

# THE IMPACT OF COVID-19 ON CHILDREN'S ACCESS TO JUSTICE



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for every child

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# ACCESS TO JUSTICE IN THE TIME OF COVID-19

When children encounter the justice system – as alleged offenders, victims, witnesses or as parties to civil or administrative matters – they are entitled to specialized processes and procedures that are consistent with the United Nations Convention on the Rights of the Child and other international standards, guidelines and rules.<sup>1</sup> Yet many justice systems are neither child-friendly nor gender-sensitive, and often fail to meet the needs or uphold the rights of all children. For example, it is widely acknowledged that detention must only be used as a measure of last resort and for the shortest appropriate period of time. However, in many countries, children suspected or accused of committing an offence are routinely held in police custody, detention centres, prisons or other custodial settings.

Justice systems that are child-friendly and gender-sensitive operate in the best interest of the child, taking into account specific circumstances and ensuring alignment with relevant international human rights standards and instruments. In the case of children in conflict with the law, this includes the provision of legal aid and representation to ensure that every child deprived of liberty is treated humanely and with dignity. It also means taking into account a child's age-specific needs, establishing restorative justice and diversion programmes, promoting alternatives to detention, providing rehabilitation and post-release support, and training justice actors in child rights and protection, including traditional or customary justice mechanisms.<sup>2</sup>

Evidence from the COVID-19 pandemic – along with previous infectious disease outbreaks – suggests that existing child protection violations are exacerbated, and new risks emerge, in times of crisis.<sup>3</sup> In addition to the adverse impacts of detention and incarceration on their well-being, children risk contracting the virus when detained in confined and overcrowded spaces. They are also more vulnerable to neglect and abuse, especially if staffing levels or care are undermined by the pandemic or containment measures. Children in detention facilities often have inadequate access to clean water and sanitation, nutrition and medical care, creating conditions where the spread of infectious diseases such as COVID-19 are rife.

Disruptions to child protection services and the justice system due to lockdowns can also cause delays in court proceedings and to legal aid and representation. It may also mean that children face long periods deprived of liberty and separated from their families. For child victims, abuse, violence and exploitation could occur with impunity, as could a child's re-traumatization in seeking justice. Understanding the current status of justice for children is therefore essential to calling attention to immediate and long-term measures that need to be put in place to ensure the safety and well-being of all children amidst the pandemic's continuing fallout.

# METHODS AND DATA SOURCES

The data presented in this publication are derived from UNICEF’s Socioeconomic Impact Survey of COVID-19 Response. The survey collected information from UNICEF’s network of 157 country offices on disruptions in service provision as a result of the coronavirus, at the national level, across different sectors. The 157 programme countries where UNICEF operates include all 138 low- and middle-income countries, plus 19 high-income countries. These 157 countries are home to 90 per cent of the world’s population of children.

UNICEF country offices were asked to provide an assessment of the approximate level of change (compared to the same time in 2019) in the availability, access to, and/or use of: legal/judicial processes,

procedures or services for children in contact with the law; and processes, procedures or services for release or entry of children to detention. In addition, country offices were asked whether the government had released any children from detention and whether alternatives to detention had been put in place since the start of the COVID-19 pandemic.

As of 30 October 2020, 143 country offices had provided responses on questions pertaining to justice for children in the third quarter round of the survey. Thus, the results reflect the situation in 95 per cent of UNICEF programme countries, which are home to around 2 billion children.

Latin America and the Caribbean	36	36	100	100	100
East Asia and the Pacific	25	27	93	94	88
Eastern and Southern Africa	20	23	87	87	87
Eastern Europe and Central Asia	19	21	90	95	67
Middle East and North Africa	17	18	94	100	98
West and Central Africa	18	24	75	90	90
South Asia	8	8	100	100	100
<b>World</b>	<b>143</b>	<b>157</b>	<b>91</b>	<b>95</b>	<b>85</b>
	Number of countries that reported on justice for children services	Number of countries that received the survey	Response rate (%)	Population coverage (%) out of 157 countries	Population coverage (%) out of 203 countries

Survey data were gathered between 30 August and 30 October 2020 and reflect the situation at the time the country offices submitted the survey. Although every effort was made to document and verify the reported level of change, the questions asked were left open to some amount of interpretation. Also, the availability and quality of data from service providers remain weak in many countries, compromising the ability to accurately report on changes in coverage and use of services. Finally, because the types of services vary by country, respondents used their knowledge of the local context to report on what had occurred and, in some cases, the responses represent best estimates; therefore, figures may not capture the full national response to the COVID-19 pandemic.





