

# Justice for All

The Task Force  
on Justice

Final Report  
[www.justice.sdg16.plus](http://www.justice.sdg16.plus)



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# **Justice for All**

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The Task Force on Justice

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# The Task Force on Justice

The Task Force on Justice is an initiative of the Pathfinders for Peaceful, Just and Inclusive Societies – a multi-stakeholder partnership that brings together UN member states, international organizations, civil society, and the private sector to accelerate delivery of the Sustainable Development Goal (SDG) targets for peace, justice and inclusion.

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## Commissioned Reports

World Justice Project, "Measuring the Justice Gap: A People-Centered Assessment of Unmet Justice Needs Around the World" (Task Force on Justice, background paper, April 2019)

Marcus Manuel, Clare Manuel and Harsh Desai, *Universal access to basic justice: costing SDG 16.3 ODI Working Paper 554*. (London: Overseas Development Institute, 2019). Paper prepared for the Task Force on Justice

Trevor Farrow and Lisa Moore, "Costing the Justice Gap, Return on Investment for Justice Services Provided by Civil Society Organizations," (Task Force on Justice, background paper, 2019)

High-level Group on Justice for Women, *Justice for Women - High-level Group Report*. (New York: UN Women, IDLO, World Bank and Task Force on Justice, 2019)

Innovation Working Group, "Innovating justice: needed and possible," (Task Force on Justice, background paper, January 2019)

Transitional Justice Working Group, "Report on Transitional Justice and SDG16+," (Task Force on Justice, background paper, March 2019)

Stephen Golub, "Civil Society's Contributions to Justice: Vital, Effective and Under-valued, The Seeds of Change: Local Actions Contribute to Legal and Policy Reforms," and "Grassroots Justice: The Roles and Impact of Paralegals," (Task Force on Justice, working papers, 2019)

Center on International Cooperation, *Challenge paper: Justice as Prevention*. (Task Force on Justice, background paper, December 2018)

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Vivek Maru and Varun Gauri (eds), *Community Paralegals and the Pursuit of Justice*. (Cambridge: Cambridge University Press, 2018)

OECD, *Putting people in the centre: Equal access to justice services for economic and social well-being*. (Paris: OECD, 2019)

OECD and Open Society Justice Initiative, *Legal Needs Surveys and Access to Justice - launch copy*. (Paris and New York: OECD/OSF, 2019)

OECD and World Justice Project, "Building a Business Case for Access to Justice - An OECD White Paper in collaboration with the World Justice Project: Preliminary draft," 2019

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## Abbreviations

<b>CALDH</b>	Centre for Human Rights Legal Action
<b>CIC</b>	New York University Center on International Cooperation
<b>CRVS</b>	Civil Registration and Vital Statistics
<b>ECA region</b>	Europe and Central Asia region
<b>GDP</b>	Gross Domestic Product
<b>GLEN</b>	Global Legal Empowerment Network
<b>GPS</b>	Global Positioning System
<b>Hiil</b>	The Hague Institute for Innovation of Law
<b>HLPF</b>	The United Nations High-level Political Forum on Sustainable Development
<b>ILO</b>	International Labour Organization
<b>IMF</b>	International Monetary Fund
<b>JGWG</b>	The Justice Gap Working Group
<b>LGBTI+</b>	Lesbian, Gay, Bisexual, Transgender/Transsexual and Intersex people
<b>MDGs</b>	Millennium Development Goals
<b>NSOs</b>	National Statistics Offices
<b>NYU</b>	New York University
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>ODI</b>	Overseas Development Institute
<b>OSF</b>	Open Society Foundation
<b>OSJI</b>	Open Society Justice Initiative
<b>SDGs</b>	Sustainable Development Goals
<b>UN</b>	United Nations
<b>UNDP</b>	United Nations Development Programme
<b>UNODC</b>	United Nations Office on Drugs and Crime
<b>UNODC/INEGI</b>	United Nations Office on Drugs and Crime Center of Excellence in Statistical Information on Government, Crime, Victimization and Justice
<b>WHO</b>	World Health Organization
<b>WJP</b>	World Justice Project



## Definitions

<b>2030 Agenda</b>	The United Nations 2030 Agenda for Sustainable Development, launched in 2015.
<b>Alma-Ata declaration</b>	A major milestone of the 20th century in the field of public health, identifying primary healthcare as the key to the attainment of the goal of Health for All.
<b>Arab Spring</b>	A series of anti-government protests, uprisings, and armed rebellions that spread across the Middle East in late 2010.
<b>Basic justice services</b>	Local-level services that address people's everyday justice needs, through formal and informal mechanisms by a range of actors.
<b>High-Level Group on Justice for Women</b>	A group established as part of the workstreams of the Task Force on Justice, to focus on the justice gap for women, the case for investment, and what works to increase justice for women.
<b>High-level Political Forum on Sustainable Development</b>	The main United Nations platform on sustainable development, providing political leadership, guidance and recommendations. It meets annually in New York under the auspices of the Economic and Social Council and every four years under the auspices of the General Assembly. The forum reviews the implementation of the 2030 Agenda.
<b>Justice for All campaign</b>	A global campaign to ensure equal access to justice for all by 2030 by advocating for funding and protections for grassroots justice defenders.
<b>Justice gap</b>	The difference between the justice people want and need and the justice they receive. See chapter 1.
<b>Justice systems</b>	The legislative, institutional and organizational systems and actors that exist in society to resolve and prevent people's justice problems.
<b>#MeToo movement</b>	A movement against sexual harassment and sexual assault, formed in 2017 as a hashtag on social media.
<b>Paralegals</b>	Non-lawyers who have received training regarding aspects of the law and who assist others to make use of the law.
<b>Pro bono</b>	Free services provided by lawyers and law students for those who cannot otherwise afford them.
<b>SDG16.3</b>	Sustainable Development Goal 16.3: Promote the rule of law at the national and international levels and ensure equal access to justice for all.
<b>SDG16+</b>	SDG16 along with the 36 targets from other Sustainable Development Goals, that directly measure an aspect of peace, inclusion, or access to justice.
<b>SDGs</b>	The 17 Sustainable Development Goals are the United Nations' blueprint to achieve a better and more sustainable future for all. They address global challenges, including those related to poverty, inequality, climate, environmental degradation, prosperity, peace, and justice.
<b>SDG Summit</b>	The first UN summit on the SDGs since the adoption of the 2030 Agenda in September 2015. Presidents and Prime Ministers are asked to attend to "mobilize further actions to accelerate implementation." This event will be held in September 2019 as a High-level Political Forum held under the 74th Session of the General Assembly.
<b>South-South cooperation</b>	A broad framework for collaboration among countries of the South in the political, economic, social, cultural, environmental, and technical domains. Involving two or more developing countries, it can take place on a bilateral, regional, subregional or interregional basis.
<b>Task Force</b>	The Task Force on Justice, an initiative of the Pathfinders for Peaceful, Just and Inclusive Societies.

Unless stated otherwise, all monetary figures are stated in USD \$

# Foreword

The 2030 Agenda on Sustainable Development is based on a vision of “a just, equitable, tolerant, open and socially inclusive world in which the needs of the most vulnerable are met.” Through the agenda, all countries have made the commitment to build peaceful, just and inclusive societies that provide equal access to justice for all and that are based on respect for fundamental human rights.

As Martin Luther King told us, “injustice anywhere is a threat to justice everywhere.” Without justice, we cannot fulfil the promise of the 2030 Agenda to eradicate poverty in all its forms, tackle inequality and promote shared prosperity, and protect the planet from degradation. Justice underpins gender empowerment and helps us reach the furthest behind first.

This report is the result of a collective effort by the world’s justice partners to chart a path towards equal access to justice for all. Through the Task Force on Justice, we have worked together to gather data on the scale of the justice gap and the evidence needed to underpin implementation. We are committed to supporting accelerated action in all countries and to demonstrating measurable progress as, in 2020, we enter a new decade for the delivery of the Sustainable Development Goals.

We call on all countries and on partners from all sectors to join us in standing up for justice. We now must work together to prevent and resolve justice problems, while using justice systems to help people, communities, and societies fulfil their potential. Let’s unite to make the promise of justice for all a reality.

## The Task Force on Justice



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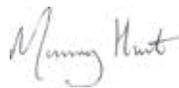


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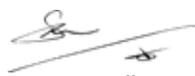
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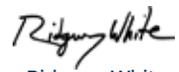
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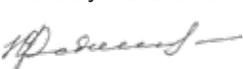
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# Overview

*from justice for the few  
to justice for all*



## Justice for All

At the heart of the 2030 Agenda for Sustainable Development lies a vision of a “just, equitable, tolerant, open and socially inclusive world in which the needs of the most vulnerable are met.”

Justice is a thread that runs through all 17 Sustainable Development Goals (SDGs). Without increased justice, the world will not be able to end poverty, reduce inequality, reach the furthest behind first, create conditions for shared and sustainable prosperity, or promote peace and inclusion.

SDG16.3 promises to ensure equal access to justice for all by 2030. Other justice-related targets cover legal identity, injustices such as corruption and illicit financial flows, and the promotion of rights and gender equality.

The Task Force on Justice – an initiative of the Pathfinders for Peaceful, Just and Inclusive Societies – has explored the delivery of these targets in a world where billions of people are not yet able to obtain justice.

Drawing on research by the world’s leading justice organizations and experts, this report provides a first estimate of the global justice gap. It makes the case for shifting from a model that provides justice only for the few, to one that delivers measurable improvements in justice for all.

In the past, justice reforms have often focused on institutions that are distant from people and fail to serve their needs. The Task Force proposes a different approach, putting people at the center of justice systems and justice at the heart of sustainable development.

A people-centered approach to justice starts with an understanding of people’s justice needs and designs solutions to respond to them. It is delivered by a justice system that is open and inclusive, and that works in collaboration with other sectors such as health, education, housing, and employment.

Closing the justice gap requires a transformation in ambition – a sustained effort to provide billions more people with access to justice.

To deliver justice for all, countries must resolve people’s justice problems, prevent injustices large and small from occurring, and create opportunities for people to participate fully in their societies and economies.

## The global justice gap

Until recently, a lack of justice data obscured the scale of the failure to meet people's justice needs, but more and better data has now become available. Legal needs, victimization, and specialist surveys now cover a growing number of countries.

The global justice gap has three dimensions:

- **At least 253 million people live in extreme conditions of injustice**  
Forty million people are modern slaves, 12 million are stateless, and over 200 million live in countries or communities where high levels of insecurity make it impossible for them to seek justice.
- **1.5 billion people have justice problems they cannot resolve**  
People in this group are victims of unreported violence or crime. Or they have a civil or administrative justice problem they cannot resolve, such as a dispute over land or the denial of a public service. Almost 60 percent of justice problems are currently unresolved.
- **4.5 billion people are excluded from the opportunities the law provides**  
Over 1 billion people lack legal identity. More than 2 billion are employed in the informal sector and the same number lack proof of housing or land tenure. This makes them vulnerable to abuse and exploitation and less able to access economic opportunities and public services.

In total, 5.1 billion people – two-thirds of the world's population – lack meaningful access to justice. While people in all countries are affected, the burden of this injustice is not randomly distributed among people.

The justice gap is both a reflection of structural inequalities and a contributor to these inequalities.

Women and children find it hardest to access justice. One billion children are victims of violence, for example. Half of women believe it is pointless to report a case of sexual harassment to the police.

Poor people, people with disabilities, and people from minority ethnic communities are among the vulnerable groups that find it hardest to access justice. Their experience of injustice increases the likelihood that they will continue to be left behind.



## The cost of injustice

In 2010, a 26-year old Tunisian fruit vendor named Mohamed Bouazizi set himself on fire outside a government building in protest at sustained harassment by the police. His death triggered protests that spread first through Tunisia and then across the Arab world.

Bouazizi's case involved justice problems related to documentation (he did not have a permit for his fruit stand, but it is still unclear whether he needed one), abusive justice actors, and an inability to air a grievance. For people like him, injustice leads to lost income and high levels of stress. People with a justice problem lose an average of one month's wages. Many become unemployed. Health impacts are also serious. Around a third of people with a justice problem are likely to experience a physical or mental health problem.

For societies, justice is often the missing link in national development strategies. Economies may perform strongly and health and education improve. But without justice, people will fail to reach their full potential and development will be precarious. By driving exclusion and fueling grievances, injustice also increases the risk of political instability and – as we saw in the period that followed the Arab Spring – violent conflict.

This failure to provide justice is costly.

- At a global level, conflict costs the world around \$2,000 per person each year, while countries may lose up to a fifth of their GDP when levels of non-conflict violence are very high.
- Just three types of impact resulting from justice problems – lost income, damaged health, and the cost of seeking redress – cost OECD countries between 0.5 and 3 percent of their annual GDP.
- Everyday justice problems cost more than 2 percent of GDP in the majority of low income countries for which we have data.

## The benefits of investing in justice

A growing body of evidence demonstrates that expenditure on people-centered justice can deliver a high return on investment.

Increased justice reduces the risk of conflict and instability. Every dollar invested in justice is likely to return at least \$16 in benefits from reduced conflict risk. In Guatemala, rebuilding the justice system to combat impunity and tackle corruption led to a 5 percent decline in homicide rates.

Tackling everyday justice problems also delivers benefits:

- Specialized courts such as drugs courts reduce reoffending, saving the criminal justice system thousands of dollars per case.
- Restorative justice approaches are highly cost-effective and result in higher satisfaction for victims and reduced offending.

- In England and Wales, the Citizens Advice service helps more than two million people each year with their justice problems. For every dollar invested, the service generates \$2.40 in savings for government and \$14.50 of wider social and economic benefits.

Using the law to release people's economic and social potential is highly cost-effective. Legal identity improves health outcomes while allowing governments to tailor services to those who need them, target cash transfers and other social protection programs more effectively, collect taxes, root out corruption, and evaluate the impacts of policies.

Programs that clarify and strengthen land rights prevent conflict and increase people's ability to participate in the economy. Tanzanian women quadruple their earnings when they live in a community that allows them land rights.

## **Financing justice for all**

How much would it cost to close the justice gap – to meet people's everyday justice needs in an accessible and affordable way?

To answer this question, this report presents the first estimate of the cost of providing universal access to basic justice. Health and education have long had such benchmarks for investment, and the methodology used draws from experiences in those sectors.

This estimate includes legal advice, legal empowerment in communities, formal justice institutions that play a frontline role in resolving conflicts and disputes, and alternative mechanisms to resolve these justice problems. Accountability mechanisms are also included.

In low-income countries, it would cost \$20 to provide each person with access to basic justice services. In middle-income countries, it would cost \$64 per person per year and in high-income countries \$190.

To put these numbers into context, providing universal primary and secondary education in low-income countries costs \$41 per person per year, while providing universal essential healthcare costs at least \$76.

High-income countries are comfortably able to afford this expenditure, but middle and low-income countries will find it more challenging. Overall, two billion people live in countries that cannot afford even half the cost of providing universal access to basic justice without threatening expenditure on other sectors.

To increase affordability, countries need better data on current resource allocation in order to shift expenditure away from ineffective approaches and target it instead on the most urgent justice needs.

Existing resources could be redirected towards lower-cost approaches with potential to deliver justice at scale, with legal empowerment and non-formal approaches relatively affordable in all countries.

Funding sources need to be diversified. Donor investment in justice has declined by 40 percent over the past four years. In fragile and conflict-affected states, only 1.5 percent of official development assistance is spent on justice. Philanthropists, impact investors, and private sector firms could all play a role in making justice for all more affordable by increasing their investment in people-centered approaches.

## **Solving justice problems**

Six areas account for most justice problems: violence and crime, disputes involving land, housing or neighbors, unresolved family disputes, problems related to money, debt or consumer issues, or those related to access to public services, and legal needs related to employment or businesses.

Each of these problems has structural equivalents – for example, when a community’s land is confiscated without compensation, where inheritance laws favor sons over daughters or wives, or where a minority is denied access to public services.

Justice seekers benefit from approaches that are tailored to each category of problem, but common themes emerge when they are asked how they want their problems solved. Victims of violence and people with legal disputes are often less interested in judgment and punishment than in being listened to and finding a resolution or remedy that allows them to resume their lives.

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 (do people achieve a satisfactory resolution?) and the journey itself (are people treated fairly along the way?).

A justice journey has three stages:

### **1. Empower people and communities**

People are empowered so that they can act when a legal need arises. They are helped to understand the law and seek a solution, with legal aid provided to the most vulnerable.

### **2. Access to people-centered justice services**

People have access to services that are responsive to their needs and offer alternative and less adversarial pathways to justice. One-stop shops provide a range of services under one roof, while specialist services help those with more complex problems.

### 3. Fair outcomes

People achieve a resolution to their problem that is fair and meets standards for human rights. Remedies are appropriate and promote reconciliation. Data is used to judge whether people receive a satisfactory resolution. Grievance mechanisms listen and respond to those who feel badly treated.

## Preventing injustice

Justice systems must prevent problems as well as working to resolve those that have already occurred.

Prevention reduces the harm people suffer by focusing on the root causes of injustice. When there are fewer disputes, lower levels of violence, and people have proper legal protections, societies are more likely to be peaceful and to prosper.

Prevention makes sense for four reasons. First, the justice gap is too wide to be bridged with traditional approaches and tools. Second, justice is needed for communities and societies, not just for individuals. Third, justice systems can increase resilience, by helping people protect their rights or by providing space for peaceful contestation. Finally, prevention is cost effective – for people, for society, and for the justice system itself.

Prevention requires justice actors to move from considering only individual justice problems to influence how a population experiences injustice and justice.

Because it is forward-looking, prevention requires a transformation in justice systems. It requires the justice system to collaborate with other sectors to address the root causes of disputes and avert violence, conflict, and human rights abuses.

Effective prevention strategies:

- **Promote trust in justice systems**

They provide people with a reasonable expectation that their rights will be protected, their disputes managed peacefully, and that they will be safeguarded from abuses of power.

- **Tackle the root causes of injustice**

They provide legal identity and other documentation and empower communities and marginalized groups to realize their rights and overcome unfairness.

- **Use the law to reduce risk**

They strengthen legislative frameworks for violence prevention and implement laws and regulations that make it less likely that disputes will arise or escalate.



## The Path to Justice for All

There is no single recipe for delivering justice for all. All countries must increase access to justice based on their own context and priorities, in line with human rights standards and their commitment to delivering the 2030 Agenda.

But people across the world have many shared aspirations as they seek justice. Countries grapple with the same challenges as they work to meet these aspirations.

Justice reform can be challenging. Elites benefit from the status quo and justice professionals may feel threatened if systems are opened up to new ideas, approaches, and providers. Ministers of Justice often struggle to compete for resources with other more powerful sectors.

Closing the justice gap requires a transformation in ambition – a sustained effort to provide justice to billions more people. It requires confronting political obstacles to change and building confidence among justice leaders so that, with the right policies and investment, they can deliver substantial increases in justice.

But there is growing momentum that helps leaders build support for change. Justice systems from around the world are exploring new ways to put people and their needs first. Awareness is growing of the benefits of investing in justice, while local and global movements campaign for justice for all. Lawyers, judges, and activists are often powerful advocates for reform, while the private sector has incentives to mobilize for an improvement in the legal environment.

Four levers can help national reformers as they work towards justice for all.

- Data and evidence create awareness of the scale of the problem, while demonstrating how solutions can be cost effective.
- Innovation brings new players into the justice sector and develops approaches that can deliver justice at scale.
- Smarter financing strategies redirect resources away from ineffective approaches and towards what works. They also attract finance from other sectors and from non-traditional investors.
- New governance models and shared standards increase coherence in a justice system, enabling a greater diversity of partners to work together towards a shared result.

## Agenda for action

At a national level, the Task Force on Justice makes three sets of recommendations:

- **Resolve the justice problems that matter most to people**  
understand justice problems through regular surveys · recognize, finance, and protect justice defenders · provide access to people-centered justice services · use cost-effective alternatives to help people resolve disputes and gain redress.
- **Prevent justice problems and create opportunities for people to participate fully in their societies and economies**  
implement multi-sectoral prevention strategies · increase independence, combat corruption, and ensure independent oversight · tackle structural injustices, provide universal access to legal documents, and help people make better agreements · strengthen laws and regulations that reduce the risks of violence and the number of disputes.
- **Invest in justice systems and institutions that work for people and that are equipped to respond to their need for justice**  
provide open access to justice data · create a supportive regulatory environment for innovation · develop a national roadmap for financing justice for all · increase representation in the justice system and implement new governance models.

The 2030 Agenda's commitment to justice for all requires intensified international cooperation and revitalized partnerships for justice. Recommendations for international action include:

- **Support national implementation**  
Convene pathfinder countries, register voluntary commitments to implement SDG16.3, and help governments develop credible, realistic, and funded strategies to implement these commitments.
- **Increase justice leadership**  
Hold a biennial meeting of Ministers of Justice, Attorneys General, and other justice leaders as a platform for countries to share experiences, explore recommendations, and strengthen cooperation for justice.
- **Measure progress**  
Agree a new SDG16.3 indicator to measure progress on civil justice, supplementing existing criminal justice indicators, with voluntary national piloting ahead of its integration into the global indicator framework.

- **Intensify cooperation**

Form an alliance of international and regional justice partners to provide more coherent support for justice for all, and a funders collaborative to increase the proportion of international finance that flows to the justice sector.

- **Build the movement**

Amplify demand for change through global, national, and local movements that campaign for justice for all.

## Call to action

To accelerate progress, the Task Force calls on all partners to come together in a global and sustained effort to deliver justice for all by 2030.

- **Governments** should develop strategies, allocate resources, and the partnerships needed to deliver justice for all.
- **Justice professionals** should work closely with governments in leading a shift towards people-centered justice.
- **Other sectors** must play an increased role in the delivery of justice.
- **Civil society** can do more to empower justice seekers and help reach the furthest behind first, if given space to operate.
- **The private sector** can help develop new ways of meeting people's justice needs at low cost.
- **International and regional organizations** should provide more coherent support and increased financing for implementation of the SDG targets for justice.
- **Foundations and philanthropists** should support people-centered approaches and priorities such as the role of justice in prevention.

Finally, the Task Force's call to action is addressed to people themselves, as justice seekers, volunteers, and supporters of justice systems. They must be empowered to play a central role in the creation of a more just world.



# Why We Need Justice for All

To deliver the SDG targets that promise justice for all, we must understand the size of the justice gap and build a case for the investment needed to close it.



## Chapter 1

# The Justice Gap

*To provide justice for all, we must understand the reality of justice in people's lives.*

*How many people are confronted by justice problems? What do they need and want when they seek justice? And what kind of justice do they receive?*

*We estimate that a quarter of a billion people live in extreme conditions of injustice, deprived of any meaningful legal protections.*

*At any one time, 1.5 billion people have justice problems they cannot solve.*

*4.5 billion people are excluded from the social, economic, and political opportunities the law provides.*

*Many people suffer from overlapping justice problems. In total, more than 5 billion people are deprived of justice. We call this the global justice gap.*

# Justice for All?

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At the heart of the 2030 Agenda for Sustainable Development lies a vision of a “just, equitable, tolerant, open and socially inclusive world in which the needs of the most vulnerable are met.”<sup>1</sup>

Justice is a thread that runs through all 17 Sustainable Development Goals (SDGs). Without increased justice, world leaders will be unable to end poverty and reduce inequality. Nor will they be able to reach the furthest behind, create conditions for shared and sustainable prosperity, or promote peace and inclusion.

