OPEN SOCIETY FOUNDATIONS

Bringing Justice to Health: A Good Practice Guide—DRAFT
As of April 3, 2014

TABLE OF CONTENTS (condensed)

INTRODUCTION

1. *The purpose of this Guide*

Access to justice is integral to achieving broader development gains, including in the domain of health. Recent years have borne witness to a remarkable breadth of strategies on the part of civil society and community-based organizations to promote access to justice among socially excluded populations. With the support of multilateral development agencies and bilateral donors, these organizations have yielded impressive results. These include reductions in domestic violence, enhanced due process protections for indigent criminal defendants, and improved land and livelihood security.

Since 2006, the Public Health Program (PHP) of the Open Society Foundations (OSF) has supported projects promoting access to justice in ways relevant to the health concerns of socially excluded groups. It has placed special focus on programs working with
- sex workers
- people who use drugs
- people living with HIV/AIDS
- palliative care patients
- Roma
- people with intellectual disabilities

This Guide encourages other donors and implementers of access to justice work to support and develop programs that advance the well-being of these populations in holistic ways. It canvasses all aspects of design and delivery of access to justice programming and, in so doing, shares key lessons learned by OSF and its grantees in carrying out their work.

2. *Reflecting an expertise built from the ground up*

Access to justice programs working with socially excluded groups require a specialized expertise about the links between their health and human rights concerns. This includes an evidence base attuned to quantifiable health markers, as well as the qualitative factors at play when assessing progress in the realm of human rights. It also requires that donors and implementers develop the trust of the communities they aim to support. This is especially true where a population's experience of the justice and health care systems has left them wary of seeking or accepting help.

OSF reflects the importance of this trust by supporting programs that involve the direct participation of the communities they work with. This participation has been critical to identifying the health and rights needs of socially excluded groups, and generating awareness of the services offered by its grantees. Indeed, to be effective, donors and implementers should solicit the needs of these groups on the ground. They can do this by supporting grassroots, "bottom-up" approaches to access to justice programming.

3. *Conveying lessons drawn from a range of approaches*

This Guide explores a range of approaches to promoting access to justice with an emphasis on health. OSF works with its partners on the ground to determine which approach—or blend of approaches—holds the most promise in a particular context. This differs according to
- the socially excluded population in question
- their national or regional setting
- the relative breadth of their health and human rights concerns

In certain settings, it is most effective to develop community-based programs that use paralegals to connect their peers to medical and legal support. In others, it may be better to identify lawyers willing to work directly with socially excluded groups, or to engage with customary justice structures capable of resolving their

disputes quickly and inexpensively. Other contexts might call instead for the integration of legal services and medical care in a "one-stop shop," or the provision of web-based resources that tailor legal information to the concerns of socially excluded groups.

This Guide aims to integrate and impart the lessons learned from these approaches, as used by a variety of programs supported by OSF. Its goal is to encourage others to help this work flourish.

4. *Promoting sustainability, preparing for scale-up*

OSF's history of funding and support has led it to recognize a host of good practices assuring the sustainability of its grantees. Developing these practices has helped ensure these programs have enduring impact on the health and human rights of socially excluded groups. This Guide reinforces the importance of key strategies in assuring this impact. These include
- working with socially excluded groups to help them understand and claim their health and human rights
- encouraging law enforcement bodies and other state actors to account for the health and rights concerns of these groups
- equipping health care providers to recognize, and resolve or refer, their patients' legal problems

In addition, this Guide represents an important juncture in OSF's transition from supporting pilot projects to devising strategies for scale-up. This involves a shift from a demand-driven, "anything goes" approach to one that builds on what has worked well. Now is the time to recognize where and how resources are best deployed to support programs that promote the health and human rights of socially excluded groups. To do so, this Guide lays bare the most promising means for supporting and scaling up this work, which continues to yield compelling health- and rights-related gains.

A guide to the Guide

The first three chapters of this Guide are as follows:
- The **Background** chapter discusses the impact of access to justice on health, with an emphasis on socially excluded communities. It also offers an overview of the values and considerations that have guided the PHP in advancing health and human rights in tandem.
- The **Focus Populations** chapter covers each of the socially excluded groups supported specifically by the PHP, together with national foundations of OSF. It explains the rights violations these groups face most often, and how these abuses compromise their health.
- The **Approaches** chapter explores five approaches to promoting access to justice among socially excluded groups. These include (i) the use of community-based paralegals; (ii) lawyering for the marginalized; (iii) working with customary justice structures; (iv) integrating legal services into health care settings; and (v) virtual legal aid.

The remainder of the Guide reflects **Cross-cutting Issues** applicable to the approaches listed above. This begins with a chapter on **Assessing the Need** for legal services tailored to socially excluded groups.

Next, a chapter on **Justice Services** covers four means by which access to justice programs can complement their provision of legal information, advice, and representation:
(i) **Training and other educational activities**;
(ii) **Mediation and other alternative dispute methods**;
(iii) **Communications and media strategies**; and
(iv) **Referrals and partnerships**.

A chapter on **Monitoring** follows next. This chapter exposes good practices related to case management, documenting human rights violations, and evaluations. From this flow chapters on **Social Accountability**, **Advocacy**, and **Strategic Litigation**.

The Guide concludes with a discussion of **Sustainability and Scale-up** factors applicable to programs that promote the health and human rights of socially excluded groups.