

**'THE CHALLENGES OF ACCESS
TO JUSTICE'**

**ILAG CONFERENCE
21 to 23 JUNE 2023**

HARVARD, USA



Center on the Legal Profession
HARVARD LAW SCHOOL

June 2023

Dear Conference Participants,

As co-organisers of the “*Challenges of Access to Justice*” ILAG conference at Harvard Law School, we are delighted that you will be joining us later this month. We have been working towards the Conference since the Sydney International Conference in 2021, and are very pleased that it is now so close to fruition.

We have tried to put together a programme which covers the key challenges facing our respective jurisdictions and which will feed into policymaking in this field. This is the first in-person ILAG conference since the pandemic and we hope that you will take the opportunities that arise to engage with the presenters and with each other. We are looking forward to your attendance and contributions at Harvard Law School this June.

A handwritten signature in black ink that reads "A A Paterson".

Alan A Paterson
Professor of Law
University of Strathclyde
Chair, International Legal Aid Group

A handwritten signature in black ink that reads "David B. Wilkins".

David B. Wilkins
Lester Kissel Professor of Law
Director, Center on the Legal Profession
Vice Dean for Global Initiatives on the
Legal Profession
Harvard Law School

ILAG STEERING GROUP

Professor Alan Paterson (Chair)

Dr Peter van den Biggelaar (Vice-Chair)

Professor Lindsay Montgomery (Vice-Chair)

Mr Paul Andrews

Professor Jean Charn

Dr Ab Currie

Dr Steven Gibens

Ms Merja Muilu

Professor Rebecca Sandefur

Mr Roger Smith

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THE CHALLENGES OF ACCESS TO JUSTICE ILAG / HARVARD CONFERENCE 21-23 JUNE 2023

Wednesday 21st June

Venue: Harvard University Law School

12.00-12.45pm	Registration
12.45-1.30pm	Introduction Welcome from Harvard Law School <i>Professor David Wilkins, Center for the Legal Profession</i> Welcome from International Legal Aid Group <i>Professor Alan Paterson – Chair International Legal Aid Group</i>
1.30-2.30 pm	National reports <i>Santosh Snehi Mann: Empowering Indian citizens through Legal Aid</i> <i>Isidro Garcia Mingo: Legal Aid in Jordan: Expanding Access to the Public System [10 minutes each.]</i> Overall summary - Avrom Sherr (20 minutes).
2.30-3.45pm <u>Session One</u>	Measuring Access to Justice – Panel Session David Wilkins; Rebecca Sandefur, James Greiner, David Colarusso and James Teufel
3.45-4.00pm	Tea/Coffee
4.00-5.45pm <u>Session Two</u>	Recent developments in the USA: What lessons for the wider world? <i>Catrina Denvir, Jessica Mant, Meredith Edelman and Alvx Mark</i> Exploring the Relationship between Age of Parenthood and Civil Justice Problem Incidence <i>Neil Steinkamp</i> Tending to the Garden of Justice – Innovative Techniques for Fostering the Development of Thriving Justice Systems <i>Mallory SoRelle: Race, Class and Democratic consequences of Unequal Access to Justice</i> <i>Elizabeth Chambliss</i> : The Vanishing Rural Lawyer
	Reception – conference venue

Thursday 22nd June
Venue: Harvard University Law School

Session Three A

9 am to 10.45 am

SDG 16.3 and Access to Justice

Adrian Di Giovanni: Supporting Southern-led Research and Evidence to Close the Justice Gap”

Vicky Kemp:” Access to justice for child suspects drawn into an adversarial system of justice

Katie Kelso and Bianca Dufty: Early legal assistance in child protection

Mies Westerveld: Access to Justice, a multi-layered concept

Session Three B

9 am to 10.45 am

Crime and Access to Justice

Sofia Libedinsky and Pablo Aranda Aliaga: Access to Justice and comprehensive services for victims of institutional prison violence

Andre Castro: The Red Room Case: A Landmark application of the Exclusion Rule in Brazil

Miri Sharon, Anat Horovitz & Yoav Sapir : The Challenge of Defending Indigent Clients in a World of Global Enforcement

Anika Holterhof and Wendy O’Brien: Human Rights-Based and Technology-Enabled Approaches to Enhancing Access to Legal Aid

10.45 am to 11.15 am

Tea/Coffee

Session Four A

11.15 am to 1 pm

Helping those ineligible for legal aid

Bonnie Hough: “Rising to the Challenge – California’s Self-Help Centers in Pandemic Times

Tatiana Grieshofer: Informational justice at risk: An empirical and textual analysis of information and advice provision in family courts

Jin Ho Verdonschot, Carla van Rooijen, Susanne Peters, Corry van Zeeland: Steps towards an evidence-based legal aid system

Matias Huhtilainen and Tarja Koskela: Financial eligibility

and Legal aid in Finland

Session Four B

11.15 am to 1 pm

The Justification for Legal Aid

Trevor Farrow and Marcus Pratt: Exploring the Importance of Criminal Legal Aid: A Canadian perspective .

Louise Glanville and Martha Arkalis: What is the cost of not funding legal assistance?

Sunil Chauhan: Legal Needs in Rural India: Challenges and responses of legal aid authorities

Matthias Killian: Making it attractive to private lawyers.

1 pm to 2.00 pm

Lunch:

2.00 pm to 3.30 pm

Session Five

Unpacking the concept of Access in Access to Justice

Ab Currie: The First Step in People-Centered Justice

Gabrielle Canny: The role of modern communications in providing legal assistance

Jane Cipants and Ruby Steele: Is access for all really access to justice?

Matthew Burnett and Rebecca Sandefur: Mapping global access to justice research to support evidence-based policy and practice

3.30-3.45 pm

Tea/Coffee

3.45-5.30pm

Session Six

Where legal aid lawyers will come from in the future?

Cleber Alves and Livia Casseres: Equality in Ethnic Recruitment in Brazil

Colin Lancaster: Supply problems in Scotland?

Megan Longley: The Role of University Teaching Clinics in Access to Justice and Legal Aid

Catrina Denvir; Jacqui Kinghan, Jessica Mant and Daniel Newman: Access to Justice and the Future of Legal Aid - A census of legal aid providers in England and Wales

Conference Dinner – conference venue

Friday 23rd June

Venue: Harvard University Law Faculty

9 am to 10.45 am

Session Seven

Holistic provision : The Way of the Future?

Hazel Genn: “Addressing health inequalities through Health Justice Partnerships: NHS and Ministry of Justice policy and practice developments in England & Wales”

Maike de Langen: Delivering justice and fairness in people’s lives, looking beyond the usual suspects

Sue James: ‘Going to where the people are who need our help – legal empowerment and multidisciplinary innovation’

10.45 am to 11.15 am

Tea/Coffee

11.15 am to 1 pm

Session Eight

Technology and Access

Andrews Kananga : The Use of Mobile technology for legal aid delivery

Stefanie Lemke: Ensuring Equal Access to Justice: Is Legal Technology the Answer? Observations and Global Trends from Asia and Europe

Yu-Shan Chang: Not All Clients Are The Same: Exploring the Possibility of Legal Aid Service Innovation with Modern Technology

1 pm to 2 pm

Lunch

2 pm to 3.45 pm

Session Nine

Technology as the problem?

Aneurin Thomas: AI and Access to Justice: Where are we and Where are we going?

Stuart Kelly : Technology and the Future of Lawyers

Riikka Koulu and Frida Westerling: Rethinking Access to Justice through digitalisation: User experiences of digital legal aid services

Natalie Byrom: “Justice Data Matters: Datafication and access to justice”

3.45 pm to 4.00 pm

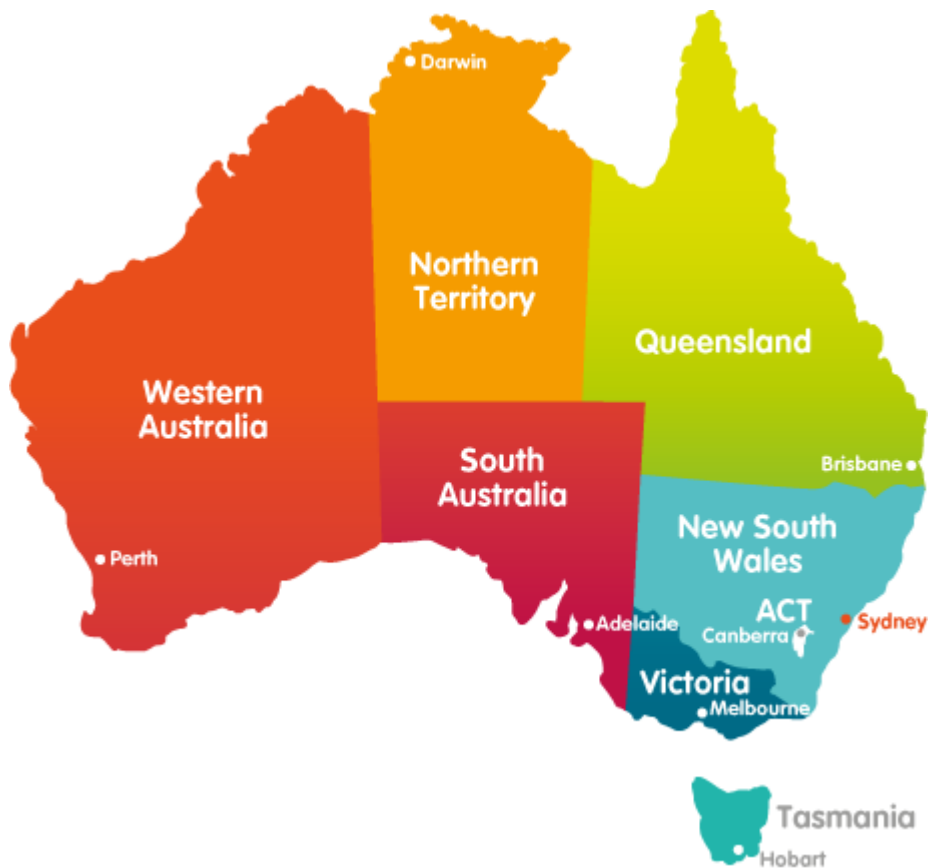
CLOSURE: Where Next? Alan Paterson

NATIONAL REPORTS

NATIONAL REPORT:
AUSTRALIA

Country Report

Australia



International Legal Aid Group Conference
2023
Boston, USA

1. About Legal Aid in Australia

1.1 Statistics

Name: Australia

Population: 26.1 million¹

GDP: \$1.553 trillion (2021 USD)²

Poverty line: 50% of median income or AUD \$489/week (single adult)³

Percentage of population living in poverty: 13.4% living below 50% of median income⁴

Number of practising lawyers in Australia: Est. 83,643⁵

1.2 Australia is a Federation

Australia is a federation. It has a geographically, culturally, and economically diverse population of 26.1 million spread across six States and two Territories:

- New South Wales
- Queensland
- South Australia
- Tasmania
- Victoria
- Western Australia
- Australian Capital Territory
- Northern Territory.

The federal government (also referred to as “the Commonwealth”) has constitutional responsibility for specific national issues. Each State and Territory has its own government that is responsible for all other issues.

Commonwealth legislation mainly governs family law upon the breakdown of a relationship (including issues about with whom children should live and the division of property), social security, immigration, employment, consumer protection and certain types of criminal law, such as crimes in relation to national security.

State and Territory legislation governs all other criminal law, child protection, family violence and some civil law types such as mental health.

1.3 The Australian Legal Assistance Landscape

Legal assistance in Australia is provided by four main groups of providers, each of which receives funding from either or both of the Commonwealth and respective State or Territory governments.

¹ <https://www.abs.gov.au/statistics/people/population>

² <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=AU>

³ [ACOSS/UNSW Poverty in Australia.](#)

⁴ Ibid.

⁵ [Urbis, 2020 National Profile of Solicitors, Final 1 July 2021.](#)

The four main funded providers are:

- Legal aid commissions (LACs)
- Aboriginal and Torres Strait Islander Legal Services (ATSILSs)
- Family Violence Prevention Legal Services (FVPLSs)
- Community legal centres (CLCs).

“While all four providers offer a mix of services from legal education to casework for individuals and groups of clients, the targets for their services differ, as do their size. ...All four employ mixed service delivery models,⁶ with a focus on holistic services.”⁷ Various schemes of pro bono assistance and volunteering also exist.

Good relationships and co-operative arrangements exist between legal assistance service providers. These relationships and arrangements ensure that services are stretched as far as possible, and that issues such as legal conflicts are addressed. They also ensure that people receive the service most appropriate to their individual need.

Nationally, relationships and co-operation are supported by the [Australian Legal Assistance Forum](#) constituted by representatives of the peak bodies for all legal assistance providers.

The balance of this report focuses on LACs.

2. Legal Aid Organisation/Authority

2.1 Legal Aid Commissions and National Legal Aid

There are eight independent LACs in Australia, one in each of the States and Territories. Each LAC is set up by statute to provide legal assistance to disadvantaged people. The LACs are the main providers of legal assistance services in Australia, “receive the majority of government funding and service most Australians who receive publicly funded legal assistance.”⁸ LAC services are provided across the country from 78 offices and numerous outreach locations including to many regional, rural and remote areas of Australia.

The directors/CEOs of the LACs combine at a national level to form National Legal Aid (NLA). NLA is chaired by an appointed director/CEO on a rotating basis.

The purpose of NLA is to lead and encourage a national system of legal aid that allows disadvantaged individuals to access justice, to ensure the legal assistance sector is adequately funded, and to provide a forum for collaboration at a national level between government, stakeholders, community and legal assistance providers to develop best practice legal assistance.

Ms Louise Glanville, Chief Executive Officer, Victoria Legal Aid (VLA) has been the Chair of NLA since June 2021.

⁶ I.e., use of both in-house lawyers and private practitioners to deliver legal aid services.

⁷ Productivity Commission 2014, *Access to Justice Arrangements*, Inquiry Report No. 72, Canberra, 665.

⁸ Ibid 667.

2.2 Legal Aid Commission Services

In 2021-22 LACs provided over 1.5 million services comprised by the following:

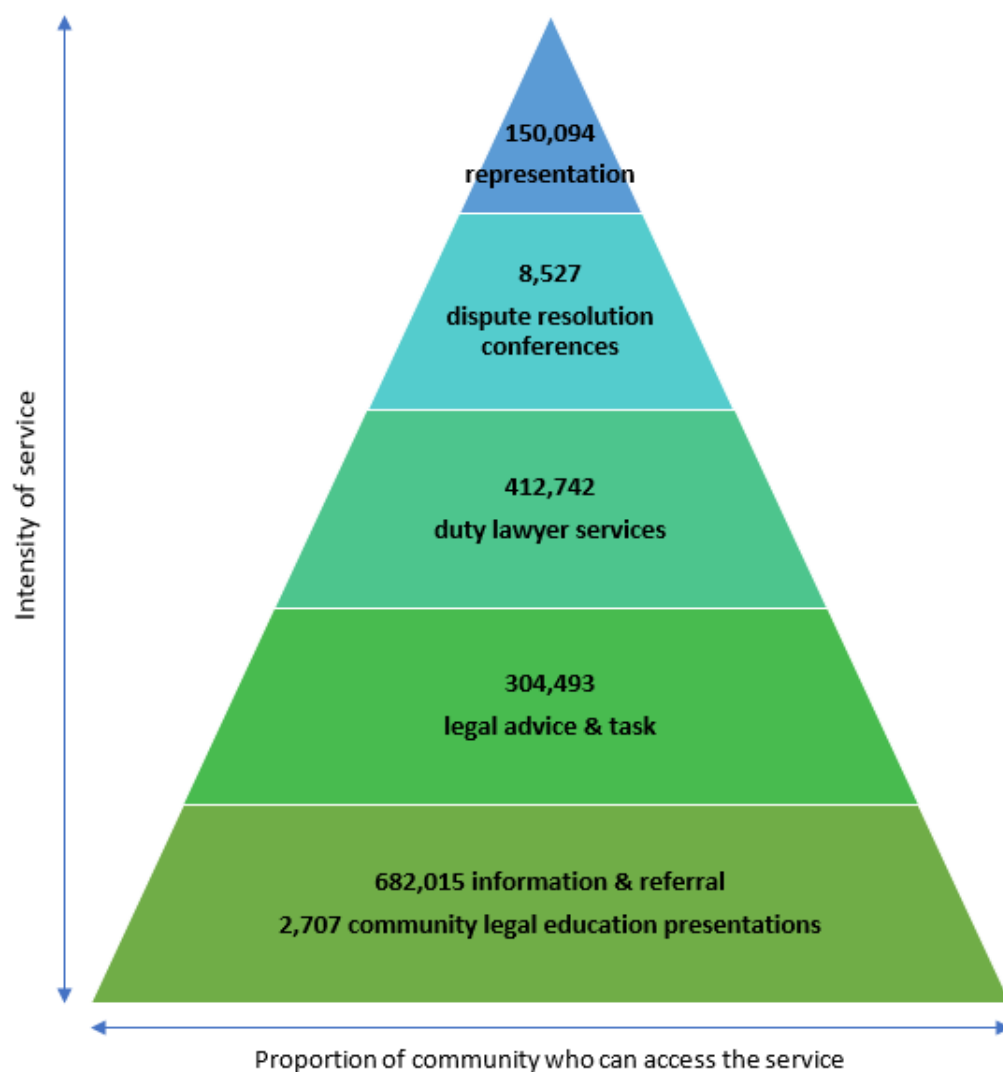
- Representation services in cases before courts/tribunals, including Independent Children’s Lawyers (ICLs) in Commonwealth family law matters, and Separate Representatives for children in State and Territory court child protection matters.
- Family law dispute resolution services which are child focussed and may be child inclusive.
- Family Advocacy and Support Services including duty lawyer services at family law courts including non-legal support services for people affected by family violence.
- Duty lawyer services at criminal law courts and some civil law courts and tribunals.
- Specialist services to support people to safely share their experiences with the Royal Commission into Defence and Veteran Suicide and the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability.
- Legal advice, task assistance⁹ and information services face to face, by telephone, and online.
- Non-legal advocacy.
- Community legal education, including publications, information sessions and workshops, also via web and social media.
- Strategic litigation and advocacy, and law reform services.

Grants of legal aid to either an in-house LAC lawyer or to the private legal profession must be made for representation and family dispute resolution. Applications for grants of legal aid are subject to means, merit and guidelines testing. These criteria are applied in a context of limited funding and competing priorities. Grants of legal aid are generally subject to a contribution payable by the applicant. LACs can place charges over a person’s property to cover the cost of a contribution. The amount can then be recovered if and when the client sells their property.

Family dispute resolution is conference based. Conferences are chaired by family dispute resolution practitioners who are accredited pursuant to family law legislation. At least one of the parties to the dispute must be in receipt of a grant of legal aid and the legally aided party will be legally represented. Non-legally aided parties may be legally represented or choose to self-represent. Family dispute resolution for property law issues has been very limited due to funding and eligibility restrictions. LACs are currently conducting Commonwealth funded trials of small claims family law property mediation.

Other LAC services do not rely on a grant of legal aid first being made and are generally provided free of charge.

⁹ E.g., Letter writing, advocating on someone’s behalf and assistance with drafting documents.



Sources: 2020-21 National Legal Aid Statistics <https://nla.legalaid.nsw.gov.au/nlareports/> and legal aid commissions.

Nationally in 2021-22, 23% of grants of legal aid (33,792 for representation) were in-house, while 77% (116,113) were assigned to private practitioners.¹⁰

Payment to private practitioners is generally by hourly rate for the work undertaken and/or fixed fees for particular types or stages of work.

Strategic litigation and advocacy and law reform services are aimed at addressing systemic injustice, reducing disadvantage, and improving the experience of people interacting with the justice systems. LACs use their evidence base for this purpose.

¹⁰ <https://nla.legalaid.nsw.gov.au/nlareports/reportviewer.aspx?reportname=PractitionerType>

3. Budget and Funding Arrangements

3.1 Legal aid commission funding

The LACs are individually funded from three main sources. In 2020-21 LACs received total funding of AUD \$942.074M, made up of:

- \$294.305M from the Commonwealth
- \$586.271M from State or Territory governments
- \$29.486M from public purpose/statutory interest on trust funds
- \$32.011M from other income.

	Total income \$AUD ¹¹	Proportion of LACs budget			
		% from federal government	% from state/territory governments	% from Special Trust & Statutory Interest	% from other income
2020-21	\$942.074M	31.2%	62.2%	3.1%	3.4%
2019-20	\$880.163M	30.4%	57.9%	8.4%	3.4%

Australia’s legal aid budget is capped on an annual basis. As a general rule, Commonwealth funding must be used for Commonwealth law matters (including family law, Commonwealth criminal law, and welfare law), while state funding must be used for state law matters (including most criminal matters and some civil matters).

3.2 Funding Allocation Models

The Commonwealth’s financial contribution to legal assistance is allocated between the States and Territories using Commonwealth funding allocation models. These funding allocation models take account of a range of factors, such as population, but are applied to fixed and limited sums of money.

As indicated above, LAC funding arrangements are also affected by what is known as the “Commonwealth-State divide” which requires that Commonwealth funding be used on Commonwealth law types. This divide was applied to the LACs in 1997 and underpinned a reduction in then Commonwealth funding to the LACs. Previously the use of Commonwealth funding had not been restricted in this way.

3.3 Current Funding Agreement

The [National Legal Assistance Partnership 2020-2025](#) (NLAP) provides Commonwealth funding for the legal assistance sector. Signatories to the NLAP are the Prime Minister and the Premiers of the States and Chief Ministers of the Territories. Each of the States and Territories receives Commonwealth funding for each of the LACs, ATSILSs, and CLCs with fixed amounts allocated to each group of service providers.

The NLAP allows for LACs to spend Commonwealth funding on discrete assistance¹² and/or community legal education, regardless of whether the matter relates to Commonwealth or State

¹¹ <https://www.nationallegalaid.org/resources-2/finance-2/>

¹² I.e., information, legal advice, legal task.

laws, and on State/Territory law representation matters in which an applicant or child's safety is at risk and there are "other connected family law proceedings", i.e. Commonwealth family law proceedings.¹³

The States and Territories provide funding direct to LACs in amounts determined by respective budget processes.

The NLAP establishes a Legal Assistance Services Inter-Governmental Committee comprised of representatives from the Commonwealth and each State and Territory, and an Advisory Group comprised of representatives from the Commonwealth, national legal assistance peak bodies, and other national stakeholders such as legal assistance research foundations. The NLAP also provides for collaborative service planning at national, jurisdictional (State and Territory) and local service levels. The National Collaborative Service Planning (NCSP) meetings are attended by Commonwealth and State and Territory officials and representatives of the Advisory Group. Whilst NCSP meetings have been few in number, it is hoped that they will become a forum which sets the legal assistance research agenda.

The NLAP requires that service provider data be provided to the States and Territories and the Commonwealth and the Australian Bureau of Statistics. It is intended that reports created from this data will be available for collaborative service planning purposes.

Pursuant to the NLAP, an Independent Review of the NLAP is to be completed approximately 18 months prior to its expiry, i.e., by 31 December 2023¹⁴. The Terms of Reference for the Review, developed in consultation with the legal assistance sector, were released in March 2023. The Scope of the Review includes:

1. A holistic assessment of legal need and all Commonwealth legal assistance funding, and
2. An evaluation of the effectiveness and challenges of service delivery, and an evaluation of data collection, performance monitoring and reporting.

4. Eligibility for LAC Legal Representation and Funding Shortfall

The 2014 report of the Australian Government Productivity Commission, *Inquiry into Access to Justice Arrangements*, found that there is approximately 14% of people living in poverty and only 8% would be eligible for legal aid.¹⁵ "While the LACs' income and assets tests are based on the national means tests thresholds, the reality of fixed budgets means that LACs have not been able to keep updating the thresholds to keep pace with inflation",¹⁶ and that "Client profile data from LACs confirms the welfarisation of legal aid".¹⁷

¹³ National Legal Assistance Partnership 2020-25, 17.

¹⁴ Ibid Clause 81.

¹⁵ Productivity Commission 2014, *Access to Justice Arrangements* Inquiry Report No. 72, Canberra, 1021-22.

¹⁶ Ibid 716.

¹⁷ Ibid 717.

The Productivity Commission identified that “an interim funding injection¹⁸ in the order of \$200m [\$240m with inflation] - from the Australian and State and Territory governments – is required per year¹⁹ to address the more pressing gaps in services. The Productivity Commission specified that this funding should be provided as follows:

- \$11.4m per year [\$13.7m with inflation] to maintain existing frontline services²⁰
 - around \$57m per year [\$68.4m] to relax the means tests for LACs
 - around \$124m per year [\$148.8m] to provide additional grants of aid in civil matters.”²¹

“Civil law matters are the poor cousin in the legal assistance family. Australia’s most disadvantaged people are particularly vulnerable to civil law problems and adverse consequences resulting from the escalation of such disputes.”²²

Legal aid commission services - 2021-22

Services provided	Law type ~	2021-22
Grants of aid approved	civil	4,742
	crime	100,243
	family	45,109
	total	150,094
Duty lawyer	civil	23,738
	crime	341,336
	family	47,668
	total	412,742
Legal advice	civil	107,058
	crime	70,627
	family	87,926
	unknown	3,967
	total	269,578
Legal task	civil	12,024
	crime	13,046
	family	9,845
	total	34,915
Family dispute resolution conferences		8,527
Community legal education^[1]		2,707
Information/referral^[1]		682,012
Total services provided		1,560,575

Source - National Legal Aid statistics & legal aid commissions.

~ Family includes state family law childcare & protection and apprehended domestic/family violence matters, although matters of this type might also be reflected in civil law data.

[1] Including family violence, child protection, family law and related matters such as tenancy, mortgage stress, debt relief etc.

¹⁸ Until sufficient data can be collected to better inform funding of legal assistance services - Productivity Commission 2014, *Access to Justice Arrangements* Inquiry Report No. 72, Canberra, 738.

¹⁹ Productivity Commission (n 15) Recommendation 21.4 Overview p 63 and Appendix H 1026.

²⁰ Following funding cuts in the 2013-14 Mid-Year Economic and Fiscal Outlook and 2014-15 Budget, funding to all four legal assistance providers was reduced by around \$43m over 4 years.

²¹ Productivity Commission (n 15) Appendix H 1026.

²² Ibid 703.

Commonwealth funding announcements since the Productivity Commission report, which are gratefully acknowledged, have been largely tied to specific purpose activities, rather than to enable the relaxation of LAC means tests.

In March 2021, the report of the then Commonwealth Parliament Joint Select Committee Inquiry into Australia's Family Law System recommended that the Australian Government increase funding to LACs to relax their means tests so as to increase legal assistance to vulnerable families.²³

In the Commonwealth Budget May 2021 further funding was announced for LAC initiatives including:

- Family Advocacy and Support Services, which provide legal and social support services in connection with family violence and family law proceedings
- Family Law Property Mediation - LAC Trial, this is a pilot of LAC family dispute resolution in family law small value matters involving property. This Trial is due to conclude on 30 June 2023. An evaluation of the Trial²⁴ has been conducted and the report is positive. It is hoped that funding for the work of the Trial to continue will be received.

In the Commonwealth Budget October 2022, funding was announced for the LACs to support the expansion of the family law court's safety risk screening and case management pilot (the Lighthouse Project²⁵) and to support case management processes. Additional funding was also announced for the LACs to continue to administer the Commonwealth's Family Law and Cross-examination Scheme.²⁶ This Scheme protects victims of family violence from being directly cross-examined by alleged perpetrators.

Legal Need

Pursuant to the NLAP each State and Territory has developed a publicly available Legal Assistance Strategy which indicates "the estimated level and nature of legal need in the State, including sub-jurisdictional regions where appropriate."²⁷

The most recent nation-wide survey of legal need was the 2012 Legal Australia-Wide Survey (LAW Survey).²⁸

The Victoria Law Foundation is currently undertaking the [Public Understanding of Law Survey](#) (PULS) a Victoria-wide survey exploring how people experience, understand and navigate law and everyday life problems. This is a face-to-face survey of 6,000 respondents. The main project

²³ Joint Select Committee on Australia's Family Law System, *Improvements in family law proceedings*, Recommendation 16, xi.

²⁴ Australian Institute of Family Studies, [Evaluation of the Lawyer-assisted Family Law Property Mediation: Legal Aid Commission Trial](#), August 2022.

²⁵ Federal Circuit and Family Court of Australia, Lighthouse model - <https://www.fccoa.gov.au/fl/fv/lighthouse>

²⁶ Commonwealth Attorney-General's Department, Family Violence and Cross-examination of Parties Scheme <https://www.ag.gov.au/families-and-marriage/publications/family-violence-and-cross-examination-parties-scheme>

²⁷ Clause C5, National Legal Assistance Partnership 2020-25.

²⁸ [http://www.lawfoundation.net.au/lif/site/templates/LAW_AUS/\\$file/LAW_Survey_Australia.pdf](http://www.lawfoundation.net.au/lif/site/templates/LAW_AUS/$file/LAW_Survey_Australia.pdf)

report is scheduled for release in 2023. This research will assist understanding of the prevalence, type, and distribution of civil legal problems, as well as the capability of Victorians to respond to these challenges. The findings will be of value across the sector in policy, legal assistance and the private profession.

5. Quality Assurance

Supervision and mentoring: all in-house LAC lawyers receive supervision, mentoring, and training.

Professional development: continuing professional development (CPD) is provided for all in-house LAC lawyers and may be provided by LACs to members of the private profession who are prepared to undertake work on a grant of legal aid and to other legal assistance service providers.

Respective State and Territory professional bodies also require lawyers to undertake compulsory CPD in connection with holding a practising certificate. This is generally a minimum of 10 hours per year, and there are requirements that CPD relates to each of ethics, professional skills, practice management or business skills, and substantive law.

Panel operation: LACs allocate grants of legal aid on the basis of panels which are generally based in the respective area of practice. Some specialist panels have also been established, e.g., for serious crime, and appointment as an ICL in family law proceedings. Audits of grants and/or in-house files may be undertaken in relation to quality.

Other requirements for practitioners: generally, LAC lawyers are required to hold a practising certificate and comply with CPD requirements. There are, however, additional requirements e.g., ICLs and people working with children, are required to have successfully completed the National ICL Training Program, to have a minimum of five years practice in family law, and in line with State and Territory requirements to hold the respective State or Territory “working with vulnerable people” card.

Client Surveys pursuant to the NLAP: pursuant to the NLAP, biennial surveys of LAC clients are conducted. Results from previous biennial surveys reflected high levels of satisfaction.

Complaints: LACs have complaint mechanisms which allow clients and community members to raise quality concerns about LAC lawyers. These complaint mechanisms operate in addition to complaint functions associated with professional bodies, Ombudsmen’s offices etc.

6. Public Legal Education

Initiatives to raise awareness of legal assistance services include:

- community legal education publications and activities
- training for community workers
- phone and webchat lines
- outreach targeted to particular needs in many regional and remote locations
- health justice partnerships
- domestic violence legal and social support services located in the courts and in the community

- media engagement, national and local
- strategic advocacy and law reform
- self-help resources for people who may be ineligible for a grant of aid for legal representation.

Information about how to access, or further access, legal assistance services is provided through all the above channels.

Examples of community legal education publications can be accessed from LAC websites via <https://www.nationallegalaid.org/contact/>

amica

amica is a national online service that can be used by separating couples in Australia to make parenting arrangements and to divide property and money. Funded by the Commonwealth and designed by family lawyers, amica's artificial intelligence (AI) was built to provide a suggested division of assets consistent with what a Lawyer or Court would recommend.

With over 1.4 million website views since its launch in June 2020, amica is quickly becoming a known, dependable and valuable resource. Its usage continues to grow, with over 8,000 matters (16,000 people) registered to use the service and thousands of suggested divisions provided. The key indicator of amica's success is the enormous social benefit being delivered to Australians who have empowered themselves with information and the value to those who have gone on to receive a suggested division from amica's AI or finalised their separation through one of the formal agreements generated by amica. Noting that the average cost of legal advice for such matters is more than \$10,000 per person, users have saved more than \$20 million (AUD) by using amica.

Since the presentation at the last International Legal Aid Group Conference held virtually in Sydney (Australia) additional functionality has been added to the platform. Market research and client feedback found there was a need to provide a single-sided version of amica. An increasing number of people were keen to try amica but were initially apprehensive about inviting their former partner, without having first tried it themselves. People who have experienced domestic violence also provided feedback that a one-sided interface would help empower them with information about their rights and what a division of money and property may look like.

amica^{one} (<https://one.amica.gov.au>) is a single-sided version of amica. It provides a proposed division of money and property based on the user's financials and their estimate of their former partner's finances. It provides a guided process and amica's AI provides a suggested range of what the individual may receive if the parties use amica. The suggested division range in amica^{one} is an estimate only. Once the user has created an account and invited their former partner, they will receive a more accurate suggestion based on information provided by and agreed to by both parties, to work out a division of money and property that's right for them. Additional functionality in relation to superannuation splitting will also be launched in May/June 2023.

7. Alternative Sources of Legal Services

Please refer to 1.3 in this Report.

8. Holistic Legal Services

There are many national and state-based legal assistance sector initiatives that support a holistic service delivery response. As indicated above, this report focusses on LACs, however all four main groups of providers have holistic services and work in partnership with non-legal service providers and each other to best address local needs.

Generally, LACs have relationships with community-based organisations and agencies delivering social support services to support a holistic approach to resolving issues. LACs are increasingly employing social support workers on staff and seeing the benefits for clients.

The LACs' **Family Advocacy and Support Services (FASS)** is the largest national program for holistic legal assistance service delivery. "FASS provides assistance in family court matters to people who have experienced family violence or have used or are alleged to have used family violence. FASS recognises that matters involving family violence are often very complex, and clients may be more vulnerable and require more assistance than in other matters. FASS is primarily a court based walk-in service through which clients receive assistance from a lawyer and social worker. While the lawyer assists with the family law and other legal matters, the social worker assists with the surrounding non-legal issues. FASS social workers can assist clients to access social services including welfare, counselling, housing, drug and alcohol programs, and behaviour change programs. The lawyer and social worker also collaborate with the client, the court, and the police, to provide safety planning where necessary. FASS was evaluated by the government, with very positive results."²⁹ Additional funding has been provided to LACs to expand FASS on a number of occasions including as part of the Commonwealth Budget (May 2021) in relation to mental health support staff. Innovative approaches are being considered for mental health support, such as the services of a Therapy Dog attending Court.

Your Story Disability Legal Support (YSDLS), established in 2019, is a joint initiative of National Legal Aid and National Aboriginal and Torres Strait Islander Legal Services and is funded by the Australian Government. YSDLS responds to the [Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability](#). YSDLS "empowers people with disability to safely share their story with the Disability Royal Commission and connect with local support services" and works "in partnership with communities to deliver a person centred, trauma-informed and culturally safe legal service."³⁰

Some of the many examples of State and Territory based holistic services are included at Attachment A to this Report.

²⁹ Australia's Country Report ILAG Conference 2019.

³⁰ <https://www.yourstorydisabilitylegal.org.au/About-us>

9. UN SDG Standard 16.3

- *SDG 16.3 Promote the rule of law at the national and international levels and ensure equal access to justice for all*

Closing the Gap

“All Australian governments are working with Aboriginal and Torres Strait Islander people, their communities, organisations and businesses to implement the new [National Agreement](#) on Closing the Gap at the national, state and territory, and local levels.”³¹ Closing the Gap includes 19 national socio-economic targets, including that Aboriginal and Torres Strait Islander adults and young people are not overrepresented in the criminal justice system,³² and that Aboriginal and Torres Strait Islander children are not overrepresented in the child protection system.³³

[NLA’s Strategic Plan 2021-24](#) includes priorities of increasing core funding to enable more services to be provided across all law types and to further support people experiencing family violence, and working with First Nations organisations to achieve Aboriginal and Torres Strait Islander justice. In 2021-22, more than 107,000 legal assistance services were provided by LACs to people who identified as Aboriginal and/or Torres Strait Islander.³⁴ See e.g., Attachment A, Legal Aid NSW Civil Law Service for Aboriginal Communities and Family Law Service for Aboriginal Communities.

Strategic Advocacy

“LACs promote the rule of law through their status as independent statutory bodies. By maintaining independence from the government, LACs can assist ordinary citizens to hold the government to account for errors and injustices. LACs also have an important role in advocating for the reform of laws that adversely affect LAC clients.”³⁵

E.g., Robodebt is “the informal name given to a debt recovery program starting in 2015 ... The Robodebt scheme automatically issued notices to welfare recipients identified as having debts through a process of income averaging ... The scheme unlawfully claimed almost \$2 billion in payments from 433,000 people.”³⁶ The strategic advocacy of legal assistance service providers, including LACs, has contributed to the cessation of Robodebt and the establishment of a Royal Commission into the Robodebt Scheme which is due to report on 30 June 2023. Strategic litigation run by Victoria Legal Aid saw the Commonwealth concede that “the averaging method at the heart of the system was unlawful.”³⁷

Examples of national law reform submissions can be accessed via <https://www.nationallegalaid.org/resources-2/nla-submissions/>

³¹ Closing the Gap <https://www.closingthegap.gov.au/>

³² Targets 10 and 11.

³³ Target 12.

³⁴ Data about LAC service use by Aboriginal and Torres Strait Islander peoples relies on the service user self-identifying and it does not include all services e.g., does not include any information services.

³⁵ Australia’s Country Report ILAG Conference 2019.

³⁶ ABC News, *A Robodebt royal commission has been announced. Here’s how we got to this point*, 26 August 2022 <https://www.abc.net.au/news/2022-08-26/robodebt-royal-commission-explained/101374912>

³⁷ <https://www.legalaid.vic.gov.au/depth-look-our-robo-debt-test-case>

10. Other

10.1 Most innovative project 2021-22

Mental Health Training Project for the Legal Assistance Sector

This Project will develop and deliver a national training package for the legal assistance sector for working with clients experiencing mental health issues and/or risk of suicide. LACs have been funded to develop the package.

[Defence and Veterans Legal Service](#)

This is a free national service, operated by the LACs and funded by the Commonwealth, to provide independent information and legal advice to support Australian Defence Force personnel and veterans, as well as their families, carers and supporters, to safely share their experiences with the [Royal Commission into Defence and Veteran Suicide](#).

Family Advocacy and Support Services expansion

LACs have been funded to expand FASS services in each State and Territory to regional locations and the provision of dedicated mental health staff to enhance the services provided.

10.2 Most disappointing trend 2021-2022

Inability to maintain and improve service delivery due to rising costs. Concern that private practitioners, particularly Independent Children's Lawyers, are withdrawing from undertaking legal aid work due to the challenging nature of the work and the comparatively low levels of remuneration.

10.3 Biggest challenge for 2023

Reducing the gap between the number of people living in poverty and the number of people eligible for legal aid.

10.4 Something about Covid-19 effects?

LACs achieved the shift to service delivery in an online environment as a result of COVID-19 with relative agility. The shift to the online environment in Australia has produced a range of benefits including saving limited funding by reducing costs associated with travel and waiting time; expanding service reach; and reducing the delays that existed at some courts as hearings have been capable of being conducted remotely and judicial officers and professional staff from other parts of the country have been able to assist.

LACs are increasingly using the online environment to share live training to LAC staff across the country.

Conclusion

More information about National Legal Aid and links to each State/Territory LAC are available at <http://www.nationallegalaid.org/>

Inquiries can be directed to the NLA Secretariat nla@legalaid.tas.gov.au

Attachment A to Country Report Australia – item 8. Holistic Legal Services

Some of many examples of State and Territory based holistic legal services

Legal Aid Australian Capital Territory

Legal Aid ACT's **Health Justice Partnership (HJP)** embeds specialist family violence lawyers into the Centenary Hospital for Women and Children and the Canberra Hospital. The service operates Monday to Friday and provides free legal advice to staff and patients of the hospital. The team of lawyers work with health partners including social workers, nurses, midwives and other medical staff to provide integrated legal services to enable clients to access free, safe and tailored legal advice. The HJP service reduces barriers to clients who need legal advice at critical periods, particularly during or shortly after a hospital presentation, during pregnancy or after giving birth. Lawyers are embedded in locations where patients attend health or family appointments, and where they may have already established trusting relationships with health professionals.

HJP lawyers also provide training to health staff regarding the HJP service, family violence, legal responses to incidents of violence, care and protection and referral pathways. This collaboration builds the capacity of health staff to identify and respond to family violence and other legal matters.

Legal Aid ACT's award-winning **Community Liaison Unit (CLU)** provides a holistic model of care that understands the multi-dimensional needs of clients. The CLU:

- connects clients and their families to appropriate supports and resources beyond those that can be provided by legal professionals
- provides a culturally responsive approach and continuity of care from first contact through to final hearing, utilising early intervention approaches for this purpose
- assists clients to navigate the justice system and communicate with their lawyers.

CLU staff include two Aboriginal and Torres Strait Islander Officers, two Cultural Liaison Officers (male Officer speaks Arabic, the female Officer speaks Dari and Persian), Disability Justice Liaison Officer, Mental Health Liaison Officer, Family Violence Specialists and a Social Worker.

Legal Aid New South Wales

The **Civil Law Service for Aboriginal Communities (CLSAC)** is a team dedicated to the legal needs of Aboriginal clients, predominantly those living in regional and remote areas of New South Wales and Aboriginal women in custody. CLSAC is based in the Sydney, Orange, Lismore and Wollongong offices. Services include:

- regular outreach to [Aboriginal communities](#)
- Aboriginal Women Leaving Custody Service
- [telephone advice service](#)
- [financial counselling](#).

CLSAC aims to provide holistic legal services. A Law Check Up tool is used to help clients identify and prioritise their legal issues. Many of CLSAC's staff are Aboriginal people who have invaluable insights into working with Aboriginal communities. CLSAC's Aboriginal staff hold regular meetings to discuss cultural and community issues and events affecting CLSAC's service delivery.

The **Family Law Service for Aboriginal Communities** (FamAC) is a state-based, Aboriginal led service made up of lawyers dedicated to assist Aboriginal and Torres Strait Islander families and children in family law and care and protection matters. The FamAC team provides advice, early intervention support, outreach and casework litigation to Aboriginal and Torres Strait Islander families and children currently involved in or at risk of being involved in family or care and protection proceedings.

One Legal Aid was launched in May 2022. The new model responds to increasing demand for Legal Aid NSW services, fundamentally reshapes service provision to put clients at the centre of everything done and improves the quality of services provided. The model creates consistent access for clients regardless of where they live in NSW, or which office or service they approach. Features include;

- an integrated intake function across Legal aid NSW
- a clear and consistent triage process that matches clients to the level of service they require and prioritises clients with greater need
- a connected system that allows staff to book clients an advice appointment on first contact regardless of how they approach Legal Aid NSW
- a State-wide Advice Team made up of experienced criminal, family and civil lawyers providing advice over the phone.

The Legal Aid NSW **Domestic Violence Unit** (DVU) is a statewide service made up of lawyers, social workers and financial counsellors dedicated to assist victims of domestic and family violence. The DVU provides casework litigation, social work assistance and financial counselling to victims of domestic and family violence who are at serious threat and/or have complex legal and social needs.

Cross practice partnerships have been established with the Civil Law Division's Immigration team to assist women on temporary visas experiencing domestic violence, and with the Housing and Homelessness team. A generalist civil lawyer has recently been embedded in the DVU to build civil capability and help clients and solicitors navigate available civil law services.

The Legal Aid NSW **Elder Abuse Service** (EAS) is a specialist interdisciplinary team established in 2019 under the Commonwealth *Protecting the Rights of Older Australians Elder Abuse Service Trials*. The service represents and supports older people at risk of or experiencing elder abuse. The EAS adopts a collaborative casework model with lawyers and social workers working together to assist older people to find appropriate remedies and supports for their circumstances. It is a tertiary service that accepts direct referrals from police, health services and NGOs.

The EAS is a generalist service that provides assistance with:

- Housing and granny flats
- Centrelink debts
- Family breakdown
- Informal loans
- AVOs
- Guardianship and Powers of Attorney
- Physical and sexual abuse
- Financial abuse
- Psychological abuse (bullying, harassment, isolation and neglect).

Legal Aid NSW has a number of **Health Justice Partnerships** including WHOS (We Help Ourselves), a residential drug and alcohol treatment facility with locations in Sydney, the Hunter Valley, Newcastle and Goulburn. WHOS adopts a “therapeutic community” model of treatment and residents typically stay for 3-12 months. Along with substance dependence, residents have histories of imprisonment, homelessness, family violence, mental illness, cognitive impairment, disability, and trauma. And they often have complex and multiple legal problems.

Civil and family law services are provided onsite and by telephone with the aim of reducing the barriers to legal assistance for residents and better addressing the health harming aspects of legal issues. The most common civil issues relate to debts and credit-related financial hardship such as credit cards, loans and increasingly Buy Now Pay Later products, as well as housing, fines, victims’ compensation and police matters.

An evaluation conducted in late 2020 found that providing legal services in a safe and therapeutic environment is highly effective as it allows clients and lawyers to address legal issues over time without losing contact and when the client is committed to recovery. Other outcomes included a reduction in stress and anxiety from unresolved legal problems and connection to ongoing community and government supports through facilitated referrals.

[Legal Aid Queensland](#)

Legal aid Queensland’s **Rural and Farm Legal Service** works closely with financial counsellors to assist farmers experiencing **credit and debt** issues reach the best possible outcome through the provision of financial counselling and negotiation and mediation with banks.

LAQ’s **Social Support Program** acknowledges that clients who experience legal issues often also struggle with a range of difficulties in other areas of their life and the Social Support Coordinator (social worker) provides social support to clients as required to respond to those needs. Social workers are embedded in LAQ legal assistance teams including **youth justice, civil law, child and family services and the Call Centre**. The program provides:

- crisis intervention
- coping strategies, problem-solving, motivation, emotional regulation support to engage with legal assistance, and

- individual advocacy, case management, and the provision of information and referrals for on-going support.

The Brisbane based Child and Family Services Team comprises psychologists, social workers, and mental health workers, and provides family reports, social assessment reports, referrals, safety planning, risk management, domestic violence application support, and family dispute resolution services. Location dependent outreach services are provided. The Townsville office has a social worker for risk management, safety planning, referrals and report preparation and family dispute resolution services. The social worker also undertakes some work in the Cairns region. The Commonwealth funded Domestic Violence Unit based at LAQ's Rockhampton Office comprises social workers and a mental health clinician.

Legal Aid Western Australia

Legal Aid Western Australia has a **health justice partnership** with Next Step **Alcohol and Drug** Service in East Perth. A civil lawyer from Legal Aid WA attends Next Step once per fortnight to provide face-to-face legal advice appointments. Next Step refers to the Legal Aid WA lawyer when legal issues such as debt, housing insecurity, unpaid fines, violence, abuse and neglect, are identified.

Elder Rights WA is a holistic service which provides legal and social support services through Legal Aid Western Australia's in-house lawyers and social workers. The social workers provide support to the client before, during and after the legal advice appointment, as well as connect the client with necessary social support services such as housing/crisis accommodation.

Legal Services Commission South Australia

The Legal Services Commission South Australia operates two **health justice partnerships** in collaboration with two major public hospitals - one of which is near to the Adelaide CBD, and the other is in the northern metropolitan region. Both HJPs are concerned with delivering prompt legal advice to women patients suffering from or at risk of exposure to **domestic and family violence**.

The Legal Services Commission South Australia has a specialist **Disability Information and Legal Assistance** resource centre providing specialised information and legal advice to South Australians with disability, their supporters and advocates. Key components of the service include:

- i) legal advice (for clients identified as highly vulnerable or highly complex, who do not already have an established legal pathway),
- ii) provision of specialist legal information and selected referral,
- iii) community and stakeholder engagement, and legal education (including the development of easy read resources).

The Legal Services Commission South Australia employs four Allied Health Professionals (Social Workers) who are employed in connection with its FASS service, the specialist Domestic Violence Unit, and one of the HJPs, and is currently recruiting a Mental Health Social Support Coordinator and additional Mental Health Worker.

[Northern Territory Legal Aid](#)

Northern Territory Legal Aid (NT Legal Aid) is involved in two **health justice partnerships** (HJPs) with Aboriginal and Torres Strait Islander Medical Services which provide assistance to **First Nations** peoples. One is based at Danila Dilba Health Service in Darwin, a medical service for First Nations peoples, and one is at Legal Aid's Katherine office.

Health Justice Partnership - Katherine Intensive Support Program

NT Legal Aid Civil Law Service in Katherine operates a HJP with Wurlu Wurlinjang Aboriginal Health Service, specifically their Katherine Individual Support Program (KISP). KISP is a case management program delivered to Aboriginal persons experiencing homelessness, and who have chronic health conditions and high frequency hospital emergency department admissions. The partnership seeks to address the unmet legal needs of this highly vulnerable cohort as well as upskill and capacity build the medical and social support services connected to KISP to identify the intersection of their work and legal issues. Working closely with the KISP case manager and other health professionals, the HJP seeks to address legal barriers to improving health - access to housing, social security law, consumer law and more – in a 'wrap-around care' model. Services are delivered daily from homelessness drop-in centre, The Katherine Doorways Hub operated by key stakeholder, The Salvation Army. The HJP consists of a lawyer with administrative support working alongside the Social Support Worker within NT Legal Aid's Criminal Division (Katherine). KISP HJP is funded by the Primary Health Network.

NT Legal Aid has social support worker positions in general and specialised areas across the service. Specialised areas include a financial counsellor to assist people experiencing or escaping from domestic, family and sexual violence, youth justice, domestic and family violence, family law and child protection and adult crime. NT Legal Aid also has generalist support positions in regional offices of Katherine and Alice Springs. NT Legal Aid created a new role of Practice Lead – Social Support to have oversight over these roles and ensure a supportive practice framework is in place for the organisation.

[Tasmania Legal Aid](#)

Senior Assist elder abuse prevention unit - Tasmania Legal Aid provides an integrated response to elder abuse. Tasmania Legal Aid's team of case managers (social workers) work alongside Tasmania Legal Aid lawyers to provide a wraparound response to elder abuse through counselling, safety planning and referrals to services. The service supports people to recognise and avoid elder abuse, and to address psychological and emotional abuse, recover property and funds, and to remove abusive family members from the client's home.

Outreach clinic at the Peacock Centre's Mental Health Integration Hub

Tasmania Legal aid is piloting an early intervention outreach clinic at Hobart's new Mental Health Integration Hub. The Hub is a welcoming place providing short term, practical mental health support, information, advice and assistance to people experiencing mental health issues and distress. The provision of holistic social services aims to help keep people out of hospital and to live well. Tasmania Legal Aid lawyers attend the service most days to give free legal advice and referrals to people who walk in or make an appointment. There are other service providers on site and virtually available to provide other supports including housing, employment, addiction treatment, financial counselling, laundry services, counselling, day supports and Centrelink.

As well as the Hub the centre also includes:

- intensive onsite mental health accommodation as a 12 bedroom unit that is designed like a home to be open and welcoming, and provides services to help people return to satisfying and meaningful lives
- a Recovery College which is a dedicated space providing opportunities for people to improve their mental health, wellbeing, and personal recovery through education, and a
- Safe Haven providing care and support to people in suicidal or situational distress and their families, friends or support networks in a safe and therapeutic environment.

Victoria Legal Aid

Youth Crime Prevention & Early Intervention Program is jointly lead by West Justice Community Legal Centre, Victoria Legal Aid and Victoria Police and is supported by other community services in the Western suburbs. It aims to divert children and young people away from the criminal justice system and reduce re-offending rates. It focusses on improving access to, and consistency in the use of, police cautions and diversions for children and young people including children and young people from diverse backgrounds, for whom English may not be a first language, and/or who may be in residential care and and/or have complex needs.

Independent Mental Health Advocacy is a non-legal representational mental health advocacy service at Victoria Legal Aid that supports and assists people to make, and be involved in, decisions about their mental health assessment, treatment, and recovery. This is achieved through assisting in supported decision-making by providing consumers information on the mental health system and their rights, building capacity for self-advocacy, directly engaging with a person's treating team and linking consumers to other legal and non-legal services.

Independent Family Advocacy and Support provides non-legal advocacy and support to parents and primary carers who are involved in the **child protection** system following notification to the child protection authority and prior to the initiation of proceedings. Independent Family Advocacy and Support gives people the information and support that they need to understand their rights, responsibilities and options and connects them with services such as housing, family violence and drug and alcohol services.

NATIONAL REPORT: BELGIUM

National Report: **Poverty and justice in Belgium: towards improved access to justice for people in poverty. Or how to give the poor access to their social rights?**

Dr. Steven Gibens

*Head of Social Work department (Odisee University college of Applied Sciences Brussels),
Visiting professor sociology and sociology of Law (University of Antwerp)*

On 17 February 2022, the book "Poverty and Justice in Belgium" was presented. It is the result of cooperation between the Ministry of Social Integration and the Ministry of Justice and collects the views of experts from the academic world and professionals from the social and legal sectors.

The book covers the topics of first- (preventive law) and second-line legal aid (private lawyers), alternative dispute resolution, class actions for vulnerable people, the relationship between bailiffs and precarious families, and the social role of labor courts. The book ends with some conclusions and recommendations to improve access to justice for people living in poverty.

Let us briefly discuss the conclusions and recommendations. But first, the question arises of what is meant by access to justice.

Access to justice

In addition to what the law states about access to justice, the question immediately arises of who has access to justice. People living in poverty experience numerous thresholds, have negative experiences, and view the justice system primarily as disciplining and sanctioning. In addition, they experience today that many of their rights are rather conditional.

Access to justice is a concept with many layers. It is up to politics that determines who has access. It is the organizations and institutions, such as lawyers and courts, that concretely implement access to justice. The most important layer is that of the people seeking justice and the question of whether the previous layers meet their needs and requirements.

Access to justice also has several dimensions. Access to justice is much more than access to the courts. People want a just solution when they have a legal question, problem, or conflict. And the latter often affects society as a whole.

The question is to what extent the basic (human) right of access to justice is an absolute or a relative human right. The poverty movements tend to interpret the concept of access to justice in a maximalist way. For them, poverty is a violation of a human right and a violation of the right to human dignity. The link with article 23 of the Belgian Constitution is made here: the right to a decent life/human dignity cannot exist without the right to legal assistance. This right is an important stepping stone to inform people about their rights and to allow them to be assisted in their journey towards law and justice, whether they have to go to court or not.

Access to justice is constantly changing and evolving in waves

Access to justice from a Belgian perspective

The first wave is accessibility to the law. This accessibility has many thresholds. The question arises of which model of legal aid best serves the people living in poverty. A model that finances the services of lawyers (Judicare model) or a model that organizes a broader and especially social legal aid (Public salaried model)?

The second wave focuses on new ideas and initiatives such as ombudsmen, amicable settlements, collective claims, and the first forms of mediation.

Alternative dispute resolution

The third wave is focusing on alternative dispute resolution (ADR) mechanisms, both inside and outside the courtroom, in public and private contexts, with a view to both prevention and resolution of conflicts. The question arises whether the courts are then less valuable than these informal ways of resolving conflicts. And how transparent are these mechanisms for people living in poverty? These alternative mechanisms are characterized by power differences and demand a lot of skills from the people participating in them. In addition, plain language is an important issue, not only because of plain legislation but also a clear and plain justification of the decisions that judicial bodies take.

Prevention is better than cure

The fourth wave is characterized by the slogan "prevention is better than cure". The previous wave continues, also towards digital solutions. What is striking here is the marketing of the legal professions. The question arises as to how preventive law relates to this. Exemplary is the recovery of debts by the bailiff. Is this judicial officer a public official or rather an independent entrepreneur? The instrumental approach to debt recovery by judicial officers raises ethical and social challenges.

A holistic approach

The fifth wave represents a holistic approach. Legal questions, problems, and conflicts do not stand alone but are situated in a social context. They can be approached from different perspectives. A holistic approach starts from the knowledge of the needs and requirements of the person seeking justice (e.g. Paths to Justice studies).

Multidisciplinary cooperation is required to address these needs and requirements. A welfare-oriented approach with a focus on prevention seems to be the best way to meet these needs. This also means that other financing models must be considered.

Finally, there is not only individual legal aid but also structural legal aid. The example of a class action can contribute to this. This action is a possibility to undertake collective action where rules violate (basic) rights and where these rules obstruct the ability of people living in poverty to lead a dignified life. The courts have a mission here. Especially when social rights are imprecisely formulated, depend on political policymaking, and are promulgated by numerous bodies that sometimes contradict each other. The judge finds himself at the crossroads between adjudication and policy steering (activism).

Recommendations

The stepping stones for a policy are the Sustainable Development Goals. For access to justice, this is SDG 16, specifically 16.3: promote the rule of law at national and international levels and guarantee equal access to the legal system for all. This goal does not stand alone. It is, therefore, best read together with other SDGs such as SDG 1 (poverty reduction) and SDG 3 (health and well-being).

A recent OECD report (2019) starts from these SDGs. It hangs a policy for equal access to justice on the following four questions that also apply to the Belgian context:

- Who experiences certain legal problems?
- Where and when were these needs experienced?
- What works to meet these needs most effectively?
- How can these services be delivered and evaluated?

The first two questions seek to identify and map the legal (potential) problems (nationally, but also for local entities such as municipalities and neighborhoods) and start from the needs and requirements of those seeking justice. The 'Paths to Justice' studies or, in the Netherlands, the 'Dispute Settlement Delta', teach which types of problems exist, whether or not in clusters, and what people do or do not do to tackle these problems. These studies are lacking in Belgium and there is an urgent need for them.

The last two questions refer to the formulation of a policy for integral accessible justice. We group the recommendations into three clusters.

An umbrella organization

The first cluster is legal aid as an important gateway. There is a need for more policy steering, clear operational objectives, concrete parameters, investment in knowledge building of people (experience experts in poverty), and means and especially a service that is designed from a people-oriented approach (e.g. legal design). A policy should preferably focus more on prevention from a multidisciplinary perspective and should better align the first-line legal assistance (preventive law) with the second-line legal assistance (private lawyers). To reach people in poverty, other methods like outreach/inreach are needed and a universal approach is not sufficient. An umbrella organization that monitors and evaluates this access and studies alternative financing systems is therefore no luxury. A problem for this umbrella organization is the current state structure whereby the legal first line belongs to the Communities and the legal second line assistance is a federal competence.

Ethical recovery

A second cluster is alternative dispute resolution. It is an important task for the primary care sector. People in poverty do not know their way and guides (multidisciplinary/experienced) are needed that pay attention to the disadvantages such as the cost and the power differences between parties. ADR friends (experienced experts who assist poor people through the ADR procedure) can play an important supporting role in this.

In this alternative conflict resolution, the current functioning of the debt mediation services is exemplary. The amicable recovery of debts today is characterized by a businesslike and instrumental approach that leads people in poverty to increased costs. To prevent the escalation of debts and costs, it would be best to increase the scope of action of the public mediators by temporarily suspending all debt claims as soon as a debt mediator intervenes. Preventive action also requires more resources and staff.

Courts and access to justice

The last cluster is the courts. In the first place, access to justice continues to require an independent and impartial way of settling disputes. People living in poverty demand that judges learn to understand their natural habitat. The Institute for Judicial Training, together with the Federal Poverty Institute, annually organizes a day on poverty. In addition, the courts need to dedicate themselves to a broad reception, as is the case in the Vlinderpaleis in Antwerp with the

expansion of the Welzijnsonthaal (a collaboration between social workers, private lawyers, and the courts to refer people to the right solution for their problems, legally and socially). The courts are likewise the places where a claim for collective interests can be intervened where the violated rights of groups, in case people living in poverty, can be settled.

Secondly, there is the digital (r)evolution that should not form additional barriers to access for people living in poverty. Design thinking contributes to the development of online tools for justice from a people-oriented approach. Physical access to justice remains necessary. The development of

digital kiosks in the courts requires digicoaches that support people who have not mastered digital skills. But other professionals also have a role to play here, such as public social workers and other welfare organizations to support poor people in obtaining just solutions. Finally, there is a need to monitor accessibility with data and indicators.

The recommendations in the book contribute to a policy of integral access to justice, not only with the judiciary itself but with all actors connected to and by the judiciary such as private and public lawyers, social workers, bailiffs,

References

The book is freely downloadable, both [in Dutch](#) and [in French](#).

OECD (2019). *Equal Access to Justice for Inclusive Growth. Putting People at the Centre*, Paris: OECD Publishing, <https://doi.org/10.1787/597f5b7f-en>

NATIONAL REPORT:
BOTSWANA

LEGAL AID REPORT

SECTION 1- ABOUT BOTSWANA

COUNTRY DETAILS

- Botswana is a land-locked country dominated in geographical terms by the Kalahari Desert - a sand-filled basin averaging 1,100 meters above sea level. Botswana is bordered by Zambia and Zimbabwe to the northeast, Namibia to the north and west, and South Africa to the south and southeast. In the northern part of Botswana, four countries (Zambia, Botswana, Zimbabwe, and Namibia) meet at a single point mid-stream of the Zambezi River. The country lies between longitudes 20°E and 30°E degrees east of Greenwich Meridian and between the latitudes 18°S and 27°S approximately south of the Equator. The country is situated in the Southern African region and about two-thirds of Botswana lies within the Tropics; it is bisected by the Tropic of Capricorn.

COUNTRY SIZE

- Botswana covers an area of 581,730km² square kilometres.

POPULATION

- 2, 292, 000 as per the last census (2011).

Capital City

- Gaborone

GROSS DOMESTIC PRODUCT

- According to a Statistics Botswana Report 2020, the nominal Gross Domestic Product (GDP) for the first quarter of 2020 was P50, 726.8 million compared to P49, 488.5 million registered during the previous quarter. This represents a quarterly increase of 2.5 percent in nominal terms between the two periods. During the quarter under review, Trade, Hotels & Restaurants remained the major contributor to GDP by 19.5 percent, followed by Mining & Quarrying, General Government and Finance &

Business services at 15.5, 14.9 and 14.8 percent respectively. The contribution of other sectors was below 7.0 percent with Water & Electricity being the lowest at 0.8 percent. Real Gross Domestic Product for the first quarter of 2020 increased by 2.6 percent. The increase was attributed to the significant growth in real value added of Water & Electricity, Finance & Business Services and Trade, Hotels & Restaurants industries by 13.4, 6.2 and 4.4 percent respectively.

ECONOMIC OVERVIEW

- Botswana has historically enjoyed strong and stable growth since independence, with sizable fiscal buffers and prudent policies playing a key role in shielding the economy. More recently, however, the limitations of Botswana's diamond-led development model have become more apparent: growth is slower, inequality remains high and job creation is limited. At the same time, increased diamond market volatility—including growing competition from synthetic diamonds, reduced Southern African Customs Union transfers and fiscal expansion have resulted in eroded fiscal buffers.
- Botswana's economy faces an unprecedented challenge due to the COVID-19 (coronavirus) pandemic, only a year after weakening global demand for diamonds and severe droughts led to a slowdown in growth to 3 percent in 2019 (from 4.5% in 2018). The economy is expected to contract by at least 9.1% in 2020 as COVID-19's impact on global demand, travel restrictions and social distancing measures constrain output in key production and export sectors, including the diamond industry and tourism. Both external and fiscal pressures will become accentuated in 2020, with the overall deficit set to double (from 4% of GDP last year). Nevertheless, debt levels are set to likely remain below prudence levels.
- Developments in the global diamond industry will have a telling impact on the short-term recovery given Botswana's dependence on the commodity. Whilst a mild recovery is expected for 2021, the economic impact of COVID-19 is likely to be deep and long-lasting. The authorities' ability to advance on key reforms laid out in its 2020-2023 Economic Recovery and Transformation Plan will thus play a key role in

creating conditions for broad-based growth and thus improving Botswana's economic performance.

POVERTY RATE

- In 2015, poverty rate for Botswana was 14.5 %. Poverty rate of Botswana fell gradually from 40.9 % in 1985 to 14.5 % in 2015.

PRACTISING LAWYERS IN BOTSWANA

- There are about six hundred private practicing attorneys as of May 2023 and about two hundred employed by government and different parastatals.

SECTION 2- ABOUT LEGAL AID BOTSWANA

Brief Introduction

- Legal Aid Botswana is a corporate body, established by an Act of Parliament, the Legal Aid Act No: 18 of 2013. Following the successful piloting of the legal aid services project in Botswana from September 2011, the Government decided to establish it as a permanent independent public entity.
- Legal Aid Botswana obtains its mandate from the Legal Aid Act Chapter 16:02 as read with the Legal Aid Regulations S.I 11,2015 and the Legal Aid Botswana Guide of 2015. The mandate and objects of Legal Aid Botswana are succinctly captured in the Legal Aid Act CAP 16:02 at the Preamble and other provisions: An Act to provide for the establishment of Legal Aid Botswana for purpose of providing access to justice by indigent persons in Botswana'.
- The preamble is complimented by Section 4 and Section 5 (j) of the Act: Section 4 'The objectives of Legal Aid Botswana are to provide legal advice, legal representation and public education on legal matters to indigent persons.' Section 5 (j) '...Legal Aid Botswana shall conduct public awareness programmes to promote public understanding of the objectives, role and activities of Legal Aid Botswana and the public's legal rights'.

- **Other legislation impacting on delivery of legal aid:** The following laws generally give content to the requirement for the state to provide legal assistance to indigent persons.
- **FAMILY LAW** (Adoption of Children Act [Cap 28:01], Children’s Act [Cap 28:04] Affiliation Proceedings Act [Cap 28:02 Customary law Act [Cap 16:01], Customary Court Act [Cap 04:05], Births and Deaths Registration Act [Cap 30:01], Succession (Rights of the Surviving Spouse and Inheritance Family Provisions) [Cap 31:03], Penal code [Cap 08:01], Constitution of Botswana [Cap 00:01], Immigration Act [Cap 25:02], Matrimonial causes Act [29:06], Marriage Act [29:01].
- **LAND:** Tribal Land Act [Cap 32:02]) State Land Act 1966 [Cap 32:01],Acquisition Act [Cap 53:02], Tribal Territories Act [Cap 32:03], Land Control Act [32:11];
- **LABOUR:** Employment Act [Cap 47:01], Trade Dispute Act [Cap 48:02}, Industrial Court Rules,Children’s Act [Cap 28:04], Immigration Act [Cap 25:02];
- **CONTRACTS** (Companies Act [Cap 42:01], Prescription Act [Cap 13:01];
- **DAMAGES:** Rules of the High Court [Cap 04:02], Rules of the Magistrates’ Courts [Cap 04:04]State Proceedings (Civil Actions by or Against government or Public Officers) Act [Cap 10:01], d) Local Authority (Proceedings) Act [Cap 10:04]

Legal Aid Botswana provides legal services to indigent Batswana, on a wide variety of civil matters Including:

- Family Law (divorce, maintenance, custody and domestic violence);
- Industrial/labour law matters;
- Land- including proceedings before the Land Boards and Land Tribunal;

- Contract-Instituting and defending claims relating to contractual payments and contractual performance/delivery;
- Delictual/damages claims, for example, for personal injury or damages to property;
- Wills and Estates- both the drawing of wills and the administration of estates.
- Legal Aid Botswana does also take on a number of criminal appeals that prove to have prospects of success, and also criminal trials for offences committed by juvenile or minors.

At present, Legal Aid Botswana currently does not provide the following services:

- Criminal trials unless the person is a juvenile or an appeal matters;
- Money claims covered by Small Claims Court
- Customary Court representation
- Defamation, infringement of privacy, breach of promise to marry, adultery, seduction.
- Preliminary industrial mediation at Labour office.

Organisational Structure of Legal Aid Botswana

- The Legal Aid Board (the Board) was established under Section 6 of the Legal Act. It was officially launched in May 2015 with the primary objective of directing the affairs and operations of Legal Aid Botswana at a strategic level.
- In accordance with the Act, the mandate of the Board is to supervise and guide the financial and administrative management of the LAB. The Board does this through formulation of policies and guidelines as well as its strategic intent.
- In terms of Section 14(2) of the Act the Board and all committies sit quarterly as well as hold meetings where a matter required such special attention.
- The Board achieves this mandate through four sub committees, being the Legal Services Committee, HR & PR Committee, Finance and IT Committee

and the Audit and Risk Committee. The mandate is executed in the following manner;

- **Legal Services Committee**- maintains oversight of the core mandate of LSB, being legal advice, legal representation and public education services. Further it ensures that LAB remains lawful, sustainable and responsive to the needs of indigent citizens of Botswana and other qualifying applicants. It also ensures accountability and continuous improvement of services offered to its clients and fostering maintenance of productive relationships with the relevant stakeholders.
- **HR & PR Committee**- Ensuring that LAB has adequate and effective HR and PR functions, policies and strategies that meet statutory and regulatory requirements. It deals with matters including staff relations and development, equality and diversity and health and safety.
 - The implementation and review of policies such as general conditions of the structure and as position profiles.
 - Overseeing implementation of the Organisational structure and the subsequent restructuring of the structure as well as position profiles.
 - Management of the LAB as well as the review of the recruitment and selection procedures to ensure compliance with the best practices.
 - Reviewing strategies and programs for public education as well as review policies guidelines and programs for branding and visibility.
- **Finance and IT Committee**-ensures optimal use and other resources through the implementation and monitoring compliance with international financial standards as well as its own financial management systems and internal control structures.
 - Overseeing the effective and efficient planning, investment and operation and strategy of technology and information systems that support different LAB functions.

- **Audit and Risk Committee-** the mandate of the committee widely includes an oversight of corporate governance and management of risk.
 - Overseeing stakeholder reporting as well as internal audit to ensure financial reporting according to international financial reporting standards.
 - Managing the continued review of internal financial controls.

Who Qualifies?

- Only citizens of Botswana, permanent residents and recognised refugees, who cannot afford a lawyer, qualify for legal aid. However, their case must have reasonable chance of winning and they cannot refuse a reasonable settlement.
- One needs to go to one of the Legal Aid Botswana offices. A means test is conducted for each applicant for Legal Aid Botswana to verify that one cannot afford a lawyer and would thus be accorded legal aid.
- The Chief Executive Officer has the discretion to grant legal aid to persons who are otherwise excluded by the cited requirements.

Who offers the legal services?

- Legal services are provided by legal aid Paralegal personnel, in house attorneys, and private attorneys under the judicature program.
- The Legal Services Department has forty seven(47) professional and technical personnel.
- Of the above, only thirty-four are Attorneys who are responsible for providing legal services from five service centres across Botswana, in Gaborone, Francistown, Kasane, Maun and Kasane.
- **LAB VISION;** Equal Access To Justice, **LAB MISSION;** Taking Quality Legal Services to the Poor Through Education, Advice and Representation, **LAB CORE VALUES** Passion

for Justice, Innovation, Accountability & Good Governance, Service Excellence, Empathy.

Operational Performance Analysis 2021- 2022

- According to the legal Aid Report for 2021- 2022 the organisation's overall performance rating on the delivery of the strategic plan was 79.51% against a target of 85%. A good portion of this strong performance comprised the delivery of the organisation's core mandate of legal representation, legal advice, and public awareness as well as public education of the indigent on basic legal rights and obligations.
- Against a target of 903, 395 people, the organisation was able to reach over 1, 909, 744 people in respect of public awareness and legal education endeavours. Over 1675 new cases were registered and 1003 completed, with 68% of these completed matters being in favour of LAB clients against a target of 85%. Another 1400 people were given legal advice. By no small measure the focus was also on people and in embedding a performance management culture. The average performance rating for the year was therefore 92.4% against a target of 90%, which resulted in a performance reward small cash payment.
- An area of special focus was resourcing of the organization as best as we could in the face of diminishing Government funding. Through budget management, implementation of cost saving measures and guarding against wastage, the organisation was able to do with the level of budget of P45, 723, 030, the budget for the P44, 723,030 (2% less than prior year budget). By the end of the reporting year, the organisation had achieved a budget utilisation of 99% against a strategic target of 98%.

Operational Performance Analysis 2020- 2021

- According to the Legal Aid Report for 2020- 2021, In the financial year 2020/21, a total number of clients who visited LAB Centres nationwide was 2,844 (two thousand

Eight hundred and forty-four) representing an 18% decline compared to the financial year 2019/2020. This was attributable to business and movement disruptions associated with the Covid-19 pandemic. Legal advice was rendered to 1,300 (one thousand three hundred) clients this year with various socio-eco-legal issues, primarily in civil law with specific reference to family law.

- A total number of 1,544 (one thousand five hundred and forty-four) cases were registered nationwide. While the total case load for the financial year was 2,703 (two thousand seven hundred and three) as 1,249 (one thousand two hundred and forty-nine) cases were brought forward from preceding years. The case load from preceding years constituted 46% of the total case load. The total number of completed cases is 924 (nine hundred and twenty-four) representing a 30% completion rate against the total case load. This low performance is because of Covid-19 effect on service delivery.
- These cases involve family issues (divorce, domestic violence, custody, change of name, maintenance, deserted wives, and children) remained high in numbers representing 54% of the total registered matters. Gender based violence became a focus for the organisation this year to ensure adequate response to issues in collaboration with stakeholders who deal with similar cases. This was because of the notable spike in reported cases.
- Complimentary to the normal litigation processes above, in a bid to mitigate the slowed down court services as impacted by Covid-19, as well as to minimise dispute resolution time, the organisation employed alternative dispute resolution (ADR) mechanisms or methods to bring resolution or closure of cases registered outside the court processes. To this end, 485 cases out of the completed 924 cases above, were settled using these methods.
- National Development Plan 11 article 8.126 as espoused by the LAB Corporate Strategy 2019-2024, speaks to the gradual expansion of Legal Aid Botswana to areas where its target group, the indigent, are mostly likely to reside. LAB

therefore delivered the Palapye Centre development project during the reporting period, which commenced operations on the 1st April, 2021. This new Centre was allocated a development budget of BWP 9 million by the Government of the Republic of Botswana. This is indicative of the Government's continued resolve to ensure equal access to justice by Botswana. LAB embarked upon a publicity campaign to ensure awareness of this new Centre and immediate access of our services by the people of the vast Central District, where the Centre is located. This development brought the number of our service Centres countrywide to six, adding to the existing five, being: Gaborone, Francistown, Maun, Kasane, and Tsabong.

HOW THE SCOURGE OF COVID 19 IMPACTED SERVICE DELIVERY OF THE LEGAL AID IN 2020

- The year was characterised by both the Administration of Justice and LAB having to adapt to working under the continued shadow of Covid-19. Among other interventions, this took the form of adopting the concept of working from home, in shifts, to ensure business continuity while minimising the risk of infection of our staff and clients. A client appointment booking system was also activated to decrease and manage client traffic at the offices.
- This required that LAB lean on information technology to reach our clients and make sure that staff seamlessly work from home as well as at the office. Only four of LAB employees were infected and recovered during the year under review and LAB did not lose any lives to Covid-19.
- Nonetheless, Covid-19 rendered stultification to processes toward LAB client assistance and the Administration of Justice, adversely affecting legal services delivery as will be evidenced by the subdued numbers of the intake of new matters as well as the finalisation of matters.

COMPARATIVE ANALYSIS

YEAR	NUMBER FINALISED	NUMBER FINALISED USING ADR	TARGET	ACTUAL
2020/2021	924	485	50 %	51 %
2021/22	1003	281	50 %	28 %

Budget and Spending

- Legal Aid is directly financed by the Government through its subvention. The subvention is used for employee costs, lease expenses and other operating expenses. The legal Aid is audited annually and presents its financials in a legal report that is published annually.

Public legal Education

- Legal Aid is legislatively mandated to provide public education on legal rights and corresponding obligations as well as ensuring public awareness on the awareness on the role, objectives and activities of the organisation. It does this through this its legal education and publicity program and strategy. It is estimated that for the year 2019/2020 over 112 729 people were directly reached through Kgotla meetings, Facebook, and other for. Approximately 600 000 and 700 000 people heard about Legal Aid on Duma FM(Private radio) and Botswana television respectively.

Alternative Sources of Legal Services

- Outsourced Legal services involves legal representation of legal aid clients by attorneys in the private practice as facilitated through a partnership between Legal Aid and the Law society of Botswana. As at 31 March 2020, a total of one thousand four hundred and thirty(1430) cases were outsourced. Only fifteen (15) matters were finalised in the same period. Matters have been outsourced to several law firms through the law society's assistance. In the reporting period, forty three (43) private practitioners received instructions to represent legal aid Clients.

Holistic Legal Services and Quality Assurance

- Corporate Services Department plans, lead, direct, control and consolidate the implementation of effective and efficient operational support services including

finance, Human Resources, and Facilities & administration to support Legal Aid's mandate and enhance sustainability and maximise customer satisfaction

How does Legal Aid achieve Target 16.3: Promote the rule of law at the national and international levels and ensure equal access to justice for all

- It provides rigorous campaigns and lectures on the promotion of rule of law across the country at national level

NATIONAL REPORT: BRAZIL

NATIONAL REPORT: BRAZIL

Diogo Esteves
Cleber Alves
André Castro

1. Country details

The Brazilian Constitution of 1988 adopted the federalist system, ensuring political decentralization. The Brazilian Federal State is composed of the Union (central government), states (regional power), municipalities (local power) and the federal district (capital of the country, bringing together the local and regional attributes). Therefore, besides the typical level of “state governments” and “federal government” (as in the USA), municipalities are also considered part of the federation.

Currently, Brazil has 5,570 municipalities and 26 states (Acre, Alagoas, Amapá, Amazonas, Bahia, Ceará, Espírito Santo, Goiás, Maranhão, Mato Grosso, Mato Grosso do Sul, Minas Gerais, Pará, Paraíba, Paraná, Pernambuco, Piauí, Rio de Janeiro, Rio Grande do Norte, Rio Grande do Sul, Rondônia, Roraima, Santa Catarina, São Paulo, Sergipe and Tocantins). Moreover, Brasilia is the federal capital (federal district).

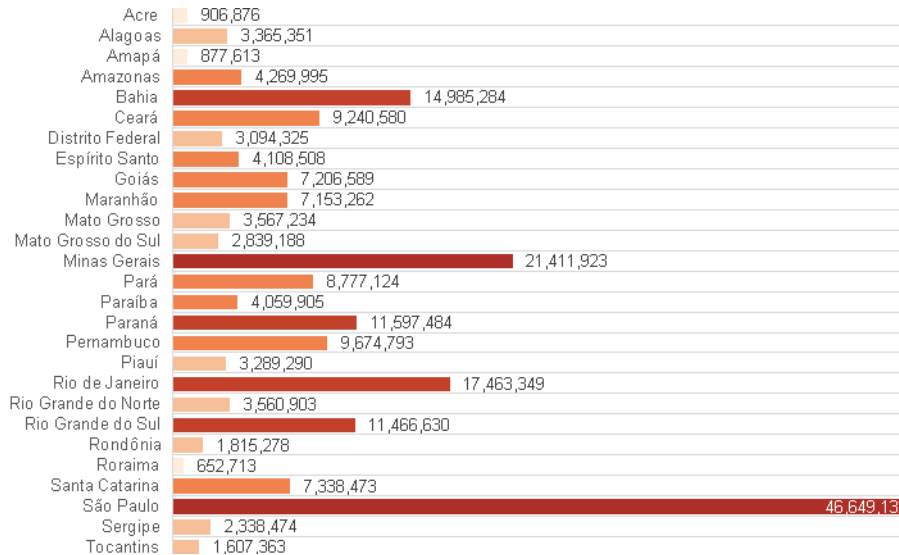
Map 1 - Brazilian states and federal district



Source: Prepared by the authors based on IBGE, 2021.

According to official projections of the Brazilian Institute of Geography and Statistics (*Instituto Brasileiro de Geografia e Estatística – IBGE*), the population of Brazil is about 213,317,639 people; With a territorial surface of 8,510,345 km², the country has a population density of 25.1 inhabitants/km².

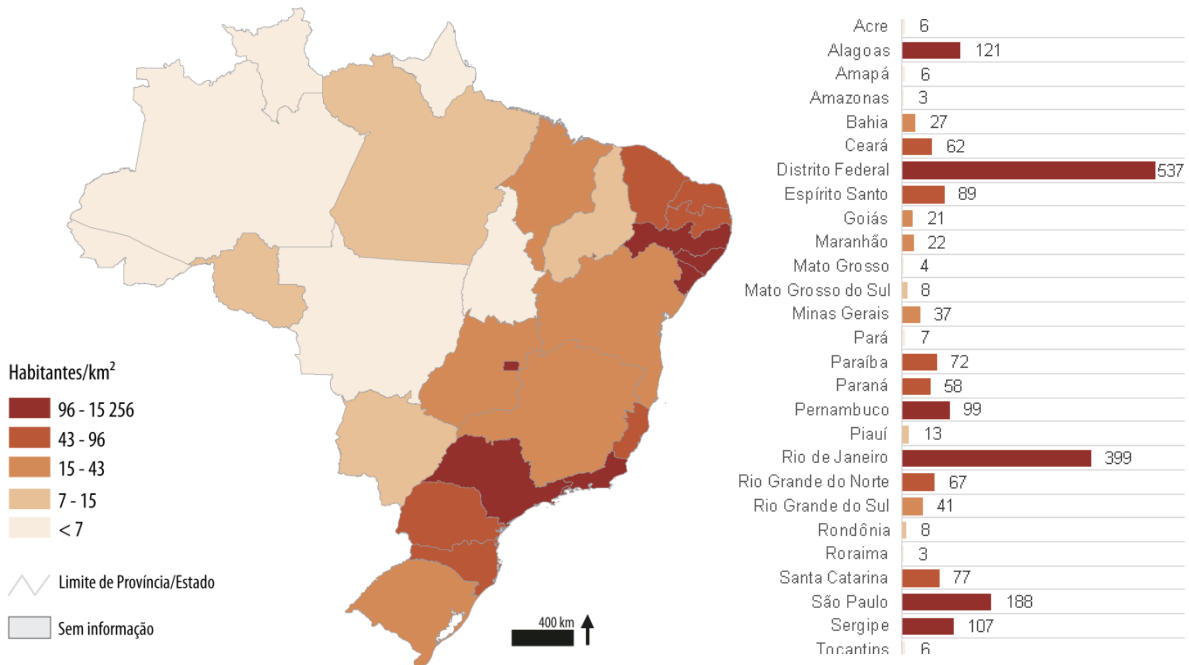
Graph 1 - Projected population of Brazil by State and Federal District



Source: Prepared by the authors based on IBGE, 2021.

As the demographic map below indicates, there is a greater population concentration in the Federal District (537 inhabitants/km²) and in the states of Rio de Janeiro (399 inhabitants/km²) and São Paulo (188 inhabitants/km²).

Map 2 - Demographic density of Brazil by State and Federal District



Source: Prepared by the authors based on IBGE, 2021.

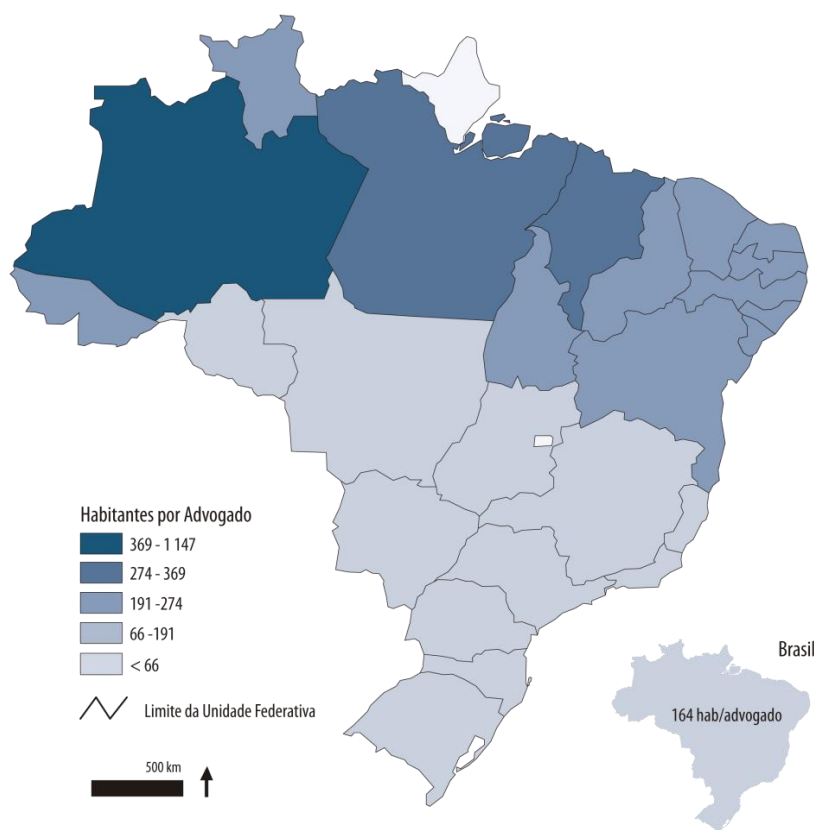
The economy of Brazil is historically the largest in Latin America and the Southern Hemisphere in nominal terms. In 2022, according to International Monetary Fund, Brazilian nominal GDP was US\$1.894 trillion, which represents the 10th largest gross domestic product (GDP) in the world.

The Human Development Index (HDI) of Brazil grew 23.6% between 1990 and 2021, going from 0.610 to 0.754. However, Brazil still occupies the 87th position in the human development ranking of the United Nations, which analyzes 191 countries and territories¹.

The proportion of the poor in Brazil is significantly larger than in any developed country, and our poverty is more immediate and pressing. Many live at the margin of subsistence and cannot afford legal services, whatever the market price. **The current estimate indicates that 88.0% of the total population is eligible for legal aid services, representing 187,656,564 people².**

Currently, Brazil has 1,300,717 active lawyers, according to the Brazilian Federal Bar Association (*Ordem dos Advogados do Brasil – OAB*)³, representing approximately 164 inhabitants per lawyer.

Map 3 - Inhabitants per lawyer in Brazil by State and Federal District



Source: Prepared by the authors based on OAB, 2022.

However, the ample provision of lawyers in the country is not enough to make access to justice a reality. After all, the high levels of poverty make the vast majority of the Brazilian population unable to pay for legal services, regardless of the market price.

2. Legal Aid Organisation

Following the traditional division of powers conferred by Montesquieu, the Brazilian Constitution of 1988 disciplined the organization of State functions (Title IV -

¹ UNITED NATIONS DEVELOPMENT PROGRAMME. **Statistical update:** Human Development Indices and indicators: Brazil. [New York]: UNDP, [2022]. Available at: <https://hdr.undp.org/data-center/specific-country-data#/countries/BRA>.

² ESTEVES, Diogo *et al.* **Pesquisa Nacional da Defensoria Pública 2022.** Brasília: DPU, 2022. Available at: <https://pesquisanacionaldefensoria.com.br/download/pesquisa-nacional-da-defensoria-publica-2022-eBook.pdf>.

³ ORDEM DOS ADVOGADOS DO BRASIL. **Quadro da Advocacia.** Available at: <https://www.oab.org.br/institucionalconselhofederal/quadroadvogados>.

“Organization of Powers”), dividing them between the Legislative Branch (Chapter I), the Executive Branch (Chapter II) and the Judiciary (Chapter III). Along with these three elementary State Powers, and within the same Title IV, the Brazilian Constitution of 1988 established a fourth organic complex, entitled “Essential Functions to Justice” (Chapter IV), comprising the Public Prosecutor’s Office, the Public Defender’s Office, the lawyers.

Therefore, the Brazilian Constitution of 1988 went a little beyond the traditional State Powers division, and created a fourth organic complex, which performs a fourth political function (alongside the legislative, executive and judicial functions): the justice provision function⁴.

In the Brazilian Constitutional System, the Public Defender’s Office is not connected to the others State Powers at all, not being under subordinated to the to the Executive Branch, the Legislative Branch or the Judiciary⁵. As a natural consequence of this non-entailment, the Brazilian Constitution attribute to the Public Defender’s Office functional, administrative and financial autonomy (Article 134, §§ 2 and 3 of the Brazilian Constitution of 1988), as well as ensuring the initiative to forward to the legislative branch proposals of laws for organization and operation of the Public Defender’s Office.

Functional autonomy guarantees to the Public Defender’s Office full freedom of action, being subject only to the limits imposed by the Constitution, by the law and by the conscience of its members. Due to its functional autonomy, the Public Defender’s Office is protected against any external interference, guaranteeing complete freedom to exercise the defense of the rights of economically or socially vulnerable people, including litigating against the Public Power itself.

In addition, administrative autonomy allows the Public Defender’s Office to independently practice administrative acts (such as: acquiring assets and contracting services, establishing the territorial distribution of points of service to the population, making the payment of the Public Defenders and support staff; draw up their internal rules). Thus, administrative autonomy prevents the Public Defender’s Office from being linked to any other state structure.

Finally, financial autonomy allows the Public Defender’s Office to prepare its own budget proposal, within the limits established by the applicable legislation. By doing that, the Public Defender’s Office can delimit, within its own structure, the necessary resources to meet its expenses. This system creates a safeguard for the Public Defender’s Office, preventing the government from using budget cuts in retaliation against the actions of Public Defenders.

Recently, the Supreme Court of Brazil recognized that the Public Defender’s Office is part of a fourth organic complex, constitutionally separated from the other State functions, and, consequently, has full constitutional autonomy to perform its legal aid activities:

“With the promulgation of the Federal Constitution of 1988, the so-called Justice essential functions were established, alongside the traditional Powers of the Republic, and right after the chapter reserved for the Judiciary.

Thus, Title IV of the Federal Constitution establishes the Organization of State Powers: its Chapter I deals with the Legislative Branch; Chapter II deals with Executive Branch; Chapter III deals with the

⁴ ESTEVES, Diogo. SILVA, Franklyn Roger Alves. *Princípios Institucionais da Defensoria Pública*, Rio de Janeiro: Editora Forense, 2018.

⁵ Ibid.

Judiciary; and Chapter IV, deals with the so-called Justice Essential Functions.

It can be seen, then, that, by provision of the Constitution, the Public Prosecutor's Office, the lawyers and the Public Defender's Office are institutions that do not integrate the structure of any of the three traditional Powers of the State. As Justice essential functions, they are separated from the Legislative, Executive, and Judiciary. They form, in fact, an organic complex of Constitutional Institutions or Primary Institutions of the Democratic State of Law.

Diogo Esteves and Franklyn Silva, in the book entitled 'Princípios Institucionais da Defensoria Pública', outline important considerations about the distinct position of the essential functions of Justice."⁶

Considering that Brazil adopts the federalist system, each state and the Federal District has its own Public Defender's Office.

The Federal Public Defender's Office (*Defensoria Pública da União*) is responsible for acting before the Federal Courts, the Labor Courts, the Electoral Courts, the Military Courts, the High Courts, and the administrative bodies of the Federal Government. The Public Defender's Office of the Federal District (*Defensoria Pública do Distrito Federal*) acts before the Courts of the Federal District (in all levels of jurisdiction) and the administrative instances of the Federal District. Finally, the Public Defender's Offices of the states (*Defensoria Pública dos Estados*) act before the States Courts (in all the levels of jurisdiction) and the states administrative instances.

Image 1 - Name and logo of each Public Defender's Office in Brazil

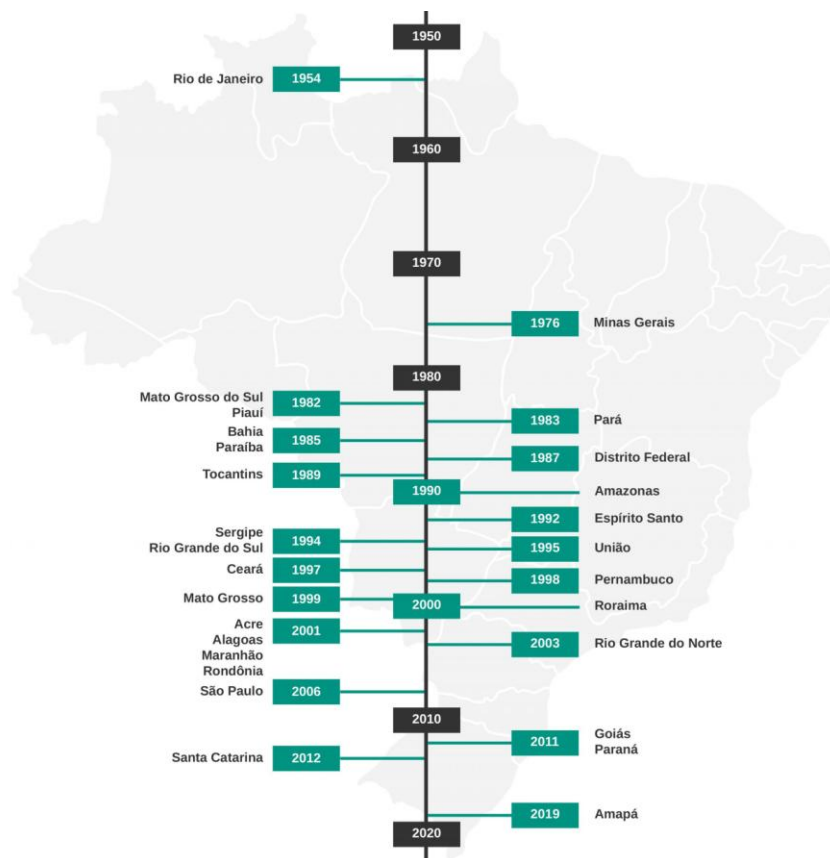


Source: ESTEVES, Diogo *et al.* Pesquisa Nacional da Defensoria Pública 2022. Brasília: DPU, 2022.

Each Public Defender's Office was created at a different historical moment. The oldest is the Public Defender's Office of the State of Rio de Janeiro, created in 1954.

⁶ Supreme Court of Brazil - ADI N. 5296 MC/DF - Minister Dias Toffoli, decision: 18-05-2016.

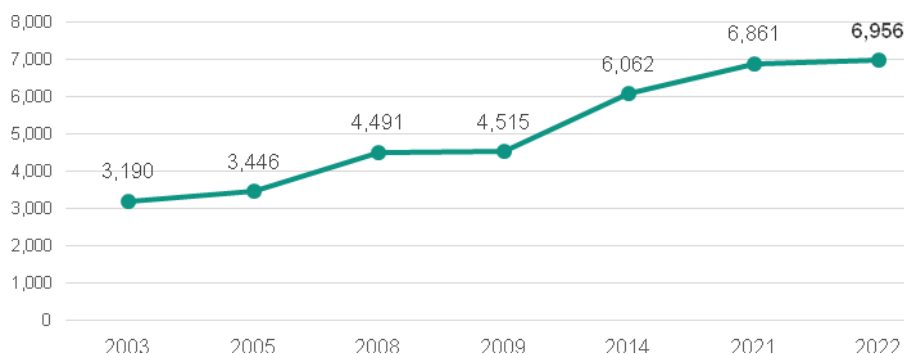
Image 2 - Historical line of creation of the Public Defender's Office in Brazil



Source: ESTEVES, Diogo *et al.* Pesquisa Nacional da Defensoria Pública 2022. Brasília: DPU, 2022.

The number of Public Defenders in activity is growing at a regular pace: in 2003 there were 3,190 Public Defenders in Brazil. In 2023, this figure leaped to **6,956 Public Defenders** (corresponding to an increase of 118.1%).

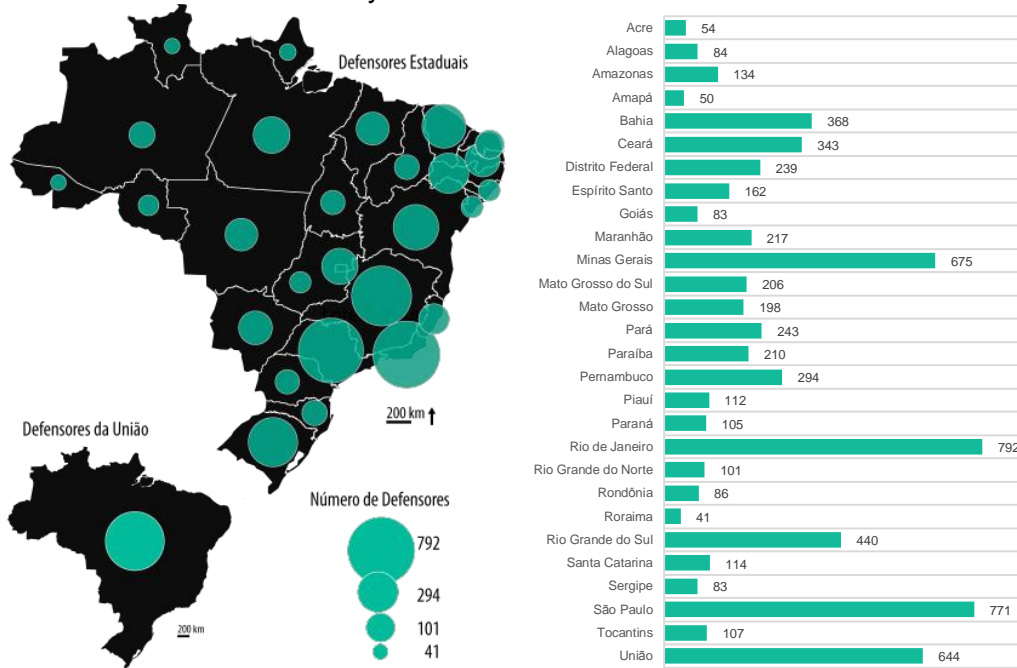
Graph 2 - Public Defenders in Brazil 2003-2022



Source: ESTEVES, Diogo *et al.* Pesquisa Nacional da Defensoria Pública 2022. Brasília: DPU, 2022.

The graph below indicates the distribution of Public Defenders by state and Federal District. The numbers indicate that the State of Rio de Janeiro has the highest number of Public Defenders in absolute numbers (792 PDs), followed by São Paulo (771 PDs) and Minas Gerais (675 PDs).

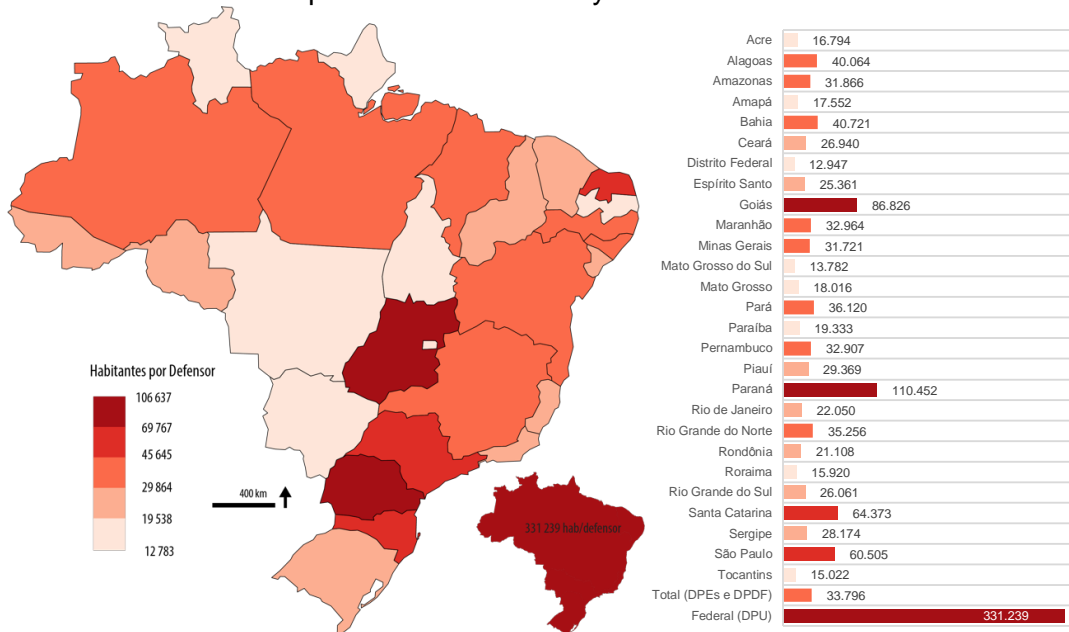
Map 4 - Public Defenders in Brazil by state and federal district



Source: ESTEVES, Diogo *et al.* Pesquisa Nacional da Defensoria Pública 2022. Brasília: DPU, 2022.

Considering the country's demography and the number of Public Defenders, the data reveal that, within the scope of the Public Defenders' Offices in the states and the federal district, Brazil has a ratio of 1 Public Defender for every 33,796 inhabitants. Analyzing the ratio between population and Public Defenders in the Federal Justice System, the lack of Public Defenders is even more worrying, with a ratio of 1 Federal Public Defender for every 331,239 inhabitants.

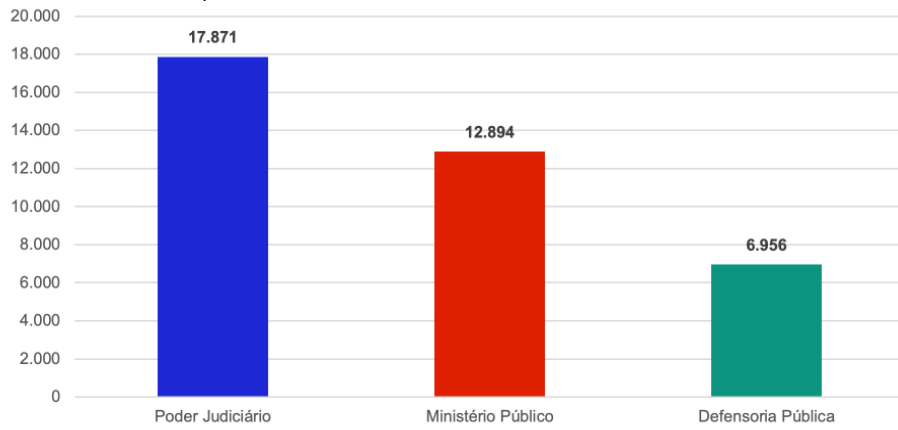
Map 5 - Ratio of inhabitants per Public Defender by state and federal district



Source: ESTEVES, Diogo *et al.* Pesquisa Nacional da Defensoria Pública 2022. Brasília: DPU, 2022.

Despite the growth presented by the Public Defender's Office over the last two decades, the comparative analysis reveals a significant difference between the number of members of the Public Defender's Office, the Public Prosecutor's Office and the Judiciary. Currently, the staff of Public Prosecutors is 85.4% larger than the staff of Public Defenders.

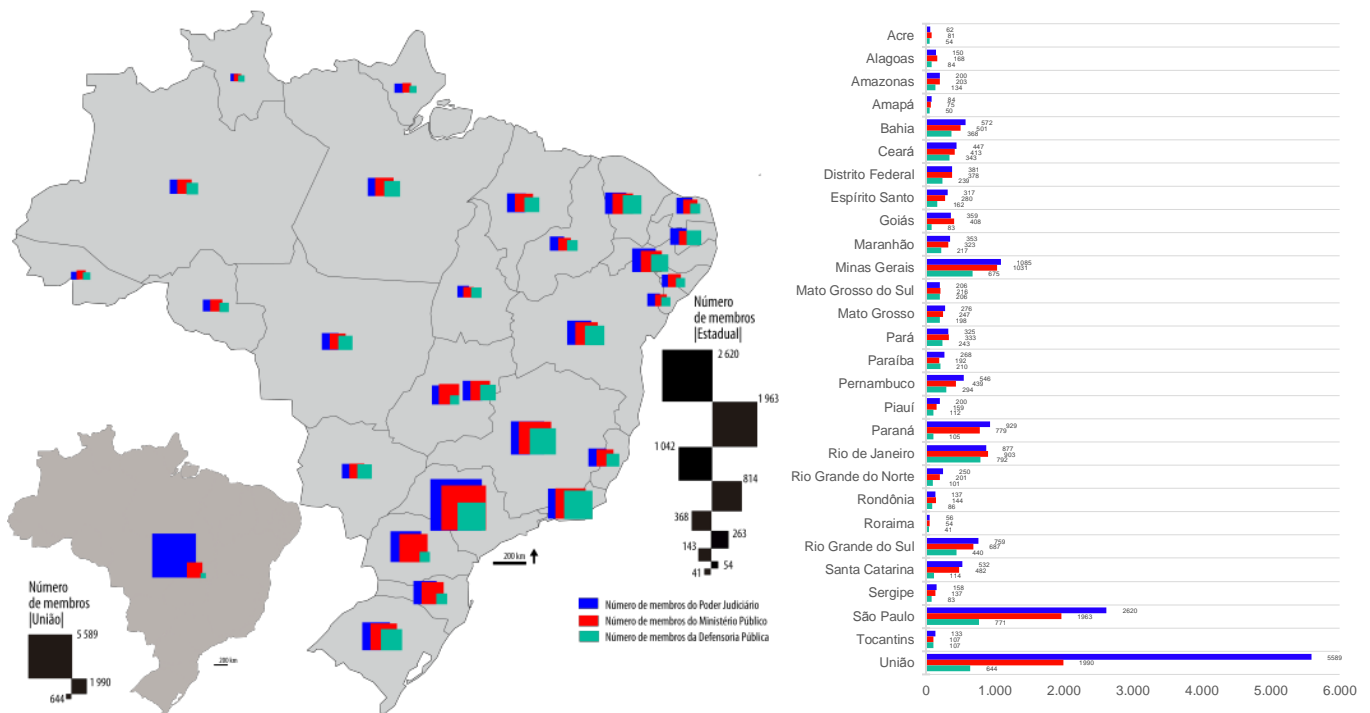
Graph 3 - Comparative analysis between the number of members of the Public Defender's Office (*Defensoria Pública*), the Public Prosecutor's Office (*Ministério Público*) and the Judiciary (*Poder Judiciário*)



Source: ESTEVES, Diogo *et al.* Pesquisa Nacional da Defensoria Pública 2022. Brasília: DPU, 2022.

Likewise, the comparative analysis between the number of members number of members of the Public Defender's Office, the Public Prosecutor's Office and the Judiciary by state reveals that the iniquity between the institutions that make up the Brazilian Justice System exists throughout the country, to a greater or lesser extent.

Map 6 - Comparative analysis between the number of members of the Public Defender's Office (*Defensoria Pública*), the Public Prosecutor's Office (*Ministério Público*) and the Judiciary (*Poder Judiciário*) by state and federal district



Source: ESTEVES, Diogo *et al.* Pesquisa Nacional da Defensoria Pública 2022. Brasília: DPU, 2022.

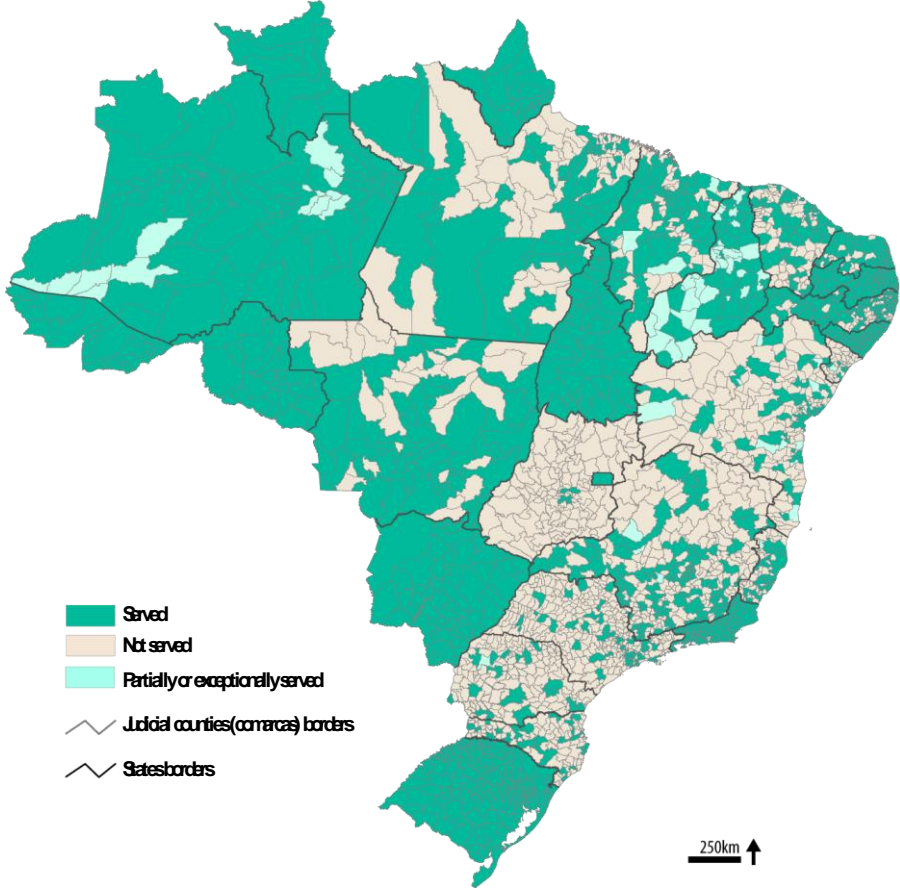
So, although the Brazilian Public Defender's Office has a very extensive and somewhat advanced normative basis, reality shows that its practical implementation is still far from satisfactory.

Currently, the Brazilian territory has 2,598 judicial counties (*comarcas*). Given the insufficient number of Public Defenders, only 1,231 *comarcas* are regularly served by the Public Defender's Office, representing 47.4% of the total. Due to the institutional effort to guarantee access to justice for all, another 69 *comarcas* are

partially or exceptionally served by the Public Defender's Office, representing 2.7% of the total number.

Despite the efforts made by Public Defenders across the country, currently 1,298 *comarcas* are still not served by the Public Defender's Office, representing 50% of the total. Within this amount, in 276 *comarcas* (10.6%) the legal assistance service is provided by private lawyers, through a provisional agreement with the Public Defender's Office.

Map 7 - Judicial counties (*comarcas*) served by the Public Defender's Office



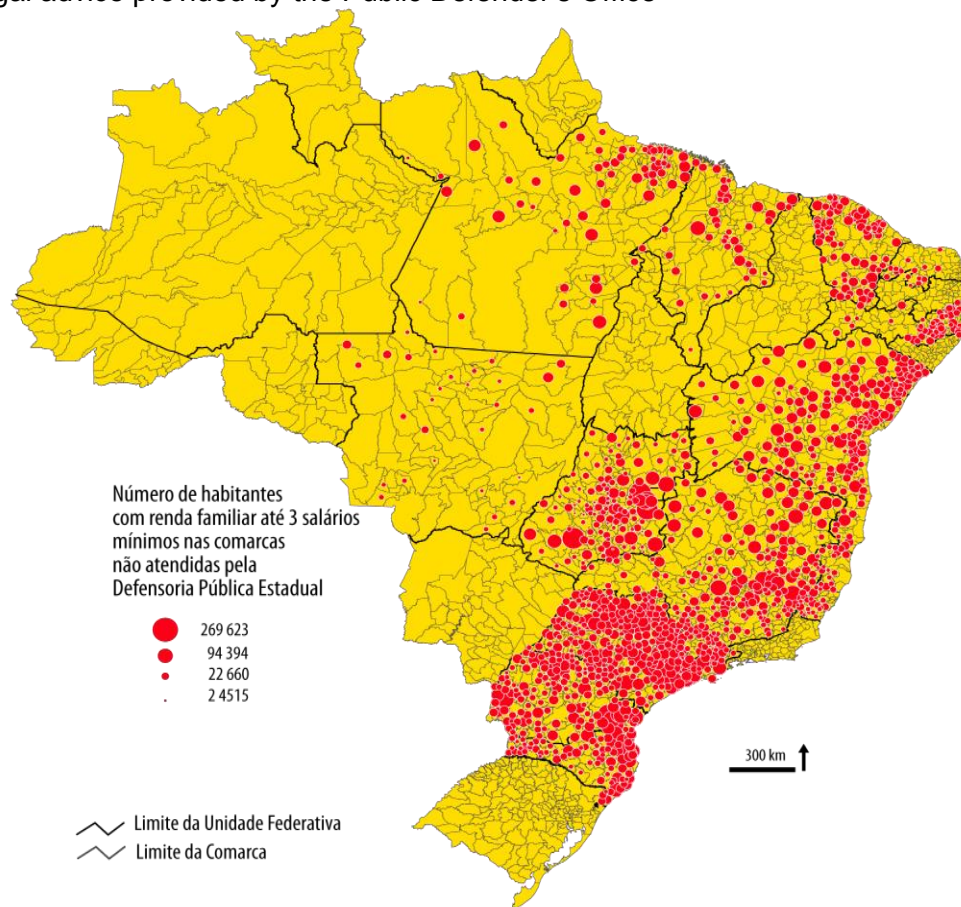
Source: ESTEVES, Diogo et al. Pesquisa Nacional da Defensoria Pública 2022. Brasília: DPU, 2022.

