



Legal Assistance Toolkit

for

Children and Children's Rights Organisations

Acknowledgement

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First published 2012.

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Introduction

Access to justice for children requires that all children, however they come into contact with the law, be able to fully participate in legal proceedings. Broadly speaking, it is the idea that children must be able to use and trust the legal system to protect their rights, an idea which is regularly frustrated by the failure of justice systems to account for children's unique vulnerability. Indeed, legal proceedings all too often serve more as a source of fear and additional trauma for children rather than offering positive solutions to already complicated and distressing situations.

Following the ideals of [child-friendly justice](#), CRIN believes that legal systems must take special care to respect the rights of all children they encounter. Legal systems can be immensely confusing and difficult if not impossible to navigate for children, especially without the help of a legal professional. Legal assistance provides children the means to understand legal proceedings, to defend their rights, and to make their voices heard. It is a necessary component of access to justice for children, and without it, it is difficult to see how children's rights can be truly respected and fulfilled.

With this in mind, legal assistance for children must not be viewed as a luxury or a privilege; rather, it must be recognised as a [human right](#). Despite this, given the often high costs of legal services, finding legal assistance can be a complicated and challenging endeavour. This toolkit is designed to explain the ways that legal assistance can be obtained free of charge for children and children's rights organisations, to review the international standards that underlie children's right to legal assistance, and to clarify the different types of legal assistance that may be appropriate across the various contexts in which children interact with the legal system.

CRIN hopes that this information will inspire children and children's rights organisations alike to seek legal assistance where children's rights have been violated. Equally, we hope that it will draw the attention of lawyers, judges and government officials to the urgent need to expand legal assistance programmes for children and organisations that advocate on their behalf. Ultimately, we believe that respecting children's right to legal assistance is a critical first step if we are to work towards guaranteeing all children's rights.

Part I: Legal Assistance for Children

Children who come into contact with the legal system will often need the assistance of a lawyer. Depending on the context, children may be entitled to receive legal advice or representation free of charge. The lawyer, government department, institution or organisation offering legal assistance will likely vary with a child's particular legal needs, and some of the ways in which children may seek to obtain legal assistance without cost are detailed below. Building on the concept of [child-friendly justice](#), which calls for all legal systems to be adapted to the rights and special situation of children, this section explores some of the most common circumstances in which children may find themselves in need of legal assistance, including before international and regional human rights mechanisms. The importance of viewing legal assistance as a human right is also discussed, and a selection of court decisions interpreting this right are presented.

Children in conflict with the law

Where children are suspected or accused of being in conflict with the law, they may be entitled to **legal aid**, which is free or subsidised legal assistance most often funded or provided by the government. Governments are obligated to provide this aid under the Convention on the Rights of the Child, which stipulates that children accused of committing an offence have the right to legal or other appropriate assistance. The International Covenant on Civil and Political Rights and the Basic Principles on the Role of Lawyers further emphasise that legal assistance must be offered without charge as necessary to any person facing criminal proceedings, and the UN Standard Minimum Rules for the Administration of Juvenile Justice ("Beijing Rules") clarify that children have both the right to counsel and the right to apply for free legal aid where this is available.

The UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems¹ give more detail about children's right to legal aid, setting out the special measures that must be taken to ensure that children have meaningful access to legal aid. The UN Guidelines [for Action on Children in the Criminal Justice System \("Vienna Guidelines"\)](#), [meanwhile, ask governments to prioritise programmes that provide legal assistance for children involved in juvenile justice proceedings.](#)

Children who have already been arrested and detained have an even stronger entitlement to legal aid. In those circumstances, the Convention on the Rights of the Child specifies that children have the right to promptly access legal assistance, and the UN Rules for the Protection of Juveniles Deprived of their Liberty ("Havana Rules") and UN Standard Minimum Rules for the Treatment of Prisoners provide that a child who has not yet been tried be permitted to apply for free legal aid where this is available.

In practice, however, the availability and quality of legal aid for children both in and out of detention varies dramatically within and across jurisdictions, and the options and procedures for procuring legal assistance for children in conflict with the law must be examined on a local level.

1 Draft UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems were adopted by the UN Commission on Crime Prevention and Criminal Justice in April 2012 and by the Third Committee of the UN General Assembly in November 2012. These now await final approval by the UN General Assembly, but are unlikely to change.

International Standards on legal assistance for children in conflict with the law

Convention on the Rights of the Child:

- [Article 37\(d\)](#): Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.
- [Article 40\(2\)\(b\)\(ii\),\(iii\)](#): To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that...[e]very child alleged as or accused of having infringed the penal law has at least the following guarantees... (ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence; (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians...

International Covenant on Civil and Political Rights:

- Article 14(3)(d): In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:...(d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it....

UN Standard Minimum Rules for the Administration of Juvenile Justice ("Beijing Rules"):

- Rule 7.1: Basic procedural safeguards such as the presumption of innocence, the right to be notified of the charges, the right to remain silent, the right to counsel, the right to the presence of a parent or guardian, the right to confront and cross-examine witnesses and the right to appeal to a higher authority shall be guaranteed at all stages of proceedings.
- Rule 13.3: Juveniles under detention pending trial shall be entitled to all rights and guarantees of the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations.
- Rule 15.1: Throughout the proceedings the juvenile shall have the right to be represented by a legal adviser or to apply for free legal aid where there is provision for such aid in the country.

UN Guidelines for Action on Children in the Criminal Justice System ("Vienna Guidelines"):

- Guideline 16: Priority should be given to setting up agencies and programmes to provide legal and other assistance to children, if needed free of charge, such as interpretation services, and, in particular, to ensure that the right of every child to have access to such assistance from the moment that the child is detained is respected in practice.

UN Rules for the Protection of Juveniles Deprived of their Liberty ("Havana Rules"):

- 18(a) Juveniles should have the right of legal counsel and be enabled to apply for free legal aid, where such aid is available, and to communicate regularly with their legal advisers...

UN Standard Minimum Rules for the Treatment of Prisoners:

- Rule 93. For the purposes of his defence, an untried prisoner shall be allowed to apply for free legal aid where such aid is available...

UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems:

- Principle 3. Legal aid for persons suspected or charged with a criminal offence
 - 20. States should ensure that anyone who is arrested, detained, suspected or charged with a crime punishable by a term of imprisonment or the death penalty is entitled to legal aid at all stages of the criminal justice process.
 - 21. Legal aid should also be provided, regardless of the person's means, if the interests of justice so require, for example in the case of urgency, complexity or the severity of the potential penalty.
 - 22. Children should have access to legal aid under the same or more lenient conditions as adults.
 - 23. It is the responsibility of police, prosecutors and judges to ensure that those who appear before them who cannot afford a lawyer and/or who are vulnerable are provided access to legal aid.
- Principle 10. Equity in access to legal aid
 - 32. Special measures should be taken to ensure meaningful access to legal aid for women, children and groups with special needs... Such measures should address the special needs of these groups, including gender-sensitive and age-appropriate measures.
- Principle 11. Legal aid in the best interests of the child
 - 34. In all legal aid decisions affecting children, the best interests of the child should be the primary consideration.
 - 35. Legal aid provided to children should be prioritised within the best interests of the child, accessible, age-appropriate, multidisciplinary, effective and responsive to the specific legal and social needs of children.
- Guideline 10. Special measures for children
 - 52. States should ensure special measures for children to promote children's effective access to justice and to prevent stigmatization and other adverse effects as a result of being involved in the criminal justice system, including:
 - (a) Ensuring the right of the child to have counsel assigned to represent them in their own name, in proceedings where there is or could be a conflict of interest between the child and his or her parents or other involved parties;
 - (b) Enabling children who are arrested, detained, suspected of or charged with a crime to contact their parents or guardians at once and prohibiting any interviewing of a child in the absence of his or her lawyer or other legal aid provider, and parent or guardian when available and in the best interests of the child;
 - (c) Ensuring the right of the child to have the matter determined in the presence of the child's parents or legal guardian, unless it is not considered to be in the best interests of the child;
 - (d) Ensuring that children may consult freely and in full confidentiality with parents and/or guardians and legal representatives;
 - (e) Providing information on legal rights in a manner appropriate for the child's age and maturity, in a language that the child can understand and that is gender- and culture-sensitive. Provision of information to parents, guardians or caregivers should be in addition, and not an alternative, to communicating information to the child;

- (f) Promoting, where appropriate, diversion from the formal criminal justice system and ensure that children have the right to legal aid at every stage of the process where diversion is applied;
- (g) Encouraging, where appropriate, the use of alternative measures and sanctions to deprivation of liberty and to ensure that children have the right to legal aid so that deprivation of liberty is a measure of last resort and for the shortest appropriate period of time;
- (h) Establishing measures to ensure that judicial and administrative proceedings are conducted in an atmosphere and manner that allow children to be heard either directly or through a representative or an appropriate body in a manner consistent with the procedural rules of national law. Taking into account the child's age and maturity may also require modified judicial and administrative procedures and practices.

