

Chapter 1. Access to Justice and Legal Needs Surveys

This Chapter establishes a methodological and conceptual framework for the conduct of legal needs surveys, and offers illustrative taxonomies of legal problems, sources of help and dispute resolution processes, with multiple levels of detail. This chapter also addresses how surveys can be used to measure legal needs

Defining access to justice and legal needs

Although the definition is contested (Schetzer et al., 2002, p. 5),¹ access to justice is broadly concerned with the ability of people to obtain just resolution of justiciable problems and enforce their rights, in compliance with human rights standards (United Nations Development Programme, 2005, p. 5);² if necessary, through impartial formal or informal institutions of justice and with appropriate legal support.³ In its “descriptive aspect”, access to justice “denotes the general subject of the extent to which citizens are able to gain access to the legal services necessary to protect and vindicate their legal rights” (Cornford, 2016, p. 28). In functional terms, this does not mean that use of legal services is necessary to ensure access to justice, only that appropriate services are available for those who are unable to achieve otherwise appropriate solutions to justiciable problems.

The concept of access to justice is thus closely linked to the constituent concept of legal need. In broad terms, legal need arises whenever a deficit of legal capability⁴ necessitates legal support to enable a justiciable issue to be appropriately dealt with. A legal need is unmet if a justiciable issue is inappropriately dealt with as a consequence of effective legal support not having been available when necessary to make good a deficit of legal capability. If a legal need is unmet, there is no access to justice.

Beyond this, legal need is an “elusive” concept, difficult to “pin down” (Engel, 1998, p. 124);⁵ largely due to the nature of the concept’s constituent components. Views differ on the constitution of legal capability, the arbiters of necessity (whether those facing problems, experts, or others), the forms of support necessitated (whether, for example, capability building, informational, relieving, etc.) and the appropriateness of how justiciable problems are dealt with (which can attach to decision making, processes or outcomes, and again in relation to which there are multiple potential arbiters).

Understanding the dimensions of access to justice and legal needs

Understanding access to justice and legal needs requires a multidimensional approach to research and data management within the justice system. Access to justice extends beyond formal process to informal dispute resolution and, ultimately, to social justice and the distribution of welfare, resources and opportunity. The above definition of access to justice incorporates at least seven distinct dimensions:

- The substance of law
- The availability of formal or informal institutions to secure justice
- The quality of formal or informal institutions of justice
- The availability of legal assistance
- The quality of legal assistance
- The quality of outcomes
- Legal capability

Understanding progress towards each of these dimensions requires a range of tools and techniques. Chapter 4. discusses sources of data in more detail and this Guide provides an in-depth exploration of a specific tool: legal needs surveys.

What are legal needs surveys?

Legal needs surveys investigate the experience of justiciable problems from the perspective of those who face them, rather than the professions and institutions that may play a role in their resolution. Thus, legal needs surveys can identify and explore the full range of responses to problems and, within this, the full range of sources of help and institutions available. Problems may be personal, organisational or shared (within households, communities, etc.); and while most legal needs surveys have focused on personal experience, some have focused on the experience of businesses or defined social units (such as households).

Legal needs surveys are distinct from crime victimisation or offending surveys, as their focus is on civil legal issues (family, commercial, administrative, etc.);⁶ although many stand-alone legal needs surveys also enquire into the experience of matters relating to criminal law (beyond those that are counterparts of civil law). Legal needs surveys are distinct from other forms of access to justice assessment survey⁷ in their comprehensive approach to identifying a range of justiciable problems, and their primary focus on experience, rather than perceptions and attitudes.⁸

Legal needs surveys have a long history; the first were conducted in the 1930s.⁹ The use of such surveys has increased in recent decades, and they are now relatively commonplace across the globe.¹⁰ Over the past 25 years, more than 55 large-scale (i.e. 1,000 respondents or more) stand-alone national legal needs surveys of individuals have been conducted in more than 30 separate jurisdictions.¹¹ Legal needs modules have also been incorporated into seven large-scale government run national surveys,¹² along with the World Justice Project's *General Population Poll*, which is routinely implemented in over 100 countries (Adams et al., 2017; Adams et al., 2018).

As shown in Table 1.1, in addition to the *General Population Poll*, in the 25 years to 31 December 2017 national legal needs surveys have been conducted in Argentina, Australia, Bangladesh, Brazil (module), Bulgaria, Canada, Colombia, England and Wales, Georgia, Hong Kong, India, Japan, Jordan, Kenya, Kyrgyzstan, Lebanon, Macedonia, Mali, Mexico (module), Moldova, Mongolia, Nepal, the Netherlands, New Zealand, Northern Ireland, Poland, Scotland, Sierra Leone, Slovakia, Taiwan, Tajikistan, Tunisia, Uganda, Ukraine, the United Arab Emirates and the United States. Extensive sub-national surveys have also been carried out, for example, in China,¹³ Ecuador,¹⁴ Russia,¹⁵ Indonesia¹⁶ and Yemen,¹⁷ along with smaller surveys in countries including Azerbaijan, Rwanda and Egypt.¹⁸

Table 1.1. National legal needs surveys conducted in the last 25 years (to 31 December 2017)

Country	Study	Date	Size	Mode	Funder	Scope
United States	Comprehensive Legal Needs Study	1993	3 087	Mixed	Legal Profession	Low/mid-income
England & Wales	Paths to Justice	1997	4 125	Face-to-face	Research grant	General population
New Zealand	Legal Advice & Assistance Survey	1997	5 431	Face-to-face	Legal aid agency	General population
Scotland	Paths to Justice Scotland	1998	2 684	Face-to-face	Research grant	General population
England & Wales	English & Welsh Civil & Social Justice Survey	2001	5 611	Face-to-face	Legal aid agency	General population
Netherlands	Paths to Justice in the Netherlands	2003	3 516	Online	Government	General population
Canada	National Survey of Civil Justice Problems	2004	4 501	Telephone	Government	Low-income
England & Wales	English & Welsh Civil & Social Justice Survey	2004	5 015	Face-to-face	Legal aid agency	General population
Slovakia	Legal Needs in Slovakia	2004	1 085	Face-to-face	World Bank	General population
Japan	National Survey of Everyday Life & the Law	2005	12 408	Face-to-face	Research grant	General population
Northern Ireland	Northern Ireland Legal Needs Survey	2005	3 361	Face-to-face	Government	General population
Canada	National Survey of Civil Justice Problems	2006	6 665	Telephone	Government	General population
England & Wales	English & Welsh Civil & Social Justice Survey	2006-9	10 537	Face-to-face	Legal aid agency	General population
Hong Kong	Demand & Supply of Legal & Related Services	2006	10 385	Mixed	Government	General population
Japan	Access to Legal Advice: National Survey	2006	5 330	Face-to-face	Research grant	General population
New Zealand	Unmet Legal Needs & Access to Services	2006	7 200	Telephone	Legal aid agency	General population
Bulgaria	Access to Justice & Legal Needs in Bulgaria	2007	2 730	Face-to-face	Open Society Foundations	General population
Japan	Everyday Life & Law	2007	5 500	Online	Research grant	General population
Australia	Legal Australia-Wide Survey	2008	20 716	Telephone	Legal aid agency	General population
Canada	National Survey of Civil Justice Problems	2008	7 002	Telephone	Government	General population
Bangladesh	Survey of citizens' experiences of crimes and civil wrongs	2009	9 753	Face-to-face	World Bank/DfID	General population
Netherlands	Paths to Justice in the Netherlands	2009	5 166	Online	Government	General population
England & Wales	English & Welsh Civil & Social Justice Panel Survey	2010	3 806	Face-to-face	Legal aid agency	General population
Ukraine	Legal Capacity of the Ukrainian Population	2010	2 463	Face-to-face	Open Society Foundations	General population
Jordan	Legal Aid Survey	2011	8 968	Face-to-face	World Bank	General population
Moldova	Met and Unmet Legal Needs in Moldova	2011	2 489	Face-to-face	Open Society Foundations	General population
Taiwan	Legal Dispute Settlement Behaviour	2011	5 601	Face-to-face	Research sector	General population
Colombia	National Legal Needs Survey	2012	3 321	Face-to-face	World Bank/Government	General population

England & Wales	English & Welsh Civil & Social Justice Panel Survey	2012	3 911	Face-to-face	Legal aid agency	General population
England & Wales	Legal Services Benchmarking Survey	2012	4 017	Online	Regulator	General population
Georgia	KAP Survey Concerning Justiciable Events	2012	4 206	Face-to-face	Open Society Foundations	General population
Kyrgyzstan	Access to Legal Services for Low Income People	2012	2 424	Face-to-face	Open Society Foundations	Low-income
Macedonia	Macedonian Legal Needs Survey	2012	2 858	Telephone	Open Society Foundations	General population
Tajikistan	Demand for Legal Aid	2012	1 200	Face-to-face	Open Society Foundations	General population
Netherlands	Justice Needs and Satisfaction Survey	2013	4 228	Online	HiiL	General population
Netherlands	Paths to Justice in the Netherlands	2014	5 773	Online	Government	General population
Canada	National Survey of Everyday Legal Problems	2014	3 263	Telephone	Research grant	General population
England & Wales	Legal Problem Resolution Survey	2014	10 058	Telephone	Government	General population
Mali	Justice Needs and Satisfaction Survey	2014	8 400	Face-to-face	Int. Dev. (Netherlands)	General population
England & Wales	Survey of Individuals' Handling of Legal Issues	2015	8 192	Online	Regulator	General population
Poland	Barriers to Access to Legal Services	2015	3 500	Face-to-face	Legal Profession	General population
Uganda	Justice Needs and Satisfaction Survey	2015	6 202	Face-to-face	Int. Dev. (Sweden)/NGO	General population
Argentina	Unmet Legal Needs and Access to Justice	2016	2 800	Telephone	Government	General population
Moldova	Legal Empowerment Needs Survey	2016	1 112	Face-to-face	Open Society Foundations	Young people
Mongolia	Legal Needs Survey	2016	1 630	Face-to-face	Open Society Foundations	General population
Tunisia	Justice Needs and Satisfaction Survey	2016	~7 500	Face-to-face	Int. Dev. (Netherlands)	General population
Ukraine	Justice Needs and Satisfaction Survey	2016	6 559	Face-to-face	Int. Dev. (Netherlands)	General population
United Arab Emirates	Justice Needs and Satisfaction Survey	2016	3 924	Face-to-face	Government	General population
Bangladesh	Justice Needs and Satisfaction Survey	2017	6 000	Face-to-face	Int. Dev. (N/lands)/BRAC	General population
India	Access to Justice Survey	2017	45 551	Face-to-face	DAKSH	General population
Jordan	Justice Needs and Satisfaction Survey	2017	6 001	Face-to-face	Int. Dev. (Netherlands)	General population
Kenya	Justice Needs and Satisfaction Survey	2017	~6 000	Face-to-face	World Bank/Judiciary	General population
Lebanon	Justice Needs and Satisfaction Survey	2017	6 000	Face-to-face	Int. Dev. (Netherlands)	General population
New Zealand	Unmet Legal Needs Survey	2017	~1 000	Telephone	Government	Low-income
Sierra Leone	Needs Assessment for Provision of Non-Criminal Justice Services	2017	1 057	Face-to-face	Open Society Foundations	General population
Nepal	Legal Need Survey Nepal	2017-2018	3 000	Face-to-face	Open Society Foundations	General population