Considering Brazil's population projection calculated for 2022, currently 160,338,814 inhabitants have potential access to legal aid and legal advice services provided by the Public Defender's Office, representing 75.2% of the country's population.

However, the most relevant data for planning strategic actions to overcome the challenge of access to justice is precisely on the opposite side of the equation. Currently, 52,978,825 inhabitants do not have access to the legal aid or legal advice services provided by the Public Defender's Office. Within the number indicated, 48,467,198 are economically vulnerable inhabitants with a family income of less than 3 minimum wages (USD 762.24), who potentially cannot afford to hire a private lawyer. Therefore, considering that the formal recognition of rights by the legal system does not directly imply their practical effectiveness, at least 24.8% of the Brazilian population is potentially prevented from claiming their own rights through the Public Defender's Office. In such cases, if a Public Defender is not available it is mandatory that the court appoints provisionally a *pro bono* lawyer to represent the citizen because, as is typical in most civil law countries, normally the citizen has no

right to “litigate-in-person” (appear personally in court, without counsel) and so must be represented by a lawyer.

Map 8 - Population with family income of less than 3 minimum wages without access to legal aid or legal advice provided by the Public Defender’s Office



Source: ESTEVES, Diogo *et al.* Pesquisa Nacional da Defensoria Pública 2022. Brasília: DPU, 2022.

Seeking to end this disparity, in June 2014 the Brazilian Parliament approved a new constitutional amendment legislating that within eight years each judicial county (*comarca*) should have at least one Public Defender; the constitutional amendment also stipulates that the number of Public Defenders should be proportional to the effective demand for legal aid services and to the population that is eligible for legal aid in a given area. However, the eight-year term expired last year, and the constitutional rule has not yet been fulfilled.

3. Budget and Spend

Annually, the Public Defender’s Office prepare its budget proposal, following the rules and limits imposed by Brazilian legislation. Afterwards, the proposal is sent to the Chief of Executive Branch, who consolidates all annual budget proposals from all State Functions and sends them to the Legislative Branch for review and voting.

It is important to note that the Chief of the Executive Branch cannot modify the budget proposal formulated by the Public Defender’s Office, and it is only up to him to forward the proposal to the Legislative Branch. According to the Supreme Court of Brazil (*Supremo Tribunal Federal - STF*), “the Chief of the Executive Branch is not allowed to reduce the budget proposal of the Public Defender’s Office when it is compatible with national legislation. All measures that result in the subordination of

the Public Defender's Office to the Executive Branch must be considered unconstitutional, since they imply in violation of its functional, administrative and financial autonomy⁷. Therefore, any cuts in the budget can only be made during the annual budget vote at the parliamentary level, in the exercise of activities that are exclusively for the Legislative Branch.

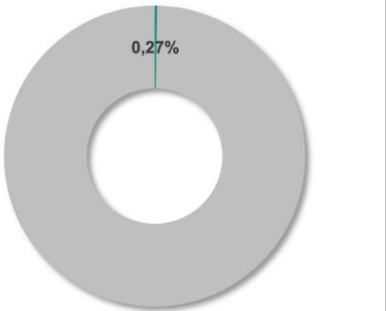
After forwarding the budget proposal to the Legislative Branch, parliamentarians conduct the analysis and voting of all proposals, editing the Annual Budget Law – which contains the government's annual collection estimate and how resources shall be distributed.

Following the guidelines of the Annual Budget Law, every month the Executive Branch (responsible for collection of taxes) must pass on to the Legislative Branch, the Judiciary, the Public Prosecutor's Office, and the Public Defender's Office, the equivalent of 1/12 of the yearly budget.

In 2022, the budget of the Brazilian Public Defender's Office totalled BRL 7,152,309,527.00, equivalent to **USD 1,375,725,281.00**. Thus, Brazil has a per capita expenditure on the Public Defender's Office of BRL 33.53, equivalent to USD 6.44.

The entire budget approved for the Public Defender's Office in the year 2022 corresponds to only 0.27% of the total fiscal budget. In practice, the calculation reveals that for every USD 100.00 (one hundred dollars) of the fiscal budget, only USD 0.27 (twenty-seven cents) are allocated to the Public Defender's Office.

Graph 4 - Percentage of the total fiscal budget spent on the Public Defender's Office

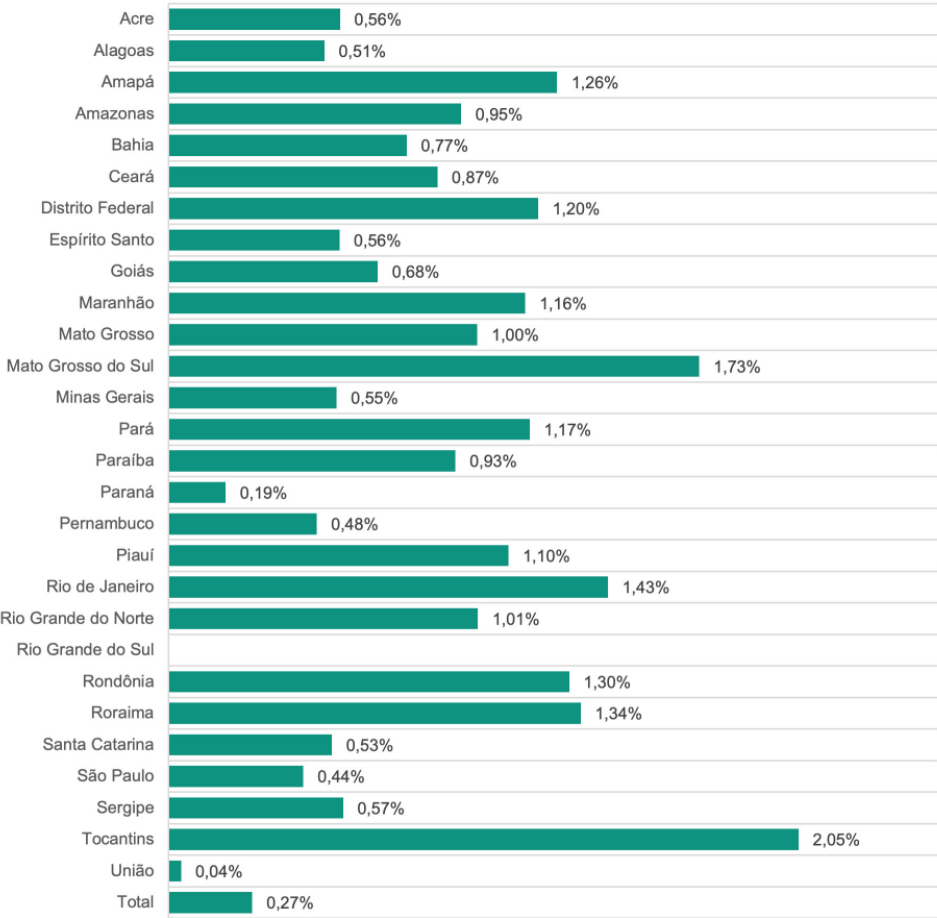


Source: ESTEVES, Diogo *et al.* Pesquisa Nacional da Defensoria Pública 2022. Brasília: DPU, 2022.

The chart below shows the percentage of the total fiscal budget spent on the Public Defender's Office by state and federal district, individualizing the budget situation of each Public Defender's Office in Brazil.

⁷ Supreme Court of Brazil - ADPF N. 307 MC/DF – Minister Dias Toffoli, decision: 19-12-2013.

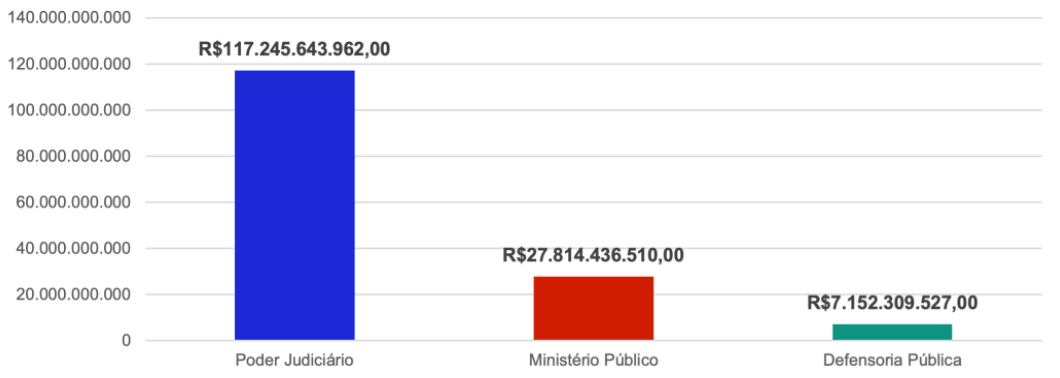
Graph 5 - Percentage of the total fiscal budget spent on the Public Defender's Office by state and federal district



Source: ESTEVES, Diogo *et al.* Pesquisa Nacional da Defensoria Pública 2022. Brasília: DPU, 2022.

A comparative analysis between the Public Defender's Office, the Public Prosecutor's Office and the Judiciary reveals the imbalance between the financial framework of the institutions that make up the Brazilian Justice System. In 2022, the amounts allocated to the Public Defender's Office were 288.9% less than the budget of the Public Prosecutor's Office and 1,539.3% less than the budget of the Judiciary.

Graph 6 - Comparative analysis between the budget of the Public Defender's Office (*Defensoria Pública*), the Public Prosecutor's Office (*Ministério Público*) and the Judiciary (*Poder Judiciário*)



Source: ESTEVES, Diogo *et al.* Pesquisa Nacional da Defensoria Pública 2022. Brasília: DPU, 2022.

4. Scope, Caseload and Eligibility

The Brazilian Constitution of 1988 establishes that “the State shall provide full and free legal aid to those who prove insufficient resources” (Article 5, LXXIV)⁸.

The expression “full and free legal aid” has broad connotations, covering all and any legal services. Therefore, the Brazilian Constitution ensures legal aid and legal advice for all types of civil and criminal cases.

Recently, the Supreme Court of Brazil (*Supremo Tribunal Federal – STF*) expressly acknowledged that “it is the constitutional duty of the State to offer free legal aid to those who do not have the means to hire lawyers, and the Public Defender’s Office was elected, by the Constitution, as the only State organ predestined to the ordinary exercise of this competence”⁹. In addition, the Supreme Court of Brazil has already ruled that “any governmental omission to create and maintain the Public Defender’s Office constitutes a severe attack on the dignity of the human being and serious disrespect for the Constitution”¹⁰.

In Brazil, each Public Defender's Office has normative autonomy to define its eligibility parameters. In general terms, the economic eligibility criteria for civil legal aid ranged from 1 (one) to 5 (five) minimum wages (from USD 254.08 to USD 1,270.38); most Brazilian states (16 states) adopt the parameter of 3 (three) minimum wages (USD 762.24) as the prevailing economic eligibility parameter.

Furthermore, 20 Brazilian states have eligibility parameters not linked to the economic criterion, providing legal aid and legal advice to people in situations of non-economic social vulnerability. The following groups are considered vulnerable, regardless of economic criteria: women victims of domestic or family violence; elderly; people with physical or mental disabilities; indigenous populations and quilombolas; over-indebted consumers; victims of discrimination based on ethnicity, color, gender, origin, race, religion or sexual orientation; victims of torture, sexual abuse, human trafficking or other forms of serious human rights violations; persons deprived of liberty; migrants and refugees; homeless people; drug users; collectors of recyclable materials and workers in a situation of slavery.

In criminal cases, there are no eligibility parameters for legal aid services. If the accused does not hire a private lawyer, a Public Defender will automatically be appointed to promote his criminal defense.

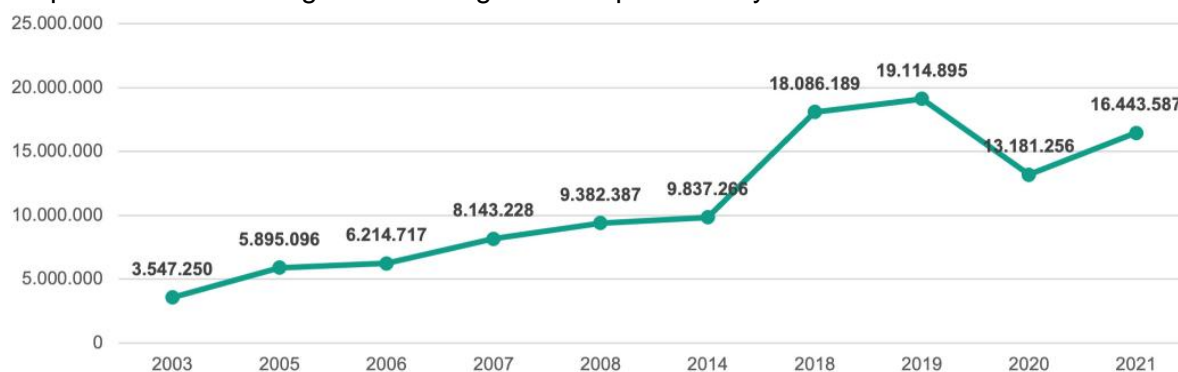
In 2019, the Public Defender's Office granted 19,522,126 legal aid and legal advice, representing an increase of 450.3% in relation to the number of services registered in 2003. In 2020, even in the face of the health measures adopted to contain the spread of the SARS-CoV-2 coronavirus, the Public Defender's Office granted 13,181,256 legal aid and legal advice to the vulnerable population. In 2021, there was an increase of 24.7% in relation to the amount indicated in the previous year, as a reflection of the gradual normalization of judicial activities.

⁸ Article 5, LXXIV of the Brazilian Constitution. Portuguese original version: “o Estado prestará assistência jurídica integral e gratuita aos que comprovarem insuficiência de recursos”.

⁹ Supreme Court of Brazil – ADI N. 4.270/SC – Minister Joaquim Barbosa, decision: 14-03-2012.

¹⁰ Supreme Court of Brazil – ADI N. 4.163/SP – Minister Cezar Peluso, decision: 29-02-2012.

Graph 7 - Number of legal aid and legal advice provided by the Public Defender's Office



Source: ESTEVES, Diogo *et al.* Pesquisa Nacional da Defensoria Pública 2022. Brasília: DPU, 2022.

5. Quality Assurance

The selection of the members of the Public Defender's Office in Brazil takes place through a rigorous public competition, in which the candidate is submitted to various tests of theoretical and practical knowledge. In addition, the academic and professional titles of the candidate are considered, in order to guarantee the selection of the best professionals.

Due to the high remuneration of the position, in comparison with the remuneration of the other professions in the market, the competitions for admission to the Public Defender's Office are extremely crowded, attracting the attention of a huge range of law professionals.

To guarantee the quality of services and constant dialogue with beneficiaries of legal aid, the Public Defender's Office has a special body called Ombudsman's Office (*Ouvidoria*). The Ombudsman's Office is an auxiliary body of the Public Defender's Office, responsible for promoting the quality of services provided to the population (Article 105-A of Complementary Law N. 80/1994). In 2021, the Ombudsman's Office provided 64,961 calls throughout the country.

In addition, the conduct of Public Defenders is supervised by the General Internal Affairs (*Corregedoria Geral*) of the Public Defender's Office. However, quality assurance mechanisms are still underdeveloped.

NATIONAL REPORT - CANADA

Country report - Canada

2023 ILAG Boston

Prepared by Legal Aid Ontario, with input from other Canadian Legal Aid programs

1. Country details: Canada

1.1 Population

Canada is the second largest country in the world for total area yet has a small population for its geographic size.

Canada's population was estimated at 39,566,248 on January 1, 2023, after a record population growth of 1,050,110 people from January 1, 2022, to January 1, 2023. This marks the first 12-month period in Canada's history where population grew by over 1 million people, and the highest annual population growth rate (+2.7%) on record since that seen for 1957 (+3.3%). This previous record population growth rate in 1957 was related to the high number of births during the post-war baby boom and the high immigration of refugees following the Hungarian Revolution of 1956.¹

In 2022, Canada's population growth rate was 2.7%. Canada is by far leading the G7 countries for population growth in 2022. International migration accounted for nearly all growth recorded (95.9%).¹

Table 1: Population estimates²

Geography	Persons - Q1 2023
Canada	39,566,248
Alberta	4,647,178
British Columbia	5,399,118
Manitoba	1,431,792
New Brunswick	825,474
Newfoundland and Labrador	531,948
Northwest Territories	45,493
Nova Scotia	1,037,782
Nunavut	40,692
Ontario	15,386,407

¹ Statistics Canada. Canada's population estimates: Record-high population growth in 2022.

<https://www150.statcan.gc.ca/n1/daily-quotidien/230322/dq230322f-eng.htm?indid=4098-1&indgeo=0>

² Statistics Canada. Population estimates, quarterly. Table: 17-10-0009-01.

<https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=1710000901>

Prince Edward Island	173,954
Quebec	8,787,554
Saskatchewan	1,214,618
Yukon	44,238

1.2 GDP

In 2022, the GDP of Canada was about C\$2.2 trillion. Real GDP edged down 0.1% in December 2022, following a 0.1% uptick in November. Goods-producing industries (-0.6%) declined, while service-producing industries (+0.0%) remained essentially unchanged.³

Despite decelerating growth in the second half of the year, GDP by industry expanded 3.6% in 2022. Economic activity exceeded its 2019 pre-pandemic level, as 19 of the 20 industrial sectors posted gains. Continued interest rate increases across 2022 impacted the activity level in certain areas of the economy as the year progressed.³

The public sector (educational services, health care and social assistance, and public administration combined) grew 3.0% in 2022 and contributed the most to the increase in services-producing industries, as all components posted gains.³

1.3 Canada's Official Poverty Line

The *Poverty Reduction Act* was adopted in June 2019. It set targets to reduce poverty in Canada and established the Market Basket Measure (MBM) as Canada's Official Poverty Line. The targets align with the United Nations Sustainable Development Goal of ending poverty, in all its forms, everywhere.⁴

The MBM considers the disposable income and size of Canadian families, as well as differing costs of shelter, food, clothing, footwear, transportation and other expenses for communities in Canada. According to the MBM, a family is considered to be in poverty if, given its size and region of residence, it does not have enough income to buy a set of goods and services considered to represent a modest, basic standard of living.⁴

The poverty rate in Canada was trending downward prior to the pandemic, falling from a peak of 14.5% in 2015 to 10.3% in 2019, according to survey data. The decline was driven by a combination of higher government transfers, including the Canada Child Benefit (CCB), and generally favourable labour market conditions. In 2019, the unemployment rate stood at 5.7%, its lowest level on record at the time.⁴

³ Statistics Canada. Gross domestic product by industry, December 2022. <https://www150.statcan.gc.ca/n1/daily-quotidien/230228/dq230228b-eng.htm>

⁴ Statistics Canada. Disaggregated trends in poverty from the 2021 Census of Population. <https://www12.statcan.gc.ca/census-recensement/2021/as-sa/98-200-X/2021009/98-200-X2021009-eng.cfm>

Table 2: Canada's Official Poverty Rate

Year	Rate (%)
2017	11.9
2018	11.2
2019	10.3
2020	6.4%
2021	8.1*
2022	11.8*

**Estimated/Modeled Poverty Rates*

1.4 Number of practising lawyers in Canada

Every lawyer in Canada and notary in Quebec is required by law to be a member of a law society and to be governed by its rules. Canada's 14 provincial and territorial law societies govern over 136,000 lawyers, Quebec's 4,200 notaries and Ontario's 10,600 independent paralegals in the public interest. Each law society is established by provincial and territorial law and has a mandate to ensure that people in its jurisdiction are served by legal professionals who meet high standards of competence and professional conduct.⁵

2. Legal Aid Organisation / Authority / Status

Canada does not have a single legal aid system, since the delivery and administration of legal aid is a provincial/territorial responsibility. Thus, there are 13 different legal aid programs across the country which operate independently of each other, with each program determining its own eligibility and coverage guidelines.

Eleven of the 13 jurisdictions have legislation which establishes their legal aid programs; only two do not: Alberta and Prince Edward Island (PEI). In Alberta, the legal aid program is provided through a publicly funded, non-profit organization. In 2018, a new tripartite governance agreement was signed with Legal Aid Alberta, the Minister of Justice and Solicitor General, and the Law Society of Alberta. In PEI, legal aid is run as a government program through the Department of Justice and Public Safety.

Of the 11 legal aid programs established by legislation, six are non-profit societies or corporations (B.C., Manitoba, Northwest Territories, Nunavut, Ontario, Yukon); four are independent commissions (Newfoundland-Labrador, Nova Scotia, Quebec, Saskatchewan); and one is a program of the Law Society (New Brunswick).

Each legal aid program operates independently of the other programs within Canada. The Association of Legal Aid Plans of Canada (ALAP) has been formed as an umbrella group representing each of the provincial and territorial legal aid programs and provides an

⁵ About Us. Federation of Law Societies of Canada. <https://flsc.ca/about-us/>

opportunity to share best practices in the delivery of legal aid services and consider access to justice issues together.

Under Canadian constitutional law, the federal government has authority to enact criminal law and law related to criminal procedure. The federal government is also responsible for immigration and refugee law. Provincial governments are granted authority for the administration of justice and have exclusive jurisdiction over civil law. In the territories, the federal government has constitutional authority over both criminal and civil law.

3. Budget and Spend

3.1 Legal Aid Plan Revenue

Canadian legal aid plans derive their funding from a variety of sources, including provincial and federal contributions. In all provinces, the largest proportion of legal aid revenue comes from the provincial governments.

While the federal government has no role in the delivery of legal aid services in Canada, it does provide funding to provinces and territories to support their legal aid plans. In the areas of criminal law and refugee and immigration law, funding is provided through the Department of Justice Legal Aid Program. Funding for civil legal aid is provided through the Canada Social Transfer (a federal block transfer to provinces and territories for social services, social assistance and post-secondary education), which is administered by the Department of Finance Canada.

Canadian legal aid plans also receive some revenue from additional sources such as contributions of the legal profession, investment income etc. For example, in Ontario a portion of funding is received from the Law Foundation of Ontario through interest earned on lawyers' trust fund balances, after the foundation deducts its expenses. These revenues are variable year to year and depend largely on the Bank of Canada overnight interest rate and real estate activity levels in the province.

Total revenues nationally for 2021-2022 were \$947 million. Provincial and territorial (P/T) governments directly fund legal aid. In 2021-22, provincial and territorial governments contributed more than \$671 million to legal aid plans across Canada, which amounts to 71% of total legal aid revenues.⁶ Federal contributions for criminal, and immigration and refugee totaled over \$195 million or 20% of all revenues. See table 3 for details.

⁶ Draft Preliminary Findings, Legal Aid in Canada, 2021-22, Research and Statistics Division and Legal Aid Directorate, Department of Justice Canada, 2023 at 3.

Table 3: Legal aid plan revenues by type of revenue, annual, 2021-22⁷

	Type of Revenue												
	Total legal aid plan revenues ¹ Dollars (%)		Federal contributions from 2021-22 agreements ²				P/T contributions to legal aid plans ⁴ Dollars (%)		Client contributions and cost recoveries to legal aid plans ⁵ Dollars (%)		Contributions of the legal profession and interest earned from lawyers' trust accounts ⁶ Dollars (%)		Other legal aid plan revenues
			Criminal (+civil in territories) Dollars (%)		I&R ³ Dollars (%)								
N.L.	17,012,731	100%	2,657,329	16%	12,493	0%	14,126,378	83%	84,883	0%	115,710	1%	15,938
P.E.I.	838,480	100%	422,931	50%			415,549	50%	-		-		-
N.S.	31,434,450	100%	4,526,053	14%	568,757	2%	26,270,300	84%	22,235	0%	0	0%	47,105
N.B.	11,861,436	100%	2,878,649	24%			7,637,323	64%	164,181	1%	200,000	2%	981,283
Que.	181,625,991	100%	28,896,196	16%	5,927,747	3%	142,751,257	79%	3,581,402	2%	0	0%	469,389
Ont.	433,761,280	100%	55,079,487	13%	36,880,073	9%	288,789,452	67%	7,385,030	2%	44,585,092	10%	1,042,146
Man.	35,968,698	100%	8,160,394	23%	206,669	1%	25,059,993	70%	956,681	3%	1,399,089	4%	185,872
Sask.	28,939,985	100%	7,631,716	26%			20,995,284	73%	5,520	0%	0	0%	307,465
Alta.	84,623,399	100%	16,924,955	20%	735,498	1%	55,636,742	66%	5,017,696	6%	5,432,198	6%	876,310
B.C.	113,947,175	100%	19,082,757	17%	3,840,000	3%	85,696,137	75%	0	0%	4,719,933	4%	608,348
Yuk.	-		-				-		-		-		-
N.W.T.	7,041,507	100%	2,324,789	33%			4,218,545	60%	-		-		498,173
Nvt.	-		-				-		-		-		-
Canada	947,055,132	100%	148,585,256	16%	47,602,480	5%	671,596,960	71%	17,217,628	2%	56,452,022	6%	5,032,029

3.2 Legal Aid Plan Expenditures

Overall, 49% of legal aid expenditures were related to criminal matters, 5% were related to Immigration and Refugee matters, and 46% were related to all other civil matters. Ontario and Quebec had the highest legal aid expenditures in the country, with 47% of all expenditures as a proportion of the national total from Ontario and 20% from Quebec.⁸

Three jurisdictions (Quebec, Ontario, and Prince Edward Island) spend more on civil matters than criminal matters. The fact that less than half of legal aid expenditures are related to criminal law at the national level is driven by lower prevalence in Quebec and Ontario. These two provinces have the largest populations, and spend higher overall - contributing more to the average.

The jurisdictions with the highest proportion of total legal aid expenditures on criminal matters (of all legal aid expenditures for that jurisdiction) were Saskatchewan (80%), Alberta (74%), and Manitoba (74%).⁸

See table 4 for details.

⁷ Draft Preliminary Findings, Legal Aid in Canada, 2021-22, Research and Statistics Division and Legal Aid Directorate, Department of Justice Canada, 2023 at 28.

⁸ Draft Preliminary Findings, Legal Aid in Canada, 2021-22, Research and Statistics Division and Legal Aid Directorate, Department of Justice Canada, 2023 at 5.

Table 4: Legal aid plan expenditures, by type of expenditure, 2021-22⁹

	Total Expenditures ¹ Dollars (%)		Legal Services Expenditures (including administrative and other costs)					
			Criminal matters Dollars (%)		Civil matters			
					I&R ² Dollars (%)		All other civil Dollars (%)	
N.L.	16,438,751	100%	10,300,350	63%	58,527	0%	6,079,874	37%
P.E.I.	2,034,307	100%	766,043	38%			1,268,264	62%
N.S.	31,029,286	100%	18,232,851	59%	568,757	2%	12,227,678	39%
N.B.	9,830,875	100%	5,700,999	58%			4,129,876	42%
Que	190,249,835	100%	71,077,098	37%	5,927,747	3%	113,244,990	60%
Ont.	448,053,599	100%	182,034,111	41%	39,024,211	9%	226,995,277	51%
Man.	32,714,427	100%	24,089,087	74%	206,669	1%	8,418,671	26%
Sask.	26,978,322	100%	21,550,069	80%			5,428,253	20%
Alta.	91,530,694	100%	67,482,998	74%	735,498	1%	23,312,198	25%
B.C.	93,854,217	100%	56,315,768	60%	4,682,144	5%	32,856,305	35%
Yuk.	-	-	-	-			-	-
N.W.T.	5,927,766	100%	4,280,367	72%			1,647,399	28%
Nvt.	-	-	-	-			-	-
Canada	948,642,079	100%	461,829,741	49%	51,203,553	5%	435,608,785	46%

3.3 Payment Methods for Private Bar Lawyers

It should be noted that the hourly tariff paid to private bar lawyers who do legal aid work varies considerably across Canada. The lowest rates are generally paid to private bar lawyers with less than five years' experience, and the rates may increase with experience and for complex case matters. A few legal aid programs pay a flat hourly rate to private bar lawyers regardless of experience.

4. Service delivery scope, personnel and eligibility

4.1 Scope

While some jurisdictions focus almost exclusively on full representation services for court or tribunal proceedings, others provide a continuum of services to tailor legal services to the client's need and abilities. This may help to prevent or reduce the need for further legal services and/or full-blown litigation.

Given Canada's vast size and dispersed population, services are delivered through a variety of means. In larger urban centres, in-person services can be augmented by telephone or web-based access. In other areas, video-conferencing and the use of other technologies can provide services across large distances.

Please refer to Appendix A for a comparison of the eligibility requirements and areas of legal services of Canada's legal aid plans.

⁹ Draft Preliminary Findings, Legal Aid in Canada, 2021-22, Research and Statistics Division and Legal Aid Directorate, Department of Justice Canada, 2023 at 29.

4.2 Legal Aid Plan Personnel

Each legal aid jurisdiction in Canada varies in the breakdown of how direct legal services are provided. Legal aid services are primarily delivered by private bar lawyers with staff lawyers also providing direct legal aid services to clients. Overall, most programs have a mix of private bar and staff lawyers, but service provision differs greatly across the provinces/territories. Please refer to Appendix A for high level information related to service delivery scope and restrictions for each legal aid plan.

Increasingly, non-lawyers are also being used to provide direct legal services in Canada. Non-lawyers may include paralegals, legal aid workers, articling students, legal assistants and other intake workers. Various laws and practices exist which lay out the extent to which unsupervised non-lawyers may provide certain services.

Table 5: Legal aid plan personnel as of March 31, 2022¹⁰

	Total legal aid plan personnel N (%)		Lawyers providing legal aid					Non-lawyers	
			Total lawyers N (%)	Private bar lawyers	Staff lawyers	Other lawyers	Total non-lawyers N (%)		
N.L.	159	100%	89	56%	15	70	4	70	44%
P.E.I.	39	100%	32	82%	24	8	0	7	18%
N.S.	419	100%	323	77%	213	106	4	96	23%
N.B.	187	100%	147	79%	113	33	1	40	21%
Que.	2,854	100%	2,217	78%	1,847	370	0	637	22%
Ont.	4,291	100%	3,674	86%	3,291	357	26	617	14%
Man.	439	100%	344	78%	284	54	6	95	22%
Sask.	184	100%	88	48%	0	88	0	96	52%
Alta.	2,284	100%	2,107	92%	1,997	110	0	177	8%
B.C.	1,267	100%	1,095	86%	1,056	36	3	172	14%
Yuk.	–	–	–	–	–	–	–	–	–
N.W.T.	53	100%	38	72%	25	13	0	15	28%
Nvt.	–	–	–	–	–	–	–	–	–
Canada	12,176	100%	10,154	84%	8,865	1,245	44	2,022	16%

* **Other lawyers** – refers to personnel who are designated as counsel, but not performing in this capacity (e.g. Executive Director). For NB, Other Lawyers includes Executive Director and Public Trustee & Director of Family Law Services.

4.3 Legal Aid Plan Applications and Refusals

Over 491,000 legal aid applications were received in 2021-22. The number of applications reflects the number of individual requests for assistance, rather than the total

¹⁰ Draft Preliminary Findings, Legal Aid in Canada, 2021-22, Research and Statistics Division and Legal Aid Directorate, Department of Justice Canada, 2023 at 48.

number of persons seeking assistance – this means that a single individual could file multiple applications.¹¹

Of the 491,496 applications for summary or full legal representation received in 2021-22, over half (52%) were for criminal matters, while 46% were for civil matters (including I&R). The highest proportion of civil matter applications was for family matters (43%), followed by child protection (27%), non-family matters (22%), and I&R (12%). Of the 257,204 applications for criminal legal aid, 94% were from adults and 6% were from youth.¹¹

Quebec received the most applications at 211,010, which accounted for 43% of all applications received nationally in 2021-22. Ontario and Alberta were the next two provinces that received the most applications (23% and 8% respectively). Looking at the breakdown between criminal and civil applications within each province/territory, Prince Edward Island (73%), Alberta (71%) and Manitoba (69%), had the highest proportion of criminal applications compared to civil. Quebec (57%) and New Brunswick (47%) had the lowest proportion of criminal applications compared to civil.¹²

The number of applications received and corresponding decline in approvals hit a pandemic low in 2020-21, where both applications received and approved declined by 18% compared to the previous year. In 2021-22, the numbers began to increase, with the number of applications up by 7% and number of approved applications up by 4% compared to the previous year. However, both applications received and approved were still significantly below compared to 2017-18.¹¹

More than eight in ten legal aid applications received were approved for full legal representation.¹²

Financial ineligibility was the most common reason for application refusal. Refused applications refer to all requests for legal aid that have been denied legal services. This includes applications for which no services have been approved, as well as those applications denied for full legal representation that subsequently receive summary services. Overall, of the 94,162 applications (both criminal and civil) where a reason for refusal was reported, 62% were refused for financial ineligibility. 'Coverage restrictions' and 'other reasons for refusal' were the next most common reasons for refusal (13%, and 22% respectively).¹³

¹¹Draft Preliminary Findings, Legal Aid in Canada, 2021-22, Research and Statistics Division and Legal Aid Directorate, Department of Justice Canada, 2023 at 5.

¹²Draft Preliminary Findings, Legal Aid in Canada, 2021-22, Research and Statistics Division and Legal Aid Directorate, Department of Justice Canada, 2023 at 7.

¹³Draft Preliminary Findings, Legal Aid in Canada, 2021-22, Research and Statistics Division and Legal Aid Directorate, Department of Justice Canada, 2023 at 10.

5. Quality Assurance

Every lawyer in Canada and notary in Quebec is required by law to be a member of a law society and to be governed by its rules. In addition to the standards established by law societies, each legal aid plan has a range of tools to ensure quality service delivery. These include:

- Roster standards for private bar membership on specific rosters
- Complaints
- Ethics Hotline
- Dedicated Quality Assurance programs and Audits
- Client satisfaction surveys
- Evaluations
- Training materials and resources
- Inspections/peer reviews
- Performance reviews for staff
- Mentoring programs
- Limits to the number of hours and cases annually

6. Public Legal Education

There is a range of public legal education and information offered by legal aid plans across Canada. Examples include:

- Legal Aid BC continues to expand the use of MyLawBC. The aim of the platform is to give the public the tools needed to identify, manage, and resolve legal problems.
- Nova Scotia has developed videos for public legal information on criminal law issues.
- Steps to Justice, a partnership led by Community Legal Education Ontario (CLEO) which is funded in part by Legal Aid Ontario, aims to provide reliable and practical information on common legal problems including:
 - step-by-step information to help the public work through their legal problems;
 - practical tools, such as checklists, fillable forms, and self-help guides;
 - referral information for legal and social services across Ontario; and
 - live chat and email support.

7. Alternative Sources of legal services

A range of alternative sources of legal services are available depending on each jurisdiction. These include community legal clinics, Student Legal Aid Societies (SLASS), and Pro Bono legal services.

As an example, Legal Aid Ontario (LAO) provides poverty law services through funding 73 community legal clinics. Seven Student Legal Aid Societies are also funded by LAO. This includes services for clients dealing with housing, landlord/tenant, employment insurance, disability, workplace safety and human rights/immigration issues, among others.

19 of LAO's 73 legal clinics provide specialty legal services covering a specific area of law (i.e. workers' health and safety or people living with HIV/AIDS), or representing specific groups of people such as older adults, youth, people with disabilities, people who identify as First Nations, Métis and Inuit, or people who are Chinese, South Asian, or Black.

As another example, CLASSIC is a community based legal clinic providing poverty law and experiential learning opportunities for law students. They provide services in the areas of: criminal, family, immigration, housing, social services, employment, human rights, and wills and estates. 822 clients received service through the walk-in advocacy clinic clients received services in 21-22, along with 531 through legal advice clinic. They also conduct systemic law reform initiatives and hold an ID clinic.

8. Holistic legal services

Examples of holistic service delivery models in Canada include:

Specialized Courts: Specialized or problem-solving courts focus on a particular type of offence or offender. They typically involve an interdisciplinary team that is focused on addressing the underlying causes of offending.¹⁴

Mental Health/Wellness/Community Courts: these courts are designed to assist accused persons who have mental health issues. This typically involves specially trained personnel and processes that take into consideration the difficulties that a person with mental health issues may encounter in the criminal justice process.

Wellness/community courts offer integrated supports and services designed to address the problems associated with repeat offenders struggling to reintegrate into society.

There are 11 jurisdictions that operate mental health/wellness/community courts. This includes Newfoundland and Labrador, Nova Scotia, New Brunswick, Quebec, Ontario, Manitoba, Saskatchewan, Alberta, British Columbia, Northwest Territories and Yukon.

Drug Treatment Courts: these courts aim to reduce crime committed as a result of drug dependency through court-monitored treatment and community service support for non-violent offenders with drug addictions. Drug treatment courts currently operate in Newfoundland and Labrador, Nova Scotia, Quebec, Ontario, Manitoba, Saskatchewan, Alberta, and British Columbia.

¹⁴ Problem-solving in Canada's Courtrooms: A Guide to Therapeutic Justice. <https://www.nji-inm.ca/index.cfm/publications/?langSwitch=en>

First Nations/Gladue Courts: these courts offer restorative justice and traditional approaches for sentencing Indigenous offenders. These courts currently operate in Nova Scotia, New Brunswick, Quebec, Ontario, Manitoba, Saskatchewan, Alberta, and British Columbia.

Youth Courts: Youth between the ages of 12 and 17 who are accused of a crime have their matters heard in youth court, which is a separate court division. Youth courts currently operate in every province and territory in Canada.

Family/Domestic Violence Courts: these courts are designed to handle cases of domestic/family violence by offering an integrated, collaborative approach focusing on supporting victims, increasing offender responsibility, and providing early intervention. These courts currently operate in Newfoundland and Labrador, Nova Scotia, New Brunswick, Quebec, Ontario, Manitoba, Saskatchewan, Alberta, and Northwest Territories.¹⁵

9. *UN SDG Standard 16.3*

Legal aid plans across Canada provide a range of services, such as Test Case programs that promote the rule of law at the national levels to ensure equal access to justice for all. Some examples include involvement in the national criminal justice symposium, and national restorative justice symposium.

10. **Other**

Most Innovative Project 2021-2022:

Please refer to Appendix B for a detailed list of technological and service innovations that were introduced by legal aid plans in 2021-22 to respond to the challenges brought on by the pandemic in the delivery of criminal law services.

More generally, legal aid plans developed a remote and mobile workforce that was able to participate in client meetings, court appearances, outreach, stakeholder meetings, legal aid organizational meetings, professional development, and committee work remotely and from offices. This enabled legal aid plans to continue to provide full service during the pandemic, and even extend that full service across the province or territory in a way not envisioned before.

Most Disappointing Trend of 2021-2022:

All courts and tribunals have faced challenges in transitioning back to in-person while maintaining the availability of telephone and video appearances. Unfortunately, there has been inconsistent applications between criminal and family law courts and between administrative tribunals.

¹⁵Draft Preliminary Findings, Legal Aid in Canada, 2021-22, Research and Statistics Division and Legal Aid Directorate, Department of Justice Canada, 2023 at 26.

In many jurisdictions, the police and the prosecution have returned to pre-pandemic charging practices resulting in an increasing number of people being held in jail on remand before trial. This is particularly disappointing since at the beginning of the pandemic there was a conscious and successful effort by both the police and the prosecution to change those practices resulting in a dramatic decrease in the jail population, and the remand population in particular. There was no reported rise in crime for that period.

The introduction of a new federal government online application process for refugee claimants has added significant time to the application process. In Ontario, lawyers have shared that they are hesitant to take on these cases due to the additional time required to assist with the application.

Biggest Challenge for 2023:

Impact of the pandemic on the most vulnerable in our society, who often require legal aid support. The rise in housing prices (ownership and rental), decrease in housing stock, chronic underfunding of public and affordable housing, rising food prices, rising heating and electricity costs compounded by higher interest rates aimed at trying to curb inflation has meant our clients, who already faced precarious housing and income security issues, are struggling even more. This is compounded by the increased need for health services, mental health services and addiction services. All of which means that as legal issues become more complex; the demands upon legal services to provide quality services that are culturally proficient and trauma informed grows without the corresponding financial investment to enable us to respond in the way we know our clients need us to respond.

Legal aid plans must also cope with the long-term emotional, mental, economic and social consequences of the pandemic upon and staff, service providers. Like many sectors in society, workloads, burnout, and secondary trauma have impacted the wellness of legal aid staff and affected organizations' ability to recruit and retain staff. In legal aid jurisdictions that rely on the private bar to provide services, these pandemic impacts have contributed to a general reduction in the number of lawyers who are available to take legal aid cases.

Securing sufficient and balanced federal/provincial funding to support the continuation and improvement of legal aid programs. It makes it challenging to implement innovations when funding is always at risk. Obtaining funding for legal aid programs has been increasingly difficult, while funding for other justice partners, such as the police, courts and the prosecution, has been steadily increasing.

Adequately addressing systemic racism, and the ongoing effects of colonialism, on racialized and Indigenous communities and persons who are disproportionately represented among legally aided clients and in the criminal justice and child welfare system in Canada requires investments and resources, including training for legal service

providers, and funding for things like Gladue reports, impact of race and culture assessments, and enhanced pre-sentence reports.

Finding the right balance for legal aid clients between obtaining the benefits of expanded virtual services while still receiving in-person supports where needed. There are obvious benefits to the expanded use of technology. Some clients are more easily able to access services and are less at risk to miss court or tribunal hearing dates. Providing more access to centralized services on-line increases the likelihood that clients will have access to staff who have the skills, including culturally appropriate competencies, to address their needs regardless of where the client is located.

At the same time, technology is a barrier to those who do not have access, or many who require assistance to make full use of the available virtual services. Geography is a large component in this as rural connectivity lags behind urbanized areas. The barrier is particularly difficult for clients with family law matters where documents are very complex. Vulnerable clients with literacy, comprehension and time management issues especially may fall through the cracks through an inability to access virtual services.

Ongoing Impact of COVID 19

The Government of Canada continues to view the virus as “a public health emergency of international concern”.¹⁶ The outbreak of the pandemic in 2022 continues to affect many aspects of Canadian society.

- From March 2020 to October 2022, there were 7.9% more deaths than expected had a pandemic not occurred. COVID 19 has been a main driver of excess deaths overall. Other factors have also been driving excess mortality, in particular among younger Canadians.
- Economy-wide output has increased in 16 of the last 18 months and, in December 2022, was 2.7% above pre-pandemic level. Employment rates for core-aged workers are well above their pre-pandemic baseline
- Inflation continues to be a concern, particularly with ongoing price increase for food and shelter.
- Since early 2020, over 1.2 million permanent and temporary immigrants have come to Canada, accounting for nearly 90% of total population growth. In the third quarter of 2022, Canada posted the largest population growth rate (+0.9%) since the late 1950s.¹⁷

¹⁶ [Research to Insights: A look at Canada's economy and society three years after the start of the COVID-19 pandemic \(statcan.gc.ca\)](https://www150.statcan.gc.ca/n1/pub/26-264-x/2022001/article/00001-eng.htm)

¹⁷ [Research to Insights: A look at Canada's economy and society three years after the start of the COVID-19 pandemic \(statcan.gc.ca\)](https://www150.statcan.gc.ca/n1/pub/26-264-x/2022001/article/00001-eng.htm)

Appendix A: Eligibility and scope of legal aid services

Eligibility and scope of legal aid services						
Name and Status of Legal Aid Plan	Service Delivery, Eligibility Criteria, Evaluation Process, and Other Limitations	SERVICES PROVIDED				
		Serious criminal matters Criminal with likelihood of incarceration	Youth matters	Family with merit (excluding uncontested divorce and sole property claims)	Child Protection	Other non-family civil
<p>Newfoundland and Labrador (NL): Newfoundland and Labrador Legal Aid Commission</p> <p>Status: Newfoundland and Labrador's Legal Aid Commission was created in 1976 by the Legal Aid Act. The Legal Aid Commission is an arms-length Crown agency responsible for the administration of legal aid services and reports to the provincial Minister of Justice only for funding purposes.</p>	<p>Legal Aid provides a range of legal services to low income individuals in Newfoundland and Labrador in the areas of family and criminal law.</p> <p>Those who are eligible can access the service of one of Legal Aid's experienced lawyers located throughout the province of Newfoundland and Labrador.</p> <p>There are two requirements you must meet to get Legal Aid. First, you must fit within Legal Aid's financial requirements. Second, your legal matter must be one of the types of legal matters that Legal Aid covers.</p>	Yes. Some summary offences.	Yes	Yes	Yes	<p>Legal Aid will not accept Income support and Housing issues at the first level of adjudication.</p> <p>Where there is merit to an appeal Legal Aid will provide representation - if the applicant's ability to earn a livelihood, income or entitlement to benefits is at issue.</p>
<p>Prince Edward Island (PEI): Prince Edward Island Legal Aid</p> <p>Status: Prince Edward Island is the only province that provides legal aid directly through a government department. The Office of the Attorney General administers legal aid services through the Legal Aid Division. There is no specific legal aid legislation.</p>	<p>Prince Edward Island Legal Aid is an access to justice program, providing legal representation and assistance to low income individuals who have serious legal needs in the areas of criminal law, youth criminal justice, or family and civil law.</p> <p>Family legal aid provides direct legal representation and assistance by lawyers to individuals who cannot afford to hire a private law firm lawyer when faced with a serious family or related civil legal problem.</p> <p>The first step is to contact your local legal aid office in Charlottetown or Summerside, to</p>	Yes, where law require representation. Some summary offences	Yes	Yes, where domestic abuse is identified. Some less urgent family situations.	Yes	<p>Civil legal aid coverage apart from family law is limited to child protection law, involuntary hospitalization under mental health law, and adult protection laws.</p> <p>In some cases the provision of legal aid in these areas of law may be considered mandatory under the Canadian Charter of Rights and Freedoms if the legal issues involve action by government that could</p>

	<p>make an application. If your legal problem is one that is covered by legal aid, staff will assist in completing your application.</p>					<p>seriously affect individual liberties or security of the person. Entitlement to legal aid where representation may be necessary to protect Charter rights is determined on a case by case basis.</p>
<p>Nova Scotia (NS): Nova Scotia Legal Aid Commission (NSLAC)</p> <p>Status: NSLAC was created in 1977 by the Legal Aid Act 1 and is responsible for all matters relating to legal aid.</p>	<p>NSLA has many free legal aid services to help adults and youth facing a range of legal issues. If you need a lawyer and can't afford one, you may be able to get a Legal Aid lawyer to represent you.</p> <p>Nova Scotia Legal Aid (NSLA) offers some level of legal assistance to all Nova Scotians, including information, advice and full representation by a lawyer for qualified applicants. Full service is based on financial need, area of law requested and the merit of the case.</p> <p>You must fill out an application and meet financial, area of law, and legal merit requirements</p>	Yes	Yes	<p>Yes. Applications for legal aid involving domestic violence are given priority.</p>	Yes	<p>Poverty administrative law services including Canada Pension Plan, Employment Insurance and Income Assistance.</p>
<p>New Brunswick (NB): New Brunswick Legal Aid Services Commission (NBLASC)</p> <p>Status: On December 12, 2005, An Act to Amend the Legal Aid Act 1 established the New Brunswick Legal Aid Services Commission (NBLASC), which reports to the Legislative Assembly through the Minister of Justice and Public Safety.</p>	<p>If the services identified fall within NBLASC scope of service and the household income falls within one of the three tiers, a client can get full representation. Client contributions must be paid in full before a certificate will be issued.</p> <p>NBLASC conducts a financial assessment based on three factors: income, allowable deductions and household size. Generally, people with low income, those on social assistance and youth qualify for free representation.</p>	Yes	Yes	<p>Yes. Cases are screened and priority is given to urgent cases and those which can directly benefit children.</p> <p>Family Advice Lawyer services are available to explain how the court works, the rules of the court, the forms that must be filed; or provide information on family law matter. Services are also available to persons named on an</p>	<p>Yes (Services available to the custodial parent)</p>	<p>The Public Trustee of New Brunswick can be appointed to protect the financial and/or personal interests of the elderly who have become mentally incompetent or incapable of managing their affairs due to infirmity.</p>

				Emergency Intervention Order or Emergency Protection Order; or to assist an applicant prepare a motion for substituted service of an Emergency Intervention Order.		
<p>Québec (QC): Commission des services juridiques (CSJ)</p> <p>Status: The CSJ was created by the Legal Aid Act.</p>	<p>Legal aid is provided free of charge or with a contribution from the recipient. There is a two-part eligibility test to receive legal aid, the client must be financially eligible, and the services requested must be covered.</p> <p>Anyone who receives financial assistance of last resort, other than a special benefit, under the Individual and Family Assistance Act or any family member receiving such a benefit is considered financially eligible for assistance.</p>	Yes	Yes	Yes	Yes	Immigration; claims regarding benefits for social assistance, automobile insurance, unemployment insurance and worker's compensation.
<p>Ontario (ON): Legal Aid Ontario (LAO)</p> <p>Status: In July 2020, the Ontario legislature passed the <i>Legal Aid Services Act, (2020)</i>, which will govern legal aid in Ontario.</p>	<p>LAO provides high quality and cost effective legal services to low income and frequently highly vulnerable clients each year through Duty Counsel.</p> <p>Clients must be financially and legally eligible to access services.</p> <p>Generally, financial testing is conducted for LAO's certificate and Duty Counsel program to determine if gross income is within LAO's eligibility guidelines.</p>	Indictable and summary only if likelihood of incarceration	Yes	Yes	Yes	Poverty law services are provided by 73 community legal clinics funded by LAO. This includes services for clients dealing with housing, landlord/tenant, employment insurance, disability, workplace safety and human rights/immigration issues, among others.

						<p>19 of LAO's 73 legal clinics provide specialty legal services covering a specific area of law (i.e. workers' health and safety or people living with HIV/AIDS), or representing specific groups of people such as older adults, youth, people with disabilities, people who identify as First Nations, Métis and Inuit, or people who are Southeast Asian, South Asian, or Black.</p> <p>Tenant duty counsel services are available to: advise about rights, obligations and the tribunal processes; review and help prepare court documents; help with mediation, negotiation and representation, and provide public legal education referrals.</p> <p>LAO provides coverage for civil mental health matters such as psychiatric patients seeking help with Consent and Capacity Board (CCB) and Ontario Review Board (ORB) matters.</p>
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<p>Manitoba (MB): Legal Aid Manitoba (LAM)</p> <p>Status: LAM is an independent organization operating at arm's length from the government. LAM became a government funded program in Manitoba in 1971. <i>The Legal Aid Manitoba Act</i> is the provincial legislation which established LAM as an independent organization.</p>	<p>Legal Aid Manitoba provides legal services to low-income adults and youth in Manitoba who qualify financially and have a case with merit. Depending on financial circumstances clients may receive free legal aid or be required to contribute to the cost of their certificate. Applications can be completed online with a follow up phone call within 30 days or online. Counsel are able to take complete applications from their clients.</p>	<p>Indictable and summary only if likelihood of incarceration, loss of employment upon conviction or risk of deportation upon conviction.</p>	<p>Yes</p>	<p>Yes; LAM also offers collaborative law and provides counsel for uncontested divorces where parties have been separated for one year.</p>	<p>Yes</p>	<p>Immigration and refugee; Mental Health Review Board. The Public Interest Law Centre represents eligible individuals or groups for human rights, Indigenous rights, consumer rights, poverty and protection of the environment.</p>
<p>Saskatchewan (SK): Legal Aid Saskatchewan (LAS)</p> <p>Status: LAS was established pursuant to the Legal Aid Act which came into force in September 1983.</p>	<p>Youth and those receiving social assistance or band assistance are eligible for Legal Aid. Those who are working and have a low income, are likely eligible for Legal Aid. Legal Aid does a financial test to determine if you are eligible for services.</p>	<p>Yes</p>	<p>Yes</p>	<p>Yes</p>	<p>Yes</p>	<p>None</p>

<p style="text-align: center;">Alberta (AB): Legal Aid Alberta</p> <p>Status: LAA is an independent, publicly funded, not-for-profit organization. It operates under a Governance Agreement between Legal Aid Alberta, the Law Society of Alberta, and Alberta Justice and Solicitor General.</p>	<p>Legal Aid Alberta considers both financial and service eligibility to determine if an individual is eligible for legal representation. When you call or go to a Legal Services Centre, a Legal Services Officer will work with you to complete an assessment to determine the nature of the issue and the type of service required.</p> <p>The Legal Aid Society of Alberta considers the applicant's income and an appraisal of their assets. A person may be eligible for legal representation and to have a lawyer appointed if their allowed income falls within the financial thresholds.</p>	Yes	Yes	Yes	Yes	<p>Immigration and refugee; adult guardianship/ trusteeship and income support.</p>
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<p>British Columbia (BC): Legal Aid BC</p> <p>Status: Legal Aid BC is a non-profit organization created by the Legal Services Society (LSS) Act in 1979 to provide legal information, advice, and representation services.</p>	<p>Legal Aid BC will pay for a lawyer to represent you if: a) your legal problem is covered by their legal aid rules; b) you meet their financial guidelines, and c) you have no other way of getting legal help.</p> <p>Legal Aid BC provides a wide range of public legal information and education services, including publications, community outreach, websites (family law and Aboriginal legal aid), and MyLawBC.</p>	<p>Yes, where likelihood of jail; conviction could result in immigration issues; where client has defence based on Indigenous rights or cannot represent because of mental/physical disability.</p>	<p>Yes</p>	<p>Limited representation in serious family matters where there is domestic abuse, child safety is at issue or there are highly contested issues.</p>	<p>Yes</p>	<p>Refugee claims, immigration issues that could result in removal from Canada, Mental Health Review Panel or BC Review Board Hearing, and some prison law issues.</p>
<p>Yukon (YK): Yukon Legal Services Society (YLSS)</p> <p>Status: YLSS is an independent, non-profit organization funded by the Government of Yukon and the Government of Canada. In accordance with the Legal Services Society Act a Board of Directors appointed by the Yukon Minister of Justice governs the YLSS.</p>	<p>To receive legal aid:</p> <ul style="list-style-type: none"> You must have a legal problem that we cover. Your income and the value of your property must be below a certain limit. You might have to pay a contribution to YLSS. In some civil matters, there must also be a strong reason (merit) for providing legal aid to assist you. The legal problem is something that a reasonable person of modest means would, if financially able, pay a lawyer to do. 	<p>Yes, where likelihood of jail. Special applications may be covered where the application has merit.</p>	<p>Yes</p>	<p>Interim family matters if children are involved</p>	<p>Yes</p>	<p>Mental Health Act</p>
<p>Northwest Territories (NT): Northwest Territories Legal Aid Commission</p> <p>Status: Legal aid in the Northwest Territories is administered by the Legal Aid Commission, established as a corporation by the Legal Aid Act.</p>	<p>To apply for legal aid, you must make an appointment with one of the legal aid offices in Yellowknife, or with a community court worker for assistance with filling out an application.</p> <p>In order to qualify for legal aid, you must meet financial eligibility requirements. You may be required to pay some or all of the</p>	<p>Yes</p>	<p>Yes</p>	<p>Yes</p>	<p>Yes</p>	<p>Outreach Legal Aid Clinics provide free limited, confidential legal information and advice (cannot provide representation).</p> <p>The program assists people dealing with issues such as:</p>

	costs of your case as determined by your total household income and number of dependents.					<ul style="list-style-type: none"> -Housing, landlord, and tenant disputes -Disability, Canada Pension Plan, EI and Income Support Claims and Appeals -Employment Rights -Worker's Health and Safety Commission claims -Wills and estate advice -Mental health and guardianship reviews -Child protection matters -Elder abuse -Family Law -Debtor, creditor or civil claims (formerly known as small claims court)
<p style="text-align: center;">Nunavut (NU): Legal Services Board of Nunavut (LSB)</p> <p>Status: LSB was established on July 1, 2000. Prior to that date, a joint Board of Directors made up of members from both the Northwest Territories and Nunavut administered the delivery of legal services</p>	The Legal Services Board of Nunavut provides legal aid services in each region of Nunavut through regional legal aid clinics based in Iqaluit, Rankin Inlet and Cambridge Bay. Each clinic is staffed by a complement of family and criminal lawyers, administrative support, and court workers. Court workers are based both within the clinics and in the communities. As the territory's legal aid plan, LSB is responsible for providing legal services to financially eligible Nunavummiut in the areas of criminal, family and civil law. Lawyers help people who have kids and problems with their common-laws or Social Services. Civil Lawyers help people who have daily problems like with their landlords or employers. Legal Aid Lawyers also fly to communities for court.	Yes, if under arrest or charged. Everyone gets a lawyer when appearing before court for the first time.	Yes	Some family law plus family law information line	yes	Some civil law plus civil/poverty information line

APPENDIX B

- Criminal legal aid innovations to address pressures resulting from COVID-19, 2021-22				
Name of Innovation/ Initiative(s)	Objective	Timeline	Beneficiary	Expected Outcome
Newfoundland and Labrador -technological				
Upgraded IT hardware	During 2021-22, Legal Aid NL made significant investments to upgrade and replace ageing computer hardware. As part of this initiative, upgraded laptops were deployed to approximately 50 per cent of the lawyers to improve remote working capabilities.	2021-22	Staff and clients. Staff are able to work from home to meet client needs.	
Software Upgrades	Significant improvements were made to Legal Aid NL's website, including upgrading the background software platform. During 2021/22, Legal Aid acquired video editing software to create training videos which will be available via a secure YouTube channel for Legal Aid Lawyers and support staff province-wide.	2021-23	Lawyers and support staff.	
Newfoundland and Labrador - service delivery				
Piloted technology-based solutions to improve client service delivery	In October 2021, Legal Aid NL piloted an online website portal that provided prospective clients the ability to apply for legal aid online. During Q3 and Q4, Legal Aid NL received several online applications from clients and the uptake and demand for this service continues to grow. During the year, Legal Aid NL tested various technological solutions to facilitate virtual risk assessments for Family Violence Intervention Court (FVIC) clients in Stephenville. After some testing, Skype guest	ongoing	Clients and Staff Layyers. Clients can apply online without have to appear in person and Lawyers are able to meet with clients through a secure connection without have to travel or meet in person.	

- Criminal legal aid innovations to address pressures resulting from COVID-19, 2021-22				
Name of Innovation/ Initiative(s)	Objective	Timeline	Beneficiary	Expected Outcome
	accounts were created and several risk assessments were completed virtually in 2021-22. The project has resulted in considerable savings in travel cost and significantly improved client service for both FVIC clients and court staff.			
Implemented training programs in response to staff survey/feedback	During 2021-22, Legal Aid NL held a series of lunch-and-learns via Skype to provide ongoing training and development Commission-wide. In particular, dedicated training sessions were delivered to help enhance utilization and functional knowledge of the Legal Aid Management Information System (LAMIS). Furthermore, Legal Aid NL also developed and updated Standard Operating Procedures (SOPs) for various commonly used software programs and made them available to staff.		Staff are able to improve skills without having to attend in person training seminars.	
Nova Scotia - technological				
Certificate Invoice Digitization	Convert Certificate form to digital form with digital signatures.	6 months (temporary)	Certificate Lawyers/ Managing Lawyers & Administrative staff at local & Executive offices.	Increases efficiencies in certificate management and processing payments by reducing transcription errors, math errors and form filling redundancies. Also prevent issues with handwriting or legibility.
Support Staff Laptops	Provide Support Staff with laptops instead of desktop computers.	3 months (permanent)	Support Staff/Clients.	Providing laptops has created a better remote work life balance and enabled support staff to participate in required teams/web meetings.
Nova Scotia - Service delivery				
Increased criminal certificates issued to private lawyers to deal with Covid backlogs in courts	To assist with backlogs where staff lawyers were at max capacity.	Throughout 2021-22 (temporary)	Justice system and clients.	Reduction in pressure on staff lawyers and ensured clients received representation as matters proceeded. That also assisted the justice system overall.

- Criminal legal aid innovations to address pressures resulting from COVID-19, 2021-22				
Name of Innovation/ Initiative(s)	Objective	Timeline	Beneficiary	Expected Outcome
Online adjournment requests and variation applications for self-represented parties	Provided assistance to self-represented parties seeking adjournments and variation applications when access to court in-person was limited due to COVID-19 restrictions and helped to address backlog in the provincial courts.	Throughout 2021-22 (temporary)	NSLA Staff, Clients, self represented litigants, Court System/ services.	Online adjournment request form and variation application processes created and added to NSLA website.
Virtual professional development, including annual general meeting	To ensure staff received appropriate professional development in order to satisfy bar requirements and maintain high level of competency.	Throughout 2021-22 (temporary and permanent)	Staff were able to receive the necessary training.	Staff received training safely.
New Brunswick - Service delivery				
Private bar criminal certificate	To meet the increased number of certificates.	2021-22 (permanent)	Clients.	Consistency in service delivery.
Private bar criminal duty counsel	To meet the increase in bail hearings.	2021-22 (permanent)		
Criminal contact lawyer	To cover staff shortages.	2021-22 (permanent)		
Quebec - technological				
Programme eMAJ	Digital transformation of the legal aid network	2024-03-31 (4 year investment)	Clients and staff and private bar lawyers.	Service improvements.
Acquisition of computer hardware	Upgrading of equipment and staff mobility	2024-03-31 (permanent)	Staff and clients.	
Quebec - service delivery				
Itinerant court (Grand Nord)	Legal representation services.	2022-03-31 (permanent)	Indigenous clients.	Service improvements.
Virtual appearances on weekends and holidays	Reduce court delays.	2022-03-31 (permanent)	Clients.	
Projet Centaure	Gun control.	2022-03-31 (permanent)	Citizens.	Fighting gun violence.
Ontario - technological				
Service Integration (SI) - Duty Counsel (DC) Worksheets *project goals were impacted by	Deploy and continue to improve online worksheet to capture client information to improve client services and record-keeping, ensure continuity of client files, and	Originally developed in 2018; expanded in 2020 to per diem DC.	Clients: improved services and record-keeping. Justice system partners: more accurate	Have system available at all court sites. Target is to have all duty counsel services recorded through the system.

- Criminal legal aid innovations to address pressures resulting from COVID-19, 2021-22

Name of Innovation/ Initiative(s)	Objective	Timeline	Beneficiary	Expected Outcome
<p>COVID pandemic - at this time, with remote services being provided to clients, all staff and per diem DC use the SI worksheets</p>	<p>improve data collection and reporting to better understand client needs and services delivered. Obtain better data and understanding of issues related to bail and delays in criminal Courts.</p> <p>The worksheet was updated in 2020 to include fields to identify reasons for adjournments, and tracking of bail conditions. Legal Aid Ontario (LAO) continues to make improvements to the SI worksheet.</p>	<p>(permanent)</p>	<p>records; reduced appearances; more accurate reports resulting in better allocation of scarce resources.</p>	
<p>Remote appearances, disclosure review and summary legal advice</p>	<p>LAO adapted to remote services due to the pandemic and to ensure clients could have access to legal advice remotely; developed processes and invested in technology to ensure staff had access to equipment and software necessary to assist clients.</p>	<p>Started in March 2020, LAO has continued to update infrastructure, access to software and security updates. (permanent)</p>	<p>Clients: improved services and record-keeping. Access to legal advice and counsel for remote and hybrid court hearings. Justice system partners: more accurate records; reduced appearances; more accurate reports resulting in better allocation of scarce resources.</p>	<p>LAO is aiming to ensure that the most vulnerable clients have access to services during and following the pandemic. LAO aims to keep assisting the courts by ensuring that bail supports are available, and that duty counsel continue to assist eligible clients with disclosure reviews, pre-trials and resolutions.</p>
<p>Dedicated phone lines for Summary Legal Advice - Criminal and Family (SLAC and SLAF)</p>	<p>Through the use of these phonelines, LAO offered more summary legal advice in family and criminal law matters, temporarily waiving financial eligibility testing requirement.</p>	<p>March 2020 (temporary)</p>	<p>Clients: Increased access to legal advice.</p>	<p>LAO aimed to ensure clients had easy access to legal advice during the pandemic.</p>
<p>Return to in-person services (Hybrid)</p>	<p>LAO conducted site surveys to ensure compliance with Health and Safety protocols and Public Health safety requirements for staff and clients attending court</p>	<p>On-going (permanent)</p>	<p>Clients: Improved access to service; Justice system partners: reduced and more</p>	<p>LAO is aiming to provide safe and reliable access to legal advice to promote access to justice and facilitate court appearances.</p>

- Criminal legal aid innovations to address pressures resulting from COVID-19, 2021-22

Name of Innovation/ Initiative(s)	Objective	Timeline	Beneficiary	Expected Outcome
	locations. In addition to these assessments, LAO updated equipment and wireless infrastructure.		meaningful appearances.	
Improvements to LAO's client portal	LAO introduced the ability for clients to apply for Legal Aid online in May of 2021.	Ongoing (permanent)	Clients: Easier access to apply for Legal Aid; Justice system partners: reduction in administrative appearances for Legal Aid applications.	LAO is aiming to increase access points and simplify the application process for clients.
Overall updates to LAO's remote desktop environment, Adobe, security updates and CRM updates to ensure remote and hybrid services can function seamlessly	LAO worked on upgrading infrastructure necessary to shift from an in-person service environment to a hybrid service delivery model.	Ongoing (permanent)	Clients: Uninterrupted access to LAO.	

Ontario - service delivery

COVID enhancements	<p>LAO aimed to ensure that clients and lawyers were supported throughout the pandemic by introducing the following measures:</p> <ul style="list-style-type: none"> - Waiver of financial eligibility testing for in-custody criminal clients; - Increased compensation for bail hearings for block fee and tariff matters in recognition of longer bail hearings; - Reinstatement of coverage for block bails; - Waiver of merit testing for bail reviews; - Introduction of coverage for Myers detention reviews; - Provision of an additional two hours of coverage for mandatory Judiciary Pre-Trials 	March 2020 until LAO's board removes the enhancements (temporary)	Clients: improved services and access to justice, reduction in in-custody population, reduction in unnecessary court appearances; Justice system partners: reduced and more meaningful appearances, fewer in-custody appearances, fewer adjournments for administrative purposes, increased	LAO aimed to ensure the most vulnerable clients had access to services during the pandemic. LAO aims to keep assisting the courts by ensuring that bail supports are available and that clients are afforded legal representation at the earliest opportunity.
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- Criminal legal aid innovations to address pressures resulting from COVID-19, 2021-22

Name of Innovation/ Initiative(s)	Objective	Timeline	Beneficiary	Expected Outcome
	<p>in both the Ontario Court of Justice and the Superior Court of Justice;</p> <ul style="list-style-type: none"> - Introduction of dedicated phone lines to connect in-custody individuals directly duty Counsel; - Coverage for Temporary Absence Permits for individuals in provincial and federal Institutions. 		representation and efficiency.	
Support for Judge-led Intensive Case Management Court (JICMC) and Lawyer applications for JICMC	<p>LAO supports the Judge-Led Intensive Case Management Court (JICMC) with time-limited certificates for accused individuals without retained counsel whose matters are more than twelve months old and who have had their cases adjourned to the JICMC. Clients do not need to contact LAO directly; their lawyer will initiate and complete the application on their behalf. No financial testing is applied to these certificate.</p>	October 2021 and ongoing (temporary)	Clients: ensure limited but timely representation is available in JICMC courts without the need for eligibility testing and without submitting an application to LAO.	Increased access to representation and increased efficiency in JICMC courts.
Virtual Case Management Court services (VCMC)	<p>Representation is provided across most locations in virtual case management court (VCMC). The VCMC pilot program saw 2 per diem duty counsel attend case management in 8 locations has ended and has shifted more toward staff taking on the role. Duty counsel continues to attend VCMC and will assist clients in a breakout room as required. This was not a service that was provided pre-pandemic but will remain part of DC programming until further decisions are made by the executive.</p>	Ongoing (temporary)	Client: provided easier access to legal aid.	In response to the pandemic and the lack of in-person services available, LAO aimed to ensure clients had access to legal aid.
Increased call centre hours	LAO launched a pilot project extending the hours of	2021 to 2022 (temporary)	Client: provided easier access	In response to the pandemic and the lack of in-person

- Criminal legal aid innovations to address pressures resulting from COVID-19, 2021-22				
Name of Innovation/ Initiative(s)	Objective	Timeline	Beneficiary	Expected Outcome
	operation of the contact centre from 5:00 p.m. to 7:30 p.m. These extended hours were introduced in response to the pandemic in order to improve services and become more accessible to clients. Once demand for the service was no longer needed LAO resumed regular business hours 8 am to 5 pm.		to legal aid.	services available, LAO aimed to ensure clients had access to legal aid beyond "normal" business hours.
Manitoba - Technological				
Investing in technology	Decrease travel time and cost; digitizing files, providing equipment to staff, etc.	On-going (permanent)	Clients, counsel, staff.	More efficient service provision.
Pilot project to access to legal aid	Allow applicants / clients in rural communities and on reserve alternative methods to contact legal aid and their counsel from their home town/city/reserve.	Delayed to 2023-24 (permanent)	Applicants, clients.	Access to legal aid for applicants and clients.
Manitoba - Service delivery				
Increase in private bar capacity	Incentivize private bar to take more cases.	2021-22 to 2023-24 (temporary)	PB, clients	Quicker turnaround of cases; clearing the backlog.
Address backlog of cases	Increased enhanced duty counsel to facilitate early disposition of cases.	2021-22 to 2023-24 (temporary)	clients, PB, courts	Quicker turnaround of cases; clearing the backlog.
Work from home access	Provide staff with cell phone access to work from home.	2021-22 (temporary)	all stakeholders	Services continue uninterrupted.
Offsetting client payment holiday	To allow clients to manage their financial obligations during COVID.	2021-22 (temporary)	clients	Services continue uninterrupted.
Saskatchewan - Technological				
Hire IT Manager	Modernize and digitize Legal Aid Saskatchewan's (LAS) IT infrastructure in order to meet the demands.	October 2021 to no end date (permanent)	Applicants and staff. Clients/applicants will benefit with an individual managing the IT for LAS.	Improved IT services with someone directly responsible for managing IT.

- Criminal legal aid innovations to address pressures resulting from COVID-19, 2021-22				
Name of Innovation/ Initiative(s)	Objective	Timeline	Beneficiary	Expected Outcome
IT cloud processing and migration. Implement O365 and Support.	Modernize and digitize the IT infrastructure in order to meet the demands.	June 2021 to no end date (permanent)	Applicants and staff. Clients /applicants will benefit with better access with staff through better IT.	This initiative is intended to move the organization from processes that are either paper or hybrid paper/electronic to more electronic-based processes.
Additional enhancements to Legal Aid Information Database	Modernize and digitize the IT infrastructure in order to meet the demands.	December 2020 to no end date (permanent)	Applicants and staff. Clients/applicants will benefit with better access with staff through better IT.	This initiative is intended to move the organization from processes that are either paper or hybrid paper/electronic to more electronic-based processes.
Saskatchewan - Service delivery				
Hire Term Lawyer Positions	To reduce waitlists and backlogs for criminal legal aid services.	September 2021 to March 2024 (temporary)	Clients/applicants will benefit with more prompt legal services.	Reduced wait times and backlogs
Contract Private Bar (PB) to assist with backlogs due to Covid	To reduce waitlists and backlogs for criminal legal aid services.	April 2021 to March 2024 (temporary)		
Digitize Private Bar processing review	To modernize and digitize the PB processing.	February 2022 to October 2022 (temporary)	Improve process for payment and management of private bar.	Better oversight of payments in a timely fashion.
Restructuring of head office staff for administrative support of improved service delivery	To improve management, oversight and risk management.	April 2021 to no end date (permanent)	Applicants and staff/private bar. Clients/applicants will benefit with additional support from head office for the service delivery by staff and private bar lawyers.	Improved overall management of the legal aid system.
Strategic Planning exercise (consultant fee only)	To establish priorities to meet the service delivery initiatives	July 2021 to September 2022 (temporary)	All stakeholders.	A robust 5 year Strategic Plan including implementation plan and metrics.
Alberta - Technological				

- Criminal legal aid innovations to address pressures resulting from COVID-19, 2021-22				
Name of Innovation/ Initiative(s)	Objective	Timeline	Beneficiary	Expected Outcome
Modernize and enhance systems and equipment - including client record and case management	Simplify systems, enhance capabilities - including improved support for remote/virtual work.	Ongoing (permanent)	Clients, private bar, and staff.	A modernized and enhanced system and equipment that better supports client record and case management, and remote/virtual work.
Alberta - Service delivery				
Improved client access to legal aid services	Allow clients better access to services - wherever they live in Alberta.	Ongoing (permanent)	Clients.	Allow clients better access to services - wherever they live in Alberta.
British Columbia - Technological				
Technology Grant - Criminal only	<p>Many lawyers who do legal aid do not have the technology necessary to best serve clients and the courts remotely from their homes. They are concerned about meeting face-to-face with clients during the pandemic and need online access to courts. A technology grant allows them to purchase equipment for essential remote communication. Remote communication with clients, other lawyers and the courts requires improved bandwidth, data capabilities, hardware and software and technological support.</p> <p>Payment parameters:</p> <ul style="list-style-type: none"> - a one-time payment per lawyer; - eligibility is based on the lawyer having taken a minimum number of contracts during the fiscal year (2021/2022) and making a commitment to be available to take a minimum number of contracts during the current fiscal year (2022/2023); - the payment amount is scaled based on the lawyer's seniority (junior lawyers receive the highest payment). 	2021-22	Lawyers with eligible criminal representation contracts and duty counsel equivalent contracts.	Provided regular legal aid lawyers with resources to acquire hardware and software necessary to adapt to increasingly digital and virtual court processes.

- Criminal legal aid innovations to address pressures resulting from COVID-19, 2021-22

Name of Innovation/ Initiative(s)	Objective	Timeline	Beneficiary	Expected Outcome
British Columbia - Service delivery				
<p>Virtual Bail - partially funded with federal pandemic recovery funding</p>	<p>Support Provincial Court to transition to remote bail hearings province-wide:</p> <ul style="list-style-type: none"> -introduction of regional duty counsel. - Improved coordination between justice participants: Crown, Court Services, Defence counsel, LABC (intake), duty counsel on the MS teams channels created by the office of the Chief Judge for virtual bail, as well as by email. - Balanced work loads so the 4 duty counsel scheduled in each geographic region (so far the North and Interior) can assist each other to cover all detainees where there are conflicts or high volumes in 1 location – previously we’d have to appoint ad hoc duty counsel for smaller locations, often after some delay. - LABC (Intake, local agents, duty counsel team in HO) provides increased support for duty counsel – providing information about detainees and prioritizing legal aid applications from detainees – to try to connect clients to counsel before they are released. - The planning process has allowed LABC direct access to Court, Crown, Corrections, and Sheriff services, with ACJ coordinating this, so that our suggestions and recommendations for improvements are communicated directly to others, leading to quite prompt changes/improvements. This is 	<p>April 2021 and ongoing.</p>		

- Criminal legal aid innovations to address pressures resulting from COVID-19, 2021-22				
Name of Innovation/ Initiative(s)	Objective	Timeline	Beneficiary	Expected Outcome
	a much more responsive system than before and LABC's advice has been welcomed and has resulted in improvements for our clients (re communications with counsel, timely bail, content of bail packages).			
Northwest Territories - Technological				
Additional laptop and webcams	To support remote appearances.	Permanent	Clients and counsel.	Increased access to representation.
Northwest Territories - Service delivery				
Creation of weekend bail assignment	Access to faster bail, avoid detention in crowded facility.	Throughout 2021-22 (temporary)	Clients, administration of justice.	Releasable clients spend less time in remand.
Additional counsel assigned to bail court as remote appearances more time consuming	Reduce pressure on staff lawyers.	Throughout 2021-22 (permanent)	Clients, staff lawyers, administration of justice.	Support smooth operation of bail court, earliest possible release for clients, address staff burnout.
Serious case isolation travel period cost	Ensure serious matter could proceed.	2022-03-01 (temporary)	Client, administration of justice.	Trial was able to proceed.

NATIONAL REPORT - CHILE

Country report – Chile

What is the Public Defender's Office?

The Public Defender's Office is a public service, submitted to the supervision of the President of the Republic through the Ministry of Justice, whose main purpose is the defense of the defendants in the Chilean criminal justice.

This institution was created in 2001, when the reform of criminal Justice in Chile took place, through the Law N° 19.718, with the purpose to deliver criminal defense to the defendants or those accused of a crime or offence that lack a private lawyer.

This ensure the right to defense provided by a public lawyer, and the right to equality of the parties in the criminal trial.



The Public Defense Office delivers this service all over the country, it has a Regional Defender's Office in each Region with two Regional Defender's Offices in the Metropolitan Region. There are 17 Regional Defender's Offices along the whole country.

Under the motto "There is no justice without defense", The Public Defender's Office, provides defense to every client, adult or teenager; chilean or migrant, a defense where the principles of the criminal justice system are applied. All the defendants are treated as innocents until they are proof to be guilty; where the previous trial is guaranteed before a conviction.

Institutional Mission

Offer criminal defense of high professional quality for people that do not have a lawyer for any circumstance whatsoever; using a mixed public and private crime defender system; surveilling equality before law, for the due process and acting with deep respect for human dignity or our representatives.

Institutional Vision

To be an autonomous public institution positively recognized as a service of crime defense service of excellence to anyone that requires it, participating in the public policies generation in the criminal area.



Strategic objectives

Empower national quality defense to every client, strengthening the defense model. Continuous improvement of the service quality delivered, through the specialization of the crime , the optimization of the evaluation and control oriented for users attention.

Encourage the Public Defense Role, and the people knowledge regarding their rights within the criminal justice system, through a diffusion strategy orientated to users and to the whole community .

Encourage the institutional management, to attend new challenges, through the processes optimization, people's development, with innovation and gender focus.

Specialized Defense

› Juvenile Defense

The crime juvenile defense offers legal representation specialized to the defendant teenagers and/or those condemned for a crime, simple crime or only offence and have the need of a lawyer. The defender's office, at a national level, with a work team specially created for the crime defense of teenagers, in whose exercise must supervise the rights deriving directly from the law, the Right's Convention of Children as well as another legal tools at a national and international level currently active in Chile.

› Defense for indigenous people

This defense specialized service considers special attention to the work related to defendants belonging to indigenous people, as the international treaties established in the causes that represents, among them the rights such as the 169 Agreement of the ILO, the indigenous national law and the Brasilia Rules, among others. The program is in charge of professionals specially trained, context in which the presence of intercultural facilitators that belong to indigenous people, take an active role in the defense.

› Defense of migrants and foreigners

The purpose of this specialized defense model is to procure the application of all the constitutional guarantees focused on migrants or foreigners, to guarantee the effective access to justice of these vulnerable groups. To exercise these benefits, the defenders must be aware of the vulnerability situation in which the foreigner defendant is set, to know about the specific rights that help the person and above all, the special legislation applicable to them.



› Prison Defense

The prison defense is directed to adults condemned under the criminal justice system that are confined in jail, in an establishment administered by the Prison Service of Chile.

The prison defense service includes several legal proceedings and extrajudicial ones that last until the complete execution of the sentence. The objective is to safeguard the interests, guarantees and rights of the condemned. The attention is under the responsibility of an interdisciplinary group, made up by lawyers and social assistants, who are hired using the system of bid process.



Innocent Project

The “Innocent Project” is an initiative of the Public Crime Defender’s Office created to acknowledge cases of people that have been unfairly imprisoned in Chile, as well as identifying the causes of errors that have led to this unfair deprivation of liberty. It started functioning in Chile in 2013 and, up to the current date, it has already 75 cases that exemplify the problems that undergo those that are accused of a crime without being guilty. All of them are published in the web site of the Innocent Project www.proyectoinocentes.cl where any person can request help from the Public Defender’s Offices.

Some Relevant Figures

In the very beginning from the year 2001 until December 31, 2022, the Public Defender's Office has delivered the defense service and guaranteed its rights to 5.678.392 defendants. Among them, 5.534.982 have ended its attention with the institution, equivalent figure to 100% of the cause of defendant entered. Up to December 31 2022, the Public Defender's Office had an effective provision of 719 public officers, including the 195 local defenders considered in the Law N° 19.718. The budget of the Public Defender's

Office for the year 2022 reached the figure of M\$ 64.506.581 which was increased by 2 thousand 385 million 747 thousand pesos (ThCh\$2,385,747) to finance, mainly, the differential for readjustment of public sector remunerations; the payment of the Modernization Bond; the payment of the retirement fund for the civil servants who retired and for the execution of the 'Program of backwardness causes.

In terms of expenses, the execution was 66 thousand 593 million 123 thousand pesos (Th\$ 66,593,123).



Concerning the mixed system up to December 31 2022, 209.848 causes were assigned to external service providers, corresponding to a 78% of the total income to the Public Defender's Office, being the differential of this figures, assisted and attended by public servants.

Concerning criminal defense; the specialization for juveniles, indigenous, migrants and convicted defense services is now consolidated, thanks to the relevant trainings as well as improvements in the defense models in all these areas.

The public defender's office challenges for the 2021 where focus in the continuous improvement areas concerning quality in the criminal defense provision, and specialization delivery.

This defense specialized areas will be strengthened emphasizing the criminal migrants defense, indigenous criminal defense and the implementation of convicted gender defense. Likewise, the Public Criminal Defense, for the year 2023 has the challenge to improve the management and operation processes, setting as always, the attention to quality service deliver for users and their families.

NATIONAL REPORT: ENGLAND
AND WALES

England and Wales National Report ILAG Harvard 2023

1. Country details:

Name: England and Wales

Population: 59,597,048 (England and Wales 2021 Census – Office for National Statistics)

GDP: £2,230,625m (UK GDP 2022 - Office for National Statistics)

Poverty line: People living in households with income below 60% of the median in that year

% of population deemed to be living in poverty: 17% (UK 2019/20 – House of Commons Library)

Number of practising lawyers in the jurisdiction: 153,282 (number of solicitors with practising certificates in England and Wales in the 12 months to 31 July 2021 – The Law Society Annual Report)

2. Legal Aid Organisation / Authority:

Name and Status of LAO (Independent, within Government, part of the Bar Association / Law Society, Public Defenders Office etc).

Legal Aid Agency (LAA) – the LAA is an executive agency, sponsored by the Ministry of Justice. [Executive Agencies are clearly designated units of a central department, administratively distinct, but remaining legally part of it.]

The Director of Legal Aid Casework was created under the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO Act). It involves decision-making on individual legal aid applications. The Director has sole responsibility for individual cases, ensuring that decision-making in this area is independent from Government. The current Director of Legal Aid Casework is also Chief Executive of the LAA.

Delivery method (salaried, private profession, paralegals etc. Please give numbers for each sector. If mixed please give the division of labour and balance of the mix).

Legal aid services in England and Wales are delivered through solicitor firms, not-for-profit organisations, mediators and barristers who are paid by the LAA to do legal aid work. Generally, those providing legal aid will need to hold a legal aid contract, administered by the LAA or, in the case of some advocacy services, will be instructed by a contracted provider. Telephone services are also provided for civil legal advice, and by the Defence Solicitor Call Centre. The LAA does not collect information on individuals, but firms and offices:

Contract	Firms/Providers	Offices
2018 Standard Civil Contract	1,287	2,077
<i>(mediation providers included above)</i>	<i>(145)</i>	<i>(146)</i>
2022 Standard Crime Contract	1,112	1,671
Civil Legal Advice (telephone only)	8	8
Public Defender Service	4	4

**Correct as at 4/4/23 – source Legal Aid Agency Provider History Report produced by MI Team*

England and Wales have a small Public Defender Service (PDS). It provides defence advice and representation in all types of criminal cases. Its Advocates can be instructed by provider firms on behalf of legally aided clients and its offices can be instructed by clients who qualify for legal aid. PDS operates across four offices, employs 19 solicitors, 6 accredited police station representatives and 23 advocates, including 4 KCs.

What payment methods are used to recompense any private lawyers in your system (e.g. contract, fixed fee, hourly rate, part pro bono, etc)?

The legal aid schemes require various types of contract covering different types of work. They are a combination of fixed fees and hourly rates. In a small number of cases the work has been price competed (this is for some of the telephone contracts). Rates of pay for most cases are set out in Remuneration Regulations and decided by the Lord Chancellor, not the LAA.

3. Budget and Spend:

Please give the budget for Publicly Funded Legal Services / Legal Aid in your jurisdiction for the last two years. If possible, show the actual expenditure broken down by civil, criminal, initial advice.

	Legal Aid Spending (£000's)			
Financial Year	Criminal Legal Aid	Civil	Central Funds	Total Legal Aid
2018-19	900,904	708,744	49,671	1,659,319
2019-20	844,030	774,096	54,321	1,672,447
2020-21	585,178	725,225	31,946	1,342,349
2021-22	785,521	813,143	42,114	1,640,778

**Stats taken from [Legal Aid Statistics Oct-Dec 22](#). 4 Years included to account for Covid-19*

Central Funds includes the spend on orders made to acquitted defendants who have privately funded their legal representation. This occurs when under the terms of the Prosecution of Offences Act 1985, acquitted defendants who have applied for legal aid and been found ineligible may, in limited circumstances, obtain an order from the Crown Court to recover their costs.

Please indicate the proportion of the legal aid budget that is funded by (a) central / Federal Government (b) Local or state government.

100% UK central government.

Is your legal aid budget demand led (uncapped) or capped or a mixture? (Please elaborate).

Demand led – demand for legal aid is broadly driven by demand in the justice system more widely, particularly in criminal and public family law.

4. Scope, Caseload and Eligibility:

What restrictions on scope are there for civil and criminal legal aid and for initial advice in your jurisdiction?

Legal aid is available for the following:

- you’ve been accused of a crime, face prison or detention;
- you’ve been arrested, charged or questioned by the police;
- homelessness or losing your home, or if it’s in serious disrepair;
- protecting yourself or your child from abuse or harassment, for example domestic abuse or forced marriage;
- poor quality care you or a family member are getting due to age, disability or special educational needs;
- needing advice on finances, children or divorce if you’ve been in an abusive relationship;
- a child in your family being at risk of being taken into care;
- family mediation, for example if you’re separating or getting a divorce
- discrimination;
- challenging the way the government has made a decision about you;
- seeking asylum or if you’ve been the victim of human trafficking;
- needing representation at a mental health tribunal or inquest;
- appealing a decision made by the social security tribunal about your benefits on a point of law to the Upper Tribunal, Court of Appeal or Supreme Court.

Applicants may be able to get legal aid in other exceptional cases, if they can show that being refused legal aid would infringe their rights under the European Convention on Human Rights (ECHR).

Total number of applications and grants for the last two years. Please break down by civil, criminal and initial advice as well as by year.

Case numbers						
	Civil applications	Granted	Magistrates criminal applications	Granted	Crown criminal applications	Granted
2018-19	116,687	108,816	224,169	212,683	85,953	85,107
2019-20	121,904	113,917	203,288	194,067	91,970	90,977
2020-21	117,565	110,832	173,392	166,563	91,970	91,081
2021-22	114,688	107,478	158,421	152,620	81,937	80,958

*Stats taken from [Legal Aid Statistics Oct-Dec 22](#). 4 Years included to account for Covid-19

Proportion of the population eligible for civil legal aid and/ or initial Advice. Eligibility limits for criminal legal aid.

Given the complexity of the means test, estimating eligibility across the population is difficult. At present, we estimate that approximately 20-25% of households in England and Wales have both income and capital below the existing thresholds for civil legal aid (including initial advice). However, recipients of specific means-tested benefits (including, as a temporary measure, Universal Credit¹) are additionally entitled to be passported through the income element of the means test assessment for both civil and criminal legal aid; this increases the proportion of households eligible for civil legal aid but is very difficult to quantify as Universal Credit is still in the process of being rolled out.

To be eligible for criminal legal aid in the magistrates' court, a defendant must have a gross income below £22,325 per year, and disposable income below £3,398 a year. To be eligible for criminal legal aid in the Crown Court, a defendant must have household disposable income below £37,500 a year.

Defendants aged under 18 are generally entitled to non-means tested legal representation.

Are means tested contributions part of your (a) civil (b) criminal (c) initial advice eligibility requirements?

Legal aid for representation in the civil and family courts, and the Crown Court, may require the applicant to pay monthly income contributions towards the cost of their case.

For civil legally aided representation, applicants are ineligible if their gross income exceeds £2,657 per month or their disposable income exceeds £733 per month (with allowances for additional household members). Applicants with disposable income greater than £315 per month may need to pay a monthly contribution for the duration of their case. Similarly, applicants with capital above £8,000 are ineligible for legal aid; those with capital in excess of £3,000 may need to pay a contribution. In calculating an applicant's capital, there is an equity disregard of £100,000 applied to the primary residence. However, the MoJ consulted upon changes to the legal aid means tests in March 2022 ([Legal Aid Means Test Review - GOV.UK](https://www.gov.uk/government/consultations/legal-aid-means-test-review) (www.gov.uk)) and will publish its response in due course

For representation at the Crown Court, a defendant with disposable income above £3,398 per year may be required to pay a monthly income contribution for up to 6 months. Convicted defendants may additionally be required to make a contribution towards their legal costs from any capital assets above £30,000.

No contributions are payable towards initial advice and assistance for civil and family legal aid, or for representation at the magistrates' court. Non-means tested advice is also available at the police station following arrest.

¹ Universal Credit is a payment that those on low incomes, are out of work or cannot work receive. As Universal Credit is being rolled out nationally those in receipt of several other benefit types will also be moved over to this payment.

In March 2022, MoJ published a detailed consultation on legal aid means-testing arrangements. The consultation proposed a broad suite of changes to the civil and criminal legal aid means test, with the aim of ensuring access to justice. The MoJ has now published its response to the consultation, which sets out its position on the final design of the new means test. This includes measures such as the removal of the means test for certain areas, an uplift in thresholds and the introduction of new disregards, to name but a few.

In your jurisdiction, are legal aided litigants who lose their case liable to pay the other side's legal expenses/ costs?

Yes, the losing party may have to pay their opponent's costs. However, it is usually possible to argue that because the losing litigant was in receipt of legal aid, they cannot pay their opponent's costs. The court will usually make a "Costs Order" but say that it is not to be enforced until it can be shown that the losing litigant has the money to pay.

5. Quality Assurance:

System used – Complaints to LAO, Complaints to the Bar Association/ Law Society, Client Satisfaction questionnaires / interviews, Continuing Legal Education, Mentoring, Peer Review, Supervisor audit, Observation or video/audio tape etc?

Complaints: There are several appeals processes that applicants can apply to if they are unsuccessful in their legal aid claim. These range from appeals to an independent review body made up of practicing solicitors and barristers for high cost cases, to an internal LAA reviewer or independent cost assessor who will carry out a review of the original decision considering the representations made. Complaints about a solicitor should be referred to the Solicitor's Regulation Authority or the Legal Ombudsman. Complaints in relation to LAA staff and or processes involved in the administration of legal aid are made directly to the LAA.

Quality Standards: The Specialist Quality Mark (SQM) is the organisational quality standard owned by the LAA which can be obtained by any legal service provider operating a specialist legal service. Its purpose is to ensure providers of legal services are well managed, provide good levels of client care and have appropriate systems in place to ensure delivery of good quality advice. The Law Society also has an equivalent standard, Lexcel.

Contract Management and Assurance: The LAA's "Assurance" and "Contract Management" functions collect and analyse a broad range of management information to identify areas of potential risk. Each provider will have a "Contract Manager" who will be able to visit the organisation to carry out checks on the quality of the firm, either as part of a scheduled visit or on an ad hoc basis when required. This can lead to follow-up investigations and remedial action.

Peer Review: An Independent Peer Review Process is used by the LAA. Trained and experienced legal practitioners, recruited through an open procurement process, review a provider's random sample of case files. These files are then measured against an objective set of category-specific criteria. The criteria and process were developed in

conjunction with the Institute of Advanced Legal Studies. Providers are chosen for Peer Review either as part of a random risk-based sample or as a targeted assessment (e.g. because concerns about their quality have been raised). The outcome of a provider's assessment is rated on a scale of 1 (excellence) to 5 (failure in performance). If the provider's work is rated at 4 or 5 then this can ultimately lead to the termination of their legal aid contract (if the rating is upheld on a second Peer Review). The results of all Peer Reviews are shared with the individual provider and, on an aggregate level, with representative bodies. This encourages providers to identify any problems with the services they deliver and improve. Through its Contract Managers the LAA can take informal action to discuss and address any issues with the provider and/or take more formal measures such as the imposition of specific contract sanctions.

What requirements are there (if any) for lawyers and others who wish to provide legal aid, other than membership of the Bar / professional association e.g. registration, experience, special exams, interviews, upper or lower limits on number of cases undertaken annually etc?

Civil and criminal legal aid may only be provided by solicitor firms that have the applicable standard civil or crime contract with the LAA. An exception to this are self-employed barristers or solicitor advocates when they advocate for defendants or appellants in Crown Court cases or Tribunals. The self-employed barristers and solicitor advocates will be instructed by solicitor firms with the relevant standard contract, but they themselves, do not require a contract with the LAA. Self-employed barristers and solicitor advocates are not subject to any additional requirement beyond holding a practising certificate from their regulatory body, the Bar Standard Board and Solicitors Regulation Authority respectively.

A solicitor firm with a standard civil contract must have at least one full time equivalent supervisor for each category of law that they hold a Schedule Authorisation for. Supervisors can supervise no more than 4 caseworkers and must comply with Case Involvement and Supervision Standards as set out in the contract and in some cases, Schedule Authorisation.

Similarly, a solicitor firm with a standard crime contract must employ at least one supervisor that meets additional requirements beyond holding a practising certificate from their regulatory body. The supervisor must be accredited under the Law Society's Criminal Litigation Accreditation (CLAS) Scheme, undertake a minimum number of police station and court attendances per year and a minimum number of hours of criminal casework per year. Both legally qualified and non-legally qualified caseworkers may work on criminal legal aid cases, but they must be supervised by a supervisor that meets the above requirements.

The LAA operates duty solicitor rotas for police stations and magistrates' courts to ensure that a solicitor is available for individuals that do not have their own solicitor. The duty solicitors come from solicitor firms with a standard crime contract, and act for their own clients when not doing duty solicitor work. In order for a solicitor firm to put forward a solicitor as a duty solicitor, the solicitor must hold the CLAS Accreditation, and undertake a minimum number of police station and court attendances per year and a minimum number of hours of criminal casework per month.

Compliance with the SQM, or the Law Society's equivalent standard Lexcel, is a requirement for legal services providers that have, or are seeking to have, either a civil or crime contract with the LAA. However, the SQM is also currently available to legal services providers who are not contracted with the LAA

6. Public Legal Education:

Initiatives in last two years to increase public awareness of the availability of Publicly Funded Legal Services/ legal aid in your jurisdiction and how to access it. (Include any particular approach for those in remote areas or those with special legal needs e.g. the elderly or victims of domestic violence).

Through a number of pilots and initiatives, the Ministry of Justice (MoJ) are committed to improving and enhancing information, guidance and signposting across the full breadth of early legal support to ensure everyone is aware of how they can access justice in a way that best meets their needs.

Since 2015, the MoJ has invested more than £25 million in support for litigants in person and funding a broad range of free legal support services. This includes over £7m in funding from 2020-2022 which supported organisations providing specialist legal advice services following the onset of the COVID-19 pandemic. This funding enabled organisations to remain operational and recognised the impact of the pandemic on the sector. We are also currently distributing £4.8m to front line organisations through the Help Accessing Legal Support (HALS) grant, which has been awarded to 55 organisations. The HALS grant aims to strengthen the breadth of support to people accessing the justice system and draw together an even clearer picture of the legal journeys of litigants in person and the impact of early intervention.

In March, we announced a new £10.4m Improving Outcomes Through Legal Support (IOTLS) grant which will run from July 2023 until March 2025. This funding will enable organisations providing specialist legal support to continue to help people and communities beyond HALS which concludes in June 2023. The grant will build on the success of our other legal support grants, including HALS, with a greater emphasis on data and evidence collection and the provision of at-court support.

The Attorney General and Solicitor General are the Government's Pro Bono champions, and as a part of this they work to further public legal education. In this role, both Law Officers regularly offer support for public legal education initiatives, including participating in Pro Bono Week and Justice Week each year and conducting a range of visits to boost awareness and support the sector.

The Solicitor General also chairs a Public Legal Education Committee, which is made up of representatives from across the legal sector, including members of the profession (such as the Bar Council and the Law Society) and legal education providers such as Citizens Advice and Young Citizens.

In 2018, the Public Legal Education Committee published a 10 year Vision for Public Legal Education, which sets out key goals for Public Legal Education to be achieved by 2028. The Committee continues to work together to progress these goals, and as part of this work is this year considering steps that could be taken to gain support and buy-in for

public legal education outside of the legal sector. In addition, the Committee is also considering the impact the pandemic has had on existing PLE services.

IT packages introduced to enhance access for the public. Has there been a country wide Needs Assessment study in your jurisdiction in recent years, looking at the distribution of justiciable problems and how the public respond to them?

We are continuing to explore the role can play in helping people identify their legal problems and understand their rights and options for resolution. We have worked closely with the Department for Levelling Up, Housing and Communities (DLUHC) to deliver a prototype of an online signposting (guided pathway) tool to help people in private rented sector accommodation resolve housing disrepair issues. The online tool provides tailored information, guidance and signposting which helps users understand their rights and responsibilities and identify an appropriate next step when trying to resolve issues before they worsen. The number of users accessing the tool every month has significantly increased from around 350-490 unique users in 2021 to about 2 000 users per month in 2023. We are pilot, we are exploring the development of future tools and other online services covering other legal jurisdictions.

7. Alternative Sources of legal services:

What are the other principal sources of legal help for disadvantaged citizens in your jurisdiction, and how many clients do they assist annually (e.g. legal expenses insurance, trade unions, claims companies, community law clinics, university law clinics etc).

There continue to be several alternative access points to legal help –

- Legal expenses insurance exists but the uptake is very small;
- University law clinics use students to give free legal advice with qualified lawyers/professors overseeing;
- Law centres;
- The third sector play a large role in providing free legal advice on a variety of law including housing, debt and family. For example, Citizen’s Advice is a large charity with offices all around the country and links with other organisations, both third sector and local authorities. They provide advice on benefits, work, debt, consumer, housing, family, law & courts, immigration and health;
- Lawyers do Pro bono work, providing free legal advice to those who may not be eligible for legal aid;
- Advocate is the Bar’s national charity that matches members of the public who need help with barristers who are willing to donate their time and expertise in deserving cases for those who are unable to obtain legal aid and cannot afford to pay;
- LawWorks is the solicitor’s pro bono group charity which connects people in need of legal advice with the skills and expertise of lawyers willing to meet those needs for free, by supporting a network of local independent pro bono clinics. They also support charities and not-for-profit organisations by facilitating free legal advice and providing online information;
- ‘No win, no fee’ conditional fee agreements (CFA) are often used in personal injury cases. CFAs are a means of funding litigation, usually entered into by claimants,

where the lawyer agrees not to take a fee if the claim fails. If the claim is successful, the lawyer will charge an uplift (known as a 'success fee') in addition to his base costs.

8. Holistic legal services:

Is your jurisdiction exploring link ups between legal services providers and non lawyer professionals, e.g. health / justice partnerships, social work / justice collaboration, or other forms of "one stop shop"?

In England and Wales, as is the case across the UK, health justice partnerships (HJPs) are well established with over 380 partnerships linking health and legal services across the four jurisdictions. Many of these partnerships have contributed to the growing body of research that indicates that there are clear health and wellbeing benefits of legal advice and that co-locating advice in healthcare settings provides benefit for both clients and healthcare systems. However, this evidence has many limitations, making it difficult to assess the real impact that health justice partnerships can deliver. The Ministry of Justice is addressing these evidence gaps through robust evaluation of pilots.

MoJ work on health justice partnerships and co-located advice hubs is part of the effort to develop understanding of what works in legal support services as originally set out in the 2019 [Legal Support Action Plan](#). At present we are focusing our efforts on co-location in health care settings though we are also exploring other appropriate environments for co-location. The MoJ are also exploring whether system level barriers can create challenges for the successful delivery of health justice partnerships and hope through work in this area they can lead discussion and challenge any such barriers where they are found. The MoJ are undertaking two projects to support this work. The first is in partnership with Citizens Advice Wirral, the MoJ is part funding a co-located hub named Flourish Wellbeing Hub (FWH) which launched in November 2023. This project will run until March 2025. MoJ will fund a hub facilitator, a data management tool, and an independent evaluation of the hub. In addition to this, the MoJ have commissioned an external evaluation of existing health legal advice hubs co-located in healthcare settings (HJPS) across England and Wales. This project will run until June 2024.

The MoJ has also invested in understanding how we work more closely with local community groups and networks who are often the first place people turn when facing a legal problem. These 'trusted intermediaries' are ideally placed to play a key role in supporting individuals to recognise they have a legal problem and get the right advice sooner and before they reach crisis point. The MoJ provided £22k to Law for Life to fund a training programme for trusted intermediaries. This has enabled them to deliver their housing rights courses to 50 trusted intermediaries from 30 different community organisations supporting women with housing and homelessness issues in South West and North West England. Funding this training provides an opportunity to improve our understanding of the benefits of training trusted intermediaries and help determine how the role they can play in getting the right legal support to the right people at the right time can be developed.

9. UN SDG Standard 16.3

Please identify any steps being taken to articulate and elaborate Sustainable Development Goal 16.3 in your jurisdiction.

Despite the challenges the Covid-19 pandemic brought, the LAA has continued to promote and safeguard access to justice. Contingencies have been put into place to maintain access to justice for those that still required and sought it throughout the response period. In addition, help has been offered to providers to ensure that provision will remain in place and available for the most vulnerable in the future.

Most promising development and biggest challenge

The impact of Covid-19 was one of our biggest challenges, but the response to it continues to be one of our most promising developments. The contingencies put in place have allowed us to explore new ways of working that have helped with efficiency and effectiveness, with consideration continuing to be given to how we might maintain and develop these changes within the existing, and future, contractual and regulatory framework.

Means Test Review (MTR) proposals, if implemented, would see an increase to thresholds and an increase to the percentage of the population in England and Wales financially eligible for legal aid. However, implementation will be complex from a digital systems perspective and the LAA (and its contracted providers) will need to plan/prepare appropriately to adjust to any increases in legal aid demand as a result of the MTR proposals.

We are preparing for the launch of the Housing Loss Prevention Advice Service (HLPAS) from 1 August 2023. HLPAS will expand the scope of legal aid beyond the current provision of representation at court to include early legal advice on housing, debt and welfare benefits issues. Advice will be available from the moment an individual receives notice that possession is being sought. Assistance will be non-means tested. It is hoped that this will enable individuals to resolve matters before possession proceedings are required, reducing homelessness and pressure on the courts and social services.

The Criminal Legal Aid Independent Review (CLAIR) is an opportunity to help the justice system recover from the disruption caused by the pandemic, and to move forward stronger, as we work to drive down the Crown Court backlog.

On 30 November 2022, we published our substantive response to the Criminal Legal Aid Independent Review, following an interim response published in July 2022. Taken together, they set out ambitious reforms that put us on the road to a better functioning, more efficient and improved criminal justice system.

The first phase of our reforms sought to address the immediate and severe funding challenges faced by the criminal legal aid profession. Our initial package injected £115 million a year into the system. This amounts to a 15 percent pay increase for most fee schemes and is the biggest uplift the sector has seen in over a decade. This funding

began to come into effect from the end of September 2022, and we subsequently agreed to extend it to the majority of cases already being worked on in the Crown Court.

Phase two of our plans focuses on longer term systemic reform. Central to this is the establishment of the Criminal Legal Aid Advisory Board, which will enable better dialogue between government and the legal professions in future.

We want to make sure that criminal defence solicitors are fairly paid for all the work they do. We are proposing a £21 million funding boost, including £5 million specifically for work in the youth court. As CLAIR recommended, we will restructure complex fees for police station work, investing an additional £16 million a year. This is anticipated to increase spend by up to £141m a year - taking expected criminal legal aid spend to £1.2 billion per year.

The Ministry of Justice is undertaking a review of civil legal aid which will consider the civil legal aid system in its entirety - how services are procured, how well the current system works for users and how civil legal aid impacts the wider justice system.

The purpose of the review is to identify evidence-based options for moving to a more effective, efficient and sustainable system for legal aid providers and the people who rely on legal aid. The Review will seek to develop proposals and draw conclusions from an evaluation of a wide array of sources. Whilst the review is taking place, we are continuing to make improvements across the sector to ensure legal aid is available to those who need it.

NATIONAL REPORT: FINLAND



Finland: National Report ILAG Harvard 2023

1. Country details :

In 2022, Finland's population was 5.565 million and its gross domestic product (GDP) € 234 billion (per capita € 42,340).

The legal aid system used in Finland is known internationally as a mixed legal aid model. Legal aid services employ both public and private service providers. This means that a person entitled to state-funded legal aid can choose whether he or she wants to use the services of a public or private lawyer. No distinction of primary v. secondary legal aid services can be made.

The state legal aid offices employ around 200 public legal aid attorneys and around 166 legal aid secretaries. About half of the public legal aid attorneys are members of the Finnish Bar Association. In Finland, there are around 2,200 attorneys-at-law (members of the Bar) and around 1,690 licensed trial counsels who handle legal aid cases. This means that there are altogether around 4.000 lawyers providing legal services.

2. Legal Aid Organisation / Authority:

Legal aid is governed by two legislative acts:

- Act on Legal Aid and Public Guardianship Districts and
- Legal Aid Act

and four decrees:

- Ministry of Justice Decree on Legal Aid and Public Guardianship Districts
- Ministry of Justice Decree on Legal Aid and Public Guardianship Districts, Locations of Legal Aid and Public Guardianship Offices, and Municipalities whose Public Guardianship Services the Districts are Responsible for
- Government Decree on Legal Aid and
- Government Decree on Legal Aid Fee Criteria

The Ministry of Justice is responsible for the overall management and supervision of the legal aid offices. The financial and personnel administration of legal aid offices has been centralised in six legal aid and public guardianship districts. The six legal aid and public guardianship districts, which function as agencies, began their operations on 1 October 2016. This reorganisation enables the staff working at the legal aid offices to focus on legal aid decisions and the practice of law.

The Ministry of Justice has launched preparations to reorganise the legal aid and public guardianship districts into a National Legal Aid and Guardianship Authority in 2024-2025. The Ministry of Justice commissioned studies on the establishment of a national legal aid and guardianship authority in 2017 and

2020. The most recent study proposed that a National Legal Aid and Guardianship Authority be established, consisting of central administration and legal aid and public guardianship offices. The study did not propose any changes to the current locations of the offices. Most of the stakeholders who submitted their opinions on the study supported the establishment of a legal aid and public guardianship authority. The establishment of the authority was considered to allow for a more efficient and coherent development and better resourcing of activities than at present. The preparations now under way are based on these studies.

With an area of about 340,000 km², Finland has 23 legal aid offices, which are located mainly in the vicinity of the district courts. The legal aid offices have 153 locations of which around half are service points where clients are met as required. The legal aid offices are small: they have between 2 and 30 employees. The total number of employees is only around 366 of whom 200 are public legal aid attorneys and 166 legal aid secretaries who help legal aid customers and attorneys working in office. Applicants for legal aid may choose which legal aid office they wish to use.

Legal aid is administered by legal aid offices and courts. Legal aid is granted by the legal aid offices. If a legal aid office does not accept a legal aid application and deems that there is no reason for a rectification, the application may be submitted to a court for consideration. If the court does not grant legal aid, it is possible to appeal against the decision.

Legal aid is provided at the expense of the state to persons who need expert assistance in a legal matter and who are unable to meet the costs of proceedings as a result of their financial circumstances. Legal aid covers the provision of legal advice, the necessary measures and representation before a court of law and another authority, and the waiver of certain expenses related to the consideration of the matter. Legal aid is not provided to a company or a corporation.

The State will not compensate the opposing party for his or her legal costs in the event that the recipient of legal aid loses the case. If the party opposing the legal aid recipient would be liable to compensate in full or in part for the recipient's legal costs (by virtue of the Code of Judicial Procedure, the Criminal Procedure Act or the Act on Administrative Judicial Proceedings), that party shall be ordered to compensate the state for the expenses paid from state funds.

Legal aid can be paid fully or partially by the state and the eligibility is based on the applicant's available means. This is calculated from the combination of monthly income after taxes, expenditure and wealth. Expenses to be taken into account are for example housing costs (no instalment of a mortgage), childcare fees and recovery proceedings. Wealth is calculated after liabilities attached to its value are reduced. The primary residence of the family, an ordinary leisure home and a car are disregarded as assets, provided that their value is reasonable in proportion to the family's size and need.

Legal aid is provided for free to persons without means. Others are liable to co-pay for the legal aid they are given. The costs collected from the applicant include the legal aid charge and the excess. In-come levels for single persons and persons with spouses for fully or partially paid legal aid are as follows:

Income / single person	Excess	Income / spouses, per person	Excess
EUR 600 at the most	0%	EUR 550 at the most	0%
EUR 800 at the most	20%	EUR 700 at the most	20%
EUR 900 at the most	30%	EUR 800 at the most	30%
EUR 1,050 at the most	40%	EUR 1,000 at the most	40%
EUR 1,150 at the most	55%	EUR 1,100 at the most	55%
EUR 1,300 at the most	75%	EUR 1,200 at the most	75%

All who are obligated to pay an excess have to also pay a legal aid charge of EUR 70.

