



Universal access to basic justice

Costing Sustainable Development Goal 16.3

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Key messages

- Sustainable Development Goal (SDG) 16.3 calls for equal access to justice for all. We estimate that universal basic justice to address people's everyday justice needs cost \$20 per person a year in a typical low-income country, \$64 in a middle-income country, \$190 in a high-income country and \$230 in an Organisation for Economic Co-operation and Development (OECD) member country.
- Such costs are affordable in OECD countries, but the financing position is radically different in all low-income countries and a third of lower-middle-income countries where two billion people across 53 countries can't afford even half the costs of providing universal basic justice.
- External aid for justice currently only covers 1% of the costs in low-income countries and donor support is falling – the share of total aid to justice is 40% lower than five years ago. If SDG16.3 is to be achieved, the justice sector needs urgently to catch up with other service delivery sectors such as health and education in terms of ambition, scale and financing.
- As a first step, a global justice financing commission should be tasked with generating more robust cost estimates for the provision of universal basic justice in order fully to understand financing needs. Learning from other sectors, a global justice challenge fund should be piloted in a few low-income countries in an effort to mobilise scaled-up resources and address the funding gap.

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Acronyms

DRC	Democratic Republic of the Congo
GDP	gross domestic product
HIC	high-income country
HiiL	Hague Institute for Innovation of Law
IDRC	International Development Research Centre
IMF	International Monetary Fund
JNS	Justice Needs and Satisfaction survey
LIC	low-income country
LMIC	lower-middle-income country
MDGs	Millennium Development Goals
MIC	middle-income country
NYU CIC	New York University Center on International Cooperation
ODI	Overseas Development Institute
OECD	Organisation for Economic Co-operation and Development
SDG	Sustainable Development Goal
UMIC	upper-middle-income country
UN	United Nations
UNODC	United Nations Office on Drugs and Crime
UNESCO	United Nations Educational, Scientific and Cultural Organization
WHO	World Health Organization

1 Introduction

This paper aims to contribute to ongoing discussions about a realistic approach to delivering scaled-up equal justice for all in line with Sustainable Development Goal (SDG) 16.3,¹ and to support work on identifying what is needed to address the gap for the billions of people worldwide who are excluded from accessing justice and the rule of law. The paper estimates the costs of providing universal basic justice to address people's everyday justice needs, considers its affordability, and finally proposes a viable funding option.

The fundamental importance of access to justice and the rule of law is being increasingly re-emphasised in development discussions. The creation of SDG 16.3 has helped to galvanise debate and initiatives to address the challenges of achieving equal access to justice for all, including the Task Force on Justice set up by the Pathfinders for Peaceful, Just and Inclusive Societies.² Previous research (LDP, 2015) has suggested that the costs of providing a basic justice service are likely to be low, but that they are unaffordable for low-income countries³ – most of which cannot afford half the costs of providing universal basic services in education and health (Manuel et al., 2018). More recently, Manuel and Manuel (2018) have highlighted how donors have failed to

address the financing gap for justice: their support for justice in low-income countries has been limited to a few countries only, and in the last five years donors' overall global funding for justice has fallen by 40%.

Ahead of a global review of progress on SDG 16 at the United Nations High Level Political Forum in July 2019, the Task Force on Justice asked ODI to produce a rapid research report to further set out the scale of the challenge and to provide the first initial estimate of the financing gap faced by countries in providing access to justice. The question is – how much would it cost to ensure that people's everyday justice needs are met and resolved in an accessible and affordable way? This builds on the previous research (LDP, 2015) which only costed the provision of basic legal advice and assistance and not other elements of basic justice.⁴

However, this is only part of the picture: informing people of their legal rights and assisting them to exercise them is necessary but insufficient to deliver justice. A system is also needed to address and resolve legal problems, disputes, conflicts, grievances and crimes. This could be through relatively informal mechanisms (including traditional, religious or civil society), as well as front line formal organisations such as the police and local courts. Our research adds in these

1 SDG 16.3: 'To promote the rule of law at the national and international levels, and ensure equal access to justice for all' (see <https://sustainabledevelopment.un.org/sdg16>).

2 See www.justice.sdg16.plus/

3 Low-income countries are classified as having gross national income below \$1,000 per person, middle-income countries between \$1,000 and \$12,000 per person and high-income countries (which includes all member countries of the Organisation for Economic Co-operation and Development (OECD)) above \$12,000 per person. For more details see World Bank (n.d.).

4 The costs of providing basic legal advice and assistance are low: ranging from \$0.1 to \$1.3 per person in low-income countries and from \$3 to \$6 per person in high-income countries. These estimates are based on the costs for nationwide delivery of 17 basic legal services programmes (LDP, 2015).

aspects and estimates the related costs at a basic community level. It takes a people-based approach, focused on what is needed to address people's 'everyday' justice problems (Barendrecht et al., 2018; Canadian Forum on Civil Justice, 2018), and estimates the costs for the state and individuals of the various components required to deliver a nationwide basic justice service in all countries (with the precise form adapted to each context).

The paper sets out in sections 2 and 3 the approach to developing the costings, which is based on that used in the education and health sectors in the early 2000s in relation to the Millennium Development Goals (MDGs). The methodology is described in more detail in sections 4 and 5, and the cost estimates are

presented in section 6. Section 7 considers affordability in the light of available resources and concludes that for low-income countries scaled-up basic justice provision is unaffordable without substantial external funding from the international community. Section 8 briefly reviews the case for investing in justice before we draw together our findings in the conclusions in section 9. This final section also includes recommendations for two specific next steps to (1) develop and take forward the costing analysis, and (2) take action on a pilot basis to test whether a global challenge fund approach – which has worked well in other sectors to deliver scaled-up service delivery and mobilise scaled-up resources – could also work for justice.

2 Approach to costing justice

2.1 A people-centred approach

The approach to the costing exercise was people-centred, focusing on the justice needs of individuals at the community level. There is a growing body of global evidence on the extent of people's unmet justice needs, including from victimisation and legal needs surveys across various high-, middle- and low-income countries:⁵

- On the incidence of the proportion of the population who have justice needs, a recent estimate based on extensive survey evidence from the HiiL is that each year one billion people or 13% of the world's population face a new and serious conflict (Barendrecht et al., 2018). And recent research in Canada shows that, over a given three-year period, nearly half of adult Canadians experience at least one serious everyday legal problem, an incidence rate of 14% of the total population each year (Canadian Forum on Civil Justice, 2018).⁶
- Research also highlights the scale and the nature of the justice gap – the extent to which these legal needs are unmet. The Task Force on Justice has recently estimated that globally five billion people (over half the world's population) do not have meaningful access to justice (Task Force on Justice, 2019; World

Justice Project and Taskforce on Justice, 2019). Another way to look at the challenge is that, in some countries, up to half of justice problems go unresolved (Barendrecht et al., 2012; Pleasence, 2016; Canadian Forum on Civil Justice, 2018).

- Further, the survey evidence provides a picture of people's experience of injustice, including of violence undertaken with impunity; of everyday legal problems, conflicts, disputes and grievances going unresolved; and of exclusion from the rule of law limiting people's ability to participate economically and in society.

An interesting and important aspect of this emerging survey evidence is the similarity of the kinds of legal problems faced by people worldwide – from low- to high-income countries. Violence and crime are key issues, disproportionately affecting poor people both as victims and perpetrators (Haugen and Boutros, 2014). Civil and administrative priority issues can be categorised as problems concerning: (1) money, debt and consumer rights; (2) housing, land and neighbours; (3) access to public services; (4) work relating to employment and businesses; (5) family disputes (Denney et al., 2016; Barendrecht et al., 2018; Canadian Forum on Civil Justice, 2018); and (6) problems

5 This includes country-level surveys; the Hague Institute for Innovation of Law's (HiiL) legal needs surveys (www.hiil.org/what-we-do/measuring-justice/, accessed 28 February 2019); World Justice Project (2018); International Development Research Centre's (IDRC) Community-Based Justice Research Project (2018–2020) which looks at Canada, Sierra Leone, Kenya and South Africa (<http://cfcj-fcjc.org/our-projects/community-based-justice-research-cbjr/>); OECD and Open Society Justice Initiative (2018).

6 'Everyday legal problems' are defined as an event or issue that happens during normal daily life that has a legal aspect and a potential legal solution within the civil justice system (Canadian Forum on Civil Justice, 2018).

associated with lack of legal identity or other legal documentation.⁷

Of course, the precise nature of these issues, and their relative prioritisation, will be context specific. For instance, HiiL's legal needs surveys suggest that land problems are more significant in lower-income countries (Barendrecht et al., 2018), where problems relating to legal identity and documentation are also common. Everyday legal problems are also experienced differently by different sections of society (including women, children and men; vulnerable and marginalised groups). Indeed, more than a third of women report that they have experienced physical or sexual violence in their lifetimes (UN Women, n.d.; García-Moreno et al., 2013). The Task Force for Justice's Working Group on gender will throw further light on people's different experiences of injustice.

