



Asian Law Students' Association
National Chapter Indonesia

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POSITION PAPER



I. Introduction

Access to justice is defined as having affordable legal services, easily accessible legal information and forms, fair treatment and equality in the court system regardless of social standing, and the unbundling of legal services. Access to justice is a critical component of reducing poverty and strengthening democratic governance; the adoption of a human rights-based approach in its program is guided by international human rights criteria and theory.

As time passes, the advancement of advanced technology aids in the fulfillment of many human requirements, particularly in the fields of law. The growth of media and social media has prepared the path for a new definition of access to justice. The law and the media it's becoming inseparable since a large portion of the news comes from the sectors of crime, justice, and the law (Hans, 1990). Because of globalization, the majority of humanity obtains legal information about what is going on in their country through electronic media. This is why the

media has played such an important role in improving access to understandable information about what is going on in the courts.

However, individuals nowadays are more likely to believe what they see on the news and social media, particularly when it comes to legal information. Because of their lack of digital literacy, people are more likely to believe and spread fake legal news. In order to preserve a high level of democracy, there are still several fundamental difficulties related to the media and judicial systems. In this case, the writers will attempt to do an extensive study into the extent to which the media plays a role in making justice more accessible.

II. Analysis

As previously noted, the media had a significant role in the law and practice of open justice. The media facilitates open justice by reporting on court proceedings, and very few members of the public now attend and observe judicial procedures. To acquire updates on specific cases, the public mostly relies on court reporting by the press or any major media. However, because not all cases may be disclosed to the media, it is hard to make the justice system transparent (Bosland & Townend, 2018).

Disinformation, often known as fake news, is weakening the credibility of information that meets the criteria for verification and public interest. The frequency of false news is increasing year after year; for example, in the third quarter of 2020, there will be 1.8 billion fake news engagements on Facebook alone (Letterly, 2021). People are frequently duped, and others who disagree with a movement's message use fake news to undermine movements, governments, and promote false stories that affect everyone. The spread of fake news and disinformation has hampered people's access to justice, especially in this day and age when most people simply read the headlines of the news and not the entire story. In the sphere of law, disinformation is also common, burdening the job of the court itself. As a result, to offer equal access to justice for everyone, our government must educate the public more about the legal process to reduce the number of misinformation.

Positions on various issues it is also one of the variables that might stymie access to justice, and several media outlets exist only for political purposes. This type of strategy is common in Indonesia; nevertheless, the full narrative in certain situations will not be released due to the involvement of political parties. This is also an example of misinformation spread by parties who are not responsible or lack empathy when it comes to accessing justice. However, based on the Global Ethics for Journalists, they must respect and fight for the right of the public, since it is an obligation for every journalist to obey it (Global Charter Ethics for Journalists).

The media is critical in performing watchdog tasks. However, it might also undermine access to justice through inadequate or overburdened reporting. On some occasions, the media tends to exaggerate specific cases, eroding the assumption of innocence. Improving media reporting capacity on human rights and access to justice concerns creates a more conducive atmosphere for successful justice reforms.

Furthermore, the media can and often does negatively impact the treatment of minorities, democracy activists, and human rights campaigners (UNDP, 2004).

It is not surprising, then, that judges are increasingly confronted with difficult questions about how such technologies, on the one hand, may facilitate open justice and, on the other, how the degree of openness that they provide may introduce new risks to the administration of justice and other competing interests such as the privacy of court participants (Civil Resolution Tribunal). As a result, judicial approaches to and understandings of new technologies can have important implications for open justice and all of this is to create a way for access to justice to all mankind.

III. Conclusion

The usage of media, in general, has given countries a good impact in terms of demonstrating transparency in court proceedings. With the overall digitalization of our era, mainstream media and even social media are making it easier to make a movement or obtain legal information.

However, as technology advances, access to justice suffers from new flaws, such as the widespread miscarriage or fake news that has been on the rise in recent years. It is everyone's responsibility to sustain a healthy judicial system; the government, media, and citizens must all work together to make access to justice stable. To ensure correct access to justice, the government creates measures to regulate media at a level that does not infringe on media freedom. Media subjects should be responsible for media production and cautious. And citizens should critically accept information when they receive it.

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Topic : Access to justice & Public legal education

1. GENERAL INFORMATION

Communication between humans is essential in our living society. Through civilizations, language has survived and taken many forms. These forms are created by society and the culture of the people using those forms of language, these forms of language also took place in academic linguistic differences for a long time. These so-called academic linguistic differences made some academic and vital organs in society inaccessible due to the people not learning the same language as the people who study the origin of this language. In this case, These language barriers create problems because the language in law sets boundaries and acceptable forms of conduct through statute, judgment, and convention. Other than that the systematic classification of certain behaviors is constructed in relation to other aspects of language, either written or oral. This lack of knowledge is a big barrier to engagement and participation in the legal process and obviously becomes exclusive to legal practitioners. (Harley A (2017) Language as a Barrier to Justice). The usual reasons are the legal system's complicated process and, of course, the difficulty they felt in understanding the legal jargon itself. When the judicial system itself does not recognize the language that these multiethnic cultural individuals speak in court, issues arise. All of these concerns must definitely be answered, and reading and knowing the

challenges we are presently experiencing, the major fundamental component that allowed this problem to emerge is, of course, a lack of legal knowledge. Because of the linguistic barrier, justice is unavailable to people who lack legal expertise and experience. On the other hand, there are human rights, which ensure that everyone has equal access to a fair trial and justice. These most basic human requirements are ostensible to be met because we as a community are dedicated to the human rights bestowed by God.

2. STANCE AND EXISTING LAW

Those who don't know how to represent themselves due to language barrier, legal jargon and technical terms, including accessing the justices, which means they don't know their rights as well, For example, in Laos, there are government websites for any law documents and the Laolaw app, which is easy access and free for any citizens, especially Law students to get information on the rule of law documents and for walk-in counselling in faculty of Law and political science called: CLE (Clinical Legal Education programme in LAO PDR) it is a training course for law students and professors to strengthen the knowledge about rule of law for citizens to seek assistance with their cases, moreover, since Covid-19 pandemic the access to justice and language barrier have been harder to reach out for those people who needs help with their justices, so there are more groups on FB that let citizens ask for advice on their cases, but still, it might not be enough for people in the countryside to access their justices.

Indonesia has enacted a law that obliges the government to go to rural areas to educate the people there about basic legal knowledge. These sets of regulations are a positive and good way in combating the low public legal knowledge, so in the future, if they are faced with legal procedures or processes they are hoped to at least know the nuance of the court and legal procedures in their own case. This feedback is supposed to be a barrier of mitigation so if they are exposed to the legal world they are not being wronged and understand the fundamental rules in legal procedures. So in short, the Indonesian government wants to eliminate the case by reaching out to the most unreachable society so that their legal awareness can grow, the end goal is every citizen can have the same knowledge about legal procedures so it may cause a better living environment for Indonesia in general.

Indonesia : Ministry of Law and Human Rights Regulation number 25 year 2019 about socialization of basic legal knowledge.

Social media plays an important role in delivering information fast and efficiently to members of the public. Although it is recognized that some may not have access to this considering the majority will be informed on the legal information delivered, they might as well be able to help the minorities who do not have access. Brunei Darussalam has taken an approach post-pandemic to enhance the online access to legal services that were once only available face-to-face. The Brunei Law society has also provided a legal aid clinic, mandatory to each law firm to participate in by stationing some of their lawyers in helping out pro-bono cases. This has been a regular thing on a month to month basis and has now been conducted online for those who have access to the internet while physical meetups are still provided. Apart from that, Law Schools in Brunei have mandated students to be part of the legal aid clinic as a subject to score credits in their 4th year of law degree. This ensures that practising law students are able to empathize and ascertain the problems arising with clients seeking out their help.

There are issues in Sri Lanka whether legal education really reaches the target parties. In the court, we believe that every citizen has the needed legal education. Certain measures have been taken to improve the knowledge of the people. Especially, there is a discussion that law should be added as a subject in the curriculum. This is mandatory because only a small percentage of people enter higher education. So if we allocate time to teach law as a subject then at least a basic knowledge can be given to every layman. Social media is also acting as a platform, but the issue is how many of us have access to the developed technology. There are institutions (Legal Aid Commission) that provide legal advice free of charge so that at least there is the possibility of getting legal advice to the needy. When considering higher education, there are universities that offer law degrees, but entering them are really competitive. The Ministry of Justice of Sri Lanka is the main body that governs all of the judicial institutions. However, presently many measures are taken so that the legal void can be filled up. The target of the government is that every citizen will have access to legal aid in times of need. It is believed that many issues like corruption can be eliminated through heightening legal awareness among people.

3. PROPOSED SOLUTION(S)

1. Raise awareness of basic legal knowledge through advertising on ground.

On ground solutions are provided for people living in rural areas or those who do not have any access to the internet. An advertisement would be a less intimidating approach to the people of the public on the legal services provided for those who seek help. These advertisements can come in pamphlet form or a guidance book that should be distributed to local shops or any places that attract a vast number of people.

2. Early exposure for students to basic legal knowledge.

As legal knowledge should be easy to obtain and general information for all people, this fundamental knowledge should be given to teens in high school or even children in elementary school to prepare them for the future, and some may be interested in joining the law company that is needed in Asia and by that the government can Begin hosting more virtual or physical workshops to allow children to play parts and become acquainted with the legal practice.

