Violence Prevention and Response Unit, Protection and Rule of Law
Access to Justice Guidance, October 2019

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This guidance has been developed through the support of PRoL Technical Advisors, sharing the insights and lessons learned they have gathered from working with IRC legal teams across the Middle East, Africa, and Asia. Dora Abdelghani and Rebecca Gang, among many others, spent a particularly significant amount of time working on this guidance. Deepest thanks to TAs from WPE, CP, Governance, ERD, Education, Health and Gender Equality teams who spent time drafting and reviewing. Thank you to DLA Piper for translation into Arabic and French. Thank you to Katelyn Masket for editing and creating the graphics. Thank you most of all to Sebastiaan Der Kinderen for bringing us together and setting us all in motion.

We have designed this resource to be as practical as possible, hoping that it gives you the confidence and tools you will need to design and implement this critical service in your context. We have also designed this toolkit to be a living document – we want to hear from you with your thoughts on what we are missing, case studies and tools from your context, and other materials or ideas you think would be helpful to others seeking to set up or advance A2J programming in their contexts. To contribute, send your thoughts to your PRoL TA or to VPRUMailbox@rescue.org.

Please always feel welcome to reach out to your PRoL TA for support on any aspect of A2J programming.

We hope the resulting guidance reflects all that you have taught us.

Thank you, your PRoL TA team. October 2019.

A2J Programming Toolbox

The below tools are linked where relevant throughout this guidance and are compiled here for quick reference. The Part 1 tools will help you apply core approaches and guiding principles, no matter the activity. The Part 2 tools are divided by the three levels of A2J programming.

PART 1: Core Approaches and Guiding Principles to IRC A2J programming

To apply our **overarching core approaches and guiding principles**, use these tools when designing and implementing all A2J programming:

USING A HUMAN RIGHTS BASED APPROACH ***16***

1. Human Rights Based Approach Toolkit

ENSURING CLIENT RESPONSIVE AND CONTEXT APPROPRIATE PROGRAMS ***16***

1. Context Appropriate Toolkit
2. Gender Analysis Toolkit
3. Client Responsiveness Toolkit

A NOTE ON MONITORING AND EVALUATION 17

1. M&E basics training
2. VPRU Core Indicators training
3. VPRU Core Indicators list (A2J highlighted)

BUILDING HEALTHY PARTNERSHIPS ***17***

1. Partner Responsiveness Toolkit

DO NO HARM ***18***

1. Do No Harm Assessment
2. Project Risk Matrix
3. Do No Harm Training
4. Do No Harm Analysis Tool
5. Safety Planning Tool
6. VPRU Data Protection Policy Package

DESIGNING AGE, GENDER, DIVERSITY AND DISABILITY SENSITIVE SERVICES ***19***

1. Basic Gender Analysis
2. Comprehensive Gender Analysis
3. Inclusive Budgeting Tipsheet
4. Inclusive Facilitation Tipsheet

DESIGNING A2J PROJECTS FOR SPECIFIC GROUPS: CHILDREN, WOMEN & PEOPLE WITH DISABILITIES ***21***

Children:

- Applying Basic Child Protection Mainstreaming (IRC, Child Fund International, Save the Children)
- IRC basic training for legal staff working with children (A2J for children; Intro to Child Protection for legal teams)
- Interagency review of justice for children in a humanitarian context (CPMS 14)
- My lawyer, My rights: Enhancing children's rights in criminal proceedings in the UE (website, tools)
- Guidance note on Legal Assistance in cases of Early Marriage, Annexes/forms,
- Toolkit on diversion and alternatives to detention, UNICEF
- Guidelines on child friendly legal aid, UNICEF
- Children's Access to Justice resources, Child Rights International Network (CRIN)

Women:

- Women's access to justice for gender based violence, Practitioner's guide (International Commission of Jurists 2016)
- OHCHR, A Practitioner's Toolkit on Women's Access to Justice Programming
- IDLO, Accessing Justice: Models, Strategies and Best Practices on Women's Empowerment
- IRC tool for GBV Legal Officer Supervision

Universal design:

- Humanitarian Inclusion Standards for Older Persons and Persons with Disabilities (Age and Disability Consortium, 2018)
- UN DSPD, Toolkit on Disability for Africa: Access to Justice for Persons with Disabilities
- LGBTQIA Inclusion Checklist (International Development Roundtable, 2017)
- Mental Disability Advocacy Centre, Litigating the right to community living for people with mental disabilities. A Handbook for Lawyers, 2014.
- Inclusive Budgeting Tipsheet
- Inclusive Facilitation Tipsheet

Tools for designing AGDD sensitive legal context assessment:

- UNHCR Participatory Assessment guidance
- IRC legal context assessment sample questions
- OECD/OSF Legal Needs Surveys and Access to Justice: *Ch 3, p 105, Model questions; Annex A, p 159, Annotated survey*

PART 2: Designing Access to Justice Programming

Use these tools to design and implement the most effective activities at each level of A2J programming:

LEGAL AWARENESS AND INFORMATION: CREATING KNOWLEDGE AND DEMAND ***29***

1. Legal Information Assessment Tool
2. Psychological First Aid Training
3. Example Legal Information Manuals (Uganda; Lebanon)
4. Translators Without Borders, Plain Language Principles
5. Plain Language Writing Guide
6. Plain Language Glossary of Legal Terms
7. UNHCR Participatory Assessment guidance
8. IRC legal context assessment sample questions
9. OECD/OSF Legal Needs Surveys and Access to Justice: Ch 3, p 105, Model questions; Annex A, p 159, Annotated survey
10. Six questions to ask when using tech to improve A2J

LEGAL ASSISTANCE: DELIVERING QUALITY LEGAL SERVICES ***36***

1. UNHCR Participatory Assessment guidance
2. IRC legal context assessment sample questions
3. OECD/OSF Legal Needs Surveys and Access to Justice: *Ch 3, p 105, Model questions; Annex A, p 159, Annotated survey*
4. Sample Legal Assistance SOP
5. Sample eligibility criteria
6. Protection Case Management guidance
7. Simple flowchart for community-based case management
8. Case intake checklist for community volunteers
9. Case intake flowchart for IRC staff
10. Legal Assistance Forms kit
11. IRC report on ethical considerations when working with detained populations
12. Detention Legal Representation SOPs
13. Legal Service Agreement
14. Guidance Note on Early Marriage, Annexes
15. Legal Assistance Standardized Operating Procedures
16. GBV Legal Officer Supervision tool
17. Case management safety planning tool
18. VPRU Data Protection Policy Package
19. Informed consent form
20. Informed consent flowchart

JUSTICE SYSTEMS SUPPORT ***53***

1. Service Delivery Assessment Guidance
2. IRC's Safety 4 TOC
3. IRC's Cross-Cutting Service Delivery TOC
4. Context Appropriate: Stakeholder Analysis
5. Briefing Note on Organizational Development (Annex 1)
6. Systems Strengthening Program Guidance Note

Introduction

Access to Justice (A2J) is a core Protection and Rule of Law (PRoL) programming intervention, housed within the Violence Prevention and Response Unit (VPRU) at the International Rescue Committee (IRC). **Approximately 5.1 billion people around the world today – about two-thirds of the global population – lack meaningful access to justice, trapping people and especially the most vulnerable in vicious cycles of poverty, inequality and marginalization.**[1] During times of conflict and disaster, people's security, safety and access to basic services is often further undermined. A2J is critical to ensure the protection of basic rights, safety and security across the arc of crisis – from emergency through to recovery, with an eye to ensuring the empowerment and wellbeing of individuals and groups in the long term.

A2J works primarily to achieve Safety Outcomes: ensuring that people are free from violence and coercion, that rules and laws exist and are followed to protect people's rights, to ensure that people have access to legal assistance and personal documentation, and that they can safely seek redress if they are denied assistance or their rights are otherwise violated (at home, at school, in the community and at the workplace); **and Power Outcomes**: people understand their rights and are able to make informed decisions about how and where to live; communities are legally empowered to stimulate policy and legal reform that affect their lives.

A2J affects both individuals and society at large: it enables the recognition of individuals' human rights and helps build an environment in which individuals can move out of poverty, improves access to remedies when people's rights are violated and provides support to prevent further harm, breaks patterns of impunity and ensures rule of law. **Access to Justice has been described as crucial to achieving many of the Sustainable Development Goals**, such as eradicating poverty and hunger, securing improvements in the lives of women through the legal realization of gender equality, and helping to preserve the environment.[2] As such, A2J is an integral component of any broader strategy of crisis response, prevention and recovery across all IRC sectors.[3]

What is Access to Justice at the IRC?

The IRC defines Access to Justice (A2J) as the ability of individuals/groups (rights holders) and the state, non-state and community actors responsible for protecting those individuals/groups (duty bearers) to understand their respective rights and responsibilities and to seek and provide satisfactory remedies for rights violations through formal and/or informal institutions of justice, in conformity with human rights standards.[4] A2J offers critical prevention and response services in the immediate aftermath of crisis, in chronic and protracted displacement, and in situations of stabilization, early recovery and return. At the

[1] International Bar Association / World Bank, *A Tool for Justice: The Cost Benefit Analysis of Legal Aid*, September 2019. https://www.scottishlegal.com/uploads/ToolforJustice-CBAsoflegalaid.pdf

[2] OECD/OSF Issues Brief 26, *Leveraging the SGDs for Inclusive Growth: Delivering Access to Justice for All*, 2016, https://namati.org/resources/leveraging-the-sdgs-for-inclusive-growth-delivering-access-to-justice-for-all/; https://rescue.box.com/s/ns0izk0fw77ci7c4gv4q3gop3kuo2j1m; See also, The Elders: *Position Paper on Access to Justice, 2018:* https://theelders.org/sites/default/files/The%20Elders%27%20Access%20to%20Justice%20-%20Position%20Paper%20-%20for%20web.pdf

[3] "Transparent, effective, accessible, competent and impartial justice is not only an essential generator of economic development and wealth, but is also vital for the legitimacy of regimes, for good governance, respect for human rights, and the fight against poverty." *Rule of Law and Access to Justice: Perspective from UNDP Experience*, UNDP (2003).

[4] Adapted from *Programming for Justice: Access for All – A Practitioner's Guide to a Human Rights-Based Approach to Access to Justice*, UNDP (2005).

IRC, A2J activities are not limited to certain areas of the law or target populations – rather, we seek to design programs around the justice needs that are most urgent in a given context or are having the greatest impact on the safety, security, empowerment and well-being of those most vulnerable to harm.

We follow a Legal Empowerment approach to A2J. **Legal Empowerment** is a global movement about:

> "strengthening the capacity of all people to exercise their rights, either as individuals or as members of a community. It's about grassroots justice—about ensuring that law is not confined to books or courtrooms, but rather is available and meaningful to ordinary people."[5]

Legal Empowerment is about using the law to increase the knowledge, understanding and power of crisis-affected populations to make informed decisions toward solving their own problems and to ensure their own safety. Legal Empowerment is also about working to create environments where rules, systems, and duty bearers work to protect the rights of all, and particularly the most disadvantaged.

Central to a legal empowerment approach is the idea that **we start where people are** – working within the systems people choose or are obligated to use. This means that **we work with whatever legal system(s) is/are operational on the ground** – be it state/statutory, informal/customary, religious or hybrid (more than one system combined). Studies show that use of informal justice mechanisms is around 80% in the types of environments where the IRC works, for a range of reasons – absence of formal systems, corruption, lack of belief in formal justice or social stigma around using it.[6] We recognize that all justice mechanisms – formal and informal – are products of the social environments in which they are found, and as such, no system is by definition 'better' or more likely to adhere to human rights standards than another. We also know that the effectiveness of justice provision rests on the extent to which people feel that system is legitimate, fair, and true to the social values of the society in which it sits, and to the extent that system is inclusive of them – depending on factors such as gender, age, social membership or level of ability. These are all concepts that are defined according to local knowledge and understanding. Thus, while there may be a court system in operation, people may not feel it represents what they believe justice should be or equally, that the local customary system doesn't adequately protect their rights under law. For this reason, IRC A2J programs will always start where people are, lending support to the justice systems that people are prepared to invest in themselves.

Further, we believe that justice should be blind. Access to justice should be available to anyone who needs it – both those whose rights have been violated, as well as those accused of violating someone else's rights. We cannot make the mistake of assuming some people are 'right' and some are 'wrong' just because of what group they belong to, where they have come from, or what people say about them. This is also part of our commitment to the humanitarian principles of impartiality and neutrality. Where this may create a conflict of interest or safety risk to some clients, please discuss with your VPR TA.

What Activities does Access to Justice include?

We believe that there are three main 'levels' that are essential to legal empowerment programming. Each of these levels target key stakeholders and serve key functions that lead us to the overarching outcome

[5] This is a common definition, put forth by legal empowerment actors including Namati.org, Open Society Foundation, GSDRC.org, IDLO, the World Bank and others. See: https://www.justiceinitiative.org/publications/global-legal-empowerment-initiative

[6] https://www.un.org/ruleoflaw/thematic-areas/access-to-justice-and-rule-of-law-institutions/informal-justice/

that: **people know their rights and responsibilities, and have access to legal documentation and to safe and quality legal assistance when their rights are violated.** Access to justice activities should be designed in interconnected layers, like an ecosystem – where each key stakeholder is recognized to have its own key role to play, and is supported to perform that role as best it can as part of a functioning system. These activities are designed to ensure that rights holders are able to demand A2J (info/awareness), that people can access A2J services when they need to (legal assistance) and that duty-bearers are supported to improve the quality and supply of legal services to meet the demand of rights-holders (justice systems support).

Therefore, at the IRC, A2J programming consists of **three types of activities**:

1. **Legal awareness/information**:
    - What (examples): providing information to increase people's knowledge of their rights and entitlements; supporting people to understand their rights/responsibilities, and what/where/how to access services and support that will help protect their rights;
    - Why: to increase demand for and ability to access justice independently;
2. **Legal assistance/legal case management**:
    - What (examples): providing personalized legal counseling services; assistance in completing legal forms or filing a claim; accompaniment to administrative authorities or justice providers; legal case management and/or representation;
    - Why: to ensure that people have their justice-related social service and urgent protection needs met; and
3. **Justice systems support (JSS)**:
    - What (examples): building the knowledge, material capacity and willingness of justice sector actors to provide justice services that are aligned to human rights standards; monitoring justice systems to understand and build rights protective capacity; and
    - Why: to support justice actors to fulfill their responsibility to provide justice services that meet the needs and rights of the people they are required to serve.

Most commonly, A2J programs use a combination of these three approaches to ensure that we are both preventing and responding to violence and/or the risk of violence resulting from gaps in people's ability to access justice at both the grassroots and institutional levels.

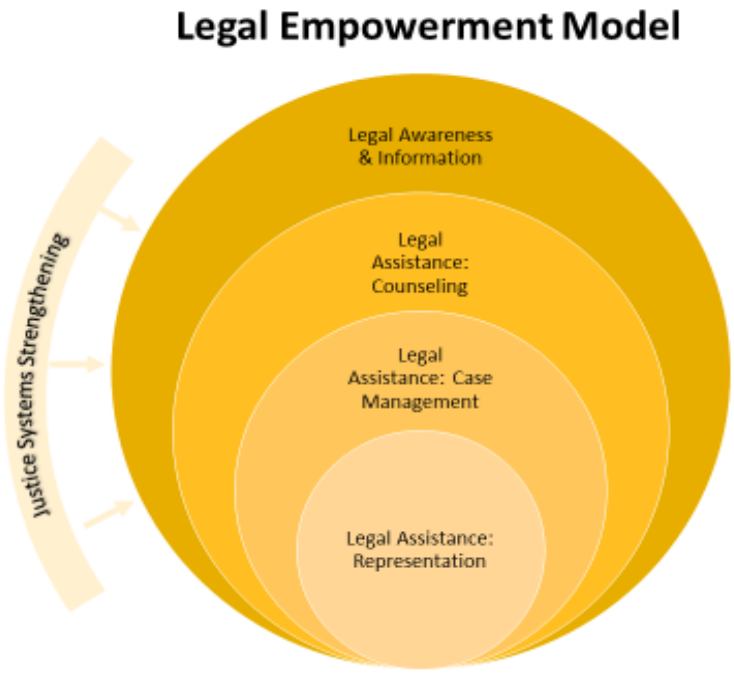
A note on cost:

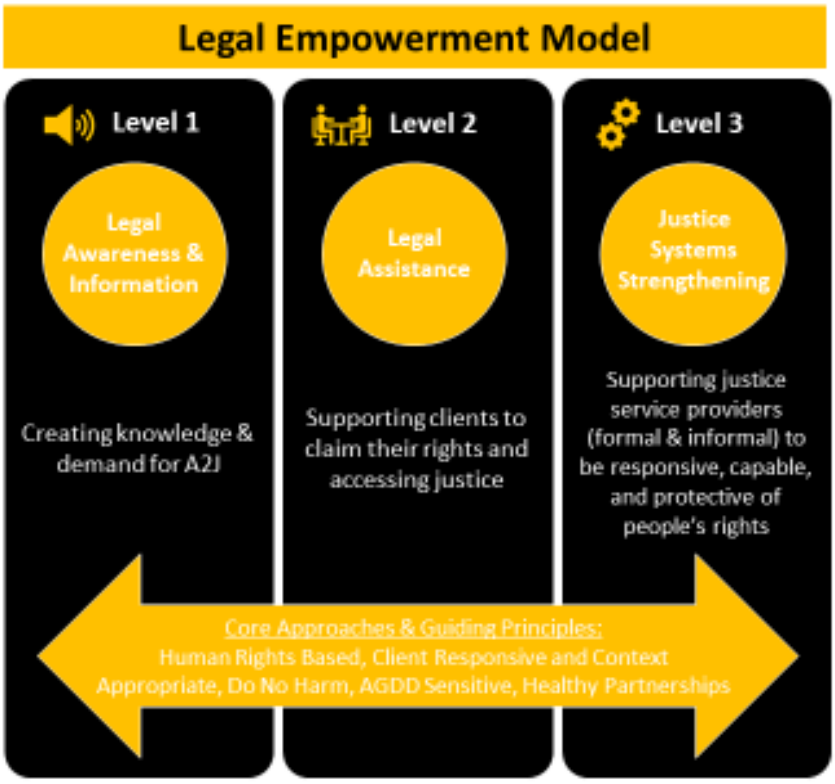
A combined approach is better able to balance the A2J needs of the community with the fact that legal assistance (and particularly legal representation) can be very expensive. The more cost-intensive a service is, the more we have to think about how much of that service we will be able to provide. It is important to consider the degree of impact you think more time and cost intensive legal services will have – it may be that a more cost efficient activity like legal counseling will have a greater impact in your context than intensive legal representation.

