

# Justice for All

## The report of the Task Force on Justice

April 2019

The report estimates that a quarter of a billion people live in extreme conditions of injustice, deprived of any meaningful legal protections. At any one time, 1.5 billion people have justice problems they cannot solve. 4.5 billion people are excluded from the social, economic and political opportunities the law provides. In total, more than 5 billion people are deprived of justice. This is called the global justice gap.

## Contents

Chapter 1 – The Justice Gap.....	1
People who live in the most extreme conditions of injustice .....	1
People who try and fail to solve problems that have a legal dimension.....	1
People who are excluded from the opportunities the law provides.....	1
Barriers to Justice for All.....	2
Chapter 2 – The Case for Action.....	2
The Cost of Injustice .....	2
Injustice is costly for people and communities .....	2
The costs weigh on societies and economies.....	2
The Benefits of Investing in Justice.....	3
Reduced risk of conflict and instability .....	3
Increased capacity to prevent and solve everyday justice problems .....	3
Release the economic potential of more just societies .....	3
Financing Justice for All .....	3
The cost of justice for all .....	3
Is justice for all affordable?.....	3
What strategies can increase affordability?.....	4
Chapter 3 – Solving Justice Problems.....	4
Understanding Justice Problems .....	4
Chapter 4 – Preventing Injustice .....	5
What Kind of Prevention?.....	5
Preventing and de-escalating disputes .....	5
Preventing violence .....	5
Preventing conflict and instability.....	6
Promoting inclusion and protecting rights.....	6
Making the Shift to Prevention .....	6

Lessons for justice sector reform: .....	6
Chapter 5 – Leading the Change .....	6
Models of change .....	6
Obstacles and opportunities for reform .....	6
Global momentum for justice .....	7
Levers of Justice Reform .....	7
Chapter 6 – Agenda for Action .....	7
1. Resolve the justice problems that matter most to people .....	7
2. Prevent justice problems and create opportunities for people to participate fully in their societies and economies .....	7
3. Invest in justice systems and institutions that work for people and that are equipped to respond to their need for justice .....	8

## Chapter 1 – The Justice Gap

### Three dimensions in the assessment of the Global Justice Gap:

People who live in the most extreme conditions of injustice – they live in countries where the justice system is incapable of protecting basic rights and freedoms or justice is actively denied; this concept is compared to extreme or absolute poverty which was defined at the 1995 World Summit for Social Development as ‘a condition characterized by severe deprivation of basic human needs’

- Countries where there is no rule of law and where levels of insecurity are extremely high
- Stateless people who are denied the protection under law that is provided by nationality
- People living in modern slavery conditions

### People who try and fail to solve problems that have a legal dimension

- Victims of unreported violence or crime
- Civil or administrative justice problem they cannot resolve
- Involved in a legal dispute that they are unable to bring to a satisfactory conclusion
- Unable to gain satisfactory access to the public services that should be provided to them

People in this group do not always realize they have a justice problem. Many people are reluctant to take action to resolve their problems and most crimes go unreported. Victims may not know the behaviour was unlawful or feel that they have suffered sufficient harm. Social pressure or stigma prevents many from seeking justice.

Many victims are disempowered by their lack of confidence in the criminal justice system. When incidents of injustice are reported, the response is often inadequate:

- US – 40% of homicides fail to lead to the arrest or identification of a suspect
- Mexico – only 5% of homicide cases are resolved
- Worldwide – less than 1% of women who are raped receive justice

## People who are excluded from the opportunities the law provides

- People who lack legal identity – 1.1 billion people worldwide (ie children whose births haven't been registered)
- People who lack proof of housing or land tenure – an estimated 2.3 billion people lack proof of housing or land tenure
- People who are employed in the informal economy (workers who lack formal contracts and operate outside the purview of labour laws)

## Barriers to Justice for All

People seeking a resolution to their justice problems are confronted by many barriers. There is a mismatch between what people need and what justice systems provide.

- Justice is frequently too slow and time-consuming, too expensive and unnecessarily stressful; for many people, justice institutions are physically inaccessible or are rendered so by linguistic or cultural barriers
- The justice system can escalate disputes or add to the trauma of victims through its adversarial nature; in most cases, it is no set up to learn from individual cases and use evidence to prevent further issues down the line
- Corruption within the justice system and the lack of independence of justice actors is a further barrier

These barriers reflect the lack of cooperation between justice institutions. The justice gap cannot be bridged by a single organization or ministry. Justice systems must be centred on people and their needs, allowing institutions to work together to respond to society's hunger for justice. This is the foundation for the analysis and recommendations presented in this report.

