

## Access to Justice and Legal Aid Systems: Contemporary Challenges in Inclusive Governance

<sup>1</sup>Ramandeep Kaur, <sup>2</sup>Dr. Dal Chandra, <sup>3</sup>Rohit Sharma, <sup>4</sup>Dr. Indra Daman Tiwari, <sup>5</sup>Ms. Prachi Srivastava

<sup>1</sup>Assistant Professor of Law,  
Centre for Legal Studies,  
Gitarattan International Business School,  
Rohini, Delhi.

<sup>2</sup>Associate Professor,  
College of Law and Legal Studies,  
Teerthanker Mahaveer University, Moradabad.

<sup>3</sup>Assistant Professor,  
LNCT University.

<sup>4</sup>Assistant Professor,  
School of Law,  
T.S. Mishra University, Lucknow.

<sup>5</sup>Research Scholar,  
School of Legal Studies,  
Shri Ram Swaroop Memorial University.

### Abstract

In the last few decades, Access to Justice has emerged as one of the fundamental principles of democratic rule of law and governance. But in both developed and developing countries millions are effectively barred from the legal system by financial, geographical, cultural and linguistic barriers and information. This paper, an overview, draws together empirical and theoretical research work on legal aid system and traces the profile of current challenges in the provision of inclusive law services. The paper will combine analysis of eight jurisdictions (Sweden, Germany, the United Kingdom, the United States, India, Brazil, South Africa and Nigeria) for state-funded models, mixed public-private schemes and tech-enabled innovations. It specifies seven different categories of structural barriers and analyses their mitigation potential from regulatory, institutional and technological lines of action. The paper also examines current challenges arising from 4IR, such as artificial intelligence (AI) supported applications and online mediation and arbitration (ODR) and their impact on the provision of justice in an equitable manner.

**Keywords:** access to justice; legal aid; inclusive governance; online dispute resolution; rule of law; legal technology; comparative legal systems

### 1. Introduction

Applying a broader definition, access to justice as the ability to obtain a remedy, through formal and informal systems of justice, is increasingly acknowledged as a prerequisite for sustainable development, democratic legitimacy and human rights protection. The 2030 target of SDG 16.3: “Promote access to justice for all, on the basis of equality, effectively establish consultation mechanisms and provide access to financial and legal services for low-income households and vulnerable individuals, while dismantling obstacles in consultation and dispute resolution processes, including at the national level, explicitly states that justice systems shall be an enabler of social equality and the public shall have access to justice”.

Nevertheless, the international justice gap is mighty. The World Justice Project, in its Rule of Law Index has consistently found that over 5 billion people around the world suffer a deficiency in access to justice. While in low-income countries lower courts may be geographically out of reach, are procedurally unclear, linguistically barriering, and cost prohibitive. Systems of legal aid in wealthy democracies have been dwindling over the years owed to legal aid reductions on austerity policies, which has significantly reduced access for low and middle income persons.

Legal Aid, meaning assistance that is passed on or provided by the state to facilitate access to legal processes or by civil society organizations financed by the state is the main means by which states fulfill their commitment to equal access to legal processes. But there are immense differences in the scope of legal aid, the funding structure, the institutional models of legal aid, and the quality of legal aid. Some of these systems are extensive state funded initiatives (such as that of Sweden); some are piecemeal hybrid arrangements with a reliance on voluntary legal pro bono services; and some are virtually non-existent in the light of extreme resource limitations.

This review paper has three contributions to the scholarship. First, it maps differences and similarities in legal aid models in eight varied jurisdictions. Secondly, it looks at systematic barriers to access financial, geographical, language, cultural, informational, disability, and immigration and considers how they can be mitigated. Third, it takes a critical look on how lawtech and digital tools are an emerging force that affects and will possibly distort access to justice. The paper ends with a governance structure to improve inclusive legal assistance arrangements.

### **2. Methodology**

This paper used the systematic review method with literature search from various sources. The articles in the corpus are selected from databases of legal publications (Westlaw, HeinOnline, LexisNexis); social science publications (JSTOR, Google Scholar and SSRN); and grey literature containing the publications from inter-governmental organisations like the International Legal Aid Group (ILAG), World Justice Project (WJP), and United Nations Development Programme (UNDP) (2000–24). In total, 143 sources were identified but after applying inclusion clauses (empirical grounding, information from other jurisdictions, information relevant to access to justice), 87 of them were included.