In general, legal awareness activities are the least expensive; information dissemination can be made available to many people for minimal cost. Legal assistance costs vary – legal information counseling takes more time than information dissemination, while filling a form or accompaniment to an administrative office can take less time and effort than providing mediation or supporting completion of a custody process. Legal representation is the most expensive, as cases can go on for a long time and require the engagement of a trained lawyer. Justice systems support costs can vary, but often can be aligned with other development-oriented programming. ***For assistance in thinking through the best staffing structure and budgeting for A2J programming, please reach out to your PRoL TA.***

Visualizing A2J

The IRC's Access to Justice programming model can be visualized in two ways, both showing the inter-connectedness between levels of A2J activities:





Access to Justice and Alignment with IRC2020 Outcomes

While A2J programs primarily support the realization of **Safety** and **Power** outcomes, there are also strong connections between A2J and the realization of **Gender Equality, Health, Economic Wellbeing and Education** outcomes. **A2J interventions can be integrated into ANY sector activity** where knowledge on rights and access to documentation or rights protection is required or beneficial to desired outcomes.

A2J programs are most often designed through adaptation of the Safety 4, or *Safety in the Community* Theory of Change, while there are also useful A2J pathways in Power 1, or *People are able to exercise informed choice on where to live*. For examples of how these ToCs have been adapted for A2J programs in different contexts, see: Somalia A2J ToC, Lebanon Children's A2J ToC.

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- **Safety:** A2J ensures that people are free from violence perpetrated by state, non-state and community actors by promoting duty bearers' knowledge and adherence to the law and human rights standards, ensuring they are adequately resourced and incentivized to do so, and that they receive sanctions when they violate the law. A2J also ensures that people are protected from the consequences of violence by facilitating safe access to legal assistance, documentation, and redress when their rights are violated.

- **Power:** A2J promotes the empowerment of those we serve and supports their ability to make free and informed decisions by ensuring that people understand their rights through receiving accurate and objective legal information in a manner that is trusted, appropriate and relevant. A2J also works to address any informational or legal barriers that may be working to prevent people from fully realizing their power in ensuring they receive legal assistance support and working with institutions to overcome those barriers.

Spotlight on Peacebuilding: A2J is key to ensuring social cohesion, a central element of conflict prevention and peacebuilding activities. Particularly where conflict is fresh or ongoing, unresolved disputes or rights violations can often lead to a reprisal of violence, especially when fueled by political manipulation. Ensuring people know their rights and have access to nonviolent dispute resolution mechanisms that respect basic principles of fair trial contributes to conflict management and prevention, as well as peace consolidation.[7]

[7] Report of the Secretary General on The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies, UN Doc. S/2004/616 (August 23, 2004), 3, para. 2. See also United Nations. World Bank, *Pathways for Peace: Development Approaches to Prevention of Violent Conflict*. 2018, Washington D.C., https://openknowledge.worldbank.org/ handle/10986/28337.

- **Gender Equality:** A2J seeks to interrupt the patterns of gender inequality that undermine women and girls ability to access justice safely and meaningfully in the forum of their choice. A2J works to promote gender equality by ensuring that women and girls' know their rights, have support in advocating for those rights and a safe way to seek justice services when need be, while also working from the top down to promote understanding and recognition of women's rights through formal and informal justice systems support. Tips and guidance on how A2J can serve gender equality are included within the section on Designing Age, Gender, Diversity and Disability Sensitive A2J Services.

A2J & Health, Economic Wellbeing and Education:

Legal issues are by nature connected to problems we face across all other areas of life – our health, finances, work, communal and social relationships. Failure to solve legal issues places individuals at high risk of experiencing additional safety, social, economic and/or health troubles. Further, there is growing evidence on the social cost of justice gaps, which fuel exclusion and poverty, slow growth and community/national development.[8] At the same time, the experience of displacement, conflict or disaster can cut people off from knowing what their rights are and how to activate them or can lead to failures in social systems to meet their obligations to deliver basic services – yet more reasons that access to health, economic opportunities, or education can be denied to adults and children seeking recognition of their fundamental human rights. The evidence shows that legal empowerment activities have proven positive impact on health, livelihoods, education and governance outcomes.[9]

- **A2J & Health Outcomes:** Evidence shows that being in contact with the law without receiving proper legal assistance can lead to health problems including mental health issues and morbidity, particularly so for marginalized groups.[10] Evidence also shows that legal empowerment programs can promote accountability within the delivery of health services, reduce stigma and discrimination and contribute to altering unjust structures and systems to achieve positive health outcomes.[11] Studies have also shown high incidence of mental health issues among those facing social welfare related legal issues (deprivation of rights), particularly among youth, and that mental illness deteriorates with each new legal issue.[12] Experience shows that people affected by conflict or disaster, particularly those with higher vulnerabilities, are likely to lack the information they require on their right to health and support around how to realize those rights. Integrated health and A2J programming has shown to improve health outcomes, for example by providing free legal advice in a health care setting, as these empower communities and support individuals

[8] OECD report: While in the short run, the nexus between rule of law, governance and growth may not be very strong, the evidence suggests that it is particularly robust in the long run. http://blogs.worldbank.org/governance/does-rule-law-matter-economic-development

[9] OECD FN 57

[10] Open Society, Bringing Justice to Health: The Impact of Legal Empowerment Projects on Public Health, Health inequality and access to justice, 2013; Youth Access, 2015. Balmer NJ, Pleasence P, Buck A (2010), Psychiatric morbidity and people's experience of and response to social problems involving rights. Health and Social Care in the Community, 18: 588-97. 16 Balmer N, Pleasence P, Buck A, Walker H (2005) Worried sick: the experience of debt problems and their relationship with health, illness and disability. Social Policy and Society, 5(1), 39–51. 17 Tobin-Tyler, E. Aligning Public Health, Health Care, Law and Policy: Medical-Legal Partnership as a Multilevel Response to the Social Determinants of Health (2012) Journal of Health & Biomedical Law, 8: 211-247.

[11] Harvard School of Public Health (Program on International Health and Human Rights), "Evaluating the Integration of Legal Support and Health Care in Kenya: Findings from the Second Phase of the Evaluation" (2011)

[12] Health Inequality and Access to Justice: Young People, Mental Health and Legal Issues; Pleasance. Balmer and Hagell, Youth Access, June 2015, https://www.thelegaleducationfoundation.org/wp-content/uploads/2015/12/SDYPMH_report.pdf

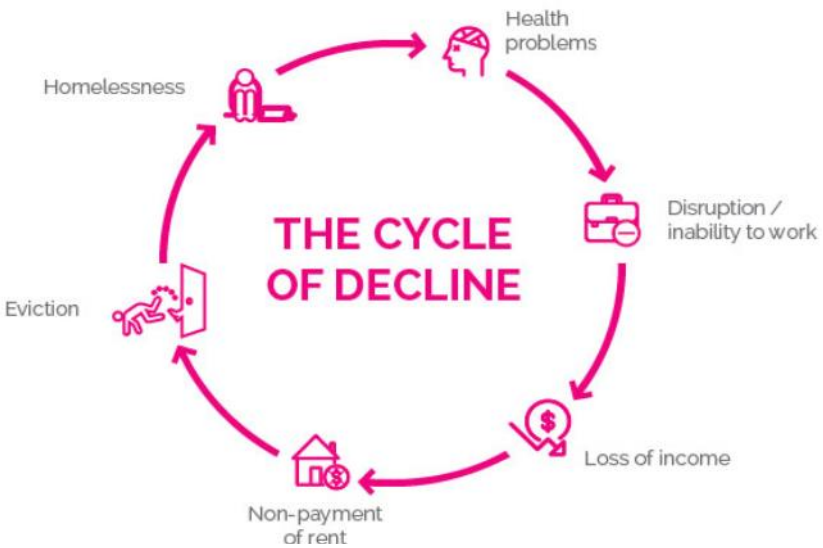
to address the human rights violations that may underlie poor health conditions.[13] A growing number of donors support health programming that embeds an A2J component.[14]

- **Benefits of joint health/A2J programming** could, for example, include a legal assistance response designed to claim against a company violating air pollution standards that are leading to wide-spread respiratory ailments. Embedding lawyers in IRC clinics could not only broaden our ability to address the holistic needs of IRC clients, but could also contribute to reduction in mental health and psychosocial issues by alleviating significant sources of stress among target groups.

A2J can support Health programming through (examples):

- Ensuring that IRC clients understand their legal right to quality healthcare, and support health teams to address failures in access due to discrimination, lack of reasonable accommodation or other causes;
- Ensuring that health clients have access to legal remedies for rights violations, such as legal responses to GBV, sexual violence, detention-related injury or illness, etc.
- Supporting Health technical teams to identify A2J challenges in health system accountability or service delivery;
- Ensuring that legal information, counseling and assistance activities target health facilities wherever possible and are adapted to health needs/outcomes in context;
- Identifying health needs/entry points during detention monitoring.

Bringing in Mental Health through Detention Monitoring in Uganda: During detention monitoring, the legal team identified a need for Mental Health/Psychosocial Support (MHPSS) among detainees. PRoL teams identified an MHPSS provider and invited them to join on future detention visits. This has led to positive feedback from detainees and detention authorities, specifically relative to improvements in emotional stability and wellbeing among detainees, as well as decreases in cases of depression and suicide. Detainees also expressed positive feedback about MHPSS services and feelings of improved emotional wellbeing as a means of supporting future social reintegration.



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- **A2J & Economic Wellbeing:** Lack of access to justice has been found to have deep connections to poverty, both as a result and a cause, affecting the most vulnerable in society.[15] Socially marginalized people have higher rates of legal problems, while legal problems can also spark other protection risks that trigger a downward spiral particularly affecting one's economic productivity. Evidence shows clear correlation between access to justice in a society and people's ability to form human capital, and conversely, that investing in A2J can reduce inequality and foster the development of social and

[13] NAMATI, What do we know about legal empowerment, Mapping the evidences, 2014
[14] Open society foundation, The donor landscape for access to justice and health, 2014
[15] https://namati.org/resources/leveraging-the-sdgs-for-inclusive-growth-delivering-access-to-justice-for-all/

economic capital in many ways.[16] The connections are easy to see: access to justice is critical to securing a fair contract, a lease or property ownership, and providing a space where disputes can be managed through recourse to law as opposed to brute strength. Further, due to common "host government restrictions on access to work, discrimination, language barriers, or simply the need for flexibility and mobility, refugees are often compelled to engage in the informal labour market where exploitation is more likely to occur as workers lack the bargaining power to negotiate fair wages and safe working conditions."[17] Evidence also shows that increased access to legal aid not only has positive case outcomes on matters such as employment, property and other civil rights, but that success in these cases has led to demonstrable positive impact in other areas such as household income and food security.[18], [19] Similarly linkages between violation of the rules of war and outbreak of famine have been proven.[20] Legal empowerment contributes directly to Economic Well Being outcomes such as secure access to assets, land, markets and decent work conditions as well as avoidance of the need to resort to negative coping strategies.

A2J can support Economic Recovery and Development programming through (examples):

- Improving awareness on rights to safe working conditions and freedom from exploitation;
- Supporting access for women and other marginalized groups to land tenure through information and paralegal assistance; (see this program design note on Women's Econ Empowerment through land tenure – a great example of ERD/PRoL/GE joint design!)
- Ensuring that legal information, counselling and assistance activities target ERD facilities whenever possible to support both economic outcomes as well as other A2J challenges that may be affecting the well being of ERD clients;
- Providing access to civil documentation required to work legally or start a business;
- Providing Know Your Rights trainings to workers, alongside Know Their Rights trainings to employers to improve work place treatment;
- Ensuring that those who have been excluded or subject to rights violations are provided with A2J support to remedy violations.

Integrating Livelihoods and A2J in Lebanon: "The IRC's Livelihoods Centre Model is used in Mt. Lebanon and Akkar, offering clients a range of services from employment assistance to legal counselling to skills training to financial management, while also offering mediation for housing disputes and guidance on residency permits, all in one location. Host community business owners and entrepreneurs can access capacity-building services, mentorship opportunities, and start-up support. Protection is mainstreamed within centre activities, such as the employment assistance programme, where all job matching is undertaken after potential employers are vetted. Jobseekers are advised on their rights as workers and on the working conditions they should expect, and are supported to secure work permits and other vital civil documentation. Continued monitoring of employers assures clients that there is someone looking out for their dignity and well-being."[1]

[16] A Tool for Justice, https://www.scottishlegal.com/uploads/ToolforJustice-CBAsoflegalaid.pdf, 9.
[17] Ajluni, S and Kawar, M (2012) *The Impact of the Syrian Refugee Crisis on the Labour Market in Jordan: A Preliminary Analysis.* The International Labour Organization (ILO). www.ilo.org/wcmsp5/groups/public/--- arabstates/---ro-beirut/documents/publication/wcms_242021.pdf
[18] See Bilal Siddiqi and Justin Sandefur, *Delivering Justice to the Poor: Theory and Experimental Evidence from Liberia*, March 2015, https://editorialexpress.com/cgi-bin/conference/download.cgi?db_name=CSAE2013&paper_id=1014.
[19] http://cisdl.org/public/docs/legal/CISDL%20-%20LEP%20Roundtable%20Discussion%20Paper.pdf
[20] https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/6016.pdf

- **A2J & Education Outcomes:** Following disaster or displacement, children may be cut off from education outcomes by a lack of community/individual awareness of the right to education, and of knowledge and support on how to secure access to required identity documentation for parents, caregivers and children. Access may also be cut off where policy-based demands for documentation are not possible to meet. At the same time, access to education can be compromised where parents are met with demands for fees which may be exploitative or are policy-based, but impossible for the most vulnerable families to meet. Children with disabilities are particularly at risk of deprivation of their right to education, as schools and caregivers may not know or be willing to honor children's rights to reasonable accommodation in education while discrimination may result in poor education design, bullying and exclusion.[21] Children in detention are routinely denied the right to education, affecting not only their learning outcomes but also mental health.[22] Solving the legal needs of children/adolescents and/or their caregivers beyond those rooted in educational access can also have a positive impact on their capacity to be present in school and engage in productive learning.

A2J can support Education programming through (examples):

- Maximizing programmatic benefits to children, adolescents, caregivers and teachers by supporting learning about their rights to education in international and national law, and connecting them to A2J services when their rights are being violated;
- Maximizing education outcomes of children with disabilities by providing legal information, assistance and advocacy around reasonable accommodation, specialized learning plans and related entitlements;
- Working with local justice authorities, security actors and other groups to increase awareness around the obligation to protect educational facilities from attack in international law and advocating for increased protection under international humanitarian law;
- Working with schools to regularize and publish fee schedules to reduce opportunities for exploitation, and to create legal pathways for continued access to education under national/international law for those who cannot pay standard fees;
- Including messaging around the benefits of educational outreach and how to access within legal information outreach;
- Delivering child/parent/teacher/care giver tailored legal information sessions at school/learning spaces to improve rights protection among children, parents/caregivers and educators;
- Advocating policy change around documentation requirements for access to education as well as flexibility in registration timeframes for children affected by displacement;
- Identifying the educational needs of children in detention through detention monitoring.

[21] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/67664/edu-chi-disabil-guid-note.pdf
[22] https://www.right-to-education.org/issue-page/marginalised-groups/persons-detention

How to Use this Guidance

The IRC's PRoL Technical Advisors have developed this internal A2J programmatic guidance based on compiled good IRC field practices, industry best practices and evidence[23], to ensure consistency and minimum quality of service provision across its A2J programming. This package is designed to support across all phases of the A2J programming cycle. *Note that this package is a living document – we will revise it over time to reflect any learning and feedback from country teams. If you have questions or want to provide feedback, please contact your PRoL TA.*

Specifically, the objectives of this guidance are to:

- Provide practical guidance for A2J program design and implementation: including stand alone and integrated A2J programming;
- Provide a Toolkit for the effective delivery and monitoring of A2J projects and activities;
- Provide concrete steps to ensure A2J program design is responsive and appropriate to the needs of target groups, and is Age, Gender, Disability and Diversity (AGDD) sensitive.

The document is divided into 2 parts, with annexed materials in hyperlinks:

- **Part 1** explains why legal empowerment is the IRC's approach to A2J, defines the core concepts and guiding principles of A2J programming and maps out relevant IRC2020 outcomes.
- **Part 2** explains and offers how-to approaches across the core components of legal empowerment programming, including legal awareness/information, legal assistance, legal case management and justice systems support.

Throughout this document, you will see five different kinds of text boxes:

1. **Important Notes:** highlight areas where particular attention should be paid in order to design and implement effective A2J programming.

2. **Caution!:** alerts you to important issues to look out for to Do No Harm.

