access to justice commissions or committees is established to bring more coherence to the administration of justice.[9] While focused on the superior courts rather than the broader sector, a similar function is played by the Civil Justice Councils in the United Kingdom as a whole[10] and Scotland in particular.[11] One specific example is Canada's Action Committee on Access to Justice in Civil and Family Matters which undertook a multi-

year collaborative strategy to promote and measure progress with respect to the Justice Development Goals set out in its 2013 Action Plan.[12]

Box 6.6. Cooperative Legal Service Delivery

The Cooperative Legal Service Delivery (CLSD) programme comprises regionally-based partnerships between legal and related non-legal services that aim to improve access to legal services for disadvantaged people in regional and remote New South Wales (NSW). The CLSD partnerships operate on the premise that disadvantaged people with multiple, complex legal and other needs and low legal capability ideally require integrated or joined-up legal and non-legal services to successfully negotiate barriers to justice. It also works on the theory that better co-ordination and co-operation in the planning and delivery of legal services will enhance the efficient and effective use of scarce resources and improve access to justice for disadvantaged people. The CLSD programme aims for continuous improvements to service delivery through better alignment of planning, programme design and service delivery within and across the legal and related sectors covered by the programme. There are currently 12 CLSD partnerships across regional NSW, each with a funded CLSD Program Regional Coordinator based at a local organisation. The below evaluation findings demonstrate a range of positive impacts of the partnerships and strong support from regional and federal stakeholders.

Increased networking, information sharing and referral pathways between services have been seen as core advantages resulting from CLSD activity in all regions, highlighting an improvement in the ability and capacity of participating agencies to assist disadvantaged clients in their legal needs.

At the regional level, the key benefits included information sharing between partners, improved referral pathways, networking, increased legal knowledge of community service providers, increased access to legal services by disadvantaged people and identification of legal needs and gaps. Central agencies reported valuing the local knowledge gained from CLSD regions and having access to a regional network to enhance their own initiatives.

The CLSD was found to help identify and address the legal needs of disadvantaged populations, which is seen as a *raison d'être* for the CLSD partnership.

Source: Legal Aid NSW (2012[31]), *Report: Evaluation of the Cooperative Legal Services Delivery Program,* https://www.legalaid.nsw.gov.au/__data/assets/pdf_file/0020/15176/Evaluation-CLSD-Final-Report-August-2012.pdf.

Box 6.7. Collaboration in tackling family and sexual violence in New Zealand

Central Agent and the Multi-Agency Team

As a part of the 2018 budget, a new Family and Sexual Violence Central Agent was appointed to lead and co-ordinate the family and sexual violence system. The funding provided will cover the preliminary policy work for setting up the position, which will lead to much-needed co-ordination of public-sector and NGO efforts to address domestic and sexual violence.

The work of the Central Agent will follow on from that of the government's Multi-Agency Team (MAT). The MAT is made up of officials drawn from the Ministry of Justice, Ministry of Social Development, Department of Corrections, Te Puni Kokiri, Ministry for Women and New Zealand Police, and is tasked with driving the family and sexual violence work programme.

Integrated Safety Response pilot

The Integrated Safety Response (ISR) pilot is a part of the family and sexual violence work programme, and is operating on two sites; Christchurch and the Waikato area. The pilot brings together a team of police, Child, Youth and Family Agency (CYF) - now the Ministry for Vulnerable Children, corrections, health, specialist family violence non-governmental organisations and Māori service providers to support victims and their families. During the pilot phase, each incident of family violence reported to theNew Zealand Police and high-risk prison releases will be triaged daily, with a Family Safety Plan developed to address the risks and needs of the family.

Source: New Zealand Ministry of Justice.

The New Zealand Government also established a Centre for Dispute Resolution (GCDR) to provide continuous stewardship and advice to support a systems-based, best practice approach to dispute resolution,[13] including the review, design and development of agencies' dispute resolution thinking, policies and schemes (Box 6.8).

Box 6.8. Government Centre for Dispute Resolution in New Zealand

The Government Centre for Dispute Resolution (GCDR) was established to provide leadership and stewardship to support a systems-based, best practice approach to dispute resolution in New Zealand. The GCDR is the lead advisor to government on dispute resolution. It develops best practice dispute resolution guidance as well as various tools and resources, and also assists agencies directly in the review, design and development of their dispute resolution thinking, policies and schemes. The GCDR also serves as an advocate for improvements to the overall government dispute resolution system.

Source: New Zealand Ministry of Justice.

The delivery of people-centred legal and justice services involves a wide range of responsibilities across governments and civil society organisation. Coherence could also require rethinking assumptions about "what is possible" and about how government

departments or ministries work together, with other associated governmental bodies and with non-governmental bodies "to soften their boundaries so that they can work together more effectively to solve problems, and work better on their systems for listening to consumers of legal and dispute resolution services".[14] Overcoming policy and service fragmentation will take "systemic vigilance" to guard against blockages, failures and injustices.

Effectiveness

Implementing service change and working towards best practice service delivery involves not only planning and establishing services that reach relevant clients and are appropriately tailored to their legal needs and capabilities, but also integrating ongoing monitoring and evaluation into service provision to inform decision-making. While there is no consensus regarding a precise definition of effective access to justice, a central point is that the services provide meaning assistance, assistance that makes a difference, to the individuals, families, communities and SMEs.

From a people-centric perspective, key measures of success of legal services are the level of satisfaction held by clients or users and the broader outcomes achieved as a result of the service. For example, an evaluation of the Family Dispute Resolution (FDR) in Australia included broad measurements of client satisfaction including the justice service delivered and its outcomes. Indicators include: satisfaction with the process including the information provided and time taken; active participation of parties in resolving their dispute; narrowing of legal issues; better understanding of the relevant issues; settlement arising from the service; and, eventually, the ability to resolve future disputes with another party without outside help. Not only was FDR found to offer a timely and low-cost option to litigation but it was also found to narrow the issues in disputes, to voluntarily participate in the process and determine the outcome and focus on the best interests of the child (CBA, 2013[32]).

The effectiveness of people-centred legal and justice services is a cumulative measure of the justice system which depends upon the fulfilment of the other criteria discussed throughout this report. It is particularly closely linked to the requirement for outcome-focused and fair services. The question of effectiveness also engages broader considerations of priorities and allocation of resources and integrates a people-centred perspective. The Australian Strategic Framework for Access to Justice defines effectiveness: "The interaction of the various elements of the justice system should be designed to deliver the best outcomes for users. Justice initiatives should be considered from a system-wide perspective rather than on an institutional basis". Effectiveness is promoted through ongoing evaluation including from a client or user perspective, and the employment of evidence-based best practices (Australian Government, 2009[33]).

