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No Rights Without
Accountability:
Promoting Access to
Justice for Children

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International Development Law Organization
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LEGAL EMPOWERMENT WORKING PAPERS

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NO RIGHTS WITHOUT ACCOUNTABILITY: PROMOTING ACCESS TO JUSTICE FOR CHILDREN

Anne Grandjean¹

Executive Summary

The year 2009 marks the 20th anniversary of the adoption of the Convention on the Rights of the Child (CRC) by the General Assembly of the United Nations. The adoption and near universal acceptance of the CRC implies a profound change in the way the world sees and treats children. Recognizing that children have human rights, the CRC creates obligations for governments and duties for communities. The child is no longer the object of the charity of adults, but rather, a full-fledged subject of rights. As a result, every child – or a party on his or her behalf – must be able to make claims and demand accountability when rights are not respected. Children’s rights imply the establishment of legal frameworks and enforcement mechanisms.

In reality, all over the world, children face extraordinary obstacles in accessing justice due to various factors, including: their dependent status; a lack of information on their rights and on how to demand redress; and the complexity and remoteness of justice systems. The particular issue of child participation in administrative and legal processes, or lack thereof, also reflects the many challenges children face. Certainly, they do face difficulty in participating as full-fledged members in their communities despite that CRC provides for the right to express their views and be heard in all matters affecting them, in accordance with their age and maturity. Children often lack a voice in issues that concern them. Ultimately, in overloaded justice systems, children’s cases are unlikely to be treated as a priority.

The 20th anniversary of the CRC is a good opportunity to reflect on what can be done to improve children’s access to justice. Overcoming these extraordinary obstacles and ensuring adequate access to justice for children requires effort on at least two levels: building a child-sensitive justice system on the one hand (the *supply side*), and providing information and support to children in claiming for their rights and obtaining redress on the other. At both levels, the focus must be on the most excluded and the most difficult to reach (the *demand side*).

This chapter mainly focuses on the latter – the demand side – and describes a few promising initiatives supported by the United Nations Children’s Fund (UNICEF): the Paralegal Committees in Nepal, the Village Courts Child Protection Program in Papua New Guinea and Socio-legal Defense Centers in the occupied Palestinian territory. These initiatives have several features in common that are particularly instrumental in contributing to an improved access to justice for children; if confirmed through formal evaluations, they could constitute a basis for the identification of successful interventions promoting children’s access to justice:

- They are decentralized and located in areas where the poorest, most excluded live;
- They are owned and run by communities;

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- They are multi-disciplinary and involve a large number of partners, including civil society organizations;
- They respond to a particular need and fill a gap in a weak or failing formal justice system;
- They inform upstream policies and advocacy; and
- They are part of a systematic approach.

Introduction

The year 2009 marks the 20th anniversary of the United Nations Convention on the Rights of the Child (CRC), adopted by the General Assembly of the United Nations in November 1989. As a binding treaty of international law, the CRC codifies principles that Member States of the United Nations agreed to be universal for all children,² in all countries, at all times and without exception. The Convention is the first legally binding international instrument to incorporate the full range of human rights – civil, political, cultural, economic and social. The Convention has achieved near-universal acceptance, having been ratified by 193 States Parties.³

The CRC has transformed the way we see children. Its adoption and near universal acceptance imply a profound change in the way the world treats children. First, by recognizing that they have human rights, the CRC creates obligations on its States Parties. With the CRC, the child is no longer the object of the charity of adults, but rather, is a full-fledged subject of rights. As a result, every child – or party on his or her behalf – must be able to make claims and demand accountability when these rights are not respected.

Second, the responsibility of States Parties to realize the rights of all children under their jurisdiction requires structural and proactive interventions. As every child is entitled to the same rights, reactive and individual responses are no longer sufficient; these must be replaced to systemic approaches requiring attention to, *inter alia*, policy and law reform, institutional capacity development, planning, budgeting and monitoring processes.

Third, a child rights-based approach requires the full participation of children in issues that concern them. Article 12 of the CRC,⁴ together with the child's right to freedom of expression (Article 13, CRC), and other civil rights to freedom of thought, conscience and religion (Article 14, CRC) and freedom of association (Article 15, CRC) underline children's status as individuals with fundamental human rights, and views and feelings of their own.

This chapter looks at some examples of how UNICEF supports children in demanding their rights. In doing so, it focuses on children's access to justice systems specifically and does not cover more general, independent complaint procedures, such as ombudsman offices, nor alternative dispute resolution mechanisms.

The chapter starts by contrasting the wide array of child rights with the obstacles that most children face in claiming them. It then looks at what can be done to improve children's access to justice, with a specific focus on the demand for justice, using examples of UNICEF's interventions in different regions. It concludes with highlights of common features that these examples demonstrate, suggesting that, if confirmed through formal evaluations of the interventions in question, they could constitute a basis for the identification of successful interventions promoting children's access to justice.

² As per Article 1 of the *Convention on the Rights of the Child (CRC)* (1990), a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier.

³ As of August 2009, all countries except two (the United States of America and Somalia) have ratified the CRC and have therefore legally committed to implementing its provisions.

⁴ Article 12, CRC: "State parties shall assure to the child who is capable of forming his or her own views the right to express these views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rule of national law."

1. Child rights: a comprehensive legal framework

As mentioned, the CRC provides a comprehensive list of rights to which all children are entitled and creates a solid international legal framework for the protection and promotion of the human rights and fundamental freedoms of all persons under the age of 18. These rights relate to all aspects of children's lives, from health, education and leisure to preservation of identity, freedom of thought, conscience and religion, protection of privacy or freedom of association, and protection against abuse, violence and exploitation. All rights are deeply interconnected and interdependent. The violation of one right usually leads to the violation of others.

Implementation of the CRC must be guided by four general principles, in the light of which all articles are to be read:

- Non-discrimination: child rights apply to all children irrespective of the child's or his or her parent's or legal guardian's race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
- The best interests of the child shall be a primary consideration in all actions concerning children.
- The right to life, survival and development: every child has the inherent right to life, and to survival and development to the maximum extent possible.
- The right to be heard: Every child has the right to express his or her views freely in all matters affecting him or her and these views have to be given due weight in accordance with the age and maturity of the child.

