Media Release

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NEW REPORT:
ACCESS TO JUSTICE FOR CHILDREN

As ‘critical agents of change’, children’s protection and empowerment through the law is paramount.

A new report by the Bingham Centre explores how national practices can aid the understanding of access to justice barriers for children. It helps show how there are common international challenges and looks at the ways those challenges might be met as countries embark on achieving the UN Sustainable Development Goals agreed last year.

Children are vulnerable when they come into contact with the justice system, whether as victims, witnesses or offenders, or when judicial or administrative intervention is required for their custody or protection.


Key findings include:

- First, around the world there is an increasing recognition of the right of children to be involved in decisions affecting them. This right of active engagement (as it is called) is recognised at levels that match children’s competence. However, in many jurisdictions this right may be unduly limited, including due to the lack of state resources targeted specifically at the well-being and rights of children. The lack of resources and rights may have a particularly severe effect on some disadvantaged groups of children, such as migrants and asylum seekers.

- Secondly, the report provides practical examples and case studies that show the important role played by effective and independent redress mechanisms, established by law and provided with a broad children’s right mandate.
Thirdly, in recent years there has been progress towards the recognition of the special needs of children when they encounter the justice system, whether as offenders, witnesses or victims. A broad array of special arrangements aimed at ensuring the effective participation of children in judicial proceedings have been incorporated in different jurisdictions, but the specifics and effectiveness of such practices varies across countries.

The study, which was commissioned by the International Bar Association’s (IBA) Access to Justice and Legal Aid Committee, with support from the Law Society of England and Wales and the German Federal Bar also sets out a number of pathways through which lawyers involved in advocacy, law reform, drafting of new legislation, legal education and in providing legal assistance and representation can make a uniquely useful contribution to ensuring access to justice for children.

The report draws from a survey completed by legal, academic and related professionals, especially those with expertise in child law, representing 22 jurisdictions across the world; additional data from a Council of Europe (European Commission on the Efficiency of Justice (CEPEJ)) survey covering information on 48 European states and entities; and an expert workshop hosted by the Law Society of England and Wales on 11 July 2016.

The co-chair of the IBA Access to Justice and Legal Aid Committee, Lucy Scott-Moncrieff CBE, said:
‘This report, is designed to improve access to justice for children across the world, by identifying the barriers they face in different jurisdictions, but also by highlighting the creative and determined efforts of lawyers and others to overcome these barriers, so that those looking for inspiration can find it.’

The Executive Secretary of the CEPEJ, Stéphane Leyenberger, said:
‘The European Commission for the Efficiency of Justice (CEPEJ) has been pleased to contribute to this essential work on access to justice for children, by providing quantitative and qualitative data from the member states of the Council of Europe. Being able to get a relevant diagnostic, through a scientific data collection, processing and analysis, is a valuable step towards efficient solutions for improving the quality of the public service of justice delivered to fragile populations, and in particular children.’

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NOTES TO EDITORS:

1. The report is available from the Bingham Centre web site www.binghamcentre.biicl.org and the IBA Access to Justice and Legal Aid Committee web site www.ibanet.org/PPID/Constituent/AccessJustice_LegalAid/Default.aspx. The IBA web site also contains numerous case studies on access to justice prepared for this report.

2. The study was funded by the International Bar Association, with support from the Law Society of England and Wales and the German Federal Bar (BRAK). The Law Society hosted the expert workshop for the project.

3. The Bingham Centre for the Rule of Law was launched in December 2010 to honour the work and career of Lord Bingham of Cornhill KG – a great judge and passionate advocate of the rule of law. The Centre is dedicated to the study and promotion of the rule of law worldwide. It does this by defining the rule of law as a universal and practical concept, highlighting threats to the rule of law, conducting research and training and providing rule of law capacity-building to enhance economic development, political stability and human dignity. The Bingham Centre is a constituent part of the British Institute of International and Comparative Law (BIICL), a registered charity and leading independent research organisation founded over 50 years ago.

4. The Bingham Centre has produced three reports for the IBA Access to Justice and Legal Aid Committee in the last three years, all of which are available on the committee’s website, along with access to justice case studies.