



**Access to Justice for Children  
in the era of COVID-19:  
Learnings from the Field**

**FOR EVERY CHILD, JUSTICE**

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Cover photo: Adolescent boys in conflict with the law participate in a literacy class in the detention centre for minors in Mopti, Mali. (2009) © UNICEF/UNI81683/Pirozzi

# Access to Justice for Children in the era of COVID-19: Learnings from the Field

**FOR EVERY CHILD, JUSTICE**



# Introduction



The Jijiga woreda Court, in the Somali Region of Ethiopia, has two social workers and two judges as part of the specialized child-friendly bench. (2017) ©UNICEFEthiopia/UN0137141/Mersha

Following the declaration by the World Health Organization of COVID-19 pandemic as a global health emergency in March 2020, UNICEF and partners began calling attention to children's access to justice in the context of COVID-19, with three key asks<sup>1,2</sup>:

- All governments and other detaining authorities to **urgently release all children** who can safely return to their families or an appropriate alternative environment, including extended families and other family- or community-based care.<sup>3,4</sup>
- An immediate moratorium on **new admissions of children to detention facilities** and, for children who remain in detention, continued protection of their health and well-being.
- Governments to **refrain from arresting and detaining children for violations of curfew and related movement restriction orders**.

Following this call to action, at least 37 countries have released more than 11,600 children from detention as a COVID-19 preventative measure against infection between March and June 2020.<sup>5</sup> Numerous countries have been able to maintain continuity in their justice services for children and women by innovating their courts processes through 'virtual courts' and moving justice-related services and training programmes from face-to-face to online.

Based on this, what are we learning about adapting UNICEF programming on access to justice for children to meet the challenges of COVID-19? And how is this new knowledge being applied to better protect the rights of these boys and girls?

In supplement to the background data documented in the report<sup>6</sup> commissioned by the UNICEF, this document seeks to answer these

questions by drawing on the field experiences of UNICEF and its partners who quickly shifted their access to justice for children programming to meet the challenges of the COVID-19 pandemic and its unique impacts on children in the justice system. The Field Notes analysis focused on children being released from detention as a preventative measure against COVID-19, and the steps being taken to keep justice services functioning during lockdowns, specifically during the above time period (March-June 2020).

The analysis reviewed knowledge, data and evidence, from COVID-19 Response situation reports and indicators (including COVID-19 Standard Indicators), Country Office Annual Reports 2019, Global Annual Results Report 2019 for Goal Area 3, and UNICEF country office and regional office websites.

The lessons learned detailed below are grouped in three categories:

- opportunities and innovations learning
- systems-level learning
- strategy-related learning.



# Opportunities and innovations learning

## Lessons from the analysis

**Release of children from detention:** Prior to the COVID-19 pandemic, some developing countries were using alternatives to detention, but, for a range of social and political reasons, a large number remained resistant to the release of children or use of alternatives to detention. These reasons included fear of public opinion and the perception of being 'soft on crime'. There is also a belief that the best way to break the juvenile crime cycle is to use harsh forms of punishment and retributive approaches; this view persists despite an overwhelming body of scientific evidence to the contrary, including data on the effectiveness of restorative justice approaches in preventing re-offending.

COVID-19 created a humanitarian need to act quickly for the protection of at-risk groups, such as those living in confined spaces, prompting at least 37 countries to release children from detention as a preventative measure against COVID-19. This includes **the Sudan** (releasing approximately 85 per cent of children in detention); the West Bank and Gaza in the **State of Palestine** (85 per cent); **Morocco** (35 per cent); **Albania** and **Indonesia** (50 per cent); and **Mozambique** (42 per cent). In **Gabon**, less than 10 children remain in detention since most have been released as a preventative measure against COVID-19. These successes imply that the goal of achieving broad-scale application of alternatives to detention is within reach. It is therefore an opportune time to redouble global efforts towards such a goal.