The implementation of the CRC by its States Parties is monitored by the Committee on the Rights of the Child (the Committee), a United Nations body of 18 independent experts appointed by States Parties to the CRC.⁵ All States Parties are obliged to submit regular reports to the Committee on how the rights are being realized. The Committee examines each report and addresses its concerns and recommendations to the State Party in the form of "concluding observations" that governments are expected to implement. Concluding observations are meant to be widely publicized in the State Party and to serve as the basis for a national debate on how to improve the enforcement of the provisions of the CRC. The reporting procedure is constructive and oriented towards international cooperation, with the aim to define problems and discuss what corrective measures should be taken.

The CRC is complemented by two Optional Protocols – on the involvement of children in armed conflict (2000) and on the sale of children, child prostitution and child pornography (2000).

Although it is the most comprehensive international instrument providing legal protection to children, the CRC is not the only one. It has provided the impetus for further standards to advance their rights, and a wealth of additional international and regional standards and norms applicable to children are now binding on States ratifying them. These include, for example, the International Labour Organization (ILO) Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms

⁵ A States Parties meeting is held every two years at the United Nations in New York in December in order to hold elections for nine members of the Committee. Nominations are submitted by States Parties to the Office of the High Commissioner for Human Rights. Amended Article 43(2) of the CRC (18 November 2002) states that the "Committee shall consist of eighteen experts of high moral standing and recognized competence in the field covered by this Convention." Consideration shall be given to "equitable geographical distribution, as well as to the principal legal systems".

of Child Labour, also known as Convention 182 (1999); the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000); the Rome Statute of the International Criminal Court (1998) that defines the crime of genocide, crimes against humanity and war crimes; the Convention on the Rights of Persons with Disabilities (2007); and the African Charter on the Rights and Welfare of the Child (1990).

2. No rights without accountability

As seen from this wealth of international standards, the field of child rights is relatively well regulated and provides comprehensive legal protection to children. However, if not enforced, these standards do not mean much and remain only virtual; in particular, they would remain empty words without access to justice⁶ and the possibility to obtain just and timely remedy for violations of these rights.

As is the case for all human beings, children whose rights have been violated shall have an effective remedy, “determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State” (Article 2, International Covenant on Civil and Political Rights).

The United Nations Committee on the Rights of the Child stated in its General Comment 5 that “for rights to have meaning, effective remedies must be available to redress violations. This requirement is implicit in the Convention and consistently referred to in the other six major international human rights treaties.”⁷ The International Covenant on Civil and Political Rights, Article 2, for example, states that States Parties are “to ensure that any person whose rights or freedoms [...] are violated shall have an effective remedy [...] and to ensure that any person claiming such a remedy shall have his [or her] right determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy.” The Committee emphasizes that “economic, social and cultural rights [of children], as well as civil and political rights, must be regarded as justifiable. It is essential that domestic law sets out entitlements in sufficient detail to enable remedies for non-compliance to be effective.”⁸

The UNICEF Innocenti Research Centre has recently conducted research on the rights of children to participate in legal and administrative proceedings that provides some information on the right of children to take legal action or invoke an administrative procedure to protect their rights.⁹ The research provides examples from laws and

⁶ The definition of *access to justice* used in this paper is “the ability of people to seek and obtain a remedy through formal or informal institutions of justice, and in conformity with human rights standards”, United Nations Development Programme (UNDP), *Programming for Justice: Access for All, A practitioner’s guide to a human rights-based approach to access to justice* (2005) 5. Formal and informal institutions of justice are not the only avenue for people to claim for their rights. Other independent complaints mechanisms include children’s ombudspersons, children’s commissioners and human rights commissions. This paper however focuses on the justice system.

⁷ The six major international human rights treaties are: the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights (ICESC); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT); the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families; and the International Convention on the Elimination of all Forms of Racial Discrimination. An additional international human rights treaty came into force after the Committee’s General Comment: the International Convention on the Rights of Persons with Disabilities.

⁸ Committee on the Rights of the Child, General Comment No. 5, General Measures of Implementation of the Convention on the Rights of the Child, CRC/GC/2003/5 (2003) Part V (25).

⁹ D O’Donnell, *The rights of children to be heard: children’s rights to have their views taken into account and to participate in legal and administrative proceedings*, UNICEF Innocenti Working Paper No. 2009-04 (2009).

practices of 52 countries around the world. The examples of national provisions below come from this research.

The research has shown that, in some jurisdictions, children have the right to bring a matter to a court, and to receive support in doing so. In Paraguay, for example:

specialized children's courts have competence over cases concerning paternity, guardianship, maintenance, custody, foster care, adoption, child abuse, child labor, issues concerning health and education, and the protection of child rights in general. Children have the right to bring matters before this court, and the presiding judge has an obligation to listen to the child concerned, in accordance with the age and maturity of the child, before resolving any matter before the court.¹⁰

In Romania, the law on the protection and promotion of the rights of the child "recognizes the child's right to personally make complaints regarding violations of his or her fundamental rights".¹¹ The Children's Act of South Africa recognizes in general terms the child's rights to access the courts, to receive assistance in bringing matters before a competent court and to seek judicial remedy for violations or threatened violations of rights recognized in the Constitution or in the Children's Act itself.¹² Similar types of provisions can also be found in several children's codes adopted in Latin America (e.g. Bolivia, Costa Rica, Ecuador and Guatemala).

In other countries, children can only take legal action through their parents or other legal representatives, or can lodge a complaint on their own but then need an adult (e.g. litigation guardian) to act on their behalf throughout the subsequent phases of the process. In Libyan Arab Jamahiriya, for example, "persons under the age of 18 can make complaints to administrative or criminal authorities, but they lack standing in legal proceedings and must be represented by a parent or adult guardian."¹³ In some countries, "older children have the right to seek judicial remedies, while younger children have the right to turn to administrative bodies, which may initiate legal proceedings if they consider it appropriate."¹⁴

In any of these cases – i.e. whether the child's right to take legal action is provided by law or not, and whatever the limitations (e.g. in terms of age) to this right might be – it is always difficult for children to initiate and pursue legal action. Some of the main obstacles to children's access to justice are summarized in the next section.

3. Extraordinary obstacles to children's access to justice

In spite of the Committee's view that the availability of effective remedies to redress violations of child rights is an implicit requirement in the CRC, and in spite of the fact that such remedies are foreseen by law in many countries, access to justice remains in reality a tremendous challenge for children, especially the poorest. There are several reasons for this difficulty.

First, children's access to justice very often depends on the support provided by adults and their good will. As mentioned by the Committee, "children's special and dependent status creates real difficulties for them in pursuing remedies for breaches of their

¹⁰ Article 167 of the Paraguay Children's Code, in O'Donnell, above n 9, 9.

