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All together now: Building a shared access to justice research framework for theoretical insight and actionable intelligence

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Abstract

As empirical research into access to justice burgeons around the world, contemporary work offers opportunities for integration and synthesis, generating insights that can inform both policy priorities and practical decisions about program design and implementation. Access to justice is historically a problem-focused research field, but an important strand of contemporary access to justice research focuses on solutions, or a deeper understanding "what works." This paper offers a three-part framework for thinking about how research about "what works" in one jurisdiction can inform understanding of what might work in others. We propose a common core of research questions; a framework for conceptualizing the objects of study (in the example here, programs); and a framework for conceptualizing the contexts in which those programs might operate.

Key words

Access to justice; effectiveness; sustainability; scaling

Resumen

A medida que la investigación empírica sobre el acceso a la justicia crece en todo el mundo, el trabajo contemporáneo ofrece oportunidades para la integración y la síntesis, generando ideas que pueden informar tanto las prioridades políticas como las decisiones prácticas sobre el diseño y la implementación de programas. El acceso a la justicia es históricamente un campo de investigación centrado en los problemas, pero una importante vertiente de la investigación contemporánea sobre el acceso a la justicia

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se centra en las soluciones, o en una comprensión más profunda de "lo que funciona". Este documento ofrece un marco de tres partes para pensar en cómo la investigación sobre "lo que funciona" en una jurisdicción puede informar sobre lo que podría funcionar en otras. Proponemos un núcleo común de preguntas de investigación; un marco para conceptualizar los objetos de estudio (en el ejemplo que nos ocupa, los programas); y un marco para conceptualizar los contextos en los que podrían funcionar esos programas.

Palabras clave

Acceso a la justicia; eficacia; sostenibilidad; ampliación

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1. Introduction

Access to civil justice is enjoying a resurgence, both as a policy goal in itself and as a tool for reaching other goals, like safe and secure housing and land rights, access to health care and education, and promoting community economic development and dignified work. A commission of the United Nations estimated in 2008 that globally over 4 billion people were living outside the protection of the law, with negative consequences not only for the rule of law, but also for the health and social welfare of individuals, families and communities (United Nations Commission on Legal Empowerment of the Poor 2008). More recent estimates now put this number at over 5 billion people, or two thirds of the world's population, without meaningful access to justice (Task Force on Justice 2019, p. 12). In 2016, the United Nations adopted Sustainable Development Goal 16, calling for "access to justice for all" as an essential, cross-cutting enabler of sustainable development around the world (United Nations and the Rule of Law 2021). In 2015, the United States Conference of Chief Justices and Conference of State Court Administrators, an affiliation of the leadership of each state's supreme court and supervisors of each state's court system, passed a resolution supporting an aspirational goal of "meaningful access to justice" for all Americans (Conference of Chief Justices/Conference of State Court Administrators 2015). Around the same time, the international Organization for Economic Cooperation and Development (OECD) developed a stream of research and policy activity recognizing access to justice as an essential tool in creating inclusive growth, ensuring good government, and promoting the rule of law (OECD 2018). As of 2021, the Open Government Partnership (OGP) recorded more than 260 justice commitments by 63 members, making it one of the most popular policy areas for new commitments across the platform (OGP 2021). Growing interest in access to justice by policy makers has created a new demand for research evidence, but the production of rigorous social science relevant to understanding or improving access to justice has lagged behind the need for such knowledge.

Access to justice research is part of the law and society tradition (Friedman 1986). It centers on people's experiences with civil justice issues, problems, processes or institutions and "produc[es] knowledge to understand and inform action on events fundamental to the health, safety, and security of people and communities" (Sandefur 2021, 324). Once a generative field of social scientific inquiry, in the United States basic research in access to justice fragmented after the 1980s (Sandefur 2008a). Scholarship under the name of "access to justice" continued in law schools and was conducted by bar associations and advocacy organizations, but much of the empirical work produced was often in the service of particular stakeholders' interests. For example, it was either explicitly created to support specific policies or programs – such as more government funding for civil legal aid lawyers, or a right to counsel in specific types of legal matters – or it had the strong normative emphasis characteristic of much academic legal scholarship. While this activity kept the issues alive, it did little to enhance our understanding of access to civil justice.

