

A Framework for Measuring Access to Justice Including Specific Challenges Facing Women

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Why measure access to justice ?

- Assess justice system
- Inform policy and programs
- Monitor and evaluate results
- Measure progress towards goals and targets
- Measure compliance with given standards
- Increase accountability
- Catalyze change

Women's access to justice indicators in the current development discourse

- Demand for increased data collection and knowledge building on women's access to justice come from a number of international actors, including: UN Women (Progress of the World's Women, 2011) ; UN Women, UNICEF and UNDP (Informal Justice Systems - Charting a Course for Human Rights-Based Engagement, 2012); the World Bank (World Development Report, 2012); the Council of Europe (Gender Equality Strategy 2014-2017); and ECOSOC/Economic Commission for Europe (Report of the Beijing+20 Regional Review, 2014)
- New space for women's access to justice created by SDGs 2030
 - Goal 16
 - Goal 5
- CEDAW General Recommendation No. 33 on women's access to justice includes the adoption of indicators and data collection among the recommendations to improve quality and accountability of justice systems

A framework for measuring access to justice including specific challenges facing women

- Report led by UN Women, in partnership with the Council of Europe
- What the report aims to do:
 - Shed light into the scarcely known field of women's access to justice measurements
 - Explore possibilities for developing measurements of women's access to justice, **addressing the challenge of collecting reliable and meaningful data while bringing to light women's specific experience of justice**
 - Start a dialogue on measuring women's access to justice with relevant stakeholders
- What it does not:
 - Provide a complete mapping of indicators of women's access to justice
 - Prescribe a one-size-fits-all approach to measuring women's access to justice

A framework for measuring access to justice including specific challenges facing women (continued)

- Methodology
 - Sample mapping of existing access to justice indicators
 - Review of relevant literature
 - Round of consultations with stakeholders (including the Swiss Federal Office for Gender Equality, the European Court of Human Rights, the World Justice Project, and the Association of Women Judges)

Examples of existing indexes and data collection efforts including indicators on women's access to justice

- Rule of law/governance baskets of indicators :
 - United Nations Rule of Law Index (UNDPKO/OHCHR)
 - The World Justice Project Rule of Law Index
- Statistical Sourcebooks/Data Collections
 - UN Gender Statistics (Minimum set of gender indicators)
 - European Sourcebook of Crime and Criminal Justice
- Progress indicators/Implementation monitoring mechanisms
 - Progress indicators for measuring the implementation of the Belem do Para Convention

Examples of indexes and data collection efforts including indicators on women's access to justice (continued)

- Socio-cultural, institutional assessments
 - Social Institutions and Gender Index (SIGI) (Organisation for Economic Co-operation and Development -OECD)
 - The European Commission for the Efficiency of Justice (CEPEJ)- Evaluation of Justice Systems (Council of Europe)
 - Women Business and the Law (The World Bank)
 - Living Standards Measurements Surveys (The World Bank)

Existing indicators on women's access to justice

- Enabling environment
 - Existence of Rights and entitlements
- Supply side
 - Availability and accessibility of legal aid
 - Time
 - Cost
 - Geographic, physical and intellectual accessibility
 - Fairness/lack of discrimination
 - Due Process
 - Capacity/Human Resources
 - Accountability, Transparency, Independence of the judiciary and Corruption
 - Enforcement
 - Special courts and alternative dispute resolution

Existing indicators on women's access to justice (continued)

- Demand side
 - Main justiciable issues
 - Legal awareness and literacy
 - Perception of justice
 - Trust/satisfaction in justice institutions

Existing indicators on women's access to justice (continued)

- Gender based violence
 - Rights and entitlements
 - Available institutions and procedures
 - Public awareness
 - Role of civil society
 - Access/use of the justice system
 - Response of the justice system to gender-based violence
 - Timeliness
 - Capacity
 - Transparency/access to information
 - Attitudes towards gender-based violence

Gaps in existing indicators

- Focus mainly on supply side elements of justice (e.g., legal framework, time, cost, geographic accessibility, capacity) and objective data
- Demand side and perception data collected only occasionally
- Data - or sex disaggregated data - lacking or scarce on most dimensions, e.g.:
 - access to legal aid and counseling
 - case outcomes
 - attrition (in other than rape cases)
- Data on capacity rarely address position of women in the justice profession and gender training for justice professionals

