

**PATHFINDERS**

FOR PEACEFUL, JUST AND INCLUSIVE SOCIETIES

TASK FORCE   
**ON JUSTICE**

PATHFINDERS FOR PEACEFUL, JUST AND INCLUSIVE SOCIETIES

## **Justice for Children, Justice for All: The Challenge to Achieve SDG 16+**

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



**A background *Challenge Paper* for the Task Force on Justice  
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# 1. The Context for the *Challenge Paper*

## Leave no child behind

Roughly 1 in 3 people across the globe is a child<sup>1</sup>. Yet, while the sustainable development agenda pledges to *leave no one behind*, there is a stark gap when it comes to measuring, understanding, and - most critically - fulfilling this global ambition for children<sup>2</sup>.

We must strive to ensure that, in our collective efforts to achieve the United Nations Sustainable Development Goals (SDGs), we *leave no child behind*.

Children are distinct from adults, and have specific needs, rights and capacities. Responding differently to children in the light of this distinctiveness, including engaging them as agents of change, is essential for the successful delivery of these global goals, for people of all ages.

In 2015, the SDGs, agreed by all nations, set out an ambitious vision to achieve justice for all by 2030.

They provide global coherence and momentum for realising children's human rights, as set out in the United Nations Convention on the Rights of the Child (CRC) and other key international instruments, to ensure children experience the full benefits of justice.

The SDG 16 seeks to "*Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels*".

Five years on, while significant progress has been made to conceptualise and quantify the different aspects of justice, and to monitor progress, it is apparent that one specific group has remained largely invisible: children. Consequently, unless particular attention is directed to children, as a global community we will fail to achieve the bold aim of *leaving no one behind*.

This *Challenge Paper* underpins a *Call to Action* to fulfil our collective global commitment to ensure that all children live peaceful, just and inclusive lives, and are provided with the opportunity to flourish and live to their full potential.

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<sup>1</sup> UNICEF calculation, UN Population Division statistics (2016): 30.9% of the global population is estimated to be under age 18, <https://data.unicef.org/resources/state-worlds-children-2017-statistical-tables/>; World Bank (2017): 26% of the global population is estimated to be under age 14, and 42% aged under 25.

<sup>2</sup> The term 'children' is used throughout the Challenge Paper to describe all those under the age of 18 years, in line with the CRC's definition of a child.

## The Challenges and the Vision

The overarching purpose of this *Challenge Paper on Justice for Children* is to draw out the distinctiveness of the challenges that children face in accessing justice when coming into contact with the justice system, whether in administrative proceedings, as victims, witnesses or offenders in both criminal and civil disputes. It equally importantly draws out the forms of justice that are required for the needs and rights of children to be addressed.

This *Justice for Children Challenge Paper* explores and discusses how justice for children contributes to realising justice for all, to the full implementation of SDG 16 – and progress towards all the SDGs - and the overarching vision to *leave no child behind*.

## This Commission

The *Pathfinders for Peaceful, Just and Inclusive Societies*, with the *Task Force on Justice*, commissioned a *Justice for Children Project*, and a Technical Working Group on *Justice for Children* was established to inform the development of a *Challenge Paper on Justice for Children*. The *Justice for Children Challenge Paper* and the accompanying *Call to Action* are the result of this collaboration.

Designed to directly complement and enhance the main report of the *Task Force on Justice*, entitled *Justice for All*, this *Justice for Children* project is premised on the understanding that children are distinct from adults in profound and unique ways. It considers the conditions that need to be in place for children's rights to be realised within justice systems and across society. The ambition is to provide all children with the opportunity to flourish and live to their full potential.

*Justice for All* has many dimensions, of which *Justice for Children* is one of the most critical. Within this understanding, *Justice for Children* embraces a wide range of perspectives. Meaningful and comprehensive justice for children cannot be secured without children being accorded all the rights and opportunities to which they are entitled and which they should expect.

The development of this paper was undertaken with a consultative approach. A key element of the drafting of the *Challenge Paper* and the *Call to Action* included the consultation process, undertaken through a gathering of the Technical Working Group in Venice on 14-15 March 2019, where the major direction, shape, and priorities of the *Challenge Paper* were established, including the identification and articulation of the 10 challenges and responses. Many other experts around the globe engaged with the authoring team through individual consultation, feedback, shared references, and as critical friends. The *Call to Action*, underpinned by this *Challenge Paper*, was circulated to the Technical Working Group and beyond, for further shaping, and ultimately for endorsement.

In Phase Two (from Sep 2019), the *Justice for Children* initiative will explore how to ensure engagement of children as agents of change, and maximise the contribution of a high level group of champions for *Justice for Children* to complement and reinforce the work of the other *Task Force on Justice High Level Groups*.

It will inspire global and national commitment and action, and contribute to a global improvement effort to apply implementation knowledge and action by focusing on the areas that this *Challenge Paper* explores. It will actively promote justice for, and with, children, and in so doing, contribute to realising the Global Goals. It is anticipated that this will be undertaken in partnership with children.

## 2. The *Challenge Paper's* Fundamental Principles

This *Justice for Children Challenge Paper* offers a new starting point to place children at the heart of an emerging global movement for justice. It is:

- **Advancing a new understanding of justice**, not only aiming to overcome the challenges children face in accessing legal justice, but also promoting justice as an enabler of children's opportunities and development to their full potential.
- **Targeting critical decision makers**, drawing together a range of leaders whose effort and focus ultimately can realise children's human rights. In addition, we are also including - very importantly - those whose primary focus is *not* children, but whose decisions nevertheless have a crucial and significant impact on children's lives, whether directly or indirectly. The crucial role of sustained and focussed political commitment, and the securing of the necessary investment in the appropriate financial resources and skills, underpin these efforts.
- **Building on the growing momentum of national commitments.** There are strong synergies in working coherently alongside the SDG 16 global platforms (*Open Government Partnership; Global Partnership to End Violence against Children; Task Force for Justice Pathfinders for Peaceful, Just and Inclusive Society*) to support country-led commitments to deliver better outcomes for children, that will realise their rights, meet their needs and open up opportunities.
- **Sharply prioritising impact on children's outcomes**, this *Challenge Paper* is maintaining a focus on the end results for children, achieved through highly effective implementation channels to securing sustained change, and addressing our weaknesses to date in accelerating progress to realise the rights, needs and opportunities for children.

The *Challenge Paper*, moreover, addresses four critical elements that we believe are fundamental to very substantively enhancing our progress, and to significantly accelerate the impact of all that we do:

- **The Justice Gap for children:** recognising the ways that justice, in all its forms and across its systems, must meet the needs and rights of children, and how the gaps in the securing and sustaining of justice should be addressed;
- **Making the case:** making the crucial case for investment in justice for children, both in terms of financial and human resources, and identifying the related benefits to the child and to the broader community and societies in which they live;

- **Children’s contribution:** meaningfully identifying how children’s empowerment, participation and engagement can be secured and facilitated in the design of approaches for the enhancement of all forms of justice;
- **Call to Action:** finally, powerfully articulating the imperative of securing the commitment and a concerted response from local, national, and international stakeholders - including political leaders, policy-makers, the deliverers of justice and other services and programmes – to implement and monitor solutions that realise *Justice for Children*.

## A Two-Track Approach

UNICEF defines *Justice for Children* as a two-track approach to ensure greater attention to children in rule of law initiatives, and the additional interventions needed to strengthen rule of law efforts to guarantee the realisation of the rights of the child. *Justice for Children* supports this approach which aims to ensure that children can be better served and protected by justice systems, as well as by the social security, social services and child welfare sectors, and that international norms and standards are upheld and respected for all children that come into contact with the justice systems.

We are led by the following guiding principles, informed by the UN Approach to *Justice for Children*<sup>3</sup>:

- Doing no harm
- Ensuring the best interests of the child is given primary consideration
- Guaranteeing fair and equal treatment
- Ensuring the right of the child to be heard, and to express his or her views freely
- Protecting every child from abuse, violence, exploitation

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<sup>3</sup> Guidance Note of The Secretary-General (Sep. 2008), UN Approach to Justice for Children.

### 3. Children and the 2030 Agenda

The Agenda 2030 provides a shared understanding for peace, prosperity and justice for people and the planet. The 17 Sustainable Development Goals are at its heart, and they represent a shared commitment by the global community to tackle the world's most pressing issues while *leaving no one behind*.

SDG 16 calls for *the promotion of peaceful, just and inclusive societies*, providing access to justice for all, and building effective, accountable and inclusive institutions at all levels. This Goal underpins all other SDGs:<sup>4</sup> without increased justice, world leaders will be unable to end poverty, reach the most vulnerable and those furthest behind, create conditions for shared and sustainable prosperity, or promote peace and inclusion.

Indeed, these commitments cannot be fulfilled unless we can ensure justice for children, so that children who come into contact with justice systems for whatever reason, and those who experience injustice more widely, are given due attention and afforded specific provisions within specialised and differentiated systems.

Moreover, the United Nations human rights mechanisms have long focussed on many of these same issues. States should engage with these and ratify the core international human rights treaties, including the Convention on the Rights of the Child and its three Optional Protocols.<sup>5</sup> Promoting the establishment of independent Human Rights Institutions for Children is also a crucial step.<sup>6</sup>

#### What children say

With a growing global understanding of children as both active participants in exercising their rights, and as defenders of human rights,<sup>7</sup> the *Justice for Children* project recognises the importance of the views and experiences of children as crucial in the work going forward.

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<sup>4</sup> United Nations, Sustainable Development Goals <https://www.un.org/development/desa/disabilities/envision2030.html>

<sup>5</sup> This includes, particularly, the Optional Protocol on a Communications Procedure, a unique tool that States can use to strengthen their legal systems and policies for the protection of child rights. The ratification of this instrument represents a concrete step that States can take to strengthen political incentive, and thus accelerate the achievement of high-quality justice for children.

The three Optional Protocols are: Optional Protocol on involvement of children in armed conflict (OPAC), Optional Protocol on the sale of children, child prostitution and child pornography (OPSC) and the Optional Protocol on a communications procedure (OPIC).

<sup>6</sup> For example, the Ombudspersons for Children, whose role is to monitor the actions of governments and other actors, investigate child rights violations, promote children's rights, and offer a space for dialogue between children and the State, as a way to promote realisation of children's rights.

<sup>7</sup> See CRC Day of Discussion 2018 <https://www.ohchr.org/EN/HRBodies/CRC/Pages/Discussion2018.aspx>

Unfortunately, , the views and perspectives of children on their engagement and participation in relation to justice, and in particular in children’s involvement as parties, witnesses, victims and offenders in both criminal and civil legal matters, is an under-researched area, particularly in relation to the views of children from the Global South. There is a great deal more work to be done to understand and share their views.

In this first stage of the *Justice for Children* project, a rapid review of the literature,<sup>8</sup> which directly drew on secondary sources that captured the voices of children, their views and their experiences, was undertaken to inform this *Challenge Paper* and determine the key and significant themes. While recognising dissatisfaction of not embarking on a robust and meaningful engagement with children, at this stage of the work, we were pleased to draw on the Technical Working Group knowledge and on available literature.

