



FOREWORD

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Dear Colleagues,

Five months have flown by since the stimulating ILAG conference held virtually at Sydney New South Wales with the tremendous assistance of Legal Aid New South Wales. ILAG is enormously indebted to Brendan, Gina and Wayne (below) for all their help with the conference, and not least for holding all the presentations, bios, national papers and conference papers on the Legal Aid NSW website since then. <https://www.legalaid.nsw.gov.au/about-us/international-legal-aid-conference-2021>



Although relatively few of those attending were able to complete the feedback questionnaire – it is clear from Ms Eileen Ritchie's summary in this Newsletter that those who responded were highly positive about the conference, its content and organisation. The Newsletter contains updates from two other supra-national access to justice initiatives – the Access to Justice in the Americas project and the Global Access to Justice Project. Roger Smith updates us on Unbundling in a technological

era and we hear from Japan about how they have delivered access to justice in the COVID era. Dr Agne Limante reports on her innovative EU project on user friendly legal aid for children (the final Roundtable is on the 17th November) and one of the earliest ILAG members, Jon Johnsen, alerts us to the fact that the Netherlands and Scotland are not alone in having recent reform reviews of Legal Aid – Norway had its review in 2020. Glasgow being the home of COP-26, maybe our next newsletter will have something on global warming and access to justice. As ever thanks are due to our ever-industrious Newsletter Editor, Peter van den Biggelaar and Paul Ferrie our on-line administrator.

Ever best wish,

Alan

THE ACCESS TO JUSTICE IN THE AMERICAS E-BOOK

VINÍCIUS ALVES BARRETO DA SILVA

PH.D. CANDIDATE AT THE UNIVERSITY OF OTTAWA & EDITOR-IN-CHIEF, ACCESS TO JUSTICE IN THE AMERICAS



The Access to Justice in the Americas Project creates room for discussing the internationalization of access to justice in a very diverse set of countries, languages, and legal cultures. It is a multicultural effort that stems from a network of activists, professors, researchers, lawyers, and public defenders across the Americas who have relevant insights about increasing socio-legal responses to the needs of groups in situations of vulnerability with their participation, based on field experience. As a project, our values include attention to geographic and culture diversity, the presence of articles in each of the four languages, support for critical and scientific analyses that make use of a consistent theoretical framework and accurate data, respect for the blind peer review model, and the protection and promotion of the well-being of populations in vulnerable situations. Our vision is to make this project a reference for high-quality intercultural and inter-institutional dialogue in the field of access to justice and judicial politics in the Americas. Our mission is to promote publications and meeting points for actors from different regions and languages horizontally and



constructively. It also involves the promotion of legal approaches based on concrete experiences, data, or public policies in order to overcome the dominance of traditional legal dogmatism.

We are aware that the internationalization of access to justice is not led by resourceful clients. Poverty law and legal disputes within the access-to-justice framework are mostly local. Although there exists a diverse global community of scholars dedicated to this subject, people dealing with access to justice in everyday life are primarily local and, when attempting to meet the needs of vulnerable persons in their community, their methods are usually framed by local legal approaches and contexts, being mainly dependent on national languages. Promoting a continental conversation thus proves challenging.

This means that few forces are driving a weak internationalization, and the most relevant impulses can only be applied by lawyers and activists in a counter-systemic effort. Since this effort does not seem to be of natural professional interest due to the prevalence of local affairs, it must be of a political and economic one. Internationalization has always been a strategy to get attention to a cause. In many countries, the government's budget for access-to-justice programs is permanently under threat, limiting the capacity to expand services. The solidarity of respected international entities and the ability to expose governments' and corporations' detrimental behaviour is increasingly relevant in an interconnected world in order to exert pressure locally. Internationalization can also be a strategy to improve the accountability of the justice system against corporatist tendencies. Moreover, the exchange of governance

innovations, assessment tools, and methodologies may help make programs more effective and cost-efficient. Notwithstanding these benefits, the central point is to leverage community agents rooted in local contexts by providing them with the resources that a more internationalized field can offer: the recognition of their struggles, a more qualified and diverse audience for their claims, networking and, thus, power to pursue their local goals. This is the idea behind the first [Access to Justice in the Americas book](#).

The perspective we intend to foster stems from a socio-legal perspective that tries to overcome social hierarchies between lawyers, researchers, and vulnerable persons. We aim to exchange local discussions arising from those actors' interactions to understand the socio-political and economic challenges to access to justice. In this way, we can learn valuable lessons and build solidarity between similar struggles. To achieve this goal, we publish content in the four main languages of the continent (English, French, Portuguese and Spanish) and we committed to translating the extended abstracts into these same languages. This method should attract content who tell of local experiences, while still allowing the exchange of discussions, methodologies, and conclusions with other local actors from distant jurisdictions.

Offering a stage for these local experiences is a little push for lawyers, public defenders, social organizations, and local researchers to scientifically elaborate upon their cases and contexts in efforts to streamline helpful knowledge for their work. This is the aim of the following chapters in this first edition: Ana Maria Blanco's paper describing an itinerant project involving many judicial institutions to meet legal needs in Argentina's countryside; Abraham Blanco and Claudia Jaimes's assessment of initiatives carried out by the Venezuelan Public Defenders' Office (PDO) to provide access to justice for the deaf by considering input from community leadership; and Cleber Alves's description of successful interactions between public defenders and vulnerable people where collective problems caused by considering input from community leadership in Brazil were solved. These cases bring up the recent tendency to discuss the PDO model with regards to its ability to be open for social participation in designing and evaluating access-to-justice initiatives. Regarding the Anglo-European tradition, Brandon Stewart and Ab Currie present a program dedicated to providing legal advice to social service providers in Canada, thus decreasing the likelihood of an escalation of clients' legal problems. More interestingly though, these are experiences that not only inspire projects within the same legal approach but also shed light on similar needs in distant jurisdictions.

