

World Justice Forum VI

Insights and Takeaways

Jeffrey Aresty & Larry Bridgesmith*

Abstract

In May 2019, the World Justice Project (WJP) convened its sixth annual conference to explore the state of access to justice (A2J) in the global context. World Justice Forum VI met in The Hague and published the most recent A2J report compiled after a year of analysis and based on more than a decade of public, government and citizen data. Measuring the Justice Gap revealed less than optimistic data reflecting the lack of significant progress toward fulfilling the United Nations Sustainable Development Goal 16: achieving just, peaceful and inclusive societies by 2030. The 2019 conference showcased many global initiatives seeking to narrow the justice gap. For the most part these initiatives rely on institutional action by governments, financial institutions and NGO's. As important as these projects are, transforming the access to justice status of the world can also be achieved through actions focused on Justice at the Layer of the Internet. A consensus based governance model can build a legal framework which is not reliant on the enactment of laws, the promulgation of regulations or overcoming the inertia of institutional inaction. This article reviews the learning gleaned from the WJP and the 2019 Forum. It also seeks to augment the great work of the WJP by exploring the potential for justice as delivered by individuals joined in consensus and relying on emerging technologies.

Keywords: World Justice Forum, World Justice Project, World Justice Report, online dispute resolution, technology, access to justice, Justice Layer of the Internet.

1 Introduction

From 29 April to 2 May 2019, a global gathering of Access to Justice advocates, activists, technologists and advisors convened in The Hague, Netherlands, to explore the state of access to justice worldwide. Hosted by the World Justice Pro-

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ject¹ (WJP) organization, the event featured the publication of the 2019 World Justice Project report, *Measuring the Justice Gap*². On a nation-by-nation basis, the report reflected detailed data that reveals that at least 5 billion people globally have little or no access to justice. Many factors contribute to this dilemma. Those who gathered at The Hague were committed to not merely discussing, but taking action in order to remedy this enormous gap in access to justice. Importantly, it is not just the underdeveloped nations that suffer from unremedied injustice. The developed nations display as much inaccessibility as many economically disadvantaged nations and tyrannical dynasties. The United States ranks only 20th out of the world's 126 nations analysed in the 2019 WJP index. There is much work to be done on local, national and global fronts. The World Justice Forum VI (WJF VI)³ was a place intended to initiate reform and remedial efforts. This article will address the programmes and technologies, including online dispute resolution (ODR), that were showcased at the Forum as being at the intersection of law, technology, policy, governance and the multidisciplinary approaches that are the means by which collaborative transformation of failing justice systems can be achieved. Specifically, the 'Justice Layer of the Internet'⁴ provides a lever that can move the earth's systemic rock of injustice.

1.1 The Event

The WJF VI in 2019 was the sixth convening of this massive global initiative seeking to bring Access to Justice for All. The mission of the Forum was simply stated:

The World Justice Forum: *Realizing Justice for All* emphasizes a showcase of practical solutions to addressing and closing the justice gap. From interactive working sessions to plenaries highlighting solutions to increasing access to justice fast pitch presentations from World Justice Challenge finalists, participants gain knowledge and insight from multi-sector actors making an impact.

The emphasis was clearly focused on impact and action, not theories and principles. The intent of the participants was to demonstrate and learn from what is, in fact, working in practice to close the gap between access to justice and the legal injustices humans face daily.

1 *World Justice Project*: <https://worldjusticeproject.org/>.

2 World Justice Project, 'Measuring the Justice Gap', *World Justice Project*, 2019, <https://worldjusticeproject.org/our-work/publications/special-reports/measuring-justice-gap>.

3 'World Justice Forum: Realizing Justice for All', *World Justice Project*, <https://worldjusticeproject.org/world-justice-forum-vi>.

4 J. Aresty, D. Rainey & R. West, 'Building the Justice Layer of the Internet', *Internetbar.orgInstitute*, Litigation, 2016 <https://www.internetbar.org/building-the-justice-layer-of-the-internet/>.

The intended outcome of the event was equally action oriented:

In response, governments, organizations, and individuals joined in showcasing their justice initiatives and Commitments to Justice at the conclusion of the World Justice Forum. These declarations of further action to accelerate implementation of Sustainable Development Goal (SDG) 16 set the pace for outcomes that will feed directly into the UN High Level Political Forum on SDG 16 in July and the UN Summit on the SDGs in September.

Passive observation and negative commentary was not the purpose or outcome participants expected to achieve.

