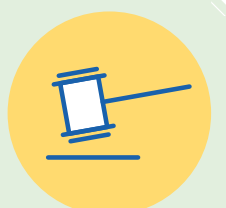




Global Study on Legal Aid Country Profiles



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This publication has not been formally edited.

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How to Read the Country Profiles

What are the Country Profiles?

This publication was developed as part of the Global Study on Legal Aid undertaken by UNDP and UNODC, and aims to provide a snapshot of the current state of legal aid in 49 countries around the world. Country Profiles were developed for countries where both Member States and independent national experts completed the survey on legal aid conducted as part of the Global Study. This publication also includes a Table of Legislation which provides information about the legislation that guarantees the right to legal aid in 125 countries.

What is the source of this information?

Each Country Profile presents the main findings from a global survey on legal aid administered to one or more government representative(s) (from a relevant state institution overseeing or administering the national legal aid system) and one or more independent national expert(s) (national researchers or civil society actors with first-hand knowledge and/or experience of the country's legal aid system.) UNDP and UNODC field offices also participated in subsequent reviews and validations of survey results.

What is covered in a Country Profile?

A Country Profile has eight sections:

- **Country snapshot**
- **Legal aid at a glance**
- **Legislative framework**
- **Delivery model**
- **Service providers**
- **Finances**
- **Provision of legal aid in criminal and civil/administrative cases**
- **Quality safeguards**

While the survey questionnaire addressed to the government representative was mainly used to obtain information about the legal and regulatory framework of a country's legal aid system and the delivery model in place, the questionnaire addressed to independent national experts solicited additional inputs on their assessment of the effectiveness, accessibility and quality of legal aid services provided.

Which external sources of information have been used to complement global survey data in Country Profiles?

Total population

Source: World Bank, 2014



Rural vs. urban population

Source: World Bank, 2014

Rural population refers to people living in rural areas as defined by national statistical offices.



Type of government system



→ **Federal System:** A system of government in which the governing power is divided between a central authority and constituent political units. In federal systems, the central and regional governments share responsibilities for the administration of State-funded legal aid services. In many federal countries, the regional governments provide legal aid services through a separate legal aid plan.



→ **Unitary System:** A system of government in which most or all of the governing power resides in a centralized government, including administration of State-funded legal aid services.

Male and female adult literacy rate

Source: World Bank, 2014

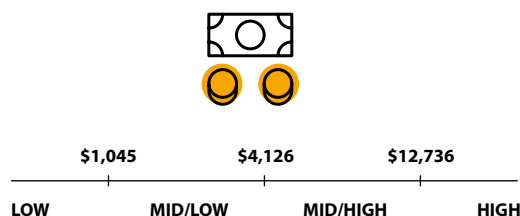
Percentage of women and men age 15 and above who can, with understanding, read and write a short, simple statement on their everyday life.



GNI per capita & income group

Source: World Bank, 2014

GNI per capita, Atlas method (current US\$).
2016 Classification of income groups.



HDI

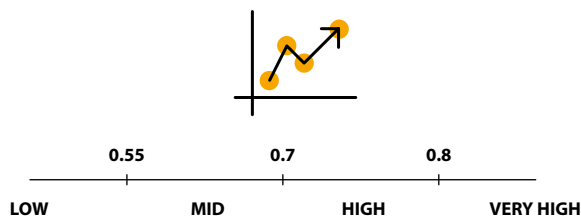
Source: 2014 HDI country groupings, UNDP

The Human Development Index (HDI) is a composite index measuring average achievement in three basic dimensions of human development:

- **A long and healthy life**, as measured by life expectancy at birth
- **Knowledge**, as measured by the mean years of schooling for adults aged 25 years and more and the expected years of schooling for children of school entering age
- **A decent standard of living**, as measured by gross national income per capita.

Inequality-adjusted HDI

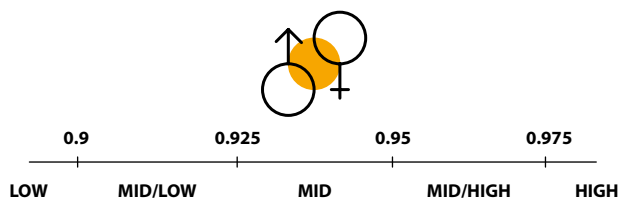
The difference between HDI and inequality-adjusted HDI, expressed as a percentage of the HDI, indicates the loss in human development due to inequality.



Gender Development Index

Source: 2014 Gender Development Index groups, UNDP

The Gender Development Index is simply the ratio of female to male HDI values, and provides insight into gender disparities in achievements in three basic capabilities: health, education and command over economic resources.



Rule of Law Index 2015, World Justice Project

The Rule of Law Index produced by the World Justice Project measures the rule of law based on the experiences and perceptions of the general public and in-country experts worldwide.

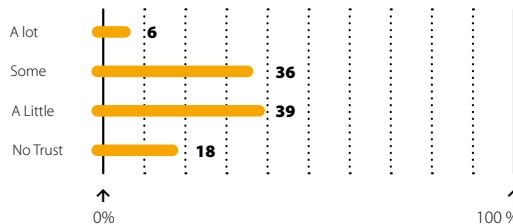
Country profiles feature specific survey questions on legal aid which were administered to measure the Rule of Law Index — reflecting the voices of both local citizens (1000 respondents per country on average) and local legal experts (25 respondents per country on average).



→ worldjusticeproject.org/rule-of-law-index

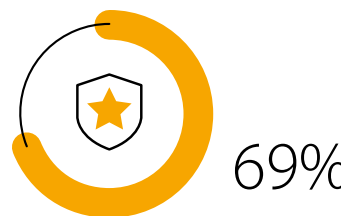
People’s trust in courts

From the General Population Poll, respondents were asked whether they have “a lot”, “some”, “a little” or “no” trust in the courts.



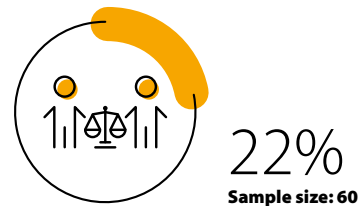
People who believe that the police always or often respects the basic rights of suspects

From the General Population Poll, respondents were asked on a scale of “always”, “often”, “rarely”, or “never”, whether the police respects the basic rights of suspects. The Country Profiles display the percentage of respondents who answered “always” or “often”.



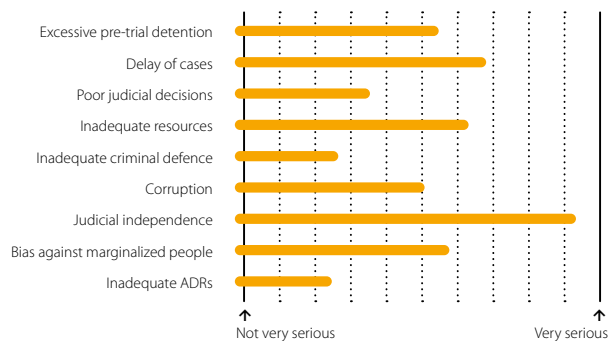
People who received legal assistance when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years

From the General Population Poll, respondents were asked whether they or someone in their household have experienced a conflict with someone who refused.



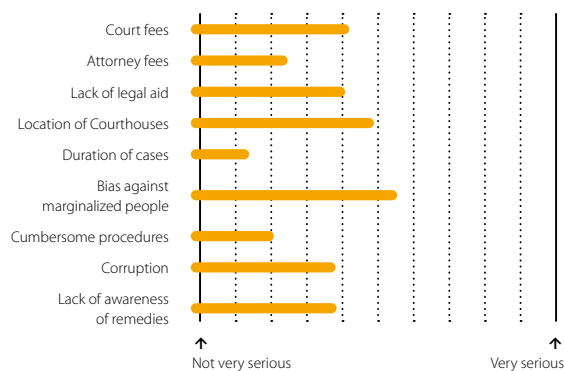
How serious are the following problems in criminal courts in the city where you live?

Local experts were asked to rate on a scale from 1 to 10 (with 10 being a very serious problem, and 1 being not a serious problem), how serious various problems are in criminal courts in the city where they live.



How serious are the following problems in influencing people's decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

Local experts were asked to rate on a scale from 1 to 10 (with 10 being a very serious problem, and 1 being not a serious problem), how serious various problems are in influencing people's decisions on whether or not to go to civil courts to solve a dispute in the city where they live.



Grassroots Legal Advocates: Scale, Recognition & Financing, by Namati (2016)

Thirteen Country Profiles (Afghanistan, Argentina, Australia, Canada, China, Kenya, Moldova, Nepal, New Zealand, South Africa, Ukraine, United States of America and Viet Nam) have a specific section on paralegals which draws from Namati's series of research briefs on "Grassroots Legal Advocates: Scale, Recognition & Financing."

This research reviews countries that have formally recognized, either in law or in policy, the role that grassroots legal advocates play in providing justice services. Each national brief assesses the scale and work of grassroots legal advocates who have been recognized by government, and the extent to which their work is publicly financed. The briefs also incorporate practitioner's observations on how the letter of the law may differ from reality, and reasons for any discrepancy.

→ namati.org/recognition-of-grassroots-legal-advocates

Asia-Pacific



Afghanistan	9
China	19
Japan	31
Nepal	42
Thailand	54
Viet Nam	65

Afghanistan

Asia-Pacific

Afghanistan

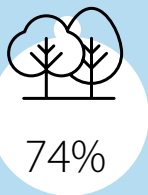
31.63 milion



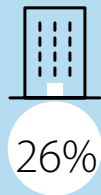
Population



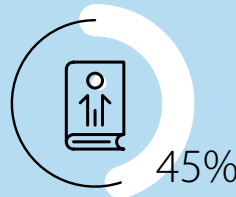
Unitary government system



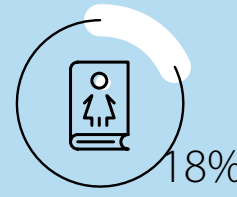
Rural population



Urban population



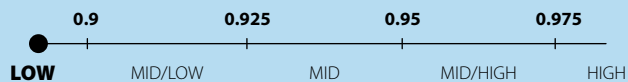
Male literacy rate



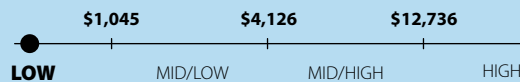
Female literacy rate



Gender Development Index



GNI per capita



0.465

HDI



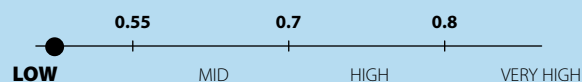
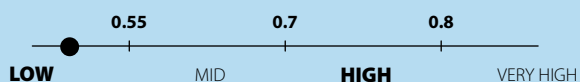
-31.4%

Loss in HDI due to inequality



0.319

Inequality-adjusted HDI



Legal Aid at a Glance in Afghanistan



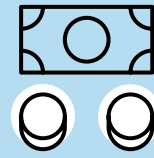
2006

Most recent reform of the legal aid system in 2006



Never conducted

When was the last assessment of legal aid needs conducted

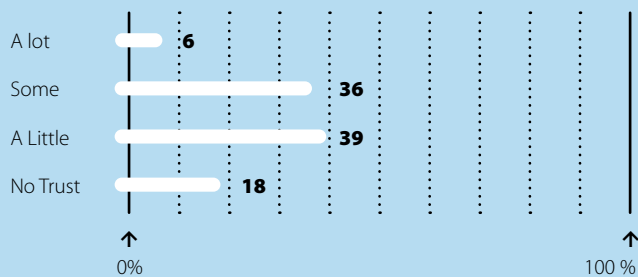


N/A

Annual expenditure on legal aid per capita in 2013

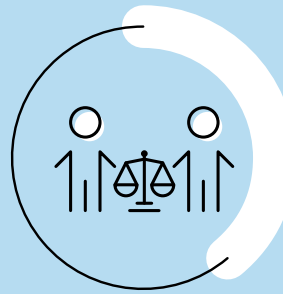
People's trust in courts

Citizen survey, WJP Rule of Law Index 2015



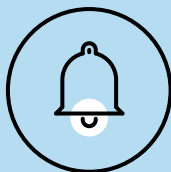
People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015



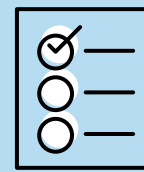
39%

Sample size: 178



Challenges in accessing legal aid

- Lack of lawyers, with a particularly acute shortage outside urban areas
- Lawyers are paid very little for legal aid work
- The bar association has expressed resistance to the idea of allowing paralegals to fill the gap of available lawyers
- People often prefer to resolve issues through the informal justice system, where legal professionals do not typically participate
- People may not know where to find legal assistance, or may not be aware that legal aid services are available at little or no cost



Priority areas for support

- ✓ Legislative drafting advice
- Development of action plans/policies
- ✓ Development of quality criteria for legal aid providers
- Establishing paralegal systems
- ✓ Institutional support, notably with regards to establishing a case management system
- ✓ Training
- ✓ Support to undertake a comprehensive assessment of legal aid needs
- ✓ Provision of equipment

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Constitution**
- **Law on judicial procedure**
- **Regulations addressing State actors**
- **Criminal procedure law**
- **Implementing regulations for the law on legal aid**

The right to legal aid was first recognized by law in 1986, and was reaffirmed as a fundamental right of Afghan citizens under article 31 of the Constitution, in 2004. The latest substantial reform of the legal aid system took place in 2006, with strong involvement by the bar association.

State-funded legal aid is available at national and regional levels.

Services included as part of legal aid

Legal aid is mainly provided in the form of legal advice, for both criminal and civil cases. Additional services are provided in criminal cases, such as legal representation, as well as general assistance in navigating the justice system, and in executing legal documents.

Specialized legal aid services are not provided by the State for specific population groups, such as persons with disability, the elderly, migrants and refugees, etc.

Process for obtaining legal aid

Legal aid is provided upon request from the person who wants legal aid, or upon request from other justice actors, such as the police, the prosecutor, the bar association or a legal aid provider. The court presiding over a case must also assess eligibility during the first appearance of the parties. The determination is automatic if the case or legal aid recipient qualifies for legal aid services under the law, in which case no proof is necessary.

In certain cases, a person must prove eligibility by providing supportive documentation proving status as recipient of welfare or as member of a protected group, as well as proof that the applicant's claim has merit. In other cases, no proof is needed, and entitlement to legal aid depends mainly on the complexity of the matter requiring assistance.

Awareness of the right to legal aid

The State has carried out in 2014-15 a public information campaign to raise awareness about the right to legal aid (with a focus on existing laws and official policies on legal aid, but less so on how to access legal aid). Despite these efforts, independent national experts estimate that the general population is 'not knowledgeable at all' about the right to legal aid services.

Delivery model

Legal aid authority

The Ministry of Justice and the Afghanistan Independent Bar Association have chief responsibility for the management of legal aid.

A legal aid board is constituted by representatives from the bar association, the Ministry of Justice and officials specializing on legal aid, the national human rights institution, non-governmental or other civil society organisations, and paralegal associations. While most of these representatives are appointed by their respective institutions, civil society representatives are elected.

Organisation of legal aid services

Legal aid services are provided through public defender institutions, the legal aid board, civil society organisations and *pro bono* schemes (the provision of *pro bono* services is a condition for membership in the bar).

Mechanism for assigning legal aid providers

According to Article 5 of the regulations on Legal Aid, to place a request for the services of a legal aid provider, the police, the prosecution office or a court introduces a suspect/accused eligible for legal aid to the legal aid department of the Ministry of Justice in Kabul, or in provincial justice departments.

Accessing legal aid in urban vs. rural areas

State-funded legal aid services are not provided in rural areas.

Service providers

Lawyers and other providers

1/105,425

Licensed practicing
lawyers/people

N/A

Full-time
legal aid lawyers/people



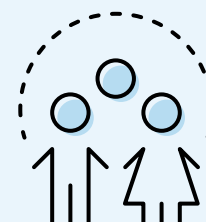
**University-based
law clinics**



1/31,627



Paralegals/people



**Civil society
organisations**

Qualifications required

State-funded legal aid providers must have a law degree and must show proof of passing a professional examination. They must also be a member of the bar and registered in a State-authorized roster of legal aid providers. Separate testing is required to be accepted as a staff member of an institutional legal aid provider.

Paralegals do not require formal educational training, but must have experience working as a legal assistant to a lawyer.

Legal aid providers are required by the bar association to engage in continuing education or skills training, but the State does not allot funds to this effect.

Paralegals

Grassroots Legal Advocates, Namati 2016

Are community paralegals recognized by law?

Yes, although community paralegals are not recognized by binding laws. For instance, Article 44 of the Bylaws of the Afghanistan Independent Bar Association (AIBA) notes that graduates from madrassas or students of law or sharia faculties at universities may take up duties as a paralegal or legal assistant. Some paralegals are authorized to work with legal aid organisations, while others act as 'conciliator' or respected legal decision-makers in their communities. Generally, paralegals provide legal advice and legal information on police precincts or in prisons, as well as general assistance in navigating the justice system.

Does any public revenue fund paralegals?

No, paralegals are not directly funded by the government. The Legal Aid Board Procedures under Article 9 explicitly state that paralegals are recruited by non-governmental legal aid providers and law clinics, and “are paid by them.”

Can paralegals engage in litigation (with or without the help of lawyers)?

No, paralegals are not given the right to litigate without lawyers, although the law on advocates allows for graduates of madrassas and family members of the accused (both of which can serve as paralegals) to litigate cases in certain scenarios.

Are there boards that monitor community paralegals?

No independent board monitors community paralegals. The broad spectrum of paralegals in Afghanistan means that there is no cohesive standard for assessing their work, but it is possible for paralegals to seek accreditation.

Finances

Costs to recipients

Legal aid services for both criminal and civil cases are free of charge for those meeting eligibility criteria. Primary legal aid services are provided for free at the offices of the public defender and at the legal aid department of the Ministry of Justice. A hotline (119) has been established for the public to conveniently seek advice at no cost, irrespective of a person’s geographical location. Some civil society organisations also provide primary legal aid services for free to people to come to their offices.

Legal aid in the annual justice budget

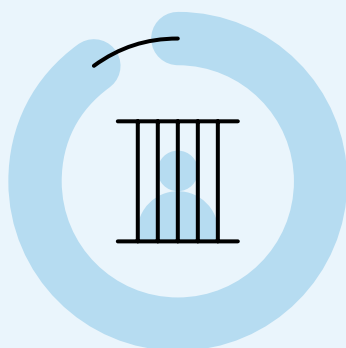
There is no separate component on legal aid in the annual justice budget. The budget for legal aid is determined by the Ministry of Justice and the legal aid board. International donors cover the costs of specialized legal aid services for disadvantaged populations. Additional services such as independent investigation, experts, psychological or social work support, etc. are not provided.

Payments to legal aid providers

While some legal aid providers receive a fixed fee for each case, or for each action they take on a case, others are full-time salaried employees in institutions funded by the State.

Provision of legal aid

Legal aid in criminal cases



75-90%

Proportion of criminal court cases (2013)

20%

Criminal cases which received State-funded legal aid and which were acquitted after trial (2013)

10%

Criminal cases which received State-funded legal aid and which were resolved pursuant to a plea agreement, procedural agreement or expedited trial (2013)

Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, persons imprisoned on criminal charges, victims of crime and victims of violence against women.

The State is *obliged* to provide legal aid to all persons who meet a financial threshold, children, persons with physical, intellectual and mental disabilities, internally displaced persons and refugees, and persons whose mother tongue is not the language of official proceedings.

At what stage of a criminal case?

Under the law, legal aid should be provided from the moment a law enforcement representative restricts the suspect's/defendant's freedom, or at least during questioning, before formal charges are filed. Legal aid is provided during trial, for any appeal or cassation, and for representation of prisoners in cases involving serious disciplinary charges.

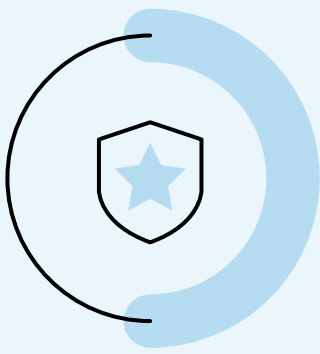
In practice however, it is not prohibited for the police to interview someone in the absence of a lawyer. This can be problematic, as the police sometimes questions a person first as a witness, and determines the person to have a right to legal aid only after the witness has incriminated him/herself.

In criminal cases, the same provider does not represent the accused/suspect at all stages of the case. Rather, legal aid providers specialize in representation at particular stages of a case, and a new provider enters the case at each subsequent procedural stage.

To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that legal aid lawyers are more likely than private lawyers to 'give advice to the suspect/defendant in private before any contact with a state justice official'.

Furthermore, independent national experts say that the most influential factor in reaching a dismissal of charges or acquittal in criminal cases is 'a well prepared and/or highly skilled lawyer'.



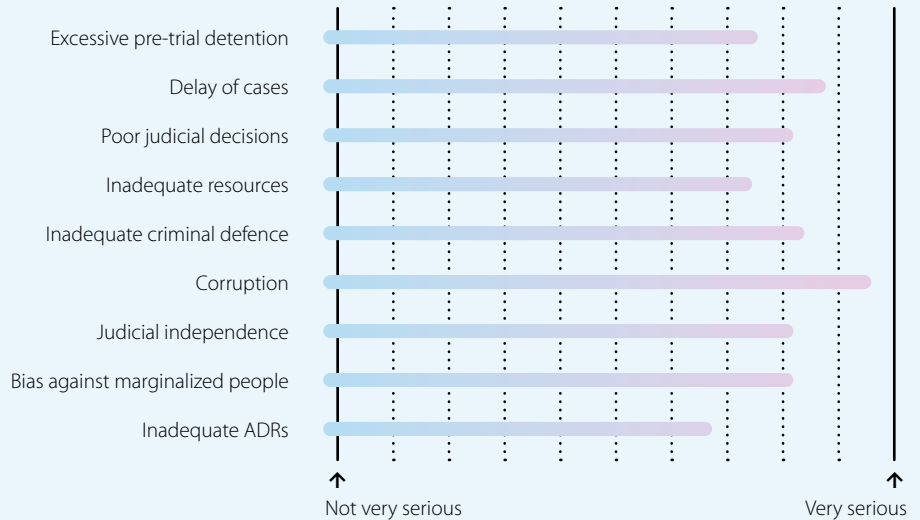
50%

People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

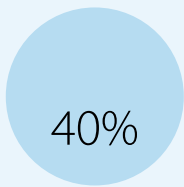
How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015

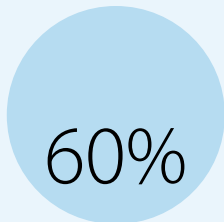


Legal aid in civil cases

Estimated demand for legal aid services in civil cases



From respondents



From complainants

Who is eligible?

Legal aid in civil cases is available to persons who meet a financial threshold, as well as to children and women.

3 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available



Marital disputes



Child custody issues



Property issues

For what actions is a party eligible for legal aid?

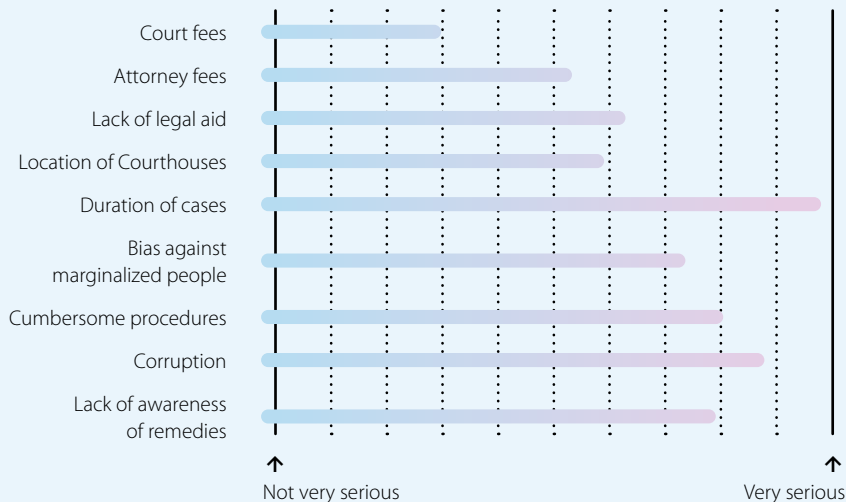
Under the law, legal aid should be provided during trial, and to guarantee the provision of protective services to victims of violence.

Public interest litigation / class action cases:

State-funded legal aid is not provided for public interest litigation and class action cases (to address discrimination, labour rights, environmental protection, health cases, etc.) and so far, little demand for legal aid to support such initiatives has been expressed.

How serious are the following problems in influencing people’s decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

according to national experts, WJP Rule of Law Index 2015



Women’s access to legal aid services

According to national experts, women often lack awareness about the availability of legal aid services at little or no cost, and they may not know where to find legal assistance.

Female victims of violence (including victims of sexual and gender-based violence) receive legal aid services in all legal proceedings, but court support services, such as interpretation and translation of documents, are not provided.

Access to legal aid for children

The justice system has specialized courts and judges, as well as specialized prosecutors, to represent child victims, child witnesses or suspected and accused children, down to the regional level. When representing children, legal aid providers sometimes reach out to protection service practitioners to assist the child throughout proceedings.

In criminal cases where children are represented by legal aid providers, national experts note that there is no noticeable difference in the use of diversion, alternatives to pre-trial detention and alternatives to imprisonment as compared to children who are not represented at all.

Legal aid and informal justice systems

Informal justice proceedings mainly handle marital or family disputes, land and property disputes, and minor criminal cases.

National experts explain that people prefer to resolve disputes through the informal justice system because it is less time-consuming and informal tribunals are more conveniently located, especially for those living in remote areas. Furthermore, people are generally more confident that informal justice proceedings will place the wealthy and the poor on equal footing; they trust that judges or decision-makers in informal justice mechanisms, because they know the parties, will better judge what is a just outcome that is acceptable to all parties.

Informal justice mechanisms do not allow a lawyer or paralegal to provide assistance in formal mediation or alternative dispute resolution processes. Nonetheless, a mechanism is in place to facilitate referrals between the formal and informal justice systems.

Quality safeguards

Accountability for the quality of legal aid services

If a person has a right to legal aid, but no legal aid provider is available, or the provider is unprepared or unqualified, the proceedings must cease until a qualified legal aid provider arrives.

A legal aid provider can refuse to take a case, or ask to be removed from the duty to represent a particular legal aid recipient, if s/he lacks expertise in the law or skills required by the specific case.

Monitoring and data collection on the quality of legal aid services

The Ministry of Justice and the legal aid board are formally responsible for monitoring the quality of legal aid services.

There is an acute shortage of data in the justice system. For instance, no data is available on the number of criminal or civil cases filed in court where State-funded legal was provided. Data about children is not recorded separately, and no data is available on case resolution prior to a case's transfer to court.

China

Asia-Pacific



1.364 billion



Population



Unitary government system



46%

Rural population



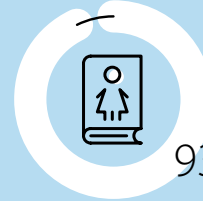
54%

Urban population



97%

Male literacy rate



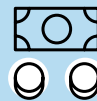
93%

Female literacy rate



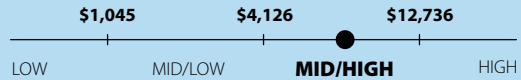
0.943

Gender Development Index



\$7,400

GNI per capita



0.727

HDI



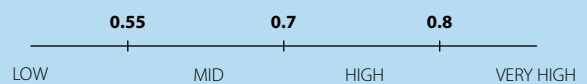
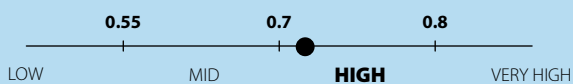
N/A

Loss in HDI due to inequality



N/A

Inequality-adjusted HDI



Legal Aid at a Glance in China



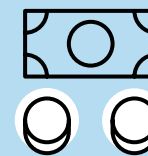
2013

The legislative process for the adoption of a specific law on legal aid was initiated in 2013 by the Ministry of Justice



Within the past 5 years

When was the last assessment of legal aid needs conducted

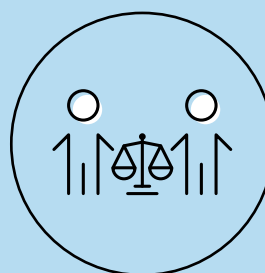
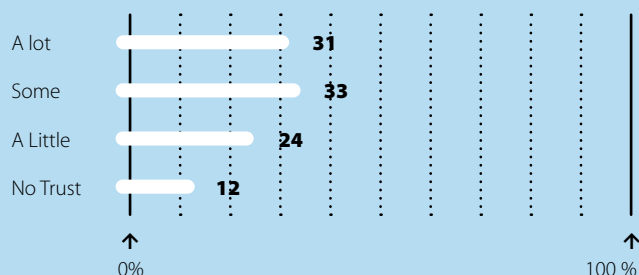


\$0.19

Annual expenditure
on legal aid per capita in 2013

People's trust in courts

Citizen survey, WJP Rule of Law Index 2015



People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015

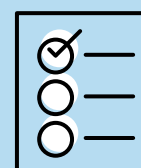
N/A

Sample size: N/A



Challenges in accessing legal aid

- Shortage of lawyers
- Low pay for legal aid work
- The public expenditure on legal aid services has been increasing, but still cannot keep up with the evergrowing demand of services
- Legal aid is sometimes geographically inaccessible
- The quality of legal aid services could be further improved



Priority areas for support

- ✓ Legislative drafting advice
- ✓ Development of action plans/policies
- ✓ Development of quality criteria for legal aid providers
- Establishing paralegal systems
- Institutional support
- ✓ Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- [Constitution](#)
- [Separate law on legal aid](#)
- [Law on judicial procedure](#)
- [Law on the judiciary](#)
- [Law on lawyers](#)
- [Civil procedure code](#)
- [Criminal procedure law](#)
- [Implementing regulations on legal aid](#)

Services included as part of legal aid

Process for obtaining legal aid

The right to legal aid was first recognized in 1996 with the establishment of the National Legal Aid Center by the Ministry of Justice, which became responsible for the management and supervision of legal aid assistance nationwide. The first set of Regulations on Legal Aid was adopted in 2003. In 2008, Legal Aid Department was established within the Ministry of Justice for national policy-making and oversight.

In June 2015, the General Office of the Communist Party of China (CPC)'s Central Committee and the General Office of the State Council issued a document titled "Opinions on Improving the Legal Aid System", which calls for specific reform measures, including the following: (1) Expanding the scope of legal aid in civil and administrative cases and enhancing the provision of legal aid in criminal cases; (2) Improving the quality and standardization of legal aid services; and (3) Increasing financial support to the legal aid system and strengthening institutional capacities. The legislative process for the adoption of a specific law on legal aid was initiated in 2015 by the Ministry of Justice.

State-funded legal aid is available at national, regional and local levels.

For both civil and criminal cases, legal aid is provided in the form of legal advice, legal representation (in litigation and labour arbitration), legal assistance, and provision of legal information. Legal aid lawyers also provide general assistance in navigating the justice system and in executing legal documents.

Specialized legal aid services are provided to disadvantaged population groups, including persons with disabilities, internally displaced persons, children, women, the elderly, family of military service members, and migrant workers.

Legal aid is provided upon request from the person who wants legal aid, or from the police, the prosecutor, or the institution that oversees appointment of legal aid providers. The court presiding over a case must also inquire and assess eligibility during the first appearance of the parties.

In both criminal and civil cases, a person must prove her/his eligibility by proving status as a recipient of welfare or state subsidies, by demonstrating family hardship, or by providing evidence of low income (if employed) or membership of a protected group. It may also be determined by officials that the interests of justice require the provision of legal aid.

In criminal cases specifically, no proof of eligibility is necessary when the State is obliged to provide legal aid by law. Entitlement to legal aid may also be determined on the basis of the gravity or complexity of the matter.

Awareness of the right to legal aid

A public information campaign to raise awareness about the right to legal aid and how to access legal aid services was conducted by the State in the past year, and provided specific contact details of relevant offices to go for legal assistance. Independent national experts estimate that the general population is 'somewhat knowledgeable' about legal aid services.

Delivery model

Legal aid authority

The Ministry of Justice oversees the state legal aid scheme by setting the national legal aid strategy and policy, supervising the legal aid providers and maintaining performance standards, amongst other responsibilities.

Organisation of legal aid services

China's legal aid system uses both private practitioners (both private law firms and non-governmental legal service institutions) and state-employed public defenders to provide legal aid services, in both criminal and civil cases.

At the provincial level, government-sponsored legal aid services are led "justice bureaus." These bureaus manage the work of legal aid centres at the district, county and township level, as well as legal aid work stations in some urban neighborhoods. By 2009, China had over 3,200 legal aid centres and 55,000 work stations.

Under the Chinese 1996 Lawyers Law and the 2003 Regulations for Legal Aid, every lawyer is expected to provide legal assistance for the poor when called upon by the legal aid office. Law firms that refuse to accept legal aid cases may receive a warning and have their businesses suspended for up to three months in serious cases. Lawyers are also encouraged to provide *pro bono* legal services. Provision of *pro bono* legal services is a condition for membership in the All China Lawyers Association, provides lawyers with discounts on bar membership in some provinces and various benefits, and tax deductions are offered by the government.

Mechanism for assigning legal aid providers

Legal aid providers are assigned to criminal cases through the courts, the police or the Legal Aid Centre, who contact providers in the order listed on a duty roster. There are also legal aid providers on duty in courts, police precincts and detention centres and prisons in certain localities.

It takes no time for a legal aid provider to appear after notice is given that legal aid is needed in a criminal case.

Accessing legal aid in urban vs. rural areas

Legal aid services are available in both urban and rural areas. Although the quality of legal aid services depends on each individual legal aid provider, it tends to be better in urban areas where more lawyers are available.

Generally, legal aid tends to be more accessible in the eastern coastal areas, where more law firms are located. In Western and inland areas, there are fewer lawyers and accessibility cannot be guaranteed.

Service providers

Lawyers and other providers

1/5,033

Licensed practicing
lawyers/people



**University-based
law clinics**

1/231,186

Full-time
legal aid lawyers/people



Paralegals

Qualifications required

To deliver legal aid services in civil and criminal cases, legal aid providers must have a law degree, a professional license, and a proof of passing a professional examination (bar examination). They must also be members of the bar association, have completed an internship with a lawyer, be in a contractual relationship with the agency that oversees the legal aid board, and be registered with the State-authorized roster of legal aid providers.

The requirement to undergo periodic skills training and periodic testing is imposed by the bar association on its members and by the legal aid administration on all legal aid providers. The State allots funds to cover such costs.

Paralegals

Grassroots Legal Advocates, Namati 2016

Are community paralegals recognized by law?

Yes, but there is ambiguity in the law. Article 21 of the Regulations on Legal Aid suggests that non-lawyers are allowed to provide legal aid, but does not provide further guidance on the role of such providers, or the qualifications required.

In general, paralegals are allowed to provide legal advice on a one-time or two-time basis, as well as general assistance in navigating the justice system, in both criminal and civil cases. In civil and administrative cases specifically, paralegals are also allowed to represent legal aid recipients before a prosecutor, court or tribunal, under a lawyer's supervision.

Does any public revenue fund paralegals?

Yes. The main source of funding for legal aid is from the government's budget and from the Public Welfare Fund on Legal Aid from Lottery. China has also established the China Legal Aid Foundation, which manage endowments from within China and abroad.

Can paralegals engage in litigation?

In China, paralegals are allowed to represent legal aid recipients in civil and administrative cases under a lawyer's supervision. Such practice is not permitted in criminal cases.

Are there boards that monitor community paralegals?

While there are no specific bodies that monitor paralegals, Article 4 of the Regulations on Legal Aid provides that the Ministry of Justice, via its Legal Aid Center, is in charge of evaluating the quality of legal aid services.

Finances

Costs to recipients

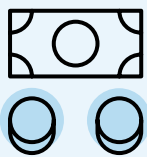
Free primary legal aid services can be obtained at the offices of State-funded legal aid institutions, legal advice centres in cities and towns, and civil society organisations. The interested party can also contact the bar association which maintains a roster of qualified lawyers available to provide legal advice, or call the hotline established by the Legal Aid Centre.

Beyond primary legal aid, the State covers the cost of other legal aid services in both criminal and civil cases to those meeting eligibility criteria.

Legal aid in the annual justice budget



Annual legal aid budget increased by 59% from 2010 to 2013



\$0.19

Legal aid budget per capita in 2013

The national budget for legal aid is determined by the Ministries of Finance and Justice, the judiciary, the Legal Aid Centre, international organisations that support legal aid in China, and the regional and local governments.

There exists a separate funding mechanism to cover the cost of specialized legal aid services provided to specific population groups (such as women, children, etc.), which receives considerable support from international donors.

The State covers the cost of independent forensic experts and psychological or social work support.

Payments to legal aid providers

In both criminal and civil cases, legal aid providers receive a fixed fee for each case they work on, or can be paid on an hourly basis for actions that the State has identified. The legal aid institution that employs the legal aid provider is responsible for disbursing payment (although sometimes, payment is done through the national or local bar association.)

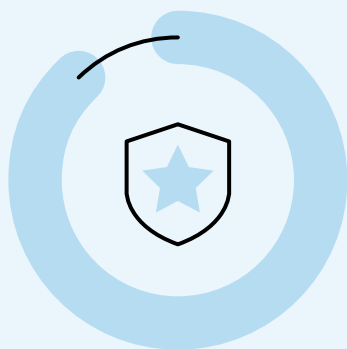
Provision of legal aid

Legal aid in criminal cases

Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, persons imprisoned on criminal charges, and victims of crime.

The State is *obliged* to provide legal aid to persons who meet a financial threshold, and minors, persons with certain physical or mental disabilities, persons who face potential life imprisonment or death penalty, in cases when these persons have not yet entrusted a defender.



88%

People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

At what stage of a criminal case?

Under the law, qualified legal assistance may be requested from the moment a law enforcement representative restricts the suspects/defendant’s freedom, or at least from the moment charges are officially filed. It is also provided during trial and for any appeal or cassation, as well as for representation of prisoners in cases involving serious disciplinary charges.

It is not prohibited by law for the police to interview a person in the absence of a lawyer, and it is somewhat common for pre-trial detention to be used, even when suspects have access to legal aid services.

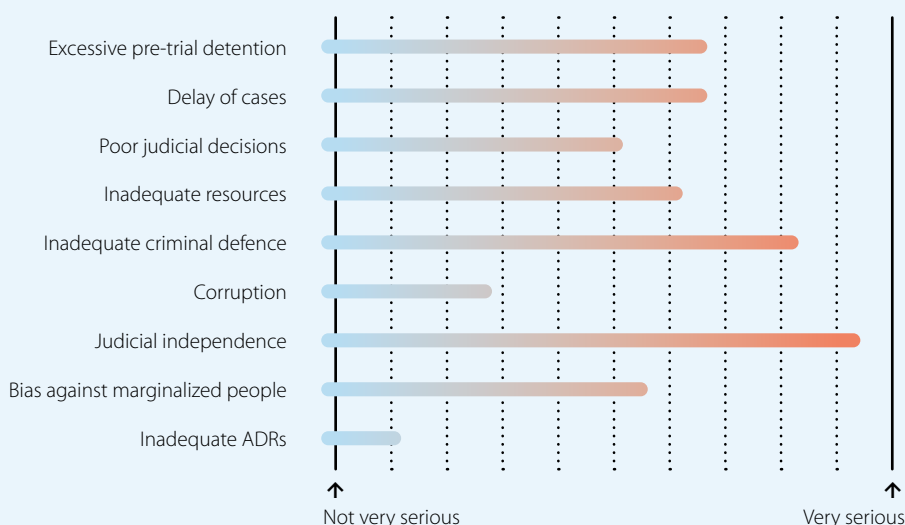
To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that legal aid lawyers are more likely than private lawyers to perform certain actions, such as ‘presenting arguments in favour of a suspect’s or defendant’s release pre-trial’, or ‘conducting investigations to establish doubt about the suspect’s or defendant’s guilt even if s/he may be guilty’.

Furthermore, experts identify ‘a well-prepared and/or highly skilled lawyer’, ‘a poorly prepared prosecutor’, ‘the judge’s objective analysis of evidence and testimony’, and ‘the strength of the evidence’ to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

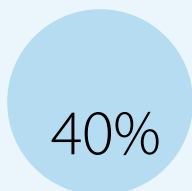
How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015

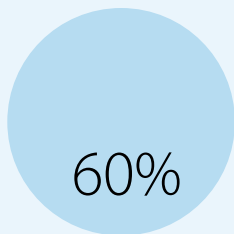


Legal aid in civil cases

Estimated demand for legal aid services in civil cases



From respondents



From complainants

Who is eligible?

Under the law, legal aid is available to persons who meet a financial threshold, and when the law notes that the interests of justice require it.

4 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available



Labor disputes



Child custody issues, marital disputes and support for the elderly issues



Traffic accidents



Claims for State services, including social security

Legal aid services are also commonly sought for work injury cases.

For what actions is a party eligible for legal aid?

Further to the provision of primary legal aid, more specific legal aid can be offered to assist with drafting and filing complaints and responses, gaining access to State agencies, protecting victims of violence, conducting depositions or other official queries, negotiating between parties, and drafting motions. Legal aid can also be provided throughout proceedings, including for any appeal or cassation.

Public interest litigation / class action cases:

Independent national experts are of the view that there is public demand for public interest litigation and class action cases addressing labour rights, discrimination, consumer rights, health and environmental protection.

Staff lawyers at the Legal Aid Centre sometimes uniformly challenge practices that have damaged or have a high risk of damaging the interest of the public.

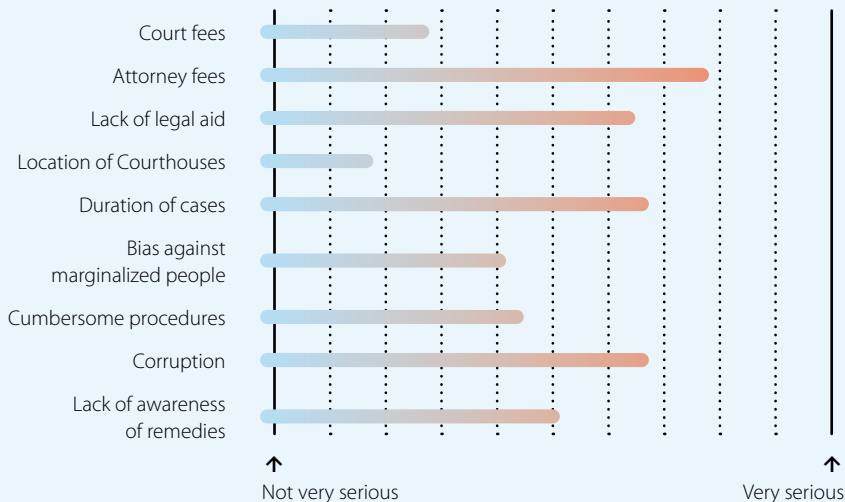


3%

In 2013, State-funded legal aid was provided in roughly 3% of civil cases

How serious are the following problems in influencing people’s decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

according to national experts, WJP Rule of Law Index 2015



Women’s access to legal aid services

With the recently passed Law Against Domestic Violence, legal aid services to female victims of violence (including victims of sexual and gender-based violence) is now guaranteed. Female victims of violence receive legal aid services in all legal proceedings, as well as court support services, such as interpretation and translation of documents.

Specialized legal aid services for women are provided through a collaboration between the Legal Department in the All China Women’s Federation, the National Legal Aid Center and the Ministry of Justice. Civil society organisations also provide legal aid services to women, and they often do so through the legal aid centres. Specialized legal aid stations for women are also available, where they can get services from legal aid providers with experience in protecting women’s rights.

According to national experts, women continue to face a number of challenges: more often than men, they do not know where to find legal assistance, or may not understand how legal aid services can help them. Not all women are aware that legal aid services are available at little or no cost, and court processes can be time-consuming. Women may also find it difficult to confide in a male legal aid provider and share intimate information related to a case. For all of these reasons, national experts report that it is not uncommon for women to prefer not to seek out legal assistance.

Access to legal aid for children

The justice system has specialized courts, judges, prosecutors, lawyers and paralegals to work with child victims, child witnesses, and suspected and accused children.

When representing children, legal aid providers often reach out to parents, psychologists and other childcare professionals for support to assist the child throughout proceedings.

According to independent national experts, there is no noticeable difference regarding the use of diversion in cases where children are represented by legal aid providers (incl. those specialized in children's rights) and in cases where children are represented by private lawyers. However, experts report that alternatives to pre-trial detention and alternatives to imprisonment are more frequently used when children are represented by legal aid providers, compared to when children are represented by private lawyers. Such measures are found to be even more frequently used when children are represented by legal aid providers specialized in children's rights.

Legal aid and informal justice systems

Informal justice proceedings are typically used to resolve disputes related to marriage or family, land and property, inheritance, informal contracts and labour agreements.

According to national experts, people prefer to resolve disputes through informal justice proceedings because they take less time, because informal tribunals are more conveniently located, and because people understand better how they work. There is also a general perception that judges or decision-makers in informal proceedings can better judge what is a just outcome acceptable to all parties, since they know the parties involved.

Informal justice mechanisms allow a lawyer or paralegal to provide assistance in formal mediation/alternative dispute resolution processes, and there are mechanisms that allow cases to be referred between the formal and informal justice systems.

Quality safeguards

Accountability for the quality of legal aid services

Legal aid providers must adhere to specific quality and performance standards as well as ethical rules established by the bar association.

Once a legal aid provider is appointed to a case, s/he almost always remains on that case until it is resolved — except when the original lawyer becomes unavailable or is unqualified to represent the suspect/defendant.

If no legal aid provider arrives, or if a legal aid provider is unprepared or unqualified, the proceeding is postponed. In both criminal and civil cases, if a party is denied access to legal aid, s/he has a right to appeal that decision.

A legal aid provider can refuse to take a case or ask to be removed from the duty to represent a particular legal aid recipient due to a conflict of interest with the legal aid recipient.

Monitoring and data collection on the quality of legal aid services

Formal responsibility of monitoring the quality of legal aid services rests with the Legal Aid Department and the National Legal Aid Centre, which are both under the Ministry of Justice and establish a set of standards for quality assessment. Samples of legal aid cases are reviewed and the performance of legal aid providers is monitored at provincial levels.

Data for monitoring the quality of legal aid services is collected through assessments by justice actors, through the review of complaints filed by legal aid recipients, and through the monitoring of services provided in court.

There are considerable data gaps in the justice system. For instance, although the data on the number of children receiving legal aid services is recorded, such data on specialized services need to be more detailed. Children is not recorded separately and no data is available on case resolution prior to a case's transfer to court.

Japan

Asia-Pacific



Japan

127.1 million



Population

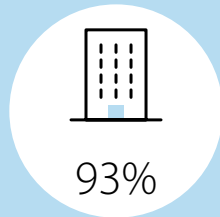


Unitary government system



7%

Rural population



93%

Urban population



N/A

Male literacy rate



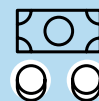
N/A

Female literacy rate



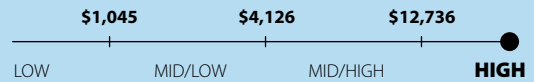
0.961

Gender Development Index



\$42,000

GNI per capita



0.891

HDI



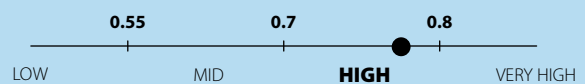
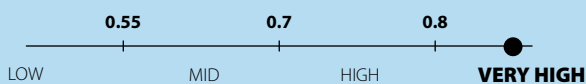
-12.4%

Loss in HDI due to inequality



0.780

Inequality-adjusted HDI



Legal Aid at a Glance in Japan



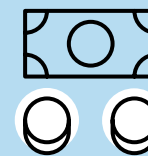
2004

The latest reform of the legal aid system was carried out in 2004



More than five years ago

When was the last assessment of legal aid needs conducted

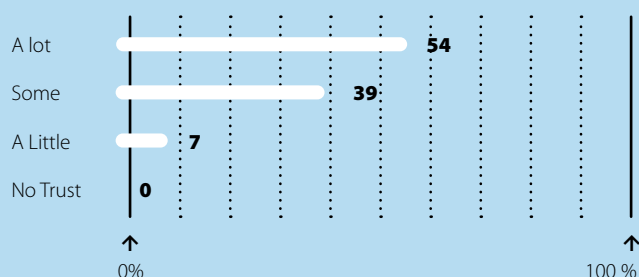


N/A

Annual expenditure on legal aid per capita in 2013

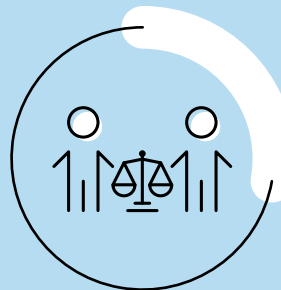
People's trust in courts

Citizen survey, WJP Rule of Law Index 2015



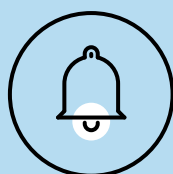
People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015



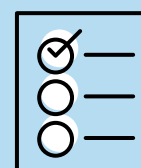
28%

Sample size: 36



Challenges in accessing legal aid

- Shortage of lawyers, especially outside urban areas
- People sometimes do not know where to find legal assistance
- Covering the cost of police, prosecutors and judges is generally prioritized over spending State funds on lawyers



Priority areas for support

N/A

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- [Constitution](#)
- [Separate law on legal aid](#)
- [Law on judicial procedure](#)
- [Criminal procedure law](#)

The right to legal aid was first recognized in 1880.

The most recent reform of the legal aid system took place in 2004. The Ministry of Justice, the legislative branch and the bar association played an instrumental role in this reform.

State-funded legal aid is available at national, regional and local levels.

Services included as part of legal aid

For both civil and criminal cases, legal aid is provided in the form of legal assistance, legal advice, legal representation (before a court), general assistance with navigating the justice system, and assistance with the execution of legal documents.

Process for obtaining legal aid

The process for obtaining legal aid is initiated upon request from the person who wants legal aid. The court may appoint a counsel ex-officio if the accused does not have the assistance of a counsel for her/his defence, and it is deemed necessary.

To prove eligibility to receive legal aid in both criminal and civil cases, a person must prove status as recipient of welfare or must provide evidence of low income (e.g. submitting a report on personal financial resources in criminal case; tax filing for the previous year in civil cases). A legal aid applicant must also provide proof of Japanese citizenship, and proof that his/her claim has merit. No proof is necessary when the State is obliged to provide legal aid services under the law in civil cases.

Awareness of the right to legal aid

A public information campaign to raise awareness about the right to legal aid and how to access legal aid services was conducted by the State in 2014-15. Independent national experts estimate that the general population is 'somewhat knowledgeable' about legal aid services.

Delivery model

Legal aid authority

The Ministry of Justice and an independent self-governing legal aid administration have the chief responsibility for the management of legal aid.

Organisation of legal aid services

Legal aid services in criminal and civil cases are mainly organised through the Ministry of Justice and an independent legal aid administration.

Some legal aid lawyers are full-time salaried employees of the legal aid administration. Other legal aid lawyers provide services as needed on a part-time contractual basis with the legal aid administration. Legal aid services are also provided through *pro-bono* schemes, as several law firms make it a requirement. The bar association provides incentives for lawyers to engage in *pro bono* work, such as discounts on membership.

Mechanism for assigning legal aid providers

The independent legal aid administration maintains a duty roster.

Accessing legal aid in urban vs. rural areas

Legal aid services are available in rural areas.

Service providers

Lawyers and other providers

1/3,488

Licensed practicing
lawyers/people

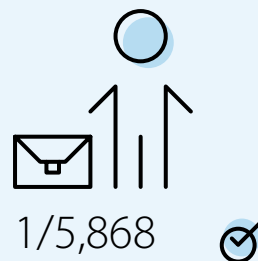


University-based law clinics

Students at university-based law clinics are authorised to provide only those legal aid services that a faculty member or practicing lawyer supervises.

N/A

Full-time
legal aid lawyers/people



1/5,868
Certified judicial scrivener/people

In Japan, "certified judicial scriveners" are allowed to provide legal advice, as well as general assistance in navigating the justice system. They can engage in the business of carrying out legal representation of a client in connection with the procedures at a summary court.

Qualifications required

Legal aid providers must show proof of passing a professional examination (bar examination). They must also be members of the national bar and have a contractual relationship with the agency that oversees the administration of legal aid. To become a "certified judicial scrivener", he or she must complete a training course for the Representation Services for Litigation at Summary Courts, etc. and be certified by the Minister of Justice.

Legal aid providers are not required to engage in continuing education or skills training, but the State allots some funds to this end. Legal aid providers are required to undergo specialized training to qualify for work with children and the elderly.

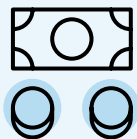
Finances

Costs to recipients

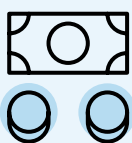
Primary legal aid services are available at the office of the public defender and other State-funded institutional legal aid providers, such as legal advice centres in city and/or town administrative offices. In Japan, legal consultations for people with financial difficulties are free of charge in civil legal aid.

In principle, legal aid costs in criminal and civil case are borne by users of legal services but there are cases where legal aid services free of charge are available.

Legal aid in the annual justice budget



In 2013, the legal aid budget accounted for 29% of the annual budget for prosecution of criminal cases



N/A

Legal aid budget per capita in 2013



-8%

Annual legal aid budget decreased by 8% from 2010 to 2013

Legal aid is a separate component in the annual justice budget. The budget for legal aid is determined by the parliament and the ministries of Finance and Justice, in consultation with the legal aid administration.

The cost of specialized legal aid services and additional services (such as independent investigations, experts, psychological/social work support) are also covered by the State.

Payments to legal aid providers

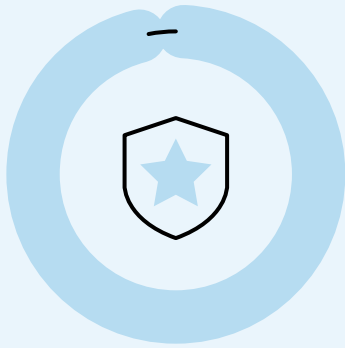
In criminal and civil cases, some legal aid lawyers work full-time in institutions funded by the State. Those who provide services on a part-time contractual basis with the legal aid administration receive a fixed fee for each action they take on a case.

Provision of legal aid

Legal aid in criminal cases

Who is eligible?

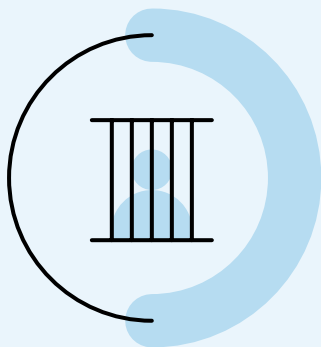
In criminal cases, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, and , if they meet the



97%

People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015



25-50%

Proportion of criminal court cases (2013)

criteria, victims of crime. The State is *obliged* to provide legal aid when the accused is unable to secure the assistance of a counsel for her/his defence, because of indigence or other reasons. Legal aid is also provided to suspects who meet a financial threshold, and to suspects facing a potential prison sentence or death penalty.

At what stage of a criminal case?

It is not prohibited for the police to interview a person in the absence of a lawyer.

It is somewhat common for pre-trial detention to be used even when suspects have access to legal aid services.

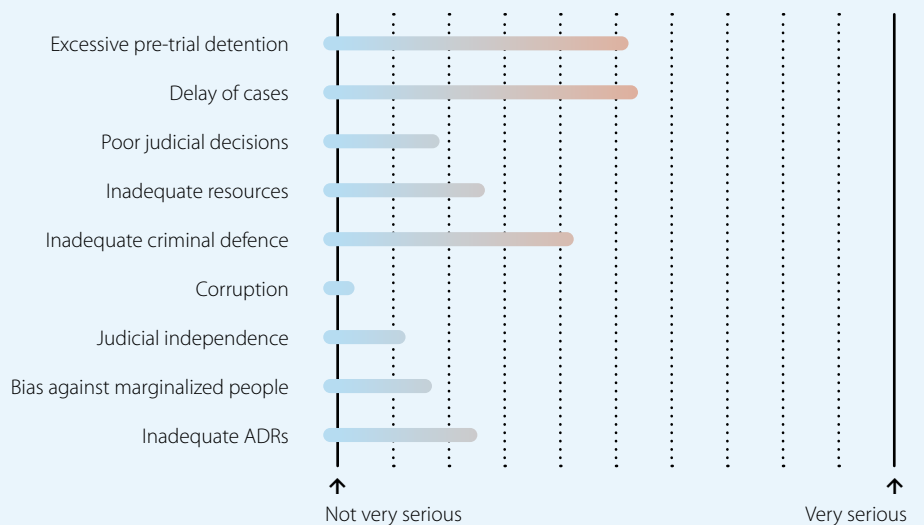
To what extent are legal aid services in criminal cases seen as effective?

Independent experts estimate that legal aid lawyers are less likely than private lawyers ‘to present arguments in favour of a suspect’s/defendant’s release pre-trial’ and ‘to give advice to the suspect/defendant in private before any contact with a State justice official’.

Experts identify ‘the strength of the evidence,’ ‘the judge’s objective analysis of evidence and testimony’ and ‘a well-prepared and/or highly skilled lawyer’ to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015



Legal aid in civil cases

Who is eligible?

Legal aid in civil cases is available to persons meeting a financial threshold, and based on the merit of the party's claim. Legal aid services are also available to children and persons with disabilities.

5 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available



Property issues



Marital disputes



Child custody issues



Contractual disputes



Tort claims

For what actions is a party eligible for legal aid?

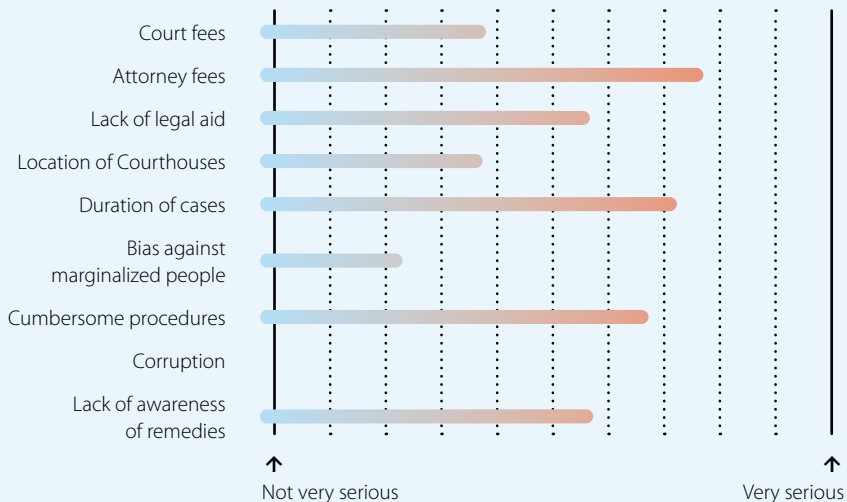
Further to the provision of primary legal aid, more specific legal aid can be offered to assist with the drafting or filing of a complaint or a response, to gain access to State services, and to provide victims of violence with protective services. Legal aid can also be provided throughout proceedings.

Public interest litigation / class action cases:

State-funded legal aid is not provided for public interest litigation and class action cases, but national experts observe that there is public demand for such initiatives to address cases related to discrimination, labor rights, consumer rights, environmental protection, and health.

How serious are the following problems in influencing people’s decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

according to national experts, WJP Rule of Law Index 2015



Women’s access to legal aid services

According to national experts, women may not always understand how legal aid services can help them and may prefer not to seek out legal assistance as they see court processes as too time-consuming. A particular challenge faced by women relates to the financial criteria for eligibility to legal aid, which often considers overall household income rather than women’s (considerably lower) individual income. National experts also note that women may find it difficult to confide in a (generally male) legal aid provider and share intimate information related to a case.

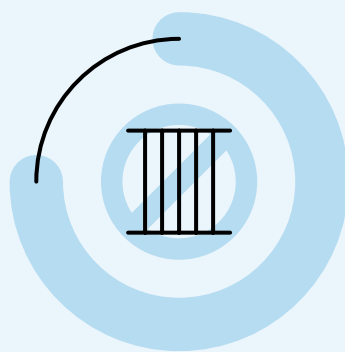
Female victims of violence (including victims of sexual and gender-based violence) receive legal aid services in most legal proceedings, but court support services, such as interpretation and translation of documents, are provided only in some proceedings.

Access to legal aid for children

The justice system has specialized courts, judges, prosecutors and police units specifically dedicated to handling cases involving suspected or accused children. When representing children, legal aid providers often reach out to parents, social workers and other childcare professionals for support to assist the child throughout proceedings.

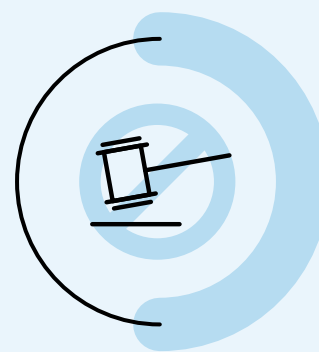
When comparing criminal cases where children are represented by legal aid providers, and cases where children are represented by private lawyers, national experts find that there is no noticeable in the use of diversion, alternatives to pre-trial detention, and alternatives to imprisonment.

When children are represented by legal aid providers specialized in children's rights, national experts observe that they perform better than non-specialized legal aid providers in achieving diversion, alternatives to pre-trial detention, and alternatives to imprisonment more frequently.



50-75%

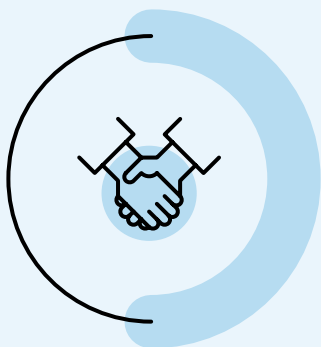
In 2013, in 50-75% of cases where a child was found culpable, an alternative to imprisonment was imposed



35-50%

In 35-50% of cases when children are suspected or charged with a criminal offence, the case is diverted from the formal justice system without trial (e.g. through a warning or an apology)

Legal aid and informal justice systems



50%

Approximately 50% of disputes are resolved through formal mediation or alternative dispute resolution processes (2013)

Informal justice proceedings typically handle marital or family disputes, child custody issues, and inheritance disputes.

According to national experts, people prefer to resolve disputes through informal justice proceedings because they trust that they are more likely to lead to a negotiated outcome that is acceptable to all parties, as judges or decision-makers in informal proceedings usually know the parties and can better judge what is a just outcome. People also appreciate the fact that informal justice mechanisms are less time-consuming.

Informal justice mechanisms allow for a lawyer to provide assistance in formal mediation and alternative dispute resolution processes, and there is a mechanism that allows cases to be referred between the formal and informal justice systems.

To provide assistance in informal justice processes, legal aid providers must have a law degree, and to assist in formal mediation, they must be a member of the bar.

Quality safeguards

Accountability for the quality of legal aid services

If a person receives legal services, but the legal aid provider is unprepared or unqualified, the proceedings are deemed invalid or postponed.

A legal aid provider can refuse to take a case or ask to be removed from the duty to represent a particular legal aid recipient due to incompatibility or a conflict of interest with the legal aid recipient. After a legal aid provider is appointed, the same provider almost always remains in the case until its resolution.

Monitoring and data collection on the quality of legal aid services

Formal responsibility for monitoring the quality of legal aid services rests with a peer review team organised by the legal aid administration or bar association. Data is mainly collected through the review of complaints by legal aid recipients about a legal aid provider's actions.

Nepal

Asia-Pacific



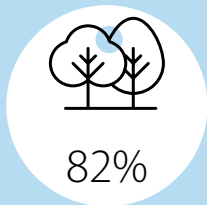
28.17 milion



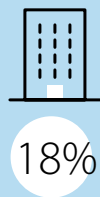
Population



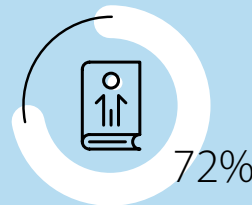
Federal government system



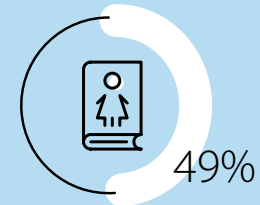
Rural population



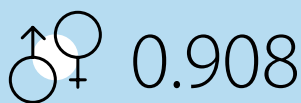
Urban population



Male literacy rate



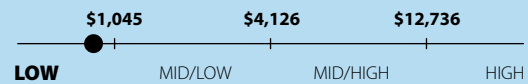
Female literacy rate



Gender Development Index



GNI per capita



0.548

HDI



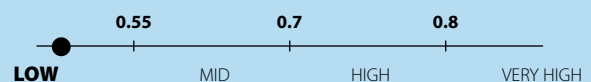
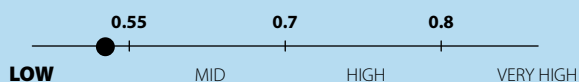
-26.8%

Loss in HDI due to inequality



0.401

Inequality-adjusted HDI



Legal Aid at a Glance in Nepal



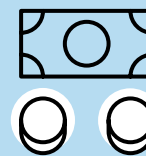
2015

The latest reform of the legal aid system took place in 2015, with the adoption of the new Constitution of Nepal which recognizes free legal aid as a fundamental right of all Nepalese citizens



Within the past 5 years

When was the last assessment of legal aid needs conducted

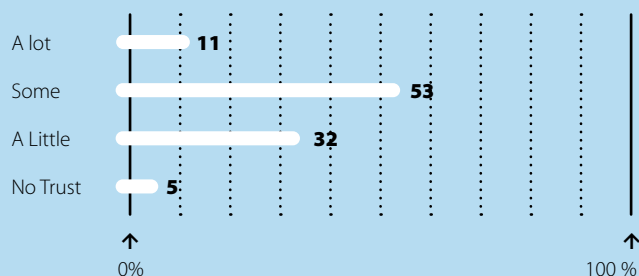


<US\$ 0.01

Annual expenditure on legal aid per capita in 2013

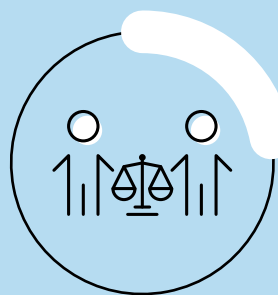
People's trust in courts

Citizen survey, WJP Rule of Law Index 2015



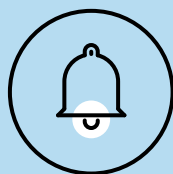
People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015



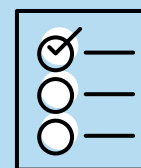
22%

Sample size: 60



Challenges in accessing legal aid

- ➔ Low pay of lawyers for legal aid work
- ➔ People do not know where to find legal assistance, largely because it is often geographically inaccessible
- ➔ There is a limited number of lawyers, especially outside urban areas
- ➔ People prefer to resolve issues through the informal justice system, in which legal professionals rarely participate
- ➔ People do not have confidence in the quality of legal aid services



Priority areas for support

- ✓ Legislative drafting advice
- ✓ Development of action plans/policies
- ✓ Development of quality criteria for legal aid providers
- Establishing paralegal systems
- ✓ Institutional support
- ✓ Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **The Constitution**
- **A separate law on legal aid**
- **Implementing regulations for the law on legal aid**
- **Law on judicial procedure**
- **Law on the judiciary**

Services included as part of legal aid

Process for obtaining legal aid

The Nepalese legal system has been providing legal aid to the poor and to marginalized and disenfranchised groups since the 1960s.

The new Constitution of Nepal, which came into effect in September 2015, recognizes free legal aid as a fundamental right of Nepalese citizens, especially for the poor, women and socially marginalized communities.

The Government of Nepal also enacted in 1997 a separate Legal Aid Act which is currently being implemented across all districts. The latest amendment of this Act further specifies the scope of eligible beneficiaries (e.g. specifically referring to conflict-affected and gender-based violence survivors) and the structure of the Legal Aid Committees at national and local levels (e.g. state institutions for the protection of women and children are now represented on the committees.)

State-funded legal aid is available at national, regional, and local levels.

For both civil and criminal cases, legal aid is provided in the form of legal advice, legal representation, legal assistance (before national courts), and provision of legal information. Legal aid lawyers also provide general assistance in navigating the justice system.

Specialized legal aid services are provided by the State to indigent persons (with an annual income of less than US\$400), children, women, the elderly, persons with physical or mental disabilities, internally displaced persons, ethnic or religious minorities, and LGBT.

Legal aid is provided upon requests from the person who wants legal aid, or from the police, prosecutors, legal aid providers, or the bar association. Legal Aid Committees at local level are also authorised to determine whether an applicant is entitled to legal aid.

In both criminal and civil cases, a person must prove her/his eligibility by proving status as a recipient of welfare or state subsidies, by demonstrating family hardship (e.g. multiple children, single parent, family member disability, etc.), or by providing evidence of low income or membership of a protected group (such as migrants, children, displaced persons, refugees, etc.) Legal aid can also be provided when State officials demonstrate that the interests of justice require it in a given case, or when an applicant proves that his/her claim has merit.

Awareness of the right to legal aid

A public information campaign to raise awareness about the right to legal aid and how to access legal aid services was conducted by the Ministry of Law and Justice in the past year, down to the village level, and provided specific contact details of relevant offices to go for legal assistance. The Nepal Bar has also been involved in building legal awareness across the country.

Independent national experts estimate that the general population is 'not at all knowledgeable' about legal aid services.

Delivery model

Legal aid authority

The chief responsibility for the management and administration of legal aid rests with the Central Legal Aid Committee ("Central Committee") and the District Legal Aid Committees ("District Committees"). These committees oversee and coordinate the appointment mechanisms, establish the national legal aid strategy and policy, and monitor compliance of legal aid providers with government priorities.

The Central Committee is constituted by the Law and Justice Minister, the chairperson of the Nepal Bar Council, the president of the Nepal Bar Association, one legal expert nominated by the Central Committee, and a secretary of the Nepal Bar Association.

Each District Committee is constituted by the district's government attorney, the president of the superior bar unit, two lawyers nominated by the District Committee, and a secretary of the superior bar unit.

Organisation of legal aid services

In both criminal and civil cases, legal aid services are organised through the Central Committee, the District Committees, as well as through *pro bono* schemes and civil society. The district, court of appeal and supreme courts have their own free legal aid scheme called the 'paid lawyer system'. In criminal cases specifically, legal aid services are also organised through the bar association.

Additionally, an Access to Justice Commission was recently established by the Judiciary to provide legal services to poor and vulnerable groups, and to support legal awareness through a judicial out-reach programme. The Commission can also be requested by the courts to provide legal aid services to eligible applicants.

Lawyers are encouraged to provide *pro bono* legal services through financial incentives offered to members of the bar association (e.g. discounts on membership fees or tax deductions.) In some law firms, lawyers are obliged to engage in *pro bono* legal aid work.

Mechanism for assigning legal aid providers

Legal aid providers are assigned to applicants through District Committees. It usually takes about 24 hours for a legal aid provider to appear after notice is given that legal aid is needed in a criminal case.

Accessing legal aid in urban vs. rural areas

Legal aid services are available in both rural and urban areas. While the quality of legal aid services depends on each individual provider, it tends to be better in urban areas where lawyers have more independence to challenge the actions of other justice actors. Legal aid providers in rural areas find it more difficult to oppose judges, police, prosecutors, and opposing counsel because they see them socially.

Service providers

Lawyers and other providers

1/1,641

Licensed practicing
lawyers/people



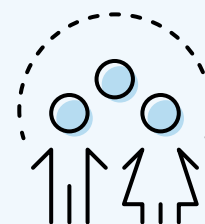
University-based law clinics

1/153,934

Full-time
legal aid lawyers/people



Paralegals



Civil society organisations

Qualifications required

Legal aid providers must have a law degree and must show proof of passing a professional examination (bar examination). There is no formal requirement for them to undergo periodic skills training or testing.

To be allowed to provide legal aid services, paralegals must complete a short course on legal representation and a professional paralegal training course accredited by the State.

Paralegals

Grassroots Legal Advocates, Namati 2016

Are community paralegals recognized by law?

No, not explicitly, however there are groups recognized by the State that perform the functions of community paralegals. For instance, Paralegal Committees (PLCs) have been in place since 1999 as part of an effort to fight sex trafficking by educating at-risk women and children about their rights. The scope of their efforts has since expanded to combat other forms of exploitation and abuse of women and children. Since December 2012, PLCs have become a part of the Government of Nepal's Integrated Women's Development Programme, and new Gender-Based Violence Watch Groups (GBV-WGs) have been formed at the ward level.

Does any public revenue fund paralegals?

No, PLCs are funded from multilateral agencies and foreign governments, yet programmes with "Social Mobilizers," which perform some functions of paralegals, do receive some financing from the Government of Nepal.

Can paralegals engage in litigation (with or without the help of lawyers)?

No, paralegals cannot directly engage in litigation. Their role is limited to representation and accompanying the victim to the attorney. They also play an important role in raising public awareness about the right to legal aid and the various services available. There are also instances of criminal offences being mediated by community paralegals.

Are there boards that monitor community paralegals?

There are boards that monitor social mobilizers, but none that monitor PLCs, although civil society and aid organisations exercise some oversight of PLCs. With regards to social mobilizers, they have to meet set qualifications and to adhere to a Code of Conduct which states that they must be unbiased in their work, unaffiliated with any political party, sensitive towards children, youths, disabled, and elderly people, and gender sensitive, amongst other requirements.

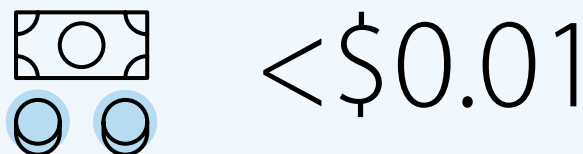
Finances

Costs to recipients

Primary legal aid services free of charge are available at the offices of the Central Committee, District Committees, and civil society organisations. The bar association also has a hotline that individuals can call to receive legal advice.

At national, regional, and local levels, the State covers all legal aid costs (including the cost of primary legal aid services) in both criminal and civil cases to those meeting eligibility criteria.

Legal aid in the annual justice budget



Legal aid budget per capita in 2013

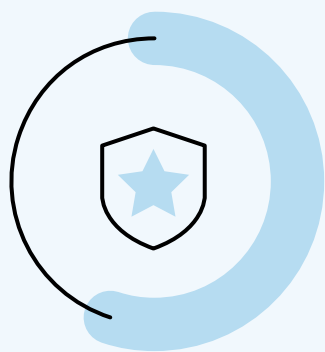
Legal aid is a separate component of the annual justice budget, and the legal aid budget is determined by the Ministries of Finance and Justice, the judiciary and international organisations. Specialized legal aid services for disadvantaged population groups are funded by the State with substantial contributions from international donors. The State covers the cost of independent forensic experts and psychological or social work support.

Payments to legal aid providers

In both criminal and civil cases, legal aid providers receive a fixed fee for each case.

Provision of legal aid

Legal aid in criminal cases



55%

People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, persons imprisoned on criminal charges, victims of crime, and witnesses.

The State is *obliged* to provide legal aid to persons who meet a financial threshold (US\$400 per year).

At what stage of a criminal case?

Under the law, qualified legal assistance may be requested from the moment a State agency begins consideration of whether to impose pre-trial detention, or at least from the moment charges are officially filed. It is also provided during trial, and for any appeal or cassation. Prisoners can secure legal aid for representation in cases involving serious disciplinary charges, to seek consideration of probation, or in relation to social rehabilitation/reintegration matters after release from prison.

The law does not prohibit the police or other justice actors from interviewing or obtaining incriminating evidence from a witness/suspect/defendant in the absence of a lawyer. However, police and prosecutors usually wait for a legal aid provider to arrive; but if it takes too long, the questioning begins even in the absence of a provider.

It is somewhat common at the national and local levels and very common at the regional level for pre-trial detention to be used even when suspects have access to legal aid services.

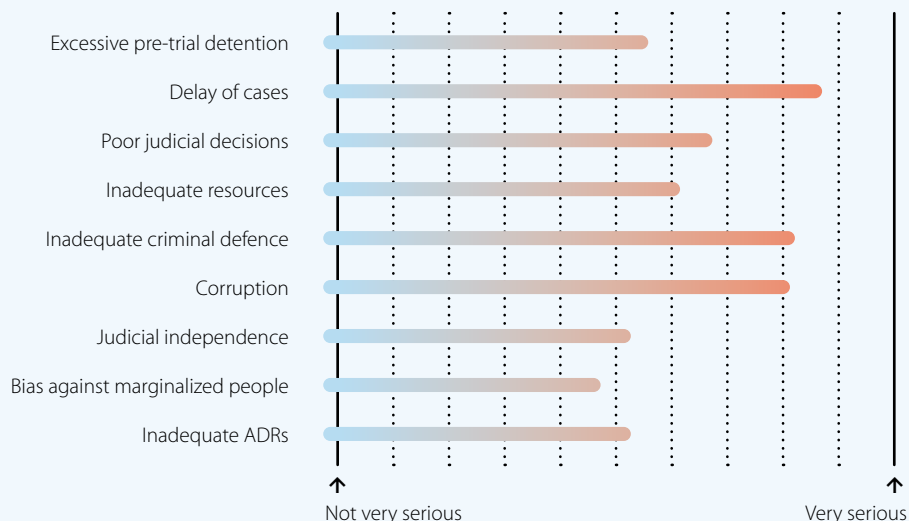
To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that legal aid lawyers are less likely than private lawyers to perform certain actions, such as ‘presenting arguments in favour of a suspect’s or defendant’s release pre-trial’, or ‘conducting investigations to establish doubt about the suspect’s or defendant’s guilt even if s/he may be guilty’.

Furthermore, experts identify ‘a well-prepared and/or highly skilled lawyer’, ‘the judge’s objective analysis of evidence and testimony’, and ‘the strength of the evidence’ to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

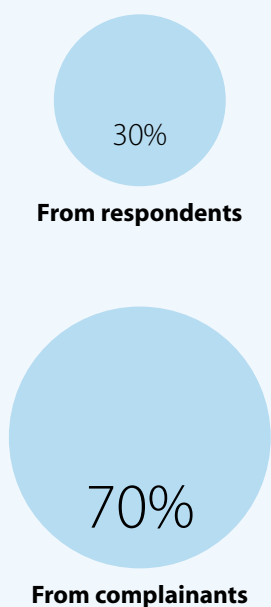
How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015



Legal aid in civil cases

Estimated demand for legal aid services in civil cases



Who is eligible?

Legal aid in civil cases is available to children and to poor and socially marginalized groups (persons who meet a financial threshold of US\$400 per year).

5 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available

- Child custody issues
- Property issues
- Labor disputes
- Administrative matters and claims for State services
- Dispute resolution proceedings or mediation

For what actions is a party eligible for legal aid?

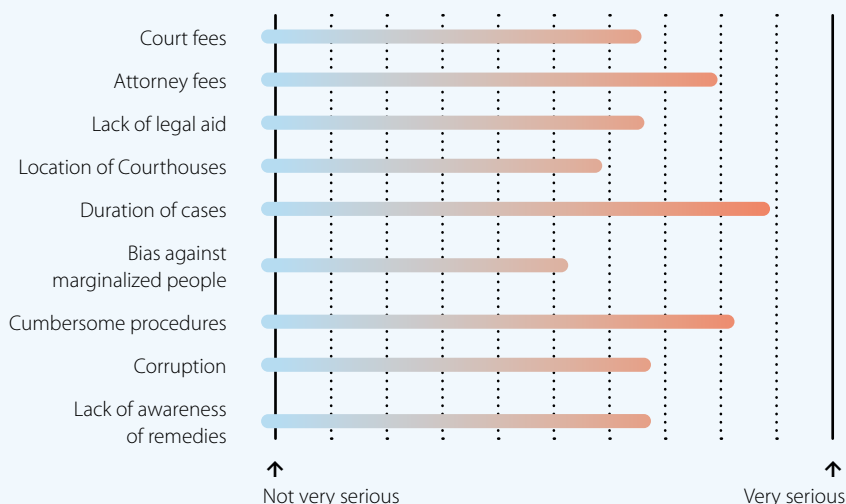
Further to the provision of primary legal aid, more specific legal aid can be offered to assist with drafting and filing complaints and responses, gaining access to State agencies, protecting victims of violence, conducting deposition (or other official queries), conducting negotiations between parties, and drafting motions. Legal aid can also be provided throughout mediation and during trial, including for any appeal or cassation.

Public interest litigation / class action cases:

State-funded legal aid is not provided for public interest litigation / class action cases (e.g. to address cases of discrimination, labor rights, consumer rights, etc.), but independent national experts are of the view that there is public demand for such cases addressing labour rights, discrimination, consumer rights, health and environmental protection. The Nepal Bar and human rights lawyers are actively pursuing public interest litigation and have been instrumental in addressing long-standing discriminatory practices.

How serious are the following problems in influencing people’s decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

according to national experts, WJP Rule of Law Index 2015



Women’s access to legal aid services

Police offices have established a ‘women and children unit’ which is specifically dedicated to providing basic legal aid services to poor and marginalized women.

Female victims of violence (including victims of sexual and gender-based violence) receive dedicated legal aid and court support services. To protect the confidentiality of victims, in-camera hearings are currently being established in courts across the country, down to the community level. Guidelines for such hearings were developed in partnership with the National Judicial Academy.

In spite of these advances, national experts stress that women continue to face several challenges. Means tests for eligibility to legal aid often consider overall household income rather than a woman’s income specifically, which tends to be considerably lower. Women often do not know where to find legal assistance or are unaware that legal aid services are available at little or no cost. Furthermore, there are very few female legal aid providers and women find it more difficult to

Access to legal aid for children

confide in a male legal lawyer and share intimate information related to a case. For all of these reasons, and because they see court proceedings as too time-consuming, women generally prefer to resolve issues through the informal justice system or outside the court system, where legal aid has no role.

Some courts have started to provide specialized services for child victims, child witnesses, and suspected/accused children. When representing children, legal aid providers often reach out to parents, psychologists and other childcare professionals for support to assist the child throughout proceedings.

In criminal cases, diversion away from judicial proceedings is usually used for suspected/accused children. National experts observe however that there is no noticeable difference regarding the use of diversion and of alternatives to pre-trial detention and to imprisonment in cases where children are represented by legal aid providers (whether specialized in children's rights or not) or by private lawyers, or in cases where children are not represented at all.

In criminal cases where legal aid is provided to children, legal aid providers advocate for the legally binding requirement to ensure the presence of parents at all times, to provide child-friendly surroundings for any meetings with State justice officials, and to communicate in simple language with the child about what is happening at every step of a case's development. Legal aid providers also advocate for children held in custody to be separated from adult detainees or inmates, and for expunging juvenile criminal records.

Legal aid and informal justice systems

Informal justice mechanisms allow a lawyer to provide assistance in formal mediation/alternative and customary or religious mediation/adjudication dispute resolution processes, but there is no formal mechanism in place yet to allow cases to be referred between the formal and informal systems.

Informal justice proceedings are typically used to resolve marital or family issues, child custody issues, land and property disputes, inheritance disputes, informal contracts, labour agreements, and minor criminal cases. People prefer to resolve disputes through informal justice proceedings because people understand better how they work, they take less time and usually lead to a negotiated outcome that is acceptable to all parties. Informal tribunals are also more conveniently located.

To provide assistance in both formal mediation/alternative dispute resolution processes and customary/religious mediation/adjudication processes, a legal aid provider must be a reputable member of the community.

Quality safeguards

Accountability for the quality of legal aid services

The Ministry of Law and Justice is currently developing a legal aid policy and quality assurance mechanisms to enhance the accountability of legal aid service providers across the system. There are currently no guidelines or ethical rules that legal aid providers are obliged to adhere to.

Once a legal aid provider is appointed, s/he rarely remains on the same case until its resolution; rather, several lawyers usually get to represent a legal aid recipient at different stages of the proceedings.

If a legal aid provider does not arrive or is unprepared/unqualified, a replacement legal aid provider is asked to represent the party. This can sometimes be problematic as there are no formal means of assessing a legal aid provider's qualifications or level of preparedness. Sanctions can also be applied against the unqualified or unprepared legal aid provider.

A legal aid provider can refuse to take a case or ask to be removed from the duty to represent a particular legal aid recipient due to a conflict of interest with the recipient.

Monitoring and data collection on the quality of legal aid services

The quality of legal aid services provided is monitored by the Central Committee and District Committees. Data for monitoring the quality of legal aid services is mainly collected through assessments carried out by justice actors, including the police, prosecutors and judges.

There is an acute lack of data across the system. For instance, no data is available on the number of criminal or civil cases filed in court where State-funded legal aid was provided. Data about children is not recorded separately, and no data is available on case resolution prior to a case's transfer to court.

Thailand

Asia-Pacific



67.73 million



Population



Unitary government system



51%

Rural population



49%

Urban population



96%

Male literacy rate

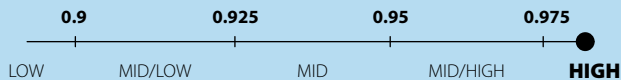


96%

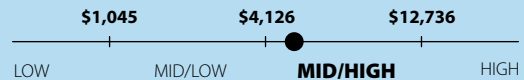
Female literacy rate



Gender Development Index



GNI per capita



0.726

HDI



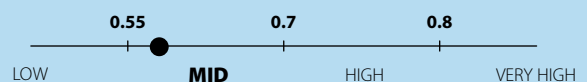
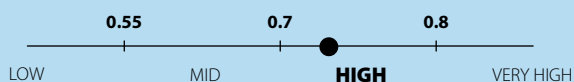
-20.6%

Loss in HDI due to inequality



0.576

Inequality-adjusted HDI



Legal Aid at a Glance in Thailand



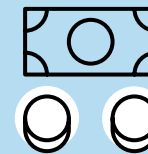
1974

The latest reform of the legal aid system took place in 1974



Never conducted

When was the last assessment of legal aid needs conducted

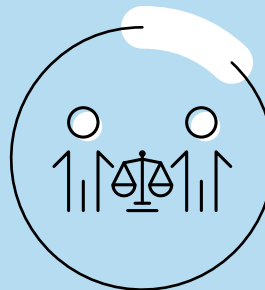
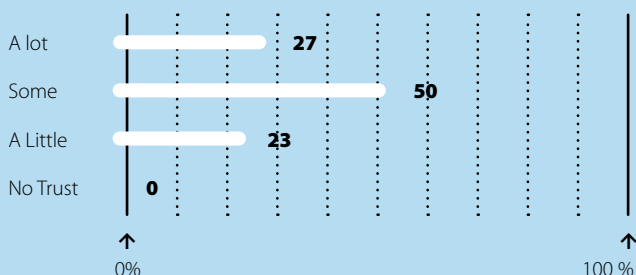


\$0.03

Annual expenditure on legal aid per capita in 2013

People's trust in courts

Citizen survey, WJP Rule of Law Index 2015

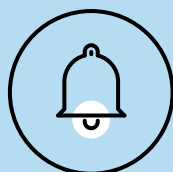


People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015

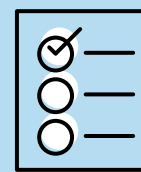
12%

Sample size: 25



Challenges in accessing legal aid

- ➔ Low pay of lawyers for legal aid work
- ➔ General perception that it is more important to cover the costs of the police, prosecutors and judges than to spend public funds on lawyers
- ➔ The quality of services provided by legal aid lawyers is uneven
- ➔ Little support among the population for spending public funds to defend accused criminals
- ➔ People may not know where to find legal assistance



Priority areas for support

- ✓ Legislative drafting advice
- ✓ Development of action plans/policies
- ✓ Development of quality criteria for legal aid providers
- ✓ Establishing paralegal systems
- Institutional support
- Training
- ✓ Establishing a central legal aid authority to better manage the provision of legal aid services by the various actors involved, and to monitor overall performance of the legal aid system

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- [Constitution](#)
- [Law on judicial procedure](#)
- [Law on police](#)
- [Law on the judiciary](#)
- [Law on the prosecution](#)
- [Civil procedure code](#)
- [Criminal procedure law](#)
- [Law on pre-trial detention](#)
- [Law on the penitentiary](#)
- [Implementing regulations for the law on legal aid](#)

The right to legal aid was first recognized in the Constitution of 1949. The latest reform of the legal aid system took place in 1974.

State-funded legal aid is available at national, regional and local levels.

Services included as part of legal aid

In both criminal and civil cases, legal aid is provided in the form of legal advice, legal representation and legal assistance (before national tribunals). Legal aid lawyers also provide general assistance in navigating the justice system.

Specialized legal aid services are provided for disadvantaged population groups, including children, women, the elderly, migrants, refugees, asylum seekers or stateless persons, indigenous populations, and ethnic or religious minorities.

Process for obtaining legal aid

According to Criminal Procedure Act 2004, it is a duty of the State to provide legal aid upon request from the person who wants legal aid and upon request from the police. The court presiding over a case must also inquire and assess eligibility during the first appearance of the parties.

In both criminal and civil cases, the agency or official responsible for the appointment of legal aid providers may determine that the interests of justice require provision of legal aid in any given case. No proof is necessary if the gravity or complexity of the matter requires legal assistance, or if the State is obliged to provide legal aid under the law.

Awareness of the right to legal aid

A public information campaign to raise awareness about the right to legal aid and how to access legal aid services was conducted by the State in 2014-15, and provided specific contact details of relevant offices to go for legal assistance.

Independent national experts estimate that the general population is 'somewhat knowledgeable' about legal aid services.

Delivery model

Legal aid authority

The chief responsibility for the management and administration of legal aid rests with the Rights and Liberty Protection Department under Ministry of Justice.

Organisation of legal aid services

In both criminal and civil cases, legal aid services are organised through public defender institutions, through the bar association (i.e. the Lawyers Council Of Thailand Under The Royal Patronage), through *pro bono* schemes (the State offers tax deductions to lawyers doing *pro bono* work), through Legal Centres at universities, civil society organisations and local governments at city or village levels.

Mechanism for assigning legal aid providers

The Lawyers Council of Thailand is required by law to develop a roster of duty legal aid providers in each region of the country. The roster is updated every 6 months. The courts, the police and the lawyers' council have access to this roster, and call them in the given order.

Accessing legal aid in urban vs. rural areas

The quality of legal aid services tends to be better in rural areas.

Service providers

Lawyers and other providers

1/850

Licensed practicing
lawyers/people



**University-based
law clinics**



N/A

Full-time
legal aid lawyers/people



Paralegals

Paralegals are allowed to provide legal advice and general assistance in navigating the justice system in criminal, civil and administrative cases



Qualifications required

Legal aid providers must have a law degree and a contractual relationship with the agency that oversees administration of legal aid. They must complete an internship with a practicing lawyer, a judge or another State justice agency, and be registered in a State-authorized roster of legal aid providers. To be hired as a staff member of the institutional legal aid provider, they have to pass a separate examination.

The requirement to engage in continuing education and/or skills training is not imposed on legal aid providers.

Public defender institutions supervise, coach and mentor private practitioners who take legal aid cases. They also organise training sessions for all providers of legal aid, including both staff and private lawyers.

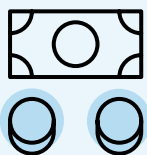
Finances

Costs to recipients

Primary legal aid services are available free of charge at the office of the public defender, at legal advice centres in cities and towns, and at the offices of the bar association, which maintains a roster of qualified lawyers available to provide legal advice.

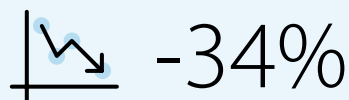
Generally, legal aid services are available for free in criminal and civil cases for those meeting eligibility criteria. However, under certain circumstances, a legal aid recipient may be required to pay a percentage of the cost, as established by the law, as well as a bonus to the legal aid provider above the provider's fee paid by the government or donor.

Legal aid in the annual justice budget

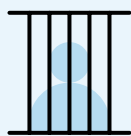


\$0.03

Legal aid budget per capita in 2013



Annual legal aid budget decreased by 34% from 2010 to 2013



\$1.74

Annual budget per capita for prosecution of criminal cases in 2013

Legal aid is a separate component of the annual justice system budget. The national budget for legal aid is determined by the Parliament and the Ministry of Justice. The Lawyers Council of Thailand also participates in budgetary decisions.

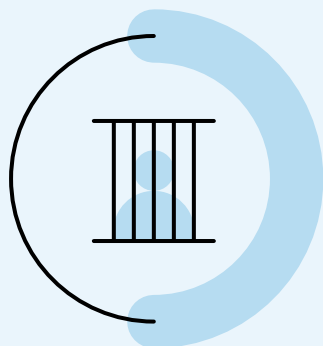
There exist separate funding mechanisms to cover the cost of specialized legal aid services provided to specific population groups (such as women, children, etc.), financed by the government, private actors and international donors. The State covers the cost of additional services such as independent expertise and psychological or social work support.

Payments to legal aid providers

In both criminal and civil cases, legal aid providers receive a fixed fee for each case. They can also be compensated for travel-related expenses. Legal aid providers must submit reports to claim their fees.

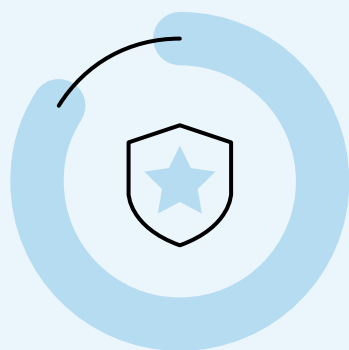
Provision of legal aid

Legal aid in criminal cases



25-50%

Proportion of criminal court cases (2013)



84%

People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, victims of crime, and witnesses.

The State is *obliged* to provide legal aid to persons who meet a financial threshold (US\$430/month; there is no threshold for legal advice unrelated to prosecution), as well as to children and persons who potentially face death penalty.

At what stage of a criminal case?

Under the law, legal aid is provided from the moment a law enforcement representative restricts the suspects/defendant's freedom, or at least from the moment charges are officially filed.

The police is obligated to inform persons charged with a criminal offence of his/her right to legal aid. It is generally prohibited for the police to interview a person in the absence of a lawyer, unless a person waives this right. In practice, the police and prosecutors wait a limited amount of time for a legal aid provider to arrive, but if it takes too long, the questioning begins even in the absence of a legal aid provider.

To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that legal aid lawyers are less likely than private lawyers to perform actions such as 'presenting arguments in favour of a suspect's/defendant's release pre-trial', or 'giving advice to the suspect/defendant in private before any contact with a state justice official'.

Furthermore, experts identify 'a well-prepared and/or highly skilled lawyer', 'having a legal aid lawyer', 'the strength of the evidence', and 'bribery/corruption' to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

3%

In 2015, pre-trial restrictive measures were imposed on 3% of criminal cases filed in Trial Court, Appellate Court and Supreme Court (including pending cases from previous years)

1.09

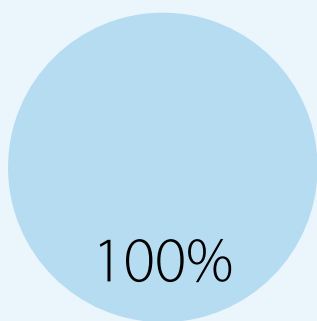
In 2013, the number of criminal cases filed in court was 1.09 times the number of civil and administrative cases

Legal aid in civil cases

Estimated demand for legal aid services in civil cases

0%

From respondents

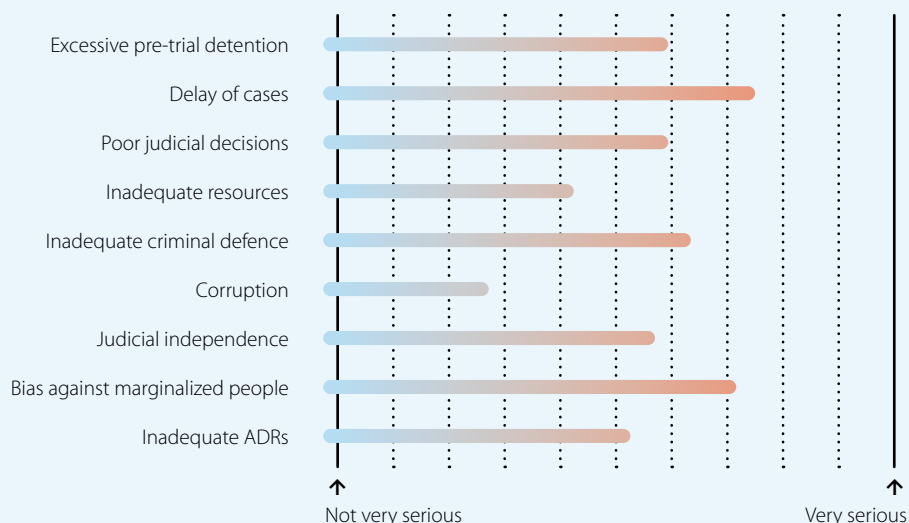


100%

From complainants

How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015



Who is eligible?

Generally, there are no specific requirements to qualify for legal aid in civil and administrative cases. It is assigned by authorised agencies at their discretion. Under certain circumstances, a person seeking legal aid may be required to meet a financial threshold (US\$430/month; there is no threshold for legal advice unrelated to prosecution).

3 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available



Labor disputes



Tort claims



Contractual disputes

For what actions is a party eligible for legal aid?

Further to the provision of primary legal aid, more specific legal aid can be offered to assist with drafting complaints and motions, and for the protection of victims of violence. Legal aid can also be provided during trial.

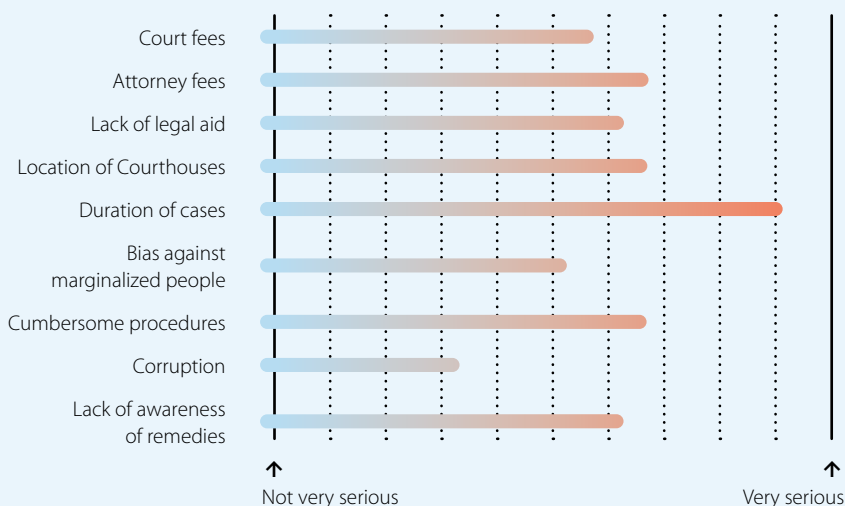
Public interest litigation / class action cases:

Independent national experts are of the view that there is public demand for public interest litigation and class action cases addressing labour rights, consumer rights, health and environmental protection.

At the regional level, staff lawyers of public defender institutions sometimes coordinate to uniformly challenge common violations of national and international due process rights and human rights.

How serious are the following problems in influencing people’s decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

according to national experts, WJP Rule of Law Index 2015



Women’s access to legal aid services

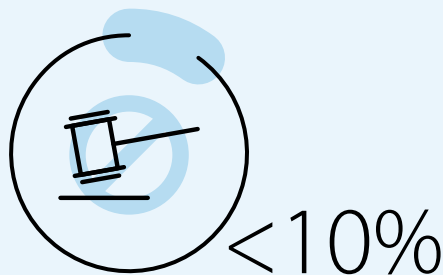
Female victims of violence (including victims of sexual and gender-based violence) receive legal aid and court support services in all legal proceedings.

However, national experts observe that women are often unaware that legal aid services are available at little or no cost, and may not know where to find legal assistance. Experts also note that it is not uncommon for women to perceive legal aid providers as lacking gender sensitivity. As a result, women may prefer to resolve issues through the informal justice system or outside the court system, where legal aid has no role.

Access to legal aid for children

The justice system has a Department of Juvenile Observation and Protection at the Ministry of Justice, as well as specialized courts and judges at both national and regional levels, to address cases involving child victims, child witnesses, or suspected/accused children.

When representing children, legal aid providers often reach out to parents, psychologists and other childcare professionals for support to assist the child throughout proceedings.



In less than 10% of cases when children are suspected or charged with a criminal offence, the case is diverted from the formal justice system without trial (e.g. through mediation, a warning, or an apology) (2013)

Legal aid and informal justice systems

Informal justice mechanisms allow a lawyer to provide assistance in formal mediation/alternative dispute resolution processes, and there are mechanisms that allow cases to be referred between the formal and informal justice systems.

Informal justice proceedings are mainly used to resolve marital or family issues, as well issues related to informal contracts and labour agreements.

According to independent national experts, people prefer to resolve disputes through informal justice proceedings because they take less time, and because of a general perception that they are likely to lead to a negotiated outcome that is acceptable to all parties. Furthermore, informal tribunals are more conveniently located, especially for those living in remote areas.

For formal mediation/alternative dispute resolution processes, qualifications of arbitrators are not clearly written in law, but there are lists of registered arbitrators.

Quality safeguards

Accountability for the quality of legal aid services

Legal aid providers specialize in representation at particular procedural stages of a case, so a new legal aid lawyer will take up a given case at each stage of the proceedings.

The maximum caseload for a legal aid lawyer employed by a public defender institution is 40 cases at national level, 20 cases at regional level, and 50 cases at local level. There is no means of assessing the qualification or preparedness of a legal aid provider.

A legal aid provider can refuse to take a case or ask to be removed from the duty to represent a particular legal aid recipient if s/he has a conflict of interest with the recipient.

Monitoring and data collection on the quality of legal aid services

Each institutional legal aid provider (i.e. Ministry of Justice, Court of Justice of Thailand, Lawyers Council of Thailand Under The Royal Patronage, and Legal Centres at universities) is responsible for monitoring the quality of the legal aid services they provide. To this end, data is collected through assessments by justice actors (police/prosecutors/judges) and through the review of complaints by legal aid recipients about a legal aid provider's actions.

There are still important data gaps across the system. For instance, data is not recorded separately for children, and data is not recorded separately with respect to cases filed in court which receive legal aid.

Viet Nam

Asia-Pacific



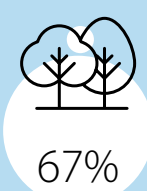
90.73 million



Population

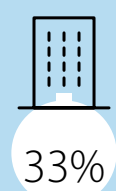


Unitary government system



67%

Rural population



33%

Urban population



96%

Male literacy rate



91%

Female literacy rate



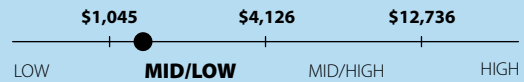
N/A

Gender Development Index



\$1,890

GNI per capita



0.666

HDI



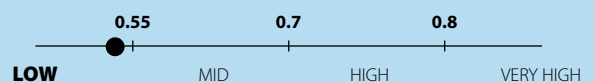
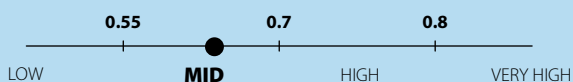
-17,5%

Loss in HDI due to inequality



0.549

Inequality-adjusted HDI



Legal Aid at a Glance in Viet Nam



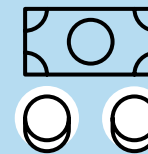
2006

The most recent reform of the legal aid system took place in 2006, when a specific Law on Legal Aid was adopted



Never conducted

When was the last assessment of legal aid needs conducted

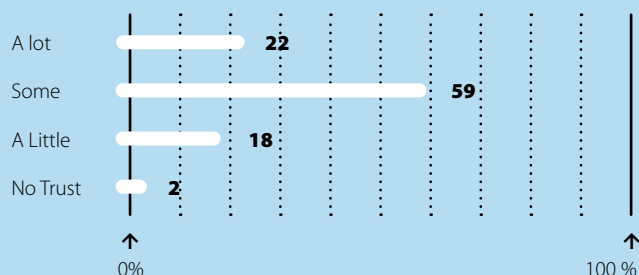


N/A

Annual expenditure
on legal aid per capita in 2013

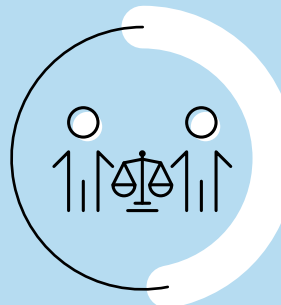
People's trust in courts

Citizen survey, WJP Rule of Law Index 2015



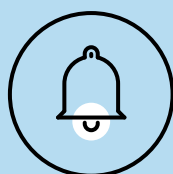
People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015



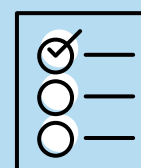
47%

Sample size: 30



Challenges in accessing legal aid

- The quality of services provided by legal aid lawyers is uneven
- Lawyers are paid very little for legal aid work
- There is a limited number of lawyers in the country
- People may not know where to find legal assistance
- Poor coordination between legal aid organisations and related agencies in the justice system



Priority areas for support

- ✓ Legislative drafting advice
- Development of action plans/policies
- Development of quality criteria for legal aid providers
- Establishing paralegal systems
- ✓ Institutional support
- ✓ Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Separate law on legal aid**
- **Criminal procedure law**
- **Implementing regulations for the law on legal aid**

Services included as part of legal aid

While the right to counsel is constitutionally recognized since 1946, the first Law on Legal Aid in Viet Nam only came into effect on 1 January 2007. No major reform of the legal aid system has been undertaken since then.

State-funded legal aid services are available at national, regional and local levels.

For both civil and criminal cases, legal aid is provided in the form of legal advice, legal representation and provision of legal information.

Legal aid lawyers also provide general assistance in navigating the justice system.

Specialized legal aid services are provided by the State for the following disadvantaged population groups: the poor, people who provided meritorious service during the revolution, the elderly, abandoned or orphaned children under 16 years old, persons with disabilities, ethnic minorities who face exceptionally difficult socio-economic conditions, and victims of human trafficking.

Process for obtaining legal aid

To obtain legal aid services, a person must make an official request for it, and must prove eligibility, by providing evidence of low income, or by proving membership of a protected group (such as migrants, children, displaced persons, refugees, etc.)

Awareness of the right to legal aid

Every year, Provincial Legal Aid Centres conduct public information campaigns on the right to legal aid and how to access legal aid services, through leaflets and various types of broadcast media.

When asked to provide a rough estimate of public awareness of legal aid services, independent national experts reckon that the general population is 'somewhat knowledgeable' about legal aid services.

Delivery model

Legal aid authority

The chief responsibility for the management and administration of legal aid rests with the National Legal Aid Agency (NLLA) of Vietnam, which was established as a department of the Ministry of Justice in 1997, along with six Provincial Legal Aid Centres. The NLLA establishes the legal aid strategy and policy, and sets performance standards for the delivery of legal aid.

Organisation of legal aid services

In both criminal and civil cases, legal aid services are organised through the National Legal Aid Agency, the Provincial Legal Aid Centres, the Vietnam Bar Federation, the Viet Nam Lawyers' Association, university clinical educational programs, civil society organisations, and through *pro bono* schemes (provision of *pro bono* services is a condition for membership in the bar association.)

Mechanism for assigning legal aid providers

The National Legal Aid Agency and Provincial Legal Aid Centres are responsible for assigning legal aid providers to qualifying cases.

Accessing legal aid in urban vs. rural areas

The quality of legal aid services tends to be better in urban areas.

Service providers

Lawyers and other providers

1/9,073

Licensed practicing
lawyers/people

N/A

Full-time
legal aid lawyers/people



± 12

**University-based
law clinics**



Paralegals



Qualifications required

Legal aid providers must have a law degree and pass a professional examination (bar examination). They are also required to engage in continuing education and skills training, and the State partially allots funds to this effect. Legal aid providers need to undertake specialized training to assist disadvantaged population groups (e.g. persons with disabilities, children, refugees, etc.)

Paralegals

Grassroots Legal Advocates, Namati 2016

Are community paralegals recognized by law?

Yes, paralegals are recognized by law as 'collaborators'. While they are not allowed to participate in court proceedings, they can provide legal counselling, in both criminal and civil cases.

What qualifications are required for paralegals?

Paralegals are required to have a university degree (law degree or other) and to have worked "in branches or professions related to fundamental rights and obligations of citizens." Their qualifications are carefully reviewed by the National Legal Aid Agency.

Does any public revenue fund paralegals?

Yes, through the Legal Aid Fund which funds legal aid agencies as a whole, including paralegals.

Can paralegals engage in litigation (with or without the help of lawyers)?

No.

Are there boards that monitor community paralegals?

While there are no specific bodies that monitor paralegals, the Ministry of Justice exerts oversight over legal aid providers, including paralegals.

Finances

Costs to recipients

Primary legal aid services are available free of charge at the offices of the National Legal Aid Agency and at the Provincial Legal Aid Centres, as well as at the bar association offices, which maintain a roster of qualified lawyers available to provide legal advice.

The State covers all legal aid costs in criminal and civil cases for legal aid recipients who meet eligibility criteria.

Legal aid in the annual justice budget

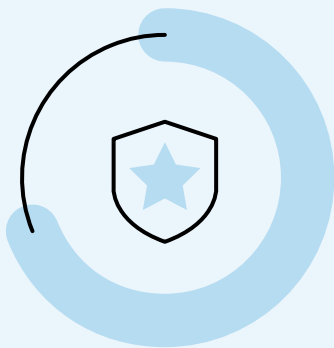
Legal aid is not a separate component of the annual justice budget.

Payments to legal aid providers

In both criminal and civil cases, legal aid providers work in law firms and institutions that receive funds from the State on a contractual basis. Providers are also paid on an hourly basis for actions that the State has identified as a basis of payment. Additionally, in civil and administrative cases, providers receive a fixed fee for the provision of legal advice.

Provision of legal aid

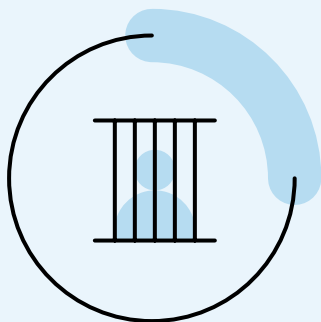
Legal aid in criminal cases



69%

People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015



10-25%

Proportion of criminal court cases (2013)

Who is eligible?

Under the law, legal aid is available to persons *arrested* and detained on criminal charges, persons charged with a criminal offence, and persons imprisoned on criminal charges.

According to the Penal Code, the State is *obliged* to provide legal aid to persons who meet a financial threshold (in urban areas: US\$283/year and in rural areas: US\$226/year), to children (under the age of 16) and the elderly, to ethnic minorities who face exceptionally difficult socio-economic conditions, to victims of human trafficking, to persons with physical and mental disabilities, persons who provided meritorious service during the revolution, and persons who potentially face 10 years of imprisonment or more, or the death penalty.

At what stage of a criminal case?

Under the law, legal assistance may be requested from the moment a law enforcement representative restricts the suspect's/defendant's freedom, during questioning, or at least from the moment charges are officially filed. Legal aid is also provided during trial, for a first appeal, and for consideration of probation, or social rehabilitation/reintegration after release from prison.

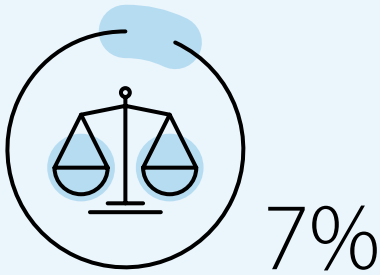
It is prohibited by law for the police to interview someone in the absence of a lawyer, unless the person is interviewed as a witness.

This can be problematic as the police sometimes determine the person to have a right to legal aid only after the witness has incriminated him/herself.

To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that legal aid providers are less likely than private lawyers to perform actions such as 'conducting investigation to establish doubt about the suspect's/defendant's guilt even if the defendant may be guilty', or 'presenting arguments in favour of a suspect's/defendant's release pre-trial'.

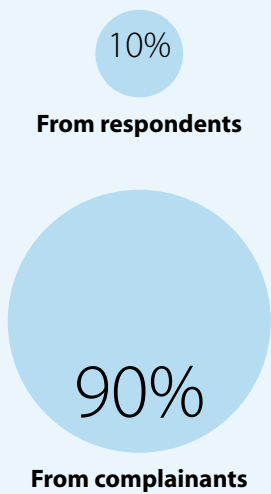
Furthermore, experts identify 'a well-prepared and/or highly skilled lawyer', 'the strength of the evidence', and 'bribery/corruption' to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.



In 2013, State-funded legal aid was provided in 7% of criminal cases

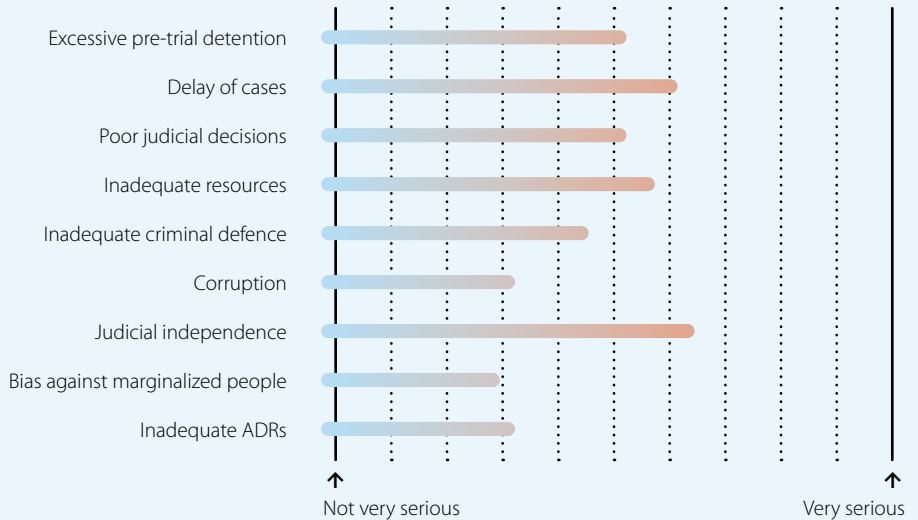
Legal aid in civil cases

Estimated demand for legal aid services in civil cases



How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015



Who is eligible?

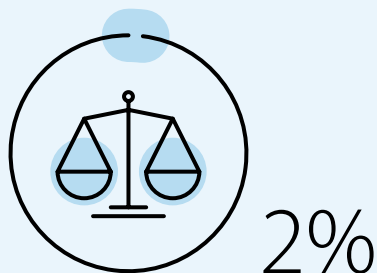
Legal aid in civil cases is available to persons who meet a financial threshold (in urban areas: US\$283/year and in rural areas: US\$226/year), to children (under the age of 16) and the elderly, to ethnic minorities who face exceptionally difficult socio-economic conditions, to victims of human trafficking, to persons with physical and mental disabilities, persons who provided meritorious service during the revolution, and persons who potentially face 20 years of imprisonment or more, or the death penalty.

For what actions is a party eligible for legal aid?

Further to the provision of primary legal aid, more specific legal aid can be offered to assist with drafting and filing complaints and responses, gaining access to State agencies, conducting negotiations between parties, protecting victims of violence, and drafting motions. Legal aid can also be provided throughout mediation, pre-trial hearings, as well as for any appeal or cassation.

Public interest litigation / class action cases:

At national, regional and local levels, staff lawyers of the National Legal Aid Agency and Provincial Legal Aid Centres sometimes coordinate to uniformly challenge common violations of national and international due process rights and human rights.



State-funded legal aid was provided in roughly 2% of all civil/administrative cases filed in court (2013)

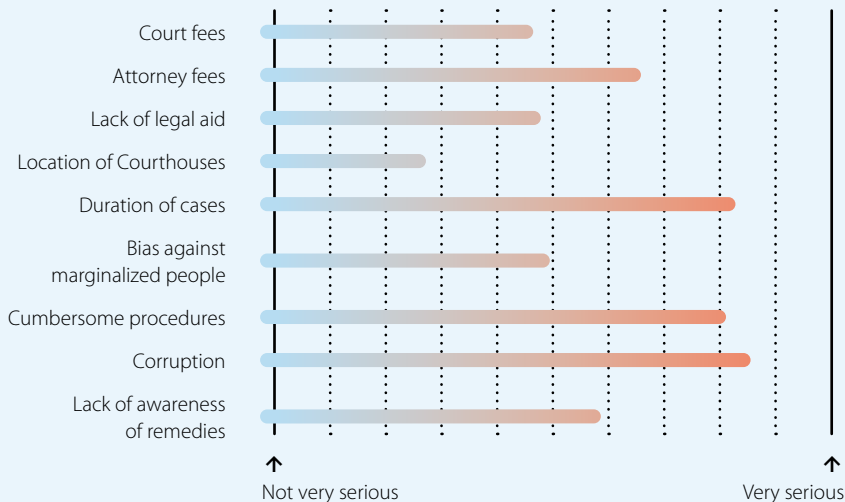
1.5

In 2013, the number of civil/administrative cases filed in court was roughly 1.5 times the number of criminal cases

Women’s access to legal aid services

How serious are the following problems in influencing people’s decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

according to national experts, WJP Rule of Law Index 2015



Female victims of violence (including victims of sexual and gender-based violence) receive legal aid only in some legal proceedings; they receive court support services (such as interpretation and translation of documents) in all legal proceedings.

However, national experts explain that women often do not understand how legal aid services can help them, and are unaware that legal aid services are available at little or no cost, or may not know where to find legal assistance. Experts further report that it is not uncommon for women to see legal aid providers as lacking gender sensitivity and as a result, women may find it difficult to confide in a (typically male) legal aid provider and share intimate information related to a case. National experts also point to the fact that court processes are rather time-consuming as another reason why women may prefer not to seek out legal assistance.

Access to legal aid for children

The justice system does not have specialized providers or units for representing child victims, child witnesses or suspected and accused children. National experts note that when representing children, legal aid providers rarely reach out to parents or childcare professionals for support to assist the child throughout proceedings.