¹¹ Law No. 272/2004 on the protection and promotion of the rights of the child, Article 29(1), in O'Donnell, above n 9, 27.

¹² Children's Act of South Africa, sections 14 and 15, in O'Donnell, above n 9, 27.

¹³ Second report of Libyan Arab Jamahiriya to the United Nations Committee on the Rights of the Child, CRC/C/93/Add.1, para. 33–34 and 98 in O'Donnell, above n 9, 27.

¹⁴ O'Donnell, above n 9, 29.

rights”.¹⁵ They depend on adults for information about their rights, about the availability of redress and about ways to access it. In the vast majority of cases (and with the exception of some older adolescents), they need support from adults to lodge complaints and stand by their side through legal or administrative proceedings. In many cases, such as where literacy rates are low, parents and families themselves do not necessarily know how to best support their children.

Justice systems are particularly intimidating for children (and for many adults) and their complex procedures, difficult to understand. This is particularly true for certain groups of children, such as those with disabilities who need additional support to understand the process around them or those from ethnic minorities who might speak another language. Legal and judicial professionals are often not trained in children’s issues and may not be aware of their particular rights and needs. Children also generally need financial support to cover court and/or lawyers’ fees, as well as transportation to courts because they often do not exist in the most remote areas of a country. Evidently, the younger the child, the more difficult it will become for him or her to claim his or her rights without support.

The situation becomes even more complex since the perpetrator of a crime, human rights violation or other injustice is often an adult from the child’s immediate environment, e.g. the child’s parent(s), legal guardian or another family member. This obviously makes it extremely difficult for a child to oppose the adult(s), thereby risking retaliation and/or jeopardizing the family’s honor and reputation. Other family members might be unwilling to support the child in fear of reprisal, social ostracism, stigmatization or exclusion. Speaking up bears risks for one’s security and continued acceptance within the community. In many societies, lodging complaints and seeking redress before the court or other relevant authority without parental consent is not culturally acceptable.

Second, despite the almost universal ratification of the CRC, in many instances, there is still no full acceptance of children as rights holders. Too often, children are still considered subject to adults’ good will; violations of their rights are not considered crimes by local justice systems despite the international legal framework. In many societies, for example, child abuse and gender-based violence are largely seen as private matters, sometimes conflated with disciplining children as a normal child rearing practice that should not be brought to justice. The particular issue of child participation in administrative and legal processes, or lack thereof, also reflects the general difficulties for children to participate as full-fledged members in their communities in spite of the CRC requirement that they be able to express their views and be heard in all matters affecting them, in accordance with their age and maturity¹⁶. Children often do not have a voice in issues of concern to them. In overloaded justice systems, children’s cases are unlikely to be treated as a priority.

Considering these structural and logistical obstacles, is access to justice for children really possible? The story of Nojoud Ali – widely reported by the media since 2008¹⁷ – shows it is. In April 2008, a ten-year old Yemeni girl escaped her home where she was living with her 30-year old husband in order to go to court on her own and ask for a divorce.¹⁸ Although according to Yemeni law she was under the legal age to do so, the judge heard her complaint and ordered the arrest of both her father and husband. Nojoud was subsequently accompanied and supported in this process by her uncle and a

¹⁵ Committee on the Rights of the Child, above n 8, 7 at para. 24.

¹⁶ Article 12, CRC.

¹⁷ See, for example, Naseem-Ur-Rehman, *At a glance: Yemen* (24 July 2009) Unicef, <http://www.unicef.org/infobycountry/yemen_50331.html> at 30 November 2009; R Sekkai, *Yemeni child bride gets annulment*, (16 April 2008) BBC News, <http://news.bbc.co.uk/2/hi/middle_east/7351336.stm> at 30 November 2009.

¹⁸ Although the minimum age is currently 15 years old in Yemen, parents are allowed to overrule the law if they judge that their daughter is “ready” for marriage.

lawyer, and obtained an annulment of her marriage. According to the BBC,¹⁹ the former husband told the court that the marriage was consummated, but he denied Nojoud's claims that he beat her. In Yemen, Nojoud's story has spurred a movement against child marriage and for legislative change, led by women's rights groups. As of September 2009, the Yemeni Parliament is discussing a bill mandating that girls cannot be married until the age of 18.

Nojoud's story is certainly an exceptional one, for thousands of girls in Yemen and elsewhere suffer forced marriage in silence. But the story certainly shows that accessing justice can be possible, even for a ten-year old girl living in a country where women and girls in particular have limited access to justice.

4. What can be done to ensure better access to justice for children?

Overcoming these extraordinary obstacles and ensuring adequate access to justice for children require interventions at a minimum of two complementary levels: building a child-sensitive²⁰ justice system – including the police and courts, on the one hand (the “*supply side*”), and providing information and support to children in claiming for their rights and obtaining redress, on the other, with a focus on the most excluded and the most difficult to reach (the “*demand side*”).

Using the terminology associated with a “human rights-based approach to programming”, the supply aspect aims at enabling duty-bearers (mainly the justice, social and law enforcement institutions) to fulfill their obligations towards rights-holders; and the demand aspect enables rights-holders to claim for their rights and hold duty-bearers accountable.

The “supply side” of justice for children also includes access to informal justice systems (e.g. traditional, customary systems) and alternative dispute resolution mechanisms, as well as non-judicial, independent complaint procedures (e.g. ombudsman offices). However, in keeping with this chapter's overall emphasis on the demand aspect, these systems and mechanisms are not covered here.



4.1 A child-sensitive justice system

A child-sensitive justice system applies child-sensitive procedures, operates in a child-friendly environment and through professionals who are trained and able to deal with

¹⁹ Sekkai, above n 17.

²⁰ As per the *United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime*, Art. 9(d), “child-sensitive” denotes an approach that balances the child’s right to protection and that takes into account the child’s individual needs and views.

children according to their rights and specific needs. Useful provisions in this respect are put forth in the *United Nations Guidelines for Justice in Matters Involving Child Victims and Witnesses of Crime*. Interviews, examinations and other forms of investigation should be conducted by trained professionals – the police, prosecutor, judges, lawyers, support person, social workers, health staff – who proceed in a sensitive and respectful manner. Every intervention by the justice system needs to fully take into account the age, level of maturity and unique needs of each particular child in order to prevent further hardship and distress that may result from the child’s participation in the criminal justice process – the detection of the crime, making the complaint, investigation, prosecution and trial and post-trial procedures.