The review made it clear that children’s voices of the Global South are proportionately underrepresented in the literature. Nevertheless, it identified four broad areas:

- Children tell us they want to be included in decisions which affect them and want their voices to be heard by adults. Children want to be heard, but need to feel safe, supported, informed and empowered to do so. It is important to children that they feel their participation is respected, valued and heard;
- Children tell us they need safe, private and confidential spaces to participate in environments which support their inclusion. The provision of social support, appropriate information, and child-friendly environments can help to empower children to participate. Ensuring participation protects children’s confidentiality is important in reducing anxiety and avoiding (re)traumatisation. Children often reflect positively on their experiences of working

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<sup>8</sup>See Gillon, F. (2019) “Children’s views and experiences of their participation in justice” CYCJ, University of Strathclyde. Available online: <https://cycj.org.uk/wp-content/uploads/2019/07/Literature-Review-Justice-for-Children.pdf>; See also: Kilkelly (2010) “Listening to children about Justice: report of the Council of Europe consultation with children on child-friendly justice”; European Union Agency for Fundamental Rights (FRA) (2017) Child-Friendly Justice: Perspectives and experiences of children involved in judicial proceedings as victims, witnesses or parties in nine EU Member States [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2017-child-friendly-justice-children-s-perspective\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2017-child-friendly-justice-children-s-perspective_en.pdf); Beckett & Warrington (2015) “Making Justice Work: Experiences of criminal justice for children and young people affected by sexual exploitation as victims and witnesses”; Beqiraj, J. and McNamara, L. (2016) Children and Access to Justice: National Practices, International Challenges; Bingham Centre for the Rule of Law Report October; Birnbaum and Saini (2012) “A Qualitative Synthesis of Children’s Participation in Custody Disputes”; Child Rights Connect, “Access to Justice: Findings from a Survey with Children and Teenagers, available at: <https://www.childrightsconnect.org/access-to-justice-for-children-and-teenagers/>; Defence for Children International – Italy, “Twelve: Children’s Right to Participation and the Juvenile Justice System”, available at: [http://www.defenceforchildren.it/files/DCI\\_-\\_Twelve\\_handbook\\_eng\\_web.pdf](http://www.defenceforchildren.it/files/DCI_-_Twelve_handbook_eng_web.pdf); Duerr Berrick J., Dickens J., Pösö T., Skivenes M., “International Perspectives on Child Responsive Courts” [https://brill.com/view/journals/chil/26/2/article-p251\\_251.xml](https://brill.com/view/journals/chil/26/2/article-p251_251.xml); and The Global Study on Children Deprived of Liberty, <https://www.ohchr.org/EN/HRBodies/CRC/StudyChildrenDeprivedLiberty/Pages/Index.aspx>.

with adults who have received specialised training in working with children, highlighting the importance of ongoing professional development in all sectors;

- Children tell us their participation can be supported by positive interactions with adults. Children, where possible and appropriate, want to participate directly in decision-making processes. There are inconsistent findings about which adults are best placed to support this participation but a trusting and respectful relationship between adults and children is key;
- The more we are empowering children to participate, where their involvement is respected and they are supported to have their voice heard in appropriate and supportive settings, the more positive is the overall experience of their participation in justice, irrespective of the outcome.

Understanding how to implement these areas in practice requires a great deal further exploration. These themes are reflected in the *Challenge Paper* and *Call to Action* (see Challenge number 8).

## The Justice Gap

At the heart of this *Challenge Paper* is the commitment to ensuring that justice in all its forms--criminal, civil and administrative justice, as well as economic, social and cultural justice--meets the rights and needs of children. Children's rights are enshrined in international law by the United Nations Convention on the Rights of the Child (CRC), the most widely-ratified international treaty, demonstrating significant international consensus around the imperative of States to respond to children's rights.<sup>10</sup> In addition, a range of other international instruments also support children's human rights.<sup>11</sup>

The CRC recognises that children are different from adults with distinct needs that require specific responses. While children's unique characteristics will vary with their age and stage of development, their needs are also due to the fact that they are typically under the care, direction, and control of adults. They require particular protections because of their age and status as children. As children, they require the support of their families and communities to fulfil their potential. They need access to universal services such as education, health care, a well-functioning child

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<sup>10</sup> United Nations Convention on the Rights of the Child, available online: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

<sup>11</sup> Including: Universal Declaration on Human Rights (1948), European Convention for the Protection of Human Rights and Fundamental Freedoms (1950); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (1984) (and its 2002 Optional Protocol), European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment 1987; Charter of Fundamental Rights of the European Union (2000); American Convention on Human Rights (1969) and its Additional Protocol in the Area of Economic, Social and Cultural Rights (1988); the African Charter on the Rights and Welfare of the Child (1990); European Social Charter (revised) 1996.

protection system,<sup>12</sup> and a justice system to seek redress or to complain about the violation of their rights. At the same time, children should be empowered to contribute to, and participate in, justice systems and across all areas of their lives.

Children may come into contact with the law and justice systems as victims, witnesses, and offenders or a combination of all, or because of other reasons where judicial, state, administrative or non-state adjudicatory intervention is required because of decisions regarding their well-being, custody, care or protection. In these instances, children require child-friendly justice systems that are specialised, meeting their needs when children are in conflict with the law as well as preventing future injustice by ensuring access to justice for children when their rights are violated.

Justice systems and related processes and services must therefore be differentiated and specialised, developed in accordance with internationally agreed guiding principles and guidance so that children's rights can be fully respected. However, justice for children is not solely about children's interaction with the formal legal system, but also about their fundamental access to equal opportunities, notably through a fair and equal access to the range of services beyond formal justice, such as health and education.

*Justice for Children* is concerned particularly with those children whose needs are not met and whose rights are not upheld and for whom there is profound and sustained injustice, recognising that children can have several identities at the same time. Some of the factors that contribute and lead to their needs and rights not being met include sex, sexual orientation and gender identity (SOGI), religion, race, ethnicity, nationality, and disability.

Importantly, this concern embraces those children who do not come into contact with crucial supportive systems – including the formal and informal justice systems and, also, the systems that provide or should provide public services. There needs to be a particular focus on those children who, for various reasons, may be 'hidden' children – made invisible by adults and the authorities around them – and the challenge of how to identify them.

A major ambition of *Justice for Children* is that we develop a greater understanding of the evidence on the return on investment of taking forward approaches which support prevention and also protect children. In the longer term, these costs become lifelong benefits for all, as children become adults and therefore economic contributors to society as well as parents of the next generation themselves. Acceleration of progress towards justice for children also contributes to the achievement of other crucial SDGs, including children leading healthier lives (SDG 3), having better access to quality education (SDG 4), and living in more equal societies (SDG 10). All of these SDGs have benefits for society.

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<sup>12</sup> A child protection system is defined by UNICEF as certain structures, functions, and capacities that have been assembled to prevent and respond to abuse, violence, neglect, and exploitation of children. See Connolly, M.; Katz, I.; Shlonsky, A. and Bromfield, L. (2014). *Toward a Typology for Child Protection Systems: Final Report to UNICEF and Save the Children* UK: UoM Commercial Ltd. Melbourne

## Responding to the Call to Action

This *Challenge Paper* underpins and complements *Justice for Children, Justice for All: The Challenge to Achieve SDG16+ Call to Action*<sup>13</sup>.

The *Call to Action* is a tightly-focused synopsis of the *Challenge Paper* to emphasise the primacy of the delivery and commitment to action in future.

The *Call to Action* is a chance to commit to a transformative agenda for this and future generations of children worldwide.

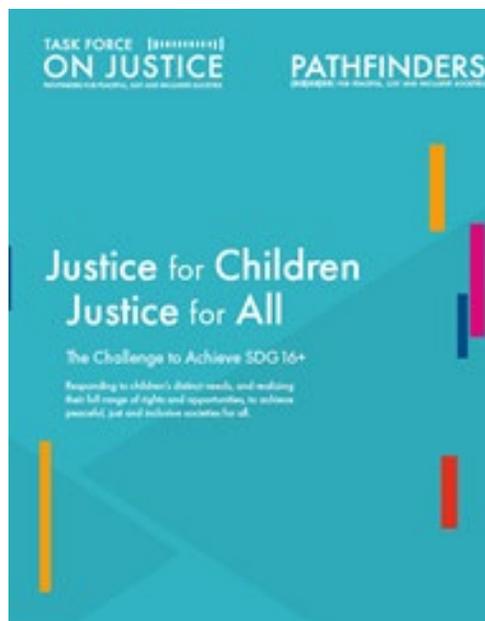
The *Call to Action* highlights the critical, collective and global *Responses* needed across *10 Challenges* that are essential if the rights, needs and opportunities for children are to be addressed sufficiently to ensure we *leave no child behind* in our efforts to achieve the SDGs.

The *Call to Action* urges commitments from international, national and local political leaders, policymakers, the deliverers of public services, as well as non-state actors, to inspire, implement, sustain and monitor solutions that realise justice for children.

It calls for accelerated progress, through a focus on justice for children, towards securing children’s human rights as set out in the Convention on the Rights of the Child (CRC) and other key international instruments, with *Agenda 2030* and the *Sustainable Development Goals, particularly Goal 16*, providing global coherence and momentum. The aim is to provide impetus to the effective implementation of strategies and programmes of change for children across the world.

With a strategic vision that actively puts children at the centre, affirms human rights, and is aligned with the SDG agenda, the *Justice for Children Call to Action* is an essential part of our collective global challenge to achieve SDG 16.

A growing number and wide range of agencies are endorsing the *Call to Action*, promoting an accelerating momentum for change:



## Seizing the moment

In 2019, we mark the 30<sup>th</sup> anniversary of the Convention on the Rights of the Child. There is no better time to demonstrate visionary political leadership, not only on behalf of those who are children today, but for the 1 billion individuals<sup>14</sup> who will be born between now and 2030: the children who will inherit a post-SDG world.

By setting this issue at the heart of the Agenda 2030 in 2019, this *Challenge Paper* and the *Call to Action* are an invitation to reconvene in 2020 for the 75<sup>th</sup> anniversary of the United Nations, and demonstrate that we, as a global community, are delivering on our promise to *leave no one behind*.

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<sup>13</sup> The *Justice for Children, Justice for All: The Challenge to Achieve SDG16+ Call to Action* is available online at: <https://www.justice.sdg16.plus/report>; <https://justice.childhub.org/en/sdg16j4c>; and [www.inspiringchildresfutures.org](http://www.inspiringchildresfutures.org)

<sup>14</sup> World Population Clock: 7.7 Billion People (2019) expected to grow to 8.6 billion by 2030: <https://www.worldometers.info/world-population/#table-forecast>

## 4. Responding to the *Justice for Children* Challenges

*Justice for Children* has identified 10 Challenges and Responses that need urgent attention at international, national and local level.

There are significant inter-relationships and cross-cutting issues across the Challenges and Responses highlighted in this *Paper*. For example, economic and social justice in the broadest sense plays a critical role in the prevention of children coming into contact with the criminal justice systems whether as victims, witnesses or offenders or a combination of all.

The Challenges apply equally to all children regardless of their circumstances and their sex, sexual orientation and gender identity (SOGI), religion, race, ethnicity, nationality, disability. It applies whether children live in one of the higher or one of the lower income countries of the world, in areas of conflict or where there are humanitarian emergencies.

The Challenges are clustered to highlight the distinct perspectives within them. These encompass the promotion of the most appropriate and enabling justice for children; the urgent challenges; and the foundations required to drive and sustain change.

Each Challenge is defined, the argument for investment in responding to this Challenge is outlined, and the key responses required of policy-makers and of the highest political leadership, among others, are identified within each Challenge section.

