

# PATHFINDERS

FOR PEACEFUL, JUST AND INCLUSIVE SOCIETIES

HOSTED BY THE NYU CENTER ON INTERNATIONAL COOPERATION

## Justice for Children, Justice for All: Applying Lessons from the Pandemic

*Responding to children's distinct needs, and realizing their full range of rights and opportunities, to achieve peaceful, just and inclusive societies for all.*



This Companion Briefing to the [\*Justice in a Pandemic\*](#) series sets out the *Agenda for Action for Justice for Children*, featuring the strategic levers for change to achieve **SDG16.3**

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<https://www.justice.sdg16.plus/justiceforchildren>

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# Justice for Children, Justice for All

The 'Justice for Children, Justice for All' working group continues to build on its work with the Pathfinders for Peaceful, Just and Inclusive Societies Task Force on Justice, which advances a new understanding of justice:

*...not only aiming to overcome the challenges children face in accessing legal justice, but also promoting justice as an enabler of children's opportunities and development to their full potential.<sup>1</sup>*

Placing children at the heart of a growing global movement for justice,<sup>2</sup> and involving them meaningfully in this process, are essential to achieving justice for children and to securing the SDG 16+ ambition of achieving justice for all<sup>3</sup> by 2030. Without justice for children, justice for all will be out of our reach.

But progress to achieve the bold commitments made in the SDG agenda has been stalled by the COVID-19 pandemic. Despite some notable demonstrations of solidarity, such as the rise of mutual aid groups, the exacerbation of existing inequalities caused by the global health emergency has led to increased social fragmentation and political isolationism. The Pathfinders' [Justice in a Pandemic Briefings](#) illustrate how the pandemic adversely impacted justice for all and how people-centered justice approaches are essential for a just and equitable global recovery. The negative impacts of the pandemic resulted in renewed energy to reaffirm the importance of multilateralism and the social contract, as seen in the UN Secretary General's *Our Common Agenda*. This UN Agenda also emphasises the critical role that young people have to play in accelerating progress around the SDGs. However, one notable stakeholder group is missing from the agenda: children.

Roughly 1 in 3 people across the globe is a child.<sup>4</sup> In many countries, over half of the population is under the age of eighteen. Yet, children are largely invisible in justice efforts. According to the [Justice for All Report](#), legal needs surveys are not designed to capture the justice needs of children, yet evidence suggests children face an even wider justice gap than adults. Some individuals, groups, countries and communities are being hit harder than others by the pandemic; this includes children,<sup>5</sup> especially those who experience multidimensional inequalities and find it most difficult to access justice. While the global agenda pledges to *leave no one behind* there is a stark gap when it comes to measuring, understanding, and fulfilling this global ambition for children.<sup>6</sup> This was true before COVID-19, and there is a present danger that children become more invisible, unheard and *left behind* than before.

## Our vision

Our vision is a world where all people, regardless of their age, gender, migration status, disability, ethnicity and other characteristics, have access to justice. Fulfilling the promise of SDG 16.3, of access to justice for all, requires intentional and inclusive focus on children and young people, whose particular justice needs are less understood. Achieving access to justice for all will require meaningful participation of children and young people at both national and global levels to inform decisions and catalyse change.

Working to emerge from the pandemic offers a huge opportunity to address structural issues, to support children to become agents of change and to ensure that children – and especially those most marginalised - are high priorities for national policy and the international community. Children, families and communities need to be confident that leaders at global, national and local level will listen, hear and take forward actions so that no child is *left behind* and we address the *furthest behind first*.<sup>7,8</sup>

## Children's specific needs, rights and capacities

Children are distinct from adults, and have specific needs, rights and evolving capacities. They require support and care from their families and carers, and from services, that meet their particular needs and rights<sup>9</sup> and that provide them with the critical opportunities that will define their futures. The international Convention on the Rights of the Child<sup>10</sup> sets out these specific characteristics and the related expectations for how whole nations should take action. Responding differently to children in the light of this distinctiveness and these obligations is essential for the successful delivery of the global goals for people of all ages.

Engaging meaningfully with children, listening to their views and experiences, and securing their participation in finding solutions, is necessary to form a foundation that is future-proofed.

## Justice for Children

*Justice for Children* in all its dimensions includes criminal, civil and administrative justice, as well as economic, social, cultural and environmental justice.<sup>11</sup> Having access to justice for children means that children are empowered and supported to prevent justice problems arising, and to resolve those problems that do arise outside the formal system, if at all possible, in a child-friendly environment. When they are working well, formal and informal justice systems<sup>12</sup> together will be supporting all children to access opportunities and to participate fully in society.

But to ensure justice prevents injustice, it needs to work for children *and* for their families. That is why access to public services is a justice issue: children need access to education and health care. And families play an important role in all aspects of matters relating to justice and children, so support and resources also need to be made available to support parents and carers in their caring roles.<sup>13</sup> A child-friendly justice system that is adapted to the rights and needs of children will: prevent harm; meaningfully invite their views, enable children to claim their rights, seek redress or complain about the violation of their rights. These are core preventative and restorative elements that are essential to achieving justice for children.

## The right response

Under COVID-19, the justice gap is widening for many children. Their justice problems have intensified, and an increasing number of children are impacted. The crisis for children continues to remain partly hidden, and more elusive than other COVID-19 impacts. Unforeseen consequences risk intensifying children's experiences of injustice.

The demand for more child-friendly justice responses comes at a time when governments and communities are dealing with the immediate health crisis and impending crushing economic fall-out.<sup>14</sup> Global pressures and demands will make national responses significantly more problematic, for both the immediate and long term. Responding better means building new intergenerational partnerships, and clear investment cases built on data that is adequately disaggregated. These can enable a growing range of innovations that solve the justice problems that children face and close this justice gap.

The advantages are numerous: advancing children's justice prevents future problems by reducing the need for mitigative responses and will have a broader impact on society, including strengthening an increasingly fragile social contract; these are game-changers for countries as they shape their responses in the pandemic, and beyond.

## Briefing focus

This paper builds on the 10 Calls to Act (see Figure 1), and in Part 1 we identify the common justice problems children face.

In Part 2 the paper answers the question: ‘*what does people-centred justice for children look like through the lens of what we’ve learned?*’ We draw our learning from the context of COVID, which is compounded by the ongoing multi-dimensional crises severely affecting children in so many parts of the world, including the long-lasting humanitarian conflicts, climate emergency and economic crisis.

With a clear vision for the future and based on this learning, in Part 3 we then set out the Agenda for Action for Justice for Children to achieve Justice for All, outlining the key strategic levers for change necessary for justice actors to achieve SDG 16.3.



Figure 1. Pathfinders for Peaceful, Just and Inclusive Societies: *Justice for Children 10 Calls to Act*.<sup>15</sup>

## This Commission

This Briefing was commissioned by the *Pathfinders for Peaceful, Just and Inclusive Societies*, informed by *Justice for Children, Justice for All* core group, and led by the *Institute for Inspiring Children's Futures* at the University of Strathclyde, Scotland. It is written for international, national and local actors, for government and NGO leaders, to inform their responses in this pandemic and multidimensional crises, recognizing that building back better for children will take the whole of government and all of society together.

Informed by the 2030 Agenda for Sustainable Development, the *Pathfinders for Peaceful, Just and Inclusive Societies* work to accelerate action to implement the SDG targets for peace, justice and inclusion (SDG16+), working with an alliance of justice partners to achieve people-centred justice. The Task Force on Justice's *Justice for All Report* in 2019 highlights that the justice problems people face are not distributed randomly; but that some groups will be more likely to experience injustice than others. This included a spotlight on children as those who are more likely to experience injustice, which was further outlined in the *Justice for Children, Justice for All Call to Action*<sup>16</sup> and *Challenge Paper*<sup>17</sup> reports in 2019.

This *Briefing* was developed by the core team consultatively, and informed by a background paper,<sup>18</sup> with the support of a technical working group of experts as critical friends around the globe who engaged through individual consultation, feedback, and shared references. This Briefing builds on what we know about children's existing justice needs in all its dimensions, outlined in the 2019 *Justice for Children* reports. This Briefing forms part of the Pathfinders' series of *Justice in a Pandemic Briefings*.

*Justice for Children, Justice for All* project is guided by the *UN Approach to Justice for Children*<sup>19</sup> two-track approach to justice for children: to ensure greater attention both to children in rule of law initiatives, as well as to the additional interventions needed to guarantee the realisation of the rights of the child. We are led by the *UN Approach's* guiding principles of:

### **Doing no harm**

**Ensuring the best interests of the child are given primary consideration**

**Guaranteeing fair and equal treatment**

**Ensuring the right of the child to be heard, and to express his or her views freely**

**Protecting every child from abuse, violence and exploitation.**

## Part 1: Common Justice Problems Children Face

Building on the *Justice for Children 10 Calls to Act*<sup>20</sup> (Figure 1), this section sets out 10 common justice problems children face, driven by:

- Exclusion
- Lack of access to justice
- Lack of prevention
- Barriers to identity
- Violence
- Limits to their association
- Detention.

