

# GLOSSARY



# GLOSSARY

## **Access to justice**

Describes people's ability to solve disputes and reach adequate remedies for grievances, using formal or traditional justice systems. The justice process has qualitative dimensions, and it should be in accordance with human rights principles and standards.

## **Adjudication**

Describes the process of determining the most adequate type of redress or compensation (remedy). Means of adjudication can be regulated by formal law, as in the case of courts and other quasi-judicial and administrative bodies, or by traditional legal systems. The process of adjudication in the formal system includes stages such as (i) investigation, (ii) prosecution, and (iii) decision-making. A basic guarantee in the justice process is that decisions of lower bodies can be appealed at a higher level if one of the parties is in disagreement.

## **Alternative Dispute Resolution (ADR)**

An adjudication mechanism in which a third party acts as an arbiter, conciliator or mediator between two (or more) parties involved in a dispute. The goal of ADR is to seek conciliation or negotiation among the parties, rather than solving the dispute through the involvement of a court. ADR systems can be attached to administrative bodies or to the courts, or they can exist in the community in an informal way (e.g. through village or religious leaders). Traditional systems are generally based on alternative dispute resolution. The use of ADR is a voluntary choice of the parties, who are also free to reject the ADR decision and take the dispute to a formal court of law. In certain instances, the initiation of court procedures requires that ADR has been attempted previously, without success.

## **Capacity**

Describes the ability to solve problems, perform functions, and set and achieve objectives. Capacities exist at individual, social and institutional levels.

## **Defence**

Party in the judicial process that seeks to defend a particular person, group of persons, or institution, from the charges presented by the prosecution against them, or to mitigate such charges.

## **Development programming**

Describes the process of designing and implementing a development initiative through a set of activities that seek explicit goals.

## **Development effectiveness**

Extent to which development processes produce results that are pro-poor and promote equity.

## **Enforcement**

Relates to the implementation of orders, decisions and settlements emerging from formal or informal adjudication. Enforcement bodies include police and prisons, and administrative bodies in particular cases. Traditional systems may also have specific mechanisms of enforcement. Enforcement systems are key to ensure accountability and minimize impunity, thus preventing further injustices.

### **Grievance**

Act that causes a person (or group of persons) to suffer a gross injury or loss, and that is originated in the actions or omissions of others.

### **Human development**

Process of expanding human capabilities or expanding choices and opportunities so that every person can live a life of respect and value.

### **Human rights**

Legal norms protecting individuals and groups, that apply to all human beings without discrimination, and that defend fundamental interests for human dignity and well-being. Human rights claims give rise to corresponding duties in others to act in a way that ensures protection.

### **Human rights approach to development**

A framework for the process of human development that is normatively based on, and operationally directed towards, the development of capacities for the protection of human rights.

### **Investigation**

Relates to the process of collecting the necessary evidence to initiate justice procedures against a particular person, group of persons, or institution. Investigation can be conducted by the police, or by the police with the involvement of the prosecution. Some institutions (such as ombudsman offices and National Human Rights Commissions) also perform investigative functions.

### **Justice system**

Includes formal justice institutions and procedures, such as police, prosecution, courts and prisons, as well as Alternative Dispute Resolution (ADR), and other informal and traditional systems (e.g. a council of elders). The justice system includes coordination and other arrangements among its different components that influence overall outcomes on access to justice

### **Justice remedy**

Redress provided by the justice system to a particular grievance. Justice remedies are legal remedies that typically involve a third party (the justice institution or mechanism), whose functioning is also regulated by norms, in settling the dispute. Justice remedies in civil and in criminal justice are different. Civil justice remedies can involve restitution, compensation and other forms of redress. Criminal remedies may also result in penalties and punishments that seek preventive and restorative purposes (e.g. incarceration and community work). On some occasions, civil justice may also involve the award of punitive damages.

### **Legal aid**

Includes legal counsel and other facilities (e.g. financial facilities through reduction in court fees, translation services for deaf-mute litigants, psycho-social support to victims of trauma) that people need to navigate the legal process. Legal aid is fundamental to reducing the economic, social and emotional risks involved in the process of seeking justice.

### **Legal awareness**

A person's knowledge of the possibility of seeking redress through the justice system, whom to demand it from, and how to start a formal or traditional justice process.

### **Legal counsel**

Includes the capacities (from technical expertise to representation) that people need to initiate and/or pursue justice procedures. Adequate legal counsel serves to facilitate in the case of public defence systems and pro bono lawyering), laypersons with legal knowledge, who are often members of the community they serve (paralegals) or both. Legal counsel is one component of the wider concept of legal aid.

**Legal protection**

Provision of legal standing in formal or in traditional law, or both. It involves the recognition of people's rights within the scope of justice systems, thus giving entitlement to remedies either through formal or informal mechanisms. Legal protection determines the legal basis for all other stages in the access to justice process. Legal protection can be enhanced through: (a) treaty ratification and their implementation in domestic law, (b) constitutional law, (c) national legislation, (d) implementing rules and regulations and administrative orders, and (e) traditional and customary law.

**Litigant**

Person, group of persons, or institution, who use the justice system in order to resolve a dispute.

**Prosecution**

Party in the judicial process that seeks a decision condemning a particular person, group of persons, or institution.

**Remedy**

Measures that redress some of the harm caused by people, institutions or private entities, in the context of disputes and conflicts of interests. Remedies may be delivered through various means (political, economic, social, judicial, etc.). When remedies are protected by law or by customary norms, they are called legal remedies.

**Risks**

Actual or perceived threats that a person, group of persons, or institution face as a consequence of their participation in the justice process.