Fortunately, after a long quiescence, empirical research into questions of access to justice has experienced a renaissance (Albiston and Sandefur 2013, Udell 2018). Unlike scholarship from the 1960s and 1970s, much of which came out of law and law schools, contemporary work is part of an explicitly and deliberately inter-disciplinary and action-

oriented enterprise, involving social scientists across a range of disciplines, including anthropology, sociology, and psychology, among others, in addition to lawyers and other fields of professional practice, such as social work, gerontology, and medicine.

As access to justice becomes more clearly recognized as a key tool for achieving central policy goals, the need for a valid evidence base becomes more acute. Good research is expensive and takes time, and in its absence decisions about where to invest scarce resources must often still go forward. If the global evidence base can be responsibly leveraged to give guidance, that is an amazing opportunity.

1.2. Contemporary Access to Justice Research

Contemporary access to justice research takes place in many disciplines, using a range of research methods, for a variety of different purposes. Some of this work focuses on describing and evaluating specific service programs or models. For example, a study might investigate paralegals assisting community members with environmental claims in India (e.g., Viswanathan 2020), or construct a cost-benefit analysis of combining legal and medical services together in one coordinated service-delivery model (e.g., Teufel *et al.* 2021). Other work seeks to characterize the experience of national populations with civil justice issues, in the form of national surveys (e.g., OECD and Open Society Foundations 2019, Long and Ponce 2019b). Important streams explore the experiences of specific populations – for example, prisoners' experiences with debt problems in the United Kingdom (e.g., Buck *et al.* 2007) or access to justice issues faced by people with cognitive impairment in Australia (e.g., Gray *et al.* 2009).

The diversity of this work is part of its fertility, but it also presents challenges. One central problem is determining whether to believe the research findings *at all*. Social science research not only draws on specific technical skills and knowledge, it also follows specific conventions. One of the most orthodox is disinterest, or the independence of the researcher from the research findings (Greiner 2019). To support disinterest, it is often a norm that researchers should not have "skin in the game" – their livelihood should not be dependent on producing specific results. Research should be open to the discovery of "'inconvenient' facts," that is facts that are inconvenient for the vested interests of stakeholders to the activity being studied (Weber 1958, 125). A notable share of contemporary access to justice studies are more or less self-studies, where an organization or program studies itself or hires a consultant to produce findings that will please funders or others who evaluate the program's work. While it is possible for such research to be credible, the vested interests of the researcher in producing pleasing findings are a powerful pull away from credibility.

This problem is not unique to law or justice studies. In the medical arena, for example, credibility-challenged empirical research appears in the form of clinical trials of drugs and devices that are sponsored by the companies that developed or manufacture them (Montaner *et al.* 2001). There is also the challenge of "the pull of the policy audience," or the tendency for researchers to frame research questions to fit policy makers' (and by extension practitioners') definitions of a problem and their goals for addressing that problem (Sarat and Silbey 1988, Albiston and Sandefur 2013). On the other side of the same coin, policy makers and practitioners wonder whether researchers without real-world experience can credibly guide making good public policy or designing effective

service interventions *at all*. Practitioners and policy makers often criticize academic research as being out of touch, focused on the wrong questions, and lacking understanding or awareness of "reality on the ground" (Sandefur 2016).

A second challenge created by the work's diversity is that diversity itself. Research in access to justice appears to be about many different activities, in many different places, with many different populations. At the same time, the current corpus of work certainly does not include all activities involved in access to justice, nor does it reflect some kind of universal experience, nor does it offer insights about every group that scholars, practitioners, community groups, or policy makers might wish to understand.

The combination of diverse substance and uneven empirical coverage creates challenges both for scholars seeking understanding and for practitioners in the world looking for actionable intelligence. Scholars seeking to distill the core insights of the access to justice field have difficulty finding them in all these very different kinds of research. For example, an NGO in one country trying to decide whether to launch a new paralegal program to assist people in securing identity papers may wonder whether they can learn anything to inform that decision from the results of return-on-investment studies of paralegals assisting with land claims in a different country, or with marital property disputes in a third country, or with protection orders in situations of intimate partner violence in a fourth. Similarly, a government official in a high-income country might wonder how relevant a legal needs study or cost benefit analysis in a low-income country is for their own context. They might be surprised to learn that this knowledge is relevant, as its relevance is not immediately obvious or even accessible. This challenge reflects the fact that the different data sources and studies that rely on them were created for different purposes by different kinds of stakeholders in different contexts, many of whom are not engaged in any conversation with each other whatsoever. There is no community explicitly agreed on a common set of important questions or even common terminology. The lack of interchange creates a research and policy vacuum in which there is both needless duplication and significant knowledge gaps.