3. Enacted an act for socializing and implementing legal education for all.

By enacting this law regulation, the government is bound and obliged to do a series of activities to do public legal education. These regulations are projected to be the solution in fighting for equal knowledge in everyone in the country. These acts should be the turning point for inequality in legal process problems in many countries.

4. Introducing law as a compulsory subject in the school curriculum

School curriculum is the best place to plant the seed of legal education. The mind of the child is the best place that can be utilized to heighten the awareness of the people. Because the child can take the message to the society at large. When they start the education from an early stage a great foundation can also be placed.

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ACCESS TO JUSTICE AND THE JUDICIARY

BACKGROUND

Despite many reforms to provide access to justice, legal processes still stray away from being a mechanism to protect people and is used as a weapon to discriminate, this statement is supported by a lot of issues for the judges and the judiciary because there are a lot unfair regulations and practices marred the judicial process, such as the implementation of strict regulations that has limited the right to submit legal remedies to the court and the misused of coercive act that forces the suspect to confess their crime even though there is insufficient evidence.

ANALYSIS

1. Despite the fact that discrimination has decreased, this issue is still present globally. The most common issue faced by litigants is their socio-economic backgrounds. For example, in Korea, lawyers must be appointed when litigants go to court. Should a talented lawyer be appointed, the likelihood of winning the trial increases. However, it is expensive to appoint a competent lawyer. This may not be obvious but it is still very widespread.

Also, The Korean people have a sense of discrimination according to their social and economic status when enforcing laws. Since many opinions are reflected in the enactment process, there are not many questions about the fairness of the law itself, but distrust in the fairness of law enforcement remains, which is an obstacle to the establishment of the rule of law. The negative perception of the fairness of law enforcement leads to the perception that complying with the law will result in losses, weakening the will to comply with the law. In particular, securing fairness in law enforcement is also an important task for social integration as the upper class has a perception that the law is not observed more than the general public. By securing the fairness of law enforcement, the public's trust in the law can be secured, which can increase the level of compliance with the law and increase social stability.

2. First, Singapore has been quicker and more responsive to the problem of court delay than other South and Southeast Asian nations, even though the relevance of Singapore efforts to control case backlogs must be qualified due to the unique character of the country, backlog cases in Singapore were secured through procedural reforms that enable the courts to take greater control of the adjudicatory process, so Singapore is attempting to control case backlogs. Secondly is Korea, in Korea the court system is composed of a Supreme Court, High Courts, District Courts, Family Court, Branch Court, and the Circuit Courts. According to The Korean Ministry of Court Administration, there are some understaffed courts and lack of trained court administrators, with these problems occurring because there are no Korean scholars that specialize in problems of court administration, but according to some judges and other legal professionals in Korea. The solution for understaffed courts and a lack of training for court administrations is to increase the number of judges, even though doing so requires a larger budget allotment and conducting studies of ongoing workload to ensure its even distribution. Despite the benefits of the Korean court system, the number of litigants has risen dramatically, but the number of judges has remained relatively stable.

Third, Indonesia acquired its fundamental law and court system from the Dutch, which resulted in various laws being applied to each demographic group, each with its own court. Because of the plurality of the formal law, non-legally trained persons are also allowed to represent parties in court, coexisting with the formal law are various customary legal traditions as well as Islamic law which is applicable to specific types of disputes. Because of the plurality of the formal law, non-legally trained persons are also allowed to represent parties in court. Furthermore, there is agreement in Indonesia on the administration of justice that the number of judges is insufficient to process the number of cases that come before the court, causing the court process to be delayed.

3. Alternative Dispute Resolution (ADR) methods have been adopted by the courts of various countries to ensure access to justice. Mediation, for example, has been widely used as an avenue for litigants to seek a win-win outcome with the help of a neutral third party. The

engagement of a mediator ensures that both parties are equally represented in proceedings, where parties are less likely to run risks of having a judge rule or decide against them. Mediation has been globally recognised by courts as a voluntary alternative, and may include either court-based mediation or private mediation.

Settlement agreements are also binding by virtue of the law of contract, ensuring access to justice through its upholding. An example would be the civil case between Surindar Singh S/O Jaswant Singh v Sita Jaswant Kaur in 2014, where the Court of Appeal in Singapore held that deals made through mediation sessions are given “significant, if not conclusive” weight. ADR methods are also regulated through Law No. 30 of 1999, on Arbitration and Alternative Dispute Resolutions, in Indonesia. According to Article 60, “all arbitration awards [are] final and [have] a permanent and binding legal effect on the parties”, allowing much easier enforcement of such agreements and settlements. Despite so, settlement agreements in select countries like South Korea are not readily enforceable and require a regular judgement from the court.

SOLUTION

Discrimination in the courts

To solve the issue of discrimination in courts, a committee can be created to ensure that there is no discrimination in making the judgements. This committee can comprise legal professionals who are well versed in corruption and issues relating to professional legal conduct.

The committee will review the cases to see if it fulfills the criteria that:

- (a) the case should be at a stage where it is unable to be appealed or the courts do not want to grant leave for the case.
- (b) There is some evidence to suggest that there is discrimination made against the party that filed the complaint

Upon investigation, should the committee find that there is any discrimination, the courts will have to try the case again. However, the trial will be heard by the jury. This is in reference to the Korean and American jury that hears criminal trials. Checks on the track records of the person will be done to ensure that individuals are capable of making reasonable judgement and are of mixed

backgrounds and views. The implementation of a jury ensures that the outcome of the trial is not discriminatory to any of the parties.

Administrative and manpower issues

To solve the issue of administrative and manpower issues, we think that courts from different countries are working together and exchanging ideas on the technology that has been used to make court proceedings more efficient. This can be done through virtual conventions and fairs where legal professionals come and share about the technologies that have been used presently. There can also be private consultations with software application companies to come up with technology that caters to the jurisdiction of the courts of that country.

There can also be trained professionals from rural areas or areas of lower income backgrounds that are present to assist individuals who are unsure about how to file legal documents or forms for their cases. To ensure that these professionals are reliable and trustworthy, individuals from the community can be appointed as these trained professionals. To entice people to train in this profession, internships and scholarships that collaborate and are funded by organisations such as ICJ can be created. This allows individuals to be able to possess relevant skills that can help the community and allows users to have trust in the people who are providing legal aid to the parties.

Mediation

To solve the issue of settlement agreements not being followed, international mediation conferences can be created to ensure discuss solutions to the issues relating to mediation. At the same time, such conferences can encourage the courts to recognise settlement agreements and not allow and appeal unless it is necessary.

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I. GENERAL INFORMATION

Media platforms are technologies and standards that allow writers or other media “producers” and readers and other “consumers” of media to interface more efficiently. Media platforms have various forms such as news, TV, & social media. Media nowadays plays a big role in our life including social, culture, education, and politics. With the rapid growth of media, it holds a bigger role in all fields—including legal. Nowadays, public access to justice is heavily influenced by the media. Especially amidst the COVID-19 pandemic, people’s screentime and the duration spent on digital media for information consumption has rapidly increased, while physical interactions have decreased. This may make information access easier, but it can be misused to spread hoaxes or misleading information, as well as create echo chambers.

II. PROBLEM IDENTIFICATION

1. Do media platforms (eg. news, social media) assist in ensuring transparency and promote accountability in relation to judicial activity?

Yes, the media usually reports news about both judicial decisions and enforcement in chronological order of the case, actors involved, the prosecution from the prosecutor, to the decision reached by the judge(s). This, however, has its own challenge. The enforcement of law tends to use legal phrases—such as charge, fine, among many others. The public might face difficulties in understanding these. Moreover, courts also use unusual-to-public procedure and consideration. For instance, a spotlighted case in Thailand dealt with enforcement of foreign decisions. News media summarized the Court’s decision by directly transposing the Court’s legal jargon and omitting the legal

reasoning behind the court's non-enforcement, creating a *prima facie* impression of the Court's unfairness. The naturally-transitory audience does not invest time into reading long publications and researching legal terms, therefore not knowing the court's actual rationale. This complicated language and omission of details imposes a barrier to justice and accountability.

2. What is the impact of fake news and false or misleading information broadcasted by the media? Does this confuse and misinform the public about the legal system and procedures?

Misinformation can be very difficult to correct and may have lasting effects even after it is discredited. One reason for this persistence is the manner in which people make causal inferences based on available information about a given event or outcome. Hence, false information may continue to influence beliefs and attitudes even after being debunked if it is not replaced by an alternate causal explanation. News press needs to report the news in an objective manner as stated in the **Journalistic Code of Ethics**. However, as seen in the RV case, misleading information can shape the public opinion in such a manner that it would basically crush someone's career. The press needs to pay attention to inform the public that the courtroom has its own customs—they cannot just write the news as it is, without processing it further so that the public can have better understanding towards these customs. Moreover, the case in Laos confuses and misinforms the public in such a way. Many people, especially women, are not aware of their legal rights or how to use the formal justice system. Additionally, many do not know where to turn when they face legal problems that could be resolved through the courts or community mediation. To reach the greatest number of vulnerable Lao citizens, the CTA explained that Mobile Legal Clinic outreach missions were held by the FLP teams at the far-flung province such as Attapeu. As a result, a large number of people were able to attend and receive information on their legal rights, obtain one-on-one counseling on specific issues and in some cases, filed requests.

3. Some media often publish biased news that is one-sided. Example, in Indonesia at the time of election, candidates will be given a chance to campaign. During the campaign the media plays a big role. Different media companies take sides, resulting in a biased political publication. One media promotes only positive news to gain people's voices, and other media publish negative news to bring down other candidates. In conclusion,

access to justice can be affected with the media portrayal towards judicial enforcement. Public fully judges from what the media published, and with politically-influenced information it can be misleading.