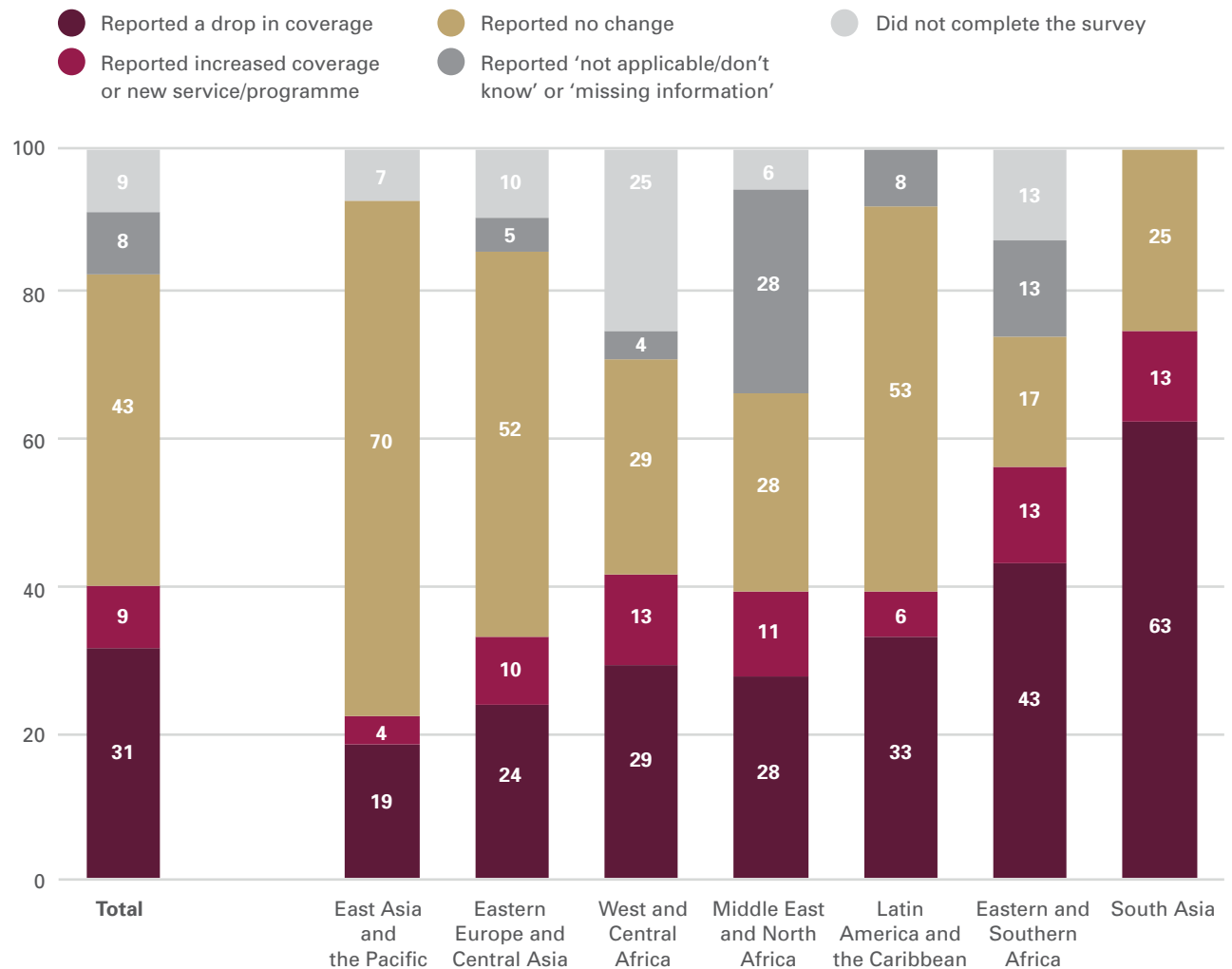
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# STATUS OF JUSTICE SERVICES FOR CHILDREN