Effectiveness and outcomes are strongly interrelated: effectiveness is usually defined as meeting the desired outcome. Sound arguments have been presented for measuring effectiveness relative to a broad range of outcomes and impacts that extend well beyond a specific case outcome: "Civil justice research must step back from narrow definitions of effectiveness that are limited to case outcomes and consider the broader, systemic effects of representation on individuals and those around them".

There is an important opportunity to develop connections between research into the effectiveness of models of legal assistance on individuals and the impact of providing this service on the broader community. Chapter 2 of this report concludes that there is a partial business case but that much more evidence is needed to develop a clear

understanding of the interactions between effective legal aid and positive social and economic outcomes at the individual, community and state levels as seen from short-, medium- and long-term perspectives. Countries also pointed to limited evidence about the effects legal problems have on the social, health and economic lives of citizens, both in the short term and over time. The key link between studying the effectiveness of specific models of assistance and the business case for legal aid is the definition of outcomes employed in these studies. Emerging methodologies encompass more thoughtful conceptions of "outcomes" of legal and justice processes but there remain important gaps at both the conceptual and operational levels. Similarly, definitions of effectiveness can be broadened to include measurements of impact beyond the individual to connect legal aid provision to the justice system and broader societal goals of development and social and economic equality.

The effectiveness of legal and justice services is enhanced through an ongoing cycle of planning, implementation and evaluation, with evaluations feeding back into the design and delivery of people-centred services. For example, Portugal's *Mais Proxima* justice reform process envisions people-centred change through a cycle of ten interlocking steps: vision/strategy, action plan, monitoring, collaborative working, agile methods, active listening, proof of concepts, pilot projects, evaluation and roll out.

Ensuring effectiveness also calls for regular evaluation of introduced changes and reforms. For example, in New Zealand, in 2014, major changes were made to the family justice system, including requiring mediation before parents could apply to the Family Court and removing lawyers from the early stages of some court proceedings. While these reforms aimed to help people resolve parenting disputes without having to go to court, the Minister of Justice asked an independent panel to examine the changes and consider how they have impacted separating families and their children.[15]

People-centred evaluation and measurement

Challenges

The main challenge in delivering people-oriented access to justice services is to enhance responsiveness and ensure that provision extends to the "right" mix of services, to the "right" clients, in the "right" areas of law and in the "right" locations and at the "right" time. In order to meet this challenge, we need to know people's problems, what methods respond to these problems, for what type of client and under what conditions. While impact assessment takes many forms (e.g. piloting, embedding research and analysis into the design and implementation of access to justice policies), we need a sound understanding of which legal and justice services are effective in which circumstances in order to achieve these objectives. This is a challenging task for a number of reasons. Evaluation of the effectiveness of various models of legal assistance is a relatively new field and there is a multitude of approaches to legal service delivery. A lack of common definitions and a common framework means that, to date, there is a relatively low ability to generalise from results. There is no widely accepted definition of the parameters of different types of justice services, "effective" or "meaningful" access to justice and there is no common framework for developing process and outcome indicators that would facilitate comparison of results. Another gap is the lack of attention that is often paid to individual legal capabilities in the assessment of the effectiveness of services. Studies have demonstrated that a sophisticated understanding of legal capability is a critical aspect of developing and delivering responsive legal assistance services (Pleasence et al., 2014[2]). Yet few research methodologies adequately meet this requirement. Furthermore,

it can be difficult to control variations in service delivery (e.g. quality of services provided can vary even within a single programme).

Another challenge is a financial one. Evaluation can cost more than the service and the peripheral nature of justice policy means that few resources are dedicated to this purpose. As discussed earlier, administrative data in the justice sector is limited and there is often a lack of comparability of data between different bodies even within the same jurisdiction. There is a need to create more comprehensive data that would facilitate evaluation and make this data available to researchers.

A related point is that because of the fragmentation of the justice sector that exists in many countries, there are overlapping responsibilities and no overall ownership of the system as a whole. Coupled with the diffuse consequences of legal and justice services, these challenges can result in a vicious cycle where, for example, pilot projects are not evaluated or are not scaled up even when evaluations demonstrate that the services are effective in meeting legal needs.

Measuring access to justice

At present, the most efficient instrument to evaluate and measure access to justice in a people-centred approach is legal needs surveys. Many countries have developed very structured methodologies and continual progress is being made on this front. As noted above, administrative data can be used to complement surveys to present a more complete picture of access to justice in a given country. The United States Working Group on Access to Justice Indicators and Data Collection is working to improve the statistical infrastructure in the United States that measures access to justice (Box 6.9).

Box 6.9. Measuring access to justice using quantitative measurements of indicators in the EU

The EU Justice Scoreboard helps its member country measure the quality of justice systems through meta-indicators including access to justice, adequate resources, effective assessment tools and appropriate standards. The current quantitative measurements for access to justice incorporate: online information about the justice system; income threshold for legal aid in a consumer case; court fee to start a judicial proceeding in a commercial case; and a number of complaints to the online dispute resolution mechanism.

EU member states and courts are continuing to develop a more citizen-oriented approach to justice indicators through the Court Quality Framework Design (CQFD) project designed to fill this gap, measuring what works from a people-centred perspective. CQFD is creating a new tool to support the design of local solutions to improve the quality of day-to-day justice. This tool will empower heads of courts by providing them with keys to designing people-centred services and will help justice policymakers initiate a peer dialogue with courts of their choice in Europe with a positive record of quality services. The methodology is based on experience and evidence of what works: pilot courts are being studied in order to look for core standards of best practices that can be shared with others.

Source: OECD Roundtables on Access to Justice.

Measuring the service effectiveness

There are several approaches to measuring the effectiveness of legal services and access to justice, including but not limited to: programme evaluation of specific legal assistance or justice services, justice pathway evaluation, cost-benefit and cost-effectiveness analysis and outcome or impact evaluations. In each case, a range of methodologies can be employed to measure indicators of effectiveness (Digiusto, 2012[34]). Five main questions are posed in evaluation studies: is it a good model of service in theory? Is it being implemented in the world? Does the model accomplish its goal? Does the model improve the life of the individual? Does the model reduce poverty/inequality in society? Box 6.6 sets out key consideration in the assessment of the effectiveness of legal and justice services.

Box 6.10. Key considerations in the assessment of effectiveness of legal and justice services

Evaluation plays many roles. A four-stage taxonomy has proved useful in the legal services domain, distinguishing between evaluation centred on service planning, establishment, operation and outcomes, each of which is associated with distinct evaluation questions and forms of evaluation.

The first stage is associated with needs assessment and gap analysis for example. The second and third stages are associated with, for example, process evaluation and monitoring. The fourth stage concerns whether services are effective, efficient, cost-effective and cost-beneficial.

In general, the desired outcomes of public legal assistance services relate to one or more of usage (e.g. by target clients or in relation to priority issues), citizen capability (including empowerment), "case" outcomes; procedural impact; and wider (e.g. socio-economic) impact.