Basic Principles on the Role of Lawyers:

- Principle 3. Governments shall ensure the provision of sufficient funding and other resources for legal services to the poor and, as necessary, to other disadvantaged persons. Professional associations of lawyers shall cooperate in the organization and provision of services, facilities and other resources.
- Principle 6. Any [persons upon arrest or detention or when charged with a criminal offence] who do not have a lawyer shall, in all cases in which the interests of justice so require, be entitled to have a lawyer of experience and competence commensurate with the nature of the offence assigned to them in order to provide effective legal assistance, without payment by them if they lack sufficient means to pay for such services.

Children as victims

Child victims of crime should be granted and are in some circumstances entitled to legal assistance free of charge. Internationally, the UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power and the UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems all dictate that child victims should receive access to appropriate support and assistance, including legal assistance, from their first moment of contact with the criminal justice process. In line with these instruments, child victims of crime who are asked to participate or give information in a criminal case will often receive some form of legal advice or representation to ensure that they are able to participate in a meaningful way.

Depending on the nature of the crime alleged, child victims may have a specific right to legal assistance. For example, child victims of abuse and neglect are generally entitled to or mandated to receive free legal representation in child protection proceedings, usually provided or funded by the government as with legal aid. In family court proceedings, courts will often appoint lawyers or advocates to represent a child's best interests, a child's wishes, or both. Child victims of other crimes may also be eligible to receive some form of legal assistance, but this may be contingent upon their participation in legal proceedings against the violator(s).

International Standards on legal assistance for child victims

UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime:

- Guideline 19: Child victims and witnesses, their parents or guardians and legal representatives, from their first contact with the justice process and throughout that process, should be promptly and adequately informed, to the extent feasible and appropriate, of, inter alia: (a) The availability of health, psychological, social and other relevant services as well as the means of accessing such services along with legal or other advice or representation, compensation and emergency financial support, where applicable...(c) The existing support mechanisms for the child when making a complaint and participating in the investigation and court proceedings...(f) The existing mechanisms for review of decisions affecting child victims and witnesses...
- Guideline 21: Professionals should make every effort to enable child victims and witnesses to express their views and concerns related to their involvement in the justice process, including by: (a) Ensuring that child victims and where appropriate witnesses are consulted on the matters set forth in paragraph 19 above; (b) Ensuring that child victims and witnesses are enabled to express freely and in their own manner their views and concerns regarding their involvement in the justice process, their concerns regarding safety in relation to the accused, the manner in which they prefer to provide testimony and their feelings about the conclusions of the process...
- Guideline 22: Child victims and witnesses and, where appropriate, family members should have access to assistance provided by professionals who have received relevant training... This may include assistance and support services such as financial, legal, counselling, health, social and educational services, physical and psychological recovery services and other services necessary for the child's reintegration. All such assistance should address the child's needs and enable him or her to participate effectively at all stages of the justice process.
- Guideline 24: Child victims and witnesses should receive assistance from support persons, such as child victim/witness specialists, commencing at the initial report and continuing until such services are no longer required.

UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power:

- 6. The responsiveness of judicial and administrative processes to the needs of victims should be facilitated by: (a) Informing victims of their role and the scope, timing and progress of the proceedings and of the disposition of their cases, especially where serious crimes are involved and where they have requested such information; (b) Allowing the views and concerns of victims to be presented and considered at appropriate stages of the proceedings where their personal interests are affected, without prejudice to the accused and consistent with the relevant national criminal justice system; (c) Providing proper assistance to victims throughout the legal process...

UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems:

- Principle 4. Legal aid for victims of crime
 - 24. Without prejudice to or inconsistency with the rights of the accused, States, where appropriate, should provide legal aid to victims of crime.
- Principle 11. Legal aid in the best interests of the child
 - 34. In all legal aid decisions affecting children, the best interests of the child should be the primary consideration.
 - 35. Legal aid provided to children should be prioritised within the best interests of the child, accessible, age-appropriate, multidisciplinary, effective and responsive to the

specific legal and social needs of children.

□ Guideline 7. Legal aid for victims

- 47. Without prejudice to or inconsistency with the rights of the accused and consistent with the relevant national legislation, States should take adequate measures, where appropriate, to ensure that: (a) Appropriate advice, assistance, care, facilities and support are provided to victims of crime, throughout the criminal justice process, in a manner that prevents repeat victimization and secondary victimization; (b) Child victims receive legal assistance as required, in line with the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime...(d) Victims are promptly informed by the police and other frontline responders (i.e. health, social and child welfare providers) of their right to information, of their entitlement to legal aid, to assistance and protection and how to access such rights; (e) The views and concerns of victims are presented and considered at appropriate stages of the criminal justice process where their personal interests are affected or where the interests of justice so requires...

Children as witnesses

In many jurisdictions, children can be asked to participate in legal proceedings to talk about things they have seen or experienced. This is commonly referred to as giving **evidence**, which is made up of facts that will help the court to reach a decision. A child giving evidence in a legal proceedings may to some extent receive legal assistance from the lawyer who has asked the child to do so. Most often this will be a **prosecutor**, a lawyer hired by the government to pursue a criminal case, but children can also be called as witnesses by a lawyer for a criminal defendant, or by any person's lawyer in a civil lawsuit.

It must be remembered, however, that these lawyers do not represent child witnesses directly, and may not always have their best interests at heart. Where a child has been asked to give evidence, independent legal assistance may also be available in some jurisdictions from government run victim support programmes or victims' rights organisations. Notably, the UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime and the UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems call on governments to provide support specialists for and, where necessary, to appoint guardians to protect the interests of children giving evidence.

International Standards on legal assistance for child victims

UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime:

- Guideline 19: Child victims and witnesses, their parents or guardians and legal representatives, from their first contact with the justice process and throughout that process, should be promptly and adequately informed, to the extent feasible and appropriate, of, inter alia: (a) The availability of health, psychological, social and other relevant services as well as the means of accessing such services along with legal or other advice or representation, compensation and emergency financial support, where applicable...(c) The existing support mechanisms for the child when making a complaint and participating in the investigation and court proceedings...(f) The existing mechanisms for review of decisions affecting child victims and witnesses....

- Guideline 21: Professionals should make every effort to enable child victims and witnesses to express their views and concerns related to their involvement in the justice process, including by: (a) Ensuring that child victims and where appropriate witnesses are consulted on the matters set forth in paragraph 19 above; (b) Ensuring that child victims and witnesses are enabled to express freely and in their own manner their views and concerns regarding their involvement in the justice process, their concerns regarding safety in relation to the accused, the manner in which they prefer to provide testimony and their feelings about the conclusions of the process...
- Guideline 22: Child victims and witnesses and, where appropriate, family members should have access to assistance provided by professionals who have received relevant training... This may include assistance and support services such as financial, legal, counselling, health, social and educational services, physical and psychological recovery services and other services necessary for the child's reintegration. All such assistance should address the child's needs and enable him or her to participate effectively at all stages of the justice process.
- Guideline 24: Child victims and witnesses should receive assistance from support persons, such as child victim/witness specialists, commencing at the initial report and continuing until such services are no longer required.
- Guideline 25. Professionals should develop and implement measures to make it easier for children to testify or give evidence to improve communication and understanding at the pre-trial and trial stages. These measures may include: (a) Child victim and witness specialists to address the child's special needs; (b) Support persons, including specialists and appropriate family members to accompany the child during testimony; (c) Where appropriate, to appoint guardians to protect the child's legal interests.

UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems:

- Principle 5. Legal aid for witnesses
 - 25. Without prejudice to or inconsistency with the rights of the accused, States should, where appropriate, provide legal aid to witnesses of crime.
- Principle 11. Legal aid in the best interests of the child
 - 34. In all legal aid decisions affecting children, the best interests of the child should be the primary consideration.
 - 35. Legal aid provided to children should be prioritised within the best interests of the child, accessible, age-appropriate, multidisciplinary, effective and responsive to the specific legal and social needs of children.
- Guideline 8. Legal aid for witnesses
 - 48. States should take adequate measures, where appropriate, to ensure that: (a) Witnesses are promptly informed by the relevant authority of their rights to information, of their entitlement to assistance and protection, and how to access such rights; (b) Appropriate advice, assistance, care facilities and support are provided to witnesses of crime, throughout the criminal justice process; (c) Child witnesses receive legal assistance as required, in line with Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime...
 - 49. States should, where appropriate, provide legal aid to witnesses.
 - 50. The circumstances in which it may be appropriate to provide legal aid to witnesses includes, but is not limited to...(c) Where the witness is particularly vulnerable...

Children as complainants

Children whose rights have been violated may have greater difficulty in obtaining free legal assistance to file formal complaints with a court than when, as above, legal proceedings are initiated by someone else. Barriers to accessing justice can be many, and in some legal systems, children may need to obtain the consent and assistance of a parent or guardian before bringing a case. In others, they may not even be permitted to initiate legal proceedings at all.

