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Unlocking the Potential of People-Centered Justice in Africa  
by

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The opening of the  
Knowledge Platform Annual Conference  
Launch of the African Alliance for People Centered Justice

19 Nov 2024

It gives me great honour to address you today. I have been invited to speak on People-Centered Justice.

The world we live in is a “law thick” world: all aspects of life are impacted by laws, regulations, rights and responsibilities. From the moment a person is born, through education, housing, employment, transport, health, to the end of life, the law impacts their day-to-day life and economic and social well-being.

As such, legal and justice needs are common in the lives of most people. Addressing legal and justice needs demands access to public justice services and other dispute resolution mechanisms in order to recognise

and obtain a remedy to the legal need in question, thus giving place to justice needs.

The ability of the legal and justice system to effectively respond and address those needs for all people and generate fair outcomes is critical to ensure well-being, equal opportunity and access to public services.

Conversely, the inability of justice systems to prevent or resolve people's legal issues can weaken the social contract and lead to unresolved grievances, instability, or even violence.

Let me begin my remarks with a story. A horrible story in the history of South Africa's young democracy. The life Esidimeni tragedy.

144 mental health care users died after the government moved them out of a private health care facility called Life Esidimeni after 1 October 2015<sup>1</sup>. The government moved the patients to facilities around Johannesburg which were found to be ill-equipped and understaffed. These facilities were operating as non-governmental organisations (NGOs). Many NGOs appeared to have problems in accessing the medication that mental health care users required – for both psychiatric and physical conditions. There was significant understaffing or inappropriate staffing at some NGOs. Some NGOs had insufficient security.<sup>2</sup> The patients were moved from a private health care facility to less ideal sites.

The death of 144 people was a catastrophe no matter how one looks at it. It fittingly shocked the whole nation and the world.

The Life Esidimeni Arbitration was established following Recommendation of the Health Ombudsperson's "Report into the circumstances surrounding the deaths of mentally ill patients. Legal Aid SA funded and represented the

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<sup>1</sup> Arbitration Award in Families of Mental health care users affected by Gauteng Mental Marathon Project v National Minister of Health of the Republic of South Africa (Moseneke, J ) at 2

<sup>2</sup> Ibid at 32

affected families. In March 2018, the Arbitrator, Former Deputy Chief Justice, Dikgang Moseneke found that the decision to move the patients had been "irrational and in blatant breach of the law and the Constitution," an "irrational and arrogant use of public power. He ruled that families of the affected patients should each be paid around R1.2 million. In April 2017, 144 dockets were referred to the National Prosecuting Authority, and on 19 July 2021, a judicial inquest commenced in the Pretoria High Court to determine the legal cause of each patient's death.

Legal Aid SA funded Section 27 Non-Governmental Organizations (NGO's), which represented **63** families of the deceased while Legal Aid SA represented **67** families of the surviving victims, including assisting with the disbursement of the compensation funds from the Gauteng Department of Health to the families of the victims.

This is just one of the story showing how people experience justice problems and what happens when policies are designed without the real needs of the people at the center.

Justice services also often remain fragmented or inadequate. In many jurisdictions there is no fully developed continuum of options for identifying, anticipating, preventing and resolving legal issues, often owing to weak referral and triage systems among the institutions involved. The focus on court and litigation-centred "silo" models can further undermine the ability of justice systems to enable access to justice for all.

It is illustrative of millions—even billions—of people's experience of justice problems the world over. According to a 2019 World Justice Project study aimed at measuring the justice gap, globally, 2.1 billion people are employed in the informal economy; 1.1 billion are victims of non-violent crime such as burglary or theft annually; 2.3 billion lack proof of secure housing or land tenure rights; and 1.4 billion have unmet civil or administrative justice needs. Many of these circumstances are overlapping and compounded disproportionately in impoverished and otherwise marginalized populations.