In this paper, we approach access to justice research from a perspective that has three characteristics. First, we do not engage at all with the first challenge, research quality. Literatures on reliability, validity, representativeness, ethics, and good research design are already well-developed in all of the major social science disciplines and there is no need to restate them here. Studies with poor design or vague or incorrect analysis already tell us very little, and aggregating them only adds to confusion and, sometimes, division. The purpose of this paper is to encourage exploration of opportunities for leveraging the insights of research studies or existing data that employ good research design and ethical practices. Increasing the quality and relevance of research will ultimately be achieved through more investment in research and better collaboration between academic researchers, policy makers, and practitioners. Second, the paper focuses on work with application to practice. Not all research is or should be produced for the purpose of figuring out how to do things differently, but this paper, like the access to justice tradition generally, is focused on that kind of knowledge. Greater investment in research is likely to be driven by efforts to develop problem- and solution-oriented research and frameworks. Third, the approach offered here reflects the view that access to justice is ultimately assessed by impacts on the experiences of ordinary people: it is

person-centered rather than, for example, focused on intermediate outcomes such as the structure of legal professions, legal aid systems, or civil jurisdiction (Sandefur 2019).

The argument of this paper is that the second challenge presented by access to justice research, that of its *substantive* diversity, is where significant untapped opportunities lie.

1.3. In Diversity Lies Opportunity

While contemporary access to justice research evinces tremendous variety in method, theoretical approach, disciplinary affiliation, and substantive focus, studies in this area have some common characteristics.

First, the work targets one or more *populations of interest*: the particular people whose experiences are the object of inquiry. For example, the target population might be a national population, such as the residents of Jordan (Long and Ponce 2019a, 56). Or, it might be a service population, such as the people eligible for civil legal aid in some specific country (Legal Services Corporation 2017), or those facing a specific type of problem, such as seeking access to health care for specific needs (Kirkland *et al.* 2021). Studied populations are often groups that are in some way systemically disadvantaged or marginalized, such as women, the elderly, or religious, sexual, racial or ethnic minorities, but they are also sometimes other types of groups, such as those who staff the justice system or provide legal services, including judges, lawyers, paralegals, or social or community workers (e.g., Shdaimah 2011, Carpenter *et al.* 2018, Statz 2021).

Second, the work focuses on one or more specific *experiences*. The data or study may provide information about how something happens, what happens, or how people understand that. For example, there are studies of women's access to land title that focus on state policy responses and changes in women's ability to achieve land title over time (Kelkar 2016), or of the ability of women displaced by war or disaster to acquire documentation that provides them recognizable legal status (Samuel Hall and the Norwegian Refugee Council 2016).

Third, some, but not all, work in this area permits or attempts some form of *causal analysis*, centered on one or more results of interest. Some research seeks to understand how specific interventions shape experiences with justice problems. For example, a study may investigate how access to legal services affects the likelihood of intimate partner violence, or the impact of intimate partner violence on the likelihood of poverty (Farmer and Tiefenthaler 2003, Teufel *et al.* 2021). In general, this kind of research focuses on specific outcomes that reflect the interests of one or more stakeholders, such as courts that would like to reduce costs and increase their efficiency, NGOs or governments working to achieve some specific policy goal such as increased women's empowerment, or observers who may be interested in more legally accurate or favorable outcomes of some adjudicatory process.

Actual research projects integrate these elements in different ways. For example, a particularly fruitful strand of work looks at the nexus between relationships implicating life experiences (such as poor health, job loss, and homelessness), cascading legal problems, and specific interventions designed to disrupt vicious cycles of poverty and inequality that cement the disadvantage of marginalized populations (see, e.g. Tobin Tyler *et. al.* 2011, Pleasence and Balmer 2019, Clements 2021, Burnett and Sobol 2021).

