



Human Rights Law Clinic Papers 2024

Access to Justice and Remedies for Children

To: Agnès Gràcia, Child Rights Connect

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i) List of Abbreviations

ACHPR African Charter on Human and Peoples' Rights

ACHR American Convention on Human Rights

ACRWC African Charter on the Rights and Welfare of the Child

CEDAW Convention on the Elimination of all Forms of Discrimination Against Women

CO Concluding Observations

CoE Council of Europe

CRC Committee United Nations Committee on the Rights of the Child

ECHR European Convention on Human Rights

HRC Human Rights Committee

ICCPR International Covenant on Civil and Political Rights

NGO Non-Governmental Organization

OPIC Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure

UN United Nations

UNCRC United Nations Convention on the Rights of the Child UNICEF: United Nations

UPR Universal Periodic Review

1. Introduction

Ensuring children's access to justice and effective remedies is crucial in protecting and actualising their rights. Therefore, this research emphasises the urgency of this exploration in line with the UN Committee on the Rights of the Child's focus in General Comment No. 27 on children's rights to justice and remedies.¹ Furthermore, the memorandum will critically examine the jurisprudence from international human rights mechanisms, excluding the Committee on the Rights of the Child, and regional human rights mechanisms to understand how these bodies have addressed this topic. Our research seeks to answer the following questions: What are the main barriers to children's access to justice and remedies as addressed by these mechanisms? What recommendations have been made regarding implementing States' obligations to improve access? Additionally, what gaps should be addressed by the Committee on the Rights of the Child, and how should these gaps be addressed under international human rights law based on academic research and jurisprudence?

This memorandum is structured to first detail the relevance and the need for access to justice and effective remedies. It then explores the legal frameworks and jurisprudence underpinning children's rights to justice and remedies, followed by an in-depth analysis of the main barriers to accessing justice. Following that, an analysis of the solutions and recommendations provided by these bodies will be addressed. Lastly, the research will highlight the gaps in this area of law and propose ways to address them to enhance the global commitment to ensuring that every child can access justice and effective remedies. Therefore, this comprehensive approach identifies challenges and proposes actionable solutions grounded in international law and successful practices worldwide.

In addition, it will address the main barriers to justice for children, such as lack of awareness, fear and stigmatisation, and economic obstacles. By focusing on these barriers, which are repeatedly shown in our examination of international and regional mechanisms, the research emphasises the necessity of addressing challenges before and during judicial processes. Ultimately, this project advocates for an environment

¹ Committee on the Rights of the Child, 'Concept Note: General Comment on Children's Rights to Access to Justice and Effective Remedies' (31 January 2023).

where children can assert their rights and societies are accountable for their protection.

Further, these chosen barriers relate to specific procedural obstacles. As an illustration, lack of awareness encapsulates the procedural right to legal standing as a lack of awareness about legal rights, and the justice system is directly related to the issue of legal standing for children, primarily because understanding and asserting legal standing requires knowledge of one's rights and the mechanisms available to enforce them. What's more, regarding the economic barrier addressed in this memorandum, there is a critical focus on the right to free, quality legal aid, which is of the utmost importance in the case of children's access to justice and where legal aid is reduced there are unjust consequences for children seeking access to justice and remedies as they are unable to afford assistance. Furthermore, the memorandum's research is vital to display the shortcomings of international human rights law in protecting children's right to access justice and effective remedies for children.

2. Background

Utilising the concept note provided by the Committee on the Rights of the Child regarding children's rights to access justice and effective remedies is fundamental for protecting, promoting, and fulfilling all human rights.² It ensures individuals can seek and obtain a just, equitable, and timely remedy for rights violations.³ Importantly, this encompasses procedural rights such as the right to be recognised before the law, a fair hearing, the right to appeal, equal and timely access to courts, adequate judicial protection, and other complaint mechanisms.⁴ Remedies can include compensation, restoration of rights, apologies, or other means to address human rights violations, not necessarily requiring formal involvement of the justice system.⁵ Further, access to justice, within the context of children's rights, is fundamentally about ensuring that children can use and benefit from the legal system to protect and enforce their rights. It involves creating mechanisms and processes that are accessible, age-appropriate, and responsive to the needs of children, allowing them to seek remedies for grievances or rights violations they have experienced.⁶ Therefore, this encompasses

² *ibid*, [2].

³ *ibid*, [6].

⁴ *ibid*.

⁵ *ibid*, [7].

⁶ *ibid*, [10].

the availability of legal representation, the adaptation of judicial procedures to be child-friendly, and the education of children about their rights and how to claim them.⁷

Moreover, without access to justice and effective remedies, children's rights outlined in international conventions, such as the United Nations Convention on the Rights of the Child (UNCRC), risk remaining theoretical rather than practical and enforceable realities. The previous General Comment No. 24 (2019) on children's rights in the child justice system could be seen as a positive movement, although it fails to provide an in-depth acknowledgement of the barriers faced in accessing justice and the following remedies and arguably remains focused on children within the penal system. The same is true of the resolution adopted by the Human Rights Council titled "Rights of the child: access to justice for children".⁸ Therefore, it has been paramount in composing this memorandum that a more thorough discussion of children's access to justice and remedies away from the previous focus on children in the penal system towards a more general stance highlighting the most prevalent barriers faced.

3. Legal Frameworks and Jurisprudence

This section of the memorandum will further highlight the prevalent legal framework and jurisprudence regarding access to justice and effective remedies to display the importance of this memorandum's research.

3.1 Relevant International and Regional Human Rights Mechanisms

Internationally, the principle of access to justice and effective remedies is enshrined in numerous legal frameworks and mechanisms. The UNCRC includes several crucial articles on children's access to justice and remedies. Notably, Article 12 ensures children's right to express their views in matters affecting them.⁹ Additionally, Article 37 prohibits torture and unlawful deprivation of liberty, highlighting the importance of legal assistance and fair treatment.¹⁰ Conversely, Article 39 focuses on the rehabilitation of child victims of abuse or neglect, and Article 40 emphasises the administration of juvenile justice, ensuring dignity, prompt legal assistance, and a fair

⁷ *ibid.*

⁸ Committee on the Rights of the Child, 'General comment No. 24 (2019) on children's rights in the child justice system' (18 September 2019) CRC/C/GC/24; Human Rights Council, 'Rights of the child: access to justice for children' (14 April 2014) A/HRC/RES/25/6.

⁹ Convention on the Rights of the Child (UNCRC) (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3, art 12.