1.2 *The Organization*

The World Justice Project states that it:

... is an independent, multidisciplinary organization working to advance the rule of law worldwide. Founded by William H. Neukom in 2006 as a presidential initiative of the American Bar Association (ABA), and with the initial support of 21 other strategic partners, the World Justice Project transitioned into an independent 501(c)(3) non-profit organization in 2009. Its offices are located in Washington DC, Seattle, Singapore, and Mexico City.

For thirteen years the condition of the world's rule of law in reality has been the primary work that WJP has performed to analyse, collect data, publicize and support initiatives that expand access to justice on a global basis. Importantly, WJP recognizes that:

Traditionally, the rule of law has been viewed as the domain of lawyers and judges. But everyday issues of safety, rights, justice, and governance affect us all; everyone is a stakeholder in the rule of law.

Accordingly, the entire population of the world are all participants in the pursuit of access to justice. Everyone is welcome at the table of the transformative rule of law collaboration, not just those in positions of power.

Far more than the judicial administration of justice by the courts, the justice for which WJP strives is best stated in their vision statement:

Effective rule of law reduces corruption, combats poverty and disease, and protects people from injustices large and small. It is the foundation for communities of justice, opportunity, and peace – underpinning development, accountable government, and respect for fundamental rights.

Despite this, all over the world, people are denied basic rights to safety, freedom and dignity because the rule of law is weak or non-existent.

When pollution laws are ignored and inspectors are bribed, the environment suffers. Women fall victim to abuse when their rights are ignored and when

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their access to justice is limited. Families suffer when parents are coerced into paying bribes to get their children into health clinics and even schools. Local and international businesses avoid investing in communities where there is a lack of stable rules and regulations, leading to excessive amounts of risk.

Additionally, the WJP posits the following objectives for its existence:

- 1 Increased understanding of the rule of law and its foundational importance.
- 2 Greater rule of law adherence by governments.
- 3 Multidisciplinary, home-grown cultures of the rule of law.

According to the WJP, the very sustainability of human existence is dependent on achieving this high level of societal functioning. Governments are but one cog in a complex interdependent global system. No nation, not even the United Nations, is solely responsible.

1.3 *The Project Report*

The WJF VI at The Hague began with the release of the massive report on the state of global justice in 2019. *Measuring the Justice Gap* is the outcome of a year-long effort to collect, analyse and categorize data that is intended to portray the access to justice in the world's nation-states and locales. Over 600 government and local data sources were reviewed. A decade's worth of justice data previously collected was corrected for double counting. The work resulted in the "first-ever effort to integrate survey data with other sources of people-centred data on the nature and scale of injustice". The summary 45-page report and its links to appendices and the interactive World Justice Index comprise the most comprehensive and data-driven analysis of access to justice ever produced.

Its findings can be summarized as follows:

- 1.5 billion people who cannot obtain justice for civil, administrative or criminal justice problems. These are victims of crime and people with civil and administrative justice needs who may live in contexts with functioning institutions and justice systems but who face obstacles to resolving their everyday justice issues.
- 4.5 billion people who are excluded from the opportunities the law provides. These are people who lack legal tools – including identity documents, land or housing tenure and formal work arrangements – that allow them to protect their assets and access economic opportunities or public services to which they have a right.
- 253 million people who live in extreme conditions of injustice. This includes people who are stateless, victims of modern slavery and people who live in fragile states with high levels of insecurity.

When viewed in the aggregate, these figures amount to 5.1 billion people – or approximately two-thirds of the world's population – who face at least one of these intractable justice issues. Many are confronted by multiple injustices. This aggregate estimate certainly demonstrates unacceptable levels of exclusion from

justice. The justice gap assessment aims to go beyond this high-level figure and serve as the first step in an effort to better understand the multifaceted and overlapping forms of injustice that people face. For this reason, the justice gap assessment presents information about the underlying measurement questions and data sources that comprise the justice gap framework as a means of better understanding what the data can tell us about the state of justice and injustice in the world.

By design, the WJP exists to evaluate and provide support for the United Nations Sustainable Development Goal 16⁵, which calls for the promotion of just, peaceful and inclusive societies.

The WJF VI agenda was developed to address and provide evidence of successful remedial efforts that are reducing this unjustifiable gap. The global magnitude of this problem and the actual progress towards the achievement of UN SDG 16 by 2030 is not encouraging. The report reflects that justice has become more remote than it has been in the past.

2 World Justice Forum VI Agenda

2.1 *WJP Approaches to the Report*

One of the more important places to begin our inquiry into the WJP's approach to realizing Justice for All, and to see how technology and, specifically, ODR was utilized, if at all. We begin by taking a look at the projects which the WJP team selected as its Access to Justice winners.