4. Has the government been successful in keeping the media in check? Consider offenses such as contempt of court and other legislative means.

Yes, the Indonesia government has enacted the Law on Information and Electronic Transaction (ITE Law). Chapter VII—from Article 27 to 37, has criminalized the act of defamation, blackmailing, provoking hatred towards certain individuals, and fake news (hoax), among others. The violator may not only face years of imprisonment but also have to pay an expensive fine.

Indonesia also has the Press Council. The Law No. 40 of 1999 on Press stated that the council has to protect the press from being criminalized for reporting news. Moreover, the council has also issued the Journalistic Code of Ethics. Although it doesn't have binding effects, the code plays a huge part as guidance in the journalistic world regarding the proper way to report news. The code stated that journalists need to objectively write news with many perspectives from all of the parties involved. If violated, there won't be a legal effect; however he/she can be sanctioned with administrative penalty.

Meanwhile, on the digital platform, Indonesia's police have formed a cyber crime unit. The unit can be seen patrolling on social media to ensure its contents don't violate any law—especially the ITE Law. Public can also take part in reporting a content; if the police found any violation they have the right to take it down.

5. Has misleading media coverage of the administration of justice eroded the trust of the common man?

As aforementioned, the public fully depends on the media to access information about administration of justice—making the media a huge player. Misleading information brought up by the media can prevent the public from knowing their rights and obligations to accessing justice. Furthermore, the media can influence the public to despise a certain people or party—even hatred towards the government. Media platforms attract the audience with flashy headlines without meaningful substance. This is because the audience's fast-consumption behavior requires alluring and controversial headlines that catch attention and popularity. Mass media platforms itself, including

social media accounts of news agencies, focus on problems rather than solutions rendered by courts, in the process sacrificing accuracy of justiciability in cases for its engagement rate to highlight the controversial side of matters. With little follow-up on cases and biased media presentation, there is consequently a lack of trust in the judiciary which many people perceive as biased and inaccessible according to media presentation.

III. PROPOSED SOLUTION(S)

1. Educating people on digital literacy and how to detect media sensationalism. The public should be able to easily distinguish fact from fiction, and evidence from opinions. This can be both public education and curriculum integration.
2. Supporting legal-tech start-ups aimed to improve accessibility of justice, such as case summary comparing court decisions to one's rights. Such start-ups can be based on existing ones, such as the application "Learned Hands" which flags legal issues and highlights legal issues in society in a comprehensive and interactive manner.
3. Applying regulation where the media should be independent means reporting events or facts in accordance with the voice of conscience without interference, coercion, and intervention from other parties and reinforce the sanction.
4. Utilizing the digital patrol of the police cyber crime unit.
5. Creating communal activities such as workshop for legal research and disseminating legal research guidelines

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ACCESS TO JUSTICE & ISSUE OF COST

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Access to Justice and The Issue of Cost

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I. GENERAL INFORMATION

Sometimes the cost of legal access becomes an issue because it can make “barrier” to those who get to know their rights and legal knowledge. Especially for a layperson. Legal cost means that people had to prepare some funds for the lawyer, cost of court (in some countries) and state’s legal cost if they lose. Law enforcers are often seen as working for money, not for justice. Not only that, the services of lawyers are sometimes set at unreasonable prices so that not everyone gets the legal assistance that should be their right. This should become a concern to the government, that this problem is a worldwide issue and this is a serious problem. Particularly for the underprivileged.

II. STANCE AND EXISTING LAW

Law Society Pro Bono Services (“LSPBS”) was launched in 2007 in Singapore, seeking to provide pro bono legal services to the community and to organizations in Singapore serving the needy and disadvantaged. Its primary mission of ensuring access to

justice for all is embodied in the key initiatives such as law awareness and setting up community clinics on a community out-reach basis.

Across countries, it is a common requirement for the applicants of legal aid services to meet means test and merits test. It is to sieve out the unmeritorious cases from the befitting ones, given the laborious nature of cases.

The amount of financing or money outside the procedure becomes another problem for underprivileged. Based on Law of the Republic Indonesia Number 48 of 2009 about Judicial Authority, Judicial Power is exercised by a Supreme Court and Judicial Bodies under it in general court environment, the military court environment, the state administrative court environment and by a Constitutional Court.

However, under Indonesia regulations, there are procedures for obtaining legal assistance in terms of disbursing funds. As it is set in Government Regulation of Republic Indonesia Number 42 of 2013 about Terms and Procedures for Provision of Legal Assistance and Distributions of Legal Assistance Funds.

III. PROPOSED SOLUTION(S)

More publicity to the legal help may serve to benefit the community at large as some, especially those belonging to the lower rungs of society, may not be aware of the help that is available to them. We can reach out to them at an early stage by actively seeking them out in the community through social services that may already have them on their database.

This can be executed through having all law students create brochures or campaigns during each class they take. To have them create educational content that can be understood easily. This project will not only benefit the students by having them condense their learning material into a booklet but it will also increase the awareness of the general public to the various legal problems they can face.

We are proposing **an easier access to legal bodies** who are able to assist the people right at the onset. Copious amounts of legal documents only serve to raise the anxiety of parties and bring little benefit to those involved. Whilst legal aid is available for a small minority of people, large sections of society are prevented from accessing legal help

because the financial eligibility tests for legal aid are so strict. As research from The Law Society has shown, people of modest means, the ‘Just About Managings’ and poor families, are also financially excluded by the unfair means rules.¹

With the above strategies to reach out to the underprivileged, if successfully implemented, we are acutely aware that the current legal aid system may not be able to handle the increased cases. We are therefore proposing for **law schools to increase the number of pro bono hours in their existing curriculum**. Drawing references to the current undergraduate curriculum framework of Singapore Management University², legal students are to fulfill 80 hours of pro bono services. Perhaps a higher number of hours would be advantageous for students to better understand the ground and contribute their time to a worthy cause. It is noteworthy that a balance in the theoretical and the practical curriculums needs to be struck to not overwhelm the students either.

Shifting online.

Considering the current health crisis worldwide, people have not been able to go to pro bono offices for meetings or interviews to find out whether they qualify for aid. This could be due to their own health conditions or even the restrictions in their country. For example, in Singapore if you test positive for COVID-19, you will need to self isolate till you test negative or for 7 days. During this period, the world continues moving and not being able to attend the meeting physically would mean your meeting would be postponed or even cancelled.

Furthermore, it is important to note the transportation costs people will have to pay when they seek pro bono services. In rural villages, people will have to travel hundreds of kilometres before they can find a pro bono office.

Considering the costs arising from the health crisis and transportation, it would be wise to provide online pro bono meetings with lawyers and pro bono workers during the initial stages. Once it moves to the final stages where more evidence is needed and when there is a need to move to litigation, then in-person meetings should be arranged. However, since

¹ <https://www.lawsociety.org.uk/support-services/research-trends/legal-aid-means-test-report/>

² <https://pbc.smu.edu.sg/about-us>

most pro bono services are considering no-litigation matters and thus, this option of having meetings conducted online should be made mandatory at all pro bono offices.

Creating a handbook to measure costs

Majority of the time, people do not actively seek justice for wrongs done to them because of assumptions that the legal costs will be exponential. Furthermore it is difficult to calculate how much their services would cost and the different options available.

Considering that it will be difficult to have phone operators to cater to everyone's issues, it would be best if a handbook could be created. However, this would be confidential information since most firms and organizations would prefer not to publish the cost for their services.

Instead it would be best if the government could take the lead and create a safe and secure portal where citizens could access this information only by using their personal identification numbers. Furthermore, another safeguard would be to remove the ability to take screenshots or copy text from the portal.

Having such a portal where citizens can access the costs would enable them to make more informed decisions and ensure that justice prevails.

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Position Paper : Access to Justice and Public Legal Education.

Chamber: B-2

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Lack of Awareness of Legal Rights, Services, and Procedures as an Obstacle

I. Background

The rule of law has a mission that is to give certainty and equity, impartially for everyone subject to the law. The process of legal development becomes even much more complex as it involves these social variables in the practice level. Language and the interpretation may cause another trouble in the legal process. If there is found to be an error in the interpretation of particular documents, it has so many consequences, such as time and money that will be spent on a trial. Also, the interpretation of a word sometimes translates from one language into another and there are so many differences between the meanings. There are cultural and social connotations that cannot be adequately expressed and are often lost in translation.¹

In the Philippines, a Public Opinion Survey on the Courts (POSC) held in 2003, showed that 46% of the respondents reported difficulties in understanding legal proceedings which were conducted in the English language, and 40% also reported that even when judges and lawyers use the respondent's language, they still could not understand what these judges and lawyers say in court. (Mangahas, 2008) Although there is lack of data from other asian countries on such matters, the majority of developing Asian

¹ Anna Harley, "Language as a Barrier to Justice", *UNSW Law Society Court of Conscience*, 2014, p.37

countries would be in agreement that language barrier is a primary concern and a major challenge to their people's access to justice.

II. Issue

1. Language and the interpretation of language in the legal context

The colonization of most countries in Asia adopted the legal justice system from their colonizers. The law that was established way before the countries became independent often translates in line with the development of their respective states. The translation often is not translated well and the interpretation of a term that does not translate into literal means of the provision.

