

**Legal Aid as a Social
Service:
What implications
has this for
international
programmes?**

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Strathclyde University
Chair, International Legal Aid Group





Welcome to Scotland

©iantellas.

The Purpose of Legal Aid ?

A rights based model

“not that [legal services] are a form of wealth, not that they are good for people, not that social change will result from distributing them, but rather that the just operation of the legal system demands a more equal distribution of the use of facilities collectively believed to be important to the realisation of legal entitlements and protections.”

John Griffiths

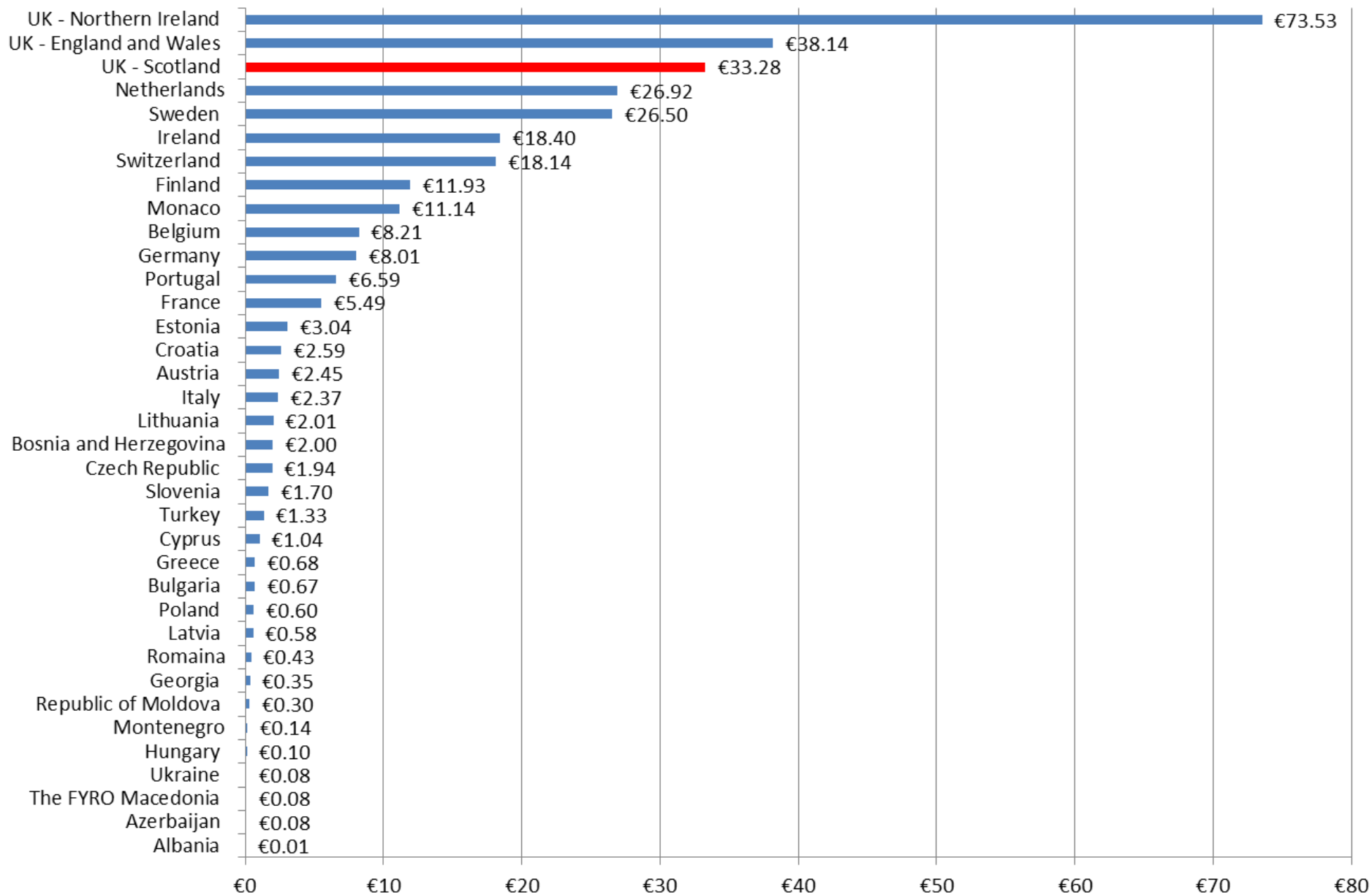
Legal Aid Evolves

1. History in West
2. Pro bono
3. Judicare – family, criminal, early intervention
4. Three routes
 - a) Judicare refined – concentration contracts – expenditure out of control - private bar model unmanageable or incoherent – loss of independence – e.g England, New Zealand. OR
 - b) Judicare refined – no concentration – uncapped budget – excellent data monitoring and prediction - prone to private bar market flaws - minor mixed model e.g. Netherlands and Scotland



"You have a pretty good case, Mr. Pitkin. How much justice can you afford?"

European annual public budget allocated to legal aid in 2014 per capita (€)

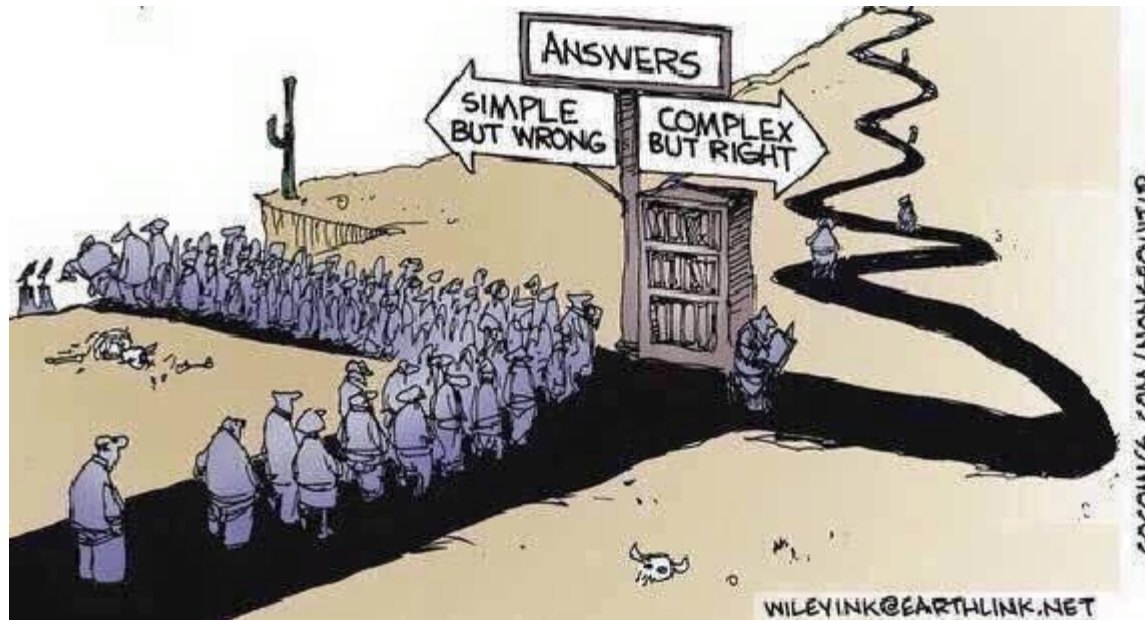


Legal Aid Evolves II

4 c) Judicare replaced by mixed model , e.g. public defender or salaried lawyer + private bar e.g. South America, Ireland, Finland; law clinics in Australia and Canada – targeting the areas that judicare had neglected - Social welfare, asylum, migrant workers, domestic violence, indigenous people, the elderly
So evolved the complex, planned, mixed model of service delivery.

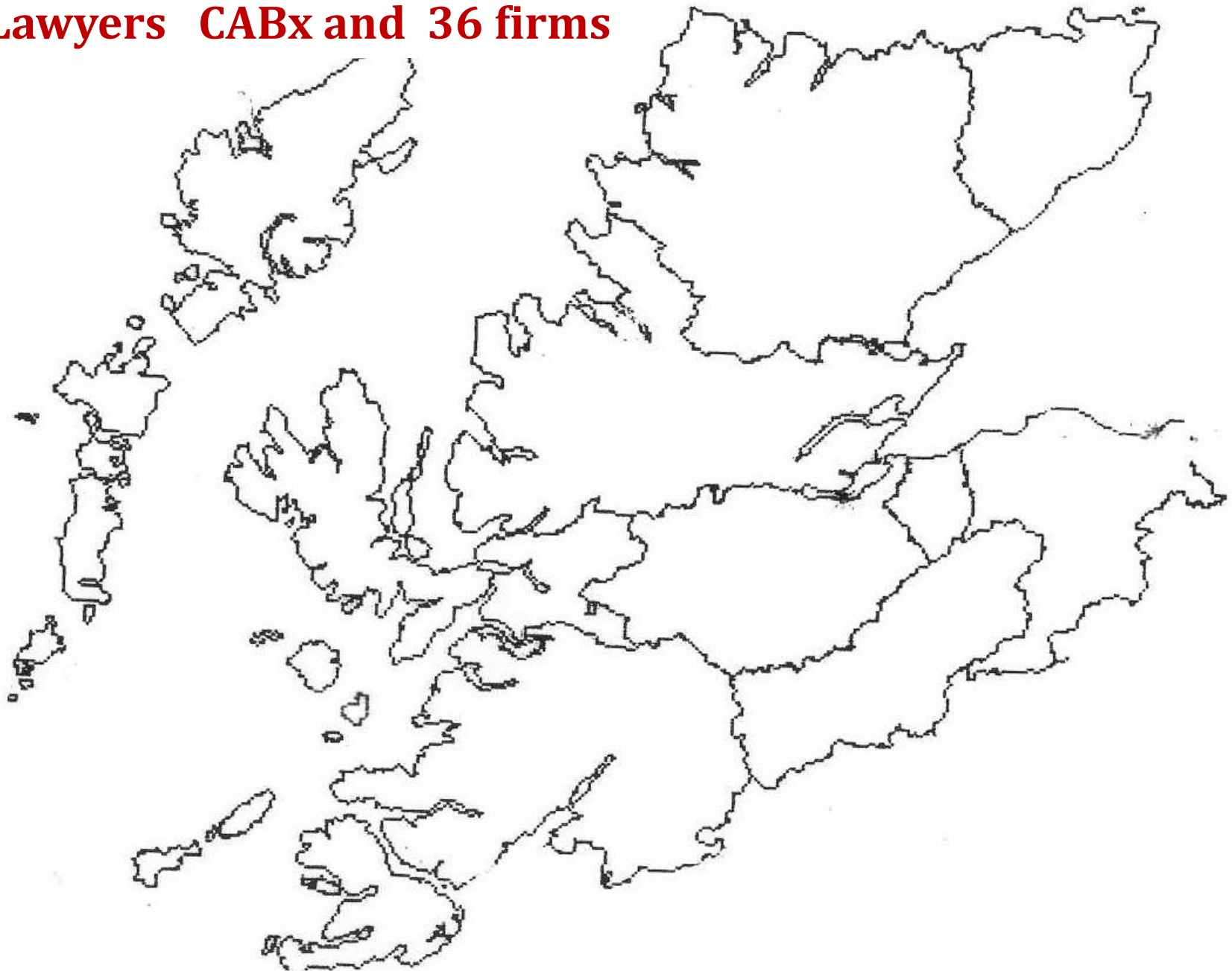
But what is next?