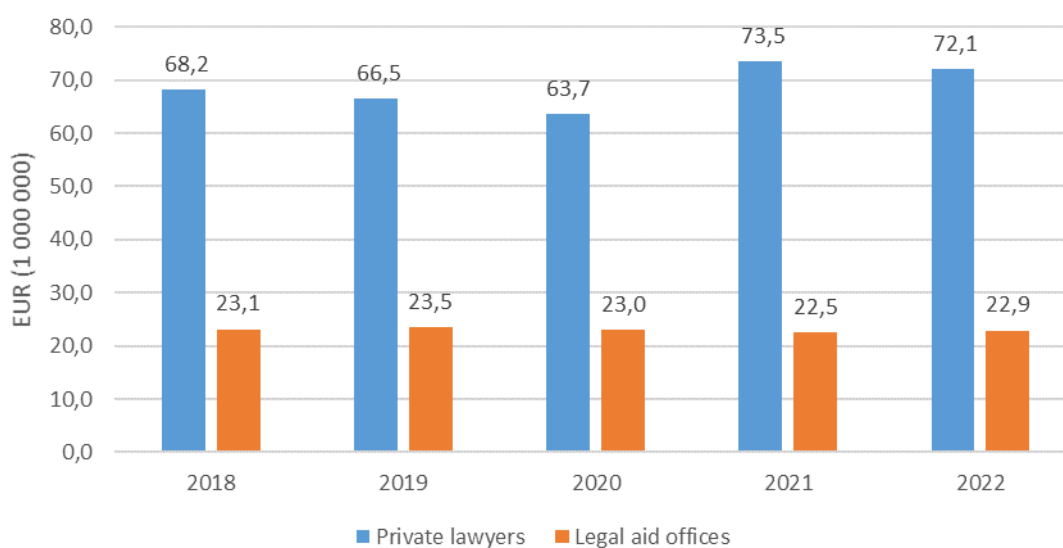
Around 74% of the matters managed by legal aid offices were handled for free (2022).

The legal aid fees are determined in compliance with the Government Decree on Legal Aid Fee Criteria. At the moment, the hourly fee is EUR 110. A minimum fee per case is also possible (EUR 415–715, depending on type of case and the length of court session).

3. Budget and Spend:

The funding for legal aid comes from the Government's Budget via the Ministry of Justice. All public legal aid attorneys, who work at a state legal aid office get a monthly salary paid by the state from the legal aid budget. A private lawyer who deals with a legal aid case will be paid an hourly remuneration case per case. A private lawyer's fee is also paid from the legal aid budget by a decision of a state legal aid office or a court.

Cost of legal aid



4. Scope, Caseload and Eligibility:

Because legal aid is granted on the basis of the applicant's monthly available means (not income), it is hard to say what share of the Finnish population qualifies for legal aid. A person's situation in life has a major role in determining if he or she has a right to legal aid. It has been estimated that in 2018 the share of people within the scope of legal aid was 52.3% of people aged 15 years or older.

Public legal aid attorneys working at the public legal aid offices are public officials paid by the state who can handle all type of measures from legal advice to court proceedings. Private lawyers handling legal aid cases are like any other private practitioners of law (bar members or licensed trial counsels). The biggest distinction between the services of the state legal aid offices and those provided by private lawyers is that the private lawyers are only allowed to handle legal aid cases involving court proceedings. This leaves all out-of-court issues (e.g. providing legal advice or document drafting or drawing up of a document, such as an estate inventory or an agreed distribution of matrimonial property) under the jurisdiction of the legal aid offices. In these situations, the recipient of legal aid cannot choose a private lawyer, unless there is a special reason for it. The reason may be that the legal aid office has a conflict of interest in the matter, is too busy to take the client or the matter requires special knowledge that the public legal aid attorneys of the office do not have.

Legal aid is not provided if:

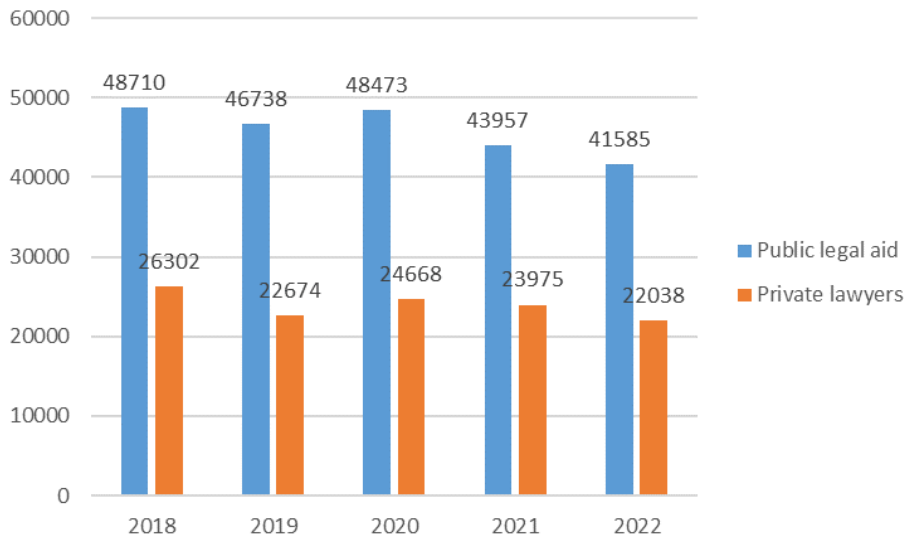
- the matter is of minor importance to the applicant
- it would be manifestly pointless in proportion to the benefit that would ensue to the applicant
- pleading the case would constitute an abuse of process, or
- the matter is based on an assigned right and there is reason to believe that the purpose of the assignment was to receive legal aid.

Legal aid does not cover a lawyer's services:

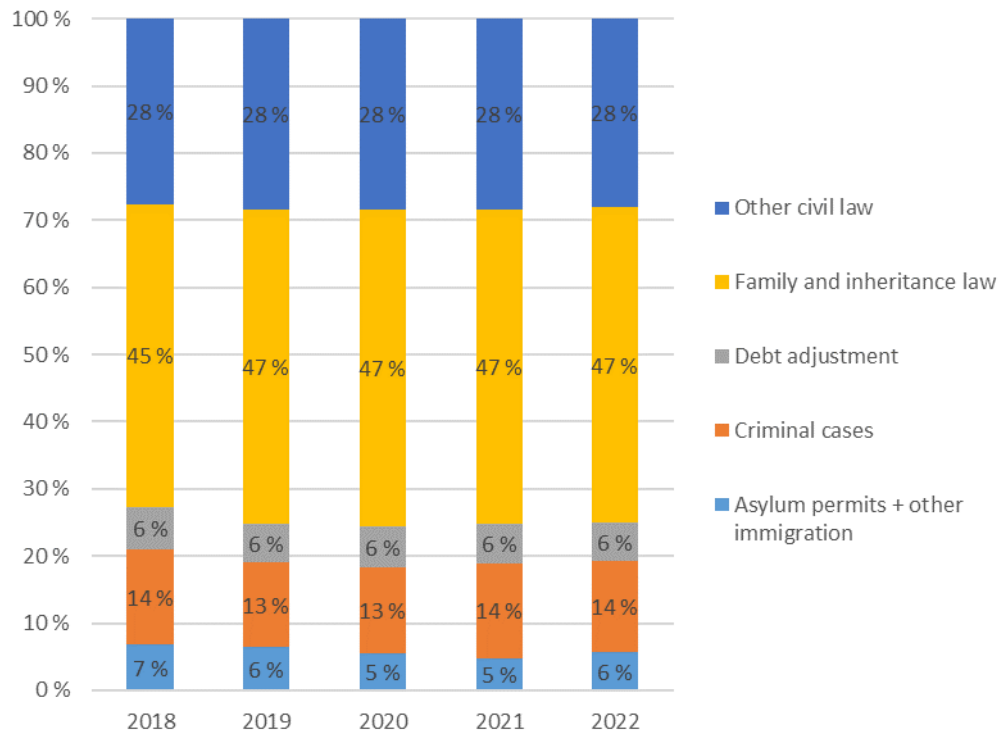
- in a petitionary matter handled in a general court, unless there are especially weighty reasons for it
- in a simple criminal case, where the prevailing penal practice indicates that the foreseeable penalty will not be more severe than a fine or where the access of the defendant to justice does not require a lawyer in view of the foreseeable penalty and the results of the investigation of the matter
- in a matter concerning taxation or a public charge, unless there are especially weighty reasons for it, or
- in a matter where the person's right to request a rectification or to appeal is based on a membership of a municipality or another public corporation.

However, a public legal aid attorney may provide legal advice and draw up any required documents, if necessary.

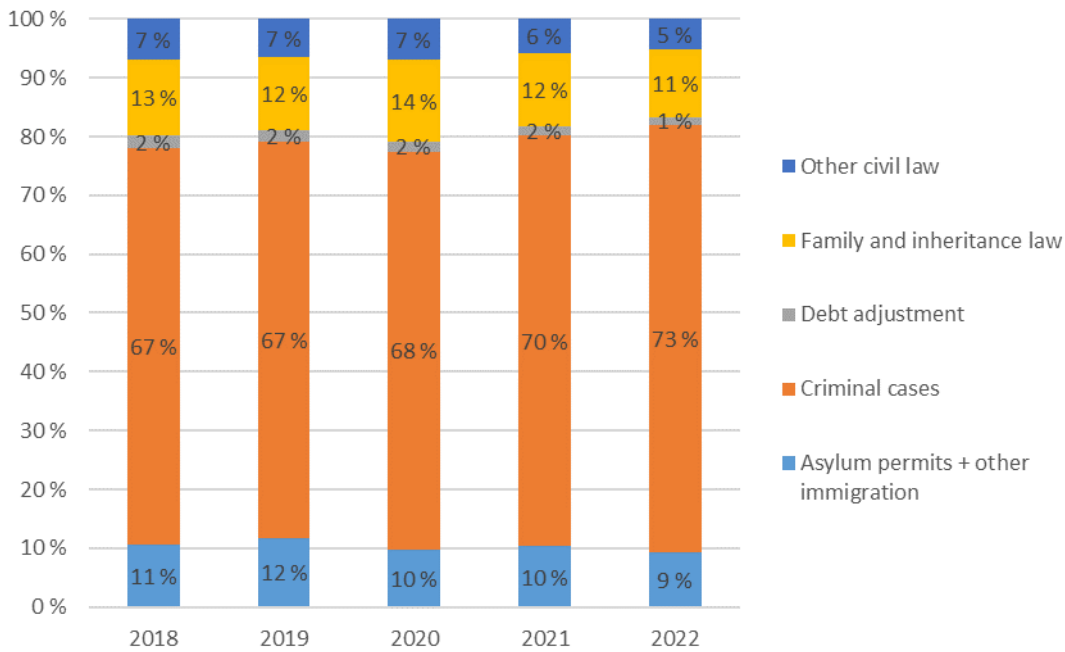
Cases dealt by legal aid offices and by private lawyers



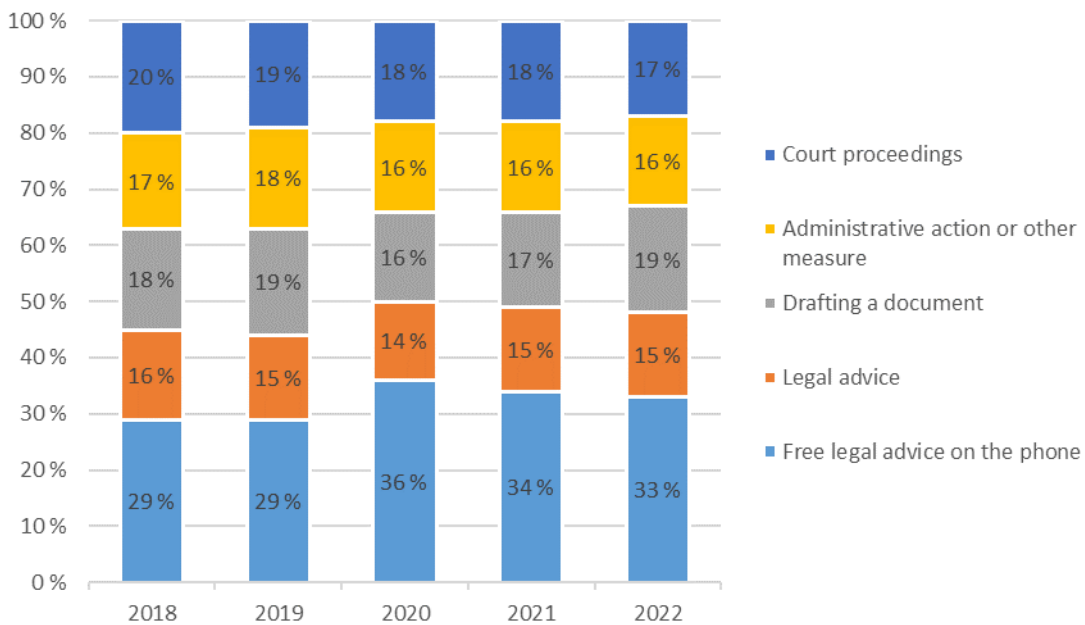
Cases received by legal aid offices



Legal aid cases received by private lawyers



Cases dealt with at legal aid offices



5. Quality Assurance:

Legal aid is provided by public legal aid attorneys and private lawyers. A public legal aid attorney is a lawyer working at a state legal aid office. Private lawyers are attorneys-at-law or other private lawyers. An attorney-at-law is a lawyer who is a member of the Finnish Bar Association and whose activities are supervised by the Bar and the Chancellor of Justice. All other private lawyers who are not attorneys-at-law and who deal with legal aid cases have to be licensed trial counsels. A licensed trial counsel is a lawyer who has been granted a permit by the Board on Trial Counsel to act as an attorney. Where the person receiving legal aid has self-nominated an eligible person as his or her lawyer, that person shall be appointed unless there are special reasons to the contrary.

The activities of public legal aid attorneys and licensed trial counsels are supervised in the same manner as those of attorneys-at-law. In his or her task, the lawyer shall adhere to proper conduct as attorney. All Finnish attorneys-at-law, public legal aid attorneys and licensed trial counsels must follow the professional and ethical standards of the legal profession.

The requirements for eligibility for the office of public legal aid attorney are a Master of Laws degree obtained in Finland (but not master of international and comparative law) and adequate experience of advocacy or adjudication. Half of the public legal aid attorneys are members of the Bar.

The license to serve as an attorney and trial counsel is granted to a person who:

- has completed a master's degree in law (other than a master of international and comparative law degree), or a corresponding law degree abroad which has been recognized in Finland as separately provided
- has become sufficiently acquainted with the work of a lawyer and trial counsel
- is honest and is not manifestly unsuitable for the work of a lawyer and trial counsel, and
- is not bankrupt and has full legal capacity.

A lawyer has the sufficient acquaintance with the work if he or she:

- has passed the advocate's examination
- has completed his or her court practice
- has served at least one year as a prosecutor, or
- after having received the degree has served at least one year in other assignments that acquaint him or her with the work of a lawyer and legal counsel.

A person is not deemed honest if within the preceding:

- five years he or she has been sentenced to imprisonment on the basis of a legally final judgment or
- three years he or she has been sentenced to a fine for an offence that demonstrates that he or she is unsuitable for work as a lawyer or legal counsel.

A person who, as a disciplinary sanction, has been struck from the membership of the national general association of attorneys or struck from the EU register kept by the Bar may not be granted the license until three years have elapsed from when he or she had been struck from membership or the register. A person whose license to serve as lawyer or legal counsel has been revoked as a disciplinary sanction may not be granted a new license until three years have elapsed from the beginning of the period the license was revoked.

In addition to exclusion from the proceedings, there is also a specific procedure in place to be applied in the supervision and direction of the lawyers. The courts monitor the appropriateness of the procedure also by way of active process management. As the fees of the public legal aid attorneys are paid from state funds, it is particularly justified to evaluate the quality of their work. It is possible, by virtue of the effective legislation, to reduce the lawyer's fee or even to leave it altogether undetermined, if the quality of the work has not met the set requirements. The courts shall actively and justifiably use this opportunity to make sure that the lawyers' work is of high quality.

A research project was initiated in April 2018 to examine the accessibility and quality of legal aid. The objective of this project was to collect and analyse data on the impacts that legislative amendments and changes in the operating environment of legal aid have had on the accessibility and quality of legal aid. Its other aims include collecting and analysing information about the current status of legal aid. The project collected an extensive set of interview and survey data from applicants, actors in the process, and experts.

The report “**Towards High Quality Legal Aid Services**” was published in 2019. According to the results, customer satisfaction on the services varied between those three sections. Asylum seekers had both positive and negative experiences. The customer experiences were largely positive in the responses of the clients of both public legal aid and financial debt counselling. Interest in broader use of electronic services emerged in the results of customer surveys on both public legal aid and financial and debt counselling. The results of all three research areas revealed, at least to some extent, that customers did not have sufficient information on the progress of their own case at different stages of the legal aid process. The expertise of the counsellors was welcomed in many respects but it will also need attention in the future. In general, the long queuing time, a sense of urgency in the encounters between customers and counsellors, and fluctuations in the quality of the counsellors’ expertise suggested that resources for organizing legal aid services are not fully sufficient.

A research project was initiated in June 2020 to examine the access to legal aid. **Report of the impact of income limits for public legal aid** was published in October 2021. The project provided information on the impact of income limits for public legal aid. The main result of the study was that not all people with low incomes receive legal aid free of charge at the current income limits. In addition, according to the interviews related to the report, there were also some problems concerning people with middle income.

The Government Report on the Administration of Justice was published in November 2022. The report was prepared under the management of the Ministry of Justice. The report provides a comprehensive and concise overview of the current state of the administration of justice in Finland and its operating conditions and development trends. The field of administration of justice is broad. This Report focuses on the activities of the court system, the National Prosecution Authority, the National Enforcement Authority, the Prison and Probation Service, the public legal aid and guardianship districts, the Legal Register Centre, the Consumer Disputes Board and the Non-Discrimination and Equality Board.

International comparisons show that the rule of law has a solid foundation in Finland. However, the insufficiency of budget appropriations allocated for the administration of justice and the operating conditions of actors in the field have given rise to significant concerns already for a longer time and, despite significant increases in appropriations during the current parliamentary term, the situation remains unsatisfactory. Key problems regarding legal protection include the excessive length of legal proceedings and the high cost of trials. At the same time, the personnel are overburdened.

The Government Report sets medium-term objectives for achieving reasonable quality in the administration of justice. It also presents proposals for measures to ensure sufficient resources for the administration of justice, to improve the internal structures and processes, and to improve the availability of legal services and customer service. Securing appropriate operating conditions for the administration of justice and achieving the objectives set for the administration of justice require a total of approximately EUR 90 million in permanent annual additional funding.

It is proposed in the report that the income limits of legal aid should be raised and the calculation method of financial criteria should be simplified.

The low income thresholds set for legal aid have meant that not all people with low income can receive legal aid free of charge, and none of the people with medium income will receive legal aid even with a deductible. The share of people within the scope of legal aid has decreased from 2016 to 2018. In 2016, its scope included 55.9% and two years later 52.3% of people aged 15 years or older. By raising the income thresholds set for legal aid, people with low and medium income would have a better opportunity to receive legal aid.

If the opportunities of people with low and medium income to receive legal aid were to be improved by raising the income thresholds, the costs incurred by the state would increase by a total of EUR 10.7 million per year, of which the share of costs of the Legal Aid Offices would be 30% and the share of fees of private attorneys would be 70%.

In order to secure the services currently provided by private attorneys, the fees for private attorneys must be increased. The level of compensation has not been increased since 2014. Based on the cost-of-living index alone (for the years 2014–2021), the need for increasing the fees of private attorneys is EUR 10/hour, which requires approximately EUR 7.5 million per year of funding.

6. Public Legal Education:

In the assessment of the coverage of legal aid, attention must be paid to the geographical coverage as well as to the coverage in respect of different groups of parties and matters. The case law of the European Court of Human Rights concerning a person's right to public legal aid during a criminal investigation must be taken into account in this assessment. The same applies to the case law of the Court of Justice of the European Union concerning a legal entity's right to legal aid. Furthermore, the grounds for receiving legal aid in different administrative judicial matters, including tax matters, must be assessed.

Basically, legal aid can be applied for either by submitting a legal aid application directly to the legal aid office or by completing an online legal aid application form. In most cases, the applicant's first contact is the lawyer of his or her choice, who then draws up the application for legal aid.

It has been possible to apply for legal aid online since 2010. The case management system for legal aid cases, Romeo, is a national information system used by legal aid offices and courts. The introduction of e-services at legal aid offices has brought significant changes to the procedure for applying for legal aid and the related practices. Thanks to the online legal aid application, it is possible to centralize the processing of legal aid decisions to certain legal aid offices.

Legal counselling has been developed into a more customer-oriented service that is easier to use. Legal advice may be requested at a legal aid office anonymously through an electronic chat service. A meeting or a telephone appointment with a legal aid office may also be booked online. Remote services will be used more extensively especially in situations where a legal aid office is disqualified from handling a case and where the realization of the linguistic rights of a client so require. If a legal aid office cannot provide a service, the client may be provided legal aid as a remote service from another legal aid office. Moreover, the staff of a legal aid office may be contacted through a remote connection from a home computer or a joint service point or through a mobile device.

All citizens shall have easy access to legal counselling services through various channels. These channels include different forms of online counselling, electronic services, remote services, a telephone service and personal consultations. The use of electronic services has increased for both personnel and customers during the Covid-19 pandemic. The objective regarding online legal counselling is that citizens have easy and fast access to information in accordance with their respective life situations. Citizens may flexibly transfer from general information sources to a more individual approach and electronic services, and also to consultation over the telephone or personal meetings. The information should also be written in clear language. The Accessibility Directive of the European Parliament and of the Council also brought its own requirements for services in different channels. Accessibility means that websites and mobile applications and their contents are such that anyone can use them and understand the content.

The Ministry of Justice website “Oikeus.fi” contains information about the Finnish judicial system and links to the websites of the independent courts, the public legal aid and guardianship districts, the National Prosecution Authority, the National Enforcement Authority Finland, and the Criminal Sanctions Agency. This website also contains links to the websites of other authorities in the administrative branch of the Ministry of Justice. The website of the Ministry of Justice has just been renewed and it is well used. There is information available online to the general public on legal aid in both of the national languages (Finnish and Swedish) and also in English.

Authorities, companies and organisations provide a multitude of different free and commercial legal counselling services. Counselling services are mainly one-way information channels that provide general information. From a citizen's perspective, the challenge is finding the right service and assessing its quality and reliability. The focus of the service should be shifted to a more individual level and it should be made easier for the client to transfer between different services. However, general advice in everyday legal problems is fragmentary and spread out across a number of different pages.

7. Alternative Sources of Legal Aid services:

The primary means for covering legal costs for individuals is the legal expenses insurance (LEI). Usually LEI is an automatic add-on product of household insurance, which is why around 90 % of Finns are covered by it. According to the insurance companies, it is very rare that a client would ask for the LEI to be removed from his or her household insurance. In addition, all companies do not allow the removing of LEI from the household insurance policies. The annual costs of LEI vary between EUR 12 and EUR 100 depending on the insurance company and its policy.

LEI does, however, incorporate many restrictions, which makes it suitable only for certain types of legal issues. First of all, to use LEI the person must prove that he or she has a legal dispute that can be resolved in court. In other words, out-of-court proceedings (e.g. legal advice, document drafting) are excluded from LEI policies. Also, family and inheritance issues are generally excluded, or they have to meet some strictly defined criteria. Cases between an employer and an employee are also excluded from LEI policies. On the other hand, a majority of workers in Finland are union members and union fees usually cover legal assistance in employment disputes. In criminal matters, LEI offers no coverage if there is a state prosecutor demanding a sentence. In these cases, the state pays the public defender representing the defendant. Depending on the insurance company and its policy, LEI can offer some coverage if the case is settled before the main hearing, but in such cases only 50% of all expenses are usually paid. As a rule, LEI does not cover the legal costs of the opposite party.

The usual maximum cover for legal costs under normal LEI policy conditions is around EUR 8,500, with an excess of 15% to 20% or a minimum of EUR 150–340. The criticism against the current maximum coverage is that it is sufficient only in the simplest disputes, whereas in the case of a more complicated issue, such as housing dispute, legal costs are usually much higher than EUR 10,000. Usually LEI policies are fairly similar between insurance companies, with no major differences in the terms. Basically there is just one model for everyone. However, some insurance companies have options for higher maximum coverage than the usual EUR 8,500, but these are not widely used or even marketed by the companies. The higher sum is around EUR 17,000.

State funded legal aid is secondary to the LEI. If person has LEI that covers the matter at hand legal aid will not be granted. A few exceptions still apply. A person may be entitled to state funded legal aid for costs that exceed the maximum coverage provided by LEI (of course subject to all the other conditions for state

funded legal aid being met). In some cases legal aid can also be granted in order to pay the excess of a LEI policy.

In an on-call service organised by the Finnish Bar Association in several localities across Finland, attorneys-at-law provide free of charge counselling in all legal matters. The attorney-at-law shall state whether it is necessary to seek legal expert assistance in the matter and, if necessary, refer the matter to a lawyer or the appropriate authority. No documents are produced at the meetings nor are any kind of assignments handled. Discussions are always confidential.

8. Holistic legal services:

The legal aid and public guardianship districts are also responsible for organising the guardianship services. A guardian appointed under a lasting power of attorney may be necessary when a person's mental capacity has degraded due to a serious illness or old age to the extent that he or she is no longer capable of protecting his or her interests or taking care of his or her personal affairs. The local register office or the court may appoint a public guardian to act as the guardian. The public guardian is usually a public official employed by a public guardianship office. In some regions, a public guardian employed by a provider of outsourced services may act as a public guardian. A private person such as a close relative or another close person may also act as a guardian. The local register office provides advice and guidance in the procedure for appointing a guardian. All public guardians are supervised by Digital and Population Data Services Agency.

As of 1 January 2019, the state legal aid offices have provided financial and debt counselling services. A person may turn to any legal aid office irrespective of his or her municipality of residence. It is also possible to receive counselling services as a remote service. The services are provided free of charge. Financial and debt counsellors can assist in reviewing the person's overall financial situation, planning finances and drawing up debt settlement proposals for creditors. A counsellor may also be present at settlement negotiations conducted with creditors. Financial and debt counselling services provide assistance in applying for debt adjustment at the district court and in drawing up a payment schedule and other necessary reports and documents.

The Finnish system for alternative dispute resolution, i.e. proceedings before a matter is considered by a court, is a well-established one and consists of boards and tribunals where citizens have a chance to have their matter considered free of charge and without court proceedings. Society already offers many different mediation systems, but the related mechanisms are not used to their full potential in early dispute resolution. The long-term objective is that a mediation process in family matters should be more customer-oriented and the process should be developed across administrative boundaries in collaboration between the social welfare services and the judicial administration.

A project of the Ministry of Justice and the Ministry of Social Affairs and Health has examined the possibilities to transfer the responsibility for mediation to the administrative branch of the Ministry of Justice. The steering group of the project has proposed that mediation in criminal and civil matters be transferred from the administrative branch of the Ministry of Social Affairs and Health to that of the Ministry of Justice so that these matters would be dealt with by the same authority as legal aid and public guardianship. The matter is being prepared and no decision has yet been made.

The consumer dispute process requires further development in order to make the process more effective and to streamline it in accordance with the needs of the client. Here the collaboration should include the Consumer Disputes Board (CDB) and other consumer authorities. Clients of the CDB are provided with

access to electronic services with the main focus on the production of advisory services. Efficiency is also increased with an electronic case management system.

9. UN SDG Standard 16.3

In order to shorten the total length of judicial proceedings and to guarantee the quality of legal protection, a programme for the reform of the administration of justice (the legal protection programme) has been drawn up by the Ministry of Justice for 2013–2025. The legal protection programme was drawn up by a broad-based advisory board. In addition to representatives of the Ministry of Justice, the advisory board consisted of representatives of the different court instances, the prosecutors, the enforcement service, The Finnish Bar Association, and the National Audit Office of Finland. The legal protection programme drawn up by the advisory board contains a wide range of proposals for the future development of the courts, prosecutors, enforcement and legal aid.

Under the legal protection programme, the quality of advocacy and legal aid will be improved by making supervision more effective. More effective supervision improves legal protection while also making the consideration of matters in courts more effective. In addition, the coverage, allocation and costs of legal aid will be examined and adjusted to correspond to the actual legal protection needs. The administrative reform of the legal aid and public guardianship districts will also be continued, and the use of e-services and remote services will be made more extensive.

The objective for the development of legal counselling services is to make them more customer-oriented and to provide legal advice in a more diverse manner. Many of these development projects have already started before, but the development work will continue:

- The plan is to evaluate the clarity and level of customer orientation in the general legal advice provided on the websites suomi.fi, oikeus.fi and oikeusministerio.fi, and to determine whether it is necessary to increase the clarity by gathering the information under a single service.
- Online legal aid services will be taken into wider use and their usability will be improved. The need for a structured and individual online service (e.g. rechtwijzer.nl) will be assessed in collaboration with the social welfare authorities. The need for creating online application forms (e.g. for a will, a power of attorney, an agreement on division of property) will be assessed.
- Legal aid offices will be increasing their collaboration with local authorities in order to provide clients with smoother legal aid and mediation services.
- Legal aid offices participate in the pilot testing of the ASPA project and, should the trial be successful, other legal aid offices may agree with the municipalities to start providing legal advice at municipal service points.
- The goals for the next few years include digitalisation of legal aid services and extension of the use of remote services, including the use of videoconferencing at trials.

10. Other

Most innovative project 2021-2022

The case management system for legal aid cases, Romeo, is a national information system used by legal aid offices and courts. Romeo also includes e-services. The renewed e-services for legal aid were introduced 2022. In the e-services, called Rosa, clients and attorneys can make a preliminary calculation of whether a person is entitled to legal aid and submit an application for legal aid. An incomplete legal aid application can be saved and filling it in may be continued later. Attorneys and defence counsels can also

submit claims for fees and expenses paid from state funds and interpreters and translators can draw up an itemised invoice and submit it to the court or legal aid office.

The aim of the reform was to develop e-services into a more customer-oriented service that is easier to use.

Most disappointing trend 2021-2022 and biggest challenge for 2023

In recent years, it has been observed that the number of applicants for vacant posts in legal aid offices has decreased. Recruitment is particularly challenging in Swedish-speaking areas.

The level of compensation for private attorneys has not been increased since 2014.

The Government Report on the Administration of Justice sets medium-term objectives for achieving reasonable quality in the administration of justice. It also presents proposals for measures to ensure sufficient resources for the administration of justice, to improve the internal structures and processes, and to improve the availability of legal services and customer service. Securing appropriate operating conditions for the administration of justice and achieving the objectives set for the administration of justice require a total of approximately EUR 90 million in permanent annual additional funding.

The implementation of the objectives set out in the report, such as increasing the fees of private attorneys and raising the income thresholds set for legal aid, is very challenging in the current economic situation.

NATIONAL REPORT: HUNGARY

National Report Hungary

ILAG Harvard 2023

It would be much appreciated if you could fill in what you can for your jurisdiction. We know it's a lot of information to ask, so do not worry if you can only provide some of the information. Please highlight any recent significant changes in your legal aid programme if time and energy permits.

1. Country details :

Name, Population, GDP, Poverty line / % of population deemed to be living in poverty, number of practising lawyers in the jurisdiction.

Name: Hungary

Population: ca. 9.7 million¹

GDP: EUR 24,471 (in 2021)²

Poverty line / % of population deemed to be living in poverty: According to the Central Office for Statistics, in 2021, the poverty line in Hungary was HUF 1.5 million (ca. EUR 3,980) for one-person households and HUF 3.2 million (ca. EUR 8,490) for households with two adults and two children.³ In 2021, 12.2% of the population lived under the poverty line, with 8.3% living in serious financial deprivation.⁴

Number of practising lawyers in the jurisdiction: there are 14,383 lawyers who may in principle participate in the provision of legal aid services (11,733 lawyers, 456 employed lawyers, 2194 trainee lawyers).⁵

2. Legal Aid Organisation / Authority:

Name and Status of LAO: The Legal Aid Service (*Jogi Segítségnyújtó Szolgálat*) has been integrated into the network of Government Offices, which are bodies vested with several different administrative tasks ranging from providing citizens with identification documents to issuing building permits. The legal aid services are performed by the responsible units of the Government Office of Budapest and the 19 County Government Offices.⁶ The Minister of Justice is vested with the task of overseeing the provision of legal aid services, and he/she concludes the contracts with the legal aid service providers.

Delivery method: In terms of Article 66 of Act LXXX of 2003 on legal aid (hereafter: LAL), besides attorneys and law firms, legal aid services can also be delivered by civil society organisations and national minority self-governments, but only if they are contracted with lawyers to perform such activities. Universities may also provide legal aid services through either contracted lawyers or their own teachers provided that they have passed the bar exam or hold a doctoral degree. Most of the legal aid providers are individual

¹ <https://www.ksh.hu/interaktiv/korfak/orszag.html>

² <https://www.ksh.hu/nemzeti-szamlak-gdp>

³ https://www.ksh.hu/stadat_files/ele/hu/ele0003.html

⁴ <https://www.ksh.hu/eletkorulmenyek>

⁵ <https://magyarugyvedikamara.hu/html/nyilvanos-kereso/>

⁶ Article 6 of Government Decree 362/2016. (XI. 29.)

attorneys. At present, there are 223 registered legal aid providers, including 38 law firms and 5 civil society organisations.⁷

What payment methods are used to recompense any private lawyers in your system: The system for paying lawyers providing legal aid services is rather complex. Its rules are prescribed in Decree 32/2017. (XII. 27.) of the Minister of Justice [32/2017. (XII. 27.) *IM rendelet a pártfogó ügyvéd, az ügygondnok és a kirendelt védő részére megállapítható díjról*]. The hourly rate is determined annually by the law on state budget. In 2023, the hourly fee is HUF 6,000 (EUR 16).⁸

Article 3 of Decree 32/2017, determines lump sums to be paid to lawyer for providing representation in different procedures:

- litigious first instance civil or administrative court procedure: 10 times the hourly fee;
- non-litigious civil or administrative court procedure: 5 times the hourly fee;
- criminal procedure (where the lawyer provides representation, and not defence): 10 times the hourly fee
- second instance procedures: 50% of the amount prescribed for first instance procedures.

If the legal aid lawyer wins a civil case (and therefore, the other party is obliged to pay his/her fees, and not the state), another ministerial decree⁹ determines the amount to be paid by the losing party to him/her based on the value of the object of the lawsuit. If the value of the object of the lawsuit cannot be determined, the fee to be paid shall be the hourly fee multiplied by the number of actual hours spent on the trial, but no less than HUF 12,000 (i.e. the fee for two hours). If the legal aid lawyer wins the case, the fee to be paid to him/her by the losing party shall not be less than the amount that would be payable in case the party represented by the legal aid lawyer lost the case.

The costs of the legal aid lawyer shall be reimbursed on the basis of a detailed statement of costs. If the lawyer requests so, or fails to submit a detailed statement, he/she shall be paid 25% of the total fee as a lump sum reimbursement.

In criminal cases, the legal aid defence counsel shall be paid on the basis of the actual hours spent at the different procedural acts (interrogation, confrontation, court hearing, etc. – as certified by the investigating authority, the prosecutor or the court, depending the stage of the procedure). For preparation, the defence counsel is entitled to 20% of his/her fee (but no less than HUF 18,000 and no more than HUF 180,000). If the procedural act to which the counsel was summoned is cancelled, the counsel is to be paid 50% of the hourly fee for each hour that passed between the beginning of the act as indicated in the summons and the time when it became clear that the act must be cancelled. If the counsel consults with a detained defendant, he/she shall be paid 70% of the hourly fee for each hour spent consulting with the client.

The court determines the fee to be paid for preparing a petition for an extraordinary review. It cannot be less than HUF 6,000 or more than HUF 60,000.

The costs of the legal aid defence counsel shall be reimbursed on the basis of a detailed statement of costs. If the lawyer fails to submit a detailed statement, the investigating authority, the prosecutor or the court determines the costs on the basis of the information at their disposal.

⁷ <https://szakrendszerek.im.gov.hu/nevjegyzek/>

⁸ Article 69 of Act XXV of 2022 on the 2023 Budget of Hungary

⁹ Decree 32/2003. (VIII. 22.) of the Minister of Justice

3. Budget and Spend:

The legal aid budget is funded by the central government, and it is not capped. It is however not possible to provide the budget for legal aid, as its budget is integrated into the budget of the 20 different Government Offices, and the offices – which perform several different functions – do not publish their budgets in a manner that is broken down by the type of activity/service. In addition, the expenditure for criminal advice/defence is integrated into the budget of the investigating authorities, prosecutorial offices, courts in a manner that does not make it possible to differentiate between expenditures that are advanced by the state (in cases of mandatory defence) and those that are borne by the state (defence provided on the basis of indigence). It would require numerous freedom of information requests (to the 20 Government Offices and to different police, prosecutorial and court administrations) to try to obtain this information with no guarantee that the offices and the different criminal justice institutions would actually be able or willing to provide the information.

4. Scope, Caseload and Eligibility:

Total number of applications and grants for the last two years. Please break down by civil, criminal administrative, children, asylum? and initial advice as well as by year. Proportion of the population eligible for civil legal aid and/ or initial Advice. Eligibility limits for criminal legal aid. Are means tested contributions part of your (a) civil (b) criminal (c) initial advice eligibility requirements? In your jurisdiction, are legal aided litigants who lose their case liable to pay the other side's legal expenses/ costs?

Scope: In litigious and non-litigious court procedures and in criminal cases, there are no restrictions on scope in the Hungarian system.

With regard to the proceedings of administrative bodies, legal aid is only available for advice and the drafting of petitions, but not for representation.

Under Article 3 of the LAL, legal aid is available, among others, for the following matters:

- Client is involved in a legal debate which may lead to a lawsuit;
- Client is involved in a legal debate that can be settled out of court;
- Client is involved in a mediation procedure;
- Information on legal matters concerning client's everyday subsistence (housing, labour law, public utilities) is necessary;
- Advice on how and where client can initiate proceedings to protect his/her rights, and preparation of petitions aimed at the commencement of such action;
- Client is victim of crime: advice on launching legal proceedings aimed at the enforcement of damages or rights infringed by the criminal offence, or preparation of a petition to the same end;
- Preparation of petition for extraordinary remedies in a civil case.
- If the party takes part in an administrative procedure, and he/she is in need of legal advice in order to become aware of his/her procedural rights and liabilities, or a petition has to be prepared for a legal statement to be made (e.g. proceeding by the construction authority);
- A document needs to be drafted with a view to securing the permanent accommodation for a young adult who is about to be released from state care.

Under Article 3 of the LAL, no legal aid may be granted in relation to

- contractual matters, unless signatories thereto jointly apply for the aid and all of them are equally eligible for legal aid;
- legal advice concerning:

- the conditions for raising loans disbursed by a bank,
- legal transactions in which legal documents may only be drafted by an attorney or notary public, except for the sale or mortgaging of the real estate used by the party or his/her family as a domicile;
- the entrepreneurial activities conducted by private persons with two exceptions:
 - the client is the victim of a crime that is related to his/her business activities; or
 - the case is related to a quasi-employment relationship (i.e. when the individual entrepreneur is paid a certain amount for performing a task at a designated place, with the fee paid in instalments and with the exclusion of employing sub-contractors).
- cases related to the establishment or operation of associations;
- customs matters.

Eligibility: There are three basic categories of indigence, with one additional group:

- If the client’s net monthly income does not exceed the so-called “social projection-basis” (approx. EUR 76) and he/she has no assets beyond what is necessary for normal life, he/she is granted full cost exemption (i.e. the state pays for legal aid).¹⁰
- For persons whose monthly net income exceeds the amount of the “social projection-basis” but does not exceed 43% of the national average salary of the second year preceding the year of request as defined by the National Office for Statistics (approx. EUR 500 in 2023), the legal aid law provides for exemption from having to advance the costs of procedures: costs are advanced by the state and shall be paid back within one year.¹¹
- Certain categories of persons are automatically deemed indigent, such as homeless persons and beneficiaries of social welfare assistance.¹²

The LAL also makes it possible for the authorities to qualify as indigent a person if his/her income exceeds the threshold but other circumstances (e.g. disability, illness, debated salary) make it impossible for his/her to get legal aid on the market.¹³

Eligibility for legal aid exempts parties in civil lawsuits from having to pay court fees if they lose, but not from having to pay the other party’s legal costs.

Caseload: There are no publicly accessible data on case on the number of applications and grants. As in the case of the budget, numerous freedom of information requests would have to be submitted in order to obtain statistics related to legal aid.

5. Quality Assurance:

There is no effective quality assurance system in Hungary, which is most probably due to the very low fees and the low number of lawyers who have registered with the legal aid system.

As far as entry conditions are concerned, any attorney can provide legal aid, provided that he/she has not been suspended in the course of a disciplinary procedure and is not under the effect of a disciplinary sanction. As far as general requirements to practice law are concerned, the following can be said: upon his/her request, everyone shall be admitted to the bar association who meets the following requirements: he/she (i) is the citizen of a country that is a member of the European Economic Area, (ii) has a law degree, (iii) has passed the Hungarian bar exam, (iv) was a trainee attorney for at least a year within the 10 years preceding the submission of the petition for admission, (v) has a liability insurance guaranteeing that

¹⁰ Article 5 of the LAL

¹¹ Article 6 of the LAL

¹² Article 5 of the LAL

¹³ Article 8 of the LAL

pecuniary or non-pecuniary damages caused by his/her activities as an attorney can be paid, (vi) has (within the geographical area of the bar association's competence) an office that is suitable for conducting legal work, (vii) meets the requirements necessary for the electronic processing of cases, (viii) has concluded an agreement for substitution with an attorney or a law firm (or is a member of a law firm), and (ix) does not fall under any of the clauses excluding the performing of attorneys' activities.¹⁴

Legal aid lawyers must register with the legal aid service and conclude a legal aid contract with the Minister of Justice. In addition, in terms of Article 66 of the LAL, the lawyer wishing to register as a legal aid provider must undertake to complete the Hungarian Bar Association's training for legal aid providers within one year.

The disciplinary procedure carried out by the bar associations is the only process available for clients that can be regarded as some sort of quality assurance. In addition to keeping the registers of attorneys, the regional bar associations are also vested with the task of conducting disciplinary proceedings against them (in relation to both criminal and civil cases). Such a proceeding is started when the suspicion of a disciplinary violation arises. A disciplinary violation is committed by a member of the bar association if (i) within the framework of carrying out attorneys' activities, he/she intentionally or out of neglect violates his/her professional obligations stemming from a law, the statutes of the Hungarian Bar Association or a regional bar association, or the Code of Ethics; or (ii) his/her intentional or neglectful behaviour outside the professional context severely threatens the prestige of the legal profession. If found to be at fault, the lawyer can be sanctioned with: written reprimand, fine, ban from participating in the affairs of the bar association, ban from employing a trainee attorney, exclusion from the bar association.¹⁵

There are no easily accessible data on disciplinary complaints and their outcomes, especially not broken down on the basis of whether those complaints were related to the lawyer's performance while providing legal aid services.

6. Public Legal Education:

Since the integration of the legal aid service into the network of Government Offices, the intensity of awareness raising, which has been rather low for quite some time has further decreased due to the simple fact that Government Offices' portfolio is huge, and within a large organisation responsible for several issues, the individual issues inevitably receive less attention.

On 31 May 2021, the Minister of justice announced in a Facebook post that the Ministry had concluded an agreement of cooperation with the Hungarian Bar Association "with the purpose of raising awareness among professionals about legal aid activities, since very few know that in Hungary, indigent persons have the possibility to request professional legal assistance with a view to asserting their rights and resolving their legal disputes. For these reasons we:

- simplify the procedure for registering legal aid providers;
- develop new professional recommendations;
- launch a training for legal aid providers;
- found an award for excelling legal aid providers."¹⁶

However, it seems that apart from two higher-level conferences held at the premises of the Hungarian Bar Association in October 2021 and November 2022,¹⁷ not much progress has taken place in this area. The problem is shown by the fact that while in 2021, 302 legal aid providers participated in the system

¹⁴ Act LXXVIII of 2017 on Attorneys (Attorneys Act), Article 58(1).

¹⁵ Attorneys Act, §§ 107-108.

¹⁶ <https://www.facebook.com/VargaJuditMinisterofJustice/posts/4456289274389994>

¹⁷ See: <https://vansegitseg.im.gov.hu/i-jogi-segitoi-es-aldozatsegitesi-konferencia/> and

<https://vansegitseg.im.gov.hu/szinergiak-az-igazsagugyi-szolgalatasok-kozott-ii-jogi-segitoi-es-aldozatsegitesi-konferencia/>

(including 50 law firms), by 2023, this number has decreased to 223 registered providers (including 38 firms).

7. Alternative Sources of Legal Aid services:

Trade unions traditionally provide legal aid (primarily legal advice, but sometimes representation as well) to their members. Legal aid is also provided by some associations of disabled people, certain NGOs, and also some local governments (which sometimes provide this service through contracting law firms). These schemes however are not legally regulated.

It is difficult to assess the volume of these alternative sources of legal aid, as there is no central data base for this type of assistance. Numbers must be gathered from the annual reports of the different organisation (and not all of them publish this data, or not in an accessible, user friendly manner).

By way of example, in 2021, the Hungarian Helsinki Committee¹⁸ provided legal advice and/or representation to altogether 1,914 persons with the following thematic distribution:

- Asylum, statelessness expulsion: 813
- Detention and criminal proceedings: 317
- Ill-treatment by authorities: 42
- Unlawful police measures: 73
- Rule of law-related rights violations: 34
- General legal information or referral: 635

According to the Hungarian Civil Liberties Union's annual report for 2021, they have provided legal assistance to 4185 persons via e-mail or telephone, and had 204 ongoing court cases during the year.¹⁹

In 2021, the LGBTIQ support organisation Háttér Society provided legal advice and/or representation in 374 cases, and continued to provide legal aid in 111 cases pending from previous years.²⁰

8. Holistic legal services:

The state-run Victim Support Services offer combined services, which include legal advice, legal representation, emotional-psychological support and financial support.²¹ Some NGOs also combine legal services with social work or psychological assistance.²²

9. UN SDG Standard 16.3

Access to justice is not among the priorities of Hungary with regard to achieving SDG 16. In a report on Hungary's priorities and activities with a view to the realisation of SDGs, the following was stated: "The main priorities of Hungary under Goal 16 are the prevention of trafficking in human beings (THB), labour exploitation, prostitution coming from children's homes, counter terrorism, and public esteem. In addition, the Government has pledged to guarantee the achievement of transparent institutions and free

¹⁸ https://helsinki.hu/en/wp-content/uploads/sites/2/2022/06/Hungarian_Helsinki_Committee_Annual_Report_2021_small.pdf

¹⁹ https://tasz.hu/a/img/Eves-jelentes-2021-TASZ-v4_compressed.pdf, p. 53.

²⁰ <https://hatter.hu/sites/default/files/dokumentum/konyvlap/hatter-tevekenysegi-2021.pdf>, p. 2.

²¹ See: <https://igazsagugyiinformaciok.kormany.hu/aldozatsegito-szolgalat>

²² See for example: <https://www.patent.org.hu/en/how-we-can-help>

access to information.”²³ Legal aid services are not mentioned in the detailed description of the efforts aimed at achieving these goals.

10. Other

The most disappointing trend is the continued decrease of the number of legal aid providers (see above), and the obvious unwillingness of the government to increase legal aid fees, which, especially in the light of the outstandingly high inflation rate (over 25% in January 2023),²⁴ is likely to further exacerbate the problem. Unless there is willingness to invest in the system, it is likely to become completely dysfunctional. Signs of this can already be seen in the complaints that the Hungarian Helsinki Committee receives from inmates who cannot launch certain court procedures, because there is mandatory legal representation, but they cannot find a legal aid provider in the limited list who would be willing to take their case.

²³ See: https://sustainabledevelopment.un.org/content/documents/20137Voluntary_National_Review_of_Hungary_v2.pdf, pp. 57-60.

²⁴ See: <https://tradingeconomics.com/hungary/inflation-cpi>

NATIONAL REPORT: INDIA

ACCESS TO JUSTICE IN INDIA: A REPORT

(Written in the prescribed template)

Santosh Snehi Mann¹ & Sunil Chauhan²

1. COUNTRY DETAILS:

India, spanning approximately 3,287,263 square kilometres, is a culturally diverse country with a population of around 1.2 billion³ individuals. The majority, constituting approximately 68% of the population, resides in about 649,481 villages, illustrating the significant rural presence across the nation. India consists of a total of 28 states and 8 Union Territories.

In terms of the economy, India's GDP in 2021 stood at a robust 3.1 trillion U.S. dollars as per World Bank report. According to the World Bank, there has been a significant reduction in extreme poverty in India between 2011 and 2019. The percentage of people living in extreme poverty decreased by 12.3% during this period. In 2011, the poverty rate stood at 22.5%, whereas by 2019, it had dropped to 10.2%.

The country is having approximately 1,662 law colleges, producing an impressive number of about 70,000 law graduates each year who contribute to the pool of legal professionals. India has a robust law enforcement system with a wide network of over 15,555 police stations across the country. Its legal system is supported by an extensive network of legal practitioners, with an estimated 1.3 million registered lawyers in the country. India has courts in almost every district, providing accessible avenues for justice. The country also has 25 High Courts, which serve as important judicial institutions at the state level. India's apex judicial institution is the Supreme Court of India. Millions of cases are filed in the courts, and a significant number of them are resolved or disposed of. As an example, about

¹ Member Secretary, National Legal Services Authority (NALSA), India

² Addl. District & Sessions Judge, Haryana (India)

³ <https://censusindia.gov.in/> (as per census 2011)

25,482,578 cases were filed in the district judiciary during the year 2022. Within the same timeframe, around 23,263,148 cases were effectively resolved.

India is a melting pot of diverse cultures, traditions, and customs, and is a linguistic treasure trove, with more than 19,500 languages or dialects that serve as mother tongues for various communities. These languages not only shape regional identities but also contribute to the linguistic mosaic of the nation. According to the Eighth Schedule of the Constitution of India, there are currently 22 officially recognized languages.

2. LEGAL AID ORGANISATION:

(a) Legislative & Structural framework: The Legal Services Authorities Act of 1987 was enacted to fulfil the constitutional vision of promoting equal access to justice for all. It came into force in 1995. This legislation established a comprehensive network of Legal Services Authorities throughout the country, operating at different levels including Taluka (or sub-division), District, State, and National levels. At the apex of this network is the National Legal Services Authority (NALSA), responsible for formulating legal aid policies, implementing programs, and overseeing legal aid activities nationwide. The Legal Services Authorities are as follows:

- National Legal Services Authority (NALSA)
- Supreme Court Legal Services Committee (SCLSC)
- 37 State Legal Services Authorities (SLSAs)
- 39 High Court Legal Services Committees (HCLSCs)
- 703 District Legal Services Authorities (DLSAs)
- 2341 Taluk Legal Services Committees (TLSCs)

In India, the provision of legal aid activities is carried out by the Legal Services Authorities, which form a cohesive and unified system spanning the entire country. Legal Services Authorities are legislatively established autonomous bodies tasked with the responsibility of providing legal aid. These authorities are responsible for a multitude of services, which are not only restricted to legal aid in civil and criminal matters, but also extend to other important areas such as Legal awareness and implementation of ADR mechanisms. These

entities function as an integrated system, effectively collaborating to ensure that legal services are accessible to every individual in need, thereby fulfilling the constitutional mandate of providing free legal aid to those who cannot afford it.

Panel lawyers and Para Legal Volunteers (PLVs) form the core workforce of Legal Services Authorities. As of March 2023, there were approximately 49,126 legal aid lawyers and 42,446 Para Legal Volunteers working under the umbrella of these authorities. Among them, there are 12,022 female panel lawyers and 17,506 female para-legal volunteers. In a significant move to further bolster the delivery of legal aid, Legal Services Authorities have started to establish Legal Aid Defense Counsel Offices⁴ across the country with a target to open such office in each of the 703 districts. These offices are staffed by counsels who are exclusively dedicated to handling legal aid cases in criminal matters.

(b) Legal Aid Activities: The Legal Services Authorities undertake a comprehensive range of activities to implement the concept of legal aid, which extends beyond mere legal representation. These activities include:

1. **Legal Aid and Advice:** The provision of legal aid encompasses representation through lawyers in 'Court'⁵, covering judicial courts, tribunals, and authorities exercising judicial or quasi-judicial functions. In addition to courtroom representation, basic units such as " Front Offices"⁶ and "Legal Services Clinics" offer free legal services in the form of advice and assistance, including the drafting of notices, replies, petitions, and other relevant documents. This assistance extends to both civil and criminal matters. To seek legal aid, individuals can submit their applications through multiple channels such as online portals/apps of legal services authorities, email communication, legal services clinics, front offices, or directly in courts. The initial assessment of the application is conducted on a prima facie basis. In criminal cases, if the applicant is an accused or convict, and in civil cases, if the applicant is a defendant, it is presumed that they have a prima facie case and may qualify for legal aid assistance.

⁴ Introduced in 2019 on a pilot basis, the Legal Aid Defense Counsel initiative has shown promising results. As a result, in 2022, a decision was made to expand its implementation to all districts across the country.

⁵ Section 2(aaa), Legal Services Authorities Act, 1987

⁶ Each Legal Services Authority is mandated to establish a dedicated Front Office, which operates in accordance with the guidelines set by NALSA.

Furthermore, for non-legal issues, individuals are referred to the respective government departments, with the Legal Services Authorities providing necessary support in drafting applications and filling out forms. The number of individuals benefiting from legal aid and advice, particularly through representation before the courts during the last four years are as follows: 1,505,216 in 2018-19, 1,212,137 in 2019-20, 631,758 in 2020-21, 6,369,643 in 2021-22, and 12,14,769 in 2022-23⁷.

During April 2022 to March 2023, a total of around 11,711 Legal Services Clinics remained operational. 1177 clinics are in jails to provide legal services to jail inmates. 1,644,367 persons visited legal services clinics during this period, and out of these, legal assistance was provided to 1,014,464⁸ individuals, addressing their legal concerns and ensuring access to justice. During April 2021 to March 2022, 2,742,624 persons visited these clinics and 2,413,928 persons were provided legal assistance.

Legal aid and assistance is also provided at early stages of criminal justice. Table below depicts the number of suspects and arrested persons provided legal assistance at early stages of criminal justice.

Years	Suspects Provided Legal Assistance at Pre-Arrest Stage at Police Station	Such Suspects Not Arrested by Police	Arrestees Provided Legal Assistance at The Police Station Before Producing Them Before Courts	Arrestees provided Legal Assistance at Remand Stage	Number of Bail Applications Filed at Remand Stage	Number of Cases in Which Bail Granted
2021	9,652	1,976	10,042	122,675	49,593	24,590
2022	14,756	4,601	14,397	140,288	44,220	31,390

2. Legal Services Outreach Activities: The Legal Services Authorities actively engage in outreach initiatives to empower vulnerable and marginalized sections of society. These initiatives include legal awareness programs, legal empowerment camps,

⁷ Available at [Statistics - National Legal Services Authority \(nalsa.gov.in\)](https://statistics.nalsa.gov.in)

⁸ Ibid

targeted campaigns with specific objectives, establishment of students' legal literacy clubs, collaboration with print and electronic media, and the deployment of legal aid vehicles to reach remote areas. Through these efforts, the Authorities aim to enhance legal awareness and provide accessible legal services to those in need. In the last four years, a series of legal awareness programmes were conducted, contributing to increased knowledge and understanding of legal rights among participants. Here is the data⁹ reflecting the number of programmes organized and the corresponding number of attendees:

- 2018-19: 176,916 programmes organized, with 1,98,56,363 attendees.
- 2019-20: 227,394 programmes organized, with 3,16,31,228 attendees.
- 2020-21: 126,541 programmes organized, with 1,30,69,637 attendees.
- 2021-22: Remarkably, 1,134,086 programmes were organized, attracting a significant attendance of 58,41,26,827 individuals.
- 2022-23: 490,055 programmes were conducted, and 6,75,17,665 individuals participated.

These legal awareness initiatives have served as effective platforms for disseminating legal knowledge, empowering people with information about their rights, and fostering a better understanding of the legal system.

In recent years, a significant number of awareness programmes have been organized through television, radio, and digital platforms. The data reveals the following:

- In 2020, 2,328 programmes were broadcasted on TV, radio, and YouTube, while 1,45,386 programmes were conducted through Facebook, webinars, and other digital platforms.
- In 2021, the numbers rose to 5,261 programmes aired on TV, radio, and YouTube, along with 61,901 awareness programmes conducted through digital platforms.
- In 2022, 2,688 programmes were aired on TV, radio, and YouTube, accompanied by 15,423 awareness programmes conducted through digital platforms.

These awareness initiatives have effectively utilized various media channels to disseminate legal information and reach a diverse audience, enhancing awareness of legal rights and fostering informed decision-making.

⁹ Id.

3. **Alternative Dispute Resolution Mechanisms:** Recognizing the significance of resolving disputes through non-adversarial means, the Legal Services Authorities implement alternative dispute resolution mechanisms such as "Lok Adalat" and "Mediation." The Legal Services Authorities have a remarkable network of 415 ADR Centres, and alongside those, there are 596 exclusive Mediation Centres in operation.

Lok Adalat, commonly referred to as the People's Court, holds statutory recognition under the Legal Services Authorities Act, 1987. It facilitates the amicable settlement of cases, including those pending in courts and pre-litigation matters. Litigants can avail themselves of the services of Lok Adalats without incurring any costs, as this mode of settlement is provided free of charge. Moreover, the Legal Services Authorities have developed the capacity to conduct Pan India Lok Adalats, known as National Lok Adalats, simultaneously across the country. Similarly, the Authorities also promote and implement Mediation as an effective alternative dispute resolution method. Legal Services Authorities also organize E-lok Adalats where parties involved in a legal dispute can participate remotely through electronic means, such as video conferencing or other digital platforms.

Cases settled in National Lok Adalat¹⁰

Subject	2020	2021	2022	2023 (upto Feb.23)
Pre-litigation	12,64,935	72,06,294	3,10,15,215	1,75,98,095
Pending Cases	12,83,433	55,81,743	1,09,10,795	30,25,724
Total	25,48,368	1,27,88,037	4,19,26,010	2,06,23,819

¹⁰ Available at [Statistics - National Legal Services Authority \(nalsa.gov.in\)](https://statistics.nalsa.gov.in)

Case settled in State Lok Adalat ¹¹

Subject	2019-20	2020-21	2021-22	2022-23
Pre-litigation	79493	142549	114278	94939
Pending Cases	466258	601524	418251	756370
Total	545751	744073	532529	851,309

Legal Services Authorities have developed capacities for conducting E-Lok Adalats, enabling effective resolution of a significant number of cases virtually. From June 2020 to March 2023, 3,36,67,206 pre-litigation cases and 96,20,222 pending cases in courts were taken up in E-Lok Adalats. Through these virtual platforms, 70,84,125 cases were successfully settled¹². These figures are included in the data for National Lok Adalats and State Lok Adalats.

In 2021-2022, 118,136 cases were settled by the Permanent Lok Adalats for Public Utility Services. In 2022-2023, the number rose to 171,138 cases.

Cases settled in Mediation ¹³

Year	Cases Settled Through Mediation
2019-20	94,865
2020-21	28,301
2021-22	52,968
2022-23	92,446

- Victim Compensation Schemes:** The Legal Services Authorities are actively involved in the implementation of Victim Compensation Schemes, aiming to provide compensation to victims of crime. The Victim Compensation Fund primarily receives funding from State

¹¹ Ibid

¹² Data provided by NALSA.

¹³ Ibid

governments. This responsibility is carried out by the Legal Services Authorities in accordance with the amendments made in 2009 to the Criminal Procedure Code, 1973. Through these schemes, the Authorities endeavour to alleviate the suffering of crime victims and provide them with the necessary support. Data¹⁴ regarding implementation of Victim Compensation Schemes is as follows:

years	Compensation Awarded (in ₹)
2019-20	2,15,31,48,146
2020-21	1,45,62,36,012
2021-22	2,21,87,47,426
2022-23	3,47,80,37,352

By adopting this comprehensive approach, the Legal Services Authorities ensure that the concept of legal aid encompasses a wide range of services, beyond the traditional confines of legal representation, to promote access to justice and empower those in need.

5. Unique Features of the legal aid system: The unique features of legal aid system in India are as follows:

- Women, Children, persons in custody, persons with disabilities, victims of disaster, victims of trafficking, Scheduled Caste and Scheduled Tribes, an industrial workman, are eligible for free legal aid irrespective of their income¹⁵. Apart from this, people having income less than INR.500000/-(US \$ 6860 per annum can avail legal aid in Supreme Court and those having less than INR 300000/-(US \$ 4,116) can avail legal aid in District and High Courts.
- Counsel assignment system is primarily followed in which Legal aid lawyers are paid on a case-to-case basis. In counsel assignment system, lawyers also take private cases. In the year 2019, NALSA has introduced “ Legal Aid Defense

¹⁴ Id.

¹⁵ Section 12 of Legal Services Authorities Act, 1987

Counsel System” to enhance quality of legal representation in Criminal matters. In this system, lawyers engaged deal exclusively with legal aid cases, and are paid monthly salaries. Legal aid defense counsel offices are being opened across the country.

- Alternative Dispute Resolution mechanisms such as Lok Adalats and Mediation, implemented by Legal Services Authorities, are free of cost to the litigants.
- Lok Adalat, an indigenously developed ADR mechanism is the largest ADR mechanism, and millions of cases every year are resolved at the prelitigation stage and pending stage in Lok Adalats.
- Specific schemes have been formulated for provision of legal services to a wide range of beneficiaries.¹⁶
- Free Legal aid services in court cases includes all incidental expenses, apart from free legal representation through legal aid lawyers.
- Legal assistance is available to all persons in custody at all stages of a criminal proceeding including pre-arrest, arrest, remand stages¹⁷.
- Jail Legal aid Clinics are established in almost all the prisons across the country to provide legal assistance to the prisoners.¹⁸
- Legal Services Authorities are also implementing Victim Compensation Schemes.

3. BUDGET AND SPEND:

The Central Government provides funds to NALSA on an annual basis to support its functions as outlined in the Legal Services Authorities Act, 1987. NALSA then distributes these funds to the State Legal Services Authorities. The State Legal Services Authorities, in turn, allocate the received funds to the District Legal Services Authorities. At the state level, the State Governments primarily cover salaries and other administrative expenses. Additionally, in several states, the state governments also contribute funds for legal aid programs in addition to salaries and related expenses.

¹⁶ For instance, NALSA (Legal Services to Disaster Victims through Legal Services Authorities) Scheme, 2010; NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme, 2015; NALSA (Legal Services to the Workers in the Unorganized Sector) Scheme, 2015; NALSA (Child Friendly Legal Services to Children and their Protection) Scheme, 2015; NALSA (Legal Services to the Mentally Ill and Mentally Disabled Persons) Scheme, 2015; NALSA (Effective Implementation of Poverty Alleviation) Scheme, 2015; NALSA (Protection and Enforcement of Tribal Rights) Scheme, 2015; NALSA (Legal Services to the Victims of Drug Abuse and Eradication of Drug Menace) Scheme, 2015; NALSA (Legal Services to Senior Citizens) Scheme, 2016; NALSA (Legal Services to Victims of Acid Attacks) Scheme, 2016; NALSA’s Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes, 2018.

¹⁷ NALSA Early Access to Justice at Pre-Arrest, Arrest and Remand Framework 2019 (<https://nalsa.gov.in/acts-rules/guidelines/early-access-to-justice-at-pre-arrest-arrest-and-remand-stage>).

¹⁸ These are regulated by the NALSA Standard Operating Procedures for Representation of Persons in Custody 2016.

Here are the details of funds allocated by the Central Government for legal aid programs and the amount utilized by NALSA in the past two financial years:

Financial Year	Grant released by the Govt.	Amount utilised
2021-22	1,450,000,000 (INR) i.e (17,617,500.00 (US\$))	1,450,000,000 (INR)
2022-23	1,900,000,000 (INR) i.e (230,850,000 (US\$))	1,900,000,000 (INR)

4. SCOPE, CASELOAD AND ELIGIBILITY

- a) Scope:** Legal aid services are available to ensure representation in various courts, including judicial courts, tribunals, and other authorities involved in judicial or quasi-judicial functions. Legal aid is available in civil as well as criminal matters. These services encompass all stages of criminal proceedings, such as questioning, arrest, remand, trial, and appeal. They encompass legal representation, legal advice, and assistance in obtaining copies of orders and documents. Additionally, legal aid covers all incidental expenses related to litigation. Legal aid services are available not only in trial courts but also in appellate courts. Legal Services Authorities, as autonomous bodies, have the legislative authority to formulate their own schemes, including strategic and preventive schemes. This empowers them to proactively address legal service needs and implement initiatives that can prevent legal issues before they arise.
- b) Caseload:** The caseloads across different states typically vary and undergo periodic evaluations by the Legal Services Authorities. These reviews ensure that the number of panel lawyers is appropriately aligned with the caseload. If required, decisions are made to either expand or reduce the lawyer count accordingly. It is worth mentioning that the Legal Services Authorities are responsible for a range of activities, and the caseload is considered in conjunction with other tasks assigned to lawyers. In the Legal Aid Defense Counsel system, lawyers exclusively handle criminal legal aid cases.

c) Eligibility: According to Section 12 of the Legal Services Authorities Act, 1987, the following groups of individuals are eligible to avail free legal services for filing or defending their cases in civil or criminal matters in judicial courts, tribunals, and other judicial or quasi-judicial forums:

- All women and children
- Members of Scheduled Castes/Scheduled Tribes
- Industrial workmen
- Victims of mass disasters, violence, floods, droughts, earthquakes, or industrial disasters
- Persons with disabilities
- All individuals with an annual income not exceeding INR 300,000 for cases in District & High courts, and INR 500,000 for cases in the Supreme Court
- Victims of human trafficking or beggary
- Persons in custody

The aforementioned categories of individuals, except for point number 6, are entitled to receive free legal services regardless of their income. Some states have also included additional eligible categories such as senior citizens and transgender individuals.

5. QUALITY ASSURANCE

The Legal Services Authorities have been steadfastly engaged in providing quality legal services to individuals seeking legal aid. To this end, several strategies have been implemented. These strategies encompass:

a) Selection of Panel lawyers:

Panel Lawyers in Legal Services Institutions are selected as per National Legal Services Authority (Free and Competent Legal Services) Regulations of 2010. The process involves soliciting applications from legal practitioners, assessing their experience in relevant cases, and conducting a thorough examination by designated authorities. The selection is followed by the formation of distinct panels for different

types of cases. Data reveals that about 27,327 lawyers with a law practice spanning 10 years or more are on the panels of Legal Services Authorities. The entire process of panel lawyer engagement reflects the following principles:

- i. A focus on engaging experienced lawyers to ensure quality representation for eligible groups.
- ii. The possibility of forming distinct panels to handle various types of cases such as civil, criminal, constitutional law, environmental law, labour law, matrimonial disputes, and juvenile justice.

b) Monitoring and Mentoring Committees:

Regulation 10 of the NALSA (Free and Competent Legal Services) Regulation, 2010 establishes a Monitoring and Mentoring Committee¹⁹ for each Legal Services Institution. This committee is responsible for closely monitoring legal services provided in court-based matters, tracking the progress of legal aid cases, and offering guidance and advice to Panel Lawyers. Regulation 11 outlines the procedures to be followed by the Monitoring and Mentoring Committees and defines their duties and functions.

To ensure quality, NALSA has developed Monitoring and Mentoring Guidelines²⁰. These guidelines set performance standards that assist legal aid lawyers in aligning their activities and achieving desired outcomes. One of the performance standards highlighted in the guidelines is quick response. It requires the assigned Panel Lawyer to have a meeting or initial interaction with the legal aid client within 24 hours of receiving the case assignment²¹. If a legal aid counsel is unavailable for an extended period, they must inform the litigant and the relevant District Legal Services Authority (DLSA) to take appropriate action²². The guidelines also expect the legal aid lawyer to document the first briefing on the NALSA Portal or report it at the Front Office. Feedback from the litigant and examination of information on the NALSA Portal serve as methods for assessing whether the performance standard of a quick response has been met.

¹⁹ In the year 2018, NALSA amended Regulations 10 & 11 of the NALSA (Free and Competent Legal Services) Regulation, 2010 in order to make Monitoring Committees as Monitoring and Mentoring Committees.

²⁰ Monitoring and Mentoring guidelines were circulated to all SLSAs by NALSA on 18th April 2019

²¹ *Ibid*

²² *Ibid*

Another performance standard tied to a quick response is conducting an effective interview with the client, for which feedback can be obtained from the litigant. The guidelines suggest evaluating the panel lawyer's performance in handling a case by randomly checking drafted pleadings, cross-examinations of witnesses, and arguments advanced by reviewing files or through interaction with the Presiding Officer of the courts. Punctuality in attending court hearings and reporting day-to-day proceedings at the Front Offices²³ are also deemed important performance indicators. The guidelines provide a suggested questionnaire for obtaining regular feedback from litigants and Presiding Officers.

These guidelines and performance standards aim to improve the quality and effectiveness of legal aid services by establishing monitoring mechanisms, promoting accountability, and encouraging continuous improvement.

c) Engagement of Senior Lawyers:

In an effort to involve senior lawyers more effectively, a provision has been incorporated into sub-regulation (2) of Regulation 8, which allows the Executive Chairman or Chairman of the Legal Services Institutions to empanel any legal practitioners at their discretion.

Regulation 9 calls for the establishment of a separate panel of Senior Advocates by the Executive Chairman or Chairman of the Legal Services Institution. The Regulation also empowers the Member Secretary of the Legal Services Institution to request Senior Advocates to provide pro-bono services whenever necessary.

Additionally, Regulation 10 stipulates the formation of Monitoring and Mentoring Committees, which should include Senior Advocates or Advocates with at least 15 years of standing.

The NALSA (Free and Competent Legal Services) Regulations, 2010 further allows for the special engagement of senior advocates in certain cases. According to these regulations, a senior advocate not included in the approved panel of lawyers may be engaged by the Legal Services Institution if deemed necessary by the Monitoring and Mentoring Committee or the Executive Chairman or Chairman.

²³ Id, point 8(viii)

d) Assignment of cases as per expertise and skill:

The NALSA (Free and Competent Legal Services) Regulations, 2010 mandate that only legal practitioners with at least three years of experience in a court of law can be empanelled. This ensures that Legal Services Institutions do not enlist fresh graduates or legal practitioners with minimal legal knowledge as Panel Lawyers, thereby safeguarding the interests of litigants.

These regulations also dictate that cases be assigned to Panel Lawyers based on their area of specialization. As per sub-regulation (7) of Regulation 8, competent authorities are required to maintain distinct panels for legal practitioners who handle different types of cases, such as Civil, Criminal, Constitutional Law, Environmental Law, Labour Laws, Matrimonial disputes, Juvenile Justice, and more. This ensures that cases are assigned to lawyers according to their expertise and skill set, maximizing the quality and effectiveness of the legal services provided.

e) Delisting of panel lawyers and Reconstitution of panel:

The Monitoring and Mentoring Committees of respective Legal Services Institutions periodically evaluate the performance of Panel Lawyers²⁴. These committees can request status reports from Panel Lawyers within a specified timeline. The Regulations grant Legal Services Institutions the authority to withdraw a case from a Panel Lawyer, including a Retainer Panel Lawyer, at any stage of the legal proceedings²⁵. If legal services are found to be unsatisfactory, legal aid lawyers may be delisted from the panel of the Legal Services Authorities. In case of any service deficiency on the part of Panel Lawyers, the Legal Services Institutions take necessary action. The panel undergoes reconstitution every three years to continually uphold the standards of legal aid services.

f) Capacity Building of Panel Lawyers:

Legal Services Authorities periodically organize training programs for legal aid lawyers, a requirement also stipulated by the NALSA Regulation 2010²⁶. In alignment

²⁴ Sub-regulation of (7) of Regulation 11 of the NALSA (Free and Competent Legal Services) Regulations, 2010, provides for the check on the progress of the legal aided cases of the Panel Lawyers by the Monitoring and Mentoring Committees

²⁵ Id at regulation 8(14)

²⁶ Regulation 8 (18) of the NALSA Regulations, 2010 provides that the panel lawyers shall undergo periodic trainings. It is envisaged that the modules shall be prepared by the National Legal Services Authority as well as, the respective State Legal

with this, the National Legal Services Authority has created three Training Modules²⁷. These modules encompass various methodologies for effectively imparting training to Panel Lawyers. Following table depicts the number of training programmes conducted of panel lawyers:

Period	Number of Training programmes for Panel Lawyers
2020-21	1,471
2021-22	1,550
2022-23	1,770

g) Documentation and Reporting:

In 2020, NALSA adopted the Handbook of Formats, a tool designed to solidify its internal procedures of documentation and reporting, consequently facilitating the delivery of effective, efficient, and high-quality legal services. This handbook delineates the responsibilities of legal service providers and provides templates for duty notes, appointment letters, reporting, and case documentation for legal aid providers. Additionally, it includes formats for the registers that legal services authorities are required to maintain.

- h) Regional Meet & All India Meet:** Every year, Regional Meets and an All India Meet are organized where vital aspects related to the functioning of Legal Services Authorities are deliberated. These meetings also serve as a platform to discuss measures related to the quality of legal aid, ensuring continuous improvement and adherence to high standards in service delivery.
- i) Complaint to Bar Association:** To address instances of misconduct by a lawyer, individuals have the option to approach either the disciplinary committee of the State Bar Council or the Bar Council of India. Section 35 of the Advocates Act specifically

Services Authority. As per the regulation, non-participation in capacity building programmes can result in de-panelment of a panel lawyer.

²⁷ Training Modules 1 and 2 were released on 21.3.2015 & 09.04.2016 respectively while Training Module 3 was released on 13.12.2018 (<https://nalsa.gov.in/training-modules>).

outlines malpractices committed by lawyers. This mechanism serves as an important avenue for ensuring and upholding quality standards within the legal profession.

- j) Termination & Code of Ethics in Legal aid defense counsel office:** The termination of services and the code of ethics in the Legal Aid Defense Counsel office Scheme serve as quality assurance measures. Termination can occur in cases of substantial breach of duty, accepting pecuniary gains, conviction of an offense, engaging in political activities, incapability to meet required standards, and more. The code of ethics prohibits personal or financial interests, disclosure of confidential information, promotion of outside activities, engaging in private practice, accepting inappropriate gifts, and requires devotion to duties and public confidence. These measures ensure high ethical standards and quality legal aid services.

6. PUBLIC LEGAL EDUCATION

In empowering individuals and communities by enhancing their understanding of the law and their legal rights six key strategies employed by legal services Authorities to accomplish this goal: Legal Awareness Programmes, Legal Services and Empowerment, Awareness Campaigns, Legal Literacy Clubs, Utilizing Print and Electronic Media, and Legal Aid Vehicles.

(a) Legal Awareness Programmes:

To address the lack of legal literacy, Legal Services Authorities conduct legal awareness programs nationwide. These initiatives cover various laws and welfare schemes, targeting different groups such as children, laborers, disaster victims, Scheduled Castes and Tribes, and individuals with disabilities. Booklets and pamphlets in simple language are distributed, and programs are held in remote areas, featuring legal aid lawyers, judicial officers, government experts, and civil society members as resource persons.

(b) Legal Services and Empowerment:

In order to cater to the vulnerable sections of society, the National Legal Services Authority (NALSA) has designed and implemented a unique Module for Legal Services Camps. This initiative deviates from the traditional approach of spreading general legal awareness and

aims to empower the target community based on their specific needs. These Legal Empowerment camps focus not only on marginalized sections but also those in remote and hard-to-reach areas. The primary aim of these camps is to fill the information gap and ensure access to rightful entitlements. The camps involve identifying marginalized individuals, assessing their legal needs, completing necessary formalities, and delivering benefits through stalls set up by various government departments. Legal Services Authorities provide legal advice and assistance, and follow-up actions are taken for unresolved matters.

(c) Awareness Campaigns:

Legal Services Authorities initiate targeted campaigns as an effective outreach strategy. These campaigns involve identifying a specific group and designing a project to address their socio-legal issues within a limited time frame. The Legal Services Institutions at the district and state levels have the discretion to devise and implement these campaigns based on local conditions and circumstances. The last two pan India campaigns are briefly mentioned here.

In the Empowerment of Citizens through Legal Awareness and Outreach 2022 campaign, the duration of the campaign was two weeks, from 31st October, 2022 to 13th November, 2022. The camps held in villages attracted a significant number of attendees, with 151,100 camps held and a total of 38,723,058 individuals participating. Among them, 1,021,533 people were provided with legal assistance, benefiting from the program. In other areas, 36,505 camps were conducted, with 6,506,440 people attending and 268,762 individuals receiving legal assistance.

The campaign also focused on court-based services, where 7,073 individuals were provided with panel lawyers to address their legal needs. Furthermore, 64,077 people received advice or counseling, while 21,993 individuals benefited from other services offered during the campaign.

Moving on to the Pan India Legal Awareness and Outreach Campaign 2021, this initiative lasted from 2nd October, 2021 to 14th November, 2021. The campaign was divided into four phases, each with its specific time frame. Throughout the campaign, a

total of 640,727 villages were covered, with 341,545 villages visited three times or more. There were 36,659 villages that were not visited during the campaign.

In terms of towns and cities, a total of 7,684 were included in the campaign. Among them, 4,188 towns/cities were visited once, 3,276 were visited twice, 3,768 were visited three times, and 2,211 were visited four times or more. Only 146 towns/cities were not visited at all.

Overall, the Pan India Legal Awareness and Outreach Campaign 2021 reached a total of 6,545,310 beneficiaries across villages and towns/cities, aiming to provide legal awareness, guidance, and services to empower citizens throughout the campaign duration.

(d) Legal Literacy Clubs:

Legal Services Authorities are committed to promoting equal access to justice, part of which involves educating children about legal literacy and rights awareness. To achieve this, Legal Literacy clubs have been established across the country, with about 18745 such clubs operating in schools and colleges. Various engaging methods, such as skits, on-the-spot painting, and declamation, are used to educate students about different laws.

(e) Utilizing Print and Electronic Media:

Print and Electronic media play a significant role in disseminating legal awareness to the general public. Short films and videos about various laws are showcased via electronic media. Regular TV and radio shows are also conducted on legal topics, and social media platforms are used to reach a wider audience.

(f) Legal Aid Vehicles:

Legal Services Authorities operate about 78 legal aid vehicles equipped with video and audio systems. These vehicles travel to remote areas to spread legal awareness. Panel lawyers and Para Legal Volunteers are assigned to these vehicles to provide villagers with legal advice.

7. ALTERNATIVE SOURCES OF LEGAL SERVICES

In India, legal services are primarily provided by the Legal Services Authorities established under the Legal Services Authorities Act, 1987. These authorities ensure access to justice for those who meet the eligibility criteria. However, there are alternative sources of legal services available to address the needs of different sections of society.

- **Tele-law:** The Department of Justice, Ministry of Law and Justice has implemented various initiatives to enhance the reach of legal services. One such initiative is Tele-Law, which utilizes technology to bridge the gap between individuals seeking legal assistance and lawyers. Through Tele-Law, individuals in remote areas can connect with lawyers via video conferencing and receive legal advice and guidance. The individuals in need can connect with lawyers through the video conferencing facilities provided at Common Service Centres (CSCs). These CSCs are accessible in rural and remote areas, ensuring widespread availability of legal assistance. There are approximately 409,949²⁸ Common Service Centres (CSCs) available in rural areas. This initiative aims to make legal services more accessible, especially for those residing in rural and remote areas.
- **Nyaya Bandhu:** The Nyaya Bandhu (Pro Bono Legal Services)²⁹, another initiative of the Department of Justice, aims to create a comprehensive framework for the provision of pro bono legal services throughout the country. Through this program, practicing advocates who are interested in offering legal pro bono work are connected with eligible marginalized beneficiaries using mobile technology.
- **Amicus in Jail Petitions:** When a prison inmate wishes to file a criminal appeal or a special leave petition in the Supreme Court, they can submit the petition, along with the necessary documents and written arguments, to the designated officer at the prison facility. The officer in charge then forwards the petition to the Registrar of the Supreme Court. These petitions, commonly known as Jail Petitions, are processed by the Supreme Court's Registry. To represent the interests of the inmate, an advocate practising in the Supreme

²⁸ www.csc.gov.in

²⁹ <https://www.probono-doj.in/>

Court is appointed as Amicus, and the fees for the Amicus are borne by the respective State government.

- **Civil Societies:** Civil societies also contribute to the provision of legal services, although their operations are often limited to specific areas or target specific issues. These societies collaborate with Legal Services Authorities and other organizations to enhance their impact and effectively address legal needs.
- **Law Colleges:** Legal aid clinics in law colleges across India serve as platforms for spreading legal awareness and providing primary legal assistance. These clinics offer legal advice, guidance, and information to individuals who require basic legal support. However, the availability and reach of such clinics vary across locations.

8. HOLISTIC LEGAL SERVICES

Recognizing the interconnected nature of legal issues with social, health, and economic factors, legal services Authorities have developed holistic legal services to address individuals' challenges. These services involve various initiatives and collaborations that go beyond legal aid to provide comprehensive support.

- **Expanding the scope of assistance in Legal Empowerment Camps:** These camps serve as platforms where legal services Authorities collaborate with government departments, including social welfare, health, women and children, and others. Through these collaborations, individuals attending the camps not only receive legal assistance but also become aware of the range of services and welfare measures provided by different government departments, and are connected to their entitlements. In addition to government collaborations, legal services Authorities, in these camps also work in partnership with NGOs such as those specializing in providing artificial limbs and appliances. This collaboration ensures that individuals have access to necessary resources, such as artificial limbs, calipers, and other aids, which are provided free of charge. By addressing non-legal

needs alongside legal challenges, holistic legal services aim to promote individuals' overall well-being.

- **Collaboration with One-Stop Centers for greater impact.:** One-Stop Centres, managed by the Women and Child Department, collaborate with the Legal Services Authorities to provide legal services to women victims who seek assistance at these centers. These collaborations aim to ensure that women visiting One-Stop Centres receive comprehensive support, including legal aid, to address their specific needs and challenges. The collaboration between One-Stop Centres and the Legal Services Authorities recognizes the importance of addressing legal issues faced by women victims in a holistic manner. It facilitates the provision of legal assistance and guidance directly at the One-Stop Centres, where women can access multiple services under one roof.
- **Strategic and preventive NALSA schemes:** NALSA schemes embody the provision of holistic services through their comprehensive approach and the specific areas they target. These schemes showcase the commitment to address individuals' multidimensional needs by integrating legal aid with social, health, and economic support. Outlined below is a concise summary of key NALSA schemes envisaging delivery of comprehensive services:
 - NALSA (Legal Services to Disaster Victims Through Legal Services Authorities) Scheme, 2010: This scheme recognizes the importance of providing comprehensive support to disaster victims. It encompasses legal aid, social welfare collaboration, and facilitating rehabilitation to address the immediate and long-term needs of individuals affected by disasters.
 - NALSA (Victim of Trafficking and Commercial Sexual Exploitation) Scheme, 2015: This scheme demonstrates the holistic approach in addressing the complex challenges faced by victims of trafficking and commercial sexual exploitation. It incorporates legal aid, awareness, social support, rehabilitation programs, and counselling services to ensure comprehensive assistance at preventive, rescue and rehabilitation stages, and promote the overall well-being of the survivors.
 - NALSA (Legal Services to the Workers in the Unorganized Sector) Scheme, 2015: This scheme reflects the holistic focus on the rights and well-being of workers in the unorganized sector. It combines legal aid with social welfare initiatives, such as

facilitating access to government schemes, health services, and social security measures, to provide a comprehensive support system for these vulnerable individuals.

- NALSA (Child Friendly Legal Services to Children and their Protection) Scheme, 2015: This scheme highlights the comprehensive approach in addressing the legal, social, and protection needs of children. It encompasses legal aid, and collaboration with other department and agencies for child welfare programs and preventive steps, education support, counselling services, and rehabilitation efforts to ensure the holistic well-being and protection of children.
- NALSA (Legal Services to the Mentally Ill and Mentally Disabled Persons) Scheme, 2015: This scheme recognizes the interconnectedness of legal and mental health support. It integrates legal aid with mental health services, counselling, and rehabilitation programs to provide comprehensive assistance to individuals with mental illnesses or disabilities.
- NALSA (Effective Implementation of Poverty Alleviation Schemes) Scheme, 2015: This scheme exemplifies the holistic approach in addressing poverty-related legal challenges. It combines legal aid with facilitating access to poverty alleviation measures, social welfare programs, and skill development initiatives to empower individuals, break the cycle of poverty, and ensure comprehensive support.
- NALSA (Legal Services to Senior Citizens) Scheme, 2016: This scheme recognises the holistic focus on the needs of senior citizens. It combines legal aid with social welfare initiatives, healthcare support, and awareness programs to address the legal, social, and health-related challenges faced by the elderly.

By implementing these NALSA schemes, a comprehensive support system is established that integrates legal aid with social welfare, health services, preventive measures, and empowerment initiatives.

9. UN SDG 16.3

- The Legal Services Authorities are playing a crucial role in promoting SDG 16.3 through various initiatives. These include organizing Lok Adalats, conducting outreach programs targeting marginalized sections of society, establishing legal aid clinics, prioritizing legal aid in remote areas, providing free legal assistance regardless of means, and leveraging

technology. Their collective efforts are contributing significantly to the advancement of SDG 16.3.

- Lok Adalats, being one of the largest alternative dispute resolution (ADR) programs in the world in terms of number of cases taken up and settled, provide a platform for resolving cases at the pre-litigation stage and for pending cases referred by courts. Their cost-free and simplified nature allows individuals to seek resolution without financial burdens, enhancing access to justice for all. The active participation of millions of individuals in Lok Adalats demonstrates the widespread trust and confidence in their effectiveness and accessibility. Lok Adalats are held across the country by Legal Services Authorities.
- In addition, the Legal Services Authorities conduct legal awareness campaigns/programmes. These campaigns play a pivotal role in educating individuals about their rights and informing them about the available avenues for seeking justice. By empowering individuals with comprehensive legal knowledge, the authorities enable them to make informed decisions, assert their rights, and effectively engage with the legal system. Every year, millions of such awareness programmes are being held across the country.
- Moreover, the authorities organize legal services camps, strategically positioned to bring legal assistance closer to communities, particularly in areas where access to legal services is limited. These camps serve as vital platforms, for connecting people to their entitlements. Various departments of the government also participate in such camps. By organising these camps, the Legal Services Authorities are promoting equal access to justice for individuals who may face geographical or socio-economic constraints. Panel lawyers and para-legal volunteers actively identify and assess the legal requirements of weaker and marginalized sections before organisation of legal services camp
- Furthermore, the Legal Services Authorities have established legal aid clinics in prisons, offering legal advice, updates on court cases, and assistance with drafting petitions. These

clinics operate across India, providing prisoners with access to legal guidance and support, aligning with the principles of SDG 16.3.

- To bridge the gap between remote areas and legal assistance, the authorities have also established fully equipped legal assistance centres with technology resources. These centres enable people in remote regions to participate in online modes of alternative dispute resolution and seek advice from legal aid lawyers. Online Lok Adalats and an online portal facilitate the process, making it accessible and efficient. Additionally, legal aid helplines operate in all states, providing legal advice and information to those seeking assistance.

Additional endeavours supporting Sustainable Development Goal 16.3

- As mentioned earlier, Tele-Law, initiative of Department of Justice, utilizes technology to overcome geographical barriers and provide virtual legal aid services to people, particularly those living in remote areas. Since its inception in 2017 until April 2023, tele-law has provided invaluable advice to an impressive number of 3,813,139 individuals.
- Hybrid hearings and e-filing in the Supreme Court, some High Courts and District Courts are significantly enhancing accessibility to justice. These advancements are resulting in overcoming geographical barriers by allowing individuals, particularly those in remote areas, to participate in court proceedings and submit petitions online. This digital revolution in the Indian judicial landscape including live streaming ensures that litigants, regardless of their physical location, are no longer left in the dark, but rather equipped with real-time access to the unfolding legal discourse surrounding their matters. This enhanced accessibility ensures equal opportunities for all individuals to seek justice, promoting inclusivity and advances the objectives of SDG Goal 16.3.
- The establishment of e-Sewa Kendras in Supreme Court, High Courts and many District Courts signifies a significant stride towards enhancing access to justice for the common man. These centres offer a multitude of services, including providing information on case status, facilitating the acquisition of certified copies of judgments and orders, and assisting in the e-filing of petitions.

NATIONAL REPORT: IRELAND

INTERNATIONAL LEGAL AID GROUP

Boston 2023

NATIONAL REPORT - IRELAND

1. Country Details

Name: Ireland¹

Population: Approx 5.1m
GDP: Approx €423bn (2021)

Poverty line / % of population deemed to be living in poverty – 5.3% (consistent poverty rate), 13.1% (at risk of poverty rate) (2022).

Number of practising lawyers in the jurisdiction: Approximately 12,000 practising solicitors (attorneys/general practitioner lawyers) and approximately 2,965 practising barristers (trial advocates/specialist lawyers) (of which approximately 325 are Senior Counsel or senior lawyers particularly learned in the law).

2. Legal Aid Organisation

Criminal

There is no single organisation responsible for the provision of criminal legal aid services. Different aspects of the criminal legal aid scheme are managed by the Department of Justice (administration of payments to lawyers and policy matters), the courts (admission of persons to the scheme), court officers (admission of lawyers to legal aid panels), and the Legal Aid Board (management of certain ad-hoc schemes of legal aid connected with legal advice in police stations, recovery of the proceeds of crime and certain public law actions connected with criminal matters). There are no published figures in relation to the number of lawyers admitted to criminal legal aid panels in Ireland.

Civil

Civil legal aid is provided or facilitated by the Legal Aid Board, a statutory body (a corporation established under public law). It is comprised of a Chairperson and 12 members appointed by the Minister for Justice. The Board is independent in the performance of its functions. The Minister is empowered to give general policy directives to the Board but has not exercised that power in many years and cannot in any event give any direction in relation to any particular legal aid case. The Board employs approximately 80 salaried solicitors with approximately 600 private solicitors and 1,100 barristers admitted onto civil legal aid panels. Work is effectively split more or less 50/50 between law centres and private solicitors though it should be observed that law centres tend to take on more complex matters in the higher courts while the majority of work referred to private solicitors are relatively short cases heard in the District Court (the lowest level of the Irish courts system). Payment of private solicitors is generally on a per case flat fee basis. Barristers are paid a brief (case) fee and refresher fees similar to criminal legal aid.

¹ Sometimes referred to by its statutory description *the Republic of Ireland*.

3. Budget and Spend:

Criminal

Expenditure on criminal legal aid (including ad-hoc schemes) expenditure amounted to €79.49m in 2021, up from €66.48m in 2020. This money is entirely comprised of funding provided to the Minister for Justice by Parliament and there is no element of self-funding. This budget is entirely demand-led.

Civil

For 2021, the last year in which published figures are available, the budget for civil legal aid and advice (including family mediation services) amounted to €47m. Actual expenditure was €43m in 2021. The vast majority of the Board's budget comes from a grant from the Minister for Justice out of money provided to the Minister by Parliament. A small amount of the budget comes from an element of self-funding in the form of a contribution paid by legally aided persons toward their legal aid and recovery of costs either from the other party or from money or real property preserved or recovered on behalf of the legally aided person in the course of proceedings. The civil legal aid budget is mostly capped with the proviso that it is demand-led in certain matters (primarily personal insolvency).

4. Scope, Caseload and Eligibility:

Criminal

An application for legal aid may be made by a person accused of a crime to the trial judge. The test is essentially two-fold (a) the means of the person and (b) either the charge is murder, or if not, an "interests of justice" test applies. In relation to the means of the person there is no particular test set down and it is up to the judge in each case to satisfy themselves that the defendant's means are insufficient. The "interests of justice" test relates to the gravity of the charge or if there are other exceptional circumstances. No particular criminal charge is excluded but criminal legal aid is not generally granted for minor matters not attracting a prison sentence. 80,831 legal aid certificates were granted in the District Court (in which all criminal cases bar a relatively small number of terrorist and organised crime cases start) in 2021 with 73,611 such certificates having been granted in 2020. There is no contribution towards legal aid in criminal matters and, notwithstanding the discretion of the courts to award costs in any matter, the general practice is that costs are not awarded in criminal cases.

Civil legal aid

Civil legal aid works on the basis that all matters are in scope unless specifically excluded. Specifically excluded are defamation, disputes regarding rights and interests over land (but with significant exemptions), small claims, conveyancing, licensing, election petitions, and group litigation. Except for asylum claims, legal aid is not available at administrative tribunals, only in courts of law.

There were 15,291 applications for civil legal aid and advice in 2021, up from 14,383 in 2020. 5,025 new cases were taken on by law centres in 2021 (down from 5,261 in 2020) while 8,129 persons in 2021 were granted legal aid certificates entitling them to representation by a private solicitor (up from 7,044 persons in 2020).

With certain exceptions (domestic violence, cases involving taking children into State care, and services to victims of crime) persons granted legal aid must pay a contribution which is means related. The minimum legal aid contribution is €130. A proportion of this contribution is payable at the initial advice stage (at least €30). Most legally aided persons are assessed at the minimum payment. In International Protection matters a standard €10 contribution applies.

In Ireland the costs of a matter generally fall to the losing party to pay (a rule known as *costs follow the event*) and the presence or absence of legal aid does not modify this rule. However it should be noted that the general rule is not applied in family law, public law child care, and personal insolvency cases. In these matters, which make up about 85% of all legal aid matters, the parties pay their own costs and those of the legally aided person will be met by the Board subject to the possibility of their recovery from money or real property recovered or preserved on the legally aided person's behalf. In other cases (which make up about 15% of the Board's work but include some of the most costly legal aid matters) the losing party must pay both sides costs and legal aid will not meet the costs of the successful party. The losing party is personally liable for these costs. It should also be noted that the Court has full discretion over costs in any matter and can and does depart from the general rule in specific instances.

5. Quality assurance

Criminal

There are no specific quality assurance measures for criminal legal aid lawyers outside of those applicable to the legal profession generally. Up until relatively recently the legal professions were self regulating and there were separate complaints processes for solicitors and barristers. Since late 2019 the Legal Services Regulatory Authority has taken over the processing of complaints against solicitors and barristers. Complaints can be made in three categories: (a) inadequate service (b) excessive costs and (c) professional misconduct. Certain serious complaints falling largely into the third category may be referred to the independent Legal Practitioners Disciplinary Tribunal.

Legal practitioners are required by their professional bodies to undergo continuous professional development and accumulate a certain number of "CPD points" each year given for attending courses/seminars and group study.

There are no specific requirements for entry onto a criminal legal aid panel other than admission to the profession in the normal manner and having a current tax clearance certificate.

Civil

The Legal Aid Board is responsible for quality assuring lawyers providing civil legal aid and advice and does this in a number of ways. It sets out Best Practice Guidelines which are a series of steps that should normally be taken in matters in which legal aid is frequently provided and the time in which they should be taken. Allied to this is a system of file reviews in which senior solicitors review the files of more junior colleagues to assure adherence to the BPGs and that a professional service is generally provided. Non-solicitor staff who are authorised by the Board may also conduct file reviews in certain instances.

Complaints against solicitors and barristers providing civil legal aid are dealt with by the internal Legal Aid Board process. However anyone may make a complaint against a solicitor or barrister to the Legal Services Regulatory Authority.

The CPD system also equally applies to civil as well as criminal practitioners.

All solicitors providing civil legal aid services must be admitted to the profession in the normal manner. Solicitors employed by the Legal Aid Board are recruited according to normal civil service recruitment procedures and must meet specific qualification and experience requirements in relation to the position they are recruited for. Panel solicitors must have sufficient professional indemnity insurance and have a current tax clearance certificate. Depending on the requirements of the particular panel they may require expertise in a particular area of law or be required to attend a training course in a particular area of law prior to admission to the panel.

6. Public Legal Education:

The Law Society of Ireland (the solicitors' professional body) supports Public Legal Education (PLE) projects through a series of initiatives and engagement with solicitor, trainees and the public. PLE aims to increase awareness of the law by teaching people about Ireland's legal system to ensure they can exercise their legal rights and responsibilities.

Street Law is an initiative where trainee solicitors studying at the Law Society of Ireland engage with local schools, prisons and communities to teach about law. Street Law and Street Law Prison aim to promote legal literacy, equality, access to law, and to teach high cognitive and social skills that enhance participants' effectiveness in legal matters. Street Law Prison facilitates a Prison Law programme in Wheatfield Prison, in partnership with the charity, Solas and their Compass Programme for prisoners. The Law Society trainee solicitors also attend Mountjoy prison to work with prisoners to raise their awareness and understanding of the law in areas such as human rights, employment law, refugee rights and discrimination².

PILA (Public Interest Law Alliance) is a public interest law network that seeks to engage civil society and the legal community in using the law to advance social change in Ireland. PILA has an alliance of 35 law firms with close to 2,000 solicitors, 4 in-house legal teams, more than 350 barristers, 12 law schools, and 150 NGOs and Independent Law Centres.

PILA promotes clinical legal education, which seeks to complement the theoretical training law students receive in the classroom with practical, hands-on experience in real world placements and clinics in return for academic credit. Clinical legal education was designed to provide pro bono assistance to those most in need and serve the wider needs of the community, while fostering a greater sense of professional ethics and responsibility in the next generation of lawyers.

PILA was instrumental in establishing the Irish Clinical Legal Education Association, which brings together all the major third level institutions seeking to develop a more supportive

² Law Society of Ireland. Street Law Prison. Available at: <https://www.lawsociety.ie/Public/Public-Legal-Education/streetlaw-prison/>

PILA. Supporting clinical legal education, Available at:

environment for clinical legal education in Ireland. In 2015, PILA commissioned a report '*Clinical Legal Education in Ireland: Progress and Potential*'. The report took a comprehensive look at the existing clinical legal education programmes in Ireland and outlines a number of recommendations for the future development of clinical legal education in Ireland.

7. Alternative Sources of legal services

Private solicitors will often take on what they consider to be winnable personal injuries and other torts cases on what is known as a conditional fee agreement or more widely as “no foal no fee”. This means that they will not take any fee from the client unless they are successful in the proceedings. The client will still be personally liable for the others party’s costs if they are unsuccessful.

The Bar Council (the barristers’ professional body) operates a formal “Voluntary Assistance Scheme” which provides assistance to clients of NGOs, civil society groups, and charitable organisations. Although operated by the Bar Council, solicitors may also participate (this is a necessity for the scheme’s effective operation, as a barrister may only act in any matter on foot of a brief from a solicitor). There is no similar formal programme organised by the Law Society however another pro bono project involving solicitors is the Public Interest Law Alliance operated by Free Legal Advices Centres CLG (FLAC), an NGO that campaigns for access to justice.

FLAC is the largest and most well known independent law centre in the country and operates advice clinics nationwide staffed by volunteer lawyers as well as a national helpline. It sometimes takes on strategic legal cases intended to bring about changes in the law. Other independent law centres exist such as Community Law and Mediation, Ballymun Community Law Centre, Mercy Law Resource Centre. Community law centres target particular geographic areas or particular communities of interest and make their services available largely via advice as well as taking on a relatively small amount of litigation work. While no consolidated figures for the NGO/CLC sector are available, in 2019 FLAC received almost 27,000 requests for legal advice divided between its clinics and telephone advice service and took on 57 litigation cases. Legal assistance may also be available through trade unions and other sources but again there are no consolidated figures available for representation through such sources.

8. Holistic legal services:

In Ireland there has traditionally been an expectation/rule that law firms will be owned by solicitors either as sole practitioners or unlimited partnerships while traditionally all practising barristers were sole traders practising out of the Law Library. There have been certain changes recently with the recognition of in-house Counsel as being “practising” as well as allowing employed barristers to perform legal work on behalf of their firms.

Limited Liability Partnerships have been brought into force by the Legal Services Regulation Act 2015 (“the LSR Act”). There are 430 such partnerships on the register in operation. The multi-disciplinary practice, where legal practitioners might work side by side with other professionals, was provided for under the LSR Act 2015 but the relevant sections of the Act have not yet been brought into force. A public consultation held in 2017 effectively deferred making any substantive recommendations as to their introduction.

One model of collaboration can be found in personal insolvency where the Abhaile (“Home”) programme delivers a suite of legal and financial advice for insolvent persons facing home repossession. There is an element of working together between personal insolvency practitioners and lawyers in order to implement a solution to a person’s debts that will allow them to remain in their home, known as a personal insolvency arrangement (similar to an individual voluntary arrangement found in other jurisdictions).

9. UN SDG Standard 16.3

Sustainable Development Goal 16.3 states:

“Promote the rule of law at the national and international levels and ensure equal access to justice for all”

The indicators set out for this goal are:

16.3.1 Proportion of victims of violence in the previous 12 months who reported their victimization to competent authorities or other officially recognized conflict resolution mechanisms.

16.3.2 Unsentenced detainees as a proportion of overall prison population.

16.3.3: Proportion of the population who have experienced a dispute in the past two years and who accessed a formal or informal dispute resolution mechanism, by type of mechanism.

Ireland’s 2018 Voluntary National Review of the SDGs stated as follows in relation to goal 16.3:

“In March 2017, it was announced that a Group would be established to review and reform the administration of civil justice in the State. The Group is to report to the Minister for Justice and Equality and will make recommendations for changes with a view to improving access to civil justice in Ireland. The aim of the Review is to examine the current administration of civil justice in the State with a view to, among other things, improving access to justice, reducing the cost of litigation, and ensuring timely hearings.”

The Review (of the Administration of Civil Justice) referred to above reported in late 2020 and several of its actions have been included in the Justice Plan for 2021.

“The Voluntary National Review went on to say:

“The promotion of the rule of law and ensuring access to justice for all is reflected in Ireland’s active adherence to core international and European human rights treaties, strong support for strengthening the regional and multilateral human rights framework and support for universal adherence to the Rome Statue establishing the International Criminal Court. Ireland is committed to the universality, indivisibility and interrelatedness of all human rights, to accountability for human rights violations and abuses and to the protection of those who are most vulnerable and marginalised. We participate in the scrutiny of the UN members’ human rights records though the Universal Periodic Review process. We contribute to the EU’s human rights work though EU human rights dialogues with non-EU countries and EU human rights country strategy. We are committed to the Council of Europe’s role as the reference point for human rights, democracy and rule of law across Europe, and the role of the European Convention on Human Rights and its associated Court. We promote respect for and adherence to International Humanitarian Law in all circumstances”

NATIONAL REPORT: ISRAEL

National Report for ILAG June 2023 – Israel

1. Country details: States of Israel

Population (March 2023)	9.714 Million
GDP (2022)	4660.09 Billion New Israeli Shekels (NIS) (approximately 1287.4 Billion USD).
Poverty line (2021)	50% of median income or 2,849 NIS
Percentage of population living in poverty (2021)	The proportion of households below the national poverty line was 21% .
Number of practicing lawyers	+70,000

2. Legal Aid Organisation / Authority:

There are two separate legal aid authorities, one for criminal legal aid, and the other for civil legal aid.

The Public Defender's Office (PDO) was established in 1995, by virtue of the Public Defense Act, in order to provide high quality professional legal representation to suspects, defendants, detainees and convicted persons in criminal proceedings. The PDO has a constitutional role in safeguarding fair process and equality before the law in the adversary legal system in Israel.

The delivery model is mixed. The legal work at the Public Defense is performed by an internal staff of attorneys – its permanent employees - and a large number of external attorneys that serve as public defenders and work out of their own offices. The external attorneys are compensated in different models – some cases are paid under retainer contracts, others on the basis of hourly rate, and others on the basis fixed fee per hearing. The fee is regulated by the lawyers' fee Regulations (2000). In 2021, the PDO employed 125 internal lawyers and about 800 additional independent lawyers in its six (6) districts throughout the country.¹

The PDO replaced a system of appointed counsel by the courts, under which many defendants were left without any legal representation, and those lucky enough to get a court appointed lawyer - often received extremely poor representation. Since its establishment, the PDO grew rapidly and became a major player in the Israeli criminal justice system. It currently represents the majority of suspects and defendants around the country.

The PDO is part of the Ministry of Justice but enjoys financial independence. While it is overseen by the MoJ in respect of administration and budget; the appointment of the Chief PD and the office's professional work is supervised by a special and independent board headed by the Minister of Justice and comprised of representatives of the Bar association, the judiciary and legal academia. Thus the Public Defender's Office enjoys a unique status within government and its professional independence is preserved by law. Section 15 of the Public Defender law explicitly states that in cases of conflict of duties between the duties owed by public defenders to the State as government employees - and the duties owed by public defenders toward their clients, the duties owed by public defenders towards the clients shall prevail.

¹ Source: States of Israel, Core Document, HRI/CORE/ISR/2021, February 2021.

The Legal Aid Department in the Ministry of Justice has been providing legal aid in the field of civil law for over 40 years, pursuant to the Legal Aid Law, 5732 – 1972 and the Legal Aid Regulations, 5733 – 1973.

The LAD is a unit within the MOJ that provides free legal aid in civil trials and in certain administrative appeals. While being part of the GOI, it enjoys a degree of independence and can file suits against the State on behalf of victims.

The LAD provides legal representation in a wide range of civil law issues (see list below under 4). This includes the representation of involuntarily hospitalized persons, representation in psychiatric committees and appeals on these committees' decisions regarding involuntary hospitalization. The financial eligibility test does not apply in these cases, nor does the likelihood of winning the case test at the psychiatric committees' level.

The LAD employs 117 lawyers as part of its staff, and contracts about 1100 external lawyers.²

The Child Representation Unit within the LAD (*A Lawyer of My Own Project*) is the organizational framework for child representation in civil proceedings. The Unit's strategic stated aim is to provide the best possible legal aid service for children and youth and to promote their right to access to justice, particularly in child protection proceedings. All child legal aid services are provided by the LAD free of charge. Children are represented from birth until they turn eighteen (18). Following Amendment No. 20 to the *Legal Aid Law 5732-1972*, the Unit also provides legal aid and assistance to children and youth **victims** of severe sexual abuse, throughout the criminal proceedings against the perpetrator, as well as during any legal or administrative proceeding connected to the penal proceedings (such as protection orders, civil tort suits, etc.).

3. Budget and Spend:

The budgets of the PDO and LAD are funded by the government of the State of Israel, on an annual basis. An estimated budget is prepared by the Ministry of Finance, and may be adjusted on the basis of needs.

² Annual Report of the LAD, 2020. Available at <https://www.gov.il/he/departments/publications/reports/legal-aid-2020> (this is the most recent report).

PDO Spending - Lawyers' fee and other expenses

In both 2020 and 2021 the actual spending was slightly below the approved budget.³

Type of payment	Total 2021 (NIS)	Total 2020 (NIS)	Percentage 2021	Percentage 2020
Payment for representation in cases and on call	148,845,728	133,351,171	81.56%	80.47%
Payment to lawyers on retainer	24,966,719	23,397,035	13.58%	14.12%
Payment to lawyers on special agreement to represent in arraignment days	923,136	1,867,500	0.51%	1.13%
Payment to lawyers employed on an hourly basis	201,556	473,663	0.11%	0.29%
Defence expenses (expert witnesses and private investigators)	3,186,025	3,371,040	1.84%	2.03%
Expenses on photocopying investigation materials	4,373,249	3,251,776	2.40%	1.96%
Total	184,496,413	165,712,185	100%	100%

The average cost per procedure in 2021 for the **PDO** stood at about 1,745 NIS per procedure (about 477 USD).

The LAD's spending for 2021 was **237,787,264** NIS - 20.75 % for lawyer's fees and the rest for purchases. In 2020 the spending was 229,674,100 NIS. In both 2020 and 2021 the actual spending was slightly below the approved budget.⁴

³ See <https://next.obudget.org/i/budget/00085104/2024?theme=budgetkey> the blue line is the original budget, the orange line is the adjusted budget and the green line is the actual spending.

⁴ See <https://next.obudget.org/i/budget/00085105/2024?theme=budgetkey>. The blue line is the original budget, the orange line is the adjusted budget and the green line is the actual spending.

4. Scope, Caseload and Eligibility:

Criminal cases

All defendants, detainees and suspects have a right to legal representation in any criminal proceedings that pertain to them, but not all are eligible for public defense. The right to be represented by the PDO is defined by law and depends, among various factors, on the severity of the offence, the economic status of the person requesting the service and on further characteristics.

Section 18 of the Public Defense Act lists the individuals who are entitled to representation by the Public Defense Office. Eligibility depends on the type of legal proceeding, the severity of the offense, and the financial needs of the individual requesting the service. There are circumstances in which the applicant's financial status is considered, and others in which eligibility for public defense is not dependent on financial needs. Below is a concise list of the key causes for eligibility for representation by the Public Defense Office.⁵

- Defendants accused of **a severe crime** in a district court (punishable by 10 years of imprisonment or more);
- **The prosecution requests at the outset of the trial that if convicted - that the defendant will be punished by imprisonment;**
- **Indigent** defendants accused of a crime punishable by **5 years of imprisonment** or more;
- **Disabled** defendants (mute, blind, deaf, suspected of having a mental illness or cognitive disabilities);
- **Juveniles** (with the exception of minor traffic offenses);
- **When a court order was issued** to appoint a public defender for the defendant;
- A defendant summoned for a hearing as part of a day of **consolidated court hearings** **Detainees:**
- **Indigent** detainees held for investigation purposes (but not yet indicted)
- Detainees for which a request has been filed for **remand until end of procedures**
- Juvenile detainees

Additional procedures:

- Prisoners who were appointed public defenders for a hearing before **the parole committee**
- **Extradition** procedures;
- Sentenced criminals who request **retrials** when a cause is found
- Court deliberations held by virtue of the law for the protection of the **public from sexual offenders**

Fees required from persons entitled to representation in criminal cases

The Public Defender's Regulations (obligation to pay for those entitled to representation), 2011 5772 establish an obligation of an accused or an appellant who is declared to be entitled to representation and is appointed an advocate on behalf of the PDO to pay a fee, according to the fixed amounts, in section 1 of the regulations as detailed below:

⁵ Source: <https://www.justice.gov.il/En/Units/PublicDefense/PublicInfo/Pages/Applicants.aspx>

- 1) When the indictment was submitted to the district court - 1,274 NIS;
- 2) When the indictment was submitted to another court – 464 NIS; And when the indictment was signed by an attorney from the state attorney's office – 637 NIS;
- 3) Regarding an appellant whose case is heard in the Supreme Court - 1,274 NIS;
- 4) Regarding an appellant whose case is heard in the district court - 464 NIS.

The regulations stipulate that a debtor can be exempted from payment "in exceptional cases where, taking into account his income, the applicant's proven property and debts, or considering his age, marital status or health, he is unable to pay; a full or partial exemption as well as postponement of the payment date or division to installments will be allowed, according to the instructions of the state public defender.

Regulation 4 of the regulations states that the PDO will transfer to the center for the collection of fines and fees the collection of debts at the end of the deadline set for the payment of the fee. Transferring the handling of debt collection to the center helps to preserve the separation between the representation procedures and the collection procedures.

During the year 2021, the total amount of fees was NIS 13,322,177 in 26,984 procedures.

The total collection in 2021 was about NIS 4.4 million. Of this, approximately NIS 805,000 were paid by the clients of the PDO after a demand for payment was made against them, and approximately 3.6 million NIS were collected by the center for the collection of fines. Debts in the amount of about NIS 6.8 million were sent to the fine collection center; and exemptions and reliefs were granted by the PDO to 6,132 clients in a total amount of approximately NIS 3 million.

