

**A Handbook for Measuring the Costs
and Quality of Access to Justice**

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Authors

Tilburg Institute for Interdisciplinary Studies of
Civil Law and Conflict Resolution Systems / TISCO

Martin Gramatikov
Maurits Barendrecht
Malini Laxminarayan
Jin Ho Verdonschot
Laura Klaming
Corry van Zeeland



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1. Introduction

Dear Reader,

In this Handbook you will find practical information on the use of a methodology for measuring the cost and quality of paths to justice from the perspective of users. How do clients of justice systems like the way they can voice their needs and concerns? Do they feel they received sufficient information about the procedure? Do they think the outcome was fair and did it help to solve their problem? Do they think the procedure was value for money? How much time did they spend? This methodology aims to provide answers to such questions so that citizens using the justice system can voice their needs and providers of justice services can improve their processes.

At the outset, we should emphasize that the methodology is not limited to official procedures for obtaining justice. It could be applied equally to extra judicial paths to justice such as negotiations, mediation, and conciliation. As far as a specified chain of actions is considered as a means for fair resolution of a conflict between people who seek outside help, it is a path to justice. In theory, this could include quarrelling children asking their mother for an intervention. Our method, however, is developed primarily for processes where dispute professionals intervene. Litigation before courts of law, arbitration, settlement conferences, informal justice processes in developing procedures, complaint handling procedures in organizations, and on-line dispute resolution procedures are possible areas of application.

In the first sections, we outline the goal of the Handbook and its intended audience. Following this description is a brief explanation of the most important concepts and definitions. Afterwards, the reader is guided through the process of using the methodology to measure the costs and quality of paths to justice.

Any thoughts regarding the methodology and the Handbook itself would be greatly appreciated. The most current version of the Handbook can be found on the project website. There you could also place your comments and suggestions, include best practices, case studies, or just make observations.

www.measuringaccesstojustice.com

2. Goals of the Handbook

2.1. Measuring Justice

Komba is a 43 years old national of Sierra Leone - one of the poorest countries in the world. He lives in a rural area in the central part of the country and supports his family through subsistence agriculture. Although primary education is compulsory, Komba cannot send his small children to school. He knows that proper education is the only escape from the poverty trap but his children do not have identification documents and cannot be enrolled. Komba knows that the issuance of identification certificates and documents is vital, but he also expects to have to go through a long and tedious procedure to obtain them. He is uncertain how long he will have to spend in lines, waiting, and whether he will be expected to offer some side-payment to one of the officials involved in the process.

Some 15 000 km. away from Sierra Leone, in Seattle USA, **Ashlee** is a single mother of two toddlers. Until recently she has had a decent job at a local grocery which allowed her to pay the mortgage and the day care of her kids. It was not long ago since she has heard of the credit crunch.

Ashlee did not understand what it means until her mortgage increased significantly to a point she could not longer afford to pay it. She was not certain what her options were with respect to the foreclosure or the social benefits she might be able to claim. Quickly she finds herself with the kids moving to a social housing far away from her work. As result she loses her job and is stuck at home with the two kids and a growing feeling of despair. Ashlee is convinced that in part her miseries are aggravated from her inability to claim her rights.

On his drive home in Odesa, Ukraine, **Sergey** suffers a severe whiplash injury. As a result he experiences significant neck pain which is diagnosed as chronic and he is not able to perform his job as police officer anymore. In total the accident leaves Sergey in ill health and gloomy perspectives for recovery and resumption of his normal life. Although the tortfeasor is identified, he does not want to pay any compensation. On its turn the insurance company dismisses any compensation and talks about contributory negligence – legal terminology which Sergey does not fully understands. As result of the accident Sergey lost his income and paid a lot for treatment and rehabilitation. Although he does not know how much it would cost him nor what the perspectives of such investments would be, he is quite confident that he can not afford to pay the legal expenses of a trial. Faced with this dilemma Sergey is forced to accept that the life is not just and very often the innocent pays for the acts of the guilty. However, >>

there is a pilot mediation program, in which the insurance company participates. Sergey considers using this program. However, he does not know whether he can trust the process. It would be helpful to him if he could know the experience of other users.

These three scenarios above are examples of justice problems that millions of people all over the world are confronted with literally every day. Socio-legal research has called these the problems of everyday life as a way of signifying the frequency of the interaction between the law and the life. Many of the legal problems are not trivial – they can and actually do impact the life, assets, health, and happiness of people. When a legal problem occurs the affected person has basically three options on hand: 1) **to rely on her own powers and resources to solve the problem;** 2) **to leave the problem untouched and accept the negative consequences or** 3) **to rely on the official or unofficial mechanisms for resolution of conflicts and delivery of justice. The first option may lead to prolonged conflict and violence and the second to frustration and feelings of injustice.**

In this Handbook we are concerned with the question of the accessibility of the paths to justice. Our conjecture is that the paths to justice which are cheap and deliver high quality procedures and outcomes are more accessible. However, how to tell an accessible from inaccessible path to justice? We ask the actual users to reflect on their experiences and assess the costs and quality of the followed paths to justice.

Further on, the Handbook deliberates on the theoretical and practical dimensions of the aspiration to measure paths to justice. These “paths to justice”, as we call them, can be official legal procedures, mediation programs, or informal processes within a village. There is a lot of talk about the principles of justice, but in the end it is these paths to justice, that deliver justice to people in situations where they need it. Without effective access to justice, law is not worth the paper it is written on.

2.2. What are the Benefits of Measuring Paths to Justice?

There are many reasons why people and organizations may be interested in measuring access to justice. In our methodology, we attempt to serve a variety of measurement needs.

2.2.1. Expose Insufficient Access to Justice

For many people, as well as whole communities and social groups, access to justice is lacking, or deemed insufficient. Very often, this assumption on the remoteness of the law has been predominantly based on a hunch or anecdotal evidence. Although some measurement tools exist, there is no way, at least not yet, to gauge the performance of procedures in an objective manner. An increasing body of empirical research demonstrates the strategies that people

employ when a problem occurs has been recognized as legal. However, we know little on why people trust or distrust paths to justice. In every jurisdiction, there are reliable and unreliable paths, as well as paths which are considered fair but also unfair. Some paths to justice are touted as expensive for users, while for others the cost may be negligible. Different people and social groups could evaluate the same path to justice differently.

With our methodology we let the users voice their perceptions on particular paths to justice. The user-centric data reveals barriers to justice as they occur in real life.

2.2.2. Evaluate Performance of Procedures

Data that shows how people experience following a path to justice may also provide valuable performance feedback to providers. It can tell them something about how their clients value the services they deliver and how their procedure performs compared to alternative paths. The data may also help to expose bottlenecks and issues that need further attention. Providers may include courts, organizations running mediation programs, arbitration institutes, etc. They may also be stakeholders in local justice systems such as neighbourhood committees, NGO's running access to justice programs, or local governments.

This methodology fits in the increased belief that courts of law and other justice providers should be accountable, like other suppliers of government services. Their interventions in criminal, family, property, and employment matters can have enormous effects on peoples' lives. Giving clients a voice in the procedure is a core legal principle. Hearing clients' voices about processes that are important for them is at least as important.

2.2.3. Evaluate Performance of Legal Systems

Different people face different legal problems. The legal needs in a poor rural community will be quite dissimilar to the legal needs of an affluent suburban community in an industrialized country. Both sets of needs for just resolution of the existing conflicts, however, could be equally important and pressing since they both have a deep impact on everyday life. One of the central roles of the legal system is to provide remedies to existing disputes.

This methodology aims to measure the adequacy of legal systems to respond to the needs of individuals, communities, and societies for legal norms and interventions. Thus, it provides a functional approach to the availability of justice. What the methodology could measure is how judicial and extra-judicial mechanisms meet existing needs.

While problems related to the distribution of water resources are minor in a country like The Netherlands, they are a significant source of dispute, for instance, in China. Apparently for the Chinese society (or parts of it), it is much more important to have accessible, cost-effective, predictable, and qualitative paths for solving this type of dispute in a fair and just manner. On the other hand, in The Netherlands, employment disputes are one of the most frequent legal problems, and, for the Dutch society, it is vital that appropriate dispute-resolution mechanisms are in place.

Still, the most urgent legal needs that people experience share certain similar characteristics. Worldwide, similar types of important relationships exist (family, neighbour, business, employment). Also, abruptions or transitions in these relationships may evolve to disputes that are more or less the same everywhere (death of family members, divorce, ending business, dismissal, etc.). Relationships between buyers and sellers, and creditors and debtors, are ubiquitous, as property related problems tend to be. Depending on the model of setting borders between public and private spheres, people depend on public authorities for provisions on vital public goods such as order and security, education, justice, health care, etc.

The assumption is that a successful justice system meets the essential needs of the people. It either provides mechanisms for solving disputes in a just and fair manner or extend its “shadow” to informal dispute resolution processes. This methodology can be used to measure the adequacy of the legal systems to respond to the most urgent needs of the individuals, communities, and societies for protection by outside norms and interventions. Thus, it provides a functional approach to the availability of justice. What this methodology could measure is how the judicial and extra-judicial mechanisms meet the existing needs for justice.

2.2.4. Improve Decisions of Users

Had Komba, Ashlee, or Sergey been able to obtain information on the experiences of others with the same problem, their decisions may have been more rational. When several alternatives are available, people may benefit from information about the price-quality ratio of these services when they are shopping for justice. Research shows that a large proportion of the problems that have potential legal solutions remain unresolved. Often, the reason is uncertainty over possible barriers on the path to justice. These barriers include how much time it will take, is the procedure stressful, will I be treated with respect, and will I have the opportunity to voice my concerns. Uncertainty about the outcome is another factor for foregoing rights and interests. Information about the properties of the path to justice will decrease the uncertainty and should make the individual decision a bit more rational.

2.2.5. Monitor Effects of Reforms

Policy makers and donors may want to utilize the measurement methodology as a tool to monitor the effects of reforms of the legal systems or procedures. When a baseline measurement is undertaken, the resulting data can be compared to the data from a measurement after the reform effort took place. This allows for making inferences about the effectiveness of the investments and enhances the learning capacity in such enterprises.

2.2.6. Valid Benchmark for Paths to Justices

Comparing legal procedures designed to solve different problems is, at the bare minimum, challenging. What is even more challenging are the comparisons across different jurisdictions and legal cultures. The current methodology provides a set of common measurement criteria for assessment of various procedures. Because it is the user who evaluates the paths to jus-

tice, we claim that the metrics of different procedures could be compared. Therefore, the use of a standard approach provides a valid benchmark for paths to justice.

The index of cost and quality of access to justice could be seen as a benchmark of paths to justice within a jurisdiction or between jurisdictions. The index itself indicates the users' perceptions on the cost, the quality of the procedure, and the quality of the outcome. Good practices could be identified when the paths with high marks are studied in more detail, specifically to discover their causing factors.

2.2.7. Improve Transparency and Accountability

Paths to justice are notoriously non-transparent. Many people attempt to solve their legal problems, but it is rarely known how much of them were satisfied, how much time it took, whether they received what they wanted, and so forth. Official and unofficial mechanisms for dispute resolution should be symmetrically transparent. On the one hand, the users of justice must know how the paths to justice 'should' function according to the legal norms, case laws, customs, social expectations, or other sorts of normative rules. More importantly, however, the current and potential users of justice should know how the dispute resolution processes actually work. Thus, in order to facilitate the access to justice, the paths to justice must be normatively and positively transparent. Suppliers of justice, who make it public how their dispute resolution processes operate, as well as how they are comprehended by people, provide better and wider access to justice.

More legal information also means more legal certainty. If the previous experiences on the same path are transparent, subsequent users will be making more informed decisions, and the legal uncertainty will be less of a burden. Imagine a person who has a dispute over a cross-border online contract. If the person knows how much time, money, and emotions it will cost to travel the path to recovery for compensation, she will be better able to make appropriate decisions.

3. Scope of the Handbook

3.1. Basis

The Handbook outlines the practical steps in measuring the costs and quality of paths to justice from the perspective of its users. It is a tool for academics, practitioners, and other people and organizations who are measuring the users' perceptions of paths to justice. The Handbook integrates practical knowledge and formats for implementation based on good practices. On the web-version (available at <http://www.measuringaccesstojustice.com>), experiences can be shared.

3.2. Method at a Glimpse

The basic idea behind the methodology is that the path to justice is evaluated by how users of justice answer the following three questions:

- What are the average costs for people who follow this procedure?
- How do they rate the quality of the procedure?
- How do the users rate the outcome of the procedure?

With the developed methodology, justice could be measured at different levels. At the heart of the methodology is the TISCOnaire – a questionnaire in which the three indicators of paths to justice (costs, quality of the procedure, and the quality of the outcome) are put into use. According to particular measurement needs, the methodology could be applied to the whole legal system, parts of it, specific legal problems, and all existing processes, which could ultimately solve it in a just and fair manner. It is also possible that only one path to justice is measured because its supplier needs a performance self-assessment, the path is frequently used by many users or the underlying justice needs significantly impact the life of many people.

Measuring the accessibility of a legal system

Research shows that in country A the three most frequent and pressing legal problems are consumer disputes, employment-related disputes, and family disputes. In order to assess the responsiveness of the legal system, we can measure the performance of the paths to justice designed to solve these needs using just means. Another factual question is what paths are the most frequently used to solve the three most pressing problems. Thus, the measurement could include court procedures, ADR, and/or negotiation paths to justice. The assessment will answer questions such as: How does the particular legal system meet the demand for justice? Are the paths to justice performing consistently, or are there significant variations? What are the gaps? Which practices are better suited to study in greater detail?

Measuring paths to justice is a demanding task. Keeping this idea in mind, the methodology offers different levels of insight. In order to answer the varying measurement needs, three versions of the measurement instrument, referred to as TISCONnaire, were developed.

Those who want to explore a path to justice and get a snapshot can use the InstantScan TISCONnaire (see Appendix 1: InstantScan TISCONnaire, p. 74). It is a diagnostic tool which quickly measures the perceptions of the users on the three main indicators – costs, quality of the procedure, and quality of the outcome. More detailed versions of the TISCONnaire provide deeper information on the measured procedure and its properties. The following is a brief synopsis of the three measurement options:

- **InstantScan** – a diagnostic tool which quickly measures the perceptions of the users on the three main indicators – costs, quality of the procedure, and quality of the outcome. It is based on a short questionnaire which is easy to administer and consequently process. It provides a good starting point for further evaluation of the measured path to justice.
See Appendix 3: ThoroughScan TISCONnaire, p. 76
- **QuickScan** - a complete evaluation of a path to justice by measuring all parameters of the procedure and computing an index of the assessment. It provides good balance between the required investments and the richness of the results and findings.
See Appendix 2: QuickScan TISCONnaire, p. 78
- **ThoroughScan** - a thorough assessment of the studied path to justice. There are two distinct features of ThoroughScan:
 - 1) the study is based on a comprehensive questionnaire that develops the three indicators in greater detail;
 - 2) at least two data collection methods are applied in order to guarantee the reliability of the results and findings.
 See Appendix 1: InstantScan TISCONnaire, p. 81

3.3. What is being Measured?

The current methodology measures the costs, quality of the procedure, and quality of the outcome of a particular path to justice (see p. 24 for definition and examples of paths to justice). How do the users assess their experiences with divorce procedures? To what extent are the victims of crimes or tortuous acts content with the procedures that attempt to compensate and vindicate them? How do disputants in consumer disputes rate the procedure and the outcome? The basic steps of applying the methodology for measuring the paths to justice from the perspective of the users include selecting a procedure, asking the users, and analyzing the data.

3.4. Limits of the Method Described

It is also useful to make clear the limitations of this measurement system.

- It has to be applied to generally standardized paths to justice. Measurement of individual experiences with strongly divergent paths is possible, but will give limited information about experience of the average user;
- It does not assess whether outcomes are just in a legal sense. The method measures perceptions about fairness, thus suggesting evaluation criteria that the existing body of research has made available;
- It relies on experiences and interpretations in a new setting (conflict) for most users, so users may find it difficult to rate. Pilot studies, however, show that the method distinguishes between fair and less fair procedures in a meaningful way;
- The methodology measures the perceptions with the three indicators, but not their relative importance;
- It does not measure the reasons why other people preferred not to bring their legal problem to the measured path to justice, or why they selected a different approach to solve the problem (the barriers they experience). NOTE: Once a low score on one of the attributes of the procedure is revealed by the method, though, it is usually easy to obtain additional information about the possible causes of this low score through focus groups or by studying the organization of the procedure.
- Cross-cultural comparisons need to be carried out carefully, accounting for cultural, social, and legal differences.