Greater Planning



The Highland Project

5 Lawyers CABx and 36 firms



The Purpose of Legal Aid ?

Legal aid as a Social Service

- Client centred lawyering
- Identifying the needs of vulnerable persons
- Prevention through Early Intervention
- Meeting the needs of vulnerable persons
- Quality assuring services for the vulnerable
- Reaching the hard to reach – the merits of holistic service provision
- Reaching the hard to reach – a mobile service
- Reaching the hard to reach – using technology

Client Centred Lawyering

“From an institution-centred perspective, users are often seen as passive recipients of services, whereas from a user-citizen, or people-centred perspective, people voice their demands and needs, contribute to shaping the policy agenda and evaluate service content and delivery.”

OECD Policy Roundtable on Equal Access to Justice,
(Session Notes, 2017)

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How people resolve 'legal' problems

Surveys of legal need

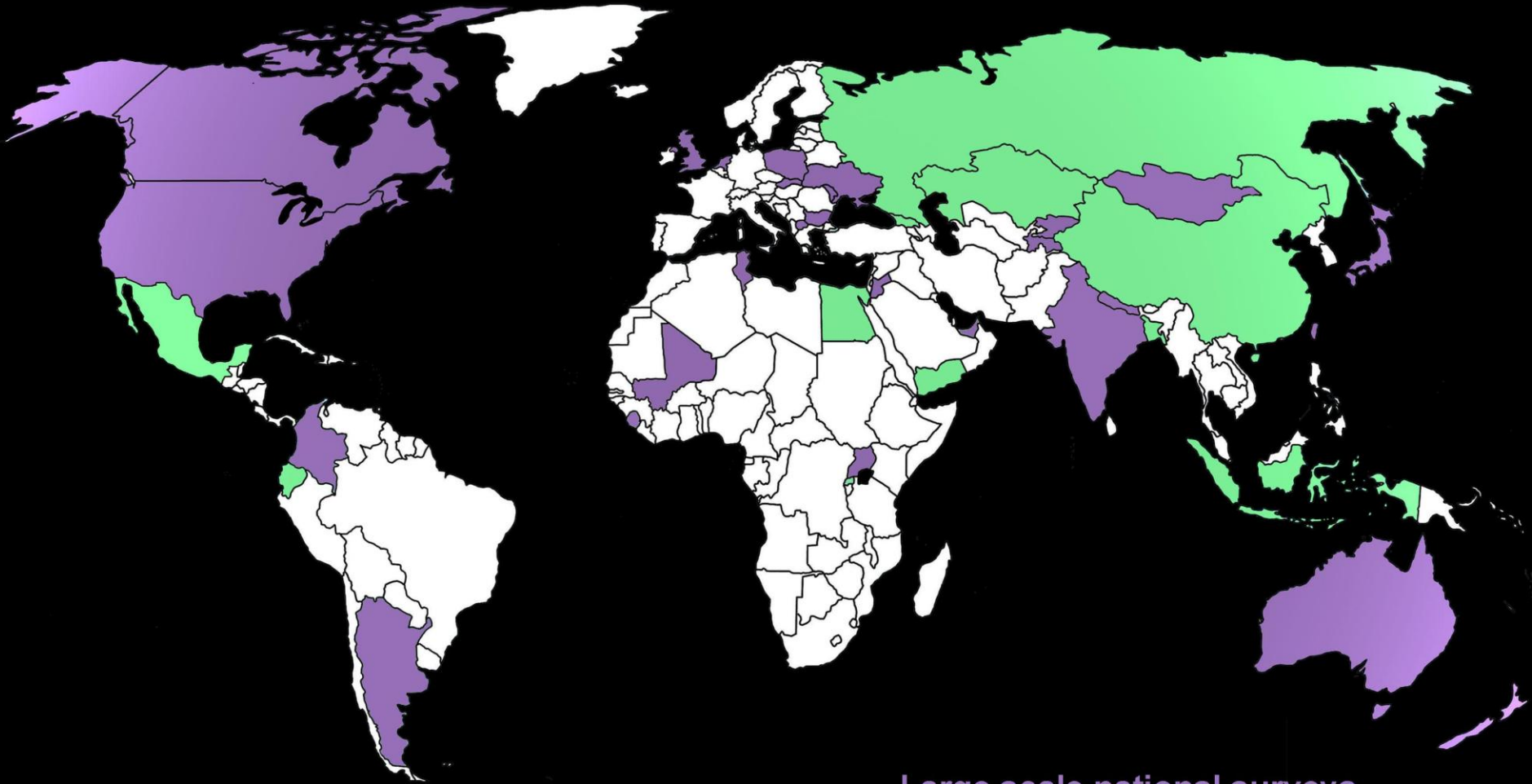
Legal need

- Contested concept
- Traditionally - occasions when people experience legal problems but fail to obtain the services of lawyers
- However, legal mechanisms do not always provide the most appropriate route to solving problems that raise legal issues
- Increased emphasis on understanding of options/preferences

Legal Need Surveys

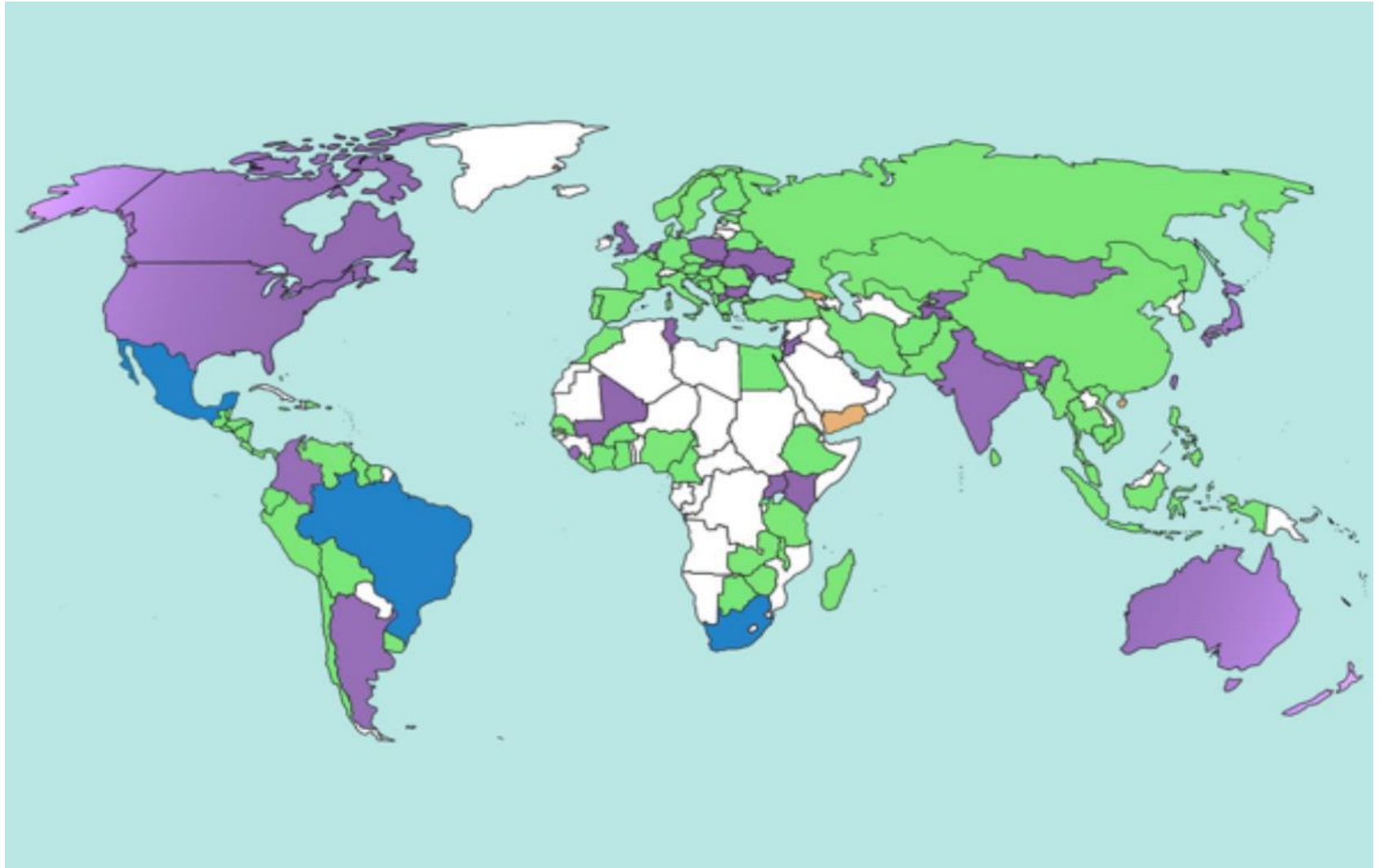
- Quantifying public experience of / response to legal problems
- Origins in Clark and Corstvet's (1938) landmark study
- Gained momentum in 1990s following the conduct of high profile national surveys in the United States then England and Wales, New Zealand and Scotland

Legal Needs Surveys: The Past 25 Years



Large scale national surveys
Other significant surveys

World Justice Project (2018)



Needs Analysis Studies

National Surveys

World Justice Project : Wide range of population polls. Planning 100 countries by 2019

<http://dnpsig.maps.arcgis.com/apps/Cascade/index.html>

OECD: Legal Needs Surveys and Access to Justice : A Toolkit (2018)

Vulnerable Group Surveys e.g.