# Justice for Children, Justice for All

## The Challenge to Achieve SDG16+

**A Call to Act:**  
Respond to Ten Challenges

The Justice for Children *Call to Action* has identified Ten Challenges that need urgent attention and deliberately focussed responses at international, national and local level. These encompass prevention efforts; the urgent challenges; and the foundations required to drive and sustain change.

**A** Promote justice as an enabler of children's development

- 1 Guarantee the wellbeing and inclusion of all children.
- 2 Promote justice systems, whether formal or legally plural, that guarantee equal access, benefit, protection and support to children.
- 3 Prevent unnecessary contact with the justice system and the criminalisation of children.
- 4 Ensure the right to a legal identity for all children.

## A Call to Act: Responding to Ten Challenges

### A. Promote justice as an enabler of children's development

1. Guarantee the wellbeing and inclusion of all children.
2. Promote justice systems, whether formal or legally plural, that guarantee equal access, benefit, protection and support to children.
3. Prevent unnecessary contact with the justice system and the criminalisation of children.
4. Ensure the right to a legal identity for all children.

### B. Accelerate action to respond to the urgent and critical challenges

5. Prevent all forms of violence against children.
6. Safeguard the rights of children who have been recruited, used by or associated with armed and criminal groups, or who have been accused of national security-related offences.
7. Eliminate arbitrary and unlawful detention and restrict the deprivation of children's liberty to exceptional circumstances.

**B** Accelerate action to respond to the urgent and critical challenges

- 5 Prevent all forms of violence against children.
- 6 Safeguard the rights of children who have been recruited, used by or associated with armed and criminal groups, or who have been accused of national security-related offenses.
- 7 Eliminate arbitrary and unlawful detention and restrict the deprivation of children's liberty to exceptional circumstances.

**C** Establish and sustain the foundations for change

- 8 Promote and ensure the empowerment and participation of children in all decisions that affect their lives.
- 9 Secure sustained political commitment to accelerate the achievement of high-quality justice for children.
- 10 Ensure responses are based on international standards and evidence-based policies.

### C. Establish and sustain the foundations for change

8. Promote and ensure the empowerment and participation of children in all decisions that affect their lives.
9. Secure sustained political commitment to accelerate the achievement of high-quality justice for children.
10. Ensure responses are based on international standards and evidence-based policies.

## A. Promote justice as an enabler of children's development

### Challenge 1:

#### Guarantee the wellbeing and inclusion of all children

##### Defining the Challenge

The social exclusion and marginalisation of people, especially children, denies their human rights and undermines their wellbeing and development, leading to more vulnerability in society.

There is a large number of children who live in marginal circumstances and whose rights and needs are not being met. Children's experiences of being abandoned, neglected, abused and being exposed to substance misuse puts them at risk. Poverty and discrimination are still main drivers of children being taken into alternative care, despite international guidance i.e. in the *UN Guidelines for the Alternative Care of Children*, calling on States to pursue policies addressing the causes of separation.<sup>15</sup> Children can be exposed to violence in situations such as migration, informal employment, and recruitment into armed groups, to name just a few.

These children in particular can be propelled into the justice system by poverty, violence at home, structural violence, and by risky survival activities. Often, State laws and policy are directly or indirectly discriminatory to children and entail different treatment of groups such as minorities. Children from ethnic and minority groups, e.g., are overrepresented in the criminal justice system.<sup>16</sup> They face more police controls, are more frequently arrested and referred to a court, and are often the subject of custodial measures. In addition, criminal justice systems can be used as a substitute for weak or non-existent child protection systems, leading to the criminalisation and incarceration of vulnerable children.<sup>17</sup>

Children from poor and marginalised families and communities can become easy targets for organised crime. They may be coerced, through social

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<sup>15</sup> UN Guidelines for the Alternative Care of Children (2009), Resolution adopted by the General Assembly (A/64/434). For the implementation handbook *Moving Forward*, and background resources see: [www.alternativecare.org](http://www.alternativecare.org)  
See also European Union funded international study: *Towards the Right Care for Children* (2017) Available at: <https://www.celcis.org/knowledge-bank/search-bank/towards-right-care-children/>

<sup>16</sup> Office of the Special Representative of the Secretary General on Violence Against Children (2012), *Prevention of and responses to violence against children within the juvenile justice system*, available at [https://violenceagainstchildren.un.org/sites/violenceagainstchildren.un.org/files/documents/publications/8.\\_prevention\\_of\\_and\\_responses\\_to\\_violence\\_against\\_children\\_within\\_the\\_juvenile\\_justice\\_system.pdf](https://violenceagainstchildren.un.org/sites/violenceagainstchildren.un.org/files/documents/publications/8._prevention_of_and_responses_to_violence_against_children_within_the_juvenile_justice_system.pdf)

<sup>17</sup> Office of the Special Representative of the Secretary General on Violence Against Children (2015), *Safeguarding the rights of girls in the criminal justice system*, available at <https://violenceagainstchildren.un.org/content/safeguarding-rights-girls-criminal-justice-system>

pressure or the promise of financial rewards, to hold or deliver drugs or weapons, or to carry out petty crime, or be forced into sexual exploitation activities. Even though they are in essence victims, these children often end up stigmatised, perceived as a threat, and at times, are subject to deprivation of liberty.

Lack of resources is often used to justify the infringement of the human rights of children in contact with the justice system. However, it has been found that poorly funded, poorly implemented programmes do not deliver good results.<sup>18</sup> These inadequate programmes can, in turn, create long term problems for the State.

### Why invest in this Challenge?

Progressive policies, delivered through structured, inter-agency collaboration, which strengthen the well-being of the family unit and support parents in their care-giving role, and thereby the well-being of children, should be a priority, especially those that bring a self-sustaining and sustainable benefit to the family. In addition, while poverty remains entrenched, strengthening child and social protection systems is crucial, and can bring positive benefits for the family and children.

The role of investment in education, health care, and family and community-strengthening programmes is pivotal in securing justice for children. When accorded a high priority, the benefits in both the short and long-term from these investments can be transformative in the lives of children. Over the long term, investing in children through prevention saves money and contributes to reducing and eliminating poverty and social exclusion, and tackling the discrimination that children experience. This investment improves children's overall outcomes.

More evidence is required on the long-term costs of children's anti-social and criminal behaviour with consideration of how a State can save money by investing in prevention. Existing policies and practices aimed at preventing crime and recidivism should be assessed on their effectiveness and applied in other settings and contexts, where helpful.

The goal of States should be a reduction in crime rates and criminal behaviour. Such policies lead to fewer victims and less need to invest in

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<sup>18</sup> For example: Taylor, C. (2016) Review of the Youth Justice System in England and Wales, Ministry of Justice, available at <https://www.gov.uk/government/publications/review-of-the-youth-justice-system>  
Okagbue, I, (n.d.) Children in Conflict with the Law: The Nigerian Experience  
[https://www.unicef-irc.org/portfolios/documents/487\\_nigeria.htm](https://www.unicef-irc.org/portfolios/documents/487_nigeria.htm)  
UNICEF Belize, Safety and Justice for Children Programme Strategy Note  
[http://files.unicef.org/transparency/documents/Belize\\_Strategy\\_Note\\_Safety%20and%20Justice%20for%20Children.pdf](http://files.unicef.org/transparency/documents/Belize_Strategy_Note_Safety%20and%20Justice%20for%20Children.pdf)  
Just Reinvest NSW, Justice Reinvestment: Getting started in your community: A Toolkit  
<http://www.justreinvest.org.au/wp-content/uploads/2019/01/JR-Toolkit-V13-250119-1.pdf>

heavy judicial responses and institutional solutions to problematic situations. The United Nations *Guidelines for the Prevention of Juvenile Delinquency*, 'the Riyadh Guidelines', state that prevention is essential alongside engaging children in positive ways for themselves and society.<sup>19</sup>

## Effective responses to this Challenge

Identify the policies, situations, practices and legislation that lead to - and those that can eradicate or reduce the harm of exclusion, discrimination, and anti-social behaviour.

Effectively implement preventative and restorative strategies and programmes, across integrated systems that, together, support children's health, wellbeing and flourishing, and address child and family poverty, exclusion and discrimination.

Address the root causes, including discrimination, poverty, inequality, violence, social exclusion and unequal access to services such as education, health, participation, access of marginalised families to gainful employment, recreation and social welfare systems through prevention strategies. Ensure these strategies can be effectively implemented, through collaboration among child justice and child protection systems and other relevant actors at national and local level.

All approaches should be non-judgmental, avoiding stigmatising children or defining children by their acts and circumstances, in accordance with the principle of the best interests of the child.

Formalise links between the child protection authorities and the justice sector in order to conduct multidisciplinary assessments and to ensure that a child in contact with the justice system receives adequate care when needed.

Invest in combatting organised crime and trafficking in persons and corruption.

Undertake research on social risk, social exclusion, marginalisation and the exploitation of children, including the use of children as instruments of criminality, with a view to developing comprehensive responses.

In Australia, a programme in New South Wales is implementing a strategy of justice reinvestment. Evidence shows strategic community-driven investment in localised early intervention, prevention and diversionary solutions can reduce crime, build local capacity, and strengthen local communities. It is particularly effective in supporting minority groupings, including Aboriginal young people.

<http://www.justreinvest.org.au/what-is-justice-reinvestment>

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<sup>19</sup> United Nations Guidelines for the Prevention of Juvenile Delinquency ('The Riyadh Guidelines') (1990), available online: <https://www.un.org/documents/ga/res/45/a45r112.htm>, United Nations, para 1.1.

## Challenge 2:

**Promote justice systems, whether formal or legally plural, that guarantee equal access, benefit, protection and support to children.**

### Defining the Challenge

Functioning formal justice and protection systems that comply with international child rights' standards are key guarantors for the protection of children against abuse, exploitation, or other violations of their rights, and as remedies to ensure the full protection of children's rights.

Formal systems are different across the world. In some countries, there are specialised justice systems that have been established for children such as youth courts or other quasi formal justice systems. In other countries, or at an older age during childhood (under 18 years of age), children come into contact with adult systems that are rarely adapted to the specific needs and rights of children. This includes the settings, court rooms, length and formality of procedures, training of professionals and the skills and capacity to address, listen to and be understood by children.<sup>20</sup> In both child and adult systems, children do not have adequate access to legal advice and advocacy.