Only two of the five winners of The Access to Justice competition focused on addressing the dispute resolution mechanisms to achieve the protection of rights. These were Monitoring Maternal Health Entitlements & Increasing Access to Grievance Redressal – Nazdeek,⁶ India, and Riverine People and the Right to Full Reparation Instituto Socioambiental – ISA,⁷ Brazil. Neither of the projects, however, anticipated the use of any form of technology, let alone ODR, to facilitate future resolutions. The other winners had developed legal advocacy projects, empowerment through education and reform of the criminal justice mechanisms to achieve their aims. Even projects that showcased Alternative Dispute Resolution (ADR) mechanisms, such as the Community Justice Team in Liberia, looked to use local mediators without any reference to ODR. ODR was not absent at the WJF, as will be mentioned later. But suffice it to say that Justice Innovators from around the world who chose to participate in the competition did not use ODR mechanisms.

Broadening our inquiry somewhat, we provide a link to all the thirty Access to Justice finalists (<https://worldjusticeproject.org/world-justice-forum-vi/world-justice-challenge-2019>). It is notable that the projects come from all over the world, and they address inequities faced by the most impoverished peoples in

5 'Goal 16: Promote Just, Peaceful and Inclusive Societies', *United Nations*, <https://www.un.org/sustainabledevelopment/peace-justice/>.

6 *Nazdeek: Bringing Justice Closer*, <https://nazdeek.org/>.

7 *ISA: Instituto Socioambiental*, <https://www.socioambiental.org/pt-br>.

each community. They identify the pain points for each of these populations. So it is noteworthy that the individuals and teams who focused on the justice innovations were more comfortable innovating using fairly traditional approaches: education, empowerment, negotiations and with political groups.

With the exception of technology connected to courtrooms, or technology that connects people needing access to a lawyer or other legal resources, access to justice throughout the world was viewed in a very conventional fashion. This is not to say that the use of technology has created a meaningful increase in A2J. In fact, the opposite argument can be made. Technology such as e-filing, online case intake and evidence gathering tools, especially with chatbots, artificial intelligence (AI) and online support, have resulted in an increase in the number of self-represented litigants.

Although on the face of it this seems like progress, the problem is that courts are more overburdened than ever. The rules of civil procedure that govern the court processes have not changed, and the electronic march to the courts has resulted in longer lines, more wait and fewer resolutions. Connecting someone to a lawyer electronically, though helpful, still does not change the fact that the delays in processing cases through the legal system itself is the problem. The question we ask is, why do we always depend on the formal legal system to be the place where society's norms are to be enforced? There are many other alternatives, but when judges and lawyers are the innovators, their 'go to' mindset to solve a problem lies within the current legal framework.

Here is a sample of some of the winning projects featured at WJF VI that demonstrate our conclusions:

- by providing free legal aid and education to torture victims and through trainings for public officials;
- by using legal empowerment and education as a tool to improve the health and safety of tribal members and establishing culturally appropriate locally based networks of civil legal attorneys embedded in the tribal health care delivery system;
- by developing judicial capacity for adjudicating climate change and sustainable development issues. It also assists national judiciaries in enhancing access mechanisms through establishment of 'green courts,' development of rules of procedure for environmental cases and building a strong regional network for environmental governance;
- by partnering with communities, local security and justice actors to support the police in the investigation of crimes and assist the courts in arguing the cases;
- by using strategic litigation to address discriminatory social security laws in Sonora to improve women's labour rights and protect the notion of equal justice for all;
- by addressing issues with the formal justice systems in Liberia by supporting mediators who resolve disputes at the local level, ensuring that they do not escalate into violence;
- by improving fisheries governance where technical measures and better policies are beginning to show meaningful impact;

- by connecting a community of lawyers to disadvantaged children across India so that they may have access to quick and expert pro bono legal assistance; and
- by creating a project which assists tenants in gathering evidence, mediating with their landlord through templated communications, reporting violations to city agencies, connecting with organizers and attorneys, and presenting a ‘case history’ in housing court.

A singular exception that illustrates how technology can improve A2J is the project on *E-lawyering: Criminal Justice and Accountability through Mobile Technology* (The Asia Foundation, Philippines⁸). Following the implementation of the Philippines’ government’s war on drugs, a growing number of grievances over extrajudicial police violence have gone unaddressed owing to overburdened public defence institutions. E-lawyering connects Filipinos to free legal and psychological aid through a 24-hour hotline and legal missions to vulnerable communities.

In conclusion, the winners of the competition demonstrated powerful and legally based solutions to systemic problems in their countries. The legal framework to address the problems was accepted as unchangeable in most cases. Alternatives focused primarily on raising awareness of the population of legal rights and engaging legal resources, lawyers and others to support the newly empowered citizens to get legal redress.

