

Submission of the Child Rights International Network (CRIN) to the OHCHR Study on Access to Justice for Children (Human Rights Council resolution 22/32)

The Child Rights International Network (CRIN) is a rights-based organisation that advocates for the full realisation of children’s rights.

This submission seeks to give an overview of how access to justice applies in the context of children’s rights and to highlight the major issues involved in access to justice for children. The submission will start by addressing what is meant by access to justice for children and separating it from related concepts such as juvenile justice and child friendly justice. The submission will then move on to four themes within access to justice for children:

- The need and obligation to give effect to children’s rights at the national and international levels;
- The status of the child within the legal system;
- Access to remedies and challenging violations of children’s rights; and
- The practicalities that children face in engaging with the justice system.

CRIN is currently undertaking a research project entitled “the legal status of the child”, which will produce reports on access to justice issues for children in 200 countries, including in relation to all of the issues addressed in this submission. As part of this project we have produced a Model Report on the Legal Status of the Child, which is attached as an annex. This document sets out the international standards that relate to access to justice for children and it shall be referred to throughout this submission.

What is access to justice?

Access to justice for children requires that all children, however they come into contact with the law, be able to fully participate in legal proceedings. Broadly speaking, it is the idea that children must be able to use and trust the legal system to protect their rights, an idea which is regularly frustrated by the failure of justice systems to account for children’s unique vulnerability.¹

The United Nations Development Programme has adopted a definition of access to justice which highlights the main areas involved in the concept:

“Access to justice can be defined as the right of individuals and groups to obtain a quick, effective and fair response to protect their rights, prevent or solve disputes and control the abuse of power, through a transparent and efficient process, in which mechanisms are available, affordable and accountable.”²

¹ CRIN, *Legal Assistance Toolkit for Children and Children's Rights Organisations*, 2013, p. 4, available at: http://www.crin.org/docs/CRIN_Legal_Assistance_Toolkit_Updated_2013.pdf.

² UNDP Justice System Programme, *Access to Justice Concept Note*, February 2011, available at: http://74.119.210.141/justice/sites/default/files/pdf_archive/Access%20to%20Justice%20Per%20JSSP%20CONCEP

This definition brings out the need to develop a legal framework that guarantees the rights of children, to create institutions to uphold those rights and to develop knowledge and attitudes that underpin the realisation of rights. Access to justice covers every instance in which a child comes into contact with the law, whether the child seeks out the legal system or the legal system seeks out the child.

It is worth noting that while juvenile justice and child-friendly justice are related to access to justice for children, they are different concepts. Juvenile justice covers only one specific context in which children's access to justice rights are engaged, and child-friendly justice represents the broad idea that children must be met with legal systems that understand and respect both their rights and their unique vulnerability. Access to justice is wider than juvenile justice and more focused than child-friendly justice; it is the space in which justice systems are designed to support and empower children in demanding that their rights be respected.

Giving effect to human rights at the national and international level

When a State ratifies the UN Convention on the Rights of the Child (CRC), or any other human rights treaty, it takes on obligations under international law to implement it.³ This is part of establishing the basic legal framework for the protection of children's rights that is a necessary element of access to justice.

National legal systems

National legal systems are the starting point of any challenge to a violation of a child's rights, and must be able to accept and address complaints from or on behalf of children. These mechanisms also carry the benefit of being able to implement their decisions directly, more quickly and without the delay involved in using the international system.

To guarantee access to justice in relation to all of the rights under the CRC, States must recognise the Convention as binding in national law. Article 4 of the CRC requires State Parties to "undertake all appropriate legislative, administrative, and other measures for the implementation of [Convention] rights". As further clarified by the Committee on the Rights of the Child, "ensuring that all domestic legislation is fully compatible with the Convention and that the Convention's principles and provisions can be directly applied and appropriately enforced is fundamental".⁴

What is required of each State may vary based on the structure of the legal system, but three central obligations emerge from the Committee's work in this area: the Convention must be part of national law, it must take precedence over competing law, and it must be enforceable before national courts.⁵ Importantly, although many States seek to draw a distinction between civil and political rights and

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³ UN Committee on the Rights of the Child, General Comment No. 5 on general measures of implementation of the Convention on the Rights of the Child, para. 1, available at:

http://www2.ohchr.org/english/bodies/crc/docs/GC5_en.doc.

