

THE IMPORTANCE OF A NATIONAL JUSTICE PLAN

WHAT IS A NATIONAL JUSTICE PLAN?

A national justice plan is a blueprint that maps out the steps that must be taken to adequately address a country's justice challenges. This objective is accomplished by coordinating the actions of the government, justice sector professionals, civil society, private sector and development practitioners who are working to address these challenges.

TIP Countries have committed to creating national plans and policies to implement the SDGs. This may result in several updated or new national plans and strategies on the other areas of the Sustainable Development Agenda. You should analyse these other plans to ensure that a justice plan complements any other sector plans. You can also advocate for justice sections to be included in other plans.

National justice plans tend to be very targeted and detailed. They specifically lay out the actions each partner will take to achieve the plan's objectives. Some of these actions may involve developing a policy framework, securing adequate government funding, and identifying mechanisms for implementing and monitoring the policies and programs that are created to resolve the justice issues targeted by the plan.

National justice plans are unique in that they promote community engagement by ensuring that the needs of communities, particularly vulnerable communities, are prioritised and adequately addressed.

TIP In sum, a national justice plan sets out the strategic aims, key approaches and actions to identify the functional responsibilities, timelines and performance indicators needed to address the justice issues your plan sets out to resolve.

The planning and execution of a national justice plan is often led by a working group made up of relevant government actors and civil society representatives. Depending on the situation in your country, this group may become a formal body or remain a more informal coalition of justice reformers. A lead agency from the government and a counterpart from civil society should be appointed to oversee the working group.

As governments begin to translate the SDGs into national policy, you can advocate for a national justice plan to be developed as part of this process. In many countries, the Ministry of Planning (or Planning Commission) will be responsible for leading this process.

TIP Following the adoption of the SDGs, there is a good case to be made for having a national development plan that includes a dedicated plan for access to justice. In many countries the Ministry of Planning or Planning Commission will be able to use the national development process or a national process to localise the SDGs. For example, in 2016 the Philippines incorporated a new justice section into its Philippine Development Plan.

TIP The lead agency for the development of a national justice plan is responsible for:

- monitoring and providing support and guidance to relevant actors who are working to develop and implement the plan,
- ensuring participation of all relevant actors and facilitating coordination and collaboration,
- tracking progress on annual work plans and agreed action plans,
- promoting, monitoring and coordinating the annual reporting process for your country's plan,
- providing policy advice to the Minister of Justice and other relevant agencies on how access to justice can be strengthened.

HOW A NATIONAL JUSTICE PLAN WILL HELP YOU

A well-executed national justice plan will lead to the creation of new laws and policies, better implementation of existing platforms, clearer roles and responsibilities for the relevant actors and agencies and increased resources for access to justice and legal empowerment approaches. It will help improve your ability to advance legal empowerment and access to justice in your country over the long term.

A national justice plan will also allow for increased justice accountability. By setting up strong monitoring processes that rely on trustworthy data, you will be able to measure the effectiveness of your government's efforts to increase access to justice and deliver Goal 16. [See Chapter Three.]

Box 6: How a national justice plan can promote justice reforms

Here are some examples of policies and laws that have been reformed through national justice plans:

- the adoption and/or amendment of legal aid legislation, administrative measures, policies, and programs that address justice needs of vulnerable groups,
- the amendment or abolition of laws, regulations, policies and practices that are incompatible with international standards related to discrimination and justice,
- the adoption of special measures to secure full and equal enjoyment of human rights and fundamental freedoms for disadvantaged groups,
- improved administration of justice, with a system committed to combating impunity and improving the remedies and resources available to victims of injustices,
- greater transparency and increased accountability of public sector actors in the delivery of essential public services,
- an increased number of effective measures taken to help fulfil the civil, cultural, economic, political, and social rights of individuals and groups facing any form of injustice or violence.

Box 7: Case Study: Indonesia's National Access to Justice Strategy

In 2009, the Government of Indonesia incorporated a National Access to Justice Strategy (NAJS) into its 2010-2014 mid-term development plan. The NAJS was created to embody the Indonesian Constitution and relevant legislation, which recognise that Indonesian people have a right to access justice.

Similar to the SDGs, the mid-term development plan incorporated high-level development goals and targets that were used to measure progress towards achieving these goals. As the government looked to update this plan, civil society organisations got involved to ensure that the planning process was organised around the ideal of providing access to justice to all citizens and residents of Indonesia. This collaboration contributed to the process of building the national coalitions and partnerships needed to advance access to justice in Indonesia.

Indonesia's experience suggests that similar approaches can and should be used to promote increased access to justice in other countries. As you work implement your national justice plan, you should make sure that it incorporates specific targets that can be used to measure progress towards SDG 16 and increased access to justice in your country. One way to do this is to advocate for the inclusion of the five priority justice principles discussed in Box 2.

Advocacy Cycle



Source: *Participatory Advocacy: A Toolkit for VSO Staff, Volunteers and Partners*, 33.

IS ADVOCATING FOR A NATIONAL JUSTICE PLAN THE ONLY OPTION?