We maintain that international discussion to strengthen local struggles and increase visibility is a common and effective strategy. In demonstration of this strategy, Janeson Oliveira and Angelo Silva present the issue of the closure of courts throughout vulnerable regions in Brazil and the effects it has on local social-economic development. Fedora Mathieu demonstrates the barriers imposed by the Canadian refugee system to Haitian women under gender-based violence. Gloria Song and Melisa Handl address a similar situation where they question how formalistic and superficial the Canadian immigration and refugee system is by examining their denial of refugee claims concerning Guyanese women targeted by domestic violence. Furthermore, Melina Fachin and Sandra Barwinski criticize conflicting applications of the Maria da Penha Act by Brazilian courts, which has negatively affected legal efforts to prevent domestic violence against women. Academic papers like these play a role in denouncing the misuse of the law in denying access to justice to vulnerable people, particularly women.

The project is also concerned with the implementation and development of the different models of access to justice, especially with regards to their impact in the broader social

context. With this concern in mind, Patricia Magno draws upon the activist tradition of public defenders to discuss institutional policies to enforce the PDO's emancipatory role in post-colonial societies like Brazil. Meanwhile, Camilo Zulefatto, Ianara Cipriano, and Mauricio Leme assess Brazilian PDOs' transparency levels and the operational levels of participatory mechanisms within the PDO, like the ombudsperson office. These papers yield insights about the PDO's institutional design while assessing its limitations and capabilities to bear ever-increasing demands for access to justice.

Like the United States, Colombia does not have a specific access-to-justice policy, primarily relying on pro-bono lawyers. In this context, access to justice is closely connected with transitional justice — carried out by the peace agreement between the government and the FARC-EP — which is the most recent constitutional change in the country. Luisa Lozano and Jesus Sanabria describe the challenges to accomplish the agreement's promises considering political, geographic, and social aspects. In line with legal pluralism and Indigenous rights' studies, Marina de Almeida investigates how Indigenous communities in Mexico utilize their traditional legal norms in combination with lawsuits to preserve their autonomy against development ventures that are disastrous for the environment. Transitional justice, legal pluralism, and Indigenous rights are examples of contemporary input to the access to justice movement that has yet to be integrated into access to justice approaches.

Simone Alvarez Lima also extends the limits of the law to defend the recognition of new rights and subjects. Her paper advocates for parents' right to legally claim a change of name for their deceased, transgender child. These efforts represent the last frontiers as minorities — victims of war and conflict, Indigenous peoples, and transgender people — have been amongst the most excluded from the justice system. A distinct approach is employed by Bernard Reis Alo. His paper reflects on the tough debate held in the Brazilian Constituent Assembly that resulted in the selection of the public defenders' model and how this change impacted the distribution of social-political influence in the legal field. In turn, Rodolfo Noronha and co-authors provide an in-depth analysis of the politics behind the election of judges at the Rio de Janeiro Court of Justice, contesting the popular opinion that these elections are signs of openness and democratization. These papers raise relevant questions about corporatism, privilege, and the reproduction of hierarchies in the justice system. The project addresses those topics under the concept of judicial politics, which includes political preferences and different groups disputing the control of a judicial institution. The discussion also explores political disputes over training, budget management, the relationship between the government and civil society, and difficulties defining institutional priorities.

Furthermore, facing the complexity of these concerns requires knowledge from other areas to aid in developing public policies. In this respect, Rola Koubeissy and Geneviève Audet use Paulo Freire's critical approach and pedagogy to assess how teachers promote the integration of minority students in multi-ethnic schools in Quebec. They consider important questions about racial and social inequality and shared awareness to confront these problems in a non-judicial setting. In his article, Jérémy Boulanger Bonnelly compares access to justice with access to healthcare to propose innovations that may impact the range, quality, and professionalism of future measures, as well as prevent bottlenecks that can cause systemic disfunction in the justice system. Such a comparison seems even more relevant nowadays when the health system has been under stress because of the pandemic. After all, what can institutions devoted to access to justice learn from an overwhelmed healthcare system about bearing ever-increasing demands? Finally, access to justice must embrace input from

international law, theory of justice, and law and development as increased access to justice implies the effectiveness of the rule of law. In line with this discussion, Adriane Seixas describes the implementation of the United Nations' Sustainable Development Goals related to access to justice in Brazil. Those papers prove how transdisciplinary the subject can be.

The book can be downloaded for free on www.accesstojusticeamericas.org. We are happy to get in touch and learn from your experience in your native language and translate it to the world.

ONLINE AND FACE-TO-FACE ADVICE UNDER COVID-19 IN JAPAN

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1. Introduction

The International Legal Aid Group Conference in Sydney in 2021 discussed the issue of the online and face-to-face advice under the COVID-19. Legal Aid New South Wales showed the following sharp contrast on the evaluation of online advice at session two "Approaches to legal aid in NSW" held on 22 June 2021.

Positive: "I was much appreciative of the phone session, as it's an almost 400km trip to an office - Client"

Negative: "Phone was difficult due to limited phone reception and inability to gauge capacity and understanding. Access to services has decreased. Ability to do deep engagement is compromised. Enforcement of fines in remote communities disproportionately affects Aboriginal clients."

Japan is also wondering how we should evaluate the online and face-to-face advice both under and post the pandemic. In this article, authors describe how pandemic hit Japan, how legal aid organization introduced the online advice, how the online and face-to-face advice proceeded as the wave of pandemic fluctuated from the first wave to fifth wave, to what extent online advice was relied on under the pandemic, how managing staff at the legal advice counter evaluated the newly introduced online advice, and where we should place the online advice in the whole picture of legal advice.

