

SSJP Learning and Evidence Literature Review

Evidence from Gender Equality and Social Inclusion (GESI) Interventions in Somalia

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1. Introduction

This section of the literature review focuses on security and access to justice for women, girls and marginalised groups in Somalia. The paper is divided into three sections, with the first examining the key violations disproportionately faced by women and marginalised groups in Somalia, which predominantly relate to gender-based violence (GBV) and land insecurity, and the barriers they encounter in the security and justice (S&J) sector. These include a lack of adequate infrastructure, skills and resources; entrenched social norms and beliefs; weak accountability and poor governance; and the pluralistic and clan-based structure on which the Somali legal and political system is based. The literature suggests challenges are interlinked and mutually reinforcing. Section two examines evidence from interventions that seek to address these challenges and identifies what can be considered encouraging approaches for donor programming. The overall evidence base is limited, but the evidence that does exist is weighted towards broad overall strategies that have been found to have a positive impact across different types of programming. Evidence of which types of interventions are effective in increasing access to justice is limited primarily to monitoring and evaluation reports by organisations undertaking the projects, as well as some anecdotal examples of successes by external observers. Section two also describes approaches that have not experienced significant successes to date, but may still be expected to yield results over a longer-term engagement. Finally, section three provides a summary of gaps in the evidence, and implications for future S&J programming in Somalia.

Methodology and Limitations

The literature on what types of interventions have been successful in Somalia is limited to a small number of observational studies and a larger number of theoretical research pieces and informal lessons learned documents- all of which have been produced by the organisation implementing the intervention, an external assessor employed by them, or their donor. Assessments that include observations about what does not work, and research into why, are conspicuously absent from these reports, as are findings as to the sustainability of different interventions. The literature focuses on the output and outcome level impact of project objectives, rather than the overall goals. Thus, while this review attempts to summarise the interventions that have had some effect in increasing security and access to justice for women, girls and minorities, it has not been able to identify programmes that have had the overall impact of building the social contract or increasing security and justice in Somalia.

This review is conducted with reference to the following frameworks and concepts, which are defined in more detail below: the Women, Peace and Security (WPS) Agenda; Gender Empowerment and Social Inclusion (GESI); intersectional theory.

WPS agenda. The WPS Agenda, as originally enumerated in UN Security Council Resolution 1325 (UNSC 1325) in 2000 and expanded through later Security Council Resolutions, relates both to the specific impact of conflict of women and girls, and the role of women in mediating an

end to conflicts and in peacebuilding.¹ It has a particular focus on conflict-related sexual violence (CRSV) against women and girls, including in the areas of protection, prevention, and tailored humanitarian relief. This review examines the literature on WPS programming related to sexual violence. It does not include a review of programming relating to women's involvement in peace and state-building.

The literature consulted relates not only to CRSV, but to gender-based violence (GBV) more broadly. While UNSC 1325 called for greater acknowledgment of sexual violence committed in conflict, later resolutions have expanded this focus to include GBV committed in the lead up to conflict, related to conflict, and in post-conflict contexts. This widening of the WPS agenda's parameters recognises the gendered ways in which civilians experience insecurity: for those at high risk of sexual abuse, violence is not limited to the battlefield or the time period in which an armed conflict occurs.² Somalia is a clear example of this: areas that are able to defend against an Al Shabaab takeover and ward off active conflict will also necessarily have a high presence of security forces, who are frequently implicated in violence against women and girls.³

Intersectionality. Intersectional theory emphasises the complexities of human identity to highlight the numerous and compounding ways a person may experience discrimination and vulnerability.⁴ This is important in Somalia. As noted by the Expanding Access to Justice (EAJ) program, while 'women, as a gender group, are vulnerable to specific protection concerns', clan, geographic location, wealth, marriage, divorce, bereavement, ageing and displacement 'can create new risks for an individual or in some cases negate them'.⁵ Displaced women, women from minority clans and women with disabilities are particularly vulnerable to human rights violations, and less likely to be able to access justice or ensure their personal security. This literature review examines challenges and possible solutions for programming relating not only to women and girls, but to all groups who experience increased barriers in accessing justice, and has been conducted with the understanding that these categories are fluid and multi-layered.

Gender Equality and Social Inclusion (GESI). GESI is a concept used by numerous development and humanitarian actors to describe programming that promotes equal and inclusive access,

¹ UN Security Council Resolutions 1325 (2000), 1820 (2008), 1888 (2008), 1889 (2009), 1960 (2010), 2106 (2013), 2122 (2013), 2242 (2015), 2467 (2019), and 2493 (2019): Peace Women, 'Women, Peace and Security Agenda', available at peacewomen.org/security-council/WPS-in-SC-Council

² UN Women (2020) 'Preventing Conflict, Transforming Justice, Securing the Peace', available at https://wps.unwomen.org/pdf/en/GlobalStudy_EN_Web.pdf, p 24.

³ UN Secretary General (2019) Conflict-related sexual violence: Report of the UN Secretary General', available at www.un.org/sexualviolenceinconflict/wp-content/uploads/2020/07/report/conflict-related-sexual-violence-report-of-the-united-nations-secretary-general/2019-SG-Report.pdf

⁴ H. Slim (16 January 2018) 'Impartiality and Intersectionality', available at <https://blogs.icrc.org/law-and-policy/2018/01/16/impartiality-and-intersectionality/>

⁵ EAJ (2019) 'Gender Equality and Social Inclusion Analysis Expanding Access to Justice (EAJ) Program in Somalia', accessible at www.pactworld.org/library/gender-equality-and-social-inclusion-analysis-expanding-access-justice-program-somalia USAID, p 10

decision-making, participation, and well-being of all vulnerable populations, taking into account intersectionality in the forms of vulnerabilities experienced by each group.⁶

2. Key findings

The key finding of this research is that the following overall strategies and approaches have had some positive impact when implementing programmes aimed to increase access to justice and security for women and marginalised groups.