2.2 Institutional framework

The ability to discern at a high level the kinds of legal needs that people are experiencing, and how they address them, enables us to develop a clearer picture of the kinds of institutions that are required. This includes access to legal advice, assistance and empowerment, as well as mechanisms to address and resolve legal problems, disputes, conflicts, grievances and crimes through informal systems as well as formal organisations such as the police, courts and prisons. The detail of what an appropriate institutional framework to deliver justice looks like will be context specific, however. For example, in low-income countries, traditional and informal dispute resolution mechanisms tend to have more legitimacy than the formal

system. The scope of the problems with the current institutional framework differs across countries too: in many countries, a simple legal action involves complex procedures and disproportionate cost, making justice inaccessible for many.⁸ And the problems run deep in some countries, with unaccountable and corrupt courts and police serving the interests of the rich and powerful, rather than the poor and vulnerable. While perceptions of corruption in the police and the courts are high in both low- and middle-income countries (with the police perceived to be the most corrupt of all public services), the proportion of citizens reporting paying bribes to the police and courts is much higher in low-income countries (Pring, 2017).

Inefficiencies, high costs and inaccessibility, as well as broken, corrupt and oppressive systems all point to justice systems that are not fit for purpose and the need for major transformation in the conceptualisation and delivery of justice. In high-income countries, efforts to change the way justice is delivered have been driven to a large degree by cost-cutting – for example reductions in legal aid budgets, diversion of civil cases to mediation, and consolidation of courts.⁹ There have been moves towards less reliance on formal dispute resolution and greater use of alternative approaches; less face-to-face justice delivery and more justice delivered virtually including online and by video link;¹⁰ less reliance on fully trained lawyers and more on paralegals (Moy et al., 2019); and, in some cases, a stronger focus on a community-based, local approach such as through the neighbourhood courts used in the Netherlands. Innovation – using technology, including the use of mobile phones and online platforms, as well as low-tech delivery models,

7 The latter is highlighted by the Task Force on Justice, *Justice for all* report (2019), building on the work of the Commission on Legal Empowerment of the Poor and United Nations Development Programme (UNDP, 2008).

8 See World Bank Doing Business Indicators for Enforcing Contracts (www.doingbusiness.org/en/data/exploretopics/enforcing-contracts).

9 For examples in the UK see Caird and Priddy (2018), Pratt et al. (2018) and the Small Claims Court Genie (www.smallclaimscourtgenie.co.uk/small-claims-mediation-service).

10 See, for example, virtual courts in the UK (Bowcott, 2018) and the Jeanie Project for legal advice, an online platform that facilitates the collection of information from clients with legal problems which is signposted to local advice infrastructure or sent to pro bono legal advisers (<https://thejeanieproject.org.uk/>).

and liberalisation of justice markets all have the potential to improve access to justice and to reduce costs also (Innovation Working Group of the Task Force on Justice, 2019).

The opportunities for change in the way justice is delivered present challenges when undertaking costings: simply costing current systems does not address the need for reform. However, as discussed in section 3, such issues have been encountered when developing costs for other service delivery sectors such as health and education, where there is also significant scope for innovation (including through technology) and for disruption of old-style service delivery models. In these sectors, a pragmatic approach has been adopted which embraces both current service delivery realities and the need for change. Moreover, as far as the justice sector is concerned, the analysis described in sections 6 and 7 of this paper shows that, for low-income countries, the costs of the current basic justice system, despite being extremely low, are already totally unaffordable. Improved service delivery models and disruptive innovation may have the potential to provide a better service at lower cost. However, even if these developments can deliver cost savings of as much as 50%, universal basic justice would still remain unaffordable for most low-income countries.

2.3 Political will

The focus of this paper is on costs, and the need for increased funding for the justice sector if the promise of SDG 16.3 is to be realised. But, as well as funding, improvements in service delivery also involve political choices and political will in the countries concerned.¹¹ Justice is deeply political, going to the heart of power structures and the relationship between the people and the state. For some countries there may be a fundamental choice to be made about the appetite for enhancing people's access to justice

and improving their ability to assert their rights before progress can be made. The health sector faced similar issues, for example in relation to countries' commitment to tackling HIV/AIDS. Section 9 touches on this critical issue when considering the potential for a global challenge fund (similar to the Global Fund to Fight AIDS, Tuberculosis and Malaria) to address the justice sector's funding challenges, which would be open to countries able to demonstrate a commitment and a realistic plan to provide justice for all.

The costing exercise assumes that the political commitment to deliver equal access to justice for all through universal basic justice provision is in place. This could include a legal or regulatory framework which enables non-lawyers (such as community paralegals) to provide front line legal advice and assistance, for example, which would encourage the use of alternative dispute resolution mechanisms to resolve civil disputes rather than formal court proceedings. In other contexts, it may require reorienting the police to be more service-focused and accountable, or putting in place anti-corruption measures to protect judicial independence. These kinds of reforms, which disrupt the status quo, have proved highly controversial in some countries¹² and have been opposed by powerful elites. The potential for such reforms will vary by country and over time – assessing the potential in any one country is beyond the scope of this paper, which instead focuses on identifying the necessary finance needed to deliver basic justice.

2.4 Universal availability

To deliver on SDG 16.3, the approach taken is that basic justice services should be universally available to everyone in a given country, as was done when developing costs for health and education. The UK Department for International Development recommended treating justice as a *basic* or *core* service on a par with other basic

11 See Domingo (2016) for an analysis and summary of the debates on this issue.

12 In Kenya, for example, alternative dispute resolution was resisted for over 15 years until a new cohort of judges under Chief Justice Willy Mutunga embraced it and began pilots in 2015 (Legal Assistance for Economic Reforms, 2015).

services such as health and education (DFID, 2009).¹³ However, unlike health and education, it is not assumed that all justice services should be universally free to access. Many should be: protection from violence and crime should not depend on the ability to pay for private security providers; the ability to mount a defence when charged with a crime should not depend on the ability to pay for a defence lawyer. But in many

countries, civil litigation involves the payment of court fees (and then the recovery of costs from the defendant if successful), and access to legal aid for civil litigation is rationed in terms of types of cases and/or ability to pay. The impact of user fees on access – particularly in low-income countries – has been well researched in other sectors, and deserves full consideration in the justice sector too (see sections 3 and 9).

13 See footnote 14 on the extent to which justice is a sector, like health and education.

3 Learning from other sectors

The aim of this costing exercise is to establish a funding case for scaled-up access to basic justice. The establishment of per person costs for basic health and education provision in relation to the MDGs was key to enabling these other sectors¹⁴ to mobilise resources and scale up service provision successfully, including through global fund mechanisms (Manuel and Manuel, 2018). In the education sector, the United Nations Educational, Scientific and Cultural Organization's (UNESCO's) *Global monitoring report* costed primary and secondary education, and in the health sector a Global Commission on Health was tasked with the first costings which have subsequently been updated by the World Bank and the World Health Organization (WHO). In both cases, as well as calculating per person costs, recommendations were made in terms of target spending as a percentage of gross domestic product (GDP). Annex A provides some detail on the methodology used in these two sectors. Key points to note are:

- The costings were for a basic level of service provision. For example, in education the costings were based on a primary pupil to teacher ratio of 40:1, while the average in OECD countries is less than half of that at
 - The costings were based on proven implementable standard frameworks and delivery models (for example health centres, primary health workers, etc.) rather than any 'reinvented' systems that were potentially more efficient. However, costings were built in to improve existing systems through activities such as outreach to marginalised households and greater accountability.
 - The cost drivers were front line staff. Assumptions were made about staff
- 15:1.¹⁵ Difficult decisions were also taken about what not to include in the costings – and therefore the funding priorities. In the education sector, for example, the costings were limited to universal primary and secondary education only, with upper secondary, tertiary, skills for work and adult literacy excluded. Similarly, the original Global Commission for Health only covered essential interventions i.e. on communicable disease and maternal and perinatal health, most of which could be delivered through a *close-to-client* system at health posts, rather than hospitals (WHO, 2001). The latest costings focus on a limited number of essential interventions and full coverage is defined as reaching OECD levels (e.g. 60% coverage on non-communicable diseases).¹⁶

14 Justice is recognised as a sector for budgeting and other purposes. DFID (2009) recommended treating justice as a *basic* or *core* service on a par with other basic services such as health and education. Justice is also recognised as a sector by the International Monetary Fund (IMF) and the OECD for national budgeting purposes (for public law and order) and is recognised by the OECD for aid reporting purposes for (legal and judicial services). However, justice may also be seen as more than a sector, comprising a core component of countries' governance systems.

15 For OECD student to teacher ratios and average class size, including the average ratio in all public and private educational institutions for primary education, see <https://stats.oecd.org/index.aspx?queryid=79504>

16 The choice of what should be included in the basic level of service provision is not straightforward (which is one of the reasons for extending this analysis and commissioning a global commission to consider such issues).

numbers and salary levels required to provide a basic service.

- The costing exercises were just for low- and middle-income countries, as they face the largest financing gaps.