Caseload

In 2021, the lawyers of the PDO represented clients in 104,566 proceedings, among them 28,895 criminal cases. The PDO represented in 10,910 cases involving minors, about 10% of its total cases. The PDO represented prisoners in 2181 proceedings in parole committees and in 487 petitions. The Supreme Court's department received 745 applications and provided legal representation in 166 criminal appeals and 22 requests for criminal appeals.⁶

⁶ Source: PDO 2021 Annual Report, published 20 November 2022, available at <https://www.gov.il/he/departments/news/new-2011>

Table: Applications for representation in 2021 by suspects - broken down according to the source of the application and the timing of receiving the notification

Before investigation		After investigation		In courts		Total number of applicants
The total number of applicants whose request for representation was transferred from the police before investigation	The percentage of applicants whose request for representation was forwarded by the police prior to the investigation out of the total number of applicants who requested representation from the PDO	The total number of applicants whose request for representation was transferred from the police after an investigation	The proportion of applicants whose request for representation was transferred from the police after an investigation out of the total number of applicants who requested representation from the PDO	The total number of applicants whose request for representation was accepted in court for the first time	The proportion of applicants whose request for representation was accepted in court for the first time out of the total number of applicants who requested representation from the PDO	
36,766	71.30%	8034	15.58%	6767	13.12%	51,566

Civil cases

According to the *Legal Aid Law 5732-1972*, and the *Legal Aid Regulations 5733-1973*, there are three tests to determine eligibility for receiving legal aid: the legal field of the lawsuit, financial eligibility, and the likelihood of winning the case. Eligibility for legal aid is conditional on three cumulative conditions:⁷ A thematic test of legal matters in which legal aid may be granted; Examination of economic eligibility: Legal aid is provided only to those who are entitled to it financially, except in the matters listed below.

The economic test includes two cumulative tests:

Income test: Examination of the income level of the applicant and his family.

An individual or family of up to three persons whose income is up to 67% of the average wage (the average wage currently stands at NIS **11,870**). Each additional person has an additional 6%. In matters of personal status, the income of a spouse is not examined.

Property test: An examination that the property belongs to the applicant and can be realized (for example: savings, car, etc.) or the property for which a loan will be granted, does not exceed three times the average wage in the economy (NIS **35,610**). This exception does not apply to the residence or property of a spouse.

⁷ https://www.gov.il/he/service/legal_aid_application

The following cases do not require the examination of economic eligibility: Social Security, Holocaust survivors, forced hospitalization, parental representation in adoption proceedings, children and youth, alimony collection, victims of human trafficking, victims of death (murder and homicide), victims of sexual offenses (In criminal proceedings and in obtaining a restraining order on the return of the offender to the victim's environment, victims of hostilities, bereaved families, medical matters under the Legal Qualifications and Guardianship Law or legal assistance for those who expose acts of corruption in their workplace (whistle-blowers).

Examination of the legal chance of success of the procedure: In every case (except for exceptions, such as: representation in psychiatric committees, representation of parents in child adoption proceedings, etc.), the legal chance of success in the procedure will be examined. In this context, the factual and legal aspects will be examined, while examining the evidence and claims of the opposing party.

Total number of applications and grants for the last two years

In 2020, the LAD opened 97,747 files, a 3.6% decrease compared with 2019. It is presumed that the decline is due to Covid-19 restrictions that have brought about a general decrease in courts' activities. 51% of the cases were civil law cases, 41.9% personal status cases, and 7.1% of the cases were related to social security claims.

In 2020, the LAD finalized 107,297 cases, compared with 105,532 in 2019.

Are means tested contributions part of your (a) civil (b) criminal (c) initial advice eligibility requirements? In your jurisdiction, are legal aided litigants who lose their case liable to pay the other side's legal expenses/ costs?

Fees required from persons entitled to representation in civil cases (per case):

- 1) 71 NIS for those whose income does not exceed half of the amount determined in the income test.
- 2) 143 NIS for those whose income exceeds half of the amount determined in the income test. Initially, an advance payment of 36 NIS must be paid as a condition for processing the case (unless there is an exemption from paying the fee). If it is decided that there is an entitlement to legal aid, the advance will be deducted from the total fee amount and the applicant will be asked to complete the amount. If it is decided that there was no reason to require the applicant to pay a fee, the amount of the advance will be returned to the applicant.⁸

5. Quality Assurance:

Quality Assurance in criminal cases (PDO)

In order to ensure that adequate representation is provided to the clients of the PDO, the Public Defender's Law imposes on the national public defender the duty to monitor the professional level of all lawyers acting on its behalf, and on the district public defenders to conduct professional supervision of the work of the public defenders representing on behalf of the district for which they are responsible.⁹

The process of ensuring the quality of representation has four main objectives: ensuring the existence of adequate representation in every case and making the professional decisions required to promote the client's interests and protect his rights; Constant monitoring of the professional level of the lawyers and

⁸<https://www.kolzhut.org.il/he/%D7%94%D7%92%D7%A9%D7%AA%D7%91%D7%A7%D7%A9%D7%94%D7%9C%D7%A1%D7%99%D7%95%D7%A2%D7%94%D7%9E%D7%A9%D7%A4%D7%98%D7%99%D7%9E%D7%9E%D7%A9%D7%A8%D7%93%D7%94%D7%9E%D7%A9%D7%A4%D7%98%D7%99%D7%9D>

⁹ Source: PDO 2021 Annual Report, published 20 November 2022, pages 118-120. Available at <https://www.gov.il/he/departments/news/new-2011>

the quality of the representation provided by them; Strengthening the high professional status of the public defender's office; and maintaining the rules of proper administration and public resources.

The public defender's office works to ensure the quality of representation on several levels: first, through the work of the quality assurance departments and other dedicated professional departments in the various districts; secondly, by the professional guidance of appointees in the national public defender's office, whether directly or through various forums, chief among them the forum for the quality of representation;

The PDO adopted the "matrix management" whereby department managers and thematic heads in the districts of the Public Defender's Office are directly subordinate to the district defenders, but at the same time they are professionally guided by supervisors of professional fields in the National Defender's Office. This allows for repeated feeding between the districts and the headquarters unit, the national defense, as well as mutual consultations, knowledge sharing and solving broad problems. Over the years, inter-district professional forums have been developed in the Public Defender's Office that deal with areas of activity such as control of the quality of representation; Arrests; prisoners; youth; psychiatry, sex offenders and people with disabilities; the community courts; traffic; police violence; taxation and economic enforcement; administrative law; forensic evidence; holistic representation; prevention of false convictions; cyber and digital evidence; continuing education; and clinics.

1) Quality assurance departments

In all the districts of the defense department, there are currently dedicated departments for the quality of representation where the supervision work is concentrated. This structure has significant advantages: accumulation of expertise and experience; concentration of professional knowledge; Centralization of information about the work of lawyers; uniform instructions for lawyers; Establishing a general policy and identifying key issues as targets for treatment; unified audit and control; right balance between uniformity and diversity and creativity; prevention of erosion; and creating unit pride. Beyond the general work of the department for the quality of representation, unique control work is carried out in other departments, in types of cases and procedures that require special expertise. Each external public defender is assigned an internal lawyer from the Department of Quality of Representation, who serves as his permanent referent in all the cases he represents.

As a general rule, ensuring the quality of representation includes monitoring the way the cases are managed; providing ongoing advice to the representing attorneys; Periodic assessments regarding the quality of representation provided by the defense attorneys; Going over documents and correcting them; Handling malfunctions in the representation and complaints of clients, judges and other parties; making decisions regarding filing appeals and appeals; approval of expert opinions and defense expenses; and training young defense attorneys to represent independently on behalf of the Public Defender's Office.

2) *Continuing legal education, workshops, training and legal briefing*

Every quarter the PDO organizes a seminar for the internal lawyers and each district organizes seminars and workshops for external lawyers working within the district. Following the suspension of the face-to-face seminars, the training forum decided in 2020 to hold for the internal staff of the public defender's office a series of Zoom meetings with senior officials in the legal world and online training for defense attorneys, and this activity continued in 2021 as well.

Trainings for external staff in the different districts continued in 2021 and covered topics such as representation of persons with disabilities, representation of children, representation of prisoners, issues related to evidence, memory bias and other cognitive issues, false convictions, and more.

Quality assurance in civil cases (LAD)

In view of the large amount of cases in the legal aid, the legal aid carries out proactive supervision of the external lawyers - supervision based mainly on a model of exemplary "depth" inspections in order to ensure the quality of the representation. The supervision outline is based on a broad professional concept that sees the in-house lawyer as the leader of a group of colleagues, promotes professional discourse, shares knowledge and in-depth acquaintance with a group of lawyers specializing in the same professional field. In the regulatory aspect, the in-house lawyer examines all the aspects related to the performance of the outside lawyer in the cases managed by him, including: professional level - level of formulation and proper legal argument, providing a respectful and professional service, meeting the deadlines required by law and according to the court's instructions and showing a respectful attitude to the house the law and colleagues in the profession. In addition, the internal lawyer gathers and examines all the complaints or letters of evaluation received about the lawyer during the relevant period, information collected from client surveys and proactive conversations with clients, as well as requests for changes of editors

Law and disconnection of the customers with them. The internal lawyer also accompanies the external lawyer to hearings at the various courts, where as part of this accompaniment the quality of the representation, the quality of the oral argument and an appropriate and respectful attitude towards the court to the disputing parties and the legal aid clients are examined.

After collecting and examining all the data, the supervising lawyer formulates a comprehensive supervision summary report and invites the external lawyer to a feedback conversation, in which he reflects to him the findings, points for preservation and improvement.

In cases where issues that require significant improvement arise as part of the feedback, another feedback date is set, in order to examine the implementation of the points for improvement that came up during the supervision. Lawyers whose level was found to be insufficient during the supervision are being considered for removal from the array of representing lawyers. During the year 2020, about 83 in-depth inspections were carried out in the legal aid districts. This is a decrease compared to 2019, which is partly due to the reduction of manpower during the Corona period and partly due to the transition to additional inspection tools.

Following these in-depth inspections, the engagement with a number of lawyers found to be unsuitable for continued legal aid representation was terminated. In other cases, lawyers were removed from certain areas where it was found that their professional level in these areas was insufficient and additional lawyers were instructed to improve in various parameters of their work.

The quality of personal service is also important. A personal and respectful attitude towards clients, listening and understanding the client's needs, sharing and providing an explanation of the stages of the legal process and the availability of the lawyer are part of the legal aid requirements of any lawyer the representative on his behalf, and they are examined, among other things, as detailed above, by satisfaction surveys and by improving the handling of complaints.¹⁰

The Bar Association is responsible for professional ethics by receiving complaints of lawyers, and using administrative proceedings.

¹⁰ Annual Report of the LAD, 2020. Available at <https://www.gov.il/he/departments/publications/reports/legal-aid-2020> (this is the most recent report).

6. Public Legal Education:

Defendants have the legal right to be informed of their right to public defender as soon as they are questioned by the Police as suspects. The PDO is on call for such cases, and it is the responsibility of the Police to inform all suspects of this right. There were no specific initiatives to increase public awareness of the availability of PDO services, however, detailed information on the right to legal representation in criminal cases is available online. In addition the PDO has an active Facebook page, Instagram and Twitter accounts which bring to the attention of the general public the many activities of the PDO, and its positions on different criminal justice issues.

The LAD also provides detailed information on its services on its website. The LAD has two hotlines for inquiries, as well as “first aid” stations in courts around the country to make civil legal aid easily accessible.

When it comes to civil legal aid for children, the LAD is undertaking various efforts (social media campaign, news items, ongoing contact with relevant counterparts and professionals dealing with children at risk) with the aim of raising awareness to the rights of children for legal aid services. The LAD also undertook various steps to make its services more accessible to children - by creating a dedicated email inbox for children, training the Legal-Aid Call Center staff to provide child-sensitive and urgent responses to children's applications, simplifying the legal aid request form so that it is adapted to children and youth, expanding the representatives cadre so that it includes lawyers from a variety of backgrounds, ethnicities, and legal specializations.

7. Alternative Sources of legal services:

Most defendants in criminal cases without sufficient means are represented by the PDO, and private criminal lawyers are also available for those who can afford them.

In civil cases, the Bar Association provides pro bono services, there are NGOs that provide legal services (for example for victims of crimes), and there is also a variety of legal clinics in universities in Israel to assist refugees and asylum seekers, victims of crime, children etc.

Areas of legal aid within the framework of the Israeli Bar Association program include:¹¹

- Financial / contractual claims
- Bankruptcy
- Execution of court orders
- Labor Law
- Torts
- Family matters (excluding division of property)
- Public housing

The Bar applies a means test based on average income, number of dependents, and property. According to their brochure, their property test is more lenient than the one of the LAD.¹²

¹¹ https://www.israelbar.org.il/magazine/pro-bono_info_brochure_june_2022/6/

¹² https://www.israelbar.org.il/magazine/pro-bono_info_brochure_june_2022/8/

8. Holistic legal services:

There are several examples for holistic legal services in the country:

In 2016, the Public Defender's Office launched **a holistic counseling project**, which aims to refer defense counsel clients to agencies/institutions/organizations that can help them solve their legal problems and exercise their social rights. The project is based on referring clients who need help directly and relatively simply, first and foremost to the legal aid department in the Ministry of Justice (LAD), and in other cases to organizations, associations, legal clinics and other bodies that provide legal assistance in the required areas. The main organization with which the Public Defender's Office participates in this context is, as stated, LAD - especially in the field of youth, where holistic representation is given to minor clients who are in need of protection/assistance as their parents/legal guardians are not providing for them. These minors, represented by legal aid in proceedings related to their status, often find themselves also involved in criminal proceedings as a result of their complex life circumstances. The cooperation between the lawyers representing the minors in the various proceedings, leads to a holistic thinking of the two bodies involved in the treatment and to achieve results tailored to the specific profile of each minor and minor. Early involvement of the legal aid system prevented in some cases during the year the filing of indictments, and the cases of those minors in need of assistance continued in the civil courts only.

During 2021, the main collaborations of the public defender's office were with the welfare authorities and the social services departments in the local authorities; National Insurance offices throughout the country; Rehabilitation basket services at the Ministry of Health and various associations; the Ministry of Absorption; the health funds; and a long list of legal clinics at law faculties. In addition, the cooperation with the Bar Association's pro-bono program and with other projects and initiatives continued. At the same time, the cooperation of the PDO with the LAD was tightened, and periodic work meetings were held between the district referents for holistic representation appointed by the public defender's office and their corresponding referents appointed by the legal aid offices.

The Supportive Rehabilitation Counseling System has been operating within the Public Defender's Office in recent years, to assist the work of public defenders. Public defenders often face difficulties in managing the complex social and personal profile of some clients, which includes financial distress, physical and emotional abandonment, mental and mental disabilities, debts, difficulties in exercising rights and lack of access to existing caregivers. The purpose of the Service is to assist and advise the public defender in identifying the client's needs in order to provide a holistic and tailored response at all stages of the criminal proceedings: arrest proceedings, criminal case management, appeals, proceedings before psychiatric committees, proceedings before parole boards and public protection law. In addition, the Service assists the public defenders in referring their client to relevant treatment and care/health providers.

A holistic approach is also implemented by the Community Courts. Community Courts began to operate in Israel as a pilot program in November 2014, serving various populations. Community Courts use a judicial and rehabilitative approach, aiming to reduce incarceration and prevent recidivism. These courts deal solely with criminal proceedings while focused on the cooperation between the courts and the law enforcement agencies, the welfare services, education authorities and the community. In Government Resolution No. 1840 (August 2016), The Government ordered the expansion of this program with the aim of operating at least one (1) Community Court in each of Israel's six (6) judicial districts, and to date Community Courts operate in Be'er-Sheva, Nazareth, Ramla, Jerusalem, Haifa and Tel Aviv-Jaffa.

The year 2021 marked the end of the pilot period and the implementation of the project as an official part of the legal system. In this framework, the process of transferring the management of the project from Joint Ashlim to the management of the courts has begun (was due to be completed by the end of 2022). The steering committee of the community courts, of which the PDO is a member, accompanied the transition and discussed its implications for the ongoing functioning of the project, the relationship between the partners, as well as the place and role of the steering committee in the new organizational order. The steering committee also dealt with preparations for the expansion of the community model and its deployment at the national level.

In the meantime, a recommendation was formulated to establish new community courts and expand some of the existing courts in 2023-2024, in order to allow the accused to integrate into the project in an equal manner and independent of their place of residence. In 2021, the steering committee established three sub-teams consisting of representatives of the various bodies, which deal with the implementation of the model nationwide; in combination with defendants from Arab society; and in the rehabilitation program of the community court.

The PDO participated in the intensive discussions on amending legislation anchoring the activity of the community courts in Israel and their powers in the law.

9. UN SDG Standard 16.3

Steps being taken to articulate and elaborate Sustainable Development Goal 16.3

Goal 16.3 is to “Promote the rule of law at the national and international levels and ensure equal access to justice for all.” Indicator 16.3.1 looks at the “proportion of victims of violence in the previous 12 months who reported their victimization to competent authorities or other officially recognized conflict resolution mechanisms”.

Relevant services to victims include the following:

Legal Aid for Family Members of Victims of Homicide

In 2009, the Government decided to establish a legal aid system for families whose loved ones were killed. The program allows holistic care for the families, including financial and legal aspects. Since 2011, the Ministry of Labor, Social Affairs and Social Services (MoLSAaSS) established six (6) aid centers in the following cities: Be'er-Sheva, Jerusalem, Tel Aviv-Jaffa, Tira, Haifa and Kfar Kana. An entitlement committee is convened following a homicide, which includes senior representatives of the MoLSAaSS, the Police, and a jurist who qualifies as a judge. The committee is tasked with determining the entitlement of the family of the victim to receive aid based on the circumstances of death. The details of a family that is found entitled are given to the aid center. The aid centers are headed by a social worker, and include therapy and mental care for the family members, for up to two (2) years. Representation is provided by 50 lawyers from the internal and external staff of the LAD.

In 2020, 161 new cases were opened by the LAD within the program - an increase of 35% compared to 2019. In about 80% of them legal assistance was granted to families in both the civil and criminal proceedings arising from the killing incident. In this framework, assistance was provided to families in 83 cases of accompaniment in criminal proceedings and 71 cases of representation in civil proceedings. In 14 cases, support was provided in appeal procedures.¹³

¹³ Annual Report of the LAD, 2020. Available at <https://www.gov.il/he/departments/publications/reports/legal-aid-2020> (this is the most recent report).

Indicator 16.3.2 looks at “Unsentenced detainees as a proportion of overall prison population”

The right to consult with a public defender before questioning

The rate of applicants whose request for representation was transferred from the Police to the PDO has consistently risen in recent years. It was **71.3%** in 2021 compared with 66.07% in 2020. Approximately 30% of the detainees did not exercise their legal right to legal counsel prior to an investigation, but only following its conclusion, or even later, and prior to the extension of detention hearing in court. Regarding minors, the rates were higher: in 2021, the rate of notices related to minors prior to investigation was **94.5%**.

The right of pretrial detainees to have access to a lawyer

Section 34 of the *Criminal Procedure (Arrests) Law* states that a detainee is entitled to meet and consult with a lawyer. Following a detainee's request to meet with an attorney or the request of an attorney to meet a detainee, the person in charge of the investigation shall enable the meeting without delay, unless, such a meeting necessitates terminating or suspending an investigation or other measures regarding the investigation, or substantially places the investigation at risk. The officer in charge shall provide a written reasoned decision to postpone the meeting for the time needed to complete the investigation, provided this deferment **does not exceed several hours**.

The officer in charge can further delay this meeting if he/she issues a sufficiently reasoned decision to the effect that such a meeting may thwart or obstruct the arrest of additional suspects in the same matter, prevent the disclosure of evidence, or the capture of an object regarding the same offence. Such **additional delay shall not exceed 24 hours from the time of arrest**. An additional 24-hour deferment (to a total of **48 hours**) can be granted, if the officer in charge provides an elaborate written decision that he/she is convinced that such postponement is necessary for safeguarding human life, or thwarting a crime. However, such a detainee shall be given a reasonable opportunity to meet or consult with legal counsel prior to their arraignment before a court of law.

Section 11 of the *Criminal Procedure (Powers of Enforcement - Arrests) (Terms of Detention) Regulations 5757 – 1997* (the "*Criminal Procedure (Arrests) (Terms of Detention) Regulations*"), stipulates that the date of a detainee's meeting with an attorney shall be coordinated in advance, and that the commander of the detention facility shall enable the first meeting of a detainee with an attorney, at their request, even during extraordinary hours.

The Public Defender's Office has been consistently protesting the widespread use of the tool of detention until the end of the proceedings in criminal cases. According to the State Comptroller's report, over the years there was a significant increase in the number of detentions until the end of the proceedings and in their relative volume out of all detentions. In 1996, a year before the enactment of the Arrests Law, there were 4,363 detentions in Israel until the end of the proceedings (11% of all detentions). According to police data in 2020 there were 15,398 detentions in Israel until the end of the proceedings (33% of all detentions). The Comptroller's office notes that Israel is among the five countries with the highest rate of detainees per 100,000 people among the OECD countries.

In order to deal with the high number of detentions until the end of the proceedings, and following the appointment of the new national public defender, a step was taken within the framework of which an internal team was established in February 2022 in the PDO, the purpose of which is to delve deeper into the problem of the high number of detentions until the end of the proceedings, to map and refine the objectives at hand, and to propose a multi-action plan annually to deal with the problem. The establishment of the team is part of an overall strategic move led by the national public defender, within

the framework of which the number of detention until the end of the proceedings was chosen as one of the core issues.¹⁴

¹⁴ Annual Report of the LAD, 2020. Available at <https://www.gov.il/he/departments/publications/reports/legal-aid-2020> (this is the most recent report).

NATIONAL REPORT: JAPAN

National Report: JAPAN

Tomoki Ikenaga¹

Keita Abe²

1. Country details:

(1) Name

Japan

(2) Population

The total population of Japan was 126.23 million people as of June 1, 2019.³

(3) GDP

GDP in 2021 is 550,530 billion yen (5,005 billion USD, 1 USD=110 yen)⁴

(4) Poverty line / % of population deemed to be living in poverty

The poverty rate was 15.7% as of 2018.⁵

(5) Number of practicing lawyers in the jurisdiction

The total number of licensed practicing attorneys was 44,101(as of March 2022). The number of females is 8,630 (19.6%). Japan is achieving a substantial increase in the number of licensed attorneys. In 2000, Japan had 17,126 licensed practicing attorneys, which two and a half times increased to 44,101 by 2022.

2. Legal Aid Organisation / Authority:

(1) Name and Status of LAO (Independent, within Government, part of the Bar Association / Law Society, Public Defenders Office etc).

Japan Legal Support Center (JLSC)⁶

¹ Tomoki Ikenaga has been an Attorney-at-Law since 1997. From 2006 until 2015, he worked as a researcher at the Japan Legal Support Center (JLSC) (*Houterasu*), which is a public corporation providing both civil and criminal legal aid established in 2006 with funding from the national government. He is currently a Deputy Secretary of the Japan Federation of Bar Association's Central Board on the JLSC and previously served as a chairperson of the civil legal aid committee in the above-mentioned Central Board on the Japan Legal Support Center.

² Keita Abe has been working in the legal aid field since 1993 and as a researcher for the JLSC since 2014. He has held various senior positions at JLSC, such as Director of Civil Legal Aid Division, Program Director of Tokyo Office, Executive Secretary of Osaka Office and Director of IT Development. Prior to joining the JLSC in 2006, he had been a researcher and Program Director for the Japan Legal Aid Association.

³ Population Estimates by Age and Sex – June 1, 2019.

[Population Estimates Monthly Report Re-calculated based on the complete counts of the 2020 Population Census \(Oct. 2020 - June 2021\)](#)
[Population Estimates by Age \(5-Year Age Group\) and Sex - Total population, Japanese population | File | Browse Statistics | Portal Site of Official Statistics of Japan \(e-stat.go.jp\)](#)

⁴ National Accounts for 2019, Economic and Social Research Institute, Cabinet Office of Japan

[National Accounts for 2021 \(2008SNA, benchmark year = 2015\) : Economic and Social Research Institute - Cabinet Office Home Page \(cao.go.jp\)](#)

⁵ OECD (2021), Poverty rate (indicator). [Inequality - Poverty rate - OECD Data](#) (Accessed on 12 April 2023).

The JLSC is a publicly owned corporation that has been established under the Comprehensive Legal Support Act⁷ with funding from the national government. This requires that the administration and activities of the JLSC are fair, neutral, independent and highly transparent. Its organizational framework follows that of an incorporated administrative agency. An incorporated administrative agency is a legal entity established in accordance with legislation for the efficient and effective implementation of public services and to fulfill duties that are essential for people's lives. Such services are not necessarily directly implemented by the government; however, they equally cannot be delivered solely by the private sector.

(2) Delivery method (salaried, private profession, paralegals etc. Please give numbers for each sector. If mixed please give the division of labour and balance of the mix).

Private attorneys and salaried staff attorneys provide legal aid services (mixed model). In order to handle legal aid cases, private attorneys have to enter into a contract with the JLSC. Representation services are mainly provided by private attorneys. Usually, an attorney who provides initial advice will be the provider of representation. Because of the history of civil legal aid in Japan and the limited number of staff attorneys, the level of representation provided by staff attorneys is not high (estimated to be around 4 percent of total cases).

< Numbers for Each Sector in 2021 >

licensed practicing attorneys	private attorneys (civil legal aid contract with JLSC)	private attorneys (criminal legal aid contract with JLSC)	salaried staff attorneys
42,937	24,056	30,950	183

One of the big changes in Japanese legal aid policy in recent decades is the introduction of staff attorneys by JLSC, who handle both civil and criminal legal aid. JLSC employs around 200 staff attorneys, who, with their community-based approach and organic use of local networking, have improved access to justice in both urban and rural areas and developed the method of "Legal Social Work" in collaboration with local social welfare organizations.

(3) What payment methods are used to recompense any private lawyers in your system (e.g., contract, fixed fee, hourly rate, part pro bono, etc)?

Private lawyers are recompensed at following fixed fee basis.

⁶ An English translation of JLSC Web Site is available at <https://www.houterasu.or.jp/en/index.html>

⁷ The English translation of the Comprehensive Legal Support Act <http://www.japaneselawtranslation.go.jp/ja/laws/view/3233>

< Example of recompense of civil legal aid made by the JLSC >

Legal Consultation Aid	5,500 yen (50 USD, 1 USD=110 yen) per one consultation Legal Consultation Aid is provided up to 3 times in the same case
Legal Representation Aid	Filing a claim for 5 million yen – 255,000 yen (2,318 USD)
	Filing of divorce at court (without monetary claim)-266,000 yen (2,418 USD)
	Filing of petition for bankruptcy with 10 creditors – 155,000 yen (1409 USD)
	* Upon completion of a case, additional remuneration for attorneys may be charged upon the cases if the case result. * The amount and payment methods will be decided upon assessment. * The amount can change depending on the difficulties of the case.

3. Budget and Spend:

(1) Please give the budget for Publicly Funded Legal Services / Legal Aid in your jurisdiction for the last two years. If possible, show the actual expenditure broken down by civil, criminal, initial advice.

< Budget for Publicly Funded Legal Aid for the last two years >

Fiscal Year	2021	2022
Government Grants for Operational Expenses (i.e., civil legal aid and information services)	15,191 million yen (138 million USD, 1 USD=110 yen)	15,664 million yen (142 million USD)
Funds for Services Related to Court-Appointed Attorneys and Attendants (i.e., criminal legal aid)	16,945 million yen (154 million USD)	16,792 million yen (153 million USD)
Total	32,136 million yen (292 million USD)	32,455 million yen (295 million USD)

(2) Please indicate the proportion of the legal aid budget that is funded by (a) central / Federal Government (b) Local or state government.

Legal aid budget is 100% paid by central government.

(3) Is your legal aid budget demand led (uncapped) or capped or a mixture? (Please elaborate).

There is no cap on Court-Appointed Attorneys and Attendants (i.e., criminal legal aid) but Civil legal aid has caps on annual spending.

4. Scope, Caseload and Eligibility:

(1) What restrictions on scope are there for civil and criminal legal aid and for initial advice in your jurisdiction?

Civil legal aid including initial advice is provided to Japanese citizens and foreign nationals lawfully residing in Japan who face legal issues but do not have the financial means to seek legal assistance. Civil legal aid is available for any civil, family or administrative matter that is subject to the civil legal procedure other than criminal matters. As prescribed in the Comprehensive Legal Support Act, the JLSC provides three types of civil legal aid; i.e., legal consultation, representation and documentation.

As for criminal legal aid, if a person is detained in connection with a criminal case (a “detained suspect,” including a minor) or is being prosecuted (a “defendant,” including those who are not detained) and he or she cannot retain a defense counsel because of financial difficulties, a defense counsel will be appointed at such a person’s request or on the court’s authority. However, an arrested suspect (before a warrant for detention is issued by the court, i.e., during the 72 hours arrest period) is not entitled to a court-appointed defense counsel. All arrested suspects in Japan can receive one free visit from a duty lawyer (*Toban Bengoshi*). The duty lawyer system is funded and administered by the Japan Federation of Bar Associations(JFBA).

(2) Total number of applications and grants for the last two years. Please break down by civil, criminal and initial advice as well as by year.

< Total number of grants for the last two years >

		2020	2021
Civil legal aid	Legal Consultation Aid	290,860	312,770
	Legal Representation Aid	105,630	103,478
	Documentation Aid	3,476	3,393
Criminal legal aid	Aid for Suspects	76,073	72,308
	Aid for Defendants	50,076	46,594

(3) Proportion of the population eligible for civil legal aid and/ or initial Advice.

Proportion of the population eligible for civil legal aid and initial advice is estimated that about 20% of Japanese nationals are covered under the current civil legal aid system.

(4) Eligibility limits for criminal legal aid.

The hardship threshold is 500,000 yen (approx. 4,545 USD). If the total cash and savings of a suspect is less than 500,000 yen, a court requests the JLSC to nominate a candidate court-appointed defense counsel.

(5) Are means tested contributions part of your (a) civil (b) criminal (c) initial advice eligibility requirements?

Regarding the means tested contributions of criminal legal aid, a criminal legal aid recipient does not have to contribute to the cost of services but the court decides whether there is an obligation to repay the court appointed attorney's fee at the end of the criminal process. After the court decides that the criminal legal aid recipient shall make the repayment, the prosecutor office will send a notice of repayment to the criminal legal aid recipient. Recipients can file a petition for exemption from repayment. Most of the petitions are approved by the court. The level of recovery achieved in practice is not made public.

Regarding the means tested contributions of civil legal aid, firstly the applicant's income and assets must be below a certain amount.

< Means Test – Income >

Single-person household	Two-person household	Three-person household	Four-person household
182,000 yen (1,655 USD, 1 USD=110 yen) or less (202,000 yen or less)	251,000 yen (2,282 USD) or less (276,000 yen or less)	272,000 yen (2,473 USD) or less (299,000 yen or less)	299,000 yen (2,718 USD) or less (328,900 yen or less)

* The figures in parentheses show the threshold to apply to those who live in major cities such as Tokyo and Osaka.

* For households with five or more family members, 30,000 yen (33,000 yen) per persons is added.

* Certain Expenditures, such as medical expenses or educational expenses, if any, is deducted.

* The amount of rent or housing loan payments, if any, is added to the above amount up to the specified maximum amount.

< Means Test – Assets >

The total amount of cash and deposit savings must be under the following range.

Single-person household	Two-person household	Three-person household	Four-person household
1,800,000 yen (16,364 USD, 1 USD=110 yen)	2,500,000 yen (22,727 USD)	2,700,000 yen (24,545 USD)	3,000,000 yen (27,272 USD)

Secondly, Japan does not grant free financial support for civil matters but provides a loan service (interest-free) to legal aid recipients to cover attorney's or legal scrivener's fees and court costs. In principle, the recipients are required to repay such loan. This distinguishes the Japanese system from that of many other countries. Upon acceptance of the application for legal aid, the recipient must agree to repay an amount of 5,000-10,000 yen (approx. USD 46-91) per month in installment. If the recipient is in severe financial difficulty, such as where the recipient is receiving welfare benefit, the recipient may be exempted from repayment. In 2021, recipient of welfare benefits accounted for 29.8% of all civil legal aid recipients.

Thirdly, after the completion of the case and the submission of the attorney's final report, a local office of the JLSC will decide the amount of remuneration for the attorney based on the result of the case. Usually, the repayment by the legal aid recipient is made on an instalment basis. As the repayment by legal aid recipients do not necessarily go smoothly, the JLSC always reminds defaulted recipients of the repayment.

(4) In your jurisdiction, are legal aided litigants who lose their case liable to pay the other side's legal expenses/ costs?

Legal aided litigants who lose their case are not liable to pay the other side's legal expenses/ costs in Japan.

During the review period for the judicial reform (around 1999-2004), as to the lawyer's fee, the introduction of the "defeated-party-bears" system (i.e., the prevailing party is entitled to recover its lawyer's fee from the defeated party) was proposed mainly by the Ministry of Justice and the business world, which alleged that the system could reduce abusive claims and achieve fairness in the burden of litigation costs. The bar associations and the consumer groups strongly opposed such proposal, because such system would discourage and have a chilling effect on access to the courts for ordinary people. After a long battle, such proposal was withdrawn.

5. Quality Assurance:

(1) System used – Complaints to LAO, Complaints to the Bar Association/ Law Society, Client Satisfaction questionnaires / interviews, Continuing Legal Education, Mentoring, Peer Review, Supervisor audit, Observation or video/audio tape etc?

Currently the JLSC does not have an audit or peer review system, but has a contract and training system.

Training and education of legal aid lawyers plays an important role in maintaining and improving quality of service. All the district offices of the JLSC hold training seminars or workshops for both civil and criminal legal aid lawyers at least once a year. For court-appointed attorneys in criminal cases, many of the training seminars are held jointly with the criminal defense committee of the bar association.

The Japan Federation of Bar Associations (JFBA) is enhancing its training programs for attorneys in order to maintain quality legal services and to adequately respond to the need for legal services. Specific training programs include ethics, training for newly-registered attorneys and training to improve practical skills. These training programs include lectures on legal aid procedure and criminal practical skills for court appointed defense counsel.

For staff attorneys, the JLSC established the Support Office for Staff Attorneys and the “Research Office for the Skill of Defense in Lay Judge Trial”. Senior attorneys who have experience and expertise in civil and criminal legal aid are stationed in both offices and contacted by staff attorneys from all over the country. The offices also hold the fulfilling training seminars periodically for staff attorneys.

Through these processes, the quality of services provided by staff attorneys is improving. JLSC staff attorneys are also expected to help to improve the skills of lawyers in private practice, especially in lay judge trial.

(2) What requirements are there (if any) for lawyers and others who wish to provide legal aid, other than membership of the Bar / professional association e.g. registration, experience, special exams, interviews, upper or lower limits on number of cases undertaken annually etc ?

There are each role of Bar Associations and Legal Aid Organization (JLSC)

Regarding the Role of Bar Associations, practicing lawyers must be a member of both the local bar association and the JFBA. Every local bar association has committees for criminal defense, rights of children and crime victims.

The criminal defense committee of the bar association is responsible for the operation of the duty attorney system, the court-appointed attorney system, training and activity relating to the reform of criminal procedures.

Before entering into a legal aid contract (criminal, juvenile or crime victim support) with the JLSC, attorneys must be enrolled in a list maintained by the local bar association. Currently, the bar association is responsible for maintaining the respective lists.

Regarding the Role of JLSC, in order to handle legal aid services (either consultations or civil or criminal cases), attorneys have to enter into a contract with the JLSC. The JLSC has established the Rules for the Handling of Legal Affairs (RHLA) to be followed by contract attorneys.

The RHLA sets out the criteria for the handling of legal affairs by contract attorneys. If contract attorneys breach their duties, the contract may be cancelled or suspended for a certain period after the decision of the Judging Committee of the JLSC.

6. Public Legal Education:

(1) Initiatives in last two years to increase public awareness of the availability of Publicly Funded Legal Services/ legal aid in your jurisdiction and how to access it. (Include any particular approach for those in remote areas or those with special legal needs e.g. the elderly or victims of domestic violence).

JLSC positions legal education as a part of information services, and is making efforts to provide to the general population legal knowledge, such as how to take action in response to consumer problems, along with JLSC's efforts regarding Law Related Education in schools. In 2021, 114 activities of legal education were reported and 4,654 citizens attended in total. These include legal seminars, legal symposiums, lectures and other speaking events. In these activities, a variety of themes were addressed, such as debt, inheritance, consumer problems, etc. Legal education by JLSC is mainly provided by the staff lawyers and officials in the local offices.

(2) IT packages introduced to enhance access for the public.

JLSC's website is designed as an information desk for people in need of legal services. All the details of the means test and merit test required to be eligible either for free legal consultations or provision of legal aid for representation at court are available on the JLSC website. However, applicability of such conditions to each individual case needs to be checked at local JLSC district offices. Information on the basics of laws and available remedies can be found through research of around 5,000 Q&As on the website. Information on local sites for free legal consultation can also be found through web research of JLSC's database, which has information on more than 20,000 consultation sites.

(3) Has there been a country wide Needs Assessment study in your jurisdiction in recent years, looking at the distribution of justiciable problems and how the public respond to them?

the Japan Legal Support Center(JLSC) and Japan Federation of Bar Associations(JFBA) conducted several legal needs surveys in recent years as follows.

- Legal Needs Survey for General Public, Homeless People, and Legal Aid Users

This survey, conducted by JLSC in 2008, consisted of a general approach that targeted the general public, homeless people, and legal aid users. 1,636 members of the general public and 265 homeless people responded to the survey's questionnaires.

- Legal Needs Survey for Victims of Earthquake and Nuclear power plant disaster

A magnitude 9.0 earthquake hit east Japan on 11 March 2011, and the subsequent tsunami, fires and collapse of buildings and houses brought about a devastating disaster. Furthermore, radioactive materials released by the multiple accidents at the Fukushima nuclear power plant have caused and continue to cause great fear and threatens the safety of not only the residents in the immediate vicinity of the plant but also a wider population.

In 2012 and 2013, JLSC conducted a legal needs survey of the victims affected by the disaster. 1,598 victims returned questionnaires to JLSC and an in-depth interview survey of 24 victims was conducted.

- Legal Needs Survey for Elderly People

The JFBA conducted a legal needs survey of elderly people in 2016 and 2017. This survey targeted not the elderly people themselves, but the social caseworkers specialized in elderly issues because the elderly people often have cognitive impairment and cannot accurately answer surveys by questionnaire or face-to-face surveys.

1,046 social caseworkers returned questionnaires to the JFBA and 1,269 individual cases were reported.

7. Alternative Sources of legal services:

What are the other principal sources of legal help for disadvantaged citizens in your jurisdiction, and how many clients do they assist annually (e.g. legal expenses insurance, trade unions, claims companies, community law clinics, university law clinics etc).

(1) Aid Services Entrusted by Japan Federation of Bar Associations

In addition to the above-mentioned publicly-funded legal aid provided by the JLSC, Japan Federation of Bar Associations (JFBA) entrusts some services to JLAC and provides funding. These services, including providing grants for legal fees, are intended for those not covered by the publicly-funded civil legal aid or the court appointed defense counsel system as prescribed in the Act in the interest of human rights protection. The amount of money JFBA spends on the entrusted services in recent years has reached an average of 15 billion yen (approx. USD 136 million) per year. The entrusted services include: (1) aid for defense of criminal suspects, (2) aid for attorney attendants in juvenile cases, (3) legal support for victims of crime, (4) legal support related to refugee adjudication, (5) legal aid for foreign nationals, (6) legal support for children, (7) legal support for mentally disabled persons, (8) legal support for persons in a state of insanity, etc., and (9) legal support for the aged, disabled, or homeless people.

(2) Bar-Funded Legal Services (Bar-Funded Law Offices, Legal Counselling Centers, and Duty Attorney System)

In addition to the above-mentioned publicly-funded legal aid provided by the JLSC, Japan Federation of Bar Associations (JFBA) and local bar associations play a significant role to enhance access to justice in Japan and have established the three systems discussed below.

Firstly, the Bar-Funded Law Offices: JFBA has contributed to create a system to ensure that lawyers are available and within reach anywhere in the country, and eliminate areas where the number of lawyers is extremely low. As part of this, JFBA, local bar associations, and regional federations of bar associations established "Himawari⁸ Fund Law Offices" in the rural areas. While these Himawari Fund Law Offices are operated by private practice lawyers, JFBA, local bar associations, and regional federations of bar associations provide them with assistance, including coverage of office opening and administrative costs and operational assistance, on the condition that the lawyers provide a certain level of public service in the form of court-appointed defense attorneys and legal aid services on civil cases. Some local bar associations have also established "Public Law Offices" in order to improve access to justice for people living in urban areas, especially those who may have difficulties finding lawyers for financial and other reasons. There are also "Public Law Offices" that mainly provide legal services for foreign nationals or provide clinical programs at law schools.

Secondly, the Legal Counselling Centers: Local bar associations have established legal counselling centers to provide all residents with access to legal consultations anytime, anywhere. The counselling centers handle a variety of issues, including multiple consumer loan problems (persons who borrow money at high interest from many financing companies), family matters, and workplace-related matters, among others. Some of the counselling centers provide night-time consultation services.

Thirdly, the Duty Attorney System: The Duty Attorney System is a private-sector system created by bar associations in order to effectively guarantee the right of arrested suspects to defense counsel at the arrested stage, during which time no court-appointed attorney system is available. When requested by an arrested suspect, the duty attorney will visit the police station and interview the arrested suspect free of charge, regardless of the arrested suspect's nationality or visa status. If the suspect is a foreign national, an interpreter will accompany the duty attorney.

⁸ "Himawari" is sunflower in English. Sunflower is a flower that symbolizes lawyers and Bar Associations in Japan.

< Bar-Funded Legal Services >

Bar-Funded Law Offices	34 offices in rural areas as of 2022 11 offices in urban areas as of 2022
Legal Counselling Centers	50 local bar associations are setting up Legal Counselling Centers in each region and about 300,000 [sessions of] legal counselling are provided nationwide each year in recent years. Whether services are free or not depends on the local bar associations.
Duty Attorney System	36,253 visits to police station as of 2021. Services are free.

(3) Free Legal Consultation by Municipalities Nationwide

Municipalities nationwide provide free legal consultation services for local residents in each municipal office. Lawyers from local bar associations give free legal advice on matters such as marriage, divorce, incident, accident, labor issues for local residents in each municipal office under an agreement between municipal office and local bar association.

(4) Legal Expenses Insurance

Another principal source of help in addition to legal aid is the legal expenses insurance in Japan. The number of legal expenses insurance policies sold, which include automobile insurance policies that cover legal expenses, is rapidly increasing in recent decades. 29,102,608 legal expenses insurance policies were sold in 2020 and 30,608,024 were sold in 2021.

8. Holistic legal services:

Is your jurisdiction exploring link ups between legal services providers and non-lawyer professionals e.g. health / justice partnerships, social work / justice collaboration, or other forms of “one stop shop”?

One of the big changes in Japanese legal aid policy in recent decades is the introduction of staff attorneys by JLSC, who handle both civil and criminal legal aid. JLSC employs around 200 staff attorneys, who, with their community-based approach and organic use of local networking, have improved access to justice in both urban and rural areas and developed the method of “Legal Social Work” in collaboration with local social welfare organizations. In light of such “Legal Social Work” and the shift toward an aging society, an amendment to the Comprehensive Legal Support Act was enacted in 2016 and Japan is in the second phase of the comprehensive legal aid. The “second” means that only those who have financial difficulties could be granted legal consultation aid before the amendment of the Comprehensive Legal Support Act (the “first” phase) but those who have special needs could be granted legal consultation aid regardless of their financial status under the new Act (the “second” phase). One main point of the amendment is that the elderly and disabled persons with cognitive impairment could be granted legal

consultation aid regardless of their financial status. As stated above, the amended Comprehensive Legal Support Act lifted the financial eligibility requirements of legal consultation on those with special needs such as the elderly and disabled persons with cognitive impairment. These amendments indicate that Japanese legal aid law has shifted from traditional poverty law that targets only indigent people into modern social welfare law that meets the special needs of vulnerable people.

9. UN SDG Standard 16.3

Please identify any steps being taken to articulate and elaborate Sustainable Development Goal 16.3 in your jurisdiction.

In order to realize the Sustainable Development Goals in Japan, the government has set up a promotion headquarters in the cabinet and has published a set of concrete plans for realization of each of the goals. According to the plan, the following initiatives are listed for Goal 16, including Goal 16.3.

- promotion of protection of rights of handicapped persons;
- implementation of the 14th UN Congress on Crime Prevention and Criminal Justice (Kyoto Congress 2020) and follow-up on its political declaration;
- further enrichment of comprehensive legal support by implementing services at Japan Legal Support Center (JLSC);
- promotion of translation of Japanese laws and regulations into foreign languages;
- promotion of international assistance in the field of criminal justice through activities of United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI); and
- promotion of assistance towards developing countries in the field of law and justice.

As an initiative of the private sector, the Japan Federation of Bar Associations (JFBA) is preparing a declaration on its role in realization of SDGs, including Goal 16.3.

10. Other – Most Innovative project 2021-2022

As mentioned at page 6, Japan does not grant free financial support for civil matters but provides a loan service (interest-free) to legal aid recipients to cover attorney's or legal scrivener's fees and court costs. In principle, the recipients are required to repay such loan. Upon acceptance of the application for legal aid, the recipient must agree to repay an amount of 5,000-10,000 yen (approx. USD 46-91) per month in instalment. If the recipient is in severe financial difficulty, such as where the recipient is receiving welfare benefit, the recipient may be exempted from repayment. However, in 2022, government decided that single-parent family settling the child care cost issue should be exempted from repayment in principle as part of generous welfare policy for single-parent family.

NATIONAL REPORT: JORDAN

ILAG Harvard 2023

National Report: The Hashemite Kingdom of Jordan

Dr. Isidro García Mingo¹

1. Country details.

The Hashemite Kingdom of Jordan has a total population of about 11,057,000². The vast majority of the population, about 90.3%, reside in urban areas³, concentrating in the western part of the country and in its capital, Amman, as the eastern part is predominantly desert. Despite regional conflicts, Jordan has maintained a stable environment, resulting in doubling its population over the past two decades. This has further strained the already limited natural resources of a country that imports most of its energy from abroad⁴, and has a considerable trade deficit⁵. Jordan hosts over three million international migrants, and the Office of the United Nations High Commissioner for Refugees (UNHCR) estimates that there are about 757,805 registered refugees and asylum seekers, who arrived seeking shelter from conflicts in Syria (88.5%), Iraq (8.8%), Yemen (1.7%) or other countries⁶.

The latest United Nations Development Programme's Human Development Report 2021/2022 refers that Jordan has achieved a Human Development Index (HDI) of 0.720⁷. This places Jordan at the 102nd position out of 191 countries in this ranking.

Jordan's GDP per capita in 2021 was 4,103.3 USD (in current USD), according to the World Bank's data⁸ or 2,905 Jordanian Dinars (current prices) according to the Jordanian Department of Statistics. The IMF reports a GDP per capita in current prices of 4,930 USD in 2022⁹. Despite recent indications that Jordan's economy has begun to grow again after the impact of the COVID-19 pandemic, there are still some concerning trends. Inflation has risen and the unemployment rate remains high at approximately 24.1%, with particularly high rates among women (30.7%).

¹ Project coordinator of the project "Access to Justice and Legal Empowerment in Jordan: towards an effective and sustainable legal aid system", co-funded by the European Union and AECID, implemented in cooperation with the Spanish Bar Council, and the Ministry of Justice. Expert on access to justice and legal aid for the European programme "Support to the Rule of Law in Jordan". Senior consultant and co-founder of Artival Research & Evaluation. Member of the Madrid Bar Association.

² *Jordan in Figures 2021*, Department of Statistics, Issue 24, Jordan, 2022

³ *Ibid*

⁴ Data available at the World Bank website <https://www.worldbank.org/en/country/jordan/overview>

⁵ "Recent Monetary & Economic Developments in Jordan. Research Dept / Monthly Report" Central Bank of Jordan. February, 2021. Available at the Social Security Investment Fund of Jordan website <https://www.ssif.gov.jo/>

⁶ *Refugees and migrant health country profile: Jordan*, World Health Organization, 12 March 2023

⁷ This value results of combining life expectancy at birth, expected and mean years of schooling, and gross national income (GNI) per capita in 2017 purchasing power parities (PPP) USD

⁸ Data available at the World Bank website <https://www.worldbank.org/en/country/jordan/overview>

⁹ Data available at the IMF website <https://www.imf.org/en/Countries/JOR>

As a result, while the last official comprehensive study on poverty in Jordan issued by its national Department of Statistics showed that in 2010 the poverty ratio in Jordan was about 14.4%, it does not come as a surprise that more recent reports such as the *Jordan Household Expenditure and Income Survey 2017-2018*¹⁰, or the preliminary results of a new Department of Statistics' report on poverty rates expected to be finalized during the second quarter of 2023¹¹, suggest that poverty ratio might have increased.

These challenges, compounded with the refugee crisis, have contributed to make Jordan a net recipient of international support, receiving about 2,382 USD million as Net Official Development Assistance as average in 2020 and 2021, according to the Organization for Economic Co-operation and Development (OECD)¹².

The provision of public services in Jordan has been deeply impacted by this fact. When it comes to legal aid services, a number of local and international non-governmental organizations have been very active over the years in the legal protection of vulnerable people, refugees and host communities, heavily relying on international funding. This has caused relevant frictions with the Jordanian Bar Association¹³, institution that reported to have in 2020 around 14,028 registered lawyers, -out of which 10,117 were male and 3,912 were female-¹⁴.

The inherent lack of predictability of international aid funding, which depends on donors' own budgets and political and economic circumstances, and the consequent exposure of legal aid services by non-state providers to substantial periodic variations in scope and conditions, made increasingly evident the urgent need to improve the *public* system of legal aid, to ensure its quality and sustainability.

As a result of this, and in line with the country's national strategies including *Vision 2025* (2015) and the *Recommendations of the Royal Committee for Developing the Judiciary and Enhancing the Rule of Law* (2017) to strengthen Rule of Law in the Kingdom, Jordan is actively engaged in an ambitious process of reforming its public legal aid system. Furthermore, the new *Justice Sector Strategy 2022-2026* emphasizes access to justice as a core pillar and enhancing legal aid as one of its objectives, indicating Jordan's commitment to upholding its constitutional mandates that demand all Jordanians be treated equally under the law, without any form of discrimination¹⁵, and that "the courts shall be open to all"¹⁶.

2. Legal Aid Organisation / Authority:

2.1 Legal Aid authorities.

The authorities responsible for the delivery of legal aid in Jordan are the Judiciary and the Ministry of Justice, who shall coordinate with the Jordanian Bar Association in accordance with the legislation in force.

¹⁰ *Jordan Household Expenditure and Income Survey 2017-18: Completion Note* (English). Washington, D.C. : World Bank Group. <http://documents.worldbank.org/curated/en/469111551866278210/Jordan-Household-Expenditure-and-Income-Survey-2017-18-Completion-Note>

¹¹ As published in local media, "The results of the poverty line study are likely to be announced in the second half of this year", Al Mamlaka

Tv, 7 Mar 2023. Available at <http://almamlakatv.com>

¹² Data available at OECD website, <https://www.oecd.org/countries/jordan/aid-at-a-glance.htm>

¹³ "The Jordan Bar Association denounces legal aid centres as 'harming the profession'." The Jordan Times, 8 Jun. 2017.

¹⁴ Jordan in Figures 2020, Department of Statistics, Issue 23, Jordan, 2021

¹⁵ *The Jordanian Constitution*, Official Gazette No 1093, 8 January 1952, article 6.1. Available at <http://parliament.jo>

¹⁶ *Ibid*, art. 101.1

The Judiciary - The amendments to the Criminal Procedure Law No. 9 of 1961, introduced by the Law No. 32 of 2017 paved the way for significant improvements in the organization, procedures, and funding of legal aid in Jordan, as a basic element of the right to a fair trial. It also extended the authority to provide legal aid from the Judiciary to the Ministry of Justice in certain cases.

In accordance with its article 208, legal representation is mandatory for the most serious felonies, so a lawyer must be present for the defendant at every court session in cases that may result in the accused being sentenced to the death penalty, life imprisonment, or temporary imprisonment of ten years or more. In such cases, the Court's presiding judge or a judge delegated for this function, will ask the defendant if they have hired an attorney for their defence. If the defendant has not already appointed an attorney for their defence and is unable to afford one, the presiding judge or delegated judge will assign a lawyer for their defence. If the chosen by the defendant or appointed by the public prosecutor or the presiding judge is absent from one of the trial sessions the judge shall appoint another lawyer to represent the defendant to continue the trial procedures.

The Juvenile Law No. 32 of 2014, also grants judges the authority to appoint a lawyer in its article 21: "the court shall appoint a lawyer for the juvenile in criminal cases if he does not have a lawyer or is unable to appoint a lawyer (...)", specifying as well that "the lawyer representing the juvenile shall attend all stages of the investigation and trial".

When considering legal aid as a basic element of fair trial, it may be recalled as well that the Code of Judicial Conduct approved by the Judicial Council in March 2021¹⁷, specifies in its article 7 that "the judge shall provide litigants with equal opportunities to present their case and their defence (...)" and that "the judge shall observe fair trial standards (...)".

The Criminal Procedure Law extends mandatory legal representation also to the pretrial stage in front of the prosecutor¹⁸ for felonies whose "*minimum* penalty is ten years or more"¹⁹. It is important to notice that public prosecutors in Jordan are judges who perform the function of the Public Prosecution before the courts²⁰. A lawyer must be present with the defendant at every interrogation session, and it is the public prosecutor who "shall take the necessary measures to appoint a lawyer" if the defendant is unable to appoint one.

- *The Ministry of Justice* – The Ministry of Justice, in accordance with the Criminal Procedure Law, and the Legal Aid Bylaw n.119 of 2018, shall provide legal aid to defendants upon request in cases of felonies punishable by less than ten years of imprisonment. In these cases, according to the law, a request may be sent to the Ministry of Justice by any citizen or resident Jordan, any competent official authorities or concerned institutions, Prosecutors or Courts. The request will be decided by the Ministry of Justice and the legal aid will be delivered "in coordination with the Bar Association".

If the legal aid application is approved, the Minister of Justice has three options according to Article 6.C of the Legal Aid Bylaw: 1) to assign a lawyer from a list developed for this purpose in coordination with the Bar Association, and pay the expenses from the Legal Aid Fund; 2) to request from the Bar Association to fully provide legal aid to the applicant in accordance with the provisions of applicable legislation or 3) to assign a lawyer to provide legal aid from a list of volunteer lawyers developed by the Directorate of Legal Aid at the Ministry of Justice.

¹⁷ "Judiciary Launches Code of Conduct for Judges." Jordan News, April 17, 2021.

¹⁸ Criminal Procedure Law No. 9 of 1961, art. 63.2 bis.

¹⁹ Note that the legislator is more restrictive in article 63, as a "minimum" of ten years or more is specified in article 63, but not in article 208, No. 9 of 1961

²⁰ Jordanian Judicial Council's website at <https://www.jc.jo/en>

The Legal Aid Bylaw of 2018 also specifies the authority of the Minister of Justice to add any other category of beneficiaries to the vulnerable groups prioritized by the regulation²¹, issue the necessary regulations to implement the provisions of this Bylaw²² or take the decision to approve or reject the legal aid application recommended by the Directorate of Legal Aid²³.

Foreseeing the difficulties or inconveniences of the Minister of Justice to conduct all these tasks himself, the Legal Aid Bylaw stipulated that the Minister could delegate any of these powers to the Secretary General of the Ministry, provided that the delegation is specific and in writing. Considering the expected expansion of legal aid services, the amendments to the Bylaw n.53 approved in 2022, extended further the delegation of authority, adding the phrase: “or any of its senior employees”²⁴.

- *The Jordanian Bar Association* - The Jordanian Bar Association, established in 1950, is a key institution in the public system of legal aid, as the Criminal Procedure Law and the Legal Aid Bylaw specify that legal aid shall be provided in coordination with the Bar.

Additionally, the President of the Bar Association is authorized, according to the provisions of the Jordanian Bar Association Law of 1972²⁵, to assign any lawyer to provide one free professional service to the Association once a year. This free service is limited to performing one of a list of activities which includes amongst them: “(...) 7. Defending the Association and any person appointed by the President of the Bar who is unable to pay any fees to the lawyer and to the President or his authorized representative to regulate an agreement between the appointed lawyer and the applicant for assistance to estimate fees in the event of winning the lawsuit”. The Jordanian Bar Association Law also states in its article 78 the subsequent development of a series of Bylaws, which includes a specific Bylaw on Legal Aid, that has not been developed until the moment, and that could further expand the role of the Jordanian Bar Association in the provision of legal aid within the public system.

Lastly, when analysing the legal aid authorities in Jordan, it is important to mention that the Anti-Human Trafficking Law No. 9 of the year 2009 states that “the competent *authorities* shall, wherever possible, guarantee the victim the following rights: (...) 3. Obtaining mandatory legal aid”²⁶. The *Jordanian National Referral Mechanism* for victims of human trafficking was adopted by the National Committee for Anti-Human Trafficking in January 2016, and in 2022, the *Standard Operating Procedures In Dealing with Human Trafficking Cases*²⁷ were adopted. When it comes to providing legal aid to victims, “the liaison officer of the shelter home shall provide legal advice and assistance, coordinating with the liaison officer of the Bar Association or civil society organizations and other relevant entities”.

2.2 Delivery method

Legal aid services in Jordan are provided by licensed lawyers registered in the Jordanian Bar Association, who participate in the provision of State-funded legal aid on a case-by-case basis. As a result, Jordan's delivery system could be classified as *private lawyer scheme*. The system of delivery is undergoing a process of reform from an *ex officio* or panel scheme, where lawyers were only appointed by judges to act in individual cases, to a more

²¹ Legal Aid Bylaw n.119 of 2018, art. 4.

²² *Ibid*, art. 11

²³ *Ibid*, art. 6

²⁴ *Ibid*, art. 6

²⁵ Jordanian Bar Association Law no. 11 of 1972, art. 100

²⁶ Anti-Human Trafficking Law No. 9 of the year 2009, art. 13/3/B

²⁷ *National Referral Mechanism Standard Operating Procedures In Dealing with Human Trafficking Cases*, UNODC, Jordan, 2022. Available at https://ahtnc.org.jo/sites/default/files/book_unodc_englisg_0.pdf

complex system, introducing additional services provided by the Ministry of Justice, lawyers' registration in lists and assignment on rotation, automation and digitalization of procedures and other quality measures²⁸.

- *Procedure* - According to the legislation in force, lawyers are appointed directly by judges and prosecutors in "mandatory legal aid" cases, i.e cases involving juveniles or when the penalty may be particularly severe, of more than ten years of imprisonment, when the defendant does not have a lawyer or cannot afford one. In front of the prosecutor, the defendant has no less than 24 hours to appoint a lawyer or request one.

In cases of felonies that may carry a penalty of less than ten years of imprisonment, requests of legal aid may be submitted to the Ministry of Justice by "competent official authorities or any of the concerned institutions or any citizen or resident in the Kingdom who is unable to appoint a lawyer"²⁹. The legal aid request form is approved by the Minister of Justice and available at courts and public prosecution offices, as well as on the Ministry's website³⁰.

The procedure described in the Legal Aid Bylaw of 2018 establishes that once an application is submitted to the Ministry, it must be forwarded to the Directorate of Legal Aid within two working days. Additionally, since the year 2019, the Legal Aid Directorate took the initiative to actively distribute forms and collect legal aid requests from Correction and Rehabilitation Centres.

According to the Legal Aid Bylaw, the Directorate will then ensure that the application fulfils all necessary data and conditions and assess it to verify that the criteria and standards required for legal aid have been met and will make a recommendation to the Minister of Justice to either approve or reject the application within five days of the submission of the legal aid request. In order to gather the information necessary to verify the eligibility criteria, a MOU has been signed between the Ministry of Justice and Jordan's National Aid Fund³¹ allowing the Directorate of Legal Aid to consult the National Aid Fund's database.

The Minister of Justice will then take the decision to approve or reject the application within three working days of receiving the recommendation. If approved, a lawyer is assigned in coordination with the Bar Association, and the Directorate of Legal Aid prepares a file to follow up the case. If an application is rejected, the legal aid applicant may appeal to the Minister within two working days of being notified of the rejection. In cases where the application was referred to the Minister by the public prosecutor or the court, the Directorate will inform them of the Minister's decision.

Following the amendments introduced by the Bylaw n.53 of 2022 to Article 9 of the Legal aid Bylaw, the lawyer appointed from the lists continues to provide services until the final judicial decision. The procedure ends when the lawyer is paid for their services either at the conclusion of the case or, alternatively since the Legal Aid Bylaw was amended in 2022, at the end of the prosecutor's phase in certain cases.

- *A new scheme of specialized lists of lawyers assigned on rotation* – After the amendments to the Legal Aid Bylaw were introduced by the Bylaw n.53 of 2022, and following a period of analyses and institutional dialogue on how to improve further the coordination and the system of legal aid delivery, an agreement was reached on October 5th, 2022, between the Ministry of Justice, the Judicial Council, and the Jordanian Bar Association, to

²⁸ UNODC. *Handbook on Ensuring Quality of Legal Aid Services in Criminal Justice Processes: Practical Guidance and Promising Practices*. Vienna, 2019, page 18

²⁹ Jordanian Criminal Procedures Law and its amendments No. 9 of 1961. Published on page 311 of the Official Gazette No. 1539 dated 16/03/1961. Article 208.4

³⁰ The legal aid request form has undergone a graphic design layout revision, which not only inspires trust in clients but also enhances the image of public services.

³¹ The National Aid Fund (NAF) was established in 1986 under the Law No. 36 of 1986 with the aim of securing protection and care for poor and needy families. It is managed by the Ministry of Social Development. Information available at: https://naf.gov.jo/En/Pages/About_the_Fund

establish a "Mechanism of Lists of Lawyers to provide legal aid services in criminal cases"³². The agreement is built upon Article 6(c) of the Legal Aid Bylaw, which requires lawyers to be assigned "from a list developed for this purpose in coordination with the Bar Association".

The new scheme establishes three different rosters of lawyers to provide specialized legal services in: mandatory legal aid, optional legal aid, and juvenile cases, whose services are covered by the Legal Aid Fund of the Ministry of Justice.

Additionally, a fourth *pro-bono* list was set up in accordance with Article 6.C.3 of the Legal Aid Bylaw, which states that the Minister of Justice may "assign a lawyer to provide legal aid from the list of volunteer lawyers developed by the Directorate", a measure designed to supplement the services paid from the Legal Aid Fund, equipping the Ministry of Justice with an additional tool to respond to the demand of services.

These lists of lawyers are, as per the agreement, prepared by the Jordanian Bar Association and comprise of lawyers who voluntarily register in one or more of the lists, sorted by geographical location. The Bar Association guarantees that all registered lawyers in the lists possess the required professional competence. The lists are as per the agreement adopted either by the Judicial Council for the mandatory and juvenile lists, or by the Ministry of Justice for the optional legal aid list, according to their authority to assign cases. Once approved, the three lists prepared by the Jordanian Bar Association are sent electronically to the Ministry of Justice to be integrated into *Mizan*, the Ministry's electronic case management system. When lists are adopted and approved, Judges and prosecutors can assign lawyers from the mandatory or juveniles' legal aid lists, while officers from the Ministry of Justice, after approval of the legal aid request, can assign lawyers from the optional legal aid list. When a lawyer is assigned a case, they are notified by officials through a phone call and/or text message. The assignment is also notified to the Bar Association.

The agreement explicitly includes the principle of rotation in assigning lawyers. The incorporation of this principle was deemed essential to ensure the transparency and efficiency of the system, while providing equal opportunities to for participating lawyers. However, it is worth noting that while officials from the Ministry of Justice shall always follow a consecutive order on rotation when assigning lawyers from the optional legal aid list, the rotation principle shall only be applied "whenever possible" when judges or prosecutors select lawyers from the mandatory legal aid list or legal aid for juveniles' list, keeping their capacity to directly assign cases to any registered lawyer. The general principle of rotation is also expected to be kept when lists are periodically updated, as they shall be reviewed in coordination between the signing institutions "without interfering in the rotating system".

Finally, the agreement stipulates that lawyers' performance will be evaluated at the end of each service they provide through a short questionnaire. This questionnaire will be made available to judges and prosecutors and will be sent to the Jordanian Bar Association for review, and if necessary, to take disciplinary measures.

- *Automation and digital transformation of legal aid procedures* – Concurrently with the institutional development of the mechanism to provide legal aid through lists of lawyers, the Ministry of Justice initiated the

³² The meeting, held at the Ministry of Justice, was chaired by His Excellency the Secretary General of the Ministry of Justice for Judicial Affairs and attended by the Secretary General for Administrative and Financial Affairs of the Ministry of Justice, the Secretary General of the Judicial Council, the President of the Jordanian Bar Association, the Directors for Legal Aid and IT, and representatives of the EU Programme "Support to Rule of Law in Jordan" as part of the implementation of the project "Access to Justice 0.0and Legal Empowerment in Jordan: Towards an Effective and Sustainable Legal Aid System.

automation of legal aid administrative procedures in coordination with the Ministry of Digital Economy and Entrepreneurship (MoDEE), by developing with a local IT company a new legal aid module within the digital case management system, *Mizan*, which is used in courts and prosecutors' offices.

Once the agreement on the lists of lawyers was finally adopted, procedures were corrected accordingly, and a connection between the IT systems of the Jordanian Bar Association and the Ministry of Justice was established. Furthermore, a direct connection was set up with MoDEE's National Unified Registry, a combined database that provides an extended set of information beyond that contained in the National Aid Fund's database, which was being used until the moment by the Directorate of Legal Aid³³.

The new legal aid module developed in *Mizan*, includes the management of the lists of lawyers and case assignment, the electronic management of the legal aid files, an electronic evaluation questionnaire for lawyers' performance at the end of the services provided, which is sent to the Bar, as well as an online payment service for lawyers' fees.

In December 2022, the Jordanian Bar Association launched a call to register lawyers on the four different lists, and in January 2023, the lists were sent to the Ministry for adoption. On March 21st, 2023, a formal public launch event was held in Amman to introduce the new automatised legal system based on lists of lawyers assigned on rotation, as reported in national media³⁴. On April 1, 2023, the new legal aid module with the lists of lawyers was installed in courts and prosecutors' offices all over the Kingdom.

2.3 Number of lawyers participating in the legal aid system.

The implementation of rotating lists of lawyers at the end of 2022 and its subsequent automation, has not only boosted the participation of lawyers and optimized their organization but has also enabled authorities to gather accurate and high-quality data on the number of available lawyers, categorizing them by governorate and specialization. Additionally, it provides a means of determining the number of participating lawyers through the use of a consistent statistical measurement criterion.

In the year 2020, the statistical data from the Ministry of Justice³⁵ showed that 204 lawyers engaged in front of the Prosecutor, during the pretrial phase, and 325 in Courts (529 in total). However, these numbers do not show the *net* number of lawyers, since some lawyers may have been involved in both instances, and some lawyers' names might or not be duplicated.

In 2021, 456 lawyers participated in the public system, including Prosecutor's and Court's phases, a figure obtained after removing duplicates. In the year 2022, this number increased up to 474 lawyers engaged in the system, after removing duplication, (164 lawyers at the Prosecutor's phase, and 230 in Courts' phase).

These data displayed the count of lawyers who took part in the system and received compensation from the Legal Aid Fund. However, information regarding the actual number of lawyers who were willing and able to offer legal

³³ The National Unified Registry (NUR) is a combined database under MoDEE that was created to specifically target social assistance. It was set combining various datasets that were previously stored separately by different entities. These datasets include taxation and payroll data, databases from various government agencies, information on formal private sector workers, pensioners, military personnel, beneficiaries of the National Aid Fund (NAF), as well as data from property and vehicle registration and the civil registry.

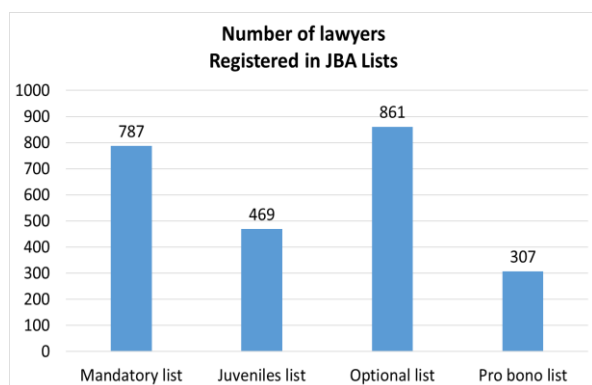
³⁴ "Ministry of Justice launches digital legal aid system" Jordan News. 22 March 2023. <https://www.jordannews.jo/Section-109/News/Ministry-of-Justice-launches-digital-legal-aid-system-27673>

³⁵ All data in this section has been obtained from primary sources and has already been formally reported to measure indicators of the European project 'Access to Justice and Legal Empowerment in Jordan', co-funded by the EU and AECID, and implemented in cooperation with the Ministry of Justice

aid was not available. Consequently, it was necessary to operate on the presumption that all the lawyers registered at the Bar were available as a collective unit.

Following the signature of the agreement on establishing the mechanism of lists of lawyers, the Jordanian Bar Association launched at the beginning of December 2022 a public call for lawyers to voluntarily register online, in one or more of the lists of lawyers agreed upon with the Ministry of Justice and the Judicial Council. As mentioned, to the three main lists of lawyers whose services are covered from the existing Legal Aid Fund, a fourth *pro-bono* list of lawyers, was added.

When registering in the system, lawyers specified their geographic location as well as their availability to work outside of regular office hours, on weekends, or on holidays. Additionally, as part of the automatization process, a direct online link was established between the databases of Ministry of Justice and the Jordanian Bar Association to ensure the lists are regularly updated.



In January 2023, the lists of lawyers were formally sent to the Ministry of Jordan for the final approval of the Judicial Council - Juveniles and Mandatory Legal Aid lists- and the Ministry of Justice – Optional legal aid list-, as authorities responsible for assigning cases, and to be uploaded on the Ministry of Justice’s case management system, to be available in Courts and Prosecutors offices all over Jordan.

In total, 2,424 lawyers voluntarily registered in the lists: 861 lawyers registered in the Optional Legal Aid List for felonies that carry a penalty of less than 10 years of imprisonment, 787 lawyers registered in the Mandatory List for the most serious crimes, 469 voluntarily registered in the Juveniles List, and 307 lawyers registered in the Pro-bono list.

Since the agreed mechanism allows lawyers to register in one or more of the lists, the total number of lawyers includes duplicates. Also, these numbers may differ from the final number of available lawyers, as lists are expected to be regularly updated and need approval from the Ministry and Judicial Council. Nevertheless, it provides a dimension of the number lawyers ready to participate in the system, which reaches at least twice the number of lawyers currently participating in the system.

Retrieving the actual number of lawyers offering legal assistance since 2023 will be a simple task, since the system is now fully digitalized.

2.4 Amounts and payment method to lawyers for their services.

The determination of the wages due to lawyers assigned to provide legal aid is regulated by Bylaw n.119 of 2018. This regulation provides in its article 8 that for mandatory cases, i.e., cases that may carry a penalty of ten or more years of imprisonment, the lawyer assigned to provide legal aid is paid a fee of 30 Jordanian Dinars for each session they attend, from the Legal Aid Fund managed by the Ministry of Justice, provided that the total amount for the complete case does not exceed 1,300 Jordanian Dinars. This compensation applies whether the lawyer is appearing before the Prosecutor or the Court. However, for the optional legal aid cases, that is, for felonies that carry a penalty of less than ten years, the lawyer assigned is paid a fee of 25 Jordanian Dinars for each session, also from the Legal Aid Fund, with a maximum of 1,000 Jordanian Dinars per case.

The Legal Aid Bylaw does not explicitly mention the fees that lawyers should receive for handling cases of juveniles because this is governed by a distinct law that regulates legal aid for juveniles, and the Bylaw is only issued in accordance with the Criminal Procedures Law. However, it is a usual practice and advised to pay lawyers 30 Jordanian Dinars per session when representing juveniles, as legal aid for juveniles is compulsory.

The amendments introduced by the Bylaw n. 53 in October 2022, replaced the previous requirement that payments to lawyers were dependent on a final judicial decision for the case. The new provision ensures that lawyers who are appointed to provide legal aid before the Public Prosecution departments will receive their due wages in the following cases: i) when a decision is issued prohibiting the trial of the defendant, ii) a case is dismissed, iii) or a new lawyer is appointed to follow the case at the court.

It should be noted that the right of a lawyer to receive their fees may be forfeited if they fail to attend two or more court sessions without a valid excuse that is deemed acceptable by the court³⁶.

In terms of how lawyers are paid, after the completion of judicial proceedings or at the end of the prosecutor's phase in the aforementioned situations, the lawyer provides the competent liaison officer at the court with documentation that includes the number of sessions and authorization validated by the judge or prosecutor. Before the introduction of the automated legal aid system, the lawyer was required to personally deliver the necessary documents to the Ministry of Justice to receive payment. However, the new automated system has made this process much easier. The liaison officer then enters all necessary information into the system, including the lawyer's bank IBAN if they are a first-time participant in the system, and the Directorate of Legal Aid at the Ministry of Justice can immediately access the data. This allows for a prompt review of the file, confirmation that the lawyer did not miss two or more court sessions, and approval of the payment. Subsequently, the Financial Department of the Ministry of Justice reviews, authorizes, and processes the payment, which is then transferred to the lawyer's bank account.

3. Budget and Spend

3.1 The Legal Aid Fund.

The Legal Aid Fund -or Legal Aid Before the Courts Fund- was effectively established in 2019, under the supervision of the Ministry of Justice. It is a fund from which legal aid fees due under the Criminal Procedures Law and the regulations and instructions issued pursuant to it will be paid³⁷. In accordance with the provisions of the Law, the Legal Aid Bylaw n.119 of 2018 was issued to regulate legal aid and "(...) the manner of supervising the legal aid fund"³⁸.

The Legal Aid Bylaw provides that the Legal Aid Fund serves the purpose of paying the expenses of the legal aid applications approved by the Ministry³⁹, and assigned lawyers will be paid from the Legal Aid Fund⁴⁰. Since the Juveniles Law establishes that lawyer's fees shall be paid from the state treasury in accordance with the Code of Criminal Procedure⁴¹, and the Bylaw refers to public prosecutors and regular courts, these costs are also covered

³⁶ Legal Aid Bylaw n.119 of 2018, art 8

³⁷ Criminal Procedures Law, art. 208.5

³⁸ *Ibid* Article 208.7

³⁹ Legal Aid Bylaw n.119 of 2018, art. 6

⁴⁰ *Ibid*, art. 8

by the Legal Aid Fund. However, the Legal Aid Fund does not cover the mandatory legal aid provided in non-regular courts.

The Ministry of Justice supervises the expenditures of the Legal Aid Fund in the Central Bank of Jordan.

The Legal Aid Bylaw requires the Director of the Legal Aid at the Ministry of Justice to prepare a quarterly report for the Minister of Justice “on the progress of work in the Directorate and the legal aid and service provided by the lawyers”⁴². It is also the task of the Director of Legal Aid to check if a lawyer failed to provide legal aid in accordance with the provisions of the Law and this Bylaw, not to be paid from the Legal Aid Fund”. Also, in addition to managing the optional legal aid files, the Director of Legal Aid authorizes the payment of lawyers from the Legal Aid Fund, before these are processed by the Financial Directorate of the Ministry of Justice.

Finally, the Legal Aid Bylaw additionally requires in its Article 7 that “the provisions of the applicable Finance Bylaw shall apply to all disbursement procedures from the Fund”.

3.2 Budget and spend

The Criminal Procedures Law outlines the various sources that make up the financial resources of the Legal Aid fund, which are as follows: i) the allocations allocated for legal aid within the annual budget of the Ministry of Justice; ii) a percentage of the fees collected for cases, requests, judicial and executive procedures under the court fees system or any other legislation; iii) any contribution made by the Bar Association; and iv) grants, subsidies, and donations, subject to approval by the Council of Ministers, if their source is external⁴³. The Legal Aid Bylaw additionally specifies that the percentage referred by the Law is “3% of the fees of claims, applications, judicial and executive proceedings collected under the Court Fees Bylaw or any other legislation shall be deducted for the Fund.

Beneficiaries of legal aid are not required to pay any contribution for the services they receive under the Legal Aid Fund's coverage, nor are they expected to reimburse any compensation, partial or total, in the event of a change in their economic situation over time.

According to the account statements from the Central Bank of Jordan⁴⁴, the amount transferred by the General Budget to Legal Aid Fund in 2022 was 450,000 Jordanian Dinars (JOD). 395,000 JOD were transferred in 2021, 800,000 JOD were transferred in 2020 and 250,000 JOD were transferred in 2019, resulting in a total of 1,895,000 transferred in the last 4 years, since the establishment of the Legal Aid Fund. No other sources of funding described in the Criminal Procedures Law such as direct contributions or grants were reported to have fed the Legal Aid Fund. It is, however, crucial to note that Jordan has received substantive additional budget and technical international support for the development of its legal aid system. Although this support was not intended to directly compensate lawyers' services, it enhanced the overall system's efficiency and sustainability.

The expenditures from the Legal Aid Fund, as reported from the Central Bank of Jordan was in 2019 104,830 JOD, while 114,105 JOD for the year 2020, and 149,630 JOD in 2021, and 206,875 JOD in 2022, which makes a total of

⁴¹ Juvenile Law No. 32 of 2014, art.21.

⁴² Legal Aid Bylaw n.119 of 2018, art.9

⁴³ Criminal Procedures Law, art 208.6,

⁴⁴ All data in this section has been formally reported to measure indicators of the European project 'Access to Justice and Legal Empowerment in Jordan', co-funded by the EU and AECID, and implemented in cooperation with the Ministry of Justice

575,440 JOD spent in lawyers' services since the establishment of the Fund. The steady increase in legal aid expenditures reflects the increase in the number of legal aid cases.

As the Legal Aid Fund serves basically to compensate lawyers for providing legal aid services, the overall cost of the legal aid system is higher. This is because the costs of wages for the Ministry of Justice's liaison officers, who dedicate a portion of their time to support legal aid, maintaining the legal aid directorate's infrastructure and personnel, and other expenses, must be taken into account. Moreover, the costs of further enhancing the system, which have been mostly covered by international assistance funds in the recent years, are not factored in.

The nature of the Legal Aid Fund allows any unspent funds to be carried over into the following years. The amount remaining in 2019 was 145,170 JOD, in 2020 it was 685,895 JOD, in 2021 it was 243,370 JOD, and in 2022 it was 243,125 JOD. The balance at the end of 2020, as per the book account statement once the bank charges are removed, amounts to a total of 1,319,530 JOD. As the annual expenses were lower than the transferred amounts, the surplus allows room for planning the scope and sustainability of future legal aid service expansion, while also enabling the inclusion of alternative sources of funding beyond the state budget.

Legal Aid in Jordan is therefore demand led, as mandatory legal aid is required to be provided by law's mandate in any case, even before the reforms- but the budget of the Legal Aid Fund is limited and finite, conditioned by its sources of funding. Therefore, every extension in the scope of legal aid services that might lead to an increase in the number of cases, and in the overall cost for the Legal Aid Fund in any way, requires careful planning from the Jordanian authorities, particularly from the Ministry of Justice as authority in charge of administering the Fund.

Substantive studies and detailed budget impact assessments are required to be conducted prior every reform of the legal aid system ensuring that an offered service can be effectively provided to be approved by the Ministry of Justice and the Prime Ministry of Jordan. Therefore, it is crucial for the Jordanian government to have quality data collection and analyses tools, methodologies, and procedures in place to gradually improve the system.

4. Scope, Eligibility and Caseload:

4.1 Scope and Eligibility

Jordan provides state-funded legal representation to any person in the kingdom without discrimination by nationality, who is accused of committing a felony and is unable to afford it, in front of Prosecutors and Courts. Once the competent authority grants legal aid services, there is no expectation of reimbursing any costs, even if the economic circumstances of the accused change at a later time.

- *Scope and limitations by area of law* – State-funded legal aid is limited to criminal proceedings. However, Jordan has foreseen a mechanism to provide legal aid in other cases through Article 100 of the Bar Association Law, which grants the President of the Bar the authority to provide legal aid, whether it is criminal or not. Therefore, for non-criminal cases, vulnerable groups may refer to the Jordanian Bar Association or to civil society organizations that provide legal aid, although the specific criteria to obtain it are not regulated.
- *Scope and limitations by type of crime and eligibility criteria* - Legal aid is specifically provided for felonies, as described in the Penal Code, therefore excluding misdemeanours and contraventions⁴⁵. Legal aid

⁴⁵ The Penal Code No. 16 of 1960, amended in 2017 and 2022, describes the penalties in Articles 17-22. Misdemeanours are punishable by imprisonment for a period between 1 week to 3 years, or a fine between 5 and 200 Jordanian Dinars and contravention, as punishable by imprisonment for a duration ranging from 24 hours to 1 week, or a fine between 5 and 30 Jordanian Dinars.

provided to those accused of the most serious felonies that may result in ten years or more of imprisonment, life sentence or the death penalty, and to juveniles accused of any felony, is known as 'mandatory legal aid', since legal representation is obligatory in all such cases, and if the accused cannot afford a lawyer, one will be appointed to them, in accordance to the Criminal Procedure Code.

Additionally, the Ministry of Justice provides legal aid upon request for individuals who are accused of committing a felony that may lead to a penalty of less than ten years, which is known as 'optional legal aid'. The eligibility criteria for receiving optional legal aid are established in article 3 of the Legal Aid Bylaw. The recent amendments introduced by Bylaw n.53 of 2022 have significantly lowered the requirements for defendants to qualify improving access to legal aid.

In accordance with the Criminal Procedures Law⁴⁶, the competent official authorities or any of the concerned institutions "or any citizen or resident in the Kingdom who is unable to appoint a lawyer may submit a request to the Minister of Justice to provide him with legal aid", extending legal aid to residents of all nationalities without discrimination.

The eligibility criteria to access optional legal aid explicitly require that the type of crime be a felony and that the monthly gross income of the legal aid applicant does not exceed 400 Jordanian Dinars. Prior to the approved amendments, this limit was applied in reference to the household income, rather than the individual's income. The change introduced by Bylaw n.53 of 2022 substantially increases the number of people in the kingdom who could potentially apply for legal aid.

Also, optional legal aid may be granted to applicants who do not possess immovable assets aside from their place of residence, or movable assets aside from the mentioned monthly income. Notwithstanding this, the Legal Aid Bylaw states that the Minister of Justice may, in special and justified circumstances, approve the provision of legal aid to a person possessing movable or immovable assets.

- *Legal aid services also for repeat offenders* -The recent amendment to the legal Aid Bylaw also removed the limitation that optional legal aid applicants cannot have a criminal record due to a final court ruling in a felony or misdemeanour. As of October 2022, Jordan provides legal aid to repeat offenders who comply with the other required eligibility criteria, thus reinforcing the presumption of innocence and trial guarantees.
- *Scope and limitations of services at different stages of the criminal justice procedure* - Legal aid covered by the Legal Aid Fund is available in Courts and in front of Prosecutors at the investigation phase. Early access to legal aid is not available for persons suspected or arrested in respect of a criminal offence in police stations. Also, it is not available in administrative procedures described in the Prevention of Crimes Law of 1954.

The Juvenile Law provides that the lawyer "representing the juvenile shall attend all stages of the investigation and trial"⁴⁷. The police stage and misdemeanour proceedings are excluded. However, according to Article 22 of the same law, a juvenile cannot be prosecuted unless one of their parents, guardian, custodian, or caretaker is present along with the probation officer and the juvenile's lawyer, which was interpreted by the Court of Cassation ruling number 3107/2021 to be applicable in all stages of the justice proceedings, including the police stage.

The Child Rights Law No. 17 of 2022 was recently approved and came into effect in January 2023. According to article 24 of the law, children have the right to legal aid in accordance with critical legislation, which includes "legal advice and legal analysis before security centres, public prosecution departments, and courts, including those that review judgments." However, the specific administrative procedures and

⁴⁶ Criminal Procedures Law, art 208.4

⁴⁷ Juvenile Law No. 32 of 2014, art. 21

funds required to operationalize this mandate and extend legal aid to security centres have not yet been established.

- *Scope and limitations of services by type of courts*- The Constitution of Jordan states that the courts shall be divided into three categories: Civil Courts (Regular Courts), Religious Courts and Special Courts⁴⁸. The Legal Aid Bylaw No. 119 of 2018, defines legal aid as “legal representation before Public Prosecution Departments, Regular Courts and the Grand Felonies Court”⁴⁹. In the case of juvenile cases, the Juvenile Law established Juvenile Courts to handle misdemeanour and felony cases involving children in conflict with the law. These courts are statutory courts and fall under the scope of the Legal Aid Bylaw.

However, this definition is given only for the purposes of determining the scope of coverage under the Bylaw’s provisions. Therefore, it is important to note that legal aid is also offered by the State in front of the State Security Court⁵⁰, for most serious crimes in accordance with the Criminal Procedure Code, even though if these cases are not financed by the Legal Aid Fund managed by the Ministry of Justice, which does not cover religious courts, such as Shari’a courts, or special courts.

Furthermore, the Legal Aid Bylaw does not explicitly mention the Cassation Court. This is because under the Bylaw, lawyers' fees are paid per session from the Legal Aid Fund, but since the Cassation Court only considers appeals based on documentation review, there are no sessions held for which lawyers can be paid from the Fund. However, Article 9 of the Bylaw, as amended by the Bylaw n. 53 of 2022, states the appointed lawyer “shall continue to provide legal aid until the final judicial decision”, which includes the eventual final decision by the Cassation Court.

- *Scope and limitations of services to parties in a legal proceeding* – Legal aid funded by the Legal Aid Fund is provided only to defendants in criminal cases, and does not extend to other parties such as victims.

The Legal Aid Bylaw introduces a system of priorities for providing legal aid to applicants, giving preference to: a) particularly vulnerable groups, namely juveniles, elderly individuals, women, persons with disabilities, and any other category determined by the Minister; b) accused individuals facing more severe sentences; and c) legal aid applicants who are members of the most numerous families.

However, even though the Legal aid fund only covers costs for defendants, it is worth mentioning that on January 12th, 2023, a key Memorandum of Understanding was signed between the Ministry of Justice and the Jordanian Bar Association to extend also legal aid *pro-bono* to victims of human trafficking. The MOU specifies that legal aid will include consultation, and representation in front of the courts.

- *Scope and limitations of the kind of services provided* – The provision of legal aid covered by the Legal Aid Fund is limited specifically to legal representation. It does not include legal advice or consultation, legal education or other legal assistance services. The Instructions for the Organization of Legal Aid Provided by the Ministry of Justice⁵¹ mentions “legal consultation and legal representation in cases permitted by the law”, but this wider definition is limited in practice by the more restrictive concept of legal aid found in the Legal Aid Bylaw.

However, the Instructions mandate the Legal Aid Directorate to provide information regarding legal aid⁵². Therefore, while the Legal Aid Fund only covers the payment of lawyers' fees, Ministry of Justice officers in courts and prosecutors' offices may provide administrative information and guidance about legal aid

⁴⁸ Jordanian Constitution, art. 99,

⁴⁹ Legal Aid is not defined by the Code of Criminal Procedure nor by the Juvenile Law.

⁵⁰ The State Security Court is responsible for cases related to state security, as well as drug-related offenses and other types of cases. The court has jurisdiction over both military personnel and civilians. Regarding Article 21 of the Military Criminal Procedures Law n.31 of 2002 states that military personnel shall be exempted from judicial fees and expense.

⁵¹ Instruction No. 1 for the year 2016 on the organization of legal aid provided by the Ministry of Justice was published in the Official Gazette (5387) on March 16, 2016

⁵² *Ibid*, Article 4.

services available to citizens. Also, through its Media and Communication Unit, the Ministry of Justice implements legal aid education initiatives.

Additionally to legal aid services as such, the Criminal Procedure Law states, in line with international standards⁵³, that if a defendant -or a witness- does not speak Arabic language, the presiding judge shall appoint an interpreter⁵⁴, if the person accused -or the witness- were “deaf and mute and does not know how to write”, a specialized interpreter shall be appointed⁵⁵, and if the person does know how to write, they will be assisted by the court’s clerk⁵⁶.

The Ministry of Justice has made available experts contacts to courts through the *Mizan* system. However, if the accused is finally found guilty, the court may order the person convicted to pay the court’s fees and all costs resulting from such trial, in addition to all or part of expenses incurred by the witnesses⁵⁷.

Finally, as mentioned before, even though not covered by the Legal Aid Fund, the Memorandum of Understanding signed in January between the Ministry of Justice and the Jordanian Bar Association foresees the provision of legal aid consultation or advice *pro-bono*, and not only representation, for victims of human trafficking.

4.3 Legal aid caseload⁵⁸

The Ministry of Justice continuously monitors the progress in the number of legal aid cases covered by the Legal Aid Fund, provided in Public Prosecution Departments, Regular Courts, and the Grand Felonies Court⁵⁹. Since the legal aid bylaw came into force in 2018 and the establishment of the Legal Aid Fund, the number of mandatory legal aid cases, legal aid provided to juveniles, and optional legal aid cases have been tracked, and the tools to measure these cases have been progressively improved over time.

Until 2023, data on mandatory legal aid and juvenile cases have been extracted directly from the *Mizan* system, while information about optional cases was tracked by the Directorate of Legal Aid of the Ministry of Justice. The automation of legal aid procedures implemented in 2023 unifies these data sources and provides a dashboard to follow up on all cases in real-time, making data readily accessible and more accurate.

According to the available data, regarding legal aid provided in regular courts from the Legal Aid Fund there has been a consistent increase in the number of legal aid cases over the years. In 2019, the Ministry of Justice recorded a total of 993 legal aid cases, comprising 989 mandatory cases and 4 optional cases. Out of these, 587 cases were handled by the courts while 406 cases were handled by Public Prosecutors' offices.

⁵³ United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, 2012. Guideline 3 f)

⁵⁴ Criminal Procedure Code, art. 227

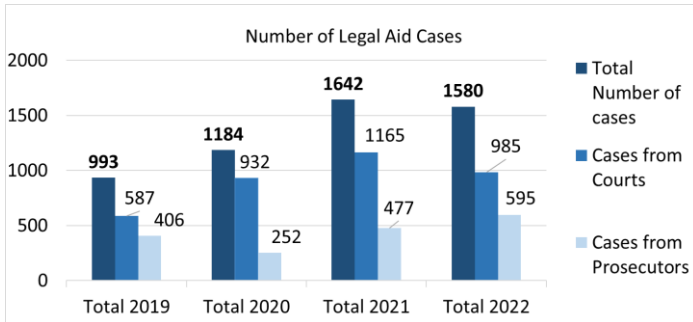
⁵⁵ Ibid, art. 230

⁵⁶ Ibid, art. 231

⁵⁷ Ibid. art. 239

⁵⁸ All data in this section has been obtained from primary sources and has already been formally reported to measure indicators of the European project 'Access to Justice and Legal Empowerment in Jordan', co-funded by the EU and AECID, and implemented in cooperation with the Ministry of Justice.

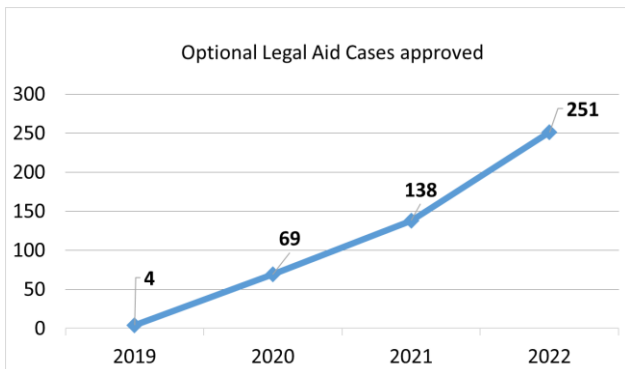
⁵⁹ The figures described under this section do not include the additional mandatory legal aid provided at the State Security Court.



In 2020, the number of legal aid cases rose to 1,184, including mandatory cases and 69 cases optional legal aid cases. Of these, 932 cases were handled by the courts, while 252 were managed by Public Prosecutors' offices nationwide.

In 2021, the Ministry of Justice reported a total of 1,642 legal aid cases, including both mandatory and optional legal aid cases. It is worth noting that the number of legal aid cases provided in cases carrying a penalty of less than ten years doubled, with an increase of 100%, which equates to 138 cases. Of these, 1,165 cases were managed by courts through the *Mizan* system, and 477 cases were reported by Public Prosecutors' offices throughout the country.

In 2022, the Ministry of Justice reported a total of 1,580 cases, with 985 cases recorded in courts and 595 cases in front of the prosecutors. The number of optional legal aid cases continued to rise, reaching 215 cases.



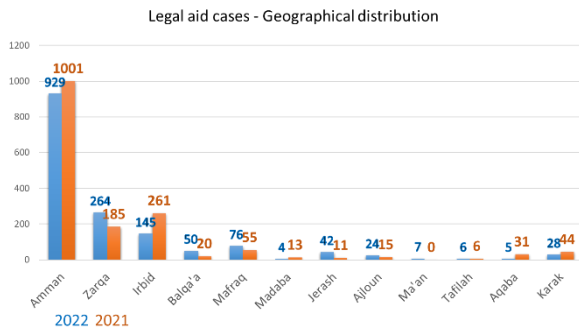
The number of optional legal aid applications saw a rise after the Ministry of Justice launched an initiative to collect requests from prisons (CRCs). In 2019, there were 87 requests of optional legal aid, which increased to 1,119 in 2020, 1,541 in 2021, and 957 in 2022. However, despite the growth in requests, the approval ratio remained low until 2022.

The implementation of the new Bylaw n.53 in October 2022 brought a significant improvement as the monthly rate of approval of optional legal aid requests surged immediately from an average of 11.45% to 64.83% per month. This indicates that the yearly number of optional legal aid cases is expected to rise significantly from 2023.

Data has been additionally disaggregated by gender, nationality, geographical location and type of courts, which is particularly relevant to follow up on legal aid provided to juveniles.

Over the years, the proportion of female beneficiaries receiving legal aid has stayed relatively consistent, ranging between 3% and 5% compared to males. These figures also align with the proportion of juvenile females benefiting from legal aid, which was 5.11% in 2022

Legal aid is available to all individuals in the kingdom without any discrimination, but data has also been collected regarding nationality. In 2020, 11% of beneficiaries were foreigners, it dropped to 3.5% in 2021, but increased again to 13% in 2022. The highest number of foreign beneficiaries registered over the years were Syrian, Palestinian, and Egyptian.



When it comes to the geographical distribution of cases, in 2019, the cases in Jordan were geographically disaggregated into three areas: the north, centre, and south. Since then, the cases have been disaggregated by governorates, which provides a closer insight into the caseload developments while maintaining the ability to compare with each previous year. Most of the cases are consistently registered in the central region of Jordan, which does not come as surprise considering that distribution of general population, and that the Grand Felonies Court is also located in Amman. This is

also partially explained by a recent increase of juvenile legal aid cases in courts and prosecutors' offices in other central regions, such as in Zarqa governorate.

It is important to note that over the years, there has been a continuous increase in both the total number of legal aid cases offered to juveniles and their proportional weight in relation to the overall number of legal aid cases. In 2020, out of a total of 1184 legal aid cases, 301 of them were for juveniles, accounting for 25% of the total cases. In 2021, the percentage of legal aid cases for juveniles increased to 36%, with a total of 595 cases out of 1642 legal aid cases.

In 2022, there was a significant rise in the legal aid cases provided to juveniles 822 out of 1580 cases, which amounts to 52% of the total cases, were juvenile legal aid cases.

With regards to the distribution of legal aid cases for juveniles across different regions, in 2022 most cases were reported in central Jordan. Out of the total of 822 cases, 52.68% of them, which translates to 433 cases, were registered in Amman, followed by Zarqa with 24.33% (200 cases), Balqa'a with 4.50% (37 cases), and Madaba with only 0.36% (3 cases). In total, the central region accounted for 81.87% of all the legal aid cases for juveniles in the Kingdom, -with 14.6% in the northern region and 3.77% in the south-.

5 Quality Assurance of legal aid services

5.1 Quality measures in the legislation

The legislation in force provides some measures to oversee the quality of legal aid services provided, which has been complimented with additional *ad hoc* measures to gradually improve the quality of legal aid services.

In particular, the Legal Aid Bylaw specifies in its article 9, four measures: a) the Directorate of Legal Aid registers all cases to which legal aid provided, and keeps track of the names of lawyers appointed courts and numbers of cases; b) the Director of the Legal Aid Directorate creates a report every quarter for the Minister of Justice, detailing the progress of the Directorate's work and the legal assistance and services that have been provided; c) the Minister notifies the Bar Association of the names of lawyers who failed to provide legal aid as assigned to them, to take the required disciplinary measures against them in accordance with the provisions of the Bar Association Law and, d) it is also foreseen that a lawyer who fails to provide legal aid shall not be reassigned to subsequent requests.

Regarding the mentioned disciplinary measures of the Jordan Bar Association Law n.11 of 1972, article 63 states that any lawyer who fails to fulfil their professional responsibilities as stated in the law, bylaws issued under it, or in the code of conduct of the profession issued by the Bar Association, will face disciplinary measures, ranging

from a notification to a reprimand, suspension from practice for a period not exceeding five years, up to disbarment. The Jordan Bar Association's "Code of Professional Ethics and Rule of Conduct" was approved in June 1979, and it is available online to all lawyers⁶⁰. The Law also regulates the formation of a Disciplinary Committee, whose decisions might also be appealed to the Bar Council⁶¹. From the organizational point of view, the Jordanian Bar Association additionally has formed a Complaints section⁶².

5.2 Specialized services through a scheme of lists of lawyers, requirements, and assignment on rotation

Jordan is currently upgrading its model of service delivery with more quality measures in place, aiming at an improved, more coordinated, legal aid model.⁶³

The agreement reached among the Ministry of Justice, the Judicial Council, and the Jordanian Bar Association effectively to establish a scheme of lists of lawyers assigned on rotation provides specialized services for the most serious crimes, less serious felonies, and juveniles. This mechanism opens the door to gradually expanding services through additional specific lists of lawyers who are experts in a particular matter, procedure or particular vulnerable group. Furthermore, the organization of lists of lawyers allows to organize trainings and other capacity building activities targeting lawyers by geographical area and specialty.

The agreement did not finally include particular initial requirements for lawyers to join the lists, other than being practising lawyers registered in the Jordanian Bar Association, to ensure having enough lawyers ready to provide services all over the kingdom. However, the agreement specifically contains the commitment of the Jordanian Bar Association "to guarantee the professional competence of lawyers registered on the lists". An additional filter was set in place as the Ministry of Justice and the Judicial Council shall adopt the lists elaborated by the Jordanian Bar.

5.3 Monitoring of lawyers' performance.

The aforementioned agreement by which different lists of legal aid lawyers were created, states that the service shall be continuously evaluated, and reports shall be periodically produced and made electronically available on the quality of the service provided. The criteria to measure the quality in the lists of lawyers agreement include: i) monitoring unjustified frequent absences, ii) late attendance by the appointed lawyer from the duty shift list without any justification, iii) that the assigned lawyer provides the service themselves, and iv) other criteria to be agreed upon later between the institutions to evaluate the quality of service. Additionally, the agreement foresees that the report may include the results of the analysis of random sampling by the Bar Association of legal aid cases.

This procedure for evaluating services was reflected in the development of the automated system to provide legal aid implemented in the Ministry of Justice's, *Mizan* system. As part of the module's development, a dashboard was created, so competent authorities can monitor the development of the indicators of legal aid provision in real-time.

⁶⁰ The Jordan Bar Association's Code of Conduct is available at their website [0065a1bf-1fc4-4b12-bfd3-b50470172197.pdf \(jba.org.jo\)](https://www.jba.org.jo/AboutJBACContent/JBACSection.aspx)

⁶¹ Jordanian Bar Association Law of 1972, art. 65

⁶² <https://www.jba.org.jo/AboutJBACContent/JBACSection.aspx>

⁶³ According to the Global Report on Legal Aid "(...) more coordinated judicare programmes have an administrative or oversight body. In such systems, lawyers are often assigned on rotation, must meet minimum qualification standards and are provided with a greater degree of supervision, training and support". UNODC, *Global Study on Legal Aid. Global Report*, October 2016, P. 44.

Moreover, the module's last screen included a quick questionnaire for judges and prosecutors to rate the lawyer's performance in three degrees, from weak to excellent, on the following: i) respecting the time and punctuality in attending court sessions according to the set appointments; ii) commitment shown to laws and knowledge of their application and attention of the assigned lawyer in their duties; iii) the lawyer's knowledge of court procedures and commitment to provide defensive evidence and pleadings; iv) not postponing sessions for the same reasons and delaying in legal representation in cases to have the biggest number of sessions possible; and v) the lawyer's communication with all parties of the case.

The results of this questionnaire, which was approved by the three parties, are sent to the Jordan Bar Association, the institution responsible for taking appropriate disciplinary measures, ensuring the quality of services provided by the lawyer while safeguarding at the same time the lawyer's independence.

5.4 Legal Aid Needs Assessment studies and users' satisfaction questionnaires

A *National Survey on Access to Justice and Legal Aid Needs* was launched at the beginning of 2023, targeting 10,000 families -Jordanian and not Jordanian- from all over the country, following an agreement between the Ministry of Justice and the national Department of Statistics signed in November 2022, to analyse general citizens' and specific target groups' access to justice and legal needs all over Jordan, and implement knowledge-based public policies to improve legal aid services in the Kingdom.

A Committee for a National Survey on Access to Justice and Legal Aid Needs was formed to develop an action plan and the questionnaire, under the chairmanship of the Secretary General for Administrative and Financial and Affairs of the Ministry of Justice, and included the Director of Legal Aid, the Director of Planning and Institutional Development, the Head of Statistics Department and representatives from the Judicial Council, the National Center of Human Rights and the Department of Statistics, as institution in charge of conducting the study. International technical assistance was also engaged to support the Committee., and the final version was agreed upon and signed in December 2022.

The only previous national survey on the matter conducted by the Jordanian Department of Statistics, also targeting 10,000 families, was organized with the local organization Justice Center of Legal Aid (JCLA) and published back in 2012⁶⁴. Other surveys were conducted since then by other civil society organizations. Adaleh Center for Human Rights studied Syrian refugees' legal needs, over a sample of 240 Syrian refugees in Mafraq governorate⁶⁵ and HiiL conducted a survey on both refugees and host communities' legal needs in collaboration with local NGO ARDD over a sample of 6,001 respondents from all over Jordan.

Additionally, the Ministry of Justice has developed an internal *Legal aid system users' satisfaction survey* targeting four groups of users: beneficiaries of legal aid system, lawyers, judges and prosecutors and officers working in the system. International technical assistance was engaged to support the development of the survey in close cooperation with the Section of Statistics of the Ministry of Justice, and a final version of the questionnaire and methodology was adopted at the beginning of 2023 by the Ministry.

⁶⁴ As stated in JCLA's website at <https://www.jcla-org.com/en/legal-aid-jordan>

⁶⁵ Adaleh Center for Human Rights, *Refugees' legal needs and access to justice in Jordan*, Amman, Jordan, 2019. Available at [Refugees' legal needs and access to justice in Jordan by AECID PUBLICACIONES - Issuu](#)

5.5 Increase of capacities to enhance the system and to deliver services in accordance to international standards.

A number of additional measures have been taken to enhance the national capacities and institutions with the aim of developing Jordan's legal aid system and to improve the quality of the services:

- *Training of relevant stakeholders and operators* - To ensure the effective implementation of the legal aid system, specialized trainings have been organized. The Ministry of Justice, has organized trainings for legal aid liaison officers and IT quality assurance officers working in Courts and Prosecutors' offices all over Jordan. The Judicial Council in partnership with the Ministry of Justice has trained eleven judges as trainers for peer training. Subsequently, judges and prosecutors from across the Kingdom were trained on the updated normative framework and provided specific recommendations.
- *Study visits* - Study visits have been organized for judges, officials from the Ministry of Justice and lawyers to exchange experiences on different legal aid systems, (Madrid, Spain in September 2021 and Tunis, Tunisia in March, 2022), to improve Jordan's institutional delivery.
- *Other capacity building initiatives.* Guidelines and manuals have been developed for Judges, Prosecutors and for Ministry of Justice's legal aid liaison officers in Courts and Prosecutors' offices, to provide guidance in the implementation of the legislation in force and for the use of the legal aid module in the IT system.

In the framework of the technical assistance provided through international cooperation, the Arabic-edition of the "*Handbook on Ensuring Quality of Legal Aid Services in Criminal Justice Processes: Practical Guidance and Promising Practices*"⁶⁶ has been produced, so it may be available not just to the Jordanian authorities, but to the whole Arabic-speaking world.

6 Public Legal Education: Initiatives to increase public awareness of the availability of publicly funded legal aid and how to access it.

In the last two years, various initiatives have been implemented to raise public awareness of public legal aid services, with different approaches: launching the messages top-down, with campaigns from the Ministry of Justice, and bottom-up, engaging civil society. Also, in addition to campaigns aimed at the general public through mass media, more targeted outreach initiatives have been tried, including a campaign in Courts and Prosecutors offices implemented by the Ministry of Justice. These initiatives were implemented in the framework of the project co-funded by AECID and the European Union:

- *A national campaign on legal aid implemented by the Ministry of Justice* – The campaign was implemented between October 21, 2021, and December 31, 2021, building on a previous similar national campaign implemented in 2020. The campaign was carried out in line with the Ministry of Justice's Communication and Media Unit's annual plan. All visual content materials were designed internally by the Unit's staff, which included the design of all media publications, editing press releases, and the distribution through the official site of the Jordanian e-Government platform *My Government at my service*⁶⁷, and the Ministry's internal mail. The campaign included republishing three previously produced videos on YouTube and other social media, the broadcast of one TV spot on the national television Roya TV, -30 times-. Also, a radio advertisement was aired 40 times over a period of three months on Radio Watir. The campaign generated 39 publications on social media, Facebook, Instagram, ad Twitter, reaching nearly

⁶⁶ UNODC, *Handbook on Ensuring Quality of Legal Aid Services in Criminal Justice Processes: Practical Guidance and Promising Practices*, Vienna, 2019.

⁶⁷ The portal's online address is: <https://portal.jordan.gov.jo/wps/portal?lang=ar#/>

100.000 impressions. The Ministry of Justice estimates that the campaign activities reached over two million people, even though figures obtained from radio and television are approximations.

- *Legal aid campaign in Courts and Prosecutors' offices*- An additional campaign on legal aid was designed with the aim of more accurately targeting beneficiaries or potential beneficiaries of public legal aid rather than general population. Preparations started in September, 2022, and the campaign, developed by the Media and Communication- Unit in coordination with the Legal Aid Directorate envisaged the purchase and installation of 35 TV screens and acrylic boards (sign holders) with posters in Courts and Prosecutor's offices all over Jordan, to disseminate the procedure to apply for legal aid. Brochures and newly designed legal aid request forms were designed and printed to be distributed. Finally, also signs were produced to indicating where the Legal Aid Liaison Officers were to be found in Courts.
- *Outreach campaigns on Access to Justice with civil society* – During 2022, the NGO Dignity, in close coordination with the Ministry of Justice, launched three outreach campaigns at the national level to raise awareness on topics related to access to justice: juveniles' fair trials guarantees, rights of peoples with disabilities, and the legal aid system. As part of the campaigns Dignity developed a manual and carried out training of trainers (ToT) sessions for young paralegal "ambassadors", who subsequently carried out forty-eight awareness sessions on legal topics over a period of three months (July-September) with members of their communities, reaching vulnerable groups in all governorates of Jordan. Dignity reported that this was complemented with three media campaigns, one of them on legal aid, building up on the two national campaigns that the Ministry of Justice launched in 2020 and 2021, promoting the public system of legal aid. Each of these campaigns lasted for two weeks. For each campaign, including the one on legal aid, one video was developed and broadcasted thirty times on national TV -Roya TV-, reaching an estimated of 112,500 viewers for each video. Three radio spots were produced, -each one was broadcasted a hundred times-, and a radio show was created, which consisted of a trailer and six episodes, and were broadcasted in podcast platforms and two radio stations: Radio Al Balad and Sowt Al Karak Radio, reaching a total estimated audience of 17.000 people⁶⁸. Finally, the campaign included twenty-three social media posts, which reached a total combined amount of 3.8M views.

7 Alternative Sources of Legal Aid services:

In cases where legal aid is not provided by the State, vulnerable people may submit a direct request to the Jordanian Bar Association based on the aforementioned article 100 of the Jordanian bar Association Law, which grants the President of the Bar the authority to assign lawyers to provide services once a year as regulated in article 6 of the Bas Association law.

Additionally, vulnerable groups in Jordan may also access legal aid provided by specialized national civil society and international organizations. While legal aid in the public legal aid system is currently limited to providing representation in criminal cases, most of the legal aid provided by non-governmental organizations is in the form of legal advice or counselling, rather than legal representation. The majority of cases that these organizations deal with are labour, administrative and civil cases to the most vulnerable groups that could not afford a private lawyer. Therefore, in practical terms, there is complementarity between the legal aid provided by the public system through the Jordanian Bar Association and the alternative sources of legal aid. Additionally, the role of civil society organizations is particularly relevant in providing awareness-raising and legal education as well.

The Justice Centre for Legal Aid (JCLA) reported in 2022 to have provided legal aid to 9,055 beneficiaries through their legal clinics located in all governorates of Jordan. The organization, founded in 2008, delivers a wide of legal aid services in civil, Sh'aria, administrative and criminal areas, including: legal counselling, in person or over the phone, problem analysis, mediation, guided legal representation, legal representation and assistance in police

⁶⁸,"This is my right' a podcast to navigate Jordan's legal system", Jordan News, 14 Nov 2022.

Available at <https://www.jordannews.jo/Section-106/Features/This-is-my-right-a-podcast-to-navigate-Jordan-s-legal-system-24502>

stations 527 beneficiaries (5.8% of the total number) received legal representation that year. Additionally, JCLA provided 527 awareness sessions in person to 12,708 direct beneficiaries.

The same year, the ICLA (Information, Counselling and Legal Assistance) program of the Norwegian Refugee Council offered legal counselling to 4,331 unique beneficiaries, and legal assistance to 1,669 beneficiaries, which includes mediation, accompaniment legal representation. When it comes to in-court legal representation, 558 cases were registered at court in 2022, in both Shari'a and Magistrate courts, and related to Legal and Civil Documentation only. Additionally, NRC provided legal information and awareness services to 35,390 beneficiaries through various outreach modalities

In 2022, the local organization Tamkeen provided specialized legal aid to 680 beneficiaries to Jordanian workers, and migrants, refugees, and victims of human trafficking, of nineteen different nationalities, focusing on defending workers' rights. This figure includes legal advice, mediation and representation, but not legal education or awareness sessions.

