

# HIGH-LEVEL GROUP ON JUSTICE FOR WOMEN



## MEETING REPORT

*The inaugural meeting of the High-level Group on Justice for Women was held on May 28-29, 2018 in The Hague. This report summarizes the themes and vision articulated during the meeting. The agenda and supporting documents, including the Background Paper on Justice for Women, are available at <http://www.idlo.int/news/events/high-level-group-justice-women>.*

## INTRODUCTION

Justice for women is indispensable for peaceful, just and inclusive societies. The High-level Group (HLG) on Justice for Women held its inaugural meeting on May 28-29, 2018 in The Hague. Top government officials, academics, civil society actors, and international organization leaders demonstrated their unwavering political commitment to ensure justice for women and identified common obstacles and effective solutions to closing the gender justice gap. As a collection of influential partners, the HLG hopes to both model and encourage partnerships for sharing, support, and synergies for innovation as well as ongoing collaboration for results-oriented justice for women.

The HLG constitutes a critical channel to inform and enrich the global Task Force on Justice, an initiative of the Pathfinders for Peaceful, Just and Inclusive Societies. The Task Force was established to accelerate progress on the 2030 Agenda's Sustainable Development Goal (SDG) 16.3 on access to justice. The HLG was convened to develop concrete recommendations on justice for women and girls, as a gender-responsive contribution to the work of the Task Force on Justice, spotlighting the intersection of SDG 16.3 and SDG 5 on gender equality. The HLG will produce a report on justice for women with the support of its co-conveners, IDLO, UN Women, and the Task Force on Justice.<sup>i</sup> The report is expected to be launched during the Commission on the Status of Women 63<sup>rd</sup> Session in March 2019 and contribute to the High Level Political Forum in 2019.

The discussions of the HLG members highlighted:

- the **unprecedented political commitment** rallied by the 2030 Agenda – where justice for all and gender equality are core threads across all 17 Sustainable Development Goals (SDGs) – serving as an opportunity to enhance justice for women and girls;
- the growing body of evidence on the **justice gap for women and girls**, unmet justice needs, hurdles to access, and priorities for addressing these gaps;
- the importance of documenting and sharing **lessons learned about effective approaches, strategies, and tools**, and the potential for their replication and scaling-up;

- the urgency to **make the case for specific action for and investment in women’s access to justice**, especially in the areas of education, health, and gender-based violence, to accelerate progress on achieving other development goals; and
- **an initial strategic direction** for the HLG report and follow up advocacy, including around securing investment commitments, identifying entry points for information gathering platforms, and generating consensus around key messages related to justice for women.

This document aims to capture the themes and vision articulated during the inaugural meeting and draws on prior documents outlining the HLG role and engagement modalities with the Task Force on Justice. It concludes with a timeline for HLG input into the HLG report on justice for women.

## VISION & APPROACH

To achieve its vision of ensuring the centrality of justice for women to the broader work on peaceful, just and inclusive societies, the inaugural HLG discussions elucidated key priority approaches:

1. Seize the global momentum for gender justice and sustainable development
2. Foster a transformative rights-based approach to justice
3. Prioritize gender-responsive justice reform and delivery
4. Harness evidence-based strategies for implementation & accountability
5. Create partnerships and adequately resource justice for women

In articulating its vision, the HLG emphasized that while “no silver bullet exists, there are silver threads” of common priorities and effective, evidence-based approaches that could be woven into diverse, locally-resonant strategies.

### 1. Seize the Global Momentum for Gender Justice and Sustainable Development

Across the globe, women’s demands for accountability for gender-based violations and abuses have gained greater attention and consequence than ever before. Stoked by a watershed moment for gender equality, driven by a rush of activities, campaigns and movements worldwide, such as #MeToo, HeforShe, SheDecides, women’s marches, regional and national-level agitation, many governments have pledged their political commitment with national and foreign policies and funding. Institutions and citizens alike have been grappling with challenges to gender stereotypes and behaviors and calls to dismantle patriarchal attitudes in favor of equitable gender relations.

These calls exposed the persistent disparity between the promise of justice and the lived realities of women and girls. Women continue to disproportionately face patchy legal

protections and uneven implementation of existing safeguards. In 2017, more than one billion women lacked protection from sexual violence by an intimate partner or family member, while the number of women lacking legal protection against sexual harassment in employment, education and public places was estimated at 362 million, 1.5 billion, and 2.2 billion, respectively.<sup>ii</sup>

Structural discrimination stymies women's access to justice institutions, and adverse gender bias in customary and informal justice mechanisms - where 80% of disputes are resolved in many countries - often lead to unfavorable outcomes for women.<sup>iii</sup> Ineffective and nonresponsive judicial systems, compounded by gender stereotypes, biased laws, intersecting discrimination, socio-economic barriers, and limited access to information continue to prevent women from duly claiming their rights and accessing support and redress. Women are also still largely excluded from or under-represented in justice delivery and decision-making positions at the community, national and international level.