The WJP did not stop here – it moved the agenda forward by presenting an innovative programme, ‘Learned Hands’ by Stanford Legal Design Lab,⁹ in partnership with Suffolk LIT Lab (<https://learnedhands.law.stanford.edu/>) as a new way to think about justice innovation. We turn to that presentation.

2.2 *Technology and Justice Innovation*

In the programme entitled ‘Learned Hands’, presented by the Stanford Legal Design Lab, in partnership with the Suffolk LIT Lab, the WJF framed an approach that would then be supplemented by several tools and presentations in concurrent programmes. The only issue the authors had was that some of the programmes ran simultaneously, so we could not see them all. But the framework session started out with these guideposts:

Effective use of data and design can be a powerful driver of successful access to justice solutions. This session, inspired by the “School of Data” workshops for journalists, will educate and empower those working in the legal and social sector to use these tools effectively. Outcomes include increased data-literacy, the ability to spot data-project potential, and building a collaborative data and design ecosystem.

8 *The Asia Foundation, Philippines*, <http://libraryguides.vu.edu.au/oxford-referencing/internet-websites>.

9 ‘Learned Hands’, *Learned Hands*, <https://learnedhands.law.stanford.edu/>.

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The handout for the programme can be accessed here:¹⁰

The critical message is that there are starting points for access to justice problems that require a focus on the needs of the community you are serving. Identifying the ‘pain points’ requires both a subjective and an objective analysis of the fears and concerns of your community. The programme focused on what types of data-driven services, research, policies and tools have been developed in the justice + poverty space, though it could easily have been extended to climate justice, human rights and many other areas.

The authors have used legal hackathons as vehicles to gather the front-line service providers for A2J solutions, most of whom are not lawyers or judges. Legal hackers meet the clients where ‘pain’ is being experienced to obtain subjective viewpoints on access to justice issues. Hearing from and incorporating the lessons learned from the stakeholders experiencing the pain is essential.

The combination of both the subjective and objective data can then be used to inform the innovators’ understanding when they gather to begin work on justice innovation. The Learned Hands approach suggests that with this data, solutions can only follow the gathering of multidisciplinary actors into groups to brainstorm about what might be possible – after they have completed initial needs-finding, agenda-setting and brainstorming work. It is well established that ‘cognitive diversity’ is the primary successful approach to achieving creative problem solving.

This new knowledge of how to approach justice innovation, using some new tools, generated interesting examples, as presented in the following sessions.

1. Opportunities and Challenges in Documentary Film-making for Change
 - a Working Sessions 3
 - b Coordinated by the World Justice Project Mexico
 - c The audience learned of the work done by the World Justice Project in Mexico and the US Institute of Peace in Burkina Faso. These projects applied documentary film-making to create change. Documentary film-making is a creative form of communication that plays a “critical role in building public support and engaging key policy-makers” to further implement reforms to get access to justice.

Documentary filmmaking, in and of itself, is expensive and requires serious production expertise. Not only has the WJP Mexico project won awards, but when talking with the team that put it together, they combined the best of the folks digging into the justice problems in Mexico, putting their lives at risk and finding ways to document the story. But that is only the beginning.

Assembling the raw footage, making sure that you have the entire story of where the justice system has gone wrong and catching and exposing the system’s

10 ‘Data & Design Justice Projects’, *World Justice Project*, <https://worldjusticeproject.org/sites/default/files/documents/Data%20Design%20workshop%20-%20case%20studies%20templates%20cards%20%283%29.pdf>.

failings is a story. Now it has to be assembled into the documentary, which requires the knowledge of Hollywood (or Bollywood!).

At this point, most non-profits are going to need access to studios, network TV or some other outlet to get the documentary the kind of visibility it deserves. Of course, if a non-profit is creative enough to have folks on board who can put the content onto their own website, donors and others who visit the non-profit's website will be able to view the documentary.

Two non-profits at the show, savethechildrenindia.org and internetbar.org (in which the authors play leading roles) used the latest virtual reality technology to demonstrate a new way to present documentaries. It was very powerful. Because it simulates reality for each person, making the wearer of a headset feel as though they are experiencing and seeing refugee camps, climate disasters and anything the non-profit wants to demonstrate, stories become real.

2. Algorithms in Justice and Justice in Algorithms: Fairness to Whom?

- a Working Session 4
- b Coordinated by Alan Turing Institute
- c This session discussed the use of algorithmic tools in justice and open data. Owing to the little knowledge or transparency of what algorithms are, it is often further marginalized to the disadvantaged group.