Note: On the 2012 the Legal Services Benchmarking Survey in England and Wales: Number represents respondents who had experienced at least one legal problem, identified through an initial screening survey.

Many sub-national surveys have also been undertaken in jurisdictions in which national surveys have been undertaken;¹⁹ sometimes targeting specific population groups, such as those living in disadvantaged urban settlements in Argentina (Bercovich et al., 2013). In addition, eight dedicated large-scale national legal needs surveys of businesses have been conducted in recent years (Table 1.2).²⁰

Table 1.2. Legal needs survey modules within larger national surveys

Country/Institution	Study	Date	Size	Mode	Funder	Scope
Scotland	Crime and Justice Survey	2008 →	6-12 000	Face-to-face	Government	General population
Brazil	National Household Sample Survey	2009	399 387	Face-to-face	Government	General population
Kenya	Kenya Integrated Household Budget Survey	2015-2016	21 773	Face-to-face	Government	General population
Colombia	National Quality of Life Survey	2016	51 492	Face-to-face	Government	General population
World Justice Project	General Population Poll	2016 →	~ 1 000	Mixed	Various	General population
Mexico	General Population Poll	2017	25 600	Face-to-face	Government	General population

Since 31st December 2017, further surveys have been undertaken and more are planned to be undertaken. For example, adding to the list of jurisdictions below, a stand-alone survey was undertaken in South Korea early in 2018, a similar survey is planned for Italy and Statistics South Africa is incorporating a legal needs module into its large-scale Governance, Public Safety and Justice Survey from 2018. These have substantially drawn, or will draw, on drafts of this Guide.

Why conduct legal needs surveys?

Legal needs surveys provide a uniquely comprehensive overview of the justice system and people's experience of resolving justiciable problems. It is an overview that is impossible to achieve by other means and, as such, legal needs surveys provide vital data concerning access to justice. Such surveys provide an empirical basis for understanding how people's justice issues arise and how they affect numerous development sectors. At a national level, they are increasingly viewed as an important tool for policymakers and civil society. From Argentina to Ukraine, Mongolia to Sierra Leone, governments and civil society organisations have conceptualised and implemented legal needs surveys with a goal towards improving justice sector services and strengthening linkages across sectors.

Administrative data – collected by courts, legal service providers, civil society legal assistance programmes, etc. – is essential for programming and assessment. However, they cannot provide policymakers with the information necessary to assess the true scope of needs, as they do not encompass problems that parties deal with only informally or ignore. Moreover, fragmented responsibility for administrative data, a lack of standardisation and data duplication across government agencies and organisations makes it extremely difficult, and in some cases impossible, to piece together different administrative data to create even a limited aggregate picture. The same limitations attach to data collected from professionals working both within the legal system and outside it.

Legal needs surveys can look across and beyond institutions and the experience of professionals. They are unique in that they enable the collection of data concerning problems involving no legal services or processes, in addition to those that do. Legal needs surveys thus provide the “big picture” of people’s efforts to access justice. They enable the quantification of justiciable problem experience across populations, mapping of patterns of problem resolving behaviour, and illuminate changes in experience and behaviour over time. They can also identify obstacles to accessing legal services and processes, such as poor service delivery, from individual and community perspectives. They also provide insight into levels of legal capability (including legal understanding, awareness of services, legal confidence, etc.), attitudes towards and trust in the justice system, and the relation of justiciable problems to wider social and economic problems and morbidity.

Legal needs surveys are not an alternative to analyses of administrative data and data derived from professionals working in the legal system. Rather, they are an essential complement. Legal needs surveys contextualise administrative data and provide an overview of a population’s perspective on access to justice. As Mahamane Maïga, Director of Mali’s Justice, Planning and Statistics Unit, stated during a strategic workshop following the 2014 Malian legal needs survey:

“Normally, we are the ones who judge. This time, it is the citizens who are judging us.” (Barendrecht et al., 2014a, p. 101)

The triangulation of administrative and survey data is common across other sectors. In health, for example, administrative data is supplemented in some jurisdictions by the standardised, nationally representative *Demographic and Health Surveys* (DHS), which “provide data for a wide range of monitoring and impact evaluation indicators in the areas of population, health, and nutrition.”²¹ Concerning food security, the UN’s Food and Agriculture Organisation supplements more orthodox approaches to assessing food security (for example food availability or nutritional status) with the *Food Insecurity Experience Scale*,²² a survey module based on respondents’ experiences. With regard to land tenure, the global community has recently agreed to a core set of household survey questions to measure the strength of tenure from the perspective of the population as opposed to legal assessments.²³

As Table 1.1 and Table 1.2 show, legal needs surveys to date (particularly stand-alone national surveys) have historically tended to be undertaken in upper and middle-income jurisdictions, with relatively few stand-alone surveys conducted in low income jurisdictions. This is changing, however. Earlier legal needs surveys tended to be conducted in jurisdictions with well-established and relatively well-funded legal infrastructures (in particular, public legal assistance services and legal aid schemes). Interest tended to focus on patterns of vulnerability, problem clustering, problem impact, advice seeking behaviour, obstacles to resolving problems, and individual capability. This interest was generally set in the context of efforts to better target and develop established services and processes. In more recent years, interest in legal needs surveys has spread to a far broader range of jurisdictions. This has included jurisdictions with emerging legal infrastructures (or legal infrastructures undergoing fundamental reform following socio-political transformation) where there is increasing recognition of the value of such surveys to explore the reach of law, legal empowerment (Golub and McQuay, 2001),²⁴ the nature and role of customary dispute resolution processes, microjustice,²⁵ and appropriate forms of legal services infrastructure (in particular, public legal assistance

services and legal aid schemes). In these jurisdictions, interest is often set within the context of the rule of law.

As will be discussed, the choice of the location and purpose of a survey has an impact on how it can and should be undertaken. Correspondingly, this document attempts to provide, for the first time, comprehensive guidance appropriate to all jurisdictions.

Limits of legal needs surveys

While legal needs surveys provide a unique overview of the experience of justiciable problems across populations, they have limits. As pointed out above, they complement and situate, rather than supplant, other core sources of justice data. Administrative data, in particular, remains vital in assessing the impact of specific interventions. Owing to their quantitative form, they are less effective in equipping policymakers with detailed accounts and explanations underlying particular decisions. Here, in-depth qualitative methods are generally more insightful. Also, while repeated cross-sectional and longitudinal²⁶ surveys can clearly demonstrate changes in behaviour and justice outcomes over time, and highlight the impact of broad reform programmes, they are – owing to the fact that correlation is distinct from causation – less suited to isolating the impact of particular interventions or service reforms, whether at an individual or societal level. Experiments and quasi-experiments employing different data collection methods are generally more insightful.²⁷ And, while legal needs surveys provide valuable insight into the relative use of particular legal services or processes, they can be – because of the technical nature of certain aspects²⁸ – ill-suited to exposing the details of some service or process use. This is particularly so in the case of general population surveys which seek to capture details of rare service or process use, as these surveys inefficiently capture data concerning phenomena experienced by only a small proportion of respondents.²⁹ Again, observation or administrative data is generally more insightful. Table 1.3 summarises the relative strengths and weaknesses of legal needs surveys.

Table 1.3. Utility of legal needs surveys

Ideally suited to	Incidence/patterns of justiciable problem experience, including for specific population groups
	Prevalence/patterns of problem resolving behaviour
	Sources of help
	Obstacles to access
	Awareness (of law and services)
	The cost of legal services to individuals
	Individuals' perspectives
Reasonably suited to	Nature of help obtained
	Perceived causes/consequences of justiciable problems
	Perceived impact of legal services
	Rationales for/objectives of behaviour
	Manner of dispute resolution
	The cost of legal services to individuals
	Impact of broad reform programmes
Less suited to	Technical aspects of service delivery/formal legal processes
	Rare problem types and behaviours (unless appropriate sample frame)
	Causes/consequences of justiciable problems (beyond perceptions)
	Impact of specific legal services (beyond perceptions)
	Impact of specific reforms

The above limitations do not detract from the core utility of legal needs surveys, nor take away from the fact that legal needs surveys are flexible tools. Surveys can be used within a variety of research design frameworks and alongside other forms of data collection as part of a “triangulated” research design, in which multiple methods are used to obtain “a more detailed and balanced picture of the situation” (Altrichter et al., 2008, p. 147).³⁰

What have we learned from legal needs surveys?

Prevalence of justiciable problems

Despite significant variation in the design of the legal needs surveys conducted over the past 25 years, a remarkably consistent big picture has emerged across diverse national contexts. First and foremost, it is evident that justiciable problems are ubiquitous across the globe.³¹ The lowest estimate from the surveys detailed in Table 1.1 was that 10% of adults experienced one or more problems over a two-year period (2016 Colombian survey); while the highest was that 90% of adults experienced problems over a four-year period (2015 Ugandan survey).³² Most commonly, estimates fell in the range of 30% to 60% over a three or four-year period.