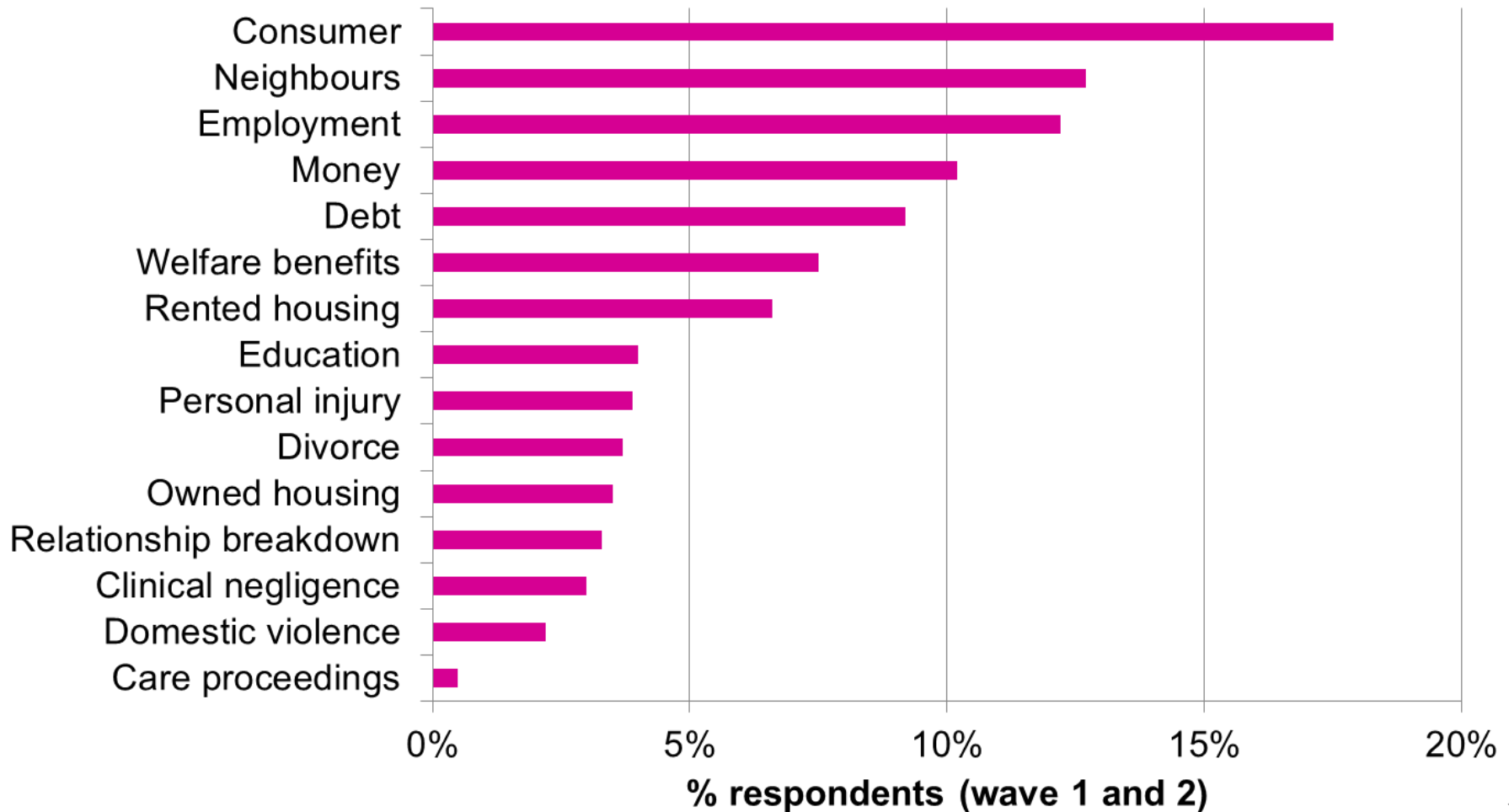
Legal Needs Survey of the Elderly People, Japan Federation of Bar Associations (**Tomoki Ikenaga, 2018**)

Legal Needs research on persons with mental disabilities, and victims of domestic violence , (**Chu Huijuan , Renmin University of China, 2017**)

How people resolve 'legal' problems

CSJPS 2010 and 2012 combined

Problem prevalence



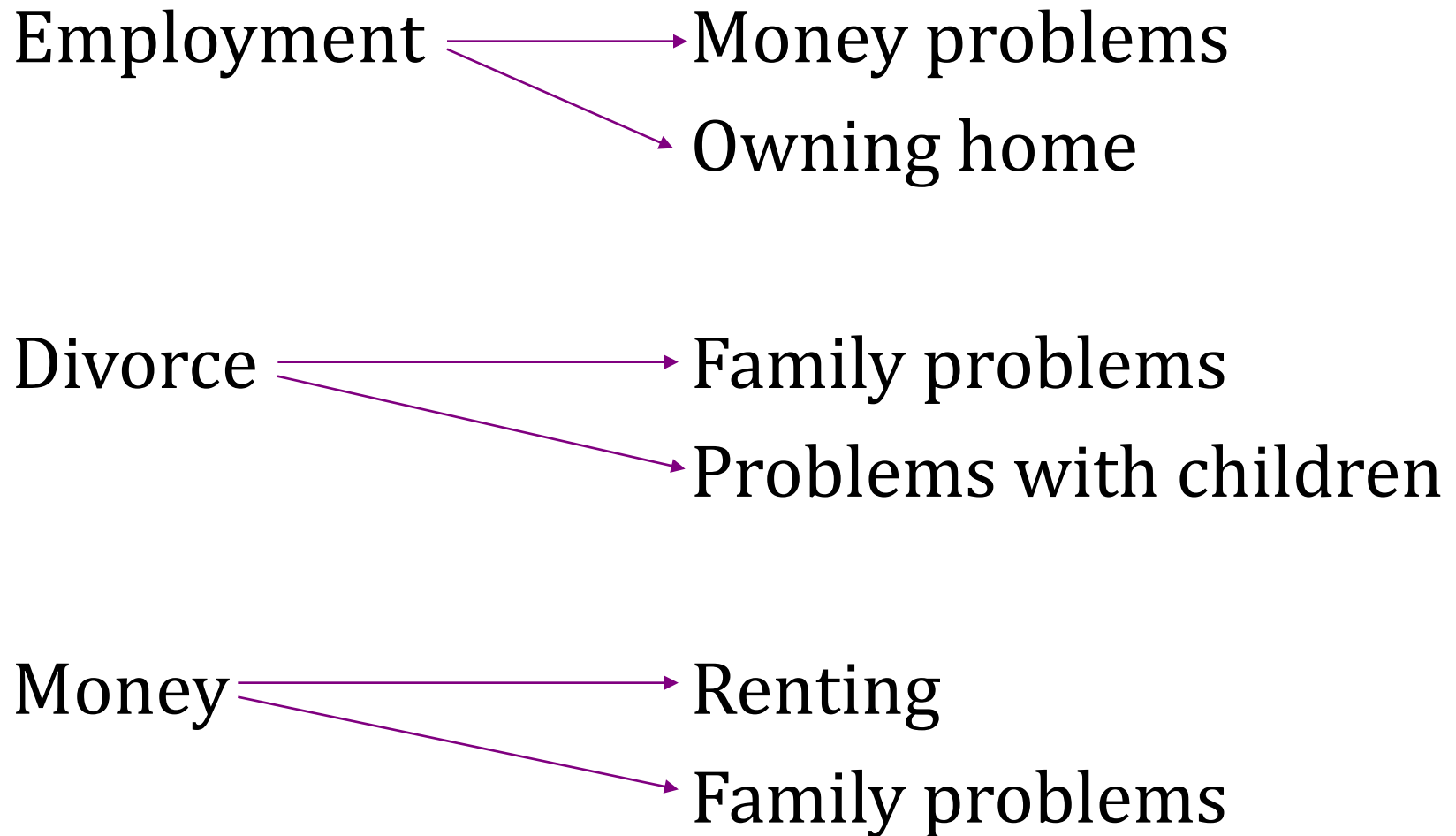
Taiwan Study: Comparison with Other Surveys

Country	Year	The Most Frequent Problems		
U.S.	1993	Personal finances and consumer	Housing and property	Community and regional
New Zealand	2006	Consumer	Money/debt	Welfare benefits
U.K.	2001	Consumer	Neighbours	Money/debt
U.K.	2004	Consumer	Neighbours	Money/debt
Northern Ireland	2005	Consumer	Employment	Neighbours
U.K.	1997	Faulty goods and services	Money problems	Owning residential property
Scotland	1997	Money problems	Faulty goods and services	Rented accommodation
Netherlands	2003	Faulty goods and services	Employment	Money
Japan	2005	Accidents	Neighborhours	Goods /services
Canada	2006	Employment	Debt	Consumer
Taiwan	2010	Neighbor	Goods /services	Employment