3. **Tools:** provide links to practical tools, forms and guidance you can use to help ensure core approaches, guiding principles and best practices are all infused into A2J programming.

4. **Practitioner's Tip** boxes provide helpful hints, suggestions and checklists.

5. **Case Studies:** provide real-life examples of A2J in practice.

Please talk through your A2J program with your relevant PRoL TA, who can help you adapt these ideas to your context and provide support throughout the design and implementation process.

[23] Goodwin and Maru, *What Do We Know About Legal Empowerment*, Namati Working Paper (May 2014). Through a survey and analysis of 199 studies of legal empowerment projects from a range of country contexts and program types, Goodwin and Maru offer specific evidence that demonstrates the positive impact of A2J programming through a legal empowerment approach on: participants' agency and engagement in social action, legal knowledge and likelihood of obtaining a remedy to rights violations, access to employment and increased income, and access to and quality of basic services including health and education.

PART 1: Core Approaches and Guiding Principles to IRC A2J programming

The following approaches and guiding principles must be followed to ensure sound A2J design and implementation.

Using a Human Rights Based Approach

Throughout all phases of programming, A2J should promote the realization of human rights for all as laid out in international human rights instruments and relevant national law. This includes fundamental human rights and specific rights attached to Age, Gender, Disability and Diversity. A2J aims to strengthen the capacities of "duty-bearers" to meet their obligations to protect the human rights of people within their jurisdiction and of "rights-holders" to claim their rights under law.

This guidance is designed to incorporate the following **minimum standards** to ensure a human rights-based approach to A2J. IRC A2J programs will:

- **Identify**: identify the human rights claims of rights-holders and the corresponding legal obligations of duty-bearers as well as the immediate, underlying, and structural causes of the non-realization of rights;
- **Assess**: assess the capacity of rights-holders to claim their rights and of duty bearers to fulfil their obligations, and develop program strategies to build these capacities;
- **Monitor**: monitor and evaluate program outcomes according to relevant human rights standards and principles;
- **Listen**: be informed by the recommendations of international human rights bodies and mechanisms.

CASE STUDY

Human rights based approach – ensuring basic needs in detention

In Uganda, it was observed during detention monitoring that detainees lacked basic necessities, in violation of their right to an adequate standard of living. Detention authorities (duty bearers) were not providing adequate clothing or bedding due to budget limitations. Detainees (rights holders) were unaware of this right and were therefore unable to claim it. At the same time, detention authorities were unaware of the extent of their obligations under this right and also lacked resources. The IRC legal team provided information to detainees on their right to basic living standards, as well as to detention authorities on what they were obligated to provide. Because the authorities were willing to meet their obligations but unable due to lack of funding, the IRC legal team made a plan to temporarily provide for basic assistance to ensure detainees' rights were realized. In parallel, the team started to engage with relevant district and national authorities to advocate for adequate budgeting to cover basic necessities in detention.

Ensuring Context Appropriate, Gender Sensitive and Client Responsive Programs

A2J planning should include use of the IRC's Context Appropriate, Gender Analysis, and Client Responsiveness toolkits. This reflects the value the IRC places on conflict and context-sensitive design, gender equality, and in local ownership/leadership to transfer power and support improved accountability from donors to clients. For A2J programming, this has several implications.

A2J programs should:

- Always be based on a thorough **context analysis** and involve clients and communities in program planning and decision-making through **feedback mechanisms** or other ways;
- Ensure that **gender analysis** is a key part of program design to ensure that women's perspectives inform project design, women have equal access to services and that to the extent possible, justice interventions safely challenge social practices that deny women's rights and condone violence against them;
- **Be adaptable to changing circumstances** and contexts across start up, implementation and close out, based on feedback and ongoing monitoring & analysis of activities' impact
- Always be client and community centered: all A2J direct assistance activities must be driven by **what solution(s) will work best for each client as an individual, given their identity, gender, age, disability and social membership in context.** We must ensure all clients understand their rights, the paths to justice available to them as well as potential risks and costs, and have the time and support to make truly informed decisions about how they wish to proceed.

A note on Monitoring and Evaluation (M&E)

Effective M&E is critical for any project – M&E helps us track and measure the extent to which our program design is working, is meeting the needs of those we seek to serve, and is meeting internal and donor requirements. Good M&E also helps you to know when something about your project isn't working and helps inform what we might to do 'course correct' or change the design of the activities to better meet peoples' needs.

A strong A2J M&E plan will be designed with the support of your in-country measurement team, as well as with your PRoL TA. For your use, A2J has been included in the revised VPRU Core Indicators. The Core Indicators provide a list of useful indicators for A2J programming, including classification of indicators for each type of legal empowerment activity, and our recommendations for which are most important to use.

TOOLS

The following tools will help you develop an M&E plan for A2J actions and activities:

- M&E basics training
- VPRU Core Indicators training
- VPRU Core Indicators list (A2J highlighted)

Building Healthy Partnerships

Many (if not all) of IRC's A2J programs contain an element of partnership with government actors, local authorities, community or religious based organizations, local NGOs or other stakeholders. Because A2J is so linked with the local political and social structure, it is incredibly important to have as much local buy-in and direction as possible. Local partners are also often better placed to engage in legal representation. IRC partners are critical to the successful delivery of services and effecting lasting change, providing much-needed local knowledge, capacity and sustainability.

The end goal is not to better implement "our" projects, but to best achieve the long-term results everyone in the partnership is working towards. Partners should be consulted from the beginning in project design. Ideal partner organizations are ones already working on A2J issues and – even better – organizations already advocating for the most vulnerable populations in the client community, such as women's or indigenous peoples' legal organizations, who already share our long-term goals and have access and legitimacy among the groups we seek to serve. Instead of convincing them to adopt our priorities, we should see our role as supporting partners with our technical expertise. Equally important, IRC programs should ensure they are accountable to and transparent with our partner organizations.

Where appropriate, **A2J projects should be partner responsive, including having a transition plan/strategy that includes a mentoring component for local partners**, with a focus on both technical skills and administrative support (e.g. organizational management, business development, structure, budgeting, fundraising etc.). There should be transition milestones and consistent check-ins with partners to make sure the project is moving in the right direction. At a project's end, the partner organizations should be more independent, viable and better able to bring about the change local communities are seeking.

Do No Harm

Do No Harm (DNH) means ensuring that actions and interventions designed to support clients or communities do not expose them to further violence or rights violations. DNH analysis requires attention to risks associated with A2J actions resulting in interpersonal and/or community level violence or conflict. This analysis **must** be undertaken with local staff and partners who understand the context, as they may be aware of contextual sensitivities that could lead to unintended negative consequences. At each step of A2J activities, care must be taken to ensure that no rights violation comes to the clients or communities because of IRC staff conduct, decisions made, or actions taken. Planning must be done to ensure that where A2J upsets the status quo – ie: by facilitating access to rights and remedies for those previously denied – it does not result in a backlash against clients or the IRC, or undermine stability by reviving conflict.

The IRC's Context Appropriate resource page offers a DNH Assessment and Project Risk Matrix. This DNH training can be used to support programming teams' understanding of DNH and this DNH analysis tool can help country teams figure out any risks to clients within A2J program design.

CAUTION!

Why DNH and Context Analysis is so important in A2J programming:

The pursuit of justice should be about addressing problematic power dynamics and restoring people to where they would have been if legal remedies were always equally available to all people. This means that **a successful A2J program can really challenge the status quo and social imbalances that work in favor of those in power. While this is positive for the people whose rights are restored, at times, this can also create a backlash from stakeholders unhappy to see their power undermined.** For example, a project on GBV survivors' legal rights in a non gender-friendly legal/social environment or a project focused on improving the rights of a particularly disenfranchised social group has the potential to trigger discriminatory and harmful reactions from those with power. This is even more important in conflict/post-conflict and recovery settings, where A2J work could upset fragile social dynamics and patterns in access to resources that are keeping active conflict at bay. At the same time, if not designed through an adequate

AGDD lens, A2J programming could also exacerbate pre-existing inequalities – for example, setting up a project that is only meaningfully accessible to men or people from the dominant social group.

Context and DNH analysis will help you identify what activities and approaches will be most safe and effective in your environment, whom you need to think about involving, and what strategies you might employ to avoid causing harm. **Please discuss with your VPR TA as you design your A2J approach.**

During legal case management activities, safety and security considerations should be central to presenting options for legal action and/or referral to a client. For example, if accessing justice or another service he/she needs might put the client at risk (physical, emotional, financial), this should be clearly explained to them in order to enable them to make an informed decision. This information and planning must be adapted to the specific needs of the client, respective of gender, age, (dis)ability, sexual orientation and gender identity, or other social factors. Clients must further be supported in planning and finding solutions to potential risks. The **safety planning tool** has proved to be effective in mitigating risks associated with legal assistance.

Data safety: No safety risks should come to a client or communities because of the collection, storing or sharing of their information. For example, care should be taken to avoid collecting unnecessary information that, if in the wrong hands, could put the client or household at risk of violence. **Having a data protection strategy based on IRC data protection policies** has proved to mitigate risks associated with personal data management.

TOOLS

The following tools will help you apply DNH analysis to A2J actions and activities:

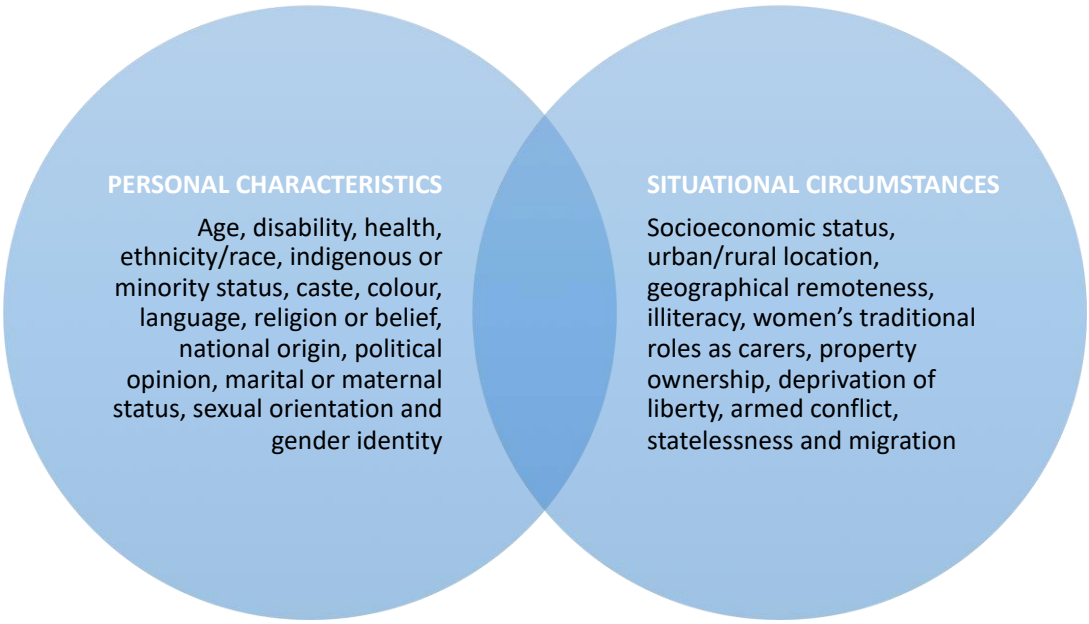
- Do No Harm Assessment, Project Risk Matrix, DNH training, DNH analysis tool
- Safety Planning Tool
- VPRU Data Protection Policy Package

Designing Age, Gender, Diversity and Disability Sensitive Services

Evidence and experience reveal that in most contexts women, persons with disabilities, children and people from marginalized social groups (ethnic/linguistic/religious minorities, LGBTIQA individuals) are disproportionally impacted by unequal power dynamics, and are therefore at greatest risk of violence. We are committed to ensuring specialized approaches to A2J services for these populations through the application of Age, Gender, Disability and Diversity (AGDD) analysis.

AGDD analysis ensures we serve the most vulnerable in a given context and that we adjust our programs as needed to ensure universal accessibility to meet the unique needs of different groups and individuals. This also means we have to think through how these vulnerabilities may intersect to make someone more at risk of harm or in need of specific support in order to access justice. The below figure illustrates how personal and situational circumstances can come together to increase an individuals' vulnerability to harm. The diagram helps to visualize the many aspects of social/personal identity one person can hold, and how these can overlap to increase or mitigate one's exposure to harm in context:

FIGURE 1 Characteristics and situational factors that influence vulnerability



Source: United Nations*, A Practitioner's Toolkit on Women's Access to Justice Programming,* 2018

A2J interventions must be fully accessible, inclusive and responsive to various groups' rights and needs.

Think through how we make our services accessible to anyone who may need them – specifically looking at our messaging, physical spaces, staff capacities and sensitivities. Gender Analysis can be particularly important here: a Basic Gender Analysis will focus on risks to safety and access for women/girls and men/boys, while a Comprehensive Gender Analysis can be adapted to be examine some of these overlapping factors in vulnerability, to understand the different experiences different populations/identities may have in the client community.

These tips on inclusive budgeting and inclusive facilitation will also help you consider how to design an intervention, including physical spaces and approaches, which will allow for universal participation, as well as things you may want to anticipate in terms of reasonable accommodation for people with different kinds of disabilities.

Things to think about (not an exhaustive list!):

- What additional actions would enable women to access A2J services? For GBV-related A2J?
- What about a person with disabilities? Physical, mental/intellectual, audio/visual?
- What about someone from a minority group facing pervasive discrimination?
- Can children understand our legal messages?
- Do we have women on staff to support female clients? Are our staff representative of an ethnic/social group that clients in the area can trust?

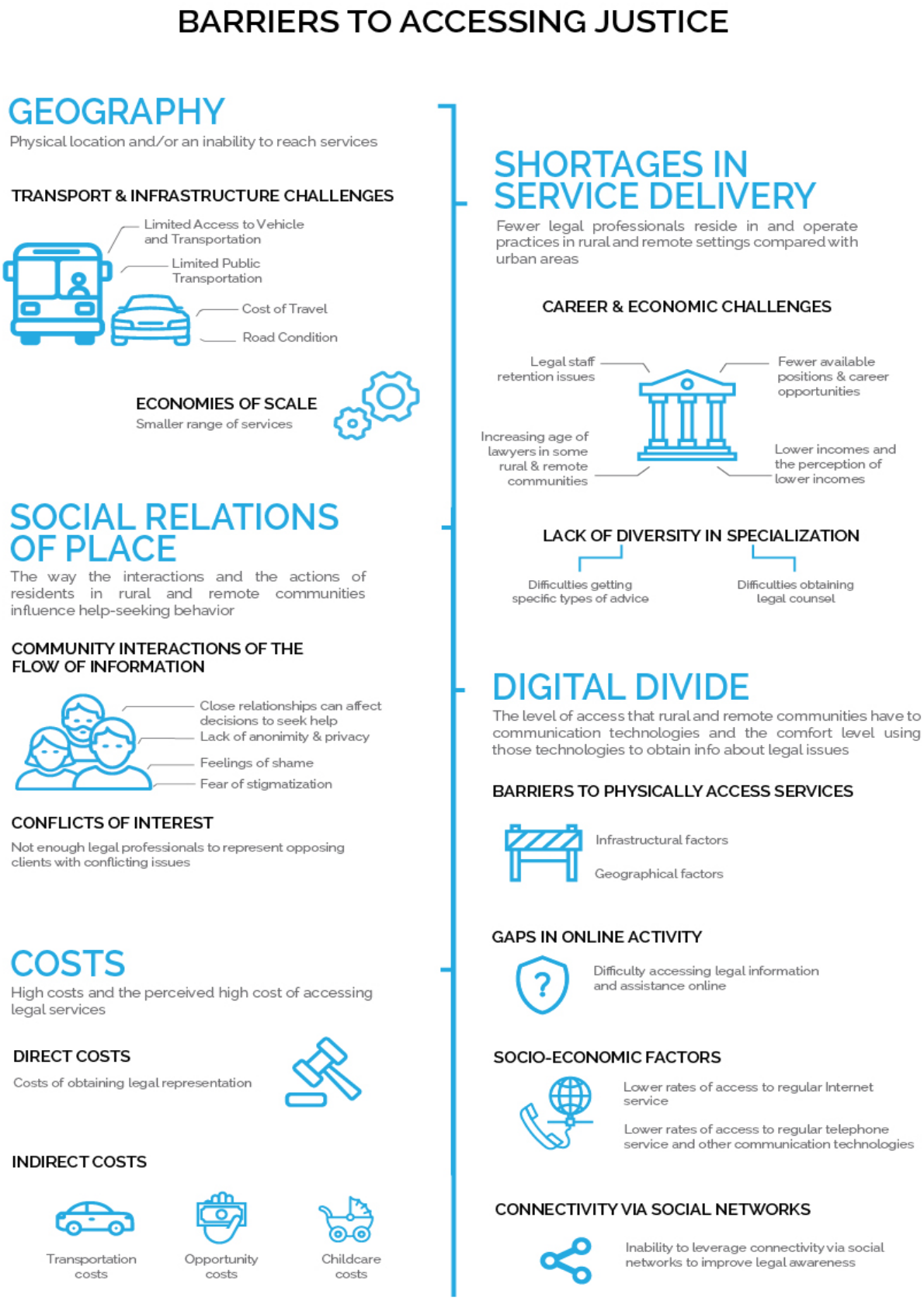
- Are there things we need to budget for to ensure access – for example, a space that can accommodate wheelchairs, translation support for minority language or sign language speakers, a mobile van to support access to rural, isolated or populations unable to attend a public space?

Designing A2J Projects for Specific Groups: Children, Women & People with Disabilities[24]

Barriers to accessing justice can exist for many people in society, but these barriers tend to affect the most vulnerable – those least connected to power, economic resources, and information sharing networks or who face access challenges related to their age, gender, disability, or membership in a marginalized social group.