The ubiquity of legal problems is not surprising, given the extent of law in contemporary life. Nor is it surprising that the nature of justiciable problems is somewhat similar across jurisdictions, as people engage in many of the same activities.³³ Thus consumer problems are routinely found to be among the three most prevalent justiciable problems, along with those concerning neighbours and money.³⁴ Problems relating to families, housing, employment, social safety net assistance, public services and nationality are also commonly experienced. Obtaining formal identification is also common among some population groups. However, important exceptions are found in some countries. For example, in Mali and Uganda – predominantly agricultural jurisdictions – common justiciable problems concerned land: expropriation, land grabbing, water and nationalisation. These problems were rare elsewhere (Barendrecht et al., 2014a; Piest et al., 2016).³⁵ In contrast, in both jurisdictions consumer problems were relatively rare.³⁶ In Mali, for instance, the next five most common problems concerned (in descending order) employment, family, neighbours, housing and money (Barendrecht et al., 2014a). Similarly, in Uganda they were family, neighbours, money, employment and public services (Piest et al., 2016). However, in Yemen, Mongolia and Sierra Leone, countries in which problems concerning land were common, consumer problems were also common (Coumarelos et al., 2012, p. 5).

Inequality of problem experience

Justiciable problems are not randomly distributed across populations. Particular problems are associated with particular social groups or stages of life. It appears that “socioeconomic disadvantage is pivotal” (Coumarelos et al., 2012, p. 5) to the social patterning of problems. Surveys have repeatedly demonstrated associations between disadvantage and justiciable problem experience.³⁷

Disadvantaged groups associated with elevated experience of justiciable problems include those receiving social safety net assistance, those with long-term health problems or a disability (particularly mental health problems),³⁸ single parents,³⁹ victims of crime⁴⁰ and displaced persons.⁴¹ For example, findings from the 2008 Australian LAW Survey indicated that people “with combined mental and physical illness/disability of a high

severity were more than 10 times as likely to report legal problems as those with no illness/ disability” (Coumarelos et al., 2013, p. 8).

While patterns of vulnerability vary between jurisdictions – owing to differences in social structures and behaviour – a systematic review of findings concluded that “patterns are fairly similar across jurisdictions, with few conflicts” (Pleasence et al., 2013a, p. 30).⁴² However, the picture as regards gender is less uniform. In some jurisdictions “women’s weaker agency and lower social and economic participation” (Prettitore, 2014, p. 2) results in very different patterns of justiciable problem reporting. For example, in Jordan, 75% of those who reported problems were men. Significant differences in reporting patterns were also identified in Mali, where men were associated with problems concerning such issues as employment, land and public services, while women were associated with problems concerning family, children, neighbours and social safety net assistance (Barendrecht, 2014a).⁴³

There are various reasons for the link between justiciable problem experience and disadvantage. Certain problems are a feature of disadvantage, such as those concerning social safety net assistance. Disadvantaged people draw on fewer resources and are less able to avoid or mitigate problems.⁴⁴ Moreover, justiciable problems have an additive effect, meaning that the experience of problems increases the likelihood of further problem experience,⁴⁵ exacerbating disadvantage.

Impact of justiciable problems and problem clustering

Justiciable problems often bring about or follow on from one another, or broader social, health or economic problems. They have been repeatedly found to have a substantial impact on the lives of those facing them.⁴⁶ For example, the 2015 Ugandan *Justice Needs and Satisfaction Survey* found that 54% of problems resulted in stress-related illness, 52% in loss of income, 42% in loss of time and 28% in problems with relationships (Piest et al., 2016, p. 55). The impact of justiciable problems can provoke and/or worsen broader social problems, including poverty:

“There is a relationship between legal problems and poverty. Legal problems, left unaddressed, can cause an economic or social shock that pushes vulnerable persons into poverty. For example, [...] wrongful termination of employment, financial debt or denial of social safety net benefits can cause vulnerable persons to fall into poverty. Unresolved legal problems can also prevent an individual in poverty from escaping it.” (Prettitore, 2015, p. 1)

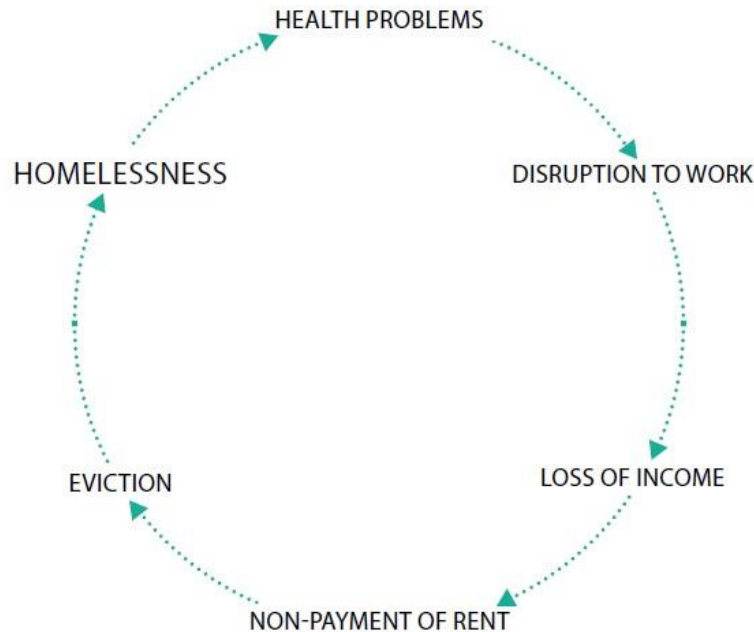
Figure 1.1 illustrates an example vicious cycle of poverty involving justiciable, health, labour, financial and housing problems.

On the basis of the 2004 *English and Welsh Civil and Social Justice Survey*, the economic cost of the impact of justiciable problems on individuals and public services was estimated to exceed US\$ 5 billion per year (Pleasence, 2006, p. i). Similarly, on the basis of the 2014 Canadian *National Survey of Everyday Legal Problems*, the annual cost to public services was estimated to be “approximately \$800 million (and perhaps significantly more)” (Farrow et al., 2016, p. 16).

The impact of justiciable problems also contributes to the phenomenon of problem clustering; which is the increased tendency of particular justiciable problems to co-occur when more than one problem type is experienced.⁴⁷ As noted following the 2011 Moldovan survey, “it is easy to see how domestic violence can cause relationship breakdown, unemployment, tenant-landlord and debt problems” (Gramatikov, 2012,

p. 19). Problem clustering also occurs when some problem types arise from similar sets of circumstances or are associated with the same demographic factors.

Figure 1.1. Vicious cycle involving justiciable and wider socioeconomic problems



Source: Adapted from Tobin Tyler et al. (2011).

Problem resolution and barriers to justice

People facing justiciable problems take many different paths to justice, often involving little or no reference to law. A consistent finding of legal needs surveys has been that “the formal judicial system is marginal to the experience of justice” (Piest et al., 2016, p. 81).⁴⁸ Although the use of formal process can be difficult to identify, and reporting is inconsistent, only a minority of surveys have found that courts or tribunals resolved more than 10% of justiciable problems⁴⁹ with some suggesting a rate of 5% or lower.⁵⁰ And where formal process is used, it tends to be used in relation to particular problem types, such as those concerning family breakdown.

In developing and some middle-income jurisdictions, traditional dispute resolution processes are more common than court processes.⁵¹ For example, in Bangladesh, people turn to the *Shalish* more often than to the courts.⁵² However, the general picture is that most problems are addressed through informal methods, often directly between the parties.

The global picture of lawyer use is similar to that of court use. Only a minority of people facing justiciable problems obtain assistance from a lawyer, with a median reported rate of around 12%.⁵³ The 2016 Ugandan *Justice Needs and Satisfaction Survey* put the figure at just 2%.⁵⁴ As with court use, lawyer use is strongly linked to problem type. Family problems are typically associated with high levels of lawyer use, and consumer problems with low levels.⁵⁵ Between countries, however, notable differences exist between problem type and the use of lawyers.⁵⁶ Other factors associated with lawyer use include the availability of legal services,⁵⁷ people’s understanding and characterisation of their

problems,⁵⁸ awareness and proximity of legal services,⁵⁹ legal confidence (sometimes referred to as “subjective legal empowerment”),⁶⁰ cost,⁶¹ problem seriousness and value.⁶² It should be noted that the majority of these factors are aspects of legal capability.

In addition to statistical associations, frequently mentioned barriers to accessing legal services include language, social convention/etiquette, expectation and, physical obstacles to accessibility (beyond geography) - such as opening hours, waiting times, etc. – and cost.⁶³

Lawyers are only one potential source of advice for resolving legal problems and enforcing entitlements. When acting to resolve justiciable problems, people seek help from a wide range of sources, both formal and informal, promising and “unpromising” (Pleasence, 2006, p. 108).⁶⁴ Aside from lawyers, common sources of formal help include independent advice organisations (including civil society organisations), unions, community leaders, justice institutions and other government bodies; along with public service workers, such as doctors and social workers. The range of sources varies between jurisdictions, reflecting differences in the socio-political structure and available services. In Tajikistan, for example, the Mahalya and house committees are notable sources of information and support (Social Research Center, 2012). In England and Wales, independent Citizens Advice Bureaux;⁶⁵ in Uganda, Local Council Courts; in Japan, insurance companies;⁶⁶ in Moldova, the police;⁶⁷ and in Yemen, Sheikhs.⁶⁸ Also, these “different sources [are] helpful for different types of problem” (Piest et al., 2016, p. 71). Moreover, specialised forms of paralegal assistance and advice are becoming more prevalent in countries seeking to expand access to justice, such as Argentina,⁶⁹ South Africa,⁷⁰ Indonesia⁷¹ and the United States.⁷²

Relatives, friends and colleagues often inform people’s choices. For example, in Macedonia, almost half of all consultations with “most essential advisers” followed suggestions by those within survey respondents’ social networks (Srbijanko et al, 2013). Previous experience and personal understanding of options also influence choice.