2. Before the Pandemic

Japan Legal Support Center (JLSC), which is a public corporation providing legal aid established in 2006 with funding from the national government provides face-to-face legal advice for low-income person free of charge at either local offices of JLSC or the lawyer's offices contracted by JLSC. JLSC have provided about 310,000 legal advice per year (about 26,000 per month)

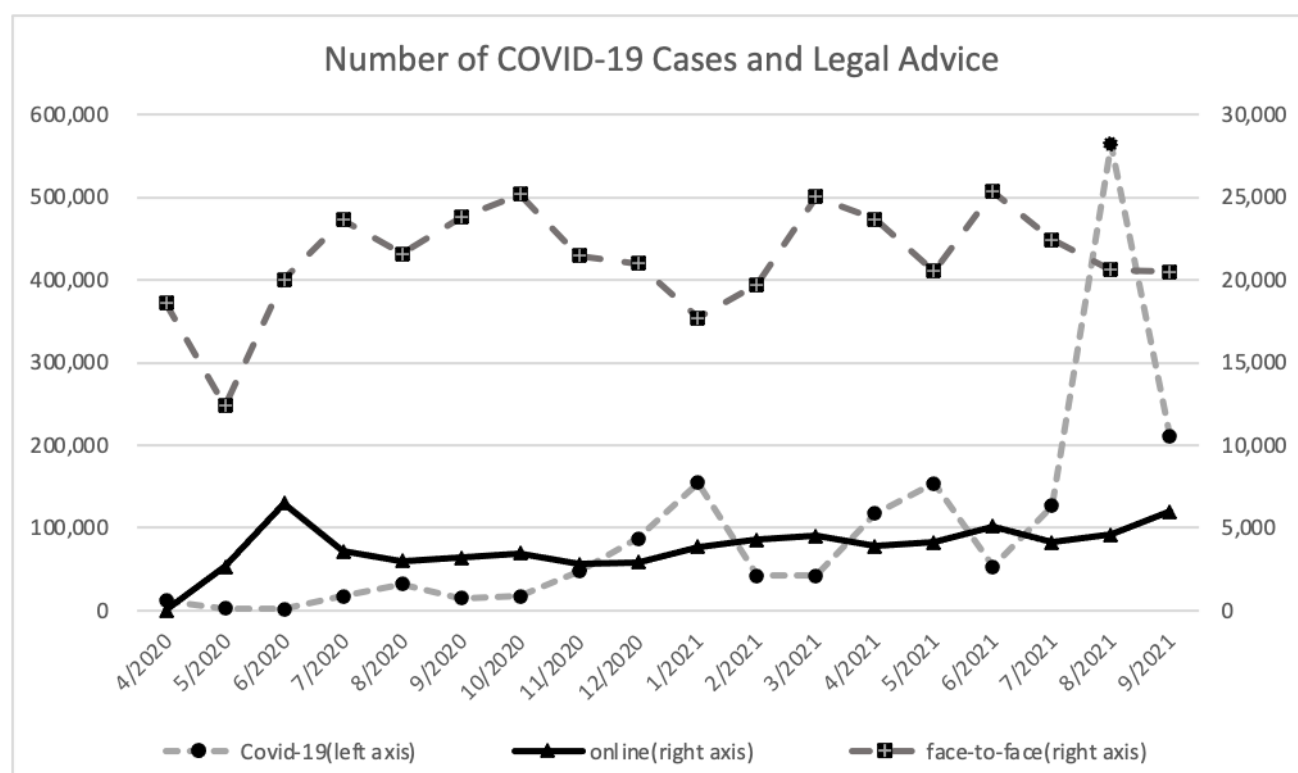
nationwide in recent years before the pandemic. Online advice was not introduced until the pandemic hit. Rather, online had been avoided because important facts are likely to be missing or misunderstandings likely to arise due to the lack of face-to-face communication.

3. Arrival of the Pandemic and Introduction of Online Advice – Not Mandatory Use of Online but Combination of Face-to-face and Online

Japan has experienced five waves so far. The first wave peaked in April 2020. In response to the first wave, JLSC revised the regulation that introduces the online advice in addition to the face-to-face and have it approved by the Minister of Justice on 1 May 2020 and it started on 11 May 2020. Points to note is that forced lockdown with enforcement of fines has not been introduced in Japan so far. Instead, voluntary stay-at-home request to refrain from non-essential and no-urgent outings was introduced, which means face-to-face advice is continuously available even under the pandemic when people are facing legal problems. Therefore, people who are facing legal problems can choose either face-to-face or online at their own will although their choice are affected to some extent by the safety and health policy of each local office of JLSC or the lawyer's office.

4. Wave of Pandemic and Tendency to Increase / Not Increase the Online Advice

When people facing legal problems can choose either face-to-face or online at their own will, do they likely to choose online in proportion to the increase of positive cases? The following line graph shows the number of positive cases of COVID-19 (left axis) and the number of face-to-face advices (right axis), the number of online advices (right axis) per month from April 2020 to September 2021.



5. Preliminary Findings

Japan has experienced five waves so far. The first wave peaked in April 2020 and JLSC introduced the online advice next month in May 2020. The second wave peaked in August 2020. The third wave peaked in January 2021. The fourth wave peaked in May 2021. The most serious fifth wave peaked in August 2021. As above the line graph shows, the number of online advices reached the highest peak of 6,493 (right axis) in June 2020 immediately after the first wave. This is assumed that people feared most at that time in the face of the unknown virus and showed the tendency to rush to online advice. However, it seems people soon realized that online advice would be second-choice, that is, they may go to online under the revised regulation, but most do not. The number of online advices relatively remained sluggish between 3,000 and 5,000 (right axis) even under the attack of the second, third and fourth wave. However, since fifth wave reached the unprecedented highest peak of nearly 600,000 positive cases (left axis) in August 2021, it is assumed that people showed the tendency but slight one to choose online instead of face-to-face. Generally speaking, the tendency to choose face-to-face had been stable in Japan through first wave to fifth wave.

