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## Community-Based Justice Research (CBJR) Project: Exploring Community-Based Services, Costs and Benefits for People- Centered Justice

Trevor C. W. Farrow

Ab Currie

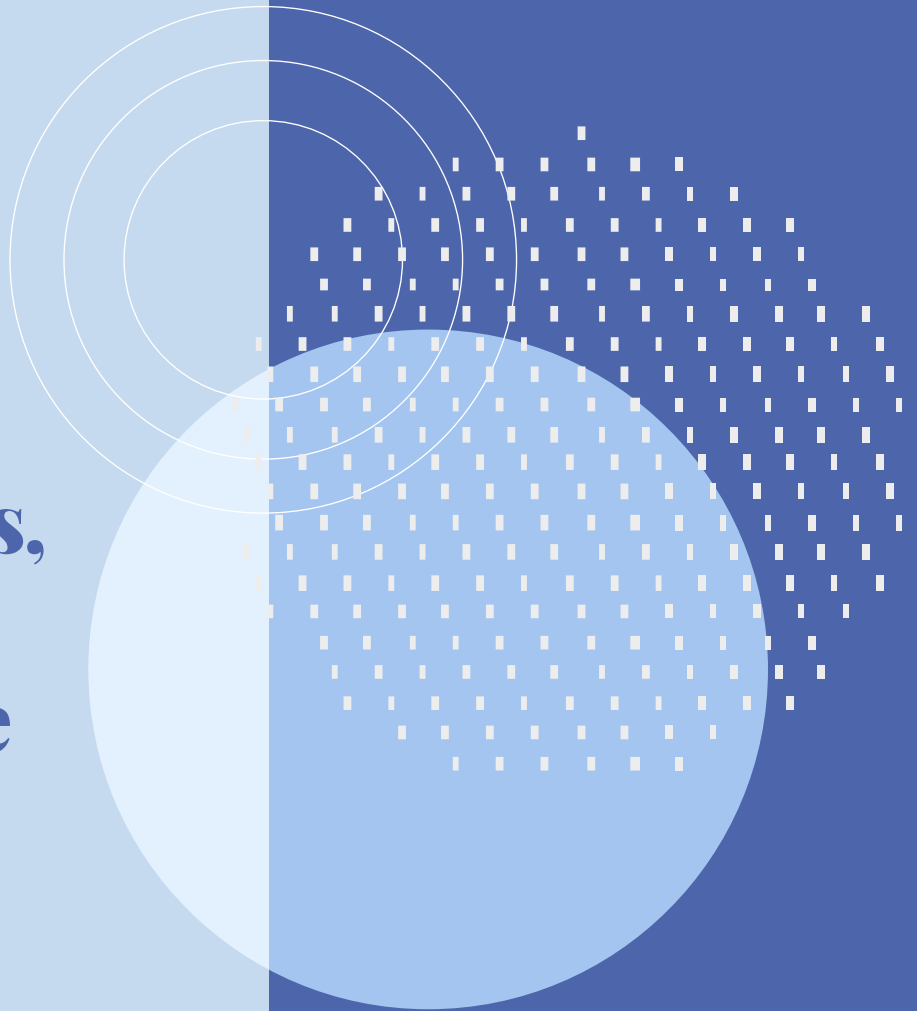
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Community-Based Justice Research (CBJR) Project

# Exploring Community-Based Services, Costs and Benefits for People-Centered Justice



**CBJR Final Report Including Research from Sierra Leone, Kenya, South Africa and Canada**

Trevor CW Farrow, PhD

Professor & Associate Dean (Research &  
Institutional Relations), Osgoode Hall Law School

Chair, Canadian Forum on Civil Justice

Ab Currie, PhD

Senior Research Fellow, Canadian Forum on Civil  
Justice

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The **Canadian Forum on Civil Justice (CFCJ)** is a national not-for-profit organization dedicated to civil justice reform and access to justice research and advocacy. Established by the Canadian Bar Association and affiliated with Osgoode Hall Law School, the CFCJ envisions an accessible, sustainable, and effective justice system for all Canadians. Learn more about the CFCJ at: <https://cfcj-fcjc.org/>.



The **Community-Based Justice Research (CBJR)** project (2018-2022) is a four-year study that seeks to compare the costs, benefits, challenges and opportunities of providing and scaling access to community-based justice services in Canada, Sierra Leone, Kenya and South Africa. The CBJR Project is funded by the International Development Research Centre (IDRC). Learn more about the CBJR project at: <https://cfcj-fcjc.org/our-projects/community-based-justice-research-cbjr/>.



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# Acknowledgments

The CBJR Project features exciting new research from the CBJR partner organizations and their teams, including:

- [Katiba Institute](#) in Kenya, including Karuti Kanyinga, Paul Kamau, Sarah Kinyanjui, Nkatha Kabira, Duncan Elly, Naomi Wang, Charles Opiyo, Christine Nkonge, Christine Kuria, Ben Nyabira, Patricia Waithera Joseph, Hilda Njoki and Jill Cottrell Ghai;
- [Center for Alternative Policy Research and Innovation \(CAPRI\)](#) in Sierra Leone, including Felix Marco Conteh, Yakama Manty Jones, Sonkita Conteh, Henry Mbawa and Aisha Fofana Ibrahim; and
- [Centre for Community Justice & Development \(CCJD\)](#) in South Africa, including Fayth Ruffin, Winnie Martins, Sophia Mukorera, Alwin Mabuza, Carol Friedman, Karen Buckenham, Karen Smithers, Phindile Hlubi, Bongiwe Dlodla, Lucky Mkhize, Sindiswa Khambule, Rendani Mudau and Alwin Mabuza.

Lisa Moore, Director of the [Canadian Forum on Civil Justice \(CFCJ\)](#), is a lead member of the CBJR Project team and has provided leadership, research and support throughout the CBJR Project. Lisa Moore and the CFCJ also provided administrative and other supports throughout the CBJR Project.

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# Executive Summary

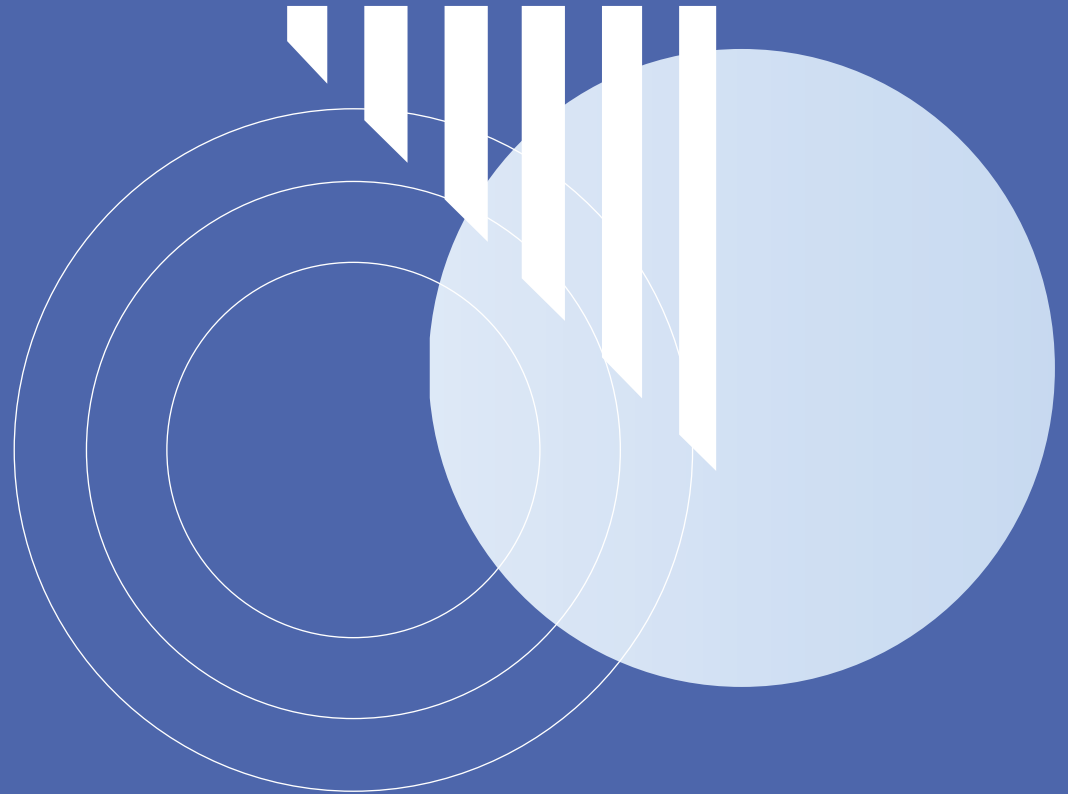
The CBJR Project is a collaborative international initiative featuring exciting new research exploring the costs and benefits of community-based justice. The CBJR Project partners include the Katiba Institute in Kenya, the Center for Alternative Policy Research & Innovation in Sierra Leone and the Centre for Community Justice & Development in South Africa, with collaboration and support from the Canadian Forum on Civil Justice and the International Development Research Centre.

Since 2018, the CBJR Project partners have been working to learn more about the benefits, costs and opportunities of providing and scaling various community-based justice services and initiatives, as well as the benefits, opportunities and challenges of collaborating on a multi-country empirical access to justice research initiative.

The deliverables of the CBJR Project include not only specific research outputs, but equally if perhaps not more importantly an attention to relationships and processes. Specifically, the CBJR Project partners collaborated on several shared goals, including goals focussing on the development of research partnerships, peer-to-peer support, methodological innovation, community-based justice research and data collection, scaling local initiatives as part of a global access to justice agenda, adding to a shared justice culture shift, and – as the project developed – understanding how to conduct research in the context of a COVID-19 world.

This final report, which builds on companion publications and earlier reports, is the final report of the CBJR Project. The purpose of this final report is not to summarize all of the work and findings of the three African-based CBJR country projects, which are well-documented and speak for themselves in their various final reports. Rather, the purpose of this final report is to briefly describe and summarize the overall CBJR Project, to situate the CBJR Project in the context of the global access to justice crisis, to identify and briefly discuss some shared findings (primarily from the African-based CBJR Project studies as well as, very briefly, some recent Canadian initiatives) and, overall, to learn from the work of our African colleagues in the context of the growing body of scholarship on access to justice generally and community-based justice in particular, all within the growing body of international people-centered access to justice research and reform efforts.

# Overview





# Overview

## Community-Based Justice Research (CBJR) Project

The [CBJR Project](#)<sup>1</sup> is an international research initiative with partners in Kenya, South Africa, Sierra Leone and Canada. Since 2018, the CBJR Project partners have been working to learn more about the benefits, costs and opportunities of providing and scaling various

community-based justice services and initiatives, as well as the benefits, opportunities and challenges of collaborating on a multi-country empirical access to justice research initiative.

## CBJR Project Goals

The CBJR Project partners have worked jointly towards several shared goals, including:

### Partnerships

Identify, explore and establish research partnerships from various parts of the world.

### Collaboration

Develop and share ideas, best-practices and lessons-learned in rigorous, empirically based access to justice research and evidence-based reform thinking.

### Methodologies

Explore new methodological challenges, opportunities and solutions for contextually driven and people-centered access to justice research.

### Data

Create new data with a view to learning more about the access to justice opportunities, challenges, costs and benefits of various community-based justice services.

### Community-Based Justice

Understand, identify and explore points of overlap and difference between community-based and formal state-based services and solutions.

### Scale

Support, scale and add to a growing body of evidence-based thinking and policy reforms.

### Culture Shift

Foster and promote an overall culture shift<sup>2</sup> within the global legal community toward recognizing the growing justice crisis, the need for evidence-based solutions and the importance of people-centered equal access to justice.<sup>3</sup>

### COVID-19

Explore research opportunities, challenges and innovations and model collaborative research-based possibilities in a COVID-19 world.

1 Community-Based Justice Research (CBJR) Project, online: CFCJ <<https://cfcj-fcjc.org/our-projects/community-based-justice-research-cbjr/>>.

2 See Action Committee on Access to Justice in Civil and Family Matters, *Access to Civil & Family Justice: A Roadmap for Change* (Ottawa: Action Committee on Access to Justice in Civil and Family Matters, 2013) at pt 2, online: CFCJ <[https://www.cfcj-fcjc.org/sites/default/files/docs/2013/AC\\_Report\\_English\\_Final.pdf](https://www.cfcj-fcjc.org/sites/default/files/docs/2013/AC_Report_English_Final.pdf)>. See further Hryniak v Mauldin, 2014 SCC 7 at para 2.

3 See e.g. OECD, "OECD Framework and Good Practice Principles for People-Centred Justice" (Paris: OECD, 21 December 2021), online: OECD <<https://www.oecd.org/publications/oecd-framework-and-good-practice-principles-for-people-centred-justice-cdc3bde7-en.htm>>; Task Force on Justice, *Justice for All – The Report of the Task Force on Justice* (New York: Center on International Cooperation, 2019).

“[T]he CBJR Project was as much or more about the journey as it was about the destination.”

As can be seen, the deliverables of the CBJR Project included not only specific research outputs, but equally if perhaps not more importantly an attention to relationships and processes. Put simply (and with a nod to Ralph Waldo Emerson), the CBJR Project was as much or more about the journey as it was about the destination.

## Partners

The CBJR Project involved a number of different partner organizations. The African-based CBJR Project research initiatives were conducted by three different organizations: [Katiba Institute](https://katibainstitute.org/)<sup>4</sup> in Kenya, the Center for Alternative Policy Research & Innovation ([CAPRI](https://www.capri.org/))<sup>5</sup> in Sierra Leone, and the Centre for Community Justice & Development ([CCJD](http://www.ccjd.org.za/))<sup>6</sup> in South Africa. These research projects were mainly funded by Canada's International Development Research Centre ([IDRC](https://www.idrc.ca/en/about-idrc))<sup>7</sup>. IDRC also funded the participation of the Canadian Forum on Civil Justice ([CFCJ](https://cfcj-fcjc.org/))<sup>8</sup>, which is based at [Osgoode Hall Law School, York University](https://www.osgoode.yorku.ca/)<sup>9</sup> in Toronto, to facilitate links between the projects and to help connect them to the growing global access to justice conversation,<sup>10</sup> specifically including community-based justice initiatives and the business case for investment.<sup>11</sup>



4 Katiba Institute, online: Katiba <<https://katibainstitute.org/>>.

5 Center for Alternative Policy Research & Innovation, online: CAPRI <<https://www.capri.org/>>.

6 Centre for Community Justice & Development, online: CCJD <<http://www.ccjd.org.za/>>.

7 IDRC – a Government of Canada Crown Corporation – has a mandate “to initiate, encourage, support, and conduct research into the problems of the developing regions of the world and into the means for applying and adapting scientific, technical, and other knowledge to the economic and social advancement of those regions.” See IDRC, “About IDRC”, online: <<https://www.idrc.ca/en/about-idrc>>.

8 Canadian Forum on Civil Justice, online: CFCJ <<https://cfcj-fcjc.org/>>.

9 Osgoode Hall Law School, York University, online: Osgoode <<https://www.osgoode.yorku.ca/>>.

10 See e.g. Trevor CW Farrow, “Ten Steps Forward on the Way to Justice for All”, *Pathfinders for Peaceful, Just and Inclusive Societies* (20 October 2020), online: <<https://medium.com/sdg16plus/ten-steps-forward-on-the-way-to-justice-for-all-c84cae998e1d>>.

11 See e.g. OECD & World Justice Project, *Building a Business Case for Access to Justice*, White Paper (Paris: OECD, 2019), online: <<https://www.oecd.org/gov/building-a-business-case-for-access-to-justice.pdf>>; Lisa Moore & Trevor CW Farrow, *Investing in Justice: A Literature Review in Support of the Case for Improved Access* (Toronto: Canadian Forum on Civil Justice, 2019), online: CFCJ <<https://cfcj-fcjc.org/wp-content/uploads/Investing-in-Justice-A-Literature-Review-in-Support-of-the-Case-for-Improved-Access-by-Lisa-Moore-and-Trevor-C-W-Farrow.pdf>>; Lisa Moore, “Building a Business Case for Investing in Community-Based Justice”, *Slaw* (4 October 2018).