### **Diversion and alternatives to detention:**

The analysis found that the key enabler for this result is UNICEF's long-term investment in strengthening diversion and alternatives to detention, as a preventative measure for juvenile offending. Children caught up in juvenile justice

systems are some of the most marginalized and vulnerable in their respective communities. These practices are being implemented in many countries to varying degrees. Countries that had invested in diversion and alternatives to detention prior to COVID-19 did not have large child populations in detention when the pandemic hit. For example, in **Montenegro**, years of investment in diversion and reform of the juvenile justice system meant that when the COVID-19 pandemic hit, there were fewer than 20 children and young adults in detention in the entire country. In **Iraq**, by 2019, the use of existing alternatives to detention resulted in 74 per cent of children in conflict with the law being given non-custodial measures, representing a 45 per cent reduction against the baseline.

*"Countries that invested in diversion and alternatives to detention prior to COVID-19 did not have large child populations in detention when the pandemic hit."*

The success of applying diversion and alternatives to detention raises the question of why these children were in detention in the first place and suggests a need to redouble efforts to prevent offending and end the detention of children. Diversion of children away from the juvenile justice system is premised on the ideas that the underlying needs and circumstances of children 'in trouble' – whether they are offending or in need of care and protection – are fundamentally similar and that children who get caught up in the justice system are more likely to reoffend for a range of reasons.

Research provides a consistent picture of the nexus between abuse, neglect and adolescent offending in the lives of some children and young people.<sup>7</sup> This presents an opportunity for UNICEF to use the success in diversion of children away



A group of 17-year-old boys have a session with a psychologist at the 'Khorgau Astana' centre in Astana, Kazakhstan. The centre offers support to minors in conflict with the law. (2014) © UNICEF/UN045581/Pirozzi

from juvenile justice systems as a launching pad to reinvigorate the agenda on prevention of juvenile crime, and thus to prevent many young lives being wasted.

**Post-release support programmes:** Releasing children from detention as a preventative response to COVID-19 is an appropriate action, but effective post-release support is also needed. Post-release programmes (also known as aftercare or re-entry programmes) are proven to help children reintegrate into their families and communities, and to avoid reoffending. While post-release support and follow up are being prioritized by UNICEF and partners, more work is needed to ensure formal post-release support programmes are an integral part of juvenile justice systems across all programme countries.

There is an extensive body of practice and learning within UNICEF, spanning the humanitarian, peacebuilding and development nexus, which could be used to inform a global approach to the provision of post-release support programmes. For example, UNICEF Georgia has been supporting implementation of the Diversion and Mediation Programme<sup>8</sup> with assistance from the European Union since 2010. Over 2,700 young people have participated in the programme,

which is designed to prevent stigmatization of the child and positively influence public safety due to lower reoffending rates.

**Virtual courts:** Previously, there was limited application of virtual courts, with only juvenile and family courts using elements in cases involving child victims and witnesses. COVID-19-related lockdowns and requirements for social distancing have created an urgent need for new methods of delivery of court services, with virtual juvenile or children's courts established in **Albania, Bangladesh, India, Kenya** and **Nigeria**, with specific handling of children's procedural matters.

### **Online training for justice professionals:**

Face-to-face training was the main method of training but has been halted abruptly by COVID-19-related lockdowns and requirements for social distancing. While the integration of training into national justice systems has increased in recent years, there was little use of online platforms. COVID-19 restrictions have forced many countries to innovate and make the transition from face-to-face to online training; for example, **Albania, Bangladesh, Brazil, India, Indonesia, the Islamic Republic of Iran, Montenegro, Turkey** and **Uzbekistan**.



## Translating lessons into action: Proposed next steps

**Release of children from detention:** Conduct a rapid analysis of countries not releasing children from detention as a preventative response to COVID-19. This will yield information on the rationale for these decisions and help to design advocacy approaches to overcome them.

Invest in country-level learning and experience-sharing on releasing children from detention, and support countries to develop plans to achieve this on a larger scale.

Invest in UNICEF Regional Offices to enable them to share learning and experiences with additional countries within the region, and invest in strengthening and restructuring capacity (at global, regional and national levels) to deliver a reimagined agenda on children's access to justice.