According to independent national experts, there is no noticeable difference regarding the use of diversion and of alternatives to pre-trial detention/imprisonment in cases where children are represented by legal aid providers, by private lawyers, or when children are not represented at all.

Legal aid and informal justice systems

Informal justice mechanisms allow a lawyer to provide assistance in formal mediation/alternative dispute resolution processes, and there are mechanisms that allow cases to be referred between the formal and informal justice systems. Legal aid service providers can work across different systems.

Quality safeguards

Accountability for the quality of legal aid services

Legal aid institutions aim to ensure that the same provider represents the accused/suspect at all stages of the case.

If a legal aid provider does not arrive, the proceeding is postponed. If a legal aid provider is unprepared or unqualified, a replacement legal aid provider is asked to represent the party instead of the assigned provider.

A legal aid provider can refuse to take a case or ask to be removed from the duty to represent a particular legal aid recipient if s/he has too many cases, or lacks expertise in the law or skills required by the specific case, or if there is incompatibility or a conflict of interest with the legal aid recipient.

Monitoring and data collection on the quality of legal aid services

No data is collected on the quality of legal aid services. There are significant data gaps across the system. For instance, no data is available on case resolution prior to a case's transfer to court.

Sub-Saharan Africa



Benin	76
Burkina Faso	85
Cabo Verde	96
Chad	105
Democratic Republic of Congo	114
Ghana	124
Kenya	135
Mauritania	145
Mauritius	153
South Africa	163

Benin

Sub-Saharan Africa

Benin

10.60 million



Population



Unitary government system



56%

Rural population



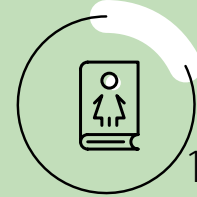
44%

Urban population



41%

Male literacy rate



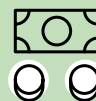
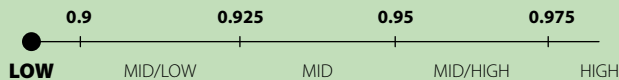
18%

Female literacy rate



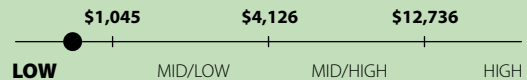
0.823

Gender Development Index



\$890

GNI per capita



0.480

HDI



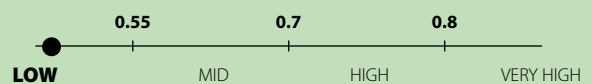
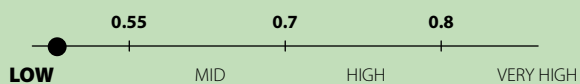
-37.4

Loss in HDI due to inequality



0.300

Inequality-adjusted HDI



Legal Aid at a Glance in Benin



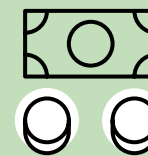
2010

The most recent reform of the legal aid system was carried out in 2010, when the bar association established a Legal Aid Fund to enhance access to justice across the country



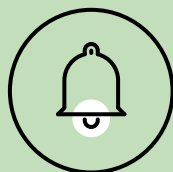
Never conducted

When was the last assessment of legal aid needs conducted



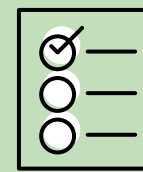
N/A

Annual expenditure on legal aid per capita in 2013



Challenges in accessing legal aid

- There is no organised legal aid system
- People may not know where to find legal assistance, and/or may not be aware that legal aid services are available at little or no cost
- Language barriers exist between legal aid providers and those who need legal aid
- The bar association is opposed to allowing paralegals to fill the gap of available lawyers
- Lawyers are paid very little for legal aid work



Priority areas for support

- Legislative drafting advice
- ✓ Development of action plans/policies
- ✓ Development of quality criteria for legal aid providers
- Establishing paralegal systems
- ✓ Institutional support
- ✓ Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- [Constitution](#)
- [Separate law on legal aid](#)
- [Law on judicial procedure](#)
- [Law on the prosecution](#)
- [Civil procedure code](#)
- [Criminal procedure law](#)

The right to legal aid, specified in Ordinance 73-53, was first recognized into law on 2 August 1973, but up until now, an application decree for this law has yet to be issued.

In an effort to remedy the situation, the bar association established in February 2010 a Legal Aid Fund (“Fonds d’assistance juridique et judiciaire du Barreau du Benin” or FAJJUB) to enhance access to justice across the country, notably by making lawyers more easily available to people.

Services included as part of legal aid

Legal aid services include legal advice and legal assistance, including assistance to a litigant when interrogated by a prosecutor or the police.

Some civil society organisations provide specialized legal aid services for disadvantaged population groups, such as persons with disabilities, children, the elderly, refugees, indigenous populations, etc.

Process for obtaining legal aid

In theory, legal aid should be provided automatically if the case or legal aid recipient qualifies for legal aid services. No proof of eligibility should be necessary in cases where the State is obliged to provide legal aid under the law. In practice however, this automatic process for obtaining legal aid is applied by few actors only, namely by the ‘legal aid caravans’ led by the bar association, by centres for victims of gender-based violence, and by a number of civil society organisations.

Awareness of the right to legal aid

The State has not conducted any public information campaign to raise awareness about the right to legal aid and how to access legal aid services, but some awareness-raising activities have been undertaken by civil society organisations, by centers for social promotion, and by centers for victims of gender-based violence.

Thanks to these efforts, the general population is ‘somewhat knowledgeable’ about the right to legal aid services and how to access them, and their level of awareness is increasing, according to independent national experts.

Delivery model

Legal aid authority

The legal aid board, together with the bar association, are responsible for the management of legal aid. The legal aid board is appointed by the Executive and by the courts, with representatives of the judiciary (other than the Supreme Court), retired judges, and representatives of social or welfare agencies.

Organisation of legal aid services

For criminal cases, legal aid services are provided through the public defender, the bar association, *pro bono* schemes, civil society and panel appointments.

Mechanism for assigning legal aid providers

Legal aid providers are assigned criminal cases through the bar association, which coordinates appointments and maintains a roster of qualified lawyers available to provide legal advice.

Accessing legal aid in urban vs. rural areas

Legal aid services are available in rural areas, but only for criminal cases. The quality of legal services tends to be higher in urban areas, where legal aid providers have more independence to challenge the actions of other justice actors.

Service providers

Lawyers and other providers

1/67,079

Licensed practicing
lawyers/people



None 
**University-based
law clinics**

N/A

Full-time
legal aid lawyers/people



Paralegals

In both criminal and civil cases, paralegals are allowed to provide legal advice and general assistance in navigating the justice system. In criminal cases, paralegals can also provide legal assistance to a litigant before a prosecutor or a court.

Qualifications required

State-funded legal aid providers must have a law degree, be members in the national bar and show proof of passing a professional examination. In criminal cases, they must also have completed an internship with a practicing lawyer, and have registered in a State-authorized roster of legal aid providers.

In order to be accredited, paralegals do not require formal educational training. In theory, they must complete a professional training course accredited by the State as well as an apprenticeship with lawyers so as to gain experience working with the courts, but in practice, this is not always the case.

Legal aid providers are required to undergo periodic skills training or testing. This is a requirement that both the bar association and the State impose on its members, but the State does not allot funds to this end.

Finances

Costs to recipients

Legal aid services are free of charge to those meeting eligibility criteria. Primary legal aid services are provided free of charge at legal advice centers in city administrative offices. Civil society organisations also provide legal assistance to people who come to their office.

Legal aid in the annual justice budget

The budget for legal aid is determined by the Ministry of Justice and the judiciary. Separate funding for specialized legal aid services to disadvantaged populations is provided by the State, private companies and international donors. Additional services (such as independent forensic experts, psychological or social work support, etc.) are covered by the State.

Payments to legal aid providers

Legal aid providers receive a fixed fee for each case, and the legal aid board is responsible for disbursing payments to legal aid providers. Legal aid providers can also be hired by the legal aid board on a part-time contractual basis, to provide services as needed.

Provision of legal aid

Legal aid in criminal cases

Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, and persons imprisoned on criminal charges.

The State is *obliged* to provide legal aid to anyone charged with a criminal offence, with a particular focus on those who meet a financial threshold, who can demonstrate family hardship, or are a member of a protected group (such as migrants, children, displaced persons or refugees). In some circumstances, no proof is needed, as entitlement to legal aid depends on the gravity or complexity of the matter requiring assistance.

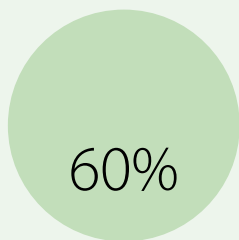


15%

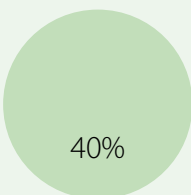
Criminal court cases that had pre-trial detention imposed in 2013

Legal aid in civil cases

Estimated demand for legal aid services in civil cases



From respondents



From complainants

At what stage of a criminal case?

Under the law, legal aid should be made available from the moment a law enforcement representative restricts the suspect's/defendant's freedom, and during questioning before formal charges are filed. Legal aid should also be provided during trial and for any appeal or cassation. In practice, however, the right to legal aid is not consistently enforced, largely because enforcement provisions are still lacking. For instance, rarely is a legal aid provider present during questioning of a potential suspect/defendant, before formal charges are filed.

After a legal aid provider is appointed to a case, s/he almost always remains on that case until it is resolved, unless s/he becomes unavailable or is unqualified to represent the suspect/defendant at trial.

To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that legal aid lawyers are more likely than private lawyers to perform actions such as 'presenting arguments in favour of a suspect's/defendant's release pre-trial', or 'giving advice to the suspect/defendant in private before any contact with a state justice official'.

Independent national experts identify 'the judge's objective analysis of evidence and testimony', 'a well-prepared and/or highly skilled lawyer' and 'the strength of the evidence' to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

Who is eligible?

Under the law, a person is eligible for legal aid in civil cases if s/he meets a financial threshold, or is a child. Eligibility depends on the case's gravity and complexity, and on whether the interests of justice require it.

5 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available



Labor disputes



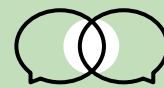
Property issues



Administrative matters



Marital disputes and child custody issues



Dispute resolution proceedings or mediation

For what actions is a party eligible for legal aid?

Under the law, legal aid should be provided when filing complaints and responses; when providing protective services for victims of violence; when conducting depositions or other official queries; during pre-trial hearings and during trial; and for any appeal or cassation, including any appeal to international tribunals.

Public interest litigation / class action cases:

There is demand and interest for public interest litigation and class action cases to address cases of discrimination, labour rights, and health.

Women's access to legal aid services

According to national experts, the fact that legal aid is not provided for family matters is a significant obstacle facing women in accessing legal aid. Experts also report that women may not always be aware that legal aid services are available at little or no cost, or may not know where to find it. For all of these reasons, women may prefer to resolve issues through the informal justice system or outside the court system, where legal aid has no role.

Under the law, female victims of violence (including victims of sexual and gender-based violence) are entitled to receive legal aid services. In practice however, they do not receive legal aid services in all legal proceedings.

Access to legal aid for children

The justice system has specialized providers/units for representing child victims, child witnesses or suspected and accused children, including specialized courts and judges, as well as specialized police officers or units.

When representing children, legal aid providers routinely reach out to parents, social workers, psychologists and child protection service practitioners for support to assist the child throughout proceedings.

In criminal cases involving suspected or accused children, diversion away from judicial proceedings is usually used.

Legal aid and informal justice systems

Informal justice mechanisms do not allow for a lawyer or paralegal to provide assistance in the mediation/adjudication process. There are no mechanism that allows referrals between the formal and informal justice systems.

When providing assistance in customary or religious/adjudication processes, legal aid providers do not require formal qualifications but need to be reputable members of the community.

Quality safeguards

Accountability for the quality of legal aid services

By law, if a person has a right to legal aid, but no legal aid provider is available, the proceedings must cease until a legal aid provider arrives. In practice however, the police, prosecutors or judges can start questioning a suspect or defendant when it takes too long for the legal aid provider to arrive. Additionally, the police sometimes questions a person first as a witness, and determines the person to have a right to legal aid only after the witness has incriminated her/himself.

If a legal aid provider is unprepared or unqualified, the proceeding is postponed, or a replacement legal aid provider is asked to represent the party instead of the assigned provider. However, there is no means of assessing whether the legal aid provider is unprepared or unqualified.

A legal aid provider can refuse to take a case assigned to him/her due to lacking expertise in the law or skills required by a specific case, or due to incompatibility or conflict of interest with the legal aid recipient.

Monitoring and data collection on the quality of legal aid services

While no institution formally assumes the responsibility of monitoring the quality of legal aid services, civil society organisations play a significant role in this regard by conducting interviews with legal aid recipients following case resolution.

There is an acute shortage of data in the justice system. For instance, no data is available on the number of criminal cases filed in court where State-funded legal was provided. Data about children is not recorded separately, and no data is available on case resolution prior to a cases's transfer to court.

Burkina Faso

Sub-Saharan Africa

Burkina Faso

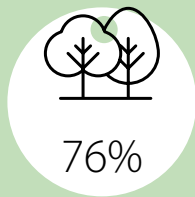
17.59 million



Population



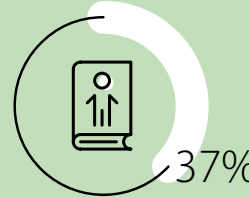
Unitary government system



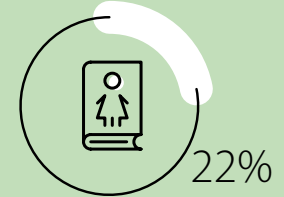
Rural population



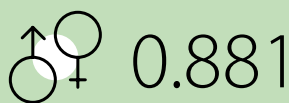
Urban population



Male literacy rate



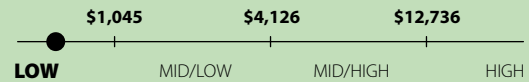
Female literacy rate



Gender Development Index



GNI per capita



0.402

HDI



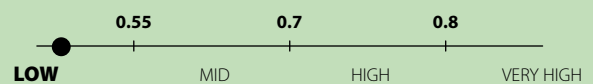
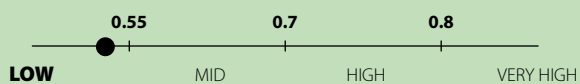
-35%

Loss in HDI due to inequality



0.261

Inequality-adjusted HDI



Legal Aid at a Glance in Burkina Faso



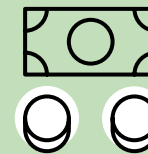
2014

Most recent reform of the legal aid system carried out in 2014



Never conducted

When was the last assessment of legal aid needs conducted

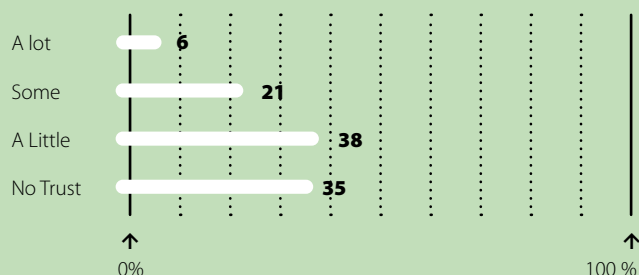


N/A

Annual expenditure on legal aid per capita in 2013

People's trust in courts

Citizen survey, WJP Rule of Law Index 2015

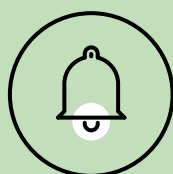


People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015

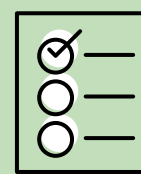
11%

Sample size: 121



Challenges in accessing legal aid

- ← Limited number of lawyers, especially outside urban areas, and lawyers are paid very little for legal aid work
- ← People's perception that legal aid lawyers are more loyal to State agencies than to legal aid recipients
- ← People sometimes prefer to resolve issues through the informal justice system or outside the court system, where legal aid has no role
- ← There is little support among the population for spending funds to defend accused criminals
- ← The legal aid fund established by the State is not yet fully operational and lacks funding; people also lack awareness about the existence of this fund



Priority areas for support

- ✓ Legislative drafting advice
- ✓ Development of action plans/policies
- ✓ Development of quality criteria for legal aid providers
- ✓ Establishing paralegal systems
- Institutional support
- ✓ Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Separate law on legal aid**
- **Law on judicial procedure**
- **Law on the judiciary**
- **Implementing regulations for the law on legal aid**

The right to legal aid was first enacted into law in 2001, and the legal aid system was most recently reformed in 2009, with strong involvement from the Ministry of Justice, the Parliament and international donors. It is only in 2014 that legal aid provisions became effective.

State-funded legal aid is available at national level only.

Services included as part of legal aid

Services included as part of “legal aid” include (for both criminal and civil/administrative cases): legal advice, legal representation before a prosecutor, court or tribunal, and legal assistance.

The State does not provide specialized legal aid services for disadvantaged population groups, such as persons with disabilities, children, the elderly, refugees, indigenous populations, etc.

Process for obtaining legal aid

Legal aid is provided upon request from the person who wants legal aid, from the prosecutor, and from the institution that oversees the appointment of legal aid providers based on notification from a State justice actor or applicant for legal aid.

To receive legal aid, a person must prove eligibility by showing evidence of low income, membership of a protected group (such as migrants, nonfluency in the national language, ethnic or religious minority, etc.), or a determination by the agency responsible for ensuring appointment that the interests of justice require provision of legal aid in the given specific case. No proof is necessary in cases where the State is obliged to provide legal aid under the law.

Awareness of the right to legal aid

A public information campaign to raise awareness about the right to legal aid and how to access legal aid services has been conducted at least once over the past year. That campaign explained the importance of the right to legal aid, and provided people with practical information such as a telephone number to call for more information, as well as the addresses of office(s) where legal assistance can be sought.

Independent national experts estimate that the general population is 'somewhat knowledgeable' about the right to legal aid services and how to access them. A large proportion is still unaware that legal aid services are available at little or no cost, and they have a limited understanding of how legal aid services can help them.

Delivery model

Legal aid authority

Responsibility for the management of legal aid is shared among the Ministry of Justice and a Legal Aid Board.

The Legal Aid Board is appointed by the Executive, with members of the bar, representatives of the judiciary (other than the Supreme Court), officials specializing on legal aid, members of the national human rights institution, and legal aid providers. It is required by law that the President of the Board be a judge.

Organisation of legal aid services

Legal aid services are provided through public defender institutions, through panel appointments and through the bar association.

The main incentives for lawyers to provide some services *pro bono* include a range of benefits (e.g. car), discounts and tax deductions made available to them. The provision of *pro bono* services is also appreciated by less experienced lawyers as a means to practice and acquire experience.

Mechanism for assigning legal aid providers

Legal aid providers are assigned in two ways: first, the legal aid board maintains a duty roster, and State agencies can contact the board when a legal aid provider is needed. Second, there are legal aid providers on duty in courts and police precincts.

Accessing legal aid in urban vs. rural areas

Legal aid services are not available in rural areas, largely because the commission responsible for assessing requests for legal aid is located in the capital, and does not have local representation in the regions. A number of civil society organisations such as the Female Lawyers Association provide legal aid in specific regions of the country, but coverage remains very limited.

Service providers

Lawyers and other providers

1/125,635

Licensed practicing
lawyers/people



None 
**University-based
law clinics**

N/A

Full-time
legal aid lawyers/people



Paralegals

Are allowed to provide legal advice, legal representation before a prosecutor, court or tribunal, and general assistance in navigating the justice system.

Qualifications required

Both State-funded legal aid providers and paralegals must have a law degree and show proof of passing a professional examination. In addition, State-funded legal aid providers must have completed an apprenticeship or internship with a practicing lawyer, and paralegals must have a contractual relationship with the agency that oversees the administration of legal aid.

The law does not require legal aid providers to engage in continuing education and/or skills training, but the bar association encourages providers to do so. The State however does not allot funds to this end.

Finances

Costs to recipients

Legal aid services for both criminal and civil cases are free of charge to those meeting eligibility criteria.

Primary legal aid services are provided free of charge at the office of the public defender, or other State-funded institutional legal aid provider. Civil society organisations also provide legal advice to people who come to their office.

Legal aid in the annual justice budget

Legal aid is not a separate component of the annual justice system budget. The budget for legal aid is determined by the Ministries of Finance and Justice, together with international organisations supporting legal aid.

Separate funding for specialized legal aid services to disadvantaged populations is provided by international donors, while additional services (such as independent investigation, experts, psychological or social work support, etc.) are covered by the State.

Payments to legal aid providers

Some legal aid providers receive a fixed fee for each action they take on a case (for both criminal and civil cases). Others work full-time in institutions funded by the State — such as in the public defenders' office.

Provision of legal aid

Legal aid in criminal cases



25-50%

Proportion of criminal court cases (2013)



65%

People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, persons imprisoned on criminal charges and victims of crime.

The State is *obliged* to provide legal aid to persons who meet a finance threshold, and to persons who potentially face death penalty.

At what stage of a criminal case?

Under the law, legal aid should be provided from the moment a law enforcement representative restricts the suspect's/defendant's freedom, during an identification procedure, or from the moment charges are officially filed. Legal aid should also be provided during trial, and for any appeal or cassation. In reality, however, the police does sometimes initiate interviews in the absence of a lawyer.

In criminal cases, it is not uncommon to see the accused/suspect represented by different legal aid providers at various stages in the proceedings.

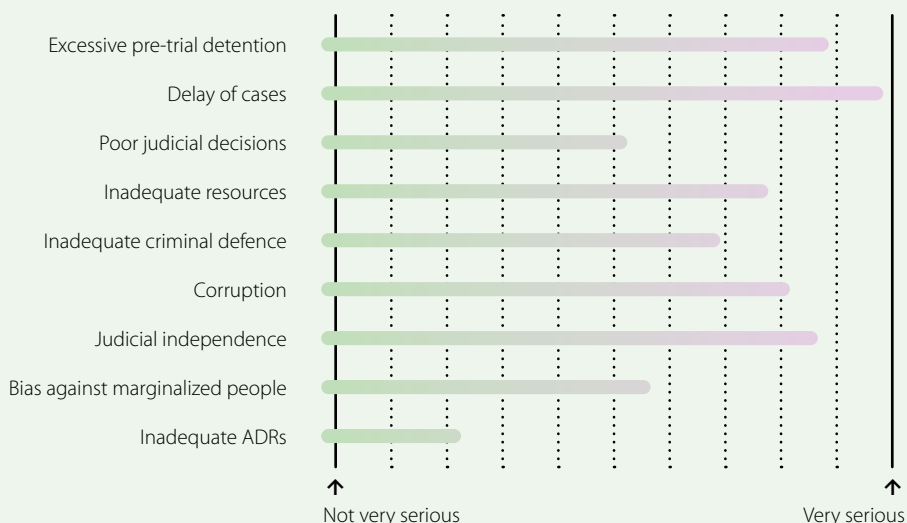
To what extent are legal aid services in criminal cases seen as effective?

Comparing the services of lawyers working on legal aid cases to services of lawyers working on privately paid cases, independent national experts estimate that legal aid providers are more likely to advocate for alternative resolution of the case when the defendant is under 18 years of age. Beyond this, experts report that there is no significant difference in the performance and quality of services provided by legal aid providers and private lawyers.

National experts identify 'the judge's objective analysis of evidence and testimony', 'a well-prepared/highly skilled lawyer', 'availability of an independent expert testimony' and 'the strength of the evidence' to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

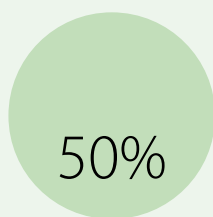
How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015

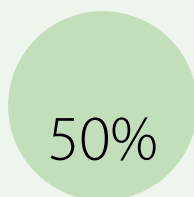


Legal aid in civil cases

Estimated demand for legal aid services in civil cases



From respondents



From complainants

Who is eligible?

Under the law, a person is eligible for legal aid in civil cases if s/he meets a financial threshold (minimum daily wage or less).

5 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available



Labor disputes



Property issues



Administrative matters



Marital disputes and child custody issues



Tort claims

For what actions is a party eligible for legal aid?

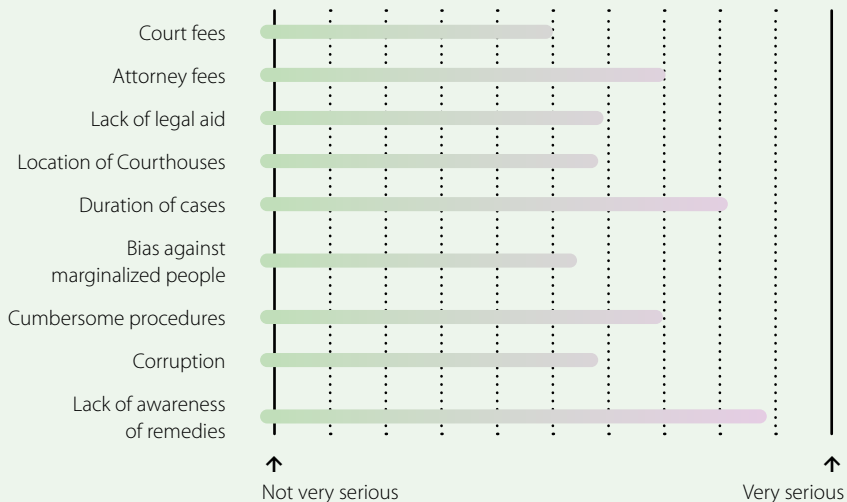
Under the law, legal aid should be provided during trial, for the drafting of motions, and for any appeal or cassation.

Public interest litigation / class action cases:

State-funded legal aid is provided for public interest litigation and class action cases (to address cases of discrimination, labour rights, consumer rights, environmental protection, etc.). To date, however, there has not been much demand and/or interest for such initiatives.

How serious are the following problems in influencing people’s decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

according to national experts, WJP Rule of Law Index 2015



Women’s access to legal aid services

According to national experts, women lack awareness about the availability of legal aid services at little or no cost, and they may not know where to find legal assistance. Experts also report that women may not always trust the judicial system, and may find court processes to be too time-consuming. It may also be difficult for women to confide in a (male) legal aid provider and share intimate information related to a case. For all of these reasons, women may prefer to resolve issues through the informal justice system or outside the court system, where legal aid has no role.

Female victims of violence (including victims of sexual and gender-based violence) do not receive legal aid services in all legal proceedings.

Access to legal aid for children

The justice system has specialized providers/units for representing child victims, child witnesses or suspected and accused children, including specialized courts and judges, as well as specialized prosecutors, but those are available only in the two largest cities of the country (Ouagadougou and Bobo-Dioulasso).

When representing children, legal aid providers routinely reach out to parents, social workers, psychologists and child protection service practitioners, to assist the child throughout proceedings.

Legal aid and informal justice systems

National experts report that people may prefer to use informal justice proceedings for disputes related to family, land and property, as well as inheritance. Amongst reasons identified by experts for people to seek assistance from informal justice systems, the fact that informal tribunals are more conveniently located, especially for those living in remote areas, and that they take less time, are underscored. Experts also note that because judges or decision-makers usually know the parties well, they are perceived by people to be better judges of what is a just outcome.

There are mechanisms that allow referrals between the formal and informal justice systems, for formal mediation and alternative dispute resolution processes. When providing assistance to formal mediation and alternative dispute resolution processes, legal aid providers must have a law degree (not required when providing assistance to customary or religious mediation and adjudication processes), and be a reputable member of the community.

Quality safeguards

Accountability for the quality of legal aid services

If a person has a right to legal aid, but no legal aid provider is available, the proceedings must cease until a legal aid provider arrives.

There is no formal means of assessing whether a legal aid provider is unprepared or unqualified, so it is difficult for a person to seek remedy if the services s/he receives from a provider are not satisfactory.

A legal aid provider can refuse to take a case assigned to him/her if there is incompatibility or a conflict of interest with the legal aid recipient.

Monitoring and data collection on the quality of legal aid services

The Ministry of Justice is responsible monitoring the quality of legal aid services. In practice, however, no data is collected on the quality of legal aid services.

There is an acute shortage of data in the justice system. For instance, no data is available on the number of criminal or civil cases filed in court where State-funded legal was provided. Data about children is not recorded separately, and no data is available on case resolution prior to a cases's transfer to court.

Cabo Verde

Sub-Saharan Africa

Cabo Verde

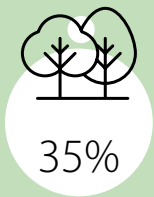
513,900



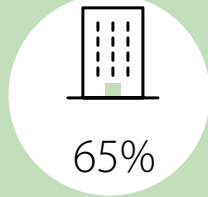
Population



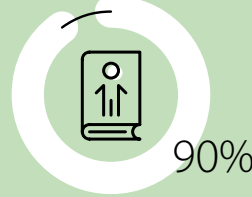
Unitary government system



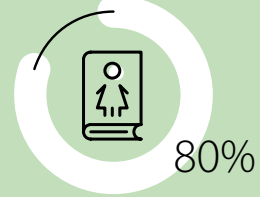
Rural population



Urban population



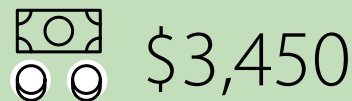
Male literacy rate



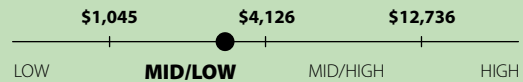
Female literacy rate



Gender Development Index



GNI per capita



0.646

HDI



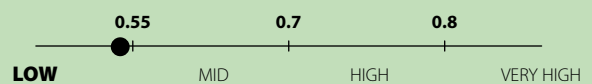
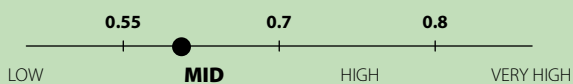
-19.7%

Loss in HDI due to inequality



0.519

Inequality-adjusted HDI



Legal Aid at a Glance in Cabo Verde



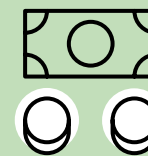
1992

The most recent reform of the legal aid system was carried out in 2010, when the bar association established a Legal Aid Fund to enhance access to justice across the country



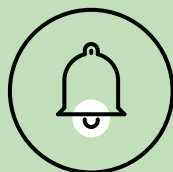
Never conducted

When was the last assessment of legal aid needs conducted



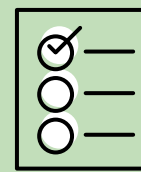
N/A

Annual expenditure on legal aid per capitain 2013



Challenges in accessing legal aid

- Legal aid is not always geographically accessible
- People often do not know that legal aid services are available at little or no cost
- Low pay of lawyers for legal aid work



Priority areas for support

- Legislative drafting advice
- ✓ Development of action plans/policies
- ✓ Development of quality criteria for legal aid providers
- Establishing paralegal systems
- ✓ Support for institutional reforms to accelerate the treatment of cases (legal proceedings can sometimes last for more than ten years)
- Training
- ✓ Capacity-building for Justice Inspectors

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **The Constitution**
- **Implementing regulations on legal aid**

The right to legal aid was first recognized in 1975.

The most recent reform of the legal aid system took place in 1992, when the right of defence and counsel assistance free of charge was introduced into the Constitution (Articles 22(1,3,4), 33(3)).

State-funded legal aid is available at national, regional and local levels.

Services included as part of legal aid

For both civil and criminal cases, legal aid is provided in the form of legal advice, legal representation, legal assistance (before national tribunals), and provision of legal information. Legal aid lawyers also provide general assistance in navigating the justice system.

There are no specialized legal aid services with a focus on specific disadvantaged population groups, except for children who are always represented by the Attorney-General.

Process for obtaining legal aid

Legal aid is provided upon request from the person who wants legal aid, or upon request from the legal aid provider. The court presiding over a case must also assess eligibility during the first appearance of the parties.

In both criminal and civil cases, to prove eligibility to receive legal aid, a person must provide evidence of low income, if employed.

Awareness of the right to legal aid

A public information campaign to raise awareness about the right to legal aid and how to access legal aid services was conducted by the State in the past year, and provided specific contact details of relevant offices to go to for legal assistance.

Independent national experts estimate that the general population is 'somewhat knowledgeable' about legal aid services.

Delivery model

Legal aid authority

The chief responsibility for the management and administration of legal aid rests with the Ministry of Justice.

Organisation of legal aid services

Legal aid services, in both criminal and civil cases, are provided through the bar association.

As per Article 213 of the Constitution, “Casas do Direito” (Houses of Law) have also been established to provide judicial information, to help mediate conflicts, and to orient parties should they decide to submit a case to court, and/or to request legal aid from the Bar Association.

Legal aid services are also provided through *pro bono* schemes in both criminal and civil cases (the provision of *pro bono* services is a condition for membership in the bar).

Mechanism for assigning legal aid providers

To request the services of a legal aid provider, State agencies contact the bar association that maintains a duty roster.

Accessing legal aid in urban vs. rural areas

Legal aid services are available in rural areas, through the “Casas do Direito” (Houses of Law) which are directly connected with the Bar Association. Accessibility to legal aid services is nonetheless limited or inexistent on certain islands, largely due to the lack of financial incentives for legal aid lawyers to operate on the more remote islands.

Service providers

Lawyers and other providers

1/2,635

Licensed practicing
lawyers/people



None
**University-based
law clinics**

N/A

Full-time
legal aid lawyers/people



1/85,650
Paralegals/people

In both criminal and civil cases, paralegals are allowed to provide general assistance in navigating the justice system.

Qualifications required

Legal aid providers must have a law degree and must show proof of passing a professional examination (bar examination). They must also be members of the national bar and have completed an apprenticeship or internship with a practicing lawyer.

To become a staff member of the institutional legal aid provider, lawyers are not required to engage in continuing education and/or skills training.

Paralegals are not required to go through any training to be accredited to provide legal services.

Finances

Costs to recipients

Primary legal aid services are available free of charge (to those meeting eligibility criteria) at the offices of the bar association.

Legal aid in the annual justice budget

Legal aid is a separate component of the annual justice budget. The national budget for legal aid is determined by the Parliament and the Ministries of Finance and Justice. The bar association participates in decisions about the budget for legal aid.

The government provides separate funding to cover the cost of specialized legal aid services. However, additional services, such as independent investigations, experts or psychological/social support, are not covered by the State.

Payments to legal aid providers

The Ministry of Justice compensates the Bar Association for the legal aid provided.

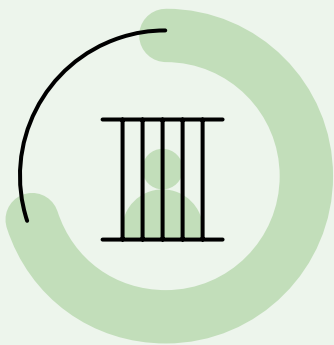
Provision of legal aid

Legal aid in criminal cases

Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, persons imprisoned on criminal charges, and victims of crime.

The State is *obliged* to provide legal aid when the law notes that the interests of justice require it.



50-75%

Proportion of criminal court cases (2013)

1.2

The number of criminal cases filed in court in 2013 was 1.2 the number of civil cases filed in court

Legal aid in civil cases

At what stage of a criminal case?

Under the law, legal aid should be provided from the moment when a law enforcement representative restricts the suspects/defendant's freedom.

Generally, it is prohibited by law for the police to interview someone in the absence of a lawyer. Police and prosecutors wait a limited amount of time for a legal aid provider to arrive, but if it takes too long, the questioning begins even if the legal aid provider has not arrived. Furthermore, police sometimes question a person first as a witness, and determine the person to have a right to legal aid only after the witness has incriminated him/herself.

To what extent are legal aid services in criminal cases seen as effective?

Comparing the services of legal aid providers to services of private lawyers, independent national experts estimate that legal aid providers are less likely than private lawyers to perform actions such as 'giving advice to the suspect/defendant in private before any contact with a state justice official', or 'pointing to weaknesses in the evidence presented against the suspect/defendant, even if the defendant may be guilty'.

Furthermore, experts identify 'a well-prepared and/or highly skilled lawyer' and 'the judge's objective analysis of evidence and testimony' to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

Who is eligible?

Legal aid in civil cases is available when the law notes that the interests of justice require it.

5 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available



Labor disputes



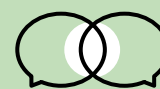
Child custody issues and marital disputes



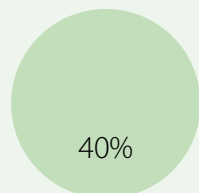
Property issues



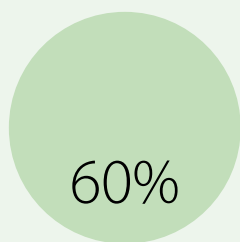
Claims for State services or disputes with State agencies



Contractual disputes and tort claims

Estimated demand for legal aid services in civil cases

From respondents



From complainants

Women's access to legal aid services**Access to legal aid for children****For what actions is a party eligible for legal aid?**

Further to the provision of primary legal aid, more specific legal aid can be offered to protect victims of violence. Legal aid can also be provided throughout dispute resolution proceedings and for any appeal or cassation.

Public interest litigation / class action cases:

Independent national experts are of the view that there is public demand for State-funded legal aid for public interest litigation and class action cases addressing labour rights, consumer rights and environmental protection.

Female victims of violence (including victims of sexual and gender based violence) receive legal aid advice and court support services (such as interpretation and translation of documents) in all legal proceedings. The presence of "Casas do Direito" (Houses of Law) in almost every municipality plays a critical role in this respect. Women have become increasingly aware that legal aid services are available to them at little or no cost in cases of gender-based or domestic violence.

The recently adopted Statute of the Child and Adolescent (law no. 50/VIII/2013) regulates the provision of legal aid services for child victims, child witnesses or suspected and accused children. A recent revision of the penal code further establishes that correctional education at specialized educational centers may be provided to a child who is under 16 years old (beyond 16 years of age, a convicted adolescent goes to prison).

When representing children, legal aid providers often reach out to parents, social workers and other childcare professionals for support to assist the child throughout proceedings.

In criminal cases, national experts report that there is no noticeable difference in how frequently are used diversion, alternatives to pre-trial detention, or alternatives to imprisonment when children are represented by legal aid providers (irrespective of whether they are specialized in children's rights or not) and by private lawyers.

Legal aid and informal justice systems

Formal mediation and alternative dispute resolution mechanisms are sometimes used to resolve land and property disputes. “Casas do Direito” (Houses of Law) are formally mandated to promote and facilitate mediation between parties, with a view to helping parties to solve a dispute before it reaches the court. According to the law, when an agreement is reached through mediation, it has to be signed by a judge.

Quality safeguards

Accountability for the quality of legal aid services

If a person has a right to legal aid, but no legal aid provider is available, the proceedings must cease until a legal aid provider arrives.

Monitoring and data collection on the quality of legal aid services

The quality of legal aid is not monitored.

Chad

Sub-Saharan Africa

Chad

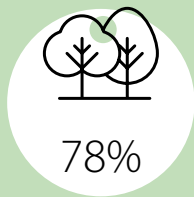
13.59 million



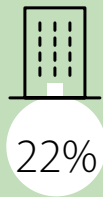
Population



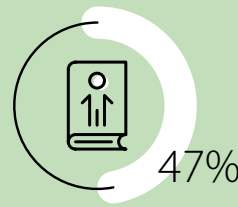
Unitary government system



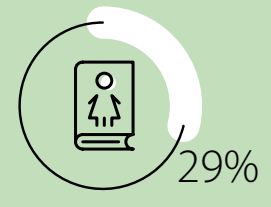
Rural population



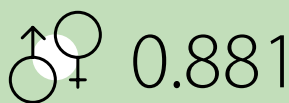
Urban population



Male literacy rate



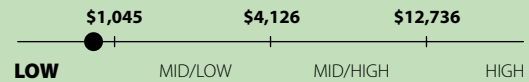
Female literacy rate



Gender Development Index



GNI per capita



0.392

HDI



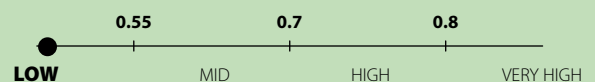
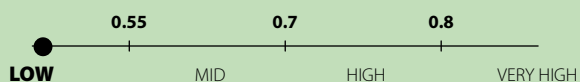
-39%

Loss in HDI due to inequality



0.236

Inequality-adjusted HDI



Legal Aid at a Glance in Chad



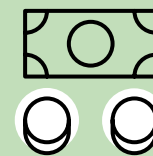
1967

Right to legal aid first recognized in 1967, but decrees for the implementation of this right were never adopted



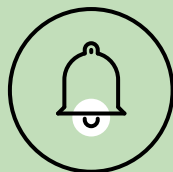
Never conducted

When was the last assessment of legal aid needs conducted



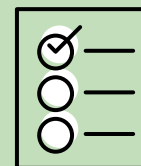
N/A

Annual expenditure on legal aid per capita in 2013



Challenges in accessing legal aid

- There is no organised legal aid system in the country
- There is a limited number of lawyers in the country, especially outside urban areas
- Lawyers are paid very little for legal aid work
- People may not be aware that legal aid services are available at little or not cost, and may not know where to find legal assistance
- People often prefer to resolve issues through the informal justice system or outside the court system, where legal aid has no role



Priority areas for support

- ✓ Legislative drafting advice
- ✓ Development of action plans/policies
- ✓ Development of quality criteria for legal aid providers
- ✓ Establishing paralegal systems
- ✓ Institutional support to establish a formal mechanism for the provision of legal aid
- ✓ Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- [Criminal procedure law](#)
- [Civil procedure code](#)

The right to legal aid was first enacted into law in 1967 (Ordinance N°13-PR-MJ of the criminal code), but specific provisions on legal aid have yet to be implemented and as such the legal aid system is not yet operational. A comprehensive bill on legal aid provision is under review by the Government since December 2012, and if adopted by parliament, would pave the way for the operationalization of the legal aid system.

Services included as part of legal aid

The current legislation (from 1967) states that legal aid should be provided mainly in the form of legal advice and legal representation.

The current legislation does not have specific provisions on State-funded specialized legal aid services for specific population groups, such as persons with disabilities, migrants or ethnic/religious minorities.

Process for obtaining legal aid

The legal aid system is not yet operational. However, the law of 1967 states that legal aid should be provided upon request from the person who wants legal aid, and that the court presiding over a case must also inquire and assess eligibility during the first appearance of the parties.

According to the law of 1967, to receive legal aid, a person must prove eligibility by showing a proof of status as a recipient of welfare or state subsidies for indigent and vulnerable members of the population.

Awareness of the right to legal aid

With the introduction of the new bill for the operationalization of the legal aid system in 2012, a new Directorate was created in the Ministry of Justice to help raise awareness about the right to legal aid and the importance of State-provided legal aid services.

Standard public information campaigns through broadcast media are ill-suited to a largely illiterate population, but civil society organisations are well-placed to conduct awareness-raising activities at the grassroots, which they have done quite successfully over the past few years. Independent national experts estimate that the general population is 'somewhat knowledgeable' about the right to legal ai.

Delivery model

Legal aid authority

There is no central administration for the management of legal aid.

Organisation of legal aid services

Given that the State has not yet operationalized the legal aid system, legal aid services are mainly provided through non-governmental organisations.

Pro bono schemes for young law school graduates to provide legal aid services across the country are also in place, supported by international organisations and NGOs.

Mechanism for assigning legal aid providers

Such a mechanism does not exist.

Accessing legal aid in urban vs. rural areas

Some legal aid services are provided in rural areas by NGOs or young lawyers, mainly in the East of the country, but generally it is very difficult for people living outside urban centres to access legal aid services.

Service providers

Lawyers and other providers

1/78,103

Licensed practicing
lawyers/people



None 
**University-based
law clinics**

N/A

Full-time
legal aid lawyers/people



Paralegals
Are allowed to provide legal advice
in both civil and criminal cases.

Qualifications required

State-funded legal aid providers must have a law degree and be a member of the national bar. Legal aid providers are not required by law to engage in continuing education or skills training.

Finances

Costs to recipients

Legal aid services are provided free of charge to those meeting eligibility criteria, but there are set fees for certain actions. Primary legal aid services are provided free of charge by civil society organisations, which provide legal aid advice to people who come to their office.

Legal aid in the annual justice budget

Given that the new law on legal aid has yet to be adopted, and that the national legal aid system is not yet operational, costs of legal aid services have so far been covered almost entirely by international organisations and NGOs.

Payments to legal aid providers

When payments are made to legal aid providers (a large majority of them provide services as volunteers), those are made by NGOs which implement legal aid programmes funded by international organisations.

Provision of legal aid

Legal aid in criminal cases



10-25%

Proportion of criminal court cases
(2013)

Who is eligible?

Under the new law currently under review by the government, legal aid would be available to persons arrested and detained on criminal charges, persons charged with a criminal offence, persons imprisoned on criminal charges and victims of crime.

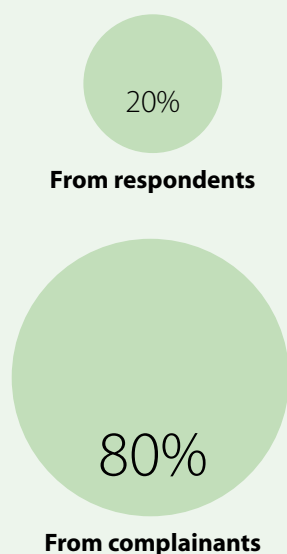
The State would be obliged to provide legal aid to persons who meet a financial threshold. It would also be provided according to the case's gravity, complexity or case type, as identified by the law.

At what stage of a criminal case?

Under the new law, legal aid would be provided from the moment a law enforcement representative restricts the suspect's/defendant's freedom, all the way through trial. The law foresees that the police will be prohibited from interviewing someone in the absence of a lawyer.

Legal aid in civil cases

Estimated demand for legal aid services in civil cases



Women's access to legal aid services

Who is eligible?

Under the new law currently under review by the government, a person would be eligible for legal aid in civil cases if s/he meets a financial threshold, or when the law notes that the interests of justice require it.

5 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available



Marital issues



Property issues



Child custody issues



Labor disputes



Tort claims

Public interest litigation / class action cases:

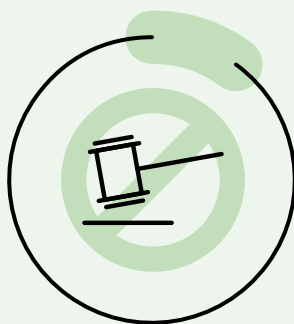
Legal aid is currently not provided for public interest litigation and class action cases. There would however be public demand and interest for initiatives to address cases of discrimination, labour rights, environmental protection, health and consumer rights.

According to national experts, women lack awareness about the availability of legal aid services at little or no cost and about where to find legal assistance. Experts also note a perception that court processes are biased against women, and that they are too time-consuming. For all of these reasons, women may prefer to resolve issues through the informal justice system or outside the court system.

Female victims of violence (including victims of sexual and gender-based violence) can receive legal aid services from non-state legal aid providers such as the association of female lawyers of Chad.

Access to legal aid for children

Children can receive legal aid services from non-state legal aid providers such as the association of female lawyers of Chad. The formal justice system also has a number of specialized courts and judges for children who are suspected or charged with a criminal offence. When representing children, legal aid providers often reach out to parents and child protection service practitioners for support to assist the child throughout proceedings.



< 10%

Less than 10% of cases where children are suspected or charged with a criminal offence is diverted from the formal justice system without trial (through mediation, apology, etc.) (2013)

Legal aid and informal justice systems

Informal justice proceedings are most commonly used for marital or family disputes, child custody issues, land and property disputes inheritance disputes, and minor criminal cases.

People prefer to resolve disputes through informal justice proceedings because informal tribunals are more conveniently located, especially for those living in remote areas. They take less time, people understand how they work, and feel that they most often lead to a negotiated outcome that is acceptable to all parties.

Informal justice mechanisms rarely allow for a lawyer to provide assistance in the mediation or adjudication process. Under certain circumstances, legal aid providers can work across the formal and informal systems, but it is uncommon for cases to be referred between the two systems.

The new law currently under review by the government does not propose to establish a mechanism for referrals of cases between the formal and informal justice system.

Quality safeguards

Accountability for the quality of legal aid services

Under the current circumstances, even though the law of 1967 recognizes a right to legal aid to every litigant, it is often the case that no legal aid provider is available, and the proceedings must continue, for lack of resources.

Furthermore, even when a legal aid provider is made available to a litigant, there is no formal means of assessing whether a s/he is unprepared or unqualified. This makes it difficult for a person to seek remedy if the services s/he receives from a provider are not satisfactory.

Monitoring and data collection on the quality of legal aid services

No specific body is responsible monitoring the quality of legal aid services, and no data is being collected to this effect. There is an acute shortage of data in the justice system. For instance, no data is available on the number of criminal or civil cases filed in court where State-funded legal was provided. Data about children is not recorded separately, and no data is available on case resolution prior to a cases's transfer to court.

Democratic Republic of Congo

Sub-Saharan Africa

Democratic Republic of Congo

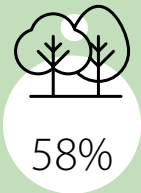
74.88 million



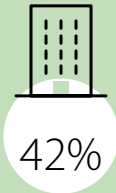
Population



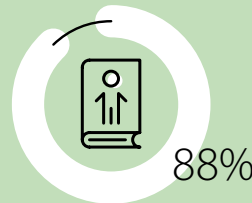
Unitary government system



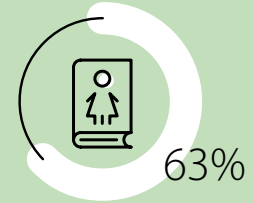
Rural population



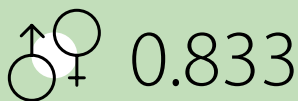
Urban population



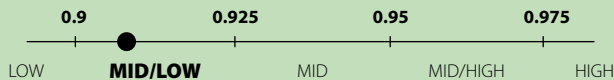
Male literacy rate



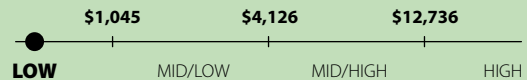
Female literacy rate



Gender Development Index



GNI per capita



0.433
HDI



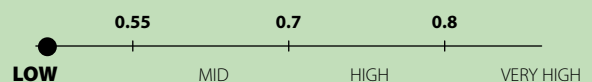
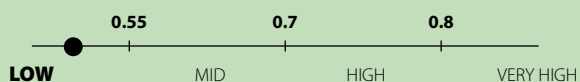
-36.2%

Loss in HDI due to inequality



0.276

Inequality-adjusted HDI



Legal Aid at a Glance in the Democratic Republic of Congo



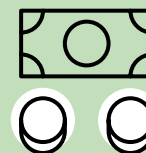
1979

Right to legal aid first recognized in 1979



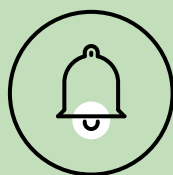
Currently conducted

When was the last assessment of legal aid needs conducted



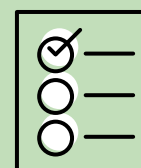
N/A

Annual expenditure on legal aid per capita in 2013



Challenges in accessing legal aid

- There is no specific law on legal aid, and the legal aid system faces severe deficiencies
- People may not know where to find legal aid; when they ask for legal aid, it is not uncommon for state agencies to withhold assistance or to encourage them to waive their right
- There is a limited number of lawyers outside urban areas
- Lawyers are paid very little for legal aid work, which affects their motivation
- People may prefer to resolve issues through the informal justice system or outside the court system, where legal aid has no role



Priority areas for support

- ✓ Legislative drafting advice
- ✓ Development of action plans/policies
- ✓ Development of quality criteria for legal aid providers
- ✓ Establishing paralegal systems
- ✓ Institutional support to the Ministry of Justice to implement the reform of the legal aid system, with a focus on developing effective coordination between institutions providing legal aid
- ✓ Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Constitution**
- **Law on judicial procedure**
- **Criminal procedure law**
- **Civil procedure code**
- **Law on pre-trial detention**

The right to legal aid was first recognized by law in 1979. A right to legal aid is implicit in national process provisions, but it is not formally addressed in any law. A bill for a new specific law on legal aid was drafted in 2012, with strong involvement by the Ministry of justice, the courts, the bar association, civil society and international donors. This bill is currently under review by government.

Under the law, State-funded legal aid is to be provided at the national level.

Services included as part of legal aid

Legal aid services typically include legal advice, legal representation before a prosecutor, court and tribunal, legal assistance with taking any appropriate action, and general assistance in navigating the justice system.

The State does not yet provide specialized legal aid services for specific population groups, such as persons with disabilities, children, women and refugees, asylum seekers and stateless persons.

Process for obtaining legal aid

Legal aid is provided upon request from the person who wants legal aid, from the prosecutor or tribunals, from the bar association or from the legal aid provider.

To receive legal aid, a person must prove eligibility by proving status as a recipient of welfare or state subsidies for indigent or vulnerable population groups. Legally, the Certificate of Indigence is requested.

Awareness of the right to legal aid

The State has not yet conducted any public information campaign to raise awareness about the right to legal aid and how to access legal aid services, but some awareness-raising activities have been undertaken by non-governmental organisations for more than a decade. Independent national experts estimate that the general population is 'somewhat knowledgeable' about the right to legal aid services, and about where and how to access them.

Delivery model

Legal aid authority

The bar association has chief responsibility for the management of legal aid. A legal aid board has not been created.

Organisation of legal aid services

While some legal aid services are provided through the bar association, with funding from private and international donors, the majority of services is provided by civil society organisations and UN agencies, with support from local lawyers.

Some legal aid providers are incentivized to provide *pro bono* services through requirements by law firms, which also value *pro bono* work as a means for their lawyers to acquire experience. Many lawyers and organisations also provide legal aid on a *pro deo* basis.

Mechanism for assigning legal aid providers

To place a request for services from legal aid providers, the courts and the police contact the bar association, which maintains and coordinates appointments and delivery of legal aid services.

Accessing legal aid in urban vs. rural areas

State-funded legal aid services are not available in rural areas. While some non-state actors may provide legal aid services outside urban areas (notably through mobile courts in the Eastern region of the country), the quality of these services tends to be lower than in urban areas. Legal aid providers in urban areas have more independence to challenge actions of other justice actors, since providers in rural areas often see judges and opposing counsel socially, which makes it difficult to oppose them in proceedings.

Service providers

Lawyers and other providers

1/7,176

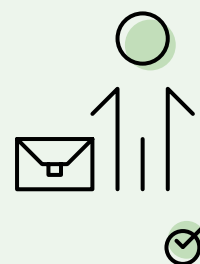
Licensed practicing
lawyers/people



**University-based
law clinics**

N/A

Full-time
legal aid lawyers/people



Paralegals

Are not legally recognized and bar associations are often reluctant to work with them. Yet hundreds of paralegals are hired by civil society and international organisations to provide legal aid, mainly in rural areas.

Qualifications required

State-funded legal aid providers must have a law degree and show proof of passing a professional examination, be a member of the national bar, and have completed an apprenticeship or internship with a practicing lawyer.

To be accredited to provide legal services, there are requirements for a paralegal to complete a short course on legal issues, as well as an apprenticeship with a lawyer when possible.

Legal aid providers are not required by law to engage in continuing education or skills training (and the State does not allot funds to this effect), but the bar association encourages its members to do so.

Finances

Costs to recipients

Legal aid services are free of charge for those meeting eligibility criteria. Primary legal aid services are provided free of charge by the bar association, which maintains a roster of qualified lawyers available to provide legal aid. Civil society organisations also provide legal advice to people who come to their offices.

Legal aid in the annual justice budget

Legal aid is not treated as a separate component of the annual justice system budget, but an allocation of approximately USD 60,000 per year has been made towards legal aid (“Justice *Pro Deo*”) for several years. The funds, however, have never been disbursed.

Specialized legal aid services for disadvantaged populations, and additional services such as independent investigation, experts, psychological or social work support, etc. are not financed by the State. The legal aid system is highly dependent on funding from international donors, which is mainly channelled through the bar association and civil society organisations.

Payments to legal aid providers

Legal aid providers are not consistently paid for their services. When payment is made, it comes from the national bar association or non-governmental organisations.

Provision of legal aid

Legal aid in criminal cases



25-50%

Proportion of criminal court cases (2013)

Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, and persons imprisoned on criminal charges.

The State is not *obliged* to provide legal aid on the basis of certain criteria. Rather, legal aid is assigned by authorised agencies at their discretion.

At what stage of a criminal case?

Under the law, legal aid should be provided from the moment a law enforcement representative restricts the suspect's/defendant's freedom, or at least during questioning before formal charges are filed. (It takes approximately 5 hours for a legal aid provider to appear after notice is given that legal aid is needed in criminal cases.) Legal aid is also provided during trial, for any appeal or cassation, as well as for representation of prisoners in cases involving serious disciplinary charges.

In criminal cases, legal aid institutions aim to ensure that the same provider represents the accused/suspect at all stages of the case.

It is prohibited for the police to interview someone in the absence of a lawyer, except when the police interviews the person as a witness, or when the person voluntarily waives this right.

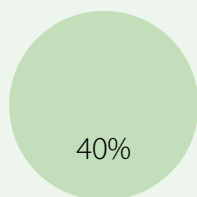
To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that legal aid lawyers are just as likely as private lawyers to perform actions such as 'presenting arguments in favour of a suspect's/defendant's release pre-trial', or 'giving advice to the suspect/defendant in private before any contact with a state justice official'.

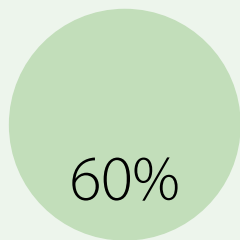
'Bribery/corruption', 'the judge's objective analysis of evidence and testimony' and 'a well prepared or highly skilled lawyer' are identified by national experts to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

Legal aid in civil cases

Estimated demand for legal aid services in civil cases



From respondents



From complainants

Women's access to legal aid services

Who is eligible?

There are no legal provision as yet for legal aid to be provided in civil proceedings.

5 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available



Marital issues



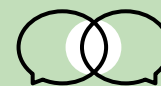
Child custody issues



Property issues



Labor disputes



Contractual and inheritance disputes

For what actions is a party eligible for legal aid?

Under the law, primary legal aid should be available to all, and legal aid should be provided throughout the proceedings, including for appeals or cassation.

Public interest litigation / class action cases:

State-funded legal aid is not provided for public interest litigation and class action cases, but there is public demand for such initiatives to address discrimination, labour rights, consumer rights, environmental protection, and health.

According to national experts, a major challenge faced by women is that legal aid is not provided for family and related civil matters. Additionally, there are no specialized legal aid services for women, and very few female legal aid providers. As a result, experts report that women tend to see legal aid providers as lacking gender sensitivity, and may prefer not to seek legal assistance, also because they perceive court process to be too time consuming.

Female victims of violence (including victims of sexual and gender-based violence) only receive legal aid services in some legal proceedings. Similarly, court support services, such as interpretation and translation of documents, are also provided only in some proceedings.

Access to legal aid for children

The justice system has specialized courts and judges for representing child victims, child witnesses or suspected and accused children.

When representing children, legal aid providers routinely reach out to parents, social workers and other childcare practitioners for support to assist the child throughout proceedings.

In criminal cases involving suspected or accused children, diversion away from judicial proceedings is rarely used.

Legal aid and informal justice systems

People prefer to resolve disputes such as marital or family disputes, child custody issues, and land and property issues through informal justice proceedings, because informal tribunals are more conveniently located, informal proceedings take less time and are more familiar to people, and judges or decision-makers know the parties and therefore can better judge what would be a just outcome.

Legal aid services are very rarely provided in informal justice systems. There is no mechanism that allows for referrals of cases between the formal and informal legal systems.

Quality safeguards

Accountability for the quality of legal aid services

If a person has a right to legal aid, but no legal aid provider is available, the proceedings should cease until a legal aid provider arrives. Similarly, if a legal aid provider is unprepared or unqualified, a replacement legal aid provider is asked to represent the party instead of the assigned provider.

A legal aid provider can refuse to take a case, or ask to be removed from the duty to represent a particular legal aid recipient, due to having too many cases, due to lacking expertise in the law or skills required by the specific case, due to incompatibility with the legal aid recipient, to a conflict of interest with the legal aid recipient, or when s/he feels the pay is too little to justify the time to be spent on the case.

Monitoring and data collection on the quality of legal aid services

The bar association is formally responsible for monitoring the quality of legal aid services, but in practice, monitoring activities are have not yet been firmly established.

There is an acute shortage of data in the justice system. For instance, no data is available on the number of criminal or civil cases filed in court where State-funded legal was provided. Data about children is not recorded separately, and no data is available on case resolution prior to a cases's transfer to court.

Ghana

Sub-Saharan Africa

Ghana

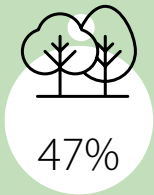
26.79 million



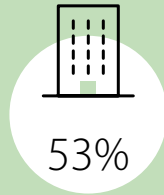
Population



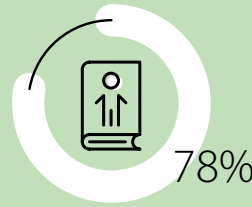
Unitary government system



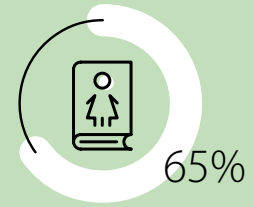
Rural population



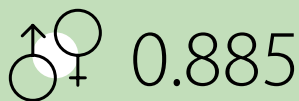
Urban population



Male literacy rate



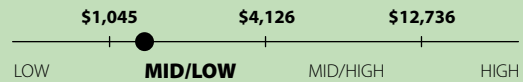
Female literacy rate



Gender Development Index



GNI per capita



0.579

HDI



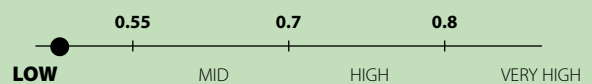
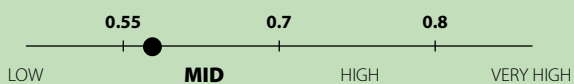
-30%

Loss in HDI due to inequality



0.387

Inequality-adjusted HDI



Legal Aid at a Glance in Ghana



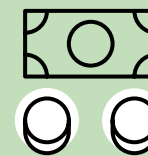
1997

Most recent reform of the legal aid system was carried out in 1997



Never conducted

When was the last assessment of legal aid needs conducted

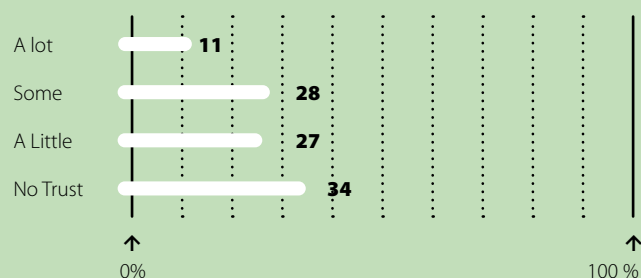


<\$0.02

Annual expenditure on legal aid per capita in 2013

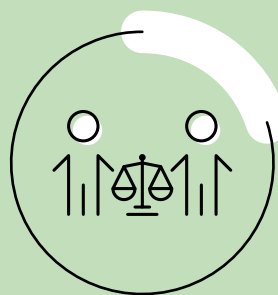
People's trust in courts

Citizen survey, WJP Rule of Law Index 2015



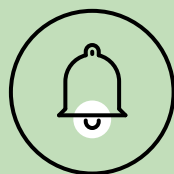
People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015



20%

Sample size: 120



Challenges in accessing legal aid

- Lack of lawyers
- Particularly acute shortage of lawyers outside urban areas
- Low pay of lawyers for legal aid work
- People may not know where to find legal assistance
- Little support among the population for spending public funds to defend accused criminals



Priority areas for support

- ✓ Legislative drafting advice
- ✓ Development of action plans/policies
- ✓ Development of quality criteria for legal aid providers
- ✓ Establishing paralegal systems
- Institutional support
- ✓ Training on provision of specialized legal services to children, refugees, persons with physical and intellectual disabilities.

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Constitution**
- **Separate law on legal aid**
- **Law on judicial procedure**

The right to legal aid was first enacted into law in 1987, and the legal aid system was most recently reformed in 1997 (Legal Aid Scheme Act 542) with strong involvement from civil society.

A further restructuring of the national legal aid system is underway as part of a constitutional review, which would establish an independent constitutional body for legal aid outside the supervision of the Attorney-General.

Services included as part of legal aid

- Legal advice
- Legal representation
- Legal assistance (before national and international tribunals)
- General assistance in navigating the justice system
- Execution of legal documents
- Provision of legal information

Process for obtaining legal aid

Legal aid is provided upon request from the person who wants legal aid. (The determination is automatic if the case or legal aid recipient qualifies for legal aid.)

To receive legal aid, a person must prove eligibility (evidence of low income or proof that the applicant's claim has merit.) Alternatively, an official may determine that the interests of justice require provision of legal aid. No proof is necessary in cases where the State is obliged by law to provide legal aid.

Awareness of the right to legal aid

A public information campaign to raise awareness about the right to legal aid and how to access legal aid services has been conducted at least once over the past year. According to independent national experts, public awareness about legal aid remains limited.

Delivery model

Legal aid authority

The Ministry of Justice has chief responsibility for the management of legal aid.

A Legal Aid Board is appointed by the President of the country, with members of the bar, Supreme Court justices, the Department of Social Welfare, the Attorney-General, the General Legal Council (which oversees the training and licensing of lawyers), the Director of the Ghana School of Law, the Inspector-General of Police, the Accountant-General and the Executive Director of Legal Aid. The President nominates three additional qualified members, including a female lawyer. Members are selected by the organisation they work for, and appointed by the President in accordance with the law.

The Legal Aid Board has not been constituted since 2012.

Organisation of legal aid services

The public defender works in parallel to state-funded private practitioners: it coordinates appointments of private practitioners to legal aid cases; it supervises, coaches or mentors private practitioners; and it conducts or organises training sessions for all providers of legal aid including both staff and private lawyers/paralegals.

While lawyers provide some services *pro bono*, they do so outside the formal legal aid system, mainly as a means to practice and acquire experience and in an effort to prevent injustice.

Mechanism for assigning legal aid providers

The Legal Aid Board maintains a roster of legal aid providers on duty, and individual demanders of legal aid as well as State agencies can contact the board as needed.

Accessing legal aid in urban vs. rural areas

It is very difficult to access legal aid services in rural areas, but efforts are being made to address this issue. Since 2013, the provision of legal aid has been extended beyond the ten regional capital cities to 19 district capitals which are peri-urban.

Service providers

Lawyers and other providers

1/13,778

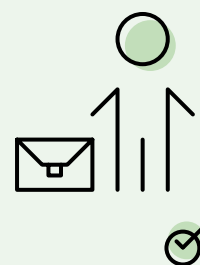
Licensed practicing
lawyers/people



**University-based
law clinics**

1/1,450,000

Full-time
legal aid lawyers/people



Paralegals

Qualifications required

State-funded legal aid providers must provide a proof of passing a professional examination (bar examination), and have completed an apprenticeship or internship with a practicing lawyer. No law requires legal aid providers to engage in continuing education or skills training, and the State does not allocate funds towards this end.

Paralegals must have experience working as legal assistant to lawyers, but do not need formal education training, as long as they have basic training in legal procedures.

Finances

Costs to recipients

Legal aid services for both criminal and civil cases are free of charge to those meeting eligibility criteria. Primary legal aid services are provided free of charge at the office of the public defender, or other state-funded institutional legal aid provider.

Civil society organisations also provide legal advice to people who come to their office.

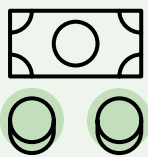
Legal aid in the annual justice budget



36%

Legal aid accounted for 36% of the annual budget for prosecution of criminal cases in 2013

Payments to legal aid providers



\$0.02

Legal aid budget per capita in 2013



125%

Annual legal aid budget increased by 125% from 2010 to 2013

Legal aid is a separate component of the annual justice budget. Meanwhile, the government does not provide separate funding for specialized legal aid services to disadvantaged populations; this is provided for by international donors.

There is a tendency for the State to prioritize allocations of public funds in the justice sector towards the police, prosecutors and judges, over legal aid lawyers.

Legal aid providers work full-time in institutions funded by the State (e.g. public defenders' office) and receive a monthly salary. Others are paid a fixed fee for each case they take.

Provision of legal aid

Legal aid in criminal cases

Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, persons imprisoned on criminal charges, victims of crime, and witnesses.

The State is *obliged* to provide legal aid to children, persons who face the potential of death penalty or life imprisonment, persons earning the minimum daily wage or less — or when the law notes that the interests of justice require it.

Legal aid in criminal cases



10-25%

Proportion of criminal court cases (2013)



43%

People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

At what stage of a criminal case?

Under the law, legal aid should be provided from the moment a law enforcement representative restricts the suspect/defendant's freedom, or from the moment charges are officially filed. (It takes approximately two hours for the provider to appear, once a request is made.) The law also requires that legal aid be provided if an appeal is to be filed.

In practice, however, the police does not always inform the suspect/defendant of his/her right to legal aid nor wait for a legal aid provider to be present before initiating the interview. (It is not prohibited for the police to interview someone as a witness, in the absence of a lawyer.)

In criminal cases, legal aid institutions aim to ensure that the same provider represents the accused/suspect at all stages of the case.

To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that legal aid lawyers are just as likely as private lawyers to perform actions such as 'presenting arguments in favour of a suspect's/defendant's release pre-trial', or 'giving advice to the suspect/defendant in private before any contact with a state justice official'. However, experts find that legal aid lawyers are less likely than private lawyers to 'conduct investigations to establish doubt about the suspect's or defendant's guilt even if s/he may be guilty'.

National experts identify 'a well prepared and/or highly skilled lawyer' and 'hiring a private lawyer' to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

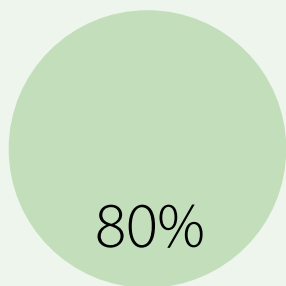
How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015

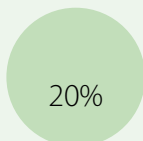


Legal aid in civil cases

Estimated demand for legal aid services in civil cases



From respondents




From complainants


Who is eligible?

Under the law, a person is eligible for legal aid in civil cases if s/he meets a financial threshold (minimum daily wage or less); if the person is a child; when the law notes that the interests of justice require it; when the merit of the parties' claims is established; or when the case relates to the enforcement of constitutional provisions.


5 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available




Child maintenance cases




Property issues



Marital issues



Child custody issues



Labor disputes

For what actions is a party eligible for legal aid?

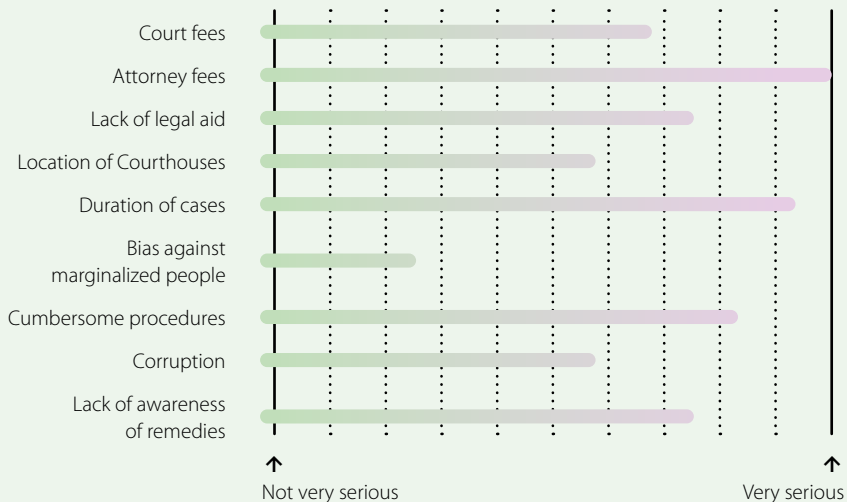
Under the law, primary legal aid is available to all. Legal aid is provided to assist with the drafting and filing of complaints and responses, with gaining access to State services, and with conducting depositions or other official queries. Legal aid is also available for the provision of protective services for victims of violence, for mediation, and throughout the proceedings, from pre-trial hearings to any appeal (including appeals to international tribunals) or cassation.

Public interest litigation / class action cases:

State-funded legal aid is provided for public interest litigation / class action cases (to address cases of discrimination, labour rights, consumer rights, environmental protection, etc.) It is however rare for staff lawyers of the public defender to jointly challenge common violations of national and international due process rights and human rights.

How serious are the following problems in influencing people’s decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

according to national experts, WJP Rule of Law Index 2015



Women’s access to legal aid services

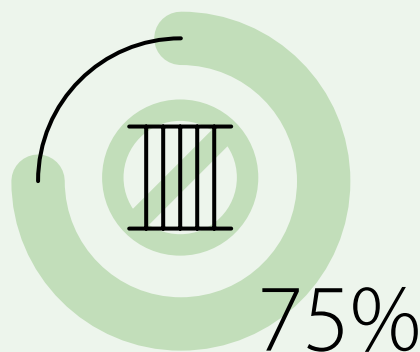
According to national experts, one of the main challenges faced by women in accessing legal aid is the lack of specialized legal aid services for women, and the lack of female legal aid providers. Experts also note that women lack awareness about the availability of legal aid services at little or no cost, and about where to find legal assistance. Many many not understand how legal aid services can help them.

Female victims of violence (including victims of sexual and gender-based violence) receive legal aid services *only when they seek compensation*. They can benefit from court support services such as interpretation and translation of documents *only in some legal proceedings*.

Access to legal aid for children

The public defender does not have specialized providers/units for representing child victims, child witnesses or suspected and accused children.

When representing children, legal aid providers routinely reach out to parents, social workers and other childcare professionals for support to assist the child throughout proceedings.

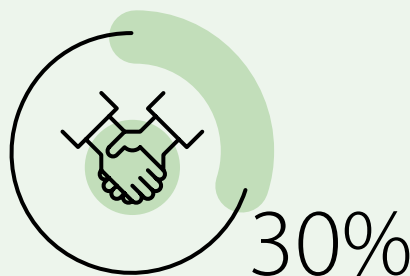


In more than 75% of cases where a child was found culpable, an alternative to imprisonment was imposed (when State-funded legal aid was provided) (2013)

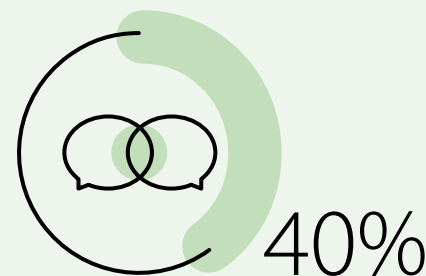
Legal aid and informal justice systems

According to national experts, people prefer to resolve disputes through informal justice proceedings because informal tribunals are more conveniently located, especially for those living in remote areas; informal justice proceedings take less time; people understand better how they work; and they often lead to a negotiated outcome that is acceptable to all parties.

There are mechanisms that allow referrals between the formal and informal justice systems, and legal aid service providers can work across the different systems. A provider supporting informal justice processes requires only basic training on legal matters and in alternative dispute resolution, but s/he must be a reputable member of the community.



Disputes resolved through formal mediation or alternative dispute resolution processes (2013)



Disputes resolved through customary or religious mediation or adjudication processes (2013)

Quality safeguards

Accountability for the quality of legal aid services

If a person has a right to legal aid, but no legal aid provider is available, the proceedings must cease until a legal aid provider arrives — but only *in cases where the person receiving legal aid is involved in a criminal matter for which s/he could suffer death or life imprisonment*.

When a person receives legal aid services from a provider who is unprepared or unqualified, a replacement legal aid provider is asked to represent the party.

A legal aid provider can refuse to take a case or ask to be removed from the duty to represent a particular legal aid recipient due to having too many cases, or lacking expertise in the law or skills required by the specific case, due to incompatibility or conflict of interest with the legal aid recipient, or when they feel the pay is too little to justify the time they spend on it.

Monitoring and data collection on the quality of legal aid services

The quality of legal aid service is monitored by the Legal Aid Board, which reviews complaints by legal aid recipients lodged with the Legal Aid Board.

There is an acute lack of data across the system. For instance, data about children is not recorded separately, and no data is available on the resolution of cases prior to their transfer to court (e.g. for cases diverted from the formal justice system without trial, through mediation, warning or apology).

Kenya

Sub-Saharan Africa

Kenya

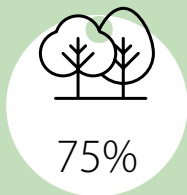
44.86 million



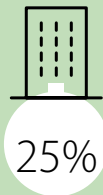
Population



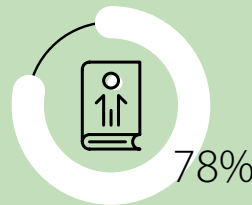
Unitary government system



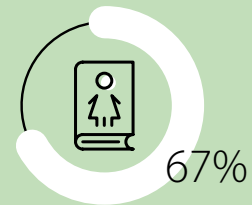
Rural population



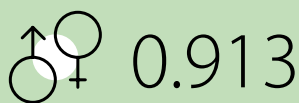
Urban population



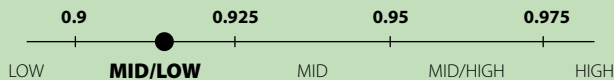
Male literacy rate



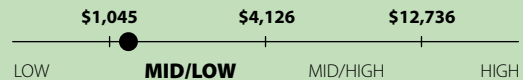
Female literacy rate



Gender Development Index



GNI per capita



0.548

HDI



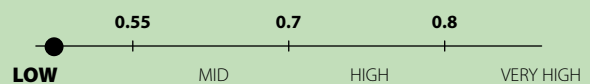
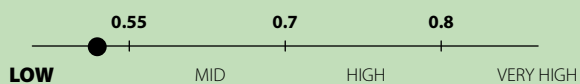
-31.3%

Loss in HDI due to inequality



0.377

Inequality-adjusted HDI



Legal Aid at a Glance in Kenya



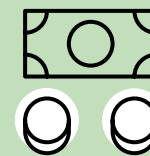
2016

The most recent reform of the legal aid system took place in April 2016, when the President of Kenya signed the Legal Aid Act 2016



2016

An assessment of legal aid needs is planned to be conducted in 2016, as per the 2013-17 Strategic Plan of the Office of the Attorney General and Department of Justice

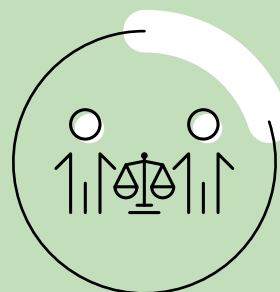
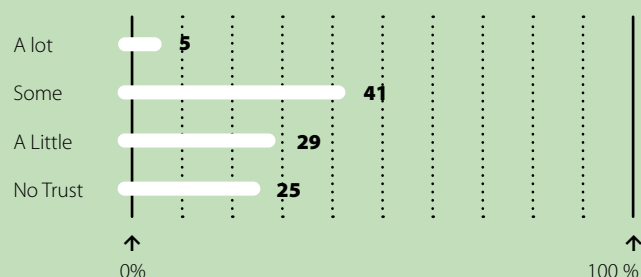


N/A

Annual expenditure on legal aid per capita in 2013

People's trust in courts

Citizen survey, WJP Rule of Law Index 2015

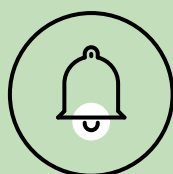


People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015

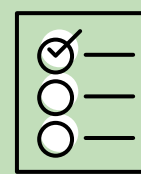
20%

Sample size: 179



Challenges in accessing legal aid

- Shortage of lawyers in the country, especially outside urban areas
- People sometimes prefer to resolve issues through the informal justice system, where legal professionals do not typically participate
- Lack of legal empowerment and awareness among citizens, especially amongst vulnerable and marginalized segments of the population. For instance, people often do not know where to find legal assistance.
- Inadequate funding for the legal aid sector
- Low public confidence in some justice sector institutions, such as the police and the prosecution



Priority areas for support

- Legislative drafting advice
- ✓ Development of action plans/policies
- ✓ Development of quality criteria for legal aid providers
- ✓ Establishing paralegal systems
- ✓ Institutional support
- ✓ Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **The Constitution**
- **A separate law on legal aid**
- **Law on judicial procedure**
- **Law on the judiciary**
- **Civil procedure code**
- **Criminal procedure law**
- **Implementing regulations for the law on legal aid**

The right to legal aid was first recognized for capital offences (e.g. murder) under the Constitution of 1963, and was reaffirmed in the new Constitution of Kenya in 2010. On 22 April 2016, the President of Kenya signed the Legal Aid Act 2016, which establishes a legal and institutional framework for a national legal aid scheme in Kenya. Regulations on implementation are under development and thus, some aspects of the new legal aid system remain unspecified.

State-funded legal aid is available at national and county levels, specifically in Kisumu, Eldoret, Nakuru, Mombasa and Isiolo counties.

Services included as part of legal aid

In both criminal and civil cases, legal aid is provided in the form of legal advice, legal assistance in courts, provision of legal information and training of indigents for self-representation in courts. Legal aid lawyers also provide general assistance in navigating the justice system.

In both criminal and civil cases, specialized legal aid services are provided to persons with disabilities, children, refugees, asylum seekers, stateless persons, and internally displaced persons.

Process for obtaining legal aid

Legal aid is provided upon request from the person who wants legal aid, or upon request from a legal aid provider. In both criminal and civil cases, a person must prove his/her eligibility by providing evidence of low income (if employed), and/or membership of a protected group. In certain cases, it is necessary for the agency responsible for the appointment of legal aid lawyers to determine that the interests of justice require the provision of legal aid in the given specific case. No proof is necessary in cases where the State is obliged to provide legal aid under the law, such as for persons charged with murder.

Awareness of the right to legal aid

Public information campaigns to raise awareness about the right to legal aid and how to access legal aid services have been conducted regularly by the judiciary and the National Legal Aid and Awareness Programme (NALEAP) over the past few years.

Delivery model

Legal aid authority

The institution which will have chief responsibility for the management and administration of legal aid will be determined once the Legal Aid Bill of 2015 receives Presidential assent.

This being said, the Legal Aid Bill foresees that a Legal Aid Board would be established, composed of a chairperson appointed by the President, a judge of the High Court nominated by the Chief Justice, the Principal Secretary in the Ministry with responsibility for matters relating to legal aid, the Principal Secretary in the Ministry with responsibility for matters relating to finance, and other members, as specified in the Legal Aid Bill. Members of the Legal Aid Board are to be appointed by the Cabinet Secretary.

Organisation of legal aid services

Kenya has a State-funded legal aid scheme, the National Legal Aid and Awareness Programme (NALEAP), which was established in 2008 as a pilot project by the Ministry of Justice to enhance access to justice for the poor and marginalised groups. This program organises the provision of legal aid services mainly through *pro bono* schemes and through the Kenyan National Commission on Human Rights, which provides legal aid to persons alleging violation of their human rights and fundamental freedoms.

Lawyers who provide legal aid *pro bono* under the auspices of bar association (the Law Society of Kenya) earn a point in continuous legal education (CLE). Lawyers are required to have five points under CLE in order to be eligible for renewal of their annual practicing certificates.

Mechanism for assigning legal aid providers

According to the Legal Aid Bill 2015, State agencies are mandated to contact the Legal Aid Board (not yet established, but foreseen by the Bill), which will maintain a duty roster of qualified legal aid providers.

Currently, in cases of the Pauper Brief Scheme for the most financially deprived litigants, the registrar of the High Court has a database of lawyers who are available to provide *pro bono* services. In other cases which warrant legal aid, the courts may assign an advocate in court to take up a case on a *pro bono* basis.

Accessing legal aid in urban vs. rural areas

Legal aid services are available in rural areas. For instance the National Legal Aid and Awareness Programme (NALEAP) has field offices in Kisumu, Eldoret, Nakuru, Mombasa and Isiolo counties, and the Kenyan National Commission on Human Rights, which provides legal aid in cases of alleged human rights violations, has field offices in Kisumu, Mombasa and Isiolo. Other legal aid providers are mostly concentrated in urban areas.

Service providers

Lawyers and other providers

1/6,322

Licensed practicing
lawyers/people

N/A

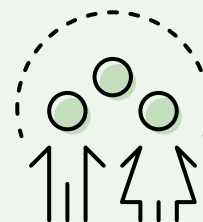
Full-time
legal aid lawyers/people



University-based law clinics



Paralegals



Civil society organisations

Non-state legal aid providers include organisations such as the Federation of Women Lawyers in Kenya, which provides legal aid to indigent women, the CRADLE, which assists children, the International Justice Mission, which assists offenders, and the Legal Resources Foundation, which assists remandees.

Qualifications required

Regulations to set qualifications for legal aid providers will be developed once the Legal Aid Bill receives Presidential assent.

Although qualification requirements for paralegals depend on the type of case, in general, paralegals are required to complete a professional paralegal training course conducted by civil society organisations such as Legal Resources Foundations. The Legal Aid Bill will provide criteria for the accreditation of paralegals.

The Legal Aid Bill will also establish mechanisms for continuous education of legal aid providers.

Paralegals

Grassroots Legal Advocates, Namati 2016

Are community paralegals recognized by law?

Yes. The recently adopted Legal Aid Act, 2015 explicitly recognizes paralegals. Under the Act, the National Legal Aid Service shall develop programs for the training and certification of paralegals, in consultation with the Council for Legal Education. Section 2 of the Act defines an “accredited paralegal” as “a person accredited by the Service to provide paralegal services under the supervision of an advocate.” It also states that a “paralegal” means a person employed by the Service or an accredited legal aid provider who has completed a training course in the relevant field of study in an institution approved by the Council of Legal Education.”

Does any public revenue fund paralegals?

No, public revenue is not currently funding paralegals. However, the Legal Aid Act, 2015 leaves open the possibility that paralegals would be able to receive public funding through the newly created Legal Aid Fund.

Can paralegals engage in litigation (with or without the help of lawyers)?

No, paralegals cannot engage directly in litigation with or without the help of lawyers. Paralegals are, however, able to participate in several other steps of the litigation process leading up to the time that a case is presented to the court, such as providing legal advice and preparing documents relevant to litigation.

Are there boards that monitor community paralegals?

Yes, the National Legal Aid Service serves as a primary monitoring body for paralegals and legal aid providers, and the Council of Legal Education provides additional oversight in the areas of education and training. Furthermore, the NLAS and the Council of Legal Education joint develop programs for legal aid education and the training and certification of paralegals.

Finances

Costs to recipients

Primary legal aid services are free of charge and available at the offices of NALEAP and civil society organisations, as well as at legal advice centres in cities and towns.

The Judiciary, together with the Law Society of Kenya, hold a Legal Aid Week during which the public can seek legal advice on specific cases.

In criminal cases, the State covers all costs of legal aid services to those meeting eligibility criteria. In civil cases, a legal aid recipient may be requested to pay a percentage of the cost, as established by law, including, *inter alia*, court filing fees, unless the court allows the case to be filed under the *pauper* scheme for the most financially deprived.

Legal aid in the annual justice budget



Legal aid budget per capita in 2013

Legal aid is not a separate component in the annual justice budget.

Payments to legal aid providers

In criminal cases, legal aid providers either receive a fixed fee for each case or work full-time in institutions funded by the State, such as NALEAP and the National Human Rights Commission.

The government has approved a token payment for *pro bono* lawyers, payable upon completion of a case.

Provision of legal aid

Legal aid in criminal cases



23%

People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, and persons imprisoned on criminal charges.

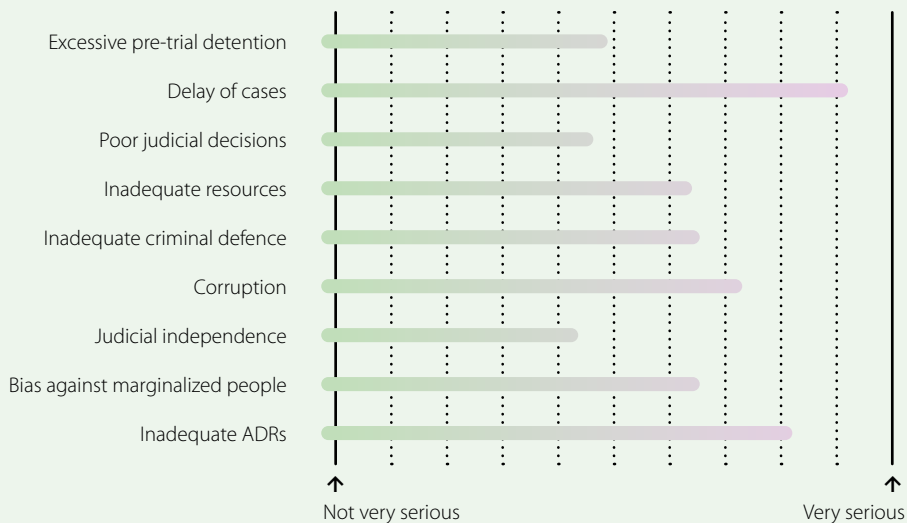
The State is *obliged* to provide legal aid when it is required by the interests of justice or due to the case’s gravity, complexity, or case type, as identified in the law, such as cases involving children or cases where an accused person has been charged with murder.

At what stage of a criminal case?

Under the law, legal aid is provided from the moment a law enforcement representative restricts the suspects/defendant’s freedom, as well as during trial.

How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015

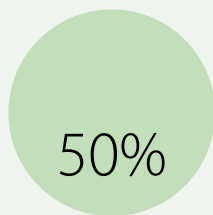


Legal aid in civil cases

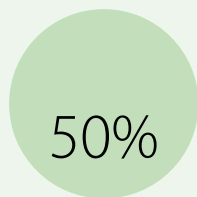
Who is eligible?

Legal aid in civil cases is available to indigent persons, children, persons with physical and mental disabilities, internally displaced persons, and refugees. Legal aid is also provided when it is required by the interests of justice or due to the case’s gravity, complexity, or case type, as identified in the law, provided that the claim has merit.

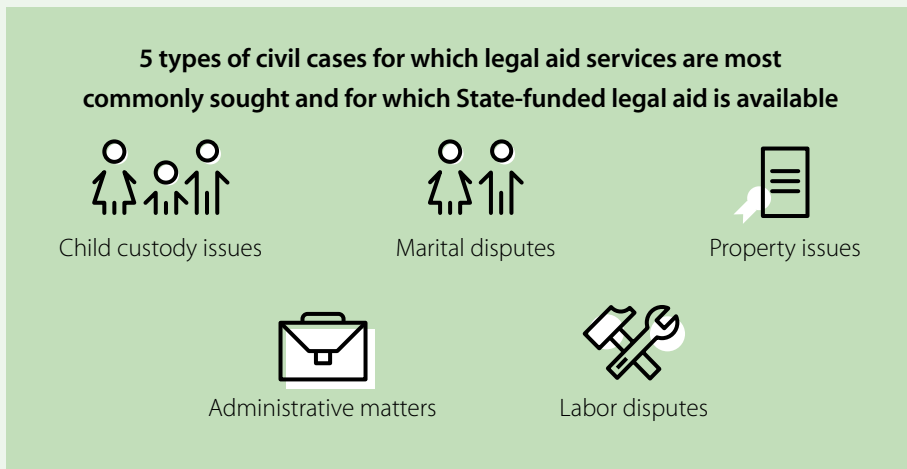
Estimated demand for legal aid services in civil cases



From respondents



From complainants

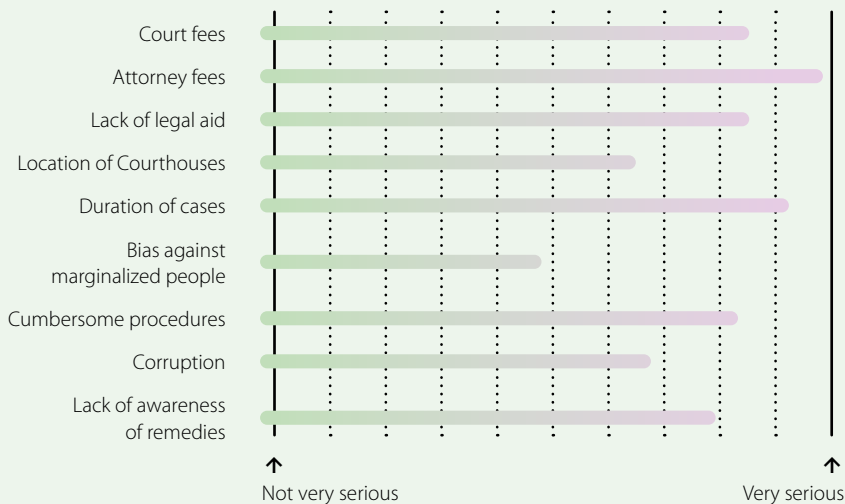


Public interest litigation / class action cases:

Legal aid for public interest litigation and class action cases is expected to be provided under the Legal Aid Bill of 2015.

How serious are the following problems in influencing people’s decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

according to national experts, WJP Rule of Law Index 2015



Women’s access to legal aid services

NALEAP and a number of civil society organisations provide legal aid female victims of violence (including victims of sexual and gender based violence). Such assistance, however, is not available countrywide.

Access to legal aid for children

The justice system has specialized courts, judicial officers and police units for children who are suspected or charged with a criminal offence. Furthermore, NALEAP and a number of civil society organisations provide legal aid to child offenders.

Legal aid and informal justice systems

Informal justice mechanisms allow a lawyer to provide assistance in formal mediation/alternative dispute resolution processes, and there are fledging mechanisms that allow cases to be referred between the formal and informal justice systems. Legal aid service providers can work across different systems.

Regulations to set qualifications for legal aid providers to support formal mediation/alternative dispute resolution processes will be developed once the Legal Aid Bill receives Presidential assent.

Quality safeguards

Accountability for the quality of legal aid services

The Legal Aid Bill of 2015 requires the courts to bring to the attention of the proposed Legal Aid Board all litigants/cases that require legal aid. It also obligates the courts and any justice institution (including the police, prisons, etc.) to inform persons in their lawful custody of the availability of legal aid services, and to record the responses of the litigant.

There are currently no means of assessing if a legal aid provider is unprepared or unqualified. However, such mechanisms are expected to be established as part of regulations under the Legal Aid Bill.

Monitoring and data collection on the quality of legal aid services

The quality of legal aid services will be monitored by the soon-to-be established Legal Aid Board, the Ministry of Justice, and a peer review team established by the legal aid authority or the bar association.

The data for monitoring the quality of legal aid services will be collected by reviewing complaints from legal aid recipients about a legal aid provider's actions, and by monitoring services provided in court.

There is an acute lack of data across the system. For instance, no data is available on the number of criminal or civil cases filed in court where State-funded legal aid was provided. Data about children is not recorded separately, and no data is available on case resolution prior to a cases' transfer to court.

Mauritania

Sub-Saharan Africa

Mauritania

3.97 million



Population



Unitary government system



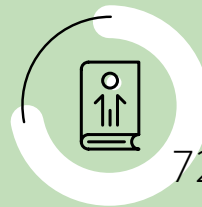
41%

Rural population



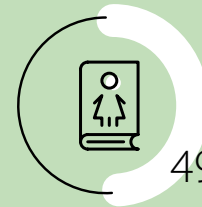
59%

Urban population



72%

Male literacy rate



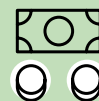
49%

Female literacy rate



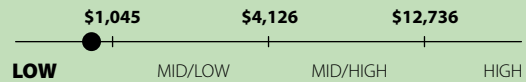
0.816

Gender Development Index



\$1,270

GNI per capita



0.506

HDI



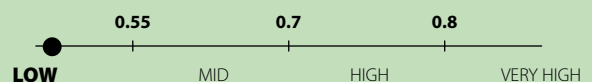
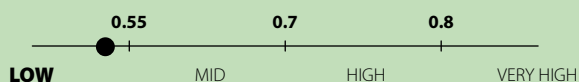
-33.4%

Loss in HDI due to inequality



0.337

Inequality-adjusted HDI



Legal Aid at a Glance in Mauritania



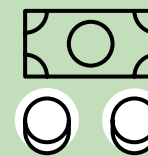
2006

Most recent reform of the legal aid system carried out in 2006



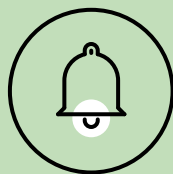
Never conducted

When was the last assessment of legal aid needs conducted



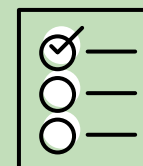
N/A

Annual expenditure on legal aid per capita in 2013



Challenges in accessing legal aid

- Limited number of lawyers in the country, especially outside urban areas
- Lawyers are paid very little for legal aid work
- People do not know where to find legal assistance
- People tend to prefer to resolve issues through the informal justice system or outside the court system, where legal aid has no role



Priority areas for support

- Legislative drafting advice
- ✓ Development of action plans/policies
- ✓ Development of quality criteria for legal aid providers
- ✓ Establishing paralegal systems
- Institutional support
- Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- [Separate law on legal aid](#)
- [Law on the judiciary](#)

The right to legal aid was first recognized by law in 1966, and the legal aid system was most recently reformed in 2006.

Services included as part of legal aid

Under the law, services included as part of “legal aid” include legal advice and legal representation in front of a prosecutor, court or tribunal, in both criminal and civil cases.

Specialized legal aid services are provided by the State for specific population groups, including children, women and migrants.

Process for obtaining legal aid

Legal aid is provided upon request from the person who wants legal aid. To receive legal aid, a person must prove eligibility by showing evidence of low income.

Awareness of the right to legal aid

The State has not yet conducted any public information campaign to raise awareness about the right to legal aid and how to access legal aid services, but non-state actors have done so in recent years.

Delivery model

Legal aid authority

A legal aid board, which falls under the authority of the Ministry of Justice, has chief responsibility for the management of legal aid.

A Legal Aid Board is appointed by the Executive and the bar association, with members of the bar, representatives of the judiciary (other than the Supreme Court) and the Ministry of Justice, officials specializing on legal aid, members of the national human rights institution and the child protection commission, and representatives of civil society organisations.

Organisation of legal aid services

Legal aid services are provided through public defender institutions.

Mechanism for assigning legal aid providers

Courts contact the public defender, which coordinates appointments and delivery of legal aid services.

Accessing legal aid in urban vs. rural areas

Legal aid services are not available in rural areas.

Service providers**Lawyers and other providers**

1/14,702

Licensed practicing
lawyers/people



None 
**University-based
law clinics**

N/A

Full-time
legal aid lawyers/people



Paralegals
Are allowed to provide legal advice and legal information in police precincts, or prisons, in both civil and criminal cases.

Qualifications required

Lawyers who work as State-funded legal aid providers must be members in the national bar.

Legal aid providers are required by law to engage in continuing education or skills training.

Finances

Costs to recipients

Legal aid services for both criminal and civil cases are free of charge to those meeting eligibility criteria. Primary legal aid services are available free of charge at the office of the public defender.

Legal aid in the annual justice budget

Legal aid is not a separate component of the annual justice budget.

Payments to legal aid providers

Legal aid providers receive a fixed fee for each case.

Provision of legal aid

Legal aid in criminal cases



< 10%

Proportion of criminal court cases (2013)

Legal aid in civil cases

Estimated demand for legal aid services in civil cases

1%

From respondents

99%

From complainants

Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges.

The State is *obliged* to provide legal aid to persons who meet a financial threshold and to children.

At what stage of a criminal case?

Under the law, legal aid should be provided from the moment charges are officially filed.

Who is eligible?

Under the law, a person is eligible for legal aid in civil cases if s/he meets a financial threshold.

3 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available



Marital disputes



Child custody issues



Tort claims

Public interest litigation / class action cases:

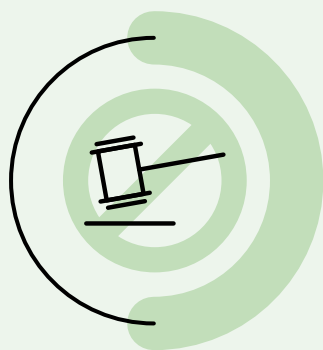
State-funded legal aid is not provided for public interest litigation and class action cases (to address cases of discrimination, labour rights, consumer rights, environmental protection, etc.)

Women's access to legal aid services

Female victims of violence (including victims of sexual and gender-based violence) do not receive legal aid services in all legal proceedings. They also do not have access to court support services, such as interpretation and translation of documents.

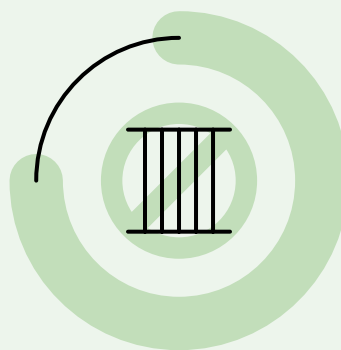
Access to legal aid for children

The justice system has specialized providers/units for representing child victims, child witnesses or suspected and accused children, including specialized courts and judges, specialized prosecutors, specialized police officers/units, and specialized lawyers and paralegals. Diversion away from judicial proceedings is usually used in criminal cases involving suspected or accused children.



>50%

More than 50% of cases of children suspected or charged with a criminal offence are diverted from the formal justice system without trial (2013)



50-75%

In 2013, an alternative to imprisonment was imposed in 50-75% of cases where a child was found culpable



50-75%

In 2013, when State-funded legal aid was provided, that proportion stayed the same (50-75%)

Legal aid and informal justice systems

Informal justice mechanisms do allow for a lawyer or paralegal to represent parties or provide advice in customary or religious mediation/adjudication processes. Furthermore, there are mechanisms that allow referrals between the formal and informal justice systems, and legal aid providers can work across different systems.

Providers of legal aid assistance in formal mediation and alternative dispute resolution processes must have a law degree and a paralegal certificate; those assisting customary or religious mediation/adjudication processes must be reputable members of the community.

Quality safeguards

Accountability for the quality of legal aid services

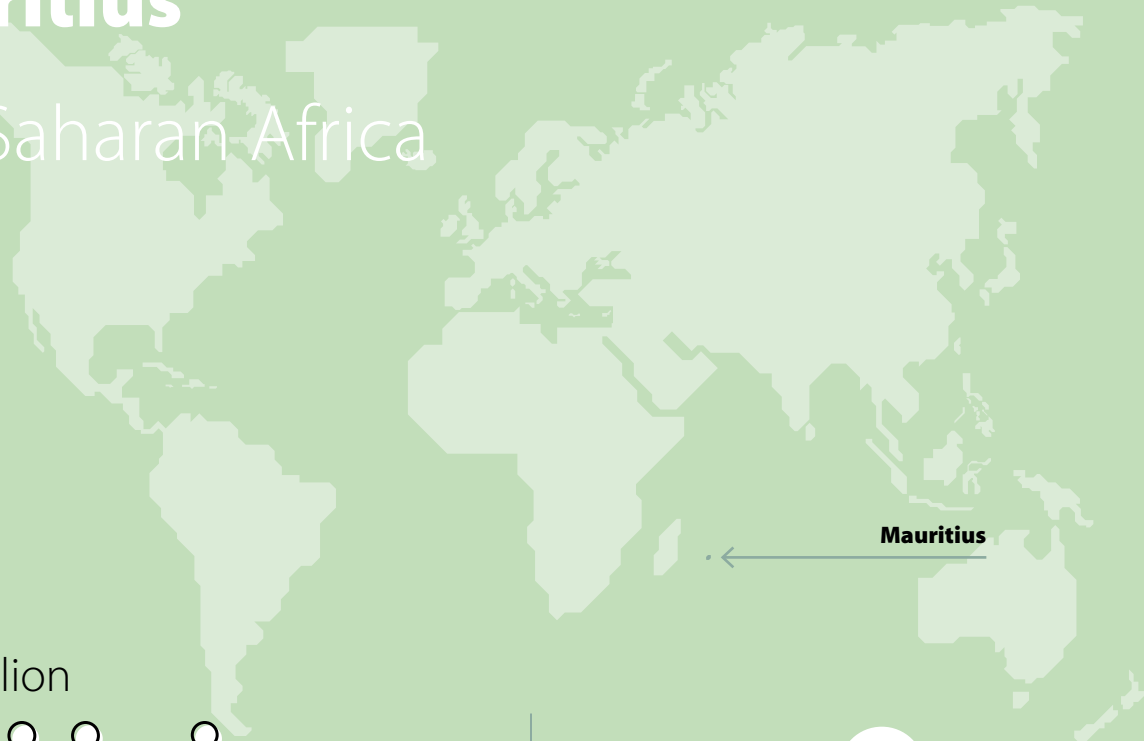
If a person has a right to legal aid, but no legal aid provider is available, the proceedings must cease until a legal aid provider arrives. If a legal aid provider is unprepared or unqualified, a replacement provider is asked to represent the party instead of the assigned provider.

Monitoring and data collection on the quality of legal aid services

The legal aid board is responsible monitoring the quality of legal aid services; data is collected through assessments performed by justice actors (police, prosecutors, judges).

Mauritius

Sub-Saharan Africa



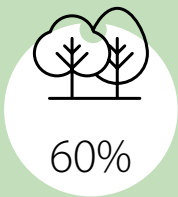
1.261 million



Population

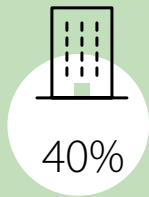


Unitary government system



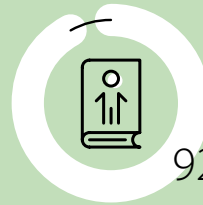
60%

Rural population



40%

Urban population



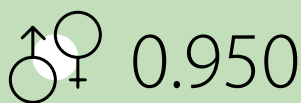
92%

Male literacy rate



87%

Female literacy rate



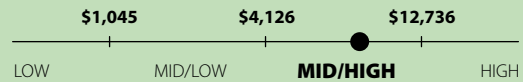
0.950

Gender Development Index



\$9,630

GNI per capita



0.777

HDI



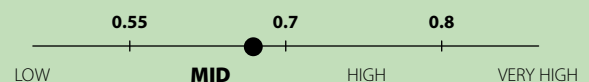
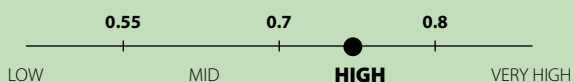
-14.2%

Loss in HDI due to inequality



0.666

Inequality-adjusted HDI



Legal Aid at a Glance in Mauritius



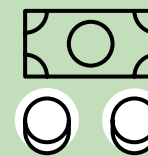
2012

The latest reform of the legal aid system took place in 2012



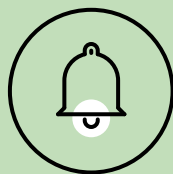
Within the past 5 years

When was the last assessment of legal aid needs conducted



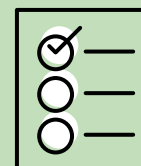
\$0.26

Annual expenditure
on legal aid per capita in 2013



Challenges in accessing legal aid

- Low pay of lawyers for legal aid work
- People may lack confidence in the quality of legal aid services
- People may not know where to find legal assistance and may not be aware that legal aid services are available at little or no cost
- General perception that legal aid lawyers are more loyal to state agencies than to legal aid recipients
- Little support among the population for spending public funds to defend accused criminals



Priority areas for support

- ✓ Legislative drafting advice
- ✓ Development of action plans/policies
- ✓ Development of quality criteria for legal aid providers
- ✓ Establishing paralegal systems
- ✓ Institutional support
- ✓ Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **The Constitution**
- **A separate law on legal aid**
- **Implementing regulations for the law on legal aid**
- **Criminal procedure law**

Legal Aid was first recognized by the Legal Aid and Legal Assistance Act (formerly called the Legal Aid Act) of 1974.

The latest reform of the legal aid system took place in 2012, when the Parliament adopted the Legal Aid (Amendment) Act which introduced provision of legal assistance during police enquiry and bail application for offences.

State-funded legal aid is available at national and local levels.

Services included as part of legal aid

For both civil and criminal cases, legal aid is provided in the form of legal representation (in courts) and legal assistance (before national tribunals). In criminal cases, legal aid providers also supply legal information.

Specialized legal aid services are not provided by the State to disadvantaged population groups.

Process for obtaining legal aid

Legal aid is provided upon request from the person who wants legal aid. The court presiding over a case must also inquire and assess eligibility during the first appearance of the parties.

Section 4(b) of the Legal Aid and Legal Assistance Act states that in both criminal and civil cases, a person must prove her/his eligibility by providing a sworn statement on low income. The person seeking legal aid services must also satisfy the merits test.

Awareness of the right to legal aid

A public information campaign to raise awareness about the right to legal aid and how to access legal aid services was conducted by the State in the past year, and provided specific contact details of relevant offices to go to for legal assistance.

Independent national experts estimate that the general population is 'somewhat knowledgeable' about legal aid services.

Delivery model

Legal aid authority

The chief responsibility for the management and administration of legal aid rests with the Supreme Court, the Intermediate Court, the Industrial Court and the District Court. These courts are responsible for overseeing and coordinating the legal aid appointment mechanisms, for establishing the national legal aid strategy and policy, and for maintaining performance standards.

Organisation of legal aid services

In criminal cases, applications for legal aid services must be filed with a Magistrate, the Chief Justice or a designated judge. Some legal aid lawyers provide assistance in the form of pro bono services, which is a condition for membership in the bar association. It is also regarded as a means for lawyers to practice and acquire experience.

Mechanism for assigning legal aid providers

Magistrates, Chief Justices or designated judges verify that applications for legal aid are well founded, in which case they assign a barrister or attorney to the applicant.

Accessing legal aid in urban vs. rural areas

Legal aid services are available in both rural and urban areas. The quality of legal aid services depends on each individual legal aid provider.

Service providers

Lawyers and other providers

1/2,212

Licensed practicing
lawyers/people



**University-based
law clinics**

N/A

Full-time
legal aid lawyers/people



Not applicable ○

Paralegals
Are not allowed to provide legal aid

Qualifications required

Legal aid providers must show proof of passing a professional examination (bar examination). They must also be members of the bar and have completed an internship with a practicing lawyer.

The requirement to undergo periodic skills training and periodic testing is imposed by the bar association on its members, and by the State on all legal aid providers. However, the State does not allot funds towards such continuing education / training.

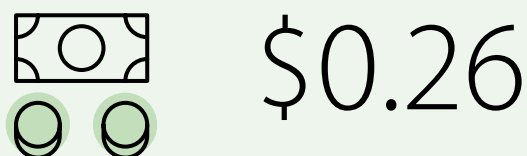
Finances

Costs to recipients

Primary legal aid services free of charge are available at the offices of civil society organisations.

The State covers all legal aid costs in criminal and civil cases to those meeting eligibility criteria.

Legal aid in the annual justice budget



Legal aid budget per capita in 2013

Legal aid is a separate component in the annual justice system budget. The budget for legal aid is determined by the Parliament, the Ministry of Justice and the judiciary. The bar association, full-time legal aid providers, and *ex officio* appointed lawyers also participate in budgetary decisions.

Specialized legal aid services for disadvantaged populations are funded by the State with substantial contribution from private actors.

Additional services, such as independent investigation, experts, clerical assistance etc., are not covered by the State.



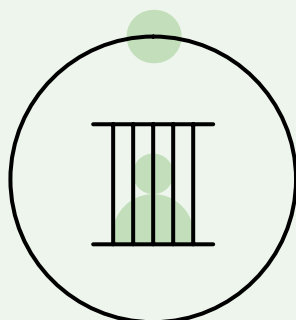
The annual legal aid budget for criminal and civil cases increased by 300% from 2010 to 2013

Payments to legal aid providers

In both criminal and civil cases, legal aid providers receive a fixed fee for each case.

Provision of legal aid

Legal aid in criminal cases



0.01%

In 2013, State-funded legal aid was provided in 0.01% of criminal cases

6.5

In 2013, the number of criminal cases filed in court was roughly 6.5 times higher than the number of civil/administrative cases

Who is eligible?

Under the law, legal aid is available to persons arrested and detained on criminal charges, persons charged with a criminal offence, and persons imprisoned on criminal charges.

At what stage of a criminal case?

Under the law, qualified legal assistance may be requested from the moment a State agency begins consideration of whether to impose pre-trial detention, or at least from the moment charges are officially filed. It is also provided during trial and for a first appeal. It is not prohibited by law for police to interview a person in the absence of a lawyer.

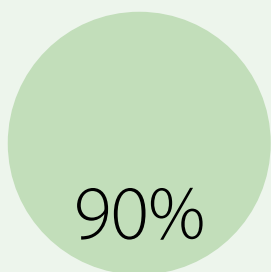
To what extent are legal aid services in criminal cases seen as effective?

Comparing the services of legal aid providers to services of private lawyers, independent national experts estimate that legal aid providers are less likely than private lawyers to conduct investigation to establish doubt about the suspect's/defendant's guilt even if this person may be guilty, to communicate with the defendant's family about the case when requested by the defendant, or to prepare written motions and requests of the court, police or prosecution.

Furthermore, experts identify 'a well-prepared and/or highly skilled lawyer', 'the judge's objective analysis of evidence and testimony', and 'the strength of the evidence' to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

Legal aid in civil cases

Estimated demand for legal aid services in civil cases



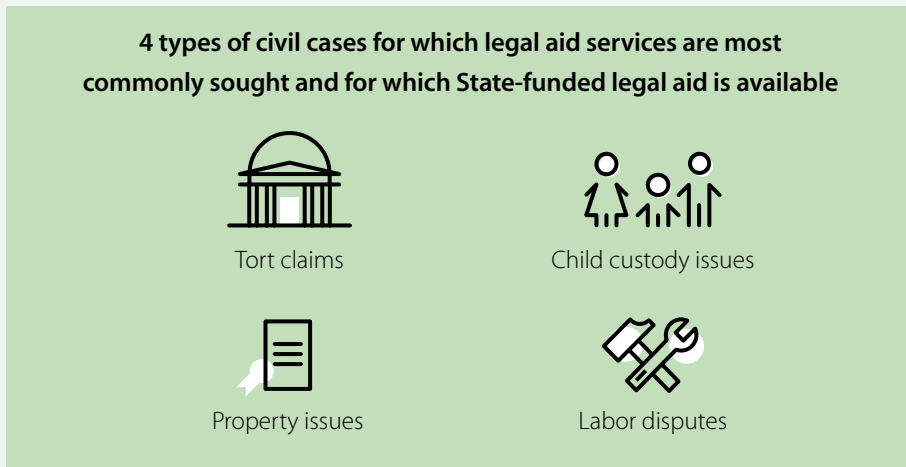
From respondents



From complainants

Who is eligible?

Legal aid in civil cases is available to persons who meet a financial threshold, provided that a case satisfies a merit test.



Legal aid services are also sought for marital disputes, although legal aid is not available for these cases.

For what actions is a party eligible for legal aid?

Further to the provision of primary legal aid, more specific legal aid can be offered to assist with drafting and filing complaints and responses, protecting victims of violence, and conducting depositions or other official queries. Legal aid can also be provided throughout pre-trial hearings and during trial.

Public interest litigation / class action cases:

State-funded legal aid is provided for public interest litigation / class action cases (e.g. to address cases of discrimination, labor rights, consumer rights, etc.), but independent national experts are of the view that there is little public demand for legal aid to be provided in such cases.



In 2013, State-funded legal aid was provided in roughly 11.5% of all civil/administrative cases filed in court

Women's access to legal aid services

Even though there are no specialized legal aid services for women generally, female victims of violence (including victims of sexual and gender-based violence) receive legal aid services and court support services (such as interpretation and translation of documents) in all legal proceedings.

According to national experts, an important challenge faced by women in accessing legal aid concern means tests for eligibility to legal aid, which often consider overall household income rather than the women's income specifically, which tends to be considerably lower. Experts also note that women may find it difficult to confide in a (mostly male) legal aid provider and share intimate information related to a case. A general lack of awareness about legal aid services is also identified as a challenge: women may not know where to find legal assistance, or may be unaware that legal aid services are available at little or no cost.

Access to legal aid for children

There is no specialized division or personnel in the justice system to work with child victims, child witnesses, or suspected and accused children.

When representing children, legal aid providers often reach out to parents, psychologists and other childcare professionals for support to assist the child throughout proceedings.

According to national experts, there is no noticeable difference regarding the use of diversion and the use of alternatives to pre-trial detention and to imprisonment in cases where children are represented by legal aid providers and in cases where they are represented by private lawyers. However, national experts observe that legal aid providers specialized in children's rights perform better on this front than non-specialized legal aid lawyers.

Legal aid and informal justice systems

Informal justice proceedings are mainly used to resolve disputes related to marital or family issues, informal contracts, and labor agreements.

National experts explain that people prefer to resolve disputes through informal justice proceedings because they take less time and because of a general perception that they often lead to a negotiated outcome that is acceptable to all parties.

Informal justice mechanisms allow a lawyer to provide assistance in formal mediation/alternative dispute resolution processes, and there are mechanisms that allow for cases to be referred between the formal and informal justice systems.

Quality safeguards

Accountability for the quality of legal aid services

If a person has a right to legal aid, but no legal aid provider is available, or the provider is unprepared or unqualified, the proceedings must cease until a qualified legal aid provider arrives. This can sometimes be problematic as there are no formal means of assessing a legal aid provider's qualifications or level of preparedness.

A legal aid provider can refuse to take a case or ask to be removed from the duty to represent a particular legal aid due to a conflict of interest with the legal aid recipient.

Monitoring and data collection on the quality of legal aid services

The quality of legal aid services is monitored by the judiciary. Data is mainly collected by reviewing complaints by legal aid recipients about a legal aid provider's actions.

There are still considerable data gaps in the justice system. For instance, no data is available on case resolution prior to a case's transfer to court.