Incidence of Problems for the Elderly (Japan ,2018)

Problem Type	Number	Percent (%)
elderly nursing care	792	62.4
elderly medical care	639	50.4
property management	552	43.5
Housing	453	35.7
elderly abuse (caregiver; care home)	299	23.6
trouble with neighbours	289	22.8
Pension	244	19.2
money/debt	207	16.3
trouble with relatives	131	10.3
Inheritance	99	7.8
wandering elderly	93	7.3
Consumer	68	5.4
divorce/dissolution of adoption	49	3.9
Tax	31	2.4
crime (perpetrators; victims)	26	2.0
Others	219	16.5


Common UK problem clusters



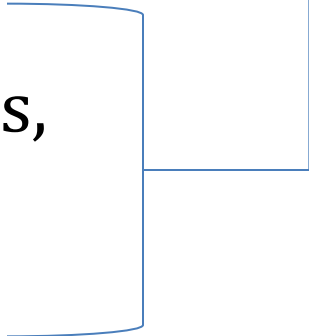
Problem Clusters

(Tomoki Ikenaga, Japan, 2018)

elderly nursing care
elderly medical care
property management
housing

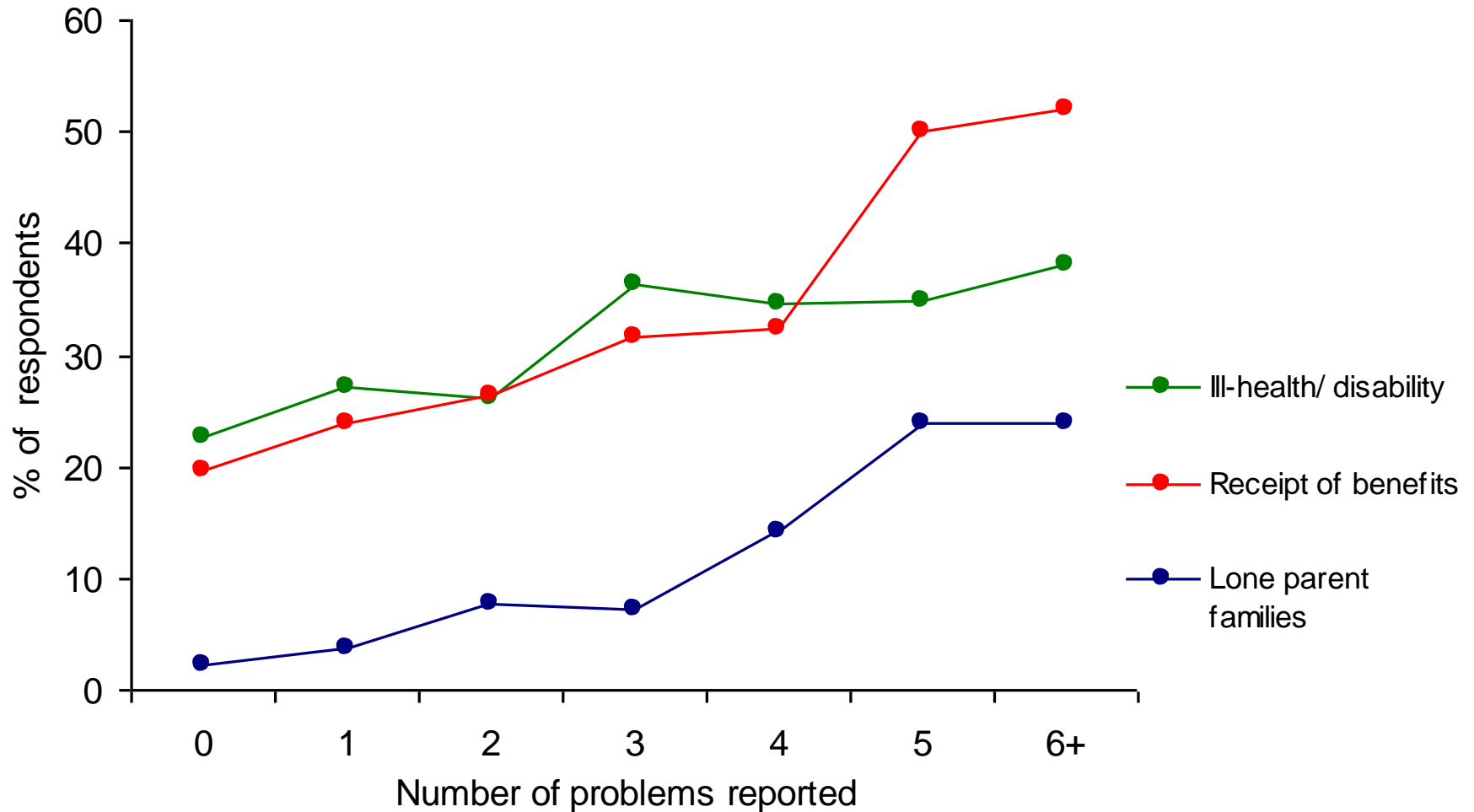


elderly abuse, trouble with neighbours,
Pension, money/debt, trouble with relatives,
Inheritance, wandering elderly, consumer,
divorce/dissolution of adoption, tax, crime



England and Wales

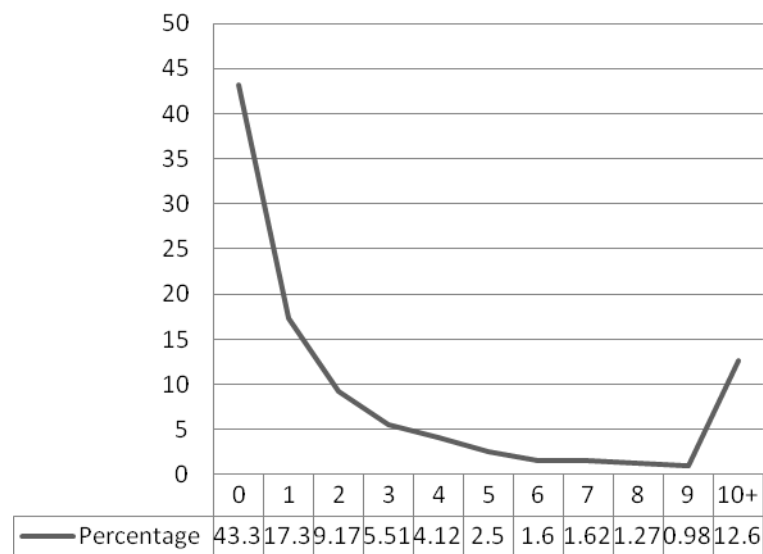
Multiple Problems and Personal Circumstances



Respondents Reporting Specific Numbers of Problems

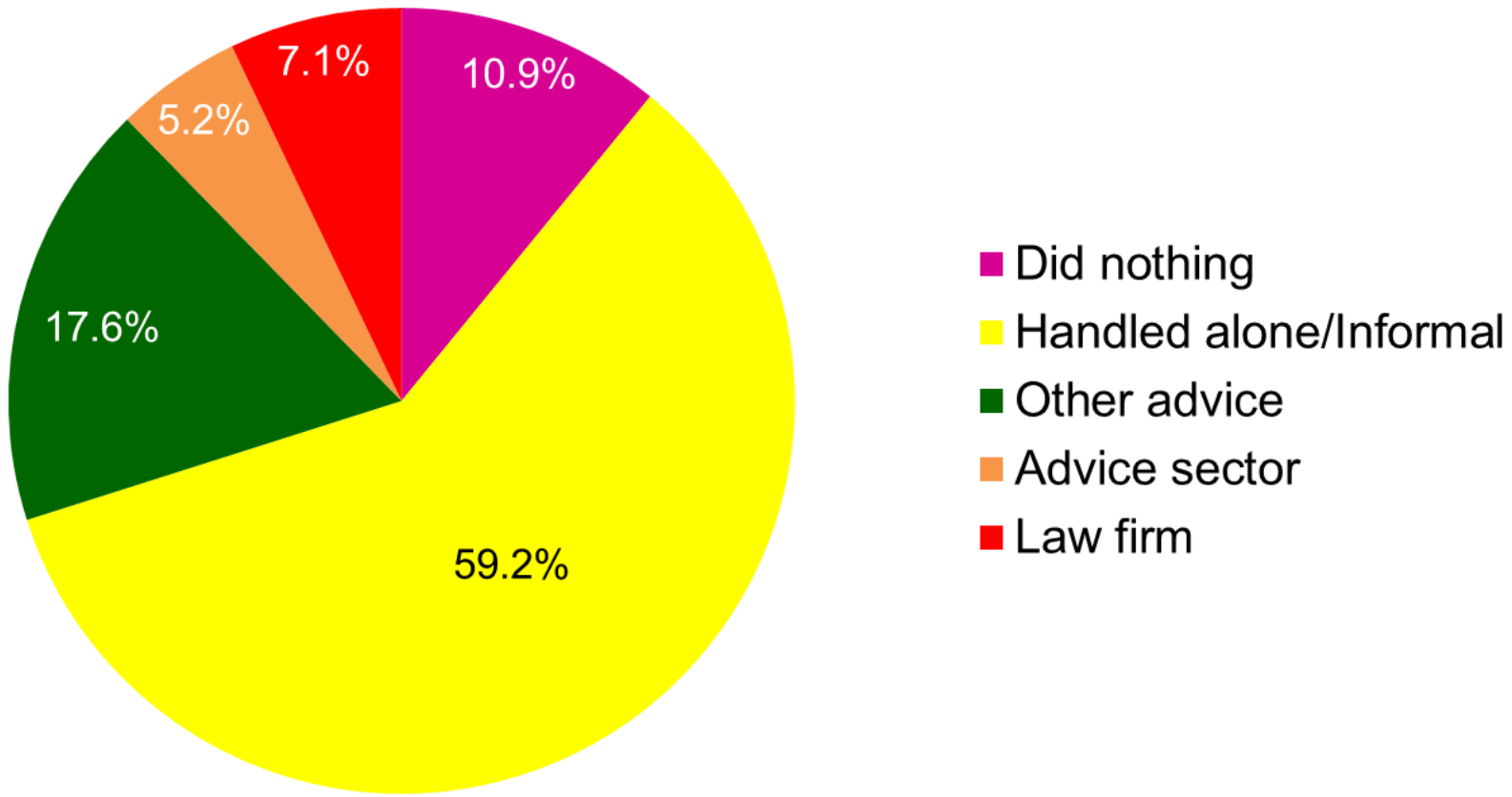
	Frequency	Percentage
No Problems	2,422	43.25
One Problem	971	17.34
Two Problems	514	9.17
Three Problems	309	5.51
Four Problems	231	4.12
Five Problems	140	2.50
Six Problems	90	1.60
Seven Problems	91	1.62
Eight Problems	71	1.27
Nine Problems	55	0.98
More than Ten Problems	708	12.64

Legal Problems of Everyday Life Lin, Chen, Huang, Huang and Lai



How people resolve 'legal' problems

Results – Understanding responses to legal problems



So what drives response to legal problems?