HALF OF COUNTRIES SAW AN INCREASE OR NO CHANGE IN COVERAGE OF LEGAL/JUDICIAL PROCESSES, PROCEDURES OR SERVICES FOR CHILDREN IN CONTACT WITH THE LAW

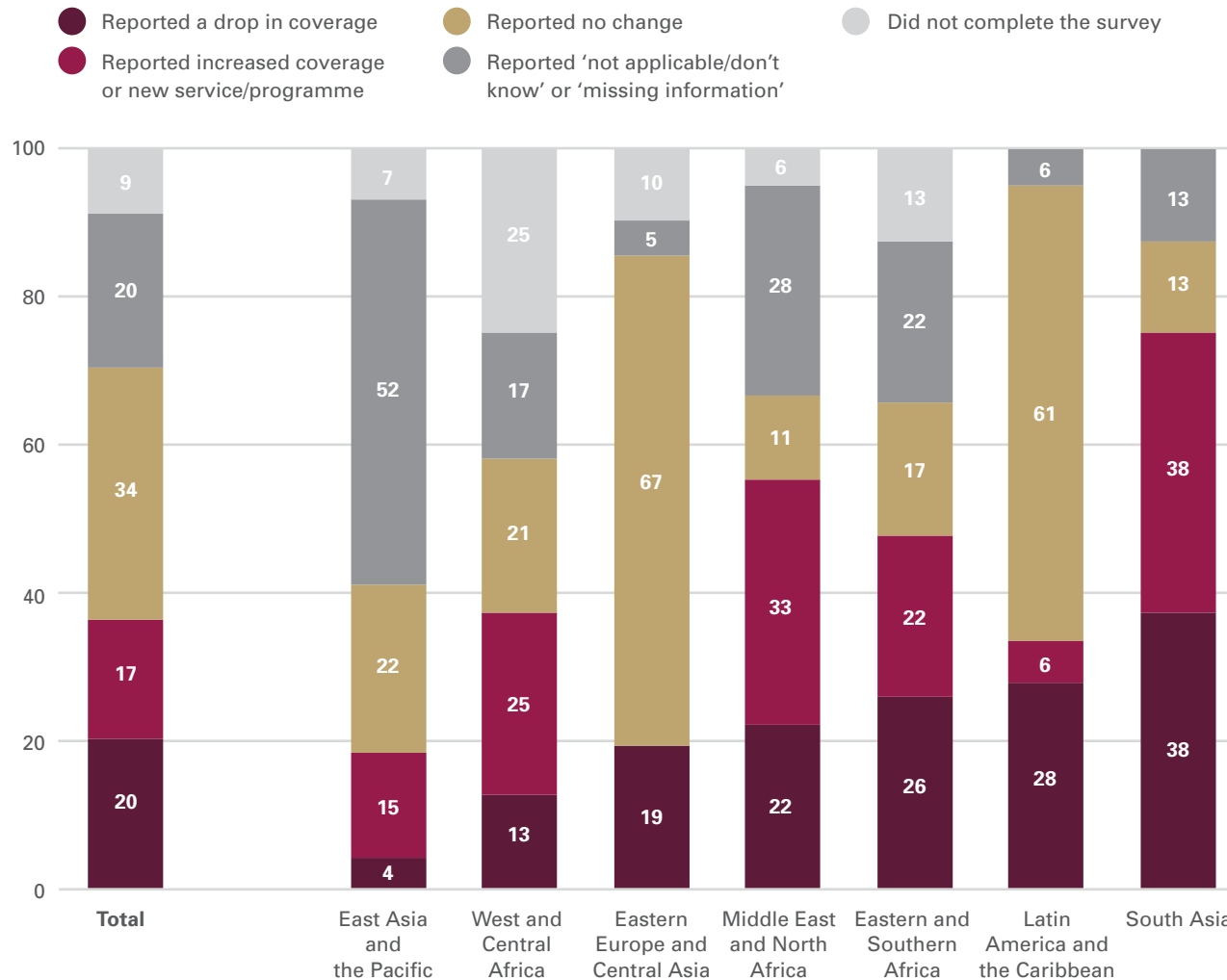
**Figure 1.** Percentage distribution of countries by whether or not they have reported a change in coverage of legal/judicial processes, procedures or services for children in contact with the law, total and by region



