



**INSIGHTS: CHILD RIGHTS IN CENTRAL AND EASTERN EUROPE  
AND CENTRAL ASIA**

## Promoting equitable access to justice for all children

### Summary

Daily, tens of thousands of children in Central and Eastern Europe and Central Asia have their rights violated – including their right to health, their right to quality education and their right to be free from abuse, violence and exploitation. Many are victims of crimes, sometimes perpetrated by those closest to them. Numerous families are denied their right to social security and other benefits by administrative authorities or separated from their children through judicial decisions. Yet, only a fraction of children and families are able to challenge the decisions in court and to have access to a fair, timely and effective remedy – in other words, only a fraction have access to justice.<sup>1</sup> Certain groups – such as women, minorities and people with disabilities – generally face more challenges than others. Due to their dependent status, children are particularly vulnerable.

Children in the region<sup>2</sup> face tremendous obstacles in accessing justice. They are confronted with the same barriers as other citizens but, in addition, also face specific legal and social obstacles due to their particular status as minors. While on the one hand children are recognized as being particularly vulnerable to violations of their rights, they are also, on the other hand, the ones facing the most obstacles to access justice.

Justice systems in the region are generally not adapted to children's rights. In most of the countries, legislation and procedures concerning the treatment of children participating in justice processes have not been adapted to their particular rights and needs. Most countries do not have specialized judges, prosecutors and investigators to handle cases involving children. As a result, the justice system can actually victimize children for the second time and generate further harm rather than redress. It may also discourage children and their families from seeking justice.

Yet, in spite of this reality, children are rarely taken into account and often left out of strategies dealing with access to justice. This edition of *Insights* highlights the main issues at stake and provides recommendations for governments, civil societies and international actors to promote equitable access to justice for all children.

<sup>1</sup> Access to justice is the ability to obtain a just and timely remedy for violations of rights as put forth in national and international norms and standards including the United Nations Convention on the Rights of the Child; based on United Nations Development Programme, *Programming for Justice: Access for All. A Practitioner's Guide to a Human Rights-Based Approach to Access to Justice*, UNDP, Bangkok, 2005.

<sup>2</sup> The countries comprising the region can be found at <http://www.unicef.org/ceecis/region2.html>.

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## Access to justice: An evolving concept

Access to justice is an evolving concept that includes the following elements:

*The ability to gain access to forums in which matters of rights and law are adjudicated or otherwise processed.* Judicial, administrative and other justice institutions are of no use to persons who cannot get through the doors of a courthouse or another forum. Laws are just words if not enforceable.

*Fair processes for hearing and deciding disputes and other justice issues.* Once through those institutional doors, participants must have the benefit of processes that respect their rights, explain the legal issues at hand, afford them competent representation, otherwise take account of their circumstances, and provide fair and expeditious processes for hearings and rendering decisions.

*Substantively fair outcomes.* While no justice forum can be perfect, effective access to justice hinges not just on whether people can participate in justice forums or the processes governing those forums' operations but whether substantively fair justice is rendered in the end. This in turn includes not only the nature of decisions but whether they are implemented by the appropriate authorities. This growing emphasis on equitable outcomes (and not just processes) is part of the way in which the concept of access to justice is evolving.

Historically, the term 'access to justice' has in some quarters referred to a person's right to take legal action to defend his/her rights, especially when they have been violated. Though still valid in and of itself, this understanding has been expanded to include other aspects of access to justice.

International treaties and other documents can thus further inform our understanding of the concept. Given that all States in the region are

parties to the International Covenant on Civil and Political Rights and that the document applies to children as well as adults, relevant portions of the Covenant merit mention. Its Article 2.3 is noteworthy:

"Each State Party to the present Covenant undertakes:

- (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
- (b) To ensure that any person claiming such a remedy shall have his [or her] right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
- (c) To ensure that the competent authorities shall enforce such remedies when granted."<sup>3</sup>

Article 14 further illuminates what access to justice involves:

"In the determination of... his [or her] rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law."<sup>4</sup>

In one of its General Comments, the Committee on the Rights of the Child makes a crucial contribution to explicating how children's special situations make legal implementation – i.e., ensuring that good laws that exist on paper are actually enforced in reality – all the more important for children's access to justice:

"For rights to have meaning, effective remedies must be available to redress

<sup>3</sup> International Covenant on Civil and Political Rights (ICCPR), Article 2.3.