2. Discovering a Shared Research Agenda

2.1. Bringing It Together

A framework for distilling theoretical insights and actionable intelligence from this rich diversity requires three elements: a common core of research questions; a conceptual framework for the objects of study; and a conceptual framework for research sites. When we work with a common core of research questions, each study is then asking about things that most people in the space, including practitioners and policy makers, want to understand: there is a conversation. When we work with a common framework for conceptualizing *what* is being studied, each study is then understood as generalizing to some phenomena but not others: there is an agreed topic for the conversation. When work proceeds within a framework for conceptualizing the context in which activity occurs, the scope and limits of generalization of any particular study are more clearly understood: there are conversational groups who can share actionable insights. The result is foundation for a framework for a shared access to justice research agenda that cuts across thematic, disciplinary, and geographic siloes.

2.2. Core Research Questions

The first issue – that of the common core of research questions – is properly the work of a field as a whole. The common conversation of a research area grows out of sustained interaction among its participants, which in contemporary access to justice research is presently in its early stages (e.g., Pleasence *et al.* 2014, Greiner 2019, Sandefur and Teufel 2020, Taylor Poppe 2020). From today's work, one could select from a range of research questions. For example, economists might be interested in the outcome of national economic performance as facilitated by better functioning justice (e.g., Hadfield 2008), or sociologists in the outcome of inequalities in access (e.g., Sandefur 2008b). As the point of orientation for this paper, and for purposes of illustration, we take three core research questions from an established framework for studying access to justice service provision programs (Sandefur and Clarke 2018): the *effectiveness* of the service in achieving its aims for the people served; the *sustainability* of the service program; and, how well the model does or could *scale*. Put differently, if a central goal of knowledge creation is to inform and improve policies and practice that lead to meaningful increases in access to justice, then at minimum we want to know:

(1) Is a given program, initiative, innovation, or intervention effective at achieving its own goals for those it hopes to serve?

(2) If a service is effective at achieving desired goals, can it continue to do so with fidelity over the long term?

(3) Is the activity scalable: can it grow to serve a noticeable proportion of need and be translated from one community, context, or jurisdiction to another?

2.3. Framework for the Objects of Study

If we are interested in understanding "what works" – what is effective, scalable, and sustainable -- then we will often be investigating specific models of service delivery, such as storefront legal information offices, or paralegal programs that work to connect

people to benefits programs, or the replacement of long form legal pleadings with fixed-answer plain language automated forms, or programs that try to detect and resolve justice problems through collaborations between lawyers and other professionals.

These efforts are diverse, but the specific examples among them can be categorized into a finite set of models. One way to characterize them is by their aims and their means. The aims are the concrete goals of the activity and the targeted populations: the aim is to achieve *what* for *whom*? The means are how this is attempted: what is done, with what tools or processes, by whom, with what funding. Table 1 below illustrates this framework with four concrete examples, which are among probably thousands of access to justice interventions around the world.

Citizens Advice and Legal Hand share the aim of connecting people to information and services that can assist them in handling everyday justice problems, with the larger goal of reducing burdens on the justice system and on legal aid programs. Both employ a combination of paid staff and volunteers, using tools like computers and pamphlets to find and provide information about problems and assistance in taking different kinds of action. Both are accessible in-person and remotely. US-based Legal Hand provides its clients with information and referrals, while UK-based Citizens Advice adds to that the provision of legal advice. Citizens Advice is funded largely by government, while Legal Hand is funded both by government and by private philanthropy. There is no fee for service to the clients of either organization. As this description reveals, there are key similarities between these two programs (indeed, Legal Hand was modeled on Citizens Advice), which suggest that lessons learned from one may give guidance about the other.

Haqdarshak and Immi.org share the aim of assisting people in connecting to the benefits for which they are eligible. Both employ service delivery models involving a combination of paid and volunteer staff and technology. Immi helps immigrants in the US to screen for eligibility and apply for immigration benefits (Marouf and Herrera 2020). Haqdarshak trains local women (haqdarshaks) in communities across India to use a mobile app to help people and small businesses establish their eligibility and apply for hundreds of government benefits schemes (Haqdarshak 2021). They are funded by a range of sources, including philanthropy and, in the case of Haqdarshak, earned income that also provides a modest livelihood to local women entrepreneurs. Here, too, key similarities between the programs provide an opportunity for applying insights learned in one program to the other.

