

Fact Sheet on the importance of women's access to justice and family law

What is justice?

- The UN views justice as “an ideal of accountability and fairness in the protection and vindication of rights and the prevention and punishment of wrongs.” As a concept, justice is rooted in all national cultures and traditions, and its administration extends to both formal judicial mechanisms and informal dispute resolution mechanisms.ⁱ

Why focus on access to justice?

- Access to justice is both a basic human right and a means of implementation of other human rights. UNDP therefore defines *access to justice* as “the ability of people to seek and obtain a remedy through formal or informal institutions of justice, in conformity with human rights standards”.ⁱⁱ
- Access to justice is an important driver of change and means of implementation of the Sustainable Development Goals (SDGs). It is anchored on SDG16 which aspires to promote “peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.” Formal and informal justice institutions are critical accountability mechanisms for the promotion and maintenance of the rule of law in all countries.
- Effective governance for sustainable development demands that all such institutions are inclusive and participatory.

Why focus on women's access to justice?

- Women tend to be the poorest segments of their societies and consequently, lack voice and agency. The 2030 agenda for Sustainable Development focusses on those furthest behind and promises to leave no one behind. Women's access justice is a critical part of this endeavor because when justice institutions are gender responsive, they support women to assert and claim their social, economic, cultural, political and civil rights.

Why focus on family law?

- Studies have shown that the area of family law is the most critical for poor women. For example, a recent Legal Needs Survey in Colombia (2017) points to women having a higher involvement in family-related legal issues than men (26% and 15% respectively).ⁱⁱⁱ
- Strengthening women's legal position in family law and inheritance rights and increasing assets through enforcement of property rights are all important and effective poverty reduction strategies for women and their families.
- Family law justice is also important because unequal power relationships tend to be more acute at family level and manifest in differentiations in the extent to which women and men have the right to make choices and possess agency.
- Some legal systems furthermore place women under the constant authority of a man through a guardianship system which passes on from one male relative to another throughout their life cycle (e.g. fathers, sons uncles, husbands, fathers in laws and male successors).

- Women can be denied financial support in fault-based divorce proceedings when the legal notion of fault is stricter for wives than husbands (for example, compared to a wife, more evidence is frequently needed to demonstrate infidelity of a husband).

Why is it important for Resident Coordinators and UN staff to know about family law and what can they do?

- ***Leave no one behind*** is a core pillar of the 2030 Agenda for Sustainable Development and a programming principle of the United Nations (UN) System.^{iv}
- In 2012, the UN system undertook two mapping exercises to broadly assess the UN system’s operational activities in relation to women’s access to justice in conflict and non-conflict settings respectively. The first report on conflict settings examined access to justice programming and funding with a focus on women’s empowerment and gender equality. The second report examined activities that targeted women and or that significantly contributed to gender equality in non-conflict settings. Both reports demonstrate that there is a serious gap in family law investments in comparison to areas such as law reform and violence against women.
- In most UNDAFs, access to justice is generally integrated into good governance, rule of law, or institution-building outcomes, or as a crosscutting issue, serving as a rallying point for UN system engagement. Nevertheless, moving forward, it would be important for UN Country Teams to programme for access to justice more broadly as an important dimension of SDG 16 and within this space programme and budget for all dimensions of women’s access to justice specifically.

End Notes

ⁱ United Nations. [The rule of law and transitional justice in conflict and post conflict societies](#), UN Security Council, S/2004/616 (2004), para 7. See also, Human Rights Committee, [General Comment No. 31](#) (2004) on the nature of the general legal obligation imposed on States parties, and 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 Humanitarian Law](#) (General Assembly resolution 60/147 of 16 December 2005, annex)] and [Report of the Special Rapporteur on the independence of judges and lawyers](#), A/HRC/17/30. 2011.

ⁱⁱ UNDP, [Programming for Justice: Access for All. A Practitioner’s Guide to a Human Rights Based Approach to Access to Justice](#) (Bangkok, 2005), 5

ⁱⁱⁱ Government of Colombia and World Bank. 2017. Legal Needs Survey. Bogota.

^{iv} United Nations Development Group. 2016. [Interim United Nations Development Assistance Framework Guidance](#). Available at: www.undg.org