6. How Managing Staff at the Legal Advice Counter Evaluated the Newly Introduced Online Advice

According to the interview from the managing staff at the legal advice counter, people facing legal problems showed the general tendency to choose face-to-face advice instead of online even under the pandemic when they were offered an option to choose one. Exceptions were metropolitan Tokyo office and very few limited offices. Because the waiting room is so small and always crowded in the metropolitan Tokyo office that practicing social distancing is difficult, the managing staff at the legal advice counter took a strategic approach to induce to the online advice consciously instead of face-to-face.

7. Preliminary Conclusion

Since forced lockdown with enforcement has not been introduced in Japan so far, people facing legal problems can choose either online or face-to-face. When they were offered an option to choose one for the first time, people began to choose online in the face of the first wave of the pandemic in April 2020 for fear of the unknown virus. However, after the first wave was over, people resisted change to shift from face-to-face to online. The second, the third, the fourth, and the most serious fifth wave hit Japan consecutively, but people have showed the general tendency to choose face-to-face consistently although the number of online slightly increased during the severe fifth wave. Preliminary conclusions are that people facing legal problems may go to convenient online advice nowadays, but most do not even under the pandemic. Rather many actually resist change to shift to online. The future issue in Japan is how stability to remain face-to-face and global inevitable trend to change into cost-efficient online can coexist after the post-pandemic austerity era.

NORWAY'S 2020 PROPOSAL FOR LEGAL AID REFORM

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MANDATE

In October 2018, a Norwegian non-socialist government appointed a reform committee and mandated it to deliver a reasoned proposal for a new legal aid act. The mandate pointed to some main reasons that justified a reform:

- Income limits had not been adjusted since 2009 and did not deviate significantly from the 1997 limits. Inflation and increasing income levels meant that the share of the population that qualified had diminished and did not any longer secure the poorer part of the population sufficient access to justice for legal problems of high welfare importance.
- More legalization and increasing social and economic differences in society emphasized the need to map people's legal need and describe methods for reaching individuals with legal problems of high welfare importance.
- Legal aid did not reach people sufficiently well at early stages of legal conflicts anymore. Solutions on earlier stages would save resources and produce better solutions.
- The present division of the responsibility for costs among the different actors did not produce sufficient incentives for cost efficiency. The commission should thoroughly consider all measures that might secure a more targeted, just and cost-effective use of the means.

Further and more detailed tasks were spelled out in the mandate. At least one of the proposals should not increase the total public spending on legal aid. Proposals that meant cost increase should be spelled out in detail.

In May 2020 the Committee delivered its report. (NOU 2020:5 *Likhet for loven* (Norwegian Public Reports 2020 no 5: *Equality before the law*)). A deep disagreement between a majority of six and a minority of one member appears.

MAJORITY PROPOSAL

To the *majority*, the costs of the present scheme seems far too high, and fear of costs dominates the selection of reforms the majority discusses and hampers its will to consider other methods for delivering legal aid than the traditional judicare scheme. Government ought to continue with buying legal services from private practitioners for singular clients as the main way of delivery. The majority spends most of their energy on mechanisms for keeping public costs down and mainly discusses how the judicare scheme might become more cost effective.

The majority insists that private practitioners still shall enjoy an extensive monopoly on delivering public legal aid and faces a dilemma: On the one hand, private practitioners

constitute a high-income group. They make significant profits from their commercial services. On the other hand, governmental expenditure on legal aid commissions should be kept low.

The public fee rate has always been significantly lower than the market fee – sometimes only half of it. A recent survey among members of the Norwegian Advocate Association showed that most of the respondents tried to avoid legal aid commissions. Approximately half of them did not accept legal aid commissions at all, and almost every lawyer who accepted such commissions limited their commitment to a few cases per year. A major criticism from the private profession therefore focuses at the fee level, which they think government should increase significantly

The majority proposes to solve the dilemma through several significant restrictions on the service delivery. Legal aid should only be available in a limited number of case types combined with cost ceilings on lawyers' fees. Grantees also should satisfy income and property limits and pay significant contributions for most case types unless the case concerns serious public interventions like involuntary psychiatric treatment, public child custody or compensation to crime victims. Contributions should be set in percentages of the costs with no limit. When a court orders a legal aid party to pay the counterpart's costs, legal aid parties must themselves cover all of them, independent of seizure, which obviously is a strong deterrent against using the scheme in court cases.

The majority focuses on legal conflict solution. Such cases demand time and cost consuming forms of legal aid. Except a poorly developed idea about a digital chat service for legal problems, they do not discuss the need for improving other forms of legal aid than conflict solution by private practitioners. They do however, propose an increase in the maximum limit for legal advice outside court from 5 to 10 hours, justified from having legal conflicts solved on an earlier stage and thereby reduce the need for expensive legal aid in court cases.

MINORITY PROPOSAL

One member wants a reform process with extensive changes. The main proposal is to establish two law centres with development tasks conducting a *test program*;

- one in Oslo County which is the urban centre of the country, and
- one in Troms and Finnmark county in Northern Norway covering vast sparsely populated areas.

The two law centres should be the main actors in developing a better legal aid system in all of Norway. The minority points to several tasks:

First Line

The first and single most important task for the two law centres should be to establish a free or affordable short advice service.

A first line should, within a limited time frame, assess peoples' legal positions, solve simple legal problems and advice users on how to further handle more complex matters. Since legal uncertainty and alienation appear widespread, a first line should be able to tackle a wide range of problems and see to that they either are handled sufficiently at the first line level and if not,

put them on the right problem-solving track. Such first line advice should be available at the municipality level.

Advisers

In a first line, private practitioners should not be the sole kind of advisers. Different kind of advisers with sufficient competence ought to be tested by the two law centres. The Norwegian Consumer Council has for many years

- successfully used advisers without a law degree for simpler consumer matters,
- developed standardized services for recurring problems – both for simple advice and for referring more complex problems to comprehensive services,
- contributed to an extensive system of complaint boards that handle consumer conflicts without the consumers needing legal representation.

The service might serve as model for a first line for other legal problems.