“[T]he purpose of this final report is... to situate the CBJR Project in the context of the global access to justice crisis, to identify and briefly discuss some shared findings ... and, overall, to learn from the work of our African colleagues...”

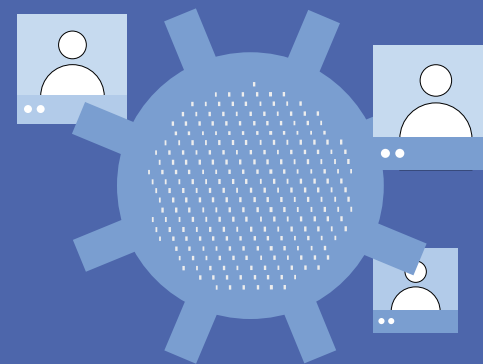
## Final Report

This final report, which builds on companion publications and earlier reports,<sup>12</sup> is the final report of the CBJR Project.<sup>13</sup> The purpose of this final report is not to summarize all of the work and findings of the three African-based CBJR country projects, which are well-documented and speak for themselves in their various final reports.<sup>14</sup> Rather, the purpose of this final report is to briefly describe and summarize the overall CBJR Project, to situate the CBJR Project in the context of the global access to justice crisis, to identify and briefly discuss some shared findings (primarily from the African-based CBJR Project studies as well as, very briefly, some recent Canada initiatives) and, overall, to learn from the work of our African colleagues in the

context of the growing body of scholarship on access to justice generally and community-based justice in particular, all within the growing body of international people-centered access to justice research and reform efforts. Ideally, this collaborative CBJR Project will help to influence further international research and policy thinking on community-based access to justice.

## CBJR Project Materials

This final report is the culminating publication of the CBJR Project. Various other reports and materials have been produced as part of or in collaboration with the CBJR Project, including those materials listed in Appendix A.<sup>15</sup>



## COVID-19 Pandemic

The [COVID-19 pandemic](#)<sup>16</sup> started when key CBJR Project activities were getting underway. At that time, the CBJR Project partners were working on refining and implementing country-specific project methodologies. The CBJR Project group had already had several collective discussions, including an in-person meeting in Nairobi to frame the overall process and goals of the CBJR Project. The COVID-19 pandemic dramatically impacted all aspects of the CBJR Project, including approaches to research projects (methodologies, surveys, interviews, etc.), the pace and timing of various CBJR Project initiatives, planned collaborations (meetings, discussions, scaling efforts, etc.), and overall outputs (conferences, publications, etc.).

The pandemic forced the CBJR Project partners to explore new and creative ways to communicate, collaborate and adjust methodologies, plans and outputs using a combination of remote and in-person tools and innovative research approaches. In the end, the three African-based research initiatives, and the overall CBJR Project, were successfully completed, notwithstanding many project changes and individual and collective challenges that COVID-19 presented.

12 Some parts of this final report have been previously discussed and developed in various CBJR Project materials. See e.g., among others, Trevor CW Farrow, Ab Currie & Lisa Moore, “Exploring community-based solutions to global access to justice problems”, *Pathfinders for Peaceful, Just and Inclusive Societies* (31 May 2022), online: SDG 16 <<https://medium.com/sdg16plus/exploring-community-based-solutions-to-global-access-to-justice-problems-53acc1f0d6e3>>; Trevor CW Farrow, Ab Currie & Lisa Moore, “Advancing People-Centered Justice: New Research on Community-Based Justice” *Slaw* (29 July 2022), online: *Slaw* <<http://www.slaw.ca/2022/07/29/advancing-people-centered-justice-new-research-on-community-based-justice/>>.

13 Further CBJR Project materials are listed in Appendix A.

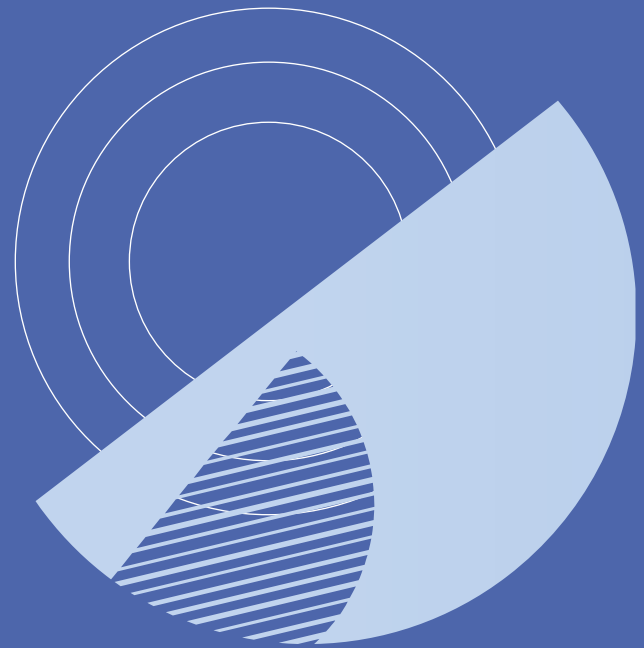
14 See Felix Marco Conteh, Yakama Manty Jones, Sonkita Conteh, Henry Mbawa & Aisha Fofana Ibrahim, *The Costs and Benefits of Community-based Justice in Sierra Leone* (Sierra Leone: Center for Alternative Policy Research & Innovation, January 2022), online: CAPRI <<https://www.capri.org/post/the-costs-and-benefits-of-community-based-justice-in-sierra-le>

one>; Jill Cottrell Ghai, ed, *Alternative Approaches to Access to Justice in Kenya: A Cost Benefit Analysis* (Nairobi: Katiba Institute & University of Nairobi, 15 November 2021), online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61056/IDL-61056.pdf?sequence=5&isAllowed=y>>; Winnie Martins, Sophia Mukorera & Carol Friedman, *Scaling Access to Justice Research Collaboration, Final Technical Report* (Scottsville, Pietermaritzburg: Centre for Community Justice and Development, 2022), online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61135/IDL-61135.pdf?sequence=2&isAllowed=y>>. Other CBJR Project materials and reports are mentioned and discussed further throughout this report and also in Appendix A.

15 For further materials and recommended resources related to community-based justice, see Canadian Forum on Civil Justice, “Recommended Readings and Resources” (Toronto: CFCJ, 2020), online: CFCJ <<https://cfcj-fcjc.org/our-projects/community-based-justice-research-cbjr/recommended-reading-and-resources/>>.

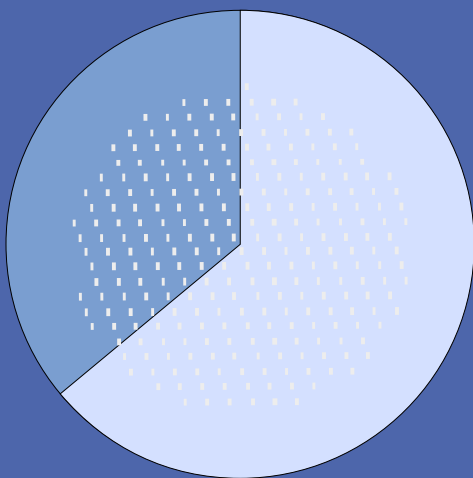
16 United Nations, COVID-19 Response, online: UN <<https://www.un.org/en/coronavirus>>.

# Global Access to Justice Crisis



“Two-thirds of the world’s population (5.1 billion people) – the global justice gap – lack meaningful access to justice.”

(Task Force on Justice, 2019)



# Global Access to Justice Crisis

## Background

Before looking at the purpose, process and outcomes of the CBJR Project, it is important to recognize that the CBJR Project was designed in the context – and as part of a growing collective effort to address – the global access to justice crisis.

## Crisis

The lack of access to justice around the world is now commonly recognized as a global crisis. As we have discussed elsewhere,<sup>17</sup> even prior to the COVID-19 pandemic and its aggravating impacts on many types of justice problems, it was estimated that approximately two-thirds of the world’s population (5.1 billion people) – the global justice gap – lack meaningful access to justice.<sup>18</sup> According to [research](#) from the Canadian Forum on Civil Justice, within a three-year period, almost 50% of adult Canadians will experience at least one everyday legal problem that they consider to be serious and difficult to resolve.<sup>19</sup> Put differently, according to the Canadian Bar Association, virtually every adult Canadian will experience a serious civil justice problem

in their lifetime.<sup>20</sup> According to Statistics Canada’s recent *Experiences of Serious Problems or Disputes in the Canadian Provinces* [report](#), 18% of people living in Canada’s provinces, and 34% of adult Canadians, experienced a “serious” dispute or problem in the last three years.<sup>21</sup> According to the US-based Legal Services Corporation (LSC), in their 2022 *Justice Gap* [report](#), a majority (74%) of low-income households had at least one civil legal problem within the past year and 92% of civil legal needs among low-income populations receive inadequate or no legal help.<sup>22</sup> In Sierra Leone, the 2017 *OSIWA Sierra Leone Legal Needs Survey* found that 50% of people experienced a civil justice problem within the last two years,<sup>23</sup> while in East Africa, an estimated 53% of people surveyed as part of the 2019 *Global Insights on Access to Justice in Kenya* study indicated that they experienced a legal problem in the last two years.<sup>24</sup> Similar numbers have been reported in South Africa.<sup>25</sup>

17 Trevor CW Farrow, Ab Currie & Lisa Moore, *Advancing People-Centered Justice: New Research on Community-Based Justice* *Slaw* (29 July 2022), online: <http://www.slw.ca/2022/07/29/advancing-people-centered-justice-new-research-on-community-based-justice/>.

18 Task Force on Justice, *Justice for All: The Report of the Task Force on Justice* (New York: Center on International Cooperation, 2019) at 18.

19 Trevor CW Farrow, Ab Currie, Nicole Aylwin, Les Jacobs, David Northrup & Lisa Moore, *Everyday Legal Problems and the Cost of Justice in Canada: Overview Report* (Toronto: Canadian Forum on Civil Justice, 2016) at 6.

20 Canadian Bar Association, *Reaching Equal Justice Report: An Invitation to Envision and Act* (Ottawa: Canadian Bar Association, November 2013) at 34.

21 Laura Savage & Susan McDonald, *Experiences of Serious Problems or Disputes in the Canadian Provinces, 2021* (Ottawa: Statistics Canada, 18 January 2022) at 3, online: <https://www150.statcan.gc.ca/n1/pub/85-002-x/2022001/article/00001-eng.pdf>.

22 Mary C Slosar, *The Justice Gap: The Unmet Civil Legal Needs of Low-income Americans* (Washington, DC: Legal Services Corporation, April 2022) at 8.

23 Open Society Initiative for West African, *Baseline and Needs Assessment for the Provision of Non-Criminal Primary Justice Services in Sierra Leone* (Sierra Leone: OSIWA, 2017) at 14.

24 World Justice Project, *Global Insights on Access to Justice: Findings from the World Justice Project General Population Poll in 101 Countries* (Washington, DC: World Justice Project, 2019) at 58. For legal needs research from South Africa, see Statistics South Africa, *Governance, Public Safety and Justice Survey (GPSJS) 2018/19* (Pretoria: Stats SA, 2019). See

further Trevor CW Farrow, Ab Currie & Lisa Moore, “Advancing People-Centered Justice: New Research on Community-Based Justice” *Slaw* (29 July 2022), online: <http://www.slw.ca/2022/07/29/advancing-people-centered-justice-new-research-on-community-based-justice/>; Trevor CW Farrow, Ab Currie & Lisa Moore, “Exploring Community-Based Solutions to Global Access to Justice Problems”, *Pathfinders for Peaceful, Just and Inclusive Societies* (31 May 2022), online: <https://medium.com/sdg16plus/exploring-community-based-solutions-to-global-access-to-justice-problems-53acc1f0d6e3>.

25 See *Global Insight on Access to Justice*, South Africa, “Governance, Public Safety and Justice Survey: Chapter 7 – Individual Experience of Disputes” (2018), online: <https://worldjusticeproject.org/access-to-justice-data/#/country/ZAF>, in World Justice Project, “Atlas of Legal Needs Surveys”, online: <https://worldjusticeproject.org/our-work/research-and-data/atlas-legal-needs-surveys>.

## “The access to justice movement is presently experiencing a dramatic global revitalization.”

### Access to Justice Movement

The underlying narrative for access to justice has continued to evolve since the early days of the legal aid movement, without completely leaving behind its roots. The right to counsel was the first underlying rationale, followed by the reduction of poverty in the context of the rise of the welfare state.<sup>26</sup>

The access to justice movement is presently experiencing a dramatic global revitalization. The global justice crisis and the generally shared experience of widespread, serious and inadequately serviced legal problems have prompted calls for urgent global dialogue and action in the spirit of providing “justice for all.”<sup>27</sup> Perhaps the most significant recent driver of action is the United Nations’ Sustainable Development Goals, and in particular, UN SDG 16, which calls on all nations to work toward the goal of equal access to justice by 2030.<sup>28</sup>

### Multiple Approaches and Contexts

The diversity of political, social and economic contexts across jurisdictions precludes a single approach for addressing complex justice problems. Further, the complex nature of legal problems, as demonstrated by the growing body of international legal needs research,<sup>29</sup> requires a range of justice approaches and solutions. This range of approaches and solutions opens the door to new opportunities to collaborate and exchange ideas and to learn from each other as we explore different kinds of local opportunities and initiatives to address shared global access to justice challenges. It is this context of opportunity for shared discussions and collaborative initiatives within which the CBJR Project was developed, with a particular focus on cost-benefit analyses in the context of community-based justice.

### UN, SDG 16:

Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels



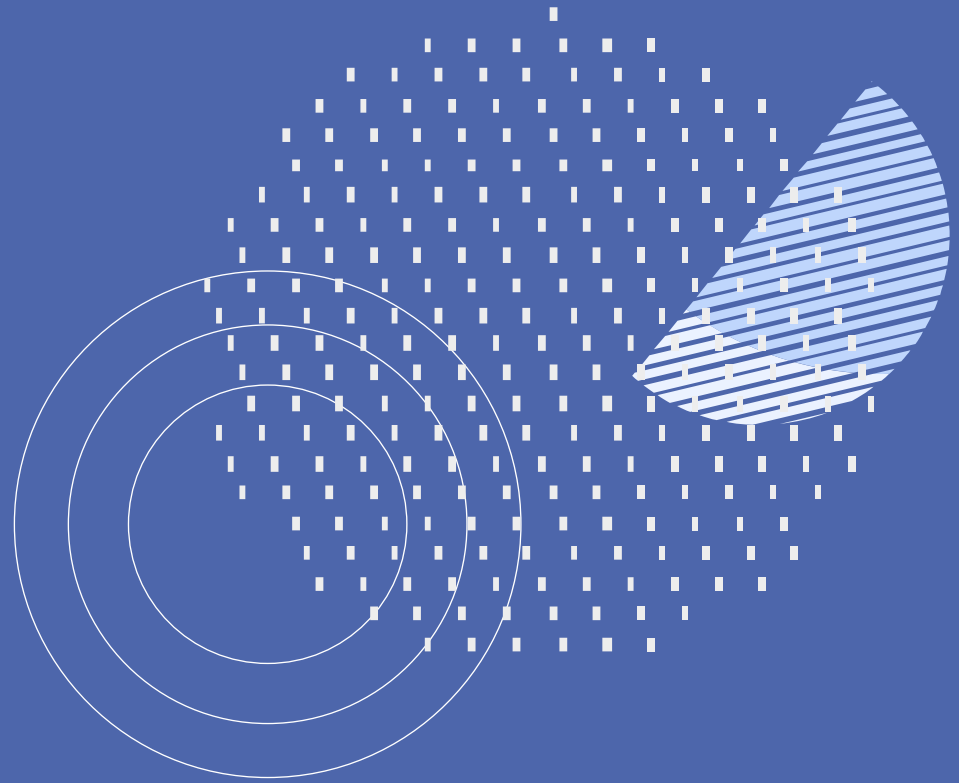
26 See Erhard Blankenburg, “The Lawyers’ Lobby and the Welfare State: The Political Economy of Legal Aid” in Frances Regan *et al*, *The Transformation of Legal Aid: Comparative and Historical Studies* (Oxford: Oxford University Press, 1999) c 5. As Blankenburg points out, early legal aid also had elements of class struggle with the involvement of trade unions in the legal aid movement. See *ibid*.

