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Interim Report

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Measuring Access to Justice in a Globalising World. The Hague Model of Access to Justice

Research Project nr. 100-16-506

The Measuring Access to Justice in a Globalising World: The Hague Model of Access to Justice is a research and development project, funded by the Hague Institute for the Internationalisation of the Law, Tilburg University and Utrecht University. Its primary goal is to develop a standard methodology for measuring the costs and quality that users of justice may expect for the most common paths to justice.

The project develops in two general phases: a) theoretical, conceptual and operational development of the measurement methodology and b) validation of the measurement methodology. In 2008, the project focus shifted from the conceptual development towards an estimation of the methodological reliability and validity in a set of empirical legal research sub-projects.

1. People

In May 2008, Ms. Malini Laxminarayan joined the project team as a full time Ph.D. researcher. She is a native of the US with an undergraduate degree in Sociology from Webster University and a graduate degree in European Criminology from the Catholic University of Leuven. Ms. Laxminarayan will work on her thesis *Measuring the Costs and Quality of Access to Justice for Crime Victims*.

2. Publications

- Barendrecht, M., Kamminga, P., & Verdonschot, J. H. (2008). *Priorities for the Justice System: Responding to the Most Urgent Legal Problems of Individuals*: SSRN. (published on February 6, 2008)

The paper identifies the most prevalent and urgent legal problems of individuals. Twelve categories of legal problems are listed that frequently occur in the law and development literature and in access to justice research. Then, six approaches are used to assess the frequency and severity of the particular category: (1) information regarding the frequency of the problems from legal needs surveys conducted in eight countries; (2) data from these surveys about the typical impact of these problems on people's lives; (3) court specializations in sixteen countries; (4) estimates of the value of the interests that individuals wish to protect against threats from outsiders; (5) estimates of the typical costs of self-protection; and (6) estimates of the typical size of specific investments that a person will lose if he or she leaves the threatening situation.

- Gramatikov, M., Barendrecht, M., & Verdonschot, J. H. (2008). *Measuring the Costs and Quality of Paths to Justice: Contours of a Methodology, Reaching Further: New Approaches to the Delivery of Legal Services* (pp. 26). London: Legal Services Research Center

This paper discusses the development of a measurement framework for estimation of cost and quality of justice. The text focuses on the interrelations between supply and demand perspectives on justice and their implications for choosing units of analysis. To measure the experiences of end users with cost and quality of justice, a model is proposed in which paths to justice are the principal units of analysis and individuals are units of measurement. Paths to justice are conceptualized and operationalized in slightly narrower terms than the approach, used by the research on legal needs. Specific strategies for sampling and collecting data from end users of justice are reviewed and assessed for validity and reliability.

- Klaming, L., Gramatikov, M. (2008). *Justice as Experienced by the User: A Study of the Costs and Quality of a Path to Justice in The Netherlands*: SSRN

The paper presents the results from an empirical study of consumer related disputes in the Netherlands. The perceptions and evaluations of people who referred their legal problem to the Consumer Dispute Commission were analyzed. A web-based questionnaire was distributed to 152 participants who used the procedure and received an outcome in the past 12 months. Three distinct properties of the procedures were measured. These include the costs of the procedure, the quality of the procedure and the quality of the outcome. The primary aim of the study is to assess and predict the role of cost, quality of procedure and quality of outcome as barriers to access to justice for this particular path to justice. The results of the study demonstrate that the perceptions of the quality of the outcome are strongly influenced by the favourability of the outcome. Positive evaluations of the quality of the procedure also increase the satisfaction with the outcome but not as strongly as outcome favourability. Monetary and non-monetary costs only have a marginal impact on evaluations of the quality of the procedure and the quality of the outcome. After controlling for the effects of outcome favourability and quality of the procedure, a negative association between monetary costs and the perceived quality of the outcome is observed. The amount of time that users spent on the procedure and the related stress were not found to affect the evaluation of the quality of the outcome.

- Gramatikov, M. (2008). *Framework for Measuring the Costs of Paths to Justice*: SSRN

This article reviews the literature on barriers to justice and contemplates the identified barriers as costs of justice. The framework elaborates taxonomy of the categories of costs that users of justice incur on their paths to justice. The aim is to guide the measurement of the private costs of justice – the resources that the users must spend when they follow paths to justice. Using the criterion of substance of the costs, the framework recognizes three broader categories of costs of justice – out-of-pocket costs, opportunity costs and intangible costs. The barriers to justice, which are identified as costs, are referred to in one of the categories. Then for each category the relevant measurement and validation challenges are discussed. A general conclusion is that regardless of the focus of both policy actions and research on the out-of-pocket costs of justice, the costs from the other two categories are a significant challenge for the accessibility of the paths to justice. The use of the framework is recommended as a more balanced approach to measuring and understanding the barriers to justice.

- Verdonschot, J.H., Barendrecht, M., Klaming, L., Kamminga, P. (2008) *Measuring Access to Justice: the Quality of Outcomes (This paper is expected to be published by the end of October 2008)*

The paper discusses a set of criteria which can be used to subjectively evaluate the outcome of paths to justice. Both theoretical and empirical literature on various forms of justice is analyzed in a search for universally valid criteria. Numerous theories such as distributive justice, restorative justice, informational justice, corrective justice, transformative justice, etc. are reviewed. The theoretical constructs are analyzed and translated into criteria. At a next level, the criteria are operationalized into items of the measurement instrument. The measurement instrument aims to assess the quality of the outcomes of paths to justice from the perspective of the persons using paths to justice.