### **Diversion and alternatives to detention:**

Create enabling conditions – including funding, technical guidance and learning opportunities – to support countries to advance restorative justice approaches, and child-friendly and gender-responsive diversion programmes, and to design and test prevention programmes.

Support evidence generation in programme countries and wider dissemination of global south evidence on the efficacy and cost-effectiveness of these interventions compared to retributive and punitive approaches in juvenile justice, and share current knowledge about what it takes to prevent juvenile offending and protect children from punitive justice systems.

**Post-release support programmes:** Prioritize the development of evidence-based global guidelines for post-release planning and programmes for rapid dissemination supported by

online learning opportunities. Create conditions (funding, technical assistance, country-to-country learning opportunities) to enable countries to incorporate child-friendly and gender-responsive post-release support programmes into their juvenile justice systems.

*"In a post-COVID-19 world, there is an opportunity for UNICEF to use its success in diversion of children away from juvenile justice systems as a launching pad to reinvigorate the agenda on prevention of juvenile crime – and thus to prevent young lives being wasted."*

**Virtual courts:** Conduct a rapid evaluation to document the benefits and limitations of virtual juvenile and children's courts, and produce evidence-based guidelines and tools to enable scaling up within countries and replication in additional countries. Create conditions (funding, technical assistance, learning opportunities) to enable countries to rapidly introduce or scale up virtual courts for appropriate hearings/processes.

### **Online training for justice professionals:**

Conduct an evaluation of child justice online professional learning programmes to promote larger scale and replication, where appropriate, and to inform basic guidance to promote quality, equity and accessibility in programme design. Based on the evaluation findings, create conditions (funding, technical assistance, learning opportunities, partnerships and coordinated United Nations approaches) that will enable countries to provide training and online courses as part of formal justice institutional training arrangements, and expand the use of online platforms as a preferred method for learning.

# Systems-level learning



Judge Abraham Major Lat is sitting on the bench in the high court in Aweil. He is one of the more progressive judges in South Sudan, with a special interest in justice for children. "If we don't take care of them [the youth], we have no nation. The majority of the population is young, and they are the future. There will be no nation left if we don't get this right." (2020) © UNICEF/UNI318254/Ryeng

## Lessons from the analysis

**Child justice systems:** Significant progress has been made towards establishing national and sub-national child justice systems. However, COVID-19-related lockdowns and requirements for social distancing have prevented these from functioning fully, if at all. This has denied or delayed children's access to justice in many places.

At the same time, core child justice and related child protection services are not necessarily classified as 'essential services' in an emergency in all countries. While COVID-19 is a global health emergency, children in detention can be left out of the response mechanism because justice and social services are not seen as essential services.

**United Nations-wide approaches:** In many countries, the United Nations Sustainable Development Cooperation Framework (UNSDCF) includes access to justice as part of governance and the rule of law thematic work, but it is not necessarily part of emergency preparedness

planning. While several countries reported using joint United Nations advocacy for the release of children and women from detention, in many countries access to justice for children programming is not a formal part of country-level humanitarian response and socio-economic response planning.

**Justice information management:** Significant progress has been made towards establishing robust child justice information management systems, but lack of data in many countries is obstructing further progress. During the COVID-19 pandemic, few countries could provide disaggregated data. This includes data for child victims and witnesses, alleged offenders, and for children being released from migration centres disaggregated by sex, age, ethnicity and disability.

**Reaching the most vulnerable:** Certain groups of children in detention remain highly vulnerable and are not being included in release measures. Children in immigration detention and facilities, children in military detention, those detained

in the context of national security concerns, and children in detention due to their alleged association with armed groups remain least able to benefit from COVID-19 prevention measures made available to other children.

In parallel with efforts to have children released from detention, many countries are increasing investment in the legal empowerment of children, a central component of children's access to justice and reaching the most vulnerable.

### Translating lessons into action: Proposed next steps

**Child justice systems:** Create conditions (funding, technical guidance, learning opportunities) to enable countries to conduct stress tests of their national and sub-national child justice systems and incorporate child justice into national preparedness and socio-economic plans to improve response and maintain operational continuity during emergencies.

