

Delivering on the promise of people-centred justice: Engaging with customary, informal, and community justice services Webinar within the framework of the Team Europe Democracy (TED)

Date and time: May 23 2024, 14:30-16:00 CET

Co-convenors: HiiL, International Development Law Organization (IDLO), and World Justice Project (WJP)

Overview: 2024 is a key turning point for Sustainable Development Goal (SDG) 16, with the High-Level Political Forum (HLPF) in July likely to highlight inadequate progress toward delivering on the promise of justice for all. Game-changing action is urgently needed. The webinar, co-convened by IDLO, HiiL, and World Justice Project within the framework of the TED Network, shared insights on how customary, informal, and community justice services used by the vast majority of justice seekers can be leveraged for rapid, cost-effective improvements in access to people-centred justice, relevant to all TED stakeholders working on the rule of law. It explored successful models for sustainably scaling and integrating customary, informal, and community justice services into a coherent people-centred justice system that also includes formal institutions.

Key takeaways:

- In a context of decreasing global development assistance to the rule of law, it is important to establish a strong evidence base on people's pathways to justice around the world. Data shows that customary, informal or alternative dispute resolution mechanisms are used widely – in some countries vastly outnumbering interactions with the formal justice system – and are generally effective in solving different types of disputes.
- The benefits of using these mechanisms include their proximity, speed, cost, local legitimacy and cultural resonance, and restorative focus, while challenges include issues around accountability and democratic oversight, rights abrogating practices, and concerns about aid effectiveness.
- Practical approaches should work in a collaborative, evidence-based manner to scale up best practices to support people-centred justice. This includes empowering justice seekers, training justice providers on compliance with human rights standards, actively advancing women and girls' participation and leadership in these mechanisms, and engaging with donors to increase funding.
- The discussion showed that while the interplays between formal and informal justice systems are complex and context-dependent, a negative approach of the former towards the latter can present a significant practical challenge to implementing people-centred programming. Furthermore, long-term legal and financial sustainability of these programmes, as well as compliance with human rights standards, must be addressed.

Full summary of the webinar can be found in the below annex. The webinar was attended by over 60 participants.

ANNEX: Full Minutes

Introduction to customary, informal, and community justice services: Scope and extent, key challenges, and relevant policy frameworks

Valentijn Wortelboer - Senior Policy Officer in the Rule of Law and Peacebuilding, Netherlands MFA (co-chair WG1)

Customary and informal justice systems are a very important avenue for people to access justice in many countries. In some countries, these informal justice mechanisms may be the primary way or the only accessible and affordable way for people to resolve the disputes and receive redress for their harm suffered.

There are also very important questions on how to best engage with these mechanisms in ways that uphold human rights and gender concerns.

The aims of this webinar are to provide insights and ideas on how to best engage with informal justice mechanisms and aid in the development of policy and programming work related to informal justice systems.

Michael Warren – Customary and Informal Justice Advisor at IDLO

Definition: Ways of claiming rights, addressing grievances, and resolving disputes that operate mainly outside of formal courts.

Examples:

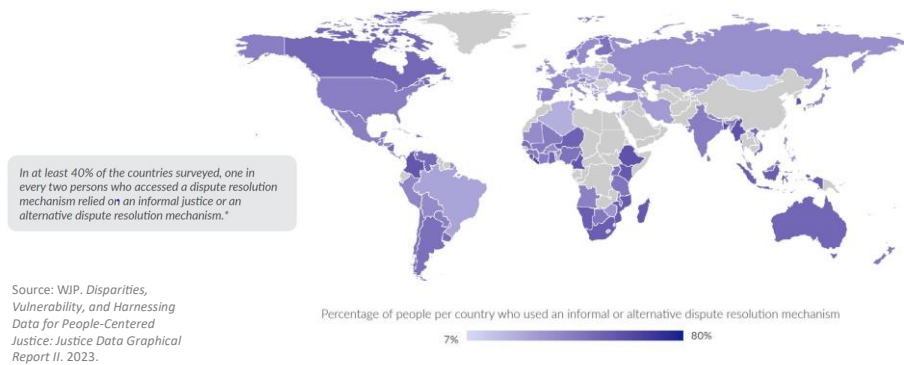
- Philippines: 42,000 local government units across the country called barangays that have a central and legally entrenched role in everyday mediation. Committees of trusted volunteers mediate disputes and address petty criminal matters across rural and urban communities.
- New Zealand: Rangitahi courts, Maori cultural practices enable young people and their families to engage in the youth justice process with respected elders as well as judges and lawyers integrated into the procedures.
- Lebanon: Mokhtars, or elected neighbourhood level officials, have the authority to mediate neighbourhood disputes, to notarize official documents, facilitating administrative justice.
- Malawi: there are only a few hundred lawyers available to provide legal services for upwards of 20 million people, paralegals play a major role in bridging the justice gap. The renowned Paralegal Advisory Service Institute empowers justice seekers through legal literacy and coordinates with the formal justice system through court user committees.