## Chapter 2 – The Case for Action

### The Cost of Injustice

The case of Mohamed Bouazizi, whose death as a protest against injustice in Tunisia triggered the Arab Spring in 2010, is a vivid demonstration of how injustice can be the missing link in national development strategies. Economies may perform well and health and education may improve, but without justice, development will be precarious, and the social, economic and political impacts of injustice will imperil progress made in other areas.

### Injustice is costly for people and communities

The immediate costs of injustice fall on the individuals involved. People may suffer a direct loss through damaged or stolen (or confiscated) property, through the expense of paying lawyers or court fees, travelling a long distance to court, or missing work to attend court.

Other costs for individuals are less direct. Justice problems involving violence and conflict have lifelong impacts that go beyond death and injuries. Victims of violence are at greater risk of mental health problems, suicide, and substance abuse, and are more likely to suffer from chronic diseases such as cancer and heart disease.

### The costs weigh on societies and economies

By driving exclusion and fuelling grievances, injustice increases the risk of political instability and, as in the Arab Spring, violent conflict. Violence deters investment and growth.

The widespread injustices faced by women and children have broader impacts. In countries where women face high levels of exclusion, insecurity and injustice, human development is impeded, per capita incomes are lower, and national competitiveness is weaker.

Everyday justice problems lead to immense costs at national level, with lost jobs and income the main contributing causes. Moreover, when poor people do not have access to property, labour or business rights it is impossible for them to work their way out of poverty.

### The Benefits of Investing in Justice

Investing in justice delivers a range of benefits, including reduced risk of conflict and instability, increased capacity to prevent and solve everyday justice problems, and greater opportunities for growth and prosperity.

#### Reduced risk of conflict and instability

- It can be expected that increasing a country's capacity to deliver core justice functions and provide increased access to justice would reap returns similar to those for prevention as a whole
- Impact in terms of saving lives – The International Commission against Impunity in Guatemala was set up to combat the impunity of illegal security forces and clandestine security organisations and has achieved a 5% decline in homicides

#### Increased capacity to prevent and solve everyday justice problems

- Divert investments away from ineffective or counterproductive policies
- Proactive prevention efforts that target 'high risk places, people, and behaviours' are proven to reduce crime (ie specialized courts, restorative justice approaches, justice reinvestment programs)
- Resources directed away from unnecessarily adversarial procedures to approaches that solve problems at scale (ie mediation as opposed to litigation)
- Taking justice closer to the people is cost-effective, allowing for earlier intervention and more effective prevention or de-escalation of disputes
- The biggest impacts of investment in people-centred justice are on the poorest and most disadvantaged members of society

#### Release the economic potential of more just societies

A large body of research has demonstrated the positive impacts of strengthened property rights on economic growth.

Initiatives to encourage informal businesses to formalize have had mixed results. Efforts in many countries to pressurize businesses to make the leap to formality rely on coercion. These efforts often have an adverse impact, particularly on poor people. An incremental approach may be more effective, where informal businesses take small steps towards full formalization in return for incentives at each stage.

### Financing Justice for All

#### The cost of justice for all

The report estimates that in low-income countries, it would cost \$20 per year to provide each person with access to basic justice services. In middle-income countries it would cost \$64 and in high-income countries \$190. These costs would cover what is involved in running legal advice, formal justice

institutions, alternative mechanisms to resolve legal problems and mechanisms that improve the accountability of the justice system and tackle corruption and abuse.

### Is justice for all affordable?

It is difficult to make firm statements about the affordability of justice due to a scarcity of data and the differences in the way that justice budgets are calculated.

- High-income countries are comfortably able to cover the suggested expenditure of \$190 per person for basic justice, since this is equivalent to only 2% of current revenues (on average, these countries already allocate 4.6% of these revenues to the overall justice system)
- Middle-income countries – they would have to allocate 6.2% of their taxes just for basic justice provision
- Low-income countries – would have to spend 20% of current total government revenues; such a level of expenditure is not feasible as it would squeeze out spending on other legitimate national priorities such as health and education

### What strategies can increase affordability?

First, countries need better data on current resource allocation in order to target expenditure on the most urgent justice needs and to the people least able to access justice.

A second strategy is to direct existing resources towards lower-cost approaches with potential to deliver justice at scale.

A third strategy for overcoming the challenge of affordability is to diversify sources of funding. But international support for investing in justice is weak and fell by 40 percent from 2014 to 2018. Justice reformers must continue to build the case for investment, and to make the argument that strengthening justice systems yields benefits for poverty reduction, for tackling conflict and insecurity, and for sustainable development. Philanthropists, impact investors, and private sector firms should also be encouraged to increase their investment in justice.