⁴ Ibid.

⁵ Ibid at paras. 18 to 21.

economic, social and cultural rights, the Committee has noted that these rights are “inextricably intertwined”.⁶ With regards to economic, social and cultural rights, the CRC requires States to “undertake such measures to the maximum extent of their available resources”⁷ and has emphasised that these rights as well as civil and political rights should be equally justiciable.⁸

While international human rights law is primarily binding on national governments, States must also protect children from rights violations committed within their jurisdiction by third parties. For example, in its General Comment on the impact of the business sector on children’s rights, the Committee on the Rights of the Child explicitly recognised the State’s obligation to “ensure access to effective remedy for children whose rights have been infringed by a business enterprise acting as a private party or as a State agent.”⁹ In certain circumstances, States should also provide access to justice for violations that occur outside their territorial boundaries, as under the Optional Protocol on the sale of children, child prostitution and child pornography.

International complaints

International human rights mechanisms exist for when protection fails at the national level. A children’s rights complaints mechanism at the international level has been a long time in the making, but the third Optional Protocol on a communications procedure is now on the brink of entering into force. This marks an important milestone in access to justice for children, and States should ratify the Optional Protocol to provide children a means to enforce their rights where the national justice system has fallen short. By the same token, States should use the new international children’s rights complaints mechanism as inspiration to strengthen access to justice for children in domestic law.

It is also important that international human rights mechanisms that do not solely address children’s rights are accessible to children. Because the vast majority of provisions across all of the core human rights treaties apply to children, the complaints mechanisms that enforce these treaties should be adapted to receive and adjudicate complaints from children. Currently communications made to UN complaints mechanisms related to children’s rights are very rare. CRIN is currently reviewing complaints lodged with the UN Treaty Bodies related to children’s rights that have resulted in a full decision of a treaty body and of the 178 States so far reviewed, decisions involving children’s rights issues have only been made concerning 20 States.¹⁰

Legal status of the child - right to be heard, participation, advice and representation

All children must have “access to a readily available, prompt and effective remedy in the form of

⁶ Ibid at para. 6.

⁷ UN Convention on the Rights of the Child, Article 4.

⁸ UN Committee on the Rights of the Child, General Comment No. 5 on general measures of implementation of the Convention on the Rights of the Child, para. 6, available at: http://www2.ohchr.org/english/bodies/crc/docs/GC5_en.doc.

⁹ UN Committee on the Rights of the Child, General Comment No. 16 on state obligations regarding the impact of the business sector on children’s rights, para. 5, available at: http://www2.ohchr.org/english/bodies/crc/docs/GC/CRC-C-GC-16_en.doc.

¹⁰ Summaries and full citations of the relevant complaints and communications are available through CRIN’s legal database, available at: <http://www.crin.org/Law/search.asp>.

criminal, civil, administrative or disciplinary proceedings”.¹¹ As such, and because children’s lack of independence and legal status pose many threats to their right to a remedy, States must adopt measures to ensure there are “effective, child-sensitive procedures available to children and their representatives.”¹² This includes providing information, advice, advocacy services, training to those who engage with children in the justice system and - most importantly - meaningful access to the judicial system and other independent complaints procedures.