Women's justice needs, which run the gamut from family, marriage, property, inheritance, and land disputes to due process, immigration and asylum matters, sexual harassment, trafficking and labor exploitation, remain insufficiently addressed. Armed conflict and fragile situations contribute to spikes in gender-based violence that go unpunished, while such brutality persists across the globe even during times of peace and stability.<sup>iv</sup> At the same time, the proportion of women in prison is growing globally at a faster rate than the male prison population raising concerns about their rights as suspects, accused, and detainees.<sup>v</sup>

### Access to Justice (A2J)

The UN defines "access to justice" as "the ability of people to seek and obtain a remedy through formal or informal institutions of justice, and in conformity with human rights standards."

A human rights-based approach to justice seeks "to develop people's capacity to demand accountability in two ways: by defining a minimum scope of legitimate claims (human rights); and by enhancing the accountability mechanisms and processes through which they protect these claims (e.g., the justice system)."

Source: UNDP, *Programming for Justice: Access for All: A Practitioner's Guide to Human Rights-Based Approach to Access to Justice*

By recognizing that women's claims and rights have for too long been neglected and dismissed, the current movement for gender justice presents unprecedented opportunities for amplifying global commitments to the Sustainable Development Goals (SDGs) of the 2030 Agenda. Access to justice, anchored in SDG 16, is a catalyst for all 17 SDGs. Gender equality embodied in SDG 5 acts as a universal unifier and accelerator toward progress. While expressing concerns about brewing backlash by conservative regimes and actors, the HLG envisions seizing on the global momentum seeking to recalibrate gender relations and improve women's lives through prevention, protection, redress and empowerment.

## 2. Foster a Transformative Rights-based Approach to Justice

Leveraging global conversations about justice, legal empowerment, and inclusive and transformative rule of law, the HLG seeks to coalesce a compelling narrative on justice for women. It argues that a transformative rights-based approach to justice is key to empowerment, sustainable development, lasting peace, and smart social investment.

### ***Take a multifaceted, multidimensional approach***

To account for the complexity of the underlying determinants and barriers to justice for women, the HLG advocates for a multifaceted, multidimensional people-centered approach to legal empowerment and equality throughout the justice chain and as part of a continuum of socio-legal services.

While no ready-made model can be easily transplanted across contexts, the broader approach should be informed by outcome- and evidence-based reforms and interventions that address women's self-expressed legal needs. Effective multi-pronged approaches would include both top-down and bottom-up strategies. States must invest in institutions *and* empower their citizenry. Women's rights movements and mobilization have been among the most powerful forces demanding and getting institutional response to injustices, such as gender-based violence.<sup>vi</sup>

While access to justice often invokes an adversarial, punitive, carceral system, women might favor more accessible dispute resolution processes at the community level that aim to restore relationships and social harmony. In many countries, nearly 80% of disputes are resolved by informal justice mechanisms.<sup>vii</sup> Communities and women might opt for such processes by choice or by default, as some informal and traditional justice systems advance gender-biased and outmoded principles in resolving disputes. Alternative dispute resolution (ADR), informal, customary, or religious justice systems,<sup>viii</sup> especially when their restorative and collective gain approaches over individual justice outcomes enjoy community support, should be integrated as viable justice avenues when aligned with constitutional and human rights standards. On this note, States parties are cautioned against mandatory referrals of gender-based violence cases to alternative dispute resolution procedures, including mediation and conciliation.<sup>ix</sup>

The HLG stressed several core principles on justice for women:

- Strong legislative frameworks that account for discrimination in law (*de jure*) and in practice (*de facto*) should be developed, monitored and enforced to reject gender-discriminatory legal provisions and practices, and continuously examine and update gender-neutral laws and policies that perpetuate existing inequalities.
- A human rights-based approach should be endorsed, such approach premised on international and regional human rights instruments, particularly CEDAW and the Committee on the Elimination of Discrimination Against Women's General Recommendations No. 30 on Women in Conflict Prevention, Conflict and Post-conflict Situations, General Recommendation No. 33 on Women's Access to

Justice, and General Recommendation No. 35 on Gender-Based Violence against Women, Updating General Recommendation No. 19, specifying the principles to be applied in justice delivery for women and girls.<sup>x</sup>

- All laws, policies, institutions, and programs along the justice continuum would benefit from concerted gender analysis<sup>xi</sup> in collaboration with women's groups. Gender-responsive laws are required (including those covering crimes, family matters, health, business and finance, environment and land, and other legal needs of women) as well as analysis of the gender-specific challenges to the operationalization of these laws.
- Countries with plural legal systems should endeavor to maximize paths for women to obtain just, gender-responsive outcomes, including by aligning laws with gender equality and human rights principles, drawing on women justice providers (such as women lawyers, prosecutors, judges, dispute resolvers), and training all justice actors in gender-sensitive justice delivery.
- Justice policy reforms and interventions should identify women's specific legal needs and pinpoint the optimal point of greatest necessity and highest impact potential. Justice systems should facilitate, not hamper increasing justice for women.
- Solutions should be led by beneficiaries and inclusive ownership facilitated through key community actors. Peer-to-peer exchange within and between countries with shared legal heritage, and between governments and activists to swap lessons learned and promising practices should be strengthened.
- Empowerment of women and communities should be advanced through legal aid, legal literacy and representation in formal and informal justice and dispute resolution bodies.
- Justice systems should account for women's reality within a set of relationships and seek creative solutions that go beyond punishment to remedying problems and addressing inequality and systemic failures that affect women.