3.5. What Follows

This Handbook provides a framework on the measurement of the experiences on paths to justice. The goals of this handbook are to:

- Explain the fundamental nature of the measurement process and its underlying theory;
- Guide the users step-by-step through the process of evaluation of the path to justice;
- Promote a standard methodology for measuring the costs and quality the users might expect on the most common paths to justice;
- Provide references to relevant materials;
- Give quick answers to questions related to measurement;
- Provide plenty of examples;
- Through the wikiversion¹, make it a learning document with the help of input based on the readers' experiences.

1. <http://www.measuringaccesstojustice.com>

4. Practical Application of the Methodology

4.1. Know the Procedure

Holistic measurement of justice from the perspective of the users provides plenty of information on the performance and impact of the procedure. How many resources have the users spent attempting to obtain a resolution? Did they receive a resolution and is it seen as just? Are they satisfied with the quality of the procedure? These and other questions could be addressed using the data provided by the users. Below is a non-exhaustive list of questions which could be answered with the data in hand:

- How much money, time, stress, and negative emotions have the users spent on the path to justice?
- Were the costs equally distributed around the procedure or did they peak at one or more points?
- Was the procedure seen as just?
- Did the neutral decision maker perform up to the standards and expectations?
- Was the outcome seen as fairly distributed?
- Was the outcome predictable for the users?
- In general, do the users see the procedure as worthwhile?

4.2. Analyze the Accessibility of the Path to Justice

Is the procedure affordable and accessible? The methodology addresses this question in an unorthodox manner. Instead of exploring the motives of those who did not use a particular path to justice, it reveals the experiences of those who did. The actual users face and overcome the problems that stopped others. In a way, the experienced barriers to justice are the bottom-line for access to justice. Previous research suggests that people are, in general, risk averse, and have trouble with the precise forecasting of emotional states. Normally, the experience of the users of justice will be less traumatic and expensive than the expectations of non-users. However, there is a direct link between the anticipated and actual barriers. Knowledge about the real problems on a path to justice reveals the gaps and challenges in access to justice.

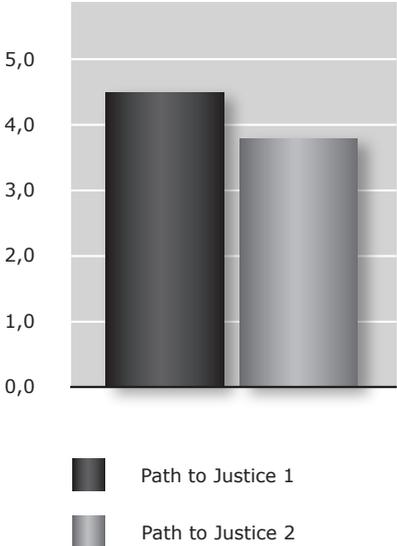
4.3. Compare two or more Paths in one Jurisdiction

When two or more paths to justice are measured with identical instrument the results are comparable to a certain degree. Many factors, such as the legal culture and the systemic features of the legal systems, could cast doubt on the comparability. One could question how comparable the data on a divorce procedure in Japan and the users' perceptions on an auto-tort dispute in Belgium are. Comparing different paths from different jurisdictions and cultures

could be like comparing apples and oranges. The question of comparability is discussed in the next section. Here we review a less complicated scenario in which the compared procedures belong to the same jurisdiction.

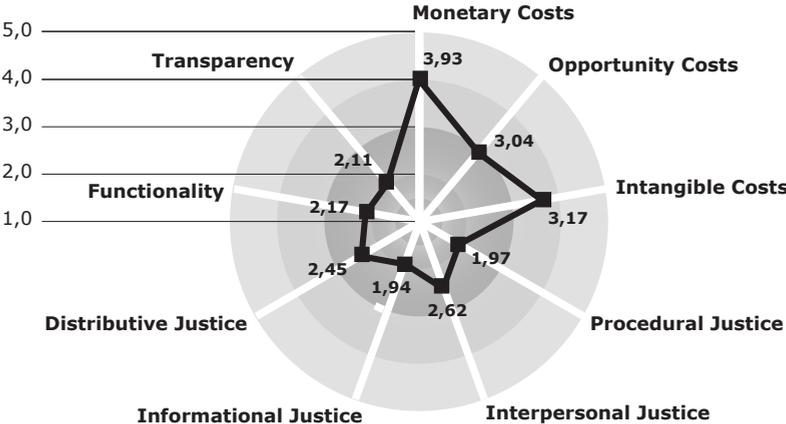
At the most aggregate level, the measured procedures could be compared on the base of their aggregated scores - Figure 1 (see more on the procedure for computing indexes on page 69).

Figure 1: Comparison of two paths



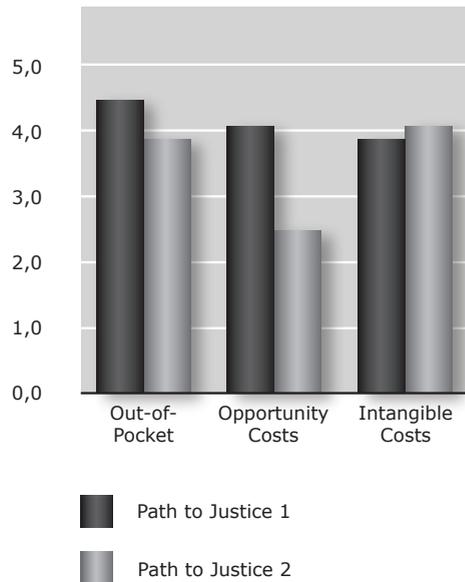
A more detailed approach could require that the paths are compared on their basic indicators - costs, quality of the procedure, and quality of the outcome (see Figure 2). Before comparing the aggregated indicators, one must make sure that the aggregated values are calculated in identical ways.

Figure 2: Evaluation of the two paths to justice – aggregated indicators



In some cases, the comparison of two procedures has to be done at an even more specific level. The use of aggregated indicators could conceal important findings and trends. As an example, Figure 3 compares the costs of two paths to justice.

Figure 3: Evaluation of two paths - costs of justice



4.4. Compare Paths in two or more Jurisdictions

Although it is more challenging, the methodology makes it possible to compare paths to justice that belong to different jurisdictions. As discussed above, there are numerous limitations in the extent of comparability due to environmental factors. Nevertheless, paths to justice from different jurisdictions could be compared as far as they are similar in terms of procedure and goal. Unlike other methods, this approach is based on the belief that the users' perceptions are a valid indicator for gauging justice. Moreover, the subjective views of the users inevitably reflect the social, political, and cultural context into the measurement scheme. Most of the existing measures of justice rely on experts' beliefs and assessments. However, these assessments are inevitably influenced by subjective factors such as the knowledge of the expert, her political or ideological standing, social perspective and the like. Thus it is possible that the evaluation of the experts does not overlap with the view of the people who file law suits, bargain for better compensations or challenge the acts of the public authorities. Our methodology collects information from the people and let them connect the experience on the path to justice with the context in which justice is sought. Therefore although direct comparability between paths to justice is not possible, it is the link between the paths and the social environment through which the methodology enables comparisons. When the units of measurement are users' perceptions, we could be reasonably certain that justice is measured as directly as possible and the measurement is not taken out of the local specifics.

5. Who Should Read This Handbook

This Handbook is intended for a large range of readers. Some categories of readers could learn how to measure the dispute resolution processes they are most likely to experience. Others could get a glimpse on how to use the collected data to question specific policies, programs, or projects.

5.1. Providers of Justice

Providers of justice should be interested since the Handbook provides a detailed description of the methodology for measuring the costs and quality of paths to justice. Different categories of providers of justice processes could be formulated - courts, arbitrations, mediation and conciliation services, police, victim support organizations, and insurers, among many others. Both formal and informal justice processes are addressed by the handbook. Some paths to justice are regulated by the state legal norms and obtain their authority from the powers of the sovereign. Other paths to justice are not regulated but respond to powerful social needs for protection and order. The examples of the latter are abundant - from the councils of village elders in Afghanistan who adjudicate the disputes involving individuals, families or villages², to the similar concepts of gacaca courts in Rwanda³ or Kris-Romani tribunals which are used for solving family or money-related disputes in some Roma communities⁴.

5.2. Policy Makers

Policy makers might find it useful to learn how to measure paths to justice. Public resources are scarce and, often times, the policies must strike a balance between what is desirable and what is possible. Measuring the cost and quality of the paths to justice could be used for the drafting and implementation of evidence-based policies directed towards resolution of the disputes in a society.

The Handbook targets policy makers at national and supra-national level. Ministries of justice, judicial councils, and similar institutions formulate and implement the national policies in the field of justice. Dispute resolution systems are also a priority at the international level. Global standards for human rights, cross-border disputes, harmonization of legal systems, or disputes over Internet domain-names are just a few examples of supra-national policies that

2. THE INTERNATIONAL LEGAL FOUNDATION, *The Customary Laws of Afghanistan* available at http://www.theilf.org/reports/ILF_Customary_Laws_of_Afghanistan.pdf.

3. BARBARA OOMEN, *Donor-Driven Justice and its Discontents: The Case of Rwanda*, 36 *Development and Change* 887, (2005).

4. WALTER O. WEYRAUCH, *Gypsy law : Romani legal traditions and culture* (University of California Press. 2001).

have, as an objective, dispute resolution. Needs for cross-border paths to justice, as well as the necessity to measure these procedures in order to know how they perform, will only increase in the future.

5.3. The Donor's Community

Donors frequently intervene in legal systems in order to patch urgent needs. Access to justice programs of different types and sizes have been implemented in developing countries around the world. How successful and sustainable are these programs? To what extent do they advance the status quo? These and similar questions often remain marred in politics, corruption, and finger pointing. The Handbook outlines a methodology which could give answers to these questions when the assistance is in the form of new or improved paths to justice.

5.4. Users of Justice

Users of justice and their organizations could find practical advice on how to gauge and analyze their experiences in a systemic manner. Often, the users have a vested interest in making the costs and quality of a particular path to justice transparent. The Handbook intends to provide them with practical guidance in measurement justice.

6. Basis Concepts

6.1. Paths to Justice

In this chapter, the basic notions that are used in the methodology are explained. In their every-day life people often face different types of problems. Some of the problems might be resolved with legal means, apart from the different options for responding to the problem. Following this subjective interpretation, we define the category of the legal problems. Most, but not all, legal problems will trigger a need for just resolution of the problem - a justice need. The individual who needs justice, and creates the dynamics on a path to justice, is called the user of justice.

In order to solve the justice need, the user of justice has to bring the problem to an existing structured mechanism for resolution of justice needs. These mechanisms, or paths to justice, are what the methodology measures. In a more abstract way, a Path to Justice is defined as 'commonly applied process that people address in order to cope with their legal problems'. A court procedure is an obvious example of a path to justice. However, the definition includes both formal and informal procedures. This means that a mediation procedure, or a procedure before an informal Commission or other neutral, also qualifies as a path to justice.

Paths to justice:

- An example of a path to justice is a criminal procedure for a victim of robbery. The beginning of the path may be calling the police and the end of the path may be a court verdict or a dropped case due to insufficient evidence. In this case, the neutral may be the judge, or the police may serve as the neutral (or decision-maker) when the case does not reach a further stage.
- A divorce procedure is another example of a path to justice. In order to terminate the marriage and arrange the ancillary matters such as the distribution of property, child support, and alimony, the parties must follow a recognized procedure – most often a court procedure, but mediation should also be considered. The outcome of the procedure is the decision of the neutral decision maker on the important elements of the dispute.
- An employee is dismissed from her work and complains to the mediation service as required in her contract (beginning of the path). After the parties fail to settle in mediation, the dispute is brought to court. The trial court issues a verdict which puts an end to the path to justice. If any of the disputants appeal, there will be a new path to justice.

The paths to justice could be simple or complex. A complex path to justice consists of alternative means for solving the same problem - i.e. through negotiation, mediation, arbitration,

or litigation. Each of these options is a specific procedure for addressing the particular justice need. The path to justice (as well as the procedures of which it might consist) is aimed at solving an existing legal problem. Normally, the path to justice results in some tangible or intangible outcome which puts an end to the path. A non-exhaustive list of outcomes of a path to justice includes a decision by a court or an arbitrator in a legal dispute, a mediated or negotiated agreement, etc.

An important dimension to the paths to justice is the notion of the neutral person or institution. In court proceedings, the neutral could be a judge, or a panel of judges or jurors. Similar titles, although responsible for different functions, are discernible in arbitration and mediation. On some paths to justice, the idea of the neutral could be more challenging. In negotiations, for instance, there is no neutral between the parties. However, the negotiations take place in *the shadow of the law*, which means that the parties technically negotiate on their own, but still through a legal system that provides an alternative path to justice. Therefore, even without a neutral, a negotiation is a path to justice, although less structured. The methodology has to be carefully adapted to accommodate for the specifics of the particular paths to justice.

6.2. Common Paths to Justice

Legal needs are largely dependant on the local context. Cultural, social, political, and economic factors affect the needs, attitudes, and actions of people. Similar to physical, psychological, and social needs, people have comparable basic legal needs. Table 1 expands on the 12 categories of legal needs using the protected interest as a classification criterion. It also details how the specific need is manifested, and provides examples of possible threats to the protection of the interest. The link to the concept of paths to justice lies in the ways in which the rights are protected. A holder of the right has to walk a path to justice if she wants to guard

Table 1: Basic Legal Needs⁵

<i>Category</i>	<i>Examples</i>	<i>Threats</i>
1 Subsistence needs	Problems regarding access to basic survival needs such as food, water, heating, urgent health care.	Scarcity
2 Basic personal security	Crimes related to the person. Unfair detention. Personal injury.	Aggression by outside groups, robbery, detention, negligence
3 Property rights protection	Crimes related to property. Registration of property. Property disputes. Expropriation.	Robbery, thieves, claims on property by others, expropriation by government or private developers.
4 Identity issues and documents	Acknowledgement of identity and nationality.	Bureaucratic authorities, individuals opposing registration
5 Problems in land use relationships	Eviction. Problems in relation to land use or house leases.	Landowner asking high share/rent or eviction
6 Problems in employment relationships	Dismissal. Employment conditions. Safety in the workplace.	Employer offering low wage, bad labour conditions, unfair dismissal.
7 Problems in family relationships	Divorce. Domestic violence. Exploitation of women or children.	Domestic violence, unfair treatment/exploitation of women and children
8 Problems in neighbour relationships	Disturbances. Environmental damage.	Disturbances, environmental damage, neighbour violence
9 Problems with sellers of goods/services	Issues regarding quality of goods or services.	Fraud, low quality goods.
10 Business problems	Problems with setting up businesses. Unfair regulation. Unfair taxation. Problems between participants. Problems with suppliers.	Untrustworthy or problematic business partners, government exploitation, extortion by criminals, bureaucracy
11 Debt problems	Unpaid debts.	Debts not paid
12 Problems with financial services	Savings. Insurance. Pensions.	Fraud, conflicts about performance.

5. Adapted from MAURITS BARENDRECHT, et al., *Priorities for the Justice System: Responding to the Most Urgent Legal Problems of Individuals* available at <http://ssrn.com/paper=1090885>.

6.3. The Theory of Measuring Justice

6.3.1. Measuring Justice from the Users' Perspective

The most distinctive feature of the current methodology is that the costs and quality of justice are measured through the perceptions and attitudes of the people who travel the paths to justice. Alternatively, other attempts to measure justice emphasize other proxies such as:

- Inputs in the legal system - budgets, ratio of legal professionals to the population, availability of technologies;
- Outputs - duration of case disposition, ratio between claims and awards, number of filed and processed claims, appeal reversal rates, length of and citation to judicial decisions;
- Expert opinions - most notably concepts like democracy and the rule of law (but also the business climate or protection of the property rights) are measured through an assessment formed by a limited number of insiders;

Clearly, the actual users of justice are only indirectly accounted for in the above listed approaches to measuring the costs and quality of justice. Our methodology is based on the understanding that the users' perspective is valid ground for measuring justice because:

- Only the users of justice could express their perceptions on the costs and qualities of the particular path to justice;
- The perceptions and attitudes could be compared across different procedures;
- Research shows that people normally fail to correctly forecast categories such as emotion, stress, and satisfaction in the context of legal procedures, and, therefore, the actual experiences are a valuable informational asset.

6.3.2. How the Users Evaluate the Paths to Justice

In everyday life, some paths to justice are assessed as better than others. Even though most of the users of justice lack comprehensive legal knowledge, they are still able to tell a good path to justice from a bad path to justice. Our methodology assumes that this assessment is made through the appraisal of three characteristics of the paths to justice:

- The costs of justice;
- The quality of the procedure;
- The quality of the outcome.

Predictably, significant variation could be expected in the assessments of paths to justice. Even highly standardized legal processes will invoke contrasting opinions regarding the costs and the quality. Therefore, the methodology takes a quantitative stance and estimates the "central tendencies" of the users' perceptions on the costs, the quality of the procedure, and the quality of the outcome. Random sampling from sufficiently large samples of users of justice is a strategy for making reliable inferences regarding the perceptions of the overall population of users.