The justice sector is decades behind health and education in terms of thinking on the costs of scaled-up service provision. Donor approaches to justice have largely focused on individual time-limited programmes, rather than sustainable national coverage of basic justice services. If SDG 16.3 is to be achieved, the justice sector now urgently needs to catch up with other service delivery sectors, in terms of ambition, scale and approach. This costing exercise is a starting point.

While there are lessons to be learnt from the approaches used to scale up service delivery in other sectors, it has frequently been noted that the justice sector is in many ways unique and deeply problematic, and that donor-funded efforts to achieve significant change have had limited success.¹⁷ As has already been noted, justice is deeply political, institutionally complex (involving a large number of often uncoordinated bodies) and is subject to deep corruption (consistently, police and prisons are cited as the most corrupt bodes in low-income countries). In low- and middle-income countries it is often delivered through a plural justice system with informal and formal operating in parallel, and is seen as highly context specific. While the depth of these challenges may be particular to the justice sector, these types of issues are also faced by other sectors, particularly health. As mentioned in section 2, improvements in service delivery

in other sectors involve political choices and political will – for example to tackle HIV/AIDS. Like justice, ideas about health and how to address particular problems tend to be deeply rooted in culture and belief systems. In low-income countries, formal health systems tend to operate alongside traditional systems, which may have more legitimacy than the formal medical system (Ibeneme et al., 2017). As with justice, the health sector consists of an ‘ecosystem’ of public and private sector organisations that need to work together for effective service delivery. Corruption within the health system and at the point of delivery is a significant problem in many countries (Pūras, 2015; Petkov and Cohen, 2016).

These kinds of complexities cause significant difficulties for costing an effective system. For example, if health workers or police are primarily rent-seekers rather than service providers, then costing and funding more of them is unlikely to improve service provision, and indeed could make things worse.¹⁸ And costing and then funding improved formal service provision is unlikely to lead to improved outcomes if communities prefer to rely on traditional systems. Despite these challenges, however, the health sector has produced estimates of the per person costs of basic health care provision, which have been the foundation for increased investment and improved outcomes in the sector (Manuel and Manuel, 2018). Drawing on what are now well-established methodologies in the health and education sectors, it is similarly possible to produce high-level estimates of the per person costs of basic justice provision, which give an indication of the scale of the funding challenge and the affordability of providing justice for all.

17 See critiques such as International Council on Human Rights Policy (2000); Carothers (2003); Channell (2005); Desai et al. (2011); Aide à la Décision Économique (2011); Cox et al. (2012); Domingo and Denney (2012); Independent Commission for Aid Impact (2015); OECD (2016a).

18 Research in Ghana has suggested that increasing police wages was associated with increased corruption levels (Foltz and Opoku-Agyemang, 2015).

4 Universal basic justice and the institutions needed to provide it

Drawing on the methodology used in the health and education sectors (see Annex A), the starting point for developing per person costs for justice is to define what universal basic justice looks like. This is not a defined term and is highly contestable. Drawing on the approach outlined in section 2, a working definition would be: a system that addresses peoples' everyday justice needs, that is delivered through formal and less formal mechanisms which are often in need of transformation, and that is universally available – i.e. is accessible and affordable for all. While recognising the deeply political nature of justice, the paper assumes that the political will to provide universal basic justice is in place.

The global survey evidence discussed in section 2 points to a high degree of commonality in terms of justice needs across countries: the most commonly encountered issues – and thus priority needs – are 'everyday' civil and administrative problems, and violence and crime (including violence against women and children). The key elements of a universal basic justice system can therefore be framed as:

- *Community-level legal advice, assistance and empowerment* to help people to deal with legal problems, conflicts, disputes, grievances and crimes. In the formal legal system these may be framed as civil, administrative or

criminal problems. Service provision includes: raising awareness of legal rights; advice and assistance including with accessing legal identity and other legal documentation, navigating legal processes and assisting with non-court-based forms of dispute resolution; referral to providers of formal litigation services; and court-based representation (Moy et al., 2019).

- *Institutions to provide communities with mechanisms to deliver fair solutions for priority everyday legal problems, disputes, conflicts and grievances.* Survey evidence suggests these tend to relate to money, housing/land, neighbours, access to public services, work and family, crime and legal identity and documentation.
- *Institutions to provide communities with services to prevent and prosecute crimes including violence (including against women and children) and theft.*

The next step is to develop a standard framework to provide these basic justice services. This is set out in Annex B and briefly described below:

- *Community-level legal advice, assistance and empowerment.* There is a wide range of models.¹⁹ Services could be provided by community paralegals/grassroots justice

19 For some country examples see Open Society Foundations briefs by Chapman and Leering (2015) and Petersen (2017).

defenders (ibid.), accessible legal advice centres,²⁰ unions or advocacy groups,²¹ organisers or lawyers able to engage with formal and less formal justice institutions as appropriate. A particularly cost-effective model is a broad front line of non-lawyers partnering with and referring cases to lawyers where appropriate (Moy et al., 2019). There is increasing use of technology to broaden and deepen service delivery – this has the potential to reach those with previously limited access to justice and link them with the most appropriate assistance, for example through mobile phone technology and online platforms.²²

- *Relatively informal mechanisms to resolve legal problems, conflicts, disputes and grievances.* There is a wide spectrum here – ranging from (free) advice and support from friends and family; to civil society mechanisms such as paralegals acting as mediators; one-stop shops to address basic legal issues including identity and other forms of legal documentation; and state-recognised and funded dispute resolution institutions such as (in some cases) local, traditional and religious leaders. Examples of state-funded institutions include local council courts in Uganda and chiefs’ courts in Sierra Leone. Global survey evidence suggests that over 80% of solutions result from informal processes (Barendrecht et al., 2018).
- *Formal ‘state’ institutions to resolve conflicts, disputes and grievances.* The evidence from legal needs surveys (ibid.) is that only a small minority (5–7%) of everyday conflicts, disputes and grievances are resolved through

formal courts or tribunals. However, formal ‘state’ institutions are a key element in basic justice provision for at least two reasons: first, they can provide the backstop that encourages the use of more informal resolutions; and secondly, informal mechanisms are inappropriate for dealing with all justice needs – for example cases of violence, rape and other serious crimes. The formal state institutions²³ that have been costed into basic justice service provision include:

- ‘Primary’ formal courts, i.e. the lowest tier formal courts where judges are legally trained,²⁴ including magistrates, district and small claims courts.
- Community-oriented police. The costing focuses on front line policing in communities, including crime prevention, and aims to exclude elements of police services focused on state security. It is recognised, however, that this distinction can be difficult to make in practice, and that in many countries policing philosophy focuses on protecting the interests of the state and the elite, rather than providing security and justice to communities. As noted in section 2, the costings have been developed on the assumption that political commitment to deliver equal access to justice for all through universal basic justice provision is in place, which includes a commitment to developing a police service (rather than force) that operates in line with international norms and standards for policing in a democratic society that is independent and accountable to the law and the public. Recognising that

20 Such as government-funded Maison d’Accès à la Justice in Rwanda and Justice Centres in Uganda.

21 In Canada, 28% of people with everyday legal needs seek advice from groups such as the Canadian Forum on Civil Justice (Canadian Forum on Civil Justice, 2018).

22 See, for example, the Jeanie Project in the UK (<https://thejeanieproject.org.uk/>). For a review of multidisciplinary partnerships see Hill (2017).

23 These do not include formal state institutions involved in providing formal legal documents such as identity documents, land title etc. As noted in the conclusions, further research is needed to consider in more depth which institutions comprise a ‘basic’ justice service.

24 Unusually, in England and Wales the first tier of formal criminal courts is largely presided over by lay magistrates, although advised by a legally qualified clerk.

even where this commitment is in place, achieving it is a work in progress and therefore initiatives to improve police (and other justice organisations’) accountability are included in the costs of basic justice service provision.

- Other elements of the criminal justice chain, including public prosecutors, probation/rehabilitation/correctional services and mechanisms.
- Specialised services dealing with children and sexual violence (normally embedded in the other institutions above).
- *Improving accountability.*²⁵ Costing formal and informal organisations in the justice system does not imply unconditional support. As discussed previously, the justice sector can be a source of state oppression and injustice. Courts and the police are frequently cited as the most corrupt of all public sector institutions, and traditional leaders have also been found to be exploitative and rent-seeking (Paul, 2005; Richards, 2006). Improving accountability in the justice sector is extremely difficult. Our approach to this vital yet complex and highly problematic issue in the costing exercise is to include estimates for formal statutory oversight, accountability and complaints mechanisms, and also more innovative and community-based

initiatives, including Cordaid’s work on police accountability in eastern Democratic Republic of Congo (DRC) based on a payment-by-results mechanism, for example.²⁶

- *‘Out-of-pocket’ expenses (costs currently paid by individuals for legal needs).* As in the health sector, it is important to capture the costs currently paid by individuals to access both informal and formal justice services, as these costs can be significant. The same issue arises for education. These costs are included because it is important to know the total level of spending by the private as well as the public sector (before considering what the appropriate balance between them should be).

