

Rethinking access to justice through digitalization: User experiences of public digital legal aid services

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Abstract

Digitalisation of society has led to increasing pressure towards digitalization of legal aid. The digitalization narratives tend to form around two opposing ideals: either digitalization is seen as a way towards better access to justice and empowerment of citizens, or as aggravation of existing injustices and biases. In the context of digital legal aid, which narrative better describes its potential and associated challenges? Considering the context-dependency of digitalisation, surprisingly little is known about user experiences of digital legal aid.

In this paper, we present tentative findings from an on-going Finnish pilot study commissioned by the Ministry of Justice, which aims to survey and assess user experiences of digital legal aid services in different jurisdictions, including the Nordic countries, the Netherlands, Belgium, United Kingdom, and US. Our study focuses on publicly funded digital applications developed to support both legal professionals who provide legal aid services and on self-service tools designed for legal aid receivers. Our data includes review of prior research, grey literature and other publicly available materials regarding digital legal aid tools, and interviews conducted with different stakeholders.

Our contribution is both practice-oriented and theoretical. We seek to participate in the debate on digital access to justice in three ways. First, by drawing on prior research on access to justice, digital divide, and human-computer interaction to build a framework for examining digitalisation of public legal aid services. Second, by connecting these insights with the preliminary results from our initial interview data; and third, building on the first two, making recommendations for future policy and development activities of the national public legal aid in Finland. Based on our early work, digitalisation of legal aid services seems to amplify an institutional perspective to access to justice, in which digital tools are primarily developed to support legal professionals in their professional capacities instead of focusing on the needs and capabilities of those seeking justice.

Keywords: legal aid, digitalisation, access to justice, user experiences, digital divide

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1 Introduction

Legal aid is often perceived as the epitome and prerequisite for effective access to justice. It generally entails the possibility to be represented in court, to get a lawyer free of charge, and to receive legal advice for a specific legal issue. The exact scope of legal aid services, the division of labour between public and private legal aid mechanisms, and the exact content of public legal aid varies between countries.³ These differences derive from fundamental differences in state philosophy, organisation, and administration of legal aid systems.⁴ Digitalisation i.e. the increasing development and deployment of digital tools to assist the execution of different aspects of legal aid, is often perceived to increase access to justice.⁵

Public legal aid services are in general offered to people from low- or middle-income “locations” to enable access to the justice system in situations where it would not be feasible without external support. In the early legally oriented access to justice research of the 1970s and 1980s, many scholars have stressed the importance of developing alternative means towards justice, also outside the courts.⁶ In their seminal book *The Social Psychology of Procedure Justice* in 1988, Lind & Tyler draw attention to the importance of citizens’ experiences for procedural justice, which also forms the starting point for our inquiry.⁷

In this paper, we discuss the digitalisation of *public* legal aid services and exclude private legal aid mechanisms from our examination, which follows from the practical orientation of our research setting. Our study is commissioned by the Finnish Ministry of Justice to support their work on exploring the possibilities, challenges, and limitations in digitalizing public legal aid services. In our analysis of prior research, we focus particularly on the intersections between access to justice and digital divides and hope to draw attention to the different mechanisms through which digitalisation efforts may or may not increase access to justice.

³ European judicial systems CEPEJ Evaluation Report 2022, Evaluation cycle (2020 data), Council of Europe, p. 35. Available at https://www.coe.int/en/web/cepej/special-file-report-european-judicial-systems-cepej-evaluation-report-2022-evaluation-cycle-2020-data-?p_p_id=56_INSTANCE_Pec933yX8xS5&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&p_p_col_id=column-4&p_p_col_pos=1&p_p_col_count=2, accessed 28.4.2023.

⁴ European judicial systems CEPEJ Evaluation Report 2022, Evaluation cycle (2020 data), Council of Europe, p. 37. Available at https://www.coe.int/en/web/cepej/special-file-report-european-judicial-systems-cepej-evaluation-report-2022-evaluation-cycle-2020-data-?p_p_id=56_INSTANCE_Pec933yX8xS5&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&p_p_col_id=column-4&p_p_col_pos=1&p_p_col_count=2, accessed 28.4.2023.

⁵ See for example Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, COM/2020/710 final; Susskind, R., 2019, *Online courts and the future of justice*, Oxford: Oxford University Press 2019.

⁶ Kontiainen, L., Koulu, R. & Sankari, S. Research agenda for algorithmic fairness studies: Access to justice lessons for interdisciplinary research, *Frontiers in Artificial Intelligence*, vol. 5 (2022), available at: <https://doi.org/10.3389/frai.2022.882134>.

⁷ Lind, E. A. & Tyler, T. *The Social Psychology of Procedure Justice*, Springer: New York 1988.