<sup>4</sup> ICCPR, Article 14.

“ For rights to have meaning, effective remedies must be available to redress violations. ”



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violations. This requirement is implicit in the Convention... Children's special and dependent status creates real difficulties for them in pursuing remedies for breaches of their rights. So States need to give particular attention to ensuring that there are effective, child-sensitive procedures available to children and their representatives. These should include the provision of child-friendly information, advice, advocacy, including support for self-advocacy, and access to independent complaints procedures and to the courts with necessary legal and other assistance. Where rights are found to have been breached, there should be appropriate reparation, including compensation, and, where needed, measures to promote physical and psychological recovery, rehabilitation and reintegration, as required by Article 39 [of the Convention on the Rights of the Child]."<sup>5</sup>

The Committee's view is consistent with the more general evolution in the concept of access to justice in recent years, including within the United Nations system. For example, as the United Nations Development Programme mentioned in a 2004 Practice Note, access to justice is not only a procedural matter but also a matter of substantively just, equitable outcomes, with strong links to democratic governance and poverty reduction.<sup>6</sup> The document goes on to emphasize that "Access to justice is... much more than improving an individual's access to courts... It must be defined in terms of ensuring that legal and judicial outcomes are just and equitable."<sup>7</sup>

The emphasis on equity merits mention. As further discussed below, in addressing why a regional rule of law agenda should make

children's access to justice a priority, there also has been increasing international attention to equitable processes and outcomes both for children in general and for groups that experience special burdens by virtue of gender, ethnicity, poverty, disability, and difficult family circumstances.

This expanding notion of what access to justice entails also resonates in other key documents. A 2009 World Bank paper on 'Access to Justice and Legal Empowerment' explicitly links the two concepts, highlighting legal empowerment's emphasis on going beyond the judiciary to take account of a nation's overall justice system and institutions.<sup>8</sup>

The 2009 report by the United Nations Secretary-General to the General Assembly takes the analysis a step further, strongly arguing in favour of civil society's crucial role in improving justice for the disadvantaged:

"Legal empowerment is rooted in a human rights-based approach to development, which recognizes that poverty results from disempowerment, exclusion and discrimination. ...Legal empowerment promotes a participatory approach to development and recognizes the importance of engaging civil society and community-based organizations to ensure that the poor and the marginalized have identity and voice. Such an approach can strengthen democratic governance and accountability..."<sup>9</sup>

The point here is not to equate legal empowerment with access to justice, for the former involves a broader range of activities and strategies. Rather, it is to sketch the

<sup>5</sup> Committee on the Rights of the Child, General Comment No. 5 on 'General measures of implementation of the Convention on the Rights of the Child', CRC/GC/2003/5, 2003, para. 24.

<sup>6</sup> United Nations Development Programme, *Access to Justice: Practice Note*, UNDP, 2004, p. 3.

<sup>7</sup> *Ibid.*, p. 6.

<sup>8</sup> Vivek Hansraj Maru, *Access to Justice and Legal Empowerment: A Review of World Bank Practice*, World Bank Justice and Development Working Paper 9/2009, The World Bank, Washington, DC, 1 September 2009.

<sup>9</sup> United Nations, General Assembly, Legal empowerment of the poor and eradication of poverty, Report of the Secretary-General, A/64/133, 13 July 2009, para. 4.

evolution of the access to justice concept to involve an expanding array of stakeholders and institutions.

## Children's interactions with justice systems

Children can interact with justice systems for a variety of reasons. Some of these are described below, demonstrating the many ways in which children's rights can be protected, strengthened and vindicated through equitable state-administered processes, forums and services:

*Children as parties to civil proceedings.* Children's rights and well-being are very much at stake where matters such as custody, care and inheritance are at play.

*Children as parties to state administrative deliberations and actions.* Government agencies take such administrative actions when, for example, they are deciding when or whether children will receive social benefits, health services or when they step in to remove children from possibly abusive homes.

*Children as victims of crimes and other mistreatment.* Children physically, sexually or otherwise abused need to turn to justice systems for relief and redress.

*Children as defendants and detainees.* Children who are accused or convicted of crimes assume dual roles regarding access to justice, in that the state may seek justice *from* them (be it punitive, rehabilitative or restorative) while needing to ensure justice *for* them, in terms of fair treatment by police, prosecutors, the judiciary and other institutional actors.

