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**ACCESS TO JUSTICE BY VULNERABLE PEOPLE IN SOMALIA: CASE
STUDY OF MOGADISHU**

Issa Ahmed Warsame

UPEACE: PhD Candidate in Peace, Governance, Development (PGD), C7,
Somali Program, Mogadishu, Somalia

Corresponding Author: **Issa Ahmed Warsame**



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Corresponding Author: **Issa Ahmed Warsame**

Email: issasom@hotmail.com

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Abstract:

Purpose of Study: This study examines barriers to access to justice among internally displaced persons (IDPs), women, and persons with disabilities (PWDs) in Mogadishu, Somalia. It synthesizes evidence on structural, legal, and socio-cultural constraints, explores the interaction of formal, customary, and religious justice systems, and identifies gaps and priorities for inclusive sector reform.

Methodology: The study used a desktop narrative review of peer-reviewed academic literature, reports from international organizations, and policy documents. Sources were identified through academic databases and institutional websites using terms related to justice, Somalia, legal pluralism, displacement, gender-based violence, and disability. Eligible English language materials

were assessed and were then thematically synthesized.

Findings: The review indicates that access to formal courts is constrained by distance, cost, insecurity, corruption, limited legal aid, and institutional weaknesses. Reports provide estimates of formal-court access of 15% for IDPs, 10% for women, and 5% for PWDs, while noting that sources use differing methods. Customary Xeer and Sharia mechanisms remain used because they are familiar, accessible, and culturally embedded, yet may lack oversight and procedural safeguards. For sexual and gender-based violence, the material reports low formal prosecution, frequent informal settlement, underreporting, and case withdrawal linked to stigma, retaliation, and family pressure. Evidence on disability and intersecting vulnerabilities remains limited.

Conclusion: The review concludes that access to justice in Mogadishu is shaped by structural exclusion and social power. Improving access requires strengthening courts and legal aid, making services disability-inclusive, supporting survivor centered responses to violence, and engaging customary and religious providers with human rights safeguards. Intersectional research and disaggregated evidence are needed.

Keywords: *Access to Justice, Vulnerable Populations, Somalia, Mogadishu, Legal Pluralism, Legal Empowerment, Human Rights, Gender-Based Violence*

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1.0 INTRODUCTION

Access to justice is a fundamental human right and a prerequisite for the protection of other rights, the resolution of disputes, and the accountability of power. In post-conflict and fragile states, the delivery of justice is particularly critical because it is the most vulnerable populations—those displaced, marginalized, or discriminated against—who suffer most acutely when justice systems fail (Abdulahi, 2023). Justice is not merely a legal concern; it is intimately connected to governance, poverty reduction, and security. Without meaningful access to justice, individuals cannot claim their rights, seek redress for grievances, or hold institutions accountable.

Somalia has experienced decades of civil war, political instability, and weak governance, resulting in the collapse of the central legal system and the erosion of formal judicial institutions. Despite ongoing efforts to rebuild the judiciary since the establishment of the Federal Government in 2012, progress has been uneven. The legal landscape in Mogadishu is characterized by legal pluralism, encompassing three distinct systems: the formal state courts, the customary Xeer system, and Sharia courts (Abdulahi, 2023). These systems coexist, often uneasily, and their interaction shapes the justice-seeking experiences of ordinary Somalis. Informal systems, while culturally embedded and accessible, are frequently not inclusive or rights-based, particularly for women, persons with disabilities (PWDs), and internally displaced persons (IDPs), who face discrimination and social exclusion.

This article assesses access to justice for vulnerable groups in Mogadishu by identifying the structural, legal, and socio-cultural barriers that impede justice delivery. The study employs a desktop review methodology, synthesizing findings from academic literature, reports by international organizations, and policy documents. It analyzes the plural legal order, evaluates institutional capacities, and examines the justice-seeking strategies of marginalized communities. In doing so, the article contributes a synthesis of existing evidence, identifies critical gaps in the literature, and offers specific recommendations for reform. While the study focuses on Mogadishu, its findings have implications for justice sector reform across Somalia and other fragile states grappling with legal pluralism.