### ***Clarify framing and key messages***

The HLG aims to craft a cohesive narrative and key messages that resonate and appeal to broad and new audiences and “make the case” that justice for women is the linchpin to robust democracy, people-centered rule of law, realizing human rights, sustainable development, legal empowerment, inclusive growth, and smart investment. In contrast, denial of justice can be both cause and consequence of violence, entrenched poverty, inequality, and exclusion.<sup>xii</sup> When access to justice is positioned as a “public good” it can better dismantle or shift unequal power dynamics. Because most people are more likely to face civil rather than criminal justice problems,<sup>xiii</sup> access to justice formulations must explore the legal accountability dimension of poverty and exclusion. To leverage impact, policies and intervention should bring together SDGs 5 (gender equality and women's

empowerment) and 16 (peace, justice and strong institutions) to ensure removal of barriers to justice and closing the justice gap and to accelerate progress on all SDGs, including SDG 1 (ending poverty), SDG 10 (10.3 reduce inequality), and SDG 11 (11.7 safer cities). The Pathfinders' analysis links 36 SDG Targets to peace, inclusion, or access to justice.

Emerging key messages include:

- Justice for women is justice for all.
- Justice for women is the bridge between women's rights and their actualization. It is about women demanding a better life and empowered to create a better future.
- Access to justice is a human right and a means to claim other rights, to hold individuals and institutions to account.
- Justice is a thread that runs through the 2030 Agenda and many of the SDGs cannot be achieved without increased justice for women.
- Justice for women must be transformative, going beyond punishing perpetrators to addressing the underlying problems of discrimination, inequality, and systemic barriers to participating and benefiting from justice systems.
- Justice for women requires a continuum of care and protection across the full spectrum of laws and sectors, the length of the justice chain, dispute resolution forums, and country contexts, during times of peace and conflict, in situations of prosperity and poverty.
- Justice for women is required for women to have equal access to government services and official documents.
- Law and justice institutions can protect women and be a source of their oppression. The state may be women's worst enemy, the predator of their human rights. With women often struggling with abuse and disputes within the family, so can be their own family.
- Denial of justice impacts men and women differently across locations and contexts (e.g., urban/rural, conflict regions) and intersecting inequalities (e.g., social status, disability, marginalized group membership).
- Justice for women strengthens access to justice and to essential services for women and their families and children; women can be a portal and gateway for improved well-beings of families and communities.
- Women are providers and consumers of justice, as claimants and as defendants.



## ***Craft a compelling narrative around the gender justice gap***

The justice for women story has yet to gain widespread recognition to evoke consistent support and sufficient investment. The HLG strives to combine human stories with impact data to illustrate the ways access to justice can break the cycle of rights deprivation. While stories of a chain of rights violations can be told, they are often anecdotal or theoretical rather than backed by granular data that prompts action. The forthcoming HLG report will seek to couple emblematic stories with cost-benefit data drawn from diverse sources to build a compelling case for urgent intervention for change. The women's justice narrative is complex, its ripples felt across women's lives and life cycle. Cognizant of the dearth of available evidence, the HLG hopes to surface studies about the gender-specific impacts and costs of justice denied and gained.

### ***Make the case for investment in gender-responsive justice***

The HLG meeting background paper states that "Increasing justice for women provides important social, economic and environmental benefits and the injustices women face come at enormous costs in terms of increased poverty, reduced control over their lives, social exclusion, crime and violence, and negative health impacts."<sup>xiv</sup> Access to justice is increasingly seen as an inherent, indivisible human right critical for stable societies, reduced poverty, and sustainable peace and inclusive growth. Better civil justice systems, according to OECD research, "can boost investment, competition, innovation and growth."<sup>xv</sup> An OECD Development Centre report estimates that "gender-based discrimination in social institutions costs up to USD 12 trillion for the global economy" and that reduction in such discrimination could "lead to an annual average increase in the world GDP growth rate of 0.03 to 0.6 percentage points by 2030."<sup>xvi</sup>

### **Breaking the Cycle of Deprivations**

Discriminatory laws that bar women from certain jobs, curtail their equal rights to inheritance, land and property, or subject them to seek guardian permission for travel undercut women's earnings and economic empowerment. With limited means and no housing tenure, women may be more likely to remain in physically abusive situations and decline costly healthcare for themselves and their children. Enhanced access to justice for such women – from gender-equal laws to greater economic sufficiency and access to markets and entrepreneurial endeavors – could result not only in healthier families but overall greater economic growth.