The above framework is designed to deliver universal basic justice that is affordable and accessible to address people’s everyday needs. This means that certain aspects of standard justice service provision have not been included – for example commercial justice (apart from small claims) and higher/appellate courts. Neither have context-specific needs such as transitional justice been included – a key area that is being considered by a working group of the Task Force for Justice. Consideration could be given to undertaking separate costing exercises for these (and other) specific justice issues.

25 Here we mean accountability within the justice system, rather than the justice system’s function of providing checks and balances on the power of the state. This is in line with the formulation of the key elements of a basic justice system described at the beginning of section 4 as (1) community-level legal advice, assistance and empowerment; (2) institutions to provide communities with mechanisms to deliver fair solutions for priority everyday legal problems, disputes, conflicts and grievances; and (3) institutions to provide communities with services to prevent and prosecute crimes. The justice system’s broader accountability function is to some extent addressed under (1).

26 Authors’ interview with Nikki de Zwaan, expert in security and justice, Cordaid Security and Justice Unit. See also Thill et al. (2018).

5 Methodology for estimating the cost of universal basic justice

Annex B sets out estimated costs for each element of the framework in all low-, middle- and high-income countries, and provides an explanation of how these estimates have been arrived at. There were significant data challenges, with particularly poor data coverage in low-income countries. Key data sources were the United Nations Office on Drugs and Crime (UNODC);²⁷ World Prison Brief;²⁸ global survey evidence from HiiL (see Annex C) and earlier costings on legal assistance by The Law & Development Partnership (LDP, 2015), funded by Canada's IDRC and Open Society Foundations. Data on low-income countries was supplemented with information from a specimen low-income country national budget (Uganda), additional information on costings for police in a different low-income country (Sierra Leone) (K. Biddle, OBE, personal communication December 2018), and example costings for community accountability and oversight mechanisms from an initiative in a low-income country (the Cordaid project in eastern DRC). Analysis of these limited data sources was all that was possible within the scope of this rapid research assignment.

As with the health and education sectors, the costs are largely driven by staff numbers and salaries, and assumptions have been made about staffing ratios needed to provide a basic justice service based on internationally agreed targets where available. Assumptions have also been

made about what justice sector staff (including judges and police) 'should' be paid. For example, it has been assumed that front line community-based police should be paid on the same salary scale as teachers (as is the case in Uganda). This is on the basis that the roles require the same level of education, skills and responsibility (as has been formally agreed in Sierra Leone) (*ibid.*). Of course, public sector salaries in low-income countries are extremely low by OECD standards: as is the case for both education and health costings, salary levels are assumed to be linked to average GDP per person.

As well as staff costs, allowance is also made for non-wage recurrent costs such as fuel, police and prison officers' uniforms and prisoners' upkeep, as well as capital spend on motorcycles, cars, computers and radios, etc. As for education costings, the allowance is based on a percentage of the total salary costs, with proportions based on Uganda's national justice budget and cross-checked with police advisers working in low-income country contexts to ensure the allowance is sufficient for the above key items. As salaries are higher in richer countries, allowing for the same proportion for non-salary costs in middle-income and OECD countries may result in an overestimate of the actual costs.

The estimates of out-of-pocket expenses (costs currently paid by individuals for legal needs) are based on legal needs surveys by HiiL in 11 countries. These cover the costs of accessing legal

²⁷ <https://dataunodc.un.org/crime>

²⁸ www.prisonstudies.org/

advice, mediation and the formal court system. Hiil's full methodology is set out in Annex C.

The hope is that this initial costing exercise will be developed further (see Annex B for detailed suggestions), including:

- analysing more examples of country-level costs from national budgets and other sources to validate this first estimate against a broader set of countries
- refining estimates of non-wage recurrent costs (although in practice any overestimation is likely to be fully absorbed as the levels of equipment in richer countries tends to be higher than the basic justice levels costed here, e.g. higher number of cars per police officer)
- ensuring costings for specific items match contexts. There is no 'one-size-fits-all' solution. For example, buying more police vehicles may help crime responses in some contexts, but in others it may distance police and reduce their community engagement and crime-prevention capability
- factoring in training and capacity-building needs and capital spend, which currently only cover routine replacement costs
- developing costings for specific contexts and interventions, e.g. post-conflict rehabilitation or creation of dedicated specialist units such as family support units
- accessing more robust data on state funding for informal dispute resolution mechanisms. In the current absence of data from national budgets on funding levels, it has been assumed that publicly funded costs are at least the same as the cost of the lowest tier formal courts.

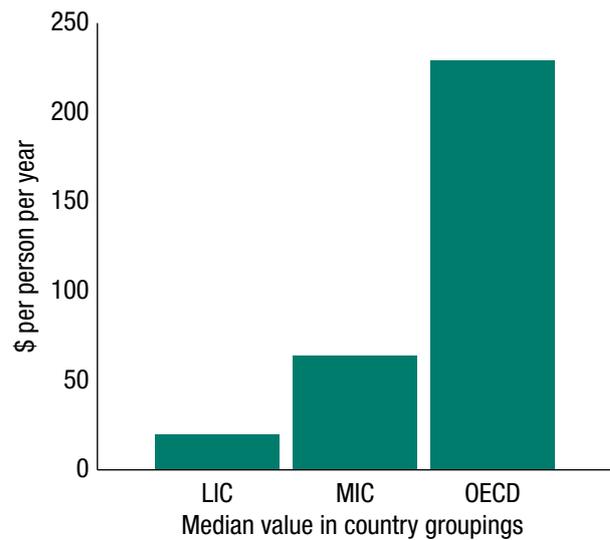
6 Initial estimates

As can be seen from Figure 1 (and Annex B), in a typical low-income country universal basic justice is likely to cost a minimum of \$20 per person per year. This compares with \$41 for universal primary and secondary education and a minimum of \$76 for essential universal health care²⁹ (\$77 including nutrition). As most of the costs of delivering universal basic justice stem from the people providing the service, the costs are lower in poorer countries where salary levels are lower. The cost of universal basic justice is estimated to be \$64 per person per year in a typical middle-income country and \$230 in a typical OECD country.

Note that these costs are expected to be a minimum estimate and more research is needed.

As Table 1 shows, the largest single component of these estimated costs is the formal ‘state’ institutions to resolve conflicts, disputes and grievances.

Figure 1 Minimum cost of universal basic justice per person per year



Note: LIC = low-income country; MIC = middle-income country

Source: Authors' calculations

Table 1 Universal basic justice costing framework – main components (\$ per person per year)

Component	LIC	MIC	HIC	OECD
Community-level legal advice, assistance and empowerment	0.4	2.5	5.0	5.0
Relatively informal mechanisms to resolve legal problems, conflicts, disputes and grievances	0.5	2.0	6.0	8.0
Formal ‘state’ institutions to resolve legal problems, conflicts, disputes and grievances, correctional/rehabilitation services and other elements of the criminal justice chain	12	48	152	192
Improving accountability	1.5	1.5	2.5	3.0
Out-of-pocket expenses (paid by individuals for the top-five legal needs)	5	10	20	20
Total costs	20	64	190	230

Note: All costs US dollars per person (median value within each country income group). Totals may not add up precisely due to rounding/use of medians for each component. HIC = high-income

²⁹ See Annex A for the level of service provision included.

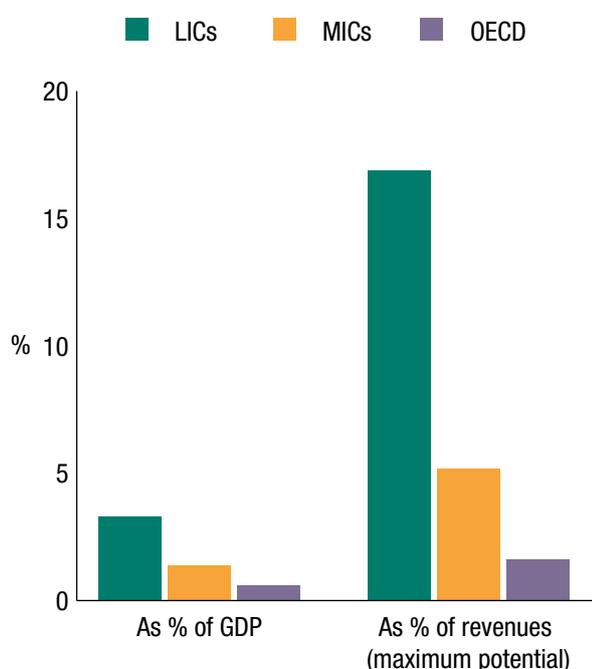
7 Affordability

Although the costs in dollars per person are lower in poorer countries, these countries also have smaller economies and economic structures. This means they raise less tax as a proportion of the economy. As a result, the costs, as a proportion of the size of the economy (measured by GDP) and of tax revenues, are much higher in poorer than richer countries (see Figure 2).