Importantly, children are entitled to be heard in “any judicial or administrative proceedings affecting the child, either *directly*, or *through a representative* or an appropriate body”.¹³ This means that children should be permitted to bring cases by themselves and in their own names or, where they so desire, with the assistance of an appropriate representative. Children should never be required to have the assistance of an adult in bringing or participating in legal proceedings, although one should be offered and provided should the child need or desire guidance from a parent, guardian, lawyer or other suitable professional. It is critical, however, that a child’s representative not pose a conflict of interest that would interfere with his or her duties to the child.¹⁴

Courts may in some instances be empowered to appoint a *guardian ad litem* (legal guardian) to represent a child’s interests. While such appointments are commonplace in family court proceedings and not problematic in themselves, children must also be represented by a person who is responsible solely for determining and acting in accordance with the child’s views.¹⁵

To effectively engage with the legal system, children also need access to free or subsidised legal assistance. Children’s rights to legal assistance in the context of criminal proceedings are well established under international law and standards¹⁶ and the Committee on the Rights of the Child has explicitly recognised that this legal assistance for children should be free of charge.¹⁷ These protections should be extended to cover children in all manner of legal proceedings. The Basic Principles on the Role of Lawyers establish that all persons should have effective and equal access to lawyers, and call on governments to “ensure the provision of sufficient funding and other resources for legal services to the poor and, as necessary, to other disadvantaged persons”.¹⁸ Children will usually be at such a disadvantage

¹¹ UN Principles for the Protection and Promotion of Human Rights Through Action to Combat Impunity, Principle 32, available at: http://www.un.org/ga/search/view_doc.asp?symbol=E/CN.4/2005/102/Add.1.

¹² UN Committee on the Rights of the Child, General Comment No. 5 on general measures of implementation of the Convention on the Rights of the Child, para. 24, available at: http://www2.ohchr.org/english/bodies/crc/docs/GC5_en.doc.

¹³ UN Convention on the Rights of the Child, Article 12 (emphasis added).

¹⁴ UN Committee on the Rights of the Child, General Comment No. 12 on the right of the child to be heard, para. 36, available at <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-GC-12.doc>.

¹⁵ Ibid at para. 37.

¹⁶ See International Covenant on Civil and Political Rights, Article 14; UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, Principles 2, 3 and 10, available at: <http://www.un.org/Docs/journal/asp/ws.asp?m=E/CN.15/2012/L.14/Rev.1>.

¹⁷ UN Committee on the Rights of the Child, General Comment No. 10 on children's rights in juvenile justice, para. 49, available at http://www2.ohchr.org/english/bodies/crc/docs/GC10_en.doc.

¹⁸ UN Basic Principles on the Role of Lawyers, Principles 2 and 3, available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfLawyers.aspx>.

in engaging with the legal system, whether as a result of inexperience with the legal system or lack of resources to secure advice and representation. States must address these issues to ensure that access to justice for children is achieved.¹⁹

While children must have the right to seek remedies where their rights have been violated, it is important to realise that many children are unlikely to bring legal proceedings of their own initiative. In the case of infants and young children, they may not even be aware that their rights have been violated. For these reasons, it is important that adults be empowered to help children pursue violations through legal action. The Committee on the Rights of the Child has in particular recognised that “parents (and other caregivers) are normally the major conduit through which young children are able to realise their rights.”²⁰

It must be remembered, however, that the ability of parents or legal guardians to act on behalf of children is linked to the requirement that this be carried out in children’s best interests.²¹ While most parents and guardians will seek to protect their children’s rights, States have a duty to safeguard children whose rights are being violated in the home. When children’s rights are breached by those who are expected to uphold them, States must take active steps to give children access to the courts and help them enforce their rights.

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Challenging violations of children’s rights

In the words of the Committee on the Rights of the Child, “[f]or rights to have meaning, effective remedies must be available to redress violations”.²³ This means that children should have access to all appropriate courts of law and any other legal or judicial mechanisms or procedures established or authorised to review actions, laws and policies that violate or threaten to violate children’s rights. In providing redress for violations, these mechanisms should not only allow children to claim compensation²⁴ for harm suffered and gain access to measures to promote physical and psychological recovery,²⁵ but they must also enable children to challenge laws, policies and public actions that violate or threaten to violate their rights.²⁶

¹⁹ See CRIN, *Legal Assistance Toolkit for Children and Children’s Rights Organisations*, 2013, available at: http://www.crin.org/docs/CRIN_Legal_Assistance_Toolkit_Updated_2013.pdf.

²⁰ UN Committee on the Rights of the Child, General Comment No. 7 on implementing child rights in early childhood, para. 16, available at <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/GeneralComment7Rev1.pdf>.