Child-sensitive procedures need to reflect children’s right to be treated with dignity and compassion, the right to be informed (e.g. of the availability of support services, of the process and progress, of the mechanisms for review of decisions or of opportunities to obtain reparation) and the right to privacy. Children also have a right to be heard and to express views and concerns. Hence, professionals should make every effort to enable child victims and witnesses to express their views and concerns related to their involvement in the justice process, their concerns regarding safety in relation to the accused, the manner in which they prefer to provide testimony and their feelings about the conclusion of the process. This requirement often implies changing adults’ attitudes and adapting the police station or court environment. Children and, where appropriate, family members should have access to assistance provided by professionals who have received relevant training. This may include assistance and support services, i.e. financial, legal, counseling, health, social and educational, physical and psychological recovery services, and other services necessary for the child’s reintegration. In particular, children should receive assistance from support persons, commencing at the initial reporting stage and continuing until such services are no longer required. Professionals should coordinate support so that the child is not subjected to excessive interventions.

The *United Nations Guidelines* also put forth the right of child victims and witnesses to be protected from hardship during the justice process. Professionals should take measures to prevent hardship during the detection, investigation and prosecution process in order to ensure that the best interests and dignity of the child are respected. This includes: providing the child with clear indications of what to expect in the process; ensuring that trials take place as soon as practical; using interview rooms designed for children and modified court environments; providing recesses during the child’s testimony; providing interdisciplinary services integrated in the same location; limiting the number of interviews (for example using video recording); and using testimonial aids or appointing psychological experts. In order to ensure the child’s security, safeguards should be put in place: direct contact should be avoided between the child and the alleged perpetrator; court-ordered restraining orders should be enforced to give police protection to the child; and his/her whereabouts should be safeguarded from disclosure.

Finally, child victims have a right to receive reparation for full redress, reintegration and recovery. Reparation may include restitution from the offender, aid from victims’ compensation programs and damages ordered to be paid in civil proceedings. Where possible, costs of social and education reintegration, medical treatment, mental health care and legal services should be addressed.

In support of governmental and civil society efforts to implement these rights, UNICEF has been increasingly investing in the establishment of child-sensitive justice systems in all regions of the world. For example, UNICEF has supported governmental and non-governmental partners in establishing child-friendly police stations with trained multi-disciplinary teams and services (e.g. Sudan, Jordan, Azerbaijan, Timor Leste, the Philippines). Police officers working in these stations – including women officers – have received special training to carefully assess a child’s situation and conduct investigation

without further distressing the child. Testimony is usually recorded on video to prevent the child from having to repeat his or her story. These stations typically provide: psychological and social support; medical care; separate rooms for children in order to prevent their contact with the persons accused of harming them; and play and sleeping areas. In some instances, staff of the police station also conduct outreach work to raise awareness of communities on child protection issues and on where to seek support in cases of abuse, violence or exploitation. In Khartoum, Sudan, for instance, the presence and professionalism of trained medical experts, forensic investigators and skilled police officers are believed to be among the reasons – together with the acceptance of children’s evidence in court – for a high conviction rate (approximately 60 percent) for cases of sexual crimes referred to courts by the Family and Child Protection Unit.²¹

UNICEF has also supported judicial authorities in a number of countries in setting up child and gender-sensitive processes in courts (e.g. Cambodia, Malawi, Mozambique, Zimbabwe, Nigeria, the Lao People's Democratic Republic, Myanmar, the Bolivarian Republic of Venezuela, El Salvador, Papua New Guinea, Albania) by supporting the development of necessary laws, regulations and policies, or building professionals’ capacities. In addition, practical assistance has consisted of, *inter alia*: the set up of one-way mirror interviewing rooms; set up of separate rooms connected to the court via a closed circuit TV system; and facilitating intermediaries appointed by the court to act as a bridge between that separate room and the court room. The intermediary (a psychologist or social worker) transmits the questions forwarded from the courtroom to the child in a child-friendly language. Special units for victims, including legal assistance and counseling, have also been established in the courts in several countries.

As a result of these actions, in selected instances, justice systems have been made less intimidating and safer for children. The programs have also made such systems easier to understand and have therefore enabled children to contribute meaningfully to the legal process, as is their right.

4.2 Information and support to children in claiming for their rights

If not complemented by initiatives to reach out to the most vulnerable children, inform them about their rights and support them in claiming these rights, the aforementioned efforts to create child-sensitive justice systems would only benefit a small number of children: those – usually among the most privileged – who easily access the justice system and are not necessarily the most affected by violations of their rights.

Creating a demand for justice among vulnerable children and ensuring that it materializes in obtaining remedies requires at least two main complementary interventions:

1. **Information:** providing adapted information to children about their rights, the possibility to claim these rights and the avenues to do so. Child rights education should normally be integrated into the regular school curriculum, but alternatives channels should be designed for children who are out of school, for example, through youth clubs, health centers or similar community-based programs. Child participation and peer education programs could also be used for this purpose.
2. **Support:** providing children with legal, paralegal, social and other types of support throughout the process. Socio-legal (or paralegal) support in claiming rights are often provided through decentralized, community-based, multi-disciplinary centers such as socio-legal defense centers, legal clinics or child rights promotion centers, where children and their families can obtain information on the avenues for redress, receive legal and social advice from professionals, be

²¹ UNICEF Sudan, *Technical Briefing Paper 3: Family and Child Protection Units* (2008) 4.

referred to appropriate services (e.g. a lawyer, doctor or psychologist) or, in certain cases, receive direct legal assistance to initiate a judicial process.

Examples of such programs supported by UNICEF and how they work with children and their families are further elaborated in the following section.

5. UNICEF's support to children's demand for redress: some examples

Throughout the last 20 years (since the adoption of the CRC), UNICEF has been building expertise in supporting governments in the establishment of juvenile justice systems in line with children's rights with, in most cases, a focus on legal reform and capacity building of professionals. To a lesser extent, but increasingly so, UNICEF has also been supporting the creation of child-friendly justice systems for child victims and witnesses of crime, especially since production of the United Nations Guidelines for Justice in Matters Involving Child Victims and Witnesses of Crime in 2005.

Support to access to justice for children[has been both less systematic and less widespread. But interventions do exist, and promising results have been shown, laying the ground for further expansion of similar action. Three of these interventions are described below, which were particularly selected to present different facets of this work, in different regions. A subsequent section reviews some of their common features.