Drawing on ODI's methodology for calculating the financing gap for health and education (Manuel et al., 2018), it is possible to conduct a more detailed assessment of the ability of all countries to afford to fund basic justice themselves. This has been done by first assessing the maximum amount of taxation each country could raise, drawing on IMF

and World Bank methodologies that take into account the different economic structures of poorer countries. The second step assumes that the maximum sustainable share of this total potential revenue available for justice is the same as in OECD countries, i.e. 4%. As OECD countries represent the main source of external finance (although other high-income countries are steadily increasing their support), it is appropriate that the assessment of the need for external finance is on the basis of the priority that they give to justice. If poorer countries choose to give greater priority to justice than OECD countries, they should not be penalised for this when it comes to assessing their need for external support.

Figure 2 Cost of universal basic justice as % of GDP and tax revenues



Source: Authors' calculations

Unfortunately, there is no current global data source for spending on justice in most low-income countries. Even for middle-income countries, data is only available for a quarter of the countries,³⁰ but they suggest a higher proportional spend than OECD countries do (7% of their revenues compared to 4% in OECD countries). This obviously reduces the funds available for other services such as education and health. Further research on the actual level of spending would be helpful to understand the priority that countries attach to justice. As the data is available in national budgets, it would be a straightforward – but time-consuming – task to do this. Indeed, such spending data on education and health is regularly gathered by the World Bank, UNESCO and WHO.

A comparison of the estimated minimum costs with the available potential funding shows that a typical OECD country has more than sufficient funding to provide universal basic justice as well as affording a wide range of other justice

30 IMF Government Finance Statistics Database, Expenditure by Functions of Government (COFOG) (<https://data.imf.org/?sk=5804C5E1-0502-4672-BDCD-671BCDC565A9>)

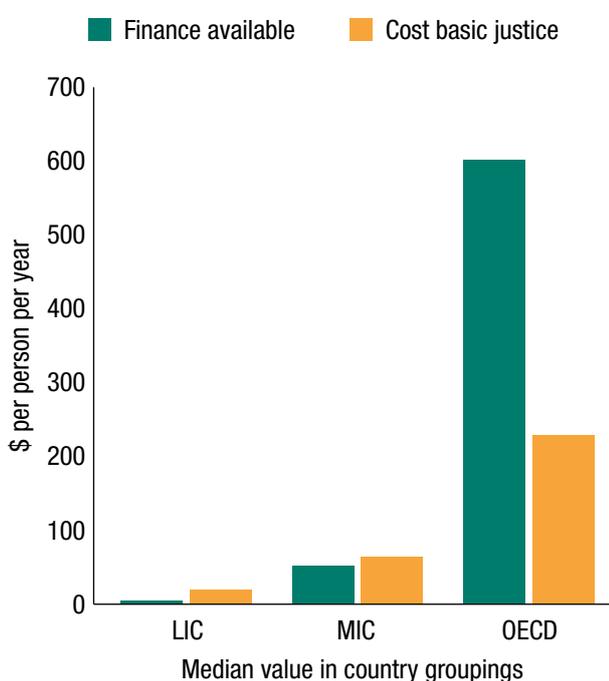
needs such as higher-level courts and specialised units to tackle organised crime and terrorism. However, they may not choose to prioritise basic community-level service provision. In contrast, a typical low-income country has only a quarter of the funding needed.

This analysis also reveals that there are over two billion people who live in countries that cannot afford even half the costs of basic justice services. This group of 53 countries includes all 34 low-income countries, as well as 19 of the 47 lower-middle-income countries (see Annex D for a list of the countries concerned).

We also find that the justice funding challenge in 53 countries is greater than that for health and education: 44 countries are unable to fund half the costs of universal health care and 17 cannot afford half the costs of universal primary and secondary education.

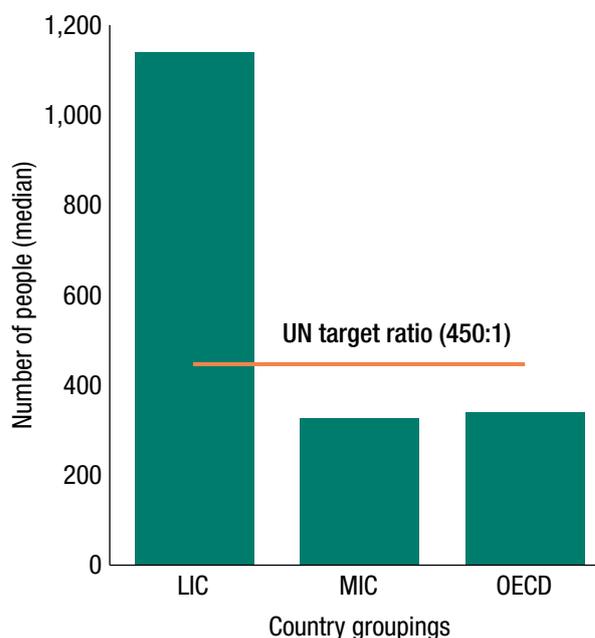
An obvious impact of the lack of funding in the poorest countries is the current disparity in staffing levels in the justice sector. Low-income countries have a serious staffing shortfall, i.e. a gap between what is assumed to be required to provide a basic level of service provision and the current reality. For example, as Figure 4 shows, in a typical low-income country, the number of people per police officer is two and a half times higher than the United Nations (UN) target ratio of 450:1, while middle-income and OECD countries currently have better police to population ratios than this target ratio. Similarly, OECD countries typically have five times more judges than low-income countries. And the poorest countries have nearly three times more prisoners per prison officer than their OECD counterparts (low-income countries also incarcerate far fewer prisoners per person on average,³¹ despite higher rates of violence).³²

Figure 3 Comparison of costs of universal basic justice and domestic funding available for the public safety and order (justice) sector



Source: Authors' calculations

Figure 4 Current ratios of people to police officers



Source: 'UNODC crime data, UNODC statistics and data' (<https://dataunodc.un.org/crime>)

31 While the average (median) rate in OECD countries is 112, there is a wide variation, e.g. 61 in the Netherlands and 655 in the US. Of course, higher rates of imprisonment in low-income countries would not necessarily imply greater justice.

32 The World Justice Project (2018) reported that people in poor countries resort to violence more often than those in OECD countries.

8 The investment case for external funding: costs versus benefits

Even though the justice funding challenge is greater than that for education and health, international aid for justice is much lower than for these other sectors. Over the past 10 years, funding for justice (including police)³³ accounted for less than 2% of all aid flows on average, compared with 13% and 7% for health and education respectively.³⁴ In conflict-affected states, just 3% of development assistance is spent on justice – again, including police (Manuel and Manuel, 2018; OECD, 2016). Further, justice aid typically covered just 1% of the costs of basic justice in low-income countries (apart from one or two exceptions such as Afghanistan), compared with 7% for education and 13% for health services.

And the situation is getting worse: despite the inclusion of justice for the first time as an internationally agreed goal, the share of aid going to this sector has decreased by 40% in the last five years.³⁵

If donor funding for justice is to increase, the case for investing in basic justice needs to be looked at in the context of potential benefits (as is currently being developed by the World Bank and the OECD for the Task Force on Justice). This investment case will build on

previous research that has shown that societies, communities and individuals who have access to justice can improve their economies and livelihoods and their access to services (World Bank, 2011; OECD, 2015; Bennett, 2016; Pleasence, 2016; Barendrecht et al., 2018; Canadian Forum on Civil Justice, 2018; Moy et al., 2019). Dealing appropriately with disputes and grievances can address the root causes of conflict and can contribute to state-building.

Universal access to justice should be a key element in broader conflict-prevention strategies. A recent UN and World Bank (2018) study estimates that a scaled-up system for preventing violent conflict (which could include universal access to basic justice) could save globally between \$5 billion and \$70 billion per year. At an individual level, the inability to access justice can build anger and frustration and impact adversely on health (OECD and Open Society Justice Initiative, 2018; Task Force on Justice, 2019). It is for these reasons that justice has been seen as the ‘enabling’ thread that runs through all 17 SDGs.

Back in 2000, poor people worldwide said that security and justice were among their top concerns (Naraya et al., 2000): without them,

33 OECD DAC legal and judicial services category includes judiciary, police and prisons.

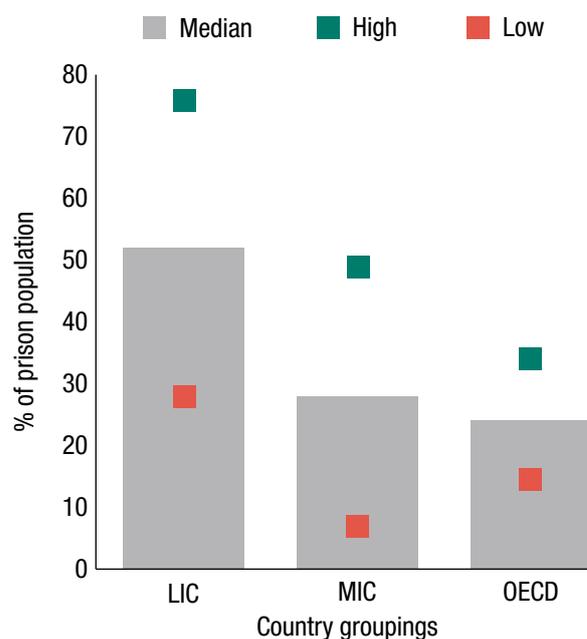
34 OECD DAC Creditor Reporting System (<https://stats.oecd.org/index.aspx?DataSetCode=CRS1>). Total official development assistance disbursements from all official donors for all sectors, average 2008 to 2017. The health figure includes population policies/programmes and reproductive health.