Evaluation is applied social science. Methods follow questions. The most critical task of evaluation is articulating evaluation purpose and questions.

A simple categorisation of research designs includes experimental, quasi-experimental, cross-sectional, longitudinal, case study and comparative. Data sources include interviews/self-completion questionnaires, focus groups, administrative data, content, observation and participation.

While process evaluation is often associated with qualitative approaches, it can also follow quantitative approaches. In contrast, outcome evaluation is often associated with quantitative approaches, but can also follow qualitative approaches. However, qualitative research falls short when quantification of impact is required.

A significant number of studies have looked to quantify the impact of legal services on outcomes but there have been few randomised experiments.

The benefit of randomised experiments over other outcome evaluation designs is their high level of interval validity, an important element in the context of causation. However, randomised experiments are often infeasible and can be too narrowly focused in the context of scarce resources.

Not all approaches to "outcome" evaluation rely on establishing cause and effect. For example, the benefits of services can be explored through inquiry into the value placed on

them.

Challenges to impact centred cost-benefit analysis include the availability of measures and the diffuse nature of the wider impact.

With limited resources available for evaluation, they must be of good quality, useful and sustainable. At a minimum, they should address the right questions, fully describe the nature of the evaluation, adopt appropriate social research methods, engage (and respect) stakeholders, be impartial, be shared and adhere to norms and standards.

The quality, utility and sustainability of evaluation in the legal services sphere does not only depend on efforts within individual exercises. Evaluation requires an enabling environment.

There is an important role for meta-evaluation and other synthesis methods to consolidate learning and explore emerging themes.

Prior to commencing evaluation exercises, prior research should be reviewed.

In drawing together examples of legal service evaluations, evaluations could be indexed according to location of service, nature of service, commissioning organisation, evaluation lead, purpose of evaluation, evaluation questions, research methods, protocols followed, methodological recommendations, stakeholder engagement, use made of evaluation and publication.

Source: Pleasence, P. (2016[19]), *'Legal Needs' and Legal Needs Surveys: A Background Paper*, OSJI.

Programme evaluation

Governments and public legal service providers employ a range of methodologies to evaluate the quality and impact of the legal services they provide. Traditionally these evaluations have focused on experience in service delivery and some measurement of client satisfaction (Buckley, 2013[35]).

Studies show that clients receiving legal assistance services have a high level of satisfaction with the services received but it is more difficult to gauge the effects on case outcomes (Engler, 2010[36]). Researchers have noted the danger of focusing narrowly on client satisfaction as an indication of the effectiveness of service (Curran, 2012[37]) since "[c]lient viewpoints, while important, tell us very little about the key issues for quality, such as correct advice and appropriate help" (Moorhead, 2003[38]). Nor do client viewpoints tell us whether litigants receiving help actually were able to perform the tasks required of them or whether they prevailed in their cases as a result.[16] Curran urges a shift to "client feedback," which can explore the level of "quality" of the service (Curran, 2012[37]). For example, the Australian Strategic Framework Report expressed caution in over-emphasising the extent that general information can be adequate assistance. Results have to be closely scrutinised.

It would be wrong to conclude on the basis of the strong rating for the Internet (as well as other sources of information) that direct assistance is less effective. This is because when more than one advisor is used, the Internet was rated as the most useful sources in 34.6% of cases (still a strong outcome) whereas a private lawyer was rated as the most useful in 72.7% of cases – significantly higher than all other sources (Australian Government, 2009[33]).

More recently, methodologies have expanded to the quality of procedure and of outcomes experienced by individuals who receive assistance. It is key to have "[…] an eye toward measuring the effectiveness of the assistance received in terms of case outcome, rather than accepting the mere facts of assistance as sufficient" (Engler, 2010[39]). Particularly in the context of limited resources and unmet demand, "[M]easuring effectiveness is about measuring whether or not the programme achieved its aim or intended outcome" (Digiusto, 2012[34]). In rare cases, studies investigate the longer-term impact of legal assistance such as "whether clients gained new confidence, knowledge or reassurance as a result of the legal services they received" (Focus Consultants, 2012[40]).

Procedure and outcomes can also be assessed from a systemic perspective, for example, a reduction in the length of a hearing or achievement of a broader policy goal such as reduction of poverty. Ideally, evaluation provides the feedback needed to ensure both quality of service and as a feedback loop facilitating systemic reform where needed.

A wide range of methodologies is utilised in measuring the effectiveness of legal assistance services including:

- interviews
- focus groups
- surveys with users of services and justice system stakeholders
- online evaluations
- feedback cards distributed along with resource and analysis of returned cards
- tracking distribution and usage of and traffic patterns for online services
- experimental design methodologies (including randomisation).

In her in-depth comparative analysis of methodologies, Curran concludes that the most useful methodologies are:

- The "Most Significant Change Technique (TMSCT)" described as: "[...] a participatory form of evaluation that uses a story approach to explore the impact of a service or program. This challenges the conventional evaluation so commonly used and discussed above with its focus on predefined indicators. TMSCT is a process that ensures that the many stakeholders, including client, community, service providers and government are involved in deciding on what kind of impact and change is important and records and reflects on these. Case studies are often used in this approach" [note this technique is more often referred to by the acronym MSCT].
- "Survey Research" which "involves the use of questionnaires and structured interviews to collect quantitative data at a single point in time which is examined to identify patterns and relationships".
- The "Case Design Approach" which "involves a range of qualitative and quantitative evaluation methods including interviews, questionnaires, participant observation (difficult in legal assistance research due to client professional privilege issues) and document analysis. It focuses on a very in-depth analysis of a case or service program and examines these to develop in-depth understandings rather than causal explanations. Such approaches reveal particularity and diversity

and are good at enabling greater sense to be made of a situation that might not be evident with a more superficial study".

- "Participatory action research" which "involves the evaluator working with the client/service/community to identify research questions, to collect the data and analyse it. This approach sits within a critical theory which is designed to contribute to learnings and empower people in the process and into the future by learning about their situation and working with the service/community/client to work out ways of making improvements. It uses 'quality criteria' which involves reliability, measurement validity, credibility, transferability, dependability and confirmability. It requires that the participation be authentic and ensures that the cause and effect relationship holds" (Curran, 2012[41]).

In some cases, services are evaluated on a broader basis that allows for a comparison of a variety of providers. For example, Community Legal Education Ontario undertook an in-depth assessment of effective formats and delivery channels for reaching low-income and disadvantaged communities in Ontario with information about their legal rights (CLEO, 2015[42]). The report noted the many barriers people experience in effectively accessing and utilising legal information and concluded that the very best approach is a multi-layered response tailored to individual needs. One US study carried out an in-depth evaluation and assessment of the outcomes of five hotline information services over a three-year period (Pearson and Davis, 2002[43]). This study was completed in 2002 but is considered to be have been "pioneering" in the field and to have "withstood the test of time" in terms of identifying key issues (Smith, 2013[44]). Smith undertook a meta-analysis of seven studies and draws a number of tentative conclusions about hotlines as a means of providing legal advice. He highlights the fact that hotlines vary substantially and "cannot really be measured against each other". He also suggests that studies show: "The benefit of the hotline expands with the depth of services offered. The best results are obtained when the hotline is the 'front end' of a system that can extend through assistance to full representation".