TABLE 1

Program	Aims (do what, for whom)	Means (how)	Context (where)
Legal Hand	*Goals*: Provide legal information and referrals. Reduce court burden by catching legal issues early. Give people tools to understand and act on their own justice problems. *Target populations*: Neighborhood residents	Store-front offices staffed by trained community volunteers, supervised by attorneys and other paid staff. Accessible by drop-in and by phone. Using tools such as computers and printed literature. Funded by philanthropy and government.	New York, NY, USA
Citizens Advice	*Goals:* Provide legal advice and referrals. Reduce burden on legal aid system by enabling people to take action on their problems without lawyers. *Target populations*: Everyone in the jurisdiction.	Paid staff and trained community volunteers. Accessible by in-person visit, phone, and computer. Funded by government and philanthropy.	United Kingdom
Haqdarshak	*Goals*: Assist people in connecting with public and private benefit schemes *Target populations*: Low-income people eligible for benefits	Paid trained community members assisted by computer technology. Funded by philanthropy, government, and fees collected from clients.	India
Immi.org	*Goals*: Assist low-income immigrants in identifying options for legal status. *Target population*: Low-income undocumented immigrants.	Computer technology, staffed by paid staff and volunteers. Funded by philanthropy.	United States

Table 1. Aims and Means of Access to Justice Interventions: Examples

Each pair of programs also evidences key differences, some of which reflect decisions about program design and others of which reflect opportunities and constraints that are characteristic of their respective geographic and legal contexts. Understanding what programs will be effective, scalable and sustainable at achieving their goals also requires careful attention to those contexts.

2.4. Framework for contexts of implementation

A range of factors that vary from place to place will shape how effective, scalable and sustainable a program, policy or intervention can be. For example, in contexts with high rates of poverty and illiteracy, it will be difficult for many people to use consumer-facing

legal technologies, because they lack access to both the hardware needed to connect with the programs and affordable broadband internet (Kohl 2021, 23). They may also lack the technical and traditional literacy required to navigate unaided the complex and text-heavy interfaces characteristic of most consumer-facing legal technologies (Rostain 2019, Sandefur 2019). Technological interventions that rely on trusted intermediaries like community organizations, the staff of which are literate and have access to computers, are likely to be more effective in these kinds of environments (Rostain 2019). Poverty and literacy levels are clearly important aspects of context for understanding whether and how a particular intervention might be effective, sustainable, and scalable.

A robust framework would identify key factors that shape the effectiveness, sustainability and scalability of different kinds of service delivery programs. Poverty and literacy levels, as noted above, would clearly be part of such a framework. We suggest four important additional (but not exclusive) dimensions of context, two specific to law and the other two not: the way the justice sector is organized, the extent of legal professions' monopoly on the practice of law, the way the activity is funded, and the degree of rurality.

Organization of the justice sector. Jurisdictions differ enormously in legal terms. For example, they may hew to common law or civil law models. They may have unitary or divided legal professions. They offer tremendous differences in substantive law around common life issues like family disputes, housing and employment. In terms of access to justice, two dimensions of justice sector organization that are likely critical for shaping the implications of research in one context for practice in another are (1) the degree to which the justice sector is centralized; and, (2) the comprehensiveness of legal profession monopolies.

Justice sectors can be loosely characterized as centralized or fragmented. The United States offers a highly fragmented justice system. In the US, most ordinary civil justice matters are handled in the state courts. There are 50 separate state court systems, which are administered at the level of the country's over 3,000 counties, plus the District of Columbia and Puerto Rico. Across the US states and territories, there are sometimes substantial differences in the substantive law covering basics of life such as family or housing, which in the latter case may also be governed by laws and rules that differ from municipality to municipality. England, by contrast, offers a more centralized system, where laws and processes around debt or public benefits, for example, are formally consistent across the country.

The degree of the legal profession's monopoly on delivery of legal services will likely powerfully shape the impact of justice system interventions. Across jurisdictions globally, legal professions typically have some kind of monopoly over rights of appearance (Terry 2013). Such rights constrain where in a legal process nonlawyers may participate; for example, they may be able to give advice, but they cannot advocate or represent. Some legal professions also have monopolies on the provision of legal advice, or the "application of knowledge about laws, legal principles, or legal processes to specific facts or circumstances; creating an analysis of the situation (a diagnosis of its legal aspects); and suggestions about courses of action (proposed treatments)" (Sandefur 2020, 286–87). In the United Kingdom, legal advice is not a reserved activity, which means that the volunteers working in Citizens Advice can diagnose a neighbor's legal

problem and offer help with it. By contrast, in the United States, Legal Hand's community volunteers can only offer information, leaving people to figure out what kind of problem they have and make choices between different possible responses on their own (Maru 2020). Enforcement and punishment for the unauthorized practice of law also vary widely. In the United States, for example, most states criminalize the provision of unauthorized legal advice, and UPL rules are strictly enforced (National Center for Access to Justice 2022).

