

Policy brief

# Justice aid update 2023

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September 2023



*Taking people-centred justice to scale: investing in what works to deliver SDG 16.3 in lower-income countries*

## Key messages

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Justice aid (which includes aid for ending violence against women and human rights) is falling. There was a particularly sharp decline in 2021 – by 22%.

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Total aid to all sectors has increased by more than 50% over the past decade, but justice aid has decreased by 27% over the same period.

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An increasing proportion of justice aid is going to the particular areas of ending violence against women and girls and human rights. Core justice aid accounted for 80% of all justice aid in 2012, but only 40% by 2021. This means that funding for a basic justice service, including front-line services for lower-income countries, is reducing.

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Most justice aid goes to middle-income countries. Twenty (20)% of justice aid has gone to low-income countries over the last three years for which data is available (2019-2021).

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Innovative front-line services that would make a direct impact on SDG 16.3 are being provided in lower-income countries at affordable benchmark unit costs, and have scope to be scaled up.

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It is recommended that the Justice Action Coalition convenes a working group of donors wishing to explore how to achieve scaled-up

front-line justice services through coordinated action including commitments to: (1) shift more donor funding towards such services; and (2) report on the proportion of their justice aid that funds such services.

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## About this publication

This is the sixth in a series of policy briefs on ‘Taking people-centred justice to scale: investing in what works to deliver SDG 16.3 in lower-income countries’ (<https://odi.org/en/about/our-work/taking-people-centred-justice-to-scale-investing-in-what-works-to-deliver-sdg-163-in-lower-income-countries/>). The research project focuses on practical, cost-effective and realistic ways to deliver sustainable justice services at scale and offers lessons both for lower-income countries and donor programming. The project runs until September 2023.

## About the authors

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# 1 Introduction

## 1.1 Paper purpose and data sources

This policy brief, the sixth in the series, presents the latest data on justice aid, up to 2021. It thus updates the data for previous years presented in Manuel and Manuel, 2018; Manuel and Manuel, 2021; and Manuel and Manuel, 2022 (which presented aid data available up to 2020).

The main data source, as in previous years, is aid data published by the Organisation for Economic Co-operation and Development (OECD) Development Assistance Committee (DAC), with 2021 being the latest data set. All donors report their aid to the OECD, and each element is matched to one primary purpose code. Data is presented for aid to the OECD's categories of 'legal and judicial development' and for 'ending violence against women and girls'. The latter category was introduced for the first time in 2016. Some of the activities funded in this category relate to community-based behavioural change programmes, which some may consider to be outside the scope of justice programmes.

For the first time, ODI's analysis has also captured aid to human rights. Full details of how the OECD defines each of these three categories can be found in the Appendix.

Also for the first time, ODI has also explored justice data reported by donors to the International Aid Transparency Initiative (IATI).<sup>1</sup> As donors can update their IATI data every month, this can provide insight into developments since 2021. While the quality of IATI data is continuing to improve, there are still some well-documented challenges with current IATI data that apply to all sectors.<sup>2</sup> For example, reporting frequency varies considerably across donors. So, a zero figure for 2022 may just reflect the absence of a donor report. The format that donors adopt also varies, with some only reporting commitments and others only cumulative disbursements. Finally, unlike OECD DAC, IATI data is not curated. One result of this is that there is double counting, with aid that a bilateral donor provides to a multilateral agency to spend being reported by both organisations. In addition, it may take some time before basic reporting errors are picked up. In view of these data challenges, ODI plans to undertake a deeper review of the IATI justice data in 2024. This brief draws on

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<sup>1</sup> See: IATI homepage (<https://iatistandard.org/en/>).

<sup>2</sup> See: IATI, 'Understanding access and use of IATI data' (<https://iatistandard.org/en/news/understanding-access-and-use-iat-data/>).

ODI's preliminary analysis of IATI data where the data appears to be reasonably robust without clear anomalies.<sup>3</sup>

## 1.2 Paper structure

Section 2 sets out updated trends in aid data: the amount of aid to justice in absolute and relative terms; which countries it is going to; and which donors are involved. Section 3 summarises conclusions and make recommendations to donors and to the Justice Action Coalition.

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<sup>3</sup> An example of data that clearly needs further investigation is that one institution's reported spend to IATI is more than twice the total spending that OECD DAC reports for all organisations.