One of the most thorough evaluation plans established by a service provider was used by the UK Legal Services Research Centre (LSRC) at the time Community Legal Advice Centres (CLACs) and Community Legal Advice Networks (CLANs) were introduced in England and Wales in 2009. This effort was designed to "constitute a new approach to the way that civil legal and advice services are funded, purchased and delivered" in that country. The LSRC developed a research framework based on four key areas against which the services were to be evaluated: accessibility, seamlessness, integration and tailored services. The published studies provide a comprehensive review of the initial period of these new service delivery models.

Methodological approaches included:

- Observation of advice sessions.
- Separate interviews conducted with both clients and advisors immediately following the advice sessions, and through in-depth, follow-up interviews two weeks after observations.
- Fieldwork in some of the centres.
- Face-to-face footfall survey of clients in reception areas of the five operating CLACs and their outreach locations: Questionnaires were administered to clients

who visited the services during a one-week period, thereby providing a snapshot of CLAC users.

- The development of a reporting tool through a collaborative approach with stakeholders and the implementation and analysis of the reporting tool.

As part of the reporting process, the LSRC developed a set of outcome criteria for various types of legal matters against which results were to be measured (an overview is presented in Chapter 5). Other examples of the development of substantive standards for the evaluation of outcomes exist in Australia and the United States.

Justice pathway evaluation

Another people-centred approach to evaluation focuses on assessing an individual's experience across a justice pathway rather than from the perspective of a specific programme or services. A quantitative assessment of justice pathways is proposed by the "Measuring Access to Justice" (MA2J) project developed by Tilburg University, the Tilburg Institute for Interdisciplinary Studies of Civil Law and Conflict Resolution Systems (TISCO) and the Hague Institute for the Innovation of Law (HiiL). MA2J developed a research methodology aimed at measuring access to justice through the perceptions and attitudes of people who have travelled a "path to justice". This technique is based on using a legal needs survey to understand the performance of different institutions.

The "path" approach's units of measurement are individuals who had a legal problem and acted to solve it with the means of state or non-state intervention. The definition of the path to justice is simple: a commonly applied process that users address to cope with their legal problem. Three major "pillars" of the experiences of the users are measured: the costs of justice, the quality of the procedure and the quality of the outcome. Each of the three pillars is modelled as a multi-faceted indicator consisting of sub-indicators. The individual scores of the sub-indicators form the scores of the three cost, procedure and outcome indicators. Eventually, the MA2J project intends to aggregate the information on costs, quality of the procedure and quality of the outcome into one composite figure, the Access to Justice Index. The goal is for this index to provide focused information about the measured paths to justice (Gramatikov, Barendrecht and Verdonschot, 2011[45]).

The indicators and sub-indicators have been developed over a period of years during which conceptual and methodological problems were addressed. More than twelve pilot applications of the methodology were conducted to test, validate and refine the measurement instruments and the overall methodological framework. While acknowledging the findings from civil legal needs research that many people who have a problem for which there is a legal solution do not take steps to address that problem, MA2J focus on measuring justice needs "from the moment when a person first takes a step toward resolving the problem". This "demand-oriented" approach focuses on the most urgent legal problems experienced by citizens. MA2J identifies 12 categories of legal problems "that appear to be urgent in many, if not most, legal systems and locations".

Measurement is undertaken from the perspective of the "users" based on their experience on the path of justice: "After completing a path to justice, people think about the costs incurred, the procedure and the outcome. In its essence, the methodology asks the users of justice to reflect on their experiences and formulate a quantitative account of the particular path to justice" (Gramatikov, Barendrecht and Verdonschot, 2011[45]). The

quality of procedures and outcomes are measured not against an objective characterisation of justice, but against the user's perception of procedure and with the outcome being the perceived result of the procedure and the perceived quality of the received outcome. Data is collected through surveys of random samples of persons who have engaged in and used the services within various paths to justice.

Costs of justice, quality of the procedure and quality of the outcome are multi-faceted categories and MA2J measures their different dimensions with one or more variables. For example, the costs of the procedure are defined as the resources the user would need to travel from the beginning to the end of a path to justice. Within this indicator, a set of sub-indicators reflect different types of procedural costs: out-of-pocket expenses, time, and other opportunity and intangible costs (stress, emotions, etc.) (OECD-OSF, 2016[46]). The three indicators will be drawn together into composite access to justice index based on a rating of the importance of the indicators and sub-indicators (with the more important dimensions given more weight within the index) (Gramatikov and Laxminarayan, 2008[47]).

MA2J is expected to assist in measuring, defining and operationalising the paths of justice that meet the demands for resolution of urgent legal problems. The researchers foresee that the project "will provide vital data for the accessibility of the legal processes put in place as well as the subjective perceptions of the users" (Gramatikov, Barendrecht and Verdonschot, 2011[45]). Comparisons will also be possible with alternative paths to justice, between different users or groups of users, or with baseline data collected through a separate process. It will be possible to measure changes in the paths to justice and along the three main indicators over time. The information gathered will also provide feedback to providers of justice system services, identify bottlenecks and may make it possible to predict use of different paths[17].

The Evolving Legal Services Research Project (ELSRP) initiated by Community Legal Education Ontario is utilising a similar research design method. It is an innovative longitudinal research project and examines the effectiveness of public legal education and information (PLEI) in helping low- and modest-income people address their legal problems. One of the main differences between the MA2J methodology and that of the ELSRP is that the Canadian project is measuring process and outcome issues against both a subjective (perspective of the individual) and objective (integrating legal norms) standard.[18]

Finally, Abel recommends a three-prong approach for employing process mapping and analysis to evaluate the effectiveness of the spectrum of access to justice interventions. These are: i) identifying the tasks required; ii) identifying the obstacles from completing the required tasks; and iii) identifying the access to justice interventions that can overcome the obstacles. She too emphasises that this analysis must extend to considering outcomes and whether access was meaningful and effective. As she notes, while several evaluations have found that self-help interventions can improve the ability of unrepresented litigants to perform certain tasks, they do not show that they "enable them to perform those tasks at a level sufficient to enable the court to reach fair and accurate decisions" (Abel, 2010[48]).

Cost-effectiveness, cost-benefit and economic analysis

Meeting the legal and justice services needs of various groups of the population through the delivery of people-focused services in the context of fiscal constraints is a challenging task. It requires an understanding of the relative costs of different strategies to achieving

the desired outcome for specific groups of the population (for specific issues) to ensure that they generate value for money. There are several economic evaluation methods (such as cost-effectiveness and cost-benefit analysis) that can be used for this purpose (Box 6.11).

