



LEBANON

Access to Justice and Conflict Resolution for Children in Syrian Settlements – Study Report Development

Terms of Reference

March 2019

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1. Terre des hommes foundation

Created in 1960, the Foundation of Terre des hommes Lausanne (Tdh) mission is to come to the aid of children in need. It endeavours at all times to defend the rights of children, in times of war and natural disasters, or in less publicised situations of distress. Today, Terre des hommes Foundation is the largest non-governmental organisation (NGO) for children's aid in Switzerland. Besides, Tdh has development projects and emergency relief programmes in more than 30 countries, including Lebanon, Jordan, Egypt, Palestine, and Syria among others. This engagement is financed by individual and institutional donations.

Over the last fifty years, Terre des hommes (Tdh) has developed in four core areas: Child Protection (with includes the Access to Justice and Migration Programmes at Tdh), Children's Health, Children in Humanitarian Crisis and advocacy for Children's Rights.

The Access to Justice (A2J) Programme is one of the key foundations of Tdh interventions across the world. Tdh's programme strategic plan creates a comprehensive framework for action that combines axes on operations, advocacy, research and quality and accountability, with a view to creating lasting and meaningful change in the lives of children in contact with the law. Within the programme, the institution has achieved to be the leading worldwide reference on restorative juvenile justice, contributing to develop and improve justice systems by enhancing the restorative approach and in particular by promoting alternatives to trials, detention and specialized custodial care for children, better prevention and reintegration, as well as synergies in contexts of legal pluralism among customary/informal and formal actors, both secular and religious

Tdh in Lebanon

Tdh opened its delegation in Lebanon in 1977. After a few years out of the country, Tdh reopened an office in 2006 in South Lebanon to respond to the humanitarian needs generated by the 33-day war between Israel and Lebanon, and soon became the main child protection (CP) agency in the Southern Governorate.

Within the Syrian Crisis context, with a response being implemented since 2012, Tdh was able to provide in the past years a variety of services to the most in need population being both Syrian refugee and vulnerable Lebanese/Palestinian communities including Psychosocial Support (PSS) activities, case management, community based interventions around CP and gender-based violence (GBV), relief items distribution as well as capacity building of local government and civil society actors.

In the context of the Syrian crisis, Tdh has been implementing projects dedicated to Syrian refugees and host communities since 2012 in South Lebanon and since 2017 in Mount Lebanon and Beqaa. In 2017, Tdh initiated an Access to Justice Program, focusing on engaging with religious courts and with informal justice stakeholders within the communities.

Tdh is funded by the UNICEF Child Protection department, through a project entitled "Step Forward - خطوة إلى الأمام - Improved and equitable prevention of and response to violence, abuse, exploitation and neglect, including Gender-Based Violence, for children and women" from 1 March 2018 to 30 June 2019. In this framework, Tdh is providing a comprehensive package of services for vulnerable Syrian, Palestinian and Lebanese children in order to enhance their well-being and to promote their social cohesion and resilience.

2. Background and Context

1. Informal justice system in Lebanon

The current general landscape of child protection and access to justice for children system in Lebanon presents different elements of complexity which affects the welfare of children, their different level or lack of access to protective holistic services, with a focus on justice as the entry-point:

- 1) Legal pluralism of Lebanon where a confluence of formal and informal systems¹ exists: (i) civil law system, (ii) religious justice system: 18 religious confessions that have judicial and legislative prerogatives different to each other, based on diverse cultural norms and practices and (iii) customary justice system applicable to concrete refugee communities. This entails different uncodified and non unified legislative norms and procedures, generating a lack of general and systematic child protection framework and different understanding of child rights and access to justice for children's safeguards.
- 2) Diverse populations that coexist in the country but are governed and/or follow/access to different child protection and justice procedures. Recent research showed how vulnerable Syrian communities currently living in Lebanon are concerned by local governance² and informal justice mechanisms³. A large population of Syrians is living in slums, squatting empty buildings or any kind of precarious housing. Those shelters have different size and composition, but they all seem to have developed community regulation mechanisms⁴.
- 3) Plurality of actors involved in both the formal and the informal systems. While a multi-sectoral approach is needed to comprehensively address the protection of children in contact with the law, actors in both systems, and within them, implement interventions and apply different legal frameworks in an uncoordinated manner. Indeed, both statutory (under Law 422/2002) and non-statutory actors (outside the scope of the Law 422/2002 – this includes even government agencies and non-governmental in addition to community- and faith-based organizations and religious leaders) play a key role when dealing with children in crisis. It is therefore relevant to seek the commonalities of different structures/schemes (local-level child protection sub-systems) to be able to start planting the seeds for a general child protection system across different communities in Lebanon.

