



General Assembly

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Human Rights Council

Forum on Human Rights, Democracy and the Rule of Law

Third session

16–17 November 2021

Item 1 of the provisional agenda

Adoption of the agenda and organization of work

Annotated provisional agenda

Provisional agenda

1. Adoption of the agenda and organization of work.
2. Equal access to justice: a foundation for human rights, democracy, the rule of law and sustainable development.
3. Making justice truly accessible to all.
4. When emergency strikes: access to justice in times of crisis.
5. Broadening the horizons of access to justice.

Annotations

1. Adoption of the agenda and organization of work

(a) Venue

1. Pursuant to Human Rights Council resolution 40/9, the third session of the Forum on Human Rights, Democracy and the Rule of Law will be held in a hybrid format, at Geneva and virtually, on 16 and 17 November 2021.

(b) Opening of the session

2. The President of the Human Rights Council will deliver an opening statement, to be followed by statements by the United Nations High Commissioner for Human Rights and the Chair of the Forum.

(c) Documentation

3. Participants at the session will have before them the provisional agenda contained in the present document to consider for adoption. A tentative schedule for the organization of work for the session is contained in the annex.
4. Documents for the session will be made available on the web page of the Forum.¹

¹ www.ohchr.org/democracyforum.



(d) Panel discussions

5. After presentations introducing the items on the agenda, an open discussion will follow, to which all participants will be invited to contribute.

6. Panel discussions will cover aspects of the theme “Equal access to justice for all: a necessary element of democracy, the rule of law and human rights protection”, as decided by the Human Rights Council in its resolution 40/9.

2. Equal access to justice: a foundation for human rights, democracy, the rule of law and sustainable development

7. In the report entitled “Our common agenda”,² the Secretary General identified justice as an essential element of the social contract. He stressed the need for a renewed social contract between Governments and their people, and within societies, so as to rebuild trust and embrace a comprehensive vision of human rights. Transforming justice systems, including by putting people at their centre, can strengthen the bonds that hold our societies together.

8. Discussions under the item will be centred on the ways in which equal access to justice is the foundation of governance systems based on human rights, democracy and the rule of law, and the ways in which equal access to justice is also crucial for sustainable development.

9. Discussions will also be focused on the ways in which human rights-oriented, effective and inclusive justice systems are central to democratic governance and the rule of law. In particular, participants will consider the ways in which an independent judiciary is an integral component of an accountable system, characterized by checks and balances aimed at preventing abuses of power.

10. In addition, discussions will be aimed at illustrating the ways in which access to justice can safeguard participation by protecting democratic space, such as by protecting the right to freedom of expression, including media freedom and access to information, the right of peaceful assembly and the right to freedom of association, and ensuring accountability for human rights violations. The crucial role played by an independent legal profession in ensuring that the rule of law prevails, and that people’s rights are protected effectively, will be highlighted. Participants will also consider the ways in which access to justice guarantees electoral processes that are genuine and reflect the freely expressed will of the people.

11. In the 2030 Agenda for Sustainable Development, States pledged to promote the rule of law and to provide access to justice for all. Participants will consider how Sustainable Development Goal 16, and particularly its targets on access to justice and governance, can act as enabler for all of the Goals, including targets relating to economic and social development, health and climate.

3. Making justice truly accessible to all

12. It is estimated that 1.5 billion people have unmet criminal, civil or administrative justice needs. Access to justice is critical to ensuring the full enjoyment of human rights by everyone and to combating social and economic marginalization. Participants will consider the ways in which a lack of access to justice limits the ability of people to have their voices heard, hold decision makers accountable, challenge discrimination and seek remedy for crimes and human rights violations and abuses.

13. Discussions will be focused in particular on the enjoyment of the rights to equality before the courts and tribunals, to a fair trial and to equal access to an effective remedy. Participants will also consider the measures needed to guarantee that people are placed at the centre of justice systems, ensuring that they can equally and effectively participate, directly or indirectly, in legal proceedings.

14. Participants will discuss the specific challenges faced in access to justice for various constituencies, as well as the ways in which intersecting forms of discrimination affect the enjoyment of the right to access to justice. Those challenges are experienced in particular by

² A/75/982.

women, minorities, including people of African descent and religious minorities, indigenous peoples, children, young people, older people, persons with disabilities, lesbian, gay, bisexual, transgender and intersex persons, refugees and other migrants, internally displaced people and stateless people.