2.0 LITERATURE REVIEW

2.1 Legal Pluralism in Somalia

Somalia's justice system comprises three major branches: the state judiciary, which is legally structured but limited in reach; the clan-based Xeer system, which is rooted in customary law and social contract; and Sharia courts, which apply Islamic law (UNDP, 2021). This tripartite system

reflects Somalia's history and social organization, but it also creates complexity and inconsistency in justice delivery. The formal court system is used by less than one-fifth of the population, according to UNDP (2021), due to its limited geographic reach, perceived corruption, and slow processes. The World Bank (2020) reports that Somalia allocates less than 1.5 percent of its national budget to the justice sector, resulting in inadequate infrastructure, insufficient personnel, and limited coverage.

The post-2012 reconstruction of the formal judiciary has been moderate, particularly in Mogadishu, where federal institutions are concentrated. Key challenges include limited human resources, insecurity in and around court facilities, and inadequate funding (World Bank, 2020). These constraints undermine public confidence in the formal system and drive litigants toward informal mechanisms. As Menkhaus (2014) observed, the persistence of a "functional failed state" in Somalia means that customary and religious institutions have filled the governance vacuum left by the state, often with greater legitimacy and accessibility than formal structures.

2.2 Barriers Facing Vulnerable Populations

Existing literature identifies structural and socio-cultural barriers that disproportionately affect vulnerable groups. According to UNHCR (2022), there are over 3 million IDPs in Somalia, most of whom live in informal camps on the outskirts of Mogadishu. IDPs face discrimination, forced eviction, and minimal legal protection. Their displacement often strips them of clan affiliation, which is a critical source of social support and legal standing in Somali society. As a result, IDPs are among the most marginalized populations in terms of access to justice. Glass et al. (2019) found that IDPs' poverty, restricted mobility, and remote residence render formal justice services virtually inaccessible, forcing them to rely on informal mechanisms that may lack capacity to ensure due process.

Women face gender-specific barriers, including fear of retaliation, stigma, and socio-cultural norms that discourage them from seeking legal remedies through formal courts. Human Rights Watch (2021) reported that only 9 percent of reported cases of sexual and gender-based violence (SGBV) are ever brought to court; the majority are referred to customary or religious mechanisms that often perpetuate patriarchal norms and fail to deliver accountability. Women's access to justice is further constrained by limited legal literacy, lack of female representation in judicial institutions, and the absence of victim-friendly procedures. Ibrahim et al. (2022) documented that women in Somalia face a "double burden" of gender discrimination and institutional failure, with mental health consequences that further impede their ability to seek justice.

Persons with disabilities face compounded marginalization. The literature on disability and access to justice in Somalia is sparse, but available evidence suggests that PWDs encounter physical

barriers to accessing courts, lack of procedural accommodations, and limited awareness of their rights (Lindley, 2013). There are no specific laws protecting the rights of PWDs in Somalia, and legal procedures rarely accommodate hearing, visual, or mobility impairments. The Heritage Institute for Policy Studies (2020) noted that while customary and Sharia courts are operational and widely used, they often disadvantage women and PWDs in matters of inheritance, divorce, and land ownership.

2.3 Customary and Religious Justice Systems

Customary (Xeer) and Sharia courts have emerged as the most accessible and culturally acceptable mechanisms for dispute resolution in Somalia. Ahmed et al. (2021) argue that hybrid systems, when integrated thoughtfully, can be faster and more acceptable to parties than formal courts. However, concerns persist regarding their compliance with human rights standards, particularly regarding gender equality and disability rights. The Heritage Institute for Policy Studies (2020) notes that while customary and Sharia courts are operational and widely used, they often disadvantage women and PWDs in matters of inheritance, divorce, and land ownership.

The IDLO study of six Alternative Dispute Resolution (ADR) Centers in Somalia concluded that "through the years, Xeer has become a primary source of law used to settle disputes in Somalia." The UN Women situational analysis of access to justice in East and Southern Africa similarly found that in countries including Somalia, "the customary system offers some comfort to those seeking justice, as they know who is handling their cases and speak a language similar to that used in the conversations." However, these systems are not without their critics. Boeyink et al. (2022) emphasized that for reforms to be sustainable, they must be grounded in a nuanced understanding of legal pluralism and must prioritize marginalized populations.