In the empirical part of our study, we map different existing publicly funded digital legal aid services in different jurisdictions, e.g. the Nordic countries, Estonia, the Netherlands, Republic of Ireland, Scotland, Canada, Australia and New Zealand with the objective of identifying potential best practices as well as potential friction and negative impacts.

Despite the many differences between various national legal aid mechanisms, the global Covid-19 pandemic in 2020 has led to urgent uptake of digital tools across jurisdictions. The pandemic restrictions led to a rapid development of remote practices almost world-wide, increasing for example remote hearings, as well as managing cases digitally. The pandemic restrictions gave rise to similar reactions and pressures towards digitalisation simultaneously in various jurisdictions, which supports the identification of commonalities despite national differences. Overall, in Europe the pandemic has coincided with an increase in budget on ICT in the judicial systems. Simultaneously, however, the budget for legal aid saw an overall decreasing tendency in many European countries in 2020.⁸

As scholars of law, technology, and society, we emphasise that the effects of digitalisation on access to justice are interlinked with the social, legal, cultural, and institutional contexts as well as with the specific forms and functions of digital tools in question. This limits the possible generalisations we can make about the relationship between digitalisation and access to justice.

However, there exists an influential narrative that assumes digitalisation to improve access to justice. For example, the Consultative Council of European Judges have in their Opinion 14 (2011) stated that “ICT should be a tool or means to improve the administration of justice, to facilitate the user’s access to the courts and to reinforce the safeguards laid down in Article 6 ECHR: access to justice, impartiality, independence of the judge, fairness and reasonable duration of proceedings”. In its report 2022, CEPEJ stresses the role of digitalisation as an enabler of efficiency of justice and access to justice.⁹ Some scholars argue that by broadening ways to contact institutions, make access cheaper or enable faster

⁸ Note however that the following countries increased their budget for legal aid significantly: Azerbaijan, Malta, the Republic of Moldova, Portugal, and Romania. European judicial systems CEPEJ Evaluation Report 2022, Evaluation cycle (2020 data), Council of Europe, p. 38. Available at https://www.coe.int/en/web/cepej/special-file-report-european-judicial-systems-cepej-evaluation-report-2022-evaluation-cycle-2020-data-?p_p_id=56_INSTANCE_Pec933yX8xS5&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&p_p_col_id=column-4&p_p_col_pos=1&p_p_col_count=2, accessed 28.4.2023.

⁹ European judicial systems CEPEJ Evaluation Report 2022, Evaluation cycle (2020 data), Council of Europe.. Available at https://www.coe.int/en/web/cepej/special-file-report-european-judicial-systems-cepej-evaluation-report-2022-evaluation-cycle-2020-data-?p_p_id=56_INSTANCE_Pec933yX8xS5&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&p_p_col_id=column-4&p_p_col_pos=1&p_p_col_count=2, accessed 28.4.2023.

case processing, digitalisation has the potential to provide better access to justice, although simultaneously drawing attention to the lack of empirical data on the efficiency advantages of digitalised legal procedures.¹⁰ Simply put, there is little empirical research on the impacts of ICT development projects on the users' access to justice.

Our study focuses on the state of digitalisation of public legal aid services and the experiences of different users of the digital tools created to support legal aid. We are particularly interested in the experiences of those seeking justice, i.e. the legal aid receivers, although we acknowledge that these perspectives pose a particular challenge for empirical research. Furthermore, we highlight that digital tools often mediate interaction between legal aid receivers and legal professionals, which means that the experiences of these different users are also connected to one another.

Based on prior research on law, technology, and society and tentative results from our interviews with institutional legal aid stakeholders from continental European and Anglo-American jurisdictions, we argue that digitalisation initiatives that aim to improve access to justice through legal aid should take into consideration the diversity of various user groups and contextuality of user experiences. Currently, the focus of digitalisation initiatives seems to be on the development of tools for institutional users, such as the legal representatives, clerks, and legal aid offices, which do not necessarily translate into better access for those seeking justice.

This institutional focus may at least partly be explained by the structures, which define the objectives for the development and deployment of different digital tools and information systems. The public organisations and institutional actors typically aim for rationalisation of work practices and efficiency gains from their own, internal perspective, which objectives are then reflected in the user perceptions, forms, and functions of developed digital tools. This also means that user testing and user experiences of institutional users are taken into consideration at least to some extent during the development. In contrast, legal aid receivers and those seeking justice have no or significantly limited mechanisms to participate in the objective-setting for digital tools, although these objectives may affect their abilities to access justice. The lack of existing research on user experiences, particularly experiences of those seeking justice with the assistance of digital tools, imposes challenges for legal policy regarding digitalisation of public legal aid.