The session on using algorithms in justice highlighted the very early stage of development of the idea that algorithms can be used to increase access to justice. A generational and cultural divide could be sensed in that older attorneys and judges and many victims of the justice system where technology had been used in profiling commented on the bias that is built into the algorithms themselves. Of course, algorithms, like all technology, are built and/or coded by people. And everyone has a built-in bias. But a justice system should have no bias whatsoever. As algorithms gain more currency in use to acquire and help to assess data and trends, especially when coupled with AI, it is certainly possible to build integrity through multidisciplinary teams from many cultures and generations as collaborators. This standard-setting approach can help ensure that the algorithms operate in as unbiased a manner as possible on the basis of established and proven best practices.

3. Court Digitalization and Online Dispute Resolution: How Courts are Using Technology to Deliver More Modern Justice

- a Working Session 4
- b Coordinated by The Legal Education Foundation
- c "This session will... describe the trends and successes in automation, as well as the challenges of sustainability and public access" and tackle whether or not ODR has an impact on justice or caseloads.

The rich experience of the authors in ODR and its deployment over the past decade helped them anticipate the findings presented at the programme on ODR. Primarily, the presentation focused on how a great deal of research is going to be

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funded by PEW and others to determine the best way to deploy ODR. But a field that was once dominated by start-ups, with innovative ways to prevent disputes or solve them using smart negotiating tools (such as smartsettle.com) or negotiating frameworks to facilitate agreement (such as co-parenter.com) is slowly being taken over by large corporate groups with existing tie-ins to the courts. Tyler Technologies bought Modria, for example, to acquire its ODR platform as another tool to assist judges in moving huge caseloads off their dockets.

The message that came across is that ODR needs to abide by the rules of civil procedure, around which all types of justice actors have grown accustomed. David Larson, one of the leading thinkers in the ODR field, recently concluded a two-year stint working on a request for proposal (RFP) for the New York state courts' entry into the ODR field and ran into every obstacle possible. See https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3399778¹¹ for an account of David's attempts to mediate between the needs of various justice actors to protect their clients' interests in the face of a court system moving to use ODR. Innovation is a massive challenge when one must abide by the rules of a system that is failing to serve 75% of the people with justice problems. Working an inadequate system harder only creates less access to justice, which the current system is unable to provide.

It would have been interesting had there been some representation from the courts in Hangzhou, China, where one of the authors visited last summer. The courts mandated ODR implementation on a pilot basis in the Hangzhou province two years earlier. Thousands of cases have been resolved, and new technologies, including virtual juries and data analysis, have given China a foundation for growth in the ODR field. With the upcoming focus on ODR at the National Center for State Courts, one can hope that this 'top-down' mandate to use ODR will remove some of the obstacles to adoption faced by Professor Larson.

4. How to Achieve a Level Playing Field for Innovation: A Dialogue on Regulating Legal Services in the 21st Century
 - a Working Session 4
 - b Coordinated by the Hague Institute for Innovation of Law
 - c In this session, the Innovation Working Group of the Task Force on Justice introduced the 'level playing field'.

Although technically not a session on technology, the regulation of legal services has everything to do with innovation. This session was a moderated dialogue by a former Supreme Court justice from Colorado, an innovator herself. It raised many of the issues innovators face – principally, whether a particular innovation can lead one to the unauthorized practice of law, whether technology is used properly so as to comply with the ethical rules governing legal practice, and whether or not rules can be harmonized across borders when technology essentially ushers in a

11 D. Larson, 'Designing and Implementing a State Court ODR System: From Disappointment to Celebration', *Journal of Dispute Resolution*, 2019, SSRN, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3399778##.

global economic and social operating environment. No resolutions were reached. But the clear risk to lawyers and justices operating under the existing rules is that a new system will develop without lawyers and justices to pick up and resolve the justice issues that are not being addressed today. Lawyers and justices have the time to ‘think out of the box’ and help invent the new system; otherwise, they risk being left out.

Although not mentioned in the session, while one of the authors was present, the Sustainable Development Goal 16 – which is founded on the principle that the rule of law is foundational in solving the global society’s most pressing problems – was almost left out by the UN. Incredible lobbying had to take place to keep the rule of law SDG in the final draft. Obviously, others outside the legal and justice world are going to hold innovators in the justice system to account for how they are increasing access to justice.

5. Digital Identity: Helping Redefine Access to Justice

- a Working Session 5
- b Coordinated by Internetbar.org (IBO)
- c The session focused on ‘The Invisibles’ and how technology plays a part as the first digital identity project.