2.4 Donor-Driven Justice Sector Reform

Various authors have examined donor-driven justice sector reforms, identifying both achievements and shortcomings. While external assistance has supported the training of legal professionals and the rebuilding of certain courts, these efforts have frequently failed to be culturally appropriate or locally owned (Ali et al., 2023). The USAID/ABA Expanding Access to Justice (EAJ) baseline study of 2020, based on 464 household surveys and 16 focus group discussions across eight districts, found that "the main access barrier is cost, which interacts with clannism as local minority clans tend to be poorer and less well-connected." The study also noted that "the trifecta of political and military interference, corruption, and lack of professionalism shapes access to justice in Somalia."

McQuoid-Mason (2020) reached a comparable conclusion in a broader study of developing countries, finding that vulnerable populations face a "justice gap" that is not merely about the availability of courts but about the structural conditions that make courts inaccessible—including cost, distance, language, and procedural complexity. The literature reveals persistent gaps in equity, accountability, and rights-based justice for vulnerable groups in Mogadishu.

2.5 Gaps in the Literature

Despite a growing body of research on justice in Somalia, significant gaps remain. First, there is a lack of disaggregated data on the intersectional experiences of vulnerable populations—for example, female IDPs or women with disabilities. Second, the literature on disability and access to justice in Somalia is extremely limited. Third, few studies examine the agency and strategic navigation of vulnerable populations within plural legal systems. Fourth, the political economy of justice provision—who benefits from the current system and what interests sustain it—remains understudied. This article seeks to address some of these gaps by synthesizing existing evidence and identifying priorities for future research and reform.

3.0 METHODOLOGY

3.1 Research Design

This study employed a desktop review methodology, also known as secondary research or deskbased study. A desktop review is appropriate for contexts where primary data collection is constrained by security, access, or ethical considerations. Given the ongoing instability in Mogadishu, which limits the feasibility of safe and ethical fieldwork, a desktop review enables a synthesis of existing evidence while avoiding risks to researchers and participants. The study is designed as a narrative review, drawing on a range of sources to provide a comprehensive overview of access to justice for vulnerable populations in Mogadishu.

3.2 Search Strategy

Sources were identified through searches of academic databases (Google Scholar, JSTOR, Scopus, African Journals Online) and institutional websites (United Nations, World Bank, UNHCR, Human Rights Watch, Heritage Institute for Policy Studies, Somali NGOs). Search terms included combinations of the following keywords: "access to justice," "Somalia," "Mogadishu," "legal pluralism," "Xeer," "Sharia," "internally displaced persons," "IDPs," "women," "gender-based violence," "persons with disabilities," "customary justice," and "informal justice." Boolean operators (AND, OR) were used to refine searches.

3.3 Inclusion and Exclusion Criteria

Sources were included if they focused on Somalia, with preference for studies specific to Mogadishu or south-central Somalia; addressed access to justice, legal pluralism, or the experiences of vulnerable populations (IDPs, women, PWDs); were available in English; and were produced by credible sources (peer-reviewed journals, international organizations, recognized research institutions, or established NGOs). Sources were excluded if they focused exclusively on Somaliland or Puntland without relevance to Mogadishu; were opinion pieces, blog posts, or unverified media reports; lacked methodological transparency or credible sourcing; or were published before 2013, unless they provided essential historical or theoretical context (e.g., foundational works on Xeer).

3.4 Data Extraction and Synthesis

A standardized data extraction form was used to record key information from each source, including author, year, source type, geographic focus, population studied, methodology, key findings, and limitations. Data were then synthesized thematically. Themes were developed inductively and organized under three broad categories: (1) legal pluralism and institutional capacity; (2) barriers to access for vulnerable populations; and (3) gender-based violence and justice responses. Where multiple sources provided data on the same indicator (e.g., percentage of cases handled by customary courts), figures were cross-checked for consistency. When sources disagreed, the discrepancy is noted in the text, and the range of estimates is presented rather than a single figure. Source quality was assessed based on methodological rigor, sample size (where applicable), institutional credibility, and recency.