35 OECD DAC Creditor Reporting System (<https://stats.oecd.org/index.aspx?DataSetCode=CRS1>). Total official development assistance disbursements from all official donors for all sectors, average for 2015–2017 compared to 2010–2012.

their ability to improve their lives was severely constrained. And yet it is the poorest and most disadvantaged (including women and children) who face the greatest difficulties in accessing justice (OECD, 2016b; Barendrecht et al., 2018; Diwakar and Shepherd, 2018).

One clear difference between the poorest and richer countries is shown in the SDG16 indicator 16.3.2 – the proportion of unsentenced detainees as a proportion of the overall prison population (see Figure 5). This proportion is much higher in low-income countries – even in the best performing ones. Some middle-income countries also have high rates, as do some high-income and OECD countries. However, the average (median) rate in low-income countries is twice that of both middle-income countries and high-income countries. If all countries matched the median level of OECD countries (24%), then 915,000 pre-trial detainees worldwide would be released.

Figure 5 Unsented detainees as % of overall prison population (SDG 16.3.2)



Source: World Prison Brief (<http://www.prisonstudies.org/>)

9 Conclusions and recommendations

The costing exercise described in this paper is an initial attempt to scope out the scale of the funding gap for a basic justice system, and to look at its affordability. The exercise is far from perfect, and there is clearly scope for a much more detailed and thorough exercise (as has been undertaken in the health and education sectors) that draws on a wider range of data sets, particularly national budgets. It is hoped that this current limited analysis provides the platform for this further research.

In the meantime, the findings give an initial indication of the scale of the challenge. The costs are affordable for OECD and upper-middle-income countries from their internal revenues. So, the issue for these countries is the allocation of resources within the sector, and their willingness to prioritise universal basic justice at the community level. But for all low-income countries, and some lower-middle-income countries, the situation is radically different. Even if they allocated the same proportion of their national budget to justice as OECD countries do, the cost of universal basic justice remains totally unaffordable. In fact, these countries cannot even afford to fund half the estimated minimum costs.

The key message is that there is a significant justice funding gap in low-income countries – the countries with the greatest justice needs. For the most fragile of these countries, the justice deficit carries with it the risks of violence, conflict and reduced state legitimacy. It is in low-income countries that the delivery challenges are greatest,

and where the issue is not just improving access to the system, but rather it is about addressing deficiencies in a system that is frequently geared towards protecting the rich and powerful rather than empowering the poor and vulnerable.

And so, addressing the funding gap is necessary but not sufficient to ensure universal basic justice. Fundamentally, this is a question of political will – and the extent to which national governments are committed to empowering their citizens and enabling them to assert their rights. Where there is political will for change, the challenge for richer countries is whether they are prepared to support poorer countries that want to provide universal basic justice but cannot afford to do so, as they have done in relation to education.³⁶

Based on this rapid costing exercise, our recommendations are twofold:

Recommendation 1

Establish a commission to undertake further analysis on the cost of delivering universal basic justice

A fuller analysis of the costs of universal basic justice is needed, but it would require much more substantive investment than this initial research. Other sectors have seen investing in understanding the costs of delivering basic services as the platform for attracting the funding required to deliver massively scaled-up provision on the ground. For example, the first

³⁶ In the early 2000s, donors collectively promised that no country should be unable to provide universal primary education due to lack of funds. The promise was set out in the Dakar Framework for Action Education for All: Meeting Our Collective Commitments – Adopted by the World Education Forum Dakar, Senegal, 26–28 April 2000 at which 180 countries were present (World Education Forum, 2000). Also explicitly confirmed by all G8 countries in July 2000 (G8 *Communiqué Okinawa 2000*, 2000)

health costing was developed by a WHO global commission, convened for a year in 2001. This initial costing has been significantly developed and refined since, including by a dedicated international task force and large teams of researchers in the World Bank and WHO. It is suggested that an access to justice commission should aim to achieve costings for justice that are at least as good as those used for education and, over time, as good as for health SDGs.

The commission would need to have an inclusive membership and be able to consult broadly to ensure its analysis is as globally relevant as possible, and that lessons are learnt from the experiences of other sectors, especially health. Key tasks for any such commission include: (1) considering and refining the elements of universal basic justice, including the scope to include state institutions involved in providing formal legal documents; (2) developing more robust estimates of costings drawing on a wider set of countries and based on a wider range of justice problems and costings of specific interventions; (3) developing a fuller understanding of what proportion of revenues countries currently allocate to basic justice and other justice functions; (4) costing non-basic justice functions (a similar progression happened with health costing including moving from just a few communicable diseases to inclusion of non-communicable diseases and from care delivered by health posts to include hospitals); (5) reviewing relative financing provision across different sectors; and (6) investigating the impact of user charges (for example, court filing fees) on access. More specific future research priorities are also outlined in Annex B.

Recommendation 2

Design and launch a pilot global justice challenge fund

The scale of the justice funding gap in low-income countries makes attracting external funding vital. To date, donor programmes have tended not to put sustainable universal basic justice delivery as their key objective.³⁷ External funders have experienced little success in their justice programming in terms of delivering scaled-up sustainable change,³⁸ and donors are withdrawing from justice.

With donors withdrawing, investing in developing more robust costings for universal basic justice provision only makes sense if there is a reasonable prospect to reverse the trend, and for the costing exercise to lead to increased funding levels targeted at low-income countries. To achieve this, there is a case to be made not only in terms of cost and cost/benefit, but also in terms of whether external funding really can make a difference, particularly in challenging low-income contexts.

As well as learning from other sectors about costing basic service provision, there are lessons to be learnt about models for attracting significant levels of external funding, and how to use the funds effectively to improve service delivery on the ground. As discussed in section 3, while the justice sector has been seen as a uniquely difficult sector, there are parallels to be drawn with other sectors, including health. One lesson is that to achieve scaled-up improvements in service delivery, it is necessary to move away from ‘old style’ models of donor programming (i.e. relatively short donor programmes designed by donor agencies and delivered by service providers) towards what were in the early 2000s considered to be innovative funding mechanisms (but which now, nearly two decades later, are considered tried and trusted).³⁹ It is therefore

37 See Manuel and Manuel (2018) for fuller analysis of donor programming.

38 As discussed in section 3, donor programming has not tended to have this objective, rather it adopts a short-term programme-based approach. See Manuel and Manuel (2018).

39 In 2018, donors both replenished existing global funds (see, for example, www.theglobalfund.org/en/replenishment/) and created new global funds (see PROBLUE, a new global fund for healthy oceans (SDG 14) launched in October 2018; www.worldbank.org/en/news/press-release/2018/09/26/world-bank-announces-new-global-fund-for-healthy-oceans).

Box 1 A pilot global justice fund

Key aspects of global funds in other sectors is that they:

- focus (at least initially) on a specific issue or need, rather than an entire sector
- are open to funding applications from all – from national governments to small non-governmental organisations
- make funding selections by way of a challenge process, with applications subjected to a rigorous, independent, transparent selection process – based on what works
- have stimulated a process of ‘demand discovery’ driving innovation and promulgating learning
- to be most successful, have independent and inclusive governance arrangements.

Initial design proposals for a pilot global justice fund suggest that the pilot should be limited to two or three low-income countries where national governments and other stakeholders have demonstrated a commitment to deliver universal basic justice, and to undertake the reforms necessary to deliver on this. The overall budget would be in the region of \$30 million.

For more detail see Manuel and Manuel (2018).

proposed that the funding model which in other sectors has been credited with achieving not only increased funding levels but also transformational change in basic service delivery should be piloted in the justice sector, initially on a small scale in just two or three low-income countries (Gartner and Kharas, 2013; Schmidt-Traub and Sachs, 2015; Sachs and Schmidt-Traub, 2017; Schmidt-Traub, 2018a, 2018b). As described in more detail in Manuel and Manuel (2018), establishing such a funding platform would turn current models of donor funding

for justice on their head, with the potential to stimulate country-owned and led approaches, innovation and scaled-up improvements in service delivery. As with other sectors, funding would be limited to applicants (ranging from national governments to small-scale civil society organisations) with a real commitment to deliver – or contribute to delivering – universal basic justice coupled with credible, costed, value-for-money delivery plans. The key aspects of such a global justice fund are outlined in Box 1. The next step would be to undertake detailed design.

