

# Financing fair solutions

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*During 2019, the [Task Force on Justice](#) and [The Elders' Access to Justice](#) programme have delivered reports making the case for a people-centered approach to justice. This starts with an understanding of people's justice needs, desirable outcomes and designs solutions to respond to them. An [OECD report](#) on access to justice conveys a similar message. This report contains detailed road-maps for designing, implementing and monitoring people centred justice journeys.*

*The paradigm of people-centred delivery also influences financing models. New options and challenges for financing the delivery of just outcomes need to be explored.*

*This concept note lists suggestions for data collection, analysis and a report as possible output. This note has received input from experts at CIC, ODI, OECD, WorldBank and HiiL, in order to test whether a joint project/report is feasible. It is also shared with participants to a Working Session at the World Justice Forum in The Hague on April 30, 2019, focusing on social impact impact financing.*

## **What has been achieved: costings and capacity estimates**

A [World Justice Project paper](#) quantifies the justice gap: the number of people who suffer from particular justice problems, ranging from living in a country without any rule of law to not having access to formal employment or business opportunities. An [ODI report](#) (Universal access to basic justice: costing Sustainable Development Goal 16.3) includes the first estimate of the costs of providing access to justice to everyone. This is based on detailed costings per component of the system, such as resolving family disputes or land disputes; community policing; availability of courts. So, for the first time, the capacity needed and indications of costs of delivery are available.

## **Financial models are urgent**

But how to mobilize the resources for this? The Task Force report (page 96/97) urges the sector “to increase the resources available for lower-cost models able to respond to unmet justice needs at scale.” (..) “Governments might allocate a proportion of national justice budgets to financing high and low-tech innovations and they could explore blended finance models where their funds are used to leverage other investment.” The ODI report identifies the gap in financing, which is increasing. This is also felt by justice workers on the ground in many countries (lower level judges, lawyers and paralegals, social workers, local/informal justice providers). Justice workers tend to be overburdened and under-resourced. They urgently need better financing models.

## **Indications of effective financial models**

The following indications and criteria have been suggested to guide the search for better financing models:

- Focus on financing solutions for concrete justice problems/interventions. Funds and social impact investors tend to focus on specific problems and solutions for such problems (ODI-paper Costing SDG16.3).
- Select case-studies in such a way that generalization towards implications for macro-level is possible.
- We need to make the case that investment is required but at the same time services will be improved and made more financially sustainable. Ministries of finance and donors currently experience the justice sector as a bottomless pit. Government funding is not increasing, donor funding is decreasing. Government and international donor funders are unlikely to provide extra funding for the justice sector, unless the financial models are sustainable, and services become more efficient.
- Discover what government should pay as “safety net” and what can be financed by (cross subsidies from) user fees.
- Learning from general service delivery improvement/public administration reform efforts. Many things have been tried to make services more efficient, such as performance monitoring, citizen charters, user feedback and enhanced transparency/accountability, that could be applied to the justice sector.
- How can organizations (courts, registries) be incentivized by being allowed to reinvest user fees (instead of having to give fees to ministry of finance)?
- In order to attract private investments, the justice sector must present value propositions that are attractive to (social impact) investors. Investments with measurable returns (as opposed to funding of running programs) are virtually unheard of in the justice sector. This includes ways to measure outcomes/impact.
- A draft-paper by Social Finance Inc, commissioned by Open Society Foundations and the Kresge Foundation, investigates civil legal aid as a field for outcomes-based funding arrangements. The paper lists 6 criteria for such arrangements that can guide the search for better financing models: (1) there is a defined target population; (2) there are measurable impact goals; (3) the intervention has a data-driven track record of evidence demonstrating that it works; (4) there are one or more capable service providers that have the ability to scale up with fidelity to the service delivery model; (5) there is significant value generated for government, community and individuals; and (6) there is strong stakeholder engagement across public and private sectors.

### **Three case-studies**

Three case-studies have been selected, based on these criteria. For each case-study, we have described the service, potential sources of revenues, investment needs and possible ways to monitor outcomes and impact.

#### **1. Houses of justice/paralegal programs/justices of the peace**

These are existing local interventions that are generally seen as promising. Stakeholders in various countries have (implicit) knowledge about financing models that work. There is a need for sharing of best practices. The need for funding is felt as urgent.

## Houses of justice/community paralegals

### Service:

- Legal services available in communities
- 5 pressing problems (= 60% needs)
- Diagnosis + info self help (50% clients)
- Negotiation/mediation (30%)
- Referral (police/courts), monitor (15%)
- Organize protection (5%)

### Revenue sources:

- User fees (initial + for solution)
- Government funding
- Donor funding

### Investment needed for scale:

- Evidence based, standardized working methods and self-help tools
- IT systems (case-management)
- Monitoring and reporting system
- Referral network and partnerships
- Building brand, trust

### Outcome monitoring and social impact:

- Problem rate (prevention)
- Solution rate
- Elements of solutions implemented
- Fairness ratings



FAMILY



EMPLOYMENT



CRIME



LAND



NEIGHBOURS

## 2. An evidence based family justice journey

This is an example of an approach that fits the vision of people-centred, evidence based delivery of justice. The target population is clear, and modelling is possible on the basis of interventions that exist, using the latest technologies. For family justice, IT platforms exist that aim to offer a one-stop shop service, there is a growing body of evidence based interventions, with integration of mediation, informal/formal components and an interdisciplinary problemsolving/therapeutic approach to adjudication. Social impact investors are interested in this field.