We are here today to explore a reorientation of our justice policy making, in order to take as a point of departure the experience of people like the Life Esidimeni victims. For far too long and in too many jurisdictions, we have approached the justice system strengthening from the perspective of institutions. We have asked what judges, lawyers, prosecutors, and bar associations need to do their jobs better, without fully understanding the needs of the people those institutions and actors are meant to serve.

By contrast, people-centered justice flips that approach on its head. It begins with a mapping of people's justice needs, the ways in which they solve their justice problems, and the obstacles they face in doing so. Armed with this understanding of what has been referred to as people's "justice journeys," we can design justice institutions and policy interventions to meet people's needs more effectively.

The importance of transforming justice to center on people was acknowledged in the 2018 Riga Statement on "Investing in Access to Justice for All!".

The statement strongly recommended that action be taken to invest in access to justice for all to foster inclusive growth and implement the 2030 Agenda.

It emphasised the importance of measuring progress in access to justice from the people's perspective and called on the international community to develop tools to support countries' efforts to better understand and address legal and justice needs.

The statement also called for a deeper understanding of the needs of disadvantaged people who face particular barriers in accessing justice. It highlighted the importance of innovative approaches in the delivery of people-centred justice services to meet diverse legal and justice needs and empower individuals, communities and businesses. Participants called for

concerted action at the local, national and global levels to achieve equal access to justice for all, specifically for women, Indigenous communities and vulnerable groups.

The application of people-centred concepts to justice systems is relatively new. First appearing as 'client-centred' services in the early 2000s, a number of similar and/or related terms have been used – including citizen-centred, person-centred, human-centred and people-centred design. It is necessary to define these terms in the attempt to define “people-centred access to justice”, and it is important to note that other sectors, such as health, have a longer and deeper history in the application of similar concepts

What do I mean by people centred justice ?

“People centricity” means taking the needs and voices of people into account when designing, delivering, implementing and evaluating public policies and services. People-centered services are inclusive, tailored to people’s needs and high quality.

This differs from justice systems whose reforms are primarily inspired by the needs or views of the service providers.

What difference does this shift in perspective make in our justice policy? A big difference

The World Justice Project (WJP), an independent, multidisciplinary organization working to advance the rule of law worldwide released groundbreaking survey results on access to justice around the world, representing the voices of more than 100,000 people in 101 countries.

This data reveals the scope and depth of legal problems ordinary people face all over the world, including problems related to employment, housing, education, health, and family life,

Key findings from the study include:

**Justice problems are ubiquitous and frequent.** Approximately half (49%) of people surveyed experienced at least one legal problem in the last two years. While the prevalence and severity of problems varies by country, the most common problems relate to consumer issues, housing, and money and debt. These can include problems with a landlord over rent, repairs, or payments; problems with neighbors over noise or litter; becoming homeless; disputes over poor or incomplete professional services; problems with a utility bill or supply; insurance claims being denied; threats from debt collectors; extortion from a gang or other criminal organization; difficulty collecting money owed to you; and more.

**Global Insights on Access to Justice 2019 Justice problems negatively impact people's lives.** 43% of those surveyed reported that their legal problem adversely impacted their lives. More than 1 in 4 people (29%) reported that they experienced physical or stress-related ill health as a result of their legal problem, and more than 1 in 5 people (23%) reported that they lost their job or had to relocate.

**Most people do not turn to lawyers and courts.** Less than a third (29%) of people who experienced a legal problem sought any form of advice to help them better understand or resolve their problem, and those who did seek assistance preferred to turn to family members or friends. Even fewer (17%) took their problem to an authority or third party to mediate or adjudicate their problem, with most preferring to negotiate directly with the other party.