Many countries in the world are characterised by legal pluralism. In these countries, the overwhelming majority of children come into contact with justice mechanisms that lie outside of official, formal structures. These are informal justice systems (IJS) and include traditional courts headed by the traditional head or leader of the community, religious-based legal systems, customary courts and local systems of resolving disputes. Estimates suggest that up to 90% of disputes in lower income countries are solved outside of formal mechanisms.<sup>21</sup>

Informal justice systems are often said to conflict with the values and processes of liberal democratic systems and be incompatible with broader development goals.<sup>22</sup> Informal justice systems have also been associated with corruption, abuse of power, lack of accountability, and non-compliance with international human rights standards leading to inhuman punishments, unfair trials and discrimination against women, children and minorities.<sup>23</sup> From a child protection perspective, major concerns exist around the fact that the best interests of the child may be superseded by the will to preserve community harmony. Nevertheless, the advantages of informal justice systems and Alternative Dispute Resolutions mechanisms

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<sup>20</sup> CRIN (2016) Rights, Remedies, Representation: Global Report on Access to Justice for Children, AVAILABLE AT [https://archive.crin.org/sites/default/files/crin\\_a2j\\_global\\_report\\_final\\_1.pdf](https://archive.crin.org/sites/default/files/crin_a2j_global_report_final_1.pdf)

<sup>21</sup> DANIDA <https://um.dk/en/danida-en/>

<sup>22</sup> Harper, E. (2011) Customary Justice: From Programme Design to Impact Evaluation, 2011a, IDLO, Rome, p.33

<sup>23</sup> UNDP, UNICEF and UN WOMEN (2012) Informal Justice Systems: Charting a course for human rights based engagement.

include the possibility that it constitutes an effective mechanism for access to justice, particularly amongst poor, vulnerable and marginalised groups or in post-conflict situations.<sup>24 25</sup>

Insights about restorative justice have often been drawn from customary and indigenous communities, where restoring social harmony is a primary consideration. Therefore, drawing on customary, indigenous and religious practices may open up possibilities for more restorative approaches and constitute alternatives to the retributive and welfare models of justice by shifting the focus from punishment and support to transformational healing.<sup>26</sup>

### Why invest in this Challenge?

The potential of customary justice systems to effectively provide access to justice to people and communities should not be underestimated. However, the restoration of community harmony can contravene the rights of individuals in a dispute. Therefore, more needs to be known about informal justice systems and their decision-making in order to understand their role and how they can complement formal systems, in accordance with children's rights<sup>27</sup>. In turn, formal justice systems need to ensure they also meet the rights and needs of children.

Families play an important role in all aspects of matters relating to justice and children. Support and resources also need to be made available to support parents and carers in their parenting roles.

### Effective responses to this Challenge

Ensure that all systems, formal, semi-formal and informal, are child-friendly gender-sensitive and rights-compliant.

Develop strategies that bring together the child rights, child protection, civil justice and criminal justice communities to facilitate multi-disciplinary approaches and to ensure that the best interests of children are protected through whatever system is most appropriate and meets their rights.<sup>28</sup>

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<sup>24</sup> Wojkowska, E. (2006) *Doing Justice: How Informal Systems can Contribute*, UNDP.

<sup>25</sup> Qafsheh, M. and Wardak A. (2019) *Restorative justice capacities in Middle Eastern culture and society: towards a hybrid model of juvenile justice in Palestine*, *The International Journal of Restorative Justice*, Issue 1.

<sup>26</sup> Hope, K. (2017) 'Imagining hybridity to achieve restorative justice for children: A Palestinian Case Study', *Today's Children are Tomorrow's Parents*, No. 45-46, pp. 62-73.

<sup>27</sup> See, for example, the African Child Policy Forum, (2018) *Spotlighting the Invisible - Justice for children in Africa*, available at <https://app.box.com/s/qchz99m0x9q0iz378a95upnh57nxcu2m>

<sup>28</sup> Campistol, C., Hope, K., Colliou, Y., Aeibi, M., (2017) 'Customary Justice for children in Egypt: An Overview of the Situation in the Governorate of Assyut', *Restorative Justice: An International Journal*, Vol. 5, pp.29-52

Ensure that the best interests of the child are a primary consideration<sup>29</sup> in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies.

Provide children with a protective response within the national child protection system regardless of age and minimum age of criminal responsibility.

Make available age-appropriate legal assistance and child-friendly representation for all children.

Strategies to engage with various professionals and sectors across legal pluralism should demonstrate awareness and analysis of power relationships in communities, and ensure interventions create spaces for marginalised voices including children, particularly girls, women and minority groups to negotiate those relationships.

Conduct further research about customary and indigenous justice systems for children in order to better understand relationships between various actors within contexts of legal pluralism, and to test ways of influencing these relationships to achieve better outcomes for children.

Ensure all children are able to have complaints brought in their name and children who have the capacity should be able to bring a complaint themselves. Abolish discriminatory rules on bringing complaints, particularly on the basis of sex. Civil society organisations should be able to bring complaints on behalf of the constituencies they represent. A community paralegal approach has been found to be particularly effective in cases where the State has not documented groups of people.

**Burkina Faso** has activated the roles of traditional and tribal structures in implementing child-friendly penal mediation for children in conflict with the law. Formal and traditional justice actors agreed common actions to ensure that children could be diverted from the formal system.

<http://www.justice.gov.bf/?p=1256>

In **Myanmar**, NGOs working in partnership sought to enhance access to justice with a focus on community-based dispute resolution mechanisms. A core component involved training community actors on concepts of child friendly justice, restorative justice, rule of law, participation, and the best interests of the child.

<https://www.myjusticemyanmar.org>

Lawyers for children in **Scotland** provide free, outreach, holistic and child-centred legal representation. Children are heard in legal proceedings which affect them, making sure that their rights are protected and they are on an equal footing with those who have control over their lives. They also influence and achieve strategic legal changes, ensuring that the law protects and strengthens the rights of children.

<https://www.clanchildlaw.org>

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<sup>29</sup> UN Convention on the Rights of the Child, Article 3, para 1

### **Challenge 3:**

#### **Prevent unnecessary contact with the justice system and the criminalisation of children.**

##### Defining this Challenge

The criminalisation and penalisation of children in most situations creates more problems than brings solutions. Such policies bring children into a judicial system that damages them and pushes them into more criminal behaviour. There are also gendered dimensions. With girls, criminalisation is disproportionately linked to morality while with boys, it is associated with cultural constructs of masculinity such as anti-social behaviour.

Across the world, there are children kept in detention for alleged offences that should not be regarded as crimes. This includes status offences and allegations of being associated with armed groups or criminal gangs, as well as the deprivation of liberty for migration-related reasons. Many children are held in administrative, preventive, military or prolonged pre-trial detention, without the guarantees of due process, and in violation of their rights as enshrined in the CRC and other international instruments.

Children's involvement in justice systems often results in children being stigmatised and discriminated against by society, and sometimes by the services and professionals who should support them. Children who are older can be seen as troublesome, difficult, or worse, ignoring their status as children and their need for support and protection. This can result in a blurring of which systems and processes are appropriate for children, and which ones for adults. For example, children whose age cannot be 'proven' often end up in adult justice systems. In these instances, children can be detained in adult prisons or be subject to adult court systems even though this is not in accord with international treaties and guidance and is a denial of children's human rights.

These strategies are counterproductive. They can compound the problem of child offending instead of contributing to rehabilitation and reintegration into society. Children are more vulnerable to the negative psychological impacts of harsh punitive measures.<sup>30</sup>

The majority of children's challenging behaviours can be resolved and addressed without the need for punitive intervention.<sup>31</sup>

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<sup>30</sup> Centre for Human Rights & Humanitarian Law (2017), *Protecting Children against Torture in Detention: Global Solutions for a Global Problem*, Washington DC: Washington College of Law, American University.

<sup>31</sup> For an in-depth, localised example, see: McAra, L., & McVie, S. (2010), *Youth crime and justice: Key messages from the Edinburgh Study of Youth Transitions and Crime*. *Criminology & Criminal Justice*, 10(2), 179–209, available at <https://doi.org/10.1177/1748895809360971>

Taking a different approach by using diversionary mechanisms avoids the danger of trapping children with a previously good record in a pattern of offending behaviour. It recognises the particular vulnerabilities of children who offend.

Educational systems, health systems, alongside family and community strengthening efforts are key components of an integrated child justice system. Integrated child protection services which focus on the wellbeing of children and their families have the potential, along with other specialised approaches, to support children and help bring about changes in their behaviour, helping children to assume a constructive role in society which is in everyone's interest.

### Why invest in this Challenge?

Diversionary approaches require a commitment to prevention, protection and support so that children, as far as possible, do not enter the justice system, formal or informal.

By supporting children through services, family and community support, therapeutic interventions and non-custodial responses, short- and long-term costs to individual children, their families, communities and the State will be significantly reduced. These costs are economic as well as social and cultural.

### Effective responses to this Challenge

Review justice systems for children to identify areas where law, policies, systems and practice discriminate against, or do not meet, the rights of children.

Eliminate practices that drive unnecessary contact with the justice system.

Seek alternatives to arrest, detention and imprisonment, and promote non-custodial measures, including during the pre-trial stage, through diversion and restorative justice.

Prioritise reform in situations where children are involved in adult-based rather than child-centred justice systems.

Some states in the **USA** have developed youth courts as diversion programmes in which youth are sentenced by their peers in their local communities for minor crimes and offences. They are typically operated by law enforcement agencies, probation departments, juvenile courts, schools, and/or nonprofit organizations.

<https://www.ncjrs.gov/youthcourts>

Strengthen and implement international standards on the deprivation of liberty of children.

Establish a minimum age of criminal responsibility in each State that does not allow for exceptions based on the gravity of the offence, following international standards.

Leadership from politicians, professionals and community leaders would help in supporting changes in social and cultural attitudes to avoid children being stigmatised and discriminated against. Give particular attention to those children who face discrimination and structural disadvantage due to their sex, sexual orientation and gender identity, religion, race, ethnicity, nationality and disability.

**Peru** has increased diversion through restorative justice approaches. Implementing these programmes led to major reductions in judicial system caseloads and cut costs in open environment programmes. Open and semi-open rehabilitative environments more effectively prepared children and young people for reintegration into society.

## Challenge 4:

### Ensure the right to a legal identity for all children.

#### Defining the Challenge

Legal identity is fundamental to justice for children. Registering a child immediately after birth is the first step in recognising their existence before the law. This is a prerequisite for being able to claim and exercise all other rights. It provides access to a nationality or at least is a key element to prevent statelessness. It is instrumental for the achievement of social inclusion and economic empowerment and for achieving many of the other SDGs, since it supports unlocking equal access to social protection systems and economic opportunity amongst others. It is a fundamental, essential step towards ensuring that all individuals are equal before the law, can claim their rights and access the justice system, as well as other basic services such as health and education.<sup>32</sup>

In the context of justice, ensuring that all children have the necessary legal identity and status means that, at least legally, they are able to access mechanisms to enforce their rights. Without it, children face profound barriers in accessing justice.<sup>33</sup> With it, children can be empowered with their own rights rather than being dependent on their parents. Child migrants and refugees are particularly affected by barriers to access legal identity.<sup>34</sup>

Only approximately 51% of the world's population had a registered birth and approximately 230 million children under the age of 5 were not accounted for in civil registries according to recent research.<sup>35</sup> Birth registration is the first step towards achieving a legal identity, but States should also facilitate access to other components of legal identity such as registration of other vital events or access to identification and travel documents.

Ensuring every individual, and therefore every child, has legal identity, is relevant at a micro and macro level. It may offer greater protection for children, facilitating their access to essential services such as health and

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<sup>32</sup> Norwegian Refugee Council (2019) Barriers from Birth, available at <https://www.nrc.no/resources/reports/barriers-from-birth>

<sup>33</sup> CRIN (2016) Rights, Remedies, Representation: Global Report on Access to Justice for Children, available at [https://archive.crin.org/sites/default/files/crin\\_a2j\\_global\\_report\\_final\\_1.pdf](https://archive.crin.org/sites/default/files/crin_a2j_global_report_final_1.pdf)

<sup>34</sup> See the Global Compact For Safe, Orderly and Regular Migration (2018), available online [https://refugeesmigrants.un.org/sites/default/files/180713\\_agreed\\_outcome\\_global\\_compact\\_for\\_migration.pdf](https://refugeesmigrants.un.org/sites/default/files/180713_agreed_outcome_global_compact_for_migration.pdf)

<sup>35</sup> Dunning, C., Gelb, A., & Raghavan, S. (2014, September). Birth registration, legal identity, and the post-2015 Agenda (CGD Policy Paper 046), Washington, DC: Center for Global Development, pp. 1-2, quoted in: Wendy Hunter (2019) Identity Documents, Welfare Enhancement, and Group Empowerment in the Global South, *The Journal of Development Studies*, 55:3, 366-383, DOI:10.1080/00220388.2018.145163 7

education. It can also help governments and authorities with better planning of public services, policy development and distribution of resources.

