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CLOSING ACCESS TO JUSTICE GAPS GLOBALLY

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ABSTRACT

Over halfway through the implementation of the Sustainable Development Goals, SDG16's promise of access to justice for all remains a distant pipe-dream. Progress has been limited as the COVID-19 pandemic, new armed conflicts, and rising authoritarianism have in many jurisdictions exacerbated justice problems and hobbled institutional responses. Reversing these negative trends and closing the justice gap will require new ways of conceptualizing and delivering justice services, taking a people-centered, problem-solving approach that draws on data about people's justice needs and marshals multi-disciplinary expertise, cross-sectoral collaboration, and innovative policy tools to solve them. Drawing on the analysis of an unprecedented global legal needs survey covering over 100 countries, this chapter describes this challenge and highlights the critical role that institutions of higher education can play in stimulating and supporting the much-needed transformation of our justice systems. It profiles exemplary initiatives at colleges and universities bringing their capabilities

to bear on the justice challenge and draws lessons learned for institutions looking to follow suit. In doing so, institutions of higher education can not only help close the justice gap but also build trust in justice institutions and contribute to a rejuvenation of the human rights movement.

Keywords: Access to justice; people-centered justice; legal needs; data; innovation; multi-disciplinary

INTRODUCTION

Sustainable Development Goal 16 (SDG16) promises access to justice for all, underscoring the importance of effective, accessible justice systems for sustainable development. Unfortunately, half-way through the 15-year SDG process, realizing this goal remains illusory. Research suggests that as many as 5.1 billion people have unmet justice needs.¹ This global justice gap includes 1.1 billion people who lack legal identity, 2.1 billion who work in the informal economy, 2.3 billion who lack proof of land tenure or housing rights, and 1.4 billion who lack access to justice to solve their everyday civil justice problems.² Many of these deprivations are overlapping and cascading in people's lives, disproportionately affecting poor and marginalized populations and significantly confounding efforts to "leave no one behind."³

Closing this massive justice gap requires new ways of thinking about justice services and how societies deliver them. An emerging new people-centered approach to justice draws on contemporary data analytics to improve understanding of people's justice needs

¹ "Measuring the Justice Gap: A People-Centered Assessment of Unmet Justice Needs Around the World," The World Justice Project, June 2019, <https://worldjusticeproject.org/our-work/research-and-data/access-justice/measuring-justice-gap>.

² The World Justice Project, "Measuring the Justice Gap."

³ "Leaving No One Behind: Equality and Non-discrimination at the Heart of Sustainable Development," United Nations, 2017, https://unsceb.org/sites/default/files/imported_files/CEB%20equality%20framework-A4-web-rev3.pdf.

and transform justice institutions to meet those needs. A robust justice data ecosystem coupled with multi-stakeholder collaboration and innovation can help meaningfully improve access to justice. As multi-disciplinary centers of innovation and excellence, universities have a particularly significant role to play in bringing these methodologies to bear.

This chapter will highlight ways in which colleges and universities can help with this justice system transformation, profile exemplary efforts to harness the capacities of higher education in this effort, and identify lessons learned. Universities can make important contributions to developing an effective justice data ecosystem and promoting cross-sectoral collaboration and innovation to meet people's justice needs. Such leadership in higher education promises to help close the justice gap while developing new tools and approaches to advancing human rights and seeding a much-needed rejuvenation of the human rights movement.

GRASPING THE JUSTICE GAP: DATA, INNOVATION, AND COLLABORATION

Making progress toward SDG16's goal of "access to justice for all" requires a radical rethinking of justice sector policies and services, taking as a point of departure the needs and experiences of people whom justice systems are intended to serve. Data is critical to this people-centered approach, to understand people's needs and experiences of the justice system. The data tell a sobering story: our justice systems and current approaches to justice sector policy making and development are failing. Armed with these data insights, policy makers must employ outside-the-box thinking to identify innovative new ways of meeting people's justice needs, including the use of non-legal tools and services, preventive approaches, and collaboration across sectors. Unfortunately, justice systems seriously lag other sectors in their capacity to gather and analyze data across relevant institutions, and they are often resistant to innovation and insulated from other sectors that are critical to finding sustainable solutions to justice problems. Breaking down these barriers to a data-driven, evidence-based, innovative, and collaborative approach to delivering justice is essential to closing the global justice gap.

Taking a People-Centered Approach

In most jurisdictions, justice sector policy making is done by and for justice institutions and actors, i.e., courts, law enforcement agencies, bar associations, and law schools, together with the judges, prosecutors, police, lawyers, mediators, and legal educators who populate them. The same goes for development assistance intended to improve the performance of these institutions. According to a 2020 US Government Accountability Office report, the vast majority of US rule of law assistance targets justice institutions with training and technical know-how for justice system operators, while just 5% aims to strengthen fairness and access to justice for those who need justice services.⁴

While policy making and development assistance focus on strengthening justice institutions, recent studies of the global justice gap reveal that most people do not turn to these institutions to solve their justice problems. Household surveys conducted by the World Justice Project (WJP) in over 100 countries revealed that roughly half of those surveyed had a legal problem in the preceding two years, yet fewer than one third sought assistance of any kind, and just 17% turned to lawyers, courts, or other institutions for help.⁵ The study found that barriers to accessing justice vary, but the most prevalent obstacle is that people do not understand their problems as legal or know that the justice system might provide relief. Less than a third (29%) were able to obtain information, advice, or representation necessary to address their problem.