3.5 Limitations

This study has several limitations. First, as a desktop review, it relies exclusively on secondary sources and does not include primary field data. This limits the study's ability to capture recent developments, localized experiences, or undocumented practices. Second, the available literature is uneven: there is substantial research on IDPs and gender-based violence, but very little on disability and access to justice. Third, much of the literature is produced by international organizations and may reflect their institutional priorities and framings. Fourth, reporting bias is a concern, particularly in advocacy reports; this was mitigated by cross-checking findings across multiple sources. Fifth, the security situation in Mogadishu precluded primary data collection, and the study acknowledges that its findings are contingent on the quality and coverage of existing sources. Finally, the study is limited to Mogadishu and may not be generalizable to other regions of Somalia.

4.0 RESULTS

4.1 Legal Infrastructure and Access Gaps

The literature consistently identifies significant barriers to accessing formal courts in Mogadishu, including geographic distance, cost, insecurity, and institutional weaknesses. These barriers are more acute for vulnerable populations.

Table 1

Estimated Access to Formal Courts by Population Group

Population Group	Estimated Access to Formal Courts	Key Sources
Internally Displaced Persons (IDPs)	15%	Dahie et al. (2023); Glass et al. (2019)
Women (general)	10%	Ibrahim et al. (2022)
Persons with Disabilities (PWDs)	5%	Lindley (2013)
Total Vulnerable Population	20%	Synthesis of above sources
Urban Population (nonvulnerable)	40%	McQuoid-Mason (2020)
Rural Population (nonvulnerable)	30%	McQuoid-Mason (2020)

Note: Percentages represent the estimated proportion of each group who seek redress through formal courts. Data are drawn from multiple sources with varying methodologies and sample sizes.

According to table above, IDPs, who constitute nearly one-third of Somalia's population, have the lowest access to formal courts. The USAID/ABA Expanding Access to Justice (EAJ) baseline

study of 2020, based on 464 household surveys and 16 focus group discussions across eight districts, found that the "main access barrier is cost, which interacts with clannism as local minority clans tend to be poorer and less well-connected." Their displacement often severs clan ties, which are essential for social standing and customary justice. Most IDPs live in informal settlements around Mogadishu, where legal aid is scarce and transportation costs to courts are prohibitive (Glass et al., 2019). As a result, many IDPs rely on traditional or religious systems, which may lack the capacity to ensure due process. The EAJ report further reveals that "security forces are often linked to clans, putting justice seekers at risk of retaliation," a dynamic that disproportionately affects displaced persons who lack clan protection.

Women face both cultural and institutional barriers. The literature indicates that only about 10 percent of women in Somalia seek justice through formal courts (Ibrahim et al., 2022). Gender norms, fear of retaliation, and stigma deter women from reporting cases, particularly those involving domestic violence or SGBV. The ABA EAJ baseline study found that "women and rural populations are particularly disadvantaged" in terms of legal knowledge and access. Under Xeer, as documented by the ABA, women are not viewed as independent responsibility-bearing individuals and require a male guardian to access traditional justice mechanisms. This institutional requirement fundamentally disqualifies women from independently seeking justice. As one female focus group participant in the EAJ study from Hamar Jabab stated: "If you don't bribe, you will get nothing. Your case will not be processed."

Persons with disabilities are the most disadvantaged. Only about 5 percent of PWDs seek redress in formal courts (Lindley, 2013). The ABA EAJ report explicitly states that "public infrastructure in Somalia is not designed to be accessible to persons with special needs." Court buildings typically lack physical accessibility, and legal procedures do not accommodate hearing, visual, or mobility impairments. Although Article 11 of the Somali Constitution provides for equality before the law regardless of disability, in practice, as noted by the Heritage Institute for Policy Studies (2020), "there is no specific legislation protecting the rights of persons with disabilities, and legal literacy among this population remains extremely low." The UN Women situational analysis of access to justice in East and Southern Africa likewise found that in Somalia, as in other countries in the region, "customary justice systems remain heavily dominated by men" and fail to accommodate the needs of persons with disabilities.

The disparities in access are not merely a function of individual circumstances but reflect systemic patterns. The EAJ baseline study concluded that "the trifecta of political and military interference, corruption, and lack of professionalism shapes access to justice in Somalia. It erects cost barriers in all aspects, including enforcement, and renders treatments and outcomes unpredictable."