27 See e.g. Task Force on Justice, Justice for All – *The Report of the Task Force on Justice* (New York: Center on International Cooperation, 2019).

28 United Nations, Department of Economic and Social Affairs, Sustainable Development Goals, online: UN <<https://sdgs.un.org/goals>>. The wording of SDG 16 is: “Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels” (see *ibid*).

29 See e.g. OECD/Open Society Foundations, *Legal Needs Surveys and Access to Justice* (Paris: OECD Publishing, 2019), online: <<https://www.oecd-ilibrary.org/docserver/g2g9a36c-en.pdf?expires=1664123401&id=id&accname=guest&checksum=96147730AD7D11D-C5A2E2DA74BF23081>>; Nicole Aylwin & Mandi Gray, *Selected Annotated Bibliography of National and Regional Legal Needs Surveys* (Toronto: Canadian Forum on Civil Justice, 2015), online: CFCJ <<https://www.cfcj-fcj.org/sites/default/files/CFCJ%20Cost%20of%20Justice%20Project%20-%20Selected%20Annotated%20Bibliography.pdf>>.

# Cost-Benefit Analyses



# Cost-Benefit Analyses

“[W]e need to caution against letting the ‘perfect be the enemy of the good.’”

A people-centered vision of access to justice includes but also extends beyond legal help. The vision of justice for all extends even beyond the legacy findings of the legal problems research collected since the late 1990s,<sup>30</sup> which recognize that people experience everyday problems that have both legal and non-legal dimensions, often presenting in clusters of inter-related problems that are difficult to disentangle and resolve without adopting holistic service approaches.<sup>31</sup> The bold intent of the modern access to justice movement, as can be seen for example in the Justice for All report, is to empower people and communities and to build a just, equitable, tolerant, open and inclusive world.<sup>32</sup>

Making better use of data to determine what works and what does not,<sup>33</sup> and conducting cost-benefit analyses to make the business case for access to justice,<sup>34</sup> has been an important aspect of the people-centered justice movement. Making a business case for investing in access to justice is crucial if the case for expanding access to justice is to be made successfully.<sup>35</sup> When approaching this issue, the question should not only

be: how much justice can we afford? It should also be: what will be lost in human adversity and economic value by not investing in greater access to justice for all.<sup>36</sup> Some benefits to providing access to justice are easily conceptualized and calculated in quantitative terms. Other benefits of access to justice for all cannot be rendered in simple monetary calculations, although they are no less important. Creative methodologies in cost-benefit analysis are needed to make a strong case for access to justice. Further, we need to caution against letting the “perfect be the enemy of the good”; meaning that we need to be careful not to require perfect data and perfect methodologies, particularly given the complex nature of human needs and human problems that do not always lend themselves to perfect research results.<sup>37</sup> Innovation and experimentation in methodology design, data collection and research efforts will be needed in order to continue building an increasingly robust picture of access to justice needs, costs, benefits and solutions.

30 See Hazel Genn, *Paths to Justice: What People Do and Think About Going to Law* (Oxford: Hart, 1999). See generally OECD/Open Society Foundations, *Legal Needs Surveys and Access to Justice* (Paris: OECD Publishing, 2019), online: <<https://www.oecd-ilibrary.org/docserver/g2g9a36c-en.pdf?expires=1664123401&id=id&accname=guest&checksum=96147730AD7D11DC5A2E2DA74BF23081>>.

31 This is a thread running through the access to justice literature. See e.g. Richard L. Abel, “Law Without Politics: Legal Aid Under Advanced Capitalism” (1984-1985) 32 UCLA L Rev 474, in which Abel expressed the view that legal aid has nowhere been pushed by the needs of those for whom it was designed. See further Rebecca L. Sandefur, “Access to What?” (2019) 148(1) *Dædalus* 49; Ab Currie, “The Legal Problems of Everyday Life” in Rebecca L. Sandefur, ed., *Sociology of Crime, Law and Deviance*, vol. 12, “Access to Justice” (Bingley: Emerald, 2009) at 1.

32 Task Force on Justice, *Justice for All – The Report of the Task Force on Justice* (New York: Center on International Cooperation, 2019) at 15-23.

33 See Peter Chapman et al., *Grasping the Justice Gap: Opportunities and Challenges for People-Centered Justice Data*, (Washington, DC: World Justice Project; New York: Pathfinders for Peaceful, Just and Inclusive Societies; Paris: OECD, 2021), online: WJP <[https://world-justiceproject.org/sites/default/files/documents/Grasping-the-Justice-Gap\\_Challenge-Paper\\_final.pdf](https://world-justiceproject.org/sites/default/files/documents/Grasping-the-Justice-Gap_Challenge-Paper_final.pdf)>.

34 See OECD & World Justice Project, *Building a Business Case for Access to Justice*, White Paper (Paris: OECD, 2019), online: <<https://www.oecd.org/gov/building-a-business-case-for-access-to-justice.pdf>>; Martin Gramaticov et al., “A Handbook for Measuring the Costs and Quality of Access to Justice” (Apeldoorn: Maklu & Tilburg Institute for Interdisciplinary Studies of Civil Law and Conflict Resolution Systems, 2009); World Bank, “A Tool for Justice: The Cost-Benefit Analysis of Legal Aid” (Washington, DC: World Bank, 2019).

35 Lisa Moore & Trevor CW Farrow, *Investing in Justice: A Literature Review in Support of the Case for Improved Access* (Toronto: Canadian Forum on Civil Justice, 2019), online: CFCJ <<https://cfcj-fcj.org/wp-content/uploads/Investing-in-Justice-A-Literature-Review-in-Sup-port-of-the-Case-for-Improved-Access-by-Lisa-Moore-and-Trevor-C-W-Farrow.pdf>>; Task Force on Justice, *Justice for All – The Report of the Task Force on Justice* (New York: Center on International Cooperation, 2019) at 13.

36 See e.g. Trevor CW Farrow, Ab Currie, Nicole Aylwin, Les Jacobs, David Northrup & Lisa Moore, *Everyday Legal Problems and the Cost of Justice in Canada: Overview Report* (Toronto: Canadian Forum on Civil Justice, 2016).

37 Research is the accumulation of knowledge, usually over many studies, building on the results of previous work. There is never a good justification to fail to act in the public interest when we know enough, simply because some pieces of a complex puzzle are not yet in place. All good research is based on careful definition and precise measurement, built upon the canons of philosophy of science and, in the case of quantitative research, statistical theory. In statistical research, a 95% level of statistical significance is an appropriate approximation of “the perfect”. Of course, some research results may be substantively important, rather than statistically as highly significant, and may then be reported acknowledging the lower degree of statistical reliability.

# Community- Based Justice





# Community-Based Justice

“[E]merging from the global crisis is a growing opportunity to collaboratively explore innovative ways of thinking and new initiatives.”

## Context and Overview

The current access to justice crisis is motivating new efforts to reach the UN SDG 16 goal of equal access to justice by 2030. Given the range and complexity of political, economic and social contexts around the world, shared problems do not always lend themselves to shared or one-size-fits-all solutions. However, emerging from the global crisis is a growing opportunity to collaboratively explore innovative ways of thinking and new initiatives.

Community-based justice is one such area of exploration. As commentaries from [CLEO](#),<sup>38</sup> [Lisa Moore](#),<sup>39</sup> [Ab Currie](#)<sup>40</sup> and other CBJR Project partners<sup>41</sup> have developed, various organizations operating within local communities are seen as sources of justice-related information and trusted help. Community-based work is often done by paid and volunteer staff in not-for-profit organizations, as well as other government and social services, to provide members of communities with various sources of assistance for their everyday legal needs. According to one recent [Canadian report](#),<sup>42</sup>

community-based justice can be understood as “work that staff and volunteers ... undertake in not-for-profit, community-based organizations to help people with life-affecting problems with a legal element.” [Other definitions](#) include government and other agencies in this work.<sup>43</sup> Common, defining elements of community-based justice initiatives are that they are typically embedded in a community, they often involve staff and volunteers from a community, they are typically designed by a community, and they provide justice-related services for a community,<sup>44</sup> often operating against a backdrop of a lack of faith in more formal justice institutions.

Community-based justice initiatives are not designed to compete with or replace other state-based or formal justice services. However, given the nature and extent of [everyday legal problems](#)<sup>45</sup> and the reported [experiences](#)<sup>46</sup> of many people who struggle to access state-based or more formal services, community-based justice services are often able to identify and understand the needs of local community members and to provide tailored services, solutions and referrals for those needs. Further, community-based justice organizations are

38 Julie Mathews & David Wiseman, *Community Justice Help: Advancing Community-Based Justice Help*, A discussion paper (Toronto: Community Legal Education Ontario, June 2020), online: CLEO <[https://www.srln.org/system/files/attachments/Community%20Justice%20Help%20Advancing%20Community-Based-Access%20to%20Justice\\_2020.pdf](https://www.srln.org/system/files/attachments/Community%20Justice%20Help%20Advancing%20Community-Based-Access%20to%20Justice_2020.pdf)>.

39 Lisa Moore, “Building a Business Case for Investing in Community-Based Justice”, *Slaw* (4 October 2018); Lisa Moore, “Dollars and ‘Sense’: Accessibility and Affordability in Community-Based Justice”, *Slaw* (13 December 2022).

40 Ab Currie, “Ten Ideas for Community-Based Justice” (Toronto: CFCJ, 2018). See further Ab Currie, “Community-Based Justice”, *Slaw* (26 May 2022).

41 See Al Fofana et al, “Costly justice: Why communities in Sierra Leone turn to paralegals instead of Local Courts to resolve their justice problems”, *Pathfinders for Peaceful, Just and Inclusive Societies* (16 October 2020); Felix Marco Conteh et al, “Paralegals, community agency and access to justice in Sierra Leone” (Sierra Leone: Namati, September 2020); F Ruffin, W Martins & S Mukorera, “Institutionalising the South African community-advice office sector: Is it worth it?”, *Centre for Community Justice & Development* (30 August 2018).

42 Julie Mathews & David Wiseman, *Community Justice Help: Advancing Community-Based Justice Help*, A discussion paper (Toronto: Community Legal Education Ontario, June 2020) at 7, online: CLEO <[https://www.srln.org/system/files/attachments/Community%20Justice%20Help%20Advancing%20Community-Based-Access%20to%20Justice\\_2020.pdf](https://www.srln.org/system/files/attachments/Community%20Justice%20Help%20Advancing%20Community-Based-Access%20to%20Justice_2020.pdf)>.

43 F Ruffin, W Martins & S Mukorera, “Institutionalising the South African community-advice office sector: Is it worth it?”, *Centre for Community Justice & Development* (30 August 2018).

44 See Trevor CW Farrow, Ab Currie & Lisa Moore, “Advancing People-Centered Justice: New Research on Community-Based Justice” *Slaw* (29 July 2022), online: *Slaw* <<http://www.slw.ca/2022/07/29/advancing-people-centered-justice-new-research-on-community-based-justice/>>; Trevor CW Farrow, Ab Currie & Lisa Moore, “Exploring Community-Based Solutions to Global Access to Justice Problems”, *Pathfinders for Peaceful, Just and Inclusive Societies* (31 May 2022), online: SDG 16 <<https://medium.com/sdg16plus/exploring-community-based-solutions-to-global-access-to-justice-problems-53acc1f0d6e3>>.

45 See e.g. Trevor CW Farrow, Ab Currie, Nicole Aylwin, Les Jacobs, David Northrup & Lisa Moore, *Everyday Legal Problems and the Cost of Justice in Canada: Overview Report* (Toronto: Canadian Forum on Civil Justice, 2016).

46 See e.g. Trevor CW Farrow, “What is Access to Justice?” (2014) 51 *Osgoode Hall LJ* 957, online: Osgoode Digital Commons <<https://digitalcommons.osgoode.yorku.ca/cgi/view-content.cgi?article=2761&context=ohlj>>.



often in a position to provide not only information or services for one-off individual problems, but also to mobilize collective efforts to address systemic gaps and community needs.<sup>47</sup> Overall, community-based justice services are part of an overall continuum of services that – together – can effectively address the specific justice needs of all people in society, specifically including the most vulnerable. Their focus on everyday problems and holistic problem resolution aligns with people-centered, expansive visions of access to justice.<sup>48</sup>

“[C]ommunity-based justice services are often able to identify and understand the needs of local community members and to provide tailored services, solutions and referrals for those needs.”

Many access to justice programs, activities and services could be included under the rubric “community-based justice”. Community-based justice can include, for example:



Drawing on the existing knowledge within a community to help established legal clinics better assist their clients.



Engaging the community to identify people experiencing problems of justice and fairness.



Developing community channels to make better referrals to reliable sources of assistance.



Developing partnerships between community legal clinics, paralegals and community organizations to provide more effective and durable solutions to problems.

Holistic and integrated justice are familiar concepts that reflect community-based approaches. Providing holistic assessments and services means taking into account the whole person, the bundle of problems with their frequently inseparable legal and non-legal aspects for which people want assistance and resolutions. Integrated service marshals from the community the services that are required to resolve clusters of interconnected or co-existing problems requiring integrated and holistic approaches. Some legal clinics do not have the resources to provide integrated services and therefore rely on the resources available within a community. Restorative justice approaches can be similar, drawing on the community to help healing processes, often by calling into play community resources and by reconnecting people with the community. There are many examples of local institutions of justice that resolve disputes and assist with relational challenges and issues. These are found in various contexts and communities, including traditional, religious, Indigenous and other communities in which customary laws and practices often play significant roles. Also, many legal service providers establish satellite clinics or offices in remote, disadvantaged, and other communities.

<sup>47</sup> For examples for these kinds of efforts and services from legal clinics, see e.g. Parkdale Community Legal Services, online: PCLS <<https://www.parkdalelegal.org/>>; Justice for Children and Youth, online: JFCY <<https://jfcy.org/en/>>.

<sup>48</sup> See Action Committee on Access to Justice in Civil and Family Matters, *Access to Civil & Family Justice: A Roadmap for Change* (Ottawa: Action Committee on Access to Justice in Civil and Family Matters, October 2013) at 2; Trevor CW Farrow & Lesley A Jacobs, “Taking Meaningful Access to Justice in Canada Seriously” in Trevor CW Farrow & Lesley A Jacobs, *The Justice Crisis: The Cost and Value of Accessing Law* (Vancouver: UBC Press, 2021) at Introduction. See further Trevor CW Farrow, Ab Currie & Lisa Moore, “Advancing People-Centered Justice: New Research on Community-Based Justice” *Slaw* (29 July 2022), online: *Slaw* <<http://www.slaw.ca/2022/07/29/advancing-people-centered-justice-new-research-on-community-based-justice/>>; Trevor CW Farrow, Ab Currie & Lisa Moore, “Exploring Community-Based Solutions to Global Access to Justice Problems”, *Pathfinders for Peaceful, Just and Inclusive Societies* (31 May 2022), online: SDG 16 <<https://medium.com/sdg16plus/exploring-community-based-solutions-to-global-access-to-justice-problems-53acc1f0d6e3>>.

## Outreach and Engagement

Many of the most successful community-based justice initiatives are based on outreach. Outreach often involves reaching out to community members to learn about the problems facing people – from community leaders, organizations and individuals – and then learning from and partnering with the community on how to develop realistic and appropriate approaches to addressing needs and issues. In terms of service delivery, outreach means going out to where people live, work and spend much of their time to provide services and as a consequence providing assistance to more people and helping people who would probably not otherwise receive assistance. Providing help to people, in the places where they live and work, is a core aspect of community-based justice.