Women's access to social and health services is contingent on having proof of nationality, marital or birth status. Without such identification or certificates, neither women nor their children may access critical health and education services required for national development and welfare. This could expose children to disease or affect their likelihood of school attendance, possibly leading to greater delinquency and engagement in criminal activity, which could pose a threat to peace and security and to private investors seeking law and order guarantees.

Despite such compelling potentialities, more research, data gathering, and statistical analyses are needed to better evaluate the veracity of such reaction chains and their associated costs.

States bear the costs of inadequate access to justice, especially for women (such as the medical costs and missed work days from unchecked GBV), as well as reap the savings from effective justice systems. As with health care, preventative and timely justice solutions – for example, in the form of legal literacy and empowerment which could stem conflict before it grows into a crisis – are more cost effective than palliative and treatment care. Poor investment in justice architecture and infrastructure means women are unable to identify and address their various social and legal needs before they escalate and exact a high toll for the individual and the state. Some experts warn that underinvestment in justice creates an indirect cost boomerang over time.

Despite growing consensus about the importance of gender equality, political commitments and resources to enable its realization have been scarce. Only two percent of aid to fragile states and economies in 2012 and 2013 targeted gender equality as a principal objective, and only USD 130 million out of almost USD 32 billion of total aid went to women’s equality organizations and institutions.<sup>xvii</sup> In 2014, less than one percent of aid to fragile states and economies significantly targeted gender equality.<sup>xviii</sup> National budgets likewise lag behind in terms of prioritizing gender equality, despite initiatives such as gender-responsive budgeting.<sup>xix</sup>

The actual cost-benefit of investment in justice, or in gender components of justice interventions, has yet to be systematically and comprehensively documented. Few studies currently explore the ripple benefits of investment in law and justice. A unique study of 96 countries, comprising 91% of the global population, promisingly found that “the higher the country’s level of adherence to the rule of law, the better the health of the population.” It concluded that robust rule of law may be “a foundational determinant of health” and that investing in justice could improve population health.<sup>xx</sup> The evidence base would benefit from additional research on the impact of access to justice on social equity, sustainable development, and economic growth.

### **3. Prioritize Gender-Responsive Justice Reform and Delivery**

Justice needs, especially for women, do not start with conflict or end with peace agreements. Guarantees for protections and rights are essential across the continuum of development and conflict phases, fragile and robust governance settings, and in low and high-income countries. There is growing recognition that justice must be delivered as a continuum across the justice chain and in all contexts. The protection continuum must be paired with a justice chain responsive to gender needs at every stage, whether during women’s initial contact with law enforcement or judicial bodies, or during proceedings, sentencing, and enforcement of decisions. In civil justice, both formal and informal institutions must respond to women’s legal needs and provide accessible, affordable and appropriate services with fair outcomes.

Several key elements are relevant for a gender-responsive justice continuum across contexts which address the demand side (women and girls claiming their rights) and supply side (justice actors providing accessible, high-quality, gender-sensitive legal services) of justice.



### ***Identify women's unmet legal needs***

While justice debates and SDG 16 generally focus on criminal justice, most legal disputes are in the areas of civil, family, and administrative law, which more typically and directly affect women's lives.<sup>xxi</sup> On both the global and national level, justice actors should draw on existing tools and methodologies to identify substantive areas of unmet legal needs, and gaps and barriers in justice processes that most affect communities and women. Tailored, effective approaches to justice for women must combine legal needs identification with addressing women's access to, use of, and satisfaction with legal services, justice institutions and processes. Access to justice can be meaningless when women perceive laws or customary dispute resolution principles as gender-discriminatory, distrust local dispute resolvers, or see law enforcement bodies and courts as unfair, hostile, or corrupt. Today, more than 37 countries rely on national legal needs surveys to determine baseline data for understanding their people's legal problems.<sup>xxii</sup>

Legal needs surveys and assessments should be combined with data collection on use and satisfaction with justice services. Various tools exist to capture trust in law and order institutions, such as the Gallup global law and order report,<sup>xxiii</sup> the Crime Victims Survey,<sup>xxiv</sup> and national Demographic and Health Surveys. These data vaults can be harvested for sex-disaggregated observations to inform better policy-making. Several SDG targets and indicators could likewise be instructive (e.g., indicator 10.3.1 on perception of discrimination or harassment prohibited on human rights grounds), while the main justice indicator under SDG 16.3 could be supplemented by enhanced reporting on civil law issues particularly relevant for women.