The sections below offer some common A2J problems faced by children, women and people with disabilities, but these are not exhaustive. Designing A2J projects for any population will require an in depth assessment and analysis of the legal landscape and gaps, this is particularly so for populations that may require specialized support. *Your PRoL TA can support you in designing the right legal assessment tool for your context, see the Tools box at the end of this section for some tools to get you started.*

[24] Further specific guidance and tools are forthcoming to support age, gender, disability and diversity inclusion in A2J programming in FY19/20.



OECD/OSF 2016 3

1. Access to Justice for Children

Just like adults, children are entitled to their rights under the law and the information and assistance required to access them. Developmental considerations and child friendly/sensitive approaches must be taken into account when children are involved as victims or witnesses in the justice process, as well as when a child is accused of an offense.

While norms and standards for serving children's justice needs exist in international human rights, criminal and humanitarian law, these requirements are often overlooked by justice providers. In emergencies or conflict settings, where children are amongst the most vulnerable, justice systems are traditionally weak or have been destroyed or disrupted. This creates risks for children suddenly exposed to new environments where their likelihood of coming into contact with the justice system is higher due to homelessness, the need to work, and social environments where drugs, crime, exploitation and violence are more common – risks that are especially acute for unaccompanied and separated children. It is important to note boys and girls tend to face different risks that call for different strategies, again calling for an AGDD analysis.

Common A2J barriers for children include:

- **Lack of information/awareness:**
  - Information on children's rights or children-specific/sensitive justice services might not exist, or might be hard for children or their caregivers to access or understand.
- **Absent/inappropriate norms and procedures (formal/informal) concerning children's rights, treatment and participation:**
  - Children's perspectives are not always seen as important or valid as adults; children may not be socially or legally seen as worthy of providing evidence or participating in decisions regarding their own needs/status.
  - Children may face high levels of social stigma around accessing justice
  - Police/courts may lack spaces designed to ensure children feel safe/able to participate
  - National laws/norms (formal/informal) might not be protective of children's rights or best interests and can be utilized to undermine them further through institutionalized discrimination; this can be true in all areas of the law, from property and employment rights to family or criminal law. Harmful legal frameworks and weak redress mechanisms commonly deter children from reporting rights violations when they know outcomes of reporting may make matters worse. For instance, if children know that by reporting abuse in the home they might be removed from the home and placed into state care situations they know are terrible, there is no safe or meaningful access to justice.
- **Lack of child-safe/friendly procedures and practices among justice actors (formal/informal):**
  - Justice mechanisms can be intimidating and hard to navigate in the best of circumstances. Children often fear the consequences of pursuing legal remedies to abuse given their degree of emotional development, particularly if they lack the support of an able guardian.
  - Lack of appropriate processes/staffing can undermine consideration of children's best interests and can be highly traumatic. Examples include forcing children to testify without dedicated support or in a way that jeopardizes their safety, questioning/interviewing children in a non-child friendly manner, or in the worst cases, detaining children in adult settings.

- **Children are commonly dependent on caregivers/parents for A2J:**
    - Children usually must rely on others to take a case forward if they are too young or lack capacity to file claims independently. If legal representatives are not aware of children's rights or children have a claim that is against their interests, this constitutes an additional barrier for children.
- **Lack of financial means or freedom of movement:**
    - Children may lack the financial means and/or freedom of movement to access justice – through the guardian's absence or lack of ability to support or because the child's case is in conflict with that person.
- **Intersecting vulnerabilities may increase the likelihood of children coming in contact/conflict with the law, while imposing additional barriers on children's ability to access justice:**
    - Children deprived of their liberty, with disabilities, in alternative care, belonging to minorities, LGBTI children, victims of forced marriage, forced pregnancy, sexual exploitation and the worst forms of child labor, separated or unaccompanied children, children recruited by armed groups, demobilized children, children seeking asylum and children on the move will likely require specialized approaches to A2J, combining expertise from legal, child and GBV case management.
- **Children's safety might be at risk:**
    - Children might not seek to access justice because they fear reprisal from family, community members or others when they seek remedy to rights abuses. This is compounded by risks of abuse from within the justice system, limited or absent shelter support or other safety planning.

2. Access to Justice for Women

Like all other people in society, women and girls can find themselves in situations requiring the need for accessing justice services. As women and girls affected by conflict or disaster seek to navigate access to housing, employment, basic services, manage disputes related to family law, seek ownership of property, set up a business, or seek remedy for rights violations including GBV and other forms of violence, they will require safe, effective and accessible justice services. Women and adolescent girls, however, may face multiple obstacles in accessing justice which are specifically related to their gender. As described below, these challenges often relate to patterns of discrimination against women, social stigma around independent access to justice, the absence of or lack of enforcement of legislation to protect women's rights and a lack of services that are meaningfully accessible to women. Sometimes, just a lack of sensitivity among legal staff can be a barrier for women's access to justice services. A range of legal empowerment program models have been shown to improve women and girls' access to justice when they are effectively designed.[25]

There are particular challenges for women and girls' access to justice in relation to experiences of gender-based violence (GBV), which can include acts of physical, sexual, psychological or economic harm, coercion or deprivation of liberty direct at a person because of their gender. Studies reveal that 35% to 70% of women and girls worldwide experience GBV, impairing or nullifying "the enjoyment by women of [their]

[25] IDLO, Accessing Justice: Models, Strategies and Best Practices on Women's Empowerment, 2013. Full report: https://www.idlo.int/sites/default/files/Womens_Access_to_Justice_Full_Report.pdf; summary: https://www.idlo.int/sites/default/files/Womens_Access_to_Justice_Report_Summary.pdf

human rights and fundamental freedoms."[26] In conflict situations, women often face higher risk of GBV, particularly in interpersonal and sexual violence. International legal obligations to protect the rights of women and the particular forms of violence they tend to face do not always exist or are not always applied at the national/local level. At the same time, the presence of laws is insufficient to ensure that they will be used to address GBV and ensure a protective framework for women in accessing justice. In addition to laws, survivor-centered processes, practices, and human resources are required to ensure women's safety and ability to overcome any additional barriers to making justice meaningfully accessible to women.[27]

Common A2J barriers for women include:

- **Lack of information/awareness:**
    - Information on women's rights or women-specific/sensitive justice services might not exist, or might be hard to access or understand. This is likely to be more of a challenge in contexts where women's rights are actively curtailed or there are high levels of stigma around women's A2J or GBV response more broadly.
    - Women and girls often lack the access to general public information that may be only accessible in community spaces or messaged through methods that women do not use (for instance, phones). This is likely even more of a concern in contexts where women and girls are illiterate, or their movement outside of the household is extremely restricted.
    - Women and girls often grow up and live in contexts where social norms condone violence against them or perpetuate the belief that these behaviors are normative and acceptable. Awareness that these behaviors are actually human rights violations for which there is judicial recourse can often be lacking and limit their help-seeking behavior.
- **Lack of women-sensitive or women-specific processes or personnel trained to serve women:**
    - Justice mechanisms can be intimidating and hard to navigate in the best of circumstances. Women often face multiple challenges in accessing justice, ranging from the fear of reprisal for reporting an intimate partner, safety risks around reporting (from perpetrators as well as justice providers), potent social stigma, and deep seated discrimination against women by justice providers. These challenges pose greater difficulty where justice systems are not sensitive to or specifically adapted to serve the needs of women across legal issues, but in particular relative to GBV.
    - Lack of appropriate processes/staffing can undermine consideration of women's perspectives and can be highly traumatic. Examples include victim-blaming, forcing women to testify against abusive partners or employers in a way that jeopardizes their safety, questioning/interviewing female GBV survivors in a non-survivor-centered manner, or in the worst cases, detaining women in settings where they will be subject to abuse.
    - Lack of female staff within justice mechanisms may make women fear engagement due to safety concerns, or may simply make justice mechanisms inaccessible to women from social environments where women are not permitted to engage with men outside their immediate social circle.

[26] Women's Access to Justice for Gender Based Violence, International Commission of Jurists, 2016. https://www.icj.org/wp-content/uploads/2016/03/Universal-Womens-accesss-to-justice-Publications-Practitioners-Guide-Series-2016-ENG.pdf
[27] See also A2J for GBV Survivors Evidence Review.

- **Absent/inappropriate norms and procedures (formal/informal) concerning women's rights, treatment and participation:**
    - Women's perspectives are not always seen as important or valid as men's; women may not be socially or legally seen as worthy of providing evidence or participating in decisions regarding their own needs/status.
    - National laws/norms (formal/informal) might not be protective of women's rights or best interests and can be utilized to undermine them further through institutionalized discrimination; this can be true in all areas of the law, from property and employment rights to family or criminal law. Harmful legal frameworks and weak redress mechanisms commonly deter women from reporting rights violations when they know outcomes of reporting may make matters worse. For instance, if survivors know that by reporting they might be forced to marry the perpetrator of the sexual abuse or be sentenced to death for adultery, there is no safe or meaningful access to justice.
    - Justice services in a context may only support informal/customary or alternative dispute resolution practices. In cases of GBV or intimate partner violence (IPV), alternative dispute resolution or mediation practices may create real risk of harm by forcing women into close proximity with perpetrators of violence or coercing them into reaching a solution that is not appropriate. See here for a note on mediation in cases of IPV/GBV.
- **Women may be dependent on male partners/family members for A2J:**
    - Women may lack legal capacity to file claims independent of a male partner or family member. If legal representatives are not aware of women's rights or women have a claim that is against their interests, this constitutes an additional barrier. This is particularly problematic in cases of GBV.
    - Women may be financially dependent on male partners or family members, and as such unable to pursue justice independently. Likewise, women may have limited freedom of movement or familial obligations that prevent them from being able to access justice.
    - Women may suffer from extremely high levels of social stigma around accessing justice, particularly around GBV but also in cases of inheritance, custody, employment or any other area of law.
    - Women may also lack independent means of shelter, creating a significant barrier to accessing justice particularly when against another household member.
- **Women's safety might be at risk:**
    - Women might not seek to access justice because they fear reprisal from family, community members, employers or others when they seek remedy to rights abuses. This is compounded by risks of abuse from within the justice system, limited or absent shelter support or other safety planning.
- **Intersecting vulnerabilities may increase the likelihood of women coming in contact/conflict with the law, while imposing additional barriers on their ability to access justice:**
    - Women deprived of their liberty, with disabilities, belonging to minorities, women who are LGBTQI, victims of forced marriage, forced pregnancy, sexual exploitation and trafficking, women recruited by armed groups, women seeking asylum and women on the move will likely require specialized approaches to A2J, combining expertise from both legal and GBV case management.

3. Access to Justice for Persons with Disabilities

People with disabilities benefit from specific protections in international law. Article 13 of the Convention on the Rights of Persons with Disabilities specifically addresses access to justice, directing State parties to ensure effective A2J for persons with disabilities on an equal basis with others. However, evidence shows that persons with disabilities face considerable obstacles in accessing justice. Barriers can be normative[28], or can revolve around information/communication, physical and/or economic barriers. Disability is far from being a homogenous category; different disabilities impact differently on individual capacity to access justice.

Common A2J barriers for people with disabilities include:

- **Lack of information/awareness:**
  - Information on the rights of people with disabilities or specific/sensitive justice services might not exist, or might be hard to access or understand. Challenges in accessing information can vary for people with intellectual or sensory challenges, versus those who face challenges in physically accessing information services.
- **Lack of support required for accessibility:**
  - This could mean lack of means of physical access (such as a ramp), to audio/visual materials instead of written materials, or to adaptive communication tools (communication cards or sign language translators, for example).
  - Gaps in access could be due to lack of material resources within the justice system or lack of forethought/planning around accessibility for people with disabilities.
- **Lack of sensitive or specific processes or personnel trained to serve people with disabilities:**
  - Lack of approaches to reasonable accommodation
  - Lack of personnel trained in securing informed consent for people with disabilities
- **Absent/inappropriate norms and procedures (formal/informal) concerning the rights, treatment and participation of people with disabilities:**
  - Legal and social frameworks might not recognize the legal capacity of individuals with certain disabilities or may assume incapacity at various stages of legal services, making it difficult or impossible for people with disabilities to represent their own interests;
  - Justice and security personnel might have a biased perception of persons with disabilities' capacity to tell the truth and report on what happened (as victim, perpetrator or witness) that impact negatively on their meaningful participation in the justice process;
- **People with disabilities may be dependent on caregivers for A2J:**
  - People with certain disabilities may lack legal capacity to file claims independent of a caregiver. If legal representatives are not aware of the rights of people with disabilities or if a person with a disability has a claim that is against the interests of a caregiver they are dependent on, this constitutes an additional barrier.
  - People with certain disabilities may be financially dependent on caregivers, and as such unable to pursue justice independently. Likewise, people with certain disabilities may have limited freedom of movement that prevent them from being able to access justice.

For assistance in designing an A2J approach suitable for persons with disabilities, please discuss with your PRoL TA.

[28] In that people without disabilities are commonly treated as 'the norm' – in terms of social standing and acceptance, and that as a result, services of all kinds are designed with 'the norm' of an able-bodied/minded person in mind.

TOOLS

Children:

- Applying Basic Child Protection Mainstreaming (IRC, Child Fund International, Save the Children)
- IRC basic training for legal staff working with children (A2J for children; Intro to Child Protection for legal teams)
- Interagency review of justice for children in a humanitarian context (CPMS 14)
- My lawyer, My rights: Enhancing children's rights in criminal proceedings in the UE (website, tools)
- Guidance note on Legal Assistance in cases of Early Marriage, Annexes/forms,
- Toolkit on diversion and alternatives to detention, UNICEF
- Guidelines on child friendly legal aid, UNICEF
- Children's Access to justice resources, Child Rights International Network (CRIN)

Women:

- Women's access to justice for gender based violence, Practitioner's guide (International Commission of Jurists 2016)
- UNFPA, Minimum Standards for Prevention and Response to Gender Based Violence in Emergencies, Part 2, Standard 8 – Justice and Legal Aid, pages 41-45.
- Note on Mediation and Intimate Partner Violence/GBV
- OHCHR, A Practitioner's Toolkit on Women's Access to Justice Programming
- IDLO, Accessing Justice: Models, Strategies and Best Practices on Women's Empowerment
- IRC tool for GBV Legal Officer Supervision

Universal design:

- Humanitarian Inclusion Standards for Older Persons and Persons with Disabilities (Age and Disability Consortium, 2018)
- UN DSPD, Toolkit on Disability for Africa: Access to Justice for Persons with Disabilities
- LGBTQIA Inclusion Checklist (International Development Roundtable, 2017)
- Mental Disability Advocacy Centre, Litigating the right to community living for people with mental disabilities. A Handbook for Lawyers, 2014.
- Inclusive Budgeting Tipsheet
- Inclusive Facilitation Tipsheet

Tools for designing AGDD sensitive legal context assessment:

- UNHCR Participatory Assessment guidance
- IRC legal context assessment sample questions
- OECD/OSF Legal Needs Surveys and Access to Justice: *Ch 3, p 105, Model questions; Annex A, p 159, Annotated survey*

PART 2: Designing Access to Justice Programming

A2J interventions are most successful when they target context-relevant gaps at each level of the legal empowerment model – creating demand (information), delivering quality service (assistance) and improving supply (justice systems support). Common activities under each component are listed here, but additional activities will likely emerge through your context analysis. Activities from within each level should be combined to form a cohesive whole, creating demand, providing and improving responses at the same time to the greatest extent possible. This may mean that the IRC and its legal partners perform different roles in a unified A2J theory of change to see systemic changes as well as positive outcomes for individual clients. See these context-adapted theories of change for example: Somalia A2J ToC, Lebanon A2J ToC.

1. Legal awareness and information – creating knowledge and demand for A2J through, for example:
    - Delivering awareness raising sessions, information dissemination, Know Your Rights programming. The content of legal information programming relies on country-led analysis of what legal information is most relevant and most important for IRC clients in that context, what groups need to hear it and how best to reach them.
2. Legal assistance – supporting clients to claim their rights and accessing justice through, for example:
    - Providing personalized legal information services (legal counseling);
    - Providing assistance in completing legal forms, filing a claim or securing civil documentation;
    - Providing accompaniment to administrative authorities or justice providers;
    - Providing legal case management which may or may not include legal representation;
    - Supporting clients through participation in non-state justice processes.
3. Justice systems support (JSS) – supporting justice service providers (formal and informal) to be responsive, capable, and protective of people's rights through, for example:
    - Providing capacity building in human rights, legal case management, national law and dispute resolution;
    - Monitoring and reporting on providers' adherence to human rights and legal process standards;
    - Strengthening social accountability and transparency of justice service providers;
    - Strengthening a protective national legal framework through support to policy reforms;
    - Supporting community legal aid solutions by training paralegals;
    - Providing legal representation for strategic cases.

This section provides greater detail regarding how to plan for, design and deliver A2J programming.

Legal Awareness and Information: Creating knowledge and demand

1. What is legal information?

Objective:
Legal Information is about giving people the information they need on their rights and available services/systems to keep themselves safe, make informed decisions and take action to solve their own legal problems. Legal awareness is about spreading knowledge about the justice system and the pathways

people can take to access justice, and ultimately, creating demand for justice services through increased knowledge and confidence to navigate.

