



REIMAGINE JUSTICE FOR CHILDREN



TECHNICAL BRIEF

LEGAL EMPOWERMENT AND JUSTICE FOR CHILDREN

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INTRODUCTION



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

– *Committee on the Rights of the Child (General Comment 5)*

The enjoyment of the human rights of children implies a right to access justice – or the ability to seek, individually or collectively, and obtain a just, equitable and timely remedy for violations of rights through avenues adapted to children.¹ Access to justice is a necessary component to the exercise of the right to an effective remedy and a prerequisite for the protection, promotion and fulfilment of all rights which children enjoy under the United Nations Convention on the Rights of the Child (CRC) and other human rights treaties.² It requires the legal empowerment of every child so that he or she knows and can claim his or her rights under international standards and national laws.

While the world has recently witnessed empowered children demanding social, racial, climate and political justice and successfully shifting debates in recent times,³ the vast majority of children do not have access to justice, do not receive remedies or are denied entitlements following violation of their rights.⁴ Globally, it is estimated that 5.1 billion people – or more than two-thirds of the world's population – lack meaningful access to justice.⁵ The precise number of children is unknown. More than 235 million people live in extreme conditions of injustice, 1.5 billion cannot resolve their justice problems, and 4.5 billion are excluded from opportunities the law provides.⁶ Within these numbers, it is not known how many are aware of their legal rights and remedies.

Children are less likely than adults to know and claim their rights. Moreover, they are far less likely to seek or find support from the justice system due to a number of legal, practical, social and cultural barriers. As a result, children are often excluded from addressing everyday problems they face and opportunities to seek formal redress when they face

injustice or become victims or witnesses of violence, abuse and exploitation, harmful practices or other child protection violations, as well as children in conflict with the law or deprived of liberty and those in need of care and protection.

The preamble to the Optional Protocol to the CRC on a Communications Procedure (OPIC) recognises that “children’s special and dependent status may create real difficulties for pursuing remedies for violations of their rights.” Only 52 out of 197 states have ratified the OPIC⁷ which aims to “reinforce and complement national and regional mechanisms allowing children to submit complaints for violations of their rights.”⁸ This means that children in the majority of countries around the world cannot avail themselves of this procedure, even when they have exhausted national remedies. The exclusion of children, especially those living in poverty, denies them the opportunity to improve their enjoyment of rights and obtain remedies.⁹

The UN Committee on the Rights of the Child (CRC Committee) is currently drafting a *General Comment No. 27 on Access to Justice and Effective Remedies* (GC No. 27). This technical brief took into account the present draft and is in no way pre-empting the final General Comment. However, given the importance of legal empowerment in justice for children, this brief has been mentioned in the other technical briefs in the series meant to operationalise the Reimagine Justice for Children Agenda.

While legal empowerment applies to all the rights of the child, this brief seeks to highlight the importance of children knowing and claiming their rights, particularly as they involve child protection issues like violence against children, harmful practices and other child protection violations. It covers child victims and witnesses as well as in conflict with the law, deprived of liberty, and in civil and administrative proceedings.

This brief will be updated once the CRC General Comment is adopted if any discrepancies arise. In the event of inconsistencies, GC No. 27 should prevail.



WHAT IS LEGAL EMPOWERMENT?

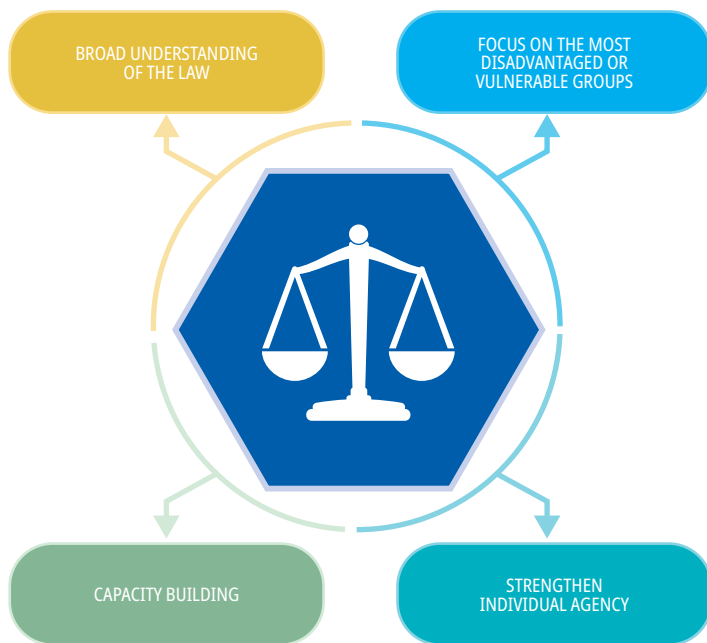
Legal empowerment views children as rights-holders entitled to non-negotiable rights, instead of just objects in need of assistance and protection.¹⁰ The CRC does not define **legal empowerment**. It, however, can be understood as “a process of systemic change through which the poor and excluded become able to use the law, the legal system and legal services to protect and advance their rights and interests as citizens and economic actors.”¹¹

support to civil society organisations – including child- and youth-led initiatives, among others.

It seeks to strengthen individual agency and build the capacity of all children to act independently and to know, use and shape the law and legal processes. Through a “bottom-up” community-led approach, children, especially those who are marginalised and vulnerable, are equipped with “knowledge, tools and space to engage with laws and institutions that affect their everyday lives.” Capacity building can involve the building of networks among children, such as child human rights defenders. It also needs support from actors such as – but not limited to – legal and paralegal professionals, educators and community leaders to equip children on the law and the justice system as well as non-legal mechanisms to claim their rights and promote their safety.

Legal empowerment acknowledges that law is broad and can be used beyond formal judicial and administrative proceedings, that most justiciable problems are determined outside of the formal justice system¹⁴ and that customary and informal justice (CIJ), non-legal processes and broader societal structures play an important role.¹⁵ Accordingly, a child’s right to access justice in the context of relevant judicial and non-judicial mechanisms and procedures includes, among others, relevant judicial and non-judicial remedial mechanisms, such as:

1. judicial mechanisms;
2. customary and informal justice;
3. national human rights institutions;
4. alternative dispute resolution mechanisms;



Legal empowerment is more than just services provided by lawyers and other professionals to children.¹² It seeks to achieve access to justice through a variety of tools that are not exclusively legal,¹³ including education, awareness-raising, the provision of legal and paralegal services and



5. internal complaint mechanisms within the public administration;
6. business sector grievance mechanisms;
7. transitional justice mechanisms; and
8. international and regional mechanisms, including treaty-based complaint mechanisms.



There is a common misconception that access to justice is only for children in conflict with the law.¹⁶ Access to justice and legal empowerment is broad and applies to all children, but this brief will focus on children who interact with the justice system mainly as victims, survivors or witnesses; when accused of an offence; deprived of liberty; in civil or administrative proceedings; or because an intervention is needed for their care, protection or custody. Legal empowerment is also necessary as part of prevention and violence reduction. It also applies to child human rights defenders (CHRDs).

Child human rights defenders

While not defined in the CRC, **child human rights defenders (CHRDs)** are 'children who take actions to promote, protect and fulfil the human rights of themselves, their peers or even adults. They are human rights defenders, even if they do not see themselves as such, or are not considered and called as such by others.'¹⁷ Children who take action should be free to use a term of their choosing.

WHY IS ACTION NEEDED?