5.1 Paralegal Committees in Nepal²²

In Nepal, an extensive network of 482 Paralegal Committees (PLCs) in 23 districts across the country, supported by UNICEF, facilitates access to justice and mediation services for children and women whose rights have been violated. PLCs comprise women from diverse ethnic, socio-economic, caste and religious backgrounds. These women are volunteers who come from the communities they serve. Each PLC includes approximately 13–15 volunteer members, totalling over 6,500 women participating across the 23 districts. PLCs deal with a broad range of criminal and civil cases, especially those involving domestic violence, trafficking, early marriage, alleged witchcraft, property disputes and polygamy.

PLCs were originally established in 1999 as part of an intervention against sex trafficking. Since 2002, their scope has expanded to include all forms of violence, exploitation and abuse of women and children. They were initially established as community groups without any formal legal identity and are currently exploring options for formal registration – for example, as an NGO or as a community-based organization under the auspices of the Ministry of Cooperatives – in order to reinforce their authority and legitimacy, especially in the eyes of the alleged perpetrators.

UNICEF has worked in partnership with civil society – such as the Forum for Women, Law and Development, or FWLD, a national NGO that designed the training manuals and is conducting the program training – to ensure that members receive training on: women's and children's rights and protection; documentation, evaluation and follow-up of cases; and mediation and awareness-raising skills. PLCs are supported by District Resource Groups, which are district-based groups of 10–12 lawyers and social activists who provide training, technical support and monitoring to the PLCs in their district. The Committees mediate cases or refer them as needed to a range of service providers, including local authorities, law enforcement, health services, NGOs, District Resource Groups and the judicial system. They then continue to follow up cases in order to ensure a proper outcome. According to a 2009 evaluation of this program, in 2008 they

²² Information on the Paralegal Committees in Nepal is based on a briefing note and other documents prepared by UNICEF Nepal, on file with author.

“provided approximately 13,500 individuals with access to justice and local mediation services and were able to resolve a wide range of disputes and violations”.²³ Approximately 80 percent of cases were resolved by the PLCs through mediation, while 20 percent were referred to local- and district-level stakeholders and service providers (including 5 percent to police and courts).

A particularly interesting feature of this program is that it both provides for a dispute resolution mechanism (mediation) and builds the demand for it. In parallel to mediation and referral, PLCs promote gender equality and women’s rights through social mobilization and awareness-raising in their communities. Domestic violence, child labor and child marriage have been the most common targets for these initiatives to date. This program operates as “pressure from within” to challenge traditions and norms that have harmful impacts on women and children. The 2009 evaluation of the program notes that although “it is difficult to measure the impact of these activities objectively, [...] there is strong anecdotal evidence that they have had a positive impact.”²⁴ Building the demand for justice from within is a particularly important element of the program, and considered a necessary step towards changing attitudes and behaviors in the long run. This is especially true of crimes considered shameful or private, such as domestic and gender-based violence. Through constant advocacy, PLCs have created space for women to share information about such private abuses, as well as gradually changing the social context that allows such abuses to occur.

According to the 2009 evaluation, the most significant factor behind its success “has been the motivation and commitment of the PLC members themselves and the emphasis on collaborative working that has helped provide the solidarity and mutual support needed to overcome the challenges they have faced”.²⁵ Other important factors of success identified in the evaluation are the “quality and depth of the training provided and the availability and willingness of lawyers and social activists at the district level to support the program”.²⁶

PLC members who have been interviewed in the context of the evaluation mentioned their own empowerment as an important outcome. They now feel able to “put their views forward in a wide range of public arenas and to challenge others when required.”²⁷ According to the evaluator, these women in turn provided role models for other women in their communities and helped “challenge the entrenched prejudices of their male counterparts”.²⁸ In his opinion, “the resulting benefits in terms of changing attitudes and deterring or preventing violations against both women and children are likely to be at least as important, in the long term, as the detailed casework carried out by the PLCs.”²⁹

5.2 The Village Courts Child Protection Program in Papua New Guinea³⁰

Since 2007, UNICEF has supported the Village Courts Secretariat in Papua New Guinea (PNG) in the implementation of the Village Courts Child Protection Program, which aims at, on the one hand, equipping Village Court magistrates (duty-bearers) to meet their obligations in terms of women’s and children’s rights, and, on the other hand, building a demand for respect of these rights among women and children (rights-holders).

²³ UNICEF Nepal, Paralegal Committees – An evaluation (2009) 7, internal document, on file with author.

²⁴ Ibid 7.

²⁵ Ibid 7.

²⁶ Ibid 26.

²⁷ Ibid 24.

²⁸ Ibid 24.

²⁹ Ibid 24.

³⁰ Information on the program in PNG is based on documents prepared by UNICEF Papua New Guinea as well as additional inputs from Anthony Nolan, UNICEF Child Protection Specialist in the country.

In a country with over 800 different tribes and languages, and a high prominence of customs over state law, Village Courts are PNG's most numerous and accessible courts. They are hybrid institutions that draw on the authority of both state justice and traditional justice. They are created by the State, have jurisdictional powers established under statute and, in theory, are subject to review by formal State courts. At the same time, they are presided over by village leaders and are aimed to resolve disputes in accordance with local custom. Their primary task is to "ensure peace and harmony"; most disputes are resolved or managed through mediation.

Women and children in PNG are heavily affected by violence in their homes and communities. According to UNICEF PNG, widespread and pervasive discriminatory attitudes and practices give rise to some of the highest rates of violence and abuse against both women and children in the world; 75 percent of children report physical abuse.³¹ In spite of this reality, cases involving children that are dealt with by Village Courts seem to mainly involve them as alleged offenders – as opposed to victims. Other cases of relevance to children include mainly customary adoption and maintenance in case of parents' separation. Abuse or "child discipline" is largely seen as a private family issue and generally not considered a problem to be brought to the attention of the village courts, either formally or informally.

Initially, communities request that the program nominate their own women participants and identify how they can contribute to it financially or in-kind. This is followed by a two-week child protection training course for women's and youth groups, together with their Village Court magistrates. The course first requires participants to identify the problems affecting children in their communities in terms of abuse, exploitation and violence, and to come up with a plan to address these problems. The next step is a follow-up and mentoring phase, where trained technical advisors observe court processes and provide magistrates with mentoring support to apply knowledge and skills acquired during the course. The advisors also meet women leaders and youth who attended the training course in order to assist them to overcome the obstacles to implementing the agreed plan and, importantly, to advise them on how to best mobilize their communities in this respect.