- Applying an intersectional lens at each phase of project design has increased the participation of a broader range of beneficiaries and stakeholders, increasing the likelihood that the impact of these projects will not be confined to only the most visible or privileged members of a particular group.
- Facilitating continuous community discussions in formats adapted to the needs and habits of the communities, and pre-training women and marginalised groups to ensure their meaningful involvement in these discussions, has been effective in ensuring that the voices, needs and priorities of women and marginalised groups are better understood and incorporated into project design;
- Conducting stakeholder mapping and identifying champions has been effective in finding entry points or moving certain interventions forward- for example, getting legislation introduced and seriously discussed by finding elders willing to advocate for it;
- There is some evidence to suggest that supporting collective action of marginalised groups increases the likelihood that these groups will be able to effectively advocate for justice and respect for their human rights, though tangible examples of this are limited.

Examples of interventions that have either experienced some successes, or which have yet to yield successes but may be expected to in the future, are:

- Increasing the number of women in the justice and security sectors. While to date, the numbers of women in these positions is too low to make conclusions about overall impact, there are some anecdotal and research reports indicating that female police officers and prosecutors may make female survivors feel more comfortable accessing the justice system;
- Mobile courts servicing internally displaced persons (IDP) and remote communities have the base-level impact of providing access to courts and legal services to communities that would not otherwise have such impact- though the extent to which this has been able to increase access to justice and security for women and marginalised groups is unclear;
- One-stop centres for responding to rape cases appear to have made survivors feel more comfortable in access services, including legal services- and in Somaliland, where the centres are formally linked with the Criminal Investigations Department of the police, seem to have had some impact on increasing numbers of prosecutions and convictions;

⁶ See eg World Vision (2020) 'Gender Equality and Social Inclusion: The World Vision Approach and Theory of Change', available at www.worldvision.org/wp-content/uploads/2020/05/Gender_Equality_and_Social_Inclusion.pdf

- Police oversight mechanisms have generated some successes in terms of making women and marginalised groups more likely to report crime to the police, and in instigating reforms within the police to increase their responsiveness to issues impacting women and marginalised groups;
- Increasing inclusivity of alternative dispute resolution (ADR) has led to greater inclusion of women within ADR bodies, but has not had an impact on the resolution of cases relating to land or GBV, which affect women the most.

There is also evidence of strategies and approaches that have seemingly had no impact. One-off trainings on access to justice, GBV, land rights and other issues relating to the rights of women and marginalised groups appear to have had no effect. Likewise, though gender desks have been set up in police stations across Somalia, there is no evidence that they have had any impact on increasing access to justice and security.

3. Violations experienced by women and marginalised groups and barriers to justice and security

The most prevalent violations committed against women and marginalised groups in Somalia are gender-based violence (GBV), the denial of housing, land and property (HLP) rights, and violations committed against people with disabilities. Women and girls in Somalia are vulnerable to GBV- and the risk for those with intersecting marginalised identities, such as those from the displaced community, members of minority clans and people with a disability, is particularly high. Both women and marginalised groups in Somalia are at risk of having their land grabbed, of being evicted from their houses, or- in the case of women- having their rights of inheritance of land denied. People with disabilities are subjected to a variety of rights abuses, including in private houses and institutions, in employment, and in the public sphere- and are also more vulnerable to GBV and HLP violations.

A significant number of research reports have been produced about both GBV and HLP disputes in Somalia, but there is very little substantive evidence in these reports about what works to increase access to justice for these violations, or to increase security for marginalised groups to protect them from these violations happening in the first place. Significantly less has been written about violations of persons with a disability. The literature available suggests that GBV is the most common violation committed against marginalised communities in Somalia. The available statistics on each of these forms of violations is included in the sections below.

There are few comparative statistics for the numbers of women or marginalised groups who have experienced HLP violations, though it is known that most of the cases in the formal courts in

Mogadishu relate to land.⁷ The number of people with a disability who have experienced human rights violations and abuses is also unknown, but the available data suggests that it is high.⁸

Violations relating to insecurity of land tenure

Women, people with disabilities, IDPs and minority clans in Somalia are vulnerable to numerous violations relating to insecurity of land tenure, including forced evictions and land grabbing. The absence of a land registry and the formal system's inability to provide legal certainty around land rights means that land disputes are common. While it is not known how many Somalis are effected by land disputes, it is known that around 85% of cases filed at Mogadishu's formal courts are related to land.⁹ It is also known that over 173,255 people were evicted, most forcibly, in Somalia between January and August 2019- primarily in Mogadishu.¹⁰ Denial of HLP rights is often preceded by, accompanied by, or leads to, violence, including sexual violence; threats and extortion; financial hardship; and marginalisation and community eviction- trapping women and marginalised groups in cycles of poverty and abuse.¹¹

IDPs do not have customary rights to land usage. They are generally permitted to settle on privately owned land through arrangements which leave them vulnerable to abusive conditions and forced evictions. Minority clans may have long histories of being settled on particular areas of land, but generally do not have formal ownership documentation, and lack the power of majority clans to protect themselves against evictions and land grabbing.¹² Women in general do not legally own land. No formal law explicitly protects their right to land ownership, and they are not permitted to inherit land under *xeer*.¹³ While they are permitted to own land under Sharia law, *xeer* norms prohibiting this are more commonly applied when cases are adjudicated in the community.¹⁴ Land grabbing by male relatives following the death of the male land-owner in the family is a widespread problem.¹⁵