Legal rights awareness of children in general is not a priority for many States. While children who are in schools or on social media may have more access to information, certain groups of children – like children with disabilities; Indigenous and ethnic minority children; children discriminated against due to gender, gender identity and sexual orientation; and children on the move – have

fewer opportunities to know and claim their rights. Children who are already in contact with the justice system are more vulnerable to further rights violations and in urgent need of remedies. In some countries, children's legal standing and their right to be heard are not recognised. Children and young people with lived experiences of justice systems do not typically participate in justice reforms.



Legal empowerment is necessary to accelerate progress across all the Sustainable Development Goals (SDGs) and targets by addressing poverty, discrimination and exclusion, and by reducing inequalities and vulnerabilities that leave children behind. For societies coming to terms with conflict, or affected by human rights violations and abuses, legal empowerment is an important part of transitional justice processes and mechanisms.

Monist v. Dualist States and Reservation v. Declaration

While children enjoy all of the rights under the CRC, some countries need national frameworks for these rights to be enforceable. This is the main difference between **dualist** countries and **monist** countries, since the latter do not need national laws to enforce international standards. Around 40–50 states are primarily monist while 60–70 are primarily dualist. The more-than-70 remaining states follow a mixed or hybrid approach. In some contexts where laws exist, lax enforcement creates a further barrier. While some countries make explicit reference to children's rights in their national constitutions, there are still those that have reservations or declarations to the CRC. While only one country has not ratified the CRC, 47 States have submitted reservations or interpretative declarations. A reservation alters the legal effect of certain provisions of a treaty in application to that state while a declaration does not.

or how to obtain effective remedies. They rarely receive the information they need to understand judicial processes or alternative dispute resolution mechanisms and effectively participate,¹⁹ where participation is permitted. Children in vulnerable situations have less awareness of their rights.²⁰

Most States do not have adequate legislation or policy frameworks for child rights education (CRE).²¹ More often than not, children's rights are not an explicit compulsory part of the education curriculum.²² Where children's rights are taught in schools, they are likely to be one section in the broader topic of human rights or another course, like history or social studies. In States with federal government structures, the national government may not have the power to create a national curriculum. As a result, children's rights may be taught only in some parts of the country, if at all. In a study across 26 States, none ensured that teachers are specifically trained in children's rights and are familiar with the CRC.²³ In most contexts, education for children on potential legal avenues for redress is non-existent.²⁴

“It is not enough for children and young people simply to hold human rights. In order to embed a human rights culture and ensure that our young people understand how to access those rights – and to uphold, defend and promote them – they need an education fit for that purpose.”²⁵

– Council of Europe

CHILDREN HAVE LIMITED INFORMATION

There are no global estimates on children's awareness of their rights or justice mechanisms at the national, regional or international level.¹⁸ What is known is that few children, if any, know about their rights, let alone how to claim them

Moreover, court fees, the costs of legal representation,²⁶ distance to justice institutions, and lack of information on child-sensitive procedures are barriers and discourage children from accessing remedies. The lack of accessible and effective complaint mechanisms, services and assistance – especially for child victims and



witnesses – and lack of coordination among sectors are further barriers to remedies and comprehensive responses.²⁷

Children who are from the poorest and most vulnerable communities are often more likely to be disempowered and have no means of obtaining support, including through legal aid programmes targeting indigent children.²⁸ With respect to formal judicial or administrative proceedings, the problem is compounded by the fact that there are not enough lawyers in many justice systems. While there is increasing recognition of the important role of community-based paralegals to bridge the justice gap, especially in supporting customary and informal justice mechanisms, they are often neither recognised in legal systems nor regulated.

Discrimination and deeply entrenched social beliefs and patterns further compound the problem. In some contexts, it is socially unacceptable for children to confide in an adult outside of the home about problems within the home, and children rarely seek help outside of the family.²⁹ Children sometimes face negative consequences, such as social ostracism, for bringing rights violations to attention, and are reluctant to take any action without their parents' permission or to "complain" about family matters.³⁰

There is growing consensus that human rights education, including CRE, plays a critical role in the realisation of rights.³¹ High-quality CRE has a positive impact on children, families and communities. It is essential for changing how children's rights are perceived and applied in society and aims to build the capacity of children to claim their rights and the capacity of duty-bearers to fulfill their obligations.³² Empowered children are better able to claim their rights, seek redress for grievances and resolve disputes. They are also better equipped to participate in decision-making processes at all levels.³³

Child rights strategic litigation

Child rights strategic litigation has been largely driven by child-focused legal practitioners, organisations and National Human Rights Institutions (NHRIs).³⁴ There is also a growing body of strategic litigation – **child rights strategic litigation** (CRSL) – aimed at advancing the rights of children before national, regional and international courts. While a growing sphere, CRSL (sometimes referred to as impact litigation, human rights litigation, public interest litigation and test litigation, among other terms) neither features in legal dictionaries nor has a common definition.³⁵ The term has been used in different national and international contexts to cover a range of litigation approaches that involve child rights. Notwithstanding, it can be generally understood as "litigation that seeks to bring about positive legal and/or social change in terms of children's enjoyment of their rights."³⁶

VARYING LEGAL CAPACITY TO INITIATE PROCEEDINGS ACROSS STATES

Access to justice presumes that children can use justice mechanisms, including as actors initiating their legal cases.³⁷ It is, however, linked to the legal capacity of children, the role of parents or others in their legal representation and legal or other appropriate assistance.³⁸

Legal capacity

Legal capacity is the capacity and power to exercise rights and undertake obligations by way of one's own conduct (i.e., without assistance of representation by a third party).³⁹

Restrictive rules on legal standing – or the right of a party to bring legal action before a court – prevent children from challenging a violation of their rights. In most contexts, children do not have the legal capacity to initiate legal or administrative proceedings without their parents, guardians or



legal representatives.⁴⁰ Whether a child is heard in civil proceedings, for example, often depends on a child's age and the type of case – it can be either mandatory, optional or not regulated at all. Children are more likely to be heard in criminal proceedings. When children are involved in the justice process as victims and witnesses, they are frequently invisible or considered to be the “forgotten party” in criminal justice systems.⁴¹ Children who are accused or charged of crimes are often not heard due to public perception that he or she is a “bad” kid and will only lie.

By establishing age demarcations for legal capacity and participation, most States mandate a universal approach,⁴² failing to take into account a child's age, maturity and evolving capacity. Parents or guardians are usually responsible for representing children or instructing a lawyer, including in relation to a child's opinion of his or her best interests.⁴³ Courts often dismiss children's claims on procedural grounds, including when an adult representative has not been appointed or a child fails to retain private counsel.⁴⁴ This underlies the need to ensure that parents and caregivers are also aware of children's rights, remedies and judicial processes, and know how to represent the child's best interests.

Case study: Legal capacity across the European Union

In the **European Union** (EU), with the exception of Portugal, children cannot bring a case on their own until they acquire full legal capacity at 18 years old.⁴⁵ In some EU States, exceptions are made, including for children who are married, to establish paternity and in matters concerning employment, agreements, social benefits, property, and family-related cases including custody and guardianship.⁴⁶ Some States, like **Belgium** and **Slovakia**, allow for “any exceptions” accorded by the court.⁴⁷ Exceptions vary from State to State, are few and far between and are usually subject to age limitations, which also vary.