⁴ “Rule of Law Assistance: Agency Efforts are Guided by Various Strategies, and Overseas Missions Should Ensure that Programming is Fully Coordinated,” GA0-20-393, U.S. Government Accountability Office, June 2020, <https://www.gao.gov/products/gao-20-393>; see also European Commission, Directorate-General for International Partnerships, J. Bossuyt, C. Vaillant, & L. MacKellar, et al., *Evaluation of the European Union Support to Rule of Law and Anticorruption in Partner Countries (2010-2021)* (Publications Office of the European Union, 2022), 12, <https://data.europa.eu/doi/10.2841/664918>.

⁵ “Global Insights on Access to Justice 2019: Findings from the World Justice Project General Population Poll in 101 Countries,” The World Justice Project, July 2019, <https://worldjusticeproject.org/our-work/research-and-data/global-insights-access-justice-2019>.

One in six people reported that it was difficult or nearly impossible to find the money required to solve their legal problem.⁶

These findings underscore that to close the global justice gap, we need to turn justice policy making on its head. Rather than strengthening justice institutions to which people do not turn, we need to focus on understanding people's justice needs and developing policies and services to meet them. Fortunately, this paradigm shift is underway, spurred in no small part by the imperative presented by the SDGs. International organizations, including the United Nations Development Programme, the World Bank, the International Development Law Organization, and the Organization for Economic Cooperation and Development, have embraced people-centered justice.⁷ USAID's new Rule of Law Policy, announced during the 2023 Summit for Democracy, "places the individual affected by the law at the core of the policies, institutions, processes, and practices that comprise justice and related systems and services."⁸ Meanwhile a growing cohort of governments, international organizations, and civil society organizations have formed the Justice Action Coalition to drive forward a people-centered approach to justice services across the globe.⁹

⁶ The World Justice Project, "Global Insights on Access to Justice 2019."

⁷ Each of these organizations is a member of the Justice Action Coalition, "a multi-stakeholder alliance of countries and organizations that is working to achieve measurable progress on justice for people and communities." See <https://www.sdg16.plus/justice-action-coalition/>. See also "OECD Framework and Good Practice Principles for People-Centred Justice," GOV/PGC(2021)26 (OECD 2021), <https://www.oecd.org/governance/global-roundtables-access-to-justice/good-practice-principles-for-people-centred-justice.pdf>; "Diverse Pathways to People-Centred Justice: Report of the Working Group on Customary and Informal Justice and SDG16.3," IDLO, Working Group on Customary and Informal Justice and SDG16+, 2023, https://www.idlo.int/sites/default/files/2023/other/documents/diverse_pathways_to_people-centred_justice_sept_2023.pdf.

⁸ "USAID Announced the Rule of Law Policy, the First-Ever U.S. Government Policy Dedicated to Rule of Law Assistance," Press Release, USAID, March 28, 2023, <https://www.usaid.gov/news-information/press-releases/mar-28-2023-usaid-announces-rule-law-policy-first-ever-us-government-policy-dedicated-rule-law-assistance>.

⁹ As of November 2023, the Coalition comprised 20 governments and 17 partner organizations. Justice Action Coalition website, <https://www.justice.sdg16.plus/justice-action-coalition>.

Data Gaps and the Need for a Strengthened Justice Data Ecosystem

Policy makers seeking to implement a people-centered approach to justice emphasize the importance of data to understand people's justice needs, map their efforts to solve them, identify the barriers to justice they face, and develop and evaluate effective policy responses.¹⁰ Unfortunately, justice systems are notoriously laggard in gathering, analyzing, and using data. Compared to health or education systems, for example, we know relatively little about the quality of justice institutions' services or their impact on their clientele. Moreover, most of the justice data available to policy makers is administrative data generated by justice institutions, and it therefore fails to capture the experience of the vast majority of people who do not turn to institutions with their justice problems.¹¹ Data that does exist is often siloed in different justice institutions and collected in ways that are not consistent, comparable, or susceptible to disaggregation by key demographic or geographic dimensions. Finally, many justice institutions lack staff with expertise in data collection and analysis to support the kind of evidence-based approach to policy making that a people-centered approach to justice requires. In sum, justice systems globally suffer from an inadequate supply of and demand for justice data.¹²

¹⁰ "Rule of Law Policy: A Renewed Commitment to Justice, Rights, and Security for All," 5, USAID, April 2023, <https://www.usaid.gov/sites/default/files/2023-04/USAID%20ROL%20Policy%20508%20230406.pdf> ("User-friendly and problem-solving justice, rights, and security interventions are driven by data – about users, societies, needs, problems, processes, experiences, and outcomes. In promoting the rule of law, as in other development assistance efforts, lack of data and other forms of evidence invites failure.")

¹¹ "Grasping the Justice Gap: Opportunities and Challenges for People-Centered Justice Data," 4, The World Justice Project, Pathfinders for Peaceful, Just, and Inclusive Societies, OECD, 2021, <https://worldjusticeproject.org/our-work/publications/working-papers/grasping-justice-gap>.

¹² "Disparities, Vulnerability, and Harnessing Data for People-centered Justice," 47–9, The World Justice Project, December 2023, <https://worldjusticeproject.org/our-work/research-and-data/wjp-justice-data-graphical-report-ii>.

Jurisdictions that are serious about pursuing people-centered justice and closing the justice gap will require a significant investment in data and evidence-based policy making. This cannot be left to any one institution. Rather, to build a robust and effective justice data ecosystem will require coordinated action by diverse actors, including courts, ministries of justice, planning and budget agencies, national statistical offices, bar associations, legal aid associations, social services agencies, and civil society organizations. A network of these entities is required to coordinate the consistent collection of justice data across sectors and institutions and to support policy makers in analyzing and using this data to develop, track, and evaluate innovative justice services that meet people's needs.