It is difficult to generalize about these kinds of practices and actors, given the breadth of the definition. From mediation and arbitration practices to community-based dispute resolution, to complex traditional and Indigenous justice systems—and everything in between.

Typical advantages: proximity, speed, cost, legitimacy, restorative focus. They tend to be much cheaper for justice seekers, local legitimacy, and cultural resonance, and, and a focus on restorative justice. Focused on establishing harmonious relations between disputants rather than a more adversarial relationship.

Typical disadvantages: issues around accountability and democratic oversight, the frequency of rights abrogating practices in some of the systems under consideration and overall concerns about aid effectiveness related to investment in non state processes when state justice systems are weak.

Alejandro Ponce - Chief Research Officer at World Justice Project



How much are these mechanisms used by people?

Extensive data collection through legal needs surveys conducted in over 100 countries: Surveys inquired about the prevalence of legal problems and the actions people took to address them.

The first takeaway is that very consistently all around the world customary, informal and alternative dispute resolution mechanisms are widely used to resolve all types of problems. In more than 40% of the countries surveyed, half of the people use these mechanisms. Out of people who access any type of mechanism to resolve their disputes, half of them use these customary, informal and alternative dispute resolution mechanisms.

Customary, informal, and alternative dispute resolution solves people’s legal problems:

The second takeaway is that these mechanisms work effectively for most users. More than 60% of the people who use these mechanisms around the world were able to solve their problems. The outcome varies by type of problem and country, but overall, they are effective in resolving disputes.

Martin Gramatikov – Knowledge and Research Director at Hiil

- PCJ emerges as the most potent way to bridge the justice gap
- The main focus of justice is to resolve fairly the justice needs of its users
- Justice works only when it responds to people’s needs
- Formal and informal procedures and outcomes should resolve problems and contribute to the development of individuals and communities
- People-centred justice is about scaling what works

A recent study in Ethiopia highlighted that 40% of the population reported having a difficult legal problem, and of these, 43% sought resolution through a village elder, known as Shimagale. This indicates a substantial reliance on informal justice mechanisms. Informal justice is especially prevalent among rural populations, those with lower levels of education, and lower income groups—not by preference for lower-quality justice, but due to accessibility. Shimagales

achieved a 68% success rate in resolving disputes, significantly higher than the 44% success rate of other mechanisms.

People-centred justice is seen as the way forward. The global justice gap affects over 5 billion people who lack proper protection under the rule of law. Investing in more courthouses, training more lawyers, and enhancing legal infrastructure alone will not solve this; a shift toward people-centred justice, focusing on the needs of justice users rather than professionals or political interests, is essential. Traditional and community justice mechanisms have immense potential, not just in developing countries but globally. Justice systems should refocus on viewing parties as clients and users of procedures. Practical approaches should scale up what works well to support people-centred justice.

Presentation of research findings

Zainab Malik – Senior Justice Sector Advisor at HiiL

How fair is justice if it doesn't get you anywhere?

HiiL's findings about how community justice mechanisms can be used to bridge the justice gap and advance SDG targets, especially SDG 16.