Also in 2022, UNHCR, the United Nations High Commissioner for Refugees, reported the provision of legal aid directly and in partnership with the organization Arab Renaissance for Democracy and Development (ARDD), to 70,707 beneficiaries all over the Kingdom, including clients living in refugee camps. This figure comprises beneficiaries of legal advice and consultations, mediation, legal representation, and legal awareness. However, the largest proportion of registered cases were for legal counselling, advice, and mediation. Out of the total number, only 1,164 beneficiaries received legal awareness sessions, whereas a small fraction of the total, -only 664 beneficiaries (0.9% of the total)-, were reported as legal representation cases. ARDD reported to have provided additional legal aid services other than those provided to the ones offered in cooperation with UNCHR, but disaggregated data is available⁶⁹.

There are other organizations active in Jordan providing legal aid, but not legal representation, which offer instead legal advice, legal information and awareness, and refer legal representation cases to either the JBA or specialized legal aid NGOs.

Jordanian Women's Union, a local organization first established in 1945, runs a Hot Line Program since 1996 that provides protection, psychological, social, and legal guidance, for women who are victims of gender-based violence. Women can call the hotline number to seek help, and the social workers who receive the call refer them to the relevant specialists. Also, other international NGOs, such as the International Rescue Committee⁷⁰, or Danish Refugee Council may offer legal advice in Jordan and refer cases, but they do not provide legal representation services themselves.

Other local and international organizations, while not providing legal aid directly, are engaged in the improvement of the system or in raising public awareness on the legal aid services available to vulnerable groups. The NGO Dignity launched national campaigns on access to justice and legal aid in coordination with the Ministry of Justice⁷¹ and Terre des Hommes (TdH), organization that promotes access to justice for children in contact with the justice system, and collaborates with national authorities to ensure that they receive appropriate treatment and

⁶⁹ ARDD's website is: <https://www.ardd-jo.org/News-Room/2022-a-year-of-partnerships-and-achievements-on-the-road>

⁷⁰ IRC's website is: <https://www.rescue.org/uk/country/jordan>

⁷¹ A detailed account of Dignity's outreach initiatives are found in section 6.

their rights are respected⁷², produced in 2022 a “ Guideline on access to legal aid for children in contact with the law in Jordan”⁷³.

Finally, it is worth noting that there are no specific regulations in force nor any ad-hoc comprehensive mechanism of oversight of all legal aid providers, in line with international standards⁷⁴, to ensure criteria for the accreditation of legal aid providers, applicable professional codes of conduct or complaint mechanisms. Furthermore, there is no common framework for measuring, benchmarking, or reporting legal aid services provided in the Kingdom.

8 Holistic legal services:

The public system of legal aid does not cover non-legal services, and there is no formal comprehensive referral mechanisms in place to ensure beneficiaries of legal aid are provided with other sorts of protection, whether access to health, education, psychosocial support or others, with any public or private entities.

Nevertheless, there is some national experience that should be highlighted. Jordan's "National Referral Mechanism and Standard Operating Procedures in Dealing with Human Trafficking Cases" offers a noteworthy example in providing comprehensive protection services, in this case for victims of human trafficking. The mechanism provides a one-stop-shop approach to protecting victims and involves the collaboration of different institutions to provide integral services, such as healthcare, shelter, and legal aid. Therefore, provision of legal aid is considered an essential component of victim protection, even though the providers have not still undergone specialized training nor is this type of legal aid covered by the Legal Aid Fund.

9 Strategic alignment with Sustainable Development Goal 16: Peace, justice, and strong institutions

Jordan is actively working towards aligning its strategies with United Nations’ Sustainable Development Goal 16, and more specifically towards achieving target 16.3, “Promote the rule of law at the national and international levels and ensure equal access to justice for all”.

In line with the national strategy Vision 2025 and the Recommendations of the Royal Committee for Developing the Judiciary and Enhancing the Rule of Law of February 2017, the National Plan for Human Rights (2016-2025) identifies the creation of programs and units for legal aid as a key activity falling under the objective of enhancing means of access to justice, specifically as part of the Fourth Goal, which aims to enhance guarantees for fair trial, of its First Pillar, Civil and Political Rights⁷⁵.

Furthermore, the Jordan Justice Sector Strategy 2022-2026, which was formally presented in Amman on August 23, 2022, highlights the growing importance of access to justice and legal aid in the institutional agenda, as one of the justice sector's five strategic pillars is now Access to Justice. The three action lines under this pillar are Legal Aid, Awareness Rising, and Community Sanctions⁷⁶.

On January 12, 2023, the Minister of Justice approved the formation of a National Committee to develop and adopt a new Legal Aid Strategy and Action Plan, aligned with the *Justice Sector Strategy*. The Committee is chaired by the Secretary General of Judicial Affairs at the Ministry of Justice, and the other members include: the Secretary General of the Ministry of Justice for Administrative and Financial Affairs, the Secretary General of the Judicial Council, the Vice-President of the Jordan Bar Association, a Representative of the National Centre for Human Rights, the Directors of Legal Aid, Planning and Institutional Development and Legal Affairs of the Ministry of

⁷² Terre des Hommes website is: <https://www.tdh.ch/en>

⁷³ Available at <https://www.tdh.ch/en/media-library/documents/guideline-access-legal-aid-children-contact-law-jordan>

⁷⁴ Guideline 15 of the *United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems*, 2012.

⁷⁵ Available at Jordan Ministry of Interior website: <https://bit.ly/3mfqoT>

⁷⁶ Available at the Ministry of Justice website: <https://bit.ly/3zF6ewz>

Justice, and the Head of Monitoring and Evaluation of the Legal Aid Directorate who also serves as the Committee Secretary. The committee receives technical support from international experts provided by the Spanish Bar Council.

10 Conclusions

Jordan is undergoing a process of modernization and improvement of its public legal aid system in line with its national strategies to strengthen the rule of law. The *Justice Sector Strategy 2022-2026* sets legal aid as one of its main objectives under its core pillar of access to justice. Furthermore, the Minister of Justice has formed an interinstitutional Committee to develop and adopt a new Strategy on Legal Aid.

Since the Legal Aid Bylaw n.119 was adopted in 2018 and a Legal Aid Fund was established in 2019, several interrelated key initiatives and policies have been implemented to improve the legal aid system in line with international standards:

1) As recommended by Guideline n.18 of the *United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems*, technical assistance based on needs and priorities identified by Jordan has been delivered in the framework of bilateral and multilateral cooperation, to enhance the national capacities and institutions for the development of the legal aid system. The European project “Access to Justice and Legal Empowerment in Jordan” co-funded by the European Union and the Spanish Cooperation has provided continuous comprehensive technical support.

2) The Legal Aid Bylaw was amended based on legal and technical analyses and assessments, and primary data collection. Furthermore, budget impact analyses were carried out in line with the standards to make “adequate and specific budget provisions for legal aid services”⁷⁷ and ensure that the Legal aid Fund will be able to cover the costs of an expansion of services and an expected increase in the number of cases.

Amendments introduced by Bylaw No. 53 of 2022 have widened the scope of people who can apply for legal aid by reducing the financial requirements and allowing repeat offenders to apply for optional legal aid, which is also a significant advancement in terms of fair trial guarantees. The amendments also mandate that the legal aid lawyer carry the case through to the final judgment, enhancing the quality of services, but lawyers can receive payment at the end of the prosecutors' stage if they do not continue. Lastly, the amendments broaden the delegation of authorities, enabling the streamlining of administrative procedures and faster approval of requests.

3) An agreement between the Ministry of Justice, the Judicial Council and the Jordanian Bar Association has been reached to establish a scheme of lists of duty lawyers assigned on rotation to provide specialized services. The mechanism allows the prompt provision of specialized legal aid services and the implementation of further quality measures such as fine-tuned quality evaluation of services or targeted training of lawyers in particular topics and by geographical location.

4) The automation and digital transformation of legal aid procedures has been implemented by the Ministry of Justice in coordination with the Ministry of Digital Economy and Entrepreneurship and the Jordanian Bar Association, by developing a new legal aid module within the digital case management system, *Mizan*. The legal aid module includes the digital management of the lists of lawyers, the electronic management of the legal aid file, an evaluation questionnaire for lawyers' performance and an online payment service for lawyers' fees. The new computerised system has been installed in courts and prosecutors' offices all over the Kingdom.

⁷⁷ *United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems*, 2012. Guideline 12 Funding the nationwide legal aid system

5) Following the recommendations set in Guideline 17 of the United Nations Principles and Guidelines, on Research and Data, a *National Survey on Legal Aid Needs* has been launched by the Ministry of Justice in partnership with Jordan's Department of Statistics, and a users' satisfaction survey has been developed by the Ministry of Justice to be periodically implemented, in order "to conduct regular research and collection of data disaggregated by the gender, age, socioeconomic status and geographical distribution of legal aid". Additionally, more accurate primary data collection on legal aid provided has been ensured through the automation of legal aid procedures as a module of the MoJ's *Mizan* digital case management system.

6) Trainings on legal aid and other capacity-building activities were organized for judges, prosecutors, lawyers, and civil servants, to ensure "that professionals working for the national legal aid system possess qualifications and training appropriate for the services they provide", as recommended by the mentioned international standards⁷⁸. Manuals and guidelines for Ministry of Justice's officials at courts, for Judges and Prosecutors have been developed and an Arabic edition *Handbook on Ensuring Quality of Legal Aid Services in Criminal Justice Processes: Practical Guidance and Promising Practices* has been produced for reference.

7) Finally, to ensure the public availability of information on the right to legal aid and what such aid consists of, in line with Principle 8 and as recommended by Guideline 2 on the Right to be Informed on Legal Aid, the Ministry of Justice launched informative national campaigns on legal aid – also in cooperation with civil society to have complementary approaches- through social and mass media. In addition, a specific campaign was launched targeting beneficiaries in courts and prosecutors' offices, which involved the installation of TV screens and posters and distribution of informative brochures.

As a result of these policies, the number of legal aid cases covered by the state's Legal Aid Fund has steadily increased in the last years, particularly juvenile cases, but also optional legal aid cases. This positive tendency has further consolidated as the eligibility criteria for optional legal aid were amended in 2022, and the ratio of approval of optional legal aid cases increased from an average of 11.54% to an average of 64.83% monthly.

Even more importantly, Jordan is currently better equipped to face the increasing number of cases. Jordan's legal aid model is transitioning to a more advanced and coordinated system of legal aid delivery, as an automatized and digitalized scheme of lists of lawyers assigned on rotation has been set and made available to provide specialized services in courts and prosecutor's offices throughout the Kingdom.

However, there is still ample room for improvement, and different challenges lay ahead in the progressive establishment of a comprehensive system of public legal aid in Jordan. The legal aid system has various limitations in its scope, which have been discussed.

Nevertheless, each of these limitations presents an opportunity for future expansion of services. Potential directions for expansion include: a) offering legal aid not only to defendants but also to other parties in criminal proceedings, such as victims or witnesses; b) providing legal counseling and legal assistance, as well as legal representation; c) providing early access to legal aid in police stations for juveniles or for all defendants; d) extending mandatory legal aid to less severe felonies by lowering the 10 year of imprisonment threshold; and e) expanding legal aid to other branches of law, such as administrative or civil cases.

Each of the potential directions that future expansion of services may take poses unique economic and social challenges for the Jordanian system. However, regardless of the chosen direction, improvement of services will require thoughtful analysis, accurate and quality data collection, extensive policy dialogue among all relevant

⁷⁸ *United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems*, 2012. Guideline 13 Human Resources.

stakeholders, institutional capacity building, updating administrative procedures, and a review of the current rather dispersed regulatory framework.

Secondly, considering that resources are limited, special attention should be paid in ensuring the sustainability of the system. To achieve this, it is essential to continuously collect accurate data for evaluating the budgetary impact of interventions and for prioritization of needs, as well as ensuring institutional coordination and procedures to enhance efficiency. Other measures to consider include exploring additional potential partnership opportunities with legal aid service providers, and activating all possible funding options outlined by the Criminal Procedures Law to support the Legal Aid Fund.

Finally, it will be necessary to monitor the impact of the measures introduced to guarantee the quality of services provided and accordingly progressively improve them. In this regard, it is critical to advance in the regulation and oversight of legal aid providers in line with international standards⁷⁹, “to monitor the efficient and effective delivery of legal aid in accordance with international human rights standards”⁸⁰, while ensuring, at the same time, the independence and protection of legal aid providers⁸¹.

Guaranteeing that legal aid providers operate with the highest standards of professionalism and accountability require taking regulatory and technical measures to advance in setting criteria for accreditation of legal aid providers and establishing an oversight mechanism to ensure that all providers adhere to certain standards of quality and applicable codes of conduct. These measures need to be balanced with protecting the independence of legal aid providers, and with ensuring that sufficient legal aid is readily available throughout the country for vulnerable groups.

In this regard, it is necessary to develop a standardized reporting framework or mechanism for all legal aid providers, including those serving vulnerable groups outside of the public system, so accurate data is available to policy makers on the scope and quality of legal aid effectively provided in the country, including number and type of cases, to monitor the advancement of access to justice in the Kingdom and design and implement public policies to better meet the needs of the community.

⁷⁹ *Ibid*, Guideline 15

⁸⁰ *Ibid*, Guideline 17 c)

⁸¹ *Ibid*, Principle 2. Responsibilities of the State, and Principle 12. Independence and protection of legal aid providers

NATIONAL REPORT: LITHUANIA

National Report ILAG Harvard 2023 - Lithuania

Prepared by Dr. Anzelika Baneviciene¹

I. Country details

Country	REPUBLIC OF LITHUANIA
Population in 2022²	2 859 718
Annual GDP in 2022³	66832,5 million Euro
Absolute poverty threshold (the amount of income required to fulfill the minimum consumption needs).	In 2021, an income of an individual is 260 euros per month.
At-risk-of-poverty threshold — the amount of income required for the household that should be considered as not living in poverty.	In 2021, an income of an individual is 483 euros per month and an income of a household consisting of two adults and two children under 14 years old is 1015 euros per month.
Population living in poverty⁴	In 2021, 3,9 % of the residents lived below the absolute poverty rate. In 2021, 20,0 % of the population lived below the at-risk-of-poverty threshold.
Number of practicing lawyers⁵	2 277
Number of lawyers providing legal aid constantly⁶	36
Number of lawyers providing legal aid in case of necessity⁷	492

¹ Dr. Anzelika Baneviciene, Institute of Law and Law Enforcement of the Mykolas Romeris University's Academy of Public Security, Lithuania.

² Website of the State Data Agency, <https://osp.stat.gov.lt/>

³ Ibid.

⁴ Ibid.

⁵ Website of the Lithuanian Bar Association, <https://www.advokatura.lt/>

⁶ Website of the State-guaranteed Legal Aid Service (*Valstybės garantuojamos teisinės pagalbos tarnyba*), <https://vgtpt.lrv.lt/>

⁷ Ibid.

II. Legal Aid Organisation / Authority

The legal aid system in Lithuania consists of Primary legal aid and Secondary legal aid.

60 municipality administrations organize and/or provide primary legal aid; pay for the provision of primary legal aid, where primary legal aid is provided by lawyers (professional partnerships of lawyers) or public agencies based on an agreement concluded with the municipality; regularly inform residents about possibilities of receiving State-guaranteed legal aid and about the conditions of provision thereof in municipalities' Internet websites, through the media and during meetings with the residents.⁸

Primary legal aid is provided by staff with law degrees (jurists) of the municipality administration or lawyers or public agencies contracted by municipalities. The conditions for the provision of legal aid are defined by the order of the director of the municipality administration or by the terms of the contract.⁹

The procedure for granting primary legal aid: Municipalities do not take formal decisions to provide legal aid. To receive primary legal aid, a person applies directly to the legal aid provider - a jurist of the municipality, a lawyer, or an NGO with whom the municipal administration has concluded a contract to provide the primary legal aid.¹⁰

The State-guaranteed Legal Aid Service (SGLAS) coordinates the provision of primary legal aid; organizes the provision of secondary legal aid; takes decisions on the provision of secondary legal aid; concludes agreements with the lawyers providing secondary legal aid and controls the execution of these agreements; enter into agreements for mediation services; organize and administer mediation; pays the lawyers a fee for the provisions of legal aid; pays the mediators a fee for mediation; notifies residents about the possibilities and conditions of receiving State-guaranteed legal aid; organizes training for legal aid providers to enhance legal aid provision skills; performs other functions defined by the Law on State-guaranteed Legal Aid and other legal acts.¹¹

The SGLAS is a budgetary institution established by the Ministry of Justice of the Republic of Lithuania. The main office is in Vilnius city. The SGLAS has 4 regional departments in Kaunas, Klaipėda, Panevėžys, and Šiauliai, the jurisdiction of which corresponds to the geographical areas of county courts. Each department makes its own decisions on legal aid. The decisions are prepared by the staff of the department who have a law degree and signed by the Head of the Department.

The activities of the SGLAS are monitored and supervised by the Ministry of Justice.

Procedure for granting secondary legal aid: A person who wishes to receive secondary legal aid applies to any SGLAS department by applying the prescribed form and documents proving his eligibility for legal aid. The request can be sent by the person providing the primary legal aid. The application can be submitted electronically. The department evaluates the applicant's eligibility for legal aid. If the person has the right to receive secondary legal aid, the SGLAS department decides to grant it. The decision specifies the scope of legal aid and the lawyer

⁸ Lithuania, Seimas (2000), Law on State-guaranteed Legal Aid (Lietuvos Respublikos Valstybės garantuojamos teisinės pagalbos įstatymas), No.VIII - 1591, 2000, last amendment No. XIV – 1217, 28 June 2022, Article 8.

⁹ Ibid., Article 15 (3).

¹⁰ Ibid., Article 15.

¹¹ Ibid., Article 9.

appointed to provide legal aid. The decision is sent to the legal aid beneficiary and the appointed lawyer. After receiving the decision, the legal aid beneficiary has to address the lawyer specified in the decision.¹²

In addition to that, in criminal cases where the presence of a defense lawyer is mandatory, the Coordinator of the SGLAS selects the lawyer upon a request of a pre-trial investigation officer prosecutor, or court and informs them about the selected candidate. The **pre-trial investigation officer prosecutor or court** appoints the selected lawyer.¹³

Secondary legal aid is provided by lawyers based on the decision of SGLAS, the pre-trial investigation officer, the prosecutor, or the court. Three types of lawyers provide secondary legal aid:¹⁴

- Lawyers providing legal aid constantly;
- Lawyers providing legal aid in case of necessity;
- Lawyers providing legal aid on an *ad hoc* basis.

The remuneration of primary legal aid providers is not defined in the Law. The municipalities are free to choose a payment method and a remuneration amount. Whereas the remuneration of the lawyers for the provision of secondary legal aid is determined under a specific regulation, adopted by the Government of the Republic of Lithuania.¹⁵

Secondary legal aid providers are paid for consulting, representing, and defending a client at court, pre-trial investigation, and out-of-court settlement proceedings, drafting procedural documents, and collecting evidence. In addition to that, they can get remuneration for the preparation for the court's hearing (time normative -1 hour before each hearing), for familiarization with the material (time normative - 1 hour for 1 volume of the documents file), for waiting in judicial and other institutions in which procedural actions are executed when such actions are started later than the time set in advance; for time spent traveling to the place of the provision of secondary legal aid or execution of procedural actions and back (the duration is set by the order of the Minister of Justice), for preparing an application to SGLAS requesting a calculation of the costs of secondary legal aid in a particular case (time normative - 0,5 hour), and for the time spent for the preparation of the notification on the termination or completion of the provision of secondary legal aid in the particular case or for the assessment of the claim reasonableness (time normative - 3 hours).

In addition to the payment for the time spent, the lawyers can get compensation for travel and other expenses related to the provision of secondary legal aid. The documents proving the costs incurred must be provided. 0.11 euros per kilometer is compensated for traveling by car. An additional 10% is added for car exploitation.

The remuneration is different for the lawyers who provide secondary legal aid constantly and those who provide secondary legal aid in case of necessity or on an *ad hoc* basis.

The lawyer providing secondary legal aid constantly must provide legal aid 40 hours per week during working hours, at the weekends, and on public holidays. They cannot provide legal services to private clients and must inform on time the SGLAS about their sickness, maternity, paternity, child delivery leaves as well as other periods when they cannot provide legal aid. They get a fixed monthly salary of 163.6 BAR¹⁶ irrespective of the workload

¹² Ibid., Article 18.

¹³ Ibid., Article 21.

¹⁴ Ibid., Article 17.

¹⁵ Government Resolution No. 364 *Regarding the approval of the payment amounts and payment rules for the provision and coordination of secondary legal aid and mediation*, 13/04/2016, last amendment No 491, 11/05/2022.

¹⁶ 1 BAR - 20 Eur from 05/01/2022.

they have. In addition to that the lawyers have 28 days of holiday annually. The remuneration is not paid for these days.

The SGLAS must supply the lawyer providing secondary legal aid constantly with office premises and means of work (phone, fax, computer, IT programs, data basis for lawyers, printer, copying machines, working desk, chair, safe, etc.) as well as with office stationery (paper, pens, etc.) free of charge. The SGLAS covers all office maintenance expenses such as water, electricity, cleaning, and others. The SGLAS must ensure an appropriate and equal workload for the lawyers.

Remuneration for the lawyers providing legal aid in case of necessity or on an *ad hoc* basis is based on the actual time spent for the provision of secondary legal aid in one stage of proceedings. The value of the remuneration for one hour of professional work is equated to 1 BAR. The remuneration is played by the SGLAS. The lawyer has to submit the request for payment to get the remuneration for the provided legal aid.

III. Budget and Spending

Budget for Legal Aid	In 2021, Eur			In 2022, Eur		
	State budget	Budget of municipalities	Total	State budget	Budget of municipalities	Total
Primary legal aid	675 592	429 219	1 104 811	701 555	446 635	1 148 290
Secondary legal aid (total)	6 328 263	Not applicable		6 772 021	Not applicable	
Remuneration of lawyers providing legal aid on constant bases						
Civil, administrative, and constitutional cases	872 858			727 132		
Criminal case	951 618			924 217		
Remuneration of lawyers providing legal aid in case of necessity						
Civil, administrative, and constitutional cases	864 998			1 193 299		
Criminal cases	1 885 600			2 059 770		
Other expenses:						
Mediation services	262 438			309 448		
Costs of proceedings	103 684			118 769		
Costs of maintenance of lawyers providing	198 032			152 953		

legal aid constantly						
Administration costs (SGLAS)	1 189 035			1 286 433		

The legal aid budget is planned for one year. The prognosis is made based on the results of the previous year. The budget for legal aid is capped. In very exceptional cases, at the end of the year, the coverage of the debt can be made just from the savings of the budget in other fields. However, if the debts remain at the end of the year, an additional budget is provided for the following year to cover the debt.

IV. Scope, Caseload, and Eligibility

Lithuania's legal aid system consists of primary and secondary legal aid.

Primary legal aid: Scope

Primary legal aid means the provision of legal information (general information about the legal system and laws), legal advice (advice on legal issues), drafting of the documents to be submitted to state and municipal institutions, and drafting simple court documents, such as applications for divorce by mutual consent of both spouses; agreements on the legal consequences of divorce; requests for a court order; objections to a creditor's claim; requests for a court permit to sell or mortgage real estate; requests for judicial authorization to accept an inheritance or to enter into transactions involving the assets of a person with mental disabilities. The legal aid also covers advice on the out-of-court settlement of a dispute, actions for the amicable settlement of a dispute, and drafting of a settlement agreement.¹⁷

The State guarantees and covers 100 percent of the costs of primary legal aid in all types of cases.¹⁸ The duration of the provision of primary legal aid is one hour. The duration may be extended by a decision of the authority of the municipality.¹⁹

Primary legal aid: Eligibility

Primary legal aid is granted to all citizens of Lithuania and other EU Member States, to other persons lawfully residing in Lithuania and other EU Member States, and to persons specified in international treaties irrespective of the income they have and property they own. Primary legal aid is not provided to legal entities.²⁰

Although the means test does not apply to primary legal aid provision the requirements foreseen in the merit test have to be fulfilled. The Law on State-guaranteed legal aid defines that primary legal aid is not provided when:²¹

- claim is manifestly unfounded;

¹⁷ Ibid. 8, Articles 2(6), 2(9), 2(10).

¹⁸ Ibid. 8, Article 14 (4).

¹⁹ Ibid. 8, Article 15 (4).

²⁰ Ibid. 8, Article 11 (1).

²¹ Ibid. 8, Article 11 (6).

- primary legal aid has already been provided on the same issue;
- it is obvious that it is possible to obtain a lawyer's advice without resorting to State-guaranteed legal aid;
- the applicant requested legal aid for an issue unrelated to his own rights and legitimate interests.

Secondary legal aid: Scope

Secondary legal aid is available in all types of cases. It includes:²²

- drafting of procedural documents,
- defense and representation in court (including the process of enforcement),
- representation in the preliminary extrajudicial consideration of a dispute, where such a procedure has been laid down by laws or by a court decision,
- coverage of litigation costs (under the request of a lawyer or a court: translation of documents, interpretation, copying of documents, collection of data from registries, coverage of expenses of expertise, other expenses related to the preparation of evidence; under the request of a lawyer: expenses of lawyer traveling; under the request of a legal aid beneficiary: expenses of his/her traveling to the place of proceeding when participation in the proceeding is mandatory);
- exemption from court fees;
- coverage of expenses of bailiff for the start of the execution of the court decision;
- coverage of the costs of mediation;

Article 2 (3) of the Law on State-guaranteed Legal Aid defines that *the defense and representation in court* mean defending the rights and interests of a suspect, accused, or convicted in criminal matters, or representation of other person's rights in criminal, civil (except arbitration) and administrative matters as well as representation of rights of the person at the international judicial bodies whose jurisdiction or competence to decide on the violation of the rights of the persons has been recognized by the Republic of Lithuania.

When the legal aid beneficiary loses the case, he does not require to pay the money back to the State for the legal aid provided. However, the State does not cover the costs of legal aid beneficiary when the court orders him to pay the costs of the opposite party in the proceeding when he loses the case, as well as when he is a debtor who requires to cover the costs of the execution process.²³

Here are exceptions to this rule. When both parties in the civil proceeding are legal aid beneficiaries the State does not require any of them to pay the money back to the State.²⁴ For legal aid provided to the victim of a crime a sentenced person may be obliged to pay the State even in such situations when he has been defended by the lawyer nominated by the State (when the presence of the lawyer in the proceeding is mandatory).²⁵

²² Ibid. 8, Article 2 (1).

²³ Ibid. 8, Article 14 (11).

²⁴ Ibid. 8, Article 20 (1).

²⁵ Lithuania, Seimas (2002), Criminal procedure code (Lietuvos Respublikos Baudžiamojo proceso kodeksas), No. IX-785, 14 March 2002, last amendment No. XIV-1750, 22 December 2022, Article 106 (2).

Secondary legal aid: Eligibility

Secondary legal aid is granted to all citizens of Lithuania and other EU Member States, to other persons lawfully residing in Lithuania and other EU Member States, and to persons specified in international treaties when the conditions for means and merit test are met.²⁶

Means test

In Lithuania, where the (i) “I level” of income and property is established or (ii) the person belongs to a group of vulnerable people legal aid services are granted free of charge (100 percent of coverage) in 1 case. For the applicant who is already granted secondary legal aid in one case by the decision of SGLAS, the State pays 30 percent of the costs of secondary legal aid in additional cases.²⁷

Where the “II level” of income and property is established the legal aid costs are covered by 50 percent in 1 case. Accordingly, the State pays only 15 percent of the costs of secondary legal aid in additional cases.²⁸

“I level” of income is established when the annual income of the applicant does not exceed 37,68 x SSI²⁹ for the applicant plus 14,13 x SSI for every dependent of the applicant. “II level” of income is established when the annual income of the applicant does not exceed 56,52 x SSI for the applicant plus 20,74 x SSI for every dependent of the applicant.³⁰

Dependent means an unemployed spouse, child till 18 years old, child till 24 years old who full-time studies in a public educational institution, as well as any other person who depends on the applicant for legal aid and lives together with him.³¹

If the annual income of the applicant exceeds the “II level” he cannot get legal aid.

In addition to the assessment of the applicant’s income the property owned by him is also taken into account. The “I level” of property is established when the actual value of the property owned does not exceed the “normative”. The “II level” of property is established when the actual value of the property owned does not exceed the 1,5 x “normative”.³²

When the applicant’s income and property exceed the limits established by the Government, he can request an additional assessment of his situation.³³ For the additional assessment, the applicant has to submit documents and information supporting the request. During the assessment of the personal situation, the applicant's living and financial situation, opportunities for effective self-representation, legal aid costs, the complexity of the case, the

²⁶ Ibid. 8, Article 11 (2).

²⁷ Ibid. 8, Articles 14(5), 14(6), 14(7).

²⁸ Ibid. 8, Articles 14(5), 14(8).

²⁹ SSI - State-Supported income, from 01/01/2023 – 157 Eur.

³⁰ Government Resolution 27/04/2005 No. 468 Regarding determination of personal (family) property and personal income levels for receiving secondary legal aid, Article 1.

³¹ Ibid, Article 2.

³² Ibid. 8, Article 14(5); Ibid. 30, Article 1.

³³ Ibid. 8, Article 11(11).

applicant's procedural position, and the influence of the negative outcome on the applicant are taken into account. SGLAS makes an assessment decision by the rules established by the order of the Minister of Justice.³⁴

There are a group of vulnerable people to whom secondary legal aid is provided regardless of the income they have and the property they own.³⁵ Such people are:

- suspects, accused or sentenced in criminal proceedings when the presence of a defense lawyer is mandatory;
- victims of terrorist acts, human trafficking, domestic violence, violations of human sexual integrity and inviolability, crimes committed by organized groups, as well as when the crime was aimed at expressing hatred towards the victim due to age, gender, sexual orientation, disability, race, nationality, language, origin, social status, faith, beliefs or views;
- other victims of crime for recovering the damages only;
- persons receiving social allowances;
- persons maintained in stationary care institutions;
- persons who have a severe disability or incapacity for work or require special care;
- persons who have restrictions to use their property and funds;
- persons suffering from serious mental disorders and persons who require forced hospitalization;
- debtors in execution proceedings, when a recovery is levied against the last housing;
- parents of a minor child, on the issue of the child's eviction;
- minors defending their rights and interests without their parents or guardians;
- minors - victims of crime;
- persons who are requested to be recognized as legally incapable;
- persons whose birth can be registered only upon the decision of the court;
- persons in child abduction cases;
- child's parents, when the court decides on the issues of restriction of parental rights;
- adoptive parents, guardians, or carers, when the court is deciding on issues of adoption, permanent custody, or care;
- whistle-blowers or their family members in cases where the issue of protecting their interests is considered;
- persons whose right to legal aid is defined by international treaties.

The presence of the defense lawyer is mandatory³⁶:

- when a suspect or accused is minor;
- when a suspect or accused has a physical or mental disability;
- when a suspect or accused does not know the Lithuanian language;
- when interests of suspects or accused in the same proceeding are in conflict and one of them has a lawyer;
- when a suspect or accused might be sentenced to imprisonment for life;
- when a suspect, accused, or sentenced does not participate in the proceeding in person;
- when the suspect or accused is arrested;
- in case of extradition;

³⁴ Description of the procedure for making decisions on the provision of legal aid guaranteed by a secondary state, after assessing the individual situation of the applicant, approved by the Order of the Minister of Justice, 16/07/2020 No. 1R-220.

³⁵ Ibid. 8, Article 12.

³⁶ Ibid. 25, Article 51.

- in the court “summary” process;
- in the appeal proceedings;
- In other proceedings when justice requires (a decision is at the judge’s discretion):
 - The criminal case is *difficult*;
 - The criminal case is *a large-scale*;
 - A person *servicing a sentence* in jail;
 - A person is *low educated*;

Merit test

In addition to the means requirements, the requirements for merit tests have to be fulfilled as well. The secondary legal aid is not provided when³⁷:

- 1) the claim is manifestly unfounded (Does not apply in the cases of administrative offenses when a person who is held administratively liable requests legal aid, and in criminal cases, except requests for renewal of the process when the statute of limitations has expired);
- 2) The representation has no reasonable prospects of success (Does not apply in the cases of administrative offenses when a person who is held administratively liable requests legal aid, and in criminal cases, except requests for renewal of the process when the statute of limitations has expired);
- 3) the claim is for the protection of honor and dignity without material damage (Does not apply in the cases of administrative offenses when a person who is held administratively liable requests legal aid, and in criminal cases, except requests for renewal of the process when the statute of limitations has expired);
- 4) the claim is in direct relation to the applicant’s commercial activity or self-employment (Does not apply in the cases of administrative offenses when a person who is held administratively liable requests legal aid, and in criminal cases, except requests for renewal of the process when the statute of limitations has expired);
- 5) the applicant can receive the necessary legal services without addressing state-funded legal aid;
- 6) the applicant seeks to protect somebody’s else rights (exception is for legal representation);
- 7) the claim has been transferred to the applicant by another person to fulfill the requirements for state-funded legal aid;
- 8) the applicant abuses the right to state-funded legal aid;
- 9) the applicant refuses to cover 50 percent, 70 percent, or 85 percent of the costs of the state-funded legal aid when this is required after an assessment of the applicant’s wealth;
- 10) the costs of legal aid would exceed the amount of the applicant’s pecuniary claims (pecuniary interests) (Does not apply in the cases of administrative offenses when a person who is held administratively liable requests legal aid, and in criminal cases, except requests for renewal of the process when the statute of limitations has expired);
- 11) the applicant has not paid the costs of secondary legal aid received in another case (Does not apply in criminal cases);
- 12) the applicant can represent himself or defend his rights or interests not addressing the state-funded legal aid;
- 13) the applicant did not submit all the necessary documents to the SGLAS;
- 14) the dispute is currently being resolved in mediation or the applicant has not submitted the mediation settlement agreement to the court for approval;
- 15) the applicant needs legal aid in a bankruptcy case.

³⁷ Ibid. 8, Article 11 (7).

The meaning of “claim is manifestly unfounded” or “representation has no reasonable prospects of success” is not defined in the Law. The meaning is clarified by the courts. The SGLAS can refuse to provide legal aid when without any doubt the claim in court does not have any chance of success. For example, the courts have already made a final decision on the matter.

When SGLAS refused to provide legal aid according to points 3, 4, 5, 11, 14, and 15, the applicant can request an additional assessment of his situation. SGLAS makes an assessment decision by the rules established by the order of the Minister of Justice.³⁸

Caseload

Types of legal aid, the field of law	In 2021			In 2022		
	Number of applications/ requests	Number of grants	% of the population eligible for legal aid	Number of applications/ requests	Number of grants	% of the population eligible for legal aid
Primary legal aid	42238	42238	100%	41226	41226	100%
Civil law		16898			15757	
Family law		11138			11893	
Mediation		3069			3581	
Administrative law		2619			2316	
Labor law		1914			1575	
Criminal law		2205			2281	
Other		4395			3823	
Secondary legal aid	30165	28184	Not available	31413	30299	Not available
Civil cases		7970			9496	
Criminal cases (decisions of SGLAS)		1195			1342	
Criminal cases (decisions of courts or pre-trial investigation institutions)		18421			18972	
Administrative cases		372			302	
Process of execution		159			138	
Transnational cases		67			43	
Constitutional cases		0			2	

³⁸ Description of the procedure for making decisions on the provision of legal aid guaranteed by a secondary state, after assessing the individual situation of the applicant, approved by the Order of the Minister of Justice, 16/07/2020 No. 1R-220.

V. Quality Assurance

Primary legal aid

The responsibility to provide quality legal aid is on the director of the municipality administration.³⁹

Activities of jurists – the staff of the municipality, are supervised by the head of the Law department and the director of municipal administration. When legal aid is provided by lawyers or public entities on basis of a contract, the municipality administration controls the provision of legal aid, analyses complaints, and resolves disputes between legal aid providers and beneficiaries.

Activities of the municipalities are coordinated by SGLAS and monitored by the Ministry of Justice and the Legal Aid Coordination Council. SGLAS provides methodical assistance to the municipal administrations, analyses their annual reports, generalizes them, and presents the results to the Ministry of Justice. The form and content of the report are defined by the order of the Minister of Justice. Also, SGLAS writes recommendations to the municipal institutions on how to improve the organization and provision of primary legal aid.⁴⁰

Secondary legal aid

For the provision of secondary legal aid, SGLAS concludes services' agreements with lawyers to provide secondary legal aid constantly, in a case of necessity, or on an *ad hoc* basis.⁴¹

The agreement specifies the duty of the lawyers to provide secondary legal aid; the conditions of and procedure for fulfilling the duty; the model requirements for professional activities of lawyers in criminal matters and civil/administrative matters; the right of the SGLAS to terminate the agreement in the event of nonfeasance or misfeasance of a lawyer concerning the provision of secondary legal aid; as well as the fields of law in which the lawyer undertakes to provide secondary legal aid (specialization) and other conditions.⁴²

Lists of lawyers providing secondary legal aid continuously or in a case of necessity are publicly available on the website.⁴³ The legal aid beneficiary can choose a lawyer he likes.⁴⁴

The requirements for the lawyers to become legal aid providers are defined by the order of the Minister of Justice upon agreement with the BAR.⁴⁵ The following selection criteria have to be fulfilled by the lawyer to be included in the list of legal aid providers:

- The lawyer has to be a BAR member.
- During the last 5 years his contract with SGLAS has not been terminated for non-fulfillment of the contractual obligations.
- The lawyer does not have valid disciplinary sanctions.

³⁹ Ibid. 8, Article 8.

⁴⁰ Ibid. 8, Articles 7 (2) and 9 (3).

⁴¹ Ibid. 8, Article 17.

⁴² Order of the Minister of Justice 17/06/2020 No. 1R-169.

⁴³ <https://vgtpt.lrv.lt/lt/prokurorams-tyrejams-ir-teismams/advokatu-mediatoriu-ir-psichologu-sarasai-1>

⁴⁴ Ibid. 8, Articles 18 (5) and 18 (6).

⁴⁵ The provisions of the competition for lawyers who continuously provide secondary legal aid, approved by the order of the Minister of Justice 17/06/2020 No. 1R-169, Article 3; Description of the procedure for concluding contracts with lawyers providing secondary legal aid in case of necessity, approved by the order of the Minister of Justice 17/06/2020 No. 1R-169, Articles 2 and 3.

The lawyers who want to provide legal aid constantly have to fulfill an additional requirement. They have to pass a special selection exam.⁴⁶ The examination commission of 5 persons is formed by the order of the Minister of Justice.⁴⁷ During the selection procedure, the lawyer's ability to provide secondary legal aid and his advantages are evaluated.

Unlike lawyers providing legal aid continuously or in case of necessity, there is no requirement for lawyers providing legal aid on an *ad hoc* basis to have no valid disciplinary sanctions.⁴⁸

While performing their duties the lawyers have to comply with the requirements defined in the laws on the activities of lawyers (Law of the BAR, The Statute of the BAR, Code of Lawyers' ethics, etc.); have to adhere to the principles of freedom of activities, independence and other; have to comply with the model requirements approved by the order of the Minister of Justice; have to preserve the confidentiality of the information obtained; have to cover damages caused by the unlawful acts or malpractice; have to enhance his qualification and develop professional skills regularly.⁴⁹

The Council of the BAR has approved the order for evaluation and enhancement of the quality of all lawyers and assistants of the lawyer.⁵⁰ The order foresees that the lawyer who is practicing as a lawyer not more than 5 years has to collect 8 points each year and the lawyer who is practicing as a lawyer for more than 5 years has to collect 4 points each year, whereas, the lawyer's assistance has to collect 16 points each year. The points do not have to be collected by the lawyers who lecture in the field of law at a high school; are members of the BAR's self-governmental structures; work on Law projects, if commissioned by the BAR; and lecture in seminars organized by the BAR at least twice per year.

The points can be collected for participation in seminars, conferences, discussions, round table discussions, or other events in various fields of law (as participant or speaker); for writing articles in media, monographs, textbooks for students, and other publications in various law field; for organizing the events of the BAR; for *Pro Bono* practice; for other activities approved by the BAR Council. Activities have a different number of points.⁵¹

Supervision of legal aid providers is carried out by:

- SGLAS resolves beneficiaries' complaints regarding the actions of legal aid providers. It assesses whether the lawyer did not breach the agreement on the provision of secondary legal aid.
- Lithuanian BAR resolves beneficiaries' complaints regarding the quality of legal aid. It verifies whether the client was provided with quality secondary legal aid.

According to the agreements with the lawyers providing secondary legal aid the SGLAS performing supervision of activities of lawyers has the right:

⁴⁶ Ibid.

⁴⁷ Ibid, Article 16.

⁴⁸ Description of the procedure for concluding contracts with lawyers providing secondary legal aid on an *ad hock* basis, approved by the order of the Minister of Justice 17/06/2020 No. 1R-169, Articles 2 and 3.

⁴⁹ Model contract for the continuous provision of secondary legal aid, Model contract for the provision of secondary legal aid in case of necessity, and Model contract for the provision of secondary legal aid on an *ad hock* basis, approved by the order of the Minister of Justice 17/06/2020 No. 1R-169.

⁵⁰ Description of the enhancement of the qualification and evaluation procedure for lawyers and lawyer's assistants, approved by the decision of the Lithuanian Bar Council of Lawyers on 1/07/2020.

⁵¹ Ibid.

- to check out whether the lawyer continuously providing legal aid does not provide legal services to people who are not legal aid beneficiaries;
- to check out whether the legal aid lawyer does not get additional remuneration from the legal aid beneficiary;
- to verify the lawyer’s data about provided legal aid;
- to handle the legal aid beneficiaries’ complaints regarding the activities of the legal aid lawyer, to request the lawyer to provide clarification regarding circumstances detailed in the complaint, to request the lawyer to provide other information needed for handling the complaint;
- to change the lawyer in case of malpractice or disagreement with a client and transfer the complaint to the BAR for consideration;
- to terminate the agreement signed with the lawyer in case of a breach of contractual obligations.

The BAR analyzes the complaints of the legal aid beneficiaries applying the same rules which are applied in resolving the complaints against private lawyers.⁵²

3 bodies of the BAR are involved in the disciplinary proceeding: (i) the BAR Council, (ii) the Disciplinary Committee, and (iii) the Court of Honour of the BAR.

The Disciplinary Committee receives and analyses a complaint (or other information) against lawyers’ actions and submits a conclusion to the BAR Council. The BAR Council decides on the initiation of the disciplinary proceeding. When the BAR Council decides to initiate a disciplinary proceeding, it refers the disciplinary case to the Court of Honour. The disciplinary proceeding also can be initiated by the Minister of Justice. In such a case, the Lithuanian Bar, upon receiving the minister's order, forwards it to the Court of Honor for examination.⁵³

The Court of Honour analyzes the case and makes one of the following decisions:⁵⁴

- to terminate a disciplinary action because there are no grounds for liability or because of the statute of limitation;
- to close the case without imposing the disciplinary penalty;
- to prohibit temporarily the lawyer’s activity;
- to impose one of the following disciplinary penalties:
 - Remark
 - Reprimand
 - Public reprimand
 - To recommend the BAR Council to revoke a lawyer's license to practice law.

In addition to that, the legal aid beneficiary can submit to the SGLAS an anonymous opinion about the quality of legal aid. All legal aid beneficiaries are informed about Client Satisfaction questionnaires available online.⁵⁵

⁵² Description of the procedure for examining lawyers' disciplinary cases, approved by the decision of the General Meeting of Lawyers of the Lithuanian Bar on 15/04/2016.

⁵³ Lithuania, Seimas (2004), Law of the Bar (Lietuvos Respublikos advokatūros įstatymas), No. IX-2066, 18 March 2004, last amendment No. XIV-1360, 30 July 2022, Article 52 (2).

⁵⁴ Ibid., Article 53.

⁵⁵ <https://vgtpt.lrv.lt/lt/ivertinkite-suteiktas-paslaugas/advokatu>, <https://vgtpt.lrv.lt/lt/ivertinkite-suteiktas-paslaugas/tarnybos>

VI. Public Legal Education

Initiatives in 2021 and 2022 to increase public awareness about the availability of State-funded legal aid:

- Meetings with NGOs that represent particular groups of vulnerable people (sentenced and released persons, victims of crime, and others);
- Awareness-raising articles in the newspapers and the internet;
- Awareness-raising releases on Facebook;
- Information on the SGLAS webpage <https://vgtpt.lrv.lt/> and webpages of municipalities;
- Video training materials on various legal aid issues with sign language (on mediation, primary legal aid, secondary legal aid, eligibility criteria, and others);
- Awareness-raising information on TV and radio broadcasts;
- Consultation of people by phone, email, and face-to-face;
- Information on various awareness rising boards;
- Distribution of leaflets, and booklets;
- Meetings with people in various public places (courts, Cultural Centers, Community Centers, etc.)
- The video about mediation was shown on public transport screens in the 10 largest Lithuanian cities.
- The IT system TEISIS allows individuals to submit requests for legal aid online, choose a lawyer, receive a legal aid decision, and monitor the process of providing legal aid from the moment of application to its completion. The system provides general information about the conditions and procedures for providing legal aid, as well as answers to the most frequently asked questions. The IT system TEISIS continues to be developed. In the future, the system will provide answers to the most common legal questions for all people.⁵⁶

VII. Alternative Sources of legal services

Several universities have Legal Clinics which provide free legal consultations live and online.

The Law Clinic of Vytautas Magnus University⁵⁷ provides free legal consultations to small and medium-sized businesses, non-profit organizations, and citizens.

The Law Clinic of Vilnius University⁵⁸ provides free legal consultations to the residents of Lithuania. Consultants at the clinics provide guidance on downtime, vacation, termination of employment contracts, personal financial liability with banks or credit institutions, and sick leave certificates for those individuals taking care of children or relatives and others.

Various trade unions provide consultations to their members on various labor issues as well as defend their rights against the employer.

However, it is difficult to say how much legal aid they provide, as they do not provide comprehensive statistics.

⁵⁶ <https://teisis.lt/external/home/main>

⁵⁷ <https://teisesklinika.vdu.lt/>

⁵⁸ <https://teisesklinika.lt/>

VIII. Holistic legal services

*The Law on Legal Aid*⁵⁹ foresees the involvement of the psychologist in the questioning of minors. Article 13 foresees that a psychologist must be invited to help question the minor who is under the age of 14, who are victims of offense against human life, health and freedom, sexual self-determination and integrity, the child and the family, commercial sexual exploitation of a minor, encouragement of a minor to provide sexual services as well as in other cases where the process participants request or a pre-trial investigation officer, prosecutor or pre-trial investigation judge decides that it is necessary. Whereas for the minor with special needs, mentally disturbed after a criminal act, etc., the recommends inviting a psychologist in other types of cases to avoid repeated trauma during legal procedures (Article 14).

Other laws foresee the cooperation of non-lawyers with legal services providers.

*The Law on Social Services*⁶⁰ foresees assistance of the social worker to the vulnerable person in various fields including cooperation with legal aid providers.

*Law on the Assistance of Victims of Crime*⁶¹ seeks to ensure that natural persons who have suffered from a crime receive assistance before the criminal proceeding, during and after it, and in cases where criminal proceedings are not initiated. According to this law, information, consultations, and/or services are provided to the victims of crime, taking into account the individual needs of the victim. The Law foresees cooperation among state institutions and NGOs.

The law defines the duties of the first contact authority. The institution of first contact is the institution to which the victim of a crime or his legal representative applies first: pre-trial investigation institution, prosecutor's office (prosecutor) or court, General Assistance Center, municipal administration, social service institution, any educational or health care institution, or the State Children's rights protection and adoption service.

*Law on Protection against Domestic Violence*⁶² foresees cooperation among state institutions and NGOs in the provision of specialized complex assistance to persons in a dangerous environment and persons who have experienced domestic violence.

IX. UN SDG Standard 16.3

Policy developments

*The Program of the 18th Government of the Republic of Lithuania*⁶³ identifies the goals that the Government of Lithuania is pursuing during its period of governance (2020-2024). The Program states, that

⁵⁹ Ibid. 8.

⁶⁰ Lithuania, Seimas (2006), Law on Social Services (*Lietuvos Respublikos socialinių paslaugų įstatymas*), No. X-493, last amendment No. XIV-952, 17 March 2022.

⁶¹ Lithuania, Seimas (2021), Law on the assistance of victims of crime (*Lietuvos Respublikos pagalbos nuo nusikalstamos veikos nukentėjusiems asmenims įstatymas*), No. XIV-169, 14 January 2021.

⁶² Lithuania, Seimas (2011), Law on protection against domestic violence (*Lietuvos Respublikos apsaugos nuo smurto artimoje aplinkoje įstatymas*), No. XI-1425, 26 May 2011, last amendment No. XIV-934, 15 March 2022.

⁶³ Lithuania, Seimas (2020), Decision on the Program of the 18th Government of the Republic of Lithuania (*Nutarimas dėl Aštuonioliktos Lietuvos Respublikos Vyriausybės programos*), No. XIV-72, 11 December 2020.

the government seeks to eliminate any discrimination and ensure equal opportunities for all social groups. It is committed to promoting zero tolerance for any violence, to establishing measures to ensure gender equality between women and men.

*2021-2030 National Progress Plan*⁶⁴ establishes that when implementing the Plan and preparing national development programs, it is mandatory to consider the needs of the disabled, women and men, different age groups, national minorities, and other groups that may experience discrimination, and provide measures and indicators that implement the principle of equal opportunities.

*2022-2023 Action plan for the prevention of domestic violence and the provision of assistance to victims*⁶⁵ establishes the measures for the year 2022-2023 aimed at strengthening the assistance to persons affected by domestic violence.

*Public Security Development Program for 2015-2025*⁶⁶ among other goals, aims at creating suitable conditions for the victims to exercise their rights.

Legislative developments

*The Law on Legal Aid*⁶⁷ foresees that primary and secondary legal aid is available on equal terms to all citizens of Lithuania and other EU Member States, to other persons lawfully residing in Lithuania and other EU Member States, and to persons specified in international treaties.⁶⁸

*The Law on Social Services*⁶⁹ foresees assistance of the social worker to the vulnerable person in access to justice.

*Law on the Assistance of Victims of Crime*⁷⁰ foresees assistance of State institutions and NGOs to victims of a crime in access to justice.

*Law on Protection against Domestic Violence*⁷¹ foresees cooperation among state institutions and NGOs in the provision of specialized complex assistance to persons in a dangerous environment and persons who have experienced domestic violence.

64 Lithuania, Government (2020), Resolution on the Approval of the 2021-2030 National Progress Plan (*Nutarimas Dėl 2021–2030 metų Nacionalinio pažangos plano patvirtinimo*), No. 998, 9 September 2020, last amendment No. 797, 29 September 2021.

65 Lithuania, Minister of Social Security and Labour (Socialinės apsaugos ir darbo ministerstra) (2022), Order on the 'On the approval of the 2022-2023 Action plan for the prevention of domestic violence and the provision of assistance to victims (*Įsakymas Dėl smurto artimoje aplinkoje prevencijos ir pagalbos teikimo nukentėjusiems asmenims 2022–2023 metų veiksmų plano patvirtinimo*), No. A1-264, 11 April 2022, last amendment No. A1-111, 2 February 2023.

66 Lithuania, Seimas (2015), Resolution On the approval of the public security development program for 2015-2025 (*Nutarimas Dėl Viešojo saugumo plėtros 2015–2025 metų programos patvirtinimo*), No. XII-1682, 7 May 2015.

67 Ibid. 8.

68 Ibid. 8, Articles 11(1) and 11 (2).

69 Ibid. 60.

70 Ibid. 61.

71 Ibid. 62.

NATIONAL REPORT: TANZANIA



TANZANIA

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1. Country Details

Country

The United Republic of Tanzania is a union country between Tanganyika and Zanzibar, located in Eastern Africa. It is bordered by Kenya and Uganda to the North, Rwanda, Burundi, and the Democratic Republic of Congo to the West, and Zambia, Malawi, and Mozambique to the South. The country's eastern border lies in the Indian Ocean which has a coastline of 1,424 km¹.

Area and Population

Tanzania has a total area of 945,087 square kilometers including 61,000 square kilometers of inland water². The total surface area of Zanzibar is 2,654 square kilometers. Unguja, the larger of the two islands has an area of 1,666 square kilometers, while Pemba has an area of 988 square kilometers.

According to the 2022 national census, Tanzania has a population of 61,741,120 (21,544,623 Urban dwellers and 40,196,497 Rural dwellers).³ Male 30,053,130 (10,333,679 Urban dwellers and 19,719,451 Rural dwellers. Female 31,687,990 (11,210,944 Urban dwellers and 20,477,046 Rural Dwellers⁴.

Climate

Tanzania has a tropical-type of climate and is divided into four main climatic zones notably; the hot humid coastal plain; the semi-arid zone of the central plateau; the high-moist lake regions; and the temperate highland areas⁵.

In the highlands, temperatures range between 10°C and 20°C during cold and hot seasons respectively⁶. The rest of the country has temperatures usually not falling lower than 20°C. The hottest period spreads between November and February (25°C - 31°C) whereas the coldest period is often between May and August (15°C - 20°C)⁷.

Culture

Tanzania has been described as one of the most diverse countries in Africa and this is reflected in the fact that there are more than 120 local languages spoken in the country⁸. Swahili is the national language that is widely spoken while English is the official language of education; administration and business.

Economy

Tanzania is a developing country and its economy depends heavily on agriculture. According to the World Bank (WB), the value of Tanzania's GDP at current prices reached USD 75.5 billion in 2022⁹. Tanzania's GDP has maintained its growth momentum, expanding by +4.6% in 2022, up from +4.3% in 2021. Similarly, according to the IMF, the real GDP growth of Tanzania in 2022 was +4.7%¹⁰.

¹ <https://www.foreign.go.tz/tanzania/category/country>

profile#:~:text=The%20United%20Republic%20of%20Tanzania,a%20coastline%20of%201%2C424%20km/.

² <https://www.foreign.go.tz/tanzania/category/country-profile>.

³ <https://www.nbs.go.tz/index.php/en/>.

⁴ <https://sensa.nbs.go.tz/>.

⁵ <https://www.yieldgap.org/tanzania>

⁶ <https://www.globalsecurity.org/military/world/tanzania/climate.htm>.

⁷ <https://www.foreign.go.tz/tanzania/tanzania-country-profile>.

⁸ 2 *ibid*

¹⁰ 9 *ibid*.

Poverty line

As of 2022, nearly 26 million people in Tanzania lived in extreme poverty, with the poverty threshold at 1.90 U.S. dollars a day.¹¹ Approximately, in 2022, nearly 100,000 people were pushed into poverty compared to 2021, possibly a remaining effect of the coronavirus (COVID-19) pandemic¹². The headcount was, however, forecast to decrease in the coming years. By 2025, 25.2 million Tanzanians are projected to live on a maximum of 1.90 U.S. dollars per day.¹³

Number of Legal Practitioners

In Tanzania, Legal Practitioners (Advocates) are under the Tanganyika Law Society (TLS) for Tanzania Mainland and Zanzibar Law Society (ZLS) for Zanzibar. The TLS is governed by the Tanganyika Law Society Act, Cap 307 R.E. 2002. TLS has a total of 8514 Practising Members, and 1007 Non-Practising Members. ZLS is governed by the Societies Act No. 6 of 1995 with registration number 89 in the year 1999¹⁴ and has 500 active members.¹⁵

2. Legal Aid Organisation /Authority

The regulatory and overseeing body for the provision of legal aid in Tanzania is the Ministry of Constitutional and Legal Affairs through the Registrar for Legal Aid Provision as provided under the Legal Aid Act, No. 1 of 2017(for Tanzania mainland) and under the Zanzibar Legal Aid Act (Act No. 13 of 2018). The two Acts provide the conditions for the provision of legal aid services for indigents.

In practice, any organizations or institutions claiming to provide legal aid services must comply with the two Acts respectively regardless of their registration status as an institution or organization. Organizations or institutions providing legal aid services or participating in legal aid programmes have diverse natures in Tanzania as listed below both private and government-affiliated institutions/departments.

Legal Aid by Legal Aid Providers

The Legal Aid Act, 2017 sets the qualifications of who may be termed as a legal aid provider under section 10 of the Act. Such qualifications are: the legal provider has to be an institution that is registered under the relevant laws and the provision of legal aid is one of its basic functions.¹⁶ The institution must have permanent office and office facilities plus personnel that consists of not less than two advocates, or one advocate and one lawyer, one lawyer and two paralegals, one advocate, and two paralegals, or three paralegals. The Act further provides that, in case the office lacks an advocate, it must be affiliated to another legal aid provider who has an advocate before its registration.¹⁷ This gives a direct impression that legal aid provision has to be offered by registered offices or institutions.¹⁸

¹¹ <https://www.statista.com/statistics/1230404/number-of-people-living-in-extreme-poverty-in-tanzania/>.

¹² <https://www.statista.com/statistics/1230404/number-of-people-living-in-extreme-poverty-in-tanzania/#:~:text=Roughly%20100%2C000%20people%20were%20pushed,1.90%20U.S.%20dollars%20per%20day/>.

¹³ Ibid

¹⁴ <https://www.zls.or.tz/about-us/>.

¹⁵ <https://www.zls.or.tz/about-us/#>.

¹⁶ Under section 10 (3) these requirements are waived in relation to legal aid provided by the Judiciary and the higher learning institutions.

¹⁷ Section 10 (1) and (2) of the Legal Aid Act,

¹⁸ Section 24 of the Legal Aid Act.

Legal Aid by the Higher Learning Institutions

The legal aid initiative in Tanzania started at higher learning institutions. Other reasons are that higher learning institutions have the duty to give back to society through public service, as these institutions are by all means run by the funds obtained from society. Moreover, schools of law and faculties are staffed with well-experienced legal personnel to tackle complicated legal aid cases. Also, higher learning institutions fit into the legal aid provision as they are part of the legal training in the country (legal aid includes training the society on substantive laws and procedures).¹⁹

Legal Aid by the Judiciary

Under the Legal Aid Act, 2017 the practice of legal aid by the Judiciary has been sustained and extended to all criminal cases as well as civil cases. Moreover, the scope of the “certifying authority” has been extended from Judges and Magistrates to the Chairpersons of quasi-judicial bodies. The adjudicators have been charged with an obligation to ensure that, in any civil or criminal matter, any person who appears to be in need of legal aid and he or she has insufficient means to obtain such aid, he or receives legal aid for the interests of justice.²⁰ Under the Advocates Act’ remuneration for taking up legal aid cases as assigned by the Judiciary comes from the Judicial Fund.²¹

Legal Aid by Non-Governmental Organizations (NGOs) and Civil Society Organizations

These are initiatives to complement the government’s efforts in ensuring access to justice is obtained in the country. Most of these legal aid providers are donor funded and interact with the community at the grass root level. Each of them has its mission and vision as well as specially targeted groups most of them are coordinated by the Tanzania Network of Legal Aid Providers (TANLAP). After the enactment of the Legal Aid Act, 2017 and following the legal development brought by the Written Laws (Miscellaneous Amendments) (No.3) Act 2019, all organizations which were not registered in the NGO Act, were required to register under such law and change their status from Civil Society Organizations to Non-Governmental Organizations to continue to provide legal aid services. They are also required by the law to register under the Ministry of Constitutional and Legal Affairs and are regulated by the Registrar for legal aid provision.

Legal Aid by the Paralegals

A paralegal is a non-lawyer, with at least a secondary education or without a secondary education but has served as a paralegal for more than two years,²² who receives legal training to deliver legal assistance at the grass root level of the community.²³ This group of legal aid providers are not allowed to practice law since they do not hold such qualifications nor are they allowed to charge fees for the legal assistance provided to indigent persons.²⁴

¹⁹ Temu Goodluck, “The Place and Role of Higher Learning Institutions in the Provision of Legal Aid in Tanzania” in Zanzibar Year Book of Law, Volume 5, 2011, pages 311,313 and 314

²⁰ Section 27 and 33(10) of the Legal Aid Act.

²¹ Section 33 (3), *ibid.*

²² Section 19 (1) and (3) of the Legal Aid Act.

²³ Mauya Felister, “Improving Access to Justice in Tanzania: The Role of Paralegals,” Zanzibar Year Book of Law, Volume 2, 2012, page 407 citing Ishengoma Angela K., Report on the Legal Reform Process for the Recognition of Paralegals in Tanzania, Dar es Salaam: Friedrich Ebert Stiftung, 2011, page 2.

²⁴ Section 20 (5) & (6) of the Legal Aid Act

Provision of legal aid services by mandated stakeholders

As a LAP, The Tanganyika Law Society (TLS) is the Bar Association of Tanzania Mainland, founded in 1954 by an Act of Parliament – the Tanganyika Law Society Ordinance 1954.²⁵ The Tanganyika Law Society is currently governed by the Tanganyika Law Society Act, Cap 307 R.E. 2002²⁶. The Bar has 68 years of advancing justice and the rule of law in the country. The Bar has 8514 practicing members and 1007 non-practicing members²⁷. Members who are assigned to provide legal aid services to clients are compensated by the Bar in terms of transport fees.

In Zanzibar, Zanzibar Law Society is a non-profit organization registered by the Register of Society as per the Societies Act No 6 of 1995 with registration number 89 in the year 1999 to provide legal aid services to indigents. The Bar has 500 active advocates to provide legal aid services.

In Tanzania Mainland, there are about 435 registered Legal Aid Providers to provide legal aid services to indigents. In Zanzibar, the newly established Legal Aid Department has so far registered more than 117 Legal Aid Providers in both Unguja and Pemba²⁸.

Since the enactment of the Legal Aid Act in 2017, a total of 4790 Paralegals were trained and 1073 registered and licensed to provide legal aid services in mainland Tanzania. Since the enactment of the Zanzibar Legal Aid Act, of 2018, 370 Paralegals trained, and 258 were registered and licensed to provide legal aid services to indigents.²⁹

The provision of legal aid services in Tanzania is a mix of Paralegals and advocates. Paralegals may provide legal aid services in accordance with the Legal Aid Act including (a) carrying out educational programmes in national or local languages on legal issues and procedures of concern to the community; (b) assisting aided person in the procedures to obtain necessary legal documents; (c) guiding an aided person to a proper forum or to access justice; and (d) advising the conflicting parties to seek amicable settlement or referring them to dispute settlement institutions³⁰. Advocates have a duty to provide legal advice to clients, draft legal or court documents, and represent clients in the courts.

The Legal Aid Act (2017) and the Zanzibar Legal Aid Act (2018) stipulate for free provision of legal services to indigents. The compensation for individuals providing legal aid services depends on the area of work. Lawyers, Advocates, and Paralegals are providing legal aid services for free but the majority of them are working under NGOs that have employed them and sometimes are remunerated or compensated for the costs incurred in the provision of legal aid services to clients such as transport costs. The Bar Associations have their own arrangement to compensate Advocates who are assigned to provide legal aid services. Individuals providing legal aid services within government facilities are employees of such government institutions who are paid salaries on a monthly basis.

²⁵ Tanganyika Law Society Ordinance 1954.

²⁶ Tanganyika Law Society Act, Cap 307 R.E. 2002

²⁷ <https://tls.or.tz/>.

²⁸ Legal Aid Database System - LADS

²⁹ The Speech of Hon. Dr. Damas Ndumbaro- Minister of Constitutional and Legal Affairs in Tanzania during the launching of Mama Samia Legal Aid Campaign in Dar es Salaam in February 2023

³⁰ Ibid, Section 20.

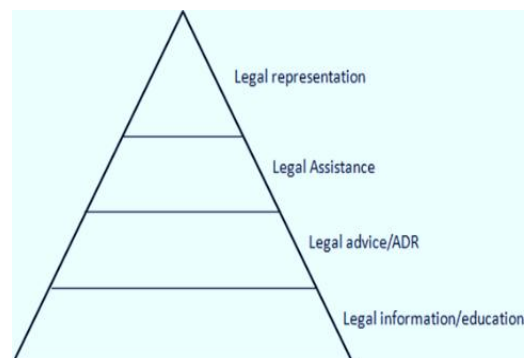
3. Budget and Spend:

In Tanzania legal aid is provided in collaborated efforts, justice stakeholders from different institutions (state and non-state actors) have been mobilizing resources and allocating budgets within their institutions to provide legal aid. Previously and after the enactment of the Legal Aid Act, 2017 in Tanzania there is no legal framework for legal aid funding. Unlike other Legal Aid Laws from other jurisdictions, Tanzanian law does not establish a legal aid fund for legal aid. In practice, funding for legal aid services is from Government institutions, Local and International development partners.

The development partners fund projects relating to access justice through legal aid services include but not limited to UKAID, United States Agency for International Development, European Union, Terre des Hommes, Stephen Lewis Foundations, Swedish International Development Cooperation Agency, Canadian International Development Agency, Danish International Development Agency through LSF, Department for International Development, GIZ, World Bank, Embassy of Ireland, Ford Foundation, Well Spring Foundation, African Women Development Fund. Others include PACT Tanzania, Action Aid Tanzania, and World Vision, just to mention a few. Most of the financial support given to LAPs is not for legal aid services only but for the programs including but not limited to gender equality, good governance, and election monitoring and observation.

4. Scope, Caseload, and Eligibility:

In Tanzania, the Legal Aid Act has adopted the pyramid principle by identifying legal aid priorities and activities. Section 3 of the Act defines legal aid services. Accordingly, “legal aid services” Include the provision of legal education and information, legal advice, assistance or legal representation to indigent persons³¹.



In regard to the principle of non-discrimination, the Legal Aid Act has specific provisions that prohibit and create offences for acts that constitute discrimination. Section 44 of the Act provides as follows:

(1) Subject to the provisions of this Act, no legal aid provider, advocate, lawyer or paralegal shall provide legal aid on the basis of discriminating aided person on his gender, religion, race, tribe or political affiliation.

(2) A person who contravenes subsection (1) commits an offence and shall, on conviction be liable to a fine of not less than five million shillings but not more than ten million shillings or to imprisonment for a term not less than six months but not more that twelve months or both.

The Act further grants power to the Registrar to cancel the certificate of registration of the service provider who is believed to do acts constituting discrimination. S. 16 (3) (f) of the Act provides as follows:

³¹ Section 3 of the Legal Aid Act (2017).

16(3)(f) the registrar may cancel the certificate of registration of a legal aid provider if he is satisfied that a legal aid provider has discriminated aided person in terms of gender, religion, race tribe or political affiliation.

The Legal Aid Act has expanded the scope of the provision of legal aid to cover all cases of indigent persons (both civil³² and criminal³³ cases). With the enactment of the Legal Aid Act, the scope of provisions of legal aid to the accused persons has comparatively expanded, as compared to the time before the advent of this law. In particular, legal aid to an accused person in a criminal case may now be provided by:

- (i) an application by the accused person for legal aid to any registered legal aid provide;³⁴ or
- (ii) the court where the presiding magistrate or judge is of the view that the accused person is indigent or it is in the interest of justice for him to be granted legal aid³⁵.

Additionally, where an accused person is in police custody or in a prison facility, the Police Force or Prison Service, as the case may be, is obliged to ensure that such person receives legal aid. In terms of Section 36 (1) of the Legal Aid Act, the two law enforcement institutions are obliged to ‘designate a mechanism for facilitating the provision of legal aid services by legal aid providers³⁶ to the accused or convicted persons in custody in the manner to be prescribed in the Regulations.’³⁷

Moreover, under Section 35, the Legal Act extends the provision of legal aid to children in conflict with the law. In particular, this provision obliges a person with the duty of supervising the welfare of the child, to cause a child who comes into conflict with the law to obtain legal aid “immediately” after such person comes into contact with such child. This provision is constantly progressive and reflects the international law guarantees to which a child in conflict with the law is entitled when he or she comes into conflict with the law³⁸.

In terms of the individual who received legal aid and legal education in Tanzania, available statistics indicate that between July 2021 and March 2022 improvements in access to justice in the country, particularly through enhanced availability of legal aid services, have benefitted 1,455,566 people (529,079 women, 514,051 men and 412,436 children) all of whom received these vital services directly. This is an increase of 1,133,124 people which is 351 percent compared to 322,442 people who accessed legal aid services between July 2020 and March 2021.³⁹ On legal education around 7,007,641 (Male 3,188,020 and female 3,819,621) benefitted from legal education from 2021 and 2022.⁴⁰

³² Sections 27-32 Legal Aid Act, No. 1 of 2017.

³³ Sections 33-36 Legal Aid Act, No. 1 of 2017.

³⁴ Sections 21-26 of Legal Aid Act, No. 1 of 2017

³⁵ Ibid sections 33-36 of Legal Aid Act, No. 1 of 2017.

³⁶ Of late, the two law enforcement agencies have trained paralegals, who are also police and prison officers, so that can provide legal aid to accused persons who come into contact with these agencies.

³⁷ In terms of Section 36(2), the Regulations envisaged in subsection (1) of Section 36(1) are to be made in consultation with the minister responsible for home affairs

³⁸ See particularly Article 17 of the African Charter in the Rights and Welfare of the Child (ACRWC); and Article 40 of the UN Convention on the Rights of the Child (CRC).

³⁹ Speech of Hon. Damas Ndumbaro- Minister of Constitutional and Legal Affairs during Parliamentary session in Dodoma, May 2023.

⁴⁰ Ibid 41.

5. Quality Assurance:

In Tanzania, the Legal Aid Act has established a number of offices for purposes of quality assurance and to provide support services to legal aid providers while they effectively engage in the provision of legal aid services. Such structures include,

National Legal Aid Advisory Board.

The National Legal Aid Advisory Board is established under Section 4 of the Legal Aid Act.⁴¹ Its main functions are to provide policy guidance to legal aid providers, to advise the Minister responsible for justice on policy and other matters relevant to the provision of legal aid in the country, to approve the annual reports of legal aid providers, to determine appeals from the decisions of the Registrar of Legal Aid, and to perform any other function as may be directed by the Minister responsible for justice.⁴²

The Registrar of Legal Aid

The Legal Aid Act has established the office of the Registrar of Legal Aid,⁴³ which is responsible for legal aid matters in the Ministry responsible for legal affairs.⁴⁴ The main functions for the Registrar of Legal Aid are, inter alia, to register legal aid providers;⁴⁵ to investigate complaints of malpractice, negligence, misconduct or disobedience amongst legal aid providers;⁴⁶ to suspend or cancel registration of legal aid providers;⁴⁷ to keep and maintain the Register of Legal Aid Providers;⁴⁸ and to inspect any legal aid provider's office with the view of satisfying himself on the type and quality of the legal aid services offered.⁴⁹

Other functions of the Registrar are to take appropriate measures for promoting legal literacy and legal awareness among the public and, in particular, to educate vulnerable sections of the society about their rights and duties under the Constitution and other laws;⁵⁰ to coordinate and facilitate the formulation and accreditation of the curriculum for the training of paralegals in the consultation with legal aid providers, education and training accreditation bodies;⁵¹ and coordinate, monitor and evaluate the functions of legal aid providers and give general and specific directions for the proper implementation of legal aid programmes.⁵²

In addition to the foregoing structures, the Legal Aid Act vests power in the Permanent Secretary, in the Ministry responsible for legal affairs, to designate public officers at the Regional and District levels for the purposes of registration of legal aid providers at these levels. As of now, Assistant Registrars of Legal Aid have been designated and fully functional in their respective areas of jurisdiction.

By establishing such structures and offices, the Legal Aid Act has ensured that there are effective administrative infrastructures put in place to provide support services to legal aid providers while they

⁴¹ Ibid Section 4

⁴² Section 5(1)(a)-(e)

⁴³ Ibid Section 6(1)

⁴⁴ Ibid Section 6(2)

⁴⁵ Ibid Section 7(1)(a)

⁴⁶ Ibid Section 7(1)(b).

⁴⁷ Ibid, Section 7(1)(c).

⁴⁸ Ibid, Section 7(1)(d).

⁴⁹ Ibid, Section 7(1)(e).

⁵⁰ Ibid, Section 7(1)(f).

⁵¹ Ibid, Section 7(1)(g).

⁵² Ibid, Section 7(1)(h).

effectively engage in the provision of legal aid services. This means that now legal aid providers at all levels of government functioning and in all parts of the country are provided with such support services as registration, coordination, training, and monitoring, which ensure that their legal aid provision functions are discharged effectively and without any unnecessary administrative bottlenecks.

In Tanzania, anybody wishing to provide legal aid services must comply with the Legal Aid Act. This is a mandatory requirement obliging the Registrar of Legal Aid to make available Register for Legal Aid Providers to any interested or prospective legal aid providers and paralegals.⁵³ Unlike before, the enactment of this law is now for an entity to be registered as a legal aid provider or as a paralegal, as the case may be, such entity or paralegals must possess prerequisite qualifications.⁵⁴

6. Public Legal Education:

The law provides for public legal education and the responsibility to provide it is vested to the registrar of legal aid service under the Ministry of Constitutional and Legal Affairs who collaborates with all justice stakeholders to make sure that public legal education is provided in the country. For example, in February (Dar es Salaam) and in April 2023 (Dodoma), the Tanzania government in collaboration with justice stakeholders launched the campaign known as Mama Samia Legal Aid Campaign which will be implemented across the country for three years. This campaign's strategic output focuses on providing human rights education, fighting gender-based violence, resolving conflicts through alternative dispute resolution mechanisms, and building the capacities of both people and institutions engaged in the provision of legal aid services.

The campaign will also probe how these services can be sustainably available by establishing a special legal aid fund into which the government and other partners will direct financial resources to facilitate the nationwide provision of the services.

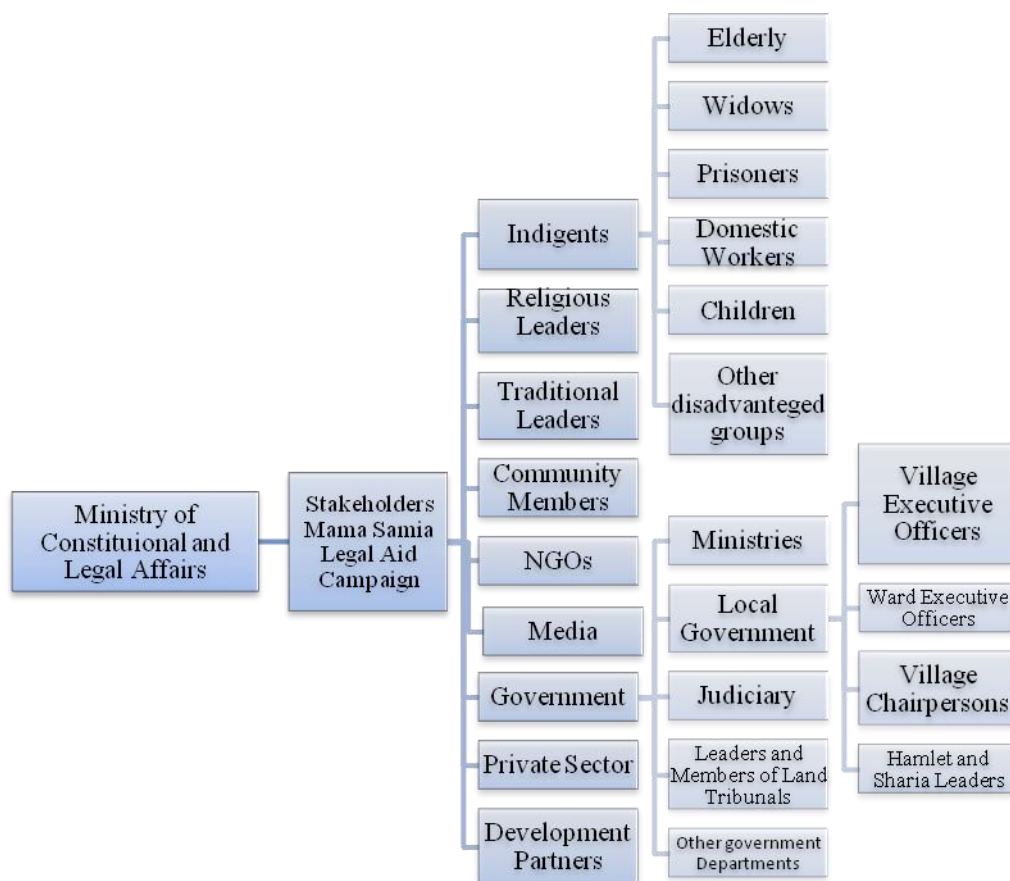
It has been named after the efforts of President Samia Suluhu Hassan to focus on human rights, the rule of law, obedience to the law, and constitutional as well as legal education for the public.

The campaign was officially launched by Hon. Kassim Majaliwa Majaliwa- Prime Minister of the United Republic of Tanzania and will be coordinated by the Ministry of Constitutional and Legal Affairs (MoCLA) in collaboration with Legal Aid Providers and Paralegals. The slogan of the campaign is "Unite with Mama Samia to oppose cruelty, respect the dignity of your fellow, and protect your neighbour's child; let's build a country with dignity, honor, and peace"⁵⁵. The campaign aimed to reach a number of stakeholders for three years including but not limited to stakeholders identified below.

⁵³ Ibid, Section 19(4).

⁵⁴ Whereas the conditions precedents for an entity to qualify as a legal providers are set out in Section 10 of the Legal Aid Act, the preconditions for registration as paralegal are set out in 19 thereof.

⁵⁵ <https://dailynews.co.tz/samia-legal-aid-campaign-implementation-soon/>.



The Mama Samia Legal Aid Campaign is expected to cost a total of TZS 52,651,589,000.⁵⁶ The proposed budget will cover main four areas which are training and meetings, building partnership and community mobilization, awareness and public legal education, and coordination, monitoring and evaluation⁵⁷ as summarized below.

⁵⁶ See page 30 of the Booklet- Jamhuri ya Muungano wa Tanzania- Wizara ya Katiba na Sheria (Mama Samia Legal aid Campaign 2023-2-25) Dodoma, February 2023.

⁵⁷ Ibid 56

MAMA SAMIA LEGAL AID CAMPAIGN STRATEGIC AREAS
AND ESTIMATED BUDGET (2023-2025)

TZS 52,651,589,000



Before the enactment of the Legal Aid Act, the Legal Aid Secretariat was given the power to promote legal literacy and legal awareness by conducting National Legal Aid Week.⁵⁸ After the enactment of the Act, the power to create literacy and legal awareness is left with the Registrar of legal aid providers and he is required to take appropriate measures for promoting legal literacy and legal awareness among the public and, in particular, educate vulnerable sections of the society on their rights and duties under the Constitution and legal obligations. In this regard, the Office of the Registrar in collaboration with other stakeholders have been conducting legal aid week in different regions every year in order to promote legal literacy and legal awareness among the public and in particular educate vulnerable sections of society about their rights and duties under the Constitution and other laws. For the past five years, Legal Aid Week coordinated around September as a national campaign for legal aid services and public legal education to community members. The campaign is normally organized from the community level to the national level which has been involving national launching and closing events.

Regarding the use of Information and Communication Technology introduced to enhance access for the public, there are a number of initiatives in Tanzania. Non- Governmental Organization like TANLAP through its members has established free mobile numbers for the public to call and receive legal aid or legal education depending on the nature of their issues. Legal Services Facility has also improved the delivery of legal aid services with the introduction of the *Haki Yangu* mobile application which links more than 1,000 paralegals in the trajectories of legal aid provision.⁵⁹

⁵⁸ Legal Aid Secretariat, "Concept Note: Assessing Tanzania's Criminal Legal Aid System and Making Recommendations for Improvements and Reforms" The International Legal Foundation (ILF) New York, 2014 pg.10.

⁵⁹ <https://www.thecitizen.co.tz/tanzania/supplement/lsf-s-milestones-in-promoting-access-to-justice-and-legal-aid-services--4180322/>.

7. Alternative Sources of Legal Aid services:

In Tanzania, the provision of legal aid services is stipulated under the law. No other arrangements as alternative sources of legal aid services. Any institutions or organizations under the law are required to provide legal aid services to indigents. Provision of legal aid without a certificate is a crime punishable under the law. Institutions or organizations permitted to provide legal aid services are in terms of Legal Representation; Legal Assistance, Legal Advice, and Legal Information/Education highlighted below.



Legal aid activities that may be executed by a specific legal aid institution will depend on the law regulating that institution and its constitution. Section 10 reads in part as follows;

“An institution shall not be registered as a legal aid provider unless it has the following qualifications

- (a) it has been registered under the relevant laws
- (b) the provision of legal aid services is one of its core functions”⁶⁰

The Legal Aid Act does not provide an excuse for alternative sources of legal aid services outside the Law and contrary to that is punishable.

8. Holistic legal services:

In Tanzania, legal aid services are provided to the community in various ways which include,

- a. Legal Education which involves raising public awareness of the basic legal concepts including human rights, legal systems, and existing complaints mechanisms i.e. courts system which is provided through media programs and other means of communication.

⁶⁰ This should be read together with section 11(1) which requires an application for registration of a legal aid provider to be accompanied by copy of the constitution of the institution or any other document establishing the institution.

- b. Legal Advice: Include provision of qualified legal opinion and resolution of the small-scale dispute at their emergency. In this stage, legal aid providers intervene the situation by providing necessary information to the clients or intervening in the situation by supporting parties involved in a dispute to settle their differences amicably. Legal advice or counselling involves the provision of information to individuals, groups of people, or communities on various available solutions to their problems.
- c. Legal Assistance: Involves the provision of qualified professional legal services to a person in need of such service. It involves the preparation of the legal documents or initiation of the claims which in the end forms part of the formal legal proceedings. As part of legal assistance, LAPs support their clients by issuing a qualified legal opinion or writing various documents such as demand letters or letters of intent to initiate legal proceedings, drafting legal documents according to the prescription of the laws, i.e. plaint, written statements of defense, rejoinder, written submission etc.
- d. Legal representation: Involves litigating cases in the adjudication forums such as courts of law or established tribunals. Some of the established LAPs provide representation services to their clients with the intention of assisting them in defending their cases before these tribunals. LAPs who provide these services are those with individuals enrolled and practicing as advocates.

In terms of holistic legal aid services in Tanzania, the United Nations Population Fund through its implementing partners and the Ministry of Health, Community Development, Gender, Elderly and Children (MoHCDEC), opened a One Stop Centre (OSC) at Mwananyamala Hospital, Kinondoni District, Dar es Salaam, the twelfth of its kind to be established across the country.⁶¹ The One OSCs are intended to promote a survivor-centered approach to violence against women, creating a supportive environment in which a survivor's rights are prioritized and where she is treated with dignity and respect. At OSCs, healthcare, legal assistance, and psychosocial support services are available under one roof, a result of strengthened collaboration between different service delivery actors at the community and national level.⁶² The National Plan of Action to End Violence against Women and Children (NPA-VAWC) 2017/2018-2021/2022 sees the government commit to cut violence against women and children in half by 2022. UNFPA and its partners are supporting the government in its implementation. Plans are already in place to establish additional OSCs at other locations in Tanzania to reach the target of 26 as set out in the NPA-VAWC.⁶³

9. UN SDG Standard 16.3

Following the adoption of the SDGs by the General Assembly in 2015, Tanzania has mainstreamed the Agenda into National Development Plans as overarching goals, with specific reference to strengthening the governance institutional frameworks, including calling for strong adherence to and respect for the rule of law. The Government of Tanzania (GoT), second Five Year Development Plan (2016-2021), and the Revolutionary Government of Zanzibar-MKUZA III 2016- 2012, in alignment with Tanzania Development Vision 2025 and Zanzibar Vision 2020, prioritize inclusive economic growth whilst promoting social well-being and good governance for all citizens (leaving no one behind).

⁶¹ <https://tanzania.unfpa.org/en/news/one-stop-centres-facilitating-comprehensive-and-ethical-care-survivors-gender-based-violence/>.

⁶² Ibid 62

⁶³ One Stop Centres: Facilitating comprehensive and ethical care for survivors of gender-based violence. 6 March 2019.

To monitor the agenda, the National Bureau of Statistics (NBS) together with the Ministry of Finance and Planning (MoFP), conducted a national baseline and produced a status report in 2017 with a view to domesticating and localizing the SDGs. Specific to SDG 16.3 (promote the rule of law at the national and international levels to ensure equal access to justice for all), the URT has since 2016 undertaken extensive institutional and legal reforms in making justice institutions effective in the delivery of services and in ensuring that justice is accessible to a greater proportion of the population. (SDG 16.3)

Tanzania has made significant strides toward enhancing its justice system. The construction of integrated justice centers, comprising lower and higher courts, state attorneys' offices, and human rights defenders' NGOs, serves as a one-stop centre for citizens seeking legal redress. Furthermore, the judiciary has leveraged digital tools such as virtual court sessions and e-filing systems to increase transparency and improve citizens' access to justice. The judiciary has also increased the number of mobile courts that can reach many people throughout the country. In February 2022, the Chief Justice of Tanzania, Prof. Ibrahim Hamis Juma, stated that 866 cases were heard by mobile courts in 2021.⁶⁴

In a bid to make courts easily accessible, the Interpretation of Laws Act was amended in 2021 to make Kiswahili the language of the law in Tanzania. In April 2022, the Government disclosed that 214 laws had been translated into Swahili in the form of the first draft in the period of July 2021 to March 2022.⁶⁵ Additionally, In April 2022, the Minister of Constitutional and Legal Affairs announced that several Judiciary projects, including the construction of court buildings in various regions, were being implemented. This included the completion of court buildings in Katavi, Lindi, and Dodoma, the ongoing construction of Resident Magistrate Courts in Tabora and Songwe, and District Courts in several districts.⁶⁶ In November 2022, the Chief Justice inaugurated Same and Mwanza District Courts in Kilimanjaro.⁶⁷ There is also been a release of detainees whose cases lack evidence has been prioritized, promoting the protection of fundamental freedoms.⁶⁸

In 2016, the Judiciary designated 130 primary courts as Juvenile Courts which expanded access to justice for children from one functional juvenile court on Tanzania mainland.⁶⁹ The designation of new Juvenile Courts reduces pre-trial periods, enhances the concept of best interests of the child, and is poised to minimize violations of children's rights. The enactment of the Legal Aid Act (2017) and Legal Aid Regulations (2018) has significantly improved access to justice for all including women, children, and other disadvantaged groups under the principle of Leaving No One Behind.

The introduction of mobile courts is one of the interventions proposed in the Judiciary Strategic Plan 2016/2017 to 2020/21 whose initial funding has been secured. Acting in this spirit, on 20th May, 2016 the Government allocated TZS 12.3 billion to the judiciary, solely for renovating court buildings and ensuring the provision of working tools for effective and smooth functioning of the Courts. This will largely impact

⁶⁴ HOTUBA YA JAJI MKUU PROF. IBRAHIM HAMIS JUMA SIKU YA SHERIA NCHINI, DODOMA, TAREHE 2 FEBRUARI, 2022, at <https://media.tanzlii.org/files/speeches/2022-02/HOTUBA%20YA%20MHE.%20JAJI%20MKUU%20PROF.%20IBRAHIM%20HAMISI%20JUMA-%20SIKU%20YA%20SHERIA%20TAREHE%2002.02.2022-.pdf/>.

⁶⁵ HOTUBA YA WAZIRI WA KATIBA NA SHERIA, MHESHIMIWA DKT. DAMAS DANIEL NDUMBARO (MB), WAKATI AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI YA WIZARA KWA MWAKA WA FEDHA 2022/2023, at [https://www.sheria.go.tz/uploads/speeches/docs/sw1652253918HOTUBA%20YA%20BAJETI%20YA%20WIZARA%20YA%20KATIBA%20NA%20SHERIA%20KWA%20MWAKA%20WA%20FEDHA%202022%20-%202023%20\(2\).pdf](https://www.sheria.go.tz/uploads/speeches/docs/sw1652253918HOTUBA%20YA%20BAJETI%20YA%20WIZARA%20YA%20KATIBA%20NA%20SHERIA%20KWA%20MWAKA%20WA%20FEDHA%202022%20-%202023%20(2).pdf)

⁶⁶ Ibid

⁶⁷ "CJ to launch Mwanza, Same district courts" The Guardian Newspaper, 15 Nov 2022.

⁶⁸ RAIS SAMIA AAGIZA UPELELEZI UFANYIKE KABLA YA KUWEKWA MAHABUSU" Michuzi Blog, 30 Aug 2022, at <https://issamichuzi.blogspot.com/2022/08/rais-samia-aagiza-upelelezi-ufanyike.html>.

⁶⁹ <https://www.lrcg.go.tz/uploads/documents/sw-1665650968-LRCT%20STRATEGIC%20PLAN.pdf/>.

positively in terms of keeping up and maintaining a conducive working environment for the dispensation of justice.

10. Other

Most innovative project 2021-2022

At the national level, the most innovative project in 2021 and 2022 was *Mwanamke Imara* (empowered Women) Project to enhance access to justice for marginalized communities. TANLAP and members organizations, which are KWIECO, WiLDAF, and TAWLA have continued to implement the project known as *Mwanamke Imara* project in Mbeya, Njombe, and Kilimanjaro under USAID support. The project innovatively focuses to address violence against women and youth through improving access to justice, amplifying voices in leadership roles, and economic empowerment.

Most disappointing trend in 2021-2022

The most disappointing trend in Tanzania 2021-2022 is the shortage of funds to support legal aid services due to the impact of COVID-19. Due to COVID-19, development partners changed their priorities and focusing supporting projects addressing the health-related impact of COVID-19.

Biggest challenge for 2023

The laws provide for equality before the law. There are, however, some discriminatory laws, such as inheritance and marriage laws, which discriminate against women. The government has frequently spoken out against discrimination against girls and women and has implemented several programs to promote gender equality. Gender-based violence is prevalent.

Something about Covid-19 effects

When the COVID-19 pandemic reached Tanzania in March 2020, the government introduced the same protective measures that were imposed in many other countries. From January 2020 to February 2022, COVID-19 confirmed cases were 32,920 with 778 deaths, reported to WHO.⁷⁰ As of March 2023, 48,848,520 vaccine doses were received, only 39,187,358 were used, and 32,735, 546 individuals received vaccines.⁷¹ Furthermore, from July 2022 to March 2023, the average of COVID-19 cases has been 302 per month without any death compared to the average of 1557 cases and 43 deaths per month in 2021 up to June 2022.

According to data from the Bank of Tanzania, the government's budget was hardly affected by the COVID-19 pandemic. Revenue collection in 2019 and 2020 remained within the set targets. The World Bank estimates that the fiscal deficit narrowed in 2019/20 to 1.4% of GDP due to increased domestic revenue collection and lower expenditures, especially in development spending. However, the COVID-19

⁷⁰ World Health Organization (2019). Considerations in adjusting public health and social measures in the context of COVID-19: Interim guidance. 16 April 2020.

⁷¹ www.moh.go.tz/.

pandemic caused a reduction in domestic revenue in 2020. Thus, the fiscal deficit is expected to widen to 2.6% of GDP in the 2020/21 financial year.⁷²



4th Floor, Sky City Mall, Plot No. 400/1&3, Block A, Mlalakuwa.
P.O. Box 33856, Dar Es Salaam, Tanzania.

Email: tanlaptz@gmail.com

info@tanlap.or.tz

Website: www.tanlap.or.tz



@tanlaptz



TANLAP TZ



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⁷² <https://bti-project.org/en/reports/country-report/TZA/>.

NATIONAL REPORT: THE **NETHERLANDS**

National report ILAG Harvard 2023

The Netherlands

April 2023

Femke van der Lans, Susanne Peters & Jin Ho Verdonschot

Email: onderzoek@rvr.org

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1. Country details

Name, Population, GDP, Poverty line/% of population deemed to be living in poverty, number of practising lawyers in the jurisdiction.

Name: The Netherlands

Population: 17,591,000 inhabitants (2022)¹

GDP: \$1.013 billion, \$57,800 per capita (2021)^{2 3}

Poverty line: The percentage of households living below the poverty line was 6,8 in 2022.⁴

Number of practising lawyers⁵ in the jurisdiction: 18.108 (01-01-2022)⁶

Number of practicing lawyers in legal aid: 6.125 (2022)

¹ Source: <https://cbs.nl>

² Source: <https://data.worldbank.org>

³ Data for 2022 is not yet available (april 2023)

⁴ Source: <https://cbs.nl>

⁵ In The Netherlands, the term "lawyers" can refer to both people studying law, people with a law degree as well as registered lawyers. In this report, we use the term to refer to the latter.

⁶ Source: <https://www.advocatenorde.nl/over-de-nova/publicaties>

2. Legal Aid Organisation / Authority

Name and Status of LAO (Independent, within Government, part of the Bar Association/Law Society, Public Defenders Office etc.). Number of board and staff members?

*Delivery method (salaried, private profession, paralegals, through NGOs etc)
Number of lawyers, advocates and paralegals (separately) participating in the legal aid programme? If mixed please give the division of labour and balance of the mix.
What payment methods are used to recompense private lawyers or other providers in your system (e.g. contract, fixed fee, hourly rate, part pro bono, etc.)?*

Residing under the competence of the Ministry of Justice & Security (J&S), an independent governing body called the Legal Aid Board ('Raad voor Rechtsbijstand', LAB) is entrusted with all matters concerning administration, supervision and expenditure as well as with the actual implementation of the Legal Aid System. This includes matching the availability of legal experts with the demand for legal aid, as well as the supervision and quality control of the actual services provided. Being financed by the Ministry of J&S, the LAB accounts to this ministry for its budgetary allocations. The legal aid system operates according to an open end provision.

The Dutch legal aid system is basically a threefold model. It encompasses three 'tiers' providing legal aid. The legal aid system, therefore, is a mixed model, consisting of a public preliminary provision, public first-tier and private second-tier help.

1. Public preliminary provision

Online self-help, information and support is offered on the *Rechtwijzer* website (Rechtwijzer translates into Roadmap to Justice; see www.rechtwijzer.nl) and on the website of the Legal Services Counter. Rechtwijzer is a preliminary provision and offers interactive 'decision trees' helping people to assess their situation. In addition Rechtwijzer provides easy-to-understand information and guidance on possible solutions for the most common legal problems. Rechtwijzer combines publicly run guided pathways for common legal problems with online products and services from private service providers. In 2020 Rechtwijzer was supplemented with Rechtwijzer EHBO ('First aid for solutions'). This decision tree is aimed at early identification of multiple problems. The Legal Services Counters (see below) also have a website that can be used as a preliminary provision.

2. Public first-tier

The Legal Services Counters act as what is commonly known as the 'front office' (primary help). Legal matters are being clarified to clients and information and advice is given. Clients may be referred to a private lawyer or mediator, who act as the secondary tier of legal aid. Clients may also apply for help from a subsidized lawyer or mediator directly. If necessary, clients can also be referred to other professionals or support agencies, such as legal advisors or Consumer and Rent Tribunals.

3. Private second-tier

Private lawyers and mediators provide legal aid in more complicated or time-consuming matters (secondary help) in the form of certificates. A lawyer (or mediator) submits an application to the LAB on behalf of his client. If legal aid is granted, a certificate is issued which allows the lawyer in question to deal with the case. Lawyers and mediators are paid by the LAB to provide their services to clients of limited means. Generally they are paid a fixed fee according to the type of case (with fixed surcharges if applicable), although exceptions can be made for more time consuming cases.

To some extent, trade unions and consumer organizations also provide legal aid. The number of legal protection insurance policies continued to rise for a long time until 2014. Around half of the households in the Netherlands has a legal protection insurance policy.⁷

The legal aid system, therefore, is a mixed model, consisting of a public preliminary provision, public first-line and private second-line help.

Ad 1: in more detail: Rechtwijzer

The LAB remains committed to the development of innovative web-based applications for citizens, by offering the website Rechtwijzer (www.rechtwijzer.nl). Rechtwijzer is a preliminary provision that helps people find solutions for their legal problems in an interactive manner. In this way, citizens are empowered to navigate easy-to-use processes to solve their problems. In their own time, at their own pace, against low or no cost, and with assistance when needed. Rechtwijzer combines publicly run guided pathways for common legal problems with online products and services from private service providers meeting Rechtwijzer's rigorous quality standards. In 2022, Rechtwijzer registered more than 712,000 unique visitors.

⁷ Source: WODC, <https://repository.wodc.nl/bitstream/handle/20.500.12832/3008/Cahier-2020-18-volledige-tekst.pdf?sequence=9&isAllowed=y>

For instance, Justice42 offers the online divorce platform www.uitelkaar.nl (freely translated: separation), with public legal aid available for low-income clients. In 2022, more than 70% of the cases, one or both (ex)partners receive public legal aid, showing that a considerable part of the target group of legal aid is open to using online services. Another private provider on Rechtwijzer is the Arbeidsmarkt Research Institute based at the University of Amsterdam. They offer MagOntslag (freely translated: is dismissal allowed?), a wide range of tools for assessing the legal merits of a dismissal case and information for work related problems. Using these tools, a letter can be drawn up for the employer, and a letter of objection or appeal can be drawn up for proceedings before the Court. More than 12,500 visitors of the Rechtwijzer website made use of these tools in 2022.

Rechtwijzer is continuously further developed and improved through feedback from users and service providers. The new application Rechtwijzer EHBO (freely translated: first aid) is a quick scan for multi-problems that maps out people's legal and psychosocial problems. It was developed in close cooperation with the renowned national social services organization Mind Korrelatie. More than 118,000 visitors of the Rechtwijzer website made use of the Rechtwijzer EHBO tool in 2022.

Last year, Rechtwijzer was been supplemented with (decision tree) support to draft a letter of objection or complaint against a government agency. Also, people can go to the Rechtwijzer website for information about support for debt issues. This applies to both the process of debt counseling as well as the process of the (legal) debt restructuring program.

Ad 2: In more detail: LSC

The LSC act as front offices and provide primary legal aid (information and advice). They are fully financed by the Ministry of Justice & Security on the basis of a closed budget.

The LSC has 30 offices and 24 service points⁸ across the country. These offices share a website and a call centre. Due to the even geographical spread, Dutch citizens find a Legal Services Counter within reasonable distance (around one hour travelling by public transport maximally). The offices have a uniform and recognisable appearance. The premises of the Counters have been designed to look inviting and accessible. In a way, they look more like a shop than an office. Inside is an open space with a waiting area and several desks. The call centre and rooms for private consultation are located at the back of the office. Brochures and flyers with information on legal matters are also available. In addition to the offices, a large call centre opened some years ago. It is staffed with approximately 50 people.

⁸ Source: <https://www.juridischloket.nl>

In general, each office is staffed with legal advisers. Since the services of the current Counters do not include extensive legal aid and representation in court, paralegals can also be employed. The Dutch education system developed a bachelor course to train students for these type of services.

The legal advisers switch between their work on the telephone, at the counter, and in the consultation rooms. The workload can be distributed between the different offices. They have access to custom designed computer software for support with finding legal information.

As outlined above, the LSCs act as front offices providing primary legal aid. They offer information concerning rules and regulations as well as legal procedures. They give advice and refer clients to private lawyers or mediators if their problems turn out to be more complicated or time-consuming. Services are free of charge. As of 2023, telephone calls also are free of charge (before the telephone line worked at 10 cents per minute). Although the LSCs are basically open to any Dutch citizen, the personal aid is specifically intended for persons of limited means who qualify for legal aid. Clients can turn to the Counters with all kinds of judicial problems that concern civil, administrative, criminal as well as immigration law.

The initial contact at the Counters is aimed at clarifying the nature of the problems. The legal advisors work with clients to find out:

- whether the problem is actually a legal problem and, if so,
- whether the problem is within the scope of the legal services provided by the Counters (not all legal problems – e.g. those between businesses – are dealt with by the Counters);
- what kind of help is most suitable for the client.

Staff of the LSC is not allowed to represent clients in any way.

Primary legal aid serves two major goals. First, it intends to create good access that is readily available and free of charge. Secondly, they have a preventive function: their early involvement helps to avoid escalation as well as minimise costs, both for the specific individual as well as for society at large.

There are several channels available through which potential clients can apply to the LSC for help: the website, telephone, counter or referral to a consultation hour (by appointment).

Legal Services Counters: facts and figures

The total number of 'client-related activities' performed by LSC amounted to 423,450 in 2022. A client-related activity may take place through direct contact with the client or via other contact channels – 'the contact time' – or through other activities such as research needed in order to give proper advice in a certain case and consultation with the other party.

Below, figures show the nature of the client-related activities at the LSC. Most activities consist of contact by phone (57% of the client activities) (see table below).

Table 1: Nature of client activities of Legal Services Counters (2022)

	<i>Total number 2022</i>	<i>Percentages* 2022</i>
<u>Website</u>		
Visits	6,241,376	92%
Downloads sample letters	540,888	8%
Total website	6,782,264	
<u>Contact time</u>		
Telephone 0900	241,244	57%
Counter	57,870	14%
Consultation hour	15,523	4%
<u>Non-contact time</u>		
Researching	108,813	26%
Total contact & non-contact time	423,450	

**The percentages have been rounded off. That's why the total not exactly equals 100.*

A client may have contacted the LSC on more than one occasion in 2022. That's why the number of clients is lower than the number of client activities.

The LSC provide several kinds of services. The majority involves providing information and answering questions (87%). Clients are also referred to the consultation hours (6%), to lawyers (7%), to mediators (<1%) or to other network partners (2%).

The majority of inquiries concern employment (23%), family law issues (13%), contract/consumer law issues (16%), housing (14%), and administrative law, including social security (9%).

Ad 3. In more detail: Private lawyers and mediators

Legal aid in the Netherlands works with private lawyers who provide legal services and representation to clients in the following fields of law: criminal, family, labour/employment, housing, social security, consumer, administrative, debt restructuring, Psychiatric Hospitals Act, asylum and immigration. Private lawyers obtain legal aid cases in two ways: either they are referred to in the first tier, or a client directly contacts a LAB-registered lawyer.

In order to be able to accept legal aid cases, private lawyers need to be registered with the LAB and to comply with a set of quality standards. For some fields of law – criminal, mental health, asylum and immigration law, youth, family law, victims of crime, housing, social benefits, and labour/employment – additional terms apply. The lawyer must have adequate expertise as well as sufficient experience in the particular field of law.

Number of board and staff members

The LAB has one board member and more than 300 employees/staff members.

Number of lawyers, advocates and paralegals (separately) participating in the legal aid programme

There are 6,125 lawyers participating in the legal aid programme and 768 mediators. Paralegals working for registered lawyers are allowed, under conditions set by the LAB and the Bar Association, to offer some services for cases of the lawyer but do not participate separately in the legal aid programme.

Payment of lawyers and mediators

As soon as a case is closed, the lawyer invoices the LAB for the services provided. A lawyer does not charge for hours but works for a fixed fee which differs according to different types of cases, with fixed surcharges for some categories. These fees are based on extensive analyses of legal aid cases from the past and are supposed to correspond with the average time spent on a specific kind of case by a lawyer. In 2017, an extensive re-evaluation of the average time spent per case was conducted⁹ and as a result of this fees for most cases were re-evaluated and increased in 2022. In family cases, new fixed surcharges were introduced, for example in divorce cases involving minors/children.

⁹ Source: https://repository.wodc.nl/bitstream/handle/20.500.12832/2322/2793_Summary_tcm28-284816.pdf?sequence=3&isAllowed=y

A few examples of the fixed fees are presented below. In cases that concern labour (dismissal), for example, lawyers receive a compensation that corresponds to 11 hours.

Table 2: Examples of types of cases and the corresponding fixed number of paid working hours

<i>Type of case</i>	<i>Fixed number of paid working hours</i>
Labour: dismissal	11
Divorce	15 (19 with surcharge)
Felony	7-14
Minor criminal offence	6

In 1994, the hourly rate for legal aid was €26. In 2000 and 2002, fees were increased substantially. Since then, the Ministry determines the hourly rate every year following an annual price index. In 2023, the hourly rate is €120.20. This means for example that for a labour - dismissal case a lawyer receives 11 x €120.20. Part of this fixed fee is paid by the client through the individual contribution; lawyers are responsible for collecting this contribution themselves. The LAB pays the remainder.

3. Budget and Spend

Please give the budget for Publicly Funded Legal Services/Legal Aid in your jurisdiction for the last two years. If possible show the actual expenditure broken down by civil, criminal, administrative, children, asylum? Expenditure on initial advice services. Please indicate the proportion of the legal aid budget that is funded by (a) central/Federal Government (b) Local or state government. Contribution paid by the client. Is your legal aid budget demand led (uncapped) or capped or a mixture? (Please elaborate).

Financed by the Ministry of J&S, the LAB is accountable to this ministry for its budgetary allocations. The legal aid system operates according to an open end provision.

Table 3

Year	Total Dutch population*	Total expenditure on legal aid in Euro (x 1,000)	Expenditure per capita in Euro
1994	15,300	184,000	12
1998	15,650	195,000	12
2002	16,105	315,000	20
2006	16,334	398,000	24
2010	16,575	472,000	28
2014	16,829	432,000	26
2018	17,181	395,000	23
2020	17,408	441,000	25
2022	17,591	540,000	31

* in thousands

Expenditures can (roughly) be broken down to the following domains (2022):

- Civil: € 174,000,000
- Administrative (including immigration): € 105,000,000
- Criminal (including duty solicitors): € 207,000,000
- Primary help/Legal services counters: € 27,400
- Remaining expenditures: € 27,000,000

Own contribution clients

Legal aid is primarily financed by the state (the Legal Aid Fund) and only for a very small part through an income-related contribution of individual clients. The own contribution is intended as an incentive. It is envisaged to let clients carefully consider the pros and cons of taking a matter to a lawyer, hence discouraging frivolous or minor cases to be brought to the legal system. Lawyers are responsible for collecting this own contribution. There are 5 contribution categories, dependent on the clients income. In approximately 88% of the certificates granted, the person seeking justice falls under the lowest individual contribution category.

4.Scope, Caseload and Eligibility

What restrictions on scope are there for civil and criminal administrative, children, asylum? legal aid and for initial advice in your jurisdiction? Total number of applications and grants for the last two years. Please break down by civil, criminal administrative, children, asylum? and initial advice as well as by year. Proportion of the population eligible for civil legal aid and/or initial Advice. Eligibility limits for criminal legal aid. Are means tested contributions part of your (a) civil (b) criminal

(c) initial advice eligibility requirements? In your jurisdiction, are legal aided litigants who lose their case liable to pay the other side's legal expenses/costs?

Scope second line/certificate users

The LAB can assess the scope of the Legal Aid System and gain a better insight into the socio-economic characteristics of those who apply for legal aid. Estimates are that approximately 36% of the population, on the basis of their financial means, is eligible for legal aid.

On the basis of the data it receives from the Central Statistics Office, the LAB can identify their background characteristics. Holders of a legal aid certificate are predominantly male and between 20 and 55 years of age; certificate holders of over 65 are fairly infrequent. Employed and retired workers are found to be fairly underrepresented, whereas recipients of social benefits and other non-working persons are overrepresented. Certificate holders are also found to more often be divorced and less often married. Certificate holders living in single-parent families are overrepresented. Furthermore, certificate holders are more likely to be members of ethnic minority groups and often live in larger cities (>250,000 population) and less often in smaller municipalities (<50,000 population).

Process of certificate application

The LAB assesses applications for a certificate on the basis of the client's income, the client's assets, and the (financial) significance of their legal problem. The LAB verifies the client's personal data with those in the municipal population register and checks the applicant's income and assets with the tax authorities. It is able to do so with the aid of a 'burgerservicenummer' (citizen service number) (BSN); this is a unique identification number, which every Dutch citizen receives when registering in the municipal population register. The API with the tax authorities allows the LAB to rapidly obtain information concerning the applicant's income and assets.

Eligibility

Assessment of the applicant's income and assets is based on the financial situation two years prior to the application date, 'reference year' (t-2). The reason is that these data were validated and complete. For example, if someone applies for a certificate in 2022, their income in 2020 is taken into account. Their income for that year should not be higher than €29,400 (single household) or €41,600 (shared household/single person with children). The applicant's assets may not exceed €30,846.

Change of the reference year can be requested, if the applicant's income and/or assets have substantially decreased since the reference year. If an applicant wants to apply for a lower own contribution, their income should have decreased by at least 15% compared to the reference year.

When a client receives more than €15,874 (single household) or €31,747 (shared household) because of the result of a procedure, his certificate will be withdrawn retroactively. They are expected to pay their own lawyer.

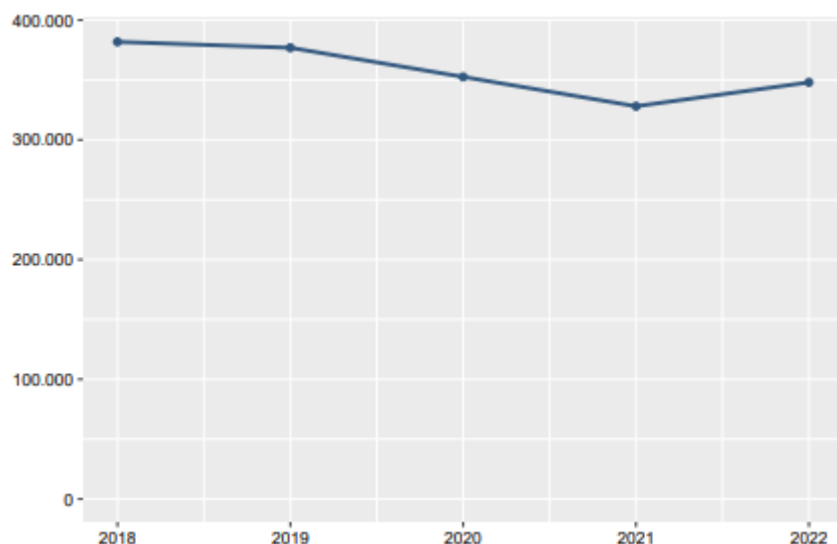
People who do not have Dutch nationality also receive legal aid when they have a problem that concerns the Dutch legal system.

Sometimes, clients are exempted from individual contributions, for example for all cases in which people have been deprived of their freedom against their will. And, for example, people who participate in the debt restructuring scheme, are also exempted from paying an individual contribution as well as victims of violent crimes and sexual offenses.

In civil cases, clients who lose their case can be ordered to pay the other side's legal expenses/costs. In criminal cases, convicts (when irrevocably convicted) are obliged to retroactively pay back their legal aid if they turn out not to be eligible.

Certificates: facts and figures

In 2022, 371,740 legal aid certificates were issued. The figure below shows the number of regular legal aid certificates issued since 2018:



In addition to the regular legal aid certificates – 348,021 in 2022 – 10,623 'minor aid' certificates were issued (i.e. for max. three-hour legal aid). In addition, as of 1 July 2021 this also includes certificates that the LAB temporarily provides to lawyers

for a special Advisory certificate self-efficacy (Atz). Further, 13,096 mediation certificates were issued.

For every certificate issued, the LAB registers the pertaining field of law (see table below). This table shows that approximately half of the certificates concern criminal (33%) and family-related cases (20%).

Table 4: Types of cases represented in legal aid certificates (2022)

	<i>Number 2022*</i>	<i>Percentage 2022*</i>
Criminal	114,000	33
Family	69,500	20
Asylum	35,500	10
Psychiatric Hospitals (Compulsory Admissions) Act	33,500	10
Contract/consumer	20,000	6
Housing**	19,000	5
Immigration	12,500	4
Social benefits	11,000	3
Labour/employment	9,500	3
Social (security) insurance	8,000	2
Administrative	6,000	2
Pre-deportation detention	6,000	2
Other civil cases	3,000	1
Debt restructuring	1,500	<1
<i>Total regular legal aid certificates</i>	<i>349,000</i>	
Mediation certificates	13,000	
Minor aid certificates	10,500	
<i>Total</i>	<i>373,000</i>	

**All figures have been rounded off (to the nearest 500). That's why the total not exactly equals the sum of the separate figures.*

***This also includes additions with regard to the childcare benefits scandal.*

5. Quality Assurance

System used – Complaints to LAO, Complaints to the Bar Association/ Law Society, Client Satisfaction questionnaires/interviews, Continuing Legal Education, Mentoring, Peer Review, Supervisor audit, Observation or video/audio tape etc? What requirements are there (if any) for lawyers and others who wish to provide legal aid, other than membership of the Bar /professional association e.g. registration, experience, special exams, interviews, upper or lower limits on number of cases undertaken annually etc.?