¹⁰ Voert, M.J. ter, Pivaty, A. & Marique, E. Access to justice in the digital era. *Recht der Werkelijkheid*, 43, 2, (2022), pp. 3-12.

2 Prior research

In this section, we briefly describe prior research on access to justice and digital divides, which suggests that in some cases digitalisation efforts may aggravate existing inequities and lead to increasing responsabilisation of legal aid receivers. In addition, we draw on human-computer interaction research in order to describe the user interfaces of digital tools as the location, in which user experiences as well as potential sources of inequalities emerge.

2.1 Working definition of digitalisation

Before we continue, a working definition of digitalisation is needed. We understand digitalisation of public legal aid services in the broad sense as entanglements of the technical, social, legal, and organisational dimensions and practices, which are related to the development, deployment, and use of digital tools. Thus digitalisation should be understood as a broader concept than the digital artefacts, which are often the focus of scholarly attention. Yet concrete examples of various digital tools relevant for legal aid services shed light to the diversity of digitalisation efforts. Digitalisation may be advanced through what we call general purpose technologies, such as commercially available or free-to-use communication applications, such as instant messaging on WhatsApp or videoconferencing with Zoom or Microsoft Teams. As we describe later on, the pandemic led to adoption of ad hoc digitalisation solutions, which often utilised such general purpose digital tools. Following the launch of OpenAI's ChatGPT in November 2022, also such publicly available AI-based tools should be considered as general purpose digital tools that may be utilised also in the context of legal aid.

These general purpose digital tools can be contrasted with custom-made digital tools developed particularly for use in legal aid offices in a given jurisdictional context. Such digital tools may be, for example, communication portals or platforms to support interaction between legal aid receiver and their legal representatives, case management systems and document repositories that facilitate particularly organisational needs. Custom-made digital tools that are not necessarily limited to legal aid services include also online resources for legal information, such as databases of legislation, organizational websites, partially or fully automated chatbot services, etc.. In general, such custom-made digital tools may better cater to the specific characteristics and needs of legal aid and also be sensitive to the potential implications of development choices for access to justice. However, the

development of custom-made digital tools is often more time-consuming and resource-intensive than fine-tuning existing digital tools.

2.2 Access to justice and the digital divide

The use of technology raises opportunities and challenges of access to justice in terms of digital literacy, access to connection, access to technological equipment, as well as questions of functionality and design. The impact of digitalisation of legal aid services can be assessed broadly through either access to technological devices and through its usability, although these are connected.¹¹

The challenges of digitalisation of access to justice are multi-layered. One useful categorization of challenges of digitalisation on access to justice is provided by Murray et al., who based on extensive literature review divide them followingly:

1. Connectivity, use, and access
2. Motivation, skill, and qualities of use
3. Digital access to justice.¹²

In order to understand digital access to justice issues, Murray divides the challenges, or barriers into two. The first set, digital equity issues, include technology access, skill, trust, health and (dis)ability, language and/or literacy, design and content. General access to justice issues, as a second set of barriers are legal costs, technical legal processes and terminology, stress, trauma, confidence, and systematic discrimination. Put together, this “double set” of barriers highlight the combined issues of digitalisation and access to justice.¹³ Highlighting the essence of digital divide in the context of legal aid services, Murray found in her study on the use of legal online resource in the BC, that in terms of locating and accessing legal help online, there are fairly significant differences between lower income households and moderate/high income household. People with a low income background more seldom search for legal information online, are less confident in understanding most legal information online, and are less confident in finding a private space to communicate privately about legal issues. It should be noted that many of the issues raised by Murray

¹¹ See Emergency Legal Aid to counter COVID-19, 2020, Legal Development Network. Available at: <https://www.undp.org/ukraine/publications/emergency-legal-aid-counter-covid-19>, accessed 28.4.2023. In the context of the study limited access to online legal aid tools were often related to low digital literacy levels.

¹² Kate M. Murray, 2021, Digital Equity in Access to Justice – A review of literature. Legal Aid BC, available at: <https://legalaid.bc.ca/sites/default/files/2021-11/Murray-2021-LABC-ADE-Literature-Review-Full%20Report.pdf>, accessed 28.4.2023.

¹³ Kate M. Murray, 2021, Digital Equity in Access to Justice – Final report. Legal Aid BC, p. 3, available at: https://legalaid.bc.ca/sites/default/files/inline-files/Murray_2021_LABC_Achieving_Digital_Equity_Final_Report_0.pdf, accessed 28.4.2023.

reflect the findings of early research on access to justice. On a critical note, it is possible to question the added value of the terminology of digital inequity instead of discussing digital barriers or different user capabilities.