## Chapter 3 – Solving Justice Problems

### Understanding Justice Problems

1. Around one in five people have problems related to violence and crime – victims want to be listened to when they make a report, and to have their cases deal with sensitively; they want a reconciliation that allows them to get on with their lives and feel safe in their communities;
2. Nearly a quarter of people are involved in disputes over housing, land or neighbours – legal needs surveys suggest people are generally less interested in a judgment that allocates blame than in finding cooperative solutions
3. Almost a third of people have legal problems related to money and debt, or as consumers
4. One in five people have problems related to access to public services
5. Almost one in 11 people are involved in family disputes
6. One in 12 people have legal needs related to employment or their businesses

To better understand justice journeys, they are broken down into three stages:

1. People and communities are **empowered** so that they can act when a legal need arises.

The Task Force has identified four priorities for increasing empowerment:

- Help people understand the law
- Support people to seek solutions
- Invest in legal aid for the most vulnerable
- Increase participation in justice

2. They have **access** to people-centred justice services that are responsive to their needs.

Four steps are fundamental to improving access to appropriate services:

- Accelerate and simplify processes
- Support alternative pathways to justice
- Provide one-stop services
- Tailor services to justice needs

3. They achieve a **fair resolution** to their problems, which results in meaningful and measurable increases in justice.

The Task Force recommends four measures for increasing fairness.

- Meet standards for human rights
- Offer the right remedy
- Collect and disseminate data on outcomes
- Establish effective grievance mechanisms

## Chapter 4 – Preventing Injustice

The world's justice systems traditionally play the role of ambulance. They intervene when a problem has been signalled. Instead, they should take the approach of the health sector, where promoting health is regarded as more effective than treating sickness as a means of improving well-being. Prevention makes sense because:

- The justice gap cannot be bridged with traditional approaches and tools
- Justice is needed for communities and societies, not just for individuals
- The justice system plays a role in prevention when it acts as a platform for people to seize opportunities and participate fully in their societies
- Prevention is cost-effective

### What Kind of Prevention?

#### Preventing and de-escalating disputes

Governments can identify areas that generate large numbers of disputes and make preventive use of laws and regulations. Governments can also avert “downstream” damage to the justice system through better design of laws, regulations, and policies. Legal empowerment approaches can prevent disputes through a shift from dealing with individual cases to tackling the root causes of collective

injustices. Ombudsmen, consumer organizations, and other complaints mechanisms can turn insights from individual cases into structural improvements.

### Preventing violence

The traditional route to preventing violence has been through tough approaches to deterrence. However, a robust body of evidence suggests that long prison sentences have a limited deterrent effect.

The police are – or should be – on the frontline of preventing violence and crime. More effective and visible policing can help deter would-be troublemakers and make societies safer. Training police to respond to people’s behaviour and take account of their emotions helps them to manage conflicts on the spot and reduce the risk of violence.

To play a full preventive role, the police must work in close partnership with local communities, especially those that are subjected to the highest levels of violence.

Other parts of the justice system can play a similarly important preventive role. Problem solving courts “put judges at the centre of rehabilitation,” addressing addiction, mental illness, and other drivers of re-offending. The justice sector can make an important contribution to multi-sectoral prevention strategies by strengthening the legislative framework to deter violence.

### Preventing conflict and instability

For justice systems to play their preventive role, they must meet fundamental criteria of independence and due process, both on paper and in reality. Judges need to decide cases free from any outside interference. The independence of prosecutors is also crucial. Due process and respect for procedural rights are preconditions for fair trials. If justice systems are not perceived as fair, they will be unable to fulfil their core function of promoting the peaceful resolution of disputes and conflicts.

### Promoting inclusion and protecting rights

Promoting rights and inclusion are a core message of this report. Access to justice is itself a human right, but justice is also essential to protecting other rights. A rights-based approach to justice puts people and their justice problems and aspirations at the centre of efforts to reform.

### Making the Shift to Prevention

Rather than considering only individual justice problems, justice actors must seek to influence how a population experiences justice and injustice, learning how to “strategize beyond an immediate firefighting approach to individual cases”.

- Promote trust in justice systems
- Tackle the root causes of injustice
- Use the law to reduce risk

### Lessons for justice sector reform:

1. Transitional justice is people-centred
2. Transitional justice has prevention at its heart
3. Transitional justice must be multidisciplinary to be successful

## Chapter 5 – Leading the Change

The vision of the Task Force on Justice is of a shift from justice for the few to justice for all.