### ***Build grassroots legal literacy and awareness of rights***

Grassroots legal literacy for women and communities often stimulates demand for justice. Equipped with knowledge about what the law has to offer them, community members and in particular marginalized or underprivileged groups are better able to recognize and more successfully challenge injustices. Grassroots legal empowerment strategies across countries and contexts have demonstrated immense impact at relatively low cost.<sup>xxv</sup> Women who are educated about their rights and possible remedies tend to more effectively engage with formal and informal dispute resolution systems leading to individual and possibly societal gains and savings from de-escalation and resolution of conflicts. Legal empowerment is even more effective when complemented with social accountability measures, such as advocacy with social and justice institutions to deliver needed services, remedies, and enforcement.<sup>xxvi</sup>

### ***Modify social norms and remove gender-based barriers to access***

Even when equipped with legal knowledge, women and girls may decline to claim their rights in the name of family and social harmony. Women, and women human rights defenders, often face tacit and explicit threats, shaming, stigma, and at times, ostracism or death if they dare demand justice. For example, women who assert their land rights, a common issue for rural women, face gender-based violence primarily due to men re-asserting their power and dominance in response to women's increased status.<sup>xxvii</sup>

Women may face other hurdles to justice in the form of complex bureaucratic procedures, distant administrative hubs and courts, and expensive legal fees, travel costs, and time typically required to claim such rights. Women, who continue to disproportionately shoulder care and home responsibilities and, in some places, must seek guardian permission to travel or file papers, are even less likely to be able to afford and access the legal and redress processes required to claim their rights.

### ***Develop the gender capacity of justice actors, processes & institutions***

The complementary approach to legal empowerment of women and communities is to develop the gender capacity and integrity of judicial system actors and processes. In line with CEDAW General Recommendation 33 on Women's Access to Justice, states must address the quality of processes and the attitude and knowledge of justice providers - in formal, informal, and traditional justice systems. Gender sensitivity and awareness must infuse the entire justice chain, promoting solution-oriented, gender responsive processes, and changing the architecture and infrastructure of justice administration where needed. Institutionalizing gender-sensitive processes into the justice chain has yielded positive outcomes for women. Low -cost innovations include mandating greater confidentiality and safety for GBV survivors in and outside the courtroom, providing for in-camera trials, curtailing unnecessary postponements, allowing a support person to be present, ensuring court personnel treat witnesses sensitively, and banning victim-blaming and gender-biased language in court proceedings.<sup>xxviii</sup>

Mending fragmentation and enhanced coordination between justice and related agencies have helped simplify and mainstream processes and improve case turn-around time and resolution, thus greatly benefiting women claimants. To ensure greater accessibility by women and communities, justice services in several countries include free legal aid, help desks and mobile courts, community-based justice outposts and draw on technology-based justice services which could help bypass corruption and gender-bias exhibited by justice actors.<sup>xxix</sup>

Gender-sensitive justice professionals, well-versed in legal protections for women, provide among the best front-line access to justice guarantees. Training and focus on gender-positive laws and processes have shown promise when integrated into law school curricula and woven into continuing education and training for lawyers, prosecutors, judges, and customary law deliverers. Ongoing and “refresher” technical support has included bench books, alternative dispute resolution protocols on gender-responsive handling of affected individuals, cases, and justice processes. Gender expertise or demonstrated commitment should be deemed as basic qualifications for employment within the justice and security sector at national and international levels.

Transformative access to justice requires tackling gender power relations and dynamics and challenging patriarchal tendencies and status quo. Despite global progress toward gender equality in constitutions, laws, and human rights instruments, social gender norms and stereotypes continue to claw away at effective, lasting progress. Ultimately, the active participation of legal actors - whether in formal or informal legal systems, grounded in

statute or religious cannon – is required to challenge and change adverse social norms and overcome legal hurdles that undermine justice for women.

#### **4. Harness Evidence-based Strategies for Implementation & Accountability**

While access to justice defies uniform template, innovative case studies, comparative studies, and systemic data on effective strategies provide promising practices and lessons learned. The HLG seeks to understand which strategies, tools, and approaches have been shown to increase access to justice for women and girls and can be potentially replicated or upscaled. While recognizing that given local particularities, different paths and strategies might be needed for different contexts, there are instructive elements on ways to localize initiatives and ground them in community- and women-led processes. The impacts and lessons learned from prior initiatives facilitate the development of evidence-based strategies for reforms and interventions.

Comprehensive monitoring and evaluation methodologies for access to justice for women remain limited. Legal needs analyses, victimization surveys, and studies on the perception of justice institutions exist for some countries and populations. However, the sector is still developing effective ways to capture data on how access to justice concretely changes women's lives and the broader impact of social and legal interventions.

The SDG framework and its reporting mechanism provides some potential data entry points but lacks indicators to monitor women's access to justice across areas of laws and within dispute resolution and administrative processes that most intimately affect them. More systematic, longitudinal, national-level data collection and analysis would help facilitate evidence-based, tailored interventions rather than overly broad initiatives, helping governments to invest less but attain more effective outcomes. With good practices, scaling up can prove to be both cost effective and transformative for women's lives. The SDG voluntary reporting mechanism could thus be used to catalyze better justice outcomes for women, including in part, through engaging civil society, local and municipal authorities, and national parliaments as key actors.