Current state of justice problems: 70% of people facing justice problems (land, family, crime, neighbour disputes) cannot find solutions. This implies that justice systems are not designed to deliver solutions that people need. What has not worked:

- Investing in institutional capacity development efforts as has been the practice for a long time now.
- Community justice mechanisms, while effective locally, have limited scalability.

From a people-centred justice lens, the question and the goal are how to provide seamless, integrated pathways to resolve justice problems. HiiL has been working on justice innovation and innovation labs that bring people across the justice system into a human-centred design process:

HiiL convened an innovation lab in Ogun State, Nigeria, to understand how to scale community justice mechanisms to resolve problems of domestic violence. While community justice leaders in Ogun State were the second most common source of access for justice, domestic violence survivors were not being given the opportunity to plead their cases directly to the community leaders in the state. Using a human-centred design thinking methodology, these two parties were brought together into direct contact with each other. In the end, they designed a solution named Ibi Asadi, or a place of refuge in Yoruba, empowering the community itself to resolve and prevent domestic violence problems through providing people with self-advised first response, and at the same time improving the capacity of community leaders with international best practices to resolve domestic violence problems.

Integrated pathways inevitably require some kind of cohesion between the formal and the informal justice sector. But this can only happen when the strengths of both systems are preserved. Preserving strengths:

- Informal systems offer accessibility and flexibility.
- Formal systems ensure rights-based dispute resolution and adherence to human rights standards.

- Outcome: Ensuring fair and just outcomes for all, including women, children, and vulnerable groups.

Key enablers are legal and regulatory frameworks that create an enabling environment that is key for the impact of community justice mechanisms. Examples:

- Uganda: Local council courts recognized in legal instruments, handling 80% of justice problems.
- Ethiopia: 2021 proclamation recognizing Shimagale (village elders), leading to a substantial increase in case resolution. This was effective as it reduced the workload of the courts and facilitated both systems, but also the community justice system. 86% resolution rate in customary courts, showing significant impact.

In order to contribute to closing the justice gap, community justice systems need to be scaled up. This scalability entails investing in existing successful models. Judicial facilitators, specialized tribunals, and village elders have shown success.

A certain level of standardization is required to facilitate scaling of community justice mechanisms, and this can be achieved through evidence-based guidelines that allow community justice leaders to deliver evidence-based outcomes and ensure a consistent quality across community justice mechanisms.

Justice financing is shrinking, but research shows that people are willing to pay for quality justice services. In Bangladesh surveys have shown that people will pay anywhere between \$100 to \$400 to resolve land, family, and neighbour disputes.

To close the justice gap, scalable and sustainable community justice models are essential. Key strategies:

- Invest in proven models.
- Develop evidence-based guidelines for standardization.
- Explore sustainable financial models to ensure long-term viability of community justice mechanisms.

Case study Mexico

Ana Cárdenas – Director of Justice Projects Mexico at World Justice Project



In Mexico, there are 23.3 million indigenous people, making up 20% of the population. Community mediation centres, located in the State of Mexico, serve a significant portion of this demographic. Of the State of Mexico's population, 15.7% is indigenous. Indigenous people in Mexico often face systematic barriers when accessing formal justice systems, which highlights the relevance of these community centres.

Peace and dialogue centres in Mexico

- There are four centres spread across the state, with Toluca (the capital city) centrally located.
- These centres provide accessible justice services, significantly reducing the travel and expenses associated with formal justice systems.
- Opened jointly by the state judiciary through the ADR Centre and indigenous community authorities, exemplifying synergy between these institutions.

During the mediation process, cases are either referred to the centre by authorities of the community or municipality, or individuals may directly approach the centre. In the initial session, the mediator educates the participants on the various options available to address their justice needs, which may include hiring a lawyer, filing a lawsuit, presenting evidence, waiting for a resolution, or opting for mediation. Participants are made aware that mediation is voluntary, relies on open dialogue, and ensures confidentiality. If the parties choose to proceed with mediation, the mediator arranges sessions where they can discuss their issues with the goal of reaching a settlement or agreement. These mediation sessions may occur once or multiple times depending on the complexity of the dispute and the willingness of the parties to resolve it.

