



**SOMALILAND**  
SDG16+ Coalition

# IMPROVING ACCESS TO JUSTICE IN SOMALILAND

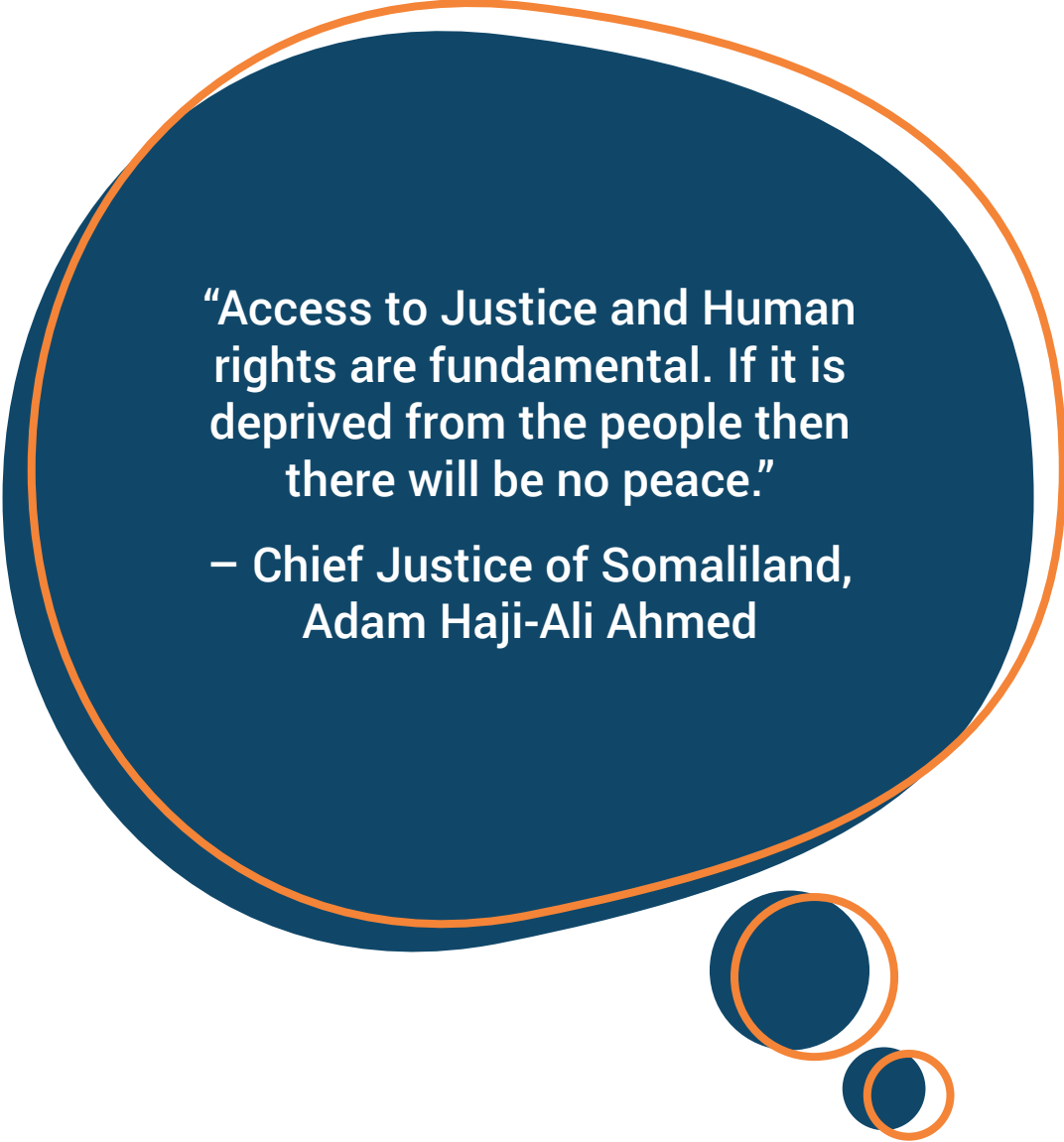


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**“Access to Justice and Human rights are fundamental. If it is deprived from the people then there will be no peace.”**

**– Chief Justice of Somaliland,  
Adam Haji-Ali Ahmed**



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## About the Somaliland SDG16+ Coalition

The Somaliland SDG16+ Coalition was established to enhance collaboration among civil society groups, recognising the importance of partnerships if the 2030 Agenda is to be successfully implemented. The Coalition is composed of the Horn of Africa – Center for Policy Analysis (CPA), the Somaliland Human Rights Center (HRC), the Network against FGM in Somaliland (NAFIS), Saferworld, the Somaliland Non-State Actors Forum (SONSAF), and the Somaliland National Youth Umbrella (SONYO).