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Annex A Education and health costs in low- and middle-income countries

	Education	Health	
Key paper	UNESCO (2015)	Jamison et al. (2018)	Stenberg et al. (2017)
Costing (\$ per person) (median)	41	76	112 (ambitious scenario, total health expenditure)
Coverage/ methodology	Universal primary and secondary education. Majority of costs are for teachers' salaries based on maximum class size of 40 pupils. Pay linked to ratio to GDP per person in 50% of countries that pay the most. Assumes 25% of recurrent costs needed to improve quality – textbooks, training and school management.	Essential universal health care, covering 218 health interventions within 21 packages (e.g. for maternal, child, HIV, cancer, surgery, etc). Estimates based on representative datasets for unit costs for each package, with total adjusted for duplication. Includes service delivery costs (personnel, drugs and equipment) and health systems costs (building costs, laboratories, admin and surveillance). Covers five platforms: public health mass media; community services; health centres; first level hospitals; referral hospitals.	Universal health care, covering all SDG 3 targets and 187 health interventions. Bottom up 'inputs-based approach'. Includes health system strengthening strategies (such as target levels of health workers). Covers four delivery platforms providing information, counselling, preventative commodities, screening, diagnosis, treatment and follow-up. Also covers health financing and governance-related functions. Three quarters of additional costs are for additional health workers and facilities. Health worker ratios to total population rise to current upper-middle-income (UMIC) levels (which are half OECD levels).
Key gaps	Includes pre-primary but not upper secondary or tertiary education, skills for work or adult literacy.	'Full' coverage defined as 80% (as 100% judged unrealistic by 2030). Only covers interventions that provide value for money and are implementable.	'Full' coverage mostly defined as 95% (but only 60% for non-communicable diseases as many HICs are yet to achieve this level).
Previous papers	Education Policy and Data Center and UNESCO (2010) covered fewer countries and just lower secondary education.	WHO (2001) [\$34 per person; equivalent to \$50 at 2014 prices]; Taskforce on Innovative International Financing for Health (2009) [\$54 per person, updated by Chatham House expert group to \$86 in 2014 (Røttingen et al., 2014)]; Lancet Commission on Investing in Health (Jamison et al., 2013). None of these covered non-communicable diseases (e.g. cancer; tobacco-related diseases and mental health) or epidemic preparedness.	
Other comments	Assumes one classroom per teacher and funding to reach children from marginalised households.	Also identifies 71 intersectoral policies (including taxes and information).	Separately estimates other health-related SDG interventions (e.g. water, sanitation and hygiene).

Annex B Universal basic justice costs – initial estimates

Component	Costs per person per year \$ (median) in LICs/MICs/HICs and OECD countries	Methodology/assumptions/comments/future research priorities
Community-level legal advice, assistance and empowerment		
Basic legal assistance (paralegal support)	LIC 0.4 MIC 2.5 HIC 5.0 OECD 5.0	See LDP Basic Legal Assistance study for details (LDP, 2015) (funded by Open Society Foundations and IDRC). Future research priorities include: broaden scope to wider set of countries (recent programme in Argentina (HIC) is being scaled up to cover the country at very low cost of just \$1.3 per person); assess incidence of legal needs (which also impacts on other costs itemised below); review the need for legal aid (especially for serious crime) and assess extent to which these costs may have been underestimated given they were (a) based on scaling-up existing programmes (which may not cover full spectrum of legal needs) and (b) focused on front line staff (and so may not fully capture broader supervisory and support costs needed to cross multiple institutional levels to improve basic administrative systems through which most cases are handled).
Less formal legal problem and dispute resolution mechanisms		
Traditional/religious/non-formal dispute resolution mechanism	LIC 0.5 MIC 2.0 HIC 6.0 OECD 8.0	Much of these costs are currently funded by individuals (see out-of-pocket payments below). Examples include Uganda local council courts, Sierra Leone chiefs and Kenya chiefs/Khadi courts. In the absence of costing information, the current assumption is that publicly funded costs are at least the same as those for the lowest tier of judges (see formal state institutions below). Future research priorities include: assess proportion of time local government officials/traditional leaders spend on justice issues; research levels of remuneration and costings for more affordable non-formal dispute mechanisms; develop costings for capacity-building and continuous training, management and supervision.
Formal state institutions		
'Primary' courts, i.e. lowest tier civil and criminal courts with legally trained judges	LIC 0.5 MIC 2.0 HIC 6.0 OECD 8.0	Lowest tier judges: the basic justice standard assumes five judges per 100,000 population (currently eight in UMICs and 14 in HICs). Lowest tier judge salaries: three times that of junior police officers (based on Uganda ratio in 2017/2018; similar ratio in UK). Non-wage recurrent costs: one third of wage bill. Capital spend: additional 5% of total wage and non-wage recurrent expenditure (Uganda 3%) Future research priorities include: review basic justice standard salary ratios and non-wage costs through budget analysis in a wider range of countries; consider role of court fees and review impact on access by the poorest; develop costings for capacity building and continuous training, management and supervision.

Component	Costs per person per year \$ (median) in LICs/MICs/HICs and OECD countries	Methodology/assumptions/comments/future research priorities
Police (community-oriented)	LIC 10 MIC 38 HIC 120 OECD 150	<p>Police numbers: the basic justice standard is based on the UN target ratio for police to population of one officer for 450 people. The current median ratio in LICs is one for 1,140 people, 327 in MICs and 340 in OECD countries.</p> <p>Police salaries: same as teachers' salaries on the basis that the job requires equivalent skills and education, and the ability to direct and take responsibility. This is the practice in Uganda and the UK. Salaries are linked to GDP per person as for the UNESCO approach for teachers. The UNESCO approach assumes higher ratios need to be paid in poorer countries (4x in LICs; 3x in lower-middle-income (LMICs); 2x in UMICs and 1x in HICs/OECD countries). These ratios are in line with actual rates of pay in 72 LICs, MICs and HICs.</p> <p>Non-wage recurrent costs: 50% of wage bill (Uganda two thirds – but this may include allowances that would ideally be part of salary). This is sufficient to cover the cost of uniforms (three per officer per year at \$120 per uniform) and 200 litres of fuel per month per police vehicle (C. Walker, personal communication 2017).</p> <p>Capital spend: 20% of total wage and non-wage recurrent expenditure (Uganda 31%). This would be sufficient to ensure a minimum of one vehicle for every 20 police officers, based on costs of \$40,000 for a basic Toyota Hilux replaced every 3 years (ibid.). This would also cover radios (\$500 per officer), computers (one per station) and typewriters/computers.</p> <p>Future research priorities include: review UN police:population ratio (including potential for more efficient approaches); investigate police/teacher salary ratios and police salary/non-wage ratios in a much wider range of countries; develop costings for training, capacity-building, management and supervision.</p>
Public prosecutors	LIC 0.5 MIC 2.0 HIC 7.0 OECD 8.0	<p>Assumed to be the same as the lowest tier of magistrates.</p> <p>Future research priorities include: develop specific costing model; develop costings for training, capacity-building, management and supervision.</p>
Probation/juvenile/family justice services	For future research	Future research priorities include: develop specific costing model for these services.
Prisons	LIC 1.5 MIC 6.0 HIC 18.0 OECD 23.0	<p>Prisoner numbers: the basic justice standard is assumed to be 100 prisoners per 100,000 population. In LICs the current median is 60, LMICs is 117, UMICs is 198 and HICs is 169. There is wide variation even within HICs – the Netherlands is 61 per 100,000 population while the UK is 359 and the US is 655.</p> <p>Prison staff numbers: three prisoners to one prison staff member. The current median ratio is 7.5:1 in LICs and 2:1 in HICs (according to World Prison Brief numbers, www.prisonstudies.org/).</p> <p>Prison staff salaries: same as police (as is the case in Uganda).</p> <p>Non-wage recurrent costs: the greater of either 50% of wage bill or the cost of prison food based on an extreme poverty line of \$1.90/day at purchasing power parity exchange rate.</p> <p>Capital spend: 20% of total wage and non-wage recurrent costs (Uganda 23%).</p> <p>Future research priorities include: review prisoner:population ratio; investigate police/prison officer salary ratios and prison officer salary/non-wage ratios in a much wider range of countries; develop costings for training, capacity-building, management and supervision; develop costings for different correctional approaches in different contexts.</p>