Nonetheless, children have the right to take legal action where their rights have been violated, and to receive legal assistance both in determining what their options may be and in pursuing whatever course they may choose. Along these lines, the UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime state that child victims should be informed of the ways they can obtain compensation from offenders or the government either as a part of or outside of criminal proceedings. The Guidelines further specify that these procedures be accessible and child-friendly, and that child victims receive reparations wherever possible.

The UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power reaffirm that all victims have the entitlement to access justice and seek prompt redress, and that victims must be informed of their rights, given an opportunity to present their views and concerns, and be given assistance throughout the legal process. The UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems also ask governments to ensure that victims receive legal advice on any aspect of their involvement in criminal justice processes, including the option to bring a civil suit or to make a claim for compensation in a separate legal proceeding.

Given the many avenues that may be open for children to obtain reparations from those who violate their rights, it is important to seek clarity about the ways that children can draw attention to violations of their rights before heading to the courthouse. As outlined below, there are a number of ways that children might seek to access this information; these avenues are not exclusive, and it may make sense for children to explore all of their options before deciding whether or not to take formal legal action.

Local or national **ombudspersons** – individuals who have been asked by the government to handle complaints from the public about injustice and human rights – may be able to offer children some measure of free legal assistance. The UN Guidelines for the Prevention of Juvenile Delinquency (“Riyadh Guidelines”) encourage governments to establish children's ombudspersons, many of which are able to offer basic legal advice and in some cases to receive complaints directly from children. Children can also receive anonymous, confidential advice from a **child helpline**, which is an outreach service for children designed both to offer direct assistance to children and to link them with other helpful organisations and services.

In some jurisdictions, legally-focused NGOs, university-based legal clinics, or **bar associations** - groups that represent or regulate lawyers – may be able to give child victims of rights violations free or subsidised legal advice or representation. The types of work undertaken by these organisations vary widely, with some providing general legal services directly to individuals in a community and others taking only certain cases that line up with particular strategic aims or goals. Many of these organisations rely on volunteer lawyers for legal assistance, and in some instances lawyers may be willing to work with children directly to pursue legal action. These kinds of arrangements are described in relation to children's rights organisations in the section that follows.

Where children's rights have been violated in ways that might amount to a crime, they may also be

able to obtain legal advice or assistance from law enforcement authorities. If a criminal case is eventually brought against the violator, children may eventually be entitled to receive some form of compensation. However, children bringing complaints directly to law enforcement may not have much control over the outcome of any investigation or legal proceeding, and are not likely to have access to a lawyer who will represent their views or interests free of charge. As above, child victims of crime might also consider contacting a victim's rights organisation, many of which can offer advocacy services and assistance in seeking compensation for harm caused.

International Standards on legal assistance for child complainants

UN Guidelines for the Prevention of Juvenile Delinquency ("Riyadh Guidelines"):

- Guideline 57. Consideration should be given to the establishment of an office of ombudsman or similar independent organ, which would ensure that the status, rights and interests of young persons are upheld and that proper referral to available services is made... Child advocacy services should also be established.

UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime:

- Guideline 20. In addition, child victims, their parents or guardians and legal representatives should be promptly and adequately informed, to the extent feasible and appropriate, of...(b) The existing opportunities to obtain reparation from the offender or from the State through the justice process, through alternative civil proceedings or through other processes.
- Guideline 35. Child victims should, wherever possible, receive reparation in order to achieve full redress, reintegration and recovery. Procedures for obtaining and enforcing reparation should be readily accessible and child-sensitive.
- Guideline 36. Provided the proceedings are child-sensitive and respect these Guidelines, combined criminal and reparations proceedings should be encouraged, together with informal and community justice procedures such as restorative justice.
- Guideline 37. Reparation may include restitution from the offender ordered in the criminal court, aid from victim compensation programmes administered by the State and damages ordered to be paid in civil proceedings. Where possible, costs of social and educational reintegration, medical treatment, mental health care and legal services should be addressed. Procedures should be instituted to ensure enforcement of reparation orders and payment of reparation before fines.

UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power:

- 4. Victims should be treated with compassion and respect for their dignity. They are entitled to access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm that they have suffered.
- 5. Judicial and administrative mechanisms should be established and strengthened where necessary to enable victims to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Victims should be informed of their rights in seeking redress through such mechanisms.
- 6. The responsiveness of judicial and administrative processes to the needs of victims should be facilitated by: (a) Informing victims of their role and the scope, timing and progress of the proceedings and of the disposition of their cases, especially where serious crimes are involved and where they have requested such information; (b) Allowing the views and concerns of victims to be presented and considered at appropriate stages of the proceedings where their personal interests are affected, without prejudice to the accused and consistent with the relevant national criminal justice system; (c) Providing proper

- assistance to victims throughout the legal process;
- 8. Offenders or third parties responsible for their behaviour should, where appropriate, make fair restitution to victims, their families or dependents. Such restitution should include the return of property or payment for the harm or loss suffered, reimbursement of expenses incurred as a result of the victimization, the provision of services and the restoration of rights.
- 9. Governments should review their practices, regulations and laws to consider restitution as an available sentencing option in criminal cases, in addition to other criminal sanctions.

UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems:

- Guideline 7. Legal aid for victims
 - 47. Without prejudice to or inconsistency with the rights of the accused and consistent with the relevant national legislation, States should take adequate measures, where appropriate, to ensure that...(c) Victims receive legal advice on any aspect of their involvement in the criminal justice process, including the possibility of taking civil action or making a claim for compensation in separate legal proceedings, whichever is consistent with the relevant national legislation...

Legal Assistance and Human Rights Mechanisms

Children can also lodge complaints with **international and regional human rights mechanisms**, which provide yet another way for children to challenge violations of their rights. Through these mechanisms, children can hold their governments to account before a court, commission or committee that takes cases either from a particular region of the world or relating to a certain set of rights. The major human rights conventions at the UN and in Africa, the Americas and Europe all provide some means for people whose rights have been violated to file a complaint, although some of these are optional and not every government has signed up to participate.

It's also important to know that children will usually have to go through their national legal systems first before they can file an international or regional case. This means that the large majority of children will have already had legal assistance by the time they file a complaint with an international or regional mechanism. Even so, children may wish to obtain new or specialised legal assistance to use these mechanisms, and it is worth considering how and whether this is available.

Legal Aid in International and Regional Human Rights Systems

The United Nations:

The [Office of the High Commissioner for Human Rights](#) receives all complaints that are filed under UN human rights conventions. While it provides general [guidance on how to submit a complaint](#), the Office is unable to offer or fund legal assistance for persons wishing to initiate proceedings.

Africa:

The [African Committee of Experts on the Rights and Welfare of the Child](#) can receive individual complaints from children, while the African Commission on Human and Peoples' Rights can both investigate reported violations of human rights and submit these to the [African Court on Human and Peoples' Rights](#) for consideration. None of these bodies offer or fund legal assistance, although [civil society organisations](#) may finance certain cases.

Americas:

The [Inter-American Commission on Human Rights](#) can receive communications from children about violations of their rights, and also prepares and argues cases before the [Inter-American Court of Human Rights](#). The Inter-American Commission has recently launched a Legal Assistance Fund for victims who cannot afford legal services, although this assistance is only available once a complaint has been accepted and remains contingent on the availability of funds. Similarly, the Inter-American Court operates a [Victims' Legal Assistance Fund](#), although victims may again only request legal assistance once their complaints have been filed.

Europe:

The [European Court of Human Rights](#) is perhaps the most well-established human rights mechanism in the world. The Court's [Rules](#) provide for a legal aid system to support those without the means to pay for legal assistance, although victims are not eligible to apply for legal aid until their complaints have been accepted for review. The rates of reimbursement for legal assistance are set by schedule, and have been criticised as insufficient by advocates in some countries.

While none of the main regional or international human rights mechanisms directly appoint legal aid lawyers and not every system provides funding for legal assistance, these mechanisms are nonetheless designed to be more accessible than national justice systems. Complaints can be filed without charge, and typically need not contain the same level of detail or formality as would be required in national courts. In addition, although regional legal assistance cannot be accessed until a complaint is filed and accepted for review, some national legal aid systems provide assistance to children or other persons wishing to bring cases before these mechanisms.

Legal Assistance for Children as a Human Right

CRIN believes that if children's rights are to be fully realised, they must be enforceable in the courtroom. Specifically, this means that children must be empowered to initiate legal proceedings when their rights have been violated. Without the promise of legal assistance, however, it is unlikely if not impossible that children will be able to do this. Since legal assistance is an essential element for ensuring all children's rights, then, it is critical that governments consider providing legal aid to children as an obligation rather than an option.