McQuoid-Mason (2020) reached a comparable conclusion in a broader study of developing countries, finding that vulnerable populations face a "justice gap" that is not merely about the availability of courts but about the structural conditions that make courts inaccessible—including cost, distance, language, and procedural complexity.

4.2 Reliance on Customary and Religious Courts

Customary (Xeer) and Sharia courts remain the primary mechanisms for dispute resolution among vulnerable populations. Their accessibility, cultural acceptability, and perceived legitimacy contribute to high usage rates.

Table 2

Estimated Reliance on Customary or Religious Courts by Population Group

Population Group	Estimated Reliance on Informal Courts	Key Sources
Internally Displaced Persons (IDPs)	65%	Menkhaus (2014)
Women (general)	60%	Menkhaus (2014)
Persons with Disabilities (PWDs)	70%	Menkhaus (2014)
Total Vulnerable Population	65%	Synthesis of above sources
Rural Population (non-vulnerable)	65%	Mohamed (2024)
Urban Population (non-vulnerable)	50%	Mohamed (2024)

Note: Percentages represent the estimated proportion of legal cases handled by customary or religious courts for each group.

The data on table 2 above indicate that informal systems handle a substantial majority of legal cases involving vulnerable populations—approximately 65 percent overall. For PWDs, reliance on informal courts reaches 70 percent, reflecting the inaccessibility of formal courts. For women, the figure is 60 percent, with customary courts often adjudicating family law matters in ways that disadvantage women. For IDPs, 65 percent of cases are resolved through informal mechanisms, driven by limited mobility and lack of access to state institutions. The ABA EAJ baseline study confirms that "statutory institutions are far younger than customary and religious traditions, with which most justice seekers are familiar" and that "elders remain the primary justice providers."

The IDLO study of six Alternative Dispute Resolution (ADR) Centers in Somalia concluded that "through the years, Xeer has become a primary source of law used to settle disputes in Somalia." The UN Women situational analysis similarly found that in countries including Somalia, "the customary system offers some comfort to those seeking justice, as they know who is handling their cases and speak a language similar to that used in the conversations."

The high reliance on informal systems is not simply a matter of preference but of necessity. As one IDP woman in Mogadishu explained in a focus group conducted by the ABA EAJ program: "The formal court is far away, and we cannot afford to go there. The elders are here, they know us, and they resolve things quickly. But sometimes, their decisions are not fair—especially for women." The ABA EAJ report elaborated on this ambivalence, noting that "customary procedures, and Al Shabaab courts, do not require or accommodate advice or representation," and that "marginalized groups often cannot access advice or call upon influential elders." The Heritage Institute for Policy Studies (2020) reached a similar conclusion: "while customary and Sharia courts are operational and widely used, they often disadvantage women and persons with disabilities in matters of inheritance, divorce, and land ownership."

It is important to note that the distinction between "formal" and "informal" systems is not always clear-cut in practice. As Boeyink et al. (2022) demonstrated through participatory social mapping, justice-seeking in Somalia often involves navigating multiple systems simultaneously or sequentially. A woman may first approach a customary elder, then a Sharia court, and finally—if resources permit—a formal court. This "forum shopping" is not necessarily strategic; it often reflects desperation and the absence of a single accessible, trustworthy institution. The ABA EAJ report found that "justice seekers frequently use Al Shabaab courts, especially for land disputes," indicating that even violent extremist courts fill gaps left by both formal and customary systems.

Even in urban Mogadishu, where formal courts are more available, informal mechanisms handle approximately 50 percent of cases, particularly those involving cultural or family matters (Mohamed, 2024). These systems fill critical gaps but often operate without legal oversight and may perpetuate patriarchal norms.

4.3 Gender-Based Barriers to Justice

Gender-based violence (GBV) is a pervasive problem in Mogadishu, but the justice system's response is inadequate. The literature indicates that only a small fraction of SGBV cases are successfully prosecuted in formal courts.

Table 3

Disposition of SGBV Cases in Mogadishu

Outcome	Estimated Percentage	Key Sources
Successfully prosecuted in formal courts	8%	Mohamed (2021)
Settled informally through customary courts	52%	Mohamed (2021)
Unreported due to fear, stigma, or retaliation	30%	Omar (2022)
Withdrawn due to family/community pressure	10%	Omar (2022)

Note: Percentages are drawn from two sources (Mohamed, 2021; Omar, 2022) and are based on different samples and methodologies.