Coalition members coordinated consultations on SDG16+ with 55 civil society organisations across all six regions of Somaliland. This led to the identification of short-term and long-term priority SDG16+ targets and accompanying activities. These activities are intended to complement government, donor, international and national civil society initiatives, and are aligned, where possible, with the Somaliland National Development Plan II.

Among other planned activities, the coalition will produce a report on SDG16+ progress in Somaliland, which it will present in July 2019 at the United Nations High-Level Political Forum (HLPF) and at other international and regional events.



**Building Together**



# Message from the Chief Justice of Somaliland

## Adam Haji Ali Ahmed

Access to justice is at the top priority of the judiciary. We have carried out extensive activities to reform the judiciary in order to transform it into effective service delivery, and rebuild the public trust and confidence to the judiciary. More courts are established in districts to deliver justice closer to the citizens. The number of judges has increased drastically, and law graduates are included in the judiciary as judges, deputy attorney generals and other courts staff. We have given women jobs in the judiciary. We created a complaint system to facilitate the public to complain against judges, deputy attorney generals and other members of the judiciary. Access to justice is important for us and for the whole country. We allow and encourage the civil society to engage in justice issues, criticize and propose recommendations.

Despite the achievements made and the millstones reached, there are challenges confronting the judiciary. In every work, and more in the judiciary, there is a need to improvement. We do recognize the existence of gaps to be filled. That is why we are committed in taking actions to progress, and welcome criticism and recommendations. The work ahead is huge and warrants collective action and support to deliver justice to all.



*The chief justice and the minister of justice among participants of the access to justice workshop*

In 2008, a study by the Commission on Legal Empowerment of the Poor, found that 4 billion out of the world's 6 billion population did not have fair and readily available access to justice.<sup>1</sup> Efforts are being made to update this figure to provide a clearer picture of the extent of the justice gap today, but it is unlikely to have closed significantly. While the past decade has given rise to new data that highlights the specific justice needs of people around the world, there remains a profound lack of investment in access to justice globally.<sup>2</sup>

The agreement of the 2030 Agenda – which made universal access to justice a global development priority under Sustainable Development Goal 16 and target 16.3 – has the potential to change this. It has generated new momentum to ensure that the access to justice gap is finally closed.<sup>3</sup>

To help address this challenge, the Government of Argentina, the Netherlands and Sierra Leone, and the Elders in 2018 formed the Global Taskforce on Justice – a group of governments, organisations and networks committed ensuring universal access to justice.

The Global Taskforce will be making a new business case for investment in justice, and has named 2019 'the year of justice' – which coincides with the first review of SDG16 progress, including justice-related targets at the High-Level Political Forum in July 2019.

### Access to Justice in Somaliland

Over the past 15 years, Somaliland has made considerable progress in the accessibility of justice, but many gaps still remain. Laudable accomplishments include more than doubling the number of judges in under a decade (90 in 2011, 186 in 2018), the rollout of mobile courts to each region within Somaliland, and the appointment of female prosecutors and court registrars in a male-dominated patriarchal environment.

Additionally, young law graduates have been enrolled in the judiciary sector through ad hoc judicial training programmes that started in 2011, bigger intakes at law schools have contributed to an increase in the number of professionally trained lawyers and non-governmental organisations have been set-up to provide legal aid services.

1. Commission on Legal Empowerment of the Poor and United Nations Development Programme (2008), Making the Law Work for Everyone - Volume 1: Report of the Commission on Legal Empowerment of the Poor. New York: Commission on Legal Empowerment of the Poor and United Nations Development Programme, available at [http://www.un.org/ruleoflaw/files/Making\\_the\\_Law\\_Work\\_for\\_Everyone.pdf](http://www.un.org/ruleoflaw/files/Making_the_Law_Work_for_Everyone.pdf)

2. World Justice Project (2018), Global Insights on Access to Justice - Findings from the World Justice Project General

3. Population Poll in 45 Countries. Washington DC: World Justice Project, available at

While there is much still to be done, the resources available to the government of Somaliland are extremely limited. The sector remains under prioritised by the new administration in Somaliland, echoing the lack of prioritisation under previous governments. Additionally, there is an overwhelming lack of data from the majority of courts and wider justice sector which makes assessing the gaps relatively difficult, while there exists fragmentation in a sector rife with internal competition which is hindered by the consistent failure to invest sustainable and consistent resources. While the steps taken to balance gender within the sector are laudable, female registrars account for under 20% of the total workforce and there has still not been one single female judge appointed – despite apparent public openness to such a move.<sup>4</sup>

Over the course of an extended Parliamentary session of over thirteen years, Somaliland has passed just four laws relevant to the justice sector - the Juvenile Justice Law, the Judiciary Organization Act, the National Human Rights Commission Act, the Prisons Act. Despite enactment of these laws, implementation remains to be a challenge due to an absence of resources and overwhelmingly weak institutions charged with enforcement of such legislation.