⁷ EAJ (January 2020) 'Pathways and Institutions for Resolving Land Disputes in Mogadishu', available at www.usaid.gov/sites/default/files/documents/1860/Access-to-land-rights-in-Somalia-research-report-March-20.pdf

⁸ For example, it is known that 1,700 people were freed from chains in Somalia between 2007 and 2010: Human Rights watch (2020) 'Living in Chains Shackling of People with Psychosocial Disabilities Worldwide' available at <https://www.hrw.org/report/2020/10/06/living-chains/shackling-people-psychosocial-disabilities-worldwide>

⁹ EAJ (January 2020) 'Pathways and Institutions for Resolving Land Disputes in Mogadishu'

¹⁰ HRW (2019) 'World Report: Somalia- Events of 2019' available at <https://www.hrw.org/world-report/2020/country-chapters/somalia>

¹¹ NRC (2105) 'Displacement and Housing, Land and Property Disputes in Puntland', available at <https://land.igad.int/index.php/documents-1/countries/somalia/gender-4/889-displacement-and-housing-land-and-property-rights-in-putland/file>

¹² Above n 8.

¹³ NRC (2016) 'Housing, Land and Property rights for Somalia's urban displaced women' available at www.nrc.no/globalassets/pdf/reports/somalia-housing-land-and-property-rights-for-somalias-urban-displaced-women-2016.pdf

¹⁴ Above n 37.

¹⁵ Ibid

Violations of people with a disability

People with disabilities face numerous violations, including physical abuse, a heightened risk of sexual abuse and exclusion from employment and educational opportunities. People with mental illnesses and disorders often face arbitrary detention, chaining, verbal and physical abuse, involuntary medication, overcrowding and poor conditions in institutions; or chaining at home, due to lack of appropriate government supported community-based services.¹⁶

Gender-based violence (GBV)

As noted by the Expanding Access to Justice Program (EAJ) in Somalia in 2019, there is a dearth of comprehensive information on GBV in Somalia.¹⁷ However, the non-comprehensive statistics that are available indicate that numbers are high. Statistics from various studies indicate that 36% of women have experienced physical or sexual violence from an intimate partner; 17% have experienced such violence from a non-partner; 45% of girls are married before 18 and 98% of the female population have undergone female genital mutilation/ cutting (FGM/C).¹⁸ According to the UN Assistance Mission in Somalia (UNSOM), 3,000 survivors of GBV received medical and health assistance provided by UN partners in 2019, and 5,700 received psychological support.¹⁹ Somalia's Country Taskforce on Monitoring and Reporting verified that this included 744 cases of rape.²⁰ While comparative numbers for 2020 have not yet been made public, it is known that the COVID-19 pandemic has had a chilling effect on the ability of survivors to access security and justice. In April 2020, the Attorney General's Office of the Federal Government of Somalia (FGS) announced that there had been no convictions for sexual offences owing to the suspension of court activities during the pandemic.²¹ The UN Monitoring Group for Somalia reported in August 2020 that trials for sexual crimes had not yet resumed.²² Even before the pandemic, access to justice for GBV was extremely limited, due to key gaps in legislation- including the failure to pass the 2018 Sexual Offences Bill in south central Somalia- as well as distrust of the formal legal system by the public and lack of capacity amongst police, prosecutors and judges.²³

In the literature consulted for this review, intimate partner violence (IPV), as a form of GBV, is given significantly less attention than non-IP sexual violence. Types of non-IPV given primacy in the literature include rape, gang rape and sexual exploitation and abuse (SEA) by perpetrators outside the intimate partner relationship. This is true despite the fact that statistics gathered by

¹⁶ B. Rohwerder (January 2018) 'Disability in Somalia' available at https://assets.publishing.service.gov.uk/media/5a744dbded915d0e8bf188ec/Disability_in_Somalia.pdf

¹⁷ EAJ (2019) 'Gender Equality and Social Inclusion Analysis'

¹⁸ DFID (2019) Somalia: Gender Issues Briefing Note, prepared for the Africa CSSF Team May 2019

¹⁹ UNSOM (19 June 2020) 'UN calls for more action to eliminate conflict-related sexual violence in Somalia' available at <https://reliefweb.int/report/somalia/un-calls-more-action-eliminate-conflict-related-sexual-violence-somalia>

²⁰ UNSOM (19 June 2020) 'UN calls for more action'

²¹ UNMGSE (28 October 2020) 'Letter dated 28 September 2020 from the Panel of Experts on Somalia addressed to the Chair of the Security Council Committee pursuant to resolution 751 (1992) concerning Somalia' available at <https://www.undocs.org/en/S/2020/949>

²² UNMGSE (28 October 2020) 'Letter dated 28 September 2020 from the Panel of Experts on Somalia'

²³ Each of these considerations are enumerated and referenced in the sections below.

the UN and other reports consistently indicate that IPV is the form of GBV most commonly reported to service providers across the country.²⁴ This literature review summarises the brief references to IPV within the literature, including references to the reasons that justice for violations committed within the family appear to be particularly inaccessible.

Survivors

Existing data indicates that GBV is primarily committed against women and girls,²⁵ and that it occurs more often in urban than in rural areas.²⁶ However, the EAJ reports that sexual crimes against men and boys are 'almost certainly more prevalent than case reporting indicates, and that the higher number of reported rapes in cities and peri-urban areas may be due to increased access to police, legal aid, women's NGOs and courts.'²⁷ All sources indicate that the IDP community is most vulnerable to GBV,²⁸ with the UNFPA consistently reporting that around 76% of GBV survivors are from IDP communities.²⁹

Perpetrators

The most common perpetrators of GBV described in the literature include men known to the survivor, including intimate partners, and armed actors.