Notes: Figures have been rounded and may not add up to 100 per cent. The estimate of 31 per cent for 'Total' reflects the 49 countries that reported a drop in coverage of legal/judicial processes, procedures or services for children in contact with the law out of the 157 countries that received the survey. Additionally, 14 countries did not complete the survey; therefore, the number of countries with a drop in coverage of such processes, procedures or services could be higher. The 'not applicable' category is meant to capture situations where processes, procedures or services were not available in a country prior to the pandemic or where there were no (or very few) COVID-19 cases and related containment measures that would have impacted or necessitated a change in service delivery within the justice sector.



**Figure 2.** Percentage distribution of countries by whether or not they have reported a change in coverage of processes, procedures or services for release or entry into detention, total and by region

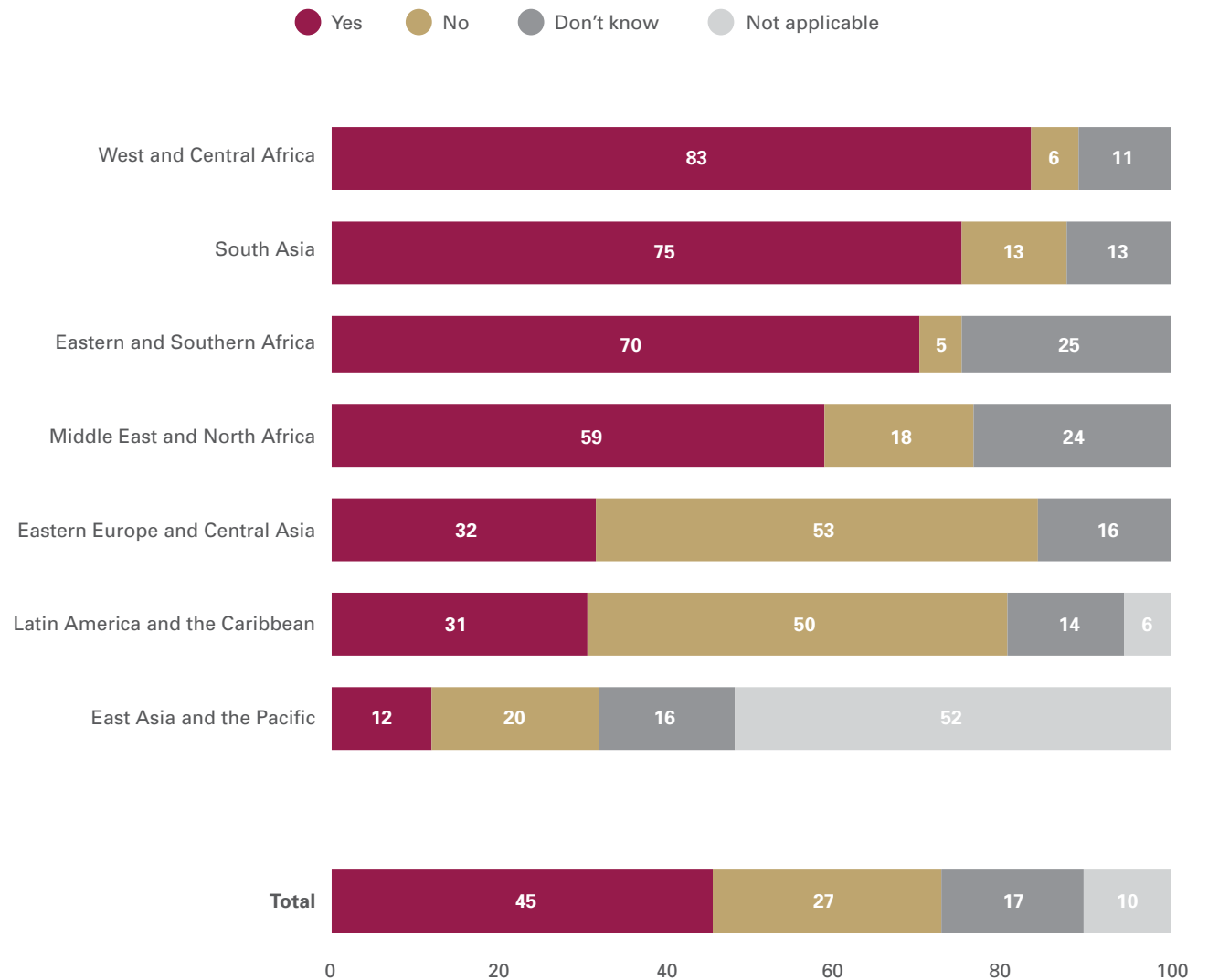