15. Discussions will also cover the role of customary and informal justice systems. Participants will discuss access to such systems and the importance of their functioning in accordance with international human rights standards. Participants will consider the need for recognition of, and the provision of support for, indigenous peoples' own justice systems in accordance with international human rights standards.

16. The recent worldwide mobilizations of people calling for racial justice has illustrated the ways in which systemic racism shapes the interactions of people of African descent with law enforcement officials and the criminal justice system. Participants will tackle the role that access to justice plays in ensuring racial justice, and the need for the systematic collection of disaggregated data to combat discrimination in the delivery of justice.

17. People living in poverty often face structural, social and economic barriers that prevent them from seeking and obtaining justice on equal terms, which often intersects with other forms of discrimination. Discussions will be focused on the need to facilitate the legal empowerment of persons in situations of vulnerability, in particular women and girls, and the importance of legal aid, as essential elements of a fair, humane and efficient justice system that is based on the rule of law.

4. When emergency strikes: access to justice in times of crisis

18. The COVID-19 pandemic has illustrated the ways in which public emergencies exert great pressure on human rights, democracy and the rule of law. Despite all challenges faced in times of crisis, justice systems must continue to perform their critical judicial oversight role, ensuring that all emergency measures adopted to face the crisis are anchored in human rights and the rule of law.

19. The strategies adopted by justice systems to ensure continued, equal access to justice, including legal assistance and aid, throughout crises such as the COVID-19 pandemic will be explored, and participants will consider the ways in which the lessons learned in that context can strengthen the resilience of such systems and guide rights-based responses to future crises, including those of a humanitarian nature.

20. Limitations on the operation of courts during emergencies have an immediate impact on the realization of the guarantee of fair and public hearings and the requirement of expeditiousness. Participants will consider opportunities provided by information and communications technologies for ensuring continued access to justice, as well as possible risks arising from their use. They will also consider the mitigation measures needed to ensure that technology does not exacerbate inequalities and that justice remains people-centred in times of crisis.

21. Discussions will also be focused on the ways in which crises may further exacerbate the intersecting forms of discrimination that impede access to justice, as highlighted in the context of previous panel discussions. Participants will discuss the impact of delays in acquiring access to justice faced by specific constituencies, including the continuum of adequate criminal justice responses to gender-based violence and the nature of such life-saving services.

5. Broadening the horizons of access to justice

22. Justice systems play a primary role in ensuring that people have access to effective remedies to uphold human rights. Building on previous panel discussions, participants will consider the ways in which effective justice systems that are human rights-oriented can correct, rather than perpetuate, injustices and inequalities.

23. Discussions will be aimed at identifying gaps in the current functioning of justice systems, which compromise their ability to respond to today's challenges, such as corruption and systematic attacks on the independence of judges and lawyers. Participants will also discuss the ways in which justice structures, processes and tools, such as trial monitoring,

can adapt, including in the light of innovation and digital transformation opportunities, to ensure a more responsive and people-centred justice system that can deliver just outcomes.

24. Participants will discuss the ways in which people are strategically seizing justice systems to broaden public awareness of, and find solutions to, challenges that communities across the world face today, such as inequality, systemic racism and climate change. Discussions will be focused on the ways in which such efforts aim to empower victims and ensure redress for human rights violations, including as a means to push for reform and bring about broader changes in society.

25. Participants will consider the ways in which justice systems can act as a tool for prevention, addressing systemic injustices, decreasing risks of violence and conflict, strengthening trust in governments and institutions, ensuring accountability and, more broadly, protecting human rights.

Annex

Organization of work of the third session of the Forum on Human Rights, Democracy and the Rule of Law

Tuesday, 16 November 2021

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| 10 a.m. to 1 p.m. | Adoption of the agenda and organization of work (item 1) Opening of the session Welcome and opening remarks by the President of the Human Rights Council Remarks by the United Nations High Commissioner for Human Rights Remarks by the Chair of the Forum Equal access to justice: a foundation for human rights, democracy, the rule of law and sustainable development (item 2) Panel discussion |
| 3 p.m. to 6 p.m. | Making justice truly accessible to all (item 3) Panel discussion |
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Wednesday, 17 November 2021

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| 10 a.m. to 1 p.m. | When emergency strikes: access to justice in times of crisis (item 4) Panel discussion |
| 3 p.m. to 6 p.m. | Broadening the horizons of access to justice (item 5) Panel discussion Concluding remarks |
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