*Children as witnesses and participants.* Children who witness crimes or otherwise may be needed to participate in justice forums to which they can contribute information.

*Children as beneficiaries of social and other services.* While this broad notion of children as beneficiaries certainly overlaps with certain of the aforementioned categories, it deserves emphasis because it embraces the varied situations in which children may need help and protection, such as where they are vagrants, runaways, displaced by conflict or otherwise trapped in difficult family situations.

One fundamental aspect of children's relationships to justice systems is that they all too often are ignored or do *not* participate, by virtue of being excluded from such systems by legal, social, psychological or other barriers, as discussed in part in the next section.

## The inequity of children's access to justice in the region

Inadequate access to justice of course confronts all populations around the world, not just children, but it is especially severe and inequitable for children under a variety of circumstances and for a number of reasons, which is one central reason why any rule of law agenda must address the rights and circumstances of children.

The root causes of this phenomenon in the region naturally vary from society to society, but the historical antecedents include:

- The legacy of communist rule, which limited the growth of institutions specifically charged with protecting individual rights in general and those of children in particular.
- In a related vein, the impact of such rule on the development of independent civil society institutions that could advocate for children's rights and well-being, as well as provide crucial legal and other services.

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Additional societal influences that are discussed in more detail below include:

- ingrained, often traditional attitudes that in some respects deny or ignore children's rights;
- the presence in some societies of traditional justice systems that, while having some advantages, can also work to children's detriment;
- particularly discriminatory attitudes, practices, policies and/or laws as they pertain to girls and/or minority children;
- similarly burdensome constraints that affect children with disabilities and those experiencing poverty or difficult family circumstances.

With this list as a brief background, children's problematic legal situations include but certainly are not limited to the following:

*Children unable or reluctant to seek access to justice.* Children may be unable or reluctant to report crimes. As a most basic matter, they simply may be too young to articulate what has happened to them, but even to the extent that they are able to do so, such factors as fear of, dependence on or even love for the perpetrator may stop them. Once physically or sexually abused, children may be too traumatized to report, discuss or testify about the crime. They might worry about who will take care of them if they are removed from an abusive household. Even this stark summary understates the constraints on children's ability to step forward and seek justice. An exploratory survey on children's access to justice carried out by the UNICEF Regional Office in 2012<sup>10</sup> (hereafter the Exploratory Survey) quotes a UNICEF Albania

office comment that could also apply elsewhere in the region: "Many abused children do not ask for help, possibly because they perceive violence as a normal phenomenon and do not consider themselves as victims of abuse."

In many justice systems, for certain crimes a complaint by a victim is necessary to trigger a criminal investigation or prosecution. In some countries, however, the law does not recognize any right on the part of younger children to make such complaints. In such criminal law contexts, this absence of such a right is sometimes referred to as a lack of legal standing or capacity.

In several countries in the region, the age below which children cannot initiate a complaint is 14. This obviously can exclude children from even seeking justice. It also puts victimized children in a position of dependence on parents who might be reluctant to seek redress or who might even be the perpetrators of abuses themselves.

The bottom line here is that, as difficult as it can be for many adults to reach out to justice systems in the region and across the globe, the problem is exponentially worse for children. Even more frequently than adults, children lack the knowledge, ability and independence to seek justice. To even begin to access justice systems, they often need the help of social workers and psychologists, as well as specially trained and sympathetic lawyers, police and other justice system personnel.

*Children excluded from effective assistance by justice systems.* Even where children are ready and able to reach out for help, the Exploratory Survey documents the many respects in which state services fall far short of helping children to actually obtain assistance throughout the region. For the most part, there is a dearth of legal, social and psychological services that can enable children to engage with strangers and (what seem to children

<sup>10</sup> The exploratory survey of UNICEF offices and their governmental and non-governmental partners in selected countries of the Central and Eastern Europe and Central Asia region was prepared by UNICEF consultant Dan O'Donnell in 2012.

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to be) strange justice institutions, to identify instances of children's victimization and to assist them in taking the painful step forward towards seeking redress, therapy and other help. While there are notable exceptions to the rule, such as work by ombudsmen and non-governmental organizations in some countries, children generally receive even less assistance than adults – though their need for help is even greater.