In the non-governmental sector, access to justice has recently rose in prominence as priority area for a number of leading civil society organisations. Somaliland-wide consultations to determine focus areas for national action identified access to justice (SDG16.3) as a core short-term development priority. This matches with the incorporation of many SDG16 targets and justice issues in the Somaliland National Development Plan II (2017-2021), which seeks to promote good governance, democracy and the rule of law and includes a specific commitment to ‘by 2021, increase effectiveness and efficiency of the rule of law and ensure access to justice for all.’<sup>5</sup>

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4. [https://worldjusticeproject.org/sites/default/files/documents/WJP\\_Access-Justice\\_January\\_2018\\_LR\\_0.pdf](https://worldjusticeproject.org/sites/default/files/documents/WJP_Access-Justice_January_2018_LR_0.pdf)

5. United Nations General Assembly (2015), ‘Transforming our world: the 2030 Agenda for

6. Sustainable Development (A/RES/70/1), 21 October, available at: [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/RES/70/1&Lang=E](http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E)



## What are the issues and opportunities for improving access to justice in Somaliland?



Somaliland Human Rights Centre, together with Saferworld (two of the 6 founding members of the Somaliland SDG16+ Coalition), co-organised a three-day participatory workshop with the Ministry of Justice and the Office of the Chief Justice, to discuss new approaches for improving access to justice in Somaliland.

Framing the workshop under the guise of the 2030 Agenda and SDGs provided a new way of talking about justice issues, which enabled a discussion that included the participation of many outside of those traditionally charged with making decisions on justice provision. With representatives of the judiciary from all regions of Somaliland, together with government ministries covering human rights, planning and policing, as well as civil society representatives and expert academics.

The workshop produced recommendations for a series of solutions around 6 core tenets on justice provision: 1) legal framework; 2) legal awareness; 3) advice and representation; 4) access to a dispute resolution mechanism; 5) fair procedure; and 6) enforceable solutions. The following is a synthesis of the justice gaps in Somaliland, together with potential opportunities to address these issues:

## 1. Legal framework

Summary: The main laws of Somaliland such as the Penal Code, Civil Code, Criminal Procedure Code and Civil Procedure Code are outdated laws that predate the constitution and democratization process of Somaliland. As a result, they remain to pose a challenge to access to justice. The parallel systems of customary law, formal law and Sharia law include contradictory elements and provides different avenues, further confusing seekers of justice and undermining predictability in outcome. To redress these issues, establishment of a law and allocation of resources for the Law Reform Commission is needed to carryout proper legal reforms to harmonize laws and update existing laws. Additionally, advancements need to be made in recording the unwritten customary law in a sensitive and systematic manner. Furthermore, comprehensive awareness raising campaign to counter misconceptions of the formal law is recommended. Religious leaders across the country including those working in rural and nomadic areas should be engaged in a meaningful way to collectively determine their role in access to justice.

### Main Issues

A. Laws, penal code and civil code procedure are not appropriate	B. Legal systems have contradictory elements	C. Misperceptions of formal legal system
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### Opportunities

Establish judiciary training center with an emphasis on legal drafting	Engage religious leaders in discussion about which branch of sharia law should be used in somaliland	Run awareness raising campaign through media to counter misperceptions of formal law
Establish act for law reform commission	Conduct trainings on alternative dispute mechanisms with all representatives from all three justice types	
Allocate resources for law reform commission	Begin process of recording customary laws for most serious crimes	
Law to clarify competing mandates (between ministries and judiciary on access to justice	License and collect tax from sharia courts	

## 2. Legal knowledge

Summary: The legal knowledge of the general public is steadily improving but is still somewhat limited. A recent UNDP survey indicates citizens are aware of the presence of justice institutions, but less so of the role of justice providers and their own freedoms and rights. It is recommended to conduct awareness raising targeting both rural and urban communities and using different platforms such as media, poetry and drama, and existing institutions such as universities and youth organizations. Allocation of resources for legal awareness raising is imperative to ensure legal knowledge is made in consistent and sustainable way.