Each of these problems will impact on an individual child and will also have structural equivalents. These common problems are drawn from a range of recent international justice reports.<sup>21</sup>

In addition to considering injustices at both *individual* and *structural* levels, these justice problems have an additional dimension: by taking justice problems as a starting point, countries can design a better *journey* from that problem to a solution. What matters is both the destination (ask the question: *'is the situation satisfactorily resolved for children?'*) and the journey itself (ask the question: *'are children treated in a child-friendly way along the way?'*).

The *Justice for Children 10 Calls to Act* frames these common justice problems,<sup>22</sup> addressing below both the *destination* at individual and structural levels, as well as children's *journeys*.



# COMMON JUSTICE PROBLEMS CHILDREN FACE

<<<< INDIVIDUAL

STRUCTURAL >>>>

## Growing up in poverty<sup>(22)</sup>

A family cannot provide for their child, who stops attending school and spends time on the street, sometimes engaging in illegal ways to generate income to support his/her family.

A child is separated from their family and taken into alternative care because their family is deemed unfit due to poverty.

## Growing up excluded and discriminated against<sup>(23)</sup>

A girl stays at home to carry out household tasks, childcare and to care for her grandmother while her brother plays outside.<sup>24</sup>

A child with disabilities is excluded from education.<sup>25</sup>



EXCLUSION

## Economic inequality

Under-budgeted social and family support services result in families not able to receive support.

Children lack equal opportunities to education, and inequalities are perpetuated across generations.

## Systemic discrimination

1 in 3 adolescent girls from the poorest households has never been to school across the globe.<sup>26</sup>

Children from indigenous, ethnic and other minority groups are disproportionately criminalized due to policing and court decisions that are systematically reinforced based on racially discriminatory beliefs.<sup>27</sup>

<<<< INDIVIDUAL

STRUCTURAL >>>>

## Children lack a legal identity

A child without a birth certificate is unable to enrol in school.<sup>30</sup>

A child lacks a nationality and is excluded from protections afforded to nationals.

## Children's legal identity is not recognized by another country

An unaccompanied child seeking asylum is unable to benefit from the protections they are entitled to.

A child's nationality is not recognised when they cross borders.<sup>31</sup>



BARRIERS TO IDENTITY

## Children are not prioritized in administrative justice processes

Children cannot access services or benefit from the policies, programmes and protections that are intended for them by law.

## Child migrants and refugees experience barriers to access legal identity

Immigration services default to treating unaccompanied children without age identity as adults.

Inherited statelessness locks in exclusion and discrimination throughout generations.<sup>32</sup>

## No opportunity to participate in decisions

A child who committed an offense is either not heard, or given less than 2 minutes to express themselves during the judicial proceeding.

A judge does not consult a child in their parents' custody dispute and determines that they must live with their violent father.<sup>28</sup>

## Being harmed, ignored, traumatised by encounters with the justice system

A child victim is repeatedly re-traumatised because they have to repeat their experience multiple times during the criminal proceeding.

A child suspect sits at the police station awaiting an interview in the same room as adult suspects.<sup>29</sup>



LACK OF ACCESS TO JUSTICE

## Lack of accountability of institutions to children

No specialised learning is required of justice professionals working with children.

Children are not informed about the rationale behind a judicial decision and are given no right to appeal.

## Inaccessible justice systems that are blind to the distinctive nature of children

Children are not treated any differently from adults in contact with justice systems.

Excessive pressures on court caseloads leads a judge to cancel the child's hearing due to time constraints and in view of speedy proceedings.

## Children experience violence (abuse, bullying and exploitation)

A child is victim of cyberbullying and does not know who to talk with to make it stop and receive support.

A girl is sexually assaulted, the police accept a bribe from the perpetrator, and the family is unable to bring the perpetrator to justice.<sup>33</sup>



VIOLENCE

## Weak rule of law does not bring perpetrators to justice

Systematically unchallenged corruption leads to children's abusers not being prosecuted by the police, resulting in perpetrator impunity and further trauma to this and other children.

Cases are dismissed due to a lack of investigation means.

## Children are held accountable for their associations, rather than for their actions

A child is recruited and used by an armed group, then accused of national security-related offenses, and not treated as a victim.



LIMITS TO ASSOCIATION

## Justice systems do not differentiate between children and adults in national security-related offences

Military courts –which lack transparency, are unprepared for and unsuitable for cases involving children—nevertheless permit hearing cases where a child is accused of national security-related offences.

## Limited access to public services

A family is unable to find support for their child's mental health, and the child is then criminalised for running away from their family home.



LACK OF PREVENTION

## A lack of integration of justice systems with efforts to strengthen access and affordability of education, health, etc. and family & community strengthening efforts

The challenges that children face are not resolved early by public services; instead these escalate until they are unnecessarily in conflict with the law.

## Children are arbitrarily and unlawfully deprived of their liberty

A child is held in prolonged pre-trial detention with no guarantee of a lawyer, no trial date set, and no indication of an end to their detention.

A child is moved into a large scale institution isolated from family and community.



DETENTION

## Justice options are blunt, costly, unimaginative, and limited

The lack of community-based services, options for non-custodial measures, or restorative justice programmes results in detention by default.

Detention facilities (including alternative care and mental health institutions) permit harmful practices to children such as solitary confinement.<sup>34</sup>

## Part 2: Spotlights: Children’s Changing Experiences of Justice under COVID-19

The impact of COVID-19 is affecting every country and community across the globe. The crisis will continue to affect us socially, economically and financially, politically, culturally, and environmentally for years ahead. Beyond the initial impact, we look at the emerging learning and innovative solutions to the challenges that have arisen. This *Briefing* draws from our complementary *Background Paper*,<sup>36</sup> where we examine the impact of COVID-19 on children.

This section sets out what has been learned about justice problems facing children through the experience of the pandemic<sup>37</sup> in the context of the multi-dimensional crises affecting children around the world, and what we are learning about our responses. The spotlights focus specifically on:

1. Equalities
2. Mental health
3. Digitalisation
4. Access to Justice
5. Violence
6. Detention
7. Participation

For each justice spotlight below, we explore:

- Where we were before COVID-19
- What’s changed during COVID-19
- What it means
- How to respond

## Equalities

### Call to Act 1: Guarantee the wellbeing and inclusion of all children<sup>38</sup>

#### Where we were:

Reducing extreme poverty<sup>39</sup> had been gaining ground prior to COVID-19. The number of children living in extreme poverty declined moderately by 29 million between 2013 and 2017.<sup>40</sup> This decrease had been slow, distributed unevenly and now seriously affected by the impact of COVID-19.<sup>41</sup> There are children living in poverty in all states across the globe. In 2017-18, 26% of those who experienced poverty in OECD countries were children,<sup>42</sup> and in 2019 more than half of the world's very poor were children,<sup>43</sup> despite children representing only 30% of the world's total population.<sup>44</sup> At the end of 2019, 75 million children across the world were 'stunted' and 17 million experienced 'wasting' due to lack of adequate food and nutrition.<sup>45</sup> At least 1 in 3 children under 5 were undernourished or overweight and 1 in 2 suffered from hidden hunger, undermining the capacity of millions of children to grow and develop to their full potential.<sup>46</sup> The impact of these inequalities was multi-dimensional with poverty leading to marginalisation, risky and complex situations as well as poor physical and mental health and discrimination.<sup>47</sup>

#### What's changed:

As a result of COVID-19, 150 million additional children lack access to health care, education, proper nutrition, or adequate housing.<sup>48</sup> Forecasts for low- and middle-income countries suggested in mid-2020 that an additional 66 to 86 million children were anticipated to be living in income poverty by the end of that year.<sup>49</sup> These figures do not take into account anticipated increases in the numbers of children living in poverty as a result of COVID-19 in the years ahead.