Similarly to the Nepal program described earlier, this training course builds the capacity of women, children and young people to understand and claim their rights and to make a meaningful contribution to their realization. It also results in encouraging and enabling village court magistrates and community leaders to recognize their own obligations and undertake concrete actions to meet them. Some examples of such action include: "placing signs at village courts advising the public that serious cases of violence and abuse will be referred to the formal courts; awareness campaigns in local gathering places such as markets; acceptance of women village court officials; assigning of women as support people for women and child victims."³²

In addition to improving the capacity of the village courts to make rights-based decisions and recognize the limits of their jurisdiction, the program enables the justice system to take a more proactive role in the protection of children. The program gives women and young people a new opportunity to learn about and articulate, as well as share information on their rights. Together, women, young people and their Village Court magistrates are using their collective power to demand justice for vulnerable children. In one district, women participants and one of the magistrates approached a local school to demand the re-enrolment of 16 girls who were denied access to education following their teenage pregnancies. As a direct result of this intervention, the school opened its doors

³¹ UNICEF East Asia and the Pacific, *Speaking Out! Voices of Children and Adolescents in East Asia and the Pacific* (2001). Women also report high rates of family violence, estimated in some communities at over 95 percent.

³² UNICEF Papua New Guinea, *Child Protection and Village Courts in Papua New Guinea* (2008), on file with author.

to these girls and waived their school fees. In another district, two parents became concerned about the upcoming marriage of their 16-year old daughter to a local policeman. After speaking to the girl and seeking her views, a trained Village Court magistrate ordered that the policeman apologize for attempting to marry the girl, provide some compensation and cease any further advances.³³ Many trained women leaders now attend Village Court hearings to monitor the decisions made by village court magistrates. They report that the partnerships developed during the training (both with each other, and with the village court magistrates) have empowered them to raise their concerns with trained magistrates directly.

This program design is more successful than standard training for a number of reasons:

- The training includes both duty-bearers and rights-holders, and facilitates joint planning. This enables the women and youth to develop partnerships with male leaders and generates a sense of joint accountability for the delivery of rights-based decisions.
- It draws on multiple and diverse partnerships, enabling the program to remain flexible and responsive to differences between communities and unexpected challenges.
- The generation of community ownership at the outset and the ongoing mentoring support to both rights-holders and duty-bearers is seen as equally important as the training itself.

As in the case of Nepal, this PNG program provides both for a dispute resolution mechanism (mediation) and builds the demand for it. The difference in PNG, however, is that the women's and youth leader groups focus mainly on legal empowerment, whereas the PLCs in Nepal also carry out mediation.

5.3 Socio-Legal Defense Centers in the occupied Palestinian territory³⁴

Children in the occupied Palestinian territory (oPt, i.e. Gaza and the West Bank) are confronted with violence in all settings in which they live.

In the oPt, UNICEF supports the running of five socio-legal defense centers that provide free legal, psychological and social advice to children affected by violence and their families. The centers are operated by two Palestinian NGOs: Defense for Children International in the West Bank and the Palestinian Center for Democracy and Conflict Resolution (PCDCR) Gaza.

Children and their families come to the centers to seek advice and assistance from trained professionals (lawyers, psychologists and social workers). These professionals provide immediate advice and assistance on the spot or refer children and their families to other services (medical, legal, judicial, etc.) as necessary. They have been trained in child protection and multi-disciplinary work. In both the West Bank and Gaza, the NGOs in charge of the centers have established a network that includes various governmental and non-governmental actors, and constitute a second protective layer around children. Authorities and organizations member of the networks have received training on children's rights and a multi-disciplinary approach to child protection. This approach involves bringing all stakeholders together and provides a sense of working towards the same objectives. Referral lines have been jointly agreed on and ratified by all concerned parties.

³³ UNICEF Papua New Guinea, *Report of an "Impact and Reflection Workshop" on Children and Women in Village Courts* (2008), on file with author.

³⁴ Information on the socio-legal defense centers is based on documents prepared by Defense for Children – Palestine section and the PCDCR.

Information about the centers is widely disseminated, including through the media, together with awareness-raising messages concerning children's rights and adults' responsibilities. A toll-free telephone line also operates in Gaza. It partly focuses on cases of sexual abuse, which can be very sensitive to divulge in person. Lawyers monitor the court cases, including for children in detention facilities. In Gaza, the socio-legal defense centers also refer some cases to the community for mediation by traditional leaders who have been trained in this matter.

Empowering children through the provision of information and education on their rights is an important component of the program. Workshops are organized for them to learn about their rights with a special focus on their rights to protection from violence, abuse and exploitation. Children are also informed of the services provided by the socio-legal defense centers and how to access them. In parallel, activities with parents and the communities are organized to raise their awareness on the legal rights of children and their responsibility to protect them from abuse.

6. Some common features of promising legal empowerment interventions

The three legal empowerment interventions described in the previous section have several features in common that are particularly instrumental in contributing to improved access to justice for children. They could therefore serve as examples and inspiration for other efforts down the line. Below is an initial attempt to summarize key features of these interventions. It is important, however, to mention that these common features have been identified on the basis of observation and are not the result of formal evaluations.³⁵ They should be considered initial ideas to be further confirmed and refined, if and when evidence of success becomes more substantial.

6.1 They are de-centralized and located in areas where the poorest, most excluded live

As discussed above, there are many obstacles for children – poor and excluded children in particular – to seek redress for violations of their rights. Special efforts are needed to reach out to them with information about their rights (starting simply with the fact that they do have rights) and about the possibility to claim them, even – or especially – in the most remote places. As mentioned, schools can be a useful vehicle for this, but strategies to reach out-of-school children should also be designed in parallel (e.g. through youth clubs or community centers).

Through these and other vehicles, support should be available where children live – in their communities. If community-specific help is not provided, there is little chance that they would be able to find this necessary support somewhere else. Successful interventions are therefore to be decentralized and located in areas where the poorest, most excluded live.

This is the case for all three aforementioned programs. In all three, services are spread across the country, including in remote and difficult-to-reach locations where no or few other programs are running. The socio-legal defense centers in the oPt are available in strategically selected locations that provide the largest possible proportion of the population with the opportunity to access a center in spite of closures and checkpoints in place in the territory. To further expand the outreach, information sessions are organized in schools, community centers and institutions for children deprived of parental care. Grassroots organizations, especially women and youth organizations, are contracted to participate and help in spreading the information in their communities. In order to allow

³⁵ The exception is an internal evaluation of the Paralegal Committees conducted by UNICEF Nepal in 2008 and 2009, on file with author.

access during times of heightened conflict in the Gaza Strip, when crossing firing lines and blockades is obviously impossible, the PCDCR has opened 28 outposts that provide psychosocial support to children in all areas.