The need for parental approval to initiate proceedings limits children's access to remedies and to the right to participation.⁴⁸ In some societies, social norms and parents' concern about shame prevent them from bringing cases for offenses committed against their children. Where judicial precedent is persuasive, families are less likely to undertake litigation given the uncertainty of outcomes,⁴⁹ including possible orders of costs. This is particularly problematic in case of a conflict of interest⁵⁰ or when parents fail to bring claims on behalf of children within a specified time period, barring legal redress.⁵¹ Also of concern are restrictive and discriminatory legal rules in some States that vest parental authority to initiate proceedings with a child's father or grandfather.⁵²

States do not provide for child participation

While children have a right to express their opinions freely and to participate in decisions regarding issues that affect their lives (Article 12), a study on participation rights in family law proceedings across 13 jurisdictions⁵³ found that “child participation [is] perceived to be a relatively rare occurrence in half the countries and relatively frequent in half the countries – in both contested and uncontested matters.”⁵⁴ Similarly, a study across 10 EU Member States found that “Member States sometimes fail to deliver on the right of a child to be heard”.⁵⁵ It further found that children are heard more often in criminal than civil proceedings.⁵⁶

CHILDREN NEED TO BE SAFE AND PROTECTED

Children who come into contact with the justice system need special protection, assistance and support, including prevention of further hardship and trauma that may result from their participation. They need safe spaces to form and voice their opinions, and strong advocates who



support their efforts to influence policy-making and hold leaders to account.

In cases of children who are victims, witnesses, in conflict with the law or deprived of liberty, fear for their safety could prevent them from bringing a case.

CHRDs face particular risks and challenges and need protection. National legislation across a

number of States does not explicitly protect CHRDs, or human rights defenders more generally. There is also no common and consistent approach. They are sometimes threatened, pressured or prevented in other ways from taking action, or subject to reprisals.⁵⁷ The release of information about a child involved in judicial or administrative proceedings may result in harm, including endangering his or her safety, putting strain on relationships or leading to stigmatisation.⁵⁸

INTERNATIONAL STANDARDS

THE RIGHT TO ACCESS TO JUSTICE AND AN EFFECTIVE REMEDY

Access to justice is a fundamental right in itself and a prerequisite for the protection, promotion and fulfilment of all of the rights that children enjoy under the CRC and other human rights treaties. It “comprises the right to be recognised before the law and to a fair hearing, right to appeal, equal and timely access to courts, effective judicial protection and other complaint mechanisms to bring an effective outcome.”⁵⁹ It refers to a process under which claims of children’s rights violations are heard and decided by competent bodies. It also refers to the outcome of the process and the redress provided.

Where rights are found to have been breached, children have the right to an effective remedy. While a substantive right, it is also a procedural right and an enabling right, through which all rights in the CRC can be claimed and addressed. The right to an effective remedy involves redressing the harm done through appropriate reparation,

including restitution, compensation, satisfaction and guarantee of non-repetition. Reparation should be adequate, effective and prompt, and should be proportional to the gravity of the violations committed and the harm suffered.

Reparations can include individual forms of redress such as financial and material compensation, psychological support, social support or educational grants, among other measures. Where relevant, measures to promote physical and psychological recovery, rehabilitation and reintegration are to be provided as required by Article 39 of the CRC.⁶⁰ They can also include collective reparations channeled through sectors such as education, health and social protection. The CRC Committee has also emphasised that children “should be enabled to access relevant information and effective remedies to claim their rights, including through child rights education, counselling, advice and support from community-based advisors, national human rights institutions, or legal, paralegal and other services.”



Complaints and the Optional Protocol to the CRC

The OPIC creates an avenue for children to raise complaints about alleged violations of their rights under the CRC to the CRC Committee. In order to access this forum, child petitioners or their representatives must exhaust all available domestic remedies, unless access to such remedies is unreasonably prolonged or unlikely to bring effective relief (OPIC, Article 7(e)).

CHILDREN ARE RIGHTS-HOLDERS WITH EVOLVING CAPACITIES

Children are entitled to all of the rights set out in the CRC. States have an obligation to provide effective remedies and reparations for violations of the rights of the child.⁶¹ Remedies should be provided by law to address violations committed by a wide range of public and private actors, including businesses. The guiding principles of non-discrimination (Article 2), the best interests of the child (Article 3(1)), survival and development (Article 6), and the child's right to express their views and their views being given due weight (Article 12) are cross-cutting and apply to all stages of legal empowerment. Together with the guiding principles of dignity and the rule of law, they guide a child-rights approach to legal empowerment alongside other relevant rights.

Parents' right and duty to provide guidance on the exercise of the child's rights in line with a child's evolving capacity (Article 5) also guides a child-rights approach to legal empowerment. Article 5 of the CRC acknowledges the child as a rights-holder who is entitled to play a part in the realisation of their rights, and not simply a passive recipient of adult protection.⁶² On the other hand, children's parents or guardians have a distinctive and important role in assisting children to realise

their rights as their capacities evolve. By adopting the CRC, the CRC Committee recalls that States committed to "recognise children as rights-holders separately from their parents."⁶³

At the same time, States also "have a responsibility to build the capacity of parents, extended families, legal guardians and community members to provide appropriate direction and guidance to children."⁶⁴ This direction and guidance must be provided in a manner that respects the child's "evolving capacities". States have the obligation to take specific measures for the development of children according to their evolving capacities, abilities (Article 23) and best interests (Article 3), without discrimination.

“Every child has his or her own dignity. If a child is to be constitutionally imagined as an individual with a distinctive personality, and not merely as a miniature adult waiting to reach full size, he or she cannot be treated as a mere extension of his or her parents, umbilically destined to sink or swim with them.”

– *Dictum of Justice Sachs of the South African Constitutional Court*⁶⁵

PARTICIPATION RIGHTS

When undertaken in accordance with the evolving capacity of the child, child participation can advance the rights and welfare of the child as well as the development agenda.⁶⁶ It also enables children to develop capacities, boosts contributions to community and civic engagement and enhances accountability and the rule of law. It should be respected in all contexts, including in complex humanitarian settings.⁶⁷



Article 12 of the CRC provides the legal basis for child participation. It enshrines the right of every child who is capable of forming his or her own views to freely express those views, in all matters affecting her or him, and the subsequent right for those views to be given due weight, according to his or her age, maturity and evolving capacity. In the context of judicial or administrative proceedings, Article 12(2) is clear that every child must be provided with the opportunity to be heard, either directly or through a representative or an appropriate body. Where a child's views are fulfilled through a representative, those views should be communicated accurately and a procedure should be established to allow the child to receive separate representation (e.g., a guardian ad litem).⁶⁸ Children also have the right to remain silent and not to participate.

The CRC Committee has emphasised that there is no minimum age limit to exercising the right to be heard and “no minimum age to act for the protection, promotion and fulfilment of human rights.”⁶⁹ Children's views must be given due weight in line with the child's age, maturity and evolving capacity. The phrase “capable of forming his or her own views” in Article 12(1) imposes an obligation on States “to assess the capacity of the child to form an autonomous opinion to the greatest extent possible.” Accordingly, children are to be presumed capable of expressing their own views, rather than placing the burden of providing proof on the child.

In addition to being a general principle, participation is a fundamental right and should be considered in the interpretation and implementation of all other rights.⁷⁰ While the term “participation” does not appear in the CRC, it “has evolved and is now widely used to describe ongoing processes, which include information-sharing and dialogue between children and adults based on mutual respect, and in which

children can learn how their views and those of adults are taken into account and shape the outcome of such processes.”⁷¹ For child victims, for example, this right goes beyond giving a formal statement on facts, concerns on the impact of the offence, the way proceedings are conducted, his or her needs and expectations and when deciding on other measures such as interim care.⁷² The CRC Committee has emphasised that children “should be enabled to access relevant information and effective remedies to claim their rights, including through child rights education, counselling or advice and support from community-based advisors, national human rights institutions, as well as legal, paralegal and other services.”⁷³

Participation is more than just the right to expression

Participation is about being informed, engaged and having an influence in decisions and matters that affect one's life – in private and public spheres, in the home, in alternative care settings, at school, in the workplace, in the community, in social media and in broader governance processes.⁷⁴ It includes wider civil rights and freedoms:

- the right to freedom of expression (Article 13);
- freedom of thought, conscience and religion;
- the right to privacy (Article 14); and
- the right to information to association and peaceful assembly (Article 15), and;
- the right to information (Article 17).