COVID-19 has had a detrimental impact on existing inequalities.<sup>50</sup> With food systems disrupted, health services impacted, food security jeopardised, and livelihoods affected, children who already experienced specific adversities have become malnourished because of poor diets and the impact of emergency measures.<sup>51</sup> It has been estimated that there could be up to 2 million deaths of under-5s due to lack of routine health services and increases in child wasting.<sup>52</sup> To counter these negative effects, many initiatives have been undertaken to combat hunger and malnutrition in the pandemic by providing income assistance, food vouchers, protection for those who rent housing and availability of school lunches.<sup>53</sup>

*I would like to go to school, then I will be able to have food for lunch.*

Girl, age 14, India<sup>54</sup>

Digital inequalities have come to the fore as a result of COVID-19. With emergency measures in place, limited or non-existent access to digital resources has accentuated inequalities with some children unable to access education where it is online, communications with friends and families, information or representation and play and leisure.<sup>55</sup>

#### What it means:

The impact of COVID-19 thrust a significant number of people into poverty with a sudden loss of employment and a dramatic drop in household income for many. Some children faced additional challenges in accessing their basic access to clean water, sanitation and hygiene. School closures had an impact on children's access to food at school where this would usually be provided at school. Food became more expensive and has sometimes been scarce in shops and markets. These are acute and challenging issues as we know that growing up in poverty has many negative impacts for children.<sup>56</sup>

Social, economic and political inequalities, exacerbated in the context of the pandemic, continue to create obstacles to realising children's access to justice. Children in general, but particularly children in contact with justice systems as victims or accused, often face multiple and compounding forms of discrimination, such as with respect to race, gender, disability and nationality. In the world of the pandemic, actions to accelerate inclusion and non-discrimination are more urgent now than ever before to ensure that no child is left behind.

*I wish there were more help available for families going hungry. People can't go out and work and the situation is desperate. Children don't know how to wait. They only know they're hungry.*

Girl, 9, Bolivia<sup>57</sup>

#### How to respond:

Pre-existing inequalities, along with the rise of new inequalities, will need to be tackled if children's specific needs, rights and opportunities are to be secured; only then can we achieve peaceful, just and inclusive societies for all.

Because *familial* well-being and inclusion are crucial to *children's* well-being and inclusion, ensuring an adequate standard of living should be prioritised along with policies that are redistributive and inclusive. While national priorities and preferences will differ, one critical step is to ensure that all families can participate in, and benefit from, inclusive growth.

This means focusing across a broad range of policy areas that impact on the employability and skills of adult family members. Inclusion refers to the ways in which employment opportunities are enhanced for all, as well as good quality and remunerated appropriately. In many countries, in-work familial poverty has grown sharply over recent decades; and so, promoting pay that reflects the value of the contribution of the workforce, and not only living wages, is crucial if in-work poverty is to be eliminated. Inclusive growth also refers to targeting a broad sharing of the benefits of economic growth and development needs. In the short term in addressing the current challenges of child adversity and poverty, these policy priorities should specifically have a focus on income security and social protection measures.<sup>58</sup>

On a practical and immediate level, food shortages, hunger, access to water and sanitation should be addressed to ensure children's basic needs are met. These challenges are especially acute in many low-income nations, but they are similarly critical in the higher income nations, not least as the current impact of sharply rising global living costs hits the poorest families with children the hardest. Measures that not only address, for example, the massive escalation of food or energy costs for these families, but also address their overall incomes and living standards are central to this.

These steps are absolutely central to the challenge of child well-being and justice, despite not being deemed as child policies or programmes to address child well-being and justice in most countries. Directly targeted programmes towards children will always remain indispensable, but this broader economic perspective to address inequalities is more necessary than ever. And both these sets of objectives - longer term inclusion and immediate inclusion - need to be addressed now.

The intensification of the demands on national budgets is a real challenge: the demand for government services and programmes has risen sharply at a time of tightening national fiscal budgets and significant global economic pressure. Even so, the prioritisation of children's well-being through inclusion – which forms the bedrock and pre-requisite for the success of a very broad range of national policies in most countries – is at the heart of most national visions. Prioritisation of these measures set out here is therefore an imperative. Making the case to policy-makers, as described in detail in the Agenda for Action below, is the critical focus.

*In New Zealand [...] rapid measures taken by the government during COVID-19 to support children and their families included those intended to boost income and resources including age subsidies, benefit increases, a temporary rent freeze, housing the homeless at least on a temporary basis, addressing food insecurity, providing digital devices to students, hardship funding and tertiary students, and free youth trades training and apprenticeships and employment support.*<sup>59</sup>

## Mental health

Call to Act 2: Prevent unnecessary contact with the justice system and the criminalisation of children.

Focus: Ensure adequate access to mental health support<sup>60</sup>

### Where we were:

Global and national analysis of data and evidence had revealed the complexity of factors which impact on children's lives.<sup>61</sup> Increased attention had been paid to child mental health. In high income countries there was a 'mixed' picture with many children not having good mental well-being and a significant number of 15-year-olds not having high levels of life satisfaction.<sup>62</sup> Even countries which were viewed as having positive conditions had a long way to go to meet the UN Agenda 2030 and its Sustainable Development Goals. For children in medium and low-income countries, the situation was even more complex.

### What's changed:

COVID-19 has affected all areas of children's well-being including their relationships with friends, family members and other adults in the community. Children's access to public services has been dramatically affected by COVID-19, including closed schools, play and leisure facilities which has restricted children's movement, travel and access to other services. The extent to which these many challenges have affected children's mental health is dependent on a wide range of circumstances including children's age, gender, socio-economic status and other specific adversities.<sup>63</sup>

COVID-19 has contributed to children's experiences of trauma, resulting in worsened depression, aggressive behaviours, attention difficulties, sleeping and eating disorders, and issues maintaining relationships. This is especially the case for children already living in stressful conditions such as in detention or incarceration, especially for those already suffering from pre-existing conditions.

*Now, more than ever, teenagers are suffering from anxiety. We have to do too much work for school. My eyebrows began to fall off because I'm so worried I won't pass my course. There are many who think about suicide... some demand too much from us... I have no internet connection and can't talk to my friends, that makes me feel very depressed... I feel bad not being able to see my family and friends.*

Girl, age 14, Costa Rica<sup>64</sup>

The pressure on families has been substantial as parents and carers struggle to maintain livelihoods and household income, and support their children, especially where they have had to provide day-to-day childcare and home schooling. Services that usually support families may have not been available or have been limited. Healthcare services have been severely impacted with provision reduced or only available in emergency situations.<sup>65</sup> There has been an increase in calls from children and those reporting concerns to helplines, reflecting wider concerns about the impact of the pandemic on children's mental health.<sup>66 67</sup> Essential services which provide support such as hotlines, crisis centres, legal aid and social services have been detrimentally affected.<sup>68</sup>

*In Uganda, a local organisation [...] has helped children deal with mental health challenges created by isolation and domestic violence at home. Through a peer-to-peer mentoring programme, it has helped resolve cases of anxiety in children and in girls worried about gender stereotypes and their education.*<sup>69</sup>

### What it means:

Children and their families have found themselves without the support they need as a result of the profound impact of COVID-19 on services. The impact of the pandemic has had negative effects on children's mental health,<sup>70</sup> as well as impacting on children's physical well-being and their access to physical activities.<sup>71</sup> In addition, many children have found themselves isolated from friends and family members.<sup>72</sup> It is unknown at the moment whether the negative effects of these factors will have long-lasting impacts on children's wellbeing.

### How to respond:

Children's well-being should be prioritised by countries in order to meet children's needs and rights, and provide continuously improving, high quality opportunities in each child's life. An integrated approach across government departments which recognises the connections and interdependent nature of policies will support well-being approaches. That said, the well-being of children cannot be secured without ensuring the well-being of their families and carers, and the communities around them. This requires a coordinated approach to securing the well-being of children which is allied to overall recovery strategy and budget commitments. In order to do this, well-being commitments should be informed by data collection and up-to-date evidence.

Family support and other resources should be widely available, restored and, where needed, increased, especially in the light of challenges families face as a result of COVID-19, including increased family breakdown, domestic violence and child protection issues. Children should be actively engaged in discussions and problem-solving.

*In Iceland, the Ministers of Social Affairs and Children, Transport and Local Government and the Icelandic Association of Local Authorities have established a response team tasked with maintaining services for children and other vulnerable groups. The multi-agency team includes representatives from social services and child protection, and from education, among others; and cooperated closely with those who provide services for persons and children in vulnerable situations. The team has gathered and disseminated information from all parties providing services for vulnerable groups nationwide, analysed scenarios and provided responses in relation to the pandemic's effects on social services.<sup>73</sup>*

## Digitalisation

**Call to Act 3: Promote justice systems that guarantee equal access, benefit, protection and support to children. Ensure sufficient safeguards for children in digital justice.<sup>74</sup>**

### Where we were:

Children's engagement with public services in general were held predominantly face-to-face, for example access to education and court hearings. A range of objections have been made about courts' use of online dispute resolutions based on concerns about access to a fair trial.<sup>75</sup> Nevertheless, a growing number of online dispute resolution systems for adults were emerging that have received a positive response from users.<sup>76</sup> At least 2.2 billion children and young people under the age of 25 years did not have access to the internet at home.<sup>77</sup> Digital justice tools were not being widely used with children, including in court proceedings.

