



The Access to Justice Index™ 2016:
Methodology for Rankings

The present (2016) Index Rankings is only a beta-version, inviting stakeholders to constructively evaluate the current assessment criteria and to participate in deciding the (expanded) criteria for the Global Rankings of 2018. The Qualitative (Survey) component proposed to be included in the 2018 Rankings has been briefly described in Part Four (4) of this Report.*

**The information and sources provided by the researchers for the current 2016 Inaugural Rankings have been independently verified by experienced educators and field workers from the five BRICS Countries.*

Realizing the significance of the subjective component of the theme of 'Access to Justice' in terms of people's awareness, perception and accessibility, the Index has formulated a unique division of the indicators into Quantitative and Qualitative. The Index adopts this special barometer as policy-assessment alone (as covered by Part I, the quantitative component) remains insufficient in portraying a true picture of a jurisdiction. Although the current 2016 Inaugural/Beta Rankings evaluate only such quantitative data, GIAJ will include the qualitative component (Part II, the qualitative or survey component) for the Global Index, according more than 60% of the weightage for such survey component.

The subjective component as encapsulated by Part II (qualitative indicators) is both in direct disjunction to and yet complementary to the objective component (encapsulated under Part I: quantitative indicators as published in current report) which for e.g., checks for the existence of a given judicial/extra-judicial mechanism for dispute resolution but doesn't delve into the aspect of the ground-zero efficacy of such institutional mechanism for its target beneficiaries. Such efficacy is something that can only be gauged by the qualitative component of the Index, by recording and analyzing the perception (of quantitative data) by relevant stakeholders.

In essence, the Index will facilitate greater information dissemination on the best practices across jurisdictions. It will aid in knowledge-sharing on justice and other judicial-themes related education, also increasing accessibility to specialized programs and enhancing the visibility of the ongoing projects across jurisdictions. Therefore, the aim of this Index is not merely statistical, but also progressive in nature. The Index aims to move beyond conventional numbers, and more importantly recognize even the smallest of the projects making a difference in accessibility to the judicial institutions. This provides an opportunity for other jurisdictions to emulate and design such

initiatives at their Universities, Bar Councils, Governments, and in the judiciary, among other categories. Access to Justice Index, 2016 considers four (4) assessment criteria (The Government, Judiciary, Legal Profession, and Legal Education) as part of the Quantitative Rankings (Part I). The Index is further sub-categorized and indicators have been assigned to the respective categories which aid us in evaluating the concerned jurisdiction.

***Footnote Caveat: One of the limitations of the Inaugural Index is that it does not, per se, measure the effectiveness of policies, it merely acknowledges the existence of such policies. Measuring effectiveness of policies is part of the survey component (Part II) proposed to be used for the 2018 Global Index.*

- **Policy-Based Assessment by use of Quantitative Indicators under Part One of the Index**

The Index, as mentioned above, has two parts. Between these two parts, Part I (Quantitative) consists of four categories: *Government, Judiciary, Legal Profession* and *Legal Education* categories. The first category ('The Government') attempts to affirm the nexus between Access to Justice and the government, as represented by the legislature, executive, bureaucracy, law enforcement officers, etc.

Our aim is to explore what laws and policies in relation to these various organs of the government facilitate the cause of access to justice in each of the BRICS countries.

The Government category is further sub-divided into *Policies, Infrastructure & Technology and Accessibility*. As can be understood, we are attempting to test governmental policies, acceptance and use of technology, infrastructure, and barriers to the accessibility of governmental bodies, in relation to access to justice.

Similarly, in the second category ('The Judiciary'), we attempt to find those laws, court policies, court rules, judicial practices, etc., which facilitate the cause of access to justice by the courts (higher and lower judiciary), judges, judicial clerks and other judicial officers. This category has been again further sub-divided into *Policies, Infrastructure and Technology*, in order to understand how judicial policies, the use of technology and the creation of adjudicatory mechanisms and other infrastructure promotes access to justice.

In the third category ('The Legal Profession'), we inspect the rules governing the practice of the legal profession in that country. This involves looking at the extent to which lawyers' association guidelines, legislation pertaining to lawyers and other practices in the legal profession achieve access to justice.

The sub-divisions in this category are *Regulatory Mechanisms and Professional Obligations*. This demarcation addresses the dichotomy between the duties and obligations placed on lawyers by statutes as well as by various associations.

Lastly, we examine how the conduct of 'Legal Education' in the country tends to bring about access to justice in the wider community. In this context, we examine governmental guidelines and legislations pertaining to legal education, the existence, administration and reach of legal aid clinics, incentives given for pursuing access to justice research and field work, among other indicators. *Clinical Legal Education, Faculty-Civic Engagement, Student-Civic Engagement and Existence of Regulatory Mechanism* are the four fronts on which we are studying how legal education in that country is furthering the cause of access to justice.

The present rankings are purely quantitative in nature. The quantitative data so obtained has been reviewed by our Partner Organizations which includes Law Professors from the respective jurisdictions. The data is further authenticated by researchers providing us with "sources" for their responses to our indicators (See Part Four (4) of the Report for Indicators)

- **Data Tabulation**

Under Part I, the points per question/indicator (either 0 or 1, where 1 signifies an answer in the affirmative, such as when a given institution is known to exist within the concerned jurisdiction and 0 signifies a negative answer) have been multiplied by the respective weightage assigned to each question. [The weightage per indicator has been arrived at after due deliberation within the Society, on a subjective basis, from a scale of 1-5 (1 being the lowest, 5 being the highest).] The multiplied score per indicator has been totalled for each category's sub-division, for the category as a whole and for Part I as a whole. Based on this, we have ranked each country on their performance in each sub-category as well as in each category.

- **Limitations**

There might be several limitations to the present rankings. We are optimistic of receiving your suggestions and recommendations in addressing these issues and as well as knowing ways to inculcate into the assessment criteria indicators that we might have missed.

One of the problems that we faced, particularly while assessing the category of “The Judiciary” was that of pendency/backlogs at the courts. There are two reasons which have been considered for non-inclusion of backlogs as a criterion/ indicator.

The first was the difficulty in quantifying the magnitude of the said backlogs vis-à-vis multiple jurisdictions. The second was that cases at courts are further classified into several categories (like: Fresh Petition; Listed for Hearing; Hearing; Pending Judgment; Pending for appeal, etc.,) quantification of which requires huge funding and manpower across the five countries. With no external funding we thought it wise not to consider this for the present beta-version.

The long term solution for this could be looking at the average rate of disposal as one of the basis for quantification, but we are still exploring this option. We thus urge the readers to please feel free to suggest how to go about quantifying backlogs, or if you feel backlogs are not really the issue for the rankings, we would really appreciate your inputs either way.

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