

**Response to Call for Input For the Preparation of the Meeting of Experts as
Requested by United Nations General Assembly Resolution A/Res/78/227
("Equal Access to Justice for All")**

**Submission of the Access to Justice Working Group of the Alliance of NGOs on Crime
Prevention and Criminal Justice**

The Access to Justice working group of the Alliance of NGOs on Crime Prevention and Criminal Justice ("ATJ working group") welcomes the initiative of the United Nations Office of Drugs and Crime (UNODC) to inform the meeting of experts and reporting to the Commission on Crime Prevention and Criminal Justice (CCPCJ), pursuant to resolution A/RES/78/227.

The ATJ working group further welcomes this opportunity to provide input, and urges that civil society be included as participants both in the meeting of experts and the preparation of the report called for in the resolution.

I. INTRODUCTION

Access to justice is a cornerstone of a fair and democratic society, ensuring that individuals and communities can seek and obtain remedies through legal institutions when their rights are violated. But *equal* access to justice *for all* is not simply about courts and legal procedures; it is about addressing the broader policy, economic, and social barriers that prevent individuals from marginalized groups from achieving justice.

Civil society, academics, and people with lived experiences must be included in the expert meeting called for in Resolution 78/227, to truly realize the promise of this landmark resolution. Their deep understanding of structural inequalities, on-the-ground expertise, and knowledge of both emerging trends and gaps in existing data are necessary to ensure that the expert group's focus and reporting are shaped by those facing and combatting marginalization. **The ATJ working group urges the UNODC to take an assertive stance in encouraging Member States to nominate and**

send experts from system-impacted communities and civil society, in addition to government officials, as members of their delegations. This includes legal aid providers, victims' rights groups, legal practitioners, policymakers, prosecutors, domestic and international human rights defenders, oversight and accountability organizations, and academia, among others. The participation of civil society is the only way to ensure that the expert group's report and any ensuing recommendations address the core issues preventing the equal access to justice for all.

II. BACKGROUND

More than 75 years after the adoption of the Universal Declaration of Human Rights (UDHR), the promises contained in Articles Seven and Eight, which guarantee equality before the law and the right to seek justice—in other words, the guarantee of equal access to justice for all—remains elusive for millions of individuals around the world for whom “justice” is out of reach solely because of their lack of financial resources or their perceived gender, race, disability, LGBTQ+ status, caste, nationality, religion, or other arbitrary status.

Inequality and discrimination act as formidable barriers to accessing justice for many vulnerable populations, including women, people experiencing poverty and homelessness, victims of crime, children, and racialized groups. Whether they manifest through institutional biases, unequal treatment before the law, or systemic exclusion from legal processes, the resulting lack of access to a fair justice system undermines the very notion of justice. The justice system, which is meant to provide for the fair and impartial adjudication of rights, can become a site of further oppression when discriminatory practices go unchecked.

III. EXAMPLES OF SPECIFIC BARRIERS TO EQUAL ACCESS TO JUSTICE

1. GENDER:

Justice system biases against women—both *de facto* and *de jure*—mean that women often lack both a mechanism for *accessing* justice and a credible system of *achieving* justice. “Gender-

blind” justice system approaches fail to meet the justice needs of women and girls who are experiencing poverty, are victims of gender-based violence and state torture, and/or are in conflict with the law. Gender-based biases are deeply embedded in legal systems and broader societal structures, and must be analyzed through an intersectional lens. In many countries, abortion, sex work, adultery, and other so-called “morality” laws unfairly target women and girls. Biased laws and policies such as these prevent women from meaningfully accessing justice when states fail to provide legal mechanisms for challenging these policies.

Women often lack access to the legal or monetary resources necessary to challenge intersectional barriers based on poverty, racism, violence, drug addiction, untreated mental illness, caste-based bigotry, and anti-migrant discrimination. Indeed, civil society organizations focused on women’s rights have long highlighted the gendered, intersecting barriers to accessing justice, particularly in cases of domestic violence, sexual harassment, pay disparities, human and drug trafficking, and gender-based violence. Legal systems, which are often patriarchal in nature, can fail to adequately protect the rights of women or take their cases seriously.

Civil society experts working in this field are best equipped to analyze the specific hurdles women face in accessing justice, and to identify appropriate reforms, including better support services for survivors of violence, gender-sensitive training for judges and police, and legal provisions that address the specific needs of women. The voices of system-impacted women and on-the-ground civil society actors are crucial to ensuring that gendered inequalities in accessing and achieving justice are recognized and addressed in justice reform efforts.