South Africa

Sub-Saharan Africa



South Africa

54 million



Population



Unitary government system



36%

Rural population



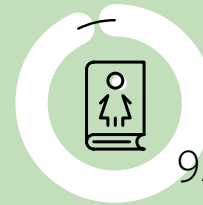
64%

Urban population



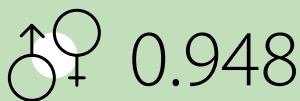
95%

Male literacy rate



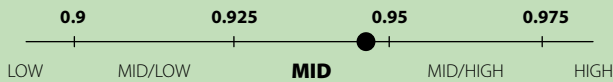
93%

Female literacy rate



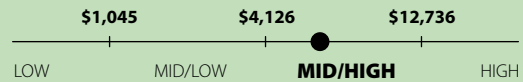
0.948

Gender Development Index



\$6,800

GNI per capita



0.666

HDI



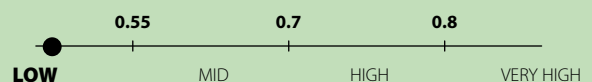
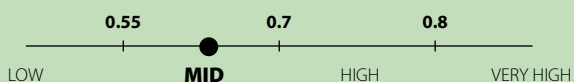
-35.7%

Loss in HDI due to inequality



0.428

Inequality-adjusted HDI



Legal Aid at a Glance in South Africa



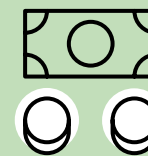
Early 2000s

The latest reform of the legal aid system was carried out in the early 2000s



Within the past 5 years

When was the last assessment of legal aid needs conducted

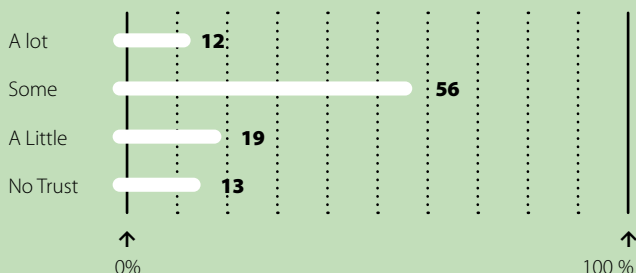


\$1.87

Annual expenditure
on legal aid per capita in 2013

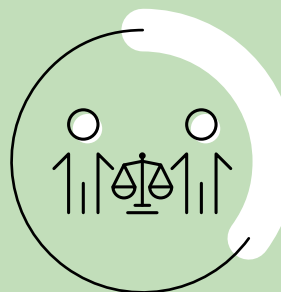
People's trust in courts

Citizen survey, WJP Rule of Law Index 2015



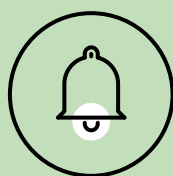
People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015



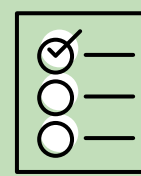
35%

Sample size: 54



Challenges in accessing legal aid

- Shortage of lawyers, especially outside urban areas, and little pay for legal aid work
- The bar association is opposed to allowing paralegals to fill the gap of available lawyers
- General perception that it is more important to cover the cost of police, prosecutors and judges than to spend public funds on lawyers
- Little support among the population for spending public funds to defend accused criminals
- People sometimes lack confidence in the quality of legal aid services and may not understand how legal aid services can help them



Priority areas for support

- Legislative drafting advice
- Development of action plans/policies
- ✓ Development of quality criteria for legal aid providers
- ✓ Establishing paralegal systems
- Institutional support
- Training
- ✓ Non-governmental providers of legal aid require support to comply with the governance requirements for accessing State funding

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **The Constitution**
- **A separate law on legal aid**
- **Criminal procedure law**
- **Labour Relations Act 66 of 1995**
- **Prevention of Illegal Eviction from Unlawful Occupation Act 19 of 1998**
- **Mental Health Care Act 17 of 2002**
- **Restitution of Land Rights Act 22 of 1994**
- **Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000**
- **Refugees Act 130 of 1998**
- **Children's Act 38 of 2005**

Services included as part of legal aid

The right to legal aid was first recognized in 1970.

A substantial reform of the legal aid system took place in the early 2000s, to reform the court-appointed lawyer model in place since 1969 (where legal aid services were delivered by private lawyers) into a public defender scheme. The Ministry of Justice, the courts, the legislative branch and civil society associations played an instrumental role in introducing this reform.

State-funded legal aid is available at national, regional and local levels.

For both civil and criminal cases, legal aid is provided in the form of legal advice and information, legal representation (before a court), legal assistance and general assistance with navigating the justice system.

Specialized legal aid services for disadvantaged population groups are provided by both State-funded legal aid institutions and civil society organisations, specifically for persons with disabilities, children, women, the elderly, migrants, refugees, asylum seekers or stateless persons, internally displaced persons, indigenous populations, ethnic or religious minorities, and LGBT.

Process for obtaining legal aid

The process for obtaining legal aid is generally initiated upon request from the person who wants legal aid, but in civil cases, an assessment of merit is also required. The determination is automatic if the case or legal aid recipient qualifies for legal aid services, or if the gravity or complexity of the matter justifies the provision of legal assistance.

To prove eligibility to receive legal aid in both criminal and civil cases, applicants must provide evidence either of low income or of their status as recipients of welfare; alternatively, they can give their word that they meet financial or vulnerability criteria. In civil cases specifically, a person might also have to provide evidence of South African citizenship.

In both civil and criminal cases, a court can order that legal aid be provided if it is initially refused.

Awareness of the right to legal aid

A public information campaign to raise awareness about the right to legal aid and how to access legal aid services was conducted by the State at least once in the past year, and included contact details of offices providing legal aid services. Independent national experts estimate that the general population is ‘somewhat knowledgeable’ about legal aid services.

Delivery model

Legal aid authority

An independent self-governing legal aid board (“Legal Aid South Africa”) has the chief responsibility for the management of legal aid.

The Board includes members of the bar as well as representatives of the judiciary, the Ministry of Justice, civil society organisations, universities with law clinics and paralegal associations. The law requires that certain qualifications be represented amongst board members. Members are appointed by the Executive after a competitive selection process.

Organisation of legal aid services

Legal aid services in criminal and civil cases are organised through the independent legal aid board, Legal Aid South Africa, which delivers legal aid through the operation of 64 justice centers and 64 satellite offices across the country. The Board works in parallel to State-funded private practitioners (rural law firms, public interest law firms, university law clinics and paralegal advice offices) which take assignments from Legal Aid South Africa, in exchange for remuneration by the State.

The majority of legal aid providers (including paralegals) are full-time salaried employees of the legal aid administration. Private practitioners are used only when a justice center cannot handle a case because of a conflict of interest or lack of capacity, or if there is no justice center in the location of the client.

Provision of *pro bono* legal services is regarded as a means to practice and acquire experience, and is set as a condition for membership in the bar. Private law firms have also made it a requirement.

Mechanism for assigning legal aid providers

To request the services of a legal aid provider, the courts and/or the police contact legal aid lawyers in the order listed on a duty roster (computerized appointment system) maintained by the legal aid administration. Legal aid providers can also be found on duty in certain courts and police precincts.

Accessing legal aid in urban vs. rural areas

Legal aid services are available in rural areas, but national independent experts note that the quality of legal services tends to be higher in urban areas where legal aid providers have more independence to challenge actions of other justice actors.

Service providers

Lawyers and other providers

1/2,700

Licensed practicing
lawyers/people



University-based law clinics

Are allowed to provide primary legal aid, conduct mediation and assist with the preparation of legal documents, provided students are supervised by a faculty member or practicing lawyer. All law graduates in South Africa must undertake an internship to assist the legal aid board before admission to practice.

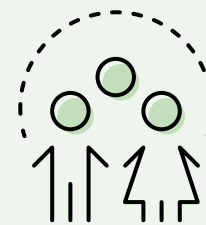
1/120,000

Full-time
legal aid lawyers/people



1/15,428

Paralegals/people



Civil society organisations

Qualifications required

Legal aid providers must have a law degree, show proof of passing a professional examination (bar examination), have completed an internship with a practicing lawyer, and be successfully interviewed by Legal Aid South Africa. They must also be members of the national bar and have a contractual relationship with Legal Aid South Africa.

Paralegals must also undergo an interview with Legal Aid South Africa, with whom they must have a contractual relationship.

While legal aid providers are not required by law to engage in continuing education or skills training, several such opportunities are continuously offered to them. Specialized training is nonetheless required to qualify for legal aid work with children.

Paralegals

Grassroots Legal Advocates, Namati 2016

Are community paralegals recognized by law?

No State recognition of paralegals yet, but the Association of Community-based Advice Offices of South Africa (ACAOSA) has commissioned the Legal Resource Centre to draft a regulatory framework and the first draft will be presented for consideration to Parliament in May 2016, with support from Legal Aid South Africa.

Does any public revenue fund paralegals?

Not at the national level, although Community Advice Offices (CAOs) where paralegals work do sometimes receive funding from certain government departments at the local and provincial levels.

Can paralegals engage in litigation (with or without the help of lawyers)?

By law, no; but in practice, yes. Currently, paralegals can be included in cooperation agreements with Legal Aid South Africa. They are allowed to provide legal advice and general assistance in navigating the justice system in both criminal and civil cases.

Are there boards that monitor community paralegals?

Yes, CAOs have a board or management committee whose functions also include ensuring that community-based paralegals working at the CAO provide quality and responsible advice.

Finances

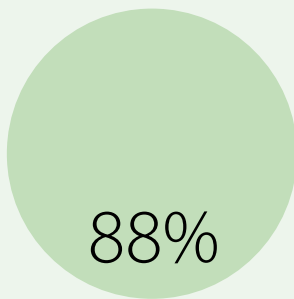
Costs to recipients

Primary legal aid services are available free of charge at the office of the public defender or by other State-funded institutional legal aid providers. Civil society organisations also provide free legal advice to people who come to their offices, and Legal Aid South Africa provides free legal advice through a national toll-free Legal Aid Advice Line — a dedicated call centre service providing telephonic advice to clients.

Beyond primary legal aid, other legal aid services are free of charge to those meeting eligibility criteria. The State covers all legal aid costs in civil cases. In criminal matters, when an applicant's financial means exceeds the means test, a financial contribution can be levied.

Legal aid applicants who find themselves on the borderline of affordability also have opportunities to get assistance, notably through a contribution scheme where a legal aid recipient can make a contribution towards legal costs in a way that is proportional to the applicant's means.

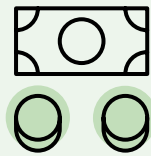
Legal aid in the annual justice budget



Legal aid budget allocated to **criminal cases**



Legal aid budget allocated to **civil cases**



\$1.87

Legal aid budget per capita in 2013



16%

The legal aid budget increased by 16% from 2013 to 2015

Legal aid is a separate component of the annual justice budget. The budget for legal aid is determined by the parliament and Legal Aid South Africa, in close consultation with the bar association.

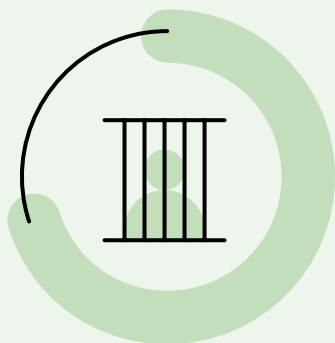
The State provides separate funding to cover the cost of specialized legal aid services provided to specific disadvantaged groups, as well as the cost of independent forensic experts.

Payments to legal aid providers

In criminal and civil cases, legal aid providers work full-time in institutions funded by the State and have to submit reports on the hours they spend on a legal aid case. Legal Aid South Africa specifies set rates in both criminal and civil matters for defined categories of work. In criminal cases only, providers sign contracts with Legal Aid South Africa and receive payment for a set number of cases. Legal Aid South Africa is in charge of disbursing payment to legal aid providers.

Provision of legal aid

Legal aid in criminal cases



50-70%

Criminal court cases (2013)

6.8

In 2013, the number of criminal cases filed in court was 6.8 times the number of civil cases

Who is eligible?

In criminal cases, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, persons imprisoned on criminal charges and victims of crime.

The State is *obliged* to provide legal aid to persons who meet a financial threshold, children, persons with intellectual/mental disabilities, persons who face a potential prison sentence, and when the law notes that the interests of justice require it, in view of the case's gravity or complexity.

At what stage of a criminal case?

Under the law, legal aid should be provided from the moment a State agency begins consideration of whether to impose pre-trial detention or restrictive measures, or at least from the moment a law enforcement official restricts the suspect's/defendant's freedom. Legal aid services are also made available during the trial.

It is not prohibited by law for the police to interview someone in the absence of a lawyer when the person is interviewed as a witness, but it is prohibited from the moment the person is officially suspected or accused. A person is nonetheless free to agree to be interviewed without a lawyer.

The police sometimes questions a person without explaining his/her constitutional right to a lawyer; statements made in such circumstances will however be excluded by the courts.



59%

People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

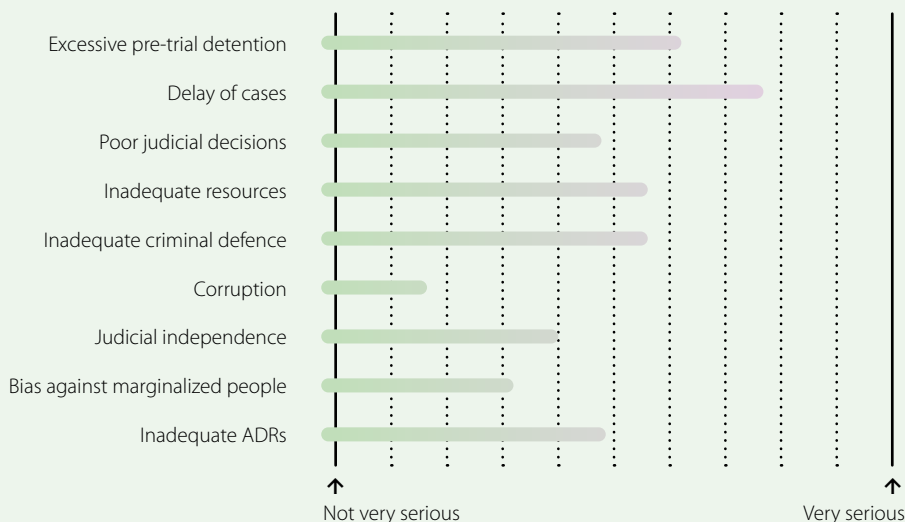
To what extent are legal aid services in criminal cases seen as effective?

Independent national experts identify ‘hiring a private lawyer’, ‘the judge’s objective analysis of evidence and testimony’ and ‘availability of an independent expert testimony’ to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

Independent national experts are of the view that the quality of services provided by legal aid lawyers, when compared with services provided by private lawyers, is more or less the same. However, legal aid providers are found to perform less well when it comes to conducting investigation to establish doubt about the suspect’s/defendant’s guilt even if the defendant may be guilty.

How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015

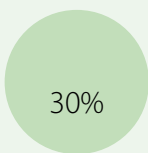


Legal aid in civil cases

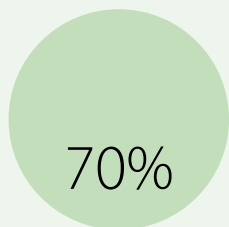
Who is eligible?

Legal aid in civil cases is available to persons meeting a financial threshold, children, persons with intellectual/mental disabilities, refugees, and when the law notes that the interests of justice require it, in view of the case’s gravity or complexity.

Estimated demand for legal aid services in civil cases




From respondents




From complainants


5 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available




Marital issues



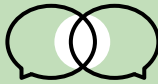
Child custody issues



Property issues



Labor disputes



Contractual disputes

For what actions is a party eligible for legal aid?

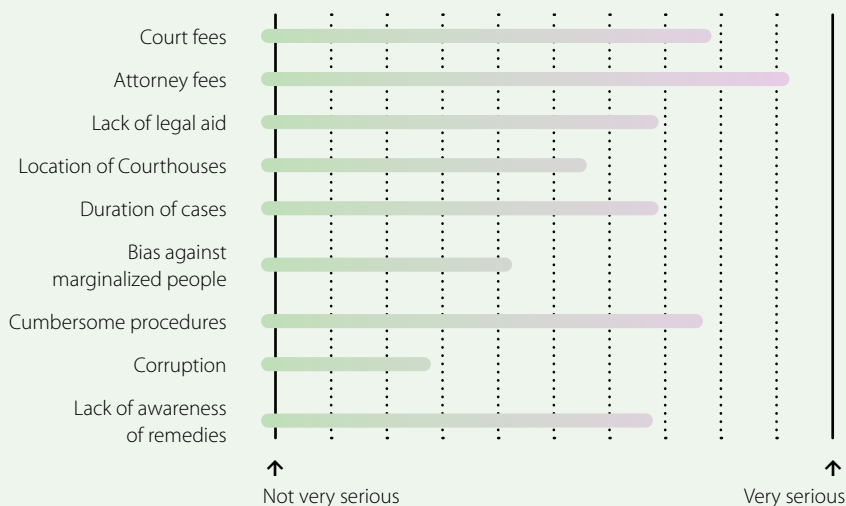
Further to the provision of primary legal aid, more specific legal aid can be offered to assist with the drafting or filing of a complaint or a response, to gain access to State services, to provide victims of violence with protective services, to conduct depositions or other official queries, and to negotiate between parties. Legal aid can also be provided throughout proceedings.

Public interest litigation / class action cases:

National experts estimate that there is public demand for public interest litigation and class action cases to address discrimination, labour rights, consumer rights, environmental protection and health. State-funded legal aid is provided for such initiatives. Furthermore, staff lawyers coordinate to uniformly challenge common violations of national and international due process rights and human rights.

How serious are the following problems in influencing people’s decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

according to national experts, WJP Rule of Law Index 2015



Women's access to legal aid services

According to national experts, women often do not understand how legal aid services can help them, or may not know where to find legal assistance. In addition, some women prefer not to seek out legal assistance as they see court processes as too time-consuming, and therefore prefer to resolve issues through the informal justice system or outside the court system, where legal aid has no role. A lack of confidence in the quality of legal aid and lack of information on the services provided are other factors identified by national experts as impeding women's access to legal aid.

Female victims of violence (including victims of sexual and gender-based violence) receive legal aid services in all legal proceedings, as well as court support services, such as interpretation and translation of documents.

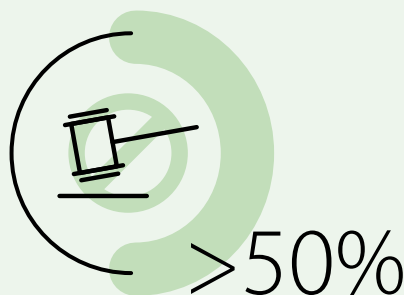
Access to legal aid for children

The justice system has specialized courts, judges, prosecutors and lawyers/paralegals specifically dedicated to handling cases involving child victims (especially for cases of sexual abuses), child witnesses, and suspected or accused children.

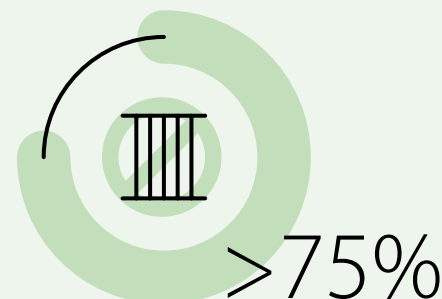
When representing children, legal aid providers often reach out to parents, social workers and other childcare professionals for support to assist the child throughout proceedings.

When comparing criminal cases where children are represented by legal aid providers specialized in children's rights, and cases where children are represented by non-specialized legal aid providers, independent national experts observe that the use of imprisonment is less frequent when children are represented by legal aid lawyers who are specialized in children's rights.

In criminal cases where legal aid is provided to children, legal aid lawyers are required by the legal framework and implement in practice a wide range of child-friendly actions, such as preventing disclosure of information about pending charges to the child's school, community or media; ensuring comfortable, child-friendly surroundings for any meetings with state justice officials; and ensuring that any child held in custody is separated from adult detainees.



Cases where children are suspected or charged with a criminal offence diverted from the formal justice system without trial (e.g. through mediation, a warning, or an apology)



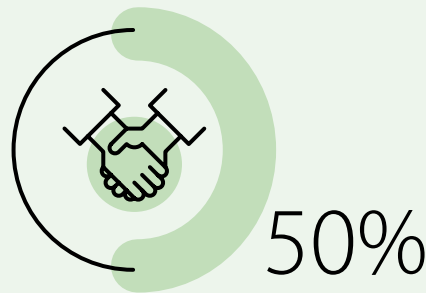
In more than 75% of cases where a child was found culpable, an alternative to imprisonment was imposed

Legal aid and informal justice systems

Informal justice proceedings typically handle disputes related to marriage or family, child custody, land and property, inheritance, informal contracts and labor agreements, and minor criminal cases. According to national experts, people prefer to resolve disputes through informal justice mechanisms because they take less time, and informal tribunals are more conveniently located, especially for those living in remote areas. Experts add that people understand better how informal proceedings work, and they are more confident that they will lead to a negotiated outcome that is acceptable to all parties.

Informal justice mechanisms allow for a lawyer to provide assistance in formal mediation and alternative dispute resolution processes, and there is a mechanism that allows cases to be referred between the formal and informal justice systems. Legal aid service providers can work across the different systems.

Legal aid providers supporting informal justice proceedings require a law degree. To support formal mediation, legal aid providers also require a mediation training certificate. To support customary or religious mediation, legal aid providers must have some basic training on legal matters, and they need to be reputable members of the community.



Disputes resolved through formal mediation or alternative dispute resolution processes



Disputes resolved through customary mediation or adjudication processes

Quality safeguards

Accountability for the quality of legal aid services

Legal aid providers are obliged to adhere to specific quality and performance standards and to ethical rules established by the bar association.

If a person has a right to legal aid, but no legal aid provider is available, or the provider is unprepared or unqualified, the proceedings must cease until a qualified legal aid provider arrives. If a party is denied access to legal aid, s/he has a right to appeal that decision; if a party is provided with poor representation, conviction may be set aside on appeal.

A legal aid provider can refuse to take a case, or ask to be removed from the duty to represent a particular legal aid recipient, due to lacking expertise in the law or skills required by the specific case, or due to incompatibility or conflict of interest with the legal aid recipient.

In criminal cases, legal aid institutions aim to ensure that the same provider represents the accused/suspect at all stages of the case.

Monitoring and data collection on the quality of legal aid services

Formal responsibility for monitoring the quality of legal aid services rests with Legal Aid South Africa and a peer review team organised by the legal aid authority and/or the bar association.

Data for monitoring the quality of legal aid services is collected through assessments by justice actors, through a review of complaints by legal aid recipients, through satisfaction surveys by legal aid recipients, and through the monitoring of services provided in court. In addition, Legal Aid South Africa has its own quality management and assessment programme.

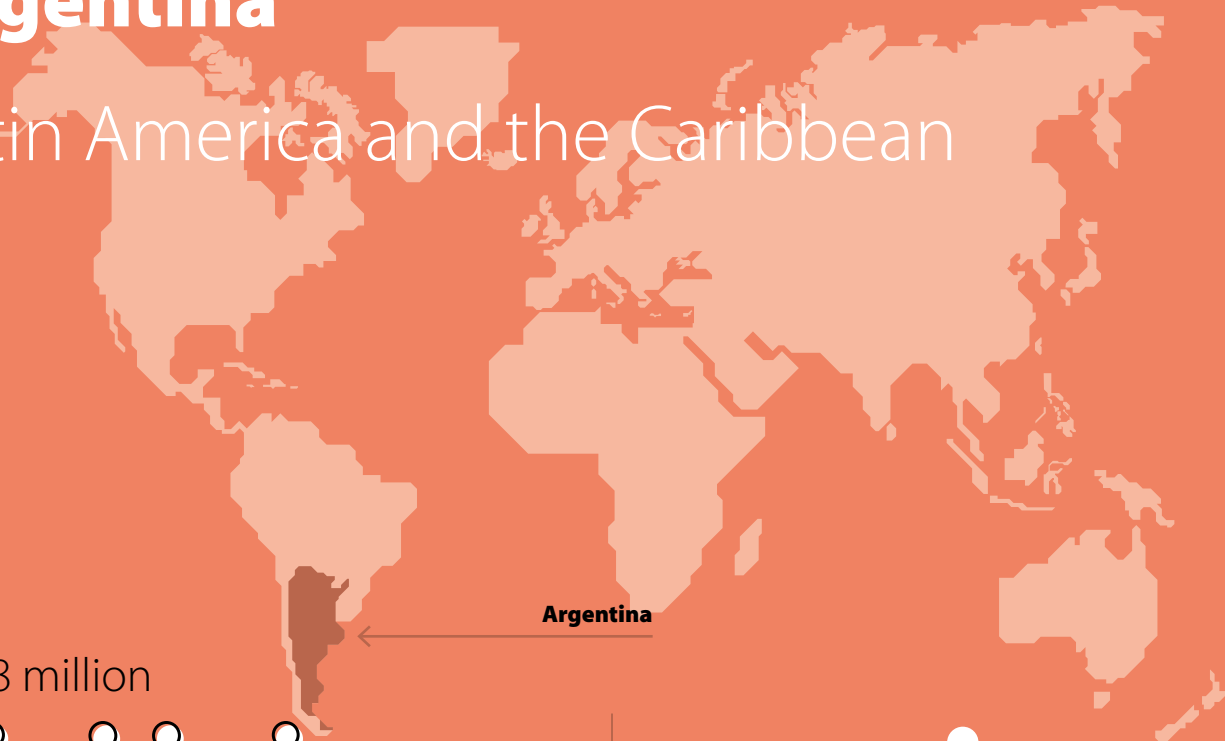
Latin America & the Caribbean



Argentina	178
Brazil	189
Dominican Republic	200
Ecuador	210
Guatemala	221
Haiti	231
Mexico	240
Paraguay	250

Argentina

Latin America and the Caribbean



Argentina

42.98 million



Population

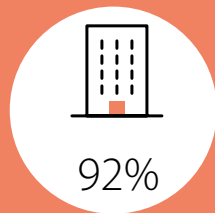


Federal government system



8%

Rural population



Urban population



Male literacy rate



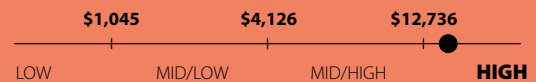
Female literacy rate



Gender Development Index



GNI per capita



0.836

HDI



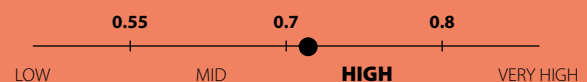
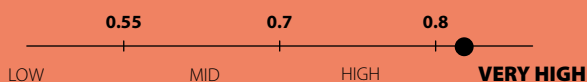
-15%

Loss in HDI due to inequality



0.711

Inequality-adjusted HDI



Legal Aid at a Glance in Argentina



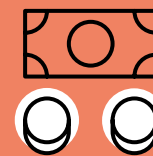
2010

Most recent reform of the legal aid system in 2010



Within the past 5 years

When was the last assessment of legal aid needs conducted

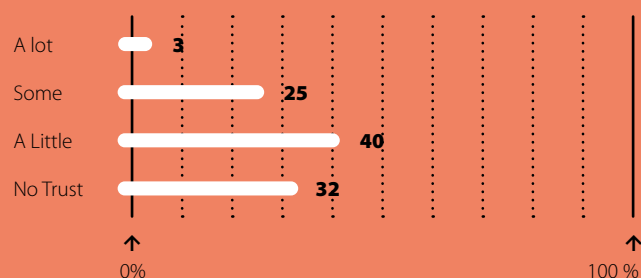


\$17.22

Annual expenditure on legal aid per capita in 2013

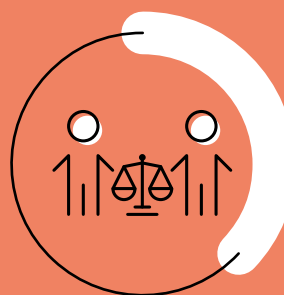
People's trust in courts

Citizen survey, WJP Rule of Law Index 2015



People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015



32%

Sample size: 66



Challenges in accessing legal aid

- Limited number of lawyers outside urban areas (and people living outside urban centres lack financial resources and time to travel to courts situated in urban areas)
- People lack awareness about where to find legal assistance
- People may not know that legal aid services are available at little or no cost
- People may not understand how legal aid services can help them



Priority areas for support

- Legislative drafting advice
- ✓ Development of action plans/policies
- Development of quality criteria for legal aid providers
- ✓ Establishing paralegal systems
- ✓ Institutional support
- ✓ Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **The Constitution**
- **A separate law on legal aid**
- **Law on judicial procedure**
- **Law on the prosecution**
- **Civil procedure code**
- **Administrative law**
- **Law on pre-trial detention**
- **Law on the penitentiary**
- **Criminal procedure law**
- **Implementing regulations for the law on legal aid**

Services included as part of legal aid

Process for obtaining legal aid

The right to legal aid was first recognized in 1886.

The National Constitution was reformed in 1994 and added a specific article (120) which recognizes the Federal Public Defender's Office (*Ministerio Público de la Defensa*) as an autonomous institution headed by the Federal Public Defender General.

The latest substantial reform of the legal aid system took place over the past three years. The Federal Public Defender's Office and the parliament played an instrumental role in this reform.

State-funded legal aid is available at national, regional and local levels.

Legal aid is mainly provided in the form of legal advice, legal representation and legal assistance (before tribunals). Legal aid providers also provide general assistance in navigating the justice system, and in executing legal documents.

Specialized legal aid services are provided by the State for specific population groups, including persons with disabilities, children, women, the elderly, migrants, refugees, internally displaced persons, indigenous populations, ethnic or religious minorities, LGBTs, prisoners, victims of institutional violence and victims of human trafficking.

Dedicated commissions have been established to facilitate the work of public defenders with vulnerable groups, such as the 'commission on prisons' and the 'commission on gender issues'. Some pilot programmes have also been tested to enhance access to legal aid by disadvantaged population groups, such as a program aimed at providing legal aid to women in prison.

Legal aid is provided upon request from the person who wants legal aid. The court presiding over a case must also assess eligibility during the first appearance of the parties, but the determination is automatic if the case or legal aid recipient qualifies for legal aid services.

In criminal cases, no proof of eligibility is necessary as the State is obliged to provide legal aid under the law. In civil cases, a person must prove eligibility by proving that s/he meets a financial threshold or a set of 'vulnerability' criteria, such as being a member of a protected group (e.g. migrants, children, displaced persons, refugees, etc.). No proof is necessary in cases where the State is obliged to provide legal aid under the law.

Awareness of the right to legal aid

The State has carried out public information campaigns to raise awareness about the right to legal aid and how to access legal aid services in 2014-15, which provided the contact details of relevant offices. Independent national experts estimate that the general population is 'somewhat knowledgeable' about legal aid services.

Delivery model

Legal aid authority

The Federal Public Defender's Office has chief responsibility for the management of legal aid. It assumes primary responsibility for designing and implementing policies aimed at facilitating access to legal aid by vulnerable groups.

The Federal Public Defender's Office also plays a pivotal role in assigning legal aid providers across the country.

Organisation of legal aid services

State-funded legal aid services for both criminal and civil cases are organised mainly through the Public Defender's Office, the bar association and panel appointments. Other non-governmental actors also provide legal aid services.

Mechanism for assigning legal aid providers

The courts and the police have a roster of legal aid providers on duty for a given day, and call them in the given order. There are also legal aid providers on duty in courts and police precincts.

Accessing legal aid in urban vs. rural areas

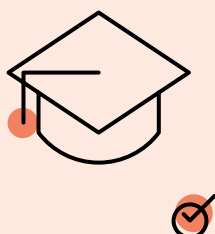
State-funded legal aid services are available in rural areas, but the quality of legal services tends to be higher in urban areas.

Service providers

Lawyers and other providers

N/A

Licensed practicing
lawyers/people



University-based law clinics

Students mainly support the preparation of legal documents

N/A

Full-time
legal aid lawyers/people



Paralegals

Qualifications required

State-funded legal aid providers must have a law degree and be successfully interviewed by the Public Defender's Office. Legal aid providers must also be in a contractual relationship with that Office.

To be accepted as a staff member of the Public Defender's Office, candidates must pass a very difficult test, which has both a written and an oral components. Lawyers who get the highest scores on this test must then be officially approved by the Senate. Non-staff members of the Public Defender's Office must also pass a test.

Legal aid providers need to undergo specialized training to qualify for the provision of assistance to disadvantaged population groups.

Paralegals have to comply with the same requirements as for lawyers, except that in terms of academic qualifications, they require a professional paralegal training course accredited by the State,

Legal aid providers are required by law to engage in continuing education or skills training. Staff of the Public Defender are required to take a number of mandatory courses and are offered a range of voluntary courses; the State does allot funds to cover such training.

Paralegals

Grassroots Legal Advocates, Namati 2016

Are community paralegals recognized by law?

No. But while the legal profession (in Argentina as in most Latin American countries) does not recognize or authorize community paralegals, many legal activists, law students, unions and civil society organisations are engaged in legal aid activities, particularly in vulnerable urban areas where community leaders educate communities about the law and help them organise for collective action. Under the law, only legal interns (enrolled in a law degree and supervised by a licensed attorney) are allowed to provide legal advice without holding a valid law degree.

Does any public revenue fund paralegals?

No. Since paralegals are not recognized by the State, no public funding is available.

Can paralegals engage in litigation (with or without the help of lawyers)?

No. Paralegals are only allowed to provide legal advice, legal information in police precincts or prisons, and general assistance in navigating the justice system.

Are there boards that monitor community paralegals?

No, except that legal interns are monitored by their educational institutions.

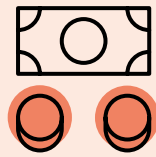
Finances

Costs to recipients

Primary legal aid services are provided for free at the office of the Public Defender or other State-funded institutions, through the bar association, which maintains a roster of qualified lawyers available to provide legal advice, and through other non-state actors.

Legal aid services are free of charge to those meeting eligibility criteria. Nevertheless, it is required by law that convicted persons assisted by a public defender who have the financial means to cover legal aid fees should pay these fees, as determined by the court. These funds are in turn used in equal parts for the training of judges and judicial officials, and for replenishing the Special Fund of Social Assistance to suspects/defendants in need of legal aid.

Legal aid in the annual justice budget

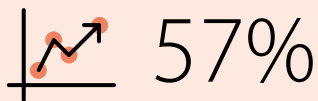


\$17.22

Legal aid budget per capita in 2013

Legal aid is a separate component of the annual justice budget. The national budget for legal aid is determined by the parliament and the Ministry of Justice. The Public Defender General submits a budget proposal to parliament every year.

Separate funding is provided by the State for specialized legal aid services targeted at disadvantaged populations. The State also covers the costs of additional services such as independent investigation, experts, psychological or social work support, etc.



Annual legal aid budget increased by 57% from 2010 to 2013

Payments to legal aid providers

Most of legal aid providers work full-time in public defender's offices. Others work for private law firms that have a contractual agreement with the bar association or the independent legal aid board.

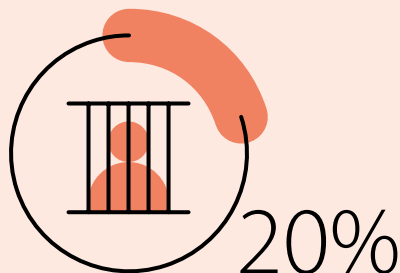
Provision of legal aid

Legal aid in criminal cases

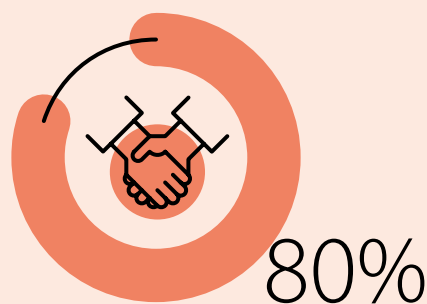
Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, persons imprisoned on criminal charges, victims of crime and witnesses.

The State is *obliged* to provide legal aid in all criminal cases where the accused asks for legal assistance, regardless of the expected sentence.



In 2013, pre-trial detention was imposed in close to 20% of criminal cases which received State-funded legal aid



In 2013, approximately 80% of criminal court cases where State-funded legal aid was provided were resolved pursuant to a plea agreement, procedural agreement or expedited trial



People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

At what stage of a criminal case?

Under the law, legal aid should be provided from the moment a person is suspected or accused of a crime, and throughout the proceedings (it takes approximately six hours for a lawyer to appear after notice is given that legal aid is needed in criminal cases).

It is prohibited by law for the police to interview someone in the absence of a lawyer, unless the person is interviewed as a witness. In rare occasions, it may happen that the police determines the person to have a right to legal aid only after the witness has incriminated him/herself.

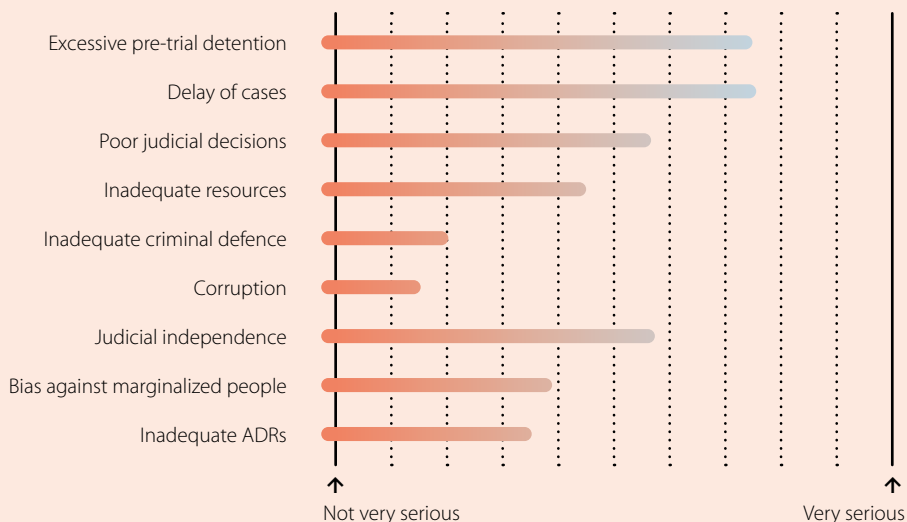
To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that legal aid lawyers are just as likely as private lawyers to perform actions such as ‘presenting arguments in favour of a suspect’s/defendant’s release pretrial’, or ‘giving advice to the suspect/defendant in private before any contact with a state justice official’.

Independent national experts identify ‘a well-prepared and/or highly skilled lawyer’, ‘having a legal aid lawyer’, and ‘availability of an independent expert testimony’ to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

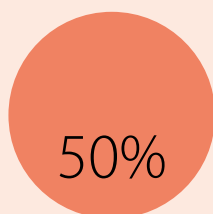
How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015



Legal aid in civil cases

Estimated demand for legal aid services in civil cases



From respondents



From complainants

Who is eligible?

There is no specific requirement for being eligible to legal aid in civil cases; it is assigned by authorised agencies at their discretion, after the public defender has evaluated the vulnerability of the applicant (on the basis of a financial threshold, and whether the applicant is a minor, has an intellectual or mental disability, is a refugee, etc.). Eligibility also depends on the case's gravity, complexity, or case type, as identified in the law.

5 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available



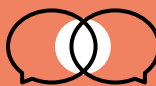
Marital and child custody issues



Tort claims and administrative matters



Property issues



Disputes with State agencies



Labor disputes

For what actions is a party eligible for legal aid?

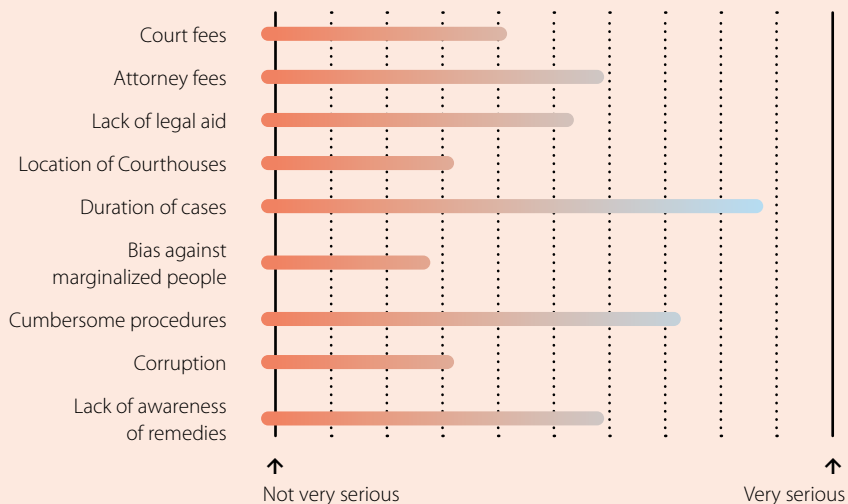
Under the law, primary legal aid is available to all. Legal aid is also provided to assist with the drafting and filing of complaints and responses, and for any appeal or cassation (including to international tribunals).

Public interest litigation / class action cases:

State-funded legal aid is provided for public interest litigation and class action cases, and there is demand for legal aid to address health, environmental protection, discrimination and prisoner issues.

How serious are the following problems in influencing people's decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

according to national experts, WJP Rule of Law Index 2015



Women's access to legal aid services

According to national experts, women may find it difficult to confide in a (typically male) legal aid provider and to share intimate information related to a case. Furthermore, women may not be aware that legal aid services are available at little or no cost. They may prefer not to seek out legal assistance as they see court processes as too time-consuming, and legal aid providers as lacking gender sensitivity.

Female victims of violence (including victims of sexual and gender-based violence) receive legal aid services in all legal proceedings; no other proof of eligibility is required (e.g. financial threshold). Court support services, such as interpretation and translation of documents, are also provided.

Access to legal aid for children

The justice system has specialized courts and judges, specialized public defenders and prosecutors, specialized police officers/units and specialized lawyers/paralegals dedicated to handling cases involving child victims, child witnesses or suspected and accused children.

National experts note that when representing children, legal aid providers routinely reach out to parents and child protection practitioners for support to assist the child throughout proceedings.

The legal framework does not require legal aid providers to explore diversion and alternative to imprisonment if the child is found culpable, but these actions are implemented in practice.

Legal aid and informal justice systems



Disputes resolved through formal mediation or alternative dispute resolution processes (2013)

Informal justice proceedings handle marital or family disputes, child custody issues, land and property disputes, inheritance disputes, informal contracts and labor agreements, and minor criminal cases.

According to national experts, people prefer to resolve disputes through informal justice proceedings because informal tribunals are more conveniently located, and they are less time-consuming. Furthermore, experts explain that people are of the view that judges or decision-makers usually know the parties and therefore can better judge what is a just outcome acceptable to all parties.

Lawyers and paralegals are allowed to provide legal assistance in formal mediation and alternative dispute resolution processes, and in customary or religious mediation/adjudication processes. There is also a mechanism in place to allow for the referral of cases between the formal and informal justice systems. Legal aid providers providing assistance to formal mediation must have a law degree. For customary or religious mediation/adjudication processes, legal aid providers must be a reputable member of the community.

Quality safeguards

Accountability for the quality of legal aid services

Legal aid providers are obliged to adhere to ethical rules established by the bar association.

If a person has a right to legal aid, but no legal aid provider is available, or the provider is unprepared or unqualified, the proceedings must cease until a qualified legal aid provider arrives — or they are deemed invalid.

A legal aid provider can refuse to take a case, or ask to be removed from the duty to represent a particular legal aid recipient, due to incompatibility or conflict of interest with the legal aid recipient.

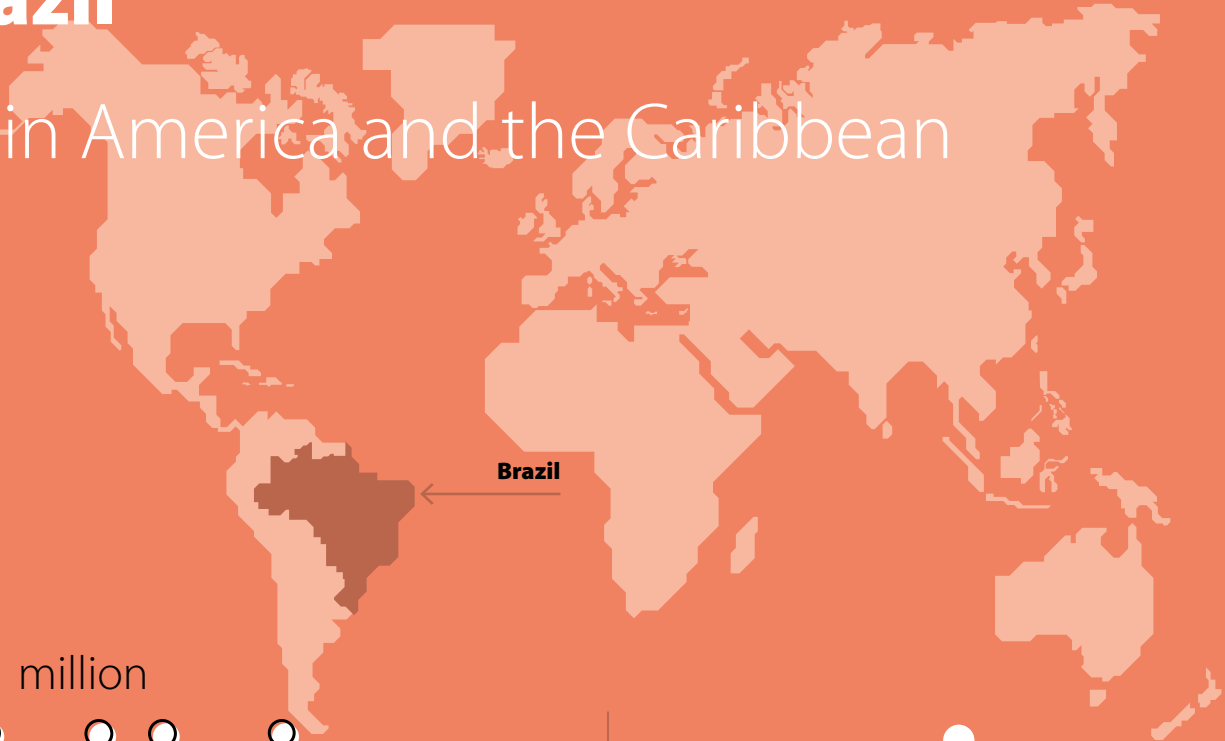
Monitoring and data collection on the quality of legal aid services

The Federal Public Defender's Office is formally responsible for monitoring the quality of legal aid services. Data is mainly collected through the review of complaints lodged by legal aid recipients. Every year, the Federal Public Defender's Office presents before the parliament an report on its activities and achievements over the previous year.

Similarly, the Ombudsman delivers annual performance reports and qualitative reviews of the legal aid system, both in terms of its efficiency and accountability. The Ombudsman also formulates recommendations for improving the legal aid system.

Brazil

Latin America and the Caribbean



206.1 million



Population

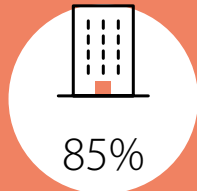


Federal government system



15%

Rural population



85%

Urban population



91%

Male literacy rate



92%

Female literacy rate

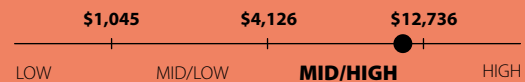
0.997

Gender Development Index



\$11,530

GNI per capita



0.755

HDI



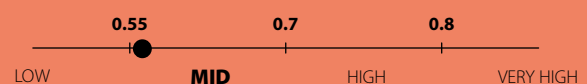
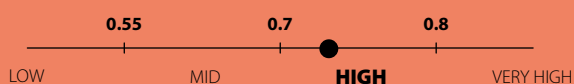
-26.3%

Loss in HDI due to inequality



0.557

Inequality-adjusted HDI



Legal Aid at a Glance in Brazil



2013

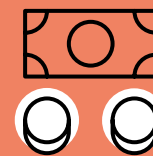
The most recent reform of the legal aid system took place in 2013



2015

When was the last assessment of legal aid needs conducted

Since 2004, four editions of diagnostic studies on Public Defenders Offices have been published by the Ministry of Justice, in partnership with UNDP, and in consultation with 2,673 public defenders and 24 chief public defenders from across the country. The most recent diagnostic was published in December 2015: www.anadep.org.br/wtk/site/downloads/iv-diagnostico-da-defensoria-publica-no-brasil.pdf

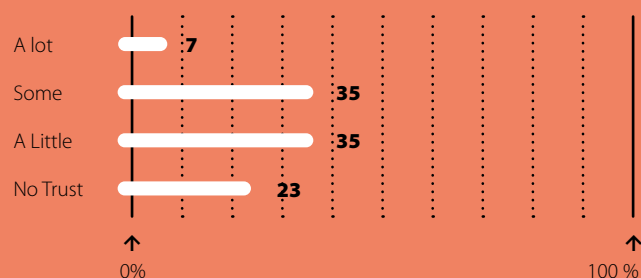


N/A

Annual expenditure on legal aid per capita in 2013

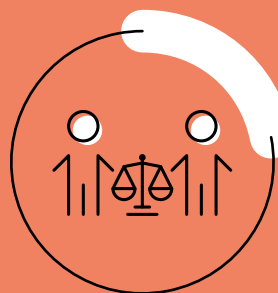
People's trust in courts

Citizen survey, WJP Rule of Law Index 2015



People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015



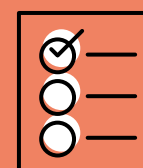
22%

Sample size: 63



Challenges in accessing legal aid

- ➔ The national legal aid budget is not sufficient to meet legal aid needs across the country
- ➔ People may not understand how legal aid services can help them, or may not have confidence in the quality of legal services
- ➔ People may not be aware that legal aid services are available at little or no cost
- ➔ Covering the cost of police, prosecutors and judges tends to be prioritized over spending public funds on lawyers



Priority areas for support

- Legislative drafting advice
- ✓ Development of action plans/policies
- Development of quality criteria for legal aid providers
- Establishing paralegal systems
- Institutional support
- ✓ Training
- ✓ Establishing quality criteria for legal aid providers
- ✓ Creation of a National Council of Public Defender's Offices

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Constitution**
- **A separate law on legal aid**
- **Law on judicial procedure**
- **Regulations addressing State actors**

The right to legal aid was first recognized in the 1934 Federal Constitution. The legal aid system underwent substantial reform in 2004, when Article 134 of the 1988 Federal Constitution was amended to grant administrative and financial autonomy to the Offices of Public Defenders across the country. Additional powers were granted to them in 2009, with respect to financial and human resources management. In 2013, Article 134 of the Federal Constitution was again amended to extend the mentioned autonomy to the Offices of the Federal Public Defenders and the Federal District Public Defenders. Civil society and State Offices of Public Defenders played an instrumental role in introducing this reform.

State-funded legal aid is available at federal and state levels, and include all courts of federal jurisdiction, such as the Federal Court, Labour Court, Electoral Court and Military Court.

Pursuant to the Constitution, public defenders shall provide free legal assistance for Brazilians and foreigners, regardless of whether they live in Brazil. Any Brazilian seeking legal assistance, whether residing in Brazil or overseas, and foreigners, whether residing in Brazil or not, have the right to be assisted by a public defender if they cannot afford a lawyer.

Services included as part of legal aid

According to Brazilian law, those who cannot afford a lawyer must be provided with free legal assistance, which includes representation in court as well as education on their rights and advice on how to proceed before and after legal obligations arise. Legal aid for both criminal and civil cases is mainly provided in the form of legal information, advice, assistance and representation. It is worth noting that State-funded legal aid is provided in appeals as well, including at the Superior Court of Justice.

State-funded specialized legal aid services are provided to specific disadvantaged population groups, such as persons with disabilities, children, women, the elderly, migrants, refugees, asylum seekers, internally displaced persons, stateless persons, indigenous populations, ethnic or religious minorities and the LGBT. Civil society organisations, who are ineligible to receive State funding, also provide specialized legal aid services to several of these groups.

Specialized training is not required to qualify for work with these disadvantaged population groups.

Process for obtaining legal aid

According to the 1988 Federal Constitution, every individual, Brazilian or foreigner, who can prove that s/he cannot afford to pay for legal services, is entitled to free legal assistance provided by the State.

No proof of eligibility is required in criminal cases. According to Complementary Law No. 80/1994, the Offices of Public Defenders are essential to the jurisdictional function of the State. Their main duties, as an expression and instrument of the democratic regime, are the promotion of human rights and free-of-charge legal services, judicially and extra-judicially, to those individuals and groups who would otherwise not have access to justice. To prove eligibility to receive legal aid in civil/administrative cases, the applicant may be asked to show evidence of low income (if employed), and/or membership of a protected group.

Awareness of the right to legal aid

The State has carried out a public information campaign to raise awareness about the right to legal aid and how to access legal aid services at least once in 2014-15. Detailed information was provided on how to contact relevant service providers, and on services available, including for children. Independent national experts estimate that the general population is 'somewhat knowledgeable' about the right to legal aid services.

Delivery model

Legal aid authority

The Federal Public Defender's Office has the chief responsibility for the management and administration of legal aid on a national level. It establishes the national legal aid strategy and policy, oversees and coordinates the legal aid appointment mechanism, and is responsible for advocating with the State for a sufficient budgetary allocation on legal aid. State Public Defenders' Offices and the Federal District Public Defenders' Offices have similar roles at state and district levels.

Organisation of legal aid services

Both criminal and civil legal aid services are provided through public defender's offices, civil society organisations, and through *pro bono* schemes. Lawyers are encouraged to provide *pro bono* legal services as a means to practice and acquire experience; some private law firms have also made it a requirement.

Additionally, for criminal cases, legal aid services are also provided through panel appointments (*ex officio*, contract lawyers), with State-funded private practitioners working in parallel to lawyers from the public defender's office.

Mechanism for assigning legal aid providers

At both federal and regional levels, legal aid providers are assigned to criminal cases by the public defender's office, which assigns either a staff lawyer or a private practitioner. Alternatively, the courts, prosecutors, police and other State agencies can contact legal aid providers directly in the order listed on a duty roster received from the legal aid administration.

Accessing legal aid in urban vs. rural areas

State-funded legal aid services are provided in both urban and rural areas.

Service providers

Lawyers and other providers

1/211

Licensed practicing
lawyers/people



University-based law clinics

Students at university-based law clinics can provide the same primary legal aid services as lawyers. Each university sets its own guidelines on how

1/36,773

Full-time
legal aid lawyers/people



Paralegals

Are not allowed to provide legal aid independently

Qualifications required

Legal aid providers must have a law degree, be members of the national bar, and must show proof of passing a bar examination (a lawyer must undergo separate testing to become staff member of the institutional legal aid provider). In addition, Article 26 of the Complementary Law 80/1994 provides that lawyers who intend to become public defenders must have at least three years of relevant professional experience.

The legal aid administration requires that staff lawyers of the Public Defender's Offices engage in continuing education or skills training, and the State allots funds to this effect.

Finances

Costs to recipients

At both federal and regional levels, legal aid services are free of charge to those meeting eligibility criteria. Primary legal aid services are provided for free at the offices of the public defender. Free legal advice is also provided by the bar association (which maintains a roster of qualified legal aid lawyers) and by civil society organisations.

Legal aid in the annual justice budget

The legal aid budget is determined by the Parliament, in close consultation with the legal aid administration. The State does not provide separate funding to cover the cost of specialized legal aid services. The State nonetheless covers the cost for independent forensic experts, psychological or social work support, as well as clerical assistance.

Payments to legal aid providers

All public defenders, both at federal and regional (state) levels, are paid by the Government (federal or regional) as full-time employees. At both federal and regional levels, most legal aid lawyers are full-time salaried employees of the legal aid administration. In criminal matters specifically, private legal aid providers who take up legal aid cases on a contractual basis with the legal aid administration receive a fixed fee for each case.

Provision of legal aid

Legal aid in criminal cases

At what stage of a criminal case?

Under the law, legal aid should be provided from the moment a law enforcement representative restricts the suspect's/defendant's freedom, or at least from the moment when charges are officially filed. It is also provided during trial, as well as for representation of prisoners in cases involving serious disciplinary charges, or when considering early release from prison.

Legal aid providers specialize in representation at particular procedural stages of a case, and a new provider enters the case at each subsequent procedural stage.



21%

People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

There is no law prohibiting the police or other investigating agencies from interviewing a person in the absence of a lawyer. It may therefore happen that the police will question a person first as a witness, and will then determine that the person has a right to legal aid only after the witness has incriminated him/herself.

It takes approximately 24 hours for a legal aid provider to appear after notice is given that legal aid is needed in criminal cases. At both the federal and the regional levels, it is very common for pre-trial detention to be used, even when suspects have access to legal aid services.

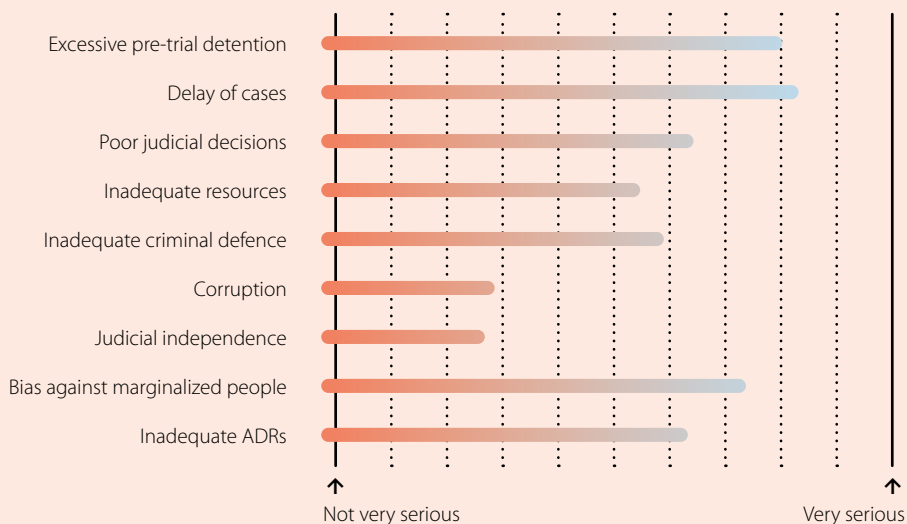
To what extent are legal aid services in criminal cases seen as effective?

According to independent national experts, legal aid lawyers are less likely than private lawyers to perform certain actions, such as ‘giving advice to the suspect in private before any contact with a State justice official’, and ‘conducting investigations to establish doubt about the suspect’s guilt even if the defendant may be guilty’.

Furthermore, experts identify ‘a well-prepared and/or highly skilled lawyer’, ‘the judge’s objective analysis of evidence and testimony’ and ‘the strength of the evidence’ to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

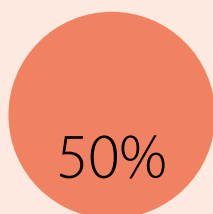
How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015



Legal aid in civil cases

Estimated demand for legal aid services in civil cases



From respondents




From complainants


Who is eligible?

Legal aid in civil cases is provided to persons who meet a financial threshold.


5 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available



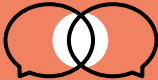
Marital issues




Labor disputes



Child custody issues



Contactual disputes



Claims for State services or disputes with State agencies

At what stages?

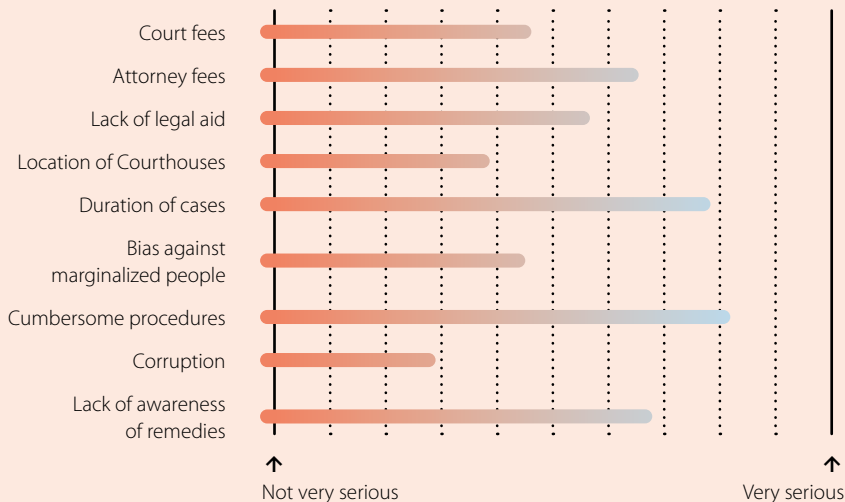
In civil cases, beyond the provision of primary legal aid, legal aid is provided to assist with drafting or filing a complaint or a response; with gaining access to State services; with conducting depositions or other official queries; with independent investigation; with mediation, pre-trial hearings, trial and any appeal (including to international tribunals) or cassation; with drafting motions; and with the provision of protective services for victims of violence.

Public interest litigation:

There is demand for legal aid to assist with public interest litigation related to discrimination, health, consumer rights, environmental protection and labour rights. However public defenders rarely coordinate to uniformly challenge common violations of national and international due process rights and human rights.

How serious are the following problems in influencing people’s decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

according to national experts, WJP Rule of Law Index 2015



Women’s access to legal aid services

According to independent national experts, there is little awareness in the female population of the availability of legal aid services at little or no cost, and women may not know where to find legal assistance. Experts also note that women may lack confidence in the quality of legal aid services provided to them, and may not always understand how legal aid services can help them.

Female victims of violence (including victims of sexual and gender-based violence) receive legal aid services and court support services, such as interpretation and translation of documents, in some legal proceedings only.

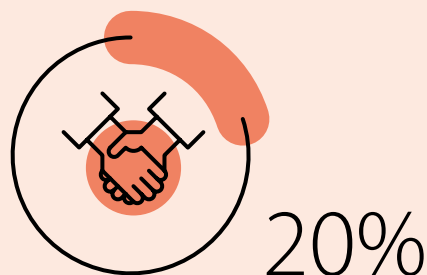
Access to legal aid for children

There are specialized legal aid providers at both federal and state levels to handle cases involving children in conflict with the law, child victims and child witnesses. When representing children, legal aid providers usually reach out to child support professionals to assist the child throughout proceedings.

In criminal cases, diversion away from judicial proceedings is usually used. According to independent national experts, when children are represented by legal aid providers in criminal cases, alternatives to pre-trial detention and alternatives to imprisonment are used at the same rate as when children are represented by private lawyers. National experts observe that a higher rate is achieved when children are represented by legal aid providers who are specialized in children’s rights.

National experts further note that while the legal framework stipulates several children-friendly measures in legal proceedings, those are not always adhered to in practice. For instance, legal aid providers sometimes fail to ensure that comfortable, child-friendly surroundings are provided for meetings with State justice officials; and they do not always prevent the child from giving statements to the police against his/her interests.

Legal aid and informal justice systems



Disputes resolved through formal mediation or alternative dispute resolution processes (2013)

There is high demand for assistance from special justice courts for small claims (*juizados especiais de pequenas causas*) where conciliation is used as an alternative out-of-court dispute resolution instrument. A specific legislation on mediation was adopted in 2015.

While lawyers are allowed to provide legal assistance in mediation and alternative dispute resolution processes, there is no mechanism that allow cases to be referred between the formal and the informal justice systems.

Quality safeguards

Accountability for the quality of legal aid services

Legal aid providers are required to adhere to ethical rules established by the bar association.

One legal aid case can have many lawyers representing the legal aid recipient sequentially at different stages of the proceedings.

If a person has a right to legal aid, but no legal aid provider is available, or if a legal aid provider is unprepared or unqualified, a replacement legal aid provider is asked to represent the party. If a party is denied access to legal aid, in both criminal and civil or administrative cases, the party has a right to appeal that decision.

Monitoring and data collection on the quality of legal aid services

A legal aid provider can refuse to take a case or ask to be removed from the duty to represent a particular legal aid recipient if s/he has a conflict of interest with the legal aid recipient.

An administrator from the legal aid administration is responsible for monitoring the quality of legal aid services. Data is mainly collected through the review of complaints lodged by legal aid recipients. Some civil society organisations also monitor legal aid providers' work.

Dominican Republic

Latin America and the Caribbean



Dominican Republic

10.41 million



Population



Unitary government system



22%

Rural population



78%

Urban population



90%

Male literacy rate



91%

Female literacy rate



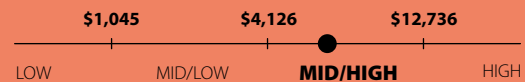
0.995

Gender Development Index



\$6,040

GNI per capita



0.715

HDI



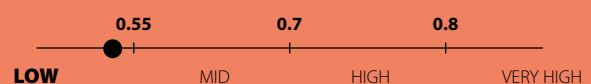
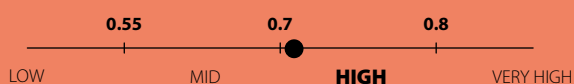
-23.6%

Loss in HDI due to inequality



0.546

Inequality-adjusted HDI



Legal Aid at a Glance in the Dominican Republic



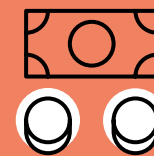
2004

**Legal aid system
established in 2004**



Never conducted

**When was the last assessment
of legal aid needs conducted**

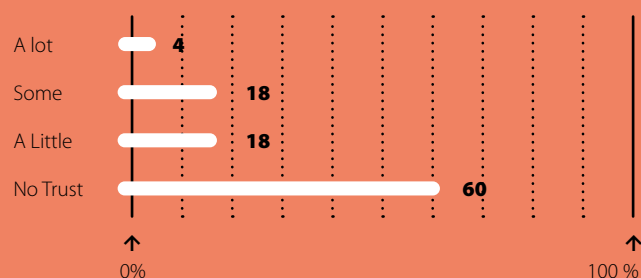


\$0.61

**Annual expenditure
on legal aid per capita in 2013**

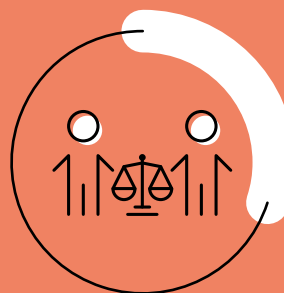
People's trust in courts

Citizen survey, WJP Rule of Law Index 2015



People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015



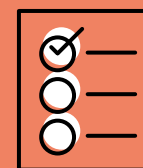
30%

Sample size: 46



Challenges in accessing legal aid

- Shortage of lawyers, especially outside urban areas
- Low pay for legal aid work
- Covering the costs of police, prosecutors and judges is found to be more important than spending state funds on lawyers
- Little support among the population for spending funds to defend accused criminals
- Little awareness about where to find legal assistance; people may prefer to resolve issues through the informal justice system or outside the court system, where legal aid has no role



Priority areas for support

- ✓ Legislative drafting advice
- ✓ Development of action plans/policies
- Development of quality criteria for legal aid providers
- ✓ Establishing paralegal systems
- ✓ Institutional support
- ✓ Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Constitution**
- **Separate law on legal aid**
- **Law on judicial procedure**
- **Criminal procedure law**
- **Implementing regulations for the law on legal aid**

The right to legal aid for criminal matters was recognized in 2004, through the adoption of law 277-04d/f which led to the creation of the Office of the Public Defender. The judiciary and international donors played an instrumental role in this reform.

State-funded legal aid is available at national, regional and local levels.

Services included as part of legal aid

Legal aid is provided for criminal cases only, in the form of legal advice, legal representation and legal assistance (before tribunals). Legal aid providers also provide general assistance in navigating the justice system, and in executing legal documents.

Specialized legal aid services are provided by the State for specific population groups, including persons who meet a financial threshold, children, women, persons with disability, the elderly, migrants, LGBT and prisoners.

Process for obtaining legal aid

Legal aid is provided upon request from the person who wants legal aid, or upon request from the police or the prosecutor. The court presiding over a case must also assess eligibility during the first appearance of the parties.

To receive legal aid, a person must prove eligibility by providing supportive documentation (proving status as recipient of welfare or as a member of a protected group, demonstrating family hardship, etc.) Proof that the legal aid applicant's claim has merit (and/or a letter of divestment from the private lawyer who was handling the case) is sometimes necessary.

Awareness of the right to legal aid

The Office of the Public Defender periodically carries out public information campaigns to raise awareness about the right to legal aid and how to access legal aid services, mainly by holding information sessions with civil society organisations. Independent national experts estimate that the general population is 'somewhat knowledgeable' about legal aid services.

Delivery model

Legal aid authority

The Office of the Public Defender has chief responsibility for the administration of legal aid.

Organisation of legal aid services

Legal aid services in criminal cases are provided through public defender institutions. In addition, the National Office for Legal Representation of a Victim's Rights (RELEVIC) was established as a dedicated service offered by the Office of the Attorney General. RELEVIC aims to provide free legal aid services to victims of crime who lack the financial resources to hire a lawyer.

A National Council for Public Defence has been created to manage the provision of legal aid services, and meets at least once every three or four months. The Council is constituted by the President of the Supreme Court, the national director of the Public Defender's Office, as well representatives from the departmental coordinators, public defenders, the bar association, the deans of law faculties and directors of law schools, and NGOs.

Mechanism for assigning legal aid providers

Legal aid providers are assigned by a 'coordinator of public defence', who manages public defenders' offices in the provinces.

Accessing legal aid in urban vs. rural areas

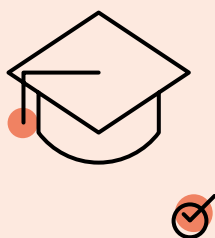
State-funded legal aid services are available in rural areas.

Service providers

Lawyers and other providers

1/177

Licensed practicing
lawyers/people

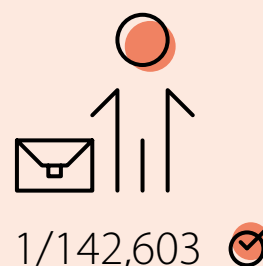


University-based law clinics

Students are allowed to provide primary legal aid and to prepare legal documents

1/45,841

Full-time
legal aid lawyers/people



Paralegals/people

But paralegals are not officially recognized as legal aid providers

Qualifications required

Legal aid providers must have a law degree and must have completed an apprenticeship or internship with a practicing lawyer, judge or other State justice agency. They must also be in a contractual relationship with the Public Defender. To become a staff member of the Public Defender, lawyers need to undergo intensive training at the National Judicial College, as well as separate testing and interviews. Paralegals must have completed a professional paralegal training course accredited by the State.

Legal aid providers are required by law to engage in continuing education or skills training, and the State does allot funds to this effect.

Finances

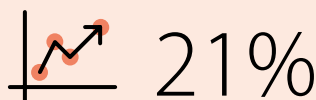
Costs to recipients

Legal aid services for criminal cases are free of charge for those meeting eligibility criteria. Primary legal aid services are provided for free at the Office of Public Defender.

Legal aid in the annual justice budget



Legal aid budget per capita in 2013



Annual legal aid budget increased by 21% from 2010 to 2013

Legal aid is a separate component of the annual justice budget. The national budget for legal aid is determined by the parliament, in close consultation with the Public Defender's Office. Specialized legal aid services for disadvantaged populations are funded by the State.

Payments to legal aid providers

The majority of legal aid providers work full-time in public defender's offices.

Provision of legal aid

Legal aid in criminal cases



70%

In 2013, State-funded legal aid was provided in 70% of all criminal cases filed in court



48%

People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, and persons imprisoned on criminal charges. The State is *obliged* to provide legal aid when the law notes that the interests of justice require it. The specific type of legal aid provided depends on the case's gravity, complexity, or case type, as identified in the law. In particular, the State must provide legal aid to persons who are unable to hire the services of a lawyer for lack of financial means, children, persons with physical, intellectual and mental disabilities, persons whose mother tongue is not the language of official proceedings, and persons who potentially face a prison sentence.

At what stage of a criminal case?

Under the law, legal aid should be provided from the moment a law enforcement representative restricts the suspect's/defendant's freedom, or at least from the moment charges are officially filed (it takes approximately one hour for a lawyer to appear after notice is given that legal aid is needed in criminal cases). Legal aid is also provided during trial, for any appeal or cassation, and for consideration of probation, or social rehabilitation/reintegration matters after release from prison.

It is prohibited by law for the police to interview someone in the absence of a lawyer. In practice, however, the police sometimes begins to question a witness before the arrival of the lawyer, which can be problematic when the police determines the person to have a right to legal aid only after the witness has incriminated him/herself.

To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that legal aid lawyers are more likely than private lawyers to perform actions such as 'presenting arguments in favour of a suspect's/defendant's release pre-trial', or 'giving advice to the suspect/defendant in private before any contact with a state justice official'.

Independent national experts identify 'the judge's objective analysis of evidence and testimony', 'a well prepared and/or highly skilled lawyer' and 'having a legal aid lawyer' to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015

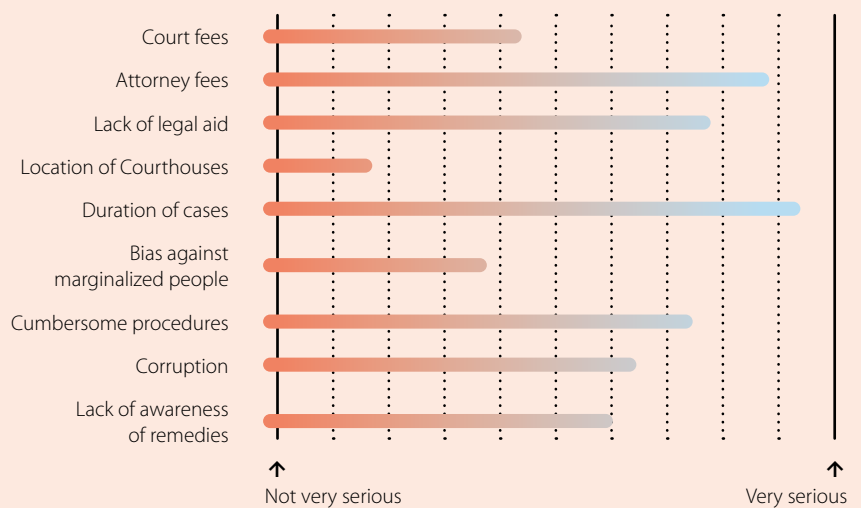


Legal aid in civil cases

Legal aid is not provided in civil cases.

How serious are the following problems in influencing people’s decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

according to national experts, WJP Rule of Law Index 2015



Women's access to legal aid services

National experts note that the absence of adequate specialized legal aid services for women is a major obstacle faced by women. They also observe that legal aid provided for family and civil matters, or for cases of gender-based violence, is very limited and of poor quality.

Female victims of violence (including victims of sexual and gender-based violence) can receive legal assistance through the Attorney General's Office or the Ministry for Women. The legal aid assistance provided by these offices, however, is not sufficient to respond to the high demand for such services, nor to offer suitable follow-up to victims.

Access to legal aid for children

The justice system has specialized public defender's offices, courts, judges, lawyers, prosecutors and police specifically dedicated to handling cases involving child victims, child witnesses or suspected and accused children.

When representing children, legal aid providers routinely reach out to parents, social workers and medical and/or mental health professionals for support to assist the child throughout proceedings.

According to national experts, when children are represented by legal aid providers in criminal cases, diversion away from judicial proceedings, as well as alternatives to pre-trial detention and to imprisonment, are more often achieved than in cases where children are represented by private lawyers, or by lawyers who are not specialized in children's rights, or not represented at all.

Legal aid and informal justice systems

Informal justice proceedings handle mainly child custody issues and minor criminal cases. Informal justice mechanisms do not allow for the provision of legal assistance by a lawyer or paralegal.

Quality safeguards

Accountability for the quality of legal aid services

If a person has a right to legal aid, but no legal aid provider is available, the proceedings must cease until a qualified legal aid provider arrives.

A legal aid provider can refuse to take a case, or ask to be removed from the duty to represent a particular legal aid recipient, if s/he doesn't have the necessary expertise. The maximum caseload per lawyer at any given time is 300 (at the national level).

Monitoring and data collection on the quality of legal aid services

Formal responsibility for monitoring the quality of legal aid services rests with a peer review team established by the legal aid authority or bar association, as well as with a government entity called "Control of Services, and Departmental and District Coordinators".

There are considerable shortages of data in the justice system. For instance, data about children is not recorded separately, and no data is available on case resolution prior to a case's transfer to court.

Ecuador

Latin America and the Caribbean



15.90 million



Population



Unitary government system



36%

Rural population



64%

Urban population



94%

Male literacy rate



92%

Female literacy rate



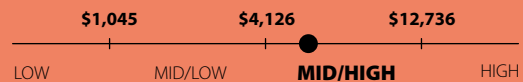
0.971

Gender Development Index



\$6,090

GNI per capita



0.732

HDI



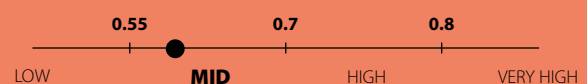
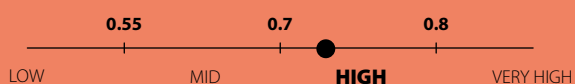
-22.1%

Loss in HDI due to inequality



0.570

Inequality-adjusted HDI



Legal Aid at a Glance in Ecuador



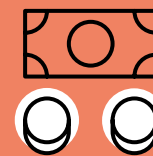
2012

Most recent reform of the legal aid system took place in 2012



Never conducted

When was the last assessment of legal aid needs conducted

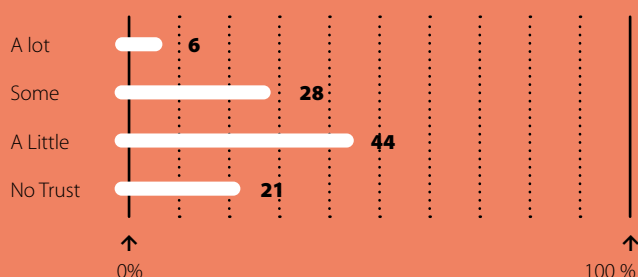


\$1.78

Annual expenditure on legal aid per capita in 2013

People's trust in courts

Citizen survey, WJP Rule of Law Index 2015



People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015



24%

Sample size: 63



Challenges in accessing legal aid

- Particularly acute shortage of lawyers outside urban areas
- The bar association is opposed to allowing paralegals to fill the gap of available lawyers
- General perception that it is more important to cover the cost of police, prosecutors and judges than to spend state funds on lawyers
- Little support among the population for spending public funds to defend accused criminals
- People may not be aware that legal aid services are available at little or no cost, may not know where to find legal assistance, and may not have confidence in the quality of legal services.



Priority areas for support

- Legislative drafting advice
- Development of action plans/policies
- Development of quality criteria for legal aid providers
- Establishing paralegal systems
- Institutional support
- Training
- ✓ Establishing quality criteria for legal aid providers
- ✓ Institutional support from on-site experts providing advice on the management of the legal aid system in 'real time'
- ✓ Training based on case studies

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Constitution**
- **Law on judicial procedure**
- **Law on police**
- **Law on the judiciary**
- **Law on the prosecution**
- **Civil procedure code**
- **Administrative law**
- **Law on pre-trial detention**
- **Law on the penitentiary**
- **Criminal procedure law**
- **Regulations addressing State actors**
- **Implementing regulations for the law on legal aid**
- **Instructions and guidelines issued by the General Public Defender on the provision of legal aid services**

The right to legal aid was recognized by law in 1998. The latest substantial reform of the legal aid system took place in 2012, with strong involvement by the courts, public defenders, civil society organisations and the parliament.

State-funded legal aid is available at national level.

Services included as part of legal aid

Legal aid is mainly provided in the form of legal advice, legal representation and legal assistance (before tribunals). Legal aid providers also provide general assistance in navigating the justice system, and in executing legal documents.

Specialized legal aid services are provided by the State for specific population groups, including children, women, victims of domestic violence, persons with disability, the elderly and migrants, refugees, asylum seekers and stateless persons. Civil society organisations also provide specialized legal aid services for women, migrants, refugees and asylum seekers, and the LGBT community.

Process for obtaining legal aid

Legal aid is provided upon request from the person who wants legal aid, or from the prosecutor. The court presiding over a case must also assess eligibility during the first appearance of the parties. In criminal cases, the determination is automatic if the case or legal aid recipient qualifies for legal aid services under the law, in which case no proof is necessary. In civil cases, a person must prove eligibility by providing supportive documentation (e.g. proving status as recipient of welfare or as member of a protected group, demonstrating family hardship, etc.)

Awareness of the right to legal aid

The State has carried out public information campaigns to raise awareness about the right to legal aid and how to access legal aid services at least once in 2014-15. Detailed information was provided on how to contact relevant service providers, and on services available, including for children. Independent national experts estimate that the general population is ‘somewhat knowledgeable’ about the right to legal aid services.

Delivery model

Legal aid authority

A legal aid administration independent from the judiciary, the Public Defender, has chief responsibility for the management of legal aid.

Organisation of legal aid services

Legal aid services are provided through public defender institutions, mediation centers (*Mecanismo Alternativos a la Solución de Conflictos, or MASCO*) and civil society organisations.

Mechanism for assigning legal aid providers

There are legal aid providers on duty in courts and police precincts.

Accessing legal aid in urban vs. rural areas

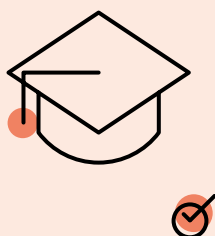
State-funded legal aid services are provided in rural areas through ‘Mobile Defence’, i.e. public defenders commuting between urban and rural areas. The quality of legal services however tends to be higher in urban areas.

Service providers

Lawyers and other providers

1/21,036

Licensed practicing
lawyers/people



University-based law clinics

Students can represent people in civil cases and can provide primary legal aid

N/A

Full-time
legal aid lawyers/people



N/A Paralegals

Are not officially recognized as providers of legal aid

Qualifications required

State-funded legal aid providers must have a law degree and show proof of passing a professional examination, be interviewed, and if selected, enter in a contractual relationship with the agency that oversees the administration of legal aid. They must be registered in a State-authorized roster of legal aid providers or as a member of the Judiciary Council (lawyers forum). Paralegals must complete a professional training course accredited by the State.

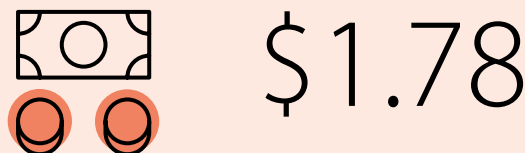
Legal aid providers are required by law to engage in continuing education or skills training, which is provided by the Judicial Academy for justice personnel; the State does allot funds to this effect.

Finances

Costs to recipients

Legal aid services are free of charge for those meeting eligibility criteria; in criminal cases, all costs are covered. Primary legal aid services are provided for free at the offices of the public defender. Some civil society organisations and certified legal aid clinics in law schools also provide primary legal aid services for free.

Legal aid in the annual justice budget



Legal aid budget per capita in 2013

Legal aid is a separate component of the annual justice budget. The budget for legal aid is determined by the parliament and the public defender. The State covers both specialized legal aid services for disadvantaged populations and additional services such as independent investigation, experts, psychological or social work support, etc.



Annual legal aid budget increased by 690% from 2010 to 2013

Payments to legal aid providers

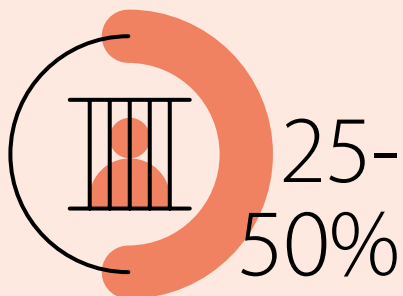
For both criminal and civil cases, legal aid lawyers are full-time salaried employees in institutions funded by the State. For criminal cases, some legal aid providers are paid a fixed fee per case. Junior lawyers are also encouraged to provide *pro bono* services as a means to acquire experience.

Provision of legal aid

Legal aid in criminal cases

Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, persons imprisoned on criminal charges, and victims of crime.



Proportion of criminal court cases (2013)



Proportion of criminal cases for which legal aid was provided (2013)



People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

The State is *obliged* to provide legal aid to all persons undergoing criminal prosecution; in civil cases, legal aid is automatically provided when the law notes that the interests of justice require it. Additionally, the State is obliged to provide legal aid to children, persons with physical, intellectual and mental disabilities, internally displaced persons and refugees, persons whose mother tongue is not the language of official proceedings, and persons who potentially face a prison sentence.

At what stage of a criminal case?

Under the law, legal aid should be provided from the moment a law enforcement representative restricts the suspect’s/defendant’s freedom (but according to national experts, this is seldom the case in practice), or at least from the moment charges are officially filed (it usually takes approximately one hour for a legal aid provider to appear after notice is given that legal aid is needed in a criminal case.) Legal aid is provided during trial, for any appeal or cassation, for representation of prisoners in cases involving serious disciplinary charges, and for consideration of probation, or social rehabilitation/reintegration matters after release from prison.

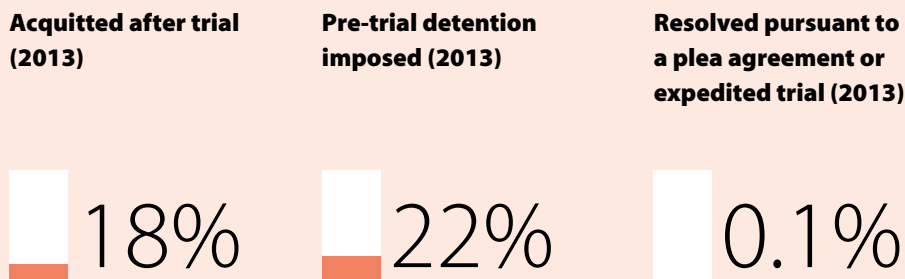
In criminal cases, legal aid institutions aim to ensure that the same provider represents the accused/suspect at all stages of the case. It is prohibited for the police to interview someone in the absence of a lawyer. However, if it takes too long, the questioning often begins even if the legal aid provider has not arrived.

To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that legal aid lawyers are more likely than private lawyers to perform certain actions, such as ‘advocating for a suspect’s/defendant’s release pre-trial’, and less likely to perform other actions, such as ‘advocating for alternative resolution of cases where defendants are minors’.

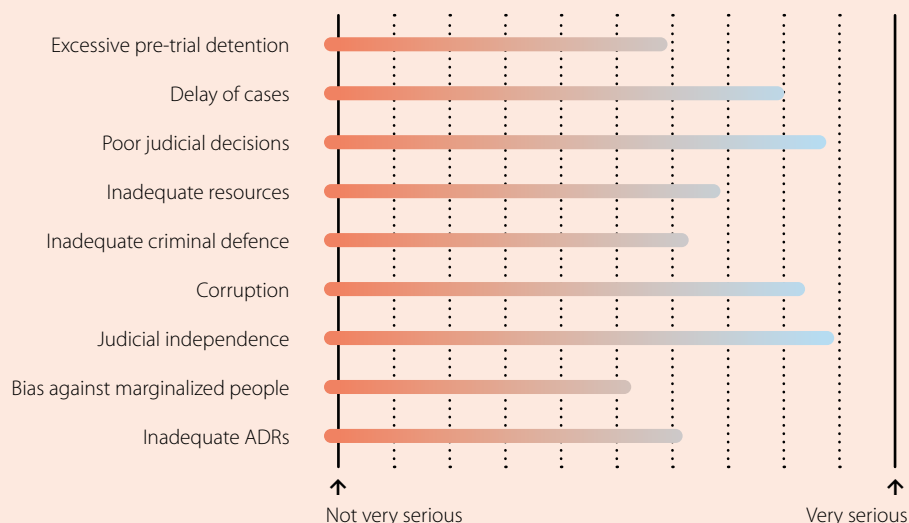
Furthermore, experts identify ‘bribery/corruption’, ‘having a legal aid lawyer’, ‘the judge’s objective analysis of evidence and testimony’, and ‘availability of an independent expert testimony’ to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

Criminal cases which received legal aid



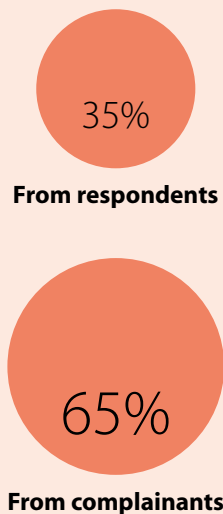
How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015



Legal aid in civil cases

Estimated demand for legal aid services in civil cases



Who is eligible?

Legal aid in civil cases is available when the law notes that the interests of justice require it. In particular, it is provided to persons who meet a financial threshold (US\$700 in annual income), children, persons with physical, intellectual or mental disabilities, refugees, and persons whose mother tongue is different from the language used in official proceedings.

5 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available

- Labor disputes
- Child custody issues
- Assistance with informal/traditional justice proceedings
- Administrative matters
- Mediation

For what actions is a party eligible for legal aid?

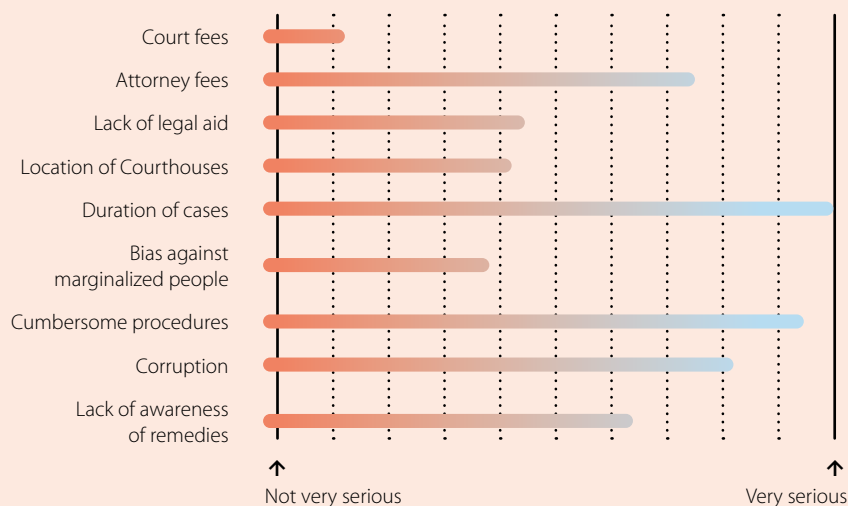
Under the law, primary legal aid is available to all. Legal aid is provided to assist with the drafting and filing of complaints and responses and with conducting depositions or other official queries. Legal aid is also made available for the provision of protective services for victims of violence, for mediation between parties, and throughout the proceedings, from pre-trial hearings to any appeal (including appeals to international tribunals) or cassation.

Public interest litigation / class action cases:

State-funded legal aid is provided for public interest litigation and class action cases, and demand for legal aid is particularly high for class action cases addressing discrimination, labour rights, environmental protection, health cases, and indigenous peoples rights.

How serious are the following problems in influencing people's decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

according to national experts, WJP Rule of Law Index 2015

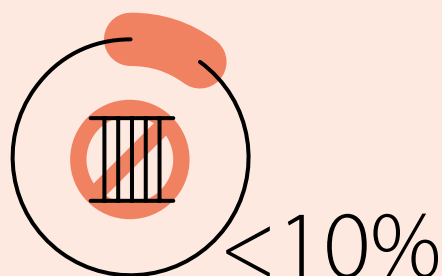


Women's access to legal aid services

According to national experts, women lack awareness about the availability of legal aid services at little or no cost, and they may not know where to find legal assistance.

Female victims of violence (including victims of sexual and gender-based violence) receive legal aid services in all legal proceedings; court support services, such as interpretation and translation of documents, are only provided in some proceedings.

Access to legal aid for children



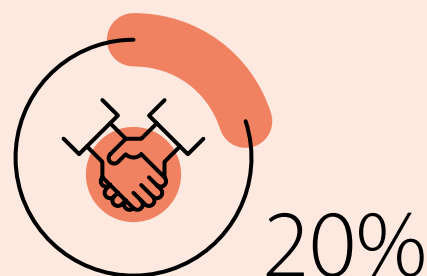
In 2013, an alternative to imprisonment was imposed in less than 10% of cases where a child was found culpable, when state-funded legal aid was provided.

The justice system has a specialized Public Defender, as well as specialized courts and judges, specialized police officers/units, and specialized prosecutors, to represent child victims, child witnesses or suspected and accused children.

According to national experts, when representing children, legal aid providers routinely reach out to parents to assist the child throughout proceedings.

In criminal cases, experts estimate that diversion away from judicial proceedings is more often achieved when children are represented by legal aid providers than in cases where they are represented by private lawyers or not represented at all.

Legal aid and informal justice systems



Disputes resolved through formal mediation or alternative dispute resolution processes (2013)

Informal justice proceedings typically handle marital or family disputes, child custody issues, land and property disputes, inheritance disputes, and informal contracts and labor agreements.

National experts explain that people prefer to resolve disputes through the informal justice systems because they take less time and lead to negotiated outcomes that are acceptable to all parties.

Lawyers and paralegals are allowed to provide legal assistance in formal mediation and alternative dispute resolution processes. A mechanism is in place to facilitate referrals between the formal and informal justice systems.

To provide assistance in informal justice processes, legal aid providers must at minimum have obtained certification in mediation and/or arbitration.

Quality safeguards

Accountability for the quality of legal aid services

If a party is denied access to legal aid, there is a right to appeal that decision in both criminal and civil cases. If a person has a right to legal aid, but no legal aid provider is available, or the provider is unprepared or unqualified, the proceedings must cease until a qualified legal aid provider arrives (this only applies to criminal cases).

A legal aid provider can refuse to take a case, or ask to be removed from the duty to represent a particular legal aid recipient, if s/he lacks expertise in the law or skills required by the specific case.

Monitoring and data collection on the quality of legal aid services

The judiciary, the national statistical office and a dedicated governmental department on 'quality management' are formally responsible for monitoring the quality of legal aid services. The country nonetheless continues to face considerable data challenges (e.g. data about children is not recorded separately.)

In order to monitor the quality of legal aid services, data is collected through the review of complaints lodged by legal aid recipients, and through satisfaction surveys filled by legal aid recipients. The services provided in court are also monitored.

Guatemala

Latin America and the Caribbean



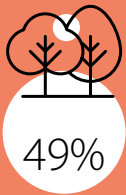
16.02 million



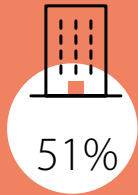
Population



Unitary government system



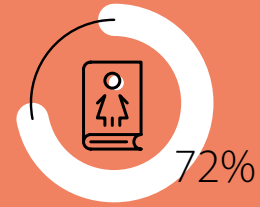
Rural population



Urban population



Male literacy rate



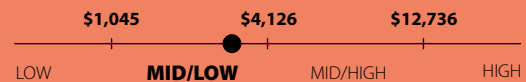
Female literacy rate



Gender Development Index



GNI per capita



0.627

HDI



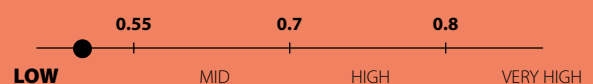
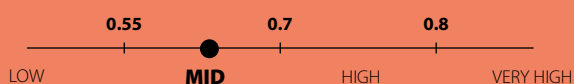
-29.4%

Loss in HDI due to inequality



0.443

Inequality-adjusted HDI



Legal Aid at a Glance in Guatemala



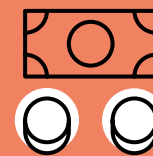
2010

Most recent reform of the legal aid system in 2010



N/A

When was the last assessment of legal aid needs conducted

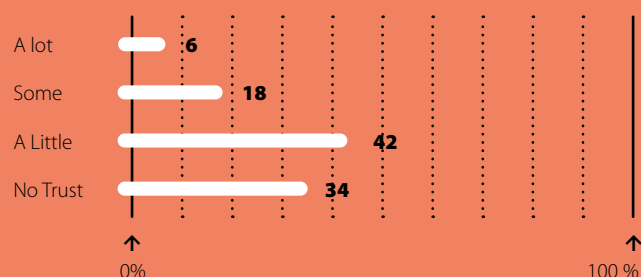


N/A

Annual expenditure on legal aid per capita in 2013

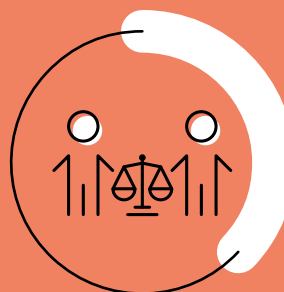
People's trust in courts

Citizen survey, WJP Rule of Law Index 2015



People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015



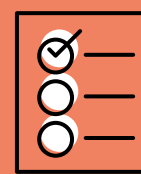
37%

Sample size: 38



Challenges in accessing legal aid

- There is little support among the population for spending public funds to defend accused criminals
- There is sometimes a language barrier between legal aid providers and those who need legal aid
- People are generally under the impression that legal aid lawyers are more loyal to State agencies than to legal aid recipients
- People may not know where to find legal assistance: legal aid is geographically difficult to access and there is a particularly acute shortage of lawyers outside urban areas
- Low pay of lawyers for legal aid work



Priority areas for support

- Legislative drafting advice
- ✓ Development of action plans/policies
- Development of quality criteria for legal aid providers
- ✓ Establishing paralegal systems
- ✓ Training
- ✓ Establishing quality criteria for legal aid providers
- ✓ Institutional support — especially to expand the provision of legal aid services beyond criminal cases to civil cases in response to an increasing demand for legal aid to help resolve labor disputes, address issues faced by women and children, and uphold land rights for indigenous peoples

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Constitution**
- **Separate law on legal aid**
- **Law on judicial procedure**
- **Law on police**
- **Law on the judiciary**
- **Law on the prosecution**
- **Civil procedure code**
- **Administrative law**
- **Criminal procedure law**
- **Regulations addressing State actors**
- **Law on the Institute of Criminal Public Defence**

The right to legal aid was first recognized in 1997 through Decree 129-97, Law on Public Criminal Defense Service (Ley del Servicio Público de Defensa Penal), which entered into force on 13 July 1998, and most recently reformed in 2010. The Institute of Public Criminal Defence played an instrumental role in the establishment of the legal aid system. State-funded legal aid is available at the national level.

Services included as part of legal aid

In criminal cases, legal aid lawyers provide legal information in police precincts, in prisons and in communities, and assist with the execution of legal documents. In civil cases, legal aid lawyers only provide legal advice and general assistance in navigating the justice system, in addition to also assisting with the execution of legal documents.

Specialized legal aid services are provided by the State for any specific population group which needs assistance, such as ethnic minorities, the elderly, or migrants.

Process for obtaining legal aid

Legal aid is provided upon request from the person who wants legal aid, or from their relatives, the police, prosecutor, judges, the Public Ministry (Ministerio Público) or legal aid provider. The court presiding over a case must also assess eligibility during the first appearance of the parties.

To receive legal aid, a person must prove eligibility by providing supportive documentation demonstrating family hardship or evidence of low income.

Awareness of the right to legal aid

The last public information campaign carried out by the State to raise awareness about the right to legal aid was held three years ago, and provided people specific contact details of offices to contact to seek legal aid, in addition to general information about legal aid services. Independent national experts estimate that the general population is 'somewhat knowledgeable' about legal aid services.

Delivery model

Legal aid authority

The Institute of Public Criminal Defense (Instituto de la Defensa Pública Penal) administers criminal legal aid. In civil cases, 'Bufetes Populares' (legal institutions attached to *Universidad de San Carlos de Guatemala* and other universities) play an important role in the provision of legal aid services.

Organisation of legal aid services

In criminal matters, legal aid services are provided through the Institute of Public Criminal Defense and non-governmental organisations. In civil matters, non-governmental organisations and 'Bufetes Populares' of universities are the providers of legal assistance.

Mechanism for assigning legal aid providers

The Institute of Public Criminal Defense maintains a roster of legal aid providers, and State agencies contact the Institute to request their services. Additionally, there are legal aid providers on duty in courts and police precincts.

Accessing legal aid in urban vs. rural areas

The quality of legal services tends to be higher in urban areas. Availability of state-funded legal aid services are more limited in rural areas, where they can be found mainly in provincial towns.

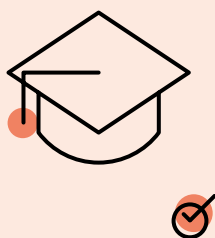
The Institute of Public Criminal Defense has 36 offices nationwide (22 departmental, 14 municipal and 15 indigenous defence offices), through which it provides free legal aid services for people with limited financial resources when they are subject to criminal proceedings and a Public Defender is requested to assist them.

Service providers

Lawyers and other providers

N/A

Licensed practicing
lawyers/people



**University-based
law clinics**

N/A

Full-time
legal aid lawyers/people



Paralegals

In both civil and criminal cases, paralegals are allowed to provide legal advice on a one-time or two-time basis. In criminal cases, they also provide legal information in police precincts or prisons.

Qualifications required

Public defenders must have a law degree, and must have completed an apprenticeship with a judge or any other judicial institution of the State. The Public Defender's Office organises trainings for staff lawyers and paralegals.

Public defenders are not required by law to engage in continuing education or skills training, and the State does not allot funds to this effect.

Finances

Costs to recipients

Legal aid services for criminal cases are free of charge for those meeting eligibility criteria. Primary legal aid services are provided for free by the Institute of Public Criminal Defense, and at the offices of civil society organisations. If it is later verified that the beneficiary did not meet the eligibility criteria (i.e. had the financial resources to afford legal services), he or she must reimburse the Institute the fees and procedural costs that were incurred.

Legal aid in the annual justice budget

The national budget for legal aid is determined by the parliament, in close consultation with the Institute of Public Criminal Defense.

Payments to legal aid providers

In criminal cases, some legal aid providers work full-time in institutions funded by the State, and others are paid on an hourly basis for actions that the State has identified as a basis of payment.

Provision of legal aid

Legal aid in criminal cases

Who is eligible?

Under the law, legal aid is available to anyone who requires assistance with a criminal case, and who does not have the financial means to afford it.

The State is obliged to provide legal aid to anyone who is financially unable to secure the legal assistance s/he needs.

At what stage of a criminal case?

Under the law, legal aid should be provided at any stage of criminal proceedings, whenever there is a need for assistance.

In criminal cases, due to budget constraints, it is difficult for a public defender assigned to a case to be present at all hearings for all of his or her clients. However, if the case is appealed, it is transferred to the Appeals Unit within the Institute of Public Criminal Defense. It is prohibited by law for the police to interview

1.3%

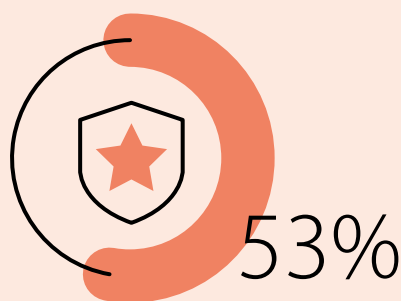
Criminal cases which were acquitted after trial (2013)

6.6%

Criminal cases which had pre-trial detention imposed (2013)

0.6%

Proportion of criminal cases which were resolved pursuant to a plea agreement, procedural agreement or expedited trial (2013)



People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

someone in the absence of a lawyer. In practice, however, when it takes too long for the legal aid provider to arrive, the police sometimes begins to question the person before the arrival of the lawyer.

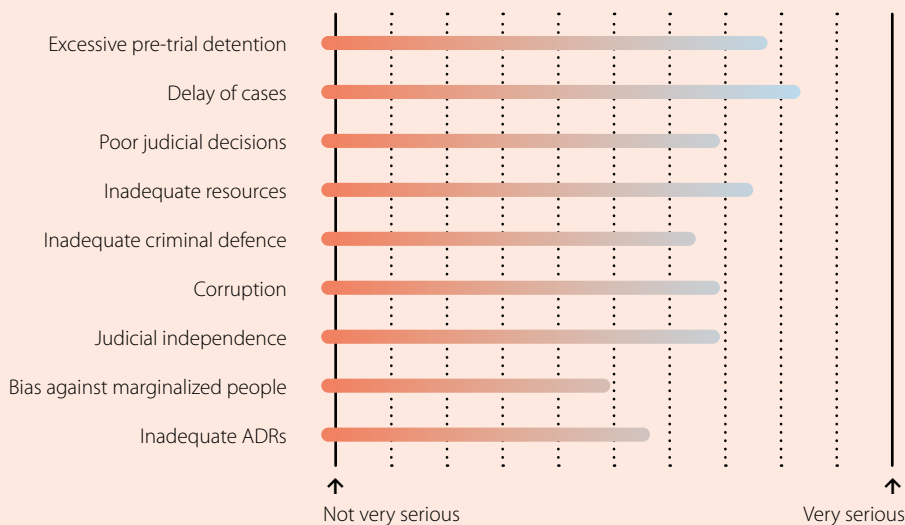
To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that legal aid lawyers are more likely than private lawyers to perform actions such as ‘challenging the reliability of evidence against the suspect/defendant’, and ‘challenging the credibility of witnesses’. Meanwhile, experts find that legal aid lawyers are less likely than private lawyers to perform actions such as ‘presenting arguments in favour of a suspect’s/defendant’s release pre-trial’, or ‘giving advice to the suspect/defendant in private before any contact with a state justice official’.

Independent national experts identify ‘a well prepared and/or highly skilled lawyer’, ‘a poorly prepared prosecutor’, ‘the strength of the evidence’ to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

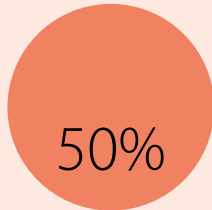
How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015

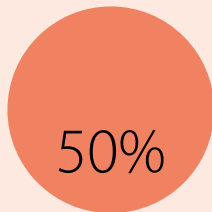


Legal aid in civil cases

Estimated demand for legal aid services in civil cases



From respondents



From complainants

Who is eligible?

State-funded legal aid is not systematically provided for civil cases.



For what actions is a party eligible for legal aid?

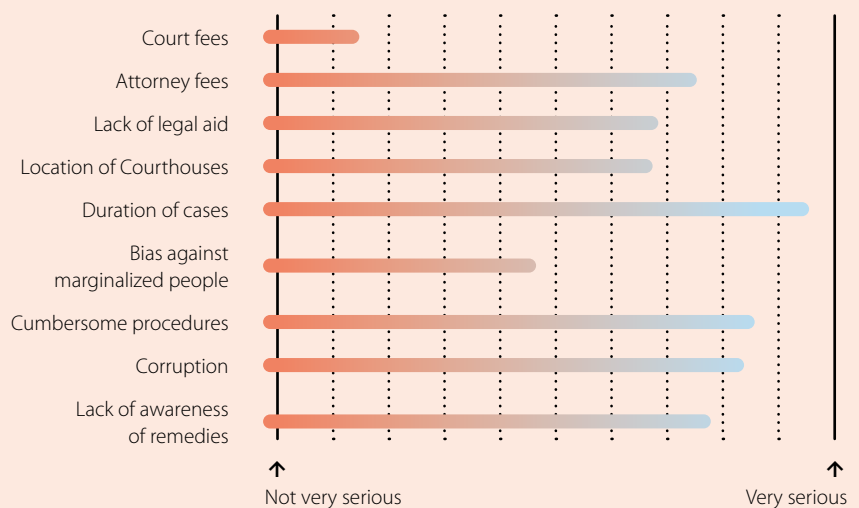
In civil cases, a party is only eligible for primary legal aid and for assistance in drafting a complaint.

Public interest litigation / class action cases:

State-funded legal aid is not provided for public interest litigation and class action cases, but there is an increasing demand for legal aid to address health issues, labour rights, consumer rights, discrimination and environmental protection — particularly in regards to land rights for indigenous peoples.

How serious are the following problems in influencing people’s decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

according to national experts, WJP Rule of Law Index 2015

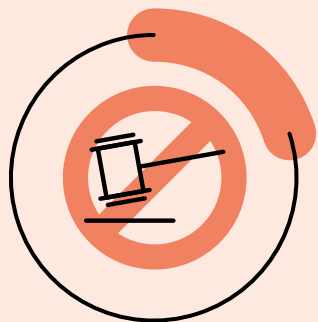


Women's access to legal aid services

According to national experts, women tend to prefer not to seek out legal assistance or take disputes to court as they perceive court processes to be biased against women, and they often see legal aid providers as lacking gender sensitivity. Experts further note that women, more often than men, may not know where to find legal assistance, and may not understand how legal aid services can help them.

Female victims of violence (including victims of sexual and gender-based violence) receive legal aid services in some legal proceedings only. Likewise, court support services, such as interpretation and translation of documents, are provided only in some proceedings.

Access to legal aid for children



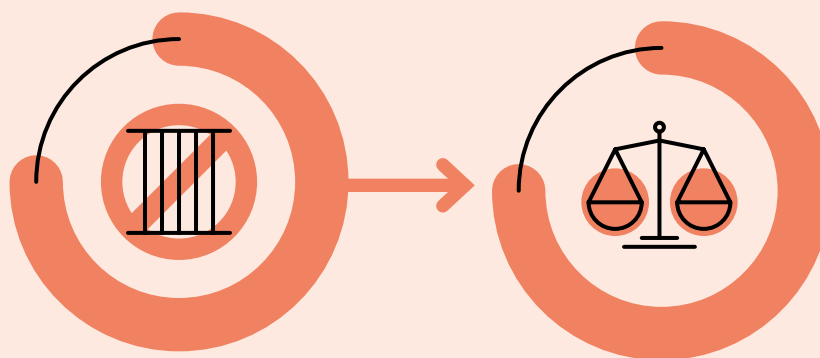
10-20%

In 10-20% of cases when children are suspected or charged with a criminal offence, the case is diverted from the formal justice system without trial (through mediation, a warning or an apology) (2013)

The justice system does not have specialized legal aid providers specifically dedicated to handling cases involving child victims, child witnesses or suspected and accused children.

National experts note that when representing children, legal aid providers routinely reach out to parents and psychologists for support to assist the child throughout proceedings.

According to experts, when children are represented by legal aid providers (including by lawyers specialized in children's rights), alternatives to pre-trial detention and to imprisonment are less often achieved than in cases where children are represented by private lawyers. With respect to diversion away from formal justice system without trial (e.g. through mediation, a warning, or an apology), experts say that there is no noticeable difference between the performance of legal aid providers and private lawyers.



> 75%

In 2013, in more than 75% of cases where a child was found culpable, an alternative to imprisonment was imposed

> 75%

When State-funded legal aid was provided, the proportion was still 75%

Legal aid and informal justice systems

Informal justice proceedings mainly handle marital or family disputes, land and property disputes, and disputes related to informal contracts and labor agreements.

National experts explain that people prefer to resolve disputes through informal justice proceedings because they find them less time-consuming. Additionally, experts observe that people trust that the judges or decision-makers, because they know the parties, can better judge what is a just outcome acceptable to all parties.

Lawyers and paralegals are allowed to provide legal assistance in both formal mediation/alternative dispute resolution processes and in customary or religious mediation and adjudication processes. There is a mechanism in place to allow for the referral of cases between the formal and informal justice systems.

To provide assistance in formal mediation and alternative dispute resolution processes, legal aid providers must have a law degree.

Quality safeguards

Accountability for the quality of legal aid services

If a person has a right to legal aid, but no legal aid provider is available, or the provider is unprepared or unqualified, the proceedings must cease until a qualified legal aid provider arrives. This provision is sometimes difficult to implement however, as there is no formal means of assessing whether a legal aid provider is unprepared or unqualified.

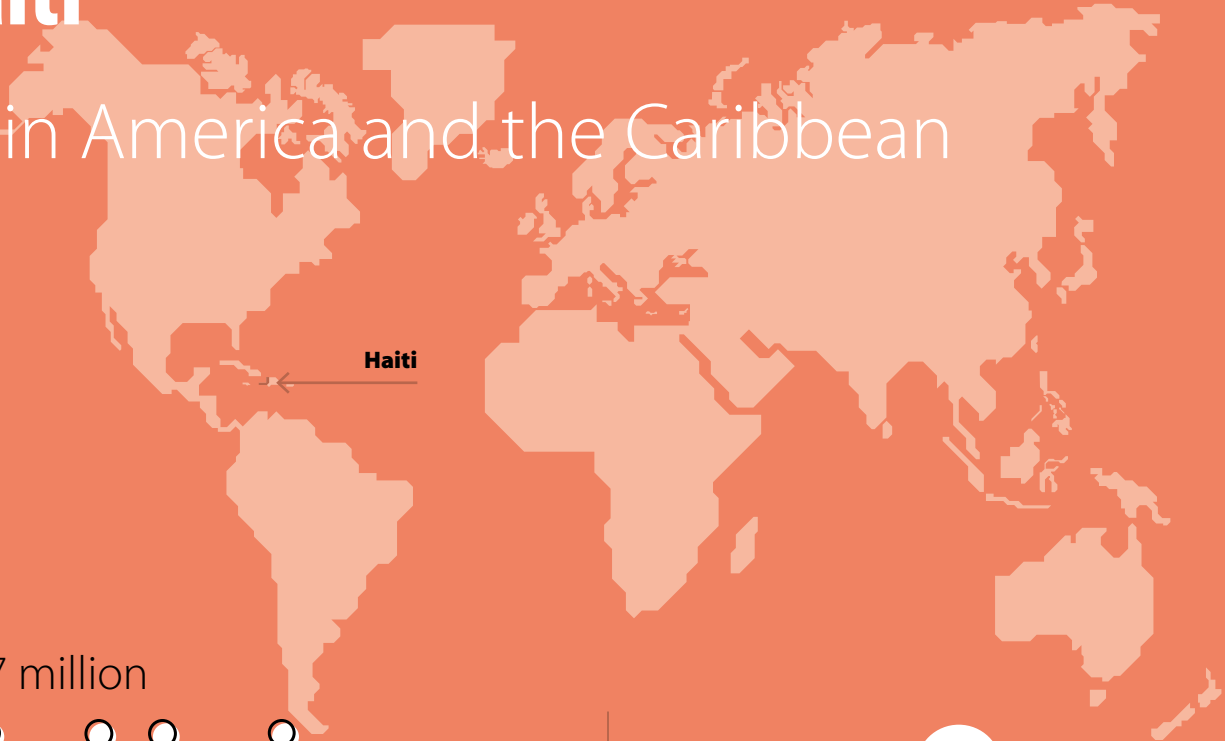
Monitoring and data collection on the quality of legal aid services

A 'peer review team' established by the legal aid board is formally responsible for monitoring the quality of legal aid services. Data is collected through satisfaction surveys of legal aid recipients, and through internal monitoring of institutional providers of legal aid services (e.g. random courtroom visits to assess the performance of public defenders)

There is an acute shortage of data in the justice system. For instance, no data is available on the number of lawyers and paralegals in the country, on criminal or civil cases filed in court where State-funded legal was provided. Data about children is not recorded separately, and no data is available on case resolution prior to a case's transfer to court.

Haiti

Latin America and the Caribbean



Haiti

10.57 million



Population



Unitary government system



43%

Rural population



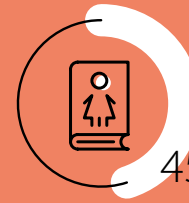
47%

Urban population



53%

Male literacy rate



45%

Female literacy rate



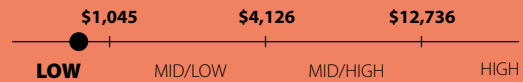
N/A

Gender Development Index



\$820

GNI per capita



0.483

HDI



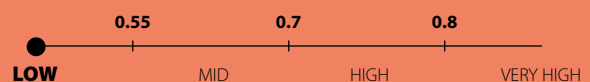
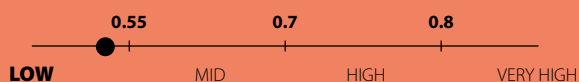
-38.8%

Loss in HDI due to inequality



0.296

Inequality-adjusted HDI



Legal Aid at a Glance in Haiti



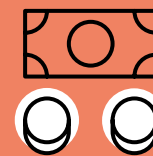
1989

Most recent reform of the legal aid system in 1989



Currently conducted

When was the last assessment of legal aid needs conducted



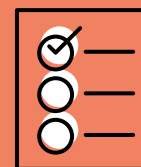
N/A

Annual expenditure on legal aid per capita in 2013



Challenges in accessing legal aid

- The legal aid system faces considerable operational deficiencies
- Legal aid is geographically difficult to access, and people often do not know where to find it
- It is deemed more important to cover the cost of police, prosecutors and judges than to spend state funds on lawyers
- People prefer to resolve issues through the informal justice system or outside the court system, where legal aid has no role
- Lawyers are paid very little for legal aid work



Priority areas for support

- ✓ Legislative drafting advice
- ✓ Development of action plans/policies
- Development of quality criteria for legal aid providers
- ✓ Establishing paralegal systems
- Institutional support
- ✓ Training
- ✓ Establishing quality criteria for legal aid providers

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Constitution**
- **Separate law on legal aid**
- **Criminal procedure law**
- **A right to legal aid is implicit in national due process provisions, but it is not formally recognized by law**

The right to legal aid was first recognized by law in 1864, and the legal aid system was most recently reformed in 1989, with strong involvement by the Ministry of Justice and the bar association. A new law on legal aid was drafted and submitted to the Executive in 2015. However, due to the postponed elections, the Parliament has yet to review or act upon the draft law.

State-funded legal aid is available in four of eighteen jurisdictions, however, in those four jurisdictions, the quality and efficiency of legal aid is neither consistent nor of a high quality. The UN mission, MINUSTAH, runs seven legal aid offices which are consistently viewed as more efficient and effective.

Services included as part of legal aid

Under the law, legal aid is mainly provided in the form of legal representation before a prosecutor, court and tribunal.

Specialized legal aid services are provided by the State for specific population groups, including persons with disabilities, children, women and refugees, asylum seekers and stateless persons.

Process for obtaining legal aid

Legal aid is provided upon request from the person who wants legal aid, although the court presiding over a case must also inquire and assess eligibility during the first appearance of the parties. A request for legal aid can also be initiated by the police or the prosecutor.

To receive legal aid, a person must prove eligibility by demonstrating family hardship (such as multiple children, single parenthood, etc.) or membership of a protected group (such as migrants, non-fluency in the national language, ethnic or religious minority, etc.). Proof that the legal aid applicant's claim has merit may sometimes need to be established, although no proof is necessary for cases where the State is obliged to provide legal aid under the law.

Awareness of the right to legal aid

Independent national experts estimate that the general population is 'somewhat knowledgeable' about the right to legal aid services, but 'not knowledgeable at all' about where and how to access them.

Delivery model

Legal aid authority

The Ministry of Justice and the bar association have chief responsibility for the management of legal aid. The new proposed draft law on legal aid envisions a legal aid board.

Organisation of legal aid services

Legal aid services are provided through the bar association, through *pro bono* schemes, and through civil society. Four legal aid offices are presently financed by the State. Seven other legal aid offices are funded by the UN mission.

