

## Inspiring Analogies: From Access to Healthcare to Access to Justice

Scholars who study the availability to justice sometimes draw analogies with healthcare initiatives. However, these scholars rarely explain why and to what extent the healthcare system is an appropriate source of inspiration for the justice system. This chapter seeks to justify the correlations by providing a more comprehensive and systematic comparison of the two systems. The hope is that this framework will encourage those seeking to reform an access to justice to look more frequently beyond the frontiers of law and to draw inspiration from innovative healthcare solutions.

Analogies are central to everyday reasoning. They transfer knowledge acquired in a familiar situation (*the source*) to a new situation (*the target*.) To be useful and persuasive, they must be based on relevant similarities, existing when two elements play the same functional role within their respective systems. Even then, analogies rarely support conclusive arguments and are best used as heuristic tools to generate hypotheses about the target or as rhetorical devices enhancing the persuasiveness and clarity of an argument. Within these limits, analogies are helpful in a number of contexts, including choice situations, such as the choice between different options for increasing access to justice. However, the scope of any analogy must be carefully circumscribed; this chapter limits itself to services that prevent, contain, and resolve legal disputes or health issues. Therefore, it only explores those similarities which are relevant to the delivery of these services.

Various features affect the way in which both systems deliver their services. Both systems seek to remedy harm caused by injurious situations. The problems they address fall on a spectrum from the most detectable to the most undetectable which makes their identification an important issue for both systems. These problems are also affected by the passage of time: some may worsen if left untreated, while others may stabilize over time.

The impact of time, combined with other factors, such as the potential consequences of inaction, generally determines the order in which each problem is to be addressed. Furthermore, while both systems provide remedies, they are unable to guarantee outcomes. Lastly, both systems primarily address problems suffered by a person, although some interventions also have collective outcomes.

Two significant differences must be considered when transferring solutions from the healthcare system to the justice system. First, the justice system must consider legal persons, not only individuals. Second, the correlation of legal problems implies that the justice system must take into account a broader array of interests than the healthcare system and that legal services are divided into advising services and dispute resolution services (given the need for a neutral third party to adjudicate between these different interests.)

The services delivered by both systems share at least two further similarities. First, they are heavily professionalized. This professionalization — which contrasts with other public services — reflects the idea that the public needs to be protected due to the complexity and potential consequences of the services provided. It leads to similar debates regarding the types of professionals who should be allowed to perform various acts and whether some acts might be left to non-professionals. Recently, some healthcare systems — and to a lesser extent some justice systems — have sought to allow more professionals to perform some acts in an effort to make them more accessible. This tendency could be explored further in the justice system.

Second, the state is generally involved in both healthcare and justice, through public institutions and legal aid schemes respectively. This involvement reflects the crucial importance of health and justice services for the population (as confirmed in myriad legal instruments), the necessity of providing these services on the basis of need and not

on the ability to pay, and the inability of the private sector to guarantee affordable access. In the healthcare system, this public support increasingly takes the form of universal health coverage. Such coverage is much less developed in the justice system, especially with regards to legal advising services. This is also an area where the justice system could perhaps draw inspiration from the healthcare system.

Beyond their comparability, health and justice issues are also intertwined: health problems often lead to legal issues and vice versa. This inter-relationship suggests that users could benefit from a better integration of the two systems. The analogy between healthcare and justice can generate inspiration for new paths for a greater access to justice. The comparison between concrete institutions must however be attuned to the specificities of each jurisdiction. The chapter explores two examples of potentially transferable solutions. The first is the decentralization of services. Healthcare services are often provided in more access points than legal services – especially with respect to argument resolution – which makes them more geographically accessible. Justice services could be decentralized further and even provided within the same access points as healthcare services to increase their accessibility. Another potentially transferable solution is the single-window approach: some jurisdictions provide a single point of entry into the healthcare system, for example, a helpline giving minor advice and redirecting patients to appropriate resources. In the justice system, such public helplines are infrequent. This option could be explored further.

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