How people resolve 'legal' problems

Results – Understanding responses to legal problems

Dominant factors

- Problem characterisation
- Problem type
- Cost (perceived or actual)

In addition,

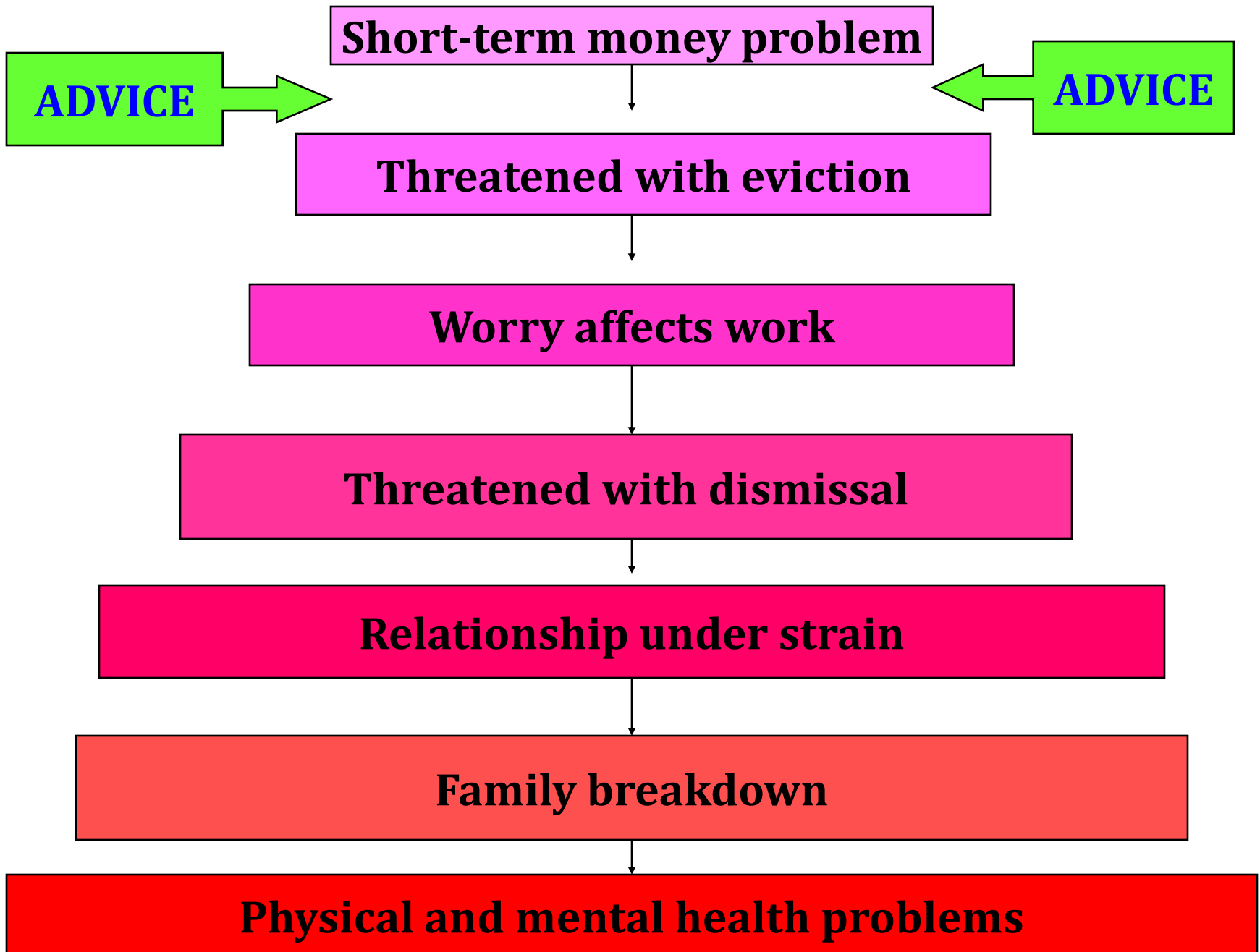
- Problem severity
- Capability
- Problem duration

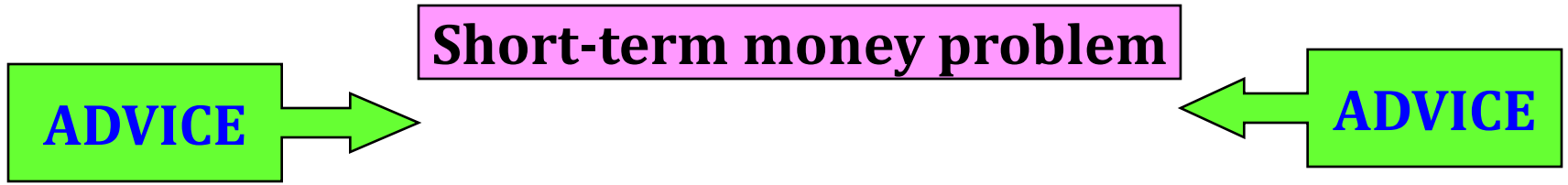
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Specialised Services for Vulnerable groups (UN)

According to the findings of the *UNODC Global Study on Legal Aid (2016)*, specialized legal aid services are most commonly available for children (as reported by 57% of Member States), persons with disabilities (43%), refugees, asylum seekers and stateless persons (38%) and women (37%). 29% of Member State respondents indicated that specialized legal aid services are not offered in their countries. Globally, 61% of responding Member States (only 50% in low-income countries) indicated that legal advice and court services are provided in all legal proceedings to female victims of violence

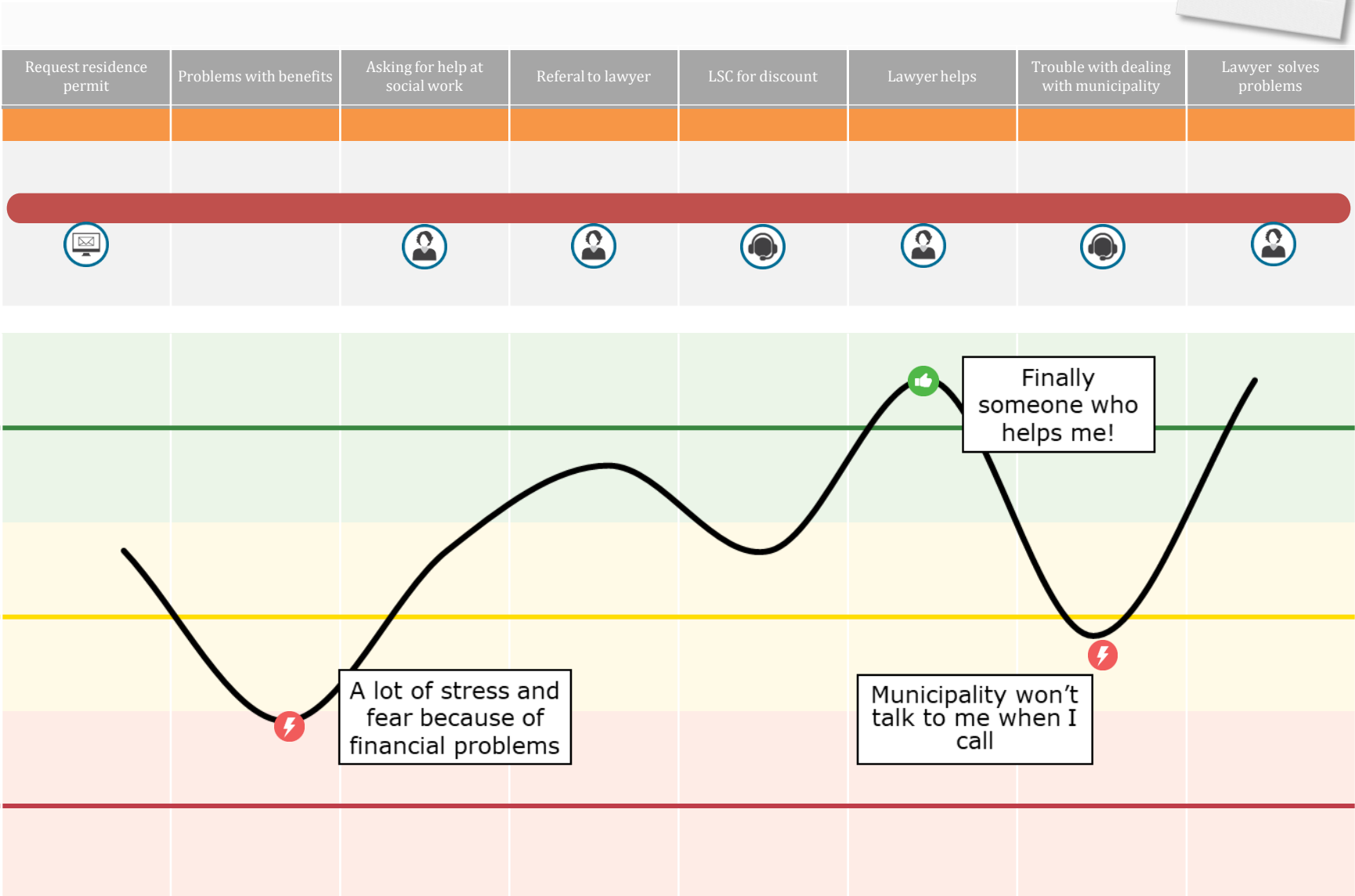
Recognised Vulnerable Groups (EU)

- persons receiving welfare benefits, old person's pension (Lithuania; France, Belgium, Hungary, Scotland, Spain);
- minor children (Lithuania; France, Belgium, Italy, England & Wales, Northern Ireland);
- asylum seekers, refugees or temporarily protected person) (Lithuania, France, Belgium, Italy, Hungary, Northern Ireland, England & Wales);
- persons who have mental incapacity (Lithuania; France, Italy, England & Wales).