¹⁰ *ibid.*, art 37.

trial.¹¹ This testament to the significance of access to justice and effective remedies is further reinforced in the International Covenant on Civil and Political Rights (ICCPR), where Article 14 upholds the entitlement to a fair and public hearing by a lawful, independent, and impartial tribunal.¹² Specifically, Article 14(3)(d) outlines critical procedural protections for those facing criminal accusations, promoting fairness in the legal process.¹³ Additionally, it mandates the provision of legal aid at no cost when deemed necessary by the judicial system, especially for individuals without the means to afford legal support.¹⁴

The Human Rights Committee's interpretative guidance further broadens these rights, advocating their application in civil contexts to ensure procedural equity.¹⁵ Although Article 14(3)(d) primarily addresses criminal charges, it also discusses a state obligation to provide complimentary legal aid in civil matters to maintain fairness.¹⁶ In continuation, international and regional human rights instruments, legally binding and non-binding, establish norms and standards for ensuring children's access to justice and remedies.¹⁷ Critical components of children's access to justice and remedies encompass the rights to pertinent information, effective remedies, fair trials, participation in proceedings, and non-discriminatory treatment.¹⁸ Moreover, specialised bodies like the Committee on the Elimination of Discrimination against Women (CEDAW) oversee the adherence to conventions and furnish recommendations. For instance, CEDAW's Article 2 notably underscores the entitlement to an effective legal remedy.¹⁹ Furthermore, state duties to uphold the rights to non-discrimination and equality before the law underscore the imperative that everyone enjoys all internationally recognised human rights without distinction. Therefore, it reinforces the necessity for access to justice and remedies to be

¹¹ *ibid.*, art 39; *ibid.*, 40.

¹² International Covenant on Civil and Political Rights (ICCPR) (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, art 14.

¹³ Lois Leslie, Connor Bildfell, Gail Davidson, and Catherine Morris, *The Right to Legal Aid: A Guide to International Law Rights to Legal Aid* (Lawyers Rights Watch Canada 2014), 12; ICCPR, art 14(3)(d).

¹⁴ *ibid.*

¹⁵ *ibid.*

¹⁶ *ibid.*

¹⁷ United Nations General Assembly 'Access to Justice for Children. Annual Report of the United Nations High Commissioner for Human Rights' (16 December 2013) A/HRC/25/35, [8].

¹⁸ *ibid.*

¹⁹ Convention on the Elimination of All Forms of Discrimination Against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13 (CEDAW), art 2.

universally accessible and impartial, irrespective of one's age, thereby ensuring that children, too, benefit from unrestricted and effective access to justice.

Regionally, the European Convention on Human Rights (ECHR) enshrines fundamental judicial rights through Article 6, which secures the right to a fair trial, and Article 13, which ensures the right to an effective remedy.²⁰ Expanding the scope to the Americas, the American Convention on Human Rights (ACHR) similarly advocates for judicial fairness and protection through Article 8, which affirms the right to a fair trial, and Article 25, which underscores the right to judicial protection.²¹ In Africa, the African Charter on Human and Peoples' Rights (ACHPR) reinforces these principles through Articles 7 and 26, which respectively guarantee the right to a fair trial and obligate State Parties to ensure the independence of the courts.²² In addition, the African Charter on the Rights and Welfare of the Child (ACRWC) parallels the CRC's comprehensive coverage of children's rights.²³ Notably, with 48 States Parties, it serves as the primary regional standard in Africa. As an illustration, some relevant articles about children's justice include those addressing the child's best interests under Article 4 and Article 17, which perpetuates children's right to be heard in legal and administrative proceedings that affect them.²⁴ Article 1(1) mandates that state parties enact necessary legislative measures to uphold the Charter's provisions.²⁵ While the ACRWC lacks specific details on measures related to children's justice, Articles 4 and 17 have stronger language than the CRC regarding the child's best interests and privacy in juvenile justice.²⁶ Notably, the ACRWC addresses the unique issue of children in prison with their mothers, an aspect absent in the CRC.²⁷ The African Committee of Experts on the Rights and Welfare of the Child (ACERWC), the ACRWC's monitoring body, has played a pivotal role in advancing children's access

²⁰ Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, as amended) (ECHR), art 6; *ibid*, art 13.

²¹ American Convention on Human Rights (adopted 22 November 1969, entered into force 18 July 1978) OAS Treaty Series No. 36 (ACHR), art 8; *ibid*, art 25.

²² African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) OAU Doc CAB/LEG/67/3 rev. 5, 21 ILM 58 (1982) (ACHPR), art 7; *ibid*, 26.

²³ African Charter on the Rights and Welfare of the Child (adopted 11 July 1990, entered into force 29 November 1999) OAU Doc. CAB/LEG/24.9/49 (1990).

²⁴ *ibid*, art 4; *Ibid*, art 17.

²⁵ *ibid*, art 1(1).

²⁶ The African Child Policy Forum, 'Spotlighting the Invisible: Justice for Children in Africa' (2018) 9.

²⁷ *ibid*.

to justice and remedies through various initiatives in recent years. Thus, the Charter lays a foundation for judicial integrity and protecting human rights within the continent.

4. Barriers

Section 4 of the memorandum describes the three significant barriers to access to justice and effective remedies: a widespread lack of awareness, the fear and stigmatisation faced by children and economic obstacles.

4.1 Lack of Awareness and Information as a Barrier

Moving on, the first identified barrier is lack of awareness, which stands as a significant hurdle for children accessing justice and effective remedies. This, in turn, restricts children from enjoying a myriad of procedural rights, such as the right to be heard, fully informed, and to bring a claim to court. Children are often unaware of their legal rights and, in cases where they know, are unaware of where to go or whom to contact when their rights are violated. This lack of knowledge, combined with the complexity of the justice system, poses challenges for children to access justice.²⁸ Furthermore, children's access to justice typically relies on the assistance offered by adults, who may lack awareness of children's rights or the most effective ways to support them. Decisions are frequently made throughout legal proceedings without adequately informing children about them and their potential implications.²⁹ Therefore, promoting legal awareness among children and those who act on their behalf empowers them by providing them with knowledge of, information, and comprehension of all things that would enhance their access to justice and remedies once their rights are violated.

A study by UNICEF of four countries, Albania, Georgia, Kyrgyzstan, and Montenegro, has revealed that a lack of awareness of redress mechanisms hinders children's access to justice.³⁰ The study revealed that children may not always be fully aware of the available avenues for seeking redress.³¹ However, as noted in the study, contrary to the perceptions of justice sector professionals, children generally reported a higher level of awareness regarding these avenues. Professionals across all countries primarily indicated that children lacked awareness of how to access justice

²⁸ *UNGA* (n 17), [14].

²⁹ *ibid* 7.

³⁰ United Nations Children Fund, 'Children's Equitable Access to Justice: Central and Eastern Europe and Central Asia' (Geneva 2015) 66.

³¹ *ibid*.

mechanisms, attributing this to age, home environment, and living circumstances.³² For example, a lawyer specialising in domestic violence issues in Georgia noted that children typically possess only basic knowledge about accessing legal rights, such as applying to courts, with limited understanding beyond that. While children and their families were aware of specific mechanisms, such as courts and ombudspersons, their knowledge of the functions of these mechanisms varied. In Georgia, for instance, children were familiar with the Social Service Agency but often misunderstood its role, believing it primarily provided financial assistance rather than support services.³³ Hence, the lack of awareness among children about their right to legal standing is a significant barrier to accessing justice, as echoed in the concept note for the Committee on the Rights of the Child's 27th General Comment.³⁴ Besides, when children are unaware of their legal rights, including the right to have legal standing, it can severely limit their ability to seek redress for violations of their rights or to participate meaningfully in legal processes that affect them.