### What's changed:

With COVID-19 restrictions, there has been a sudden increased use of digital tools for online communication, for example to support children's education, and to support family contact when parents or a child is in detention. The recent quick evolution and digitalization of the justice systems for children emerged from the extraordinary context of the pandemic, driven faster by the funding crisis of some legal systems.<sup>78</sup> The use of audio-visual tools in court proceedings have often been prioritized in the interests of the criminal justice professionals first, while the interests of the child as defendant have been a lesser priority. The participation of children in their own proceedings can sometimes be misperceived as an inconvenience rather than indispensable to their right to a fair trial. This pandemic has created opportunities to learn from and build upon, such as establishing online hearings<sup>79</sup> and virtual children's courts with specific handling of children's procedural matters; and ensuring continued online learning and capacity-building for professionals.

### What it means:

The use of technologies in legal proceedings have enabled swift adaptations, forming a strong learning platform for reflection, planning and embedding reforms. This has ushered in a potentially uncritical embracing of technology to solve problems. An increased reliance on technology may offer benefits, but adopted uncritically, this may risk the right to fair access to justice for children: research shows that adults are likely to perceive young people to be displaying a lack of interest during virtual hearings, which is based on a misunderstanding of young people's development as young people cannot be expected to conduct themselves in the same manner as adults in these forums. In relation to the mediating role of online hearings, one study of criminal bail hearings<sup>80</sup> conducted over video found that those who were online defendants had substantially higher bond amounts set than their in-person counterparts, with increases ranging from 54-90%, offence depending. Also, remote technology impacts young people who do not speak the same language or have limited proficiency. Virtual appearance is also very difficult for the deaf or hard of hearing, and those who have a visual impairment. It is a mixed picture: children's lack of access to digital devices and internet resulted in many children not accessing their education, and a concerning number of children have subsequently not returned to education. Increased use of online communication has benefited many families with a parent or child in detention.

*Seeing that I live in a rural community where it is hard to access internet. It is a challenge to learn online*  
Girl, age 17, Zambia<sup>81</sup>

## How to respond:

In the first instance, any shift in the delivery of services to online should address digital exclusion where children and families need to access adequate support in the form of equipment, internet, electricity and skills support. Where rurality, and digital access and equipment compound these barriers, special attention should be given to these children to close the gaps. Digital exclusion in justice systems should be addressed given that access to online environments can be a gateway to fulfilling multiple child rights. However, online communication should not replace the direct and physical contact, for example with family visits to a child deprived of their liberty; we must not underestimate the importance to children of physical contact. In addition, the monitoring, inspection and access to complaints mechanisms is absolutely vital for all aspects of the system and particularly for children deprived of liberty, these cannot easily be done at a distance.

Adjustments to online court proceedings that involve children need to ensure a fair trial, and remain in the best interest of the child, with a child centred, child rights approach. This means understanding the distinct nature of children, for example: children do not experience the virtual environment in the same way as adults. They may lack focus and understanding when participating in a virtual hearing. Children may not be able to navigate the intricacies of virtual platforms that they do not readily use on a daily basis; beware of misplaced assumptions of children's digital literacy. Concerns about privacy and participation rights in online hearings need to inform the best application of technologies, and for whom, in the digital transformations ahead.

The judiciary tried to innovate and find quick solutions, but it is now necessary to consider several fundamental issues to guarantee equal access to justice for all children. Create child-centred procedural safeguards by developing specific standards and norms regulating the use of remote technology in justice proceedings. Ensure that digital tools are at the service of children rather than the system, helping to avoid children's detention, criminal records, and stigmatization, strengthening the holistic reintegration of the child into the society and safeguarding against a dehumanising of the justice system for children. Equip countries with the necessary tools to mitigate potential risks for children related to this technology and adapt the safeguarding measures to support children to participate effectively and appropriately in their own court proceeding. This includes establishing alternative channels of communication for children to access their lawyers during the hearing; providing intermediaries to help navigate through difficult technical processes; ensure data protection, and privacy; ensuring safe environments while attending a remote hearing; adopting a hybrid approach, where remote hearing and in person hearing can be used intentionally with a child-centred purpose in different aspects of the court proceedings.

**Responding to COVID-19 public health restrictions, some countries provided protection for children against the virus by having court proceedings conducted mainly in person, as before the pandemic, but with additional health protections in place. For example, the Netherlands', in their approach to safeguarding a child's right to a fair trial, preserved the in-person presence of the child during court hearings by providing physical protection (i.e. transparent plastic walls) to protect against COVID-19 transmission.<sup>82</sup>**



## Access to Justice

Call to Act 3: Promote justice systems that guarantee equal access, benefit, protection and support to children.

Focus: Access to justice: Institutions' accountability to children through access to justice<sup>83</sup>

### Where we were:

Pre-pandemic, steady progress was being made to improve children's interactions with justice services. Some significant improvements were emerging in relation to children's participation within justice systems, alongside initiatives to empower children,<sup>84</sup> to develop child-sensitive professionals<sup>85</sup> and to implement systems changes to the justice system globally.<sup>86</sup>

Marginalised groups of people, including children, experienced the greatest difficulties in accessing public services, which form 19% of the justice problems people encounter.<sup>87</sup> Despite these challenges, successful public services interventions for children included those that have aimed to: end violence against children; create child-friendly systems of complaint, remedy and redress; critically apply a gendered lens to child-centred justice; and consider the rights and needs of children on the move or seeking asylum.<sup>88</sup>

Significant challenges remained.<sup>89</sup> Justice services were not consistently meeting the needs of those they serve.<sup>90</sup> Many children did not have proper access to child-friendly justice- and related- systems and faced long procedures. Low awareness of children's human rights remains prevalent, among both children and their communities,<sup>91</sup> hindering children's rights to information and participation. This has meant that children often misunderstood justice processes and were not able to access their rights.<sup>92,93</sup>

### What's changed:

COVID-19 has significantly obstructed some children's access to justice, with systems unable to deal with backlogs due to the impact of restrictions, court delays<sup>94</sup> and, in some instances, justice resources being diverted to other essential services.<sup>95</sup> Justice and legal services were not recognized as 'essential' services from the outset of COVID-19.<sup>96</sup> The limited availability of evidence on informal justice systems is also more apparent during this crisis, with heightened concerns about children's procedural rights, including the right to be heard.<sup>97,98</sup>

The exacerbation of socio-economic disadvantage and sharp increases in levels of poverty during the pandemic has also significantly risked children's substantive rights, particularly the rights to health, food, housing and schooling.<sup>99,100</sup> Those facing the greatest disadvantage are those most at risk of not having their rights met, both substantively and procedurally, in this crisis.<sup>101</sup> These children are more likely to have interactions with justice systems.<sup>102</sup>

*When we asked children and young people about the most important challenges that they experienced in the justice system, a recurrent theme identified by the children and young people was the very poor level of legal information that was provided to them but also to the community in general. They told us that they felt that there was not enough, or no information shared with them about their situation. [...] They often shared feelings of confusion, insecurity, and thought that their voices did not count. They felt unprepared when entering sessions with justice professionals. Many children said that no information had been provided to them about what the interview would be about and no proper psychosocial support was available before or after the session.<sup>103</sup>*

### What it means:

Children continue to be widely perceived as not being legitimate stakeholders in the processes which impact their rights, reinforcing narratives that justice services are something that children believe are ‘done to’ them.<sup>104</sup> This notion of children as passive beneficiaries of services can reinforce their sense of alienation and perpetuate a downward spiral of exclusion.

The systematic lack of mechanisms for institutions’ accountability to children in general, and in justice services more specifically, enables a culture in which not engaging or consulting children is the norm. Where justice systems are largely unresponsive to children and lack accessible routes to child-friendly justice mechanisms,<sup>105</sup> there is a lack of effective complaints mechanisms for children, both formal and informal. While the Optional Protocol to the CRC on a Communication Procedure<sup>106</sup> exists at an international level for children in ratifying countries, relying on international systems to enable access to justice risks further alienating children’s access and understanding of justice, as high-level, international justice mechanisms inherently lack a local lens, best found in children’s own cultures and communities.

### How to respond:

Institutions must continually question and measure their accountability to children and their adherence to good practice principles for engaging with children.<sup>107</sup> These practices affirm children’s agency, facilitate a culture of regularly engaging and consulting children, and form a key component of ensuring children’s access to justice. Enabling a continuum of accountability, from meaningful engagement in the moment-to-moment interactions between professionals and children, through to child-friendly proceedings, professionals, and complaint and remedy routes, can improve the likelihood that from the first instance, children’s human rights will not be breached, and if they are, children can access justice. Where there are justice proceedings involving children, embedding a child-friendly justice culture improves children’s experiences with justice systems, develops institutions which are responsive to children and their rights, and leads to recourse and remedy which is supportive of children’s rights, needs and voices. Together, these improvements help to combat the historic power imbalances in children’s experiences.