Murray's categorisation resonates with the discussions on the exclusivity of digital transformation and digital divide. Since the mid-1990s literature has demonstrated that digital divide is no longer about physical access to technology but includes usage of technology, which is dependent on motivations, skills, and opportunities to use technology as well as the social, cultural and physical capital that facilitate transforming technology use into tangible outcomes (Van Dijk, 2020). Van Dijk describes the EU policy action as focused on attracting investment in the technology sector, following an economic perspective. The social perspective, instead, places emphasis on inclusion and perceives universal access to digital technology and the digital society as a human right, calling for actions targeted particularly on the disadvantaged groups such as seniors, minors, women, disabled people, and minorities. Van Dijk's conceptualizations of digital divides and policy perspectives are also relevant for our analysis of digital legal aid, as they make visible the different the various interests and mechanisms at play that may aggravate exclusion through digitalisation.

Although we acknowledge the importance of considering the needs and access issues of exposed groups and communities, we also wish to draw attention to the needs of 'average citizens'. Accessibility and usability issues of different digital tools may also disadvantage in new ways those, who are not otherwise vulnerable or in need of special protection.

Legal design theorist Margaret Hagan emphasizes the possibilities of participatory design, i.e. the inclusion of various stakeholders and end-user groups to the development of digital tools from the beginning to also increase democratic legitimacy of design activities. Hagan argues that inclusion of community perspectives may lead to more effective access to justice innovations and engagement with the justice system. Participatory design could potentially alleviate the emphasis on the perspectives of legal professionals, which many access to justice technologies reproduce.¹⁴

In terms of the social perspective of digitalisation, there are few studies on citizens' experience of access to justice and legal aid. This seems to also be the case when it comes

¹⁴ Hagan, M. Participatory Design for Innovation in Access to Justice. *Daedalus* 2019, 148(1), pp. 120–127, available at: https://doi.org/10.1162/daed_a_00544

to measuring the economical results of technological change in the judicial systems.¹⁵ CEPEJ has pointed out that too many states are not able to give this essential information of the evaluation and impact of ICT developments.

Existing research however point towards an increased responsibility upon the citizen to navigate legal aid/justice system. Murray points out that even if digital resources are well-designed and user-centred, they will remain inaccessible for some users.¹⁶ Some benefit from a more digitalised path of legal aid services, where as some do not. In their research on remote hearings and digital exchange of documents, Bruquetas, Dubelaar and Geertsema (nijmegen issue) found that remote justice “can put pressure on the clients’ effective participation in legal procedures and their interests and needs”.¹⁷ More responsibility and pro-activity is requested from the individual in order to be able to enjoy legal aid services. For those not being able to cross these barriers, physical encounters are needed, particularly when the legal issues are complex.¹⁸

Often, in the context of acquiring public legal aid, legal complexity is often the case when people are looking for legal aid. In a study about digital technologies in a community legal centre in Queensland, Australia, there was caution in developing front-end systems for the clients. Behind the caution professionals expressed multifaceted concerns about accessibility, digital literacy, and the continued need to provide personalised services for vulnerable clients.¹⁹ Although they in general were positive towards digitalisation for the community legal centre sector, the study showed that the professionals preferred digital tools that helped their organizational needs rather than replacing face-to-face client

¹⁵ European judicial systems CEPEJ Evaluation Report 2022, Evaluation cycle (2020 data), Council of Europe, p. 117. Available at https://www.coe.int/en/web/cepej/special-file-report-european-judicial-systems-cepej-evaluation-report-2022-evaluation-cycle-2020-data-?p_p_id=56_INSTANCE_Pec933yX8xS5&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&p_p_col_id=column-4&p_p_col_pos=1&p_p_col_count=2, accessed 28.4.2023.

¹⁶ Kate M. Murray, 2021, Digital Equity in Access to Justice – Final report. Legal Aid BC, available at: https://legalaid.bc.ca/sites/default/files/inline-files/Murray_2021_LABC_Achieving_Digital_Equity_Final_Report_0.pdf, accessed 28.4.2023.

¹⁷ María Bruquetas-Callejo, Marieke Dubelaar en Karen Geertsema, 2022, The lawyer as a key player in guaranteeing access to justice in the digital era, *Recht der Werkelijkheid*, 43(2) (2022).

¹⁸ Kate M. Murray, 2021, Digital Equity in Access to Justice – Final report. Legal Aid BC, p. 4, available at: https://legalaid.bc.ca/sites/default/files/inline-files/Murray_2021_LABC_Achieving_Digital_Equity_Final_Report_0.pdf, accessed 28.4.2023; Emergency Legal Aid to counter COVID-19, 2020, Legal Development Network. Available at: <https://www.undp.org/ukraine/publications/emergency-legal-aid-counter-covid-19>, accessed 28.4.2023.