Mechanism for assigning legal aid providers

To place a request for services from legal aid providers, the courts contact the bar association, which maintains and coordinates appointments and delivery of legal aid services. In theory, there are legal aid providers on duty in courts where the State has financed four legal aid offices. In practice, the provision of legal aid is ad hoc and non-systematic.

Accessing legal aid in urban vs. rural areas

State-funded legal aid services are not available in rural areas.

Service providers

Lawyers and other providers

1/4,597

Licensed practicing
lawyers/people



None 
**University-based
law clinics**

1/211,440

Full-time
legal aid lawyers/people



Paralegals

Involvement in the provision of some legal aid services. They provide some general assistance in navigating the justice system, mainly for civil cases.

Qualifications required

State-funded legal aid providers must have a law degree and show proof of passing a professional examination, be a member of the national bar, have completed an apprenticeship or internship with a practicing lawyer, and be in a contractual relationship with the agency that oversees the administration of legal aid.

Legal aid providers are not required by law to engage in continuing education or skills training, and the State does not allot funds to this effect.

Finances

Costs to recipients

Legal aid services for both criminal and civil cases are free of charge to those meeting eligibility criteria. Primary legal aid services are provided free of charge in legal advice centers located in city offices, where lawyers/paralegals provide advice. Civil society organisations also provide legal advice to people who come to their offices.

Legal aid in the annual justice budget

Legal aid is not treated as a separate component of the annual justice system budget. The budget for legal aid is by and large determined by the Ministry of Justice.

The State does not provide separate funding for specialized legal aid services to disadvantaged populations, nor does it cover additional services such as independent investigation, experts, psychological or social work support, etc.

Payments to legal aid providers

Legal aid providers receive a fixed fee for each case. Others sign contracts with the state agency overseeing appointments to receive payment for a set number of cases (e.g. bulk payment for ten cases).

Provision of legal aid

Legal aid in criminal cases

Who is eligible?

Under the proposed law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, persons imprisoned on criminal charges and victims of crime.

The State is *obliged* to provide legal aid to persons who meet a financial threshold, children, persons with physical disabilities, refugees, or when the law notes that the interests of justice require it.

At what stage of a criminal case?

Under the law, legal aid should be provided from the moment a law enforcement representative restricts the suspect's/defendant's freedom, or at least during questioning before formal charges are filed. (It takes approximately 24 hours for a legal aid provider to appear after notice is given that legal aid is needed in criminal cases.) Legal aid is also provided during trial.

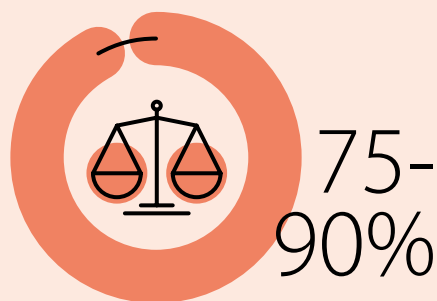
In criminal cases, legal aid institutions aim to ensure that the same provider represents the accused/suspect at all stages of the case.

It is prohibited for the police to interview someone in the absence of a lawyer. However the police oftentimes questions an accused nonetheless, even before a lawyer has arrived.

To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that legal aid lawyers are less likely than private lawyers to perform several actions, such as 'presenting arguments in favour of a suspect's/defendant's release pre-trial', or 'giving advice to the suspect/defendant in private before any contact with a state justice official'. Meanwhile, experts find that legal aid lawyers are just as likely as private lawyers to 'challenge the reliability of evidence against the suspect/defendant, as well as the credibility of witnesses.'

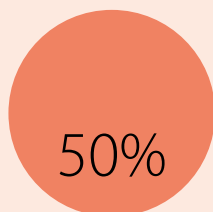
National experts further note that 'bribery/corruption' and 'the hiring of a private lawyer paid by the suspect/defendant' are amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.



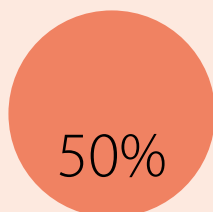
In 2013, between 75-90% of criminal cases filed in court received legal aid

Legal aid in civil cases

Estimated demand for legal aid services in civil cases



From respondents



From complainants

Women's access to legal aid services

Access to legal aid for children

Who is eligible?

There are no specific requirements for a person to be entitled to legal aid; it is assigned by authorised agencies at their discretion.

5 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available



Marital issues



Labor disputes



Child custody issues



Property issues



Claims for State services or disputes with State agencies

For what actions is a party eligible for legal aid?

Under the law, primary legal aid is available to all. Legal aid is provided to assist with the drafting and filing of complaints and responses, with gaining access to State services, and to avail victims of violence of protective services.

Public interest litigation / class action cases:

State-funded legal aid is not provided for public interest litigation and class action cases, but there is public demand for such initiatives to address discrimination, labour rights, consumer rights, environmental protection, and health.

According to national experts, women tend to lack awareness about the availability of legal aid services at little or no cost, they may not know where to find legal assistance, and they may not have confidence in the quality of legal aid services provided to them.

Female victims of violence (including victims of sexual and gender-based violence) receive legal aid services only in some legal proceedings, but court support services, such as interpretation and translation of documents, are not provided.

The justice system has specialized providers/units for representing child victims, child witnesses or suspected and accused children, including specialized courts and judges, specialized prosecutors and specialized police officers/units.

According to national experts, when representing children, legal aid providers routinely reach out to child protection service practitioners for support to assist the child throughout proceedings.

Legal aid and informal justice systems

National experts explain that people prefer to resolve disputes through informal justice proceedings because they understand better how they work. Legal aid services are very rarely provided in informal justice systems. There is no mechanism that allows cases to be referred between the formal and informal legal systems.

Quality safeguards

Accountability for the quality of legal aid services

A legal aid provider can refuse to take a case, or ask to be removed from the duty to represent a particular legal aid recipient, due to having too many cases, due to lacking expertise in the law or skills required by the specific case, due to incompatibility with the legal aid recipient, or to a conflict of interest with the legal aid recipient.

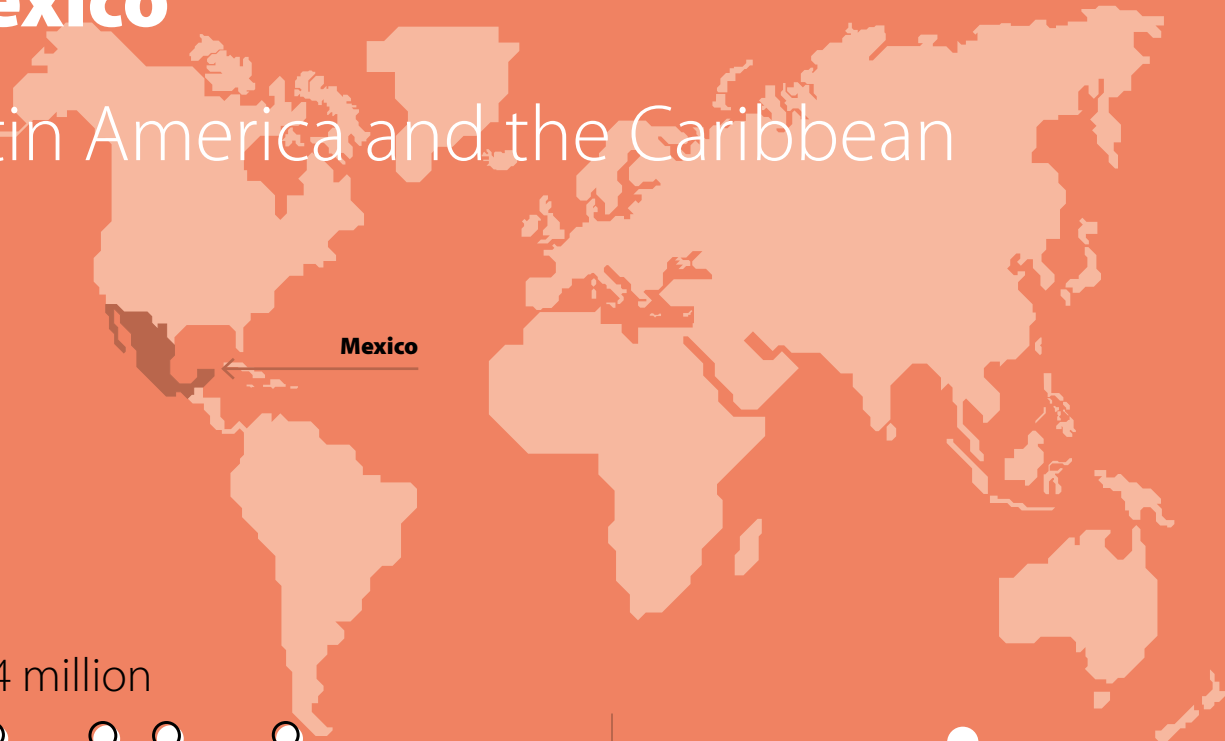
Monitoring and data collection on the quality of legal aid services

The bar association is formally responsible for monitoring the quality of legal aid services; an effort is also made by institutional providers of legal aid to collect data on the quality of the services they provide.

There is an acute shortage of data in the justice system. For instance, no data is available on the number of criminal or civil cases filed in court where State-funded legal was provided. Data about children is not recorded separately, and no data is available on case resolution prior to a case's transfer to court.

Mexico

Latin America and the Caribbean



125.4 million



Population



Federal government system



21%

Rural population



79%

Urban population



95%

Male literacy rate



93%

Female literacy rate

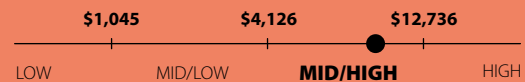
0.943

Gender Development Index



\$9,870

GNI per capita



0.756

HDI



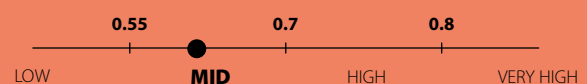
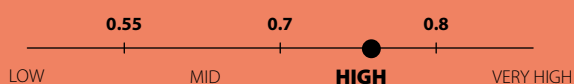
-22.4%

Loss in HDI due to inequality



0.587

Inequality-adjusted HDI



Legal Aid at a Glance in Mexico



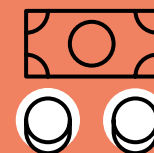
1998

Most recent reform of the legal aid system in 1998



Never conducted

When was the last assessment of legal aid needs conducted

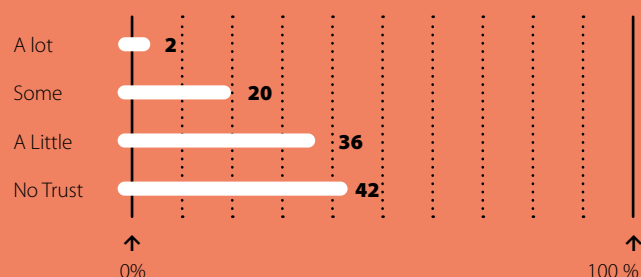


N/A

Annual expenditure on legal aid per capita in 2013

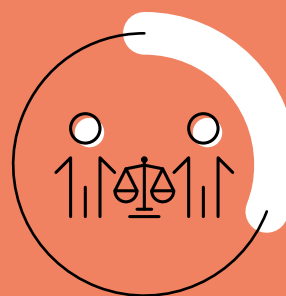
People's trust in courts

Citizen survey, WJP Rule of Law Index 2015



People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015



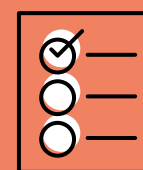
31%

Sample size: 64



Challenges in accessing legal aid

- Low pay for legal aid providers
- Covering the cost of police, prosecutors and judges is prioritized over spending state funds on lawyers
- There is little support among the population for spending funds to defend accused criminals
- Some people think that legal aid lawyers are working as part of the police, prosecutor, or judicial agencies



Priority areas for support

- Legislative drafting advice
- Development of action plans/policies
- ✓ Development of quality criteria for legal aid providers
- Establishing paralegal systems
- ✓ Institutional support
- ✓ Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- [Constitution](#)
- [Separate law on legal aid](#)
- [Law on judicial procedure](#)
- [Civil procedure code](#)
- [Administrative law](#)
- [Criminal procedure law](#)
- [Laws on prosecution](#)
- [Laws on penitentiary](#)
- [Implementing regulations for the law on legal aid](#)
- [General baselines for the organisation and functioning of the Institute of Defence](#)

The right to legal aid was first recognized by the Constitution of 1917 (Article 20(A)).

The latest reform of the legal aid system took place in 1998, when the Mexican government adopted the Federal Public Defence Act which improved the coverage and quality of defence lawyers across the country. Both the legislative and the executive branches, as well as the courts, played an instrumental role in introducing this reform.

State-funded legal aid is available at national, regional and local levels.

Services included as part of legal aid

For both civil and criminal cases, legal aid is provided in the form of legal advice, legal representation, and legal assistance (before national courts). Legal aid lawyers also provide general assistance in navigating the justice system and in executing legal documents.

Specialized legal aid services are not provided by the State to disadvantaged population groups.

Process for obtaining legal aid

Legal aid is provided upon request from the person who wants legal aid or upon request from the prosecutor or other appropriate State justice actors. The court presiding over a case must also inquire and assess eligibility during the first appearance of the parties.

In criminal cases, a person must establish her/his eligibility by proving status as a recipient of welfare, evidence of low income (if employed), or evidence of membership of a protected group (such as migrants, children, displaced persons, refugees, etc.) In civil and administrative cases, the applicant's word that s/he meets financial or vulnerability criteria is sufficient. No proof is necessary when the State is obliged to provide legal aid under the law for a specific case or situation.

Awareness of the right to legal aid

Some measures were taken by the State to raise awareness about the right to legal aid and how to access legal aid services in 2014-15. Independent national experts estimate that the general population is 'somewhat knowledgeable' about legal aid services.

Delivery model

Legal aid authority

The chief responsibility for the management and administration of legal aid rests with the legal aid board which is responsible for overseeing and coordinating the legal aid appointment mechanism, for establishing the national legal aid strategy and policy, for setting performance standards, and for overseeing professional training programs. The legal aid board is composed of the Director General of the Federal Institute for Public Defence and of six reputable legal professionals, nominated by the Chairman of the Judicial Council.

The Board works closely with the Federal Institute of Public Defenders, which federates public defender's offices present in each one of the country's 32 states.

To help ensure that public defence meets high quality standards, the Criminal Justice Implementation Commission (SETEC), with the support of international organisations, has developed a set of guidelines for the establishment of a professional career service for state public defenders in Mexico.

Organisation of legal aid services

In both criminal and civil cases, legal aid services are organised through the legal aid board, public defender institutions, and panel appointments.

Mechanism for assigning legal aid providers

For a public defender to be assigned to a case, State agencies contact the legal aid board which maintains a duty roster of available legal aid providers. There are also legal aid providers on duty in courts and police precincts.

It usually takes approximately four hours for a legal aid provider to appear after a notice is given that legal aid is needed in a criminal case.

Accessing legal aid in urban vs. rural areas

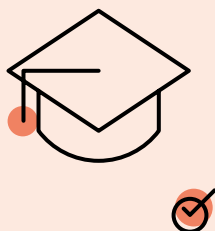
Legal aid services are available in both rural and urban areas. According to national experts, the quality of legal services tends to be better in urban areas.

Service providers

Lawyers and other providers

N/A

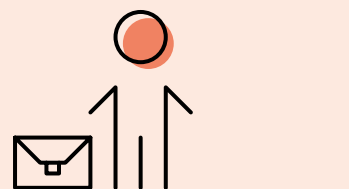
Licensed practicing
lawyers/people



**University-based
law clinics**

N/A

Full-time
legal aid lawyers/people



Not applicable 
Paralegals
Not allowed to provide legal aid

Qualifications required

Legal aid providers must have a law degree and must show proof of passing a professional examination (bar examination). They must be registered with a State-authorized roster of legal aid providers, and be in a contractual relationship with the agency that oversees the administration of legal aid. Legal aid lawyers must undergo separate testing to be hired as a staff member of the institutional legal aid provider.

Legal aid providers are required by law to engage in continuing education and/or skills training, and the State partially covers the cost of such continuing education.

Finances

Costs to recipients

The State covers the cost of primary legal aid services provided in criminal and civil cases to those meeting eligibility criteria.

Legal aid in the annual justice budget

Legal aid is not a separate component of the annual justice system. The budget for legal aid is determined by the parliament, the judiciary, and regional/local governments.

Specialized legal aid services for disadvantaged populations are funded by the State with substantial contributions from private actors and international donors. The State also covers the cost of clerical assistance.

Payments to legal aid providers

Legal aid providers work full-time in institutions funded by the State.

Provision of legal aid

Legal aid in criminal cases

Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, persons imprisoned on criminal charges, and victims of crime.

State is *obliged* to provide legal aid to persons who meet a financial threshold (less than US\$1,800), children, persons with physical or mental disabilities, internally displaced persons, refugees, and persons whose mother tongue is not the language of official proceedings.

At what stage of a criminal case?

Under the law, qualified legal assistance may be requested from the moment a State agency begins consideration of whether to impose pre-trial detention, or at least from the moment charges are officially filed. It is also provided during trial, and for any appeal (in national and international tribunals) or cassation.



People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

Laws and regulations prohibit the police and other investigating agencies from interviewing a person in the absence of a lawyer.

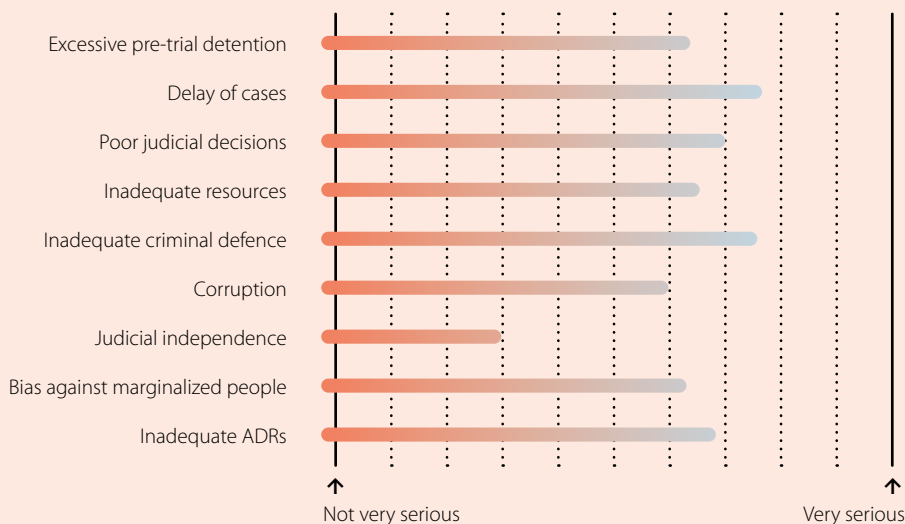
To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that legal aid lawyers are at times more likely than private lawyers to perform certain actions — for instance ‘presenting arguments in favour of a suspect’s/defendant’s release pre-trial’, and at other times less likely than private lawyers to perform other actions — for instance ‘conducting an investigation to establish doubt about the suspect’s/defendant’s guilt even if the defendant may be guilty’.

Furthermore, experts identify ‘a poorly prepared prosecutor’, ‘hiring a private lawyer who receives pay from the suspect/defendant, not from state legal aid funds’, and ‘bribery/corruption’ to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

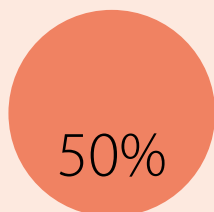
How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015

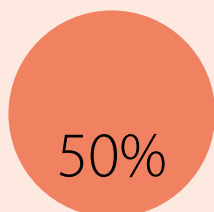


Legal aid in civil cases

Estimated demand for legal aid services in civil cases



From respondents



From complainants

Who is eligible?

Legal aid in civil cases is available to persons who meet a financial threshold (US\$1,800), children, persons with physical or mental disabilities, internally displaced persons, refugees, and persons whose mother tongue is different than the language of official proceedings.

3 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available



Child custody issues



Claims for State services or disputes with State agencies



Labor disputes

For what actions is a party eligible for legal aid?

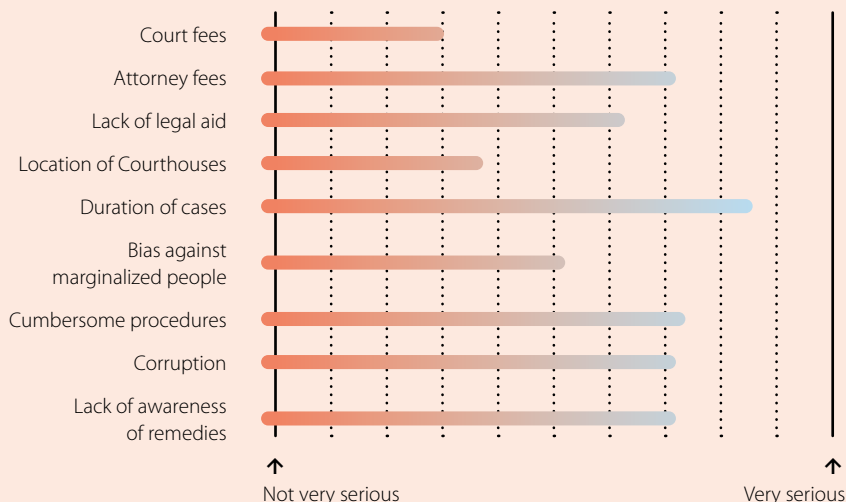
In civil cases, a party is eligible to primary legal aid.

Public interest litigation / class action cases:

State experts are of the view that there is no public demand for public interest litigation or class action cases. Staff lawyers at institutional legal aid providers (e.g. public defenders) do not coordinate to uniformly challenge common violations of national and international due process rights and human rights.

How serious are the following problems in influencing people’s decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

according to national experts, WJP Rule of Law Index 2015



Women's access to legal aid services

Neither legal aid advice nor court support services are provided for female victims of violence in legal proceedings.

According to independent national experts, some women may prefer not to seek out legal assistance as they see court processes as too time-consuming and some may lack confidence in the quality of legal aid services provided to them. Women may also perceive legal aid providers to be biased against them, and therefore may find it difficult to share with them intimate information about a case.

Access to legal aid for children

There are specialized courts, judges and legal aid providers at the national and regional levels for child victims, child witnesses or suspected and accused children.

When representing children, legal aid providers often reach out to parents, psychologists and other childcare professionals for support to assist the child throughout proceedings.

According to national experts, when children are represented by legal aid providers (especially those specialized in children's rights), diversion and alternatives to pre-trial detention are more often achieved than in cases where children are represented by private lawyers, or by non-specialized legal aid lawyers.

National experts further note that the frequency of use of alternatives to imprisonment is lower when children are represented by legal aid providers (including those specialized in children's rights) than in cases where children are represented by private lawyers.

Legal aid and informal justice systems

Informal justice mechanisms are not used to resolve disputes.

Quality safeguards

Accountability for the quality of legal aid services

If no legal aid provider arrives, or if a legal aid provider is unprepared or unqualified, the proceeding is postponed, or a replacement legal aid provider is asked to represent the party. This can sometimes be problematic as there are no formal means of assessing a legal aid provider's qualifications or level of preparedness.

Legal aid providers can refuse to take a case or ask to be removed from the duty to represent a particular legal aid recipient due to incompatibility or to a conflict of interest with the legal aid recipient.

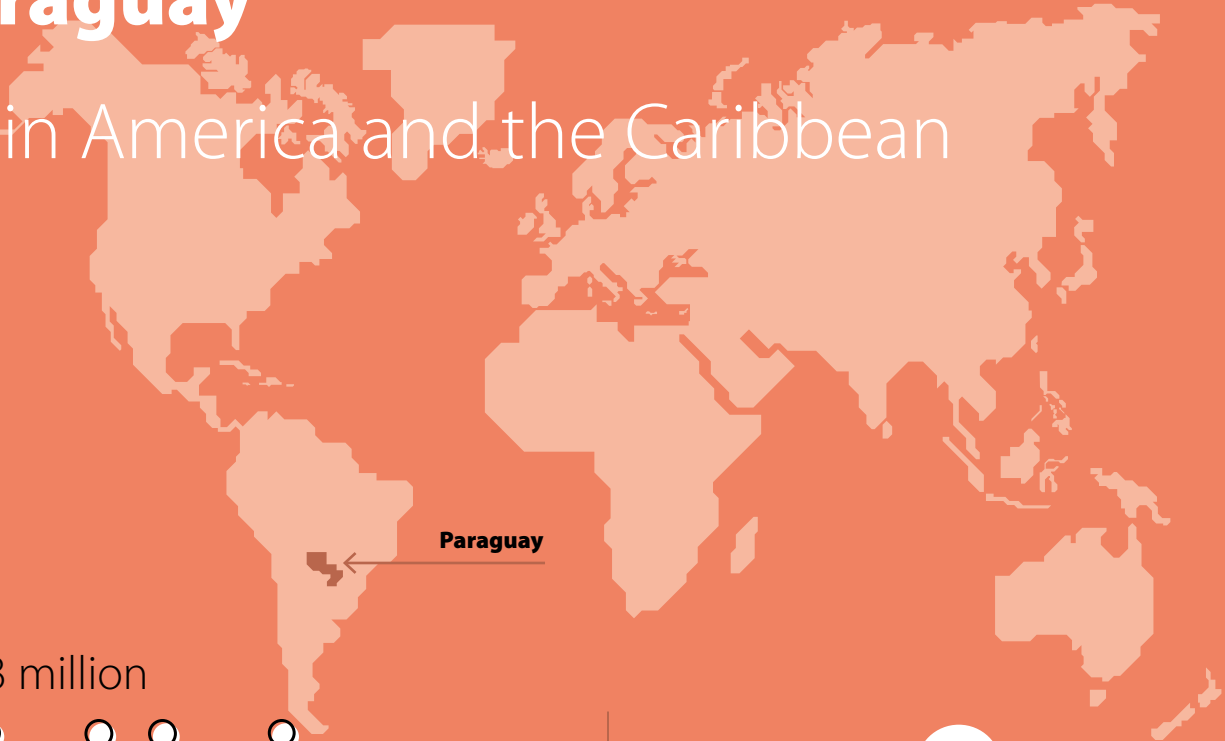
Monitoring and data collection on the quality of legal aid services

The quality of legal aid services is monitored by the legal aid board and the judiciary. Data on legal aid is collected through the review of complaints by legal aid recipients about a legal aid provider's action, and by conducting satisfaction surveys filled out by legal aid recipients.

There is a considerable lack of data across the system. For instance, no data is available on the number of criminal or civil cases filed in court where State-funded legal aid was provided. Data about children is not recorded separately, and no data is available on case resolution prior to a cases' transfer to court.

Paraguay

Latin America and the Caribbean



Paraguay

6.553 million



Population



Unitary government system



41%

Rural population



59%

Urban population



96%

Male literacy rate



94%

Female literacy rate



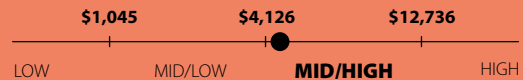
0.956

Gender Development Index



\$4,400

GNI per capita



0.679

HDI



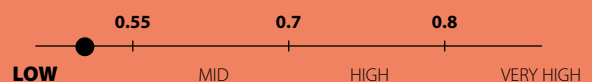
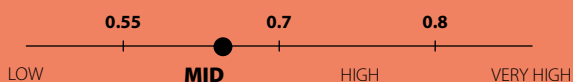
-22.1%

Loss in HDI due to inequality



0.529

Inequality-adjusted HDI



Legal Aid at a Glance in Paraguay



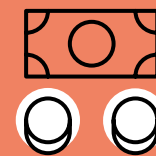
2011

Most recent reform of the legal aid system in 2011



Never conducted

When was the last assessment of legal aid needs conducted



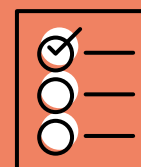
N/A

Annual expenditure
on legal aid per capita in 2013



Challenges in accessing legal aid

- Legal aid is geographically difficult to access; there is a shortage of lawyers outside urban areas
- Little support among the population for spending public funds to defend accused criminals
- People may not be aware that legal aid services are available at little or no cost, they may not know where to find legal assistance, or they may not have confidence in the quality of legal services
- There is a need to consolidate judicial independence and to improve the efficiency of judicial institutions
- The quality of education provided by law schools in both public and private universities is uneven



Priority areas for support

- Legislative drafting advice
- ✓ Development of action plans/policies
- Development of quality criteria for legal aid providers
- ✓ Establishing paralegal systems
- ✓ Institutional support
- ✓ Training
- ✓ Establishing quality criteria for legal aid providers
- ✓ Supporting legislative initiatives regarding legal aid for victims
- ✓ Improving the quality of legal training by enhancing collaboration between the Judicial School Training Centers of the Judiciary, the Ministry of Public Defence, as well as public and private universities

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- Constitution
- Separate law on legal aid
- Law on judicial procedure
- Law on the prosecution
- Civil procedure code
- Administrative law
- Criminal procedure law

The right to legal aid was first recognized by law in 1992, and the latest substantial reform of the legal aid system took place in 2011. State-funded legal aid is available at national level only.

Services included as part of legal aid

Legal aid for all types of cases (criminal, civil and commercial, labour, child and adolescence) is mainly provided in the form of legal advice, legal representation and legal assistance (before the courts). Legal aid providers also provide assistance with the execution of legal documents, legal information in police precincts, prisons or in the community, and general assistance in navigating the justice system.

Process for obtaining legal aid

Legal aid is provided upon request from the person who wants legal aid. In criminal cases, no proof of eligibility is necessary for cases where the State is obliged to provide legal aid under the law. In civil cases, a person must prove eligibility by providing supportive evidence of low income or evidence of meeting a set of 'vulnerability criteria'. Just like in criminal cases, no proof of eligibility is necessary for civil cases where the suspect/defendant is entitled to receiving legal aid under the law.

Awareness of the right to legal aid

The State has carried out a public information campaign to raise awareness about the right to legal aid and how to access legal aid services at least once over the past three years. Detailed information was provided on how to contact relevant service providers, and on services available, including for children.

Independent national experts estimate that the general population is 'somewhat knowledgeable' about the right to legal aid services.

Delivery model

Legal aid authority

The Public Defender's Office — now independent from the judiciary — acts both as overall coordinating agency and provider of legal aid services. A National Council on Access to Justice was also recently created in 2015.

Organisation of legal aid services

Legal aid services are mainly provided through the public defender's office.

Additionally, a national programme for the establishment of National Houses of Justice (*Casas de Justicia*) across the country was launched in 2015, and offers community-based means to resolve disputes. The program provides access to basic judicial services such as advice on matters of family violence, alimony, registration in the civil registry and assistance with identity card application, and alternative dispute resolution mechanisms, amongst others. The 'Casas de Justicia' are separate from the formal court structure and focus on redressing small grievances in low-income urban communities and rural areas.

Lawyers can also provide legal aid services through *pro bono* schemes if they wish so.

Mechanism for assigning legal aid providers

The courts and the police have a roster of legal aid providers on duty for a given day, and call them in the given order.

Accessing legal aid in urban vs. rural areas

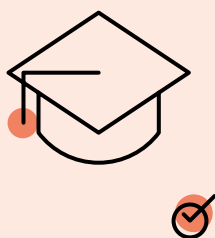
State-funded legal aid services are provided in rural areas.

Service providers

Lawyers and other providers

N/A

Licensed practicing
lawyers/people



University-based law clinics

The Catholic University of Asunción, also known as Universidad Católica de Asunción (UCA), has a dedicated Legal Aid office (Consultorio Jurídico) which provides free legal aid services.

N/A

Full-time
legal aid lawyers/people



Not Applicable

Paralegals
Not officially recognized

Qualifications required

Legal aid providers are required by law to engage in continuing education or skills training, which is provided to some extent by the public defender's office. The State partially allots funds to this effect.

Given the uneven quality of education provided by law schools, the Judicial School under the Council of the Magistracy plays an important role in providing complementary courses to raise the general level of competencies amongst lawyers.

To improve the quality of legal training provided to law students and practicing lawyers, national experts recommend that the Judicial School Training Centers of the judiciary work more closely with the Ministry of Public Defence and public and private universities.

Finances

Costs to recipients

Legal aid services are free of charge for those meeting eligibility criteria. In criminal cases, all costs are covered by the State; legal aid recipients only have to pay for some legal expenses, notifications and edicts, the cost of which are specified by law.

Primary legal aid services are provided for free at the office of the public defender. The bar association and some civil society organisations also provide legal advice for free to people who come to their offices.

Legal aid in the annual justice budget

Legal aid is a separate component of the annual justice budget.

Payments to legal aid providers

For both criminal and civil cases, legal aid lawyers are full-time salaried employees in institutions funded by the State.

Provision of legal aid

Legal aid in criminal cases

Who is eligible?

Under article 17 of the Constitution, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, persons imprisoned on criminal charges.

The State is *obliged* to provide legal aid to persons who meet a financial threshold, and to children.

At what stage of a criminal case?

Under the law, legal aid should be provided from the moment a law enforcement representative restricts the suspect's/defendant's freedom.

In criminal cases, legal aid institutions do not always ensure that the same provider represents the accused/suspect at all stages of the case.

0.5%

Proportion of criminal cases which resulted in acquittals after trial (2013)

1.0%

proportion of criminal cases for which pre-trial detention was imposed (2013)

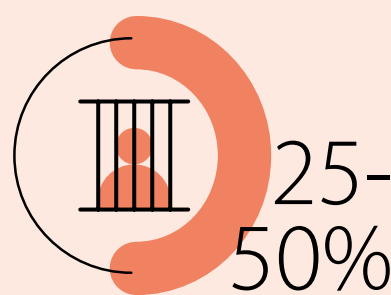
0.1%

Proportion of criminal cases which were resolved pursuant to a plea agreement, procedural agreement or expedited trial (2013)

To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that legal aid lawyers are more likely than private lawyers to perform certain actions, such as 'advocating for acquittal or reduction of charges based on weak evidence even if the defendant may be guilty', even while being less likely to perform other actions, such as 'presenting arguments in favour of a suspect's/defendant's release pre-trial', or 'conducting investigations to establish doubt about the suspect's or defendant's guilt even if s/he may be guilty'.

Furthermore, experts identify 'hiring a private lawyer who is paid by the suspect/defendant, rather than using State-funded legal aid' as well as 'bribery/corruption' to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.



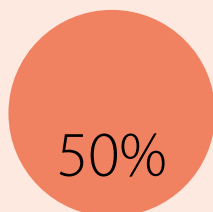
Proportion of all court cases that are criminal (2013)



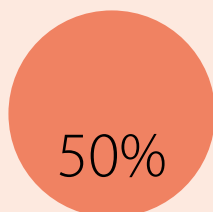
Proportion of criminal cases filed in court for which legal aid was provided (2013)

Legal aid in civil cases

Estimated demand for legal aid services in civil cases



From respondents



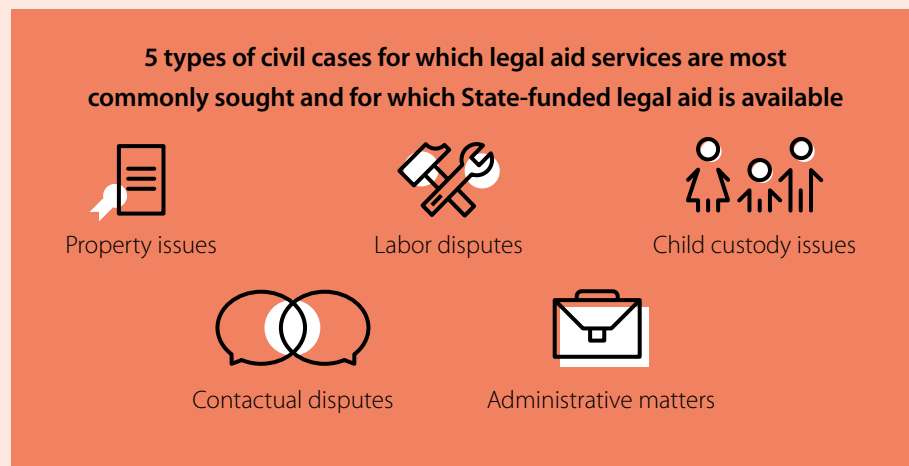
From complainants

Women's access to legal aid services

Access to legal aid for children

Who is eligible?

Legal aid in civil cases is provided to persons who meet a financial threshold.



Public interest litigation / class action cases:

State-funded legal aid is not provided for public interest litigation and class action cases.

According to national experts, the absence of specialized legal aid services for women — including for cases of gender-based violence — is an important obstacle faced by women. Furthermore, experts note that in spite of important awareness-raising efforts led by civil society organisations, women continue to lack awareness about the availability of legal aid services at little or no cost (especially in rural areas), and they may find it difficult to share with a (typically male) legal aid provider intimate information related to a case.

Female victims of violence (including victims of sexual and gender-based violence) receive legal aid services and court support services, such as interpretation and translation of documents, in some legal proceedings only.

The justice system has specialized courts and judges, specialized police officers/units, and specialized prosecutors to represent child victims, child witnesses or suspected and accused children.

According to national experts, legal aid providers, when representing children, rarely reach out to child support professionals to assist the child throughout proceedings.

Experts also note that in criminal cases, diversion away from judicial proceedings is occasionally used.

Legal aid and informal justice systems

The Supreme Court created the Office of Mediation in 2000, and to respond to sustained high demand for mediation services, a Directorate for Mediation was subsequently created.

Lawyers and paralegals are allowed to provide legal assistance in formal mediation and alternative dispute resolution processes.

To provide assistance in informal justice processes, legal aid providers must at minimum have undergone basic training in legal matters.

Quality safeguards

Accountability for the quality of legal aid services

If a person has a right to legal aid, but no legal aid provider is available, the proceedings must cease until a qualified legal aid provider arrives. There is however no formal means of assessing whether a legal aid provider is unprepared or unqualified, so it is difficult for a person to seek remedy if the services s/he receives are not satisfactory.

Monitoring and data collection on the quality of legal aid services

The Ministry of Public Defence has an Audit Office which serves as an internal monitoring mechanism for the legal aid system. The Audit Office also reviews complaints lodged by legal aid recipients, and requests statistical reports from public defender's offices and other institutional legal aid providers.

There is an acute shortage of data in the justice system. For instance, data about children is not recorded separately, and no data is available on case resolution prior to a case's transfer to court.

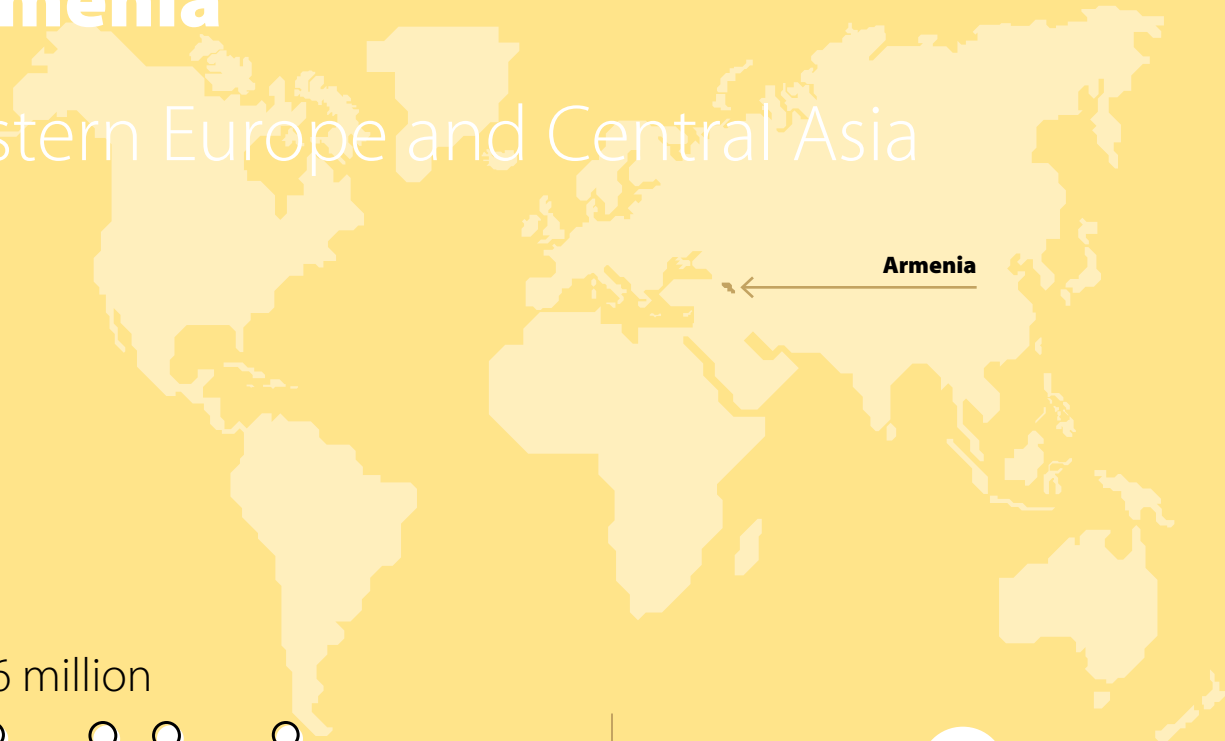
Eastern Europe & Central Asia



Armenia	260
Belarus	270
Bulgaria	280
Czech Republic	291
Georgia	301
Kazakhstan	313
Lithuania	324
Moldova	334
Montenegro	346
Slovak Republic	354
Turkmenistan	363
Ukraine	372

Armenia

Eastern Europe and Central Asia



Armenia

3.006 million



Population



Unitary government system



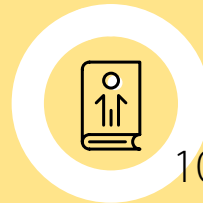
37%

Rural population



63%

Urban population



100%

Male literacy rate



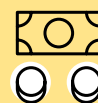
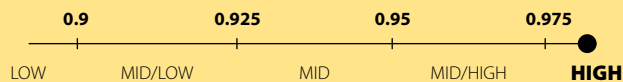
100%

Female literacy rate



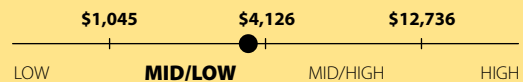
1.008

Gender Development Index



\$4,020

GNI per capita



0.733

HDI



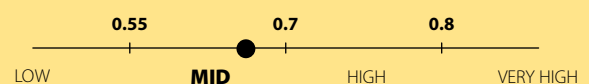
-10.2%

Loss in HDI due to inequality



0.658

Inequality-adjusted HDI



Legal Aid at a Glance in Armenia



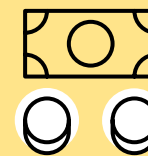
2013

The latest reform of the legal aid system was carried out in 2013



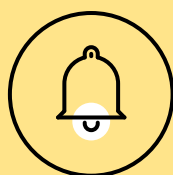
Within the past 5 years

When was the last assessment of legal aid needs conducted



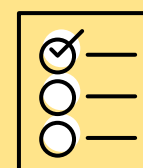
N/A

Annual expenditure
on legal aid per capita in 2013



Challenges in accessing legal aid

- Shortage of lawyers, especially outside urban areas
- Covering the costs of police, prosecutors and judges is deemed more important than spending public funds on lawyers
- People may not know where to find legal assistance and may not be aware that legal aid services are available at little or no cost
- People sometimes lack confidence in the quality of legal aid services, and as a result they may prefer to resolve issues through the informal justice system or outside the court system, where legal aid has no role



Priority areas for support

- Legislative drafting advice
- Development of action plans/policies
- ✓ Setting quality criteria for legal aid providers and designing training programs for lawyers
- Establishing paralegal systems
- Institutional support
- Training
- ✓ Conducting public information campaigns on the right to legal aid and legal aid services available
- ✓ Establishing a performance-based monitoring system for the legal aid system, including mechanisms for collecting feedback from service users and institutional stakeholders
- ✓ Establishing an officially recognized paralegal system and enhancing coordination between informal mechanisms (i.e. legal clinics in universities, *pro bono* schemes and civil society providers) and formal mechanisms (i.e. public defender's offices)
- ✓ Advice on budgeting and financing, particularly in regards to refining the policy on State-funded legal aid, and to the possible establishment of a national endowment for legal aid
- ✓ Establishing benchmarks and norms on the workload of public defenders in criminal and civil/administrative cases, with a view to rationalizing the distribution of cases amongst public defenders across the system

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Constitution**
- **Law on the judiciary**
- **Law on the prosecution**
- **Civil procedure code**
- **Code on administrative offences**
- **Law on treatment of arrestees and detainees**
- **Criminal executive code**
- **Criminal procedure code**
- **Implementing regulations for the law on legal aid**
- **Law on advocacy**

The right to legal aid was first recognized in 1998.

The Constitution of Armenia (with amendments done in 2005) provides that “Everyone shall have the right to legal assistance. In cases provided for by law, legal assistance shall be provided at the expense of state funds.” (Article 20).

The Law on Advocacy, adopted in 2004, provided that the State shall guarantee legal aid in criminal and civil cases. It was amended in 2011 to add the possibility for various categories of disadvantaged population to receive free legal aid also in civil and administrative cases. In 2012, a Strategic Programme for Legal and Judicial reforms for the period 2012-2016, approved by the President of Armenia, mandated the Ministry of Justice and the Chamber of Advocates (i.e. the bar association) to develop eligibility criteria for free legal aid based on a person's social/financial status, and to carry out a needs assessment for the provision of free legal assistance.

State-funded legal aid is available at the national level only.

Services included as part of legal aid

Legal aid is provided for both civil and criminal cases, in the form of legal advice, legal representation and legal assistance (before tribunals). Legal aid providers also provide general assistance in navigating the justice system, and in executing legal documents.

Specialized legal aid services are provided by the State for disadvantaged population groups, including persons with disabilities, children, the elderly, migrants, refugees, asylum seekers, stateless persons and internally displaced persons, the convicted, pensioners living alone, children without parents, people receiving medical treatment at psychiatric institutions, and victims of trafficking.

Process for obtaining legal aid

The determination of whether or not a person is entitled to legal aid is automatic if the case or legal aid recipient qualifies for legal aid services. In other cases, legal aid is provided upon request from the person who wants legal aid, or upon request from the police or the prosecutor. The court presiding over a case must also assess eligibility during the first appearance of the parties.

In both civil and criminal cases, no proof of eligibility is necessary when for a particular case, the State is obliged to provide legal aid under the law. In other civil cases, a person must prove her/his eligibility by providing supportive documentation proving her/his status as recipient of welfare for vulnerable populations, providing evidence of low income, membership of a protected group (such as migrants, children, ethnic or religious minority, etc.)

Awareness of the right to legal aid

The State has not conducted in recent years public information campaigns to raise awareness about the right to legal aid and how to access legal aid services. Independent national experts estimate that the general population is 'not at all knowledgeable' about legal aid services.

Delivery model

Legal aid authority

The chief responsibility for the administration of legal aid rests with the Chamber of Advocates (i.e. the bar association) and the Public Defender's Office, both of which act as coordinators and providers of legal aid services.

Organisation of legal aid services

Legal aid services in both criminal and civil cases are provided through panel appointments (constituted ex officio or with contracted lawyers), through the Chamber of Advocates (i.e. bar association) and through *pro bono* schemes (which are also seen as means for lawyers to acquire experience). Free legal aid in criminal cases is provided primarily through the Office of the Public Defender, which has 24 locations throughout the country with 66 public defenders. The PDO provides relatively limited scale of legal aid on civil and administrative cases.

Mechanism for assigning legal aid providers

To request the services of a legal aid provider, the courts and police contact the Chamber of Advocates, which coordinates appointments and delivery of services. The bar maintains a duty roster of legal aid providers, and State agencies can contact the bar to file a request.

Accessing legal aid in urban vs. rural areas

State-funded legal aid services are available in rural areas, although 53 public defender's offices (with only two or three specialists per office) spread across the country is insufficient to meet the demand, especially that most of these offices provide assistance with criminal cases only.

Service providers

Lawyers and other providers

1/1,670

Licensed practicing
lawyers/people




University-based law clinics

Students are allowed to provide primary legal aid, to help prepare legal documents, and to conduct mediation

1/56,720

Full-time
legal aid lawyers/people



1/81,247 

Paralegals/people

Even if they are not officially recognized, paralegals are allowed to provide legal aid services in both criminal and civil cases, including legal advice on a one-time or two-time basis, legal representation before a prosecutor or a court, provision of legal information in police precincts or prisons, general assistance in navigating the justice system, and assistance in executing legal documents

Qualifications required

Legal aid providers must have a law degree and must show proof of passing a professional examination (bar examination). They must be members of the bar and have completed an apprenticeship or internship with a practicing lawyer. To become a staff member of the Public Defender's Office, lawyers need to undergo separate testing and interviews.

Paralegals must have completed a law degree, and show proof of passing a professional examination (bar examination). However, law students of the Yerevan State University can provide primary legal aid even prior to passing the bar examination at the Legal Clinic of the Law Faculty.

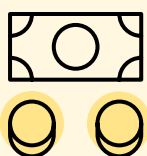
Legal aid providers are required by the Chamber of Advocates and the State to engage in continuing education or skills training, but the State does not allot funds to this effect.

Finances

Costs to recipients

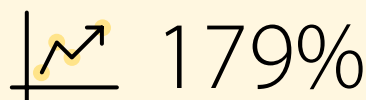
Primary legal aid services are available free of charge (for those meeting eligibility criteria) at the office of the Public Defender, at the Chamber of Advocates (which maintains a roster of qualified lawyers available to provide legal advice), at the offices of civil society organisations, and at the School of Advocates, which provides legal aid for free every Thursday in a team of a practicing lawyer and a student/s of the School preparing for bar examination.

Legal aid in the annual justice budget



\$0.21

Legal aid budget per capita in 2013



The legal aid budget grew by 179% from 2007 to 2013

The national budget for legal aid is requested by the Ministry of Justice and approved in the annual state budget by the Parliament. This legal aid allocation is fixed, since 2013.

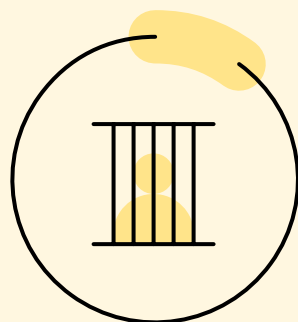
There is no separate funding mechanism to cover the cost of specialized legal aid services. Additional services, such as independent investigations, experts, psychological/social work support, clerical assistance, are not covered by the State.

Payments to legal aid providers

In both criminal and civil cases, for state funded legal aid, the aid providers work full-time in institutions funded by the State, such as in Public Defender's Offices. The Law on Advocacy also allows for other advocates (not Public Defenders) to be contracted, subject to payment by hours worked (at an hourly rate equal to the salary of Yerevan City prosecutor). So far however, few Public Defenders Offices have issued such contracts as they are unable to cover the fees of these additional advocates from their own limited budget.

Provision of legal aid

Legal aid in criminal cases



< 10%

Proportion of criminal court cases (2013)

2%

Criminal court cases which resulted in acquittals (2013)

75%

Criminal court cases which had pre-trial detention imposed (2013)

Who is eligible?

Under the law, legal aid is available to persons arrested and detained on criminal charges, persons charged with a criminal offence, persons imprisoned on criminal charges, victims of crime and witnesses.

According to article 20 of the Constitution, “everyone shall have a right to the assistance of a legal counsel chosen by her/him starting from the moment of her/his arrest, and/or subjection to a compulsion measure or indictment.” In particular, the State is obliged to provide legal aid to persons who meet a financial threshold, children, persons with physical, intellectual or mental disabilities, internally displaced persons and refugees, persons whose mother tongue is not the language of official proceedings, persons who potentially face a prison sentence, family members of soldiers deceased while defending the borders of the country, participants in the Great Patriotic War and in military actions to defend the country’s borders, the unemployed, pensioners who live alone, insolvent persons, and victims of trafficking and exploitation.

At what stage of a criminal case?

Under the law, legal aid should be provided from the moment a law enforcement representative restricts the suspect’s/defendant’s freedom, or at least from the moment charges are officially filed. Legal aid is also provided during trial, for any appeal or cassation (including to international tribunals), and for consideration of probation, or social rehabilitation/reintegration matters after release from prison.

It is prohibited by law for the police to interview someone in the absence of a lawyer, unless the person agrees to waive this right. This can be problematic when the police determines the person to have a right to legal aid only after the witness has incriminated him/herself.

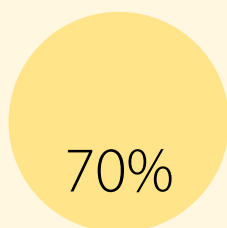
In criminal cases, legal aid institutions aim to ensure that the same provider represents the accused/suspect at all stages of the case.

Legal aid in civil cases

Estimated demand for legal aid services in civil cases



From respondents



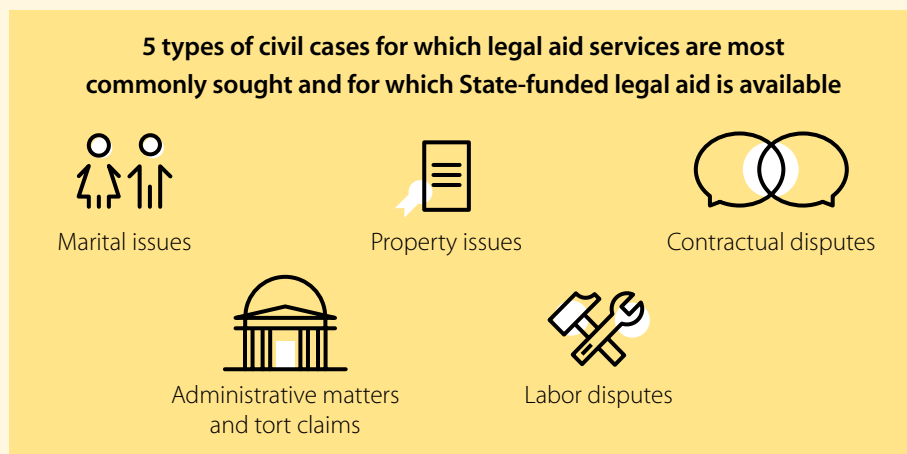
From complainants

To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that there is no noticeable difference in the quality of services provided by legal aid lawyers, when compared with services provided by private lawyers. Furthermore, national experts identify ‘a well-prepared and/or highly skilled lawyer’, ‘the judge’s objective analysis of evidence and testimony’ and ‘the strength of the evidence’ to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

Who is eligible?

Legal aid in civil cases is available to anyone who meets any of the same eligibility criteria listed above for criminal cases.



For what actions is a party eligible for legal aid?

Further to the provision of primary legal aid, more specific legal aid can be offered to assist with the drafting or filing of a complaint or a response, to gain access to State services, and to provide victims of violence with protective services. Legal aid can also be provided throughout proceedings.

Public interest litigation / class action cases:

State-funded legal aid is not provided for public interest litigation and class action cases, but there is public demand for such initiatives to address consumer rights, discrimination, health issues, environmental protection and labour rights.

Women's access to legal aid services

According to national experts, women may not always be aware that legal aid services are available at little or no cost, and may not know where to find legal assistance. Experts add that women often see court processes as too time-consuming, and legal aid providers as lacking gender sensitivity. As a result, women may prefer not to seek out legal assistance. A particular challenge faced by women relates to the financial criteria for eligibility to legal aid, which often considers overall household income rather than women's (considerably lower) individual income.

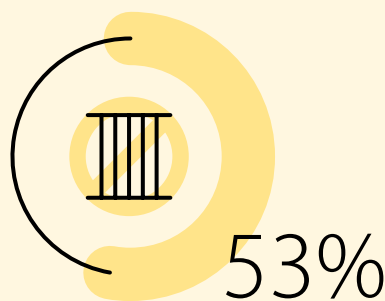
Female victims of violence (including victims of sexual and gender-based violence) do receive legal aid services, as well as court support services, such as interpretation and translation of documents.

Access to legal aid for children

The justice system does not have specialized juvenile courts, but has specialized judges, lawyers, paralegals and police units specifically dedicated to handling cases involving child victims, child witnesses or suspected and accused children.

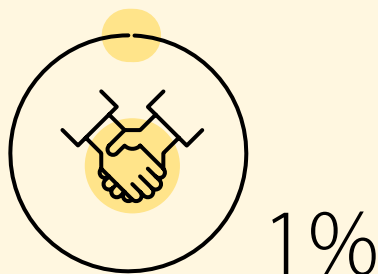
When representing children, legal aid providers often reach out to parents, social workers and medical and/or mental health professionals for support to assist the child throughout proceedings.

When comparing criminal cases where children are represented by legal aid providers, and cases where children are represented by private lawyers, independent national experts observe that there is no noticeable difference in the use of diversion, alternatives to pre-trial detention, and alternatives to imprisonment.



In 2013, in 53% of cases where a child was sentenced to imprisonment, imprisonment was not applied by the courts; educational-disciplinary measures were imposed instead

Legal aid and informal justice systems



Roughly 1% of disputes are resolved through formal mediation or alternative dispute resolution processes (2013)

Informal justice proceedings typically handle marital or family disputes, child custody issues, inheritance disputes, and disputes related to informal contracts and labor agreements.

As explained by national experts, people may prefer to resolve disputes through informal justice proceedings because they are more confident that they will lead to a negotiated outcome that is acceptable to all parties.

Informal justice mechanisms allow a lawyer to provide assistance in formal mediation and alternative dispute resolution processes, and there is a mechanism that allows cases to be referred between the formal and informal justice systems.

Quality safeguards

Accountability for the quality of legal aid services

If a person has a right to legal aid, but no legal aid provider is available, or the provider is unprepared or unqualified, the proceedings must cease until a qualified legal aid provider arrives. This can sometimes be problematic as there are no formal means of assessing a legal aid provider's qualifications or level of preparedness.

A legal aid provider can refuse to take a case, or ask to be removed from the duty to represent a particular legal aid recipient, if s/he doesn't have the necessary expertise, or if s/he has a conflict of interest with the legal aid recipient.

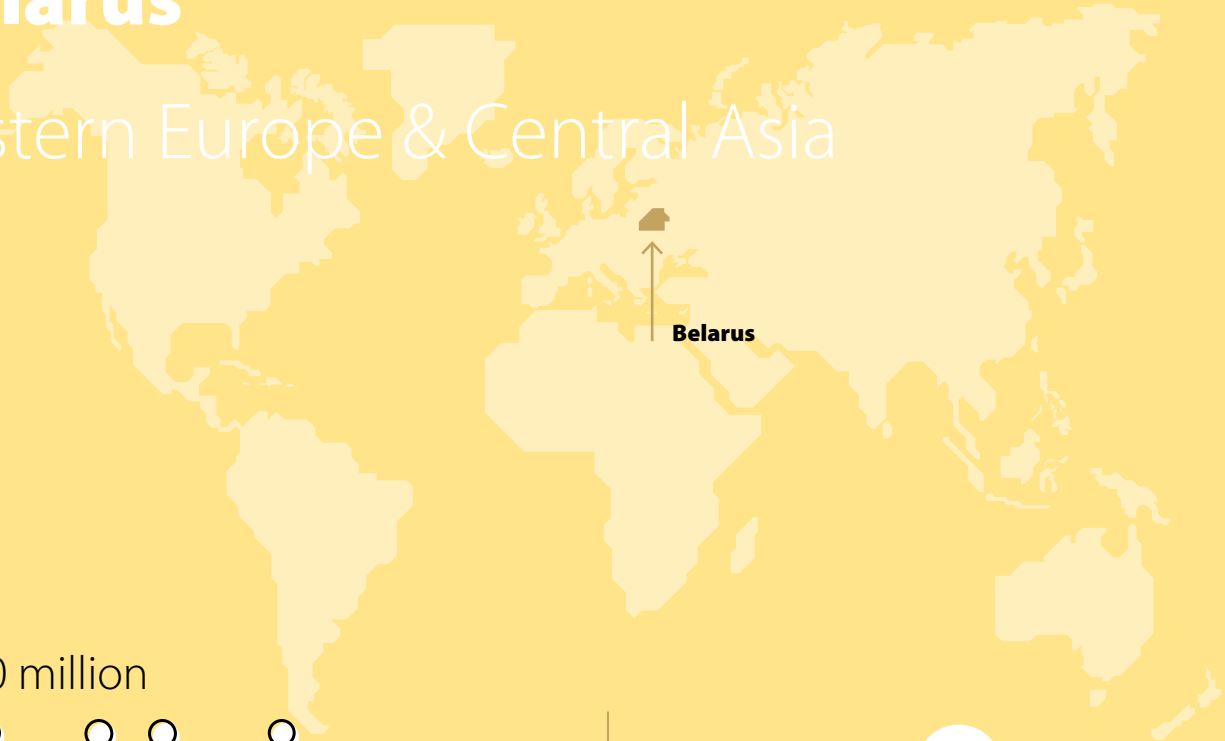
Monitoring and data collection on the quality of legal aid services

Formal responsibility for monitoring the quality of legal aid services rests with the Chamber of Advocates, which reviews complaints by legal aid recipients. Although quality control mechanisms for handling individual cases are in place, the Public Defender's Office has yet to establish a regular practice of systematically analyzing the quality of legal aid services provided by public defenders. For instance, there is no system in place for collecting user feedback — e.g. through client/stakeholder surveys — which would allow for the regular monitoring of public perceptions of public defenders.

There remains other important data gaps in the justice system. For instance, no data is available on case resolution prior to a case's transfer to court, and on the provision of legal aid in criminal and civil cases.

Belarus

Eastern Europe & Central Asia



9.470 million



Population



Unitary government system



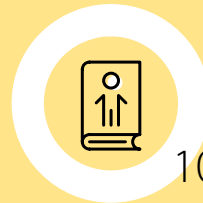
24%

Rural population



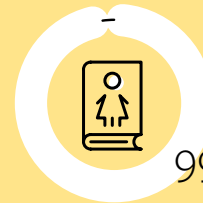
76%

Urban population



100%

Male literacy rate



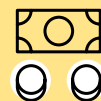
99%

Female literacy rate



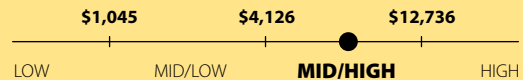
1.021

Gender Development Index



\$7,340

GNI per capita



0.798

HDI



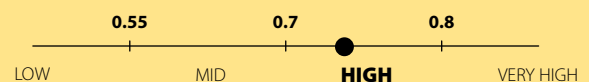
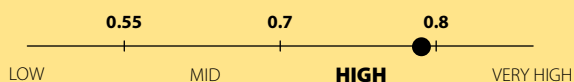
-7.1%

Loss in HDI due to inequality



0.741

Inequality-adjusted HDI



Legal Aid at a Glance in Belarus



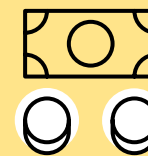
2012

The latest reform of the legal aid system was carried out in 2012



Never conducted

When was the last assessment of legal aid needs conducted

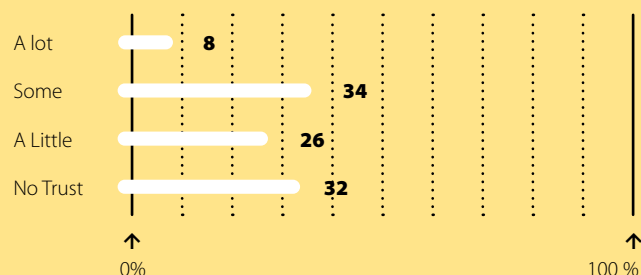


N/A

Annual expenditure on legal aid per capita in 2013

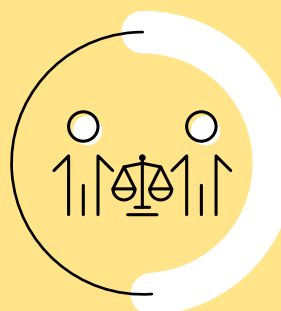
People's trust in courts

Citizen survey, WJP Rule of Law Index 2015



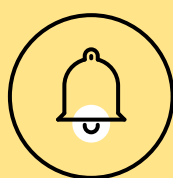
People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015



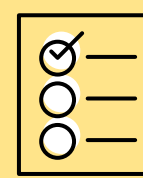
49%

Sample size: 82



Challenges in accessing legal aid

- Shortage of lawyers and low pay for legal aid work
- People may not understand how legal aid services can help them, may not know where to find legal assistance, and may not be aware that legal aid services are available at little or no cost
- People sometimes lack confidence in the quality of legal aid services and think that legal aid lawyers are part of judicial agencies.
- Covering the cost of police, prosecutors and judges tends to be prioritized over public expenditure on lawyers



Priority areas for support

- ✓ Legislative drafting advice
- ✓ Development of action plans/policies
- Development of quality criteria for legal aid providers
- ✓ Establishing paralegal systems
- Institutional support
- Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Constitution**
- **Civil procedure code**
- **Administrative law**
- **Laws on pre-trial detention**
- **Laws on the penitentiary**
- **Criminal procedure code**
- **Law on advocacy**

The right to legal aid was first recognized in 1993 after the adoption of the Law “On Advocacy” (there is no separate law on legal aid as such.)

The most recent reform of the legal aid system took place in 2012. The Ministry of Justice, the parliament and the bar association played an instrumental role in introducing this reform.

State-funded legal aid is available at national, regional and local levels.

Services included as part of legal aid

For both civil and criminal cases, legal aid is provided in the form of legal advice (on actions a person may appropriately take), legal representation (before a court), legal assistance (with taking any appropriate action), general assistance with navigate the justice system and assistance with the execution of legal documents.

The State however does not finance legal aid in civil cases, nor provide specialized legal aid services for specific population groups, such as migrants or disabled persons.

Process for obtaining legal aid

The process for obtaining legal aid is initiated upon request from the person who wants legal aid, or upon request from the police. The court presiding over a case must also inquire and assess eligibility during the first appearance of the parties. The determination is automatic if the case or legal aid recipient qualifies for legal aid services,

In criminal cases, a person must prove his/her eligibility for legal aid by proving that s/he meets a certain financial threshold. The agency responsible for legal aid appointments will further determine whether the interests of justice require the provision of legal aid in the given specific case. No proof is necessary when the case or situation oblige the State to provide legal aid under the law.

Awareness of the right to legal aid

A public information campaigns to raise awareness about the right to legal aid and how to access legal aid services (including contact details of relevant offices) was conducted by the State in 2014-15. Independent national experts estimate that the general population is ‘somewhat knowledgeable’ about legal aid services.

Delivery model

Legal aid authority

The Ministry of Justice has the chief responsibility for the management of legal aid. There is no legal aid board.

Organisation of legal aid services

Legal aid services in both criminal and civil cases are organised through the bar association. Legal aid services are also provided through *pro bono* schemes in both criminal and civil cases (the provision of *pro bono* services is a condition for membership in the bar; it is also a means for junior lawyers to acquire experience.) Some NGOs provide legal aid free of charge to migrants and persons with disabilities, as well as to other vulnerable groups.

Mechanism for assigning legal aid providers

To request the services of a legal aid provider, the courts and the police contact the bar association, which coordinates appointments of legal aid providers and delivery of services.

Accessing legal aid in urban vs. rural areas

Legal aid services are available in rural areas, but the quality of legal services tends to be higher in urban areas.

Service providers

Lawyers and other providers

1/4,982

Licensed practicing
lawyers/people



University-based law clinics

Students are authorised to provide primary legal aid services in the form of legal advice

N/A

Full-time
legal aid lawyers/people



Not applicable ○

Paralegals

Do not have an official status

Qualifications required

Legal aid providers must have a law degree and must show proof of passing a professional examination (bar examination). They must also be members of the national bar and have completed an apprenticeship or internship with a practicing lawyer.

Legal aid providers are required by the bar association and the State to engage in continuing education or skills training, but the State does not allot funds to this effect.

Finances

Costs to recipients

The State does not finance legal aid in civil cases. Those meeting the eligibility criteria can obtain primary legal aid services free of charge. When a fee is charged, it is established in a 'client agreement'.

Legal aid in the annual justice budget

There is a separate line in the annual justice budget dedicated to the provision of legal aid. The bar association participates in budgetary decisions.

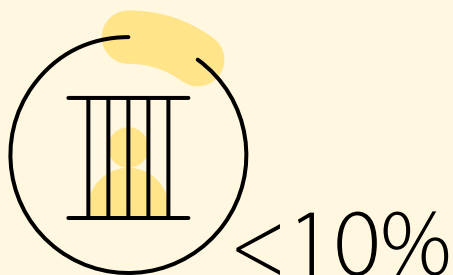
The cost of specialized legal aid services is covered by the State and international donors. Additional services, such as independent investigations, experts, psychological/social work support, clerical assistance, are not covered by the State.

Payments to legal aid providers

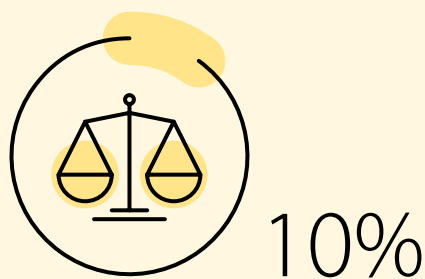
Legal aid providers receive a fixed fee for each procedural action taken (e.g. presence in court, representation at interrogation, etc.) or for each day of work on a criminal case.

Provision of legal aid

Legal aid in criminal cases



Proportion of criminal court cases (2013)



Proportion of criminal court cases for which State-funded legal aid was provided (2013)

Who is eligible?

In criminal cases, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, persons imprisoned on criminal charges and victims of crime.

The State is *obliged* to provide legal aid to children, persons with physical, intellectual or mental disabilities, persons whose mother tongue is not the language of official proceedings, and persons who potentially face death penalty. Each application is also reviewed on the basis of the case's gravity, complexity, or case type, as identified in the law.

At what stage of a criminal case?

Under the law, legal aid should be provided from the moment a law enforcement representative restricts the suspect's/defendant's freedom (it usually takes six hours for a legal aid lawyer to appear after notice is given that legal aid is needed in criminal cases) or at least from the moment charges are officially filed, and throughout the proceedings.

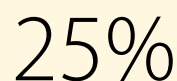
It is prohibited by law for the police to interview someone in the absence of a lawyer, unless the person is interviewed as a witness. This can be problematic as the police sometimes determines the person to have a right to legal aid only after the witness has incriminated him/herself.

In criminal cases, legal aid institutions aim to ensure that the same provider represents the accused/suspect at all stages of the case.

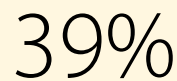


People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

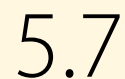


Proportion of criminal court cases in which pre-trial detention was imposed (2013)



Proportion of criminal court cases which were resolved pursuant to a plea agreement, procedural agreement or expedited trial (2013)

Legal aid in civil cases



The number of civil cases filed in court is 5.7 times higher than the number of criminal cases (2013)

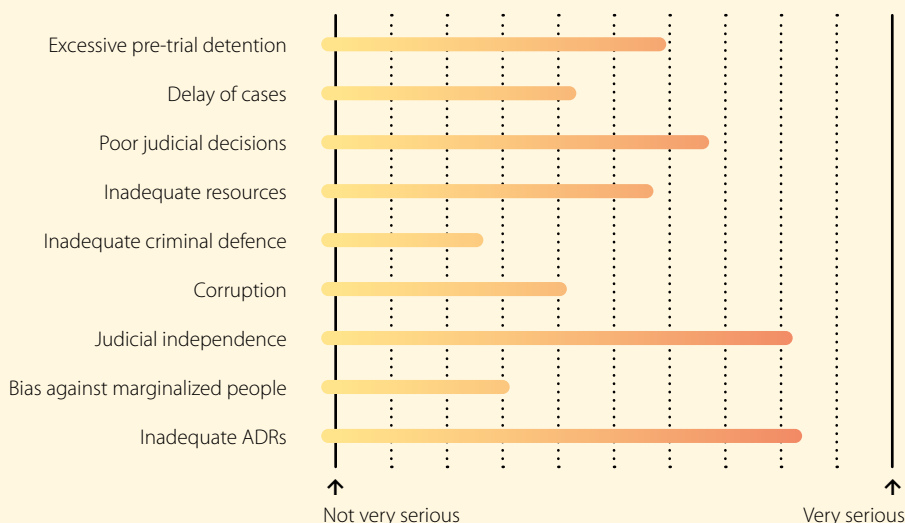
To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that legal aid lawyers, when compared with private lawyers, are less likely to perform actions such as ‘presenting arguments in favour of a suspect’s/defendant’s release pre-trial’, or ‘giving advice to the suspect/defendant in private before any contact with a state justice official’.

‘Hiring a private lawyer who is paid by the suspect/defendant’, rather than seeking State-funded legal aid assistance, is identified by national experts as one of the most influential factors for reaching a dismissal of charges or acquittal.

How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015



Who is eligible?

The State does not finance legal aid in civil cases.

5 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available



Marital issues



Child custody issues



Labor disputes

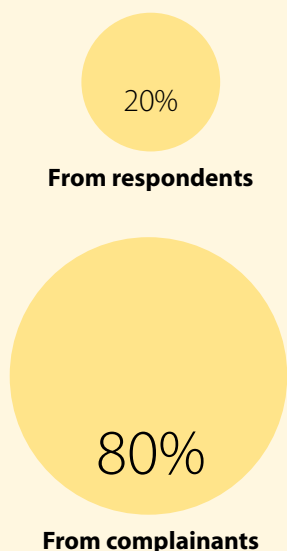


Tort claims and disputes with State agencies



Property issues

Estimated demand for legal aid services in civil cases



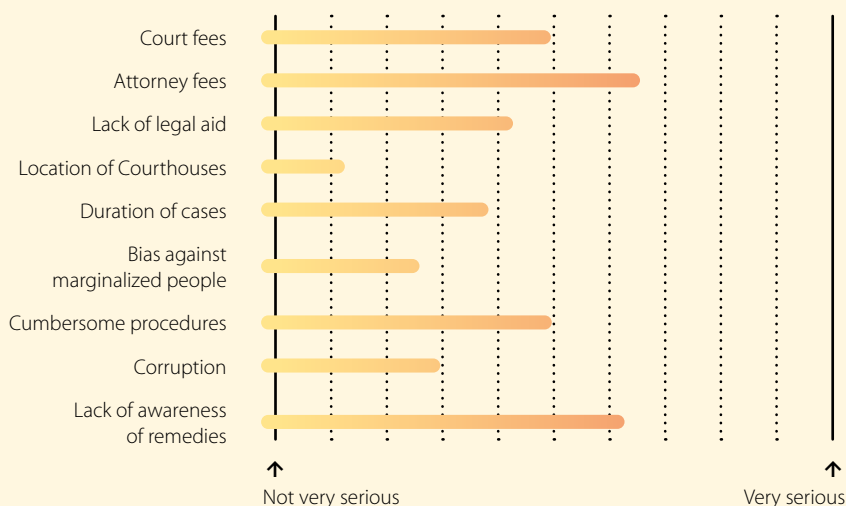
Women’s access to legal aid services

Public interest litigation / class action cases:

State-funded legal aid is not provided for public interest litigation and class action cases, but there is public demand for such initiatives to address discrimination, health issues, environmental protection, labour rights and consumer rights.

How serious are the following problems in influencing people’s decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

according to national experts, WJP Rule of Law Index 2015



According to national experts, women often do not understand how legal aid services can help them, and may not be aware that legal aid services are available at little or no cost. The absence of specialized legal aid services for women — including for family matters and for cases of gender-based violence — is another important obstacle to women’s access to legal aid.

Female victims of violence (especially female victims of human trafficking) receive legal aid services in some legal proceedings, as well as court support services, such as interpretation and translation of documents.

Access to legal aid for children

The justice system has specialized courts, judges, prosecutors, police units and lawyers/paralegals specifically dedicated to handling cases involving child victims (especially for cases of sexual abuses), child witnesses or suspected and accused children.

When representing children, legal aid providers often reach out to parents, social workers, medical and/or mental health professionals and other professionals for support to assist the child throughout proceedings.

When comparing criminal cases where children are represented by legal aid providers, and cases where children are represented by private lawyers, independent national experts observe that the use of diversion, alternatives to pre-trial detention, and alternatives to imprisonment is more frequent when children are represented by legal aid lawyers.

Legal aid and informal justice systems

Informal justice proceedings typically handle marital or family disputes, child custody disputes, land and property disputes, inheritance disputes, informal contracts and labor agreements.

According to national experts, people prefer to resolve disputes through informal justice proceedings because they take less time. People also tends to be more confident that they will lead to a negotiated outcome that is acceptable to all parties.

Informal justice mechanisms allow for a lawyer to represent parties in the mediation/adjudication process or to provide advice in customary or religious mediation/adjudication processes. There is also a mechanism that allows cases to be referred between the formal and informal justice systems.

Legal aid providers supporting formal mediation/alternative dispute resolution processes require a law degree. For customary or religious mediation/adjudication processes, higher education and specific training are required.

Quality safeguards

Accountability for the quality of legal aid services

If a person has a right to legal aid, but no legal aid provider is available, or the provider is unprepared or unqualified, the proceedings must cease until a qualified legal aid provider arrives.

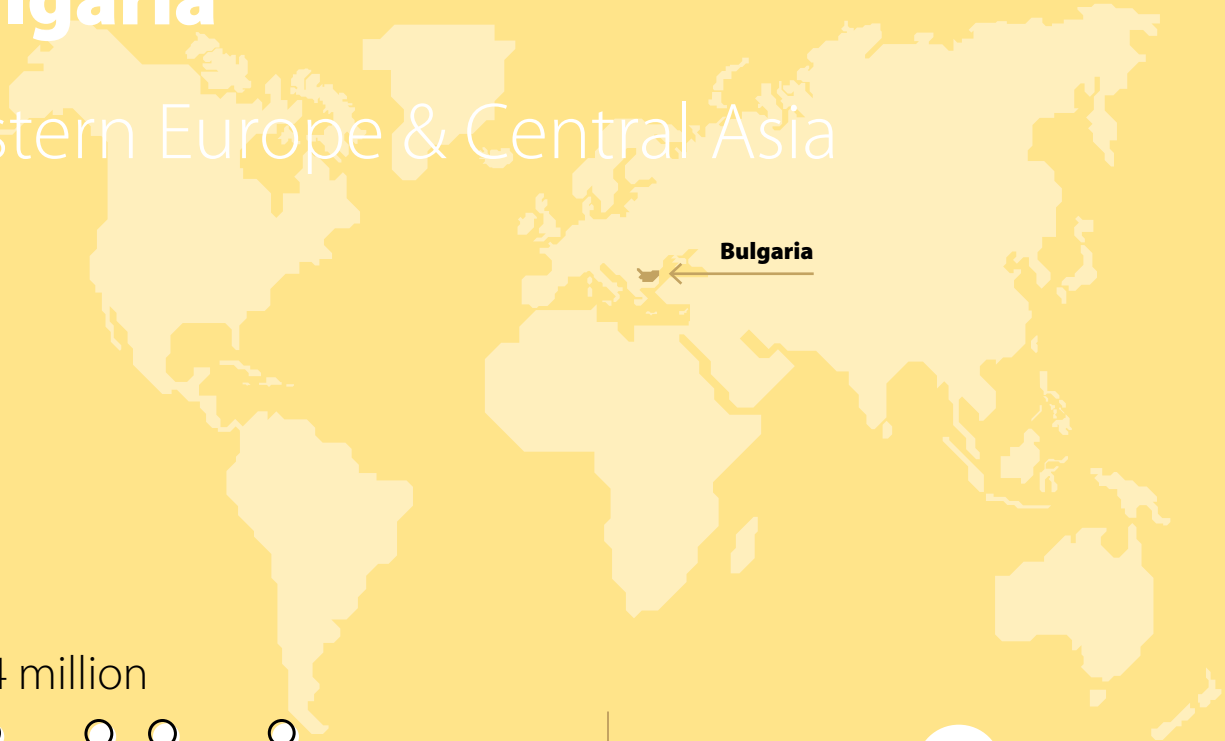
A legal aid provider can refuse to take a case, or ask to be removed from the duty to represent a particular legal aid recipient, if s/he has too many cases, if s/he lacks expertise in the law or skills required by the specific case, or if s/he has a conflict of interest with the legal aid recipient

Monitoring and data collection on the quality of legal aid services

Formal responsibility for monitoring the quality of legal aid services rests with the bar association. The bar collects and reviews complaints about legal aid providers' actions lodged by legal aid recipients, and sporadically conducts quality checks across the legal aid system.

Bulgaria

Eastern Europe & Central Asia



7.224 million



Population



Unitary government system



26%

Rural population



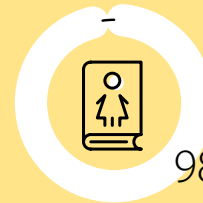
74%

Urban population



99%

Male literacy rate



98%

Female literacy rate

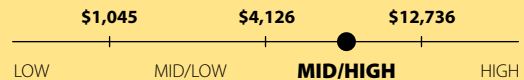
0.991

Gender Development Index



\$7,620

GNI per capita



0.782

HDI



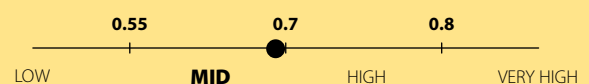
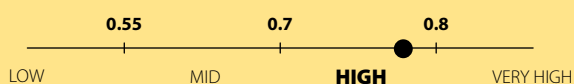
-10.5%

Loss in HDI due to inequality



0.699

Inequality-adjusted HDI



Legal Aid at a Glance in Bulgaria



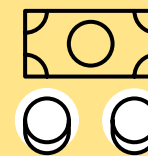
2006

Most recent reform of legal aid system was carried out in 2006



Within the past 5 years

When was the last assessment of legal aid needs conducted

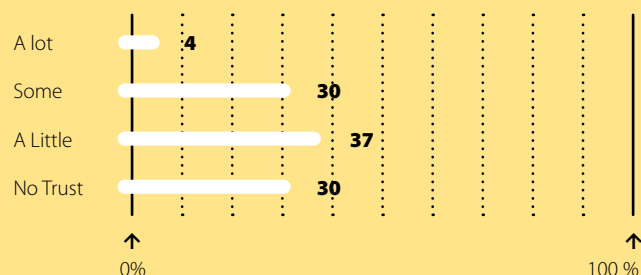


\$0.83

Annual expenditure on legal aid per capita in 2013

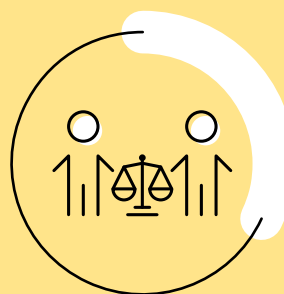
People's trust in courts

Citizen survey, WJP Rule of Law Index 2015



People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015



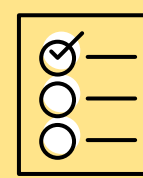
32%

Sample size: 31



Challenges in accessing legal aid

- Shortage of lawyers outside urban areas, yet the bar association is reluctant to allow paralegals to fill the gap of available lawyers
- Low pay of lawyers for legal aid work; people generally find it more important to cover the cost of police, prosecutors and judges than to spend public funds on lawyers
- Little support among the population for spending public funds to defend accused criminals
- People sometimes lack confidence in the quality of legal aid services
- People may not know that legal aid services are available at little or no cost, or may not know where to find legal assistance



Priority areas for support

- ✓ Legislative drafting advice
- Development of action plans/policies
- ✓ Development of quality criteria for legal aid providers
- ✓ Establishing paralegal systems
- ✓ Institutional support
- ✓ Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Constitution**
- **Separate law on legal aid**
- **Criminal procedure law**
- **Law on the judiciary**
- **Civil procedure code**
- **Administrative law**
- **Implementing regulations for the law on legal aid**

Services included as part of legal aid

Process for obtaining legal aid

The right to legal aid was first recognized in 1997.

The most recent reform of the legal aid system took place in 2006, when the Parliament adopted the Act on Legal Aid establishing the legal aid system in civil and administrative cases as well as free legal representation in civil, administrative and criminal proceedings.

State-funded legal aid is available at national, regional and local levels.

For both civil and criminal cases, legal aid is provided in the form of legal advice, legal representation, provision of legal information and legal assistance (before tribunals). Legal aid lawyers also provide general assistance in navigating the justice system, and in executing legal documents.

Specialized legal aid services are provided by the State for disadvantaged population groups, including persons with disabilities, children, women, the elderly, migrants, refugees, asylum seekers, stateless persons, and internally displaced persons.

Legal aid is provided upon request from the person who wants legal aid, upon request from the police or the prosecutor, or upon request of the institution that oversees appointment of legal aid providers. The court presiding over a case must also assess eligibility during the first appearance of the parties.

In both civil and criminal cases, no proof of eligibility is necessary when, for a particular case, the State is obliged to provide legal aid under the law. In other civil cases, a person must prove her/his eligibility by showing a paper proving status as a recipient of welfare or state subsidies, or by demonstrating family hardship (e.g. multiple children, single parent, family member disability, etc.), providing evidence of low income, or membership of a protected group (such as migrants, children, ethnic or religious minority, etc.) It may also be determined by competent authorities that the interests of justice require provision of legal aid, or they may require proof that the legal aid applicant's claim has merit.

Awareness of the right to legal aid

A public information campaign to raise awareness about the right to legal aid and how to access legal aid services was conducted by the State in 2014-15, and provided specific contact details of relevant offices to go to for legal assistance.

Independent national experts estimate that the general population is 'somewhat knowledgeable' about legal aid services.

Delivery model

Legal aid authority

The chief responsibility for the management and administration of legal aid rests with the National Legal Aid Bureau which is appointed by the bar association and the Prime Minister. The Legal Aid Bureau meets at least once in 3-4 months.

Organisation of legal aid services

Legal aid services in both criminal and civil cases are organised through public defender institutions, the bar association, and the National Legal Aid Bureau.

Mechanism for assigning legal aid providers

To request the services of a legal aid provider, the courts and police contact the bar association, which coordinates appointments and delivery of services. The National Legal Aid Bureau maintains a duty roster of legal aid providers, and State agencies can contact the Bureau to file a request. There are also legal aid providers on duty in courts and police precincts.

Accessing legal aid in urban vs. rural areas

Legal aid services are available in rural areas. However, the quality of legal services tends to be better in urban areas.

Service providers

Lawyers and other providers

1/578

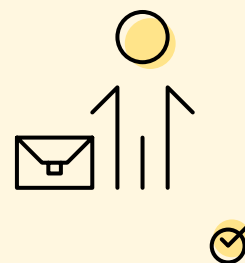
Licensed practicing
lawyers/people



**University-based
law clinics**

1/2,408

Full-time
legal aid lawyers/people



Paralegals

Are allowed to provide legal advice
in civil and administrative cases

Qualifications required

Legal aid providers must have a law degree and must show proof of passing a professional examination (bar examination). They must also be members of the bar, have completed an apprenticeship or internship with a practicing lawyer, a judge or other State justice agency, and have a contractual relationship with the agency that oversees administration of legal aid.

To become a staff member of the institutional legal aid provider, lawyers need to undergo separate testing. They also have to be registered in a State-authorized roster of legal aid providers.

Legal aid providers are not required by the bar association or the State to engage in continuing education or skills training, but the State partially allots funds to this end.

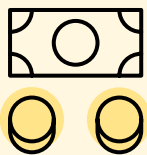
Paralegals are not required to go through any training to be accredited to provide legal services.

Finances

Costs to recipients

Primary legal aid services are available free of charge at the administrative offices of legal advice centres in cities or towns, at the offices of civil society organisations, as well as at the Regional Consultative Centers in Vidin city and Sliven city.

Legal aid in the annual justice budget



\$0.83

Legal aid budget per capita in 2013

Legal aid is a separate component in the annual justice system budget. The national budget for legal aid is determined by the Parliament, the Ministries of Finance and Justice, and the National Legal Aid Bureau.

There exists a separate funding mechanism to cover the cost of specialized legal aid services, including provision of funds by private companies, foundations and international donors. Additional services, such as independent investigations or psychological/social support, are not covered by the State.

Payments to legal aid providers

In both criminal and civil cases, legal aid providers receive a flexible fee for each type of case, as determined by the Regulations on the Organisation and Activities of the National Legal Aid Bureau.

Provision of legal aid

Legal aid in criminal cases



50-75%

Proportion of criminal court cases (2013)



58%

People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, persons imprisoned on criminal charges, victims of crime and witnesses.

The State is *obliged* to provide legal aid to persons who meet a financial threshold (US\$200), children, persons with physical, intellectual and mental disabilities, internally displaced persons, refugees, persons whose mother tongue is not the language of official proceedings, persons who face a potential prison sentence for at least ten years or other severe criminal sanctions. Legal aid is also provided when it is required by the interests of justice or due to the case's gravity, complexity, or case type, as identified in the law.

At what stage of a criminal case?

Under the law, legal aid should be provided from the moment when a law enforcement representative restricts the suspects/defendant's freedom, during questioning of a potential suspect/defendant before formal charges are filed, or at least from the moment when charges are officially filed. Legal aid is also provided during trial and for any appeal or cassation.

It is prohibited by law for the police to interview someone in the absence of a lawyer, unless the person is interviewed as a witness, and the courts are strict about excluding evidence or statements made in the absence of a legal aid provider.

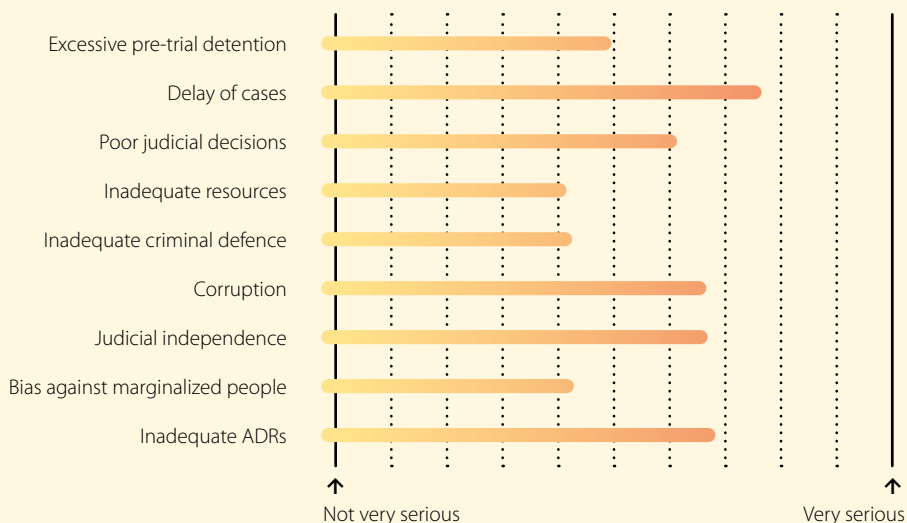
To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that there is no noticeable difference in the quality of services provided by legal aid lawyers, when compared with services provided by private lawyers.

Furthermore, experts identify 'a well-prepared and/or highly skilled lawyer', 'the judge's objective analysis of evidence and testimony' and 'the strength of the evidence' to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

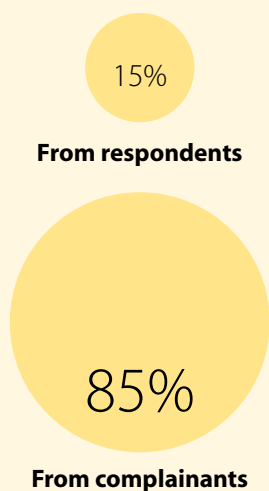
How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015



Legal aid in civil cases

Estimated demand for legal aid services in civil cases



Who is eligible?

Legal aid in civil cases is available to persons who meet a financial threshold (US\$200), children, persons with physical, intellectual or mental disabilities, internally displaced persons and refugees.

5 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available

- Marital issues
- Child custody issues
- Property issues
- Administrative matters
- Labor disputes

For what actions is a party eligible for legal aid?

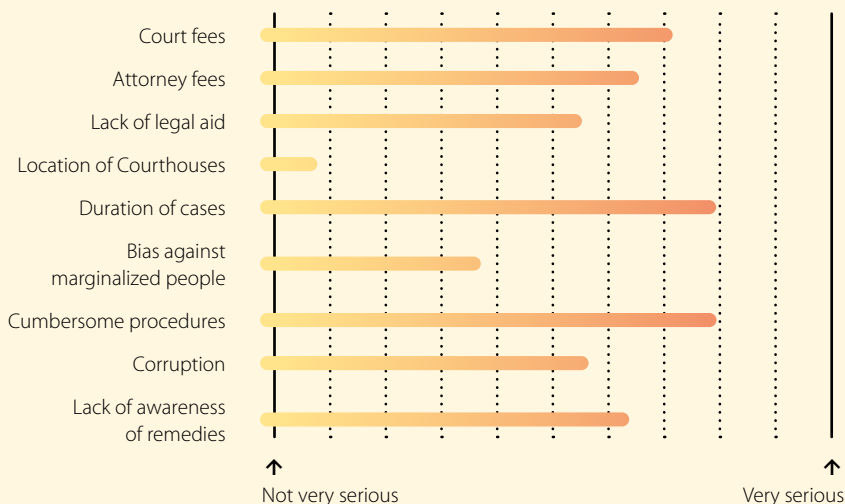
Further to the provision of primary legal aid, more specific legal aid can be offered to assist with drafting and filing claims for State services or disputes with State agencies. Legal aid can also be provided throughout dispute resolution proceedings or mediation.

Public interest litigation / class action cases:

National experts estimate that there is public demand for public interest litigation and class action cases to address discrimination, labour rights, consumer rights, environmental protection and health. State-funded legal aid is provided for such initiatives. Furthermore, staff lawyers coordinate to uniformly challenge common violations of national and international due process rights and human rights.

How serious are the following problems in influencing people’s decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

according to national experts, WJP Rule of Law Index 2015



Women’s access to legal aid services

According to national experts, women may not always be aware that legal aid services are available at little or no cost, and many not know where to find legal assistance.

Female victims of violence (including victims of sexual and gender-based violence) receive legal aid services in all legal proceedings, as well as court support services, such as interpretation and translation of documents.

Access to legal aid for children

At regional level, the justice system has specialized courts, judges, lawyers/paralegals and police units specifically dedicated to handling cases involving child victims, child witnesses or suspected and accused children.

When representing children, legal aid providers often reach out to parents, social workers and other childcare professionals for support to assist the child throughout proceedings.

In criminal cases, national experts observe that diversion, alternatives to pre-trial detention, and alternatives to imprisonment are more often achieved when children are represented by legal aid providers than in cases where they are represented by private lawyers. National experts also note that this is even more the case when legal aid providers specialize in children's rights, compared with non-specialized legal aid providers.

In criminal cases where legal aid is provided to children, legal aid providers advocate for and implement in practice the legally binding requirement to ensure the presence of parents at all times.

Legal aid and informal justice systems

Informal justice mechanisms allow a lawyer to provide assistance in formal mediation/alternative dispute resolution processes, and there are mechanisms that allow cases to be referred between the formal and informal justice systems.

Legal aid service providers can work across different systems.

To qualify for formal mediation/alternative dispute resolution processes legal aid providers must have a law degree, or a paralegal certificate. They also need to undergo training on legal matters.

Quality safeguards

Accountability for the quality of legal aid services

If a person has a right to legal aid, but no legal aid provider is available, the proceedings must cease until a legal aid provider arrives.

If the legal aid provider is unprepared or unqualified, then a replacement legal aid provider is asked to represent the party instead of the assigned provider. This can sometimes be problematic as there are no formal means of assessing a legal aid provider's qualifications or level of preparedness.

A legal aid provider cannot refuse to take a case if it is assigned to him or her.

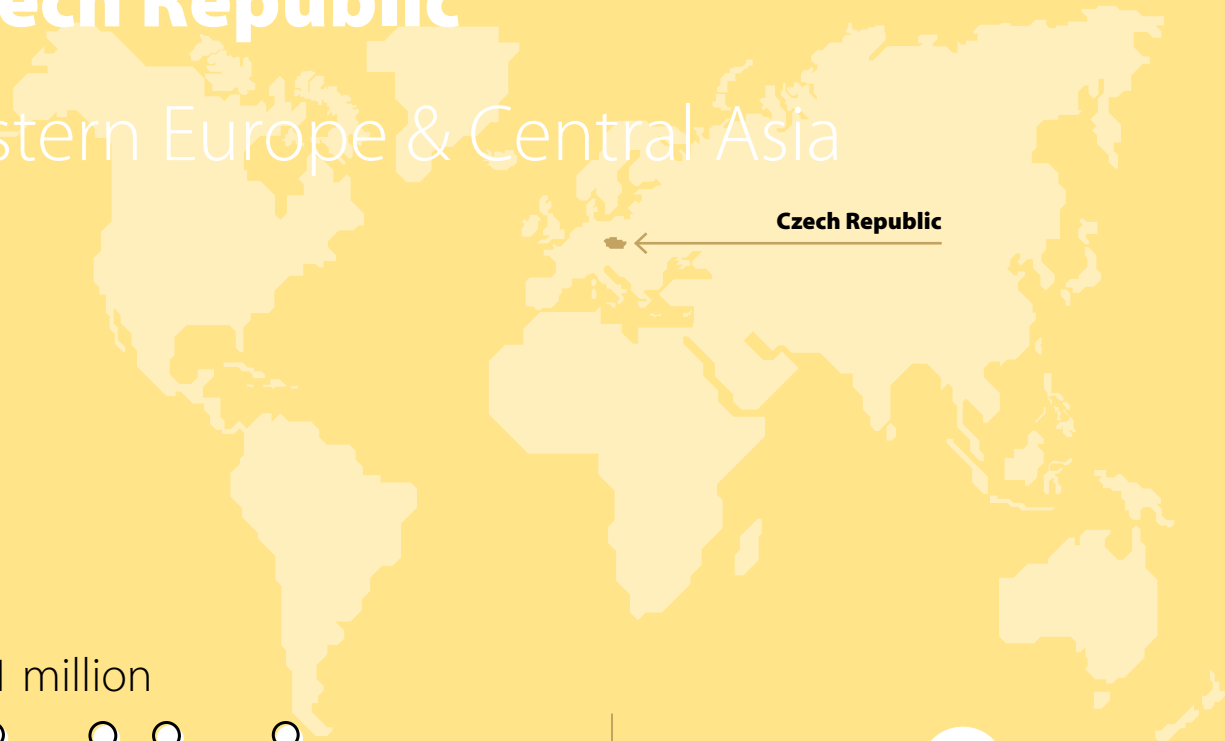
Monitoring and data collection on the quality of legal aid services

Formal responsibility for monitoring the quality of legal aid services rests with the National Legal Aid Bureau, the Ministry of Justice, the bar association, a peer review team organised by the legal aid authority or bar association, and a research institution that reports on its conclusions to the government and other stakeholders.

Data for monitoring the quality of legal aid services is collected through assessments by justice actors, review of complaints by legal aid recipients, satisfaction surveys by legal aid recipients, and through the monitoring of services provided in court.

Czech Republic

Eastern Europe & Central Asia



Czech Republic

10.51 million



Population



Unitary government system



27%

Rural population



73%

Urban population



N/A

Male literacy rate



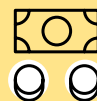
N/A

Female literacy rate



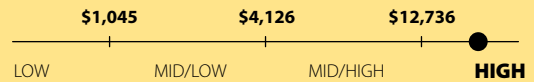
0.980

Gender Development Index



\$18,370

GNI per capita



0.870

HDI



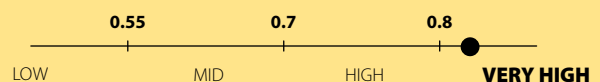
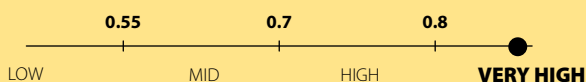
-5.4%

Loss in HDI due to inequality



0.823

Inequality-adjusted HDI



Legal Aid at a Glance in the Czech Republic



N/A

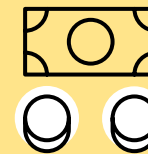
Latest reform of the legal aid system



Continuously

When was the last assessment of legal aid needs conducted.

The legal aid system is subject to continuous restructuring through the enactment and amendment of various laws

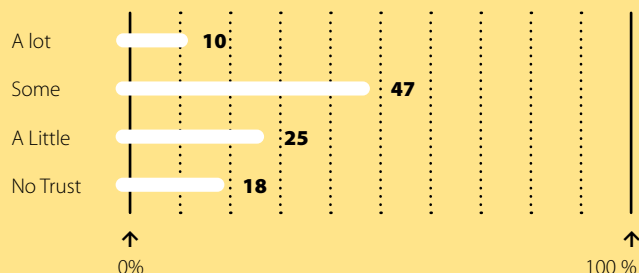


N/A

Annual expenditure on legal aid per capita in 2013

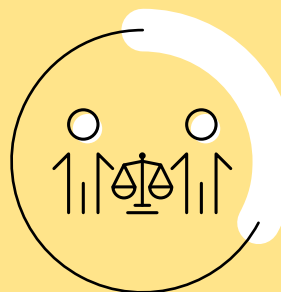
People's trust in courts

Citizen survey, WJP Rule of Law Index 2015



People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015



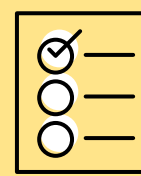
33%

Sample size: 281



Challenges in accessing legal aid

- Low pay of lawyers for legal aid work and shortage of lawyers outside urban areas
- The quality of services provided by legal aid lawyers is uneven
- Little support among the population for spending public funds to defend accused criminals
- People may not know where to find legal assistance and may not understand how legal aid providers can help them
- People may not know that legal aid services are available at little or no cost



Priority areas for support

- Legislative drafting advice
- ✓ Development of action plans/policies
- Development of quality criteria for legal aid providers
- Establishing paralegal systems
- Institutional support
- Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Civil procedure code**
- **Administrative law**
- **Criminal procedure law**
- **Articles 37 and 40 of Act 2/1993 - Charter of Fundamental Rights and Freedoms**
- **Act 349/1999 On the Ombudsman**
- **Art 6 of Act 45/2013 On the victims of crimes**
- **Article 18 of Act 85/1996 On the legal professions**

Legal aid was first recognized in 1992, in the Charter of Fundamental Rights and Freedoms which is a part of the constitutional order of the Czech Republic. Since then, the legal aid system has been subject to continuous restructuring through enactment and amendment of various laws.

State-funded legal aid is available at national level only.

Services included as part of legal aid

For both criminal and civil cases, legal aid is provided in the form of legal representation, legal assistance (before national tribunals), and provision of legal information. Legal aid lawyers also provide general assistance in navigating the justice system.

Disadvantaged population groups receive specialized legal aid services specifically focused on their needs.

Process for obtaining legal aid

Legal aid is provided upon request from the person who wants legal aid. The court presiding over a case must also assess eligibility during the first appearance of the parties. The determination is automatic if the case or legal aid recipient qualifies for legal aid services. However, without prejudice to the above-mentioned, provision of legal aid services depends on the type of case.

In both criminal and civil cases, a person must prove his/her eligibility by showing a paper proving status as a recipient of welfare or state subsidies for indigent and vulnerable members of the population, or by demonstrating family hardship (e.g. multiple children, single parent, family member disability, etc.), by providing evidence of low income if employed, or by obtaining the applicant's word that s/he meets financial or vulnerability criteria. Provision of legal aid also depends on the complexity of the matter requiring assistance and the type of case. In addition, for criminal cases, the applicant's tax filing for the previous year should be provided.

Awareness of the right to legal aid

A public information campaign to raise awareness about the right to legal aid and how to access legal aid services was conducted by the State in 2014-15.

Independent national experts estimate that the general population is 'somewhat knowledgeable' about legal aid services.

Delivery model

Legal aid authority

There is no central legal aid authority which would have the chief responsibility for the management and administration of legal aid.

Organisation of legal aid services

In both criminal and civil cases, legal aid services are organised through panel appointments (e.g. *ex officio*, contract lawyers), through the bar association, and through civil society organisations. Additionally, in civil cases, legal aid services are organised through public defender institutions.

Legal aid services are also provided through *pro bono* schemes in both criminal and civil cases (the provision of *pro bono* services is a condition for membership in the bar).

Mechanism for assigning legal aid providers

Courts have a roster of duty legal aid providers (barristers).

Usually, it takes about six hours for a legal aid provider to appear after notice is given that legal aid is needed in a criminal case.

Accessing legal aid in urban vs. rural areas

Legal aid services are available in rural areas, and there is no difference in the effectiveness of legal aid services provided in urban and rural areas.

Service providers

Lawyers and other providers

1/698

Licensed practicing
lawyers/people



**University-based
law clinics**

N/A

Full-time
legal aid lawyers/people



Not applicable ○
Paralegals
Are not recognized by law

Qualifications required

Legal aid providers must have a law degree. Other qualifications depend on the type of case.

To become a staff member of the institutional legal aid provider, legal aid lawyers do not need to undergo any continuing education and/or skills training.

Finances

Costs to recipients

Primary legal aid services are available free of charge at the office of the public defender, or other state-funded institutional legal aid providers, as well as at the offices of civil society organisations. The bar association maintains a roster of qualified lawyers available to provide legal advice.

While legal aid services are generally free of charge to those meeting eligibility criteria, there exists a sliding scale of payment, based on the financial status of a person seeking legal aid.

Legal aid in the annual justice budget

Legal aid is not a separate component in the annual justice system budget.

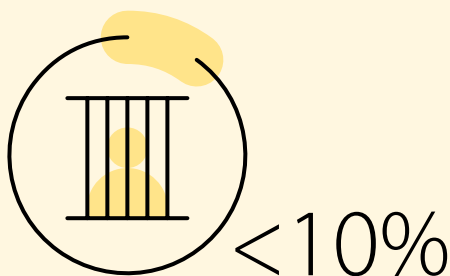
Additional services, such as independent investigations, experts, psychological/social work support, clerical assistance, are not covered by the State.

Payments to legal aid providers

Payment for legal aid services depends on the type of case.

Provision of legal aid

Legal aid in criminal cases



Proportion of criminal court cases (2013)

3.71%

Proportion of criminal court cases in which pre-trial detention was imposed (2013)

0.12%

Proportion of criminal court cases which were resolved pursuant to a plea agreement, procedural agreement or expedited trial (2013)

Who is eligible?

Under the law, legal aid is *available* to persons charged with a criminal offence and victims of crime.

The State is *obliged* to provide legal aid to children and persons with intellectual/mental disabilities. Legal aid is also provided when it is required by the interests of justice or according to the case's gravity, complexity, or case type, as identified in the law.

At what stage of a criminal case?

Under the law, legal aid should be provided during an identification procedure with the suspect's/defendant's participation, as well as during a search of the suspect's/defendant's residence. Legal aid should also be provided from the moment when charges are officially filed, as well as during trial and for any appeal or cassation. It is not prohibited by law for the police to interview someone in the absence of a lawyer.

To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that there is no noticeable difference in the quality of services provided by legal aid lawyers and private lawyers. Furthermore, experts identify 'a well-prepared and/or highly skilled lawyer', 'the judge's objective analysis of evidence and testimony' and 'the strength of the evidence' to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.



85%

People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

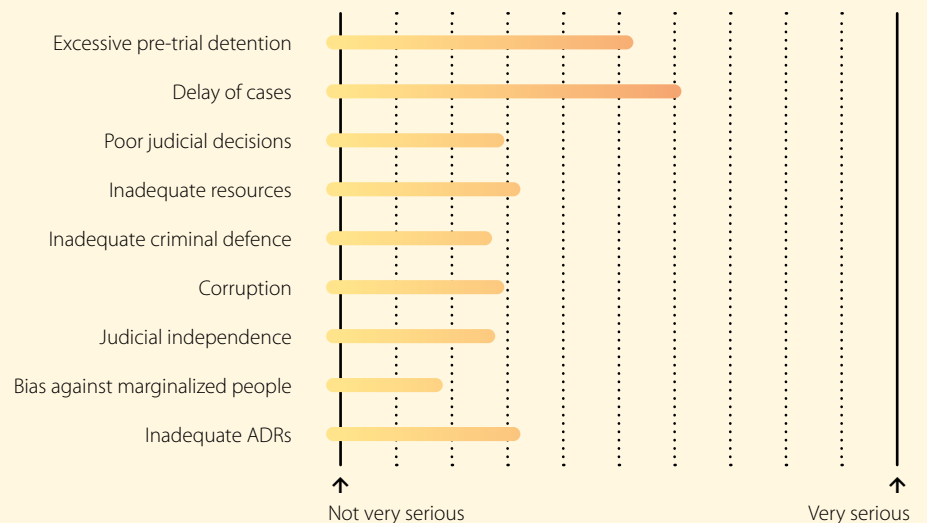
Legal aid in civil cases

25

In 2013, the number of civil and administrative cases was 25 times the number of criminal cases (2013)

How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015



Who is eligible?

Legal aid in civil cases is *available* to persons who meet a financial threshold, children, and persons with physical or intellectual/mental disabilities. Without prejudice to the above-mentioned, it is provided on a case-by-case basis.

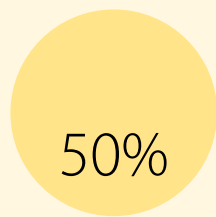
For what actions is a party eligible for legal aid?

State-funded legal aid is made available in the vast majority of civil cases provided the person concerned can prove that s/he is entitled to it (e.g. meeting the financial threshold criterion) or that s/he fulfills other statutory conditions (e.g. age below 18 or mental disability).

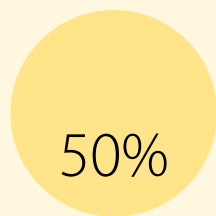
Public interest litigation / class action cases:

There is public demand for State-funded legal aid provided for public interest litigation and class action cases.

Estimated demand for legal aid services in civil cases



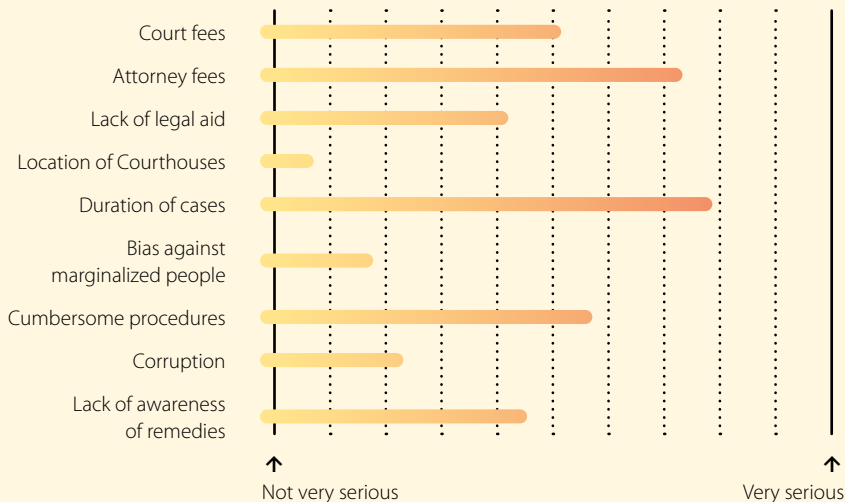
From respondents



From complainants

How serious are the following problems in influencing people’s decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

According to national experts, WJP Rule of Law Index 2015



Women’s access to legal aid services

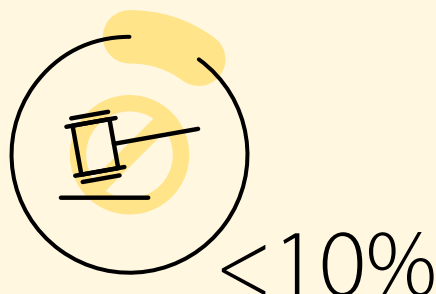
Female victims of violence (including victims of sexual and gender-based violence) receive legal aid advice in all legal proceedings.

However, legal aid is not provided for family and civil matters or for cases of gender-based violence, and there are no specialized legal aid services for women. Furthermore, means tests for eligibility to legal aid often consider overall household income rather than the women’s income specifically, which is often much lower.

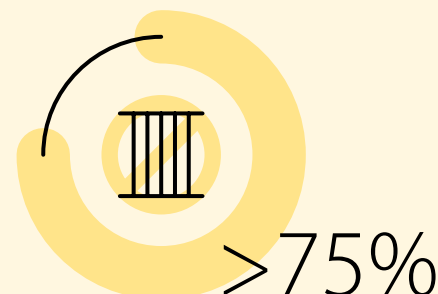
National experts explain that a major challenge faced by women is the fact that it is not socially acceptable in the Czech Republic for women to seek legal aid. In this context, women’s awareness that legal aid services are available at little or no cost remains low, let alone their understanding of how legal aid services can help them. Experts add that women may not know where to find legal assistance, and generally see court processes as too time-consuming. There is a general perception that legal aid providers lack gender sensitivity (there are very few female legal aid providers) and as a result, women may be reluctant to share intimate information related to their case. For all of these reasons, experts note that women generally prefer to resolve issues through the informal justice system or outside the court system, where legal aid has no role.

Access to legal aid for children

The justice system has specialized courts and judges specifically dedicated to handling cases involving child victims, child witnesses or suspected and accused children.



In less than 10% of cases when children are suspected or charged with a criminal offence, the case is diverted from the formal justice system without trial (through mediation, a warning or an apology)



In 2013, in more than 75% of cases where a child was found culpable, an alternative to imprisonment was imposed

Legal aid and informal justice systems

Informal justice mechanisms allow a lawyer to provide assistance in the mediation/adjudication process in formal mediation/alternative dispute resolution processes, and there are mechanisms that allow cases to be referred between the formal and informal justice systems.

Legal aid service providers can work across the different systems. To qualify for formal mediation/alternative dispute resolution processes, legal aid providers must have a law degree.

Quality safeguards

Accountability for the quality of legal aid services

If a person has a right to legal aid, but no legal aid provider is available, the proceedings must cease until a legal aid provider arrives.

There are no means of assessing if a legal aid provider is unprepared or unqualified.

A legal aid provider can refuse to take a case, or ask to be removed from the duty to represent a particular legal aid recipient.

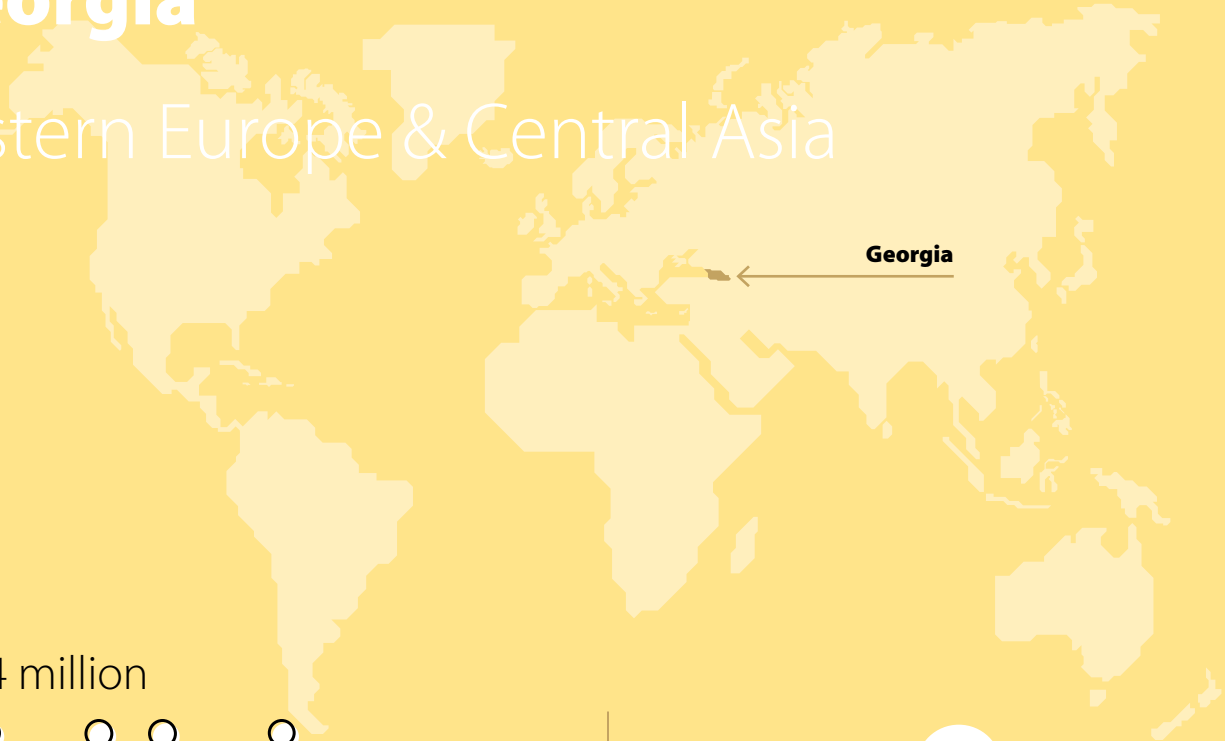
Monitoring and data collection on the quality of legal aid services

The bar association is formally responsible for monitoring the quality of legal aid services provided and conducting investigations on the basis of complaints, but only if legal aid is delivered by barristers.

The data for monitoring the quality of legal aid services is collected by reviewing complaints from legal aid recipients about a legal aid provider's actions.