At the heart of awareness of justice mechanisms as a means of accessing justice is that children must not only receive information about such mechanisms but also that these mechanisms should be child-friendly for actual access to justice to be achieved. A report by the Council of Europe has highlighted the importance of better access to information and child-friendly proceedings as a means of children's participation in the legal system. Many children expressed dissatisfaction with the level of information provided about legal matters, hindering their understanding.³⁵ In response to the Council of Europe's consultation on child-friendly justice, 77% of children desired more information regarding their rights when navigating the justice system and preferred to receive such information through trusted individuals such as parents.³⁶ Although this research was based on European children, the same could be said of children in other regions, such as Africa and Asia, who might face more significant challenges in implementing their rights. This position was also echoed in the Council of Europe Report, where it was revealed that 'children in Europe, on average, enjoy a high level of implementation of their rights compared to their counterparts elsewhere in the

³² *ibid.*

³³ *ibid.*

³⁴ *Concept note* (n 1).

³⁵ Aoife Daly and others, 'Challenges to Children's Rights Today: What do Children think?' (Council of Europe 2016) 18.

³⁶ *ibid.*

world'.³⁷ Moreover, several studies conducted between 2008 and 2015 found that children who filed complaints and sought legal assistance had little understanding of what was happening during legal proceedings and the role played by their legal representatives.³⁸ This lack of awareness only decreases the likelihood that a child will seek legal assistance when a crime is committed against them.

Additionally, the lack of awareness and how it impedes access to justice was aptly stated in the CEDAW CO, wherein the committee highlighted the several barriers to women's access to justice in Mauritania, some of which are limited awareness of rights, legal remedies and complex procedures.³⁹ As discussed above, the committee reaffirmed the position that some women and girls may not possess a comprehensive understanding of their legal entitlements or the options for recourse when encountering discrimination or infringements. Thus, this lack of awareness might hinder their ability to pursue justice or pursue legal avenues to resolve their concerns. Closely related, the committee addressing the intricate legal procedures stated, "legal processes in Mauritania may be complex and challenging to navigate, especially for women who may not have legal expertise or resources, and which create barriers to accessing justice for women seeking remedies".⁴⁰ Although this relates to women and girls, this position holds even for all children globally. It indicates how a lack of awareness or understanding of their legal entitlements poses a barrier to access to justice.

4.2 The Barrier of Fear and Stigmatisation

Among the significant obstacles impeding children's access to justice and remedies today are fear and stigmatisation. As defined in law, fear is an emotional state characterised by an anticipation of harm or threat, which may lead individuals to avoid specific actions or situations.⁴¹ This emotion plays a pivotal role in children's access to justice and remedies as it can often prevent them from speaking out about concerns, abuses and violations committed against them. Furthermore, social phenomena like

³⁷ *ibid*, 5.

³⁸ United Nations Children's Fund (UNICEF), 'Breaking down Barriers' (UNICEF) <<https://www.unicef.org/eca/media/14531/file>> accessed 10 March 2024, 15.

³⁹ United Nations Committee on the Elimination of Discrimination against Women, 'Concluding observations on the fourth periodic report of Mauritania' (2 March 2023) CEDAW/C/MRT/CO/4.

⁴⁰ *ibid*.

⁴¹ Law Insider, 'Fear definition' <<https://www.lawinsider.com/dictionary/fear> accessed> 10 March 2024.

stigmatisation can also create a significant obstacle for children that constrain their ability to seek redress and protection from the law. Stigmatisation refers to the labelling, stereotyping, or discriminating against individuals or groups based on specific characteristics, behaviours or attributes deemed socially undesirable or deviant. Such adverse experiences like fear and stigmatisation can undermine legal, due process and procedure, especially when it comes to children since this group is more vulnerable than others.⁴² When it comes to children's access to justice and effective remedies, fear and stigmatisation can have significant impacts. These barriers profoundly impact children's legal rights and negatively affect their emotional well-being and social experiences. More specifically, these barriers contribute to the underreporting of child abuse, children's reluctance to seek legal assistance and their inaccessibility to support services, which further undermines the legal procedure.

Globally, many cases of child abuse go unreported.⁴³ Other than this being because they are not aware of their rights, underreporting of abuse and other violations against children is also due to them experiencing feelings of fear and intimidation. In 2016, Liefwaard, Rap and Bolscher found that feelings of intimidation can hinder children's legal participation.⁴⁴ There are also reports of children fearing that filing legal complaints may lead to their harassment, shame, abandonment, or reprisals against them or their families. These fears are justified as there have been numerous cases of children having traumatic experiences with the justice system. For instance, children who fall victim to violent crimes have stated that the legal process of having to re-tell and recount the incidents re-traumatized them.⁴⁵ Children have also expressed concerns about being blamed and disbelieved by parents, caregivers, and authorities when reporting a crime. In the cases they do seek representation, children have reported having negative experiences with the law.⁴⁶ Their lack of trust and confidence

⁴² United Nations Children's Fund (UNICEF), 'Breaking down Barriers' (UNICEF) <<https://www.unicef.org/eca/media/14531/file>> accessed 10 March 2024, 26.

⁴³ Centers for Disease Control and Prevention (CDC), 'Fast Facts: Preventing Child Abuse & Neglect' (CDC April 2022) <<https://www.cdc.gov/violenceprevention/childabuseandneglect/fastfact.htm>> accessed 11 March 2024.

⁴⁴ Center for Youth and Criminal Justice (CYCJ) 'Children's views and experiences of their participation in justice' (CYCJ June 2019), 9 <[report by center of youth and criminal justice.pdf](#)> accessed on 8 March 2024.

⁴⁵ Beckett, H., Warrington, C. (2015) 'Making justice work: experiences of criminal justice for children and young people affected by sexual exploitation as victims and witnesses'. University of Bedfordshire.

⁴⁶ CYCJ (n 39), 11.

that their complaints will be taken seriously further reinforces the existing barriers within the legal process. This was exceptionally detailed in CEDAW's CO of Palestinian children distrusting the Israeli police because of their unlawful practice of torturing the Palestinian children they detained.⁴⁷ Further, the police play a critical role in the legal system as they are the first line of defence in enforcing the law and ensuring public safety. However, their actions can also contribute to intimidating children from reporting crimes. Besides, this is further explained by Beckett and Warrington, who found that children can experience a lack of sensitivity and respect from authorities, mainly police. Their research specifically stated that "negative attitudes and [police] questioning styles which left young people feeling judged and neither respected nor believed".⁴⁸ These examples further emphasise the need to enhance mechanisms to help children overcome fear and stigma within the justice system.