The little qualified knowledge about informal channels/structures and how they relate or could be (better) related with the multi-tier formal structure in Lebanon challenges possibilities of enhanced

¹ According to the ToRs provided, within the context of the research study, the terms 'formal justice system' and 'informal justice system' are understood as follows:

- The 'formal justice system' refers to mechanisms, processes, and practices organized by the State and enforced by specific institutions that follow procedures determined by law. These include courts (civil, criminal, religious, and military), the police, prosecution offices and correctional facilities.

- The 'informal justice system' runs in parallel to the formal system. Although it may borrow many of the latter's features, it operates outside the bounds of a formal state-based legal system and applies non-state methods of conflict resolution. These processes may be run by traditional or religious authorities, elders or other community members.

² Al Masri, M, The Social Stability Context in the Nabatieh & Bint Jbeil Qazas, UNDP, 2016.

³ Deane, S., Conference Report Access to Justice for Syrian Communities – Formal Challenges, Informal Opportunities, 2016.

⁴ El Mufti, K., Access to justice for Syrian refugees in Lebanon: legal field study a survey of court cases against Syrian nationals in Lebanon for criminal matters, Unesco, CISH, 2015.

alignment, coherence and coordination among the local-level child protection mechanism within the overall child protection system. It is therefore required to deeply explore these elements to provide an informed picture of their functioning which will allow for the design of tailored-made child protection interventions, taking into account the different children's realities that concur.

Additionally, since 2014, the situation of displaced Syrian in Lebanon changed. The Lebanon authorities imposed "a *de jure* framework for a *de facto* situation. Specifically, the government stopped registration of displaced Syrians by UNHCR, stopped registering newborns (which opens the issue of statelessness), and intensified security raids and arbitrary arrests"⁵. Therefore Syrian shelters are vulnerable spaces where access to justice and informal legal mechanisms need to be studied and documented. Because they are surrounded by many risks⁶, the situation of Syrian children needs to be especially observed regarding access to justice.

2. Background on the study

At the end of 2017 Tdh launched a research aiming at obtaining information about how vulnerable displaced Syrian children access justice in Lebanon. Tdh aimed at learning about the challenges faced by vulnerable Syrian children when entering in contact with the formal justice system and at understanding if alternative conflict resolution mechanisms existed outside of the State justice system, and how children accessed justice through these informal or customary systems. Moreover the research aimed at specifically exploring the impact of displacement among Syrian population on the mechanisms to access justice.

In September 2018, a research amongst Syrian communities was launched in settings where Tdh has been implementing psychosocial and case management interventions to the most vulnerable children and families in South Lebanon. Four settings were selected to conduct this assessment: Bdaar/Wafta, Shawakeer, Deir el Qanoun Ras El Ain and Sedekin. The selection criteria took into account the level of security and accessibility to the settlements and the diversity of the communities (size of population and presence of children, nationality, vulnerability degree, prior history of child protection concerns related to justice access ...). Tdh teams working in Syrian settings were actively consulted in order to choose the sampled locations. The advice of the UNHCR in Tyr was also taken into account when proceeding to the selection of the research settings. Authorization from municipalities was obtained prior to the commencement of the research.