When individuals fail to find help at their first port of call and are signposted or referred⁷³ to another source, some abandon the effort. The more frequently people are directed elsewhere, the more they are likely to drop out of the formal advice system. This process is known as “referral fatigue” (Pleasence et al., 2004, p. 77).

As with court and lawyer use, individuals seek advice depending on the type of problem. They are more likely to seek advice for problems pertaining to family breakdown, employment,⁷⁴ personal injury and housing than they are for consumer problems.⁷⁵ Women are more likely to seek help, and help seeking appears to increase with age (although in some countries it appears to tail off in later years) and the reported seriousness and value of problems. There is also good evidence that language, socio-cultural factors, geography, available technology and other physical access and service infrastructure issues influence advice seeking behaviour.⁷⁶

However, there are dangers in assuming that behaviour will be similar in different situations or countries. For example, women in Mali are particularly “reluctant to approach formal institutions” in the context of family disputes for “fear of the consequences” (Barendrecht et al., 2014a, p. 70). People in Bulgaria are unusual in that they routinely turn to public authorities to resolve justiciable problems of all types (Gramatikov, 2008). In a few countries, a small but significant number of respondents report that criminal connections are sometimes relied on to resolve justiciable problems.⁷⁷

Beyond the sources noted above, a growing number of individuals are looking to the Internet for help.⁷⁸ For example, the 2015 Ukrainian *Justice Needs and Satisfaction Survey* indicated that people turned to the Internet for 23% of problems, up from just 12% five years earlier (HiiL, 2016a). However, “people who use the Internet to help resolve legal problems are not representative of the public as a whole” (Pleasence et al., 2015, p. xi),⁷⁹ and success in using the Internet is related to legal capability (as is success in using legal assistance services more generally).⁸⁰

Finally, legal needs surveys repeatedly find that a significant proportion of people fail to take any action whatsoever to resolve problems. Estimates for inaction from stand-alone legal needs surveys range up to 44% (Ukrainian *Legal Needs and Satisfaction Survey*).⁸¹ Evidently there are good and bad reasons for inaction (Pleasence and Balmer, 2014). However, across jurisdictions, many reasons for inaction provided by respondents to legal needs surveys convey “a rather negative and powerless quality” (Genn, 1999, p. 70).⁸²

People often believe that action would make no difference to the outcome of their problem. Indeed, this was so for a majority of respondents to the 2012 Australian, 2012 Georgian and 2015 Ukrainian surveys who took no action;⁸³ despite their “making this judgement without the benefit of any advice” (Genn, 1999, p. 71). Additionally, individuals may avoid taking action for fear of the consequences on relationships and sometimes personal safety. For example, the most recent Ukrainian legal needs survey indicated that 12% of internally displaced persons took no action to resolve justiciable problems because they were scared to do so (along with 3% of other survey respondents). Individuals may be also ignorant of their rights or options,⁸⁴ sources of help, or dispute resolution processes. In some jurisdictions, people also worry about the fairness of processes and, in some jurisdictions, corruption.⁸⁵

Multivariate statistical analysis of factors associated with inaction, as reported for nine national surveys,⁸⁶ suggests reasonably consistent associations between inaction and problem type. Inaction was found to be particularly associated with problems concerning anti-social neighbours (and, to a lesser extent, problems concerning employment).⁸⁷ The reverse was the case for family problems (and, to a lesser extent, consumer problems). Inaction has also been found to be more common among men, and among individuals who faced language obstacles or regarded problems as the product of “bad luck”; and to become less common with age (although perhaps more common again in later years), education level, income, awareness of legal rights and legal services, legal confidence, problem value and problem seriousness. “This suggests an association between elements of social disadvantage and basic problem resolution strategy that sits on top of the association between social disadvantage and vulnerability to problems” (Pleasence et al., 2014, p. 15).

Thus, legal needs surveys have demonstrated that different population groups have different attitudes to problem resolution,⁸⁸ face different obstacles to action,⁸⁹ and have different needs in relation to the help and processes available.⁹⁰ As well as the broad global picture set out above, policy and service development must therefore also be guided by proper understanding of the experience and needs of those they serve.

Building a global picture

Opportunities for detailed comparison of experience between jurisdictions are limited by the different methods adopted by the many legal needs surveys detailed in Table 1.1 and Table 1.2. The repeated British and Dutch *Paths to Justice* surveys, the *English and Welsh Civil and Social Justice Surveys* and the Hague Institute for Innovation of Law’s

(HiL) *Justice Needs and Satisfaction Surveys* have allowed for some confidence in comparisons. However, despite many similarities, significant and important differences among surveys in different countries have tended to undermine efforts to compare findings.⁹¹ Thus, initiatives such as the World Justice Project's *General Population Poll* – which ask the same questions across many countries and has now adopted many of the methodological recommendations set out in this document – have the potential to provide a valuable comparative picture of experience across the globe. Moreover, several members of the OECD-Justice Initiative Advisory Stream guiding the development of this document, as well as others working with the OECD, have initiated processes to translate this global Guide into national surveys to support policy, such as the new surveys in South Korea (Kim and Choi, 2018).

Inclusive process

Legal needs surveys are most effective when those defining and supporting the research, whether from government or civil society organisations, bring other groups into the process. As described throughout this Guide, defining and contextualising the legal problems people experience, as well as possible mechanisms for resolution, is a challenging exercise. Meaningful engagement with frontline service providers and community groups enables the development of a better, more responsive survey. Such interaction equips frontline organisations with a deeper understanding of the survey process, which will, in turn, generate trust and enable those organisations to engage with the findings.

When incorporating civil legal needs questions into government surveys, the previous experiences of independent civil society in conducting surveys have proven to be a valuable guide for government policymakers. In Colombia, for example, when the Department of National Planning sought to integrate a national civil justice module they looked to the experiences of the civil society organisation Dejusticia, which had previously conducted an urban legal needs survey. By working in partnership, the government was able to learn from Dejusticia's experience, while Dejusticia in turn was better prepared to make use of the survey's findings. In Nepal, the National Judicial Academy partnered with the Social Science Baha, a civil society think tank, to develop and implement a nationwide legal needs survey.

Conducting the survey through an inclusive process both provides the best results and enables the most effective use of the findings by different stakeholders. In both government-led and independent surveys, civil society groups can serve as important partners for connecting with hard-to-reach groups. In Nepal, for example, legal service providers are working with a research team to better account for the range of civil justice problems and active justice institutions at the local level. In Kenya, a legal assistance and advocacy organisation helped introduce the research team to a marginalised community where there was deep suspicion of external and government representatives. In South Africa organisations supporting community advice offices have participated in testing and refining civil legal needs related questions being developed by Statistics South Africa. Greater inclusivity will enable policymakers and advocates to understand how the survey generates particular types of information and strengthens possibilities for policy impact.

Finally, inclusive processes can enhance the value of survey findings. A wide range of government agencies and civil society organisations may be affected by legal needs survey findings. Each agency or organisation can play a role to play in interpreting findings and driving programmatic and policy reform. Governments and civil society

organisations have used a number of public dissemination techniques to discuss the findings, their dissemination, and the strategic use of media. Guaranteeing the availability of data is also a key consideration. Surveys are costly undertakings and lead agencies are often unable to conduct the numerous types of analyses that are relevant to particular constituencies. It is critical that independent organisations and government institutions make anonymised survey data available for researchers and advocates. This approach ensures that the survey exercise has broader use and applicability and can be combined with other sources of justice data to inform policy in a multitude of ways.

Impacts of legal needs surveys

Legal needs surveys have proved effective in helping to identify areas for policy reform. They also serve as a mechanism for monitoring changes in experience and behaviour against a backdrop of legal services reform.⁹² They form part of a broad evidence base upon which policymakers, service designers and practitioners can draw. Research can affect the policy process in “diffuse ways” (Weiss, 1980, p. 318). Research “provides a background of empirical generalisations and ideas that *creep* into policy deliberations” (Weiss, 1980, p. 318).

Thus, the more than 55 national legal needs surveys, along with many more sub-national surveys, conducted over the past 25 years, have gently contributed to “transform[ing] thinking about legal aid and advice” (Pleasence et al., 2013a, p. 43) globally and within an increasing number of jurisdictions. Professor Hazel Genn, author of the seminal *Paths to Justice* surveys in the United Kingdom, has characterised this transformation as having distinct phases (Genn, 2017). The first – arguably the most important – sees findings concerning the ubiquity of justiciable problems and the relatively rare use of formal legal systems bring about a “policy ‘flip’ [from] system to citizen-focus,” which leads to policy and design of services “with needs and behaviour in mind, rather than funder convenience or policy assumptions” (Genn, 2017).

This policy-flip is evident in numerous policy documents across jurisdictions in which legal needs surveys have been prominent, such as Australia, Canada, England and Wales, and Ukraine.⁹³ Indeed, the English and Welsh Legal Services Commission’s 2005 strategy document *Making Legal Rights a Reality* has been described as “entirely based” on legal needs survey findings that were used “to try and reconfigure how services were organised” and have “had a very great impact” (Pleasence, Balmer and Sandefur, 2013, p. 43–44). The policy flip was also a central theme of the findings of a survey of governmental stakeholders in Australia, Canada, England and Wales, New Zealand, Northern Ireland and Scotland. The survey investigated the perceived impact of legal needs surveys in those jurisdictions. The findings, as one respondent put it, highlighted the role of legal needs surveys in helping policy officials “learn about both the substance of civil legal needs and the client perspective on access to justice more generally” (Pleasence, Balmer and Sandefur, 2013, p. 54).⁹⁴ At the most basic level, the survey findings made clear to those in the formal justice system that experience of justiciable problems occurs largely outside their purview. As one respondent noted: “The incidence of legal problems is not what lawyers and judges think” (Pleasence, Balmer and Sandefur, 2013, p. 56).