[International Bar Association Resolution on Legal Aid](#)

WHEREAS the Council of the IBA in Montreal in June 1991 adopted the following resolution calling on the countries of the world to provide adequate funding for properly resourced legal aid schemes so as to ensure access to justice for all individuals:

Whereupon it is universally recognised that the interests of justice imply

1. Availability of access to courts for all individuals regardless of means;
2. That no individual should be prejudiced in preparation of his case or in seeking and receiving legal advice by reason only of inadequate financial means;

It is Resolved:

1. That a form of state funded legal aid must be regarded as a human right to enable individuals

- To seek and receive legal advice and
 - To assert and protect their rights under law in criminal and civil proceedings
2. That sufficient funds must be made available by all states to resource properly the operation of a legal aid scheme;
 3. That Law Societies and Bar Associations are urged to encourage the setting up of legal aid schemes, where none exists;
 4. That all lawyers should participate in or otherwise support legal aid schemes.

SUPPORTIVE of the international human rights treaties, covenants, conventions and declarations adopted by the United Nations and other international bodies which propound the principle of equality before the law and the provision of legal assistance for those without the means to pay for it;

MINDFUL of the continuing obligation of lawyers in general and the IBA in particular to promote the cause of legal aid to those who cannot afford it;

It is Resolved:

1. That the IBA reaffirms its commitment to the principle that access to justice for all individuals is a human right which requires the provision by all countries of effective legal aid programmes funded by the state;
2. That the IBA urges all governments to provide adequate funds to ensure proper legal assistance for those without the means to afford it in the protection or propagation of their rights;
3. That the IBA, through its constituent member organisations, the Human Rights Institute and Committees 17 and 19 mount an active campaign to persuade lawyers, governments and the public of the need to accept that the human right of access to justice cannot be attained without access to legal aid adequately funded by the state, and to provide effective legal aid programmes in pursuit of the ideal of access to justice for all.

Courts should also recognise children's right to receive legal assistance in proceedings that concern them. As detailed above, there is strong international support for this right, and judicial decision-makers should ensure that all children who come before them are provided with legal assistance as necessary and desired. Many international, regional and national courts have affirmed children's right to legal assistance in their case law, and it is hoped that these judgments will serve as valuable precedents to inspire the same in every jurisdiction.

Case Law on Children's Right to Legal Assistance

[Sharifova and ors. v. Tajikistan](#) (UN Human Rights Committee):

“The Committee recalls that juveniles are to enjoy at least the same guarantees and protection as those accorded to adults... In addition, juveniles need special protection in criminal proceedings. They should, in particular, be informed directly of the charges against them and, if appropriate, through their parents or legal guardians, be provided with appropriate assistance in the preparation and presentation of their defence. In the present case, [the children] were arrested without access to a defence lawyer. In the circumstances, and in the absence of any other pertinent information, the Committee concludes that [the children's] rights...have been violated.”

[Salduz v. Turkey](#) (European Court of Human Rights):

“Finally, the Court notes that one of the specific elements of the instant case was the applicant's age. Having regard to a significant number of relevant international law materials concerning legal assistance to minors in police custody, the Court stresses the fundamental importance of providing access to a lawyer where the person in custody is a minor. Still, in the present case, as explained above, the restriction imposed on the right of access to a lawyer was systematic and applied to anyone held in police custody, regardless of his or her age, in connection with an offence falling under the jurisdiction of the state security courts. In sum, even though the applicant had the opportunity to challenge the evidence against him at the trial and subsequently on appeal, the absence of a lawyer while he was in police custody irretrievably affected his defence rights.”

[Bulacio v. Argentina](#) (Inter-American Court of Human Rights)

“The detainee also has the right to notify a third party that he or she is under State custody. This notification can be, for example, to a relative, an attorney and/or a consul, as may be the case. The right to contact a relative becomes especially important when detainees are minors. In this scenario, the authority carrying out the detention and in charge of the detention place for the minor must immediately notify the next of kin or, otherwise, their representatives for the minor to receive timely assistance from the person notified... Notification regarding the right to establish contact with a relative, an attorney and/or consular information, must be made at the time the accused is imprisoned, but in the case of minors it is necessary to take such measures as may be required for notification to effectively take place. In case of notification to an attorney it is especially important for the detainee to be able to meet privately with him or her, as an inherent act in the detainee's right to defense.”

[Right of a minor child to be heard in proceedings in which decisions are made about his/her affairs](#) (Constitutional Court of the Czech Republic):

“The right to be heard in all proceedings...provides the child with the possibility to appear in any judicial or administrative proceedings affecting him, either directly or through a representative or an authority, in a manner where the hearing shall be done in accordance with the procedural rules of national law. In other words, the child is guaranteed the right to allow authorities to express his opinion on issues that directly affect him, allowing him...to offset his unequal position in relation to his parents or legal guardian.”

[Police v. Vailopa](#) (Supreme Court of Samoa), citing *Simona v. The Crown* (High Court of Tuvalu):

"The perception that a child needs special protection arises from the immaturity and vulnerability of children... In the hostile and stressful situation of an accusation of a criminal offence, it is accepted a child needs the mature guidance and reassurance of someone who clearly has its interests at heart. To suggest that it should know that it has such a right and would have the courage or maturity to demand it runs counter to the fundamental philosophy of the Convention [on the Rights of the Child]. I consider it a logical and proper conclusion that the police are obliged to advise any child of the right to have a parent, guardian or legal adviser present and to take any reasonable steps to secure such attendance before taking any step that could result in the child making a statement against its interests."

Legal Assistance in Practice: National Examples

Although the many international rules and standards on children's right to legal assistance apply equally to all countries, every government has developed its own ways of providing this assistance.

To give a better sense of how legal assistance for children works in practice, then, it may be helpful to look at how some of these national systems have developed. With this in mind, descriptions of the legal assistance regimes in Bangladesh, England and Kenya follow. More information about these systems is available as part of CRIN's Legal Status of the Child project, which can be found at: <http://www.crin.org/law/legalstatusofthechild/>

Bangladesh

Children can initiate legal proceedings with the assistance of an adult “next friend” or guardian, and can file cases without charge if they are unable to pay court fees. Guardians are appointed on application, and must demonstrate that they have no conflicting interests, are generally of sound mind and are fit for the role. If there is no qualified person willing to serve as a guardian for a child, a court officer can take on the role, but the child might have to pay the costs of this representation later.

If a child is charged with an offence, the police must notify the child's parent or guardian of the child's arrest. If practical, a parent or guardian is expected to attend any court hearings, but there is no requirement that the child be represented. Children who have been arrested and detained in custody have the right to consult and be defended by a lawyer of their choosing, although the government is not obligated to secure or pay for legal assistance.

There is no right to legal aid in Bangladesh. There has, however, been much progress since the country established the National Legal Aid Services Organization (NLASO) in 2000. NLASO has a mandate to set up a legal aid scheme, establish eligibility criteria, and write policies and procedures to provide persons “incapable of seeking justice” with legal assistance. Under the current regulations, persons with an income below 50,000 Taka are eligible to seek legal aid from NLASO in most civil, criminal and family proceedings.

There are also a number of human rights and legal services organisations that work either independently or in partnership with NLASO to provide legal assistance free of charge. The Bangladesh Legal Aid and Services Trust (BLAST) is a large, well-known organisation that provides legal aid, advice and representation. BLAST specifically “prioritises support to women, men and children living in poverty or facing disadvantage or discrimination.” Other national organisations focused on legal aid and human rights include the Bangladesh Legal Reform Project and the Manusher Jonno Foundation.

England

Children can bring legal proceedings, but courts will generally appoint a “litigation friend” to act on their behalf. Children are also automatically appointed guardians, litigation friends or lawyers in certain family court proceedings, although they can in some circumstances seek the permission of the court to prevent this from happening. In general, children have the right to represent themselves where the court agrees they have the maturity and understanding to handle legal proceedings on their own.

Civil courts, family courts, and magistrates' courts all charge various filing and administrative fees, but operate a system of fee waivers. If children are in financial need, they are further entitled to receive legal aid in certain types of cases, including some that relate to health, education, welfare and abuse. In addition, children in the care of local authority are entitled to receive advocacy

services free of charge. Among other things, advocates can help children to file complaints and act on behalf of children in court where asked to do so.

The Legal Services Commission provides an online eligibility calculator to help children determine whether they can apply for legal aid, although courts might also look at the nature of the case and the likelihood of success. Notably, legal aid is generally available for claims involving violations of human rights, especially where these violations affect a large number of people.

Children who have been arrested on suspicion of committing an offence are also entitled to a lawyer both during interrogation and, if the case proceeds, during trial. Children charged in juvenile courts may ask at the first hearing for representation funded by the Legal Services Commission; those tried in criminal courts have a statutory right to legal assistance. In addition, when a child is arrested, the child's parent, guardian or custodian must be notified and will later be expected to attend court during all stages of the proceedings.

Pro bono legal services are available for both individuals and non-governmental organisations, and are most often obtained through legal service-focused organisations and clearinghouses. Many of these are housed in the National Pro Bono Centre, such as the Bar Pro Bono Unit, ProBonoUK.net, LawWorks, the Access to Justice Foundation and i-Probono. Children's rights organisations like the Coram Children's Legal Centre, the Children's Rights Alliance for England and Just for Kids Law may also be able to offer legal advice, representation or other forms of assistance.