²¹ Ibid.

²² Ibid at para. 36.

²³ UN Committee on the Rights of the Child, General Comment No. 5 on general measures of implementation of the Convention on the Rights of the Child, para. 24, available at: http://www2.ohchr.org/english/bodies/crc/docs/GC5_en.doc.

²⁴ For child victims and witnesses of crimes, the UNODC and UNICEF Model Law on Justice in Matters involving Child Victims and Witnesses of Crime provide that children should have a right to claim compensation in civil and criminal proceedings alike, available at: https://www.unodc.org/documents/justice-and-prison-reform/Justice_in_matters...pdf.

²⁵ UN Committee on the Rights of the Child, General Comment No. 5 on general measures of implementation of the Convention on the Rights of the Child, para. 24, available at: http://www2.ohchr.org/english/bodies/crc/docs/GC5_en.doc; UN Convention on the Rights of the Child, Article 39.

²⁶ See Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, paras. 22 and 23,

Settings

The court is the archetypal means of legally challenging violations of children's rights, but is shorthand for a range of options that must be open to children.²⁷ Courts are a powerful but not exclusive means of challenging children's rights violations, and States should in addition create other mechanisms to achieve the same end. For instance, traditional, customary and other informal dispute resolution mechanisms should be available to children where appropriate.²⁸ These systems may be less intimidating and in some instances better able to address issues of direct relevance to children.²⁹

National Human Rights Institutions can also provide a less formal alternative to courts. The Committee on the Rights of the Child has urged Governments to establish ombudspersons and other national human rights institutions with the authority to receive and review individual complaints submitted by or on behalf of children.³⁰ These institutions must have the powers and resources to effectively carry out investigations, and should be able to provide remedies or otherwise ensure that children obtain effective redress for breaches of their rights. Children's ombudspersons may also be empowered to address large scale children's rights violations at their own initiative. The Northern Ireland Human Rights Commission, for instance, has brought legal action in relation to issues including discrimination in adoption.³¹

There are also other public bodies making decisions that affect children's enjoyment of their rights. For instance, schools and other education systems, health care institutions, and social welfare agencies all exercise a lot of administrative control and influence over children's lives. Access to justice in these contexts requires due process, and children have the right both to be involved in these decisions³² and to have their best interests considered in any action that potentially affects them.³³ If one of these bodies causes or contributes to children's rights violations through discrimination, failing to provide a benefit or service, facilitating acts of violence, or otherwise acting outside the scope or mandate of their authority, children should have the right to challenge these administrative decisions directly in full, fair and child-friendly hearings.³⁴

available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx>; UN Principles for the Protection and Promotion of Human Rights Through Action to Combat Impunity, Principles 34 and 35, available at: http://www.un.org/ga/search/view_doc.asp?symbol=E/CN.4/2005/102/Add.1.

²⁷ See CRIN, *Legal Status of the Child: Model Report*, 2013, p. 3, attached as annex.

²⁸ UN Declaration of Basic Principles for Justice for Victims of Crime and Abuse of Power, para. 7, available at: <http://www.un.org/documents/ga/res/40/a40r034.htm>.

²⁹ Guidance Note of the Secretary-General: UN Approach to Justice for Children, para. B.2, available at: http://www.unicef.org/protection/RoL_Guidance_Note_UN_Approach_Justice_for_Children_FINAL.pdf.

³⁰ UN Committee on the Rights of the Child, General Comment No. 2 on the role of independent national human rights institutions in the promotion and protection of the rights of the child, para. 13, available at: http://www2.ohchr.org/english/bodies/crc/docs/GC2_en.doc.

³¹ The Northern Ireland Human Rights Commission's Application [2012] NIQB 77, available at: [http://www.courtsni.gov.uk/en-GB/Judicial%20Decisions/PublishedByYear/Documents/2012/\[2012\]%20NIQB%2077/j_j_TRE8624Final2.htm](http://www.courtsni.gov.uk/en-GB/Judicial%20Decisions/PublishedByYear/Documents/2012/[2012]%20NIQB%2077/j_j_TRE8624Final2.htm).