Emphasising legal identity bears the risk of generating or strengthening exclusion, making it potentially more difficult for those people who are left without legal identity to assert their rights. Legal identity can therefore become a way to exclude non-citizens, refugees, migrants, stateless people, as well as minorities, people from different ethnic backgrounds, people living in rural areas and poor households.

The relationship between birth registration and other children's rights and services is both complex and context specific. Birth registration is only one component of a governance and legal system that can protect and promote children's rights.

### Why invest in this Challenge?

Birth registration is the only way to know for certain who is a child and whether the full rights of the CRC apply. When birth registration and the subsequent actions to fulfil a legal identity are universal, information can be used more effectively to plan and manage public services, health, education, and welfare systems for the benefit of all society.

Investing in national statistical bodies and effective civil registration and statistical systems can produce data which can be used for better governance, policy planning and resource allocation.

Ensuring that legal identity, including birth registration and civil registration, positively supports refugee and migrant populations' movements, and ensures their access to rights and services can enable people, including children, to contribute to the communities where they live. This applies also to minorities, and other people who are subject to discrimination such as poor communities, indigenous people, and girls.

### Effective responses to this Challenge

Establish and implement a national plan to strengthen civil registration systems to facilitate the process of birth registration immediately after birth, and access to other components of legal identity for all children, to ensure all children are registered and have a legal identity without discrimination.

Where universal or near universal birth registration and supply of legal identity are not in place, reaffirm that rights and services are not contingent on birth registration or legal identity. Accept alternatives to birth registration, especially to assess eligibility for inclusion in social programmes, health, and education services. No child should be denied access to services because they lack legal identity.

Put in place National programmes to support people to obtain legal identity through reducing or abolishing registration fees to obtain documentation. Address barriers to registering a birth, ensure that health and education services can support birth registration and reduce discrimination against parents, particularly mothers, to register their children.

Remove barriers to civil registration for migrant and refugee children and their families by both host and home States, for example by ensuring coordination between national and consular services.<sup>36</sup>

Ensure access to rights and services for all children to avoid unintended consequences of initiatives calling for birth registration, and provision of legal identity.

Undertake further research into the effects of birth registration, and how it can facilitate realisation of children's rights, to strengthen evidence of the technical assistance needed for countries embarking on strengthening their Civil Register and Vital Statistics systems. Technology may be key to making registration and identification systems more accessible, efficient, and secure, but its use must always be respectful of privacy and other children's rights.

**Estonia** piloted the world's first state-issued digital identity scheme, facilitating the identification of individuals without physical contacts. The e-Identity programme generates the mandatory national ID card which provides digital access to all of Estonia's secure e-services, thereby preventing exclusion and marginalization.

<https://e-estonia.com/solutions/e-identity>

In **India**, the challenge of providing a legal identity in poor, rural communities is being overcome through modern technology and private sector involvement. Haqdarshak is a tech platform that supports children to access the Aadhaar, the national Unique Identifying number, facilitating access to a wide range of other services.

<https://haqdarshak.com/what-do-we-do>

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<sup>36</sup>See Global Compact for Safe, Orderly and Regular Migration (2018), available at [https://refugeesmigrants.un.org/sites/default/files/180713\\_agreed\\_outcome\\_global\\_compact\\_for\\_migration.pdf](https://refugeesmigrants.un.org/sites/default/files/180713_agreed_outcome_global_compact_for_migration.pdf) and Global Compact for Refugees (2018), available at [https://www.unhcr.org/gcr/GCR\\_English.pdf](https://www.unhcr.org/gcr/GCR_English.pdf)

## B. Accelerate action to respond to the urgent and critical challenges

### Challenge 5:

#### Prevent all forms of violence against children.

##### Defining the Challenge

Abuse, neglect, and violence against children have long-term implications, both for the individual child and society at large. Half of the world's children are victims of violence each year<sup>37</sup>.<sup>38</sup> Two in every five modern slaves are children.<sup>39</sup> However, violence against children is vastly underreported and often met with a fragmented response or inaction.<sup>40</sup> When left unprotected, children are highly vulnerable to exploitation, abuse, and neglect. The covert nature of violence against children in the home makes detection more difficult and underlines the importance of bystander vigilance and interventions.

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

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

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<sup>37</sup> Susan Hillis, James Mercy, Adaugo Amobi, and Howard Kress (2016), "Global Prevalence of Past year Violence Against Children: A Systematic Review and Minimum Estimates," *Pediatrics*. 2016;137(3):e20154079, accessed November 12, 2018, available at <http://pediatrics.aappublications.org/content/pediatrics/137/3/e20154079.full.pdf>

<sup>38</sup> WHO, <https://www.who.int/news-room/fact-sheets/detail/violence-against-children>

<sup>39</sup> International Labour Office (2017), *Global estimates of modern slavery: Forced labour and forced marriage*, Geneva: ILO and Walk Free Foundation.

<sup>40</sup> UNICEF, *Multi Country Study on the Drivers of Violence Affecting Children* <https://www.unicef-irc.org/research/violence-affecting-children/>

An evidence-based set of 7 key strategies, entitled INSPIRE,<sup>41</sup> has recently been compiled by WHO and partners, offering a comprehensive outline of approaches for the effective prevention of violence against children as well as responses to children who have experienced violence. Sparked by the SDG 16.2 global platform, the *Global Partnership to End Violence Against Children*,<sup>42</sup> pathfinding countries and cities are developing commitments for implementing effective responses and sharing learning with others in a mutual effort.

### Why invest in this Challenge?

In 2015, around three-quarters of the world's children, 1.7 billion, experienced some form of violence in a previous year, whether they lived in rich countries or poor, in the global North or the global South.<sup>43</sup> It has been estimated that violence against children, including homicide, child abuse, and child sexual abuse, cost an estimated US\$3.7 trillion or 4.3% of global GDP.<sup>44</sup>

Violence against children has long-term implications, both for the individual child and society at large. Violence against children can negatively affect cognitive development, particularly at an early age when experience of violence can impair brain development and damage other parts of the nervous system. Moreover, children exposed to violence and other adversities are substantially more likely to smoke, misuse alcohol and drugs, and engage in high-risk sexual behaviour and also have higher rates of anxiety, depression, other mental health problems and suicide.

### Effective responses to this Challenge

Establish legislative and policy measures which ensure children have equal protection from violence under the law. This includes a comprehensive ban of all forms of violence against children, including corporal punishment,<sup>45</sup> as well as adherence to basic human rights principles regarding relevant criminal and civil proceedings.

Implement programmes which prevent violence with a focus on children and include early interventions and support to families; on community and

As one of the first Pathfinding Countries, committed to accelerating progress towards eliminating violence against children, **Uganda** issued its National Action Plan for 2015-2020, articulating strong multi-sectoral coordination to prevent and respond to violence against children.

[https://www.education.go.ug/files/downloads/National\\_Strategy\\_and\\_Action\\_Plan\\_on-VACIS.pdf](https://www.education.go.ug/files/downloads/National_Strategy_and_Action_Plan_on-VACIS.pdf)

In line with the Global Partnership to End Violence against Children and the SDGs, **6 major child protection organisations** joined forces in order to strengthen national initiatives aimed at preventing and responding to violence against children, by putting children's knowledge and experiences at the heart of the prevention design process.

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<sup>41</sup> WHO [https://www.who.int/violence\\_injury\\_prevention/violence/inspire/en/](https://www.who.int/violence_injury_prevention/violence/inspire/en/)

<sup>42</sup> See <https://www.end-violence.org/>

<sup>43</sup> Know Violence in Childhood (2017) Ending Violence in Childhood Global Report 2017, Chapter 1, available online <http://www.knowviolenceinchildhood.org/publication/flagship-report>

<sup>44</sup> UN Special Representative of the Secretary-General of Violence against Children (2015) The Economic Costs of Violence Against Children [https://violenceagainstchildren.un.org/economic\\_costs\\_of\\_vac\\_viewpoint](https://violenceagainstchildren.un.org/economic_costs_of_vac_viewpoint)

<sup>45</sup> See: NSPCC (2015). *Equally Protected? A review of the evidence on the physical punishment of children*. Available at: <https://learning.nspcc.org.uk/research-resources/2015/equally-protected>

school-based interventions; and on addressing the causes of anti-social and criminal behaviour including exclusion, discrimination, alienation, lack of education, economic deprivation and harmful family dynamics.

Effectively implement the comprehensive, evidence-based strategies outlined in *INSPIRE* for the effective prevention of violence against children and to respond well to children who have experienced violence.

Make child-friendly material available, explaining the rights that children have and the functioning of the justice system. Ensure it includes the roles and responsibilities of professionals and participants, as well as ways to obtain reparation from the offender and State as appropriate, access to essential services, and the availability of protective measures, if required. All professionals and other persons that come in contact with children require knowledge and skills to respond to a child's needs.

Child-friendly interview rooms have proven useful to make children feel at ease. It is important that there is also specialised law enforcement training in forensic interviewing of children. Some European countries have established 'Barnahus' which are places where different professionals can work together to support child victims.<sup>46</sup>

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

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

Deal with cases involving children in non-intimidating and child-sensitive settings. During the process, allow a support person to accompany the child victim throughout court proceedings to provide emotional support and help reduce the harmful impact of a court appearance.<sup>47</sup>

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<sup>46</sup> Barnahus <https://childhub.org/en/promising-child-protection-practices/what-barnahus-and-how-it-works>

<sup>47</sup> UNODC (2009) [https://www.unodc.org/documents/justice-and-prison-reform/Justice\\_in\\_matters...pdf](https://www.unodc.org/documents/justice-and-prison-reform/Justice_in_matters...pdf)

Communicate and explain the given decision or judgement to the child in a language adapted to their level of understanding, and give the necessary information on possible measures that could be taken, such as appeal or independent complaint mechanisms. The child's lawyer, guardian or legal representative should have a mandate to take all necessary steps to claim for damages during or after criminal proceedings in which the child was a victim.<sup>48</sup>

In **Romania**, a series of videos were launched to describe the innovative solutions that the children identified and implemented to end bullying as a form of violence against children.

<https://childhub.org/en/child-protection-news/romania-plan-z-heroes-against-bullying>

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<sup>48</sup> Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (2011), available online <https://rm.coe.int/16804b2cf3>

## Challenge 6:

**Safeguard the rights of children who have been recruited, used by or associated with armed and criminal groups, or who have been accused of national security-related offences.**

### Defining the Challenge

While the recruitment of children by armed groups and criminal gangs has a long history, the increased trend of children accused of national security-related offences is a more recent phenomenon that poses a new challenge to the rule of law.<sup>49</sup> In general, both boys and girls are recruited to serve as combatants, cooks, porters, messengers, or in other roles. Girls are also often exploited for sexual purposes or forced marriage.

International standards are clear in stating that children who have been recruited by armed groups, regardless of whether they were forced or joined voluntarily, should first and foremost be seen as victims, and be provided with assistance for their rehabilitation and social reintegration.<sup>50</sup> However, some countries appear to disregard this principle when it comes to children who have in any way been involved with violent extremist groups.<sup>51</sup>

Of increasing concern is also the treatment of the children associated with foreign fighters, where some home countries are indicating that they may not accept children back, which would, in practice, render them stateless.