Types of conflicts that are dealt with in the centres include land conflicts, environmental conflicts, gender violence for women and girls, family matters, criminal conflicts, access to basic needs such as water and electric services.

Advantages:

- **Legal orientation and awareness:** Participants receive legal guidance and become informed about their rights and the legal processes involved, which is not commonly available.
- **Accessibility:** These services are accessible due to reduced expenses and proximity, eliminating the need for extensive travel. Sessions are conducted in the participants' preferred language and locations, further enhancing accessibility.
- **Enhanced dialogue and accountability:** Mediation fosters dialogue among the parties involved in the dispute and within their community. It promotes accountability as parties acknowledge their actions and responsibilities during the mediation process.
- **Restorative solutions:** Settlements reached through mediation focus on restorative solutions rather than punishment. They aim to repair family or community ties, leading to the de-escalation of conflicts and preventing violence.
- **Amplifying women's voices and leadership:** Centres provide a platform where women's needs and perspectives are actively solicited and integrated into the mediation process. Women can participate actively in finding solutions to their conflicts.
- **Culturally relevant mechanisms:** The mediators at the centre possess deep knowledge of the cultural norms, practices, and values of the communities they serve. This allows them to navigate conflicts with a nuanced understanding of the cultural context, leading to more effective and sustainable solutions. Their ability to comprehend the complexities of

local dynamics enhances their capacity to facilitate resolutions that are acceptable and enduring within the community.

Challenges:

- Limited resources and unpaid mediators: Centres lack money and basic equipment. Mediators do not get paid, leading to staff turnover and interruptions in services.
- Lack of formal recognition and funding: Centres are not recognized by the legal system, so they do not receive government funding. Without official approval, they struggle to prove their importance in resolving conflicts.
- Limited coverage and scaling issues: There are not enough centres to help everyone. More centres are needed, but it is hard to set up new ones due to costs and planning.

Lessons learned:

- Synergy between formal ADRs & community mechanisms enhances:
 - Legal awareness & Access to Justice for vulnerable populations
 - Dialogue, accountability & Restorative Justice in the way conflicts are handled
- Community leaders are already problem solvers; they are natural and key allies in providing justice services with cultural relevance.
- Safeguarding sustainability and certainty concerning interactions with formal institutions is essential.
- Research materials & public events increased the Centres' leverage, leading the state judiciary to develop a program focused on strengthening the Centres. Formal and traditional institutions can work together to provide justice.

Main insights on engagement to support access to justice

- Most people resolve their justice problems and claim their rights outside of formal state-based courts.
- While these systems are not without risks, they are diverse and evolving. Conventional rule of law programmes seek to create incentives and capacities for formal justice systems to deliver better justice outcomes despite glaring deficits with customary and informal community justice of the same tool conventional programming system. What is needed is a more granular, discerning and practical approach to risk that is based on evidence and data of where the seekers go to solve their problems and the accessibility and responsiveness and accountability of the mechanisms that they use, whether those are formal or otherwise.
- There is a need to understand how actors and justice ecosystems can engage with customary informal and community justice services to maximize their potential and address underlying structural circumstances that may limit the degree to which more informal systems can advance fair outcomes.
- A spectrum of engagement modalities is needed *and* possible, ranging from empowering justice seekers around customary and informal systems to direct engagement with the systems themselves. The example from Mexico shows how building synergy with formal systems, ADR services and indigenous mechanisms can strengthen access to justice. Hybrid approaches with high levels of trust are possible, as is women's participation and leadership.

- Two exemplary EU-funded programmes are worth referencing: MyJustice in Myanmar and GOJUST in the Philippines. This shows that EU institutions have been engaging with customary and informal systems, but need to do so reflexively rather than exceptionally.
- Efforts to achieve the SDG16 target of justice for all will require a significant boost in funding from governments and development partners—including investment around diverse justice actors. The justice rule of law index-identified recession over the past few years is significantly exacerbated by inadequate justice funding. Justice aid fell by almost 30% over the past decade according to ODI; this is certain to widen the justice gap going forward. SDG16 will be under review this year at the High-Level Political Forum in July, providing a platform to boost collective action and ensure the goal of justice for all is met by 2030.