³² UN Convention on the Rights of the Child, Article 12; UN Committee on the Rights of the Child, General Comment No. 12 on the right of the child to be heard, paras. 32-33, available at: <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-GC-12.doc>.

³³ UN Convention on the Rights of the Child, Article 3.

³⁴ See, e.g., UN Committee on the Rights of the Child, General Comment No. 15 on the right of the child to the

Furthermore, if an administrative body wishes to pursue a grievance or disciplinary measure against a child, this must be done with respect and consideration for children's due process rights. Just as courts and prosecutors must respect the procedural rights of children accused of being in conflict with the law, schools seeking to exclude or expel a child must provide for fair, transparent and participatory disciplinary procedures.³⁵ Children should also have an automatic right to appeal administrative decisions through established channels and, once these avenues have been exhausted, to seek their review through the formal justice system.

Group litigation and collective complaints

States should not only establish multiple avenues for individual children to bring violations of their rights to attention, but also provide opportunities to challenge systematic, grave or widespread children's rights abuses. In the context of the formal legal system, this may take the form of combined cases, test cases, group litigation, class action lawsuits, judicial review proceedings or public interest litigation. Where complaints mechanisms are concerned, large scale violations can be addressed through collective complaints. To some degree, each of these helps to overcome the difficulties faced by individual child victims of rights violations in pursuing a legal remedy, and all are addressed in turn below.

In combined cases, courts bring together a number of related lawsuits to be heard in one proceeding, and may permit the complainants to designate a shared legal representative. Courts might also opt to hear one individual complaint first as a test case, setting a common precedent for those that follow. In group litigation, one complainant is permitted to file a case on behalf of a much larger number of individuals whose rights have been violated in a similar way. Typically, the person filing the complaint contacts other victims with information about the case and gives them an opportunity to join. Class action lawsuits operate slightly differently, in that one complainant is authorised by the court to represent *all* persons whose rights have been violated in the same way without getting their explicit permission. In these circumstances, the person filing the complaint might be required to reach out to likely victims to let them know that a lawsuit is being filed and give them an option to *not* be included in the case.

Judicial review proceedings and collective complaints allow children and children's rights advocates to directly challenge laws, regulations, policies and government actions that infringe or threaten to infringe fundamental rights. They do not require that any individual victims be identified, and instead focus on the nature and extent of the violations alleged. This model is well established in many national legal systems, and particular attention is drawn to public interest litigation in India and Bangladesh, whereby judges are empowered to initiate investigations into systemic violations of children's rights upon receipt of an informal letter of complaint.³⁶

enjoyment of the highest attainable standard of health (art. 24), paras. 119-120, available at: http://www2.ohchr.org/english/bodies/crc/docs/GC/CRC-C-GC-15_en.doc; UN Committee on the Rights of the Child, General Comment No. 12 on the right of the child to be heard, paras. 34, 47, available at: <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-GC-12.doc>.

³⁵ See UN Committee on the Rights of the Child, General Comment No. 1 on Article 29(1): the aims of education, para. 8, available at: http://www2.ohchr.org/english/bodies/crc/docs/GC1_en.doc.

³⁶ See CRIN, *Legal Status of the Child: India*, 2013, available at: http://www.crin.org/docs/India_Legal_Status.pdf; CRIN, *Legal Status of the Child: Bangladesh*, 2013, available at:

Because judicial review proceedings and collective complaints can allege rights violations without identifying individual victims, they are particularly well-designed for cases involving vulnerable children. First, the privacy and confidentiality of child victims is protected, and their safety can be more readily assured under the veil of anonymity. Second, the absence of determining individual facts and circumstances brings an innately preventive approach; for example, if a legal framework does not effectively criminalise child labour, a collective complaint can challenge this failure and demand suitable revisions before serious rights violations occur. Last, these proceedings are both more efficient and expedient, as they allow for courts and complaints mechanisms to consider large numbers of similar children's rights violations in a single sitting.³⁷

The practicalities of using the justice system

As detailed below, there are extensive practical concerns that children face when they engage with the justice system. For additional information, see the Model Report on the Legal Status of the Child.