Fair Geographic Distribution Of Legal Aid

Large areas in Norway are sparsely populated. Private practitioners flock to the urban centres that offer most of the commissions from industry and trade, public institutions and wealthy individuals. Approximately half of the private profession is located to the Oslo area. Still the majority argues that private practitioners are available all over the country. However, it is undeniable that their geographic distribution is very uneven.

Additionally, what matters in the legal aid setting is not the absolute number of private practitioners in an area, but their willingness to accept legal aid commissions when they pay significantly less than commissions from commercial clients. Legal aid statistics on the county level show huge variations in the private practitioners' participation in the scheme.

Poverty also differs among rural and urban parts of Norway. Unsurprisingly, poverty areas do not appear as a location factor for private practitioners.

Easily accessible advice centres connected to law centres should be an instrument for securing a sufficient offer of legal aid independent of where users live. A major reason for locating one of the two test centres to Norway's northernmost county is to develop a better system for rural legal aid

Vulnerable Groups

Vulnerable groups often have complex legal problems connected drug and alcohol dependence, somatic and mental health problems, poverty, homelessness or poor housing, etc. They experience abuse, social exclusion, bullying or other factors that impair their well-being. Suitable outreach strategies should be used to serve them properly. Especially, legal aid to vulnerable *children and youth* deserves more and better focused attention by the legal aid system.

Impact Work

Law centres ought to have impact work as an important task. Focus should be on using experiences from individual case work for feedback to the relevant public authorities, business and other major actors about weaknesses in existing rules and regulations, standardized contracts and practises that appear harmful to several clients. The purpose should be to

prevent and remedy such problems collectively instead of handling them individually through a large number of cases. The centres might forward suggestions about reforms in such harmful rules and practices. Well-structured impact work with problem prevention as a major goal, might significantly increase the efficiency of public legal aid. And so might other forms of group services.

Digital Services

A main priority for the law centres should be to develop effective digital services by phone, video and Internet. The service should be future-oriented and make use of recent developments in data technology. Interactive services offering clients systems for self-help are important, and so are supervising systems for advisers.

Coordination And Contracting

It should be a law centre task to better organize legal aid. They should do so according to local circumstances, considering the structure of the legal needs among the poorer part, the local availability of legal services, a fair geographic distribution, the need for outreach etc. They should consider all available resources within their county and produce *a legal aid plan*. Law centres should use *contracting* as a major tool. They should solicit and enter into contracts with local deliverers like private practitioners, non-profit organisations, and other suitable providers about larger quantities of legal services to groups of legal aid users over a significant time period, which will promote specialisation in legal aid service and effective application handling.

Research

The majority thinks existing research on legal aid of limited value to their proposals. The minority says that its test program should have a research plan. Existing relevant research nationally and internationally should be reviewed and used in the planning process. Outcomes should be recorded and evaluated according to the plan and generalized with the purpose of developing new legal aid programs in all counties of Norway.

Covid Legal Aid

The report was issued well into the corona pandemic. Still, the majority does not raise the question of whether the crisis increases the need for legal aid among the target groups.

The minority argues that the pandemic means serious challenges for legal aid. Learning from other crises we must expect a huge raise in the needs. Unemployment and work redundancy increase and will impact on the number of problems connected to labour law, welfare law, and debt. Prevention of and treatment of the Covid-19 illness will produce problems connected to health law, rehabilitation and quarantine regulations. Restrictions on mobility and social contacts impact on access to schools and universities and might create problems connected to lost and delayed education etc. Establishment of an emergency first line service – preferably combined with health- social- and economic advice – might still be an important offer. So would digital systems for legal information and problem solving connected to corona be.

PRESENT STATUS

During the public consultation on the report, all instances said that reforms in legal aid appeared necessary. Most favoured increases in the economic limits and several supported the

establishment of a first line service. Other proposals, for example the contributions – appeared more controversial.

However, the non-socialist government that commissioned the report, lost the parliamentary election in September. Hopefully, the incoming labour dominated government will be open to the minority proposals, but at present its program for legal aid reform are vague with little detail. So, the destiny of the present report remains uncertain.

DISCERNING PATTERNS AND MOVING BEYOND THE RANDOM: UNBUNDLING 2.0

ROGER SMITH



Much innovative use of technology in the service of access to justice has proved pretty random - as was the burden of the presentation by Professor Rebecca Sandefur and myself at the recent ILAG conference. There are a number of reasons from this – many of them related to low levels of funding and relatively small institutional players. No doubt, much development will continue in this way, probably more so as the access to justice sector around the world struggles in a post-Covid world. But let's see how we might fit haphazard global developments within a framework which helps understanding and could focus further development.



Looking back on the last decade, it is – unsurprisingly perhaps – projects with large institutional backing that have had the disproportionately highest impact. The stand out leader is the Dutch [Rechtwijzer](#). This remains a towering achievement backed by a Legal Aid Board, a research institute and a US software firm. It was devised with global ambition. Its demonstration of the *potential use of dynamic conversation with users; its guidance of users through a process; and the high quality of its design* remain inspirational. Of course, it failed – but for reasons that were little to do with the product and more with the surrounding politics. Second would be [‘Nadia’](#), developed by Australia's National Disability Insurance Scheme. This

is now largely forgotten except by those involved in the production of what should have been a world-leading chatbot with a realistic visual presence dealing with advice. The government pulled the plug on its funding – AI not advanced enough. Third comes the US Legal Services Commission with its grant funding programme and principles in technical initiatives. This centralised approach, among other achievements, galvanised the use of automated self-assembly documentation and responsive design. Fourth is slightly different in form – the ‘trickle down’ impact of commercially legal productivity tools like Microsoft 365 or various case management systems. These are what kept the sector afloat during Covid. Finally, the access to justice sector is being influenced by the digitalisation of the courts, accelerated by Covid, though it is probably fair to say that this is foreseeable rather than actual in most jurisdictions.