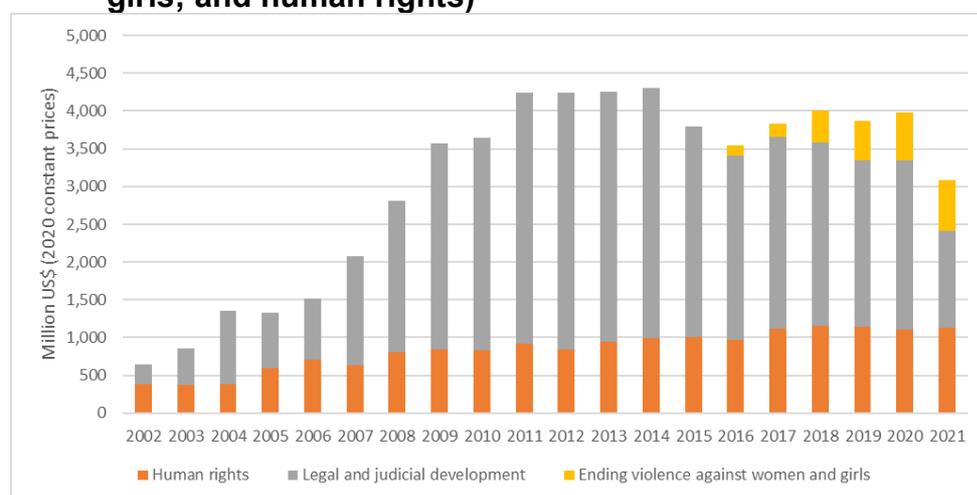
## 2 Updated trends in justice aid

### 2.1 Justice aid is falling

Justice is not a priority for donors. Justice accounts for 4.3% of donors' spending in their own countries (Manuel et al., 2023: 17)<sup>4</sup> but currently 1.4% of their overseas development assistance.<sup>5</sup> Aid to justice is falling both in absolute terms, and relative to other sectors. Figure 1 shows total disbursements to the justice sector, capturing aid to OECD categories of 'legal and judicial development' (LJD); 'ending violence against women and girls' (VAWG); and (for the first time) 'human rights'. As can be seen from the graph, there was a particularly sharp decline in 2021 – by 22% in real terms.

The total aid to justice (including human rights) in 2021 was \$3.1 billion. 'Core' justice aid (LJD) was \$1.3 billion.

**Figure 1 Justice aid disbursements (that is, to legal and judicial development; ending violence against women and girls; and human rights)**



Source: OECD Common Reporting Standard (CRS) database

Justice has become less of a priority compared to other sectors.

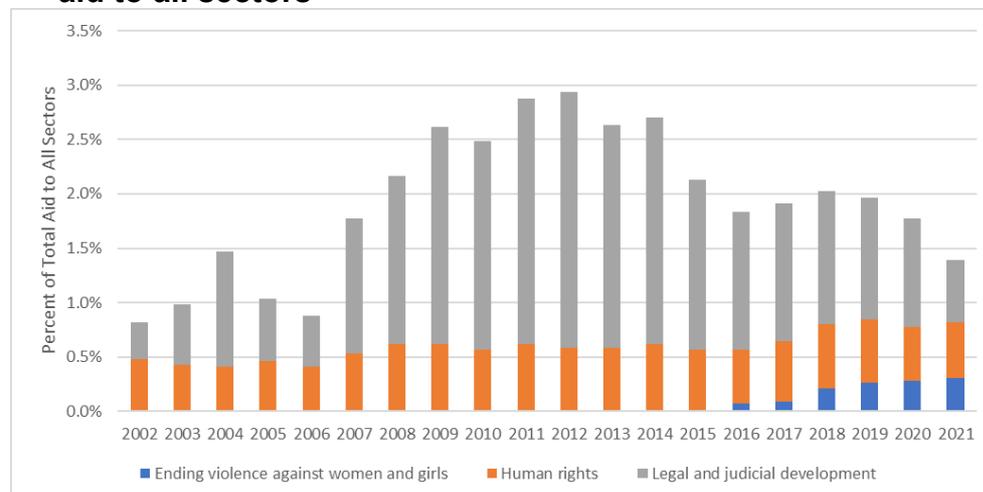
Total aid to all sectors has increased by more than 50% over the past decade, but justice aid has decreased by 27% over the same period.

<sup>4</sup> This is based on IMF data compiled according to the OECD/United Nations (UN)-defined spending category of public order, law and safety. This includes spending by ministries of justice, the judiciary, police, prisons and oversight bodies such as the Ombudsman and Human Rights Commission.

<sup>5</sup> As in Figure 1, aid for legal and judicial development, human rights and ending violence against women. See the Appendix for full details.

As shown in Figure 2, justice comprised 2.4% of all aid at its peak in 2012. It now comprises only 1.4%, following the sharp decline in 2021.