In the cases they do seek representation, children have reported having negative experiences with the law.⁴⁹ Feelings of fear and stigma can also deter children from seeking legal assistance. Such reluctance can harm a child who is at risk of continued victimisation. Many adults around the world, including children, fear the stigma associated with the justice system.⁵⁰ Unfortunately, these feelings only worsen inefficiencies in legal systems and contribute to perpetrator impunity. To address this issue, the United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime emphasise the importance of child sensitivity in the legal system.⁵¹ To address this issue, the United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime emphasise the importance of child sensitivity in the legal system.⁵² This approach is defined as one that upholds the child's rights to protection and considers their individual needs and views.⁵³ Child sensitivity is also stated in Article 12 of the Convention on the Rights of the Child, which requires States

⁴⁷ United Nations High Commissioner for Human Rights, 'Report of the Special Rapporteur on violence against women, its causes and consequences on her mission to Israel' (9 January 2020) [A/HRC/35/30/ADD.1](#), [6].

⁴⁸ *Beckett and Warrington* (n 44).

⁴⁹ *CYCJ* (n 39) 11.

⁵⁰ *UNICEF* (n 37) 15.

⁵¹ United Nations Economic and Social Council, 'Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime', ECOSOC Res 2005/20 (22 July 2005).

⁵² United Nations Economic and Social Council, 'Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime', ECOSOC Res 2005/20 (22 July 2005).

⁵³ *ibid.*

to ensure a safe, child-sensitive environment where a child can feel secure and respected.⁵⁴ However, this is not always the case, so children are reluctant to seek legal assistance when they experience a crime. The underreporting of child cases also contributes to the rise of crime against children, as security and justice authorities may underestimate the prevalence of such crimes when children do not accurately report them.⁵⁵

When children allow fear and stigma to deter them from seeking legal assistance and representation, they also deprive themselves of the opportunity to be protected by the law and access support services. While many children grapple with these adverse feelings, certain groups of children, particularly children with disabilities, are subjected to multiple forms of stigmatisation that exacerbate their vulnerability.⁵⁶ It is for this reason that Article 7 of the Convention on the Rights of Persons with Disabilities states that children with disabilities must receive support that is disability and age-appropriate to support their participation in all aspects of legal proceedings affecting them.⁵⁷ Without this, children will be discouraged from filing complaints and participating in the legal process.

4.3 Economic Barriers

Economic challenges significantly restrict access to justice and solutions due to the financial burdens associated with legal processes, the scarcity of complimentary or low-cost legal support, and other related expenses, hindering children from pursuing legal action. An Organisation for Economic Co-operation and Development (OECD) Expert Roundtable report in 2015 underscores the prominence of economic barriers, revealing an increasing body of evidence suggesting that the general public finds the costs of navigating legal issues through formal court processes prohibitive in many nations.⁵⁸ Furthermore, the report details that between 42% and 90% of individuals who refrain from seeking legal aid do so, citing the costs involved, whether perceived

⁵⁴ *UNGA* (n 17).

⁵⁵ Chandran, Suhas, Smriti Bhargava, and M. Kishor, 'Under-reporting of child sexual abuse- The barriers guarding the silence' (2018) *Telangana Journal of Psychiatry*.

⁵⁶ *UNGA* (n 17), [15-16].

⁵⁷ United Nations, Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) A/RES/61/106, art 7.

⁵⁸ Organisation for Economic Co-operation and Development, 'Equal Access to Justice: OECD Expert Roundtable Background Notes' (OECD Headquarters, Paris, 7 October 2015), 5-6.

or actual cost.⁵⁹ Moreover, the expense of securing legal representation is frequently identified as a crucial factor driving the surge in individuals attending court unrepresented, known as self-represented litigants (SRLs). This trend is noted across various OECD countries, with occurrences as high as 50%, depending on the court, area of law, and jurisdiction.⁶⁰ The economic strain of legal fees can result in less advantageous outcomes for unrepresented individuals than those who receive legal support, attributable to disparities in legal acumen and proficiency.⁶¹ This underscores a significant obstacle for children regarding access to justice and remedies. Although adults facing court without legal advice may endure negative consequences, the capability of children to present themselves in court without legal representation is contingent upon the jurisdiction and the specific nature of the legal proceedings. Typically, legal systems acknowledge children's distinct needs and vulnerabilities, necessitating representation by legal guardians, attorneys, or specialised advocates to safeguard their interests appropriately. In rare instances, older minors who demonstrate sufficient maturity may be permitted to self-represent in specific legal matters.⁶² However, this is infrequent and generally advised against due to the intricacies of legal proceedings and the risk of outcomes that may not serve the child's best interests.⁶³

Furthermore, the decline in public legal aid financing and increasing eligibility for legal aid due to rising poverty and inequality post-financial crisis exacerbates access to justice and remedies challenges, especially in EU countries.⁶⁴ Regional disparities further complicate access based on financial eligibility, legal matter types, and available legal assistance.⁶⁵ Besides, reduced legal aid resources and eligibility disparities hinder their ability to obtain necessary legal representation and support. Thus, the procedural right to legal aid, as mentioned earlier, is enshrined in Article 6(3)(c) of the ECHR and in Article 14(3)(d) of the ICCPR, where the limitations to access legal aid not only prevents access to justice and remedy for children but

⁵⁹ *ibid.*

⁶⁰ *ibid.*

⁶¹ *ibid.*

⁶² Claire A Williams and Russell Perkins, 'Consent Issues for Children: A Law Unto Themselves?' (2011) 11(3) Continuing Education in Anaesthesia, Critical Care & Pain 99, 100.

⁶³ *ibid.*

⁶⁴ *OECD* (n 49), 6.

⁶⁵ *ibid.*

prevents the fulfilment of the right to accessing free, quality legal aid.⁶⁶ In addition, the inability of children to access free quality legal aid constitutes a significant barrier to justice, undermining the foundational principle of equitable access to legal mechanisms. Furthermore, the denial of quality legal assistance can perpetuate cycles of disadvantage and marginalisation, preventing the most vulnerable from challenging injustices or advocating for their rights.

Additionally, high court fees and additional expenses in domestic violence cases notably hinder access, as displayed in CEDAW's CO on the combined fifth to ninth periodic reports of Saint Kitts and Nevis.⁶⁷ Such financial burdens force complainants, often without means, towards lower courts offering limited relief but greater access to legal aid. Moreover, the scarcity of accessible and affordable legal assistance, as underscored in regions like Mauritania displayed in the CEDAW's CO of the state, further impedes women's and girl's ability to secure legal representation, complicating their navigation through the legal system.⁶⁸ This systemic issue extends, impacting children's access to justice and remedies as they often rely on adult guardianship for legal advocacy, further entrenching the cycle of accessibility challenges within the legal framework. Elsewhere, a report from the Office of the United Nations High Commissioner for Human Rights containing a summary of 27 stakeholders' submissions to the universal periodic review for Greece specifically stated that "the lack of access to free legal assistance for children, which had created a barrier to effective access to justice".⁶⁹ Furthermore, a Child Rights International Network report notes that access to justice and remedies is a fundamental human right that financial constraints should not diminish.⁷⁰ Nevertheless, the reality is stark: legal assistance, crucial for realising this right, remains out of reach for many due to the absence of state-funded legal aid systems in 42 countries globally.⁷¹ Therefore, this gap in legal infrastructure leaves approximately 220 million children without free legal support for

⁶⁶ *ECHR* (n 12), art 6(3)(c); *ICCPR* (n 20), art 14(3)(d).