Access to justice is poorly funded. Much provision is hand to mouth. Increasing use is being made of pro bono schemes that use the free time of commercial lawyers to stretch the elastoplast (band aid for US readers) over the gaps. Few have the time, energy and money to invest in really significant change. And understandably.

But, if you stare into the fog that covers the landmasses of the world to discern coherent themes that might change the pattern of the future, some emerge from the gloom. Let us state at the beginning what does not. There is no sign of a mega-tanker sweeping through the seas with an all singing and all dancing AI driven cargo. AI is useful as a gap-filler, a magnifier of existing resources, a force-multiplier. No more and no less. Australia’s Nadia provides an example. She was going to empathise with your emotional state; she was going to speak with the voice of a world-leading actress; she had been designed to be attractive and unthreatening to all ages and genders. She would answer all your questions about a new disability insurance scheme. The AI was not powerful enough. The cost was too high. Nadia would have produced a prototype potentially useful for all information providers: it all proved too difficult. Her time may come again but we should have learned lessons from earlier hubris.

So, with this context let’s look at some themes of current development with future possibilities. In part, this is an exercise in provocation. Would these be your choice? Does the argument make sense?

Theme 1: Maximising the dynamic potential of the web and Unbundling 2.0

The most exciting development seems to be the activation of the dynamic potential of the web. We are just at the beginning of this with – to be honest – some pretty rudimentary initiatives like chatbots and document self assembly. But we need to be more ambitious. Our task should not simply be the provision of better information or assistance with documents: it is to help people actually solve their legal problems. So we need to move to a much more dynamic understanding of ‘unbundling’: we need not to just provide information for users but help them to use it – in real time.

So, we are talking about helping people through a process by, for example, providing the same type of case management support as we might expect as practitioners. Users should be able to get reminders of significant dates and actions they need to take by logging into systems that will provide this for them – as [CitizenshipWorks](#) does for immigration cases in the US. This will help you as a user with pretty much the same tools as it will provide for a specialist practitioner. And that should go miles beyond simple document assembly. It involves setting out the milestones in a case and providing the options for the various outcomes. It really

should be about transferring the skill of the practitioner into a form useable by all. That is a massively difficult task but we should be able to expect steps along the way towards the end goal – which may never involve total automation but will reduce the cost per case by automating large parts of the existing process.

A further development made possible by developing use of technology is the 'blending' of different types and different sources of assistance. Examples of this would be the US Hello Divorce site and the various mixed provision in England and Wales based around family lawyers and national NGO, Law for Life.

2. More sophistication in the provision of information

As part of the process of Unbundling 2.0 will come more sophistication in the use of the net to give information. There will be more blurring between public legal education and casework. Already, you can compare websites with five years ago and see a major improvement of how written information is provided. There is more white space. There is more clarity in words. There is better design. The influence of Margaret Hagan and the importance of law and design is everywhere. You can see the development of things like FAQs and videos to reinforce or provide information in new forms. Users are getting more used to visual methods of communication and the advice sector is slowly adapting.

One really exciting development, led by the BC-based [People's Law School](#), is the creative use of video to reach new audiences. The School has taken the zoom conference and really run with it. You invest in presentation; you choose your presenters; you change the nature of presentation – in the words of its director, 'We chunk up our 60 minutes into different bits and signal what we are doing in each. Then it is really important the moderator sums up after each segment, making it easier to follow and digest.' One of the big sells of the law centre movement around the world in the 1970s and 80s was its ability to reach new audiences. Technology will not replace conventional outreach in draft tenant halls but it has proved that it can supplement it.

3. More creative use of data

Data is the new fetish. Everyone wants more of it – though it is not always clear why and there is the danger in a field like legal services that data, for example on the impact of government policies, is like counting the chairs on the Titanic just before it goes down. Nobody cares. However, data can be useful for feeding back to governments concerned with empirical information and the [Citizens Advice](#) website here is a good example of how advice trends can be monitored and reported upon. Legal aid authorities ought to be able to tell governments or anyone else who asks the up-to-date movements in case trends. For example, what is happening to domestic abuse now that most Covid lockdowns have ended? Is it continuing to rise or are reported cases falling back?

And, approaching the issue from a user's perspective, compare how commercial websites compare with informational ones. These often tell you as the user about usage and the number of people contacting the site. Now this is generally to make you keener to buy something, but it also gives you a sense of the value of the site. Surely, we want that for advice sites as well. If 5000 people consulted a divorce website in the last month and 500 assembled a document from it then that is information which I, as a potential user, would find helpful. Any provider is going to be nervous about such transparency. But funders should begin to insist.

4. Better management of practice – internal and external

Covid gave a massive boost to the technological infrastructure of the advice sector and legal services. Everyone had suddenly to be able to operate online. In the first wave came a commitment to basic infrastructure – basic productivity packages, capacity for remote working and so on. The next wave of development will surely be the development of better case and practice management. The big question will be whether the home-grown systems like LegalServer in the US or AdvicePro over here will win out against specie bolt-ons to commercial products like Clio or Microsoft 365.

Considerable energy has been put, particularly in the US, into the development of legal navigator sites that can manage the process of intake and referral. The current world-leader in this field appears to be a product developed by [JusticeConnect](#) in Australia and now being exported – to LawWorks in England and Wales among others. This is where technology is facilitating progress beyond the well established ‘manual’ models of pro bono clearing houses.

5. Coherence, strategy and direction

The experience of the last few years shows all too clearly the need for institutions to lead discussion, debate and development – either by directly controlling it (as in the Legal Services Commission’s technology grants program) or by encouraging development (the Justice and Innovation Group in England and Wales or the Self-Represented Litigants Network in the US). Nationally and internationally, the exploration of the use of technology has been random. Projects have acclaimed their success and then faded away. There is no co-ordination. It has been development by project rather than programme. So, how can we, as a sector with global experience of the same issues, address this deficiency?