Georgia

Eastern Europe & Central Asia



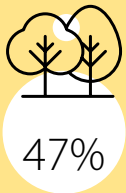
4.504 million



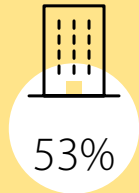
Population



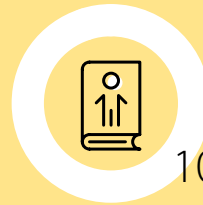
Unitary government system



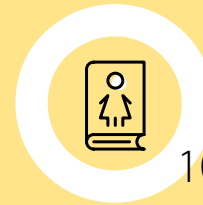
Rural population



Urban population



Male literacy rate



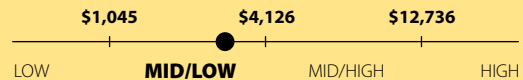
Female literacy rate



Gender Development Index



GNI per capita



0.754

HDI



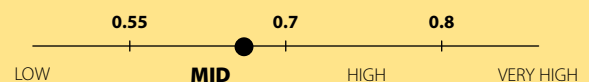
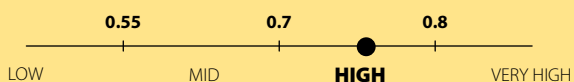
-13.6%

Loss in HDI due to inequality



0.652

Inequality-adjusted HDI



Legal Aid at a Glance in Georgia



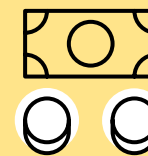
2015

The latest reform of the legal aid system was carried out in 2015



Within the past 5 years

When was the last assessment of legal aid needs conducted

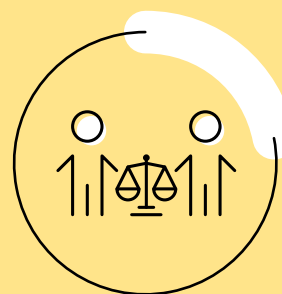
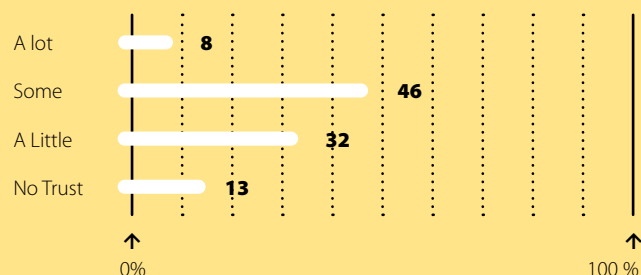


\$0.52

Annual expenditure
on legal aid per capita in 2013

People's trust in courts

Citizen survey, WJP Rule of Law Index 2015



People who received legal

assistance when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015

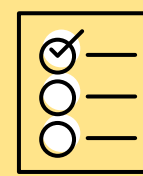
22%

Sample size: 49



Challenges in accessing legal aid

- Shortage of lawyers, especially outside urban areas
- In criminal cases, people sometimes think that legal aid lawyers are working as part of the police, prosecutor or judicial agencies, and as such are more loyal to the State than to legal aid recipients
- People may not know where to find legal assistance and may not be aware that legal aid services are available at little or no cost
- People may prefer to resolve issues through the informal justice system or outside the court system, where legal aid has no role



Priority areas for support

- Legislative drafting advice
- ✓ Development of action plans/policies
- ✓ Development of quality criteria for legal aid providers
- ✓ Establishing paralegal systems
- Institutional support
- Training
- ✓ Awareness-raising activities on the right to legal aid and legal aid services available

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Constitution**
- **Separate law on legal aid**
- **Civil procedure code**
- **Implementing regulations for the law on legal aid**
- **Criminal procedure code**
- **Administrative Procedure Code**
- **Code on Administrative Delicts**
- **Code on Detention**
- **Law “On Combatting Domestic Violence, Protection of and Assistance to Victims of Domestic Violence”**

The right to legal aid was first recognized in 2007, with the adoption of the Law “On Legal Aid” and the creation of a Legal Aid Service under the auspices of the Ministry of Justice.

In 2014, legislative amendments were adopted to provide the Legal Aid Service with complete institutional independence from the Executive, with a view to ensuring the full professional independence of Legal Aid Service lawyers. The Ministry of Justice, the parliament, international donors and civil society played an instrumental role in introducing this reform.

The most recent reform of the legal aid system took place in 2015, when the mandate of the Legal Aid Service was extended beyond criminal cases, to also cover civil and administrative cases.

State-funded legal aid is available at both national and sub-national levels.

Services included as part of legal aid

For civil, administrative and criminal cases, legal aid is provided in the form of legal advice, legal representation and assistance with the execution of legal documents. In civil cases, legal assistance before courts is also provided. The legislation however does not specify whether free legal aid is guaranteed for mediation or arbitration. Specialized legal aid services are provided by the State, mainly for children, refugees and asylum seekers, and victims of domestic violence.

Process for obtaining legal aid

The process for obtaining legal aid is initiated by the Legal Aid Service which oversees the appointment of legal aid providers based on the notification from a State justice actor or applicant for legal aid.

In criminal cases, mandatory legal counsel is provided to all by the criminal code. In civil and administrative cases, a person must meet any of the ‘insolvency criteria’ established by the government, which are defined according to a point-based system. When applying for legal aid services, it is not necessary for a person to provide any documentation: the Legal Aid Service can simply access the database of socially unprotected citizens administered by the Ministry of Labour, Healthcare and Social Protection, and check the status of the applicant.

Even if a person is not registered in the database of the socially unprotected persons, if s/he is unable to pay for legal services, she can obtain services from the public defender.

Awareness of the right to legal aid

A public information campaigns to raise awareness about the right to legal aid and how to access legal aid services was conducted by the State more than three years ago. International actors have also supported awareness-raising efforts in recent years. Independent national experts estimate that the general population is 'somewhat knowledgeable' about legal aid services.

Delivery model

Legal aid authority

The 'Legal Aid Service' has chief responsibility for the management of legal aid. It is not subordinated to any branch of government and is only accountable to the Parliament. The Service consists of a central coordinating body and regional offices.

A Legal Aid Council was also established to guarantee the independence and transparency of the Legal Aid Service. The Council is constituted by nine members which represent the National Bar Association, the Office of the Ombudsman, the Ministry of Justice, the High Council of Justice, the Legal Aid Service itself, as well as NGOs and academia. The Council elects the Director of the Legal Aid Service, passes some regulations on legal aid services, approves the development strategy of the Service, monitors its activities, etc.

Organisation of legal aid services

Legal aid services for criminal, civil and administrative cases are provided through the Legal Aid Service, and through *pro bono* schemes. Members of the Georgian Law Firm Association have committed to take up at least three cases *pro bono* per year. Provision of *pro bono* legal aid services is also seen as a means for junior lawyers to acquire experience. Finally, NGOs also provide free legal aid services, notably GYLA, Article 42 and others.

Mechanism for assigning legal aid providers

All applications for legal aid services are filed at the level of the Regional Bureau of the Legal Aid Service, and are reviewed by the Bureau within two days. Cases are distributed among lawyers in alphabetic order of lawyers' surnames.

Accessing legal aid in urban vs. rural areas

The Legal Aid Service has eleven Regional Bureaus (in the bigger cities) and seven Consultation Centers (in administrative centers in smaller cities, in mountain-eering regions and in regions populated by ethnic minorities). In order to increase the availability of legal aid services in remote areas, mobile teams of Legal Aid Service lawyers carry out field visits and provide legal consultations where the Service does not have an office. To this end, since 2015, the Legal Aid Service cooperates with the Agency for the Development of Governmental Services to provide legal consultations to villagers in special rural centers.

Service providers

Lawyers and other providers

1/1,140

Licensed practicing
lawyers/people

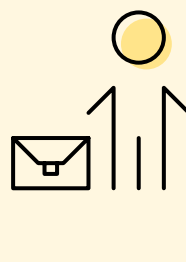


University-based law clinics

Students are allowed to provide primary legal aid, to help prepare legal documents, and to represent litigants in civil law hearings

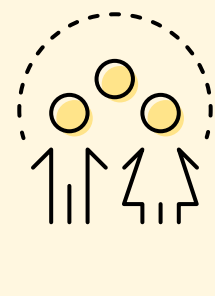
1/19,166

Full-time
legal aid lawyers/people



Paralegals

While not officially recognized, paralegals are allowed to provide legal aid services in both criminal and civil cases, including legal advice on a one-time or two-time basis, legal representation before a prosecutor, court or tribunal, provision of legal information in police precincts or prisons, general assistance in navigating the justice system, and assistance in executing legal documents



NGOs

Also provide free legal aid services (e.g. GYLA, Article 42 and others)

Qualifications required

Legal aid providers must have a law degree and must show proof of passing a professional examination (bar examination). They must also be members of the national bar.

Paralegals must have completed a special training course, as well as an internship or apprenticeship with a lawyer.

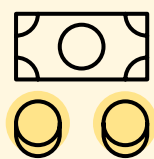
Legal aid providers are required to engage in continuing education or skills training, and the State does allot funds to this effect. Both lawyers and consultants working for the Legal Aid Service regularly undergo trainings, organised by the Legal Aid Service itself as well as by the bar association.

Finances

Costs to recipients

Primary legal aid services are available free of charge by the Legal Aid Service. Legal aid services are free of charge for those who meet eligibility criteria.

Legal aid in the annual justice budget



\$0.52

Legal aid budget per capita in 2016



13%
2010 - 2013



50%
2013 - 2015



30%
2015 - 2016

Annual legal aid budget increased by 13% from 2010 to 2013. It was further increased by 50% between 2013 and 2015, and again by nearly 30% between 2015 and 2016.

The national budget for legal aid is determined by the parliament, the Ministries of Justice and Finance, and the Legal Aid Service.

Legal aid is a separate component of the annual justice system budget. In 2014, after receiving full institutional independence, the Legal Aid Service was provided with additional budget guarantees that the annual budget of the Service cannot be cut without the consent of the Legal Aid Service. In 2015, due to the significant expansion of the mandate of the Legal Aid Service in civil and administrative cases, the budget was increased by 50%.

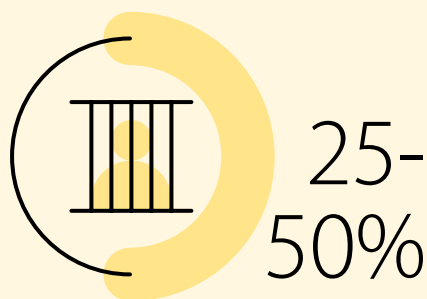
While the cost of specialized legal aid services is covered by the State, additional services, such as independent investigations, experts, psychological/social work support, clerical assistance, are not.

Payments to legal aid providers

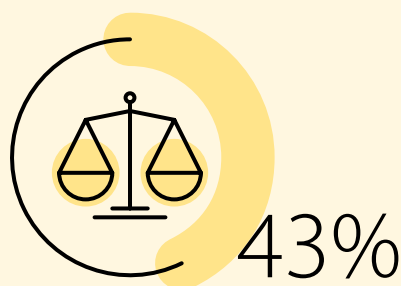
In-house counsels work full-time for State institutions and receive a monthly salary. Freelance lawyers are hired in specific cases and receive a fixed fee for each procedural action taken.

Provision of legal aid

Legal aid in criminal cases



Proportion of criminal court cases (2013)



Proportion of criminal court cases for which State-funded legal aid was provided (2013)

Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, persons imprisoned on criminal charges and victims of crime.

The State is *obliged* to provide 'mandatory defence' — irrespective of whether or not 'insolvency criteria' apply — when the accused is a minor, does not speak the language of the criminal proceedings, cannot personally exercise his/her right for protection due to physical or psychological disabilities, potentially faces life imprisonment, refuses to appear before the law enforcement agency or was not physically present in the courtroom, amongst other circumstances.

In a number of cases, to receive legal aid, 'mandatory defence' does not apply and a person must fall under the insolvency criteria. This is the case for the protection of any other accused in criminal cases (i.e. who does not qualify for 'mandatory defence'), for the protection of domestic violence victims, for disciplinary proceedings cases against detainees, and for administrative offence cases, which entail administrative arrest.

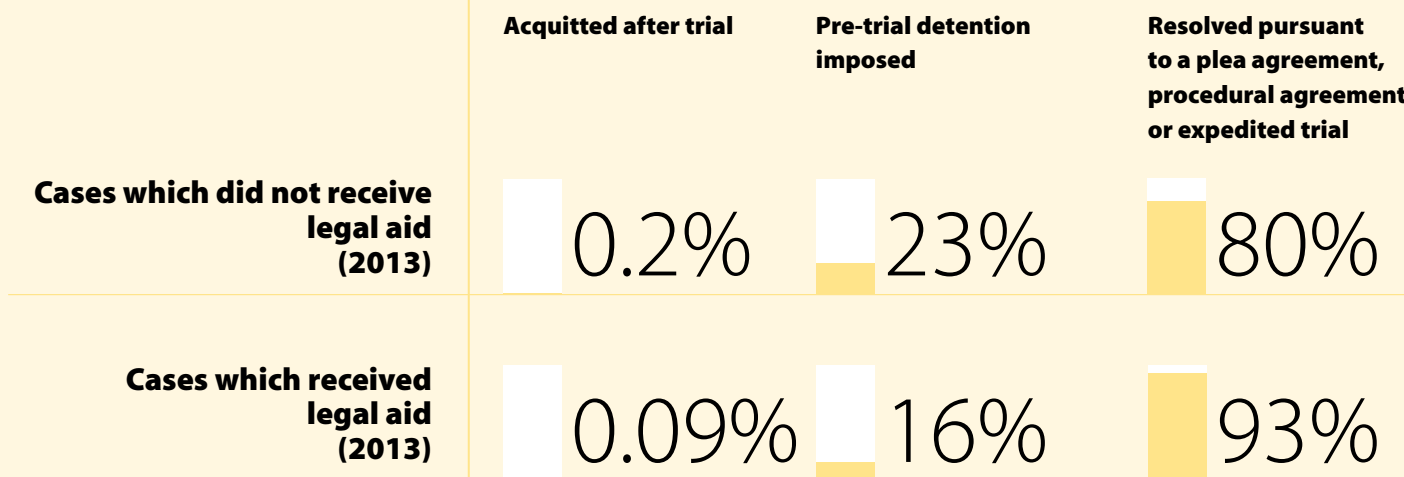
At what stage of a criminal case?

Under the law, legal aid should be provided from the moment a law enforcement representative restricts the suspect's/defendant's freedom. It is prohibited by law for the police to interview someone in the absence of a lawyer, unless the person agrees to waive this right.

In criminal cases, legal aid institutions aim to ensure that the same provider represents the accused/suspect at all stages of the case.

To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that there is no noticeable difference in the quality of services provided by legal aid lawyers and private lawyers. Furthermore, experts note that ‘a well-prepared /highly skilled lawyer, ‘the judge’s objective analysis of evidence and testimony’ and ‘the strength of the evidence’ are amongst the most influential factors in reaching a dismissal of charges or acquittal’.



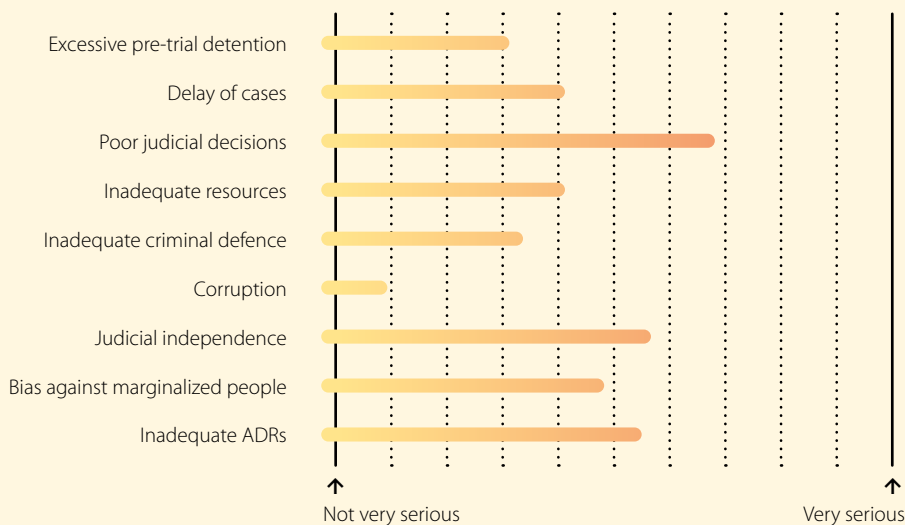
57%

People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

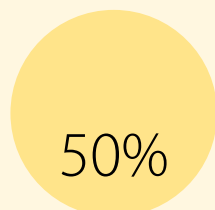
How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015

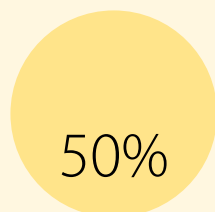


Legal aid in civil cases

Estimated demand for legal aid services in civil cases



From respondents



From complainants

Who is eligible?

Legal aid in civil cases is available to anyone who meets the 'insolvency criteria', and will also depend on the case's gravity, complexity, or case type, as identified in the law.

5 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available



Marital issues



Child custody issues



Property issues



Labor disputes



Administrative matters
matters and tort claims

Since April 2015, the Legal Aid Service provides legal aid services free of charge for representation in court of cases related to family litigation (divorce, alimony, etc.), litigation concerning inheritance, social care and pension, rights of internally displaced people, healthcare and patients' rights, social security of veterans and families of deceased conscripts, of victims of political repression, and of persons with disabilities.

For what actions is a party eligible for legal aid?

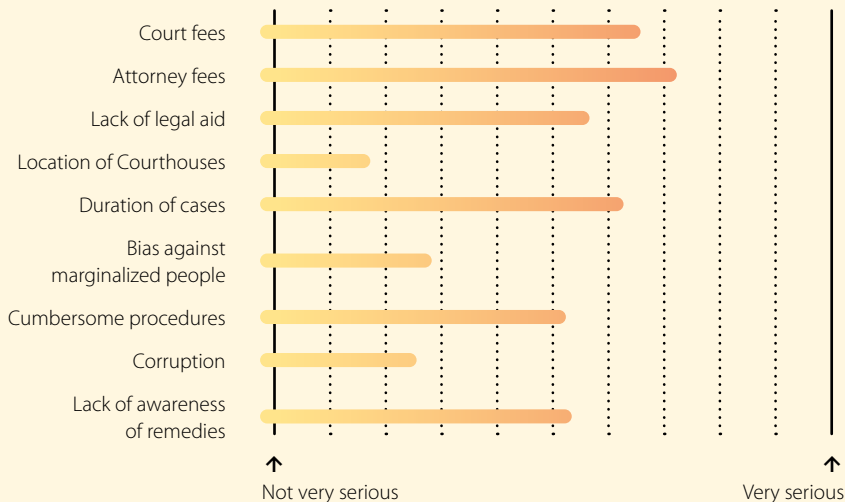
Further to the provision of primary legal aid, more specific legal aid can be offered to assist with the drafting or filing of a complaint or a response, to gain access to State services, and to provide victims of violence with protective services. Legal aid can also be provided throughout proceedings.

Public interest litigation / class action cases:

State-funded legal aid is not provided for public interest litigation and class action cases, but there is public demand for such initiatives to address discrimination, health issues, environmental protection, labour rights and consumer rights.

How serious are the following problems in influencing people’s decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

according to national experts, WJP Rule of Law Index 2015

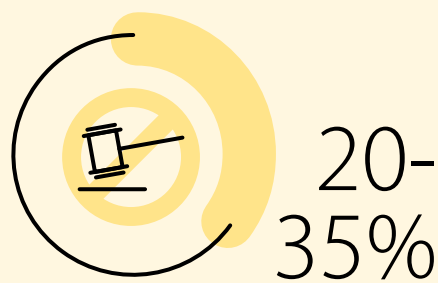


Women’s access to legal aid services

According to national experts, women may not always be aware that legal aid services are available at little or no cost, and may not know where to find legal assistance.

Female victims of violence (including victims of sexual and gender-based violence) do receive legal aid services in all legal proceedings, as well as court support services, such as interpretation and translation of documents.

Access to legal aid for children

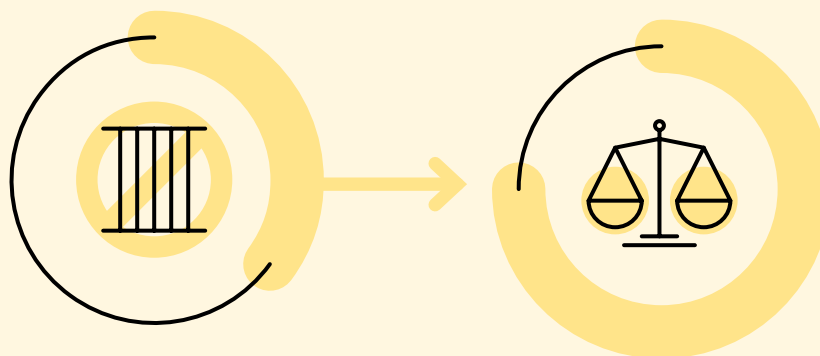


For 20-35% of cases when children are suspected or charged with a criminal offence, the case is diverted from the formal justice system without trial (e.g. through mediation, a warning, or an apology) (2013)

The justice system has specialized courts, judges, lawyers /paralegals, prosecutors and police units specifically dedicated to handling cases involving child victims, child witnesses or suspected and accused children.

When representing children, legal aid providers often reach out to parents, social workers and other childcare professionals for support to assist the child throughout proceedings.

When comparing criminal cases where children are represented by legal aid providers, and cases where children are represented by private lawyers, independent national experts observe that the use of diversion, alternatives to pre-trial detention, and alternatives to imprisonment are more frequent when children are represented by legal aid lawyers. Experts also note that legal aid providers specialized in children’s rights achieve the use of diversion and alternatives to imprisonment more often than non-specialized legal aid providers.



20-35%

In 20-35% of cases where a child was found culpable, an alternative to imprisonment was imposed. (2013)

50-75%

When State-funded legal aid was provided, an alternative to imprisonment was imposed in 50-75% of cases (2013)

Legal aid and informal justice systems

Informal justice proceedings typically handle marital or family disputes, land and property disputes, and inheritance.

National experts explain that people prefer to resolve disputes through informal justice proceedings because they take less time and people understand better how they work. People are also more confident that they will lead to a negotiated outcome that is acceptable to all parties.

Informal justice mechanisms allow a lawyer to provide assistance in formal mediation and alternative dispute resolution processes, and there is a mechanism that allows cases to be referred between the formal and informal justice systems.

Quality safeguards

Accountability for the quality of legal aid services

To guarantee unhindered access to legal aid in criminal cases, the Legal Aid Service has established a roster system based on lawyers' time schedules, which allows for qualified legal aid services to be provided at any time of the day throughout the country.

If a person has a right to legal aid, but no legal aid provider is available, or the provider is unprepared or unqualified, the proceedings must cease until a qualified legal aid provider arrives.

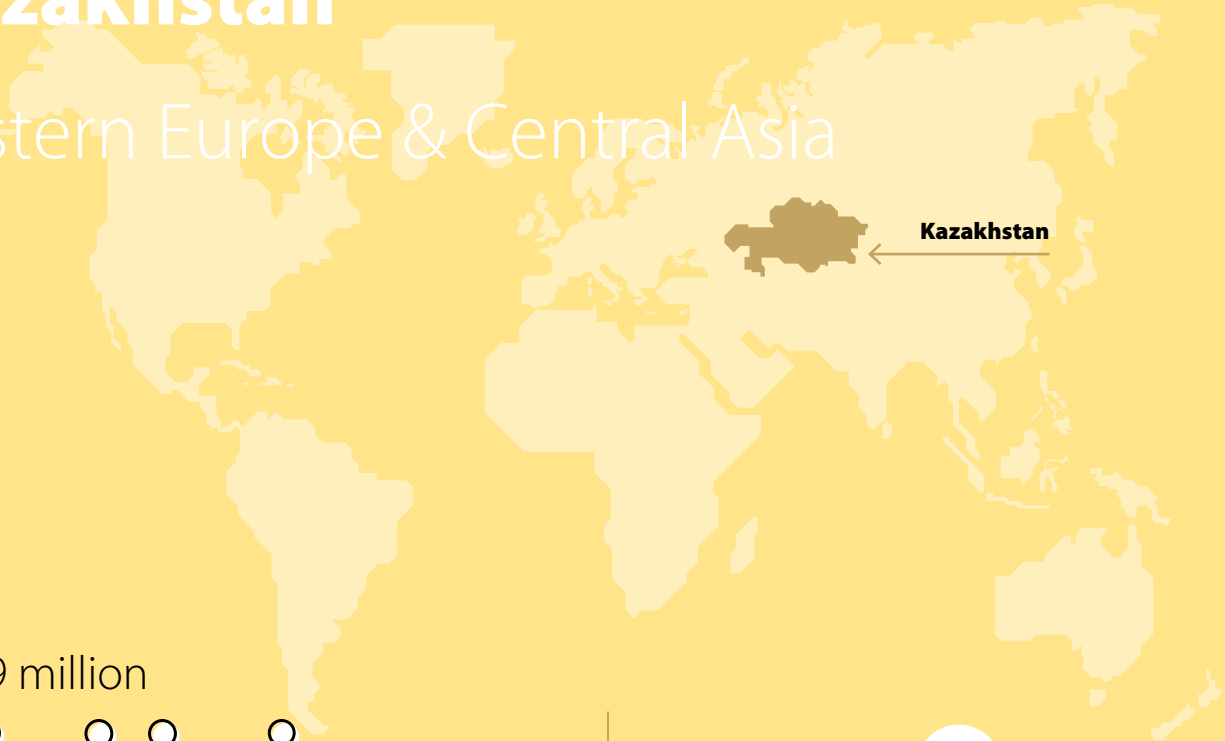
A legal aid provider can refuse to take a case, or ask to be removed from the duty to represent a particular legal aid recipient, if s/he has too many cases, or if s/he has a conflict of interest with the legal aid recipient.

Monitoring and data collection on the quality of legal aid services

Formal responsibility for monitoring the quality of legal aid services rests with the Department of Monitoring and Analysis in the Legal Aid Service, which evaluates cases that have been closed. This Department will soon start monitoring legal aid services by conducting a thorough review of randomly selected cases and applying a grading system for selected criteria.

Kazakhstan

Eastern Europe & Central Asia



Kazakhstan

17.29 million



Population



Unitary government system



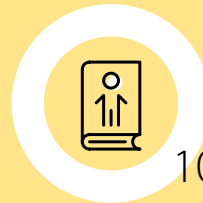
47%

Rural population



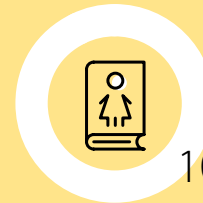
53%

Urban population



100%

Male literacy rate



100%

Female literacy rate

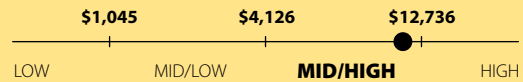
1.002

Gender Development Index



\$11,850

GNI per capita



0.788

HDI



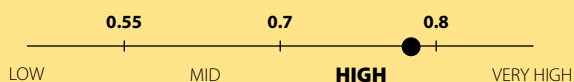
-11.9%

Loss in HDI due to inequality



0.694

Inequality-adjusted HDI



Legal Aid at a Glance in Kazakhstan



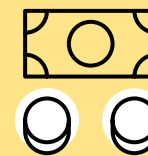
2013

The most recent reform of the legal aid system led to the adoption of the Law on Guaranteed Legal Aid in 2013



Within the past 5 years

When was the last assessment of legal aid needs conducted

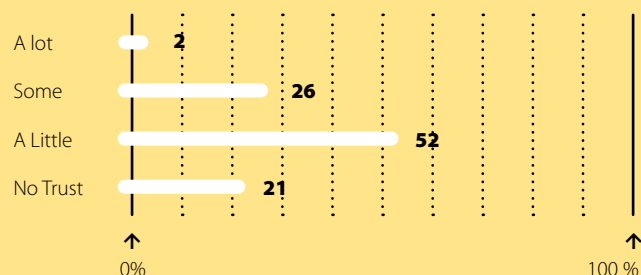


\$0.05

Annual expenditure
on legal aid per capita in 2013

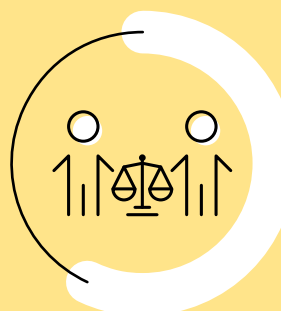
People's trust in courts

Citizen survey, WJP Rule of Law Index 2015



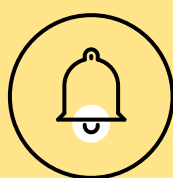
People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015



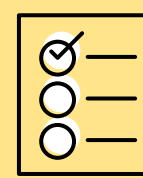
57%

Sample size: 44



Challenges in accessing legal aid

- Lack of legal aid lawyers and low pay for legal aid work
- Reluctance by the bar association to allow paralegals to fill the gap of available lawyers
- People may not know where to find legal assistance, and may not be aware that legal aid services are available at little or no cost
- People may prefer to resolve issues through the informal justice system or outside the court system, where legal aid has no role
- Covering the costs of police, prosecutors and judges tends to be prioritized over spending public funds on lawyers



Priority areas for support

- ✓ Legislative drafting advice
- ✓ Development of action plans/policies
- ✓ Development of quality criteria for legal aid providers
- ✓ Establishing paralegal systems
- ✓ Institutional support
- ✓ Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Constitution**
- **Separate law on legal aid**
- **Civil procedure code**
- **Administrative law**
- **Criminal procedure code**
- **Implementing regulations for the law on legal aid**
- **Law on advocacy**

The right to legal aid is recognized by law since the country's independence, in 1991. The latest substantial reform of the legal aid system led to the adoption of the Law on Guaranteed Legal Aid in 2013, with strong involvement by the Ministry of justice, international donors and the bar association.

Guaranteed State-funded legal aid is available at national, regional and local levels.

Services included as part of legal aid

Legal aid is mainly provided in the form of legal information, legal advice, legal representation and defence, and enforcement of judicial decisions. Legal aid providers also provide general assistance in navigating the justice system, and in executing legal documents.

Specialized legal aid services are provided by the State for specific population groups, including children, persons with disability, the elderly and migrants. Additionally, civil society organisations provide legal aid to women, refugees, asylum seekers and stateless persons, LGBTs, as well as ethnic or religious minorities.

Process for obtaining legal aid

Legal aid is provided upon request from the person who wants legal aid from the bar association. The determination is automatic if the case or legal aid recipient qualifies for legal aid services under the law, in which case no proof is necessary.

To receive legal aid, a person must prove eligibility by providing supportive documentation, as requested by the respective authorised body (e.g. proving status as recipient of welfare, demonstrating family hardship, etc.)

Awareness of the right to legal aid

The State has only recently started to carry out public information campaigns to raise awareness about the right to legal aid and how to access legal aid services. Independent national experts estimate that the general population is 'somewhat knowledgeable' about the right to legal aid services.

Delivery model

Legal aid authority

The Ministry of Justice and National Bar association have chief responsibility for the management of legal aid, at national, regional and local levels.

Organisation of legal aid services

Legal aid services are provided through various schemes: (1) non-governmental legal service institutions and law firms may enter into a contract with the State, or with the bar association, to provide legal aid in exchange for remuneration by the State; (2) some legal aid lawyers are employed as staff members by public defender institutions; (3) some lawyers and paralegals are employed by civil society organisations; (4) some *pro bono* volunteers work in coordination with the bar association and the Ministry of Justice (also as a means to acquire experience); and (5) legal aid services are also provided through notaries and bailiffs.

Mechanism for assigning legal aid providers

To request the services of a legal aid provider, the courts, prosecutors and police can either (1) contact the bar association, which maintains and coordinates appointments, or (2) contact lawyers from rosters that they maintain themselves.

Accessing legal aid in urban vs. rural areas

State-funded legal aid services are available in rural areas, but the quality of legal services tends to be higher in urban areas. This can be explained by the fact that legal aid providers in urban areas have more independence to challenge actions of other justice actors (with whom they are not necessarily acquainted socially).

Service providers

Lawyers and other providers

1/3,842

Licensed practicing
lawyers/people

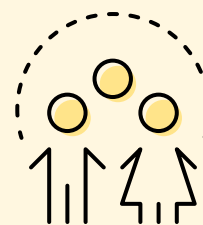
N/A

Full-time
legal aid lawyers/people

**University-based
law clinics**



Paralegals
Are not officially recognized
as providers of legal aid



**Civil society
organisations**

Qualifications required

State-funded legal aid providers must have a law degree and show proof of passing a professional examination, be a member of the national bar, have completed an apprenticeship or internship with a practicing lawyer, be in a contractual relationship with the agency that oversees the administration of legal aid, and be registered in a State-authorized roster of legal aid providers. There is no formal requirement for paralegals to complete a special training course.

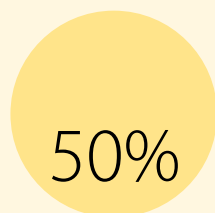
Legal aid providers are required by law to engage in continuing education or skills training, but the State does not allot funds to this effect.

Finances

Costs to recipients

Legal aid services for both criminal and civil cases are free of charge for those meeting eligibility criteria. Primary legal aid services are provided for free by bar associations, which have established a hotline that individuals can call to receive advice. Some civil society organisations have established legal advice centres which also provide primary legal aid services for free.

Legal aid in the annual justice budget

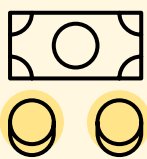


Legal aid budget allocated to **criminal cases**



Legal aid budget allocated to **civil cases**

Payments to legal aid providers



\$0.05

Legal aid budget per capita in 2013



11%

The annual legal aid budget increased by 11% from 2010 to 2013

Legal aid is treated as a separate component of the annual justice system budget. The budget for legal aid is determined by the Ministries of Justice and Finance, the bar association, and the parliament.

Specialized legal aid services for disadvantaged populations are funded by the State with substantial contributions from private actors and international donors. The State covers the costs of additional services such as independent investigation, experts, psychological or social work support, etc.

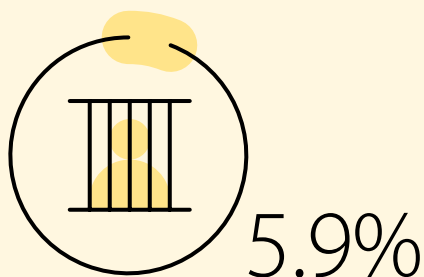
Legal aid providers generally receive a fixed fee for each action they take on a case, or they are paid on an hourly basis for actions that the state has identified as a basis of payment.

Provision of legal aid

Legal aid in criminal cases

Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, persons imprisoned on criminal charges, victims of crime and witnesses.



Proportion of criminal court cases (2013)



People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

56%

Criminal cases which resulted in convictions (2013)

1%

Criminal cases which were acquitted after trial (2013)

The State is *obliged* to provide legal aid to persons who meet a financial threshold, children, persons with physical, intellectual and mental disabilities, persons whose mother tongue is not the language of official proceedings, persons who potentially face a prison sentence of ten years or more or death penalty, persons placed in pre-trial detention as a preventive measure, and persons forcefully required to undertake a judicial psychological examination (further considerations are outlined in the law).

At what stage of a criminal case?

Under the law, legal aid should be provided from the moment a law enforcement representative restricts the suspect's/defendant's freedom, and during questioning of a potential suspect/defendant before formal charges are filed. In practice, however, legal aid is rarely provided during these initial stages, but rather from the moment charges are officially filed, during trial, for any appeal or cassation, and for consideration of probation, or social rehabilitation/reintegration matters after release from prison.

In criminal cases, legal aid institutions aim to ensure that the same provider represents the accused/suspect at all stages of the case.

It is prohibited for the police to interview someone in the absence of a lawyer, unless the person is interviewed as a witness, or s/he has agreed to be interviewed without a lawyer. This may be problematic as sometimes, the police determines the person to have a right to legal aid only after the witness has incriminated him/herself.

To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that legal aid lawyers are less likely than private lawyers to perform actions such as 'giving advice to the suspect/defendant in private before any contact with the state justice official' or 'conducting investigation to establish doubt about the suspect/defendant's guilt even if this person may be guilty', amongst others.

Furthermore, experts identify 'bribery/corruption' and 'the hiring of a private lawyer paid by the suspect/defendant' to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

81%

Proportion of convicted cases which received a prison sentence (2013)

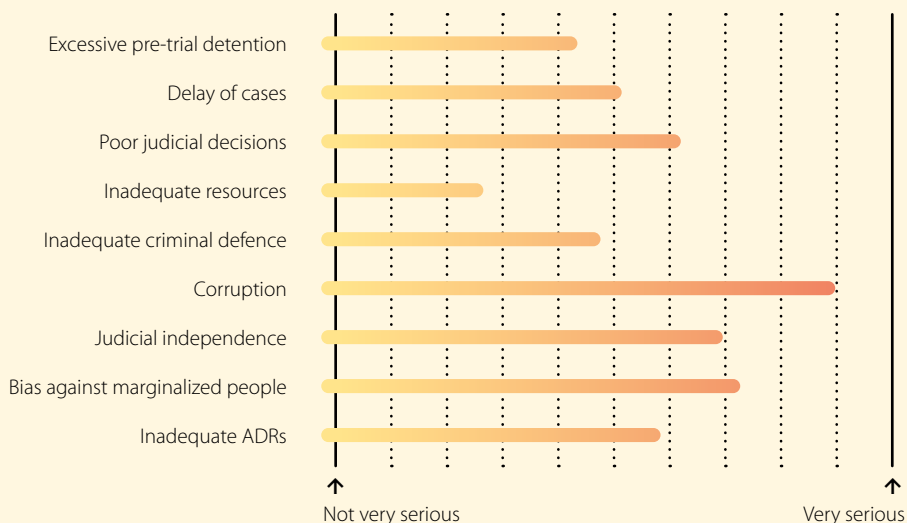
28%

Proportion of cases where pre-trial detention was imposed (2013)

Legal aid in civil cases

How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015



Who is eligible?

Legal aid in civil cases is available to anyone who qualifies for it, with a particular focus on children, persons with physical, intellectual or mental disabilities, refugees, and persons whose mother tongue is different from the language used in official proceedings.

5 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available

- Marital and child custody issues
- Property issues
- Contractual disputes
- Claims for State services or disputes with State agencies
- Labor disputes

For what actions is a party eligible for legal aid?

Under the law, primary legal aid is available to all, as well as legal aid to assist with the drafting of a complaint or a response, during trial, when drafting motions, and for any appeal or cassation.

Estimated demand for legal aid services in civil cases

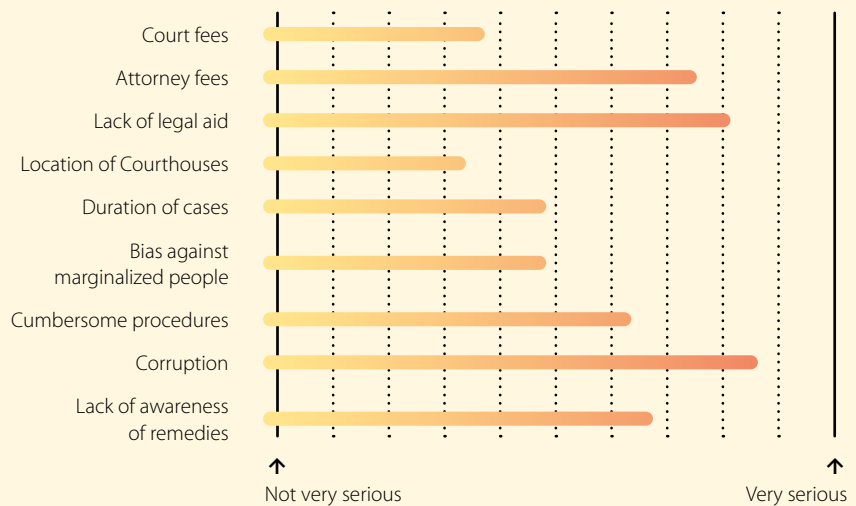


Public interest litigation / class action cases:

State-funded legal aid is not provided for public interest litigation and class action cases, but there is public demand for such initiatives to address discrimination, labour rights, consumer rights, environmental protection, and health.

How serious are the following problems in influencing people’s decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

according to national experts, WJP Rule of Law Index 2015



Women’s access to legal aid services

Although women have a constitutional right to legal aid just like any other person, there are no specialized legal aid services for women.

According to national experts, women may not be aware that legal aid services are available at little or no cost, and may not know where to find legal assistance. Experts add that women sometimes lack confidence in the quality of legal aid services provided to them. For all of these reasons, women may prefer not to seek out legal assistance, also because they see court processes as too time-consuming.

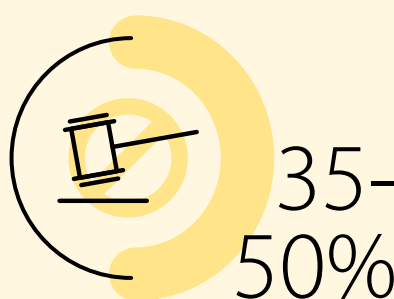
Female victims of violence (including victims of sexual and gender-based violence) receive legal aid services in all legal proceedings; court support services, such as interpretation and translation of documents, are also provided.

Access to legal aid for children

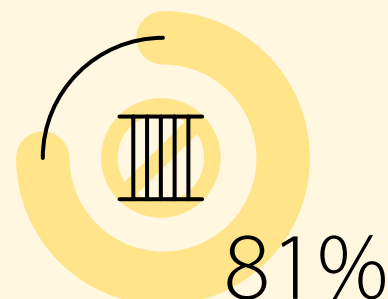
The justice system has specialized courts and judges, specialized police officers/units, and specialized lawyers and paralegals to represent child victims, child witnesses or suspected and accused children.

When representing children, legal aid providers routinely reach out to parents, child protection service practitioners and psychologists for support to assist the child throughout proceedings.

In criminal cases, alternatives to pre-trial detention and to imprisonment are more often achieved when children are represented by legal aid providers than in cases where they are represented by private lawyers or not represented at all.



Between 35-50% of cases where children are suspected or charged with a criminal offence are diverted from the formal justice system without trial (e.g. through mediation, a warning, or an apology) (2013)



In more than 81% of cases where a child was found culpable, an alternative to imprisonment was imposed (2013)

Legal aid and informal justice systems

People do not resolve disputes through informal justice proceedings.

Quality safeguards

Accountability for the quality of legal aid services

If a person has a right to legal aid, but no legal aid provider is available, or the provider is unprepared or unqualified, the proceedings must cease until a qualified legal aid provider arrives.

A legal aid provider can refuse to take a case, or ask to be removed from the duty to represent a particular legal aid recipient, if s/he has too many cases, or if there is a conflict of interest with the legal aid recipient.

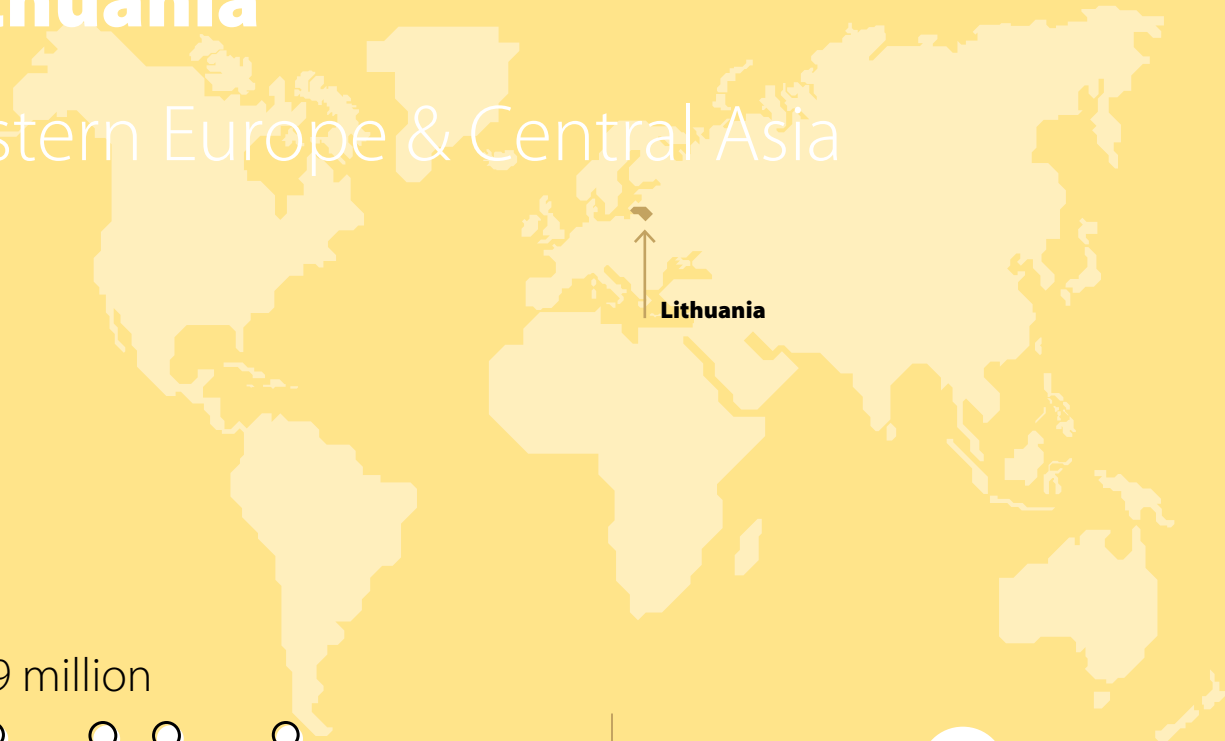
Monitoring and data collection on the quality of legal aid services

The Ministry of Justice and the bar association are formally responsible for monitoring the quality of legal aid services. In order to monitor the quality of legal aid services, data is collected through the review of complaints by legal aid recipients, and through the conduct of satisfaction surveys filled by court users, including legal aid recipients.

No data is available on the number of criminal or civil cases filed in court where State-funded legal was provided.

Lithuania

Eastern Europe & Central Asia



2.929 million



Population



Unitary government system



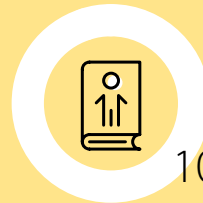
33%

Rural population



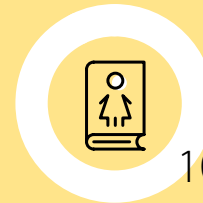
67%

Urban population



100%

Male literacy rate



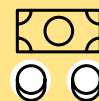
100%

Female literacy rate



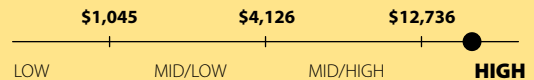
1.030

Gender Development Index



\$15,430

GNI per capita



0.839

HDI



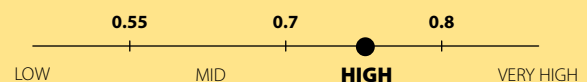
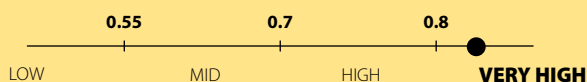
-10.1%

Loss in HDI due to inequality



0.754

Inequality-adjusted HDI



Legal Aid at a Glance in Lithuania



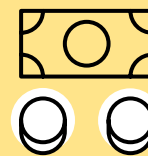
2014

The most recent reform of the legal aid system took place in 2014



Never conducted

When was the last assessment of legal aid needs conducted



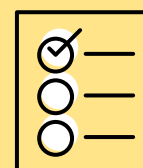
\$1.74

Annual expenditure
on legal aid per capita in 2013



Challenges in accessing legal aid

- Low pay of lawyers for legal aid work
- General perception that it is more important to cover the cost of police, prosecutors and judges than to spend public funds on lawyers
- People may not have confidence in the quality of legal aid services



Priority areas for support

- Legislative drafting advice
- Development of action plans/policies
- ✓ Development of quality criteria for legal aid providers
- Establishing paralegal systems
- Institutional support
- ✓ Training
- ✓ Facilitating experience-sharing and networking of legal aid administrations across the world
- ✓ Establishing international platforms for mutual learning and exchange of good practices amongst legal aid administrations across the world

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Separate law on legal aid**
- **Implementing regulations for the law on legal aid**
- **Criminal procedure law**
- **Civil procedure code**
- **Administrative law**

Services included as part of legal aid

Process for obtaining legal aid

The right to legal aid was officially recognized during the Soviet era.

The most recent reform of the legal aid system took place in 2014, when the Law on State-Guaranteed Legal Aid came into force. This law establishes a 'one-stop model' for persons seeking secondary legal aid, strengthens quality controls over the quality of legal aid services provided, and promotes conciliatory mediation as an alternative to legal proceedings.

State-funded legal aid is available at the national level only.

For both criminal and civil cases, legal aid is provided in the form of legal advice, legal representation, legal assistance, and legal information. Legal aid lawyers also provide general assistance in navigating the justice system. In civil cases specifically, legal aid is provided to assist with the execution of legal documents.

There are no specialized legal aid services for specific disadvantaged population groups.

Legal aid is provided upon request from the person who wants legal aid, as well as upon request from the police, a prosecutor or a court.

In both civil and criminal cases, a person must prove her/his eligibility by proving status as a recipient of welfare or state subsidies, by demonstrating family hardship (e.g. multiple children, single parent, family member disability, etc.), by providing evidence of low income or of membership of a protected group (such as migrants, children, ethnic or religious minority, etc.). It may also be determined by relevant agencies that the interests of justice require the provision of legal aid.

In criminal cases specifically, no proof of eligibility is necessary in cases where the State is obliged to provide legal aid under the law. Entitlement to legal aid in criminal cases also depends on the gravity or complexity of the matter requiring assistance.

In civil cases specifically, a person may be requested to provide a proof that his/her legal aid claim has merit.

Awareness of the right to legal aid

A public information campaign to raise awareness about the right to legal aid and how to access legal aid services was conducted by the State in 2014-15, and provided specific contact details of relevant offices to go to for legal assistance.

Independent national experts estimate that the general population is 'somewhat knowledgeable' about legal aid services.

Delivery model

Legal aid authority

The chief responsibility for the management and administration of legal aid rests with the Ministry of Justice which oversees and coordinates the legal aid appointment mechanism.

Organisation of legal aid services

Legal aid services in both criminal and civil cases are organised through the State-Guaranteed Legal Aid Coordination Council. Civil servants in municipal institutions work in parallel to State-funded private practitioners who take assignments from the legal aid administration.

Paralegals are allowed to provide legal aid under part-time individual contracts signed with the legal aid administration.

Mechanism for assigning legal aid providers

In criminal cases, when the physical presence of a legal aid lawyer in court is required or when a suspect, accused or convict requests a legal aid lawyer, such lawyer shall be selected by a coordinator (a lawyer appointed by the Bar Association to coordinate the provision of secondary legal aid in criminal matters) upon notification received from a pre-trial investigation officer, a prosecutor or a court.

It usually takes about two hours for a legal aid provider to appear after notice is given that legal aid is needed in a criminal case.

Accessing legal aid in urban vs. rural areas

State-funded legal aid services are available in both rural and urban areas. While the quality of legal aid services depends on each individual legal aid provider, legal aid lawyers in urban areas have more independence than those in rural areas to challenge the actions of other justice actors.

Service providers

Lawyers and other providers

1/1,387

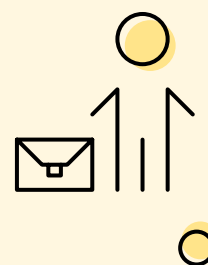
Licensed practicing
lawyers/people



**University-based
law clinics**

1/41,843

Full-time
legal aid lawyers/people



Paralegals
Are not allowed to provide legal aid

Qualifications required

Although the set of qualifications required for a particular case depends on the type of case, in general, legal aid providers must have a law degree and must show proof of passing a professional examination (bar examination). They must also be members of the bar association, have completed an internship with a practicing lawyer, and be registered in a State-authorized roster of legal aid providers.

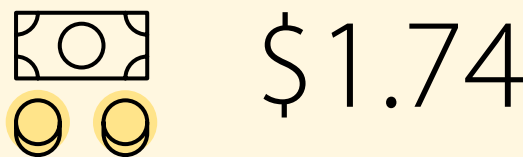
The State imposes a requirement (and partially allots funds) to engage in continuing education and/or skills training on all practicing lawyers. The same requirement is imposed by the Lithuanian Bar on its members.

Finances

Costs to recipients

Primary legal aid services are available free of charge to persons meeting eligibility criteria at the administrative offices of legal advice centres in cities, and at the offices of civil society organisations. For secondary legal aid, there exists a sliding scale of payment, based on the property and income of the person seeking legal aid.

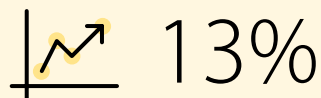
Legal aid in the annual justice budget



Legal aid budget per capita in 2013

Legal aid is a separate component in the annual justice budget. The national budget for legal aid is determined by the Ministry of Justice on the basis of a proposal submitted by the State-Guaranteed Legal Aid Coordination Council.

While there are no separate funding mechanisms to cover the cost of specialized legal aid services provided to specific population groups (such as women, children, etc.), additional services, such as independent forensic experts, are covered by the State.



The annual legal aid budget increased by 13% from 2010 to 2013

Payments to legal aid providers

In both criminal and civil cases, legal aid providers who work full-time in institutions funded by the State receive a fixed remuneration per month for a fixed number of working hours. *Ex officio* private lawyers who take up legal aid cases are paid on a case-by-case basis.

Provision of legal aid

Legal aid in criminal cases

Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, persons imprisoned on criminal charges, and victims of crime.

The State is *obliged* to provide legal aid to persons who meet a financial threshold, children, persons with physical or intellectual/mental disabilities, persons whose mother tongue is not the language of official proceedings, and persons who face a potential prison sentence. Legal aid is also provided when it is required by the interests of justice or due to the case's gravity or complexity.

2.5%

Criminal cases which were acquitted after trial (2013)

10%

Criminal cases which had pre-trial detention imposed (2013)

35%

Criminal court cases which were resolved pursuant to a plea agreement, procedural agreement or expedited trial

Legal aid in civil cases

13.5

In 2013, the number of civil and administrative cases filed in courts was 13.5 higher than the number of criminal cases

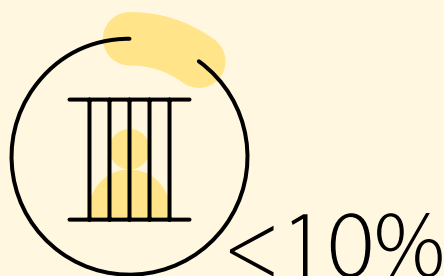
At what stage of a criminal case?

Under the law, legal aid should be provided from the moment a State agency begins consideration of whether to impose pre-trial detention or restrictive measures, or at least when charges are officially filed. Legal aid is also provided during trial and for any appeal or cassation.

To what extent are legal aid services in criminal cases seen as effective?

Comparing the services of legal aid providers to services of private lawyers, independent national experts estimate that legal aid providers are less likely than private lawyers to perform action such as 'presenting arguments in favour of a suspect's/defendant's release pre-trial', and 'pointing to weaknesses in the evidence presented against the suspect/defendant, even if the defendant may be guilty'.

National experts identify 'a well-prepared and/or highly skilled lawyer', 'the judge's objective analysis of evidence and testimony' and 'the strength of the evidence' to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

**Proportion of criminal court cases****In 2013, State-funded legal aid was provided in 31% of criminal cases**

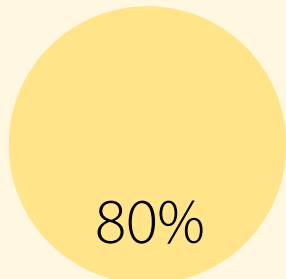
Who is eligible?

Legal aid in civil cases is provided to persons who meet a financial threshold, children, and persons with physical or intellectual/mental disabilities, as long as a case satisfies a merit test.

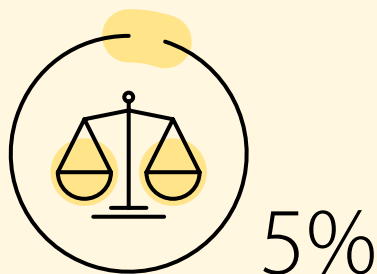
Estimated demand for legal aid services in civil cases



From respondents



From complainants



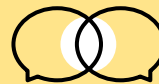
In 2013, State-funded legal aid was provided in 5% of civil cases filed in court

Women’s access to legal aid services

5 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available



Marital disputes and child custody issues



Tort claims



Property issues



Labor disputes



Contractual disputes

For what actions is a party eligible for legal aid?

Further to the provision of primary legal aid, more specific legal aid can be offered to assist with drafting and filing complaints and responses, drafting motions, and protecting victims of violence. Legal aid can also be provided throughout mediation, pre-trial hearings, and during trial, as well as for any appeal or cassation in national and international tribunals.

Public interest litigation / class action cases:

Independent national experts are of the view that there is public demand for public interest litigation/class action to address discrimination, labour rights, consumer rights, environmental protection, and health issues. However, staff lawyers of the institutional legal aid provider do not coordinate to uniformly challenge common violations of national and international due process rights and human rights.

According to national experts, one major problem faced by women is that there are no specialized legal aid services for women, except for female victims of violence (including victims of sexual and gender-based violence) who receive legal aid services in all legal proceedings, as well as court support services, such as interpretation and translation of documents.

Another significant factor impeding women’s access to legal aid is that the means test for eligibility to legal aid often considers overall household income rather than the women’s income specifically, which tends to be considerably lower.

Access to legal aid for children

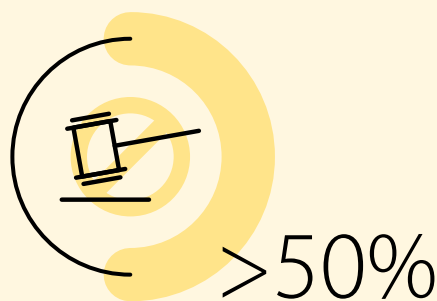
National experts add that women may not always understand how legal aid services can help them and may lack confidence in the quality of legal aid services provided to them. Experts also note that women sometimes see legal aid providers as lacking gender sensitivity, which makes it difficult for them to confide in a legal aid lawyer and share intimate information related to a case.

There are specialized courts, judges, prosecutors and police units for child victims, child witnesses and suspected or accused children.

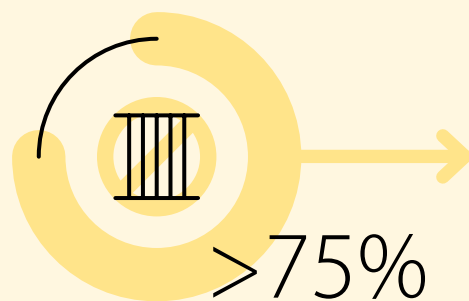
When representing children, legal aid providers often reach out to parents, psychologists and other childcare professionals for support to assist the child throughout proceedings.

Diversion away from judicial proceedings is never used in criminal cases involving suspected or accused children.

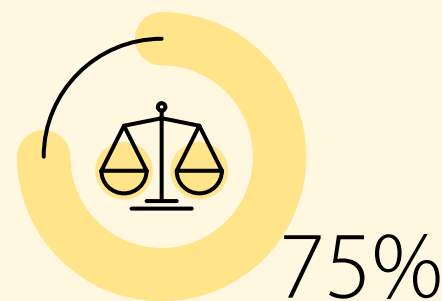
National experts observe that when children are represented by legal aid providers in criminal cases, alternatives to pre-trial detention and to imprisonment are more often achieved than in cases where children are represented by private lawyers.



In more than 50% of cases when children are suspected or charged with a criminal offence, the case is diverted from the formal justice system without trial (e.g. through mediation, a warning, or an apology)



In 2013, in more than 75% of cases where a child was found culpable, an alternative to imprisonment was imposed



This proportion stayed the same (75%) when State-funded legal aid was provided

Legal aid and informal justice systems

Informal justice proceedings are typically used to resolve marital or family issues, child custody issues, land and property disputes, inheritance disputes, as well as disputes related to informal contracts and labor agreements. According to independent national experts, people prefer to use informal justice proceedings because they think that such proceedings are more likely to lead to a negotiated outcome that is acceptable to all parties.

Informal justice mechanisms allow a lawyer to provide assistance in formal mediation/alternative dispute resolution processes. There are also mechanisms allowing for cases to be referred between the formal and informal justice systems.

Quality safeguards

Accountability for the quality of legal aid services

If a person receives legal aid services, but the legal aid provider is unprepared or unqualified, the proceedings are postponed or a replacement legal aid provider is asked to represent the party. This can sometimes be problematic as there are no formal means of assessing a legal aid provider's qualifications or level of preparedness.

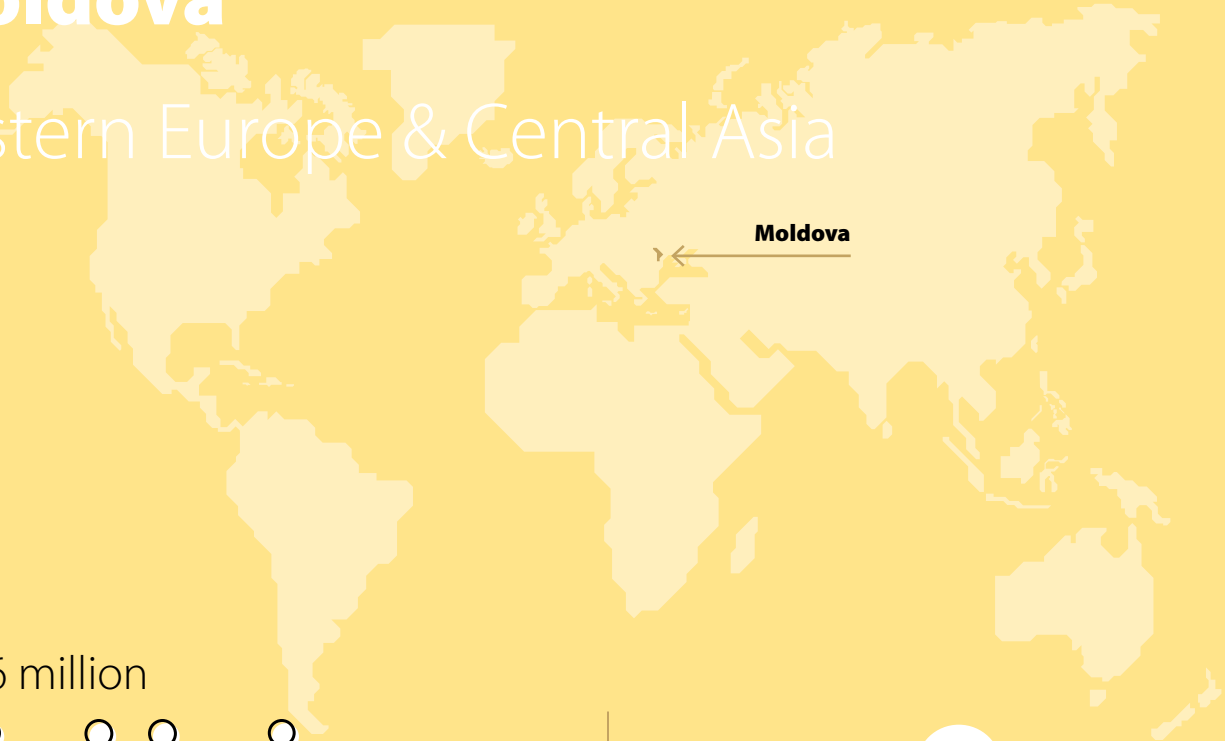
A legal aid provider can refuse to take a case, or ask to be removed from the duty to represent a particular legal aid recipient due to having too many cases, or due to incompatibility or conflict of interest with the legal aid recipient.

Monitoring and data collection on the quality of legal aid services

Formal responsibility for monitoring the quality of legal aid services rests with the Ministry of Justice and the bar association. Data is collected through assessments by justice actors, through the review of complaints lodged by legal aid recipients, and through satisfaction surveys filled by legal aid recipients.

Moldova

Eastern Europe & Central Asia



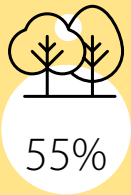
3.556 million



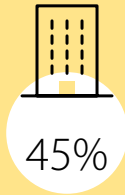
Population



Unitary government system



Rural population



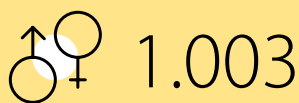
Urban population



Male literacy rate



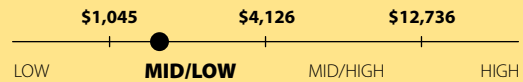
Female literacy rate



Gender Development Index



GNI per capita



0.693

HDI



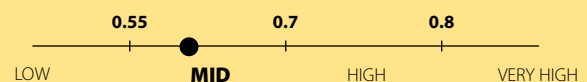
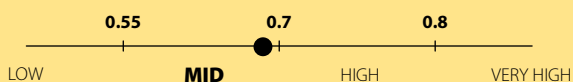
-10.8%

Loss in HDI due to inequality



0.618

Inequality-adjusted HDI



Legal Aid at a Glance in Moldova



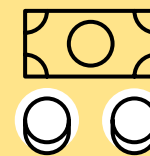
2011-2016

Moldova is currently reforming its national legal aid system in accordance with the Justice Sector Reform Strategy 2011-2016



Within the past 5 years

When was the last assessment of legal aid needs conducted
(see "Met and Unmet Legal Needs in Moldova," http://www.cnajgs.md/uploads/asset/file/en/349/Legal_Needs_Moldova_en.pdf)

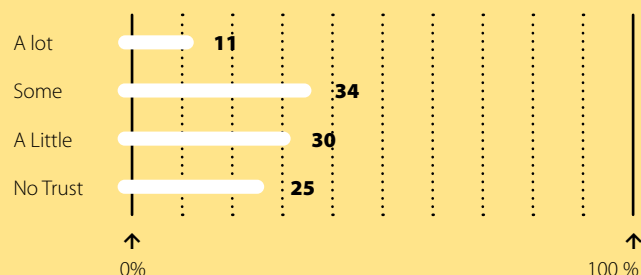


\$0,32

Annual expenditure
on legal aid per capita in 2013

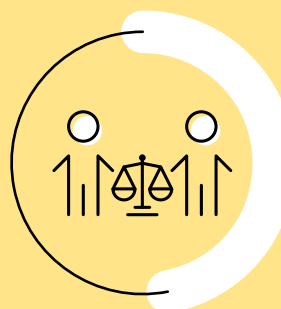
People's trust in courts

Citizen survey, WJP Rule of Law Index 2015



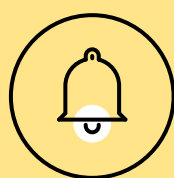
People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015



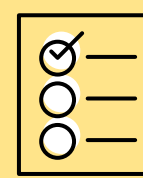
47%

Sample size: 98



Challenges in accessing legal aid

- The population does not know enough about legal aid assistance in civil and administrative cases and lacks understanding of how legal aid services can help them
- The lack of an online database to verify a legal aid applicant's ability to pay for services complicates the process of obtaining legal aid assistance
- Legal aid providers are not distributed evenly across the country, and there is a limited number of paralegals and NGOs specializing in the provision of primary legal aid.
- People perceive State-provided legal aid to be of lower quality than the assistance provided by private lawyers; furthermore, legal aid lawyers are perceived to be more loyal to state agencies than to legal aid recipients
- Covering the costs of police, prosecutors and judges is generally prioritized over spending public funds on lawyers



Priority areas for support

- Legislative drafting advice
- Development of action plans/policies
- ✓ Development of quality criteria for legal aid providers
- ✓ Establishing paralegal systems
- ✓ Institutional support
- ✓ Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Constitution**
- **Separate law on legal aid**
- **Implementing regulations for the law on legal aid**
- **Civil procedure code**
- **Criminal procedure law**
- **Administrative law**
- **Law on pre-trial detention**

The right to legal aid was first recognized in 1994, when the Parliament adopted the current Constitution of Moldova. Article 26 of The constitution guarantees the right to be assisted by a lawyer, either chosen or appointed *ex officio*.

Moldova is currently reforming its national legal aid system in accordance with the Justice Sector Reform Strategy 2011-2016 and its Implementation Plan, adopted by the Parliament. The overall objective of this Reform Strategy is to build a justice system which is affordable, efficient, independent and accountable to society, while meeting European standards on the rule of law and human rights and fostering people's trust in justice.

State-funded legal aid is available at national, regional and local levels.

Services included as part of legal aid

For both civil and criminal cases, legal aid is provided in the form of legal advice, legal representation, legal assistance (before national courts), and provision of legal information. Legal aid lawyers also provide general assistance in navigating the justice system.

Specialized legal aid services are provided by the State for disadvantaged population groups, including persons with physical and mental disabilities, children, migrants, refugees, asylum seekers, stateless persons and internally displaced persons.

Process for obtaining legal aid

Legal aid is provided upon request from the person who wants legal aid and upon request from the police or prosecutor. The determination is automatic if the case or legal aid recipient qualifies for legal aid services.

In both criminal and civil cases, a person must prove her/his eligibility by demonstrating family hardship (e.g. multiple children, single parent, family member disability, etc.), providing evidence of low income, or membership of a protected group (such as migrants, children, displaced persons, refugees, etc.) No proof is necessary if the gravity or complexity of the matter requires legal assistance, or if the State is obliged to provide legal aid under the law.

Awareness of the right to legal aid

A public information campaign to raise awareness about the right to legal aid and how to access legal aid services was conducted by the State in 2014-15, and provided specific contact details of relevant offices to go for legal assistance.

Independent national experts estimate that the general population is 'somewhat knowledgeable' about legal aid services.

Delivery model

Legal aid authority

The chief responsibility for the management and administration of legal aid rests with the National Legal Aid Council (NLAC) and the Bar Association.

Members of the NLAC are appointed by the Ministry of Justice, the Ministry of Finance, the Bar Association, and the Supreme Council of Magistrates. One member is selected on a competitive basis from the non-governmental sector or academia. Ordinary meetings of the NLAC take place once in three months.

Organisation of legal aid services

In both criminal and civil cases, legal aid services are organised through public defender institutions which work in parallel to Statefunded private practitioners who take assignments to represent people eligible for legal aid (*ex officio*, contract lawyers). The maximum caseload per staff lawyer of a public defender institution, at any given time, is 90, at national, regional and local levels.

Additionally, in civil cases, legal aid services are also organised through *pro bono* schemes and through civil society organisations.

Mechanism for assigning legal aid providers

Territorial Offices of the NLAC manage the appointment of legal aid providers upon request from courts, prosecutors and police (in line with the *Regulation on the functioning of territorial offices of the National Council for State Guaranteed Legal Aid*).

It usually takes about 2 hours for a legal aid provider to appear after notice is given that legal aid is needed in a criminal case.

Accessing legal aid in urban vs. rural areas

Although the quality of legal aid services depends on each individual legal aid provider, independent national experts are of the view that legal aid services tend to be better in urban areas where legal aid providers have more independence to challenge actions of other justice actors. Legal aid lawyers in rural areas see judges, police, prosecutors and opposing counsel socially, which can make it difficult to oppose them in proceedings.

Service providers

Lawyers and other providers

1/1,225

Licensed practicing
lawyers/peopleNone 
**University-based
law clinics**

1/237,066

Full-time
legal aid lawyers/people1/111,125 
Paralegals/people

Qualifications required

Legal aid providers must have a law degree and a professional license and must show proof of passing a professional examination (bar examination). They must also be members of the bar, have completed an apprenticeship with a practicing lawyer, have a contractual relationship with the NLAC, and be registered with a State-authorized roster of legal aid providers.

To provide legal aid services, a paralegal must enjoy high respect from the local community and be in a contractual relationship with the NLAC. The Rules on the status and qualifications of paralegals specify that a paralegal must be rigorously trained and qualified to deliver State-funded primary legal aid to communities.

All legal aid providers are required to engage in continuing education and/or skills training, and specialized training is mandatory to qualify as a legal aid provider to specific disadvantaged population groups (e.g. persons with disabilities, children, refugees, etc.) Public defender institutions regularly conduct and organise training sessions for staff, private lawyers and paralegals (in rural areas). The costs of such continuing education and specialized training is covered by the State.

Paralegals

Grassroots Legal Advocates, Namati 2016

Are community paralegals recognized by law?

Yes, community paralegals are recognized in the 2007 Law, which states that primary legal aid may be granted by paralegals and non-governmental organisations specialized in the delivery of legal aid. “Paralegal” is defined in the 2007 Law as a person that enjoys high respect from the local community, who has incomplete legal education, who does not practice law, and who is specially trained and qualified to deliver primary legal aid to members of a community.

Does any public revenue fund paralegals?

Yes, the remuneration for services delivered by paralegals is provided from the state budget as well as from other sources. For instance, the National Legal Aid Board is currently paying the salary and equipment of 32 paralegals. The training of paralegals is carried out by the National Council, from budgetary funds and other sources.

Can paralegals engage in litigation (with or without the help of lawyers)?

No. Community-based paralegals are recognized as providers of ‘primary’ legal aid (that is, consultations to anyone in need of legal assistance), but not ‘qualified’ legal aid (i.e. representation in court).

Are there boards that monitor community paralegals?

Yes. The 2007 Law provides that the National Council for State Guaranteed Legal Aid establishes the performance and professional development standards for paralegals and monitors the delivery of legal aid services by authorised persons.

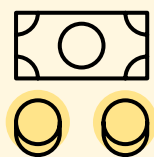
Finances

Costs to recipients

Primary legal aid services are available free of charge at public defender institutions, at legal advice centers in cities and towns, and at the offices of civil society organisations and paralegals (in rural areas).

The State covers all legal aid costs in criminal and civil cases for those meeting eligibility criteria.

Legal aid in the annual justice budget



\$0.32

Legal aid budget per capita in 2013

Legal aid is a separate component in the annual justice system budget. The national budget for legal aid is determined by the Parliament, the Ministries of Justice and Finance and the NLAC.

There exists a separate funding mechanism to cover the cost of specialized legal aid services provided to specific population groups (such as women, children, etc.), which is financed by international donors. Additional services, such as independent investigation, experts, clerical assistance etc., are not covered by the State.

In both criminal and cases, some legal aid providers work full-time at the public defender institutions, while private practitioners receive a fixed fee for each procedural action (e.g. presence in court, representation at interrogation, etc.) Paralegals receive a fixed fee, monthly, based on a report submitted to the Territorial Offices of NLAC.



142%

The annual legal aid budget increased by 142% from 2010 to 2013

Payments to legal aid providers

Provision of legal aid

Legal aid in criminal cases

Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, persons imprisoned on criminal charges, minor witnesses and victims of crime.

The State is *obliged* to provide legal aid to persons who meet a financial threshold (US\$ 92 per month), children, persons with intellectual/mental disabilities, refugees, and persons whose mother tongue is not the language of official proceedings. Legal aid is also provided when it is required by the interests of justice or due to the case's gravity, complexity, or case type, as identified in the law.



25-50%

Criminal court cases (2013)



56%

People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

At what stage of a criminal case?

Under the law, qualified legal assistance may be requested at any stage of the criminal proceedings.

It is prohibited by law for the police to interview someone in the absence of a lawyer from the moment the person is officially suspected or accused. A person can nonetheless be interviewed in the absence of a lawyer as a witness. This can be problematic as the police sometimes determine the person to have a right to legal aid only after the witness has incriminated him/herself.

Normally, the police and prosecutors wait only a limited time for the legal aid provider to arrive; if it takes too long, the questioning begins even in the absence of a legal aid lawyer. A person can also voluntarily decide to waive her/his right to be interviewed in the presence of a lawyer.

It is not common for pre-trial detention to be used when suspects have access to legal aid services.

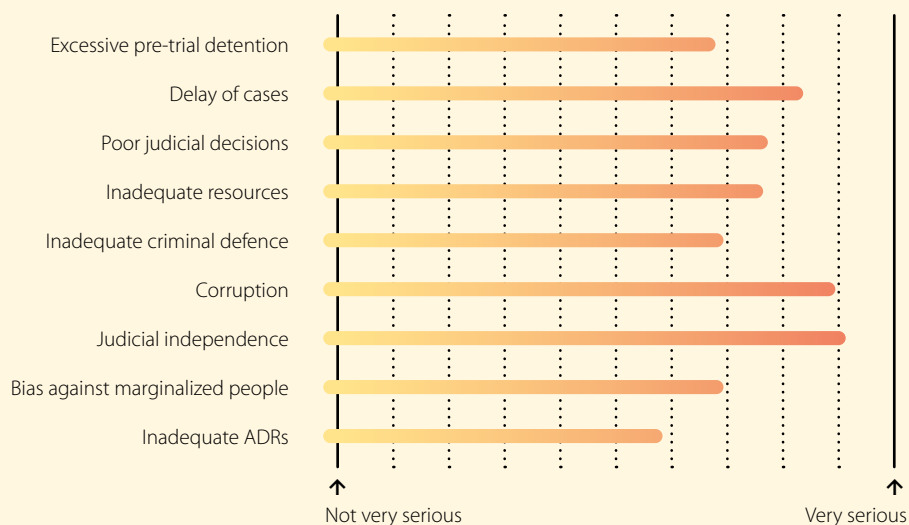
To what extent are legal aid services in criminal cases seen as effective?

Comparing the services of legal aid providers to services of private lawyers, independent national experts estimate that legal aid providers are less likely than private lawyers to give advice to the suspect/defendant in private before any contact with a justice official, to challenge the reliability of evidence against the suspect/defendant, to communicate with the defendant's family about the case when requested by the defendant, or to challenge the credibility of witnesses.

Furthermore, experts identify 'a well-prepared and/or highly skilled lawyer', 'the judge's objective analysis of evidence and testimony' and 'bribery/corruption' to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015



Legal aid in civil cases

Who is eligible?

Legal aid in civil cases is available to persons who meet a financial threshold (US\$92 per month) and to those whose incapacity is officially declared. Legal aid is also provided when it is required by the interests of justice or due to the case’s gravity, complexity, or case type, as identified in the law (the case must satisfy a ‘merit test’.)

5 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available

- Contractual disputes and tort claims
- Administrative matters and disputes with State agencies
- Child custody issues and marital disputes
- Property issues
- Labor disputes

For what actions is a party eligible for legal aid?

Further to the provision of primary legal aid, more specific legal aid can be offered to assist with the drafting or filing of a complaint or a response, to gain access to State services, to provide victims of violence with protective services, to conduct depositions or other official queries, and to negotiate between parties. Legal aid can also be provided throughout proceedings.

Estimated demand for legal aid services in civil cases



From respondents



From complainants

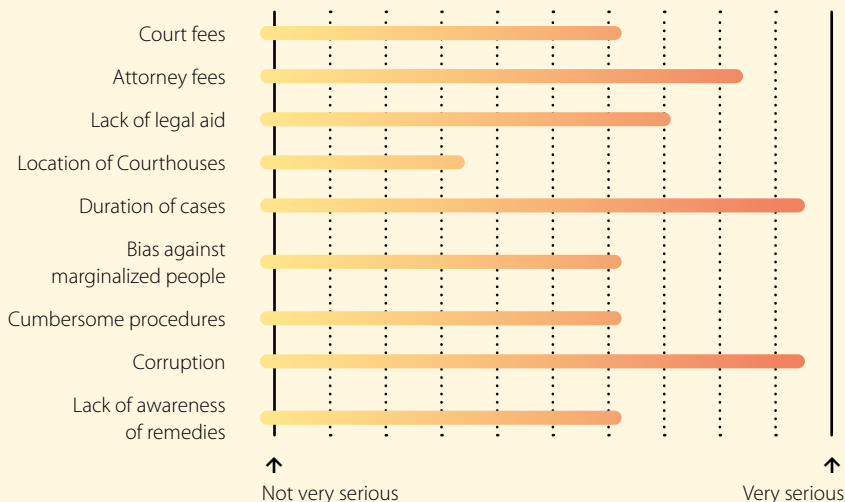
Women’s access to legal aid services

Public interest litigation / class action cases:

Independent national experts are of the view that there is public demand for public interest litigation and class action cases addressing labour rights, discrimination, consumer rights, health and environmental protection. At national, regional and local levels, staff lawyers of the NLAC sometimes coordinate to uniformly challenge common violations of national and international due process rights and human rights.

How serious are the following problems in influencing people’s decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

according to national experts, WJP Rule of Law Index 2015



Female victims of violence (including victims of sexual and gender-based violence) receive legal aid services in all legal proceedings, as well as court support services, such as interpretation and translation of documents.

National experts explain that a major challenge faced by women seeking legal aid is that the means test for eligibility to legal aid often considers overall household income rather than a woman’s income specifically, which tends to be considerably lower. Other challenges identified by national experts include the unavailability of specialized legal aid services for women, women’s lack of awareness about where to find legal assistance and how legal aid services can help them, and their lack of confidence in the quality of legal aid services provided to them. Finally, experts note that women may also prefer not to seek out legal assistance because they see court processes as too time-consuming.

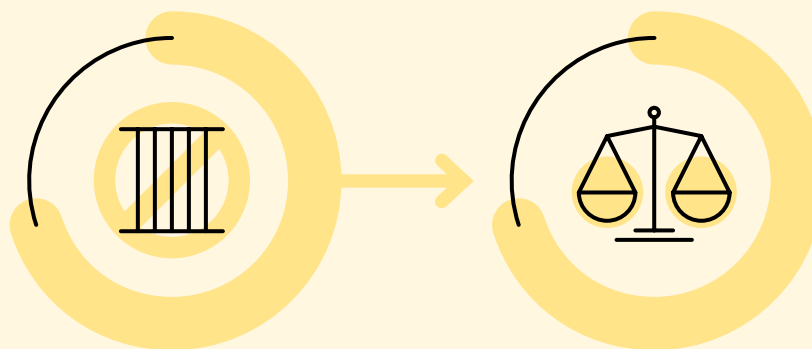
Access to legal aid for children

The justice system has specialized lawyers and paralegals representing child victims, child witnesses or suspected and accused children, at national, regional and local levels.

When representing children, legal aid providers often reach out to parents, psychologists and other childcare professionals for support to assist the child throughout proceedings.

According to national experts, there is no noticeable difference regarding the use of diversion, alternatives to pre-trial detention and to imprisonment in cases where children are represented by legal aid providers and private lawyers. However, when children are represented by legal aid providers specialized in children's rights, diversion and alternatives to imprisonment are more often achieved than in cases where children are represented by non-specialized legal aid lawyers.

In criminal cases where legal aid is provided to children, legal aid providers advocate for and implement in practice the legally binding requirements to ensure the presence of parents at all times, to prevent a child from giving statements to the police against his/her interests, to prevent disclosure of information about pending charges to the child's school, community or media, to limit the number of interviews with the child, to ensure that a child held in custody is separated from adult detainees, and to explore grounds to prevent or expunge a juvenile criminal record.



50-75%

In 2013, an alternative to imprisonment was imposed in 50-75% of cases where a child was found culpable.

50-75%

Same proportion (50-75%) when State-funded legal aid was provided (2013)

Legal aid and informal justice systems

Informal justice mechanisms allow a lawyer to provide assistance in formal mediation/alternative dispute resolution processes, and there are mechanisms that allow cases to be referred between the formal and informal justice systems.

Informal justice proceedings are used to resolve marital or family issues, land and property disputes, inheritance disputes, as well as informal contracts and labour conflicts.

Under certain circumstances, legal aid service providers can work across different systems. To qualify for formal mediation/alternative dispute resolution processes, legal aid providers must have a law degree and be a reputable member of the community. They also need to undergo basic training on legal matters.

Quality safeguards

Accountability for the quality of legal aid services

Legal aid providers are obliged to adhere to specific quality performance standards and ethical rules established by the bar association.

If a person has a right to legal aid, but no legal aid provider is available, the proceedings must cease until a legal aid provider arrives. If a legal aid provider is unprepared/unqualified, the proceedings are postponed. This can sometimes be problematic as there are no formal means of assessing a legal aid provider's qualifications or level of preparedness.

Legal aid institutions aim to ensure that the same provider represent the accused/suspect at all stages of the case.

Monitoring and data collection on the quality of legal aid services

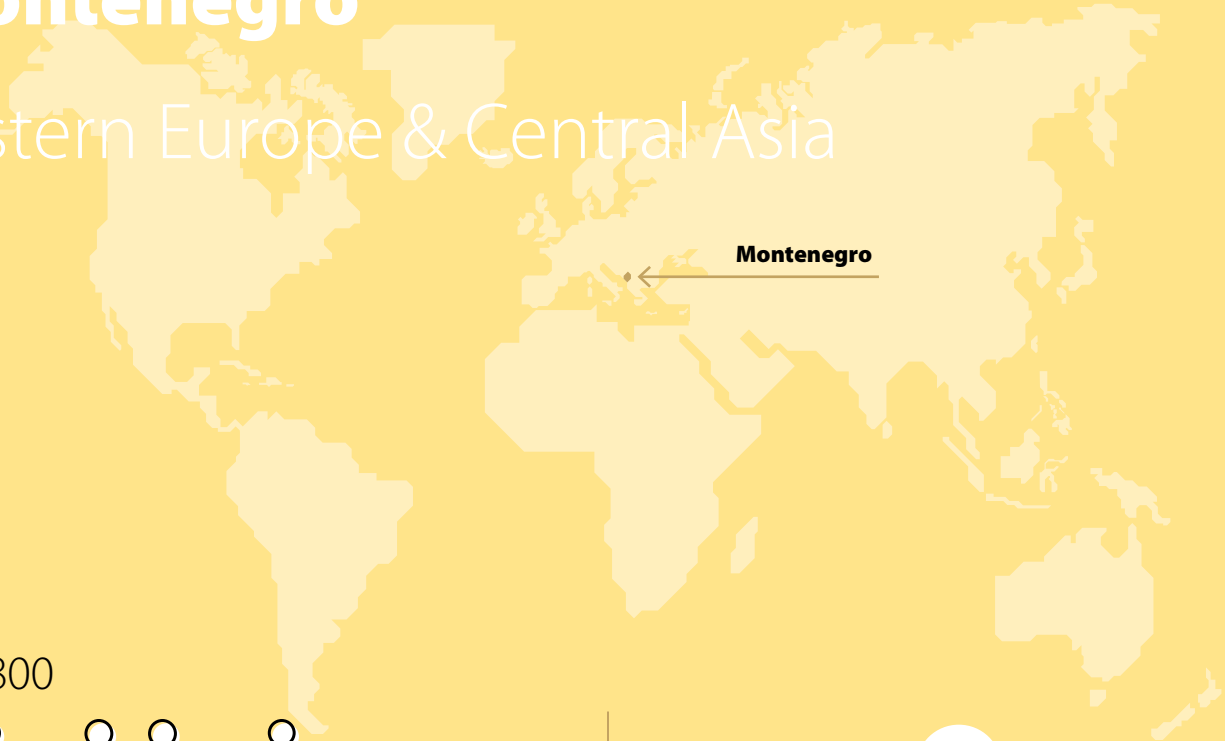
Formal responsibility for monitoring the quality of legal aid services rests with the territorial offices of the NLAC and a peer review team organised by the legal aid authority or bar association.

The data for monitoring the quality of legal aid services is collected by reviewing complaints by legal aid recipients about a legal aid provider's actions, as well as by examining defence dossiers kept by lawyers. Interviews with recipients of legal aid are also conducted.

There is an acute shortage of data in the justice system. For instance, no data is available on the number of civil cases filed in court where State-funded legal was provided. Data is also lacking on case resolution prior to a case's transfer to court.

Montenegro

Eastern Europe & Central Asia



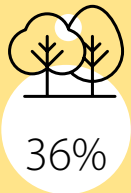
621,800



Population

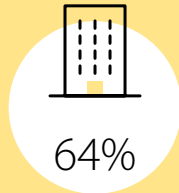


Unitary government system



36%

Rural population



64%

Urban population



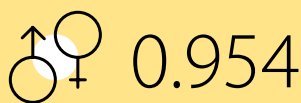
99%

Male literacy rate



98%

Female literacy rate



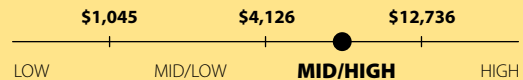
0.954

Gender Development Index



\$7,320

GNI per capita



0.802

HDI



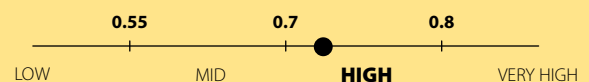
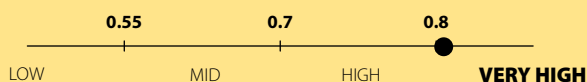
-9.2%

Loss in HDI due to inequality



0.728

Inequality-adjusted HDI



Legal Aid at a Glance in Montenegro



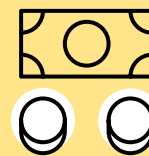
2015

The most recent reform of the legal aid system took place in 2015



Within the past 5 years

When was the last assessment of legal aid needs conducted



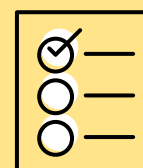
\$0.92

Annual expenditure
on legal aid per capita in 2013



Challenges in accessing legal aid

- Low public awareness about people's right to legal aid, as provided by the Law on Legal Aid, and about the availability of legal aid services
- The quality of services provided by legal aid lawyers is uneven
- Deadlines for processing requests for legal aid are frequently not complied with
- Absence of an adequate mechanism to monitor the quality of legal aid, with specific performance indicators
- Weak cooperation between state legal aid providers in basic courts and non-state legal aid providers in NGOs assisting vulnerable groups



Priority areas for support

- Legislative drafting advice
- Development of action plans/policies
- ✓ Development of quality criteria for legal aid providers
- Establishing paralegal systems
- Institutional support
- ✓ Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Constitution**
- **Separate law on legal aid**
- **Implementing regulations for the law on legal aid**
- **Civil procedure code**
- **Criminal procedure law**
- **Law on the treatment of juveniles in criminal proceedings**

The right to legal aid was first recognized in 2011 with the implementation of Law No.23-3/11-2/13 on Free Legal Aid.

The most recent reform of the legal aid system took place in 2015, when the Parliament adopted amendments to the Law on Free Legal Aid which now guarantees the right to free legal aid to victims of domestic violence regardless of their income situation.

State-funded legal aid is available at national and local levels.

Services included as part of legal aid

In both criminal and civil cases, legal aid is provided in the form of legal advice, legal representation, preparation of pleadings and legal assistance (before national tribunals). Legal aid lawyers also provide general assistance in navigating the justice system.

Specialized legal aid services are provided by the State for disadvantaged population groups, including migrants, stateless persons, asylum seekers, internally displaced persons, children without parental care, persons with disabilities, victims of a crime/domestic violence/human trafficking and LGBT.

Process for obtaining legal aid

Legal aid is provided upon request from the person who wants legal aid.

In both criminal and civil cases, to prove eligibility to receive legal aid, a person must prove status as a recipient of welfare or State subsidies, as well as demonstrate evidence of low income or family hardship (e.g. multiple children, single parent, disabled family member, etc.)

Awareness of the right to legal aid

A public information campaign to raise awareness about the right to legal aid and how to access legal aid services was conducted by the State in the past 3 year, and provided specific contact details of relevant offices to go for legal assistance.

Delivery model

Legal aid authority

The chief responsibility for the management and administration of legal aid rests with the Legal Aid Service, which is present in basic courts (First Instance Courts) with ten or more judges in office (some basic courts with fewer than ten judges also have a Legal Aid Service). The Ministry of Justice exercises administrative supervision over the implementation of the Law on Free Legal Aid.

Organisation of legal aid services

In both criminal and civil cases, the competent authority for granting legal aid is the president of a basic court (First Instance Court) or a judge authorised by him to do so. The professional and administrative tasks involved in granting legal aid are performed by the Legal Aid Service which, inter alia, coordinates appointments of private practitioners (ex officio, or panel appointments) to legal aid cases.

Mechanism for assigning legal aid providers

To request the services of a legal aid provider, the courts and police contact the bar association, which coordinates appointments and delivery of services.

Accessing legal aid in urban vs. rural areas

Legal aid services are available in rural areas.

Service providers

Lawyers and other providers

1/822

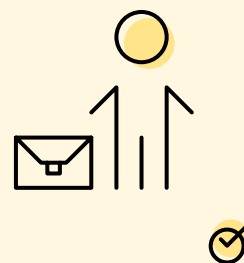
Licensed practicing
lawyers/people



**University-based
law clinics**

N/A

Full-time
legal aid lawyers/people



Paralegals

Qualifications required

Legal aid providers must be members of the national bar.

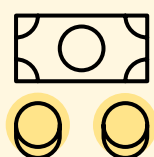
Legal aid providers are not required to engage in continuing education and/or skills training.

Finances

Costs to recipients

Legal aid services are free of charge to those meeting eligibility criteria.

Legal aid in the annual justice budget



\$0.92

Legal aid budget per capita in 2013

Legal aid is not a separate component in the annual justice system budget.

Payments to legal aid providers

In both criminal and civil cases, legal aid providers submit reports on the hours they spend on a legal aid case. They are entitled to 50% of the fee envisaged by the Lawyer Tariffs and the reimbursement of necessary expenditures.

Provision of legal aid

Legal aid in criminal cases



4.2%

In 2013, State-funded legal aid was provided in 4.2% of criminal cases filed in court

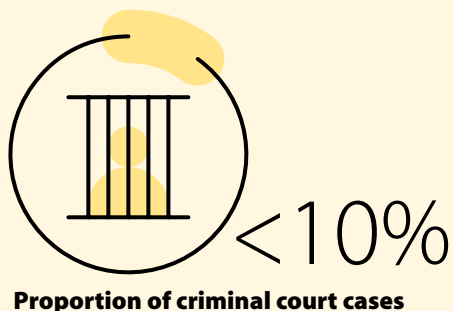
Who is eligible?

Under the law, legal aid is available to persons arrested and detained on criminal charges, persons charged with a criminal offence, persons imprisoned on criminal charges, victims of crime, and those who are not able to bear the costs of defence.

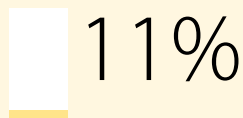
At what stage of a criminal case?

Under the Criminal Procedure Code, legal assistance is provided (1) from the moment a person is indicted for a criminal offence punishable by imprisonment for at least ten years, (2) from the moment a court decision is rendered in the absence of the party, and (3) during the detention period and at a first hearing if the accused, due to special needs or conditions, is unable to defend her/himself.

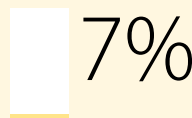
Independent national experts identify 'a well-prepared and/or highly skilled lawyer', 'the judge's objective analysis of evidence and testimony', and 'the strength of the evidence' to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.



Acquitted after trial (2013)



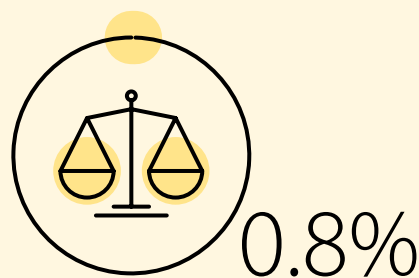
Pre-trial detention imposed (2013)



Resolved pursuant to a plea agreement or expedited trial (2013)



Legal aid in civil cases



Who is eligible?

In civil cases, legal aid is provided to persons who are not able to bear the costs of defence because of their financial situation.

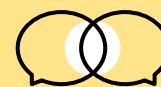
5 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available



Child custody and marital disputes



Property issues



Contractual disputes and tort claims



Labor disputes



Administrative matters

4

In 2013, the number of civil and administrative cases filed in court was more than 4 times the number of criminal cases

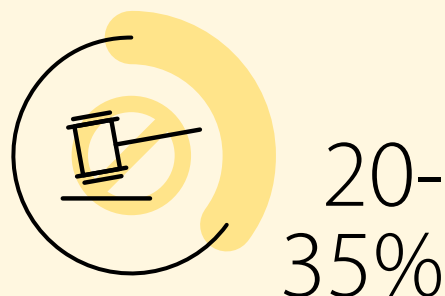
Public interest litigation / class action cases:

State officials estimate that there is little public demand for public interest litigation and class action cases.

Women's access to legal aid services

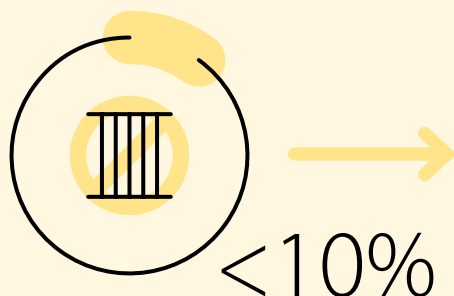
Legal aid advice and court support services are provided to female victims of violence (including victims of sexual and gender-based violence) in all legal proceedings.

Access to legal aid for children

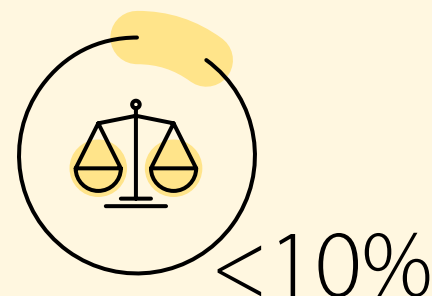


In 20-35% of cases when children are suspected or charged with a criminal offence, the case is diverted from the formal justice system without trial (e.g. through mediation, a warning or an apology)

The justice system has specialized courts, judges, prosecutors, police officers and units specifically dedicated to handling cases involving child victims, child witnesses or suspected and accused children.



In 2013, an alternative to imprisonment was imposed in less than 10% of cases where a child was found culpable.



When State-funded legal aid was provided, that proportion remained the same (10%)

Legal aid and informal justice systems

Informal justice mechanisms are not used to resolve disputes.

Quality safeguards

Accountability for the quality of legal aid services

If a person has a right to legal aid, but no legal aid provider is available, the proceedings must cease until a legal aid provider arrives.

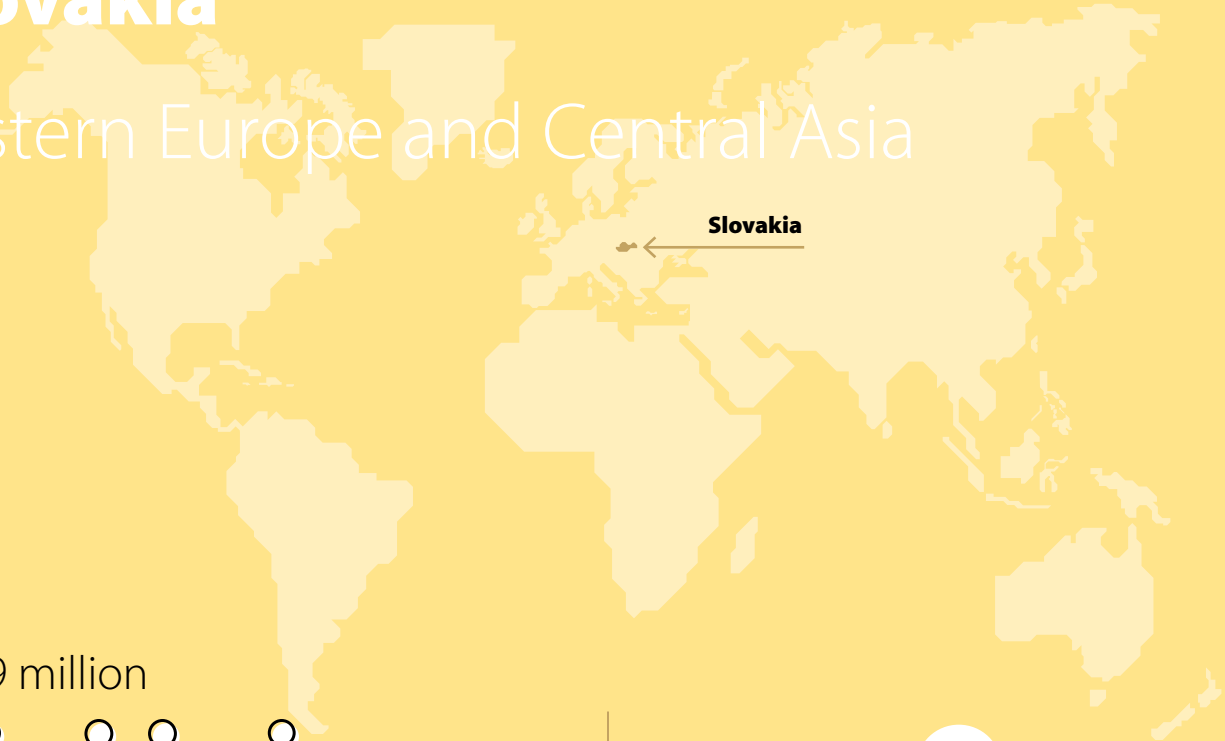
If a person receives legal aid services, but the legal aid provider is unprepared or unqualified, a replacement legal aid provider is asked to represent the party instead of the assigned provider.

Monitoring and data collection on the quality of legal aid services

Formal responsibility for monitoring the quality of legal aid services rests with the Ministry of Justice which, in cooperation with the Supreme Court, conducts an annual review of the legal aid provided.

Slovakia

Eastern Europe and Central Asia



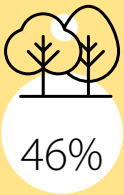
5.419 million



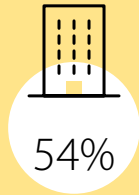
Population



Unitary government system



Rural population



Urban population



Male literacy rate



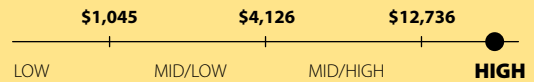
Female literacy rate



Gender Development Index



GNI per capita



0.844
HDI

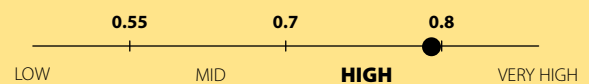
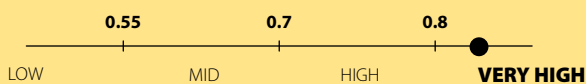


-6.2%

Loss in HDI due to inequality

0.791

Inequality-adjusted HDI



Legal Aid at a Glance in Slovakia



2005

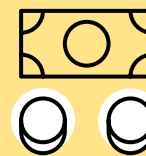
The latest reform of the legal aid system took place in 2005,

when the National Council adopted Act No. 327/2005 Coll. On Provision of Legal Aid for People in Financial Need



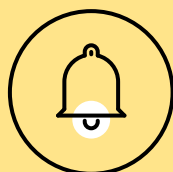
Within the past 5 years

When was the last assessment of legal aid needs conducted



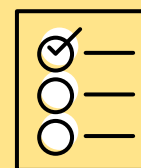
\$0.42

Annual expenditure
on legal aid per capita in 2013



Challenges in accessing legal aid

- Insufficient number of lawyers to cover legal aid needs
- People do not know enough about legal aid assistance and where to find it
- People may not understand how legal aid services can help them and may not always have confidence in the quality of legal aid services
- Low pay for legal aid work



Priority areas for support

- ✓ Legislative drafting advice
- Development of action plans/policies
- ✓ Development of quality criteria for legal aid providers
- Establishing paralegal systems
- ✓ Institutional support
- Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Constitution**
- **Separate law on legal aid**
- **Implementing regulations for the law on legal aid**
- **Civil procedure code**
- **Criminal procedure law**

The right to legal aid was first recognized in 1961.

The latest reform of the legal aid system took place in 2005, when the National Council adopted Act No. 327/2005 Coll. On Provision of Legal Aid for People in Financial Need. This Act established a Legal Aid Center with a mandate to uphold people's right to legal aid when a person is financially unable to bear the expenses of legal services.

State-funded legal aid is available at national, regional and local levels.

Services included as part of legal aid

For both criminal and civil cases, legal aid is provided in the form of legal advice, legal representation and legal assistance (before national tribunals).

Specialized legal aid services are provided by civil society organisations for disadvantaged population groups, including persons with physical and mental disabilities, children, women, the elderly, migrants, refugees, asylum seekers, stateless persons and LGBT.

Process for obtaining legal aid

Legal aid is provided upon request from the person who wants legal aid, as well as upon request from the police or prosecutor.

In both criminal and civil cases, a person must prove his/her eligibility by proving status as a recipient of welfare or state subsidies, or by providing evidence of low income (if employed). Additionally, in civil cases, an applicant must provide evidence of membership of a protected group (such as migrants, children, displaced persons, refugees, etc.) or prove that his/her claim has merit.

In criminal cases, no proof is necessary in situations where the State is obliged to provide legal aid under the law.

Awareness of the right to legal aid

A public information campaign to raise awareness about the right to legal aid and how to access legal aid services was conducted by the State in 2014-15, and provided specific contact details of relevant offices to go for legal assistance.

Independent national experts estimate that the general population is 'somewhat knowledgeable' about legal aid services.

Delivery model

Legal aid authority

The chief responsibility for the management and administration of legal aid rests with the Ministry of Justice, the Slovak Bar Association and the Legal Aid Centre.

Organisation of legal aid services

In both criminal and civil cases, legal aid services are organised through the Slovak Bar Association and through *pro bono* schemes.

Additionally, in criminal cases, legal aid services are provided through panel appointments (*ex officio*, contract lawyers), and in civil cases, through the Legal Aid Centre.

Mechanism for assigning legal aid providers

In the case of *ex officio* representation in criminal proceedings, a court, in accordance with its territorial jurisdiction, assigns a legal aid provider by drawing from the list of *ex officio* lawyers published on the website of the Slovak Bar Association. The Bar Association also publishes a list of lawyers providing legal aid in civil and administrative matters, upon appointment by the Legal Aid Centre.

Accessing legal aid in urban vs. rural areas

Legal aid services are available in both urban and rural areas. The quality of legal aid services depends on each individual legal aid provider.

Service providers

Lawyers and other providers

1/967

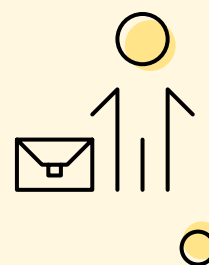
Licensed practicing
lawyers/people



**University-based
law clinics**

N/A

Full-time
legal aid lawyers/people



Paralegals
Are not allowed to provide legal aid

Qualifications required

Legal aid providers must have a law degree and a professional license, and must show proof of passing a professional examination (bar examination). They must also be members of the Slovak Bar Association, and have completed an internship with a practicing lawyer.

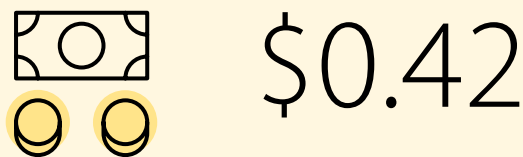
The requirement to engage in continuing education and/or skills training is not imposed on legal aid providers.

Finances

Costs to recipients

The State covers all legal aid costs in criminal cases for those meeting eligibility criteria. However, there are set fees for certain actions and, in case of *ex officio* representation, the State can request the recipient to reimburse representation costs after conviction.

Legal aid in the annual justice budget



Legal aid budget per capita in 2013

Legal aid is not a separate component in the annual justice system. The national budget for legal aid is determined by the Ministries of Justice and Finance. There exists a separate funding mechanism to cover the cost of specialized legal aid services provided to specific population groups (such as women, children, etc.), which is financed by the government, private companies, private foundations and international donors.

Additional services, such as independent investigation, experts, clerical assistance etc., are not covered by the State.

Payments to legal aid providers

In criminal cases, legal aid providers receive a fixed fee from courts for each procedural action that a State agent witnesses and approves in writing (e.g. presence in court, representation at interrogation, etc.). In civil cases, legal aid providers receive payment from the Ministry of Justice on a case-by-case basis.

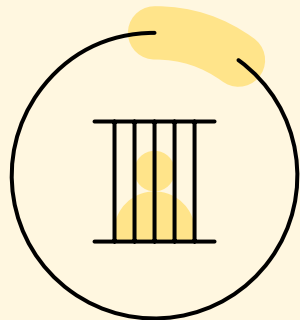
Provision of legal aid

Legal aid in criminal cases

Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, persons imprisoned on criminal charges, and victims of crime.

The State is *obliged* to provide legal aid to persons who meet a financial threshold, children, persons with intellectual/mental disabilities, and persons who face a potential prison sentence of at least ten years. Legal aid is also provided when it is required by the interests of justice or due to the case's gravity, complexity, or case type, as identified in the law.



<10%

Proportion of criminal court cases (2013)

19%

In 2013, pre-trial detention was imposed on 19% of criminal cases filed in court

Legal aid in civil cases



0.23%

In 2013, 0.23% of civil and administrative cases filed in court received legal aid

142

In 2013, the number of civil and administrative cases filed in court was 142 times higher than the number of criminal cases

At what stage of a criminal case?

Under the law, legal aid is provided during questioning of a potential suspect/defendant before formal charges are filed, including during a search of the suspect's/defendant's residence. Legal aid must be provided from the moment a law enforcement representative restricts the suspects/defendant's freedom, or at least from the moment charges are officially filed. Legal aid is also provided during trial and for a first appeal.

To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that legal aid providers are less likely than private lawyers to perform actions such as 'giving advice to the suspect/defendant in private before any contact with the state justice official' or 'conducting investigation to establish doubt about the suspect/defendant's guilt even if this person may be guilty', amongst others.

Furthermore, national experts identify 'a well-prepared and/or highly skilled lawyer', 'the judge's objective analysis of evidence and testimony', and 'the strength of the evidence', to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

Who is eligible?

Legal aid in civil cases is available to persons who meet a financial threshold and refugees, provided that the case satisfies a merit test.

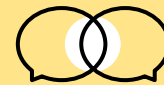
5 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available



Child custody issues and marital disputes



Labor disputes



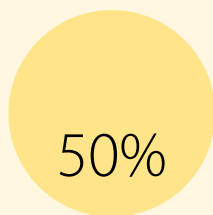
Contractual disputes



Property issues



Administrative matters and claims for State services / disputes with State agencies

Estimated demand for legal aid services in civil cases

From respondents



From complainants

Women's access to legal aid services**Access to legal aid for children****For what actions is a party eligible for legal aid?**

Further to the provision of primary legal aid, more specific legal aid can be offered to assist with drafting and filing complaints and responses, gaining access to State agencies, protecting victims of violence, conducting negotiations between parties, and drafting motions. Legal aid can also be provided during mediation, pre-trial hearings, independent investigation and trial, as well as for any appeal to national and international tribunals, or cassation.

Public interest litigation / class action cases:

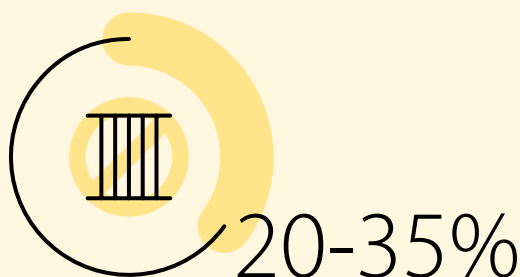
Independent national experts are of the view that there is public demand for public interest litigation and class action cases addressing labour rights, discrimination, consumer rights, rights of refugees and migrants, health and environmental protection.

At national, regional and local levels, staff lawyers of the Legal Aid Centre sometimes coordinate to uniformly challenge common violations of national and international due process rights and human rights.

There are no specialized legal aid services for women. However, legal aid advice and court support services are provided to female victims of violence (including victims of sexual and gender based violence) in all legal proceedings.

The justice system has specialized lawyers for representing child victims, child witnesses or suspected and accused children, at national, regional and local levels.

When representing children, legal aid providers often reach out to parents, psychologists and other childcare professionals for support to assist the child throughout proceedings.



In 2013, an alternative to imprisonment was imposed in 20-35% of cases where a child was found culpable

Legal aid and informal justice systems

Independent national experts explain that some people prefer to resolve disputes through informal justice proceedings rather than formal because they are less time-consuming and more familiar. Experts add that there is also an assumption amongst people that because judges or decision makers in informal proceedings usually know the parties, they can better judge what is a just outcome and which outcome would be acceptable to all parties.

Quality safeguards

Accountability for the quality of legal aid services

Legal aid providers are obliged to adhere to specific quality performance standards and ethical rules established by the Slovak Bar Association.

Legal aid providers often remain in the same case until its resolution in the court, unless the original lawyer becomes unavailable or is unqualified to represent the suspect/defendant at trial. In practice though, there are no formal means of assessing a legal aid provider's qualifications or level of preparedness.

A legal aid provider can refuse to take a case or ask to be removed from the duty to represent a particular legal aid recipient if s/he has too many cases, or lacks expertise in the law or skills required by the specific case, or if there is incompatibility or conflict of interest with the legal aid recipient.

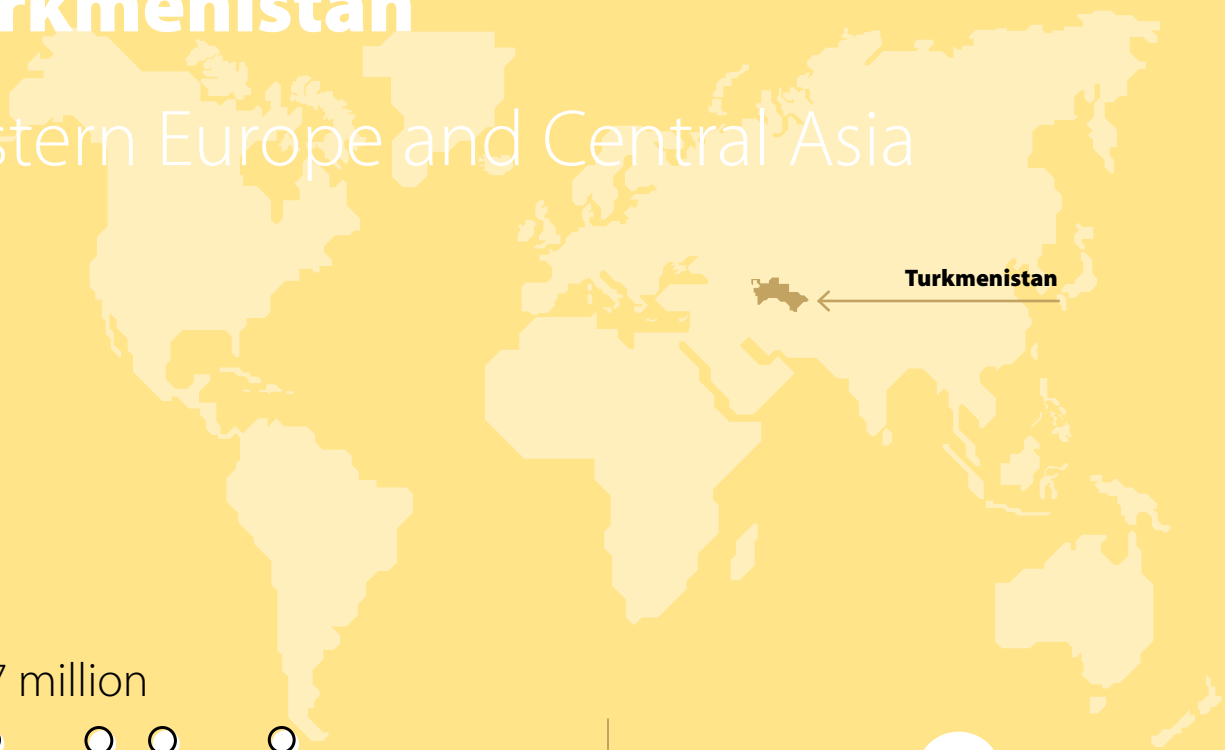
Monitoring and data collection on the quality of legal aid services

No data is collected to monitor the quality of legal aid services. However, legal aid recipients can file complaints if they are dissatisfied with the assistance they receive.

There is an acute lack of data across the system. For instance, data about children is not recorded separately, and no data is available on case resolution prior to a case's transfer to court.

Turkmenistan

Eastern Europe and Central Asia



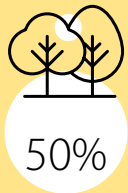
5.307 million



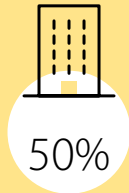
Population



Unitary government system



Rural population



Urban population



Male literacy rate



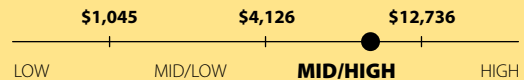
Female literacy rate



Gender Development Index



GNI per capita



0.688

HDI



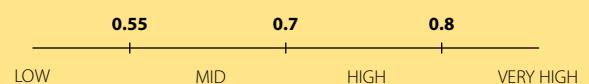
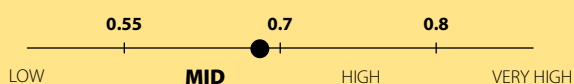
N/A

Loss in HDI due to inequality



N/A

Inequality-adjusted HDI



Legal Aid at a Glance in Turkmenistan



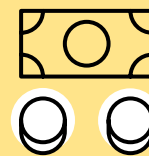
2010

**Most recent reform
of the legal aid system in 2010**



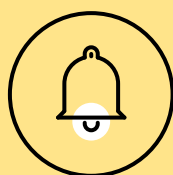
N/A

**When was the last assessment
of legal aid needs conducted**



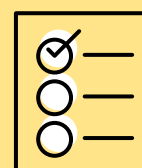
N/A

**Annual expenditure
on legal aid per capita in 2013**



Challenges in accessing legal aid

- Low pay for legal aid work
- People often do not know where to find legal assistance, and may not know that legal aid services are available at little or no cost
- In criminal cases, people often think that legal aid lawyers are working as part of the police, prosecutor or judicial agencies
- People often lack of confidence in the quality of legal aid services, which leads them to prefer to resolve issues through the informal justice system or outside the court system, where legal aid has no role



Priority areas for support

- ✓ Legislative drafting advice
- Development of action plans/policies
- ✓ Development of quality criteria for legal aid providers
- Establishing paralegal systems
- Institutional support
- ✓ Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Constitution**
- **Separate law on legal aid**
- **Law on the prosecution**
- **Civil procedure code**
- **Law on the penitentiary**
- **Criminal procedure law**
- **Implementing regulations for the law on legal aid**

The right to legal aid was first recognized in Article 108 of the 1938 Constitution of Turkmenistan. A substantial reform of the legal aid system has been ongoing since 2010, when Article 5 of the Law of Turkmenistan, “On Advocacy”, was adopted. The Ministry of Justice, the parliament and the Presidency played an instrumental role in this reform.

State-funded legal aid is available at national, regional and local levels.

Services included as part of legal aid

Legal aid is mainly provided in the form of legal advice, legal representation and legal assistance (before tribunals). Legal aid providers also provide general assistance in navigating the justice system, and in executing legal documents.

Specialized legal aid services are provided by the State for specific population groups, including children and persons with disability.

Process for obtaining legal aid

Legal aid is provided upon request from the person who wants legal aid, or from the police or prosecutor. The court presiding over a case must also assess eligibility during the first appearance of the parties.

To receive legal aid, a person must prove eligibility by providing supportive documentation (e.g. proving status as recipient of welfare or as a member of a protected group, demonstrating family hardship, etc.). No proof is necessary in cases where the State is obliged to provide legal aid under the law.

