Introduction:

Everybody should be guaranteed access to the courts, whether this is to make or defend civil claims or to defend a criminal charge. (See: UN-Basic Principles on the Independence of the Judiciary para 5 or European Convention of Human Rights Article 6 and other similar provisions). This questionnaire aims to find out if there are obstacles to this access to justice and what means may be used to overcome it? The questionnaire concentrates on access to justice for individuals, as opposed to corporate entities.

I.) The costs of bringing or defending a civil claim or defending a criminal charge:

It is a fact that the costs that a party has to pay, when it wants to use the court system (for instance to bring or defend a civil claim) will influence an individual's decision on whether to go to court at all or to pursue/defend a claim in court. Different systems of legal aid try to reduce this obstacle to justice. A special problem may occur if the costs of experts cannot be met from legal aid funds.

Question 1: (a) Is there legal aid in your country?

Reply: Yes. There is legal aid in Israel.

(b) Is this available for individuals in all courts, both civil and criminal?

Reply: Legal aid is provided to individuals in both civil and criminal proceedings.

a) Legal aid in civil cases is provided for proceedings which are under the jurisdiction of regular courts, labor courts and religious tribunals. This kind of legal aid is available to applicants from two groups: (i) individuals with insufficient economic resources (according to criteria set in law) who are parties to specified proceedings listed in the legal aid law; and (ii) individuals who are parties to proceedings stipulated in the legal aid law (e.g. representation of the mentally ill in proceedings regarding forced hospitalization), without regard to their economic situation.

b) Legal aid in criminal proceedings is granted in regular courts. It is available to individuals in three different groups: (i) those who, without regard to their economic situation, fall into one of the specific causes stipulated in the law which grants individuals legal aid (e.g. defendants in crimes punishable by incarceration of 10 years and above); (ii) those who the court finds as unable to defend themselves in the proceeding, without regard to their economic situation; and (iii)
those with a poor economic situation.

c) The Israel Bar Association offers, as part of its "Pro-Bono" program, legal aid in civil matters. This legal aid is provided to individuals according to income/asset criteria set by the Israel Bar.

d) Individuals who are charged in military tribunals are eligible to legal aid granted by the Military Public Defender.

Unless indicated otherwise, the replies to this questionnaire do not pertain to legal aid in military tribunals or to legal aid provided by the Israel Bar.

Question 2: Which costs are covered by legal aid?
(a) the costs of using the court?

Reply: In Israel, court fees are the cost of using the court. The legal aid in civil proceedings does not cover the costs of using the courts, since the Court (Fees) Regulations allow individuals to file a motion with the court to be exempted from paying the court fee due to a poor economic situation.

In criminal proceedings the defendant is not required to bear any court fee.

(b) the costs of the lawyer?

Reply: Legal aid in civil and criminal proceedings fully covers the cost of legal consultation given by a lawyer as well as representation by a lawyer in court.

(c) the costs of experts (either appointed by the court or engaged by the parties directly)?

Reply: Legal aid in civil and criminal cases includes covering the costs of experts. This is subject to (i) a financial limit stipulated in the applicable regulations; and (ii) approval of the expenditure by the body providing the legal aid.

Questions 3: What are the limitations of legal aid:
(a) are there financial limits to legal aid in (i) civil; and (ii) criminal cases.

Reply: Individuals receiving legal aid, both in criminal and civil cases, may be required to pay a small one-time fee to the body granting the legal aid.

There is a financial limit stipulated in the applicable laws & regulations as to the costs of experts, translation and photocopying.

(b) are there limits on (i) the type or (ii) choice of lawyers or experts that can be used if legal aid is claimed by an individual?

Reply: There is a limit on the choice of lawyers that can be used if legal aid is granted. The lawyers handling the case are appointed by the body granting the legal aid, not by the individual claiming the aid.

With regard to the experts used, there is a limit as to their choice if the individual claiming legal aid wishes that the cost of experts be covered by the legal aid. This is because these costs need to be authorized by the body granting the legal aid.
Questions 4: Who grants legal aid for civil and/or criminal cases? Is it granted by a body which is under the control of the judiciary or by an extra judicial organ? If the latter, describe this organ.

Reply: Legal aid granted by law is supplied by the government:

Legal aid in civil cases is granted by the Bureaus of Legal Aid situated across the country. Administratively, these bureaus are a unit of the Ministry of Justice and are not under the control of the judiciary.

Legal aid in criminal proceedings is granted by the Public Defender. Administratively, this is a unit of the Ministry of Justice and is not under the control of the judiciary.

II.) Information about the judicial system:
Only those who know about the possibility of using the courts to make or defend a claim, and the possible procedures that they are going to face there, will be able or willing to go to court. Therefore information and knowledge about how the courts and the judiciary function are essential:

Question 5: Are students in (i) schools and (ii) universities and colleges, taught about the court-system, the jurisdictions of the various courts, the judiciary, the rights of citizens to use the court systems and how the system functions?

Reply: All junior high-school and high school students are taught about the judiciary and the court system as part of their citizenship curriculum.

Teaching students in universities and colleges about the judiciary, the court system and the right of citizens to use the courts, will be dependant on their field of study.