First published in substantially the same form on law-tech-a2j.org, a website which tracks developments in technology within the access to justice sector.

WORLD JUSTICE PROJECT PUBLISHED ANNUAL RULE OF LAW INDEX

On October 14, 2021, the World Justice Project presented its annual rule of law index. For those who missed it, here's the link to the presentation. [WJP Rule of Law Index 2021 Launch - YouTube](#)

This Index is the world’s leading source for original, independent data on the rule of law. Covering 139 countries and jurisdictions, the Index relies on national surveys of more than 138,000 households and 4,200 legal practitioners and experts to measure how the rule of law is experienced and perceived worldwide.

It is certainly interesting to take note of this Index which also presents data grouped by region.

For more information about the Index and this year’s worldwide rule of law trends, please use the following link: [WJP-INDEX 2021.pdf \(worldjusticeproject.org\)](#).

INTERNATIONAL TEAM PREPARES USEFUL INSTRUMENTS ON CHILD-FRIENDLY LEGAL AID

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Implementing the EU co-funded project “Legal aid for children in criminal proceedings: developing and sharing best practices” (LA CHILD), the international team has recently prepared two useful instruments on child-friendly legal aid:

- “Guidelines for child-friendly legal aid for children in conflict with the law. Recommendations and inspiring practices aimed at legal aid providers and policymakers”; and
- “Know your rights! Guide for minors who are suspected, accused or convicted of an offence”.

Both instruments are available at:

<https://lchild.eu/the-projects/la-child/guidelines-on-legal-aid-for-children/>

The documents were drafted by researchers from the Law Institute of the Lithuanian Centre for Social Sciences (LIL, Lithuania), Defence for Children International (DCI) – Belgium and the Centre of Integrated Legal Services and Practices (CILSP, Albania).

The “**Guidelines for child-friendly legal aid for children in conflict with the law**” consist of recommendations and inspiring practices aimed at legal aid providers and policymakers. The Guidelines are designed for all professionals who intervene in or have an impact on legal aid for children in conflict with the law and can help them to be more aware of international and European standards, as well as reflect on their own practice and find recommendations and inspiring practices that may help improve it. The aim is to present, in a clear and precise document, good practices in the field of legal aid for children in conflict with the law, and to highlight concrete ways to achieve it.

The Guidelines draw on the research carried out in the 14 of the European countries implementing the LA Child project and the inspiring practices collected throughout. Moreover, the document is based on the analysis of relevant international regulation, the EU and Council of Europe instruments, national desk-research, and semi-structured interviews with legal professionals. LA Child’s international conference in which experts from different states shared their knowledge and insights was also a valuable resource in the development of the Guidelines.

“**Know your rights! Guide for minors who are suspected, accused or convicted of an offence**” is another instrument that was prepared by the researchers. It is a model document (a template) that can be used in various jurisdictions once adapted to the national context. The Guide is like a small book that is addressed to children in conflict with the law. It aims to help them fully recognize their rights, get acquainted with the main procedural issues and be aware of available legal aid. Among much other relevant information, the readers will find: detailed explanations regarding different professionals the child in conflict with the law will meet; a

brief presentation of the procedure and possible penalties, advice as to the availability of legal aid, as well as a dictionary of the most important terminology.

If you would like to read more about the LA-CHILD project, access the materials or view the recordings of the conference, please visit the LA-CHILD project site – www.lachild.eu.

SUMMARY OF EVALUATION QUESTIONNAIRES FOR ILAG CONFERENCE REMOTELY FROM SYDNEY, AUSTRALIA - 22 to 24 JUNE 2021

EILEEN RITCHIE

CONFERENCE ADMINISTRATOR

The following summarizes the main findings of the evaluation questionnaires.

- A total of 138 delegates attended the conference by Zoom of which several delegates attended specific sessions only. Thirty countries were represented at the conference by 67 organisations.
- Of the 138 delegates, 11 delegates (respondents) completed the questionnaire most likely because the conference had to be held remotely due to the pandemic. The response rate was, therefore, only 8%. Not all questions were answered by the 11 delegates.
- Session 5 (Holistic Provision), Session 3 (Technology and Access), Session 1 (Summary of National Reports) and Session 2 (Approach to Legal Aid in new South Wales) were particularly highlighted as the best sessions in the Conference. Some respondents stated that all sessions were good and could not differentiate between them.
- All respondents answered the question 'How do you rate the contents of the presentations?'. Seven respondents stated 'strongly liked' and four respondents stated 'liked'.
- All respondents answered the question 'How do you rate the content of the Q & A sessions?'. Seven respondents stated: 'strongly liked' and two respondents stated 'liked'. The further two respondents did not have a preference.
- Most respondents stated that the time devoted to the Q & A session was about right.
- Feedback on how the conference could have increased opportunities for participant responses and exchanges of ideas included:
 - i. Asking participants from various countries how certain issues are approached, tackled and worked out there and what bottlenecks they encounter.
 - ii. Have a separate session where chats can continue outside of session – like a chatroom.
 - iii. Breakout groups that were facilitated (or not) to enable more discussion of participants
 - iv. Zoom polls – encouraging presenters to utilise this feature to engage the audience.
 - v. Would have been interesting to offer some breakout room discussions with small groups of say 6 -10 people, perhaps facilitated. Also, time /space to meet up informally – very challenging online I appreciate.