Some community-based research in Canada has focused on ways that community legal clinics have engaged with communities being served. Generally, these community-based justice initiatives have involved, in one way or another, engaging the resources of the community and building community capacity to be part of the processes of providing access to justice.<sup>49</sup> Outreach is a fundamental activity for legal clinics that want to establish people-centered and community-based service.<sup>50</sup>

Within the social development phase of the access to justice narrative, the broad objectives of that narrative have been extended beyond the older concepts of legal need. As part of community engagement and outreach initiatives, efforts are now, in addition to legal needs, focusing on individual and collective well-being as well as community inclusion and justice.<sup>51</sup> From a comparative perspective, a good example of the scope of recent thinking about community-based justice is a legal needs research project in Colombia.<sup>52</sup> In addition to legal needs, that project includes components dealing with legal capability, quality of life and community security.

“Holistic and integrated justice are familiar concepts that reflect community-based approaches. Providing holistic assessments and services means taking into account the whole person, the bundle of problems with their frequently inseparable legal and non-legal aspects for which people want assistance and resolutions.”

49 Ab Currie, *The Communities Being Served are the Resources that are Needed, Innovations in Community-Based Justice in Ontario, An Anthology of Canadian Research* (Toronto: Canadian Forum on Civil Justice, March 2022), online: CFCJ <<https://cfjc-fcjc.org/wp-content/uploads/The-Communities-Being-Served-are-the-Resources-that-are-Needed-Innovations-in-Community-Based-Justice-Anthology-by-Ab-Currie.pdf>>.

50 Pascoe Pleasence, *Reshaping Legal Assistance Services, Building on the Evidence*, A

discussion paper (Sydney: Law and Justice Foundation of New South Wales, 2014) at 27, online: LJFNSW <[http://www.lawfoundation.net.au/ljf/site/articleIDs/D76E53B8842CB7B-1CA257D7B000D5173/\\$file/Reshaping\\_legal\\_assistance\\_services\\_web.pdf](http://www.lawfoundation.net.au/ljf/site/articleIDs/D76E53B8842CB7B-1CA257D7B000D5173/$file/Reshaping_legal_assistance_services_web.pdf)>.

51 See e.g. Trevor CW Farrow, “What is Access to Justice?” (2014) 51 Osgoode Hall LJ 957, online: Osgoode Digital Commons <<https://digitalcommons.osgoode.yorku.ca/cgi/view-content.cgi?article=2761&context=ohlj>>.

52 Colombia National Planning Department, *Legal Needs in Colombia 2018-2020* (Bogotá: National Planning Department, forthcoming).

# Three African-Based CBJR Studies



# Three African-Based CBJR Studies

“The ways in which paralegal services operate in each of the three country-based studies illustrate important elements of community-based, people-centered justice, including problem resolution, relationship building, resource mobilization, and community well-being.”

## Community-Based Paralegal Services

The three African-based studies<sup>53</sup> generally focus primarily on paralegal delivery of community-based services. This approach is viewed primarily as an alternative to formal court systems that often lack accessibility, are expensive and are remote from the social institutions of communities that situate problems of justice and fairness in their everyday social and community contexts. Other traditional and customary institutions exist as well. They continue to operate as the community-based paralegal approach is developed.

The ways in which paralegal services operate in each of the three country-based studies illustrate important elements of community-based, people-centered justice, including problem resolution, relationship building, resource mobilization, and community well-being. Although there are similarities and common features and themes, the three projects involve different perspectives, different approaches and different contexts, all of which drive and shape their findings.

## Cost-Benefit Analysis and Access to Justice

A primary focus of the research was to carry out cost-benefit analyses of justice services in the three countries. The studies have developed methodologies for the cost-benefit component of the research that combine both tangible and intangible measures of cost and benefit in innovative ways that advance the field of cost-benefit analysis. However, each study goes beyond that objective to examine further aspects of access to justice. Early findings were reported and discussed,<sup>54</sup> and the final reports from [Sierra Leone](#), [Kenya](#) and [South Africa](#) were recently released.<sup>55</sup> Taken together, the three studies present a detailed body of findings on community-based access to justice. Each of the studies makes significant and innovative contributions to the literature on access to justice in Africa and globally and should be read in their full and original versions.

53 See generally Felix Marco Conteh, Yakama Manty Jones, Sonkita Conteh, Henry Mbawa & Aisha Fofana Ibrahim, *The Costs and Benefits of Community-based Justice in Sierra Leone* (Sierra Leone: Center for Alternative Policy Research & Innovation, January 2022), online: CAPRI <<https://www.capri.org/post/the-costs-and-benefits-of-community-based-justice-in-sierra-leone>>; Jill Cottrell Ghai, ed, *Alternative Approaches to Access to Justice in Kenya: A Cost Benefit Analysis* (Nairobi: Katiba Institute & University of Nairobi, 15 November 2021), online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61056/IDL-61056.pdf?sequence=5&isAllowed=y>>; Winnie Martins, Sophia Mukorera & Carol Friedman, *Scaling Access to Justice Research Collaboration*, Final Technical Report (Scottsville, Pietermaritzburg: Centre for Community Justice and Development, 2022).

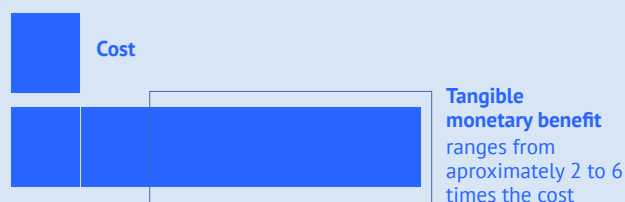
54 See Aisha Fofana Ibrahim *et al.*, “Costly justice: Why communities in Sierra Leone turn to paralegals instead of Local Courts to resolve their justice problems” (New York: *Pathfinders for Peaceful, Just and Inclusive Societies*, 16 October 2020); Felix Marco Conteh *et al.*, “Paralegals, community agency and access to justice in Sierra Leone” (Sierra Leone: Namati, September 2020). See also Canadian Forum on Civil Justice, “Community-Based Justice Research (CBJR) – Kenya” (Toronto: CFCJ), online: CFCJ <[https://cfcj-fcj.org/our-projects/community-based-justice-research-cbjr-kenya/](https://cfcj-fcj.org/our-projects/community-based-justice-research-cbjr/community-based-justice-research-cbjr-kenya/)>; Lisa Moore, “Building a Business Case for Investing in Community-Based Justice”, *Slaw* (4 October 2018), online: Slaw <<http://www.slw.ca/2018/10/04/building-a-business-case-for-investing-in-community-based-justice/>>; CFCJ, “Community-Based Justice Research (CBJR)”, online: CFCJ <<https://cfcj-fcj.org/our-projects/community-based-justice-research-cbjr/>>.

55 See generally Felix Marco Conteh, Yakama Manty Jones, Sonkita Conteh, Henry Mbawa & Aisha Fofana Ibrahim, *The Costs and Benefits of Community-based Justice in Sierra Leone* (Sierra Leone: Center for Alternative Policy Research & Innovation, January 2022), online: CAPRI <<https://www.capri.org/post/the-costs-and-benefits-of-community-based-justice-in-sierra-leone>>; Jill Cottrell Ghai, ed, *Alternative Approaches to Access to Justice in Kenya: A Cost Benefit Analysis* (Nairobi: Katiba Institute & University of Nairobi, 15 November 2021), online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61056/IDL-61056.pdf?sequence=5&isAllowed=y>>; Winnie Martins, Sophia Mukorera & Carol Friedman, *Scaling Access to Justice Research Collaboration*, Final Technical Report (Scottsville, Pietermaritzburg: Centre for Community Justice and Development, 2022).



# Sierra Leone

“The cost-benefit ratios of tangible monetary benefit for every dollar spent for five paralegal services ranged from 2.06:1 to 6.09:1.”



The Sierra Leone project,<sup>56</sup> conducted through the Centre for Policy Research and Innovation, was funded by the Government of Canada through the International Development Research Centre and the Open Society initiative for West Africa. The study focusses on community-based justice services provided by paralegals from the Legal Aid Board (LAB) and from NGO access to justice services. The study also includes a sample of individuals who were not users of the paralegal services, including people who did not take action to resolve their problem and people who had sought assistance from local courts and chief's courts, the police and Family Support Unit paralegals.<sup>57</sup>

The data were gathered in 2017 and 2018 and consisted of case analyses from files of participating organizations and surveys of users and non-users of services. For the service users, case data generated by the LAB and paralegal NGOs were considered. From about 1500 cases, a total of 260 cases in the study's focus areas were tracked. For non-service users, the research team randomly administered 500 questionnaires to people who may or may not have had justice problems but have never used paralegal services.<sup>58</sup> Users of paralegal services and non-users were asked questions about various aspects of cost and benefit and about their perceptions of justice and access to justice.<sup>59</sup>

56 Felix Marco Conteh, Yakama Manty Jones, Sonkita Conteh, Henry Mbawa & Aisha Fofana Ibrahim, *The Costs and Benefits of Community-based Justice in Sierra Leone* (Sierra Leone: Center for Alternative Policy Research & Innovation, January 2022), online: CAPRI <<https://www.caprisl.org/post/the-costs-and-benefits-of-community-based-justice-in-sierra-leone>>.

57 Felix Marco Conteh, Yakama Manty Jones, Sonkita Conteh, Henry Mbawa & Aisha Fofana Ibrahim, *The Costs and Benefits of Community-based Justice in Sierra Leone* (Sierra Leone: Center for Alternative Policy Research & Innovation, January 2022), online: CAPRI <<https://www.caprisl.org/post/the-costs-and-benefits-of-community-based-justice-in-sierra-leone>>.

58 Felix Marco Conteh, Yakama Manty Jones, Sonkita Conteh, Henry Mbawa & Aisha Fofana Ibrahim, *The Costs and Benefits of Community-based Justice in Sierra Leone* (Sierra Leone: Center for Alternative Policy Research & Innovation, January 2022) at 2, online: CAPRI <<https://www.caprisl.org/post/the-costs-and-benefits-of-community-based-justice-in-sierra-leone>>.

59 Felix Marco Conteh, Yakama Manty Jones, Sonkita Conteh, Henry Mbawa & Aisha Fofana Ibrahim, *The Costs and Benefits of Community-based Justice in Sierra Leone* (Sierra Leone: Center for Alternative Policy Research & Innovation, January 2022) at 13-14, online: CAPRI <<https://www.caprisl.org/post/the-costs-and-benefits-of-community-based-justice-in-sierra-leone>>.

The study revealed a high level of unmet need in Sierra Leone. Compared with the results of legal needs research carried out elsewhere internationally,<sup>60</sup> 87% of respondents reported having experienced at least one justice problem within the past two years. The main problem types were land disputes, family neglect/support, spousal neglect and tenancy issues. Almost half of all respondents, 49%, took no action to resolve their problem, 26% sought help from a family member, 11% asked for help from a village head or chief, 7% from a pastor or imam and 9% from other sources.<sup>61</sup>

“Savings to the government as a result of the use of paralegal services were estimated at approximately US\$ 5 million.”

The results of the cost-benefit analysis showed a positive balance of cost and-benefit for the use of paralegals calculated in terms of tangible benefits. The cost-benefit ratios of tangible monetary benefit for every dollar spent for five paralegal services ranged from 2.06:1 to 6.19:1.<sup>62</sup> Overall, 60% of the users of paralegal services said they had gained more than they lost. About 36% of users said they had recovered more than they had lost by using paralegals, and 24% said they had recovered what had been lost.<sup>63</sup> Savings to the government as a result of the use of paralegal services were estimated at approximately US\$ 5 million.<sup>64</sup>

The Sierra Leone research identifies important intangible benefits. The intangible benefits identify how people perceive the value of paralegal services and, more broadly, how they view justice and access to justice. In fact, monetary gain was low on the list of reasons respondents pursued justice through paralegal services. Respondents mentioned empowerment to report situations in which injustices should be remedied, knowledge about individual problems, and the capacity to help others as benefits of the assistance from paralegals in resolving problems.<sup>65</sup>

Based on this research, it appears that people in Sierra Leone have a strong sense of what might be termed common sense justice.<sup>66</sup> Also, people are reportedly not only interested in resolutions to problems: depending on the situation and the individuals involved, people look beyond resolutions to re-establishing relationships among the parties involved. The pursuit of justice is not only the establishment of right or wrong as might simply be determined by the facts of a case; rather, it is a significant aspect of what reportedly holds families, communities and society together.

60 See e.g. OECD/Open Society Foundations, *Legal Needs Surveys and Access to Justice* (Paris: OECD Publishing, 2019) at 31, online: <<https://www.oecd-ilibrary.org/docserver/g2g9a36c-en.pdf?expires=1664123401&id=id&accname=guest&checksum=96147730AD7D11D-CSA2E2DA74BF23081>>.

61 Felix Marco Conteh, Yakama Manty Jones, Sonkita Conteh, Henry Mbawa & Aisha Fofana Ibrahim, *The Costs and Benefits of Community-based Justice in Sierra Leone* (Sierra Leone: Center for Alternative Policy Research & Innovation, January 2022) at 31, online: CAPRI <<https://www.caprisl.org/post/the-costs-and-benefits-of-community-based-justice-in-sierra-leone>>.

62 Felix Marco Conteh, Yakama Manty Jones, Sonkita Conteh, Henry Mbawa & Aisha Fofana Ibrahim, *The Costs and Benefits of Community-based Justice in Sierra Leone* (Sierra Leone: Center for Alternative Policy Research & Innovation, January 2022) at 40, online:

CAPRI <<https://www.caprisl.org/post/the-costs-and-benefits-of-community-based-justice-in-sierra-leone>>.

63 Felix Marco Conteh, Yakama Manty Jones, Sonkita Conteh, Henry Mbawa & Aisha Fofana Ibrahim, *The Costs and Benefits of Community-based Justice in Sierra Leone* (Sierra Leone: Center for Alternative Policy Research & Innovation, January 2022) at 41, online: CAPRI <<https://www.caprisl.org/post/the-costs-and-benefits-of-community-based-justice-in-sierra-leone>>.

64 Felix Marco Conteh, Yakama Manty Jones, Sonkita Conteh, Henry Mbawa & Aisha Fofana Ibrahim, *The Costs and Benefits of Community-based Justice in Sierra Leone* (Sierra Leone: Center for Alternative Policy Research & Innovation, January 2022) at 53, online: CAPRI <<https://www.caprisl.org/post/the-costs-and-benefits-of-community-based-justice-in-sierra-leone>>.

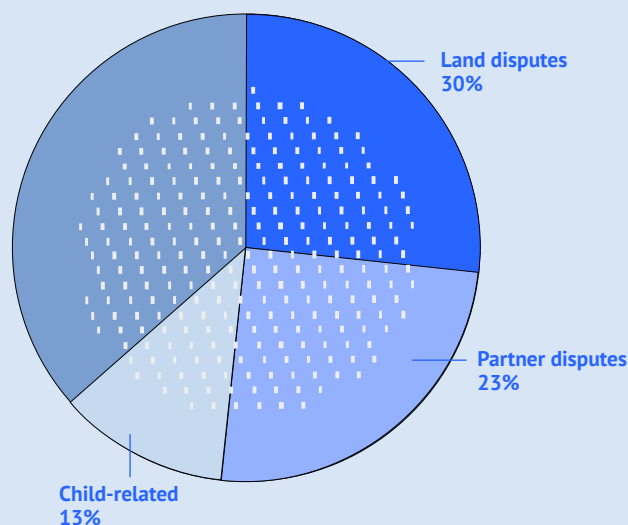
65 Felix Marco Conteh, Yakama Manty Jones, Sonkita Conteh, Henry Mbawa & Aisha Fofana Ibrahim, *The Costs and Benefits of Community-based Justice in Sierra Leone* (Sierra Leone: Center for Alternative Policy Research & Innovation, January 2022) at 51, online: CAPRI <<https://www.caprisl.org/post/the-costs-and-benefits-of-community-based-justice-in-sierra-leone>>.

66 Ab Currie, “A Lightning Rod for Discontent”: Justiciable Problems and Attitudes Toward the Law and the Justice System” in Alexy Buck, Pascoe Pleasence & Nigel Balmer, eds, *Reaching Further: Innovation, Access and Quality in Legal Services*, (Norwich: The Stationary Office, 2009) at 100-114.