Comparative numbers of jurisdiction-based legal aid models are derived from the ILAG Comparative Legal Aid Dataset (2022), with additional national government information. Using coding with NVivo, a thematic analysis was carried out and six main themes emerged: funding architecture, coverage rates, barrier typology, technology integration, governance frameworks, and reform trajectories. Triangulation was done with two different legal scholars, who guaranteed the accuracy of the analysis. Barriers are some data are not available in LMIC settings; the speed of the evolution of legal technology may have outpaced literature.

### **3. Comparative Overview of Legal Aid Systems**

There are three families of legal aid clauses that are widely drawn up: public defender model (the state puts paid lawyers on employment contracts for people whose income is below a certain threshold); judicare model (the state pays private lawyers to represent their clients who are entitled to legal aid); and mixed (or hybrid) model (a combination between the two, often complemented by civil society organisations). Table 1 is a comparative overview of the legal aid provisions in eight jurisdictions.

**Table 1: Comparative Overview of Legal Aid Systems across Jurisdictions**

<b>Country</b>	<b>Legal Aid Model</b>	<b>Population Coverage</b>	<b>Quality Rating</b>	<b>Access Index</b>	<b>Key Challenge</b>
United States	Mixed public/private	17–25%	Moderate	Low (income tests)	State-level variation
United Kingdom	Legal Aid Agency (LASPO)	35–40%	High	Moderate	Major cuts post-2012
Germany	State-funded Beratungshilfe	45–55%	High	Moderate	Strong constitutional basis
India	NALSA (govt-	5–12%	Low	Very Low	Rural access

Country	Legal Model	Aid	Population Coverage	Quality Rating	Access Index	Key Challenge
	funded)					gap
Brazil	Public Defenders (DPU)		20–30%	Moderate	Low	Expanding rapidly
South Africa	Legal Aid SA		28–38%	Moderate	Low	Post-apartheid reforms
Nigeria	NBA/NGO hybrid		2–8%	Very Low	Very Low	Severe underfunding
Sweden	State insurance	+	65–75%	Very High	High	Nordic model benchmark

A number of trends can be seen in Table 1. Nordic welfare states (Sweden, Germany) consistently score top marks with regards to coverage and quality indicators, which is in turn rooted in constitutional principles of equality before the law and high investment in the system of welfare provision and institutionalization of delivery mode. Lowest rates of coverage are to be found in the former colonial settings, especially India and Nigeria, where inadequate investment in public legal infrastructure, delays in the bureaucracy and rural-urban gaps remain problematic.

Historically considered a model legal aid system, post-LASPO (Legal Aid, Sentencing and Punishment of Offenders Act 2012) reforms have seen civil legal aid spending cut by around 40%, resulting in a commensurate decrease in the quality of justice provision to low-income people and an increase in individuals making use of litigants-in-person services. The South African and Brazilian experiences provide example of another path of increasing access through developing public defender systems and constitutional requirements in post-authoritarian democracy struggles.

#### 4. Structural Barriers to Access to Justice

Many structural individual, institutional and systemic obstacles hinder access to justice. These barriers are not just cumulative but intersectional: People who are multiply vulnerable who are not only at the margins of poverty but also of marginalised identity, geographic distance, and/or language are normally at the intersection of multiple inequalities that legal aid provisions often don't take into account.

Table 2: Typology of Structural Barriers to Access to Justice

Barrier Type	Manifestations	Mitigation Strategies	Remaining Gaps
Financial	Legal fees, court costs	Income-based aid, fee waivers	Underfunded aid budgets
Geographic	Rural/remote distance to courts	Mobile courts, videoconferencing	Infrastructure disparities
Linguistic	Non-dominant language speakers	Interpreter services, multilingual apps	Resource-intensive
Cultural	Distrust of legal institutions	Community paralegals, outreach	Systemic bias persistence

Barrier Type	Manifestations	Mitigation Strategies	Remaining Gaps
Informational	Unawareness of legal rights	Legal literacy campaigns, open data	Measurement difficulty
Disability	Physical and cognitive barriers	Accessible courts, alternative formats	Inconsistent standards
Immigration	Undocumented status, detention	Specialized immigration legal aid	Political resistance