## Evidence based family justice journeys

### Service:

- Holistic problem-solving approach
- Family Justice (separation)
- Diagnosis + info self help (50% clients)
- Negotiation/mediation (30%)
- Integrated family courts (10%)
- Interventions for domestic violence and other complications (10%)

### Revenue sources:

- User fees (initial + for solution)
- Government funding
- Private sector investment

### Investment needed for scale:

- Evidence based guideline
- One stop shop IT platform supporting services
- Training justice workers to work evidence based
- Continuous improvement of system

### Outcome monitoring and social impact:

- Problem rate: no. of family issues prevented
- Solution rate: proportion of family issues that are resolved
- Elements of solutions implemented
- Fairness ratings



FAMILY

### 3. Case-management systems for courts and other justice services

These are essential building blocks for effective justice journeys. They can provide scale and quality, as well as transparent processes. Monitoring and data-collection about outcomes and processes can be gathered and used for learning and evaluation.

## Case-management systems for justice services and courts



#### Service:

- Online facilitated procedures for managing disputes and crimes
- From intake to verdict/solution
- Notification/task management for all participants
- Fully configurable according to court and user needs
- Interfaces with prosecution, police, litigants/lawyers
- Data- and document management

#### Revenue sources:

- Set up fee paid by courts
- Fee per user or subscription

#### Investment needed for scale:

- Development and maintenance IT
- Standardized, high quality routings for most frequent cases in courts
- Public relations and marketing: opening up market to letting courts buy off the shelf systems

#### Outcome monitoring and social impact:

- Satisfaction of participants in procedure
- Fairness rating procedures
- Number of problems solved
- Timeliness
- Court efficiency criteria
- Court accessibility criteria

### Outputs of each case study

Each costing and financing model will include:

- Elements of interventions and infrastructure needed;
- Costings of these elements;
- Models for measurement/evaluation of outcomes/impacts;
- Funding models for interventions through different sources/contributions: Government funding, donor funding, user contributions, volunteer in kind contributions, impact investment, legal services as a business, pro bono, legal aid funds.
- An assessment of what is willingness to pay for solutions.
- Analysis of incentives: Drawing on literature on financing models for court systems, paralegal services, citizen advice networks and websites, legal services, legal aid, what are ways to optimize incentives to solve problems at scale?
- Funding models for investments and maintenance needed. Global fund? Others?
- Feedback from potential funders on how these models work for them.

### Generalization, reflections and next steps:

- What do we learn from this?
- How useful are these funding models for other problems and interventions?
- Which next steps are appropriate?
- What other research and modelling needs exist (see Annex for a longlist, based on consultations with experts)?

**Timeline**

- 15 April 2019 agree partners and project parameters.
- 15 May 2019 detailing outputs
- 15 May - August 2019 Other activities
- September 2019: preview version of (some) outputs
- October - December 2019 Other activities
- February 2020 Launch and dialogue during Innovating Justice Forum HiiL and other events

**Resources**

- HiiL is planning to publish a draft SDG16 Pulse report on “financing fair solutions” in September 2019 and a final version in February 2020 and has some resources for meetings and travel expenses of experts. Co-creation with other organizations would be great. How can we leverage sources of data, resources and expertise? Would interaction with social impact investors and donors be useful? At which stage?
- A €200-300k budget for the full program including next iterations would work.

## Annex 1 Longlist

Next iterations at macro level:

- When we use this know how as input for the ODI/OECD costings, what do we see and how should these costings be adjusted?
- Next iterations of ODI/OECD costing papers. See ODI-paper Costing SDG16.3, which defines a wonderful program for the next iterations.
- Other options:
  - Cost of scaling up and delivering legal assistance to reduce unmet legal needs (by 50%?) e.g. via national level Namati style approach/Argentinian approach
  - Cost of reducing remand prisoners by 50% in number of LIC/LMIC countries
  - Cost of delivering transformation in level of reporting of VAWG (SDG)
  - Cost of delivering measurable improvement in what civil justice indicator ends up being recommended to be added to SDGs
  - Cost of measurable improvement in local police accountability – national police programmes are too challenging and local police are the front line for most people’s everyday basic justice needs)
  - Measuring how much countries currently spend on justice. We know how much donors spend but only know levels of spend in 20-25% of LIC and MIC countries

Maurits Barendrecht, 25 March 2019