# Kenya

“In terms of dispute types, land disputes made up the largest percentage at 30%, 23% involved partner and spouse disputes, and 13% were child-related matters.”



The Kenyan study,<sup>67</sup> conducted by colleagues at the Katiba Institute and the University of Nairobi, aims overall to understand a range of both formal and informal access to justice initiatives and institutions and by studying a number of these initiatives and institutions to determine the ones that appear to be potentially most promising for bridging the access to justice gap. The main objectives of the study are to:

- understand the obstacles to access to justice;
- identify access to justice initiatives that appear especially relevant for meeting the needs of people;
- analyze the costs and benefits of the different categories of initiatives; and
- contribute to access to justice policy in Kenya.<sup>68</sup>

In this very thorough study, a combination of quantitative and qualitative data collection approaches were employed, with an emphasis on qualitative techniques in order to gather in-depth information about the perceptions of both users of various services and service providers. The study includes 135 service providers throughout an area spanning nine counties in Kenya. Interviews were conducted with 162 service providers and 199 users of various services.<sup>69</sup>

67 Jill Cottrell Ghai, ed, *Alternative Approaches to Access to Justice in Kenya: A Cost Benefit Analysis* (Nairobi: Katiba Institute & University of Nairobi, 15 November 2021), online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61056/IDL-61056.pdf?sequence=5&isAllowed=y>>.

68 Jill Cottrell Ghai, ed, *Alternative Approaches to Access to Justice in Kenya: A Cost Benefit Analysis* (Nairobi: Katiba Institute & University of Nairobi, 15 November 2021) at 7, 11, online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61056/IDL-61056.pdf?sequence=5&isAllowed=y>>.

69 Jill Cottrell Ghai, ed, *Alternative Approaches to Access to Justice in Kenya: A Cost Benefit Analysis* (Nairobi: Katiba Institute & University of Nairobi, 15 November 2021) at 18-19, online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61056/IDL-61056.pdf?sequence=5&isAllowed=y>>.



## “[C]ivil society organizations were the most efficient in terms of the ratio of costs and measurable benefits”

In terms of dispute types, land disputes made up the largest percentage at 30%, 23% involved partner and spouse disputes, and 13% were child-related matters. The remaining dispute types consisted of disputes with authorities, police action, physical assaults and theft. The three largest categories suggest their importance for family and community relations, although as the report emphasizes, more needs to be understood about why people take action on certain disputes and less so on others to understand the true landscape of disputing behaviour.<sup>70</sup>

The study focusses on a number of problem-solving and dispute resolution initiatives. These are complex and somewhat overlapping, because similar initiatives operate differently in different places throughout the country. First, there are community-based institutions that may take different local forms and may be facilitated by recognised community elders and initiatives operated by religious organizations. These comprised 34% of extant problem-solving initiatives. Second, there are state-based initiatives that focus on the use of alternative dispute resolution facilitated by courts and tribunals such as court annexed mediation. State based initiatives, comprising 28% of the initiatives in the study, are offered by governmental institutions. These may have different mandates depending on the nature of institutions involved, including commissions, village chiefs, police services, and other state agencies at the national and county level. Civil society organizations funded primarily by NGOs make up about 15%. Courts were used by 12% of individuals. Finally, community-based traditional dispute resolution processes through elders and chiefs were used by about 10% of users. The percentages represent the number of people in the study making use of the different problem-solving institutions. However, the report emphasizes that these figures probably represent utilization rather than preferences because of constraints on accessibility.<sup>71</sup>

A main focus of the research was to determine the cost-benefit ratio of the different justice service providers. In order of most to least favourable cost-benefit ratios, civil society organizations were the most efficient in terms of the ratio of costs and measurable benefits. An expenditure of 4 cents yielded 1 Kenyan Schilling (Kshs)<sup>72</sup> in terms of benefit. The community and religious groups yielded 1 Kshs of benefit for an expenditure of 22 cents. State-based initiatives produced 1 Kshs of benefit for an average expenditure of 58 cents. Traditional community-based mechanisms produced 1 Kshs of benefit for an expenditure of 66 cents. By comparison, courts produced a negative return of 1 Kshs of benefit for an average expenditure of 4.2 Kshs. This cost-benefit analysis provides a first level assessment of what types of services might be scaled up to provide a cost-effective service.<sup>73</sup>

Most respondents reported that cost was not unreasonable in their efforts to pursue justice. Lack of information about what action to take, corruption in some institutions, cultural barriers, bureaucratic delays and lack of transportation to the location of the dispute resolution provider were all mentioned by respondents as more important barriers. Notably, and consistent with transportation problems, almost a quarter of respondents said that the lack of a service provider in the neighbourhood was a problem.<sup>74</sup>

70 Jill Cottrell Ghai, ed, *Alternative Approaches to Access to Justice in Kenya: A Cost Benefit Analysis* (Nairobi: Katiba Institute & University of Nairobi, 15 November 2021) at 27-30, online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61056/IDL-61056.pdf?sequence=5&isAllowed=y>>.

71 Jill Cottrell Ghai, ed, *Alternative Approaches to Access to Justice in Kenya: A Cost Benefit Analysis* (Nairobi: Katiba Institute & University of Nairobi, 15 November 2021) at 28, online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61056/IDL-61056.pdf?sequence=5&isAllowed=y>>.

72 1 Kenyan Schilling equals approximately 0.008 US dollars. See e.g. Exchange Rates.org.uk, online: <<https://www.exchangerates.org.uk/Kenyan-Shillings-to-Dollars-currency-conversion-page.html>>.

73 Jill Cottrell Ghai, ed, *Alternative Approaches to Access to Justice in Kenya: A Cost Benefit Analysis* (Nairobi: Katiba Institute & University of Nairobi, 15 November 2021) at 33, 43, online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61056/IDL-61056.pdf?sequence=5&isAllowed=y>>.

74 Jill Cottrell Ghai, ed, *Alternative Approaches to Access to Justice in Kenya: A Cost Benefit Analysis* (Nairobi: Katiba Institute & University of Nairobi, 15 November 2021) at 23, 42, online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61056/IDL-61056.pdf?sequence=5&isAllowed=y>>.



In interviews with service providers, insufficient resources were mentioned as a common challenge. This is a critical need that must be addressed in any scaling up of services but might alter the cost-benefit analysis as it currently exists.<sup>75</sup>

To help guide decisions about scaling up services that meet positive cost-benefit levels, the research used qualitative data on accessibility to refine the analysis. Religious and community-based organizations, followed by tradition-based institutions and CSO initiatives have positive cost-benefit ratios and high accessibility scores. These initiatives are potentially good prospects for scaling up in a process for narrowing the access to justice gap in Kenya.<sup>76</sup>

About 87% of respondents agreed that four broad types of issues – land, spousal and close family disputes, child custody, and support – were the most common types of disputes in their community. About 80% of these disputes were reported to have been resolved. Just over one quarter of respondents said they took the dispute to a non-court institution because they believed the resolution led to greater cohesion and peace in the community. From a cost/benefit analysis perspective, these findings are enormously important – land is a major source of violent crime and family union is an important structure in the society.<sup>77</sup>

As one might expect in all places, what might work reflects a complex set of factors that may vary from one community to the next. Different approaches may be more effective in different communities. Therefore, assessments about “what works” and efforts to scale up access to justice initiatives should be community-led.<sup>78</sup>

75 Jill Cottrell Ghai, ed, *Alternative Approaches to Access to Justice in Kenya: A Cost Benefit Analysis* (Nairobi: Katiba Institute & University of Nairobi, 15 November 2021) at 22-26, 42-44, online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61056/IDL-61056.pdf?sequence=5&isAllowed=y>>.

76 Jill Cottrell Ghai, ed, *Alternative Approaches to Access to Justice in Kenya: A Cost Benefit Analysis* (Nairobi: Katiba Institute & University of Nairobi, 15 November 2021) at 42-44, online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61056/IDL-61056.pdf?sequence=5&isAllowed=y>>.

77 Jill Cottrell Ghai, ed, *Alternative Approaches to Access to Justice in Kenya: A Cost Benefit Analysis* (Nairobi: Katiba Institute & University of Nairobi, 15 November 2021) at 27, 42, online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61056/IDL-61056.pdf?sequence=5&isAllowed=y>>.

78 Jill Cottrell Ghai, ed, *Alternative Approaches to Access to Justice in Kenya: A Cost Benefit Analysis* (Nairobi: Katiba Institute & University of Nairobi, 15 November 2021) at 43-44, online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61056/IDL-61056.pdf?sequence=5&isAllowed=y>>.

# South Africa

“The research was carried out using a purposive sample of ten CAOs in five provinces in South Africa”



The South Africa study,<sup>79</sup> conducted through the Centre for Community Justice and Development, is presented in a series of research briefs rather than a single report. The results of this research address a range of issues aimed at improving Community Advice Offices (CAOs) in the country. In South Africa, paralegals are accepted in legislation and in practice as the instrument of choice for expanding access to justice. A major focus of the study is cost-benefit analysis, including both tangible and intangible costs and benefits. In addition to cost-benefit analysis, the research also examines operational matters such as structural and financing models, relations with other service providers and community institutions and case management. The study considers how African ways of knowing enhance the understanding and improvement of service delivery. The research was carried out by a research team with extensive direct operational and research experience with the South African system of CAOs and community-based paralegals (CBPs).<sup>80</sup>

79 See Sophia Mukorera & Winnie Martins, *Scaling Access to Justice Research Collaboration*, Brief 1: Executive Summary (Scottsville, Pietermaritzburg: Centre for Community Justice and Development, 2022), online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61135/IDL-61135.pdf?sequence=2&isAllowed=y>>; Winnie Martins, Sophia Mukorera & Carol Friedman, *Scaling Access to Justice Research Collaboration*, Final Technical Report (Scottsville, Pietermaritzburg: Centre for Community Justice and Development, 2022), online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61135/IDL-61135.pdf?sequence=2&isAllowed=y>>. See also the other various research briefs: Research Brief 1: “Executive Summary” (2022) (*supra*); Research Brief 2: “Community-Based Participatory Research Methodology” (2022); Research Brief 3: “Profiles of CAOs in the Study” (2022); Research Brief 4: “Structural and Financing Models in the CAO Sector” (2022); Research Brief 5: “Cost Benefit Analysis” (2022); Research Brief 6: “Assessment of Case Management Strategies and CAO/CBP Functionality in Justice Service Delivery”

(2022); Research Brief 7: “African Indigenous Knowledge Systems in the CAO Sector in SA” (2022); Research Brief 8: “Recognition, Regulation and Institutionalization in the CAO Sector in South Africa” (2022); Research Brief 9: “The Role of Network Governance in the CAO Sector in SA” (2022); Research Brief 10: “Comparative Findings and Analysis Across Community Advice Offices” (2022), online: IDRC <[https://idl-bnc-idrc.dspacedirect.org/discover?rpp=10&etal=0&query=108787&group\\_by=none&page=1](https://idl-bnc-idrc.dspacedirect.org/discover?rpp=10&etal=0&query=108787&group_by=none&page=1)>.

80 Winnie Martins, Sophia Mukorera & Carol Friedman, *Scaling Access to Justice Research Collaboration*, Final Technical Report (Scottsville, Pietermaritzburg: Centre for Community Justice and Development, 2022), online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61135/IDL-61135.pdf?sequence=2&isAllowed=y>>.

“[T]he research adopts a participatory research strategy in which the CAO’s are an integral part of the research process.”

“The basic conclusion that may be carried away from the research is that the CAOs have a fundamental strength rooted in their community-based character and in African ways of knowing.”

In examining all issues, the study employs a combination of qualitative and quantitative approaches. The greater depth and nuance of qualitative research have potentially greater impact on marginalized groups such as women and people with disabilities.<sup>81</sup> Overall, the research adopts a participatory research strategy in which the CAOs are an integral part of the research process. The research was carried out using a purposive sample of ten CAOs in five provinces in South Africa, the ten CAOs chosen to represent different financing structures.<sup>82</sup>

The scope of the approach taken by paralegals often extends beyond legal remedies. Case reports show how they help people resolve problems in ways that re-establish relationships between disputing parties. Because the paralegals are often very familiar with other formal and informal resources in the community, they are able to bring into play the resources available in the community.<sup>83</sup> This aspect of the work of community-based paralegals in South Africa seems to be the fundamental strength of the CBP approach. However, the results presented in the various briefing notes reveal some weaknesses in case management, funding models and levels of resourcing. Nonetheless, the delivery model and the efforts of individual paralegals often overcome these impediments. Quantitative cost-benefit

indicators and systematic qualitative evidence gathered from interviews and case notes show that CBPs resolve problems that produce tangible benefits for people and estimated cost savings for government-funded programs. The basic conclusion that may be carried away from the research is that the CAOs have a fundamental strength rooted in their community-based character and in African ways of knowing. This should provide a solid base for expansion and improvements in services delivered and with improvements in important elements of the system such as case management and increased funding.<sup>84</sup>

81 By comparison, see recently Laura Savage & Susan McDonald, *Experiences of Serious Problems or Disputes in the Canadian Provinces*, 2021 (Ottawa: Statistics Canada, 18 January 2022), online: Government of Canada <<https://www150.statcan.gc.ca/n1/pub/85-002-x/2022001/article/00001-eng.pdf>>.

82 Winnie Martins, Sophia Mukorera & Carol Friedman, *Scaling Access to Justice Research Collaboration*, Final Technical Report (Scottsville, Pietermaritzburg: Centre for Community Justice and Development, 2022), online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61135/IDL-61135.pdf?sequence=2&isAllowed=y>>.

83 Winnie Martins, Sophia Mukorera & Carol Friedman, *Scaling Access to Justice Research Collaboration*, Final Technical Report (Scottsville, Pietermaritzburg: Centre for Community Justice and Development, 2022), online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61135/IDL-61135.pdf?sequence=2&isAllowed=y>>. See further Ab Currie, *The Communities Being Served are the Resources that are Needed, Innovations in*

*Community-Based Justice in Ontario, An Anthology of Canadian Research* (Toronto: Canadian Forum on Civil Justice, March 2022), online: CFCJ <<https://cfcj-fcjc.org/wp-content/uploads/The-Communities-Being-Served-are-the-Resources-that-are-Needed-Innovations-in-Community-Based-Justice-Anthology-by-Ab-Currie.pdf>>.

84 Winnie Martins, Sophia Mukorera & Carol Friedman, *Scaling Access to Justice Research Collaboration*, Final Technical Report (Scottsville, Pietermaritzburg: Centre for Community Justice and Development, 2022), online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61135/IDL-61135.pdf?sequence=2&isAllowed=y>>.

# Methodology



# Methodology

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In addition to the rich set of outcomes from each of the three African-based CBJR Project studies, the various methodologies used provide a very useful source of ideas for future community-based justice and related empirically based research initiatives.

Various target groups, communities and methods were used, primarily including a mix of quantitative and qualitative approaches to cost-benefit and related access to justice inquiries. Core to all three approaches was a desire to combine the specificity of quantitative outcomes, with the depth and context of qualitative results.

Building on the previous summaries of the three projects and their approaches, set out below are summary descriptions (quoted directly from the reports) of the methodologies used in each of the three projects.

## Sierra Leone

According to the report:

The research employed a mixed method approach in collecting data incorporating strategies that generated both qualitative and quantitative data. Semi-structured key informant interviews, focus group discussions and life stories supplemented quantitative data generated through service user, non-service user and service provider questionnaires. The study sample was drawn from two sample sizes to cover both service users and non-service users. For the former, case data generated by the LAB and paralegal NGOs between 2017 and 2018 were mined. From a docket of about 1500 cases, a total of 260 cases in our focus areas were tracked. For the latter, the research team randomly administered 500 questionnaires to persons who may or may not have had justice problems but have never used the services of paralegals.<sup>85</sup>

<sup>85</sup> Felix Marco Conteh, Yakama Manty Jones, Sonkita Conteh, Henry Mbawa & Aisha Fofana Ibrahim, *The Costs and Benefits of Community-based Justice in Sierra Leone* (Sierra Leone: Center for Alternative Policy Research & Innovation, January 2022) at 2, online: CAPRI <<https://www.capriL.org/post/the-costs-and-benefits-of-community-based-justice-in-sierra-leone>>.