Box 6.11. Economic evaluations methods

Cost-effectiveness analysis compares the relative costs and the outcomes (effects) of two or more interventions that are potentially competing for the same resources. It is used to determine which intervention achieves the most favourable outcomes or the greatest quantity of particular outcomes at a given cost.

Cost-benefit analysis (CBA) involves comparing the total expected cost of two or more options (i.e. including any negative consequences) against the total expected net benefits to see whether the benefits outweigh the costs and by how much. CBA generally requires that all outcomes are measured in (or converted into) monetary terms to make them comparable to each other and to the costs. CBA can be used to examine which of two or more interventions achieves a given level of benefit at the lowest cost and it can provide a basis for deciding how best to allocate a budget in order to achieve the maximum "overall benefit".

Sources: Digiusto, E. (2012[34]), "Effectiveness of public legal assistance services", *Justice Issues*, Vol. 16, Law and Justice Foundation of New South Wales; Bamberger, M., J. Rugh and L. Mabry (2012[49]), *Real World Evaluation: Working Under Budget, Time, Data, and Political Constraints, 2nd Ed.*, Sage, USA.

In addition, economic impact analysis techniques that aim to understand the general economic value of investments in legal and justice services have also been developed and employed. There are several models of economic impact evaluation methodologies, including the Perryman Group's input-output assessment model, which use a variety of data (from surveys, industry information and other sources) to describe the various goods and services required to produce another good/service. Examples of these studies were discussed in Chapter 2 as they form the basis for the business case for people-centred legal and justice services (The Perryman Group, 2013[50]).

Outcome or impact evaluations

A promising emerging practice is an evaluation of services based on outcomes or impacts – a critical development to further our understanding of "what works". To date, most of these empirical impact studies are measuring the correlation or contribution of a service to a specific end, rather than causation per se. Nevertheless, they provide important insights into the design and delivery of people-centred legal and justice services.

Outcome measurement requires legal and justice service providers to follow up with clients to find out if assistance was helpful and ask about the results. A growing number of service providers carry out client satisfaction surveys[19] which can be seen as an important first step in this direction. One American legal aid pilot is investigating the effects of full civil legal assistance on women experiencing domestic violence, in cases of divorce, custody, child support and civil protective orders (Houseman, 2013[51]). The study is measuring whether receiving legal representation enhanced client safety,

psychological well-being, positive functioning and longer-term economic self-sufficiency.

The measure of outcome is by definition a relative one, "the likelihood of obtaining a better result" with or without the legal and justice services (Steinberg, 2011[52]). Further, it is difficult to define favourable outcomes since clients can have more than one goal; "legal outcomes tell only part of the overall story" (Greiner and Pattanayak, 2011[53]). Albiston and Sandefur present a strong argument for measuring effectiveness relative to a broad range of outcomes and impacts extending well beyond a specific case outcome: "Civil justice research must step back from narrow definitions of effectiveness that are limited to case outcomes and consider the broader, systemic effects of representation on individuals and those around them" (2013[54]).

One concern is how to address key contextual variables such as individual legal capability, types of legal problems/legal processes or fora, and quality and responsiveness of the service(s). A partial list of specific factors includes: characteristics of the individual/group experiencing the legal problem; personal and legal capability; relationship with other party/parties; characteristics of the legal problem; type(s) of dispute resolution process; complexity of tasks required by the process; type(s) of legal information and assistance available; and mechanisms for provision of support and assistance including diagnosis, triage and referral systems. Clarity on these types of factors is central to the generation of useful data and the ability to compare and generalise results.

Many US studies have investigated the impact of counsel in various settings that handle civil cases. These reports consistently show that representation is a significant variable affecting a claimant's chances for success in a vast range of legal proceedings including eviction, custody and debt collection cases, as well as administrative proceedings (Greiner and Pattanayak, 2011[53]). The type of proceeding involved has varied from uncontested to claims adjustment, mediation, arbitration, various types of administrative adjudications, and court proceedings (including specialised courts of limited jurisdiction) (Engler, 2010[36]). A recent California study carried out an in-depth evaluation of partial legal services in housing-related cases (Steinberg, 2011[52]). The outcomes assessed in this study were both procedural and substantive in nature. The findings indicate was that the unbundled legal services programme was successful in furthering procedural justice, but that its impact on substantive case outcomes was quite limited.

Until recently, the vast majority of these studies were observational in nature, that is the research design was to compare outcomes in cases where the individual was represented by counsel to similar cases where the individual was unrepresented. This approach has been the subject of a lively debate among scholars.

There are a number of recent and ongoing US projects carrying out what many consider more empirically rigorous randomised evaluations of the need for legal representation, in which participants are randomly selected to receive a type of legal assistance service and whose experience and outcome are compared to a cohort which did not receive the service. Concerns are also raised about the ethical and practical limitations of randomised studies and the limitations of their utility in providing a meaningful evaluation of civil legal services and policy formulation (Greiner and Pattanayak, 2011[53]; Curran, 2012[37]; Albiston and Sandefur, 2013[54]).

The Boston Bar Association's Civil Gideon Task Force[20] and the Shriver Pilot Projects in California[21] have established multi-year pilot projects engaging a range of research

methods to evaluate the experience of persons who have full legal representation to those who receive more limited forms of assistance in a variety of court-based processes. Methodologies include analysis of randomised studies, assessment of the court dockets, efforts to follow litigants after the period of the study, and interviews with judges, advocates and other personnel involved. These evaluation methodologies were developed through a participatory process engaging practitioners, policymakers, experts and other stakeholders. This multi-pronged methodological approach with its mix of quantitative and qualitative research methods is considered to have strong potential for evaluating the effectiveness of legal services (Greiner, Pattanayak and Hennessy, 2012[55]). Early results from the Boston project conclude that people who receive full legal representation fare much better in court-based processes, both in terms of legal and socio-economic outcomes.

Longer term objectives for outcome assessment would be to evaluate the link between people-centred legal and justice services with outcomes that facilitate inclusive growth and sustainable development goals. At present, this remains a difficult task. The OECD could play an important role in facilitating outcome-based methodologies measuring the impact of people-centred legal and justice services on inclusive growth over a longer time horizon.

Toward a common methodology

There are a number of lessons to be derived from experience designing access to justice research programmes and that can be drawn together to establish good practices for people-centred evaluation and measurement. For example, with several decades of experience with legal needs surveys, best practices have now been identified through OECD-OSF projects (OECD-OSJI, 2019[56]). Another insight is that research that utilises probability samples is likely to be more useful than random samples because legal needs tend to be concentrated within specific groups rather than evenly spread across an entire jurisdiction.