The different meaning of terms that we usually use in daily and legal terms may cause trouble in interpretation. Legal language often causes and be misinterpreted into a lot of misleading information. Establishing disputes can be easily done with so many interpretations of law, and that is why law needs to be *lex stricta* or interpreted into strict liability.

2. Is it easy for a non-legally educated person to even identify their rights?

Many of the non-legally educated persons that can also include an uneducated girl and children simply don't know what rights they have, what services are available to them or how to navigate an often cumbersome court system with complex procedures and rules. People with low levels of legal capability and literacy are more likely not to act, and less likely to sort things out alone. They are less able to successfully solve legal problems, and are twice as likely to experience stress-related ill-health, damage to family relationships and loss of income. There is a quote 'Ignorance of law excuses no one'. That is a legal principle holding that a person who is unaware of a law may not escape liability for violating that law merely by being unaware of its content. Non-educated person or whether non-legally educated person should know their rights so that they will not lose their own rights.

III. Solution

1. Educational Reforms

It is evident through many situations that are brought to light in the past year of lockdown, that many students are unaware about the laws in place to protect themselves from violence and threats made to them, either physically or mentally. Due to being stuck at home with perpetrators, or being harassed online, the cases of violence against children are skyrocketing. This is an eye-opener for legal professionals, as they could see that children are unaware about the laws in place to protect themselves or to call out for assistance. This is a clear indication for the governments to reform their educational systems.

Through reforming educational systems, a separate subject to educate about laws and rights could be introduced to the middle school and high school students, which in turn would assist them in their day-to-day life. A curriculum which caters to each age group in an effective way, which is educative and informative and which can be understood by each age group is essential. Further, it is essential to have a modernized teacher training programme as well, where the teachers are trained to assist the children in an effective way. It should be noted that children are prone to learn more through practicals rather than sit down sessions with exam papers. Therefore it is essential to have active physical sessions where children are made aware about the legal systems in the country through pictures and paintings and physical activities and exercises. Finally, it should also be noted that the number of students using social media has increased, therefore making awareness through social media is also a point that should be taken into consideration.

2. Making awareness about legal systems and rights of citizens-

In many South Asian countries access to legal education is denied due to the education systems flaws. While reforming educational systems is of utmost importance, making awareness to those who are unable to enroll themselves to an academic institution or those who have finished studying is as important. In the Sri Lankan context, the educational system is such that anyone who is studying the local syllabus would not be educated as to their rights and does not have a basic understanding of the laws of the country. Therefore making awareness through different media outlets can be a solution to such situations. Making awareness through television programmes, leaflets, pamphlets, posters, paintings, physical or online webinars, and having discussion forums open online for anyone to discuss and gain knowledge about a legal procedure can be done to rectify such situations.

Further, having a separate department where any citizen is allowed to visit to gain information about any legal queries they have will be an added benefit. The technology can be taken into advantage whereby awareness can be made online through social media platforms as well. Text messages can be sent countrywide to make awareness about legal issues in a timely manner.

Public legal education is a term which is used to describe movements discussed as above, where legal professionals are making changes in the society in order to make awareness about law and legal systems to the layman. It would showcase the general public as to the consciousness of the legal systems and the different ways in which they can fight for their rights and freedom. Anna-Marie Marshall explains that "in order to realize their rights, people need to take the initiative to articulate them. This initiative, in turn, depends on the availability and the relevance of legal schema to people confronting problems."²

3. Integrating the use of the common or local language in laws and legal procedures.

Lack of education and literacy in many Asian countries limits the people's awareness of their rights and their power to use such rights. It does not help that in the majority of Asian Countries, the language primarily used in the creation of their laws are those of their past colonizers; English, Dutch, Portuguese, etc. Although some countries have translated the laws of their colonizers into their official language, some have maintained to have it in English — a language not many understand, especially the underprivileged and those who live in poverty without access to proper education.

As a consequence of the lack of knowledge and inadequate information on their rights, the laws, existing legal framework of the court system in their countries, as well as the legal procedures, laypersons get intimidated and result in their lack of confidence to actively engage in a judicial process to protect themselves.

² Marshall, Anna-Marie (2005). "Idle Rights: Employees' Rights Consciousness and the Construction of Sexual Harassment Policies". *Law and Society Review*. **39** (1): 83–124

Thus, in order for a layperson to be aware of his right and hurdle the obstacle of the lack of confidence, it is of great importance that they first be able to understand it. Our solution for this is that basic laws and information on their substantive and procedural rights, as well as legal proceedings must be publicly made available to them and should be presented in plain languages, which should be available in different local or native languages.

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Cost as a Barrier to Justice

I. Introduction

The rule of law has a mission that is to give certainty and equity, impartially for everyone subject to the law.¹ Consequently, law should be seen as a part of a social process in a society, thus its development cannot be isolated from its social environment.² Because of that, the process of legal development becomes even much more complex as it involves these social variables in the practice level. Clashes and exchange between these variables in the society plays an important role in shaping the legal dynamics.³ One of many arising issues regarding the social environment and its correlation to the legal dynamics in terms of law enforcement is about how the legal system could ensure that equal justice, especially for the vulnerable, would still be provided as it is an essential issue for achieving justice.

The discussion about the issue will primarily be focused on the practice in Indonesia in terms of providing legal aid in an attempt to give impartial access to justice. As of now, matters regarding access to justice have been regulated in several law instruments. The Indonesian Constitution has guaranteed certainty before a just law along with equal treatment before the law and considered it as a basic human right. Legal aid is also guaranteed and regulated through Law No. 16 of 2011 on Legal Aid (“**Legal Aid Law**”) as well as Law No. 18 of 2003 on Advocate (“**Advocate Law**”). Other related laws include Regulation of the Minister of Justice and Human Rights of Republic Indonesia No. 3 of 2013 as the implementing regulation of Legal Aid Law. These laws regulate the implementation of law enforcement in Indonesia in terms of legal actors’ role in establishing equal justice and legal certainty.

¹ Purnadi Purbacaraka and Soerjono Soekanto, *Perihal Kaedah Hukum* (Citra Aditya Bakti 2018) 50–51.

² Satjipto Rahardjo, ‘Meningkatkan Kepastian Hukum dalam Rangka Pelaksanaan Keadilan berdasarkan Pancasila’ *Jurnal Hukum dan Pembangunan* 529, 530.

³ *ibid.*

II. Justice and Equity

Equity or equal justice before the law also translates into equal access to the justice system in accordance with substantive standards of fairness and justice.⁴ Although it is not easy to define the term “justice,” studies show that procedural justice is often more important than feelings of whether or not “true justice” has prevailed.⁵ The concept of “access to justice” itself encompasses four principal elements of liberal ideology: equity (fairness in the distribution of economic resources and political power); equality (equal, effective and comprehensive civil, legal and industrial rights for all); access (equal access to services); and participation (the opportunity to participate fully in personal development, community life and decision making).⁶ Procedural fairness should be present as such to ensure that litigants have an equal opportunity to defend their rights, regardless of their resources.⁷ However, it should be taken into account that equal justice may not refer solely to a process as for most people “justice” is an outcome.⁸

To have a better understanding on these issues, it might be important that we comprehend the concept of substantive justice and procedural justice. Substantive justice is the justice of the outcome, thus people's perception of what justice means may play an important role. Procedural justice is the justice of process which brings the outcome, the substantive justice itself.⁹ It should be noted that procedural justice is either a derivation from substantive justice or not a category of justice.¹⁰ Although it is not entirely true to conclude that due process is “a necessary, but not sufficient condition for just treatment,” procedural justice probably remains as the most reliable safeguard for reaching substantive justice.¹¹ There may be distinction between procedural and substantive justice, but one cannot be seen as more valuable than the other as both ideas should come in balance to cross check whether the generated outcome is a “just verdict” or not.

⁴ Deborah L. Rhode, ‘Access to Justice’ (2004) 69 Fordham L Rev 1785. 3.

⁵ Estelle Hurter, ‘Access to Justice: to Dream the Impossible Dream?’ (2011) 44 The Comparative and Intl LJ 408.

⁶ Nada Korac-Kakabadse, Phillip Reeves Knyght, and Alexander Kouzmin, ‘Inequality of discourse: Problematic Consumption of Justice in the Common Law Legal System’ (2001) 16 Women In Management R 126.

⁷ Ibid.

⁸ Hurter (n 8) 414.

⁹ Wojciech Sadurski, ‘Social Justice and Legal Justice’ (1984) 3 L and Philosophy 329.

¹⁰ Ibid 346.

¹¹ David Resnick, ‘Due Process and Procedural Justice’ in J. Roland Pennock, John W. Chapman (eds.) *Due Process, Nomos XVIII* (NYU Press 1977).

III. Indicators and Issues in Access to Justice in Indonesia

In 2012, The United Nations Development Programme (“UNDP”) gave four indicators to measure the effectiveness of the existing legal system in providing legal aid.¹² First, accessibility of primary legal aid to the population. By being accessible, it means that the legal aid service should be able to reach out to every layer of the population. It furthermore means ensuring trust from the population so that they would refer to it for help with their legal problems.¹³ Second, the simplicity of the system for obtaining primary legal aid. The system should be organized in a simple manner, in a sense that it is clear and understandable even for a layperson.¹⁴ Third, the speediness in the provision of such aid, meaning that where possible such aid should be provided “on the spot” and with a minimum delay or waiting time if further action is necessary.¹⁵ The last one is effective coordination between different types of providers. By different types of providers, this includes related institutions providing other types of services as well as coordination between primary and secondary legal aid providers.¹⁶

Regarding the indicators mentioned, there are several issues in the practice in Indonesia. Equality before the law for all citizens has been guaranteed in the Article 27 Paragraph 1 and Article 28D Paragraph 1 of The Indonesian Constitution.¹⁷ Legal Aid Law defines legal aid as a legal service provided by a legal aid provider for free for a legal aid recipient, same its definition in the Advocate Law.¹⁸ Nonetheless, legal aid is still not yet “widely accessible” for citizens, especially in the vulnerable layer. This is mainly caused by the cost to access the legal aid itself. The orientation of most advocates in the practice has been shifted from upholding justice and humanity to more of a business

¹² United Nations Development Programme, *International Study of Primary Legal Aid Systems with the Focus on the Countries of Central and Eastern Europe and CIS* (UNDP 2012).