(Anželika Banevičienė, 2018)

Client Centred : Problem with welfare benefit

Suzanne Peters, The Netherlands (2018)



Domestic Abuse Clinic (Scotland)

- The Scottish Women's Rights Centre is a unique collaborative project that provides free legal information, advice and representation to women affected by violence and abuse.
- The Centre strives to fill the gaps that exist between women's experiences of gender based violence and their ability to access justice by working with a specialist lawyer and an experienced advocacy worker.
- Informed by our direct work with victim-survivors of violence and abuse, we seek to influence national policy, research and training to improve processes and systems, and ultimately to improve the outcomes for women who have experienced gender based violence.

Domestic Violence

In **China**, the Municipal Legal Aid Department of Guangzhou, in coordination with Guangzhou Women's Federation, and with support of Women's Federations, has set up 11 legal aid stations for women. They cooperated with Guangzhou Legal Aid Foundation to initiate programs for protecting women's rights to provide assistance to eligible women victims of crimes and domestic violence.

In **Vietnam**, legal aid services have been focusing in recent years on providing assistance to women victims of domestic violence, as part of a national effort to address domestic violence. As part of a UNODC project, training materials were developed for law enforcement, justice officers and legal aid providers who work with victims of domestic violence.

Elder Abuse

- A hidden epidemic in America threatens far too many of the nation's seniors: elder abuse affects approximately 10% of people age 60 and older, and close to 50% of people with dementia. Legal aid combats this epidemic by preventing mortgage foreclosures due to elder abuse, protecting physical safety by doing a holistic intake of elders and providing legal help to break an abuser's control over the victim with protective orders and guardianship proceedings.
- In the Navajo Nation poverty rates are three times higher than in the U.S. general population. Unfortunately, this economic situation results in the exploitation and abuse of grandparents and elders in the community who may have some revenue in the form of public benefits – albeit usually at low, fixed rates. Powers of attorney may be misused to siphon income from grandparents, often resulting in drastic health effects.

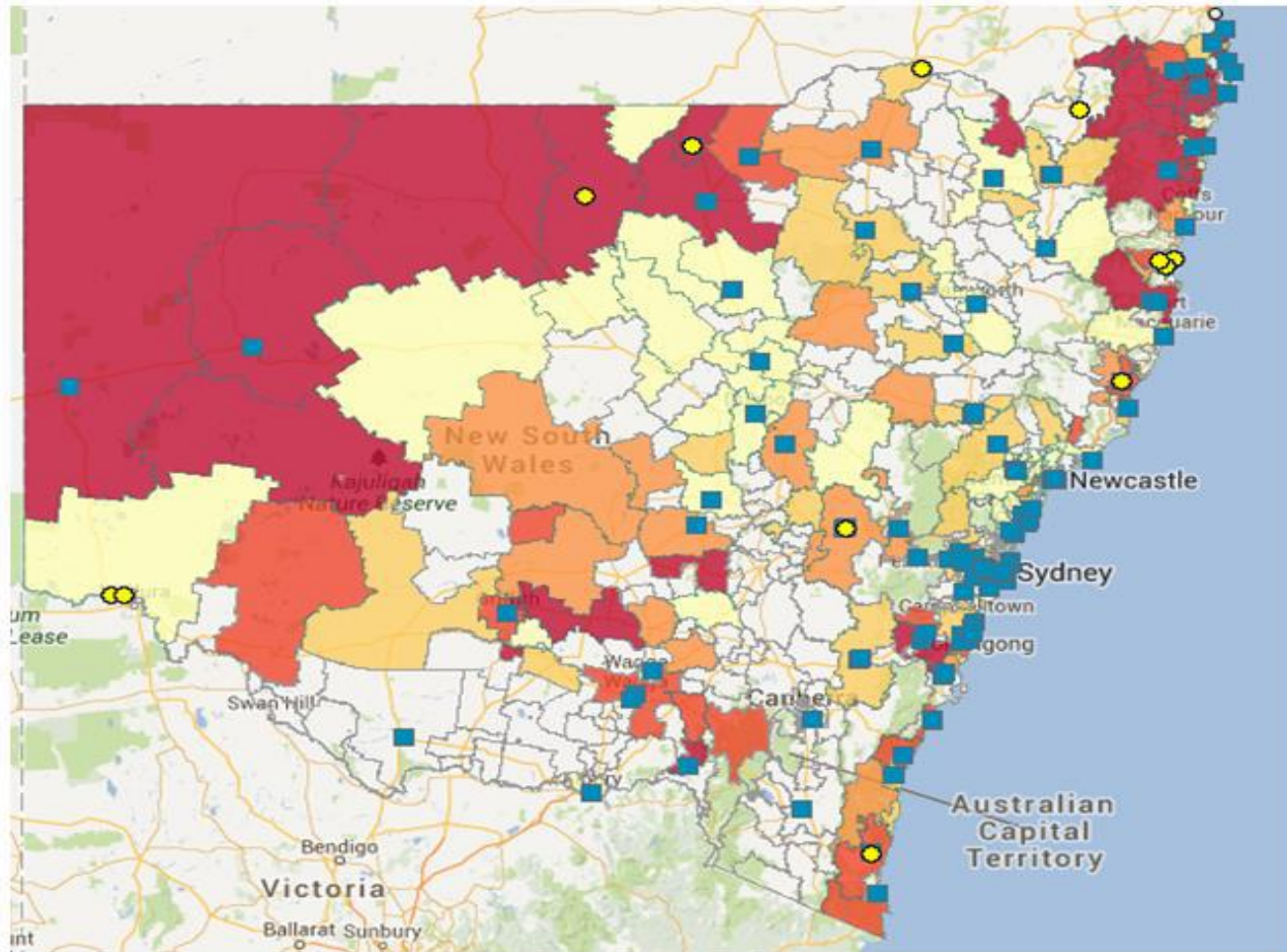
Disabilities

In **China**, legal aid services provided in Guangzhou took into account the needs of persons with disabilities, through a dedicated program for the protection of the rights and interests of persons with disabilities. This included for example legal aid information in Braille for the blind, sign language translators for the deaf, particularly during the process of lawyers' interviews, as well as home visits for those with limited mobility.

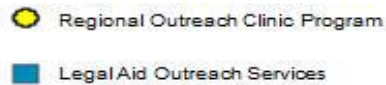
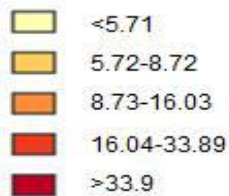
In **Israel**, the National Public Defender's Office issued guidelines on representing persons with disabilities, on the basis of the legal right of mentally disabled people to representation by a public defender, regardless of their financial situation. There is a dedicated department representing clients with mental and intellectual disabilities. The department takes a holistic approach and deals with a variety of legal issues relevant to the client, including with civil legal aid services. It also takes action against illegal practices such as unjustified physical restriction of mentally ill persons.

Indigenous People

- National Legal Aid Australia, in a 2018 report said :“In 2016 Aboriginal and Torres Strait Island people were 12.5 times more likely to be in prison than non-indigenous people.... Aboriginal and Torres Strait Island women were 32 times and men 23 times more likely than non indigenous women and men to be hospitalised as a result of family violence.”
- Alaska Legal Services Corporation has 11 offices across the state, but only four of these offices are on the road system, meaning that the rest are only accessible by plane, boat, or snow machine. Criminal safety and legal aid have severe access problems. Alaska has one of the highest rates of domestic violence and sexual assault in the nation. Alaska Native women are overrepresented in domestic violence cases.