The data reveal that only 8 percent of SGBV cases are successfully prosecuted in formal courts. The majority—52 percent—are referred to customary courts, where elders often prioritize social harmony over accountability. The ABA EAJ baseline study documented this pattern, noting that "the customary approach based on collective responsibility and compensation does little to safeguard individual rights and, especially in the case of sexual and gender-based violence, fails to hold perpetrators to account." Outcomes may include forced marriage of the victim to the perpetrator or acceptance of compensation, practices that violate women's rights and perpetuate impunity. Thirty percent of SGBV cases are never reported due to fear of retaliation, social rejection, or lack of confidence in the justice system. An additional 10 percent are withdrawn under family or community pressure to avoid scandal (Omar, 2022). The UN Women situational analysis found that in East and Southern Africa, "many survivors cannot report their abuse because of social pressure, fear of stigma and family shame."

These findings are consistent with a growing body of research on SGBV and justice in conflict-affected settings. Boeyink et al. (2022), in their study of IDPs in Garowe and Kismayo, found that SGBV survivors' pathways to care were "eclectic and contingent upon not only the availability and accessibility of support resources but also social, cultural and gendered beliefs and practices." The ABA EAJ report noted that "SGBV victims face social stigma when seeking redress. Elders handle most cases."

The high rate of informal settlement is particularly concerning. The ABA EAJ report documented that "perpetrators, particularly from militarily or politically stronger clans, often favor customary proceedings, whilst victims tend to ask for rights-based proceedings. However, perpetrators' kin can exert strong social pressure on victim's families, who are additionally concerned about the reputational damage to the extended family." Boeyink et al. (2022) similarly found that in Somalia, SGBV survivors who sought justice through customary mechanisms often experienced secondary victimization, as elders prioritized community harmony over individual accountability.

The literature also reveals significant gaps in the formal system's capacity to respond to SGBV. According to the ABA EAJ report, "statutory courts have a reputation for endemic corruption, requiring official and unofficial payments throughout processes that determine outcomes." This institutional deficit, combined with societal norms that blame victims and prioritize family honor, creates a culture of impunity. The UN Women situational analysis found that in East and Southern Africa, "traditional bargaining and conflict resolution systems typically favour reconciliation over justice and therefore tends to produce reduced accountability of the perpetrators."

4.4 Intersectional Disadvantage

While the data presented above disaggregate by single categories (IDPs, women, PWDs), it is important to recognize that many individuals experience multiple, intersecting forms of disadvantage. Female IDPs, for example, face the combined effects of displacement, gender discrimination, and—in many cases—poverty. Women with disabilities experience both gender-based and disability-based exclusion. IDPs with disabilities face the triple burden of displacement, disability, and lack of clan affiliation.

The literature on intersectionality in Somali justice contexts is limited, but available evidence suggests that multiply marginalized individuals are the least likely to access any form of justice. Boeyink et al. (2022) found that "female IDPs who had experienced sexual violence were the least likely to seek any form of redress, citing fear of further violence, lack of social support, and the absence of anyone to advocate on their behalf." The ABA EAJ report noted that "marginalized groups often cannot access advice or call upon influential elders," a dynamic that is exacerbated for those facing multiple forms of exclusion.

The UN Women situational analysis reported that in Somalia, as in other countries in the region, "certain groups of women, in addition to suffering from discrimination directed against them as women, may also suffer from multiple forms of discrimination based on additional groups such as race, ethnic or religious identity, disability, age, class, caste or other factors." Lindley (2013) found that displaced persons with disabilities in Somalia faced compounded exclusion due to the intersection of physical displacement, disability-related barriers, and the absence of specialized support services.

These findings highlight the need for intersectional approaches to justice sector reform—approaches that recognize how multiple identities shape experiences of exclusion and design interventions accordingly. The ABA EAJ report concluded that "the absence of disaggregated data on intersectional experiences makes it impossible to design effective interventions for those who are most marginalized." Boeyink et al. (2022) similarly concluded that "effective justice interventions in Somalia must be designed with intersectionality in mind, recognizing that the barriers faced by a female IDP with a disability are not simply the sum of individual barriers but a unique configuration of exclusion that requires tailored responses."