Component	Costs per person per year \$ (median) in LICs/MICs/ HICs and OECD countries	Methodology/assumptions/comments/future research priorities
Improving accountability of formal state institutions		
Statutory police oversight mechanism	LIC 1.5 MIC 1.5 HIC 2.5 OECD 3.0	Statutory oversight includes both internal and external oversight (parliamentary, judiciary, independent generalist organisations such as Human Rights Commission, Ombudsman and Auditor General) and independent specialist organisations (such as independent police oversight authorities and independent police investigative authorities).
Community monitoring of police, prosecution and lowest tier judges		The Cordaid community monitoring verification programme in eastern DRC uses three methods: technical checklist of processes, survey of actual users and household surveys. ODI/Cordaid ¹ calculations cost the programme at \$3 per person benefiting (assuming each police officer covers 450 people). The basic justice standard assumes a cost of \$1.5 per person to allow some potential for economies of scale. For richer countries the assumed cost is 2% of total police costs. UK ratio = 0.6%, for an independent office of police complaints. Future research priorities include: substantive review of possible models and identification of low-cost effective options.
Programme to improve judicial accountability	For future research	Future research priorities include: develop specific costing model, including by drawing on Columbia Law School and Clooney Foundation for Justice joint initiative (https://cfj.org/project/trialwatch/), Sierra Leone Campaign for Good Governance (http://cggsi.org/) and other recent initiatives.
Out-of-pocket expenses (currently paid by individuals for top-five legal needs)		
Land	LIC 1.7 MIC 2.2	The basic justice standard is based on median cost from HiiL's published and unpublished legal surveys for eight LICs and MICs (Bangladesh, Jordan, Lebanon, Mali, Nigeria, Tunisia, Uganda and Ukraine – for details see Annex C). The cost is a weighted average based on HiiL's assumed desirable best use of the four possible tracks for resolution: info/advice (35%); mediation (35%); local authority/informal (25%) and formal courts (5%). Median incidence rate: 2.5% of population in LICs/LMICs report having a land issue once a year. See Annex C for full details.
Family	LIC 0.9 MIC 1.7	HiiL as above. 1.7% of population report having a family issue once a year.
Neighbour	LIC 0.5 MIC 2.0	HiiL as above. 1.6% of population report having a neighbour issue once a year.
Employment	LIC 0.4 MIC 2.3	HiiL as above. 1.0% of population report having an employment issue once a year.
Criminal justice	LIC 1.9 MIC 1.9	HiiL as above. There may be an element of double counting as costs currently paid by individuals may be less if police salaries were increased, their non-wage funding requirements were fully met and if courts were better funded (as provided above). 2.4% of population report having a crime issue once a year.
Total out-of-pocket expenses	LIC 5 MIC 10 HIC 20 OECD 20	HIC/OECD costs are conservatively assumed to be just twice those of MICs (the HIC/OECD median GDP per person is 10 times larger). Total incidence rate in LICs/LMICs for any need is 9.2%. Future research priorities include: extending and deepening the analysis to a wider group of countries to enable better understanding of the incidence of legal needs and out-of-pocket expenses (including whether they are legitimate or illegitimate charges); and research into the extent to which services should be free (at least for the poorest).

1 Figures are authors' calculations based on unpublished figures provided by Nikki de Zwaan of Cordaid (December 2018).

Component	Costs per person per year \$ (median) in LICs/MICs/ HICs and OECD countries	Methodology/assumptions/comments/future research priorities
Total costs – all components		
Total costs \$ per person (minimum estimate)	LIC 20 MIC 64 HIC 190 OECD 230	Future overall research priorities include: developing different costing models for specific contexts (e.g. post-conflict and fragile states) and for targeting specific outcomes (e.g. violence against women and girls); reviewing the impact of user fees on access, particularly in LICs.
Total costs % of GDP	LIC 3.3 MIC 1.4 HIC 0.6 OECD 0.6	Current spend as % of GDP: LIC n/a MIC 2.1 (data only available for a quarter of MICs) HIC 1.7 OECD 1.7
Total costs % of maximum potential revenue	LIC 17.0 MIC 5.2 HIC 1.7 OECD 1.6	Current spend as % of current revenue: LIC n/a MIC 6.7 (data only available for a quarter of MICs) HIC 4.6 OECD 4.3
Total costs % of current revenue	LIC 16.8 MIC 5.0 HIC 1.9 OECD 1.5	

Annex C The HiiL's measure of costs of justice

Annex written by Prof. Dr Maurits Barendrecht, Director of Research (maurits.barendrecht@HiiL.org) and Dr Rodrigo Nunez, Justice Sector Adviser (rodrigo.nunez@HiiL.org).

HiiL has conducted the Justice Needs and Satisfaction (JNS) survey in 15 countries since 2013. This covers the justice needs of citizens in four continents, across countries with different levels of development.

Countries and year of data collection

Country	Year	Country	Year
Bangladesh	2018	Morocco	2018
Fiji	2018	Netherlands	2013
Indonesia	2014	Nigeria	2018
Jordan	2017	Tunisia	2017
Kenya	2017	United Arab Emirates	2016
Lebanon	2017	Uganda	2016
Mali (first wave)	2014	Ukraine	2016
Mali (second wave)	2018	Yemen	2014

The methodology for JNS surveys is based on the legal needs and justiciable events research tradition (Coumarelos et al., 2012; Pleasence et al., 2013). HiiL's main contributions to this line of data collection about user needs are: the standardisation of a methodology which allows for cross-country comparison, and much more detailed assessment of access to justice (procedural justice, outcome justice and costs of access to justice), following a methodology that was developed at Tilburg University (Gramatikov et al., 2010).

About measuring costs of justice

One of the questions that has been constantly present throughout the various iterations of the tool relates to the monetary costs of resolving legal problems. Respondents who have taken any action to resolve a problem are asked how much money, in local currency at the moment of the interview, they have spent in the dispute resolution process. This is then used as a measure of out-of-pocket funds associated with resolving legal problems.

During the training of enumerators prior to being deployed in the field, HiiL emphasises that this question is supposed to capture expenses directly related to resolving the problem, not about the problem itself. Examples of these expenses are: attorney and court fees; transportation to courts or where mediation occurs; material needed to collect and preserve evidence; lodgings in case mediation/arbitration occurs in a different city, etc.

Because people have imperfect memories and we ask about processes that might have started as far back as five years before interview, there is some noise in the measure. One way to remove some of this is to truncate the responses to the 90th percentile. Any value that is greater than the one in the 90th percentile is converted to match it.

Additionally, besides poor recall, people may also include in their answer expenses that do not properly relate to the dispute resolution process. This may include, for instance, bribes or other illegal payments. As such, there is some uncertainty that needs to be taken into account when analysing the data.

A proposal for estimating costs of justice

The estimate of average costs per person is based on several facts and assumptions. Facts come from the findings of HiiL's trend report (Barendrecht et al., 2018), which analyses the justice journeys of more than 70,000 people around the world. Assumptions relate to how HiiL expects people seeking access to justice to behave if there were full access to justice.

Specifically, the trend report shows how people currently try to get their legal problems resolved. It goes down to basic strategies found all over the world, including:

- direct negotiation with the other party with information and advice
- mediation/arbitration
- court ruling
- rule/resolution from an informal justice provider.

All these strategies have a certain market share of the occurring disputes in a year. On average, we find resolution occurs in the following proportions:

- direct negotiation with the other party with information and advice: 7%
- mediation/arbitration: 4%
- court ruling: 5%
- ruling/resolution from an informal justice provider or authority: 11%

HiiL's data allow the extrapolation of the number of cases of each legal problem category, per year, to enable the calculation of the number of cases per 100,000 people.

The survey also shows how much, on average, a person spends in the procedure, by resolution type and problem category. We multiplied the number of cases per resolution type by the average costs of procedure, to obtain the average cost of the status quo, per 100,000 people.

The assumption is that, if there were full access to justice, the different resolution types would increase their market share, resolving all the problems. This leads to the following percentages:

- direct negotiation with the other party with information and advice: 35%
- mediation/arbitration: 35%
- court ruling: 5%¹
- ruling/resolution from an informal justice provider or authority: 25%.

Therefore, HiiL multiplies the original average cost previously obtained by the eventual new market share, which leads to the estimated costs for full access to justice per person.

This proposal has the advantage of being anchored in actual data and behaviours obtained in several countries around the world. It also takes into account the different paths to resolution: the

¹ Due to current inefficiencies in the delivery of fair solutions, if legal services and court services were to be scaled up and were to use the latest technologies, costs might be lower than assumed.

formal (public) sector, informal (traditional) sector, negotiation, etc. This reflects the fact that there is no single actor monopolising access to justice.

The data provided is only a first approximation. It relies on survey data on costs, which people cannot always recall in a reliable way. The assumptions related to market share under full access to justice have to be tested. The number of data points per country for each type of legal problem and each type of resolution/ adjudication is limited. In the survey data, few people mention money as the main barrier to access to justice, suggesting that they might be willing to spend more if services were more transparent and/or more effective.

For more information, data reports and access to the data, visit www.HiiL.org and <https://justice-dashboard.com>.

Annex D Countries that cannot afford half the costs of primary justice

All low-income countries (countries least able to fund costs listed first)

Somalia

Central African Republic

Sierra Leone

Chad

Burundi

Madagascar

Democratic Republic of the Congo

Afghanistan

Eritrea

Tanzania

Uganda

Niger

Haiti

Mali

Guinea-Bissau

Burkina Faso

Malawi

The Gambia

Democratic People's Republic of Korea

Comoros

Rwanda

Guinea

Liberia

Ethiopia

Benin

Mozambique

Togo

All low-income countries (countries least able to fund costs listed first) (cont.)

South Sudan

Nepal

Zimbabwe

Senegal

Syrian Arab Republic

Yemen

Tajikistan

Lower-middle-income countries (countries least able to fund costs listed first)

Bangladesh

Cambodia

Sudan

Pakistan

Nigeria

Myanmar

Papua New Guinea

Kenya

Zambia

Ghana

Nicaragua

Sri Lanka

São Tomé and Príncipe

Cameroon

Indonesia

Côte d'Ivoire

Lao People's Democratic Republic.

Egypt

Viet Nam



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