Research used a qualitative ethnographic approach. Semi-structured interviews and observation in the 4 selected settings were the main methods being used for data collection. Around 60 community members contributed with their opinions and perspectives in the matter during the on-site observations. Additional and more in depth key informant interviews were organized with 15 individuals (community leaders and IJS, landowners, religious leaders, representatives of municipalities and municipal police forces, children).

Based on the collected data, a preliminary analysis was produced but not completed.

3. Objectives and expected results of the consultancy

The aim of the consultancy is hence to finalise the analysis of the collected data on access to justice for children in Syrian settlements and to produce a study report on this basis.

The **main objectives** of the study are:

⁵ El Mufti, K., at the conference "Access to Justice for Syrian Communities: Formal Challenges, Informal Opportunities". UNESCO-CISH, LAU and IA, 2016

⁶ https://www.unicef.org/infobycountry/lebanon_94437.html

1. To **build knowledge** and understanding of the **mechanisms and processes in the informal/customary level** that deal with children in conflict with the law, victims and witnesses outside of formal judicial structures and map informal/customary actors, identifying their roles, their decision-making processes as well as the synergies with the formal justice system. Special reference to child marriage.
2. While seeking to develop better understanding of certain behaviours, processes and decisions, to **act upon and influence these behaviours, processes and decisions, to make them better for children** (evidence based data can support Tdh developing concrete interventions at a later stage). Hence, the study aims at providing recommendation towards this direction.

Globally, the study aims at understanding among other topics:

- Do Syrian communities in Lebanon use alternative conflict resolution/does informal justice systems exist in Syrian communities in Lebanon? Does the community use informal justice systems instead or in complement to the formal justice system?
- If Syrian communities use alternative conflict resolution, who are the actors involved? Who, in the community, does conflict resolution? What are their profiles and where does their legitimacy to solve conflicts come from?
- How does this informal justice system work and how is decision making done especially in cases involving children, including children perpetrators, victims or witness? Who are the actors involved in child marriage cases (role, profile)? How is decision-making done in child marriage cases and what are the synergies with the formal justice system?
 - Special attention will be paid to the role and voice of the child in these proceedings (child participation).
 -

More details on the research questions can be found in annex 1.

4. Methodology

The consultant or consultancy team will be provided with several relevant studies and researches done on similar subjects as well as all raw material collected through the data collection phase, including observation records, transcripts of Key Informant Interviews (KII) and Focus Group Discussion (FGD). All data has been recorded in a field observation journal by the data collectors.

The consultant or consultancy team will be in charge to:

- Produce a literature review on access to justice for Syrian children
- Produce an analytical report based on the raw collected material
- Organize and conduct additional KII/FGD to collect children's views if needed, with the support of Tdh staff
- Draw recommendations on how to engage with community members, including traditional and customary justice actors, to reinforce children access to justice while assuring their protection against abuse, violence and discrimination
- In a technical annex to the report, and based on the collected data, highlight the role and profile of the main actors influencing, enabling and/or conducting child marriage at community level in the targeted Syrian settings. It is up to the consultant to determine if additional KII/FGDs are necessary for this purpose and to include it in the inception report.

Should complementary information be required, skype meetings can be organized at national level.

5. Deliverables: Study report

An inception report will be submitted which will detail the methodology for conducting the analysis of the raw data as well as the report outline. The report shall be submitted and validated by Tdh in

the timeframe mentioned under “Period, duration of the consultancy and tentative workplan” (point 7).

A study report shall be submitted to the Access to Justice Program Manager which shall include at minimum and not exclusively:

- ✓ An executive summary (max. 4 pages)
- ✓ An automatic table of contents
- ✓ A list of annexes, glossary, tables, figures, pictures, graphs, maps, bibliography, etc.
- ✓ An introduction
- ✓ The presentation of the methodology, scope and limitations
- ✓ A background chapter (short)
- ✓ A literature review
- ✓ The main findings (including disaggregated data and qualitative data from interviews and FGDs)
- ✓ Detailed recommendations against the main objectives of the consultancy to support in building an A2J program tailor-made intervention with Syrian children and their families.
- ✓ Conclusion
- ✓ Annexes: all tools, bibliography...