The right to freedom of expression (Article 13) and access to information (Article 17) are prerequisites for effective participation.⁷⁵



FREEDOM OF EXPRESSION IS DIFFERENT FROM THE RIGHT TO BE HEARD

Article 12 imposes an obligation on States to ensure that the legal framework and mechanisms facilitate the active involvement of the child in all actions affecting the child and in decision-making, and to fulfil the obligation to give due weight to those views once expressed.⁷⁶ Freedom of expression (Article 13), on the other hand, relates to the right to hold and express opinions, and to seek and receive information. It places an obligation on States parties to “refrain from interference in the expression of those views, or in access to information, while protecting the right of access to means of communication and public dialogue.”⁷⁷ Child participation is a necessary component of ensuring the best interests of the child (Article 3) and is reinforced by Article 29 of the CRC concerning “education for responsible life”.

“Child participation is a tool to stimulate the full development of the personality and the evolving capacities of the child consistent with Article 6 and with the aims of education embodied in Article 29.”

– *CRC Committee General Comment No. 12 on the right of the child to be heard*

CHILDREN’S RIGHTS EDUCATION

Every child has the right to education. As an empowerment right, the CRC Committee has emphasised the important role of education as a “primary vehicle by which economically and socially marginalised adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities.”⁷⁸ This right “is not only a matter of access, but also of content.”⁷⁹ Articles 28 and 29 of the CRC are clear that children should learn about their rights

through education.⁸⁰ It promotes the vision articulated in the CRC Preamble that “the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity”.

Preamble: Universal Declaration of Human Rights

“The General Assembly proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.”

The CRC Committee has clarified that “the education to which every child has a right is one designed to provide the child with life skills, to strengthen the child’s capacity to enjoy the full range of human rights and to promote a culture which is infused by appropriate human rights values.”⁸¹ Similarly, the *African Committee of Experts on the Rights and Welfare of the Child* urged Member States to empower children through education on their rights.⁸²

CHILD-FRIENDLY SAFEGUARDS AND PROCEDURAL RIGHTS

The underlying proposition of the CRC is that children are particularly vulnerable and require specific rights and protection that



acknowledge their age and maturity as well as provide assistance and support, including to prevent further hardship and trauma that may result from their participation in the justice process. As a result of the heightened duty of care to which children are entitled, States are required to take specific measures to ensure that there are safeguards to protect children from harm,⁸³ which take into account their development level, evolving capacities and best interests, without discrimination.⁸⁴ Safe environments should be created for children at each stage of legal empowerment. This includes by ensuring that procedures as well as courts and facilities where interviews and forensic examinations are conducted are child-friendly and gender-sensitive.

RIGHT TO PRIVACY

The right to privacy during legal proceedings is closely linked with a child's safety. Pursuant to Article 16 of the CRC, every child has the right to be free from arbitrary or unlawful interference with his or her privacy, family, home or correspondence, and to unlawful attacks on his or her honour and reputation. Similarly, the Optional Protocol to the CRC provides that measures should be taken to protect the privacy and identity of a child victim and to avoid dissemination of information that could lead to identification.⁸⁵ Restricting disclosure of information as well as measures to protect child victims and witnesses from undue exposure, including excluding the public and media from the courtroom, for example, are provided in the UN Guidelines.⁸⁶ All children involved in judicial or administrative proceedings, including those who are CRHDs, enjoy the right to privacy.

CHILD HUMAN RIGHTS DEFENDERS

The *UN Declaration on Human Rights Defenders* (Declaration) provides that "everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels."⁸⁷ While it does not provide a definition of a human rights defender, the Declaration applies to "everyone", including children. It identified a number of rights to which all human rights defenders, including children, hold.

Rights of human rights defenders⁸⁸

Human rights defenders, including children, have the right to, *inter alia*:

- Seek protection and realisation of human rights at the national and international levels
- Seek, obtain, receive and hold information relating to human rights
- Benefit from an effective remedy
- Conduct human rights work individually and in association with others
- Form associations and non-governmental organisations
- Meet and assemble peacefully
- Develop and discuss new human rights ideas and principles and to advocate for their acceptance
- Effective protection under national law in reacting against or opposing, through peaceful means, acts or omissions attributable to the State that result in violations of human rights
- Solicit, receive and utilise resources for the purpose of protecting human rights (including the receipt of funds from abroad)



WHAT NEEDS TO BE DONE?

Targeted actions are needed – from initial rights education and promoting awareness to supporting children to express their views and advocate to advance their rights safely across judicial and non-judicial forums.⁸⁹

EDUCATION

PROVIDE CHILDREN WITH EFFECTIVE ACCESS TO EDUCATION WITH REGARD TO THEIR LEGAL SYSTEM AND RIGHTS.

EXPRESSION

ENABLE CHILDREN TO EXPRESS THEIR VIEWS FREELY ON ISSUES THAT AFFECT THEM AND TO ADVOCATE FOR THEIR RIGHTS, BOTH COLLECTIVELY AND INDIVIDUALLY.

ACCESS TO REMEDY

FACILITATE CHILDREN'S ACCESS TO LOCAL, NATIONAL AND INTERNATIONAL JUDICIAL AND QUASI-JUDICIAL FORUMS AND LEGAL PROCESSES TO SUPPORT THEIR ACCESS TO LEGAL REMEDIES.

SAFETY

FOSTER A CHILD-FRIENDLY AND SAFE ENVIRONMENT FOR CHILDREN TO USE THE LAW, LEGAL SYSTEMS AND NON-LITIGIOUS STRATEGIES TO OBTAIN THEIR RIGHTS.

CHILD RIGHTS EDUCATION

“Education has a vital role in empowering women, safeguarding children from exploitative and hazardous labour and sexual exploitation, promoting human rights and democracy, protecting the environment and controlling population growth.”

– CRC Committee, General Comment No. 1 on the right to education

In its first General Comment on the right to education, the CRC Committee noted that

education is “increasingly recognised as one of the best financial investments States can make.”⁹⁰ The aim of CRE is to build the capacity of children as rights-holders to claim their rights and the capacity of duty-bearers to fulfil their obligations towards children. CRE seeks to advance implementation of the CRC by actively promoting the provisions and principles of the CRC and a child rights approach⁹¹ in order to empower both adults and children to take action to advocate for and apply these at the family, school, community, national and global levels.

Transforming Education Summit 2022

In 2022, the Secretary-General convened the Transforming Education Summit of 2022. Outcomes of the summit include high-level political commitments for a global movement to transform education, with children at the center of change. Calls were made for education systems to be transformed to meet the needs of children, including by preparing students to be active and responsible citizens of their communities and the world, and supporting them in promoting human rights and social justice, respect for diversity and global solidarity.