In PNG, the Village Courts Child Protection Program is implemented across a remote and peri-urban districts to ensure that government's strategy to take the program to scale is both evidence based, and takes into account the challenges encountered by remote and rural communities. In Nepal, the PLCs include representatives of disadvantaged groups (in terms of ethnicity, caste and/or other socio-economic factors) as a way to reach to these populations more easily.

6.2 They are owned and run by communities

In order to be well accepted in communities and to operate efficiently, legal empowerment interventions need to be based on local resources and run by community members. This makes them less intimidating, more accessible to children and their families, and more in tune with the community's concerns. In Nepal, PLC members are women from the communities themselves. The process of establishing PLCs starts with a series of orientation meetings (usually over three days) organized to build the community's ownership for the project, followed by the endorsement of the local Village Development Committee (i.e. local, municipal authority). Meetings are typically attended by governmental officials, community frontline workers and volunteers, community leaders, and civil society representatives – both men and women. During these meetings, discussions are deeply rooted in the problems faced by women and children in the specific community and aim at determining how the community can contribute in responding to them. The 2009 evaluation of the PLCs indicates that the sense of ownership as well as motivation and commitment of the PLC members are among the main reasons for the success of the program.

In the oPt also, the NGOs running the socio-legal defense centers are well rooted in the communities. Both Defense for Children International (DCI) in the West Bank and the PCDCR in the Gaza Strip are well-recognized community-based child rights advocates. Most of the staff in each of the five centers come from these communities. Information sessions in the socio-legal defense centers, in schools and in other community settings contribute to further anchor these centers in the communities.

In PNG, the Village Courts Child Protection Program is coordinated by advisors drawn from the communities where they deliver the program. They support the communities to select their own women and youth representatives. The participating communities are also encouraged to contribute resources to the training, modeled on existing community contribution mechanisms, as in the way they carry out sporting or church-related community events. For example, in one remote district, the community built the training venue, provided and cooked all meals, and coordinated their own transport to and from the training daily.³⁶

The participation of selected community members, while crucial, must also be guided by rights-based principles. Participants carry authority and must be perceived as legitimate and credible members of the community if they are to be able to influence future decisions made by their community. At the same time, their participation should not reinforce power imbalances. In the Papua New Guinea Village Courts Program, the inclusion of an equal number of women participants marks a significant diversion away from the traditional model of training, in which magistrates, as *big men* (i.e. men with special stature and influence), would normally be invited to participate in training alone. In the PNG context, the involvement of women ensures that knowledge become

³⁶ Simbu Provincial Administration, Kerowagi District Training Report (2009), on file with author; UNICEF Papua New Guinea.

available to women and children, and with it, the power to articulate and demand their rights.

In addition, for all three programs, community ownership is obviously a useful factor of sustainability for the future.

6.3 They are multi-disciplinary and involve a large number of partners

No profession can prevent and address cases of child abuse and violence on its own. It takes the specific and combined competencies of teachers, social workers, health professionals, psychologists, the police, community leaders, courts, lawyers, paralegals, *inter alia*, to prevent, detect, refer and respond to child rights violations. Obviously, coordination and referral between these different professions are crucial and often a challenge. All of these professionals also need training on how to address child rights issues, as well as clear protocols for cooperation. In addition, civil society organizations, often formally constituted but sometimes more informal in nature, typically play important roles.

Successful interventions that facilitate children's access to justice therefore need to take a multi-disciplinary approach and involve all concerned. The team in the socio-legal defense centers in the oPt include lawyers, social workers and psychologists available to provide advice and assistance to children during the centers' opening hours (and, in Gaza, also through a hotline). DCI in the West Bank has formed a network of NGOs, authorities and professionals where cases that need follow-up can be referred, such as NGOs providing psycho-social support, social workers from the Ministry of Social Affairs or medical services. Referral lines were agreed on among network members (specifying who should do what, which cases to refer where, etc.). Community-based and grassroots organizations were also involved, mainly to make the services available as well known as possible.

In Nepal, the PLCs are also linked with various support service providers, government agencies and NGOs at the district level. They constantly engage with a range of actors including the police, local government authorities and lawyers to ensure a joint follow-up of cases.

In PNG, the Village Courts Program is led by the National Department of Justice, in partnership with provincial administrations. It is implemented by multiple provincial government authorities, including provincial village court officials, community development and welfare officers, and representatives from the provincial AIDS councils. Advisors draw on local technical resources wherever available, such as NGOs, church networks and local government councilors. As interest in the program is generated across the district, trained village court magistrates are now supporting training in other districts by accompanying the advisors on community consultations and acting as resource persons during the training.

6.4 They respond to a particular need and fill in a gap in a weak or failing formal justice system

Interventions described in this chapter respond to specific needs in communities and to a particular gap in the provision of justice. On the one hand, they deal with issues of core importance to the populations they serve (e.g. domestic violence, property, family issues) and, on the other, they fill in a gap in a weak or failing formal justice system.

This is the case in PNG, where over 85 percent of the population lives in rural areas with limited transport and communication infrastructure, and weak essential service delivery. In this context, government (including its formal justice apparatus) is of little relevance to the 800 different tribes that speak different languages, have different customs and

live relatively secluded from each other. Many people in these communities lack legal literacy; even those who do understand their legal rights have little access to the formal system. As a result, most legal issues are brought to the village courts, which often lack the knowledge and skills to apply a rights-based approach to their decision-making and mediation efforts. The Child Protection Program empowers women and their communities with information on their rights; offers an opportunity for village court magistrates to develop strategies for meeting their obligations; introduces the participants to the government officials responsible for essential service delivery; and supports both village court magistrates and their communities with an ongoing support mechanism (through the follow-up and post-training mentoring) for enabling women and children to realize their rights.

In Nepal, as mentioned in the recent evaluation of the PLC:

...the absence of government has created an opportunity for an alternative community leadership to emerge and people have recognized that PLC's can play a valuable part in this process. [...] As a result some PLC's have extended the scope of their work beyond their core areas of women's and children's rights, most noticeably in the areas of property rights, citizenship and debt."³⁷ The conflict in Nepal created a very challenging environment for the PLCs but, according to the 2009 evaluation, "the withdrawal of government services from rural areas also provided them with opportunities. [...] The PLCs represent a major resource for any emergency response, as they possess a unique combination of protection expertise, local knowledge, a network of contacts and an organizational capacity that extends into every ward."³⁸

In the oPt, where the formal justice system has been weakened by decades of conflict and occupation, the socio-legal defense centers have proven extremely flexible and rapid in adapting to ever-changing security situations on the ground; they have provided support and ensured mediation when the formal system was in difficulty.