The problem:

- A2J barriers may exist simply because disempowered persons are unaware of their rights or how to access existing services or processes;
- Community members, family members/caregivers and state/non-state justice actors may not be aware of the rights afforded to different groups under the law and their obligation to protect them;
- Displacement often contributes to lack of information on the kinds of rights and services to which individuals/groups are entitled, the personal documents they need to access services, what support is available when their rights are violated and how to seek that support;
- Disempowered persons often feel a sense of fear or alienation regarding justice services, given their inherent complexity and the degree of power justice actors often hold; these feelings are often amplified by a lack of knowledge of what is actually available and how to access.
- **What is the challenge to people understanding of their legal rights and responsibilities in your context?**

CASE STUDY

Legal Information – Helping people stay safe and make informed decisions with Refugee.Info

Refugee.Info (RI) is a digital information service that the IRC (with partner Mercy Corps) operates in Europe. In Greece, the Refugee.Info team started getting questions from refugees and asylum seekers who had been fined on public transportation for not having a ticket. Their questions reflected the anxiety this issue was causing: Do we need to pay these tickets? What happens if we don't? Will an unpaid ticket affect my asylum claim, ability to access services or cross borders? Can the authorities go after my wages? How do you pay?

The RI team and a local legal partner developed a blog post about what happens when you get a fine, including your responsibility to pay, the Government's right to go after your bank funds, your right to protect your assets and how to do so, and even tips on how to pay less. The goal of the legal information was to help users make an informed decision about how they wanted to manage their fine, and how to do so if they chose. See the post here: https://blog.refugee.info/fined-on-athens-transportation/

In Italy, Refugee.Info users did not realize that leaving asylum reception centers without permission could get them banned upon return, resulting in homelessness, lack of access to services, and an interruption in their asylum processes. The RI team posted a video explaining a person's rights and obligations while staying in a reception center to improve people's ability to make informed decisions. They chose to do a video to better serve the needs of those who may not be able to read, and to increase the likelihood that people would share the content with others.
See the video here:
https://www.facebook.com/Refugee.Info.Italy/videos/vb.150538088974692/165214040840430/?type=2&theater

2. How to design legal information content

Legal information must be informed by what people most need and want to know, and must be delivered in a way that they can trust, understand and use. Discuss with your PRoL team as well as program leads in other sectors to see what data already exists to inform the design of your info activities – these could include: context analysis, protection monitoring, outreach activities and feedback mechanisms – any information that could help you understand what people lack knowledge on and what they want to know and what delivery mechanisms they trust. Keep in mind that while everyone needs information on their rights and entitlements, some individuals might need more tailored information or delivery mechanisms due to their gender, age, disability or membership in a particular social group (see Section on Designing A2J Projects for Specific Groups: Children, Women & People with Disabilities for more information).

If these sources are not available or if existing data doesn't give you the full picture, use/adapt the Legal Information Assessment Tool to understand legal information needs and preferences for receiving information in your context. While IRC teams might have good ideas about what legal information is most important in a given context, we will never know what information is most urgent, most needed and most useful to the people we aim to serve unless we ask!

A. Legal Information Requirements

Topics should change over time as clients and/or the IRC and partners determine that clients have achieved adequate knowledge in some areas, or new information needs arise with a change in circumstances (e.g.: emergency/rapid displacement to protracted displacement/integration/asylum, a rise in evictions, a new immigration policy, a rise in civil documentation challenges, etc).

Legal information programs should explain:

- **WHAT rights/benefits are available**
    - for example: the availability of birth registration or work permits, protections against domestic and other forms of violence, what are relevant rights in displacement for IDPs/refugees/asylum seekers, what rights/benefits are available to specific population groups (LGBTIQA individuals, ethnic minorities, etc);
- **WHY rights matter**
    - for example: birth registration prevents statelessness, civil documents secure access to basic services, freedom of movement means people can more easily seek employment or socialize; and
- **HOW to access rights and remedies**
    - for example: what you need and where to go to apply for identity documents, how to file a claim, or where/how to access humanitarian services.

Examples of legal information manuals are available here!

PRACTITIONER'S TIP - Legal Information Requirements

To be useful and effective, legal information must be:

- Relevant, accurate and up-to-date;
- Delivered through a trusted source;
- In a language and style people understand;
- Culturally appropriate;
- Tailored to the needs of the target audience (women, men, elderly, youth, justice actors/duty bearers, people with disabilities, etc);
- Delivered through a format people like, feel safe and comfortable accessing; and
- Delivered in a way people can learn from and use.

PRACTITIONER'S TIP – Legal Information Session Checklist

Legal information sessions should, at minimum, inform the individuals we aim to serve of:

- His/her/their rights/entitlements;
- The value of realizing these rights;
- How to activate these rights (e.g.: administrative solutions)
- Their right to seek redress when these rights are violated (e.g.: legal solutions);
- How to seek redress (e.g.: through formal/informal justice providers), relevant costs, risks, and what to expect;
- Available assistance from the IRC, local partners or other A2J providers (e.g.: what they do, how they can help, how to contact them, and relevant costs and fees).

3. How and where to deliver legal information

Legal information delivery method depends on what is most appropriate, useful and available in the context. **You will have to choose not only the methods to deliver the information but also the most appropriate space or platform**. **Your assessment to define the delivery methodology should focus on key social factors related to how people currently access information.** Key factors will include:

- The information channels and formats people use and trust the most (eg: word of mouth, newspapers, radios, dance/theatre). How do these differ for older/younger people, men/women?
- The information channels that are safest/most dangerous – are there risks around internet surveillance, printed legal information or legal information on someone's phone?
- The language people prefer for the receipt of legal information (which language? Spoken, written, audio/visual?);
- How people like to store information – in print, on a website, through trusted community focal points;
- The level of education/literacy/ability among potential users to achieve the right blend of video/written/visual/audio;
- Whether there are community groups or organizations already engaged in information sharing you could partner with;
- Whether there is access to/use of digital technology (eg: smartphones); and

- The best physical location for dissemination to ensure you are reaching your target audience. For instance if you want to increase children legal literacy then it is recommended to integrate that activity at school premises, child & youth spaces etc.
- What outreach and feedback activities are already working in country that legal information teams can connect to, such as Client Responsiveness, MEAL, other sector information outreach teams, such as health workers, etc.

Across all of these questions, be sure to disaggregate your findings by gender, age, disability and diversity. For example, women/men, different age, ability or social groups may need different information and may have different preferences for how/where/when to receive that information.

Sometimes, the most trusted method is using clients themselves to support the information needs of other clients. Working with community members to deliver legal information works to improve peoples' sense of dignity, when they see people like themselves helping others without the power imbalance that often accompanies aid. Chances are, there will be someone ready and eager to support the IRC to deliver information, and will have great ideas for doing that in a way that best suits community needs!

CASE STUDY

Refugees informing service delivery methodology in Thailand

The IRC Legal Assistance Center (LAC) Project in Thailand provides legal awareness programs to refugees from Myanmar in five refugee camps on the Thai-Myanmar border. Following requests of the camp population and approved by the Thai Ministry of Interior, the LAC training team works with community-based paralegals to provide information on 12 topics, ranging from illegal presence (presence outside the camp) and forestry offenses to intimate partner violence. While originally working through group outreach sessions, after doing an evaluation of the impact and knowledge retention of legal information activities, the LAC training teams decided to adapt new delivery methodologies focusing on (interactive) drama techniques as this was something that had shown promise in other activity areas in the Thai context. The LAC team hired an "Education/Drama" consultant who worked with the paralegal training teams on developing role-plays (through story-boarding), the use of songs/music, presentation techniques and "teasers" to increase rapport and knowledge retention on legal topics.

Possible delivery methods include (but are not limited to):

- information hubs (mobile or static);
- mass information campaigns (radio, TV, advertisements, posters);
- information-sharing through community campaigns, groups or focal points;
- dissemination of printed Information, Education and Communication (IEC) materials – leaflets, flyers, etc;
- engagement of community/religious leaders to pass on key messaging (eg: promoting women's legal rights at religious/cultural events);
- the use of arts and drama (theater group tour);
- the use of digital technology (Signpost[29], SMS messaging, Apps).

[29] Signpost is a digitally-supported approach to information services that the IRC supports globally. See http://www.signpost.ngo/ for more info! Consult your TA if you would like to explore for your context.

Possible locations for information delivery include (but are not limited to):

- Refugee/IDP/host community spaces and events;
- Women safe spaces;
- Health facilities;
- Youth club, youth facilities;
- Children spaces including schools;
- Livelihood premises;
- Community/women leaders' homes.

CAUTION!

During legal information activities **individuals may reach out to request more specific information or disclose serious rights violations for which they would like to seek help.** Information teams must be trained on psychological first aid, safe identification of most at risk individuals and referral pathways, including to Child Protection and Women's Protection/GBV teams. Information teams should be prepared to speak in detail on the legal topics they are introducing and/or be prepared for how they will follow up on questions they cannot answer (e.g.: through referral to a legal officer).

4. Top tips for strong legal information services

PRACTITIONER'S TIP – Top Tips for Providing Strong Legal Information Services

- ☐ **Connect to any outreach or information activities by other sectors/Protection Monitoring** in country to ensure access to or help in collecting up-to-date data on legal information needs and protection risks requiring legal information responses;
- ☐ **Connect to any Communicating with Communities (CwC) groups or Signpost instances** in country (is there a community committee(s) that might help inform content? A message board?)
- ☐ **Connect with other IRC teams in country:**
  - Are there legal issues particularly affecting children, women or other groups in context?
  - Do other teams have data that might inform design of legal information sessions?
  - Can legal teams provide information through CP/WPE or other sector outreach (eg: community health workers)?
  - Is there a need for legal information at CP/WPE safe spaces, education, health or ERD service delivery points?
- ☐ Draft a **legal information manual** for your country, be sure to share it within your team and with external stakeholders to support everyone who is providing legal information to do so through consistent messaging. Clients will trust the information more when they hear all organizations saying the same thing!
- ☐ **Identify any community members/clients who may have capacity and willingness to support** information delivery via dissemination, translation, cultural mediation, or content development activities.
- ☐ **Identify other human resources that may help make complex legal information more understandable** – are there journalists or journalism students who might help you draft or review your materials for accessibility?
- ☐ **Ensure all legal information activities are fully inclusive**: always complete an AGDD analysis to ensure meaningful access for women and children, people with limited hearing, sight, and mobility, learning disabilities or limited reading ability.
- ☐ **Use plain language** in your messaging – language that is clear, avoids jargon and is easy to understand! See here for Translators Without Borders' Plain Language Principles; see here for a guide to plain language writing, and here for a plain language glossary of legal terms (note – this was designed for UK use, but can be adapted for context).
- ☐ Have field staff and IRC clients **test the content before you disseminate widely** – is it clear? Does it include enough information for people to take action? Will it be understandable to different key user groups in your context?
- ☐ **Ensure all legal information activities have mechanisms to capture feedback** (exit surveys, periodic phone surveys/FGDs) from beneficiaries on information quality or other needed topics.

CAUTION!

Information is Power: In some environments, people may seek to control or manipulate the information others are receiving for political, financial or other reasons. As you design your delivery methods, ensure that you are targeting a diverse audience (across gender, age, and ethnic/religious/social lines) so that no one group, individual or partner is in control of the flow of information or otherwise able to control others' access or understanding.

TOOLS

The following tools will help you design and deliver effective legal information services:

- Legal Information Assessment Tool
- Psychological First Aid Training
- Example Legal Information Manuals (Uganda; Lebanon)
- Translators Without Borders, Plain Language Principles
- Plain Language Writing Guide
- Plain Language Glossary of Legal Terms

Legal Assistance: Delivering quality legal services

1. What is legal assistance?

Objective:
Legal assistance is about helping people to solve legal problems that they are unable to solve on their own because they are too complicated, the client requires additional assistance, or because there is too much risk involved. Legal assistance can include a range of activities – from helping a client fill out a legal form to representing a client in court – but these will always be determined by what would be most useful for people at risk in context.

Legal Assistance can include (but is not limited to):

- Legal counseling, supporting clients to understand how legal information applies to a specific group or individual's legal issue;
- Support in filing a claim, filling out an administrative form, or completing/submitting other legal paperwork;
- Accompaniment to administrative or judicial proceedings;
- Support in mediation or other alternative dispute resolution process;
- Legal case management; and/or
- Legal representation.

CAUTION!

Do not use mediation in cases of GBV/IPV or other cases where the power imbalance between parties will not allow for a genuinely voluntary and safe process. See here for a note on IPV/GBV and mediation.

2. How to design legal assistance activities

Legal assistance activities should flow from legal information activities – **legal assistance should meet the demand that you have created through legal information.** To have the greatest impact, legal assistance should focus on the areas of law and population groups who are most at risk of harm due to lack of access to justice. Legal assistance activities can also be expensive because of the time it takes to solve complex legal issues. For these reasons, it is essential that **legal assistance design is informed by an assessment showing what are the legal issues putting people most at risk in the context, who is most heavily impacted by these risks, and what types of legal assistance will be most welcomed by the population and most likely to solve their legal problems**.

Like with legal information, existing data from context analysis, protection monitoring, outreach activities and feedback mechanisms available in country should be used to answer these questions. Country teams should also conduct a specific legal assessment to determine most relevant and impactful legal assistance activities in context, what/how legal issues are affecting women/men/boys/girls, people of varying abilities and members of different social groups, local perceptions about the available justice mechanisms, where and through what delivery methods legal assistance should be offered and other key factors.

Your PRoL TA can support you in designing the right legal assessment tool for your context, but these tools will also help to get you started:

TOOLS

The following tools will help you design and deliver AGDD sensitive legal context assessment:

- UNHCR Participatory Assessment guidance
- IRC legal context assessment sample questions
- OECD/OSF Legal Needs Surveys and Access to Justice: *Ch 3, p 105, Model questions; Annex A, p 159, Annotated survey*

A note on using ICT in delivering legal assistance activities

Technology is increasingly having an impact on the ways in which people experience displacement – both in terms of the ways in which they are able to use digital technology to make more informed decisions and access services in more efficient ways, but also in terms of how peoples' personal data is tracked, stored and used. Information and Communication Technology (ICT) creates a lot of opportunities for justice actors to better serve the needs of populations increasingly engaged with technology – particularly digital technology and social media – by allowing us to get to scale, engage in real time two way communication, and put more information and power in the hands of our clients. But ICT is also something that can be expensive, inaccessible to the most vulnerable, not especially useful, or in the worst cases, can create real risks of harm for our populations of concern. Harms could range from producing digital litter, out of date apps or information, which can confuse people trying to make informed decisions to exposing someone's personal details or even their location to security forces, gangs or other bad actors. The Signpost project is one way in which the IRC has been incredibly successful in meeting the information needs of our clients, particularly relative to how we deliver information on legal rights and access to justice service access.

The Engine Room, an NGO working to help other NGOs and humanitarian actors use tech to support program outcomes, offers a lot of learning and even light touch support for organizations seeking to design tech-supported A2J strategies. Go to https://www.theengineroom.org/seeking-support-in-using-tech-for-legal-empowerment/, for further information.

Explore here for interesting links on how ICT can support A2J:

- Technology and Legal Empowerment Around the World, a report by OSI and TheEngineRoom.org
- Seven lessons on using tech to support A2J, The Engine Room;
- Six questions to ask when using tech to improve A2J, Webinar, Namati/The Engine Room

If you are interested in exploring ways in which you can use ICT to enhance your A2J design, please reach out to your PRoL TA. ***As risks can be so high in this area of program design, please do not design ICT-supported A2J without consulting your PRoL TA and DO report back any learning to the PRoL team!***

3. Different ways of providing legal assistance at the IRC

At the IRC, we have two main ways of providing legal assistance. Legal teams can provide assistance in the form of a one-off legal counseling or through legal case management that includes counseling, follow up until case closure and sometimes legal representation. IRC teams will need to determine which legal assistance activities they can do directly, which require a power of attorney, and which will need to be referred to a locally registered lawyer.

A. Legal counseling

Legal information can be complicated and hard to understand, especially when trying to figure out how general information applies to your specific problem. **Legal counseling is the activity of giving detailed legal information tailored to a specific individual or group's legal issue.**

Legal counseling can be delivered on its own (for example, to people who approach legal teams at the end of a legal information dissemination session) or as part of longer-term legal case management. **Whether legal counseling is stand-alone or part of case management depends on the client**: legal counseling may be enough to help a client resolve their legal issue without further assistance. If further assistance is required, legal counseling will be folded into the overall case management approach.

Legal counseling is the lightest touch form of legal assistance; it is usually the most useful for individuals with lower levels of risk/vulnerability. Legal counseling might also alert clients to the fact that they need further assistance, and create entry points for legal case management or other IRC services.

CASE STUDY

Legal Counseling in Uganda: an opportunity to provide additional response

IRC teams in Uganda provide legal counseling to refugee/non-refugee detainees at the request of local detention authorities. The detention center where IRC operates hosts only perpetrators of minor offences completing short term detention sentences. The IRC legal team provides them with counseling on issues such as the right to appeal, right to apply for diversion measure, right to seek redress against detention authorities and the administration if a detainee's rights are not respected etc. During legal counseling activities, legal teams commonly identify clients in need of legal case management and receive requests

from detainees and detention authorities to provide material support (boots, renovation of wash facilities, MHPSS support, office supplies, etc). By identifying budget for material needs, referring the WASH needs to UNHCR and finding an MHPSS partner willing to join in detention visits, **legal teams used legal counseling as an entry point to find solutions to the basic needs, WASH and MHPSS needs of detainees while increasing performance incentives for detention authorities.** This strategic engagement not only increased authorities' openness to detention visits and improved the legal team's ability to operate, but also improved basic needs, WASH and mental health outcomes for detainees.