The number of certificates that can be granted to a lawyer or mediator is maximally 250 per year. Each certificate is weighed according to the fixed number of paid working hours for each certificate. A maximum number is maintained for reasons of quality. If the number of certificates exceeds 250, lawyers or mediators would not have enough time to spend on each case. In the same way a maximum of 2000 paid working hours is set that can be paid to a lawyer each year. When a lawyer invoices more than 2000 hours in a year, he or she receives a lower maximum of certificates the next year.

In the Netherlands, deans of the local bar associations cooperate with institutions to improve communication in the system and to solve issues in an informal manner. The deans further collect complaints about lawyers. Information about the possibility to complain is published on their website.

The LAB conducts regular satisfaction surveys. The most recent survey took place in 2018. It showed that clients are satisfied with their lawyer in general. To judge whether lawyers performed well, the LAB asked other legal professionals (judges, prosecutors) to judge the work of lawyers. This showed that other legal professionals evaluate lawyers' work mostly positive, although it varies. The Knowledge Center of the LAB currently works on designing and implementing a more structural feedback loop, of which the experiences of citizens (also with their lawyer) are a key component.

In the Netherlands, peer review thus far is (only) established in the area of asylum law. In this field of law, clients are highly vulnerable and have little possibilities to complain if they were dissatisfied with the quality of the legal aid service. All lawyers agreed to implement a peer review system via a democratic vote. They also elect the peers who conduct the peer review. Peers review the files of the lawyers regularly, attend court sessions, and monitor new asylum lawyers.

In 2020, the Bar Association made it compulsory for all lawyers to dedicate a certain amount of time each year to intervision or peer review. They receive points in return, as part of the permanent education. All mediators registered with the Legal

Aid Board are registered with the Mediation Federation Netherlands and have to conduct a peer review successfully once in every 3 years.

6. Public Legal Education

Initiatives in last two years to increase public awareness of the availability of Publicly Funded Legal Services/legal aid in your jurisdiction and how to access it. (Include any particular approach for those in remote areas or those with special legal needs e.g. the elderly or victims of domestic violence). IT packages introduced to enhance access for the public. Has there been a country wide Needs Assessment study in your jurisdiction in recent years, looking at the distribution of justiciable problems and how the public respond to them? Date of last needs assessment? Executed by?

Online self-help, information and support is offered via the *Rechtwijzer* website (Rechtwijzer translates into Roadmap to Justice; see www.rechtwijzer.nl) and on the website of the Legal Services Counter (www.juridischloket.nl). These online provisions are designed to be accessible for most Dutch citizens (96,5% of the Dutch adult population has home access to the internet or can go to public libraries for free internet access and support if needed).

The public awareness of the availability of legal aid generally seems good. Still, the latest Paths to Justice study (Ter Voert & Hoekstra, WODC 2020¹⁰) found that 11% of the respondents fail to find legal help (either primary or secondary help).

The 'childcare benefits scandal' (in which tax authorities falsely accused thousands of families of fraud¹¹) and the gas extraction scandal (gas extraction has caused a number of earth quakes, damaging many houses of inhabitants in Groningen) led to an all-encompassing re-imagination of the relationship between citizens and government. Reforms in public service delivery are under way, aiming to provide a people-centered approach.

It is expected that these developments will impact the public legal aid provision. Firstly, free legal aid is available for the victims of both scandals. Secondly, the current legal aid reform, although unrelated to the scandals, adopted a similar approach by emphasizing the importance of early information, advice and holistic support close to the homes of citizens, in collaboration with communal and social services. More than 30 pilots and experiments took place in the last years, experimenting with various ways of early and holistic legal aid delivery. The results of the pilots are expected in 2024.

¹⁰ Source: <https://repository.wodc.nl/bitstream/handle/20.500.12832/3008/Cahier-2020-18-volledige-tekst.pdf?sequence=9&isAllowed=y>

¹¹ The 'childcare benefits scandal' was the reason why the cabinet resigned on 15th of January 2021, see https://en.wikipedia.org/wiki/Dutch_childcare_benefits_scandal.

7. Alternative Sources of Legal Aid services

What are the other principal sources of legal help for disadvantaged citizens in your jurisdiction, and how many clients do they assist annually (e.g. legal expenses insurance, trade unions, consumers organisation claims companies, community law clinics, university law clinics, local charities, NGOs etc.).

Outside the system of legal aid, there are other possibilities to seek legal assistance. To some extent, trade unions and consumer organizations provide legal aid. Around half of the households in the Netherlands has a legal protection insurance policy¹².

In addition to legal protection insurance policies the legal aid insurers offer pre-paid legal aid against fixed prices.

People can further seek help at social-legal counselors (social raadslieden) and law clinics (rechts- and wetswinkels, usually linked to universities where law students help people with legal problems). Unfortunately there is no data of the number of clients for these organisations.

Finally, a number of lawyers offer half an hour free information and advice.

8. Holistic legal services

Is your jurisdiction exploring link ups between legal services providers and non lawyer professionals e.g. health/justice partnerships, social work/justice collaboration, or other forms of "one stop shop"?

One of the goals of the current legal aid reform is to establish strong collaborations between legal aid services and social and communal services. Many of the pilots in the legal aid reform included cooperation between the legal and the social and communal service providers. The Legal Service Counters have a coordinating role in establishing local and regional collaborations. In addition, the Association of Netherlands Municipalities and Social Work Netherlands received funding from the Ministry of J&S for setting up and strengthening 'robust first tier legal aid' in all 342 municipalities.

Another example of connections between legal and non-legal workers is driven by the Dutch Judiciary. In many cities community courts and neighbourhood judges are set up and running in collaboration with local organisations, and with publicly funded legal aid lawyers in two community courts.

¹² Source: WODC, <https://repository.wodc.nl/bitstream/handle/20.500.12832/3008/Cahier-2020-18-volledige-tekst.pdf?sequence=9&isAllowed=y>

9. UN SDG Standard 16.3

Please identify any steps being taken to articulate and elaborate Sustainable Development Goal 16.3 in your jurisdiction.

The developments in the Dutch system continue to encourage a more sustainable solution to the problems people have. This translates to initiatives to organise different types of support in a more holistic manner, closer to the people who need them. The support include registered lawyers, jurists, and even support in the social domain.

Since 2018, the legal aid system in the Netherlands has again been under construction, with a *renewed and learning* system in 2025 as spot on the horizon. The people-centred approach, which puts people and the problems as they experience them more to the centre than the legal interpretations of them, is still very much in focus. This translates to more people-centred policies and practices at organizations like the LAB, expressly seeking the margin of appreciation in specific hardship cases.

10. Other

Most innovative project 2021-2022

Most disappointing trend 2021-2022

Biggest challenge for 2023

Something about Covid-19 effects?

The LAB is preparing the implementation of a new ICT infrastructure. As this creates the opportunity to modernise the services for citizens, the LAB is redesigning its citizen-facing processes and interfaces. As part of this, the LAB explores how citizens can stay in control and owner of their data, how the legal aid process can be more transparent, how different access points for different segments of citizens can be created, and how there can be made a better match between people, their problems and their preferences on the one hand, and specific legal aid and lawyers on the other. This program started end of 2022 and is expected to show the first live results in 2026.

For the special legal aid arrangement for victims of the childcare benefits scandal in which the Dutch Tax Authority falsely accused thousands of families of fraud, per May 2021 the LAB already introduced a special process through which citizens are matched with a lawyer. On the basis of characteristics of the case, of the citizens and their situation, and their preferences, citizens can choose from three lawyers that meet their criteria. 77% responded that they were positive about matching, due to the fact this safeguards quality, versus 9% that rather searches a lawyer themselves. Per 14 April 2023, 256 lawyers participate and 8.246 matches were established.

After the revelation of the large-scale childcare benefits scandal, the assumption of self-efficacy in the public legal aid domain is under further scrutinization. A special, temporary arrangement called the Ratz (Regeling Adviestoevoeging Zelfredzaamheid; Arrangement for Advice Certificate Self-efficacy) was created. Under this arrangement, citizens receive legal advice, whereas under the Wrb they would not have been granted legal aid because they are assumed to be able to take action themselves, or with other kinds of support. Goals of the Ratz are to develop a better understanding of the challenges that citizens face in situations where the system assumes a sufficient level of self-efficacy. This is a closer cooperation between first tier and second tier legal aid with the goal to prevent people to become lost in between the two tiers, and to further investigate the omissions between them.

A concerning trend in The Netherlands is the gradual but steady decline of number of lawyers who are available for providing legal aid. There is a negative growth due to an outflux that is higher than the influx. Given the special characteristics when it comes to entry costs and time, more immediate action is currently being prepared. A study found that monetary compensation, organisational robustness, innovation, and standing are critical variables for increasing the availability of legal aid lawyers.

To stimulate the influx in new lawyers into the legal aid system, since 2021, the LAB offers a subsidy for the cost of the compulsory Professional Education for trainee lawyers. Each year, the education of approximately 175 trainee lawyers are subsidized in this way. In addition, since 2021 the Legal Aid Board offers a subsidy for the cost of the compulsory Professional Education for lawyers active in the system of Legal Aid.

In 2022, the LAB together with representatives from the Bar Association and the Mediators Federation took the initiative to develop guidelines for legal support of people who have become unable to work due to invalidity (social security law).

As of March 2023, in court-annexed mediations, litigants who are not eligible for legal aid receive a subsidy to cover the first 2.5 hours of mediation.

NATIONAL REPORT: NEW **ZEALAND**

1. Country Details

Name	New Zealand
Population	5.124 million Statistics New Zealand as at 30 June 2022
GDP	\$NZ360 billion / \$US209 billion as at 30 June 2022 Statistics New Zealand as at 30 June 2022
Poverty line	<p>There is no official poverty line measure in New Zealand, however the Child Poverty Reduction Act 2018 requires reporting on levels of child poverty. This is partially measured through 10 different income measures. No overall indicator is derived. Instead each of the measures is tracked from year to year to validate whether child poverty is increasing or decreasing. By way of example, in the year ended June 2020:</p> <ul style="list-style-type: none">• 13.6 percent of children lived in households with less than 50 percent of the median equivalised disposable household income before housing costs are deducted, a slight decrease on the 2020 figure of 13.8%• 16.3 percent of children lived in households with less than 50 percent of the median equivalised disposable household income after housing costs are deducted, a decrease from the 2020 figure of 18.4%• 11.0 percent of children lived in a household experiencing material hardship, which indicates that they are missing out on more than a handful of things that could be expected in a typical household. <p>Statistics New Zealand reported in February 2022</p>
Practising lawyers	15,554 lawyers, 13,338 as Barristers & Solicitors, 1,576 as Barristers New Zealand Law Society 2021 Snapshot of the Profession downloaded 31 October 2022

2. Legal Aid Organisation/Authority

Name	Ministry of Justice
Status	<p>A government department</p> <p>Granting decisions are made by a statutory officer who is employed by the Ministry of Justice but makes granting decisions independently of government.</p> <p>The Legal Aid Services unit and the Public Defence Service are separate groups within the Ministry.</p>
Delivery method	Criminal legal aid is delivered by a mix of private and public. The Public Defence Service aim to accept around 15,000 to 16,000 cases in the main urban areas.

Legal aid lawyers in private practice	2,410 private legal aid providers as at 31 October 2022 517 approved to provide civil legal aid services 1,093 approved to provide criminal legal aid services 977 approved to provide family legal aid services
Public Defence Service	165 lawyers providing criminal legal aid and initial advice services
Payment methods	Most criminal and family law cases are subject to fixed fee schedules, with 84% and 44% of cases respectively being paid wholly through fixed fees. The more complex cases and most civil (non-family) cases are paid on an hourly rate basis.

3. Budget and Spend:	2021/22		2020/21	
	\$NZD	\$USD	\$NZD	\$USD
Budget (private lawyers)	\$222,563,000	\$130,029,094	\$226,068,000	\$132,076,837
Actual (private lawyers)				
Civil legal aid	\$7,348,196	\$4,261,953	\$6,922,211	\$4,014,882
Criminal legal aid	\$119,443,795	\$69,277,401	\$127,395,994	\$73,889,676
Family legal aid	\$54,958,782	\$31,876,093	\$56,507,097	\$32,774,116
Waitangi Tribunal legal aid ¹	\$18,255,016	\$10,587,909	\$20,291,307	\$11,768,958
Duty lawyer ²	\$10,180,478	\$5,904,677	\$12,067,673	\$6,999,250
Police detention legal assistance ³	\$833,682	\$483,535	\$1,000,287	\$580,166
Family legal advice service ⁴	\$460,093	\$266,853	\$717,046	\$415,886
Sub-total initial legal advice services ⁵	\$11,474,253	\$6,655,066	\$13,785,007	\$7,995,304
Grand total (private lawyers)	\$211,480,042	\$122,658,424	\$224,901,618	\$130,442,938
Public Defence Service				
Budget	\$41,253,000	\$25,210,945	\$39,062,000	\$23,871,960
Actual	\$41,367,000	\$25,280,614	\$39,192,000	\$23,951,406

1. The Waitangi Tribunal was established in 1975 by the Treaty of Waitangi Act 1975. The Tribunal is a permanent commission of inquiry charged with making findings and recommendations on Treaty claims brought by Maori

relating to actions or omissions of the Crown. Unlike other Commissions of Inquiry which may be set up, legal aid is available for claimants appearing before the Waitangi Tribunal.

2. The object of the Duty Lawyer service is to ensure that a sufficient number of lawyers are available at each District Court for the purpose of assisting, advising, and representing unrepresented defendants charged with a criminal offence.
3. The object of the Police Detention Legal Assistance service is to ensure a sufficient number of lawyers are available, at any time of the day or night, to provide legal advice, legal assistance, or both, to any unrepresented person who has been detained by the Police, with or without arrest.
4. The Family Legal Advice Service was established to enable the provision of initial advice and information for eligible parties in dispute over arrangements involving the care of their children.
5. Public funding for non-legal services is also available from other Ministry groups to assist parties to settle their disputes about care of children agreements without needing to attend court. These include a parenting education programme designed to help parents understand the effects of separation on their children, a mediation service where parties are enabled to work towards and reach care agreements that are in the best interests of their children and a service to which people may be referred to help people prepare for mediation so that they are better able to manage their feelings and focus on the children. These services are means tested, except for the parenting education programme which is free.

4. Scope, caseload and eligibility

Scope – criminal Criminal legal aid may be available to a natural person charged with or convicted of an offence, for appeals and for parole matters. It is not available for offences where the maximum penalty is a term of imprisonment of less than six months, unless the interests of justice require it. It is means tested and is only available where the defendant cannot afford a lawyer.

Scope – family/civil Legal aid may be granted to a natural person in respect of civil/family proceedings in a court and in certain administrative tribunals or judicial authorities.

It is not available in civil/family matters:

- for immigration matters unless it is an application for refugee/protected person status or the applicant is a holder of a residence permit.
- for marriage dissolution.

It is means tested and is only available where the defendant cannot afford a lawyer.

Volumes	Applications	2021/22	2020/21
	Civil/Family	19,442	22,140
	Criminal	50,680	61,025
	Grants	2021/22	2020/21
	Civil/Family	18,216	20,575
	Criminal	46,842	56,705

Initial advice¹	2021/22	2020/21
Duty lawyer service hours (excluding Public Defence Service)	105,602	121,401
Number of times Police Detention Legal Assistance advice was provided	9,216	11,188
Number of times Family Legal Advice Service was provided	1,846	2,928
Civil eligibility thresholds* (effective 1 July 2023)	Annual gross income² \$NZD	Annual gross income \$USD
single applicant with no dependent children	\$27,913	\$17,058
single applicant with 1 dependent child, or an applicant with a spouse or partner and no dependent children	\$44,205	\$27,015
single applicant with 2 dependent children, or an applicant with a spouse or partner and 1 dependent child	\$63,567	\$38,847
single applicant with 3 dependent children, or an applicant with a spouse or partner and 2 dependent children	\$72,235	\$44,144
single applicant with 4 dependent children, or an applicant with a spouse or partner and 3 dependent children	\$80,719	\$49,329
single applicant with 5 dependent children, or an applicant with a spouse or partner and 4 dependent children	\$90,235	\$55,145
maximum level of disposable capital single applicant ³	\$3,500	\$2,139
maximum level of disposable capital if the applicant has a spouse or partner, or 1 or more dependent children	\$5,000	\$3,055
Criminal eligibility thresholds	Legal aid may be granted when the applicant does not have sufficient means to enable him or her to obtain legal assistance.	
Contributions	A \$50 (user charge) contribution is required in civil cases except for specified	

	applications (eg protection order, compulsory mental health treatment order)
Repayment	Legal aid is a loan that is repayable, except for specified cases (eg protection order, compulsory mental health treatment order). However, the amount repayable is calculated according to the customer's ability to pay and only around 30.9% are actually required to repay any amount.
Population	8% of the population met the civil eligibility thresholds in 2018.
Costs	<p>Unsuccessful legally aided parties in civil/family proceedings are not subject to an order to pay the other parties costs unless there are exceptional circumstances.</p> <p>However, the Court may make an order to benefit the successful opponent of a legally aided party that specifies the amount that would have been payable if the legally aided party's liability was not limited. The successful party may then apply to the Legal Services Commissioner for payment of that amount.</p>
	<ol style="list-style-type: none"> 1. There is no separate application and grant for initial advice. The Duty Lawyer service and the Police Detention Legal Assistance service are not means tested. Means testing for the Family Legal Advice Service is delegated to service providers who are not required to record applications of people who do not qualify. 2. The resources of the spouse are included for calculating eligibility. 3. Disposable capital includes an allowance of \$80,000 equity in a home, where the applicant is a home owner.

5. Quality Assurance

Provider approval	<p>You can only provide legal aid services if you have a New Zealand Law Society practising certificate, are approved by the Ministry and a valid contract with the Ministry. To be approved, you need to show that you have the relevant skills, experience and business systems to effectively represent your clients.</p> <p>There are separate approval standards for the following areas of law criminal, family, civil, mental health, refugee and protected persons, Māori Land Court and Māori Appellate Court, Waitangi Tribunal, Court of Appeal and Supreme Court, employment advocate (non-lawyers who are members of the Employment Law Institute of New Zealand can apply).</p> <p>Legal Service (Quality Assurance) Regulations 2011</p>
Selection committees	All applications for lead provider approval will be referred to an area Selection Committee for their consideration and recommendation to the Ministry. A Selection Committee is a committee of local lawyers that is chaired by a representative of the Ministry.
Audits & monitoring	We conduct an annual programme of audits of legal aid lawyers to assess the quality and value of the services they deliver. Legal aid lawyers are selected for audit based on an assessment of their risk profile. Audits are performed by senior lawyers, both in-house and contracted.
Complaints	The Ministry has a formal complaints process for investigation of complaints about lawyer conduct or performance but may also refer complaints to the New Zealand Law Society.
Performance	The performance review committee provides recommendations to the Ministry about

review committee the performance of legal aid providers who have been referred to them for consideration. The Committee consist of a chairperson who has at least 7 years legal experience and members who have expertise in the areas of law of any lawyer who is referred to the Committee.

6. Public Legal Education

Community Law Centres Through the Community Law Centres (CLC), New Zealanders can access free legal services and law-related education. CLCs provide assistance through websites, over the phone and at walk-in centres. They also undertake community engagement and deliver specialised legal services

The ministry contracts 24 CLCs to provide community legal services. The services include casework services (advice, assistance and representation), legal information, law-related education, and community engagement. CLCs improve New Zealanders' access to justice by focusing on early resolution and preventing legal problems from requiring litigation.

7. Alternative sources of legal services

Pro bono There is no obligation on New Zealand lawyers to carry out a certain amount of pro bono. Lawyers largely tend to carry out pro bono work at Community Law Centres (CLCs) and less so at Citizens Advice Bureaux (CABs). Lawyers may also volunteer their time and expertise directly, through an NGO or charity or even the local sports team. .

In 2021/22, CLCs helped 35,3574 clients with legal advice.

8. Holistic legal services

Alcohol and Other Drug Treatment Courts Two Auckland area Alcohol and Other Drug Treatment Courts AODTC's have been operating as a pilot since 2012, with both locations now confirmed as permanent features. An additional third court has now been rolled out in Hamilton.

Their aim is to funnel high-risk high-needs, repeat offenders with chronic drug and alcohol problems away from prison into intensive rehabilitation programmes to break the cycle of reoffending. People facing prison terms of up to three years are eligible, but offenders with convictions for violence, sexual or arson offences are not accepted.

50 people at any one time are in the programme at each court. There is no defended hearing, defendants must plead guilty. They are assessed to see if alcohol and drugs are causing them to offend. They must convince the court that they are willing to permanently change their lives to be accepted into the programme. 556 people have been accepted on the programme since it started, and about 32 percent have graduated.

New Beginnings & Special The New Beginnings Court Te Kooti o Timatanga Hou is aimed at homeless people in Auckland. The Special Circumstances Court is aimed at homeless people in

Circumstances court	Wellington. If you get accepted into one of these courts, you can get help to address issues in your life that contribute to your offending.
Rangatahi Courts & Pasifika Courts	<p>Rangatahi Courts operate in the same way as the Youth Court, but are held on marae and follow Māori cultural processes. Pasifika Courts also operate in the same way as the Youth Court, but are held in Pasifika churches or community centres and follow Pasifika cultural processes. These Courts are designed to help young Māori and Pasifika young people to engage in the youth justice process. They are also designed to better involve Māori and Pasifika families and communities in the youth justice process. The courts work within the Youth Court legal structure. The same laws and consequences apply as they would in the Youth Court.</p> <p>There are 15 Rangatahi Courts around the country, and two Pasifika Courts in Auckland.</p> <p>The Rangatahi and Pasifika Courts are for young people who have admitted the charges they are facing. After a Family Group Conference (FGC) has decided on a plan for how the young person can take responsibility for what they did, as well as working out how to make sure the young person does not offend again, the FGC may recommend that the plan be monitored by the Rangatahi or Pasifika Court. This means that all Court appearances until the plan is completed will be held on the marae or at a Pasifika venue. Normally, the young person will appear at the Court every two weeks, and each hearing will usually involve the same Judge.</p>
Young Adult List Courts	<p>The Young Adult List adapts the traditional Criminal District Court process for participants aged 18 to 25, to improve their understanding of and participation in the court process; with the aim of improving access to justice and procedural fairness. A key aspect of procedural fairness in the court is the young adult understanding what is happening and being able to take part in the decision-making process.</p> <p>By incorporating best practice approaches including plain language, information sharing, alternative courtroom layouts, and active solution-focused judging, the Young Adult List recognises the behavioural and neurological development of participants aged between 18 to 25 and the barriers they face to effectively participate in the court process. These barriers can include limited executive functioning, neurodiversity (such as dyslexia, traumatic brain injury or foetal alcohol spectrum disorder) and social needs.</p> <p>The Young Adult List helps young adults by providing them pathways to address their offending and make positive changes through an Intervention Plan. If a young adult completes the actions on their plan, the judge will consider this at sentencing.</p> <p>The Young Adult List is currently operating in three District Court sites.</p>

9. UN SDG Standard 16.3

Changes to Legal Aid legislation to strengthen the scheme and increase access to	<p>In May 2022 the Government announced a \$148m (\$87.151m USD) investment into New Zealand’s legal aid scheme, in order to strengthen the scheme and increase access to justice.</p> <p>The investment funds an increase to the hourly rates paid to legal aid lawyers by 12%, as a way of incentivising lawyers to keep providing legal aid services and to offset</p>
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justice some inflationary pressures. Although fixed fee payments to lawyers had previously been increased between 2016-18, these did not increase the hourly rates which had remained the same since 2008. This investment is therefore the first increase to hourly rates in 14 years, and has come into effect as of 1 July 2022.

The investment also supports legislative changes which will increase eligibility for the legal aid scheme, as well as reducing repayment requirements for people who receive aid. These changes include:

- Increasing the civil legal aid eligibility thresholds by 15%,
- Increasing the legal aid income repayment thresholds by 16.5%,
- Removing the \$50 up-front user charge which is applied to some legal aid grants,
- Removing the interest charged on outstanding legal aid debts.

These changes may make an additional 93,000 people eligible for aid, as well as reducing the cost of aid to recipients. They are currently progressing through Parliament, and are expected to be in place by 1 January 2022.

Changes to better address sexual violence and support victims of it through the justice system. On 20 December 2021 the New Zealand Government passed the Sexual Violence Legislation Act 2021. It contains a package of reforms that will increase reporting of sexual violence and better support victims in their journey through the justice system. The reforms respond to the risk of New Zealanders losing confidence that the justice system can adequately respond to sexual violence.

These reforms include:

- a statutory presumption in favour of the use of alternative ways of giving evidence in sexual violence cases (such as from behind a screen in court, via audio-visual link from a separate room or in a pre-recorded video played to the court)
- better protection for complainants from irrelevant and invasive questioning about their previous sexual experiences
- more judicial control over improper or unfair questioning of witnesses
- explicit provision for judges to issue directions to jurors addressing common myths and misconceptions in sexual violence cases.
- recording of the evidence of all sexual violence complainants and propensity witnesses for use in any re-trial that may occur
- funding for training for defence lawyers on best practice in sexual violence cases
- increasing the availability of communication assistance for witnesses.

Law Changes to reintroduce legal representation in Family Court Legislation came into effect on 1 July 2020 which restored the right to legal representation at the beginning of care of children proceedings in the Family Court. This change also restored right for parties to access legal aid under the existing eligibility criteria.

The change repealed previous reforms from 2014 which prevented lawyers from acting in most care of children matters and aimed to increase dispute resolution outside of the court. Instead, the changes resulted in more applications being made 'without notice' to ensure legal representation.

The reforms mean that parties can now access legal representation at the outset for care of children proceedings, improving their overall access to justice. The changes also coincided with an increase in remuneration paid for the 'Lawyer for Child' service, which sees an approved lawyer act as an advocate for children involved in the proceedings

Changes to the family justice system

In May 2018, the Minister of Justice established an independent panel to evaluate reforms that had been made to the family justice system in 2014. The panel's report, *Te Korowai Ture ā-Whānau*, recommended a number of legislative changes to improve how the family justice system works, including enabling children's participation and how it considers safety in decisions about their care.

The Family Court (Supporting Families in Court) Legislation Act 2020 was passed on 15 May 2020; reintroducing lawyers at an early stage of family court proceedings and legal aid for eligible parties.

In August 2021, the Family Court (Supporting Children in Court) Legislation Act was passed. It amends the Care of Children Act 2004 and the Family Dispute Resolution Act 2013 to make changes that:

- reinforce the expectation that a child should have reasonable opportunities to participate in decisions affecting their care and welfare
- ensure that lawyers appointed to represent children in proceedings are suitably qualified to represent the child or young person and that they explain proceedings to their clients
- enhance the requirement that lawyers facilitate the efficient resolution of disputes in order to minimise harm to children, families, and whānau
- reinforce the need for the court to recognise and respond appropriately to family violence, particularly the impact it has on children.

Other non-legislative initiatives based on the recommendations from the Panel's report have also been implemented:

- the establishment of Kaiārahi – Family Court Navigators and the development of better information resources to help parents and whānau navigate the system; and
- an increase to remuneration for lawyers for children to incentivise the retention of skilled practitioners.

The Ministry is also developing a role of 'Family Court Associates' that is intended to reduce the amount of time judges spend on simple and administrative matters in the Family Court, to enable faster resolution of cases. The role will be established by the Family Court (Family Court Associates) Legislation Bill, which is currently progressing

A planned National Roadmap for civil access to justice

The judiciary and Ministry of Justice, along with justice sector stakeholders, are jointly leading work to produce a National Access to Justice Roadmap. The Roadmap aims to establish a framework with high level goals for co-ordinating the approach to increasing civil access to justice across all stakeholder groups. Its purpose is to support and encourage innovation, increase coordination and communication, and provide a common framework for the sector to work towards.

The approach is intended to be similar to the Canadian justice development goals model, but will be developed and tested for a New Zealand context.

10. Other Information

Most innovative project for 2021/22

A key focus of the current year has been the implementation of the Government's announced investment into legal aid. To date this has involved system changes to support increased remuneration for providers, and significant engagement with the legal profession.

However, arguably the most innovative work that New Zealand's Legal Aid service has done in 2021/2022 is a joint initiative with Judiciary and justice sector partners. The 'Criminal Process Improvement Programme' (CPIP) is a cross-agency, judicially led initiative aiming to reduce backlogs in the criminal jurisdiction by establishing best practice in court procedure.

Although the majority of CPIP addresses Court procedure, the legal aid scheme has been involved in two critical areas addressing bail and sentencing processes. Through collaborating with the profession and police prosecutions, new processes which increase the range of matters that Duty Lawyers can progress have been progressively piloted in three medium sized courts since December 2021.

Early evaluation of these pilots has shown mixed results. On one hand, there is a trend emerging where cases are being finalised earlier or taking less events to progress as a result of Duty Lawyers providing addressing bail or sentencing matters at a first appearance. However, the pilot scheme has also attracted some criticism due to perceptions of how lawyers are funded for this additional work and the trade off between expedited cases and appropriate representation for clients.

Most disappointing trend over 2021/2022

Overall, trends within the delivery of legal aid have remained relatively positive in 2021/22, with applications and grants largely being processed efficiently and effectively. However, the past year has brought significant criticism from the legal profession and stakeholders which has had to be addressed.

In 2021 the New Zealand Law Society (NZLS) commissioned a research report into Access to Justice in New Zealand. Approximately 3,000 lawyers, or over 20% of the profession, responded to the survey.

Published in October 2021, this survey report touched on New Zealand's legal system as a whole before focusing on the sustainability of legal aid. Findings from the survey include:

- 52% of respondents rated the overall legal system as poor or very poor at providing everyone in Aotearoa New Zealand access to justice.
 - 19% of Legal Aid lawyers indicated they would take less legal aid work in the next 12 months, while 5% said they would take none. 13% said they would take more.
 - Remuneration, stress, administrative burden and the complex needs of legal aid clients were cited as the main reasons for wanting to do less legal aid work.
 - Legal Aid lawyers were more likely to indicated their jobs provide a great deal of satisfaction, but highly stressful, than lawyers in general.
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- Helping people who cannot afford legal representation and a sense of moral duty were the main reasons for doing legal aid work.
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Biggest Challenge for 2023

These results of the NZLS survey report are concerning for the future sustainability of legal aid, and reflect how significant a challenge may be ahead. Responding to this and working with profession to address these issues are likely to be the biggest challenge in 2023.

A 'Provider Coverage' report has been commissioned as a starting point. This report looks at the number of legal aid providers in New Zealand and projects them against forecast trends in the criminal, family and civil jurisdictions to see whether current legal aid lawyer coverage will be able to meet demand in five years time.

These results are then compared against projections for legal aid lawyers overall, to account for providers progressing in experience, retiring or opting out of legal of work. With the report currently being finalised, it is expected to show short term coverage gaps in some areas and longer term issues across the country.

Responding to these issues will be a priority for legal aid in 2023. The increased remuneration provided by the New Zealand Government may help retain providers and encourage new lawyers to provide legal aid services, but there will need to be further engagement to see where other barriers can be removed. Reducing administration for lawyers and policy around junior counsel are likely to be critical areas for this work.

Effects of COVID-19 upon Legal Aid services

As is universally the case, COVID-19 has had impacts upon New Zealand, and legal aid services within that.

New Zealand's response to the pandemic involved two periods of what was effectively a national lockdown. These periods, between 25 March 2020 – 13 May 2020 and 17 August 2021 to 7 September 2021, unsurprisingly led to reductions in legal aid activity with the most pronounced effects in the initial March 2020 period.

Financially these periods have distorted expenditure on legal aid. Following the first lockdown Courts of New Zealand increased the amount of scheduled activity in order to address backlogs, which led to additional expenditure as lawyers worked additional hours.

The opposite effect has been seen following the longer, second lockdown. Auckland, the country's largest city, remained in lockdown for an extended 5 month period, with limited court activity throughout this time. As a direct result of this fewer cases were able to progress and expenditure on these dropped as a result. Now, with a backlog of jury trials having built up and COVID-19 restrictions largely removed it is expected that this activity will come through the courts in 2023.

COVID-19 has impacted the legal profession and its relationship to legal aid as well. While recovery responses have focused on backlogs and addressing delays in services, they have also highlighted the limited number and finite capacity of the legal profession. Working with the profession to mitigate capacity issues will be a key focus of the provider coverage work anticipated for 2023.

Lastly, there have been impacts upon legal aid recipients as well. Overall the number of legal aid grants has remained reasonably consistent, but these cases are taking longer and are likely to cost the recipient more as a result. It is intended that the increases to repayment thresholds announced by the Government (so that fewer

people will be assigned repayments) will address this, but it is possible that more applications for write-off due to hardship will be received and more discretion may need to be taken when granting aid initially.

NATIONAL REPORT: NORTHERN
IRELAND

Northern Ireland National Report ILAG Harvard 2023

1. Country details:

Northern Ireland has a population of 1,903,100 (NISRA, Census)

In 2018, Gross Domestic Product (GDP) for Northern Ireland was £48.3 billion; compared to £46.8 billion in 2017 (NISRA, ELMS)

In 2021/22, 16% of individuals (approx. 300,000 people) were estimated to be living in relative poverty; compared to 17% in 2020/21. The percentage of individuals in absolute poverty in 2021/22 stood at 13% (approx. 249,000 people); compared to 12% in 2020/21 (NISRA, DfC)

There are approximately 2,267 solicitors currently in private practice in Northern Ireland (Law Society of Northern Ireland).

2. Legal Aid Body:

The Legal Services Agency (LSA) is the body responsible for the administration of legal aid in Northern Ireland. The LSA is an Executive Agency within Northern Ireland's Department of Justice (DoJ) but has operational independence when determining applications for legal aid.

The LSA's operational staff headcount is 138, or 127 full-time equivalent (FTE), in addition to two non-executive members (NEMs) which sit on its Board.

Currently, there are some 940 Solicitors and 590 Barristers registered with LSA to deliver and provide legal services in Northern Ireland.

Legal practitioners are remunerated on a case-by-case basis following assessment of individual bills as specified by legislation.

3. Budget and Spend:

The LSA's budget is funded by central government, via the Department of Justice. While legal aid entitlement means it is a demand led service, the legal aid budget is capped each year by the Department, though is regularly supplemented during in-year monitoring rounds to ease pressure on the fund.

The profile of spend is set out below:

	2021/22	2022/23
	£000	£000
Advice & Assistance	3,988	3,438
Representation Lower	5,250	6,903
Representation Higher	38,395	42,359
Criminal	46,066	48,973
Exceptional Funding	1,017	(228)
Total	94,716	101,444

4. Scope, Caseload and Eligibility:

The scope of the legal aid scheme in Northern Ireland provides extensive coverage with limited restrictions, primarily around defamation proceedings and certain tribunals.

While LSA adjudicates and grants civil legal aid in Northern Ireland, criminal legal aid is granted by the judiciary. Details of the volume of applications and grants are set out below.

With limited exceptions civil cases are subject to a means test and this can involve payment of contributions. There are no contributions payable for criminal legal aid.

	Applications Received		Applications Granted	
	2021/22	2022/23	2021/22	2022/23
Advice & Assistance	32,16 2	27,79 3	29,48 2	24,75 0
Representation Lower	9,139	8,356	7,588	7,119
Representation Higher	10,29 6	10,29 4	7,213	7,151
Criminal	24,64 9	24,92 5	24,64 9	24,92 5
Exceptional Funding	48	52	30	31
Total	76,29 4	71,42 0	68,96 2	63,97 6

5. Quality Assurance:

In Northern Ireland work continues to deliver a quality assurance scheme. At present complaints about the quality of service provided are matters for the Law Society and Bar Council.

To provide legal services funding by the LSA an individual must have a valid practising certificate issued by the Law Society and Bar Council and must be a registered user of the LSA's digital case management system.

6. Alternative Sources of Legal Aid services:

In addition to legal aid, a range of voluntary organisations provide advice and assistance and some representation, primarily in certain tribunals. There are also a range of insurance-based products available to assist with legal issues. A few statutory bodies will also bring test case litigation, primarily in human rights and employment law.

NATIONAL REPORT: RWANDA



National Report Template ILAG Harvard 2023

It would be much appreciated if you could fill in what you can for your jurisdiction. We know it is a lot of information to ask, so do not worry if you can only provide some of the information. Please highlight any recent significant changes in your legal aid programme If time and energy permit.

1. Country details

Name: **Rwanda**, Population: **13,246,394 people**¹. GDP: **13,716 billion RWF**². Poverty line **38.2%**³ of the population deemed to be living in poverty. Number of practicing lawyers in the jurisdiction: **1450 Advocates**⁴

2. Legal Aid Organisation / Authority

Name of LAO: **The Legal Aid Forum.**

Status of LAO: **Independent Civil Society Organization.**

Number of board members is **9** and staff members from 2021 – 2022 were **34** and **35** respectively.

Delivery method: **LAF uses a mixed delivery mode. We have Salaried /in-house Lawyers, Private Contracted Lawyers and paralegals through NGOs.**

Number of lawyers: **In 2021 we had 16 lawyers and in 2022 we had 15 lawyers.**

Number of paralegals participating in the legal aid programme: 3,000 paralegals came together through the Paralegal network and elect their 30 District representatives. Payment methods used to recompense private lawyers or other providers in your system (e.g. contract, fixed fee, hourly rate, part pro bono, etc.): **For Private Lawyers, LAF uses services provision agreements, for in-house lawyers we use employment contracts, and for Paralegals, we use agreements with paralegal organizations.**

3. Budget and Spend:

Our Legal Aid program receives funding from development partners/donors who are actively involved in the justice sector. Each year the legal aid budget is predetermined and set at a specific limit based on available funding for projects. In the past two years (2021 and 2022), the expenditure for Legal Services offered by Legal Aid Forum amounted to 1,475,181,051 Rwf in 2021 and 1,893,441,547 Rwf in 2022. These funds are dedicated to providing essential legal services, including initial legal advice, orientation, and assistance in various areas such as civil,

¹ See National Statistics of Rwanda Website, available at https://www.statistics.gov.rw/publication/Rwanda_population_2022, accessed 03/5/2023

² See National Statistics of Rwanda Website, available at <https://www.statistics.gov.rw/publication/1914>, accessed 03/5/2023

³ Available at <https://www.statistics.gov.rw/publication/statistical-yearbook-2019> accessed 26/4/2021

⁴ See Rwanda Bar Association official website, available at <https://www.rwandabar.org.rw/about-rba>, accessed on 03/5/2023

criminal, administrative, children's rights, and asylum cases. The resources are managed by the LAF Secretariat. Our clients receive all our services free of charge.

4. Scope, Caseload, and Eligibility:

➤ What restrictions on the scope are there for civil and criminal administration, children, and asylum? Legal aid and for initial advice in your jurisdiction?

The National Legal Aid Policy of October 2014 regulates the provision of legal aid in Rwanda. The policy stipulates that legal aid, which includes legal advice, assistance, representation, education, and alternative dispute resolution mechanisms, be offered to poor and vulnerable individuals or groups such as indigent persons, women, children, persons with disabilities, and victims of gender-based violence without any limitations for both civil and criminal administrative, children, and asylum cases.

➤ Total number of applications and grants for the last two years.

The provision of free legal aid services, such as legal advice, representation, mediation, referrals, orientation, accompaniment, advocacy, and civil documentation, varies from year to year. For instance, in the last two years (2021-2022), LAF was able to serve **24,666** individuals, including 1,058 who received legal representation before the court, National Prosecution Authority, and the Rwanda Investigation Bureau (RIB). Among these cases, 17,019 were civil, 7,647 were criminal, 16,032 are female, and 8,634 are male, including 6,206 children.

➤ Eligibility limits for criminal legal aid.

Our approach to community development is rooted in Rwanda's social categorization system, known as 'Ubudehe'. This government-led initiative aims to reduce poverty by providing communities with the skills and resources needed to solve problems and make decisions. Our primary focus is on assisting individuals in Category 1 and Category 2, who are considered the most vulnerable. However, we also make exceptions for cases involving Gender Based Violence and for special projects such as The Legal Aid Forum's criminal legal aid program for journalists, which has been available since January 2020.

➤ Are means-tested contributions part of your (a) civil (b) criminal (c) initial advice eligibility requirements?

Rwanda is currently working towards establishing a comprehensive means test to determine eligibility for Legal Aid Services. Presently, our system relies solely on the social categorization method known as the 'Ubudehe' system. However, in accordance with our national Legal Aid Policy, we have proposed the implementation of a means test. To this end, a Legal Aid Law and ministerial order have been drafted, which outline the principles, guidelines, conditions, rights, obligations, and penalties related to legal aid. We are now awaiting the adoption of these legislations by the relevant competent authorities.

In your jurisdiction, are legally aided litigants who lose their case liable to pay the other side's legal expenses/ costs?

Yes. Legal expenses/ costs may be awarded if the lawyer requests it and the judges approve, and if both the lawyer and litigant request costs, the judge has the discretion to order payment. However, litigants who

have been granted legal aid certificates of indigence are exempt from paying court fees if they lose their case.

5. Quality Assurance:

The system used – Complaints to LAO, Complaints to the Bar Association/ Law Society, Client Satisfaction questionnaires / interviews, Continuing Legal Education, Mentoring, Peer Review, Supervisor audit, Observation or video/audio tape, etc.

Surveys to get feedback on the legal aid services and the level of beneficiaries' satisfaction. Sometimes the surveys are conducted through ICT and reports are generated through that technology. Complaints from our beneficiaries are directed to the Executive Director. We have a toll-free line 1022 used by legal aid seekers and can be used for lodging complaints. Complaints can also be from forms our LAO Partners and members.

The Rwanda Bar Association also receive complaints and continuous legal education is also mandatory for all Lawyers to renew their licenses to practice

In 2019, LAF developed the Legal Aid Performance Standards to ensure greater consistency in the delivery of legal aid services, it helps legal aid providers to track and monitor services provided to our beneficiaries.

What requirements are there (if any) for lawyers and others who wish to provide legal aid, other than membership of the Bar / professional association e.g. registration, experience, special exams, interviews, upper or lower limits on a number of cases undertaken annually etc.?

To become a lawyer in Rwanda registration with the Rwanda Bar Association is mandatory. In addition, lawyers who seek to provide legal aid services must undergo interviews, internships, and written exams.

6. Public Legal Education:

Initiatives in the last two years to increase public awareness of the availability of Publicly Funded Legal Services/ legal aid in your jurisdiction and how to access it. (Include any particular approach for those in remote areas or those with special legal needs e.g. the elderly or victims of domestic violence). IT packages were introduced to enhance access for the public

LAF employs a range of approaches to provide legal aid, with a particular emphasis on public legal education. These approaches include:

Paralegals: Rwanda has over 3,000 paralegals based in communities, prisons and refugee camps. Paralegals play a vital role in assisting people to engage with the legal environment and empowering them to understand and claim their rights. They provide essential legal services to their communities including legal advice, mediation, legal education, accompaniment, referrals etc

Over the past two years, paralegals reached **111,891** individuals, particularly those in remote areas, through our awareness raising/legal education sessions. We were able to identify 54 critical cases that required legal representation, which were promptly referred to LAF for assistance.

Mobile legal aid clinics (MLAC): this is an approach the Legal Aid Forum uses to bring legal services closer to the community. To promote social cohesion, social justice, and sustainable development, MLAC uses the proximity justice approach to improve the accessibility and quality of legal services to the population. This approach involves legal officers going into the community and meeting beneficiaries in their neighborhoods to discuss and resolve their legal issues. It is an effective approach of providing free legal aid to vulnerable people at the grassroots level. We find the beneficiaries where they live, eliminating expenses that may hinder access to justice for economically disadvantaged individuals.

In the past two years, our legal officers have reached out to 108,162 individuals through legal MLACs.

Legal Aid week: Every year since 2009, LAF collaborates with other justice sector institutions to conduct Legal Aid weeks (LAW) with the objective of offering intensive legal education, especially on laws that are mostly used by citizens, and legal assistance to vulnerable and marginalized individuals

In 2021, LAF conducted Legal Aid Week through live television and radio talk shows as well as social media to curb the spread of Covid-19. Different themes related to access to justice and legal aid were discussed and listeners were given an opportunity to ask questions on their justice-related issues. Electronic banners were posted on Facebook, Twitter and Instagram to raise awareness on Legal Aid Week. The public was encouraged to interact and report any special cases or problems requiring LAF or other institution attention. The following are the themes covered during the talk shows:

- The use of ICT in the provision of legal services during COVID-19
- Ensuring protection of employees rights in light of the COVID-19 pandemic
- Overview of newly adopted Law governing land
- Effects of pre-trial detention on prison overcrowding
- Freedom of Expression (Dos & Don'ts)
- The role of paralegals in the delivery of justice to the Rwandan people
- The role of legal aid clinics in the delivery of justice to the Rwandan people
- The role of forensic evidence in the delivery of justice

Our efforts resulted in reaching out to a approximately 4,914,216 individuals, and we have been able to identify 28 cases that required legal representation.

University legal aid clinics: these are clinics in which law students provide legal assistance to vulnerable beneficiaries under the supervision of a lecturer. LAF has four (4) legal aid clinics in its network, whose primary functions are threefold: a training facility for law students where they are provided with practical legal training and necessary exposure to the realities of legal practice through participation in legal aid clinic, provision of quality legal aid services to the vulnerable people by offering training, advisory, and advocacy on legal related issues and conducting adequate research on key legal issues identified from the cases brought by the people seeking legal aid.

With the acquired skills, the students are able to provide quality legal aid services to vulnerable people in the form of legal advice, drafting court submissions, referrals to other institutions, and mediation

Legal education through Media: LAF's approach to media engagement allows the organization to do advocacy on several legal issues as well as make its pro bono legal services known to the Rwandan population and how to access said services.

Working with the biggest media houses and taking advantage of their wide coverage and popularity among the population, LAF uses TV and Radio stations to educate citizens on their legal rights. As a result of the good rapport LAF has built with the Rwandan media sector, the organization has become the go-to for legal aid information.

Know your rights Posters: Other tools used by LAF to empower the community to know their rights and obligations are know-your-rights posters. Vested with key legal information such as pre-trial rights and procedures, freedom of expression, etc., the posters are a simple and effective way to raise legal consciousness in communities.

LAF disseminates posters across the country in investigation bureaus, police stations, courts, prisons, etc. They are artistically designed to attract readers and have clear and concise legal information.

IT packages introduced to enhance access for the public

Since 2018, LAF has been harnessing simple mobile phone technology to bridge the justice gap for vulnerable communities in Rwanda. It resulted from a study conducted by LAF in 2017, which revealed that the distance Rwandans have to travel to reach legal aid providers represent an access problem.

The study recommended finding a way in which to provide individuals with access to legal information and advice without requiring them to travel long distances or to spend money on costs associated with trip, such as transportation, food, and drinks.

Among other things, this innovation has been successful in addressing the gaps related to a lack of awareness of the rights and laws that affect large portions of the population.

The platform allows citizens to empower themselves through self-education. By following simple step-by-step instructions, citizens can access a range of pre-recorded legal content via interactive voice recording (IVR) and Unstructured Supplementary Service Data (USSD) respectively.

Since its establishment, our platform has provided access to various legal content free of charge, empowering over 5,000,000 individuals to become knowledgeable about their rights. Over the past two years, 3,645,904 people listened the legal content 7,550,230 times. Additionally, 149,216 people read the legal content 194,652 times.

Has there been a country-wide Needs Assessment study in your jurisdiction in recent years, looking at the distribution of justiciable problems and how the public responds to them? Date of last needs assessment? Executed by?

In 2020, the Legal Aid Forum conducted an assessment of the National Legal Aid Policy and its initial implementation plan covering the period from 2014 to 2018. The primary objective of the assessment was to gain insight into the status of the policy's implementation so far, with a particular focus on the four-year

initial implementation plan. The assessment document outlines the progress made thus far, identifies gaps that still need to be addressed, and offers recommendations to achieve full implementation of the policy.

In 2021, Legal Aid Forum conducted a Capacity Needs Assessment on access to Justice delivery in Rwanda with the aim to identify knowledge gaps related to the use of Integrated Electronic Case Management System, capacity needs of Abunzi mediation committees, knowledge gaps related to legal aid by justice sector actors and effects of COVID-19 on access to justice in Rwanda. The organization used findings from the assessment to tailor capacity building initiatives to the existing gaps and needs for improved justice delivery.

In 2022, the Ministry of Justice carried out a legal aid provider mapping exercise and assessed their capabilities. The objective of this assessment was to identify the legal aid providers offering services across the country, explore opportunities for the Ministry of Justice to collaborate with them, and create a comprehensive database containing relevant information such as their names, locations, geographic coverage, services offered, target group, contact details, and potential areas of cooperation.

In 2022, the Legal Aid Forum conducted an assessment of the use of technology in access to justice to gauge how digitization of legal services affected access to justice to both service providers and the vulnerable groups in Rwanda, especially post covid-19.

7. Alternative Sources of Legal Aid services:

What are the other principal sources of legal help for disadvantaged citizens in your jurisdiction, and how many clients do they assist annually (e.g. legal expenses insurance, trade unions, consumer organization claims companies, community law clinics, university law clinics, local charities, NGOs, etc.)?

There are currently seven (7) categories of legal aid providers in Rwanda comprising both state and Non – state Actors (NSA) there are a total of 74 identified legal aid providers including 2 by the Ministry of Justice through MAJ and Abunzi committees, 30 NGOS, 4 Universities, and 40 Private practitioners. Legal Aid thus involves different actors with different means of funding and management. For NGOs providing Legal Aid services, the Umbrella Organization/Network for all these actors is the LEGAL AID FORUM.

8. Holistic legal services:

Is your jurisdiction exploring link-ups between legal services providers and non-lawyer professionals e.g. health/justice partnerships, social work/justice collaboration, or other forms of “one-stop shop”?

The Government of Rwanda has made ending Gender-Based Violence a national priority. The Government of Rwanda has initiated different centers where citizens can access different services they need to be offered by diverse partners.

Isange one-stop center (IOSC) indicates the Rwanda Holistic approach to fighting gender-based violence and child abuse. IOSC services of investigation, prosecution, legal aid services, medical, and counselling are offered to those who approach the centers for aid.

There are One Stop Centres (OSC) at the district level where citizens can access land-related services in one place.

In order to provide a more comprehensive and effective approach to combat gender-based violence, LAF and USAID are exploring ways to integrate health and GBV services with legal aid services. One of the proposed strategies is to establish a structure where GBV survivors can receive both health and legal services in one location, such as a one-stop center. This will not only provide survivors with the necessary support but also improve coordination among service providers, resulting in a more seamless and holistic approach to addressing GBV.

LAF works with community-based paralegals on ground who refer various legal aid seekers to the organization for legal assistance and representation. This referral system allows LAF to reach more people that it ordinarily would if it only assisted people who come to our offices.

9. UN SDG Standard 16.3

Please identify any steps being taken to articulate and elaborate Sustainable Development Goal 16.3 in your jurisdiction.

Sustainable Development Goal 16.3 aims to promote the rule of law, ensure equal access to justice for all, and build effective, accountable, and inclusive institutions at all levels. Rwanda has taken significant steps towards articulating and elaborating on this goal within its jurisdiction.

In 2018, Rwanda launched its third National Strategy for Transformation (NST3), which outlines the country's vision for achieving sustainable development and economic growth over the next 10 years. The strategy places a strong emphasis on the rule of law, justice, and governance, recognizing that these are essential components for achieving sustainable development.

Rwanda hosts the SDG Center for Africa, which has a mission of supporting governments, civil society, business, and academic institutions to accelerate progress towards SDGs. The Ministry of Finance and Economic Planning (MINECOFIN) is mandated to facilitate the ownership process of SDGs at all levels of the national structures. Rwanda participates in National Voluntary Reviews (NVR) and submitted a report on the same in 2019.

To further promote access to justice and the rule of law, Rwanda has implemented various reforms in its justice sector, such as introducing legal aid services for vulnerable and marginalized groups through Access to Justice Bureaus (MAJ) and establishing an appeal court. Additionally, Rwanda continued

strengthening an e-justice system that enables the electronic filing of cases, making the justice system more accessible and efficient.

LAF contributes to Sustainable Development Goal 16.3 by providing legal services to vulnerable people free of charge. LAF also advocates for legal reforms for legislations that hinder full access to justice as well as participate and contribute in research assessments on cost-effective investments in front line people-centred justice. Additionally, LAF regularly conducts trainings to build capacity of justice actors to provide high-quality legal services.

Overall, Rwanda has made significant progress towards articulating and elaborating on SDG 16.3 within its jurisdiction and continues to implement reforms and initiatives aimed at promoting the rule of law, access to justice, and good governance.

10. Other

- **Most innovative project 2021-2022**

One of the most innovative initiatives implemented by the Legal Aid Forum is the legal aid helpline. This innovation uses simple mobile phone technology to deliver legal services directly to individuals in the convenience of their homes.

During the COVID-19 pandemic, when lockdowns were imposed to mitigate the spread of the virus, the significance of the legal aid helpline skyrocketed. The platform became a lifeline for individuals seeking legal assistance, even when movement restrictions were in place.

The helpline's accessibility and ease of use allowed individuals to connect with legal professionals, receive guidance, and access crucial legal information without the need for physical presence. This played a vital role in ensuring that individuals could exercise their rights and seek legal remedies during challenging circumstances.

The most disappointing trend in 2021-2022

The Covid-19 pandemic was undoubtedly the most disappointing trend, bringing forth numerous negative effects on the legal aid sector and its stakeholders. One of the biggest challenges that the Justice sector in Rwanda may have faced during this period is **the backlog of cases due to the COVID-19 pandemic**. The pandemic disrupted the normal functioning of courts, resulting in delays in the adjudication of cases. Additionally, the pandemic has led to increased demand for legal aid services, particularly among vulnerable and marginalized groups, which may have further exacerbated the backlog of cases.

The biggest challenge for 2023

One potential challenge may be the need to address the backlog of cases that have accumulated as a result of the COVID-19 pandemic. While efforts have been made to mitigate the impact of the pandemic on the

justice system, there is still a significant number of cases that need to be adjudicated in 2023. Addressing this backlog will require the allocation of resources, including personnel and technology, to ensure that cases can be processed efficiently.

Another critical challenge within the sector is the limited funding available, which restricts the number of interventions that can be carried out in response to the demand for legal aid services.

Insufficient funding poses a significant obstacle to effectively meeting the needs of individuals seeking legal assistance. The high demand for legal aid often surpasses the available resources, resulting in a shortfall of interventions that can be provided to those in need.

Something about Covid-19 effects?

The COVID-19 pandemic has had significant effects on LAF activities and the overall justice sector. Some of the effects of the pandemic include:

Court closures and backlog of cases: To mitigate the spread of the virus, many courts temporarily closed or operated at reduced capacity during the early months of the pandemic. This disruption resulted in a backlog of cases that will require time and resources to address.

Limited access to justice: COVID-19 restrictions, particularly in rural areas, hindered individuals' access to justice. Travel restrictions and limited transportation options made it challenging for people to attend court hearings or seek legal assistance, especially for those residing in remote areas.

Digital divide: Many court hearings and legal procedures shifted online to reduce the risk of COVID-19 transmission. However, not everyone has equal access to technology, which created a digital divide and impacted the ability of some people to participate in legal proceedings.

Impact on legal professionals: The pandemic may have had a significant impact on legal professionals, including our staff, lawyers, and as well judges. Disruptions to work and personal lives, as well as adapting to new remote work arrangements, posed challenges to effectiveness and well-being.

To address these challenges, LAF and other judicial actors have taken steps to adapt and innovate. For example, courts have introduced new technologies to enable remote hearings, and LAF continued to use its ICT based platform 1022 to ensure that legal aid seekers were served as needed. However, there is still work to be done to address the ongoing impacts of the pandemic on the justice sector.

NATIONAL REPORT: SCOTLAND

Scotland National Report ILAG Harvard 2023

1. Country details : Scotland

Population	5.52 million
GDP	£168.7 bn (£33,708 GDP per person)
Population in poverty	<p>1 in 4 children in Scotland (24%) are living in poverty</p> <p>1 in 5 working age people (19%) in Scotland are living in poverty</p> <p>15% of pensioners in Scotland are living in poverty</p> <p>61% of working age adults in poverty and 68% of children in poverty live in a household where someone is in employment.</p>
Practising lawyers	<p>+ 12, 000 (Mix of legal aid & Commercial solicitors)</p> <p>In terms of legal aid providers in Scotland, the financial year April 2022 to March 2023:</p> <ul style="list-style-type: none">• there were 620 solicitor firms active;• just over 70% did civil work, almost 60% did criminal work and a third did children's.

1. Legal Aid Organisation / Authority:

The Scottish Legal Aid Board (SLAB) is the national funding body for most solicitor and advocate delivered publicly funded legal services.

SLAB a Non-Departmental Public Body (NDPB) of the Scottish Government and was established in 1987. It is funded by the Scottish Government and accountable to Ministers although operational matters are maintained at arm's length from the Government.

SCOTLAND'S LEGAL AID MODEL

Legal problem identified



Non-legal sources of advice, for example
Citizens Advice Bureau



Not managed by SLAB

42 grant funded projects around Scotland
(mainly debt & housing cases)



SLAB monitors project delivery

Judicare

Private solicitors: registered
for civil, criminal & children's
legal assistance



SLAB direct services



Civil Legal Assistance Office

- Solicitors apply for legal aid
- SLAB assess eligibility to:
 - ✓ Grant
 - ✗ Refuse



Solicitors deliver

- Advice & assistance
- Legal aid



Accounts paid



Legal aid in Scotland is primarily designed around case-by-case funding for services provided by solicitors and others instructed by them, such as advocates and experts. This is known as judicare. Funding for legal aid cases is demand led. This means that decisions on eligibility and payment are made irrespective of any budgetary provision and the Scottish Government must make funding available if required to pay for services covered by the legal aid schemes, even if this is higher than expected in some years. In other years, demand may be less than expected. These are not savings that SLAB makes or holds or can use in any other way.

The nature of judicare funding is that it is unplanned and non-targeted. In any one year we pay for services delivered in that year and over previous years. Most expenditure is for cases which concluded in the year payment is made. Some cases can start and conclude in the same year, whilst others will span one or more financial years.

Most services paid for through the Legal Aid Fund are delivered by judicare through the private sector. The third sector and our own in-house legal services also deliver case-by-case services but on a much smaller scale. Finally, a small amount of funding provides direct grants for projects to deliver targeted legal and advice services. The Legal Aid Fund also finances the quality assurance schemes we manage.

The Scottish Government is responsible for the overall direction of legal aid policy which finds expression in rules and regulations which form an extensive and complex body of legal aid legislation.

SLAB's primary functions are to assess eligibility for legal aid and check accounts submitted for payment by solicitors and advocates. The rules SLAB applies in doing so are set by the Scottish Parliament. SLAB employs around 350 staff with around 60% of our staff involved in the assessment of legal aid applications and payment of solicitor and advocate accounts.

A small amount of publicly funded assistance is delivered by SLAB employed solicitors in the form of publicly employed solicitors delivering criminal (Public Defence Solicitors' Office (PDSO)) and civil legal services (Civil Legal Assistance Office (CLAO)) across Scotland. SLAB's employed civil solicitors play a dual role in referring people to solicitors in the private sector and providing direct services if this is not possible.

SLAB employed solicitors also manage a 24 hour Solicitor Contact Line (SCL) which provides advice and facilitates access to solicitors for people that require advice in police custody.

SLAB also manages a range of projects delivering legal and other support across the country which are funded through government grants. In 2022-23 there were three nationwide and 42 regional grant funded projects.

The table below shows the number of firms and solicitors registered to provide different forms of legal assistance. Being registered means that they are eligible to do so, not necessarily that they actively do so. The number of active firms and solicitors is likely to be smaller. Many firms are registered to provide various combinations of civil, children's and criminal legal assistance, so the total number of firms is lower than the total of the three registers.

	To 31 March 2022
Criminal firms	429
Criminal solicitors	1138
Civil firms	489
Civil Practitioners	1138
Children's firms	240
Children's solicitors	419

2. Budget and Spend:

Funding for legal aid cases is demand led. This means that decisions on eligibility and payment are made irrespective of any budgetary provision and the Scottish Government must make funding available if required to pay for services covered by the legal aid schemes. An application for legal aid will never be refused on the basis that the allocated funding has been reached.

The legal aid budget is split into two categories. The Legal Aid Fund covers payments for legal assistance cases, including the costs of running SLAB's directly employed client-facing services (PDSO, CLAO and SCL). The second is the administrative budget (Admin), this covers all the operational costs of SLAB. Table 1.3 below shows the initially allocated budget for the last two years, along with the actual expenditure on the Legal Aid Fund. Expenditure on the Fund has been affected by Covid-19 but provisional figures for 2022-23 indicate that it has now returned to above pre-covid levels.

A significant amount of administrative expenditure is directed at ensuring that all legal aid expenditure is in accordance with prevailing statutory provisions, regulations, fee tables and taxation standards. This is achieved through assessment of solicitors' and advocates' accounts and determination of applications, only granting those that meet the statutory tests.

Table 1.3

	2020-21	2021-22
	£m	£m
Fund (budget)	£125.8	£125.8
Fund (spend)	99.3	118.2
Admin	12.9	13.9

3. Scope, Caseload and Eligibility:

The scope of civil legal aid in Scotland is wider than in many other jurisdictions. Only a very small number of civil proceedings, e.g. small claims, are not covered by legal aid. All types of criminal proceedings are covered by criminal legal assistance. The table below sets out the eligibility tests.

Type of legal aid	Eligibility testing*		Contributions Assisted person pays towards the costs of the case if disposable income or capital over a set threshold
	Merits test	Means test	
Civil			
A&A	✗	✓	✓
ABWOR	Depends on case type	Depends on case type	Depends on case type
Civil Legal Aid	✓	✓	✓
Children's			
A&A	✗	✓	✓
ABWOR	✓	✓	
Children's Legal Aid	✓	✓	
Criminal			
Police Station Advice (A&A)	✗	✗	✗
A&A	✗	✓	✓
ABWOR	Depends on case type	Depends on case type	Depends on case type
Summary criminal legal aid	✓	✓	✗
Solemn criminal legal aid	✗	✓	✗

4. Quality Assurance:

The table below sets out the key features of the criminal and civil quality assurance schemes in Scotland.

	Criminal Legal Assistance	Civil Legal Assistance	Children's Legal Assistance
Commenced	The scheme was commenced in February 2012.	The scheme was commenced in 2003.	The Scheme was commenced in 2017
Administered by	Scottish Legal Aid Board (SLAB).	Law Society of Scotland.	Scottish Legal Aid Board (SLAB).
Funding	SLAB funds the QA scheme.	Funding ultimately covered by SLAB. The Law Society initially pays for the costs of the scheme including Peer Reviewers and the scheme's administration costs. These costs are then reimbursed by SLAB.	SLAB funds the QA scheme.
Committee	QA is overseen by a Criminal Quality Assurance Committee (CQAC). This is a Committee of SLAB which comprises: 3 members appointed by SLAB; 3 members appointed by the Law Society of Scotland; 3 independent or lay members appointed in consultation with the Law Society of	QA is overseen by a Quality Assurance Committee. This is a Committee of the Society which comprises: 3 solicitors appointed by the President of the Law Society, including the Convener, who is a member of Council; 3 lay members; 3 employees of or members of SLAB, of	QA is overseen by a Children's Quality Assurance Committee (CQAC). This is a Committee of SLAB which comprises: 3 members appointed by SLAB; 3 members appointed by the Law Society of Scotland; 3 independent or lay members appointed

	Scotland. The main roles of the Committee are to consider the results of peer reviews and make recommendations for further action e.g. SLAB commencing de-registration proceedings.	whom at least two must be solicitors. The main role of the Committee is to consider the results of peer reviews and to determine whether a firm should hold or continue to hold a Law Society Compliance Certificate.	in consultation with the Law Society of Scotland. The main roles of the Committee are to consider the results of peer reviews and make recommendations for further action e.g. SLAB commencing de-registration proceedings.
Peer review cycle	The reviews are carried out over a 6 year cycle.	The reviews are carried out over a 6 year cycle.	The reviews are carried out over a 6 year cycle
Peer review carried out by	Peer reviews are carried out by experienced and currently practising criminal solicitors.	Peer reviewers are carried out by solicitors who practice civil legal assistance.	Peer reviewers are carried out by solicitors who practice children's legal assistance.

Complaints about solicitors are handled in the first instance by the Scottish Legal Complaints Commission (SLCC). SLCC are a single point of contact for all complaints against lawyers in Scotland (solicitors, advocates, commercial attorneys, licensed conveyancers). They investigate and resolve complaints about service and refer conduct complaints to the relevant professional body for investigation.

In April 2023, the Scottish Government published the Regulation of Legal Services (Scotland) Bill. It can be found [here](#). The Bill updates the regulation of legal services in Scotland and provides for a modernised regulatory framework. Of most note are provisions that:

- Introduce a requirement for category 1 regulators (at present just the Law Society of Scotland) to create and apply a set of rules for the regulation of legal services at a business level (for example, to require traditional firms of solicitors etc. to be regulated as firms as opposed to as a collection of solicitors).
- Reconstitute the Scottish Legal Complaints Commission as the Scottish Legal Services Commission, adjusting its powers and providing for an updated complaints regime

5 .Public Legal Education:

The Scottish Government launched the mygov.scot website in 2014 which works with over 150 organisations to deliver an online platform for people in Scotland to access public services that are easy to find and simple to use.

6. Alternative Sources of Legal Aid services:

Alternative advice is available through local authorities, national organisations such as Shelter and smaller charities. Advice on welfare benefits, housing, debt, consumer issues, employment and relationships can be sought from one of the 59 Citizens Advice Scotland bureaux. Citizens Advice Scotland, the Extra Help Unit and associated bureaux together form Scotland's largest independent advice network. In 2020-21 the Citizens Advice Service network helped over 171,000 clients in Scotland and dealt with over 647,000 advice issues within the UK.

SLAB are responsible for the administration of a [range of projects across Scotland](#) which have been established to help people with certain civil problems.

Law centres

Law centres also offer cheaper or free legal help to people who might find it difficult to get legal advice. Most Law Centres in Scotland obtain funding in the form of grants from local and central government and other sources, as well as employing solicitors who are registered to carry out legal aid work. There are a number of law centres across Scotland, including:

- [Castlemilk Law Centre](#)
- [Dundee Law Centre](#)
- [Ethnic Minorities Law Centre](#)
- [Fife Law Centre](#)
- [Govan Law Centre](#)
- [Legal Services Agency,](#)
- [Scottish Child Law Centre](#)

7. Holistic legal services:

The Scottish Legal Aid Board was heavily involved in sessions including justice leaders, stakeholders and Justice Committee members to participate in discussions around post pandemic recovery plans. The later sessions were more focused on future justice priorities, looking beyond the pandemic.

There was a near consensus emerging around the need for a progressive approach to prevention, reducing re-offending and rehabilitation, alongside better treatment of victims and witnesses.

Potential means of supporting complainers in the criminal justice system via independent legal representation in sexual offences cases is now a feature of current pilot and legislative plans. The contribution of publicly employed solicitors will also be a key consideration.

We are working with partner agencies to share experience of ongoing changes caused by COVID and working together to deal with these. In Edinburgh we have regular meetings with homelessness services providers to discuss trends in homelessness, how the Civil Legal Assistance Office's (CLAO) involvement could assist and how

agencies can work together to deal with the emerging issues as well as having regular meeting with City of Edinburgh Council to discuss eviction actions.

CLAO also successfully trialled a new approach of providing a direct advice line to service users at the Rapid Re-accommodation Welcome Centre (formerly homeless winter night shelter) in Edinburgh city centre during lockdown, finding it a better way to engage with homeless contacts and provide them with quicker, more effective legal assistance at a time of crisis. The shelter has now been operating again since October 2020 with an emphasis on supporting people to move on to suitable accommodation. CLAO are offering a weekly telephone surgery to homeless people staying at the Winter Welcome Centre and have successfully assisted people there in obtaining temporary accommodation.

In addition to the above CLAO are developing new referral pathways with agencies such as the Highland Custody Link Project who focus on young adults in custody to support early intervention in various aspects of a person life at a critical stage to reduce reoffending. Many of their clients require assistance with problems with housing and homelessness, mental health or child protection – areas of work which are core for the organisation. CLAO are able to offer assistance with identifying legal issues and triaging for casework, referral or signposting. They may also be a link for us into support services for clients who fall within their remit.

8. Other

SLAB will continue in 2023 with our work to improve the legal aid schemes within the parameters of the current legal aid legislation and our current functions. Whilst there has been incremental change over the decades, our primary legislation itself dates from 1986: it is as old now as the 1950 scheme it replaced. The biggest innovation in 1986 was the establishment of SLAB to take the administration of the system into the public sector: the legal aid system itself and the delivery model it supports are fundamentally unchanged from those of the 1950s. The core shape of the legal aid system has not evolved to fully reflect many of the changes in the intervening decades, including: our understanding of client needs and the potential of joined up service delivery; demographic shifts within both society and the legal profession itself; changing expectations of work patterns and career development; the operation of the justice system; the long term reduction in crime and growth in alternatives to prosecution the rights of suspects and the need for 24/7 services; the possibilities offered by new technology.

The transformational potential of additional or alternative systems and the legislation required to deliver them need careful thought and will take time to deliver. The right solution – one that meets the needs of users and those who deliver the services they rely upon – must be informed by detailed analysis both of the problem and data that can illustrate it. But it also needs constructive dialogue in order to build a shared understanding of the issues and an informed approach to identifying what is likely to be a range of measures to address those issues.

Covid-19

At the outset of the pandemic, we developed and implemented a four point plan to assist the profession deliver advice remotely by phone or video call to clients, and to reduce some of the requirements on solicitors. This included:

- Revising our approach to the collection of debt, including a three-month payment break for those struggling to make payments
 - Accepting applications without a client's signature, eased timescales for submission of applications and information requirements, and reduced the
 - requirements of proof of clients' eligibility for A&A and ABWOR
-

- Suspending compliance audits and peer review quality assurance schemes for criminal and children's legal aid
- Allowing solicitors to obtain and submit financial verification in alternative ways

Working closely with colleagues in the Scottish Government policy changes were introduced to allow solicitors to release work-in-progress in new and existing cases to support their cash flow during the year by:

- introducing interim payments for summary criminal fixed payments (incl.ABWOR) and A&A/ABWOR;
- extending interim payment provisions for solicitors and counsel in civil, children's and solemn criminal proceedings. 63% of active civil firms and 47% of active criminal firms used these interim payment schemes;

Throughout 2020 and 2021 we worked to facilitate the move from office to home working, putting in place appropriate health and safety controls for those staff who needed to deliver services in courts and police stations.

NATIONAL REPORT: SIERRA
LEONE

SIERRA LEONE LEGAL AID BOARD

COUNTRY REPORT



Sierra Leone Legal Aid Board is blind to nationality as it secures the release of a Guinean client who was remanded at the Pademba Road Correctional Center in the capital Freetown, and then facilitated her return to her home country through the help of a partner organization, the Western Area Council of Tribal heads.

1. Introduction

The Legal Aid Board is a statutory non-profit scheme which was passed into law on 10 May 2015 and started operations on 1 May 2015. Since then, the Board has taken giant strides in expanding access to justice for the poor and vulnerable in the country. This has been achieved through Legal Advice and Legal Representation, Alternative Dispute Resolution/Mediation, Legal Education through Community, School Outreach and Radio Phone-ins, Monitoring of the Justice Delivery System and Regulation of Legal Aid Provision.

The Board established itself as the largest and most visible legal aid provider following the establishment of offices in five districts upcountry in 2016. Offices were also established in the remaining 8 Districts at the time in January 2017. This was achieved through funding for 33 Paralegals from the Open Society Initiative for West Africa (OSIWA). The funding went towards the provision of primary justice services in the 12 districts outside the Western Area which is home to the capital Freetown.

These services which include Alternative Dispute Resolution/Mediation, referrals, community outreach, provision of basic information on civil and criminal matters, monitoring of Local and Informal Courts and provision of advice and legal assistance to administrators and users of these courts are provided by Paralegals to people in remote communities.

These are communities which have limited access to the Police, Magistrate and Superior Courts of judicature by virtue of their remoteness. As a result, people take matters to the Local and Informal Courts which are nearest to them and therefore cost a lot less to access. What's more, people take matters to these courts which are outside their remit out of ignorance.

These courts are prone to abuse women because they are guided by Customary Law and Practice which are not gender neutral. For instance, they do not consider marital rape and domestic violence such as wife beating as a crime where they do the penalty is very soft.

Customary Law and Practice are unwritten and therefore susceptible to inconsistency in their application and interpretation. The provision of primary justice services by Paralegals has gone a long way to address these challenges in the delivery of justice.

2. Presence around the country

The Legal Aid Board is the most visible legal aid provider in the country. It has offices in 29 towns and cities across the country. Sixteen (16) offices are located in District headquarter towns and thirteen (13) in chiefdom headquarter towns.

23 of the offices were established between May 2015 to 2019. Three UNDP-funded offices were established in Kamara, Sao and Gbense Chiefdoms in Kono District in May 2021 while three others also funded by UNDP were established in Moyamba District in Kori, Kamajeri and Bumpeh Chiefdoms in May 2022.

This development has succeeded in bringing access to justice to the door step, making the Board the first port of call for people seeking basic information on their matters, guidance when in contact with the law and for protection when their rights as suspects, accused and inmates are being abused or under threat of abuse.

3. Statistical Representation

833,927 persons mostly indigents and vulnerable persons including foreign nationals have benefited from the scheme from its inception in May 2015 to December 2022. 24,768 benefited from the scheme in 2015/16; 83,053 in 2017; 106,655 in 2018; 112,841 in 2019; 85,852 in 2020; 182,168 in 2021 and 238,590 in 2022.

CUMULATIVE DATA: SEPT. 2015 - DEC 2022					
CATEGORY	ADULT		JUVENILES		TOTAL
	MALE	FEMALE	BOYS	GIRLS	
LEGAL REPRESENTATION					
2022	14,738	1,416	2,180	418	18,752
2021	10,367	934	1,612	267	13,180
2020	9,258	1,493	1,596	192	12,539
2019	12,997	3,936	1,342	280	18,555
2018	12,746	2,182	2,116	206	17,250
2017	11,380	1,343	1,705	287	14,715
2015/2016	4,159	526	434	145	5,264
TOTAL	75,645	11,830	10,985	1,795	100,255
LEGAL ADVICE & ASSISTANCE					
2022	15,417	38,180	14,543	30,511	98,651
2021	12,432	30,449	9,774	22,616	75,271
2020	9,342	15,456	4,532	7,956	37,286
2019	12,208	23,237	5,824	8,013	49,282
2018	9,538	15,125	9,415	14,374	48,452
2017	7,459	13,966	6,302	13,865	41,592
2015/2016	1,949	2,338	1,403	2,104	7,794
TOTAL	68,345	138,751	51,793	99,439	358,328
LEGAL EDUCATION					
2022	41,191	30,452	26,313	23,231	121,187
2021	34,188	23,213	19,918	16,398	93,717
2020	14,847	11,852	6,014	3,314	36,027
2019	19,254	14,262	7,481	4,007	45,004
2018	14,528	12,702	7,212	6,511	40,953
2017	9,668	8,773	3,985	4,320	26,746
2015/2016	2,556	3,605	2,099	3,450	11,710
TOTAL	136,232	104,859	73,022	61,231	375,344
GRAND TOTAL	280,222	255,440	135,800	162,465	833,927

4. Legal representation

100,255 have been represented in the Courts by the Board from inception in May 2015 to December 2022. The Board continues to carry the Criminal Calendar year after year with only 18 Legal Aid Counsels/Lawyers. This has however been increased to 24 lawyers since January 2023. The Board represents most indigent accused persons brought before the Courts at both Magistrate

and High Court Levels. Legal Aid Counsels provided legal advice and legal representation to 18,752 indigent persons in 2022.

It also represented most of the clients in the Special Criminal Sessions, Criminal Sessions/Call Over and circuit courts around the country. The Special Criminal Sessions are held in areas without a Resident Judge. Beneficiaries include indigent accused persons represented in all Criminal Sessions/Call-Over and Special Criminal Sessions in 2022. This accounts for nearly 100% representation of indigent accused persons in these sessions. For instance, the Board provided legal representation to all the 870 accused persons in the Judicial Week (31 January to 4 February 2022). The Board secured the discharge of 234 accused persons and bail for 374 during the week. This had a major effect on the correctional center/prison population.

The Board has expanded access to justice for Juveniles through monitoring of detention facilities, provision of legal assistance to suspects, legal advice and representation to those on trial and mediation of minor juvenile matters referred to it by the Police. Juveniles benefit from these services regardless of their status or the status of their parents meaning they qualify for the scheme without any precondition.

1,879 and 2,598 juveniles were provided legal advice and legal representation in 2021 and 2022 respectively. This has helped to decongest remand homes, ensure speedy trial and respect for their rights.



Legal Aid Manager (center) and colleagues hang heads during Special Sessions in Freetown

It is not uncommon for wives to be disadvantaged because they cannot afford a lawyer to take their matters to court or to represent them in court. Also, wives have been on the receiving end where there are miscarriages of justice. For instance, they have been denied a share of property and money acquired in the course of the marriage because they are registered in the name of the husband. The Board set a precedence in 2022 in ensuring the rights of women are upheld in the event of a divorce or separation.

One success story is the case of a Legal Aid Board client who had been evicted from her matrimonial home by a Magisterial Court Order. She was able to regain possession of her property following a landmark judgement by Justice Alusine Sesay of the Supreme Court.

This follows an application for Judicial Review of the matter by the Legal Aid Board. The Supreme Court Judge opined that the Presiding Magistrate had no jurisdiction over title but rather should have considered purely the issue of landlord and tenant relationship under Cap 49 of the Laws of Sierra Leone 1960. He underlined that the subject matter of the property surrounding the evidence is matrimonial property.

As a consequence, Justice Alusine Sesay decided to set aside the judgment. He therefore ordered the Under Sheriff to deliver vacant possession of the premises to the Board's client within seven days of the Order. Moreover, the husband should bear the costs involved in executing the Order. The order was executed and the client has returned to her matrimonial home.

Another Legal Aid Board client, a referral from the Gender Department of the Republic of Sierra Leone Armed Forces, took possession of her share of the matrimonial property allocated to her by the court after her eviction from the property by her soldier husband.

The wife was given part of the matrimonial estate even though it is in the name of her husband alone. The court had ruled that the matrimonial property is jointly owned and should therefore be divided between the wife who is the plaintiff and the husband who is the defendant.

The court order follows an application by the Legal Aid Counsel, Cyril Taylor-Young at the High Court before Justice Mohamed Bawoh for partitioning of the property following the decision of

the husband to separate from his wife. Also, the husband had forced her out of the matrimonial home by subjecting her to intimidation and domestic violence. He then went ahead to bring in his girlfriend who he had been cohabiting with since 2020.



Sigh of relief as court partitioned property between separating husband and wife

5. Monitoring of the Local and Informal Courts

The Monitoring of the Local and Informal Courts is a core activity of Paralegals in the provision of primary justice services. The local Courts are governed by the Local Court Act 2011. Lawyers do not make representation in these Courts. The Informal Courts including those presided over by Paramount Chiefs have no judicial powers. They are governed by Customary Law and Practice. These Courts have jurisdiction over Customary Matters such as customary marriages and disputes

in same. They also handle land matters upcountry, community-level disputes, witchcraft, small debts and micro credit loans.

While there are 282 Local Courts in the 190 chiefdoms in 14 of 16 districts in the country, informal courts can be found in almost every city, town and village in the country. These courts are presided over by Tribal Heads in the capital Freetown.

The Informal Courts are very popular among the various ethnic groups because they are less complex compared to the formal Courts, cheap to access, use the local language as a medium of communication and are guided by customary law and practices. On the other hand, customary law is unwritten and therefore prone to abuse. Moreover, they are not gender-neutral. Women are on the receiving end of this law.

Because Informal Courts are located in the community, inhabitants take all kinds of matters to them including those they have no jurisdiction over. It does not help local chiefs knowingly or unknowingly sit on these matters.

Paralegals monitor these courts to ensure matters outside their jurisdiction are referred to the Police or any other justice institution which has jurisdiction over that matter. Also, where the decision of the Informal Court is incompatible with General Law, Paralegals ensure it is not enforced but referred to the appropriate justice institution.

For instance, where wife battering is taken to the Informal or Local Court, the Paralegal will request a referral of the matter to the police. In the instance where the matter has been heard and a decision is taken and the husband/partner is made to walk away free, the paralegal will ensure the decision is not enforced by calling on the police to institute an investigation.

Also, where a sexual offence/sexual penetration of a child is being mediated and compromised by the Local or Informal Court Administrators, the Paralegal will call in the police to institute an investigation into the matter. Since compromising sexual penetration of a child is an offence under the Sexual Offences Act 2012 (As Amended in 2019), the Paralegal will call the police to institute an investigation into the matter as well.

Paralegals ensure informal courts do not arrest or detain clients in the course of hearing their matters because they have no such powers. Also, where the fines imposed are prohibitive, the Paralegals ensure that the clients are refunded their money. In the case of Local Court, fines

should not exceed 50 New Leone (USD 2). Paralegals also refer customary matters presided over by the Informal Court to the Local Court for Interpretation.



Paralegal monitoring Local Court sitting in Kamakwie, Karene District

6. Alternative Dispute Resolution (ADR)/Mediation

358, 328 persons benefitted from civil matters and minor community-level disputes mediated by the Board from its inception in May 2015 to December 2022. These include Child Maintenance, Spousal Maintenance, Inheritance, Property, Debts, Family and Marital Matters, Labour, Land Matters and Minor Community Level Disputes.

The service has brought about a better life for children in terms of their upkeep, education, medical and accommodation. It has also ensured that women are not subjected to abuses when they default on repaying loans/debts. There have been instances in which these matters are treated as criminal by taking them to the police. The debtors are detained and released upon payment of part of the debt. This will continue until the debt is paid in full. The Board also ensures that women are not discriminated against in matters of ownership of property, inheritance and dissolution of marriage under Customary Law and Practice.

75,271 Women and children benefitted from mediation in 2021 accounting for 83% of beneficiaries while 83,234 benefitted in 2022 accounting for 84% of beneficiaries. Child Maintenance accounts for over seventy percent of matters mediated in 2021 and 2022.

As part of the settlement of Child Maintenance Matters, the parent (in almost all cases the father because he is not in custody of the child) pays a specific amount per month for the upkeep of the child. The Board imposes a minimum of USD 14 per child per month at the current exchange rate of NLE23/1USD. The amount goes specifically to the upkeep of the child. The education/school fees, healthcare and accommodation for the child are catered for separately by the father as and when the situation arises.

The weeks leading up to and those after the reopening of schools for the new academic year are the busiest for the Legal Aid Board. Offices around the country work round the clock to cope with the huge number of child maintenance cases in time for the reopening of schools. Fathers have been brought to the Board either for the delay or refusal to provide money for schooling (school fees – for those in private school, uniforms, books and other necessities) or failure to release child(ren) to their mothers in time for the reopening of schools. In the race against the reopening of schools, the Board had deployed more staff and resources to assist with the huge number of these cases.

Parents/Fathers who refuse to heed invitation for mediation or breach Child Maintenance Agreements are taken to courts for a court order. The decision by the Chief Justice of the Republic of Sierra Leone, Justice Desmond Babatunde Edwards to assign Child Maintenance cases from the Board to Magistrate Court No. 7 in the capital Freetown has resulted in a speedy trial as matters are concluded most of the time in one hearing.

Moreover, the courts have either accepted the amount agreed on between the Board and the Respondent/father or in some cases have increased it. This development has brought about compliance with invitations from the Board and compliance with Child Maintenance Agreements. For instance, in July 2021, the Board advised its client to file a civil summons at the Magistrate Court against a difficult father who had defaulted in paying the monthly child maintenance money into the account at the Rokel Commercial Bank. The Magistrate in his ruling increased the monthly child maintenance payment by nearly hundred percent. The father was told that

defaulting on payment would amount to contempt of Court Order which has consequences including imprisonment.



LAB Paralegal in Falaba mediating a family dispute

Child Maintenance Accounts - 1,439 Child Maintenance Accounts have been opened at the Rokel Commercial Bank from July 2019 (when the first account was opened) to December 2022. Following the challenges (relating to the paperwork involved in opening an account) women were having in opening an account, many had been reluctant while some had refused to go to the Bank. As a result, the Board got the Rokel Commercial Bank to open an outlet in the head office in Freetown. It also agreed to make the process less cumbersome. Legal Aid Staff were also at hand to assist with securing the necessary documents such as the Child's Birth Certificate, National ID Card of the Mother and Utility Bill from the relevant Government Agencies.



Mediation session in the Legal Aid Board office in Makeni

7. Legal Education

375,344 people were educated on the laws, legal procedures and the justice system from inception in May 2015 to December 2022. This service takes the form of Community Outreach, School Outreach, TV Documentaries and Radio Phone-ins.

There is no disputing the fact that those who are educated on the laws and human rights are less prone to abuses when accessing the justice system. It also helps people to respect the rights of others and by extension promote peace in the community.

The aspect of the law used for legal education is determined by the justice needs of the community. The focus of the Board since April 2023 is on the electoral laws particularly the electoral offences and rights as part of the Board's 'Anti-Elections Violence Campaign' which is geared towards free, fair and peaceful elections before, during and after the elections. The campaign was launched on International Women's Day on 8 March 2023.

This continues to focus on the Local Court Act 2011 to educate Local Court Administrators on their jurisdiction in terms of the matters – civil and criminal - they can hear and determine and those they cannot hear and determine.

It is important to underline that Administrators of Local Courts are non-lawyers and therefore face a challenge in understanding and properly interpreting the Act. This resulted in these Administrators handling matters such as sexual offences which they have no jurisdiction over.

The users of Local Courts (which operate upcountry only) are educated on the matters to take to these courts including customary matters for interpretation.

The Board had also popularized the Sexual Offences Act 2012 (As Amended in 2019) by educating people on the tough penalties for sexual offences including sexual penetration of a child which could carry life imprisonment, aggravated Assault, sexual touching, obtaining the services of a child prostitute and indecent assault (touching sexually without consent).

The Board has also done a lot of Legal Education on the Domestic Violence Act 2007, Child Rights Act 2007, Registration of Customary Marriage and Divorce Act 2009 and Devolution of Estate Act 2007.



Outreach Officer for the Southern Province on school outreach at the Centennial Senior Secondary School in Mattru Jong, Bonthe District

8. Anti-Election Violence Campaign

Six hundred and thirty-four (634) people mostly women from partner organizations including the Council of Tribal Heads in the Western Area, Traders Council, Sierra Leone Market Women and Motor Drivers and General Workers Union took part in the launch of the Board's 'Anti- Election Violence Campaign' as part of celebrations marking International Women's Day on 8 March 2023. Following the launch, the Board organized a two-day capacity-building training of trainers of Legal Aid Board staff on the Electoral Laws for its staff. The Training equipped staff in our 29 offices around the country to educate people especially voters on the electoral laws and empower them to participate in the electoral processes.

The Legal Aid Board distributed 12 motorbikes to staff mostly Paralegals drawn from 12 of the 16 districts in the country on 31 March 2023. This is part of support from the UN Peace Building Fund through the UN Children's Agency, UNICEF to the Board's Anti-Election Violence Campaign. The six months funded project is dedicated to school outreach to educate pupils on the electoral laws. 1,185 Junior and Senior Secondary Schools are being targeted for the campaign.



Celebration of International Women’s Day and Launch of Anti-Election Violence Campaign



Audience at the International Women’s Day Celebration

9. Community Advisory Bureau

The Board has established 63 satellite offices called Community Advisory Bureaus around the country most in Freetown. The initiative is aimed at ensuring communities take some ownership of their justice needs through the provision of primary justice services.

This has increased access to justice and also helped to reduce the pressure on the Police, Courts and the Board in communities where they are located. The Bureaus handle minor community- level and public order offences such as insulting remarks, disorderly behavior, loitering, stealing, fighting, threatening remarks, refusal to pay fines and disrespect for local authority which would otherwise be taken to the police to stretch an already overstretched force.

10. Key challenges

The Board has 24 Legal Aid Counsels on its staff. Half of this number is based in the Western Area which is home to the capital Freetown. This is below the minimum number of lawyers needed to provide legal advice and legal representation to the thousands of indigent persons

standing trial in Magistrate and Superior Courts of Judicature, inmates in prisons and suspects in police stations by the Board. As a result, the Board is compelled to prioritize trial inmates in correctional centers around the country in the provision of legal representation.

The Board has a total of 71 Paralegals. This is far below the minimum requirement provided in the Legal Aid Act 2012. Section 14 (2) (1) of the Act provides that: ‘The Board shall appoint at least one Paralegal to each chiefdom.’ With 190 chiefdoms in the country, the Board would need to recruit an additional 119 paralegals to meet this minimum requirement.

NATIONAL REPORT: TAIWAN

National Report: Taiwan

International Legal Aid Group Conference 2023

Legal Aid Foundation, Taiwan

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Introduction

Keeping up with the pace of global efforts to get back to normal, the Taiwan Legal Aid Foundation (LAF) is pleased and honoured to submit this national report and to participate in the 2023 ILAG Conference in the post-COVID era.

Although the LAF experienced the first serious wave of the COVID pandemic in Taiwan during the 2021 ILAG Conference, the outbreak only lasted for a couple of months and then the situation was brought back under control. With no more level-3 alerts¹ or stringent social distancing policies applied since then, the LAF gradually restored its delivery of daily services.

In the past two years, the LAF has not made any major or radical changes to its organisational structure, service model, or delivery approaches. However, changes to the external environment—chiefly developments in the legal and judicial systems and government supervision and funding policies—have impacted the LAF’s service scope and daily operations. Some of the updates on new developments highlighted in this report include:

- In reply to the calls for more reasonable wages and following several recent justice initiatives, such as the citizen judge system, the LAF made several amendments to its regulations on lawyer’s remuneration and case assignment. The new amendments follow a differentiation strategy and provide better financial incentives in more difficult and complicated cases (Section 2.2).
- In terms of promoting equal access to justice, the LAF has expanded its service to cover legal representation in court proceedings for victims of crime. It has strengthened collaboration with the Association of Victim Support and set up a new dedicated advice hotline to victims (Sections 4.1, 8 and 9). Additionally, the LAF is also boosting its capacity to serve the legal aid needs required by recent reform of *the Mental Health Act* (Section 9).
- The sudden and unpredictable level-3 COVID-19 outbreak in the summer of 2021 seriously impacted case numbers, resulting in a reduction of nearly 25 percent in advice and 15 percent in legal aid grants in that year.
- The legal aid programmes commissioned by the Ministry of Labour (MOL) and the Council of Indigenous Peoples (CIP) have respectively tightened the personal income thresholds of their means tests over the past few years. This has led to a reduction of granted case numbers and spending (Sections 3 and 4.1).

¹ The Central Epidemic Command Centre (CECC) of Taiwan established criteria for COVID-19 levels during the pandemic. Level 1: sporadic local cases with transmission chiefly from abroad ; Level 2: local cases with unknown origins reported ; Level 3-alert: an announcement made when more than three cases of community transmission takes place in a week, or when there are more than ten confirmed local cases from unknown sources in a day ; Level 4-alert: an announcement when the daily average is over 100 cases continuously for 14 days and half of the infections cannot be traced.

The CECC of Taiwan announced a nationwide Level 3 alert on 19 May 2021. It required everyone to wear a mask outdoors. It also prohibited any indoor gatherings of more than five people and outdoor gatherings of more than ten people. Businesses and public areas closed, with the exception of those providing essential or healthcare services. In communities with cluster infections, residents were not allowed to leave the area without permission. All gatherings, activities and classes were suspended.

- A number of remote service initiatives were developed during the first-wave of COVID-19. Some have continued, such as online promotional and educational events, and others have inspired service improvements for clients, such as video-conferencing advice on clients' own devices. Even though some initiatives turned out to be a flash in the pan, they still provided lessons for future digital transformation and service innovation. (Section 10)
- Several major challenges encountered by the LAF that will inform its future work and direction are summarised in the conclusion.

This report follows the template given by the conference host to introduce different aspects of legal aid in Taiwan. To prevent repetition, we have summarised information that has already been given before, provided references to the [2019](#) and [2021](#) ILAG national reports, and focused on new details regarding the most recent developments in the 2023 report.

1. Basic National and Organisational Figures in 2022

National information²				
Name of country	Population (as of the end of 2022)	Gross domestic product (GDP) (preliminary statistics as of the end of 2022)	Poverty line and number of people below it	Number of Practising lawyers
Taiwan	23,264,640	US\$762.67 billion Per capita GDP is US\$32,811	In 2022, the lowest living index in different counties and cities varied from NT\$12,792 to \$18,682 per month (equivalent to approximately US\$430 to \$628) ³ , or between US\$14.33 to \$20.93 per person per day; this applies to approximately 288,703 people nationwide, or roughly 1.24% of the total population ⁴	Approx. 11,631 ⁵

² USD to NTD conversion rate used in this table is 1 to 29.77.

³ According to *the Public Assistance Act*, the lowest living index per person benchmark for the poverty line has different standards, depending on region. Taiwan Province, the six municipalities directly under the central government, and Fujian Province each have different standards. For more detail, please refer to the MOHW's website (Chinese version): <https://dep.mohw.gov.tw/dos/cp-5337-62357-113.html> (Accessed 13 Mar 2023)

⁴ If we add the number of those in middle-to-low-income households at the margin of the poverty line, that is, 296,697 people as of the end of 2022 (<https://dep.mohw.gov.tw/dos/cp-5337-62357-113.html>) (Accessed 13 Mar 2023) in households with earnings less than 1.5 times of the lowest living index per person per month, then the national number of those in low-income and middle-to-low-income households is approximately 585,400 people, or 2.52% of the population.

⁵ According to Article 11 Para. 1 of the recently amended *Attorney Regulation Act 2020*, those who wish to practice law may select only one local bar association to which they belong. This figure is the sum of the number of lawyers registered at each local bar association as of the end of April 2023. Please see the National Directory of Lawyers website built up by the MoJ: <https://lawyerbc.moj.gov.tw/> (Chinese version. Accessed 30 April 2023).

Legal aid organisation information (as of the end of 2022)				
Organisation name	Date of establishment	Total number of applications in 2022	Total number of grants of legal aid in 2022	Total number of refused grants of legal aid in 2022
Legal Aid Foundation (LAF)	1 July 2004	- Legal consultations: 93,000; - Applications for legal aid grants: 96,809	65,693 cases	25,615 cases
Number of the staff workers	Number of attorneys supporting legal aid casework	government contributions to legal aid	2022 total legal aid expenditures	Government contributions as portion of total expenditures
326	4,678 (including 18 LAF staff attorneys)	- Sponsored by the Judicial Yuan: NT\$ 1,325,335,585 (equivalent to US\$44,519,166); - Programme revenues from other government departments: NT\$97,782,514 (equivalent to US\$3,284,599)	NT\$1,481,538,929 (equivalent to US\$49,766,172)	96.06%

2. Legal Aid Organisation / Authority

2.1 Organisation and Supervision

The LAF was established statutorily in July 2004 with an endowment from the Judicial Yuan, the highest judicial authority in Taiwan, in accordance with *the Legal Aid Act* promulgated in January 2004. It is a government-established, privately-run non-profit organisation. Employees of the LAF therefore are not civil servants. With comparatively more adequate government funding, the LAF has successfully

expanded the scope of publicly funded legal services and ushered a new era of legal aid in Taiwan ever since.⁶

The main statutory functions and organisational structure of the LAF are detailed in [the Legal Aid Act](#), which was most recently amended in 2015. The major amendments were detailed in [the 2019 ILAG national report](#).⁷ The board of directors serve as the highest decision-making body and the chief executive officer is responsible for managing and executing general affairs of the Foundation. In addition to the head office in Taipei dealing with organisation-wide affairs at policy level, the LAF has set up 22 branch offices across the country, including the offshore islands, to handle the daily operation of the frontline services. As of the end of 2022, there were 326 staff workers hired by the LAF. While around 25% of the staff members work in the head office, the rest of them work in the branches. Over 70% (232) of them were female and about 30% (94) were male. The age groups of 20s, 30s, 40s and over 50s stood for 17.5%, 40.5%, 31.9% and 10.1% respectively. About 5.5% (18) of them were Taiwanese indigenous peoples and 1.2% (4) of them were persons with disabilities. While 20.2% (66) of them were non-legal professionals providing logistical and administrative support, the rest 79.8% (260) of them were professionals involving in the direct provision of legal aid services. In addition to the 18 casework staff attorneys, there were 25 other staff lawyers undertaking the managerial, policy and legal research jobs. The rest of them were paralegals (217), who were the main workforce supporting daily operations and serving as the crucial bridge between the legal aid clients and lawyers.

Supervision of the LAF is conducted internally by supervisors and externally by the Supervisory Committee set up by the Judicial Yuan as the competent authority. In addition, since over 90% of the legal aid funding is out of the government budget, LAF is subject to annual reviews by the Legislative Yuan (the Parliament) and the National Audit Office under the Control Yuan. The external supervision mainly focuses on the policy of organisational structure, use of funds and budget, the quality of legal aid, annual critical measures, etc. In the past few years, after the enactment and implementation of the *Foundations Act (2018)*, there has been more pressure placed on internal control and audit of the LAF. This has led to more in-depth and thorough reviews of the grant decisions in individual cases to review the appropriateness of the use of funds.

2.2 Service Delivery Model and Mixed Sources of Workforce

The LAF has adopted a clearing house or service intermediary model to deliver a wide range of legal aid services, such as legal aid grants for representation and minor assistance, advice, public legal education and law reform. By leveraging the workforce of in-house paralegals, the LAF and its branches work on

⁶ For more details about the history of publicly-funded legal services in Taiwan and the Legal Aid Foundation, please see the LAF researcher, Chang, Y-S. (2019) 'Advancing Equal Access to Justice: An Introduction to the Legal Aid Foundation in Taiwan', paper presented at the 2019 International Conference on Legal Aid: The Spirit of Legal Aid and the Quality of Legal Aid Providers, hosted by the Korean Family Legal Service Centre, Seoul, 3 December 2019.

⁷ See pp.3-4 of the [2019 report](#).

planning and administration, such as handling applications of legal aid grants, organising the advice clinics or arranging educational or outreach events. They then refer the cases to the lawyers or invite them to provide legal services to end clients.

For example, take the process of legal aid grant applications. Most of the legal aid applications are in-person services by default. Applicants have to visit the branch offices to file an application. The LAF paralegals would host the applicants, help check and collect the required documents (especially for the means test) and key in the data into the system at the counter. The applicants would then have a meeting with an external examiner (that can be judges, prosecutors, lawyers or law professors) where the applicants can explain the case details. Subsequently, an examining committee consisting of three examiners would be organised to discuss and make an assessment on whether to grant legal aid or not, with the administrative assistance by the paralegals throughout the assessment. Once the grant is approved, the paralegals would then proceed with case assignment, serving as matchmakers to identify, select and contact the candidate lawyers and check their willingness to undertake the case. After the case assignment, the paralegals also have to deal with all the legal aid administration work for each case such as appeals, change of lawyers, termination or revocation of the grants, case closure and claims of legal aid contributions, etc.

The LAF employs a mixed model for legal service delivery, which means the legal casework can be handled either by internal LAF's staff attorneys or external private lawyers. However, since the LAF first started its operation as a judicare system, private lawyers have always been the main workforce.

Private Lawyers

As of the end of 2022, 4,678 private lawyers had registered to undertake legal aid cases. Around 3,850 of them are still actively participating. In general, LAF requires private lawyers to have at least two years of legal practice before undertaking legal aid cases, save certain exceptions.

The remuneration paid to private lawyers for legal aid casework is usually a lump sum – a fixed fee for a case. It is decided by the Examining Committee when legal aid is granted, in accordance with the cap and floor range set by the LAF's Legal Aid Remuneration Regulation (hereinafter called 'the Remuneration Regulation'), depending upon the level of assistance (legal representation, minor assistance, or advice), the area of law (criminal, civil, family, or administrative law), and the type of proceedings (e.g., small claim, summary proceeding, ordinary proceeding of first and second instances). The remuneration of a general criminal or civil case is NT\$30,000 (around USD\$1,000) at most, which is a third to a half of the market price. Lawyers may request a remuneration increase when a case is more complicated and time-consuming than normal. However, there is a NT\$10,000 cap, which means LAF can allow a

maximum of 20 additional hours for each case. In principle, any working hours beyond this will not be paid.

The LAF had never undergone any comprehensive adjustment in lawyers' remuneration in its first 15 years. However, since the late 2010s, the calls for reasonable wage increases from the private legal aid lawyers have mounted, in order to reflect and cover inflation and their real costs. The LAF therefore worked hard on empirical research to identify the features of complicated and high-cost cases and reflected on private lawyers' willingness to undertake legal aid work. This led to remuneration increase proposals which were more evidence-based. Furthermore, the government's recent law reforms to introduce the justice initiatives such as the Grand Chambers⁸, the Constitutional Court⁹, and Citizen Judges¹⁰ have also pushed the government funder for LAF, the Judicial Yuan, to provide more financial incentives to private lawyers in more difficult and complicated cases. Such a differentiation strategy aims to encourage more lawyers to undertake these high-cost cases and ensure service quality. During the past few years, the following reform proposals of the Remuneration Regulation and case assignment were passed one by one and all have been effective since 1 January 2023:

⁸ In order to strengthen the function of unifying diverse legal opinions and resolving disagreements in the courts of final instances, which refer to the Supreme Court and the Supreme Administrative Court, the Judicial Yuan promoted the establishment of the system of the Grand Chambers to replace the previous precedent selection and resolutions achieved by judges' meetings. This new system is based on the amended *Court Organisation Act*, which came into effect on 4 July 2019. Different from the previous procedures to reach resolutions or produce precedents, the Grand Chamber proceeding must be open to the public and requires oral debates, which allows prosecutors, lawyers, and even legal scholars and experts to participate in the discussion. The purpose of this initiative is to ensure that the process of resolving significant legal disputes is transparent and welcomes diverse perspectives for better communication and persuasion, and thereby improves judicial credibility.

⁹ *The Constitutional Court Procedure Act* was enacted on 4 January 2019 but officially come into force three years later, on 4 January 2022. Compared to the previous proceeding for the cases tried by the Grand Justices, the reformed constitutional court procedure has the following characteristics, so that legal aid is required for this proceeding: 1) more transparent and court-oriented procedures involving public debates; 2) the threshold to enter the further constitutional court proceeding is lowered; 3) the object of the constitutional review extends from abstract laws and orders to the court's determination of the final judgment, allowing some cases to be exceptionally remedied when they have exhausted the ordinary remedies at trial level; 4) mandatory legal representation by lawyers for oral debates in the Constitutional Court. In addition, after at least a year of implementation, the case numbers applying for constitutional review have mounted massively (over seven times the figure) before the reforms.

¹⁰ The Citizen Judges system is the first statutory lay participation in the criminal justice system. After different proposals of lay participation mechanisms had been proposed and piloted for more than ten years, *the Citizen Judges Act* was ultimately passed in August 2020 and became effective on 1 January 2023. Since the system opens a new chapter of criminal justice, the Judicial Yuan has done a large amount of promotion to raise public awareness. Different stakeholders have also done lots of mock trials for better preparation in the two and a half years before the system officially launched. The Citizen Judges' system requires the defendants to be legally represented and defended by public defenders, legal aid lawyers or court assigned counsels. The case files and exhibits are not submitted with the indictment to ensure its nature of an adversarial system. Since this proceeding involves more meetings and preparation work before the trial and the trial usually requires several consecutive days, lawyers must spend more time and efforts to undertake the cases applying the citizen judges' proceeding.

- Complicated and time-consuming cases involving certain areas of law (e.g. felonies that carry a ten-year minimum sentence, state compensation, employment disputes, financial crimes, and consumer debt) or special groups (e.g. clients with disabilities, disadvantaged migrant workers and foreign spouses) are eligible for another remuneration increase claims of 20 additional hours when there included more than four hearings.
- In terms of the cases applying the proceeding of citizen judge adjudication, the conversion rate of the remuneration radix is 1.5 times more than the other cases, rising from NT\$1,000 to NT\$1,500 per radix. Moreover, this exceptional category of cases can also request for a pay rise depending on the procedure and additional tasks. These adjustments have made the lawyer's remuneration for this category reach up to NT\$75,000 per lawyer per case, at most.
- In light of its complex and time-consuming nature, the cases involving oral argument sessions in the Constitutional Court, the Grand Chamber and the proceeding of citizen judge adjudication are exceptionally allowed to have three lawyers appointed at most if needed, instead of one lawyer appointed in general cases.
- The lawyers can apply for discretionary remuneration within a certain range between NT\$1,000 and NT\$5,000 if they have assisted the legal aid recipients with the following additional work that are related to their original grant, such as:
 - ✚ filing the grounds of appeals for the criminal judgement of first instance upon the request of the court or the aided client
 - ✚ attending the hearings of detention or provisional placement for the criminal defendants
 - ✚ filing an appeal or re-appeal for the aided client's request for litigation relief
 - ✚ submitting motions for stopping execution or pleadings of appeals in other cases for the clients that have been granted aid to the proceedings of consumer debt clearance

Staff Attorneys

As of the end of 2022, there were 18 staff attorneys recruited across Taiwan to undertake legal aid casework.¹¹ Due to the very few numbers of posts, the LAF has limited the case types undertaken by staff attorneys in order to ensure better resource allocation and professional training. They are mainly responsible for cases involving major public interest, human rights, class action, and high-profile cases involving specific disadvantaged populations such as migrant workers, indigenous peoples, people with disabilities, environmental victims, victims of natural or manmade disasters, etc. The proportion of cases handled by staff lawyers was approximately 3.6% of LAF's cases in 2022.

¹¹ The statutory number of LAF staff lawyers whose roles are to undertake legal aid casework is 30. However, due to budgetary constraints, there were only 25 posts in 2022 and only 18 posts were filled. The most recently opened posts were for the West Office of the LAF Legal Centre of Indigenous Peoples and the Kinmen Branch in the offshore islands, aiming to safeguard the legal rights of the indigenous peoples and meet the legal needs of the remote areas.

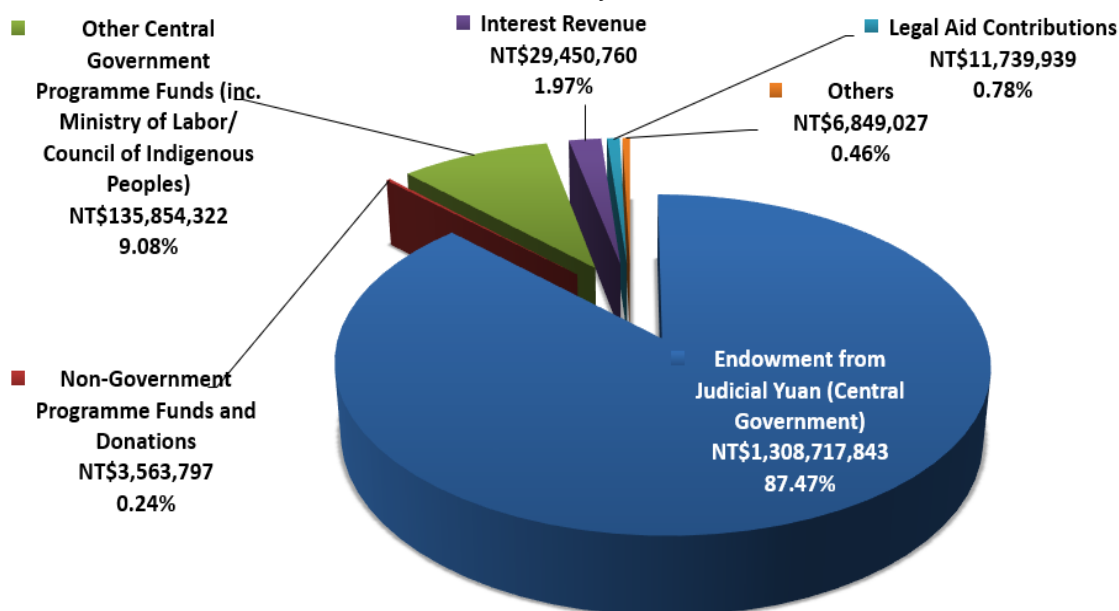
3. Budget and Spending

3.1 Budget and Spending Figures for the Past Two Years

The budget/income and expenditure of legal aid in Taiwan in 2021 and 2022 are listed in Figures 1 to 4.

The main funding source is the Judicial Yuan of the central government, while the second is also funding from the central government but is provided by the Ministry of Labour (MOL), Council of Indigenous Peoples (CIP), and the Ministry of Health and Welfare (MOHW) from their specific commissioned legal aid programmes for labourers, indigenous peoples, and persons with disabilities.

Under a judicare-like system, about 73% of the expenditure has been the direct costs of legal aid services, including the general legal aid funded by the Judicial Yuan and the commissioned special programmes for the past two years. These costs chiefly involve legal aid grant examination fees, lawyers' remuneration, and litigation costs. In terms of the Judicial Yuan funded lawyers' remuneration in 2022, which cost NT\$929,947,907 (around US\$31,237,753), 96.32% were for legal aid grants (NT\$895,755,007); 0.9% for face-to-face legal advice (NT\$8,394,000)¹²; 1.2% for telephone legal advice (NT\$11,173,800); and 1.57% for the Initial Interrogation Attorney Accompaniment Programme (NT\$14,625,100). Amongst the spending of legal aid grants, based on the remuneration figures of the granted cases in 2022, nearly 60% was spent on criminal cases; 25%, civil; 15%, family; and 0.6%, administrative cases.