Required Innovation in Justice Services

Recent research drawing on legal needs surveys makes clear that traditional justice institutions and actors are failing to meet people's justice needs. Moreover, the size and nature of the justice gap are such that it cannot be closed simply by increasing the number of courts, judges, and lawyers or otherwise expanding existing justice services. In a 2016 study, the ABA Commission on the Future of Legal Services concluded that decades of efforts to expand free legal aid and promote pro bono legal services have done little to close the justice gap in the United States.¹³ As Professor Rebecca Sandefur has convincingly argued, such efforts to close the justice gap with more legal services are doomed to fall short, because they misconceive the problem as inadequate access to legal services, rather than inadequate access to justice.¹⁴ When we understand the justice gap as the inability of many people to obtain just outcomes, then we can conceive of many potential solutions, only some of which require the involvement of traditional legal services and justice institutions.

¹³ "A Report on the Future of Legal Services," 5, ABA Commission on the Future of Legal Services (ABA) 2016, <https://www.americanbar.org/content/dam/aba/administrative/center-for-innovation/2016-fls-final-report.pdf>.

¹⁴ Rebecca Sandefur, "Access to What?" *Daedalus* (Winter 2019): 49–55, <https://www.amacad.org/publication/access-what>.

Reconceiving the justice gap in these terms underscores the importance of innovation in justice services to achieve access to justice for all. Drawing on design thinking, legal innovators have made important strides in recent years to rethink justice services to better meet people's justice needs.¹⁵ Such innovation can take many forms and involve diverse actors. Some types of justice problems may lend themselves to effective preventive interventions to head off problems before they emerge or become acute. Systemic reforms that clarify rights, create expedited procedures, or shift burdens of proof may help eliminate a whole class of disputes or facilitate their swift resolution.¹⁶ A Washington, DC Access to Justice Commission study of probate law and practice is illustrative of such innovation. The Commission recommended simplifying the process and expanding the use of non-judicial administrative procedures, particularly in small estate cases valued at less than \$80,000, the swift and efficient resolution of which can have significant impacts on a family's housing tenure, wealth, and well-being. The vast majority (97%) of small estate cases in Washington, DC, involve self-represented individuals, so a simplified administrative procedure can go a long way toward achieving just outcomes.¹⁷

In other cases, just outcomes may be reached through alternative dispute resolution, informal justice mechanisms, or paralegal or other non-lawyer assistance. For example, in a 2021 study, the World Justice Project documented the effectiveness of alternative justice centers serving indigenous communities in Hidalgo state in

¹⁵ See, e.g., Justice Innovation, Stanford Legal Design Lab, <https://justice-innovation.law.stanford.edu>.

¹⁶ Rebecca Sandefur, "Access to What?" *Daedalus* (Winter 2019): 53, <https://www.amacad.org/publication/access-what>.

¹⁷ "Strengthening Probate Administration in the District of Columbia," District of Columbia Access to Justice Commission, DC Estate Administration Working Group, February 2022, <https://dcaccesstojustice.org/wp-content/uploads/2022/02/Strengthening-Probate-Administration-in-DC-Feb-2022.pdf>. At the time of the study, the District of Columbia defined small estates as those valued at less than \$40,000; the Commission recommended expanding application of expedited administrative procedures to all estates valued at less than \$80,000.

Mexico. Indigenous mediators, trained by the state justice institutions and trusted by the local population, were able to facilitate processes by which parties to disputes identify solutions they find acceptable and just. These centers have proven particularly effective in reaching women and girls who struggle to obtain justice through formal justice institutions, and more than 85% of cases were successfully concluded with an agreed resolution between the parties, with high levels of satisfaction reported by participants.¹⁸ Justice service providers in many jurisdictions have innovated effectively by co-locating legal services with other social services, enabling a holistic, problem-solving approach that helps not only resolve the immediate legal problem but also address root causes or negative consequences that relate to it.¹⁹

Given the significant proportion of those with justice needs who do not understand their problems as legal, information and education about legal rights, responsibilities, and resolution options can be transformative innovations in justice service delivery. Recent years have seen impactful efforts across a wide range of communication channels and initiatives to get critical legal information and advice in the hands of those with justice needs. Among these innovations are the creative use of non-lawyer assistance (e.g., paralegals, allied legal professionals, non-lawyer court navigators, and even generative AI) and unbundled legal services, enabling consumers to engage lawyers for particular aspects of case representation for which they need and can afford assistance.²⁰ In many

¹⁸ “Mediación indígena,” World Justice Project, November 2021, <https://worldjusticeproject.mx/wp-content/uploads/2021/11/Reporte-Mediacion-Indigena.pdf>.

¹⁹ See *infra* n. 27 and accompanying text.

²⁰ Namati’s global network of grassroots legal empowerment paralegals is a particularly noteworthy example of this type of innovation. See generally, <https://namati.org/>; Michael Houlberg & Nathalie Anne Knowlton, *Allied Legal Professionals: A National Framework for Program Growth* (Institute for the Advancement of the American Legal System (IAALS), June 2023), https://iaals.du.edu/sites/default/files/documents/publications/alp_national_framework.pdf; Mary E. McClymont, *Nonlawyer Navigators in State Courts: An Emerging Consensus* (The Justice Lab, Georgetown University, June 2019), https://www.ncsc.org/_data/assets/pdf_file/

jurisdictions, such innovations that involve changing *who* provides legal information and advice require changes to laws and regulations that govern the licensing and oversight of the legal profession, and such regulatory reform has proven contentious where the legal profession guards its prerogatives jealously.²¹

Technology provides a growing array of tools to facilitate all of the foregoing types of innovation. Online tools and apps can help people understand their rights and options, access forms, and generate pleadings. As an example, JustFix.org provides such resources and services to those with housing disputes in New York City, serving over 300,000 users in 2021, according to its annual impact report.²² Formal justice institutions have also embraced technological innovation. Particularly since the COVID-19 pandemic, court-sanctioned online tools are proliferating, in some cases providing full-fledged online dispute resolution platforms that can guide parties to minor disputes through a complete adjudication process that efficiently generates just outcomes, often without needing a lawyer or formal institutional intervention.²³

While the justice gap remains vast, recent years have seen a dramatic growth in innovation in the delivery of justice services. With the right enabling environment, including financial resources, regulatory reform, and cross-sectoral collaboration, such innovation holds great promise for making inroads on the justice gap in the coming period.