¹⁹ Sam, Stebin; Pearson, Ashley, "Community Legal Centres in the Digital Era: The Use of Digital Technologies in Queensland Community Legal Centres" [2019] *Law, Technology and Humans* 5; (2019) 1(1) *Law, Technology and Humans* 64, available at <http://classic.austlii.edu.au/au/journals/LawTechHum/2019/5.html#Heading11>, accessed 27.4.2023.

services. These studies rather clearly point out the need for a range of online and offline options and support avenues.

2.3 Human-computer interaction: the connection between access to justice and design of digital tools and services

In order to assess, when and how digitalisation efforts may contribute to access to justice and how to prevent or mitigate potential negative effects, it is necessary to understand the importance of design choices that give form to individual digital tools in a given context. Much depends how the 'user' is configured within the design process, which is a continuous topic in human-computer interaction (HCI) research. Interestingly enough, the central HCI questions of who is the user, for whom digital tools are designed, and how to meet user needs closely resemble similar issues raised in access to justice research on the needs and abilities of justice seekers, for whom is the justice system designed, and whether average justice seekers are configured as consumer-employees, as business owners, or as members of vulnerable groups. Within digitalisation efforts, these questions coincide.

Behind issues of digital divides and barriers lies the question of how the 'user' of digital public legal aid is conceptualised and how the accompanying assumptions about user needs and capabilities affects the design of digital tools and services. Through designing and developing the digital tools the "prototype user" unfolds. In other words, the assumptions behind who the user is affects strongly how IT-systems are developed, and in the end how usable the tool is for the different users.

HCI research emphasises the central meaning of the user interface as "the site of HCI knowledge". The user interface is the visible part of an interactive digital system, such as a graphic operating system, a chatbot dialogue, online portal. The user interacts with the more complex digital system through the interface.

HCI research has paid much attention to developing an understanding how user opinions should influence the design of digital tools. There are various orientations that focus on the users' needs, perceptions, and experiences. For example, the technically oriented usability studies aim to measure and analyse the system's efficiency, effectiveness, and user satisfaction in supporting the user in achieving their goals, whereas the more recent orientation of user experience is more directed towards the emotions and experiences of

users.²⁰ What is relevant for our analysis, is the connection between HCI research on user experiences and the citizens' experiences of procedural justice as described by Lind & Tyler, as this connection reveals the dynamic of access to justice and design of digital tools.

In the context of digital legal aid, it is important to differentiate between two major user groups: the citizen users and the institutional users. In addition, legal aid receivers are a heterogeneous group, with differing capabilities and needs and in various situations. This imposes challenges for developing digital tools to support access to justice. There exists a tension between the urge to define the user groups in order to conduct sufficient user testing, while simultaneously acknowledging that categorising users is always artificially constructed. Omitting important user groups or perspectives from the design increases the danger of unintentionally aggravating social inequalities.

2.4 Categorising digital tools for legal aid services

In our analysis we look at digital tools for legal aid services and the associated user experiences from a procedural perspective. This follows from the inseparability of the social and digital dimensions and the need for context-sensitivity, which HCI research also emphasizes. Stemming from access to justice research and its focus on the citizen's experience of justice, a procedural gaze on digitalisation and legal aid help us understand how digitalisation affects user experiences, and how it affects the process of using legal aid services.

The steps of acquiring legal aid service varies in different jurisdictions, but two common fundamental stages can be found. Firstly, a person seeks information about whether he/she is able to get legal aid by merits and by his/her financial situation. Prior to this, the person needs to understand that his/her problem actually is of legal nature. Secondly, and sometimes very much connected to the first step, a person enters the process of finding a lawyer to assist him/her either by following a formal administrative application or based on the discretion of the legal aid office or a private lawyer. While being represented by a lawyer, the communication between the client and the lawyer, could be considered the third step.

There is a lasting tension when it comes to assessing the implications of digitalization for access to justice. On one hand, there is aspiration for holistic generalizations that would give

²⁰ These approaches have also been reflected as the differences between second and third wave of HCI. Bodker, S., When Second Wave HCI meets Third Wave Challenges, NordiCHI 2006, 14-18 2006.

clear-cut answers, whether chatbot applications are a desirable way to digitalise legal aid services. In such generalizations, there is inherent danger of adopting a too strong a focus on a specific technological solution while ignoring the social and legal context in which it should be implemented. On the other hand, over-emphasizing the context-sensitivity of all digital tools risks ignoring the broader picture and cumulating consequences of digitalization across society and prevent making any generalizations at all. A careful balance needs to be struck. We authors emphasize that there can be no general assessment on the impacts of any given families of digital tools on legal aid but instead impacts need to be assessed in context, in relation to each digital tool and each objective behind its development. However, we hope to balance such context-sensitive analysis through the procedural perspective, as we believe that comparing different digital tools used at different procedural stages enables identification of certain commonalities.