- Gramatikov, M., Laxminarayan, M. (2008) Construction of Access to Justice Index (*This paper is expected to be published by the end of October 2008*)

In order to compare the cost and quality of paths to justice, an aggregated measure has to be developed. Ideally, the three indicators (costs, quality of the procedure and quality of the outcome) can be combined into a holistic measure of the paths to justice. The paper explores the theoretical and practical aspects of the aggregation. First, it discusses the rationale of index construction and the existing experience with indexes of access to justice and rule of law. Next, the paper explores the need for weighting the observed data. Both the measurement instrument and the data could be skewed or misrepresent the measured phenomena. Theoretically sound weights could improve the validity of the instrument. The paper reviews three methods for extraction of weights –principal component analysis, multiple regression analysis and stated preferences method. The first method explores the relationships between the measurement items on the one hand and the unobserved indicator. The multiple regression analysis probes the linear relationship between a set of variables and the expressed level of satisfaction. The extracted beta coefficients are consequently interpreted as weights. With the last method – the stated preferences, the researchers use a quasi-experimental design to rank the importance of the different indicators, as directly stated. Comparing the three methods, the paper recommends a strategy for constructing an index of access to justice.

3. Partnerships/Pilot Projects

a. China

A project in partnership with scholars from the Beijing University has been submitted for approval to NWO under the WOTRO scheme. The primary goal of the project is to study paths to justice in Netherlands and China. As part of the project, two PhD students will further develop the methodology through its application in other European and Asian countries. A preliminary project proposal has been submitted on the 17th of September and awaits a short-listing decision.

b. FP7

For January 2009, a Social Science and Humanities call for proposal within the 7 Framework Programme is announced. The study group researches the most appropriate project instruments.

c. Bulgaria

Through a local partner (European Law Society), the organization of a small local empirical study has been funded. As of October 2008, the local partner collected data on about 300 users of justice. There also is official permission to collect more addresses from users from the archives of a large county court.

4. Research

a. Bolivia

From January 2008 to March 2008, both quantitative and qualitative research methods have been used to collect empirical data regarding a particular path to justice in Bolivia. As discussed in the 2007 Annual Report, the path to justice that has been chosen for studying is the procedure for issuance and renewal of standard ID documents. In total 205 qualitative interviews and 4 focus groups were carried out.

b. Geschillencommissie Voertuigen The Netherlands

A complex research design was used to collect data from a sample of about 200 users of a consumer protection path to justice in the Netherlands. Upon agreement with the Geschillencommissie, the research team was granted access to all users (around 500) of the procedure from the previous (2007) year. Around 50 users agreed to take part in a diary study and 150 took part in a cross-sectional survey. In addition, 3 focus groups were carried out.

c. Tilburg Municipality

The research team contacted the Tilburg Municipality with an offer to apply the methodology to users of administrative services. As of October 2008, a student assistant explored the user database of the municipality and collected addresses of potential users. Experts from the municipality have distributed invitations to the identified sample to take part in the survey.

d. Quasi-experimental research

Between 11 and 14 of October 2008, a quasi-experiment will take place. Around 200 law students from the Tilburg University will be asked to participate in an on-line survey. The goal of the survey is to reveal the subjective importance of the different indicators of the quality of the procedure and quality of the outcome. The students will read hypothetical cases and will select how important the particular indicators are in these cases.

e. Garantie Instituut Woningbouw The Netherlands

The GIW is considering evaluating its arbitration procedure. In August 2008, the research team was consulted by the GIW in order to explore the possibilities to cooperate. The research team drafted a project proposal for measuring the procedure. A decision from the GIW is expected in October 2008.

f. Juridish Loket

The Juridish Loket has been contacted with a proposal for the application of the developed methodology.

g. India

A partnership has been formed with the Manonmaniam Sundaranar University from India. The intention of the study group and the Indian partners is to apply the methodology to paths to justice for victims of crime in India.

h. United States

Cooperation has been formed with Prof. Paul Friday - a criminal justice professor at the University of North Carolina – to evaluate a procedure at a specialized domestic violence court. The data will be provided by contacts of the professor at this court. These data will consist of perceptions of approximately 200 domestic violence victims who have been through the court procedure.

i. Japan

In Japan, the possibilities for cooperation with the Tokiwa International Victimology Institute (TIVI) are explored. The prospects for cooperation are very positive. A possible partnership will be further discussed at the TIVI Executive Committee meeting in October.

5. Promotional activities

a. Conferences

Researchers from the study group took part in the following events:

- 18th Conference of the European Association of Psychology and Law, Maastricht 2-5 July 2008;
- Seventh Legal Services Research Center International Research Conference, Greenwich, 18-20 June 2008;

b. Round tables

In the end of 2008 or beginning of 2009, the study group will organize a series of round table discussions with potential users of the methodology. Policy makers, judicial officials and service providers will be presented with the outcomes of the pilot implementations of the methodology and will be asked for feedback. The goal of the round tables is to assess the value of the methodology from the perspective of its potential users.

c. Newsletter

Now in the phase of empirical pilot projects a MA2J newsletter has been launched with the intention to deliver news on a quarterly basis. A first version has been distributed in August 2008 to some 120 recipients and received a positive feedback.

d. Web site

In order to develop a Handbook for measuring the costs and quality of access to justice, a collaborative Wiki environment was developed. At www.measuringaccesstojustice.com, the research group shares the project's progress and anticipates input from academic researchers, practitioners and users of justice. Currently, the study group teams its efforts to develop the Handbook which will serve as a manual for the measurement instrument. Visitors of the web site can also follow the linkages between theories, concepts, operationalization and data findings.

Along with the Wiki site, the official project web site is being re-organized and updated. The URL of the site is: <http://www.uvt.nl/accesstojustice/>