Child-friendly justice mechanisms are those which meet the distinct needs of children and prioritise their human rights in a manner which is accessible, available and appropriate. Recommendations to support institutions’ accountability to children include:

- Ensuring a culture of engagement that respects children’s voice and agency is necessary.
- Enacting specific procedures and protocols which are designed for children with an ‘alert’ system within the judiciary if children are, in any means, affected by a judicial proceeding.
- Adopting child-friendly complaints mechanisms to access justice effectively.
- Eliminating all forms of bribery and corruption throughout public institutions, as corruption undermines children’s pathways to justice.<sup>108</sup>
- ‘Invest[ing] in legal rights awareness for children in justice and welfare systems, particularly over-represented groups so that every child knows and can claim his or her rights’.<sup>109</sup>
- Creating resources to communicate and inform the impact of the pandemic on children and justice systems in a user-friendly manner, to raise awareness and human rights literacy among both children and those working in institutions of justice.

*The Maltese justice system made substantial progress towards the development of more child friendly measures. Much of the preparatory work was done during the COVID-19 pandemic, primarily because there was more time for the judiciary to meet with the professionals.*<sup>110</sup>

# Violence

## Call to Act 5: Prevent all forms of violence against children<sup>111</sup>

### Where we were:

Half of the world's children were victims of violence each year.<sup>112</sup> Around three-quarters of the world's children, 1.7 billion, experienced some form of violence in a previous year,<sup>113114</sup> whether they lived in low, middle or high-income countries. It was estimated that up to 1 billion children aged 2-17 years have experienced physical, sexual, or emotional violence or neglect in the previous year. Two in every five modern slaves were children.<sup>115</sup> However, violence against children is vastly under-reported and often met with a fragmented response or inaction.<sup>116</sup> When left unprotected, children are highly vulnerable to exploitation, abuse, and neglect. The covert nature of violence against children in the home makes detection more difficult and underlines the importance of asking children, as well as bystander vigilance and interventions. But violence against children is preventable, and not inevitable.

### What's changed:

With COVID-19, children's risks of harm have *intensified*, and an increasing *number* of children have been impacted.<sup>117</sup> "There's more violence, but we see less of it."<sup>118</sup> The reduced support to children and their families due to COVID-19 has been most worrying where children have acute needs as a result of child protection concerns and in access to justice and justice service provision. Disruptions to services have been matched by an increase in violence, domestic abuse, online exploitation<sup>119120</sup> and sexual exploitation.<sup>121</sup> The danger is that children are not getting the protection they need at a time when they might have greater need than ever. It is known that crises increase children's risk to neglect and exploitation and other types of harm<sup>122</sup> such as violence at home, institutional or structural violence, and risky survival activities.<sup>123</sup> This means that some children will have had negative, abusive and damaging experiences since the pandemic began. Children in migration already faced considerable challenges and faced additional barriers to the services they needed.<sup>124</sup> Children who are living in alternative care settings due to violence during COVID-19 may have experienced disrupted contact with their birth families, restrictions in use of services, a lack of placements and challenges in meeting the particular care needs of children.<sup>125</sup>

*Father stays at home and every time he beats us for some reason or the other. No one in the family has any work. When there is food shortage, we all including my mother gets bitten by my father.*

Boy, age 12, India<sup>126</sup>

### What it means:

Violence against children can negatively affect cognitive development, particularly at an early age when experience of violence can impair brain development and damage other parts of the nervous system. Moreover, children exposed to violence and other adversities are substantially more likely to smoke, misuse alcohol and drugs, and engage in high-risk sexual behaviour and also have higher rates of anxiety, depression, other mental health problems and suicide. Physical and structural violence has affected millions of children, with many children in detention deprived of their childhood and future.<sup>127</sup> It has been estimated that violence against children, including homicide, child abuse, and child sexual abuse, cost an estimated US\$3.7 trillion or 4.3% of global GDP.<sup>128</sup>

Children have a right to child-friendly justice mechanisms in civil and administrative proceedings such as those relating to childcare. They have the right to hold the perpetrator to account in criminal proceedings in order to experience justice, regardless of who the perpetrator of the violence is, including parents, teachers, government representatives, and peers. Many children who come into contact with the law as alleged offenders are also victims of other crimes, for example, a trafficked child who is forced to steal.

Access to justice for children who are victims of violence or other crimes is more complicated because children, especially the youngest, may not understand their rights. They find the justice system confusing, intimidating and frightening. Often, they depend on support from adults who may not be able to navigate the system themselves. The parent or carer may themselves be the initiator of the injustice against the child, especially in cases of violence against children—which means they have a very direct incentive to inhibit or indeed prevent the child’s access to justice.

#### How to respond:

Implement programmes which prevent violence, with a focus on children and including early interventions and support to families; community and school-based interventions; and addressing the causes of anti-social and criminal behaviour. Invest in child-friendly and gender sensitive violence prevention and protection services, including justice as an integral part of these services.

Establish legislative and policy measures which ensure children have equal protection from violence under the law, including corporal punishment,<sup>129</sup> as well as adherence to basic human rights principles regarding relevant criminal and civil proceedings.

Implement the comprehensive, evidence-based strategies outlined in INSPIRE,<sup>130</sup> an evidence-based set of 7 key strategies that offers a comprehensive set of approaches to prevent violence against children.

Ensure all professionals and other people who come into contact with children have the knowledge and skills to respond to a child’s needs. Make child-friendly materials available, explaining the rights that children have and the functioning of the justice system. Ensure it includes the roles and responsibilities of professionals and participants, as well as ways to obtain reparation from the offender and state as appropriate, access to essential services, and the availability of protective measures, if required.

Ensure judicial hearings are held behind closed doors without access for the media. Support children to contribute and make their views known, in line with Article 12 of the CRC. Provide legal representation in their own names (especially where there is a conflict of interest between child and parents or caregivers).

Be careful not to presume children’s testimony to be invalid or untrustworthy on account of their age. In all proceedings, treat children with respect for their age, their special needs, their maturity and level of understanding, bearing in mind any communication needs they may have.

Deal with cases involving children in non-intimidating and child-sensitive settings. During the process, allow a support person to accompany the child victim throughout court proceedings to provide emotional support and help reduce the harmful impact of a court appearance.<sup>131</sup>

*The Croatian Ministry of the Interior forwarded instructions to all organizational units regarding the prompt action of police officers regarding reports or knowledge of current exposure of children, women or other relatives to domestic violence, or physical violence, sexual abuse, or other threatening behaviour. Particular attention was paid to the importance of thoroughly checking reports of exposure to violence, taking measures to protect the victim, assessing the risk of re and/or further victimization of the victim and informing victim of his rights, and prosecuting the perpetrator.<sup>132</sup>*

## Detention

Call to Act 7: Eliminate arbitrary and unlawful detention and restrict the deprivation of children's liberty to exceptional circumstances<sup>133</sup>

### Where we were:

Alternative measures had been promoted and adopted which affirmed diversion over detention for children in conflict with the law, with detention increasingly accepted as the absolute last resort, for the least amount of time.<sup>134</sup><sup>135</sup> This was important, because children are traumatised when incarcerated; they experience feelings of powerlessness, loneliness, fear, and uncertainty on a daily basis when they are detained. Experiences of incarceration further propels children in the criminal justice systems. Children deprived of liberty are likely to have physical and mental health concerns<sup>136</sup> and may have experiences of abuse and neglect.<sup>137</sup> Immigration detention is prohibited under international law and considered to not be in the best interest of the child in any circumstances.<sup>138</sup>

### What's changed:

COVID-19 is stressful for all children; this is especially true for those who are incarcerated in the context of administration of justice.<sup>139</sup> They are less able to rely on support networks to give them the security and confidence to cope. These supports are even more important during times of stress and crisis, as it is common for children to seek even more attachment and emotional support. For these children, facing this pandemic in a detention setting can cause extreme distress and can create relapses or the worsening of already existing mental health conditions. There are reports of increased violent incidents within detention centres during COVID-19; that, with a reduced presence of NGOs, raises serious concerns<sup>140</sup> about children's support and protection. Legal delays and postponements have had a detrimental impact on children. Limitations have been placed on visits due to COVID-19: youth detention centres are limiting or refusing visitors – including lawyers, suspending physical family visitation, and cancelling educational activities and other appointments that provide the children with regular support (i.e., social workers and health staff, including mental health specialists).<sup>141</sup> Many detention centres are already understaffed to begin with, and this development only increases the unavailability of adequate social and health services.<sup>142</sup><sup>143</sup>

In some welcome initiatives,<sup>144</sup> more than half of countries<sup>145</sup> released more than 45,000 children from detention<sup>146</sup><sup>147</sup> during COVID-19, and alternatives to detention have increased, including diversion and mediation.