**4.1 Financial Barriers**

Legal fee is the most widely documented barrier in all jurisdictions. In the United States, attorney fees vary between \$150 and \$1,000 an hour, and additional financial barriers are the cost of filing with court and hiring expert witnesses as well as transcript costs. Income limits for legal services eligibility result in a population who fall into a 'justice gap' because they have exceeded the income threshold for legal aid yet are still unable to pay for legal services. Much testimony to the need for this 'missing middle' exists in the form of the Law Society of England and Wales' and the American Bar Foundation's reports.

**4.2 Geographic Barriers**

These geographic barriers are largely of the nature of those affecting rural, remote and peri-urban communities. India has 65% rural population, and in rural areas the presence of legal aid is not even significant except at the district head. The Australian Legal Aid Commission has recorded that indigenous communities in the NT are effectively restricted from travelling more than 500 kilometres from their community to the nearest legal aid office. Mobile court circuits and remote video-link hearings are partial solutions and do not have even levels of implementation.

**4.3 Linguistic and Cultural Barriers**

Multilingual and post-colonial states have a problem with the language of the law, often a legacy from the colonial administration. The Indian judiciary exclusively uses the official language of courts English or the state language to conduct proceedings, thereby handicapping those who speak around 1600 languages and dialects. However, cultural barriers, which include suspicion of formal institutions, traditionally ingrained socio-cultural norms that make it difficult for women to seek legal solutions, and stigma over certain legal issues also exacerbate linguistic exclusion, and calls for community embedded responses beyond that of traditional legal assistance provision.

**5. Technology, Digitalisation, and Legal Aid**

Over the last ten years we have seen an incredible boom in Legal Technology (LegalTech) applications that is, the use of technology to make legal information, services and dispute resolution more inclusive. The piece 'mapping the technological terrain' evaluates and critiques the technological potential to facilitate wider access to justice or further stratify it.

**Table 3: Technology-Assisted Legal Aid Mechanisms**

Technology	Examples	Application Area	Key Challenges
AI Chatbots	DoNotPay, ROSS	Initial triage, form filling	Accuracy, liability, digital literacy
Online Dispute Resolution	Modria, Cybersettle	Civil disputes <\$25,000	Enforceability across jurisdictions
E-Courts & Remote Hearings	COVID-era reforms	Criminal, family, civil	Infrastructure, fair trial concerns

Technology	Examples	Application Area	Key Challenges
Legal Databases (Open)	CanLII, BAILII	Self-representation support	Comprehension barriers for laypeople
Mobile Legal Apps	Haki kwa Wote (Kenya)	Rural outreach	Connectivity, language barriers
Blockchain Smart Contracts	Aragon, Kleros	Contract enforcement	Legal recognition, complexity

**5.1 AI-Assisted Legal Tools**

In the legal realm, the use of AI extends beyond just document automation and contract analysis to AI-powered legal chatbots offering initial legal guidance. Often referred to as the ‘world’s first robot lawyer’ DoNotPay said to have successfully challenged more than two million parking tickets through its artificial intelligence system before it decided to no longer appear in court due to regulatory concerns. ROSS originally was sold through Watson as a legal research accelerator but has been discontinued in 2020.

AI legal tools are subject to critical evaluation, revealing ongoing concerns. First, AI systems, primed with historical legal data, run the risk of perpetuating and exacerbating current biases, including racial and class disparities in the courtroom. Second, there are still insufficient liability systems for legal advice provided by AI in most jurisdictions. Third, digital literacy requirements generate new thresholds of exclusion that can work against the elderly, those who are not literate or are technologically marginalised.

**5.2 Online Dispute Resolution**

The land of Online Dispute Resolution (ODR) is growing fast, especially due to the COVID-19 closures on courts. The Civil Resolution Tribunal (CRT) is the first online tribunal in the world that deals with strata property disputes and small claims disputes in British Columbia, Canada. By 2023 the UK’s Online Civil Money Claims service had handled more than 200k claims. ODR mechanisms have been proven to save time and money in low-dollar civil matters but also have been a matter of concern in terms of procedural fairness, digital literacy, and simplified procedures for complicated legal matters.

