

Measuring Women's and Children's Access to Justice

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Why Measure Women's and Children's Access to Justice

Measuring Access to Justice Helps to:

- Assess justice systems
- Inform policy and programs
- Increase accountability
- Monitor progress towards goals and targets/
compliance with given standards
- Monitor/evaluate results
- Catalyze change

The Justice Chain



Focus on Women's and Children's Access to Justice

- Women and children face gender and age specific barriers to access to justice
- Barriers affecting all justice service users may impact women and children disproportionately
- Gender and age blind institutional features, justice mechanisms and regulations may have hidden discriminatory effects on women and children

Women's and Children's Access to Justice Indicators – a Definition

- As intended here, indicators are assessment tools that capture key elements of a given phenomenon (e.g, the justice system) or process, and inform the collection of data on the status or progress of such phenomenon/process
- Indicators need to be carefully crafted in order to yield relevant data on possible inequalities and barriers to access disproportionately affecting women and children
- An in-depth knowledge of women's and children's access to justice and the challenges they face vis-à-vis a specific justice system is required to create meaningful indicators

Women 's and Children's Access to Justice
Indicators in the Current Development
Discourse

Demand for Increased Data Collection and Knowledge Building on Women's & Children's Access to Justice (1/2)

- Council of Europe (Gender Equality Strategy 2014-2017; Convention on Preventing and Combating Violence Against Women and Domestic Violence)
- UN Women (Progress of the World's Women, 2011)
- World Bank (World Development Report, 2012)
- ECOSOC/Economic Commission for Europe (Report of the Beijing+20 Regional Review, 2014)

(2/2)

- European Union Agency for Fundamental Rights (2009)
- New space for women's and children's access to justice created by SDGs 2030
 - Goal 16
 - Goal 5
- CEDAW General Recommendation No. 33 on women's access to justice includes the adoption of indicators and data collection among the recommendations to improve quality and accountability of justice systems
- European Commission (An EU Agenda for the Rights of the Child, 2011)

Indexes/Data Collections Including Indicators on Women's & Children's A2J (1/2)

- Rule of law/governance baskets of indicators :
 - United Nations Rule of Law Index (UNDPKO/OHCHR)
 - The World Justice Project Rule of Law Index
 - The Justice Index (US)
- Statistical Sourcebooks/Data Collections
 - UN Gender Statistics (minimum set of gender indicators)
 - European Sourcebook of Crime and Criminal Justice
 - European Commission Data on Children in Judicial Proceedings
 - Child Rights International Network Global Report on Access to Justice for Children
 - IBA Survey on Access to Justice for Children (forthcoming)

(2/2)

- Progress indicators/implementation monitoring mechanisms
 - Progress indicators for measuring the implementation of the Belem do Para Convention
- Socio-cultural, institutional assessments
 - Social Institutions and Gender Index (SIGI)
(Organisation for Economic Co-operation and Development -OECD)
 - The European Commission for the Efficiency of Justice (CEPEJ)- Evaluation of Justice Systems
(Council of Europe)
 - Women Business and the Law (The World Bank)

Existing Indicators on Women's A2J

Among existing indicators, only a handful are gender-specific

- Enabling environment
 - Existence of rights and entitlements
- Supply side
 - Availability and accessibility of legal aid
 - Time
 - Cost
 - Geographic, physical and intellectual accessibility
 - Fairness/lack of discrimination
 - Due process
 - Capacity/Human Resources
- Accountability, Transparency, Independence of the judiciary
- Corruption
- Enforcement
- Special courts and alternative dispute resolution
- Demand side
 - Main justiciable issues
 - Legal awareness/ literacy
 - Perception of justice
 - Trust/satisfaction

Existing Indicators on Children's Access to Justice

- Enabling environment
- Standing
- Legal aid/legal assistance
- Special procedures
- Special courts
- Access to information
- Statistics on civil/ criminal cases involving children
- Right to privacy
- Training/qualification requirements for professional working with children
- Alternative dispute resolution

Gaps in Existing Indicators

- Focus mainly on supply side and objective data
- Demand side and perception data collected only occasionally
- Data - or gender/age-disaggregated data - lacking or scarce on most dimensions, e.g.:
 - access to legal aid and counseling
 - case outcomes
 - attrition (in other than rape cases)
- Data on capacity rarely address position of women in the justice profession and gender/age sensitive training for justice professionals

Examples of Good Practices in Gender Disaggregated Data Collection

- In Germany, the police collects gender-disaggregated data on crimes
- In Croatia, the Ministry of Justice collects gender-disaggregated data on cases related to Anti-discrimination Act and Act on Protection Against Domestic Violence
- In Belgium a frontline service was established within the Institute for Equality between Women and Men maintains a data base on reported cases