SDG16.3 aims to ensure equal access to justice for all by 2030. Other SDG targets address the denial of legal identity, major forms of injustice such as corruption and illicit financial flows, and the promotion of human rights and gender empowerment.

These targets provide a unique opportunity to accelerate progress towards justice for all.

But to make progress, we first need to understand the scale of the task ahead.

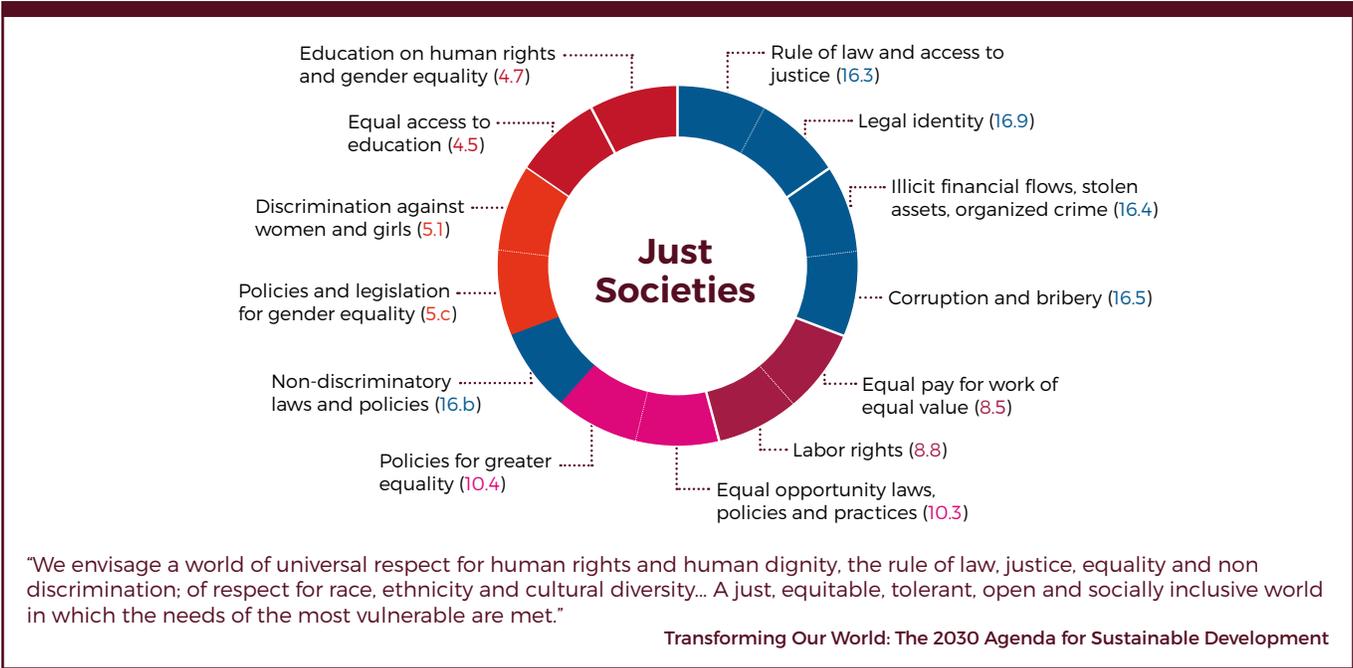
# Collecting People-Centered Justice Data

Until recently, a lack of data has obscured the scale of the world’s failure to provide justice for all.

Many countries have collated information about the performance of their justice institutions, including the number of crimes reported to the police, the number of cases in court, or how long it takes to reach a judgement. But these statistics tell us little about people’s experience of justice. Most victims of violence and crime do not report it to the authorities. Few legal disputes are taken to court. Many people face such daunting barriers to justice that they are invisible to any formal justice institution. Even when they actively seek help, moreover, large numbers of people may find that their legal needs remain unmet due to the poor quality of justice services or due to structural barriers and institutional failures that make it impossible for them to protect their rights.

People-centered justice data is not new. In 1933, the Association of American Law Schools decided to review the state of justice in the nation. They were interested in the “welfare of lawyers,” but they also wanted to know whether people were receiving “adequate and competent legal services that were relevant to a modern society.”<sup>2</sup> They designed a survey that asked lower and middle-income members of the public as well as the owners of small businesses whether they were able to solve their justice problems.

- Justice Gap Working Group
- The analysis was conducted by the World Justice Project, in collaboration with:
- Hague Institute for Innovation of Law
  - Ministry of Justice and Human Rights of Argentina
  - NYU Center on International Cooperation
  - Organisation for Economic Co-operation and Development
  - Open Society Justice Initiative
  - United Nations Development Programme
  - University College London
  - United Nations Office on Drugs and Crime
  - UNODC-INEGI Center of Excellence
  - White & Case LLP
  - World Bank



After examining the results, the Association concluded that the system was failing. Most people with problems did not seek legal advice, while lawyers who catered for ordinary people were struggling to make a living. “The public has undone legal business,” the report concluded. “The lawyers have free time.”

It took many years to build on these groundbreaking insights, as countries continued to rely on data about systems and institutions, rather than about people. Only after four decades did data begin to focus more consistently on people’s justice needs:

- In the 1970s, victimization surveys began to ask people about their experience of crime, about how safe they felt in their communities, and about their experiences with the police and other criminal justice agencies.<sup>3</sup>
- From the 1990s onwards, legal needs surveys have explored a broader range of justice problems, asking people about actions they take to resolve these problems and whether they are satisfied with how they are treated and the results they achieve.<sup>4</sup>
- There is also a growing number of specialist surveys that provide insights into the justice needs of women, children, and other vulnerable groups.

People-centered justice data is now available for a growing number of countries. The Task Force on Justice has worked with the world’s leading justice data organizations to compile all available surveys and integrate them with other types of data that help us understand how the burden of injustice falls on the different groups in a society. For some countries, we have data from national statistics offices (see box at end of chapter) and other official sources. For others, we have drawn information from cross-national or independent surveys. But in all cases, the data reflects what a representative sample of *people* report about their experiences, not opinions from experts or reports from justice institutions.

Much of this data is new, and it has never been drawn together before. Thanks to the efforts of our Justice Gap Working Group, we are able for the first time to present a global synthesis of the scale and nature of the justice gap (see appendix 1).

## A Justice Gap with Three Dimensions

“Let there be justice for all. Let there be peace for all. Let there be work, bread, water and salt for all.”<sup>6</sup> These were the words of Nelson Mandela as he was inaugurated as the first democratically-elected President of South Africa.



For Mandela, justice was as fundamental to society as peace or the economic necessities of life. He was imprisoned for 27 years by a legal system which not only failed to provide equality before the law, but which he denounced for allowing “the unjust to prosecute and demand vengeance against the just.”<sup>7</sup>

Before he was incarcerated, Mandela’s struggle against apartheid was shaped by his experiences as a lawyer. After discovering that black South Africans were commonly charged more for legal advice than the white elite, he formed a law firm with Oliver Tambo. Mandela and Tambo were overwhelmed by clients who had nowhere else to turn. “For Africans, we were the firm of first choice and last resort,” he recalled. “Every day we heard and saw the thousands of humiliations that ordinary Africans confronted every day of their lives.”<sup>8</sup>

When finally freed from prison, Mandela ran for election on a platform that saw a reformed justice system as a foundation for a democratic South Africa.<sup>9</sup> Accessible, affordable, and legitimate justice institutions were needed to prevent violence and insecurity, empower people as citizens, and create the conditions for defeating poverty and promoting prosperity. Justice would also play a role in the country’s transition, helping South Africans “deal with the abuse and damage which engulfed most of our communities.”<sup>10</sup>

In our assessment of the scale of the global justice gap, the Task Force has highlighted three dimensions that align with Mandela’s experience.

First, we have estimated the numbers of people who live in the most extreme conditions of injustice. They live in countries where the justice system is incapable of protecting basic rights and freedoms or, as in South Africa’s apartheid years, are actively denied justice.

Second, we have examined data showing us how many people try and fail to solve problems that have a legal dimension. As Mandela realized, we can only strengthen the justice system if we start from an understanding of how people experience injustice in their everyday lives.

Third, we have estimated the number of people who lack the legal protections that allow them to claim their rights, fulfil their potential, and participate in shaping the future of their countries. This highlights the importance of justice as a foundation for peaceful and inclusive societies, and as an enabler of sustainable development.

The figures we provide are intentionally conservative, but the overall picture is alarming. In total, 5.1 billion people fall into at least one of these three groups. Many suffer from multiple forms of injustice. A significant majority of the world’s 7.7 billion people, in other words, is denied meaningful access to justice.

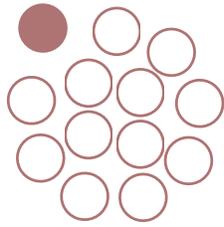
*“More than five billion people experience at least one form of injustice (and many suffer from multiple forms). A significant majority of the world’s population is denied meaningful access to justice.”*

# The Global Justice Gap

5.1 billion people deprived of justice

**4.5 billion**

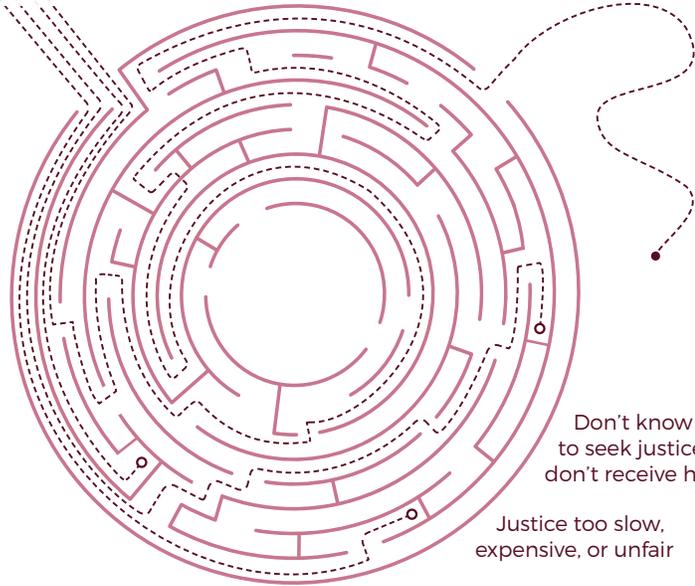
are excluded from the social, economic, and political opportunities that the law provides



- Lack proof of housing or land tenure
- Employed in the informal economy
- Lack legal identity

**1.5 billion**

have a criminal, civil, or administrative justice problem they cannot solve



Don't know where to seek justice or don't receive help

Justice too slow, expensive, or unfair

Justice problem not resolved



- Live in countries with no rule of law
- Live in modern slavery
- Are stateless

**253 million**

live in extreme conditions of injustice, without any meaningful legal protections

## People living in extreme conditions of injustice

At least 253 million people live in extreme conditions of injustice.

We compare this concept to extreme or absolute poverty, which was defined at the 1995 World Summit for Social Development as “a condition characterized by severe deprivation of basic human needs.”<sup>11</sup> In the same way, those who experience extreme injustice are denied their most basic human rights and lack any meaningful opportunity to fulfil their potential.

The 2030 Agenda identifies the eradication of poverty in all its forms and dimensions as the “greatest global challenge”, and promises to “eradicate extreme poverty for all people everywhere” by 2030.<sup>12</sup> Severe deprivation of justice is a dimension of extreme poverty. Providing all people with at least a minimum level of security and justice must be a priority for any poverty eradication strategy.

At least 203 million people live in countries where there is no rule of law and where levels of insecurity are extremely high. They face the highest risks of violence and other deprivations of their rights, but do not have any meaningful access to functioning justice institutions. Instead of receiving protection, they are often subjected to violence at the hands of state actors. Their governments have limited control over their territory and are unable (or unwilling) to fulfil their basic duty to maintain the rule of law.<sup>13</sup>

In many such countries, non-state actors – violent extremists, gangs or other armed groups – have stepped into the vacuum and provide a form of “shadow governance.”<sup>14</sup> In some countries, governments – which are themselves parties to conflict – have set up alternative court systems that operate with no oversight or accountability, and which act in violation of international law.<sup>15</sup>

Stateless people, who are denied the protection under law that is provided by nationality, are also included in this category.<sup>16</sup> Approximately 12 million people worldwide are stateless, although the majority of these cannot be included in official statistics due to a failure by governments to acknowledge their existence.<sup>17</sup>

The Open Society Justice Initiative has documented a “contemporary crisis of statelessness” that has three dimensions: “the denial of access to citizenship, the arbitrary deprivation of citizenship... and situations of state succession that have effectively excluded ethnic groups, rendering them stateless.”<sup>18</sup> Lacking formal status, stateless people are highly vulnerable to abuses of their human rights, often at the hands of the authorities in the countries they live in, and they are severely constrained in their ability to seek



At least 253 million people are living in extreme conditions of injustice.

legal protection. Stateless people are often unable legally to work, own property, marry, obtain an education, or register the births of their children.

Slavery is another abuse that deprives people of any possibility of accessing justice. Worldwide, more than 40 million people are living in modern slavery.<sup>19</sup> Of these, 25 million are engaged in forced labor and 15 million have been forced into marriage against their will. Many are enslaved for decades, their fundamental rights violated daily. More than two in every three modern slaves are women, and two in five are children. Some of those in slavery are in forced sexual exploitation, and some are forced into labor by state authorities. Others are vulnerable due to the weakness of justice systems that should protect them.<sup>20</sup> Recent research, meanwhile, has revealed higher levels of modern slavery in developed countries than previously thought, demonstrating that pockets of extreme injustice persist in all parts of the world.<sup>21</sup>

In this initial estimate of people living in extreme conditions of injustice, we have included only people from countries where the justice system has completely broken down or who belong to a group that is experiencing an absolute deprivation of their rights to freedom and equality before the law.

Future research might cast the net wider, looking, for example, at countries where the justice system is barely functioning or where the rule of law is absent from large parts of the territory. Other groups might be included beyond the stateless or those living in slavery, such as refugees and stateless persons who are in unsafe locations, women facing the most severe forms of legal discrimination, those living under systems akin to apartheid, or those deprived of their liberty in contravention of human rights standards. In this way, we can continue to focus on the furthest behind – those for whom justice is completely out of reach.

*“ People with unresolved justice problems are victims of unreported violence or crime or they have a civil or administrative dispute that they are unable to bring to a satisfactory conclusion.”*

### **People who cannot resolve their justice problems**

At any one time, there are 1.5 billion people who cannot resolve their justice problems.

They may be victims of unreported violence or crime. They may have a civil or administrative justice problem they cannot resolve. They might be involved in a legal dispute – over land, for example, or with an employer or landlord – that they are unable to bring to a satisfactory conclusion. Or they might be unable to gain satisfactory access to the public services that should be provided to them.

People in this group do not always realize they have a justice problem.<sup>22</sup> Our analysis therefore relies on evidence collected by surveys that use everyday language to help people recall incidents

that have a legal aspect or dimension.<sup>23</sup> It includes only justice problems that have a significant impact on people's lives. Trivial or minor problems have been screened out.

The surveys we have examined ask people about the different ways they have tried to solve justice problems; they do not assume that a greater provision of legal services is the only – or best – answer.<sup>24</sup> Unresolved problems include both those where no solution has been found and those where the justice seeker found the process intolerably lengthy, costly, or simply unfair.<sup>25</sup>

The Task Force estimates that, on average, almost 60 percent of people cannot solve their justice problems.

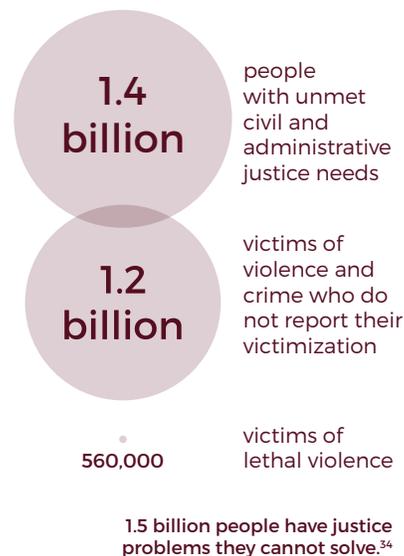
Many people are reluctant to take action to resolve their problems. Most crimes, for example, go unreported:

- Across 30 countries, average reporting rates for five non-violent property crimes were below 50 percent. In seven cities in developing countries, they were below 20 percent.<sup>26</sup>
- Violent crime is even less visible to the criminal justice system. In the same group of countries, only around one-third of assaults and one in ten sexual assaults were reported.
- Vulnerable groups have the least protection from violence. A study in nine post-conflict countries found that just 10 percent of girls and 5 percent of boys seek services of any kind after being victims of sexual violence.<sup>27</sup>

There are many reasons for a victim not to report a crime. Victims may not know the behavior was unlawful or feel that they have suffered sufficient harm. Social pressure or stigma prevents many from seeking justice.

But surveys also demonstrate that many victims are disempowered by their lack of confidence in the criminal justice system. In the UK, half of people do not report a crime because they believe the police are not interested, will not be able to help them, or because they have had a bad experience with the police in the past.<sup>28</sup> When women in an international survey were asked why they had not reported their experience of sexual harassment, half said it would be pointless to make a report to the police, and a quarter said they didn't think the legal system would be understanding enough.<sup>29</sup>

When incidents of injustice are reported, the response is often inadequate. A range of data shows high levels of impunity for violence and crime. In the US, for example, almost 40 percent of homicides fail to lead to the arrest or identification of a suspect.<sup>30</sup> In Mexico, only 5 percent of homicide cases are resolved.<sup>31</sup> Conviction rates for some crimes are barely above zero. We estimate that worldwide, less than 1 percent of women who are raped receive justice.<sup>32</sup>



A similar picture emerges when we look at civil and administrative justice needs. Disputes between people, between people and governments, and between people and businesses are common in everyday life. While the prevalence of violence may be understated by surveys, people are around nine times more likely to have a civil or administrative justice problem than to need help from the criminal justice system.<sup>33</sup>

Many of the problems people face in their lives have a legal dimension. They are also interconnected. A divorce can trigger disputes over land and property. Unsolved civil and administrative justice problems can lead to violence. The boundaries between these different forms of injustice often mean little in everyday life.

Such everyday justice problems share several common features:

- Many people take no action when they have a civil or administrative justice problem.<sup>35</sup> They either do not realize that the law should be able to help them, do not know where to look for assistance, or do not have confidence that they will get a fair resolution. Cost *is* a problem, but other obstacles loom large before people decide whether they can afford to seek justice.
- Disputes are largely resolved outside the formal justice system. In most countries, the “first responders” are not lawyers and the courts.<sup>36</sup> Instead, people turn to people they trust in their families and communities. Or they look to an array of organizations and resources – state and non-state, formal and informal, specializing in justice or from other sectors – for advice and help.<sup>37</sup>
- People who need justice the most are the least likely to get it. Their problems are more complex and interconnected. In Australia, for example, 9 percent of people experience more than 60 percent of all justice problems.<sup>38</sup> They are most likely to face active discrimination from the justice system. And they are often confronted by insurmountable imbalances in power, as they face others who have the resources to use the law to their advantage.

## **People who are excluded from the opportunities the law provides**

Justice is not only about responding to problems and disputes. It should also make a positive contribution to sustainable development and act as a portal to other rights.

We have therefore calculated the number of people who lack access to the basic “legal infrastructure” that underpins inclusive

growth, poverty reduction, and social inclusion.<sup>39</sup> The Task Force's analysis builds on the groundbreaking work of the Commission on Legal Empowerment of the Poor, which in 2008 found that four billion people were "unable to better their lives and climb out of poverty" because they lacked access to basic documentation and other legal protections.<sup>40</sup>

We estimate that today at least 4.5 billion people are excluded from the opportunities the law provides. This estimate has three components:

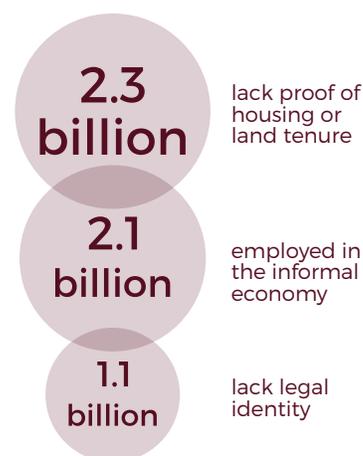
- People who lack legal identity.
- People who lack proof of housing or land tenure.
- People who are employed in the informal economy.

Worldwide, 1.1 billion people lack legal identity. For one in three children below the age of five, this is a result of their birth not being registered.<sup>41</sup> Many never manage to rectify this, even as adults.<sup>42</sup> A lack of legal identity makes it difficult for people to access rights such as publicly provided healthcare and education, to get married, or to buy property, get a job or set up a business. It also impedes access to institutions that are meant to protect and enforce rights, such as courts and the police. The poorest people and countries are least likely to benefit from birth registration, while women are less likely to be registered than men – in low-income countries, 45 percent of the poorest quintile lack legal identity, but so do 45 percent of women from all income groups.<sup>43</sup>

There has been some progress in this area in recent years. The number of unregistered people has fallen by a quarter since 2016. While some of this difference may be due to better data, it also reflects the rapid rollout of legal identity programs in countries such as India.<sup>44</sup>

An estimated 2.3 billion people lack proof of housing or land tenure. The absence of documents pertaining to property or land increases people's insecurity and makes it harder for them to access loans or to realize the full resale value of their possessions.<sup>45</sup> Communities, too, need recognition of their land rights, to prevent land grabbing, protect their livelihoods, and fight environmental degradation. Women are especially at risk of having insecure property rights, as are indigenous peoples and other disadvantaged communities.<sup>46</sup>

Population growth, demographic change, and economic growth will continue to increase pressures in countries and communities with weak land and property rights. With an additional 1.1 billion people expected to live in towns and cities by 2030, urbanization could lead to an increase in disputes as people fight over scarce property and land.<sup>47</sup>



4.5 billion people are excluded from the opportunities the law provides.

There is also a pronounced justice gap in the workplace. Around the world, 2.1 billion people are employed in the informal sector. Most of these workers lack formal contracts and therefore operate outside the purview of labor laws.<sup>48</sup> This limits their ability to stand up against exploitation and abuse. Many of those employed in the informal sector work excessively long hours for low pay and in unsafe or uncomfortable conditions. Self-employed informal sector workers, meanwhile, face difficulties accessing finance and enforcing contracts, and they may also face threats to their physical security, including at the hands of the authorities. In developing countries, women are more likely than men to be informally employed. Only 5 percent of women workers in South Asia are formally employed, and only 11 percent in Sub-Saharan Africa.<sup>49</sup>

## Barriers to Justice for All

The Task Force's analysis gives the justice gap a human face. We have shone a spotlight on people who are excluded from any access to justice. We have highlighted the difficulties faced by people who are unable to resolve disputes or gain justice when they are victims of violence and crime. And we have shown how large numbers of people are denied the opportunities the law should provide.

But while it is important to start with people and their experiences, it is clear that many of the justice problems we have discussed are collective as well as individual.<sup>50</sup> If large numbers of women and children are victims of violence, this reflects a broader failure to defend their rights. If a community cannot protect its land or if the poorest members of a society can be evicted from their homes without legal recourse, it reflects a broader failure of the justice system to respond to imbalances of power.