Again, however, the problems permeating children's lack of access to justice go deeper than inadequate access to concrete services (as problematic as that is). For example, while most UNICEF offices participating in the Exploratory Survey lacked sufficient information about cases concerning children and their families, those that did report on this matter tend to express negative views of how equitable and effective the results can be. Information collected through UNICEF in several countries indicates that judges and other authorities often do not take children's cases, views or best interests seriously. A more specific example of this phenomenon is the reluctance of some courts to remove perpetrators of domestic violence from their homes. When temporary shelters do not exist, it is the children suffering such mistreatment (rather than the perpetrators) who often are institutionalized. In a way, then, it is the victims (the children) who are punished even in the process of trying to protect them.

Furthermore, the corruption that plagues many justice systems harms vulnerable and marginalized children even more than it harms adults. As the UNICEF office in Kyrgyzstan reports, via the Exploratory Survey, "Corruption in the police and judicial branch allows perpetrators of crimes against children to avoid responsibility. Thus, offences relating to the sexual violence against minors in the courts often end with requalification of articles from a felony to a less serious crime, which allows dismissing the case because of 'reconciliation' between the parties, and paying the monetary

damages. In these cases, the child becomes a subject of bargaining and profit for the parents, judges and investigators." The point here is not to single out one country but to highlight a phenomenon that plagues many nations across the globe, including some in the region.

*Children in no position to pursue legal implementation and legal reform.* Across the globe, it is an unfortunate fact of legal life that it is difficult to implement the best laws and legal decisions. That is, while laws and policies may be reformed, and courts and other government institutions may render sound legal decisions, all too often these reforms and decisions go unenforced. To their credit, governments, international actors and civil society organizations pursue reforms and court rulings, but the greatest challenge is often getting legal victories that exist on the books (in terms of laws, regulations, court decisions and administrative rulings) enforced on the ground. The problem is particularly challenging for children. Unlike farmers, the urban poor, women, minorities and other disadvantaged populations, most children lack the capacity to press for legal implementation, whether individually or as part of organized groups. This affects children in myriad ways. For example, as explained in the Exploratory Survey, UNICEF offices in some countries reported difficulties in ensuring proper implementation of court orders, on matters such as child support and custody. In certain cases, responsibility for the enforcement of court decisions in civil cases lies with a service that focuses mainly on financial compensation, and whose lack of expertise sometimes causes unnecessary distress for children in family cases. Equally, in the realm of legal reform, children are mostly unable to press for legal, regulatory and policy changes that will improve their access to justice. Unlike adults, they lack both the power to press for reforms and the capacity to try to get such reforms implemented.



*Traditional justice systems can impinge on children's access to justice.* Traditional justice systems constitute one way in which people in some countries of the region (particularly in rural areas) access justice. There can be good reasons for this, in terms of such systems being more accessible, affordable and comprehensible than state courts and other official justice forums.

However, when traditional systems take on disputes and issues that have serious ramifications for children, they can do more harm than good. Instances of domestic violence, sexual abuse or denial of inheritance rights can impinge on children's well-being in egregious ways if (as can be the case with some traditional systems) there is no fallback to national or international law. As in official justice forums, children suffer even more than adults because they lack the power and capacity to assert their rights and interests.

### The importance of children's access to justice for a rule of law agenda in the region

The discussion to this point leads up to a central conclusion about improving children's access to justice in the region: It is vitally important both for protecting children's rights and well-being in the present and for forging a successful future for the societies making up the region. As such, children's access to justice should constitute a crucial component of any rule of law agenda in the region.

There are several bases for this conclusion:

*Improved access to justice for children will be part of a global trend on using the law for equitable, empowering development.* Consistent with the evolving concept of access to justice described earlier, the overall interface of law and development is featuring increased attention to equity and empowerment. Even the World

Bank, which for much of its history focused more on overall economic growth, has over the past decade increasingly focused on equity and legal empowerment as key elements of its perspective on the relationship between justice and development. This perspective, which has most notably been advanced and articulated by its 'Justice for the Poor' programme, can also be found in key World Bank publications.<sup>11</sup> Many other institutions are similarly emphasizing the importance of equity and empowerment for disadvantaged and vulnerable populations (certainly including children) as part of any rule of law agenda. A 2010 International Development Law Organization (IDLO) book, including a chapter on children's legal empowerment and accountability,<sup>12</sup> reflects this trend, as does a forthcoming volume from the Open Society Justice Initiative.<sup>13</sup> A new international NGO, Namati, is similarly focusing on an equitable development agenda that features legal empowerment.