As the ultimate duty bearers, states are responsible for the implementation and accountability of their justice systems, including informal and traditional/customary systems that may fall outside the formal state structure. Effective accountability frameworks incorporate a mechanism for monitoring and overseeing all judicial and quasi-judicial processes, including ADR, informal justice, specialized courts, and administrative dispute resolution bodies. Such a monitoring and oversight mechanism would evaluate local and national dispute resolution processes and bodies for compliance with gender equality and human rights standards. To ensure accountability of judicial conduct, for example, authorities may condition licensing and appointment on judges' participation in gender training and demonstrated application of gender-sensitive justice delivery. Continued oversight should be exercised over judges, in formal and informal, customary/traditional systems, monitoring their exercise of discretion, and ensuring their issuance of appropriate measures against perpetrators. Budgeting presents another channel of accountability. As such, all ministries and agencies could be required to include

gender justice in their proposed sector budgets. The HLG report will seek success stories and share evidence of what has worked and is being piloted.

States, justice stakeholders, and rights holders may also draw on regional and global accountability mechanisms. Gender-focused mechanisms include the CEDAW Optional Protocol's individual communication option, the inquiry procedure into systemic violations, as well as CEDAW's reporting process and specific guidance on implementing CEDAW General Recommendation 33 on women's access to justice to inform national-level responses and reforms. UN Special Procedures include the Special Rapporteur on Violence against Women and the Working Group on the issue of discrimination against women in law and in practice who carry out country visits and issue concrete guidance based on comparative good practices concerning women's access to justice.

## **5. Create Partnerships & Adequately Resource Justice for Women**

Justice for women requires sustainable, ongoing, innovative, multi-sectoral, multidisciplinary partnerships, funding, and resources. The urgency and breadth of the need calls for non-traditional, strategic networks and partnerships between governments agencies, donor countries, the private sector, multilateral financial institutions, international organizations, academic and research institutions, and private foundations, to generate models for public investment in justice. Cross-movement alliances across sectors present fertile opportunities. For example, connecting rule of law and justice actors with gender and women's rights movement players would cross-pollinate and enrich justice for women approaches and solutions. Governments that link with rural civil society groups and associations of legal professionals (such as women lawyers associations) can leverage funding and outreach to remote areas, enhancing the scope of justice coverage. In addition to investment in institutions and justice actors, justice for women funding would require resourcing the women's rights movement.

Despite the dazzling potential of investing in justice, funding for justice programming remains unpredictable and pitifully low. A Pathfinders' mapping paper found that "an average of 1.8% of official development assistance was committed to the justice sector between 2011 and 2014."<sup>xxx</sup> Amounts allocated for gender-specific components of justice projects barely reach single digits.<sup>xxxi</sup> As political commitment gather for increasing justice sector funding, innovative resourcing approaches are emerging: requiring all funded SDG projects to include gender-responsive A2J components; and granting larger sums to interventions that link A2J to other national funding priorities, such as access to education, health, or land rights. The HLG also suggested advocating to capture illicit money flows, particularly from multinational corporations, and divert them to fund justice for women.

### **MANDATE & OUTPUTS**

The High-level Group on Justice for Women will develop concrete recommendations on access to justice for women and girls, as an input to the work of the Task Force on Justice. The HLG will focus on the unmet need for justice of women in all countries, in line with the universal approach of the 2030 Agenda.

The High-level Group (HLG) will guide the production of a report addressing the following agreed-upon issues:

- Addressing the justice gap for women and girls
- Understanding what works to achieve justice for women
- Making the case for gender-responsive investment in justice
- Call to action

During the inaugural meeting, the HLG stressed its role in generating action and political commitment, expanding the justice for women partnership by reaching out to regional networks (such as the Commonwealth magistrate and judges association), global legal professional women's associations, and additional donors to translate commitment to investment.

### ***Working Modalities***

1. The High-level Group held its inaugural meeting in The Hague on 28 and 29 May 2018.
2. Subsequent meetings will be held electronically, including at the technical level.
3. An input paper ("HLG Report") will be developed to support the group's deliberations. The High-level Group will provide guidance and insights to the report drafting team, on areas of emphasis and consideration.

### ***Timeline for Input***

- **September 4-15, 2018:** HLG reviews the draft Report outline and draft Recommendations
- **October 1-15, 2018:** HLG reviews the first draft of the HLG Report; the Draft report will be discussed at a virtual meeting of the High-level Group in October 2018.
- **October 29 - November 9, 2018:** HLG reviews second draft of Report
- **November 24, 2018:** HLG receives final HLG report
- **January 2019:** Final HLG report circulated publicly
- **March to September 2019:** The report will be launched during the 63rd session of the Commission on the Status of Women in March 2019. It will contribute to the report of the Task Force on Justice which will be launched during the July 2019 High-level Political Forum, with activities as well around the 2019 General Assembly.