Respondents also identified key legal needs survey findings that have been instrumental in the reformulation of access to justice policy in broader social and instrumentalist terms. Most frequently highlighted were “findings that certain groups [are] disproportionately exposed to a higher problem incidence by virtue of their demographic characteristics”

(Pleasence, Balmer and Sandefur, 2013, p. 67), so-called problem clustering, and “the health and social costs of legal problems” (Pleasence, Balmer and Sandefur, 2013, p. 56). Findings concerning service gaps and factors influencing service use, and factors that might influence demand for particular services also had an impact. Such findings were described as having led to, in Genn’s words, “smarter approaches” (Genn, 2017) to legal service delivery, and service transformation centred on targeting, accessibility and the integration of legal services (and, beyond this, the integration of legal and other public services). More than four in five respondents “were able to set out specific policies that legal needs survey findings had influenced,” and, in all, respondents suggested that 28 separate policies or initiatives were impacted by legal needs surveys (Pleasence et al., 2013a, p. 54).

A series of interviews with officials in the United Kingdom public, private and NGO sectors revealed that they “attributed the policy response of ‘joined-up services’ to assist the public to the research discovery of ‘joined-up’ problems” (Pleasence et al., 2013a, p. 43). For example, the introduction of Community Legal Advice Centres (CLACs) was described as “a ‘research-based policy’ designed to respond to the discovery that problems cluster” (Pleasence et al., 2013a, p. 43). More generally, officials saw legal needs surveys as “persuasive and influential,” and described them as “having transformed understanding of public justice needs, of not-for-profit service provision, and of market service provision” (Pleasence et al., 2013a, p. 44).

There have been differences between jurisdictions in the purposes for commissioning surveys, and thus their impact on policy. The above examples of impact concern jurisdictions with well-established legal infrastructures, including public legal assistance services, in which the focus of policy interest is in refining established processes and services. In contrast, in jurisdictions with emerging or transitional legal infrastructures, there is a greater policy focus on the reach and use of law, and the appropriate form of legal services infrastructure. For example, the 2011 *Met and Unmet Legal Needs in Moldova* survey was part of efforts that enabled the Soros Foundation-Moldova (the survey’s sponsor) to inform and be a part of the working group created by Ministry of Justice to develop the Strategy for Justice Sector Reform for 2011 – 2016.

However, across jurisdictions, law-centred interests are now commonly conjoined with broader interest in the relationship between justiciable problems and wider social health and economic problems. Linked to this is the utility of legal services in addressing wider social policy goals.⁹⁵ At a national level, this has seen survey findings used “in building a case for legal advice and funding in addition to general policy development” (Pleasence et al., 2013a, p. 53). Legal needs surveys have further situated the legal problem experience into a far broader policy context. Justice sectors need to consider how they engage with other sectors, just as other sectors⁹⁶ need to consider how legal problems and services may be important to their concerns and goals.

Internationally, this has recently manifested in an agreement to pursue U.N. Sustainable Development Goal 16.⁹⁷ Goal 16 is “dedicated to the promotion of peaceful and inclusive societies for sustainable development, the provision of access to justice for all, and building effective, accountable institutions at all levels.”⁹⁸ The SDG agenda is predicated in part on the notion that “the rule of law and development have a significant interrelation and are mutually reinforcing, making it essential for sustainable development at the national and international level.”⁹⁹

Target populations and methodological variations among past legal needs surveys

Target populations of past legal needs surveys

Legal needs surveys have mostly focused on nationally representative samples. However, some of the surveys in Table 1.1 and Table 1.2 have focused on specific target populations – such as those focused on low incomes or young people¹⁰⁰ – and some have involved oversampling of defined population groups, such as Indigenous people in Australia and Syrian refugees in Jordan.¹⁰¹ These surveys focus on generating information about the experiences of sections of the population of particular interest to policymakers. However, all the surveys in Table 1.1 and Table 1.2 have utilised broad population sample frames and, for the most part, probability samples.¹⁰² Such sample frames may yield only small numbers of especially vulnerable populations and may even exclude some vulnerable populations altogether (i.e. where there is a gap between the target population and the sample frame (coverage error)). The report of the 2006-2009 *English and Welsh Civil and Social Justice Survey* noted that its address-based sample frame¹⁰³ excluded “around 2% of the population” (Pleasence et al., 2010, p. 6). The report went on to state that:

“While the experience of people who share many of the characteristics of such ‘out of sample’ populations will be captured ... and will cast good light on what the experience of ‘out of sample’ populations is likely to be like, it is important to bear this limitation of the survey in mind when considering its findings.”
(Pleasence et al., 2010, p. 6)

Sections of the populations identified as missing from the survey’s sample frame included people living in residential care homes, students living in education establishments, prisoners, military personnel living in defence establishments, Roma/travellers, people living in local authority provided temporary accommodation (other than in local authority housing stock), people in immigration detention centres and the street homeless. Some of these groups are among the most marginalised and vulnerable groups in society. The methodological report of the 2011 Colombian *National Legal Needs Survey* similarly highlighted that its sample frame excluded groups such as prisoners, service personnel, people in nursing homes and the street homeless (Uprimny et al., 2013).

Accordingly, parallel and complementary surveys of specific vulnerable populations can, and sometimes should, be used to complement standard sample frames, especially where there is clear potential for coverage bias. The 2001 *English and Welsh Civil and Social Justice Survey* and the 2011 Colombian *National Legal Needs Survey*, for example, were supplemented by separate surveys of specific vulnerable populations. In England and Wales, a separate survey was conducted of people living in local authority temporary accommodation (Pleasence et al., 2004). In Colombia, separate surveys were conducted of individuals living in extreme poverty and those with a disability (Uprimny et al., 2013).¹⁰⁴

The experience of discrete vulnerable populations has been more often separately investigated using methods other than surveys. For example, the experience of older people,¹⁰⁵ homeless people,¹⁰⁶ those with mental illness,¹⁰⁷ and prisoners¹⁰⁸ have been investigated through qualitative projects undertaken within the Law and Justice Foundation of New South Wales’s *Access to Justice and Legal Needs* research programme. Also, more recently, focus groups have been used to investigate the experience of young drug users, young people of Roma origin and commercial sex workers in Moldova, in parallel with the 2011 *Legal Empowerment Needs Survey*.

Methodological features and variations

As illustrated in Table 1.1 and Table 1.2, despite being part of the same tradition, the scale and methods of legal needs surveys vary considerably. In terms of scale, the surveys in Table 1.1 and Table 1.2 have drawn on a broad range of sample sizes, and utilised questionnaires of very different lengths. The median sample size of stand-alone legal needs surveys was around 5,000. However, while the 2004 *Legal Needs in Slovakia Survey* had a sample size of just over 1,085, the 2008 *Legal Australia-Wide Survey* had a sample size of over 20,716, the 2017 *Indian Access to Justice Survey* had a sample size of 45,551 and the 2009 *Brazilian National Household Sample Survey* had a sample size of 399,387.

Evidently, required sample size directly links to the prevalence of principal objects of study.¹⁰⁹ If interest is primarily in justiciable problem prevalence, then modest sample sizes may suffice (with sample size needing to increase along with levels of accuracy and confidence).¹¹⁰ However, if interest is primarily in the rate or patterning of use of different sources of help or dispute resolution processes, then sample sizes need to increase; particularly if behaviour relating to specific types of problem is of interest.

The length of legal needs surveys has also varied considerably. The median questionnaire length of the surveys in Table 1.1 and Table 1.2 was around 6,000 words; but, the 2011 *Jordanian Volume of Demand for Legal Aid Services Survey* ran to fewer than 1,000 words, the various iterations of the *Justice Needs and Satisfaction Survey* ran to around 6,000 words, and the *English and Welsh Civil and Social Justice Panel Survey* ran to over 20,000 words (excluding repeated sections).

As would be expected, given the very different lengths of questionnaires used, the range of topics investigated by legal needs surveys has varied considerably, as has the degree of detail and sophistication of questions. The content of legal needs surveys is discussed further in Chapter 2. and Chapter 3.

Two-thirds of the Table 1.1 and Table 1.2 surveys were conducted face-to-face, with the remainder conducted by telephone, by post, online or using a combination of modes.¹¹¹ Differences in mode of conduct help to explain the broad range of reported response rates (as well as some differences in findings¹¹²). Response rates tend to link to mode of conduct, with face-to-face surveys generally delivering higher response rates than other surveys.¹¹³ So, while the three iterations of the Canadian telephone *National Survey of Civil Justice Problems* had response rates of 17% (2004), 23% (2006) and 21% (2008), the original face-to-face *Paths to Justice* surveys had response rates of 64% in England and Wales and 61% in Scotland.

Large government backed face-to-face surveys can have even higher response rates. For example, the face-to-face 2016 Colombian *National Quality of Life Survey* had a response rate of 96%. However, comparing response rates between surveys conducted in different ways is problematic, particularly between probability and non-probability samples. The 2008 Australian telephone survey was reported to have a 60% response rate, yet “the calculation of this response rate might be considered more forgiving than for the face-to-face surveys” (Pleasence, Balmer and Sandefur, p. 11). In excess of half a million phone calls were required to obtain the sample of 20,716; including 74,802 “unknown other” calls incorporating refusals before screening. The authors of the survey acknowledged that:

“There are several methods for calculating response rate, and response rate estimates can vary dramatically depending on the particular method used.”
(Coumarelos et al., 2012, p. 12)

High reported response rates of the online surveys in the Netherlands (reaching 83% in the case of the 2003 *Paths to Justice in the Netherlands Survey*) are similarly misleading; and explained “by the sample being drawn from an opt-in panel, meaning that participants had already been filtered for amenability during previous exercises” (Pleasence et al., 2013, p. 11).¹⁴ Opt-in processes mask as well as compound nonresponse bias.

Notes

¹ The concept of access to justice “defies precise definition”.

² A reference to conformity with human rights standards is necessary to both extend the concept beyond local legal frameworks (which may conflict with accepted international norms) and indicate standards for independent adjudication. Although there is broad agreement on the focus of the concept of access to justice, the concept is fluid. For illustration, a detailed account of the broadening of the concept in the context of justice system reform in Canada is provided by Macdonald (2005).