Awareness of the right to legal aid

The State periodically carries out public information campaigns to raise awareness about the right to legal aid and how to access legal aid services (providing the address, phone number and name of office to go to for legal assistance). Independent national experts estimate that the general population is ‘somewhat knowledgeable’ about legal aid services.

Delivery model

Legal aid authority

The bar association has chief responsibility for the management of legal aid.

Organisation of legal aid services

Legal aid services for both criminal and civil cases are provided through panel appointments (constituted *ex officio* or by contracted lawyers), through the bar association, and through *pro bono* schemes (in addition to being a requirement set by several law firms, *pro bono* services are also seen by junior lawyers as a means to acquire experience.)

Mechanism for assigning legal aid providers

The courts and the police have a roster of legal aid providers on duty for a given day, and call them in the given order.

Accessing legal aid in urban vs. rural areas

State-funded legal aid services are available in rural areas, but the quality of legal services tends to be higher in urban areas. This can be explained by the fact that legal aid providers in rural areas often see justice actors socially, which can make it difficult to oppose them in proceedings.

Service providers

Lawyers and other providers

N/A

Licensed practicing
lawyers/people




None 
**University-based
law clinics**

N/A

Full-time
legal aid lawyers/people



Paralegals
Are not officially recognized as
providers of legal aid 

Qualifications required

Legal aid providers are not required by law to engage in continuing education or skills training, but the State does allot some funds to this effect, if legal aid providers choose to further their education.

Finances

Costs to recipients

Legal aid services for both criminal and civil cases are free of charge for those meeting eligibility criteria (while set fees are charged for certain actions). Primary legal aid services are provided for free at the office of the Ministry of Justice, as well as the legal advice centres located in city administrative offices.

Legal aid in the annual justice budget

The national budget for legal aid is determined by the the bar association. Specialized legal aid services for disadvantaged populations are funded by the State with substantial contributions from private actors and international donors. The State does not cover the costs of additional services such as independent investigation, experts, psychological or social work support, etc.

Provision of legal aid

Legal aid in criminal cases

Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, and persons imprisoned on criminal charges.

The State is *obliged* to provide legal aid depending on the case's gravity, complexity, or case type, as identified in the law. In particular, the State must provide legal aid to children, persons with physical, intellectual and mental disabilities, internally displaced persons and refugees, persons whose mother tongue is not the language of official proceedings, and persons who potentially face a prison sentence.

At what stage of a criminal case?

Under the law, legal aid should be provided from the moment a law enforcement representative restricts the suspect's/defendant's freedom, or at least from the moment charges are officially filed (it takes approximately six hours for a lawyer to appear after notice is given that legal aid is needed in criminal cases). Legal aid is also provided during trial, for any cassation, and for consideration of probation, or social rehabilitation/reintegration matters after release from prison.

In criminal cases, legal aid institutions aim to ensure that the same provider represents the accused/suspect at all stages of the case.

It is prohibited by law for the police to interview someone in the absence of a lawyer, unless the person is interviewed as a witness, or s/he has agreed to be interviewed without a lawyer. In practice, however, when it takes too long for the legal aid provider to arrive, the police sometimes begins to question the person before the arrival of the lawyer. It also occasionally happens that the police determines the person to have a right to legal aid only after the witness has incriminated him/herself.

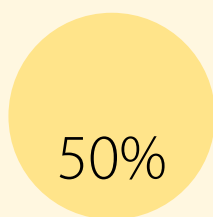
To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that legal aid lawyers are less likely than private lawyers to perform actions such as 'giving advice to the suspect/defendant in private before any contact with state justice officials', and 'conducting investigations to establish doubt about the suspect/defendant's guilt even if this person may be guilty'.

Furthermore, experts identify ‘bribery/corruption,’ ‘the judge’s objective analysis of evidence and testimony’ and ‘the strength of the evidence’ to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

Legal aid in civil cases

Estimated demand for legal aid services in civil cases



From respondents



From complainants

Women’s access to legal aid services

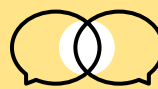
Who is eligible?

Legal aid in civil cases is available to anyone who meets a financial threshold.

5 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available



Marital and child custody issues



Tort claims



Property issues



Administrative matters



Labor disputes

For what actions is a party eligible for legal aid?

Under the law, legal aid should be provided when parties conduct depositions or other official queries.

Public interest litigation / class action cases:

State-funded legal aid is not provided for public interest litigation and class action cases, but there is demand for legal aid to address health, labour rights, consumer rights and discrimination issues.

According to national experts, women may find it difficult to confide in a legal aid provider, especially that it is not socially acceptable for women to seek legal aid in Turkmenistan. Furthermore, women often do not know where to find legal assistance, and may not have confidence in the quality of legal aid services provided to them. For all of these reasons, women may prefer to resolve issues through the informal justice system or outside the court system, where legal aid has no role.

Female victims of violence (including victims of sexual and gender-based violence) receive legal aid services in all legal proceedings; court support services, such as interpretation and translation of documents, are also provided.

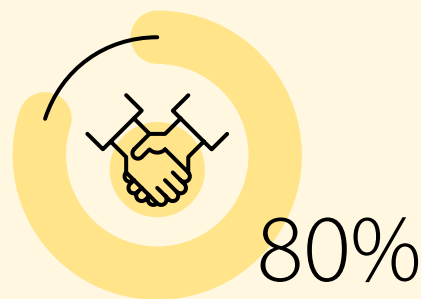
Access to legal aid for children

The justice system has a specialized juvenile police as well as administrative bodies called 'Commissions on Minors' (with specialized prosecutors) specifically dedicated to handling cases involving child victims, child witnesses or suspected and accused children.

When representing children, legal aid providers routinely reach out to parents and child protection practitioners for support to assist the child throughout proceedings.

When children are represented by legal aid providers in criminal cases, national experts observe that diversion away from judicial proceedings, as well as alternatives to pre-trial detention and to imprisonment, are more often achieved than in cases where children are represented by private lawyers or not represented at all.

Legal aid and informal justice systems



80% of disputes are resolved through formal mediation / alternative dispute resolution processes

Informal justice proceedings handle marital or family disputes, land and property disputes, inheritance disputes, and disputes related to informal contracts and labor agreements.

National experts explain that people prefer to resolve disputes through informal justice proceedings because they understand how they work, and they find them less time-consuming. Furthermore, people are of the view that because judges or decision-makers usually know the parties, they can better judge what is a just outcome acceptable to all parties.

Lawyers and paralegals are allowed to provide legal assistance in customary or religious mediation and adjudication processes. However, there is no mechanism in place to allow for the referral of cases between the formal and informal justice systems.

Quality safeguards

Accountability for the quality of legal aid services

If a person has a right to legal aid, but no legal aid provider is available, or the provider is unprepared or unqualified, the proceedings must cease until a qualified legal aid provider arrives. The implementation of this provision is however problematic as there is no formal means of assessing whether the legal aid provider is unprepared or unqualified.

A legal aid provider can refuse to take a case, or ask to be removed from the duty to represent a particular legal aid recipient, if s/he has too many cases, or if there is a conflict of interest with the legal aid recipient.

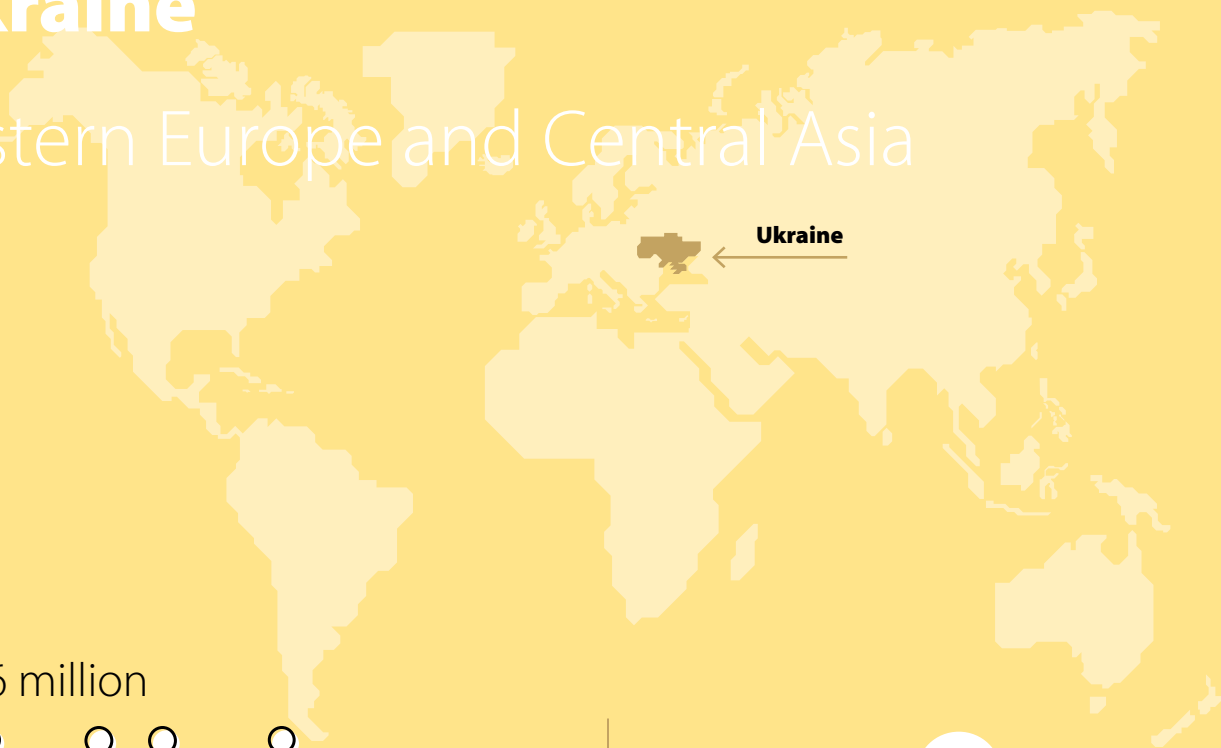
Monitoring and data collection on the quality of legal aid services

The bar association is formally responsible for monitoring the quality of legal aid services. Data is collected through the review of complaints by legal aid recipients.

There is an acute shortage of data in the justice system. For instance, no data is available on the number of criminal or civil cases filed in court where State-funded legal was provided. Data about children is not recorded separately, and no data is available on case resolution prior to a cases's transfer to court.

Ukraine

Eastern Europe and Central Asia



46.36 million



Population



Unitary government system



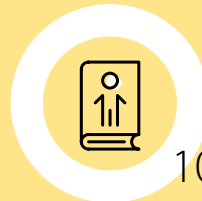
31%

Rural population



69%

Urban population



100%

Male literacy rate

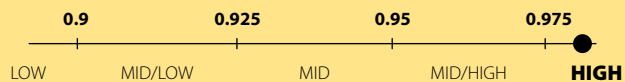


100%

Female literacy rate

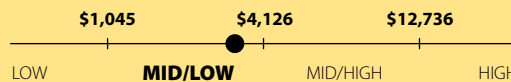
1.003

Gender Development Index



\$3,560

GNI per capita



0.747

HDI



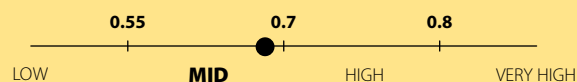
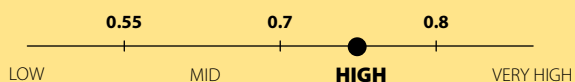
-7.8%

Loss in HDI due to inequality



0.689

Inequality-adjusted HDI



Legal Aid at a Glance in Ukraine



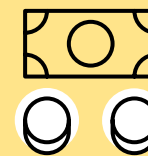
2015

The most recent reform of the legal aid system took place in 2015



N/A

When was the last assessment of legal aid needs conducted

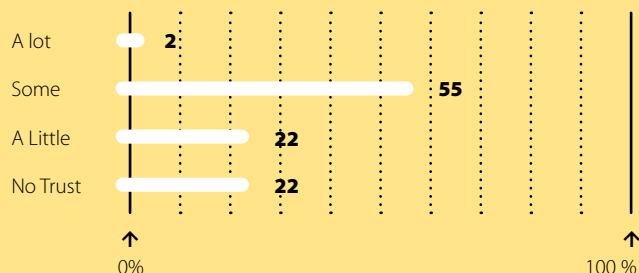


\$0.10

Annual expenditure on legal aid per capita in 2013

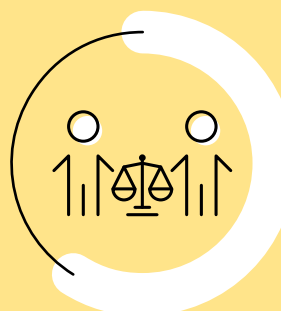
People's trust in courts

Citizen survey, WJP Rule of Law Index 2015



People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015



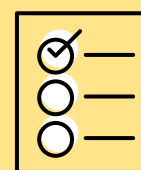
59%

Sample size: 44



Challenges in accessing legal aid

- People often do not know where to find legal assistance and are often unaware that legal aid services are available at little or no cost
- Shortage of lawyers outside urban areas
- Low pay of lawyers for legal aid work
- Little support among the population for spending public funds to defend accused criminals
- Low quality of services provided by legal aid lawyers



Priority areas for support

- Legislative drafting advice
- ✓ Development of action plans/policies
- ✓ Development of quality criteria for legal aid providers
- ✓ Establishing paralegal systems
- ✓ Institutional support
- ✓ Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Constitution**
- **Separate law on legal aid (Law on Free Legal Aid)**
- **Implementing regulations for the law on legal aid**
- **Law on judicial procedure**
- **Law on police**
- **Law on the Judicial System and Status of Judges**
- **Law on the Prosecutor's Office**
- **Civil procedure code**
- **Code of Ukraine on Administrative Offences**
- **Criminal Executive Code of Ukraine Criminal Procedure Code**
- **Law On the Bar and Practice of Law**

The right to legal aid was first recognised in 1996, when the Parliament (Verkhovna Rada) adopted the Constitution. While Article 59 of the Constitution guarantees free legal assistance in cases stipulated by law, no institutional or legislative regulation was in place to ensure the realization of this right. Legal aid reform started in 2011 with the adoption of the Law of Ukraine on “Free legal aid” (2 June 2011). The law lays down the foundation for the development of a two-fold (primary and secondary) legal aid system.

A State Programme on the Creation of a Free Legal Aid System in Ukraine (for the current period until 2018) was adopted by the Cabinet of Ministers in July 2012. The first stage of the reform was focused on developing the secondary legal aid system. In 2015, a network of 100 local centres for secondary legal aid provision was established to ensure the provision of legal aid to socially unprotected population groups.

State-funded legal aid is available at national, regional and local levels.

Services included as part of legal aid

For both civil and criminal cases, legal aid is provided in the form of legal advice, legal representation, provision of legal information, and legal assistance (before tribunals). Legal aid lawyers also provide general assistance in navigating the justice system, and in executing legal documents.

Process for obtaining legal aid

Legal aid is provided upon request from the person who wants legal aid, upon request from police or prosecutor, or upon request from the institution that oversees appointment of legal aid providers. The court presiding over a case must also assess eligibility during the first appearance of the parties. The determination is automatic if the case or legal aid recipient qualifies for legal aid services.

In criminal cases, no proof of eligibility is necessary when, for a particular case, the State is obliged to provide legal aid under the law.

In civil cases, a person must prove her/his eligibility by proving status as a recipient of welfare or state subsidies, by demonstrating family hardship (e.g. multiple children, single parent, etc.), by providing evidence of low income (if employed), or by proving membership of a protected group (such as migrants, children, ethnic or religious minority, etc.)

Awareness of the right to legal aid

A public information campaign to raise awareness about the right to legal aid and how to access legal aid services was conducted by the State in 2014-15, and provided specific contact details of relevant offices to go for legal assistance.

Independent national experts estimate that the general population is 'somewhat knowledgeable' about legal aid services.

Delivery model

Legal aid authority

The chief responsibility for the management and administration of legal aid rests with the Cabinet of Ministers of Ukraine and the Ministry of Justice, and more specifically with the Coordination Centre for Legal Aid Provision, an autonomous governmental agency subordinated to the Minister of Justice.

Organisation of legal aid services

In both criminal and civil cases, selected private lawyers are contracted by the State Centres for Secondary Legal Aid Provision to ensure access to legal aid on a permanent basis. Legal aid services are also organised through *pro bono* schemes. Law firms require their lawyers to provide *pro bono* legal aid services, which is also seen as a means to practice and acquire experience.

Mechanism for assigning legal aid providers

A Centre for Secondary Legal Aid Provision assigns a contracted lawyer upon notification from a State justice actor or from an applicant for legal aid. When the request comes directly from an applicant, a decision on whether or not to provide assistance is made by the Centre within ten days. When the request comes from a State justice actor, a decision is made within 24 hours. When it concerns a detainee, assistance is provided from the moment the detainee is placed in detention.

Accessing legal aid in urban vs. rural areas

Although the quality of legal services depends on each individual legal aid provider, it tends to be better in urban areas since legal aid providers in rural areas often see justice actors socially, which makes it difficult to oppose them in proceedings.

Service providers

Lawyers and other providers

1/1,512

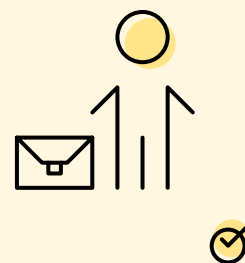
Licensed practicing
lawyers/people



**University-based
law clinics**

1/22,680

Full-time
legal aid lawyers/people



Paralegals

Qualifications required

Legal aid providers must have a law degree and must show proof of passing a professional examination (bar examination). They must also be members of the bar, pass an open competition to be registered in a State-authorized roster of legal aid providers, and have a contractual relationship with a State Centre for Secondary Legal Aid Provision.

Legal aid providers are required to engage in continuing education or skills training, but the State does not allot funds to this effect.

Paralegals

Grassroots Legal Advocates, Namati 2016

Are community paralegals recognized by law?

Not yet, although a paralegal certification programme, approved by the Ministry of Justice, is to be launched by the end of 2016. Even though there is a lack of clear definition of community paralegals in the law, it is not prohibited for non-qualified persons to be employed at the specialized institutions organized by local self-governing authorities or government-funded centres for legal aid. However, only licensed advocates are allowed to render secondary legal aid.

Does any public revenue fund paralegals?

No, although Community Law Centers that involve paralegals and volunteers receive funding from local municipalities and councils. Meanwhile, the centres for legal aid (there are 125 such centers operating in every region of Ukraine) are funded by the State budget of Ukraine, but do not employ paralegals as of now.

Can paralegals engage in litigation (with or without the help of lawyers)?

No.

Are there boards that monitor community paralegals?

No. Since paralegals are not officially recognized, there are no provisions in the law governing the monitoring of their activity. The forthcoming certified programme for paralegals will include monitoring and follow-up tools for future paralegals.

Finances

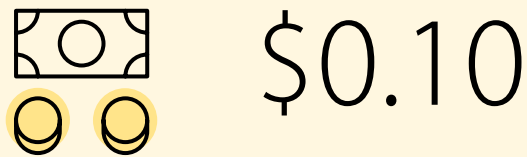
Costs to recipients

Free primary legal aid services include the provision of legal information and initial legal advice, assistance in drafting requests, complaints and other legal documents (except for procedural documents), and assistance in accessing secondary legal aid and intermediation.

Primary legal aid services are available free of charge to the entire population at the administrative offices of legal advice centres in cities or towns, and at the offices of civil society organisations. Local authorities can also contract legal entities or individuals to provide primary legal aid.

The State covers the cost of legal aid services provided to those meeting eligibility criteria in both criminal and civil cases.

Legal aid in the annual justice budget



Legal aid budget per capita in 2013

Legal aid is a separate component in the national justice budget. The national budget for legal aid is determined by the Parliament. There exists no separate funding mechanism to cover the cost of specialized legal aid services for disadvantaged population groups.

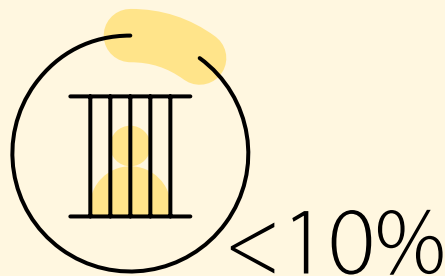
Payments to legal aid providers

In both criminal and civil cases, legal aid providers receive a fixed fee for each action that a State agent witnesses and approves in writing (e.g. presence in court, representation at interrogation, etc.) Lawyers submit reports on legal aid services provided to the agency authorised to issue payment.

Additionally, in criminal cases, providers are paid on an hourly basis for actions that the State has identified as a basis for payment. There is also a bonus system for procedural results achieved.

Provision of legal aid

Legal aid in criminal cases



Proportion of criminal court cases (2013)

Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, persons imprisoned on criminal charges, victims of crime, and witnesses.

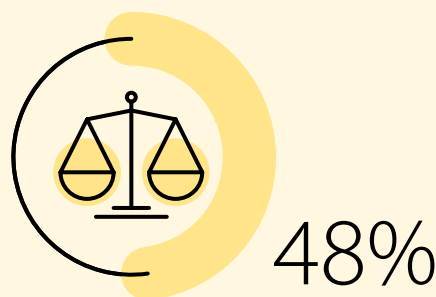
The State is *obliged* to provide legal aid to persons who meet a financial threshold, children, persons with intellectual/mental disabilities, and persons whose mother tongue is not the language of official proceedings. Legal aid is also provided when it is required by the interests of justice or due to the case's gravity, complexity, or case type, as identified in the law.

1%

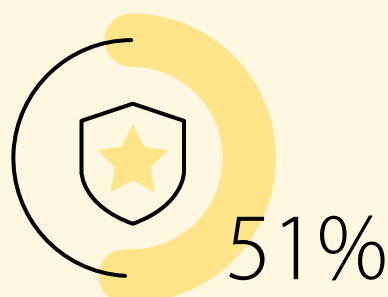
Criminal cases which were acquitted after trial (2013)

0.02%

Criminal court cases which were resolved pursuant to a plea agreement, procedural agreement or expedited trial (2013)



In 2013, State-funded legal aid was provided in 48% of criminal cases filed in court



People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

At what stage of a criminal case?

Under the law, legal aid is provided from the moment when a law enforcement representative restricts the suspects/defendant’s freedom, or at least from the moment charges are officially filed, during pre-trial investigations, trial, appeal and cassation.

It is not prohibited by law for the police to interview someone in the absence of a lawyer. However, the police and prosecutors usually wait for some time before starting to question a suspect/defendant, to allow for the legal aid provider to arrive. If it takes too long, the questioning begins even in the absence of a legal aid provider.

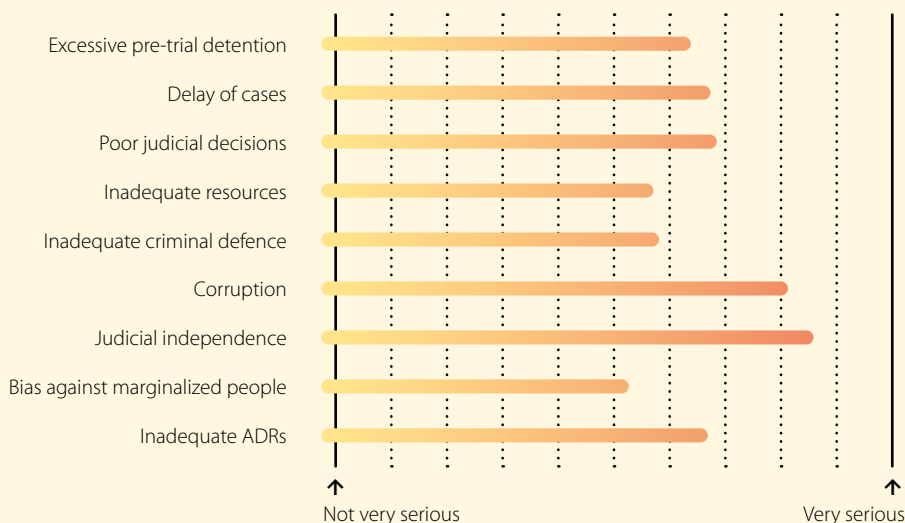
To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that there is no noticeable difference in the quality of services provided by legal aid lawyers, when compared with services provided by private lawyers.

Furthermore, experts identify ‘a well-prepared and/or highly skilled lawyer,’ ‘the judge’s objective analysis of evidence and testimony’ and ‘bribery/corruption’ to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015



Legal aid in civil cases

Who is eligible?

Legal aid in civil cases is available to persons who meet a financial threshold, children, persons with physical or intellectual/mental disabilities, and refugees.

For what actions is a party eligible for legal aid?

Legal aid can be offered to assist with drafting and filing claims for State services or disputes with State agencies, as well as drafting motions. Legal aid can also be provided throughout dispute resolution proceedings.

Public interest litigation / class action cases:

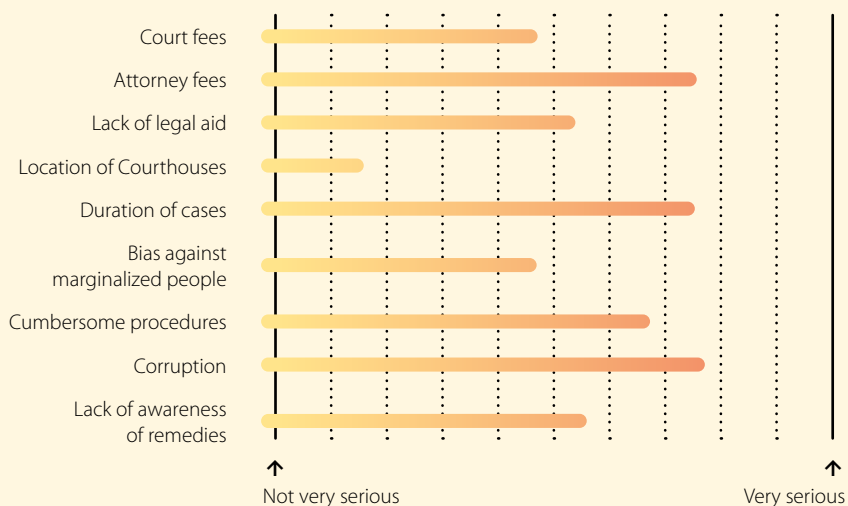
Independent national experts are of the view that there is public demand for strategic litigation, public interest litigation and class actions addressing labour rights, consumer rights, discrimination and health issues. At the national level, staff lawyers of legal aid centres sometimes coordinate to uniformly challenge common violations of national and international due process rights and human rights.

Estimated demand for legal aid services in civil cases



How serious are the following problems in influencing people’s decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

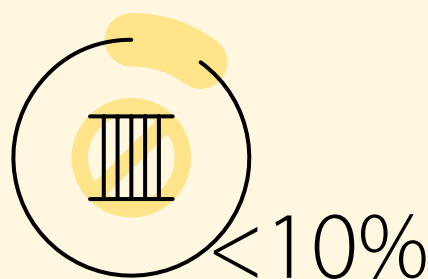
according to national experts, WJP Rule of Law Index 2015



Women's access to legal aid services

According to national experts, women sometimes do not understand how legal aid services can help them, or may not know where to find legal assistance. A particular challenge faced by women relates to the financial criteria for eligibility to legal aid, which often considers overall household income rather than women's (considerably lower) individual income. Experts add that the absence of specialized legal aid services for women is another significant obstacle to women's access to legal aid.

Access to legal aid for children



In 2013, an alternative to imprisonment was imposed in less than 10% of cases where a child was found culpable

The justice system has specialized courts, judges, police officers and units specifically dedicated to handling cases involving child victims, child witnesses or suspected and accused children. There are also investigators specifically authorised to carry out pre-trial investigations with minors.

When representing children, legal aid providers often reach out to parents, social workers and other childcare professionals for support to assist the child throughout proceedings.

According to national experts, there is no noticeable difference regarding the use of diversion and of alternatives to pre-trial detention and to imprisonment in cases where children are represented by legal aid providers, when compared with cases where children are represented by private lawyers.

Legal aid and informal justice systems

In Ukraine, disputes are not resolved through informal justice mechanisms.

Quality safeguards

Accountability for the quality of legal aid services

Legal aid institutions aim to ensure that the same provider represents the accused/suspect at all stages of the case.

If a person has a right to legal aid, but no legal aid provider is available, or the provider is unprepared or unqualified, the proceedings must cease until a qualified legal aid provider arrives.

Monitoring and data collection on the quality of legal aid services

A legal aid provider can refuse to take a case or ask to be removed from the duty to represent a particular legal aid recipient because s/he has too many cases, or lacks expertise in the law or skills required by the specific case, or if s/he has a conflict of interest with the legal aid recipient.

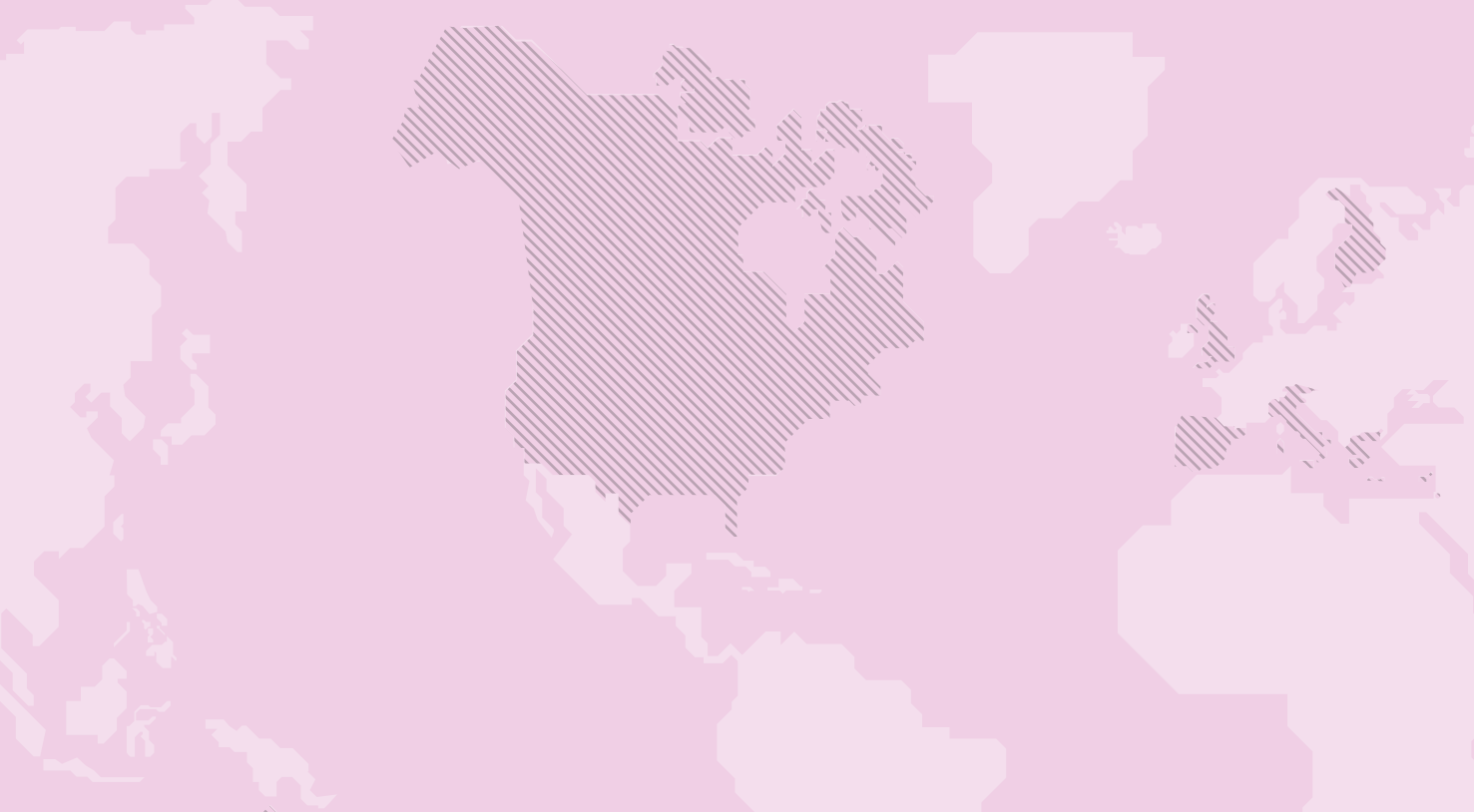
The maximum caseload per staff lawyer of a public defender institution is thirty, at national, regional and local levels.

Formal responsibility for monitoring the quality of legal aid services rests with 'quality managers' who are staff members in Centres for Secondary Legal Aid Provision.

The data for monitoring the quality of legal aid services is collected by reviewing complaints by legal aid recipients about a legal aid provider's actions, by conducting satisfaction surveys with legal aid recipients, by monitoring services provided in court, and by checking lawyers' reports for consistency and reliability.

There are still important data gaps in the system. For instance, data about children is not recorded separately, and no data is available on case resolution prior to a case's transfer to court.

Western Europe and Others Group



Australia	.....	384
Austria	.....	395
Canada	.....	406
Finland	.....	427
Greece	.....	437
Israel	.....	446
Italy	.....	456
New Zealand	.....	467
Portugal	.....	480
Spain	.....	490
United Kingdom	.....	500
United States of America	.....	511

Australia

Western Europe and Others Group



23.49 million



Population

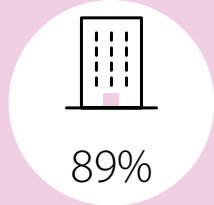


Federal government system



11%

Rural population



89%

Urban population



N/A

Male literacy rate



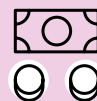
N/A

Female literacy rate



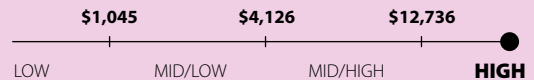
0.976

Gender Development Index



\$64,540

GNI per capita



0.935

HDI



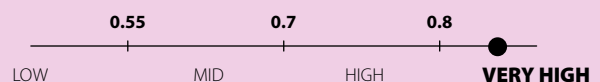
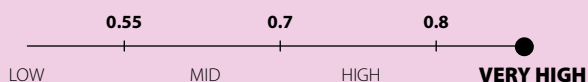
-8.2%

Loss in HDI due to inequality



0.858

Inequality-adjusted HDI

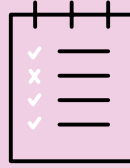


Legal Aid at a Glance in Australia



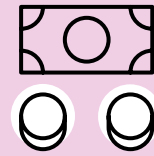
2015

The latest reform of the legal aid system was carried out in 2015



Within the past 5 years

When was the last assessment of legal aid needs conducted

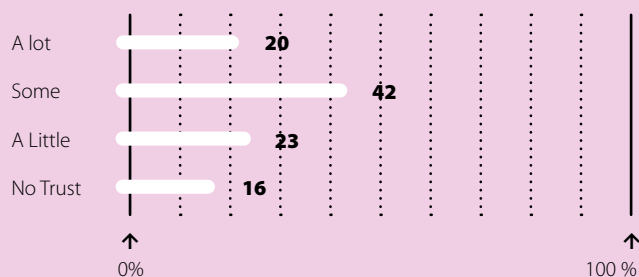


\$23.78

Annual expenditure
on legal aid per capita in 2013

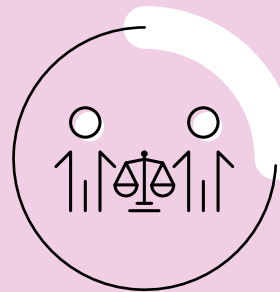
People's trust in courts

Citizen survey, WJP Rule of Law Index 2015



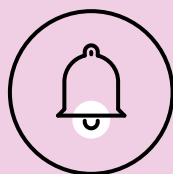
People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015



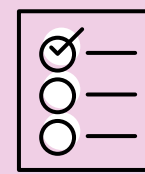
26%

Sample size: 88



Challenges in accessing legal aid

- Due to resourcing constraints, access to legal aid for civil law proceedings is subject to strict eligibility tests
- People may not know where to find legal assistance, or may not be aware that legal aid services are available at little or no cost
- Lawyers are paid very little for legal aid work
- There is a limited number of lawyers outside urban areas
- Insufficient awareness-raising activities about the right to legal aid and available legal aid services



Priority areas for support

N/A

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Separate law on legal aid**
- **Criminal procedure law**
- **Common law right in criminal matters**

While there is no specific legal right to legal aid in Australia, the earliest legal aid scheme dates back to 1903, when the Commonwealth Government established a criminal legal aid scheme for criminal matters (Section 69(3) of the Judiciary Act 1903).

In 1973, the Commonwealth Government established the Australian Legal Aid Office, and in 1996, federal funding for legal aid was allocated in Commonwealth law matters, and state and territory funding was allocated for state and territory law matters. In 2010, the Commonwealth and state and territory governments entered into the first National Partnership Agreement on Legal Assistance Services. The second such Partnership was established in 2015, and included federal funding for independent community legal centres which provide legal services at the level of states and territories. The Ministries of Justice, the executive branches and civil society associations played an instrumental role in introducing this latest reform.

State-funded legal aid is available at national, regional and local levels.

Services included as part of legal aid

For both civil and criminal cases, legal aid is provided in the form of legal assistance, advice and representation (before a court), as well as general assistance with navigating the justice system, with the execution of legal documents and with alternative dispute resolutions. Legal information is also provided in police precincts, in prisons and in communities.

Specialized legal aid services are provided by the State for persons with disabilities, children, women, the elderly, migrants, refugees, asylum seekers, stateless persons, indigenous populations, ethnic or religious minorities, LGBT and homeless people. No specialized training is required to provide legal aid services to these groups except for Independent Children's Lawyers.

Process for obtaining legal aid

The process for obtaining legal aid is initiated upon request from the person who wants legal aid.

To prove eligibility to receive legal aid in criminal and civil cases, a person has to prove status as a recipient of welfare, demonstrate family hardship (e.g. multiple children, single parent, etc.), provide evidence of low income (if employed, e.g. providing tax filing for the previous year) or of membership of a protected group (migrants, national, ethnic or religious minority, non-fluency in the national language, etc.) Alternatively, the agency responsible for the appointment of legal aid providers may determine that the interests of justice require provision of legal aid in the given specific case.

Awareness of the right to legal aid

No public information campaign to raise awareness about the right to legal aid and how to access legal aid services has been conducted by the State in recent years. Independent national experts estimate that the general population is 'not at all knowledgeable' about legal aid services.

Delivery model

Legal aid authority

There are eight legal aid commissions in Australia, one in each state and territory. The directors of the eight legal aid commissions combine at a national level to form National Legal Aid (NLA). The NLA meets at least once in 3-4 months, and directors are appointed by parliaments and the executives through a competitive selection process.

Organisation of legal aid services

Legal aid services in both civil and criminal cases are organised through public defender institutions, panel appointments, the bar association, the legal aid commission of a particular state or territory, and through *pro bono* schemes. In civil cases specifically, legal aid services are also delivered through civil society organisations.

In each state or territory, the public defender's office works in parallel to State-funded private practitioners who take assignments as needed, on a part-time contractual basis with the legal aid administration. Grants are also provided for legal aid matters to legal practitioners who work in legal aid commissions and for private lawyers.

Mechanism for assigning legal aid providers

To request the services of a legal aid provider, State agencies contact the legal aid commission of a particular state or territory, which maintains a duty roster. There are also legal aid providers on duty in courts and police precincts.

Accessing legal aid in urban vs. rural areas

Legal aid services are available in rural areas. There is no noticeable difference in the quality of legal services between urban and rural areas; it depends on each individual legal aid provider.

Service providers

Lawyers and other providers

N/A

Licensed practicing **lawyers**/people

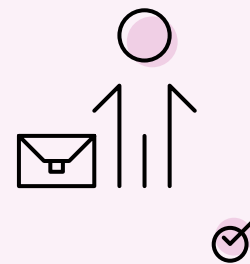


University-based law clinics

Students are allowed to provide primary legal aid and to prepare legal documents, under the supervision of a faculty member or practicing lawyer

N/A

Full-time **legal aid lawyers**/people



Paralegals

Are allowed to provide legal information in police precincts and in prisons, and to provide assistance in navigating the justice system, in both civil and criminal cases

Qualifications required

Legal aid providers must have a law degree and show proof of passing a professional examination, a professional license, and an internship with a practicing lawyer. They must also be interviewed and enter into a contractual relationship with the legal aid administration or legal aid commission of the state or territory where they operate. The same qualification requirements apply to paralegals, except for the law degree and proof of passing a professional examination.

Legal aid providers are required by the bar association and the State to engage in continuing education or skills training. The State however does not allot funds to this end.

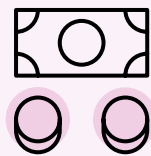
Finances

Costs to recipients

Primary legal aid services are available free of charge at the office of the public defender, or other State-funded institutional legal aid providers. Free legal advice is provided at legal advice centres in city and/or town administrative offices, as well as by the bar association which maintains a roster of qualified lawyers. Civil society organisations also provide legal advice at no cost to people who come to their offices.


Legal aid services are free of charge to those meeting eligibility criteria, but applicants may be asked to provide a contribution based on their financial status. Depending on the legal matter, the State may also cover the cost of additional services

Legal aid in the annual justice budget



\$23.78

Legal aid budget per capita in 2013

 33%

The annual legal aid budget increased by 33% from 2010 to 2013

Legal aid is a separate component of the annual justice budget. The legal aid budget is determined by the ministries of finance and justice and the state/territory governments, in consultation with the legal aid commissions and administrations.

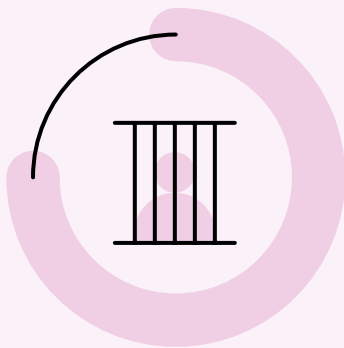
The government allocates separate funding to cover the cost of specialized legal aid services, with additional funding provided by private companies and foundations.

Payments to legal aid providers

Most legal aid lawyers are full-time salaried employees in institutions funded by the State. Others work for private law firms that receive funds from the State, and are paid on an hourly basis for actions that the State has identified as a basis of payment.

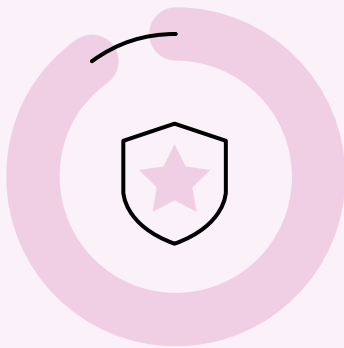
Provision of legal aid

Legal aid in criminal cases



50-75%

Proportion of criminal court cases (2013)



90%

People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

Who is eligible?

In criminal cases, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, and persons imprisoned on criminal charges.

The State is *obliged* to provide legal aid when the accused faces a potential prison sentence. While legal aid may be prioritized to several categories of vulnerable population groups, the State is only obliged to provide legal aid when the defendant is facing serious charges and cannot afford legal representation.

At what stage of a criminal case?

Under the law, there is no official entitlement to legal aid. Legal aid may be provided from police interview through to appeal, depending on the specific circumstances of a given case.

It is not prohibited by law for the police to interview someone in the absence of a lawyer. The police, prosecutors or judges can obtain incriminating information from a suspect or defendant when no legal aid provider is present.

It is somewhat common for pre-trial detention to be used even when suspects have access to legal aid services.

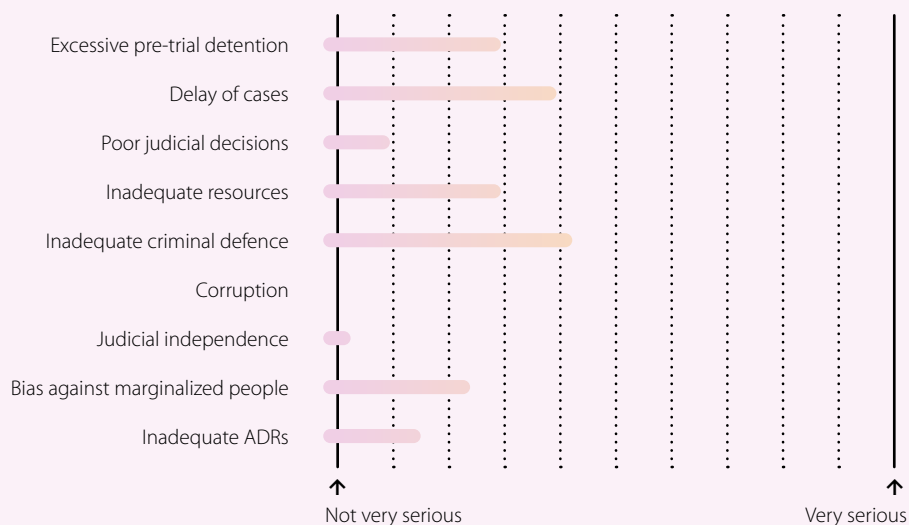
To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that legal aid lawyers are more likely than private lawyers to perform certain actions, such as 'advocating for alternative resolution of the case when the defendant is under 18 years of age' and less likely to perform other actions, such as 'giving advice to the suspect/defendant in private before any contact with a State justice official'.

When asked about the most influential factors in reaching a dismissal of charges or acquittal in criminal cases, national experts refer to factors such as 'a well-prepared and/or highly skilled lawyer', 'the judge's objective analysis of evidence and testimony', and 'the strength of the evidence'.

How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015



Legal aid in civil cases

Who is eligible?

Legal aid in civil cases is available to citizens who meet a financial threshold, and to children. Eligibility also depends on the case’s gravity, complexity, or case type, as identified by the law, on the merit of the party’s claim and on the availability of legal aid funds. Legal aid can also be assigned by authorised agencies at their discretion.

5 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available



Child custody issues



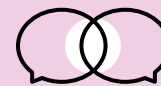
Marital issues



Claims for State services or disputes with State agencies



Assistance with informal/traditional justice proceedings

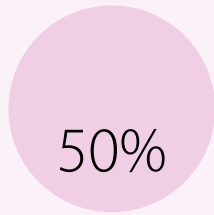


Contractual disputes

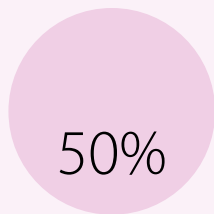
For what actions is a party eligible for legal aid?

Further to the provision of primary legal aid, more specific legal aid can be offered to assist with the drafting or filing of a complaint or a response, to gain access to State services, and to provide victims of violence with protective services. Legal aid can also be provided throughout proceedings.

Estimated demand for legal aid services in civil cases



From respondents



From complainants

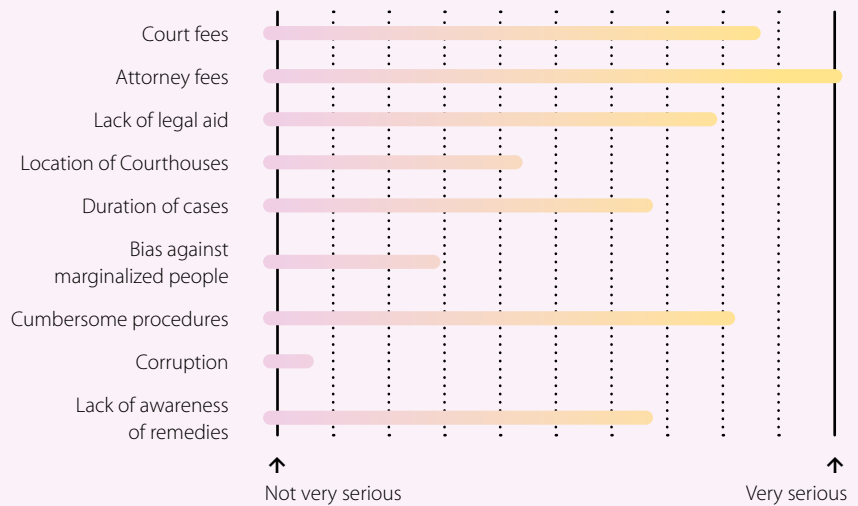
Women’s access to legal aid services

Public interest litigation / class action cases:

State-funded legal aid is provided for public interest litigation and class action cases, and there is public demand for such initiatives to address environmental protection, consumer rights, health issues, labor rights and discrimination. Staff lawyers coordinate to uniformly challenge common violations of national and international due process rights and human rights at the national and regional levels.

How serious are the following problems in influencing people’s decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

According to national experts, WJP Rule of Law Index 2015



Female victims of violence (including victims of sexual and gender-based violence) are eligible to apply for legal aid for all civil proceedings. Court support services, such as interpretation and translation of documents may also be provided in all legal proceedings.

There are specialist legal assistance services for women including Women’s Legal Services, Family Violence Prevention Legal Services that cater almost exclusively to indigenous women and specialist services offered by Legal Aid Commissions. The majority of legal aid for family law proceedings is provided to women. Experts add that women sometimes do not understand how legal aid services can help them, or may not know where to find legal assistance. A particular impediment to women’s access to legal aid relates to the financial criteria for eligibility to legal aid, which often considers overall household income rather than women’s (considerably lower) individual income.

Access to legal aid for children

The justice system has specialized courts or judges specifically dedicated to handling cases involving child victims (especially for cases of sexual abuses), child witnesses and suspected or accused children. Some institutional legal aid providers also have specialized Youth Units. Legal assistance providers work closely with other services, such as social services, to assist children.

When comparing criminal cases where children are represented by legal aid providers, and cases where children are represented by private lawyers, independent national experts observe that the use of diversion tends to be achieved at higher rates when children are represented by legal aid lawyers, while there is no noticeable difference in the use of alternatives to pre-trial detention and alternatives to imprisonment.

Experts also observe that legal aid providers specialized in children's rights consistently achieve higher rates in the use of diversion, alternatives to pre-trial detention and alternatives to imprisonment, compared to non-specialized legal aid providers.

Legal aid and informal justice systems

Informal justice proceedings typically handle disputes related to marital affairs or family, child custody, land and property, inheritance, informal contracts and labor agreements. According to national experts, people prefer to resolve disputes through informal justice proceedings because they take less time, people understand better how they work, they are inexpensive, and people are more confident that they will lead to a negotiated outcome that is acceptable to all parties.

Informal justice mechanisms allow for a lawyer to provide assistance in formal mediation and alternative dispute resolution processes, and there is a mechanism that allows cases to be referred between the formal and informal justice systems.

Legal aid providers supporting informal justice proceedings must have a law degree as well as professional qualifications and experience in alternative dispute resolution processes.

Quality safeguards

Accountability for the quality of legal aid services

Legal aid providers are obliged to adhere to specific quality and performance standards and to ethical rules established by the bar association.

Criminal cases may be stayed by the court if the defendant is facing serious charges and cannot afford legal representation. Legal aid is provided in those circumstances to allow the case to proceed and to support a fair trial. In both criminal and civil cases, if a party is denied access to legal aid, s/he has a right to appeal this decision.

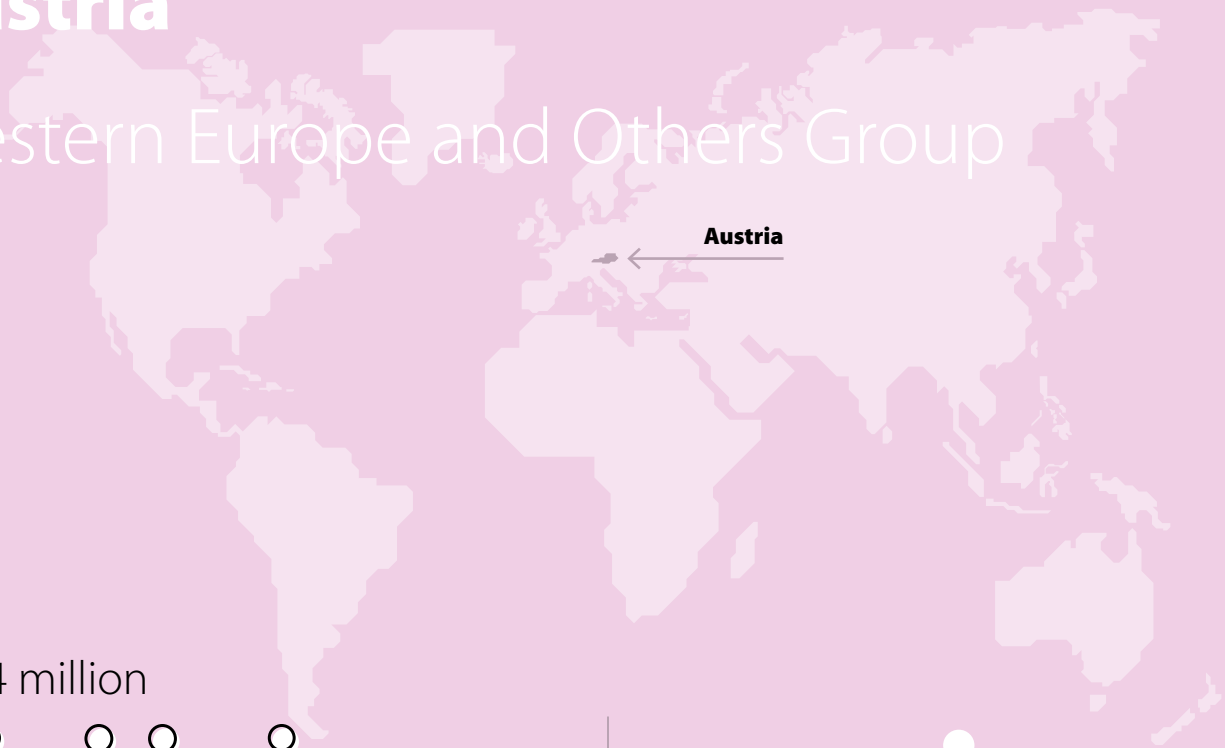
A legal aid provider can refuse to take a case, or ask to be removed from the duty to represent a particular legal aid recipient, if s/he has too many cases, if s/he has a conflict of interest or if there is incompatibility with the legal aid recipient, or due to lacking expertise in the law or skills required in the specific case.

Monitoring and data collection on the quality of legal aid services

Formal responsibility for monitoring the quality of legal aid services rests with the legal aid commissions at state/territory level, the Ministry of Justice, and institutional legal aid providers. Data is collected through the monitoring of services provided in court, the review of complaints by legal aid recipients, satisfaction surveys filled by legal aid recipients, and periodic reviews and evaluations of legal aid systems managed by each state/territory.

Austria

Western Europe and Others Group



8.534 million



Population



Federal government system



34%

Rural population



66%

Urban population



N/A

Male literacy rate



N/A

Female literacy rate

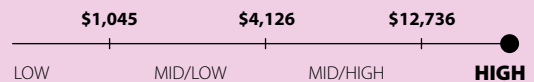
0.943

Gender Development Index



\$49,670

GNI per capita



0.885

HDI



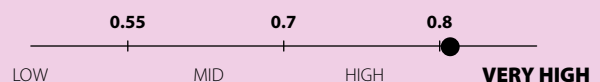
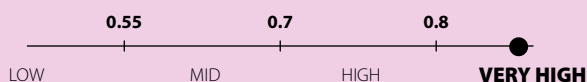
-7.8%

Loss in HDI due to inequality



0.816

Inequality-adjusted HDI



Legal Aid at a Glance in Austria



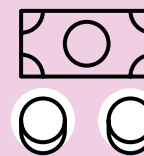
Within the past 3 years

Substantial reforms of the legal aid system have been undertaken over the past three years



Within the past 5 years

When was the last assessment of legal aid needs conducted

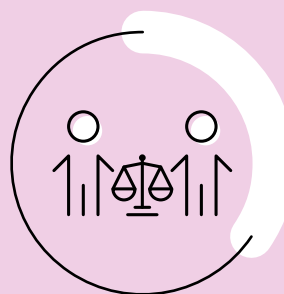
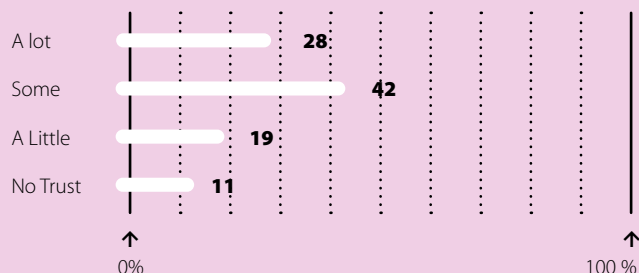


N/A

Annual expenditure
on legal aid per capita in 2013

People's trust in courts

Citizen survey, WJP Rule of Law Index 2015

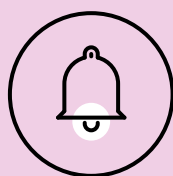


People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015

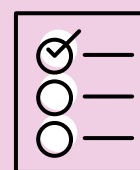
38%

Sample size: 134



Challenges in accessing legal aid

- Little support among the population for spending public funds to defend accused criminals



Priority areas for support

N/A

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Constitution**
- **Criminal procedure code**
- **Civil procedure law**
- **Administrative law**
- **Criminal procedure law**
- **Fair trial principle codified in Art 6 ECHR, which is part of Constitutional law**

The right to legal aid was first recognized in 1985.

There have been several substantial reforms or reorganisation of the legal aid system in the past three years. The Ministry of Justice and the bar association played an instrumental role in these reforms.

State-funded legal aid is available at the national level only.

Services included as part of legal aid

Legal aid is mainly provided in the form of legal advice, legal representation and legal assistance (before tribunals). Legal aid providers also provide general assistance in navigating the justice system, in executing legal documents and in providing legal information.

There are no specialized legal aid services for specific disadvantaged population groups, except for crime victims.

Process for obtaining legal aid

Legal aid is provided upon request from the person who wants legal aid. The determination is automatic if the case or legal aid recipient qualifies for legal aid.

To prove eligibility to receive legal aid in both criminal and civil and administrative cases, a person must prove status as a recipient of welfare or state subsidies for poor or vulnerable members of the population, or show evidence of low income, if employed. In criminal cases only, entitlement to legal aid depends on the gravity or complexity of the matter requiring assistance, and no proof is necessary when the State is obliged to provide legal aid under the law.

Awareness of the right to legal aid

The State has carried out public information campaigns to raise awareness about the right to legal aid and how to access legal aid services in 2014-15. Independent national experts estimate that the general population is 'somewhat knowledgeable' about legal aid services.

Delivery model

Legal aid authority

The bar association has chief responsibility for the management and administration of legal aid.

Organisation of legal aid services

There is no institutional legal aid provider. State-funded legal aid services for both criminal and civil cases are organised mainly through the bar association, which manages lawyers' appointment without the involvement of any other agency. Provision of *pro-bono* legal services is a condition for membership of the bar. The bar association also enters into contractual agreements with private law firms.

In 2008, an emergency defence lawyer scheme for arrested suspects was established by the bar association in cooperation with the Ministry of Justice.

Mechanism for assigning legal aid providers

Courts and police contact the bar association, which coordinates appointments and delivery of legal aid services.

In criminal cases, it takes approximately six hours for the legal aid provider to appear after notice is given that legal aid is needed.

Accessing legal aid in urban vs. rural areas

State-funded legal aid services are available in rural areas.

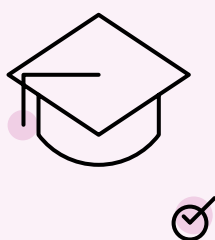
According to independent experts, the quality of legal aid services tends to be better in urban areas, but it ultimately depends on each individual legal aid provider.

Service providers

Lawyers and other providers

1/1,422

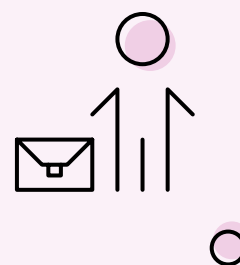
Licensed practicing
lawyers/people



**University-based
law clinics**

N/A

Full-time
legal aid lawyers/people



Paralegals
Are not allowed to provide legal aid independently

Qualifications required

State-funded legal aid providers must have a law degree, be members of the national bar, and pass a professional examination. In addition, legal aid providers must have completed an internship with a practicing lawyer, a judge or other State justice agency. Legal aid providers are required by law to engage in continuing education or skills training.

Finances

Costs to recipients

Primary legal aid services are available free of charge at the bar association, which maintains a roster of qualified lawyers available to provide legal advice, and through civil society organisations, which provide legal advice to people who come to their offices.

Legal aid services are free of charge to those meeting eligibility criteria. In certain cases, there is a sliding scale of payment, based on financial status.

Legal aid in the annual justice budget

There is no separate component for legal aid in the annual justice budget. The national budget for legal aid is determined by the parliament and the Ministries of Justice and Finance. The bar association also participates in budgetary decisions.

The State does not provide separate funding for specialized legal aid services targeted at disadvantaged populations, but it covers the costs of additional services such as independent forensic experts, translation and psychological or social work support.

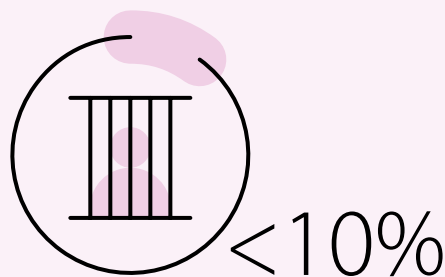
Payments to legal aid providers

The Ministry of Justice pays an annual lump sum to the Bar Association, which is used for the pension system of lawyers.

Legal aid providers work in law firms that receive funding from the State. In civil and administrative cases, legal aid providers work full-time in institutions funded by the State.

Provision of legal aid

Legal aid in criminal cases



Proportion of criminal court cases (2013)

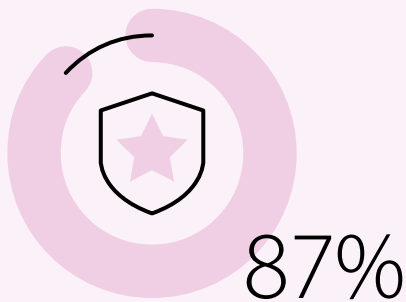
Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, persons imprisoned on criminal charges, and victims of crime.

The State is *obliged* to provide legal aid to persons who meet a financial threshold, persons with physical or intellectual/mental disabilities, persons whose mother tongue is not the language of official proceedings, and persons who are facing a potential prison sentence. The State is also obliged to provide legal aid services according to the case's gravity, complexity, or case type, as identified in the law, and when the law notes that the interests of justice require it.

At what stage of a criminal case?

Under the law, the suspect/defendant is entitled to legal aid for all actions or stages of a criminal case if the requirements are met. Legal aid is mandatory when pre-trial detention is enforced.



People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015



In 2013, State-funded legal aid was provided in approximately 20% of criminal cases filed in court

20%

In 2013, pre-trial detention was imposed in 20% of criminal court cases where State-funded legal aid was provided

Before the examination, the accused must be informed of: the charges against him; his right to remain silent or make a statement; and that the statement can be used for his defence but also as evidence against him. Furthermore, the accused has the legal right to have a defence counsel present during the examination. The accused also must be informed of his right not to incriminate himself if he is being questioned as a witness and the suspicion of a criminal offence arises against this person during the questioning. Standardized forms on interrogation protocol are used to ensure that information on these rights is provided.

To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that legal aid lawyers are less likely than private lawyers to perform actions such as ‘presenting arguments in favour of a suspect’s/defendant’s release pre-trial’ or ‘pointing to weaknesses in the evidence presented against the suspect/defendant, even if s/he may be guilty’. Experts however note that legal aid providers are more likely than private lawyers to advocate for alternative resolution of cases where the defendant is under 18 years of age.

When asked about the most influential factors in reaching a dismissal of charges or acquittal in criminal cases, national experts refer to factors such as ‘a well prepared lawyer’, ‘the judge’s objective analysis of evidence’, and ‘availability of an independent expert testimony’.

How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015



Legal aid in civil cases

Who is eligible?

Eligibility for legal aid in civil cases is determined by financial need.

4 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available



Marital issues



Child custody issues



Tort claims



Labor disputes

For what actions is a party eligible for legal aid?

A party is eligible for primary legal aid, for assistance in filing complaints and responses, assistance in gaining access to State services, negotiations between parties, and during trial.

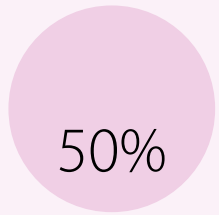
Public interest litigation / class action cases:

State-funded legal aid is provided for public interest litigation and class action cases in administrative cases only, and national experts estimate that there is demand for legal aid to address labor, consumer, health and environmental rights, as well as discrimination. Staff lawyers coordinate to uniformly challenge common violations of national and international due process rights and human rights at the national, regional and local levels.

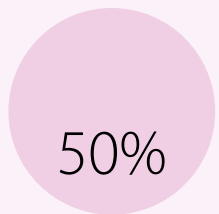
38

In 2013, the number of civil and administrative case filed in court was 38 times the number of criminal cases

Estimated demand for legal aid services in civil cases



From respondents



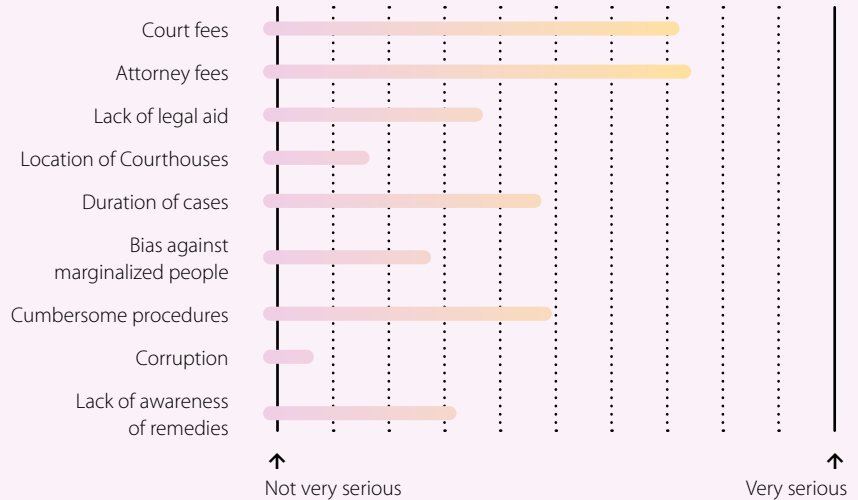
From complainants

Women’s access to legal aid services

Access to legal aid for children

How serious are the following problems in influencing people’s decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

According to national experts, WJP Rule of Law Index 2015



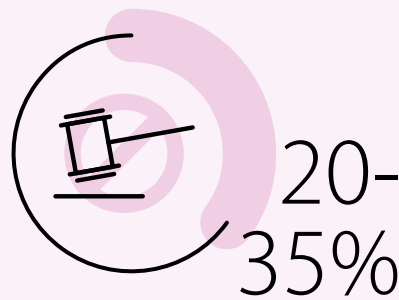
According to independent national experts, there is no significant disparity between men and women in access to information on legal aid. Challenges that some women face include difficulties in confiding in male legal aid providers and lack of specialized legal aid services for women.

Female victims of violence (including victims of sexual and gender-based violence) receive legal aid services in all legal proceedings. Court support services, such as interpretation and translation of documents, are also provided.

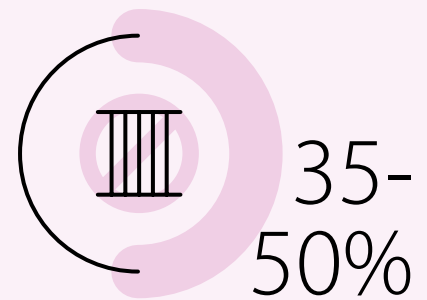
The justice system has specialized courts and judges, specialized prosecutors, and legal aid units for adolescents.

When representing children, legal aid providers routinely reach out to parents, social workers and other child protection practitioners for support to assist the child throughout proceedings.

When comparing criminal cases where children are represented by legal aid providers, and cases where children are represented by private lawyers, independent national experts observe that the use of diversion and alternatives to pre-trial detention is more frequent when children are represented by legal aid lawyers.



In 20-35% of cases when children are suspected or charged with a criminal offence, the case is diverted from the formal justice system without trial (e.g. through mediation, a warning, or an apology)

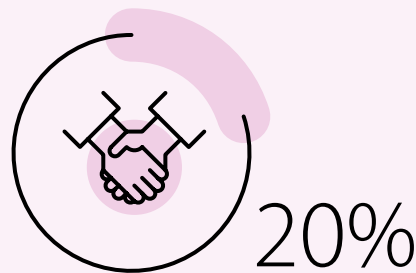


In 2013, an alternative to imprisonment was imposed in 35-50% of cases where a child was found culpable

Legal aid and informal justice systems

Informal justice proceedings are typically used for child custody issues and minor criminal cases. People prefer to resolve disputes through informal justice proceedings because they are less time-consuming, and they lead to a negotiated outcome that is acceptable to all parties.

Lawyers and paralegals are allowed to provide legal assistance in formal mediation and alternative dispute resolution processes. There is also a mechanism in place to allow for the referral of cases between the formal and informal justice systems. Legal aid providers providing assistance to formal mediation must have a law degree.



Disputes resolved through formal mediation or alternative dispute resolution processes (2013)

Quality safeguards

Accountability for the quality of legal aid services

Legal aid providers are obliged to adhere to ethical rules established by the bar association.

If a person has a right to legal aid, but no legal aid provider is available, or if the lawyer is unprepared or unqualified, the proceedings must cease until a qualified legal aid provider arrives. The court can only suggest the replacement of the lawyer; the bar association decides on this issue (and there is no formal means of assessing whether a legal aid provider is unprepared or unqualified.) In both criminal cases and civil cases, if a party is denied access to legal aid, s/he has the right to appeal that decision.

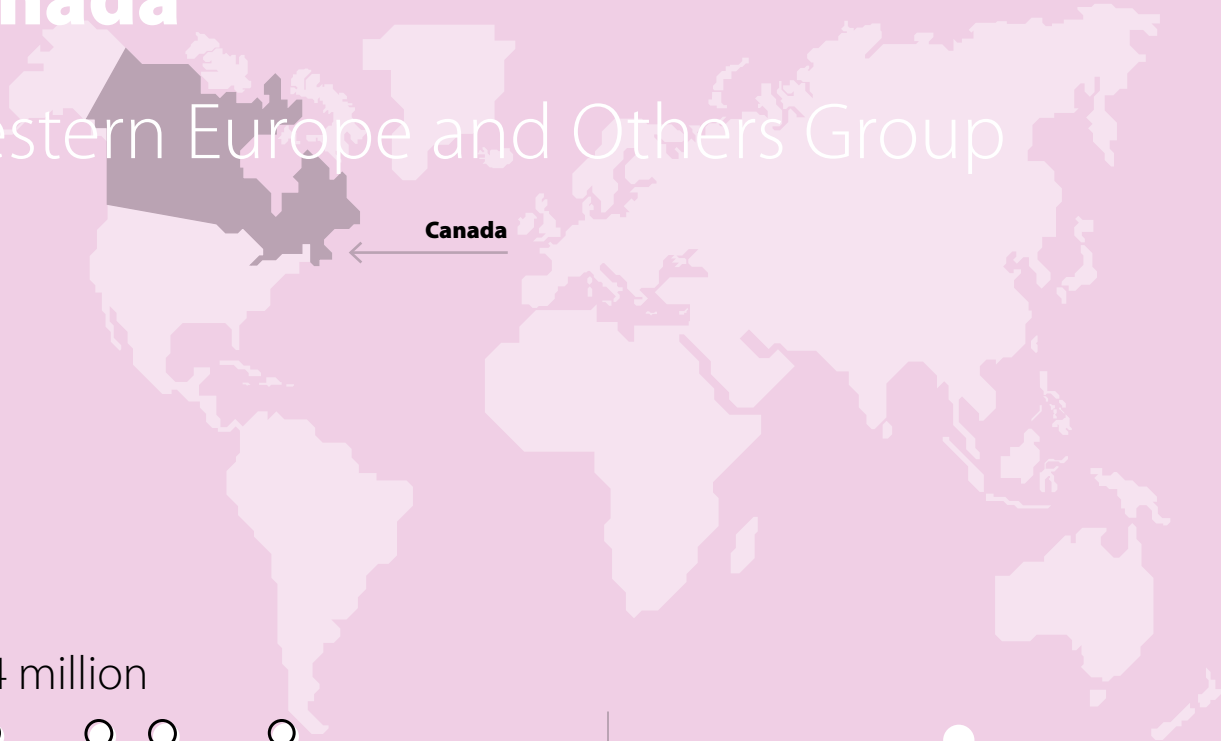
After a legal aid provider is appointed, the same provider usually remains in the case until its resolution. A provider can refuse to take a case or ask to be removed from the duty to represent a particular party based on a conflict of interest with the legal aid recipient.

Monitoring and data collection on the quality of legal aid services

The responsibility for monitoring the quality of legal aid services officially rests with the bar association. However, a single coordinated monitoring mechanism has yet to be established by the bar.

Canada

Western Europe and Others Group



35.54 million



Population

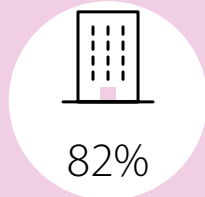


Federal government system



18%

Rural population



82%

Urban population



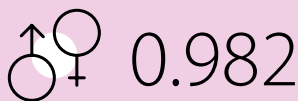
N/A

Male literacy rate



N/A

Female literacy rate



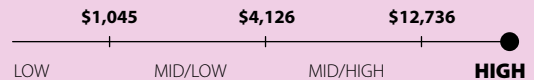
0.982

Gender Development Index



\$51,630

GNI per capita



0.913

HDI

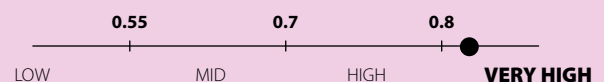
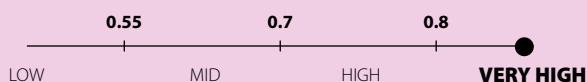


-8.8%

Loss in HDI due to inequality

0.832

Inequality-adjusted HDI



Legal Aid at a Glance in Canada



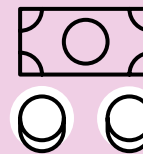
N/A

Reforms take place on an ongoing basis by the provinces and territories



Within the past 5 years

When was the last assessment of legal aid needs conducted

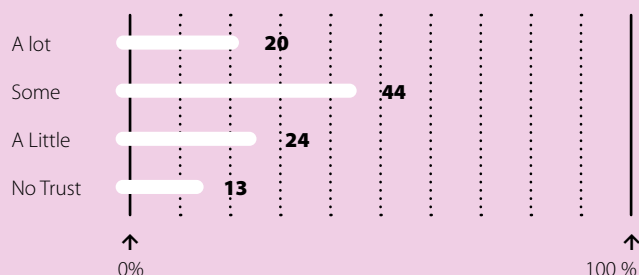


\$21.65

Annual expenditure
on legal aid per capita in 2013
This includes only criminal legal aid in provinces, and both criminal and civil legal aid in the territories

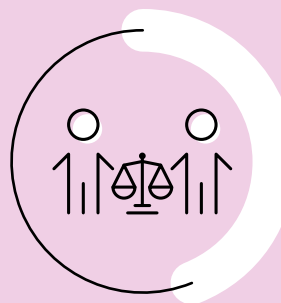
People's trust in courts

Citizen survey, WJP Rule of Law Index 2015



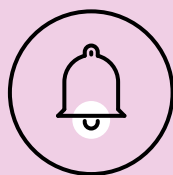
People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015



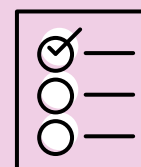
44%

Sample size: 43



Challenges in accessing legal aid

- ➔ There is limited federal and provincial funding for legal aid, and eligibility requirements throughout Canada are well below the poverty levels thus allowing only the most indigent to access legal aid services
- ➔ Legal aid is sometimes geographically inaccessible, and people may not always understand how legal aid services can help them
- ➔ It is deemed more important to cover the cost of police, prosecutors and judges than to spend public funds on lawyers
- ➔ Language barriers sometimes exist between legal aid providers and those who need legal aid
- ➔ There is a limited number of legal aid providers in the country, and lawyers are paid very little for legal aid work



Priority areas for support

- Legislative drafting advice
- Development of action plans/policies
- Development of quality criteria for legal aid providers
- Establishing paralegal systems
- Institutional support
- Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

→ **Constitution**

It is noteworthy that there is no specific law granting the right to legal aid in Canada. Instead, there is a constitutional right to a fair trial/proceedings. Accordingly, legal aid is a tool that furthers the right to a fair trial/proceedings.

While there is no law granting the right to legal aid, provincial and territorial legislation generally prescribes the scope of services included as part of legal aid.

The legal aid system was most recently reformed 15 years ago, with strong involvement by the Ministry of Justice, the courts, the legislative branch, civil society associations and the bar association.

Legal aid is available at the provincial and territorial level. The federal government pays directly for counsel only when ordered to by the courts.

Services included as part of legal aid

Legal aid is mainly provided in the form of legal information, advice and assistance, legal representation before a prosecutor/court/tribunal, and general assistance in navigating the justice system.

Specialized legal aid services are provided by the State for specific population groups, including persons with disabilities, children, women, refugees, asylum seekers, stateless and internally displaced persons, and indigenous populations. Civil society organisations also provide specialized legal aid for ethnic or religious minorities and LGBT.

Process for obtaining legal aid

While each jurisdiction has its own methods and mechanisms for individuals to apply for legal aid, it is usually provided upon request from the person who wants legal aid, or based on a notification from a State justice actor.

Eligibility to legal aid is determined by each jurisdiction. An applicant's eligibility for legal aid is determined on the basis of low income; whether the jurisdiction provides legal aid for the type of legal proceeding; and merit of the applicant's case. Family size is part of the income calculation. In criminal matters in particular, eligibility is generally based on financial criteria, on the merit of the case, and the likelihood of incarceration.

Awareness of the right to legal aid

The federal government provides support to provinces and territories for public legal education and information (PLEI).

Independent national experts estimate that the general population is ‘somewhat knowledgeable’ about the right to legal aid services.

Delivery model

Legal aid authority

Canada does not have a national legal aid system. The provision of legal aid is administered by the provinces and territories: each jurisdiction is responsible for the management and delivery of criminal and civil legal aid services, and has its own legal aid authority, pursuant to its legislation.

While responsibilities of the legal aid authority also vary from jurisdiction to jurisdiction, they generally include the oversight and coordination of the legal aid appointment mechanisms, the establishment of the legal aid strategy and policy, and the setting of performance standards for the delivery of legal aid.

Organisation of legal aid services

Legal aid services are provided through the ‘legal aid boards/commissions’ at provincial and territorial levels. Board members are jointly appointed by the legislative assembly, the executive and the bar association. The composition and method of appointment of the various boards of directors of the legal aid entities vary by jurisdiction, as does the frequency of meetings.

Public defender institutions work in parallel to State-funded private practitioners who enter into a contract with the legal aid administration (or the bar association, or the legal aid board, depending on the jurisdiction) and take assignments in exchange for remuneration by the State. Civil society organisations also employ provide legal aid services, and some lawyers provide *pro bono* services. Paralegals are full-time salaried employees of the legal aid administration.

Mechanism for assigning legal aid providers

The mechanism for assigning legal aid providers varies by jurisdiction, as each jurisdiction is responsible for the administration and delivery of legal aid services.

Accessing legal aid in urban vs. rural areas

State-funded legal aid services are available in rural areas, but the quality of legal aid depends on each individual legal aid provider (with a slight tendency for the quality of services to be higher in urban areas.)

Service providers

Lawyers and other providers

1/393

Licensed practicing
lawyers/people

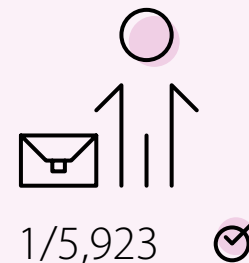


University-based law clinics

Students in university-based law clinics, when supervised by a faculty member or practicing lawyer, can provide primary legal aid, prepare legal documents, and represent people in court, in both civil and criminal matters (they have the same authority as lawyers in criminal cases of low to mid gravity)

1/5,077

Full-time
legal aid lawyers/people



Paralegals/people

1/5,923

Qualifications required

State-funded legal aid providers must have a law degree and must show proof of passing a professional examination, have completed an internship with a practicing lawyer, and be in a contractual relationship with the agency that oversees the administration of legal aid. Required qualifications for paralegals are determined by each jurisdiction.

Legal aid providers are not required by law to engage in continuing education or skills training, and those providing assistance to specific vulnerable groups do not need any specific training.

Paralegals

Grassroots Legal Advocates, Namati 2016

Are community paralegals recognized by law?

British Columbia

The Legal Services Society Act states that the Legal Services Society or related agencies may employ an individual who is not a lawyer to provide services ordinarily performed by a lawyer so long as the individual is supervised by a lawyer. The Code of Professional Conduct for British Columbia outlines the specific roles of paralegals.

Ontario

Yes, community paralegals — known as community legal workers (CLWs) — are specifically provided for in the law. A CLW is a person who is not qualified as a legal practitioner, but is authorised to provide legal services at community legal clinics. CLWs are permitted to provide some of the services that a licensed paralegal is able to provide, but are required to work under the direct supervision of a lawyer.

Does any public revenue fund paralegals?

British Columbia

Yes, public revenue may fund paralegals under the Legal Services Society Act. The government provides funding to the Legal Services Society, which may then allocate its funds to select agencies that employ paralegals providing legal aid services.

Ontario

Yes, community legal clinics receive their core funding from Legal Aid Ontario.

Can paralegals engage in litigation (with or without the help of lawyers)?

British Columbia

Yes, paralegals may engage in certain stages of litigation, however they may not appear as counsel in court without leave of the court. In 2013, the Law Services Society, the British Columbia Supreme Court, and the British Columbia Provincial Court partnered to create a pilot project (which has since ended) that gave paralegals a limited right to appear in court.

Ontario

Yes, community legal workers are permitted to provide some of the services that a licensed commercial paralegal is able to provide. However, they are required to work under the direct supervision of a lawyer, not independently.

Are there boards that monitor community paralegals?

British Columbia

Yes, the Code of Professional Conduct for British Columbia specifically provides for the conduct of paralegals, but leaves the supervision of their work to the lawyers that are overseeing them. In addition, the Legal Services Society must report on the operations of the Society, including on the work of community paralegals. A Paralegal Association, whose membership includes over 800 paralegals, students, and related organisations, was formed in 1979 to promote the development, education, and networking of paralegals.

Ontario

No, as community legal workers do not have to be licensed as paralegals, their work is not monitored. Meanwhile, licensed paralegals in Ontario are governed by a comprehensive regulatory system, including in respect to educational standards, rules of professional conduct, licensing process, insurance requirements, complaint and disciplinary process, and a compensation fund.

Finances

Costs to recipients

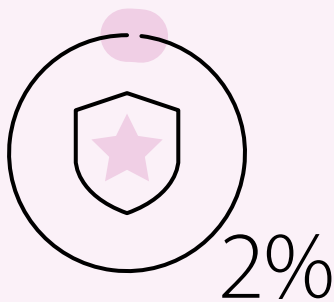
Primary legal aid services are provided free of charge at the office of the public defender, in legal advice centres located in cities, by the bar association that maintains a roster of qualified lawyers available to provide legal advice, and through a hotline that individuals can call by phone to receive advice. Some civil society organizations provide free legal services limited to specific areas of practice, e.g. immigration matters.

Beyond primary legal aid services, other legal aid services are free of charge to those meeting eligibility criteria. For certain actions, there are set fees determined on the basis of a sliding scale of payment, based on financial status.

Legal aid in the annual justice budget

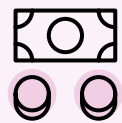


In 2013, 9% of the federal government's legal aid budget was allocated specifically to immigration and refugee legal aid services




In 2013, 2% of the federal government's legal aid budget was allocated specifically to public security and anti-terrorism legal aid services

Payments to legal aid providers

 \$2.69

Legal aid budget per capita in 2013 (this included only criminal legal aid in provinces, and both criminal and civil legal aid in the territories)

 -2%

The national legal aid budget decreased by 2% from 2010 to 2013

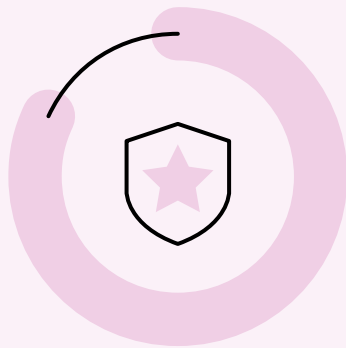
The budgetary appropriations process varies by jurisdiction, but always requires legislative authority. Legal aid boards/administrations make spending decisions once the budget is set, subject to conditions imposed by the various justice ministries.

The State provides separate funding to cover the cost of specialized legal aid services, such as for immigration and refugee legal aid services, and for public security and anti-terrorism legal aid services. Private companies and foundations also provide funding towards these costs. The cost of additional services (such as independent forensic experts, independent investigators, psychologists or social work support, etc.) are also covered by the State.

Lawyers employed by the public defender are full-time salaried employees. Legal aid providers working in law firms that receive funds from the State receive a fixed fee for each case (or for each action they take on a case), or are paid on an hourly basis.

Provision of legal aid

Legal aid in criminal cases



82%

People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, and persons imprisoned on criminal charges.

The State is *obliged* to provide legal aid to youth in criminal proceedings.

At what stage of a criminal case?

Under the law, legal aid should be provided from the moment charges are officially filed, and is available at all stages of a trial.

It is prohibited for the police to interview a person in the absence of a lawyer, unless the person has agreed to be interviewed without a lawyer. Police and prosecutors usually wait for some time for legal aid providers to arrive, but if it takes too long, the questioning begins even in the absence of a legal aid lawyer. However, courts are strict about excluding evidence or statements made in the absence of a legal aid provider. In certain situations, the police questions a person first as a witness, but this can be problematic as the police determines the person to have a right to legal aid only after the witness has incriminated him/herself.

It is very common for pre-trial detention to be used, even when suspects have access to legal aid.

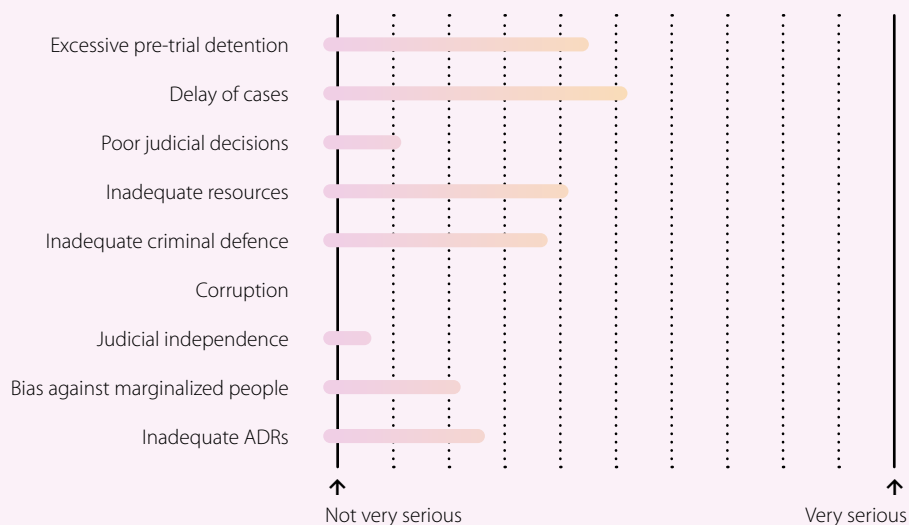
To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that legal aid lawyers are more likely than private lawyers to perform actions such as 'presenting arguments in favour of a suspect's/defendant's release pre-trial', or 'giving advice to the suspect/defendant in private before any contact with a state justice official'.

Furthermore, independent national experts identify, 'the judge's objective analysis of evidence and testimony' and 'a well prepared and/or high skilled lawyer' to be some of the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015



Legal aid in civil cases

Who is eligible?

While eligibility is determined by each jurisdiction, generally speaking, a person must meet a financial threshold. Legal aid is also provided based on the case's gravity, complexity or case type, as identified in the law.

5 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available



Marital issues



Child custody issues



Property issues



Administrative matters



Claims for State services or disputes with State agencies

For what actions is a party eligible for legal aid?

Legal aid is provided to assist with the drafting and filing of complaints and responses, with gaining access to State services, negotiations between parties and to avail victims of violence of protective services. Legal aid is also available to assist with mediation, pre-trial hearings, independent investigation, trial, drafting motions, and for any appeal or cassation.

Estimated demand for legal aid services in civil cases



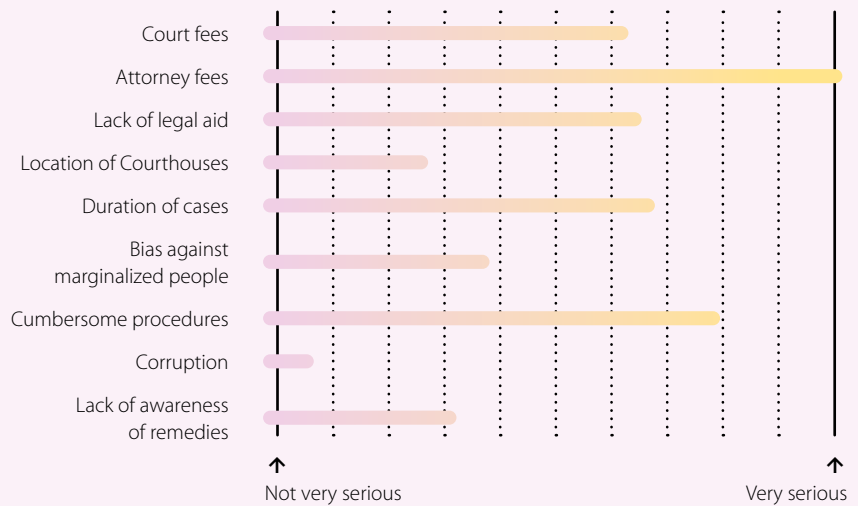
Women’s access to legal aid services

Public interest litigation / class action cases:

According to national experts, there is public demand for public interest litigation/class actions to address discrimination, labour rights, consumer rights, environmental protection, and health and social assistance. In certain circumstances, staff lawyers coordinate to uniformly challenge common violations of national and international due process rights and human rights at the regional level.

How serious are the following problems in influencing people’s decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

according to national experts, WJP Rule of Law Index 2015



According to independent national experts, women , more often than men, are unaware that legal aid services are available at little or no cost, or may not know where to find legal assistance. Experts add that a considerable challenge faced by women in need of legal aid is that the means tests for eligibility to legal aid often consider overall household income rather than the women’s income specifically, which tends to be significantly lower. Other issues which may explain why women may prefer not to seek out legal assistance include their low confidence in the quality of legal aid services provided to them, and the fact that they can be quite time-consuming.

Access to legal aid for children

The justice system has specialized courts, judges, prosecutors, lawyers and police officers for child victims, child witnesses, and suspected or accused children. When representing children, legal aid providers routinely reach out to parents, social workers or other childcare professionals for support to assist the child throughout proceedings.

In criminal cases, national experts observe that there is no noticeable difference when children are represented by legal aid providers or by private lawyers, with regards to diversion away from judicial proceedings, alternatives to pre-trial detention and alternatives to imprisonment. However, national experts find that legal aid providers specialized in children's rights perform better in these respects.

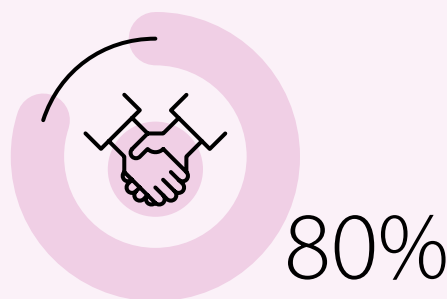
In criminal cases where legal aid is provided to children, national experts find that legal aid providers strive to implement a number of child-friendly measures required by law, such as preventing the child from giving statements to the police against his/herself, or preventing the disclosure of information about pending charges to the child's school, community or media.

Legal aid and informal justice systems

Informal justice proceedings typically handle disputes related to family and child custody, land and property, inheritance, informal contracts, labor agreements and minor criminal cases. There are mechanisms that allow cases to be referred between the formal and informal legal systems

According to national experts, people may prefer to resolve disputes through informal justice proceedings because they understand better how they work, they take less time, and informal tribunals are more conveniently located (especially for those living in remote areas.) People may also feel that informal proceedings are more likely to lead to a negotiated outcome that is acceptable to all parties.

To provide assistance in formal mediation/alternative dispute resolution processes, legal aid providers need a law degree, a paralegal certificate, a mediation training certificate or basic training on the matter.



Disputes resolved through formal mediation or alternative dispute resolution processes (2013)

Quality safeguards

Accountability for the quality of legal aid services

Legal aid providers are obliged to adhere to ethical rules established by the bar association, and to specific quality and performance standards established by each jurisdiction.

In criminal cases, legal aid institutions aim to ensure that the same provider represents the accused/suspect at all stages of the case.

If no legal aid provider arrives or if a legal aid provider is unprepared or unqualified, the proceeding is postponed or a replacement legal aid provider is asked to represent the party. If a party is denied access to legal aid, s/he has a right to appeal that decision. Having an unprepared or unqualified legal aid provider may provide grounds for appealing a decision made under such circumstances (and disciplinary actions may be taken against the unprepared or unqualified lawyer.)

A legal aid provider can refuse to take a case, or ask to be removed from the duty to represent a particular legal aid recipient, due to having too many cases, due to lacking expertise in the law or skills required by a specific case, or due to a conflict of interest or incompatibility with the legal aid recipient.

Monitoring and data collection on the quality of legal aid services

There are mechanisms to monitor the quality of legal aid services provided, but they vary by jurisdiction since each jurisdiction is responsible for the administration and delivery of legal aid services. At the national level, Statistics Canada, Canadian Centre for Justice Statistics (CCJS) conducts the Legal Aid Survey and collects aggregate legal aid data directly from provinces and territories, on an annual basis.

Cyprus

Western Europe and Others Group

Cyprus

1.154 million



Population



Unitary government system



33%

Rural population



67%

Urban population



99%

Male literacy rate



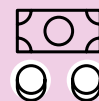
98%

Female literacy rate



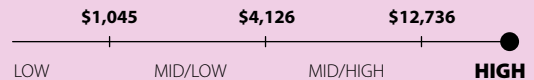
0.971

Gender Development Index



\$26,370

GNI per capita



0.850

HDI



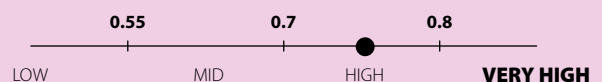
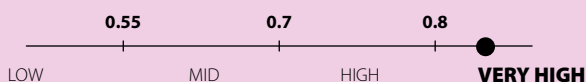
-10.7%

Loss in HDI due to inequality



0.758

Inequality-adjusted HDI



Legal Aid at a Glance in Cyprus



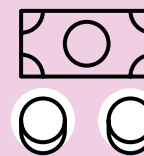
2015

The latest reform of the legal aid system was carried out in 2015



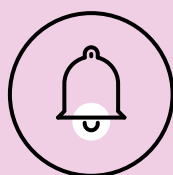
Never conducted

When was the last assessment of legal aid needs conducted



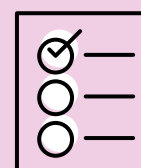
N/A

Annual expenditure on legal aid per capita in 2013



Challenges in accessing legal aid

- Lack of a centrally-organised legal aid system
- People may not always know where to find legal assistance
- People may think that legal aid lawyers are working as part of the police or of judicial agencies
- People may not always understand how legal services can help them



Priority areas for support

- Legislative drafting advice
- Development of action plans/policies
- Development of quality criteria for legal aid providers
- ✓ Establishing paralegal systems
- ✓ Institutional support
- Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Constitution**
- **Separate law on legal aid**
- **Criminal procedure code**

The right to legal aid was introduced and recognized by the time of the establishment of the Republic of Cyprus in 1960.

The most recent reform of the legal aid system took place in 2015, when the law was amended to extend the provision of legal aid to more categories of beneficiaries. The Ministry of Justice and the Parliament played an instrumental role in introducing this reform.

State-funded legal aid is available at national, regional and local levels.

Services included as part of legal aid

For both civil and criminal cases, legal aid is provided in the form of legal advice, legal representation (before a court), legal assistance, general assistance with navigating the justice system, and assistance with the execution of legal documents.

Specialized legal aid services are provided by the State for refugees, asylum seekers or stateless persons, non-nationals in cross-border disputes in all types of cases, European Union citizens and the members of their families, when lodging a recourse before the Administrative Court for specific reasons according to the Law, victims of trafficking (including children) and for children who are victims of sexual abuse and/or child pornography.

Process for obtaining legal aid

The process for obtaining legal aid is initiated upon request from the person who wants legal aid. While legal aid services are mainly provided based on financial need, relevant agencies also have the authority to determine that the interests of justice require the provision of legal, in view of the gravity of the case or other relevant circumstances. Eligibility criteria are not expressly provided in the law; rather, the specific characteristics of a case will determine whether legal aid is required or not.

Awareness of the right to legal aid

A public information campaign to raise awareness about the right to legal aid and how to access legal aid services was conducted by the State more than three years ago. The Ministry of Justice and Public Order issued an information leaflet containing all information about legal aid in plain language, as well as contacts to seek further information or clarification. This leaflet is also uploaded on the websites of the Ministry of Justice and Public Order.

Delivery model

Legal aid authority

The Ministry of Justice has responsibility over the legal aid legislation, while the Supreme Court and the bar association have responsibility over the practical management of the legal aid system.

Organisation of legal aid services

There is no institutional legal aid provider in Cyprus. Legal aid services in criminal cases are mainly organised through the bar association, which maintains a roster of lawyers who are willing to offer their services. A person entitled to legal aid can choose a legal aid lawyer from this list, or else the court will appoint one to her/him.

Accessing legal aid in urban vs. rural areas

Legal aid services are available in rural areas. The quality of legal aid services ultimately depends on each individual legal aid provider.

Service providers

Lawyers and other providers

1/384

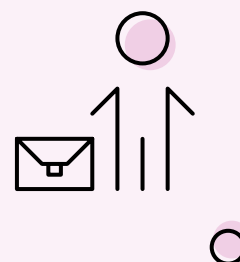
Licensed practicing
lawyers/people



**University-based
law clinics**

N/A

Full-time
legal aid lawyers/people



Paralegals
Are not allowed to provide legal aid independently

Qualifications required

Legal aid providers must have a law degree and must show proof of passing a professional examination (bar examination). They must also be members of the national bar and registered in a State-authorized roster of legal aid providers.

Legal aid providers are not required to undertake continuing education or skills training, and the State does not allot funds to this effect.

Finances

Costs to recipients

Legal aid services are free of charge to those meeting eligibility criteria.

Legal aid in the annual justice budget

Legal aid is not a separate component of the annual justice system. Furthermore, the State does not provide separate funding to cover the cost of specialized legal aid services for specific disadvantaged groups.

Payments to legal aid providers

Fees differ by types of hearings (e.g. first day of hearing, appeal), types of offence and before different courts. For other types of cases, such as family court cases, the fees are determined in the respective Procedural Regulations.

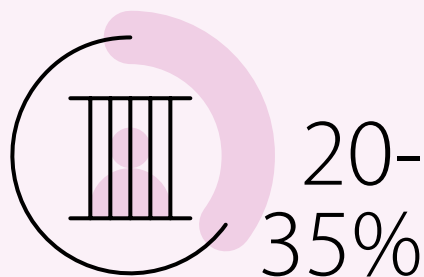
Provision of legal aid

Legal aid in criminal cases

Who is eligible?

In criminal cases, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, and persons imprisoned on criminal charges.

According to the Legal Aid Law, the State is *obliged* to provide legal aid to any person (both national citizens and foreigners) who cannot bear the costs of the proceedings without affecting the basic needs and obligations of him/herself and his/her family.



Proportion of criminal court cases (2013)

15.9

In 2013, the number of criminal cases filed in court was 15.9 times the number of civil cases filed in court

Legal aid in civil cases

Estimated demand for legal aid services in civil cases

10%

From respondents

90%

From complainants

At what stage of a criminal case?

Under the law, legal aid should be provided from the moment charges are officially filed and during trial.

To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that the quality of services provided by legal aid lawyers, when compared with services provided by private lawyers, is more or less the same, except that they perform less well when having to prepare written motions and requests of the court, police or prosecution.

Furthermore, experts identify 'a well-prepared and/or highly skilled lawyer', 'the judge's objective analysis of evidence and testimony' and 'strength of the evidence' to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

Who is eligible?

Legal aid in civil cases is available to persons who cannot bear the costs of the proceedings without affecting their basic needs and obligations (as well as those of their family).

5 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available



Child custody issues



Administrative matters



Marital issues



Human rights



Asylum cases

For what actions is a party eligible for legal aid?

Further to the provision of primary legal aid, more specific legal aid can be offered to assist with the drafting or filing of a complaint or a response, with depositions or other official queries, and with negotiations between parties. Legal aid can also be provided throughout proceedings.

Women's access to legal aid services

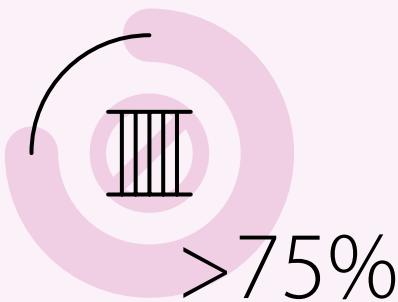
Public interest litigation / class action cases:

National experts are of the view that there is no demand for legal aid for public interest litigation/class action to address discrimination, labour rights, consumer rights, environmental protection and health.

According to national experts, women may not always understand how legal aid services can help them or may not know where to find legal assistance. Experts add that a particular challenge faced by women relates to the financial criteria for eligibility to legal aid, which often considers overall household income rather than women's (considerably lower) individual income. The low number of female legal aid providers may also contribute to a perception that court processes as biased against women.

Female victims of violence (including victims of sexual and gender-based violence) receive legal aid services in all legal proceedings, as well as court support services, such as interpretation and translation of documents.

Access to legal aid for children



In 2013, in more than 75% of cases where a child was found culpable, an alternative to imprisonment was imposed

The justice system has specialized prosecutors and police units specifically dedicated to handling cases involving child victims (especially for cases of sexual abuses), child witnesses and suspected or accused children.

When representing children, legal aid providers often reach out to parents, social workers and child welfare agency staff for support to assist the child throughout proceedings.

In criminal cases involving suspected or accused children, diversion away from judicial proceedings is rarely used.

Legal aid and informal justice systems

Informal justice mechanisms allow for a lawyer to provide assistance in formal mediation and alternative dispute resolution processes, and there is a mechanism allowing for cases to be referred between the formal and informal justice systems.

Quality safeguards

Accountability for the quality of legal aid services

If the legal aid beneficiary is not satisfied with the services provided by the lawyer under the legal aid scheme, he or she can ask the Court to change the lawyer. In this case, the court proceedings are postponed until the change of the lawyer takes place.

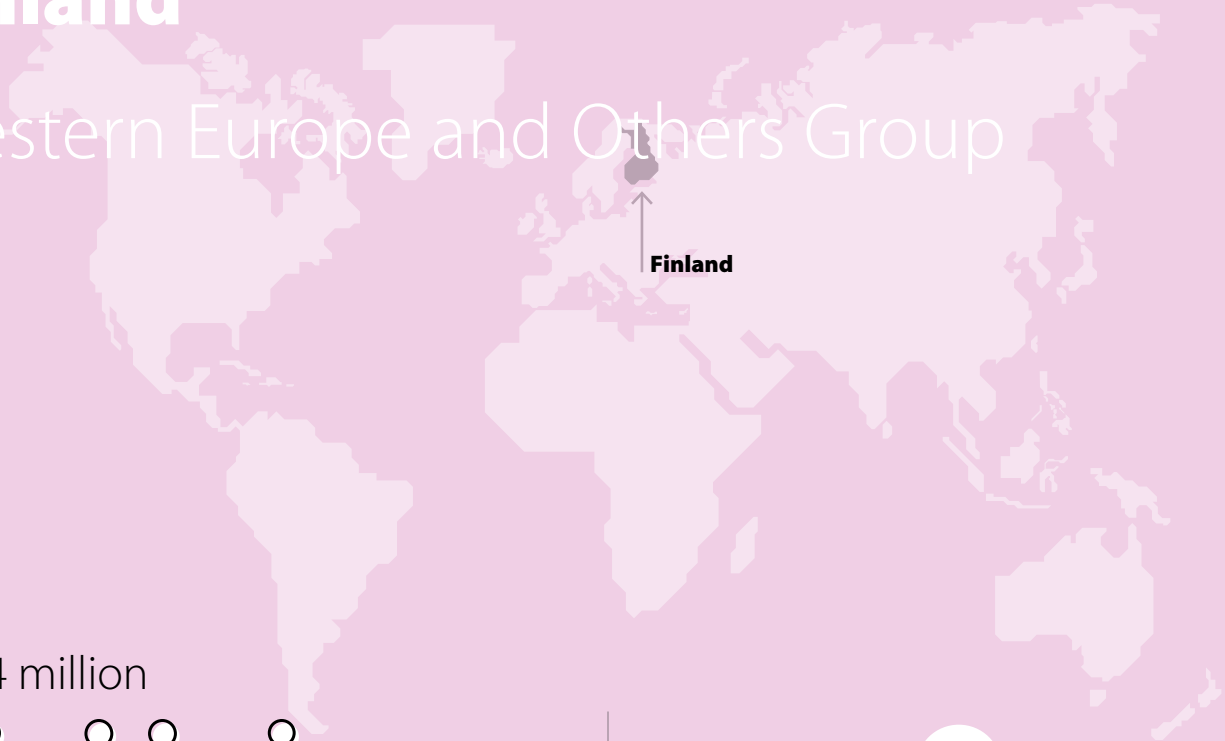
Monitoring and data collection on the quality of legal aid services

Formal responsibility for monitoring the quality of legal aid services rests with the Disciplinary Board, which handles complaints received from legal aid recipients against legal aid providers.

There are considerable data gaps across the justice system. For instance, data about children is not recorded separately, nor is data on cases which have received legal aid.

Finland

Western Europe and Others Group



Finland

5.464 million



Population

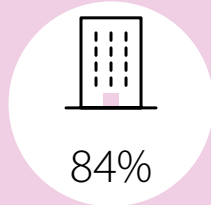


Unitary government system



16%

Rural population



84%

Urban population



N/A

Male literacy rate



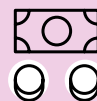
N/A

Female literacy rate



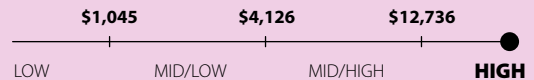
0.996

Gender Development Index



\$48,420

GNI per capita



0.883

HDI



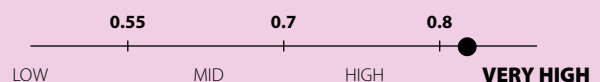
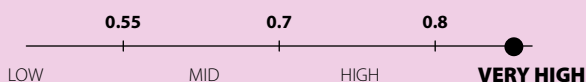
-5.5%

Loss in HDI due to inequality



0.834

Inequality-adjusted HDI



Legal Aid at a Glance in Finland



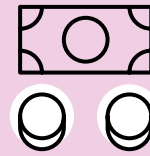
2002

The latest reform of the legal aid system was carried out in 2002



Never conducted

When was the last assessment of legal aid needs conducted

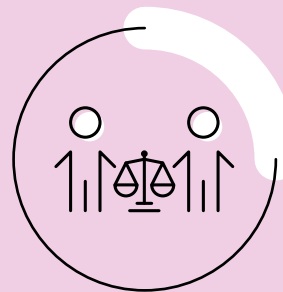
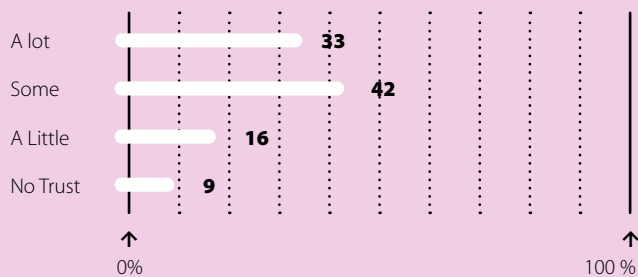


\$14.37

Annual expenditure on legal aid per capita in 2013

People's trust in courts

Citizen survey, WJP Rule of Law Index 2015

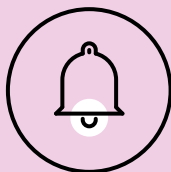


People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015

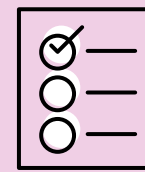
25%

Sample size: 166



Challenges in accessing legal aid

- ➔ Shortage of lawyers outside urban areas
- ➔ People may not always know where to find legal assistance
- ➔ Low pay of lawyers for legal aid work



Priority areas for support

- Legislative drafting advice
- Development of action plans/policies
- Development of quality criteria for legal aid providers
- Establishing paralegal systems
- Institutional support
- Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Separate law on legal aid**
- **Criminal procedure law**
- **Implementing regulations for the law on legal aid**

Services included as part of legal aid

Process for obtaining legal aid

Awareness of the right to legal aid

The right to legal aid was first recognized in 1973.

The most recent reforms of the legal aid system took place in 1998 and 2002. The Ministry of Justice played an instrumental role in introducing these reforms.

State-funded legal aid is available at national, regional and local levels.

For both civil and criminal cases, legal aid is provided in the form of legal advice, legal representation (before a court), legal assistance, general assistance with navigating the justice system, and assistance with the execution of legal documents and with the provision of legal information.

Specialized legal aid services for disadvantaged population groups (such as persons with disabilities, indigenous populations, etc.) are not provided by the State.

The process for obtaining legal aid is initiated upon request from the person who wants legal aid, or upon request from the legal aid provider. The court presiding over a case must also inquire and assess eligibility during the first appearance of the parties.

To prove eligibility to receive legal aid in civil and criminal cases, a person must submit evidence of low income, tax filing for the previous year, or documentation stating that s/he meets financial or vulnerable criteria. However, no proof is necessary in situations where the State is obliged to provide legal aid under the law.

No public information or awareness campaigns on the right to legal aid and how to access legal services were conducted by the State in the recent past.

According to independent national experts, the general population is 'somewhat knowledgeable' of the right to legal aid services and how and where to access legal aid services.

Delivery model

Legal aid authority

The Ministry of Justice has the chief responsibility for the management and administration of legal aid.

Organisation of legal aid services

Finland has State legal aid offices, staffed by public legal aid attorneys. Legal aid is also provided by private lawyers who are either members of the Finnish Bar Association or of other licensed legal councils.

The institutional legal aid provider (public defender) works in parallel to State-funded private practitioners who take assignments to represent people eligible for legal aid.

Mechanism for assigning legal aid providers

In most cases, the applicant's first contact is the lawyer of his or her choice, who then draws up the application for legal aid. The recipient of legal aid has a choice of attorney in any court case: the client may choose to be assisted by a public legal aid attorney working at a State legal aid office, or by a private licensed attorney.

In matters that are not to be brought before a court (e.g. provision of legal advice or drawing up of a document, such as an estate inventory or an agreed distribution of matrimonial property), legal aid is given only by public legal aid attorneys. In these situations, the recipient of legal aid cannot choose a private attorney, unless there is a special reason for proceeding otherwise.

Accessing legal aid in urban vs. rural areas

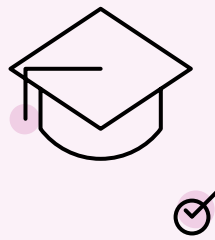
Legal aid services are available in rural areas.

Service providers

Lawyers and other providers

1/2,185

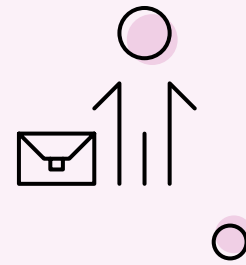
Licensed practicing
lawyers/people



**University-based
law clinics**

1/26,017

Full-time
legal aid lawyers/people



Paralegals

Are not allowed to provide legal aid independently

Qualifications required

Legal aid providers must have a law degree and work experience. Members of the bar association are required to undergo periodic skills training or testing. The State allots funds towards continuing education and training for legal aid providers.

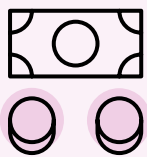
Finances

Costs to recipients

Primary legal aid services free of charge are made available by State legal aid offices (which also offer legal advice by phone) and by civil society organisations.

Legal aid services are free of charge only to those who meet eligibility criteria. Other parties using legal aid pay a percentage of the cost, according to a sliding scale of payment based on financial status, as established by law.

Legal aid in the annual justice budget



\$14.37

Legal aid budget per capita in 2013



19%

The legal aid budget increased by 19% from 2010 to 2013.

156%

The legal aid budget in 2013 accounted for 156% of the annual budget for prosecution of criminal cases.

Legal aid is a separate component in the annual justice budget.

Payments to legal aid providers

In criminal, civil and administrative cases, a large proportion of legal aid providers work full-time in institutions funded by the State (e.g. public defenders' offices). Others may also be paid on an hourly basis for actions that the State has identified as a basis of payment. As an alternative to an hourly fee, lawyers can also decide to be paid a minimum fee per case.

Provision of legal aid

Legal aid in criminal cases

Who is eligible?

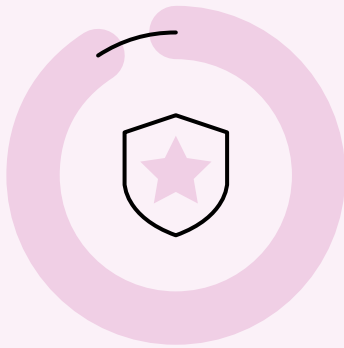
In criminal cases, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, persons imprisoned on criminal charges, victims of crime and complainants (injured parties).

The State is *obliged* to provide legal aid when the accused meets a financial threshold (a single person's available means should be equal or less than 1300€/month, 2400€ or less for a couple), faces a potential prison sentence (for a minimum of four months of imprisonment), is an asylum seeker, or according to the case's gravity, complexity, or case type as identified in the law.



<10%

Proportion of criminal court cases (2013)



91%

People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

At what stage of a criminal case?

Under the law, legal aid should be provided from the moment a law enforcement representative restricts the suspect’s/defendant’s freedom, during an identification procedure or a residence search, or at least from the moment charges are officially filed. Legal aid is also provided during trial, for any appeal or cassation, and for representation of prisoners in cases involving serious disciplinary charges.

To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that there is no significant difference in the quality of services provided by legal aid lawyers and private lawyers, except in one instance: legal aid lawyers are more likely than private layers to advocate for alternative resolution of cases when the defendant is under 18 years of age.

When asked about the most influential factors in reaching a dismissal of charges or acquittal in criminal cases, national experts refer to factors such as ‘a well prepared and/or highly skilled lawyer’, ‘having a legal aid lawyer’, ‘availability of an independent expert testimony’, and ‘the strength of the evidence’.

How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015

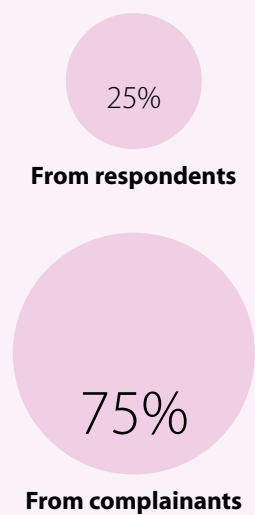


Legal aid in civil cases

8.9

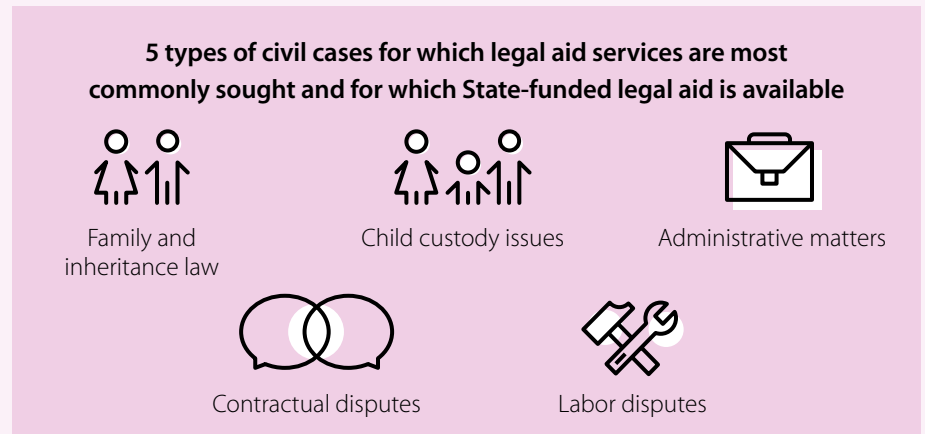
In 2013, the number of civil and administrative cases filed in court was 8.9 times the number of criminal cases

Estimated demand for legal aid services in civil cases



Who is eligible?

Legal aid in civil cases is available to citizens who meet a financial threshold (a single person's available means should be equal or less than 1300€/month, 2400€ or less for a couple) or according to the case's gravity, complexity, or case type, as identified in the law.

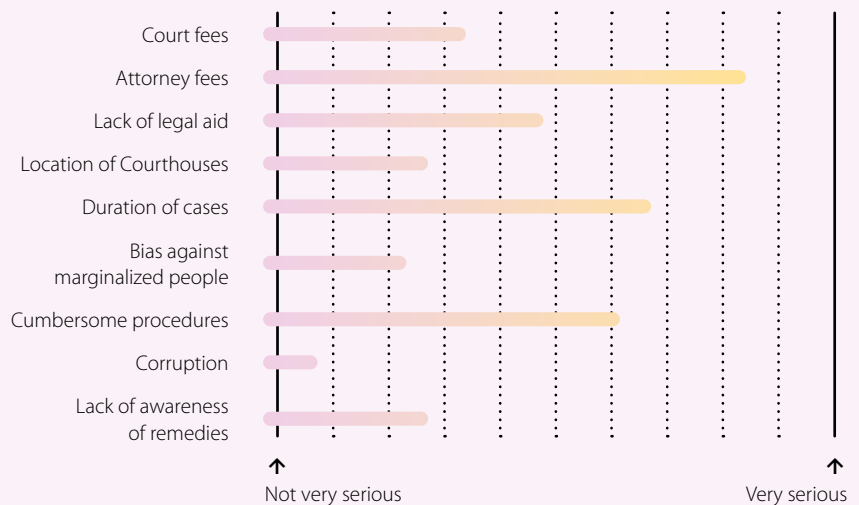


Public interest litigation / class action cases:

State-funded legal aid is not provided for public interest litigation and class action cases. Staff lawyers do not coordinate to uniformly challenge common violations of national and international due process rights and human rights.