**A Way Forward:
Indicators for Measuring Women's and
Children's Access to Justice**

Designing Indicators

Well-designed systems of indicators should:

- Target all elements of the “justice chain” involved in the particular aspect of access to justice to be assessed
- Require data to be disaggregated by gender and age (as well as residence (U/R) and other characteristics as relevant and feasible)
- Rely on both objective and subjective data sources
- When possible, include both supply side and demand side indicators targeting each element of the justice chain to be assessed
- Be measurable, easy to understand, and allow data comparability

Indicators Along the Justice Chain

- Legal Framework
- Justice needs/justiciable issues
- Legal awareness and literacy
- Trust in justice institutions
- Access to legal aid/legal representation
- Access to courts
- Institutional capacity
- Fairness of procedures/due process
- Independence of the judiciary
- Transparency and accountability
- Special courts and procedures
- Enforcement of judicial decisions
- Alternative dispute resolutions

Key Indicators – Physical/Linguistic Access

- Number and geographic location of justice fora per 100,000 inhabitants
- % of people reporting that physical access to courts is convenient in terms of distance
- Procedures and facilities affording privacy (e.g., separate rooms) for crime reporting, collecting testimonies, victim's waiting areas
- Availability of translation/interpretation services

Key Indicators – Cost and Time

- Cost

- % of people reporting that access to courts is affordable
- Average costs of procedures for claims related to, e.g., divorce/employment/inheritance/restraining orders in instances of domestic violence

- Time

- Average length of procedures for claims related to, e.g., divorce/employment/inheritance/restraining orders in instances of domestic violence, including violence against children
- Whether length of procedures is perceived as a major obstacle to access justice

Key Indicators – Capacity

- Number of professionals in the justice and legal profession, disaggregated by gender and position
- Provision of initial and in-service training on gender and age-related issues for police/judges/prosecutors, including on violence against women

Key Indicators - Availability and Use of Legal Aid/Representation

- Number of legal aid lawyers, by gender
- Number of and % (out of total applicants) of users of legal aid services (disaggregated also by type of dispute)
- Provisions requiring evaluation of applications for legal aid to be based on real income available to applicant
- Legal obligation to provide specialist representation of children in family processes/provision of independent consultation with the child
- Specialist training in child consultation for legal practitioners

Key Indicators - Procedures

- Existence of
 - Special courts/fast track procedures for small claims/family law
 - Legal obligation and process to adapt the family justice environment to the needs/rights of children
 - Right of child to be heard/participate in justicial procedures/mediation
 - Right of the child to initiate proceedings/parental role
- Fairness of process
 - Civil and criminal justice is free of discrimination on the basis of gender and age
- Outcomes
 - Tracking of case outcomes, disaggregated by type of dispute and gender/age of victim/perpetrator, plaintiff/defendant

Key Indicators – Attrition and Trust in the Justice System

- Attrition
 - Yearly attrition rate in cases brought by children
 - Yearly attrition rate in cases brought by/in the interest of children
- Trust in justice system
 - % of people expressing confidence that they would be treated fairly and without discrimination by the police/judges/prosecutors
 - % of people who have experienced a dispute reporting access to a satisfactory dispute resolution mechanism

Making Data Collection and Analysis Meaningful for Women's & Children's Access to Justice

- Disaggregate all data by gender and age
- Correlate justice-related data with demographic-economic-socio-cultural data (e.g., geographic location of courts with availability of means of transportations to women and children)
- Focus on de facto/women's and children's lived experience of justice seeking to unearth “sticky” biases and patterns of discrimination persisting even when de jure equality is achieved
- Contextualize quantitative data through qualitative research

Leading and Coordinating Data Collection

- In order to spearhead/scale up the design/implementation of indicators and the collection of relevant data on women's and children's access to justice a competent institution/body (e.g., the Ministry of Justice) must be identified and provided with:
 - A clear mandate
 - **Appropriate human and economic resources**
 - Ad hoc procedures and workplan
- All relevant stakeholders involved in the enhancement of women's and children's access to justice must have a role in the design and implementation of indicators.

Design and implementation of indicators

- Legal aid professionals
- Attorneys
- Prosecutors
- Judges
- Relevant professional associations

Legal professionals

Government

Various ministries & departments, e.g.,

- Ministry of Justice
- Ministry of Statistics
- Ministry for Gender Equality
- Ministry responsible for Agenda2030
- Ministry of Foreign Affairs
- Agency for Development Cooperation
- And other ministries and departments

Leading and coordinating
Ministry of Justice?

National Human Rights Institution

- Research centers
- Legal clinics

Academia

Civil Society

CSOs & NGOs working on Women's, Gender Equality and Children's issues

And other stakeholders, as appropriate

Thank You

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