¹³ *ibid* 8.

¹⁴ *Ibid*.

¹⁵ *ibid* 9.

¹⁶ *Ibid*.

¹⁷ Indonesia, Undang-Undang Dasar 1945 Amandemen IV, LN. No. 14 Tahun 2006, Ps. 27 ayat (1) dan 28D ayat (1).

¹⁸ Indonesia, *Undang-Undang Bantuan Hukum*, UU No. 16 Tahun 2011, LN No. 104 Tahun 2011, TLN No. 5248, Ps. 1 ayat (1); Indonesia, *Undang-Undang Advokat*, UU No. 18 Tahun 2003, LN No. 49 Tahun 2003, TLN No. 4288, Ps. 1 angka 9.

practice.¹⁹ This results in the mindset that providing legal aid would give no economic benefit, thus access to legal aid becomes even more limited. Furthermore, the legal aid system regulated in Legal Aid Law and its implementing regulation has a series of complex administrative requirements that needs to be fulfilled by legal aid providers to provide legal aid, giving difficulties for legal aid providers to participate.²⁰

In relation to the indicators given by the UNDP, several issues could be addressed as follows. In terms of accessibility, current accessibility to legal aid is still limited. It is caused by the limited numbers of participating legal aid providers in the system worsened by the complex bureaucracy. When it comes to the simplicity of the system, people still find it hard to comprehend the legal aid system regulated by the law. Research even shows that people generally are not aware of the presence of such aid.²¹ Furthermore, the complex bureaucracy also affects the coordination between law enforcement officers. It is found that not only is the system hard to comprehend for lay people, the law enforcement officer itself is not fully aware of their roles given by these regulating laws.²² Although cost might be the biggest barrier in access to justice in the state, apparently existing legislation also plays a role in the effectiveness of the state's effort in providing legal aid in order to give equal access to justice for all.

IV. Conclusion and Recommendation

The issue regarding equal access to justice is rather a multidimensional issue that involves many variables in the process. This paper underlines the effectiveness of current legislation regarding this matter in its relation to providing equal access to justice. It can be concluded that the current legislation has not been able to effectively solve the problem. My concern is on the issue that existing laws have failed to serve as a bridge between the legal aid providers and legal aid recipients. Limited resources allocated by the government for the legal aid system along with complex bureaucracy hinder access to the legal aid

¹⁹ TR. Dingwall and P. Lewis (eds), *The Sociology of the Professions* (Macmillan Press 1983) 162–163.

²⁰ Agus Raharjo, Angkasa, and Rahadi Wasi Bintoro, 'Akses Keadilan bagi Rakyat Miskin' (2015) 27 *Mimbar Hukum* 432.

²¹ Oki Wahyu Budijanto, 'Peningkatan Akses Bantuan Hukum kepada Masyarakat Miskin' (2016) 16 *De Jure* 463.

²² *ibid* 470.

itself. Limited numbers of legal aid providers given the complicated verification process to enter the system has remained as the major problem.

To this issue, I suggest a change to the current legislation regarding legal aid. The issue revolves around how to make legal assistance accessible and that every person could reach out to it. Current legislation fails to function optimally because it only adds more obstacles given the complex system and administration, all of it is centralized. A change towards a simplified verification process should be made to extend the branch of legal aid providers so that it would be able to reach more people in need. The government should also ensure that the simplicity of the system maximizes people's participation in the program. It should then be followed by socialization with a persuasive approach to promote awareness to such aid as well as an attempt to expand accessibility to justice.

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Access to Justice and The Issue of Cost

Justice is something that is always desired for every level of society. The process to obtain Justice is often a problem because of the difficulty of access that must be through the society. One of the main factors that restricts the accessibility to justice is the cost issues. If we are talking about cost, one of the things that linked the most significantly is the legal assistance services. There are vulnerable classes of persons who are considered poor or rather unable to afford legal assistance on their own (unprivileged), who should be provided with legal aid services. In many cases, people must not only fund their own lawyers if they want to bring a judicial review claim to hold the state to account, they must also be prepared to pay the state's legal costs if they lose. The structural and cost barriers of the legal system should be removed in order to solve people's real life issues to achieve "access to justice".

Voices of the poor often go unheard due to lack of formal identity or knowledge regarding the legal system. As mentioned by the UN Commission on the Legal Empowerment of the Poor, access to justice is one of the four pillars of the "legal empowerment framework". Thus, the state must always ensure equal protection of law that promotes 'one law for the rich and the poor'. Thus, Legal Aid Commissions should perform effectively with the ultimate goal of advancing the rights and interests of people.

Reflecting on the problems that have occurred in several countries, the access that should be owned and entitled to be obtained by all people can still be said to be far from fair. We should take a closer look at each country's problem, such as :

- **Indonesia**

In seeking justice, poor people often face discrimination and injustice. One of them is Minah. An old woman was caught picking 3 cocoa pods belonging to the company on August 2, 2009. Minah's apology had already been issued, however, Minah was sentenced to 1 month and 15 days by the court. It is a pity that a person who should have received legal assistance for a minor mistake should instead be in prison, while other criminals with far more serious and harmful crimes can roam freely in society.

- **Sri Lanka**

According to the 2016 Household Income and Expenditure Survey, the percentage of population below the poverty line (minimum amount that requires one to fulfill the basic needs) is Rs. 4166, where 4.1% in Sri Lanka is below the mentioned poverty line. However, at present apart from the living cost the legal costs are very high which on the other hand has resulted in numerous cases where innocent people have become guilty in legal proceedings or victims in society, since they have no resort to legal assistance due to their poverty.

- **Vietnam**

Poor people have limited law knowledge, they almost do not have a chance to approach the information, culture knowledge, society and law. When poor people have been prosecuted or be defendants in civil cases, family, labor. that they protect themselves is very difficult because they have cognitive limitations in law knowledge. In that case, if they do not have a lawyer, their right is really hard to guarantee. If they are free in paying the fee and receive the help of an unwell lawyer, they will lose the case.

- **Philippines**

In the Philippines, poor people still have limited access to free legal platforms. The restrictions implemented to ease the health crisis we are currently facing due to the global pandemic added more burden to accessing these legal aid upprograms. In a recent case about a 70 year old man who was imprisoned because of stealing 10 kilograms of mango in a tree he planted himself, he was unaware that his mango tree was actually located on land owned by someone else. He was released after some police officers contributed to pay for his bail. This shows that poor people still do not have immediate access to legal support and assistance, much more to those who remain to be unvaccinated up to this point in time. Furthermore, restrictions implemented to unvaccinated individuals in terms of transportation and mobility became a concern that affected their access to legal aid programs.

And there are many more countries that have the same incident in this regard. The cases above show that law enforcement is still sharp at the bottom and blunt at the top. Seeing the difficulty of access to justice that occurs in several countries, legal aid services are believed to be the answer to all problems that occur.

- In Indonesia, The Indonesian Government carried out a legal aid services or pro bono act which hopes that later law enforcement in Indonesia can run well and also create justice aimed at all people, especially the unprivileged. The legal aid in question includes exercising power of attorney, accompanying, representing, defending, and or taking other legal actions for the benefit of the people who receive the legal aid.
- In Vietnam, the 2017 Law on Legal Aid was supplemented and developed from the 2006 Law. This Law ensures the provision of free legal services to legal aid recipients in legal aid cases according to the provisions of law, provisions of this Law, contributing to ensuring human rights and citizens' right to access justice and equality before the law. Accordingly, the majority of legal aid beneficiaries are poor people and ethnic minorities with difficult circumstances as defined in Article 7 of the Law on Legal Aid 2017. Thus, the law ensures fairness benefits for the poor in general and those with special circumstances in particular are guaranteed their rights in cases related to the law.
- In Sri Lanka, the Legal Aid Commission was established in 1978 to provide free legal services to people with vision issues with the vision of equal access to justice. As per the Legal Aid Act No. 27 of 1978, its mission is to provide legal aid to the 'deserving persons' in the country. Thereby it renders legal aid services and public awareness programmes to different target groups where the common criterion for selection of the clients is the income level. The Internationally recognized means test and justice tests are applied to see whether an individual qualifies for the respective services under the Legal Aid Commission. For instance: means test are those individuals who receive a monthly income of Rs. 25,000 or less that is to be verified by the Grama Niladhari.
- Local chapters of the Integrated Bar of the Philippines actually have Legal Aid programs to assist the indigents and those in the marginalized sector to legal assistance and other basic forms and documentations such as affidavits that people in the community need as well as providing free consultations to different legal concerns. Moreso, law schools play an important role in providing pro bono services. Hence, promotion of these programs up to different social media platforms and other means is a necessity.

Even though pro bono services are provided in different countries, they still lack the mechanisms to promote awareness to remote areas which should be given more value and importance. Which is why this is the area where we should come in as law students and as volunteers to legal aid programs of the school in collaboration with local bar chapters. This way, we could ease the problem in terms of cost on having access to legal platforms.