A Youth Declaration on Transforming Education was developed following a consultative process.⁹² The Youth Declaration presents a common vision for transforming education, calling on States as well as other key decision-makers in education to commit to a number of demands. The demands include that “decision-makers ... establish robust and democratic measures and procedures for transparent, accountable and effective implementation of the above recommendations, ensuring especially that the youth can directly, and through substantive representation, redress and hold accountable the actions of decision-makers.”⁹³



STATUTORY DUTIES TO PROMOTE CHILDREN'S RIGHTS

Legislating duties to promote knowledge of the CRC is a good practice which ensures that there is a policy alignment that reaches schools on the ground.⁹⁴ In the **United Kingdom** (Wales), the Rights of Children and Young Persons Measure places an obligation on Welsh Ministers to take appropriate steps to promote knowledge and understanding among the public, including children, of the CRC and its protocols.⁹⁵

Pre- and in-service teachers' education helps ensure that teachers are ready to implement CRE.⁹⁶ Despite this, few States guarantee that teachers are trained in relation to children's rights. The **United Kingdom** (Scotland) is an example of good practice by ensuring that teachers are trained. Teachers are required to know, understand and be able to apply in practice as part of mandatory national standards for registering as a teacher with the General Teaching Council of Scotland.⁹⁷

INCLUDE IN CURRICULUM AND EXTRACURRICULAR ACTIVITIES

A number of States have made important reforms to include children's rights in their national curriculum. In **Finland**, curriculum reform saw a renewed focus on children's rights, and human rights more generally. One of the aims of the curriculum includes the development of the child as a human being and as a citizen, where knowledge of human rights and child rights are fostered. CRE is seen as cross-cutting in a number of subject areas (e.g., history, social studies, religion, ethics, etc.) and across a wide range of school activities.

In **Sweden**, children's rights are identified in the national curriculum as part of "core content"⁹⁸ and taught within the social studies curriculum. It includes the teaching of democratic values and principles as well as "how common decisions can be made and how conflicts can be handled in a

constructive manner."⁹⁹ In **Iceland**, "human rights and democracy" is one of six foundational principles in the national curriculum. The curriculum references domestic legislation and the CRC, as well as other human rights treaties. For children in the fourth grade (10-year-olds), familiarity with the CRC is identified as an outcome.¹⁰⁰ In **Uruguay**, CRE is embedded across various subjects.¹⁰¹ In **Rwanda**, CRE education is integrated into the national curriculum in key subjects like civics, ethics and history. The Rwanda Education Sector Policy holds the objective of promoting "an integral, comprehensive education orientated towards the respect of human rights and [is] adapted to the present situation of the country."¹⁰²

The CRC Committee has stressed that "children should also learn about human rights by seeing human rights standards implemented in practice, whether at home, in school or within the community."¹⁰³ In **Finland**, children have opportunities to participate through school councils.¹⁰⁴

TOOLS AND ACTIVITIES FOR CRE ARE AVAILABLE

CRE should involve both online and offline resources, and should address both formal and informal education settings. In **Canada**, National Child Day is celebrated every year.¹⁰⁵ A dedicated website has been developed, which includes a number of learning activities about the CRC, including age-appropriate videos and factsheets as well as a colouring page for younger children. A national [activity guide](#) provides various activities, and the [activity selector tool](#) helps educators and other group leaders select an activity that is age appropriate. It includes ideas for youth-led activities, including "Generation GO" activities, which "encourage youth to be activists for children's rights". The **Australian** Human Rights Commission has developed [teacher lesson plans](#), including interactive lessons on human rights and responsibilities. In **Austria**,



the Polis Center for Citizenship Education in Schools supports teachers to bring human rights [education](#) to the classroom.¹⁰⁶

In States where OPIC has not been ratified, CSOs have been leading advocacy efforts. In **Nepal**, a child-friendly [booklet on OPIC](#) has been developed by a CSO. In **Thailand**, awareness-raising continued after OPIC was ratified, including a regular dialogue with the National Human Rights Commission.

Child-led toolkit for CHRD's in Scotland

In **Scotland**, the Unfeartie initiative was launched by Children's Parliament in 2017 to engage adults in defending children's human rights. *Unfearties* are "adults who are courageous in discussing children's issues, are making a difference in children's lives and who are willing to speak up for, and stand alongside, children." Subsequently, a [child-led toolkit](#) was developed by children for CHRDs. The purpose of the toolkit is to:

- support children in recognising the role of children in defending their human rights and opening up conversations about what adults can do to empower and protect child human rights defenders;
- provide children with creative, rights-based activities to explore these issues with and for children; and
- increase children's participation and engagement in local, national and international decision-making, in turn, demonstrating the positive impact of a children's human rights approach in improving outcomes for children.

CAPACITATE PARENTS AND CAREGIVERS

Children depend on adults to receive information about their rights, to navigate and understand

available remedies and to access justice forums and mechanisms.¹⁰⁷ Most children receive information and get help from their parents or family members. A good practice is to empower parents and caregivers to understand children's rights and how to seek redress where such rights are violated. Some States provide information to parents and caregivers. In the **United Kingdom** (Scotland), for example, a [booklet](#) for parents, caregivers and family members was developed to help explain children's rights.¹⁰⁸ While awareness must also be raised among families and caregivers, information provided to them is never an alternative to communicating information to children. In **Jamaica**, the National Parenting Support Commission, which is an agency under the Ministry of Education and Youth, collaborates with schools to involve parents in promoting children's rights and education.¹⁰⁹ By ratifying the CRC, States parties committed to "make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike."¹¹⁰ Raising awareness and improving understanding of child rights principles and provisions is an obligation of States¹¹¹ and a prerequisite to the implementation of children's rights in practice.¹¹² In **South Africa**, a [handbook](#) was developed for members of parliament on promoting children's rights.

ENABLE CHILDREN TO EXPRESS THEIR VIEWS

ENSHRINE PARTICIPATION RIGHTS IN LAW

A number of States (including **France**, **Mauritius**, and **Belgium**) and **Luxembourg** enshrine the right to be heard, permitting any child capable of discernment, or of forming his or her own views, to request to be heard directly by the court or judge in any proceedings concerning the child.



Germany and **Finland** are good examples of States that constitutionally enshrine the consultation of children. To enhance this, Germany has developed guidelines and [quality standards](#) for child participation, which are available in German and English. Other States have included this in child-specific legislation. In **Kenya**, the Children Act 2022 includes the right of every child to peaceful assembly, to “demonstrate or present petitions to public authorities and to freely participate in matters affecting children through lawfully established forums, associations and assemblies at the national and county levels.”

Constitutionalising access to legal assistance

In the **Netherlands**, the right to legal assistance is enshrined in the Constitution and is provided on the basis of non-discrimination, including for those who are non-resident. This Legal Help Desk (*Juridisch Loket*) is an accessible center which provides advice.

Good practices include the expansion of the provision of legal, paralegal and social support to children going through justice processes, including through decentralised, community-based, multi-disciplinary child rights centres or legal clinics.¹¹³ By employing a community-driven and human-rights-based approach that takes “a more holistic view of access to justice,”¹¹⁴ paralegals are an important bridge between the formal legal system and society, thus demystifying the law and making justice more accessible. In **Uganda**, for example, paralegals are supported by the Federation of Women Lawyers to provide essential legal and other support services for women and children.¹¹⁵ The Volunteer Lawyer Network in **Myanmar** was established in 2021 to offer pro bono legal services to those under the age of 25.¹¹⁶

The CRC Committee’s General Comment 10 makes clear that paralegals, among others, may provide such assistance, but admonishes that they “must have sufficient knowledge and understanding of the various legal aspects of the process of juvenile justice and must be trained to work with children in conflict with the law.”¹¹⁷

CONTINUING CAPACITY BUILDING

Training is essential for all professionals who interact with children and should be integrated in the curriculum of current and future professionals.¹¹⁸ Training should not just be laws or international standards, but on working with children to empower them, including on child development and child safeguarding. Remedial mechanisms should be managed by competent and specialised professionals and practitioners.