### Models of change

- A multidisciplinary approach (Argentina)
- Using data to develop a vision for a justice system that would put the public first (Canada, Australia)
- Empowering the community bottom-up through grassroots justice defenders (Indonesia) as well as from the top by increasing judicial independence (Latin America, India)
- Opening up the justice system to innovation (Bahamas, Dubai, UK)
- Strengthening legal frameworks to directly increase justice – growth in policies banning physical punishment of children and domestic violence

Analogy with education which is no longer the preserve of elites, but a goal for all of society. Healthcare has undergone a similar transformation. The women’s movement has campaigned for rights and has convincingly demonstrated the economic and social benefits that result from providing women with equal access to opportunities. The case for justice combines similar normative and practical elements.

### Obstacles and opportunities for reform

Elites may be resistant to tackle injustices, as well as legal practitioners who often benefit from the status quo. Another obstacle lies in the fragmentation of justice institutions.

That being said, when an economy is growing fast the government begins to understand the need for strengthening the justice system. Even if the government is reluctant, there will always be champions of change within the system (the judiciary, lawyers, civil society). Moreover, large corporations that benefit from the rule of law may recognize the need to build trust within the marketplace and the potential for greater legal inclusion to create new business opportunities. Private sector organizations can also respond directly to violence since it threatens the closure of their businesses.

### Global momentum for justice

“Justice” – Merriam-Webster online dictionary’s word of the year in 2018

- International human rights framework
- Justice leaders are increasingly meeting internationally
- Global and regional partnerships are supporting justice reform
- People are demanding change across the world: #MeToo, corruption-caused protests in Sudan and Algeria – these movements help create an environment that supports reform

### Levers of Justice Reform

1. Use data and evidence to steer reform
2. Unlock the transformative power of innovation
3. Implement strategies for smarter justice financing
4. Build more coherent and inclusive justice systems



## Chapter 6 – Agenda for Action

1. Resolve the justice problems that matter most to people
  - Understand justice problems through regular surveys that draw on international standards and guidelines, and improve the availability and quality of data on the needs of women, children, and vulnerable groups
  - Empower people and communities to seek justice, recognizing grassroots justice defenders, financing them in ways that respect their independence, and protecting them from violence and coercion
  - Provide access to people-centred justice services that draw on the best evidence of what works, while making justice providers accountable for delivering fair outcomes that help close the justice gap
  - Use cost-effective alternatives to help people resolve disputes and gain redress when they are victims of violence and crime, reserving punitive measures and formal court proceedings for the most serious cases.
2. Prevent justice problems and create opportunities for people to participate fully in their societies and economies
  - Make the shift to prevention through strategies that increase justice for communities and societies, and are implemented in partnership between the justice system and other sectors
  - Promote trust in justice systems by increasing independence, impartiality, and integrity, implementing strategies to combat corruption and abuse, and ensuring independent oversight
  - Tackle the root causes of injustice, using data from individual cases to address structural injustices, providing universal access to identity and legal documents, and helping people create and register legal agreements
  - Use the law to reduce risk, by strengthening the legislative framework for violence prevention and non-discrimination, and through laws and regulations that address grievances or make it less likely disputes will arise.
3. Invest in justice systems and institutions that work for people and that are equipped to respond to their need for justice
  - Use data and evidence to steer justice reform, increasing awareness of unmet need, providing open access to data as a platform for partnerships and accountability, and informing policies and programs with evidence of what works
  - Unlock the transformative power of innovation, opening justice systems up to new actors and ideas, creating a supportive regulatory environment, and assessing the impact of innovation in closing the justice gap
  - Implement strategies for smarter justice financing, taking the case for investment in justice to national levels, developing a national roadmap for financing justice for all, and accessing new sources of funding

- Build more coherent and inclusive justice systems, by supporting the people who provide justice, increasing diversity and the representation of women at all levels, and exploring new governance models, and promoting shared standards for all parts of the system.

On an international level, countries are strongly encouraged to intensify their cooperation and revitalize their partnerships for justice:

- **Support national implementation:** Convene pathfinder countries, register voluntary commitments to implement Sustainable Development Goals (SDG16.3), and help governments develop credible, realistic, and funded strategies to implement these commitments.
- **Increase justice leadership:** Hold a biennial meeting of Ministers of Justice, Attorneys General, and other justice leaders as a platform for countries to share experiences, explore recommendations, and strengthen cooperation for justice.
- **Measure progress:** Agree a new SDG16.3 indicator to measure progress on civil justice, supplementing existing criminal justice indicators, with voluntary national piloting ahead of its integration into the global indicator framework.
- **Intensify cooperation:** Form an alliance of international and regional justice partners to provide more coherent support for justice for all, and a funders collaborative to increase the proportion of international finance that flows to the justice sector.
- **Build the movement:** Amplify demand for change through global, national, and local movements that campaign for justice for all.