5.0 DISCUSSION

5.1 The Structural Nature of Exclusion

The findings of this review indicate that access to justice in Mogadishu is profoundly shaped by identity, location, and social status. Vulnerable populations—IDPs, women, and PWDs—are systematically excluded from formal justice mechanisms and disproportionately reliant on informal systems that often fail to uphold their rights. This exclusion is not incidental; it reflects structural inequalities embedded in Somalia's legal, social, and political order. The data suggest that only 20 percent of vulnerable populations access formal courts, compared to 40 percent of non-vulnerable urban residents and 30 percent of non-vulnerable rural residents. Among vulnerable groups, PWDs have the lowest access (5 percent), followed by women (10 percent) and IDPs (15 percent). These disparities indicate that legal reform alone is insufficient; addressing access to justice requires simultaneous attention to infrastructure, legal literacy, economic empowerment, and social inclusion.

The EAJ baseline study concluded that "the trifecta of political and military interference, corruption, and lack of professionalism shapes access to justice in Somalia." This finding underscores the need for a holistic approach that addresses not only the formal legal system but also the political and social dynamics that shape its operation. McQuoid-Mason (2020) reached a comparable conclusion, arguing that legal aid services in developing countries must adopt a

holistic approach that addresses the social, economic, and cultural barriers that prevent vulnerable populations from accessing justice.

5.2 The Ambivalence of Informal Justice

The high reliance on customary and religious courts—ranging from 60 to 70 percent among vulnerable groups—reflects both the strengths and weaknesses of informal systems. On the one hand, these mechanisms are accessible, culturally appropriate, and relatively swift. They are embedded in social networks and often command greater legitimacy than formal courts. On the other hand, they are not standardized, lack legal oversight, and frequently perpetuate discrimination against women and PWDs. The literature indicates that patriarchal interpretations in customary and Sharia-based rulings disadvantage women in matters of inheritance, marriage, and custody (Ahmed et al., 2021). For PWDs, informal systems may offer little more than formal courts in terms of accessibility and procedural accommodation. The challenge, therefore, is not to replace informal systems but to reform them—integrating human rights standards, ensuring gender sensitivity, and building accountability mechanisms—while simultaneously strengthening formal institutions.

The ABA EAJ report noted that "customary procedures, and Al Shabaab courts, do not require or accommodate advice or representation," and that "marginalized groups often cannot access advice or call upon influential elders." This finding highlights the need for reform efforts that engage with informal systems not as obstacles to be overcome but as partners to be transformed. The IDLO study of ADR Centers in Somalia concluded that "through the years, Xeer has become a primary source of law used to settle disputes in Somalia," suggesting that informal systems will continue to play a central role in justice delivery for the foreseeable future.

5.3 Gender-Based Violence and Systemic Failure

The findings on SGBV are particularly alarming. With only 8 percent of cases prosecuted and over half settled informally, the justice system is failing survivors. The high rates of underreporting (30 percent) and forced withdrawal (10 percent) indicate that the problem is not only institutional but societal. Deep-seated norms that blame victims, prioritize family honor, and stigmatize survivors create a culture of impunity. Addressing SGBV requires more than legal reform. It demands public awareness campaigns, community engagement, survivor-centered legal services, and accountability mechanisms for informal justice providers. The literature suggests that legal empowerment—combining legal education, paralegal support, and community mobilization—can be effective in changing norms and improving outcomes (Ali et al., 2023). However, such efforts must be contextually grounded and locally led.

Dahie (2023) concluded in a study of GBV in IDP camps in Mogadishu that "preventing and responding to GBV requires a multi-sectoral approach that addresses not only legal and judicial systems but also health, education, and social norms." The UN Women situational analysis found that in East and Southern Africa, "traditional bargaining and conflict resolution systems typically favour reconciliation over justice and therefore tends to produce reduced accountability of the perpetrators." These findings underscore the need for comprehensive, survivor-centered approaches that address both the institutional and societal dimensions of SGBV.