ONE THIRD OF COUNTRIES REPORTED NO CHANGE IN COVERAGE OF SERVICES RELATED TO DETENTION

Notes: Figures have been rounded and may not add up to 100 per cent. The estimate of 20 per cent for 'Total' reflects the 31 countries that reported a drop in coverage of processes, procedures or services related to detention out of the 157 countries that received the survey. Additionally, 14 countries did not complete the survey; therefore, the number of countries with a drop in coverage of such processes, procedures or services could be higher. The 'not applicable' category is meant to capture situations where processes, procedures or services were not available in a country prior to the pandemic or where there were no (or very few) COVID-19 cases and related containment measures that would have impacted or necessitated a change in service delivery within the justice sector.

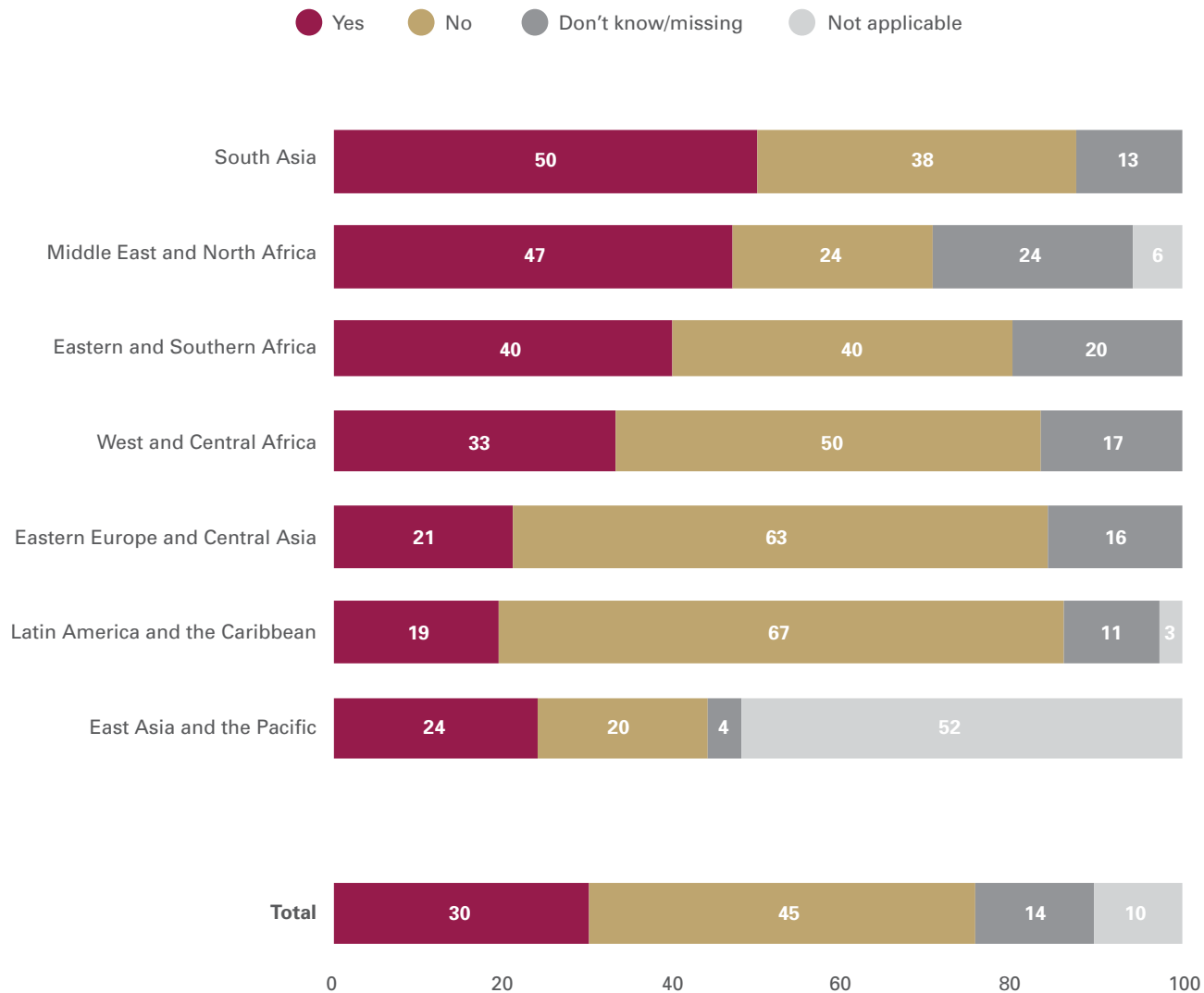
IN NEARLY HALF OF COUNTRIES, GOVERNMENTS HAVE RELEASED CHILDREN FROM DETENTION SINCE THE START OF THE PANDEMIC