Venue: Children's ability to access justice is affected by factors as simple as the location of the nearest court. Travelling long distances places heavy burdens on children, who have many obligations on their time and will often lack independent means to organise transportation. For this reason, all children should have ready access to a suitable court within easy commuting distance of their residence.

Legal aid: Eligibility for legal aid may be restricted to certain kinds of cases, or legal aid may be in practice difficult for children to obtain. Legal assistance should be provided free of charge to all children whose rights have been violated, and procedures for obtaining legal aid should be simple, accessible and well-publicised. This assistance must also be tailored to the rights and needs of children, and lawyers assigned to represent children should be well-versed in issues related to children's rights, child development, and child-friendly communication.

Timing: It is common for legal actions to have limitation periods, which establish for how long legal action can be brought after a violation has occurred. Limitation periods can pose problems for children, who may not be able to challenge violations of their rights until they have attained majority. Accordingly, the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Human Rights Law require that limitation periods should not apply at all to serious violations of international human rights law and should not be "unduly restrictive" for other rights violations.³⁸ In the context of childhood, this means that the time period should not begin running until they have become full legal adults.

http://www.crin.org/docs/Legal_Status_of_the_Child_Bangladesh_Revised.pdf

³⁷ See Newell, P., *Collective communications - an essential element in the new Optional Protocol for the Convention on the Rights of the Child*, September 2010, available at:

http://www.crin.org/docs/Collective_Communications_EN.doc.

³⁸ The Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Human Rights Law, Principles 6 and 7, available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx>.

Evidence: Intimidating courtroom proceedings can hinder children from demonstrating that they have been victims of rights abuses. The CRC entitles children to be heard in all relevant judicial proceedings that affect them and to have their statements “given due weight in accordance with their age and maturity”; the Committee on the Rights of the Child has clarified that “even the youngest children are entitled to express their views.”³⁹ Indeed, the views and concerns of victims of rights violations must be “presented and considered at appropriate stages of the proceedings where their interests are affected”,⁴⁰ and children’s testimony “shall not be presumed invalid or untrustworthy by reason of his or her age alone.”⁴¹

Resolution: Trials involving child victims and witnesses should take place “as soon as practical” and there should be “procedures, laws or court rules that provide for cases involving child victims and witnesses to be expedited”.⁴² The UN Guidelines for Action in the Criminal Justice System call on States to establish and strengthen judicial and administrative mechanisms “to enable child victims to obtain redress through formal or informal procedures that are *prompt*, fair and accessible”.⁴³

Privacy and public access: Children have the right to privacy,⁴⁴ and legal systems must offer children protection from media scrutiny as they seek recourse for violations of their rights. Yet at the same time, children have the right to free expression,⁴⁵ and access to justice demands that children be permitted to bring rights violations into the public eye. While it is critically important that children never be thrust into the spotlight against their will, children must equally never be prevented in the name of their own best interests from sharing information about violations of their rights. Thus, rules that categorically and without exception close all hearings involving children to the public threaten children’s access to justice, and children must have the right to openly pursue rights violations where they so choose.

Conclusion and recommendations

In this submission, CRIN would like to emphasise that access to justice for children is a vital component in ensuring the realisation of all children’s rights, and urge the Office of the High Commissioner for Human Rights (OHCHR) to take a broad focus in its forthcoming report on access to justice, including by addressing all instances and settings in which access to justice is engaged. Specifically, we urge the OHCHR to:

a) Use this report as an opportunity to clarify how access to justice for children is distinct from related

³⁹ UN Committee on the Rights of the Child, General Comment No. 7 on implementing child rights in early childhood, para. 14, available at

<http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/GeneralComment7Rev1.pdf>.

⁴⁰ UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Article 6, available at: <http://www.un.org/documents/ga/res/40/a40r034.htm>.