### Why invest in this Challenge?

Avoiding the unnecessary criminalisation and demonisation of these children, focusing instead on their rehabilitation and reintegration in line with their rights in international law, avoids creating grievances which can make children vulnerable to re-recruitment or recidivism. This, in turn, would have high costs for the State.<sup>52</sup>

Children can be treated primarily as victims while still being held accountable for their actions rather than their associations. A balance between regarding children primarily as victims and holding them

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<sup>49</sup> See United Nations Security Council Resolution 2427, paragraph 20, available at <http://unscr.com/en/resolutions/doc/2427> See for example: UN Security Council Counter-Terrorism Committee <https://www.un.org/sc/ctc/focus-areas/countering-violent-extremism/>

<sup>50</sup> Security Council Resolution 2427 (9 July 2018) Paris principles and guidelines on children associated with armed forces or armed groups, and Optional Protocol to the Convention on the Rights of the Children on the involvement of children in armed conflict, art 6(3).

<sup>51</sup> <https://www.hrw.org/news/2019/03/06/iraq-isis-child-suspects-arbitrarily-arrested-tortured>

<sup>52</sup> UNU. Cradled by Conflict: Child Involvement with Armed Groups in Contemporary Conflict [https://collections.unu.edu/eserv/UNU:6409/Cradled\\_by\\_Conflict.pdf](https://collections.unu.edu/eserv/UNU:6409/Cradled_by_Conflict.pdf)

accountable for their actions can be achieved by following international standards and guidelines applicable to juvenile justice, armed conflict, and reintegration.<sup>53</sup> This takes into account that States need to preserve public safety as well as effectively protect the rights of the child.<sup>54</sup>

Approaching children with their protection needs at the forefront enables States to take positive action that supports children to achieve their potential and contribute to their communities.

### Effective responses to this Challenge

Ensure children are viewed as ‘children’ in these situations; end their criminalisation and demonisation; and focus on their protection, rehabilitation and reintegration in line with their rights under international law.

Align counter-terrorism legislation with juvenile justice standards, with the aim to avoid prosecuting children under counter-terrorism legislation. In particular, don’t prosecute children solely for membership in armed or other criminal groups, but only if they have committed a violent criminal offence.

Where children are alleged to be involved in terrorism-related activities, treat them in accordance with international law and in line with international juvenile justice standards. This includes detaining children only as a last resort and developing diversion mechanisms and other non-custodial options for children charged with terrorism-related offences. The best interests of the child should be the primary consideration, and any justice action should aim at the child’s reintegration into society.<sup>55</sup>

Put in place early prevention approaches and services to decrease children’s vulnerability to recruitment and radicalisation by armed, violent extremist and other criminal groups. Prioritise a national commitment to treat all children as children regardless of their associations and actions.

Address the drivers that make children vulnerable to these situations. Facilitate intervention through multi-sectoral approaches at national and local level promoting targeted prevention strategies with a strong focus on

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<sup>53</sup> See for example, the CRC Optional Protocol on the Involvement of Children in Armed Conflict A/RES/54/263 (25 May 2000) available online <https://www.ohchr.org/EN/ProfessionalInterest/Pages/OPACCRC.aspx>; and Paris Principles and Guidelines on Children Associated with Armed Forces or Groups (2007), available at <https://www.unicef.org/emerg/files/ParisPrinciples310107English.pdf>. See also: UN Secretary General’s note to the General Assembly, A/C.5/59/31 The integrated disarmament, demobilization and reintegration standards, available at [https://www.undp.org/content/dam/undp/documents/cpr/documents/ddr/SG\\_Report\\_on\\_DDR\\_to\\_GA\\_s-60-705\\_March\\_2006.pdf](https://www.undp.org/content/dam/undp/documents/cpr/documents/ddr/SG_Report_on_DDR_to_GA_s-60-705_March_2006.pdf)

<sup>54</sup> Neuchâtel Memorandum on Good Practices for Juvenile Justice in a Counterterrorism Context (2016), at <https://theij.org/wp-content/uploads/English-Neucha--tel-Memorandum-on-Juvenile-Justice.pdf>

<sup>55</sup> Ibid, Good Practice 1.

the creation of networks to support children at risk.<sup>56</sup> Response strategies by these agencies need to be both flexible and multi-dimensional with a careful balancing of protection, harm minimisation and reintegration. Ensure there are alternative channels for airing grievances by children, and opportunities for peaceful participation.

Criminalise in national legislation the recruitment and use of children in armed forces, armed and criminal groups. Develop guidelines and minimum standards with respect to online recruitment, networks and grooming, criminalising this activity.

Facilitate access to appropriate rehabilitation and reintegration programmes, including vocational training, education programmes, psycho-social counselling, and initiatives for social reintegration, for children who have been recruited by armed and criminal groups.

Repatriate and reintegrate children who have travelled to join armed and criminal groups in countries other than their own, or who have been brought there by their parents, recognising that some of these children were very young and had nothing to do with extremist groups. Adopt standard operating procedures for the immediate handover of children captured during military operations to child protection services or agencies.<sup>57</sup> At all times, actions to render children stateless should be avoided.<sup>58</sup>

Rehabilitation programmes should avoid re-enforcing gender stereotypes and ensure that children can develop appropriate skills so that they can support themselves financially and take part in society. Returning girls may face challenges in being accepted by their families and communities as they have stepped out of the traditional gender role.

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<sup>56</sup> UNODC (2017) Handbook on Children Recruited and Exploited by Terrorist and Violent Extremist Groups: the Role of the Justice System, United Nations, Vienna, available online: [https://www.unodc.org/documents/justice-and-prison-reform/Child-Victims/Handbook\\_on\\_Children\\_Recruited\\_and\\_Exploited\\_by\\_Terrorist\\_and\\_Violent\\_Extremist\\_Groups\\_the\\_Role\\_of\\_the\\_Justice\\_System.E.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Child-Victims/Handbook_on_Children_Recruited_and_Exploited_by_Terrorist_and_Violent_Extremist_Groups_the_Role_of_the_Justice_System.E.pdf)

<sup>57</sup> UN Security Council Resolution S/RES/2225, 18 June 2015.

<sup>58</sup> Guidance Note of the Secretary-General (2011) The United Nations and Statelessness, available at <https://www.un.org/ruleoflaw/files/FINAL%20Guidance%20Note%20of%20the%20Secretary-General%20on%20the%20United%20Nations%20and%20Statelessness.pdf>

## Challenge 7:

### **Eliminate arbitrary and unlawful detention and restrict the deprivation of children's liberty to exceptional circumstances.**

#### Defining the Challenge

Deprivation of liberty is one of the most harmful violations of children's fundamental rights. In many places, its use is not only of concern but growing, with children being deprived of liberty in the context of migration, armed conflict or terrorism.<sup>59</sup> It occurs very often in harmful conditions, and with children detained with adults.

In many cases of deprivation of liberty, basic legal protections are not in place. Children are given information that they do not understand and there is a lack of legal, psychological and social support for them. Children who are deprived of liberty become invisible, unseen and unheard.

The CRC states that deprivation of liberty should be a measure of last resort and only used for the shortest period of time.<sup>60</sup> Deprivation of liberty has consequences on other rights including the right to family life, life and development, health, education and leisure. Juvenile justice systems often rely on deprivation of liberty as a threat to other children. Unlawful and arbitrary forms of deprivation of liberty must be completely eliminated, including the elimination of detention on the basis of a child being disabled, or a migrant.

Solitary confinement and restraint are both extreme forms of deprivation of liberty and often used as a disciplinary measure to manage children, and as a method to calm a child down to avoid self-harm or suicide, separate a child from others, or in response to violent incidents. However, children in isolation are more likely to have mental health issues as a consequence of this practice and are therefore extremely vulnerable.

The Committee on the Rights of the Child has defined the circumstances in which force can be used legitimately to restrain children in detention: "Restraint or force can only be used when the child poses an imminent threat of injury to him or herself or others, and only when all other means of control have been exhausted."<sup>61</sup>

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<sup>59</sup> See the United Nations Global Study on Children Deprived of Liberty <https://www.ohchr.org/EN/HRBodies/CRC/StudyChildrenDeprivedLiberty/Pages/Index.aspx>

<sup>60</sup> United Nations, The United Nations Convention on the Rights of the Child, Article 37, November 1989, available online [https://downloads.unicef.org.uk/wp-content/uploads/2010/05/UNCRC\\_united\\_nations\\_convention\\_on\\_the\\_rights\\_of\\_the\\_child.pdf?\\_ga=2.185461984.832362406.1554221558-855690404.1554221558](https://downloads.unicef.org.uk/wp-content/uploads/2010/05/UNCRC_united_nations_convention_on_the_rights_of_the_child.pdf?_ga=2.185461984.832362406.1554221558-855690404.1554221558)

<sup>61</sup> UN Committee on the Rights of the Child (2007) Children's Rights in Juvenile Justice, CRC/C/GC/10, Geneva: United Nations, available at <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf>

In addition, the Committee on the Rights of the Child states that disciplinary measures which violate Article 37 of the CRC are strictly forbidden, “including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health or well-being of the child concerned”.<sup>62</sup> The Special Rapporteur on torture has concluded that solitary confinement can constitute a form of torture.<sup>63</sup>

### Why invest in this Challenge?

Depriving a child of their liberty impacts on their wellbeing and continues into adulthood. The negative consequences contribute to poor physical and mental health, lack of access to education, a high rate of recidivism, family breakdown and unemployment. These result in higher costs for the State in the long-term.

Instead of locking up children, there should be State investment in developing non-custodial measures complemented by a broad range of responses, such as support to families, to avoid depriving a child of their liberty. Reducing the use of deprivation of liberty requires shifting from an institution-based policy to investment in communities and support to families.

Deprivation of liberty measures, including those focused on public security or protection of borders, can be met by other means. Donors should support this, diverting their investments and support from custodial measures to non-custodial ones, and adding conditions to their grants linked to the development of specific policies.

### Effective responses to this Challenge

Drastically reduce the number of children deprived of their liberty.<sup>64</sup> Ensure detention is only used as a matter of last resort, in exceptional circumstances, and for the shortest possible period. The number of children deprived of liberty should be drastically reduced.

In situations of immigration, do not detain children due to their immigration status.

Adopt comprehensive plans to reduce the use of deprivation of liberty of children, with provisions in law to limit its use. These should be accompanied by plans to close down institutions where children are detained, focusing immediately on where children are detained with adults

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<sup>62</sup> UN Committee on the Rights of the Child, (April 2007), General Comment No. 10 on Children’s rights in juvenile justice, para 89.

<sup>63</sup> United Nations General Assembly (Feb. 2016), Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

<sup>64</sup> Children’s rights behind bars <http://www.childrensrightrightsbehindbars.eu/>

and detention centres for migrants. Develop specific plans for each type of deprivation of liberty, for example, in juvenile justice, in migration, and in 'protective' institutions.

Develop national plans giving priority to non-custodial measures for children, thereby reducing all forms of deprivation of liberty. Prioritise national budgets to support non-custodial measures. When it comes to access to justice, put in place clear and child-friendly mechanisms to challenge any arrest or decision of deprivation of liberty and to guarantee the rights of the child while deprived of liberty; and request regular revision of a measure of deprivation of liberty.