**Figure 2 Justice aid disbursements as a percentage of total aid to all sectors**



Source: OECD CRS database

Looking to beyond 2021, OECD data on spending commitments fell in 2021, which would tend to indicate a future fall in disbursements. IATI data for the top five OECD DAC donors in 2021 (see Section 2.4 for details) records for 2022 an increase by US Agency for International Development (USAID) but declines in support from European Union (EU) institutions, Sweden, Germany and Norway.

## 2.2 Justice aid is increasingly going to specialised themes, rather than to fund core justice services

As can be seen from Figure 1, an increasing proportion of justice aid is going to the particular areas of VAWG and human rights, with less aid therefore supporting countries' core justice sector (LJD). Core justice aid accounted for 80% of all justice aid in 2012. By 2021, targeted support had taken over – with aid for human rights and VAWG accounting for nearly 60% of justice aid. IATI data suggests this trend continued in 2022.

Human rights spend has been broadly constant as a percentage of total aid. It rose from \$0.8 billion to \$1.1 billion between 2012 and 2021. Over the same period, aid to LJD collapsed from \$3.4 billion to \$1.3 billion. There was a particularly sharp decline in aid to LJD in 2021 – falling by 43% in real terms.

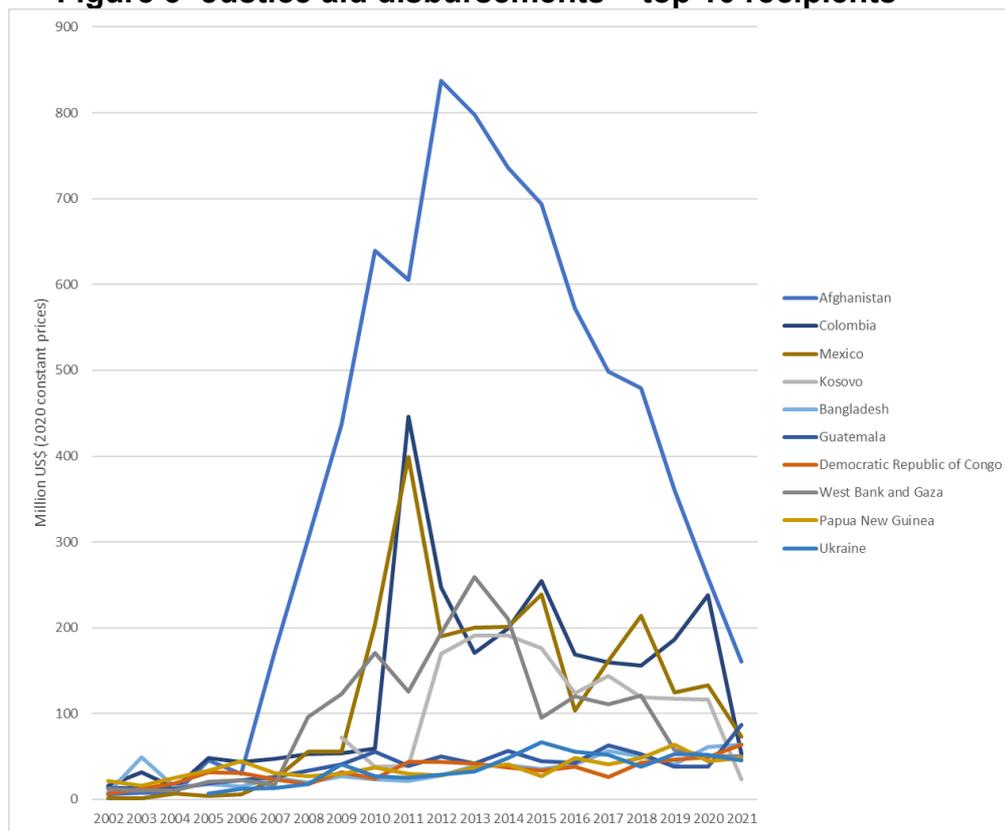
## 2.3 Most justice aid goes to middle-income countries

The vast bulk of justice aid goes to middle-income countries. As can be seen from Figure 3, the top 10 recipients of justice aid are all middle-income countries, apart from Afghanistan and the Democratic Republic of Congo (DRC). With aid to Afghanistan ceasing since the Taliban takeover in 2021, the bias in favour of middle-income countries is set to increase.

From 2019 to 2021, 20% of total justice aid has gone to low-income countries; 27% to lower middle-income countries; and 23% to upper middle-income countries. The rest of the aid was either spent in donor countries or provided to international organisations or to regional projects.