0024/53691/Justice-Lab-Navigator-Report-6.11.19.pdf; Michael Houlberg & Janet Drobinske, *Unbundled Legal Services in the New Normal* (IAALS, September 2022), https://iaals.du.edu/sites/default/files/documents/publications/unbundled_legal_services_new_normal.pdf; Ashwin Telang “The Promise and Peril of AI Legal Services to Equalize Justice,” *JOLT Digest* (March 14, 2023), <https://jolt.law.harvard.edu/digest/the-promise-and-peril-of-ai-legal-services-to-equalize-justice>.

²¹ Matt Reynolds, “When it comes to deregulation of the legal industry, divisions run deep,” *The ABA Journal* (November 16, 2023), <https://www.abajournal.com/web/article/when-it-comes-to-deregulation-of-the-legal-industry-divisions-run-deep>.

²² See generally, JustFix.org. JustFix, 2021 Annual Report, <https://drive.google.com/file/d/1RdT2l8bZpd1xmghceO6k2a0HWywfqaIn/view>.

²³ See, e.g., The Civil Resolution Tribunal of British Columbia, with official jurisdiction over minor civil disputes. <https://civilresolutionbc.ca/>.

Essential Cross-Sectoral Collaboration to Meet People's Justice Needs

As the foregoing discussion of data initiatives and innovation illustrates and numerous studies confirm, closing the justice gap cannot be left to justice institutions alone. Collaboration among a wide range of justice sector actors and between them and other governmental and nongovernmental actors is essential to gathering and analyzing the data required to understand people's justice needs as well as to devising and implementing innovative, effective policy responses.

Data from legal needs surveys highlight that people do not experience one-dimensional, single-issue justice problems, and solving them often requires navigating a complex system of laws, regulations, and judicial and administrative institutions as well as addressing extant social conditions contributing to or resulting from people's justice problems. Analyzing data from legal needs surveys in over 100 countries, the WJP found that problems relating to housing, employment, family, money, debt, and public services co-occur frequently, with one problem often triggering another. The study found that those with housing problems are 45% more likely to have money and debt problems and at least 29% more likely to have issues with public services, employment, and family disputes.²⁴ Analysis of the data points to certain root causes or demographic factors that can contribute to or exacerbate justice problems. For example, women and people living in poverty are more likely to lack proof of legal identity or legal documentation confirming land and housing tenure, which in turn increases their vulnerability to rights violations and other justice problems.²⁵ Numerous studies of criminal justice cases point to the co-occurrence and cascading effect of both civil and

²⁴ "Dissecting the Justice Gap in 104 Countries: Data Graphical Report I," 8, 17, The World Justice Project, July 2023, <https://worldjusticeproject.org/our-work/research-and-data/wjp-justice-data-graphical-report-i>.

²⁵ "Disparities, Vulnerability, and Harnessing Data for People-centered Justice," 5, The World Justice Project, December 2023, <https://worldjusticeproject.org/our-work/research-and-data/wjp-justice-data-graphical-report-ii>.

criminal justice problems, as well as the frequent relevance of other social and health factors, such as domestic violence and substance abuse.²⁶

Growing awareness of the multi-faceted nature of people's justice problems and needs has over the past three decades led to a significant amount of innovative, cross-sectoral collaboration in the delivery of justice services. Models and best practices include family justice centers to deliver comprehensive services to victims of domestic violence under one roof; problem-solving courts and other holistic criminal justice services that integrate relevant civil justice and social services to address root causes as well as collateral consequences of involvement with the criminal justice system; and the "multi-door courthouse" model that incorporates alternative dispute resolution as well as social services in court services.²⁷

Building and sustaining such collaboration requires buy-in, coordination, and support from diverse institutions and stakeholders. Drawing from its study of effective justice models across the globe, the Hague Institute for Innovation of Law underscores the importance of leadership and recommends that jurisdictions establish a task force with a mission to drive the type of coordination required

²⁶ See, e.g., Kathyne M. Young and Katie R. Billings, "An Intersectional Examination of U.S. Civil Justice Problems," 2023 ULR 487, 512 (2023) (survey respondents who had been arrested were 2.18 times more likely to experience a problem with debt in the past year; survivors of sexual assault or domestic violence were 1.43 times more likely to have debt problems in the past year), <https://doi.org/10.26054/0d-zv1c-rh2z>.

