

**15-20 November 2021**

*“Ensuring access to justice for all children: towards non-discriminatory and inclusive child justice systems”*

Workshop Programme

### The ongoing relevance of customary justice in contemporary contexts

<b>Date</b>	<b>Wednesday, 17th November 2021</b>	
<b>Timing</b>	14:00 - 15:30 CET	13:00 - 14:30 London
<b>Organiser(s)</b>	Erica Jane Harper	
<b>Institution</b>	Leiden University	
<b>Type of Workshop</b>	Panel Discussion	
<b>Topics</b>	Fulfilling children's rights in contexts of legal pluralism.	
<b>Region</b>	Europe	
<b>Language</b>	English	

#### Abstract

While the importance of customary and informal actors promoting access to justice is broadly acknowledged, the role and experiences of children in such processes has been underexamined. To the extent that research and policy does address children as a specific group, the focus has been how such processes can discriminate against vulnerable groups and the scope for rights abuses. There has been less attention paid to the specific needs and vulnerabilities of children involved in dispute resolution, and how customary justice systems accommodate or compromise these. Indeed, best practices in juvenile justice prescribe a set of norms specific to children, including a presumption against prosecution, individualized decision-making, outcomes geared towards rehabilitation and detention as a last resort. It is thus important to examine customary processes through a child-specific lens, including vis-à-vis their likely treatment at the formal justice system, as well as the specific implications for children of (in)coherence between customary and informal and formal systems

Another important dimension to this discussion is the growing number of contexts where customary and informal justice systems are likely to play an important role in dispute resolution, including disputes that involve children. Examples include in conflict-affected and fragile states where states institutions may be inaccessible or non-operational; the use of tribal customary justice processes to facilitate the reintegration of Iraqi and Syrian families (a majority of which are children) being released from camps; and the ongoing establishment of an entirely new justice system based on a conservative interpretation of Islam in Afghanistan

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To facilitate an informed discussion around these themes, this panel will consider:

- a. the operation of customary and informal justice processes through a child-specific lens,
- b. country contexts where customary and informal processes are likely to become increasingly relevant for resolving disputes involving children,
- c. challenges associated with coherence and coordination between customary and informal and formal systems in engaging with children, and
- d. practical considerations for national and international actors (including donors) when planning programming interventions with customary and informal justice systems geared towards children.

### Objectives

- Provide practical insight into the experiences of children participating in customary and informal justice processes, including case typology, methodologies applied, actors involved etc.
- Evaluate and discuss the scope for due process and rights violations in customary and informal processes, and the opportunities for closing such gaps.
- Evaluate and discuss the advantages offered by customary and informal justice processes for dealing with children in conflict with the law, including vis-à-vis and in possible coordination with the formal justice system.
- Discuss means of promoting enhanced programmatic engagement in customary justice systems, including in complex emergencies and post-conflict contexts, with special interest in donor policy and practice.

### Expected outcomes

- Enhanced understanding of the relevance of customary justice systems in promoting and safeguarding children's rights in justice processes.
- Insight into the operation of customary justice processes with specific reference to children in (i) complex emergencies (ii) reintegration processes (iii) fragile states.

### Speakers

1. **Erica Harper**  
Assistant Professor, Leiden University.

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Erica Harper is a practitioner-academic with a background in socio-legal studies. She works as an Assistant Professor at the Van Vollenhoven Institute, teaching courses on human rights and legal pluralism.

Dr Harper has extensive programming and policy experience in the human rights, legal empowerment and gender fields, having worked for a variety of UN agencies and non-government organizations in Timor Leste, Indonesia, the Philippines, Jordan and Somalia. Such experiences comprised both direct program design and implementation, as well as the management of action-based research projects. Immediately prior to joining the Van Vollenhoven Institute, Dr Harper established and served as the Executive Director of the West Asia-North Africa Institute, a Jordan-based policy think tank specializing in security studies, economic policy and good governance. During her 5-year tenure, the Institute grew to become one of the region’s leading think tanks, staffed by 25 researchers and producing approximately 70 publications annually, including academic journal pieces, policy white papers, books and print media pieces.

Dr Harper’s current research interests center around aid effectiveness, and the intersectionality between economic development, security and the rule of law. She is designing a multi-country research project examining best practices in the reintegration of former foreign fighters and building resilience against violent extremism in children and youth.

Dr Harper holds a Bachelor of Laws (hons) and Bachelor of Commerce in Economics, both from Macquarie University, and a PhD in International Law from the University of Melbourne. She has authored five books, including on aid effectiveness, customary justice and rule of law programming, as well as four edited volumes on the subjects of customary justice and good governance in the Middle East.

### **2. Michael Warren**

Michael Warren is Research and Learning Manager at the International Development Law Organization (IDLO). IDLO is the only global intergovernmental organization exclusively devoted to promoting the rule of law to advance peace and sustainable development. Previously, Michael served as Security & Justice Expert at Cordaid, and in a wide range of professional and consulting roles for CSOs and UN agencies focused on governance, justice and security sector reform, and peacebuilding.

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### **3. Mélisande Genat**

Mélisande Genat is a doctoral student in History at Stanford University (U.S.A). She is also preparing reports for various UN agencies in Iraq. Her dissertation is entitled "Tribes, State, and Ethno-religious Identities in Iraq (1918-2021). She has been living and conducting research in Iraq since 2010.

### **4. Masood Karokhail**

Masood Karokhail is the Director and co-founder of The Liaison Office (TLO) established 2003 in Kabul, Afghanistan. He is also the co-director of Afghanistan Mechanism for Inclusive Peace (AMIP). Karokhail is strongly committed to engaging customary and state institutions to promote good governance, access to justice, livelihood improvements and civil society across Afghanistan. Karokhail received his MBA from Preston University in Islamabad, Pakistan and was a visiting research fellow at the Centre for Development Research (ZEF) in Bonn.

### **5. Hedayatullah Rameen**

Born in Kabul, Afghanistan in 1989. I joined Terre des hommes Foundation in Afghanistan, the Juvenile Justice team in 2012. I oversaw the overall implementation of Tdh Access to Justice team in Afghanistan across the country until July 2019. I also supervised the team who facilitated Tdh MEAN action oriented regional research part on Customary Justice for Children in Afghanistan. I joined Terre des hommes Delegation in Iraq and was among one of the first few staff who initiated Tdh Juvenile Justice Programming in Iraq. Since August 2020 till date, I work as Child Protection Project Manager with Terre des hommes in Iraq.