Injustice and inequality go hand in hand. The most vulnerable members of a society are most likely to experience injustice, and they suffer the greatest impacts when it occurs (see spotlight 1). They are the least likely, however, to have access to justice systems that meet their needs. The poorest communities are also most liable to be subjected to structural injustices such as land appropriation, environmental destruction, or rights violations by state institutions or by corporations. These communities, too, often find it extremely difficult to obtain redress through justice systems.

As some groups suffer disproportionately from structural injustice, others benefit from it. Elites are often able to use the justice system to protect their interests and entrench their privilege. Impunity

*“Injustice and inequality go hand in hand. The most vulnerable members of a society are most likely to experience injustice, while elites are often able to use the justice system to protect their interests and entrench their privilege.”*

allows many perpetrators of injustice to escape responsibility for their crimes. Such unequal treatment undermines justice systems, leading to further violence, corruption, and insecurity.<sup>51</sup>

People seeking a resolution to their justice problems are confronted by many barriers. There is a mismatch between what people need and what justice systems provide.

- Justice is frequently too slow and time-consuming, too expensive, and unnecessarily stressful for those who need help. For many people, justice institutions are physically inaccessible, or they are rendered unapproachable or inefficient by linguistic or cultural barriers. The delays this causes allow justice problems to become more serious, imposing still greater costs and stress on users and on justice institutions themselves.
- The justice system can escalate disputes or add to the trauma of victims through its adversarial nature. Procedures are not designed to de-escalate conflict or to encourage people to solve problems constructively. In most cases, the justice sector is not set up to learn from individual cases, and to use this evidence to prevent justice problems from occurring or to limit their severity and impact.
- Corruption *within* the justice system and the lack of independence of justice actors is a further barrier. In many countries, the police and judiciary are among the least trusted institutions. Many ordinary people expect to have to pay bribes when they seek justice. Even more know that they will not enjoy a level playing field when faced by an opponent who has more resources and better connections.

These barriers reflect the lack of cooperation between justice institutions. The justice gap cannot be bridged by a single organization or ministry. Justice systems must be centered on people and their needs, allowing institutions to work together to respond to society's hunger for justice. This is the foundation for the analysis and recommendations presented in our report.

The 2030 Agenda promises equal access to *justice for all* by 2030, but we live in a world where justice systems only deliver *justice for the few*. Closing the justice gap requires a fresh vision, a transformation in ambition, and strategies that take seriously the scale of the problem.

Other sectors – inspired in part by the Millennium Development Goals – have begun to make this shift. Education was once limited to a privileged minority, but all countries are now committed to

educating every child to at least secondary level and states are required to make higher education accessible to all.<sup>52</sup> Half of the world's population still lacks access to proper healthcare, but recent years have seen a growing movement for universal health coverage in all countries, rich and poor.<sup>53</sup>

We must now make an equally powerful case for justice. Providing billions more people with access to justice is not only the right thing to do; it will also deliver substantial benefits to people, communities, and societies. By putting people at the center of justice systems, we can help unblock the path towards more sustainable patterns of development.

### **Towards better justice data: the role of National Statistics Offices**

The picture we have of the justice gap is a partial one, but it provides a starting point for building a more strategic approach to delivering the SDG targets for justice for all and for building justice systems that put people at the center.

Measuring and reporting on progress on the current indicators for SDG16.3 creates significant challenges for countries and their National Statistics Offices. The demand for better justice data is likely to increase further if a global indicator to measure access to civil and administrative justice is agreed upon.

National Statistics Offices (NSOs) will need greater independence and transparency of systems if they are to collect robust and comprehensive people-centered data that can be used to assess national progress towards SDG16.3. Strengthened governance standards will help ensure that justice-related data can be collected free from government and outside influence, reducing the potential for bias, increasing the credibility of the data, and promoting sharing with government and non-government partners.

The Eurostat Code of Practice provides a framework for each European NSO to develop its own approach to guaranteeing independence, accountability, and transparency. In the future, new regional or global standards on the governance of NSOs could strengthen national capacity for independent collecting of justice data. This will have benefits not only for justice data and reporting, but for reporting on all parts of the 2030 Agenda.

This box is drawn from *NSO Governance for Better Justice Data*, a memo prepared for the Task Force on Justice by White & Case LLP



## Chapter 2

# The Case for Action

*The costs of a lack of access to justice are high.*

*For individuals, injustice leads to lost income and to mental and physical health problems.*

*For societies, it entrenches poverty, damages economies, and increases the risks of instability, violence, and conflict.*

*Investment in justice can reap large rewards. It transforms lives, strengthens communities, and boosts economies, delivering substantial returns on investment.*

*In the poorest countries, it would cost \$20 per person per year to provide a basic level of access to justice. In middle-income countries it would cost \$64 and in high-income countries \$190.*

*Basic justice services are affordable with smarter financing, increased international assistance for poorer countries, and greater use of low-cost, high value for money solutions.*

# Investing in Justice for All

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Access to justice is a fundamental human right.<sup>54</sup> It also helps people to realize other rights and to gain redress when these rights are violated. Through the 2030 Agenda, the world's leaders recognized this link. As part of their vision of a world of universal respect for human rights and human dignity, they promised to build societies that provide justice for all.

But alongside this moral case, there are pragmatic reasons for investing in justice for all. Injustice is costly. People, communities, and societies suffer significant harm when justice systems fail to protect them from violence or to help them resolve disputes or fulfil their economic potential.

The benefits of investing in justice are clear. Substantially increased justice financing is needed. Existing resources must also be shifted away from ineffective approaches and towards strategies, policies, and programs that are proven to work. Delivering justice can be afforded, but it will require innovative financing mechanisms and an expansion in the number of stakeholders involved in financing the sector.

## The Cost of Injustice

On December 17, 2010, a 26-year old Tunisian fruit vendor named Mohamed Bouazizi set himself on fire outside a government building in his hometown of Sidi Bouzid.

Bouazizi had been earning less than \$10 a day selling fruit from his cart. He was his family's main breadwinner. That morning, the town's police confiscated his scales because he didn't have a permit to carry out his work. This was the latest in a series of incidents that had seen the authorities overturning his cart, confiscating his produce, or demanding bribes in return for leaving him alone. When a policewoman slapped him in the face, he had had enough.

Mohamed Bouazizi went to the provincial governor's office to complain about how he had been treated. When the governor refused to let him enter the building, he bought a can of gasoline from a nearby petrol station and set himself alight in the street. He died from his injuries two weeks later.

Bouazizi's death triggered protests that spread first across Tunisia – resulting in the downfall of the country's longstanding dictator, Zine el Abedine Ben Ali – and then across the Arab world. While Tunisia made a largely peaceful transition, the violence unleashed by the Arab Spring became one of the major drivers of the increase in lethal conflict across the world in the ensuing years.<sup>55</sup>

Bouazizi struggled to support himself and his family. It was not poverty, however, that drove him to despair, but injustice.

From an economist's perspective, Tunisia was a success. Per capita incomes in Tunisia had almost doubled in the decade prior to 2010. The poverty rate had fallen by one-fifth.<sup>56</sup> The country was responding to the broader aspirations of its people as well. That year's Human Development Report, published just a month before Bouazizi died, hailed Tunisia as a "success story" for its remarkable progress up the Human Development Index.<sup>57</sup> But it also warned of a democratic deficit, lagging political freedom, and a failure to protect democracy and the rule of law.

Bouazizi lived in a country whose justice system was widely regarded as corrupt and unfair, favoring the rich and allowing for abuse of the poor. Even today, most justice problems go unresolved and few Tunisians are satisfied with the performance of justice institutions.<sup>58</sup> Bouazizi's case involved problems of unclear documentation (it is disputed whether he needed a permit or not), abusive justice actors, and an inability to air a grievance, much less have that grievance investigated or acted upon.

*“It was not poverty that drove Mohamed Bouazizi to despair, but injustice.”*

As Bouazizi's mother said a few weeks later: "We are poor people in Sidi Bouzid. We don't have money, but we have our dignity, and his dignity was taken away with that slap."<sup>59</sup>

The case is a vivid demonstration of how injustice can be the missing link in national development strategies. Economies may perform well, and health and education may improve. But without justice, development will be precarious, and the social, economic, and political impacts of injustice will imperil progress made in other areas.

### **Injustice is costly for people and communities**

The costs of injustice fall first on individuals and the communities they live in. We are only beginning to quantify their scale, but evidence is growing that these costs are much greater than has previously been realized. Much of this evidence comes from rich countries – but since justice problems are more serious in lower-income countries, the costs the latter face are almost certainly higher.<sup>60</sup>

The immediate costs of injustice fall on the individuals involved.<sup>61</sup> People may suffer a direct loss through damaged or stolen (or confiscated) property, through the expense of paying lawyers or court fees, travelling a long distance to court, or missing work to attend court. The OECD estimates that people with a legal problem lose an average of one month's wages.<sup>62</sup> Canadian households spend almost as much solving a legal problem as their annual expenditure on food.<sup>63</sup>

Other costs for individuals are less direct. Justice problems involving violence and conflict have lifelong impacts that go beyond death and injuries.<sup>65</sup> Victims of violence are at greater risk of mental health problems, suicide, and substance abuse, and are more likely to suffer from chronic diseases such as cancer and heart disease. Child victims of violence experience "lasting damage at the basic levels of nervous, endocrine, and immune systems,"<sup>66</sup> and are less likely than their peers to be employed once they reach adulthood.<sup>67</sup> Women who have been victims of intimate partner violence have twice the risk of other women of experiencing depression.<sup>68</sup> They also face negative economic impacts. Tanzanian women who were exposed to severe abuse at the hands of intimate partners saw their earnings decline by 60 percent.<sup>69</sup>



The OECD conservatively estimates that legal problems cost its member states from 0.5 percent to 3 percent of GDP.<sup>64</sup>

Civil and administrative justice problems also cause enduring damage. Disputes over property and land reduce household income, with disproportionate impacts on women and the poor.<sup>70</sup> Complex bureaucratic procedures or requirements frustrate people's entrepreneurship. Employment disputes reduce a worker's income, while the loss or denial of public services has negative effects on welfare. Thirteen percent of Kenyans who had faced a justice problem in the previous four years reported having lost their job as a result.<sup>71</sup>

Health impacts can be serious and sustained. Problems related to debt have been found to exacerbate mental illness.<sup>72</sup> Conflict within families can cause lifelong harm to the physical and mental well-being of both adults and children.<sup>73</sup> Two in five Canadians consulted a healthcare provider because of the stress or emotional harm caused by a legal problem.<sup>74</sup> Almost one in three Nigerians suffered a stress-related illness as a result of their legal struggles.<sup>75</sup>

Injustice also undermines and isolates communities. It reduces civic trust, damages local economies, and erodes resilience. The damage is exacerbated when people are unable to turn to justice institutions for help. When the justice system fails or is abusive, it magnifies perceptions of injustice that arise from other causes. This can turn communities against each other or against the authorities.<sup>76</sup>

## **The costs weigh on societies and economies**

Given the size of the justice gap, it is unsurprising that localized impacts can damage entire societies.

By driving exclusion and fueling grievances, injustice increases the risk of political instability and, as in the Arab Spring, violent conflict.<sup>77</sup> Crises of this kind have a dramatic impact on a country's long-term prospects, reversing social and economic development and increasing the risk of further instability. Countries with a recent history characterized by human rights abuses are much more likely to experience violent conflict.<sup>78</sup> Those that have one civil war are more likely to experience a second.<sup>79</sup>

Violence deters investment and growth.<sup>81</sup> After expanding in each of the previous five years, Tunisia's economy shrank in the two years following Mohamed Bouazizi's death.<sup>82</sup> Mexico loses one-fifth of its GDP to violence, with costs likely to be comparable in other

› In countries where women face high levels of exclusion, insecurity and injustice, human development is impeded, per capita incomes are lower, and national competitiveness is weaker.<sup>80</sup>

countries with similar levels of violence.<sup>83</sup> At a global level, the Institute for Economics & Peace estimates that conflict costs the world 12.4 percent of its annual GDP, or \$1,988 per person per year.<sup>84</sup>

The widespread injustices faced by women and children have broader impacts. In countries where women face high levels of exclusion, insecurity and injustice, human development is impeded, per capita incomes are lower, and national competitiveness is weaker.<sup>85</sup>

Where women's land rights are not protected, their livelihoods and those of their families are damaged.<sup>86</sup> Child marriage costs the global economy billions of dollars per year through its effects on population growth alone.<sup>87</sup> Injustice faced by women and children also leads to worse outcomes from education and other public investments in human capital.<sup>88</sup> Other rights abuses are also costly. Modern slavery – identified as a dimension of extreme injustice in chapter 1 – costs the global economy \$4.4-5.7 billion annually.<sup>89</sup>

We have some evidence to quantify the aggregate cost of everyday justice problems. In Canada, civil and administrative problems cost the state an additional \$74 million in healthcare expenditures, \$248 million in social assistance provision, and \$450 million in additional employment assistance.<sup>90</sup>

In five of seven low-income countries surveyed by the World Justice Project, the total cost of justice problems amounts to at least 2 percent of GDP, with lost jobs and income the main contributing causes. OECD, drawing on data from legal needs surveys, focuses on those who report that they had spent money on solving a justice problem, had suffered damage to their health, or had had to miss or lose work.<sup>91</sup> It calculates that the average cost of these three categories of impact exceeds 1 percent of GDP in the 17 OECD countries studied.<sup>92</sup>

Other injustices also have negative impacts on a country's potential. When poor people do not have access to property, labor or business rights, it is impossible for them to work their way out of poverty.<sup>93</sup> Where they must pay high fees or bribe officials to acquire identity and other documents, poverty is deepened.<sup>94</sup> Poverty rates among those working in the informal sector are higher than among formal sector workers.<sup>95</sup> Countries where it is more difficult to make and enforce agreements have weaker economies, less developed credit markets, and fewer small firms.<sup>96</sup>

*“When poor people do not have access to property, labor or business rights, it is impossible for them to work their way out of poverty.”*

## The Benefits of Investing in Justice

A growing body of evidence demonstrates that expenditure on people-centered justice can deliver a high return on investment.

Investing in justice delivers a range of benefits, including reduced risk of conflict and instability, increased capacity to prevent and solve everyday justice problems, and greater opportunities for growth and prosperity.

A further dividend derives from re-directing ineffective justice expenditure towards interventions that are grounded in evidence of what works.

### Reduced risk of conflict and instability

Fair and effective justice systems play a vital role in reducing the risk of violent conflict.

The flagship United Nations and World Bank *Pathways for Peace* report emphasized the importance of preventing conflict as “a rational and cost-effective strategy for countries at risk of violence, and for the international community.”<sup>97</sup>

It is not possible to separately quantify the impact of justice on reduced conflict risk (and given the need for integrated conflict prevention strategies, such disaggregation would not be useful). But we would expect that increasing a country’s capacity to deliver core justice functions and provide increased access to justice would reap returns similar to those for prevention as a whole. Under the *Pathways to Peace* report’s conservative scenario, this amounts to a return of \$16 for every dollar invested.<sup>99</sup>

We can also measure impacts in terms of saving lives. The International Commission against Impunity in Guatemala was set up to combat the impunity of illegal security forces and clandestine security organizations. It has also helped to tackle corruption and rebuild the capacity of the justice system. The International Crisis Group estimates that the Commission’s work led to a 5 percent decline in homicides, compared with a control group of neighboring countries, saving almost 5,000 lives in ten years.<sup>100</sup> Institutional reforms, improved investigative techniques, stronger partnerships between security and justice actors, and increased trust in the system all contributed to this increase in safety.

It is not only governments that would benefit from investing in justice systems. Given the globally-connected nature of modern

> An effective system for preventing violent conflict would save the global economy as much as \$70 billion a year.<sup>98</sup>

supply chains, there is a case for investment by the private sector, especially when they are at risk of becoming party to the abuse of human rights. Many multinational corporations have suffered serious reputational damage when it has been discovered that modern slaves were involved in their supply chains, for example.<sup>101</sup> Others have lost customers and seen their share price fall following revelations over their failure to look after workers or their exploitation of natural resources in countries with weak rule of law.<sup>102</sup>

There are broader benefits beyond these averted risks. According to a recent review, businesses that invest in social and labor rights “tend to be more successful and have greater levels of productivity and innovation, more predictable supply of goods and services, better retention and motivation, and more robust due diligence and monitoring systems.”<sup>103</sup>

### Increased capacity to prevent and solve everyday justice problems

Tackling everyday justice problems also delivers benefits.

A first step is to divert investments away from ineffective or counterproductive policies. Many popular approaches that purport to be “tough on crime” have proved instead to fuel increases in crime. “Scared straight” programs, for example, which expose at-risk young people to prisons, have been shown to increase offending rates.<sup>104</sup> Approaches that have led to an explosion in imprisonment have also proved to do more harm than good. More than ten million people are held in prison globally, with nearly 30 percent of these awaiting trial.<sup>105</sup> Yet there is little evidence that long prison sentences have a deterrent effect.<sup>106</sup> Such policies hit the young hardest. According to some studies, over one million children are deprived of liberty.<sup>107</sup> For many, this causes irreversible damage.<sup>108</sup>

This is not to say that all “traditional” criminal justice expenditure is ineffective. A comparative analysis across 26 Brazilian states suggests that a 1 percent increase in expenditure on the police would lead to a 0.4 percent drop in homicides.<sup>109</sup> But the same research shows that additional resources are most likely to increase safety if they are accompanied by measures to increase efficiency and accountability, and if they are directed towards targeted prevention strategies “based on scientific evidence of impact – preferably cost-benefit – instead of intuition.”<sup>110</sup> In the United States, there are more than half a million people in prison who could be released with little harm to public safety. This would save the country \$20 billion per year.<sup>111</sup>



The global prison population has risen to ten million – absorbing a growing share of justice budgets.

Meanwhile, proactive prevention efforts that target “high risk places, people, and behaviors” are proven to reduce crime.<sup>112</sup> Specialized courts, such as drugs courts, reduce reoffending and save criminal justice systems thousands of dollars per case.<sup>113</sup> Restorative justice approaches result in higher satisfaction among victims, reduce repeat offending, and are cost-effective when the broad range of benefits delivered to victims and society are taken into account.<sup>114</sup> Justice reinvestment programs – where savings from reduced expenditure on imprisonment are spent in partnership with local communities – can help restore trust between justice actors and communities, with positive effects on crime prevention.<sup>115</sup>

More civil and administrative problems can be solved if resources are directed away from unnecessarily adversarial procedures to approaches that solve problems at scale. Alternative dispute resolution models, such as mediation, are faster and more cost-effective than litigation. The average cost per successfully resolved case of a community-based mediation program in Nepal was 28 percent lower than cases resolved by the formal justice sector.<sup>116</sup> In Canada and the US, civil mediated cases take five months less to be resolved and cost \$16,000 less per case.<sup>117</sup>

Taking justice closer to the people is cost-effective, allowing for earlier intervention and more effective prevention or de-escalation of disputes. A study of a program that expanded access to village courts in Bangladesh found a benefit-cost ratio of between 16:1 and 18:1, depending on the discount rate applied.<sup>118</sup> In 2017, the Citizens Advice service in England and Wales helped more than two million people with their justice problems, via face-to-face or online support.<sup>119</sup> Seventy percent of users solved their problem and 80 percent said the advice improved their lives. For every US dollar invested, the organization generates \$2.40 in savings for government and \$14.50 of wider social and economic benefits.

The biggest impacts of investment in people-centered justice are on the poorest and most disadvantaged members of society. Community advice officers working in historically marginalized communities in South Africa deliver a return of \$6 for every dollar invested.<sup>120</sup> Providing legal counsel for people with low incomes who risk losing the roof over their head saves the city of New York \$320 million a year.<sup>121</sup> In Australia, community legal centers, which provide legal advice and services to disadvantaged groups, deliver a benefit-cost ratio of 18:1.<sup>122</sup>

*“The biggest impacts of investment in people-centered justice are on the poorest and most disadvantaged members of society.”*

## Release the economic potential of more just societies

Our analysis of the justice gap highlighted the lost human potential from a lack of legal identity, inadequate documentation, or the absence of other legal protections.

A well-functioning civil registration system records births, deaths, marriages and other vital statistics.<sup>123</sup> Birth registration is a foundational component of legal identity, but identity can be established for adults whose births were not registered.<sup>124</sup> Having the right documentation has been shown by itself to improve people's health outcomes.<sup>125</sup> It also allows governments to tailor services to those who need them, target cash transfers and other social protection programs more effectively, collect taxes, root out corruption, and evaluate the impacts of policies.<sup>126</sup>

Strengthening and clarifying land rights is vital for preventing conflict, but it also unlocks people's economic potential. Land titling gives people security in their homes or in their place of work, and it helps them to raise loans and to establish or grow businesses. A large body of research has demonstrated the positive impacts of strengthened property rights on economic growth.<sup>128</sup> Innovative methods, such as the use of mobile and GPS technologies to map boundaries and agree ownership with communities, are rapidly reducing the costs of recording land rights.<sup>129</sup>

A review of 13 land titling projects in Europe and Central Asia funded by the World Bank found a return on investment of 122 percent.<sup>130</sup> It estimated that the "short-term and long-term benefit to the economy of a single registration is US\$16. In other words, registering one million properties in the region leads to an estimated economic benefit of just over US\$16 million in the target country." In Tanzania, meanwhile, women earned in excess of four times more when they lived in an area that provided them with land rights.<sup>131</sup>

Initiatives to encourage informal businesses to formalize have had mixed results. For firms, the benefits of formalization include access to finance, formalization of commercial contracts, limiting liability, improved physical security, and access to government subsidies and training programs. For governments, the benefits include an increase in taxation revenues, reduced policing costs, increased information for economic policy, and the ability to measure more accurately the performance of the economy. A study in Vietnam found that firms that moved into the formal sector experienced a significant increase in profits.<sup>132</sup> A Brazilian government program to encourage formalization via reduced and simplified taxes both increased the number of firms that registered and greatly increased those firms' profits.<sup>133</sup>



However, efforts in many countries to pressurize businesses to make the leap to formality rely on coercion. These efforts often have an adverse impact, particularly on poor people. An incremental approach may be more effective, where informal businesses take small steps towards full formalization in return for incentives at each stage – beginning with obtaining licenses and permits, for example, and moving as the company grows towards paying sales taxes, registration and ultimately paying income tax.<sup>134</sup> Policymakers need to be responsive to the context, tracking whether a new approach is delivering outcomes in terms of increased opportunities and increased justice.

## Financing Justice for All

This chapter has demonstrated a strong case for investment in justice, in terms of reduced costs of injustice and increased benefits from delivering justice for all.

But how much would it cost to close the justice gap – to meet people’s everyday justice needs in an accessible and affordable way?

### The cost of justice for all

To answer this question, the Task Force on Justice commissioned the Overseas Development Institute (ODI) to develop the first estimate of the finance that is needed to provide a basic level of access to justice.<sup>135</sup>

The analysis draws on methodologies used to calculate the cost of providing basic frontline health and education services during the Millennium Development Goal (MDG) era. As ODI argues in the report it prepared for the Task Force, “if SDG16.3 is to be achieved, the justice sector now urgently needs to catch up with other service delivery sectors in terms of ambition, scale, and approach.”<sup>136</sup>

This is the first estimate of what it would cost to deliver SDG16.3. Estimates for financing needs for education and health have been strengthened over time. In the same way, these initial figures for justice should be built upon as further research and analysis are conducted. ODI include the following components of basic front-line justice provision:

- Legal advice, assistance and empowerment, provided in communities by paralegals, lawyers, legal advice centers, unions or advocacy groups.