Good practices can also be shared concerning common pitfalls in designing research programmes in this sector and how to overcome them. For example, in studying the efficacy of specific services, there is a tendency to focus on impact and to neglect to ask about use and the competency and quality of the service. Similarly, in reviewing the sustainability of a measure and whether it is a good candidate for scaling up and lasting, we may study costs and benefits (return on investment) but rarely consider the perceived value by integral stakeholders.

Despite the progress made, there is much work to be done: many questions, audiences, methods and examples increase the difficulties faced by countries, especially in the context of resource constraints. The huge range of potential approaches underscore the importance of co-ordination and a common framework can foster best practice, enable findings to be synthesised and lessons to be communicated. The twin goals of survey evaluation and research are to reduce the current data deficit and to create actionable intelligence. Two of the main obstacles to facing these goals are resource constraints and political challenges.

These obstacles could be overcome, and our capacity for people-centred evaluation and measurement advanced through co-operation and the development of a common methodological framework. Sandefur has proposed that knowledge resources could be

leveraged through a concerted effort to focus on four key ingredients of equal access to justice research agenda:[22]

- Common core of research questions so that each is asking about things we most want to understand.
- Short menu of accessible measures so that studying it is manageable for many jurisdictions.
- A design framework for the things studied so that we know what other things we are learning about at the same time (generalising to other objects).
- A context framework for research sites so that we know in what other contexts we might expect similar results (generalising to other contexts).

While the people-centric focus is on the now well-understood concept of legal need, understanding what works also requires taking into account the contextual framework within which service delivery takes place. Elements of a contextual framework could include:

- income level
- strength of legal monopoly
- literacy level
- social diversity
- rural vs. urban
- density of auxiliary (human, social) services
- source of services (largely government – a little government plus civil society)
- co-ordination of the justice sector (fragmented – centralised).

The adoption of a shared contextual framework would enable key findings to be synthesised and lessons communicated and increase the comparability of results across locales and jurisdictions. A common methodology for people-centred evaluation and measurement could include prioritising evaluation of the more strategic impact of services and developing shared realistic standards for evaluation programmes.

Key findings

- Figuring out what works in people-focused access to justice may require rethinking the traditional approaches to delivering the full continuum of legal and justice services that focus first and foremost on responding to people's legal and justiciable needs. It requires countries to evaluate the effectiveness of services and measure their impact.
- The goal of the planning process is to provide the most appropriate services based on the particular legal need and on the capabilities of the particular individual and are delivered where and when they are needed. Research evidence and mapping of existing services are important inputs.
- One central choice in the context of prioritising legal and justice services is providing assistance to the majority of the population (or a large proportion of it)

or to alternatively focus on providing services to the most in need of public assistance.

- The evidence suggests that there will be no single or "ideal" model of service delivery. Rather, strategies are better "made to measure" – appropriately matched to the diverse legal needs and capability of clients, and informed by the existing service infrastructure and gaps across the community.
- Three people-centred delivery criteria can assist in matching service to needs: evidence-based planning, collaboration and integration and effectiveness.
- A determination of the type and depth of legal justice service that will work best in a given situation must be evidence-based: it requires individual consideration of the capability of the person and the importance/complexity of the legal problem they face. Promising practices, in addition to legal needs surveys, include legal capability assessment and screening tools.
- Fragmentation of legal and justice service providers and limited co-ordination are often reported as other systemic difficulties in some countries. Legal and justice services are often provided by a diverse range of private and public institutions, which sometimes also differ across regions within countries. This fragmentation can be overcome by collaboration between service providers and integration of services.
- There is no consensus regarding a precise definition of effective access to justice, however, a central point is that the services provide meaningful assistance – assistance that makes a difference – to individuals, families, communities and SMEs.
- From a people-centric perspective, key measures of success of legal services are the level of satisfaction held by clients or users and the broader outcomes achieved as a result of the service. Effectiveness and outcomes are strongly interrelated: effectiveness is usually defined as meeting the desired outcome. Sound arguments have been presented for measuring effectiveness relative to a broad range of outcomes and impacts that extend well beyond a specific case outcome.
- Evaluation of the effectiveness of various models of legal assistance is a relatively new field and there is a multitude of approaches to legal service delivery. A lack of common definitions and a common framework means that to date there is a relatively low ability to generalise from results.
- At present, the most efficient instrument to evaluate and measure access to justice in a people-centred approach is legal needs surveys. Other important methodologies to measure the effectiveness of legal services and access to justice, include but are not limited to: programme evaluation of specific legal assistance or justice services; justice pathway evaluation; cost-benefit and cost-effectiveness analysis; and outcome or impact evaluations.
- A people-centred evaluation and measurement agenda can be advanced through increased co-operation, co-ordination and the development of a common research framework in order to foster best practice, enable findings to be synthesised and lessons communicated.

Toward common criteria for people-centred legal and justice services

This report weaves together lessons derived from people-centred service delivery, access to justice principles and indicators and promising practices in the delivery of legal and justice services in OECD and partner countries. It provides a useful starting point for the development of common criteria about "what works" to ensure equal access to justice and contribute to inclusive growth, sustainable development, and individual and community well-being. What we know works in identifying, measuring, designing, delivering and evaluating people-centred legal and justice services can be consolidated into a preliminary outline of common criteria.

The key overlapping themes can be grouped along the pathways to justice. A people-focused starting point for the development of services means employing effective evidence-based needs and capabilities assessment, paying attention to the diverse needs of client groups to ensure inclusion and work toward inclusion, and integrating participatory design processes that involve users/clients. A second theme concerns what works with respect to service content. The key service content concepts are accessibility, availability of a continuum of legal services and spectrum of justice services, people-centredness, empowerment, prevention, responsiveness and integrated services. Next, the focus shifts to service quality: appropriateness, responsiveness, timeliness, proactivity, outcome focus and fairness. A final theme is the overall delivery system quality, which includes tailoring based on evidence, seamless referral, no "wrong door" service delivery, intelligent processing, collaboration and integration, coherence, evaluation, assessment from the user/client perspective and effectiveness.

Effective access to legal and justice services presupposes an enabling framework or structure consisting of elements discussed above under the principle of "availability": legal frameworks setting out rights, entitlements and obligations, an independent judiciary and legal profession, access to justice institutions (formal and informal), all of which are free of corruption. This enabling framework defines "the space within which citizens and the state can negotiate access to justice and justice outcomes" (Marchiori, 2015[12]). At the same time, access to justice principles and common criteria can also be applied to innovation within this enabling framework.

There is currently a global challenge to identify indicators that meaningfully reflect the impact of access to justice interventions on how peoples' legal problems are resolved and in turn what impact these interactions with the justice system have on larger goals of poverty reduction and social inclusion. The delineation of common criteria to guide legal and justice services could support OECD Member countries and others as they adopt and evaluate initiatives to foster equal access to justice. As noted at the outset, common criteria can assist by:

- Improving data-collecting capacity.
- Building stakeholder support and ownership.
- Informing project design.
- Gauging project effectiveness and informing practice.
- Increasing transparency and accountability.
- Including the perspectives of vulnerable and marginalised groups (UNDP, 2014[30]).