### Main Issues

A. Limited legal knowledge in population		
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### Opportunities

Run a number of different awareness raising campaigns to target urban and rural populations.		
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Allocate budget for awareness raising campaigns on formal law framework.		
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Target universities, youth organisations, and media with campaigns to educate population on laws and rights		
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Run mock trials on education days to educate people on civil processes and procedures		
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## Advice and representation

Summary: Lengthy legal procedures, with high legal fees, together with a shortage of professionally trained lawyers are the main issues hindering access to advice and legal representation. Additionally, the formal legal system is somewhat confined to urban areas, unable to expand the rural and nomadic communities. To tackle these issues, establishment of an independent commission tasked to supervise case procedures to provide accountability and ensure timely resolution of cases is highly recommended. To ensure justice is accessible for poorer and more vulnerable people, the Legal Aid Bill should be passed and a bar association has to be formed. The legal aid system should have an allocation in the national budget and prioritised by donors. Increasing the number of judges, prosecutors and lawyers is vital for advancement of legal advice and representations. The top priority should be rural and remote areas. For this to happen, the judiciary budget should be increased and independently allocated by the Parliament to ensure the financial independence of the judiciary from the executive.

### Main Issues

A. Legal procedure takes too long	B. High legal fees	C. Shortage of professional lawyers	D. Justice sector unable to affect meaningful changes	E. Lack of gender balance in justice sector and judiciary
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### Opportunities

Create an independent commission to oversee case procedure	Sign Legal Aid bill into law	Establish a legal bar association	Advocate for increased judiciary budget	Improve gender balance in justice sector as a whole
Increase number of judges and lawyers	Allocate budget for every court to provide legal aid	Fund a new legal training centre for existing lawyers and members of the judiciary	Create strategy for international partners to provide greater resources	Create roadmap for gender equality in judiciary

Create new spaces for cases to be heard	Increase the numbers of qualified lawyers	Create disciplinary mechanism that can hold lawyers accountable		
Revise law so that the window to hear cases in the first instance is shorter				
Create an online system for all regions so that courts can monitor case progress				

### 3. Access to a dispute resolution mechanism

Summary: Judiciary institutions have very limited presence in rural areas and nomadic communities. Re-structuring the judiciary to facilitate expansion to the rural and nomadic communities is needed. Mobile courts system with contact and presence in rural areas should be established with allocation in the national budget. Expansion of the judiciary institutions is pivotal for access to justice in rural areas that are lagging behind.

#### Main Issues

A: Limited reach to rural areas for justice institutions to rural areas and nomadic communities

#### Opportunities

Greater budget allocation for mobile courts

Enhance the appeal courts by sending more judges to districts and regions

NDPII prioritisation process includes access to justice

Mobile courts should be extended to reach more locations

#### 4. Fair procedure

Summary: The public does not always have confidence in the fairness of court decisions and legal systems. Appointments, dismissal, demotion and promotion of judges and prosecutors are not always transparent. This has negatively affected the work of the judges who fear reprisals and do not have job security. The Judiciary Committee should be politically independent and ensure an open and transparent appointment process free from political interference. Similarly, Supreme Court judges should be approved in both appointments and dismissals by the Parliament. The public should be taught and given a process that they can lodge a complaint against a judge or prosecutor. A mechanism will need to be created for such complaints to be fairly tackled. Gender parity in the judiciary should be improved in a meaningful way.

##### Main Issues

A. Lack of confidence in fairness of court decisions and legal system	B. Appointments of judges/prosecutors is not transparent or perceived as fair	C. Judges fear of reprisals affects impartiality
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##### Opportunities

Make the High Judicial Committee politically independent	Open recruitment process for all judges	Approval of Judiciary care act & budget for implementation
Have an open and transparent process for recruitment/appointment onto the HJC	Create an action plan to improve gender parity in judiciary	Create a scaled salary increase for members of the judiciary
Open a public relations office for judiciary to explain court decisions and process	Members of the Supreme Court should be approved by Parliament	
Provide education on complaint procedures for general public	A new process for impeachment of Supreme Court judges	
Implement the Judiciary Code of Conduct (in all regions)		

Pass bylaw to ensure that members of the HJC recuse themselves if case deal with their interests		
Formulate internal bylaws to improve fairness in composition and action of HJC		

## 5. Enforceable solutions

Summary: A perceived lack of professionalism in the institution of the police, coupled with low implementation of court decisions hinders the enforceability for judgement holders. Police reform must prioritise creating a transparent external oversight mechanism. An updated recruitment policy should be made based on the requirements of the Police Act. The Juvenile Justice Act should be implemented to create separate sections of juvenile detainees and ensuring human rights standards in detention centres under the Police supervision and prisons.