The session on digital identity was the second time this topic was presented at the World Justice Forum. The first presentation had taken place three years earlier at the World Justice Forum V. In between these two events, the IBO put together the team to take the project to the next stage. At this forum, they presented innovative technology that can increase access to justice, digital identity built on the blockchain, supported by a collaborative rule of law developed globally as a set of self-governance standards.

The Invisibles project is building a world where individuals from the poorest areas can access opportunities offered by anyone from anywhere around the world while being protected by a justice layer of the Internet. This would be realized by a virtual marketplace called an ‘Open World’ marketplace that would unlock sleeping capital in marginalized communities, leading to eradication of poverty and accelerated financial inclusion.

Imagine a world where a Sri Lankan can become a research assistant for a US-based consultant looking for expertise at a cost she can afford. Thanks to the increasing penetration of mobile phones and the Internet network in the developing world, this is no longer a dream.

There are two main reasons why such a marketplace is still non-existent despite the needs. First, there is a lack of trust between the transacting parties. In order to make a successful digital transaction, parties need to be able to identify and keep each other accountable. The Internet has been built without an identity layer, but emerging technologies, including distributed ledger technology (DLT), enable the creation of trusted verifiable digital identities.

Second, the Internet lacks a justice layer that would guarantee fairness, freedom and ethics of digital behaviour. In many cases, individuals from marginalized

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communities can be exploited because they are unable to prove ownership of their digital assets or their working rights.

The Invisibles project aims to create a solid foundation for an ‘Open World’ marketplace by restoring digital or self-sovereign identity for the marginalized populations within a legal framework for digital identity. The first pilot is already in place in Bangladesh, issuing trusted credentials for teachers and volunteers working for JAAGO Foundation, a non-government organization that provides free education to underprivileged children, and doctors in Gonoshasthaya Kendra, one of the four largest hospitals.

Teachers, volunteers and doctors will act as ‘trusted agents of change’, facilitating the issuance of digital identity to their students and patients. The ultimate target population is refugees, which is the group in most urgent need of identity to be recognized as individuals and gain access to opportunities.

The system is easily replicable in other marginalized communities, when adjusted to local context such as culture, tradition and norms of each community. Once we have a solid foundation of digital identity, we will start developing other components crucial to enabling financial transactions within the ‘Open World’, such as payment systems and mobile apps.

6. Securing Communications Channels from Metadata Risks for Vulnerable Actors

- a Working Session 5
- b Coordinated by Leiden University Centre for Innovation
- c An overview of data responsibility and a focus on the risks through the use of metadata communication channels.

This session made it clear that when you work in the global online space, what you see is not the entire picture. Metadata, the information that gives context and authenticity and accountability to the underlying content, whether in a document or a video or some other format, tells a story. What the story tells can be misinterpreted by many, if the content creators give no thought to the metadata that surrounds their content. Ethical risks are created for the creators. More importantly, there are many times that the metadata can be accessed by bad actors and used to hurt others. This is an area of concern that requires multidisciplinary support to ensure that best practices include the proper training in the creation and use of metadata.

7. Building Portals to Improve Access to Justice Solutions Online

- a Working Session 6
- b Coordinated by Legal Services Corporation
- c Introduces The Legal Navigator portal as a means to provide resources when legal issues are present.

The final session was put together by the Legal Services Corporation (LSC), whose Technology Innovation Grant programme has spurred innovation in the legal aid sector for the most vulnerable in society. They have created pathways to the

existing justice system using innovations that bring the knowledge of what the justice system can do to assist its clients gain access to the courts and/or to the legal resources they need.

After many successful years of bringing the best innovations to the justice system, LSC joined forces with probono.net and Microsoft to run a pilot programme to develop online, statewide legal portals to direct individuals with civil legal needs to the most appropriate forms of assistance. The first two states to test the pilot were Alaska and Hawaii. Developing content that was specific to the state and the legal problems being addressed created some obstacles for the partners, but they have persisted and the programme will launch in the fall of 2019 in the pilot states.

3 Justice at the Layer of the Internet

As the WJP has led to what has been referred to as the globe's first effort to understand the nature of the 'justice gap' from the point of view of people who have unmet justice needs, an initial question that has to be answered is: What are the justice needs being measured?

In 'A Report on the Future of Legal Services in the United States', issued in 2016 by the American Bar Association's Commission on the Future of Legal Services, justice is generally explained in terms of access to institutions of law and government, which are generally made available to the public through legal processes that are supposed to ensure fairness and trust. In regard to basic legal assistance for most people, whether living in poverty or with moderate income, the WJP Justice Gap Report noted:

Justice problems are ubiquitous. Approximately half (49%) of the people surveyed experienced a legal problem within the preceding two years. While the prevalence and severity of problems vary by country, the most common problems relate to consumer issues, housing and money and debt.