Intimate partner violence (IPV) is known to be widespread in Somalia. In 2012, UN Special Rapporteur Rashida Manjoo described IPV against Somali women and girls "the most pervasive manifestation of violence against women and girls in the country," and said that her observation had been that legal intervention or other assistance was not deemed necessary unless that violence led to serious injury or death.³⁰ More recent reports indicate that the situation remains unchanged. In 2018, data collected by UN agencies and reported by Sidra indicated that IPV accounted for 73% of the GBV cases brought to the organisations in their network.³¹

As well as accounting for a high number of reported GBV offences, IPV is reported to affect a high number of Somalia's female population. A quantitative observational study published in BMJ Global Health in 2018, which surveyed 2376 women and 2257 men, found that a third of women had experienced IPV in the previous year, and around 20% of men reported committing it in the same timeframe.³² The study found minority clan membership, displacement, exposure to parental violence and violence during childhood, poverty, recent miscarriages or still births, and

²⁴ Sidra Institute (2019) 'Policy Brief- Rape: A Rising Crisis and Reality for the Women in Somalia', p 5.

²⁵ 95%, according to: UNFPA (2020) 'Gender-Based Violence in Somalia' Advocacy Brief, April 2020, available at <https://somalia.unfpa.org/sites/default/files/pub-pdf/Gender-Based%20Violence%20in%20Somalia%20-%20V3%20-%20Digital.pdf>

²⁶ EAJ (2019) 'Gender Equality and Social Inclusion Analysis', p 19

²⁷ Ibid.

²⁸ Eg, EAJ (2019) 'Gender Equality and Social Inclusion Analysis'; UNFPA (2020) 'Gender-Based Violence in Somalia'

²⁹ UNFPA (2020) 'Gender-Based Violence in Somalia'

³⁰ UN General Assembly and Human Rights Council, Report of Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, A/HRC/20/16/Add.3, May 14, 2012, para. 17.

³¹ Sidra Institute (2019) 'Policy Brief- Rape: A Rising Crisis and Reality for the Women in Somalia', p 5.

³² Wirtz AL, Perrin NA, Desgroppes A, et al (2018) 'Lifetime prevalence, correlates and health consequences of gender-based violence victimisation and perpetration among men and women in Somalia', BMJ Global Health 3, pp 4- 5.

marriages that begin when the wife is under 16 to be common correlates of IPV victimisation and perpetration.³³

Studies with displaced Somali populations have also found *khat* use to increase the likelihood of abuse.³⁴ Research has consistently shown that women gaining livelihoods opportunities and increasing their economic independence tends to coincide with an increase IPV in the short term.³⁵ However, there is also literature to suggest that when women are more involved in decision-making in households and communities – a behaviour often related to their income-earning ability – a decreased number of men in those households and communities view IPV as being an acceptable part of a marriage.³⁶

Armed actors who commit sexual violence include the Somali National Army (SNA), Somali National Police Force (SNPF), state security forces, private security personnel,³⁷ AMISOM, Ethiopian National Defence Forces (ENDF) troops operating outside of the AMISOM framework,³⁸ Al Shabaab and clan militias. The available data indicates that armed men from government security forces are more likely to commit sexual violence than those from non-state armed groups. The UN Secretary General's 2019 annual report on Sexual Violence in Conflict found that state and federal security forces had participated in three times the number of recorded acts of sexual violence as Al Shabaab.³⁹ Allegations of sexual abuse against IDPs committed by managers of the IDP camps, described in Somalia as 'gatekeepers', are known to exist- though most of these allegations were publicised in a 2013 Human Rights Watch report, with very little documented since.

Types of GBV

Intimate Partner Violence. The most common form of GBV described in the literature is violence committed by the intimate partner of the survivor.⁴⁰ Several of the types of GBV listed below – including physical abuse, sexual abuse, and emotional violence, are common forms of IPV.

³³ Wirtz AL, Perrin NA, Desgropes A, et al (2018) 'Lifetime prevalence, correlates and health consequences of gender-based violence', p 1.

³⁴ Sharma et al (2020) 'Khat use and intimate partner violence in a refugee population: a qualitative study in Dollo Ado, Ethiopia', BMC Public Health 20, p 1.

³⁵ Save, pp 16- 17

³⁶ Ibid.

³⁷ Human Rights Watch, 2013, 'Hostages of the Gatekeepers', available at https://www.hrw.org/sites/default/files/reports/somalia0313_ForUpload.pdf

³⁸ UN Monitoring Group for Somalia and Eritrea (2015) 'Report of the Monitoring Group on Somalia and Eritrea pursuant to Security Council resolution 2182 (2014): Somalia', available at <https://www.undocs.org/S/2015/801>

³⁹ UN Secretary General (2019) Conflict-related sexual violence: Report of the UN Secretary General', available at www.un.org/sexualviolenceinconflict/wp-content/uploads/2020/07/report/conflict-related-sexual-violence-report-of-the-united-nations-secretary-general/2019-SG-Report.pdf

⁴⁰ OCHA, Humanitarian Response and Humanitarian Insight (December 2019) 'Humanitarian Needs Overview Somalia', available at <https://reliefweb.int/sites/reliefweb.int/files/resources/2020%20Somalia%20Humanitarian%20Needs%20Overview.pdf>, p

Physical abuse. Physical abuse is often committed as a form of IPV, but has also been committed against women and girls as a weapon of conflict or during community violence. In 2019, physical abuse included beatings, torture and even murders in Baidoa, Buulaburte and Galkayo IDP camps, where 'hostility and discrimination from host communities are high'.⁴¹