Question 6: What means are there for informing potential litigants or other users of the court system about (i) the court system and how it is organized; (ii) the judiciary; (iii) the procedure in courts (civil and criminal); (iv) how to get assistance to make or defend a case in court; (v) how much court procedures may cost? (examples of means to disseminate this information may be: internet; advice bureaux; books/pamphlets published by the court service/government)

Reply: The following means are available for informing potential litigants of the court system and of their rights:

a) Internet website of the Ministry of Justice – includes information on legal aid and how to apply for it.

b) Internet website of the Judiciary – includes information on the role of the judiciary, the court system, procedures, addresses of courts and their jurisdiction.

c) The Administration of Courts publishes various information pamphlets which are freely handed out at the courts’ secretariats.

d) Internet website of the Israeli Government – includes information on how to enforce judgments in the Execution Office.

e) As part of its "pro-Bono" program, the Israel Bar Association operates "Legal
Right Centers across the country manned by volunteer lawyers which offer information for potential litigants.

III.) Access for minority groups (eg. Ethnic or language groups):
Special efforts may be necessary to ensure that members of minorities have the same rights of access to justice as do the majority group in a country.

Question 7: (a) Are there special arrangements to ensure that ethnic/language minorities are aware of their rights of access to justice.

Reply: Special arrangements made to ensure awareness of ethnic/linguistic minorities to their right of access to justice include:
- a) Internet website of the Judiciary – includes general information in Arabic on the role of the judiciary, the court system and the jurisdiction of courts.
- b) The Administration of Courts publishes various pamphlets in Arabic which are freely distributed at the courts' secretariats.
- c) The Association of Civil Rights in Israel (a non-governmental organization) provides information in Arabic on the right to access to justice.
- d) Television Programs in Arabic: a few local programs exist dealing with various legal aspects, including those relevant to the Arab minority.

(b) What special arrangements (if any) are made to ensure that those minorities are able to obtain equal access to justice?

Reply: Following are a few arrangements which, although apply universally, have the effect of assuring minority groups' access to justice and protecting their rights:
- a) Access in administrative cases to the Supreme Court of Justice (the highest instance in the Israeli judiciary) is very liberal. Everyone has a right to access the Supreme Court as a court of first-instance, without the need to show a personal cause of action.
- b) There is mandatory representation by a lawyer in proceedings for the detention of a defendant during the trial period. Obligatory representation of defendants also exists in trials of serious crimes. This ensures protection of defendants' rights.
- c) Although litigants in Small Claims Court are not allowed to be represented by a lawyer in court, the court may allow representation if this is deemed required.

c) Are there facilities to enable ethnic/language minorities to have cases conducted in their language/the proceedings translated for them to follow?

Reply: Yes. Arabic is an official language in Israel (along Hebrew). Court documents submitted by parties – such as statement of claims or statement of defense – can be submitted in Arabic.
Court protocols are in Hebrew. When testimony is given in court in Arabic, the Administration of Courts supplies translation services at its own cost.

IV.) Delays in the justice system:
"Justice delayed is justice denied". The problem of delays in dealing with both civil and criminal cases is encountered in many countries. Delays in cases can amount to a serious denial of the right to access to justice for individuals.

Question 8: (a) In your country are there serious delays in dealing with civil or criminal cases
because of "structural" reasons - e.g. a lack of judges/courts/experts/lawyers who are prepared to deal with legal aid cases.

(b) If there are please explain what they are.
(c) Are there plans to deal with these problems?

Reply: In Israel there are delays in dealing with civil and criminal cases.

The following are some of the methods implemented in order to deal with the problem of delays:

a) Stipulation in law of a limit to the length of certain criminal proceedings: the Criminal Procedure Law mandates that a criminal procedure, during which the defendant is in detention, shall not last longer than 9 months unless extended by the Supreme Court. It should be noted that this time limit requires allocation of more judges to deal with criminal cases, which in turn tends to cause delays in civil cases.

b) Encouraging conclusion of cases by mediation, arbitration and compromise. The government is currently considering mandating civil litigants to enter into a mediation process as a pre-requisite to starting proceedings in court.

c) Enlarging the number of judges in the judiciary.

d) Allocating legal assistants to judges.

V.) Procedure in courts:

Formality in procedures may prevent individuals having access to justice.

Question 9: Are there any examples in your country. Please describe the problems. (e.g. mandatory representation by a lawyer, but heavy cost/ few lawyers available; necessity to appear at court but excessive distances to court buildings etc.).

Reply: Formality in procedures is not a hindrance to access to justice in Israel.

VI.) Enforcement:

Effective access to justice also includes the need to ensure that judgements are enforced effectively.

Question 10: (a) Who ensures that a judgment is properly registered and enforced against a party?

Reply: The Execution Office is the body responsible for enforcing a judgment against a party. Execution Offices are located near every Magistrate Court in Israel and are therefore widely accessible. Administratively, the Execution Offices are part of the court system.

(b) Do problems with effective enforcement exist?
(c) If so, please describe them? What might help to improve the situation?

Reply: The following problems exist with effective enforcement of judgments in Israel:

a) A high caseload for the staff of the Execution Offices.

b) The success rate of enforcing monetary judgments is not high.

c) Lack of information on debtors and their assets.

Proposed actions by the government to improve the situation:
As a move to lessen the caseload of the Execution Offices, the government is now considering to ban enforcement of bills with a face value less than NIS 500 (approx. US$120/€ 90).
Another proposed amendment to the law is to empower the Execution Offices to obtain information on debtors (including their assets), without their consent, from government agencies and banks in order to minimize evasion and asset funneling.

VII.) Other Obstacles:
Question 11: Are there other obstacles to access to justice? If so, please, describe them

Reply: No.

VIII.) Recommendations:

Question 12: In your country are there any existing practices or reports/proposals for the future on the subject of improving access to justice that you would recommend to the judiciaries of other countries.

Reply: No.