*In Brazil, UNICEF collaborated with key justice sector agencies and initiated several actions, namely the production of social media cards and distribution to families of adolescents in conflict with the law to raise-awareness about their basic rights and allow them to stay in touch with their family members.*<sup>148</sup>

### What it means:

The use of alternatives to detention and the releasing of children from detention have demonstrated that wide-scale application of alternatives to detention is possible.<sup>149</sup>

Those children who have not yet been released from detention are spending long hours per day alone, isolated due to staff shortages and COVID-19 movement restrictions. In some cases, this meets the international threshold for torture.<sup>150</sup> Those children not released are also spending more time than necessary deprived of their liberty due to COVID-19-related legal delays. This may have long-term consequences for the mental health and well-being of children, and their ability to reintegrate into their homes and communities.

Their distress is exacerbated by the additional limitations placed on parental and guardian visits and other pre-existing psychological support. Those who were detained, or released into greater or different situations of risk, may be at increased risk of COVID-19 or other diseases due to crowding, pandemic restrictions and limited access to the services they need.<sup>151</sup>

*I was suffocated inside the prison, more than ever. I could not even talk to the others. My world inside was already dull, but when the COVID-19 arrived it turned total darkness. I was left completely alone. I still cannot believe that they managed to get me out of here.*

Boy, age 13, Afghanistan<sup>152</sup>

### How to respond:<sup>153</sup>

COVID-19 has shown us that where there is political will to release children from detention, it can be done. There should be access to judicial protection with safe and carefully managed release of children from detention including good post-release reintegration support, with a swift end to children being deprived of their liberty unlawfully and arbitrarily. State-led approaches are critical to end the detention of children, to address the complex circumstances and adversities of children during COVID-19 as well as to continue to make the reforms that are needed.<sup>154</sup> And so, diversion from the justice system should be the norm, with prevention prioritised. Legal reforms, for example to the minimum age of criminal responsibility and the use of non-custodial measures, will enable the systems reforms to sustain these changes.

Where children cannot be released – and this would be a very small number of children at most – inhumane and degrading treatment and conditions must be eliminated. Support and safeguards, free access to legal aid and representatives are needed, as well as alternative arrangements which should be put in place for them to access outside contacts.<sup>155</sup> Children, especially those with experience of the criminal justice system, should be involved in identifying problems and solutions.

*In Iraq, through a programme implemented by the Terre des Hommes foundation, some 1,500 children and youth deprived of liberty received health and hygiene products to combat the spread of COVID-19 across nine juvenile custodial settings in Baghdad, Kirkuk, and Tikrit provinces in addition to 62 children benefitting from an emergency release.<sup>156</sup>*

## Participation

**Call to Act 8: Promote and ensure the empowerment and participation of children in all decisions that affect their lives<sup>157</sup>**

### Where we were:

Before the start of the pandemic, children (under 18 years-olds) and young people (18- to 30-year-olds) were increasingly active in advocating for different priorities set out in the SDGs, and particularly those around SDG 16.<sup>158</sup> From climate action to anti-racism and gender equality, younger generations were very visible and vocal in mobilising around the values of a just future grounded in sustainability and equity, calling on older generations to honour the promises that were set out in the SDGs.

### What's changed:

It has become more difficult to find ways to listen to children during the pandemic and ensure that their views and experiences meaningfully inform COVID-19 responses. Many children have not been in school, nor been able to participate in their usual activities or communities, without the day-to-day support of their peers. Often the online tools that have been available to access learning, support services and friends have not been equally accessible to all children due to a lack of technology, broadband connectivity and skills. Children's agency and contributions are rarely sought by political leaders. Governments' responses to the public health crisis have fallen short of fully respecting and fulfilling children's rights.<sup>159</sup>

### What it means:

Crucially, this reduced participation has affected many children's ability to seek remedy, redress or representation. It has disconnected them from their peers and opportunities to collectively advocate. All these losses have meant that children have become more invisible and gone unheard throughout the pandemic. Their agency to influence COVID-19 recovery and response has been undercut.

*They have to feel, speak, think and hear like a child to take the right decisions for children... In order to protect our rights, our voices have to be heard and taken seriously. Make our voice your choice.*

Girl, age 17, Pakistan<sup>160</sup>

### How to respond:

Building more coherent and inclusive justice systems *for* children begins with building a foundation of new types of partnerships *with* children and young people. Listen to young people to learn about their views and experiences. Engage children and young people in whatever innovative and flexible ways we can as part of rebuilding our communities.

*Take young people's opinion into consideration, because they are also a part of the community and they should have the right to express themselves.*

Boy, age 17, Lebanon<sup>161</sup>

Deciding which children are engaged, and how, is critical: this engagement will need to counter exclusion and discrimination to be inclusive of all children's perspectives, and particularly those who are most marginalised. This includes children deprived of liberty in detention, children in contact with the law, and children who have witnessed or have been affected by other children or loved ones coming into contact with the law. Those most disadvantaged, such as those living in extreme poverty, or those least educated, for example, are among those

least likely to make their voice heard or be able to articulate their insights and ideas.<sup>162</sup> Overcoming discriminatory social norms and bridging the digital divide are real participatory challenges that we need to conquer.<sup>163</sup>

*A country is not only made up of adults, we children exist and should be heard as well.*

Girl, age 14, Costa Rica<sup>164</sup>

There is an urgent need to shift the paradigm from child *participation* in justice sector reform, to *partnerships* with children in order to improve access to justice. Meaningful partnerships with children are built on foundational principles of trust, diversity and cultural sensitivity, equal partnership and relationship-building, and recognise children's agency.<sup>165</sup> Partnerships with adults, children and young people may also utilise a multitude of approaches to ensure those foundational principles are upheld, including: capacity building and mutual exchange, peer-to-peer support, fun and creative play-based approaches, and positive reinforcement and comprehensive feedback.<sup>166</sup> Leaders can foster an enabling environment for children to participate meaningfully as agents of change and to claim their rights. Children's knowledge, views and experiences are central to making sure we prioritise the right next steps for a whole of society recovery.

*...children, right across the world, felt that their governments were not considering children as a priority and were definitely not seeking their views when crucial policy responses to the pandemic were formulated and implemented... governments and public bodies should have sought children's views – not just because they were under an obligation to do so – but because such engagement, now and in crises to come, provides an early warning system that enables decision-makers to mitigate some of the adverse consequences of their responses for children and their rights.*

#COVIDUnder19 report, p. 10



## Part 3: Agenda for Action: Levers for change to achieve justice for children

Four levers for change are core achieving justice for children—an essential component of achieving justice for all. Building on the *Justice for All* Levers of Justice Reform, and drawing on the learning so far from, and in relation to, children during COVID-19, these levers include:

- Building new types of partnerships  
*Focus on inclusive intergenerational partnerships*
- Developing strategies for smarter financing  
*Focus on the case to shift investment to children's inclusion and well-being, and the political support for prevention, to secure justice for children*
- Using data and evidence to steer reform  
*Focus on disaggregated data, child friendly methodologies and child-centred view to drive change*
- Scaling up justice innovations  
*Focus on both imagination and safeguards for digital justice tools involving children*

## Lever: ‘Build new types of partnerships’

Focus: Inclusive intergenerational partnerships

Intergenerational engagement is emerging as one of the defining trends of the post-pandemic world. Participatory initiatives such as *Our Future Agenda*,<sup>167</sup> #CovidUnder19,<sup>168</sup> UN Youth,<sup>169</sup> the Young Justice Leaders<sup>170</sup> and the World Congress on Justice with Children<sup>171</sup> are demonstrating how children and young people can play meaningful roles in informing policies and standards. In March 2022, the UN Special Representative of the Secretary General on Violence Against Children (SRSGVAC) and civil society partners organised a landmark briefing to children at the Human Rights Council to demonstrate what accountability to children can look like.<sup>172</sup> Important learning can be leveraged from these experiences to further drive systemic change which supports children’s right to participation in decisions which affect their lives.