Rape. The literature indicates that rape is widespread in Somalia,⁴² and news reports suggest that it may be increasing.⁴³ The UN envoy to Somalia has stated that rape committed as CRSV is common- in 2019, 241 of the 744 rape cases verified by Somali's Taskforce on Monitoring and Reporting were recorded as being conflict-related. Rape committed as CRSV tends to be less focused on and comprehensively described in the literature than rape committed outside of conflict. Nevertheless, some reports describe rape against civilians as being a feature of conflicts between clans and between the government and insurgents, throughout and following the stateless period. One collection of Somali women's life stories includes the story of a woman who describes living through 12 different conflicts 'involving clan militias, religious groups or the government' in Kismayo since 1991, involving 'so many rapes in which even children were not spared'.⁴⁴

Rapes committed outside of conflict are described in one study as being 'youth-driven' and associated with unemployment, lack of opportunity and feelings of emasculation amongst the male population.⁴⁵ Such attacks are consistently reported as being most often targeted against IDP communities. As explained in Somalia's 2020 Humanitarian Needs Overview, IDP women and girls have increased vulnerability to such violence due to inadequate fencing of IDP camps, shelters constructed with temporary materials, poor lighting, lack of private spaces for sleeping, over-crowding, faulty solar lanterns and torches, and shared latrines- where acts of sexual violence are reportedly common.⁴⁶ A multi-sectoral safety assessment conducted in 2019 found that 85% of the IDP settlements assessed did not have separate latrines for women and men.⁴⁷ EAJ and Life & Peace Institute also describe rape committed by men of low socio-economic means and standing to facilitate marriage, by forcing the reduction of the dowry payment and securing the family's consent.⁴⁸

Reports suggest that gang rape increasingly common and geographically pervasive, including in more peaceful areas such as Somaliland.⁴⁹ According to at least one report, incidents of gang

⁴¹ UNFPA (2020) 'Gender-Based Violence in Somalia', p 57.

⁴² HRW (2014) "Here, Rape is Normal" available at www.hrw.org/report/2014/02/13/here-rape-normal/five-point-plan-curtail-sexual-violence-somalia

⁴³ BBC (5 April 2020) 'Somali outrage at rape of girls aged three and four', available at <https://www.bbc.com/news/world-africa-52172609>; M. Dhaysane (15 September 2020) 'Somalia: 11 held for rape, murder of teen student', available at <https://www.aa.com.tr/en/africa/somalia-11-held-for-rape-murder-of-teen-student/1974491>

⁴⁴ Life & Peace Institute (April 2018) 'Women, Conflict and Peace: Learning From Kismayo'

⁴⁵ EAJ (2019) 'Gender Equality and Social Inclusion Analysis', p 20

⁴⁶ Humanitarian Programme Cycle (2020) Humanitarian Needs Overview: Somalia, available at <https://reliefweb.int/sites/reliefweb.int/files/resources/2020%20Somalia%20Humanitarian%20Needs%20Overview.pdf>

⁴⁷ Ibid.

⁴⁸ EAJ (2019) 'Gender Equality and Social Inclusion Analysis'; Life & Peace Institute (April 2018) 'Women, Conflict and Peace: Learning From Kismayo'

⁴⁹ EAJ (2019) 'Gender Equality and Social Inclusion Analysis', p 19

rape committed by men from different *diyya* (customary compensation) paying groups are increasing.⁵⁰ Under Somali customary law (xeer), rape and gang rape are considered a single, communal offence- an infraction by one clan group or sub group against the other.⁵¹ When a crime is committed by perpetrators across different *diyya* paying groups, the compensation is split, making the offence less costly for the clan or sub clan of the perpetrators.

Sexual exploitation and abuse. There is lack of information relating to SEA in Somalia. One reason for this is that SEA is defined by the relationship of the perpetrator to the victim- when international actors refer to SEA, they refer to actors in a position of power taking advantage of a vulnerable community. UN-imposed restrictions on how, and to what extent, data about GBV in Somalia is to be shared prevents those sharing it from disclosing information about the identities of the perpetrators- which is the information that would indicate whether an incident of GBV constituted SEA. Data about GBV in Somalia is systematically collected by the GBV Information Management System, a system which requires GBV service providers to record details about GBV incidents in a database managed by the UN GBV Working Group. The GBV Working Group places conditions on the sharing of the information from the GBVIMS through an Information Sharing Protocol,⁵² which stipulates that GBVIMS partners should not share this information.⁵³

Despite this, it is generally reported that armed men in uniform are some of the most common perpetrators of GBV, including SEA. Armed men operating in Somalia who have been accused of GBV, in addition to AMISOM, include the following groups:

- Ethiopian security forces outside of AMISOM, including the Ethiopian Defence Forces and the Ethiopian Liyu police⁵⁴
- Somali National Army (SNA)⁵⁵
- Somali National Police Force (SNPF)⁵⁶
- Independent security contractors⁵⁷

⁵⁰ *Ibid*, p 13.

⁵¹ International Committee for the Development of Peoples and International Alert (2015) 'The Complexity of Sexual and Gender-Based Violence: Insights from Mogadishu and South Central Somalia' 39-42.