With these considerations in mind, any regional rule of law agenda will be very incomplete and incompatible with evolving international trends unless it pursues accountable, inclusive, empowering programmes and reforms that specifically target children.

*Addressing children's access to justice will help combat poverty and exclusion.* Lack of justice perpetuates poverty and exclusion. For children, this means that the immediate harms that they suffer as the result of their poor access to justice, unfortunately, live on to perpetuate individual and societal poverty into adulthood. The value of emphasizing children's access to

<sup>11</sup> See, e.g., *The World Bank Legal Review: Law, Equity, and Development*, volume 2, The World Bank, Washington, DC, 2006 and *The World Bank Legal Review: Legal Innovation and Empowerment for Development*, volume 4, The World Bank, Washington, DC, 2013.

<sup>12</sup> Anne Grandjean, 'No rights without accountability: promoting access to justice for children', in Stephen Golub, ed., *Legal Empowerment: Practitioners' Perspectives*, International Development Law Organization (IDLO), Rome, 2010, pp. 265–283.

<sup>13</sup> Stephen Golub, ed., *Legal Empowerment: How and Why*, Open Society Foundations (OSF), New York, forthcoming.

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justice, then, lies not only in vindicating their rights and improving their well-being. It also is important for ensuring overall societal progress in years to come.

One crucial way in which the value of children's access to justice resonates involves legal identity – or really, the lack thereof. For example, where children are not registered with the government at birth or other key points in their lives, they may lose access to education, health benefits or other attributes of citizenship. In a related vein, the failure to recognize relevant rights and benefits for minority or migrant children can harm them as adults, restricting their incomes or other ways in which they might gain greater control over their lives. The inability of a legal system to provide this most basic access to justice, then, can haunt an individual for the rest of his/her life. Extrapolating from the individual to the societal, the damage can multiply in terms of a population that is not as educated or healthy as is necessary for full-fledged national social and economic progress.

Other examples abound of the poverty-exacerbating impact of inadequate access to justice for children. Whether they are excluded, victims, accused, in need of protection or otherwise interacting with a poor justice system, their lack of access to justice can lead to a lack of access to education or to inadequate health care, among other child rights violations. For example, children suffering an abusive family situation that the justice system does not remedy are also very likely to suffer adverse educational and health consequences. Similar harms befall children denied the protection of child labour laws or victimized by human/sex trafficking. Such consequences can cause poverty or perpetuate it into adulthood.

Yet another respect in which a lack of access to justice for children has even more severe ramifications than it does for adults is that it can place greater burdens on justice systems themselves down the line. Children must live

often with the impact of reduced access to justice into adulthood. But society as a whole pays a price since children victimized by inadequate access to justice may well place a burden on justice systems when they become older.

The upshot, then, is that access to justice for children should be seen as an opportunity for the region to accrue benefits that reach beyond the protection of rights, as important as that is. Societies that invest in children, including via rule of law agendas that benefit their access to justice, are more likely to experience economic and social progress.

*Advancing equitable treatment of especially burdened categories of children is an important priority.* For all of the harm that all children suffer because of reduced access to justice, the burdens may be even greater in some societies for certain children due to gender, minority status, being disabled, living in poverty or enduring other difficult family circumstances (such as substance abuse, mental illness or family separation). As the Exploratory Survey explains, in some countries parental attitudes limit access to justice and education alike; girls in particular are supposed to remain silent about problematic family situations.

Such discrimination can play a role not only in family life but (as already noted) in traditional justice systems and state systems as well. Societal attitudes towards girls can seep into how they are treated by the police, prosecutors, courts and a legal system as a whole.

While such discrimination against girls is by no means consistent across the region, it is especially salient because experience and research indicate that equitable treatment of and status for women contribute crucially to economic as well as social progress. Special attention to girls' access to justice must accordingly be part of any rule of law agenda.