³ The debate around access to justice “has many strands” (Paterson 2012, p.60) (including citizens’ behaviour in resolving justiciable problems, the availability and accessibility of legal services and state-sanctioned dispute resolution processes, the sustainable provision of legal aid, and the role of non-legal services in delivering justice outcomes) and ideological dimensions. While the concept of access to justice is generally discussed in relation to access to legal services and processes, debates frequently also extend to other human services that have utility in addressing problems existing within such frameworks.

⁴ Legal capability refers to the capabilities necessary for a person – or, at a higher level, a household or community – “to resolve legal problems effectively” (Coumarelos et al. 2012, p. 29). The concept of legal capability links to Sen’s (1980, 1999) capability approach to disadvantage. For a discussion of legal needs within the context of the concept of legal capability, see Pleasence & Balmer (2019).

⁵ Referring to frustration felt among researchers studying legal need in the 1970s that accompanied a period of contraction in the field.

⁶ Civil law refers to all law that can be applied to or by individual citizens (or, in a business context, businesses) other than criminal law.

⁷ See, for example, United Nations Development Programme (2012).

⁸ Many access to justice assessment surveys also include legal needs survey style questions concerning particular problem types. For example, the Vietnamese Provincial Justice Index Questionnaire has included detailed questions concerning land disputes (reported in United Nations Development Programme (2012).

⁹ The first legal needs survey is accredited to Clark and Corstvet (1938), who separately surveyed citizens and businesses in Connecticut, United States, to explore “how the needs of the community for legal service were being met” during the 1930s recession at the U.S. Bar.

¹⁰ Landmark legal needs surveys in the 1980s and 1990s – the *Civil Litigation Research Project* (Trubek et al. 1983) and *Comprehensive Legal Needs Study* (Reece & Eldred 1994) in the United States, the *legal Advice and Assistance Survey* in New Zealand (Maxwell et al. 1999) and the *Paths to Justice* surveys in the United Kingdom (Genn 1999, Genn & Paterson 2001) – introduced “considerable momentum” (Coumarelos et al. 2012, p. 1) to the conduct of such surveys.

¹¹ Including near national surveys (i.e. those covering the great majority of the population, such as the 2012 Colombian and 2016 United Arab Emirates surveys). Published findings of the stand-alone surveys are available in, in order of listing in Table 1.1, Reese & Eldred (1994), Genn (1999), Maxwell et al. (1999), Genn & Paterson (2001), Pleasence et al. (2004), Van Velthoven & ter Voert (2004), Currie (2005), Pleasence (2006), GfK Slovakia (2004), Murayama (2007), Dignan (2006), Currie (2007), Pleasence et al. (2010), Asia Consulting Group Limited & Policy 21 Limited (2008), Sato et al. (2007), Ignite Research (2006), Gramatikov (2008), Tamaki, T. (2009), Coumeralos et al. (2012), Akmeemana, S. (2011), Currie (2009), Van Velthoven & Haarhuis (2010), Pleasence et al. (2011a), Kobzin et al. (2011), Prettitore (2013), Gramatikov (2012), Huang et al. (2014), La Rota et al. (2013), Pleasence & Balmer (2013a), BDRC Continental (2012), Institute of Social Studies and Analysis (2012), ACSSC (2012), Srbijanko et al. (2013), Social Research Center (2012), ter Voert & Haarhuis (2015), Farrow et al. (2016), Franklyn et al. (2017), Barendrecht et al. (2014a), Ipsos MORI (2012), Winczorek (2018), Piest et al. (2016), Subsecretaría de Acceso a la Justicia Ministerio de Justicia y Derechos Humanos (2017), Heijstek-Ziemann et al. (2017), Open Society Forum (2018), HiiL (2016a), HiiL (2016b), Kind et al. (2018), Baruah et al. (2018), Núñez et al. (2017), Kind et al. (2017). Details of the 2013 Netherlands survey, 2016 Moldovan survey and 2017 Kenyan, New Zealand, Sierra Leone and Nepal surveys have not been published, as of 1st August 2018.

¹² Details of the Scottish Crime and Justice Survey can be found at: <http://www.gov.scot/Topics/Statistics/Browse/Crime-Justice/crime-and-justice-survey/publications>. See also, in order of listing in Table 1.1, Subsecretaría de Acceso a la Justicia Ministerio de Justicia y Derechos Humanos (2017), Kenya National Bureau of Statistics (2018), Departamento Nacional de Planeación (2017), Adams et al. (2017, 2018). Indonesia's National Socio-Economic Survey 2017 also included a short series of questions concerning justiciable problems (including those related to compensation, employment, family, harassment, housing, inheritance and land) "which involved law enforcement bodies."

¹³ See Michelson (2008).

¹⁴ See ECOLEX (2014).

¹⁵ Details of the Russian survey kindly provided by Martin Gramatikov.

¹⁶ See Gramatikov et al. (2014).

¹⁷ See Barendrecht et al. (2014b).

¹⁸ See Gramatikov and Verdonschot (2010).

¹⁹ For example, surveys have recently been conducted in more than one-quarter of all U.S. states.

²⁰ In Hong Kong, the Netherlands, Australia, Colombia, and England and Wales. See Asia Consulting Group Limited & Policy 21 Limited (2008), Croes and Maas (2009), Orima Research (2010), Croes (2012), Uprimny et al. (2012), Pleasence & Balmer (2013b) and Blackburn et al. (2015), Larkin et al. (2018).

²¹ <https://dhsprogram.com/What-We-Do/Survey-Types/DHS.cfm>.

²² <http://www.fao.org/in-action/voices-of-the-hungry/fies/en/>.

²³ <https://unhabitat.org/experts-reach-important-consensus-on-critical-land-indicator/>.

²⁴ The concept of legal empowerment emerged in the field of law and development and now refers to the focus of developmental justice programmes on "empowering individuals to realise their rights and voice their demands more actively" (Kolisetty 2014, p. 9).

²⁵ See Barendrecht & van Nipsen (2008).

²⁶ A cross-sectional survey investigates a sample of a population at a single point in time. A longitudinal survey investigates the same sample of a population across time.

²⁷ See, for example, <http://a2jlab.org/>.

²⁸ Lay understanding of the phenomena and concepts involved can be extremely limited in relation to technical matters (such as technical aspects of litigation).

²⁹ Surveys of users of particular services or processes are not be problematic in this regard. Similarly, general population surveys are inefficient in capturing data concerning rare justiciable problem types. For example, justiciable problems concerning compulsory hospitalisation for mental health issues were removed from the English and Welsh Civil and Social Justice Survey. Their rarity entailed population estimates were unreliable

and it was recognised that surveys of people in hospital, or after discharge from hospital, would be more efficient and insightful.

³⁰ In the context of the social sciences, the concept of triangulation is generally attributed to Denzin (1978), who also distinguished between methodological triangulation and data, investigator and theoretical triangulation. In this context, it is notable that many surveys capture qualitative data alongside quantitative data; albeit often in the hope of being able to code and quantify such data.

³¹ Although the impact of even small methodological differences on results precludes definitive incidence rates being determined across or within individual jurisdictions (Plesence et al. 2016). Also see Chapters 2 and 3.

³² Demonstrating further the variation in estimates, and the impact of methodological differences on survey findings, the World Justice Project's 2016 *General Population Poll* put the figure for Colombia at 26% over one year, while the 2012 *Colombian National Legal Needs Survey* put the figure at 43% over 4 years. Similarly, the World Justice Project's 2016 *General Population Poll* put the Ugandan figure at 56% over one year. As is made evident in Chapter 3, great caution should be exercised in comparing estimates between surveys that have utilised different methodologies. Even small methodological differences can bring about substantial changes in response patterns.

³³ Plesence et al. (2004, p. 28) refer to these circumstances as the “defining circumstances” of problems. See, also, van Velthoven and ter Voert's (2005) application of participation theory in this context.

³⁴ Consumer problems have been found to be among the three most common justiciable problems by 27 of 37 surveys for which relevant findings are available, excluding crime victimisation, if reported, and, in the case of the English and Welsh online surveys, excluding non-contentious legal issues (such as conveyancing). The figures for problems concerning neighbours and money are 20 of 28 and 22 of 35, respectively.

³⁵ For citizens of countries such as Mali and Uganda, “land is the most important economic, social and legal asset” (Piest 2016, p. 131). The 2017 Indian survey, which found problems concerning land to be second most common after those concerning money, also found that 71% of disputes concerned agricultural land (Baruah et al. 2018). Other notable differences in patterns of problem reporting include the high level of “elections” related problems reported in Kyrgyzstan (ACSSC 2012) and of religious/witchcraft related issues in Kenya (Kenya National Bureau of Statistics 2018).

³⁶ Similar findings have also emerged in Indonesia, rural China and rural Taiwan (Gramatikov et al. 2014, Michelson (2007), Chen et al. (2012a). Although, demonstrating the complexity of social and problem patternation, consumer problems were found to be relatively prominent in Yemen (Barendrecht et al. 2014b).

³⁷ While broadly accurate, in a global context it should be noted that factors of vulnerability to justiciable problems can be diametrically opposed, and vary (sometimes considerably) by problem type. Both elevated socio-economic activity and depressed socio-economic status may fuel problem experience – but in different ways. As Gramatikov (2012, p. 20) explained “On the one hand, poor people are more vulnerable because they have fewer resources to mitigate and cope with legal problems. On the other hand, those who are more affluent participate more in the economic, social and political life”.

³⁸ See, for example, Balmer and Plesence (2012a) and Coumarelos et al. (2013).

³⁹ See, for example, Buck et al. (2004) and Plesence et al. (2013a).

⁴⁰ Crime victimisation has commonly been identified as associated with the experience of justiciable problems. For example, this was identified through multivariate analysis in Moldova (Gramatikov 2012). Less often reported is the strong association between experience of justiciable problems and criminal offending. See, for example, Kemp et al. (2007) and Plesence & McDonald (2013).