⁵² A copy of the global GBVIMS model Information Sharing Protocol is accessible at gbvims.com/wp/wp-content/uploads/Annex-F-GBV-Information-Sharing-Protocol-Template.pdf

⁵³ Eg see UNFPA, June 2018, Somalia Gender Based Violence Sub-Cluster Bulletin, accessible at <https://somalia.unfpa.org/sites/default/files/pub-pdf/GBV%20Bulletin%20Apr%20-%20Jun%202018%20Final-1.pdf> UNFPA, September 2016, Somalia Gender Based Violence Sub-Cluster Bulletin, accessible at <https://somalia.unfpa.org/en/publications/somalia-gender-based-violence-sub-cluster-bulletin>; UNFPA, December 2016, Somalia: Gender Based Violence Sub-cluster Bulletin, accessible at https://somalia.unfpa.org/sites/default/files/pub-pdf/Dec_GBv%20Bulletin%20%283%29.pdf; UNFPA, August 2015, Somalia: Gender Based Violence Sub-cluster Bulletin, accessible at <https://reliefweb.int/report/somalia/somalia-gbv-sub-cluster-bulletin-1-january-august-2015>

⁵⁴ UN Monitoring Group for Somalia and Eritrea, Somalia report of the Monitoring Group on Somalia and Eritrea submitted in accordance with resolution 2182 (2014), S/2015/801 (20 October 2015), accessible at <https://www.undocs.org/S/2015/801>

⁵⁵ UN Monitoring Group for Somalia and Eritrea, *Report of the Panel of Experts on Somalia submitted in accordance with resolution 2444 (2018)*, S/2019/858 (1 November 2019), available from <https://undocs.org/S/2019/858>

⁵⁶ Smith, David, 7 March 2013, 'My rapists were rewarded, says Somali woman cleared of making false claims', The Guardian, accessible at <https://www.theguardian.com/world/2013/mar/07/rapists-rewarded-somali-woman-cleared>

⁵⁷ *Ibid*.

- Clan and religious militias⁵⁸

In 2013 and 2014, there was significant attention given to the issue of SEA by AMISOM peacekeeping troops. However, there have been decreasing references to SEA committed by AMISOM in UN reports on GBV over the past seven years. For example, while the UN Monitoring Group for Somalia and Eritrea described receiving credible reports of SEA committed by AMISOM in their 2013 and 2014 reports, there are no similar observations in the reports released from 2015 to 2020.⁵⁹ A high profile account of rape allegedly committed by AMISOM personnel in 2013⁶⁰ and a report into SEA by AMISOM released by Human Rights Watch in 2014⁶¹ increased attention given to this issue at that time, and a series of commitments were made and policies were adopted to better respond to allegations of SEA by the African Union in Addis Ababa and AMISOM's Mogadishu headquarters. Since 2015, however, the focus on SEA has faded and these commitments and policies remain largely unimplemented.⁶²

There are no publicly recorded allegations of SEA against non-governmental organisation (NGO) workers in Somalia, and only one recorded allegation against the UN, which is listed in the UN database on SEA allegations against peacekeeping operations as being 'unsubstantiated'.⁶³ In Somalia, the provision of humanitarian assistance is rarely carried out by the UN or NGOs alone.⁶⁴ Due to insecurity and lack of access, humanitarian actors work together with a network of security, state and non-state actors to deliver goods and services: the Ministry of Interior and district authorities generally oversee the exercise;⁶⁵ peacekeeping troops, militias and private security

⁵⁸ Bive n 49.

⁵⁹ UN Security Council, 'Somalia Sanctions Committee', list of reports: <https://www.un.org/securitycouncil/sanctions/751/work-and-mandate/reports>

⁶⁰ Sabahi, 12 August 2013, 'Somali Woman Alleges Rape by AU Soldiers', All Africa, available at <https://allafrica.com/view/group/main/main/id/00025967.html>

⁶¹ Human Rights Watch, 2014, 'The Power These Men Have Over Us: Sexual Exploitation and Abuse (SEA) by African Union Forces in Somalia', available at http://www.hrw.org/sites/default/files/reports/somalia0914_ForUpload.pdf

⁶² For example, SEA by AMISOM was referred to in the 2013, 2014 and 2015 reports of the UN Monitoring Group for Somalia and Eritrea but not in the reports from 2016, 2017, 2018 or 2019. The AU's policy on SEA, originally drafted in 2015 in response to the allegations, remains in draft form.

⁶³ UN Missions, Sexual Exploitation and Abuse: Table of Allegations, accessible at <https://conduct.unmissions.org/table-of-allegations>

⁶⁴ McCullough, Aoife and Saed, Muyhadin, 2017, 'Gatekeepers, elders and accountability in Somalia', accessible at Bryld, Erik et al, 2017, 'Engaging the Gatekeepers: Using informal governance resources in Mogadishu', accessible at <https://www.odi.org/sites/odi.org.uk/files/resource-documents/11938.pdf>

<https://reliefweb.int/sites/reliefweb.int/files/resources/Engaging%20the%20Gatekeepers.pdf>; Mumin, Abdalle, 18 July 2019, 'Somalia's displacement camp 'gatekeepers'- 'parasites' or aid partners?' The New Humanitarian, accessible at <https://www.thenewhumanitarian.org/news-feature/2019/07/18/Somalia-internally-displaced-people-private-camps>

⁶⁵ Eg see UN Monitoring Group on Somalia and Eritrea, 'Report of the Monitoring Group on Somalia and Eritrea pursuant to Security Council resolution 2244 (2012): Somalia', S/2016/919 (31 October 2016) p 140, Annex 6; UN Monitoring Group on Somalia and Eritrea, 'Report of the Monitoring Group on Somalia and Eritrea pursuant to Security Council resolution 2244 (2012): Somalia', S/2012/544 (13 July 2012), p 298.

organisations provide security;⁶⁶ and local NGOs, peacekeeping troops and IDP camp managers (called 'gatekeepers') are heavily involved in the distribution of food, medicine and supplies.⁶⁷ While there has been at least one allegation of SEA committed by gatekeepers,⁶⁸ in general, information about GBV or SEA committed by the network of actors involved in providing humanitarian assistance is extremely limited.