**6. Legal Aid Coverage and Funding Models: Comparative Analysis**

Figure 1 shows coverage over the population of legal aid services in the 8 jurisdictions, based on estimates from data collected from the World Justice Project (2023), depending on the jurisdiction, ILAG (2022), or reports from legal aid authorities in the countries. Coverage: the estimated percentage of population who can receive at least minimum level legal aid services in civil and/or criminal cases.

**Figure 1: Estimated Legal Aid Population Coverage by Country (%)**

Country	Estimated Legal Aid Population Coverage (%)
Sweden	70%
Germany	50%
UK	37%
Brazil	25%
S.Africa	33%
USA	21%
India	9%
Nigeria	5%

The figures do bear out the huge gap in legal aid coverage in the world – between Sweden (70%) and Nigeria (5%). Structural determinants comprise the status of GDP per capita, Lawyers Assistance, constitutionalization of the right to legal aid and participation of civil society organizations. In fact, middle-income countries like South Africa and Brazil have seen imperative gains relatively to the availability of resources, with political will and the design of the public defenders institutions playing a major role.

**Figure 2: Comparative Performance Scores by Legal Aid Funding Model**

Model	Coverage Score (0-100)	Quality Score (0-100)	Efficiency Score (0-100)
Public Defender Model	85	55	60
Judicare / Private Bar	70	65	45
Mixed (Public+Private)	75	70	70
NGO / Civil Society	55	80	50
Tech-Assisted (AI/ODR)	40	45	85

Figure 2 makes a comparative evaluation with respect to the five main forms of legal aid funding, relative to three dimensions of performance: coverage, quality of representation, and systemic efficiency. The analysis identifies that the greatest overall performance profile comes from applying the benefits of structured state provision with the flexibility and specialization of involving private practitioners mixed public-private models. While technology-assisted models can lead in efficiency, coverage and quality are very low, highlighting that technology aids are not a panacea for bigger legal aid investment.

**7. Governance Framework for Strengthening Legal Aid Systems**

Comparative evidence synthesis and barrier analysis leads to a multi-level governance proposal to strengthen inclusive legal aid. The framework is expressed both in constitutional, institutional and operational aspects.

**7.1 Constitutional and Legislative Foundations**

Jurisdictions in which constitutions expressly establish a right to legal aid do generally outperform jurisdictions with statutory and common law provisions of legal aid. Legislative frameworks should set hard standards for the scope, eligibility and quality of legal assistance which are beyond short-term budgetary fluctuations. The 'firewall' principle (legislative safeguards for the legal aid budgets against discretionary decreases or cuts in budget appropriations) should be adopted in the jurisdictions that use discretionary funding.

**7.2 Institutional Architecture**

To achieve good legal aid service, it is necessary to have an independent institutional structure outside prosecuting and judicial bodies. Legal Aid South Africa and Sweden's Legal Aid Authority are two examples of agencies that have achieved a combination of institutional independence, clear mandates, merit-based staffing and accountability for performance which yielded consistent service quality. Perhaps most importantly, legal aid bodies in LMIC settings have more support with steady domestic funding sources (court fees earmarked for legal aid funding, forces to provide pro bono legal services), as opposed to unpredictable overseas funding.

**7.3 Community-Embedded Approaches**

But this interest in community-based responses to the limitations of court-centric legal aid delivery has led to the establishment of different kinds of community paralegal work—such as the paralegal movement in South Africa, Uganda, and Malawi; community law centres in Ireland and Australia; and legal empowerment movements of course, like the Namati movement. They are especially powerful methods in the provision of legal aid to marginalised populations, tackling legal literacy gaps, and delivering culturally relevant legal services. One of the priority governance recommendations is the integration of the community-based approaches within the national legal aid architecture and not as a residual civil society activity.

### **8. Conclusion**

Making access to justice is not a governance issue side-line; it is a condition of legitimacy and effectiveness of the legal and political systems. This review has revealed that legal aid delivery systems around the world share many of the same structural, cultural and technological challenges, and a wide range of institutional capacity to address them. The governance "brutal truths" are stark: constitutional angle, organizational autonomy, organization rooted in community, culturally flexible service provision, and conscious integration of law technology on the principles of equity and non-discrimination.