⁴¹ Piest et al. (2016) identified internally displaced persons (as a result of partition and civil war) as being associated with much higher problem prevalence. Related to this, Plesence et al. (2004) found those living in local council temporary accommodation to be associated with high problem prevalence.

⁴² Excluding domestic violence, that is consistently gendered across jurisdictions, significant gender based differences in justiciable problem experience have been found in only a minority of jurisdictions. However, some differences are notable.

⁴³ In addition to the globally consistent gendered reporting of domestic violence, some gender differences have been reported in richer jurisdictions. For example, men in Slovakia were found to be more likely to have

experienced employment or personal injury problems but less likely to have experienced family problems (GfK Slovakia, 2004).

⁴⁴ One aspect of this is that problems can have a different character for disadvantaged people. For example, what an affluent person might regard as a trivial consumer issue – such as the purchase of food that is unwholesome – might be highly problematic for someone living in poverty.

⁴⁵ This was first described and quantified by Pleasence et al. (2004). Findings are consistent across jurisdictions. For example, in Moldova, 16.7% of respondents reported one problem, 3.5% reported two, 1.3% reported three and 0.6% reported 4 (Gramatikov, 2012).

⁴⁶ For example, in Macedonia, 32% of survey respondents described non-trivial problems as “destroying my life” (Srbijanko et al. 2013, p. 82).

⁴⁷ The most commonly identified problem clusters have been observed in the context of family breakdown, where domestic violence, divorce, ancillary issues and problems concerning children link closely. Other identified clusters include clusters centred on economic activity (e.g. problems concerning employment, money, consumer transactions, welfare benefits and housing), and problems centred on poor quality housing. See, for example, Pleasence (2006), Gramatikov (2008), Currie (2009), Coumarelos (2012).

⁴⁸ Referring to the situation in Uganda.

⁴⁹ The World Justice Project’s 2016 *General Population Poll* suggested that in about one-third of jurisdictions courts were selected as the mechanism for resolving disputes on more than 10% and sometimes as few as 1% of occasions. (China, Myanmar and Thailand) (Adams et al. 2017). The 2017 *General Population Poll* suggested that in only a few jurisdictions did respondents report turning to an authority or third party to help resolve problems on more than 20% of occasions (Afghanistan, Ethiopia, Greece, Panama, Slovenia and the United States), while in Mongolia the figure was just 4% (Adams et al. 2018). Separately, findings from the 2017 Indian survey suggested that a significant majority of respondents would like to have resolved disputes through courts (Baruah et al. 2018).

⁵⁰ For example, Argentina 2016, Australia 2012, England and Wales 2010, 2012, Japan 2005, Uganda 2015 and Ukraine 2015. Figures have been made available for fewer than half of the surveys, and the precise nature of figures has not always been clear.

⁵¹ The World Justice Project’s 2016 *General Population Poll* found this to be the case in Bangladesh, Thailand and Uganda (Adams et al. 2017).

⁵² The 2009 Bangladesh survey found that a “modest” 16% of disputes involved courts, while 18% involved a village *Shalish* and 41% involved consultation with a political leader/chairman (Akmeemana 2011). The 2017 Bangladesh survey similarly found that courts were used less frequently for dispute resolution (8%) than the *Shalish* (23%) (Kind et al. 2018).

⁵³ On the basis of 36 surveys for which details were provided.

⁵⁴ Although, while court use was also low, local council courts were found to be a popular source of information.

⁵⁵ For example, in Georgia, 60% of family problems involved legal consultation, while the figure was just 5% in the case of problems related to social assistance (Institute of Social Studies and Analysis 2012). Similarly, in Japan, where the help of lawyers is rarely sought, the *National Survey of Everyday Life and the Law* found that almost 40% of family problems involve lawyer consultation (Murayama, 2007, p. 31).

⁵⁶ For example, personal injury problems are strongly associated with lawyers in the United Kingdom and Canada (e.g. Pleasence et al. 2004, Currie 2009), while the opposite is true in countries such as Japan, New Zealand and Hong Kong (e.g. Murayama 2007, Ignite Research 2006, Asia Consulting Group and Policy 21 Ltd, 2008).

⁵⁷ It has been argued, for example, that the “remarkably small population of lawyers” in Japan is the reason for the relatively low level of lawyer use in that country (Sato et al. 2007, p. 11) and that the different levels of lawyer use for different problem types in England and Wales is partly a reflection of patterns of legal services supply (Pleasence & Balmer 2009).

⁵⁸ It has been found that whether or not people characterise problems as “legal” is associated with whether or not lawyers are used. Characterisation has been found to substantially affect lawyer use both across and within problem types (Pleasence et al. 2011b). In fact, after controlling for other factors, lawyer use was

found to be 169% higher when problems were “characterised as legal” (Pleasence & Balmer 2014, p. 42). Murayama (2010) also reported a link between people’s consciousness of problems being “related to law” and the use of lawyers, though the association was much weaker than that between problem type and lawyer use. More recently, surveys in Argentina and Canada have explored this issue, although results have not yet been published. Murayama (2009, 2010) also found personal connections to the legal profession to be a key predictor of lawyer use.

⁵⁹ In Australia, for example, people living in very remote areas and unaware of legal services tended to report very low levels of lawyer use (Pleasence et al. 2014). Even in relatively densely populated England and Wales, Patel et al. (2008) found that people without personal transport who lived five or more miles from a specialist advisor were the least likely to seek advice. Similarly, uneven regional availability and awareness of legal services was found to impact on problem resolving behaviour in Ecuador and Georgia ECOLEX (2014), Institute of Social Studies and Analysis (2012).

⁶⁰ In England and Wales, citizens with the highest levels of legal confidence have been found to be 43% more likely to seek help from a lawyer than those with the lowest levels (Pleasence et al. 2015).

⁶¹ Many legal needs surveys have suggested a relationship between income and lawyer use, including surveys in Canada, Colombia, Jordan, Macedonia, the Netherlands, New Zealand, Scotland, Taiwan (Currie 2009, Prettitore 2014, van Velthoven & ter Voert 2005, Ignite Research 2006, Pleasence & Balmer 2009, Huang et al. 2014). Some of these find were U-shaped in form. For example, analyses of data from the 2008 *Legal Australia-Wide Survey*⁶¹ and 2010 *English and Welsh Civil and Social Justice Panel Survey* point to a subtle relationship between income and lawyer use mediated by subsidy and payment mechanisms. Illustrating this mediated relationship, findings from the Australian survey suggested a U-shaped association in the case of family problems (where no cost or low cost legal assistance is available for those on a low income), no association in the case of personal injury (where no-win no-fee arrangements are available) and a positive association in other cases. Additionally, patterns of use of private lawyers and legal services aimed at those with low incomes provided a coherent structure for the findings overall (Pleasence & Macourt 2013). These findings conflict with those of an earlier review of survey findings from seven countries, which suggested that “income has relatively little relationship with the decision to use a legal professional to deal with a dispute or other legal need.” However, this earlier review “did not account for the relatively good availability of legal aid in some of the jurisdictions under study” (Pleasence & Balmer 2012a, p. 38).

⁶² With lawyer use increasing along with seriousness/value. See, for example, Huang et al. (2014), Pleasence & Balmer (2014). Evidently, “cost-benefit calculations” are applied in people’s choices about whether to use lawyers (Kritzer 2008).

⁶³ For example, Genn (1999), Pleasence (2006), Murayama (2007), Gramatikov (2008), Coumeralos et al. (2012), Barendrecht et al. (2014a, 2014b), Gramatikov et al. (2014).

⁶⁴ Pleasence argued that the unpromising nature of many sources of help indicated “real uncertainty as to the most effective way of responding to [legal] problems”.

⁶⁵ See, for example, Pleasence & Balmer (2013a)

⁶⁶ See, for example, Murayama (2007).

⁶⁷ See Gramatikov (2012).

⁶⁸ Social Research Center (2012), Pleasence (2006), Piast (2016), Murayama (2007), Barendrecht (2014b), respectively. Importantly, in terms of the value of legal needs surveys, in Tajikistan it was found that “Despite the widespread opinion that religious leaders (Mullo/Bibiotun) are popular sources of information, data shows that they are the least popular sources” (Social Research Center 2012, p. 155).

⁶⁹ See, for example, the Presidential announcement of the Federal Network for Legal Sponsorship available at <http://www.vocesporlajusticia.gob.ar/actualidad/brindaran-asesoria-legal-gratuita-traves-los-caj/>.

⁷⁰ Address by the Deputy Minister of Justice and Constitutional Development, the Hon JH Jeffery, MP, at the National Symposium of Community Advice Offices, held at the Reef Hotel, Johannesburg, 24 November 2014, available at http://www.justice.gov.za/m_speeches/2014/20141124_CAO.html

⁷¹ See Indonesia’s Law on Legal Aid (Law No. 16/2011) available at http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=91046.

⁷² For example, the Court Navigators Program in New York City Housing Courts <https://www.nycourts.gov/courts/nyc/SSI/pdfs/AO-42-14.pdf>.

⁷³ “Signposting” and “referral” are distinguished on the basis of the extent to which the signposting/referring source liaises with the receiving source. Signposting generally refers to the process of providing a client with the details of a more appropriate (or further) source of help, but does not liaise with the other source to facilitate contact. Referral generally refers to the process of actively arranging contact with the other source.

⁷⁴ Although the contrary was found in Taiwan (Chen et al. 2012b), and findings were mixed in the case of the 2008 *Legal Australia-Wide Survey*. Initial analysis suggested employment problems were associated with increased advice seeking (Coumarelos et al. 2012), but later analysis – incorporating a different and broader set of explanatory variables suggested employment problems were associated with less legal and non-legal advice (Pleasence et al. 2013b).

⁷⁵ And, to a lesser extent, problems concerning debt.

⁷⁶ See, for example, Pleasence & Balmer (2014) and Pleasence et al. (2015).

⁷⁷ See, for example, Kobzin et al. (2011) and Institute of Social Studies and Analysis (2012).