Physical violence committed by teachers against students within schools is common. A study released in 2018 noted that among women who reported experiencing physical or physical violence before the age of 15, 15% reported that the perpetrator was their teacher. However, the study did not find high levels of perpetration of sexual violence against students by their teachers.⁶⁹

Emotional abuse. The literature indicates that emotional and psychological abuse, which are most often committed within a family or intimate partner relationship, are unlikely to be considered a violation of rights or even socially impermissible behaviour.⁷⁰ As is discussed in further detail below, this type of abuse is not unlawful under the Somali Penal Code or any other legislation. A 2015 observational study by CISP which engages with the topic of psychological abuse – something most reports do not go into depth on – states that verbal abuse 'that undermines a person's sense of wellbeing' is 'a common practice among almost all Somali communities.'⁷¹ Participants in the research conducted by CISP recognised that this type of abuse was 'used to make a person feel worthless in order to establish control over them', but did not consider it to be a violation or a crime.

Harmful cultural practices. Harmful cultural practices include forced and early marriage and female genital mutilation/ cutting (FGM/C). An estimated 98% of the female Somali population has experienced FGM/C.⁷² A prohibition of FGM/C in the Somali constitution, which describes it as being 'tantamount to torture', has done little to curb the practice.⁷³ The numbers of girls being

⁶⁶ Human Rights Watch, 2013, 'Hostages of the Gatekeepers', available at https://www.hrw.org/sites/default/files/reports/somalia0313_ForUpload.pdf; Human Rights Watch, 'The Power These Men Have Over Us: Sexual Exploitation and Abuse (SEA) by African Union Forces in Somalia', September 2014, http://www.hrw.org/sites/default/files/reports/somalia0914_ForUpload.pdf

⁶⁷ Human Rights Watch, 2013, 'Hostages of the Gatekeepers,' p 23

⁶⁸ Ibid.

⁶⁹ Somali Penal Code (1962), available at legalactionworldwide.org/wp-content/uploads/2014/11/Somali-Penal-Code.pdf

⁷⁰ Dr Siham Rayale, Ed Pomfret and Deborah Wright (2015), Somali Solutions: Creating conditions for a gender-just peace, p 15

⁷¹ CISP (October 2015) 'The Complexity of Sexual and Gender-Based Violence: Insights from Mogadishu and South Central Somalia October 2015', available at https://www.international-alert.org/sites/default/files/Somalia_ComplexitySexualViolence_EN_2015.pdf, p 34

⁷² EAJ (2019) 'Gender Equality and Social Inclusion Analysis'

⁷³ Art 15 of the Federal Government of Somalia (2012) Provisional Constituion, available at extwprlegs1.fao.org/docs/pdf/som127387.pdf

subjected to FGM/C has reportedly increased even further during the COVID-19 lockdown, with people who perform the practice going door to door offering to perform it on families' daughters.⁷⁴

Forced and early marriage are practiced traditionally in Somalia and are legal under customary law.⁷⁵ Some forms of forced and early marriages may be directly related to the conflict- for example *dhabar-garaac*, where a woman or girl is abducted, abused and forced into marriage when one clan "raids" another.⁷⁶ Others are directly related to peace negotiations during or at the end of conflict, including the exchange of women in the context of armistice agreements,⁷⁷ and arranged marriages between specific families and militia leaders to protect that family from further violence.⁷⁸ Early marriage is legal under both Somali customary law and Sharia. Sometimes, it is practiced during a conflict, where the parents of the child believe that facilitating their marriage will protect them from rape and other forms of sexual violence. For other families, it is an economic decision, driven by inability to continue caring for a child and the financial need for the dowry payment.⁷⁹

Barriers to justice and security

Barriers to security and to accessing justice for women and minority groups described in the literature are numerous and complex. Different reports categorise these barriers in different ways – in this literature review, these have been synthesized into the following categories: **barriers relating to lack of infrastructure, skills and resources; entrenched social norms and beliefs; weak accountability and poor governance** that characterises the Somali state apparatus; **pluralist and clan-based structures** on which the Somali legal and political system is based. These categories are interlinked and mutually reinforcing.

These barriers to justice and security exist for survivors attempting to protect themselves from or access redress for acts of GBV that are viewed within Somali society as being crimes - such as rape outside of a marriage, or serious physical abuse resulting in injury or death.⁸⁰ Where communities do not consider acts of GBV to be crimes or violations of the social contract – such as acts of physical, sexual or emotional abuse committed within a family or in the context of a marriage – the literature suggests that these barriers are even more impervious. A consideration of the distinct and increased challenges to accessing justice for IPV is therefore included at the end of this section.

⁷⁴ R. Shenoy (3 June 2020) 'Despite recent historic gains in ending FGM, Somalia sees dramatic increase' RPI, available at <https://www.pri.org/stories/2020-06-03/despite-recent-historic-gains-ending-fgm-somalia-sees-dramatic-increase>

⁷⁵ N. Judy and M. Akinkyi (2015) 'Al-Shabaab and Forced Marriage in Somalia: Beliefs, Practices and Interventions' available at https://www.researchgate.net/publication/334731397_Al-Shabaab_and_Forced_Marriage_in_Somalia_Beliefs_Practices_and_Interventions

⁷⁶ N. Judy and M. Akinkyi (2015) 'Al-Shabaab and Forced Marriage in Somalia'

⁷⁷ EAJ (2019) 'Gender Equality and Social Inclusion Analysis'

⁷⁸ Life & Peace Institute, Peace Direct and Somali Women Solidarity Organization (2018) 'Learning from Kismayo: A Study Report'.