A national justice plan is an effective way to coordinate short, medium and long-term actions and to implement structural justice reforms across sectors. But it is not the only way to bring about change. In some situations, it may not be practical to push for a national justice plan.

Working to increase access to justice is different from working to improve other services like healthcare or education; access to justice is about holding the powerful accountable. As a result, it is natural that those in power may be reluctant to support it. Where the context is not suitable for a national justice plan, it may be more practical to: (1) push for individual policy reforms to improve the justice sector or (2) push for policy reforms outside of the justice sector which will directly address justice issues in other sectors.

When pushing for individual policy reforms to the justice sector, keep in mind that in many post-conflict and transitioning countries, institutions are likely to develop at different rates, depending on their external support and internal leadership. You may be met with a forward-looking and well-funded criminal justice system, but face indifference from civil or administrative courts; in such a case, you

may wish to begin where you have greater political support. In this case, a criminal-justice-sector-specific plan that would spur improvements for a huge number of individuals. You can also approach reform incrementally. In a number of countries where governments have been unwilling to create national justice plans, reformers have still been able to enact new legal aid laws or are in the process of upgrading their existing legal aid laws using the momentum created around the SDGs.

Sector-driven approaches have also been used to extend access to justice in a number of countries. This is in part because services such as healthcare or labour are often less politically sensitive. For example, in the Philippines, community paralegals have gained recognition from several government organisations—including the Department of Agrarian Reform Adjudication Board, National Labor Relations Commission, and the Department of the Environment and Natural Resources.¹⁵ This has given Filipino paralegals the opportunity to provide legal support to citizens affected by labour, land and environmental justice issues, even though they are still waiting to receive formal recognition from the judiciary.

¹⁵ Varun Gauri and Vivek Maru, *Bringing Law to Life: Community Paralegals and the Pursuit of Justice*, (forthcoming from Cambridge University)

Box 8: Case Study: The public defender system in Argentina

Legal aid is provided through Argentina's Public Defender System. The Public Defender's Office is a state agency established by the National Constitution (article 120). It enjoys functional and financial autonomy and is independent from the government structures and the administration of the judiciary.

The fundamental commitment of the Federal Public Defender General is to ensure not only comprehensive legal aid, but also the design and implementation of institutional policies to facilitate access to justice for vulnerable sectors. This is stated in the first article of the Organic Law of the Federal Public Office, which states that "the Federal Public Defender's Office is an institution for the defence and protection of human rights, guaranteeing access to justice and integral legal assistance, both in individual and collective cases, in accordance with the principles, functions and regulations established in the present Law. It promotes measures to protect and defend fundamental rights of people, in particular, of those who are in a situation of vulnerability."

In line with this commitment, the Federal Public Defender General has set up a number of programs and commissions. Here are a few examples of some of the Programs and Commissions operating within Argentina's Office of the Federal Public Defender General:

- **Assistance and Legal Aid Program:** Created to guarantee equalitarian and effective access to justice for victims of crime—particularly confined victims of torture and inhumane treatment and of gender violence—and to provide legal aid to cover all internal judicial instances.
- **Program on Social Issues and Community Relations:** Created to respond to eliminate economic or social obstacles that may hinder access to the civil, economic, social and cultural rights of the people assisted by the public defence system. The Program produces socio-environmental reports to be presented along with prisoner's release and domicile arrest requests by the Public Defenders. The reports account for the family and economic situations and specifically focus on the impact that freedom deprivation has on individuals and their family environments.
- **Centres for Access to Justice:** Created to remove structural barriers and facilitate access to justice for the most vulnerable groups of the population, according to their specific legal needs. These Centres are decentralised offices of the State Department of Justice and Human Rights, located throughout the City of Buenos Aires, particularly in poor neighbourhoods. People living in the neighbourhood seek help from the centre in applying for pensions or identity documents, and filling out paperwork in the case of immigrants. They also file reports of domestic violence and application forms for social assistance payments or exemption from taxes or fees for certain services. They are run by a team of public defenders and advanced law students.
- **Program on Healthcare, Disability and Older Adults Issues:** Created to promote special policies to achieve factual equality in the exercise of people's fundamental rights of persons with disabilities, older adults and people with special needs related to health and social security, all of whom must daily face various hindrances to fully exercise the rights they hold.
- **Commission on Gender Issues:** created to facilitate women's access to justice, providing better defence to their rights and favouring the implementation of defence strategies with a gender perspective, in particular in cases where women are victims of violence or in conflict with criminal law. Also, there is a "Project on Legal Aid and Counselling for Gender Violence Victims" operating within the Commission on Gender Issues and providing legal counselling and aid to victims of gender violence, without the need to comply with the poverty requirement.

Although sector-driven approaches are not as comprehensive as other approaches, they can lay the groundwork for wider reforms further down the line. If one agency is willing to demonstrate the value of investing in access to justice or legal aid, you can partner with the agency and begin pushing other agencies and the judiciary to recognise the importance of making this investment throughout the government.