Aid allocations may reflect donors' specific concerns in relation to justice; for example, in Colombia and Mexico, concerns related to drugs and organised crime. However, while upper middle-income countries can afford the full costs of a basic justice system, neither lower middle-income nor low-income countries can afford this, even if they maximised their tax take (Manuel et al., 2019). Aid per person in low-income countries is only 2% higher than in upper middle-income countries on average (median) between 2019-2021. The difference in taxation is much greater: upper middle-income countries raise 18 times more tax revenue per person than low-income countries (Manuel et al., 2020). This imbalance impacts on the affordability of justice services in low-income countries. Aid provided to a typical low-income country is less than 4% of the estimated cost of delivering a basic justice service – on average (median) \$0.73 per person per year compared with the estimated \$20 per person per year required (Manuel et al., 2019).

**Figure 3 Justice aid disbursements – top 10 recipients**

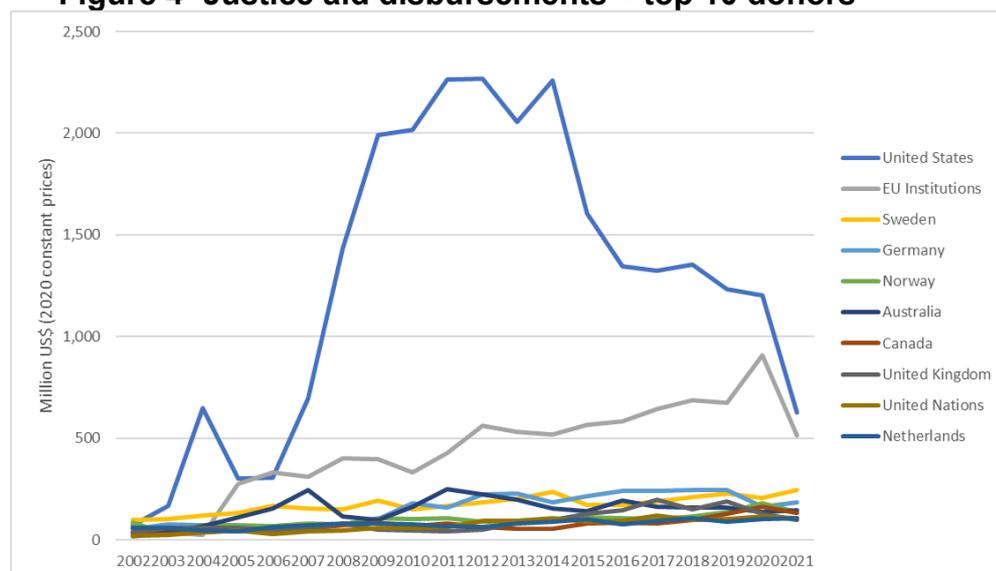


Note: Top 10 recipients by last 3 years' average.

Source: OECD CRS database

## 2.4 Only a few donors are involved

The US and EU are by a long margin the dominant donors to justice, accounting for more justice aid than the rest of the justice donors put together. Sweden is now the third largest donor, making up 8% of total justice aid (see Figure 4), just above Germany.

**Figure 4 Justice aid disbursements – top 10 donors**

Notes: Funds shown as 'United Nations' are the organisation's core funding. Funds given, for example, to the UN Development Programme (UNDP) for country programming are included in bilateral donor disbursements. Top 10 donors by last 3 years' average.

Source: OECD CRS database

The decline in aid spending by the two largest donors is almost entirely in LJD aid and can fully explain the 2021 fall in global justice aid.

## 2.5 Limited information on how aid is spent

There is very little information in the databases about what donors are actually funding. The 'legal and judicial development' category has further sub-divisions (justice, law and order policy, planning and administration; police; fire and rescue services; judicial affairs; ombudsman; immigration; and prisons), but donors (with the exception of Sweden) only report against the headline category, not against the sub-categories.

Unlike other the health or education sectors, there is no category of 'primary' or basic justice services.

The largest share of justice aid has usually been directed at the public sector (that is, paid directly to government organisations). This made up 55–65% of all aid until 2020, falling to just 36% in 2021. This mainly reflects developments in aid for legal and judicial development, where aid to the public sector dropped by 70% in real terms in 2021, possibly reflecting a fall in donor confidence in government organisations and concerns about corruption. Aid channelled through the private sector (that is, consultancy organisations) nearly doubled, while aid through multilateral organisations (such as UNDP) also increased by 20% in this category.