Conduct a rapid stocktake of countries that have designated core child justice and child protection services as 'essential services' to support Regional Office and Country Office advocacy efforts.

Articulate a reimagined agenda on children's access to justice in a post-COVID-19 world that contributes to achieving SDG 16 by building on UNICEF's comparative advantages and leadership on access to justice for children, supporting implementation of recommendations from the 'Global Study on Children Deprived of Liberty',<sup>9</sup> and linking to existing child protection global agendas spanning the humanitarian–peacebuilding–development continuum to address violence against children, children affected by armed conflict and national security, mental health and psychosocial support, children on the move and legal identity.

*"Going forward, UNICEF should articulate a reimagined agenda on children's access to justice in a post-COVID-19 world that contributes to achieving SDG 16."*

**United Nations-wide approaches:** Provide clear advice to United Nations Country Teams on where and how to include access to justice for children programming more effectively in UNSDCF, humanitarian and socio-economic response planning. To drive this change, request the United Nations Global Focal Point on the Rule of Law to take this forward, as informed by the 'Guidance Note of the Secretary-General: UN Approach to Justice for Children'.<sup>10</sup>

**Justice information management:** Create conditions (funding, technical guidance, country-to-country learning opportunities) to enable countries to improve data collection systems and strengthen justice for children information management systems. This includes promoting available tools, such as the United Nations Office on Drugs and Crime (UNODC) and UNICEF 'Manual for the Measurement of Juvenile Justice Indicators',<sup>11</sup> and mainstreaming within SDG monitoring and reporting frameworks.

**Reaching the most vulnerable:** Intensify advocacy for the protection of the rights of children in detention, adopting an increased focus to end the detention of children due to their immigration status, in military detention, in the context of national security concerns, or due to their alleged association with armed groups.

Drawing on UNICEF regional knowledge and experiences, develop global programmatic guidance on child-friendly legal aid and representation, and update existing guidance on ensuring non-discrimination as a central core of justice systems for children.

## Strategy-related learning



*Salay (name changed) was sexually abused by her teacher in their school toilet during school hours. The matter was reported to the Police and brought to the court. Family Homes Movement, with support from UNICEF, is facilitating counseling, support and justice services (2019). © UNICEF/UN045581/Pirozzi*

### Lessons from the analysis

**Regional leadership:** UNICEF Regional Offices have been investing in access to justice for many years and are playing an important role in providing guidance and technical support to Country Offices on access to justice for children. Sustained investment by Regional Offices, coupled with specialist justice expertise, has enabled timely and demand-driven support for Country Offices. The existence of a justice technical specialist in each office allows for a global justice expert network to operate, enabling fast coordination, two-way communication and rapid dissemination of guidance between headquarters and the regions, and then to country level.

**Global leadership:** Beginning in 2019, UNICEF has focused on reinvigorating its global leadership on children's access to justice as a priority programme area. As a result, UNICEF was able to quickly convene a global inter-agency taskforce, which developed and published the 'Technical Note on COVID-19 and Children Deprived of

their Liberty'.<sup>12</sup> This became a key tool, and all seven Regional Offices and several Country Offices specifically mentioned that they are using the Technical Note to guide their advocacy efforts with governments and other relevant actors, with many translating it into their local languages for this purpose.

### Translating lessons into action: Proposed next steps

**Regional leadership:** Ensure that each Regional Office has sufficient funding to hire dedicated justice technical expertise and/or build the necessary skills to generate knowledge and data that will help countries reimagine their approach to children's access to justice.

**Global leadership:** Continue to restructure and strengthen internal human resource capacity for access to justice for children programming at global level and across UNICEF. Intensify efforts for the inclusion of access to justice for children in COVID-19 responses across UNICEF and the wider United Nations system.