When one looks at access to justice in terms of solving legal problems that arise from a misstep or failure, whether a society provides access to justice will necessarily focus the inquiry on the need to find solutions – and, generally, solving legal problems requires access to a legal institution of some sort. This leads to a system that favours the use of lawyers and judges as intermediaries to get fair and just resolutions. A recent report prepared by the Columbia Law School Human Rights Clinic put it this way:

Legal representation is fundamental to safeguarding fair, equal and meaningful access to the legal system. Yet, in the United States, millions of people who are poor or low-income are unable to obtain legal representation when facing a crisis such as eviction, foreclosure, domestic violence, workplace discrimination, termination of subsistence income or medical assistance and loss of child custody. Indeed, only a small fraction of the legal problems experienced by low-income and poor people living in the United States – less than one in five – are addressed with the assistance of legal representation.

Middle-income people face the same lack of access to justice.

And yet, when the WJP frames the theme of its forum as ‘Realizing Justice for All’, they embrace the opportunity-oriented Sustainable Development Goal (SDG) 16, which commits countries to “promote peaceful and inclusive societies for sustainable development, provide access to justice for all, and build effective, accountable and inclusive institutions at all levels.” Not only is justice looked at in terms of resolving problems, but its focus on institutions of law completely ignores that most of the world is functioning online.

Accordingly, a global assessment of access to justice must take into account the radically different state of the world’s current population from that of 13 years ago at the founding of the WJP. A relatively small proportion of people had access to computers and the Internet in 2006. Now, the Internet has placed a sizeable majority of humans in touch with each other and a vast amount of products and services globally. Even where computers and Internet access is limited, smartphones and Web services have changed access to economic opportunity and risk to a radical degree. Access to Internet connectivity is expected to achieve almost universal reach in only a few years from now.

Therefore, to assess Access to Justice for All under the UN standards, it is essential to add to the WJR additional criteria such as multi-stakeholder commitments to justice and the promotion of effective, sustainable and replicable approaches to closing the justice gap at the community level, and provide meaningful measures of progress.

The WJP’s justice gap assessment and global study on access to justice illustrate that realizing justice for all is a large and complex challenge. This challenge is being met with a groundswell of advocacy efforts, calling for the policy commitments, financing and data required to ensure equal access to justice for all by 2030. These efforts must also be measured by the additional goals of the UN SDG 16.

3.1 *Multi-Stakeholder Commitments to Justice*

The 2019 World Justice Forum¹² (<https://worldjusticeproject.org/world-justice-forum-vi>) stands as an important milestone for building a worldwide community dedicated to realizing justice for all. As a global meeting place for governmental and non-governmental actors, private sector leaders and the donor community, the Forum addressed principal challenges to delivering justice and provided space for advancing concrete solutions. In response, governments, organizations and individuals joined in showcasing their justice initiatives and commitments to justice at the conclusion of the World Justice Forum.

12 ‘World Justice Forum: Realizing Justice for All’, *World Justice Project*, <https://worldjusticeproject.org/world-justice-forum-vi>.

3.2 *Promoting Effective, Sustainable and Replicable Approaches to Closing the Justice Gap at the Community Level*

Since its founding, WJP has provided over \$1,000,000 to support initiatives on five continents, from improving food security in Haiti to access to healthcare in Cameroon to tackling petty bribery in India. On 2 May 2019 at the World Justice Forum in The Hague, Netherlands, the WJP announced five \$10,000 prizewinners in a worldwide competition to identify and highlight effective and promising work to increase access to justice.

The 2019 World Justice Challenge: Access to Justice Solutions¹³ (<https://worldjusticeproject.org/world-justice-forum-vi/world-justice-challenge-2019>) competition sought to identify projects working to provide access to justice – in particular to excluded groups – and to contribute to the movement to close the justice gap and realize justice for all. More than 250 Challenge applications were judged on impact, sustainability, replicability, scalability and promise for the future.

3.3 *Meaningful Measures of Progress*

The World Justice Forum showcased cutting-edge efforts by governments, civil society and researchers to meaningfully measure access to civil justice. This excellent starting point must be reviewed, analysed and built upon over time. As in any standard-setting exercise, the work is never finished.

As new approaches, standards, examples and best practices arise, the task of measuring justice can continue to improve.