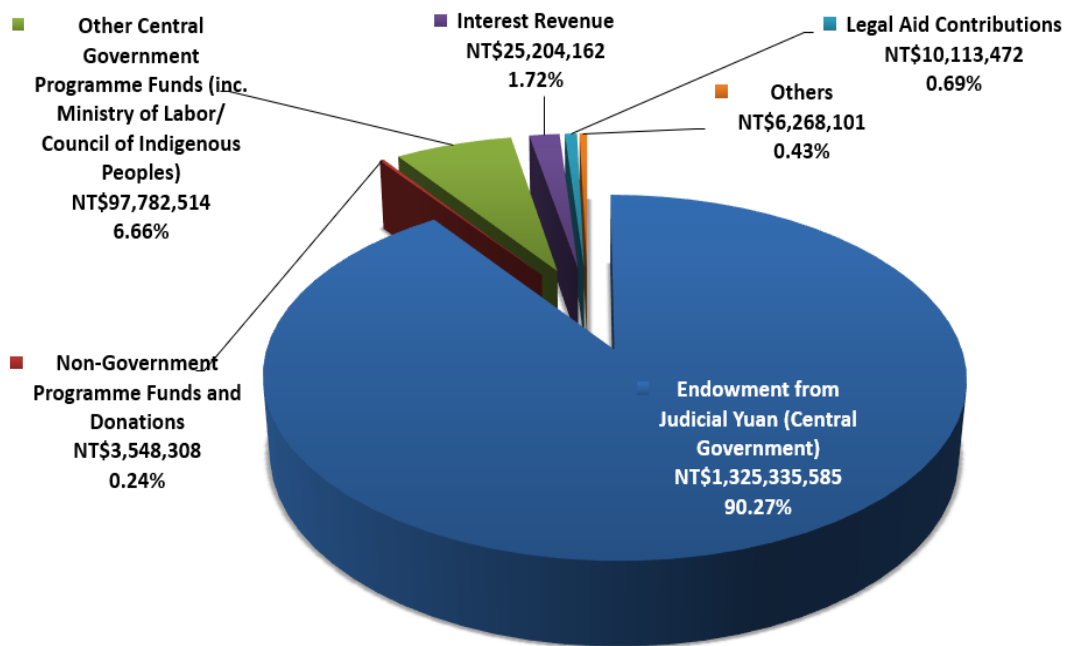


* USD to NTD conversion rate: 1 to 29.77

Total Income: NT\$1,496,175,688(≈US\$50,257,833)

Figure 1: Breakdown of LAF Total Income, 2021

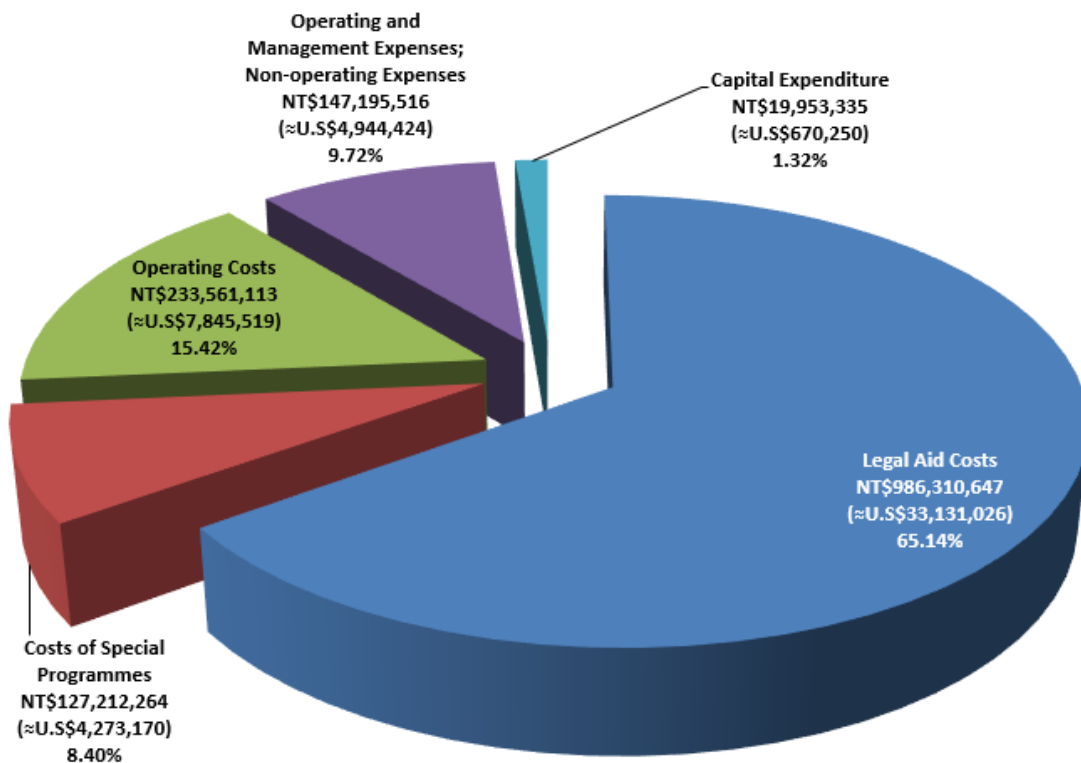
¹² However, it is worth noting that this figure only represented part of the funding spent on face-to-face legal advice, since the lawyers' remuneration of some service points were provided by the commissioned legal aid programme.



Total Income: NT\$1,468,252,142 (≈US\$49,319,857)

* USD to NTD conversion rate: 1 to 29.77

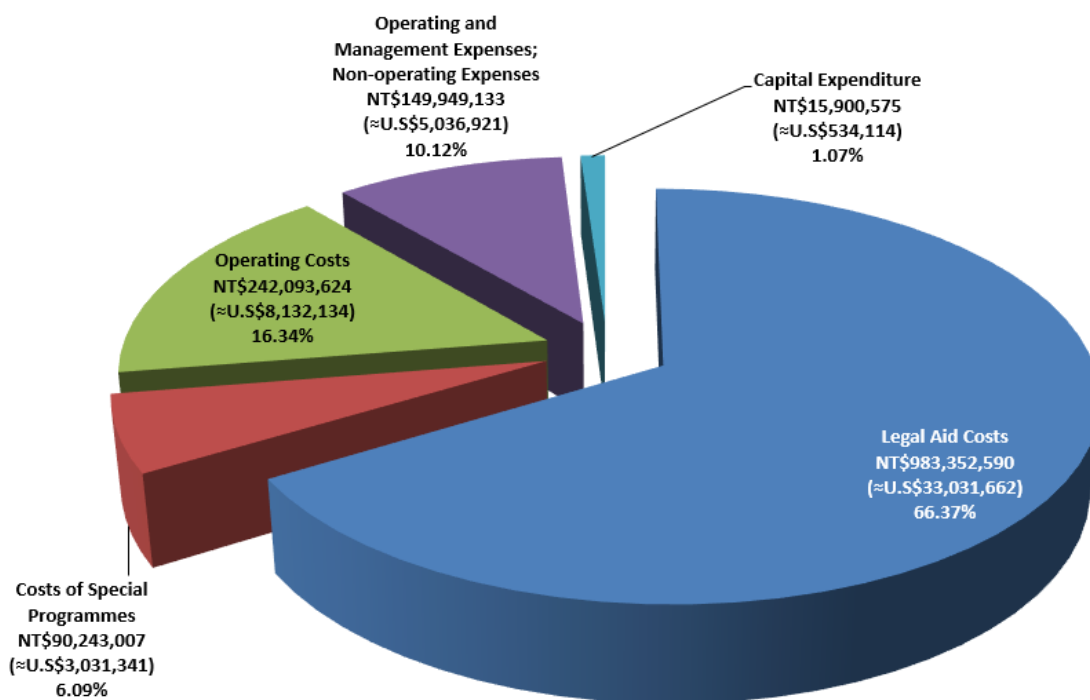
Figure 2: Breakdown of LAF Total Income, 2022



Total Expenditure: NT1,514,232,875 (≈ US\$50,864,389)

* USD to NTD conversion rate: 1 to 29.77

Figure 3: Breakdown of LAF Total Expenditures, 2021



Total Expenditure: NT1,481,538,929 (≈ US\$49,766,172)

* USD to NTD conversion rate: 1 to 29.77

Figure 4: Breakdown of LAF Total Expenditures, 2022

3.2 A Mixture of Capped and Uncapped Budget

The budget from the Judicial Yuan of the central government is a mix of capped and uncapped types, depending on the account titles. While there is a statutory obligation for the state to provide legal aid funding, the account of legal aid costs (including court fees, lawyers' fees and other mandatory litigation costs) are demand led and therefore has an uncapped budget. However, the rest of the expenditure accounts (including operating costs, expenses, and capital expenditure) are capped with a general limit, though the budgets can be transferred between accounts.

The MOL, CIP, and MOHW budgets for their specific legal aid programmes are similar. While the budgets for operation, management and capital expenditure are capped, the legal services costs are uncapped and led by demand.

3.3 Legal Aid Spending in the Past Ten Years

The amounts of legal aid spending in the past ten years are illustrated in Figure 5.

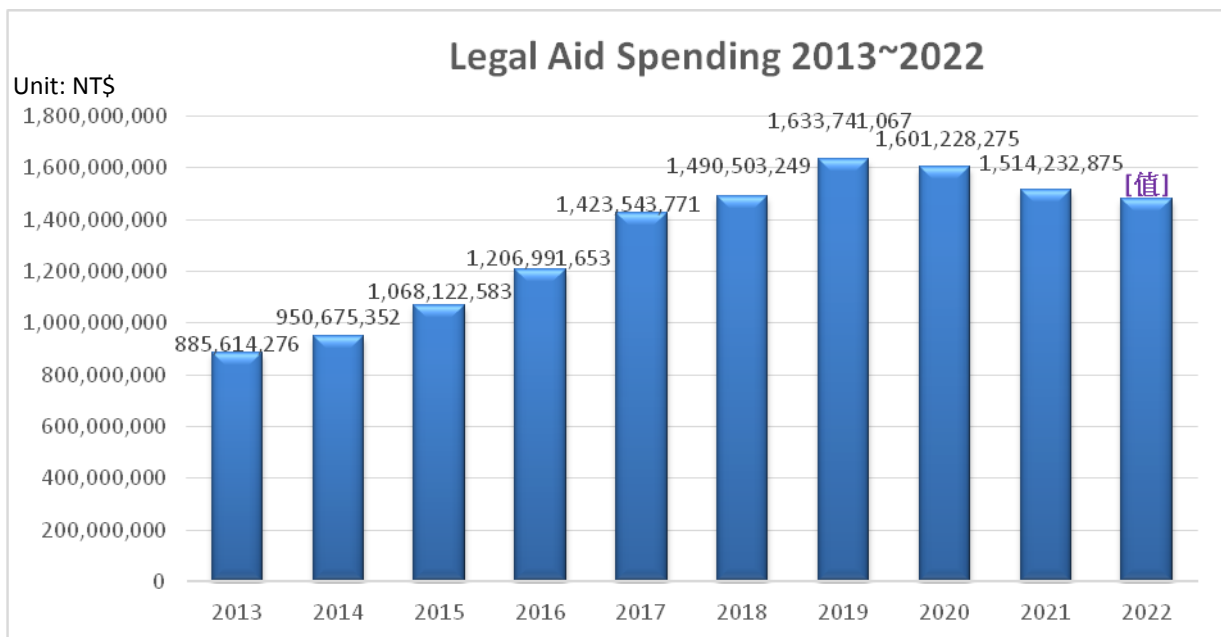


Figure 5:

Total Legal Aid Spending in the Past Ten Years

As shown in Figure 5, although the level of the legal aid spending had first been increasing over the past decade, especially after the 2015 Amendment of *the Legal Aid Act*, this trend did not continue after 2020. Regardless of the rising demand for legal assistance driven by many law reforms promoting human rights and the rule of law in the past decade, the chief funder, the Judicial Yuan, cited its austerity policy and refused to increase the government budget for legal aid in the future. Due to the alleged more expensive cost of per legal aid case undertaken by the LAF,¹³ the Judicial Yuan started to divert more mandatory defence cases from legal aid to public defenders and court-recruited private lawyers in 2020, despite the LAF's concerns and challenges.¹⁴ However, since the number of mandatory defence cases undertaken by the LAF in 2022 (16134 cases) exceeded the figure in 2019, the success of the diversion policy is still unknown. Moreover, both the MOL and CIP commissioned legal aid programmes have made

¹³ The Judicial Yuan commissioned Deloitte Taiwan to complete a consultancy report on the legal costs of mandatory defence cases between the three provider systems: legal aid, public defenders, and court-recruited private lawyers in 2018. However, the Judicial Yuan never revealed the final figures or its calculation basis, nor has it provided the final report to the LAF. In addition, before the Deloitte report, another set of figures provided by the Legislative Yuan stated that the costs of the three channels in 2015 were NT\$10,361 (public defenders), NT\$20,923 (court-recruited private lawyers), and NT\$21,871 (legal aid lawyers), showing legal aid is the most expensive. However, the calculation methods and data are still unknown. Please see the Office of the President, Taiwan (2017). 'LAF Budget Examination Report of the 2017 Budget' (Traditional Chinese version), retrieved from:

<https://www.president.gov.tw/File/Doc/dcc71f2d-e8a8-41dc-96ac-9ee5e224d418> (Accessed 30 April 2023), p.10.

¹⁴ LAF doubts the operating costs and pensions of contracted public defenders, administrative costs of the court-recruited panels, and that the different types of cases undertaken by the different channels have been adequately considered. Moreover, LAF argues there may be objectivity issues if the public defenders are contracted and have their performance assessed by the court. Similar criticism was also made by the Taipei Bar Association and Judicial Reform Foundation, stating that the resurrection of the public defender system goes against the consensus reached at the 1999 Judicial Reform Conference. Quality issues may also exist in court-recruited panels of private lawyers because their remuneration is less than that of legal aid lawyers and the system lacks a universal quality assurance framework.

their eligibility standards (means and merit tests) stricter since 2020, which have gradually reduced 2,000 cases of the commissioned programmes in later years. Subsequently in 2021, the case number and expenditure shrank immediately and massively as a result of the heavy blow from COVID-19, which led to the postponement of most of the hearings except for time-sensitive cases for about three months. Furthermore, accompanied with more identical examination standard and the recent stricter internal compliance audit on the legal aid application, the approval rates of grants have declined year by year. All of these incidents or policy changes have resulted in decreased legal aid spending.

4. Scope, Eligibility and Caseload

4.1 Scope and Eligibility

The LAF provides a comprehensive range of legal assistance including public legal education, legal advice, minor assistance (such as legal document drafting) and legal representation in mediation, settlement and litigation. Its service scope also covers a rather wide range of legal matters with only a few exceptions. As detailed in the [2019](#) and [2021](#) ILAG national reports, most of the criminal, civil, family, and administrative cases can be assisted, unless the nature of the subjects are apparently irrelevant with social law or economically disadvantaged people (e.g. intellectual property claims) or the legal procedures involved is an extraordinary one (e.g. retrials).¹⁵ An applicant in principle cannot obtain more than three legal aid grants for legal representation in a year unless his/her application was recognised by the Examination Committee and approved by the presidents of the branch.

While public legal education and legal advice are free services to the general public, the means and merits tests are applied to the applications of legal aid grants for minor assistance and legal representation. In order to make its means test compatible with the rising living standard, the LAF usually increases the disposable income thresholds of the means test for applicants living in different areas year by year.¹⁶ Moreover, in order to facilitate the application procedure, some socially and economically disadvantaged groups can be exempted from the means test. For example, the recipients of low-income or middle-to-low-income benefits, families in hardship, debtors applying for consumer debt clearance, criminal defendants of the mandatory defence cases, etc. The details of the standard and exemptions are listed in the previous ILAG national reports.¹⁷

¹⁵ See pp.9-10 of the [2019 report](#); pp.254-256 of the [2021 report](#).

¹⁶ In terms of the financial standard of the means test in 2022 and 2023, please see the following links:

<https://www.laf.org.tw/en/index.php?action=service&Sn=24>

<https://www.laf.org.tw/en/index.php?action=service&Sn=25>

¹⁷ See pp.10-13 of the [2019 report](#); pp.256-259 of the [2021 report](#).

Legal aid is also available to non-citizens as long as they reside legally within the Taiwanese border or they meet some exceptional conditions. For instance, they are victims or possible victims in human trafficking cases. Blue-collar foreign labourers and foreign spouses that are in financial difficulties can also be exempted from the means test.

In the past few years, the LAF has not made too many changes in terms of the criteria of service scope and eligibility of the general legal aid funded by the Judicial Yuan, except for the following adjustments:

- In order to better safeguard rights of the victims of crimes and follow the latest amendment of the 'Chapter of Participation in Proceedings by the Victim' in the Code of Criminal Procedure, in terms of legal representation in the court proceedings, LAF has expanded its service scope to cover victims of crimes that are eligible to apply for the above participation by law, on top of the original exceptional limit (i.e., victims with barriers to make a complete statement or those who suffer from sexual offence, human trafficking crimes and serious offences of which the defendants would carry at least three years of sentencing).
- For the better protection of human rights, the LAF specifies that mandatory defence cases undertaken by the LAF can be exempted from the above principle of 'three legal representation cases at most in a year'.

However, it is worth noting that the commissioned legal aid programmes by the Ministry of Labour (MOL) and the Council of Indigenous Peoples (CIP) have gradually tightened the eligibility criteria in the few years. The reasons behind the scenes are quite mixed and complicated. On the one hand, the central government funders and supervisors including the Judicial Yuan, Legislative Yuan and the National Audit Office expected the LAF to focus on the economically disadvantaged and prevent the wealthier from sharing the national resources; on the other hand, the bar associations argued that the higher income thresholds of the means test adopted in the commissioned programmes have eroded the private legal services market. Moreover, even the commissioning funders may have different ideas due to the limited funding resources after nearly / or more than a decade of commission. This has gradually reached a consensus to exclude the wealthier and apparently unreasonable requests without legal grounds. The two commissioned programmes therefore experienced the following changes in means or/and merit tests:

- The MOL Programme: The monthly personal income threshold of its means test originally was NT\$80,000 before the end of 2019. It was then lowered to NT\$75,000 from January 2020; NT\$70,000 since January 2022; and then to NT\$65,000 since January 2023.
- The CIP Programme: It started to apply 'legal grounds requirement' in its merits test in January 2021. Moreover, beginning from July 2021, instead of allowing all indigenous peoples to quickly apply for this programme as before, it only funds indigenous peoples who do not qualify for general legal aid or other MOL or MOHW commissioned programmes.

The above policy change has caused the granted case numbers of the commissioned legal aid programmes to gradually diminish since 2020. Although the case number has reduced, the uncertainty and complexity of handling an application has been massively increased due to the different but interrelated eligibility criteria and required documents. This thereby requires more staff training and better management to ensure the convenience of the grant application and quality of grant examination.

4.2 Caseload and Case Types

As illustrated in Figure 6 and Table 1, after the 2015 amendments to the *Legal Aid Act*, the number of applications, provisions of legal advice, and legal aid grants increased significantly, with annual growth rates of 10% to 20% or more. The number of legal advice provisions reached the peak in 2017, and then started to decrease due to less funding and fewer physical advice clinics. The number of legal aid grants kept rising until 2019. As stated above in sections 3.3 and 4.1, with the diversion of mandatory defence cases away from legal aid and the eligibility criteria changes of the commissioned programmes since 2020, the number of general and full grants started to decrease in 2020 (i.e. the yellow and grey lines). The sudden level-3 status from the COVID-19 outbreak, occurred in the summer of 2021. This created a further impact on the case numbers, leading to the reduction of nearly 25% legal advice and 15% of legal aid grants. In 2022, although the case numbers of general legal aid (the yellow line) had climbed back to the original level before the COVID outbreak, it is worth noting that the total granted case numbers (the grey line) had massively decreased on account of the gaps of the commissioned MOL and CIP cases.

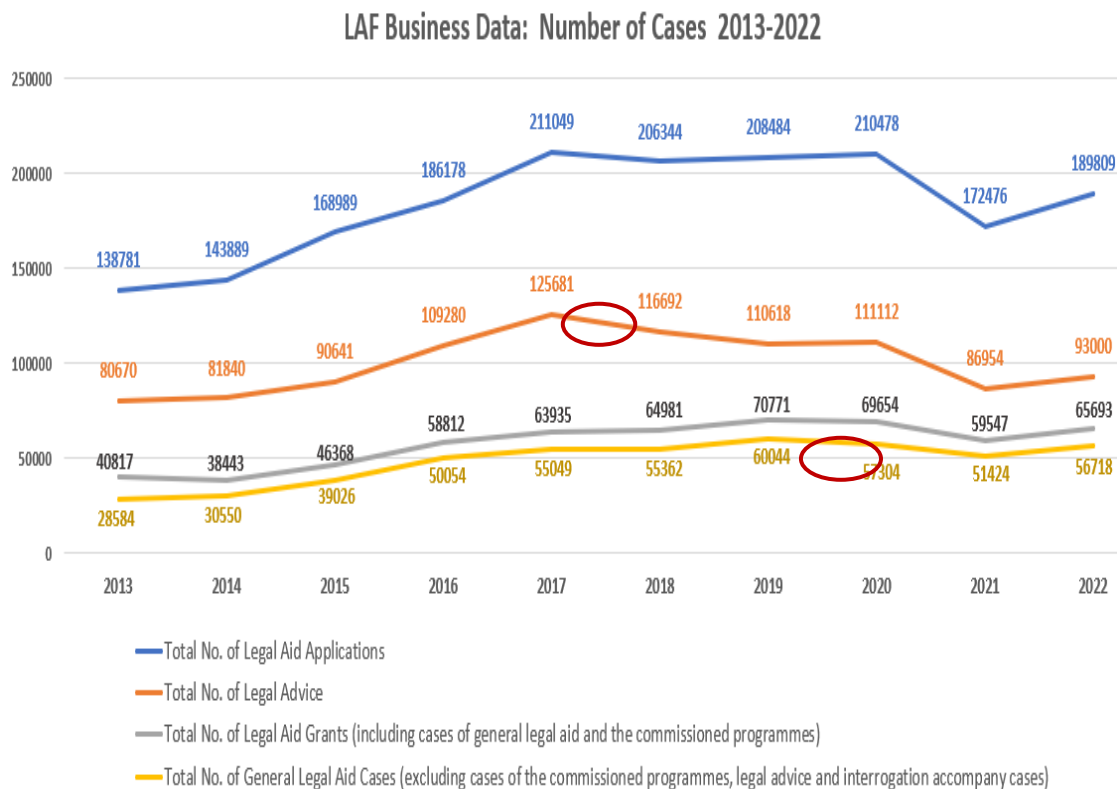


Figure 6: LAF Business Data: Number of Cases 2013-2022

Table 1: Annual Growth Rates of LAF's Cases 2015-2022

Item \ Year	2015	2016	2017	2018	2019	2020	2021	2022
Total number of annual applications	17.44%	10.17%	13.36%	-2.23%	1.04%	0.96%	-18.06%	8.79%
Total number of annual legal advice	10.75%	20.56%	15.01%	-7.15%	-5.21%	0.45%	-23.03%	6.20%
Total number of annual legal aid grants (including commissioned project cases, not including legal advice)	20.61%	26.84%	8.71%	1.64%	8.91%	-1.58%	-14.51%	3.99%
Total number of annual general legal aid cases (excluding commissioned project cases, advice and interrogation accompany cases)	27.74%	28.26%	9.98%	0.57%	8.45%	-4.56%	-10.26%	10.29%

The case category of legal aid grants of general legal aid and commissioned programmes during 2021~2022 are illustrated respectively as Figure 7 and Figure 8.

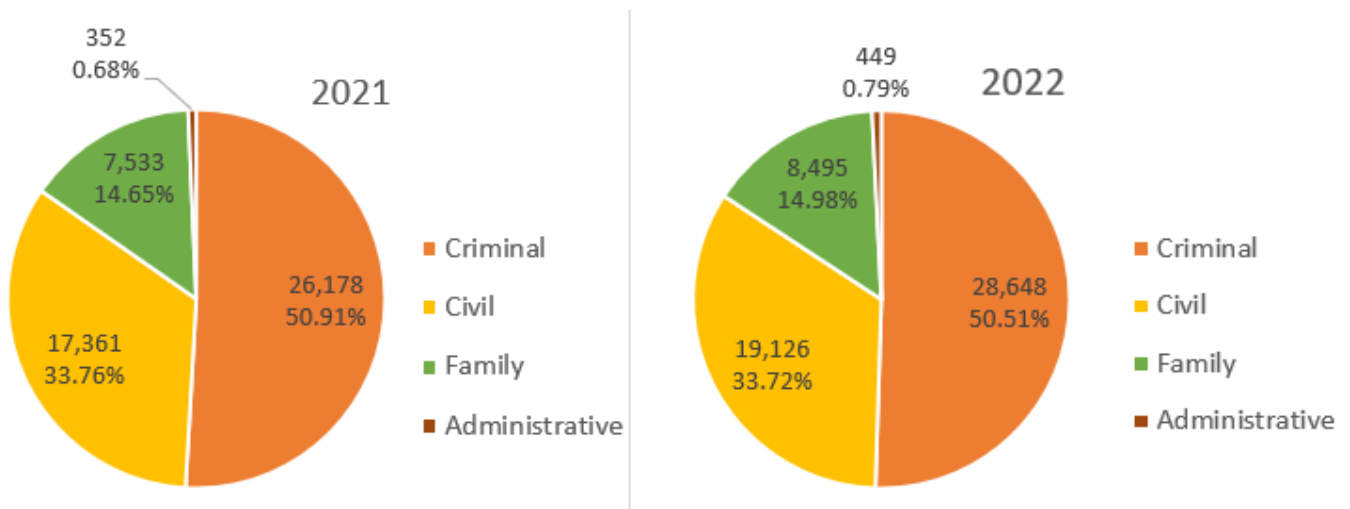


Figure 7: Case Types of General Legal Aid Grants 2021-2022

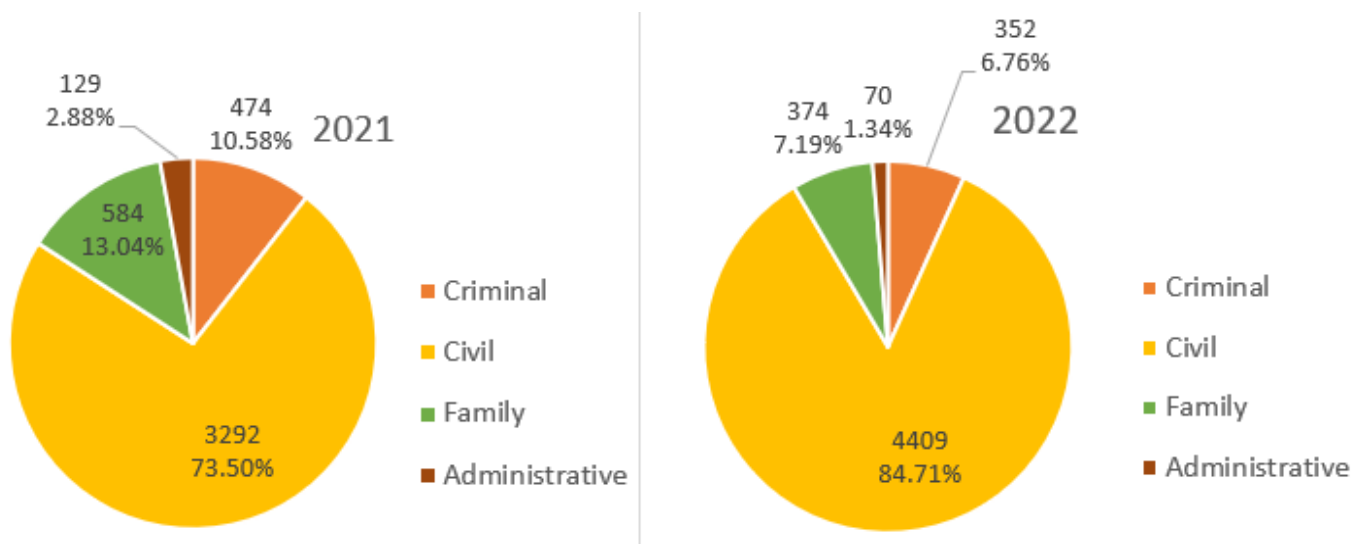


Figure 8: Case Types of Commissioned Legal Aid Grants 2021-2022

5. Quality Assurance

Since its inception, the LAF has developed its own step-by-step quality control system to ensure the quality of legal aid services.

On the one hand, in terms of processing legal aid applications and case management, the LAF continuously monitors and reviews the quality of frontline services provided by its employees through internal controls, bi-annual assessments, a complaint system and the newly introduced mechanism of mystery shoppers (model clients).

On the other hand, the LAF must also ensure the quality of the legal services after legal aid is granted. In terms of the private lawyers that undertake the vast majority of legal aid cases, the LAF has employed multiple strategies and approaches to ensure their service quality. These include: 1) *ex-post* measures such as a complaint system, customer satisfaction surveys, feedback collected from the courts and prosecutors' offices, case-closure audits; 2) *ex-ante* screening requirements for entry qualifications and case assignment; and 3) a wide range of continuous professional training courses. These have been detailed in the previous ILAG national reports.¹⁸

Once a legal aid lawyer's conduct has been detected as suspicious through the multiple *ex-post* measures, the LAF would first proceed with the investigation of the complaint (whether the complaint is raised by legal aid clients or self-detected through various measures) by the LAF branches. The number of and results from complaint investigations against legal aid lawyers in the past few years are summarised in Table 2.

¹⁸ See pp.16-19 of the [2019 report](#); pp.261-263 of the [2021 report](#).

**Table 3: Types and Numbers of Disciplinary Actions
Made by the LAF Attorneys' Evaluation Committee**

Year	Ask for Improvements	Reduction of Case Assignment	Suspension of Case Assignment	Dismissal from legal aid work	Transfer to Attorney Disciplinary Commission
2020	7	0	11	9	6
2021	4	0	21	8	8
2022	3	0	22	3	4

Whenever the LAF branches suspend the investigated lawyer's right to receive case assignment and consider the circumstances of the violation to require termination of legal aid work or further disciplinary actions according to [the Attorney Regulation Act](#), they can transfer the case to the Legal Aid Attorneys' Evaluation Committee at the LAF head office. This committee involves a group of legal professionals including lawyers, a prosecutor representative, a judge representative, and law professors. After more in-depth and comprehensive investigation and a

**Table 2: Numbers and Results of the Complaints Investigation
on Legal Aid Lawyers**

Year	Disciplinary Actions			No Disciplinary Decisions	Withdrawals/ Case Merge	Under Investigation (at the end of the Year)	Total
	Suspension of Case Assignment and Transfer to the LAF Attorneys' Evaluation Committee	Suspension of Case Assignment	Asked for Improvement				
2020	10	38	27	49	9	20	153
2021	9	47	37	54	8	19	174
2022	11	54	51	74	21	27	238

face-to-face hearing with the investigated lawyer, the committee can make any of the following disciplinary decisions if required: 1) ask for improvement; 2) reduction or suspension of case assignment for three years at most; or 3) dismissal from legal aid work. Wherever the investigated legal aid lawyer's misconduct is confirmed serious enough to have violated laws and ethics by the LAF Attorneys Evaluation Committee, the LAF will transfer the case to the national Attorney Disciplinary Commission and request disciplinary action in accordance with *the Attorney Regulation Act*. In the past few years, the LAF has strengthened its investigation into lawyers' service quality. The types and numbers of disciplinary actions for the legal aid lawyers are summarised in Table 3. In order to raise the legal aid lawyers' awareness about common mistakes, the LAF has also produced caution and training materials using case studies to clarify the disciplinary standards.

As for quality control for the casework staff attorneys, the mechanism of peer review has been applied since 2015. In the last quarter of each year, a staff attorney evaluation committee

(including the deputy CEO and several external legal professionals) is organised. The committee members review the selected case files of each staff attorney and assess the quality of their services annually.

The LAF has constantly held training courses on various topics for its employees and legal aid lawyers to raise their cultural sensitivity and awareness of different disadvantaged groups, to update legislative amendments and professional knowledge, and to improve their practical skills. Impacted by COVID-19 for several months, the number of training courses decreased to 48 for employees and 68 for lawyers in 2021. Subsequently, following the policy of back to normal, larger numbers of training courses were accomplished in 2022, which included 65 for employees and 87 for lawyers. It is worth mentioning that the delivery approach of training courses has gradually changed in the past two years with the outbreak of COVID-19. In 2021, amongst the 68 courses for lawyers, only 29 of them (42.6%) were conducted through face-to-face physical meetings, 13 (19.15%) were delivered with pre-recorded films during the outbreak, and 26 (38.25%) were conducted through online meetings. In 2022, amongst the 87 courses for lawyers, 41 of them (47.1%) were conducted purely on-site, 38 (43.7%) were conducted purely online, and the final eight applied mixed approaches. Online training is cost-efficient and is gradually becoming the preference of more legal professionals. The LAF has become more active in recording lectures by encouraging speakers to be filmed and to authorise the content for training materials, so as to maximise the benefits from repeated future use.

6. Public Legal Education

On account of the disadvantaged groups' unawareness of legal rights and legal aid, the LAF has enthusiastically reached out to the public, especially the LAF's target clients, through a variety of public legal education events and promotional initiatives.

There have been over 1500 promotional and public legal education events held by the LAF head office and the 22 branches each year. The venues and contents of these events were detailed in the previous ILAG national reports.¹⁹ In 2021, when the COVID-19 outbreak occurred and the corresponding strict social distancing measures applied, the number of events decreased by 25% of the normal level, but there were still 1,153 events held. Instead of meeting face-to-face, a number of online promotional and educational events were held simultaneously through broadcasting and video conferencing technology during the epidemic. Some of the LAF branches also tried hard to use pre-recorded films and materials in prisons. After the 'living with COVID' policy was gradually applied in 2022, the total number of promotional and educational events rose to 1,783 and exceeded the normal level. However, promotions in prisons and detention centres did not increase but reduced in 2022, due to more stringent monitoring measures in prisons to prevent cluster infection.

¹⁹ See pp.19-20 of the [2019 report](#); p.263 of the [2021 report](#).

In addition to events, the LAF has employed very diverse approaches to promote legal aid and has introduced ways to access legal assistance. These have included printed multilingual leaflets and pamphlets, publications, video clips, multimedia advertisements, broadcasting programmes, official social media channels such as Facebook, YouTube, Instagram, etc. It has also combined a variety of self-developed innovative ways such as board games, comic books, and theatre plays to deliver campus and public legal education. More details have been described in the previous national reports.²⁰ In the past two years, due to the impact of the COVID-19 pandemic, the LAF has also recorded and reproduced its periodic educational forums into the form of podcasts, enhancing its social popularity.

7. Alternative Sources of Legal Services

In addition to the comprehensive legal assistance provided by the LAF, there are also other small-scale publicly funded legal services in Taiwan. In the past two years, the landscape of alternative legal services has not undergone any major changes. Most of the other publicly funded legal services focus on the provision of generalist legal advice, face-to-face and/or by telephone. As for the specialist legal assistance targeting specific client groups or legal problems, most of them are small-scaled and funded by government funding from the competent authorities. For example, there is the Association for Victim Support established and funded by the Ministry of Justice and the legal assistance for victims of domestic violence and sexual assault funded by Ministry of Health and Welfare. More examples and details can be found in previous ILAG national reports.²¹

8. Holistic Legal Services

In order to better tackle the legal problems with compounded socio-economic, medical, and/or psychological issues faced by the LAF's clients in a more timely manner, strengthening external links especially with non-legal professionals has always been one of the LAF's development strategies.

Several examples of holistic services that the LAF have been involved in were already given with details in the previous ILAG national reports.²² They can be categorised into three main models: (1) second-tier support model; (2) one-stop shop model; and (3) integrated services network model. For the past two years, these three models have all kept developing beyond their original scopes and methods, pursuing better collaboration with our service partners and achieving a more holistic service for our shared clients.

The second-tier support model prevalently happens when the LAF staff workers are involve in educational events for other non-legal professionals, especially with social workers and

²⁰ See pp.20-21 of the [2019 report](#); p.264 of the [2021 report](#).

²¹ See pp.22-24 of the [2019 report](#); pp.265-266 of the [2021 report](#).

²² See pp.24-27 of the [2019 report](#); pp.266-267 of the [2021 report](#).

community support workers. In 2018, the LAF institutionalised the provision of legal advice for these non-legal professionals' needs and set up the Community Supporters' Legal Advice Hotline. Recently, there has been more than 2,000 calls from community support workers seeking legal advice for their clients. Inversely, in October 2021, in order to help the legal aid lawyers to better understand their clients with mental disabilities, a disabled persons' organisation which is called the House of Living Spring under the Eden Social Welfare Foundation also kindly launched a mental health advice hotline as second-tier support. Due to their limited resources, currently this hotline runs a weekly clinic and only for staff attorneys and the lawyers serving at the LAF's call centre.

The one-stop shop model mostly occurs when the LAF's advice clinics co-locate with other services. As mentioned in the previous national reports, these one-stop advice clinics used to be a face-to-face service. Since January 2021, there has been a new policy to decrease face-to-face advice clinics set up by the branch offices in order to save the costs of lawyers' remuneration. Instead, it is expected that the information needed can be met by the video conference advice operated by the LAF's call centre. This has caused concern that the shrinkage of co-located advice clinics will negatively impact the holistic service that the LAF can achieve. However, in order to increase the use of video conference advice and to ensure a higher online service rate, the LAF's call centre has also been actively in building up its service partners by connecting with the local authorities of social and public services such as local borough/council offices, household/land registry offices, family service centres, and branch offices of various nationwide NGOs. These partners who have a spare room, can set up video conference facilities and can help register clients. Therefore, although those advice clinics have changed their service delivery from face-to-face to video conference, these co-located multidisciplinary settings have helped a more holistic service to happen.

Compared to the above two models, the integrated services network model involves more common strategic planning and action. In addition to second-tier support and co-located services, this model involves more liaison meetings, cross-staff training and cross referrals in daily routines of service delivery. Organisations or professionals with different functions no longer work in separate silos, but have common goals and more shared information. The prominent example has been the Consumer Debt Legal Aid Programme. In addition to the LAF, it involves the Consumer Debtor Self-Help Association and a social work team at the Bread of Life Church, which helps to connect with other professional resources such as physicians, psychologists/counsellors, financial counsellors, pastors, etc. In the past few years, LAF's collaborations with the disabled persons' organisations (DPOs) and the Association of Victim Support (AVS) have been consolidated respectively and have become part of a more integrated services network. Through cross referrals, the LAF can focus on clients' legal matters and the partner organisations can help deal with other non-legal needs such as medical treatment and psychotherapy, housing, employment, and education support.

9. UN Sustainable Development Goal (SDG) 16.3

Although not being a member of the United Nations, Taiwan has followed the spirit and agenda of the UN Sustainable Development Goals and actively sought to make efforts related to SDG 16.3: 'promote the rule of law and ensure equal access to justice for all'. The LAF plays a crucial role in making this happen in Taiwan.

In the past two years, there have been national law reforms echoing UN SDG 16.3. The most significant one has been the amendment of *the Mental Health Act* which was considered to be the most important advance in mental health law reform in the past 15 years. The amendment was passed and promulgated in December 2022 and most of it will come into effect in December 2024 except the chapter of compulsory community treatment and compulsory hospitalisation. In order to comply with international human rights instruments (such as Convention on the Rights of Persons with Disabilities and the Convention on the Rights of the Child) and to answer the calls for a stronger social safety net and human rights protection, the overhaul emphasises the incorporation of 'community support' and allows multiple service channels for the mental health patients to choose from. This includes full-time rehabilitation accommodation, day care agencies and home-based or other community support services. It also underlines the multi-agency and interdisciplinary case management of the patients. Through the newly-established community mental health centres, it is hoped that local resources of medical treatment, mental rehabilitation, schooling, foster care, employment, emotional support and respite services can all be connected to support the patients and his/her family. In addition, considering that compulsory hospitalisation is against the patient's will and restricts his/her personal freedom and other human rights, the amendment specifies that the decision of compulsory hospitalisation should only be reserved to judges, instead of the current review committee. The extension of compulsory hospitalisation has also been limited to only once (maximum) to protect the patient's rights. Moreover, when severe patients that have been diagnosed with the needs for full-day hospitalisation refuse to accept full-day hospitalisation, the competent authority may designate psychiatric institutions to enforce emergency placement. The amendment requires that the designated psychiatric medical institutions should report to the competent authority and seek necessary legal assistance from the LAF for those who have not appointed lawyers as their representatives during the emergency placement. Therefore, the LAF has sought to prepare its service capacity to cover the need for legal aid in the compulsory hospitalisation and emergency placement proceedings. Since the amendment has just passed and the practical reporting and referral mechanisms and guidelines are still lacking, its future development will be worth observing.

The other expressive example related to SDG 16.3 is [*the Crime Victim Rights Protection Act*](#). It was renamed and amended from *the Crime Victim Protection Act* and promulgated in February 2023. This overhaul elevates the supervision of victim protection work up to the level of Executive Yuan affairs, and clarifies the powers and responsibilities of inter-ministerial

committees to build a service network. It not only expands the scope of eligible service users, but also increases and improves the protection and support that the victim support agency can provide. Such a protection service is holistic, including physical safety, psychological, medical and economic support. In addition to these non-legal services, the amendment also specifies the work of legal assistance. It regulates that the judicial officers, police and victim support agencies should inform the victims or their family about their eligibility to apply legal aid when they are discovered eligible. The branches of the victim support agency are required therefore to build up mechanisms of collaborative service referrals and to liaise with the LAF, which has already been done with the collaboration of holistic services between the LAF and the AVS (Section 8). Moreover, this reform first incorporates restorative justice and establishes its principles in the law. It also adjusts some of the types and cap limits of the compensation for victims of crime and their family members. Furthermore, the amendment statutorily specifies the organisation forms and governance of the victim support agency, moving toward professionalisation and transparency, echoing SDG 16.3 and 16.6²³. In order to echo this call for more protection for victims of crime, the LAF's call centre launched a new telephone advice service for victims of crime in February 2023. Each caller can receive 20 minutes of advice, regardless of the crime they have experienced.

10. Impact of Covid-19 and Innovations

Compared to most other countries, Taiwan was very blessed to successfully escape from the global COVID-19 pandemic in the first year. It was not until mid-May 2021 that Taiwan experienced its first wave of COVID outbreak. During that period, a level-3 alert was issued and the corresponding stricter social distancing policy was applied nationwide. In order to reduce the community transmission, the Judicial Yuan immediately decided to postpone all hearings except for time-sensitive cases. The LAF also decided to reduce its services: all face-to-face advice stopped and legal aid applications were examined only when they were urgent or could be processed by document examination in accordance with the regulations. Service volume decreased by around 70%. Such an emergency period was an incubator for service innovation. Long-distance service models that involved modern technology was greatly encouraged and developed in the justice and legal aid sectors.

Thanks to the serious prevention and proper disease control by the whole Taiwanese society, the first wave of epidemic only lasted for about two and a half months. After this, the innovative endeavours seemed momentary. Most of the service delivery went back to the original face-to-face modes, except a few that continued online after the first outbreak. Although there was a second wave of COVID-19 in mid-April 2022 and several small waves in the second half of 2022, following the high level of vaccination and the new policy of 'living with COVID', there have never been any level 3 alert and strict social distancing policy applied since the end of July 2021.

²³ The SDG 16.6 promotes to 'develop effective, accountable and transparent institutions at all levels'.

The development of some initiatives in summer 2021 not only reflects the impact of Covid-19, but also provides some lessons for future digital transformation and service innovation of the LAF.

10.1 Remote Service Models for Legal Aid Grant Applications

During the pandemic of summer 2021, 17 out of the 19 branches in Taiwan main island had practically employed long-distance service models to different extents. Because there were different levels of tension and diverse willingness of lawyers to help, there was no LAF nationwide guideline of long-distance services. This allowed branches a lot of room to develop their own approach. However, such diversity between branches was also astonishing – with no two branches applying the same models. While a larger number of branches embraced ‘the examiners inside the office but applicants outside the office’, a few branches preferred ‘the examiners outside the office but applicants inside the office’ or even let both the examiners and applicants stay outside the office and start a three-way conversation. In addition to the non-real-time grant examination by document reviews, the LAF branches used telephones and various types of video conferencing tools to process the real-time oral examination. Fax, emails, text message and social media tools were also employed for file transfer before or after the oral examination.

Though these long-distance models only took place in an emergency and for a short time, they were kind of experiments which allowed the branches to test and try technology-oriented service delivery. While modern technology can save clients’ time and costs in travel and waiting for application examination, the original continuous application process had to be split into different fragmented stages. For example, obtaining and submitting the application forms and complimentary documents from other government authorities, pre-examination testing of the technology facilities, oral examination, signing the required documents after oral application, etc. These fragmented procedures were time-consuming and actually created additional burdens in case management, especially as there was no IT system dedicated wholly for this. Such a challenge reflected that service innovation and digital transformation requires systematic and holistic thinking. It is never as simple as just applying any technology tool.

Service innovation also highly relates to the regulations and its interpretation. For example, since *the Legal Aid Act* requires the applicants to sign after their oral applications,²⁴ different branches or departments of the LAF head office had very diverse views on the legal interpretation of signatures and the methods to obtain signatures. Some welcomed any digital forms of signatures even when they were not in accordance with the law; some even allowed no signatures for applications if the client’s intention of application had been expressive and/or video or audio recorded; others strictly required clients’ signatures on all the paper documents.

²⁴ Section 3 of Article 17 of *the Legal Aid Act*.

Such a disputing issue not only revealed the impracticality of *the Electronic Signatures Act*, but also highlighted the obstacles and challenges of service innovation.

Moreover, it is worth noting that the remote service delivery during the pandemic has caused some staff members to change their original views on the clients' technological capability in general, and their stereotypes of the socially and economically disadvantaged. This recognition and much improved understanding will help the development of digital services in the future.

10.2 Remote Service Models for Legal Advice

As stated above, all face-to-face legal consultation stopped during the COVID-19 outbreak. Similarly, since all the legal advice delivered by video conferencing technology could only be accessed at the sites of LAF's partners most of these video conference advice services were also closed due to the strict social distancing policy. Telephone advice therefore became the main strategy of remote legal advice at the time. In order to relieve the branches from the pressure of their inability to provide legal advice locally and fill the service gap, the LAF expanded the service scope of its national legal aid hotline for all areas of legal problems from mid-June until early August 2021. Without any increase in human resources, the LAF's call centre and the participating lawyers successfully served more than 1.6 times its usual level of clients in nearly two months.²⁵

Informed by the lessons from the epidemic, it is worth noting that the LAF initiated and piloted a new service to deliver legal advice to non-Mandarin speakers by video conferencing in October 2021. Prior to this, the LAF head office and some of the branch offices had struggled to help non-Mandarin speakers who unexpectedly came to seek legal advice. Due to the limited foreign language proficiency of the LAF staff and lawyers, the interpretation service requires prior reservation and with fully-booked services on the day, the walk-in or call-in clients cannot immediately receive advice. The LAF staff also had to make a lot of phone calls to make internal referrals, arrange English-speaking lawyers or contact external interpreters. Inspired by the service experiences with a few foreign advice seekers by Google Meet during the epidemic, the LAF noticed foreigners usually had higher technological capability when using the video-conferencing applications, as these were used since to contact family or friends in their home countries. Meanwhile, it may be inconvenient for some migrant workers working and living in regional or rural areas to access the LAF's services. The LAF therefore designed a new service to be accessed by a general commercial video-conferencing application, which allows the clients to seek advice at where they are based instead of visiting the downtown service points. It also facilitates the LAF to check the client's identity and invites the interpreters to join the service

²⁵ Before the LAF's call centre expanded its service scope in summer 2021, it received 2,637 calls in May 2021. After the expansion policy was applied between 15 June and 2 August 2021, the call numbers in June and July suddenly went up to 3,372 and 4,374 respectively.

delivery. No matter which door the non-Mandarin speaking advice seekers are knocking, the staff at the head office or branch offices can direct them to fill in the online appointment form first.²⁶ In addition to the collection of personal data required by the LAF, the clients can describe their legal matters and upload the relevant files before the advice session. This can help the advice lawyers better understand the clients' needs and ensure the clients make the most of the 40-minute advice session. The clients usually can receive appointment confirmation within approximately one to two working days and obtain advice within seven to ten days. After a few months pilot, the LAF's call centre launched this service nationally in 2022. With the interpreters' assistance, this service was first designed for English speakers, and then expanded to other Southeast Asian language speakers (However, they need to fill in the English request form first). As of the end of 2022, nearly 300 non-Mandarin speakers have benefited from this service, including Americans, Filipinos, Canadians, Indonesians, Britons, South Africans, Mexicans, etc.

After the above video conferencing advice model had been confirmed as workable, the LAF further expanded its scope to cover its original Mandarin-speaking legal advice. Since May 2023, the LAF's call centre has begun a pilot to provide video conferencing advice by Google Meet. With prior appointment making, advice seekers can consult with lawyers wherever they would like, as long as the internet connection is secured. Since it is more convenient than the original on-site video conferencing options, it has been quite popular with bookings and the future development is worth watching.

10.3 Online Training Courses and Public Legal Education Events

As stated in sections 5 and 6, impacted by COVID-19, the LAF has gradually built up its capacity to hold online meetings for the past few years, especially large-scale training courses and public legal education events that involve lots of participants. This has also changed the ways that LAF run its events. Instead of finding an appropriate venue, the LAF is now more focused on recording courses or events in order to increase their use at different times and thereby to maximise the benefits and effectiveness of the course or event.

10.4 Work from Home Arrangements

Working from home (WFH) had never been practiced in the LAF before the COVID-19 pandemic. It was not until the first outbreak in May 2021 that the LAF established a framework of WFH for COVID-19. During that time, about 40% of staff workers applied for WFH, chiefly based in north Taiwan where the epidemic was more stringent. There were 13 out of 22 branches that experienced WF. Six of them were run as an experiment; three of them allowed specific candidates with special needs (e.g. child care) to work from home; and four of them divided all the staff into two or three groups with each group taking weekly turns, ensuring fairness between

²⁶ Please see the webpage: <https://www.laf.org.tw/en/index.php?action=service&Sn=1>

staff workers. Thereafter, though such a large scale of WFH has not occurred in the last few waves of the COVID-19 epidemic, employees can follow the established WFH framework to make applications for specific causes such as to quarantine for a COVID infection. However, due to the requirements of face-to-face frontline services, WFH has still been a very exceptional working style rather than a common one. Moreover, after the government relaxed epidemic-related prevention measures and announced that mild COVID-19 cases are exempt from reporting and no more self-isolating from 20 March 2023, the LAF's established WFH framework was no longer needed. The department of human resources is investigating whether the same framework can be applied in other situations with similar needs.

11. Conclusion: Challenges for the LAF

The above report has summarised the recent development of the LAF and the topics that the LAF has been working on. Through presenting the data and characterising the background reasons, it has offered a few glimpses of the environment and challenges faced by the LAF. This report will conclude with these challenges as well as the future opportunities and direction of the LAF.

First, there have been plenty of judicial and law reforms that are also highly related to the legal aid system occurring in the last four years. For example, as mentioned above, the system of Grand Chambers in the Supreme Court and the Supreme Administrative Court (effective from 4 July 2019), the victims' participation in the criminal court proceedings (effective from 8 January 2020), the reformed proceedings of Constitutional Court (effective from 4 January 2022), the citizen judge system (effective from 1 January 2023), the amendment of *Crime Victim Rights Protection Act*, (partly effective from 8 February 2023, and the effective date of the majority of the rest is waiting for announcement) and the amendment of *the Mental Health Act* (will be effective from 14 December 2024) with more yet to come. Following these trends, the LAF has been busy in making corresponding modifications in legal aid regulations and daily operations, such as adjustments of the lawyers' remuneration, recruitment for new specialisations, continuous professional training about the new law reforms, and even the policy of case assignment, in order to ensure that the role of legal aid can fully function to a high standard with these new initiatives. These law reforms of course have brought or will bring more complicated cases into the legal aid system. While the human resource of LAF has never been proportionately increased with its caseload, after the amendment of *the Legal Aid Act* in 2015, how to respond to a more 'law-thick' society and expanding legal aid needs has become a new pressure for the LAF and its staff.

Second, the supervision from the various government agencies (the Judicial Yuan, the Legislative Yuan, and the National Audit Office under the Control Yuan) and legal requirements, especially on the effects and efficiency of public money have levelled up. These have greatly influenced the focus of internal management. Internal risk control and audit has thereby become

more stringent and more centralised and standardised operation procedures have been developed and applied. It was speculated that the branches and grant examiners have gradually adopted a more conservative and stricter attitude towards legal aid applications, which might be one of the reasons for the decreasing granting rate. Staff of different departments and branches also have to spend more time in legal compliance, administration and internal communication, which has also escalated the amount of work. Though this process may greatly improve the LAF's level of rule by law and risk-awareness, it also runs the risk that the staff may be lacking in flexibility and ultimately become legalistic without really understanding the spirit of the law and regulations without effective staff training and performance assessments. How to set up understandable and workable nationwide protocols with consideration to diversity of geography, clients and cases without sacrificing the rights of the disadvantaged clients is another arduous task facing the LAF. This is especially necessary when the complexity and uncertainty of service delivery rises and sophistication of the regulations increases.

Finally, while modern technology has penetrated all aspects of people's daily life in the post-COVID era, organisational digitalisation and more service innovation with modern technology has become an inescapable priority for the LAF. It is not only a challenge, but also an opportunity. Inspired by the lessons learned in the short-lived innovation run by the branches during the COVID outbreak, such technological involvements can save time and costs not only for the clients, but also for the lawyers. Additionally, it may even improve quality control and save time and costs for the LAF branches. This is exactly what the LAF needs when meeting the above new challenges. However, the learned lessons also pointed out that currently the LAF's software and hardware facilities as well as the regulations, operational protocols and the derivative legal interpretations are not sufficient for service innovation. If it lacks a systematic and holistic view of planning, the piecemeal technological developments with incompatible regulations will probably not bring the synergy of time and cost savings to the organisation but create more burden and unnecessary waste of human resources. While the preparation and introduction of the digital transformation may require extra efforts, how the LAF can keep concentrating on this fundamental work regardless of the aforementioned challenges — expanding legal aid needs due to the law reforms and a higher level of supervision — will be a key success factor. Besides appropriate resource allocation, this success highly relies on an organisational culture that welcomes innovation and changes. Culture-rebuilding thereby is also an imperative task for the LAF when heading into the future.

NATIONAL REPORT: USA

LEGAL AID IN THE UNITED STATES

AN UPDATE FOR 2023

ALAN W. HOUSEMAN

May 2023

This Update is the National Report for the United States prepared for the International Legal Aid Group (ILAG). This report, an update to previous national reports, covers the period from May 2021 through April 2023. The report is divided into two parts: national update and other legal aid and access to justice developments.

Alan W. Houseman is President of the Consortium for the National Equal Justice Library. He was Executive Director of the Center for Law and Social Policy from 1981 – 2013. He has been Assistant Director of the Law Students Civil Rights Research Council, a Reginald Heber Smith Fellow, founder and director of Michigan Legal Services and Director of the Research Institute at the Legal Services Corporation. He has written numerous articles, manuals, papers and books on legal services and poverty law advocacy as well as on welfare policies. Volunteer work includes: Chair of the Civil Committee and board member of NLADA; Chair of the Organization of Legal Services Backup Centers; staff to the ABA Presidential Task Force on Access to Justice; and a member of the ABA Task Force to Revise the Standards for the Provision of Civil Legal Aid, the Comprehensive Legal Needs Study Advisory Group, and ABA Special Committee on Access to Justice. He has taught at Georgetown University Law Center and Wayne State University Law School. He is a graduate of Oberlin College and New York University School of Law, where he was a Hays Civil Liberties Fellow. Among the awards he has received are the Earl Johnson Equal Justice Award, National Equal Justice Award, the Oberlin College Distinguish Achievement Award, the Coalition on Human Needs Hero Award and three NLADA Special Awards. He was a member of the Board of Trustees of Oberlin College.

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PART ONE: NATIONAL REPORT

OVERVIEW

The United States is a representative democratic republic, which operates as a federal system. There is a federal court system, but it does not control the state court systems. There are 50 states, the District of Columbia (DC), Puerto Rico and several territories each with their own legal systems. Each state, DC, Puerto Rico and the territories have their own court systems. State court systems include many levels of courts that vary by state, counties within each state and cities within each county. Civil legal aid and indigent public defense are separate systems. There is no national legal aid budget. At the Federal level, the Legal Services Corporation (LSC) funds part of the state based civil legal aid system. The federal Criminal Justice Act funds the federal defender system for federal criminal cases.

Local public defender offices and private attorneys receiving court appointments or under contract provide defense in state criminal cases. These are state and locally funded. The US does not have a national defender system for state criminal cases, which are the vast majority of criminal cases in the US. Access to justice activities are primary state activities.

Last year, Maine - which had been the last remaining state that did not employ full-time public defense attorneys - hired four attorneys as employees of the Maine Commission on Indigent Legal Services to provide representation in rural areas of the state.

Civil legal aid in the United States is provided by 705 separate and independent primarily staff-based service providers funded by a variety of sources. The civil legal aid system is very fragmented and very unequal in funding both across states and within states. Current overall funding is approximately \$2.7 billion. The largest element of the civil legal aid system is comprised of the 132 independent programs with 899 offices that are funded and monitored by the Legal Services Corporation (LSC). LSC is also the largest single funder, but overall, more funds come from states and other federal sources and IOLTA programs than LSC. In addition, there are a variety of other sources, including local governments, the private bar, United Way, cy press distributions and private foundation

The Trump Administration called for the elimination of LSC and no further funding.¹ This did not happen. In fact, LSC funding increased from \$410 million to \$466 million.

¹ https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/budget/fy2018/2018_blueprint.pdf

The Trump Administration also eliminated the Access to Justice Initiative of the Department of Justice (DOJ) and suspended the White House Legal Aid Inter-Agency Roundtable (LAIR).

The Biden Administration sought increased funding and Congress appropriated \$94 annualized new funding and \$60 million one-time funding for LSC. This the largest increase in funding since the Carter Administration. The Biden Administration also reinstated the Access to Justice Initiative in a new Office for Access to Justice at DOJ now headed by a former public defender and also reinstated LAIR with a permanent director. LAIR has issued two new reports one on the federal response to Covid and the other on simplifying government forms and processes to increase access to government programs, forms and benefits.

Federal funding for LSC reflects the fundamental national interest in the rule of law. Eliminating LSC funding would effectively eliminate civil legal aid in some states and diminish it in every state, with a resulting loss of confidence in the fairness of the justice system for those who cannot afford to pay for legal assistance. Today, even with federal funding of LSC, in many jurisdictions 90% or more of family cases and landlord-tenant cases involve unrepresented litigants, and legal aid providers must regularly turn away at least half of the eligible clients seeking their help.”

An example of bi-partisan support is the new Congressional Access to Civil Legal Services Caucus launched by Congressman Joseph Kennedy of Massachusetts in December 2015 with Congresswoman Susan Brooks (R-IN5). Today, the Caucus is headed by Rep. Tom Emmer, Rep. Brian Fitzpatrick, and Rep. Mary Gay Scanlon.

At the state level, more state funds were available for civil legal aid at the beginning of 2023. This is because state budgets have recovered from the great recession although IOLTA revenues continue to be lower than 9 years ago.

While the Trump Administration has proposed to eliminate LSC, the LSC board appointed by President Obama remained until 2023, but many continued to serve including Board Chair John Levy.

LSC has pioneered the use of technology to expand access to civil legal aid and to the courts. Since 2000, LSC has funded more than 859 projects totaling over \$81 million in Technology Initiative Grants (TIG). After a Technology Summit in 2014, LSC set as its mission statement to provide some form of assistance to 100% of persons otherwise unable to afford an attorney for dealing with essential legal needs.

State activity on civil legal aid continues to increase. Most states established Access to Justice Commissions and moving forward in creating comprehensive, integrated state systems for the delivery of civil legal assistance. The long term trend toward the development of a state based comprehensive legal aid delivery system is very likely to continue.

COUNTRY DETAILS

The total population of the United States at the beginning of 2023 is 336.3 million. The GDP at the end of 2022 is \$23.32 trillion.

The official poverty rate for 2021 was 11,6%; there were 37.9 million people in poverty. The official poverty line for a 4 person household is \$27,575. LSC and most civil legal aid programs use 125% of the poverty line for basic eligibility or, for a family of 4, \$34,689 and 53.7 million people eligible.

According to a recent study by the American Bar Association², as of January 1, 2019, there are 1,352,027 practicing lawyers in the US. There is no statistical breakdown of these into practice areas. Based on other data sources, including the Justice Index, there are 10,479 FTE attorneys involved in directly delivering civil legal assistance to the poor. LSC funded are 5,629 and non-LSC are 4850. There are also about 3000 non-lawyer advocates representing the poor in administrative hearings and other representational activities. The non-lawyer advocates are staff of legal aid programs. We do not have any surveys or counts of the number of public defenders in the US.

LEGAL AID ORGANIZATION/AUTHORITY

Criminal legal aid

There is a right to counsel i felonies (*Gideon v. Wainwright* 372 U.S. 335 (1963)), delinquency cases involving juveniles (*In re Gault*, 387 U.S. 1 (1967)) and misdemeanor prosecution of adults (*Argersinger v. Hamlin*, (1972)). The right is enforced at the state and local level.

The Criminal Justice Act 18 U.S, C, §3006A provides for the right to counsel at the federal level and established the Federal Defender Service. Counsel appointed under the CJA are from either a panel of private attorneys designated by the court, or a federal defender organization (FDO). There are two types of FDOs: (1) federal public defender

² <https://www.americanbar.org/content/dam/aba/images/news/2019/08/ProfileOfProfession-total-hi.pdf>

organizations, which consist of federal employees who are part of the judiciary, and (2) community defender organizations, which are private, state-chartered, non-profit corporations funded by annual federal grants from the judiciary. An FDO may be established in any district (or combination of adjacent districts) in which at least 200 appointments are made annually. There are currently 81 FDOs with more than 3,500 employees serving 91 of the 94 judicial districts. For FY 2020, the judiciary projects that federal defenders will be appointed in approximately 120,700 representations.

The CJA also provides for the appointment of private trial lawyers who serve on a panel maintained by each district or appellate court, and who are assigned by the court to represent financially eligible defendants. In situations where federal defenders are unavailable due to FDO conflicts or workload demands, and in the districts not served by an FDO, panel attorneys are appointed to represent eligible individuals. Nationally, almost 90 percent of the more than 10,000 panel attorneys accepting CJA appointments work in small law firms (six or fewer lawyers), and approximately 60 percent are solo practitioners. The CJA provides that these attorneys shall be reimbursed for their expenses and compensated at statutorily authorized hourly rates for their services. For FY 2021, the judiciary projects that panel attorneys will be appointed in approximately 83,900 representations.

Civil legal aid

In the United States, there is no general right to state-funded counsel in civil proceedings. See *Lassiter v. Department of Social Services*, 452 U.S. 18 (1981) and *Turner v. Rogers*, 564 US 431 (2011) However, state courts and state statutes or court rules, as well as some federal statutes, have provided the right to counsel in several categories of cases including termination of parental rights, adoption, and other areas.³

Three states (Washington, Maryland and Connecticut) and sixteen cities have enacted legislation providing for a right to counsel in eviction proceedings: including New York City, Newark, San Francisco, Philadelphia, Cleveland, Baltimore, Boulder, Louisville, Kansas City, Denver, Toledo, Minneapolis and Seattle. For more information about implementation of the right to counsel developments, see appendix.

Recently, the American Bar Association adopted ABA Ten Guidelines for Residential Eviction Laws dated February 2022 setting out basic norms for evictions including that

³[ABA Directory of Law Governing Appointment of Counsel in State Civil Proceedings](http://civilrighttocounsel.org/map). See also <http://civilrighttocounsel.org/map>

“No tenant should face eviction without access to full, quality representation by an attorney.”⁴ NCCRC compiled a document that shows all the studies on tenant representation and finds that **3% of tenants have counsel, compared to 81% of landlords.**

2021 was a banner year on the child right to counsel front, as both North Dakota and Washington passed major bills establishing a right to counsel for children in child welfare proceedings. The North Dakota bill has the qualifier that the child be “of sufficient age and competency to assist counsel”, but it requires appointment regardless of income and also extends the right to counsel to Child In Need of Services proceedings. The Washington State bill is the result of years of tireless advocacy by many in that state, and is to be phased in over a 6-year period.

INSTITUTIONAL FRAMEWORK FOR LEGAL AID

At the federal level on the civil side is the Legal Services Corporation. In 1974, Congress passed and the President signed the Legal Services Corporation Act (42 U.S.C. 2996), the comprehensive legislation to make permanent the legal services program started under the Economic Opportunity Act. The LSC Act was reauthorized in 1977, but has not been reauthorized since. LSC is not a federal agency, nor a government controlled corporation, but a nonprofit corporation established with the powers of a District of Columbia corporation and those provided by the LSC Act. The President of the United States appoints a bipartisan eleven-member board that must be confirmed by the Senate. Board members serve in a volunteer capacity. The board then appoints the LSC President. Unlike many federal agencies or government corporations, the LSC president administers the Corporation, making all grants and contracts. LSC funds 132 grantees that operate local, regional or statewide civil legal assistance programs.⁵ Generally, one field program provides legal services in a designated geographic area. In addition, LSC, with Congressional approval, has earmarked funds for migrant and Native American grants for specialized programs that deliver services to these populations. All legal services programs are private, nonprofit entities, independent of LSC.

The Board consists of 11 members. Prior LSC Board Members, Julie Reiskin, John Levi, Robert Grey, Gloria Valencia-Weber, Laurie Mikva, Victor Maddox, Mathew

⁴<https://www.americanbar.org/content/dam/aba/directories/policy/midyear-2022/612-midyear-2022.pdf>

⁵ For more detailed information about LSC, See www.lsc.gov and its Annual Reports, Fact Books and Appropriation proposals.

Keenan and Father Pius Pietrzyk were joined by Frank Neuner, from the law firm of NeunerPate in Lafayette, Louisiana; Abigail Kuzma, former Indiana Assistant/ Attorney General and a current member of the LSC Governance and Performance and Delivery of Legal Services Committees; and John G. Malcolm, vice president at the Institute for Constitutional Government, and director of the Meese Center for Legal & Judicial Studies at the Heritage Foundation.

Funding

Congress approved funding for LSC at \$489 million for 2022 with \$40 million for disaster relief and \$569 million for 2023 with \$20 million for disaster relief. LSC was funded at \$365 in 2014. If LSC funding would have kept up with inflation since its peak in 1980, today LSC would be funded at over a billion.

The White House released the President's Budget for FY2024, which signals to Congress about the spending priorities of the administration for the coming fiscal year. The \$1.9 trillion budget framework would increase federal spending by around 15 percent over current levels, including \$800 million for the Legal Services Corporation (LSC), a proposed increase of more than 40 percent. This is the highest amount a President has ever sought for the agency.

For the third consecutive year, the President's Budget also calls for greater flexibility around the composition of LSC grantee boards, and asks Congress to limit existing restrictions on the activities of LSC grantee to LSC funds only.

Subsequently, LSC released its own budget request to Congress for FY2024. The agency is seeking at least \$1.576 billion, which is almost three times its current budget. LSC's request provides a number of explanations for this, highlighting the growing numbers of legal problems for which low-income people do not receive assistance, while also noting other factors such as inflation and the need to improve staff compensation at grantee organizations.

Defender

At the federal level on the criminal side is the Defender Services Office (DSO), located within the Administrative Office of the U.S. Courts, whose mission is to uphold the right to counsel guaranteed by the Sixth Amendment, the Criminal Justice Act (CJA), 18 U.S.C. § 3006A, and other congressional mandates.

The four primary goals of the Federal Defender Services program are to:

- provide timely assigned counsel services to all eligible persons;
- provide appointed counsel services that are consistent with the best practices of the legal profession;
- provide cost-effective services; and
- protect the independence of the defense function performed by assigned counsel so that the rights of individual defendants are safeguarded and enforced.

At the state level: On the civil side, there are few state government institutions with responsibility for civil legal aid. Most states (41) have Access to Justice Commissions but these are not generally government agencies. Most states have, usually through the state bar association, entities that distribute IOLTA, filing fee funds and other state appropriated funds.

Similarly, on the defender side, few government agencies oversee and fund criminal defense services. Twenty-two states have statewide defender programs (e.g. Wisconsin, Colorado, New Mexico, Vermont) that provide support, training, research and in actual representation. In many jurisdictions, there are only local defender programs, contract attorneys and court appointed attorney panels to provide representation in criminal cases.

BUDGET AND SPENDING

Civil legal aid

Congress approved funding for LSC at \$489 million for 2022 and \$560 million for 2023. It was funded at \$365 in 2014.

The White House released the President's Budget for FY2024, which signals to Congress about the spending priorities of the administration for the coming fiscal year. The \$1.9 trillion budget framework would increase federal spending by around 15 percent over current levels, including \$800 million for the Legal Services Corporation (LSC), a proposed increase of more than 40 percent. This is the highest amount a President has ever sought for the agency.

For the third consecutive year, the President's Budget also calls for greater flexibility around the composition of LSC grantee boards, and asks Congress to limit existing restrictions on the activities of LSC grantees to LSC funds only.

Subsequently, LSC released its own budget request to Congress for FY2024. The agency is seeking at least \$1.576 billion, which is almost three times its current budget. LSC’s request provides a number of explanations for this, highlighting the growing numbers of legal problems for which low-income people do not receive assistance, while also noting other factors such as inflation and the need to improve staff compensation at grantee organizations.

The last available total funding for civil legal aid is from 2021.

Civil Legal Aid Funding for 2021
(Source ABArray; millions of \$)

State General Revenue	319
Court Fees and Fines	1,032
IOLTA	172
Legal Community Bar	153
CY Press	77
Foundation/Corp Grants	272
Other Strategies	190
Legal Services Corporation	409
Subtotal, 50 states	2,671
District of Columbia	29
Puerto Rico and US territories	22.5
GRAND TOTAL	2,722

Among LSC grantees, only 36.8% of their funding comes from LSC.

92 of the 132 LSC grantees have less than 50% of their funding from LSC.

Public Defense

We have incomplete data on how much is spent on public defense in the US. The Federal Defender program has a budget of over \$1.1 billion.⁶ According to a 2015 Special Report from the Office of Justice Programs of the US Department of Justice, state government expenditures in 2012 were \$2.3 billion annually.⁷ This figure does not

⁶ The Judiciary Fiscal Year 2019 Congressional Budget Summary at 37 <https://www.uscourts.gov/about-federal-courts/governance-judicial-conference/congressional-budget-request>

⁷ <https://www.bjs.gov/content/pub/pdf/sgide0812.pdf>

include county and jurisdictional appropriations for indigent defense and many large states (e.g., California, Florida, New York, Texas, Michigan, and Illinois) have only county and jurisdictional appropriations for indigent defense.

SCOPE, CASELOAD AND ELIGIBILITY

Clients served

According to 2021 data reported to LSC (the last available data), LSC programs provided services in 713,000 cases and served 1.59 million people in households. The majority of services provided (77.8%) were counsel and advice (61.4%) and brief service (15.6%). Cases involving extended service were 22.3%. Family law cases provided (29.2%) housing (35.4%), income maintenance (10.9%) and consumer (7.2%).

Covid had a significant impact on civil legal aid demands for services. Programs report increases in evictions, housing foreclosures, unemployment cases, domestic violence, and benefit cases. For example, LSC did a brief study in August of 2020: “The need for legal aid has spiked as the pandemic continues to disrupt the lives and financial security of people across the country. Housing is a particular concern. LSC estimated that more than 5.13 million households who qualify for LSC-funded services are at risk of eviction. Civil legal needs have also surged in others key areas served by LSC grantees, including unemployment, domestic violence and health care.⁸ LSC estimated the cost of meeting just the eviction needs of its clients would be 2,567,000,000.

Scope of civil legal aid funding

As noted previously, in the United States, there is no general right to state-funded counsel in civil proceedings. See *Lassiter v. Department of Social Services*, 452 U.S. 18 (1981) and *Turner v. Rogers*, 564 US 431 (2011) However, state courts and state statutes or court rules, as well as some federal statutes, have provided the right to counsel in several categories of cases including termination of parental rights, adoption, and other areas.

In the US system, as a general matter, funding is not targeted for specific cases or types of advocacy. Instead, each civil legal aid program determines the scope of

⁸<https://www.lsc.gov/media-center/press-releases/2021/legal-services-corporation-requests-supplemental-funding-help>

services and the clients they are going to serve. Most civil legal aid programs provide legal advice and full representation before courts and administrative tribunals. However, there are small entities not funded by LSC that provide limited services in specific locales or for particular client groups,

Legal aid programs can provide assistance to both court ADR programs and non-court ADR programs. There is no national data on civil case types. LSC data is likely similar to data across the civil legal aid spectrum.

Legal aid programs funded by LSC have limitations on the clients that they can serve. LSC-funded programs are permitted to serve financially eligible individuals who are U.S. citizens or who are members of specified categories of aliens. LSC programs cannot assist undocumented aliens; aliens seeking asylum, refugee status, or conditional entrant status; or other categories of aliens who are legally in the U.S., including students and tourists.

Furthermore, LSC programs are not permitted to provide certain services to prisoners. Specifically, LSC programs cannot participate in civil litigation on behalf of a person incarcerated in a federal, state or local prison or participate in administrative proceedings challenging the conditions of incarceration. In addition, LSC programs are not permitted to represent persons convicted of or charged with drug crimes in public housing evictions when the evictions are based on threats to the health or safety of public housing residents or employees.

Unlike civil legal aid plans in most developed countries, neither LSC nor most state funders impose a formal “merit” test on applicants for service and representation. Nor is there a “significance test” required by LSC or state funders. Civil legal aid programs generally do not impose co-payments or client contributions from the clients served, and neither LSC nor state funders require co-payments or client contributions. In fact, LSC prohibits its programs from using co-payments for clients eligible for LSC funded services. In addition, since the U.S. legal system is not generally a “loser pays” system, civil legal aid clients and programs are not usually required to reimburse an opponent’s legal fees and costs if they lose.

Restrictions

Much of the funding for civil legal aid programs is provided to the programs without earmarks on who can be served and what can be done. With these funds, the

programs themselves make the key decisions about who will be served, the scope of service provided, the types of substantive areas in which legal assistance will be provided, the mix of attorneys and paralegals who will provide services, and the type of services provided (such as advice, brief services, extended representation, and law reform). However, Congress has imposed restrictions on what LSC can fund and what its recipients can do, and a few other states have similar restrictions.

However, some government and private funding sources limit their funding to specific types of clients (e.g., aliens) or specific types of cases (e.g., domestic violence). Civil legal aid programs can decide whether to seek this funding, and many do. It is the program itself that decides internally whether to seek such funding.

Congress had added no new restrictions for LSC funded programs. No states added new restrictions on their funding. The current restrictions are described at:

<https://legalaidhistory.org/histories/civil-legal-aid-history/restrictions/>

Process for obtaining civil legal aid

Funding entities, including LSC, do not have any formal role in deciding whether legal aid is provided. Clients contact legal aid offices directly or by phone contact.

Many legal aid programs now operate legal hotlines, which enable low-income persons who believe they have a legal problem to speak by telephone to a skilled attorney or paralegal and receive advice and brief service. Legal hotlines may provide answers to clients' legal questions, analysis of clients' legal problems, and advice on solving those problems so that the client can resolve the problem with the formation from phone consultation. Hotlines may also perform brief services when those are likely to solve the problem and make referrals if further legal assistance is necessary. Hotlines now operate in over 92 programs in forty-five states, Puerto Rico, and the District of Columbia. Some hotlines focus on particular client groups, such as the elderly. Others serve the low-income population in general. Finally, more and more states have a central phone number (or several regional phone numbers) that clients can call to be referred to the appropriate program or to obtain brief advice about their legal problems.

Over the last twenty years, the civil legal aid system has begun in earnest to utilize innovations in technology to improve and expand access to the civil justice system. As a result, low-income persons have access to information about legal rights and responsibilities and about the options and services available to solve their legal problems, protect their legal rights, and promote their legal interests. Technological innovation in virtually all states has led to the creation of Web sites that offer community

legal education information, pro se legal assistance, and other information about the courts and social services. Most legal aid programs now have Web sites with over 300 sites. All states have a statewide website, most of which also contain information useful to both advocates and clients. Most of these statewide web sites were made possible by the Technology Initiative Grants program of LSC. Projects in many states use kiosks with touch-screen computers that allow clients to produce court-ready pleadings and access to other services, such as help with filing for the Earned Income Tax Credit. Video conferencing is being used in Montana and other states to connect clients in remote locations with local courthouses and legal services attorneys.

Finally, increasing numbers of legal aid programs across the country, in partnership with the courts and legal community, are using document assembly applications, most notably HotDocs and A2j Author to expand and make more efficient the provision of legal services to clients.

In addition, there has been a rapid expansion of efforts by courts, legal aid providers, and bar associations to help people who are attempting to represent themselves in courts. Civil legal aid programs are devoting substantial time and resources to address the issue of assistance to pro se litigants. Many legal aid programs throughout the country operate self-help programs independently or in conjunction with courts.

Each civil legal aid program funded by LSC must have a client grievance procedure consistent with 45 CFR 1621. There is no appeal to LSC, however. Clients could also report concerns to the relevant state bar or sue.

There is no national data available on the total number of applicants served.

Eligible Criteria for civil legal aid

LSC-funded programs may only use LSC funds to provide legal assistance to clients who meet specific financial eligibility guidelines. The basic rule is that LSC programs serve clients at or under 125% of the Poverty Guidelines, or \$34,688 for a family of 4.

Legal aid programs that do not receive funding for LSC often restrict service to clients who meet financial eligibility guidelines. These guidelines often mirror the LSC guidelines but may be more generous or more restrictive than those guidelines, depending on the program's priorities or on restrictions that may be imposed by other funders.

LSC programs set their own asset ceilings for individual clients. LSC-funded programs are also permitted to provide legal assistance to organizations of low-income persons,

such as welfare rights or tenant organizations.

Eligibility criteria for criminal legal aid

Federal: This portion summarizes access to justice for defendants in federal criminal proceedings in the United States, and it relies heavily upon the 2017 Report of the Ad Hoc Committee to Review the Criminal Justice Act (the Cardone Report). The Cardone Report is publicly available and may be found at <https://cjastudy.fd.org/>.

The touchstone for understanding the provision of criminal defense services for those who cannot afford the assistance of counsel in federal proceedings as required by the U.S. Constitution is the Criminal Justice Act (CJA) of 1964, 18 U.S.C. § 3006A. Representation under the CJA includes not just counsel but also investigative, expert, and other services necessary for a full and fair defense.⁹ Any financially eligible person who is charged with a felony or a Class A misdemeanor; is a juvenile alleged to have committed an act of juvenile delinquency¹⁰; is charged with a violation of probation; is under arrest, when such representation is required by law; is charged with a violation of supervised release¹¹; is subject to a mental condition hearing¹²; is in custody as a material witness; is entitled to the appointment of counsel under the sixth amendment to the Constitution; faces loss of liberty in a case, and federal law requires the appointment of counsel; or is entitled to counsel for verification of consent in international prisoner transfers¹³ will be provided representation under the CJA.¹⁴

Furthermore, whenever a magistrate judge or federal court determines that the interests of justice so require, representation may also be provided under the CJA for any financially eligible who is charged with a Class B or C misdemeanor, or any infraction for which a sentence to confinement is authorized, or when the person is seeking relief under section 2241, 2254, or 2255 of Title 28 of the United States Code (writs of habeas corpus).¹⁵ Thus, the CJA's scope is broad and covers defendants throughout the entire federal criminal justice process, from pretrial matters through trial and direct appeal, as well as habeas corpus proceedings—fully 93 percent of individuals haled into federal criminal court require counsel appointed under the CJA.¹⁶

⁹ 18 U.S.C. § 3006A (a).

¹⁰ As defined by 18 U.S.C. § 5031. See 18 U.S.C. § 3006A (a) (1) (B).

¹¹ Or faces modification, reduction, or enlargement of a condition, or extension or revocation of a term of supervised release. See 18 U.S.C. 18 U.S.C. § 3006A (a) (1) (E).

¹² Under Chapter 313 of Title 18. See 18 U.S.C. § 3006A (a) (1) (F).

¹³ Under 18 U.S.C. § 4109. See 18 U.S.C. § 3006A (a) (1) (J).

¹⁴ 18 U.S.C. § 3006A (a) (1).

¹⁵ 18 U.S.C. § 3006A (a) (2).

¹⁶ Cardone at 17.

State and county: There is no uniform method for determining eligibility for indigent legal services in the United States. Typically, eligibility is determined by an individual's financial capacity to hire an attorney. This is usually determined through financial records. Approximately eighty percent of felony defendants in large state courts were represented by public defenders or assigned counsel pursuant to a federal government study conducted in 2013 and updated in 2016.¹⁷ Many state, county and municipal jurisdictions rely on federal poverty guidelines issued by the Health and Human Services Department, while some systems promulgate their own eligibility criteria.

Most states also have various fees that courts charge indigent defendants when they request indigent legal services.¹⁸ When a defendant requests the assistance of counsel, judges are authorized to compel criminal defendants to pay a fee for those services. Failure to pay fees, however, does not permit counsel to be denied and nearly all states allow trial judges to waive these fees when a defendant is unable to pay.¹⁹ Additionally, most states authorize some form of recoupment that is at the discretion of a trial judge after trial. Some recoupment statutes apply only to convicted defendants; however, others impose recoupment on defendants even if they are acquitted.²⁰

Process for obtaining criminal legal aid

Federal: One of the unique aspects of the CJA is that each of the 94 jurisdictions, with the approval of the judicial council of the federal circuit in which each court is located, is required to publish a plan for furnishing representation under the CJA.²¹ Prior to approving a district's plan, the circuit judicial council must add a supplement with provisions for representation on appeal.²² These plans give local district and circuit courts significant authority in administering the program, and this local control creates considerable variation across districts in the provision of defense services.²³

The individuals who deliver criminal defense services consist of private lawyers as well

¹⁷ SUZANNE M. STRONG, U.S. DEP'T OF JUST., OFF. OF JUST. PROGRAMS, BUREAU OF JUST. STATS., NCJ 250249, STATE-ADMINISTERED INDIGENT DEFENSE SYSTEMS, 2013 (2016), <https://www.bjs.gov/content/pub/pdf/saids13.pdf>

¹⁸ Ronald F. Wright & Wayne A. Logan, *The Political Economy of Application Fees for Indigent Criminal Defense*, 47 WM. & MARY L. REV. 2045, 2052-54 (2006),

<https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1261&context=wmlr>

¹⁹ *Id.* at 2053-54.

²⁰ Helen A. Anderson, *Penalizing Poverty: Making Criminal Defendants Pay for Their Court-Appointed Counsel Though Recoupment and Contribution*, 42 U. MICH. J. L. REFORM 323, 327-34 (2009),

<https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1252&context=mjlr>

²¹ 18 U.S.C. § 3006A (a).

²² *Id.*

²³ Cardone at 20.

as employees of institutional defender offices as determined by each district, both of which are funded by the federal judiciary under a separate appropriation from Congress. As the Cardone Report put it:

Since the CJA's amendment in 1970, the federal defender program has functioned as a hybrid system comprised of public defender offices and appointed private attorneys. This system allows for flexibility, since panel attorneys can step in to handle a sharp increase in prosecutions. It also addresses conflicts that may arise in multi-defendant cases, with the defender office often taking the lead defendant while panel attorneys act as counsel for the other defendants. The current system offers the consistency of having an institutional defender office, which not only sets the bar for defense best practices locally but, with ready access to resources, can often provide training opportunities and assistance to panel attorneys in that district.²⁴

There are two types of institutional defender offices available for districts that require at least 200 CJA appointments annually: Federal Public Defender Organizations (FPDOs) and Community Defender Organizations (CDOs).²⁵ FPDOs are headed by a federal public defender appointed by the federal circuit in which the office is located for four-year terms. All FPDO staff are federal employees and each circuit court determines the number of assistant federal defenders an office may hire.²⁶ In contrast, CDOs are non-profit corporations funded through grants administered by the Defender Services program. CDOs are managed by a board of directors and employ an executive director who functions as the district's federal defender.²⁷

From the perspective of a defendant and the public, FPDOs and CDOs look very similar from the outside and operate nearly identically, and they are referred to collectively as "federal defender organizations," or FDOs. Today, there are a total of 81 FDOs with approximately 3,850 employees throughout the United States and its territories, 64 of which are FPDOs while the remaining 17 are CDOs. Although districts are not mandated to establish FDOs, they cover 91 of 94 federal districts (some offices cover more than one district) and they represent approximately 60 percent of clients appointed under the CJA.²⁸

Private attorneys, depending on the district, either apply to be included on the local

²⁴ *Id.* at 18.

²⁵ 18 U.S.C. § 3006A (g).

²⁶ 18 U.S.C. § 3006A (g) (2) (A).

²⁷ 18 U.S.C. § 3006A (a) (2) (B); see also Cardone at 18.

²⁸ <https://www.uscourts.gov/services-forms/defender-services>

“CJA panel” or are placed on the panel through some other process. Panel attorneys are often solo practitioners or from small firms and also take paying clients in addition to their appointed cases. Each district has a CJA panel attorney district representative to communicate with the national program and disseminate information among panel attorneys.²⁹ Nationwide, there are approximately 12,000 private panel attorneys and together they handle about 40 percent of representations under the CJA at an hourly rate of \$158 in non-capital cases and \$202 in capital cases.³⁰

The Cardone Report succinctly described the governance structure of the federal defender program:

The Criminal Justice Act places the national administration of the program under the authority of the Judicial Conference of the United States (JCUS or Judicial Conference) and the Administrative Office of the United States Courts (AO or Administrative Office). JCUS is authorized to create rules and regulations for the program, while the director of the AO is tasked with supervising the expenditures of funds appropriated for indigent defense. The statute also charges JCUS with determining the hourly rate for panel attorneys as well as the maximum amount to be paid to a panel attorney on any one case without additional justification and oversight.

The Judicial Conference is the judiciary’s governing body. It consists of the Chief Justice of the Supreme Court, who presides; the chief judges of each circuit; and one district judge from each circuit. The Conference administers judiciary funds and makes policy for the administration of the courts. JCUS has committees to advise the larger Conference on a variety of matters, such as the Committee on Criminal Law, the Committee on Court Administration and Case Management, and the Committee on Information Technology. The Executive Committee is the chief decision-making body within the Conference, determining the jurisdiction of the other committees and setting the calendar and agenda for JCUS.

The Defender Services Committee (DSC), comprised entirely of judges, is the JCUS Committee charged with overseeing the CJA program. DSC provides policy guidance, reviews budget and staffing requests for defender offices, monitors legislation affecting the appointment and compensation of counsel, assists to ensure adequate and appropriate training for defense attorneys, and helps determine long-range goals for

²⁹ Cardone at 18-19.

³⁰ <https://www.uscourts.gov/services-forms/defender-services>

the program. As part of the DSC's process, it receives feedback from the defender community through established working and advisory groups. Although DSC is directly responsible for overseeing the defender program, under the current JCUS structure, this Committee does not have final decision-making authority on any aspect of the CJA program.

The AO performs administrative functions for the federal judiciary and oversees the expenditure of appropriated funds. Its mission is to serve and support the federal judiciary pursuant to the policies, guidance, and direction of the Judicial Conference. The AO provides the working staff for all JCUS committees and so plays an important role in JCUS policymaking. It assists in creating the judiciary's budget, maintains a legislative office that has contacts with Congressional staffers to track and offer comment on legislation affecting the judiciary, and provides auditing services and financial accountability for court entities, among other tasks.

Within the AO, the office responsible for staffing DSC and assisting in the national administration of the CJA is the Defender Services Office (DSO). DSO's mission is divided between supporting defenders and panel attorneys and, as part of the AO, supporting judiciary interests. DSO provides training to CJA practitioners, advises on legal and policy issues affecting the provision of counsel and other services under the CJA, assists individual defender offices in formulating budgets, serves as staff to AO working and advisory groups, and collects [caseload-related] data on the defender program.³¹

The size of the federal defender services program, while much smaller than the Department of Justice that investigates and prosecutes cases on behalf of the United States, is nonetheless large and considered the "gold standard" of the criminal defense bar by many across the country.³² The program today has a budget of over \$1.5 billion³³ and is responsible for more than 250,000 representations under the CJA.³⁴ FDO staff is determined by a work measurement formula that helps ensure caseloads do not reach the levels of some beleaguered state public defender offices, and the combination of FDOs working together with panel attorneys helps maintain a standard level of proficiency for the complex cases they handle in federal court.

³¹ Cardone at 19-20.

³² <https://www.nacdl.org/Landing/PublicDefense>

³³ The Judiciary Fiscal Year 2019 Congressional Budget Summary at 37 <https://www.uscourts.gov/about-federal-courts/governance-judicial-conference/congressional-budget-request>

³⁴ Cardone at XXVII.

State and County: The process for obtaining criminal legal aid is initiated when a person charged with a crime invokes their right to counsel, when being taken into custody or at any time after charges are brought. In 1966 the U.S. Supreme Court ruled that when a suspect is being taken into custody certain rights and warnings must be given to them. The essential rights and warnings include the right to remain silent, the right to talk to an attorney before you answer any questions and if you cannot afford a lawyer, the right to have one appointed for you. Additionally, suspects must be advised that anything they say can be used against them in court. This decision was handed down in the case of *Miranda v. Arizona* and is referred to as *Miranda* rights.³⁵

Generally, a judge will determine whether a person facing charge is eligible to receive indigent legal services and those legal services will either come from a state-sponsored public defender organization or private attorneys that are acquired through contract. A defendant usually can request a court-appointed attorney during arraignment. Each state, and sometimes each county, has its own procedure and rules to determine whether a criminal defendant qualifies for indigent legal services. Many jurisdictions rely on the federal government's poverty guidelines as illustrated above.

The method for providing criminal legal aid attorneys varies by state. Some states provide indigent legal services through statewide, countywide, or citywide public defender offices. Other states don't have public defender offices, but instead, a contract system, where various private attorneys and law firms bid for contracts to represent a certain amount of cases at a set price.³⁶ Generally, a court will contact one of these offices to assign the case to an attorney. A criminal defendant will not be able to pick their appointed counsel³⁷; however, the Sixth Amendment includes the right to "effective" counsel and, in limited circumstances, a criminal defendant may request a replacement for their appointed attorney. Lastly, a defendant has the constitutional right to refuse counsel and represent themselves in state criminal proceedings so long as the judge determines that the defendant is competent to understand and participate in court proceedings.³⁸ In a study conducted in 2013, the federal Bureau of Justice Statistics found that there were 2,696,710 cases closed that involved the aid of state-administered indigent legal services in twenty-eight states, and the District of Columbia. States that did not participate include: Alabama, Arizona, California, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Michigan, Mississippi, Nebraska, Nevada, New York,

³⁵ *Miranda v. Arizona*, 384 U.S. 426 (1966).

³⁶ *Id.*

³⁷ *United States v. Gonzales-Lopez*, 548 U.S. 140, 151 (2006).

³⁸ *Faretta v. California*, 422 U.S. 806, 835 (1975).

Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Virginia, and Washington.

However, as noted in the Cardone Report, structural problems continue to exist within the program more than 50 years after the CJA's enactment. The fundamental issue of maintaining a constitutionally guaranteed function centered on advocating for individuals' rights independent from the judges who hear criminal cases led to the Committee's unanimous recommendation: that Congress create an independent defender commission within the judicial branch, but outside the jurisdiction of the Judicial Conference and AO.³⁹ This recommendation is still being considered and studied even as most of the Committee's interim recommendations have already been adopted, either as written or in modified form. While much has been done, more is needed before the full promise of the sixth amendment can be fulfilled at the federal level within the United States.

QUALITY ASSURANCE

Civil legal aid

In the United States, efforts are made to ensure the quality of civil legal services, through the use of case management systems, the establishment of standards and performance criteria, and the use of peer review onsite examination of the overall effectiveness of programs—based on the standards and performance criteria. Until recently, outcome measures were not been used extensively, although five state IOLTA/state funding programs require their grantees to report on outcome measures. LSC has now required every LSC funded program to use outcome measures.

In 2006, the ABA Standing Committee on Legal Aid and Indigent Defendants (SCLAID) revised the ABA Standards for Provision of Civil Legal Aid.⁴⁰ These revised Standards were presented to and adopted by the ABA House of Delegates at its August 2006 meeting. The revised Standards, for the first time, provide guidance on limited representation, legal advice, brief service, support for pro se activities, and the provision of legal information. The revised Standards also include new standards for diversity,

³⁹ Cardone at 243.

⁴⁰ www.abanet.org/legalservices/sclaid/downloads/civillegalaidstds2006.pdf

cultural competence, and language competency. The ABA also produced Principals for a State System of Civil Legal Aid, which set out 10 principals for statewide systems of civil legal aid.⁴¹

In 2021, the ABA again revised the standards.⁴² The 2021 standards attempt to recognize the changes experienced by legal aid organizations, client communities, and society at large since the last revision in 2006. Technology has advanced, professional rules have changed, and the country has experienced a reckoning with racism. The Standards have been updated herein to reflect these changes. Legal aid organizations have become more complex in order to respond to the changing environments in which they operate. For this reason, a Standard for Leadership and Management has been added. Wherever possible, the Standards reference external guidance, such as those that govern the practice of law, best practices for board governance, and rules that govern accounting practices. Legal aid organizations do not operate in a vacuum and must often rely on external guidance. The Standards highlight where expectations of legal aid organizations should be different from those governing other types of lawyers or nonprofit organizations because of legal aid organizations' unique missions and relationships with their clients.

LSC uses LSC Performance Criteria,⁴³ which were originally developed in 1992 as a tool to evaluate LSC programs through a peer review system. These criteria have been the framework for much of the program evaluation that has gone on in civil legal aid, both by LSC and by peer reviews conducted by others for the program. Some IOLTA and state funders also use staff and peers from programs to monitor and evaluate their grantees, based on the Standards and Criteria. All LSC-funded providers are required to utilize case management systems, and many non-LSC providers utilize similar systems.

LSC conducts two types of on-site LSC program visits to ensure compliance with the law and regulations and to ensure quality of services. For example, LSC's Office of Compliance and Enforcement conducted 21 oversight visits and completed 39 compliance visits in 2021. In 2020, effected by Covid, LSC conducted 20 program

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https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_atj_tencivilprinciples.authcheckdam.pdf

⁴²<https://lasclv.org/wp-content/uploads/ABA-Standards-Revised-2021.pdf>

⁴³<http://www.lsc.gov/pdfs/LSCPerformanceCriteriaReferencingABAStandards.pdf>

performance oversight visits and 11 compliance visits. Some state IOLTA and civil legal assistance funders also conduct evaluations of program often using the LSC performance measures. There is no national data on these non-LSC efforts.

There is no requirement that civil legal aid providers engage in continuing legal education or skills training. Lawyers working in legal aid programs may have continuing legal education requirements from their state bar associations, but these CLE requirements apply to all attorneys in a state.

Each civil legal aid program funded by LSC must have a client grievance procedure consistent with 45 CFR 1621. There is no appeal to LSC, however. Clients could also report concerns to the relevant state bar or sue.

The LSC regulation requires that the governing body of each program establish a grievance committee or committees, composed of lawyer and client members of the governing body, in approximately the same proportion in which they are on the governing body. Each program must establish a simple procedure for review of complaints by applicants about decisions to deny legal assistance to the applicant. In addition, each program must establish procedures for the review of complaints by clients about the manner or quality of legal assistance that has been rendered by the recipient the client. The procedure must provide for prompt consideration of each complaint by the Executive Director or the Executive Director's designee and an opportunity for the complainant, if the Executive Director or the Executive Director's designee is unable to resolve the matter, to submit an oral or written statement to a grievance committee established by the governing body. A file containing every complaint and a statement of its disposition shall be preserved for examination by LSC. The file shall include any written statement submitted by the complainant or transcribed by the recipient from a complainant's oral statement.

Public Defense

Standards have been developed for public defense, principally by NLADA and the ABA. NLADA standards include:

- o Performance Guidelines for Criminal Defense Representation (2006):
<http://www.nlada.org/defender-standards/performance-guidelines>

- o Model Contract for Public Defense Services (2000): <http://www.nlada.org/defender-standards/model-contract>
- o Defender Training and Development Standards (1997): <http://www.nlada.org/defender-standards/training>
- o Standards for the Administration of Assigned Counsel Systems (1989): <http://www.nlada.org/defender-standards/assigned-counsel>
- o Standards for the Appointment and Appointment of Counsel in Death Penalty Cases (1988): <http://www.nlada.org/defender-standards/death-penalty>
- o Guidelines for Negotiating and Awarding Governmental Contracts for Criminal Defense Services (1984): <http://www.nlada.org/defender-standards/guidelines-governmental-contracts>
- o Standards and Evaluation Design for Appellate Defender Offices (1980): <http://www.nlada.org/defender-standards/appellate>
- o Guidelines for Legal Defense Systems in the United States (1976): <http://www.nlada.org/defender-standards/guidelines-legal-defense-systems>
- o National Advisory Commission on Criminal Justice Standards and Goals: The Defense (1973): <http://www.nlada.org/defender-standards/national-advisory-commission>
- o Uniform Law Commissioners' Model Public Defender Act (1970): <http://www.nlada.org/defender-standards/model-public-defender-act>

ABA directory of indigent defense standards: ⁴⁴

- o Ten Principles of a Public Defense Delivery System (2002): https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_def_tenprinciplesbooklet.pdf
- o Ten Guidelines on Court Fines and Fees: https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_ind_10_guidelines_court_fines.pdf
- o Eight Guidelines of Public Defense Related to Excessive Workloads: https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_def_eight_guidelines_of_public_defense.pdf

⁴⁴https://www.americanbar.org/groups/legal_aid_indigent_defendants/indigent_defense_systems_improvement/standards-and-policies/

- o ABA Standards for Criminal Justice: Providing Defense Services:
https://www.americanbar.org/groups/criminal_justice/publications/criminal_justice_section_archive/crimjust_standards_defsvcs_toc/
- o ABA Formal Opinion 06-441: Ethical Obligations of Lawyers Who Represent Indigent Criminal Defendants When Excessive Caseloads Interfere with Competent and Diligent Representation:
https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_def_ethics_opinion_defender_caseloads_06_441.pdf
- o ABA policies and guidelines related to indigent defense:
https://www.americanbar.org/groups/legal_aid_indigent_defendants/indigent_defense_systems_improvement/standards-and-policies/policies-and-guidelines/

Defenders use these standards to improve their own representation; policymakers use them to determine how to allocate criminal justice resources; and researchers use them to measure the quality and impact of defenders' work. The ABA Ten principals of a Public Defense Delivery System⁴⁵ were created as a practical guide for governmental officials, policymakers, and other parties who are charged with creating and funding new, or improving existing, public defense delivery systems. The Principles constitute the fundamental criteria necessary to design a system that provides effective, efficient, high quality, ethical, conflict-free legal representation for criminal defendants who are unable to afford an attorney. The more extensive ABA policy statement dealing with indigent defense services is contained within the ABA Standards for Criminal Justice, Providing Defense Services (3d ed. 1992).

Unlike civil legal aid, no federal entity or other entity monitors and enforces these standards. Some public defender programs (e.g., Public Defender Services of DC) incorporate the standards into their practice guidelines, evaluation systems and training protocols.⁴⁶ NLADA, the 6th Amendment Center and the ABA use these standards when evaluating specific programs or systems, but such evaluations are at the request of the program or system.

PUBLIC LEGAL EDUCATION

Every state has a state website that includes information about legal rights of low and moderate-income persons. These also include common legal problems facing low and

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https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_def_ten_principlesbooklet.pdf

⁴⁶ <https://www.pdsdc.org/>

moderate-income persons and what can be done to enforce and protect their rights. See, for example, Michigan Legal Help at <https://michiganlegalhelp.org/> and pine Tree Legal Assistance (Maine) at <https://ptla.org/>. Pine Tree also houses a veterans' web site that includes critical information about the legal rights of veterans.

In addition, Voices for Civil Justice (Voices) is the national communications and media resource for advocates of civil legal aid and civil justice reform. Voices' mission is to drive a drumbeat of media coverage that educates policy makers and the engaged public about what civil legal aid is, why it matters, and why it deserves support. Voices garners media coverage that builds awareness and support for reforming the civil justice system so that it works for everyone, not just for the wealthy and powerful.

Its staff tapped a 1,500-member, 50-state network of advocates and spokespeople to generate media coverage. Averaging about two media placements per week, Voices has had a hand in more than 500 news stories, opinion pieces, editorials and columns that illuminate how civil legal aid is a lifeline for people who must navigate the civil justice system to protect their families, homes and livelihoods. These pieces have appeared in some 200 media outlets, including prominent legacy outlets like: The New York Times, Washington Post, Wall Street Journal, USA Today, Los Angeles Times, The Atlantic, The New Yorker, Associated Press and Bloomberg News; national broadcast and digital outlets like NPR, CBS Evening News, PBS News Hour, CNN, FoxNews.com, and NBCNews.com; and outlets for specialized audiences like the Chronicle of Philanthropy, Governing, National Law Journal, American Lawyer Magazine, Law360, and even Sports Illustrated.

In early 2019, Voices achieved a long-sought goal: to create a digital stories website and campaign that conveys a common narrative about reforming the civil justice system so it works for everyone, not just those with lawyers. There has long been a need for a unified narrative about the crisis in the civil justice system, and it was Voices' 2017 opinion research by Lake Research Partners that made this possible. The research confirmed the voting public's strong support for reforming the civil justice system to make it more accessible, with key findings as follows:

- Overwhelming majorities of voters believe it is important to ensure that everyone has access to the civil justice system.
- Voters believe equal justice under the law is a right, not a privilege.

- Voters want civil justice reform, and they strongly support a wide range of services to enable everyone to get access to the information and assistance they need, when they need it, and in a form they can use.
- Strong majorities of voters support increasing state funding to build a more accessible civil justice system, and surprisingly that support remains robust even when tied to the notion of raising taxes to do so.

The new messaging resource, called “All Rise for Civil Justice” defines and conveys the urgency of the crisis; explains how it affects people’s ability to protect their families, homes and livelihoods; and spotlights practical solutions available to address the crisis. The website uses easy-to-share mediums like video, photos, animations and mapping to tell the stories of people suffering the consequences of a civil justice system that fails ordinary Americans. It is intended to be a one-stop shop for resources to better tell the stories of affected people, families and communities. It is intended to promote message discipline to advocate more consistently and persuasively for system-wide change.

Voices sunsetted its staff operations on December 31, 2022. The network continues and the website VoicesforCivilJustice.org is now hosted as an archival resource through the National Association of IOLTA programs. The separate website for “All Rise for Civil Justice” was folded into the main Voices website.

ALTERNATIVE SOURCES OF LEGAL SERVICES

Pro Bono: Legal aid non-profit providers are supplemented by approximately 900 pro bono programs, which exist in every state and virtually every locale. These pro bono programs are either components of bar associations, component units of legal aid staff programs, or independent nonprofit entities with staff that refers cases to lawyers on the pro bono panels.

The ABA Standing Committee on Pro Bono and Public Service conducted a new survey in 2017 of lawyer pro bono service in 24 states.⁴⁷ The participating states represented a spectrum of states in terms of urban/rural distribution, political leaning, pro bono policies, and attorney demographics. The results, which included insights from over 47,000 attorneys, revealed that private lawyers in those states contributed an average of 36.9 hours of pro bono service to individual clients in 2016. By combining the results of this study with the annual reports of private attorney involvement submitted by

⁴⁷https://www.americanbar.org/content/dam/aba/administrative/probono_public_service/ls_pb_supporting_justice_iv_final.authcheckdam.pdf

grantees to LSC, it is estimated that LSC-funded organizations stimulate well over one million hours annually of pro bono service by private lawyers.

LSC has been a leader in encouraging pro bono. Since 1981, LSC-funded programs have had to provide a portion of their funding for private attorney involvement. Currently, each LSC-funded provider must expend 12.5% of its LSC funding for private attorney involvement.⁴⁸ Of the 713939 cases closed by LSC program in 2021, the most recent figures available, 56,454 were done by private attorneys. Of these cases, 43,938 were done by pro bono attorneys and 12,516 by contract or Judicare attorneys.⁴⁹

Pro Bono Innovation Fund: At the first LSC 40th Anniversary celebration in 2014, LSC President Jim Sandman presented the first Pro Bono Innovation Fund grants to 11 LSC grantee executive directors. Since its creation in 2014, the Pro Bono Innovation Fund has invested more than \$35 million to 121 projects in 36 states and the District of Columbia. The PBIF program offers three categories of grants: Project, Sustainability, and Transformation. See www.lsc.gov for further information.

2022 PBI Grants: LSC awarded Pro Bono Innovation Fund grants totaling \$4.75 million to 15 legal aid organizations.

Currently, 18 states have some form of mandatory or voluntary reporting of pro bono hours each year.

Law school clinical programs: Virtually every ABA-accredited law school operates a clinical law-teaching program. Some operate a number of clinics that actually service individual or group clients. In some areas, such as the District of Columbia, the law school clinics are an integral part of the civil legal aid system. In other areas, law school may work closely with legal aid programs and send law students to the programs for part of their clinical training. In some areas, law school clinics are small programs that operate totally independent of civil legal aid programs. Overall, law school clinical programs are a very small component of the delivery system, accounting for less than 2% of the clients served.

Self-help programs: A significant development in civil legal aid in the United States is the rapid expansion of efforts to help people who are attempting to represent themselves in courts. These are described as “pro se,” “self-help,” or “self-represented” litigants. Historically, parties in high-volume courts such as traffic, housing, and small claims courts consisted primarily of pro se litigants. However, more recently, pro se

⁴⁸ The requirement is imposed by LSC through its regulatory authority. See 45 CFR 1614.

⁴⁹ <https://lsc-live.app.box.com/s/5lbcn4ncgqu5bbm31wh9v5xl80kxz0xf>

litigants have also begun to dominate family law dockets across the country. There are also significant increases in pro se representation in probate and other civil matters as well.

A 2016 report of a study of the civil court system, Civil Justice initiative, The Landscape of Civil Litigation in State Courts,⁵⁰ found a relatively large proportion of cases (76%) in which at least one party was self-represented, usually the defendant. Tort cases were the only ones in which a majority (64%) of cases had both parties represented by attorneys. Small claims dockets had an unexpectedly high proportion (76%) of plaintiffs who were represented by attorneys, which suggests that small claims courts, which were originally developed as a forum for self-represented litigants to obtain access to courts through simplified procedures, have become the forum of choice for attorney-represented plaintiffs in lower-value debt collection cases.

California has the most extensive network of self-help centers with 80. New York also has a vibrant program of 27 self-help centers around the state and assisted nearly 215,000 unrepresented litigants.⁵¹

The rise of the self-represented litigant (SRL) has created an unprecedented disruption in the practice of law and the management of courts. Beginning in 2005, the SRLN, [a leading voice in the national movement for 100% access to civil justice](#), supports justice system professionals focused on the question of how best to reform ALL aspects of the legal system (courts, legal aid, the bar and non-legal partners) so that SRLs experience the courts (and indeed the legal system) as a consumer oriented environment guided by the principles of equal protection and due process. SRLN is a resource center that provides toolkits, evaluation, implementation guidance and thought leadership; we are a network that connects and supports reform minded leaders throughout the country; and offer a geospatial data and analysis hub for the civil justice space. See www.srln.org

Judicare: There remain a very few “Judicare” programs directly funded by either LSC or other funders; indeed, LSC funds only one small Judicare program, which now has staff attorneys and paralegals who deliver legal assistance in some cases. It is very rare that a funder will directly fund, by contract or otherwise, individual lawyers or law firms. However, some staff attorney programs have created Judicare components or contracted with individual lawyers and law firms, who are paid by the staff program to provide legal assistance to certain groups of clients.

⁵⁰ <http://www.ncsc.org/~media/Files/PDF/Research/CivilJusticeReport-2015.ashx>

⁵¹ See art page 12 http://www.nycourts.gov/ip/nya2j/pdfs/NYA2J_2016report.pdf

Private lawyers: In addition, private lawyers provide representation for a fee, often taken from client recoveries in personal injury cases, Supplemental Security Income and Social Security cases.

Legal aid programs normally do not provide representation in fee-generating cases except in narrow circumstances. For example, LSC Regulation §1609, states that LSC programs cannot use LSC funds for fee-generating cases. 45 C.F.R. §1609. This provision also applies to private funds, but not to non-LSC public funds. The purpose of §1609 is to ensure recipients assist eligible clients in obtaining appropriate legal services while limiting the use of sparse legal services resources when private attorneys are able and willing to provide adequate representation. Nevertheless, LSC has recognized that, for a number of reasons, there are certain cases for which no private attorney is agreeable to take. For this reason, §1609 provides multiple exemptions and exceptions to the general prohibition against fee-generating cases, as well as guidance for when a case does not fall into an exemption or exception category.

Non-lawyers: Non-lawyers work in civil legal aid programs. While we do not have data from all civil legal aid programs, those funded by LSC employed 2007 non-lawyers out of 7877 advocacy staff in 2021. In addition to LSC funded program staff who are non-lawyers, there are new initiatives that use non-lawyers in the US. The most well-known is the Limited License Legal Technician (LLLT) certification program in Washington State. In June 2020, the Washington Supreme Court ended the program for future LLLTs.⁵²

LLLT allows certified persons to provide a range of legal services with areas defined by a 13 member Limited License Legal Technical Board. These technicians set up legal practices, establish fees, operate independently and provide individualized information regarding court procedures, reviewing documents and completing forms, performing legal research, drafting letters and pleadings, advising clients as to necessary documents and explaining how such documents or pleading may affect the client's case. However, the technicians could not represent a client in legal negotiations, in court, in formal administrative proceedings or in other formal dispute resolution process unless specifically permitted.⁵³ Technicians must complete an associate level college degree, 45 credit hours in an ABA approved program and training in a practice area.

⁵² <https://www.abajournal.com/news/article/washington-supreme-court-decides-to-sunset-pioneering-limited-license-program>

⁵³ See Brooks Holland, "The Washington State Limited License Legal Technician Practice Rule: A National First in Access to Justice," 82 SUPRA 75 (2013).

They must also pass a core education exam, professional responsibility exam and a practice area exam. Finally, they must obtain 3,000 hours of substantive law-related experience, supervised by a lawyer and within 3 years before or after passing the examination.

The only practice area now available is family law including child support modification, dissolution and separation, domestic violence, parenting and support actions, paternity and relocation. There are now 39 LLLTs licensed to practice in Washington State but only 35 are active. Of these, 8 work in law firms; 26 own independent firms (out of the 26, one also works for a legal service provider and as a courthouse facilitator); and 1 jointly owns a law firm with an attorney. In addition, 44 are now eligible to take the LLLT exam and 16 have completed the core curriculum and now in then practicum program. Over 200 are taking the core curriculum in various community colleges.⁵⁴

For more information, see: “Law by Non-Lawyers: The Limit to Limited License Legal Technicians Increasing Access to Justice” by Rebecca M. Donalds⁵⁵, and “Washington’s Limited License Legal Technician Rule and Pathway to Expanded Access for Consumers” by Stephen R. Crossland and Paula C. Littlewood.⁵⁶

Utah began its Paralegal Practitioner program along the lines of the Washington State program to provide a subset of discrete legal services that can be provided by a licensed paralegal practitioner (LPP) in three practice areas: temporary separation, divorce, paternity, cohabitant abuse and civil stalking, custody and support, and name change; eviction; and debt collection.⁵⁷ The Court promulgated rules to govern LPPs and the program went into effect on November 1, 2018. The program is modeled after the Washington program. Licensing of the first LPPs began in 2019.

Arizona: In 2020, the Arizona Supreme Court created a Legal Paraprofessional (LP) a professional with specific education and experience who is licensed to provide legal services in limited practice areas.