## Kenya

According to the report:

The study used both qualitative and quantitative approaches, with the qualitative strategy being the main one.... In this case, two types of qualitative research were used. Phenomenological research was used where the researchers asked the respondents to describe their experiences in accessing and providing justice and then interpreted their encounters. At the same time, narrative research was used by the researchers to examine how the respondents shared their stories, with the aim of understanding and making sense of their experiences. From this, the research team produced a case study relaying the experience of accessing and providing justice from both the user and service provider point of view respectively. Since the goal of the study was to measure the costs and benefits of accessing justice in Kenya, quantitative research was used to collect and analyse the numerical data.... Here, a survey was used where the respondents were asked to rate their experiences with alternative access to justice initiatives. Additionally, to give sufficient information on initiatives that might merit being scaled up, correlational research was used to compare the performance of the five different initiatives in providing services. However, while the data correlation is mostly used as a representative of larger populations, the sample size of the study was limited as it only had 361 respondents. Consequently, the researchers used the cross-tabulation method to draw conclusions from the information gathered.<sup>86</sup>

## South Africa

According to the report:

A mixed-method design was used to allow a comprehensive analysis of interrelated social processes, drawing on the strengths of both quantitative and qualitative approaches. A community-based participatory research (CBPR) approach informed the study. A descriptive, exploratory and explanatory embedded multiple case strategy was used. Ten CAOs, located in five of South Africa's provinces, were selected; from these, 24 CBPs were selected for interviews and 202 service recipients were selected for focus groups. Case narratives were selected at each CAO for analysis based on their relevance to the research objectives. CAO affiliates were selected on the basis of representation of each structural model identified. The study employed three data analysis techniques appropriate for mixed-methods research: matrix (or logical) analysis, interpretive phenomenological analysis (IPA) and specific analytical techniques. Data gathered from different data sources was analysed comparatively for each CAO, per province, and across the ten CAOs.<sup>87</sup>

**“A mixed-method design was used to allow a comprehensive analysis of interrelated social processes, drawing on the strengths of both quantitative and qualitative approaches.”**

86 Jill Cottrell Ghai, ed, *Alternative Approaches to Access to Justice in Kenya: A Cost Benefit Analysis* (Nairobi: Katiba Institute & University of Nairobi, 15 November 2021) at 18, online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61056/IDL-61056.pdf?sequence=5&isAllowed=y>>.

87 Jill Cottrell Ghai, ed, *Alternative Approaches to Access to Justice in Kenya: A Cost Benefit Analysis* (Nairobi: Katiba Institute & University of Nairobi, 15 November 2021) at 18, online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61056/IDL-61056.pdf?sequence=5&isAllowed=y>>.

# Canadian Examples



# Canadian Examples

“Although developing new Canadian research was not a specific goal of the CBJR Project, a significant amount of community-based justice research and thinking has developed in Canada over the past number of years.”

Although developing new Canadian research was not a specific goal of the CBJR Project, a significant amount of community-based justice research and thinking has developed in Canada over the past number of years.<sup>88</sup> The purpose of this part of this report is not to fully document or explore all of those efforts. However, in the spirit of adding some comparative efforts and examples to the extensive findings from the three CBJR African-based projects, set out below are some brief summaries of some recent Canadian-based community-based justice research initiatives. They are presented here to briefly document their individual findings and, collectively, to provide some further examples of the kinds of community-based justice research that is currently being explored.

## Health Check-Ups

In Canada, by way of recent example, research carried out by Ab Currie has shown the effectiveness of a legal health check-up project carried out in southwestern Ontario, Canada in which community organizations were trained to carry out “gateway” intermediary roles of problem-spotting and making effective referrals.<sup>89</sup> Research on a secondary legal consultation project that grew out of the legal health check-ups showed that the three legal clinics involved could effectively assist community services and voluntary associations that were already assisting clients or members of their constituencies.<sup>90</sup> The rationale for the project was that the problems these community organizations were assisting people with very likely had legal aspects. The partnership between the community organizations and legal clinics was in the form of quick advice provided to the community groups upon request. Legal secondary consultation continues to be used by a variety of community organizations.

88 For a recent example, see Julie Mathews & David Wiseman, *Community Justice Help: Advancing Community-Based Justice Help*, A discussion paper (Toronto: Community Legal Education Ontario, June 2020), online: CLEO <[https://www.srln.org/system/files/attachments/Community%20Justice%20Help%20Advancing%20Community-Based-Access%20to%20Justice\\_2020.pdf](https://www.srln.org/system/files/attachments/Community%20Justice%20Help%20Advancing%20Community-Based-Access%20to%20Justice_2020.pdf)>.

89 See Ab Currie, “Extending the Reach of Legal Aid: Report on the Pilot Phase of the Legal Health Check-Up Project” (2014) in Ab Currie, *The Communities Being Served are the Resources that are Needed, Innovations in Community-Based Justice in Ontario, An Anthology of Canadian Research* (Toronto: Canadian Forum on Civil Justice, March 2022) at 33, online: CFJ <<https://cfj-fcj.org/wp-content/uploads/The-Communities-Being-Served-are-the-Resources-that-are-Needed-Innovations-in-Community-Based-Justice-Anthology-by-Ab-Currie.pdf>>.



## Immigrants and Refugees

Other research has looked at efforts to provide assistance to refugees and immigrants. For example, a recent study was carried out in partnership with a number of community organizations serving immigrant and refugee groups.<sup>91</sup> People participated in in-person sessions on a number of topics such as family or employment law. The sessions were highly interactive, encouraging participants to tell their own stories about the problems they were experiencing. Participants were encouraged to contact a legal clinic for assistance if they thought they needed help. It might have been expected that newcomers would have a strong tendency to first approach the trusted intermediaries in immigrant and refugee service agencies about troubling situations. The intermediaries became key actors in determining the paths to justice followed by individuals, sometimes referring people to a legal clinic and sometimes to other helping agencies. This pointed to the necessity of strong partnerships between the community organizations assisting newcomers and community legal clinics.<sup>92</sup>

“Building on earlier models to deliver mobile medical services to targeted communities, recent efforts have been made to delivery justice in the form of mobile services.”

### Mobile Justice

Similar to earlier models to deliver mobile medical services to targeted communities, recent efforts have been made to deliver justice in the form of mobile services. For example, a mobile rural law van travelled on a regular circuit to 12 communities in a rural part of Ontario, Canada that had not been well-served by a regional clinic.<sup>93</sup> During a six-month period, the van served many people, the majority of whom had no previous contact with a legal clinic. The mobile van became a presence in and part of the communities being served, especially on social media. The schedule for the mobile van was advertised in various ways, in particular on community Facebook pages. The rural mobile van became part of the normal patterns of communication among people on Facebook, with people often alerting friends and relatives that they should go to the van to ask for advice about an outstanding problem. In its early days, the rural mobile van showed evidence of becoming part of the community.<sup>94</sup>

### Satellite Clinics

Different access to justice efforts involved developing satellite as well as “pop-up” services in demographically and geographically focused areas. For example, a community legal clinic in a larger city within the region followed this approach for expanding access to justice to its client population by establishing weekly satellite clinics with nine community organizations and providing services on weekly to monthly bases depending on demand.<sup>95</sup> A lawyer and a community navigator were present at each location over the first year of operation referring hundreds of people to lawyers at clinics and making referrals to other helping organizations in the community for a larger number of people.<sup>96</sup>

90 Ab Currie, “Legal Secondary Consultation: How Legal Aid Can Support Communities and Expand Access to Justice” (2018) in Ab Currie, *The Communities Being Served are the Resources that are Needed, Innovations in Community-Based Justice in Ontario, An Anthology of Canadian Research* (Toronto: Canadian Forum on Civil Justice, March 2022) at 167, online: CFCJ <<https://cfcj-fcjc.org/wp-content/uploads/The-Communities-Being-Served-are-the-Resources-that-are-Needed-Innovations-in-Community-Based-Justice-Anthology-by-Ab-Currie.pdf>>.

91 Brandon D Stewart, “Building Trusted Relationships Through Interactive PLE Conversations (2021) in Ab Currie, *The Communities Being Served are the Resources that are Needed, Innovations in Community-Based Justice in Ontario, An Anthology of Canadian Research* (Toronto: Canadian Forum on Civil Justice, March 2022) at 268, online: CFCJ <<https://cfcj-fcjc.org/wp-content/uploads/The-Communities-Being-Served-are-the-Resources-that-are-Needed-Innovations-in-Community-Based-Justice-Anthology-by-Ab-Currie.pdf>>.

92 For other recent research, see e.g. Craig Damien Smith, Sean Rehaag & Trevor CW Farrow, “Access to Justice for Refugees: How Legal Aid and Quality of Counsel Impact Fairness and Efficiency in Canada’s Asylum System” (Toronto: Canada Excellence Research Chair in Migration and Integration, Centre for Refugee Studies, Canadian Forum on Civil Justice, 2021).

93 Ab Currie, “Someone Out There Helping: Final Report of the WellComs Mobile Law Van Project” (Toronto: Canadian Forum on Civil Justice, 2019), online: CFCJ <<https://cfcj-fcjc.org/wp-content/uploads/Someone-Out-There-Helping-Final-Report-Of-The-WellComs-Mobile-Law-Van-Project-by-Ab-Currie.pdf>>.

94 See recently Ab Currie, “Making Justice Available to Everyone: The Rural Mobile Law Van in North Halton and Wellington County, Ontario” *Slaw* (4 October 2022), online: Slaw <<http://www.slaw.ca/2022/10/04/making-justice-available-to-everyone-the-rural-mobile-law-van-in-north-halton-and-wellington-county-ontario/>>.

95 See “The Hamilton Outreach Project: Meeting People Where They’re At” in Ab Currie, *The Communities Being Served are the Resources that are Needed, Innovations in Community-Based Justice in Ontario, An Anthology of Canadian Research* (Toronto: Canadian Forum on Civil Justice, March 2022) at pt 6, online: CFCJ <<https://cfcj-fcjc.org/wp-content/uploads/The-Communities-Being-Served-are-the-Resources-that-are-Needed-Innovations-in-Community-Based-Justice-Anthology-by-Ab-Currie.pdf>>.

96 For other examples and initiatives, see e.g. “A2J Week 2016: Free Legal Clinic”, online: TAG <<https://iso.ca/theactiongroup/access-to-justice-week/programming/a2j-week-2016-free-law-clinic>>; Connecting Ottawa Network, “Connecting Region Initiative”, Activity Report #8, Submitted to the Law Foundation of Ontario, Access to Justice Fund (July 2016), online: <[https://connectingottawa.com/wp-content/uploads/2021/01/Connecting\\_Ottawa\\_Report\\_8.pdf](https://connectingottawa.com/wp-content/uploads/2021/01/Connecting_Ottawa_Report_8.pdf)>.

“[C]ommunity-based justice is a term that can be applied to many justice services.... In addition to specific services, it may also be useful to think of community-based justice as a process.”

## Service and Process

As was pointed out earlier, community-based justice is a term that can be applied to many justice services focused on helping people resolve problems. In addition to specific services, it may also be useful to think of community-based justice as a process. This is especially true in the context of the social development narrative of access to justice informed by SDG 16, in which individual empowerment and building community capacity are strong elements. Community-based justice comes alive in the process of expanding access to justice. The size and capacity of service providers and the size and social composition of communities being served present unique challenges for every exercise in developing community-based justice.

## Community Justice and Well-Being

Community-based justice is an iterative process that is developed project-by-project in the service of expanding access to justice. Community-based justice is gaining depth and scope as a new, more expansive discourse on access to justice evolves. Building on the results of the 2021 survey of legal problems in Canada, a program of research at the Department of Justice in Canada has examined the qualitative experiences of people experiencing legal problems in several disadvantaged groups. These qualitative studies present insights into the connections between individual needs and the well-being and security that come from structures and institutions within communities.

97 Laura Savage & Susan McDonald, *Experiences of Serious Problems or Disputes in the Canadian Provinces*, 2021 (Ottawa: Statistics Canada, 18 January 2022) at 3, online: Government of Canada <<https://www150.statcan.gc.ca/n1/pub/85-002-x/2022001/article/00001-eng.pdf>>.

98 See Meredith Brown et al., “Voices Matter: The Impact of Serious Legal Problems on 16- to 30-year-olds in the Black Community” (Ottawa: Department of Justice Canada, 2021) at 28, online: <[https://www.justice.gc.ca/eng/rp-pr/jr/ybc-jcn/docs/RSD\\_RR2021\\_Black\\_Youth\\_Ottawa\\_and\\_Toronto\\_EN.pdf](https://www.justice.gc.ca/eng/rp-pr/jr/ybc-jcn/docs/RSD_RR2021_Black_Youth_Ottawa_and_Toronto_EN.pdf)>. Other publications in the same research series include: Davis Austin, “Urban African Canadians: A Qualitative Study of Serious Legal Problems in Quebec” (Ottawa: Department of Justice Canada, 2021), online: Government of Canada <[https://www.justice.gc.ca/eng/rp-pr/jr/uac-amu/docs/RSD\\_RR2021\\_Urban\\_African\\_Canadians\\_EN.pdf](https://www.justice.gc.ca/eng/rp-pr/jr/uac-amu/docs/RSD_RR2021_Urban_African_Canadians_EN.pdf)>; Doris Rajan, “Serious Problems Experienced by People with Disabilities in Western Canada” (Ottawa: Department of Justice Canada, 2021), online: Government of Canada <[https://www.justice.gc.ca/eng/rp-pr/jr/pwdwc-phcw/docs/RSD\\_RR2021\\_Persons\\_with\\_Disabilities\\_Western\\_Canada\\_EN.pdf](https://www.justice.gc.ca/eng/rp-pr/jr/pwdwc-phcw/docs/RSD_RR2021_Persons_with_Disabilities_Western_Canada_EN.pdf)>; Jihan Abbas & Sonia Alimi, “A Qualitative Look at Serious Legal Problems for People with Disabilities in Central Canada” (Ottawa: Department of Justice Canada, 2021), online: Government of Canada <[https://www.justice.gc.ca/eng/rp-pr/jr/pwdcc-phcc/docs/RSD\\_RR2021\\_Persons-with-Disability-Central-Canada-EN.pdf](https://www.justice.gc.ca/eng/rp-pr/jr/pwdcc-phcc/docs/RSD_RR2021_Persons-with-Disability-Central-Canada-EN.pdf)>; Saint John Human Development Council, “Serious Problems Experienced by People with Disabilities Living in Atlantic Canada” (Ottawa: Department of Justice Canada, 2021), online: Government of Canada <[https://www.justice.gc.ca/eng/rp-pr/jr/pwdac-phca/docs/RSD\\_RR2021\\_Persons\\_with\\_Disabilities\\_Atlantic\\_Canada\\_EN.pdf](https://www.justice.gc.ca/eng/rp-pr/jr/pwdac-phca/docs/RSD_RR2021_Persons_with_Disabilities_Atlantic_Canada_EN.pdf)>; Alina Sutter & Victoria Esses, “A Qualitative Look at Serious Legal Problems Facing Immigrants in London and Toronto, Ontario” (Ottawa: Department of Justice Canada, 2021), online: Government of Canada <[https://www.justice.gc.ca/eng/rp-pr/jr/lto/docs/rsd\\_rr2021\\_immigrants-london-and-toronto-en.pdf](https://www.justice.gc.ca/eng/rp-pr/jr/lto/docs/rsd_rr2021_immigrants-london-and-toronto-en.pdf)>; Florentien Verhage, “A Qualitative Look at Serious Legal Problems Facing Immigrants in Greater Victoria and Vancouver, British Columbia” (Ottawa: Department of Justice Canada, 2021), online: Government of Canada <[https://www.justice.gc.ca/eng/rp-pr/jr/ivbc/docs/rsd\\_rr2021\\_immigrants-victoria-and-vancouver-eng.pdf](https://www.justice.gc.ca/eng/rp-pr/jr/ivbc/docs/rsd_rr2021_immigrants-victoria-and-vancouver-eng.pdf)>; Community-Based Research Centre, “Serious Legal Problems faced by Lesbian, Gay, Bisexual, and Other Sexual-Minority People in Western Canada: A Qualitative Study” (Ottawa: Department of Justice Canada, 2021), online: <[https://www.justice.gc.ca/eng/rp-pr/jr/lgbtq/docs/rsd\\_rr2021\\_lgb-people-in-western-canada-eng.pdf](https://www.justice.gc.ca/eng/rp-pr/jr/lgbtq/docs/rsd_rr2021_lgb-people-in-western-canada-eng.pdf)>. See also “Measuring What Matters: Report of the ad hoc Federal-Provincial-Territorial Working Group on Measuring the Impact of COVID 19 on Access to Justice in Family and Poverty Law Matters” (November 2021), online: <<https://scics.ca/wp-content/uploads/2022/04/Measuring-What-Matters.pdf>>.