Kenya

Children can seek to file cases, but must in all cases do so via an adult “next friend.” Children who otherwise become a party to legal proceedings must also be represented, and the court will appoint a guardian ad litem to act on their behalf. In particular, children's court judges may order that any child who appears without representation be provided with legal assistance to safeguard the interests of the child. Provided there is no conflict of interest, any adult may act as a child's next friend or guardian ad litem.

When children's courts order that a child be granted legal representation, this is provided at the government's expense. In addition, if there is no person fit and willing to act as a child's guardian ad litem in a civil proceeding, the court may appoint a court officer to fill this role, although the child may later have to pay the costs of this representation. Children who are accused of committing an offence are also guaranteed legal aid provided by the government if they have no other recourse to this assistance.

Courts generally charge filing fees, although these can be waived for children who do not have the resources to pay them. There is, however, no general entitlement to legal aid. Nonetheless, the National Legal Aid and Awareness Programme (NALEAP), a partnership between the government, the Law Society of Kenya and national civil society organisations, provides legal assistance and representation to some children in some communities

It is possible to obtain legal assistance on a pro bono basis or through a children's rights organisation. The Law Society has adopted rules that require lawyers to provide pro bono services, but does not specify how or to what extent these must be offered. Certain organisations working in children's rights may also be able to offer free legal assistance or representation. Among others, these include the Children's Legal Action Network, The CRADLE, and Kituo Cha Sheria: The

Resources on Legal Assistance for Children

A4ID Global Legal Aid Guide

The [Global Legal Aid Guide](#) provides details on legal aid systems around the world, including the type of matter and type of applicant eligible for legal aid, the cost of service (if any), and the method by which to apply for assistance.

Child Helpline International

Child Helpline International (CHI) is a global network of child helplines that work to protect the rights of children. CHI's mission is to advocate for and provide support to child helplines around the world, and the organisation maintains a public [list of full contact information](#) for each of its members.

Children's Legal Protection Centres: A Good Practice Report

The African Child Policy Forum has published a report that describes the experience and practice of Children's Legal Protection Centres, which aim to promote and uphold children's rights by, among other things, providing legal advice and information to children about their rights, in-house counselling and referrals to appropriate services for child victims, and legal representation for certain cases that advance a Centre's overall goals.

European Network of Ombudspersons for Children

The European Network of Ombudspersons for Children (ENOC) links independent offices for children from 29 countries in Europe, and also hosts a [Global Network of Children's Ombudspersons](#). The ENOC website provides links to and information about these offices, and the network as a whole seeks to share information, approaches and strategies, as well as promoting the development of effective independent ombudspersons for children.

International Bar Association

The International Bar Association (IBA) is an umbrella organisation that represents more than 45,000 lawyers and 200 national and local bar associations and law societies. The IBA offers a full global [list of its member organisations](#), which can often indicate a good first point of contact with a professional legal association in a particular country or jurisdiction.

International Juvenile Justice Observatory

The International Juvenile Justice Observatory (IJJO) provides information about children in conflict with the law on the international, regional and national levels. The IJJO has launched a campaign on [Legal Assistance for Children in Conflict with the Law](#), which undertakes a [country-by-country analysis](#) of children's entitlement to legal assistance in national justice systems.

International Legal Aid Group

The International Legal Aid Group (ILAG) is a global network of legal aid specialists looking to ensure sound legal aid policy-making and to encourage discussion around international developments in the field. The ILAG website offers news, research resources, newsletters, and a selection of [national reports](#) on the state of legal aid.

Legal Aid Reformers' Network

The Legal Aid Reformers' Network (LARN) provides a forum for exchanging information and

resources on legal aid and defence rights. LARN provides resources on both [international legal aid standards](#) and [national legal aid systems](#), including overviews of legal aid in particular jurisdictions and the text of relevant laws.

Part II: Legal Assistance for Children's Rights Organisations

Children's rights organisations will often not have the resources to bring or participate in court cases that involve children's rights, to undertake extensive or complex advocacy campaigns that require legal expertise, or even to pay the full costs of legal assistance required for the day-to-day functioning of the organisation. To respond to these unmet needs, lawyers in many parts of the world may be willing to offer legal assistance to organisations that could otherwise not afford it on a **pro bono** basis, meaning that their services are provided free of charge.

Pro bono legal assistance

Lawyers offer pro bono legal assistance in a large variety of legal matters, from representation in individual cases and public interest litigation to broader legal research and analysis or technical assistance with organisational concerns. Pro bono legal services are no different in quality from paid legal services, and lawyers typically agree to help out on a project-by-project basis. Even though pro bono lawyers won't be billing you for their time, it's important to note that you may still be expected to cover certain costs associated with a case or matter, like court fees or travel expenses. When you accept these services, you should be sure that it is clear for what costs, if any, your organisation will be responsible.

Definitions of pro bono legal assistance

International Bar Association pro bono declaration:

“[P]ro bono legal service...is work by a lawyer of a quality equal to that afforded to paying clients, without remuneration or expectation of remuneration, and principally to benefit poor, underprivileged or marginalized persons or communities or the organizations that assist them. Pro bono legal service may extend to: advice to or representation of persons, communities or organizations, who otherwise could not exercise or assert their rights or obtain access to justice; activities supporting the administration of justice, institution building or strengthening; assisting bar associations and civic, cultural, educational and other non governmental institutions serving the public interest that otherwise cannot obtain effective advice or representation; assisting with the drafting of legislation or participating in trial observations, election monitoring, and similar processes where public confidence in legislative, judicial and electoral systems may be at risk; providing legal training and support through mentoring, project management and exchanging information resources; and also other similar activities to preserve the Rule of Law.”

Pro Bono Declaration for the Americas:

“For purposes of this Declaration, pro bono legal services are those provided without a fee, or expectation of a fee, principally to benefit poor or underprivileged persons or communities or the organizations that assist them. They may include representation of persons, communities or organizations in matters of public interest who otherwise could not obtain effective representation. In addition, pro bono legal services can also benefit civic, cultural and educational institutions serving the public interest who otherwise could not obtain effective representation. Pro bono legal services should be provided with the same quality of representation as services provided to paying clients, and in a manner upholding the applicable ethical norms and standards.”

Definition of international pro bono legal assistance

A Statement of Principles for International Pro Bono Legal Work (UK Attorney General):

“International Pro Bono Legal Work may variously be undertaken by lawyers, members of the judiciary, legal academics, others involved in the justice system, and law students. When we speak of International Pro Bono Legal Work we mean the provision, free of charge for time spent, of legal services, advice, training and support. This will frequently be for any of the following purposes: (1) To improve access to justice in overseas countries; (2) To build capacity and capability in the legal systems of overseas countries; (3) To help meet unmet legal need in overseas countries. International Pro Bono Legal Work does take different and broader forms than traditional nationally delivered Pro Bono Legal Work, consistent with taking an holistic approach. Thus, for example, advocacy training, judicial assistance, and lectures on key areas of law and legal development, are important aspects of International Pro Bono Legal Work.”

Pro bono clearinghouses

Many bar associations encourage or even require lawyers to offer pro bono legal services. Yet, finding a lawyer with the time, interest and appropriate skills to offer pro bono legal assistance on a particular project is not always an easily accomplished or straightforward task. Increasingly, though, new organisations called **pro bono clearinghouses** are emerging to match organisations in need of legal assistance with lawyers who are willing and able to offer this assistance. Pro bono clearinghouses operate on the international, national and local level, and are often a good point of first contact. Clearinghouses generally work independently, and each will have its own methods for vetting organisations and lawyers interested in receiving or providing pro bono legal services, assessing an organisation's legal needs, and finding a lawyer or lawyers with the right background and experience to meet those needs. More detailed descriptions of international pro bono clearinghouses and a working list of national clearinghouses in operation are available at the end of this section.

Standards encouraging the provision of pro bono legal assistance

International

International Bar Pro Bono Declaration:

“The Council calls on lawyers, law firms and bar associations to provide pro bono legal service... The legal profession reaffirms its commitment to pro bono legal service, as an integral part of the profession, and lawyers and law firms are encouraged to specify a proportion of their time or resources which they will devote per lawyer to pro bono legal service each year. Pro bono legal service should be provided on a consistent year-round basis, in all manner of criminal, civil and administrative matters where legal aid may be limited, and on a national and international level.”

The Kyiv Declaration on the Right to Legal Aid:

“Support for and involvement in the provision of legal aid should be recognised as an important duty of the legal profession which should, through the organised bar and law schools, provide moral, ethical, professional and logistical support to those providing legal aid, especially through pro-bono legal aid services. Governments should promote an enabling environment for private practitioners to provide pro-bono services and ensure competitive rates of remuneration.”

Regional

Pro Bono Declaration for the Americas:

“We, the undersigned, each in a manner consistent with our respective roles in the legal profession, commit to...provide, on a pro bono basis, more than 20 hours or three days of legal services per individual lawyer per annum, or in the case of law firms, institutions or other groups of lawyers, an average of more than 20 hours per lawyer per annum.”