6.3.3. Units of Analysis - Paths to Justice

In every empirical study, the unit of analysis illustrates what is being measured. Selecting paths to justice as the central unit of analysis means that the methodology focuses on the justice processes and, namely, on their costs, quality of the procedure, and quality of the outcome. Choosing paths to justice as a unit of analysis explains the nature of the data and the findings that can be drawn thereof.

It is possible to measure some other phenomena along with the paths to justice. For instance, one can introduce additional items to scrutinize the quality of the legal aid or the relationship between social class and some of the indicators of paths to justice. However, the general aim and design of the methodology is to study the costs and quality of paths to justice.

6.3.4. Who is the User of Justice?

In every dispute there are at least two disputing parties. The methodology measures the experiences of the party that starts the process as a response to her legal needs, otherwise known as the active party. This party has various titles, depending on the type of dispute resolution process, including plaintiff, claimant, petitioner, applicant, pursuer, victim, etc.

6.3.5. Implications for the Accessibility of the Paths to Justice

The main goal of the methodological framework is to reveal the cost and quality of access to justice from the perspective of the users of justice. With this type of information, one could analyze gaps in the paths to justice or compare the path with other procedures. Important directions for analysis of the data are the interpretations regarding the accessibility of the particular procedure. For many users of justice, travelling a path to justice is an exceptional experience. Most of the decisions at the preliminary stage are indirect reflections of facts as received from different sources, such as social networks, media, professional advisers, self-constructed notions, etc. These perceptions could be a barrier, thus making them more significant than the actual costs of a path to justice. Likewise, the expected outcomes could deviate substantially from their actual likelihood.

Measuring a path to justice through the perceptions and attitudes of actual users could affect the accessibility of other people with a need for justice. Several scenarios are possible:

- 'Hesitant' users could be encouraged by the experiences of actual users of justice;
- The negative experiences of actual users of justice could reveal gaps which are then bridged at policy or service delivery level;
- The transparency triggers a competitive race between providers of paths to justice.

7. Indicators of Justice

The theory behind the measurement methodology assumes three main indicators which the users of justice use to assess their experiences with their particular paths to justice. In this section we outline in detail those indicators:

- Costs of Justice
- Quality of Procedure
- Quality of Outcome

7.1. Costs of Justice

The goal is to measure the private costs of justice borne by the user in her pursuit to solve the legal problem. Whenever a justice process exists to solve a particular legal problem, the anticipated amount of transaction costs determines whether the users will do something to solve the problem. In the current methodology we are concerned with the perceptions of the users – how they see and appreciate the costs of justice. Therefore the focus is on the private costs – only the expenditures which are incurred directly by the user.

Private costs of litigation

Receiving a divorce is often an expensive enterprise. Usually the petitioner and the respondent have to consider costs such as legal fees, court fees, travel costs, personal time, missed opportunities because of the pending trial and so forth. However, the resolution of the case normally has more costs – the judge and the court secretary receive a salary, the court building has acquisition and maintenance price, a system of appeal courts safeguards the right to seek review etc. These are all examples of public costs of justice. The difference is who pays the costs – the private costs are born by a particular user of justice and the public costs covered by the tax payer.

Our framework of the costs of justice recognizes that on the paths to justice people spend money but also other resources such as personal time, existing opportunities, stress and emotions. Therefore the challenge for improving access to justice is not only to lower the monetary costs, but also the opportunity costs and the intangible costs.

All barriers to justice that are often mentioned in the literature are translated into costs for the user of a procedure and categorized. A focus on monetary costs will not give a realistic picture of the reasons why people use or do not use processes that give them access to justice. It is useful to distinguish and measure three categories of costs of justice:

- Monetary Costs
- Opportunity Costs
- Intangible Costs

7.1.1. Monetary Costs

The monetary costs of justice are relatively easy to quantify and measure. Unlike the opportunity costs and the intangible costs, the monetary expenses are expressed in money, which facilitates their measurement, analysis, and comparison. Legal fees and court fees are the two most tangible and frequent monetary costs of litigation. Similarly an arbitration procedure will invoke the need for paying the arbiters and the attorneys certain amount of money. Mediation will entail the need to pay the mediator a fee. Informal justice procedures could also entail similar costs. Since the money represents standard valuation-free metrics these types of expenses do not convey the uncertainty of the subjective assessments. It is much easier to compare the monetary expenses between two alternative paths to justice – i.e. litigation and mediation. Furthermore, the users of justice are more likely to remember in a medium and long-term and reflect upon the tangible expenses made into money.

The content of the out-of-pocket costs category largely depends on the specifics of the studied paths to justice. Upon applying the criterion of the type of the expense, I include in the list all costs paid with money. Below is a non-exhaustive list of the likely payments that the users of justice incur on their paths to justice:

- Costs for use of information (i.e. legal databases, public providers)
- Lawyers'/paralegals; fees;
- Experts' and expert witnesses' fees;
- Filing (court/arbitration/mediation) fees;
- Translator's fees;
- Bailiffs' fees;
- Notary's fees;
- Services for summons;
- Discovery related costs;
- Travel expenses;
- Costs for communication (mailing, calling, etc.);
- Witnesses' compensation;
- Copying and other overheads;
- Bribes and other unofficial payments

The out-of-pocket costs are easier to measure in relation to the opportunity costs and intangible costs, but there are also challenges involved. The presence of a lawyer on the path to justice, for instance, could obscure some expenses. Oftentimes it will be the lawyer who will make disbursements on behalf of the user of justice. In such cases, the user could have difficulties with demarcating between the different categories of costs. Another challenge is the development of appropriate measurement scale. It must be fine adapted in accordance with the specific properties of the measured path to justice. A recommended strategy for mitigating both problems is to carry out one or more focus groups and use the results to refine the measurement of the out-of-pocket expenses.

Table 2: Out-of-Pocket Costs

Legal advisor fees	(country-specific)
Other expert fees	(country-specific)
Administrative / court fees	(country-specific)
Travelling	(country-specific)
Calling, postal costs, printing, copying, etc.	(country-specific)
Collecting information	(country-specific)
(optional, depending on country) Briberies and/or kick backs you paid for services. Remember that this is an anonymous and confidential questionnaire	(country-specific)
(optional: procedure-specific) Witnesses (e.g. compensation of travel expenses and time)	(country-specific)
Other:	(country-specific)

7.1.2. Opportunity Costs

Some of the resources that the users of justice spend on their paths to justice do not have a direct price tag. Unlike the monetary costs, these are missed opportunities, otherwise known as lost income. Nevertheless, these costs should be taken into account because, besides often amounting to significant barriers, they can be converted into monetary units. Time, lost opportunities, and foregone earnings are examples of the opportunity costs of the paths to justice. Let us take time spent as an example of how the opportunity costs add to the total cost of justice. Searching for justice, we devote significant amounts of personal time for different activities - searching for information, consulting with experts, collecting and preparing documents, communicating with providers of justice, travelling, or simply waiting. All these time expenses will be overlooked if the particular path to justice is investigated only for the presence of monetary costs.

Example of opportunity costs

Stephen was involved in an auto accident. His car was hit by a reckless driver and, as a result, he experiences personal injury and property damages. Stephen receives a ridiculously low bid by the insurer of the tortfeasor. Aspiring to restore as much damage as he can, Stephen files a lawsuit. It takes about 18 months for the court to decide on the case. In total, Stephen spends 2 working weeks for preparation, fact finding, and travelling to and waiting in court hearings. Because of the dispute he wastes all his vacation days. Therefore, the opportunity costs of the procedure already include the time Stephen would have spent on vacation.

The opportunity costs are a pervasive category and could be identified in virtually every path to justice. One of the biggest challenges in incorporating the opportunity costs in the analysis of the costs of justice is that they are measured in their own unique units. In economic literature, however, there are well developed methods for valuating opportunity costs. This assessment is done through estimation of the second best alternative use of the invested resource. Some examples of alternative uses include:

- Time spent on the procedure could be used for a) working for a wage; b) leisure activities; c) rest; d) education, etc.
- Real estate which is under a freeze order could have been used to yield rent in a profitable contract or sold at a lucrative price;
- Compulsory storage of goods could deprive the disputant from using these goods for more gains;
- Money could also have an alternative use - bail in criminal proceedings could earn interest in a bank account - this interest would be the opportunity cost of the money used for bail.

Apparently, there is a significant difference between the monetary and opportunity costs of justice. The monetary costs are direct disbursements - the user of justice loses (or some may say invests) particular resources in order to obtain justice. On the other hand, the opportunity costs have a negative connotation, but they come as foregone earnings. Therefore, one has to have a reasonable belief that the alternative use is likely, actual, and foreseeable. At this level, some opportunity costs have more certain second best uses. For instance, one could reasonably believe that the demand function of the labour markets will provide accurate information on the likely wage which might have been earned. With other resources, there is less certainty in the second best use. In fact, it could turn out that the restriction on a real estate property has a net positive effect - i.e. the real estate market surges after the case is disposed. In this instance, the owner actually experiences gains because the restraint prevented a less lucrative deal.

Table 3: Opportunity Costs

<p>Example of how to estimate the money one lost as an indirect result of the process Consider:</p> <ul style="list-style-type: none"> • Storage or non-use of goods one would otherwise have sold • Goods/assets that could not be used (e.g. machinery) • Loss of opportunities because of uncertainty (e.g. losing a job opportunity, losing a contract opportunity) 	
Searching for a (legal) advisor	_____ hours
Communicating (talking, phoning, writing) with the (legal) advisor	_____ hours
Communicating with the other party	_____ hours
Communicating with the authorities	_____ hours
Collecting documents, evidence, preparing statements, undergoing a (medical or other) examination	_____ hours

Travelling	_____ hours
Attending hearings	_____ hours
Waiting around (e.g. in lines, for hearings etc.)	_____ hours
Other: _____	_____ hours

7.1.3. Intangible Costs

Often, the notion of getting justice is associated with significant amounts of stress, emotions, and damage to relationships. Apparently, these negative effects caused by the path to justice increase the total cost of the outcome. Given everything else is equal, a path to justice which causes more stress and negative emotions to the user will be deemed as more costly. When compared to the time and foregone earnings, these incidents of costs appear less tangible. Another substantial difference is the extent to which the user of justice could transfer the particular cost into money. In the cases of time and foregone earnings, it is easier for the user to estimate the monetary value of the invested resource. Stress, emotions, or relationships could also be expressed monetarily, but the users of justice will rarely make this calculation. Therefore, the intangible costs of justice are even less studied than the opportunity costs.

7.1.3.1. Stress

Stress is highly specific phenomenon which eludes precise definition. It is also a very subjective phenomenon - what could be considered stress on a path to justice for one could be considered a pleasurable experience for another. Therefore, it is intrinsically difficult to measure stress. Both objective and subjective scales can be used to measure the level of stress experienced after a certain event has occurred. The existing measures of perceived stress measure the subjectively assessed impact of the event. This approach looks appropriate for methodology which studies the perceptions on justice.

In order to overcome the inherent trade off between the validity and reliability of the measurement, the instrument uses a flat, single item to measure stress. Respondents are asked to identify the amount of stress on an ordinal scale. A disadvantage to this approach is that the stress is measured as a flat concept and, inevitably, the validity will be compromised. On the other hand, measuring the stress through a single item will give broad, but more reliable, information on the stress experienced by the users of justice.

Table 4: Stress

Please indicate the amount of stress you experienced as a result of the **problem**.
Do not include the stress you experienced as a result of the *process*.

Please indicate the amount of stress you experienced as a result of the **process**.
Do not include the stress you experienced as a direct result of the *problem*.

7.1.3.2. Emotions

Psychologists, cognitive scientists, sociologists, and biologists distinguish numerous categories of emotions. One general classification of emotions is whether they are negative or positive. Since we are looking at the costs of the paths to justice, we will focus on the experiences of the users with negative emotions. Five of the negative emotions most likely to occur on a path to justice are formulated as questions in the measurement tool:

- Frustration
- Anger
- Humiliation
- Disappointment
- Hopelessness

Table 5: Emotions

Please indicate to what extent the process made you feel frustrated?
Please indicate to what extent the process made you angry?
Please indicate to what extent the process was humiliating?
Please indicate to what extent the process was disappointing?
Please indicate to what extent the process made you feel hopeless?

7.1.3.3. Damage to Relationships

Some legal problems are caused by distress in lasting relationships. Divorce and labour disputes are two examples. Additionally, travelling a path to justice could damage the relationships important to others. It is difficult to place a monetary value on such damage, but this does not mean that it has to be overlooked as a cost of the paths to justice.

Table 6: Damage to Relationships

Please indicate to what extent the process had a negative impact on your important relationships and those relationships around you.						
Very small impact	<input type="checkbox"/>	Very large impact				

7.2. Quality of the Procedure

The quality of the procedure is determined in terms of people's perceptions of procedural, restorative, interpersonal, and informational justice. Our goal is to find indicators for the quality of procedures from the perspective of users, which should facilitate the measurement and

comparison of paths to justice. If multiple procedures are offered, the expected quality of each procedure is one of the factors that determine which, if any, will be used.

Various indicators for the quality of the procedure were extracted from the relevant literature. From the many suggested indicators, we selected those that were validated empirically. Indicators for evaluating the quality of procedures can be found in four different theories of justice:

- Procedural Justice
- Restorative Justice
- Interpersonal Justice
- Informational Justice

7.2.1. Procedural Justice

Procedural justice refers to various aspects that a procedure should meet in order to be perceived as fair by its user, including accuracy and consistency. People typically view procedures as fair when they acknowledge them as valuable members of society. Numerous studies have found that people view procedures as fair when they allow them to present their case, are consistent, and are based on accurate information. People were found to be more likely to accept an outcome if they perceived the procedure as fair.

Table 7: Procedural Justice

Were you able to express your views and feelings during the process?
Were your views and feelings considered during the process?
Were you able to influence the outcome arrived at by the process?
Were the same rules applied to you and the other party?
[optional questions: include in all procedures with a neutral person] Was the process objective and unbiased?
Was the process based on accurate information?
Were you able to correct wrong information during the process?
Did you find the process fair?
Were you satisfied with the process?

7.2.2. Restorative Justice

Restorative justice focuses on reparation of the harm that has been caused as a result of a wrongful act. The emphasis of restorative justice is on including both parties in the resolution process, promoting reconciliation, and rebuilding relationships. With regard to the process,

expression to and explanations from the other party, as well as the recognition of an injured status, are central. In criminal justice, processes that include restorative justice principles were found to lead to high victim satisfaction.

7.2.3. Interpersonal Justice

Interpersonal justice refers to the manner in which people are treated during a procedure. People typically view a procedure as fair when the decision-maker treats them politely and with respect. These interpersonal aspects influence people’s justice evaluations and eventually affect their attitudes about the authority or organization that provided the outcome.

Table 8: Interpersonal Justice

Did [conflict-specific] the neutral person treat you in a polite manner?
Did [conflict-specific] the neutral person treat you with respect?
Did [conflict-specific] the neutral person make any improper comments or ask improper questions?
Did [conflict-specific] the neutral person intend to find a good solution for you and the other party?
Was [conflict-specific] the neutral person honest in his/her communications with you?

7.2.4. Informational Justice

Informational justice refers to informational aspects such as honesty and explanations provided about the procedure. Research findings indicate that informational justice is an important factor in the psychological process of forming justice judgments. Providing information seems to be particularly important in legal procedures since most people are probably unfamiliar with the justice system and, therefore, know little about proceedings. Informing people about general rules and their rights in a procedure before applying these was found to have a positive effect on justice perceptions.

Table 9: Informational Justice

Did [conflict-specific] the neutral person explain the process thoroughly?
Did [conflict-specific] the neutral person explain your rights and options during the process thoroughly?
Did you understand the explanations provided by [conflict-specific] the neutral person?
Did [conflict-specific] the neutral person communicate details about the process in a timely manner?
Did you have the opportunity to ask for clarification regarding the details of the process?

7.3. Quality of the Outcome

The quality of the outcome that users expect from a path to justice is believed to be an important factor in considering starting to travel a specific path or not. This quality is believed to have three dimensions, namely *distribution*, *functionality*, and *transparency*. Each of these dimensions consists of a number of criteria that were derived from existing studies on justice and fairness.