3 The state of digital public legal aid services and policy considerations

In this section, we briefly describe some preliminary results of our on-going empirical data collection, focusing on the insights gained through semi-structured interviews. The interviewees are all subject matter experts in the field of legal aid. At the time of writing, we have had initial interviews (N=4) conducted in March and April 2023, with professionals from Belgium, Netherlands, United Kingdom, and the US. A limitation to our approach is the fact that we are not conducting interviews with the citizens themselves, but are attempting to understand the multitude of citizen experiences through subject matter experts. In this chapter we describe the interview data that we have collected so far following the procedural perspective described above.

Process step 1: Finding information about legal aid

The first step of acquiring legal aid - access to legal information and advice - is an key part of access to justice. Here, digitalisation changes the way legal information is produced, updated, presented and consumed.²¹ Nevertheless, as one interviewee noted, first one gets information by asking one's neighbours and other social contacts, after which websites are looked through in order to get a contact number. Whereas a uniform set of information

²¹ Sari Korhonen & Altti Mieho, Smart Legal Information Services, in Koulu, R. & Kontiainen, L. (eds) *How will AI shape the future of law*, University of Helsinki Legal Tech Lab Publications: Helsinki 2019, p. 106, available at: https://www.helsinki.fi/assets/drupal/2022-11/how_will_ai_shape_the_future_of_law_2.pdf.

portals is desirable²², already at the stage of accessing legal information, the websites and information portals are often scattered and spread over multiple sites. Information on legal aid is often given on governmental sites, websites of bar associations and on non-governmental organizations.

In Belgium, in addition to this, the different provinces are responsible for giving legal aid, and so the information on public legal aid in Belgium is rather dispersed. In the Anglo-American jurisdictions the information is also dispersed on many platforms depending partly on the nature of the legal issue. Here, non-governmental legal aid offices play a big part in providing legal aid services. These organizations and their websites are often issue-specific. Issue-specific websites are limited to one legal issue such as for example legal questions related to housing. In the lines of prior research, the interviewees find the multiple sites of online information confusing and challenging for the individual seeking the services. Dahan and Liang point that the confusing element is often that the tools overlap and are inconsistent in style and tone.²³

In addition to text-based website information, there are different digital communication tools that are created to provide more interactive and by that more personalised advice and support, such as fillable forms and letter templates online, chatbots, and calculators for self-assessment. Whereas three experts mentioned their country using chatbots, the Netherlands have chosen Whatsapp for the same purpose. The benefit of Whatsapp, as opposed to chatbots, is that the person can go on with her daily business without having to digitally stay connected to a certain website, as some chatbots require this. One interviewee brought up the problem of the chatbot asking too many questions, and questions from the perspective of the lawyer, which meant they were difficult to understand. This was backed up by another interviewee, who mentioned that the chatbot what have been developed in general are not good, as they are underfunded, and the topics they try to cover is wide. "It's law talk", the interviewee described.

The simpler technology of fillable forms were considered a success but the interviewee from the US. The same interviewee stressed that some tools aren't as good as a physical interaction with a lawyer, but is nevertheless better than nothing, and can particularly help those who won't receive a lawyer as legal aid. This was particularly the case with a digital

²² European Commission for the Efficiency of Justice (CEPEJ), Guidelines on how to drive change towards cyberjustice - Stock-taking of tools deployed and summary of good practices (2017), Ref. 020017GBR, p. 12.

²³ Dahan & Liang, The Case for AI-Powered Legal Aid Queen's law journal, 2021, Vol.46 (2) p. 422.

tool used for divorce in the US. Also in the Netherlands, the process for divorce has been digitalized and was considered a positive achievement by the interviewee.

Process step 2: Following one's case

After having applied for public legal aid, or being appointed a lawyer, the communication between the client and the lawyer seem to currently be rather simple, ie. through phone, e-mail and video-calls. According to our interviewees the method of communicate between the lawyer and the client is up to the lawyer, or the legal aid office. Both our interviewees in the UK and the US mentioned that text message has been a good way of communication. Our interviewee in the US said it increases show-ups.

In Belgium a centralised automated back-end system for lawyers is used, and was considered a success by the interviewee. The other interviewees where not aware of such. In the four countries covered so far, no front-end system, where the client could follow the process of his/her case and communicate with the lawyer, is used. This might soon change, as the Netherlands (in addition to Finland) are looking for ways to develop a front-end interface for the clients to fill their own application, and possibly follow the progression of the case.

Process step 3 & 4: going to court & finalising the case (incl. billing)

The digital tools that have emerged from our interviews all situate within the initial steps of public legal aid. Technology used in the context of the court procedures and finalizing the case have hardly emerged. The reasons for this are uncertain, but could be attributed to how our interviews are structured, which to some extent do focus on the initial stages of legal aid processes. This question remains to be explored further.