⁷⁸ Legal needs surveys suggest that people often struggle to find what they are looking for online (which generally goes beyond the details of offline sources of help), although it appears that most people obtain *some* useful information through their efforts (Pleasence et al. 2015).

⁷⁹ In addition to “the first digital divide” (which relates to the ability of individuals to physically access the Internet), the second digital divide” (which relates to the capability of individuals to use Internet resources – see, for example, Attewell (2001)) acts to distort the profile of those who look to the Internet for help resolving problems. For example, Internet use increases along with educational attainment (Pleasence et al. 2015). Also, there is evidence that younger people, while having relatively high levels of Internet access, use the Internet to help resolve problems “to a lesser degree than similarly connected age cohorts, and are less successful when doing so” Denvir et al. (2011, p. 96).

⁸⁰ See, for example, Pearson & Davis (2002), Legal Services Commission (2004), etc.

⁸¹ This is similar to the estimate of 41% from the 2010 *Legal Capacity of the Ukrainian Population Survey*. Other Eastern European surveys have also uncovered high levels of inaction; for example, 36% in Macedonia in 2012, 29% in Georgia in 2012 and 21% in Moldova in 2011. High rates of inaction in Africa include 38% in Uganda in 2015 and 28% in Tunisia in 2016. In contrast, estimates as low as 4% have come from England and Wales in 2014, and 5% in Canada in 2014. Some of the difference is due to differences in what actions are asked about and the form of questions. In both these last jurisdictions, estimates have been higher in other surveys; and the World Justice Project’s 2016 *General Population Poll* included dozens of country estimates, the lowest of which was 42%, for Liberia. The estimate for the United Kingdom was 57%.

⁸² The report of the 2012 Georgian *KAP Survey Concerning Justiciable Events* referred to this as “a nihilistic approach to the legal system” (Institute of Social Studies and Analysis 2012, p. 96).

⁸³ See Coumarelos et al. (2012), Institute of Social Studies and Analysis (2012), HiiL (2016a), respectively.

⁸⁴ Recent legal needs survey findings from England and Wales indicate that levels of understanding of legal rights and responsibilities are low (Pleasence and Balmer 2012b, Pleasence et al. 2015, 2017).

⁸⁵ For example, in the case of Indonesia, Gramatikov et al. (2014, p. 89) reported that “a deeper look at three of the most frequent and serious categories of problems - land disputes, crimes and money related disputes - reveal that people are concerned about the time it takes, the stress and negative emotions as well as the fairness of the process.” And in Ukraine, Kobzin et al. (2011, pp. 57-61) have categorised the broad barriers to access to justice as including emotional, informational, physical, financial, effectiveness, bureaucratic, corruption, and secondary victimisation barriers.

⁸⁶ See Australia (2008), England and Wales (2001, 2004, 2010, 2012), Moldova (2011), the Netherlands (2003, 2009) and Taiwan (2011).

⁸⁷ And personal injury, although the picture was slightly mixed, with the Australian survey indicating the reverse.

⁸⁸ For example, Barendrecht et al. (2014a, p. 82) report that some justice preferences in Mali differ from norms elsewhere, such as putting more weight on “obedience to the heads of families.”

⁸⁹ For example, geography and language issues affect diverse population groups differently (e.g. Pleasence et al. 2014).

⁹⁰ See, for example, Pleasence et al. (2014, 2015).

⁹¹ See, for example, Pleasence et al. (2013a).

⁹² This monitoring function lies behind the repetition of surveys in, for example, the Netherlands (2003, 2009, 2013) and the United Kingdom (2001, 2004, 2006-9, 2010, 2012, 2014, 2015), and the ambition to do the same in Argentina in future.

⁹³ See, for example, Pleasence et al. (2013a) and Pleasence et al. (2014).

⁹⁴ It was also observed that findings connected policy with real people, and thus could “inspire staff.”

⁹⁵ See, further, the *Impact of Legal Needs Surveys* section below.

⁹⁶ For example, the Legal Aid Interagency Round Table in the United States is working to raise consciousness of how legal problems affect federal agency objectives, from employment issues to homelessness. For more information, see, for example, White House Legal Aid Interagency Round Table (2016) or the Legal Aid Interagency Roundtable website: <https://www.justice.gov/lair>.

⁹⁷ At a supranational level interest in the socio-economic aspects of is evident in the recent activities and outputs of organisations such as the OECD and World Bank. For example, the OECD (2015, p. 3), in exploring economic dimensions of access to justice, has observed that “improving access to justice is increasingly recognised as a critical dimension of inclusive growth and as a means for tackling inequality.” Similar sentiments have also emanated from the World Bank: “Legal problems, left unaddressed, can cause an economic or social shock that pushes vulnerable persons into poverty. For example, ... wrongful termination of employment, financial debt or denial of social safety net benefits can cause vulnerable persons to fall into poverty ... [Legal services] can protect the vulnerable from falling into poverty because of the economic shocks caused by legal problems” (Prettimore, 2015, p. 1).

⁹⁸ Furthermore, Goal 16.3 is to “promote the rule of law at national and international level and ensure equal access to justice for all.”

⁹⁹ <http://www.un.org/sustainabledevelopment/peace-justice/>.

¹⁰⁰ The 2016 Moldovan Legal Empowerment Needs Survey was of young people, aged 14 to 23 years old.

¹⁰¹ The 2008 *Legal Australia Wide Survey* included a boost of indigenous people to allow comparisons to be made with the general population. The survey was also stratified by state to allow state by state comparisons to be made (Coumarelos et al. 2012). The 2017 *Justice Needs and Satisfaction Survey* in Jordan included an oversample of Syrian refugees living in Jordanian cities. For security reasons, residents of refugee camps were not surveyed (Nunez et al. 2017). In the context of the 2017 *Justice Needs and Satisfaction Survey* in Jordan, simple random sampling naturally yielded a sub-sample of 20% Syrian refugees (Kind et al. 2017a).

¹⁰² Examples of non-probability samples include those of the four online Dutch surveys – which utilised opt-in panels – and of the 2008 *Law Australia-Wide Survey* can also be distinguished from others in its use of quota sampling, as opposed to probability sampling. Probability sampling can also be problematic in jurisdictions in which comprehensive sample frames are not available. As Kondo et al. (2014) observe, “random sampling of rural populations in developing nations can be challenged by incomplete enumeration of the base population.” This has affected sample designs in, for example, the recent surveys in Sierra Leone and Nepal. Various sample designs are used within the context of the World Justice Project’s *General Population Poll*.

¹⁰³ The survey utilised the small user Postcode Address File (PAF), which represents the standard sample frame for face-to-face general population surveys in England and Wales.

¹⁰⁴ The coverage limitations of telephone and online surveys are generally greater than those of face-to-face surveys such as the *English and Welsh Civil and Social Justice Survey* and Colombian *National Legal Needs Survey*. Although the proportion of the world’s population with personal telephone and Internet access continues to grow, significant numbers of people still do not have such access, particularly in lower gross domestic product (GDP) per capita countries and among the most vulnerable population groups. Moreover, coverage problems are compounded for telephone and online surveys by the disruption of landline penetration by mobile phone services and the lack of comprehensive registers of telephone or Internet users. Thus, as is detailed in Chapter 2, dual-frame sampling (incorporating overlapping landline and mobile telephone sample frames) is increasingly used for telephone surveys, and “contact phase” mixed mode surveying (in which, for example, letters invite people to participate in online surveys) is being trialed for online surveys, despite their introduction of additional (practical and theoretical) complexity and cost to the survey process.

¹⁰⁵ See Edwards & Fontana (2004).

¹⁰⁶ See Forell et al. (2005).

¹⁰⁷ See Karras et al. (2006).

¹⁰⁸ See Grunseit et al. (2008).

¹⁰⁹ Sample size must be considered in combination with survey reference period. A sample size can be smaller, if a reference period is longer. However, longer reference periods can be problematic, as is discussed in Chapter 2.

¹¹⁰ To maintain absolute levels of accuracy, sample size also needs to increase with prevalence. For example, based on an alpha level of 0.05 (which equates to a Z value of 1.96) – and referencing problem prevalence as reported through the 2008 Australian *LAW Survey* – an (absolute) margin of error of 1% would necessitate a sample size of 827 in relation to clinical negligence, 6,283 in relation to consumer problems and 9,604 in relation to any problem. If the margin of error were 2%, then the figures would change to 207, 1,571 and 2,401 respectively.

¹¹¹ While different modes of conduct allow for different lengths of questionnaire – with face-to-face surveys having the potential to be much longer than telephone or online surveys – differences in mode are not the primary driver of the questionnaire length of Table 1.1 surveys. Many of the shorter surveys were conducted face-to-face, particularly in low GDP per capita countries where other modes are impractical.

¹¹² As Pleasence et al. (2013) noted, differences in the mode of conduct of legal needs surveys are associated with differences in response rate, coverage, formulation of questions, interviewer effects, levels of satisficing behaviour and expectations as to the nature and importance of the subject matter of questions. An illustration of the impact of methodological differences on survey findings comes from the 2018 *Nationwide Legal Needs and Access to Justice Survey* in South Korea. This was conducted both in person and online, with the two modes of conduct delivering problem incidence rates of 15 per cent and 56 per cent, respectively (Kim & Choi, 2018).

¹¹³ See, for example, Sykes and Collins (1988), Bowling (2005) and Groves et al. (2009).

¹¹⁴ The authors went on, “Actual nonresponse is far greater than whether panel members respond to an invitation for a study (i.e. at the specific survey sampling point). Not surprisingly, studies comparing results from nonprobability samples and traditional methods almost always find major differences, though it can be difficult to determine whether sample bias (due to major undercoverage/nonresponse) or mode is the greater cause (Baker et al., 2010)”.

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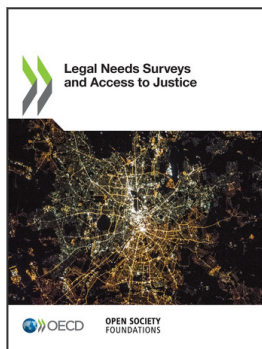
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