A proposed framework for measuring women's access to justice

- Menu of indicators from which governments and other stakeholders can pick and choose
- Indicators span
 - The 3 dimensions of justice: enabling environment, supply side and demand side
 - The “justice chain”: each element and step necessary for women to access justice
- Indicators must identify aspects of access to justice that, while measurable and easy to understand, capture the specificity of women's experience of justice, including by:
 - Addressing elements of access to justice that are particularly relevant for women
 - Requiring data to be disaggregated by sex (as well as age, residence (U/R) and other characteristics as relevant and feasible)
 - Relying on both objective and subjective data sources

Proposed indicators enabling environment (sample)

- Legal framework:
 - Conformity of national laws with international norms on human and women's rights and violence against women
 - Existence of laws criminalizing forms of violence against women (including, e.g., sexual violence, marital rape, forced marriage)
 - National laws grant equal rights to women and men (e.g., marriage, employment, inheritance, ownership)
 - Existence of laws providing non-criminal sanctions (e.g., protective orders)

Proposed indicators

supply side

(sample)

- Geographic accessibility
 - Number and geographic location of justice fora per 100,000 inhabitants
 - % of people reporting that physical access to courts is convenient in terms of distance
 - Existence of procedures and facilities affording privacy (e.g., separate rooms) for crime reporting, collecting testimonies, victim's waiting areas
 - Availability of easily accessible rape crisis or sexual violence referral centers for victims providing medical and forensic examination, trauma support and counseling for victims.

Proposed indicators supply side - continued

- Cost
 - % of people reporting that access to courts is affordable
 - Average costs of procedures for claims related to, e.g., divorce/employment/inheritance/restraining orders in instances of domestic violence
- Time
 - Average length of procedures for claims related to, e.g., divorce/employment/inheritance/restraining orders in instances of domestic violence
 - Whether length of procedures is perceived as a major obstacle to access justice
- Capacity
 - Number of professionals in the justice and legal profession, disaggregated by sex and position
 - Provision of initial and in-service training on gender issues for police/judges/prosecutors, including on violence against women

Proposed Indicators

supply side - continued

- Availability and use of legal aid
 - Number of legal aid lawyers, by sex
 - Number and % (out of total applicants) of users of legal aid services (disaggregated also by type of dispute)
 - Existence of provisions requiring evaluation of applications for legal aid to be based on real income available to applicant
- Fairness of process/outcome
 - Civil and criminal justice is free of discrimination on the basis of gender
 - Outcomes of cases, disaggregated by type of dispute and sex of victim/perpetrator, plaintiff/defendant

Proposed indicators demand side

- Most common justice issues experienced by citizens and actions taken to access justice
 - Types and number of complains lodged with dispute resolution mechanisms/Main justiciable issues experienced by citizens
 - Rate of unreported violence against women and girls
- Legal awareness
 - Extent to which women and men are aware of specific law/right relevant in the national context
 - Extent to which women and men are aware of the 5 main dispute resolution mechanisms available
 - Attitudes towards domestic violence

Proposed indicators demand side (continued)

- Attrition
 - Yearly attrition rate in rape cases/domestic violence/sexual violence, by procedural stage and reason of attrition, disaggregated by whether or not the victim is underage
- Trust in justice system
 - % of people expressing confidence that they would be treated fairly and without discrimination by the police/judges/prosecutors
 - % of people who have experienced a dispute reporting access to a satisfactory dispute resolution mechanism

Engendering data collection and analysis

- Disaggregate all data by sex
- Correlate justice-related data with demographic-economic-socio-cultural data (e.g., geographic location of courts with availability of means of transportations to women)
- Focus on de facto/women's lived experience of justice seeking to unearth "sticky" biases and patterns of discrimination persisting even when de jure equality is achieved
- Contextualize quantitative data through qualitative research

Next steps

- This conference provides a first excellent opportunity to present the draft report on indicators
- The draft report will be made available to the CoE's Gender Equality Commission at its meeting in November for feedback
- The report will then be finalized and prepared for online publication by CoE and UN Women (first quarter of 2016)
- Dissemination of the report will ideally lead to
 - Inclusion of indicators of women's access to justice in existing indexes and data collection tools; and
 - Use of such indicators to track compliance with international standards and recommendations, such as CEDAW Committee's General Recommendation No. 33 on women's access to justice