Rate of outreach assistances provided by Legal Aid NSW to Aboriginal persons



Review of Legal Aid NSW outreach legal services (2013) L & J Fdn

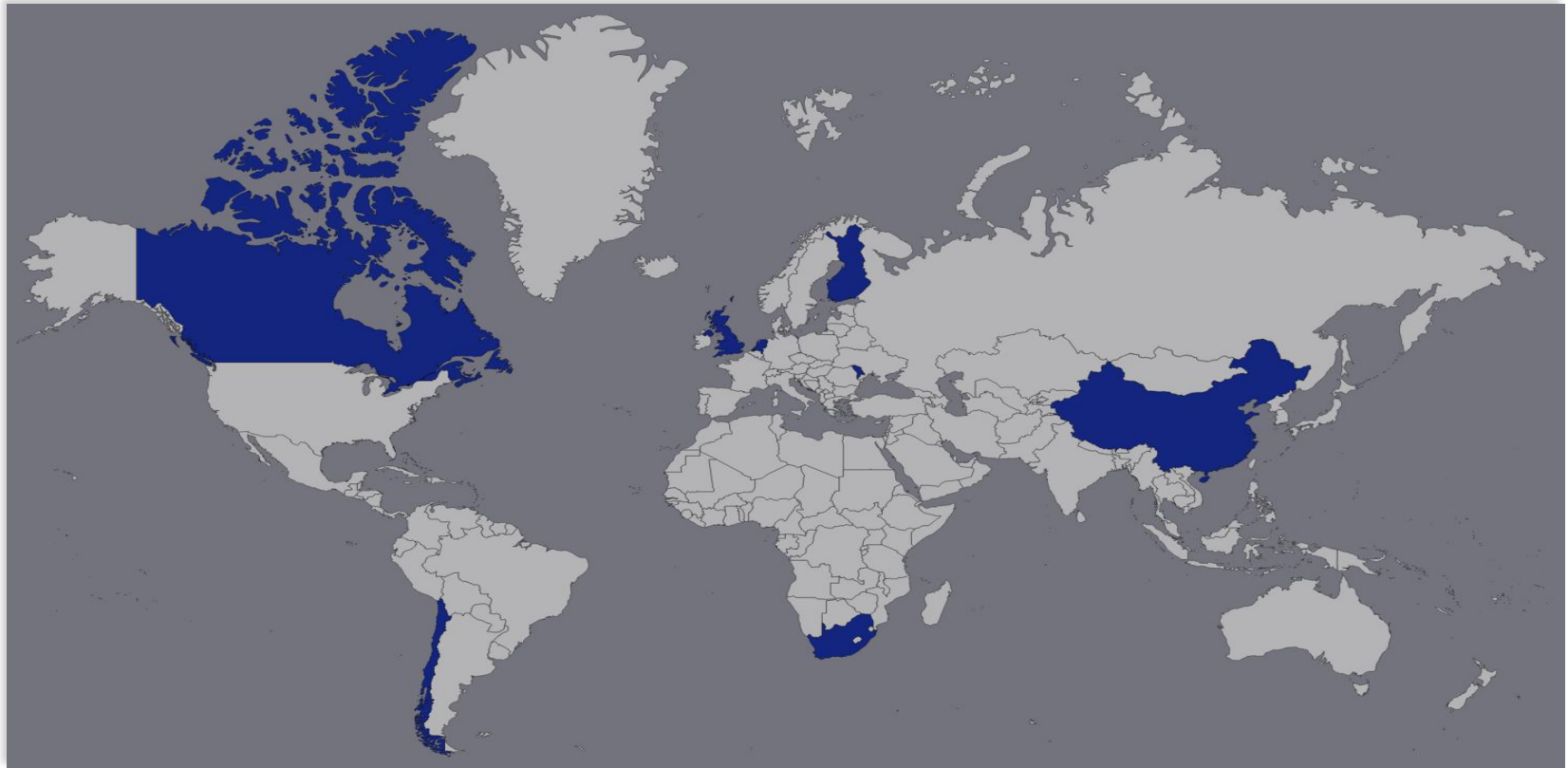
Outreach services at Legal Aid NSW can take many forms. The nearly 160 outreach clinics are placed in a diverse range of geographical locations (80% of which were in rural areas) and serve a variety of different client groups. They are found in homeless shelters, court houses, neighbourhood centres, Family Relationship Centres, Aboriginal Legal Service NSW/ACT (ALS NSW/ACT) offices and medical services. Most clinics are staffed by Legal Aid NSW lawyers but some in more remote areas are staffed by private lawyers . The help provided is overwhelmingly civil and family rather than criminal.

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USING QUALITY MONITORING TO CHANGE LEGAL CULTURE



The Spread of Peer Review England and Wales, Scotland, Canada (Ontario), Finland, Georgia, Moldova, South Africa, Chile, China, New Zealand, Ukraine and The Netherlands

Peer Review

“The evaluation of the *service* provided against *specified criteria* and *levels of performance* by an independent person with significant current or *recent practical experience* in the areas being reviewed”

PEER REVIEW CRITERIA FOR CIVIL LEGAL ASSISTANCE CASES (TRIAL IMPLEMENTATION) All China Law Association

民事法律援助案件同行评估标准（试行）

File Number and Name案卷编号和承办律师姓名.....

Peer Reviewer(s) names同行评估人员姓名
.....

Initial meeting(s)(Key moments)

初次会见（关键时刻）

1. Did the lawyer understand the problems of the client, listen carefully to him/her, understand his/her demands and take detailed notes?

1 2 3 C N/A

1. 律师能否准确理解当事人的问题？是否认真倾听当事人叙述，准确理解当事人诉求，并制作详细的谈话笔录？

1 2 3 C N/A

File Selection: Scotland

- Stratified, random sample of practitioner's files :
 - **Longer, and more complex cases**
 - **Shorter, less serious cases.**
- In Civil cases only - Deemed vulnerability of the client = "Designated areas : 10%"
 - asylum
 - immigration
 - mental health
 - adults with incapacity
 - employment
 - judicial review

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Reaching the Hard to Reach (Norway and Denmark)

“Ensuring access to justice for the most vulnerable social groups in society is a challenge because of their difficulties of voicing their problems and asking for help. Furthermore, accessing justice is complicated by the infrastructure of traditional legal aid offices that seldom manage to reach the hard-to-reach groups. From a bottom-up perspective, this paper uses ex-prisoners as an example to show how a hard-to-reach group with clusters of complex problems and distrust to public authorities is challenged in terms of both identifying and voicing cross-legal problems. “

Annette Olesen & Ole Hammerslev (2018)

Reaching the unreachable – new legal aid trends in the Nordic welfare states

Reaching the Hard to Reach

“Ex-prisoners often felt that public authorities had lead them by the nose while they struggled to navigate the maze of a number of Social Service departments that dealt with different parts of intertwined problems concerning e.g. welfare benefits, deposit loans and public housing. To meet the navigation challenges... the NFP organisations aimed to embrace their users with a holistic and interdisciplinary approach to legal aid work...

The Danish and Norwegian NFP organisations also tried to put their users at the centre of their support, and offering services around their needs. When the voluntary legal aid worker had developed a trustworthy relationship to their user and they in collaboration had identified the users’ most urgent legal and non-legal problems, the next step was to identify and prioritise the courses of action. For example, treatment of drug or gambling addiction has first priority before legal aid for debt because successful legal aid for debt is well-nigh impossible for addicts.”

Reaching the Hard to Reach (Canada)

Legal secondary consultation (LSC) is an **innovative mode of legal aid delivery** in which a lawyer, licensed paralegal or experienced legal worker in a legal aid clinic **provides one-on-one** advice to a service provider in a **social services agency or a community organization**, assisting the provider to resolve problems for clients seeking help. The individuals experiencing problems do not become direct legal aid clients unless the LSC advisor decides on a referral to one of the 76 community legal clinics in Ontario (Canada).

“Legal Secondary Consultation: Outreach to Community Organizations” (Ab Currie, 2018)

Introducing Agency Consultation Service



People living in poverty are more likely to report multiple problems such as bad health, unemployment, poor housing and family breakdown.



Did you know that the everyday problems your clients experience may have a **LEGAL** aspect?



We can help.

Contact Community Legal Clinic - Brant, Haldimand, Norfolk

Our clinic helps low income people deal with their everyday legal problems. We are launching a new service for agencies to access legal information for their clients. We are available to speak directly with you about any question or concern you have about your client's situation.

Phone: **519-752-8669** or **1-888-341-5021**
ext. 24 (Michael), or ext. 23 (Ian)

Email: dowm@lao.on.ca or aitkeni@lao.on.ca



Wide Variety of Community Organizations

- **Off the Wall Youth Centre of Action**
- **Canadian Mental Health Association**
- **Saint Vincent de Paul Society**
- **Guelph Family Health Team**
- **Ontario Disability Support Program**
- **Six Nations Long Term Care**
- **Brockville General Hospital; Mental Health and Addictions**

Hard-to-reach clients

- *Clients don't want to get involved in conflict and don't have the motivation to seek out help; that's why us helping them gets them moving along in the process. (community navigator, Links2Care)*
- *Some are capable, some freeze at the thought of accessing the clinic. The barriers are lack of transportation, physical illness and mental health problems, lack of understanding. (case manager, CMHA)*
- *Particularly with housing, our clients live precariously and experience a lot of abuse and don't recognize that they have rights. (case manager, Guelph Community Health Centre)*

A form of outreach

- 1) Go out to the community to identify legal problems**
- 2) Work with the community to address the problems**
- 3) Reach out to people who would not otherwise receive service**
- 4) Take services to where people go to obtain other services or meet other needs**

Holistic service

The holistic view of legal needs and access to justice reflects the fact that people often have a cluster of related problems to resolve, only one of which may be legal. Holistic projects provide a one-stop service to vulnerable clients thus avoiding referral fatigue and recognising that client centred lawyering involves focusing on the bundle of related issues that confront the client.

The Bronx Defenders (USA)

The meaning of Holistic Defence

➤ **Seamless access to services that meet legal and social support needs**

Holistic defense begins with a commitment to addressing clients' most pressing legal and social support needs. Because the universe of these needs will vary from community to community, a holistic defender office must begin by identifying the full range of client needs.

➤ **Dynamic, interdisciplinary communication**

The interdisciplinary team alone is not what drives the success of holistic defense — it is the team's culture of open, frequent, and meaningful communication.

➤ **Advocates with an interdisciplinary skill set**

A holistic defender goes beyond the zealous advocacy of the committed public defender with an enhanced set of skills that are both client-centred and interdisciplinary.

➤ **A robust understanding of, and connection to, the community served**

Holistic defence recognizes that an advocate who is better able to relate to their client, by having spent time in their neighbourhood and with members of their community, will be more likely to provide authentic and effective representation.

Holism and Early intervention

“Prevention needs to address the wider determinants that influence individual behaviour. Focusing on individual behaviours can only go so far towards improving population health. These wider determinants include poor-quality housing, loneliness, or financial worries. Realising our aspiration to person-centred care – and to effective prevention – therefore requires action to understand and address these wider determinants”.