²⁷ See, e.g., *A Roadmap to Problem-Solving Courts* (American Bar Association Coalition for Justice (ABA) 2008); Mariana Hernandez-Crespo Gonstead, "A Dialogue between Professors Frank Sander and Mariana Hernandez, 'Exploring the Evolution of the Multi-Door Courthouse (Part One),' " (2008), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1265221; Thomas Duncan, Ronald Stewart, Kimberly Joseph, Deborah Kuhls, Tracey Dechert, Sharven Taghavi, Stephanie Bonne and Kuzuhide Matsushima, "American Association for the Surgery of Trauma Prevention Committee Review: Family Justice Centers—A Not-So-Novel, But Unknown Gem," *Trauma Surgery Acute Care Open* 6 no. 1 (June 7, 2021): e000725, <https://doi.org/10.1136/tsaco-2021-000725>.

to implement a people-centered approach to justice services.²⁸ In the United States, such coordination has been advanced by state-level Access to Justice Commissions and, at the federal level, by the Legal Aid Interagency Roundtable, which is co-chaired by the Attorney General and the Counsel to the President and integrates the access-to-justice work of 28 federal agencies.²⁹

Notwithstanding these exemplary efforts to promote multi-sectoral collaboration, the justice sector remains stubbornly siloed and resistant to the holistic approaches required to meet people's justice needs. Too often, a combination of professional specialization, protectionism in the legal guild, and institutional values, such as judicial and prosecutorial independence and legal finality, keep justice sector actors from working together and with other sectors to take data-driven, evidence-based and innovative, problem-solving approaches to meeting people's justice needs. Promising exceptions are emerging across the globe, but a justice sector paradigm shift will be required to close the justice gap. As elaborated in the following section, institutions of higher education are well-positioned to stimulate and sustain this critical shift.

THE ROLE OF HIGHER EDUCATION

Achieving the SDG's promise of "access to justice for all" remains a distant pipe-dream, with an estimated 5.1 billion with unmet justice needs. Progress has been limited as the COVID-19 pandemic, new armed conflicts, and rising authoritarianism have in many jurisdictions exacerbated justice problems and hobbled institutional

²⁸ "Delivering Justice Rigorously: A Guide to People-Centered Justice Programming," 26–33, HiiL, <https://dashboard.hiil.org/publications/trend-report-2021-delivering-justice/#:~:text=HiiL's%20mission%20is%20to%20ensure,particular%20type%20of%20justice%20problem>.

²⁹ See generally, "Access to Justice Commissions," American Bar Association, https://www.americanbar.org/groups/legal_aid_indigent_defense/resource_center_for_access_to_justice/atj-commissions/?login; "Legal Aid Inter-agency Roundtable," Office of Access to Justice, U.S. Department of Justice, <https://www.justice.gov/atj/legal-aid-interagency-roundtable>.

responses. As explained in the foregoing section, reversing these negative trends requires new ways of conceptualizing and delivering justice services, taking a people-centered, problem-solving approach that draws on data about people's justice needs and marshals diverse expertise and policy tools to solve them. This section describes the important role that colleges and universities can play in seeding and supporting this new way of delivering justice, identifying exemplary efforts, and outlining lessons and recommendations that emerge from those experiences.

University Strengths in Data Science, Innovation, and Multidisciplinary Collaboration

Three key elements of the paradigm shift required in justice services are increased use of data and evidence about people's justice problems and what works to solve them; innovation in the delivery of justice services; and cross-sectoral collaboration in support of these objectives. Each of these elements plays to a particular strength in higher education and points to the leadership role that colleges and universities should be playing in efforts to close the justice gap.

First, with respect to tapping data insights relevant to the justice gap, higher education has unique capabilities. Data science has over the past decade been one of the fastest growing fields of study, and many institutions have invested significantly in statistics and related STEM departments and centers to serve as hubs of this activity on campus, in some cases focusing these efforts specifically on justice issues.³⁰ Institutions of higher education are well-positioned to mobilize state-of-the-art faculty expertise and student researcher human resources to gather and analyze data on justice problems and solutions.

Examples of institutions that have undertaken innovative and impactful justice data initiatives abound and can provide

³⁰ See Clint Raine, "The Rise of Data Science and Data Analytics Programs," *Encoura Blog* (September 12, 2023) (finding 900% growth in data science degrees and certificates awarded between 2012 and 2021), <https://encoura.org/the-rise-of-data-science-and-data-analytics-programs/>.

inspiration for other education leaders. In some cases, universities have contributed to legal needs surveys, which, as noted, are particularly valuable in taking a people-centered, as opposed to a justice institution-centric, approach to understanding justice problems and identifying solutions. Such surveys are resource-intensive, and leveraging university expertise for survey design and data analysis can help make such data collection possible. The WJP Atlas of Legal Needs Surveys, which maps 236 such studies undertaken globally since 1991, includes at least a dozen in which institutions of higher education played a role, often in collaboration with local legal aid providers or access to justice commissions.³¹

As an alternative or complement to legal needs surveys, institutions of higher education can gather and analyze legal, institutional, or administrative data on access to justice issues and contribute resulting insights to relevant policy-making processes. This can take the form of studies mapping regulatory regimes relevant to access to justice, as has been done by the National Center for Access to Justice affiliated with Fordham Law School. Drawing on pro bono legal research as well as surveys of key justice sector stakeholders, its “Justice Index” evaluates, scores, and ranks each US state on the extent to which it has adopted best practices in the laws and rules that govern four dimensions of access to justice: attorney access, self-help access, language access, and disability access.³² Mapped against legal needs surveys, such data could helpfully reveal correlations between different access to justice policies and people’s justice outcomes to make the case for the most effective interventions.

Other institutions have undertaken analysis of administrative or case data to identify disparities in justice outcomes and to evaluate different policies for enhancing access to justice. An example is the

³¹ “Atlas of Legal Needs Surveys,” World Justice Project, <https://world-justiceproject.org/our-work/research-and-data/atlas-legal-needs-surveys>. See, e.g., the legal needs survey carried out by the University of Tennessee School of Social Work under contract with the Tennessee Access to Justice Commission and the Tennessee Alliance for Legal Services, Linda M. Dougherty, “Legal Needs Assessment 2014,” <https://www.tals.org/sites/tals.org/files/2014%20Legal%20Needs%20Assessment.pdf>.