### Main Issues

A. Lack of professional training and standards in police force	B. Low implementation of decisions made by courts	C. No separation between men & juvenile detainees
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### Opportunities

Implement Police Act	Create a judicial mechanism to monitor the implementation of court decisions.	New separate prisons for female and juvenile detainees ensuring human rights standards.
Mandate an external oversight mechanism on conduct of police	Create execution section at courts of first instance and provide exclusive jurisdiction over executing court decisions and enforceable documents.	
Update recruitment policy – ensuring a fair and open process		
Mandate the Police Commissioner to report directly to the Ministry of Interior		

# Creating the Somaliland 2030 Vision for Justice



There is a unique opportunity for Somaliland to take advantage of the increased focus on Justice in 2019. It offers a context in which those seeking to make the business case for investment in justice can test their hypothesis. It has a relatively small population and a reform-minded judiciary, yet there are many security challenges and development gaps. Therefore, modest investment in access to justice initiatives in Somaliland could have a far-reaching impact.

While justice is included in the Somaliland NDPII and the Judiciary has its own sectoral plan, there is no overarching and comprehensive vision for Justice that is accessible, fair, and enforced for all citizens of Somaliland. The government of Somaliland should prioritise developing an inclusive, sector-wide 10-year vision for Somaliland, to coincide with the achievement of the 2030 Agenda and Sustainable Development Goals, and to connect with the Global Justice movement.

To achieve this, the following needs to happen:

## 1. Better data

Reliable data is a challenge for the Justice sector world-wide. Recent products, including the Horizon Institute’s 2016 baseline study and UNDP’s 2017 perception survey, are helpful additions to the knowledge base in Somaliland. These surveys



can be built upon with fresh data that identifies the extent of the justice gap in 2019, but more importantly data that can provide accurate costing for potential justice solutions across Somaliland.

## **2. Update laws in a serious, concerted way**

When the parliamentary elections take place, it will be an opportunity for a new parliament to come in and take a strong legislative role in updating outdated laws that need modernising. This should be included as part of the Somaliland 2030 Justice vision, but it will require sustained political will to ensure it happens. The Executive branch must ensure the process is implemented effectively, while support from international actors will be critical.

## **3. Invest in the judiciary to ensure effectiveness and impartiality**

The Somaliland government needs to allocate greater resources to train judges and to ensure they have better living conditions and reward packages so as to minimize corruption. It will also need to deploy political capital to ward off potential interference in the judicial sector.

## **4. Legal Awareness campaigns for rural communities**

For a Justice vision to make a difference for all of Somaliland's citizens, it will need input from communities outside urban centres. Once produced, it will need increased awareness across the population to ensure that any progress in justice accessibility is known and understood.

## **5. Mutually reinforcing partnership between international and national actors**

A 10-year vision is ambitious. Yet the ambition will show a clear roadmap for international partners willing to be involved and support the journey. Donors will need to ensure not just short-term support, but long-term, forward thinking investments that prioritise the delivery of the vision, rather than instant results.

## About Somaliland Human Rights Center

The Somaliland Human Rights Centre (HRC) is a non-profit organization established in January 2013 with the aim of contributing to the protection and promotion of human rights in Somaliland. HRC was founded by lawyers who are inspired by the Bill of Rights in the Somaliland Constitution and the Universal Declaration of Human Rights. It is registered with the Somaliland government as a non-profit-making and non-governmental organization. HRC was formed to cover the need for documentation and advocacy on human rights to help maintain the gains made by Somaliland's nascent democracy. The central policy of Human Rights Centre is creating and fostering a culture of voluntary human rights activism where committed human rights defenders with passion contribute to the protection, promotion and realization of human rights.

## About Saferworld

Saferworld is an independent international organisation working to prevent violent conflict and build safer lives. Saferworld looks at crises and threats from the perspectives of people in the worst-affected places. We promote action that is initiated by the communities themselves, and that effectively addresses the real causes of conflict-related crises and threats. We also aim to promote long-term peace through conducting analysis and setting up policy dialogue with governments. We have worked in Somaliland since 2005.

## Knowledge Management Fund

The project is funded by the Knowledge Platform Security & Rule of Law, which is a vibrant network of experts working on generating, sharing, interrogating and applying evidence in the field of security & rule of law. The Platform's main objective is to improve the learning capacity and knowledge base of its members, specifically decision makers for Security & Rule of Law (SRoL) policy and programs