Having been able to identify and point out different challenges in providing access to affordable or even free legal services, there is a great need to provide specific solutions to each. Such as :

1. Lawyers who are involved in legal aid need to be selected and supervised to ensure the quality of help that they provide in the community to avoid unnecessary risks.
2. Socialization evenly to reach rural areas in order to make people understand about the legal aid they are entitled to. As a law student, aware and willing to serve the community in order to get justice. Besides, law students can go to minority areas to propagate the law to the people, open small talk sessions to ask and answer questions about people's problems related to the law.
3. Improve the quality of law enforcement by competent persons through inspections and examinations to ensure that people in difficult circumstances can receive legal aid.
4. Information dissemination is an important key to creating awareness and by bringing legal aid to each locality to ease their problems with regard to restrictions implemented due to the global pandemics.
5. Establish a formal system of Paralegals to provide legal aid services in the government sector. This would help to mitigate the high volume of civil cases while assuring a wide coverage of justice.
6. Provide a reward scheme for private lawyers who engage in legal aid services to attract them to a broader contribution to justice.

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ALSA CONFERENCE

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ACADEMIC CHAMBER C2

POSITION PAPER



by:

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27th January 2022

LAW ON ASIAN: MAKING LEGAL SERVICES ACCESSIBLE TO EVERYONE WITHOUT COST BARRIER

Everyone has the same right to access justice as a form of their constitutional right, but the fact is not everyone comes from a well-to-do background and is legally trained.¹ This is the initial idea for the formation of a legal aid institution in Indonesia which was discovered by Mr. Adnan Buyung Nasution, the pioneer of Legal Aid in Indonesia. Same in other countries, legal aid aims to provide free legal aid from legal aid providers² to legal aid recipients³. In general, legal aid institutions are divided into those organized by the private sector and those established under higher education institutions.⁴ In general, each legal aid institution tries to help the community to achieve a sense of justice.⁵ But at least in Indonesia itself, legal aid can help litigation and non-litigation in all case proceedings.⁶

In the Philippines, their 1987 Philippine Constitution mandates a free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty.⁷ Legal Aid Clinics (LAC) are available to give free legal assistance to the public. It is mainly an out- reach project of a law school in which law students may join to familiarize themselves with the dynamics of the practice of law while rendering free legal service to the needy. Public Attorney's Office (PAO) exists to provide the indigent litigants, the oppressed, marginalized, and underprivileged members of the society free access to courts, judicial and quasi-judicial agencies, by rendering legal services, counseling and assistance in consonance with the Constitutional mandate that "free access to courts shall not be denied to any person by reason of poverty" in order to ensure the rule of law, truth and social justice as components of the country's sustainable development.

In accordance with the Sri Lankan Constitution which was enacted in 1978, under chapter three they include the right to equity with both equal before the law and equal protection of law. further that under Article 13 it included the prohibition of unnecessary

¹Arman Dhani, 'Adnan Buyung Nasution, Advokatnya Kaum Tertindas' (Tirtoid, 23 September 2015) <<https://tirto.id/adnan-buyung-nasution-advokatnya-kaum-tertindas-cw63>> accessed 26 January 2022

² *Vide* Indonesia Law Number 16 of 2011 Art. 1 (3)

³ *Vide* Indonesia Law Number 16 of 2011 Art. 1 (2)

⁴ Mulyana Kusumah, *Bantuan Hukum dan Pemerataan Keadilan* (Lembaga Kriminologi UI 1983) 2.

⁵ Suyogi Imam Fauzi, 'Optimalisasi Pemberian Bantuan Hukum Demi Terwujudnya Access to Law and Justice Bagi Rakyat Miskin' [2018] 15(1) *Jurnal Konstitusi* 51-72.

⁶ *Vide* Indonesia Law Number 16 of 2011 Art. 4 (2)

⁷ 1987 Philippine Constitution, Article 3 Section 11

arrest. Everyone is presumed as innocent until proven guilty before the court of law under the Article 13 (5) of the Constitution.

Various means-testing from different Asian countries like Indonesia and Philippines are effective in identifying and qualifying those who need not just assistance, aid but also advice even if the people didn't fall within the qualifications. Public Attorney's Office in the Philippines is mandated to represent, free of charge, indigent persons or the immediate members of their family, in all case proceedings where, after due investigation, it is determined that the interest of justice will be served thereby.⁶ The term "family income" as herein employed shall be understood to refer to the gross income of the litigant and that of his or her spouse, but shall not include the income of the other members of the family taking into consideration recent surveys on the amount needed by an average Filipino family to (a) buy its "food consumption basket" and (b) pay for its household and personal expenses, the following shall be considered indigent persons:

1. Those residing in Metro manila whose family income does not exceed P14,000.00 a month;
2. Those residing in other cities whose family income does not exceed P13,000.00 a month; and
3. Those residing in all other places whose family income does not exceed P12,000.00 a month (As amended by MC No. 2, Series of 1998 dated August 25, 1998)

On the other hand, in Indonesia, to obtain legal aid, aid applicants at least should fulfill the following requirements:⁸

- a. Submit a written application containing at least the identity of the applicant and a description brief about the subject matter requested Legal Aid;
- b. Submit documents related to the case; and
- c. Attach a Certificate of Destitution from the local government where the Legal Aid applicant lived.

One of the notable concerns regarding the existence of those clauses under the Indonesian government is the urgency to revise the definition of the poor.⁹ The definition needs to be expanded into vulnerable and marginalized communities. This departs from the idea that the poor are classified as marginalized people.¹⁰ Meanwhile, if reversed, marginalized communities are not necessarily economically poor, but there is a point in

⁸ *Vide* Indonesian Law Number 16 of 2011 Art.14 (1)

⁹ *Vide* Indonesian Law Number 16 of 2011 Art.1 (2).

¹⁰ Asri Wijayanti, Naskah Akademik tentang Bantuan Hukum bagi Kaum Marginal (Revka Prima Media 2019)

common, namely being vulnerable to discrimination and the ability to access justice which is often limited.¹¹ Alternative Dispute Resolutions are highly suggested if ever there arises problems in the long run. Crowdfunding is also one alternative to help source out the parties but if the issue is not popular to the public. It might not meet its goal though. Legal aid is not a matter of charity. It is a means for the correction of social imbalances that may often lead to injustice, for which reason, it is a public responsibility of the Supreme Court. The spirit of public service should therefore be under all legal aid offices. The same should be administered so as to give maximum possible assistance to indigent and deserving members of the community in all cases, matters and situations in which legal aid may be necessary to forestall injustice. *Nemo Jus Est Supra*.

In the Philippines, this can be done by the *Katarungang Pambarangay*, as a condition precedent for settling disputes prior to going to courts. **The 1991 Local Government Code, also known as Republic Act 7160**, empowers barangays to maintain peace and order and to assist in the effective implementation of human rights and justice. The *Katarungang Pambarangay* or *Barangay* Justice System has been recognized as an alternate venue for resolving conflicts as a result of decentralization. Local governments now face the challenge of maximizing and harnessing the *Katarungang Pambarangay* as one of the most valuable mechanisms available for administering justice, advancing human rights protection, and resolving and/or mediating conflict at the *Barangay* level through non-adversarial means.¹²

Seeing the increasing number of legal conflicts normatively in Indonesia, it is better for the disputing parties not to always choose litigation, namely the mediation processes.¹³ However, there is also a non-litigation process that adopts a local and noble values that has been firmly rooted in the constitution that is called "*musyawarah mufakat*" (deliberation), where all parties are urged to solve problems and common interests based on morals and conscience. It has been considered as customary in every civil dispute resolution in Indonesia.¹⁴ The value of "*musyawarah mufakat*" itself is listed in Pancasila as the *grundnorm* of the Indonesian state. This is the background behind every court in Indonesia before starting a lawsuit trial, the judge is obliged to direct the parties to mediate by

¹¹ *Ibid*, p. 20

¹² 'REPUBLIC ACT NO. 7160: AN ACT PROVIDING FOR A LOCAL GOVERNMENT CODE OF 1991' <<https://www.officialgazette.gov.ph/1991/10/10/republic-act-no-7160/>> accessed January 26, 2022

¹³ *Vide* Indonesian Supreme Court Rule Number 1 of 2016.

¹⁴ I Gusti Ayu Made Yustina Mahayuni, 'Alternatif Penegakan Hukum Pidana Melalui Musyawarah Mufakat dalam Sistem Peradilan Pidana Indonesia' [2019] 4(3) *Acta Comitatus: Jurnal Hukum Kenotariatan* 397-408

deliberation and consensus. This is intended as a way to encourage the parties involved to solve such problems with convenience to all parties.

In Vietnam, there is a Law on Legal Aid 2017 that takes effect from January 1, 2018. This law details forms of legal aid delivery, rights and obligations of legally-aided persons.

