

Legal Aid Forum 2022  
In collaboration with the Judicial Studies Committee  
30<sup>th</sup> September 2022 at 0900 hrs 5mins

## **The Effects of Crime in Domestic Violence and on Minors**

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Good morning,

Firstly, I wish to thank Mr Bruno Zahra and Dr Francesco Catania for inviting me to contribute to the introduction of this Forum.

I must commend them for their efforts to develop the National Legal Aid Agency, beyond the provision of the essential services to ensure justice for all, but also, for taking initiatives to create space, for conversations around very important subject matter.

Indeed, the provision of Legal Aid exists, to ensure that access to justice is a reality for all, irrespective of the socioeconomic circumstances of the individual, who after all, has the right to legal counsel, and the right to a fair trial, thus ensuring equality before the law.

Access to justice is a fundamental right in itself, and an essential prerequisite for the protection and promotion of all other human rights.

As President of Eurochild, which is a pan European network that work for and with Children, and also Founder and Chair of the Malta Foundation for the Wellbeing of Society, where both entities strive to ensure that Children's Human Rights, are effectively enjoyed by all Children without prejudice, I will focus on Children, or as stated in the title of the Forum today, on minors.

According to UNICEF<sup>1</sup>, Children's access to justice refers to the general ability of children to obtain a remedy when their rights are being violated, not respected, or denied.

The Child's Rights International Network<sup>2</sup> further states that for children's human rights to be more than a meaningless promise, there must be structures in place, for these rights to be effectively safeguarded.

I therefore augur that during this forum, you will also deliberate about access to justice for children, whether they are the offenders or the victims, of crime in our country.

I believe that we need to ask ourselves:

How far are we from the full implementation of our national commitments regarding child friendly justice, that emanate from the UN Convention on the Rights of the Child, to which we have been party to, over 30 years now?

How far are we from the full implementation of the Guidelines on Child Friendly Justice, approved by the Council of Ministers of the Council of Europe over 11 years ago?

What can we learn from the good practices developed and enjoyed in other countries?

At what implementation stage are we in the implementation of the necessary measures to ensure that all children without prejudice can benefit from a justice system that ensures and safeguards Children's Human Rights?

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<sup>1</sup> <https://www.unicef.org/eca/child-protection/access-justice>

<sup>2</sup> <https://archive.crin.org/en/home/law/access.html>

What can we do better for our children in the justice system?

Access to justice for children means that children, or their advocates where applicable, must be able to use and trust the legal system to protect their human rights.

Yet we need to be brave and admit that access to justice, for children, remains a tremendous challenge.<sup>3</sup>

I dare to mention the prevailing lack of sufficient resources and specialised training for judges, prosecutors, lawyers and other personnel working with children.

Likewise, access to justice for children requires the legal empowerment of all children. Children should be able to access relevant information and have access to effective remedies to claim their rights, including through legal and other services.

We still lack children's human rights education, specialized counselling or advice, and the necessary support from knowledgeable adults.<sup>4</sup>

Proper child participation methodology needs to be effectively used. The creation of a space for children in a safe environment, is essential for effective child participation.

Child participation is a Children's Human Right that is an important gateway to all other Children's Human Rights.

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<sup>3</sup> Convention on the Rights of the Child, General Comment No. 12, para. 2.

<sup>4</sup>UN Common Approach to Justice for Children, p. 4.

These issues and others have been the subject by quite a number of Children with whom I have engaged during a considerable number of years.

Children who have been or are in court proceedings clearly state that they are not heard in court.

Some children have lost the trust of other professionals as the interpretation of their testimony and claims, feel that they should be transmitted by themselves and not communicated through other professionals.

Children too need to feel and see that justice is being done and seen to be done with them.

We need a change in culture and mentality and adopt a rights based approach when dealing with Children whether as victims or perpetrators.

Finally, yet importantly, all information and procedures must be available to children through a transparent, efficient, accountable and affordable process.