Top Tips for Effective Legal Counseling:

- **Legal counseling can be delivered by** Legal Officers, Protection/Information Officers, Paralegals or Lawyers – depending on the complexity of the legal issue, staff capacity levels and national legal rules. In your assessment for design, determine what types of legal topics IRC staff/partners at different capacity levels will be able to support.
- **Legal counseling at the IRC is NOT Legal Advice:** legal counseling is not about telling someone what they SHOULD do, but rather, what someone COULD do in their particular circumstances. Legal counseling usually will not require a power of attorney, while legal advice (what someone SHOULD do) usually will. If someone is interested in receiving support in taking their case forward, legal teams must determine their eligibility to receive legal assistance through case management. See next section, on Legal Case Management.
- Most commonly, opportunities for legal counseling arise at the end of legal information activities, as people will want to know how the information applies to their particular circumstances. **As you are designing your legal information materials, think ahead to which groups/individuals may require more detailed or specialized explanations of how these issues can be resolved in practice.** Are there specific considerations for age, gender, diversity and/or ability, geographical specifics or important additional requirements for certain groups? What will legal teams need to have ready to be well prepared for legal counseling activities?

PRACTITIONER'S TIP – Legal Counseling Checklist

Legal teams providing legal counseling must at minimum provide detailed legal information on:

- ☐ Confidentiality and limit to confidentiality related to certain issues (e.g.: related to mandatory disclosures of abuse);
- ☐ Role and responsibilities of the legal counselor;
- ☐ All existing legal avenues for a specific legal issue;
- ☐ All possible outcomes that result from each legal avenue, including relevant risks;
- ☐ The entire procedure that goes with each avenue including cost, time etc.

B. Legal Case Management (LCM)

Legal case management (LCM) is a way of organizing and carrying out legal assistance activities to address the legal needs of an individual or group, in an appropriate, systematic and timely manner, through direct support and/or quality referrals, and in accordance with best practices and international protection standards. Effective LCM supports prevention and response to protection risks linked to legal issues and concerns both in the immediate and longer term. Legal case management entails an on-going relationship with the client individual and/or household, which form a common thread throughout the provision of

services by multiple specialized service providers. LCM can include a very complex, detailed and sensitive group of activities.

To ensure most effective management of legal assistance and LCM activities, country teams are advised to develop a set of Standard Operating Procedures – these should include SOP elements across all areas of your A2J model, but at a minimum, detail how the team will manage LCM activities. See here for a sample Legal Assistance SOP that can be adapted to your context.

LCM can range from more simple/less resource intensive assistance (eg: filling out/submitting a legal form) to more complex and time intensive legal representation. **Given the resources required for heavier LCM processes, country teams should develop a set of eligibility criteria for legal case management service and cases that can benefit from legal representation based on context-driven risk and vulnerability factors**. Share these criteria openly with community members, service providers and other relevant stakeholders to ensure there is transparency in project delivery.

IMPORTANT NOTE

To ensure legal staff are able to provide LCM in a consistently sensitive and respectful way, legal teams should be trained on Psychological First Aid, GBV core concepts and competencies, Disability Inclusion and Child Protection Basics. Always check in with your WPE and CP colleagues and relevant external partners for help adapting these materials to your context/activities and for additional training opportunities!

a. Legal case management process steps

Legal case management should be provided according to the same service quality standards outlined in the IRC's Protection Case Management guidance (Page 7 to 36). Helpful definitions used in A2J forms are available here.

The table below describes the required steps for legal case management at the IRC. The following flowcharts may be useful to help visualize the case management process for legal officers, community paralegals, community volunteers or anyone else involved in legal case management: simple flowchart for community-based case management, case intake checklist for community volunteers and a case intake flowchart for IRC staff.

We have included links below to forms required for each stage of the LCM process. Note that these forms are adapted to the needs of a specific country program and should be revised as needed to adjust to your context. Specifically:

- **The consent, referral, safety planning, follow up and evaluation forms are minimum standards, these can be expanded but NOT reduced.** The consent form, referral form, safety planning form, follow up form and evaluation form listed below contain the minimum of information mandatory. You can adapt those but you must collect the information already listed. See further guidance in each form listed below.
- **The intake and assessment form and eligibility criteria are fully adaptable for context, and can be fully expanded or reduced.** Note that there is no form per se to define eligibility criteria for your legal assistance program. Examples are available from Iraq here (page 9-13), and from

Tanzania here (used for protection case management). These can provide a model for defining your eligibility criteria against the nature of the cases (legal problems) you will support and client characteristics that put them at high risk of rights violations in context (economic status, migration status, ethnic/religious background etc.)

Case Management Steps	Purpose	Forms
Note that Case Management is not a linear process but is flexible according to the needs of the Client.		
Client Identification	Identify client in need of legal case management service.	Eligibility Criteria List (p. 9-13) Referral form Consent form
Intake and Legal Needs Assessment	Understand the client's legal need, obtain informed consent, and evaluate the urgency of the case. Determine eligibility for LCM.	Intake & Assessment form Consent form
Legal Service Agreement / Power of Attorney	Designate authority to the lawyer to represent the client's case in a legal capacity.	Legal Service Agreement
Case Action Planning	Develop the case action plan based on the needs assessment; include safety planning.	Intake & Assessment form Safety planning form Consent form
Implement Case Action Plan	Assist and advocate for client's legal need, provide direct support or refer to legal partner.	Referral form Consent form
Follow up, Monitoring and Review	Follow up and monitor progress of the case against the action plan.	Follow up form
Case Closure	Assess and plan for case closure.	Case closure form
Case Management Service Evaluation	Receive client feedback, assess quality of service provision.	Evaluation form

CASE STUDY

Great Practices in Delivering LCM: Cross-VPRU training

Legal teams in Uganda have all been trained on communicating with children by the CP team, on GBV core concepts by the IRC WPE team and on psychological first aid by the Ugandan Red Cross to ensure legal services are gender/trauma sensitive and are able to safely refer to relevant service providers. Clients are routinely informed at intake on the availability of CP, GBV and trauma-related services, and what support they can receive regarding referrals. This has led to better service provision: better outcomes for the client as staff are trained on being protective and client-sensitive in their legal work and better outcomes for IRC legal staff as they feel more comfortable and confident in providing legal services.

b. Legal representation

Legal representation facilitates clients' access to courts, informal justice proceedings and/or administrative bodies, in order to obtain redress for rights violations or access to documentation. Legal representation can be provided through state justice bodies (formal courts, administrative offices) as well as in non-state/community-based/informal justice or alternative dispute resolution mechanisms to ensure clients' rights are protected. **Legal representation should ALWAYS take place within the framework of legal case management.**

Note also that **legal processes are often lengthy** - resolution of legal representation cases may not be complete by the conclusion of the project period. For this reason, it may be preferable to involve local legal providers in representation activities and at a minimum, ensure detailed handover plans are in place to avoid disruptions in LCM/representation.

A note on providing legal assistance in cases of detention

In some cases, a legal context analysis will reveal that the people most in need of legal support in an environment are those affected by detention. This could mean that people of concern to the IRC face patterns of arbitrary detention connected to their displacement, that detention conditions are poor in a way we are able to influence, or other factors. Making the decision as to whether your country program will be safely and effectively be able to serve populations in detention with access to justice services is a complicated one, and should involve your senior management and PRoL TA. See here for an IRC report on ethical considerations when working with detained populations.

If you do decide to go ahead with serving the A2J needs of people in detention, it is essential that you work with your PRoL TA to develop a set of Detention Legal Representation SOPs. This will help you manage your project effectively, and support you in avoiding some of the pitfalls that can easily arise when working with detained populations. See here for a sample Detention Legal Representation SOPs and Legal Service Agreement that you can adapt to context.

CASE STUDY

Iraq: Considerations for serving populations in detention

IRC lawyers in Iraq provide legal assistance to people who have been detained, or are at high risk of detention, due to accusations that they were involved in terrorism (usually ISIS affiliation). Base on a sound legal analysis, IRC determined context-specific gaps and realigned its targeting to prioritize such criminal cases on charges under the Anti-Terrorism law (2005). The overarching consideration around whether to deliver on this program was if providing legal representation posed any threat to the safety and security of staff or conflict with compliance issues, IRC's mandate and donor agreements to only provide assistance to civilians. The team also had to consider whether they could achieve success in their cases without compromising humanitarian principles or standards of professional conduct by paying fees or bribes for normal criminal legal processes and/or facilitating payment of bribes by family members, as is often required in context.

Iraq's legal team put a number of controls in place to implement this project safely. A Detention SOP was developed formalizing eligibility requirements for legal assistance. Lawyers can only take cases where the person does not have a credible evidence of ISIS involvement, with restrictions against working in informal detention sites. The SOPS guide lawyers on how to conduct due diligence before accepting cases. This is complemented by strategic meetings between senior PRoL management and relevant court officials, government authorities and security actors, to sensitize them to the mandate of IRC detention lawyers. A key strategy was also to ensure all lawyers were employed as staff members and not consultants, compelling them to adhere to the IRC's financial processes. Closer monitoring of the lawyers' work through internal satisfaction surveys, regular M&E and stringent follow up with clients and/or families including questions about the facilitation of payments was also crucial for better oversight. Through these controls, the Iraq team was able to ensure more effective and ethically sound detention programming.

CAUTION! Other areas for significant ethical consideration:

Should the IRC provide legal support to ratify cases of early marriage??

The IRC does not condone early marriage as a matter of principle and safeguarding of children, however, early, unregistered marriages bring risks to children and their families. Lack of registration of marriage raises many protection concerns, including around birth registration, obtaining a divorce, custody, alimony or marital property, or seeking legal support in cases of violence. When deciding whether to provide legal services for early marriage, legal teams must consider whether this service will provide remedial action toward obtaining rights within a marriage that has already taken place. Factors that would weigh against providing legal services for early marriage would include where there were existing signs of duress or abuse, where the marriage had not yet taken place, or whether doing so would create other risks for clients or IRC staff/reputation in context. Safeguards and procedures to follow in these types of cases can found in this Guidance Note on Early Marriage and Annexes, which your PRoL TA can help you adapt to your context. *As this is such a risky and complex area of programming, please be sure to consult your PRoL, CP and WPE TAs for planning before you go ahead. If CP or WPE is not active in country, consult CP and GBV/WPE providers in country for support in determining whether and how to proceed.*

Should the IRC provide legal services to alleged perpetrators of violence??

In accordance with core human rights principles of ensuring that everyone has access to justice and due process in the eyes of the law, **the IRC will not automatically exclude alleged perpetrators of violence from legal assistance services.** The question of whom we will defend, number of cases we can take on as well as how to manage potential conflicts of interest and safety considerations between survivors and alleged perpetrators of violence must be discussed and agreed on at the initial stage of project design. Given that the IRC is interested in supporting the needs of particularly at risk individuals, including children and survivors, deference should be paid to the needs of higher risk groups when making the decision of whom to take on as clients. **Where WPE and CP teams (or GBV/CP partners) are also in country, they MUST be included in the evaluation of these factors.**

IMPORTANT NOTE:

Always contact the national bar association before designing a legal representation activity!
Legal representation is usually embedded into domestic legal aid frameworks. Always assess your context to know:

- What are local/national rules on legal aid?
- Who is permitted to provide legal aid in country?
- What sort of contract or agreement is required in order to provide legal aid?
- Is IRC an entity that could provide legal aid in accordance with national laws? Is this for all cases or only certain areas of law (for example, criminal representation may not be possible)?
- Can IRC register as a legal service provider or are we required to implement representation activities through partners or contracted national attorneys?

4. How to deliver legal assistance

The guiding principle underlying the work of IRC legal assistance is that the service we provide is not a substitute for a properly funded legal aid system. Our legal assistance work should complement, not replace, government-funded programs to ensure access to justice.

An important feature of coordinated legal assistance programs is a Standardized Operating Procedure that clearly states what legal services will be made available to whom. The Standardized Operating Procedure should indicate the nature of the work, the scope of the work and eligibility criteria for assessing service requests. It will enable the IRC to communicate its expectations and priorities to partners, staff and the general public.

A. Define your Eligibility criteria

Because legal topics can be so complex, many I/NGOs or other legal service providers often choose to specialize in certain types of legal issues. For example, some legal providers will only work on criminal cases or civil cases (including housing, land and property cases and family law); some providers will only work with formal/state justice systems while others will include informal/non-state. Having eligibility criteria will not only help us determine what kinds of cases we will take, but whom we will be able to make our limited specialized legal services available to. By having these criteria established and readily accessible for potential clients to see and understand will help the IRC maintain transparency in its decision-making.

Defining your eligibility criteria will be one of the most difficult decision to make. Here are some questions to help get you started:

- What legal issues are creating the greatest risk of harm?
- What legal issues are most commonly affecting people who are at greatest risk of harm? (context analysis, protection monitoring reports, minutes from clusters and coordination platform etc);
- Are there individuals with specific profile that are at greater risk of not accessing justice? (the financial capacity of potential clients for instance should be taken into account);

- Are there individuals with specific profile that are at greater risk of having their rights violated by the justice system if not supported with legal assistance? (AGDD lens here - look into ethnic minorities, displacement status, detention status, disability, gender and age, etc);
- Is there anyone else providing quality legal services in this area? If yes for whom, on what issues, where? (avoid duplication);
- Can we (directly or through a partner) effectively address the legal issue identified? Is any additional training required for legal teams? Do we need to implement a mobile approach to reach those most in needs?;
- Are there cases that if assisted will set a precedent for all other similar cases?
- Do we have the necessary time and resources to deal with specific cases? Can we ensure our support during all the justice process?
- Is it safe for us/clients to do so? (e.g.: will working in detention facilities increase risk for detainees or be harmful to staff? Do No Harm);
- Are there cases that pose a risk of conflict of interest for the IRC? (what internal conversation should be had in country on whether to provide legal assistance to alleged perpetrators of GBV? Are there some claimant/defendant groups who are already getting support in context while others are not?);
- Can we ensure the minimum of expertise needed to deal accountably with complex cases? Do we need/have specialized staff? Can we ensure ongoing training and mentoring? Can we partner with legal firms providing pro bono services?
- Are we supporting clients that have previously been supported and committed an offense again?

Examples of eligibility criteria can be found here: Iraq, Tanzania.

B. Apply the A2J principles

Legal assistance activities, whether delivered directly or through partners, must always be delivered with respect to the A2J core principles presented in the introduction of this guidance. The following section offers tips on how to apply the A2J guiding principles to legal assistance activities.

a. Empower your clients:

Legal empowerment is about making sure decisions regarding whether and how to pursue justice are driven by the client's own interests, safety, informed decision-making and meaningful ability to act.

PRACTITIONER'S TIP – Top Tips to Legally Empower People

- Make sure people have the **best, most accurate, and detailed information** about their options for pursuing justice (state/non-state/religious/hybrid);
- Explain the **process, risk and benefits** of pursuing various channels for justice or dispute resolution in a neutral and objective manner – include info on:
  - expected costs, time, logistics;
  - geographic locations of justice sites, and any known risks to accessing those sites;
  - whether there are male/female justice actors available;
  - whether there are specialized services for women and/or children;
  - whether services are accessible to people of minority languages, LGBTIQA identity, minority groups, etc.;
  - whether the site is accessible to people with disabilities, or whom to talk to about reasonable accommodation;
  - whether there is mandatory reporting and what that means for a client (particularly in GBV and child abuse cases); and
  - any other factors that might contribute to the client's ability to make an informed decision about whether/how to pursue justice.
- Discuss any **known safety issues** relative to the justice process and discuss the **process of safety planning** that is available as part of case management;
- Explain in detail what the IRC (or partners) will be able to provide in terms of **legal assistance** – be sure that clients have realistic expectations;
- Explain what legal assistance activities will require a **contract between the client and attorney**, what authority and obligations this creates (eg: around confidentiality vs mandatory reporting, duty of care, etc), how to end this relationship if needed;
- Secure new **informed consent for each new phase/new activity** of legal assistance;
- Explain the **merits of their claim** (how strong the case is) *if possible*, to support informed decision making around their chances of success in the available justice options; and
- Give clients the **time and support** they need to decide what's best for them – check in regularly throughout the justice process to be sure they still wish to proceed or if they would like to change course.

Note that **Access to Justice barriers might be linked to issues that do not require a legal solution, including financial, physical, or care-related challenges.** Legal assistance teams should be linked to all sector activities in country, to support joint solutions when access to justice issues are related to health, education, economic, or other protection concerns.

CAUTION!

Legal assistance DON'Ts:

Never pressure clients to pursue or drop a claim. It is their choice alone.

Never assume that you know what's best for a client or tell then what they 'should' do – you never know what factors (known and unknown) might be influencing someone's decision making!!

When a client's chosen A2J solution poses risks of rights violations:

IRC staff must never force a client to pursue any particular pathway to justice, and must respect whatever decision a client may make about whether or not to pursue a claim or to do so through a process that IRC staff might not agree with. Should a client choose to pursue an avenue that holds significant risks of rights violations, however – such as mediation of a GBV case, filing a claim in a court known to be corrupt or filing criminal charges where the death penalty is a possible outcome – IRC teams are obligated to inform the client of these potential risks and the extent to which we can support them in their forum of choice.