1. Legal aid services available in Vietnam

There are 3 forms of legal aid delivery including: Participation in legal proceedings; Legal consultancy and Extrajudicial representation¹⁵. **First**, Legal aid assistants, lawyers providing legal aid shall participate in legal proceedings in the capacity of defenders or protectors of legally-aided persons' lawful rights and interests in accordance. **Secondly**, persons providing legal aid in counseling to legally-aided persons by guiding, giving opinions, helping draft documents related to negotiating, complaints and legal problems; guiding the mediation, negotiation and agreement on settling the case. **Third**, within 3 working days after receiving legally-aided persons' requests, legal aid-providing organizations shall appoint legal aid- providing persons to act as extrajudicial representatives for legally-aided persons.¹⁶

2. Criteria to check legally-aided persons in Vietnam

According to Article 7 Law on Legal Aid 2017, legally-aided persons include: People with meritorious services to the revolution; People in poor households; Children; Ethnic minority people permanently economic in areas with exceptionally difficult socio-economic condition; Accused persons from 16 years old to under 18 years old; Accused persons in near-poor households and People in one of the following cases having financial difficulties¹⁷. Accordingly, people with financial difficulties are those who belong to near-poor households or who are receiving monthly social allowances¹⁸. The legally-aided person must submit a set of application to the legal aid-providing organization, including: Legal aid written application form; Papers proving their eligibility for legal aid; Papers and documents related to the legal aid-related case¹⁹.

¹⁵ *Vide* Law on Legal Aid 2017 Article 27

¹⁶ 'Law on Legal Aid', <<https://vietnamlawmagazine.vn/law-on-legal-aid-6280.html>> accessed January 26, 2022

¹⁷ People in one of the following cases having financial difficulties including: Blood parents, spouses and children of patriotic martyrs and persons having merits in nurturing young patriotic martyrs; People infected with dioxin; Elderly people; Disabled people; Victims in criminal prosecutions from 16 years old to under 18 years old; Victims in family domestic violence cases; Victims of human trafficking cases as specified in the Law on human trafficking prevention and combat; HIV-positive people

¹⁸ Decree 144/2017/ND-CP of the Government dated December 15, 2017 Article 2

¹⁹ *Vide* Law on Legal Aid 2017 Article 34

3. Financial sources for legal aid services in Vietnam

Financial sources for the legal aid services include state budget; contributions and donations of foreign and domestic organizations, individuals and other lawful capital sources²⁰. The State shall support, encourage, record and honor agencies, organizations and individuals involved in legal aid services. In fact, the funding for legal aid activities is still low compared to actual requirements²¹.

²⁰ *Vide* Law on Legal Aid 2017 Article 5 (1)

²¹ ‘Need to mobilize resources for legal aid work’, <<https://pbgdpl.baclieu.gov.vn/-/c%E1%BA%A7n-huy-%C4%91%E1%BB%99ng-c%C3%A1c-ngu%E1%BB%93n-l%E1%BB%B1c-cho-c%C3%B4ng-t%C3%A1c-tr%E1%BB%A3-gi%C3%B4p-ph%C3%A1p-l%C3%BD>> accessed January 26, 2022

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Chamber : A
Topic : Access to Justice & The Judiciary
Group : A4
Name of Delegate : 1. Naufal Faiz Muhammad (Indonesia)
2. Tri Nur Widiya Ningrum (Indonesia)
3. Anne Michelle L. Villareal (Philippines)
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POSITION PAPER: ACCES TO JUSTICE AND THE JUDICIARY

A. BACKGROUND

The right of access to justice is understood as the human right, expressing the needs and capabilities of the person requesting the state (especially investigation agency, judgement agency, judgement enforcement agency) to create the most favorable conditions to use the law, so as to access and seek appropriate remedies and compensation when a dispute arises or there is a violation of legitimate rights and interests.

The right of access to justice is formed on the following pillars: (i) formal institutional system (National law) and informal institutional system (Customary laws) of recognizing and protecting the fundamental rights and freedom of the citizen; (ii) the system of judicial organs: formal institutional framework (courts, procuracies, investigation agencies, and the judgement enforcement agencies, etc.) and informal institutional framework (arbitration, conciliation, etc.), in which the most important is that the court must ensure the fulfilment of the following requirements: publicity, transparency, accountability; timeliness, without delay; independence, objectivity, impartiality and proper application of the law; (iii) the ability to demand and pursue a citizen's case (the citizens' ability of access to justice), including the citizen's legal awareness and the availability and effectiveness of the legal aid and consulting system.

Regarding access to how the judiciary guarantees justice in a way that is fair and equal for all people in the sense that it does not harm all parties. Justice for all people must be obtained so that a democratic society can achieve a just and peaceful life through the rule of law. The obedience level of people for the law is still in concern, because of the strength of the law enforcement itself.

B. ISSUES

1. Has there been any form of discrimination by the courts or any administrator of justice?

Law and judicial processes tend to stray from a toll to protect, to weapon to discriminate. Basically, everyone should have the same position and rights before the law (equality before the law), including the authorities, law enforcement officers, and also the poor peoples. Justice for all is the essence of achieving the rule of law in everyday practice.

However, abuse of power by the holder often occurs in a state government. Law is often used as a toll to achieve the aims and objectives of the rulers which are difficult to account for constitutionally. This is contrary to the principle of international law, namely in the public interest. Referring to Indonesia's Legal Aid Workers and Law and Human Rights Advocacy Organizations, it was found several problems that illustrate the problem that the law and the judicial process are not a protector but instead are weapons that discriminate against their citizens. This record was made through research in 10 cities in Indonesia, this process was carried out specifically as a response to the rise, what is often referred to as criminalization and discrimination of various groups from the minority, vulnerable to political nuances, having business interests, powerful and wealthy people.¹

Other kind of discrimination could be seen from the perspective of Persons with Disabilities. Persons with Disabilities are not given reasonable accommodation in most courts here. Facilities for physical mobility are usually prioritized, with provision of ramps and elevators. However, these are not enough as these facilities may not be working, ramps are too steep, etc. Absence of interpreters in courts remains an issue in most courts. Deaf people are deprived of their voice and agency if the courts cannot provide them with interpreters. It also adds to the legal costs for deaf people as this means they have to hire their own interpreter instead of the State providing it for them.

Not only that, gender biases and prejudices of judges and court staff remains a problem. Despite undergoing gender sensitivity trainings and enactment of national laws that provide for protection against discrimination based on gender, women and members of LGBT community still face discrimination when bringing their cases to courts. Often, they are being "revictimized" while trying to access justice.

¹ Haris Azhar, SH, MA., 'Equality Before the Law dalam Sistem Peradilan di Indonesia', (Loktaru Foundation, July 21, 2018) <<https://lokataru.id/equality-before-the-law-dalam-sistem-peradilan-di-indonesia>> Accessed on January 27, 2022.

2. Administrative and manpower issues: Are the courts understaffed and overworked?

Is there a backlog of cases and has this resulted in the improper administration of justice?

There are several main challenges faced by judges and judicial bodies due to several administrative and manpower issues. For example, in the Philippines, a 2020 data shows that there are still around 640,000 cases pending for resolution in the Regional Trial Courts (second level courts in the Philippines). That accounts for an average of 582 cases per judge or at least 23 cases a day per judge. This means that the courts, its judges and staff, are overworked and it results in a lack of capacity, consistency, and integrity to provide legal services seriously.

In addition to that, administrative and manpower problems faced by the court also rise because the judicial institution's apparatus was not fully aware of the source of the mandate as well as the main purpose of the judicial process and law enforcement. In Indonesia, there was still a misunderstanding among the apparatus on the implementation of law and regulations.² This can be seen from several cases where the police thought that a suspect is someone guilty of committing a criminal offence because they do not fully understand the presumption of innocence also applied during the investigation.

The judicial body also faced other kinds of manpower issues which are a lot of professionalism issues, for instance, bribery, corruption, illegal fees, and inconsistent court decisions. In several cases, the courts also force parties to spend large sums of money to settle their cases and tend to side with certain groups. These accumulation of unprofessional acts and behavior has creates legal uncertainty as well as decreases the public's trust towards the judicial process and law enforcement action.

3. Have Alternative Dispute Resolution (ADR) methods such as mediation been adopted by courts as a reliable avenue to ensure access to justice? Have the courts faced difficulty in enforcing these decisions and settlements?

There is a great significance in recognizing the available methods of dispute resolution, including Alternative Dispute Resolution (ADR) or non-litigation method, which is a variety of dispute resolution methods *outside* of the court. In Indonesia, Article 1 point 10

² Indonesia Judicial Reform Forum, "Achievements, Challenges, and Recommendations for Judicial Reform", Indonesian Institute for Independent Judiciary, 2018, p. 12.

of Law No. 30 Year 1999 regarding Alternative Dispute Resolution has listed and recognized several methods of non-litigation dispute resolution, such as consultation, negotiation, mediation, conciliation, and expert assessment.³ In the Philippines, a law has already been passed institutionalizing the use of alternative dispute resolution methods even at the barangay level, the smallest administrative unit in the Philippines. At the barangay level, a “lupon”, a body of arbitrators appointed by the Chairperson, may handle specific cases for arbitration and mediation.

However, just the same resolution of cases, even on arbitration, is delayed brought about by conflict of interest, corruption, inefficiency, and lack of competence of those handling arbitration cases. The courts also do not fully understand and are aware of international law and how to implement foreign decisions and settlements, so that not many courts have been given the authority to implement arbitral awards.

C. SOLUTIONS

Several issues regarding access to justice and the judiciary can be simplified to three main problems, namely discrimination, and the integrity of the judiciary, and the implementation of alternative dispute resolution. The discrimination issue can be solve by improving the quality of legal practitioners who have good insight in understanding legal principles without being based solely on political or economic interests. In addition to that, the government should abolish several regulations that encourage unfairness and also formulate new sets of regulations which promote an accessible justice for all in every judicial process.