Some countries also formally recognize various types of "restricted" legal professionals and nonlawyer activity. For example, in countries as diverse as China, Indonesia, Kenya, Malawi, Moldova, Nigeria, and Sierra Leone (among others) formal recognition of paralegals, accredited paralegals, and "legal aid assistants" is included in national legislation related to the provision of legal aid services. In Canada, New Zealand, and the United States, paralegals, community workers, and "accredited representatives" are allowed to operate through nonprofits and community law centers. The United States also allows nonlawyers in some federal "mass justice" agency proceedings, including under the Internal Revenue Service, Social Security Administration, and Veterans Administration, although the regulations and the reporting of activity under these agencies are uneven.

Organization of Funding. Jurisdictions differ enormously in how access to justice programs are funded. For example, the United States offers access to many basics of life – food, housing, justice – through combinations of public and private support. For example, access to lawyers for civil matters for the poorest Americans is provided though a small core of federal funding that supports salaried civil legal aid lawyers, supplemented by state and local government funding, philanthropy, and volunteers (Sandefur 2007). Compare that to the United Kingdom, where for many years a majority of the population was eligible for full or partial government subsidy of their purchase of private lawyers' services on the market (Sandefur 2008b).

Funding is obviously a key component of scaling, and not only in sheer amount. The way funding is organized is also a critical factor affecting effectiveness, sustainability and scaling. In particular, the traditional approach of funders to investing in justice interventions is fragmented and project-based: funders identify specific organizations that have developed specific initiatives and support those projects for a relatively short period of time. This contrasts with an approach where funders commit to long-term operational support of individual organizations or of multi-organization collaborations (Kania and Kramer 2011, Kohl 2021, Manuel and Manuel 2021).

Unlike in healthcare and education, innovative financing mechanisms such as social impact bonds or outcomes-based financing for access to justice interventions are virtually nonexistent. Social enterprise, fee-for service, and "sliding scale" fee models are also uncommon, with few exceptions (e.g. many nonprofit immigration legal service providers in the United States charge nominal fees for filing immigration forms, which provides critical revenue for these programs to operate). All of these alternative financing models are designed to reinforce sustainability and scale, often based on empirical research and data that demonstrate impact.

Rurality. While the growth of urban areas in countries around the world has meant that a majority of humans now live in cities, a substantial minority –over two fifths – do not

(Buchholz 2020). Around the world, over 3 billion people live in rural areas as classified by the World Bank. Over 442 million of the world's rural residents live in low-income countries, which often lack the infrastructure of wealthier countries, such as reliable electric grids, passable roads, and public transportation (World Bank 2021b).

Available research suggests that access to justice in rural areas presents specific challenges that are common across jurisdictions. Rural areas are frequently described as "legal deserts": they are sparse with legal assistance for people facing justice problems – in particular, they are sparse with lawyers (e.g., Blacksell *et al.* 1991; Pruitt *et al.* 2018). This is particularly acute in many low-income countries with few lawyers and developing legal systems, but also it represents an exigent challenge in many middle- and high-income countries with well-established legal systems and infrastructure. The paucity of legal experts means that help is difficult to find, and distance and lack of transportation may mean that both courts and those lawyers practicing in a given jurisdiction are difficult to get to. But the ecology of rural legal contexts means not only less access to providers; it also means that those providers who do serve the community may face formal, informal or positional conflicts of interest that discourage them from helping a potential client fully or at all. While these conflicts have usually been explored as they affect lawyers' behavior or people's willingness to litigate, some may affect other kinds of service providers as well.

A formal conflict of interest exists when a lawyer is already working with one party to a dispute; they cannot advise or represent other parties to the dispute. A positional conflict exists when a potential helper, such as a lawyer, is working with a party of the same type as a potential clients' opponent: the helper may not wish to jeopardize future work from landlords, for example, by supporting a tenant. Informal conflicts reflect the importance of personal relations in rural areas: people may not wish to jeopardize important interpersonal relationships with family, friends, or business associates by assertive advocacy for a client, potential client's – or, indeed, their own – needs (e.g., Engel 1984, Ellickson 1991, Pruitt *et al.* 2018, Statz 2021).