Eight dominant justice types were reviewed:

- *Distributive justice* refers to how resources should be allocated among individuals with competing needs or claims. This is both thought of on a macro level (how should the state's oil revenues be spent?), but also on a micro level (how should the resources of two business partners be distributed when they decide to split up?).
- *Restorative justice* refers to reparation of emotional and material harms caused to an individual (and also society), as well as increasing future compliance with the law (did a victim of a violent crime get compensation for the monetary damages, including hospital costs and an apology from the offender?).
- *Corrective justice* refers to undoing illegitimate losses and gains through bilateral and direct vindication (if someone purposely wrecks someone else's car, he has to give him proportionate compensation).
- *Retributive justice* refers to appropriately punishing a wrongdoer. It deals with questions about, for instance, what punishment is proportionate for the loss and pain a violent offender inflicted on a victim.
- *Transformative justice* refers to reconciliation and deterrence, learning to live with one another, and continuing to do so in the future (how can the relationship of two people who divorce be shaped in such a way that they can harmoniously live together in the future?).
- *Informational justice* refers to receiving an explanation or justification about the outcome (to what extent does a judge give a clear and logical justification of the decision he arrives at?).
- *Legal pragmatism* refers to putting the focus on the practical consequences of an outcome (how can a win-win outcome be created by an employee who gets dismissed and his employer?).
- *Formal justice* refers to equal application of general rules and the transparency of such (does a personal injury victim receive compensation that is equal to the compensation of a similarly injured other?).

The review included both normative literature and empirical literature. Criteria for justice that were both frequently mentioned as criteria for justice in normative literature (notwithstanding critical scrutiny) and confirmed to be actually applied by people in empirical literature were included in a list of criteria that served as building block for the dimensions.

The criteria were translated into items for evaluating the quality of outcomes. Some of the criteria were merged into one single item due to overlap. Furthermore, some criteria were deleted from the list since they would be impossible to measure meaningfully. The dimensions and resulting list of items can be found below.

7.3.1. Distributive Fairness as a Dimension of the Quality of Outcome

Many conflicts have one or more distributive issues. These issues refer to how assets, damages, and tasks should be divided, or how and what sanctions should be allocated. Distribution as a dimension of the quality of outcomes refers to the appropriateness of outcomes with regard to questions about allocation.

Table 10: Distributive Justice

<i>Distribution items</i>	<i>Justice type</i>
Did you and the other party pay or receive an equal share in the outcome?	Distributive justice
Were the other party's needs considered in the outcome?	Distributive justice
Were your needs considered in the outcome?	Distributive justice
Was the other party's role in the problem taken into account in the outcome?	Distributive justice
Was your role in the problem taken into account in the outcome?	Distributive justice
Were the efforts the other party made to resolve the problem reflected in the outcome?	Distributive justice
Were your efforts to resolve the problem reflected in the outcome?	Distributive justice
Were your monetary harms repaired as a result of the outcome?	Retributive justice/corrective justice/restorative justice
Were your emotional harms repaired as a result of the outcome?	Retributive justice/corrective justice/restorative justice

7.3.2. Functionality as a Dimension of the Quality of Outcome

A second dimension refers to the extent to which outcomes are useful from the perspective of clients. Arguably, at the stage in which conflicts emerge, people do not immediately think in terms of rights they may or may not have. Rather, people are facing a (legal) problem that they seek to solve, and that triggers them into taking action (starting to travel a path to justice). This dimension of the quality considers the usefulness of the outcome in the light of these problems.

Table 11: Functionality of the Outcome

<i>Functionality items</i>	<i>Justice type</i>
Did the outcome improve the damaged relationship with the other party that resulted from the problem?	Transformative justice
Were the chances that the outcome would be enforced taken into account?	Legal pragmatism
Did the outcome solve your problem?	Legal pragmatism
Were you able to move forward with your life after you received the outcome?	Restorative justice
Was the outcome effective in ensuring that, in the future, the other party will avoid the behavior that caused the problem?	Restorative justice

7.3.3. Transparency as a Dimension of the Quality of Outcome

Thirdly, transparency is discerned as a dimension of the quality of outcomes. Basically, this refers to two related elements. The quality of an outcome may be partly dependent on the justification underlying it. Thus, it is important that this justification is transparent and can be scrutinized. Such is also necessary in order to evaluate the extent to which the outcome is similar to other people's outcomes in similar cases.

Table 12: Transparency of the Outcome

<i>Transparency items</i>	<i>Justice type</i>
Was it possible for you to compare your outcome with the outcome in other similar cases?	Formal justice
Was your outcome similar to the outcome of other people in similar cases?	Formal justice
Did you receive an explanation about the outcome from [country-specific] the neutral person/body?	Informational justice
Were you satisfied with the explanation you received about the outcome?	Informational justice

8. Methodology for Measuring the Paths to Justice

8.1. What are the Particular Measurement Needs?

Various reasons could call for justice and paths to justice to be measured. Providers of paths to justice might want to self-evaluate their performance as well as the users' satisfaction. Law makers and governments might be interested in measuring the effectiveness of public policies and regulations. Similar interests might lead the donors in the field of law and development to measure the impact of programs and projects. Yet another perspective is the need of organizations of users who make better decisions when supplied with more information. Third parties, such as insurers, might be also interested in the quality of certain paths to justice in order to estimate categories such as expected damage awards or the best alternative to a negotiated agreement.

The diversity of the possible measurement needs determines the choice of a measurement strategy. At this stage, the measurement tool has to be carefully constructed based on the perspective of the measurement needs. The next paragraphs outline the decisions that have to be made at this stage, based on the following decisions:

- Which path/s to justice has/have to be measured?
- How many times does a path have to be measured?

Which path to justice: Normally, one study measures a single path to justice at a given time. However, more than one path could be measured at once. A donor might want to assess the accessibility of a given legal system. In such a case, the most pressing and frequent paths to justice might be measured in order to evaluate the costs and quality of the basic justice processes that the people need. Or, a policy maker may want to compare two complimentary or alternative paths to justice. An example could be the comparison of mediation and arbitration as dispute resolution procedures. Another example could be the measurement of the performance of multiple providers who provide the same path to justice – i.e. similar types of court cases adjudicated by different courts.

One measurement or several measurements: For most of the measurement needs, a survey of the status quo will suffice. A single measurement of a path to justice could provide sufficient information and knowledge regarding the costs, the perceived quality, and its accessibility. Sometimes the measurement need could be focused on the dynamic of a path to justice. For instance, a policy maker could be interested in how an amendment in the law impacts the users' perspective on the path. Then, a baseline measurement carried out before and after the event could shed light on the efficiency of the policy measure.

8.2. How Deep to Measure the Path to Justice

Paths to justice could be measured at three levels of depth – ThoroughScan, QuickScan, and Instant Scan. All the versions use similar measurement tools, with the main difference being the amount of data collected.

- **InstantScan** (Appendix 1: InstantScan TISCONnaire)

The InstantScan is an extra short and quick glance at a path to justice. With just dozen of questions, the users share their perceptions on experienced costs and quality. InstantScan provides a very quick indication of the major indicators of the studied path to justice. Its main advantage is that it can be done quickly and with relatively little resources. Of course, the inevitable drawback is the depth of the collected data. However, in some cases, for practical reasons, having a little knowledge is better than none.

- **QuickScan** (Appendix 2: QuickScan TISCONnaire)

As the name implies, the QuickScan refers to a shortened application of the methodology. On one hand, the path to justice is measured with a short, 1-page questionnaire. Only one data collection method could be used to evaluate the costs and quality of a path to justice. The three methods are not equal substitutes. The two quantitative methods (CSS and diary study) have better potential in terms of external validity and reliability. Focus groups could be used to evaluate paths to justice only when the other two methods are infeasible.

- **ThoroughScan** (Appendix 3: ThoroughScan TISCONnaire)

The ThoroughScan is conducted with a more detailed questionnaire allowing for deeper analysis of the studied path. It is significantly more demanding in terms of resources, but generates a data set which could answer many questions.

At least two data collection methods are applied in the ThoroughScan. The use of two or more methods aims to improve the validity and reliability of the results through a cross-check based on multiple methods. The monitored path to justice is studied with one of the following combinations of methods:

- Cross-sectional survey, focus group, diary study;
- Cross-sectional survey & focus group;
- Focus group & diary study.

8.3. Identify and Specify the Measured Path to Justice

Before starting to collect data, one has to specify what is going to be measured. In the language of social scientists, this process is known as operationalization. The careful specification of the path to justice is crucial for the validity of the research – whether we measure what we want to measure. Also, the comparability of the results is largely determined by the precision of the operationalization.

Understanding the measured path to justice

Victims of crime need justice for different legitimate reasons – restoration of harms, vindication, retribution, and many others. Before the actual measurement, one has to specify what is to be measured. Perceptions could be collected from the moment of the crime, the moment when a decision is made to pursue legal remedy, or the moment when the official legal system has been addressed. Another complication is that the perceptions of the victims of crime could be influenced by different actors – police officers, prosecutors, or judges, among others. Are we interested in the pre-trial or the trial phase? There could be victims whose cases are dismissed at an earlier stage and, thus, any decision to look at a later stage will effectively filter them out.

In order to avoid complications at the onset of the measurement, the path and its users should be clearly defined. For instance, we are interested in all victims of crime who reported their case to the police, regardless of how the case proceeded further. On the other hand, we could focus on all cases that reached the trial phase knowing that 1) a certain proportion of victims will be omitted at this stage, and 2) the perceptions on the path to justice will be influenced by at least two actors – police and court.

Here we repeat the definition of a path to justice: “a commonly applied process that people address in order to cope with their legal problems.” In order to be measured, the process must have clearly identified a beginning, actors, and an outcome.

- **Beginning of a path to justice** - the moment the user first takes action'. This can be the moment when the user seeks information about her possibilities, seeks legal advice (internet, legal adviser, police, mediator, etc.), or files a petition;
- **End of a path to justice** - the moment when a neutral makes a decision, the parties come to an agreement, or one of the parties leaves the procedure, thus ending the procedure;
- **Outcome** - the judgement given at the end of a path to justice. It can be an award for damages, an agreement about future conduct, or an apology, or a combination of these;
- **Neutral** - a neutral is a person/s or institution/s that has vested powers to solve the problem in an unbiased and fair manner. The concept of objectivity and lack of bias is central for the paths to justice in which the outcome is sanctioned by a neutral.

On many paths to justice, it is possible to observe multiple processes embedded in one path. Depending on the path, these discrete processes could be optional or compulsory. An example for the former is a divorce path in which the parties could settle the issue in a mediation session and then have the outcome validated by a court decision. The mediation here is a separate, optional step – the parties might go directly to court.

Compulsory embedded procedures are noticeable in the adoption procedure. In many jurisdictions, after a series of related processes run by different institutions, the adopting parents attend a court session in which the issue is finally decided. This last step, however, is impossible if all of the previous steps are not exhausted. The processes in such paths to justice are not only related, but the outcome of a preceding process is a *conditio sine qua non* for the next one.

Measuring complex paths to justice poses both substantial and methodological questions. Two approaches are possible – to treat the complex paths as one segmented process (integrated measurement) or to treat those as chain of several processes which together result in a joint outcome (partial measurement). Both approaches reveal advantages and disadvantages:

- Advantages of the integrated approach - covers the whole path to justice regardless of the number of procedures and thus better reconstructs the experiences of the user;
- Advantages of the partial approach – allows for differentiation between the added value of the separate processes that structure the path to justice; could focus in greater detail at certain aspect of the paths – i.e. the most inaccessible, the most lasting etc.;
- Disadvantages of the integrated approach – could produce data from which it is difficult to infer the costs and quality of a particular part of the procedure; in the longer lasting paths, it is possible that the users' memories about the preceding stages challenge the validity of the results;
- Disadvantages of the partial approach – focusing on part of the path will inevitably limit the knowledge over the studied path to justice and will provide incomplete account of the costs and quality of these paths.

When a complex path to justice has to be measured, the researcher should select between the integrated or the partial approach. It is difficult to give universally valid advice on which one to select, but here are some guiding points:

- **Integrated approach**
 - All processes have equal or nearly equal importance for the users;
 - The path is relatively short and the respondents could be reasonably expected to give valid account to the initial processes;
 - The aim of the study is to distinguish between the costs and qualities of the embedded processes;
 - For the sake of comparability with other paths to justice.
- **Partial approach**
 - The path to justice has a salient peak in one of the embedded processes;

- From the users' perspective, the outcome is a result of one process;
- Throughout the path to justice, one or more of the actors shift roles – i.e. from a neutral to some other role;
- The path to justice takes a long time and the memory decay effect is expected to have a negative impact on the accuracy of the perceptions and attitudes;
- For the sake of comparability with other paths to justice.

8.4. How and Where to Find the Users of Justice

In order to assess the costs and quality of justice the researcher needs access to people who have already used the particular path to justice. Finding the users of paths to justice is not necessarily easy or intuitive. In fact, this is one of the biggest challenges of measuring justice from the perspective of the users. The process could be broken down into two stages: 1) identification of the users of justice, and 2) actual collection of information. Below, we outline several possible strategies for identification of the users (the possible modes of contacting them will be discussed on page 55). When designing a study, one has to bear in mind that each specific path to justice, as well as jurisdiction, will impose specifics on the process of identification of the users.

8.4.1. Random Sampling from the General Population

In theory, if one draws a sufficiently large sample from the general population, the sample will include a certain number of people who have travelled the targeted path to justice. However, for paths to justice which are used by a relatively small percentage of the population, the method could require extraordinarily large samples. From a practical point, the random sampling method could work with paths to justice which could be expected to have significant frequency among the general population. Another strategy would be to draw a sample from a part of the population in which it could be expected that the problem is sufficiently frequent.

Sampling strategies

Research on legal needs from various jurisdictions suggest that consumer problems are the most frequent legal problems. For instance, empirical legal research from Bulgaria suggests that about one in four adults found it difficult to resolve a consumer problem with a possible legal solution. Based on this statistic, one would expect that in a sample of 1000, about 250 would report consumer problems.

An example of a stratified sample is the research based on the complaints with regard to student loans. Focusing just on the population of students or recent graduates will largely increase the proportion of respondents who might have travelled a particular path to justice.

8.4.2. Finding Users through the Records of the Neutral/Provider of Justice

Most of the information on official paths to justice are based on written records. Courts keep court files, while arbitrators and mediators are often obliged to keep records which normally contain the parties' addresses. Due to privacy considerations, such records are rarely made public. However, access could be gained through cooperation with the particular provider of justice (see the box below). Another hypothesis could be that the provider of justice wants to measure the users' assessments of the costs and quality of the supplied procedure. In both cases, the protection of privacy could be a major concern. Normally, most privacy acts contain an exception for using personal data for scientific purposes (see Directive 95/46/EC Art. 13 (2)). From an ethical perspective, the research and the data published thereof should safeguard against breaches of the right of privacy of the users of justice and related individuals.

Reaching users of justice through a cooperation with public authority

De Geschillencommissie in the Netherlands consists of numerous tribunals recognized by the Ministry of Justice and vested with powers to handle complaints. In 2008, the Geschillencommissie agreed to cooperate with a research group from Tilburg University on measuring the costs and quality of one of the tribunals. The researchers were granted access to contact details of users of the procedure supplied by the Geschillencommissie. After the data was collected, no individual level data was published, so the privacy of the users was properly respected.

8.4.3. Service Providers' Records

Attorneys, paralegals, legal clinics, victim support organizations, public defenders' offices, and other types of service providers might be obliged by law or professional standards to maintain records. Practical implication is the degree of willingness of service providers to let researchers sift through their records. It is more likely to expect that non-for-profit service providers will be more responsive to research requests than attorneys and law firms. A possible strategy for achieving access is an official endorsement of institution or professional organization which would signify the importance of the research and, thus, increase the cooperation level.

8.4.4. Public Registers

In certain cases, data on occurrence of disputes could be available on record with public organizations. From such registers, researchers could obtain information on different properties of the dispute – type, parties, duration, outcome, etc.

Creative use of public registers

For their research, Murphy and Nathan⁶ obtained from the tax administration a list of taxpayers who had been caught and punished for investing in illegal tax avoidance schemes. Clark used a city register to identify registered landlords and send questionnaires. In an example from the criminal justice field, Ruback et al., in cooperation with probation offices, compiled a list of persons sentenced to probation and then delivered questionnaires.

Public registries could be invaluable data sources when certain disputes are registered *ex officio*. Many examples from the fields of family law, property law, insolvency, etc. could be cited. For instance, in many jurisdictions, divorces will be registered in the civil registries, as well as guardianship, limitations of parental rights, and alimonies. Given that public authorities are cooperative, the researcher can analyze the population, design a sample, and contact the users. An enormous advantage of the public records is that they are usually centralized, as opposed to the decentralized record management systems of neutrals and service providers. Having access to jurisdiction-wide data on incidence and properties of disputes, the researcher has additional tools to stratify the sample or weigh the data as to approximate the real distributions within the population.

8.4.5. Identification of Users of Paths to Justice “On the Spot”

Certain paths to justice require the users to be physically present at a particular location. Normally, the parties in litigation meet in the court room during the hearing. In mediation, the disputants have to be present during the mediation sessions. Complainants in administrative or judicial review procedures are often required to deposit documents or collect the outcome from the respective public offices. These places might be appropriate to dispatch interviewers or administer the research instrument in other ways. **An important consideration:** In order to apply the methodology in its entirety when collecting the data, the users must have already received the outcome.