Key Recommendations for the TED Network

- Adopt a justice ecosystems approach to understand the diversity of justice providers and shape reform plans. Justice needs surveys combined with qualitative assessments are an important part; understanding where justice seekers turn for justice problems must be an integral part of any rule of law assessment.
- Engage in learning, promote, and participate in multi-stakeholder collaborations across jurisdictions, bringing together diverse actors on the ground and research organizations and government champions.
- Expand engagement with customary, informal, and community justice services to achieve justice for all by 2030 by bringing attention and raising awareness to these services, cultural sensitivity with the public. Empower justice seekers, especially marginalized groups, to benefit from these services. Empower providers by increasing recognition, providing training on human rights norms, gender responsiveness and conflicts sensitivity, the development of standard operating procedures, procedural safeguards, and jurisdictional boundaries. Increase synergy with formal systems.
- Advance women and girls' participation and leadership and ensure the protection of their rights, including through increasing investment into sustainability of these services, supporting communities, and sensitizing other areas of development cooperation.
- Scale up customary, informal, and community justice services that work to guarantee sustainability and replicability.
- Strengthen donor engagement with diverse pathways and increase funding, as per the report by Justice Action Coalition and recommendations by OECD and USAID.

Discussion

- The participants discussed the articulation of boundaries between formal and informal justice systems: while the former formally recognize the latter in some country contexts, the opposite is true in others. How to ensure that potential challenges to decisions made in the informal system do not disproportionately add to the workload of formal courts?
- In some countries, there is significant opposition of national authorities (e.g. bar associations) to accepting EU funding to CIJ mechanisms and scaling up of legal aid provision. Brokering formally recognized partnerships between paralegals is important.

- Long-term legal and financial sustainability of CIJ programmes, as well as compliance with human rights standards, must be addressed. At the same time, compliance with human rights should be a concern for the whole justice system, because it is not guaranteed that human rights standards are addressed in the formal system.
- Donor programmes can address both formal and informal systems and build linkages. It is important to consider the whole spectrum of the system with its multiplicity of actors (political analysis of actors on the ground who actually solve problems – these are rarely courts).
- It must be more clearly emphasized that CIJ plays an important role in peacebuilding, as this still largely overlooked by donors.
- The lack of uniformity of CIJ systems negatively impacts on the predictability of results.
- Participants have expressed interest in similar, longer webinars in the future on different themes related to CIJ and beyond.