How serious are the following problems in influencing people's decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

according to national experts, WJP Rule of Law Index 2015



Women's access to legal aid services

Female victims of violence (including victims of sexual and gender-based violence) receive legal aid services in all legal proceedings, as well as court support services, such as interpretation and translation of documents.

Access to legal aid for children

The justice system does not have specialized divisions or personnel specifically dedicated to handling cases involving children who are suspected or charged with criminal offence.

When representing children, legal aid providers often reach out to parents and psychologists for support to assist the child throughout proceedings.

In criminal cases involving suspected or accused children, diversion away from judicial proceedings is not used.

Legal aid and informal justice systems

Informal justice mechanisms allow a lawyer to provide assistance in formal mediation/alternative dispute resolution processes.

There are mechanisms that allow referrals between the formal/statutory legal system and informal justice systems for formal mediation/alternative dispute resolution processes. Legal aid service providers can work across different systems.

To qualify for formal mediation/alternative dispute resolution processes, legal aid providers need a law degree.

Quality safeguards

Accountability for the quality of legal aid services

If a person has a right to legal aid, but no legal aid provider is available, or the provider is unprepared or unqualified, the proceedings must cease until a qualified legal aid provider arrives, but there are some limitations in place.

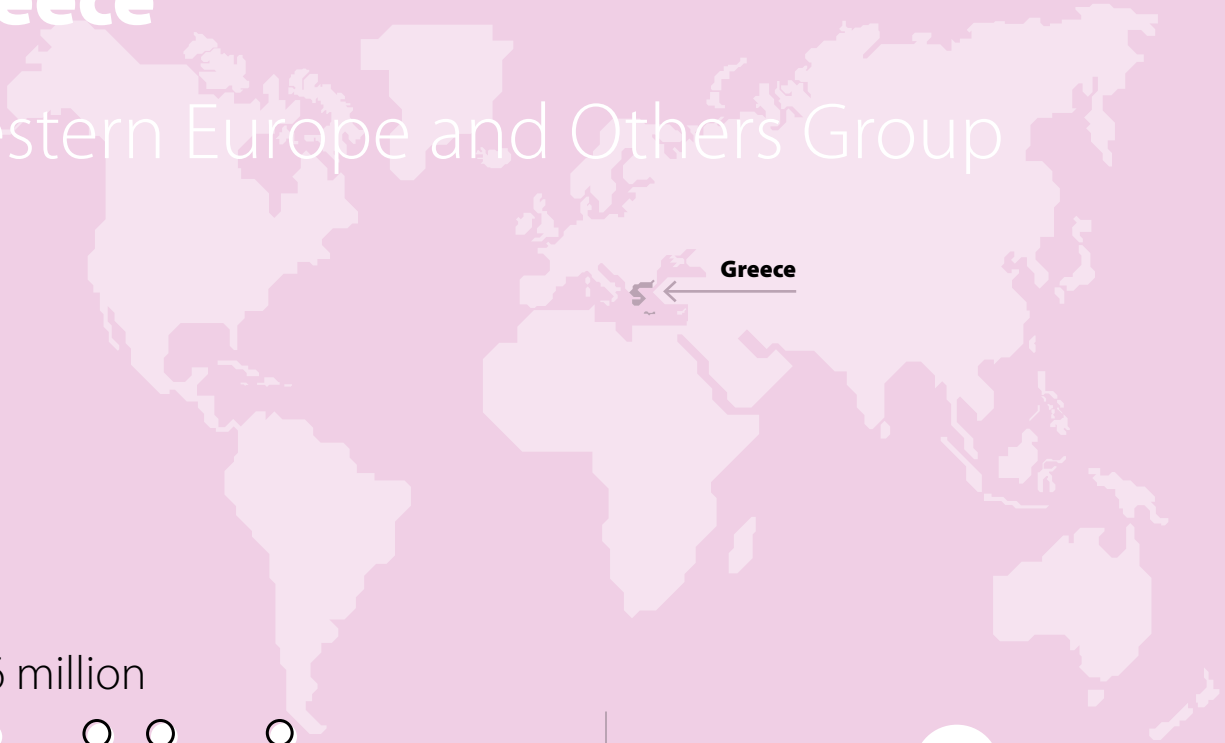
Monitoring and data collection on the quality of legal aid services

Formal responsibility for monitoring the quality of legal aid services rests with the Ministry of Justice, which collects and reviews data through assessments by justice actors and by conducting satisfaction questionnaires that legal aid recipients fill out.

There remains significant data gaps across the system. For instance, no data is available on the number of criminal or civil cases filed in court where State-funded legal was provided, and data about children is not recorded separately.

Greece

Western Europe and Others Group



10.96 million



Population



Unitary government system



22%

Rural population



78%

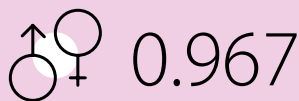
Urban population



Male literacy rate



Female literacy rate



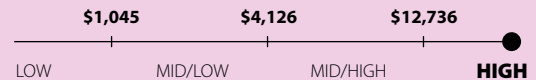
0.967

Gender Development Index



\$22,680

GNI per capita



0.865

HDI



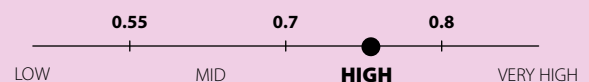
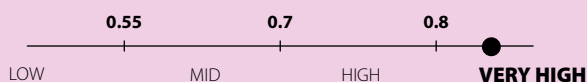
-12,4%

Loss in HDI due to inequality



0.758

Inequality-adjusted HDI



Legal Aid at a Glance in Greece



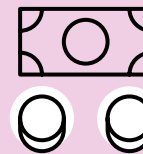
2014

The most recent reform of the legal aid system took place in 2014



Never conducted

When was the last assessment of legal aid needs conducted

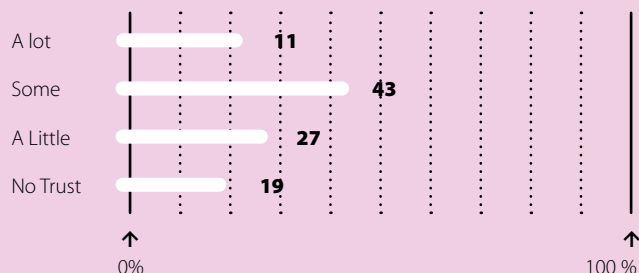


N/A

Annual expenditure on legal aid per capita in 2013

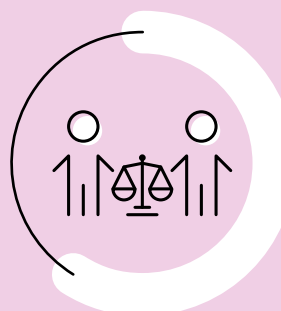
People's trust in courts

Citizen survey, WJP Rule of Law Index 2015



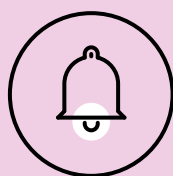
People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015



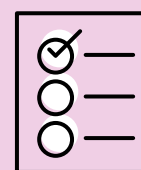
59%

Sample size: 311



Challenges in accessing legal aid

- ➔ A general perception that it is more important to cover the cost of police, prosecutors and judges than to spend public funds on lawyers
- ➔ There is a limited number of lawyers to provide legal aid services and the bar association is reluctant to allow paralegals to fill the gap of available lawyers
- ➔ People may not know where to find legal assistance
- ➔ People may prefer to resolve issues outside the court system, where legal aid has no role, partly because people lack confidence in the quality of legal aid services
- ➔ When people ask for legal aid, it is not uncommon for state agencies to withhold assistance or to encourage them to waive their right to such assistance



Priority areas for support

- ✓ Legislative drafting advice
- ✓ Development of action plans/policies
- ✓ Development of quality criteria for legal aid providers
- Establishing paralegal systems
- Institutional support
- ✓ Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Separate law on legal aid**
- **Implementing regulations for the law on legal aid**
- **Civil procedure code**
- **Administrative law**
- **Criminal procedure law**

The right to legal aid was first recognized in 1950.

The most recent reform of the legal aid system took place in 2014, when the Parliament adopted Law No. 4274/2014 which limits the financial compensation that a legal aid provider can obtain in any given year to a maximum of €15,000. Any lawyer who was paid more than this amount in the previous year is excluded from the list of legal aid providers who can be appointed to cases in the following year. This law was a response to concerns that some lawyers were manipulating the appointment process to secure access to a large number of legal aid cases, and the payment of substantial sums of legal aid compensation. The Ministry of Justice and the Bar Association played an instrumental role in carrying out this reform.

State-funded legal aid is available at the national level only.

Services included as part of legal aid

For both civil and criminal cases, legal aid is provided in the form of legal advice, legal representation, provision of legal information, and legal assistance (before national tribunals). Legal aid lawyers also provide general assistance in executing legal documents.

Specialized legal aid services are provided for disadvantaged population groups such as children, women, refugees, asylum seekers, and stateless persons.

Process for obtaining legal aid

Legal aid is provided upon request from the person who wants legal aid, and in cases of serious criminal offence, upon request from the courts.

In both criminal and civil cases, a person must prove his/her eligibility by proving status as a recipient of welfare or state subsidies, or by providing evidence of low income (if employed) and tax filing for the previous year.

Awareness of the right to legal aid

The State has never conducted a public information campaign to raise awareness about the right to legal aid or how to access legal aid services.

Independent national experts estimate that the general population is 'somewhat knowledgeable' about legal aid services.

Delivery model

Legal aid authority

The chief responsibility for the management and administration of legal aid rests with the Ministry of Justice which oversees and coordinates the legal aid appointment mechanism and sets the national legal aid strategy and policy.

Organisation of legal aid services

In both criminal and civil cases, legal aid services are organised through competent courts and through *pro bono* schemes, which are promoted as means for more junior lawyers to practice and acquire experience.

Mechanism for assigning legal aid providers

Courts and police have a roster of duty legal aid providers for a given day, and call them in the given order.

Accessing legal aid in urban vs. rural areas

Generally, the quality of legal aid services depends on individual legal providers. However, independent national experts are of the view that it tends to be better in urban areas, where legal aid providers have more independence to challenge actions of other justice actors. As explained by experts, in rural areas, legal aid providers often see other justice actors socially, which makes it difficult to oppose them in proceedings.

Service providers

Lawyers and other providers

1/260

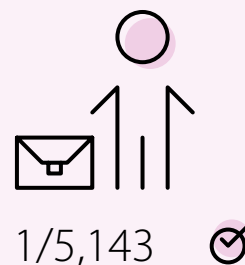
Licensed practicing
lawyers/people



**University-based
law clinics**

N/A

Full-time
legal aid lawyers/people



1/5,143
Paralegals/people

Paralegals (or bailiffs) are allowed to draft legal documents in criminal, civil and administrative cases

Qualifications required

Legal aid providers must have a law degree and must show proof of passing a professional examination (bar examination). They must also be members of the bar, and have completed an internship with a practicing lawyer, a judge or another State justice agency.

Paralegals must pass a separate test to be hired as a staff member of the institutional legal aid provider.

Legal aid providers are required to engage in continuing education or skills training.

Finances

Costs to recipients

Primary legal aid services are available free of charge at the courts to those meeting eligibility criteria. The bar association maintains a roster of qualified lawyers available to provide legal advice at no cost.

Legal aid in the annual justice budget

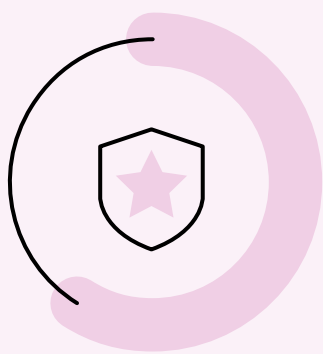
Legal aid is a separate component in the annual justice system budget. The budget for legal aid is determined by the Ministries of Finance and Justice. Specialized legal aid services (for disadvantaged population groups) are funded through separate government funding and contributions from international donors. The cost of additional services, such as independent investigations, experts, or clerical assistance, is not covered by the State.

Payments to legal aid providers

In both criminal and civil cases, legal aid providers receive a fixed fee for each action they take on a case. Lawyers submit reports on the legal aid provided to the agency authorised to issue payment.

Provision of legal aid

Legal aid in criminal cases



57%

People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, and victims of crime.

The State is *obliged* to provide legal aid to persons who meet a financial threshold, children, and persons who potentially face a prison sentence. Legal aid is also provided depending on the case's gravity, complexity, or case type, as identified in the law.

At what stage of a criminal case?

Under the law, legal aid is provided from the moment a State agency begins consideration of whether to impose pre-trial detention or restrictive measures, or at least from the moment charges are officially filed. It is also provided during trial and for any appeal or cassation.

To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that there is no difference in the quality of services provided by legal aid lawyers, when compared with services provided by private lawyers.

Furthermore, experts identify 'a well-prepared and/or highly skilled lawyer', 'the judge's objective analysis of evidence and testimony' and 'strength of the evidence' to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015



Legal aid in civil cases

Who is eligible?

Legal aid in civil cases is available to children and adults who meet a financial threshold.

4 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available



Child custody issues



Property issues



Labor disputes



Tort claims

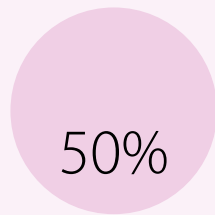
For what actions is a party eligible for legal aid?

Further to the provision of primary legal aid, more specific legal aid can be offered to assist with drafting motions. Legal aid services in civil cases can also be provided throughout trial, and for any appeal or cassation.

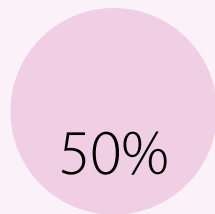
Public interest litigation / class action cases:

Independent national experts are of the view that there is public demand for strategic litigation, public interest litigation and class actions addressing labour rights, consumer rights, discrimination, environmental protection, and health issues.

Estimated demand for legal aid services in civil cases



From respondents



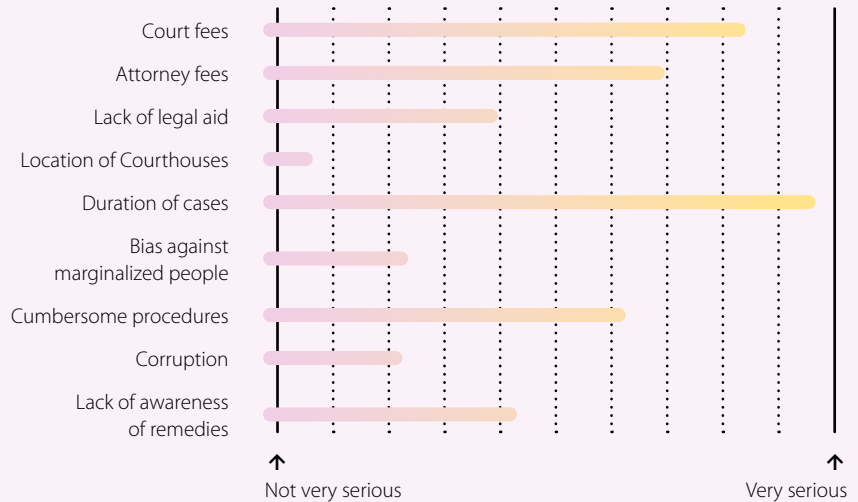
From complainants

Women's access to legal aid services

Access to legal aid for children

How serious are the following problems in influencing people's decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

according to national experts, WJP Rule of Law Index 2015



Legal aid services are provided to female victims of violence (including victims of sexual and gender-based violence) only in some legal proceedings. Court support services (such as interpretation and translation of documents) are nonetheless provided in all legal proceedings.

According to national experts, a considerable challenge faced by women in accessing legal aid is the lack of specialized services for women, as well as for family and civil matters, which would be particularly needed in a country where it is not socially 'encouraged' for women to seek legal aid. Experts add that the means tests for eligibility to legal aid often considers overall household income rather than a woman's income specifically (which tends to be significantly lower).

National experts note that women oftentimes are unaware that legal aid services are available at little or no cost, or do not know where to find legal assistance. Experts also stress that women may prefer to resolve issues through the informal justice system or outside the court system, where legal aid has no role, because they see court processes as too time-consuming and biased against women. It may also be difficult for women to confide in a (generally male) legal aid provider and share intimate information related to a case.

The justice system has specialized courts and judges, prosecutors, police officers and units dedicated to handling cases involving child victims, child witnesses or suspected and accused children.

Legal aid and informal justice systems

The formal mediation/alternative dispute resolution processes allow cases to be referred between the formal/statutory legal system and the informal justice system.

Quality safeguards

Accountability for the quality of legal aid services

If a person has a right to legal aid, but no legal aid provider is available, or the legal aid provider is unprepared or unqualified, the proceedings must cease until a qualified legal aid provider arrives. This can be problematic however as there are no formal means of assessing the preparedness or qualification of a legal aid provider.

A legal aid provider can refuse to take a case, or ask to be removed from the duty to represent a particular legal aid recipient, if s/he has too many cases, lacks of expertise in the law or skills required by the specific case, or if there is incompatibility or a conflict of interest with the legal aid recipient. A legal aid provider can also refuse to take a case when s/he feels the pay is too little to justify the time s/he will spend on it.

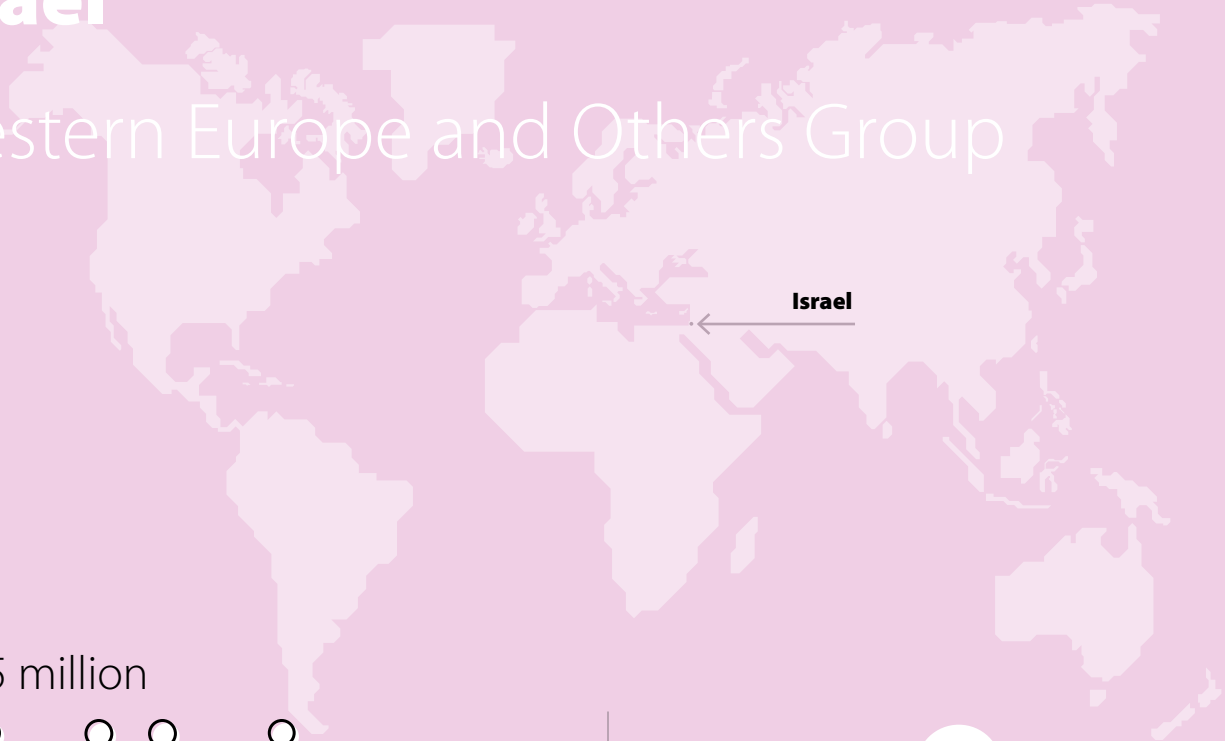
Monitoring and data collection on the quality of legal aid services

The quality of legal aid services is not being monitored; there is no systematic effort in place yet to collect data on the quality of legal aid services.

There are considerable data gaps across the system. For instance, no data is available on the number of criminal or civil cases filed in court where State-funded legal aid was provided. Data about children is not recorded separately, and no data is available on case resolution prior to a case's transfer to court.

Israel

Western Europe and Others Group



8.215 million



Population

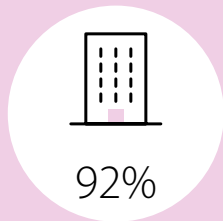


Unitary government system



8%

Rural population



92%

Urban population



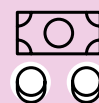
98%

Adult literacy rate



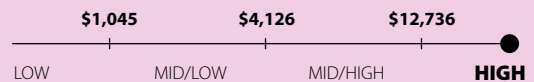
0.971

Gender Development Index



\$35,320

GNI per capita



0.894

HDI



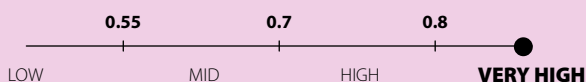
-13.4%

Loss in HDI due to inequality



0.775

Inequality-adjusted HDI



Legal Aid at a Glance in Israel



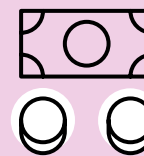
1995

The most recent major reform of the legal aid system took place in 1995



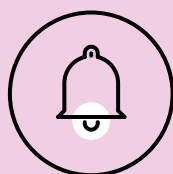
More than 5 years ago

When was the last assessment of legal aid needs conducted



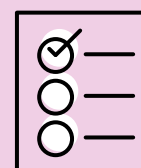
N/A

Annual expenditure on legal aid per capita in 2013



Challenges in accessing legal aid

- Low pay of lawyers for legal aid work
- There is little support among the population for spending public funds to defend accused criminals
- There is a limited number of lawyers qualified in specific aspects of criminal and civil law outside urban areas
- Insufficient funds allocated to legal aid



Priority areas for support

- Legislative drafting advice
- ✓ Development of action plans/policies
- ✓ Development of quality criteria for legal aid providers
- ✓ Establishing paralegal systems
- Institutional support
- Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Separate law on legal aid**
- **Implementing regulations for the law on legal aid**
- **Law on pretrial detention**
- **Law on the penitentiary**
- **Criminal procedure law**

The right to legal aid in criminal proceedings was first recognized in 1965 with the adoption of Criminal Procedure Law 5725-1965 which established the obligation of courts to provide a lawyer to unrepresented defendants in certain criminal cases.

Concerning legal aid in civil matters, the Legal Aid Law 1972-5732 was enacted in 1972. Several amendments have since been legislated in order to broaden eligibility for legal aid services in civil cases.

The most recent significant reform of the legal aid system took place in 1995, when Public Defender Law 5755-1995 established the Board of the Public Defender within the Ministry of Justice.

State-funded legal aid is available at national, regional and local levels.

Services included as part of legal aid

In both criminal and civil cases, legal aid is provided in the form of legal assistance and legal representation before courts and tribunals, and before the Psychiatric Evaluation Committee.

Additionally, in civil cases, legal aid lawyers provide legal assistance and representation before the Execution Office (under the auspices of the Enforcement and Collection Authority), legal information, legal advice and general assistance in navigating the justice system and in executing legal documents.

Specialized legal services are provided, *inter alia*, to children, Holocaust survivors, victims of trafficking, psychiatric patients in forced hospitalization, biological parents in adoption procedures, families of victims of fatal crimes (murder and manslaughter), appeals in social security cases, childcare allowance cases involving parties living outside of the national territory, and whistle-blowers.

Process for obtaining legal aid

Legal aid is provided upon request from the person who wants legal aid. In criminal matters specifically, it can be provided upon request from the police or from the court presiding over a case, which must inquire and assess eligibility during the first appearance of the parties. The determination is automatic if the case and/or legal aid recipient qualifies for legal aid services.

In both criminal and civil cases, a person must prove his/her eligibility by providing evidence of low income (if employed). In criminal cases, no proof is necessary when the State is obliged to provide legal aid under the law. In civil cases specifically, a person must provide evidence that his/her claim has merit.

In criminal matters, in some cases, legal aid is provided solely on the basis of the gravity of charges or potential outcomes; in others, it is provided on the basis of both the gravity of the case and financial need. Irrespective of these criteria, the courts can always decide to appoint a lawyer when it is in the interest of justice.

Awareness of the right to legal aid

The Legal Aid Administration advertises its services through publications and public outreach with relevant bodies, such as social services and non-governmental organisations. Independent national experts estimate that the general population is ‘somewhat knowledgeable’ about legal aid services.

Delivery model

Legal aid authority

The chief responsibility for the management and administration of legal aid rests with the Legal Aid Administration and the Public Defender’s Office, both under the auspices of the Ministry of Justice.

As required by the Public Defender Law, a ‘Board of the Public Defender’ is established to supervise the work of the Public Defender’s Office. This Committee is constituted by five members: the Minister of Justice, a retired Judge of the Supreme Court appointed by the President of the Supreme Court, a criminal lawyer appointed by the Israeli bar association, a criminal lawyer appointed by the Minister of Justice with the consent of the chair of the Israeli bar association, and a criminal law scholar.

Organisation of legal aid services

A mixed model of legal aid provision combines full-time lawyers employed by the State and private practitioners. State lawyers take up a small portion of cases and oversee the work of private lawyers.

Mechanism for assigning legal aid providers

State agencies or non-governmental organisations contact the Legal Aid Administration which appoints qualified legal aid providers.

Accessing legal aid in urban vs. rural areas

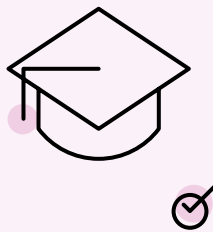
Legal aid services are available in both rural and urban areas.

Service providers

Lawyers and other providers

1/144

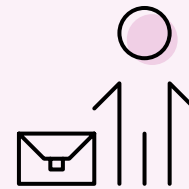
Licensed practicing
lawyers/people



**University-based
law clinics**

N/A

Full-time
legal aid lawyers/people



Not applicable ○

Paralegals
Are not allowed to operate independently

Qualifications required

Legal aid providers must have a law degree, have completed an internship with a State justice agency and show proof of passing a professional examination (bar examination). They must also be members of the bar association, be interviewed by and have a contractual relationship with the agency that oversees the administration of legal aid, and be registered in a State-authorized roster of legal aid providers. In civil matters specifically, legal aid providers must also demonstrate professional experience in the field in which they are to give legal advice or representation. To be hired as a staff member of the institutional legal aid provider, legal aid providers have to pass a separate exam.

While the law does not explicitly require legal aid providers to engage in continuing education or skill trainings, both the Legal Aid Administration and the Public Defender's Office organise mandatory regular trainings for all legal aid lawyers.

Finances

Costs to recipients

Primary legal aid services free of charge are available at the offices of the public defender and the Legal Aid Administration, at legal advice centres in cities and towns and prisons, and at the offices of civil society organisations. There are about sixty 'information provision counters' in cities (in prisons, hospitals, social affairs bureaus, various courts, etc.) where representatives of the Legal Aid Administration provide legal assistance. The bar association also maintains a roster of qualified lawyers available to provide legal advice for free.

Generally, legal aid services are free of charge for those meeting eligibility criteria. However, a legal aid recipient may be required to pay a minimal fixed fee to the State; this requirement can be waived in certain cases.

Legal aid in the annual justice budget

The national budget for legal aid is determined by the Ministry of Finance. There are no separate funding mechanisms to cover the costs of specialized legal aid providers' services for disadvantaged population groups. The State does however cover or contribute to the cost of additional services provided by independent investigators, independent experts, and psychological or social workers.

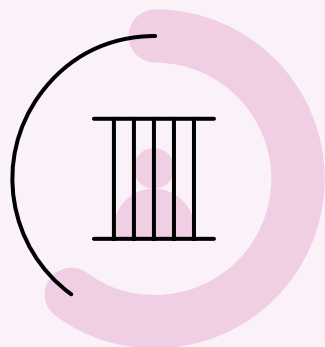
Payments to legal aid providers

Legal aid lawyers are either full-time salaried employees of the State or private practitioners. In both criminal and civil cases, private legal aid lawyers receive either a fixed fee for each case or a fixed fee for each action they take on a case, based on a report detailing each action taken. They can also be paid on an hourly basis for actions that the State has identified as a basis for payment. Generally, Legal Aid Regulations preset lawyers' fees in civil cases. In certain circumstances however, the particular nature of the legal aid assistance required for a given case may call for a case-specific fee.

In criminal cases, some legal aid providers work in law firms that receive funds from the State. Such law firms sign contracts with the State agency overseeing appointments and receive payment for a set number of cases.

Provision of legal aid

Legal aid in criminal cases



40-60%

Proportion of criminal court cases (2013)

Who is eligible?

Under the law, criminal legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence and persons who appear before parole boards. Legal aid is also available in certain proceedings to persons interrogated by a psychiatric evaluation board, to those against whom an extradition request was filed, and in cases specified in Section 18 of the Public Defender Law. Furthermore, courts maintain a broad discretion to appoint counsel as deemed required.

The State is *obliged* to provide legal aid to persons who meet a financial threshold, children, and persons with physical or mental disabilities. Legal aid is also provided when it is required by the interests of justice or due to the case's gravity, complexity, or case type, as identified in the law.

At what stage of a criminal case?

Under the law, legal aid is provided from the moment a State agency begins consideration of whether to impose pre-trial detention or restrictive measures, as well as during trial and a first appeal. The courts have broad discretion to appoint a legal aid lawyer at whichever stage it is deemed necessary.

To what extent are legal aid services in criminal cases seen as effective?

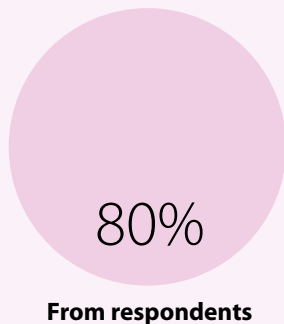
According to independent national experts, legal aid lawyers are just as effective as private lawyers in representing and advising clients. Independent national experts identify 'strength of evidence' to be one of the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

Legal aid in civil cases

Who is eligible?

Generally, legal aid in civil cases is *available* when the legal merit of the case is established, and when the legal aid applicant meets a financial threshold, which consists of two tests: the income test (for an individual or a family of up to three persons, the income level should be no more than 67% of the national average monthly wage of US\$1,635, with an additional 6% for every additional person in the household) and the property test (the applicant's realizable property, including savings, vehicles, etc., should not exceed triple the amount of the national average wage). The property test does not apply to a residential dwelling or the property of a spouse or partner.

Estimated demand for legal aid services in civil cases



1.12
The number of civil and administrative cases filed in court in 2013 was 1.12 times the number of criminal cases

Women's access to legal aid services

Legal aid is provided regardless of the financial criteria in certain cases, when the law notes that the interests of justice require it. This applies to cases related to the National Insurance Institute, cases involving Holocaust survivors, whistle-blowers, psychiatric patients in forced hospitalization, biological parents in adoption procedures and trafficking victims, all of whom are exempt from the financial test.

5 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available



Marital disputes and child custody issues



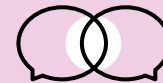
Labour and contractual disputes



Property issues



Claims for State services or disputes with State agency



Dispute resolution proceedings or mediation

For what actions is a party eligible for legal aid?

Further to the provision of primary legal aid, more specific legal aid can be offered to assist with drafting and filing complaints and responses, as well as with drafting motions. Legal aid can also be provided throughout trial and for any appeal (in national and international tribunals) or cassation.

Public interest litigation / class action cases:

Independent national experts are of the view that there is public demand for strategic litigation, public interest litigation and class actions addressing labour rights, discrimination, and health issues, and the State provides legal aid for such cases. Staff lawyers of the institutional legal aid provider coordinate at the national level to uniformly challenge common violations of national and international due process rights and human rights.

Legal aid advice and court support services are not provided automatically to female victims of violence (including victims of sexual and gender based violence), although women may be eligible for legal aid to appeal for restraining orders, prevention orders or the like. Such victims are also granted specific rights according to Crime Victims' Rights Law 5761-2001.

Access to legal aid for children

The justice system has specialized police officers / units and lawyers for representing child victims, child witnesses and suspected or accused children at the national level. When representing children, legal aid providers often reach out to parents, social workers and other childcare professionals for support to assist the child throughout proceedings.

In civil matters, legal aid may be given to children in matters of status or in proceedings according to the Youth (Care and Supervision) Law 5720-1960, either by means of a guardian or, where appropriate, a lawyer.

Legal aid and informal justice systems

Informal justice mechanisms allow a lawyer to provide assistance in formal mediation/alternative dispute resolution processes. There are mechanisms that allow cases to be referred for formal mediation, and for referral of cases between the formal and informal justice systems.

Informal justice proceedings are used for a wide range of civil cases, including marital or family disputes, child custody issues, inheritance disputes, informal contracts and labour agreements.

To qualify for formal mediation/alternative dispute resolution processes, legal aid providers must have a law degree and be members of the bar association.

Quality safeguards

Accountability for the quality of legal aid services

In criminal cases, if a person has a right to legal aid but no legal aid provider is available, or the provider is unprepared or unqualified, the proceedings must cease until a qualified legal aid provider arrives. In unique (and extremely rare) cases, if the court determines that the party did not receive proper representation, the proceedings may be declared invalid.

A legal aid provider can refuse to take a case or ask to be removed from the duty to represent a particular legal aid recipient due to having too many cases, due to lack expertise in the law or skills required by the specific case, or due to a conflict of interest with the legal aid recipient.

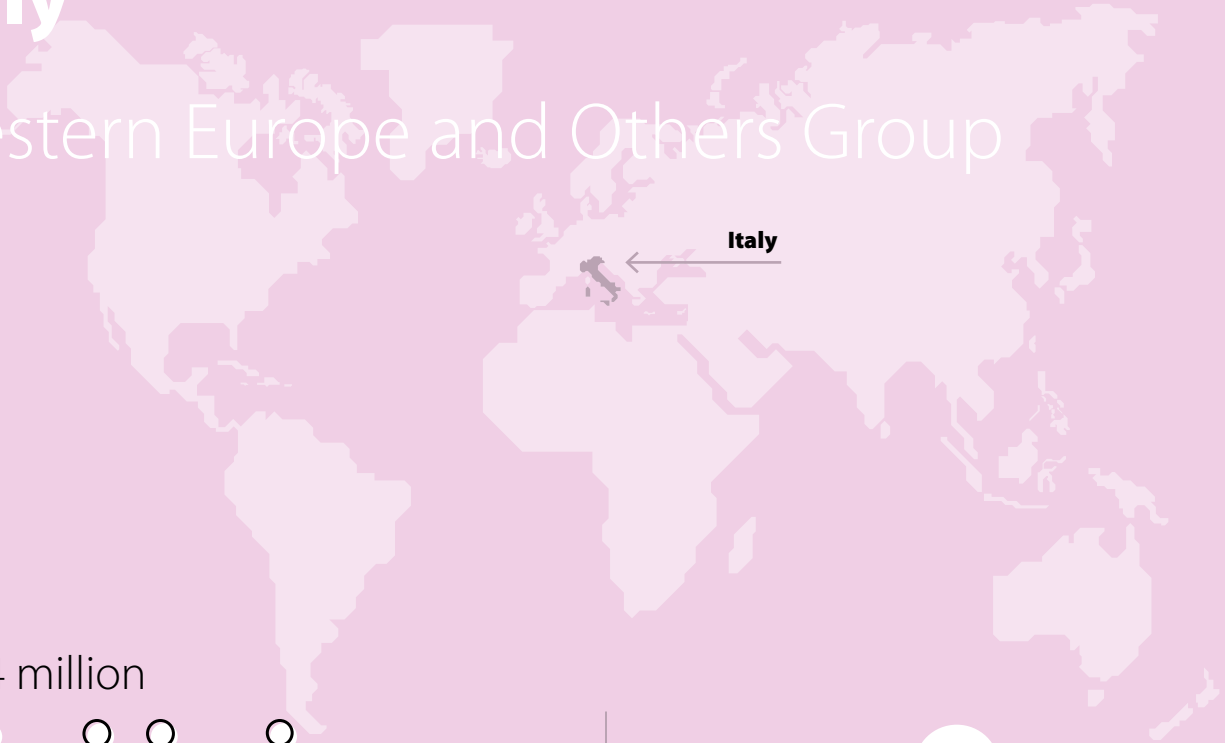
Monitoring and data collection on the quality of legal aid services

The quality of legal aid services is strictly supervised by the Public Defender's Office and the Legal Aid Administration.

Data for monitoring the quality of legal aid services is collected through the review of complaints by legal aid recipients about legal aid providers actions, through satisfaction surveys by legal aid recipients, and through the monitoring of services provided in court.

Italy

Western Europe and Others Group



61.34 million



Population



Unitary government system



31%

Rural population



69%

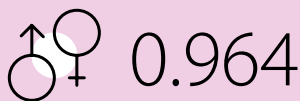
Urban population



Male literacy rate



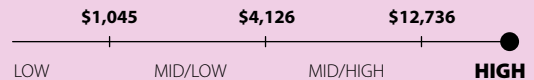
Female literacy rate



Gender Development Index



GNI per capita



0.873
HDI



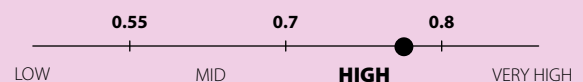
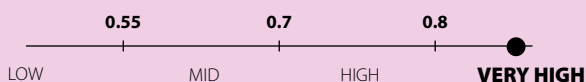
-11.5%

Loss in HDI due to inequality



0.773

Inequality-adjusted HDI



Legal Aid at a Glance in Italy



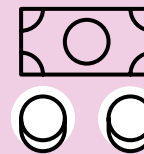
2005

The latest reform of the legal aid system was carried out in 2005



N/A

When was the last assessment of legal aid needs conducted

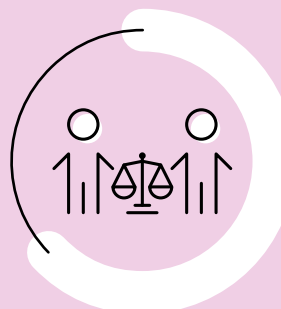
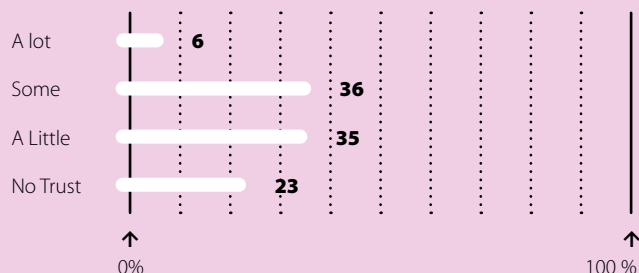


N/A

Annual expenditure on legal aid per capita in 2013

People's trust in courts

Citizen survey, WJP Rule of Law Index 2015

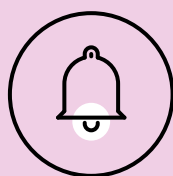


People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015

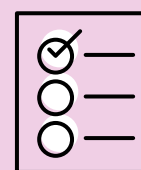
63%

Sample size: 219



Challenges in accessing legal aid

- ➔ Limited number of lawyers in the country to cover legal aid needs
- ➔ People sometimes do not understand how legal aid services can help them
- ➔ People may not know where to find legal assistance or may not be aware that legal aid services are available at little or no cost
- ➔ People sometimes lack confidence in the quality of legal aid services
- ➔ The bar association may be reluctant to allow paralegals to fill the gap of available lawyers



Priority areas for support

- ✓ Legislative drafting advice
- ✓ Development of action plans/policies
- ✓ Development of quality criteria for legal aid providers
- ✓ Establishing paralegal systems
- Institutional support
- Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Constitution**
- **Separate law on legal aid**
- **Criminal procedure law**

The right to legal aid was first recognized in the 19th century.

The most recent substantial reform of the legal aid system took place in 2005. The Ministry of Justice played an instrumental role in introducing this reform.

State-funded legal aid is available at national, regional and local levels.

Services included as part of legal aid

In criminal cases, legal aid is provided in the form of legal advice, legal assistance, legal representation, general assistance with navigating the justice system, and assistance with the execution of legal documents.

The State does not provide specialized legal aid services for specific population groups, but civil society organisations do, for children, women, migrants, refugees, asylum seekers and stateless persons.

Process for obtaining legal aid

The process for obtaining legal aid is initiated upon request from the person who wants legal aid. In criminal cases, the applicant must give his word that s/he meets financial or vulnerability criteria. The applicant could also be asked by the judge/lawyer to provide documentary evidence that s/he meets eligibility criteria.

Awareness of the right to legal aid

The State has not run a public information/awareness campaign on the right to legal aid in recent years. Independent national experts estimate that the general population is 'somewhat knowledgeable' about legal aid services.

Delivery model

Legal aid authority

The Ministry of Justice has the chief responsibility for the management of legal aid.

Organisation of legal aid services

Legal aid services in both criminal and civil cases are organised through panel appointments (ex officio, contract lawyers).

Public defender institutions work in parallel to State-funded private law firms and non-governmental legal service institutions which take assignments from the legal aid administration. At regional and local levels, civil society organisations, paralegals and *pro bono* volunteers also provide legal aid services, in coordination with the bar association and/or the legal aid administration.

Mechanism for assigning legal aid providers

The legal aid applicant may autonomously choose a legal aid provider among those registered in a duty roster maintained by the legal aid administration. Alternatively, courts, prosecutors, police and other State agencies can contact legal aid providers in the order listed on the duty roster when they receive notification about a person in need of legal aid.

In criminal cases, it takes 50 hours on average for a legal aid provider to appear after notice is given that legal aid is needed.

Accessing legal aid in urban vs. rural areas

The quality of legal aid services tends to be better in urban areas, but it also depends on each individual legal aid provider.

Service providers

Lawyers and other providers

1/248

Licensed practicing
lawyers/people

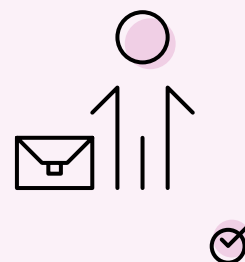


University-based law clinics

are only allowed to provide legal services under the supervision of a faculty member or practicing lawyer

N/A

Full-time
legal aid lawyers/people



Paralegals

Are not allowed to provide legal aid independently. In both criminal and civil cases, they are only allowed to provide general assistance in navigating the justice system

Qualifications required

Legal aid providers must have a law degree, must show proof of passing a professional examination, and have completed an internship with a practicing lawyer. They must also be members of the national bar and be registered in a State-authorized roster of legal aid providers.

Legal aid providers are required by the State to engage in continuing education or skills training, but the State does not allot funds to this effect. To qualify for legal aid work with children, women, migrants, refugees, asylum seekers and stateless persons, legal aid providers are required to have specialized training.

Finances

Costs to recipients

The State covers all legal aid costs in criminal cases.

Primary legal aid services are available free of charge at the bar association, which maintains a roster of qualified lawyers available to provide free legal advice; at the office of the public defender; in legal advice centres in city and/or town administrative offices; and at the office of certain civil society organisations.

Legal aid in the annual justice budget

The Ministry of Justice and the judiciary, as well as regional and local governments, determine the budget for legal aid, in consultation with the bar association and the legal aid administration.

The government does not provide separate funding to cover the cost of specialized legal aid services; such costs are covered by private companies and foundations. Additional services, such as independent investigations and experts, are covered by the State only in specific circumstances.

Payments to legal aid providers

Private legal aid lawyers usually provide services as needed on a part-time contractual basis with the legal aid administration. They typically receive a fixed fee for each action they take on a case, or can be paid on an hourly basis. Courts are in charge of disbursing payment to legal aid providers.

Provision of legal aid

Legal aid in criminal cases

Who is eligible?

In criminal cases, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, persons imprisoned on criminal charges, victims of crime, persons under investigation, and persons (not necessarily the offender) who have a civil or administrative liability as a consequence of the offence.

The State is *obliged* to provide legal aid to persons who meet a financial threshold. Legal aid is provided irrespectively of income for victims of specific categories of violence (e.g. stalking, domestic abuse, rape, child pornography, etc.)

At what stage of a criminal case?

Under the law, a suspect or defendant is entitled to legal aid at every procedural stage of a criminal case, and for every action of the proceedings for which the Italian criminal code requires the mandatory presence of a lawyer.

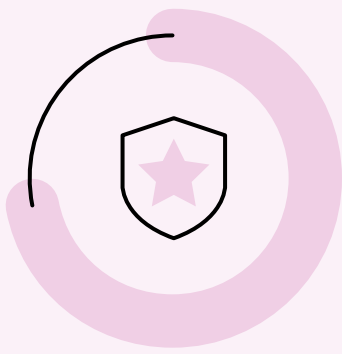
It is prohibited by law for the police to interview a suspect/defendant in the absence of a lawyer, unless the person is interviewed as a witness, and this is usually respected by the police in practice. Courts are strict about excluding evidence or statements made in the absence of a legal aid provider.

It is somewhat common for pre-trial detention to be used even when suspects have access to legal aid services.

To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that legal aid lawyers are less likely than private lawyers to perform action such as 'giving advice to the suspect/defendant in private before any contact with a State justice official', or 'conducting investigation to establish doubt about the suspect's/defendant's guilt even if the defendant may be guilty'. Meanwhile, experts estimate that there is no noticeable difference between the performance of legal aid lawyers and that of private lawyers with respect to 'challenging the reliability of evidence against the suspect/defendant', or 'advocating for alternative resolution of the case when the defendant is under 18 years of age'.

According to national experts, the most influential factors in reaching a dismissal of charges or acquittal in criminal cases are 'a well prepared and/or highly skilled lawyer', 'a poorly prepared prosecutor', 'the judge's objective analysis of evidence and testimony', and 'the strength of the evidence'.



72%

People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

Legal aid in civil cases

How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015



Who is eligible?

In civil cases, legal aid is available to persons who meet a financial threshold (around US\$12,000) and to children.

4 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available



Marital issues



Child custody issues



Property issues

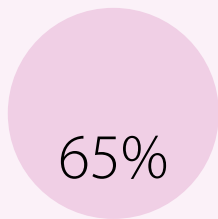


Labor disputes

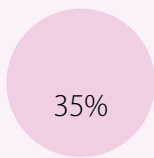
For what actions is a party eligible for legal aid?

Under the law, a person is entitled to legal aid during pre-trial hearings, independent investigations and trial, to assist with the drafting of motions, and for any appeal or cassation (including to international tribunals.)

Estimated demand for legal aid services in civil cases



From respondents



From complainants

5.7

In 2013, the number of civil court cases was 5.7 times higher than the number of criminal court cases

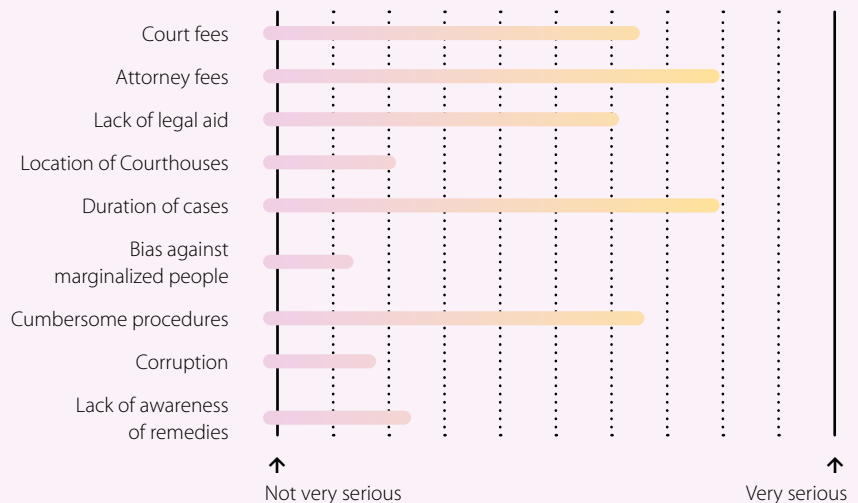
Women’s access to legal aid services

Public interest litigation / class action cases:

According to national experts, there is demand for legal aid for public interest litigation/class action addressing discrimination, labor rights, consumer rights, environmental protection and health. However, staff lawyers rarely coordinate to uniformly challenge common violations of national and international due process rights and human rights.

How serious are the following problems in influencing people’s decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

according to national experts, WJP Rule of Law Index 2015



According to national experts, the absence of specialized legal aid services for women is a significant obstacle to women’s access to legal aid. Experts add that women often do not know where to find legal assistance or may not be aware that legal aid services are available at little or no cost. Women also may not understand how legal aid services can help them, or may lack confidence in the quality of legal aid services provided to them. For all of these reasons, and because court processes are time-consuming, women often prefer not to seek out legal assistance.

Female victims of violence (including victims of sexual and gender based violence) receive legal aid services in all legal proceedings, as well as court support services, such as interpretation and translation of documents.

Access to legal aid for children

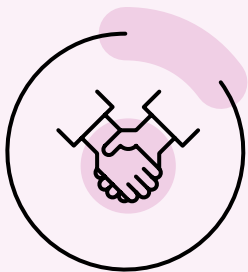
The justice system has specialized courts, judges and prosecutors specifically dedicated to handling cases involving child victims, child witnesses and suspected or accused children.

When representing children, legal aid providers often reach out to parents, social workers, and psychologists for support to assist the child throughout proceedings. In criminal cases involving suspected or accused children, diversion away from judicial proceedings is usually used.

National experts observe that in criminal cases where children are represented by legal aid providers, diversion and alternatives to pre-trial detention are achieved at a slightly lower rate than in cases where children are represented by private lawyers. Experts note however that there is no noticeable difference in performance regarding alternatives to imprisonment.

Comparing cases where children are represented by legal aid providers specialized in children's rights, and cases where children are represented by non-specialized legal aid providers, independent national experts observe that the use of diversion, alternatives to pre-trial detention, and alternatives to imprisonment are achieved at a higher rate.

Legal aid and informal justice systems



15%

Disputes resolved through formal mediation or alternative dispute resolution processes

Informal justice proceedings typically handle marital or family disputes, land and property disputes, informal contracts and labor agreements.

According to national experts, people prefer to resolve disputes through informal justice proceedings because they take less time, and because informal tribunals are more conveniently located. Experts also note that people may believe that informal justice mechanisms are likely to lead to a negotiated outcome that is more acceptable to all parties. There may also be a sense amongst people that in informal justice proceedings, the wealthy and the poor are on equal footing.

Informal justice mechanisms allow for a lawyer to provide assistance in formal mediation/alternative dispute resolution processes. Legal aid providers need at least a mediation training certificate for formal mediation/alternative dispute resolution processes.

Quality safeguards

Accountability for the quality of legal aid services

Legal aid providers are obliged to adhere to ethical rules established by the bar association.

If a person has a right to legal aid, but no legal aid provider is available, or the provider is unprepared or unqualified, the proceedings must cease until a qualified legal aid provider arrives. In both criminal and civil cases, if a party is denied access to legal aid, s/he has a right to appeal that decision.

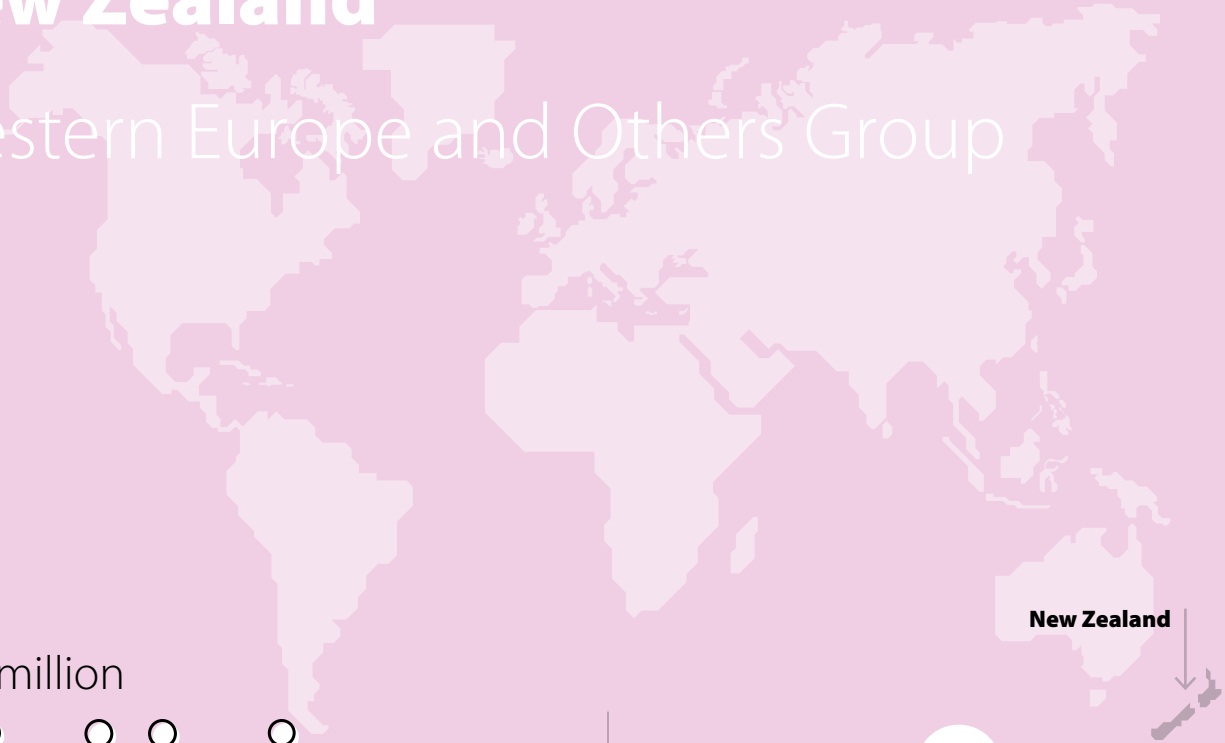
A legal aid provider can refuse to take a case, or ask to be removed from the duty to represent a particular legal aid recipient. In criminal matters, once a case is appointed to a legal aid provider, legal aid institutions try to ensure that the same provider represents the accused/suspect at all stages of the case.

Monitoring and data collection on the quality of legal aid services

There is no official mechanism to monitor the quality of legal aid services, which is mainly monitored by civil society organisations.

New Zealand

Western Europe and Others Group



New Zealand

4.51 million



Population

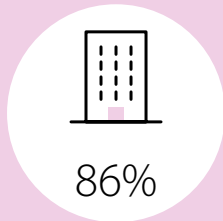


Unitary government system



14%

Rural population



86%

Urban population



N/A

Male literacy rate



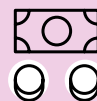
N/A

Female literacy rate



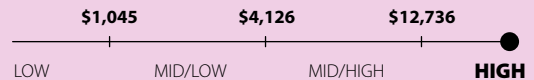
0.961

Gender Development Index



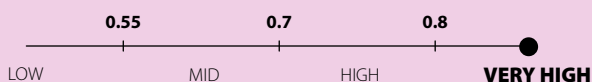
\$31,890

GNI per capita



0.913

HDI

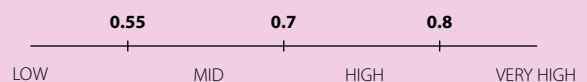


N/A

Loss in HDI due to inequality

N/A

Inequality-adjusted HDI



Legal Aid at a Glance in New Zealand



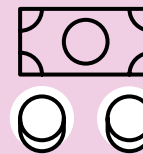
2013

The latest reform of the legal aid system was carried out in 2013



More than 5 years ago

When was the last assessment of legal aid needs conducted.
See the 2006 National Survey of Unmet Legal Needs and Access to Services

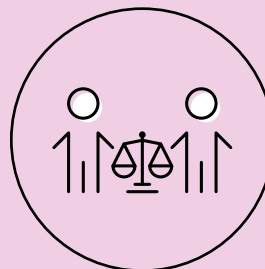
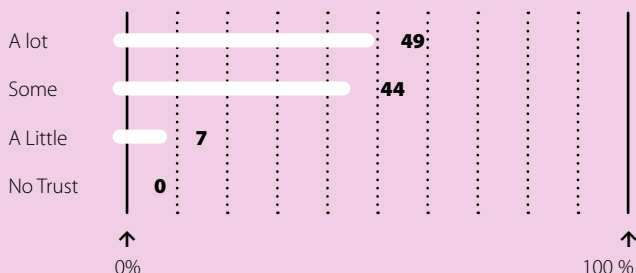


\$21.50

Annual expenditure
on legal aid per capita in 2013

People's trust in courts

Citizen survey, WJP Rule of Law Index 2015

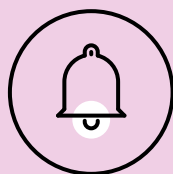


People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015

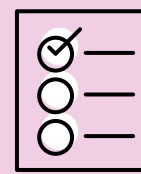
N/A

Sample size: N/A



Challenges in accessing legal aid

- In some jurisdictions, there is a limited number of lawyers outside urban areas
- Lawyers are paid little for legal aid work (in the view of lawyers); generally, covering the cost of police, prosecutors and judges is prioritized over spending public funds on lawyers to defend accused criminals
- People may not always know where to find legal assistance, or may not know that legal aid services are available at little or no cost
- People may lack confidence in the quality of legal aid services; some may think that legal aid lawyers are working as part of the police, prosecutor or judicial agencies
- When people ask for legal aid, it may sometimes happen that state agencies withhold assistance or encourage people to waive their right to legal aid



Priority areas for support

- Legislative drafting advice
- Development of action plans/policies
- Development of quality criteria for legal aid providers
- Establishing paralegal systems
- Institutional support
- Training
- ✓ Learning and experience sharing on legal aid systems around the world

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Separate law on legal aid**
- **Implementing regulations for the law on legal aid;**
- **Law on judicial procedure;**
- **Administrative law;**
- **Laws on pre-trial detention;**
- **Criminal procedure law;**
- **Regulations addressing state actors**

Services included as part of legal aid

Process for obtaining legal aid

The right to legal aid was first recognized in 1912 with the adoption of the Justices of the Peace Amendment Act which made legal aid available for criminal offences.

The latest reform of the legal aid system took place in 2013, when the Parliament adopted the Legal Services Amendment Act which adjusted the eligibility criteria and introduced a user charge for civil and family cases. The Act also introduced initiatives to encourage prompt repayment of legal aid debt by those who can afford to pay it.

State-funded legal aid is available at national, regional and local levels.

For both civil and criminal cases, legal aid is provided in the form of legal advice, legal representation (in all courts and some tribunals), legal assistance (before national tribunals), and legal information. Legal aid lawyers also provide general assistance in navigating the justice system and in executing legal documents.

Specialized legal aid services are rarely provided by the State for disadvantaged population groups, except for children.

Legal aid is provided upon request from the person who wants legal aid, or upon request from a legal aid provider.

To prove eligibility to legal aid, an applicant has to submit a mix of proofs, depending on the circumstances or type of legal assistance requested. In both criminal and civil cases, a person must prove her/his eligibility by proving status as a recipient of welfare or state subsidies, by demonstrating family hardship (e.g. multiple children, single parent, family member disability, etc.), by providing evidence of low income (if employed, by providing tax filing for the previous year) or membership of a protected group (e.g. migrants, children, displaced persons, refugees, etc.). Alternatively, the applicant's word that s/he meets financial or vulnerability criteria may be sufficient.

In criminal cases specifically, the agency or official responsible for the appointment of legal aid lawyers may also have to confirm that the interests of justice require provision of legal aid in a given specific case. In civil cases, proof that the legal aid applicant's claim has merit may also be required. The Legal Services Commissioner can exercise discretion on cases that are borderline.

Awareness of the right to legal aid

The State has never conducted any public information/awareness campaigns on the right to legal aid or on how to obtain legal aid services. Independent national experts estimate that the general population is 'somewhat knowledgeable' about legal aid services.

Delivery model

Legal aid authority

The chief responsibility for the management and administration of legal aid rests with the Ministry of Justice which, *inter alia*, oversees and coordinates the function of legal aid appointment mechanisms, safeguards the rights of legal aid recipients, establishes legal aid strategy and policy etc.

Organisation of legal aid services

In both criminal and civil cases, legal aid services are organised through the Legal Aid Services which operates in accordance with the Legal Services Act 2011 administered by the Ministry of Justice, under the control of two statutory officers: the Secretary for Justice and the Legal Services Commissioner.

The Secretary for Justice is responsible for purchasing and managing high quality legal services. The Legal Services Commissioner ensures independence from the Secretary for Justice when making decisions on granting legal aid to individuals.

The Legal Aid Services work in parallel to State-funded private practitioners who take assignments to represent people eligible for legal aid, sometimes through *pro bono* schemes.

Mechanism for assigning legal aid providers

Legal aid providers are assigned through the Legal Aid Services which manages a roster system of legal aid providers for minor criminal cases. For major criminal cases and for all civil cases, the applicant may select a legal aid provider by her/himself. There are also legal aid providers on duty in courts and police precincts.

It usually takes more or less three days for a legal aid provider to appear after notice is given that legal aid is needed in a criminal case.

Accessing legal aid in urban vs. rural areas

Legal aid services are available in both rural and urban areas. In very isolated rural areas, the Legal Aid Services make sure to assign a legal aid provider who is prepared to travel to rural courts, and provide financial assistance towards her/his travel costs.

Although the quality of legal aid services generally depends on each individual legal provider, it tends to be higher in urban areas, where legal aid providers have more independence to challenge the actions of other justice actors.

Service providers

Lawyers and other providers

1/375

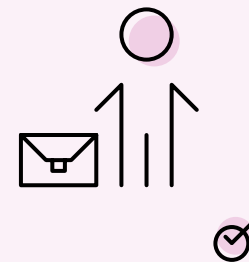
Licensed practicing
lawyers/people



**University-based
law clinics**

1/2,373

Full-time
legal aid lawyers/people



Paralegals

Qualifications required

Legal aid providers must have a law degree, a professional license and must show proof of passing a professional examination (bar examination). They must also be members of the national bar, have a contractual relationship with the agency that oversees the administration of legal aid, be registered with a State-authorized roster of legal aid providers, and have professional experience as specified in the schedule of the Quality Assurance Regulations.

All legal aid providers are required by the legal aid administration and the State to engage in continuing education and/or skills training. Specialized training is required to qualify for work with specific disadvantaged population groups, such as persons with disabilities, children, refugees, etc. The cost of such education and training is not covered by the State.

Paralegals

Grassroots Legal Advocates, Namati 2016

Are community paralegals recognized by law?

Yes, community paralegals in the form of community workers are recognized by law. Community legal services are provided by 24 community law centres across the country. Most community law centres employ lawyers and paralegals or community workers; some also have volunteer lawyers and law students.

Does any public revenue fund paralegals?

Yes, public revenue does fund paralegals or community workers. The Ministry of Justice funds community law centres to provide legal services including legal information and education, legal advice, assistance and representation for those who cannot afford to pay for such services. The funding has traditionally come from the Lawyers and Conveyancers Special Fund, which is derived from interest earned on lawyers' trust accounts. The government recently added additional funding due to low returns.

Can paralegals engage in litigation (with or without the help of lawyers)?

Yes. While community paralegals cannot appear in court with or without the help of lawyers, they may engage in other stages of the litigation process. They can provide legal advice, assistance, and representation so long as they have the appropriate level of knowledge and expertise required to resolve the legal matter. Where they do not have this expertise, their work is supervised.

Are there boards that monitor community paralegals?

Yes, community paralegals are monitored in accordance with the Ministry of Justice's national performance standards. All community law centres are required to meet these standards.

Finances

Costs to recipients

Primary legal aid services are available free of charge at the offices of the Police Detention Legal Assistance Service and the Family Legal Advice Service. Duty lawyers are also available at District Courts to assist unrepresented people appearing in court on any given day, or to assist applicants in completing their legal aid application form.

Legal aid in the annual justice budget

The costs of legal aid services in both criminal and civil cases are covered by the State for those meeting eligibility criteria. This assistance takes the form of a loan from the State, which in approximately 80% of cases is written off due to hardship. For certain cases, the loan does not have to be repaid (e.g. in domestic violence cases). There are also set fees for certain actions (e.g. in most civil cases, there is a \$50 user charge if the applicant is approved for legal aid).



Legal aid budget per capita in 2013



The annual legal aid budget increased by 0.06% from 2010/11 to 2013/14

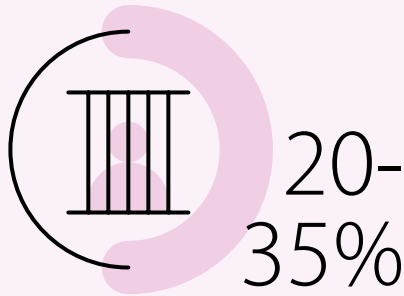
Legal aid is a separate component in the annual justice system budget. The national budget for legal aid is determined by the Ministry of Justice. There is no separate funding mechanism to cover the cost of specialized legal aid services for specific population groups. Additional services, such as independent investigation, forensic expertise and psychological or social work support, are sometimes covered by the State.

Payments to legal aid providers

In both criminal and civil cases, legal aid providers receive a fixed fee for each action they take on a case and report to the agency authorised to issue payment. They can also be paid on an hourly basis for actions that the State has identified as a basis for payment. In criminal cases specifically, legal aid providers work full-time in institutions funded by the State.

Provision of legal aid

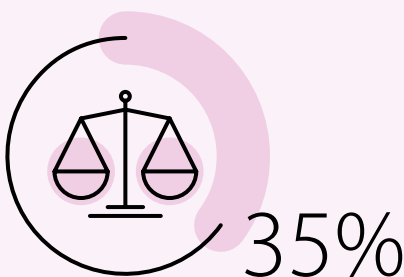
Legal aid in criminal cases



Proportion of criminal court cases (2013)

7.2

In 2013, the number of criminal cases filed in court was 7.2 times higher than the number of civil cases filed in court



In 2013, State-funded legal aid was provided in roughly 35% of criminal cases

Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, and persons imprisoned on criminal charges.

The State is *obliged* to provide legal aid to persons with intellectual/mental disabilities, persons who face a potential prison sentence (6 months or more), and persons who meet a financial threshold. Legal aid is also provided when it is required by the interests of justice or due to the case's gravity, complexity, or case type, as identified in the law.

At what stage of a criminal case?

Under the law, qualified legal assistance may be requested from the moment a State agency begins consideration of whether to impose pre-trial determination or restrictive measures, or at least from the moment charges are officially filed. It is also provided whenever a person is confined in police custody or other State facility, and during a search of the suspect's/defendant's residence. Legal aid is offered during trial, for any appeal or cassation, as well as for representation of prisoners in cases involving serious disciplinary charges, or for consideration of probation or social rehabilitation/reintegration matters, after release from prison.

It is prohibited by law for the police to interview someone in the absence of a lawyer from the moment the person is officially suspected or accused, unless the person waives this right, or if s/he is interviewed as a witness. This can be problematic as the police sometimes determine the person to have a right to legal aid only after the witness has incriminated him/herself.

In practice, the police and/or prosecutors usually wait some time for a legal aid provider to arrive, but if it takes too long, the questioning begins even in the absence of a lawyer. It is not uncommon for pre-trial detention to be used even when suspects have access to legal aid services.

1.5%

In 2013, 1.5% of all criminal cases filed in court were acquitted after trial



100%

People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that legal aid lawyers are less likely than private lawyers to give advice to the suspect/defendant in private before any contact with a state justice official. Furthermore, experts identify ‘a well-prepared and/or highly skilled lawyer’, ‘a poorly prepared prosecutor’, ‘the judge’s objective analysis of evidence and testimony’, ‘availability of an independent expert testimony’, and ‘the strength of the evidence’ to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

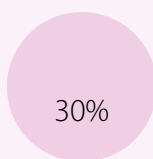
How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015

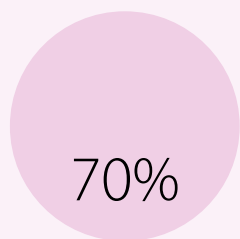


Legal aid in civil cases

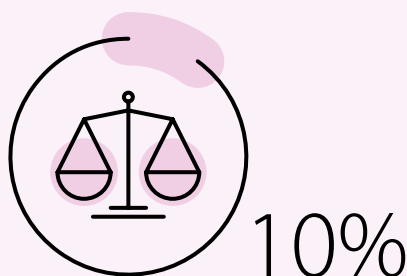
Estimated demand for legal aid services in civil cases



From respondents



From complainants



In 2013, State-funded legal aid was provided in roughly 10% of civil and administrative cases

Who is eligible?

Legal aid in civil cases is available to persons who meet a financial threshold (it is a sliding scale based on the applicant's income and dependents: US\$14,859 if single, and up to US\$46,053 if the applicant has a partner/spouse and up to five children. US\$4,260 is added onto the maximum threshold for each additional child.) It is also available to children, persons with intellectual/mental disabilities and refugees, provided that the case satisfies a merit test. Legal aid is also provided when it is required by the interests of justice or due to the case's gravity, complexity, or case type, as identified in the law.

5 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available



Child custody issues and marital disputes



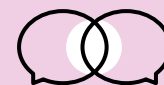
Property issues



Contractual disputes



Administrative matters and claims for State services or disputes with State agencies



Dispute resolution proceedings or mediation

Legal aid is also commonly sought for domestic violence and mental health cases, but legal aid is not available for these types of cases.

For what actions is a party eligible for legal aid?

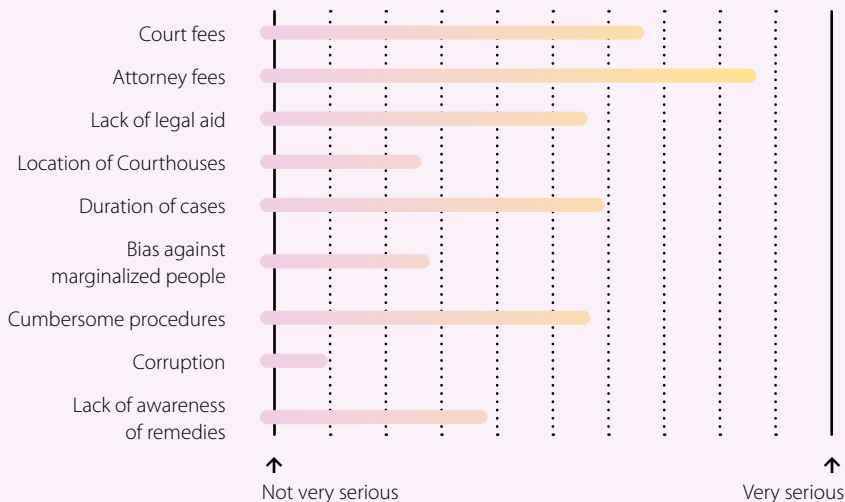
Further to the provision of primary legal aid, more specific legal aid can be offered to assist with drafting and filing complaints and responses, conducting negotiations between parties, and drafting motions. Legal aid can also be provided for mediation and pre-trial hearings, during trial, and for any appeal or cassation.

Public interest litigation / class action cases:

In New Zealand, legal aid is only available to individuals, not groups (except for representatives of Maori groups in Waitangi Tribunal cases). Nonetheless, independent national experts are of the view that there is public demand for public interest litigation and class action cases addressing labour rights, discrimination, and health.

How serious are the following problems in influencing people’s decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

According to national experts, WJP Rule of Law Index 2015



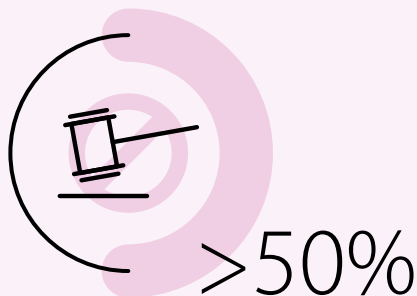
Women’s access to legal aid services

Female victims of violence (including victims of sexual and gender-based violence) receive legal aid (as well as court support services) only in some legal proceedings. It must however be stressed that legal aid services are provided to all victims, regardless of gender, and as such, there are no specialized legal aid services for women.

National experts explain that one significant challenge faced by women in need of legal aid is that means tests for eligibility to legal aid often consider overall household income rather than the women’s income specifically (which tends to be considerably lower.) Experts add that women are often unaware that legal aid services are available at little or no cost, and they sometimes do not understand how legal aid services can help them.

Access to legal aid for children

The justice system has specialized courts, judges, lawyers and paralegals working with child victims, child witnesses, and suspected or accused children. When representing children, legal aid providers routinely reach out to parents, psychologists and other childcare professionals for support to assist the child throughout proceedings.



In more than 50% of cases when children are suspected or charged with a criminal offence, the case is diverted from the formal justice system without trial (e.g. through mediation, a warning, or an apology)

Legal aid and informal justice systems

As required by the legal framework, legal aid providers representing children are mindful to respect a number of child-friendly measures, such as preventing the child from giving statements to the police against his/her interests, preventing the disclosure of information about pending charges to the child's school, community or media, exploring diversion and alternative measures to prevent pre-trial detention and/or deprivation of liberty if the child is found culpable, and ensuring that a child held in custody is separated from adult detainees.

Acting at their own initiative, legal aid providers also ensure the presence of parents at all times, comfortable and child-friendly surroundings for meetings with justice officials, and limitation of the number of interviews with the child.

Informal justice proceedings are typically used to resolve disputes related to family and child custody issues, land and property, inheritance, and informal contracts and labour agreements.

Informal justice mechanisms allow a lawyer to provide assistance in formal mediation/alternative dispute resolution processes, and there are mechanisms that allow cases to be referred between the formal and informal justice systems. To qualify for formal mediation/alternative dispute resolution processes, legal aid providers must have a law degree.

Quality safeguards

Accountability for the quality of legal aid services

Legal aid providers are required to adhere to specific quality and performance standards, as well as ethical rules, established by the bar association.

In both criminal cases and civil cases, if a party is denied access to legal aid, that party has a right to appeal that decision. If no legal aid provider arrives, or if a legal aid provider is unprepared or unqualified, the proceeding is postponed, or a replacement legal aid lawyer is asked to represent the party. The Legal Aid Services has a customer complaints mechanism that can be used if a client feels that his/her provider is unprepared. All complaints are investigated and if necessary, the Legal Aid Services contact the New Zealand Law Society to refer a complaint for further investigation, and a regulatory outcome can be applied.

A legal aid provider appointed to a case almost always remains on that case until the case is resolved in the court of first instance.

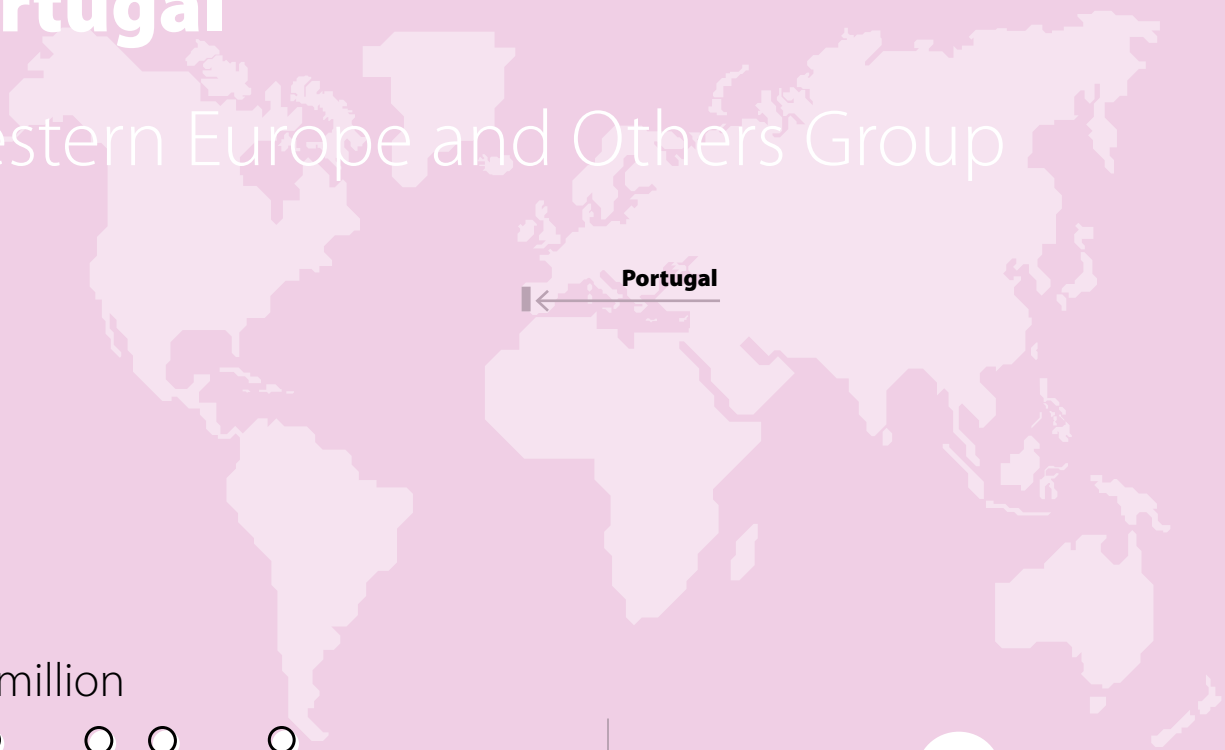
A legal aid provider can refuse to take a case, or ask to be removed from a case, due to having too many cases, due to lacking expertise in the law or skills required by the specific case, or due to a conflict of interest with the legal aid recipient.

Monitoring and data collection on the quality of legal aid services

The Legal Aid Services operate a quality assurance framework which includes a complaints investigation mechanism and annual audits of the quality of legal aid services provided by lawyers. Data for monitoring the quality of legal aid services is also collected through satisfaction questionnaires filled by legal aid recipients.

Portugal

Western Europe and Others Group



10.4 million



Population



Unitary government system



37%

Rural population



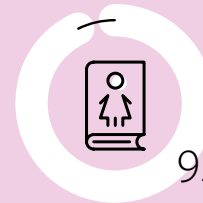
63%

Urban population



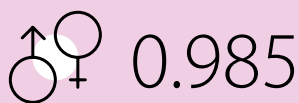
96%

Male literacy rate



93%

Female literacy rate



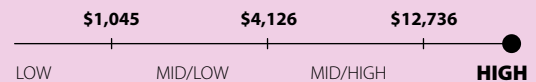
0.985

Gender Development Index



\$21,360

GNI per capita



0.830

HDI



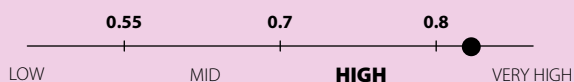
-10.4%

Loss in HDI due to inequality



0.744

Inequality-adjusted HDI



Legal Aid at a Glance in Portugal



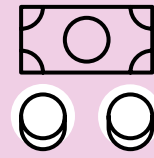
2007

The latest reform of the legal aid system was carried out in 2007



2015

When was the last assessment of legal aid needs conducted
The last assessment was conducted in May 2015

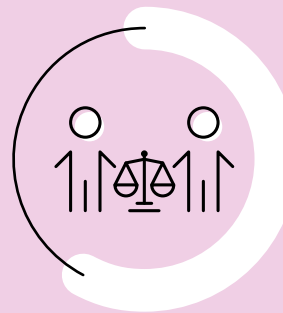
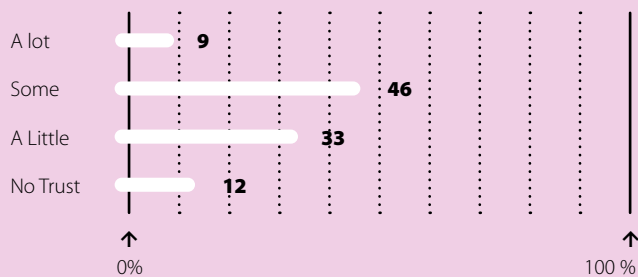


N/A

Annual expenditure
on legal aid per capita in 2013

People's trust in courts

Citizen survey, WJP Rule of Law Index 2015

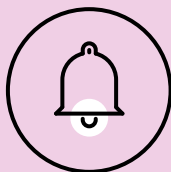


People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015

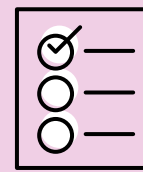
58%

Sample size: 140



Challenges in accessing legal aid

- People may not know where to find legal assistance
- The legal aid work flow could be improved to be swifter



Priority areas for support

N/A

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Constitution**
- **Separate law on legal aid**
- **Orders implementing the law and Statutes of the Portuguese Bar Association**

The right to legal aid was first recognized in 1899.

The latest reform of the legal aid system took place in 2007, when Law No. 47/2007 was adopted to enhance access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes.

State-funded legal aid is available at national, regional and local levels.

Services included as part of legal aid

For both civil and criminal cases, legal aid is provided in the form of legal advice, legal representation, legal assistance (before national tribunals), and provision of legal information. Legal aid lawyers also provide general assistance in navigating the justice system and in executing legal documents.

Specialized legal aid services are not provided to disadvantaged population groups.

Process for obtaining legal aid

Legal aid is provided upon request from the person who wants legal aid, or upon request from the prosecutor or the legal aid provider.

In both criminal and civil cases, a person must prove her/his eligibility by proving status as a recipient of welfare or state subsidies, by demonstrating family hardship (e.g. multiple children, single parent, family member disability, etc.) or by providing evidence of low income (if employed, e.g. tax filing for the previous year.)

Awareness of the right to legal aid

The State has never conducted any public information/awareness campaign on the right to legal aid or on how to obtain legal aid services.

Independent national experts estimate that the general population is 'somewhat knowledgeable' about legal aid services.

Delivery model

Legal aid authority

The policy for the management and administration of legal aid rests with the Ministry of Justice and the bar association which, oversee and coordinate the legal aid appointment mechanism, establish the national legal aid strategy and policy (based on a review of data on legal aid services), and set performance standards for the delivery of legal aid.

Organisation of legal aid services

In both criminal and civil cases, legal aid services are organised through the bar association. Legal aid is also provided through *pro bono* schemes.

Mechanism for assigning legal aid providers

The courts and the police have a roster of duty legal aid providers for a given day, and call them in the given order. They can also contact the bar association, which coordinates the appointment of lawyers and the delivery of legal aid services.

Usually, it takes about one hour for a legal aid provider to appear after notice is given that legal aid is needed in a criminal case.

Accessing legal aid in urban vs. rural areas

Legal aid services are available in both rural and urban areas. The quality of legal aid services depends on each individual legal aid provider, under the Bar Association supervision.

Service providers

Lawyers and other providers

1/308

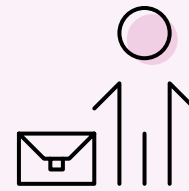
Licensed practicing
lawyers/people



**University-based
law clinics**

N/A

Full-time
legal aid lawyers/people



Not applicable
Paralegals

Qualifications required

Legal aid providers must have a law degree and must show proof of passing a professional examination (bar examination). They must also be members of the national bar and have completed an internship with a practicing lawyer.

Legal aid providers are not required to engage in continuing education and/or skills training. However, if a lawyer undergoes training at his/her own initiative, the State allots funds to cover the cost of such training.

Finances

Costs to recipients

Primary legal aid services are available free of charge at legal advice centres in cities and towns, as well as at the bar association which maintains a roster of qualified lawyers available to provide legal advice.

Legal aid services are free of charge to those meeting eligibility criteria. In certain circumstances, a legal aid recipient may be required to pay a percentage of the cost, as determined by a sliding scale of payment, based on the financial status of the legal aid recipient.

Legal aid in the annual justice budget

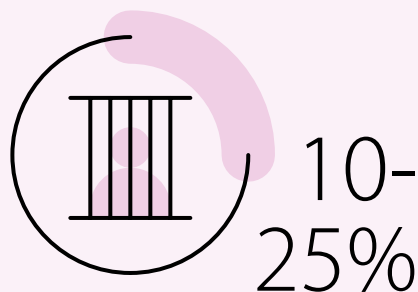
There is no separate component on legal aid in the annual justice system budget. The national budget for legal aid is determined by the Ministry of Justice. There is no separate funding mechanism to cover the cost of specialized legal aid services provided to specific population groups. Additional services, such as independent investigation, experts and clerical assistance, are not covered by the State.

Payments to legal aid providers

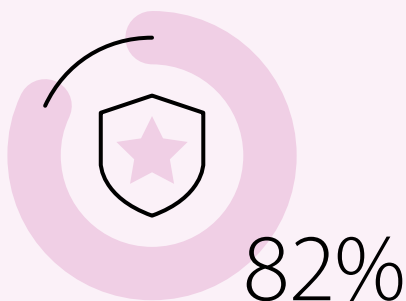
Legal aid lawyers do not provide legal aid on a full-time basis. In both criminal and civil cases, legal aid providers receive a fixed fee for each case or for each procedural action that a State agent witnesses and approves in writing.

Provision of legal aid

Legal aid in criminal cases



Proportion of criminal court cases (2013)



People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, persons imprisoned on criminal charges, victims of crime and witnesses.

The State is *obliged* to provide legal aid to persons who meet a financial threshold, children, and persons with physical and intellectual/mental disabilities.

At what stage of a criminal case?

Under the law, qualified legal assistance may be requested from the moment a person is formally considered a suspect, i.e. when s/he gets the procedural status of '*arguido*'.

In Portugal, it is prohibited by law for the police to interview a person in the absence of a lawyer, unless the person is interviewed as a witness.

To what extent are legal aid services in criminal cases seen as effective?

Comparing the services of legal aid providers to services of private lawyers, independent national experts estimate that there is no significant difference in the quality of services provided by legal aid lawyers and private lawyers, except for certain actions. For instance, when compared with private lawyers, experts estimate that legal aid providers are less likely to give advice to the suspect/defendant in private before any contact with a State justice official, and less likely to conduct investigations to establish doubt about the suspect/defendant's guilt even if this person may be guilty.

20%

In 2013, roughly 20% of criminal cases filed in court were acquitted after trial

Furthermore, national experts identify ‘a well-prepared and/or highly skilled lawyer’, ‘a poorly prepared prosecutor’, and ‘the judge’s objective analysis of evidence and testimony’ to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

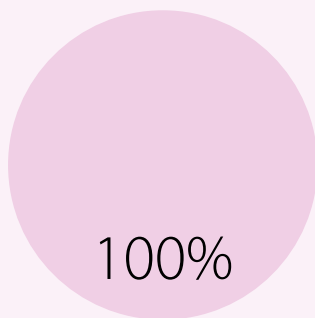
How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015



Legal aid in civil cases

Estimated demand for legal aid services in civil cases



From respondents

0%

From complainants

Who is eligible?

Legal aid in civil cases is available to persons who meet a financial threshold.

5 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available

- Marital disputes and child custody issues
- Property issues
- Labor disputes
- Administrative matters and claims for State services or disputes with State agencies
- Contractual disputes

For what actions is a party eligible for legal aid?

Further to the provision of primary legal aid, more specific legal aid can be offered to assist with drafting and filing complaints and responses, gaining access to State agencies, and drafting motions. Legal aid can also be provided for mediation, during trial, and for any appeal or cassation.

6.4

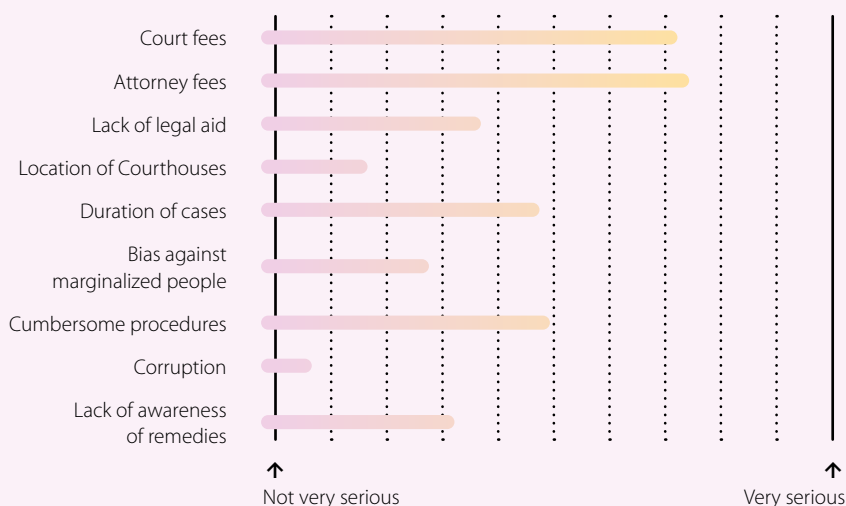
In 2013, the number of civil and administrative cases filed in court was 6.4 times higher than the number of criminal cases

Public interest litigation / class action cases:

State experts are of the view that there is public demand for public interest litigation and class action cases to address discrimination, labour rights, consumer rights, environmental protection or health issues.

How serious are the following problems in influencing people’s decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

According to national experts, WJP Rule of Law Index 2015



Women’s access to legal aid services

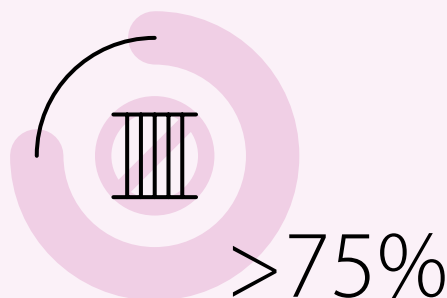
There are no specialized legal aid services for women. Female victims of violence (including victims of sexual and gender-based violence) do not receive specific legal aid services or court support services in legal proceedings.

According to national experts, a significant challenge faced by women in need of legal aid is that the means tests for eligibility to legal aid often consider overall household income rather than the women’s income specifically (which is often considerably lower). Furthermore, experts note that women may not always know that legal aid services are available at little or no cost, and may not understand how legal aid services can help them. They may also be reluctant to seek out legal assistance, especially when they see court processes as too time-consuming.

Access to legal aid for children

While there are no specialized legal aid services for children, children are always represented by lawyers, in court. The justice system has specialized courts, judges and prosecutors for child victims, child witnesses, and suspected or accused children. However, when representing children, lawyers rarely reach out to child-care professionals for support to assist the child throughout the proceedings.

In criminal proceedings involving suspected or accused children, diversion away from judicial proceedings is occasionally used.



In more than 75% of cases where a child was found culpable, an alternative to imprisonment was imposed (2013)

Legal aid and informal justice systems

National experts explain that people sometimes prefer to resolve disputes through informal justice proceedings because they are less time-consuming.

Informal justice mechanisms allow a lawyer to provide assistance in formal mediation/alternative dispute resolution processes, and there are mechanisms that allow cases to be referred between the formal and informal justice systems.

To qualify for formal mediation/alternative dispute resolution processes, legal aid providers must have a law degree.

Quality safeguards

Accountability for the quality of legal aid services

When a legal aid provider is unprepared or unqualified, or when no legal aid provider arrives, the proceeding is postponed or a replacement legal aid provider is asked to represent the party. It should however be noted that there is no formal means of assessing the level of preparedness or the qualifications of a legal aid provider.

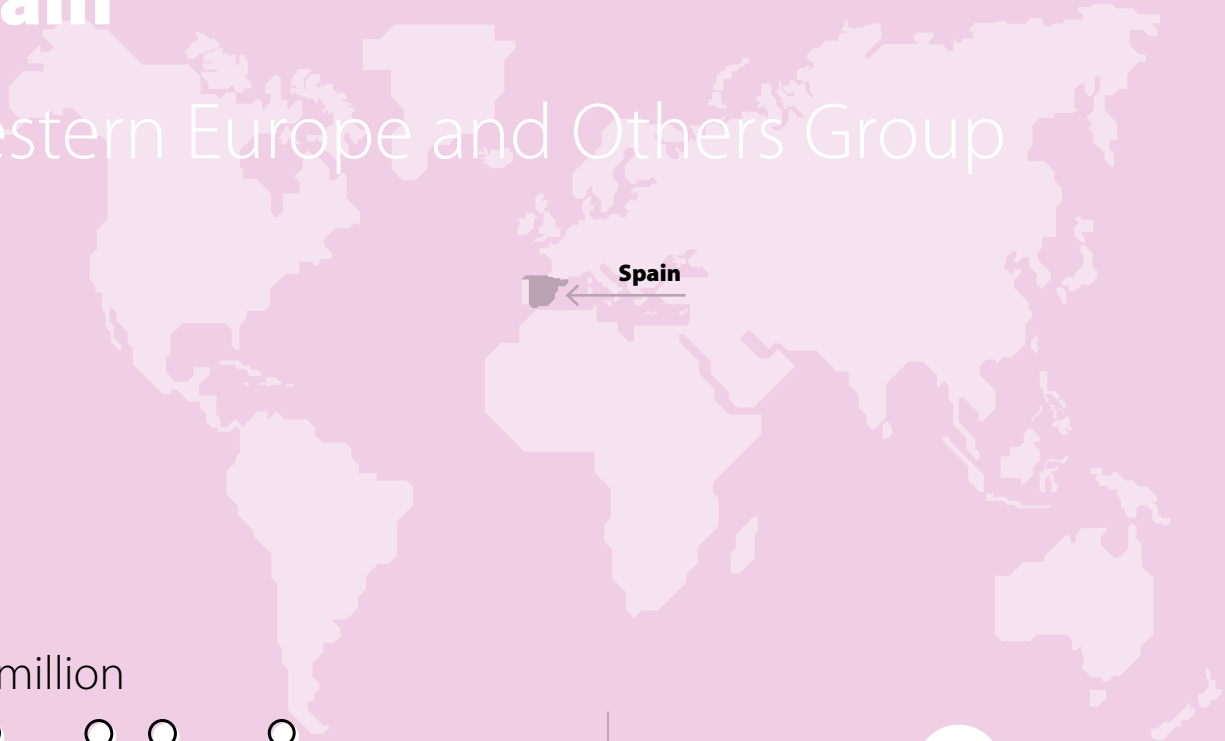
Monitoring and data collection on the quality of legal aid services

A legal aid provider can refuse to take a case or ask to be removed from the duty to represent a particular legal aid recipient due to having too many cases, or due to a conflict of interest or incompatibility with the legal aid recipient.

Formal responsibility for monitoring the quality of legal aid services rests with the Ministry of Justice, the bar association, the judiciary, and the prosecution office. Data is collected through assessments by justice actors and through the monitoring of court services.

Spain

Western Europe and Others Group



46.4 million



Population

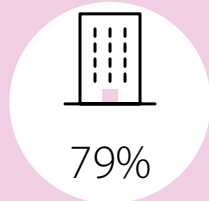


Unitary government system



21%

Rural population



79%

Urban population



99%

Male literacy rate



97%

Female literacy rate

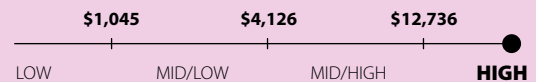
0.975

Gender Development Index



\$29,440

GNI per capita



0.876

HDI



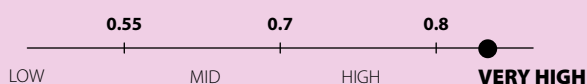
-11.5%

Loss in HDI due to inequality



0.775

Inequality-adjusted HDI



Legal Aid at a Glance in Spain



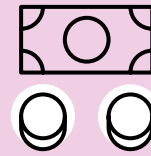
2013

The latest reform of the legal aid system was carried out in 2013



Never conducted

When was the last assessment of legal aid needs conducted

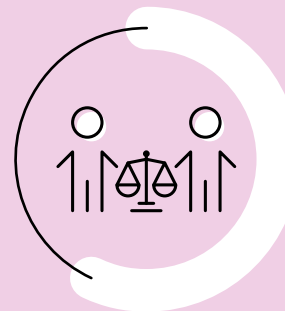
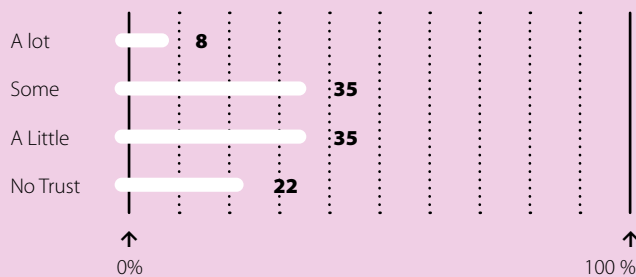


\$3.16

Annual expenditure on legal aid per capita in 2013

People's trust in courts

Citizen survey, WJP Rule of Law Index 2015

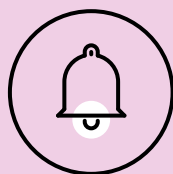


People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015

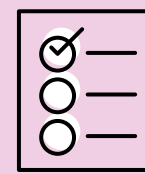
57%

Sample size: 176



Challenges in accessing legal aid

- Low pay of lawyers for legal aid services
- People may not be aware that legal aid services are available at little or no cost
- Covering the cost of police, prosecutors and judges tends to be prioritized over spending public funds on lawyers
- People sometimes lack confidence in the quality of legal aid services
- People may not always know where to find legal assistance



Priority areas for support

- Legislative drafting advice
- Development of action plans/policies
- Development of quality criteria for legal aid providers
- Establishing paralegal systems
- ✓ Institutional support
- Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Constitution**
- **Separate law on legal aid**
- **Implementing regulations for the law on legal aid**
- **Law on the prosecution**
- **Law on judicial procedure**
- **Law on police**
- **Law on the judiciary**
- **Civil procedure code**
- **Administrative law**
- **Law on pre-trial detention**
- **Law on penitentiary**
- **Criminal procedure law**

Services included as part of legal aid

The right to legal aid was first recognized in 1978, in article 119 of the Constitution, and reaffirmed in the Law on Legal Aid No.1/1996.

The latest reform of the legal aid system took place in 2013 with the implementation of Royal Decree-Law 3/2013 amending the regime of fees in the administration of justice and the free legal assistance system. The Ministry of Justice, the legislative branch and the bar association played an instrumental role in introducing this reform.

State-funded legal aid is available at national, regional and local levels.

For both civil and criminal cases, legal aid is provided in the form of legal advice, legal representation (before courts of justice), legal assistance, and provision of legal information. Legal aid lawyers also provide general assistance in navigating the justice system and in executing legal documents.

Specialized legal aid services are provided to disadvantaged population groups, including persons with disabilities, children, women, victims of gender-based violence, migrants, refugees, asylum seekers and stateless persons.

Process for obtaining legal aid

Legal aid is provided upon request from the person who wants legal aid. Free legal assistance has to be requested before the bar association from the place where the competent judge or court hears the case for which free legal assistance is requested, or before the judge at the place of residence of the applicant (art. 12 of Law on Legal Aid No.1/1996).

In both criminal and civil cases, a person must prove her/his eligibility by proving low income, i.e. a gross income (calculated by family unit) below the following threshold: a) twice the public income index (IPREM) for people who are single; b) twice and a half the IPREM for people who belong to a family of less than 4 members; c) triple the IPREM for people who belong to a family of 4 or more members (art.3 Law on Legal Aid No. 1/1996). In 2015, IPREM was set at US\$7,850.

Awareness of the right to legal aid

A public information campaign to raise awareness about the right to legal aid and how to access legal aid services was conducted by the State since 2012, and provided specific contact details of relevant offices to go for legal assistance.

Independent national experts estimate that the general population is 'somewhat knowledgeable' about legal aid services.

Delivery model

Legal aid authority

The chief responsibility for the management and administration of legal aid rests with the bar association and the Commission on Free Legal Assistance which, inter alia, oversees and coordinates the legal aid appointment mechanism, and establishes performance standards for the effective delivery of legal aid.

The Commission on Free Legal Assistance is composed of members of the bar association and of representatives of the Ministry of Justice, prosecutors and court agents, all appointed by the Executive and the bar association.

Organisation of legal aid services

In both criminal and civil cases, legal aid services are organised through the bar association, through *pro bono* schemes, and through institutional legal aid providers. The latter coordinate appointments of private practitioners (*ex officio*, or panel appointments) to legal aid cases.

Mechanism for assigning legal aid providers

The bar association maintains a roster of lawyers who can provide legal aid services.

Usually, it takes about 8 hours for a legal aid provider to appear after notice is given that legal aid is needed in a criminal case.

Accessing legal aid in urban vs. rural areas

Free legal assistance is guaranteed in rural areas through the judicial districts of the bar associations. Although the quality of legal aid services generally depends on each individual provider, it tends to be higher in urban areas.

Service providers

Lawyers and other providers

1/1,092

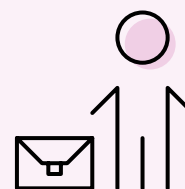
Licensed practicing
lawyers/people



**University-based
law clinics**

N/A

Full-time
legal aid lawyers/people



Not applicable 
Paralegals

There are no paralegals in Spain

Qualifications required

Legal aid providers must have a law degree and must show proof of passing a professional examination (bar examination). They must also be members of the bar association and have practiced as a lawyer for at least three years.

The requirement to undergo periodic skills training and periodic testing is imposed by the bar association on its members. The State however does not allot funds to this end.

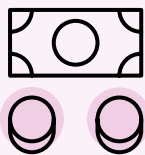
Finances

Costs to recipients

To receive primary legal aid services free of charge, the interested party needs to contact the bar association which maintains a roster of qualified lawyers available to provide legal advice for free.

Legal aid services are free of charge to those meeting eligibility criteria. Art. 36 of the Law on Legal Aid 1/1996 establishes that if the sentence that ends the proceedings orders the person using legal aid services to pay the costs of such services, s/he will have to pay for his/her defence and that of the opposing side if his/her financial situation improves over the course of the following three years. If the sentence does not say anything related to costs and the beneficiary of the legal aid services has won the case, s/he will have to pay the costs of his/her defence if they don't exceed a third of what s/he has gained from it.

Legal aid in the annual justice budget



\$3.16

Legal aid budget per capita in 2013

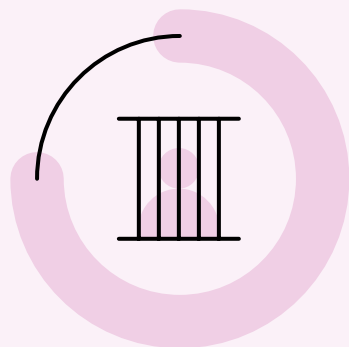
Legal aid is a separate component in the annual justice budget. Beyond the cost of core legal assistance services, the State also covers the cost of additional services, such as the intervention of experts and witnesses, the performance of notarial acts, etc.

Payments to legal aid providers

In both criminal and civil cases, legal aid providers receive a fixed fee for each case. The remuneration is credited to the lawyer after the Commission on Free Legal Assistance recognizes the provision of legal assistance to the applicant. The lawyer must provide the documentation that proves his/her performance before the bar association.

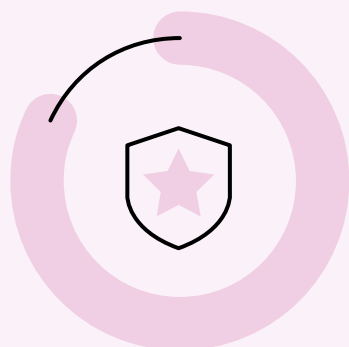
Provision of legal aid

Legal aid in criminal cases



50-75%

Proportion of criminal court cases



82%

People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, persons imprisoned on criminal charges, victims of crime (gender-based crime and terrorism victims), victims of human trafficking, minors, persons with mental disability when they are victim of abuse, persons who as a result of an accident have permanent sequelae that prevent them from working and therefore need assistance to carry out the most essential activities of daily life, as well as legal entities (associations of public interest and foundations who are registered in the appropriate register).

The State is *obliged* to provide legal aid to persons who meet a financial threshold.

At what stage of a criminal case?

Under the law, qualified legal assistance may be requested from the moment a law enforcement representative restricts the suspects/defendant's freedom, or from the moment an arrest is made in the police station or at the court.

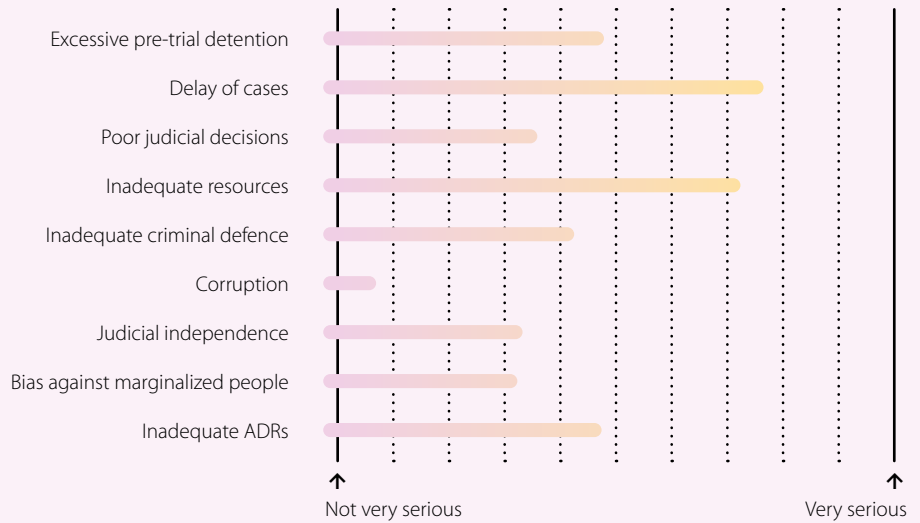
It is prohibited by law for the police to interview a person in the absence of a lawyer, unless the person is interviewed as a witness. This being said, a person can waive this right and agree to be interviewed without a lawyer. The courts are nonetheless strict about excluding evidence or statements provided in the absence of a legal aid provider.

To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that there is no significant difference in the quality of services provided by legal aid lawyers and by private lawyers. Furthermore, experts identify 'a well-prepared and/or highly skilled lawyer', 'the judge's objective analysis of evidence and testimony', and 'the strength of the evidence' to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015



Legal aid in civil cases

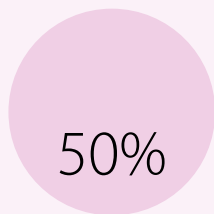
Who is eligible?

Legal aid in civil cases is available to persons who meet a financial threshold.

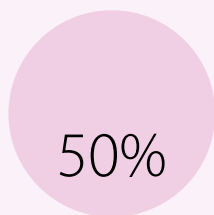
For what actions is a party eligible for legal aid?

National experts are of the view that there is public demand for public interest litigation and class action cases to address discrimination, labour rights, consumer rights, environmental protection and health. In accordance with art. 2 of the Law on Legal Aid No. 1/1996, public interest groups have the right to legal assistance if it is in the interest of their members.

Estimated demand for legal aid services in civil cases



From respondents



From complainants

How serious are the following problems in influencing people's decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

According to national experts, WJP Rule of Law Index 2015

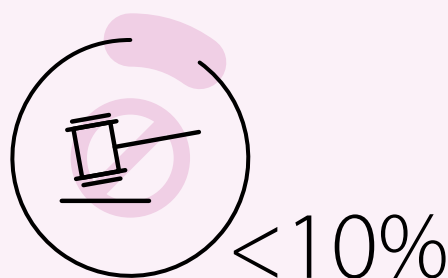


Women's access to legal aid services

Female victims of violence (including victims of sexual and gender-based violence) receive legal aid and court support services in all legal proceedings.

According to national experts, women sometimes do not know where to find legal assistance and may not always be aware that legal aid services are available at little or no cost. Experts add that women may also find it difficult to confide in a legal aid provider and share intimate information related to the case.

Access to legal aid for children



In less than 10% of cases when children are suspected or charged with a criminal offence, the case is diverted from the formal justice system without trial (e.g. through mediation, a warning, or an apology)

The justice system has specialized courts, judges, prosecutors and lawyers for child victims, child witnesses, and suspected or accused children. When representing children, legal aid providers rarely reach out to childcare professionals for support to assist the child throughout the proceedings.

In criminal proceedings involving suspected or accused children, diversion away from judicial proceedings is occasionally used.

According to independent national experts, there is no noticeable difference regarding the use of alternatives to pre-trial detention and imprisonment in cases where children are represented by legal aid providers (including those specialized in children's rights) and in cases where children are represented by private lawyers.

Legal aid and informal justice systems

Mediation is not included under free legal assistance services.

Quality safeguards

Accountability for the quality of legal aid services

When the legal aid provider is unprepared or unqualified or when no legal aid provider arrives, the proceedings are postponed or a replacement legal aid provider is asked to represent the party instead of the assigned provider.

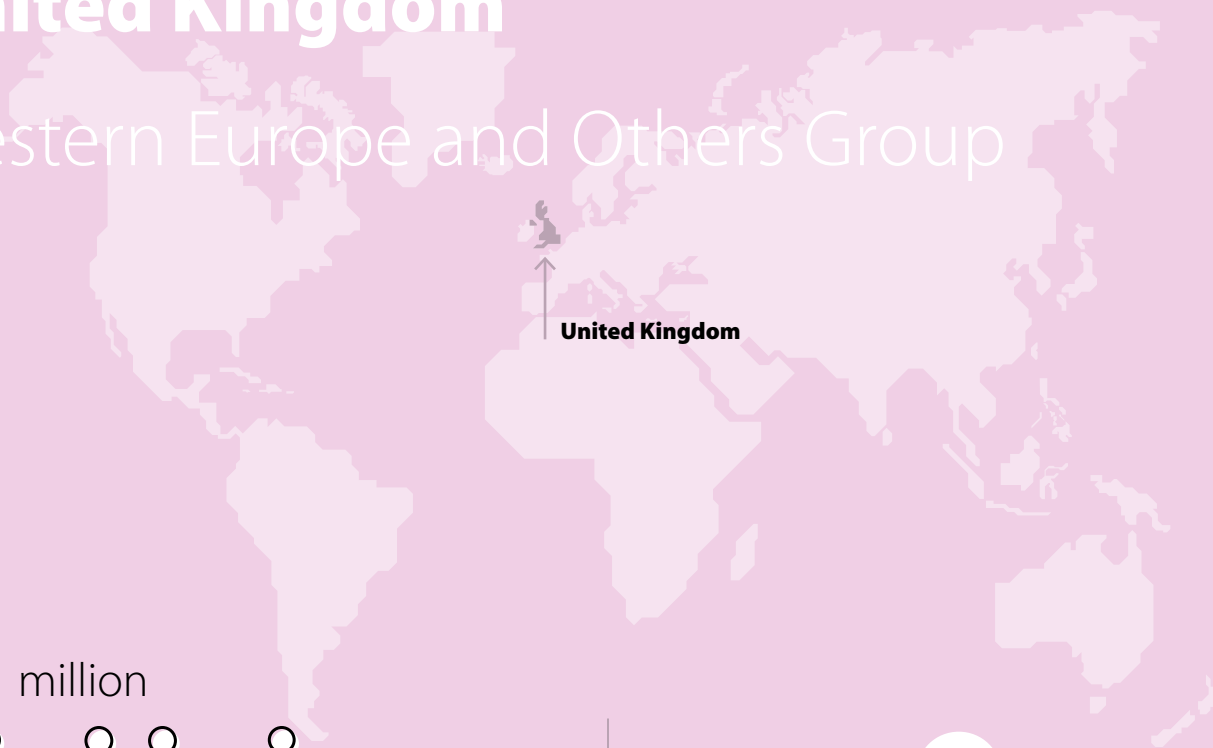
A legal aid provider can refuse to take a case or ask to be removed from the duty to represent a particular legal aid recipient due to lacking expertise in the law or skills required by the specific case or due to incompatibility with the legal aid recipient.

Monitoring and data collection on the quality of legal aid services

Formal responsibility for monitoring the quality of legal aid services rests with the bar association. Data for monitoring the quality of legal aid services is collected through the review of complaints by legal aid recipients about a legal aid provider's actions, and through satisfaction surveys filled by legal aid recipients.

United Kingdom

Western Europe and Others Group



64.51 million



Population

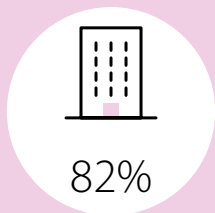


Unitary government system



18%

Rural population



82%

Urban population



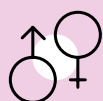
N/A

Male literacy rate



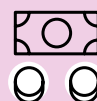
N/A

Female literacy rate



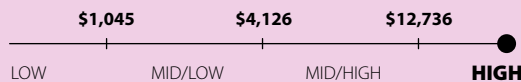
0.965

Gender Development Index



\$43,430

GNI per capita



0.907

HDI



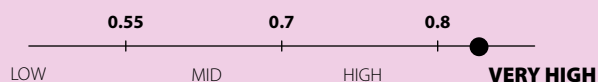
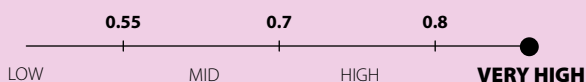
-8.6%

Loss in HDI due to inequality



0.829

Inequality-adjusted HDI



Legal Aid at a Glance in the United Kingdom



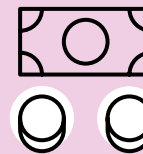
2012

The latest reform of the legal aid system was carried out in 2012



More than 5 years ago

When was the last assessment of legal aid needs conducted

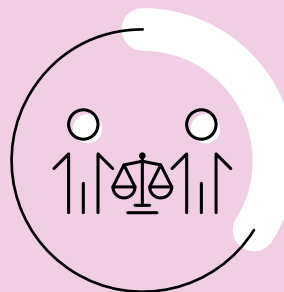
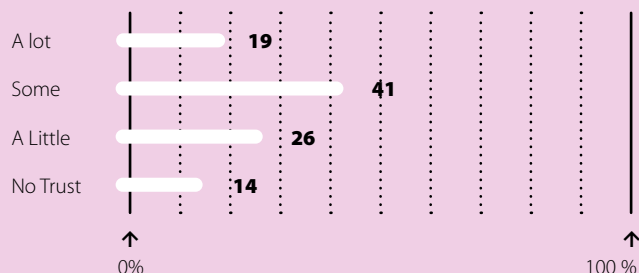


N/A

Annual expenditure on legal aid per capita in 2013

People's trust in courts

Citizen survey, WJP Rule of Law Index 2015

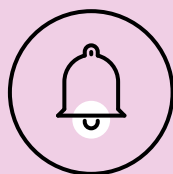


People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015

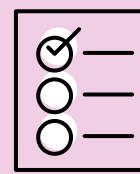
34%

Sample size: 82



Challenges in accessing legal aid

- People may not be aware that legal aid services are available at little or no cost
- Lawyers are paid very little for legal aid work
- Covering the cost of police, prosecutors and judges is generally prioritized over spending public funds on lawyers
- There is little support among the population for spending funds to defend accused criminals



Priority areas for support

- Legislative drafting advice
- Development of action plans/policies
- Development of quality criteria for legal aid providers
- Establishing paralegal systems
- Institutional support
- Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Separate law on legal aid**
- **Law on police**
- **Law on pre-trial detention**
- **Criminal procedure law**
- **Implementing regulations for the law on legal aid**

Services included as part of legal aid

Process for obtaining legal aid

Awareness of the right to legal aid

The right to legal aid was first recognized in 1949.

The most recent reform of the legal aid system took place in 2012, when the Parliament adopted the Legal Aid, Sentencing and Punishment of Offenders Act. This Act assigned the responsibility for administering civil and criminal legal aid schemes to the Lord Chancellor.

State-funded legal aid is available at national level only.

For both civil and criminal cases, legal aid is provided in the form of legal advice, legal representation and legal assistance (before tribunals). Additionally, in criminal cases, legal aid lawyers provide legal information to their clients.

Legal aid is provided upon request from the person who wants legal aid. The determination is automatic if the case or legal aid recipient qualifies for legal aid services.

In civil cases, to prove eligibility to receive legal aid, a person must prove her/his status as a recipient of welfare or state subsidies, demonstrate family hardship (e.g. multiple children, single parent, family member disability, etc.), provide evidence of low income or membership of a protected group (such as migrants, children, ethnic or religious minority, etc.) It may also be determined by competent authorities that the interests of justice require provision of legal aid, or they may require proof that the legal aid applicant's claim has merit.

In criminal cases, no proof of eligibility is necessary for the provision of legal aid.

A public information campaign to raise awareness about the right to legal aid and how to access legal aid services was conducted by the State in the past 3 years, and provided specific contact details of relevant offices to go for legal assistance.

Independent national experts estimate that the general population is 'somewhat knowledgeable' about legal aid services.

Delivery model

Legal aid authority

The chief responsibility for the management and administration of legal aid rests with the Ministry of Justice.

Organisation of legal aid services

In both criminal and civil cases, legal aid services are organised through the legal aid board and bar associations. Additionally, in criminal cases, they are organised through public defender institutions which work in parallel to State-funded private practitioners.

Mechanism for assigning legal aid providers

State agencies contact the legal aid board which maintains a duty roster. There are also legal aid providers on duty in courts and police precincts. Usually, it takes about an hour for a legal aid provider to appear after notice is given that legal aid is needed in a criminal case. Clients are allowed to choose their own provider.

Accessing legal aid in urban vs. rural areas

Legal aid services are available in rural areas, but the quality of legal aid services tends to be better in urban areas.

Service providers

Lawyers and other providers

1/443

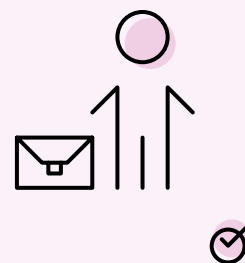
Licensed practicing
lawyers/people



**University-based
law clinics**

N/A

Full-time
legal aid lawyers/people



Paralegals

Can provide some legal aid services under the supervision of a qualified lawyer as allowed by professional rules, in criminal, civil and administrative cases

Qualifications required

Legal aid providers must have a contractual relationship with the agency that oversees administration of legal aid.