Though technology can make possible new forms of remote access, these technologies are not always available or useful to rural residents. For example, rural residents of poor countries are frequently without reliable access to electricity, which is required to power computers and cell towers that give remote access: in the poorest countries of the world, only about 30% of rural residents have access to electricity (World Bank 2021a). Digital literacy, just like traditional literacy, is negatively correlated with poverty, and across the global spectrum rural areas' higher poverty rates mean that fewer residents will have the capability to use digital tools to access justice without human assistance.

Table 2 offers initial hypotheses about how these four factors might shape the effectiveness, scalability, and sustainability of different kinds of access to justice programs. These are preliminary, and offered as an illustration of a way in which the approach described here might be useful in informing decisions about whether and how to implement in one jurisdiction a program deemed successful in another. The first element considered in the table is centralization versus fragmentation of the justice system. In a fragmented system, consistent implementation of a new program or model across a jurisdiction is more challenging, because it must be implemented anew in each of many "micro-jurisdictions" that have their own norms and own formal rules. Though

the original model may be effective, modifications made to it in each individual adoption may make it less so. Similarly, learnings from a pilot project in a fragmented system will be challenging to generalize even to other sites within the same system because of the differences in context. Scaling becomes more challenging in fragmented systems, as interventions must be customized to local norms and rules. This means that information, advice, and computer programs that create court forms or other legal documents must be customized to many different micro-jurisdictions. For example, in the United States most areas of law require a different form to be filed from one state (and sometimes from one county or municipality) to the next. This makes a seemingly straightforward solution like online document assembly and court e-filing enormously complex, even with shared standards. By contrast, in more centralized systems, scaling can occur through duplication. Finally, a critical part of sustainability is legitimacy and political support (Sandefur and Clarke 2018). In more centralized systems, the centralized organization offers a ready-made platform for both support and opposition.

TABLE 2

Element of Context	Type of program	Effectiveness	Scaling	Sustainability
Centralization vs fragmentation of justice system	Any	Consistent implementation is more challenging in a fragmented system.	In fragmented justice systems, interventions must be customized to spread; in centralized systems they may be simply duplicated.	Political support and opposition are both potentially more organized in centralized systems.
Extent of traditional legal profession's monopoly on the practice of law	Nonlawyer human service provision	Strong restrictions on legal advice and appearance can render nonlawyer interventions less effective.	If nontraditional services cannot collect fees, their scale is limited by subsidy. Traditional lawyers are expensive, and their scale is also limited by subsidy.	Legal professions' strong monopoly can manifest in significant opposition to new models or strong preference for established models, making new models more difficult to sustain.
Rurality	Any	Unused services cannot be effective. In-person services may be difficult to access for reasons of time, distance, expense, lack of infrastructure. Remote services may be difficult to access because of lack of broadband infrastructure.	Scaling will be more effective when it relies on existing networks of relationships and partners with existing providers of adjacent services.	Because of the importance of local relationships and arrangements, sustainability is tied to connection to these networks.

Organization of Funding	Any	Fragmented, project-based funding can result in effective service delivery.	Fragmented, project-based funding undermines scaling.	Fragmented, project-based funding undermines sustainability.

Table 2. Hypothesized impacts of context on effectiveness, scaling, and sustainability of access to justice interventions.

Legal professions' control of the practice of law likely affects all three outcomes for some kinds of programs. As discussed above, in many countries around the world, independent paralegals provide legal advice and other kinds of assistance to people facing problems with land claims, domestic violence, identity papers, access to benefits, and many other issues (Maru and Gauri 2018). If legal professions have an extensive monopoly over advice as well as representation and advocacy, what nonlawyer providers are actually able to do for clients is far more limited than when lawyers' monopoly is less extensive; this will likely have a direct impact on effectiveness. Scaling can also be impacted by legal monopolies. This aspect of justice systems puts powerful constraints on scaling: if only lawyers can provide legal services, then the only way to scale those services is to create and employ yet more expensive, highly credentialed labor in the form of lawyers. This aspect also puts limits on the possible effectiveness of service programs that rely on something other than lawyers – for example, nonlawyer humans or computer programs – to provide legal services (Ziv 2012, McQuoid-Mason 2013).