## Making best use of the 'Technical Note: COVID-19 and Children Deprived of their Liberty': Case study from the UNICEF Europe and Central Asia Region

### Context

The UNICEF Europe and Central Asia Regional Office (ECARO) was fully involved in the development of the 'Technical Note: COVID-19 and Children Deprived of their Liberty' (Technical Note),<sup>13</sup> contributing technical information based on the region's experiences. In addition, ECARO shared the Technical Note with its 23 country offices<sup>14</sup> and requested feedback on how it may have contributed to national responses to the pandemic in relation to children deprived of their liberty.

Sixteen countries responded, stating that it was timely and provided a strong basis and reference to support advocacy efforts for the release of children and the protection of those that remained in detention.

Prior to the pandemic, nearly two decades of work had been underway in reforming juvenile justice systems in Europe and Central Asia supported by the European Union and UNICEF. This work has enabled UNICEF to promote policies and approaches that apply detention as a last resort for children in conflict with the law.

High-level commitment from governments and development partners, together with policy advocacy and legislative reform, have resulted in a significant decline in the number of children in detention, from around 45,000 in 2000 to just 5,000 by 2020.<sup>15</sup>

Consequently, the region did not have a large number of children in detention at the advent of the COVID-19 crisis.

### Key actions and results: Translation and dissemination of the Technical Note and its impact.

In all countries, the Technical Note was translated into the national or local language and Russian (as applicable) and shared with the Ministry of Justice, Prosecutor General's Office, Ministry of the Interior, detention facilities, educational correctional facilities, and other justice sector stakeholders.

These included local relevant authorities and organizations working with children in contact with the justice system. Countries noted that it was important to translate the guidelines to achieve greater acceptance and wider use by government authorities and other stakeholders.

UNICEF Albania, Montenegro, Serbia and Ukraine posted the Technical Note and other useful documents on their websites, thereby achieving wider dissemination.

The Technical Note helped inform assessments by the Juvenile Justice Council in Serbia on detention conditions and the impacts of the COVID-19 restrictions on children and young people living in these facilities. The Council also used the Technical Note as the basis for a press release informing the public and professionals that every child in the justice system must be managed according to international standards.

In Azerbaijan, the Technical Note was used by the Office of the Ombudsperson as an

advocacy tool to promote the rights of children in detention, contributing to the release of 47 children.

In Uzbekistan, six boys were released following an official request from the Prosecutor General's Office. The request was based on the information provided in the Technical Note. The Technical Note also provided support for continued protection of the health and well-being of children who remain in detention.

While provision of personal protective equipment (PPE) in places of detention was not a typical UNICEF intervention, several country offices responded to the government's request and some initiated provision of PPE in places of detention.

For example, in North Macedonia, in line with the Technical Note recommendations, UNICEF supported the Ministry of Health to develop safety protocols for correctional facilities.

In Ukraine, UNICEF provided PPE, disinfectants and training for staff in the penitentiaries, as well as organizing video workshops with facility staff on the use of PPE, hygiene requirements, communication with children during the pandemic, and provision of psychological support to children.

As of June 2020, about 1051 children in five countries<sup>16</sup> across the region had been released from detention in response to COVID-19. There have been no new entries in places of detention since the outbreak of COVID-19. Where children have not been released, measures have been put in place to ensure their safety, support and protection.

### Conclusions

The Technical Note aligned well with the needs of national governments and provided further impetus to their efforts as they sought to respond to COVID-19 and the situation of children deprived of their liberty. This supports the view that UNICEF engagement and the overall direction of juvenile justice reform in the region corresponds to the priorities shared by a large group of committed stakeholders. Indeed, in the majority of countries and territories, stakeholders perceived a high or very high degree of alignment of UNICEF support with that of national governments and development partners.

This alignment and the responsiveness of UNICEF was echoed at the Europe and Central Asia regional conference on Children's Access to Justice, which took place at the end of February 2020, just as COVID-19 was spreading across the region.

The COVID-19 crisis may present a unique opportunity for governments in the region to accelerate the promotion of alternatives to detention, and to consider releasing even more children from places of detention as a way of preventing the spread of infection.