³² “Justice Index,” National Center for Access to Justice, <https://ncaj.org/state-rankings/justice-index>.

work of the Institute for the Quantitative Study of Inclusion, Diversity, and Equity (QSIDE). Led by Williams College Professor Chad Topaz and drawing on contributions from student fellows and the expertise of academic and civil society partners across the United States, QSIDE has built databases and analyzed sentencing, arraignment, and detention decisions by judicial actors. Their findings highlight disparities in judicial decision-making and make the case for greater justice data transparency and judicial accountability.³³ In a similar vein, scholars at the University of Michigan-affiliated think tank Poverty Solutions have launched the Prosecutor Transparency Project, a collaboration with the local prosecutor's office and the American Civil Liberties Union of Michigan to gather and analyze administrative data for potential racial disparities in prosecutors' charging decisions and to generate a public-facing data dashboard.³⁴ In another compelling example of the valuable access-to-justice insights that such research can provide, scholars at the University of Pennsylvania analyzed administrative data from over a half-million criminal cases to evaluate the impact of holistic legal services – providing clients with interdisciplinary services, such as a social worker and housing advocate, as well as criminal legal defense. Random case assignment between two legal aid organizations – one providing holistic services, the other traditional legal services – created a natural experiment that enabled the researchers to rigorously measure the impact of the holistic approach, finding that holistic services reduced the likelihood of a prison sentence by

³³ See, e.g., Oded Oren, Chad M. Topaz, and Courtney M. Oliva, “Cost of Discretion: Judicial Decision-Making, Pretrial Detention, and Public Safety in New York City,” *Scrutinize*, Institute for the Quantitative Study of Inclusion, Diversity, and Equity, Zimroth Center on the Administration of Criminal Law (2023), <https://www.pretrial.org/files/assets/cost-of-discretion-report.pdf>; Maria-Veronica Ciocanel, Chad M. Topaz, Rebecca Santorella, Shilad Sen, Christian Michael Smith, & Adam Hufstetler, “JUSTFAIR: Judicial System Transparency through Federal Archive Inferred Records” (October 26, 2020), <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0241381>.

³⁴ See “Washtenaw County Prosecutor's Office: Racial Equity Study and Criminal Justice Dashboard,” Poverty Solutions, <https://poverty.umich.edu/faculty-project/washtenaw-county-prosecutors-office-racial-equity-study-and-criminal-justice-dashboard/>.

16% and the length of sentences by 24%.³⁵ While these examples all draw from studies of criminal justice data, scholars can provide data insights on a wide range of civil justice issues as well. Poverty Solutions-affiliated scholars have, for example, undertaken systematic analysis of eviction case data in Michigan, identifying disparities in eviction rates across the state, correlations with various demographic characteristics, and low rates of legal representation among tenants facing eviction, among issues warranting policy makers' attention.³⁶

As data science progresses to encompass cutting-edge tools, including the use of artificial intelligence, big data, and web-scraping approaches, the expertise and insights of scholars will be all the more valuable to policy makers grappling with the justice gap. Moreover, colleges and universities, as institutions that are distinct from government and enjoy relative independence from shifting political and policy priorities, can play a critical role in breaking down policy siloes, promoting collaborations, and building and sustaining the inter-institutional data ecosystem required to address the justice gap. They can convene and coordinate relevant stakeholders to gather data in consistent and comparable ways. They can provide critical technical expertise and capacity building to analyze and use justice data where this is lacking among justice sector institutions. Finally, they can also sustain these efforts over time, to generate critical longitudinal findings that can help identify what works in addressing people's justice needs.

As suggested by the foregoing discussion of higher education's role in harnessing data to increase access to justice, academic institutions are also uniquely well-positioned to contribute the multi-disciplinary collaboration and innovation that closing the justice

³⁵ James M. Anderson, Maya Buenaventura and Paul Heaton, "The Effects of Holistic Defense on Criminal Justice Outcomes," *Harvard Law Review* 819 (2019), https://harvardlawreview.org/wp-content/uploads/2019/01/819-893_Online.pdf.

³⁶ See Robert Goodspeed, Kyle Slugg, Margaret Dewar and Elizabeth Benton, "Michigan Evictions: Trends, Data Sources, and Neighborhood Determinants" (May 2020), <https://sites.fordschool.umich.edu/poverty2021/files/2021/03/Michigan-Eviction-Project-working-paper-1.pdf>.

gap requires. Many of the examples of university data collection and analysis initiatives described here draw on diverse collaborations across research institutions and with government and civil society justice actors, and they are generating and validating new, outside-the-box approaches to delivering justice. Paul Heaton, Academic Director of the Quattrone Center for the Fair Administration of Justice at the University of Pennsylvania Law School, has cited his institution's "low barriers to interdisciplinary cooperation" as critical to his center's impact on justice issues. "For this sort of research to have maximum impact, you need to get a few things right," he explains,

[y]ou need to marry the technical skill with the institutional knowledge and also need the ability to build partnerships and have access to practitioners, so when you generate new findings, you can take them out and use them to actually make people's lives better.³⁷

Universities are research communities rich in diverse expertise to bring to bear on solving the complex systemic problems at the heart of the justice gap. As noted, they have invaluable data science capabilities for collecting, analyzing, and using data to identify justice needs and devise and evaluate effective solutions. Multidisciplinary initiatives can also expose justice policy makers to relevant learning about systemic change in other fields. Professor Heaton argues, for example, that the justice sector can learn from the transportation industry, bringing to the study of miscarriages of justice the same rigor and forward-looking problem solving that transportation safety professionals apply to airline and rail accidents.³⁸ Others have highlighted the learning that the justice sector could gain from the public health field, particularly in

³⁷ Gyneth K. Shaw, "Game-changing Approach to a Better U.S. Criminal Justice System," *PennToday* (August 19, 2019), <https://penntoday.upenn.edu/news/quattrone-center-better-us-criminal-justice-system>.