6 Children need independent legal allies who will acquaint them with their rights, counsel them in specific situations and represent them when necessary. 9



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Minority children may suffer similar discrimination. As documented by such organizations as the Open Society Justice Initiative and the European Roma Rights Centre, Roma communities and their children suffer prejudice and receive inferior government services in much of the region. Though progress has been made thanks to the efforts of these civil society institutions and their allies through lawsuits and other advocacy, Roma children often experience unequal educational and other opportunities. Ingrained attitudes, policies and laws similarly constrain Roma access to justice and social services in many countries.

An equitable, empowering rule of law agenda, then, can and must take account of access to justice for particular categories of children for various reasons. First, as with all children, such an investment vindicates their rights in the short term and contributes to societal progress over time. Of equal importance, for a rule of law agenda to have real meaning it must focus primarily on society's most vulnerable populations – children from especially marginalized groups – by using the law to give them greater control over their lives.

## Policy recommendations

The special, severe situations children encounter regarding access to justice in the region demand action on the part of governments, civil society and other stakeholders supporting reforms at country and regional levels, such as the European Union and the United Nations. This edition of *Insights* accordingly recommends the following:

### A. Integrate children's access to justice into a regional rule of law agenda

**Any regional or country-specific initiatives to build the rule of law should include resources devoted to improving children's access to justice.** Specific steps should include support for:

**1. Legal and policy reforms focusing on children.** Governments in the region should pursue reforms aimed at strengthening laws, regulations and policies that specifically affect children's access to courts, administrative processes and other forums.

**2. State institutions specifically concerned with children's rights.** The Exploratory Survey found that in a number of countries ombudsmen's offices (or units within them) have the potential to be effective in assisting children and advocating for their rights. Both as part of a general justice systems reform agenda and in connection with more specific initiatives, ombudsmen and other actual or potential state institutions that focus on children's rights merit support. Such other state institutions could include units within police forces, prosecutors' offices, legal aid centres, family courts and task forces battling human/sex trafficking. Whether to promote separate units or simply specialization within existing units will depend on the context of each country.

**3. Child-specific training and capacity-building initiatives, as part of more general justice reform efforts.** This includes capacity-building for judges, prosecutors, police officers and other justice system personnel, so as to make them more aware of relevant laws and especially of the rights, needs and problems of children in justice processes. As already implied above, the need goes beyond simply training state personnel regarding the law. It also involves efforts to sensitize such personnel to the situations of children and especially vulnerable categories (such as girls, minorities and children with disabilities) in particular.

**4. Serving children through integrated approaches that are not limited to the legal field.** The Exploratory Survey also determined that the skills and services necessary for improving children's access to justice reach beyond the

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legal field. Social workers and psychologists play crucial roles in helping children navigate legal processes and issues that they often find intimidating. Support services for children are important in providing options for those experiencing harmful family environments or otherwise facing threatening situations. Especially in cases of domestic violence and related contexts, such services and skills (even including livelihood training and opportunities) should be extended to the mothers and female relatives whom children often accompany in seeking safety and security.

## **B. Pay particular attention to access to justice issues affecting especially marginalized children**

As inadequate as access to justice can be for children in general, it is even more so for many who are female, minorities, disabled, poor or experiencing particularly problematic family or societal circumstances. The recommendations that flow from this reality include:

**1. Educate the general public (including children) and justice system personnel about legal issues particularly affecting such marginalized children.** This would include attention to laws and discrimination that work to the detriment of these groups. It also would include, for instance, additional attention to the special, even dangerous situations of children displaced by conflict, left behind by migrant parents or forced to live on their own away from broken homes.

**2. Support additional services for marginalized children.** Such services could be provided under the rubric of government or civil society programmes that focus not only on children but on women, minorities or the disabled. For example, they would include counselling, livelihood programmes, police protection and legal representation for the children of women victimized by domestic violence or for Roma children suffering discrimination in, or even

lack of access to, schooling due to their ethnic heritage. The responsibility for regulating and overseeing such services lies with the State, but their operation can be delegated to NGOs.