- [List of Law Firm signatories](#)

National

American Bar Association Model Rule 6.1 on Pro Bono:

“Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least 50 hours of pro bono publico legal services per year.”

- [Information about state pro bono rules in the United States](#)

Nigerian Bar Association Pro Bono Declaration

“Members of the [Nigerian Bar Association] have a responsibility to provide pro bono legal services...We, the undersigned, each in a manner consistent with our respective roles in the legal profession, commit to...[p]rovide, on a pro bono basis, more than 20 hours or three days of legal services per individual lawyer per annum, or in the case of law firms, institutions or other groups of lawyers, an average of more than 20 hours per lawyer per annum.”

Polish Lawyers for the Public Good / Pro Bono Publico Declaration

“We believe that it is our duty to ensure that all members of society, irrespective of their financial situation, are able to receive professional advice when necessary. It is our intention that to the extent possible our profession should serve those institutions and organisations that work for the good of society and all persons who have insufficient means to obtain necessary legal advice, free of charge or for a symbolic fee.”

United Kingdom Attorney General: A Statement of Principles for International Pro Bono Legal Work:

“Sets of chambers, law firms and legal departments should, wherever possible, seek to encourage and support the undertaking of appropriate International Pro Bono Legal Work by their lawyers and staff, including the undertaking of that work "in-house". A commitment to the delivery of (National or International) Pro Bono Legal Work is encouraged throughout a lawyer's professional life, through to and including retirement.”

University legal clinics

Many universities and law schools have legal clinics or pro bono programmes run by professors, staff lawyers, and law students, and may be similarly able to offer legal assistance to children's rights organisations free of charge. Much like professional bar associations, these schools increasingly encourage or require their students to offer pro bono legal assistance, and also serve as a good information resource on local free legal advice or representation services. Legal clinics vary widely in their reach and topic matter; some may offer only direct services to individuals, while others are willing to undertake broader legal matters including children's rights work.

Other arrangements

To facilitate **litigation in the public interest** – cases brought against the government to advance human rights – some jurisdictions have laws that would allow for lawyers bringing these kinds of cases to recover their fees and costs from the government if they win. It may also be possible for lawyers to recover fees and costs from a private defendant, although this can depend on the nature of the case. If your organisation does not have the resources to pay lawyers outright, you may in some jurisdictions be able to work out a **contingency fee** or **conditional fee arrangement**. Under these arrangements, lawyers typically agree to take cases with the understanding that they will only collect fees if and when they obtain a successful outcome.

While government-sponsored public interest litigation and arrangements that do not require the payment of legal fees up front may in many ways enhance access to justice for children and children's rights organisations, it is important to be clear that these are not pro bono legal services. As lawyers who take cases with the expectation that fees will be recovered do ultimately hope to be paid for their services, they are not technically working free of charge. CRIN has published a [guide to strategic litigation and children's rights](#) that explains these kinds of arrangements in more detail.

How do you pay for your lawyer?

Excerpt from [Children's Rights and Strategic Litigation](#), a CRIN publication

Financing your case. In many jurisdictions, legal fees can quickly become very expensive. In terms of strategic litigation, this may be even more true as novel ideas or never before seen claims can take large amounts of time to research and prepare for court. However, you may be able to work out arrangements for paying your lawyers only if your case succeeds or, even better, not paying your lawyers at all. There are many common ways of financing strategic litigation beyond traditional fee for service arrangements:

Pro bono. Lawyers in private practice may be willing to offer you their legal services for free. In some jurisdictions, the pro bono ethic is well-established and you may even have a choice of law firms to assist you in bringing your case. Many law firms look to NGOs or legal aid organisations to screen and refer cases, so you might contact relevant organisations in potential jurisdictions for your lawsuit to see if they have any partnerships or other referral mechanisms in place with local law firms or practitioners. Do be aware that even in pro bono relationships, you may still be expected to cover court costs or other expenses.

Legal aid. Although many traditional legal service organisations do not have the means to handle a large strategic litigation case, some legal aid providers may have divisions or sectors designed to promote lasting change and tackle complex litigation. These organisations may be willing to bring and manage your case free of charge.

Contingency or Conditional Fees. In some jurisdictions, it may be permissible to work out a contingency fee or conditional fee arrangement. In a contingency fee arrangement, your lawyers would not charge up front or hourly for their services; instead, their payment would be contingent on their success. If the lawyers win your case, they will get to keep a percentage of the plaintiffs' damages, that is, the amount of money the judge, tribunal or jury awards the plaintiffs to compensate them for the harm they suffered at the hands of the defendants. If the lawyers lose, they may get nothing. In a conditional fee arrangement, legal fees may be increased or reduced

depending on the amount of damages you receive, but may not disappear entirely.

Since this approach often requires that your claim seek a substantial sum of money, it may not make sense to request a contingency or conditional fee arrangement when you are asking the court for a more novel remedy.

Insurance. You may be able to obtain legal expenses insurance for your case, which would pay for at least a percentage of your legal costs if you lost. However, this kind of insurance can be very expensive, and if your case is risky or very novel, it may simply be unavailable.

Resources on International Pro Bono Legal Assistance

[Global Pro Bono Atlas](#)

The Pro Bono Institute has published a series of comprehensive individual country reports on obtaining legal assistance, compiled in a [Global Pro Bono Atlas](#). The reports review pro bono practices and opportunities and cover legal aid programmes, unmet needs for legal advice and representation, and relevant professional conduct laws and rules for legal professionals.

[International Bar Association: InternationalProBono.com](#)

InternationalProBono.com has collected resources from those involved in pro bono work around the globe, including news, events, international and national pro bono declarations, a directory of pro bono clearinghouses, and links to other websites with information about pro bono legal assistance.

- [Pro Bono at a Glance](#), *a list of individual jurisdictions' definitions and understandings of pro bono work*
- [Compilation of Pro Bono Research](#), *a collection of definitions, standards, and descriptions of pro bono legal assistance across individual jurisdictions*

[Pro Bono Clearinghouse Manual: Resources for developing pro bono legal services](#)

PILnet and A4ID have jointly published a [Pro Bono Clearinghouse Manual](#), which explains how to start and maintain a pro bono clearinghouse and to foster a more supportive environment for pro bono activity, including many useful contacts and additional resources.

[ProBonoUK.net: International Pro Bono page](#)

ProBonoUK.net has assembled a variety of useful links and resources on the subject of international pro bono legal assistance.

[Vance Center Library, New York City Bar Justice Center](#)

The Vance Center digital library offers resources on international pro bono practice and other materials relevant to human rights advocacy.

- [The Pro Bono Chain](#), *a visual representation of relationships within a system that provides voluntary legal assistance free of charge*

International Pro Bono Clearinghouses

[PILnet: The Global Network for Public Interest Law](#)

PILnet's Budapest-based Global Pro Bono Clearinghouse places requests for pro bono legal assistance. The organisation also operates a number of national-level [clearinghouses](#) and works in collaboration with other clearinghouses located in Europe and elsewhere. PILnet helps organisations seeking assistance to identify their pro bono legal needs, and has published general [Clearinghouse Guidelines](#) to assist NGOs in this process. Essentially, these Guidelines help to identify a specific legal problem or problems and to describe the ways in which a lawyer would be able to assist your organisation. Notably, PILnet also offers assistance to NGOs and universities looking to develop or strengthen legal aid programmes, and regularly works with national and local governments and bar associations to develop and operate legal aid and legal information programmes.

[Advocates for International Development: A4ID](#)

A4ID's [broker service](#) matches organisations in need of legal assistance with legal experts for projects that in some way seek to eradicate poverty or promote international development. Organisations wishing to work with the service will first need to [become an A4ID development partner](#), after which they are able to submit a document summarising their legal needs for a particular project. A4ID also offers general information on the [best ways to use legal support](#) and the kinds of projects that lend themselves particularly well to pro bono legal assistance.

[TrustLaw Connect](#)

TrustLaw Connect aims to meet the legal service needs of NGOs with limited means. [Eligible organisations](#) can apply for membership in the TrustLaw Connect network and, once accepted, post requests for legal assistance on specific projects. TrustLaw Connect offers step-by-step instructions on [how organisations can seek legal support](#) through their network and [general guidelines](#) on the kinds of assistance that can be provided. Among other things, TrustLaw Connect offers opportunities for seeking assistance with public interest litigation matters.

[i-Probono](#)

i-Probono's online network is designed to connect organisations from around the world in need of legal advice directly with lawyers and students able to offer pro bono assistance. Organisations can [create simple profiles](#) on the site and post projects, specifying what kind of volunteer they're looking for and what particular skills they require. Using these criteria, the website will match your organisation with suitable people, enable you to contact these individuals, and alert volunteers meeting your specifications about the possibility of working on your project.