⁶⁷ United Nations Committee on the Elimination of Discrimination against Women, 'Concluding observations on the combined fifth to ninth periodic reports of Saint Kitts and Nevis' (4 January 2023) CEDAW/C/KNA/CO/5-9/Rev.1.

⁶⁸ *ibid.*

⁶⁹ Office of the United Nations High Commissioner for Human Rights, 'Summary of Stakeholders' submissions on Greece' (12 August 2021) A/HRC/WG.6/39/GRC/3, [32].

⁷⁰ Child Rights International Network, 'Rights, Remedies & Representation: Global Report on Access to Justice for Children' (January 2016).

⁷¹ *ibid.*, 10.

legal actions.⁷² While some countries offer legal aid, it is frequently restricted to specific cases, with only a minority of 28 countries providing comprehensive legal assistance across all case types.⁷³ Further, this disparity underscores the urgent need for global reforms to ensure equitable access to legal services, ensuring that the pursuit of justice is not a privilege limited to those who can afford it.

5. Recommendations

The subsequent section explores recommendations emerging from both international and regional mechanisms. It is further enriched by a comprehensive analysis distilled from various reports and academic scholarship.

5.1 Lack of Awareness and Information

In addressing the significant challenge of inadequate awareness among women and girls regarding their rights and available legal remedies, the Committee on the Elimination of Discrimination against Women (CEDAW) has formulated targeted recommendations to enhance the visibility and accessibility of critical information related to the Convention, its Optional Protocol, and the Committee's general recommendations. A predominant focus is placed on overcoming the digital divide by strengthening internet connectivity, which is vital for ensuring the e-litigation platform is accessible to a broader audience, thereby facilitating greater awareness and understanding of the legal remedies available.⁷⁴ This approach targets geographic inclusivity and aims to reach women and, for this memorandum, most importantly, girls. Thus, one can infer this equally to all children from diverse social backgrounds, addressing the information gap across different demographics.

Moreover, CEDAW proposes establishing a comprehensive mechanism for implementing its CO, involving non-governmental organisations in promoting girls' rights. And so, this mechanism is envisioned to enhance engagement, coordination, consultation, and information management, thereby fostering a collaborative approach to raising awareness about girls' rights and, by extension, children. Besides, through increasing awareness by combatting the digital divide, children from all areas of the

⁷² *ibid.*

⁷³ *ibid.*

⁷⁴ United Nations Committee on the Elimination of Discrimination against Women, 'Concluding observations on the combined eighth and ninth periodic reports of Bhutan' (25 November 2016) CEDAW/C/BTN/CO/8-9.

globe have a more excellent opportunity to understand their rights and extend their awareness and not solely children whose place of birth does not possess this unfair disadvantage. In addition, through this process of catering sources for children online and providing further internet access, there is an opportunity to adhere to the resources containing information on their rights in all languages and written in a more child-friendly manner. Echoing this point in guidelines produced by the Committee of Ministers of the CoE on child-friendly justice under the section titled “Organisation of the proceedings, child-friendly environment and child-friendly language” perpetuates that language be used appropriately, catering to the child’s age and level of understanding.⁷⁵

Moreover, this is enhanced by Modarres’s article, which displays that the digital divide issue doesn’t just go away by making cell phones, smartphones, and mobile computing more widely available.⁷⁶ Additionally, there is a clear difference between using a phone for communication and using it to access digital content.⁷⁷ Importantly, owning a smartphone does not equate to having a networked computer, such as a laptop or desktop, which enables users to develop and manage business or community websites.⁷⁸ It still necessitates using more advanced hardware and software. Therefore, even if states attempt to combat the digital divide, there are still regions where providing information regarding children’s right to access justice and remedies through the creation of websites and communities online is a more unfeasible venture.⁷⁹ Although this recommendation could work and should be implemented, it is imperative to note that this might not be an effective solution for some children in certain jurisdictions where internet and technology advancements are still new. Further to this, it might also not be effective for certain groups of children like the vulnerable or disabled. As such, these factors should be considered when implementing this so that it is done in such a manner that works for all children irrespective of their age, location, status or physical condition, as children are not exposed to equal experiences or opportunities.

⁷⁵ Council of Europe Committee of Ministers, ‘Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice’ (17 November 2010) Council of Europe.

⁷⁶ Ali Modarres, ‘Beyond the Digital Divide’ (2011) 100 Nat’l Civic Rev 4, 6.

⁷⁷ *ibid.*

⁷⁸ *ibid.*

⁷⁹ *ibid.*

Furthermore, systematic capacity-building for legal and law enforcement officials on the Convention is advocated to ensure that those in positions of authority are adequately equipped to support women and girls in seeking justice, as shown in the report on Turkey at 16(d).⁸⁰ By focusing on these strategic areas, CEDAW aims to dismantle barriers related to lack of awareness and information accessibility, empowering women and girls with the knowledge and resources necessary to advocate for their rights and navigate the legal system effectively. Furthermore, when inferring this to tackle the lack of awareness for all children and not solely girls, this commitment to advancing their rights and enhancing their access to justice and remedies through informed participation and engagement can be mirrored, as shown by CEDAW to lessen the barrier of lack of awareness by ensuring those individuals in positions of authority are well informed to provide children about their existing right to access to justice and remedy. For emphasis, and as provided by the Human Rights Committee, those in authority include community, religious, and traditional leaders, mediators, facilitators, justice providers and parents.⁸¹ States should reinforce this multidisciplinary approach of training initiatives, capacity building, and sensitising these groups of people who interact with children at a national level, including children themselves, as children are often not regarded as human rights bearers.⁸²

Additionally, as explained by the scholar Liefwaard, a solution to access justice for children entails being exposed to child-friendly information, child participation in proceedings, and child-friendly legal remedies. Information, participation, and remedies should be provided according to a child's age, maturity, and specific circumstances.⁸³ Similarly, this has been echoed as a solution in the Universal Periodic Review, UK 4th cycle, where it was stated that the UK government and devolved administrations ought to guarantee that every child whose rights are violated or who interacts with public services can avail of child-friendly grievance procedures, inclusive of independent advocacy.⁸⁴ It is imperative that children actively participate

⁸⁰ *ibid.*

⁸¹ *UNGA* (n17) [57].

⁸² *ibid.*

⁸³ Ton Liefwaard, 'Access to Justice for Children: Towards a Specific Research and Implementation Agenda', (2019) 27 *International Journal of Children's Rights* 195, 216.

⁸⁴ Children's Rights Alliance for England, 'Universal Periodic Review: UK 4th Cycle Children's Participation and non discrimination' <https://crae.org.uk/sites/default/files/uploads/GeneralPrinciples_FINAL.pdf> accessed on 7 March 2024.

in formulating and establishing a comprehensive complaints framework tailored to cater to their requirements.⁸⁵ This solution can be applied to children globally.

