

## *Executive summary*

Access to justice underpins inclusive growth and is central to advancing well-being and sustainable development. Effective access to justice helps resolve disputes at the heart of people's lives, promotes government accountability and gives people and businesses confidence to enter into and enforce contracts. In 2008, the United Nations Commission on Legal Empowerment of the Poor estimated that 4 billion people live outside the protection of the law. As part of the 2030 Sustainable Development Agenda, all countries agreed to “promote the rule of law at the national and international levels, and ensure equal access to justice for all” under the Sustainable Development Goal (SDG) 16. Access to justice is both a standalone target and enabler of other development priorities including health and social development.

Access to justice concerns the ability of people to obtain just resolution of justiciable problems (a problem that raises legal issues) and enforce their rights, in compliance with human rights standards; if necessary, through impartial formal or informal institutions and with appropriate legal support. An important component of access to justice is the concept of legal need. Legal need arises whenever a deficit of legal capability requires legal support to appropriately address a justiciable problem to be appropriately dealt with.

According to the broad sample of legal needs surveys used to develop this Guide, justiciable problems are ubiquitous, although people often do not identify their legal dimensions. Common problems include those concerning consumer issues, money, neighbours, family matters, housing and land, employment, social safety net assistance, and access to public services. While there are some differences, patterns of problem experience are remarkably similar across the globe.

Justiciable problems are not randomly distributed across populations. They disproportionately affect disadvantaged groups, and can create and exacerbate disadvantage. One reason for this is that they often bring about or follow from one another, or link to broader socioeconomic problems. Disadvantaged people can draw on fewer resources and have less capability to avoid or mitigate problems. Importantly, the experience of problems increases the likelihood of further problems being experienced.

### **Why legal needs surveys?**

Meaningful understanding of access to justice is crucial for the development of effective civil justice policies, models and financing. Legal needs surveys provide an empirical basis for understanding how peoples' justice issues arise, are experienced and affect a broad range of development priorities. Governments and civil society organisations in diverse countries have conceptualised and implemented legal needs surveys to develop shared understanding, help improve justice services and strengthening linkages across policy sectors.

Legal needs surveys investigate the experience of justiciable problems from the perspective of those who face them (a ‘bottom-up’ perspective), rather than from that of

justice professionals and institutions (a ‘top-down’ perspective). They seek to identify and explore the full range of responses to problems and, within this, all the sources of help and institutions that are utilised in pursuing problem resolution. They provide a uniquely comprehensive overview that is impossible to achieve by other means.

### **A framework for conducting legal needs surveys**

This Guide builds upon the lessons and experience of 25 years of experience across a range of countries with very different legal traditions. It discusses common pitfalls, key lessons, and effective practice in the implementation of legal needs surveys. It answers common questions in developing, deploying and using legal needs surveys, detailing:

- The essential elements of legal needs survey approaches
- The potential scope of surveys
- How to identify the support that people seek in resolving problems, and their success in doing so
- How to identify processes and institutions involved in problem resolution
- The outcomes and impacts of problems that can be measured
- Common elements of surveys that can be used across jurisdictions and in different contexts
- The contribution surveys can make to creating access to justice indicators

The Guide sets out a framework for the design, implementation and analysis of legal needs surveys. It provides tools in a modular way so that they can be applied in different types of surveys. The Guide examines the concepts, framing, scope and units of measurement used in legal needs surveys. It also proposes taxonomies of justiciable problems, sources of help and dispute resolution processes, to support greater consistency and opportunity for comparison between surveys, as well as reviewing how legal need has been measured through surveys. The Guide further notes that meaningful collaboration between government, civil society and affected communities is critical in developing, implementing and analysing legal needs surveys. Such partnerships are similarly essential for identifying and driving policy reforms.

The Guide proposes model survey questions concerning: problem identification; problem seriousness; problem impact; sources of help; problem resolving behaviour; process; if and how problems have concluded; strategy decisions; perceptions of dispute resolution processes and outcomes; the cost of problem resolution; legal capability; and duration. It also incorporates these into illustrative questionnaires, to provide resources for survey planners.

The proposed taxonomies are built upon eight primary justiciable problem categories, eight distinct categories of sources of help and five process categories.

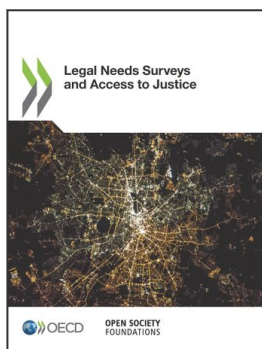
### **Towards meaningful access to justice indicators**

Finally, the Guide suggests strategies for measuring access to justice with legal needs surveys. The UN 2030 Agenda provides an opportunity to define critical global dimensions of access to justice under SDG target 16.3, going beyond the criminal justice system. National and global policy and measurement frameworks often fail to account

meaningfully for the prevalence of civil justice issues and the substantive costs they impose on society.

Access to civil justice indicators built from legal needs surveys can increase the visibility of civil justice barriers and highlight the experiences of particular populations. A global legal needs-based indicator focused on access to civil justice could also complement work towards other SDGs by enabling policy makers to better identify how justice systems interact with other developmental priorities.

In accordance with the SDG framework, civil justice measures need to be capable of “timely and reliable” disaggregation in order to highlight the experience of different vulnerable groups.



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