⁵⁴ These data are based on conversations with Steve Crossland, Paula Littlewood and Renata Garcia.

⁵⁵ Law by Non-Lawyers: The Limit to Limited License Legal Technicians Increasing Access to Justice by Rebecca M. Donalds, 42 Seattle University Law Review 1 (2018)

⁵⁶ Washington’s Limited License Legal Technician Rule and Pathway to Expanded Access for Consumers by Stephen R. Crossland and Paula C. Littlewood, Volume 122, Issue 3 Dickinson Law Review 859 (Spring 2018)

<https://ideas.dickinsonlaw.psu.edu/cgi/viewcontent.cgi?article=1043&context=dlr>

⁵⁷

http://www.utcourts.gov/committees/limited_legal/Supreme%20Court%20Task%20Force%20to%20Examine%20Limited%20Legal%20Licensing.pdf

These areas include:

- Family law;
- Limited jurisdiction civil cases;
- Limited jurisdiction criminal cases where no jail time is involved; and
- State administrative law (where the administrative agency allows).

LP services may include:

- Drafting, signing, and filing legal /documents;
- Providing advice, opinions, or recommendations about possible legal rights, remedies, defenses, options or strategies;
- Appearing before a court or tribunal; and
- Negotiating on behalf of a client in the areas or practice: (i) that are authorized by the law and (ii) that the LP has received a license and endorsement for that area of law.

Minnesota began the Legal Paraprofessional Pilot Project which is intended to increase access to civil legal representation in case types where one or both parties typically appear without legal representation. The Minnesota Supreme Court issued an order on September 29, 2020, which authorized the Pilot Project, effective March 1, 2021 through March 2023. The Pilot Project permits legal paraprofessionals, under the supervision of a Minnesota licensed attorney, to provide legal advice and, in some cases, represent a client in court in two legal areas: landlord-tenant disputes and family law disputes.

Colorado recently established a new program. The Colorado Supreme Court rule is effective July 1, 2023, but it is not expected to have licensed legal paraprofessionals (LLPs) until next January at the earliest. Those hoping to become LLPs must take and pass courses in family law and ethics. They must also have 1500 hours of practice as a paralegal, 500 of which would be in the area of family law. Some LLP applicants will have the requisite experience.

The Colorado Supreme Court eliminated the recommendation that LLPs could only represent clients in which the family's net marital assets were under \$200,000. The court also expanded the recommendations to allow LLPs to make opening and closing arguments in court, but LLPs will not be able to examine or cross-examine witnesses.⁵⁸

Similar state efforts are under consideration in California and other states. The Institute for the Advancement of the American Legal System at the University of Denver Law

⁵⁸https://www.coloradopolitics.com/courts/colorad-supreme-court-enacts-groundbreaking-legal-paraprofessional-framework/article_e425693e-cdbe-11ed-821c-67fb807023a2.html

School recently announced that its new “Unlocking Legal Regulation” project will work with Utah officials to test what could be groundbreaking regulations on allowing nonlawyers to provide legal services.⁵⁹ A recent report from the Utah Work Group on Regulatory Reform suggested changes intended to improve access to justice for residents unable to afford private attorneys in civil and family court cases.⁶⁰ Panels in California and Arizona have made similar recommendations, using similar rationale. The *Utah report urged an increased role for nonlawyers in legal services, including tech companies, and mandated creation of a regulatory agency to determine how they could help. Michael Houlberg at IAALS wrote a report about proposals in Colorado and other states regarding licensed paralegals. IAALS calls them Allied Legal Professionals

A recent study examines a host of non-lawyer programs that have developed in addition to the LLLT program in Washington State. See **Nonlawyer Navigators in State Courts: An Emerging Consensus; A survey of the national landscape of nonlawyer navigator programs in state courts assisting self-represented litigants** by Mary E. McClymont The Justice Lab at Georgetown Law Center assisted by Katherine R. Alteneider, Tanina Rostain, & Rebecca L. Sandefur.⁶¹

According to the study:

This survey of the current national landscape identified and analyzed 23 programs in 15 states and the District of Columbia. The report describes program features and offers practical considerations for creating and implementing such programs. The programs use nonlawyer navigators who are not court staff, operate physically within a court, and provide direct “person to person” assistance to SRLs. Navigators in the study are defined as individuals who do not have full, formal legal credentials and training (i.e., a law degree), who assist SRLs with basic civil legal problems. They do not act or operate under an attorney/client relationship and they are part of a formal program and institutional auspices that provides specialized training.

Navigators work on a range of case types such as family, housing, debt collection, domestic violence, conservatorship, and elder abuse. Programs demonstrate that well-trained and appropriately supervised navigators can perform a wide array of tasks. For example, they help SRLs find their way around the court; get practical information and referrals to other sources of assistance; or complete their court

⁵⁹<https://iaals.du.edu/projects/unlocking-legal-regulation>

⁶⁰<https://src.bna.com/KRO>

⁶¹ https://www.ncsc.org/_data/assets/pdf_file/0024/53691/Justice-Lab-Navigator-Report-6.11.19.pdf

paperwork. Navigators also accompany SRLs to court to provide emotional back up, help answer the judge's factual questions, or resolve a matter with opposing counsel.

Program managers are mindful of admonitions against nonlawyers providing legal advice and take the need for quality assurance measures seriously. Navigators come from a range of backgrounds, including paid staff, AmeriCorps members, and volunteers, among them college and graduate students, recent graduates, and retirees. The diversity of backgrounds and skill sets show the potential for using many more of these individuals, as well as for recruiting new types of community actors as navigators.

HOLISTIC LEGAL SERVICES

Many civil legal aid programs incorporate holistic services in their program's structure. For example, some include social work as part of their program. See, e.g., *Expanding Civil Legal Services to Include Social Work* by Anne K Sweeney and Daniella Lachina of Cleveland Legal Aid.⁶²

On recent example: In 2019, Alaska Legal Services Corporation (ALSC) began the Community Justice Worker program as a new approach to solving the justice gap, by empowering legal advocates in rural Alaska communities to provide certain legal services with ALSC's training and supervision. This program is the first of its kind in the nation, a partnership of ALSC, Alaska Pacific University, and Alaska Native Tribal Health Consortium that looks beyond lawyer-based solutions to achieve justice.

The Alaska Supreme Court has approved a waiver that will permit Community Justice Workers trained and supervised by ALSC to provide limited scope legal help in certain situations. An American Bar Foundation-affiliated research team designed the evidence-based training programs needed to expand the skills and practice of the Community Justice Workers and bring this project to scale across Alaska as well as in other communities that face similar challenges.

The most prevalent form of holistic services in US civil legal Aid is Medical-legal Partnerships (MLP).

MLPs integrate lawyers into the health care setting to help patients navigate the complex legal systems that often hold solutions to many social determinants of health. MLPs are active in 450 hospitals and clinics in 49 states and the District of Columbia.

⁶² Management Information Exchange Journal, Volume XXXIII No.4 Winter 2018.

Over three quarters of LSC-funded civil legal aid programs have a medical-legal partnership. There are 170 legal aid agencies and 58 law schools. MLPs assist low-income and other vulnerable patients with receipt of public benefits, food security concerns, disability issues, housing problems, special education advocacy, employment instability, immigration issues, family law issues and other problems that affect individual and community health and require legal remedies. MLPs also train clinicians and other healthcare team members in the social determinants of health and work to identify both health-harming civil legal needs and their related policy solutions.

MLPs did not evolve because of LSC promotion or any LSC earmarked funding. MLPs developed through efforts of the National Center for Medical Legal Partnerships (now at George Washington University). See <https://medical-legalpartnership.org/> e In 2008, the ABA established a national support center to assist medical-legal partnerships in securing pro bono participation, promoting best practices related to MLP-pro bono practice, and ensuring quality service delivery.

Several years ago, the Health Resources and Services Administration of the Department of Health and Human Services awarded the National Center a cooperative agreement to provide training and technical assistance to community health centers to support integration of civil legal aid services into health care delivery at the health centers. Over 98 health care centers now have MLPs.

See also: “Medical–Legal Partnerships: 11 Years' Experience Of Providing Acute Legal Advice For Critically Ill Patients And Their Families” by C. Andrew Eynon, Lucy J. Robinson and Kara M. Smith,⁶³ and “Addressing Social Determinants of Health Through Medical Legal Partnerships”, by Marsha Regenstein, Jennifer Trott, Alanna Williamson and Joanna Theiss.⁶⁴

Holistic Public Defender Services

The pioneer in holistic services for public defender programs is Bronx Defenders, a ground-breaking, nationally recognized model of defense called holistic defense that achieves better outcomes for their clients. Each year, they defend 27,000 low-income

⁶³Medical–Legal Partnerships: 11 Years' Experience Of Providing Acute Legal Advice For Critically Ill Patients And Their Families by C. Andrew Eynon, Lucy J. Robinson and Kara M. Smith, March 2019, Journal of the Intensive Care Society

⁶⁴Addressing Social Determinants of Health Through Medical Legal Partnerships, by Marsha Regenstein, Jennifer Trott, Alanna Williamson and Joanna Theiss, Health Affairs, Vol. 37, No. 3: March 2018. <https://www.healthaffairs.org/doi/abs/10.1377/hlthaff.2017.1264>.

Bronx residents in criminal, civil, child welfare, and immigration cases, and they reach thousands more through their community intake and outreach programs. But they don't stop there. They take what they learn and launch innovative initiatives designed to bring about real and lasting change for the communities they serve.

An arrest and criminal charge alone can have a devastating impact on a person's life. In New York State, more than 1 in 3 people arrested are never convicted of any crime or offense, yet they suffer dramatic consequences as a result of their arrest alone. This collateral damage, and the instability that results, can be far more devastating than any of the direct penalties that accompany the criminal conviction.

Their social workers and non-legal advocates learn about the challenges that clients face and help them tackle the issues that stand in the way of the futures they seek.

Their advocates bring together different areas of expertise to find creative solutions and defenses. Whether a client decides to fight their case or seek an alternative resolution, their team stands behind them, making sure they get the justice they deserve.

Their teams go where the clients go, beyond the confines of a single case or courtroom. They know that once someone is in the justice system, it can be staggeringly hard to get out. An arrest for a drug charge can lead to a deportation case. A housing case can lead to a child welfare case. As a team, their criminal, civil, immigration and family defense attorneys — alongside social workers and non-lawyer advocates — go where the client goes addressing the complex web of legal issues, cases, and consequences that can arise from justice involvement.

The Center for Holistic Defense of Bronx Defenders provides in-depth technical assistance to public defender offices across the country, hosts site visits, provides training opportunities for practitioners, and participates in conferences and symposia.

Since 2010, the Center has provided technical assistance to public defender offices in 38 states and the District of Columbia, as well as in 4 other countries. At its inception, The Center awarded year-long technical assistance grants to public defender offices. Building on years of experience, The Center now has a dynamic model that allows for technical assistance to be tailored according to the need of the organization or office making the request.

Another example is the DC Public Defenders program. For more than 60 years, PDS has led the nation in providing exceptional advocacy and quality legal representation to indigent adults and children. Judges and prosecutors alike, as well as public defender

agencies and criminal justice bars across the country, acknowledge and respect the outstanding work of PDS's attorneys. PDS is recognized as one of the few defender organizations in the world to meet the standards outlined in the American Bar Association's Ten.

"PDS was set up as a model public defender organization...We give people a fighting chance, just as rich people have...We are helping people at a very crucial time in their lives. We are dealing with people facing scornful, judgmental attitudes. PDS attorneys force the system to see people as human beings – not just criminals, or bodies moving through the system." (By Avis E. Buchanan during an interview with the Washington Council of Lawyers upon receiving their 2014 Presidents' Award for Public Service.)

The Civil Legal Services Division (CLS) provides legal representation to clients in a wide range of civil matters that are collateral or ancillary to the clients' involvement in the delinquency or criminal justice system, or that involve a restraint on liberty (e.g., certain contempt proceedings). The types of collateral and ancillary civil issues these clients face are complex and almost limitless in number (adverse immigration consequences, loss of parental rights, loss of housing, seizure of property, loss of employment) and can arise even if the person is acquitted of the criminal charges or has been only arrested and never charged.

The Community Defender Division (CDD) works to help their clients in the District—both adults and children—face their legal difficulties that stem from prior arrests, convictions, and incarceration. These cutting-edge programs provide comprehensive legal services to clients who are impacted by their criminal or juvenile records. In their Prisoner & Reentry Legal Services Program, clients may seek representation for a range of issues, including: criminal records; employment; background checks; child support; parole; and prisoners' rights. In the Juvenile Services Program, children may seek assistance regarding issues, including: their rights after they are committed; their rights while they are detained; and their rights while placed out of their homes.

UN SDG STANDARD 16.3

On September 15, 2016, access to justice experts from the academic and nonprofit communities gathered for a Consultation with U.S. government officials to recommend "access to justice indicators" to guide data collection for tracking and promoting access to justice in the United States.

As part of the Civil Society Consultation, the academic and nonprofit experts provided government officials with recommended indicators in the following categories.⁶⁵

- Criminal Justice Indicators, focusing on indigent defense, the intersection of the civil & criminal justice systems, and reentry
- Civil Justice Indicators, focusing on
 - Disability
 - disaster response
 - education
 - employment/labor
 - family law and matrimonial matters
 - *finance and consumer protection (including credit card debt and home foreclosure)
 - gender-based violence
 - healthcare
 - housing
 - immigration
 - public benefits
 - tribes and tribal members
 - veterans and service members

Upon the adoption of the UN Sustainable Development Agenda and President Obama's issuance of a Presidential Memorandum⁶⁶ formally establishing the White House Legal Aid Interagency Roundtable (LAIR), and charging it with responsibility for assisting the United States in implementing Goal 16. As discussed in my 2017 national report, on November 30, 2016, the U.S. Government issued the First Annual Report of the White House Legal Aid Interagency Roundtable: Expanding Access to Justice.⁶⁷ The Report documents the many steps taken by the LAIR agencies to advance agency goals in collaboration with civil legal aid. LAIR's efforts to advance development of indicators for Goal 16 are described in this factsheet released in January 2017.

In 2021, Attorney General Garland announced the restoration of a standalone Office for Access to Justice within the Justice Department dedicated to improving the federal government's understanding of and capacity to address the most urgent legal needs of communities across America. In addition, in his capacity as co-chair of the Legal Aid Interagency Roundtable, Attorney General Garland, together with White

⁶⁵ <https://ncforaj.org/wp-content/uploads/2016/12/Written-Submissions-Rev.-12.1.16-final-correct.pdf>

⁶⁶ <https://www.whitehouse.gov/the-press-office/2015/09/24/presidential-memorandum-establishment-white-house-legal-aid-interagency>

⁶⁷ <https://www.justice.gov/atj/page/file/913981/download>

House Counsel Dana Remus, also released the Roundtable’s 2021 report, “Access to Justice in the Age of COVID-19”. The 2021 Roundtable focused on barriers to access to justice that were exposed and exacerbated during the COVID-19 pandemic and identified the innovative strategies adopted by Roundtable members in response.

On March 21, 2023, the White House and the Department of Justice released the 2022 Legal Aid Interagency Roundtable Report, “Access to Justice through Simplification: A Roadmap for People-Centered Simplification of Federal Government Forms, Processes, and Language.” The Report was prepared pursuant to President Biden’s Presidential Memorandum on Restoring the Department of Justice’s Access-to-Justice Function and Reinvigorating the White House Legal Aid Interagency Roundtable (May 18, 2021). The Report focuses on simplifying government forms and processes so the American people can access federal programs, services, and benefits with reduced need for legal help as a step towards closing the justice gap that exists in the U.S. today.

The 2022 Report can be accessed here.⁶⁸ The report focuses on ways the federal government can simplify its forms and processes to reduce the need for individuals to seek legal assistance. In 2022, the Roundtable focused on expanding access to programs, services, and benefits by developing a simplification roadmap and highlighting member agencies’ best practices. The Roundtable’s 2022 report identifies a three-step path forward to: (1) understand the barriers to access through meaningful engagement with communities served and impacted by government programs, (2) implement strategies through incorporating feedback from engagement, and (3) evaluate the impact of the simplification efforts to determine whether they have meaningfully expanded access, or if further improvements are possible. The report also features successful form and process simplification efforts by member agencies and promotes commitments for government-wide access improvements through hum/an-centered design and community engagement.

The United States continues to report data for a number of indicators that have been agreed upon through the UN process. The data for Goal 16 can be found here: <https://sdg.data.gov/peace-and-justice-strong-institutions/>.

In 2019, for the first time since the United Nations adopted the Sustainable Justice Agenda, global community came together to focus on Goal 16’s call to “ensure equal

⁶⁸<https://www.justice.gov/d9/2023-03/Legal%20Aid%20Interagency%20Roundtable%202022%20Report.pdf>

access to justice for all.” On this occasion, NLADA launched an initiative to further connect the U.S. corporate community interested in advancing access to justice with opportunities to strategically collaborate with NLADA’s members – civil legal aid offices, public defender offices, and clients across the country – to advance the goal of providing *100% justice for all*. This effort will create opportunities for the U.S. corporate community to display their efforts to close the “justice gap” on the global stage.

NLADA has been guided by its Corporate Advisory Committee (CAC) in launching this work through a number of occasions including a roundtable with its CAC members and other corporate partners on *Access to Justice: U.S. Corporate Leadership on Goal 16* in May 2019 in Louisville, Kentucky during the annual Equal Justice Conference. The roundtable provided a forum for participants to exchange information and promising practices on corporate-led access to justice /activities.

On July 17, 2019, NLADA co-sponsored an event on *How Legal Empowerment Advances Sustainable Development Goals* with the Task Force on Justice, the Bernstein Institute for Human Rights, Namath, and the Open Government Partnership connected to the United Nations High-Level Political Forum on Sustainable Development. At that event, NLADA issued a policy brief written by NLADA Senior Fellow Maha Jweied, who formally led the U.S. Department of Justice’s Office for Access to Justice and served as the U.S. Government’s Goal 16 Subject-Matter Expert. The policy brief identifies the ways in which corporate America advances access to justice and describes three main strategies: (1) Contributing Resources; (2) Advancing Policy and Legal Reform; and (3) Implementing Sound Business Practices. It also includes a call to the business community for increased partnership with NLADA and other public interest organizations to accelerate their efforts to respond to the legal needs of low-income and vulnerable members of our society.

Expanding on this activity, in September 2019, NLADA sponsored a successful United Nations (UN) Sustainable Development Summit side-event:. Hosted by AT&T in Rockefeller Plaza in New York, and co-sponsored by AT&T, Hewlett Packard Enterprises, Pathfinders for Peaceful, Just and Inclusive Societies, Namati, and the Justice for All Campaign, the gathering highlighted the ways in which the corporate community advances access to justice. At the event, NLADA recently launched a new working group of the CAC to advance Goal 16 of the UN Sustainable Development Agenda. The Goal 16 Working Group identifies access to justice policy initiatives that can be advanced through our public-private partnership. The working group was successfully integrated with the United Nations SDG Partnerships Platform. NLADA

held the first meeting of this working group during our Annual Conference in Detroit, Michigan in November with three meetings to follow in 2020.

A new project, Responsible Business Initiative for Justice (RBIJ), co-Directed by Maha Jweied, an attendee at the 2011 ILAG Conference, is an international non-profit working with companies to champion fairness, equality, and effectiveness across systems of punishment and incarceration. RBIJ developed from the campaign movement on the ground and the growing need for key economic stakeholders to help drive change. RBIJ engages, educates and equips businesses – and their leaders – to participate in meaningful advocacy on key criminal justice issues, support policy-specific reform campaigns, and use their resources and operations to be a force for good in society,

OTHER

Most Innovative Project 2021-2023: Reestablishment of the Office for Access to Justice at the Department of Justice and restoring White House Legal Aid Inter-agency Roundtable.

In addition, LSC undertook work on the Effect of State and Local Laws on Evictions Study as directed by Congress in the FY 2020 appropriations legislation. LSC has made significant improvements to the LSC Eviction Tracker, which provides near-real time and historical data on eviction case filings in courts around the country, and released two briefs: Fast and Cheap which examines the low cost of file evictions and face-paced nature of the eviction process; and Effective Volunteer Partnerships which describes innovative pro bono partnerships in eviction defense. LSC will release a comprehensive final report on Eviction in Spring 2023 as well as a new Eviction Tracker site that integrates updates to the Eviction Laws Database.

LSC also published White Paper on Illegal Evictions for their series: Housing Insecurity in the U.S. and the Role of Legal Aid. The brief mentions Right to Counsel as one of the tenant protections that legal aid providers and advocates have said “would make a difference for tenants in illegal eviction cases.” LSC also tracks some of the RTC programs across the country as part of its survey.

Most Disappointing Trend 2021-2023: failure to appropriate sufficient funding to LSC to close the Justice Gap.

Biggest Challenge for 2033: retaining LSC funding levels. Congress may press for substantial cuts in domestic spending including LSC.

Covid Effects: The 2021 LAIR Roundtable’s 2021 report, “Access to Justice in the Age of COVID-19,” focused on barriers to access to justice that were exposed and exacerbated during the COVID-19 pandemic and identified the innovative strategies adopted by Roundtable members including LSC in response.

Covid had a significant impact on civil legal aid demands for services. Programs report increases in evictions, housing foreclosures, unemployment cases, domestic violence, and benefit cases. For example, LSC did a brief study in August of 2020: “The need for legal aid has spiked as the pandemic continues to disrupt the lives and financial security of people across the country. Housing is a particular concern. LSC estimated that more than 5.13 million households who qualify for LSC-funded services are at risk of eviction. Civil legal needs have also surged in other key areas served by LSC grantees, including unemployment, domestic violence and health care.⁶⁹ LSC estimated the cost of meeting just the eviction needs of its clients would be 2,567,000,000. The 2022 Justice Gap study, described later, also addressed the impact of COVID:

The new study offers insights into the covid-19 pandemic’s disproportionate impact on low-income Americans. One third of low-income Americans personally experienced at least one civil legal problem related to the pandemic in the past year, compared to 18% of those at or above 400% of the federal poverty level.

The types of civil legal problems most likely to be attributed to the Covid-19 pandemic are those involving income maintenance, education and housing. More than one-half of low-income Americans experiencing problems related to unemployment benefits and eviction attributed them to the pandemic.

⁶⁹<https://www.lsc.gov/media-center/press-releases/2021/legal-services-corporation-requests-supplemental-funding-help>

PART TWO: OTHER CIVIL LEGAL AID DEVELOPMENTS

For an overview of the US legal System and the histories of civil legal aid, public defense and state access to justice initiatives, see www.legalaidhistory.org.

LEGAL SERVICES CORPORATION

For a full review of LSC developments, see www.lsc.gov. LSC produces a comprehensive Annual Report, a detail Fact Book and detailed Budget Request containing much data about LSC-funded programs,. LSC also conducts Access to Justice seminars, Congressional briefings, podcasts and prepares task force reports. This ILAG report highlights only a few of LSC activities and updates.

Technology initiatives

The 2015 Update report described the technology summit that LSC had convened. In December of 2014, LSC issued its report on the summit.⁷⁰ LSC set as its mission statement to provide some form of assistance to 100% of persons otherwise unable to afford an attorney for dealing with essential legal needs. This involved five main areas:

- Creating automated forms and other documents to support self-help and limited scope legal representation.
- Taking advantage of mobile technologies to reach more persons more effectively.
- Applying business practice analyses to all access-to-justice activities to make them as efficient as practicable.
- Developing “expert systems” to assist lawyers and other service providers.
- Creating in each state a unified “legal portal” using an automated triage process to direct persons to the most appropriate form of legal assistance and to guide them through the process.

For a longer discussion on the impact of technology and 100% access see: Glenn Rawdon, “Everyone, Anytime, Anywhere” in MIE Journal, Vol. XXVIII, No.3, Fall 2014 and Ronald W. Staudt, “Inventing a 100% Future for Legal Aid,” MIE Journal, Vol. XVIII,

⁷⁰ <http://tig.lsc.gov/resources/grantee-resources/report-summit-use-technology-expand-access-justice>

No. 4, Winter 2014.

2022 TIG grants: The Legal Services Corporation (LSC) awarded 33 Technology Initiative Grants (TIG) to 29 legal services providers totaling \$4,679,135. These organizations will use the funds to leverage technology in delivering high-quality legal assistance to low-income Americans.

In the **2021 cycle**, LSC awarded 35 TIGs to 29 legal services organizations totaling over \$4 million. Among the grants awarded are several projects that improve online self-help resources. Other projects will increase access to justice for vulnerable populations and improve internal efficiency so that grantees can serve more clients.

Portal Project: *In late 2016 LSC released an RFP, with proposals due Jan 19, 2017, for the Portal Project. On April 25, LSC, Microsoft Corporation, and Pro Bono Net named Alaska and Hawaii as state partners in a pilot program to develop online, statewide legal portals to direct individuals with civil legal needs to the most appropriate forms of assistance. The goal is to develop a single, statewide, unified legal access portal which provides information anywhere, any time to every person seeking assistance and to provide assistance from a person – lawyer or otherwise – anywhere, if resources are available. The portal will use methods such as branching logic questions and gamification to assess the capabilities and circumstances of an inquirer, which will be part of the referral logic. The portal will generate information on the legal needs of persons using it and on the results achieved from the referrals provided. The portal will aggregate this information and provide it regularly to all participating entities. The portal will be an integrated system of resources, rules, and recommendations through which users can be matched with available services and applicable resources. The site will analyze users’ responses to questions and direct them to the most appropriate resource, considering factors such as case or situations complexity, the user’s capacity to use technology, strength and representation of the opponent, the importance of the user’s stake in the outcome and the availability of resources, updated in real time. All access to justice entities in a participating jurisdiction (including legal aid entities, courts, court administrators, the organized bar, interested law firms and lawyers, law schools, libraries, pro bono support entities, and other interested community entities) will have a presence on the portal and will receive appropriate referrals from it. If a referral proves inappropriate, the entity to which the referral was*

made may make a different referral. The system will preserve the confidentiality of information an inquirer provides.⁷¹

Recently Microsoft announced the development of what it called Legal Navigator. Legal Navigator can't offer advice, but it will be able to walk a user step-by-step through the red tape of executing, say, a divorce. The tool was originally conceived with more of a hard-coded linear approach in mind. In other words, Question A would automatically trigger a response containing Answer B. But advances such as natural language processing convinced Microsoft that an AI-based approach was the way to go. Users will have the option of browsing the system by clicking on topics like "Family Law" or engaging with a Chabot-inspired interface. The Legal Navigator team worked with lawyers, law students, and court systems to evaluate real legal aid questions and link them to the appropriate responses. For example, if a user says "I'm afraid that my boyfriend is going to hurt me and my children," the machine would ideally generate Instructions for obtaining a protective order without the phrase "protective order" ever having to be uttered (or typed). "The idea is [the users] don't even have to know that they have a legal problem," said Glenn Rawdon, program counsel for technology at the Legal Services Corporation. Early versions of the Navigator will focus exclusively on family law, housing and consumer issues. According to Rawdon, those three areas comprise about 90 percent of what brings people through the doors of a legal aid center. Hawaii and Alaska will serve as the pilot states for the tool's launch. An official launch date has not been determined. "The idea is for us to run this for a couple of years until we can get Hawaii and Alaska going, maybe onboard a few more states and then figure out where the permanent home of Legal Navigator would be," Rawdon said.

Outcome and performance measures

In 2014, LSC embarked on a major new project to measure results. LSC employs a range of strategies and systems t/o collect data to document the need for and effect of civil legal aid for low-income Americans; to assess and improve its grantees' operations; and to equip its grantees with tools and resources to better evaluate, improve, and expand the services they provide to their client communities. These systems include LSC's Case Services Report (CSR) system, periodic surveys of grantees, evaluation of Census Bureau data, on-site assessments of grantees, and administration of the grants competition and renewal process.

⁷¹ <https://richardzorza.files.wordpress.com/2017/05/introduction-litigant-portal.pdf>

Working with a data collection consulting firm and an Advisory Committee of legal aid directors, LSC staff and others (the author was a member), the project finalized an extensive toolkit to work with LSC program case management systems to produce outcome and other relevant data to help programs measure outcomes and performance. The toolkit can be found at <http://clo.lsc.gov/>.

Leaders Council

In May of 2016, LSC formed a new Leaders Council to raise public awareness of the current crisis in legal aid. The Leaders Council consists of high-profile and influential leaders from various industries. They include public figures such as former Major League Baseball player and now deceased Henry "Hank" Aaron, author John Grisham, University of Michigan head football coach Jim Harbaugh, former Attorney General Eric Holder, Viacom Vice Chair Shari Redstone, and Microsoft Corporation President and Chief Legal Officer Brad Smith. Earl Johnson is a member. A full list of the more than 40 notable individuals joining the Leaders Council is available online at <https://lsc40.lsc.gov/leaders-council/>. Kenneth C. Frazier, CEO of pharmaceutical company Merck & Co., and Harriet Miers, a partner at Locke Lord and former White House Counsel to President George W. Bush, serve as co-chairs of the Leaders Council.

Emerging Leaders Council

The Legal Services Corporation's Emerging Leaders Council was formed in 2018 and will bring together some of the country's rising leaders to help increase public awareness of the crisis in civil legal aid and the importance of providing equal access to justice to all low-income Americans. Members will lend their voices and expertise to enhancing LSC's message by participating in congressional briefings, speaking publicly about civil legal aid's value, penning op-eds, and undertaking outreach activities. The group's efforts will complement the work of LSC's existing Leaders Council. Kristen Sunday, founder of Paladin PBC, and Brad Robertson, partner at Bradley Arant Boult Cummings LLP, will serve as co-chairs of the Emerging Leaders Council. Council members were drawn from business, law, government, academia, and other fields.

Other LSC Initiatives

LSC's Board of Directors formed task forces to address the role of legal aid in responding to the opioid crisis, to natural disasters, Veterans and rural delivery.

LSC hosted congressional briefings on important legal matters that LSC grantees handle as well as recent developments in the legal aid community. The briefings were organized in cooperation with Members of Congress:

LSC also conducted a number of Access to Justice Forums in DC and around the country including virtual forums in 2021 and 2022.

As an example, on Monday March 27, LSC also hosted an Access to Justice Forum at the U.S. Capitol. Attendees heard remarks from members of Congress, including: Sen. Ben Cardin (MD); Sen. Chris Murphy (CT); Rep. Mary Gay Scanlon (PA-5); Rep. Matt Cartwright (PA-8). Other speakers included Rachel Rossi (Director of the Office of Access to Justice at the U.S. Department of Justice), best-selling author John Grisham, and the LSC Board Chairman John Levi.

In addition to these speakers, there were also two panel discussions. LSC President Ron Flagg moderated a panel that included the Hon. Meagan A. Flynn (Chief Justice, Oregon Supreme Court) Hon. Lorie S. Gildea (Chief Justice, Minnesota Supreme Court), Hon. Nathan L. Hecht (Chief Justice, Texas Supreme Court) and Hon. Loretta H. Rush (Chief Justice, Indiana Supreme Court). President Flagg led the chief justices in a discussion about the promise of using non-lawyers to help close the justice gap. They also discussed some of the specific efforts and pilot programs already underway in some of the panelists' states.

In the second panel, Harriet Miers (Partner, Locke Lorde, LLP) led business leaders Ivan K. Fong (General Counsel, Medtronic), Rena H. Reiss (Executive Vice President and General Counsel, Marriott International), and John F. Schultz (Executive Vice President and Chief Operating Officer, Hewlett Packard Enterprise) in a conversation about why access to justice is an important issue to the business community. Following the forum, LSC hosted a reception at the United States Supreme Court where retired Supreme Court Justice Anthony Kennedy gave remarks.

DOJ FEDERAL ACCESS TO JUSTICE ACTIVITY

Launched in 2010, closed in April 2018, and reopened in 2021, the U.S. Department of Justice's Office for Access to Justice (ATJ) serves as the primary office in the Executive Branch focused on legal services for low-income and vulnerable individuals. The Legal Aid Interagency Roundtable (LAIR)

LAIR was established as a White House initiative that promoted civil legal aid as a critical component of the work of all federal departments and agencies, and the memorandum establishes various actions for reinvigorating that work, including by requiring that designees from at least 23 federal entities meet at least three times a year and report to the President annually.

As noted previously, DOJ re-established the Office of Access to Justice in 2021. ATJ's mission is to help the justice system efficiently deliver outcomes that are fair and accessible to all, irrespective of wealth and status. ATJ is dedicated to improving the federal government's understanding of and capacity to address the most urgent legal needs of communities across America. ATJ staff works within the Department of Justice, across federal agencies, and with state, local, and tribal justice system stakeholders to increase access to counsel and legal assistance and to improve the justice delivery systems that serve people who are unable to afford lawyers.

ATJ is guided by three principles:

- Promoting Accessibility — eliminating barriers that prevent people from understanding and exercising their rights.
- Ensuring Fairness — delivering fair and just outcomes for all parties, including those facing financial and other disadvantages.
- Increasing Efficiency — delivering fair and just outcomes effectively, without waste or duplication.

To translate these principles into action, ATJ pursues strategies to leverage and better allocate justice resources, and works to:

- Advance new statutory, policy, and practice changes that support development of quality indigent defense and civil legal aid delivery systems at the state and federal level;
- Promote less lawyer-intensive and court-intensive solutions to legal problems; and
- Expand research on innovative strategies to close the gap between the need for, and the availability of, quality legal assistance.

On March 21, 2023 the White House and the Department of Justice released the 2022 Legal Aid Interagency Roundtable Report, Access to Justice through Simplification: A Roadmap for People-Centered Simplification of Federal Government Forms, Processes, and Language. The Report was prepared pursuant to President Biden's Presidential

Memorandum on Restoring the Department of Justice's Access-to-Justice Function and Reinvigorating the White House Legal Aid Interagency Roundtable (May 18, 2021). The Report focuses on simplifying government forms and processes so the American people can access federal programs, services, and benefits with reduced need for legal help as a step towards closing the justice gap that exists in the U.S. today.

The Justice Department on April 20, 2023 issued a Dear Colleague Letter for state and local courts and juvenile justice agencies regarding the imposition and enforcement of fines and fees for adults and youth. The letter addresses common court-imposed fines and fees practices, and cautions against those practices that may be unlawful, unfairly penalize individuals who are unable to pay or otherwise have a discriminatory effect. The department provides this letter as part of its ongoing commitment to fairness, economic justice and combating the policies that disproportionately contribute to justice system involvement for low-income communities.

The letter highlights a number of key issues regarding fines and fees, such as the importance of conducting a meaningful ability-to-pay assessment before imposing adverse consequences for failure to pay, considering alternatives to fines and fees, guarding against excessive penalties and ensuring due process protections, including the assistance of counsel when appropriate.

The letter reminds court systems and other federal financial assistance recipients of their ongoing obligations not to discriminate on the basis of race, color, national origin, religion, sex and disability; to provide meaningful access to individuals with limited English proficiency; and to ensure that appropriate recordkeeping can help identify and avoid potential violations of federal nondiscrimination laws. The department will also follow up on this letter by building a best practices guide, highlighting innovative work by states and court leaders in this area.

JUSTICE IN GOVERNMENT PROJECT

In 2017, Karen Lash, former Deputy Director of the DOJ Office for Access to Justice and Executive Director of the Legal Aid Interagency Roundtable, became a Practitioner-in-Residence at the American University School of Public Affairs Justice Programs Office and developed the Justice in Government Project (JGP). The goal of JGP is to develop state and local executive branch strategies for incorporating legal aid into government programs, policies and initiatives that serve low-income and underserved populations. For its first two years, JGP will work closely with an initial cohort of legal profession leaders (e.g., staff or board members of IOLTA Foundations, Access to

Justice Commissions, state Attorney General offices) from Arizona, California, Mississippi and Wisconsin. JGP will formalize collaborations with state agencies responsible for increasing access to health care, housing, employment and education, and improving family stability and public safety. This project aims to produce: sustainable infrastructure that supports and funds civil legal aid for its pilot states; online toolkit reinforced by training and technical assistance to support activities in other Interested states; new dollars for civil legal aid into the future; and new and nontraditional allies for civil justice stakeholders.

This May 2021, the Justice in Government project, including its Grants Matrices, library of research briefs with their easy-to-use bite-size findings, and COVID-19 and data resources, will move to NLADA Legal Aid Research site.

JGP and NLADA produced 15 Research Notes beginning in August of 2019 which can be found at www.legalaidresearch.org:

No.1 - Reentry

No.5 - Human Trafficking

No.2 - Veterans

No.6 - Elder Justice

No.3 - Opioids

No.7 - New Research and Resources

No.4 - Foster Care

No.8 - Housing

No.9 - Domestic Violence

No.13 - 2020 Wrap Up

No.10 - Child Welfare

No.14 - Housing Update

No.11 - Health and MLPs

No.15 - Virtual Mediation Case Study

No.12 - Consumers

JUSTICE FOR ALL PROJECT

In November 2016, the National Conference of State Courts and the Public Welfare Foundation announced that grants were awarded to seven states under the Justice for All Project which is supported by the Public Welfare Foundation and housed at the National Center for State Courts. The grants will support each state grantee in forming partnerships with all relevant stakeholders in the civil justice community and beyond to develop state assessments and strategic action plans in order to implement Resolution on 100% access to justice. Mary McClymont, president of the Foundation, stated: “The

goal is to build a coordinated and integrated continuum of services with the user in mind —people with essential civil legal needs, especially those who cannot afford lawyers. The grants will help states bring together all civil justice stakeholders to determine the most effective ways to deliver those services.” The seven grants are to Alaska, Colorado, Georgia, Hawaii, Massachusetts, Minnesota, and New York. The Justice of All Strategic Planning Guidance, issued in August of 2016, identifies the basic services, which need to be available to all if 100% access is to be provided.⁷²

Since 2017, the seven Justice for All awardee states worked with a variety of traditional and non-traditional civil justice stakeholders to develop a strategic action plan for state civil justice systems where everyone can get the legal information and help they need, when they need it, and in a form they can use to protect their families, homes and livelihood. Each state inventory assessment and strategic action plan identified targeted areas of action with the potential to significantly improve the accessibility and fairness of state justice systems.

These efforts will embrace new partners with a stake in civil justice reforms and will explore a continuum of meaningful and appropriate services to help people obtain effective assistance. They include: • Creating a housing pilot in a gateway city to achieve housing stability for households facing eviction before eviction complaints are filed in court (Massachusetts); • Integrating libraries as legal resource centers (New York and Georgia); • Developing robust web portal content, design, and supports (Minnesota); • Instituting targeted litigant supports (plain language forms, simplified procedures, etc.) in debt collection cases (Alaska); • Creating a consumer debt pilot in a large city to help consumers avert financial crisis or navigate successfully through such a crisis before or after debt collection cases are brought (Massachusetts); • Convening and training non-traditional civil justice stakeholders to expand and strengthen justice related capacity and partnerships (Alaska and Hawaii); • Creating an inter-agency roundtable to better identify, align, and leverage existing resources (Hawaii); • Using business process and user design concepts to strengthen referrals and triage, resource integration/alignment, and improved community outreach (Colorado). Awardee states will pursue their implementation pilots throughout 2018 and evaluate how their efforts significantly improved the fairness and accessibility of state civil justice systems

Recently, seven additional states were added: four more in 2018 (New Mexico,

⁷²[http://www.ncsc.org/~media/Microsites/Files/access/Justice for All Guidance Materials Final.ashx](http://www.ncsc.org/~media/Microsites/Files/access/Justice%20for%20All%20Guidance%20Materials%20Final.ashx)

Montana, Florida and Kentucky) and three in 2019 (Illinois, Michigan and Louisiana). For more information, see <https://www.ncsc.org/jfa>

The Conference of Chief Justices passed Resolution 3, Expanding Meaningful Justice for All, at their 2018 mid-year meeting.⁷³ The Resolution explicitly supports the Justice for All project and encourages all states to undertake a strategic planning process to close their access to justice gaps.

The National Center for State Courts also prepared the Lessons from the Field document that contains a link to the state plans and summarizes main themes from the plans.

For a thorough report on Justice for All projects, see https://www.ncsc.org/_data/assets/pdf_file/0031/64975/5-year-report.pdf

STATE ACCESS TO JUSTICE COMMISSIONS

The evolving effort to create in every state a comprehensive, integrated statewide delivery system, often called a state justice community, continues. These delivery systems include LSC and non-LSC providers, pro bono programs and initiatives, other service providers including human service providers, pro se initiatives, law school clinics, and key elements of the private bar and the state judicial system. In theory, these state justice communities seek to ensure easy points of entry for all low-income clients, ensure coordination among all institutional and individual providers and partners, allocate resources among providers to ensure that representation can occur in all forums for all low-income persons, and provide access to a range of services for all eligible clients no matter where they live, the language they speak, or the ethnic or cultural group of which they are a member.

One of the most effective ways to develop, expand, and institutionalize comprehensive, integrated state systems for the delivery of civil legal aid is through the establishment of state Access to Justice Commissions. Access to Justice Commissions are often created by Supreme Court rule or order in response to a petition or request by the state bar, sometimes with formal support from other key stakeholder entities as well. Their members are representative of the courts, the organized bar, civil legal aid providers, law schools, and other key entities and are either appointed directly by these entities or

⁷³https://www.ncsc.org/_data/assets/pdf_file/0011/23510/01312018-expanding-meaningful-access-to-justice-for-all.pdf

appointed by the Supreme Court based on nominations by the other entities. They are conceived as having a continuing existence, in contrast to a blue-ribbon body created to issue a report and then sunset. They have a broad charge to engage in ongoing assessment of the civil legal needs of low-income people in the state and to develop, coordinate, and oversee initiatives to respond to those needs.

In a few states, Access to Justice Commissions have existed for a decade or more, including the Washington State Access to Justice Board, the California Access to Justice Commission, and Maine's Justice Action Group. Currently, 41 states have active Access to Justice Commissions and new commissions are on the drawing boards in more states.

With generous support from the Public Welfare Foundation, the ABA Resource Center for Access to Justice Initiatives is collaborating with Voices for Civil Justice and the Self Represented Litigation Network to provide capacity building support to Access to Justice Commissions in the three priority areas. In collaboration with Voices for Civil Justice, capacity-building support is being provided to enable Commissions to develop their communications and media capabilities. Voices has been working very closely with the following ATJ Commissions to develop statewide plans: Arkansas, Maryland, New Mexico, Tennessee, Virginia and Washington. In collaboration with the Self Represented Litigation Network (SRLN) (described above), capacity-building support is being provided to enable Commissions to develop innovations to address challenges presented by the influx of self-represented litigants. SRLN has developed monthly presentations by experts which address a range of topics that have been identified as most useful to the Commissions. SRLN is working with twenty-seven Commissions on this topic. Capacity-building support is being provided by ABA consultant to enable Commissions to develop their campaigns and plans to expand funding for civil legal aid. This capacity-building group is focusing on two topics: 1) state legislative funding and 2) private funding from the legal community.

Access to Justice Commissions carry out a number of activities:⁷⁴

- Funding for civil legal aid: Increasing state legislative funding (appropriations and legislatively enacted filing fees add-ons), funding from changes in court rules/statutes (e.g., pro hac vice fees and cy pres distributions) and private funding from foundations, the bar and the general public.⁷⁵ Many states run public relations and public outreach campaigns as part of fund raising initiatives.
- Developmental Activities: Undertaking state legal needs and economic impact studies, convening public forums across a state, developing strategic plans for access to justice and holding access to justice seminars and conferences on general and specific topics (e.g. law schools, technology).
- Self-represented litigation: simplification of court processes and forms; developing court-based self-help centers; producing educational programs, handbooks and materials; changes in the Code of Judicial Conduct; increasing language access; and cultivating partnerships with public libraries as points of access to legal assistance.
- Best practices for administrative agencies, strategic plans and recommendations have also been developed to guide future endeavors.
- Pro bono initiatives: implementation of Supreme Court recognition programs, mentorship and training programs, retiring and retired lawyer programs, specialized pro bono programs, regional committees, and rule and policy changes to support pro bono work.
- Limited scope representation: formulating or amending rules of professional conduct or rules of procedure, and developing and providing educational resources.
- Legal aid delivery initiatives: expanded uses of information technology, remote video conferencing, triage approaches, portal projects, legal incubator programs, disability access initiatives, addressing racial disparities, mediation and ADR initiatives, legal answers websites, court based facilitators/navigators and limited licenses for non-lawyers and legal technicians.
- Law school and legal profession efforts: new law school initiatives, pro bono admission requirements for graduation, implicit bias training, poverty simulations, and proposals to add questions about access and poverty law to bar exams.

A recent example of what one of the innovators is doing is the Washington State Access to Justice Board which completed a new state plan in May of 2017. The State Plan sets forth five goals intended to reflect the universal commitment for an equitable legal

⁷⁴ See Access to Justice Commission Updates 2016-2017 https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ATJReports/ls_atj_meeting2017_atjreports.authcheckdam.pdf See also an article by April Faith-Slaker, Director of the ABA Resource Center: **Access to Justice Commissions – Accomplishments, Challenges and Opportunities**, Management Information Exchange Journal, Fall 2015 at p 13. https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ATJReports/2015_atjcommissions_mie.authcheckdam.pdf

⁷⁵ These state sources have experienced increases from those sources in recent years. In fact, over the past decade, in many states, state legislative funding has had the biggest impact on increased funding for access to justice.

system: (1) Promote and foster **race equity**; (2) Provide clients with **legal education** to understand when their problem is legal in nature; (3) **Increase access** for underserved and underrepresented communities; (4) Develop and increase **holistic client-centered services**; and (5) Engage in **systemic advocacy**.

Through a subcommittee of the ATJ Board's Delivery Systems Committee, systemic efforts have been undertaken to encourage, monitor, and support strategies to implement these goals at the programmatic level and on statewide basis. In addition, significant new investment was made to develop trainings, tools, and related resources to help all programs understand and effectively address the race equity challenges and commitments set forth in Goal 1 of the State Plan (goals that infuse all other goals in the Plan), the Equity and Justice Community Leadership Academy, (<https://justleadwa.org/leadership-academy/>) and the related Race Equity and Justice Initiative (<https://wareji.org/about/>) the latter two of which are coordinated principally through a new state support organization – JustLead Washington. (<https://justleadwa.org/>). Through the Washington State Office of Civil Legal Aid, significant state funding has been invested in JustLead WA's development of a Race Equity Organizational Toolkit and race equity training curricula.

A second example is the Permanent Commission on Access to Justice in New York which has undertaken a number of initiatives, including supporting the allocation of \$100 million each year for civil legal aid in New York state.

DOCUMENT ASSEMBLY⁷⁶

To respond to the crisis of litigants representing themselves, legal aid programs, self-help centers, courts and others are using online document-assembly software to help those in need complete legal forms easily and in quality way. Document assembly software asks questions and then puts the answers to these questions into the appropriate places on forms. The interview provides guidance and definitions as it goes along. The software also often provides an easy way to integrate definitions and explanations of basic legal terms and concepts. At the end of the interview the person receives complete documents with printed instructions on what they need to do with the forms.

⁷⁶ Claudia Johnson, LawHelp Interactive Program Manager, provided essential assistance in developing this section.

LawHelp Interactive (or LHI and formerly known as NPADO) is a web site that lets people create legal documents. LawHelp Interactive (<http://www.lawhelpinteractive.org/>) was developed to make implementing document assembly initiatives easier and less costly for legal aid organizations as well as pro bono and court-based access-to-justice programs. Participating programs use HotDocs Corporation's HotDocs Developer (<http://www.hotdocs.com/>) and optionally the Center for Access to Justice and Technology's A2J Author, to create online forms and documents. Templates are uploaded to the LawHelp Interactive (LHI) server and made available to advocates, pro bono volunteers, and self-represented litigants through legal aid and court websites. End users do not have to pay to use the interviews or assemble packages. Other similar platforms do charge per document assembly fees ranging from \$14.99 to \$349.00.

LHI is a project of Pro Bono Net in partnership with Ohio Legal Services Association (OSLSA), a national nonprofit organization that works with courts, legal-aid organizations, and pro bono programs to increase access to justice through innovative uses of technology. LHI offers the technical infrastructure necessary for online document assembly, as well as programmatic and technical support for local projects. This project started in 2001 when, through its TIG program, LSC funded a pilot project to learn more about the potential of document assembly. LHI's national infrastructure developed from this initial funding, as well as from a generous LexisNexis donation of a HotDocs Server license. Initial participants were legal-aid organizations and pro bono programs that wanted to provide document-assembly content for legal advocates. This goal expanded to include assisting self-represented litigants with the launch of A2J Author, a tool that creates customer-friendly interfaces for data collection and document assembly. For a few states, this expanded focus provided an opportunity for legal-aid programs and courts to collaborate. Together, they could create tools to improve access to justice and to increase court efficiency.

For a short video about LawHelp see: <https://youtu.be/68vVyT1PwK0>

LANGUAGE ACCESS

Effective access to justice requires that courts design, implement, and enforce a comprehensive system of language access services that is suited to the needs of the communities they serve. Many individuals come into contact with the court system to gather information about their legal rights and responsibilities, to protect important rights, to participate in court-mandated or court-offered programs, to benefit from

mediation and other dispute resolution court-based programs, and to seek out assistance from pro bono or self-help centers operated by the court. Meaningful access at each of these points of contact is critical to achieving justice. The full spectrum of language services available to provide meaningful access to the programs and services for LEP persons, includes, but is not limited to, in-person interpreter services, telephonic and video remote interpreter services, translation of written materials, and bilingual staff services.

The American Bar Association (ABA), the Department of Justice (DOJ) and the National Center for State Courts (NSCS) and State Justice Institute (SJI) have developed comprehensive guidance on what courts and court systems need to do.

The ABA developed 10 Standards for Language Access in Courts. The first Standard on Fundamental Principles provides: As a fundamental principle of law, fairness, and access to justice, and to promote the integrity and accuracy of judicial proceedings, courts should develop and implement an enforceable system of language access services, so that persons needing to access the court are able to do so in a language they understand, and are able to be understood by the court.⁷⁷

NCSC and SJI issued “A National Call to Action: Access to Justice for Limited English Proficient Litigants, Creating Solutions to Language Barriers in State Courts” which reports on a 2012 National Summit on Language Access in the Courts, a survey and assessment on language access and a 9 step roadmap for a successful language access program.

JUSTICE INDEX

In 2014, the National Center for Access to Justice at Cardozo Law School (NCAJ), www.ncforaj.org, launched the Justice Index, www.justiceindex.org. (In 2016, NCAJ moved to Fordham Law School where they co-chair a school Access to Justice Initiative with Dean Matthew Diller and former NY State Chief Judge Jonathan Lippman).

The updated and expanded Justice Index 2022 at NCAJ's new website <https://ncaj.org> was recently published.

⁷⁷See *American Bar Association Standards for Language Access in Courts*

http://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_standards_for_language_access_proposal.authcheckdam.pdf

The Justice Index is a snapshot of the degree to which each US state has adopted selected best policies for ensuring access to justice for all people. In its 2014 and 2016 versions, the Justice Index focused on four key areas -- attorney access, self-help access, language access and disability access. In 2021, it includes those areas plus policies for curbing abusive fines and fees practices. The Justice Index benchmarks and findings serve as a platform that supports policy change in justice systems across the US.

Attorney Access: NCAJ continues to maintain the Civil Legal Aid Attorney Count as part of the Justice Index, and to rank the states on their performance on attorney access benchmarks (including pro bono benchmarks). Here are some highlights:

NCAJ has identified 25 policies every state should adopt to ensure that people who should be able to get help from a lawyer, are actually able to. We then looked at every US state to determine how many of these policies they actually have in place. In our findings, we track such key policies as: "civil rights to counsel," policies for promoting pro bono service, "unbundling" laws, and policies providing for the publication of court data on the number of people without lawyers in the courts.

NCAJ also maintains a Count of the number of civil legal aid lawyers in each state. In addition to our 25 attorney access policy benchmarks, this best policy benchmark recognizes that each state should work toward the goal of ensuring that there are at least 10 legal aid attorneys for every 10,000 people living below 200% of the federal poverty line. This goal is in contrast to the higher national average of approximately 40 attorneys per 10,000 people in the general population.

The Civil Legal Aid Attorney Count findings for each state reflect how far almost all the states are from reaching the Justice Index policy goal. Key findings include:

- 27 states and Puerto Rico had fewer than 1 civil legal aid attorney per 10,000 people below 200% of poverty.
- only 6 states (plus Washington, DC) had more than 2 civil legal aid attorneys per 10,000 people below 200% of poverty.
- the total number of individual civil legal aid attorneys is 10,479, consisting of 5,629 LSC civil legal aid attorneys and 4,850 non-LSC civil legal aid attorneys.
- the total number of civil legal aid organizations is 705, consisting of 129 LSC civil legal aid organizations and 576 non-LSC civil legal aid organizations.

Coverage in all benchmark categories – In addition to attorney access, the Justice Index contains findings for each state on:

- self-representation policies, such as: access to justice commissions, guidance for judges and staff on assisting self-represented litigants, improved filing technologies and forms, waiver of filing fees.
- language access policies, such as: free interpreting, tracking of complaints, notice of free language services, provision of language services at clerks' desks.
- disability access policies, such as: free sign language interpreting, admission of support animals without advance requirements, tracking and reporting of disability accommodations.
- fines and fees policies, such as: right to counsel, elimination of voting rights suspensions for failure to have paid fines and fees, assurance of hearings on ability to pay, data tracking, and data transparency.

LIMITED SCOPE REPRESENTATION

The American Bar Association has set out the circumstances under which lawyers may limit the scope of their representation in Rule 1.2(c) of the Model Rules of Professional Conduct. This Rule requires lawyers who limit the scope of their representation to do so only in those cases where the limitation is reasonable under the circumstances and the client gives informed consent to the limitation.

Forty-one states have now adopted Rule 1.2(c) or a substantially similar rule. Most of those states that have varied from the Model Rule require the client's consent to be in writing. A few have set out a checklist of tasks to be assumed when the lawyer provides a limited scope of representation.

LEGAL INCUBATORS

A relatively new development in access to justice is the legal incubator. The first legal incubator began in 2007, the Community Legal Resource Network at the City University of New York School of Law. Its mission is to provide support to their graduates interested in launching their own practice to serve low-income communities that lack access to legal representations. Since then, more than 60 legal incubators are up and running, with 75% of them having been formed since 2014. American Bar Association, ABA Standing Commission on the Delivery of Legal Services, *2016 Comprehensive Survey of Lawyer Incubators*, 2016. Though their missions vary, most incubators

embrace the importance of innovation and technology in the legal field and focus on the delivery of legal services to the un- and under-represented.

Incubators foster the lawyers working with them to understand and cultivate the services they wish to provide. They perform market research to determine how to best reach the underserved population. They assist the community in identifying legal needs, and create legal packages that are affordable, understandable, and accessible. The end goal is to assist attorney is establishing successful and sustainable practices.⁷⁸

Incubators are an excellent trial ground for legal technology. Incubator attorneys explore innovative means to deliver legal services in a controlled environment. The implementation of technological tools is essential to create the successful small firms of the future. Automating intakes, implementing e-discovery, utilizing special software, building online legal resource centers, and other processes are in the pipeline to improve the delivery of legal services. With the majority of programs still in their infancy, few of these firms operate independently, but this is likely to change with new classes graduating from more than 60 programs across the nation annually.

Though much of the rapid growth in the incubator movement is attributed to the recent graduate's placement challenges, the result has opened opportunities for new attorneys to gain experience and build responsive practices to assist unmet needs in their areas of interest. In addition to family law, small businesses need counsel to assist with licensing and liability protection; tenants need assistance in protecting their rights; and employees need help identifying issues. Some incubators have performed market research and focus on the practice areas where there is the most need, but a common goal is to assist attorneys in creating projects that will lead to successful lawyers.

Most incubators embrace the idea of community lawyering. An important aspect of community lawyering is assisting non-lawyers in the identification of legal issues. Many incubators are hosting community meetings and presenting to groups on hot topics, creating online content and other innovative educational resources to assist potential clients in earning more about their rights or an issue they or a family member/ friend may have. Using thoughtful language, posting through social media and creating digestible content are some of the many ways incubator participants are collaborating with their colleagues to create shared message for the non-lawyer.

⁷⁸ See Luz . Herrera, Law Firm Incubator Programs, MIE Journal, Volume XXXI, Fall 2017.

LAW SCHOOL DEVELOPMENTS

National Center for Access to Justice

In the fall of 2016 Fordham Law School began its Access to Justice Initiative. The effort aims to serve as a national model for legal education in accordance with the law school's credo, "In the Service of Others." Fordham Law aspires to bring the importance of adequate representation to the fore throughout its curriculum, educating students about the justice gap and opportunities for reform. The initiative will focus their direct-service efforts as students and faculty provide legal help in communities direly in need. Finally, Fordham will bring to bear its research capacity, informing lawyers, policymakers and the public about access to justice. As a capstone to this commitment, the National Center for Access to Justice relocated to Fordham Law in fall 2016 to infuse the initiative with cutting-edge research and analytical techniques. The center created the data-driven Justice Index, www.justiceindex.org, which ranks, compares and promotes progress in state justice systems to help expand and assure access to justice for all.

In addition, the National Center for Access to Justice is developing guidance on tracking outcomes for civil legal aid programs and their funders. Legal aid programs generate data daily, but their research is zooming in on the hard questions, including how to measure systemic impacts, how to sort causation from correlation, and how to gauge lasting benefits secured for clients, families, and communities. The project relies on interviews of leaders in the field, research on strategies used in fields that include education and health care, and a synthesis of the literature. The goal is to illuminate ways to streamline data collection, improve quality of data collected, and strengthen advocacy for clients.

In addition to NCAJ, there are starting to be more of these, they overlap a bit with the Centers on the Profession, but consider:

- Stanford has the Rhode Center.
- South Carolina has one (Elizabeth Chambliss),
- Georgia State has one (Lauren Sudeall, although she is moving to Vanderbilt),
- Arizona has one (Stacy Butler)
- UC Irvine

ONLINE DISPUTE RESOLUTION

Unlike the Dutch and British Columbia, the US has not yet fully developed an online dispute resolution forum.⁷⁹ According to a study discussed below by the National Legal Aid and Defender Association:

In the last few years, however, ODR has seen a surge in both just interest and in use. According to the ABA, the United States had only a single Court-Annexed (hosted or supported by the judicial branch) ODR program in 2014.⁸ Although that number would grow to 15 by 2016, all 15 of them were located in a single state (Michigan). There were, however, 16 new Court Annexed ODR sites in 2018 and 31 new ones in 2019. Around the time NLADA began this research, there were 66 Court-Annexed ODR sites in 12 states. There is no sign that this growth, which saw a near doubling of ODR sites in 2019, will slow down, and ODR platforms appear to be here to stay. What is driving such an increased interest in ODR? Is it justice for the low-income clients of legal aid? Or is it something else? The interest in ODR so far has not been coming from the civil legal aid community. For example, look at The Legal Services Corporation (LSC) Technology Initiative Grant (TIG) program. ...In addition to their basic field grants to programs, they have also annually requested applications for TIGs since 2000, and they currently fund projects in the categories of “Innovations and Enhancements” “Replication and Adaptation,” and “Technology Improvement Projects.” Despite a diverse array of projects, no legal aid program has ever been awarded a TIG from LSC for any project related to ODR.

The National Legal Aid & Defender Association conducted research to inform Pew Charitable Trusts, in furtherance of Pew’s Civil Legal System Modernization Project, on the views and experiences of the civil legal aid community as they relate to Online

⁷⁹ The Dutch Legal Aid Board developed a legal advice site known as Rechtwijzer, variously translated as ‘conflict resolution guide’ or ‘interactive platform to justice’. The Web-based Rechtwijzer used an intelligent questionnaire format, and provides problem diagnosis, triage, information, guidance and self-help tools for non-lawyer users. The Dutch discontinued the original online conflict resolution platform Rechtwijzer in March of 2017, but developed a new online platform that began in September of 2017. British Columbia is also establishing a Civil Resolution Tribunal (CRT) an online tribunal handling small claims (up to \$25,000 CAD) and strata (condominium) disputes in British Columbia. To date, the most developed portion of the CRT’s end-to-end platform continues to be the Solution Explorer, an online expert system designed to support problem diagnosis, information, self-resolution and streaming processes.

Dispute Resolution (ODR).⁸⁰ For the purposes of the report, the civil legal aid community is broadly defined, including legal services advocates, members of the client community, mediators, judges, other court personnel, and technologists who specialize in the legal tech field. NLADA conducted this study over the course of 13 months, during which it held seven focus groups and a number of individual interviews. Overall, the study included 53 total participants.

The key themes were:

- Initial Suspicion, Distrust, and Concerns
- A Problematic Status Quo: Acknowledging the Current Environment
- Data Security
- Access, Autonomy, and Assistance
- Recognizing and Identifying the Potential Promise of ODR

In consideration of those themes and their relationship to each other, the report concludes in a fifth section by identifying four guiding principles. Those are:

- Be Transparent
- Make it (Vulnerable) Client-Centered
- Create Multiple and Easy to Use Off-Ramps
- Get Good Data, But Not Too Much, and Evaluate for Equity

⁸⁰Ensuring Equity in Efficiency: The Civil Legal Aid Community's Views of Online Dispute Resolution, https://www.nlada.org/sites/default/files/NLADA%20Pew%20ODR%20Report%20Final%20Draft%20Ensuring%20Equity%20in%20Efficiency_0.pdf

DELIVERY RESEARCH

The US now recognizes that its system should have an ongoing and institutionalized capacity to conduct research on how to improve the delivery of civil legal aid and conduct and evaluate demonstration projects testing new ideas and innovations for possible replication across the system.⁸¹ NLADA received funding for and has developed a resource library of prior and ongoing delivery research. See www.legalaidresearch.org.

The United States had such a component, the Research Institute, during the first era of the Legal Services Corporation from 1976 – 1981. During the funding and political crisis of 1981, the Research Institute was closed. It is not yet clear that the US will be able to find government funding for such an entity.

LSC raised private funding for and established an Office of Data Governance and Analysis which now has six analysts. During its first year, the Office e worked on a range of projects which focused on cleaning up and posting LSC administrative data. They also set up a data users group made up of program staff from different legal services across the country to help build capacity in the field. They were involved in the release of a new Justice Gap report and are also preparing to release a catalogue of maps related to civil legal issues. They are in the process of building a new data access page on the website, so that researchers have easy access to GAR data, Justice Gap data and other resources.

On July 23, 2018, the National Science Foundation (NSF) announced a new award to promote AtJ scholarship, naming Rebecca Sandefur_principal investigator, and Alyx Mark and David Udell co-principal investigators. According to NSF's announcement⁸²:

⁸¹ How an Evidence-Based Delivery System Can Improve Legal Aid for Low- and Moderate-Income Americans by Jeffrey Selbin, Josh Rosenthal, and Jeanne Charn (Center for American Progress) June 2011 <http://www.americanprogress.org/issues/open-government/report/2011/06/22/9707/access-to-evidence/> See also, Laura K. Abel, *Evidence Based Access to Justice*, University of Pennsylvania Journal of Law and Social Change, Volume 13 No.3, (2009-2010) at p, 295 and *Designing Access: Using Institutional Design to Improve Decision Making About the Distribution of Free Civil Legal Aid*,7 Harvard Law & Policy Review 61 (2013).

⁸²https://www.nsf.gov/awardsearch/showAward?AWD_ID=1823791&HistoricalAwards=false

This project will consist of a census-style survey of academic disciplines engaged in access to justice scholarship and an intensive workshop. It is designed to build a research field and an evidence base by identifying emerging access to justice researchers, coordinating collaboration across academic disciplines, and producing a research agenda and original scholarship to give access to justice research the vigor and definition of a field.

Rebecca Sandefur from The American Bar Foundation has recently secured funding from The JPB Foundation to launch an Access to Justice Scholars Program. It offers mentorship and support to five junior faculty and one postdoc as they conduct research and grow the field. The program also has an opportunity for senior faculty to mentor the junior faculty.⁸³

The Justice Lab: The Justice Lab is a new center created at Georgetown University Law Center to address in a variety of ways the access crisis in our civil justice system. The Centers and Institutes at Georgetown University Law Center generate ideas through research and scholarship, engage students with real-world learning opportunities, and build bridges to the city, nation and world. The Justice Lab works to:

- Provide strategic planning and other technical assistance to access to justice commissions, courts, and other entities committed to addressing the civil justice gap;
- Promote the growing role of digital and other technologies to support legal aid agencies and provide self-help legal resources to unrepresented people;
- Undertake empirical research to produce actionable data on unmet legal needs and approaches to address them;
- Design and test new approaches for expanding access to justice services; and
- Serve as resource for legal aid agencies and courts seeking to build access to justice technologies.

The Lab has undertaken pioneering work on, among other things, the creation of an affordable law firm model; the development of technology apps; and research on the

⁸³http://www.americanbarfoundation.org/research/Fellowshipopportunities/ABF_JPB_Foundation_Access_to_Justice_Scholars_Program0.html

use of lay/nonlawyers navigators in the state courts to provide legal help to unrepresented litigants. All are innovations to address the civil justice crisis. The Justice Lab is co-directed by Tanina Rostain, Professor, and Sheldon Krantz, Adjunct Professor. Mary McClymont is Senior Fellow and Adjunct Professor.

The Georgetown University Law Center has announced the first three court projects selected for its inaugural Judicial Innovation Fellowship, which will embed technologists and software designers in state, local and tribal courts to develop tech-based solutions to improve access to the judicial system.

The program selected three projects for its shortlist among 18 proposals received from 14 courts across the country. Three fellows, with backgrounds as technologists, designers, data scientists or product managers, will be selected to join the Georgetown University Law Center in September to work on projects from Tennessee, Kansas and Utah.

In Chattanooga, Tennessee, the Judicial Innovation fellow will study how the Hamilton County General Sessions Court and Hamilton County Mayor's Office share data to better understand and improve the experience of individuals navigating government services, the criminal justice system and court debt obligations.

In Kansas City or Topeka, the selected fellow will work with the Kansas Supreme Court Office of Judicial Administration to design a new electronic filing system to ease the burden of self-represented litigants.

And in Salt Lake City, a fellow will work with the Utah State Courts Self-Help Center to also develop internal processes to help self-represented litigants, as well as create a guide for hypothesis testing and a style guide for court tools.

The new program is led by Schmidt Innovation Fellow Jason Tashea and Georgetown Law professor and program co-founder Tanina Rostain. The fellowship is being funded by the New Venture Fund and the Pew Charitable Trusts, and will be based in the Justice Lab at Georgetown University Law Center.

Access to Justice Lab: The Access to Justice Lab at Harvard Law School was founded in July 2016 thanks to the generous support of the Laura and John Arnold Foundation. The Arnold Foundation's core objective "is to address our nation's most pressing and persistent challenges using evidence-based, multi-disciplinary approaches." The Lab is housed within the Center on the Legal Profession (CLP)

[\(https://clp.law.harvard.edu/about/mission/\)](https://clp.law.harvard.edu/about/mission/) at Harvard Law School, which seeks to make a substantial contribution to the modern practice of law by increasing understanding of the structures, norms and dynamics of the global legal profession.

The Access to Justice (A2J) Lab's vision is that lawyers, judges, and legal policymakers have access to and use credible data to make the justice system better serve individuals and families who cannot afford to hire lawyers. By demonstrating to legal professionals the value of using rigorous data about how the justice system works, the lab can transform law into an evidence-based field to improve outcomes for everyone.

A research center at Harvard Law School, the A2J Lab designs and implements randomized control trials (RCTs) to create gold-standard research to provide answers to critical questions in access to justice. This approach generates the data that legal professionals and policymakers require to evaluate proposed solutions and shows them the value of utilizing empirical research. The A2J Lab:

- *Builds coalitions to ask hard questions, identifies barriers to access, and proposes solutions.* The A2J Lab creates diverse research coalitions with a particular emphasis on including judges and lawyers. With a national focus, the team is currently exploring, developing, and implementing studies in over twenty states.
- *Designs and fields randomized experiments to learn which interventions succeed.* Every one of the A2J Lab's studies includes a field RCT as its backbone. Using a ten-step process, the A2J Lab's staff collaborate with field partners to design and implement RCTs in the justice system from conception to launch.
- *Shares data transparently and creates actionable lessons about how to make the justice system work better for everyone.* The A2J Lab generalizes data into actionable lessons and best practices to allow field partners and their peers to make adjustments on the ground. By training legal professionals in quantitative research methods and partnering with law schools to integrate field research into legal education, the A2J Lab equips scholars and the next generation of practitioners to transform law into an evidence-based profession.

Making Justice Accessible Project

A major new publication “**Access to Justice**,” (the Winter 2019 issue of *Dædalus*, the Journal of the American Academy of Arts and Sciences), is a multidisciplinary

examination of this crisis, from the challenges of providing quality legal assistance to more people, to the social and economic costs of an often unresponsive legal system, to the opportunities for improvement offered by new technologies, professional innovations, and fresh ways of thinking about the crisis.⁸⁴ This issue of *Dædalus* is part of a larger, ongoing effort of the American Academy to gather information about the national need for improved legal access, study innovations piloted around the country to fill this need, and advance a set of clear, national recommendations for closing the justice gap — between supply and demand for services provided by lawyers and other problem-solvers. **Access to Justice**” features the essays discussed in Appendix 1

Two new reports from the American Academy of Arts and Sciences’ Making Justice Accessible project were produced in 2020 and 2021. The first, *Civil Justice for All* provides a national overview of the crisis in legal services by focusing on four common categories of civil legal problems: family, healthcare, housing, and veterans affairs. By addressing these issues within the larger context of American civil justice, this report advances a set of clear, national recommendations for closing the gap between the supply and the demand for legal assistance in the United States. The Report recommends the following:

- First, and above all, dedicate a consequential infusion of financial and human resources to closing the civil justice gap, and seek a significant shift in mindset—extending beyond lawyers the duty and capacity to assist those with legal need—to make genuine strides toward “justice for all”;
- Second, increase the number of legal services lawyers who focus on the needs of low-income Americans;
- In the fall of 2019, Hiil and IAALS (Institute for the Advancement of the American Legal System) launched a nationwide study on access to justice in the United States, **Justice Needs and Satisfaction in the United States of America 2021 Legal problems in daily life**. According to the Introduction to the Report:

“While it is widely understood that there is an access to justice problem in the United States, the full extent of the justice crisis has been less clear. The focus in the access to justice community historically has been on

⁸⁴ <https://www.amacad.org/daedalus/access-to-justice>

meeting the legal needs of those with low income, who have trouble accessing an expensive, complicated, and outdated legal system. While these individuals are a key vulnerable population, the access to justice problem in the United States extends far beyond those of low income. Believing that a full picture of the access to justice problem in the United States would help to bring a greater understanding of the challenges and effective solutions to ensure justice for all, HiiL and IAALS launched this nationwide effort to assess legal needs in the United States across all income levels. This is the first nationwide survey of its size to measure how Americans across a broad range of sociodemographic groups experience and resolve their legal problems. This study has three key goals: • To provide nationwide representative data on access to justice and the justice needs that people in the United States face every day. • To develop a greater understanding of how people in the United States resolve those justice needs, as well as what is working and what is not, to inform and help reform efforts. • To urge an evidence-based strategy for justice system improvement, always revolving around the needs of people.⁸⁵

- Third, increase the number of lawyers providing pro bono and other volunteer assistance, to supplement the corps of legal services lawyers;
- Fourth, bring many new advocates—service providers who are not lawyers—into the effort to solve civil justice problems;
- Fifth, foster greater collaboration among legal services providers and other trusted professionals—such as doctors, nurses, and social workers;
- Sixth, expand efforts to make legal systems easier to understand and use through the simplification of language, forms, and procedures and the wider use of technology; and
- Seventh, create a national team, or even a new national organization, to coordinate the efforts listed above, collect much-needed data on the state of civil justice, and help identify and publicize effective innovations that improve access.⁸⁶

⁸⁵<https://iaals.du.edu/sites/default/files/documents/publications/justice-needs-and-satisfaction-us.pdf>

⁸⁶https://www.amacad.org/sites/default/files/publication/downloads/2020-Civil-Justice-for-All_0.pdf

The second white paper, *Measuring Civil Justice for All*⁸⁷, identifies the essential facts that should be collected about civil justice activity in the United States and the entities best placed to collect that information. It also describes a range of data access standards that would help to guide the use of civil justice data for administrative and research purposes. This white paper outlines a fundamental research agenda for an area in which studies are proliferating but are not yet connected and guided by a set of integrating questions. It also outlines practical steps for taking action on that agenda.

LEGAL NEEDS STUDY

2022 Justice Gap Study: LSC released a far-reaching new report on the crisis in civil legal aid, “The Justice Gap: The Unmet Civil Legal Needs of Low-income Americans.”

This is LSC’s fourth justice gap study that documents the volume of civil legal needs faced by low-income Americans, assesses the extent to which they seek and receive help, and measures the shortfall between their civil legal needs and the resources available to address these needs. The deficit between resources and need is called the “justice gap.” The new study reveals that the justice gap is vast. Low-income Americans received no or inadequate legal help for a staggering 92% of all the civil legal problems that impacted them substantially. These problems are widespread, with 74% of low-income households experiencing at least one in the past year, and 39% experiencing five or more.

In its 2017 justice gap report, LSC, using slightly different methodology, found that 86% of the civil legal problems of low-income Americans did not get any or enough legal help.

In 2021, low-income individuals brought an estimated 1.9 million problems to LSC-funded legal aid organizations. LSC grantees were unable to provide any or enough legal help for an estimated 1.4 million of those problems. They could not provide any legal help at all for one-half of the eligible problems low-income Americans brought to their doors. Previous surveys reveal that this “turn away” rate has not improved since the first justice gap study in 2005.

The most common types of civil legal problems low-income individuals and families face involve health care, housing, consumer issues and income maintenance. More than half

⁸⁷ <https://www.amacad.org/sites/default/files/publication/downloads/2021-Measuring-Civil-Justice-for-All.pdf>

of those who experienced a problem say it substantially impacted their life—with consequences affecting their finances, mental health, physical health and safety, and relationships.

As a result of the significant, persistent barriers preventing low-income Americans from receiving legal assistance, many people are skeptical of the civil justice system. Of those surveyed, only 28% agreed that people like them are treated fairly.

In cases where low-income people did not seek legal assistance for their problem, the belief that costs would preclude them from receiving legal help was the most common reason.

The new study offers insights into the covid-19 pandemic's disproportionate impact on low-income Americans. One third of low-income Americans personally experienced at least one civil legal problem related to the pandemic in the past year, compared to 18% of those at or above 400% of the federal poverty level.

The types of civil legal problems most likely to be attributed to the covid-19 pandemic are those involving income maintenance, education and housing. More than one-half of low-income Americans experiencing problems related to unemployment benefits and eviction attributed them to the pandemic.

The study also provides special focus on seniors, veterans, children, survivors of domestic violence, people in rural areas and those with high housing costs.

This year's study made several updates to improve the 2021 justice gap measurement survey and provide the most comprehensive estimate of the civil legal problems* experienced by low-income people in America today.

OUTREACH INITIATIVES

Legal aid programs in the US have historically struggled to deliver legal assistance to residents residing in rural areas not near metro areas. Congress required LSC to do a study of special problems of access and special legal problems in 1978, known as the 1007(h) study. One group studied was residents residing in rural areas. One of the approaches used was circuit riding where legal aid staff rode in buses to rural areas, met with clients and provided advice and legal representation. This approach was used in Georgia, Vermont, Maine, Michigan and elsewhere. Today, California and other programs are using a similar technique.

The Justice Bus Project of OneJustice takes teams of attorney and law student volunteers from urban areas to set up free legal clinics for low-income Californians living in rural and isolated communities. These clinics provide life-changing legal assistance to low-income veterans, vulnerable seniors, children with disabilities, low-wage workers, immigrant youth, and families. The team works closely with law schools, law firms, and in-house legal departments to carefully match volunteer interests with the regions and communities we serve with the Justice Bus Project. Trips are usually one full day in length, although they also offer longer trips for law schools as part of alternative spring and winter holiday breaks. Justice Bus trips are coordinated through both our San Francisco and Los Angeles offices, allowing convenient departure from urban areas in both Northern and Southern California.

Neighborhood Legal Services of Buffalo, New York recently became one of the very first legal services agencies to join OneJustice's national JUSTICE BUS Network. The Network aims to leverage the impact of pro bono volunteers by connecting with rural, isolated, and underserved communities. Through its Justice Bus project, Neighborhood Legal Services replicates the highly successful California-based program, which utilizes pro bono attorneys and law students, in partnership with legal services attorneys, to overcome transportation barriers impacting the provision of free legal services in Western New York. Neighborhood Legal Services' local Justice Bus partners include: Erie County Bar Association Volunteer Lawyers Project; University at Buffalo School of Law; Seneca Street Community Development Corporation; and the Western New York Law Center.

CONCLUSION

While there is a right to counsel in felonies (*Gideon v. Wainwright* 372 U.S. 335 (1963), delinquency cases involving juveniles (*In re Gault*, 387 U.S. 1 (1967) and misdemeanor prosecution of adults (*Argersinger v. Hamlin*, (1972) the promise of *Gideon* at the state and local levels has not been achieved. Accused persons who are unable to afford counsel do not receive the same kind of competent, well-supported, conscientious lawyer every person of financial means seeks to retain when charged with criminal conduct and faced with a loss of liberty.⁸⁸

At the federal level, while much better resourced and staffed than state and local defender programs, structural problems continue to exist within the federal defender

⁸⁸ Norman Lefstein, "Will We Ever Succeed in Fulfilling *Gideon's* Promise?" 51 *Indiana Law Review* 39 (2018).

program more than 50 years after the CJA's enactment. The federal defender system has not solved the fundamental issue of maintaining a constitutionally guaranteed defender function centered on advocating for individuals' rights independent from the judges who hear criminal cases.

An integrated and comprehensive civil legal assistance system should have the capacity to:

1. educate and inform low-income persons of their legal rights and responsibilities and the options and services available to solve their legal problems; and,
2. ensure that all low-income persons, including individuals and groups who are politically or socially disfavored, have meaningful access to high-quality legal assistance providers when they require legal advice and representation.

The United States has made considerable progress in meeting the first of these two objectives. Expanding access through technology and self-help representation activities continues and has increased. However, progress has been slow in meeting the second. There have been increases in state funding as well as from other funding sources. The decreases in IOLTA funding have slowed although IOLTA funding remains lower than before the Great Recession. There are more Access to Justice Commissions and increased attention to civil legal aid at the state level. The notion of a right to counsel in civil matters has gained renewed attention in most areas of the United States and particularly with regard to housing evictions. There is not enough funding or pro bono assistance available to provide low-income persons who need it with legal advice, brief service, and most particularly extended representation. There are not enough actual staff lawyers, paralegals, lay advocates, law students and private attorneys available to meet the huge needs of low-income persons for advice, brief service and full representation. With the Obama Administration came the possibility that there would be increased efforts to expand the civil legal aid system to address significantly more of the legal needs of low-income persons in the United States through increased federal funding and supportive reauthorization legislation and an effort to rebuild the legal aid infrastructure. While LSC funding increased, it did not gain as much as hoped.. As a result, many low-income persons who are eligible for civil legal assistance are unable to obtain it. The basic civil legal aid system has not closed the "justice gap."

APPENDIX

Right to Counsel and Other Housing Developments

The MIE Journal released its Fall 2022 issue, featuring pieces about the right to counsel for tenants!

In the article, *Implementing a Statewide Right to Counsel for Tenants: Learning from Washington, Maryland, and Connecticut*, we had the pleasure of developing a Q/A piece with Karen Wabeke (Program Manager for Access to Counsel in Evictions, Maryland Legal Services), Natalie Wagner (Executive Director, Connecticut Bar Foundation), and Philippe Knab (Reentry and Eviction Defense Program Manager, Washington State Office of Civil Legal Aid).

The article highlights their experience implementing the only statewide RTC programs in the country and includes insights on funding, intake, and recommendations for other programs. We're immensely proud to add this piece to the tools available for jurisdictions working on a right to counsel enactment or implementation.

The entire issue is available with an MIE subscription, where you'll find this piece and other fascinating articles about tenant representation, eviction diversion, and RTC for tenants.

- *The History and Current Status of Philadelphia's Eviction Diversion Program* by Sue Wasserkrug, Esq., Director of Mediation, Counseling or Referral Assistance Services, Inc.
 - *Los Angeles Right to Counsel Coalition History & Codification Efforts* by Barbara Schultz, Director of Housing Justice, Legal Aid Foundation of Los Angeles.
 - *The Montana Eviction Intervention Project: Legal Relief for Montana Tenants in the Wake of the COVID-19 Pandemic* by Emily McLean, Housing Navigator; Brittney Mada, Staff Attorney; William F. Hooks, Director of Advocacy, Montana Legal Services Association.
 - *Building the Plane While We Fly It — Implementing Year One of Washington State's Right to Counsel in Evictions* by Scott Crain, Statewide Advocacy Counsel; Michelle Lucas, Eviction Prevention Unit Managing Attorney; Abigail G. Daquiz, Director of Advocacy, Northwest Justice Project.
 - *Lessons Learned from Starting an Eviction Clinic During a Pandemic* by Andrew Thomas, Housing Resource Attorney and Tenant Assistance Legal Clinic Director, Indiana Legal Services.
-

On June 24, 2021 Associate Attorney General Vanita Gupta issued a letter¹ to chief justices and state court administrators encouraging them to take steps to keep families in their homes. The letter suggests requiring landlords to apply for rental assistance before filing; extend time in pending cases; modify summonses and other form filings; and partner with legal services organizations and community based organizations.

Counties around the country are considering allocating federal and state funds for right to counsel in eviction proceedings. Sonoma County in California has allocated \$712,000 in “federal and state dollars” for tenant representation. Santa Monica has launched what is being called a “pilot right to counsel program”, which is essentially includes RTC.

In January, the White House released a White House Blueprint for a Renters Bill of Rights. The Blueprint urges states to, among other things, provide “30 days’ notice of an eviction action and the right to counsel during an eviction proceeding...” This document was the product of strong advocacy by tenant organizers and housing justice groups across the country, such as Peoples’ Action’s Campaign, which released a report that included the right to counsel.

The Eviction Lab’s new piece covers how advocates, organizers, and tenants have shifted the landscape for renters, including those facing eviction across the country - and that the momentum to see even greater change is not lessening. The piece provides an overview of the different types of tenant protections advocates have pushed for and that cities, states, and courts have put in place to change eviction practices around the country. These protections range from mandatory pre-filing interventions to substantive changes in the process, like just cause requirements. It also outlines the resurgence in tenant unions and associations that are demanding larger housing justice reforms.

The National League of Cities (NLC) published a new tracking tool that looks at eviction prevention policies across 200 cities and D.C. The tool is described as an “interactive resource that aims to help elected officials, city staff, non-profits, service providers, researchers and others, better understand the local eviction prevention landscape in the US.” The tool tracks Right to Counsel programs, as well as Access to Representation programs that “provide legal guidance to tenants facing eviction outside of a Right to Counsel ordinance push the right to counsel forward.”

Freddie Mac recently produced a comparative analysis of state landlord-tenants laws, specifically assessing various tenant protections. “The research offers a full accounting of 18 different tenant protection topics and provides examples of the nuanced approaches different states have taken to govern the unique relationship between landlords and tenants.” A right to counsel for tenants was one of the tenant protections reviewed, noting that RTC was a protection in three states (Maryland, Connecticut, and Washington State).

¹https://www.nlada.org/sites/default/files/Letter%20from%20Associate%20Attorney%20General%20Gupta_June%2024%202021.pdf



Stout recently released its second annual evaluation of Cleveland's RTC program.. The report assesses the program during three critical stages. Critical findings include:

- Since July 2020, Cleveland Legal Aid attorneys helped **86% of all RTC clients achieve their goals.**
- When it was the client's goal, attorneys helped **prevent an eviction judgment or an involuntary move 90% of the time.**
- The report also estimated that the City has seen **between \$11.8-14 million in financial benefits** due to avoided expenditures related to the housing social safety net, foster care, education, health care, and tax base erosion caused by out-migration.

The First Annual ATJ Roundtable

Hosted by Fordham Law School & National Center for Access to Justice in New York City, May 19-20, 2022.

Authors:

1. Robin Bartram, Assistant Professor of Sociology, Tulane University, "Routine Dilapidation: Home Repairs and Environmental Housing Injustice".
2. Theresa Rocha Beardall, Assistant Professor of Sociology, University of Washington, "Sovereign Immobility and Indian Child Welfare".
3. Anna E. Carpenter, Professor of Law and Director of Clinical Programs, University of Utah, "This Is Insane": Lawyer Reactions To Liberalization of The Legal Market". (With Alyx Mark)
4. Elizabeth Chambliss, Henry Harman Edens Professor of Law and Director Nmr's Center On Professionalism, University of South Carolina School of Law, "Private Practice In Rural South Carolina".
5. Casey Chiappetta, Principal Associate, Pew Charitable Trust, "Civil Court Modernization Framework". (With Darcy White)
6. Rebecca Ann Johnson, Assistant Professor, Department of Sociology, Dartmouth College, "Data-Driven Civil Rights Remedies: A Case Study With Civil Rights Oversight of New York City Public Housing". (With Josh Grossman and Yyler Simko)
7. Carlos A. Manjarrez, Senior Vice President For Program Planning and Research, Novakultura Consulting, "Data Is Never Free, But It Can Be Liberated".
8. Lisa V. Martin, Associate Professor of Law, University of South Carolina of School of, "Domestic Violence and Access To Civil Justice In South Carolina".

9. Alyx Mark, Assistant Professor of Government, Wesleyan University, “‘This Is Insane’: Lawyer Reactions To Liberalization of The Legal Market”. (With Anna E. Carpenter)
10. Victor David Quintanilla, Professor, Indiana University School of Law, “A Redemptive Self Intervention Pro Bono Publico”.
11. Kathryn A. Sabbeth, Associate Professor of Law, University of North Carolina School of Law, “Market-Based Law Development”.
12. Amy Schaufele, American University School of Law, “Insurgent Citizenship: How Noncitizens Denounce Immigration Scams and Frame Rights”.
13. Lauren Sudeall, Associate Professor of Law and Director of Center For Access To Justice, Georgia State Law, “The De(Legal)ization of Poverty (Or, Lessons From Decriminalization)”.
14. Amy Widman, Associate Clinical Professor of Law, Rutgers Law School, “Executive Branch Justice: What We Can Learn From Administrative Adjudications”.

Discussants:

1. Matthew Burnett, American Bar Foundation
2. Matthew Diller, Dean and Paul L. Fuller Professor of Law, Fordham University School of Law
3. Bruce A. Green, Louis Stein Chair and Director of Louis Stein Center For Law And Ethics, Fordham University School of Law
4. Tanina Rostain, Professor of Law, Georgetown University Law Center,
5. Rebecca Sandefur, Faculty Fellow, American Bar Foundation; Professor, School of Social and Family Dynamics, Arizona State University
6. David Udell, Executive Director of National Center For Access to Justice And Co-Director of A2j Initiative, Fordham University School of Law.

NATIONAL REPORT: ZAMBIA

NATIONAL REPORT – ZAMBIA

ILAG CONFERENCE 2023

1. Country details for Zambia

- Zambia has a total population of 19.6 million by the year 2022 of which 9.6 million are males and 10.0 million are females. While, about 11.8 million people live in rural areas while 7.8 million in urban areas¹.
- GDP, 22.15 billion USD (2021)
- In Zambia, about 54.4% of the population is deemed to be living below the poverty line².
- There are 2,166 practising lawyers registered with the Law Association of Zambia to provide legal services countrywide.

2. About Legal Aid Board in Zambia

The Legal Aid Board (LAB) is established under the Legal Aid Act No. 1 of 2021 to provide for the granting of legal aid in both civil and criminal matters to persons whose means are inadequate to enable them to access legal services. It is also responsible for providing regulation of law clinics, registration of practitioners, legal assistants, paralegals and legal aid service providers in the provision of legal aid in Zambia.

The provision of legal aid services dates back to 1967 when the Government of the Republic of Zambia passed the Legal Aid Act No. 20 of 1967, which has since undergone several amendments. In 2005, the amendment of the Legal Aid Act Chapter 34 of the Laws of Zambia culminated into the establishment of the Legal Aid Board. The 1967 Act was repealed and replaced by the Legal Aid Act No. 1 of 2021 which broadened the scope and mandate of Legal Aid Board. The Legal Aid Board is managed by a Director assisted by a Chief Legal Aid Counsel who operate under the supervision of a statutory Board consisting of a Chairperson and 9 other Board members, appointed by the Minister of Justice.

Legal Aid Board is mandated with the provision of legal aid in civil and criminal matters to persons whose means are inadequate to engage a private practitioner for legal services.

¹ Zambia Statistics Agency. 2022 census of population and housing, preliminary report

² Poverty & Equity Brief Sub-Sahara Africa, Zambia. 2020. World Bank Group

The Act No. 1 of 2021 has the following additional overall functions for the institution:

- a) administer a comprehensive legal aid system that is accessible, effective, impartial and sustainable;
- b) publish and disseminate information relating to legal aid;
- c) coordinate the provision of legal aid by State and non-state legal aid providers;
- d) regulate, oversee and monitor the provision of legal aid based on a quality assurance framework and standards;
- e) register a civil society organisation and higher education institution law clinic that intends to provide legal aid;
- f) undertake regular assessment of legal aid provided by a registered higher education institution law clinic;
- g) register practitioners, legal assistants and paralegals;
- h) mobilise financial resources;
- i) facilitate the provision of legal aid to persons granted legal aid under this Act; and
- j) Issue guidelines on the application of the means test and the interest of justice.

The Legal Aid Board has provincial offices in all 12 provinces in Zambia, 8 district offices, and 6 Legal Services Units whose presence is in the Southern, Lusaka and Copperbelt provinces. Over the last few years, the Legal Aid Board has largely focused on the provision of legal aid in criminal and civil cases in the subordinate court, high court, court of appeal, and Supreme Court. Legal aid is mainly provided by legal practitioners and legal aid assistants that are law graduates attached to the Legal Aid Board in full-time employment. The Legal Aid Assistants are granted limited rights of audience as per the provisions of the Legal Aid Act. As of December 2022, the Legal Aid Board had 49 legal practitioners and 20 legal aid assistants as members of staff.

The Legal Services Unit (LSU) was developed in 2013 as a scheme to facilitate speed access to justice at the subordinate court level for people whose means are inadequate to hire a private lawyer. Legal Services Unit operates from the subordinate court premises, with daily outreach to remandees appearing in court and other parties in criminal and civil cases, providing them with a wider range of legal aid services, ranging from legal education and information to legal advice, mediation, legal assistance, and representation in court. It is run jointly by paralegals affiliated with Civil Society Organisations (CSOs) and legal aid assistants attached to the Legal Aid Board, all of them operating under the supervision of a Legal Aid Board legal practitioner. All Legal Services Unit staff have

complementary profiles, roles, and responsibilities. They operate and are supervised according to quality standards set by the Legal Aid Board.

Legal Services Units (LSUs) take the form of semi-permanent structures and in 2021 there were 7 LSUs of which one has been taken over as a district office to ensure sustainability as a permanent legal aid board office. As of 2022, the Legal Aid Board managed 6 Legal Services Units (LSUs) with support from the Enabling Access to justice, Civil society participation and Transparency (EnACT) supported by the European Union and the Federal Republic of Germany, implemented by the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) with further technical assistance from the Danish Institute for Human Rights (DIHR).

3. Legal Aid Board Budget

The Legal Aid Board is funded by the government of the Republic of Zambia annually from the state budget adopted by the Parliament for the administration of the Legal Aid Board and the Legal Aid Fund managed by the Legal Aid Board. The table below shows the funding for the last 2 years (2021 and 2022 budgets³):

Table 1. Legal Aid Budget for 2021 and 2022

	2021 LAB Budget (US Dollar)	2022 LAB Budget (US Dollar)
LAB General Budget (including operational costs)	964,759.42 USD	2,348,854.94 USD
LAB Legal Aid Fund (covering additional costs related to the provision of legal representation)	110,796.40 USD	127,415.86 USD
Total	1,075,555.82	2,476,270.80

Government funding increased by 43.43% from the 2021 budget in comparison to the 2022 budget as shown in table 1. The increase is attributed to the commitment of the current government towards access to justice for all people in Zambia who cannot afford private legal services. The state funds are uncapped as there is no budget limit by the state to how much should be spent on civil or criminal cases, salaries and or other operational cost in delivering legal aid services.

³ 2022 Yellow Book – Zambia

The Legal Aid Board receives additional support under the Civil Society Participation Programmes (CSPP) and EnACT programme aimed at improving the institutional and organisational capacity of the Legal Aid Board in delivering legal aid. The CSPP and EnACT Programmes also supported the operation of the 7 Legal Services Units at subordinate court level managed by the Legal Aid Board, and further supervision by the Legal Aid Board of the 12 legal desks based in correctional facilities and police stations.

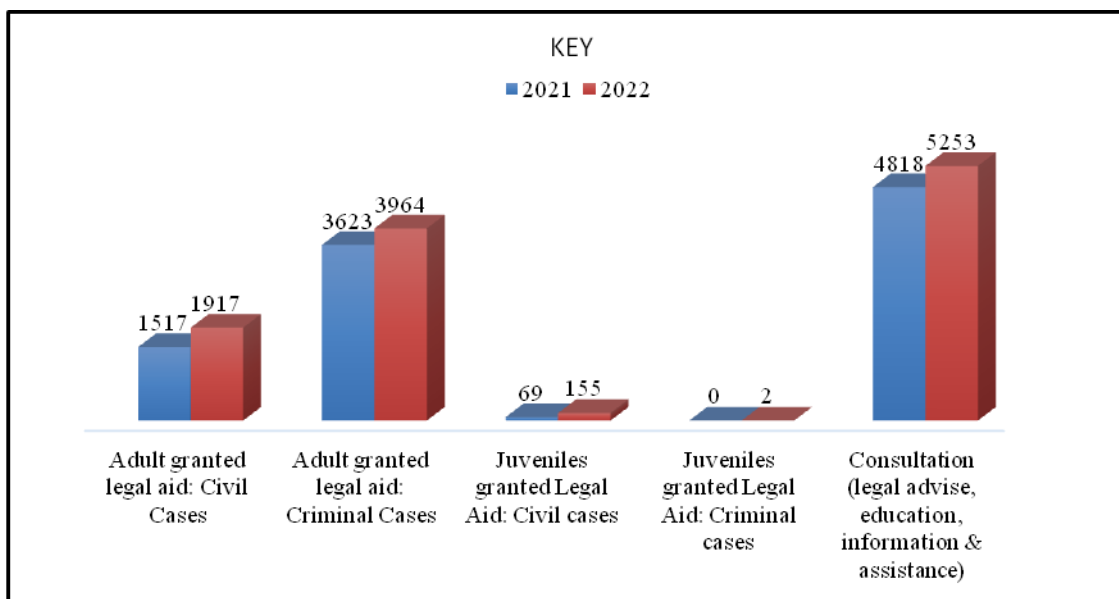
4. Scope, Caseload and Eligibility for Legal Aid at Legal Aid Board – Zambia

a) Scope of Legal Aid

The Legal Aid Act No.1 of 2021 broadened the scope of legal aid services in Zambia to include services consisting of legal education, legal information and legal advice, in addition to legal assistance and representation in court of law for the poor and vulnerable people whose means are inadequate to hire a private lawyer.

b) Caseload

Figure 1. Caseload at LAB - Zambia Main offices for 2021-2022



Legal Aid Board had attended to 21,318 cases for the period 2021 to 2022 broken down as indicated in figure 1 above. It is reported that 3,434 adult were granted legal aid in civil cases while 7,587 were in criminal cases. In terms of juveniles, only 2 children were granted legal aid in civil matters and 224 children were represented in criminal matters. In the period under review, 10,071 received consultation which include legal advice, information and education at legal aid board’s main offices.

On the other hand, LAB through the 7 Legal Services Units (LSUs) attended to 11,659 cases in the last two years (2021 to 2022) of which 5,930 were adult civil cases while 5,244 were adult criminal cases. In addition, LAB attended to 82 civil cases and 403 criminal cases for juveniles in Zambia respectively. Through LSUs about, 7.1 percent of the total cases did not pay any contribution fees (waived) while consultation fees were waived to all the clients who came to the LSU facilities, and 26.4 percent were youthful population between the age of 15-35 years. With regards to the total criminal case, 23.3 percent of inmates in the correctional facilities were granted bail by the court as a result of the Legal Services Unit in the period 2021 and 2022 in Zambia. They further organised legal education sessions targeting inmates and persons in police custody.

Law Association of Zambia has also collaborated with the Legal Aid Board (LAB) under the 'Judicare system', which is a system where LAZ members from private practice provide legal aid services at a set 'token fee' financed from the legal aid fund. It is important to note that access to justice is a fundamental human right, and the provision of legal aid services is essential in ensuring that this right is upheld for all individuals, regardless of their financial status. To encourage private lawyers to take up matters, the Legal Aid Board through the 2005 Act introduced the Judicare system, which allows private practice lawyers to provide legal aid services at a token fee of US\$ 97.81 (ZMW2000.00) upon collecting a file from Legal Aid Board and another US\$ 97.81 (ZMW2000.00) upon the close of the case from the state fund. This is a commendable effort to bridge the access to justice gap in Zambia and about 20 criminal cases and 1 civil case were attended to from 2021 to 2022 using this model by 5 lawyers. Despite this model being in existence for many years, the number of lawyers taking up cases on judicare has remained low for many years.

The Judicare system was meant to mitigate the still existing gaps in access to justice in Zambia. While the judicare system still exists, it is an unsustainable solution due to the financial challenges that the LAB faces and the growing need for pro bono legal services by the general population in Zambia. To address this challenge legal aid board engaged stakeholders, including the government, private sector, and civil society with the financial support from GIZ and EU explored innovative and sustainable ways to provide legal aid services on pro bono basis to those who need it the most.

This included strengthening the existing legal aid system, exploring alternative funding models, and encouraging more lawyers to offer pro bono services. In doing so, the Legal Aid Board and the Law Association of Zambia jointly launched the pro bono framework on 6th May 2022, to facilitate the

process for law practitioners in Zambia to take up matters on pro bono basis to supplement the effort of LAB to meet the growing demand. The Pro Bono Framework is jointly supervised by the Legal Aid Board, and the Law Association of Zambia (LAZ), which regulates all members of the legal profession in Zambia.

c) Eligibility for Legal Aid

The eligibility of a client to be granted legal aid is dependent on (i) the merits of the applicant's case; and (ii) means test. The merit test is done during the consultation stage at the first instance a client comes to Legal Aid Board offices or Legal Services Units to be helped. The Legal Aid Board lawyer will ask the applicant various questions about the facts of their claim to determine whether the claim has a basis in law or not. If there is no basis in law, the client is given appropriate legal advice. If there is a basis in law, the LAB lawyer will go further to assess whether the claim has a chance of success or not and if this success can either be best achieved through the court process or alternative process, such as mediation. Once the lawyer is done with the merit test, they will proceed to conduct a means test.

The means test is conducted to assess the financial capacity of a claimant in order to appropriately support their claim that they have inadequate means to hire a private lawyer hence they want the services of legal aid. The client declares their sources of the current finances and assets, then swear that they have given the correct information which gives Legal Aid Board the authority to revoke the legal aid granted once discovered that a client gave false information. The Legal Aid Board charges consultation fee of 50 Kwacha (approximately US \$2.43); and a contribution to the Legal Aid Fund of a minimum of 1,000 Kwacha (approximately US \$48.69). During the process of the means test, when the lawyer discovers that the client cannot pay the contribution fee, the client is advised to request for a waiver in writing to the Director who further assesses the client and if truly they cannot manage to pay the contribution or consultation fees, the Director can either grant two types of waivers; (i) a partial waiver (were a client is asked to contribute any amount they can manage) and (ii) a full waiver (were a client does not contribute any money).

In circumstances where a claimant is ordered to pay costs by the court, section 55 of the Legal Aid Board Act No.1 of 2021⁴ state that:

(1) Where a court awards costs against a legally aided person, those costs shall not exceed the contribution which that person was required to make or which the court considers that person could reasonably have been required to make under section 51, whichever is the greater.

(2) Costs awarded by a court against a legally aided person shall be paid out of moneys from the Fund.

Based on this section of the Act, legally aided litigants who has been ordered to pay costs are not liable to pay the other party because legal aid board will settle on their behalf.

5. Quality Assurance

Legal Aid Board has put in place a client grievance system to ensure that clients can provide feedback and raise any concerns they may have either about their legal aid lawyer or the service provided by the Legal Aid Board. Clients who are unsatisfied with the way their case has been handled or have any other grievances can submit a written complaint to the Director by dropping a letter in the suggestion box located at the entrance of the reception door. The Legal Aid Board has designated specific days of the week to review and respond to complaints. This ensures that clients' concerns are being addressed in a timely manner.

Moreover, the open door policy is a great way to demonstrate a commitment to resolving grievances and providing quality service to clients which is a norm with the office of Director who meets with clients whose grievances cannot be resolved by senior officers. Overall, Legal Aid Board has a strong client grievance system in place that is designed to collect feedback and ensure that clients are satisfied with the legal aid services provided to them.

Legal Aid Board also has an audit department and human resource department that work together to conduct staff audits. This demonstrates a commitment to ensuring that legal aid services are delivered to clients in a timely and quality manner. By assessing the performance of supervisors and managed members of staff, the Legal Aid Board identify areas where improvements can be made and take corrective action as needed. This has helped to ensure that legal aid services are provided efficiently and effectively, and that clients receive the reasonable support they need. Overall, the supervisor audit process is an important component of the Legal Aid Board's quality assurance efforts. It helps to ensure that staff members are performing their duties effectively and that clients are receiving the best possible service.

The pro bono framework provides pro bono clients with the same rights as paying clients to file complaints before the Legal Practitioners Committee (LPC) of LAZ if they have a grievance against a member. This helps to ensure that all clients, regardless of their financial situation, have access to a fair and effective complaints process. Additionally, the provision in the pro bono framework that a lawyer's license will not be renewed if they have not taken up at least one pro bono case in a year provides an important incentive for lawyers to provide pro bono services. However, it's also important to note that this provision is implemented fairly and with consideration for lawyers who may have valid reasons for not taking up a pro bono matter in a particular year.

6. Public Legal Education and awareness

Legal aid board has taken a step to educate the public on legal aid related matters through the radio programs which was done using the local radio programs and in the last 2 years about 8 sessions have been done, one community law clinic with the support of Chapter One Foundation, a local CSO which focus on the rule of law and constitutionalism advocacy. This is progressive and LAB plans to collaborate more with CSOs and University Law Clinics to go on the grassroots to educate the public on the access to justice.

Additional efforts have been taken by LAB to educate the public on legal aid related matters. For example, Legal Aid Board, National Legal Aid Clinic for Women together with Chapter One Foundation conducted a community law clinic in Mandevu constituency to educate the people about their rights, where to access legal aid services and some of them had their matters taken up by Legal Aid Board and National Legal Aid Clinic for Women. By using various educational programs, the Legal Aid Board was able to reach a wider audience and provide important information on legal aid services and how to access them.

Going forward in the year 2023, Legal Aid Board has planned to increase awareness and public education programs by going to the grassroots to educate the public on access to justice. This will be done by collaborating with community based organisation who has existing presence in the community to raise awareness and increase access to legal aid services especially those communities where people may not be aware of their rights or may face barriers to accessing legal assistance.

7. Alternative and holistic Legal Aid services:

The 2021 Legal aid Act is a significant step forward for legal aid in Zambia, it had allowed many poor and vulnerable people who are unable to afford legal services to have access to justice. For the first

time, paralegals have been recognised as a professional cadre that work under the guardianship of qualified legal practitioners to contribute to the efficient and effective delivery of legal aid services at grass root level. The 2021 Act prescribes that the LAB must register legal practitioners, legal assistants, paralegals, CSOs, and higher education institution law clinics as providers of legal aid. This has resulted in an increase in the number of institutions and individuals who can lawfully provide free or inexpensive legal services to people in need of advice or representation in Zambia.

It's encouraging to report that there are already organizations like the Legal Resource Foundation, National Legal Aid Clinic for Women, Prisoners Counselling and Care Association, Up-Zambia, Prisoners Future Foundation, and Chikwanda chiefdom foundation among other CSOs that have taken advantage of this new legal framework to collaborate with the Legal Aid Board in providing legal aid services to underserved populations in prison facilities, urban and rural communities.

d) Recognising Paralegals and Legal Assistants

The Legal Aid Policy and enactment of the Legal Aid Act of 2021 in Zambia created a framework for non-lawyers to deliver legal aid services. This helped to increase access to justice for those who were not able to afford legal representation.

The requirement for paralegals and legal assistants to register with the Legal Aid Board and be supervised by legal practitioners is an important step in ensuring that the legal aid services provided are of high quality and competence. In 2022, the Legal Aid Board embarked on the process of developing operational guidelines by taking a comprehensive approach of involving paralegals and CSOs who are actively operating in the justice space and have paralegals. The involvement of paralegals and CSOs as legal aid service providers in the consultative process for developing the guidelines was also a positive move towards ensuring that the guidelines are practical and effective in the real world. The draft regulation document was submitted to the Ministry of Justice for approval, and that a statutory instrument will be issued to enforce the quality assurance framework and standards related to the provision of legal aid by non-lawyers. This will help to ensure that paralegals and legal assistants are held accountable for the legal aid services they provide.

e) Involving Civil Society Organisations and University Law Clinics

The Legal Aid Policy and Legal Aid Act of 2021 in Zambia recognized civil society organizations (CSOs) and university law clinics as legal aid service providers. This helped to expand the reach of the legal aid system in Zambia so far and ensured that more people could have access to legal aid services such as legal

education, information, mediation (away from court mediation), and advice on the legal-related issues they may face day-to-day.

The registration requirement at the Legal Aid Board will help to ensure that CSOs and university law clinics meet the necessary standards to provide legal aid services. This will help to maintain the quality and competence of legal aid services provided by non-governmental organizations. By recognizing CSOs and university law clinics as legal aid service providers, the Legal Aid Board has taken a step towards promoting collaboration and partnership between different stakeholders in the legal aid system. This has helped to improve the efficiency and effectiveness of legal aid services provided in Zambia.

From 2021 to 2022, under the Enabling Access to justice, Civil society participation and Transparency (EnACT) program funded by GIZ and EU, the Legal Aid Board partnered with six different civil society organizations (CSOs) including Caritas Monze, Legal Resources Foundation, National Legal Aid Clinic for Women, Prisoners' Future Foundation, Prisons Care & Counselling Association, and Undikumbukire Project Zambia to establish a network of legal services units/desks and paralegal desks. These desks were located at subordinate court level, correctional facilities, and police stations, with a total of seven legal services units, ten correctional facilities desks, and two police desks respectively.

Between January 2021 and December 2022, with support of GIZ and EU under the EnACT programme, the Legal Aid Board hired 14 legal aid assistants who were supervised by Legal Aid Board practitioners. Additionally, 30 paralegals from the six civil society organizations were engaged to offer legal aid services. Working together, these legal aid assistants and paralegals were deployed to various legal services units, correctional and police desks handling a total of 32,344 cases. Of the total number of cases, 76 percent were adult males, both in civil and criminal cases, while 15 percent were adult females. Male and female juveniles constituted 8 percent and 1 percent respectively, in both civil and criminal cases.

f) Establishing a Mixed Legal Aid Delivery System

The Legal Aid Policy and the Legal Aid Act of 2021 have established a mixed legal aid delivery system that aims to provide legal aid services to those who cannot afford them. This system involves the cooperation and engagement between state and non-state legal aid service providers. Some of the delivery models that are part of this mixed system include:

- a) Legal Aid Board offices: These are offices that provide legal aid services to the public through the government-funded Legal Aid Board.
 - b) CSOs legal desks: These are legal aid desks that are operated by civil society organizations (CSOs) to provide legal aid services to their beneficiaries.
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- c) Legal Services Units at court level: These are units that provide legal aid services to litigants at the court level.
- d) Correctional facility and police station legal desks: These are legal aid desks that are located in correctional facilities and police stations to provide legal aid services to detainees and suspects.
- e) Judicare system: This is a system where private lawyers provide legal aid services to clients who cannot afford them, and Legal Aid Board pays the private lawyer a minimal fee for the services from the Legal Aid fund.
- f) Pro bono legal aid scheme: This is a scheme where lawyers provide legal aid services to clients free of charge.
- g) University law clinics: These are clinics that are operated by law schools to provide legal aid services to the public, while also providing practical training for law students.

g) Strengthening the Role of the Legal Profession in the Delivery of Legal Aid Services

The Legal Aid Policy and the Legal Aid Act of 2021 also aimed at promoting access to justice for all, regardless of their financial circumstances. One way of achieving this goal was through the establishment of a comprehensive pro bono framework that encouraged legal practitioners to provide legal aid services on a pro bono basis.

On 6th May 2022, Legal Aid Board and Law Association of Zambia launched the Pro bono framework which entails that legal services that are provided free of charge to individuals or groups who cannot afford to pay for legal representation. By encouraging more legal practitioners to take on pro bono cases, the Legal Aid Policy sought to complement the work of the Legal Aid Board, civil society organisations, and university law clinics in providing legal aid services to those who need it most.

The establishment of a comprehensive pro bono framework was an important step because it progressively helped to bridge the justice gap that existed between those who can afford to pay for legal services and those who cannot. Pro bono work will also help to build the capacity of legal practitioners, particularly those who are just starting out in their careers, by giving them the opportunity to gain practical experience in a real-life setting.

8. UN SDG Standard 16.3

In line with the United Nations SDG Standard 16.3 “Promote the rule of law at the national and international levels and ensure equal access to justice for all”, A significant step has been taken towards achieving SDG 16.3 and ensuring equal access to justice for all in Zambia. The establishment of a comprehensive legal aid system that is accessible, effective, impartial, and sustainable is a crucial

component of any effort to promote the rule of law and protect the rights of vulnerable populations by the government of Zambia.

By strengthening the role and institutional capacity of the Legal Aid Board and other justice institutions and stakeholders, the Legal Aid Policy and Legal Aid Act of 2021 provided a framework for the efficient and effective delivery of legal aid services to people with inadequate means to hire a private law practitioner. This, in turn, has helped to empower individuals to claim their rights and seek remedies for injustices they may have been experienced, ultimately contributing to a more just and equitable society.

Overall, it is encouraging to see Zambia taking steps to prioritize access to justice and legal aid services, and it will be important to continue monitoring the implementation and impact of these policies and laws in the years to come.

9. Covid-19 effects

Legal Aid Board experienced setbacks due to the COVID-19 pandemic, with around 8 legal staff members falling ill and two offices being temporarily shut down for two weeks. However, the remaining offices continued to operate in accordance with the Ministry of Health's COVID-19 guidelines, which included measures such as social distancing, frequent hand washing, wearing masks, and rotating employees. Despite these challenges, Legal Aid Zambia had achieved significant successes in the past two years.

10. For more information

The Legal Aid Board Zambia
New Kent Building, P.O Box 32761
Haile Selassie Avenue, Lusaka, Zambia
Phone: +0211256453/4
Email: info@legalaidboard.org.zm
Mr. Humphrey Mweemba, Acting Director
humphreymupango@gmail.com
hmweemba@legalaidboard.org.zm