The report shall be written and submitted in English.

The study will aim to reach actionable conclusions and interpretations using the SMART criteria making a full use of all the data collected.

6. Modalities of the consultancy

The consultancy will be conducted by an external consultant or a team of consultants.

The **main focal point** will be Nathalie Hobeika, Access to Justice Program Manager in Lebanon. The **secondary focal point** will be Sophie Coelho, Technical Unit Manager in Lebanon.

Technically, the consultant may also have skype calls with the Access to Justice Regional Coordinator if needed to discuss and approve the contents and the main aspects of the study.

7. Period, duration of the consultancy and tentative workplan

The consultancy will last 54 open non consecutive days and should start around April 1, 2019 and be finalized by May 24, 2019.

The proposed workplan of the consultancy is as follows (to be adjusted as deemed necessary by the Consultant/Consultant team in the technical offer):

4 days	Skype briefing, desk review of the available documents (literature and raw data) that could be informative for the consultant – submission of the inception report	Home based
<i>(3 days)</i>	<i>Review and validation of inception report by Tdh</i>	
12 days	Report writing	Home based
<i>(7 days)</i>	<i>Review by Tdh</i>	
2 days	Review of the report after having received Tdh’s feedback	Home based
18 days	Total	

The workplan may be subjected to some adjustments according to the needs of the consultancy, especially if the consultant/consultancy team finds necessary to conduct additional KII/FGD as explained under “Methodology” (point 4).

8. Terre des hommes Child Safeguarding Policy

Tdh Lausanne commits to best practice in Child Protection in the implementation of its projects, following its own Child Safeguarding Policy. Besides, in the event of partnering with local organizations, Tdh Lausanne ensures that they also develop and apply a Child Safeguarding Policy. In this framework and provided that the consultant/consultancy team will be in contact with Tdh partners and beneficiaries, they will be requested to sign and follow Tdh Child Safeguarding Policy and will therefore be briefed accordingly. Consultant will also be requested to sign the Tdh Policy on the Protection from Sexual Exploitation and Abuse (PSEA).

9. Budget

The total cost of the consultancy should not exceed **11,000\$**, including consultancy fees.

Tdh applies its own consultancy rate of \$ 420 per day.

No field visit will be required except if KII/FGDs are necessary to collect children's views and all work can be undertaken remotely.

10. Profile of consultant

- Proven technical knowledge and expertise on access to justice for children and child protection
- Proven research and analytical skills, experience in leading studies. Knowledge of the Syrian crisis preferred
- Experience with both quantitative and qualitative data collection methods in the frame of humanitarian and development projects
- Excellent writing and reporting skills
- Excellent knowledge of English

Additional requirement:

- Clean Police background record
- Acknowledged similar consultancies with recognized organizations

11. Submission of the application

To be considered, interested and qualified consultants must submit the following documentation:

1. Curriculum vitae (max. 3 to 4 pages highlighting work experience and qualifications relevant to this consultancy)
2. Full contact details of at least two references from among recent clients
3. One sample report highlighting experience relevant to this situation analysis
4. A technical offer comprising:
 - Understanding of the objective of the Consultancy and the Terms of Reference (ToR);
 - Outline of the methodology and tools proposed;
 - A chronogram showing details for the realization of the analysis. The schedule proposed should include time for briefing and debriefing at the delegation mission and HQ level as far as possible.
5. A Financial offer

Please send your applications to: lbh.hr@tdh.ch

Deadline for submissions is **March 20, 2019** (COB, Lebanon Time). **Only applicants submitting complete applications will be considered and only those short listed will be contacted.**

Annex 1. Research questions by thematic

A – Social context and access to justice

In the first place, the research will focus on the general context of shelters regarding the social environment and the global social situation (economic, legal status, etc.). We need to understand in priority the everyday life of vulnerable Syrian populations, regarding the experience of displacement, the life in substandard accommodation, the situation in terms of work or the global health situation. We will focus our research on the customs and habits of communities when it comes to the role of children in the community, the rights and obligations of children, the role and responsibilities of the parents vis-à-vis their children, the role and responsibilities of the extended family and the community vis-à-vis the children, etc.. The situation of children in this environment will be especially observed (life conditions, school intendance ...).