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- <sup>i</sup> The Center on International Cooperation (CIC) of New York University (NYU), serves as the secretariat for the [Pathfinders for Peaceful, Just and Inclusive Societies as well as for the Task Force on Justice](#).
- <sup>ii</sup> International Development Law Organization (IDLO), UN Women, Task Force on Justice, High-Level Group on Justice for Women Inaugural Meeting Background Paper (May 2018), p. 3, at <https://www.idlo.int/sites/default/files/pdfs/events/HLG4W%20The%20Hague%20-%20BACKGROUND%20PAPER.pdf>, citing Paula Tavares & Quentin Wodon, World Bank, Ending Violence Against Women and Girls: Global and Regional Trends in Women's Legal Protection Against Domestic Violence and Sexual Harassment (2018).
- <sup>iii</sup> IDLO, Accessing Justice: Models, Strategies and Best Practices on Women's Empowerment (2013), at p. 12, at <https://www.idlo.int/publications/accessing-justice-models-strategies-and-best-practices-womens-empowerment>.
- <sup>iv</sup> IDLO, UN Women, Task Force on Justice, High-Level Group on Justice for Women Inaugural Meeting Background Paper (May 2018), p. 3, at <https://www.idlo.int/sites/default/files/pdfs/events/HLG4W%20The%20Hague%20-%20BACKGROUND%20PAPER.pdf>.
- <sup>v</sup> *Ibid.* citing UN Women, UNDP, UNODC and OHCHR, A Practitioner's Toolkit on Women's Access to Justice (2018), at p.6.
- <sup>vi</sup> An analysis of policies on violence against women in 70 countries from 1975-2005 revealed that "the most important and consistent factor driving policy change is feminist activism." S. Laurel Weldon & Mala Htun (2013) Feminist mobilization and progressive policy change: why governments take action to combat violence against women, *Gender & Development*, 21:2, 231-247, at <https://www.tandfonline.com/doi/abs/10.1080/13552074.2013.802158>.
- <sup>vii</sup> IDLO, UN Women, Task Force on Justice, High-Level Group on Justice for Women Inaugural Meeting Background Paper (May 2018), p. 3.
- <sup>viii</sup> CEDAW General Recommendation on Women's Access to Justice explains that: "Religious, customary, indigenous and community justice systems – called traditional justice systems in this general recommendation – may be formally recognized by the State, operate with the State's acquiescence with or without any explicit status, or function outside of the State's regulatory framework." CEDAW, General Recommendation 33 on Women's Access to Justice, CEDAW/C/GC/33 (23 July 2015), para. 5, at [http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1\\_Global/CEDAW\\_C\\_GC\\_33\\_7767\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_33_7767_E.pdf).
- <sup>ix</sup> The UN Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW) cautions States parties to "[e]nsure that cases of violence against women, including domestic violence, are under no circumstances referred to any alternative dispute resolution procedures. CEDAW, General Recommendation 33 on Women's Access to Justice, para. 58(c). CEDAW reiterated more recently that states should "Ensure that gender-based violence against women is not mandatorily referred to alternative dispute resolution procedures, including mediation and conciliation" and that "Alternative dispute resolution procedures should not constitute an obstacle to women's access to formal justice." CEDAW, General Recommendation 35 on gender-based violence against women, updating general recommendation 19, CEDAW/C/GC/35 (26 July 2017), para. 32(b), at [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/35&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/35&Lang=en).
- <sup>x</sup> CEDAW issued guidance outlines the requisite criteria and benchmarks for justice for women, including where alternative dispute resolution (ADR), informal and customary justice systems are best utilized.
- <sup>xi</sup> See e.g., the Canadian government's systemic use of [Gender-based Analysis Plus](#).
- <sup>xii</sup> As an HLG presenter explained, if justice is a means to an end and the end is sustainable peace, it means that investing in justice is investing in sustainable peace. See e.g., the World Bank's [2011 World Development Report](#) emphasized the indispensability of justice institutions in managing conflict and underpinning development. World Bank, World Development Report 2011, at [http://siteresources.worldbank.org/INTWDRS/Resources/WDR2011\\_Full\\_Text.pdf](http://siteresources.worldbank.org/INTWDRS/Resources/WDR2011_Full_Text.pdf). The Commission on Legal Empowerment of the Poor reported "compelling evidence that when poor people are accorded the protections of the rule of law, they can prosper." Commission on Legal Empowerment of the Poor and United Nations Development Programme, *Making the Law Work for Everyone - Volume 1: Report of the Commission on Legal Empowerment of the Poor* (2008), at [http://www.unicef.org/ceecis/Making\\_the\\_law\\_work\\_for\\_everyone.pdf](http://www.unicef.org/ceecis/Making_the_law_work_for_everyone.pdf).
- <sup>xiii</sup> OECD & Open Society Justice Initiative, Understanding Effective Access to Justice *Workshop* Background (November 2016), pp. 2-3, at <http://www.oecd.org/gov/Understanding-effective-access-justice-workshop-paper-final.pdf>.
- <sup>xiv</sup> IDLO, UN Women, Task Force on Justice, High-Level Group on Justice for Women Inaugural Meeting Background Paper (May 2018), p. 6.
- <sup>xv</sup> OECD, Economy: Better civil justice systems can boost investment, competition, innovation and growth (June 2013), at [http://www.oecd.org/economy/betterciviljusticesystemscanboostinvestmentcompetitioninnovationandgrowthoeecd\\_says.htm](http://www.oecd.org/economy/betterciviljusticesystemscanboostinvestmentcompetitioninnovationandgrowthoeecd_says.htm)
- <sup>xvi</sup> Gaëlle Ferrant & Alexandre Kolev, OECD Development Centre, The economic cost of gender-based discrimination in social institutions (June 2016) at [https://www.oecd.org/dev/development-gender/SIGI\\_cost\\_final.pdf](https://www.oecd.org/dev/development-gender/SIGI_cost_final.pdf).
- <sup>xvii</sup> IDLO, UN Women, Task Force on Justice, High-Level Group on Justice for Women Inaugural Meeting Background Paper citing UN Women, Facts and Figures, Peace and Security, at <http://www.unwomen.org/en/what-we-do/peace-and-security/facts-and-figures>.