This project is timely: "The new 2030 agenda reinforces the need to collect reliable, suitable and comparable data to support the development and monitoring of legal aid services and provide an accurate picture of rule of law in practice" (IDLO, 2015[57]). Common criteria could help to shape indicators and evaluation questions, in turn, enriching our understanding of "what works".

Selecting a limited set of common criteria for "what works" to promote equal access to justice does not pose challenges that vary markedly from those encountered in other measurement domains (Dandurand, Kittayarak and MacPhail, 2015[58]). There are a number of trade-offs to be made in specifying indicators or common criteria. One study highlighted the importance of balancing "depth and breadth", "aggregation and granularity" and "flexibility and consistency" when developing and reporting on quality indicators (Carinci et al., 2015[59]). Criteria should be dynamic and flexible, offer balanced coverage of areas of greatest concern or relevance, including structure, process and outcome (Green Growth Knowledge Platform, 2013[60]).

The following factors have been applied in selecting the common criteria proposed:

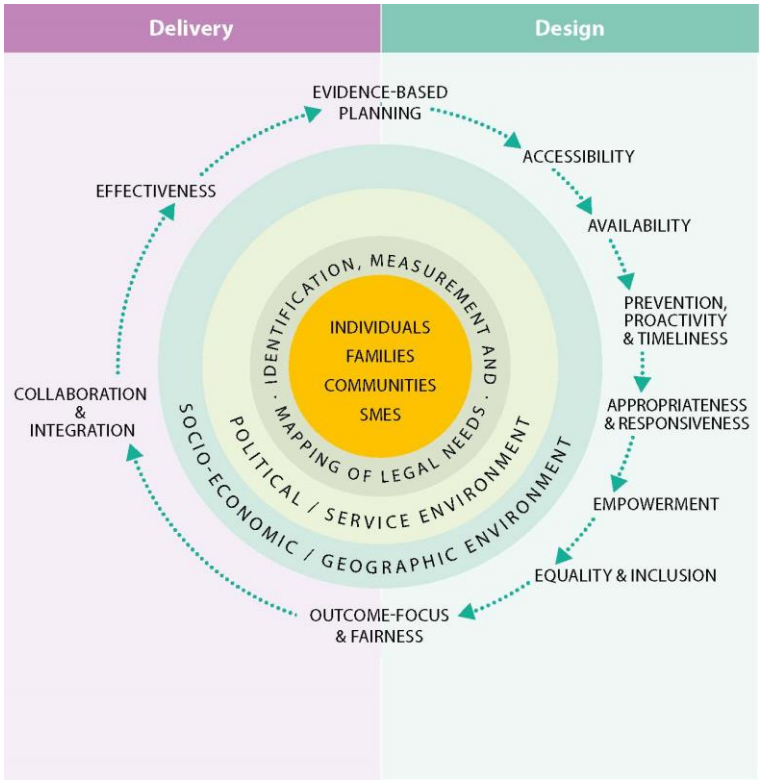
- importance (in terms of its impact of access to justice)
- policy relevance to both legal and justice services
- analytical or empirical soundness
- measurability
- operational experience in countries
- multi-dimensionality
- capacity for evolution
- usefulness in communication.

Furthermore, the aim is that the common criteria be "evergreen," in the sense of being capable of maintaining their value over time and across different justice systems.[23]

There is a growing understanding that access takes place within a complex justice system, consisting of many institutions and actors, formal and informal and the system needs to be addressed as a whole. The justice system must be comprehended as a series of pathways or justice chains from the perspective of individuals, families and communities. Common criteria should help to guide systemic, comprehensive reform from entry point to end point.

For discussion purposes, it is proposed that people-centred legal and justice services should be developed, designed, delivered and evaluated according to ten common criteria: i) evidence-based planning; ii) accessibility; iii) availability; iv) prevention, proactivity, and timeliness; v) appropriateness and responsiveness; vi) empowerment; vii) equality and inclusion; viii) outcome-focused and fairness; xi) collaboration and integration; and x) effectiveness. Figure 6.8 consolidates the earlier partial figures into an overarching framework and Box 6.12 defines in global terms the ten criteria and provides examples of good practices for each one.

Figure 6.8. Criteria for people-centred legal and justice services



Common criteria bring together what is currently known about effective legal and justice service delivery, clarify and extend the discussion about good practices to enhance equal access to justice. Making the most of common criteria involves an ongoing process as we learn more about what works.

These criteria can be applied across all the elements of the justice system: structures, processes, outcomes and the system as a whole. They also should be applied across the key stages of the justice pathway from promoting legal health, capability and literacy through to dealing with specific and/or chronic legal problems and disputes in a variety of processes and fora, enforcement and post-resolution support that further reinforces legal capability and resilience to future legal problems.

The common criteria proposed here are not meant to be static. They are a starting point for a process of continual learning and evolution of evidence-based best practices to ensure high quality legal and justice service delivery. Life can be breathed into common criteria by using them as a base for: evaluation of services; the development of standards for infrastructure and procedures; research; inter-programme consultation and collaboration on best practices; and reviewing comparable developments in other sectors, documenting which criteria and related best practices are most valuable (Charn and Youlls, 2014[61]).

Box 6.12. Criteria for people-centred legal and justice services: Good practices

Evidence-based planning

People-centred legal and justice services are based on and respond to an empirical understanding of legal needs and legal capabilities of those who require or seek assistance.

Good practice example: legal needs assessments, mapping of legal and justice services relative to need, individual capabilities assessment by service providers, screening tools.

Accessibility

People-centred legal and justice services are accessible and designed to actively overcome the range of barriers to the assistance they require.

Good practice example: sensitive use of information and communications technology (ICT), programmes to overcome accessibility barriers faced by at-risk groups, simplification of legal language and procedures, reform of the substantive law to facilitate legal clarity, civic engagement and co-design of services.

Availability

People-centred legal and justice services are available across the justice chain and provided in a range of formats, programme and services types.

Good practice example: range of services provided along the continuum of legal assistance services and the spectrum of justice services, strategies deployment of these services.

Prevention, proactivity and timeliness

People-centred legal and justice services are proactive and contribute to the prevention of legal problems and a timely resolution. Recurring legal problems are addressed on a systemic basis to address underlying causes thereby preventing reoccurrences.

Good practice example: proactive outreach, hospital-based legal advice programmes (medical-legal partnerships), improving co-ordination of services in legal information and advice sector, adapting entry points to the justice system to the needs of marginalised groups (i.e. using trusted intermediaries in community), enhanced capacity for diagnosis, triaging and referral, problem-solving courts, systemic advocacy, justice institutions with systemic/preventative mandates.