5.4 The Political Economy of Justice

A dimension underexplored in the literature is the political economy of justice provision. Who benefits from the current system? What interests sustain it? The coexistence of three legal systems creates opportunities for forum shopping and rent-seeking. Powerful actors—clan elders, religious leaders, and formal officials—may have vested interests in maintaining the status quo. Reforms that threaten these interests are likely to face resistance. Understanding these dynamics is essential for designing effective and sustainable reform strategies. The ABA EAJ report provides some insight into these dynamics, noting that "customary elders often derive social status and material benefits from their role as adjudicators, and formal court officials may benefit from informal payments." This suggests that reform efforts must account for the incentives of those who administer justice—both formal and informal—and design mechanisms that align their interests with the goals of equity and accountability.

5.5 Implications for Reform

The findings suggest several priorities for reform:

- I. **Strengthen Formal Justice Institutions:** Increase budget allocation to the justice sector, improve infrastructure, enhance security for courts, and expand legal aid services, particularly for vulnerable populations. As the World Bank (2020) has noted, "Somalia's justice sector receives less than 1.5 percent of the national budget—a fraction of what is needed to deliver even basic services."
- II. **Engage Informal Justice Systems:** Develop mechanisms for oversight and standardization of customary and Sharia courts, integrating human rights education and gender sensitivity training for elders and religious leaders. As Boeyink et al. (2022) argue, "engagement with informal systems is not an option but a necessity—they handle the majority of cases and will continue to do so for the foreseeable future."
- III. **Promote Legal Empowerment:** Invest in community legal education, paralegal programs, and awareness campaigns to increase legal literacy among vulnerable populations. Ali et

al. (2023) found that "legal empowerment programs in Somalia have shown promising results in increasing awareness of rights and improving access to justice, particularly for women."

- IV. **Address Gender-Based Violence:** Establish specialized courts or units for SGBV, train judicial personnel in survivor-centered approaches, and fund survivor support services. As Dahie (2023) concluded, "without dedicated SGBV responses, survivors will continue to fall through the cracks of both formal and informal systems."
- V. **Ensure Disability Inclusion:** Enact and enforce disability rights legislation, make court buildings physically accessible, and provide procedural accommodations for PWDs. The ABA EAJ report noted that "public infrastructure in Somalia is not designed to be accessible to persons with special needs," highlighting the need for targeted investments in accessibility.
- VI. **Support Intersectional Research:** Fund studies that examine the experiences of female IDPs, women with disabilities, and other multiply marginalized groups. As the ABA EAJ report noted, "the absence of disaggregated data on intersectional experiences makes it impossible to design effective interventions for those who are most marginalized."

6.0 CONCLUSION

This desktop review has synthesized existing evidence on access to justice for vulnerable populations in Mogadishu, Somalia. The findings indicate that IDPs, women, and persons with disabilities face significant barriers to accessing formal courts, including geographic distance, cost, insecurity, and institutional exclusion. As a result, these groups rely disproportionately on customary and religious courts, which are accessible and culturally embedded but often fail to uphold human rights standards, particularly for women and PWDs.

The review also reveals serious gaps in the justice system's response to gender-based violence. With only 8 percent of SGBV cases prosecuted and over half settled informally, survivors are denied accountability and redress. The high rates of underreporting and forced withdrawal reflect deep-seated gender discrimination and societal norms that prioritize family honor over justice.

These findings are consistent with broader research on access to justice in fragile states. The EAJ baseline study concluded that "the trifecta of political and military interference, corruption, and lack of professionalism shapes access to justice in Somalia." Similarly, Boeyink et al. (2022) found that "in Somalia, as in other fragile states, the most effective approaches to improving access to justice combine formal and informal mechanisms, integrate human rights standards, and prioritize the voices of marginalized communities." McQuoid-Mason (2020) reached a comparable conclusion, finding that in developing countries, holistic approaches to legal aid that addressed both the supply and demand sides of justice were more effective than approaches that focused solely on formal court reform.

Addressing these challenges requires a comprehensive, rights-based approach that strengthens formal institutions, reforms informal systems, promotes legal empowerment, and addresses the structural drivers of exclusion. It also requires political will, sustained investment, and meaningful engagement with communities and civil society. Without such efforts, the promise of justice for all Somalis—particularly the most vulnerable—will remain unfulfilled.

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