Direct contact with users of procedure for issuance of ID documents

Issuance or correction of ID documents is a pressing legal problem in many countries around the world. In order to assess an administrative path to obtaining or appealing an ID document, the research team decided to contact the users in the office of the Civil Register, right after the outcome was handed over. Trained interviewers approached the people leaving particular counters and asked them to participate in the interview.

6. KRISTINA MURPHY & HARRIS NATHAM, Shaming, Shame and Recidivism, 47 *British Journal of Criminology*, (2007).

8.5. Measurement Strategy

8.5.1. Study Design - Experimental or Observational

Researching the users' experiences on paths to justice requires observational design. In the context of justice, the researcher normally has little or no control over the environment or the respondents. Therefore, experimental and quasi-experimental designs are unfeasible strategies to answering the question regarding the cost and quality of justice.

Below, we discuss three modes for data collection, which are recommended when comparing results. However, many other methods could be used to collect data if the particular circumstances allow it. The descriptive nature of the methodology makes the quantitative methods more appropriate. However, qualitative methods (i.e. field studies, action research, grounded theory research, etc.) could be used as auxiliary tools to better understand the quantitative descriptions of paths to justice.

In some cases, for different reasons, it would be impractical or impossible to collect quantitative data. Then the path to justice could be studied qualitatively, but the results should be treated as indications and not as parameter estimates.

8.5.2. Qualitative Research Methods

The term "qualitative research" includes numerous methods and strategies that have common properties. Most notably, the quantitative research methods converge on two basic aspects:

- The research strategy is directed towards discovery and interpretation of meanings that different actors connect to their behaviour or actions;
- The data which the qualitative methods obtain is nominal or, in other words, it cannot be processed with mathematical or statistical methods.

Several implications follow from these two basic characteristics of qualitative research.

First, qualitative methods are appropriate for answering some research questions but have no meaningful application to others. With qualitative methods, the researcher obtains deeper knowledge on the researched phenomena. For instance, through qualitative observation, one can understand the reason of a particular response to the quality of the justice. It could be that the user had high expectations or some unexpected factor, like getting bad news before the procedure took place. With quantitative approaches, such nuances will be lost and the research will only show **how** the user rates the procedure, but not **why**.

On the contrary, qualitative methods have very limited potential to provide information on trends which could be generalized to subjects or objects that were not studied. For instance, qualitative research (participant observation) discovers that the user of justice is highly satisfied with the procedural justice because the neutral harshly reprimands the other party.

A similar finding could be interpreted in different directions - i.e. that the need for retributive justice is particularly strong in the given context. This conclusion could hardly be generalized to the other disputants who travelled the same path to justice but were not studied. First, they could actually be dissatisfied with the quality of the procedure. Or, if they are satisfied, there could be a different reason - i.e. a quicker and cheaper than expected process, hefty outcome, feeling of control, etc.

Next, the qualitative methods could highlight hidden relationships, motives, and actions, but have limited potential to generalize from these. If one wants to get a glimpse at the properties of a path to justice, qualitative methods can offer little help. A qualitative approach would be more appropriate for a description, whereas quantitative methods could provide more insights on the reasons why something is happening or is contemplated in a particular manner.

8.5.3. Quantitative Research Methods

Quantitative research methods are used to describe or explain different phenomena. They are employed to conduct systemic observations over the properties and relationships of the studied objects. In essence, the application of quantitative research methods takes place through measurement. As a result of the measurement, different types of quantitative data is collected and, consequently, processed in an attempt to answer the research questions.

Qualitative research methods could be grouped according to different criteria. The most important distinction is between descriptive and experimental designs. There are two major differences between the two – the purpose and the level of control over the measured environment. In the descriptive designs, the research has little or no control over the units of analysis. Alternatively, in the experimental designs, the aim is to impact particular characteristics of the environment and then observe the reactions of the subject of interest.

8.5.4. Advantages and Disadvantages of the Qualitative and Quantitative Methods

Both quantitative and qualitative methods are beneficial for the purpose of measuring justice from the perspective of the user. As is the case in all research studies, both forms have advantages and disadvantages. While the primary research tool is of a quantitative nature (questionnaire), a combination of other, more qualitative methods is useful. For example, qualitative methods, such as focus groups, in-depth interviews, or case studies, provide deeper insights into the user experience, answering more explanatory questions.

The main drawback in this type of research is the external validity - difficulties in generalizing the findings to a larger population. For example, while a focus group may help the researcher understand why voice - a procedural justice element - is important to the user, it is difficult to apply this finding to the general population. Reliability and validity become an issue when utilizing purely qualitative methods. For this reason, the questionnaire is considered the principal method of data collection. Assuming that the research design is appropriate, various conclusions can be drawn from the data that result from the questionnaire.

8.5.5. Timeframe

Some paths to justice could span over prolonged periods of time. Legal procedures which last for several years are present in even the most efficient legal systems. Methodologically, it is extremely challenging to measure such long procedures. The users will be hard to find, long term memories will tend to fade, and different procedures will mix in the minds of the users. Numerous strategies could be employed in the measurement of prolonged paths to justice:

- Split the path into smaller paths to justice – i.e. measure one procedural stage at a time;
- Focus on the performance of a particular neutral – i.e. the first-instance court, the police, the mediator, etc.;
- Constantly remind the respondents about the scope of the measured path to justice.

8.5.6. Adaptation of the Methodology for Specific Paths to Justice

8.5.6.1. Adapt the Questionnaire

Paths to justice vary significantly in their properties. Therefore, the measurement instrument has to be calibrated each time in accordance to the distinctive characteristics of the particular unit of analysis. In the process of adaptation, specific attention must be paid to the extent of comparability of the obtained data. An imminent challenge is that incongruous questionnaires will yield incomparable data. As a result, such data could jeopardize the potential of the methodology to generate valid benchmarks of paths to justice.

Listed below are examples of several dimensions in which the paths to justice could differ:

- **Neutral** - some paths evolve without a neutral whereas in others there are embedded processes with more than one neutral;
- **Costs of justice** - the type of possible costs are largely a function of the legal problem and the existing paths for its just resolution. For instance, the legal fees will be rare in administrative processes, while court processes could constitute a significant part of the overall costs;
- **Quality of the procedure** – an infinite variety of processes could structure the paths to justice - thus the questionnaire should be fine-tuned;
- **Quality of the outcome** - the outcomes of paths to justice could differ in terms of type, level of formality, enforceability, and other important aspects.

8.5.6.2. Adaptation Modes

Two types of modifications to the questionnaire are possible:

- **Technical modifications** - replacement of words and labels as appropriate (i.e. the use of the word 'neutral' in the questionnaire has to be substituted with the particular neutral - judge, mediator, arbiter etc.). This type of modification places the questionnaire in a specific context and could leverage the internal validity of the research.

- **Conceptual modifications** - unlike the technical modifications, this type of adaptation requires some sort of redesign of the existing questionnaire. Changes in the concepts should be made with the utmost care if the particular study intends comparability.

8.5.6.3. Translation of the TISCOnaire

Translation of the measurement instrument could look like a technical matter and the direct translation could seem appealing. However, there are many challenges with translating a questionnaire from one language to another. Even if a questionnaire is assessed as valid in the original language, its translation could cause measurement error across jurisdictions. Factors embedded in social and legal culture could make the comparisons invalid. There are several methods for minimizing the risks⁷. We recommend the back-and-forth method, detailed below, for achieving equivalence between the questionnaire in the original and the target language.

Back-and-forth translation is done in three steps. In the first step, the questionnaire is translated from the original language to the target language. Then, a second bi-lingual person translates it from the target language back to the original language. During this phase, the original and translated versions are compared in order to identify contradictory concepts. Finally, the differences are addressed in the target language version.

8.5.6.4. Adjustment of the Measurement Units

The measurement units refer to the range of possible answers that the questionnaire provides to the respondents. Although it may sound like a technical issue, the selection of appropriate measurement units could greatly enhance or, alternatively, limit the analysis of the collected data.

Two of the indicators of the paths to justice - quality of the procedure and the quality of the outcome - are measured on a 5-point Likert scale. Thus, more challenging are the costs of justice. Estimating in advance the possible range of costs on a particular path to justice is a prerequisite for the usability of the collected data. By not using unadjusted measurement units, one runs the risk of responses that concentrate on one category, thus concealing the dispersion of the particular cost. An example could be a path to justice, i.e. a dispute over social benefits, in which the respondents have 3 possible options (up to 100, 100-200, 200-300) to answer the question: How much money was spent on travel? If the actual spending has a mean of 30 and a normal distribution, the researcher will see most of the answers in this first category. In this scenario, those who paid very little and those who paid significantly (in the context of the particular path to justice) will place their answers in the same group. Very little information could be extracted from such a distribution.

7. Read more in ORLANDO BEHLING & KENNETH S. LAW, *Translating questionnaires and other research instruments: Problems and solutions* (Sage Publications. 2000).

In order to avoid such errors as part of the adaptation of the questionnaire, the measurement units should be specified as precisely as possible. This means that some prior information on the possible range of the costs has to be collected. Previous research and statistical data are the most relevant and reliable sources for adjustments of the measurement units. If this data does not exist, the measurement team could carry out in-depth interviews or focus group interviews with users of the studied path. Experts such as attorneys, court clerks, and mediators could be another source of information. Desk research (the study of relevant documents such as regulations, case law, tariffs, etc.) could also be informative in the efforts to adjust the scales with which money and time spent on a procedure are measured.

8.5.7. Estimation of the Population of Interest and Construction of Sample

In plain English, 'population of interest' refers to the sum of all users of justice who have used, in the specified timeframe, the path to justice which is being measured. If we want to measure an insolvency procedure in a specified jurisdiction and timeframe, we have to specify the number of users who have travelled the path. The precision with which the population of interest is estimated is crucial for the quality of the sample. In general, better knowledge on the parameters of the population can improve the design of the sample and the precision of the results thereof.

Different data sources could be used to estimate the population of interest. In more structured paths to justice, there usually is a neutral body which owns and leads the process – a provider of justice. Often, such bodies keep records which could indicate, at varying levels of precision, the size of the population of interest. Aggregated statistical data from the same or previous periods could also provide an indication. If official reliable data is missing or hard to obtain, the researcher could attempt to estimate the population of interest through interviews with key players in the particular path to justice - i.e. judges, attorneys, claim adjusters, mediators, etc.

Significantly more challenging is the estimation of the population on complex paths to justice. Imagine an auto related tort accident. The disputants could first attempt to settle the issue themselves. More often, however, the victim negotiates with the first-party insurer. If this attempt to negotiate is unsuccessful, the dispute could proceed to adjudication. Each step of this pyramid will consist of fewer users than the previous step. Only a tiny proportion of all the victims who took active steps to obtain just resolution actually go to court. This tendency begs the question: Where does one estimate the population of interest (at the bottom of the pyramid, at the top, or somewhere in between)? Although each path to justice could have its specifics, a general rule of thumb is that the population should be measured at the level at which the outcome is specified. For example, if the end of the path was specified as the official decision of an adjudication body, then the population of interest will be all the users who used this procedure.

8.5.7.1. Large, Middle and Small Populations of Interest

The size of the population of interest is important for a couple of reasons. First, it will guide the decisions of how to measure the path to justice. Whether to carry out a sample or population survey and what type of sample to draw are questions that could only be answered if there is sufficient information on the type of the sample. Second, the scope of the population of interest could have inferences regarding the scale of the survey, its generalization potential, etc.

- **Large populations** - when the size of the population of interest is in the thousands, tens of thousands, or even millions, it is a large population. The most frequent legal problems, such as consumer, family, or social benefit disputes, could trigger paths to justice with large populations. Unfortunately, one cannot study all users of justice on such a path. In such cases, a small part of the whole population, a sample, is measured.
- **Small populations** - on some paths to justice it is possible that the number of users is limited. There is no universal agreement of what is a small population, but if the total number of users in the specified period of time is less than 300, then we can treat it as a small population.
- **Middle sized populations** - paths to justice in which the population size is neither small nor large. Based on the given circumstances, the researcher has to decide how to approach the path to justice.

8.5.7.2. Decision: Sample vs. Population Survey

The most important consequence of the population size is the decision whether to measure the whole population or just a sample of it. For small populations, it is recommended to study the whole population. Only when the population is large or middle-sized should researchers proceed with drawing a sample. A sample is part of the larger general population. When polling agencies want to understand the opinion of a social group over a certain issue, they interview a small proportion of this group. The general idea is that the respondents from the sample will probably think like those who belong to the same group of people but, for practical reasons, were not included in the sample. Thus, through the study of a small part, the researcher could explore (or, in the language of statistics, 'draw inferences about') the overall population of users of a particular path.

8.5.7.3. Sample Size

The sample size is affected by three factors - the size and structure of the general population, the required level of precision, and the available resources. There are plenty of excellent discussions on the sample size. Below, we list general rules of thumb regarding the size of the sample:

- 30 respondents is the minimum sample size;
- In small and medium populations (population size is less than 1000), a sampling ratio (the sample size divided by the population size) of at least 30% is seen as appropriate;

- Given everything else is equal, a larger sample provides more precise data (the standard error in a larger sample is lower, which means that the evidence from the sample will be more representative of the general population);
- In large populations samples, there is a point of saturation after which the additional increase to the sample does not significantly improve the accuracy of the data;
- Analysis in which numerous variables are included simultaneously (multivariate analyses) require larger samples;
- Types of samples

A probability sample is one in which each member of the population has an equal chance to be selected for the sample. Imagine that the population (or rather the sampling frame) consists of 1000 users of justice. Random sampling means that each of the 1000 users have exactly the same chance of being selected in the sample. For instance, a sphere contains 1000 balls, each representing one user. In 300 consecutive blind draws, 300 balls are selected randomly. The sample therefore is random - each ball has exactly the same likelihood of being selected. In the first draw, the odds are 1:1000, in the second 1:999, and so forth.

The probability samples could be systemic and non-systemic. The former are considered better because the sample represents the studied population in the best possible way. This does not mean that the non-systemic random samples are necessarily worse. In many circumstances, a systematic probability sample could be infeasible. Or, the research design could require that some members of the population have a higher probability of being selected in the sample. An example could be a study in which the researcher wants to compare the experiences of male and female users of a given path to justice. If one of the groups is under-represented in the population, the sampling procedure could grant it higher likelihood for being selected (stratified, weighted, or multistage probability sample).

Non-probability samples are samples in which the likelihood of being selected is unknown. For instance, the researcher could be granted access to a sample of 1000 users of a path to justice. Suppose that in total for the studied time period there are 5 000 cases belonging to the category of interests. In other words - the general population is 5 000. Often times the sample is not selected from the general population in such a way as to guarantee that each case has equal chance of being selected. For instance it could be that only the recently archived cases are drawn or only the cases which were appealed. The risk of the non-random samples is that the picture they draw is somewhat different from the picture in the general population. For instance, if a sample has disproportionate amount of appealed cases it is very likely that the properties of the dispute or of the disputants differ from the general population. Therefore, as a rule of thumb the measurement of paths to justice has to rely on systemic random samples as often as possible.

Despite their apparent disadvantages, practical reasons necessitate the use of convenience (non-random) samples. Different types of non-probability samples are known:

- **Convenience sample** - the sample is based on members of the population to which the researcher has access;
- **Snowball sample** - the users are asked in consecutive steps to refer to other users;
- **Quota sample** - similar to the convenience sample, but recruits according to a quota scheme set out in advance.

8.5.7.4. How to Increase the Response Rate?

Increasing response rates is a commonly faced issue among researchers. This is especially true when the subject concerns a sensitive topic, which may sometimes be the case when examining justice, particularly for more serious legal problems. While it is hopeful that people wish to express their concerns and satisfaction in regard to procedures, this is not often the case when the task involves a somewhat time-consuming questionnaire or face-to-face interview. Often, researchers may provide respondents with incentives to fill out the questionnaire. The incentive should be attractive to the target audience. Furthermore, to increase response rates, follow-up or reminder notices have proven to be successful. This should be done within a few days of the first distribution and again to those who do not respond.

The role of incentives for getting better response rate

In Measuring Access to Justice pilot studies, we used different sorts of incentives to increase the response rate. In a study of the Consumer Dispute Commission, we provided small financial incentives for the respondents (25€ to fill out the questionnaire, 50€ to participate in the diary study, and 50€ + travel expenses to participate in the focus group). Alternatively, in a study of a labour dispute path to justice in Bulgaria, the respondents were given an incentive through a small lottery in which cell phones were distributed among those who returned completed questionnaires.

9. Data Collection Methods

9.1. Cross-Sectional Study

The main characteristic of a cross-sectional study (CSS) is its relation to time. When we conduct a CSS, we look back from a certain moment. Baker⁸ compares this data collection method with the medical x-ray procedure. The investigator scrutinizes the users' perceptions from a single point in time. In the context of measuring paths to justice, the CSS is about observation of the past experiences of the users of justice. With other methods, such as the diary study, one can adopt a longitudinal approach - measuring the procedure at different moments in order to understand its dynamics. The CSS also could help to get a better idea on the dynamics, but the perspective of the user is rooted in the moment of measurement.