Building a movement for community-based paralegals across a number of cadres is important. For example, in the **United States** the American Bar Association has accredited a healthcare professional certificate programme to individuals who have 4,000 hours of nursing experience.¹¹⁹ Nurse paralegals are especially important in supporting child victims of violence, including sexual and gender-based violence. Teachers also play an important role. Professional opportunities are provided to educators to understand the law.¹²⁰

Good practices include the full legal recognition of paralegals. However, such recognition is far from universal. The Legal Aid Act of **Tanzania**, for example, recognises paralegals, emphasising the need for training.¹²¹ Recognition alone may not be sufficient and regulation is recommended as a bridge between recognition and the provision of support. In **Canada** (Ontario), paralegals are recognised, must be trained at an accredited paralegal education programme, licensed and are subject to professional regulation by the



Law Society of Ontario – the body which also regulates lawyers.¹²² Recognition also helps ensure that judicial rulings – which are far too often unenforced – are enforced. In **Brazil**, paralegals support the enforcement of judicial orders, including by supporting women (and their children) who have been granted emergency protective measures.

Kampala Declaration

The Kampala Declaration on Community Paralegals was adopted in 2012 by more than 50 paralegal organisations from more than 20 African States. It notes the important role of paralegals in using “knowledge of law and government and tools like mediation, organising, education and advocacy to [help people] seek concrete solutions to instances of injustice.”¹²³ The Declaration urges three concrete actions:

1. recognition of paralegals and their contribution to justice and accountability;
2. investing in the scale-up of paralegal efforts; and
3. protecting the independence of paralegals.

ESTABLISH PARTICIPATION MECHANISMS

Ensure formal participation mechanisms for children in policy-making processes, such as councils and parliaments for children, are made available. The Sharjah Children Council in the **United Arab Emirates** was the first children’s parliament in the region.¹²⁴ Children have represented Sharjah at an international level, including by participating in a survey on the Rights of the Child’s General Comment No. 25 on children’s rights in a digital age. Children assemblies are also being increasingly activated at the decentralised level, providing further spaces for participation. In **Kenya**, for example, child assemblies are being increasingly formed at the decentralised level.¹²⁵

In **Iceland**, the Ombudsperson for Children has an advisory group of children aged 12 to 17 and holds an annual Children’s Forum.¹²⁶ In the **United Kingdom** (Scotland), children drawn from Children’s Parliament were invited to serve as members of the national Climate Assembly.¹²⁷ Their participation was key to securing commitment from the Government to introduce a ban on single-use plastic.¹²⁸ With the support of adults, children drafted a [report](#) on their participation and calls to action for other children.

Bangladesh in Focus: National Children’s Task Force

The National Children’s Task Force (NCTF) is an organisation run by children. It is also the only government-endorsed organisation of children which has national coverage and presence.¹²⁹ Its objective is to promote child rights through active participation of children aged 12 to 18 in monitoring, reporting and advocacy at the local and national levels. NCTF uses child parliaments “as a child rights advocacy platform” and has recorded a number of achievements since its establishment in 2006. Working with a local district commissioner, for example, it prevented 13 child marriages in the face of death threats.¹³⁰

ACCESS TO EFFECTIVE REMEDIES

LEGAL STATUS OF THE CHILD

Legal standing is a critical prerequisite to legal empowerment and access to justice. While it is generally standard practice to require children to act through their parents or a litigation guardian, some States have introduced exceptions. While rare in practice, **Barbados**, for example, allows for children to apply through the court to act on their own behalf.¹³¹ Similarly, the Children’s Act of **South Africa**



recognises the right of children to seek judicial remedy for violations or threatened violations of the Act or of constitutionally recognised rights.¹³² In **Ecuador**, children over the age of 12 “may personally take legal action for the protection of their rights.”¹³³

Other States take a graduated approach. In the **United Kingdom** (Scotland), children have full legal capacity at 16. The law considers children under 16 competent to instruct a solicitor and to sue or to defend in any civil proceedings provided that they have “a general understanding of what it means to do so.” For children over 12, the law presumes they will have this capacity. Child rights law does not impose age limits on the right of the child to express his or her views, and States are discouraged from doing so, according to the CRC Committee.¹³⁴

A number of States recognise a general right of children to lodge complaints before public authorities. In **Costa Rica**, for instance, the Children’s and Adolescents’ Code provides the right for children to “seek shelter, help and advice when a threat to their rights entails a serious risk to their physical or spiritual health; and to receive timely assistance and protection from the competent authorities.”¹³⁵ In **Spain**, children have the right to request protection or support from any public institution and to make complaints regarding violations of their rights to the Ombudsperson or before other equivalent autonomous institutions.¹³⁶

LAWS TO PREVENT CONFLICTS OF INTEREST

Very few States require parents or legal representatives to act in the best interests of the child in legal proceedings. In **Tunisia**, for example, children can claim damages independently where a parent has refused to claim damages for harm caused to the child.¹³⁷

Conflicts can also arise with respect to a child’s representative. **Sri Lanka** requires a child’s prospective representative to apply to the court, demonstrating his or her fitness for the purpose and that there is no conflict of interest.¹³⁸ Where the child can demonstrate that the action instituted by the “next friend” was unreasonable, he or she may apply to the court to have the action dismissed. Similarly, in **Tonga**, a person named ‘as next of friend’ or guardian ad litem must also identify him or herself to the court and certify that he or she has no interests in the proceeding that would be adverse to that of the child.¹³⁹

ALL CHILDREN’S RIGHTS ARE JUSTICIABLE

As a first step, States should withdraw any reservations to the CRC as well as other human rights instruments. States which have yet to ratify or accede to the OPIC on a communication procedure should do so. Implementation of the CRC means that all of its provisions are justiciable and can be directly invoked by children and their representatives before judicial proceedings.¹⁴⁰ Whether the CRC can be relied upon in a court and its effect on children who experience rights violations is the true test of the CRC’s place in a national system. The manner in which States incorporate the CRC varies and depends on whether States adopt a monist or dualist approach.

In **Latin America**, for example, the CRC can be directly enforced in its entirety with exception of **Guyana**.¹⁴¹ **Finland** – which is a dualist country – incorporated the Convention through a decree giving the CRC the same authority as other laws. In **Samoa**, the Supreme Court has held that “there is a clear mandate to the courts of this country to have regard to the provisions of the Convention in appropriate cases.”¹⁴²



CONSTITUTIONALISE CHILDREN'S RIGHTS

Enshrining and giving all children's rights unambiguous primacy over norms and values is an important next step. While the CRC itself does not create an express obligation for States to ensure that the courts engage with the Convention, the CRC Committee has recommended to "find the appropriate path that it will allow it to have ... a comprehensive legal framework which incorporates the provisions of the Convention and its Optional Protocols and provides clear guidelines for their consistent application."¹⁴³

South Africa in focus

South Africa was among the first countries to enshrine the rights of the child in its constitution. Since expressly including the paramountcy of the best interests of the child in section 28(2) as both a self-standing right and a guiding principle, South African children's rights jurisprudence is arguably the most far reaching currently in the world. South African courts continue to interpret statutes and develop the common law "in a manner which favours protecting and advancing the interests of children."¹⁴⁴ As a result, "it is no longer necessary to first argue the virtues of children's rights, or claim them on a basis of good morals – their legal function is now 'self-executing'."