³⁸ Paul Heaton, "How Transportation Safety Review Can Play a Role In Regulating Law Enforcement," *The Regulatory Review* (February 16, 2017), <https://www.theregreview.org/2017/02/16/heaton-transportation-safety-regulating-law-enforcement/>.

the use of data and technology and the provision of legal information and non-lawyer services.³⁹

Cross-sectoral collaboration in the academy can give rise to new tools, approaches, and partnerships for delivering justice, such as technological innovation, effective communications strategies, or collaboration with cultural, social, education, or health institutions that can help bring justice services to the people who need them. The Stanford Legal Design Lab – a collaboration of Stanford Law School and its “d.school” – is an illustrative example of the creative justice sector problem-solving and systems change that can come from tapping university expertise in law, social science, and technology. Characterized as “an R&D Lab for a better people-centered justice system,” the lab has over the past ten years generated dozens of resources and tools for policy makers, court administrators, and other justice sector actors to help close the justice gap.⁴⁰ The Center of Law and Technology at Duke University Law School similarly harnesses interdisciplinary applied research to improve justice services, including through courses in design thinking, a “Law Tech Lab,” and “Legal Design Derby” competition.⁴¹ Another inspiring example comes from Georgetown University Law Center’s Institute for Technology Law and Policy, which has recently launched an ambitious new Judicial Innovation Fellowship for technology industry fellows to work with partner courts to leverage technology, improve justice services, and generate replicable models for use in other jurisdictions.⁴² Technology is not the only source of innovation, as demonstrated by a project of Northeastern Law School’s East Boston Spatial Justice Lab. Funded by the National Endowment for the Arts, it draws on expertise

³⁹ See “Interview with Sam Muller, Founder and CEO of HiiL,” *Josef*, September 16, 2020, <https://joseflegal.com/blog/interview-with-dr-sam-muller/>.

⁴⁰ See generally, <https://www.legaltechdesign.com/>, Stanford Legal Design Lab.

⁴¹ See generally, Duke Law School, Center on Law and Technology, <https://law.duke.edu/dclt/initiatives>.

⁴² Jason Tashea, “The Judicial Innovation Fellowship: A Roadmap to Strengthen State, Local, Territorial, and Tribal Courts” (February 2023), <https://www.law.georgetown.edu/tech-institute/wp-content/uploads/sites/42/2023/02/Judicial-Innovation-Fellowship-Roadmap-1.pdf>.

in art, design, law, community organizing, and program evaluation to explore how arts events can build social cohesion and promote more just outcomes.⁴³ Such initiatives demonstrate the exciting opportunities for change-making innovation through university-led interdisciplinary initiatives to address the justice gap.

Lessons Learned and Recommendations for Higher Education Initiatives to Close the Justice Gap

As highlighted in the foregoing discussion, there is a great need for a transformation of justice services, bringing new data-driven, evidence-based, innovative, and cross-sectoral approaches to meeting people's justice needs. Institutions of higher education are well-equipped to lead this change, and many are already doing so. Review of these existing efforts to increase access to justice yields several lessons learned and recommendations for colleges and universities to consider as they develop initiatives in this area.

Incorporate Collaboration with Affected Communities and Policymakers from the Start. To maximize the policy relevance and eventual uptake of research findings by policymakers, it is important to engage with key policy actors from the design phase of university research initiatives. This ensures that research takes advantage of existing data, addresses real-world policy challenges, and has buy-in from the actors whom the research aims to influence.⁴⁴ The most effective university initiatives cited in this chapter involved close consultation between university researchers, affected communities, and policymakers to co-create research and develop and implement collaborative solutions.

Intentionally Build in Learning Opportunities for Students. The transformation of justice systems will require not just research insights from established scholars but also the development of a new generation of justice system actors and policy makers trained

⁴³ See, "National Endowment for the Arts Awards \$150,000 grant to Northeastern Law's NuLawLab," <https://law.northeastern.edu/nulawlab-awarded-nea-grant/>.

⁴⁴ Author Interview with Chad Topaz, Co-founder, QSIDE Institute, April 13, 2023.

to bring multi-disciplinary and innovative approaches to justice system strengthening. Building this cohort is an important contribution that higher education can make to closing the justice gap. University initiatives to address justice gap issues should incorporate educational opportunities for students and young scholars. Models abound among the initiatives profiled in this chapter. They include curricular innovations, such as the justice design labs at Stanford and Duke, or the Big Data for Justice Summer Institute at UCLA⁴⁵; student fellowships and research opportunities, such as are enjoyed by the QSIDE Institute fellows⁴⁶; and research conferences and competitions to which students can contribute, such as the Duke Legal Design Derby and the QSIDE Institute's annual Data for Justice conference.