9.1.1. Requirements

- Prior knowledge about the population of the users of the studied path to justice;
- Questionnaire adapted for measuring the particular path to justice;
- Access to all (population survey) or part (sample survey) of the users of justice;
- Facilities for distributing the questionnaire.

9.1.2. Data Collection

There is no single strategy when it comes to collecting the perceptions of users of justice on the costs and quality of their paths to justice. A structured questionnaire like the TISCOnaire could be used in several circumstances:

9.1.2.1. Pen-and-Pencil Questionnaire

Sending out questionnaires to users and expecting that it will be filled in and returned is the cheapest and [sic] most common data collection method. Cost reduction and reach-out are the two central advantages of the pen-and-pencil questionnaire. On the other hand, its biggest disadvantage is the low response rate and possible bias in the sample. The bias could take many different directions. For example, the people who are willing to fill in the questionnaire could over represent some groups – for instance, angry users, the unemployed, or youngsters. Above, we discussed that measuring justice will often mean small samples, which means that the low response rate threat could be particularly dangerous in terms of securing a sufficient number of respondents.

Different strategies are used to mitigate the risks associated with the use of the pen-and-pencil questionnaire as a data collection strategy. Offering a small reward or a chance to

8. THERESE L. BAKER, *Doing social research* (McGraw-Hill College 3rd ed. 1999)

receive a reward (i.e. a lottery) could increase the response rate. Including self-addressed envelopes, pencils, or easy to use layouts could also increase the number of responses. Yet another strategy is to send invitation cards to the respondents before sending the actual questionnaire.

9.1.2.2. Telephone Interviews

In most countries of the world, telephone accessibility is so high that one could rule out selection bias when performing telephone interviews. With this data collection mode, the response rate is usually higher than the pen-and-pencil questionnaires. Moreover, the interaction between the interviewer and the respondent could smooth out certain problems with the understanding of the questions. A particular method of doing a telephone interview is the use of automated software which, in effect, substitutes the interviewer (Computer Assisted Telephone Interviewing). On the negative side, telephone interviews are significantly more expensive and, as a rule, exclude users of justice who do not have a telephone or those whose contact details are unknown.

9.1.2.3. Face to Face Interviews

Face to face interviews are, to a large extent, similar to telephone interviews, but allow for better contact between the respondent and the interviewer. This contact is both an advantage and disadvantage, as it is based on the reliability of the interaction between the two.

9.1.2.4. Web Based Questionnaire

With the spread of the internet, we are witnessing the proliferation of studies that collect information through placing a questionnaire on-line and then sending invitations to the respondents' e-mail, cell phone, or instant messenger. Apparent advantages are the low costs, speed, and adaptability. Disadvantages are the low response rate and exclusion bias, since important groups could lack internet access. Figure 4 shows an example of the interface of a web-based questionnaire, used to measure a path to justice.

- Step by Step
- Adapt the questionnaire
- Pre-test the questionnaire
- Estimate the population of interest and draw samples if necessary
- Collect data
- Check the accuracy of the data
- Analyze the data

Figure 4: Example of a Web-Based Questionnaire

When assessing the importance bear in mind the hypothetical case that you've read at the beginning of the questionnaire.

***You were able to express your view and feelings during the process**
Choose one of the following answers
Please choose...
Select how important is the indicator - 1 being the most important.

***Your views and feelings were considered during the process**
Choose one of the following answers
Please choose...
Select how important is the indicator - 1 being the most important.

***You were able to influence the outcome**
Choose one of the following answers
Please choose...
Select how important is the indicator - 1 being the most important.

***The same rules were applied to both parties**
Choose one of the following answers
Please choose...
Select how important is the indicator - 1 being the most important.

***The process was objective and unbiased**
Choose one of the following answers
Please choose...
Select how important is the indicator - 1 being the most important.

***The process was based on accurate information**
Choose one of the following answers
Please choose...
Select how important is the indicator - 1 being the most important.

***The process was ethical and in line with moral standards**
Choose one of the following answers

9.2. Focus Group Interviews⁹

Focus group interviews are a qualitative method where a group of people are asked information regarding their perceptions and attitudes towards a given subject – in this case, their experiences with the path to justice. In an interactive group setting, participants are invited to discuss their issues with other group members. Focus groups are useful for bringing attention to the unexpected and offering further exploration.

9.3. Requirements

- Access to 5-12 users of the studied path to justice per focus group;
- Semi-structured questionnaire which guides the discussion;
- Experienced moderator;
- Appropriate facilities, equipped with audio and/or video recording equipment.

9. Extended protocol for carrying out focus groups to measure the users' experiences on paths to justice is available: http://www.measuringaccesstojustice.com/images/3/31/Focus_groups_manual.PDF

9.4. Step by Step

- Develop a protocol in which the topics and questions that need to be addressed are specified;
- Secure appropriate conditions and an experienced moderator;
- Select and invite participants;
- Carry on the group interview;
- Transcribe and analyze the data.

If possible, this procedure is followed three to six times, depending on when the point of saturation (when no new information is obtained in the focus group meeting) is reached.

9.5. Diary Study

The diary study is a form of longitudinal panel study. It is a data collection method which requests participants to keep a diary or journal (which can be outlined by the researchers) of their experiences with the subject being studied. Information may include date and time, emotions encountered, issues with the subject (the process), etc. The study can also consist of questionnaire distributed at several points in time. In this case, the information would be more specific to the researcher's needs¹⁰.

9.5.1. Requirements

- Baseline questionnaire adapted for measuring the particular path to justice;
- Diary survey questionnaire adapted for measuring the particular path to justice;
- A panel of users of justice who have agreed to participate in the study on a regular basis.

Table 13 (page 60-61) compares several of the possible data collection methods such as internal and external validity, reliability, cost-effectiveness, and feasibility in terms of finding the users of the paths to justice. ▶▶

10. More information on the design and use of the diary study method is available online: http://www.measuring-accessstojustice.com/index.php/More_on_diary_studies

9.6. Step-by-Step Data Collection Summary:

- Step by Step
- Adapt the questionnaire;
- Pre-test the questionnaire;
- Estimate the population of interest and draw samples if necessary;
- Select a research methodology;
- Collect data in the predetermined time intervals;
- Check the accuracy of the data

Table 13

<i>Method</i>	<i>Internal validity</i>	<i>External validity</i>	<i>Reliability</i>	<i>Cost-effectiveness</i>	<i>Finding users</i>
Interview (in person)	<ul style="list-style-type: none"> Depends on the validity of the questionnaire Paths to justice in different countries could differ Interaction between interviewer and respondent could be a problem Translation is a threat Memory decay effect Level of public legal education differs across countries 	<ul style="list-style-type: none"> Good if randomized sampling is achievable Non-response will be a smaller problem Uncertainties on used mechanisms to solve problems Accessibility to data could be a threat 	<ul style="list-style-type: none"> Structured questionnaire improves reliability Combination with other quantitative and qualitative methods could improve reliability 	<ul style="list-style-type: none"> The most expensive mode of interviewing 	<ul style="list-style-type: none"> Postal addresses of users are the most likely contact information that available data sources will contain Interviewers could contact respondents in different places
Interview (telephone)	<p>Similar to in-person interviews</p>	<ul style="list-style-type: none"> Randomization is difficult as not all residents' numbers are listed in directories In many countries phone interviews could exclude sizable populations from the sample Using CATI could improve response rates Response is expected to be lower than face-to-face but higher than self-administered interviews 	<ul style="list-style-type: none"> Time of conducting phone interviews could be a threat to reliability Structured questionnaire improves reliability Combination with other quantitative and qualitative methods could improve it 	<ul style="list-style-type: none"> Much better than in-person interviews but more expensive than self-administered and internet based 	<ul style="list-style-type: none"> In many jurisdictions it is highly unlikely that phone numbers of users of justice are collected
Interview (Web based)	<p>The same as in in-person interviews</p>	<ul style="list-style-type: none"> Systematic randomization is impossible Problem is low internet availability in many countries Spam filters could distort the sample Response rate could be very low Response could be biased due to the level of technical experience of the respondent 	<ul style="list-style-type: none"> Uncertainty of who exactly is the respondent Technical problems could be an issue 	<ul style="list-style-type: none"> Very cheap, but also the results have limited potential for inferences 	<ul style="list-style-type: none"> The same as in telephone interviews

Method	Internal validity	External validity	Reliability	Cost-effectiveness	Finding users
Interview (self-administered)	The same as in in-person interviews	<ul style="list-style-type: none"> Problems with response rate could be anticipated Randomization could be difficult 	<ul style="list-style-type: none"> Structured questionnaire improves reliability Combination with other quantitative and qualitative methods could improve reliability 	<ul style="list-style-type: none"> Relatively good cost-effectiveness as compared to other modes of interview 	<ul style="list-style-type: none"> Postal addresses of users are the most likely contact information that available data sources will contain
Diary method	Depends on the validity of the questionnaire (same threats as in interviews)	<ul style="list-style-type: none"> Limited external validity Selection could be a problem Attrition could be a threat 	<ul style="list-style-type: none"> Using incentives to respondents could jeopardize reliability 	<ul style="list-style-type: none"> Good cost effectiveness 	<ul style="list-style-type: none"> The same as in internet interviews
Content analyses of case files	<ul style="list-style-type: none"> Limited internal validity regarding perceptions and attitudes Requires expert judgements which could cause measurement error 	<ul style="list-style-type: none"> Good possibilities for drawing of systematic random sample 	<ul style="list-style-type: none"> Accessibility of case files could be a problem 	<ul style="list-style-type: none"> Expensive method for data collection 	<ul style="list-style-type: none"> Good opportunities given access to units of measurement
Direct observations	<ul style="list-style-type: none"> Requires expert judgements which could cause measurement error Allows deep understanding of the perceptions and the context 	<ul style="list-style-type: none"> Low external validity like most qualitative data collection methods 	<ul style="list-style-type: none"> Difficult to repeat 	<ul style="list-style-type: none"> Requires lots of resources Uncertainty regarding duration of paths to justice could result in costs 	<ul style="list-style-type: none"> Should not be a problem as far as fewer respondents are required
Quasi-experimental design	<ul style="list-style-type: none"> Relatively higher control on the research setting Limited use due to practical difficulties to reconstruct experiences with justice 				

10. Data analysis

10.1. What do we Want from the Data?

In order to answer the question “how to analyze” the empirical data, two preliminary issues have to be addressed. First is the purpose of the data analysis and second is the type of data collected.

In general, the data could be analyzed in two analytical frameworks – descriptive and explanatory. A descriptive perspective means that the aim of the data collection is to depict a path to justice based on its costs and quality. It tells us how the path looks through the eyes of its users, without getting deeper to explain why. On the other hand, the explanatory framework aims to address a wide array of “why” and “how” questions – why the outcome scores high or low, why some users pay more, how the perceptions on the procedural quality impact the outcome, etc. In this Handbook, the focus is on the descriptive exploration of the studied paths to justice.

Next, the data analysis is largely dependant on the type of data analyzed. Qualitative data consists of observations, words, and symbols, which could be interpreted but not calculated. Content analysis is the basic approach for analyzing and interpreting qualitative data. Briefly, it is a research method used to identify and categorize the presence of words or phrases in larger texts such as transcribed interviews, speeches, etc¹¹.

10.2. Qualitative Data

If the focus group interview method is used to collect data on the path to justice, then the collected data will be qualitative. As a result of the focus group, the researcher will receive a transcript of the group interview. In order to obtain information and knowledge from the data, a series of categorization and coding operations have to be performed. Useful starting points to learning the specifics of the content analysis can be found on the following websites:

- <http://pareonline.net/getvn.asp?v=7&n=17>
- http://devcompage.files.wordpress.com/2007/12/17-content_analysis.pdf

Recommended readings qualitative data analysis:

- *Analyzing qualitative data* by Alan Bryman and Robert G. Burgess, 1993. London ; New York: Routledge.
- *The SAGE handbook of qualitative research* by Norman K. Denzin and Yvonna S. Lincoln, 2005. Thousand Oaks: Sage Publications.

11. Read more on the purposes, use, and types of content analysis:
<http://writing.colostate.edu/guides/research/content/pop2a.cfm>

10.3. Quantitative Data

Quantitative data is measured or identified on a numerical scale and can be analyzed using statistical methods. Furthermore, quantitative data can be classified into four categories depending on the level of measurement – nominal scale, ordinal scale, interval scale, and ratio scale¹². In the present methodology, quantitative data is collected with the cross-sectional survey and the diary study method.

Quantitative data needs to be analyzed in order to explain the measured path to justice. Using descriptive statistics, one can describe the essential characteristics of the paths. Most of the variables from the quality of the procedure and the quality of the outcome dimensions are measured on a 5-point Likert scale. Such a scale could be best described as ordinal – it is important because the level of measurement determines the range of appropriate statistical analyses.

The measures of the central tendency are appropriate starting point when a path to justice has to be described. Below is a hypothetical example of 10 users who have evaluated one variable – the degree of politeness of the neutral decision maker.

Table 14: Measures of central tendency

<i>Data</i>	User 1	2
	User 2	3
	User 3	2
	User 4	4
	User 5	5
	User 6	3
	User 7	2
	User 8	5
	User 9	2
	User 10	2
<i>Descriptive Statistics</i>	Mean	3
	Median	2,5
	Mode	2
	Minimum	2
	Maximum	5

12. More on the level of measurement: http://www.stats.gla.ac.uk/steps/glossary/presenting_data.html and <http://www.math.sfu.ca/~cschwarz/Stat-301/Handouts/node5.html>

Finding the mean value is a useful way to describe the data. In this case, the mean score of the politeness is 3,0 (Table 14). The median is another measure of central tendency, which tells us where the middle is if all observations are arranged from lowest to highest value – the median of the data in Table 3 is 2,5, which indicates that the mean is slightly skewed to the right. A less often used descriptive statistic is the mode – it indicates the value that occurs the most frequently in the data set.

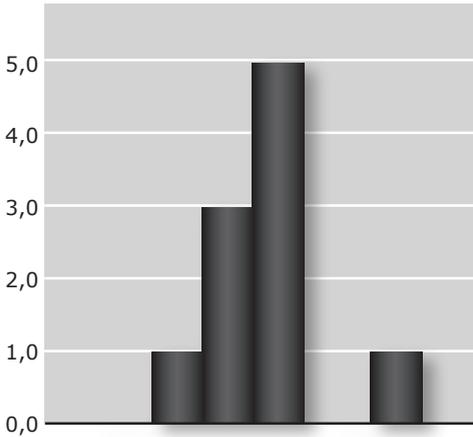
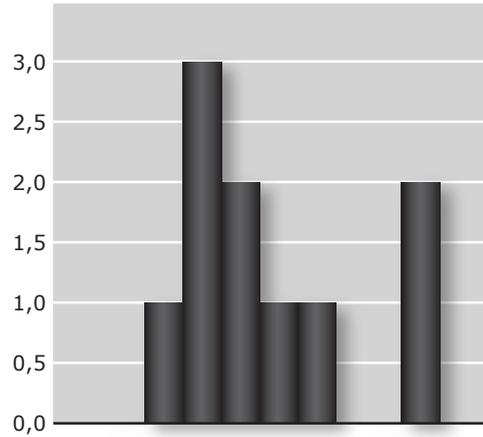
With the measures of central tendency, we describe the “normal” values of our data. Another useful set of statistics, known as the measures of dispersion, tells us the spread of the data. Statistics like variance, range, standard deviation, and standard error show how dispersed the data is around its central values.

Table 15 contains two columns which reflect the hypothetical scores of two groups of users of justice. The mean scores of the two groups are exactly the same – 3,00. At face value, the two groups of users rate the procedure the same way. However, if we look at the graphical representation of the distributions, we can identify significant differences. Figure 5 shows the histogram of the responses of the users in Group 1. When compared to the reference group as shown in Figure 6 we can clearly see that the responses of the users in Group 1 are tidily clustered around the mean value of 3. On the other hand, Figure 6 suggests larger variation. Indeed, the mean value is also 3, but the shape of the distribution curve is more spread.

Table 15

	<i>Group 1</i>	<i>Group 2</i>
User 1	2,14	2,11
User 2	3,11	3,67
User 3	2,6	2,25
User 4	3	4,5
User 5	2,8	4,9
User 6	3,4	3
User 7	4	2,76
User 8	2,7	1,91
User 9	3,2	2,1
User 10	3,05	2,8
Mean	3	3
Range	1,86	2,99
Standard deviation	0,50	1,04
Variance	,25	1,08

The big difference between the two groups in Table 15 is the variability of the two data sets. Let us look at the standard deviation – for Group 1 it is ,50 and for Group 2 it is 1,04. Apparently, the data points in Group 1 are better clustered around the mean value, while Group 2 is more dispersed. Other measures of dispersion, such as range and variance, confirm that the data points in Group 2 are more dispersed (Table 15).