IRC PRoL believes that there is injustice in leaving someone without support in a justice process that holds risk of harm when they may not want or have an alternative. **However, IRC legal teams must step away when IRC participation in a legal process risks appearing to endorse or support activities that are against the law, are unsafe or are against human rights** – for example, ratification of child marriage (in some circumstances), exchange of women to resolve a dispute, or informal detention. This determination must be made according to context. **Please contact your PRoL TA for support in this regard.**

b. Do not discriminate

The following steps will reduce risk of discrimination in legal assistance activities:

- Ensure legal assistance activities are designed to actively reach out and identify the specific needs of potentially marginalized individuals/groups;
    - For example, ensure legal assistance outreach is conducted within women's safe spaces, youth groups, in coordination with organizations for disabled persons, and among social minority representatives.
- Ensure clients receive appropriate services and are supported equally regardless of their individual characteristics, gender, age, socio-economic background, race, religion, ethnicity, political affiliation, profession, disability, sexual orientation or gender expression or identity.
- Ensure staff receive necessary training/sensitization to behave respectfully and in a non-discriminatory fashion with clients. Staff must actively work to be non-judgmental and avoid negative, blaming or judgmental language when working with clients, even when they do not "approve" of their choices or decisions. See this tool to measure and address staff sensitivities around GBV, for example.
- Ensure to the extent possible that staff are as representative of the local social context as possible – people from one ethnic/religious/social group should feel as able to attend legal services as others. Remember that patterns in discrimination can be passive as much as active.
- Ensure commitment to non-discrimination is reflected in legal teams' performance standards.

c. Ensure safety of your clients / Do No Harm

Legal assistance activities should not constitute a source of harm to the client and should mitigate all potential safety risks that might arise during the course of the assistance. Legal teams involved in legal assistance should always:

- Ensure the physical and emotional safety of individuals who have experienced or are at risk of violence, abuse, exploitation or neglect. Respond to physical safety needs first and then proceed with further actions to address clients' other needs.
- Ensure that clients with particular safety needs (women, children, vulnerable individuals) receive targeted safety planning in line with appropriate needs. See here for the case management safety planning tool.
- Ensure that legal actions are designed to be conflict-sensitive. If access to justice programming will shift the status quo and risk creating or exacerbating conflict or potentially dangerous social dynamics, these must be discussed with community members and local authorities for the creation and endorsement of conflict mitigation strategies.

d. Ensure confidentiality

Confidentiality is the ethical responsibility of any legal service provider to protect the privacy and identity if their clients. Maintaining confidentiality is also vital to gaining clients' trust, protecting their rights, and ensuring that clients are not placed at risk. Revealing a client's personal identity or identifying details of their case(s) could place them, their families and communities at risk of the worst forms of harm, including torture, death, or further sexual violence. Breaking confidentiality could also lead to heightened risk to the safety of IRC/partner staff and/or irreparable damage to the IRC's reputation and operational capacity in country. Best practice shows having a protocol on information management, especially the handling of personally identifying information, is key to ensuring confidentiality.

A note on Data Protection:

Information regarding a client's identity, household, location, or other details shall not be explicitly (actively) or implicitly (due to neglect) disclosed to a third party, including persons within the IRC not directly involved in the client's assistance process. Information may only be shared with relevant staff in other agencies with the informed consent of the person to whom it relates, and with their explicit permission.

Client data can be shared in two ways:

1. Through **aggregate, anonymized trends related to legal issues** in context (what kinds of cases/rights violations in certain locations, or the percentage of successful/unsuccessful cases in a jurisdiction; or
2. Sharing **identifying, individual information for the purposes of a specific, available referral**.

For aggregate data, the legal team should work with M&E teams in country to set out a process for cleaning data to ensure all identifying data is removed (remember, what makes something 'identifying' can vary by context!). When identifying information is shared for purposes of referral, it must be shared on a need to know basis and limited to only the information necessary to enable better protection of the individual and their family members and AFTER informed consent has been obtained.

All written information must be maintained securely in locked or password-protected files, and only non-identifying information may be written on the exterior surface of hardcopy case files. Protection staff must NEVER discuss a client's details with family or friends, in public places or with colleagues whose knowledge of a person of concern is not necessary.

One recommended way of producing **non-identifying unique client case numbers** is to combine the client's demographic attributes into an alphanumeric id, 8 characters in length using:

- Client village or town of birth (two characters);
- Order in which they were born (one digit, pick last digit if multi-digit);
- Client name (pick three characters from client name);
- Last two digits of your birth year or two digits of birth month.

Example: If the answers to the above questions were: Lewiston; born 1st; Rebecca; June; the unique alphanumeric client code would be: LE1CCA06.

VPRU has developed a complete package of data protection protocols that will help you ensure that you effectively protect client data throughout all phases and activities of your project. The package includes useful policy, guidance and tools on:

- Internal Data Privacy Policy (IRC-wide policy);
- Global Information Security Policy (IRC-wide policy);
- VPRU Data Protection Basics;
- Data Protection Self-Audit/Checklist (for country programs and sectors within);
- Data Protection Protocol;
- Staff Data Protection Agreement;
- Records Management Policy; VPRU Information Management Do's and Don'ts;
- Cloud Computing and Data Storage;
- Data Security on Approved Institutional Tools (Primero, GBVIMS/CPIMS, CommCare, Kobo, MS Excel); and
- UNHCR position papers on ProGresv4 and Annex F.

The complete package, including an annotated table of contents to explain how to use the package can be found here.

PRACTITIONER'S TIP – Top Tips for Data Protection in LCM

Legal teams involved in legal assistance activities should always:

- Protect a **client's anonymity at ALL stages** of the legal assistance process. Remember that confidentiality must also be protected in activities such as call centers, hotlines, radio call-in shows and on social media.
- Provide **private spaces** where legal assistance can be conducted without revealing a client's identity or purpose for attending the space; clients should also have a space where they can wait in privacy to the greatest possible extent. If no private space is possible, work with clients to find a space that will meet their privacy needs (e.g.: under an isolated tree or park bench).
    - Ensure that you have budgeted for infrastructure resources required to protect client privacy (e.g.: money to build a partition between two halves of a container if that is the space you will use for legal consultations);
- Ensure that **data is protected** at all times throughout the legal assistance process – ensure that data is kept in locked filing cabinets and/or in password protected files. Label the files with a client ID, not the client's name.
- Ensure that the office has a plan for removing/destroying confidential files in case of emergency evacuation of the office; consult the country level Records Management Policy.
- Discuss with your country's senior management to decide how you will answer to state or local officials if they come seeking access to your legal files.

Protecting Confidentiality in Mobile Settings:

Mobile legal assistance can help you access harder to reach populations. Confidentiality can be harder to protect in mobile settings, however, where you have less control over the physical environment. **Legal assistance teams should plan ahead with partners or community stakeholders to find a secure space that offers protection from being seen or heard.** This might require thinking creatively about portable structures that might do the job.

Possible solutions might include: renting rooms for a local religious establishment or business for the day; identifying IRC spaces or NGO partners with a community meeting room that could be used for a day or few hours; creating a screened off area in a mobile van; set up a tent or find a space where you can erect a screen to shield clients from curious onlookers if you cannot find an isolated location.

CAUTION!

Note on Mandatory Reporting:

In many contexts where the IRC works, **mandatory reporting laws require individuals with a duty to protect to report allegations of certain types of abuse**. Mandatory reporting laws are very common in suspected cases of **child abuse and neglect, but can also cover GBV** and other forms of violence. The purposes of mandatory reporting is to offer needed protection to the survivor to prevent further harm, by removing the person from the environment or other state action. Teachers, social workers, case workers, lawyers, doctors, nurses and others with a duty to protect are most often those required to report under such laws. Note that **mandatory reporting laws are context-specific and must be researched in context** to determine what is required under relevant law.

In some cases, mandatory reporting systems may be seriously flawed (e.g.: because of lack of safe procedures, capacity to respond, or discrimination within justice systems, etc.) and can further jeopardize a client's safety, particularly in emergency settings, and particularly in cases of GBV and child abuse. PRoL staff must therefore consider client safety and any potential legal implications of reporting/not reporting to determine the appropriate next steps. This is particularly important in GBV and child abuse cases, where survivors are often living with and/or socially and financially dependent on alleged perpetrators. Where possible and appropriate PROL staff should refer GBV and child abuse cases to GBV and CP service providers (IRC or external) respectively and should discuss together the implications of reporting or not.

For **adult survivors of GBV**, the IRC takes a survivor-centered approach rooted in informed consent, supporting the client to make an informed decision about whether reporting is right for them. See the IRC's Guidelines for a Survivor-Centered Approach to Reporting Safeguarding Misconduct.

In cases involving children, the IRC has a two-fold approach. 1) In cases where IRC staff or partners are alleged to have committed the abuse, the IRC requires mandatory reporting to the IRC's Ethics and Compliance Unit. See IRC's Guidelines for a Survivor-Centered Approach to Reporting Safeguarding Misconduct. 2) With respect to reporting allegations of abuse to State mandatory reporting bodies, IRC teams must consider the child's best interests first and foremost. Comprehensive guidance is available through the IRC's Caring for Child Survivors guidance, pages 91-95. The following is excerpted from the CCS guidance:

To appropriately comply with mandatory reporting laws, service providers must have a thorough understanding of the mandatory reporting laws in their setting. In settings where laws and systems exists, service providers should have established procedures in place for reporting suspected or actual abuse before providing services directly to children. The elements of mandatory reporting that actors should agree upon to create the safest and most effective reporting mechanisms include first answering the question: Does a mandatory reporting law or policy exist in my setting? If yes, actors should establish procedures based on answering these key questions:

- *» Who is required to report cases of child abuse?*
- *» Who are the officials designated to receive such reports?*
- *» When is the obligation to report triggered (i.e., with suspicion of abuse?)*
- *» What information needs to be shared?*
- *» What are the reporting regulations regarding timing and other procedures?*
- *» How is confidentiality protected? » What are the legal implications of not reporting?*
- *» What are the risks of reporting and what is it in the child's best interest?*

Decisions regarding compliance with mandatory reporting laws should be taken at the highest level of the IRC/partner, for the protection of clients and staff. This decision must also be in line with existing national/local norms on client/lawyer confidentiality, or if IRC teams will deviate this decision must be adequately justified according to IRC country policy/global safeguarding policy.

e. Getting informed consent or assent from your client

Informed Consent is the voluntary and informed agreement of an individual above 18 years old who has the capacity to understand, and who exercises free choice, to be part of the legal assistance process and to be referred to a third party(ies) and/or to a specific service based on full and transparent information.

- Informed consent is our legal responsibility to clients, as well as a way to build trust, show respect, support client safety, and ensure client empowerment and ownership of the legal assistance process.
- Consent is 'informed' when legal teams give clients enough information to make a decision based on weighing all the potential costs, risks and benefits;
- Informed consent must be taken before every new referral or action throughout the legal assistance process. See informed consent form here;
- Legal staff must offer functionally appropriate means of communicating with clients (based on their age and ability) to achieve meaningful informed consent to, or refusal of, legal services. Here is a flowchart on how to get to informed consent/assent.

Informed assent refers to the expressed willingness of an individual under 18 years old or with difficulties to communicate/provide consent to participate in services.

- Rules governing incapacity to consent and need for parental and/or caregiver consent depend on the laws of the country.
- **Always seek informed assent from clients with capacity challenges of any age or ability**. Use pictures, hand gestures or symbols to ask if someone is willing to participate in an activity or to access a service. Also watch for signs of agitation, anger or distress that may indicate that the individual is not happy with something that is being discussed or an activity that is being undertaken.

IMPORTANT NOTE

Legal Capacity:

Capacity refers to a client's ability to understand the benefits, risks, and alternatives to proposed assistance and communicate a decision. Capacity is not static and can change over time or require distinct abilities. **Impairments to reasoning, judgment or ability to communicate** that may prevent capacity to give informed consent have to be assessed and safely documented by IRC PRoL staff for each individual identified for legal assistance services, and at each stage of legal assistance. If there is uncertainty in adult client's ability to provide informed consent please refer to this flowchart on **getting to meaningful consent for persons with disabilities**.

C. Set up an Information Management System

An information management system is required to ensure LCM services meet international protection standards. Whereas an extensive database can provide useful information for country programs, donors and advocacy, even a simple tracking system (in CommCare or PowerApps) can help track and manage case progress. Any data tracking system must have **strong, proactive confidentiality protections** in place **and follow the principles that apply to personal data management.**

The PRoL team is currently working to create a standardized information management system for legal and protection case management. We expect to provide you with updated guidance on this point in the near future. Until then, please consult your PRoL TA for support in setting up an appropriate legal IMS for your project.

TOOLS

The following tools will help you design and deliver effective legal assistance activities:

- UNHCR Participatory Assessment guidance
- IRC legal context assessment sample questions
- OECD/OSF Legal Needs Surveys and Access to Justice: *Ch 3, p 105, Model questions; Annex A, p 159, Annotated survey*
- Sample Legal Assistance SOP
- Sample eligibility criteria
- Protection Case Management guidance
- A2J and legal case management definitions
- Simple flowchart for community-based case management
- Case intake checklist for community volunteers
- Case intake flowchart for IRC staff
- Legal Assistance Forms kit
- IRC report on ethical considerations when working with detained populations.
- Detention Legal Representation SOPs
- Legal Service Agreement
- Guidance Note on Early Marriage, Annexes
- Legal Assistance Standardized Operating Procedures
- GBV Legal Officer Supervision tool
- Case management safety planning tool
- VPRU Data Protection Policy Package
- Informed consent form
- Informed consent flowchart

Justice systems support (JSS)

1. Objective

Legal awareness and legal assistance interventions create demand and improve access to justice services to ensure people are able to safely and effectively seek remedies to rights violations they experience. However, **where the justice system is historically weak or has been damaged by conflict or disaster, it will be less able to serve people effectively** due to lack of trained staff, clear roles and responsibilities, and/or material resources as well as high levels of corruption, bribery, discrimination, poor adherence to legal rules and norms, slow service times and other systemic problems. It may also be that people have lost trust in state or non-state justice mechanisms, and do not believe they hold a safe, fair or legitimate path to justice. In addition, laws or procedural standards (in formal and traditional/customary systems)

may be missing, not protective of human rights standards or not adapted to the specific needs of women, children, people with disabilities, social minorities or other marginalized groups. **Justice systems support (JSS) is about making sure that justice providers are available, willing and able to provide safe, protective and meaningful responses to clients' justice needs.**

2. Defining your target for JSS intervention

Justice services and justice actors can exist at all levels of the social structure – from the most intimate family, tribal, religious or community-based dispute resolution processes to the highest level of national law and judiciary. Within the IRC PRoL team, our experience and expertise is rooted in working at the community-level, where our proximity to IRC clients and community groups allows us to better serve the immediate justice needs of individuals and groups in crisis. For this reason, **PRoL A2J focuses primarily on JSS interventions targeting community and district level actors**, while national level/systemic reform often requires partnership with either Governance teams or other justice or development partners.

Note that **there are excellent opportunities for partnership between the IRC and organizations focused on national level Rule of Law reform**: where national reformers bring expertise in systems strengthening and legislative/judicial reform, the IRC's deep understanding of communities and context can serve to connect national level efforts to local realities and perceptions. Such partnership is also critical to bringing local legitimacy to national level reforms, without which justice reform processes often fail to take root at the community level.

A2J teams interested in doing JSS activities must prepare by adequately diagnosing the service delivery challenges and carefully thinking through how JSS activities will actually impact the lives of individuals and community members. This will most commonly require a Service Delivery Assessment in addition to the legal needs assessment. The IRC's Safety 4 as well as the Cross-Cutting Service Delivery TOC, include both preventative and responsive pathways, designed to ensure peoples' lives are free from violence and that they receive quality services when they do experience violence, respectively.

Note that as with other legal empowerment activities, **JSS is not limited to state/formal systems**. Particularly in the places where the IRC works, community-led or other non-state justice mechanisms play a big role in justice delivery – either as a separate, fully or partially integrated piece of the justice system.[30] A stakeholder analysis that includes state and community-based actors will identify who are the possible change-makers and champions of reform (or spoilers) in a community, where interventions may be more or less welcome, and many other strategic considerations.

[30] "In many parts of the world, indigenous courts, councils of elders, and similar traditional authorities play a central role in the resolution of disputes. Despite all cultural differences, they share common features. Their relations with the state justice institutions are in many cases problematic, especially when they are not formally recognised. Nevertheless, many are perceived as legitimate institutions by local populations. Therefore, more recent strategies that aim at building the rule of law and improving access to justice include informal justice institutions as important stakeholders. In most cases, however, their positive potential can only be effectively used if they are reformed and linked to state institutions. This will be especially important in order to ensure that basic human rights standards are met. The inclusion of informal justice institutions will lead to a more comprehensive approach towards building the rule of law. Visible changes should however not be expected in the short term. *Extract* Informal Justice Systems: Challenges and Perspectives Tilmann J. Röder, https://worldjusticeproject.org/sites/default/files/informal_justice_systems_roder.pdf

IMPORTANT NOTE

From quick to medium - long term impact projects:
Initially making up for service delivery shortfalls by directly providing justice services might be necessary in the immediate aftermath of a disaster or crisis, when entering a country or area. However, in the medium term and especially when entering the recovery phase, the **IRC has a responsibility to partner with and build capacities of justice providers** (state/non-state) in order to ensure there is adequate local capacity to provide protective, effective and responsive justice service delivery in the longer term. Providing systems strengthening support to our justice partners can help the IRC ensure such local capacity is improved.

TOOLS

The following tools will help you define your target for JSS interventions:

- Service Delivery Assessment Guidance
- IRC's Safety 4 TOC
- IRC's Cross-Cutting Service Delivery TOC
- Context Appropriate: Stakeholder Analysis

3. IRC JSS Intervention areas

The IRC's Justice systems support work encompasses multiple intervention areas aimed at improving the delivery of justice services at the systems level, including:

- Advocating for improvements and providing technical support to make and implement protective laws and policies;
- Providing technical assistance, training, and coaching to justice actors to improve management systems; and
- Instituting oversight mechanisms of justice providers to improve the ability of the system to deliver effective justice services that adhere to the law and human rights standards.

Teams should determine appropriate intervention areas through service delivery and stakeholder assessments, with a focus on understanding and prioritizing areas of justice system delivery that are not functioning well. Each area is outlined in further detail below.