The CRC Committee has consistently welcomed the recognition of children's rights in national constitutions and, where no such recognition exists, has urged States parties to amend their constitutions to include children's rights.¹⁴⁵ While falling short of full incorporation, Section 39(4) of the Constitution of **Spain**, for instance, provides that "[c]hildren shall enjoy the protection provided for in the international agreements safeguarding their rights". Constitutionalisation alone, however, is not enough but can be a driver for the development and implementation of children's

rights. It should be accompanied by additional legislative and other non-legal measures.¹⁴⁶

In **Norway**, constitutional amendments in 2014 resulted in the inclusion of certain rights under the CRC, including the right to respect for human dignity, the right to be heard and given due weight in accordance with a child's age and development, the best interests of the child as a "fundamental consideration" and the right to protection of their personal integrity.¹⁴⁷ Supreme Court Justice Arnfinn Bårdsen noted that courts have tended in recent years to admit cases involving the interpretation and application of the CRC in connection with a diverse range of cases as a result.¹⁴⁸ The adoption of the amendment has also resulted in other non-legal implementation measures, including the systematic introduction of "a local practice of applying the Convention in municipalities through a programme called the 'Giant Leap'," which consists of "an analysis and follow-up tool that municipalities can use to ensure that the Convention is applied actively across their services."¹⁴⁹ These are but a few examples of the wide-ranging changes made by Norway as a result of the amendment to its Constitution.

Good practice also dictates the inclusion of children in constitutional and other legal reform processes. The National Human Rights Commission in **Nepal** organised regional workshops to give children a voice in the drafting of the country's new constitution.

NHRIS SHOULD RECEIVE, INVESTIGATE AND ADDRESS BREACHES

NHRIs, including ombudspersons for children, are in a unique position to promote access to justice by the most vulnerable children.¹⁵⁰ The CRC Committee consistently recommends the establishment of these institutions, including powers to consider individual complaints, carry out investigations and secure effective remedies for breaches of children's rights.¹⁵¹ In **Kyrgyzstan** and **Georgia**, the Public Defender



can receive complaints.¹⁵² In **Kyrgyzstan**, the Public Defender also has the authority to appeal to the Constitutional Chamber of the Supreme Court.

In its General Comment No. 2 on the role of independent NHRIs in the promotion and protection of the rights of the child, the CRC Committee asserted that NHRIs “should have the power to support children taking cases to court, including the power (a) to take cases concerning children’s issues in the name of the NHRI and (b) to intervene in court cases to inform the court about the human rights issues involved in the case.”¹⁵³ A number of States include the initiation of cases in the mandate of relevant NHRIs. For instance, the Human Rights Commission in **Fiji**, the **New Zealand** Director of Human Rights and the Human Rights and Equality Commission in **Ireland** have the power to bring proceedings on behalf of a class of persons to vindicate their human rights.

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Promotion and outreach is integral to a child-rights-based approach for NHRIs.¹⁵⁷ It helps ensure that children know about effective remedies and serves as a means by which NHRIs can interact with children and have knowledge of experiences beyond a complaint mechanism.

In **Belgium** (Wallonie and Brussels), the Ombudsperson for Children organised a promotional campaign entitled “Selfie your rights!” (*Selfie tes droits!*).¹⁵⁸ Children were to take selfies illustrating their rights in the CRC and submit them as entries for a competition. A pedagogical [toolkit](#) was developed for professionals working with children to attend a public exposition. The Children’s Commissioner of Wales introduced a system of child ambassadors to communicate about the Commissioner’s office and role and to raise awareness and feedback information for the office. Community ambassadors are elected at the community level within community or local groups/clubs, at secondary schools and at primary schools (where they are known as super ambassadors). In **Ireland**, the **United Kingdom** (Wales), and **New Zealand**, Youth Advisory Panels help familiarise their peers and classmates with their work and make complaints procedures more accessible. In **France**, elected student representatives serve this function.

A bottom-up approach requires that children be reached in communities. In the **United Kingdom** and **Belgium**, for example, independent institutions have been established for children’s rights with subnational jurisdiction.¹⁵⁹ **Austria** offers a unique approach with a federal Ombudsperson as well as regional Ombudspersons for children. In this model, children have a key role in terms of lobbying, monitoring and the communication of children’s issues, including by giving statements on national legislative processes.¹⁶⁰

LEGAL AID AND PARALEGAL AND SOCIAL SUPPORT

The Special Rapporteur on the independence of judges and lawyers has confirmed that the right to legal aid should apply in criminal and non-criminal contexts.¹⁶¹ To close the justice gap, paralegals – who go by a number of names, including “barefoot lawyers” or “community legal workers” – have been essential to help communities access justice.¹⁶² The use of paralegals is cost-effective and allows



for empowerment which is flexible and adapts to disparate legal needs.¹⁶³ To resolve disputes, promote community activism and agency and develop equitable and responsive institutions in **Sierra Leone**, trained paralegals use a combination of mediation, negotiation, education, advocacy and occasionally litigation.¹⁶⁴

Good practices include the expansion of the provision of legal, paralegal and social support to children going through justice processes, including through decentralised, community-based, multidisciplinary child rights centres or legal clinics.¹⁶⁵

MULTIDISCIPLINARY SUPPORT

An institutional, coordinated and integrated response pursued across relevant sectors, including justice, law enforcement, social welfare, education and health is needed. Multidisciplinary support should be made available to all children in the justice process, not just child victims and witnesses.

Socio-legal defence centers

Socio-legal defence centers (SLDCs) operated by Defence for Children International have been established in a number of States, including **Argentina, Belgium, Palestine, Lebanon** and **Yemen**. SLDCs are specialised facilities which receive individual complaints from children or adults reporting child rights violation and provide comprehensive legal and social support to navigate complex legal processes and ensure their voices are heard and respected. SLDCs are composed of multidisciplinary teams (social workers, lawyers, educators and other professionals). SLDCs offer information, referrals to services, psychosocial counselling and free-of-charge legal advice and representation to children in conflict with the law and child victims and witnesses. SLDCs also work to achieve structural changes in the justice system through advocacy and provide training to professionals, including judges, police officers, lawyers and community leaders.¹⁶⁶

Multidisciplinary support which is often provided through law enforcement (the **United States**), health centers (the **Philippines**) or one-stop shops including Barnahus have proven effective in preventing harm and improving outcomes for children.¹⁶⁷ In other States, multidisciplinary support is managed and coordinated by child protection authorities. In **New Zealand**, for example, the Ministry for Children coordinates a multidisciplinary support.¹⁶⁸ A number of countries have social welfare agencies/ departments that employ social workers. In **Ecuador**, the Ministry of Economic Inclusion and Social Welfare employs a social service workforce that includes social workers.¹⁶⁹ States should ensure that relevant actors understand their roles and responsibilities so that actions are better coordinated. Protocols have emerged in a number of States as a good practice. In **Brazil**, for example, an integrated workflow and integral service protocol was developed, and relevant professionals were trained.

INVEST IN CIVIL SOCIETY LEGAL EMPOWERMENT EFFORTS

The important role that civil society plays in legal empowerment and delivering services such as legal aid cannot go unnoticed. The **Netherlands** provides funding opportunities for individuals or organisations so that “human rights defenders ... can do their work effectively and safely.”¹⁷⁰ The human rights fund provides money for training to learn how to protect data on their computers or smartphones, among other devices.

FOSTER A CHILD-FRIENDLY AND SAFE ENVIRONMENT

Safe environments should be created for children at each stage of legal empowerment. When working with children and promoting their participation, it is essential that practitioners



uphold the principles of ‘do no harm’ and ‘best interests of the child’ to prevent and mitigate any negative impacts on children. Courts should also be child-sensitive.¹⁷¹

ENSHRINE CHILDREN’S RIGHTS TO SPECIAL PROTECTION

A number of States have enshrined the right of children to special protection. **Romania** includes in its constitution a provision for the “protection of children and youth”. It provides that “[c]hildren and young people shall enjoy special protection and assistance in the realisation of their rights.”¹⁷² The Constitution of **Switzerland** provides that “children and young people have the right to the special protection of their integrity and to the encouragement of their development.”¹⁷³ States should put in place child-friendly safeguards to the substantive and procedural rights of children to access justice and effective remedies across all matters.