**Building more coherent and inclusive justice systems for children starts with building the foundation of new partnerships with children and young people.** Developing partnerships with children and young people should be based on the extensive body of evidence which outlines the justice problems children face (see Part 1), with special recognition of children’s multiple identities and lived experiences. While implementing provisions for children in contact with justice systems is still of critical importance, lessons from the pandemic suggest that ensuring the systematic and meaningful participation of children and young people needs to be mainstreamed across all areas of access to justice work to implement systemic change.<sup>173174</sup>

**We must shift the paradigm from child participation in justice sector reform, to partnerships with children to improve access to justice.** These partnerships recognise children’s agency, systematically invites children’s views, and maintains open channels for participation, engagement and feedback.<sup>175</sup> It is critical to reinforce child and youth participation as important ‘new partnerships’ that are essential for achieving justice for all, in order to develop policy guidance which affirms children’s rights individually<sup>176</sup> and supports government policy and practice.<sup>177</sup>

### Actions to build these intergenerational partnerships:

- Respecting and promoting children’s right to be heard as a critical driver of the justice for all agenda, through supporting intergenerational exchanges.<sup>178</sup> This especially must include those children whose rights are most at risk. Prioritising engagement with *these* children fulfils the UN Agenda 2030<sup>179</sup> pledge by all governments to “address the furthest behind first”.
- Investing in systematic feedback loops between policy-makers, systems leaders, frontline providers of child-focused services. This includes both social and justice systems, and the children that they serve, in order to secure and promote accountability in services, and reflect effective practice that begins with children’s lived realities.
- Upholding the participation rights of children in contact with justice systems. This means ensuring justice systems and practices, both formal and informal, are inclusive, accessible and empower children, and support complaints mechanisms that are made accessible to children, including through recruiting, coaching and training child-friendly professionals. Enabling a continuum of accountability at all levels improves the likelihood that from the first instance, children’s human rights will not be breached, and children can access justice when they are.
- Ensuring legal assistance and representation is child-friendly, age-appropriate and available to all children. Facilitating active and meaningful roles in justice reform for children, particularly those who have been in contact with prevention and justice systems.
- Reinforcing accountability<sup>180</sup> to children in a two-pronged manner: through *more responsive governance* to children who are expressing their views; and more responsive, *child-friendly access to justice processes*. This includes: systematically embedding children’s experiences, feedback and voices into justice systems at a structural level;<sup>181</sup> and ensuring that each children’s views are taken into account in decisions that affect their lives.

## Lever: ‘Develop strategies for smarter financing’

Focus: The case to shift investment to children’s inclusion and well-being, and the political support for prevention, to secure justice for children

**Shifting investment to what works to support children’s inclusion and well-being is a cornerstone of achieving justice for children.**<sup>182</sup> There is global growing recognition of the power of investing in prevention<sup>183</sup><sup>184</sup> and in the strength of smarter financing strategies that direct resources towards what works.<sup>185</sup> This is all the more critical given that current realities of tightening expenditures and restricting investment in public services disproportionately impact children.<sup>186</sup> In planning longer term through COVID-19, more than 100 countries face spending cuts which are likely only to exacerbate inequality.<sup>187</sup> This is in direct contrast with children’s increased needs and vulnerabilities emerging through COVID-19, where “children urgently need access to sustainably financed social protection systems.”<sup>188</sup>

“Smarter finance creates incentives for reform.”<sup>189</sup> *Indirect* support for children – such as promoting decent work for the adults in their families – and *direct* support targeted at children themselves are both crucial.

**Highlighting returns to investment in justice for children generates stronger political support for smarter financing.**<sup>190</sup> At this critical moment, where the well-being of children and their future opportunities are fragile and uncertain, making an economic and financial case for their prioritisation is crucial.

**Smarter financing takes into account children’s lives now as well as their future adulthood.** Importantly, returns accrue *both* directly to children as they benefit from leading lives to their full potential in a just society, *and* indirectly from the net benefits that accrue to the wider community and nation - generated from the greater contribution made by children to society and the lower costs that they might impose as adults. Reductions in service provision due to the reduced demands on society of the child across their lifespan results in cost savings for society where states manage the impact of injustices and improve access to justice.

**Child well-being underpins the whole breadth of national objectives**, including objectives that do not explicitly name children. National strategies on inclusive growth and addressing societal inequalities are both dependent on advancing child well-being and play a key role in its promotion.<sup>191</sup><sup>192</sup> In stark contrast, neglecting the pivotal role of child well-being in catalysing progress towards national strategic priorities will undermine the delivery of many national objectives. It will also undermine efforts to achieve justice for children, and so too, justice for all.

**Prioritising children is an increasingly prevalent objective in national strategies.**<sup>193</sup> Sustained and sustainable political commitment to child well-being and family inclusion is growing. Many government and civil society actors may not see their direct role in child well-being and access to justice, yet they play a critical role in enhancing children’s well-being.<sup>194</sup>

**Incorporating an effective *whole-of-government* approach should be a top priority;** this approach embraces all the ministries of government and public sector bodies that can enhance child well-being and works in close partnership with civil society to create a *whole-of-nation approach*.<sup>195</sup> The drive to accelerate progress towards the desired outcomes and forms of child well-being, and to markedly increase the quality and impact of the interventions, should be paramount.

**Whole-of-government and whole-of-nation approaches needs to be sustained by the best analysis.**<sup>196</sup> National strategies, budgetary planning, and specific programmes to advance the well-being of children need to be underpinned by evidence and analysis to enable smarter financing that is focused on prevention. Analysis should demonstrate the economic and social value, and the high rates of return of investing in the well-being of children. Short and longer-term time horizons are essential to assess *direct* and *indirect* investment benefits both to the child and to broader society.<sup>197</sup> The annual budget, together with the medium-term budgetary plans of governments, are central to defining this commitment. Building the supportive case for investment in children – and demonstrating the pivotal role of children and their families in national prosperity – must lie at the heart of budgeting processes.

### Actions for smarter financing of justice for children:

- Building an economic and financial case for investing in justice for children to support smarter financing in the pandemic recovery for the breadth of national prosperity. This means ensuring that there is an understanding of the benefits and savings to wider society of investing in justice for children as well as the direct benefits to the child well into adulthood.
- Securing evidence and data to inform budgetary decisions.
- Supporting a shift to justice as a preventative measure. Investing in preventative measures to reduce the numbers of children in situations of adversity. Placing priority on prevention budgeting. These includes the economic and social dimensions that enable the prevention of sharp regressions in child well-being and produce wide social, economic and environmental benefits.
- Encouraging stronger political commitment through global engagement, generated through influence and leading by example through policies that set the national bar higher.
- Supporting key decision-makers in national leadership positions to include justice for children in their wider strategy to achieve justice for all.
- Making children's well-being a collective cabinet responsibility, with one key minister assuming the coordinating role to ensure operational effectiveness and delivery, together with clear and precise responsibilities amongst all delivery partners.<sup>198,199</sup>

## Lever: ‘Use evidence and data to steer reform’

Focus: Disaggregated evidence and data, and child friendly methodologies must drive change

**Evidence is integral to ensuring justice for children** because it helps keep reforms on track by directing continuous improvements of effective policy interventions and action. Data informs this evidence.

**Yet the pandemic reconfirmed the evidence and data gap about children and their experiences of justice problems.** The uncertain estimates of numbers of children facing deprivation of liberty<sup>200</sup> or who are living in alternative care<sup>201202</sup> perpetuates children’s invisibility and reinforces adults’ inaction. There is limited data about what has been happening when children are afforded alternatives to detention for example, in the emergency release of children from detention that happened during the pandemic.<sup>203</sup> Little follow-up thus far has been undertaken to understand what was happening to children and how their reintegration was taking place.<sup>204</sup>

**Age disaggregated evidence and data are essential.** Only an evidence and data framework that has a focus on children will enable tracking progress toward the national vision to advance justice for children; available justice data often does not give the information justice leaders, policymakers and funders need to drive change.<sup>205</sup> The Agenda 2030 commitment to *leave no one behind* means that children need to be specifically included and identified in quantitative *and* qualitative evidence and data gathering to improve justice for all, and the commitment to address the *furthest behind first* needs a clear focus on the *most* disadvantaged and *least* visible and *most* at risk.<sup>206</sup> These are the children whose rights are most at risk.

**Those on the margins of society – overwhelmingly the position of children – are virtually invisible in the creation and operation of justice systems.** Quantitative data should be disaggregated by age to include under 18-year-olds<sup>207</sup> where possible. In cases where datasets do not include this age group, explicit efforts should be made to identify alternative data sources that could provide proxy measures that enable children as a demographic to be considered in the analysis.

**Structural injustices that children face cannot be understood without evidence and data that take into account the intersectionality of their experiences.** For example, understanding children’s family’s income, ethnicity, disability and rurality can inform more sharply focused and more effective policies and programmes.

**Quantitative data is not sufficient to measure the justice gap for children.** Children and young people are heavily reliant on justice systems to protect and promote their rights, yet legal needs and victimization surveys are generally not designed to capture their justice distinct needs, and other evidence suggests they face an even wider justice gap than adults.<sup>208</sup> The justice gap needs to be measured in a way that consistently ensures a focus on children and ensures that justice systems and services meet international human rights standards.

**Child-friendly methodologies will drive progress with nuanced, relevant and ethical insights.** Evidence and data collection about justice needs must be made more inclusive through systematically seeking to integrate children. High quality and statistically robust quantitative and qualitative evidence and data are both essential to understand and inform initiatives. In quantitative data gathering, particular care should be taken to ensure that any methodology used to collect data from children, particularly those in vulnerable situations, does no harm and complies with the highest ethical standards in research.<sup>209</sup> Qualitative methodologies may additionally offer a more profound exploration of power relations and children’s experiences of justice problems.