Further information on how the Technical Note has added value to country office efforts to support national responses to the pandemic in relation to children who are deprived of their liberty is available from: <https://unicef.sharepoint.com/teams/ECAR-ChildProtection/Justice/Forms/AllItems.aspx>

# Conclusions

The good news is that achieving worldwide use of alternatives to detention for children in conflict with the law is within reach. UNICEF's long-term investment in strengthening diversion and alternatives to detention has also been key in this process, leading to the release of many children from detention. With more than **37 countries having released over 11,600 children** so far through actions – including alternative measures to detention, probation, amnesty and conditional release –, the global community is presented with a catalytic opportunity to adopt and increase the scale of diversion, alternatives to detention and restorative justice approaches.

These results are attributable to **UNICEF's unique position and comparative advantages in access to justice for children programming across the world at the country level**, supported by the quality and timeliness of the advice and guidance provided by regional and headquarters levels. Among the key enablers for the results being achieved by UNICEF Country Offices across all regions, **trust, expertise, longevity and creativity** positioned UNICEF as a leading voice on child justice.

As the principal United Nations agency acting on child justice, UNICEF has convening power and long-standing 'trusted partner' status with justice and security ministries and agencies in countries across the world. Consequently, when the pandemic hit, UNICEF was among one of the first United Nations agencies to be called upon by, or to approach governments concerning the rights of children in the justice system.

However, despite this progress, certain categories of **children are not being included in release measures**, when in fact their detention is prohibited. **Children in immigration detention, military detention, those detained in the context of national security concerns, and**

**children in detention due to their alleged association with armed groups** remain least able to access measures made available to other children. While some Country Offices are reporting that their child justice systems are adapting to the conditions of COVID-19, others state that their systems have been overwhelmed.

COVID-19-related lockdowns and requirements for social distancing have forced child justice systems to function only partially, or to cease completely. In a post-COVID-19 world there is a unique opportunity for UNICEF and partners to support transformation of justice systems for children in line with SDG 16 (promote just, peaceful and inclusive societies). However, the lack of disaggregated data, including on children in immigration facilities, remains a serious obstacle to such an achievement.

To overcome this, it will be important to provide guidance and country-to-country learning opportunities, as well as creating space for governments to collaborate with traditional and non-traditional partners to strengthen their child justice data collection.

Prior to COVID-19, UNICEF Regional Offices had been investing in access to justice for many years. As a result, during the pandemic, they have played a critical role in supporting Country Offices on children's access to justice.

Concurrently, at the global level UNICEF has focused efforts on reinvigorating its leadership on children's access to justice, and on identifying and responding to relevant needs at regional and country levels. UNICEF Regional Offices and Country Offices report that they have been provided with timely and useful guidance to help shape their active engagement with the respective governments and other relevant actors as they shift their access to justice programmes



*Legal empowerment of children as an accelerator for change. More children and young people are now at the forefront of protests demanding justice and change worldwide – including the global protests demanding action on climate change, protests demanding an end to gender-based violence, and recent protests highlighting structural racism and discrimination in justice and law enforcement systems globally (2019) © UNICEF/UNI206867/Berkwitz*

to address the pandemic and its unique impacts on children in the justice system.

One of the key learnings is that some ideas and concepts that were applicable pre-COVID-19 may no longer be entirely relevant and appropriate in a post-COVID-19 world, while others are more important than ever. Resistance to use of alternatives to detention, face-to-face training as the predominant form of capacity building, and the operation of children's and juvenile courts in person appear limiting and outdated. Meanwhile, diversion, post-release support and social work for children within the justice sector, and the need for free child-friendly legal aid continue to be wholly, if not even more, relevant.

These results and challenges **offer governments, UNICEF and partners a chance to re-think approaches and to build**

**on transformative actions for wider justice reforms for children.**

Every child has the right to live free from violence, exploitation and abuse. Yet the pervasive lack of access to justice for so many children, especially the most marginalized and vulnerable girls and boys, worldwide demonstrates the need for increased advocacy and action, particularly amid the ongoing global pandemic.

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*"In a post-COVID-19 world there is a unique opportunity for UNICEF and partners to support transformation of justice systems for children in line with SDG Goal 16."*

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# Endnotes

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