Other channels are more important for justice aid to VAWG and human rights. Fifty (50)% of aid on human rights goes through non-governmental organisations (NGOs) and civil society, and another 27% through multilateral organisations. These proportions are reversed when it comes to aid for ending VAWG, with 47% of spend going through multilateral organisations and another 26% through NGOs and civil society.

### 3 Conclusions and recommendations for the Justice Action Coalition and donors

Justice aid is falling, especially to ‘core’ legal and judicial development. This means that funding for a basic justice service, including front-line services for lower-income countries, is reducing. Total justice aid (including VAWG and human rights) was \$3.1 billion in 2021. ‘Core’ justice aid (LJD) was \$1.3 billion (about 40% of the total). Data for 2021 commitments and for 2022 spending from IATI data suggest an ongoing decline.

The aid analysis may be seen in the context of ODI’s previous work on cost-effective, front-line justice services in lower-income countries (Manuel and Manuel, 2023). A key finding was that innovative front-line services that would make a direct impact on SDG 16.3 are being provided in lower-income countries at affordable benchmark unit costs, and that there is scope to scale them up. Scaling up these kinds of services across all low-income countries would cost \$249 million a year – 8% of the current total aid to justice.

It is recommended that the Justice Action Coalition<sup>6</sup> convenes a working group of donors wishing to explore their role in achieving SDG 16.3 through coordinated action, with clear, practical, action-orientated terms of reference aimed at achieving a shift in donor funding towards basic, ‘primary’ and front-line services in lower-income countries. A useful first step could include a commitment to provide more detailed reporting on justice aid. As discussed in Manuel and Manuel, forthcoming (section 3.2) there are valuable lessons to be learnt from other sectors, such as health and education, that have achieved such a shift.

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<sup>6</sup> See: Pathfinders for Peaceful, Just and Inclusive Societies, Justice Action Coalition ([www.sdg16.plus/justice-action-coalition/](http://www.sdg16.plus/justice-action-coalition/)).

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# Appendix: OECD DAC categories of justice aid by purpose

## **Legal and judicial development**

Support to institutions, systems and procedures of the justice sector, both formal and informal; support to ministries of justice, the interior and home affairs; judges and courts; legal drafting services; bar and lawyers associations; professional legal education; maintenance of law and order and public safety; border management; law enforcement agencies, police, prisons and their supervision; ombudsmen; alternative dispute resolution, arbitration and mediation; legal aid and counsel; traditional, indigenous and paralegal practices that fall outside the formal legal system. Measures that support the improvement of legal frameworks, constitutions, laws and regulations; legislative and constitutional drafting and review; legal reform; integration of formal and informal systems of law. Public legal education; dissemination of information on entitlements and remedies for injustice; awareness campaigns. (NB This does not include any spending on activities that are primarily aimed at supporting security system reform or undertaken in connection with post-conflict and peace-building activities or for capacity building in border management related to migration.)

## **Violence against women and girls**

Support to programmes designed to prevent and eliminate all forms of violence against women and girls/gender-based violence. This encompasses a broad range of forms of physical, sexual and psychological violence, including but not limited to: intimate partner violence (domestic violence); sexual violence; female genital mutilation/cutting (FGM/C); child, early and forced marriage; acid throwing; honour killings; and trafficking of women and girls. Prevention activities may include efforts to empower women and girls; change attitudes, norms and behaviour; adopt and enact legal reforms; and strengthen implementation of laws and policies on ending violence against women and girls, including through strengthening institutional capacity. Interventions to respond to violence against women and girls/gender-based violence may include expanding access to services, including legal assistance, psychosocial counselling and

healthcare; training personnel to respond more effectively to the needs of survivors; and ensuring investigation, prosecution and punishment of perpetrators of violence.

## **Human rights**

Measures to support specialised official human rights institutions and mechanisms at universal, regional, national and local levels in their statutory roles to promote and protect civil and political, economic, social and cultural rights as defined in international conventions and covenants; translation of international human rights commitments into national legislation; reporting and follow-up; human rights dialogue. Human rights defenders and human rights NGOs; human rights advocacy, activism, mobilisation; awareness raising and public human rights education. Human rights programming targeting specific groups, e.g., children, persons with disabilities, migrants, ethnic, religious, linguistic and sexual minorities, indigenous people and those suffering from caste discrimination, victims of trafficking, victims of torture. (NB This does not include any spending in the context of a peacekeeping operation, on programming for refugees or migrants, including when they are victims of trafficking or on support for fundamental principles and rights at work, i.e., child labour, forced labour, non-discrimination in employment and occupation, freedom of association and collective bargaining.)