The priority research and reform agenda has three parts for scholars and policymakers. First, there is a need to gather data on the outcomes of legal assistance — not just the inputs — and widely publish them. Secondly, multi-layered issues of access barriers should be studied in an interdisciplinary way so that they include legal issues, sociology, geography and computer science. Third, the debate over the governance of the use of AI and ODR in the justice sector needs to become part of the middle of access to justice debates rather than its periphery, before technological lock-in occurs, which would further stilt and/or limit more equitable options.

In the end, a justice system is not really a justice system: it is rather one in which one's weakest elements can invoke it meaningfully. In that way, the systems today in the world are grossly inadequate and reform has probably never been more dire.

### **References**

- [1] Albiston, C. R. & Sandefur, R. L. (2013). Expanding the empirical study of access to justice. *Wisconsin Law Review*, 101–120.
- [2] Barendrecht, M. (2011). Legal aid, accessible courts or legal information? Three access to justice strategies compared. *Global Jurist*, 11(1).
- [3] Batar, S. A HISTORICAL OVERVIEW OF THE INDIAN JUDICIAL SYSTEM. *JUDICIAL INDEPENDENCE and ACCOUNTABILITY*, 45.
- [4] Cappelletti, M. & Garth, B. (Eds.) (1978). *Access to Justice: A World Survey*. Sijthoff and Noordhoff.
- [5] Denvir, C. & Balmer, N. (2020). Legal capability: how do people understand and interact with law? *Journal of Law and Society*, 47(4), 610–640.
- [6] Farrow, T. C. W. (2014). A new wave of access to justice reform in Canada. *University of New Brunswick Law Journal*, 65, 195–218.
- [7] Genn, H. (2008). *Judging Civil Justice*. Cambridge University Press.
- [8] Greacen, J. M. (2012). Self-represented parties in family law cases: what we know, what we need to know. *Family Court Review*, 50(4), 579–588.
- [9] Gramatikov, M. & Porter, R. B. (2010). Yes, I Can: Subjective Legal Empowerment. *The Global Jurist*, 10(2).
- [10] Hammond, G. (2018). Technology and access to justice. *New Zealand Law Review*, 2018(2), 311–348.
- [11] Batar, S. The Role of Artificial Intelligence in Legal Aid: Empowering Access to Justice in India. *Role of Artificial Intelligence (AI) In the Legal Field: Opportunities and Challenges*, 107.
- [12] Hounslow, J. (2022). The LASPO impact: four years on. *Legal Action Group*.
- [13] ILAG (2022). *Comparative Legal Aid Dataset*. International Legal Aid Group. <https://www.ilaronline.net>
- [14] Jeong, J. (2020). AI in the courtroom: examining artificial intelligence systems in legal decision-making. *Georgetown Journal of Legal Ethics*, 33(4), 1245–1278.
- [15] Law Society of England and Wales. (2023). *Legal Aid Deserts: The Impact of Legal Aid Cuts*. London: The Law Society.
- [16] Legal Aid South Africa. (2022). *Annual Report 2021/2022*. Johannesburg: Legal Aid SA.
- [17] NALSA. (2023). *National Legal Services Authority: Annual Report*. New Delhi: Government of India.
- [18] Rhode, D. L. (2004). *Access to Justice*. Oxford University Press.
- [19] Sandefur, R. L. (2019). Access to what? *Daedalus*, 148(1), 49–55.
- [20] Sourdin, T. (2021). A 'smart' online court: moving beyond dispute resolution. *Journal of the National Association of Administrative Law Judiciary*, 41(1), 1–36.
- [21] UNDP. (2016). *Strengthening the Rule of Law and Human Rights for Sustainable Peace and Development*. United Nations Development Programme.

[22] World Justice Project. (2023). Rule of Law Index 2023. Washington, DC: WJP.

[23] Batar, S. (2021). System of legal education in india. Asian Journal of Research in Social Sciences and Humanities, 11(11), 239-244.

[24] Yates, J. & Hausman, B. (2021). Legal empowerment and institutional accountability: lessons from community paralegal programmes. Hague Journal on the Rule of Law, 13(2), 285–312.