“One way of doing this is through holistic support in healthcare settings, in the form of advice workers or referral to local sources of community support... By making sure that patients are able to address their basic needs and social circumstances, we can maximise the chances that our clinical interventions succeed.

(Practising Realistic Medicine, 2018, Scottish Government)

Embedding holistic support into healthcare settings

(Extract from Practising Realistic Medicine, 2018)

“[The provision of early legal advice can have a preventive impact]. A number of pioneering schemes across Scotland have recently shown the potential of providing holistic support services in healthcare settings to help people address wider life circumstances affecting their health. “

“For instance, welfare rights advisors (paralegal workers) embedded in clinical settings can provide advice and support on benefits, debt, housing, pension and employment issues. A recent pilot project in two health practices in Glasgow, delivered £850,000 worth of unclaimed benefit entitlement to 165 people and helped identify and manage £156,000 worth of debt”. A similarly effective scheme in a Glasgow hospital has been the automatic provision to cancer patients of legal advice on financial issues and employment rights designed to support recovery and retain productive cancer sufferers within the labour market.

“Given the evidence showing that our income and financial situation is one of the strongest determinants of health, projects like this have enormous potential to benefit patients. “

Health and Justice Partnerships

HJPs in UK and Australia and medical legal partnership [MLP] in USA and Canada embed free legal assistance in primary and acute healthcare settings with lawyers integrated into, or co-located with, the healthcare team providing free legal assistance to low income and vulnerable groups.

Taking a holistic approach to healthcare, HJPs bring in legal practitioners who have the training and skills needed to address social and economic issues that manifest as health-harming legal needs.

Health and Justice Partnerships

HJPs build on citizens' trust in healthcare providers to deliver legal services that secure the protections and entitlements needed by low income and vulnerable patients. Co-location of legal services increases access for those otherwise potentially unable or unwilling to seek legal assistance and reduces stigma associated with advice receipt.

“Roots and Branches of MLPs”, *Yale Journal of Health Policy, Law and Ethics*, 17:2(2017)

Health and Justice Partnerships

While HJPs/MLPs are a relatively recent development in Australia and Canada, they have a longer history in the USA and UK. A 2018 mapping study in England & Wales identified over 300 welfare services linked with healthcare settings some across General Practice areas, others targeted in deprived localities or focused on specific sub-groups such as cancer or mental health, or groups defined by age (e.g. young or elders) or demographic (e.g. women or children).

Consulting Lawyers and Problem-solving Rate (Japan)

- Did problem-solving rate improve significantly after caseworkers brought the case into lawyers and consulted them?



- Unfortunately, this survey demonstrated that there is not any significant difference about problem-solving rate between the cases brought into lawyers by caseworkers and those not brought into them.
- Although problem-solving rate does not improve significantly, **the more difficult and challenging the cases become, the more the cases were brought into lawyers by caseworkers.** The rate that cases were brought into lawyers was **10.2%(20 cases)** in not difficult but not simple case, **15.4%(94 cases)** in difficult case, **29.1%(118 cases)** in the most difficult case.

CONCLUSION

- To Resolve the Unmet Legal Needs of the Elderly People -

- Caseworkers frequently mentioned that it is necessary to set up some access point that caseworkers can feel free to consult with experienced lawyer at the early phase. Otherwise, caseworkers will hesitate to consult with lawyers at early phase and cases will be brought into lawyers at late stage after severe damage was done. And finally, problem-solving rate does not improve significantly.
- This survey demonstrated that “early intervention” and more “collaborative” approach between social caseworkers and lawyers is required to cater for the complex legal and non-legal needs of the elderly people who are more likely to live with cognitive impairment and other disability.

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Early days for the CAB service

Norway bus







RIO DE JANEIRO



Poland



The Shenzhen Bus



Justice Boat, Brazil



The Importance of Bicycles – Copenhagen Style



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Harnessing technology to enhance service delivery?

How best to deliver legal help?

The telephone hotline? *Test effectiveness and retain publicity*

On-line legal services? *Integrated mobile and website*

Dealing with digital exclusion

Roger Smith and Alan Paterson *Face to Face Legal Services and their Alternatives: Global Lessons from the Digital Revolution*
(CPLS: 2014)

http://www.strath.ac.uk/media/faculties/hass/law/cpls/Face_to_Face.pdf

Assisted self-help



The screenshot shows a web browser window with a blue header bar. The browser title is "thor". The address bar shows "MY PROGRESS 1 Welcome to Access to Justice Author." and navigation buttons for "FORWARD", "SEND FEEDBACK", and "SAVE & EXIT". The main content area is titled "Access To Justice" and "AT CHICAGO-KENT COLLEGE OF LAW".

The interface features a 3D-style guided tour. A woman avatar stands on a path that leads through several steps: "DO YOU ADDRESS?", "DO YOU RESIDE?", and "DO YOU QUALIFY?". A speech bubble from the avatar says "Welcome to Access to Justice author." with a "Continue" button below it. A signpost with a circular arrow icon points to "ACCESS TO JUSTICE". In the background, there is a building icon and a "DO YOU RESIDE?" sign.

n was developed under grants from the State Justice Institute (SJI grant number SJI-04-N-121), Center for Access to the Courts through Technology, Chicago Kent aw, Center for Computer-Assisted Legal Instruction (CALI), and Legal Services Corporation (LSC). The points of view expressed are those of the authors and do rily represent the official position or policies of the SJI, Center for Access to the Courts through Technology, Chicago-Kent, CALI, or the LSC.

Separate together

Effective solutions that are fair for you and your partner

📍 Map your situation

Step by step Rechtwijzer guides you through the issues associated with separation. What do you feel is important? How can both you and your partner build a new future? You can explore your personal situation without any costs involved.

📄 Develop a separation plan

Together with your partner you can work on your separation plan at your own pace. A variety of high-quality support and tools provide support. Even when emotions run high. Sometimes, a neutral decision of an independent expert offers a way out.

📅 Join a separation plan

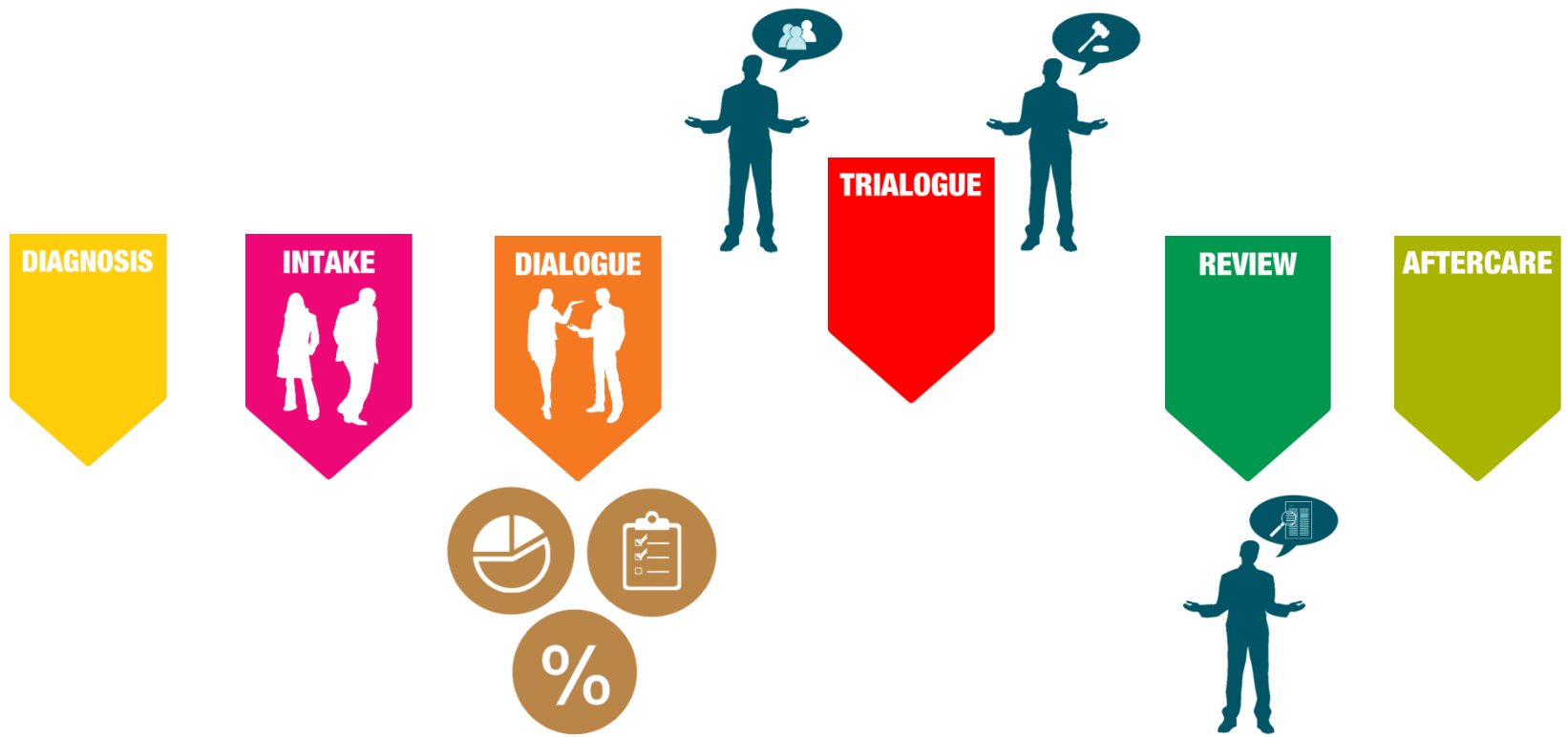
If you received an invitation from your partner, you can first explore Rechtwijzer or directly join your partner and start working on your separation plan. Rechtwijzer helps you to separate in a good and fair manner.

Login

Create a plan

Contribution to costs when you are eligible for subsidised legal aid.

Rechtwijzer



RECHTWIJZER



Legal Aid as Social Service - Developing a strategy