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<sup>xviii</sup> IDLO, UN Women, Task Force on Justice, High-Level Group on Justice for Women Inaugural Meeting Background Paper.

<sup>xix</sup> *Ibid.*

<sup>xx</sup> Angela Maria Pinzon-Rondon, Amir Attaran, Juan Carlos Botero, & Angela Maria Ruiz-Sternberg. (2015), *Association of rule of law and health outcomes: an ecological study*, BMJ Open 2015;5:e007004 available at <http://bmjopen.bmj.com/content/bmjopen/5/10/e007004.full.pdf> cited in Pathfinders for Peaceful, Just and Inclusive Societies, SDG 16.3 Mapping Paper for the Task Force on Justice, (Oct. 25, 2017).

<sup>xxi</sup> While criminal justice reform continues to be critical for women, especially those from historically marginalized communities, access to justice discussions must be broadened to tackle family and community disputes.

<sup>xxii</sup> OECD & OSF, Issue Brief 2016: Leveraging the SDGs: Delivering Justice for All, p. 9, at <http://www.oecd.org/gov/delivering-access-to-justice-for-all.pdf>.

<sup>xxiii</sup> See e.g., Gallup's World Poll, Global Law and Order Report 2017, at <http://news.gallup.com/reports/214607/gallup-global-law-order-report-2017.aspx>.

<sup>xxiv</sup> See e.g., UN Interregional Crime and Justice research Institute, International Crime Victims Survey, The European Crime and Safety Survey, at [http://www.unicri.it/services/library\\_documentation/publications/icvs/](http://www.unicri.it/services/library_documentation/publications/icvs/).

<sup>xxv</sup> See e.g., IDLO, Accessing Justice: Models, Strategies and Best Practices on Women's Empowerment (2013), at <https://www.idlo.int/publications/accessing-justice-models-strategies-and-best-practices-womens-empowerment>; Laura Goodwin and Vivek Maru, Namati, What do we know about legal empowerment? Mapping the Evidence (Working Paper, May 2014) at <https://namati.org/wp-content/uploads/2014/05/Evidence-Review2.pdf>.

<sup>xxvi</sup> See e.g., IDLO, Accessing Justice: Models, Strategies and Best Practices on Women's Empowerment (2013).

<sup>xxvii</sup> See e.g., in Rwanda, women who bring land disputes to local authorities may be exposed to physical and emotional violence, often from their husbands and his family. Ailey Kaiser Hughes & Amanda Richardson, Landesa and World Resources Institute, Land and Gender-Based Violence: Experiences from Rwanda and Liberia (2015) at <http://www.focusonland.com/countries/land-and-genderbased-violence-experiences-from-rwanda-and-liberia/>.

<sup>xxviii</sup> IDLO, UN Women, Task Force on Justice, High-Level Group on Justice for Women Inaugural Meeting Background Paper.

<sup>xxix</sup> *Ibid.*

<sup>xxx</sup> Sarah Hearn (2016), *Independent Review of the New Deal for Engagement in Fragile States*. New York: Center on International Cooperation, available at [http://cic.nyu.edu/sites/default/files/new\\_deal\\_engagement\\_hearn\\_apr14\\_final.pdf](http://cic.nyu.edu/sites/default/files/new_deal_engagement_hearn_apr14_final.pdf) cited in Pathfinders for Peaceful, Just and Inclusive Societies, SDG 16.3 Mapping Paper for the Task Force on Justice, (Oct. 25, 2017).

<sup>xxxi</sup> UN Women research found that of two major justice sector funders, the Development Assistance Committee of the Organisation for Economic Cooperation and Development (OECD-DAC) and the World Bank, the former allocated 5% in 2009 to programmes for which gender equality was a primary aim, and the latter allocated a miniscule fraction (0.004%) to gender equality components of public administration, law and justice projects between 2000-2010. UN Women, In Pursuit of Justice, 2011-2012, p. 17, at <http://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2011/progressoftheworldswomen-2011-en.pdf?la=en&vs=2835>.