# Concluding Comments and Reflections



“Readers of the reports will recognize the many ways in which the studies contribute to the evolving global discourse on access to justice, emphasizing themes such as people-centered justice and justice for all.”



## Concluding Comments and Reflections

### CBJR Project Studies and Evolving Access to Justice Narrative

The three African-based CBJR Project studies present a rich body of research results about access to justice in the three African countries. However, there is more. The three studies from Sierra Leone, Kenya and South Africa represent a significant part of the long process that has involved many empirical studies and policy reports through which our understanding of what access to justice means has gone through a slow process of change, away from primarily access to courts to a wider social development agenda. In all three studies, the research is framed within the sustainable development (SDG 16) agenda. Readers of the reports will recognize the many ways in which the studies contribute to the evolving global discourse on access to justice, emphasizing themes such as people-centered justice and justice for all. Hopefully the research will be accessed by a wide range of researchers and policy makers and should become part of the broader professional discourse on the evolving narrative on access to justice.

### Community Justice

Further, knowledge about how paralegals do their work in communities should be available in ways that might influence the public discourse on justice and access to justice, informing the public about what community-based justice means, beyond legal action, lawyers and courts. This might influence further public knowledge about and support for access to justice. Better understanding of community-based access to justice, along with greater public awareness and support, will hopefully increase political attention and support for community-based justice as it is represented in this research.

## “Partnering with community organizations, and carefully involving those organizations at all levels and stages of the research, is typically critical for successful research results.”

### Cost-Benefit Research

The importance of including cost-benefit analyses in efforts to expand access to justice is a growing point of emphasis in the international access to justice literature,<sup>99</sup> which is also a key point of emphasis across the CBJR Project studies. The objective in the three studies is to assess the potential for scaling up existing access to justice initiatives that are viable and sustainable. Across all three studies, a large number of community legal clinics, all of which used paralegals, were examined, including ten in South Africa, 111 clinics in Kenya organized into five categories and five clinics in Sierra Leone. Remarkably, based on quantitative and qualitative data using innovative cost-benefit methodologies, examining both tangible and intangible costs and benefits, eight of the ten clinics in South Africa had positive cost-benefit ratios. Five out of five clinics in Sierra Leone had positive cost-benefit ratios. In Kenya, four of the five categories of community clinics had, on average,

positive cost-benefit-ratios. In Kenya, only courts showed on average unfavourable cost-benefit ratios.<sup>100</sup>

The results of these cost-benefit studies provide encouragement for future cost-benefit inquiries, particularly in ways that – as far as possible – allow for comparisons across jurisdictions. For example, finding ways to study and compare similar types of services and organizations (e.g. paralegal services, specified clinic services and supports, digital tools and initiatives, etc.) in various contexts and jurisdictions will lead to the further development of an increasingly robust body of comparative cost-benefit research,<sup>101</sup> ideally with a view to building on earlier efforts and initiatives.<sup>102</sup> Additionally, as discussed further below, focusing on monetary costs as well as non-monetary costs – for example (borrowing from the Kenyan CBJR study) by seeking “information on impact of the dispute, impact on relationships, benefits of participation in the resolution of the dispute and satisfaction with the process,”<sup>103</sup> among other benefits<sup>104</sup> –

will expand the utility of this kind of research.

Cost-benefit research is not inexpensive or easy: a lack of widely available administrative and other data often makes some comparisons quite challenging, and this kind of research can take time and is often labour-intensive, particularly when looking at direct and indirect costs and benefits across various locations and jurisdictions. One advantage of exploring hybrid (in-person and remote) approaches to research and data collection may be that at least some research costs could be slightly reduced (e.g. travel costs); however, as also discussed in this report, in-person opportunities can also be extremely important in terms of trust, understanding and relationship building. Further, controlling for procedural differences, service variations, and differences in social context is challenging and needs to be taken into account. Partnering with community organizations, and carefully involving those organizations at all levels and stages of the research, is typically critical for successful results. In light of the relative consistency of experiences and results from these three CBJR studies, a case certainly can be made to pursue similar cross-jurisdictional studies with a view to adding to an increasingly growing body of cost-benefit data.<sup>105</sup>

99 See e.g. OECD & World Justice Project, *Building a Business Case for Access to Justice*, White Paper (Paris: OECD, 2019), online: <<https://www.oecd.org/gov/building-a-business-case-for-access-to-justice.pdf>>; Lisa Moore & Trevor CW Farrow, *Investing in Justice: A Literature Review in Support of the Case for Improved Access* (Toronto: Canadian Forum on Civil Justice, 2019), online: CFCJ <<https://cfj-cfcj.org/wp-content/uploads/Investing-in-Justice-A-Literature-Review-in-Support-of-the-Case-for-Improved-Access-by-Lisa-Moore-and-Trevor-C-W-Farrow.pdf>>; Lisa Moore, “Building a Business Case for Investing in Community-Based Justice”, *Slaw* (4 October 2018).

100 For further details and descriptions, see Felix Marco Conteh, Yakama Manty Jones, Sonkita Conteh, Henry Mbawa & Aisha Fofana Ibrahim, *The Costs and Benefits of Community-based Justice in Sierra Leone* (Sierra Leone: Center for Alternative Policy Research & Innovation, January 2022), online: CAPRI <<https://www.capri.org/post/the-costs-and-benefits-of-community-based-justice-in-sierra-leone>>; Jill Cottrell Ghai, ed, *Alternative Approaches to Access to Justice in Kenya: A Cost Benefit Analysis* (Nairobi: Katiba Institute & University of Nairobi, 15 November 2021), online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61056/IDL-61056.pdf?sequence=5&isAllowed=y>>; Winnie Martins, Sophia

Mukorera & Carol Friedman, *Scaling Access to Justice Research Collaboration, Final Technical Report* (Scottsville, Pietermaritzburg: Centre for Community Justice and Development, 2022), online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61135/IDL-61135.pdf?sequence=2&isAllowed=y>>.

101 A similar collaborative and iterative approach has been taken around the world over the past number of years in the context of the growing body of everyday legal needs research, which has generally led to a more robust and useful collection of data than if individual researchers had not looked for ways to collaborate, share methodological approaches and build on early data sets and approaches. See generally OECD/Open Society Foundations, *Legal Needs Surveys and Access to Justice* (Paris: OECD Publishing, 2019) at 31, online: <<https://www.oecd-ilibrary.org/docserver/g2g9a36c-en.pdf?expires=1664123401&id=id&accname=guest&checksum=96147730AD7D11DC5A2E2DA74BF23081>>.

102 For a review of a variety of different studies, see e.g. Lisa Moore & Trevor CW Farrow, *Investing in Justice: A Literature Review in Support of the Case for Improved Access* (Toronto: Canadian Forum on Civil Justice, 2019), online: CFCJ <<https://cfj-cfcj.org/wp-content/uploads/Investing-in-Justice-A-Literature-Review-in-Support-of-the-Case-for-Improved-Access-by-Lisa-Moore-and-Trevor-C-W-Farrow.pdf>>.

Moore-and-Trevor-C-W-Farrow.pdf>.

103 Jill Cottrell Ghai, ed, *Alternative Approaches to Access to Justice in Kenya: A Cost Benefit Analysis* (Nairobi: Katiba Institute & University of Nairobi, 15 November 2021) at 37, online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61056/IDL-61056.pdf?sequence=5&isAllowed=y>>.

104 Compare e.g. the indirect benefits explored by the Sierra Leone CBJR project team: Felix Marco Conteh, Yakama Manty Jones, Sonkita Conteh, Henry Mbawa & Aisha Fofana Ibrahim, *The Costs and Benefits of Community-based Justice in Sierra Leone* (Sierra Leone: Center for Alternative Policy Research & Innovation, January 2022) at 51, online: CAPRI <<https://www.capri.org/post/the-costs-and-benefits-of-community-based-justice-in-sierra-leone>>.

105 See e.g. OECD & World Justice Project, *Building a Business Case for Access to Justice*, White Paper (Paris: OECD, 2019), online: <<https://www.oecd.org/gov/building-a-business-case-for-access-to-justice.pdf>>; Lisa Moore & Trevor CW Farrow, *Investing in Justice: A Literature Review in Support of the Case for Improved Access* (Toronto: Canadian Forum on Civil Justice, 2019), online: CFCJ <<https://cfj-cfcj.org/wp-content/uploads/Investing-in-Justice-A-Literature-Review-in-Support-of-the-Case-for-Improved-Access-by-Lisa-Moore-and-Trevor-C-W-Farrow.pdf>>.

“In order to scale up, access to justice must escape the perennial problems experienced by service providers nearly everywhere of being asked to do more with less or to do more with not enough.”

## Barriers and Resources

The consistency of the cost-benefit results across the three CBJR studies is notable in itself. However, it is all the more remarkable that this consistency has been achieved in spite of many reported limitations, most leading back to inadequate resourcing, although some relate to impediments such as hostility from competing interests or individuals within the community or lack of co-operation from other parts of the justice/dispute resolution systems. In the Kenya study, for example, service providers reported a number of obstacles to completing cases on time. In various ways across the three studies, these challenges included cases that are too complex, lack of transportation, inadequate resources, inadequate staffing levels, high caseloads and inadequate physical facilities.<sup>106</sup>

The Sierra Leone research emphasizes that issues surrounding funding and design of service delivery need to be addressed. Similarly, the South Africa report argues that in spite of the preponderance of successful case outcomes, case management is in especially urgent need of improvement in most CAOs. Stable funding is required to assure an operating environment including staff salaries, office equipment and facilities. However, a scenario imagining more adequate resourcing would change the balance of cost and benefit. More services

would be required to accrue benefits that will maintain positive cost-benefit ratios.<sup>107</sup>

In order to scale up, access to justice must escape the perennial problems experienced by service providers nearly everywhere of being asked to do more with less or to do more with not enough. Along with cost-benefit analyses, the three studies report significant estimated cost savings to public institutions funded by governments. However, at higher levels, decisions made by governments typically reflect competing policy priorities. How much money will governments be willing to spend on justice?<sup>108</sup> How much money will governments be willing to spend on the poor?<sup>109</sup> Also, the perceived importance of the potential amounts of money saved and the investment value of access to justice may be diminished in the larger scheme of government spending by the fact that those amounts represent only a small fraction of overall public expenditures.<sup>110</sup> Advancing the access to justice agenda means being in it for the long haul (as it has historically).<sup>111</sup> Going forward, more participatory research with key policy makers in government as well as users and service providers involved throughout will be needed so that research findings and results address specific policy questions, concerns and contexts.

106 See variously Felix Marco Conteh, Yakama Manty Jones, Sonkita Conteh, Henry Mbawa & Aisha Fofana Ibrahim, *The Costs and Benefits of Community-based Justice in Sierra Leone* (Sierra Leone: Center for Alternative Policy Research & Innovation, January 2022), online: CAPRI <<https://www.capri.org/post/the-costs-and-benefits-of-community-based-justice-in-sierra-leone>>; Jill Cottrell Ghai, ed, *Alternative Approaches to Access to Justice in Kenya: A Cost Benefit Analysis* (Nairobi: Katiba Institute & University of Nairobi, 15 November 2021), online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61056/IDL-61056.pdf?sequence=5&isAllowed=y>>; Winnie Martins, Sophia Mukorera & Carol Friedman, *Scaling Access to Justice Research Collaboration*, Final Technical Report (Scottsville, Pietermaritzburg: Centre for Community Justice and Development, 2022), online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61135/IDL-61135.pdf?sequence=2&isAllowed=y>>.

107 See Felix Marco Conteh, Yakama Manty Jones, Sonkita Conteh, Henry Mbawa & Aisha Fofana Ibrahim, *The Costs and Benefits of Community-based Justice in Sierra Leone* (Sierra Leone: Center for Alternative Policy Research & Innovation, January 2022), online: CAPRI <<https://www.capri.org/post/the-costs-and-benefits-of-community-based-justice-in-sierra-leone>>; Winnie Martins, Sophia Mukorera & Carol Friedman, *Scaling Access to Justice Research Collaboration*, Final Technical Report (Scottsville, Pietermaritzburg: Centre for Community Justice and Development, 2022), online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61135/IDL-61135.pdf?sequence=2&isAllowed=y>>.

108 See e.g. Lisa Moore & Mitchell Perlmutter, “Public Spending on Access to Justice: Where Do We Go from Here?” in Trevor CW Farrow & Lesley A Jacobs, *The Justice Crisis: The Cost and Value of Accessing Law* (Vancouver: UBC Press, 2021) at c 3.

109 David Luban, “The Right to Legal Services” in AA Paterson & T Goriely, eds, *Resourcing Civil Justice* (Oxford: Oxford University Press, 1996) at 61.

110 See e.g. Lisa Moore, Mitchell Perlmutter & Trevor CW Farrow, “Public and Private Spending on Justice in Canada” (Toronto: Canadian Forum on Civil Justice, 2018) at 19, online: CFCJ <<https://cfcj-fcj.org/wp-content/uploads/Public-and-Private-Spending-on-Justice-in-Canada-Lisa-Moore-Mitchell-Perlmutter-Trevor-Farrow.pdf>>.

111 Ab Currie, *Nudging the Paradigm Shift: Everyday Legal Problems in Canada* (Toronto: Canadian Forum on Civil Justice, 2016) at 28, online: CFCJ <<https://cfcj-fcj.org/sites/default/files/publications/reports/Nudging%20the%20Paradigm%20Shift%2C%20Everyday%20Legal%20Problems%20in%20Canada%20-%20Ab%20Currie.pdf>>.



# “Dispute resolution and problem solving is not limited to legal responses.”

## Tangible and Intangible Benefits

The approaches to cost-benefit analysis taken in all three CBJR reports recognize the importance of tangible as well as intangible elements. For example, direct costs and benefits – including specific financial implications for service providers, individuals and the state – were explored.<sup>112</sup> At the same time, the projects also looked at important non-financial, indirect or intangible costs, including, for example, empowerment and awareness,<sup>113</sup> impacts on emotions, relationships and satisfaction,<sup>114</sup> and “willingness to pay”.<sup>115</sup> Adopting this multi-faceted approach to direct and indirect costs and benefits situates the cost-benefit analyses carried out in all three studies within the emerging people-centered and sustainable development (SDG 16) access to justice narrative. By trying to look at direct and indirect cost implications of various services and initiatives, including the resulting costs and benefits on peoples’ lives, the detailed components of the measures developed in these three CBJR cost-benefit studies will add concretely and significantly to what is meant by people-centered justice.

## Community-Based Paralegals

A further point of emphasis of these studies is the nature and depth of community involvement of paralegals in all three jurisdictions. Dispute resolution and problem solving is not limited to legal responses. For example, as the CBJR studies indicate, the varied work and services that paralegals can provide is significant, including re-establishing social relationships that may have been fractured by unresolved problems, strengthening individual relationships and strengthening community structures. These experiences may provide the basis for partnerships between communities and legal service providers to identify and resolve problems more effectively and efficiently. In terms of services at the individual level, paralegals are providing services to people on their own terms and in ways that makes sense to them.