- vi. Participants could send brief points ahead of the session? In particular, questions they have, or issues or challenges they are facing in relation to the specific topic for the session.
- All respondents answered the question ' did the Conference provide value for the investment of your time?' from 5 (excellent) down to 1 (none) with 64% of respondents rating this statement in the top two levels. Comments included:
 - i. With relatively short half-days, it still provided a lot of information in a short period of time. Good program with a nice variety of speakers. Using pre-recorded presentations significantly improved focus for most speakers.
 - ii. The online conference enabled a broader cross-section of audience that may not have been possible with a face-to-face conference.
 - iii. It was my first ILAG conference and I found it truly inspiring.
- Ten respondents answered the question ' did the Conference facilitate discussion and dialogue of international developments in policy and research related to legal aid services as far as a remote conference can?' from 5 (very much) down to 1 (not at all) with 91% of respondents rating this statement in the top three levels. Comments included:
 - i. I thought it was a triumph. There was great content. There was good discussion.
 - ii. It was great to hear about different approaches and initiatives in other countries.
 - iii. Sharing the communication details (where they are interested) of not only the main speakers but other legal aid practitioners in the conference.
 - iv. The conference absolutely facilitated this. At the same time, I would have liked to hear some more from other countries. In the short days only few presentations could (of course) be delivered.
- Ten respondents answered the question ' did the Conference provide a forum for the identification and understanding of important issues, trends, gaps and/or opportunities for innovation in the provision of legal aid services and access to justice?' from 5 (very much) down to 1 (not at all). All respondents rated this in the top two levels. Feedback included:
 - i. Especially the session about health and justice. Excellent with good subjects and speakers.
 - ii. Great to see developments in these thematic areas.
- All respondents who answered the question about the ILAG newsletter stated that the newsletter was still useful if it came out twice a year. All respondents who responded to the question asking if the newsletter should be altered in any way stated that it should not be altered. Respondents were, therefore, satisfied with the timing and the contents of the newsletter.

Ratings and comments given in the questionnaires indicate that most respondents were highly satisfied with the conference and with the ILAG newsletter.

LEGAL AID NEWS FROM AROUND THE WORLD

PAUL FERRIE

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The news items shown below are largely compiled from online articles, found on the basis of a simple search for terms such as 'legal aid', 'access to justice' and 'pro bono'. Therefore, readers must, just as buyers, beware of authenticity. The links worked at the time of writing, but some will obviously fail after a period.

Australia

[Disquiet Over Women's Legal Centre Funding](#) – Seven News

['From No Hope To Building A New Life': \\$95m Boost For Our Most Vulnerable](#) – The Sydney Morning Herald

[Legal Aid: Concern Over Pay Gap Could Lead To Shortage Of Legal Aid Practitioners](#)
– The West Australian

[Legal Aid WA Data Shows More People Seeking Help Over Elder Abuse In Perth's Eastern Suburbs](#) – Perth Now

[Record \\$95 Million Boost To Legal Help Sector](#) – New South Wales Government

Canada

[Invest In Legal Aid, Defence Lawyers Tell Ontario In Trying To Clear Big Court Backlog](#) – CBC

[Opposition Calling For Expansion Of P.E.I. Legal Aid](#) – CBC

[MFDA Funds Investor Legal Aid Clinic](#) – Investment Executive

[Tyler Technologies and Legal Aid BC Expand Partnership to Provide Full Service Online Dispute Resolution](#) – Business Wire

[Tying Legal Aid To A Guilty Plea Creates The Worst Kind Of Incentive](#) – Canadian Lawyer

China

[First-ever Pakistan Overseas Chinese Legal Aid Center Inaugurated](#) – China Economic New
[Overhaul Of Hong Kong's Legal Aid System Could Be Implemented By Year's End, Despite Lawyers' Concerns](#) - South China Morning Post

[Plans To Assign Lawyers Under Legal Aid Reform](#) - RTHK

[What Difference Will China's New Legal Aid Law Make For Its Citizens?](#) - South China Morning Post

England & Wales

[Largest Ever Legal Aid Inquiry Calls For Independent Fee Review](#) – The Law Society Gazette

[Legal Aid Practitioners To Retain Choice Over Court-Assessed Bills](#) – The Law Society Gazette

[Legal Aid Sector In 'Desperate Need Of Investment', Report Cross-Party Inquiry](#) – The Justice Gap

[Robots Are Coming For The Lawyers – Which May Be Bad For Tomorrow's Attorneys But Great For Anyone In Need Of Cheap Legal Assistance](#) – The Conversation

[Thousands Of Domestic Abuse Victims 'Forced To Stay With Their Abuser' After Being Denied Legal Aid](#) – Sky News

[Watchdog Criticises Legal Aid Agency's 'Culture Of Refusal'](#) – The Justice Gap

France

[France Aims To Make Accessing Free Legal Aid Easier](#) – The Connexion

India

[Chief Justice Invokes Jawaharlal Nehru, Calls For Legal Aid For Children](#) – NDTV

[Free Legal Aid Is A Boon For Poor Litigants, Says District Judge](#) - The Hindu

['Good Quality Legal Aid Possible Only If Senior Lawyers Join Outreach Drive': SC Judge Justice Uday U Lalit](#) - Hindustan

["Inclusive Growth Needs Inclusive Access To Legal Aid": Chief Justice](#) – NDTV

[Legal Aid Mission To Cover 6.6L Villages Thrice In 45 Days](#) – The Times of India

New Zealand

[Legal Aid Crisis A Threat To Justice](#) – Newsroom NZ

[New Zealand Access To Justice Threatened As 20,000 Denied Legal Aid In 12 Months](#) - Jurist

[New Zealand's Legal Aid Crisis Is Eroding The Right To Justice – That's Unacceptable In A Fair Society](#) – The Conversation

Scotland

[Scottish Legal Aid Row Escalates After Solicitor 'Removed From Court Building'](#) – The Law Society Gazette

[Scottish Government Has 'No Understanding' Of Legal Aid Problem](#) – Scottish Legal News

[Legal Aid: Scottish Government Told To Explain Itself As It Plays Games On Eve Of COP26](#) – Scottish Legal News

United States of America

[Garland Revives Effort to Expand Access to Legal Aid](#) – New York Times

[How The US Can Compete With China On Digital Justice Technology](#) – Brookings

For more information about the work of the *International Legal Aid Group*, please visit our website which can be found at <http://www.internationallegalaidgroup.org>.