3.4 *How 'Bottom Up' Technology Collaboration Assists A2J*

The 2019 WJF modelled and illustrated several key themes of value to the ODR community:

- Multidisciplinary collaboration promotes innovation and problem solving
- Emerging technologies are enhancing connectivity globally
- The Internet of Things is a powerful tool for change
- Regulations/Rules/Laws are slow to form or change and difficult to enact
- Standard-setting and self-governing agreements promote best practices among stakeholders

Justice at the Layer of the Internet means that individuals and advocacy groups are able to join forces globally to generate solutions that can deliver 'self-sovereign justice' consensually rather than by enforcement. A2J by way of the Internet is faster, more satisfying and far less expensive than formal traditional legal system initiatives.

3.5 *The New Social 'Operating System'*

The American Bar Association's *Litigation Magazine's* Spring, 2016 edition carried the article 'Building the Justice Layer of the Internet', by Jeffrey Aresty, Daniel

13 'World Justice Challenge 2019', *World Justice Project*, <https://worldjusticeproject.org/world-justice-forum-vi/world-justice-challenge-2019>.

Jeffrey Aresty & Larry Bridgesmith

Rainey and Robin Page West. They described the reasons for a 'Justice Layer of the Internet' as follows:

Despite the legal community's neglect, information and communications technology has transformed social and professional relationships. Lee Rainie and Barry Wellman have argued that a new social "operating system" that affects all parts of our lives, including work, has arisen from three "revolutions": the social network revolution, the Internet revolution, and the mobile revolution. (Lee Rainie & Barry Wellman, *Networked: The New Social Operating System*, MIT Press, 2012).

These revolutions began after the online network created by the early developers of the Internet offered a way to improve communication between and among researchers. Opening that network to the public created a layer of expanded communication and information sharing for societies at large. The National Science Foundation's move to open the Internet to online commerce in 1992 added yet another layer, exploding commercial possibilities, creating some of the largest corporations in the world and making the concept of venue and location all but irrelevant.

As each of these layers has developed – with artificial intelligence, expanding communication channels and ever more complex networked interaction – justice systems have remained largely frozen in place, locked into particular geographical places and paper. This has left a conspicuous empty layer – a layer that, if developed, would enable people anywhere and everywhere to access the justice system. Even poor people have access to information and services of all kinds through multiple channels accessed through traditional computing and, more important, through 'simple' mobile devices and smart-phones.

Yet access to justice remains illusory for them. This would not be the case if access did not depend on systems created in a barely post-Medieval world. Even though many of us became lawyers in order to do good and shape society, most in our profession were mere spectators at these revolutions, doing very little to protect, preserve and defend the rights of the vast majority of people, businesses and social structures we swore to protect. For the most part, we have been slow to adopt and have even resisted innovative technologies. The problem for the legal community is that these changes will happen whether we help shape them or not. All users of the Internet acting together will begin to define organic norms for online interaction as they continue to communicate, trade and sign agreements.

The justice layer will form on its own. If we want to do more than witness the process unfold, we must consciously and actively build the justice layer of the Internet. Globally, this means we must not only reinvent the way we make law in cyberspace but also catalyse the creation of justice-related technologies.

4 Conclusion

Readers of this journal are painfully aware of how long ODR has been a 'gleam' in our eyes. Courts, Bar Associations and governing institutions of every kind are 'wired' to maintain the status quo. In the digital and exponential age of change, relying on institutional change cannot keep up with the rate of innovation and the impact of disruptive technologies.

Borders are of no consequence to Internet exchange of ideas and economic value. Although nation-states can erect barriers, the flow of information is like water: it will not be siloed forever. Information is power, and access to justice derives from access to information.

The work of the World Justice Project is critically important and must continue. However, access to justice is too important to be left to those elected, appointed or born to power alone. A2J is contrary to their interests.

Just as the Internet and its limitless applications have transformed the global economy, so can it transform the justice model. Blockchain, AI, smart contracts, cryptocurrency and other emerging technologies are combining at the layer of the Internet to deliver economic value by eliminating intermediaries. Justice can be delivered in the same way.

Online Dispute Resolution is the combination of technology, those seeking justice and their advocates to 'do law' better, faster and cheaper than traditional forms and forums.

The World Justice Project has made great advances in bringing together the leaders of justice in the world to commit themselves to realizing justice for all. But if the WJF VI demonstrated one key point, it is that legal technology and innovation needs to make sure that a new way of thinking, breaks down the reliance on legal systems that have failed us and points to a new way of innovation.

As Professor Gillian Hadfield noted at World Justice Forum V, "Legal innovation needs to keep up with 21st century technology and globalization."

Those of us dedicated to ODR are in a perfect position to do so.