The following description of community-based paralegals was provided by Winnie Martins from the South Africa team:

In Africa, the term “community-based paralegal” (CBP) is used to distinguish CBPs from paralegals operating in urban areas and those employed in law firms, trade unions or government offices. CBPs are ordinary local people from the community and have a deep knowledge of the community in which they work. Their education includes learning through experience, often soliciting advice from NGO lawyers or other NGO personnel (themselves paralegals) as concrete issues arise. The South African research reveals that some paralegals have received accredited training. This should continue with others who are non-accredited in order to strengthen their work in communities. What sets “community-based” paralegals apart from other paralegals is that they seek to resolve a wide range of community issues while straddling the formal, traditional system and informal legal systems. Community-based paralegals promote access to justice due to their geographical location; they are often the only legal option in far-flung geographical communities.

112 See e.g. Felix Marco Conteh, Yakama Manty Jones, Sonkita Conteh, Henry Mbawa & Aisha Fofana Ibrahim, *The Costs and Benefits of Community-based Justice in Sierra Leone* (Sierra Leone: Center for Alternative Policy Research & Innovation, January 2022) at 48–53, online: CAPRI <<https://www.capri.org/post/the-costs-and-benefits-of-community-based-justice-in-sierra-leone>>; Jill Cottrell Ghai, ed, *Alternative Approaches to Access to Justice in Kenya: A Cost Benefit Analysis* (Nairobi: Katiba Institute & University of Nairobi, 15 November 2021) at 31, online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61056/IDL-61056.pdf?sequence=5&isAllowed=y>>; Sophia Mukorera & Winnie Martins, *Scaling Access to Justice Research Collaboration*, Brief 1: Executive Summary (Scottsville,

Pietermaritzburg: Centre for Community Justice and Development, 2022) at v, online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61135/IDL-61135.pdf?sequence=2&isAllowed=y>>.

113 See e.g. Felix Marco Conteh, Yakama Manty Jones, Sonkita Conteh, Henry Mbawa & Aisha Fofana Ibrahim, *The Costs and Benefits of Community-based Justice in Sierra Leone* (Sierra Leone: Center for Alternative Policy Research & Innovation, January 2022) at 51–52, online: CAPRI <<https://www.capri.org/post/the-costs-and-benefits-of-community-based-justice-in-sierra-leone>>.

114 Jill Cottrell Ghai, ed, *Alternative Approaches to Access to Justice in Kenya: A Cost Benefit Analysis* (Nairobi: Katiba Institute & University of Nairobi, 15 November 2021) at 37, online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61056/IDL-61056.pdf?sequence=5&isAllowed=y>>.

115 See e.g. Sophia Mukorera & Winnie Martins, *Scaling Access to Justice Research Collaboration*, Brief 1: Executive Summary (Scottsville, Pietermaritzburg: Centre for Community Justice and Development, 2022) at v, online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61135/IDL-61135.pdf?sequence=2&isAllowed=y>>.

The Sierra Leone report suggests that the idea of community-based justice is far less straightforward than might be assumed. The pursuit of justice is not only the establishment of right or wrong (as might simply be determined by the facts of a case); rather, it is the glue that holds families and society together.<sup>116</sup> Community-based justice places much weight on the shoulders of paralegals. Community-based justice is pre-eminently sociological and places access to justice squarely on individual and community well-being and safety.

The strategies pursued by CBPs depend on individual circumstances and client preferences. Each case is treated as unique and in need of creative solutions. Due to their social embeddedness, CBPs frequently use mediation and restorative justice techniques, which are culturally appropriate for local communities. Their effectiveness is facilitated by similar and proximate living conditions and spaces between themselves and their clients, which promotes empathy. Their holistic approach to justice means that they are successful where others are not in meeting the needs of local people. Community-based paralegals are known to have community organizing skills that can be used to empower communities to address systematic problems. Community-based paralegals are well-positioned to use their knowledge of the law; they understand the legal needs of the people they assist, especially those from rural communities.

**“Community-based paralegals are known to have community organizing skills that can be used to empower communities to address systematic problems.”**

### **People-Centered Justice for All**

Ultimately, this body of CBJR research reflects many major themes and meta-objectives found in the global access to justice discourse. One of these over-arching themes is that effective mechanisms for providing access to justice should ensure the well-being and security of individuals within their communities. Doing so might be achieved by focusing more on resolutions to problems rather than legal remedies and on strengthening community capacity to assist people in need. Another overarching objective is to assure that assistance is people-centered. People-centered justice is an expression of holistic and integrated justice. People can experience multiple, interconnected legal and non-legal problems, and these are embedded in the overall needs and wishes of people in community and family life. From the point of view of service providers, complex problems should not typically be segmented,

with service providers only dealing with one approach or one aspect of a complex problem cluster. The idea of service providers that “We are here to help” means that the service provider deals with whatever is troubling the client. Service providers such as community legal clinics sometimes but do not always have the financial or human resources to provide this sort of holistic, multi-faceted service. That is where the idea of integrated services comes into the picture. Community legal clinics may try to build networks of access to justice services so people can be assisted with multiple diverse problems, through referrals to other helping agencies, thereby enabling them to better assist their own clients or constituent members or partnerships with other services or voluntary associations.

Another overarching objective is the aim to provide justice for all. The justice for all problem must overcome two issues. The first is the ubiquitous nature of everyday legal problems and, as a consequence, the large number of people in need of assistance. The second is the pervasive situation in which people experiencing problems often do not know where to go for help. If they do know where to go, help might be available, although in many circumstances it may be fraught with difficulties, high costs, corruption, gender biases and other problems. Overcoming these challenges, and working to provide *justice for all*, is a common thread running through the international access to justice landscape, including this CBJR Project.<sup>117</sup>

<sup>116</sup> See Felix Marco Conteh, Yakama Manty Jones, Sonkita Conteh, Henry Mbawa & Aisha Fofana Ibrahim, *The Costs and Benefits of Community-based Justice in Sierra Leone* (Sierra Leone: Center for Alternative Policy Research & Innovation, January 2022) at 19, online: CAPRI <<https://www.caprri.org/post/the-costs-and-benefits-of-community-based-justice-in-sierra-leone>>

<sup>117</sup> See e.g. Task Force on Justice, *Justice for All – The Report of the Task Force on Justice* (New York: Center on International Cooperation, 2019).



## Collaboration

Exploring a collaborative partnership between different research partners from various parts of the world was a core goal of the CBJR Project. Understanding the importance of shared challenges, recognizing differences, and taking account of different social contexts were key elements of project planning.

One of the early tasks of the CBJR Project was to identify and explore the different roles and responsibilities of the CBJR Project members. Because different organizations and researchers, from different parts of the world, were coming together for the first time, there was necessarily a period of dialogue and exploration about what roles each partner would play, what value each could add, and how the collaborative exercise could add value to the overall CBJR Project. This part of the exercise took some time, particularly because much of this discussion took place remotely.

In terms of roles, the main body of new research was developed, conducted and produced by the three African partner organizations. They were each responsible for developing and pursuing research questions, methodologies, reporting strategies, etc. The main role of the CFCJ was to play a planning, supporting and scaling role, primarily to help connect and facilitate discussions and meetings between the research teams, provide commentary on methodologies when asked, and ultimately – through various initiatives including this final report – to discuss, promote and “scale up” the various CBJR Project findings in the context of growing global access to justice conversations and initiatives.<sup>118</sup>

To the extent that CBJR Project partners were able to meet in person and to start to develop relationships and shared understandings of the exercise, lines of communication were opened and the early groundwork for collaborative engagement was set. However, as mentioned, the COVID-19 pandemic meant that much of the potential of the collaborative aspect of the CBJR Project was impacted and somewhat muted. Notwithstanding the benefits of remote meetings, given time zones, some challenges with internet connectivity, etc., there was significant benefit in being able to meet in person. The in-person engagement that did happen at the outset of the CBJR Project not only, as a practical matter, facilitated the exchange of ideas and information, it also allowed for relationships to be formed, which are necessary to build trust and understanding in a project of this nature with multiple roles, responsibilities, expectations and potential assumptions involving researchers and organizations from various parts of the world. Put simply, meaningful collaboration takes time and effort to set up. The experience of the CBJR Project is that the time and effort put into relationship building and team development is very much worthwhile, and where possible, should not be overlooked or shortchanged.

“The experience of the CBJR Project is that the time and effort put into relationship building and team development is very much worthwhile, and where possible, should not be overlooked or shortchanged.”

## Overall

In the end, we are proud of the accomplishments of the CBJR Project. We hope that this report, and all of the CBJR materials, will be of use as we continue to pursue better research, better data, and ultimately better access to justice throughout the world.

<sup>118</sup> In addition to the various CBJR reports and findings (many of which are included in Appendix A), project partners – including CFCJ team members and others – have discussed and promoted the CBJR Project findings at various international conferences and workshops.

# Appendix A

## CBJR Materials

Various reports and materials have been produced as part of, in collaboration with or related to the CBJR Project,<sup>119</sup> including:

- Canadian Forum on Civil Justice, “Recommended Readings and Resources” (Toronto: CFCJ, 2020), online: CFCJ <<https://cfcj-fcjc.org/our-projects/community-based-justice-research-cbjr/recommended-reading-and-resources/>>
- Canadian Forum on Civil Justice, “Community-Based Justice Research (CBJR)” (Toronto: CFCJ, 2018), online: <<https://cfcj-fcjc.org/our-projects/community-based-justice-research-cbjr/>>
- Canadian Forum on Civil Justice, “Community-Based Justice Research (CBJR) – Kenya” (Toronto: CFCJ), online: CFCJ <<https://cfcj-fcjc.org/our-projects/community-based-justice-research-cbjr/community-based-justice-research-cbjr-kenya/>>
- Conteh, Felix Marco Conteh, Yakama Manty Jones, Sonkita Conteh, Henry Mbawa & Aisha Fofana Ibrahim, *The Costs and Benefits of Community-based Justice in Sierra Leone* (Sierra Leone: Center for Alternative Policy Research & Innovation, January 2022), online: CAPRI <<https://www.caprisl.org/post/the-costs-and-benefits-of-community-based-justice-in-sierra-leone>>
- Conteh, Felix Marco Conteh, Sonkita Conteh, Lyttleton Braima, Aisha Fofana Ibrahim, Henry Mbawa & Yakama Manty Jones, “Paralegals, community agency and access to justice in Sierra Leone” (Sierra Leone: Namati, September 2020)
- Currie, Ab, “Community-Based Justice”, *Slaw* (26 May 2022), online: Slaw <<http://www.slaw.ca/2022/05/26/community-based-justice/>>
- Currie, Ab, *The Communities Being Served are the Resources that are Needed, Innovations in Community-Based Justice in Ontario, An Anthology of Canadian Research* (Toronto: Canadian Forum on Civil Justice, March 2022), online: CFCJ <<https://cfcj-fcjc.org/wp-content/uploads/The-Communities-Being-Served-are-the-Resources-that-are-Needed-Innovations-in-Community-Based-Justice-Anthology-by-Ab-Currie.pdf>>
- Currie, Ab, *The Needs of Helping Organizations in the Community* (Toronto: Canadian Forum on Civil Justice, February 2021), online: CFCJ <<https://cfcj-fcjc.org/wp-content/uploads/The-Needs-of-Helping-Organizations-Ab-Currie.pdf>>
- Currie, Ab, “Someone Out There Helping: Final Report of the WellComs Mobile Law Van Project” (Toronto: Canadian Forum on Civil Justice, 2019), online: CFCJ <<https://cfcj-fcjc.org/wp-content/uploads/Someone-Out-There-Helping-Final-Report-Of-The-WellCoMs-Mobile-Van-Project-by-Ab-Currie.pdf>>
- Currie, Ab, *The Community Being Helped Is the Resource that is Needed to Extend Access to Justice to the Community* (Toronto: Canadian Forum on Civil Justice, August 2020), online: CFCJ <<https://cfcj-fcjc.org/wp-content/uploads/The-Community-Being-Helped-Is-the-Resource-That-is-Needed-Ab-Currie.pdf>>
- Currie, Ab, “Legal Secondary Consultation: How Legal Aid Can Support Communities and Expand Access to Justice” (2018) in Ab Currie, *The Communities Being Served are the Resources that are Needed, Innovations in Community-Based Justice in Ontario, An Anthology of Canadian Research* (Toronto: Canadian Forum on Civil Justice, March 2022) at 167, online: CFCJ <<https://cfcj-fcjc.org/wp-content/uploads/The-Communities-Being-Served-are-the-Resources-that-are-Needed-Innovations-in-Community-Based-Justice-Anthology-by-Ab-Currie.pdf>>
- Currie, Ab, “Ten Ideas for Community-Based Justice” (Toronto: Canadian Forum on Civil Justice, 26 November 2018), online: CFCJ <<https://cfcj-fcjc.org/wp-content/uploads/Ten-Ideas-for-Community-Based-Justice-Ab-Currie.pdf>>
- Farrow, Trevor CW, Ab Currie & Lisa Moore, “Advancing People-Centered Justice: New Research on Community-Based Justice” *Slaw* (29 July 2022), online: Slaw <<http://www.slaw.ca/2022/07/29/advancing-people-centered-justice-new-research-on-community-based-justice/>>
- Farrow, Trevor CW, Ab Currie & Lisa Moore, “Exploring Community-Based Solutions to Global Access to Justice Problems”, *Pathfinders for Peaceful, Just and Inclusive Societies* (31 May 2022), online: SDG 16 <<https://medium.com/sdg16plus/exploring-community-based-solutions-to-global-access-to-justice-problems-53acc1f0d6e3>>
- Ghai, Jill Cottrell, ed, *Alternative Approaches to*

<sup>119</sup> We expect that some further CBJR Project materials will be made available following the publication of this final report. See generally Community-Based Justice Research (CBJR) Project, online: CFCJ <<https://cfcj-fcjc.org/our-projects/community-based-justice-research-cbjr/>>.

- Access to Justice in Kenya: A Cost Benefit Analysis* (Nairobi: Katiba Institute & University of Nairobi, 15 November 2021), online: IDRC <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/61056/IDL-61056.pdf?sequence=5&isAllowed=y>>
- Ibrahim, Aisha Fofana et al, “Costly justice: Why communities in Sierra Leone turn to paralegals instead of Local Courts to resolve their justice problems” (New York: Pathfinders for Peaceful, Just and Inclusive Societies, 16 October 2020)
  - IDRC, “Scaling access to justice research collaboration”, online: IDRC <<https://www.idrc.ca/en/project/scaling-access-justice-research-collaboration>>
  - Martins, Winnie, Sophia Mukorera & Carol Friedman, *Scaling Access to Justice Research Collaboration*, Final Technical Report (Scottsville, Pietermaritzburg: Centre for Community Justice and Development, 2022)
  - Moore, Lisa, “Dollars and ‘Sense’: Accessibility and Affordability in Community-Based Justice”, *Slaw* (13 December 2022), online: Slaw <<https://www.slaw.ca/2022/12/13/dollars-and-sense-accessibility-andaffordability-in-community-based-justice/>>
  - Moore, Lisa, “Building a Business Case for Investing in Community-Based Justice”, *Slaw* (4 October 2018), online: Slaw <<http://www.slaw.ca/2018/10/04/building-a-business-case-for-investing-in-community-based-justice/>>
  - Ruffin, F, W Martins & S Mukorera, *Institutionalising the South African Community-Advice Office Sector: Is it Worth It?* (South Africa: Centre for Community Justice & Development (CCJD), Open Society Justice Initiative, 30 August 2018)
  - Thompson, Philippe & Lisa Moore, “The Impact of the COVID-19 Pandemic on Community Legal Clinics and Pro Bono Legal Services in Ontario” (Toronto: Canadian Forum on Civil Justice, 20 September 2021), online: CFCJ <<https://cfcj-fcjc.org/a2jblog/the-impact-of-the-covid-19-pandemic-on-legal-clinics-and-pro-bono-legal-services-in-ontario/>>