- Formal justice institutions that play a frontline role in resolving conflicts, disputes and grievances, including lower-tier courts, community police, and the criminal justice chain.
- Alternative mechanisms to resolve legal problems, conflicts, disputes and grievances, such as community mediation, traditional courts, and ombudsmen.
- Mechanisms that improve the accountability of the justice system for the services they provide to people and communities, and that tackle corruption and abuse.

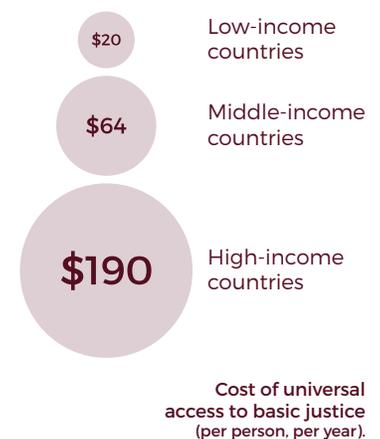
We estimate that in low-income countries, it would cost \$20 per year to provide each person with access to basic justice services. In middle-income countries it would cost \$64 and in high-income countries \$190.

To put these numbers into context, providing universal primary and secondary education in low-income countries costs \$41 per person per year, while providing universal essential healthcare costs at least \$76 per person annually.<sup>137</sup>

Formal justice institutions account for most of these costs. This underlines the importance of providing value for money in the formal system, through increased efficiency, reduced corruption, and shifting resources to evidence-based approaches.

Legal empowerment and non-formal approaches are less expensive. While there is a need for further research in this area, they would seem to account for less than 10 percent of total costs in countries of all income levels. In low-income settings, we estimate that it would cost just \$1 per person to scale these approaches up to the minimum level needed. This is consistent with a central message of this report – that, given the size of the justice gap, countries need to invest in alternative approaches that can provide cost-effective access to justice at scale.

Improving accountability in the justice sector is difficult. But where there is the political will to do so, mechanisms for promoting accountability also offer good value for money. They are estimated to cost \$1.50 in low and middle-income countries and only slightly more in rich countries. Such mechanisms encourage the formal sector to provide better value for money. They can also help to improve standards and ensure consistency when alternative approaches are used, providing a bridge between the formal and informal justice systems.



The analysis also factors in what people spend from their own pockets when they seek justice, drawing on HiiL surveys. In low income countries, out of pocket expenses currently paid by individuals on the top five legal needs is \$5, in middle income \$10 and in high-income settings \$20, per person per year. These expenses account for a quarter of the financing of justice in low-income settings (and around 10 percent in high-income settings).<sup>138</sup> Where public finance is scarce, legal aid and other services must be tightly targeted to help those who are least able to afford justice.<sup>139</sup> Robust accountability mechanisms will be needed to ensure ordinary people get value for the money they spend.

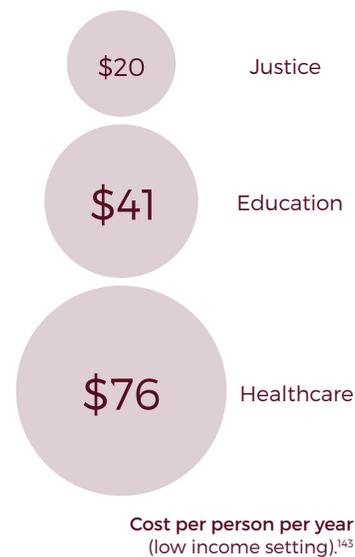
### Is justice for all affordable?

It is difficult to make firm statements about the affordability of justice due to a scarcity of data and the differences in the way that justice budgets are calculated. There is no single source of information that details total justice budgets across countries. While we know that expenditure on security typically comprises a large share of national budgets, it is difficult to disaggregate from this the relatively small amount spent on the people-centered approaches to justice that are recommended in this report.<sup>140</sup>

Consolidated international data is available for expenditure on the criminal justice system, but it is two decades old. In 1997, the world spent the equivalent of \$570 billion on the criminal justice system in today's prices.<sup>141</sup> Sixty-two percent of this was on policing, 18 percent on courts, 17 percent on prisons, and 3 percent on prosecutions. At the turn of the century, UNODC estimates that governments were spending 1 percent of their GDP on the police, but some countries were spending four times that.<sup>142</sup>

A recent review by the Inter-American Development Bank provides insights into expenditure patterns in Latin America. Countries in the region spend an average of 5.4 percent of government budgets on security and justice.<sup>144</sup> Per capita expenditure in 2015 ranged from \$32 to \$583. Expenditure increased by a third between 2008 and 2015, doubling in some countries. This increase largely resulted from political pressure for more punitive approaches, with governments adopting highly visible tactics to show that they are "tough on crime." For those who believe there are smarter ways to spend on justice, an important challenge will be to make this type of spending more politically attractive.

The Council of Europe's Commission for the Efficiency of Justice tracks the expenditure of its members on the justice system, which include judicial expenditure (courts, prosecutions, and legal aid) as well as other components, such as prisons and probation services,



notaries, forensic institutes, and specialized services for juveniles or refugees and asylum seekers.<sup>145</sup> Justice system figures are not readily comparable, with many variations between what countries include in their budgets.

The Commission finds expenditures ranging from 0.3 percent to 4.3 percent of GDP. This translates to expenditures varying from below \$15 to nearly \$900 per capita depending on the country. On average, 2.1 percent of public expenditure is spent on the justice system in the countries included in the analysis.

For low-income countries, little data on justice expenditure is available, but we know from UN-World Bank reviews of a handful of countries that expenditure can be very low.

Somalia, for example, has an annual budget of \$10.5 million for the justice system, or \$1.50 per capita.<sup>146</sup> These figures are dwarfed by the \$44 million it spends on security and the \$1.5 billion the international community spends on peacekeeping in the country. Individuals carry a heavy burden for funding justice – in the Somali region that includes Mogadishu, a typical land dispute case costs the plaintiff \$150 to file.

In Liberia, there is a similar mismatch of resources. \$1.5 million has been invested in Peace Huts, a cost-effective program where women mediate local disputes, compared to a national budget of \$95 million for the justice sector and \$10 billion for peacekeeping and foreign aid.<sup>147</sup>

Analysis carried out for the Task Force by ODI supports the contention that many poorer countries will run into questions of affordability. This also draws on World Bank and International Monetary Fund (IMF) research that estimates the maximum resources that countries can be expected to raise from taxation. It uses 4 percent of total public expenditure for the justice system as a benchmark, based on historical patterns in OECD countries.

Based on these benchmarks, high-income countries are comfortably able to cover the suggested expenditure of \$190 per person for basic justice, since this is equivalent to only 2 percent of current revenues. On average, these countries currently allocate 4.6 percent of these revenues to the overall justice system (which also includes higher level courts and other aspects that are not taken into account in ODI's costing of access to basic justice). Middle-income countries would find it much more challenging, however. They would have to allocate 6.2 percent of their taxes just for basic justice provision, well above the 4 percent benchmark.

Low-income countries, on the other hand, would need to spend 20 percent of current total government revenues. Even if they

*“Two billion people live in countries that cannot afford even half the cost of basic services. This includes all low-income countries and 40 percent of lower-middle-income countries.”*

maximized the amount of tax that IMF and World Bank research suggest they raise, the costs would still be 17 percent of their revenues.

Such a level of expenditure is not feasible, as it would squeeze out spending on other legitimate national priorities such as health and education. ODI concludes that two billion people live in countries that cannot afford even half the cost of basic services, if expenditure is to be kept below the 4 percent benchmark. This includes all low-income countries and 40 percent of lower-middle-income countries.

Legal identity is an area where we have a relatively good understanding of costs. The World Bank has estimated that it will cost \$3.8 billion to scale up Civil Registration and Vital Statistics (CRVS) systems in 73 developing countries.<sup>148</sup> This was found to be unaffordable from domestic taxation, with an additional annual financing of \$199 million needed from international sources.

However, the costs of legal identity are falling due to the availability of digital technology, increasing affordability. The unit cost of a legal identity in developing countries is just \$5, far below the cost of similar schemes in rich countries.<sup>149</sup>

## **What strategies can increase affordability?**

Increasing the affordability of basic justice services relies on three key strategies.

First, countries need better data on current resource allocation in order to target expenditure on the most urgent justice needs and to the people least able to access justice.<sup>150</sup>

A recent UN-World Bank guide demonstrates how public expenditure reviews for security and justice can be used to direct the allocation of resources towards financing “effective, professional, modern, and accountable institutions that provide security and justice institutions for citizens.”<sup>151</sup>

A second strategy is to direct existing resources towards lower-cost approaches with potential to deliver justice at scale. This chapter has highlighted a range of alternative models – implemented by the state or by civil society – that are more cost effective than traditional, lawyer-led approaches. Innovation can also help reduce costs, as in the example of digital technology pushing down the cost of acquiring legal identity in lower-income settings. We return to the question of smarter financing models in chapter 5.

A third strategy for overcoming the challenge of affordability is to diversify sources of funding. For poorer countries, aid is important. But international support for investing in justice is weak and fell by 40 percent from 2014 to 2018.<sup>152</sup> In fragile and conflict-affected

states, only 1.5 percent of official development assistance is spent on justice.<sup>153</sup>

Justice reformers must continue to build the case for investment, and to make the argument that strengthening justice systems yields benefits for poverty reduction, for tackling conflict and insecurity, and for sustainable development.

Philanthropists, impact investors, and private sector firms should also be encouraged to increase their investment in justice. While a few foundations have helped the justice sector, they do not spend on the scale seen in education and health. Nor is justice one of the top ten sectors for impact investment.<sup>154</sup> Private sector investment is largely focused on innovations for large law firms and major corporations, rather than on services for the public and small businesses. These funders are often put off by regulatory restrictions or by political impediments. We return to the need for justice systems to be more open to new partnerships in chapter 5.

## Spotlight 1

### Reaching the furthest behind first

#### Justice for women, for children, and for excluded groups

The 2030 Agenda promises to include all people, irrespective of age, sex, disability, race, ethnicity, origin, religion, wealth or other status. Justice problems are not randomly distributed. In all countries, some groups are more likely to suffer injustice than others or to have distinctive needs when they seek justice.

By empowering those that are at a disadvantage and by finding new ways to solve the most difficult justice problems, countries will be able to reach the furthest behind first.

#### Justice for women

The High-level Group on Justice for Women worked with the Task Force to explore the justice needs of women and better understand what is required to make justice systems gender-responsive. It found that “for too many women, gaps persist between the promise of justice and realities on the ground, in the workplace, in communities and at home.”<sup>155</sup>

Surveys show that women have roughly the same number of unmet justice needs as men, but the nature of these needs reflects women’s experience of violence, discrimination, disadvantage, and exclusion. The poorest women face the highest barriers to justice, as do those living in countries where the situation of women is worse overall.

The High-Level Group’s report identified five promising approaches for increasing justice for women:<sup>156</sup>

- **Eliminate legal discrimination against women** by repealing discriminatory laws which limit justice for women, and adopting laws that empower women and signal that certain types of behavior are unacceptable.
- **Prevent and respond to intimate partner violence** by adopting legal reforms and providing tailored support from the justice system as part of a broader multi-sectoral response.
- **Overcome disadvantage for poor and marginalized women** by providing access to legal aid and paralegal services, promoting legal literacy, and overcoming poverty barriers.
- **Empower women, economically and as rights-holders** by enabling legal identity, strengthening women’s land rights, and using collective action as a catalyst for change.
- **Include women as decision makers** by ensuring equal representation of women in decision making at all levels in the justice sector.

#### Justice for children

Children and young people are heavily reliant on justice systems to protect and promote their rights. Legal needs and victimization surveys are not designed to capture their justice needs, but other evidence suggests they face an even wider justice gap than adults.

Half of the world's children are victims of violence each year.<sup>157</sup> When left unprotected, children are highly vulnerable to exploitation, abuse, and neglect. Two in every five modern slaves are children.<sup>158</sup> Justice systems fail children when they are victims of injustice. They are often unable to access justice institutions or lack the support to participate in proceedings. They also fail them when they come into conflict with the law. Young people are more vulnerable to the negative psychological impacts of harsh punitive measures.<sup>159</sup> They often have less knowledge and confidence than adults to claim their rights and seek redress.

The Task Force's Justice for Children working group argues that justice systems need to create specialized, child-friendly approaches if children are to realize their rights and fulfil their potential. Its call to action highlights three priorities to strengthen justice for children:

- **Promote justice as an enabler of children's development** by delivering equal access and support to all children who require the services of justice systems, preventing unnecessary contact with the justice system including via informal approaches, and ensuring the right to legal identity for all children.
- **Accelerate action through implementation channels** that prevent all forms of violence against children, safeguard the rights of children used by armed or other criminal groups, and restrict the deprivation of children's liberty to exceptional circumstances.
- **Establish and sustain the foundations for change** by adopting a multi-sectoral approach to child protection, promoting the participation of children in decisions that affect their lives, securing sustained political commitment to high quality justice for children, and ensuring responses are based on international standards and evidence-based policies.

## Justice for all

Other groups left behind by justice systems include:

- **People with disabilities**, who face discrimination in the workplace, at the hands of the authorities, in their communities, and in their homes. Surveys in Australia, for instance, have found that those with disabilities have the greatest justice needs compared to other disadvantaged groups.<sup>160</sup>
- **People from ethnic minorities**, who face systemic injustices in all countries, including at the hands of justice institutions. The UN Special Rapporteur on contemporary forms of racism has found persistent and pervasive use of ethnic and racial profiling by justice institutions in countries across the world, harming "already tenuous relationships between law enforcement agencies and minority communities."<sup>161</sup>
- **Migrants, refugees, and stateless people**, who face discriminatory laws and often have little meaningful access to justice services, despite having urgent and complex justice needs. Many refugees are denied fair treatment with regard to housing and employment. Obtaining legal documentation is often a major challenge.<sup>162</sup>
- **Lesbian, Gay, Bisexual, Transgender/Transsexual and Intersex (LGBTI+) people** face disproportionate levels of injustice. In some countries, they are at such high risk of violence at the hands of families, communities, and the authorities that researching their justice needs is impossible.



# Building Just Societies

To build just societies, we must resolve justice problems, prevent injustices from occurring, and use justice systems to create opportunities for people.

## Chapter 3

# Solving Justice Problems

*In the past, justice reform has focused primarily on buildings, processes and institutions, but this has failed to close the justice gap for billions of people.*

*A people-centered approach to justice reform starts with people's needs and aims to solve the justice problems that matter most to them.*

*People-centered justice empowers people to seek solutions and provides them with quality services throughout their justice journey.*

*We can help more people reach a destination where they believe their problems have been fairly resolved.*

# Transforming Justice

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To be effective and credible, a justice system must help people solve their justice problems. The Task Force has shown that today's justice systems are not fulfilling this task.

That 1.5 billion people have unresolved justice problems should spur us into action. When a large proportion of children are out of school or do not learn even the basics when they go to school, the world's education leaders rightly call for action to tackle a "global learning crisis."<sup>163</sup> As the prevalence of a disease such as diabetes quadruples, health leaders work to build a consensus around the interventions most likely to reverse the trend.

We need a similar commitment to transformative change in the justice sector. At present, most justice problems go unsolved. How can we begin to solve a much greater proportion of the problems that matter most to people?

# Understanding Justice Problems

Notwithstanding the differences between countries and the diversity of legal systems, surveys tell us that people across the world experience many of the same types of justice problems.

This is not surprising. The need for justice reflects people's relationships with their families and communities. It is shaped by the behavior of businesses and their governments. And it is influenced by disparities of opportunities, wealth, and power.

Analysis of survey data from across the globe tells us that six areas account for most justice problems:<sup>164</sup>

## **1. Around one in five people have problems related to violence and crime.<sup>165</sup>**

Those who are victims of violence and serious crime have the most urgent need for justice. Violence ranges from highly visible abuses – for example, when organized crime hits a community – to largely hidden violence, such as domestic and child abuse. Often violence goes unreported, so this figure is likely to be an underestimate.

## **2. Nearly a quarter of people are involved in disputes over housing, land or neighbors.**

In many countries, disputes over boundaries or land use comprise the bulk of these problems. In others, conflicts with neighbors over noise, litter, parking spots or livestock predominate. Landlord-tenant disputes, meanwhile, often occur even in countries where contract law is well established.

## **3. Almost a third of people have legal problems related to money and debt, or as consumers.**

They have difficulties paying money owed or recovering money lent. They sell a product or service but don't receive payment for it. They struggle with disruptions to their electricity or water supply, or with their phone connection. Or they seek remedy due to poor or faulty provision of services or consumer goods.

## **4. One in five people have problems related to access to public services.**

Many are denied healthcare, education, water, sanitation, electricity, and benefit payments. Many, too, cannot obtain birth certificates for their children, identity cards for themselves, or other documentation needed to prove citizenship, residency or immigration status, and to access the services they need.

## 5. Almost one in 11 people are involved in family disputes.

Their legal problems relate to divorce and separation, child support payments, conflicts over wills, and domestic violence. Some of these disputes remain within a household; others extend to different branches of families. Women and children suffer disproportionately from these problems, and their disempowerment can make it harder for them to recover from their effects.

## 6. One in 12 people have legal needs related to employment or their businesses.

They are denied wages or benefits, are unfairly dismissed, or are harassed – sexually or otherwise – or exposed to health and safety risks in the workplace. Others face harassment or are bribed by the authorities, or face difficulties obtaining work permits or problems related to working in the informal sector.

The relative importance of these problems differs between countries, of course. When the crime rate is high, people urgently need protection from violence. The nature and frequency of family disputes differ from culture to culture. They are heavily influenced by gender norms and by the empowerment of women and of children. Many disputes are shaped by the nature of the economy. When many people are farmers, for instance, there are more disputes over land.<sup>166</sup> As countries become wealthier, disputes related to consumer issues become more prevalent.

The burden of injustice also varies greatly *within* countries. Mexico City has more than 2,000 municipalities, but a quarter of all crimes happen in just four of them.<sup>167</sup> In Bogotá, Colombia, 99 percent of homicides occur in just 1 percent of its streets.<sup>168</sup> In Minneapolis in the US, half of calls for help to the police come from just 3 percent of neighborhoods.<sup>169</sup>

In solving justice problems, countries draw on different legal traditions. As we saw in the first part of this report, poorer countries have significant resource constraints, while countries affected by conflict must begin to reconstruct their capacity to deliver basic justice services.

Context, in other words, matters a great deal. But by starting with the most prevalent types of problem, we can trace the journeys that justice seekers currently take and develop strategies to improve them. We can also identify what is shared across countries and across different types of justice problem, and highlight where tailored solutions are needed.

## Individual

### Violence and crime, in the public sphere, at work, and at home

A mother sees her son's killer on the street every day, yet he goes unpunished.



### Disputes over housing or land, or conflicts with neighbors

A family is evicted from their home and has nowhere else to go.



### Family disputes, for example around divorce and inheritance

A couple's divorce ends in a bitter fight with their children caught in the middle.



### Problems at work, whether as an employee or business owner

A young woman is not promoted after she turns down a "romantic" proposal from her boss.



### Problems with money and debt, or consumer problems

An elderly man is harassed by debt collectors for a contract that he doesn't remember signing.



### Difficulties related to access and quality of public services

A family cannot get connected to the electricity grid without paying a bribe.



## Structural

### Violent conflict, insecurity, and organized crime

People don't dare leave their homes at night because gangs control their neighborhood.

### Land grabs and disputes over the exploitation of natural resources

Children are sick due to a local factory polluting a river.

### Discrimination against women or against vulnerable groups

A woman cannot register her business because the law requires her husband's permission.

### Unsafe or abusive working conditions

A factory that violates building codes collapses, killing and injuring many workers.

### Abuses by corporations and failures of market regulation

A company is distributing fake medicines through local clinics.

### Discrimination in the provision of public services

A brother and sister are not registered for school because they belong to a minority group.

## The most common justice problems

## Better Justice Journeys

When people are asked how they want these justice problems solved, common themes emerge.

Victims of violence and crime want to be listened to when they make a report, and to have their cases dealt with sensitively.<sup>170</sup> They want a proper investigation and to be kept informed throughout the process.<sup>171</sup> Most of all, they want a resolution and – in many cases – a reconciliation that allows them to get on with their lives and feel safe in their communities.<sup>172</sup> Victims of violence and crime are not necessarily interested in punitive approaches. The evidence suggests that many would prefer to see greater investment in prevention of crime and rehabilitation of offenders than increased spending on prisons.<sup>173</sup>

Victims of conflict, mass atrocities, and other large-scale human rights abuses express similar wishes.<sup>174</sup> A study in Nepal among families of people who had disappeared during the country's conflict found that approximately two-thirds of families placed importance on knowing the truth of what had happened to their relative.<sup>175</sup> A similar proportion wanted economic support or other forms of assistance to resume their lives. Fewer than a third of respondents identified punishing the perpetrator of the disappearance as a priority. In Cambodia, while some victims of the Khmer Rouge regime wanted punishment, many others wanted to tell their stories, be acknowledged, receive reparations, be part of a process of reconciliation, and to tell the world what had happened (see spotlight 2).<sup>176</sup>

For those with civil or administrative disputes, legal needs surveys suggest people are generally less interested in a judgement that allocates blame than in finding cooperative solutions.<sup>177</sup> In a dispute over public services, for example, they want to gain access to the healthcare that has been denied to them or an apology for things that have gone wrong. When a dispute arises between a local community and a mining company, they want a fair solution and to be able to exercise their rights over land in the future.<sup>178</sup> Even in an adversarial divorce, it is usually in people's best interests – and certainly in the best interests of any children – to help all parties work together to “create their own laws of fairness.”<sup>179</sup> People also want to be fairly treated *while* they are seeking justice, through a process that is affordable, understandable, accessible, and as seamless as possible.<sup>180</sup>

Justice seekers benefit from approaches that are tailored to the main categories of problem that we discussed in the previous section.

> For an index of all the examples cited in this report, see “What Works Around the World”.

Support for survivors of sexual violence, for example, can help build a “criminal justice service fit for victims.”<sup>181</sup> Kolkata’s family courts have allowed women to “resolve marriage disputes through mediation rather than being alienated by legalese as they stand off to the side.”<sup>182</sup> Child-friendly justice services can help meet the needs of children both as justice seekers and when they are in conflict with the law.<sup>183</sup> Small claims procedures protect consumers by allowing for rapid and inexpensive dispute resolution with businesses.<sup>184</sup> Informal justice systems are often able to promote consensus in land disputes, suggest restorative solutions, and promote reconciliation.<sup>185</sup>

When we take people’s justice problems as a starting point, we are encouraged to think about how to design a better journey from that problem to a resolution. What matters is both the destination (does the justice seeker achieve a satisfactory resolution?) and the journey itself (is the justice seeker treated fairly along the way?).

The idea of a justice journey encourages us to rethink our understanding of the justice system. Taking current institutions as our starting point limits the range of actors that can help solve justice problems and narrows the scope of available solutions. Justice journeys can take many paths. A justice seeker may rely on help from outside the justice sector. Civil society organizations may be better placed than publicly-provided justice services to meet people’s needs. The most appropriate solutions may come not from courts but from informal or alternative justice providers.

If more partners play a role in providing justice, more problems will be solved. Inspirational leadership, clear standards and regulation, and effective mechanisms for accountability can allow a more diverse justice system to perform to its full potential.