⁴¹ UNODC-UNICEF Model Law on Justice in Matters involving Child Victims and Witnesses of Crime, Article 20, available at: https://www.unodc.org/documents/justice-and-prison-reform/Justice_in_matters...pdf.

⁴² UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, Guideline 30, available at: http://www.un.org/en/pseataaskforce/docs/guidelines_on_justice_in_matters_involving_child_victims_and.pdf.

⁴³ UN Guidelines for Action on Children in the Criminal Justice System, Guideline 47, available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CriminalJusticeSystem.aspx>.

⁴⁴ UN Convention on the Rights of the Child, Article 16.

⁴⁵ Ibid at Article 13.

concepts. Access to justice is wider than juvenile justice and more focused than child-friendly justice; it is the space in which justice systems are designed to support and empower children in demanding that their rights be respected; and

b) Remind States of their obligations to ensure children's access to justice rights including by addressing the following:

Giving effect to human rights at the national and international level

- Implementing and incorporating international human rights treaties into national law, ensuring that rights can be enforced before national courts and take precedence over competing national law;
- Ratifying the third Optional Protocol to the Convention on the Rights of the Child on a communications procedure;
- Ensuring that international complaints procedures for all human treaty bodies are adapted to receive complaints from children;

The legal status of the child

- Guaranteeing that effective, child sensitive procedures are in place for children and their representatives;
- Guaranteeing children's right to be heard directly and through representatives or appropriate bodies;
- Providing free and adequate legal assistance to children;
- Guaranteeing that where a representative acts on behalf of a child in a legal process, that representative does so in the best interests of the child;

Challenging violations of children's rights

- Guaranteeing children's access to all appropriate courts of law as well as any other legal or judicial mechanisms or procedures established or authorised to review actions, laws and policies that violate or threaten to violate children's rights;
- Providing redress for violations of children's rights including compensation, rehabilitation and the review of actions, laws and policies that violate or threaten to violate children's rights;
- Establishing ombudspersons or other national human rights institutions with the authority and capacity to effectively carry out investigations into violations of children's rights and provide remedies and redress for breaches of children's rights;
- Guaranteeing children's due process rights before all judicial and administrative bodies that consider issues related to a child's rights, including the right to appeal through established channels; and
- Enabling children to access forms of litigation and complaints designed to challenge violations of rights, including forms of collective complaints and group litigation which provide the opportunity to challenge systematic, grave or widespread children's rights abuses.

We hope the full day meeting of the Human Rights Council (HRC) on "access to justice for children" will provide an opportunity to address all aspects of children's rights, including those specifically addressed

above. We also hope the HRC will consider aspects of children's access to justice rights which are not comprehensively reflected in current international standards, or on which further standards need to be developed, specifically regarding children as complainants in relation to rights violations.

CRIN resources on access to justice

A Model Report on the Legal Status of the Child has been attached to this submission as an annex, but CRIN has also produced a number of resources relevant to the issue of access to justice for children:

- The Legal Status of the Child project and related resources, including full reports published for Afghanistan, Bangladesh, England, India, Kenya, Nepal and Pakistan⁴⁶
- Legal Assistance Toolkit for Children and Children's Rights Organisations⁴⁷
- Toolkit on Child Friendly Justice and Children's Rights⁴⁸
- Convention on the Rights of the Child Complaints Mechanism Toolkit, including a plain language explanation of how the complaints mechanism will operate⁴⁹
- CRC in Court: The Case Law of the Convention on the Rights of the Child⁵⁰
- A Guide to Strategic Litigation⁵¹

⁴⁶ Available at: <http://www.crin.org/law/legalstatusofthechild/>.

⁴⁷ Available at: <http://crin.org/resources/infodetail.asp?id=28579>.

⁴⁸ Available at: <http://crin.org/resources/infodetail.asp?id=24828>.

⁴⁹ Available at: <http://www.crin.org/resources/infodetail.asp?ID=30734>.

⁵⁰ Available at: <http://www.crin.org/resources/infodetail.asp?ID=30286>.

⁵¹ Available at: <http://www.crin.org/resources/infoDetail.asp?ID=17127&flag=report>.