**Figure 3.** Percentage distribution of countries that reported on services related to justice for children, by whether the government has released children from detention since the COVID-19 pandemic started, total and by region



Note: The 'not applicable' category includes situations where there were no (or very few) COVID-19 cases and related containment measures that would have impacted or necessitated a change in service delivery within the justice sector.

**Figure 4.** Percentage distribution of countries that reported on services related to justice for children, by whether the government has put in place alternatives to detention since the COVID-19 pandemic started, total and by region



NEARLY HALF OF COUNTRIES SAID THAT THE GOVERNMENT HAS NOT PUT IN PLACE ALTERNATIVES TO DETENTION IN RESPONSE TO THE COVID-19 PANDEMIC

Note: The 'not applicable' category includes situations where there were no (or very few) COVID-19 cases and related containment measures that would have impacted or necessitated a change in service delivery within the justice sector.



# FULFILLING THE RIGHTS OF EVERY CHILD WHO COMES INTO CONTACT WITH THE LAW

Access to justice is more than a legal abstraction – it is a prerequisite for protecting and upholding the human rights of all people, including children. It is also key to achieving the Sustainable Development Goals (SDGs), in particular for building peaceful, just and inclusive societies as called for in SDG 16.

Upholding the rights of children who come into contact with the law is a vital component of a healthy, well-functioning child protection system at all times, and something that cannot be overlooked in crisis situations. The data presented in this brochure reveal a mixed picture on how COVID-19 has impacted access to justice for children. On the one hand, many countries have taken steps, such as releasing children from detention, in response to the current pandemic. The survey also suggests that many countries have not seen any change or have managed to actually increase the availability, access to, and/or delivery of justice-related services. On the other hand, diversion and alternative measures to detention have been less commonly employed by governments. Establishing such processes and programmes typically require a mid- to long-term investment. This means that countries that already had such processes or programmes in place prior to the pandemic might have been more easily able to leverage them quickly when the pandemic hit.

Increased access to justice can be promoted by working with national child protection systems to ensure that every child who comes into contact with the law can claim his or her rights. This can be achieved by building systems that are more responsive and protective of girls and boys. It entails diverting children from arrest and providing alternatives to detention, utilizing restorative justice approaches, providing post-release support, prioritizing pretrial processes involving alleged child offenders and child victims, and expanding the availability of legal aid for all children.

In responding to the COVID-19 pandemic, governments and authorities can take a number of concrete steps to ensure that every child deprived of his or her liberty is fully respected and protected.<sup>4</sup> An immediate moratorium should be issued on admitting children to detention facilities, and governments should refrain from arresting and detaining children for minor offences and violation of curfew orders. Governments and other relevant authorities should also release all children who can safely return to their families or provide an appropriate alternative for those who cannot. If sustained, such measures can become steps towards making the justice system more child-friendly and gender-sensitive – and thereby fulfilling the rights of every child who comes into contact with the law.

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