To better understand justice journeys, we break them down into three stages:

1. People and communities are **empowered** so that they can act when a legal need arises.
2. They have **access** to people-centered justice services that are responsive to their needs.
3. They achieve a **fair resolution** to their problems, which results in meaningful and measurable increases in justice.

*By taking people's justice problems as a starting point, countries can design better justice journeys that help more people reach a destination where they believe their problems have been fairly resolved.*



### **Empower people and communities**

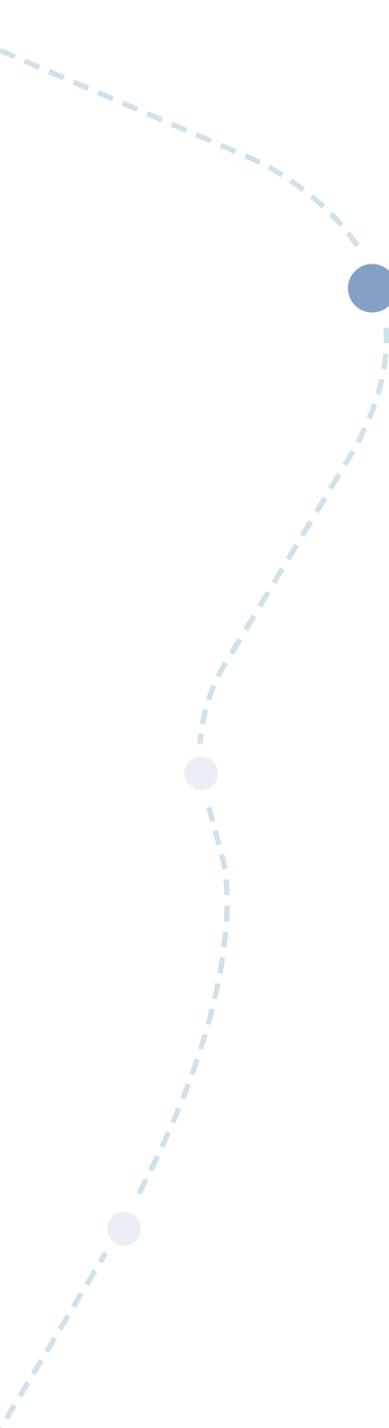
- Help people understand the law
- Support people to seek solutions
- Invest in legal aid for the most vulnerable
- Increase participation in justice

### **Access to people-centered justice services**

- Accelerate and simplify processes
- Support alternative pathways to justice
- Provide one-stop services
- Tailor services to justice needs

### **Fair outcomes**

- Meet standards for human rights
- Offer the right remedy
- Collect and disseminate data on outcomes
- Establish effective grievance mechanisms



## Empower people and communities

The justice journey begins by empowering people so that they can resolve their justice problems for themselves, their families, and their communities.

Legal empowerment helps people understand and use the law.<sup>186</sup> It enables them to recognize legal problems when they arise and equips them with the skills and confidence to take action.<sup>187</sup>

Accessible information and good advice are important, but empowerment is about more than correcting a deficit in knowledge about the law. Those in need of justice are often under great stress and grappling with urgent and overlapping needs. Vulnerable people need substantial help and support if they are to protect their rights.

A more dynamic model of legal empowerment invests in organizations that are rooted in communities and that are close enough to people to understand their legal needs and the context in which they arise. It challenges justice institutions to become more open and responsive to citizens and communities as they seek justice. And it actively promotes the inclusion of groups who have historically had the least access to justice.<sup>188</sup>

The Task Force has identified four priorities for increasing empowerment:

1. Help people understand the law
2. Support people to seek solutions
3. Invest in legal aid for the most vulnerable
4. Increase participation in justice

## Help people understand the law

People are empowered when they know their rights and feel able to act on them. Independent advice may be provided by a variety of actors, including those working outside the formal justice sector. Paralegals operate within communities and offer assistance that is highly cost-effective.<sup>189</sup> Citizens' advice services and helplines can use algorithms and other "choice tools" to provide consistent advice to more people. Trade unions help prevent workplace disputes reaching court. Specialist services have the expertise to support vulnerable groups to make effective decisions.<sup>190</sup>

Motorbike-riding paralegals in rural Liberia have provided outreach support in 160 villages. They conduct community education sessions and assist villagers to resolve disputes.<sup>191</sup>

## Invest in legal aid for the most vulnerable

Vulnerable litigants with serious legal needs will usually need financial support.<sup>198</sup> Legal aid is essential for those facing criminal prosecution who cannot afford their own defense. The poorest litigants also need legal aid for serious civil cases, especially those involving children or women who are at risk of harm. Well-designed legal aid programs provide incentives to address the underlying problem. They can recoup their costs through benefits that include reduced time in court or prison and the improved quality of life outcomes that result from prompt resolution of cases.<sup>199</sup>

Legal aid clinics were established in Ecuador to provide assistance to low-income women and children. Their work reduced domestic violence by 17 percent after a divorce and increased by 10 percent the probability that female clients would receive child support.<sup>200</sup>

## Support people to seek solutions

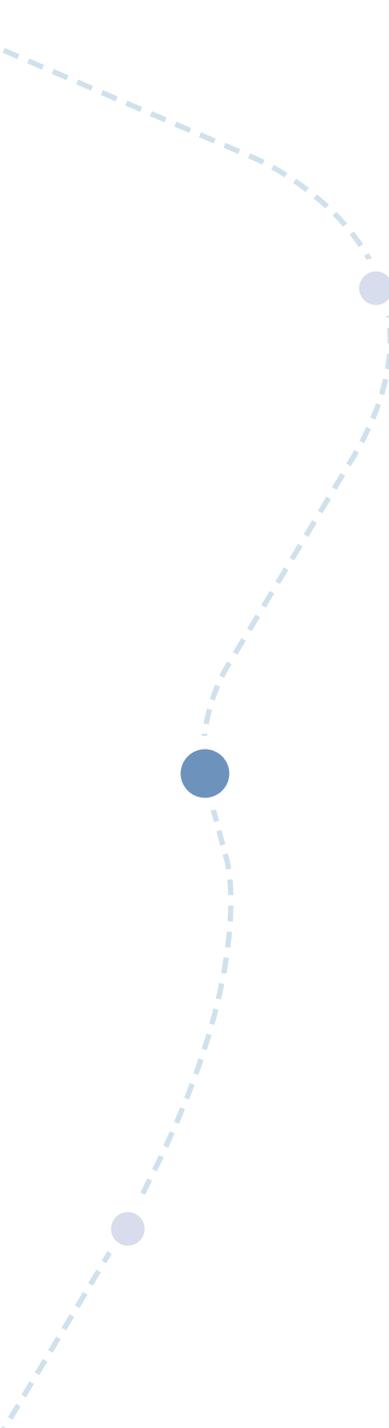
While many disputes can be resolved without third-party support, people with more complicated problems need navigators to guide them on their journey. This is the traditional role of lawyers, but lawyers' advice is too expensive for most.<sup>192</sup> Alternative navigators include paralegals,<sup>193</sup> victim and witness support services,<sup>194</sup> and services that guide unrepresented litigants through a court case.<sup>195</sup> Mentoring programs can support people from at-risk groups who are in conflict with the law, not only during a legal process but also in prisons and during their re-entry to society.<sup>196</sup>

In Nuevo León, Mexico, Ciudadanos en Apoyo a los Derechos Humanos provides legal support to prisoners and their families, assisting with court cases and educating inmates on relevant laws and procedures. The organization also undertakes monitoring of human rights within prisons, and works with families and inmates to identify and address violations.<sup>197</sup>

## Increase participation in justice

People are more likely to feel empowered when the justice system is representative and diverse. Broad participation increases people's expectations that they will be treated fairly and can build support for the rule of law among communities.<sup>201</sup> Inclusive employment policies are needed to increase diversity within justice institutions, but there are other roles that give people a stake in the provision of justice – as activists and paralegals, community mediators, volunteer jurors or magistrates, and so on. Engaged citizens can also play an important oversight role, monitoring progress towards delivering justice for all.

Community-based volunteers of the NGO RENEW in Bhutan work with local elders and the police to respond to domestic violence reports. Survivors often feel more comfortable reporting to community volunteers than to the authorities. These volunteers are trained to be "gender-informed" facilitative problem solvers. They use a consensus-building approach to help parties come to an agreement.<sup>202</sup>



## Access to people-centered justice services

Justice is an essential public service, but it has not traditionally been designed to meet people's needs in a user-friendly way. Justice institutions are often expensive, physically inaccessible, or psychologically and culturally intimidating. Some combine all these blights. This prevents even legally-empowered citizens from accessing the services they require.

A more responsive justice system would deliver services that are based on people's expressed needs. It would be open, accessible, and welcoming to all groups, including the most vulnerable. It would ensure that people were informed about their options at each stage of the justice journey, and would use triage and signposting to point them to the most appropriate part of the system at each stage. And it would make use of technology to reach more people and smooth the justice process.

Governments should support an increased diversity of provision. This may demand the breaking up of monopolies, and the opening up of service delivery to paralegals or other low-cost mediators, or to a new generation of digital legal services. New mechanisms will often be needed to finance and support those non-traditional providers who can significantly increase access.

Four steps are fundamental to improving access to appropriate services:

1. Accelerate and simplify processes
2. Support alternative pathways to justice
3. Provide one-stop services
4. Tailor services to justice needs

## Accelerate and simplify processes

Early intervention to resolve a problem can result in large savings in time and costs. Simpler processes and plain language make justice processes more comprehensible, while supporting better decisions throughout the justice journey. Data is needed to track the flow of cases through the justice system, identifying bottlenecks and drivers of unnecessary complexity.<sup>203</sup> Alternatives are needed to provide swifter justice for the three million people who are in prison awaiting trial.<sup>204</sup> Governments must also confront the perverse financial incentives that reward lengthy and opaque processes.

Rwanda's community-based *abunzi* system draws on trained local volunteers to mediate disputes, most of which relate to land. Only one-quarter of the disputes it adjudicates subsequently proceed to the formal justice system.<sup>205</sup>

## Provide one-stop services

Community justice centers provide a range of justice services under one roof. They often also provide other types of support, advising vulnerable women on government benefits, for example, or helping them deal with trauma. Providing a range of services in one venue empowers people to begin their justice journey, and makes it more likely they will find a solution because these services address their underlying problems. Multidisciplinary centers can be independently situated or housed within a court or other existing institution such as a hospital or health clinic. In-person services can be supplemented by telephone or online advice.

Argentina's 90 Centros de Acceso a la Justicia (Access to Justice Centers) provide comprehensive legal and community services to local populations. Each center has a team of lawyers, psychologists, social workers, and community mediators offering a holistic response to justice-related problems by providing additional services.<sup>211</sup>

## Support alternative pathways to justice

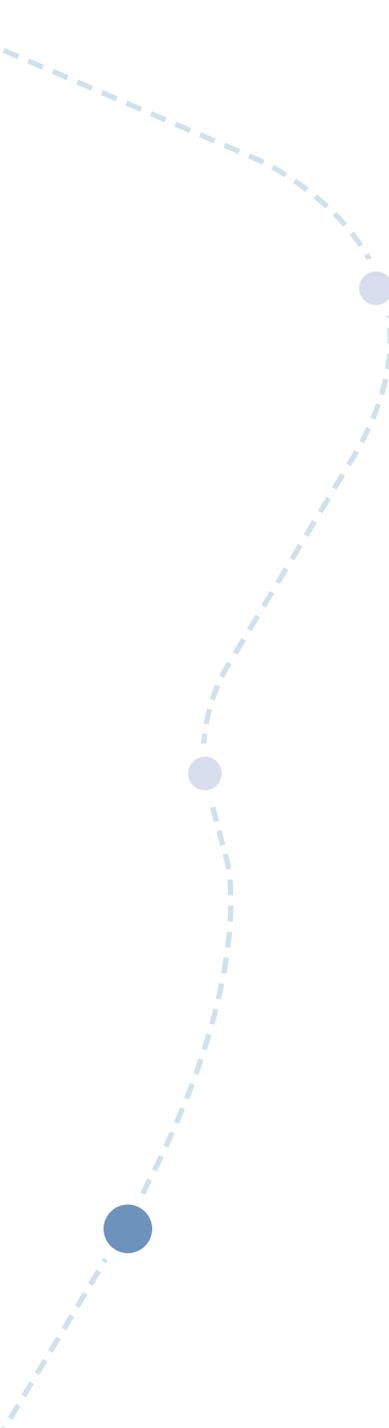
Adversarial approaches to justice can escalate rather than resolve disputes, while increasing the stress experienced by those involved. Alternative methods of resolving disputes provide more people with justice at a lower cost, while saving the courts for the most serious cases. They also improve levels of satisfaction.<sup>206</sup> Restorative justice schemes, for example, have positive effects in curbing reoffending rates, giving victims a sense of satisfaction and fairness, and reducing post-traumatic stress symptoms.<sup>207</sup> Diversionary sentencing can also reduce reoffending, as well as drug use and other harmful behaviors.<sup>208</sup> The police, meanwhile, can play an important de-escalation role within communities if they have the right skills.<sup>209</sup>

In Australia, a diversionary sentencing program to encourage defendants with drug problems to undergo treatment before their trial (with successful completion of treatment taken into account in sentencing) has reduced both drug use and rates of reoffending.<sup>210</sup>

## Tailor services to justice needs

Specialized services provide a better fit for people's justice problems and are more likely to meet their needs. They can be tailored to the main types of justice problem – employment or land, for example – or they can provide a higher quality and more sensitive service for target groups (such as children, or women who have suffered domestic abuse). Since cases share common features, providers will get a better sense of structural issues as well as the psychological patterns related to the specific need. Specialist services can develop evidence-based protocols and guidelines for providers, making processes more consistent and effective, while making it clear to justice seekers what they should expect.<sup>212</sup>

Burundi's Humura Centre for Gender-Based Violence provides survivors with medical care, psychosocial support, and police and legal advice. It processes cases on average five times faster than cases handled elsewhere in the justice system.<sup>213</sup>



## Fair outcomes

Ultimately justice systems must be judged on whether they deliver meaningful progress towards justice for all.

For individuals, this means a satisfactory resolution to a problem. People on a justice journey place a high value on the quality of their treatment.<sup>214</sup> They will often accept a judgement going against them if they feel they have been listened to, understood, and treated fairly.<sup>215</sup> Understanding individuals' expectations, experiences and emotions, designing services around people's lives, and then tracking whether positive outcomes are achieved is vital to improving justice systems.<sup>216</sup>

Fairer outcomes for individuals will translate into broader social and economic benefits for communities and societies, while contributing to greater inclusion and reduced inequality. If fair outcomes can be achieved, this will lead to a reduction in violence and to more peaceful communities.

It is essential to measure progress towards achieving fair outcomes. Justice systems need a new sense of accountability to the people they are designed to serve. An evidence-based approach that asks participants in judicial processes about their perceptions of fairness and their experience of the justice process is needed to hold providers to account and to give them feedback on the service they provide.

The Task Force recommends four measures for increasing fairness.

1. Meet standards for human rights
2. Offer the right remedy
3. Collect and disseminate data on outcomes
4. Establish effective grievance mechanisms

## Meet standards for human rights

Ensuring that they meet international standards for fundamental human rights during the justice journey is critical for justice providers. All countries must strengthen rights to liberty and security, and to a fair trial based on the presumption of innocence and standards that underpin the presentation of a defense.<sup>217</sup> Ensuring that law enforcement is consistent with human rights is a further important priority. Human rights organizations and other civil society justice defenders can play a role in pressing for fair outcomes where decisions do not comply with international rights standards. By connecting formal and informal justice providers, moreover, human rights can be given meaning at the local level, and their reach and impact increased.

Amnesty International has developed a list of ten basic human rights standards that should be followed by law enforcement officials.<sup>218</sup>

## Collect and disseminate data on outcomes

To create the right incentives for justice systems to provide fair outcomes, data on judicial effectiveness should be gathered and made available to the public. Proof that fairness is increasing may lie in reductions in reoffending (since resentment at unfair treatment can be a significant driver of crime), in reduced incidence of unmet legal needs, or in diminished stress levels and improved mental health among complainants and defendants. Data on public perceptions is also important in assessing whether a justice system is providing fair outcomes.<sup>223</sup> Cost-benefit analysis, meanwhile, can help determine whether societies as a whole are receiving a fair return from their investments in justice.<sup>224</sup>

In Ohio, a shift in the awarding of bail to take account of the risks posed by detainees, rather than their ability to pay the bond, has almost doubled the number of defendants released pre-trial without bail, and halved the number re-arrested after release.<sup>225</sup>

## Offer the right remedy

Sentencing decisions should be grounded in evidence of the effect of sentences in reducing reoffending rates, deterring crime, and recognizing the harm done to victims. There is plentiful evidence to suggest that alternatives to incarceration are more effective in many cases, and that these are supported or even preferred by victims.<sup>219</sup> These include fines, home detention, community-based sentences, restoration between criminal and victim, and rehabilitation schemes.<sup>220</sup> In civil cases, people are less interested in apportioning blame than in reaching an agreement that allows them to go about their normal lives.<sup>221</sup> The best remedies rebuild relationships and restore harmony within a community.

A 2016 survey of crime victims in the US found that even among victims of violent crimes, large majorities favored criminals being held accountable through “different options beyond just prison”.<sup>222</sup>

## Establish effective grievance mechanisms

Contrary to popular belief, people can be satisfied about the outcome of a case, and see an outcome as fair, even if they have lost. Key elements in determining their satisfaction include the perceived independence of justice institutions and the degree to which their cases were taken seriously. Justice providers must set and meet basic standards related to the quality of the process, based on people’s feedback. In addition to appeal procedures for legal decisions, effective and independent grievance mechanisms are needed to deal with complaints. Improving the transparency of decision making – for example, by videotaping court proceedings or publishing “route to verdict” documents – will facilitate grievance processes.

Standards such as those laid out in the International Framework for Court Excellence can help national justice systems to improve fairness and other aspects of performance, and to benchmark progress against other jurisdictions.<sup>226</sup>



## Chapter 4

# Preventing Injustice

*Given the size of the justice gap, we must prevent justice problems as well as working to resolve those that have already occurred.*

*Prevention reduces the harm people suffer and is highly cost effective.*

*A shift towards prevention requires a transformation in justice systems, as justice collaborates with other sectors to address the root causes of disputes and avert violence, conflict, and human rights abuses.*

*Prevention strategies should aim to create trustworthy justice systems, tackle structural injustices, and use the law to reduce the risks of injustice.*

## The Shift to Prevention

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The justice gap is so large that it cannot be closed only by resolving problems after they have arisen. We must also act to prevent justice problems from occurring.

Prevention reduces the number of people who suffer harm, and it allows scarce resources to be dedicated to responding to the most serious and intractable justice problems.

It encourages a renewed focus on the root causes of injustice – “the disparities of opportunity, wealth, and power” that the 2030 Agenda highlights as obstacles to its vision for sustainable development.<sup>227</sup>

But prevention is about more than harm reduction. By providing fair treatment for all, an effective justice system provides the conditions for a society to develop sustainably.

Societies that are peaceful and safe are more likely to flourish. When there are fewer disputes, people can interact with each other in more positive ways. And when all members of a society have proper legal protections, they are better equipped to fulfil their potential and to participate fully in building a better future.

## Why Prevention?

An old fable asks why, when people keep falling off a dangerous cliff, we spend money not to put up a fence along the cliff edge but to station an ambulance in the valley.

The world's justice systems traditionally play the role of ambulance. The police react to reports of crime. Lawyers wait for clients to seek their assistance – who are often in distress by the time they turn to them. Courts pass judgement on the cases that appear before them.

In the field of public health, it has long been acknowledged that this approach is the wrong one. The World Health Organization's 1948 constitution defined health as "a state of complete physical, mental and social well-being, and not merely the absence of disease or infirmity."<sup>228</sup> Promoting health is regarded as more effective than treating sickness as a means of improving well-being.

The justice sector needs to think in the same way, learning how to build fences and find other ways to make the cliff top safe. This is a shift from reacting to negative events to adopting a positive approach, with the justice system actively promoting fairness, peace, social cohesion, and prosperity.

Prevention makes sense for four overlapping reasons.

First, the justice gap cannot be bridged with traditional approaches and tools. Even if countries invest in all the approaches recommended in the previous chapter, they will struggle to respond to the scale of unmet demand for justice. Preventing justice problems makes an essential contribution to any viable pathway from justice for the few to justice for all.

Second, justice is needed for communities and societies, not just for individuals. By analyzing the most common cases that appear before them, justice providers can spot patterns as certain types of dispute recur. Perhaps people are being repeatedly evicted because their tenancy rights are insecure, for example. Or weak regulation is leaving them vulnerable to predatory lending. Or perhaps the health of an entire community is suffering due to an abusive mining operation. Prevention, which addresses the root causes of injustice, is the best way to tackle structural and systemic factors that underpin the common justice problems identified in the previous chapter.

Third, the justice system plays a role in prevention when it acts as a platform for people to seize opportunities and participate fully in their societies. As shown in chapter 1, legal identity, basic documentation, and other legal protections act as a gateway for social and economic development. More broadly, justice systems and institutions can help increase people's resilience against a range

*“ Prevention is cost effective. The justice gap cannot be bridged with traditional approaches and tools, while justice is needed for communities and societies, not just individuals.”*



of risks, tackling exclusion, responding to grievances, and delivering “positive change that results from peaceful contestation.”<sup>229</sup>

Finally, prevention is cost-effective. Fewer justice problems mean fewer costs for people, for society, and for the justice system itself. As we discussed in chapter 2, moreover, investments in justice can reap large benefits in terms of improved health and well-being, more peaceful societies, better economic outcomes for individuals and communities, and improved returns on government investment.

## What Kind of Prevention?

This chapter draws on a background paper prepared for the Task Force by New York University’s Center on International Cooperation. The paper observed that “prevention runs against the grain for justice systems that are ‘wired’ to respond to problems” and that while reactive approaches are highly visible to politicians and the public, “the outcomes from prevention can be diffuse and hard to track.”<sup>230</sup>

This research also found innovative approaches to prevention flourishing in justice systems across the world. There is growing evidence of what works in preventing justice problems, and an increasing appetite to understand and address root causes, tackle systemic injustices, and build justice institutions that can play a strategic role in prevention.

These efforts focus on four areas:

1. Preventing and de-escalating disputes in a world where 1.5 billion people have unsolved justice problems.
2. Preventing criminal, organized, and interpersonal violence, especially violence against women, children, and other vulnerable groups.
3. Using justice systems to help build more peaceful societies, by preventing conflict and instability.
4. Promoting inclusion and advancing human rights, at a time of high levels of exclusion and distrust.

## Preventing and de-escalating disputes

Justice providers can work proactively with people to preempt and prevent disputes, or to stop them from becoming more serious.<sup>231</sup>

Preventive approaches are increasingly used by businesses, because averting disputes – over a major contract, for example – delivers substantial cost savings when compared to cost of legal action.

Dispute prevention has similar benefits for individuals.<sup>232</sup> Online platforms are emerging that aim to “democratize the law” by giving people the tools they need to make legally-binding agreements.<sup>233</sup> These tools reduce the risk that disputes will arise in the future.<sup>234</sup> Grassroots empowerment also works in this area. Many people, a South African paralegal reports, “do not enter into formal agreements, and relations go sour.”<sup>235</sup> Paralegals have addressed this problem by assisting communities to make formal agreements that protect their rights.<sup>236</sup>

Related approaches increase the availability and accessibility of legal documentation. Do-it-yourself services make it easier for people to make wills, reducing the risk of inheritance disputes. This is especially important for protecting the rights of women and children. Services that make it easier and cheaper to register a business assist disadvantaged groups to set up firms, thereby boosting economies. Online portals allow traders to comply more easily with licensing and other regulatory requirements, protecting them from abuse by the authorities. Intermediaries such as trade unions, co-operative societies, and other community associations play a key role in helping people use the law to strengthen their resilience.