Lastly, states should reassess their legislative frameworks, policies, and protocols to enhance adherence to international norms and standards, notably the Convention on the Rights of the Child and its Optional Protocols.⁸⁶ The domestic legislation should include legal safeguards to uphold the child's best interests and human rights.⁸⁷ Moreover, states should accede to the Third Optional Protocol to the Convention on the Rights of the Child and promote its practical application.⁸⁸ What's more, this will enable effective enforcement of children's rights as states and domestic avenues play a significant role as actors in implementing and enforcing human rights.

5.2 Fear and Stigmatisation

In the pursuit of effectively tackling the widespread fear and stigma that obstruct children's access to justice and remedies, a comprehensive strategy is needed that encompasses both policy and societal interventions. As a result, children are less likely to report crimes and violations committed against them. Governments need to be more proactive in providing legal support to children. This is further detailed in the CO on the fifth periodic report of Cyprus, which emphasises the need for governments to strengthen robust reporting mechanisms that are specifically designed to safeguard the anonymity and well-being of child victims.⁸⁹ These mechanisms are important because they ensure that reporting channels are easily accessible and that children will feel more secure and supported when revealing instances of abuse or exploitation.

Moreover, extensive public education campaigns are crucial to challenging deeply entrenched societal attitudes and beliefs that perpetuate the marginalisation of child victims.⁹⁰ This is emphasised in the CO on the fifth periodic report of Egypt as an issue that necessitates prompt government action. Unfortunately, harmful societal norms

⁸⁵ *ibid.*

⁸⁶ *UNGA* (n 17), [54].

⁸⁷ *ibid.*

⁸⁸ *ibid* [61].

⁸⁹ Human Rights Committee, 'Concluding Observations on the Fifth Periodic Report of Cyprus' (11 September 2023) *CCPR/C/CYP/CO/5*.

⁹⁰ United Nations Convention on Civil and Political Rights, 'Concluding observations on the fifth periodic reports of Egypt' (14 April 2023) *CCPR/C/EGY/CO/5 (CCPR 2023)* [5].

and beliefs that lead to the exclusion of child victims can significantly contribute to the underreporting of crimes against children. Therefore, the need for public education campaigns is urgent and would not only target the general public and key stakeholders, such as journalists and religious leaders, but also members of formal and informal justice systems.⁹¹ These campaigns will raise public awareness and increase society's understanding of victimisation, which will help dismantle harmful stereotyping to create a society characterised by empathy for child victims. With this, children will be encouraged to seek legal assistance without the fear of judgment or reprisal.

In addition, it is essential to introduce specialised training programmes to equip law enforcement officials, judges, prosecutors, and other relevant professionals with the necessary competencies to address cases involving child victims sensitively and efficiently.⁹² Without such precautions, children may be re-traumatized by having to retell incidents of abuse or exploitation.⁹³ As a result, these trainings will encourage stakeholders to utilise child-friendly interviewing techniques and trauma-informed approaches to ensure that legal proceedings do not exacerbate children's emotional distress. As part of these child-friendly initiatives, governments must also invest in establishing child-friendly facilities, such as interview rooms designed to cater to the unique needs of young victims.⁹⁴ Further discussed in the CO concerning the initial report of the Central African Republic, it is essential to allocate sufficient funds to enhance the technological capabilities of law enforcement agencies in their efforts to combat crimes against children, particularly in the realm of online sexual exploitation.⁹⁵

To conclude, implementing these comprehensive recommendations will allow governments to remove the obstacles of fear and stigma that hinder children's access to justice and remedies. Such proactive approaches will ensure that children receive the necessary legal support and resources to seek justice and reaffirm the government's commitment to creating a society where all individuals are protected under the law.

⁹¹ *ibid.*

⁹² United Nations Human Rights Council, 'A practical approach to addressing the sale and sexual exploitation of children' (10 January 2022) A/HRC/49/51/Add.1 [17].

⁹³ Beckett Helen and Camille Warrington, 'Making justice work: experiences of criminal justice for children and young people affected by sexual exploitation as victims and witnesses' (2015) University of Bedfordshire.

⁹⁴ *UNHRC* (n 84).

⁹⁵ *ibid.*

5.3 Economic

Finally, recommendations derived from international instruments, particularly CEDAW, have aided the group in forming this memorandum to effectively alleviate economic barriers impeding children's access to justice and remedies. Firstly, enhancing legal aid provision, as outlined in the CO on the combined eighth and ninth periodic reports of Bhutan, underscores the necessity of amplifying legal support services.⁹⁶ This may incorporate establishing a national bureau dedicated to legal aid provision and allocating substantial financial resources to NGOs and educational law centres.⁹⁷ Additionally, such measures would ensure comprehensive legal assistance is accessible to all children, particularly those facing disabilities or socio-economic disadvantages and thus face intersectional discrimination.⁹⁸ Secondly, the initiative to strengthen access to affordable or accessible legal assistance, highlighted in the CO on the fourth periodic report of Mauritania, resonates profoundly within the context of children's rights.⁹⁹ Hence, states can safeguard children's ability to navigate the justice system effectively by adequately funding legal aid schemes and ensuring that no child is denied legal representation due to economic constraints.¹⁰⁰ Lastly, addressing financial and non-financial barriers, as recommended in the CO on the combined fourth and fifth periodic reports of the United Arab Emirates, envisions a comprehensive approach to removing economic barriers focusing on women and girls but can be utilised to provide solutions to the hindrance of children's access to justice and effective remedies, such as reforming legal and procedural frameworks and issuing additional regulations implementing policies focused on providing targeted remedies and support for child victims of abuse and violence to limit judicial discretion.¹⁰¹

A similar regional strategy to overcome economic obstacles focuses on providing accessible, high-quality legal assistance. This approach is continually detailed in the document titled "Guidelines by the Committee of Ministers of the Council of Europe on

⁹⁶ *Bhutan's CO* (n 68).

⁹⁷ *ibid*, [14].

⁹⁸ *ibid*.

⁹⁹ *CO on Mauritania* (n 37).

¹⁰⁰ *ibid*, [13].

¹⁰¹ United Nations Committee on the Elimination of Discrimination against Women, 'Concluding observations on the fourth periodic report of the United Arab Emirates' (12 July 2022) CEDAW/C/ARE/CO/4, [17].

Ensuring Child-Friendly Justice," whereby it is stated under the section dedicated to "Legal counsel and representation" that "children should have access to free legal aid, under the same or more lenient conditions as adults".¹⁰² Furthermore, elsewhere regionally, the ECHR's guide on Article 6 of the ECHR, the right to a fair trial, that legal aid covered under Article 3 (c) of the Convention be subject to two conditions as per the case of *Quaranta v. Switzerland* where the client shows lack of sufficient means and where the interests of justice require legal aid to be given.¹⁰³ For children facing economic barriers, one would hope these conditions can be assumed to be met without difficulty.