2. RACISM AND XENOPHOBIA:

The detrimental effects of near-constant surveillance, over-criminalization, and over-prosecution fall disproportionately on Black, Brown, Indigenous, and migrant communities that are already marginalized. Civil society and international human rights institutions have been proactive in identifying viable reforms to laws and practices that impede the ability of migrants and racialized people to access justice mechanisms. For example, civil society organizations working on racial justice issues have been instrumental in exposing discriminatory policing practices, racial profiling,

and biases in sentencing. The International Independent Expert Mechanism to Advance Racial Justice in Law Enforcement issued a report in August 2022, enunciating the need for disaggregated data, and describing ways this data could be used to reform policy.¹ This report explicitly referenced the powerful 2018 report by the Inter-American Commission on Human Rights titled “Police Violence Against Afro-descendants in the United States,” which laid out several recommendations for addressing the issue of racial discrimination against Black people in the United States’ criminal justice system.² In September 2022, 113 civil society actors from across 28 countries inputted into and adopted the Cape Declaration, which set out a guide for addressing criminal justice system discrimination.³

While states have been slow to examine their own domestic policies, civil society has been at the forefront of calling out justice system practices that prevent migrants and marginalized racial groups from being able to access justice on an equal footing, including a lack of access to high quality legal aid, disparities in arrest rates and charging decisions, ineffective grievance mechanisms to allow victims to seek remedies for police misconduct, and mandatory minimum sentencing schemes that result in harsher penalties for disproportionate numbers of Black, Brown, and Indigenous people around the world. Including civil society participation in the instant expert group will ensure that the expert meeting and resulting report are informed by the experience and insight of those who work in this space, and will include measures to combat racial discrimination, such as implicit bias training for legal professionals, oversight of policing practices, and the provision of civil and criminal legal aid for those affected by anti-migrant laws and policies (including for migrant victims of crime).

¹ “Promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers,” International Independent Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement, A/HRC/51/55 (August 4, 2022).

² “Police Violence Against Afro-descendants in the United States,” Inter-American Commission on Human Rights (November 26, 2018).

³ The Cape Declaration on Decriminalising Poverty and Status.

<https://cdn.penalreform.org/wpcontent/uploads/2023/01/Cape-Declaration.pdf>

IV. ROLE OF CIVIL SOCIETY

Civil society plays a vital role in protecting human rights and in promoting transparency, accountability, and inclusivity, which are essential components of access to justice. Often, civil society organizations serve as watchdogs, monitoring the performance of domestic justice institutions and advocating for reforms when these institutions fail to uphold the rule of law. The inclusion of civil society in this expert meeting will help to ensure that access to justice initiatives are aligned with international human rights standards and that justice institutions are held accountable for their actions.

Tackling barriers to the access to justice demands a comprehensive approach that addresses the institutional, social, and structural factors that perpetuate justice system inequality. For example, LGBTQ+ individuals may face prejudice from law enforcement, courts, and legal professionals, preventing them from accessing justice on an equal footing with others. As mentioned above, women often face distinct barriers to accessing justice, such as gender-based violence, discrimination, and unequal access to legal representation. Civil society organizations working on issues of poverty, victims' rights, or the rights of accused people bring the knowledge and experience needed to reform these practices and create a more just system. Civil society organizations representing refugees can highlight the parallel civil and criminal legal obstacles faced by these individuals, ensuring that the expert group's discussion of access to justice is inclusive of their needs.

Including civil society experts with a diverse array of constituents in this expert meeting will be useful to highlight not only common challenges but also successful common approaches championed by individuals from across the justice spectrum. For example, legal aid providers, victims' rights organizations, and prison chaplains all cite the need for justice structures to be located in or near the communities impacted, to be free of corruption, and to avoid unwarranted delays in order to ensure that individuals have the greatest possible access to the justice system, in a timely fashion. By directly engaging with affected populations, civil society actors have an intimate understanding of the barriers to justice that governments may overlook. This insight is crucial in designing interventions that are not only effective but also contextually relevant.

V. CONCLUSION

The inclusion of civil society and individuals with lived experiences in this expert meeting will promote transparency and accountability in the process, and engender confidence in the outcome. Civil society organizations play a critical role in documenting and challenging inequalities in access to justice, and in identifying potential justice reforms that can confront these biases head-on. Without their voices, any analysis of access to justice challenges would be incomplete and risk becoming a theoretical exercise divorced from reality.

The UNODC, consistent with its global leadership supporting countries' efforts to create fair, effective criminal justice systems, is uniquely positioned to urge Member States to include members of civil society in their delegation to the meeting of experts called for in Resolution 78-227. The inclusion of civil society in this meeting of experts will ensure that access to justice reforms are not only reactive—i.e., addressing specific cases of injustice—but proactive, seeking to dismantle the broader systems of discrimination that prevent equal access to justice.

Submitted by:

The Access to Justice Working Group of the Alliance of NGOs on Crime Prevention and Criminal Justice