While professional monopolies may turn a blind eye to services other providers offer for free, they may be less forgiving when nontraditional providers cut into their market, charging fees. When this happens, the scale of nontraditional services is constrained by the willingness of third-party funders such as government or philanthropy to support the service. A strong legal monopoly can be a barrier or a support to sustainability: if the new service threatens the monopoly or a revenue stream, the profession can organize opposition, making those models far more difficult to sustain.

In rural contexts, getting access to services is an important challenge. Services that might be very effective if used, can go unused because people cannot connect with them due to social or physical distance, expense, or lack of transportation or digital infrastructure. Rural contexts are often characterized by the importance of social relationships in organizing many aspects of life, including those impacting justice issues (Pruitt *et al.* 2018). This is true within both formal and informal justice systems. Scaling may be easier when it builds on these relationships and on already-existing human infrastructure. An example would be the Partnering for Native Health (PNH) program in Alaska, a heavily rural US state that is larger in area than the next three largest states (Texas, California, and Montana) combined. The program is

> a cross-sector collaboration using health care, legal aid, education and technology to address unmet civil legal needs of indigenous individuals in remote locations in Alaska and the United States. By embedding culturally-appropriate community-based legal aid extenders into the health system, PNH seeks to empower communities to resolve health-impacting legal needs. (World Justice Project 2019)

Because such networks, whether informal or formal are critical for delivering services to people in rural contexts, the continued health and cooperation of those networks is critical to the sustainability of the legal services delivery programs.

How funding is organized will also likely shape programs' ability to be effective, sustainable, and scalable. As noted above, the traditional approach of funders is to support "isolated intervention" by "individual organizations" (Kania and Kramer 2011, 4). This results in many individual "nonprofits try[ing] to invent independent solutions to major social problems, often working at odds with each other and exponentially increasing the perceived resources necessary to make meaningful progress" (Kania and Kramer 2011, 5). In such contexts, individual programs may be very effective at working on their piece of a complex problem, but cross-sector or system-wide collaboration are discouraged. Fragmented, project-based, short-term funding is also not supportive of scaling: interventions often end up in the so-called "Valley of Death" between pilot stage proof of concept and scaling up to serve a noticeable portion of need (Kohl 2021). In the same way, fragmented, project-based funding undermines sustainability, because programs lack a core of stable support for basic operations over the longer term (Manuel and Manuel 2021).

In addition to exploring what factors might shape "what works" in one context versus another, the framework offers some tools for insight into where access to justice will be most restricted. For example, other things being equal, residents of rural areas with fragmented justice systems and a strong monopoly by the traditional legal profession will face more restricted access to justice. Similarly, nonlawyers may be a critical resource for access to justice in rural areas, as they may be both more socially and more physically accessible than traditional legal professionals, as we see in the example of Alaska's community legal extenders, which rely on the "community health aide" present in "nearly every single" indigenous village in the state (NYU CIC 2020).

One could elaborate these dimensions further. Poverty and literacy are, as noted above, key aspects of context. So, too, are important aspects of social organization, such as the presence of marginalized or socially excluded groups like religious, ethnic, or racial minorities and those without legal status. The presence of such groups raises challenges for general solutions, and may suggest the need for solutions tailored to the particular needs and capabilities of different population segments.

3. Conclusion

With over 5 billion people – more than two thirds of the world's population – living outside the protection of the law and without meaningful access to justice, the moment is ripe to identify the hallmarks of access to justice programs likely to be successful in jurisdictions of different types. But not along borderlines, as it has traditionally been done. It will require a global view and understanding of what aspects and differences from place to place will affect effective implementation, scaling, and sustainability of possible access to justice initiatives. It also requires having a clear framework and research agenda for determining exactly what a given program or intervention is doing and how, not least so that apples can be compared to apples (Pleasence *et al.* 2016, Sandefur and Clarke 2018).

The methodological diversity of current access to justice work is a strength, and it requires that the kind of research synthesis called for here be substantive, rather than formally quantitative. Methodologically diverse work can be synthesized to provide important insights, as Pleasence and colleagues (2014) showed in their masterful review

of over a decade of research informing the design effective legal services for disadvantaged populations.

This paper has offered some preliminary ideas about how a research program might proceed that could provide both practical and theoretical insight into making access to justice real. The approach offered here is avowedly incomplete. The aim has been to convince the reader that the burgeoning evidence base about access to justice provides important opportunities both to understand what can work and to enrich our understanding of how law operates in society.

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