General comments on risks and hindrances of digitalisation

One interviewee stressed that the services of legal aid need to be user specific, even when they are digitalised. Many of our interviewees brought the problem that the digital tools for public legal aid services are developed from the perspective of the institutional needs. The institutional perspective is for example seen as a challenge as to the amount of questions and the type of questions being asked from the citizen through for example forms or chat-bots. One interviewee in the United Kingdom describes this as a pitfall in developing digital legal aid services, as the tools consequently do not meet the citizen where he/she is, often in a stressful situation. Our data seem to support earlier research that the perspective of the

user is missing when it comes to digital tools for public legal aid services as these are developed with the organizational needs in mind.²⁴

The interviewee from the US pointed out that sometimes the law itself is a hindrance to develop digital tools because there is a mix of jurisdictions within the state. Also the rules concerning who is entitled to give legal advice complicate the matter developing digital tools for legal aid. Also lawyers themselves can be slow to adopt the tools. Digitalising legal services and making legal information more accessible and affordable to the public is also a question of the power of the legal profession. Other risks mentioned by the interviewees where the risk that digitalisation is not used efficiently (Netherlands), and that some groups of people are disadvantaged by digitalisation (United Kingdom).

In the next section we analyse and discuss our empirical data in connection to prior research. As we are early in the stages of our data collection, our analysis is tentative and need to be interpreted with caution.

4 Analysis and Discussion: Tensions between institutional and citizen users

As we have pointed out above, there is a knowledge gap in terms of the impacts of legal aid's digitalisation. Based on our interviews this seems to be the case also when it comes to the user experience. Prior research described briefly above, seems to validate our preliminary findings digital legal tools are not well matched with the citizen users' needs. In the US context, Rebecca Sandefur connects three outstanding reason for this: "the ecology of tool creation, outdated design processes, and the resource-strapped environment in the nonprofit sector".²⁵ Designing user friendly digital tools require resources: investments in terms of time, money and user expertise. In the private sector of legal services, at least in terms of AI initiatives, the organizational perspective on digitalisation seems to be the case too, as businesses mostly offer solutions for the legal profession.²⁶

²⁴ See for example Margaret Hagan, 2019, Participatory Design for Innovation in Access to Justice. *Daedalus* 2019; 148 (1): 120–127; Sam, S.& Pearson, A., 2019, Community Legal Centres in the Digital Era: The Use of Digital Technologies in Queensland Community Legal Centres, *Law, Technology and Humans* (2019), vol 1(1), available at <http://classic.austlii.edu.au/au/journals/LawTechHum/2019/5.html#Heading11> (accessed 27.4.2023).

²⁵ Rebecca L. Sandefur, LEGAL TECH FOR NON-LAWYERS: REPORT OF THE SURVEY OF US LEGAL TECHNOLOGIES (2019), p. 14. Available at: <https://utahinnovationoffice.org/wp-content/uploads/2021/04/Legal-Tech-for-Nonlawyers-Report-of-the-Survey-of-US-Legal-Technologies.pdf>. Accessed 28.4.2023.

²⁶ Dahan & Liang, 2021, The Case for AI-Powered Legal Aid *Queen's law journal*, 2021, Vol.46 (2) p. 422.

This relates to the question of who the user is for which technology is developed for, and is visible in the design of citizen user interfaces (or the lack of citizen user interfaces). When digital tools are not developed from the perspective of the user, the user need to conform to the rationales of the technology. One example that arose from our interviewees is badly designed chatbots, which ask a multitude of questions from the lawyer's viewpoint. This can be described as an overarching downside of digitalisation in the context of public legal aid services - an increase in responsibilities and proactivity from the citizen's side already discussed in chapter 3 above. This follows the institutional system-oriented way, in which justice systems have traditionally been developed.²⁷

An interesting finding from our data is that issue specific tools seem to work better than tools covering different legal problems. Research could benefit from studying this further, for example the reasons behind the success of issue-specific legal tools. Does the functionality of these purely relate to technical capabilities of handling a manageable amount of data? Or are the the tools themselves better at providing guidance during the whole legal process, taking into consideration the needs of citizen users? Despite the narrative of user empowerment, our analysis suggests that the different access to justice needs of citizens are not met within the development of digital legal aid services. This, in combination with the fact that the impacts of the tools are hardly assessed, is alarming.

5 Policy implications for digital legal aid services in Finland

At this early stage of our study, it is not possible to provide policy recommendations. Yet we acknowledge that policy recommendations are always connected with the social, legal and cultural context, which is the reason why we describe on a general level the overall high trust towards digitalisation efforts and the two-pronged organisation of legal aid through both public and private services.