Governments can identify areas that generate large numbers of disputes and make preventive use of laws and regulations.<sup>239</sup> Better regulation of markets and strengthened protections for citizens will help reduce the number and seriousness of consumer debt, housing, and employment disputes. A strengthened commitment to fairness in the provision of public services, combined with enhanced opportunities for citizen participation, will reduce the number of disputes between citizens and government. Laws that protect the rights of women and children can lead to lower levels of conflict and to more just outcomes when relationships break down. In the US, for example, a switch away from fault-based divorces led to a measurable decrease in female suicide and domestic violence.<sup>240</sup>

Governments can also avert “downstream” damage to the justice system through better design of laws, regulations, and policies.<sup>241</sup> Changes in social security and employment law, for example, or in the protection provided for tenants, have predictable impacts on the number of justice problems and on subsequent demand for justice services.<sup>242</sup> Some countries now undertake justice

› Visual contracting can make agreements more accessible. “Comic contracts” were first used in South Africa for employment contracts for fruit pickers.<sup>237</sup>

› The Sauti platform allows cross-border traders in East Africa to access market and other official trade-related information using their mobile phones. This up to date information helps protect them from harassment and extortion by border officials.<sup>238</sup>

impact assessments to quantify and cost the effects of new policy proposals on the civil and criminal justice system.<sup>243</sup> These assessments “help policy-makers across government find the best way of achieving their policy aims whilst minimizing the impact on the justice system.”<sup>244</sup>

In a similar way, legal empowerment approaches can prevent disputes through a shift from dealing with individual cases to tackling the root causes of collective injustices. Justice defenders can help communities use the law to challenge powerful business and state interests, by tackling abuses by mining, agricultural or logging companies, for example, or by corrupt officials.<sup>245</sup> Resolving a dispute of this kind benefits all members of the community, but it also empowers a community to “know, use, and shape the law” in a way that protects it against future exploitation.<sup>246</sup>

Campaigning and advocacy also have a role to play. Ombudsmen, consumer organizations, and other complaints mechanisms can turn insights from individual cases into structural improvements.<sup>247</sup> In the UK, the Citizens Advice service identifies trends by analyzing data on the millions of people it helps. The service uses this “unparalleled evidence from the people we help to try and fix the underlying causes of people’s problems.”<sup>248</sup> When it identifies a common problem – for example, when payday loan companies were providing unfair terms for customers – the organization uses the evidence to campaign for policy reform.

These approaches to prevention are inevitably multi-sectoral. Ministries of Justice must work with other government departments, highlighting how justice can help achieve objectives in health, education, jobs, housing, and other areas, while minimizing any negative impacts of government decisions on the justice system. Justice providers can only play a full preventive role by working in partnership with those providing community, health, and other services. Canada’s National Action Committee on Access to Justice in Civil and Family Matters has emphasized the importance of a “front end” of the justice system, which helps people develop “a preventive set of knowledge, skills and attitudes, before specific legal problems are encountered.”<sup>249</sup> Such a system draws on a wide range of intermediaries, including women’s and community groups, schools and youth organizations, faith groups, helplines, and libraries.

## Preventing violence

In the late 18<sup>th</sup> century, the English jurist Sir William Blackstone argued that “preventive justice is upon every principle, of reason, of humanity, and of sound policy, preferable in all respects to punishing justice.”<sup>250</sup>

*“We use unparalleled evidence from the people we help to try and fix the underlying causes of people’s problems.”*



Two hundred and fifty years later, we have powerful evidence to demonstrate the wisdom of this statement.

The traditional route to preventing violence has been through tough approaches to deterrence. “the idea that if state-imposed sanction costs are sufficiently severe, criminal activity will be discouraged, at least for some.”<sup>251</sup> However, a robust body of evidence suggests that long prison sentences have a limited deterrent effect.<sup>252</sup> Punitive approaches have often proved counter-productive. Tough-on-crime strategies have been widely used in Latin America. In the case study of El Salvador, it led to increases rather than decreases in violent crime, to a strengthening of the gangs that perpetrate it, and to a crisis for overburdened prison systems.<sup>253</sup>

While we now know what doesn't work to prevent criminal violence, we have a very robust evidence base – made up of more than 100 systematic reviews – to show what does.<sup>254</sup>

The police are – or should be – on the frontline of preventing violence and crime. In recent years there has been a marked global shift away from reactive policing towards problem solving models that aim to target risks in the communities the police serve. Rather than reacting to crime after it has been reported, data and evidence are used to target police resources to where they are needed most.<sup>255</sup> While long prison sentences are a poor deterrent, the knowledge that one is likely to be caught renders people much less likely to commit crimes or perpetrate violence.<sup>256</sup> More effective and visible policing can help deter would-be troublemakers and make societies safer. Training police to respond to people's behavior and take account of their emotions helps them to manage conflicts on the spot and reduce the risk of violence.<sup>257</sup>

To play a full preventive role, the police must work in close partnership with local communities, especially those that are subjected to the highest levels of violence.<sup>258</sup> Improving relationships between communities, social services, police, and prosecutors focuses deterrence on those perpetrating the worst violence while bolstering communities' own ability to prevent violence.<sup>259</sup> This can lead to a dramatic decline in the worst forms of violence, while providing space for a community to move towards more resilient patterns of development.

Other parts of the justice system can play a similarly important preventive role. Problem solving courts “put judges at the center of rehabilitation,” addressing addiction, mental illness, and other drivers of re-offending.<sup>262</sup> Restorative justice programs provide offenders with the opportunity to repair the damage they have caused. They can improve outcomes for victims and reduce levels of violent crime.<sup>263</sup> Victims of domestic violence, meanwhile, can be protected from

› In Ukraine, the patrol police work with Citizens Advisory Groups to develop integrated prevention strategies.<sup>260</sup>

› In Lebanon, the municipal police are shifting “from a law enforcement model towards community-oriented policing.”<sup>261</sup>

future harm through restraining orders, support programs, and programs that challenge the behavior of their partners.<sup>264</sup>

For children, early intervention approaches support those at greatest risk of violence, neglect, deprivation or other adverse experiences such as witnessing violence.<sup>265</sup> This reduces risks of victimization and offending and interrupts inter-generational patterns of abuse, but only if justice actors work in partnership with education, health, and social protection services.<sup>266</sup> Children who are in contact with the law – as offenders, victims or witnesses – will also benefit from early intervention and specialized care, which can assist with reintegration into society and avert trauma that might have long-term consequences.

The justice sector can make an important contribution to multi-sectoral prevention strategies by strengthening the legislative framework to deter violence. This should include implementing special protections for women, children, and other vulnerable groups.<sup>267</sup> Laws to ban all forms of violence against women and children underline that these forms of violence are unacceptable.<sup>268</sup> Such laws are far from widespread, however. While 80 percent of countries have a “legislative framework for violence prevention” in place, only 57 percent say these laws are fully implemented and enforced.<sup>269</sup>

Targeted legislative changes are proven to be effective. Laws and regulation that reduce the availability of weapons and the harmful use of alcohol are part of the six “best buy” strategies for violence prevention identified by the World Health Organization.<sup>270</sup> The introduction of South Africa’s Firearm Control Act was followed by a 14 percent annual reduction in firearm-related homicides in five cities (other homicides fell much more slowly). A review of the act’s effectiveness estimates that 4,585 lives were saved over five years.<sup>271</sup> When enforced effectively, such laws have significant impacts on levels of violence.<sup>272</sup>

As in the area of civil justice discussed above, improved legal protections against violence are most effective when they go hand-in-hand with advocacy that challenges the norms that underpin violent behavior.<sup>273</sup> Laws are often passed as a result of advocacy. Their implementation can act as a focus for further campaigns, creating a virtuous cycle between activism and legal protections. The rise of new movements with a major online presence, such as the #MeToo campaign against sexual harassment and rape, has the potential to add further impetus to such cycles.



*“While we now know what doesn’t work to prevent criminal violence, we have a very robust evidence base – made up of more than 100 systematic reviews – to show what does.”*

## Preventing conflict and instability

Justice plays an indispensable role in protecting societies from insecurity and conflict.

According to *Pathways for Peace*, the United Nations and World Bank report on prevention, a justice system “can settle disputes in a peaceful manner, ensure accountability of power, promote respect for human rights, combat corruption... and ensure checks and balances.”<sup>274</sup>

However, the report also warns that, “A breakdown of justice systems and the rule of law generally can inflame the grievances that may be mobilized for conflict and create incentives for violent behavior.”<sup>275</sup>

Effective prevention is clearly important for countries affected by conflict, and especially for people living in extreme conditions of injustice. But with the need for access to justice increasing at a time of rapid social change, even seemingly stable societies can find themselves vulnerable if their justice systems fail to respond to their citizens’ aspirations.

For justice systems to play their preventive role, they must meet fundamental criteria of independence and due process, both on paper and in reality. Judges need to decide cases free from any outside interference. The independence of prosecutors is also crucial.<sup>276</sup> Due process and respect for procedural rights are preconditions for fair trials. If justice systems are not perceived as fair, they will be unable to fulfil their core function of promoting the peaceful resolution of disputes and conflicts.

In states where there has been a complete breakdown of institutions, core justice functions need to be built.<sup>277</sup> This provides countries with an opportunity – rather than mimicking the failed systems of old, they can construct new, more responsive systems that have people’s justice needs at their heart.

Reconstruction and reform of justice systems should start from an understanding of what people are already doing to solve their justice problems.<sup>279</sup> Even the most isolated, disadvantaged communities have strategies to reduce the risk of conflict. In situations where state systems are absent, people are forced to fend for themselves and to turn to old, new or reinvented social mechanisms to manage conflicts. These can be successful or problematic, but their existence should not be ignored when reconstructing state justice systems.

Justice systems can directly address risks in contested areas such as land, natural resources, service delivery, and access to a society’s levers of power. Laws covering land use, for example,

› Sierra Leone’s Local Police Partnership Boards have police and civilian members. As well as playing an immediate role in prevention when a local conflict threatens to trigger large-scale violence, they also shape long-term prevention strategies by identifying crime hotspots for greater police attention.<sup>278</sup>

› Liberia’s Peace Huts, established as a forum for women to discuss their experiences of the civil war, have evolved to promote socioeconomic development among members and to conduct advocacy campaigns which, among other successes, have resulted in the removal of corrupt politicians from their jobs.<sup>280</sup>

provide a framework for reducing grievances and promoting peaceful relations between communities, but only if they are agreed through an inclusive process. Community dispute resolution mechanisms can then help to reduce tensions between groups that compete to use land, or to protect the rights of the community in the face of powerful commercial interests. Human rights standards have an important role to play. The principle of free, prior, and informed consent has helped protect the rights of indigenous people to land and natural resources.<sup>281</sup> International partnerships can support national efforts to strengthen legal protections. In the Philippines, for example, the Extractive Industries Transparency Initiative has supported machine-readable and searchable contracting in the natural resources sector.<sup>282</sup>

Given the lack of capacity in many conflict-affected settings, reform is likely to be most sustainable if it is incremental. As the 2011 World Development Report noted, “When trust is low, people do not believe grand plans for reform will work.”<sup>284</sup> The report recommended that justice reforms should begin by strengthening basic functions, but that they should do so in ways that “go beyond paper reforms and reach into local communities.”<sup>285</sup> An incremental approach should not try to advance on all fronts at the same time, but should ensure that *over time* all relevant factors are covered.<sup>286</sup> Priorities should be established based on an understanding of the legal needs of different groups of people.

A first step can be to guarantee minimum service standards, an approach used in the health and education sectors. These define what users can expect, and they help build trust and support by demonstrating a growing ability to meet people’s needs. In Afghanistan, a minimum service standards package has been developed to provide the basic level of social services that people need to participate in the economy.<sup>287</sup> A “citizen’s charter” approach within the justice sector would focus on frontline service providers such as the police and lower-level courts. It can help to promote consistent standards across formal and informal justice provision.

As in the areas of civil justice and violence prevention, advocacy plays an important role. Empirical studies find a robust correlation between “strong and autonomous civil society and positive human rights indicators.”<sup>288</sup> Non-violent campaigns, such as those for which Martin Luther King was famous, are particularly effective in addressing the root causes of conflict.<sup>289</sup> They have been found to be more than twice as likely to succeed as violent resistance.<sup>290</sup> The justice system can protect space for civil society by promoting rights to assembly and free speech.<sup>291</sup> Political leaders – including those within the justice system – have a responsibility to moderate their rhetoric, avoiding use of speech that could entice violence and encouraging actions that are affirmative measures of tolerance and inclusion.

› Peru’s Office of the Ombudsman is a mediating institution that has managed natural resource conflicts and empowered citizens to press for broader reforms.<sup>283</sup>

› Grassroots advocacy organizations such as the Madres de la Plaza de Mayo in Argentina, the Vicaria de la Solidaridad in Chile, and the Centre for Human Rights Legal Action in Guatemala have actively campaigned for peace in their societies.<sup>292</sup>

## Promoting inclusion and protecting rights

Promoting rights and inclusion are a core message of this report. Access to justice is itself a human right, but justice is also essential to protecting other rights. A rights-based approach to justice puts people and their justice problems and aspirations at the center of efforts to reform.

These messages are underlined when we think about the role of justice in prevention. Prevention that aims to protect rights and promote inclusion can focus on the needs of those with multiple justice problems, in order to break the cycle where one problem leads to many more. It can rebuild the relationship between the police and other justice actors and communities, especially those most affected by violence. And it can promote inclusive approaches to conflict prevention, recognizing and bringing on board those who have hitherto been excluded, and addressing the grievances that derive from this exclusion.

In many cases, unfortunately, justice institutions entrench exclusion and deny rights, in effect reversing prevention. Abuses by security and justice actors are associated with increased risk of conflict, increased severity of conflict, or both. Abuses also fuel violent extremism, with communities in some areas “more afraid of state security forces than extremist groups.”<sup>293</sup>

Protecting rights requires providing justice institutions with new skills, tools, and approaches. For example, audio or video recording of investigations is proven to reduce the incidence of torture, as are rules and procedures to safeguard detainees immediately after they are taken into custody.<sup>294</sup> Training police in investigative interviewing skills rather than relying on confessions to secure evidence also makes torture less likely to happen.<sup>295</sup>

Similarly, strengthening judicial independence and impartiality can build or rebuild credibility.<sup>296</sup> Vetting of justice actors helps rebuild trust in institutions, promoting their legitimacy and their ability to combat future abuses. Reforms in Kenya under the country’s 2010 constitution, for example, involved clear criteria for selecting members of the Judicial Service Commission, public hearings during the selection process, and stipulations for fair representation of women and of all Kenya’s ethnic groups.<sup>297</sup>

Mechanisms for accountability and transparency can also help justice systems to prevent rather than aggravate human rights abuses. Giving victims, community bodies, and interested civil society parties access to data on the outputs of justice systems allows them to monitor enforcement and expose abuses.<sup>298</sup> Enhanced parliamentary oversight increases the accountability of security and justice actors, while raising awareness that can lead

› In Georgia following the Rose Revolution, a new Patrol Police was recruited, leading to dramatic improvements in public trust and an increased willingness of citizens to report corrupt behavior.<sup>301</sup> The country also built “glass police stations” – which act as both a symbol of transparency and as a practical approach to removing the dark corners in which abuse can occur.<sup>302</sup>

to improvements in the legislative framework for the prevention of human rights abuses.<sup>299</sup> Opening up systems to independent scrutiny and allowing for the publication of the results of such scrutiny reduces the likelihood that justice systems themselves become a source of injustice.<sup>300</sup>

Finally, as discussed in chapter 1, promoting people's gateway rights can be transformative for those who have been excluded from participating fully in society, politics and the economy. Although the numbers who need support are large, change in this area can happen rapidly.

Where there is political will, and with the assistance of civil society organizations and the deployment of affordable new technologies, countries can build systems that offer people legal identity, land rights, better access to contracts, and other documentation that allows them to play their full part in society.<sup>303</sup> Pakistan, for example, launched a biometric identity system and registered 90 million people in little over a decade.<sup>304</sup> The system was then used as the basis for a targeted social protection system that only releases resources directly to the beneficiary (most beneficiaries are poor mothers).<sup>305</sup> Rwanda rapidly registered ten million parcels of land into a new land registry, with more than seven million landowners – a majority of them women – collecting their titles over the next five years.

## Making the Shift to Prevention

A shift towards preventing injustice is akin to the change of focus from medicine to public health – from treating sickness to promoting health and well-being.<sup>306</sup>

A realignment towards prevention requires an adjustment in the mission, strategy, and operation of a justice system, and of the institutions within that system. Rather than considering only individual justice problems, justice actors must seek to influence how a population experiences justice and injustice, learning how to “strategize beyond an immediate firefighting approach to individual cases.”<sup>307</sup> Prevention seeks to understand how laws, regulations, and policies can tackle structural injustices, promote inclusion, reduce risk, and increase resilience.

The next step is to identify the desired results for communities, societies, and for the justice system itself. For communities, prevention outcomes include fewer or less serious disputes, a lower risk of violence, and a reduced risk of suffering rights abuses. For societies, outcomes include a decreased risk of violent conflict, the more peaceful management of disputes, reduced transaction costs

within an economy, and higher levels of trust in governments and institutions. And for the justice system, outcomes include improved confidence that the system is fair, more productive cooperation with other sectors, and an increased capacity to devote scarce resources to responding to the most serious risks and abuses.

Effective prevention strategies start with a desired outcome and “wind the tape backwards” to find ways of addressing a cluster of problems.<sup>308</sup> They use data to set priorities and target resources, combined with a rigorous testing of interventions to understand what does and does not work. And they monitor outputs and evaluate outcomes to understand whether results are being achieved. A review of the evidence on prevention points to the need to adopt three overarching strategies.

### Promote trust in justice systems

Justice systems are most likely to be able to play a preventive role when people have a reasonable expectation that their rights will be protected, their problems effectively resolved, that disputes will be managed peacefully, and that they will be safeguarded from abuses of power.<sup>309</sup> When the justice system offers both certainty and equity, it provides a framework for positive interaction between people, and between people and businesses and the state.<sup>310</sup>

This report emphasizes the need to invest in justice systems that work for people and that enable them to resolve their justice problems. Increasing trust in justice systems requires developing clear and transparent procedures, supporting the independence of judges and prosecutors, tackling corruption, and reaching out to groups who are excluded from the justice system.

Inclusive justice systems require strengthened co-operation between frontline justice actors and communities, with the aim of giving communities themselves the tools to prevent injustice. Civil society organizations have a vital role to play in helping build trust in justice systems, by bringing justice closer to the people and ensuring that people’s needs remain at the forefront of reforms.

### Tackle the root causes of injustice

As this chapter has shown, justice systems have untapped potential to address systemic and structural injustices in ways that reduce the number of justice problems.

By offering access to a range of “gateway rights” such as universal legal identity and access to documentation, governments enable full participation in societies, politics, and the economy, while protecting marginalized groups from abuses of their rights. Better

*“Prevention strategies move beyond firefighting and individual justice problems. They use data to set priorities, rigorously test interventions, and evaluate whether justice has been increased for a target population.”*

use of technology can make it easier for people to form and record agreements, protecting them from future disputes.<sup>311</sup>

Effective prevention also requires justice institutions to tighten their focus on vulnerable populations, breaking cycles of violence and other forms of injustice. This chapter has underlined the multi-sectoral nature of prevention, with justice actors working with other sectors to intervene earlier and in ways that address causes rather than symptoms. It has also highlighted the potential for grassroots justice defenders to tackle structural injustices, empowering vulnerable communities to make strategic use of the law.

### **Use the law to reduce risk**

Finally, the law can be used in a targeted way to address risks for communities and societies.

Strengthened legislative frameworks form an essential part of a multi-sectoral approach to violence prevention. Legislation directly protects people from violence, but it can also have broader impacts. For example, a study of more than 80 countries found that adolescent boys are 69 percent less likely to fight in schools if they live in a country that bans physical punishment.<sup>312</sup> This chapter has also highlighted the positive preventive impacts of laws and regulation that reduce the availability of weapons and the harmful use of alcohol.

Laws and regulations can also be used to make it less likely that disputes will arise, or to address grievances that might provoke conflict. If people face regular eviction, for example, the solution is – in part – in the hands of the justice system. The same is true if there are growing tensions around the use of a natural resource. And when incarceration, fines, and other punishments increase risk, rather than protecting societies from harm, this points to the need for justice systems themselves to change their policies.

## Spotlight 2

# Responding to mass human rights abuses

## Transitional justice and justice transitions

Transitional justice refers to how societies respond to serious and massive violations of human rights.<sup>313</sup> It is used both to redress mass violations and to identify ways of addressing the root causes and structural drivers of violence and repression.

The Task Force's **Working Group on Transitional Justice** brought together experts and organizations working in the field of transitional justice to analyze how transitional justice helps build peaceful, just and inclusive societies.

While transitional justice includes criminal accountability, both locally and via institutions such as the International Criminal Court, it is underpinned by a **broader understanding of justice** of the needs of victims and societies. Transitional justice mechanisms include truth-seeking initiatives, community reconciliation, reparations programs, institutional and legal reforms, and criminal prosecutions.

These processes have been used in countries as diverse as Argentina, Bosnia and Herzegovina, Rwanda, Sierra Leone, South Africa, Timor-Leste, and Tunisia. By giving victims the sense that they have been treated fairly, and by sensitizing perpetrators to the damage they have caused, transitional justice has helped cement peace in societies where conflicts have broken out or simmered for decades.

Human rights violations are not just a result of violent conflict and repression – they can also increase the likelihood of the onset or recurrence of violence and repression. **Preventing recurrence** is therefore a central objective of any transitional justice process.

Transitional justice contributes to the prevention of other forms of injustice and helps deliver access to justice for all. It increases trust in government and society, decreases the willingness of government institutions to use human rights abuses as a political tool, reduces grievances, tackles structural exclusion and discrimination, and breaks cycles of violence and injustice.

Studies have connected transitional justice mechanisms with the reduction of human rights violations, repression, criminal violence, and the likelihood of recurrence of civil war.<sup>314</sup>

**Tackling the root causes of human rights abuses** also provides a platform for economic and social development, reducing inequality and discrimination, tackling corruption, and dismantling the structural drivers of violence within a society.<sup>315</sup> Tackling violations against women, for example, can be part of a wider effort to eliminate gender-inequitable attitudes and behaviors. Efforts to reach the most vulnerable can engage them not only in the justice process but in overall development efforts.

If transitional justice is to contribute to sustainable development, it must be **context-specific**. Victims, affected communities, human rights and justice advocates, youth, and civil society – including religious, educational, women’s, and cultural groups – need political space and technical support to meaningfully advocate for, shape, and participate in transitional justice processes.

## **Lessons for justice sector reform**

Much can be learned from transitional justice. The key lessons are:

### **1. Transitional justice is people-centered.**

It has victims, not providers, at its heart. Victims’ needs determine how the search for truth is carried out, how and by whom perpetrators are brought to justice, the type and size of reparations, and how measures can be developed to prevent future violations. The needs of society’s most vulnerable groups are given priority, beginning with those of women, who often suffer the worst abuses in conflicts. Civil society organizations and the media are enlisted to help represent citizens’ opinions in the reform process and to construct and disseminate a narrative of change.