Build Interdisciplinary and Quantitative Skills Among Law Students. A particular focus for educational innovation should be the development of social science skills, including the capacity for quantitative analysis, among law students, many of whom will eventually assume leadership roles in justice institutions. While some schools are incorporating such learning opportunities in law school curricula, much more can be done to keep pace with the rapidly developing data science field. A recent literature review on data science education mapped significant scholarship about innovation in teaching data science to diverse professionals, including in the fields of health, education, business, and environmental science.⁴⁷ Notably missing were studies of innovation in teaching data science to legal professionals. This is a gap in legal education that urgently needs to be filled. Promising models include opportunities for joint degrees, certificate programs, or coursework in complementary disciplines for law students, as well as specialized interdisciplinary centers within law schools, such as the Center for Law

⁴⁵ Big Data for Justice Summer Institute, UCLA, <https://bunchecenter.ucla.edu/programs-events/thurgood-marshall-lecture-2/>.

⁴⁶ QSIDE Institute, Fellowship Program, <https://qsideinstitute.org/get-involved/fellowship-program/>.

⁴⁷ K. Mike, B. Kimelfeld, and O. Hazzan, "The Birth of a New Discipline: Data Science Education," *Harvard Data Science Review* 5, no. 4 (2023). <https://doi.org/10.1162/99608f92.280afe66>.

and Technology at Duke Law School, or the Quattrone Center for the Fair Administration of Justice at the University of Pennsylvania Law School. Such approaches are essential to equipping law students to be the future transformational leaders of justice systems we need to close the justice gap.

Connect University Justice Initiatives to Global Agendas, including the International Human Rights Movement and the SDG Process. While a number of university initiatives such as those profiled in this chapter are bringing higher education resources to bear on the justice gap challenge, few of these programs are explicitly framed in terms of or connected to relevant global policy agendas, such as the international human rights movement or the SDG process.⁴⁸ This is a missed opportunity to strengthen the research and educational experience by bringing to bear comparative approaches and best practices, global datasets, and international standards. Connecting individual institutional efforts to global processes such as the SDGs creates opportunities to pool research capacity and build a shared research agenda across institutions and jurisdictions to reach common goals. The American Bar Foundation's Justice Data Observatory initiative is an illustrative example of the benefits of such an approach, knitting together diverse partners across institutions to develop a shared research agenda with specific reference to implications for the SDG effort.⁴⁹ Framing university access to justice initiatives in terms of global policy agendas also provides

⁴⁸ A notable exception is the work under way at Carnegie Mellon University, the first and now one of a number of institutions of higher education that has undertaken a "Voluntary University Review" of its contributions to the SDGs and specifically framed courses on justice issues in SDG terms. See Carnegie Mellon University, Sustainability Initiative, "2022 Voluntary University Review of the Sustainable Development Goals," <https://www.cmu.edu/leadership/the-provost/provost-priorities/sustainability-initiative/cmu-vur-2022.pdf>. Some of the legal design work also incorporates human rights reference-points, but these approaches are not mainstreamed in the human rights movement nor are human rights norms central to legal design thinking.

⁴⁹ See generally, American Bar Foundation Justice Data Observatory, "People-centered Access to Justice Research: A Global Perspective," 15, <https://www.americanbarfoundation.org/wp-content/uploads/2023/11/People-Centered-Access-to-Justice-Research-A-Global-Perspective.pdf>.

students with valuable exposure to transnational policy processes and can help prepare them to be effective global citizens. Finally, connecting to global policy processes promises a broader impact of university research, which can reverberate beyond the immediate local policy context and become a global reference point for insights and best practices on closing the justice gap.

CONCLUSION: THE OPPORTUNITY FOR THE HUMAN RIGHTS MOVEMENT

As detailed in this chapter, there is an enormous need for new approaches to solving people's justice problems. Mobilizing institutions of higher education is a key strategy for meeting this need, bringing to bear their multidisciplinary expertise, particularly with respect to data science, as well as their capacity to foster innovation and build multi-sectoral collaboration to transform the delivery of justice services. While tapping universities for this cause promises major dividends for efforts to close the justice gap and achieve SDG16's objective of "access to justice for all," it can also help provide the international human rights movement with new tools, strategies, champions, and constituencies.

As described elsewhere in this volume, recent years have seen a backlash against the mainstream international human rights movement, in particular its focus on civil and political rights and its preoccupation with legal tools and strategies perceived to advance specialized minority interests while neglecting economic rights and interests resonant with broader publics. Both the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights enshrine the right to an effective remedy for violations of human rights. In modern human rights practice, this right has most often been conceptualized and advanced as a remedy for a particular individualized violation of civil and political rights, delivered through an adjudicated legal process, often before a national or international court. Such legal processes typically focus narrowly on obtaining justice for the particular litigants to the case. Sometimes this litigation can generate systemic change to address the injustices of which the particular case is illustrative.

But rarely can it provide a solution to the broad social and economic issues that frequently contribute to or result from injustices.

Reconceived as a societal commitment to close the justice gap, however, the right to a remedy takes on a different cast and is susceptible to a broader set of strategies for its vindication. Abandoning a narrow, legalistic framework for the right to a remedy and bringing the problem-solving tools of social science, data science, and systemic policymaking to bear could be transformative for the human rights movement. Data analysis of the injustices people confront can highlight different dimensions of their problems and the barriers to solving them they face. Multi-sectoral collaboration and problem-solving that harnesses technology and other innovative tools can generate remedies for thousands – even millions – of such problems, often without setting foot in a courtroom.

The SDGs – with their broad agenda, encompassing economic and social rights, and emphasizing data-driven approaches and cross-sectoral collaboration – provide a particularly valuable framework for developing such a new approach to human rights. Doing so promises to bring experts from diverse academic and professional disciplines to join ranks with the lawyers who have dominated the human rights movement in recent decades. Claiming credit for closing even a fraction of the global justice gap affecting 5.1 billion people would go a long way to building much-needed popular support for the embattled human rights movement.