## **C. Expand the array of legal and paralegal professionals working on children's access to justice**

To a certain extent, recommendations A2 and A3 above concerning training and building up state institutions dedicated to children's access to justice address the need for expanding the array of relevant legal professionals. But there are at least two other regards in which the core of such professionals could and should be expanded:

**1. Paralegal training and development.** Paralegals are non-lawyers who receive specialized training that in turn enables them to assist disadvantaged populations with legal problems. In some societies and situations, they are paid professionals who complement or work independently of lawyers, though usually not representing clients in court. In many contexts, they are volunteers who come from the very communities and groups that they serve. In either respect, paralegals often know the language, culture, conditions and legal challenges of partner populations. They have proven to be a cost-effective vehicle for the delivery of legal services in many countries around the world. The region would benefit from the development of paralegals who could work with government and civil society alike in order to supplement the services of attorneys and provide basic advice and assistance when attorneys would be too expensive or unavailable. One crucial need such paralegals could serve would be increased access to justice for children.

**2. Law student engagement via children's rights clinics based at law schools.** Law school-based legal aid clinics can be found in many countries, including in Poland and many other



countries in the region. International NGOs, such as the Open Society Justice Initiative and PILnet, have proven instrumental in helping to get them started in the region, but the real credit for their work belongs to the law professors and law students who supervise and staff them. Support for such clinics focusing on children's rights would serve at least two purposes. First, as with paralegals, they would supplement the work of attorneys in providing valuable services to the underserved. Even more importantly, and looking towards the long haul, these institutions would build up cadres of attorneys familiar with children's access to justice issues and dedicated to assisting children with legal matters.

#### **D. Support civil society and media efforts that address children's access to justice needs**

The Exploratory Survey determined that NGOs often provide very important legal and related services to children in the region. Although accountability for providing redress remains with the State, a plethora of global studies and institutions further document how NGOs provide valuable legal and paralegal aid services to a variety of disadvantaged populations and efficiently support citizens' demand for redress. They often have the capacity to reach out to the most vulnerable and to gain their trust, especially when originating from the same community. Civil society often is capable of advocating and suggesting legal and policy reforms in ways that government agencies cannot, and plays a key role in calling governments to account. The role of media should not be overlooked, in that it can help educate the public regarding children's access to justice issues and hold the government accountable for providing relevant services.

Indeed, if children are to have more power and control over their lives, they need independent legal allies who will acquaint them with their

rights, counsel them in specific situations and represent them when necessary. In view of these factors, any justice reform agenda that includes attention to children's access to justice should include:

**1. Support for public interest law.** As has been demonstrated around the world – and more specifically in the region regarding the Roma and other issues – civil society advocacy can be one of the most potent mechanisms for reforming laws and obtaining landmark legal decisions that resonate to the benefit of large segments of a population. Such work, falling under the rubric of public interest law, should be part of the package of activities carried out by some NGOs and supported by some funding agencies.

**2. Support for integrated approaches to advancing children's access to justice.** As with support for state institutions, funding for civil society engagement with access to justice should extend beyond lawyers and legal processes to embrace many other skills and services. It should include psychological counselling, assistance by social workers, child rights education and many other activities that make it possible for children to make use of justice systems.

**3. Encouragement and support for media efforts to address children's access to justice issues.** Training and other activities could advance both traditional and social media attention to the many issues on children's access to justice. That additional attention could in turn prove crucial for educating the public, including children, regarding such issues, helping make children and their families more aware of children's rights and highlighting the situations of especially vulnerable groups of children. Such enhanced coverage could also prove instrumental in battling corruption as it pertains to children's access to justice and otherwise ensuring equitable treatment of children by justice systems.

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4. Long-term funding for NGOs focusing on children's rights. Such support would enable NGOs to engage in productive work on both legal reform and legal implementation. Governments, development agencies, foundations and other funding sources should consider whether NGOs might better serve certain access to justice needs than state institutions might, and accordingly provide civil society with appropriate levels of support.

## E. Conduct further research on children's access to justice

In a very initial manner, the Exploratory Survey has documented problems and progress with how children's access to justice issues are handled in the region. Further research would include:

1. In-depth studies of how particular facets of national justice systems affect children. Such studies would not focus on laws, *per se*, but on how the systems actually operate, how children and their families perceive them, what could be done to reform them and the steps necessary to ensure legal implementation.

2. Research on the actual impact of various initiatives to improve children's access to justice. This research would combine qualitative and quantitative inquiries to ascertain whether and to what extent specific government and civil society activities benefit children. There would be an emphasis on learning lessons that could be applied to expand support for such activities within a country and possibly to adapt the lessons for application elsewhere in the region.

## Credits

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