Figure 5: Group 1**Figure 6: Group 2**

Another useful approach with which we measure paths to justice is to examine the frequencies of the data. The frequency is the number of times a given score occurs. As such, frequencies are a useful way to summarize ordinal and nominal data, which can be seen in the Likert scale scores of the quality of the procedure and the quality of the outcome.

Table 16 shows the frequency distribution of 10 data points on a scale from 1 to 5.

Table 16: Descriptive statistics - frequencies

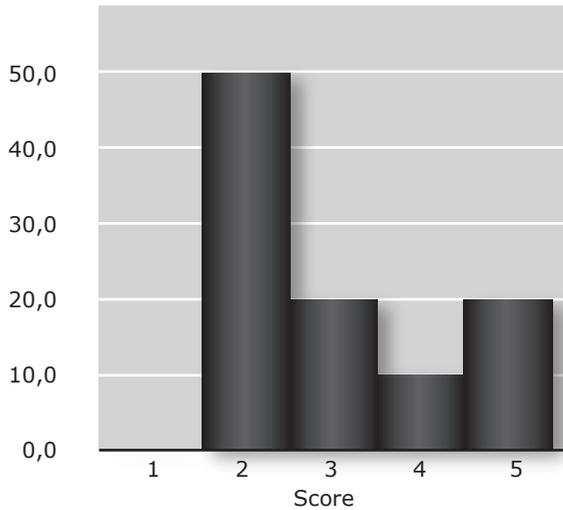
What Table 16 suggests is that the largest number of the users evaluated the politeness of the procedure with a score of 2. No users scored the variable with a one, and an equal number of respondents scored with a 3 and a 5. A more intuitive approach is to present the frequency distribution as a proportion of the total number of respondents. In this case, the data from Table 16 will look like Table 17.

<i>Value</i>	<i>Count</i>
1	0
2	5
3	2
4	1
5	2

Table 17: Descriptive statistics - frequencies as proportion

<i>Value</i>	<i>Count</i>	<i>Percentage</i>
1	0	0%
2	5	50%
3	2	20%
4	1	10%
5	2	20%

Figure 7: Histogram



From Table 16 it is easy to infer that half of the interviewed users of justice assign 2 to this particular indicator and 10% (which, in this case, means only one person) rates it with a 4. Graphically, the results could be visualized through a graph called a *histogram* (Figure 7):

Easy to read information on descriptive statistics and instructions on how to compute them is available in the links below:

- http://www.une.edu.au/WebStat/unit_materials/c4_descriptive_statistics/central_tendency_measure.html
- <http://www.bio.davidson.edu/Courses/Bio111/Bio111LabMan/Lab%207.html>
- http://faculty.kfupm.edu.sa/SE/salamah/StatsExcel/statsitics_from_Excel.htm
- http://www.graphpad.com/articles/interpret/Analyzing_one_group/descr_stats.htm
- http://en.wikibooks.org/wiki/Handbook_of_Descriptive_Statistics

Recommended readings quantitative data analysis:

- *The Sage handbook of quantitative methodology for the social sciences* by David Kaplan, 2004. Thousand Oaks, CA: Sage.
- *Data analysis: an introduction* by Michael S. Lewis-Beck, 1995. Thousand Oaks: Sage Publications.
- *An introduction to statistical methods and data analysis* by R. Lyman Ott and Michael T. Longnecker, 2008. Belmont, CA, CA: Brooks/Cole Cengage Learning.
- *Quantitative methods for decision makers* by Mik Wisniewski, 2006. Harlow: Financial Times/Prentice Hall.

11. Making an Index of Access to Justice

11.1. What is an Index?

An index is a composite measure which orders the paths to justice being studied. In addition, it is based on more than one data item. The goal is to summarize several indicators into one final score. An index of the path to justice is a single value which reflects the different indicators of a path to justice.

11.2. Index Construction - Step-By-Step

Five steps are included in index construction:

- Develop and operationalize concepts;
- Select the items to be included in the index;
- Scale and weight the items;
- Aggregate the individual items into higher order categories;
- Validate the index.

11.3. How Can the Measurement of a Path to Justice Be Expressed as an Index?

Figure 8: Indicators of Paths to Justice

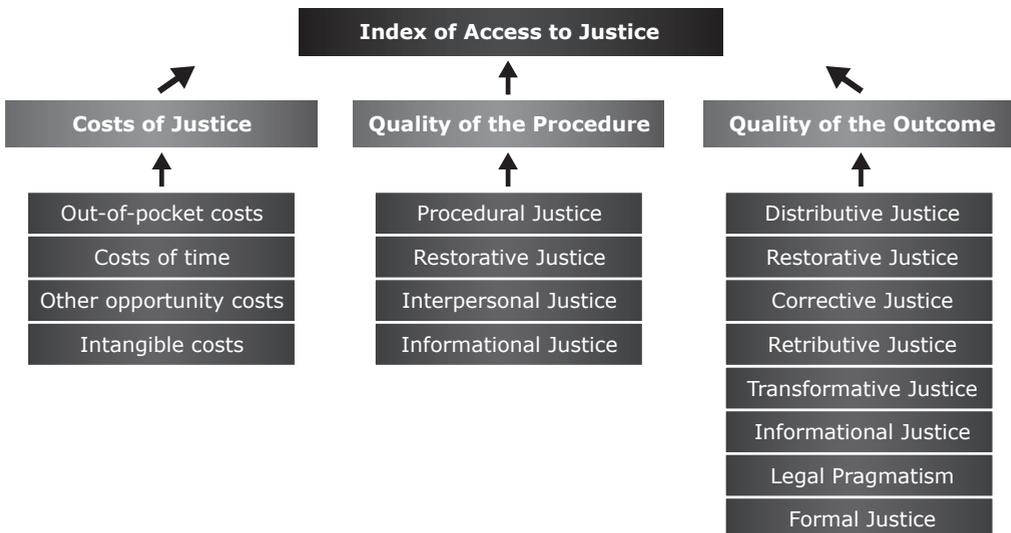


Figure 8 illustrates how the indicators of a path to justice are combined into an index. Each of the sub-indicators (costs of justice, quality of the procedure, and quality of the outcome) was discussed earlier in the Handbook. As stated, the quality of sub-indicators is made up of the different justice theories impacting the quality of a given path to justice, both in its procedure and outcome. Additionally, the costs of justice are calculated by the four categories in the diagram above.

Example index construction

NGO measures the administrative path to justice that people with consumer problems have to walk in a particular jurisdiction. Below, we discuss the composition of the index of this particular path to justice.

Costs: Monetary costs first have to be rescaled from 1 to 5. This can easily be done in a spreadsheet program using the formula:

$$x = (x - \min) / (\max - \min) * 4 + 1$$

The second step is to change the direction of the cost measures. It is necessary because the quality of the procedure and the quality of the outcome are measured on a scale in which 1 is very poor quality and 5 is very good quality. Changing the direction of the cost variable can be done easily through the formula:

$$x = 5 - x + 1$$

When all the variables measuring costs are in the same range (from 1 to 5), we can aggregate them to find the mean cost of the path to justice. It is even easier to compute the mean values of the other two indicators – the quality of the outcome and the quality of the procedure. In the end, all three indicators are brought together, and a simple composite index is computed through finding the mean value of the three sub-indexes. A more complex, but more accurate, approach is to weigh the indicators and their content.

The benefit of the Index of Justice is the achievement of integration – the sum of the parts provides more information than the individual parts. The individual parts in this case need to be weighted – that is, assigned different levels of importance in measuring the quality of justice. For example, some users may find decision control more important, while others are more interested in being treated fairly. Furthermore, the treatment during the procedure may be of similar significance when compared with the outcome. The Index can provide ‘weights’ to each of these aspects of justice proceedings, thus increasing the likelihood of an accurate measurement¹³.

13. More on the options for weighting the indicators of justice can be found in MARTIN GRAMATIKOV & MALINI LAXMINARAYAN, *Weighting Justice: Constructing an Index of Access to Justice* Tilburg University Legal Studies Working Paper No. 18/2008 available at <http://ssrn.com/paper=1344418>.

Weighing

While process control and respectful treatment are both predictors of the high quality of a procedure, users of justice have different perspectives on the importance of these factors. People may be given more opportunities for participation, but this may not be of interest to them. Instead, polite treatment may be vital in ensuring high ratings of quality. Therefore, a method is devised for extracting “weights” to understand the level of importance for each indicator. Then, a new value for respectful treatment and process-control, for example, can be calculated.

Assume respectful treatment ranked 2 on the procedure’s quality, and, according to users, process control ranked 4. If respectful treatment is twice as important to users as process control, the adjusted value is equal. (The weight of respectful treatment is 2, the weight of process control is 1).

Original value of 2 * weight of 2 = original value of 4 * weight of 1.

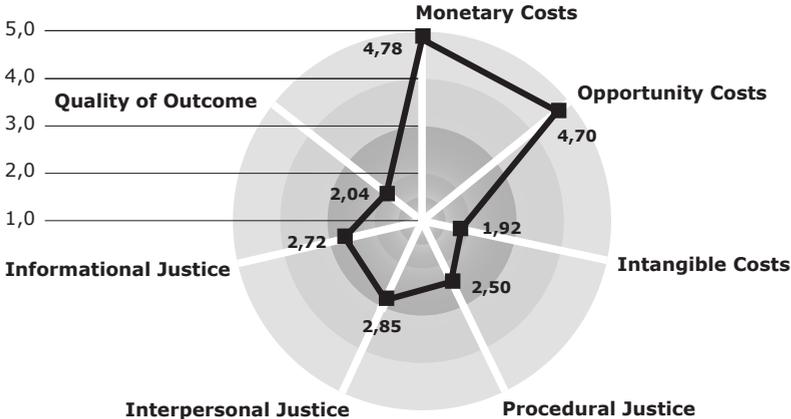
11.4. Use of the Index

The index provides two main functions: evaluation and comparison. Each facet of a path to justice can be analyzed and ranked in comparison to other paths. These comparisons may be between differing paths for the same legal problem (i.e. going to victim-offender mediation as opposed to criminal court for theft) or the same legal problem and the same path but in differing jurisdictions (a consumer dispute commission in country A and country B).

First, evaluation of a path to justice allows us to understand where a procedure succeeds, and where it may need improvement. If an overall benchmark can be created, there is the possibility to examine whether or not the path meets the average aspects, such as informational or compensatory justice. Furthermore, when two paths are compared, insights are uncovered as to where and how improvements can be made. Take, for example, a path where the neutral is given in-depth training on how to treat his or her clients. If this training focuses on being respectful and polite towards the users, then interpersonal justice may be given a higher score. Thus, we can conclude that this training is in fact beneficial, and offers certain policy implications as a result.

Below, we see a diagram of the Index for the consumer protection path to justice. Each element of the procedure – costs, interpersonal justice, informational justice, and quality of the outcome – can be aggregated into one quantifiable value. A comparable diagram would clearly show where another path may outperform the path shown below. Note: In this particular output, the quality of the outcome is not further divided into the various indicators as discussed earlier.

Figure 9: Index of Paths to Justice



12. Summary - Measuring Justice: Step by Step

- Identify and specify the measured path to justice
- Deliberate on the measurement needs
- Adapt the methodology
 - Adapt the questionnaire to the specific path to justice
 - Adapt the measurement units (specify correct categories for the monetary and time costs)
- Formulate a data collection strategy
 - Decide which data collection method to use
- Estimate the population of users of justice
- Construct the sample
- Collect data
- Check the data
- Present/use results
- Share results and data

13. The Measuring Access to Justice Project

13.1 Project Goal

The main goal of the project is to develop a standard methodology for measuring the costs and quality that users of justice may usually expect when they attempt to resolve a pressing problem through legal means. Therefore, one of the innovative aspects of the methodology is that it assesses justice through the perspective of the users of justice. The use of perceptions and attitudes is challenging from a methodological point of view, but promising in terms of the validity and legitimacy of the perspective used. As a practical result, the application of the methodology will help:

- Assess holistically the ability of legal systems to solve legal problems in an effective, fair, and adequate manner;
- Identify barriers to justice, as well as policy and service provision gaps;
- Provide feedback on suppliers of procedures;
- Suppliers of procedures to learn from each other through benchmarks and best practices;
- Users to make informed decisions when dealing with problems that could be resolved through legal means;
- Manage expectations of users;
- Induce stakeholders to improve the quality of services (removing obstacles such as complex procedures, market failures, regulatory failure, and red tape).

13.2. Project Outcomes

The project outcomes consist of academic papers which outline in detail the project rationale, theories, concepts, and results. Another tangible result of the project is the questionnaire with which access to justice is measured. In the course of several pilot studies, empirical data was collected and analyzed for the purposes of validation of the measurement tool, index construction, and showcasing the advantages and disadvantages of the methodology.

14. The Way Ahead

This Handbook outlines a methodology for measuring the costs and quality of paths to justice. Its main purpose is to share the acquired knowledge with all those who are interested in the measurement of the performance of the legal system. Both the content and the process for measuring the paths to justice were discussed and described.

We clearly understand that the ultimate test for the viability of a methodology is its ability to provide valid and reliable description of the studied paths to justice. In order to test its validity, we conducted pilot data collection projects in countries ranging from Bolivia and Bulgaria to The Netherlands. We also tried to study as many paths to justice as possible – consumer disputes, employment disputes, issuance of ID documents, administrative review of administrative acts, and negotiations between victims of personal injury and insurance companies. All of these pilot projects revealed the strength of the methodology, as well as the explicated inherent challenges. The lessons learned were carefully studied and integrated into the methodology.

We are also aware that justice is a fast moving field. What is assessed as negative now may be re-evaluated as positive later. Reforms at the legislative, institutional, and political level impact the paths to justice and the way people see and use them. The values and frames of reference of communities and societies also tend to change. What is viewed as satisfactory in a certain set of circumstances could be assessed as appalling in others.. It does not take a revolution or drastic change in the political or economic system to observe such changes in social preferences. Increased access to information, as well as single mind-changing events, could make us rethink our individual and social understanding of what is just and fair.

In such a fast developing environment, even the most sophisticated approaches and instruments for measuring paths to justice cannot remain valid for a long time. Therefore, we are soliciting the expertise of everyone who strives for accessible, effective, and efficient paths to justice. This methodology is seen as a work in progress. We invite everyone to share knowledge, information, concerns, and comments in the wiki environment at www.measuringaccesstojustice.com.

Alternatively, a contribution to the development of the measurement approach could take the form of actual measurement projects. If one wants to know what the users of justice think of a specific path, download the TISCONnaire¹⁴ and ask them. Hopefully, one can contribute to the efforts to improve the methodology. Sharing experiences or data are only two of the many possible ways in which one can join the small but growing community of people and organizations who want to know how justice works and how it can be further improved.

14. <http://www.measuringaccesstojustice.com/index.php/Questionnaire>

Appendix 1: InstantScan TISCONnaire

Dear Sir/Madam,

You recently experienced a problem. In order to find a solution, you took some type of action. For example, your problem may have been brought before [procedure-specific] a neutral person/body.

The present questionnaire is about:

1. the time and money you spent on the process,
2. the emotional costs (such as stress) of the process,
3. your perceptions of the quality of the process, and
4. your perceptions of the quality of the outcome.

We are interested in your experiences from the moment you first took action until the moment the process came to an end.

This questionnaire is anonymous and we will treat your responses with confidentiality. No information that can identify you will be passed on to anybody else.

We want to thank you in advance for your participation.

When did you first take action to solve the problem?

_____ (month) _____ (year)

When did you receive an outcome?

_____ (month) _____ (year)

I did not receive an outcome yet.

How much money did you spend while trying to solve your problem?

How much personal time did you spend while trying to solve your problem?

What was the value of the claim? € _____ or n/a

Gender: M/F

	Not applicable	Very small extent / not at all	Small extent	Moderate extent	Large extent	Very large extent/ completely
How much stress you experienced while trying to solve your problem?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was the procedure fair?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the neutral treat you with respect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the neutral explain the process?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was the outcome fair?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the outcome restore your harms?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the outcome solve your problem?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was the outcome worth the invested resources?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the process have a negative impact on your relationships?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Age: ____ years

Education: No education | < High School | High School | Vocational | University

Marital status: Single | Married | Divorced | Widowed | Other

Employment: No | Full time | Self-employed | Home maker | Student | Retired | Other

Appendix 2: QuickScan TISCOnaire

Dear Sir/Madam,

You recently experienced a problem. In order to find a solution, you took some type of action. For example, your problem may have been brought before [procedure-specific] a neutral person/body.