Additionally, create complaint mechanisms which are accessible, effective, and adapted to children. Promote access to child-friendly information; to a legal, social and psychological support to make the best use of existing remedies; to social and psychological support; to translation and interpretation if needed; and to an ombudsman for children or a national human rights institution.

## C. Establish and sustain the foundations for change

### Challenge 8:

**Promote and ensure the empowerment and participation of children in all decisions that affect their lives.**

#### Defining the Challenge

International law stipulates that children have the right to be heard and their views should be given “due weight in accordance with the age and the maturity of the child”.<sup>65</sup>

In line with the CRC, and specifically General Comment no. 24,<sup>66</sup> children should participate in decision-making, including at all stages of their justice journeys, whether they are in contact with justice systems as offenders, victims, witnesses, or as parties to a civil dispute. However, this commitment is not consistently built into justice systems at all stages, from contact with the police to children’s experience in custodial settings. Children’s views and experiences continue to be poorly heard across the world. Likewise, in civil justice decision-making, for children who are at risk of being, or unable to live with their parent(s), effectively determining the necessity of alternative care for that child, and the most suitable care option, relies on practitioners ensuring the views of the child are sought, heard and genuinely taken into account.<sup>67</sup> This is far from yet being the norm.<sup>68</sup>

Children accessing justice systems often do not have access to legal advice, representation and advocacy.<sup>69</sup> Over one quarter of courts fail to let children give evidence, a basic legal requirement, due to their age or because evidence from children is not given due weight in court proceedings.<sup>70</sup>

At macro-level, all policies and laws impacting on children’s justice and protection systems should take the lived experiences and perspectives of

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<sup>65</sup> Convention on the Rights of the Child, Art 12, available at

<https://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-GC-12.pdf>

<sup>66</sup> Committee on the Rights of the Child General Comment no 24 (2019) replacing General Comment no 10. (2007)

Children’s rights in the child justice system, available at

<https://www.ohchr.org/Documents/HRBodies/CRC/GC24/GeneralComment24.pdf>

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f24&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f24&Lang=en)

<sup>67</sup> See the United Nations’ *Guidelines for the Alternative Care of Children* <https://digitallibrary.un.org/record/673583> and the application of the necessity/suitability principles in *Moving Forward: Implementing the Guidelines for the Alternative Care of Children*, available at <http://www.alternativecareguidelines.org>

<sup>68</sup> EU (2018). *Towards the Right Care for Children: Orientations for reforming alternative care systems Africa, Asia, Latin America*. <https://www.celcis.org/knowledge-bank/search-bank/towards-right-care-children/>

<sup>69</sup> CRIN (2016) Rights, Remedies, Representation: Global Report on Access to Justice for Children

[https://archive.crin.org/sites/default/files/crin\\_a2j\\_global\\_report\\_final\\_1.pdf](https://archive.crin.org/sites/default/files/crin_a2j_global_report_final_1.pdf)

<sup>70</sup> Ibid.

children into consideration in order to ensure that these policies and laws meet the rights of children. This should take into account factors that restrict children's participation including their gender, disability and ethnicity.

Children who are in contact with justice systems often face stigma or discrimination due to their status as offenders or victims. This is compounded by other factors that disproportionately affect children in contact with justice systems, such as living in marginalised circumstances, certain forms of disability including cognitive and developmental delays, mental health and children who are victims of violence.

Many children who are in contact with the justice system do not have the appropriate language or literacy skills to engage with justice professionals and in formal justice settings such as courts. In turn, justice professionals do not necessarily have skills to communicate effectively with children. Court settings and other formal processes are not generally child-friendly and inhibit children's participation.

Some children may be engaged with more than one form of justice, due to child protection issues such as abuse, or being in alternative care, but also because of issues related to alcohol and drug use or other activities that are offences. In these instances, justice professionals and systems need to be attentive to ensuring children's right to be heard and their best interests given due regard, regardless of the complexity of a child's circumstances.

### Why invest in this Challenge?

First and foremost, justice for children should protect children's human rights as reflected in *Justice for All*. All forms of justice can better meet the rights of children and be more effective if they are informed by children's views and experiences, and build on children's effective participation. This avoids ill-informed decisions, and the establishment of programmes which may prove to be ineffective and use resources poorly.

By engaging with children in meaningful and participative ways, professionals working with children can decrease alienation and increase the therapeutic and rehabilitative impact of their interventions. This in return reduces the costs of children, and then young adults, being engaged in expensive judicial processes and systems. Instead it can bring wider benefits to society with children re-engaged in their communities.

## Effective responses to this Challenge

Examine formal, semi-formal and informal justice systems to assess how children are empowered and able to meaningfully participate, in line with international commitments. Examine any age-based restrictions on children's participation and provide support so that children, regardless of age, can be heard in appropriate ways and across a range of communication methods.

Make available age-appropriate and specialised legal assistance and representation, especially trained to deal and communicate with children, for all children. Children should have active and meaningful roles in justice reform, particularly children who have been in contact with prevention and justice systems.

Develop national strategies and policies to enable practitioners in the criminal justice system, the family court system, and the child protection system to provide support to children in order to ensure effective communication, with a view to making participation meaningful. Third party professionals, such as advocates, can support both children and professionals. This requires a range of adapted communication approaches and professionals with effective knowledge, skills and values.

Ensure all children are able to have complaints brought in their name. Children who have capacity should be able to bring a complaint themselves with access to legal support and representation.

Facilitate the inclusion and participation of children, and particularly children in contact with the law, in generating data around SDG Indicator 16.7.2 which can inform and benefit States' policies and practices at national and local level.

Maximize the benefits of learning from and linking up with existing mechanisms that aim to include the views and perspectives of children into the international sustainable development agenda.

An **international NGO** enables children in conflict with the law to contribute to the training of justice professionals to improve practitioners' child-engagement skills by sharing their own experiences. These - and other - opportunities support young people to overcome personal hardships, and to lead justice sector reform.

<http://www.younginprison.org/en/about-yip>

Across **Europe**, a multi-agency project has sought to enhance children's rights by providing guidance to states and legal professionals about the right to access legal counsel and representation throughout criminal judicial proceedings.

<http://www.mylawyermyrights.eu>

## Challenge 9:

### Secure sustained political commitment to accelerate the achievement of high-quality justice for children.

#### Defining the Challenge

Every State requires sustained and high levels of political commitment to implement justice for children at national and local level. This needs to be underpinned by the rigorous prioritisation of the financial and human resources, and effective approaches to implementation. Without these prerequisites, progress towards securing justice for children is inhibited and delayed.

Having an understanding of why justice for children provides a foundation for advancement across society is essential in securing political commitment. Political leaders should have the opportunity to explore and acknowledge the distinctive nature of childhood and its relationship to justice. Putting in place the broadest support for justice for children across government includes having the support of key decision-makers, primarily the Ministers for Justice, Finance, Education and Internal Affairs, as well as, naturally, the Minister for Children, or their equivalent.

The Finance Ministry plays a central role in the allocation of resources in discussion with other Ministries, and as a contributor to a government's wider sectoral strategic thinking. Having an understanding of the potential societal and broader budgetary and economic returns on investment in justice for children is therefore crucial as a powerful element in resource prioritisation and allocation processes.

Programmes targeted at prevention are the most effective route by which challenges may be addressed and should be accorded a high priority. Managing and resolving current and historic injustices is also central, underpinned by the political imperative of addressing the breadth of society. Determining the balance between the two is a question of political and economic judgement. These programmes should target all of those areas that are crucial in delivering better justice and outcomes for children, i.e. healthcare, education, social protection and welfare, family and community-strengthening, through a structured approach. Engaging and supporting all stakeholders that contribute to delivering services in these areas will contribute to sustained and successful implementation.

Studies across countries have analysed the returns on investment in justice,<sup>71</sup> but few give significant attention to justice for children. In order to take forward *Justice for Children* it is important to consider: the returns

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<sup>71</sup> See Task Force on Justice (2019) *Justice for All* Report, available at: <https://www.justice.sdg16.plus/report>, and *Making the Case for Investment in Justice* Report, available at: <https://www.theelders.org/news/making-business-case-access-justice>

on investment for children, rather than solely to adults; the returns to the society or nation as a whole, capturing the breadth of economic, financial and social net benefit; the need to focus on the returns to investment in enhanced justice, and not only on the returns to areas such as education or health; the value of programmes focused primarily on prevention, as well as on those directed to resolution.

Programmes to advance justice for children can draw upon the important work of key global agencies, such as the Task Force on Justice, *Justice for All – Final Report*<sup>72</sup> (specifically, chapter 2), which is underpinned by joint analysis by the OECD, World Bank and other partners. Similarly, the OECD Directorate for Public Governance has produced a valuable paper on the impact of access to justice on inclusive growth and citizen well-being<sup>73</sup>, as part of the positive case for investment in justice and has evaluated the cost of lack of access to justice. The *World Development Report 2017 on Governance and the Law*<sup>74</sup>, and the UN-World Bank *Pathways for Peace Report*<sup>75</sup> on prevention of violent conflict are also useful resources. All have relevance for *Justice for Children*. In addition, the World Bank’s Governance Global Practice is interested in strengthening the case for investment in justice given the role that justice plays in the delivery of the twin goals of the World Bank Group, ending extreme poverty and promoting shared prosperity. The Global Partnership to End Violence Against Children is exploring the returns on investment in ending violence.

### Why invest in this challenge?

Highlighting the significant potential returns to investment in justice for children is one of the critical elements in generating political support to both the overarching vision for reform and detailed change programmes. Resolving problems caused by an ineffective justice system should lead to reforms and the establishment of new programmes which are more cost effective.

Preventative programmes often incur costs in the early years, with the benefits tending to accrue much later, sometimes after many years, if not decades. This raises budgetary challenges over time and across government ministries and these need to be an integral part of progressing justice for children.

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<sup>72</sup> Center on International Cooperation (2019) New York, available at <https://www.justice.sdg16.plus/>

<sup>73</sup> OECD and World Justice Project (2018) “Building a Business Case for Access to Justice - An OECD White Paper in collaboration with the World Justice Project: Preliminary draft

<sup>74</sup> World Bank (2017) *World Development Report 2017: Governance and the Law*, World Bank, Washington, DC doi:10.1596/978-1-4648-0950-7

<sup>75</sup> United Nations and World Bank (2018) *Pathways for Peace: Inclusive Approaches to Preventing Violent Conflict*, World Bank, Washington, DC, available online: <https://openknowledge.worldbank.org/handle/10986/28337>

These returns are economic and social in nature. They benefit both the individual child and their community, opening up opportunities for each child to live to their full potential. They also bring wider benefits to society as greater justice for children is generated, and as the financial costs, and opportunity costs, to society of injustice are diminished.

## Effective responses to this Challenge

Ensure that there is support and leadership from key decision-makers in government, primarily the Ministers for Justice, Finance, Education and Internal Affairs, as well as, naturally, the Minister for Children, or their equivalents, to implement justice for children.

Ensure that there is an awareness and understanding of the significant benefits and savings of wider society of investing in justice for children, as well as the direct benefits to the child.

Accord a high priority to prevention budgeting to reduce costs in the future and produce wide social, economic, and environmental benefits.

Develop national, five to ten year strategies, to progress *Justice for Children*. These strategies need to explicitly articulate both the policy and expenditure frameworks and relate to the financial and human resources available. Ensure that regional and local governments and traditional authorities of the region, where they have a recognised role in society, reflect this national strategic thinking, setting out how they will take forward the delivery within the same 5 to 10 year framework.