ANNEX: Participants List

	Participant	Organisation/ Position
1.	Abel Piqueras	EUD Mozambique
2.	Achim Johannsen	Deputy Head of Governance Division, BMZ, Germany (co-chair WG1)
3.	Adrian Banu	Crime Prevention and Criminal Justice Officer, UNODC
4.	Aidan Harris	Program Officer, Open Society Justice Initiative, WJP
5.	Alejandro Ponce	Chief Research Officer, WJP
6.	Alessandro Liamine	Project Manager, EUD Uzbekistan
7.	Alisa Shaible	Intern, I-IDEA, Brussels
8.	Ana Cardenas	Director of Justice Projects, Mexico, WJP
9.	Anna Cichocka	EUD Madagascar
10.	Anna Perchuk	EU Engagement Consultant, IDLO
11.	Ann-Kathrin Hesmer	Intern, GIZ
12.	Aranzazu Alameda	Focal Point Rule of Law and Justice, seconded expert from the Spanish Ministry of Justice, G1 DG INTPA
13.	Arthur van Buitenen	Policy, Advocacy & EU Engagement Advisor, IDLO
14.	Atiji Phiri Nuka	Programme Manager (Good Governance-Access to Justice, Rule of Law & Security), EUD Malawi
15.	Beatrice Campodonico	EUD Sudan
16.	Boitshoko Metlhaleng	EUD Botswana
17.	Britt van der Donk	Director of Projects, HiiL
18.	Carlos Abaitua-Zarza	EUD Guinea Bissau
19.	Christian Kuitert	Knowledge Broker Research & Policy, Knowledge Platform Security and Rule of Law (KPSRL)
20.	Christiane Woluwiec-Musich	RoL Focal Point, GIZ Sector Programme Governance
21.	Christina Mdemu	Enabel
22.	Daniela Barba	Director of Research on Access to Justice, WJP
23.	Dennis Wenzl	Outreach Officer, Democracy Reporting International
24.	Diana da Silva	EUD
25.	Fabrizio Guariglia	The Hague Office Director, IDLO
26.	Fionuala Cregan	Campaigns and Advocacy Specialist, HiiL
27.	Franca Berthomier	EUD Myanmar
28.	Friederike Herzer	TED Secretariat
29.	Giuliano Borter	Junior Partnership Developer, HiiL
30.	Heidi Embonga de Pourq	TED Secretariat
31.	Horacio Ortiz	Senior Researcher, Access to Justice, WJP
32.	Jussi Kanner	Desk officer, Ministry for Foreign Affairs, Finland
33.	Karol Limondin	Chief advisor, Danish Institute for Human Rights
34.	Kylea Shropshire	Security Officer, Resilience, Peace and Security, G5 DG INTPA
35.	Laura Ospina	Senior Program Officer, Justice for All
36.	Laura Tinagli	Junior consultant, LeadEur
37.	Leona Carla Heidemann	Intern, GIZ Sector Programme Governance
38.	Line Urban	EUD Kenya
39.	Manasi Nikam	Knowledge Management Officer, HiiL
40.	Marie-Alexandra Kurth	TED Secretariat
41.	Mark Lewis	Chief of Public Sector Partnerships, WJP
42.	Marla Diaz Arias	Administrative Coordinator, HiiL
43.	Martin Gramatikov	Programme Director KUCS, HiiL
44.	Mascha Matthews	Director Partnership Development, HiiL
45.	Mathilde Eon	TED Secretariat
46.	Michael James Warren	Customary and Informal Justice Adviser, IDLO
47.	Mohamed El Azzouzi	Programme Manager DG INTPA G1

48.	Natalia Barreto Silva	Project Manager, EUD Mexico
49.	Nathalie Vendevelde	Intervention Officer Governance & Rule of Law at Enabel, Belgium
50.	Nneka Okechukwu	Head of inclusive governance and accountability, ECDPM
51.	Olivier Lechien	Senior Expert, Citizens and Institutions, AFD, France
52.	Pamphile Sebhora	TED Secretariat
53.	Paul Dalton	Chief Adviser, Human Rights, Neighbouring Countries and Asia
54.	Pierre Berman	Expert en gouvernance, organisation, gestion de projet et de ressources, EUD Mali
55.	Raluca Popa	Regional Gender Specialist, IDLO
56.	Rene Gorenflo	EUD Haiti
57.	Saa Jerome Tolno	EUD
58.	Sara Fattori	DG INTPA G5
59.	Simona Gallotta	Policy Officer on Governance, DG INTPA
60.	Siobhan Miley	Lead on Governance and HR, RoL, Democracy, Irish Aid, MFA, Ireland
61.	Stefania Minervino	Policy Officer on Resilience, Peace and Security, G5 DG INTPA
62.	Thérance Nkurunziza	Protection and Rule of Law Coordinator, International Rescue Committee, Burundi
63.	Ursula Werther-Pietsch	Federal Ministry of International and European Affairs, Senior Adviser, Human Rights, Democracy and Governance, Austria; co-chair WG3
64.	Valentijn Wortelboer	Senior Policy Officer in the Rule of Law and Peacebuilding, Netherlands MFA (co-chair WG1)
65.	Zainab Malik	Program Manager Innovation Labs, HiiL
66.	Zeina Jaber	Coordination & Thematic Intern, IDLO