**People-centred justice evidence and data should inform effective solutions.**<sup>210</sup> This needs to give value to children’s views and experiences. Involving those who produce, analyse, and use data in collection and monitoring, produces better evidence-based policies for child-centred systems.<sup>211</sup> Keeping hold of the learning, the innovations, and the progress that is being made for and with children under COVID-19 will help us to lock in the gains, to realise the global goals despite these many pressures ahead. In doing so, this will ensure children as the principal focus, as agents and as rights-holders, are regularly included to realise our collective end goal.

**Analyse the impact of justice systems in the lives of children, from a child-centred view.** Solutions will be limited if they remain solely focused on mitigative actions. In the medium-term, innovations that properly deliver on this vision of justice for children will invest in preventative responses to support families and communities, even more than previously. The greatest potential to realise the SDGs for children exists where these approaches effectively

address the circumstances and rights of those children and families who are most excluded, and most *left behind*. This means methodologies that accord care in the identification of the children involved; governments must draw on organisations with expertise and trusting relationships and find inspiring and creative ways to engage children<sup>212</sup> in the development of their strategies. Engaging with families and others *about* children will also be essential, but insufficient.<sup>213214</sup>

#### **Actions for evidence and data collection for justice for children:**

- Establishing an evidence and data framework, based on the national vision, for monitoring the targeted child outcomes and the impact of policy on the evolution towards these outcomes. Only then can progress be tracked and interventions enhanced towards the national vision for justice for children.<sup>215</sup>
- Promoting the use of age-disaggregated evidence and data in new and already-established justice needs surveys. Disaggregate this further by applying intersectional analyses that includes characteristics of children who are overrepresented in their contact with justice systems to better inform the focus for reform.
- Promoting the importance of reliable and ethically sourced evidence and data about children's experience of justice problems and tailored methodologies for obtaining these evidence and data.
- Supporting governments to improve the quality of reporting against SDG 16 indicators through Voluntary National Review processes, including evidence and data disaggregated for under-18-year-olds (where available) alongside robust qualitative data from participatory and inclusive consultations with children.

## Lever: ‘Scale up justice innovations’

Focus: Imagination and safeguards for digital justice tools with children

**Digital justice innovations look to be here to stay.** Digital tools for online communication and the use of technologies in legal proceedings burst onto the justice scene during COVID-19, with funding constraints further accelerating their use. This has enabled swift adaptations, and forms a strong learning platform for reflection, planning and embedding reforms.<sup>216</sup> This has also risked ushering in a potentially uncritical embracing of technology to solve problems. An increased reliance on technology will offer benefits but must not be adopted uncritically.

**Design people-centred digital justice tools that are transformational.** This is an opportunity to design digital tools that solve people’s justice problems. In their design and development, efforts must ensure that justice problems are not simply replicated through an online means.<sup>217</sup> Ensure that digital tools are at the service of children rather than the system, helping to avoid children’s detention, criminal records, and stigmatization, strengthening the holistic reintegration of the child into the society, and safeguarding against a dehumanising of the justice system for children.

**Include children in digital design.** The distinct nature of the challenges for children in contact with justice systems must be central to this transformational digital design. To take full advantage of the possibilities that digital tools can offer, children must be actively engaged in co-creation and problem solving, from the beginning point of defining the problem to be solved. This is necessary to ensure children’s interests—as victims, as defendants, as witnesses, as interested parties, or because intervention is required for their care and protection—are prioritised in the solutions.

**Develop child-centred procedural safeguards.** Mitigate the potential risks for children related to new technologies. Develop specific standards and norms regulating the use of remote technology in justice proceedings. Know the limits of useful technology: online communication should not replace direct and physical contact. Concerns about privacy and participation rights in online hearings need to inform the best application of technologies, and who it is for, in the digital transformations ahead.

**Imagine how digital tools can support institutions’ accountability to children and open new avenues to access justice.** How might digital systems be designed to enable greater participation of children, and in return increased accountability of institutions to children? Institutions that encourage a responsive culture where engaging children is the norm, and where complaints mechanisms for children ranging from informal to formal, can better be supported? Enabling a continuum of accountability, in child-friendly interactions between professionals and children, child-friendly proceedings, and effective complaint and remedy routes improve the likelihood that, in the first instance, children’s human rights will not be breached, and children can access justice when they are.

**Digital transformation should seek to reach the ‘furthest behind first’.**<sup>218</sup> Children’s lack of access to technology, digital devices and the internet resulted in increased isolation and limited access to education during COVID-19. A concerning number of children have subsequently not returned to education, and the lack of digital access leaves some children far behind their peers. Access to technology must be delivered for those facing the greatest adversity.

#### Actions for digital innovation that realise justice for children:

- Engaging children as stakeholders at the problem-identification and design phases of digital justice service design.
- Creating procedural safeguards by developing specific standards and norms regulating the use of remote technology in justice proceedings involving children.
- Equipping countries with the necessary tools to mitigate potential risks for children related to this technology.



## Achieving justice for children to secure SDG 16+

Placing children at the heart of a growing global movement for justice is essential to achieve justice for children and to securing the SDG 16+ ambition of achieving justice for all by 2030. COVID-19 and multidimensional crises continue to threaten progress toward achieving justice for all and exacerbate the justice gap for many children. This has led to increased frequency and intensity of the impact of injustice in many children's lives.

By building on our knowledge about **the common justice problems children face individually and structurally (Part 1)** and shining a light on **the initial impact of COVID-19 on children's lives (Part 2)**; we have looked at the emerging learning and innovative solutions to the challenges that have arisen from the ongoing multi-dimensional crises severely impacting children around the world. Through this lens, we have asked the question '*what must change to achieve people-centred justice for children?*'

Driven by the clear vision for the future of the Global Goals and based on this learning, the **Agenda for Action for Justice for Children to Achieve Justice for All (Part 3)** outlines the key strategic levers for change necessary for justice actors to achieve SDG 16.3 for children.

Activating the **strategic levers** means:

- **Responding better** – and distinctively for children and future generations — by building **new intergenerational partnerships** and clear **investment cases** built on adequate and disaggregated **data**.
- Enabling **a growing range of innovations** that solve the justice problems children face and close the justice gap.

The incentives are extraordinary: advancing children's justice prevents future problems by **reducing the need for mitigative responses**, and has a broader impact on society including **strengthening an increasingly fragile social contract**.

These are **game-changers** for countries as they shape their responses in the pandemic and beyond.

## Endnotes

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through individual consultation, feedback, shared references, and as critical friends, and endorsed by a range of partners.

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<sup>22</sup> **Inclusion:** Justice for Children Call to Act 1: *Guarantee the wellbeing and inclusion of all children*

**Equal access to justice:** Justice for Children Call to Act 2: *Promote justice systems, whether formal or legally plural, that guarantee equal access, benefit, protection and support to children*

**Prevention:** Justice for Children Call to Act 3: *Prevent unnecessary contact with the justice system and the criminalisation of children*

**Identity:** Justice for Children Call to Act 4: *Ensure the right to a legal identity for all children*

**Ending Violence:** Justice for Children Call to Act 5: *Prevent all forms of violence against children*

**Freedom of Association:** Justice for Children Call to Act 6: *Safeguard the rights of children who have been recruited, used by or associated with armed and criminal groups, or who have been accused of national security-related offenses*

**Ending Detention:** Justice for Children Call to Act 7: *Eliminate arbitrary and unlawful detention and restrict the deprivation of children's liberty to exceptional circumstances*

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- <sup>171</sup> See: World Congress on Justice with Children <https://justicewithchildren.org/online-2021/under-25s/>
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- <sup>176</sup> UNCRC Article 12 states: "1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. 2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law."
- <sup>177</sup> World Congress on Justice with Children Global Declaration – input from young people includes: "Children are given the freedom to share their opinions and have their views taken seriously; Children's capacities to make decisions about their own lives are recognised, and that they receive adequate support from adults" pg 4. <https://justicewithchildren.org/online-2021/global-declaration/>
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- <sup>179</sup> The Sustainable Development Goals are a universal call to action to end poverty, protect the planet and improve the lives and prospects of everyone, everywhere. The 17 Goals were adopted by all United Nations Member States in 2015, as part of the 2030 Agenda for Sustainable Development which set out a 15-year plan to achieve the Goals. <https://sdgs.un.org/2030agenda>
- <sup>180</sup> See: OECD (2022) *Child Friendly Justice Framework*. (In press)
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- <sup>183</sup> Special Representative to the UN Secretary-General on Violence Against Children (2022) *Children as part of the solution in ending violence* pg. 7 [https://violenceagainstchildren.un.org/sites/violenceagainstchildren.un.org/files/documents/child\\_friendly/srsg\\_child\\_friendly\\_report\\_hrc\\_english.pdf](https://violenceagainstchildren.un.org/sites/violenceagainstchildren.un.org/files/documents/child_friendly/srsg_child_friendly_report_hrc_english.pdf)

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