On the other hand, judicial integrity can be improved by ensuring that the judicial body's organization maintains due process in all judicial processes and takes firm action against any official who commits a crime. increase. We also need to socialize the legal curriculum and law enforcement education to protect people's rights and empower the devices to bring justice to those who seek them. In addition, the use of technology allows for easy access to the judiciary, making courts more transparent, effective and efficient, while supporting and guaranteeing a much better legal culture, thus causing corruption in the judiciary. It is believed that it can be prevented.

³ Sri Mamudji, “Mediasi Sebagai Alternatif Penyelesaian Sengketa di Luar Pengadilan”, *Jurnal Hukum dan Pembangunan*, Vol. 34, No. 3, 2004, p. 194.

Lastly, increase dispute resolution using mediation methods for people who want to resolve cases traditionally because mediation method have many benefits, which are confidential nature of the procedure, such as time-saving, court costs saving, procedural flexibility, and reducing emotional stress through voluntary development of dispute resolution options. Also, the electronic courts (e-courts) can become another solution to implement alternative dispute resolution. E-courts could ensure a faster, more transparent, and will significantly reduce court costs. Through e-court, access to justice is more transparent and easier to access, and there is no need to worry about distance issues because e-court makes it possible to fight the justice rights in court without face to face. It will also increase the transparency of the judicial process so that it can be easily evaluated by the public, increase public trust in the judicial system, and most importantly strengthen the legitimacy of judicial power.

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Access to Justice: The Role of Media

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The media can bring different perspectives to the people. The media itself must have the knowledge to portray the law, not just personal thoughts. Everyone can be anything and anyone in cyberspace. The presence of the media platforms will certainly lead to various legal events and occurrences. The existence of the internet as an online platform also supports the information to be spread out. Social media also provides the widest possible freedom for users to express themselves, their views of life, or their opinions. This platform also has expertise to bring different perspectives to be presented to the public. On the other hand, the conventional media platforms as a source of information which spreads the news through factual verification is increasingly marginalized. Therefore, the media platforms are often misused by spreading various issues that can cause hatred for each other. Social media users can easily spread the false information, and the readers are often unwise enough to digest the news.

Media platforms can be promoted misleading about the judicial system. Nowadays, It's easy to make evidence. It's something quite common and no action. Misleading information can be a trend. Sometimes people don't really care about the law, and sometimes they just pay what they know or we can say as a money-talk.

Sometimes, the broadcasting media on television or what the reporter says is controlled by the government. But social media is open for the people. The government chooses the media for their personal interest. The regulation of the technology can be the basic regulation for the government to keep them in check. We cannot say the government is fully successful, there are so many sources so it's hard to keep up with the media.

Sometimes, people don't have a lot of trust in the courts or the government. Since the government can pay the media and control the media. The decision has already been corrected, but the media expressed the opinion in a different way.

The media sometimes help the case because it can make it known to the people and become viral. People give a really big attention to how the case would end up. The pressure can be affecting

the government on how they finish the case, so the court can keep going with the procedures that they have.

The media itself knows about the code ethic and the conventional media and the flexibility. They can try to maintain and keep checking the platform to the media. And maybe to take action to take down the fake news, and the media can be aware about the situation. The public must be educated from what the media have. Because we all have our own role to the public, so as a law student we can try to educate and learn more about access to justice.

ACCESS TO JUSTICE & PUBLIC LEGAL EDUCATION

**Lack of Awareness of Legal Rights, Services,
and Procedures as an Obstacle**

INTRODUCTION

The Constitution of every nation is the fundamental law where all laws and statutes emanate from. It established the fundamental powers of the government and set the rights and liberties of every citizen. Commonly, the Constitution is written in English; considered as a universal language yet not everyone is proficient with it.

In 2021, Education First released an English Proficiency Index. Among the countries which participated, Philippines was identified in the High Proficiency bracket while Vietnam, Indonesia and Sri Lanka were in the Low Proficiency Bracket.

Public Legal Education can be regarded as a way which can provide knowledge about the law to the public so that they have the knowledge they need to deal with legal issues and gain access to justice. Justice can only be achieved when those who seek it have understood the rights enshrined by their Constitution and laws and have enough knowledge on how to act on these rights. It is our duty as agents of law to promote this.

ISSUE

In multilingual states, the constitution which is the mother law of all the laws tends to be composed in English. The constitution is the system of beliefs and laws by which a country, state, or organization is governed. By illustrating it in any language which is not the national language can minimize people's understanding about their general legal system.

There are several factors that influence legal awareness, the first is knowledge about legal awareness. The regulations in the law must be disseminated and have taken effect. Then by itself the rules will be spread and known by the public. People who break the law are breaking the law. This is because it could be due to a lack of public understanding and knowledge about the laws and regulations that apply in the law itself.

The next factor that affects legal awareness is about community compliance with the law. Thus all the interests of the community will depend on the provisions of the law itself. However, there is also the notion that legal compliance is caused by fear of punishment or sanctions for breaking the law.

ANALYSIS

Language is a universal means of communication. Every discipline must have a language that is sometimes difficult to understand. In the legal field, for example, the language used by legal practitioners is usually a language that is only understood by legal circles while other people do not understand the language. Many people around the world use only one language for communication, but many others draw on a mix of different languages: over half the world's populations are bi- or multilingual. Each of us also has a varying level of expertise in each language that we know, including our mother tongue.

In Indonesia, there is an interpreter who accompanies a citizen, or when a judge wants to hear a foreign witness or expert. Requests for translators generally come from the courts. Article 177 paragraph (1) of the Criminal Procedure Code states: "If the reading or witness does not understand Indonesian, the presiding judge at the trial appoints an interpreter who swears or will correctly translate everything that must be translated". Likewise, Article 51 paragraph (2) of the Criminal Procedure Code states, "The defendant has the right to be informed in a language he understands about what he has been charged with".

Legal awareness can be interpreted as awareness of a person or a group of people to the rules or laws that apply. Legal awareness is needed by a society. This is intended so that order, peace, tranquility, and justice can be realized in the association between people. Without having a high legal awareness, this goal will be very difficult to achieve. To cultivate this habit of being aware of the law is the challenge and responsibility of all parties. A culture of being aware and obeying the law must be instilled from an early age. So the element of education is the spearhead in instilling attitudes and habits to comply with existing rules. Educational institutions are primary socialization media that greatly influence the formation of human character in the future. If obedient attitudes and behavior have been instilled since early childhood, then the attitude to respect and obey the rules will be ingrained and entrenched in society. Surely this is done with the right knowledge of what not to do and what to do. Indonesia doesn't specifically regulate public legal education under the law but under article 95B (2) of act no. 15/2019. The mechanism of public legal education to socialize in regards to the review and observation of the law will be further There is a clear legal basis for the obligations of the state administrator and the legislation to socialize and promote the changes of law, the means of the law, and the bill that will be enacted to the impactful society.

In Sri Lanka still the access to justice for the public should be improved as legal education in between the public seems still poor and they are not using social media to educate the public regarding legal issues. The cost to approach lawyers seems a little high and not everyone can easily access justice. As per Chapter 4 of the Constitution, the official language is Sinhala, but it would not be suitable for the people who are living in a multi religion and multi cultural country like Sri Lanka. Only translated versions of Statutes are here in English or other languages. It's a major gap to reach justice in Sri Lanka for the Public. Few legal professionals are poor in English proficiency. Even if they use English in the Court's proceedings, our Magistrates are still handling the cases through native languages because our public and few of our legal professionals are not fluent in English.

In the Philippines, English is the language of choice in all court procedures but the court also allows the preferred language to be used in order for justice to be delivered properly. Laws and administrative orders are also written in English. The poor and underprivileged oftentimes do not understand these laws. Thus, they cannot demand for justice.

SOLUTIONS

A solution that can be adopted by countries in Asia from the Philippines is the integration of teaching the Constitution, specifically the Bill of Rights, in Basic Education. During their primary education, the Constitution and the Rights therein are taught in the National Language, Filipino, rather than in English. This will give the students a deeper understanding of the law. As they mature, the method of teaching is diverted to English and social issues are tackled. This way, their knowledge and learning will not divert away from the original intent and language of the Constitution.

In the context of Sri Lanka, Social Media like Facebook and Instagram have to be used to share legal knowledge and educate the public legally. Lawyers have to stand to achieve justice for each citizen beyond the cost and personal perception. Legal education should be taught for law students in English to have a general understanding about the law system instead of learning only in their Mother tongue. To sum up, the language proficiency of the public should be improved in Sri Lanka especially in English.

Access to justice is defined as the ability of people to seek and obtain a remedy through formal or informal institutions of justice for grievances in compliance with human rights standards. Without proper knowledge about civil or human rights, the justice system would be inaccessible to people. In Vietnam, citizens are being educated about the legal system from primary school until university. Moreover, there are voluntary groups who are law students that help to promote legal knowledge towards various people in society. Language can be a barrier in accessing the justice system,

however, if people's awareness about their legal rights are being raised, the difficulty would not be a primary problem anymore.

CONCLUSION

In conclusion, our Asian regions like Indonesia, Philippines, Vietnam and Sri Lanka still have certain issues about the legal knowledge of our public. If all of our solutions can be considered in future, then only our public can easily gain access to justice.

With this legal awareness, we will witness that there are no violations so that the ideal life will be met. Formal, informal and non-formal education institutions need to be invited to jointly develop legal awareness and intelligence from an early age. Legal education is not limited to formal education at school. But it can also be done outside of school. Learning about law from an early age must be taught to children. So that later embedded in them a sense of the need for the rule of law. So that legal awareness will be formed from an early age.