Ensure the systematic inclusion of budget lines that facilitate the delivery of a *Justice for Children* strategy, in the established annual and multi-year budgetary planning cycles. This should be complemented by impact assessment analysis, focused on returns to the investment of policy and expenditure programmes for children and all aspects of justice. This will provide qualitative and quantitative insights into the internal budgetary savings and wider benefits across different ministries and the government both in the short term and over the longer term.

One critical role globally and nationally is to motivate and incentivise the gathering together of excellent examples that might stimulate thinking elsewhere. These should include examples of working with political leaders and key decision-makers, frameworks for addressing the critical economic, financial and social analyses, and methodologies for effective implementation. Global platforms' *Pathfinders* approach provides an example of this model.

After **Chile** ratified the Optional Protocol of the Convention on the Rights of the Child on a Communications Procedure (OPIC), the UN Committee on the Rights on the Child conducted a general inquiry in Chile under the OPIC; the Committee's recommendations incentivised the State to adopt a National Pact on Children and to commit to new laws on the financing of private institutions, social services for protection and juvenile justice, a revised adoption act, among others. Afterward, the State created a specific National Ombudsperson for Children, who plays a key role in ensuring children in Chile can effectively access justice.

[https://www.ohchr.org/Documents/HRBodies/CRC/CRC\\_C\\_CHL\\_INQ\\_1.pdf](https://www.ohchr.org/Documents/HRBodies/CRC/CRC_C_CHL_INQ_1.pdf)

<https://www.defensorianinez.cl>

## Challenge 10:

**Ensure responses are based on international standards and evidence-based policies.**

### Defining the Challenge

The Agenda 2030 commitment to *leave no one behind* requires that children should be specifically included and identified in the way quantitative and qualitative data and evidence is gathered and used to improve justice for all, including children. The SDGs are particularly relevant for those people who are on the margins, overwhelmingly the position of children, and because children are invisible in the creation and functioning of justice systems. Children are heavily reliant on justice systems to protect and promote their rights, yet legal needs and victimisation surveys are not designed to capture their justice needs, and other evidence suggests they face an even wider justice gap than adults.<sup>76</sup>

The justice gap needs to be measured in a way that consistently ensures a focus on children and ensures that justice systems and services meet international human rights standards.

Currently, data and evidence are gathered and used in low, medium, and high-income countries (90% of scientific output on interpersonal violence comes from high-income countries - of which 60% come from the USA - while only 10% come from low- and middle-income countries, even though these countries account for 85% of violent deaths globally).<sup>77</sup>

Justice needs of children have not been surveyed systematically. Access to justice surveys,<sup>78</sup> legal needs surveys and other justice focused surveys have not included children to date.

Data and evidence can be used to accelerate innovative changes that will make a positive difference for children. As children are systematically included in the measurement of distribution of justice and the burden of injustice, States must also collect and use data to develop systems and practices that can guarantee social, civil, administrative, and criminal justice for all children. The OECD has produced a paper on access to justice which is a resource and overview for how justice journeys can be designed and

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<sup>76</sup> Task Force on Justice (2019) *Justice for All* Report, (Chapter 1) explains the Justice Gap in detail. See available at: <https://www.justicesdg16.plus/report>

<sup>77</sup> Karen Hughes (Liverpool John Moores University) speaking at the Global Violence Reduction Conference 2014, jointly organised by the Violence Research Centre at the University of Cambridge and the World Health Organization.

<sup>78</sup> See the World Justice Project <https://worldjusticeproject.org/>

monitored in an evidence-based way with a focus on problems, outcomes, and ongoing, continuous monitoring.<sup>79</sup>

The collection and analysis of accurate data at global, national, and local level is important across all of the *Justice for Children* 10 Challenges to help ensure justice for all children. This requires leadership by global bodies, States and agencies. At national level, we need States to lead and show what they have done or what they are willing to do, serving as examples for others, documenting the changes in policy and practices, what worked and what were the obstacles and challenges. These need to be available in ways which guide practitioners.

### Why invest in this Challenge?

Investing in the systematic collection of high quality, reliable and comparable data will help measure and understand the magnitude of the justice gap for children. It will help in the development and implementation of justice systems that protect and respond to children's needs and rights, as well as help secure long-term outcomes for children and their communities.

Knowing what works and how this can be successfully adapted to meet the needs of different context will support effective delivery of child-centred justice systems. It will provide compelling evidence to stimulate effective change for children through concrete solutions.

Presenting data on children that increases understanding among decision-makers will provide a strong case for increased investment. States will be able to respond to the challenges of justice for children in a manner informed by relevant and robust data and evidence.

### Effective responses to this Challenge

Methodically and strategically collect, analyse, and use data and evidence to accelerate better policy identification and innovative changes that will make a positive difference for children. This should include data generated by, and with, children in order to inform an accurate understanding of what children want and need from the justice system.

Include children in all data initiatives developed in the context of the SDGs implementation. Close the feedback loop to ensure children receive, understand and contribute further to the information being sought. Develop children-based justice indicators (as distinct from people-based justice indicators) that focus on impact and outcomes for children.

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<sup>79</sup> OECD (2009) Equal Access to Justice for Inclusive Growth <http://www.oecd.org/gov/equal-access-to-justice-for-inclusive-growth-597f5b7f-en.htm>.

Fund and develop research on new approaches to addressing children in conflict with the law or in contact with the justice system. Neuroscience research on early childhood brain development should be taken into account in research strategies.

Promote and share strategies and indicators to measure success and outcomes on justice for children. States and national agencies should collate evidence that will influence any development in new child specific indicators ahead of the revision of the global indicators in 2020 and delivery of internationally agreed treaties and standards for justice for children.

At international level, agree global definitions so that data in justice for children can be collected in a consistent and comparable fashion at a local, national, regional, and global level.

Aggregate data from other sectors such as health, education and children's services to inform a comprehensive understanding of, and approach to, tackling injustice for children.

Promote collaboration with other initiatives developed in the context of Agenda 2030<sup>80</sup> seeking to improve data collection for children to ensure mutual learning and support, as well as the development of holistic and systematic data collection systems.

Translate research and evidence into policy, practice, and action, ensuring data and evidence is synthesised, communicated, and disseminated in a way that makes it relevant, accessible, and useable without compromising quality and rigour.

Develop new knowledge through research on effective approaches to preventing and responding to children in conflict with the law or in contact with the justice system.

Provide practical support and technical capacity to governments, NGOs and other bodies in undertaking quality child justice research that will inform solutions driven by evidence and learning in a range of economic and political contexts, in order to achieve the above.

In the **USA**, the Juvenile Justice Reform and Reinvestment Initiative demonstration sites has used effective tools to engage local stakeholders to create reform, by applying evidence and best practices on juvenile justice operations, using empirically based risk and needs assessment, the development of evidence-based recommendations concerning dispositional options, and systems to assess and guide improvements.

[https://www.urban.org/sites/default/files/publication/90381/implementing\\_evidence-based-juvenile-justice-reforms.pdf](https://www.urban.org/sites/default/files/publication/90381/implementing_evidence-based-juvenile-justice-reforms.pdf)

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<sup>80</sup> See, for example, "All Children Count but not all Children are Counted", a call for action addressed to the UN Statistical Commission and the Inter-Agency Expert Group on SDG Indicators asking for improvements in household-based survey methodologies to improve data collection and understanding of how many children live outside of households, available at <http://www.sos-childrensvillages.org/getmedia/4a613fc0-48e7-4f4e-b1ff-1ecb0641b760/joint-letter-count-all-children-SDGs.pdf>.

## 5. The Plan for Delivering the Call: Creating the environment to achieve *Justice for Children*

The success of the *Call to Action* rests on securing national commitments, and implementing local change to achieve justice for children globally. It depends on decisions and actions in those countries, communities, families and between individuals to effect this change.

The *Call to Action* challenges us all to rethink our 'business-as-usual' efforts and appeals to a wide range of actors to make decisions and act in ways that will more effectively achieve justice for children.

With aligned partnerships and coherence across our many efforts, we aim to galvanise leaders and other actors globally - including the international donor community of multilateral and non-governmental organisations and national governments - to implement solutions that realise *Justice for Children* in the following ways:

### Inspiring others to take up the Vision:

- With the *Pathfinders for Peace, Just and Inclusive Societies*, embed the *Justice for Children* vision within the overarching global justice vision, as set out in Agenda 2030.
- Harness the Global Platforms by aligning *Justice for Children* with the existing platforms advancing *Agenda 2030* and the UN SDGs, including the *Task Force on Justice*, the *Global Partnership to End Violence against Children* and the *Open Government Partnership* and work collaboratively to deliver the vision.
- Pursue global, regional and national opportunities to drive forward the vision, strategy and priorities to deliver *Justice for Children*.

### Galvanizing courage and leadership:

- Establish a high level group of global champions of *Justice for Children* to inspire global and national commitment and action, and to raise awareness more widely - especially across the range of institutions and actors that are not normally associated directly with delivering these priority outcomes for children, but which have a powerful, albeit less direct, impact on justice for children. They are essential to injecting sustained momentum into securing these outcomes.
- Support networks of children themselves working alongside the high level group of global champions, as agents of change to inform the group and the wider project.

## Enabling real change for children:

- Facilitate conversations with leading global and regional organisations to explore the importance of *Justice for Children* to their interests and determine their role in delivery.
- Convene a series of regional and local roundtable events to disseminate and explore the implications of *Justice for Children* with key policy-makers and delivery agents in those regions.
- Explore how to support national leaders in their pursuit of bedding in the *Justice for Children* vision in their national communities, and implementing quality nationally-tailored programmes.
- Secure commitment from national and local stakeholders to implement and monitor solutions that realise *Justice for Children*.

## Learning together to get better:

- Collectively undertake activities that generate new knowledge, inspire political will and bring greater focus on each of the 10 Challenges and Responses.
- Convene partnerships to develop a clear framework to measure progress over time, based on concrete and quantified goals and actions, with meaningful indicators and data.
- Identify and tackle the real world obstacles and inhibitors of progress, and act to lessen their power on progress for *Justice for Children*.
- Explore with key national governments already engaged in taking forward the *Justice for Children* vision, their potential roles as Global Exemplars.
- Identify successful examples of practice in national and local settings and support their appropriately adapted implementation.



The *Pathfinders for Peaceful, Just and Inclusive Societies* are a group of 30 UN member states, international organisations, global partnerships, civil society and the private sector working to accelerate action to implement the SDG targets for peace justice and inclusion (SDG16+).

The SDG 16 seeks to “*Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels*”.

The *Pathfinders* commissioned this background *Challenge Paper on Justice for Children* to inform the *Task Force on Justice: Justice for All* Report.

This *Justice for Children, Justice for All Challenge Paper* underpins a *Call to Action* to fulfil our collective global commitment to ensure that all children live peaceful, just and inclusive lives, and are provided with the opportunity to flourish and live to their full potential.

*Justice for Children, Justice for All* is based on the understanding that children are distinct from adults in profound and unique ways. It considers the conditions that need to be in place for children’s rights to be realised within justice systems and across society.

While significant progress has been made to conceptualise and quantify the different aspects of justice, and to monitor progress, it is apparent that one specific group has remained largely invisible: children. Consequently, unless particular attention is directed to children, as a global community we will fail to achieve the Agenda 2030 bold aim of *leaving no one behind*.



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