Therefore, efforts internationally and regionally to dismantle the barrier of access to justice and effective remedies faced by those more economically disadvantaged can be seen in an article by Rudrakshala, which depicts attempts to remove the multifaceted barrier of economic obstacles to access justice and effective remedies in various countries globally which have adopted legislative and policy measures to ensure equitable access to legal and protective services for all children, particularly those from economically disadvantaged backgrounds.¹⁰⁴ Firstly, South Africa's constitutional guarantee of the right to legal assistance in civil matters at the state's expense directly confronts these economic barriers, ensuring that no child is denied access to justice due to financial constraints.¹⁰⁵ Similarly, Greece's initiative under the Greek General Secretariat for Youth, which focuses on providing free legal assistance to socially vulnerable groups of children, exemplifies a targeted approach to alleviate the impact of economic disparities on access to legal support.¹⁰⁶ Thirdly, in Ukraine, providing free legal aid to children without proper parental care directly addresses the financial barriers that might otherwise preclude these children from receiving necessary legal assistance.¹⁰⁷ Therefore, this measure ensures that a family's absence of financial support does not hinder a child's access to legal services.¹⁰⁸

¹⁰² Council of Europe Committee of Ministers, 'Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice' (17 November 2010) Council of Europe, 27.

¹⁰³ European Court of Human Rights Registry, 'Guide on Article 6 of the Convention – Right to a Fair Trial (Criminal Limb)' (31 August 2022) Council of Europe; *Quaranta v. Switzerland* Application no 12744/87 (ECHR, 24 May 1991).

¹⁰⁴ Manasa Rudrakshala, 'Children's Access to Justice' (2021) 3 Indian JL & Legal Rsch 1, 9-10.

¹⁰⁵ *ibid.*

¹⁰⁶ *ibid.*

¹⁰⁷ *ibid.*

¹⁰⁸ *ibid.*

Additionally, Uzbekistan's implementation of the UN Rules for Protection of Juveniles Deprived of their Liberty, including provisions for accessible legal assistance and mechanisms for reporting rights infringements, similarly aims to mitigate economic barriers, ensuring that detained children's rights are protected irrespective of their socio-economic status.¹⁰⁹ Additionally, Germany's legal framework, which mandates the provision of a legal advisor for children in civil cases, indirectly addresses economic barriers by affording children the means to navigate the legal system effectively without financial impediments.¹¹⁰ Furthermore, Australia's establishment of Family Relationship Centers and other family dispute resolution services offering child-inclusive practices represents another indirect method of combating economic barriers.¹¹¹ Moreover, this approach ensures essential support services to children involved in family disputes, ensuring their voices are heard and considered without imposing additional financial burdens on their families.¹¹²

Through direct financial support and the indirect provision of services, these measures ensure that children's rights to legal assistance, protection, and participation are upheld, regardless of their economic circumstances. Further, Rudrakshala calls for all countries around the globe to adopt legislation or integrate clauses that ensure the provision of complimentary legal assistance and representation for children.¹¹³ Extending the point, Rudrakshala conveys how this could be facilitated by establishing support centres, providing no-cost legal advisors for court cases, and covering legal fees and transportation expenses when necessary.¹¹⁴ Nevertheless, as the CRIN states in their report, "the right to legal aid is often far from a guarantee that it will be available", and although many countries may strive to implement "strong and clear rules automatically exempting a child from paying all costs related to judicial proceedings, including legal fees" like in Belgium for more economically disadvantaged countries, this is more of a hope than a reality.¹¹⁵

6. Gaps

¹⁰⁹ *ibid.*

¹¹⁰ *ibid.*

¹¹¹ *ibid.*

¹¹² *ibid.*

¹¹³ *ibid.*, 12.

¹¹⁴ *ibid.*

¹¹⁵ *Child Rights International Network* (n 59), 29-30.

Section 6 will detail the gaps in our research on access to justice and effective remedies for children in international and regional institutions and mechanisms.

6.1 Parental/non-parental consent and unaccompanied minors

Little information can be sourced that provides a clear position regarding unaccompanied minors and, conversely, parental consent of minors. Continually, when researching this area, the European region has the most significant stance on this subject. At the European Union (EU) level, since 2011, legislative mandates have emphasised the protection of minors, necessitating the appointment of guardians or representatives as part of a comprehensive strategy to combat human trafficking, as well as to address the sexual abuse and exploitation of children, including instances of child pornography.¹¹⁶ This is particularly pertinent for non-EU national children, for whom the Reception Conditions Directive and the Qualification Directive, steadfast since 2013, require the designation of a 'representative' to support unaccompanied minors.¹¹⁷ In a concerted effort to augment the welfare and supervision of unaccompanied minors within its jurisdiction, the European Commission, in July 2016, introduced a raft of legislative reforms aimed at migration and asylum.¹¹⁸ These reforms sought to standardise and bolster the guardianship system for unaccompanied minors throughout the EU.¹¹⁹ A 'guardian' is a person or organisation assigned to support and represent an unaccompanied child.¹²⁰ This role is established to ensure the child's best interests and overall well-being are prioritised in applicable procedures, including exercising legal rights on the child's behalf when necessary.¹²¹ Despite these proposals not being formally ratified by the EU, the European Commission proceeded to unveil further initiatives under the 2020 Pact on Migration and Asylum, targeted at refining the migration and asylum management framework, with a continued focus on the protection of unaccompanied minors.¹²² Similarly, the European position on parental consent is presented in the guidelines produced by the Committee of Ministers of the Council of Europe on child-friendly justice, which states:

¹¹⁶ European Union Agency for Fundamental Rights, 'Guardianship Systems for Unaccompanied Children in the European Union: Developments since 2014' (2022), 19-20.

¹¹⁷ *ibid.*

¹¹⁸ *ibid.*

¹¹⁹ *ibid.*

¹²⁰ *ibid.*

¹²¹ *ibid.*

¹²² *ibid.*

“In case of a possible conflict of interests between children and their parents, the requirement of parental consent should be avoided”.¹²³ In addition, they add, “a system needs to be developed whereby the undue refusal of a parent cannot keep a child from having recourse to justice”.¹²⁴

Even so, this lack of widespread acknowledgement of this issue in international human rights law has led to the assumption this should amount to a gap which requires further assessment. Further, there must be a discussion regarding balancing the child's best interests and the parent's rights to avoid, as Rogerson contends, an “unfair severance of the parent-child relationship”.¹²⁵

6.2 Children in Armed Conflict and Humanitarian Crises

Additionally, one group of children lacking representation in the pursuit of further access to justice and remedies is children living in areas of conflict and humanitarian crises. Around the world, 65.5 million people have been forced to leave their homes due to issues like poor governance, conflict, and human rights abuses.¹²⁶ It also mentions that at least 10 million individuals are stateless since they do not have a nationality.¹²⁷ Approximately 50% of refugees, displaced, and stateless populations are females.¹²⁸ Furthermore, over 50% of the 22.5 million refugees globally are children.¹²⁹ In light of this, the Human Rights Committee has elaborated on the concept of access to justice to mean the legal empowerment of every child.¹³⁰ This facilitates their ability to obtain pertinent information and effective remedies to assert their rights. Such support includes access to legal and other essential services, education on child rights, counselling or advice, and guidance from informed adults.¹³¹ However, for children living in conflict-affected areas or humanitarian crises, accessing justice and remedies can be a daunting task due to the chaos in the region. Disruptions to legal systems, displacement, and insecurity are significant barriers that these children face

¹²³ Committee of Ministers of the CoE on child-friendly justice (n 89), 76 [98].