Regardless of which approach you chose, the SDGs can and should be incorporated into your advocacy efforts. Although this toolkit is focused on advocating for a national justice plan, you may still find its tips and tools helpful as you push for policies to extend access to justice in your country.

If you don't think that a national justice plan is for you, there are a number of other guides that may also be useful to you as you work to develop a different strategy. Below are a select few:

- Sustainable Development Goals: A Practical Guide for National Action and Accountability (Amnesty International)¹⁶
- *Implementing the Sustainable Development Goals to Advance Women's Rights and Gender Equality: An Advocacy Guide* (Womankind)¹⁷
- *Global Agreements: Grassroots Advocacy* (Restless Development, Plan, Action Aid)¹⁸
- *Advocacy Toolkit: Influencing the Post-2015 Development Agenda* (CIVICUS and Stakeholder Forum)¹⁹
- *Engaging with the Media: A Companion to the Advocacy Toolkit for Influencing the Post-2015 Development Agenda* (CIVICUS and Stakeholder Forum)²⁰



TIP

Remember, the SDGs are a once-in-a-generation opportunity to push for access to justice. We encourage you to aim high and push for a national justice plan in your country.

16 *Sustainable Development Goals: A Practical Guide for National Action and Accountability* (Amnesty International: September 2016), <https://www.amnesty.org/en/documents/act10/4699/2016/en/>

17 *Abigail Hunt, Implementing the Sustainable Development Goals to Advance Women's Rights and Gender Equality: An Advocacy Guide* (Womankind: March 2016), <https://www.womankind.org.uk/docs/default-source/resources/sdg-implementation-advocacy-toolkit.pdf?sfvrsn=>

18 *Global Agreements, Grassroots Advocacy: Youth and Governance in a Post-2015 World* (Restless Development: February 2015), http://www.plan-uk.org/assets/Documents/pdf/Global_agreements_Grassroots_Advocacy-Youth_and_Governance_in_a_Post_2015_world.pdf

19 *Advocacy Toolkit: Influencing the Post-2015 Development Agenda* (Civics and Stakeholder Forum: 2015), <http://www.stakeholderforum.org/fileadmin/files/Post2015AdvocacyToolkit.pdf>.

20 *Engaging with the Media: A Companion to the Advocacy Toolkit for Influencing the Post-2015 Development Agenda* (Civics and Stakeholder Forum: 2015), <http://www.stakeholderforum.org/fileadmin/files/Engagingwiththemedial.pdf>.

Box 9: Case Study

In 2015, the legal empowerment NGO, Kituo cha Sheria, the International Commission of Jurists Kenya and the Law Society of Kenya, began advocating for a national justice plan that incorporated the SDGs' justice targets.

The organisations held a two-day meeting that brought together the Kenyan Parliamentary Human Rights Association, the Attorney General and the Human Rights Commission. The government representatives in attendance agreed that there was a need for justice reforms but stressed that a national justice plan could take years to develop. Instead, it was agreed that civil society and government work together to revise existing legislation.

The parties decided to tackle the National Human Rights Policy first because it would serve as a strong foundation on which to develop other laws and policies. The Policy had been in draft form since 2008, but by capitalising on the momentum created by the SDGs, advocates were able to get many of the recommended reforms included in the Policy to the top of the legislative agenda in less than a year.

This led to the passing of several draft policies, including the Legal Aid Bill, the Right to Information Bill and the Community Land Bill; all of which have since been signed into law.

WHAT IF YOUR CALL FOR A NATIONAL JUSTICE PLAN IS REJECTED?

Even if your efforts to promote a national justice plan are not successful, you will still have the opportunity to engage in government discussions on Goal 16, access to justice and legal empowerment. You can use the information you collect and the relationships you build to make smaller changes at a slower rate.

You can also continue to push forward by calling for good access to justice indicators to be included in your government's SDG reporting. National indicators will continue to be highly relevant for monitoring your government's progress in delivering its commitment to provide justice to all. Governments will be reporting against their SDG commitments in regional and global spaces. You can use these platforms as a way to apply pressure to catalyse national reforms once more. [See Chapter Five.]

THE IMPORTANCE OF ADVOCACY

If you believe that your country needs a national justice plan the next step is to begin advocating for it. Governments are unlikely to push forward with a national justice plan without sustained pressure to do so.

TIP

Be aware that while governments have committed to Goal 16, they may be slow or hesitant to implement justice reforms. With 17 SDGs, some governments may choose to focus on existing MDG goals, such as health and education. The SDGs are an integrated agenda and no one goal should be prioritised over another. In your advocacy, you must ensure that justice is not overlooked by your government. Establishing a national justice plan is a useful way to do this.

TIP

What if your government is unwilling to work with civil society?

Many governments are either hostile or indifferent to the potential contributions of CSOs. Government actors may feel that they are unnecessary or that there are too many to effectively engage with and so they choose not to engage with any. Some believe that CSOs do a disservice highlighting gaps or shortcomings in government services and activities.

Despite this, it is imperative that you commit to working with governments on access to legal aid and legal empowerment. This toolkit will provide you with strategies to help build relationships and demonstrate your expertise and value.