6.5 They inform upstream policies and advocacy

As the first and sometimes only point of contact for child victims, the community-based, multi-disciplinary programs described above can play an important role in monitoring child rights violations and advocating for policies based on this evidence. They generally manage data on the cases brought to their attention that provide crucial information on the situation of children in their area.

In Nepal, for example, the PLCs maintain records of cases and rights violations, and share the information regularly with the district stakeholders. As a result, their work feeds policy dialogue by identifying structural problems through the analysis of accumulated individual violations. In December 2005, the Forum for Women, Law and Development (the NGO that has played a crucial role in training for the program) filed a case against the Office of the Prime Minister and Council of Ministers, for the effective implementation of the law against child marriage. The NGO based the case on the fact that, although Nepal has a law against child marriage, the available statistics clearly show that the situation in practice is very different. FWLD also challenged the Marriage Registration Act, as it permits marriage at a lower age than is permitted by the general law (Country Code) and discriminates between men and women on the issue. In December 2005, the Supreme Court issued a showcase notice to the government; the case is still under consideration by the Supreme Court in 2009.

³⁷ UNICEF Nepal, above n 23.

³⁸ Ibid 8.

Similarly, the socio-legal defense centers in the oPt consolidate and analyze the sum of individual cases presented to the centers for the purpose of general advocacy for increased child protection. These efforts were instrumental in the development of a child protection law in 2007–2008 when DCI, PCDCR and their partners used the analysis of the records of child rights violations to advise on which protection gaps needed be addressed by law. The law is pending approval by Parliament.

In PNG, the advisors attached to the Village Courts Program monitor the implementation of action plans that participants develop during training, collect stories and lessons learned, and provide this information (via their provincial government counterparts) to the national government. The program has already contributed to a greater awareness of the role and importance of the traditional justice system and is now informing a review of the legislation that covers the establishment and functioning of village courts.

6.6 They are part of a systemic approach

Effective and efficient child protection interventions require a systemic approach that ensures that:

- sound protective laws and policies (including the necessary budgetary allocations) in line with international standards are in place and enforced;
- professionals have the capacity and means to prevent and respond to abuse, violence and exploitation;
- adequate protective services are in place and accessible;
- children know about their rights and have the skills to protect themselves;
- the general public is aware of issues of abuse, violence and exploitation, and allowed to debate on them openly; and
- there is sufficient knowledge on issues of abuse, violence and exploitation, and mechanisms to monitor the trends and impact of interventions (including a national statistical capacity to monitor and report on children’s rights).

In order to make a difference for children, all these strategies are required in parallel, reinforcing each other towards the same objective (i.e. the protection of children against abuse, violence and exploitation). This conceptual framework, used by UNICEF in its child protection programming, is also known as “building a protective environment”.³⁹ The three programs described in this chapter all include elements of such a systemic approach.

In the oPt, the Child Protection Program implemented by the authorities with the support of UNICEF and NGOs includes the development of a child protection law currently awaiting approval by Parliament, as well as awareness-raising campaigns on issues pertaining to violence against children, child rights education for children and the set-up of a child protection information system to monitor trends and inform policy-making and response.

In PNG, a relatively strong legislative and policy framework has been developed with UNICEF’s technical assistance. Contemporary child protection legislation was passed in April 2007, focusing national child protection priorities on the CRC. This Act is complemented by a range of policies that aim to protect children, as well as additional legal provisions. Under amendments to the Evidence Act (2002), child victims and witnesses of crime are entitled to give evidence to a court under child-friendly conditions. In parallel, a national directive was issued, requiring all provincial hospitals to

³⁹ K Landgren, ‘The Protective Environment: Development Support for Child Protection’ (2005) 27(1) *Human Rights Quarterly* 214-248.

establish family support centers, one-stop shop models where women and children can seek medical, paralegal and psychosocial care. The Village Courts Program provides participants, and subsequently their communities, with knowledge on available services. and links the participants with the relevant government and civil society actors.

In Nepal, this systemic approach currently is being pursued, starting with a review of the Child Rights Act in light of international standards. As mentioned, the PLCs themselves also carry out awareness-raising campaigns – for example, against child abuse or child marriage – that have achieved some success, as indicated in the 2009 evaluation.⁴⁰

Conclusion: the way ahead

This paper concludes by considering future directions for efforts to improve access to justice for the most vulnerable, excluded children. Although there are promising experiences, it is clear that access to justice is still a virtual concept rather than a reality for most children around the globe.

While certainly not the only potential directions, two important strategies come to mind:

- **Generating knowledge and supporting evidence-based policy-making and programming:** Child rights advocates and rule-of-law actors (including governments, inter-governmental organizations and NGOs) still need to have a comprehensive understanding of children's access to justice and how it best can be achieved for all children. One initial step in this direction could be for the implementers to better evaluate the impact of programs on children's actual access to justice, in order to identify the factors for success and lessons learned, and analyze their potential for replication in other contexts. The common features for successful interventions listed in this chapter could serve as a starting point in this respect, and their relevance and importance could accordingly be confirmed (or not). This would also require that the actual meaning of children's access to justice be further defined and agreed on – i.e. when do we consider that a child has full, satisfactory access to justice? The evidence of what does and does not work generated by such evaluations could then serve in developing governmental policies and establishing programs or taking existing ones to scale.
- **Integrating children's access to justice into broader rule of law initiatives:** In September 2008, the United Nations Secretary-General issued a *Guidance Note* on the United Nations Approach to Justice for Children, requesting all United Nations entities to give greater attention to children in their rule of law initiatives. Children therefore need to be fully considered and integrated in broader access to justice programs carried out by the United Nations, with their particular rights and needs specifically taken into account. Countries have started to implement this common approach. In Indonesia, for example, provisions on children in contact with the law have been incorporated into the National Strategy on Access to Justice, developed with joint support from UNICEF, United Nations Development Programme and the World Bank, thus ensuring that issues of justice for children are included in the national justice reform agenda. UNICEF certainly has an important role to play in this respect, both in terms of advocating for children's inclusion in such broader agendas and

⁴⁰ A number of PLC members who met with the evaluator believe that their campaign reduced the incidence of child marriage. According to the evaluator, the fall in the number of child marriage cases handled by PLCs in certain districts "could possibly provide some support to this view, but establishing the true reasons for this reduction would require additional research." Above n 35, 27.

providing assistance to ensure that children's rights are respected in the process.