The present questionnaire is about:

5. the time and money you spent on the process,
6. the emotional costs (such as stress) of the process,
7. your perceptions of the quality of the process, and
8. your perceptions of the quality of the outcome.

We are interested in your experiences from the moment you first took action until the moment the process came to an end.

This questionnaire is anonymous and we will treat your responses with confidentiality. No information that can identify you will be passed on to anybody else.

We want to thank you in advance for your participation.

When did you first take action to solve the problem?

_____ (month) _____ (year)

When did you receive an outcome?

_____ (month) _____ (year)

I did not receive an outcome yet.

<u>In this part we ask you a few questions about the quality of the process. Please indicate to what extent:</u>	Not applicable	Very small extent / not at all	Small extent	Moderate extent	Large extent	Very large extent/ completely
Were you able to express your views during the process?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Were your views considered during the process?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Were the same rules applied to you and the other party during the process?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was the process objective?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the process collect accurate information?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Were you satisfied with the process?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the neutral treat you with respect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the neutral explain the process?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Were you satisfied with the neutral?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did you find the neutral trustworthy?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was the process stressful?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the process cause uncertainty?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did you experience frustration during the process?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did you experience hopelessness during the process?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did you experience anger during the process?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the process have a negative impact on your relationships?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<p>In this part we ask you a few questions about the quality of the outcome. Please indicate to what extent:</p>	Not applicable	Very small extent / not at all	Small extent	Moderate extent	Large extent	Very large extent/ completely
Were your needs considered in the outcome?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was the outcome appropriate given your role in the problem?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was the outcome appropriate for the other party's role in the problem?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the outcome restore your monetary damages?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the outcome restore your emotional damages?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the outcome improve your relationship with the other party?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did you get the same outcome as other people in similar cases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did you receive an explanation about the outcome?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the outcome solve the problem?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was the outcome favourable for you?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
To what extent was the outcome worth the invested resources?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the outcome enable you to move forward with your life?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Were you satisfied with the outcome?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

What was the value of the claim? € _____ or n/a

How much money did you spend to obtain the outcome?

(think of legal fees, court fees, travel, collecting information, calling, postal costs, etc.)

€ _____

How much money did you lose because of lost opportunities due to the ongoing process?
(think of lost opportunity to work, missed contracts, asset freeze etc.).

€ _____

How many hours did you spend in order to obtain the outcome?

(think of searching legal advisor, talking to legal advisor/other party/authority, collecting information, travelling, waiting, etc.)

_____ hours

Gender: M / F

Age: _____ years

Education: No education | < High School | High School | Vocational | University

Marital status: Single | Married | Divorced | Widowed | Other

Employment: No | Full time | Self-employed | Home maker | Student | Retired | Other

Appendix 3: ThoroughScan TISCOnaire

Dear Sir/Madam,

You recently experienced a problem. In order to find a solution, you took some type of action. For example, your problem may have been brought before [procedure-specific] a neutral person/body.

Now you have the opportunity to report your experiences and give your opinion about the process. Our goal is to evaluate different processes in order to understand how they can be improved.

The present questionnaire is about:

9. the time and money you spent on the process,
10. the emotional costs, such as stress, that you might have experienced as a result of the process,
11. your perceptions of the quality of the process, and
12. your perceptions of the quality of the outcome.

We are interested in your experiences from the moment you first took action until the moment the process came to an end.

Your first action could, for example, have been:

- searching for information, or
- consulting a legal advisor, or
- contacting the other party.

We refer to the end of the process as an outcome. An outcome can for example be:

- that [procedure-specific] the neutral person/body has decided an outcome, or
- that you settled the case with the other party, or
- that either you or the other party quit the process

We are interested in your experiences from the moment you first took action until the process came to an end, regardless of whether or not you accepted that outcome. Appeals should not be included.

This questionnaire is anonymous and we will treat your responses with confidentiality. No information that can identify you will be passed on to anybody else.

We want to thank you in advance for your participation.

Information on the Problem

1a	When did you first take action to solve the problem? Taking action could take different forms – searching for information, contacting a lawyer, talking to the other party, filing a lawsuit, calling the police etc. Please indicate the month and year you first took action to solve the problem.
	_____ (month) _____ (year)
1b	Please indicate when you received an outcome.
	_____ (month) _____ (year)

1c	Did you receive assistance during the process? It is possible to give more than one answer.	code
<input type="checkbox"/>	No, I did not want any assistance.	1
<input type="checkbox"/>	No, I was not aware of my opportunities.	2
<input type="checkbox"/>	Yes, a private lawyer.	3
<input type="checkbox"/>	Yes, a [conflict-specific] support organization.	4
<input type="checkbox"/>	Yes, other: _____	5

Please indicate to what extent:		Not applicable	Very small extent / not at all	Small extent	Moderate extent	Large extent	Very large extent/ completely
1d	[optional: only if respondents answered 3 in Q 1c] Were you satisfied with your private lawyer?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1e	[optional: only if respondents answered 4 in Q 1c] Were you satisfied with the assistance during the process?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

1f	Please indicate the type of contact you had with [conflict-specific] the neutral person/body. It is possible to give more than one answer.	code
<input type="checkbox"/>	Telephone	1
<input type="checkbox"/>	Letter(s)	2
<input type="checkbox"/>	Via my advisor (e.g. your lawyer)	3
<input type="checkbox"/>	Via my insurance company	4
<input type="checkbox"/>	In person (e.g. because you attended a hearing)	5
<input type="checkbox"/>	Other: _____	6
<input type="checkbox"/>	I had no direct contact with [conflict-specific] the neutral person.	7

1g	How much money did you hope to get from the process?
	_____ [country-specific currency]
1h	How much money did you receive from the process?
	_____ [country-specific currency]
1i	Besides money, what did you hope to get from the process?
	_____ [if possible, exhaustive conflict specific list + other]
1j	Besides money, what did you receive from the process?
	_____ [if possible, exhaustive conflict specific list + other]

Quality of the Procedure

In this section we will ask you some questions about your perceptions of the quality of the process.

Please indicate to what extent:		Very small extent / not at all	Small extent	Moderate extent	Large extent	Very large extent/ completely
2a	Were you able to express your views and feelings during the process?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2b	Were your views and feelings considered during the process?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2c	Were you able to influence the outcome arrived at by the process?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2d	Were the same rules applied to you and the other party?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2e	[optional questions: include in all procedures with a neutral person] Was the process objective and unbiased?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2f	Was the process based on accurate information?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2g	Were you able to correct wrong information during the process?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2h	Did you find the process fair?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2i	Were you satisfied with the process?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The following items refer to the [conflict-specific] the neutral person/body who enacted the process, i.e. the person who handled your case and decided the outcome.

Please indicate to what extent: [optional questions]: include only if respondent answered 1, 2, 3, 4, 5, and/or 6 in question 1f		Very small extent / not at all	Small extent	Moderate extent	Large extent	Very large extent/ completely
2j	Did [conflict-specific] the neutral person treat you in a polite manner?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2k	Did [conflict-specific] the neutral person treat you with respect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2l	Did [conflict-specific] the neutral person make any improper comments or ask improper questions?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2m	Did [conflict-specific] the neutral person intend to find a good solution for you and the other party?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2n	Was [conflict-specific] the neutral person honest in his/her communications with you?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2o	Did [conflict-specific] the neutral person explain the process thoroughly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2p	Did [conflict-specific] the neutral person explain your rights and options during the process thoroughly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2q	Did you understand the explanations provided by [conflict-specific] the neutral person?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2r	Did [conflict-specific] the neutral person communicate details about the process in a timely manner?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2s	Did you have the opportunity to ask for clarification regarding the details of the process?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please indicate to what extent: [optional questions]: include only if respondent answered 1, 2, 3, 4, 5, and/or 6 in question 1f		Very small extent / not at all	Small extent	Moderate extent	Large extent	Very large extent/ completely
2t	Were you treated fairly by [conflict-specific] the neutral person?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2u	Were you satisfied with [conflict-specific] the neutral person?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2v	Did you find [conflict-specific] the neutral person trustworthy?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2w	Would you rely on [conflict-specific] the neutral body to resolve a problem in the future?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Quality of the Outcome

In this section we will ask you some questions about your perceptions of the quality of the outcome. The outcome of your case may, for example, be the decision of [conflict-specific] the neutral person/body, an agreement that you reached with the other party, or the acceptance of the situation even if you were not satisfied with it. Your outcome may include, among other things, one or more of the following:

- Money paid by you or the other party
- Refrain from certain behavior) repair of goods, payments, other services, avoiding harm)
- Sanctions (fines, detention)
- Understanding, information, or apologies

Please indicate to what extent:		Very small extent / not at all	Small extent	Moderate extent	Large extent	Very large extent/ completely
3a	[optional: conflict-specific] Did you and the other party pay or receive an equal share in the outcome?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3b	Were the other party's needs considered in the outcome?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3c	Were your needs considered in the outcome?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3d	Were your monetary harms repaired as a result of the outcome?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3e	[optional: conflict-specific] Were your emotional harms repaired as a result of the outcome?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3f	Did the outcome improve the damaged relationship with the other party that resulted from the problem?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3g	Was it possible for you to compare your outcome with the outcome in other similar cases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please indicate to what extent:		Very small extent / not at all	Small extent	Moderate extent	Large extent	Very large extent/ completely
3h	Was your outcome similar to the outcome of other people in similar cases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3i	Did you receive an explanation about the outcome from [country-specific] the neutral person/body?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3j	Were you satisfied with the explanation you received about the outcome?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3k	Were you able to move forward with your life after you received the outcome?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
We would like you to think about the causes of the problem and about whose behaviour caused the problem. Please indicate to what extent:						
3l	[optional: conflict-specific] Was the other party's contribution to the problem taken into account in the outcome? [In criminal procedures] Did the offender receive a just outcome for the harm that was caused?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3m	[optional: conflict-specific] Was your contribution to the problem taken into account in the outcome? [In criminal procedures] Did you receive a just outcome for the harm that was caused?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
After the problem occurred, you and/or the other party may have made efforts to solve the problem (for example offering compensation). Please indicate to what extent:						
3n	[optional: conflict-specific] Did the outcome consider the efforts the other party made to resolve the problem?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3o	Did the outcome consider your efforts to resolve the problem?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please indicate to what extent:		Very small extent / not at all	Small extent	Moderate extent	Large extent	Very large extent/ completely
We now would like you to think about the consequences of the outcome. Please think about how likely it is that you and the other party comply with the outcome. Please indicate to what extent:						
3p	Were the chances that the outcome would be enforced taken into account?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3q	As the outcome effective in ensuring that, in the future, the other party will avoid the behaviour that caused the problem?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Now please answer these general questions regarding the outcome. Please indicate to what extent:						
3r	Was the outcome favourable for you?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3s	Were you satisfied with the outcome?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3t	Did you find the outcome fair?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3u	Did the outcome solve your problem?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Costs of the Procedure

In this section, we will ask you several questions about the money and time you spent during the process?

4a	Who paid for the monetary costs of the process? It is possible to provide more than one answer.
<input type="checkbox"/>	I paid.
<input type="checkbox"/>	The other party in the dispute paid.
<input type="checkbox"/>	A legal expenses insurance company paid.
<input type="checkbox"/>	I received legal aid (state paid).
<input type="checkbox"/>	Other: _____

4b	<p>Estimate the money you lost as an indirect result of the process. Think about:</p> <ul style="list-style-type: none"> • Storage or non-use of goods you would otherwise have sold • Goods/assets that could not be used (e.g. machinery) • Loss of opportunities because of uncertainty (e.g. losing a job opportunity, losing a contract opportunity) <p>Please circle in [country-specific]:</p>								
	0	1	2	5	10	20	50	100	200
	500	1000	2000	5000	10000	more			

Please use the following scale to indicate how much money you spent on:								
0	1	2	5	10	20	50	100	200
500	1000	2000	5000	10000	more			
4c	Legal advisor fees	_____ [country-specific]						
4d	Other expert fees	_____ [country-specific]						
4e	Administrative/court fees	_____ [country-specific]						
4f	Travelling	_____ [country-specific]						
4g	Calling, postal costs, printing, copying etc.	_____ [country-specific]						
4h	Collecting information	_____ [country-specific]						
4i	[optional, depending on country] Briberies and/or kick backs you paid for services. Remember that this is an anonymous and confidential questionnaire.	_____ [country-specific]						
4j	[optional: procedure-specific] Witnesses (e.g. compensation of travel expenses and time)	_____ [country-specific]						
4k	Other: _____	_____ [country-specific]						
Please use the following scale to indicate how much time you spent on:								
0	1	2	5	10	20	50	100	200
500	more							
5a	Searching for a (legal) advisor	_____ hours						
5b	Talking, phoning, writing to the (legal) advisor	_____ hours						
5c	Talking, phoning, writing to the other party	_____ hours						
5d	Talking, phoning, writing to authorities	_____ hours						
5e	Collecting documents, evidence, preparing statements, undergoing a (medical or other) examination	_____ hours						
5f	Travelling	_____ hours						
5g	Attending hearings	_____ hours						
5h	Waiting around (e.g. in lines, for hearings etc.)	_____ hours						
5i	Other: _____	_____ hours						

Emotional Costs

In this section, we will ask you several questions about how the process made you feel.

6a	Please indicate the amount of stress you experienced as a result of the problem . Do not include the stress you experienced as a result of the process .						
	Very little stress	<input type="checkbox"/>	A large amount of stress				
6b	Please indicate the amount of stress you experienced as a result of the process . Do not include the stress you experienced as a result of the problem .						
	Very little stress	<input type="checkbox"/>	A large amount of stress				
6c	Please indicate to what extent the process had a negative impact on your important relationships and those relationships around you.						
	Very small impact	<input type="checkbox"/>	Very large impact				
<i>For the following, please only think about the process, not how the problem made you feel.</i>							
6d	Please indicate to what extent the process made you feel frustrated?						
	Very little	<input type="checkbox"/>	A large amount				
6e	Please indicate to what extent the process made you angry?						
	Very little	<input type="checkbox"/>	A large amount				
6f	Please indicate to what extent the process was humiliating?						
	Very little	<input type="checkbox"/>	A large amount				
6g	Please indicate to what extent the process was disappointing?						
	Very little	<input type="checkbox"/>	A large amount				
6h	Please indicate to what extent the process made you feel hopeless?						
	Very little	<input type="checkbox"/>	A large amount				

Please indicate what type of consequences the process had:		Very negative	Negative	Neutral	Positive	Very positive
7a	On your ability to cope with the problem.	<input type="checkbox"/>				
7b	On your self-esteem.	<input type="checkbox"/>				
7c	On how optimistically you view the future.	<input type="checkbox"/>				
7d	[Optional: only if procedure in legal system] on your trust in the legal system.	<input type="checkbox"/>				
7e	On your faith in a just world.	<input type="checkbox"/>				

To what extent was the outcome worth the following:		Very small extent / not at all	Small extent	Moderate extent	Large extent	Very large extent/ completely
8a	Monetary costs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8b	Time spent	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8c	Lost opportunities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8d	Stress, emotions, damage to relationships	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Demographics

9a	Gender	<input type="checkbox"/> Female	<input type="checkbox"/> Male
9b	Age	I am _____ years old.	
9c	Nationality	[Country-specific]	<input type="checkbox"/>
		[Country-specific]	<input type="checkbox"/>
9d	Marital status	Single	<input type="checkbox"/>
		Married	<input type="checkbox"/>
		Divorced	<input type="checkbox"/>
		Widowed	<input type="checkbox"/>
		Other:	
9e	How many people, including yourself, live in your household?		
	_____ people live in my household.		
9f	What is your highest level of education? [country-specific]		
	[optional] No education	<input type="checkbox"/>	
	Less than high-school or equivalent	<input type="checkbox"/>	
	High-school or equivalent	<input type="checkbox"/>	
	Vocational school	<input type="checkbox"/>	
	College/University (Bachelor)	<input type="checkbox"/>	
	College/University (Master)	<input type="checkbox"/>	
	Doctorate	<input type="checkbox"/>	
	Other: _____	<input type="checkbox"/>	

9g	Are you employed at this moment?	
	Yes, I work fulltime.	<input type="checkbox"/>
	Yes, I am self-employed.	<input type="checkbox"/>
	No, I don't work.	<input type="checkbox"/>
	No, Im a home-maker.	<input type="checkbox"/>
	No, I'm retired.	<input type="checkbox"/>
	No, I'm a full-time student.	<input type="checkbox"/>
	No, other: _____	<input type="checkbox"/>
9h	What is the combined [country-specific] monthly/annual income of your household after tax?	
	[Country-specific: top 25%]	<input type="checkbox"/>
	[Country-specific: top 50%]	<input type="checkbox"/>
	[Country-specific: bottom 50%]	<input type="checkbox"/>
	[Country-specific: bottom 25%]	<input type="checkbox"/>

Thank you very much for your participation!