¹²⁴ *ibid.*

¹²⁵ Sarah Rogerson, 'Lack of Detained Parents' Access to the Family Justice System and the Unjust Severance of the Parent-Child Relationship' (2013) 47(2) Family Law Quarterly 141.

¹²⁶ International Development Law Organization, 'Refugees and Migrants' (*IDLO*) <[Refugees and Migrants | IDLO - International Development Law Organization](#)> accessed March 15.

¹²⁷ *ibid.*

¹²⁸ *ibid.*

¹²⁹ *ibid.*

¹³⁰ *UNGA* (n 17), [5]

¹³¹ *ibid.*

in accessing justice. Therefore, this issue must be tackled because children in situations such as armed conflict and displaced children experience a more significant violation of their rights beyond what is imaginable.

For instance, the humanitarian crisis in Gaza is a real issue that affects children, and there is a scarcity of what is being discussed regarding how these children in armed conflict situations can have access to justice. A recent article on Israel's war on Gaza has revealed that the ongoing conflict between Israel and Gaza has escalated, resulting in the deaths of more than 25,000 individuals, including over half who were children, in less than four months. Additionally, nearly 60,000 people, predominantly civilians and including many children, have been injured.¹³² Therefore, the statistics show it is crucial to emphasise the importance of access to justice and effective remedies for children in conflict-affected areas like Gaza. Furthermore, lack of access to essential services restricts children's rights and well-being, underscoring the need for mechanisms that enable children to seek redress for violations and receive the necessary support. In closing, addressing these challenges and ensuring that children's rights are protected and upheld, even in conflict zones, is essential.

6.3 Feedback mechanisms

The provided concept notes for GC27, focusing on children's right to access justice and effective remedies, definitively underscore the Committee's intention to include children's perspectives and experiences in formulating this new general comment.¹³³ However, it also brings to light another significant shortfall: the apparent absence of mechanisms for feedback from children who have navigated the justice system and remedies following. Liefwaard, in his article, discusses that in all circumstances, it's essential that children's contributions are taken seriously, meaning that the relevant authorities must communicate and offer feedback to the child on how their input was considered and the impact it had on the decision-making process.¹³⁴ Therefore, if the right for a child to be heard and participate is covered in proceedings, they must equally have their rights realised following access to justice and effective remedies to aid the continual adjustment and development of this area of law. Specifically, one

¹³² Karen Wells, Susana Cortés-Morales, James Esson and others, 'Israel's war on Gaza and the violation of children's rights' *Children's Geographies* (2024): 1-4.

¹³³ *Concept note* (n 1).

¹³⁴ Ton Liefwaard, 'Access to Justice for Children: Towards a Specific Research and Implementation Agenda' (2019) 27 *Int'l J Child Rts* 195, 219.

must note this is of great importance for vulnerable children in society as guidance on how children in rural communities have effectively realised their rights to access justice and remedies is salient. Referring to the notable article by Rudrakshala in their recommendations for bettering access to justice for children they address, the primary challenge is the tendency to dismiss children's views due to their age, assuming they lack understanding or are misinterpreting the situation.¹³⁵ It's crucial to train justice system officials to evaluate cases with attention to the facts, the child's circumstances, and maturity, placing significant value on their opinions and experiences.¹³⁶ To further this point, an earlier report mentioned regarding rights issues for children in Europe revealed that after consulting with children about their experience with the justice system, it was established that 3700 children from over 25 European countries who took part in the research desired support from family and friends, as they had little faith in those in authority, and wanted to participate more in the justice system.¹³⁷ This approach can enhance children's trust in justice by making them feel acknowledged and valued. While Rudrakshala focuses on children currently navigating the justice system, insights can also be drawn from those who have previously experienced it.¹³⁸ In continuation, this not only alleviates the apprehensions of other children but also enhances awareness and delineates both positive and negative aspects, thereby contributing to the system's improvement.

7. Conclusions

To conclude, this memorandum has detailed the challenges and barriers impeding children's access to justice and effective remedies, offering comprehensive insights and robust recommendations to address these issues. From the lack of awareness and information to the daunting spectres of fear, stigmatisation, and economic constraints, the obstacles facing children seeking justice are both diverse and profound. Nevertheless, within these challenges lie opportunities for transformative change, as proposed by the innovative recommendations and strategic interventions proposed. The memorandum seeks to portray the critical importance of enhancing legal frameworks, promoting awareness, and ensuring that justice systems are accessible and responsive to the needs of all children. Moreover, the focus on

¹³⁵ *Rudrakshala* (n 91), 12.

¹³⁶ *ibid.*

¹³⁷ *Aoife Daly and others* (n 34).

¹³⁸ *ibid.*

vulnerable and often overlooked groups, such as unaccompanied minors and children in armed conflict zones, further enriches this discussion, underscoring the urgency of a global commitment to protect the most at-risk populations. Additionally, the inclusion of feedback mechanisms and the emphasis on child-friendly approaches reinforce the centrality of children's voices and ensure that the pursuit of justice is grounded in respect, empathy, and inclusivity. Therefore, this memorandum serves as a clarion call for action to governments, legal practitioners, NGOs, and all stakeholders invested in the rights and welfare of children. By embracing the recommendations outlined and committing to ongoing dialogue, collaboration, and reform, every child's right to access justice and effective remedies is not just a theoretical promise but a lived reality.

8. Bullet Pointed Summary of Recommendations

The following section of the memorandum briefly highlights the key recommendations in bullet points for each barrier.

8.1 Lack of Awareness and Information

- Promote legal awareness among children and those who act on their behalf to enhance their access to justice.
- Increase the distribution of information on legal mechanisms and rights through trusted individuals and child-friendly methods.
- Engage and coordinate with non-governmental organisations to boost awareness efforts.
- Address the digital divide to extend resource accessibility for all children across different regions.

8.2 Fear and Stigmatisation

- Develop reporting mechanisms that ensure anonymity and support for child victims.
- Conduct public education campaigns to modify societal attitudes and decrease stigmatisation of child victims.
- Provide specialised training for law enforcement and judicial officials to handle cases involving children with sensitivity.

- Establish child-sensitive and trauma-informed practices in the justice system to minimise re-traumatisation of child victims.

8.3 Economic Barriers

- Enhance the provision of legal aid and ensure its accessibility to children, especially those facing socioeconomic challenges.
- Allocate sufficient funding to legal aid schemes to cover all children, preventing economic constraints from denying them access to justice.
- Implement policy measures to reduce court fees and other legal expenses that can deter children and their families from seeking justice.

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