Public defender institutions organise training sessions for all providers of legal aid, including both staff and private lawyers / paralegals. Neither legal aid providers nor paralegals are required to engage in continuing education or skills training.

Finances

Costs to recipients

There exists a sliding scale of payment, based on the financial status of a legal aid recipient. Legal aid advice is free at the police station and at the Court of Appeal, but it is means-tested at Magistrates' Court and Crown Court, where legal aid recipients may have to pay a contribution towards costs.

Civil legal aid is subject to means and merit tests, and can be subject to a financial contribution by the legal aid recipient.

Legal aid in the annual justice budget



Legal aid budget per capita in 2012-13

Legal aid is a separate component in the annual justice budget. The national budget for legal aid is determined by the Ministry of Justice. The bar association and the legal aid board also participate in budgetary decisions.

Specialized legal aid services for disadvantaged populations are funded by the State with substantial contribution from private actors. The State also covers the cost of additional services such as independent investigation or expertise, and psychological or social work support.

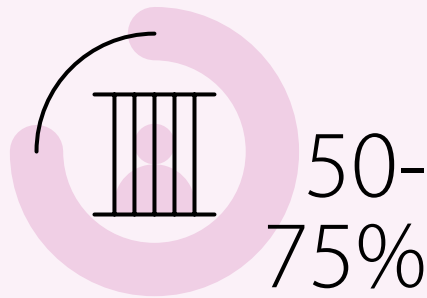
Payments to legal aid providers

In both criminal and civil cases, legal aid providers generally receive a fixed fee for each case. Sometimes, they receive a fixed fee for each action they take on a case. They can also be paid on an hourly basis for actions that the State has identified as a basis of payment.

In criminal cases, providers also work full-time in institutions funded by the State (e.g. public defender's office).

Provision of legal aid

Legal aid in criminal cases



Proportion of criminal court cases (2013)

11%

In 2013, 11% of criminal cases filed in Crown Courts were acquitted

44%

In 2013, 44% of criminal cases filed in Crown Courts were resolved pursuant to a plea agreement, procedural agreement or expedited trial

Who is eligible?

Under the law, legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, and persons imprisoned on criminal charges.

The State is *obliged* to provide legal aid to persons who meet a financial threshold, provided that a case satisfies a merit test. At the Magistrates' Court, the means test operates as an in/out scheme and is based on income only. If an individual is found to be financially ineligible for criminal legal aid, a hardship review mechanism is in place to serve as a safety net for individuals who maintain that they are unable to pay privately for their defence costs.

At what stage of a criminal case?

Under the law, legal aid should be provided from the moment a law enforcement representative restricts the suspects/defendant's freedom — including during an identification procedure, during questioning of a potential suspect/defendant, and during a search of the suspect's/defendant's residence. At a minimum, legal aid should be provided from the moment charges are officially filed. It is also provided during trial, for any appeal or cassation, and for representation of prisoners in cases involving serious disciplinary charges.

It is prohibited for the police to interview a person in the absence of a lawyer.

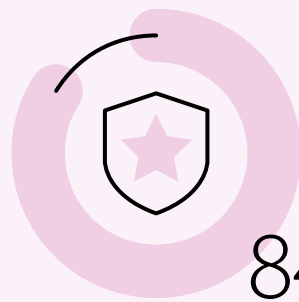
To what extent are legal aid services in criminal cases seen as effective?

Comparing the services of legal aid providers to services of private lawyers, independent national experts estimate that legal aid providers are less likely than private lawyers to conduct investigation to establish doubt about the suspect's/defendant's guilt even if the suspect/defendant may be guilty. However, legal aid providers are more likely to advocate for alternative resolution of the case when the defendant is under 18 years of age.

National experts identify 'a well-prepared and/or highly skilled lawyer', 'a poorly prepared prosecutor', 'availability of an independent expert testimony', and 'the strength of the evidence' to be amongst the most influential factors in reaching a dismissal of charges or acquittal in criminal cases.

1.3

In 2013, the number of criminal cases was 1.3 times higher than the number of civil and administrative cases



84%

People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015



29%

In 2013, State-funded legal aid was provided in 29% of criminal cases filed in Crown and Magistrates Courts

How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015



Legal aid in civil cases

Who is eligible?

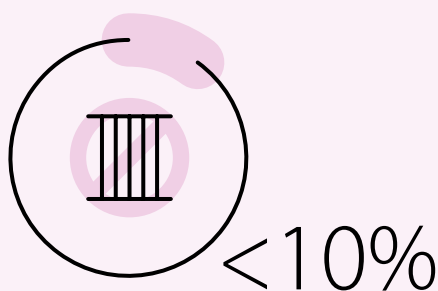
Legal aid in civil cases is available to persons who meet a financial threshold (i.e. US\$4,163, which is the maximum monthly gross income threshold). Legal aid is also provided when it is required by the interests of justice or due to the case’s gravity or complexity, provided that it satisfies a merit test. Additionally, in civil cases, the matter must be within the scope of the legal aid scheme, as set out in Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

Women's access to legal aid services

Female victims of violence (including victims of sexual and gender-based violence) receive legal aid services in some legal proceedings. They also receive court support services, such as interpretation and translation of documents.

However, national experts note that women are not always aware that legal aid services are available at little or no cost and they sometimes do not understand how legal aid services can help them.

Access to legal aid for children



In 2013, an alternative to imprisonment was imposed in less than 10% of cases where a child was found culpable

The justice system has specialized courts and judges dealing with child victims, child witnesses or suspected and accused children. Child suspects can also have support from 'appropriate adults' at police interview.

When representing children, legal aid providers often reach out to parents, social workers and other childcare professionals for support to assist the child throughout proceedings.

In criminal cases, when children are represented by legal aid providers (especially those specialized in children's rights), national experts estimate that diversion and alternatives to pre-trial detention and imprisonment are more often achieved than in cases where children are represented by non-specialized legal aid lawyers or private lawyers.

Legal aid and informal justice systems

Informal justice mechanisms allow a lawyer to provide assistance in formal mediation/alternative dispute resolution processes, and there are mechanisms that allow cases to be referred between the formal and informal justice systems.

According to national experts, people prefer to resolve disputes through informal justice proceedings because they are less intimidating. Informal justice proceedings are mainly used to resolve marital or family issues, as well as land and property disputes.

To qualify for formal mediation/alternative dispute resolution processes, legal aid providers need authorization by an appropriate body.

Quality safeguards

Accountability for the quality of legal aid services

In criminal cases, legal aid institutions aim to ensure that the same provider represents the accused/suspect at all stages of the case.

Since there is no means of assessing a lawyer's qualification or preparedness, there is no remedy if a legal aid provider turns out to be unprepared or unqualified.

A legal aid provider can refuse to take a case or ask to be removed from the duty to represent a particular legal aid recipient if s/he has too many cases, lacks expertise in the law or skills required by the specific case, or if s/he has a conflict of interest with the legal aid recipient.

Monitoring and data collection on the quality of legal aid services

The quality of legal aid services is monitored by the legal aid board, by a peer review team (established by the board or the bar association), and by regulatory bodies (the Solicitors Regulation Authority and the Bar Standards Board).

Data is collected on occurrences of breach of contract.

There are still data gaps across the system. For instance, no data is available on case resolution prior to a case's transfer to court.

United States of America

Western Europe and Others Group



United States of America

318.9 million



Population

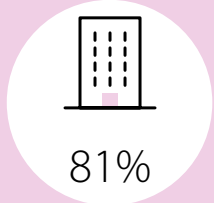


Federal government system



19%

Rural population



81%

Urban population



N/A

Male literacy rate



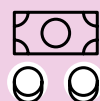
N/A

Female literacy rate



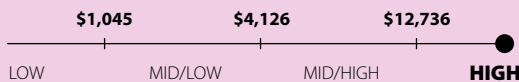
0.995

Gender Development Index



\$55,200

GNI per capita



0.915

HDI



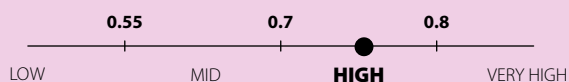
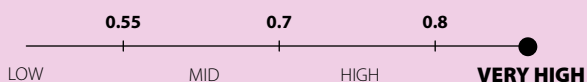
-17%

Loss in HDI due to inequality



0.760

Inequality-adjusted HDI



Legal Aid at a Glance in the United States of America



2016

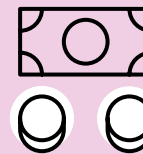
The latest reform of the criminal legal aid system was carried out in 2016



In the past 5 years

When was the last assessment of civil legal aid needs conducted.

Individual federally-funded civil legal aid programs must conduct a needs assessment annually, as per federal regulations

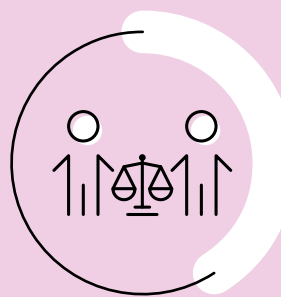
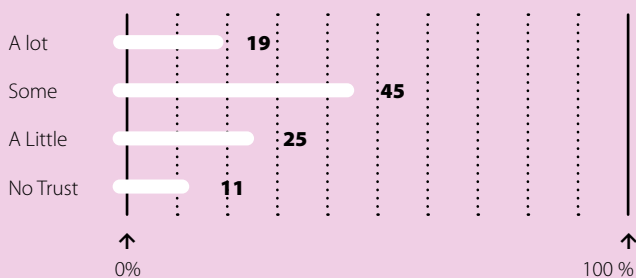


N/A

Annual expenditure
on legal aid per capita in 2013

People's trust in courts

Citizen survey, WJP Rule of Law Index 2015

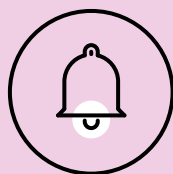


People who received legal assistance

when seeking to resolve a conflict with someone who refused to fulfill a contract or pay a debt, during the past 3 years
Citizen survey, WJP Rule of Law Index 2015

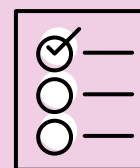
41%

Sample size: 116



Challenges in accessing legal aid

- Lawyers are paid very little for legal aid work
- People may not be aware that legal aid services are available at little or no cost, or may not know where to find legal assistance
- People (including individuals who qualify for legal aid) often do not recognize a civil justice problem as having a legal solution
- Little support among the population for spending public funds to defend accused criminals
- People may prefer to resolve issues outside of the formal justice system, where legal professionals do not typically participate



Priority areas for support

- ✓ Legislative drafting advice
- ✓ Development of action plans/policies
- Development of quality criteria for legal aid providers
- ✓ Establishing paralegal systems
- Institutional support
- Training

Legal framework

Right to legal aid

The right to legal aid is guaranteed in:

- **Constitution – only in criminal matters**
- **Criminal procedure law**

The right to criminal legal aid was first widely recognized by law in 1963, with *Gideon v. Wainwright*, a landmark case in the U.S. Supreme Court history. In it, the Supreme Court ruled that U.S. states (and not only the federal government) were required under the Fourteenth Amendment to the U.S. Constitution to provide counsel in felony criminal cases to represent defendants who are unable to pay their own attorneys.

Further substantial reforms of the legal aid system took place in 1967 and 1972, and the provision of criminal legal aid across the country continues to be refined until this day through Supreme Court jurisprudence.

State-funded criminal legal aid is available at federal, state and/or municipal level.

There is no general right to civil legal aid in the United States, although many state jurisdictions have created a right in particular settings, such as in child welfare proceedings.

Services included as part of legal aid

Legal aid is mainly provided in the form of legal information, legal assistance, legal advice and legal representation (before tribunals). Legal aid providers also provide general assistance in navigating the justice system, and in executing legal documents.

Specialized civil legal aid services are provided by the State (and civil society organisations) for specific population groups, including children, women, persons with disabilities, LGBT, ethnic or religious minorities, indigenous populations, the elderly, migrants, refugees, asylum seekers, stateless persons and internally displaced persons.

Process for obtaining legal aid

Legal aid is provided upon request from the person who wants legal aid, and/or upon request from the prosecutor, the police, the bar association or the legal aid provider. The court presiding over a case must also assess eligibility to legal aid during the first appearance of the parties. The determination is automatic if the case or legal aid recipient qualifies for aid service as specified in the law.

In criminal cases, a person must prove eligibility by demonstrating that s/he meets financial or vulnerability criteria. In civil cases, should legal aid be available, a person must prove eligibility by providing evidence of low income, if employed. In both cases, eligibility criteria may also depend on the jurisdiction.

Awareness of the right to legal aid

The government has carried out public information campaigns to raise awareness about the right to legal aid and how to access legal aid services (notably through the U.S. Department of Justice's Office for Access to Justice), and detailed information was provided on how to contact relevant service providers.

Independent national experts estimate that the general population is 'somewhat knowledgeable' about the right to legal aid services, but 'not at all knowledgeable' about how to access legal aid services, and where to access them.

Delivery model

Legal aid authority

There is no central administration at the federal-level responsible for the management of criminal and civil legal aid services. Each jurisdiction manages its own legal aid system. For example, criminal legal aid is organized through the Administrative Office of the United States' Defender Services Office. The largest funder for civil legal in the United States is the Legal Services Corporation (LSC), which distributes more than 90 percent of its total federal appropriation to 134 independent nonprofit legal aid programs with more than 800 offices serving every county and territory in the country. LSC is headed by a bipartisan board of directors whose 11 members are appointed by the President and confirmed by the Senate. LSC-funded programs help people who live in households with annual incomes at or below 125% of the federal poverty guidelines.

One notable development in the United States is the launch of the White House Legal Aid Interagency Roundtable created in 2012 and made permanent by Presidential Memorandum in 2015 on the eve of the United Nations Sustainable Development Summit. The Roundtable brings together 21 federal agencies to support the United States' Goal 16.3 activity – namely to raise federal agencies' awareness of how civil legal aid can help advance a wide range of federal objectives including improved access to health and housing, education and employment, family stability and public safety. The Roundtable inspires new collaborations to serve the poor and middle class within the United States and better engage civil legal aid providers as federal grantees, sub-grantees, and partners. The Roundtable does not serve as a legal aid authority, but does function as the primary federal-level activity related to legal aid.

Organisation of legal aid services

In criminal cases, legal aid services are provided through public defender institutions, and panel appointments (ex officio and contract lawyers), and may be assigned directly by a court or other justice authority. In civil cases, legal aid is provided through the same institutions, but also through civil society organisations and *pro bono* schemes.

Public defender institutions work in parallel to government-funded non-governmental legal service institutions and private law firms who take assignments from the legal aid administration or the bar association.

While there is no guaranteed right to civil legal aid, civil legal aid is provided free of charge by non-profit legal aid organizations, pro bono volunteers (attorneys, law students and paralegals), law schools, court-based services such as self-help centres, and online technologies such as document assembly and legal information websites.

Mechanism for assigning legal aid providers

There are criminal legal aid providers on duty in courts and police precincts. Alternatively, the courts and the police have a roster of duty legal aid providers for a given day, and call them in the given order. The legal aid administration also maintains a duty roster and is contacted by government agencies when they require a legal aid lawyer.

Accessing legal aid in urban vs. rural areas

Government-funded legal aid services are provided in rural areas, although the quality of legal aid services tends to be higher in urban areas, due to lack of resources in rural settings.

Service providers

Lawyers and other providers

1/249

Licensed practicing
lawyers/people

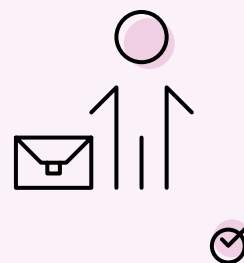


University-based law clinics

Students can provide primary legal aid, conduct mediation, represent people in civil and administrative cases, and assist with the preparation of legal documents, if supervised by a faculty member or practicing lawyer

N/A

Full-time **criminal and civil
legal aid lawyers**/people



Paralegals

Qualifications required

Government-funded legal aid providers must have a law degree and show proof of passing a professional examination. Beyond this, each jurisdiction, via the local bar association, sets its own qualification and training requirements. Military lawyers also need to be admitted to practice before the military courts. Qualifications for paralegals depend on the type of case and the jurisdiction.

While legal aid lawyers are required to undergo periodic skills training/testing, the government does not allocate funds to this end. Specialized training is not mandatory to qualify for work with specific disadvantaged population groups.

Paralegals

Grassroots Legal Advocates, Namati 2016

California, USA

Are community paralegals recognized by law?

Yes, paralegals are recognized under the California Business and Professions Code §§ 6450-6456. Under California law, a paralegal is defined as a non-lawyer who performs substantive legal work under the supervision of an attorney, meeting defined educational requirements, and participating in mandatory Continuing Legal Education as required by law. However, under § 6456 an individual employed by the state as a paralegal, legal assistant, legal analyst, or similar title is exempt from these requirements.

Does any public revenue fund paralegals?

No, public revenue does not fund paralegals.

Can paralegals engage in litigation (with or without the help of lawyers)?

Yes, paralegals can engage in many parts of the litigation process (under the supervision of an attorney) including, but not limited to: case planning, development, and management; legal research; interviewing clients; fact gathering and retrieving information; drafting and analyzing legal documents; collecting, compiling, and utilizing technical information to make independent decisions and recommendations to the supervising attorney. All of these tasks are to be performed under the direction of a supervising attorney. A paralegal cannot represent a client in court.

Are there boards that monitor community paralegals?

No, there is no governing body for the paralegal profession in California. However, the bill is enforced by the courts and consumers can bring a cause of action against an individual who violated this law. The American Bar Association (ABA) Standing Committee on Legal Assistants has also adopted certain criteria that must be met for a paralegal program to meet ABA approval. However, ABA approval is voluntary.

Washington, USA

Are community paralegals recognized by law?

Yes, paralegals are recognized in Washington, however, no formal certification, registration, or licensing process are in place.

Does any public revenue fund paralegals?

Yes. The Washington State Supreme Court established the Access to Justice (ATJ) Board, which promotes and facilitates equal access to justice in Washington for low and moderate income people through high-quality legal services. Some

of these services are provided *pro bono* or at a low cost by individual attorneys, while others are provided through publicly funded legal services agencies such as Columbia Legal Services and the Northwest Justice Project.

Can paralegals engage in litigation (with or without the help of lawyers)?

Yes, paralegals in certain courts in Washington can engage in litigation, and several counties in the state allow paralegals to present *ex parte* filings (if paralegals are registered with the county court). Beyond this, paralegals cannot appear in court without the assistance and supervision of a lawyer.

Are there boards that monitor community paralegals?

No, there is no independent governing body to regulate paralegals (since there is no specific legal requirement for paralegals to be registered, certified, or licensed), but the Washington State Paralegal Association supports and promotes the paralegal profession.

New York, USA

Are community paralegals recognized by law?

New York has the one of the largest populations of paralegals in the country, yet paralegals are not officially recognized by law and there is no mandatory training to be a paralegal. The Court Navigator program launched by the Access to Justice Committee of the New York State Unified Court System aims to “find ways for non-lawyers to be of assistance ... in the courthouse.”

Does any public revenue fund paralegals?

No. Any non-lawyer justice initiative must be *pro bono*.

Can paralegals engage in litigation (with or without the help of lawyers)?

Yes, paralegals can engage in many parts of the litigation process under the supervision of an attorney. Under the Court Navigator Program, specially trained and supervised non-lawyers can provide general information, written materials, and one-on-one assistance to eligible unrepresented litigants. Court Navigators also provide moral support to litigants, help them access and complete court forms, assist them with paperwork, accessing interpreters, as well as explain to them what to expect in the courtroom. Court Navigators are permitted to accompany unrepresented litigants into the courtroom in certain courts. Court Navigators cannot address the court on their own, but may respond to factual questions asked by the judge.

Are there boards that monitor community paralegals?

New York has several professional associations for paralegals that require

obtaining certain qualifications before gaining membership, including the Empire State Alliance of Paralegal Associations. The Court Navigator program also provides oversight for paralegals.

Finances

Costs to recipients

Legal aid services are free of charge for those meeting eligibility criteria. In criminal cases, all approved costs are covered. In certain situations, and depending on the jurisdiction, the party using legal aid may need to pay a percentage of the cost, as specified by a sliding scale of payment, based on financial status.

Primary legal aid services are available free of charge at the office of the public defender, or other government-funded institutional legal aid providers, as well as at legal advice centres in city and/or town administrative offices. Free legal advice may also be provided by the bar association, which may manage a telephone hotline that individuals can call to receive assistance. Some civil society organisations provide legal advice to people who come to their offices. Lastly, websites such as *www.lawhelp.org* provide information and guidance for civil litigants.

Legal aid in the annual justice budget

There is no separate criminal legal aid budget in the annual federal justice budget due to the non-centralized nature of the U.S justice system. There is an annual federal appropriation to the Administrative Office of the United States' Defender Services Office, which oversees the funding of federal public defender offices across the United States. At the state and tribal-levels, each state or tribe determines its own budget for criminal legal aid, in consultation with the criminal legal aid administration at the state level.

Government funding is generally provided to cover the cost of specialized criminal legal aid services, and to cover the cost of additional services for some independent investigators and for independent forensic experts.

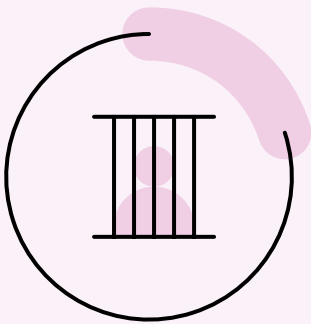
The largest funder of civil legal aid for low-income Americans in the United States is the Legal Services Corporation, which was created in 1974. In fiscal year 2016, LSC's federal appropriation was \$385 million.

Payments to legal aid providers

Each state decides on its own payment system. Legal aid lawyers and paralegals are either full-time salaried employees in institutions funded by the State, or they work in private law firms that receive funds from the State (e.g. for a set number of cases), in which case they are paid a fixed fee for each case or for any action they take on a case.

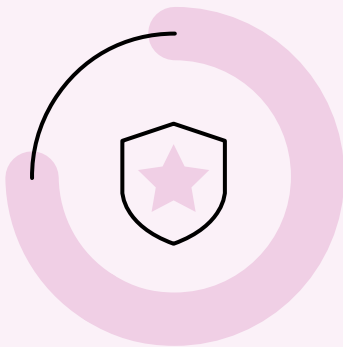
Provision of legal aid

Legal aid in criminal cases



20%

Proportion of criminal court cases (2013)



75%

People who believe that the police always or often respects the basic rights of suspects

WJP Rule of Law Index 2015

Who is eligible?

Under the law, criminal legal aid is *available* to persons arrested and detained on criminal charges, persons charged with a criminal offence, and persons imprisoned on criminal charges. Victims of crime and witnesses are also eligible, but in such cases, legal aid is not considered a right *per se*.

The government is *obliged* to provide criminal legal aid to persons who meet a financial threshold, to children, persons with physical or intellectual/mental disabilities, internally displaced persons, refugees, persons whose mother tongue is not the language of the official proceedings, and persons who face a potential prison sentence or death penalty. Additionally, the government is obliged to provide legal aid when the law notes that the interests of justice require it, and authorised agencies have the discretion to assign legal aid depending on the case's gravity and complexity.

At what stage of a criminal case?

Under the law, legal aid should be provided from the moment charges are officially filed, as well as during trial and for a first appeal.

It is not prohibited for the police to interview a person in the absence of a lawyer. However, if someone requests counsel, all questioning must stop.

It is very common for pre-trial detention to be used even when suspects have access to legal aid services.

To what extent are legal aid services in criminal cases seen as effective?

Independent national experts estimate that legal aid lawyers are more likely than private lawyers to perform actions such as 'presenting arguments in favour of a suspect's/defendant's release pre-trial', 'conducting investigation to establish doubt about the suspect's/defendant's guilt even if the defendant may be guilty', and 'challenging the credibility of witnesses'.

When asked about the most influential factors in reaching a dismissal of charges or acquittal in criminal cases, national experts refer to factors such as 'a well-prepared and/or highly skilled lawyer', 'hiring a private lawyer who received pay from the suspect/defendant and not from state legal aid funds', 'the strength of the evidence', and 'jury pool selection for trials'.

1.08

In 2012, the number of criminal cases filed in state courts was 1.08 times the number of civil and administrative cases

How serious are the following problems in criminal courts in the city where you live?

According to national experts, WJP Rule of Law Index 2015



Legal aid in civil cases

Who is eligible?

People are eligible for civil legal aid if they are children, persons with physical or intellectual/mental disabilities, internally displaced persons, refugees, and persons whose mother tongue is different from the language of proceedings. Civil legal aid may also be available according to the case's gravity, complexity or case type, as identified by the law, and when the law notes that the interests of justice require it. Legal aid may also be available based on someone's status as a victim of a crime.

5 types of civil cases for which legal aid services are most commonly sought and for which State-funded legal aid is available



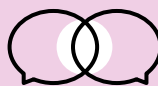
Marital issues



Property issues



Claims for state services or disputes with state agencies

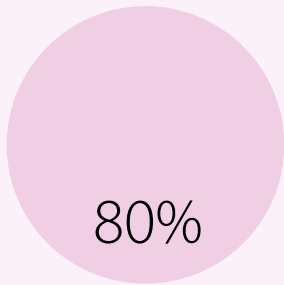


Contractual disputes



Labor disputes

Estimated demand for legal aid services in civil cases



From respondents



From complainants

Women’s access to legal aid services

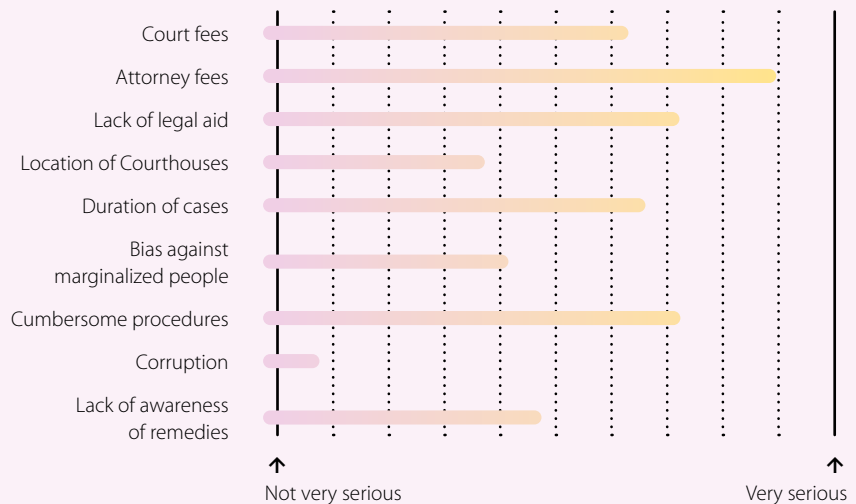
Access to legal aid for children

Public interest litigation / class action cases:

Government-funded legal aid is not provided for public interest litigation and class action cases. However, national experts estimate that demand for civil legal aid is particularly high for class action cases addressing discrimination, labor rights, consumer rights, environmental protection, health and reform of the criminal system. Staff lawyers sometimes coordinate to uniformly challenge common violations of national and international due process rights and human rights, at both federal and state levels.

How serious are the following problems in influencing people’s decisions on whether or not to go to civil courts to resolve a dispute, in the city where you live?

According to national experts, WJP Rule of Law Index 2015



There are no specialized legal aid services for women. However, some female victims of violence (including victims of sexual and gender-based violence) receive legal aid services (as well as court support services, such as interpretation and translation of documents) in legal proceedings.

The justice system has specialized prosecutors, courts, judges, police units and lawyers/paralegals to handle cases involving child victims, child witnesses, and suspected or accused children. In criminal cases involving suspected or accused children, diversion away from judicial proceedings is may be used.

When representing children, legal aid providers routinely reach out to parents, social workers or other childcare professionals to assist the child throughout proceedings.

Legal aid and informal justice systems

According to independent national experts, in criminal cases, diversion away from judicial proceedings, alternatives to pre-trial detention and alternatives to imprisonment are more often achieved when children are represented by legal aid providers than in cases where they are represented by private lawyers. Experts add that this is achieved at an even higher rate when children are represented by legal aid providers specialized in children's rights.

Informal justice mechanisms allow a lawyer or paralegal to provide assistance for formal mediation/alternative dispute resolution processes, and there are mechanisms that allow cases to be referred between formal and informal justice systems.

Lawyers and paralegals are also allowed to represent parties or provide advice in customary mediation/adjudication processes, especially in indigenous communities that employ traditional justice practices.

To provide assistance in informal justice processes, legal aid providers must have a minimum set of qualifications, as specified by each jurisdiction.

Quality safeguards

Accountability for the quality of legal aid services

Legal aid providers are obliged to adhere to ethical rules and specific quality and performance standards established by bar associations at both federal and state levels.

If a party is denied access to legal aid, there is a right to appeal that decision in criminal cases. If a person has a right to legal aid, but no legal aid provider is available, the proceedings must cease until a legal aid provider arrives (although there are limitations in place, such as when the case reaches a 'critical stage' and proceedings cannot be interrupted.) If a person receives legal aid services from a legal aid provider who is unprepared or unqualified, the proceedings are deemed invalid or postponed, or a replacement legal aid provider is asked to represent the party.

In criminal cases, legal aid institutions aim to ensure that the same provider represents the accused/suspect at all stages of the case.

A legal aid provider can refuse to take a case or ask to be removed from the duty to represent a particular legal aid recipient due to a conflict of interest or incompatibility with the legal aid recipient.

Monitoring and data collection on the quality of legal aid services

Several bodies are responsible for monitoring the quality of legal aid services, at all levels: legal aid administrations, bar associations, the judiciary, the office of the prosecution, the statistics bureau, peer review teams established by the legal aid administration, as well as research institutions commissioned by the government.

To monitor the quality of legal aid services, data is collected through the review of complaints lodged by legal aid recipients, through assessments conducted by justice actors, and through satisfaction surveys filled by legal aid recipients. Services provided in court are also monitored, and legal aid providers report on their actions to the monitoring institution of their jurisdiction.

The justice system continues to face considerable data challenges (e.g. data on legal aid provided to children is not recorded separately), partly due to the federal nature of the U.S. criminal justice system, which makes it difficult to aggregate data with accuracy at the federal level.

Table of Legal Aid Legislation:

The Right to Legal Aid Around the World

This Table of Legal Aid Legislation is an overview of how the right to legal aid is provided for in the constitutions and legal frameworks of 125 United Nations Member States. The information was compiled based on information provided by the Member States and supplemented by additional research, where available.

Constitutions around the world vary in the manner in which they guarantee the right to legal aid. While some countries guarantee the right to legal aid at the State's expense directly in their constitution, other countries do so via development of case law or legislation. In some other countries, the constitution provides the broader right to a fair trial, such as by the right to defence or the right to legal assistance of one's own choosing, without specifying whether the right includes access to legal aid. This Table identifies the specific references in the constitution related to the right to legal aid at State's expense, where available, and for those States that provide a broader right to a fair trial, the text of the relevant article is also included.

The Table also provides the name of legislation dedicated to legal aid, where available. If a State does not have a legislation dedicated to legal aid, provisions from other legislation or statutes on the right to legal aid are indicated. For countries with a federal system, the law that applies at the federal level is noted, where available, with the understanding that there may be additional legislation at other levels of government. For those countries with a federal system that do not have a nationwide legal aid legislation, the law of each state, province or territory is highlighted, where available.

Country	Article(s) in the constitution related to the right to legal aid or the right to a fair trial		Main Legislation Legal Aid	Year of Adoption	Comments
	Article No.	Text of the Relevant Article			
A	Afghanistan	Art.31 Upon arrest, or to prove truth, every individual can appoint a defence attorney. Immediately upon arrest, the accused shall have the right to be informed of the nature of the accusation, and appear before the court within the time limit specified by law. In criminal cases, the state shall appoint a defence attorney for the indigent. Confidentiality of conversations, correspondence, and communications between the accused and their attorney shall be secure from any kind of violation. The duties and powers of defence attorneys shall be regulated by law.	Legal Aid Regulation	2007	<ul style="list-style-type: none"> → Criminal legal aid is available for indigent people (person whose income is not sufficient to cover his/her livelihood). → Civil legal aid is available for indigent women and children. → Provision of legal aid is regulated by the Ministry of Justice in cooperation with legal aid independent board.
	Albania	Art.31(d) In a criminal proceeding, everyone has the right: [...] d. to be defended by himself or with the assistance of a legal defender chosen by him; to communicate freely and privately with him, as well as to be provided free defence when he does not have sufficient means[...]	Law No. 10039 on Legal Aid	2008	<ul style="list-style-type: none"> → Provision of State-funded legal aid is the responsibility of the Ministry of Justice, National Bar Association and the State Commission for Legal Aid (SCLA). → For civil and administrative cases, the person must prove that he/she is included in social protection programs or satisfies the requirements to be included in such programs.
	Andorra	Art. 10(2), (3) 2. All persons shall have the right to counsel and the technical assistance of a competent lawyer, [...] 3. In order to guarantee the principle of equality, the law shall regulate the cases in which justice shall be free of cost.	Rules on the right to defence and technical legal assistance <i>(Reglament regulador del dret a la defensa i l'assistència tècnica lletrades)</i> Rules on the benefit of free justice in the criminal field <i>(Reglament regulador del benefici de justícia gratuïta en l'àmbit penal)</i>	2014 2000	<ul style="list-style-type: none"> → Legal aid in criminal cases is provided at the first contact with the police.

Country	Article(s) in the constitution related to the right to legal aid or the right to a fair trial		Main Legal Aid Legislation	Year of Adoption	Comments
	Article No.	Text of the Relevant Article			
Angola	Art.67(3), (5)	3.The defendant shall have the right to choose a lawyer or counsel and to be assisted by them throughout the legal proceedings, and the cases and phases in which legal assistance is obligatory shall be specified by law. [...] 5.Defendants or prisoners who are unable to appoint a lawyer for financial reasons must, under the terms of the law, be ensured adequate legal aid.	Decree Law 15/95, on Legal Aid (<i>Decreto Lei nº 15/95, de Assistência Judiciária</i>)	1995	<ul style="list-style-type: none"> → It can be granted before any Court in any type of proceedings. → Provision of legal aid is decided by the judge responsible for the procedure.
Argentina	Art. 120	Article 120.The Public Ministry ¹ is an independent body with functional autonomy and financial autarky, with the function of promoting the participation of justice for the defence of the legal character of the general interests of society, in coordination with the other authorities of the Republic.	Organic Law on the Federal Public Office (<i>Ley Orgánica del Ministerio Público</i>)	1998	<ul style="list-style-type: none"> → The Federal Public Defender's Office is the institution in charge of providing legal aid and judicial defence of people's rights (public defence services).
Armenia	Art.64	Everyone shall have the right to receive legal aid. In cases prescribed by law, legal aid shall be provided at the expense of State funds. With the aim of ensuring legal aid, advocacy based on independence, self-government and equality of advocates shall be guaranteed. The rights, status and duties of the advocates are established by law.	The Law of the Republic of Armenia on the Profession of Advocate, Arts. 6, 41- 42	2004	<ul style="list-style-type: none"> → Legal aid is provided by the Office of the Public Defender, a subdivision within the Chamber of Advocates.
Australia ²	N/A	N/A	Australia Capital Territory Legal Aid Act 1977	1977	<ul style="list-style-type: none"> → In the Australia Capital Territory, the Legal Aid Act establishes the Legal Aid Commission (ACT), a body corporate whose function is to provide assistance in accordance with the Act. → The Act employs legal officers but also arranges for the services of private legal practitioners. Legal assistance and representation is provided in both civil and criminal matters.
			New South Wales Legal Aid Commission Act 1979	1979	<ul style="list-style-type: none"> → In New South Wales, the Legal Aid Commission (Legal Aid NSW) administers legal aid in New South Wales. It provides legal advice in specified civil, criminal and family matters using in-house lawyers and private practitioners.

²In Australia, as a country with federal system, each territory has its own independent legal aid commissions which are responsible for administering legal aid.

Country	Article(s) in the constitution related to the right to legal aid or the right to a fair trial		Main Legal Aid Legislation	Year of Adoption	Comments
	Article No.	Text of the Relevant Article			
Australia	N/A	N/A	Northern Territory Legal Aid Act 1990	1990	→ In Northern Territory, Northern Territory Legal Aid Commission is the statutory body responsible for administering legal aid in the Northern Territory. Legal aid is offered using the services of in-house lawyers as well as private lawyers. It is available for criminal and civil matters.
			Queensland Legal Aid Queensland Act 1997	1997	→ In Queensland, Legal Aid Queensland is the statutory body with the responsibility for administering the legal aid system established by the Legal Aid Act in Queensland. Legal aid is provided to financially disadvantaged persons in both criminal and civil matters.
			South Australia Legal Services Commission Act 1977	1977	→ In South Australia, Legal Services Commission is a body corporate charged with the administration of legal aid under the Act. Legal aid is offered in criminal and civil matters using state attorneys and private practitioners.
			Tasmania Legal Aid Commission Act 1990	1990	→ In Tasmania, State legal aid services are administered by the Legal Aid Commission. The Commission provides legal aid in criminal matters, matters involving family violence, family matters and family law disputes that involve a child. Legal aid is not provided for civil matters.
			Victoria Legal Aid Act 1978	1978	→ In Victoria, legal aid is offered in criminal law, family law and some civil matters and is provided by both in-house lawyers and private practitioners.
			Western Australia Legal Aid Commission Act 1976	1976	→ In Western Australia, legal aid may be provided by duty lawyers employed by Legal Aid WA, as well as by private practitioners.

Country	Article(s) in the constitution related to the right to legal aid or the right to a fair trial		Main Legal Aid Legislation	Year of Adoption	Comments
	Article No.	Text of the Relevant Article			
Austria ³	European Convention on Human Rights, Art. 6(3)(c)	3. Everyone charged with a criminal offence has the following minimum rights: [...] (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require[...]	Code of Criminal Procedure, § 61, 65-67 (<i>Strafprozeßordnung, §61, 65-67</i>)	1975	
Azerbaijan	Art. 61	I. Everyone has the right to receive qualified legal assistance. II. In cases specified by law, legal help shall be rendered free at the expense of the State. III. Everyone from the moment of being detained, arrested, charged with a crime on the part of authorised State organs has the right to seek the help of the Defender.	The Law of the Republic of Azerbaijan "On Legal Aid in Criminal Cases"	2001	
B Bangladesh	Art. 33(1), (5)	(1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall he be denied the right to consult and be defended by a legal practitioner of his choice. (5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made, and shall afford him the earliest opportunity of making a representation against the order: Provided that the authority making any such order may refuse to disclose facts which such authority considers to be against the public interest to disclose.	Legal Aid Services Act, 2000 Act No. VI of 2000	2000	<ul style="list-style-type: none"> → National Board of Management is entrusted with general administration of the National Legal Aid Services Organisation. → According to Legal Aid Services Act, a District Committee, which considers legal aid applications and implements the legal aid programs, is established in every district.
Barbados	Art. 18(2)(d), (12)	(2) Every person who is charged with a criminal offence – [...] (d) shall be permitted to defend himself before the court in person or by a legal representative of his own choice; [...] (12) Nothing contained in subsection (2)(d) shall be construed as entitling a person to legal representation at public expense.	The Community Legal Services Act	1985	<ul style="list-style-type: none"> → Barbados does not explicitly guarantee legal aid to a defendant in the Constitution. However, it has been held by the Privy Council in <i>Hinds v AG</i> that the right to fair trial enshrined in Art. 18 means that in certain circumstances a defendant must be provided with free legal aid in order to guarantee this right. → The legal aid scheme is administered through the Community Legal Services Commission. → Legal aid is generally provided for persons with insufficient means in criminal cases, certain civil cases and in all cases involving minors.

³ Although Austrian Constitution does not contain an explicit provision on access to legal aid, the European Convention on Human Rights has a constitutional rank in Austria. This means that provisions of the European Convention on Human Rights are directly applicable and enforceable in Austria.

Country	Article(s) in the constitution related to the right to legal aid or the right to a fair trial		Main Legal Aid Legislation	Year of Adoption	Comments	
	Article No.	Text of the Relevant Article				
Belarus	Art. 62	Everyone shall have the right to legal assistance to exercise and defend his rights and liberties, including the right to make use, at any time, of the assistance of lawyers and one's other representatives in court, other state bodies, bodies of local government, enterprises, establishments, organisations and public associations, and also in relations with officials and citizens. In the instances specified in law, legal assistance shall be rendered from public funds. Opposition to the rendering of legal assistance shall be prohibited in the Republic of Belarus.	Criminal Procedure Code of the Republic of Belarus, Art. 17 (Уголовно-процессуальный кодекс Республики Беларусь, Ст. 17)	1999		
Belgium	Art. 23(2)	Everyone has the right to lead a life in keeping with human dignity. To this end, the laws, federate laws and rules referred to in Article 134 guarantee economic, social and cultural rights, taking into account corresponding obligations, and determine the conditions for exercising them. These rights include among others: [...] 2. the right to social security, to health care and to social, medical and legal aid [...]	An Act amending the Code of Criminal Procedure and the Law of 20 July 1990 on preventive detention to confer rights, including the right to consult a lawyer and to be assisted by him, to anyone arrested and anyone deprived from liberty (the "Salduz Bill") (Loi modifiant le Code d'instruction criminelle et la loi du 20 juillet 1990 relative à la détention préventive afin de conférer des droits, dont celui de consulter un avocat et d'être assistée par lui, à toute personne auditionnée et à toute personne privée de liberté)	2011	→ The "Salduz Bill", which was enacted following the <i>Salduz v. Turkey</i> ⁴ judgement of the European Court of Human Rights, gives every accused person the right to a 30 minute consultation with a lawyer before their interrogation and for the lawyer to be present during interrogation.	
			An Act amending the Judicial Code concerning legal aid (Loi modifiant le Code judiciaire en ce qui concerne l'aide judiciaire)		2011
			Law on Legal Aid (Loi relative à l'aide juridique)		1998

⁴ Salduz v. Turkey, App. No. 36391/02, Judgment of 27 November 2008, ECHR 2008.

Country	Article(s) in the constitution related to the right to legal aid or the right to a fair trial		Main Legal Aid Legislation	Year of Adoption	Comments
	Article No.	Text of the Relevant Article			
Benin	Art. 17	Any person accused of an unlawful act shall be presumed innocent until his culpability has been legally established in the course of a public lawsuit during which all guarantees necessary to his free defence ("libre defense") shall have been assured to him.	N/A	N/A	
Bolivia (Plurinational State of)	Arts. 115 (II), 119 (II), 121 (II)	Article 115 II. The State guarantees the right to due process and defence, and to plural, prompt, appropriate, free, and transparent justice without delays.	Law on the Plurinational Service of Public Defence No. 463, 19 December 2013 (<i>Ley del Servicio Plurinacional de Defensa Pública, Ley Nº 463 de 19 de diciembre de 2013</i>)	2013	→ Legislation of Bolivia establishes two different services, both under the Ministry of Justice: (i) One for offenders, which includes legal technical assistance for those who cannot afford it or who have not designated a lawyer. (ii) Another for victims, which includes legal aid for victims of crime with scarce resources.
		Article 119 II. Everyone has the inviolable right to a defence. The State shall provide a defence lawyer free of charge to persons accused or denounced in the event that they do not have the necessary economic resources.	..... <i>Law on the Plurinational Service of Victim Assistance, No. 464, 19 December 2013</i> (<i>Ley del Servicio Plurinacional de Asistencia a la Víctima, Ley Nº 464 de 19 de diciembre de 2013</i>)	2013	
Botswana	Sec. 10(2) (c)-(d)	2. Every person who is charged with a criminal offence - [...] c. shall be given adequate time and facilities for the preparation of his or her defence; d. shall be permitted to defend himself or herself before the court in person or, at his or her own expense, by a legal representative of his or her own choice.	Legal Aid Act	2013	→ Legal aid is available in criminal and civil proceedings. → Legal Aid Botswana is the statutory entity responsible for administering legal aid services for persons who cannot afford a lawyer.
Brazil	Art. 5 (LXXIV)	The State shall provide full and free-of-charge legal assistance to all who prove insufficiency of funds[...]	Complementary Law No. 80, of 12 January 1994 (<i>Lei Complementar Nº 80, de 12 de Janeiro de 1994</i>)	1994	→ In Brazil, there are Offices of Public Defenders on both federal and state levels. → No proof of eligibility is required in criminal cases.

Country	Article(s) in the constitution related to the right to legal aid or the right to a fair trial		Main Legal Aid Legislation	Year of Adoption	Comments
	Article No.	Text of the Relevant Article			
Bulgaria	Arts. 30 (4), 56	<p>Article 30 (4) Everyone shall be entitled to legal counsel from the moment of detention or from the moment of being charged.</p> <p>Article 56 Everyone shall have the right to legal defence whenever his rights or legitimate interests are violated or endangered. He shall have the right to be accompanied by legal counsel when appearing before an agency of the State.</p>	Legal Aid Act	2005	<p>→ Representation in Court shall cover the cases in which legal counselling or representation is required by law, and all cases where the party in a criminal, civil or administrative case does not possess the necessary means to pay for an attorney, wishes to have one and the interests of justice require it.</p> <p>→ Legal aid is organised by the National Legal Aid Bureau (NLAB), independent state body, and by bar councils.</p>
Burkina Faso	Art. 4	All Burkinabe and all persons living in Burkina Faso benefit from an equal protection of the law. All have the right to have their case heard by an independent and impartial jurisdiction. Any accused is presumed innocent until his guilt has been established. The right to a defence, including that of freely choosing one's defender is guaranteed before all the jurisdictions.	Decree No. 2009-558/PRES/PM/MJ/MEF/MATD of 22 July 2009 concerning the organisation of legal aid of Burkina Faso, JO No. 33 of 13 August 2009 <i>(Décret N°2009-558/PRES/PM/MJ/MEF/MATD du 22 juillet 2009 portant organisation de l'assistance judiciaire de Burkina Faso, JO N° 33 du 13 aout 2009)</i>	2009	
C Cabo Verde	Art. 22(3), (4)	<p>3. Everyone has the right to defence and to legal information, to legal counsel and to be accompanied by a lawyer before any authority under the law.</p> <p>4. Justice cannot be denied because of insufficient economic means or undue delay of the decision.</p>	Regulatory Decree No. 10/2004 <i>(Decreto-Regulamentar N° 10/2004)</i>	2004	The system is managed by the Bar Association <i>(Orden dos Advogados de Cabo Verde)</i>
Cambodia	Art. 38	Every citizen shall enjoy the right to defence through judicial recourse.	N/A	N/A	
Cameroon	Principle 11 of the Preamble	[E]very accused person is presumed innocent until found guilty during a hearing conducted in strict compliance with the rights of defence[...]	Law No. 2009/004 of 14 April 2009 concerning the organisation of legal aid <i>(Loi No. 2009/004 du 14 AVR 2009 portant organisation de l'assistance judiciaire)</i>	2009	→ The Constitution of Cameroon lists 25 principles in its Preamble, to which the State "shall guarantee all citizens of either sex the rights and freedoms set forth in the Preamble[...]"

Country	Article(s) in the constitution related to the right to legal aid or the right to a fair trial		Main Legal Aid Legislation	Year of Adoption	Comments
	Article No.	Text of the Relevant Article			
Canada ⁵	Constitution Act, 1982 ⁶ , Sec. 10(b)	Everyone has the right on arrest or detention [...] b. to retain and instruct counsel without delay and to be informed of that right [...]	Alberta N/A	N/A	→ In Alberta, Legal Aid Alberta is a publicly funded, independent organisation that provides legal aid in criminal and civil matters as well as in immigration and extradition matters.
			British Columbia The Legal Services Society Act	2002	→ In British Columbia, the Legal Services Society established under the Act provides legal aid services to persons who cannot afford a lawyer by using both staff lawyers and private lawyers.
			Manitoba Legal Aid Manitoba Act	2015	→ In Manitoba, Legal Aid Manitoba administers legal aid in Manitoba. It offers legal aid in mainly criminal and family matters. It also conducts public interest litigation. Civil suits are not generally covered.
			New Brunswick Legal Aid Act	1971	→ In New Brunswick, New Brunswick Legal Aid Services Commission was established in 2005 to oversee the delivery of legal aid services in criminal defence and family matters.
			Newfoundland and Labrador Legal Aid Act	1996	→ In Newfoundland and Labrador, Newfoundland and Labrador Legal Aid Commission, a corporation established by the Act has overall responsibility for the administration of legal aid services. Legal aid is provided in criminal matters, family matters and certain civil matters.
			Northwest Territories Legal Aid Act	2012	→ In Northwest Territories, the Northwest Territories Legal Aid Commission is responsible for the administration of legal aid. It provides legal aid in criminal, family and poverty law matters using staff attorneys and private counsel.
			Nova Scotia Legal Aid Act	1989	→ In Nunavut, the Legal Services Board of Nunavut is responsible for providing legal services to financially eligible Nunavummiut in the areas of criminal, family and civil law.

⁵ Canadian Federal Government does not provide legal aid; this is the responsibility of the territorial and provincial governments.

⁶ Constitution Act, 1982 is a part of the Constitution of Canada.

Country	Article(s) in the constitution related to the right to legal aid or the right to a fair trial		Main Legal Aid Legislation	Year of Adoption	Comments
	Article No.	Text of the Relevant Article			
Canada	Constitution Act, 1982, Sec. 10(b)	Everyone has the right on arrest or detention [...] b. to retain and instruct counsel without delay and to be informed of that right [...]	Nunavut Legal Services Act, R.S.N.W.T. 1988	1988	→ In Nunavut, the Legal Services Board of Nunavut is responsible for providing legal services to financially eligible Nunavummiut in the areas of criminal, family and civil law.
			Ontario Legal Aid Services Act	1998	→ In Ontario, Legal Aid Ontario is an independent publicly funded body responsible for administering Ontario's legal aid programme.
			Prince Edward Island N/A	N/A	→ In Saskatchewan, Saskatchewan Legal Aid Commission provides legal aid in family, civil and criminal law for persons who cannot afford legal services.
			Québec An Act Respecting Legal aid and the Provision of Certain Other Legal Services	1972	→ In Québec, a body called the "Commission des services juridiques" established by the Act administers legal aid in the territory. Legal aid is available in criminal matters, family matters and certain civil matters.
			Yukon Legal Services Society Act	2002	→ In Yukon, Yukon Legal Service Society, which is not a statutory body but is funded by the government, provides legal aid in Yukon. Legal aid is available in criminal matters where the penalty is incarceration or where a minor is involved, extradition matters and certain civil matters (family matters, matters under the Mental Health Act and all child protection proceedings).
Chad	Art. 24	Every defendant is presumed innocent until the establishment of their culpability following a regular process offering the indispensable guarantees for their defence.	N/A	N/A	

Country	Article(s) in the constitution related to the right to legal aid or the right to a fair trial		Main Legal Aid Legislation	Year of Adoption	Comments
	Article No.	Text of the Relevant Article			
Chile	Art. 19(3)	<p>3.[...] All persons have the right to a juridical defence in the form that the law specifies and no authority or individual can impede, restrict or disturb the due intervention of an attorney, if it is required. Concerning the members of the Armed Forces and [the forces] of Public Order and Security, this right will be governed, concerning administrative and disciplinary [matters], by the pertinent norms of their respective statutes.</p> <p>The law shall provide the means to grant juridical counsel and defence to those who cannot secure them on their own. The law shall specify the cases and shall establish the form in which natural persons [who are] victims of crimes may be provided with gratuitous juridical counsel and defence, to the effect of exercising the criminal [penal] action recognized by this Constitution and the laws.</p> <p>Any person accused of a crime has the irrenounceable right to be assisted by a suitable defending attorney by the State if one cannot be appointed in the modality established by the law.</p>	<p>Law No. 19.718, establishing the Public Criminal Defender (<i>Ley Nº 19.718, crea la Defensoría Penal Pública</i>)</p>	2011	
			<p>Law No. 20.286, introducing organic and procedural amendments to Law Nº 19.968, creating the Family Courts (<i>Ley Nº 20.286, introduce modificaciones orgánicas y procedimentales a la Ley Nº 19.968, que crea los Tribunales de Justicia</i>)</p>	2008	
China	N/A	N/A	<p>Legal Aid Regulations</p>	2003	<p>→ While the right to legal aid is not directly mentioned in the Constitution of China, equal access to justice is implied in the Article 33 of the Constitution that “[a]ll citizens of the People’s Republic of China are equal before the law”.</p> <p>→ The Criminal Procedure Code grants legal aid to suspects and defendants in criminal matters.</p>
			<p>Lawyers Law</p>	1996	
Colombia	Art. 29	<p>Whoever is accused is entitled to defence and the assistance of counsel picked by the accused or assigned automatically during the investigation and trial[...]</p>	<p>Law 24 of 1992, establishing the organisation and operation of the Ombudsman’s Office (<i>Ley 24 de 1992, por la cual se establece la organización y funcionamiento de la Defensoría del Pueblo</i>)</p>	1992	
			<p>Law 941 of 2005, organising the National System of Public Defender (<i>Ley 941 de 2005, por la cual se organiza el Sistema Nacional de Defensoría Pública</i>)</p>	2005	

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	Article No.	Text of the Relevant Article			
Congo (Democratic Republic of the)	Art. 19	The right to defence is organised and guaranteed. All persons have the right to defend themselves or to be assisted by a defender of their choice, at all stages of the criminal procedure, and including the police inquiry and the investigation before trial. They may be assisted equally before the security services.	N/A	N/A	
Congo (Republic of)	Art. 9	[...] Any accused is presumed innocent until his culpability has been established following a procedure that guarantees him the rights of defence. [...]	Law No. 026-92 concerning the organisation of the profession of the lawyer, Art. 1 <i>(Loi No. 026-92 du 20 août 1992 portant organisation de la profession d'avocat, Art. 1)</i>	1992	
			Law No. 022-92 concerning the organisation of judicial authority, Art. 2 <i>(Loi No. 022-92 du 20 août 1992 portant organisation du pouvoir judiciaire, Art. 2)</i>	1992	
Costa Rica	Art. 39	No one will be made to suffer a penalty except for [a] crime, [an] offence or [a] fault sanctioned by [a] previous law, and by virtue of a firm sentence issued by [a] competent authority, [with] prior opportunity granted to the indicted [person] to exercise their defence and through the necessary demonstration of culpability. [...]	Law No. 7333, Organic Law on the Judicial Power, Art. 152 <i>(Ley Nº 7333, Ley Orgánica del Poder Judicial, Art. 152)</i>	1993	→ Legal aid is provided by the Public Defender's Office to criminal and "non-criminal agrarian" cases.
Cote d'Ivoire	Arts. 20, 22	Article 20 Everyone has the right to a free and equal access to justice. Article 22 [...] Any accused is presumed innocent until his culpability has been established following a procedure offering to him the guaranties indispensable to his defence.	Code of Civil, Commercial and Administrative Procedure (Law No. 72-833 of 21 December 1972 concerning the Code of Civil, Commercial and Administrative Procedure, Arts. 27-30) <i>(Le Code de procedure civile, commerciale et administrative (Loi No. 72-833 du 21 decembre 1972 portant Code de procedure civile, commerciale et administrative, Arts. 27-30)</i>	1972	→ Legal aid is provided by the Public Defender's Office to criminal and "non-criminal agrarian" cases.

Country	Article(s) in the constitution related to the right to legal aid or the right to a fair trial		Main Legal Aid Legislation	Year of Adoption	Comments
	Article No.	Text of the Relevant Article			
Croatia	Arts. 27, 29	<p>Art. 27. The Bar, as an autonomous and independent service, shall provide everyone with legal aid, in conformity with law.</p> <p>Art. 29. [...] In the case of suspicion or accusation for a penal offence, the suspected, accused or prosecuted person shall have the right: [...]</p> <p>– To defend himself in person or with the assistance of a defence counsel of his own choice, and if he lacks resources to engage a counsel, to have a free counsel under the terms specified by law [...]</p>	Free Legal Aid Act	2008	<p>→ Provided in all proceedings before courts, administrative bodies and other legal entities vested with public authority, if they are adjudicating on the “beneficiary’s existential issues”. It can also be approved by the court “for reasons of fairness”.</p> <p>→ Legal aid providers are attorneys, authorised associations and institutions of higher education.</p> <p>→ The implementation is monitored by a Legal Aid Commission (advisory body) and the “ministry responsible for justice affairs”.</p>
Cyprus	Arts. 12(5) and 30(3)	<p>Article 12(5). Every person charged with an offence has the following minimum rights: [...]</p> <p>(c) to defend himself in person or through a lawyer of his own choosing or, if he has no sufficient means to pay for legal assistance, to be given free legal assistance when the interests of justice so require [...]</p> <p>Art. 30(3). Every person has the right [...] (d) to have a lawyer of his own choice and to have free legal assistance where the interests of justice so require and as provided by law.</p>	Free Legal Aid Law <i>(Νόμος που προνοεί για παροχή δωρεάν νομικής αρωγής)</i>	2002	<p>→ Legal aid is granted in:</p> <p>(1) Criminal proceedings.</p> <p>(2) Criminal and civil proceedings for specific violations of human rights.</p> <p>(3) Proceedings before the Family Court.</p> <p>(4) Cross-border disputes.</p>
Czech Republic ⁷	Charter of Fundamental Rights and Freedoms, Arts. 37(2), 40(3)	<p>Article 37 [...]</p> <p>(2) In proceedings before courts, other State bodies, or public administrative authorities, everyone shall have the right to legal assistance from the very beginning of such proceedings. [...]</p> <p>Article 40 [...]</p> <p>(3) The accused has the right to be given the time and opportunity to prepare a defence and to be able to defend herself, either pro se or with the assistance of counsel. If she fails to choose counsel even though the law requires her to have one, she shall be appointed counsel by the court. The law shall set down the cases in which the accused is entitled to counsel free of charge. [...]</p>	<p>Act No. 85/1996 Coll. of 13th March 1996 on the Legal Profession</p> <p>.....</p> <p>Act No. 349/1999 Coll. of 8th December 1999 on the Public Defender of Rights</p>	1996 1999	
D Denmark	N/A	N/A	Administration of Justice Act <i>(Bekendtgørelse af lov om rettens pleje)</i>	1916	
Dominican Republic	Art. 177	The State shall be responsible for organizing programs and services of free legal assistance in favour of people who lack economic resources to obtain judicial representation of their interests, particularly for the protection of the right of victims, without prejudice to the powers that correspond to the Public Ministry in the realm of the criminal process.	Administration of Justice Act <i>(Bekendtgørelse af lov om rettens pleje)</i>	2004	<p>→ There is a National Council of Public Defence, which establishes general policies and rules of operation; and a National Office of Public Defence that implements public defence policies according to the lines established by the Council.</p>

⁷ The Charter of Fundamental Rights and Basic Freedoms forms part of the constitutional order of the Czech Republic by virtue of Article 3 of the Constitution of Czech Republic

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	Article No.	Text of the Relevant Article			
Ecuador	Art. 191	The Office of the Attorney for the Defence of the People is an autonomous body of the Judicial Branch, aimed at guaranteeing full and equal access to justice by persons who, because of their situation of defencelessness or economic, social, or cultural status, cannot hire legal defence services for the protection of their rights. The Office of the Attorney for the Defence of the People shall provide technical, timely, efficient, effective and free-of-charge legal services to support and legally advise the rights of persons in all matters and institutions.	Organic Code on the Judicial Function (<i>Código Orgánico de la Función Judicial</i>)	2009	→ There is specialized public defence for women, children and youth, victims of violence, and indigenous people.
Egypt	Art. 98	The right of defence either in person or by proxy is guaranteed. The independence of lawyers and the protection of their rights are ensured as a guarantee for the right of defence. For those who are financially incapable, the law guarantees the means to resort to justice and defend their rights.	N/A	N/A	
El Salvador	Art. 12	Every person accused of an offence shall be presumed innocent while his guilt is not proven in conformity with the law and in public trial in which all the guarantees necessary for his defence have been assured. The detained person shall be immediately and clearly informed of his rights and of the reasons for his detention, and cannot be compelled to make a declaration. The detained is guaranteed the assistance of a defence lawyer (defensor) during the proceedings of the auxiliary organs of the administration of justice and in judicial proceedings, in the terms established by the law.	Decree No. 775, Organic Law on the General Attorney of the Republic (<i>Decreto No. 775, Ley Orgánica de la Procuraduría General de la República</i>)	2008	
El Salvador	Art. 12	Every person accused of an offence shall be presumed innocent while his guilt is not proven in conformity with the law and in public trial in which all the guarantees necessary for his defence have been assured. The detained person shall be immediately and clearly informed of his rights and of the reasons for his detention, and cannot be compelled to make a declaration. The detained is guaranteed the assistance of a defence lawyer (defensor) during the proceedings of the auxiliary organs of the administration of justice and in judicial proceedings, in the terms established by the law.	Decree No. 775, Organic Law on the General Attorney of the Republic (<i>Decreto No. 775, Ley Orgánica de la Procuraduría General de la República</i>)	2008	
Estonia	Art. 21	Everyone who is deprived of his or her liberty shall be informed promptly, in a language and manner which he or she understands, of the reason for the deprivation of liberty and of his or her rights, and shall be given the opportunity to notify those closest to him or her. A person suspected of a criminal offence shall also be promptly given the opportunity to choose and confer with counsel. [...]	State Legal Aid Act	2004	→ State legal aid is granted to natural or legal persons in connection with proceedings in an Estonian court or administrative authority or in protection of their interests in any other manner.

Country	Article(s) in the constitution related to the right to legal aid or the right to a fair trial		Main Legal Aid Legislation	Year of Adoption	Comments
	Article No.	Text of the Relevant Article			
F	Fiji	Art. 14(2)(d) (2) Every person charged with an offence has the right – [...] (d) to defend himself or herself in person or to be represented at his or her own expense by a legal practitioner of his or her own choice, and to be informed promptly of this right or, if he or she does not have sufficient means to engage a legal practitioner and the interests of justice so require, to be given the services of a legal practitioner under a scheme for legal aid by the Legal Aid Commission, and to be informed promptly of this right [...]	Legal Aid Act No. 10 of 1996	1996	
	Finland	N/A	Legal Aid Act 257/2002 (<i>Oikeusapulaki 257/2002</i>)	2002	
	France	N/A	Act No. 91-647 of 10 July 1991 pertaining to Legal Aid (<i>Loi n° 91-647 du 10 juillet 1991 relative à l'aide juridique</i>) Decree No. 149 – February 16th, 2010 (<i>Décret n° 2010-149 du 16 février 2010</i>)	1991 2010	
G	Gabon	Art. 1(4) 4. The right to a defence, in the judicial process, are guaranteed to all [...]	Code of Civil Procedure, Arts. 50-51 (<i>Code de procédure civile, Arts. 50-51</i>) Code of Criminal Procedure, Art. 53-1, 75, 80-3 (<i>Code de procédure pénale, Art. 53-1, 75, 80-3</i>)	 2012	
	Gambia (Islamic Republic of the)	Art. 24(3)(d) (3) Every person who is charged with a criminal offence - [...] (d) shall be permitted to defend himself or herself before the court in person or, at his or her own expense, by a legal representative of his or her own choice; Provided that where a person is charged with an offence which carries a punishment of death or imprisonment for life, that person shall be entitled to legal aid at the expense of the State.	Legal Aid Act	2008	→ The National Agency for Legal Aid (NALA) is responsible for the management and administration of the legal aid system in The Gambia. → Legal aid is available in civil and criminal matters
	Georgia	Art. 18(5) 5. An arrested or detained person shall be informed about his/her rights and the grounds for restriction of his/her liberty upon his/her arrest or detention. The arrested or detained person may request for the assistance of a defender upon his/her arrest or detention, the request shall be met.	Law of Georgia on Legal Aid	2007	

Country	Article(s) in the constitution related to the right to legal aid or the right to a fair trial		Main Legal Aid Legislation	Year of Adoption	Comments
	Article No.	Text of the Relevant Article			
Germany	N/A	N/A	Code of Criminal Procedure, Sects. 140-142, 364a, 364b (<i>Strafprozessordnung</i>) Code of Civil Procedure, Sects. 114-115 (<i>Zivilprozessordnung</i>)	1877 1877	→ The court-appointed lawyer is always paid by the State. But if convicted, the accused must bear the cost of the proceedings, including reimbursement of the cost for the court-appointed lawyer.
Ghana	Art. 294	1. For the purposes of enforcing any provision of this Constitution, a person is entitled to legal aid in connection with any proceedings relating to this Constitution if he has reasonable grounds for taking, defending, prosecuting or being a party to the proceedings. 2. Subject to clause (1) of this article, Parliament shall, by or under an Act of Parliament, regulate the grant of legal aid. 3. Without prejudice to clause (2) of this article, Parliament may, under that clause provide for the granting of legal aid in such matters other than those referred to in clause (1) of this article as may be prescribed by or under that Act. 4. For the purposes of this article, legal aid shall consist of representation by a lawyer, including all such assistance as is given by a lawyer, in the steps preliminary or incidental to any proceedings or arriving at or giving effect to a compromise to avoid or to bring to an end any proceedings.	Legal Aid Scheme Act (Act 542 of 1997)	1987	→ Section 114 of the Courts Act 1993 (Act 459) provides that the Supreme Court, the Court of Appeal, the High Court or Regional Tribunal may assign a lawyer by way of legal aid to a party to proceedings before the Court or Tribunal where it appears desirable to the Court or Tribunal in the interests of justice that the party should have legal aid, → Under the Legal Aid Scheme Act, a person is automatically entitled to legal aid if charged with an offence punishable by death or life imprisonment and is entitled to legal aid for other criminal offences if unable to afford a lawyer. Legal aid is also available in certain civil matters.
Greece	N/A	N/A	Law on legal aid for low-income citizens (<i>Παροχή νομικής βοήθειας σε πολίτες χαμηλού εισοδήματος</i>)	2004	
Grenada	Sects. 15(1)(d)-(e), (3)	1. When a person is detained by virtue of any such law as is referred to in section 14 of this Constitution the following provisions shall apply, that is to say :- [...] d. he shall be afforded reasonable facilities to consult a legal representative of his own choice who shall be permitted to make representations to the tribunal appointed for the review of the case of the detained person; and e. at the hearing of his case by the tribunal appointed for the review of his case he shall be permitted to appear in person or by a legal representative of his own choice. [...] 3. Nothing contained in subsection (l)(d) or subsection (l)(e) of this section shall be construed as entitling a person to legal representation at public expense.	N/A	N/A	

Country	Article(s) in the constitution related to the right to legal aid or the right to a fair trial		Main Legal Aid Legislation	Year of Adoption	Comments
	Article No.	Text of the Relevant Article			
Guatemala	Art. 12	The defence of the person and his [or her] rights are inviolable.No one may be sentenced or deprived from his [or her] rights, without being summoned, heard and defeated in a legal process before a competent and pre-established judge and tribunal.	Decree 129-97 (5 December 1997), Law on the Public Service of Criminal Defence of Criminal Defence (<i>Decreto 129-97 (5 de diciembre de 1997), Ley del Servicio Público de Defensa Penal</i>)	1997	→ The Law on Public Service of Criminal Defense entered into force on 13 July 1998.
Guinea Bissau	Art. 42(3)	3.The accused has the right to choose a defender and be assisted by him in every act of the process, the law should specify the cases and phases in which the assistance is mandatory.	Decree No. 11/2011, of 3 February (<i>Decreto No. 11/2011, de 3 de Fevereiro</i>)	2011	→ The Cabinet on Legal Information and Consultation (GICJU), under the Ministry of Justice, provides legal information and consultation at a regional level through Centres of Access to Justice (CAJ), which work jointly with Bar Associations and civil society organisations.
H Haiti	Arts. 24-3 (c), 25-1	Article 24-3 [...] c.The accused must be notified of his right to be assisted by counsel at all phases of the investigation of the case up to the final judgment[...] Article 25-1 No one may be interrogated without his attorney or a witness of his choice being present.	Proposal for the Legal Assistance Act (<i>Proposition de Loi sur l'Assistance légale</i>)	1864	
Honduras	Arts. 82, 83	Article 82 The right of defence is inviolable. [...] Article 83 The State shall appoint counsel to defend indigents and to protect the persons and interests of minors and other incompetents.They shall give legal assistance to them and represent them judicially in defence of their personal liberty and other rights.	Rules of procedure of the Program for Public Defence (<i>Reglamento del Programa para la Defensa Pública</i>)	1994	→ Only available for criminal cases.
Hungary	Article XXVIII (3)	3.Persons subject to criminal proceedings shall have the right to defence at all stages of the proceedings. [...]	Act LXXX of 2003 On Legal Aid	2003	

Country	Article(s) in the constitution related to the right to legal aid or the right to a fair trial		Main Legal Aid Legislation	Year of Adoption	Comments
	Article No.	Text of the Relevant Article			
India	Art. 22(5)	5. When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.	The Legal Services Authorities Act, 1987	1987	
Indonesia	N/A	N/A	Law Concerning Legal Aid (Law No. 16/2011)	2011	
Iran (Islamic Republic of)	Art. 35	Both parties to a lawsuit have the right in all courts of law to select an attorney, and if they are unable to do so, arrangements must be made to provide them with legal counsel.	N/A	N/A	
Iraq	Art. 19, Sects. 4, 11	Fourth The right to a defence shall be sacred and guaranteed in all phases of investigation and in the trial. [...] Eleventh The court shall appoint a lawyer at the expense of the state for an accused of a felony or misdemeanor who does not have a defence lawyer. [...]	N/A	N/A	
Ireland	N/A	N/A	Criminal Justice (Legal Aid) Act, 1962	1962	
Israel	N/A	N/A	Public Defender Law, 57564-1995	1995	
Italy	Art. 24	[...] Defence is an inviolable right at every stage and instance of legal proceedings. The poor are entitled by law to proper means for action or defence in all courts. [...]	Presidential Decree, 30 May 2002, No. 115 (Decreto Presidente Repubblica D.P.R. 30 maggio 2002, n. 115)	2002	<ul style="list-style-type: none"> ➔ Legal aid is granted in criminal, civil, administrative and tax proceedings, as well as cases of voluntary jurisdiction. ➔ It is granted in all phases and levels of the proceeding and related proceedings, including enforcement, appeals, security measures, preventive measures, etc.

Country	Article(s) in the constitution related to the right to legal aid or the right to a fair trial		Main Legal Aid Legislation	Year of Adoption	Comments
	Article No.	Text of the Relevant Article			
J Jamaica	Sec. 16(6)(c)	6. Every person charged with a criminal offence shall – [...] c. be entitled to defend himself in person or through legal representation of his own choosing or, if he has not sufficient means to pay for legal representation, to be given such assistance as is required in the interests of justice [...]	The Legal Aid Act	1997	<ul style="list-style-type: none"> → The Legal Aid Act, which entered into force in 2000, provides for legal services to be provided in both criminal and civil matters. → The Act establishes the Legal Aid Council which is responsible for administering legal aid.
Japan	Art. 34, 37	<p>Article 34 No person shall be arrested or detained without being at once informed of the charges against him or without the immediate privilege of counsel; nor shall he be detained without adequate cause; and upon demand of any person such cause must be immediately shown in open court in his presence and the presence of his counsel.</p> <p>Article 37 [...] At all times the accused shall have the assistance of competent counsel who shall, if the accused is unable to secure the same by his own efforts, be assigned to his use by the State.</p>	Comprehensive Legal Support Act (Act No. 74 of June 2, 2004)	2004	<ul style="list-style-type: none"> → Japan Legal Support Center, a public corporation established by the Comprehensive Legal Support Act, is primarily responsible for administering legal aid in both criminal and civil cases. → Certain provisions in the Code of Criminal Procedure (Act No. 131 of 1948) also address the provision of legal aid in criminal matters. These provisions provide that the Court may appoint counsel for an accused person unable to do so by reason of indigency or where otherwise deemed necessary
Jordan	N/A	N/A	N/A	N/A	<ul style="list-style-type: none"> → Only those defendants facing death penalty or life imprisonment are granted State-funded legal aid and thus, non-governmental legal aid organisations play a big role in provision of legal aid.
K Kazakhstan	Art. 13(2), (3)	2. Everyone shall have the right to judicial defence of his rights and freedoms. 3. Everyone shall have the right to qualified legal assistance. In cases stipulated by law, legal assistance shall be provided free of charge.	Law of the Republic of Kazakhstan of 3 July 2013 No. 122-V "On State guaranteed legal aid"	2013	

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	Article No.	Text of the Relevant Article			
Kenya	Arts. 48, 50 (2) (c), (g), (h)	48. The State shall ensure access to justice for all persons and, if any fee is required, it shall be reasonable and shall not impede access to justice. 50. [...] (2) Every accused person has the right to a fair trial, which includes the right – (c) to have adequate time and facilities to prepare a defence; [...] (g) to choose, and be represented by, an advocate, and to be informed of this right promptly; (h) to have an advocate assigned to the accused person by the State and at State expense, if substantial injustice would otherwise result, and to be informed of this right promptly [...]	Legal Aid Act	2016	→ The Legal Aid Act of 2016 established the National Legal Aid Service, the administrative body for the national legal aid scheme. → Legal aid is mentioned in several legislation: 1. Supreme Court of Judicature Act; 2. Civil Procedure Act; 3. Criminal Procedure Code; 4. Children's Act of 2001; 5. Persons with Disabilities Act; 6. Law Society of Kenya Act; 7. Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act (No. 56 of 2012)
Kyrgyzstan	Art. 24(5)	5. [...] Since the moment of actual detention a person should be kept safe, such person shall be granted an opportunity to protect himself/herself personally, enjoy qualified legal aid from a lawyer as well as have an attorney.	Law of Kyrgyz Republic "On State guaranteed legal aid" of 17 July 2009 No. 227	2009	
L Lithuania	Art. 31	[...] A person suspected of the commission of a crime and the accused shall be guaranteed, from the moment of their detention or first interrogation, the right to defence as well as the right to an advocate.	Law of the Republic of Lithuania Amending the Law on state-guaranteed legal aid No. X-78 of 20 January 2005	2005	
M Malawi	Art. 42(1)(c)	1. Every person who is detained, including every sentenced prisoner, shall have the right – [...] (c) to consult confidentially with a legal practitioner of his or her choice, to be informed of this right promptly and, where the interests of justice so require, to be provided with the services of a legal practitioner by the State [...]	Legal Aid Bill of 2010	2010	→ Legal Aid Bureau established by the Legal Aid Act 2010 and operating independently from the Ministry of Justice is responsible for administering legal aid services.
Malaysia	Art. 5(3)	3. Where a person is arrested he shall be informed as soon as may be of the grounds of his arrest and shall be allowed to consult and be defended by a legal practitioner of his choice.	Act 26 Legal Aid Act 1971	1971	
Maldives	Art. 53(a), (b)	a. Everyone has the right to retain and instruct legal counsel at any instance where legal assistance is required. b. In serious criminal cases, the State shall provide a lawyer for an accused person who cannot afford to engage one.	N/A	N/A	

Country	Article(s) in the constitution related to the right to legal aid or the right to a fair trial		Main Legal Aid Legislation	Year of Adoption	Comments
	Article No.	Text of the Relevant Article			
Mauritania	N/A	N/A	Order No. 2006.05 relating to legal aid <i>(Ordonnance n°2006.05 relative à l'aide juridique)</i>	2006	
Mauritius	Sects. 10(2) (c), (d)	2. Every person who is charged with a criminal offence [...] c. shall be given adequate time and facilities for the preparation of his defence; d. shall be permitted to defend himself in person or, at his own expense, by a legal representative of his own choice or, where so prescribed, by a legal representative provided at the public expense[...]	Legal Aid Act (Act 57 of 1973)	1973	→ Constitutional right to legal aid is guaranteed for criminal cases only. → However, legal aid is also available for some civil matters.
Mexico	Art. 20(B) (VIII)	VIII. Defendant has the right to a lawyer, whom he shall freely choose even from the moment of his arrest. If he does not want a lawyer or cannot appoint one at the moment of request, the judge shall appoint a public defender. The defendant has the right that his lawyer appears in every acts of the process. Defendant's lawyer is obliged to appear in all the acts related to defendant's proceeding.	Federal Law on Public Defence <i>(Ley Federal de Defensoría Pública)</i> General basis on the organisation and operation of the Federal Institute of Public Defence <i>(Bases generales de organización y funcionamiento del Instituto Federal de Defensoría Pública)</i>	1998 1998	→ There are two different legal services: (1) Public defenders, in federal criminal proceedings and federal youth proceedings from investigation until enforcement. (2) Legal advisers, in non- criminal cases.
Mongolia	Arts. 16(14), 55	Article 16 The citizens of Mongolia shall be guaranteed to exercise the following rights and freedoms: 14. [...] to receive legal assistance; to have evidence examined; to a fair trial [...] Article 55 1. The accused shall have a right to defence. 2. The accused shall be accorded with the professional legal aid in the exercise of the above right at his/her request or as prescribed by law.	Law on Legal Aid for Indigent Defendants	2013	→ Constitution guarantees the right to legal aid in both criminal and civil matters. → The Legal Aid Center is responsible for administering the legal aid system created by the Law on Legal Aid for Indigent Defendants. → Legal aid is provided by both public defenders and private attorneys.

Country	Article(s) in the constitution related to the right to legal aid or the right to a fair trial		Main Legal Aid Legislation	Year of Adoption	Comments
	Article No.	Text of the Relevant Article			
Montenegro	Arts. 21, 37	<p>Article 21 Everyone shall have the right to legal aid. Legal aid shall be provided by the bar, as an independent and autonomous profession, and by other services. Legal aid may be provided free of charge, in accordance with the law.</p> <p>Article 37 Every one shall be guaranteed the right to defence, and especially: to be informed in the language he/she understands about the charges against thereof; to have sufficient time to prepare defence and to be defended personally or through a defence attorney of his/her own choosing.</p>	Law on Legal Aid	2011	<p>→ The Legal Aid Service attached to a court is responsible for the administration of the legal aid service.</p> <p>→ Legal aid is offered in criminal proceedings and civil proceedings. The services are performed by practitioners who are compensated for their work.</p>
Morocco	Art. 23	[...] Any detained person has the right to be informed immediately, in a fashion which is comprehensible to him, of the reasons [motifs] of his detention and of his rights, including that of remaining silent. He must benefit, as well, from juridical assistance and of the possibility of communication with his relations, in accordance with the law.	Royal Decree Law No. 514-65 on judicial assistance (B.O. November 16, 1966). <i>(Décret royal portant loi n° 514-65 (17 rejev 1386) sur l'assistance judiciaire (B.O. 16 novembre 1966))</i>	1966	→ While courts appoint defence lawyers to represent indigent criminal defendants on a <i>pro bono</i> basis, there is no provision of legal aid for civil cases.
Myanmar	Sec. 365	An accused shall have the right of defence in accordance with the law.	Legal Aid Law (Law No. 10 of 2016)	2016	→ Under the Legal Law, legal aid is only available to those arrested, detained or tried for a crime and for the victims and witnesses of the crime. The Act does not provide for legal aid in civil cases.
N Namibia	Arts. 11(5), 12(e), 95 (h)	<p>Article 11 [...] 5. No persons who have been arrested and held in custody as illegal immigrants shall be denied the right to consult confidentially legal practitioners of their choice, and there shall be no interference with this right except such as is in accordance with the law and is necessary in a democratic society in the interest of national security or for public safety.</p> <p>Article 12 [...] e. All persons shall be afforded adequate time and facilities for the preparation and presentation of their defence, before the commencement of and during their trial, and shall be entitled to be defended by a legal practitioner of their choice. [...]</p> <p>Article 95 The State shall actively promote and maintain the welfare of the people by adopting, inter alia, policies aimed at the following: [...] h. a legal system seeking to promote justice on the basis of equal opportunity by providing free legal aid in defined cases with due regard to the resources of the State [...]</p>	Legal Aid Act (Act No. 29 of 1990)	1990	→ The Namibia Supreme Court has held that the provision of legal aid to those who would otherwise be unable to afford legal representation may in certain cases be necessary to guarantee the right to fair trial enshrined in Article 12 of the Constitution of Namibia (<i>Government of the Republic of Namibia and Others v Mwiliima and Others</i>).

Country	Article(s) in the constitution related to the right to legal aid or the right to a fair trial		Main Legal Aid Legislation	Year of Adoption	Comments
	Article No.	Text of the Relevant Article			
Nepal	Art. 20(2), (10)	<p>[...]</p> <p>2. The person who is arrested shall have the right to consult a legal practitioner of her/his choice and be defended from the time of arrest. The consultations held with the legal practitioner⁸ and the advice given thereon shall remain confidential. Provided that this clause shall not apply to a citizen of an enemy state.</p> <p>Explanation: For the use of this clause "legal practitioner" shall mean a person who has the legal right to represent any person in any court or office.</p> <p>[...]</p> <p>10. Any indigent party shall have the right to free legal aid in accordance with law.</p>	Legal Aid Act, 2054 (1997)	1997	<ul style="list-style-type: none"> → Constitution provides for legal aid in criminal cases only but the Act does not limit legal aid to criminal matters. → Central Legal Committee is the statutory body ultimately responsible for administering state funded legal aid, although District Committees, supervised by the Central Legal Committee, administer legal aid services in each district where the Legal Aid Act has been implemented.
Netherlands	Art. 18	<p>1. Everyone may be legally represented in legal and administrative proceedings.</p> <p>2. Rules concerning the granting of legal aid to persons of limited means shall be laid down by Act of Parliament.</p>	Legal Aid Act	1993	<ul style="list-style-type: none"> → The Legal Aid Board ('Raad voor Rechtsbijstand') is responsible for the overall administration and implementation of the legal aid system. → The Dutch legal aid system operates on the basis of a threefold model: an online platform <i>Rechtwijzer</i>, Legal Services Counters (primary help) and private lawyers and mediators providing legal aid in more complex or time-consuming matters (secondary help).
New Zealand ⁹	New Zealand Bill of Rights Act 1990, Sects. 24(c), (d), (f) of the New Zealand	<p>Everyone who is charged with an offence —</p> <p>[...]</p> <p>c. shall have the right to consult and instruct a lawyer; and</p> <p>d. shall have the right to adequate time and facilities to prepare a defence; and</p> <p>[...]</p> <p>f. shall have the right to receive legal assistance without cost if the interests of justice so require and the person does not have sufficient means to provide for that assistance [...]</p>	Legal Services Act 2011	2011	<ul style="list-style-type: none"> → Although the Constitution guarantees legal aid in criminal matters only, the Legal Services Act also provides for legal aid in specified civil matters. → Legal Aid provided by the Legal Services Act is administered by the Legal Services Commissioner, who is employed by the Ministry of Justice.

⁸ For the purposes of this clause, "legal practitioner" means a person who has the legal right to represent any person in any court or office.

⁹ New Zealand has an uncodified Constitution comprised of a number of instruments including its Bill of Rights Act.

Country	Article(s) in the constitution related to the right to legal aid or the right to a fair trial		Main Legal Aid Legislation	Year of Adoption	Comments
	Article No.	Text of the Relevant Article			
Nicaragua	Art. 34(4), (5)	<p>Any accused has the right, under equal conditions, to the following minimal guarantees: [...]</p> <p>4.To have one's participation and defence guaranteed from the very initiation of the legal process and to have the time and means adequate to one's defence; 5.To be granted court appointed counsel when in the initial instance it has not been provided or when there has not been a prior warrant. The accused shall have the right to communicate freely and privately with one's counsel[...]</p>	<p>Law No. 260, Organic Law on the Judicial System (<i>Ley Nº 260, Ley Orgánica del Poder Judicial de la República de Nicaragua</i>)</p>	1998	
			<p>Regulation of the Law No. 260, Decree No. 63-99 (<i>Reglamento de la Ley Nº 260, Decreto No. 63-99</i>)</p>	1999	
Niger	Art. 20	<p>Any person accused of a delinquent act is presumed innocent until their culpability has been legally established in the course of a public process during which all the guarantees necessary for their free defence ("libre defense") have been assured to them. [...]</p>	<p>Law No. 2011-42 of 14 December 2011 defining the procedures for the provision of legal aid, and establishing a "National Legal Aid Agency" as a public institution with the mandate to administer legal aid (<i>Loi n° 2011-42 du 14 décembre 2011, fixant les règles applicables à l'assistance juridique et judiciaire et créant un établissement public à caractère administratif dénommé «Agence nationale de l'assistance juridique et judiciaire»</i>)</p>	2011	
Nigeria	Arts. 36.1 (6) (b), (c), 46 (4) (b)	<p>36.1. [...] 6. Every person who is charged with a criminal offence shall be entitled to- [...]</p> <p>b. be given adequate time and facilities for the preparation of his defence; c. defend himself in person or by legal practitioners of his own choice[...]</p> <p>46. [...] 4. The National Assembly- [...]</p> <p>b. shall make provisions-</p> <p>(i) for the rendering of financial assistance to any indigent citizen of Nigeria where his right under this Chapter has been infringed or with a view to enabling him to engage the services of a legal practitioner to prosecute his claim, and (ii) for ensuring that allegations of infringement of such rights are substantial and the requirement or need for financial or legal aid is real.</p>	Legal Aid Act, 2011	2011	<ul style="list-style-type: none"> ➔ Federal Constitution of Nigeria expressly obliges the National Assembly to provide legal aid for indigent persons in constitutional matters. ➔ The Nigerian Legal Aid Council, a body under the Federal Ministry of Justice, administers legal aid throughout Nigeria pursuant to the Legal Aid Act. ➔ The Legal Aid Act provides for legal aid in civil and criminal matters.

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	Article No.	Text of the Relevant Article			
Pakistan	Art. 10(1)	1.No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall he be denied the right to consult and be defended by a legal practitioner of his choice.[...]	Public Defender and Legal Aid Office Ordinance	2009	<p>→ The Supreme Court of Pakistan has held in <i>Faisal v. the State</i> that under Articles 4 and 9 of the Constitution of Pakistan, the State must provide legal assistance to accused persons who are poor or indigent. There is therefore a constitutional right to legal aid in criminal matters.</p> <p>→ Additional provisions on legal aid can be found in the following legislation:</p> <ol style="list-style-type: none"> 1.Code of Civil Procedure 1908; 2.Code of Criminal Procedure 1898; 3.Pakistan Bar Council Free Legal Aid Rules 1999; 4.Rules for Regulating the Functions of the District Legal Empowerment Committees; 5.Destitute Litigant Fund Rules.
Panama	Arts. 22, 217	Article 22 [...] Persons accused of committing a crime have the right to be presumed innocent until proven guilty, at a public trial, under due process of law. Whoever is arrested shall have the right, from that moment, to legal counsel in all police and judiciary proceedings. This matter shall be regulated by law.	Judicial Code of the Republic of Panama, Book I, Title I, Chapter I (<i>Código Judicial de la República de Panamá, Libro I, Título I, Capítulo I</i>)	2001	→ There is an Institute of Public Defender (<i>Instituto de Defensoría de Oficio</i>), under the auspices of the judicial body, composed by lawyers appointed by the Supreme Court of Justice.
		Article 217 The means of giving advice and legal defence to those who, because of their economic situation cannot pay for same, shall be established by law, whether from an official organisation created for this purpose, or through professional associations of lawyers recognized by the State.	Agreement 239 of 1993, Supreme Court of Justice (<i>Acuerdo 239 de 1993, Corte Suprema de Justicia</i>)	1993	→ There is also a National Service of Voluntary Legal Aid, which has a list of voluntary lawyers for those cases in which public defenders cannot act due to conflict of interest or work overload.
Paraguay	Arts. 16, 17(5), (6)	Article 16 The defence during trial of persons and of their rights is inviolable. All persons have the right to be judged by competent, independent, and impartial tribunals and judges. Article 17 In the penal process, or in any other [process] in which a penalty or sanction could be handed down, any person has the right: [...] 5. to defend themselves or to be assisted by defenders of their choice; 6. to have the State provide them with a public defender in the case of not disposing of the economic means to pay for one [...]	Organic Law No. 4423/11, on the Ministry of Public Defence. (<i>Ley n° 4423/11, Orgánica del Ministerio de la Defensa Pública</i>)	2011	

Country	Article(s) in the constitution related to the right to legal aid or the right to a fair trial		Main Legal Aid Legislation	Year of Adoption	Comments
	Article No.	Text of the Relevant Article			
Peru	Art. 139(14), (16)	Principles and rights of the jurisdictional function are the following: 14. The principle that no person shall be deprived of the right to defence at any stage of the proceedings. Every person shall be notified immediately and in writing of the causes or reasons for his detention. In addition, he has the right to communicate in person with and be advised by the legal counsel of his choice upon being summoned or arrested by any authority. [...]	Law on the Public Defence Service, Law No. 29360 <i>(Ley del servicio de defensa pública, Ley No 29360)</i>	2009	<ul style="list-style-type: none"> → The Public Defence Service functions under the auspices of the General Directorate on Public Defence of the Ministry of Justice. → It acts in criminal cases, civil and family cases (including family violence) and cases involving children, youth and the elderly.
		16. The principle of free administration of justice and a free defence for persons of limited means, as well as for everyone in those cases stipulated by law.	Supreme Decree No. 013-2009-jus, adopting the Regulation of Law No. 29360 <i>(Decreto Supremo N. 013-2009-jus, aprueban el reglamento de la Ley n. 29360)</i>	2009	
Philippines	Art. III, Sects. 11, 12 (1)	Sec 11 Free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty.	Republic Act No. 9406 – Public Attorney's Office Act	2007	<ul style="list-style-type: none"> → The legal aid service is administered by the Public Attorney's Office (PAO), an independent and autonomous office attached to the Department of Justice for purposes of policy and programme coordination. → Legal assistance is offered to indigent persons in civil, criminal, labour, administrative and quasi-judicial cases.
		Sec 12 1. Any person under investigation for the commission of an offence shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel. [...]	(2) Republic Act No. 9999 – Free Legal Assistance Act	2010	
Poland	Art. 42(2)	2. Anyone against whom criminal proceedings have been brought shall have the right to defence at all stages of such proceedings. He may, in particular, choose counsel or avail himself - in accordance with principles specified by statute - of counsel appointed by the court	Act of 17 December 2004 on legal aid in civil proceedings conducted in EU Member States	2004	<ul style="list-style-type: none"> → No comprehensive legislation dealing with legal aid and no statutory body charged with administering it. → Additional provisions on legal aid can be found in the following legislation: <ul style="list-style-type: none"> 1. Act No. 17 of 2004; 2. Act on Procedure in Minor's Case; 3. Code of Criminal Procedure of Poland (Act No. 6 of 1997); 4. Act on Protection of Mental Health; 5. Code of Civil Procedure; 6. Act on Court Costs in Civil Cases. → Applications for legal aid are made to and granted by the President of the Court or presiding judge of the proceedings for which legal representation is sought. Attorney is appointed by the bar association.

Country	Article(s) in the constitution related to the right to legal aid or the right to a fair trial		Main Legal Aid Legislation	Year of Adoption	Comments
	Article No.	Text of the Relevant Article			
Portugal	Arts. 20(1), (2), 32 (3)	<p>Article 20</p> <p>1. Everyone shall be guaranteed access to the law and the courts in order to defend those of his rights and interests that are protected by law, and justice shall not be denied to anyone due to lack of financial means.</p> <p>2. Subject to the terms of the law, everyone shall possess the right to legal information and advice, to legal counsel and to be accompanied by a lawyer before any authority.</p> <p>[...]</p> <p>Article 32</p> <p>[...]</p> <p>3. Defendants shall possess the right to choose counsel and to be assisted by him in relation to every procedural act. The law shall specify those cases and phases of proceedings in which the assistance of a lawyer shall be mandatory.</p> <p>[...]</p>	<p>Law No. 34/2004, of 29 July, amended and republished as Law 47/2007, 28 August, amending the rules on access to the law and to the courts and transposing into national legislation Council Directive 2003/8/EC of 27 January to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes (<i>Lei n.º 34/2004 de 29 de Julho altera o regime de acesso ao direito e aos tribunais e transpõe para a ordem jurídica nacional a Directiva n.º 2003/8/CE, do Conselho, de 27 de Janeiro, relativa à melhoria do acesso à justiça nos litígios transfronteiriços através do estabelecimento de regras mínimas comuns relativas ao apoio judiciário no âmbito desses litígios</i>).</p>	2004	<p>→ The Public Defence Service functions under the auspices of the General Directorate on Public Defence of the Ministry of Justice.</p> <p>→ It acts in criminal cases, civil and family cases (including family violence) and cases involving children, youth and the elderly.</p>
R Republic of Korea	Art. 12(4) Art. 27(1)	<p>(4) Any person who is arrested or detained shall have the right to prompt assistance of counsel. When a criminal defendant is unable to secure counsel by his own efforts, the State shall assign counsel for the defendant as prescribed by Act.</p> <p>(1) All citizens shall have the right to be tried in conformity with the Act by judges qualified under the Constitution and the Act.</p>	<p>Legal Aid Act (<i>법률구조법</i>)</p> <p>.....</p> <p>Criminal Procedure Act</p> <p>.....</p> <p>Constitutional Court Act</p> <p>.....</p> <p>Act on Special Cases Concerning the Punishment, etc. of Sexual Crimes</p> <p>.....</p> <p>Act on the Protection of Children and Juveniles Against Sexual Abuse</p> <p>.....</p> <p>Civil Procedure Act</p>	<p>1986</p> <p>.....</p> <p>1954</p> <p>.....</p> <p>1988</p> <p>.....</p> <p>2012</p> <p>.....</p> <p>2012</p> <p>.....</p> <p>1960</p>	<p>→ Korea Legal Aid Corporation is the body responsible for administration of legal aid services.</p> <p>→ The right to legal aid is extended to victims of sexual crimes and abuse involving children and juveniles.</p>

Country	Article(s) in the constitution related to the right to legal aid or the right to a fair trial		Main Legal Aid Legislation	Year of Adoption	Comments
	Article No.	Text of the Relevant Article			
Republic of Moldova	Arts. 25(5), 26(1), (3)	<p>Article 25 [...] 5.The detained in custody or arrested person shall be informed without delay on the reasons of his/her detention or arrest, and notified of the charges against him/her, as soon as possible; the notification of the charges shall be made only in the presence of a lawyer, either chosen by the defendant or appointed ex officio. [...]</p> <p>Article 26 1.The right to defence shall be guaranteed. [...] 3.Throughout the trial the parties shall have the right to be assisted by a lawyer, either chosen or appointed ex officio.</p>	Law on State guaranteed legal aid	2007	
Rwanda	Art. 19	Every person accused of a crime shall be presumed innocent until his or her guilt has been conclusively proved in accordance with the law in a public and fair trial in which all the necessary guarantees for defence have been made available. [...]	<p>Criminal Procedure Law (Law No.27 of 2013), Art. 39</p> <p>.....</p> <p>Law on Bar Association (Law No.03 of 1997), Art. 58</p>	<p>2013</p> <p>.....</p> <p>1997</p>	<p>→ Additional provisions on legal aid can be found in the following legislation:</p> <p>1. upreme Court Law (Law No.3 of 2012);</p> <p>2.Law Relating to The Civil, Commercial, Labour and Administrative Procedure (Law No.21 of 2012), Art. 23;</p> <p>3.Law Relating to the Rights and the Protection of the Child (Law No. 54 of 2011).</p>
S San Marino	N/A	N/A	Law on Free Legal Aid (<i>Legge sul "Gratuito Patrocinio"</i>)	1884	<p>→ Legal aid is available in both criminal and civil cases. In civil proceedings, legal aid is provided by the <i>Consiglio dei XII</i> (Council of Twelve), the country's highest judicial tribunal.</p> <p>→ In criminal matters a public defender is appointed for persons who are without legal representation through Law No.5 of 25.1.1984 (<i>reforme de l'istitution du defenseur public</i>).</p> <p>→ The Penal Code also specifically provides that minors are entitled to legal assistance in their defence. Victims of offences may also receive legal aid.</p>
Saudi Arabia	N/A	N/A	N/A	N/A	<p>→ No legislative framework for legal aid. However, legal aid is provided by individual attorneys and non-governmental organisations and also facilitated by the Ministry of Justice.</p>

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	Article No.	Text of the Relevant Article			
Senegal	Art.9	[...] The defence is an absolute right in all the stages and in all degrees of the procedure.	Ordinance No.78-35 of 7 September 1978 on judicial organisation, Art. 10 <i>(Ordonnance no 78-35 du 7 septembre 1978 portant organisation judiciaire, Art. 10)</i>	1978	→ Additional provisions on legal aid can be found in the following legislation: 1. Decree No. 2007-554 of 30 April 2007 on the institutional structure of the Ministry of Justice, Art. 10 (<i>Décret n° 2007-554 du 30 avril 2007 portant organisation du ministère de la Justice, Art. 10</i>); 2. Organic Law No. 2008-35 of 7 August 2008 on the establishment of the Supreme Court, Arts. 35, 36 (<i>Loi organique n° 2008-35 du 7 août 2008 portant création de la Cour supreme, Arts. 35, 36</i>).
Seychelles	Arts. 18(3), 19(2)(c), (d)	18. [...] 3. A person who is arrested or detained has a right to be informed at the time of arrest or detention or as soon as is reasonably practicable thereafter in, as far as is practicable, in a language that the person understands of the reason for the arrest or detention, a right to remain silent, a right to be defended by a legal practitioner of the person's choice and, in the case of a minor, a right to communicate with the parent or guardian. [...] 19. [...] 2. Every person who is charged with an offence- [...] c. shall be given adequate time and facilities to prepare a defence to the charge; d. has a right to be defended before the court in person, or, at the person's own expense by a legal practitioner of the person's own choice or, where a law so provides, by a legal practitioner provided at public expense [...]	Legal Aid Act Legal Aid Rules	1985 1986	

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	Article No.	Text of the Relevant Article			
Sierra Leone	Sects. 17(2)(b), 28(5)	<p>17.[...] 2.Any person who— [...] b.is arrested or detained shall be informed immediately at the time of his arrest of his right of access to a legal practitioner or any person of his choice,and shall be permitted at his own expense to instruct without delay a legal practitioner of his own choice and to communicate with him confidentially. [...] 28.[...] 5.Parliament shall make provision— a.for the rendering of financial assistance to any indigent citizen of Sierra Leone where his right under this Chapter has been infringed,or with a view to enabling him to engage the services of a legal practitioner to prosecute his claim;and b.for ensuring that allegations of infringements of such rights are substantial and the requirement or need for financial or legal aid is real.</p>	The Legal Aid Act, 2012	2012	<ul style="list-style-type: none"> → The Legal Aid Board, a body corporate established by the Legal Aid Act, provides, administers, monitors and controls the provision of legal aid in civil and criminal matters. → Legal aid is provided by legal aid providers (practitioners, civil society organisations, and non-governmental organisations) accredited by the Legal Aid Board.
Singapore	Art. 9(3)	<p>3.Where a person is arrested, he shall be informed as soon as may be of the grounds of his arrest and shall be allowed to consult and be defended by a legal practitioner of his choice.</p>	Legal Aid and Advice Act	1995	<ul style="list-style-type: none"> → The Legal Aid Bureau administers the legal aid scheme established by the Legal Aid and Advice Act. → The Legal Aid and Advice Act does not provide legal aid in criminal matters. → The Supreme Court Legal Assistance Scheme for Capital Offences, administered by the Registrar of the Court, offers legal assistance to persons accused of capital offence. → The Law Society of Singapore administers a Criminal Legal Aid Scheme that offers legal aid to eligible persons accused of most criminal matters.
Slovakia	Arts. 47(2), 50(3)	<p>Article 47(2). Every person shall have the right to counsel from the outset of proceedings before any court of law, or a governmental or public authority as provided by law. Article 50 (3). Any person charged with an offence shall have the possibility to prepare his or her defence during such time as may be deemed necessary and shall have the right to defend the case by himself or herself and by a counsel.</p>	Act No. 327/2005 Coll. on Provision of Legal Aid for People in Material Need	2005	<ul style="list-style-type: none"> → The Centre for Legal Aid (the CPP) administers legal aid to those who qualify for it. → The Centre provides legal aid in domestic civil, family, labour and asylum cases. → For criminal matters lawyers (public defenders) are appointed by the Court acting on its own initiative or on the defendant's making an application for legal assistance.

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	Article No.	Text of the Relevant Article			
Slovenia	Arts. 19, 29	<p>Article 19 [...] Anyone deprived of his liberty must be immediately informed in his mother tongue, or in a language which he understands, of the reasons for being deprived of his liberty. Within the shortest possible time thereafter, he must also be informed in writing of why he has been deprived of his liberty. He must be instructed immediately that he is not obliged to make any statement, that he has the right to immediate legal representation of his own free choice and that the competent authority must, on his request, notify his relatives or those close to him of the deprivation of his liberty.</p> <p>Article 29 Anyone charged with a criminal offence must, in addition to absolute equality, be guaranteed the following rights:</p> <ul style="list-style-type: none"> • the right to have adequate time and facilities to prepare his defence; • the right to be present at his trial and to conduct his own defence or to be defended by a legal representative [...] 	Legal Aid Act of the Republic of Slovenia (Official Gazette of the Republic of Slovenia No. 96/04 - consolidated text, No. 23/08, No. 15/14 - Constitutional Court's decision, No. 19/15)	2001	<ul style="list-style-type: none"> → The body charged with administering legal aid is the Legal Aid Professional Service. → Legal Aid is available for both criminal and civil matters except for criminal offences involving insulting behaviour, libel, defamation and slander, applications for the reduction of maintenance and damage disputes involving compensation of non-property.
Somalia	Arts. 29(5), 34(4)-(5), 35 & Schedule One (D)	<p>Article 29 (5). Every child shall have the right to legal aid paid for by the State if the child might otherwise suffer injustice.</p> <p>Article 34 4. The state shall provide free legal defence to the people who do not have the means of doing so themselves. 5. The state shall provide free legal defence to individuals or communities if they are legally pursuing the public interest.</p> <p>Article 35 (6). Every person who is arrested or detained has the right to choose, and to consult with, a legal practitioner and if he or she cannot afford one, the State must appoint a legal practitioner for him or her.</p>	Criminal Procedure Code, Art. 15	1963	<ul style="list-style-type: none"> → The provisional constitution of Somalia provides under Schedule One (D) that the Drafting Commission shall prioritize drafting projects concerning, among others, "a law in terms of Article 34, concerning the right to free legal aid to defendants in criminal cases".

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	Article No.	Text of the Relevant Article			
South Africa	Sects. 28(1) (h), 35(2)(c), 35(3) (f),(g)	<p>Section 28</p> <p>1. Every child has the right – (h) to have a legal practitioner assigned to the child by the state, and at state expense, in civil proceedings affecting the child, if substantial injustice would otherwise result [...]</p> <p>Section 35.</p> <p>2. Everyone who is detained, including every sentenced prisoner, has the right— [...]</p> <p>(b) to choose, and to consult with, a legal practitioner, and to be informed of this right promptly;</p> <p>(c) to have a legal practitioner assigned to the detained person by the state and at state expense, if substantial injustice would otherwise result, and to be informed of this right promptly [...]</p> <p>3. Every accused person has a right to a fair trial, which includes the right— [...]</p> <p>(f) to choose, and be represented by, a legal practitioner, and to be informed of this right promptly;</p> <p>(g) to have a legal practitioner assigned to the accused person by the state and at state expense, if substantial injustice would otherwise result, and to be informed of this right promptly [...]</p>	Act No. 39 of 2014: Legal Aid South Africa Act 2014	2014	<p>→ The South African Constitution guarantees the right to legal aid at state expense in criminal matters and in civil proceedings involving a child if substantial injustice would otherwise result.</p> <p>→ Legal Aid South Africa is an independent statutory body established by the Legal Aid South Africa Act to provide, at State's expense, legal aid and legal advice to indigent persons as well as to provide education and information concerning legal rights and obligations.</p> <p>→ In terms of legal aid policy, legal aid is also granted in certain civil cases such as evictions, divorces and administration of estates involving children.</p>
South Sudan	Arts. 19 (7), 135(3), 136 (3)	<p>19.[...]</p> <p>7. Any accused person has the right to defend himself/herself in person or through a lawyer of his/her own choice and to have legal aid assigned to him/her by the State where he/she is unable to defend himself/herself in serious offences.</p> <p>135. [...]</p> <p>3. Public Attorneys and Legal Advisors shall advise all levels of government, represent them in public prosecution, litigation, adjudication, and conduct pre-trial proceedings. They shall recommend law reform, strive to protect public and private rights, advice on legal issues and shall render legal aid.</p> <p>[...]</p> <p>136. [...]</p> <p>3. Advocates shall serve to prevent injustice, defend the legal rights and interests of their clients, seek conciliation between adversaries and may render legal aid for the needy according to the law.</p>	Advocates Act, 2013 (Act No. 55), Sec. 31	2013	<p>→ The South Sudan Law Society (SSLS) provides free legal advice, mediation and representation to clients who cannot otherwise afford these services. Legal aid is also provided by NGOs.</p> <p>→ Southern Sudan has a Directorate of Legal Aid within the Ministry of Legal Affairs and Constitutional Development.</p>

Country	Article(s) in the constitution related to the right to legal aid or the right to a fair trial		Main Legal Aid Legislation	Year of Adoption	Comments
	Article No.	Text of the Relevant Article			
Spain	Sects. 17(3), 24(1), (2), 119	<p>Section 17 [...]</p> <p>3.The arrested person shall be guaranteed the assistance of a lawyer during police and judicial proceedings, under the terms to be laid down by the law</p> <p>Section 24</p> <p>1.All persons have the right to obtain effective protection from the judges and the courts in the exercise of their rights and legitimate interests, and in no case may there be a lack of defence.</p> <p>2.Likewise,all have the right [...] to defence and assistance by a lawyer; [...]</p> <p>Section 119</p> <p>Justice shall be free when thus provided for by law,and shall in any case be so in respect of those who have insufficient means to sue in court.</p>	Law 1/1996,on free legal aid (<i>Ley 1/1996, de asistencia juridical gratuita</i>)	1996	→ There is a Commission on Free Legal Aid in each province, as well as a Central Commission on Free Legal Aid for those courts whose jurisdiction cover the whole country.
Sri Lanka	Arts. 12(1), 13(3)	<p>12.</p> <p>1.All persons are equal before the law and are entitled to the equal protection of the law.[...]</p> <p>13.[...] 3.Any person charged with an offence shall be entitled to be heard, in person or by an attorney-at-law,at a fair trial in a competent court.[...]</p>	Legal Aid Law No.27 of 1978	1978	<p>→ The State position appears to be that Art. 13(3), particularly taken together with Art. 12(1), provide a right to legal aid.</p> <p>→ Legal Aid Commission was created in 1978 by the Legal Aid Law to operate/administer State funded legal aid. Legal aid is available in both civil and criminal matters, as well as for rights violations. It is provided by attorneys-at-law.</p>
Sweden ¹⁰	European Convention on Human Rights, Art. 6(3)(c)	3.Everyone charged with a criminal offence has the following minimum rights: [...] (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require[...]	<p>Legal Aid and Advice Act (1996:1619) (Rättshjälpslagen, (1996:1619)</p> <p>Public Counsel Act (1996:1620)</p> <p>Legal Aid Ordinance (1997:404)</p>	<p>1996</p> <p>1996</p> <p>1997</p>	<p>→ The Legal Aid and Advice Act and Ordinance only applies to criminal cases where a victim is seeking legal advice or representation.</p> <p>→ The Public Counsel Act generally deals with the provision of legal aid in criminal matters while the Legal Aid and Advice Act is applicable to all other matters.</p> <p>→ The Legal Aid Authority, established by the Legal Aid and Advice Act is the national body responsible for administering the legal aid scheme created by both the Legal Aid and Advice Act and the Public Counsel Act.</p>

¹⁰ According to Article 19 of the Swedish Constitution, no act of law or other provision may be adopted which contravenes Sweden's undertakings under the European Convention for the Protection of Human Rights and Fundamental Freedoms.

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	Article No.	Text of the Relevant Article			
Switzerland	Arts. 29(3), 32(2)	Article 29 [...] <p>3. Any person who does not have sufficient means has the right to free legal advice and assistance unless their case appears to have no prospect of success. If it is necessary in order to safeguard their rights, they also have the right to free legal representation in court.</p>	Code of Civil Procedure of 19 December 2008, Arts. 117-123 (<i>Code de procédure civile du 19 décembre 2008, Arts. 117-123</i>)	2008	
		Article 32 [...] <p>2. Every accused person has the right to be notified as quickly and comprehensively as possible of the charge brought against them. They must be given the opportunity to assert their rights to a proper defence. [...]</p>	Code of Criminal Procedure, Arts. 136-138 (<i>Code de procédure pénale du 5 octobre 2007, Arts. 136-138</i>)	2007	
			Federal Supreme Court Act, Art. 64 (<i>Bundesgerichtsgesetz</i>)	2005	
			Administrative Procedures Act, Art. 65 (<i>Verwaltungsverfahrensgesetz</i>)	1968	
T Thailand	N/A	N/A	N/A	N/A	→ Legal aid is provided primarily by non-governmental organisations and private attorneys acting <i>pro bono</i> .
Togo	Art. 16	[...] <p>Every accused [person] has the right to be assisted by counsel at the stage of the preliminary inquiry.</p>	Law No. 2013-010 of 27 May 2013 concerning legal aid in Togo (<i>Loi No. 2013-010 du 27 mai 2013 portant aide juridictionnelle au Togo</i>)	2013	
			Organic Law No. 2008-35 of 7 August 2008 establishing the Supreme Court, Arts. 35-36 (<i>Loi organique n° 2008-35 du 7 août 2008 portant création de la Cour suprême, Arts. 35-36</i>)	2008	
Trinidad and Tobago	Sec. 5(2)(c) (ii), (d)	2. Without prejudice to subsection (1), but subject to this Chapter and to section 54, Parliament may not — [...] <p>c. deprive a person who has been arrested or detained — [...]</p> <p>ii. of the right to retain and instruct without delay a legal adviser of his own choice and to hold communication with him; [...]</p> <p>d. authorise a court, tribunal, commission, board or other authority to compel a person to give evidence unless he is afforded protection against self-incrimination and, where necessary to ensure such protection, the right to legal representation[...]</p>	Legal Aid and Advice Act	1976	→ Legal Aid and Advisory Authority (LAAA) is a statutory body established by the Act to administer the State system of legal aid. → Legal aid and advice is offered to eligible members of the public in civil and criminal matters.

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Turkey	N/A	N/A	N/A	N/A	<ul style="list-style-type: none"> → No standalone legislation on Legal Aid. However, provision for legal aid is included within the Criminal Procedure Code and Civil Procedure Law. The administration of legal aid is also governed by the Attorneyship Law. → No central governmental body is responsible for the administration of legal aid. Legal aid is instead administered by the Criminal Procedure Units/Centres of local bar associations.
Turkmenistan	Arts. 107, 108	<p>Article 107. Justice is dispensed on the basis of equality and rights of defence. [...]</p> <p>Article 108.</p> <p>The right to professional legal assistance is recognized at any stage of the legal proceedings.</p> <p>The legal aid to citizens and organisations is rendered by lawyers, and other individuals and organisations.</p>	Law on Advocacy in Turkmenistan, Arts. 4, 6-7	2010	<ul style="list-style-type: none"> → Legal aid is provided primarily by non-governmental organisations and private attorneys acting <i>pro bono</i>.
U Uganda	Art. 28(2) (c), (d), (e)	<p>(3) Every person who is charged with a criminal offence shall – [...]</p> <p>c. be given adequate time and facilities for the preparation of his or her defence;</p> <p>d. be permitted to appear before the court in person or, at that person's own expense, by a lawyer of his or her choice;</p> <p>e. in the case of any offence which carries a sentence of death or imprisonment for life, be entitled to legal representation at the expense of the State; [...]</p>	The Poor Persons Defence Act	1998	<ul style="list-style-type: none"> → The Poor Persons Defence Act provides for legal aid services to prisoners defined as "poor persons committed to trial". It does not provide legal aid in non-criminal matters. → The Poor Persons Defence Act does not establish any administrative body. The Act is instead administered by the judiciary.
Ukraine	Art. 29	[...] Everyone arrested or detained shall be informed without delay of the reasons for his or her arrest or detention, apprised of his or her rights, and from the moment of detention shall be given the opportunity to personally defend himself or herself, or to have the legal assistance of a defender. [...]	The Law of Ukraine on Free Legal Aid of 2 June 2011 No. 3460-VI (Закон України «Про безоплатну правову допомогу» від 02.06.2011 № 3460-VI)	2011	<ul style="list-style-type: none"> → The Poor Persons Defence Act provides for legal aid services to prisoners defined as "poor persons committed to trial". It does not provide legal aid in non-criminal matters. → The Poor Persons Defence Act does not establish any administrative body. The Act is instead administered by the judiciary.

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	Article No.	Text of the Relevant Article			
United Kingdom of Great Britain and Northern Ireland ¹¹	Human Rights Act 1998 ¹² , Schedule 1, Art. 6(1),(3) (c)	<p>1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice. [...]</p> <p>3. Everyone charged with a criminal offence has the following minimum rights: [...]</p> <p>c. to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require[...]</p>	England and Wales Access to Justice Act 1999 (as amended by the Legal Aid, Sentencing and Punishment of Offenders Act 2012)	1999	→ In England and Wales, the Legal Aid Agency is responsible for the development and administration of both the civil and criminal legal aid schemes in England and Wales.
			Northern Ireland The Legal Aid, Advice and Assistance (Northern Ireland) Order 1981	1981	→ In Northern Ireland, Legal Services Agency Northern Ireland has the responsibility for administering legal aid. Legal aid is offered in criminal and civil matters.
			Access to Justice (Northern Ireland) Order No.435 of 2003.	2003	
			Scotland Legal Aid (Scotland) Act	1986	→ In Scotland, The Scottish Legal Aid is the body responsible for administering legal aid. Legal aid is offered for both civil and criminal matters, as well cases involving children.
United Republic of Tanzania	N/A	Legal Aid (Criminal Proceedings) Act	Law on Advocacy in Turkmenistan, Arts. 4, 6-7	1969	<p>→ Provision for free legal aid in criminal proceedings before the court and appellate court only.</p> <p>→ Legal aid is almost entirely provided by non-governmental organisations who have now formed two umbrella organisations - Tanzania Network of Legal Aid Providers (TANLAP) and the National Legal Aid Network.</p>
United States of America	Sixth Amendment	In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.	18 U.S. Code § 3006A. Adequate representation of defendants	1964	→ Right to legal aid in the U.S. is derived extensively from the U.S. Supreme Court decisions that interpret the Constitution. Most notably, <i>Gideon v. Wainwright</i> , 372 U.S. 335 (1963), established the right to government-paid counsel for individuals who cannot afford attorneys in state felony proceedings.

¹¹ Constitution of the United Kingdom of Great Britain and Northern Ireland is uncodified.

¹² The Human Rights Act 1998 forms a part of the UK's uncodified constitution and incorporates the rights and freedoms guaranteed under the European Convention on Human Rights into the laws of the United Kingdom.

Country	Article(s) in the constitution related to the right to legal aid or the right to a fair trial		Main Legal Aid Legislation	Year of Adoption	Comments
	Article No.	Text of the Relevant Article			
Uruguay	Art. 16	In any of the cases contemplated in the preceding article, the judged, under the gravest responsibility, shall take the declaration of the person under arrest within twenty-four hours and shall begin the summary process within forty-eight hours at the most. The declaration of the accused must be taken in the presence of his defender. The latter shall also have the right to attend all summary hearings.	Decree 297/79 of 29 May 1979 <i>(Decreto 297/79 del 29 de mayo de 1979).</i>	1979	
			Decree 674/979 of 20 November 1979 <i>(Decreto 674/979 del 20 de noviembre de 1979)</i>	1979	
			Decree 48/80 of 24 January 1980 <i>(Decreto 48/80 del 24 de enero de 1980)</i>	1980	
			Decree 271/980 of 13 May 1980 <i>(Decreto 271/980 del 13 de mayo de 1980)</i>	1980	
V Venezuela (Bolivarian Republic of)	Art. 49	All judicial and administrative actions shall be subject to due process, therefore: 1. Legal assistance and defence are inviolable rights at all stages and levels during the investigation and proceeding. Every person has the right to be notified of the charges for which he or she is being investigated, to have access to the evidence and to be afforded the necessary time and means to conduct his or her defence. [...]	Organic Law on Public Defence <i>(Ley Orgánica de la Defensa Pública)</i>	2008	→ The Public Defence is a body of the justice system, which has functional financial and administrative autonomy, and is monitored by the Supreme Court of Justice.
Vietnam	Art. 31(4)	4. Any person who has been arrested, held in custody, prosecuted, brought to trial in violation of the law has the right to self-defend or to seek the assistance of defence from lawyers or other people.	Law on Legal Aid	2006	→ Article 5 of the Law on Legal Aid provides that legal aid is available only in cases “related to legitimate rights and interests of legal aid beneficiaries and must not fall into business or commercial domains”. → The administrative body responsible for state funded legal aid is the National Legal Aid Agency under the Ministry of Justice, which works with Provincial Legal Aid Centres.

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	Article No.	Text of the Relevant Article				
Z	Zambia	Art. 18(2) (c), (d)	2. Every person who is charged with a criminal offence – [...] c. shall be given adequate time and facilities for the preparation of his defence; d. shall unless legal aid is granted to him in accordance with the law enacted by Parliament for such purpose be permitted to defend himself before the court in person, or at his own expense, by a legal representative of his own choice; [...]	Legal Aid Act	1967	<ul style="list-style-type: none"> → The Legal Aid Act provides for legal aid in criminal and civil cases for persons lacking the means to retain counsel. → The provision of legal aid is managed by a corporate body known as the Legal Aid Board.
	Zimbabwe	Sec. 31	The State must take all practical measures, within the limits of the resources available to it, to provide legal representation in civil and criminal cases for people who need it and are unable to afford legal practitioners of their choice.	Legal Aid Act	1996	<ul style="list-style-type: none"> → There is a Legal Aid Directorate consisting of the Director and law officers. → It provides legal aid in connection with any criminal, civil or other related matter.