PROCEDURAL SAFEGUARDS

Procedural safeguards come in many forms. Measures to protect a child from safety risks before, during and after the justice process should be enshrined in law, including measures to make it easier for a child to testify or give evidence. It should also support persons, such as guardians, to protect a child’s legal interests.¹⁷⁴ In some States, a support person is designated by a competent authority.

Support persons “accompany the child from the moment of his or her first contact with the justice system” (e.g., **Italy**, **Switzerland** and **Canada**).¹⁷⁵

For child victims and witnesses, for example, protections can include:

- avoiding direct contact between a child victim or witness and the accused at any point in the justice process;
- requesting restraining orders from a competent court;
- ordering pre-trial detention that sets “no contact” bail conditions;
- placing the accused under house arrest; and
- giving child victims and witnesses protection by the police or other relevant agencies, including by safeguarding their whereabouts from disclosure.¹⁷⁶

Other good practices involve allowing children to provide testimony through alternative means. Video recordings are legally admissible as evidence in a number of States (e.g., **Brazil**, **Maldives**, **Japan**, **Malaysia** and the **Philippines**).¹⁷⁷ Other States allow the use of victim impact statements (the **United Kingdom** and **Canada**).¹⁷⁸

Efforts are also required to protect the privacy of children. A number of States enshrine legal provisions allowing for the redaction or expungement of child victims, or witnesses’ names, addresses, information about the family, school or any other information that could reveal the identity of the child.



CHILD RIGHTS DEFENDERS ARE PROTECTED

The UN Special Rapporteur on the situation of human rights defenders noted that “a good practice in protecting human rights defenders is a practice that contributes to the full respect of their human rights and strengthens their security, including by mitigating the risks they face, addressing threats and building support for their work.”¹⁷⁹ All children, including those who are human rights defenders, should be protected from harm and efforts should be made to strengthen their human rights and security.¹⁸⁰ States have a responsibility to ensure that children seeking justice can do so without threat of retaliation or violence.

States should enact laws and establish mechanisms to protect CHRDs, without exception. In **Mongolia**, advocacy efforts of human rights defenders, CSOs, the National Human Rights Commission

of Mongolia and international actors resulted in the adoption of the first law in Asia to protect human rights defenders in 2021.¹⁸¹ The UN Special Rapporteur on the situation of human rights defenders notes that States should ensure that laws are “not used as a means to restrict the rights of defenders” and that “new laws will be judged on how successful they are in protecting” them.¹⁸²

Child rights advocates and defenders should also be supported to manage the risks of online harassment and cyberbullying.¹⁸³ Good practice entails developing a cyber-safety strategy to protect children. The Council of Europe, for example, developed [guidelines](#) to respect, protect and fulfil the rights of the child in the digital environment.¹⁸⁴ Mechanisms to protect children’s privacy and personal data security, as well as mechanisms to accept and investigate children’s complaints of online harassment, should be established.

CONCLUSION

Ensuring that children know and can claim their rights is critical to a child-friendly or child-centred justice system. Without legal empowerment, it will be challenging for children to access justice. A child-centred justice system demands that children, as rights-holders, are equipped with the knowledge, tools and opportunities to seek equitable and timely remedies for violations of their rights, while considering their age, maturity and evolving capacities. The justice system must prioritise the best interests of the child, ensuring that their dignity, safety and well-being are safeguarded at every stage of the process.

The global justice gap disproportionately impacts children, particularly those who are marginalised or vulnerable. Legal empowerment offers a transformative approach by viewing children not as passive recipients of protection but as active agents capable of engaging with legal systems and shaping societal change. Through child rights education, community-based paralegal support, strategic litigation and robust participation mechanisms, children can be empowered to claim their rights and seek redress. However, significant barriers, such as restrictive legal capacity rules, lack of child-friendly procedures, inadequate



rights education and social stigma continue to exclude children from justice systems. These challenges are compounded for CHRDs, who face unique risks and require specific protections to safely advocate for their rights and those of others. Protecting CHRDs and ensuring their safety, both online and offline, is critical.

To address these gaps, targeted, multifaceted actions are needed. Constitutionalising children's rights, withdrawing reservations to the CRC and ratifying the Optional Protocol on a Communications Procedure are critical steps toward ensuring justiciability and access to international remedies. Incorporating the CRC into national legal frameworks enhances children's ability to invoke their rights directly. Additionally, enshrining participation rights, establishing child-friendly courts and providing multidisciplinary support through socio-legal defense centers are essential for creating safe and accessible justice pathways. Investments in civil society, paralegal recognition and training for professionals further bridge the justice gap, particularly in underserved communities. Child rights education, integrated into curricula and supported by trained educators, is vital for building a culture of rights awareness and empowering children to act as informed citizens.

At the same time, independent institutions such as NHRIs play a pivotal role in receiving complaints, advocating for systemic change and amplifying children's voices through community outreach and youth advisory panels. By fostering a bottom-up, community-led approach, States can ensure that legal empowerment is inclusive, equitable and responsive to the needs of all children, particularly those in vulnerable situations.

For children to enjoy their rights including access to justice and effective remedies, legal empowerment must be holistic, participatory and protective. It requires coordinated efforts across justice, education, health and social welfare sectors to create an enabling environment where children can safely exercise their rights. By prioritising these actions, States can accelerate progress toward the SDGs, reduce inequalities and build just societies where every child's voice is heard, respected and acted upon. The commitment to children's access to justice is not only a legal obligation but a moral imperative to ensure that no child is left behind in the pursuit of rule of law and justice.



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GLOSSARY

Access to justice: the ability to seek, individually or collectively, and obtain a just, equitable and timely remedy for violations of children's rights through avenues adapted to children.¹⁸⁵ It "comprises the right to be recognised before the law and to a fair hearing, right to appeal, equal and timely access to courts, effective judicial protection and other complaint mechanisms to bring an effective outcome."¹⁸⁶

Child human rights defenders: "children who take actions to promote, protect and fulfil their own human rights, or the human rights of their peers or of others, including adults, are human rights defenders, even if they do not see themselves as such, or are not considered and called as such by others."¹⁸⁷

Child rights strategic litigation: generally understood as "litigation that seeks to bring about positive legal and/or social change in terms of children's enjoyment of their rights."¹⁸⁸ It is also sometimes referred to as 'impact litigation', 'human rights litigation', 'public interest litigation', 'test litigation', etc.

Legal capacity: the capacity and power to exercise rights and undertake obligations by way of one's own conduct, specifically without assistance of representation by a third party.¹⁸⁹

National Human Rights Institutions: state-mandated bodies, independent of government, with a broad constitutional or legal mandate to protect and promote human rights at the national level and which address the full range of human rights, including civil, political, economic, social and cultural rights.¹⁹⁰

Remedy: refers to both (a) a process under which claims of children's rights violations are heard and decided by competent bodies; and (b) the outcome of the process and the redress provided, including reparations and the cessation of the violation.

Reparations: Measures to redress violations of children's rights by providing a range of material and symbolic benefits to victims or their families, as well as the affected communities. This can include restitution, compensation, satisfaction and guarantee of non-repetition.

Restitution: aims to restore the victim, as much as possible, to the original situation before the violation occurred.¹⁹¹

Satisfaction: the experience and recognition by victims that justice has been achieved through the process, the execution of the decision, the end of the violation and the acknowledgement of the harm or damage suffered.



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