Annex: Contact Information for Legal Assistance Resources

Legal Networks

International

International Bar Association (IBA)
4th Floor, 10 St Bride Street
London, EC4A 4AD
UK
Tel: +44 (0) 207 842 0090
Fax: +44 (0) 207 842 0091
<http://www.ibanet.org/>
Human Rights Institute:
<http://www.ibanet.org/IBAHRI.aspx>
Global list of IBA national and local bar association members:
<http://www.ibanet.org/Document/Default.aspx?DocumentUid=25834764-545A-44BA-9B82-6D326AE46997>

Regional

ASEAN Law Association
ALA Secretariat
c/o 2/104 Doi Can Street, Ba Dinh District
Hanoi
Vietnam
Tel: +84 4 3 7225897
Fax: +84 4 3 7225896
<http://www.aseanlawassociation.org/index.html>
vla@ftp.vn

CEJIL: Center for Justice and International Law
630 Connecticut Ave., NW, Suite 401
Washington, D.C. 20009-1053
USA
Tel: +1 (202) 319-3000
Fax: +1 (202) 319-3019
<http://cejil.org/en>
<http://cejil.org/en/contact>
Pro Bono Guide, including directory of organisations offering free counseling services, legal assistance or representation in the Inter-

American Human Rights system:
<http://cejil.org/en/pro-bono-guide>

Institute for Human Rights and Development in Africa (IHRDA)
949 Brusubi Layout, AU Summit Highway
P.O. Box 1896
Banjul
The Gambia
Tel: +220 44 10 413/4
Fax: +220 44 10 201
<http://www.ihrda.org/>
Legal Defence Fund: <http://www.ihrda.org/legal-defence-fund/>
ihrda@ihrda.org

Southern Africa Litigation Centre
President Place
1 Hood Avenue/ 148 Jan Smuts Avenue
Rosebank
Johannesburg
South Africa 2196
Tel: +27 (0) 11 587 5000
Fax: +27 (0) 11 587 5099
<http://www.southernafricalitigationcentre.org/info@salc.org.za>

Resource:
Penal Reform International
60-62 Commercial Street
London E1 6LT
UK
Tel: +44 20 7247 6515
Fax: +44 20 7377 8711
<http://www.penalreform.org/info@penalreform.org>
Index of Paralegal Services in Africa, including paralegal services, paralegal networks and university legal clinics in 21 African countries:
<http://www.penalreform.org/publications/index-paralegal-services-africa>

International Pro Bono Clearinghouses

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info@a4id.org

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Fax: +36 (1) 461-5701
<http://www.pilnet.org/>
PILnet@pilnet.org
Global Clearinghouse: apolitov@pilnet.org

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UK
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<http://www.i-probono.com/index.aspx>
<http://www.i-probono.com/contactus.aspx>

TrustLaw Connect
TrustLaw Thomson Reuters Foundation
30 South Colonnade
London E14 5EP
UK
Tel: +44 (0) 207 542 9484
[http://www.trust.org/trustlaw/connect/
trustlaw@thomsonreuters.com](http://www.trust.org/trustlaw/connect/trustlaw@thomsonreuters.com)

PILnet: The Global Network for Public Interest
Law

International Pro Bono Organisations

Ashoka: Law for All Initiative
1700 North Moore Street
Suite 2000 (20th Floor)
Arlington, VA 22209
USA
Tel: +1 (703) 527-8300
Fax: +1 (703) 527-8383
<https://www.ashoka.org/lawforall>
LawforAll@ashoka.org

31 W. 52nd Street, 4th Floor
New York, NY 10019
USA
Tel: +1 (212) 895-1022
<http://www.islp.org>
<http://kontakt.com/user/islpform>

Cyrus R. Vance Center for International Justice
(projects in the Americas and Africa)
New York City Bar
42 West 44th Street, 3rd Floor
New York, NY 10036
USA
Tel: +1 (212) 382.6795
Fax: +1 (212) 768.8630
[http://www2.nycbar.org/citybarjusticecenter/vanc
e-center/programs](http://www2.nycbar.org/citybarjusticecenter/vance-center/programs)
vance@nycbar.org

Lex Mundi Pro Bono Foundation
2001 K Street, NW, Suite 400
Washington, DC 20006-1040
USA
Tel: +1 (202) 429-1630
Fax: +1 (202) 857.1737
[http://www.lexmundiprobono.org/lexmundiprobo
no/default.asp](http://www.lexmundiprobono.org/lexmundiprobono/default.asp)

International Senior Lawyers Project
c/o Clifford Chance US LLP

Pro Bono Institute
1025 Connecticut Avenue, NW, Suite 205
Washington, DC 20036
USA
Tel: +1 (202) 729-6699
<http://www.probonoinst.org/home.html>
<http://www.probonoinst.org/contact-us.html>

National Pro Bono Clearinghouses and Resources

Argentina

La Comisión Pro Bono
Comisión de Trabajo Pro Bono e Interés Público
Montevideo 640
Ciudad Autónoma de Bs. As. (C1019ABN)
Buenos Aires
Argentina
Tel: +15 5486 6904
<http://www.probono.org.ar/>
probono@colabogados.org.ar

Australia

ACT Pro Bono Clearing House
Level 3, 11 London Circuit
Canberra City ACT 2601
Australia
Tel: +61 (02) 6247 5700
Fax: +61 (02) 6247 3754
<http://www.actlawsociety.asn.au/act-pro-bono-clearing-house.html>
<http://www.actlawsociety.asn.au/contact-us/act-law-society.html>

JusticeNet

Ligertwood Building, The University of Adelaide
North Tce, Adelaide SA 5005
Australia
Tel: +61 (08) 8303 5005
Fax: +61 (08) 8303 4344
<http://www.justicenet.org.au/index.html>
info@justicenet.org.au

New South Wales

Law Society of New South Wales
The Pro Bono Scheme Solicitor
170 Phillip Street
Sydney NSW 2000
Australia
Tel: +61 (02) 9926 0364
Fax: +61 (02) 9231 5809
<http://www.lawsociety.asn.au/pro-bono-scheme>

Northern Territory

Pro Bono Clearing House (NT)
Suite 2, Ground Floor
Beagle House
38 Mitchell Street
Darwin NT 0800
Australia

Tel: +61 (08) 8941 1623
<http://lawsocietynt.asn.au/for-the-community/pro-bono-clearing-house>
lawsoc@lawsocnet.asn.au

Queensland

Queensland Public Interest Law Clearing House (QPILCH)
PO Box 3631
South Brisbane BC, QLD 4101
Australia
Tel: +61 (07) 3846 6317
Fax: +61 (07) 3846 6311
<http://www.qpilch.org.au/services@qpilch.org.au>

Tasmania

Law Society of Tasmania Pro Bono Clearing House
28 Murray Street
Hobart, Tasmania 7000
Australia
Tel: +61 (03) 6234 4133
Fax: +61 (03) 6223 8240
<http://taslawsociety.asn.au/web/en/lawsociety/about/ProBono.html>
info@taslawsociety.asn.au

Victoria

Public Interest Law Clearing House
Level 17, 461 Bourke St.
Melbourne VIC 3000
Australia
Tel: +61 (03) 8636 4405
Fax: +61 (03) 8636 4455
<http://www.pilch.org.au/admin@pilch.org.au>

Resources

National Pro Bono Resource Centre
Level 1, Law Centres Precinct
The Law Building
University of New South Wales
Australia
Tel: +61 (02) 9385 73
<http://www.nationalprobono.org.au/home.asp>
info@nationalprobono.org.au

Brazil

ConectasDireitosHumanos
Rua Barão de Itapetininga, 93 - 5º andar - 01042-908
São Paulo
Brasil
Tel/Fax: +55 11 3884-7440
[http://www.conectas.org/
conectas@conectas.org](http://www.conectas.org/conectas@conectas.org)

Instituto Pro Bono
Rua Barão de Itapetininga, 93 – 5º andar, CEP 01042-908
São Paulo
Brasil
Tel/Fax: +55 11 3884-7440
[http://www.institutoprobono.org.br
faleconosco@probono.org.br](http://www.institutoprobono.org.br/faleconosco@probono.org.br)

Bulgaria

Bulgarian Center for Not-for-Profit Law*
6 Dobrudja Str.
Sofia 1000
Bulgaria
Tel: + 3592 981 66 17
Tel./Fax: + 3592 988 81 66
[http://www.bcnl.org/
info@bcnl.org](http://www.bcnl.org/info@bcnl.org)

*clearinghouse to be launched soon

Canada

Resources

Pro Bono Net
151 West 30th Street
10th Floor
New York, NY 10001
USA
Tel: +1 (212) 760-2554
Fax: +1 (212) 760-2557
[http://www.probono.net/
info@probono.net](http://www.probono.net/info@probono.net)

Alberta

Pro Bono Law Alberta
<http://www.pbla.ca/>

British Columbia

Access Pro Bono Society of British Columbia
106 – 873 Beatty Street
Vancouver, BC
Canada V6B 2M6

Tel: +1 (604) 482 3195
Fax: +1 (604) 893 8934
[http://accessprobono.ca/contact-apb
help@accessprobono.ca](http://accessprobono.ca/contact-apbhelp@accessprobono.ca)