Finland is one of the most digitalized societies in the world. In the EU Commission's Digital economy and Society Index, Finland's digital public services ranks 2nd among the EU member states.²⁸ This reflects a culture of non-problematization towards digitalisation's

²⁷ Sossin, L. (2017). Designing Administrative Justice. *The Windsor Yearbook of Access to Justice*, 34(1), 87-111; Currie, A. (2016). Nudging the Paradigm Shift, *Everyday Legal Problems in Canada*. Canadian Forum on Civil Justice. Available at: <https://cfcj-fcjc.org/sites/default/files//publications/reports/>

²⁸ DESI (2022) Digital Economy and Society Index 2022. Finland country report.

benefits for public administration.²⁹ The increased use of digitalization in the public sector has nevertheless spurred political and legal discussion on its impact on fundamental rights, followed by national legislative developments. One result of this is the law on automated decision-making in the public sector, which entered into force in May 2023.

Some of the public legal aid services in Finland are digitalized in terms of legal information and case management. In general, the Public Legal Aid offices in Finland make legal aid decisions and help in court proceedings. In addition other legal services they give support in reconciliation negotiations, write documents and give legal advice. While Public Legal Aid offices provide more holistic legal aid, private lawyers (approved by the PLA offices) concentrate on legal disputes. At the moment the digital services are websites³⁰, chat service with legal professionals³¹ as well as an electronic service platform. The platform offers a self-assessment tool on the eligibility of legal aid, as well as a way to electronically apply for legal aid. It is also possible to request legal advice via telephone.

In developing digitalisation strategy, the frictions and connections between the public and private legal aid mechanisms take on new significance, which should be addressed. One question is to which extent the publicly funded digital tools should also cater to the needs of private legal aid providers, and if so, should these actors be conceptualised as an additional user group alongside institutional and citizen users. Another issue is interoperability between public and private case management systems. Furthermore, there is an issue of resources required for developing digital tools for legal aid services. It is unlikely that the private legal aid providers, which are not collectively organised in Finland, have the necessary resources or the motivation to develop custom-made digital tools, particularly to support the legal aid receivers. However, it remains to be seen how the emerging general purpose digital tools are adopted in legal aid practice and how well they are suited to different jurisdictions.

Although privatisation of legal aid is beyond our scope, these developments for part of the backdrop of digitalisation of legal aid services. It has been stated that private legal aid is gaining importance particularly in providing first instance access to legal information and

²⁹ See Esko, T., & Koulu, R. (2023). Imaginaries of better administration: Renegotiating the relationship between citizens and digital public power. *Big Data & Society*, 10(1). Available at: <https://doi.org/10.1177/20539517231164113>, accessed 28.4.2023.

³⁰ General knowledge on legal aid can be access on www.oikeus.fi, whereas issue-specific websites are found through www.suomi.fi.

³¹ The chat-service on www.oikeus.fi is available mon-fri between 10-12. The service is nation-wide and offers general anonymous advice. The respondents are public legal aid officials and secretaries.

advice.³² This seems to apply also to the Nordic context. In the Nordic states legal aid has historically been highly state-funded with welfare state-inspired legal aid legislation. Hammerslev and Halvorsen Rønning write that “third sector organisations have become more important in reaching groups in society with special needs, and are able to manoeuvre in ways that public organisations cannot”.³³ The impact of publicly available legal technologies and privatisation of legal aid affects the overall ecosystem of legal aid, which should be taken into consideration in policy.

To conclude, we have drawn attention to the need to analyse and consider user experiences at various stages of digitalising legal aid services, from policy making to designing individual digital tools. In practical digitalisation pilots, the challenge is to find a balance between the institutional and citizen perspectives and to meet the heterogenous needs of different user groups given the time and resource constraints. Particularly the citizens’ experiences of legal aid services – as well as digital tools used in them – are notoriously difficult to collect and analyse, as also our tentative findings suggest. However, in order to develop digital tools to support and improve access to justice, these user experiences are of fundamental importance.

³² See for example Dahan & Liang, 2021, The Case for AI-Powered Legal Aid Queen's law journal, Vol.46 (2) 2021, pp. 415-429; Hagan, Margaret, Participatory Design for Innovation in Access to Justice (2019). *Daedalus*, Volume 148, Issue 1, Winter 2019, pp.120-127. See also Richard Susskind 2020, "The Future of Courts", Harvard Law School Center on the Legal Profession.

³³ Ole Hammerslev And Olaf Halvorsen Rønning, 2018, Outsourcing Legal aid in the Nordic Welfare States, In: *Outsourcing Legal aid in the Nordic Welfare States*, Edited by Ole Hammerslev And Olaf Halvorsen Rønning, p. 313.