This first point will help understand if the Syrian populations of Lebanon access their rights. Do they mobilize authorities when they are facing a problem? How and why are they interacting with authorities? Moreover, the research will help analyzing why the Syrian communities are not always attending their rights and don't meet the legal institution in every case. On this specific point, the situation Syrians are encountering in terms of legal status will need to be apprehended and described.

The social structure of the communities will also be observed. The economy of relations and the system of inter-connection between people, what Arabic society calls *wasta*⁷, will help analyzing the access to the formal and informal justice. This context needs to be described understanding the position of Syrians in their living areas and the relation they have with the neighborhood and local authorities.

B – Process of conflict resolution in cases where children are involved

Then, the research aspires to understand what kind of conflict resolution, local justice, informal justice or any community mediation is appearing in the Syrian shelters when children are involved. We are especially interested in understanding if alternative conflict resolution mechanisms exist in Syrian communities outside the Lebanese legal justice system. The idea is to assess the influence that some informal actors may have in cases where minors are concerned. Do communities use informal justice systems instead or in compliment to the formal justice system?

If Syrian communities use alternative conflict resolution mechanisms, who are the actors involved? What are their profiles and where their legitimacy to solve conflicts comes from? Drawing a general picture of the process is necessary to know who the community mediators are and how conflicts are cared. We need to assess the position, the profile and the role of conflict resolution actors. Why and how they access this position? How are they mobilized? Are they members of the community or outsiders? More specifically, we aspire to understand if those regulation mechanisms are built from traditional, customary and/or religious principles. How is the child defined and how are child rights standards and principles (child-friendly justice, child participation, reintegration etc.) defined and perceived in these regulation mechanisms?

• ⁷ Mohamed, A-A., Hamdy, H., "The stigma of *wasta*: The effect of *wasta* on perceived competence and morality", Ideas, 2008. Barnett, A., Yandle, B., Naufal, G., "Regulation, trust, and cronyism in Middle Eastern societies: The simple economics of "*wasta*", The Journal of Socio-Economics, 2013.

The process of conflict resolution will be especially observed. When an informal system is in place, how the actors are organizing themselves? Is the process always the same or does it depend on the cases? Are there spaces of resolution (meetings, committees...) or only informal conversations? We will look at the negotiation process between parties and try to understand if parents and children are involved in the decision process. What is the role of the parents in the conflict resolution? What is the role of children in all the decision making process? Is their voice heard? Do they have a say on the final decision? Also, we would like to analyse how the informal justice system meets the Lebanese national laws. Is there tension or cohabitation? Is there a hybridity (tangible process/es regarding children in which informal and formal justice structures collaborate and complement)?

C - Decisions and philosophy underlying informal justice

Finally, the research will focus on the decision taking by informal system. What kinds of sentences, punishment or any kind of consequences are taken? When there is a conflict, what kind of decision is taken and how the conflict can be ended? Which criteria are taken into account for decision making? What is taken into consideration? For whose best interest? We will understand how this informal justice system works and how decision making is done especially in cases involving children, including children perpetrators, victims or witnesses. We will look at the way the informal justice system reaches or not to decisions.

When a decision is taken, what kind of flexibility or negotiation is possible against it? Does the decision can be contested and by whom? Answering these questions will help understanding the influence and the authority that informal justice system has in the communities. Is the local regulation and "governance" respected and accepted by every member of the community?

To conclude, the research will focus on the philosophy and the ideologies underlying the community regulation. What are the aspiration and the consequences of informal justice? What was the primary premise behind decisions? Which interest was prioritized? When is the conflict considered resolved? We will particularly be interested on the ideology reflected behind the informal system. Does the regulation anchor a collective stability or prioritize individual rights?