Ontario

Pro Bono Law Ontario
260 Adelaide Street East
P.O. Box 102
Toronto, Ontario
Canada M5A 1N1
Tel: +1 (416) 977-4448
Fax: +1 (416) 977-6668
[http://www.pblo.org/
info@pblo.org](http://www.pblo.org/info@pblo.org)

Quebec

Pro Bono Quebec
C.P. 55043, CSP Notre-Dame
11, rue Notre-Dame Ouest
Montréal, Québec H2Y 4A7
Canada
Tel : +1 (514) 954-3434
Fax: +1 (514) 954-3427
[http://www.probonoquebec.ca/
info@probonoquebec.ca](http://www.probonoquebec.ca/info@probonoquebec.ca)

Saskatchewan

Pro Bono Law Saskatchewan
Avord Tower
1110-2002 Victoria Ave
Regina, Saskatchewan
Canada S4P 0R7
Tel: +1 (306) 569-3098
Fax: +1 (306) 352-2989
[http://www.pblsask.ca/
info@pblsask.ca](http://www.pblsask.ca/info@pblsask.ca)

Chile

Fundación Pro Bono Chile
Tel: +56 2 381-5660
[http://www.probono.cl/
probono@probono.cl](http://www.probono.cl/probono@probono.cl)

China

PILnet Beijing Clearinghouse
19 Jianguomenwai Dajie, Suite 10-C
Beijing 100004
China
Tel: +86 (10) 8526-1453/4

Fax: +86 (10) 8526-1455

Colombia

Fundación Pro Bono Colombia
Tel: +57 1 288 04 11 ext. 113-115
<http://www.probono.org.co/>
probono@probono.org.co

Czech Republic

Public Interest Lawyers Association
Pro Bono Alliance / Pro Bono Centrum
Příběnická 1908, 390 01
Tábor
Czech Republic
Tel: +420 381 253 990
<http://www.probonoalliance.cz/cz/> /
[http://www.probonocentrum.cz/](http://www.probonocentrum.cz/probono@probonoalliance.cz)
probono@probonoalliance.cz

France

Alliance Des Avocats Pour Les Droits De
L'Homme (Alliance of Lawyers for Human
Rights)
7, rue d'Assas
75006 Paris
France
Tel: +33 (0) 6 27 22 72 38
[http://www.aadh.fr/](http://www.aadh.fr/noanne.tenneson@aadh.fr)
noanne.tenneson@aadh.fr

Resources

Droits d'Urgence
1, Passage du Buisson Saint-Louis
75010 Paris
France
Tel: +33 (0) 1 40 03 62 82
Fax: +33 (0) 1 40 03 62 56
[http://www.droitsdurgence.org/](http://www.droitsdurgence.org/contact@droitsdurgence.org)
contact@droitsdurgence.org

Hungary

PILnet Budapest Clearinghouse
Paulay Ede utca 50
1061 Budapest, Hungary
Tel: +36 1 461 5700
Fax: +36 1 461 5701

Ireland

FLAC Public Interest Law Alliance
13 Lower Dorset Street

Dublin 1
Ireland
Tel: +353 1 8728048
Fax: +353 1 8745320
[http://www.pila.ie/](http://www.pila.ie/info@pila.ie)
info@pila.ie

Latvia

Latvian Pro Bono Legal Clearinghouse
Marijas St. 88 - 5
Riga LV-1050
Latvia
Tel: +371 67294646
[http://www.idejupartneri.lv/](http://www.idejupartneri.lv/info@idejupartneri.lv)
info@idejupartneri.lv

Poland

Centrum Pro Bono
ul. Szpitalna 5 lok. 5
00-031 Warszawa
Poland
Tel: +48 505 690 408
[http://www.centrumprobono.pl/pl/](http://www.centrumprobono.pl/pl/biuro@centrumprobono.pl)
biuro@centrumprobono.pl

Romania

Civil Society Development Foundation*
Orzari St., no 86A, sector 2
Bucharest
Romania
Tel: +4 (0) 21-310-01-81
Fax: +4 (0) 21-310-0180
[http://www.fdsc.ro/](http://www.fdsc.ro/office@fdsc.ro)
office@fdsc.ro

*clearinghouse to be launched soon

Russia

PILnet Moscow Clearinghouse
Maroseyka str., 9/2 build. 8, office 34
101000 Moscow
Russia
Tel: +7 (495) 628 00 20
Fax: +7 (495) 661 49 21

Serbia

Civic Initiatives
Simina 9a.
11 000 Beograd
Serbia
Tel: +381 11 3374 129

<http://www.gradjanske.org/page/home/sr.html>
civin@gradjanske.org

Slovakia

Pontis Foundation/ Nadácia Pontis
Zelinárska 2
821 08 Bratislava
Slovak Republic
Tel: +421 (2) 5710 8111
Fax: +421 (2) 5710 8125
<http://www.nadaciapontis.sk/sk/>
pontis@pontisfoundation.sk

Slovenia

Peace Institute
Metelkova ulica 6
1000 Ljubljana
Slovenia
Tel: +386 (0)1 234 77 20
Fax: +386 (0)1 234 77 22
<http://www2.arnes.si/~ljmiri1s/eindex.htm>
info@mirovni-institut.si

South Africa

Probono-org
1st Floor West Wing
Women's Jail
Constitution Hill
1 Kotze Street
Braamfontein
Johannesburg
South Africa
Tel: +27 11 339 6080
Fax: +27 11 339 6077
<http://www.probono.org.za/>
erica@probono.org.za

Resources:

Centre for Child Law
Faculty of Law
Law Building (Room 4-31)
University of Pretoria
Pretoria 0002
South Africa
Tel: +27 12 420 4502
Fax: +27 12 420 4499
<http://www.centreforchildlaw.co.za/>
desiree.willemse@up.ac.za

Legal Resources Centre

15th and 16th Floor, Bram Fischer Towers
20 Albert Street
Marshalltown
P O Box 9495
Johannesburg 2000
Tel: +27 11 836 9831
Fax: +27 11 834 4273
<http://www.lrc.org.za/>
<http://www.lrc.org.za/contact-us/21-head-office/1-national-office>

Turkey

Istanbul Bilgi University
Kurtuluş Deresi Cad.
Yahya Köprüsü Sok. No:1
Dolapdere 34440
Beyoğlu-İstanbul
Turkey
Tel: + 90 212 444 0 428
<http://www.bilgi.edu.tr/>
idile@bilgi.edu.tr

United Kingdom

Bar Pro Bono Unit
The National Pro Bono Centre
48 Chancery Lane
London WC2A 1JF
UK
Tel: +44 (0) 20 7092 3960
<http://www.barprobono.org.uk/>
enquiries@barprobono.org.uk

LawWorks

c/o **National Pro Bono Centre**
48 Chancery Lane
London WC2A 1JF
UK
Tel +44 (0)20 7092 3940
Fax +44 (0)20 7242 3407
<http://www.lawworks.org.uk/>
<http://www.lawworks.org.uk/contact-us>

National Pro Bono Centre
48 Chancery Lane
London WC2A 1JF
UK
<http://www.nationalprobonocentre.org.uk/>
enquiries@nationalprobonocentre.org.uk

Scotland

LawWorks Scotland
c/o The Law Society
26 Drumsheugh Gardens
Edinburgh EH3 7YR
UK
Tel: +44 (0)131 226 8895
[http://www.lawworksscotland.org.uk/
mail@lawworksscotland.org.uk](http://www.lawworksscotland.org.uk/mail@lawworksscotland.org.uk)

Resources

ILEX Pro Bono Forum
The Institute of Legal Executives
Kempston Manor
Kempston Bedford MK42 7AB
UK
Tel: +44(0)1234 845763
http://www.ilex.org.uk/about_cilex/pro_bono.aspx
probono@cilex.org.uk

ProBonoUK.net
[http://probonouk.net/
admin@probonouk.net](http://probonouk.net/admin@probonouk.net)

United States

American Bar Association Standing Committee
on Pro Bono & Public Service
c/o American Bar Association
Center for Pro Bono
321 North Clark Street

Chicago, IL 60654
Fax: +1 (312) 988-5483
http://www.americanbar.org/groups/probono_public_service.html
abaprobono@americanbar.org
Consumers's Guide to Legal Help by state:
<http://apps.americanbar.org/legalservices/findlegalhelp/home.cfm>
Directory of Pro Bono Programs by state, including clearinghouses, legal aid, and other volunteer and public interest lawyer organisations:
<http://apps.americanbar.org/legalservices/probono/directory.html#>
List of state and local bar associations in the U.S.:
http://www.americanbar.org/groups/bar_services/resources/state_local_bar_associations.html

Resources

Pro Bono Net / LawHelp
151 West 30th Street, 10th Floor
New York, NY 10001
USA
Tel: +1 (212) 760-2554
Fax: +1 (212) 760-2557
<http://www.probono.net/> /
[http://www.lawhelp.org/
support@probono.net](http://www.lawhelp.org/support@probono.net) / info@lawhelp.org