A. Making and implementing laws and policies

The goal of JSS activities is to strengthen the legal framework and management of the legal system in country, and align it to international and national protection standards. This includes support to align domestic laws to international protection obligations and standards and to align justice sector service delivery to good governance practices. JSS can take on many forms, such as drafting or supporting the implementation of new laws (such as legislation to address Violence against Women or adoption of anti-trafficking standards), or training justice actors on procedures to protect the rights of children or survivors of violence while they are seeking justice services.

JSS can also mean a focus on support to political, legal and constitutional processes that seek to strengthen judicial independence (national strategic plans for justice reform and service delivery). **For those activities that require a focus on judicial appointments, judicial management, internal administration including reporting and plans that improve transparency, anti-corruption measures design and implementation, the intervention should be designed jointly by the Governance and PRoL teams.** Note that this last type of JSS is not usually prioritized in a humanitarian crisis phase, but is rather a field of programming implemented in transition/peace building and development contexts.

Finally, JSS activities also include support to bring customary laws/processes into better alignment with national and international human rights standards. In keeping with the legal empowerment philosophy, it is important to recognize that legal change also includes social norms change, and as such, any planning, capacity building or advocacy around change to customary practices must be rooted in community engagement to ensure that the **advocacy is driven by the needs and priorities of the local population**.

Two types of activities are usually designed and implemented in JSS, either directly by IRC, or through local partners, civil society organizations and key community members:

- **Strengthen State authorities' willingness and capacity to establish an appropriate legal framework:** This includes IRC participation in legal reform coordination fora, legislative and policy drafting, and strategic engagement/advocacy. To ensure sustainability, legitimacy and local empowerment it is preferred to build the technical capacity of a local partner versus IRC directly implementing. Best practice is to design joint programming with the Governance team that can build the organizational capacity of civils society organizations while PRoL focuses on the technical aspects of justice delivery.
- **Strengthen Non State Justice stakeholder's willingness and capacity to establish a normative framework that is compatible with human rights:** This is usually done through strategic engagement with customary/informal authorities, supporting codification of informal justice system decisions, training and mentorship of paralegals, training community justice leaders on human rights-supportive mediation, and other activities to improve justice delivery from the inside out. Note that to be successful, projects addressing social norms change must be driven by community demands, and must be addressed through a sustainable, long-term methodology.

Case Study: Supporting Legislative Review and Development in Kenya: Since 2011, the IRC has been engaging in advocacy aimed at achieving favorable legislation governing the legal treatment of refugees in Kenya. The IRC is a member of a government-led Taskforce whose main aim is to review the Refugee Act of 2016 and develop a national asylum policy. In 2017, a bill was passed by parliament but rejected by the President citing lack of public participation. A new bill was published in August 2019, with support of Taskforce members. In the run up to publication, the Refugee Consortium of Kenya (a long-standing IRC partner) and the Taskforce have worked to support participation and consultation in these legislative developments (while also providing legal aid to refugees to understand and access their rights in this shifting policy environment). Activities have included:

-- Regular Taskforce meetings to review the Refugee Act 2016;
-- Pre-publication forums to seek public comment on the Act, among refugees and host communities, including hosting fact-finding missions to Dadaab and Kakuma camps for members of the Departmental Committees on Administration, National Security, Justice and legal Affairs, to hear stakeholders perspectives and craft proposals to be addressed by the National Assembly;
-- Review of the National Asylum Policy to identify gaps and make recommendations;

-- Organized workshop with members of the National Security and Justice and Legal Affairs Committee to craft proposals for needed legislative changes;
-- Participated in the Universal Periodic Review in Kenya to evaluate human rights practices in the refugee sector; and
-- Trained government officials on refugee rights and human trafficking in the refugee space.

B. Technical Capacity Strengthening

In JSS, PRoL teams work to strengthen the capacity of justice actors (formal and informal) to align their work to national and international protection standards. Technical capacity building aims to help duty bearers understand their roles and responsibilities and how to fulfill them, build their knowledge and skills, build relationships and institutional connections between key duty bearers, and have the proper resources and processes in place to support service delivery. Traditionally this involves providing material and technical support to the justice institution most relevant to the IRC's population of focus, including in kind support, trainings and mentoring of justice service providers. To support long-term and sustainable impact, these activities should be coupled with accountability and organizational capacity building activities delivered by the Governance team.

The following activities have proven effective in strengthening the capacity of justice actors (formal and informal) to align their work to protection standards. Capacity building activities may include formal or informal justice actors or even both, where co-training might present opportunities for increased cooperation and accountability.

- **Providing training** or guidance to law enforcement officers, prison administrators, the judiciary and relevant stakeholders of the informal system on: adjudication skills, human rights principles, fair trial, case management and legal filing standards, national laws, alternative dispute resolution (ADR), mediation, investigative capacities, best interests of the child, survivor-centered practices, disability inclusion principles, etc. See here for an example from Somalia.
- **Working to improve informal justice delivery** through codification of informal or customary legal rules and processes to ensure consistency and regularization of justice delivery, as well as working to improve adherence to and enforcement of human rights norms within informal processes. See here for examples from Thailand and Zimbabwe;
- **Facilitating relationships:** establishment of dialogues and referral/communication pathways between different justice actors (e.g.: informal justice actors and police or local judges) to improve enforcement of decisions;
- **Provision of material support:** lockable case files, paper, pens, bicycles for mobile court judges, etc. to increase quality of service provision
- **Support in developing selection and recruitment process criteria** for law enforcement officers, prison administrators, the judiciary
- **Monitoring of formal/informal court hearings, police facilities and police processes, detention facilities** to determine patterns of enforcement, impact of norms change and ongoing rights adherence, design ongoing mentoring/capacity building. See here examples from Uganda and Thailand (hearings, detention).
- **Improving community—law enforcement officers/police, prison administrators, the judiciary relations** through dialogue and coordination forum
- **Facilitating cross learning and communication between formal and informal actors –** toward building links between both systems if appropriate.

Case Study: Improving human rights recognition and creating connections to the formal legal system in Thailand

Since 2007, the IRC has provided technical and capacity-building support to refugee and camp leadership in 5 refugee camps in Thailand. LAC has worked closely with refugee leadership to build capacity on mediation and dispute resolution techniques, encourage the use of restorative forms of justice, and increase understanding of Thai and international legal standards in order to ensure these standards are applied and respected in the camp. The project has also engaged Thai justice authorities and civil society to ensure access to justice for refugees living in Thailand. The project is overseen by a steering committee that includes representatives of the Ministry of Interior, the Ministry of Justice, the National Security Council, the Royal Thai police, the Office of the Attorney General, IRC and UNHCR. At the provincial level, LAC works with justice officials to train and engage with the refugee leadership, community-based organizations, and local authorities working on justice issues in the camps.

Case Study: Providing Material and Technical Support to Courts in Uganda

Uganda is estimated to be hosting as many as 1.5 million refugees, with over 60% coming from neighboring South Sudan. Uganda is uniquely one of the most welcoming countries in the world for refugees, with law and policy that allows for legal stay, freedom of movement, right to access education and health, and the right to work and own land. However, as refugees continue to come and stay longer, Uganda's state systems and resources are increasingly challenged to provide effective services for everyone in their care. The IRC has been working to support Uganda's local courts in areas of high refugee presence, to ensure that they are able to institute their laws and policies in effective and rights protective ways. Activities have included:

-- Facilitated mobile court sessions in refugee settlement (IRC provides logistical support);
-- Provided stationary, furniture and other material support to law enforcement institutions;
-- Provided logistics and technical support to refugee/host community court interpreters for spoken and sign language;
-- Provided logistics support to district court for hosting of the District Coordination Committee to allow participation of police, prison and probation authorities, and district leadership in conversations about access to justice for refugees in conflict with the law; and
-- Provide support for the district court to hold plea bargaining sessions in prisons.

The IRC has a long-standing partnership with the Uganda Law Society, which whom we jointly provide:

-- Referrals through detention monitoring to the Uganda Law Society, who provides direct legal representation, legal drafting, drafting of manuals for paralegal training and legal information activities;
-- Trainings to state and non state actors on the legal framework for refugee protection, legal response to GBV, Alternative Dispute Resolution for community-based paralegals and court interpreters;
-- Legal information sessions in detention facilities, including attendance by court officials;
-- Detention and court monitoring;
-- Support to inmates to participate and interact with court officials during court open days;
-- Participation in access to justice meetings called by Justice and Order officials through the court.

IMPORTANT NOTE

Legal Aid:

Working toward setting up and/or improving legal aid schemes at the national level is core to ensuring an accessible and sustainable justice mechanism. While IRC A2J work should always be connected to national legal aid providers, engaging in systems strengthening in this area of work would mean deep investment with national bar associations, law schools, clinics and others working in country on the delivery of legal aid through national schemes. To date, the IRC has not worked in this area as it is outside the scope of interventions targeting community and district actors. **If this is an area of work your team would like to explore, contact your PRoL TA for support.**

C. Internal and External Accountability

To ensure we contribute to positive change in access to justice work, it is essential that each activity area encompass a social accountability pillar. Social accountability is defined as "an approach towards building accountability that relies on civic engagement, i.e., in which it is ordinary citizens and/or civil society organizations who participate directly or indirectly in exacting accountability."[31] Social accountability is about supporting people to influence public officials and service providers to take responsibility for the quality of justice services and to be transparent in discussing results of those efforts. Effective accountability systems 'close the loop' by ensuring that service users not only collect feedback, but that responses to feedback (positive and negative) are shared in a transparent manner. For a helpful discussion paper on social accountability see here.

Social accountability is most effective when built from both the demand and supply side – through approaches that target building capacity and incentives to promote accountability among law enforcement officers, prison administrators, the judiciary and all duty-bearers involved in informal and traditional justice services while at the same time looking into the barriers undermining rights holders' capacity and sometimes willingness to claim for accountability. Accountability building goes hand in hand with awareness raising of the people we serve on their rights and capacity building of their duty bearers on their obligations. **Note that when trying to support accountability mechanisms consultation with all relevant stakeholders is key to ensure accurate assessment of the context to design strategies aligned with peoples' expectations and desires**.

In order to be sustainable teams should discuss accountability mechanisms with the people we serve and ensure they are designed and built/strengthened in such way that it fits in with plans, expectations and capacities of civil society in country. **Again, note that social accountability actions may not be appropriate during emergency circumstances.** The people we serve and their representative organizations should be strengthened in their oversight capacity as soon as possible once an environment has stabilized to ensure sustainable outcomes.

To be effective, accountability mechanisms should exist at several levels: from local to district to national institutions. The following activities have proven impactful in strengthening social accountability among justice actors:

[31] Malena. Forster and Singh. 2004. Social Accountability: An Introduction to the Concept and Emerging Practice. Social Development Paper 76. Washington, DC: World Bank

- **Creating civic oversight mechanisms**: supporting civil society in monitoring public appointments and law implementation, enhancing skills for investigative journalism and human rights reporting, enhancing capacity in monitoring (for example using social audits) and reporting to domestic and international human rights bodies, enhancing engagement and advocacy capacity, building the organizational capacity of CSO to support them to gather funding and act on their own;
- **Strengthening parliamentary committees** such as public petitions committees and oversight committees relating to the justice sector;
- **Supporting safe discussion spaces** between rights holders and duty bearers, an example of which is the Community Scorecard;
- **Linking up traditional and customary justice systems** with national ones to ensure they align with domestic framework.

D. Motivation and Positive Incentives

Accountability efforts must also address challenges in lack of motivation and positive incentives for justice actors to perform their duties; this requires an understanding of the formal and informal mechanisms that influence performance in an organization. A Political Economy Analysis can be helpful in understanding not just what the problem is in terms of justice sector performance, but why those challenges exist.

Examples of ways to build motivation among duty bearers include:

- **Supporting justice actors to secure organizational/institutional support** they need to effectively perform: could include material needs, training/capacity needs, access to salary or other benefits, transport, etc.
- **Advocacy towards duty bearers:** building strategic engagement with local Chief of Police in response to evidenced reports of police abuses to generate changes in behavior and policy (Combine with trainings on human rights obligations, development of reporting/accountability mechanism);
- **Performance Monitoring:** establishing agreement and process for legal officers to observe community-based mediations to ensure they comply with national law and human rights norms (Combine with capacity building of local paralegals or civil society actors to conduct mediation monitoring);
- **Build horizontal/vertical pressure:** training community members on official rules or duties or conduct joint training on survivor-centered justice standards for state and non-state justice providers. Justice actors from different parts of the system can hold one another to common standards (horizontal pressure), while community members who understand justice administrators' duties are likely to have higher expectations for their performance (vertical pressure).

CAUTION!

Limits to incentives provision:

Note that sometimes it may take different incentives to get justice stakeholders to participate in JSS activities. Planning around what incentives to provide and to whom is very sensitive – teams must work to figure out what will be effective without creating a negative incentive to further participation or to participation in other programs/projects.

It has been established as a bad practice to provide incentives that contribute in any way to justice stakeholder's salaries (that includes paying for paralegals), as this is not a sustainable but dangerous practice. We have seen cases of tensions and corruption arising within justice services stakeholders as a result of financial incentive provision. Work/engage with relevant ministries (especially the ministry of justice) to ensure they have the necessary budget and process to pay for the time and effort of justice sector staff at local level. Ensure to communicate around IRC supportive role in building technical capacity and supporting with provision of material to ensure justice service provision but **never provide financial support aside of the one associated to support direct participation in activities (such as per diem).**

E. Management Systems

A **management system is a set of policies, processes and procedures used by an organization to ensure that it can fulfill the tasks required to achieve its objectives**. Management systems usually apply to finance, human resources, information, and procurement. For example, an HR management system enables an organization to improve its HR performance. For more information on how financial management, HR management, information management, and procurement management matter for effective public service delivery, **please refer to Annex 1 (p. 22)** of this Briefing Note on Organizational Development.

Supporting an organization to improve its management systems usually involves the following activities:

- Conducting a participatory Organizational Capacity Assessment (OCA) workshop with the partner organization;
- Supporting the organization to development an Organizational Development (OD) Work Plan based on the strengths and weaknesses revealed by the OCA;
- Supporting the organization to implement this plan by providing technical assistance, coaching, and training, which may include:
    - Supporting the organization to develop or revise procedures manuals
    - Supporting the organization to institutionalize inclusion and access policies
    - Supporting a department to revise its organogram
    - Supporting a department to establish or improve its approval processes
    - Coaching senior leadership to analyze data collected from service providers and use it for decision making
    - Training staff on new procedures and how to comply with them in their daily activities

For guidance on how to design and implement a project where you intend to support an organization to improve its management systems and leadership, please see Systems Strengthening Program Guidance.

Ability to perform, willingness to perform and mechanisms for clients to provide feedback on their experiences and be heard are all indispensable pieces of strong institutions. In other words, knowledge cannot be delivered for knowledge's sake, as we know that **behavior will not change if improved knowledge is not paired with realistic incentives and accountability systems to facilitate improved performance**. An example of this combined approach could include organizational capacity development alongside material support to justice actors, monitoring of service delivery and implementation of client satisfaction surveys to ensure that duty bearers both know AND follow protective legal rules and norms.

Effective JSS interventions often combine elements of the types of JSS activities described above, based on a diagnosis of the justice challenges in context.

TOOLS

The following tools will help you support organizations in improving their management systems:

- Briefing Note on Organizational Development (Annex 1)
- Systems Strengthening Program Guidance Note
- Organizational Capacity Assessment (OCA) workshop, Organizational Development (OD) Work Plan

CASE STUDY: South Sudan, Legal Empowerment for GBV Survivors – information, assistance and institution strengthening

GBV is pervasive and engrained in the local customs of South Sudan. Wife beating, rape, sexual assault, and honour killings thrive in the name of culture, while assessments show systematic targeting of women and girls for sexual violence as a tool in tribal revenge attacks. Reporting of GBV is low due to fear of repercussions, stigma, lack of awareness of medical, psychosocial and legal response services, and associated service costs. At the same time, justice and GBV response services are inaccessible, under-resourced or unavailable, while also undermined by poor law enforcement, lack of rights awareness, unclear laws, and deference to cultural systems that condone GBV as a form of dispute resolution. Women are subject to arbitrary arrest and detention for alleged adultery, elopement, and child custody issues.

In response, WPE and 888 teams jointly designed and implemented a project in three districts of Lakes State, South Sudan. Building upon existing partnerships with GBV service providers and local organizations, the IRC provided **legal assistance and medical, psychosocial, and logistical support to survivors; mobile legal services to vulnerable women in remote communities; and court monitoring focused on women's arbitrary arrest and detention**. The IRC engaged communities and institutions to implement measures to reinforce women's rights and promote GBV prevention and response at three levels:

- **At the policy level:** government institutions, the State Parliamentary Women's Caucus, and women activists and traditional leaders were engaged to advocate for legal measures to prevent and respond to GBV and women's rights violations.
- **At the institutional level:** the capacity of GBV service providers and justice actors was enhanced to deliver quality services for women including survivor-centered investigation, adjudication, referral and case management.
- **At the community level:** education campaigns were established to break the silence on GBV, publicize service referral pathways, and encourage women to challenge patterns of violence and customary and legal practices that violate women's rights.

This guidance has been developed through the support of PRoL Technical Advisors, sharing the insights and lessons learned they have gathered from working with IRC legal teams across the Middle East, Africa, and Asia. We have designed this resource to be as practical as possible, hoping that it gives you the confidence and tools you will need to design and implement this critical service in your context. We have also designed this toolkit to be a living document – we want to hear from you with your thoughts on what we are missing, case studies and tools from your context, and other materials or ideas you think would be helpful to others seeking to set up or advance A2J programming in their contexts. To contribute, send your thoughts to your PRoL TA or to VPRUMailbox@rescue.org.

Please always feel welcome to reach out to your PRoL TA for support on any aspect of A2J programming.

We hope the resulting guidance reflects all that you have taught us. Thank you, your PRoL TA team.