**People face a variety of obstacles to meeting their justice needs,** beginning with their ability to recognize their problems as having a legal

remedy. Indeed, fewer than 1 in 3 people (29%) understood their problem to be legal in nature as opposed to “bad luck” or a community matter. As mentioned above, less than a third of those surveyed obtained advice from a person or organization that could help them better understand or resolve their problem, and 1 in 6 (16%) reported that it was difficult or nearly impossible to find the money required to resolve their problem. About the same proportion (17%) reported that their justice problem persists but they have given up any action to try to resolve it further, with another 39% reporting that their problem is still ongoing

Justice policy that takes on board this data about people’s justice journeys looks very different. Rather than reinforcing institutions to which people do not turn, a people-centered justice policy focuses on understanding people’s justice needs and transforming justice institutions and other services to meet those needs. Let me mention just 4 ways in which a people-centered approach looks different.

**A people-centered approach to justice will emphasize:** A strengthened data ecosystem to capture through legal needs surveys and administrative data a clear picture of people’s justice needs and experiences. Imagine a health care system where we did not know the prevalence of illnesses we were trying to prevent or treat. That’s where we are with respect to data about justice needs in most jurisdictions.

**A people-centered approach will employ:** Preventive strategies to address the root causes of prevalent justice problems. Again, imagine a public health system where we poured resources into hospitals but not vaccination programs.

**A people-centered approach will emphasize:** Information and education about legal rights and remedies, so people can come to understand the justice services available to them; and

**A people-centered approach will focus on:** Removing barriers to assistance, including issues such as language, the physical location and cost of services, as well as excessive regulatory restrictions on the

provision of basic legal services. It will take advantage of cross-sectoral collaboration—collaboration between the justice system and the health, education, and other social services systems--to meet people where they are with the justice services they need.

People centered justice emphasizes our commitment to Social justice which is the bedrock on which a thriving and coherent society is built. It is not merely a concept but a commitment to ensuring that every individual, irrespective of conditions that make them vulnerable for example racism, gender inequity, or economic status, enjoy the same rights and opportunities.

## The Framework for People-Centred Justice

### Pillar 1: Designing and delivering people-centred services:

This pillar focuses on the design, establishment and maintenance of legal and justice service delivery, in line with 2019 OECD criteria for people-centred design and delivery of legal and justice services. For example, it deals with how the justice system focuses on people in identifying the legal and justice needs of society, the most vulnerable groups, the barriers they face to accessing justice, and leveling the playing field for all through the appropriate service.

### Pillar 2: Governance enablers and infrastructure:

This pillar concerns the role of government and other key justice actors and governance enablers in establishing justice systems that are accessible and ensure legal and justice needs of people are effectively addressed. This pillar incorporates approaches to establishing whole-of-government systems; systems to ensure access to technology and to justice services; justice system simplification; and people-centred reorientation of justice service



### Pillar 3: People empowerment

This pillar recognises the importance of strengthening people's capabilities on both sides of the justice service delivery system. It considers how to empower people through co-designing and contributing to legal and justice needs identification and solutions, and through increasing capacity, legal literacy and awareness. This pillar also includes developing the capabilities of those working in the justice sector to design and deliver people-centred legal and justice services, engaging with non-governmental and private providers, and communication and outreach strategies.

### Pillar 4: Planning, monitoring and accountability

This pillar focuses on establishing and maintaining evidence-based mechanisms to support decision making, delivery and monitoring of people-centred justice services. It covers the establishment of processes, governance and infrastructure to ensure that key data are available; that systems of ongoing evaluation exist to fill the gaps in what is known about what works cost-effectively to improve access to justice for individuals and specific groups; and to ensure accountability and progress can be monitored by governments through an appropriate range of indicator.

### **Conclusion:**

Taking a people-centered approach to justice requires a major change in the way we do justice system strengthening here in Africa. The good news is that—as evidenced by this conference—that shift is well under way.

African Alliance for People-Centered Justice (AAPCJ) serving as the leading voice of the legal profession on the continent and undertaking rule of law development assistance across the continent — is uniquely positioned to drive forward this paradigm shift in justice sector policy making. I commend

you for convening us for this important discussion about just how we go about a pivot to people-centered justice.