### **2. Transitional justice has prevention at its heart.**

There are not enough judges, courts or prisons to bring huge numbers of perpetrators to justice, as is often necessary following mass human rights violations. Instead, transitional justice makes efficient use of resources by reserving punitive approaches for the worst offenders. It finds alternative reparation mechanisms for the majority of those involved. Asking victims what reparations they want is central to such an approach. Often, victims, who must continue to live with those who committed abuses, prefer reconciliation to harsh punishment. Reconciliation helps victims achieve closure and perpetrators reintegrate into their communities, strengthening stability and reducing the risk of recurrence.

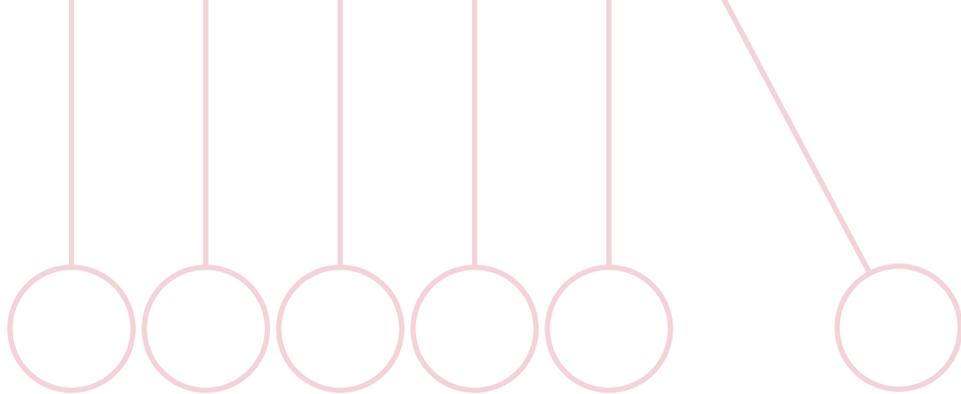
### **3. Transitional justice must be multidisciplinary to be successful.<sup>316</sup>**

Programs aim to transform the police and military into organs that serve rather than repress citizens. They reintegrate former combatants into society, and help victims to rebuild their lives socially and economically. They reform laws and judicial institutions in line with international human rights standards.<sup>317</sup> And they engage with informal, community justice systems that are often closer and more relevant to citizens than formal justice institutions.



# Pathfinders for Justice

The Task Force has developed an agenda for action that will help deliver the SDG targets that promise justice for all.



## Chapter 5

# Leading the Change

*A shift to justice for all requires a new focus on delivering tangible results for people.*

*Reformers around the world are beginning to transform their justice systems, providing lessons for others to learn from.*

*While there are a number of obstacles to change, there are also many opportunities. Global momentum is growing for justice reform. Justice leaders do not need to go it alone.*

*Four levers build momentum for reform: grounding reforms in data and evidence, encouraging innovation, developing smarter financing strategies, and increasing the diversity of justice systems.*

# Towards Justice for All

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The vision of the Task Force on Justice is of a shift from *justice for the few* to *justice for all*.

Such a vision demands a major transformation in how justice systems work. Our goal is to change expectations of what can be achieved – and to build a new consensus that societies can and should deliver justice for all.

To achieve this goal, countries must develop and implement strategies that bring justice services closer to the people who need them most.

They must identify and overcome the barriers that prevent justice systems from performing to their full potential, rectifying policies that actively increase injustice.

Delivering justice for all will require confronting political obstacles to change, and building confidence among justice leaders that, with the right policies and investment, they can deliver substantial increases in justice.

## The Path to Justice for All

As part of its World Development Report in 2017, the World Bank asked the political scientist Francis Fukuyama what countries had done to build justice systems that allowed them to realize their full social and economic potential.

His answer was that “a surprisingly small amount of systematic work has been done on transitions to a modern rule of law.”<sup>318</sup> The report also cited a quip from the former British Prime Minister, Gordon Brown: “In establishing the rule of law, the first five centuries are always the hardest.” Historical evidence supports this, showing that it can take many decades to build effective justice institutions.<sup>319</sup>

But the tone of the World Development Report was pragmatic, suggesting that what was important was not institutions in the abstract, but how institutions can steadily improve their capacity to produce “life-improving outcomes.”<sup>320</sup>

This is in line with a key message of this report – that justice reform should aim to deliver tangible results for people. It also fits with the data we have presented on the justice gap. Building effective justice systems is not a linear process where countries move from bad to good. All countries have work to do to respond to the unmet need for justice.

### Models of change

Across the world, justice systems are exploring new ways to put people and their needs first. Their efforts provide models for reformers elsewhere.

Argentina’s Access to Justice Centers are meeting the justice needs of the communities that need them most.<sup>321</sup> Reaching almost half a million people a year, their approach is multidisciplinary, with lawyers, social workers, and psychologists working under one roof. “Often people will come to us with a legal problem,” the Task Force was told by a young professional who works at one of the centers, “but when we talk to them it becomes apparent that they also have other problems, for example problems related to not having the right personal documents, or social problems related to housing or money, or psychological issues that result from or aggravate other difficulties.”<sup>322</sup>

In Canada, an action committee used data from a legal needs survey to develop a vision for a family and civil justice system that would put the public first.<sup>323</sup> It created a set of Justice Development Goals to increase the capacity of the system to address and prevent everyday legal problems, to stimulate cooperation, and to make justice institutions more representative of Canadian society.

Australia's Law Council also grounded its review of the country's justice system in data.<sup>324</sup> The Council called for resources to be directed away from coercive policies and towards "making the justice system just."

Empowerment is becoming an important focus of many countries' justice systems. Indonesia's national strategy on access to justice provided official recognition to paralegals for the first time.<sup>326</sup> The country has up to 6,000 grassroots justice defenders that help to empower local communities. They are effective because of their networks with other local organizations such as trade unions and universities, and because they can enlist the support of lawyers when necessary. Their success reflects the willingness of paralegals to "pursue remedies everywhere," looking beyond courts to "administrative agencies, local governments, accountability bodies like ombudsmen and human rights commissions, parliaments, customary justice institutions, and others."<sup>327</sup>

Bottom-up empowerment can be supported from the top. The 2017 World Development Report highlighted the growing independence of judges in Latin America. It noted how courts have been transformed from "weak, dependent, ineffective institutions" to independent actors helping citizens use the constitution to protect their rights.<sup>328</sup> In India, too, the Supreme Court has held the government to account over issues such as the right to education, environmental pollution, non-discrimination, and child and bonded labor.<sup>329</sup>

Countries are also opening up their justice systems to innovation. Reforms in the Bahamas made greater use of technology to streamline processes, increasing the resolution of serious criminal cases by 39 percent.<sup>330</sup> In Dubai, a new small claims procedure has provided faster and cheaper access to justice for less serious cases, resolving most within four weeks and freeing up the main courts to focus on the most difficult cases.<sup>331</sup> The UK is a leader in regulatory innovation, with the Legal Services Act creating space for alternative service providers. Statutory bodies now represent the interests of people and small businesses as they access legal services.<sup>332</sup>

Finally, countries have strengthened legal frameworks to directly increase justice for their population. In 1979, only Sweden had banned the physical punishment of children.<sup>333</sup> Now more than 50 countries have a comprehensive ban.<sup>334</sup> There has been a similar growth in the prohibition of violence against women. 144 countries now possess laws against domestic violence.<sup>335</sup> As discussed previously, the number of people with legal identity has increased rapidly in recent years, while countries like Rwanda have made swift progress in providing men *and* women with land titles, contributing to women's legal empowerment.<sup>336</sup>

*“ We need to build a common understanding of what access to justice looks like within our communities, and of our society as a just society. ”*

Law Council of Australia<sup>325</sup>



We can also draw lessons from other sectors. Education was once the preserve of elites, but countries now aim to provide quality schooling for all and to offer opportunities for lifelong learning. Healthcare has undergone a similar transformation. In 1978, the Alma-Ata declaration called for healthcare to be brought “as close as possible to where people live and work.”<sup>337</sup> In the ensuing years, life expectancy has risen steeply in all world regions.

The long struggle for gender equality and the empowerment of women and girls provides valuable lessons, demonstrating the importance of establishing new norms and challenging patterns of discrimination. The women’s movement has campaigned for rights, but it has also convincingly demonstrated the economic and social benefits that result from providing women with equal access to opportunities.<sup>338</sup> The case for justice combines similar normative and practical elements.

## Obstacles and opportunities for reform

In charting a path to justice, an understanding of political obstacles and opportunities contributes to better strategies for reform.

The law and justice systems help determine who wins and who loses when it comes to political, social, and economic power. Elites benefit from their disproportionate access to courts and lawyers and this weakens their motivation to support reform. They may be reluctant to tackle injustices that benefit them, such as corruption, impunity, or the denial of the rights of those who are less privileged. This translates into a lack of trust in the system. Business leaders in more than 100 countries say that the justice system in their country is not independent of the influence of government, powerful individuals, or businesses.<sup>339</sup>

Resistance to change may also come from within the justice system. Legal practitioners often benefit from the status quo. They can feel threatened by reforms that open the justice system to new players or by strategies that redirect investment to more effective approaches.<sup>340</sup> Corruption erodes public support for increased funding of justice institutions. Globally, a third of people believe that the police in their country are corrupt and 30 percent think that judges and magistrates are corrupt.<sup>341</sup>

Another obstacle lies in the fragmentation of justice institutions. The justice gap cannot be bridged by a single organization or ministry, with many of the solutions to injustice found outside the formal justice system. But this creates a problem of who will lead reform. Ministers of Justice, Attorneys General, Public Defenders, and other justice leaders may have limited power to insist on a new direction. They are also often faced by more powerful ministerial colleagues when arguing for an increased budget allocation.

*“Working in complex environments with many stakeholders, numerous vested interests, and a lot of time pressure, there is always criticism and opposition.”*

Many Ministers of Justice feel lonely in their jobs.<sup>342</sup>

As well as obstacles, there are opportunities for change. When economies are growing fast, many governments understand that strengthened justice systems are essential to support the next stage of their development.<sup>343</sup> Others understand the risks to political stability posed by injustice and see the justice system as a way of addressing grievances. Governments are also becoming increasingly aware of the benefits of investing in justice, through initiatives such as the OECD's new business case for justice.<sup>344</sup>

Even when a government has little appetite for ambitious justice reforms, there will always be individuals within the system who champion change.<sup>345</sup> Judiciaries have historically played a transformational role in many societies. Lawyers too are powerful drivers of social change, especially when working with grassroots justice defenders and other civil society groups. Civil society plays a campaigning role, creating pressure for governments to act. But it also provides practical leadership – pioneering new models and approaches that demonstrate how people can participate in closing the justice gap.

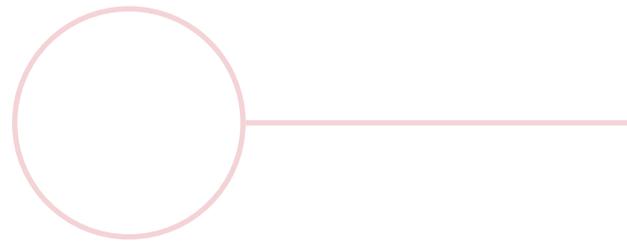
The private sector in many countries has incentives to mobilize for improvements in the legal environment. Businesses are reliant on the rule of law and responsive justice institutions. Larger corporations may be interested in the justice needs of their employees and customers, recognizing the need to build trust within the marketplace and the potential for greater legal inclusion to create new business opportunities. Individual businesses have little incentive to tackle systemic injustices on their own, but Chambers of Commerce and other representative bodies may challenge corruption and impunity where they threaten markets or create unacceptable risks of political instability.

Private sector organizations can also respond directly to violence. In the city of Ciudad Juárez in Mexico, rising levels of violence caused thousands of businesses to close.<sup>347</sup> In response, a non-profit organization was formed with finance from a voluntary surtax of 5 percent on the corporate income tax of over 38,000 business owners from across the state. It has worked to strengthen crime prevention, security, and justice through citizen engagement. The participation of the private sector helped drive violence down, while creating pressure on both the government and local justice institutions to act.

## Global momentum for justice

The 2030 Agenda is creating new momentum for justice that helps national reformers. The SDGs are a platform for countries to share experiences of justice reform and to explore the innovative models discussed throughout this report.

> In Colombia, Bogotá's Chamber of Commerce is working to build a more peaceful society. It is helping re-integrate former combatants and working jointly with the National Police to pilot new tools such as police mediation. It also trains businesses to take an active role in the peace process.<sup>346</sup>



International human rights frameworks also support reform efforts.<sup>348</sup> A rights-based approach encourages governments to get the basics right, such as by strengthening constitutional guarantees that protect the independence of the judiciary.<sup>349</sup> It can also help the most vulnerable. For example, the Universal Periodic Review can be used to monitor whether justice systems are protecting children's rights, thereby improving standards for children who are in conflict with the law.<sup>350</sup>

Justice leaders are increasingly meeting internationally. In 2019, 22 ministers and their deputies signed the Hague Declaration, making a commitment "to take concrete steps to promote access to justice and to convince others to do the same."<sup>351</sup> As we have seen from other sectors such as health, ministers can be empowered at home when they begin to work closely with their peers from other countries.

Global and regional partnerships are supporting justice reform. The Open Government Partnership provides an example of a platform for accelerating efforts to strengthen justice provision. It calls on government and civil society in its 79 participating countries to make and live up to commitments on justice.<sup>352</sup> Professional networks play an increasingly influential role across borders, sharing lessons on evidence-based policing, for example.

Perhaps most important is the growing demand for change from people across the world. "Justice" was the Merriam-Webster online dictionary's word of the year in 2018, as visitors flocked to its website to look up the word.<sup>353</sup> Many societies are facing protest movements or political instability and conflict rooted in exclusion and injustice. The #MeToo, NiUnaMenos, and SheDecides movements are some campaigns that reflect growing anger at the high levels of impunity for sexual violence.<sup>354</sup> Corruption has motivated campaigners to take to the streets in a growing number of countries, including most recently in Sudan and Algeria.<sup>355</sup> Campaigners such as those involved in the Arab Spring have targeted abuses by the police and security forces.<sup>356</sup> As well as rooting out injustice, these movements help create an environment that supports reform.

› On February 7, 2019, ministers and high-level representatives from countries and international organizations signed The Hague Declaration on Equal Access to Justice for All by 2030, highlighting opportunities to strengthen support and commitment for justice ahead of the High-level Political Forum and the SDG Summit in 2019.

## Levers of Justice Reform

Four levers can help national reformers as they work towards justice for all.

### Use data and evidence to steer reform

Throughout this report, the Task Force has emphasized the importance of using data and evidence to motivate and guide reform.

Increased awareness of the justice gap in each country and of the case for investment in justice creates incentives for action. It can help bring new stakeholders on board, persuading a minister with responsibilities for land or housing, for example, that justice can help deliver results in her sector. Finance and planning ministers will be influenced by proposals to allocate resources to more cost-effective and evidence-based approaches. Providing open access to justice data facilitates cooperation between sectors and between state and non-state actors.<sup>357</sup> The Open Government Partnership encompasses open data and participatory policymaking in the justice sector. It is becoming a tool to promote judicial reform based on the principles of transparency, participation or accountability.<sup>358</sup> Open and independent data is a tool for accountability and allows citizens to demand change.

Policymakers should consider undertaking regular surveys that ask people about their justice needs, either as a standalone or as a module in an existing survey. The OECD and Open Society Justice Initiative has developed guidance for legal needs surveys.<sup>359</sup> A manual on victimization surveys is available from UNODC and the United Nations Economic Commission for Europe.<sup>360</sup>

Evidence of what works is most effectively generated through cooperation between countries. The Campbell Collaboration runs an international network publishing systematic reviews of the best criminal justice research. Data showing the benefits of evidence-based policing has also been shared internationally.<sup>361</sup> A similar repository of evidence could be created for civil justice.

The SDGs provide a new impetus for international cooperation on justice data. They should help stimulate increased standardization across countries, for example on legal needs surveys. A separate indicator for access to civil justice, currently being developed by a group of countries and organizations, will enable accurate reporting on SDG16.3.

### Unlock the transformative power of innovation

Innovation acts as a lever for reform by bringing new players into the justice sector.

› Argentina's open justice portal makes justice data publicly available. Its Justicia 2020 program is an online platform where citizens can participate in developing, implementing, and monitoring justice policies.

In its report, the Task Force's Innovation Group highlights promising technologies and approaches to service delivery that can provide justice at scale.<sup>362</sup> These include services that facilitate the resolution of disputes, new technologies that support user-friendly contracts, and alternative private sector legal providers that aim to help large numbers of individuals and small businesses make good use of the law.

If countries are to benefit from justice innovation, they need to make space for it to happen. The best innovations draw on the ideas and perspectives of psychologists, social scientists, data analysts, designers, neurologists, social workers, public and business administrators, a wide range of private sector actors, and – critically – the users of justice systems. Public and private sector innovators need space to collaborate and support for innovation through all stages of the process, from researching needs and developing a response, to monitoring impact.

International networks can support innovation at a national level. The HiiL Justice Accelerator helps policymakers work with the world's leading justice innovators to address a country's most pressing justice problems.<sup>363</sup> The new UNDP Accelerator Labs could be asked to include justice as part of their mission to find new ways of taking the SDGs to scale.<sup>364</sup> National institutions also provide structural support for innovators. Many governments have cross-cutting innovation labs that might be prepared to take on justice challenges.<sup>365</sup> The United Arab Emirates has a Chief Innovation Officer in the Ministry of Justice, with the rank of assistant minister, providing a model for governments who want to take innovation into the mainstream of their justice systems.<sup>366</sup>

Innovation requires a supportive regulatory environment. This may mean changing the rules about who can provide legal advice, allowing civil society and private sector innovators to play a greater role. Ministries of Justice could also set criteria for measuring the effectiveness of innovations, supported by empirical research and independent assessment of whether these criteria are met.

## **Implement strategies for smarter justice financing**

In a sector where investment decisions have traditionally been “based on word of mouth rather than formal analysis,” smarter finance creates incentives for reform.<sup>367</sup> Reforms, moreover, will only be sustainable if countries gather evidence to show that increased expenditure is leading to measurable results.

The first step is to build on the case for investment set out in chapter 2 of this report. The World Bank will be working with partners to further explore how increased financing of justice for all contributes to poverty reduction, shared prosperity, and

› The Prime Minister's Office of the United Arab Emirates requires each ministry to allocate 1 percent of its budget to innovation. This may grow to 5 percent in the future.

the prevention of violence, instability, and conflict. The OECD will continue to disseminate its business case to its members and partners. A priority is to take this analysis to national level, helping policymakers understand costs and benefits in countries with varying justice needs and different financial and capacity constraints. Further elaboration of the ODI costing of basic justice services – presented in chapter 2 of this report – will also inform national roadmaps for financing justice for all.

### **Use data and evidence to steer reform**

Data and evidence create awareness of the scale of the problem, while demonstrating how solutions can be cost-effective.

### **Unlock the transformative power of innovation**

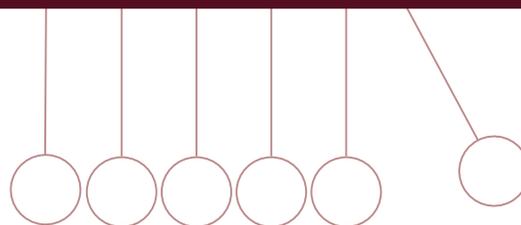
Innovation brings new players into the justice sector and develops approaches that can deliver justice at scale.

### **Implement strategies for smarter justice financing**

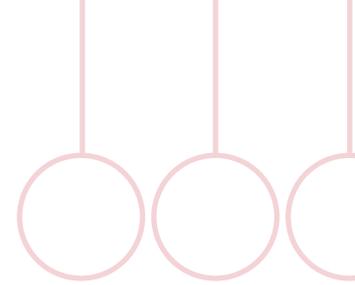
Smarter financing strategies redirect resources away from ineffective approaches and towards what works. They also attract finance from other sectors and from non-traditional investors.

### **Build more coherent and inclusive justice systems**

New governance models and shared standards increase coherence in a justice system, enabling a greater diversity of partners to work together towards a shared result.



**Levers of Justice Reform**



National reformers should explore new financing models. An important priority is to increase the resources available for lower-cost models able to respond to unmet justice needs at scale. Grassroots organizations will often be best placed to play this role, but independent oversight of funding channels is needed to ensure that such support does not compromise their ability to operate free of political influence.<sup>368</sup> Governments might allocate a proportion of national justice budgets to financing high and low-tech innovations and they could explore blended finance models where their funds are used to leverage other investment.<sup>369</sup> Justice reinvestment programs can recycle savings from early intervention and prevention, redeploying money that has been saved by efforts to reduce the prison population.<sup>370</sup>

Justice reformers must also nurture new sources of funding. Partnerships with other sectors such as health, housing, education, and the environment can expand the funding pool for justice as well as ensuring policy complementarity.<sup>371</sup> Private investment and philanthropy will be needed if innovations are to receive the support they need and are well placed to fund at grassroots level. International donors should also step up their support for justice, targeting finance at the countries, communities, and people most likely to be left behind.<sup>372</sup> Investment is not only about money. *Pro bono* services can provide access to lawyers and law students for those who cannot afford them, with impact at scale when there is a regulatory requirement for such services. Volunteers from outside the legal profession also play a substantial role in providing access to justice, but organizations need funding for supervision, training, and for providing access to paid services to assist with more serious cases.

### **Build more coherent and inclusive justice systems**

In all countries, the justice system is diverse. From customary justice mechanisms to religious courts to citizens' advice services, paralegals and ombudsmen, much dispute resolution happens outside formal court systems. In addition, this report has highlighted the role played by organizations from outside the justice sector: from unions to libraries, social workers to community elders.

However, these providers are seldom thought of or treated as part of a system that works cohesively to strengthen justice. State justice actors often work independently of each other and are sometimes prohibited from collaborating.<sup>374</sup> It is little wonder, therefore, that justice journeys are often fragmented or prevention strategies notable by their absence.

We are not calling for partnership for partnership's sake, but for bringing partners together to prevent and resolve justice problems and to create opportunities for people and societies.

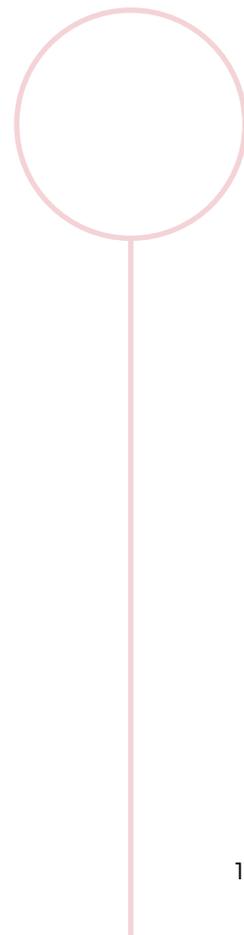
> The Mozambique Ministry of Health funds paralegals from Namati to work in partnership with local health workers to increase the quality, access, and use of services for those with HIV.<sup>373</sup> Over 3000 violations have been resolved, improving healthcare for 180,000 people.