Appropriateness and responsiveness

People-centred legal and justice services are appropriate and responsive to the individual, the issues they face and their situation. They are tailored, proportionate and efficient and flexible to accommodate local circumstances.

Good practice example: simplifying proceedings, tailoring procedures to make them proportionate to types of matters, increased use of specialised procedures, expanding dispute resolution options within courts and tribunals and outside of them, making courts and tribunals multi-service centres, developing court, tribunal and/or community based triage systems, matching level of legal assistance/representation to individual capacity and situation, use of ICT to deliver legal and justice services, localised flexibility.

Empowerment

People-centred legal and justice services are empowering, enable people's meaningful participation in the justice system and build people's legal capabilities.

Good practice example: making legal information available in a range of formats, using ICT to deliver legal information and skills, legal awareness initiatives, building legal literacy and legal capabilities through self-help and guided help, employing legal health strategies that encourage people to manage their legal affairs to prevent problems, legal health checklists, simplifying justice services to make them more "user friendly," culturally appropriate services, post-resolution support and follow up that builds resilience.

Equality and inclusion

People-centred legal and justice services are inclusive and targeted at those most in need, responsive to specific access needs of particular groups likely to suffer from social and economic disadvantage or are otherwise marginalised or vulnerable and those with complex needs. They are designed to contribute to equality, poverty reduction and social inclusion.

Good practice example: priority-setting based on needs assessments of vulnerable groups, outreach services, culturally appropriate services, and legal and justice resources available in a range of accessible formats.

Outcome focus and fairness

People-focused legal and justice services contribute to fair process and fair outcomes and to better and more sustainable procedural, substantive and systemic outcomes, including increased trust and confidence in the justice system and better justice system performance, and to the attainment of societal objectives such as socio-economic inclusion.

Good practice example: development of fairness standards, client evaluation of fairness of procedures, evaluation of processes and outcomes on an individual and systemic basis (e.g. result of how legal and justice services work together), outcome objectives are set for individual legal and justice services and for integrated services, services are evaluated according to these objectives, long-term follow up studies of client/user outcomes.

Collaboration and integration

People-centred legal and justice services are part of a coherent system that provide seamless referrals and integrated services through collaboration among legal, justice and other human service providers. People get access to all the services they need to solve the legal and related non-legal aspects of their problems holistically, regardless of the entry point for assistance.

Good practice example: developing multiple, diverse and integrated access points and service responses, seamless referral systems, one-stop shops, problem-solving courts, holistic approaches to service delivery, holistic practices, team delivery of services (including non-legal service providers), collaborative governance structures to facilitate co-ordination between legal and justice service providers (including client/user representatives).

Effectiveness

People-focused legal and justice services are effective and continually improved through evaluation, evidence-based learning and the development and sharing of best practices.

Good practice example: involvement of clients/users in planning and evaluation, integrate "plan-do-study" cycle, sharing of good practices, standardisation of tools, development of quality standards/matrices.

Notes

[1] This section is based upon presentation by G. Mulherin, "*The Future of Civil Procedures: Innovation & Inertia: Thoughts on the Planning, Funding and Responsibilities of Legal Assistance Services*" delivered at Monash University, Melbourne, June 2016.

[2] Ibid.

[3] Ibid. Factors include: poor knowledge of legal rights, legal remedies and the justice system; poor literacy, language and communication skills; poor health; personal efficacy; living free from violence; having a steady job; access to resources; having trust and confidence in institutions; readiness to take action; more pressing basic needs; services that are not culturally sensitive or appropriate; physical and systemic barriers to justice system; distance; poor infrastructure; and fragmentation of justice system and services.

[4] See also Currie (2004[66]), University of Toronto Faculty of Law (2011[67]), Beqiraj, J. and McNamara, L. (2014[68]), FRA (2011[69]).

[5] See: Foolkit (http://www.foolkit.com.au).

[6] See: Probation and Mediation Service of the Czech Republic (www.pmscr.cz/en/).

[7] See: Weiser Ring (www.weisser-ring.at).

[8] See: National Family Violence Prevention Service (http://www.nationalfvpls.org).

[9] For a list of US Access to Justice Commissions, see the American Bar Association (www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/resource_center_for_access_to_justice/atj-commissions/commission-directory.html). Access to justice committees have been established in most Canadian provinces and territories following the recommendation in the report of the Action Committee on Access to Justice in Civil and Family Matters (2013[64]).

[10] See: Courts and Tribunals Judiciary (www.judiciary.gov.uk/related-offices-and-bodies/advisory-bodies/cjc/cjc-publications/guidance-for-the-instruction-of-experts-in-civil-claims).

[11] See: Scottish Civil Justice Council: www.scottishciviljusticecouncil.gov.uk.

[12] See: Access to Civil and Family Justice - A Roadmap for Change (www.cfcj-fcjc.org/sites/default/files/docs/2013/AC_Report_English_Final.pdf).

[13] See: New Zealand Ministry of Business, Innovation and Employment (www.mbie.govt.nz/about/our-work/roles-and-responsibilities/government-centre-dispute-resolution).

[14] Presentation by Mr Conan McKenna, 2017 OECD Roundtable.

[15] See: New Zealand Ministry of Justice (http://www.justice.govt.nz/justice-sector-policy/key-initiatives/family-court-rewrite/, https://www.justice.govt.nz/about/news-and-media/news/family-court-research-documents/).

[16] See Genn (1993[65]) (questioning "whether subjective perceptions of fairness on the part of applicants or litigants in informal hearings should be a sufficient goal, or whether fair procedures must be related to just outcomes").

[17] In summary, data from MA2J could offer the users the knowledge to weigh the cost and benefits of a (legal) process. Better assessment of the cost, quality of the procedure and quality of the outcome would lead to improved access to justice. This data can also assist in evaluating different systemic properties such as accessibility, predictability, fairness and equality.

[18] For more detailed information on the project, please see PLE Learning Exchange Ontario (www.plelearningexchange.ca/research/research-evolving-legal-services- research-project).

[19] See for example: Family Court of Australia (2015[62]); Legal Services Society (2015[63]).

[20] For background to this project see: Boston Bar Association (2008), "Gideon's New Trumpet: Expanding the Civil Right to Counsel in Massachusetts" and updates on this website: www.bostonbar.org.

[21] The California Sargent Shriver Civil Counsel Act Pilot Programs are funded by the California legislature to provide legal services, including direct representation, to low income self-represented litigants in select areas including housing, child custody and guardianship. This project has been called "the most ambitious civil right to counsel pilot project". The legislation establishing the USD 10 million programme specifies that an evaluation of the effectiveness of the 9 pilots be conducted by 2015 and reported on in early 2016. The report must include an assessment of the benefits and impact of the programmes on both the individuals receiving assistance and the courts.

[22] Presentation during the 2017 OECD Roundtable on Equal Access to Justice.

[23] Based on discussions with Dr Ab Currie, Senior Fellow, Canadian Forum on Civil Justice.

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