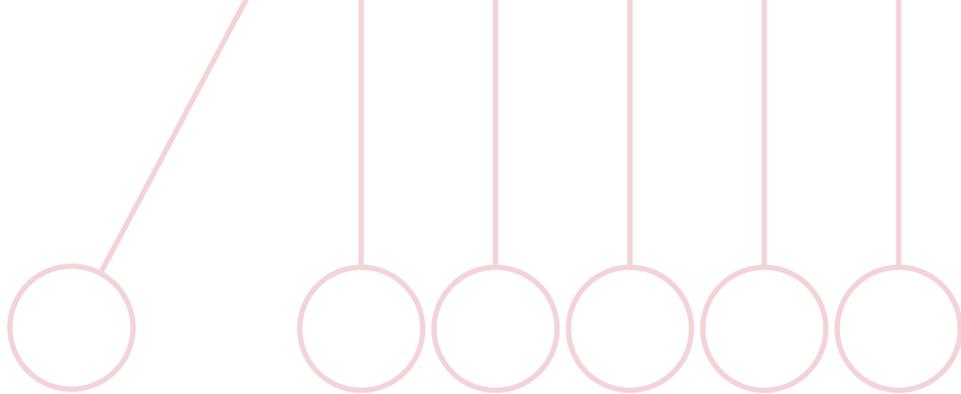
The other levers identified in this chapter – data and evidence, innovation, and smart finance – create an infrastructure for productive partnerships, but there are three missing ingredients. First, countries need to realize the potential of all those who work to provide justice for all, protecting justice defenders from harm, training professionals to deliver people-centered justice, and making justice institutions more representative of the communities they serve (see spotlight 3).

Second, new governance models are needed at all levels to bring partners together and to help them identify and tackle strategic priorities. In the US, the White House Legal Aid Interagency Roundtable brings together departments and agencies to “collaborate, share best practices, and consider the impact of legal services on the success of their program.”<sup>375</sup> Formal and informal justice actors in Mali meet monthly to discuss strategies.<sup>376</sup> The Netherlands has built a policy-driven “criminal justice chain that proactively involves other public organizations to combat crimes.”<sup>377</sup>

Third, shared standards help promote cohesion and quality. Constitutional protections can enshrine fundamental rights and help define the roles of the police, military, and intelligence services in ways that promote people-friendly justice.<sup>378</sup> Formal and informal justice systems can be linked, allowing for referrals, appeals, and measures that protect the rights of women and children.<sup>379</sup> Chapter 4 underlined the importance of independent watchdogs to maintain standards and handle complaints. Ultimately, standards must become part of the culture of a justice system. In Tunisia, for example, judges came together to rethink what independence *really* means, not as an abstract principle, but as part of the way they serve the public.<sup>380</sup>

> Justice actors in Mali meet monthly in regional “cadres de concertation” (consultation forums). The forums are attended by police officers, court administrators, civil society, prosecutors, religious leaders, correction officers, and other stakeholders. They discuss justice strategies and actions needed to resolve justice problems.<sup>381</sup>





## Chapter 6

# Agenda for Action

*Implementation should place people at the center of justice systems and justice at the heart of sustainable development.*

*The Task Force makes three sets of recommendations for national action to accelerate progress towards justice for all:*

*Resolve the justice problems that matter most to people.*

*Prevent justice problems and create opportunities for people to participate fully in their societies and economies.*

*Invest in justice systems and institutions that work for people and that are equipped to respond to their need for justice.*

*National implementation should be supported by intensified international cooperation and revitalized partnerships for justice.*

# A New Vision of Justice for All

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The Task Force on Justice has set out a new vision for providing equal access to justice for all, in line with the 2030 Agenda commitment to confronting injustice and building just societies.

This vision is grounded in the right to justice and other fundamental rights – and the pledge to reach the furthest behind first – with data and evidence guiding implementation.

Closing the justice gap requires a transformation in ambition – a sustained effort to provide billions more people with access to justice.

To deliver SDG16.3 and related targets for justice, countries should resolve people’s justice problems, prevent injustices large and small from occurring, and create opportunities for people to participate fully in their societies and economies.

According to the 2030 Agenda, each country has primary responsibility for developing strategies to deliver the SDGs, but an intensified global engagement can support national implementation.

The Task Force calls on governments, justice professionals, civil society, the private sector, international and regional organizations, foundations and philanthropists – and people themselves – to work together to deliver justice for all.

# An Agenda for National Action

National implementation should place people at the center of justice systems and justice at the heart of sustainable development.

## 1. Resolve the justice problems that matter most to people

- Understand justice problems through regular surveys that draw on international standards and guidelines, and improve the availability and quality of data on the needs of women, children, and vulnerable groups.
- Empower people and communities to seek justice, recognizing grassroots justice defenders, financing them in ways that respect their independence, and protecting them from violence and coercion.
- Provide access to people-centered justice services that draw on the best evidence of what works, while making justice providers accountable for delivering fair outcomes that help close the justice gap.
- Use cost-effective alternatives to help people resolve disputes and gain redress when they are victims of violence and crime, reserving punitive measures and formal court proceedings for the most serious cases.

## 2. Prevent justice problems and create opportunities for people to participate fully in their societies and economies

- Make the shift to prevention through strategies that increase justice for communities and societies, and are implemented in partnership between the justice system and other sectors.
- Promote trust in justice systems by increasing independence, impartiality, and integrity, implementing strategies to combat corruption and abuse, and ensuring independent oversight.
- Tackle the root causes of injustice, using data from individual cases to address structural injustices, providing universal access to identity and legal documents, and helping people create and register legal agreements.
- Use the law to reduce risk, by strengthening the legislative framework for violence prevention and non-discrimination, and through laws and regulations that address grievances or make it less likely disputes will arise.



### 3. Invest in justice systems and institutions that work for people and that are equipped to respond to their need for justice

- Use data and evidence to steer justice reform, increasing awareness of unmet need, providing open access to data as a platform for partnerships and accountability, and informing policies and programs with evidence of what works.
- Unlock the transformative power of innovation, opening justice systems up to new actors and ideas, creating a supportive regulatory environment, and assessing the impact of innovation in closing the justice gap.
- Implement strategies for smarter justice financing, taking the case for investment in justice to national levels, developing a national roadmap for financing justice for all, and accessing new sources of funding.
- Build more coherent and inclusive justice systems, by supporting the people who provide justice, increasing diversity and the representation of women at all levels, and exploring new governance models, and promoting shared standards for all parts of the system.

## An Agenda for International Action

The 2030 Agenda's commitment to justice for all requires intensified international cooperation and revitalized partnerships for justice.

- Within the Pathfinders for Peaceful, Just and Inclusive Societies, convene a group of countries committed to leading on justice for all.
- Encourage countries and partners from all sectors to register voluntary commitments to implement SDG16.3.
- Support governments to develop credible, realistic, and funded strategies to implement these commitments.
- Hold a biennial meeting of Ministers of Justice, Attorneys General, and other justice leaders as a platform for countries to share experiences, explore recommendations, and strengthen cooperation for justice.
- Agree a new SDG16.3 indicator to measure progress on civil justice, complementing existing indicators on pre-trial detention and the reporting of violent crime, with voluntary national piloting ahead of its integration into the global indicator framework.
- Form an alliance of international and regional justice partners to increase collaboration and coherence.



- Develop a shared research agenda for justice to increase the availability of data to measure progress, strengthen evidence of what works, tailor this evidence to different country contexts, and to communicate data and evidence to policymakers.
- Form a funders' collaborative to strengthen the case for investment in justice for all and advocate for an increase in the proportion of international finance that flows to the justice sector.
- Amplify demand for change through global, national, and local movements that campaign for justice for all.

## Call to Action

To accelerate the progress made, the Task Force calls on governments, justice professionals, civil society, and international organizations to come together in a global and sustained effort to deliver justice for all by 2030.

**Governments** should make justice a political priority and give justice ministers the mandate and resources to solve the problems that matter most to people. We ask Ministers of Justice, Attorneys General, and other justice leaders across government to develop strategies and nurture the partnerships that can deliver justice for all.

**Justice professionals** should work closely with governments in leading the movement for justice for all. Judges, prosecutors, lawyers, paralegals, the police, and prison and probation officers, and other professionals have a role to play in reform.

**Other sectors**, such as health, education, social protection, jobs, and education, are essential partners for the delivery of people-centered justice. Increased justice is essential for delivering the 2030 Agenda aspirations for people, planet, prosperity, and peace.

**Civil society** empowers people to solve their justice problems and help communities address structural injustices. It reaches sections of society that are most at risk of injustice and holds governments to account for the implementation of reforms. To be effective, justice defenders need independent funding and protection.

**The private sector** can support the movement for justice for all in partnership with governments and civil society. Law firms can shape more people-centered approaches to justice through their pro bono work and their advocacy. As innovators and impact investors, the private sector can develop new ways of meeting people's justice needs at low cost. Chambers of Commerce can advocate for the rule of law and for greater access to justice.



**International and regional organizations** must provide more coherent support for national implementation of the SDG targets for justice. They should allocate more finance to justice and help attract impact and private sector investment. International and regional platforms are needed to facilitate knowledge sharing and build consensus around solutions and strategies.

**Foundations and philanthropists** play a vital role in promoting justice for all. They can influence an increased focus on people-centered justice and promote emerging priorities such as the role of justice in prevention. Given the scale of unmet need for justice need, support is required from a greater diversity of foundations.

Finally, the Task Force's call to action is addressed to people themselves, as justice seekers, volunteers, and supporters of justice systems. They must be empowered to play a central role in the creation of a more just world.



## Spotlight 3

# The people who provide justice

## Realizing the potential of the justice workforce

Putting people at the center of justice means thinking about the people who provide justice, as well as those who seek it.

This report has emphasized the importance of a diverse and inclusive justice system that draws on the strengths of a professional, informal, and voluntary justice “workforce” – from the traditional justice sector and beyond.

- **Justice leaders** – Ministers of Justice and all those who help shape the justice system.
- **Justice professionals** – judges, prosecutors, lawyers, bar associations, police officers, and prison staff, who operate the formal justice system.
- **Other formal service providers** – including advice and information services, helplines, oversight bodies, and ombudsman institutes and others who handle complaints.
- **Informal or volunteer justice actors** – including non-professional magistrates, community paralegals, debt or other counselors, religious leaders, traditional chiefs, community elders, trade unions, and other mediators.
- **Other sectors** – people who work in health, education, housing, immigration, and environmental protection who play a role in promoting and providing justice.
- **Justice innovators** – including social entrepreneurs, social impact investors, and tech startup innovators from the private sector.
- **Justice defenders** – grassroots activists who empower people and communities, provide justice services, and amplify demand for change through advocacy and movement-building.

### Defending the Justice Defenders

Those working in the justice system face threats both to their ability to perform their jobs and to their safety.

Judges, prosecutors, and lawyers are targeted by those who want to influence their decisions or prevent them from doing their work.<sup>382</sup> Many are killed, although deaths are not tracked globally as they are for journalists.<sup>383</sup>

Grassroots justice defenders face the greatest risks. Front Line Defenders, an advocacy group, received reports of 312 deaths in 2017.<sup>384</sup> Two-thirds of those killed were defending land, environmental, and indigenous people’s rights. 84 percent of them had already been threatened but had not received protection from the police.

Members of the Global Legal Empowerment Network also report regular harassment, with 68 percent saying they or their organization have been threatened for carrying out legal empowerment work.<sup>385</sup>

The Escazu agreement is an example, it established protections for the rights of access to information, public participation, and access to justice in environmental matters.<sup>386</sup>

We must be vigilant in the face of these threats, and the Task Force supports the demand of the *Justice for All* campaign that “those entrusted with serving communities’ justice needs must be able to work in an environment free of coercion and bodily harm.”<sup>387</sup>

In carrying out their day-to-day work, some actors must operate separately from others to respect checks and balances, and guarantee the independence required by the law. But justice leaders can promote collaboration across the justice system by:

## **1. Nurturing a culture of data, evidence, and learning**

All justice providers need the skills to understand and learn from data about justice problems and evidence about what works, while eliciting and responding to feedback from users and being accountable for the quality of procedures and the fairness of justice outcomes.

## **2. Taking a strategic approach**

A central message of this report is that justice providers need to move from firefighting to a model where they develop strategies to achieve long-term goals. This requires leadership from the top and space for people from justice institutions to think and plan collaboratively.<sup>388</sup>

## **3. Increasing diversity**

Justice systems will be more effective if they “look like” the communities they serve. Greater representation of women is especially important.<sup>389</sup> Measures are needed to increase transparency of recruitment and promotion, target marginalized groups, and provide mentoring and training for people who have historically been excluded from working in the justice system.

## **4. Adopting new training methods**

People-centered justice requires a shift from training that focuses solely on legal knowledge to training that emphasizes problem solving. Important skills include active listening, conflict management, and negotiation, as well as customer care and data gathering.

## **5. Developing professional networks**

International and national networks help professionals learn from each other and accelerate the dissemination of new ideas and approaches. Police officers can explore how to use evidence-based approaches, for example, or judges can examine techniques for reducing incarceration.<sup>390</sup> Networks can also bring together a range of local providers to address the most urgent justice problems.

## **6. Building relationships with people and communities**

Justice for all depends on close relationships between justice providers and the communities in which they work and live. Many justice institutions will need a new culture of collaboration, of openness, and of responsiveness to people and their needs. All those who promote and defend justice need safe and secure working environments (see box).

## Appendix 1

# Methodology

### The Task Force on Justice

The Task Force on Justice held three meetings to guide the research and deliberate the findings, in February 2018 in Buenos Aires, Argentina; in October 2018 in Freetown, Sierra Leone; and in February 2019, in The Hague, the Netherlands.

The research was conducted in three workstreams organized around the key questions the Task Force seeks to answer on: the size of the justice gap; the case for investment; and what works to increase justice for all. Major contributions to the work were made by justice partners. The people and organizations that contributed are acknowledged at the beginning of the report.

The Task Force on Justice presents the first global synthesis of the scale and nature of the justice gap, the most common justice problems that people face globally, and the first estimate of the costs to provide universal access to basic justice services.

### The global justice gap

To estimate the global justice gap, the Justice Gap Working Group developed a conceptual framework that is people-centered and comprehensive. This framework relies on people, not institutions, as the lens for understanding justice needs, how they are currently being met, and the exclusions that people face.

The group operationalized this framework to identify categories of unmet justice needs and corresponding measurement questions that have people as the unit of analysis and that are tied to the SDG framework, either conceptually or as part of the official indicators endorsed by the Inter-Agency and Expert Group on SDG Indicators (IAEG-SDGs).

The World Justice Project led an audit of more than 600 potential data sources suggested by Working Group members, including global and national-level datasets and administrative, survey-based, and qualitative sources of data.

Data sources were ultimately chosen based on three considerations:

1. **Country coverage.** Using as many global data sources as possible, providing they had adequate country-level coverage, ensured comparable data collection methodologies and justice gap figures across countries.
2. **Official recognition.** Using official data sources, such as those produced by UNODC, the ILO, and the World Bank, garnered broader acceptance of selected data sources and ensured consistency with methodologies for justice gap indicators that are already incorporated into the official SDG indicator framework.

**3. Public data and measurement methodology.** To produce assessments at the country level, impute estimates for countries with missing data, and characterize the distribution of injustice for vulnerable populations, the justice gap assessment relied almost exclusively on publicly available data.

The WJP populated country-level figures for each measurement question and corresponding data source, and determined methods for extrapolating estimates to countries not covered by each data source. For countries where estimates were not available in a given dataset, they imputed estimates based on the average values for regional and income peer countries. The WJP used the UN's geographic classifications and the World Bank's income classifications to establish regional and income peer groupings on which to base these extrapolations.

The WJP devoted particular attention to developing measures for estimating the number of people with unmet civil and administrative justice needs, and victims of violent and non-violent crime who have not reported their victimization to a competent authority. For civil and administrative justice needs, the measure developed is multidimensional and survey-based. It assesses the legal capability, access to appropriate assistance, resolution process, and outcome for people who have experienced a justiciable civil or administrative legal problem. For violent and non-violent crime, the WJP used victimization survey data collected by national statistical offices in more than 60 countries to produce estimates based on the methodology for SDG indicator 16.3.1. For countries where only administrative data were available, the WJP developed a method for adjusting crime victimization rates and calculating the dark figure (i.e. unreported or undiscovered crime).

The resulting global justice gap estimates were adjusted to take into account the double counting of people who fall into multiple dimensions of the justice gap (e.g. victims of violence who also lack legal identity, or people who cannot obtain justice for both criminal and civil justice problems). Double counting was addressed in part by removing the populations of countries with high levels of insecurity and no rule of law from the other dimensions of the justice gap. For other overlapping issues, the WJP used proxy measures from its 2018 General Population Poll (GPP) to estimate the degree of overlap between people with unmet civil or administrative justice needs, unreported victims of violent and non-violent crime, and people who lack legal identity, formal work arrangements, and land or housing tenure. This allowed the WJP to adjust for double counting across the entire justice gap framework and within categories of unmet justice need.

To determine the most common justice problems that people face, data were used from 78 different surveys, namely 63 national crime victimization surveys, the WJP's global legal needs survey, and 14 national legal needs surveys by HiiL.

For additional detail on the methodology followed to produce the justice gap estimates discussed in this report, please refer to: World Justice Project, *Measuring the Justice Gap: A People-Centered Assessment of Unmet Justice Needs Around the World*. (Task Force on Justice, background paper, April 2019)

## Costing SDG16.3

The Task Force on Justice commissioned the independent, global think tank, Overseas Development Institute (ODI) to produce the first initial estimate of what it would cost to deliver SDG16.3; the costs of providing universal access to basic justice services in countries around the world. This rapid research report also estimates the financing gap faced by countries delivering SDG16.3. The intention is that this exercise will be further developed through a larger and longer scale exercise. As one of the purposes of this costing exercise was to assess the financing gap, the exercise particularly focused on low-income countries where affordability is likely to be most challenging.

After initial discussion with a wide range of stakeholders, ODI took a people-centered approach, focused on what is needed to address people's "everyday" justice problems in their communities. The costing is based on the idea that to deliver on SDG16.3, basic justice services should be universally available. As universal basic justice is not yet a defined term, ODI developed the following working definition: a system that addresses people's everyday justice needs, that is delivered through formal and less formal mechanisms which are often in need of transformation, and that is universally available – i.e. is accessible and affordable for all.

The analysis covers 201 countries and assesses the costs of the basic justice system at the local level, both relatively informal mechanisms (traditional, religious, and civil society), and front-line formal organizations such as the police and local courts. The analysis also factors in what people spend from their own pockets when they seek justice.

More specifically, the following components of basic justice provision are included in ODI's analysis:

- Legal advice, assistance, and empowerment, provided in communities by paralegals, lawyers, legal advice centers, unions or advocacy groups.
- Formal justice institutions that play a frontline role in resolving conflicts, disputes, and grievances, including lower-tier courts, community police, and the criminal justice chain.
- Alternative mechanisms to resolve legal problems, conflicts, disputes, and grievances, such as community mediation, traditional courts, and ombudsmen.
- Mechanisms that improve the accountability of the justice system for the services they provide to people and communities, and that tackle corruption and abuse.

As the focus was on basic justice for people's everyday needs, certain aspects of standard provision were not included e.g. higher level/appellate courts. Context specific needs such as transitional justice were also not included as these were already being specifically covered by a dedicated working group of the Task Force.

ODI's approach drew on methodologies that have been developed over many years for costing the delivery of the education and health SDGs, by the United Nations Educational, Scientific and Cultural Organization (UNESCO), the World Health Organization (WHO), and the World Bank. As for these sectors, the justice costings are made for a basic level of service provision and they are based on standard delivery models, while acknowledging that improved systems can be more efficient.

Key data sources were the United Nations Office on Drugs and Crime (UNODC); World Prison Brief; global survey evidence from the Hague Institute for Innovation of Law (HiIL) on out of pocket expenses and earlier costings on legal assistance the authors had developed for The Law & Development Partnership (LDP), funded by Canada's IDRC and Open Society Foundations. Basic macroeconomic and population data were taken from World Bank Development Indicators and UN respectively. Key assumptions on the major cost drivers – frontline staff – were based on UN agreed targets (where available) and were cross checked against a limited sample of low income and OECD countries' national budgets that it was possible to do within the scope of this rapid research assignment.

For additional detail on the methodology followed to estimate the cost of delivering justice for all discussed in this report, please refer to: Marcus Manuel, Clare Manuel and Harsh Desai, *Universal access to basic justice: costing SDG 16.3 ODI Working Paper 554*. (London: Overseas Development Institute, 2019). Paper prepared for the Task Force on Justice. A full dataset is available on request from the authors.

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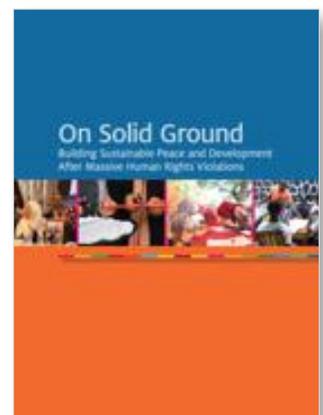
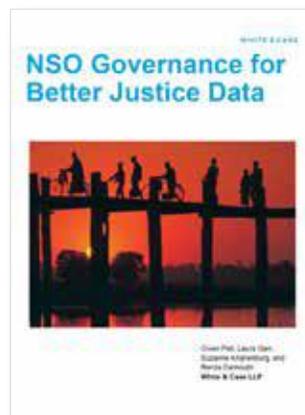
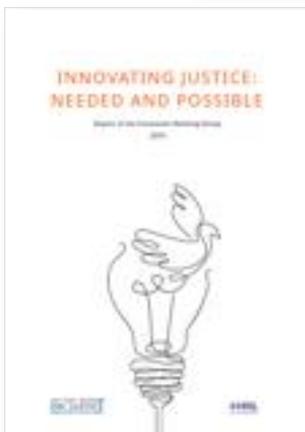
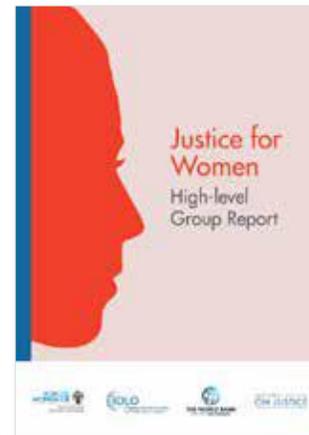
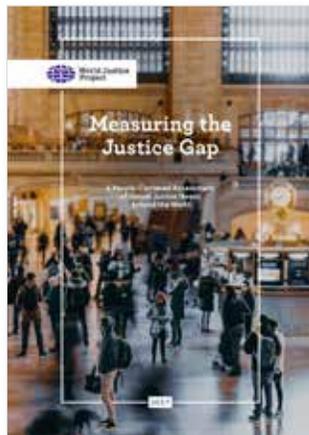
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The Justice for All report is available in English, Spanish, and French. It builds on a series of reports from working groups and other commissioned research. Download these and other materials from: [www.justice.sdg16.plus/report](http://www.justice.sdg16.plus/report)



The Task Force on Justice is an initiative of the Pathfinders for Peaceful, Just and Inclusive Societies, a multi-stakeholder partnership that brings together UN member states, international organizations, civil society, and the private sector to accelerate delivery of the SDG targets for peace, justice and inclusion.

The Task Force is chaired by ministers from Argentina, the Netherlands, and Sierra Leone, and by the Elders.

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