⁷⁹ EAJ (2019) 'Gender Equality and Social Inclusion Analysis'

⁸⁰ Wirtz AL, Perrin NA, Desgropes A, et al (2018) 'Lifetime prevalence, correlates and health consequences of gender-based violence'; CISP (October 2015) 'The Complexity of Sexual and Gender-Based Violence'; EAJ (2018) 'Gender Equality and Social Inclusion Analysis'

Lack of infrastructure, skills and resources. According to the literature, some of the gaps faced by women and marginalised groups in accessing justice – and those arguably least complicated to address through international assistance – relate to the weak capacity of the formal justice system. The available reports describe challenges ranging from legislative gaps to a lack of coordination between justice actors.

Weak police force and a lack of successful policing strategies to protect women and girls

The literature describes a weak security infrastructure across Somalia. Ordinary citizens rely on the clan system for protection, and recourse to the formal system is rare. A survey in Mogadishu in 2014 found that only 13% of interviewees trust courts, while 48% would rather rely on customary mechanisms, and 29% on religious mechanisms.⁸¹ In a 2017 assessment of access to justice in Somaliland, where trust in the formal system is generally higher than the rest of Somalia, only 46% of survey participants gave the police the highest or second highest rating on a five-point scale when asked how well they were able to deal with the cases referred to them. The survey found that 67% of respondents agreed that SGBV cases do receive a fair trial in courts.⁸²

Reports indicate that while survivors of GBV have low levels of trust in the formal justice system to respond effectively to their situation, this trust is even lower amongst survivors of IPV. The qualitative and quantitative data that has been gathered on social beliefs in the police's effectiveness has not been analysed specifically in relation to their response to IPV cases.⁸³ However, research participants interviewed for these reports have volunteered stories of the police mishandling cases of serious IPV, most often by releasing perpetrators and allowing them to return home.⁸⁴

There are numerous formal police forces operating in Somalia, under a federalized model which has been developed and updated since the formation of the Somali state in 2012. These police forces are now coordinated through the 'New Policing Model', guided by a 'Security Pact' co-signed by the Somali government and its international partners in 2017.⁸⁵ Overall assessments of the impact of the New Policing Model, such as the 'Good practices and lessons learned from the development and implementation of Somalia's "New Policing Model": a state building example' document produced by UNPOL and UNSOM in 2018, have not included analyses of the impact of the model on women and girls.⁸⁶ They have, however, emphasised the need to build

⁸¹ BTI Transformation Index (2020) 'Somalia Country Report 2020' available at <https://www.bti-project.org/en/reports/country-report-SOM-2020.html>

⁸² EAJ (2020) 'Access to Justice Assessment Tool: Somaliland Baseline Study: Research Report' Expanding Access to Justice Program, p 23 & 37

⁸³ *Ibid*, p 22- 23, 38; EAJ (2020) 'Access to Justice Assessment Tool: Baseline Study Somalia', Expanding Access to Justice Program, p 80; Horizon Institute (2018) 'Seeking Justice for Rape in Somaliland: The Role and Limitations of the Criminal Justice System' 24

⁸⁴ EAJ (2020) 'Access to Justice Assessment Tool: Somaliland Baseline Study,' p 38; HRW 25

⁸⁵ UNSOM and UNPOL (2018) 'Towards a Federated Police System in Somalia: Good practices and lessons learned from the development and implementation of Somalia's "New Policing Model" A state building example', available at https://issat.dcaf.ch/fre/download/131042/2680352/Federated%20Police%20System_revised.pdf

⁸⁶ UNSOM and UNPOL (2018) 'Towards a Federated Police System in Somalia'; see also World Bank (January 2017) 'Federal Republic of Somalia Somalia Security and Justice Sector PER', available at documents1.worldbank.org/curated/en/644671486531571103/pdf/Somalia-Security-and-justice-sector-public-expenditure-review.pdf

strong community relationships in order to help promote legitimacy and accountability and enhance intelligence capacity with limited resources.⁸⁷

Barriers to survivors reporting GBV to the police. There are many barriers preventing GBV survivors from reporting to the police. Human Rights Watch observes that lack of information is one of the biggest: many survivors do not know the process to follow to report to the police. Second, many survivors are reluctant to report sexual violence because they are too poor to take time off from work and forgo the daily wages that they depend on to feed their families.⁸⁸ Third, there is enormous pressure on survivors to resolve cases through the customary rather than the formal system.⁸⁹ Fourth, as most police officers are men, some reports indicate that survivors, who are mostly female, do not feel comfortable reporting.⁹⁰ It is frequently mentioned in the literature that many police consider GBV to be a personal or family issue, and do not take it seriously or refer matters for investigation.⁹¹ At least four reports released between 2013 and 2020 include qualitative or anecdotal information about police subjecting survivors bringing complaints of GBV to further violence.⁹² Fifth, in Mogadishu, the police will reportedly only follow up on complaints of rape and sexual violence if the survivor is able to produce a medical certificate – and only then if the certificate is from Medina Hospital. Finally, as prosecutions are so rare, there is little incentive for survivors to pursue justice through the formal system.⁹³

These barriers appear to be even more impervious in cases of IPV than they do for GBV committed outside of the family unit. Most of the reports reviewed concentrate on the reasons for low reporting rates in non-IPV GBV cases. Several, however, included anecdotal reports of women attempting to go to the police to report husbands or family members perpetrating extreme abuse, including violence which induces miscarriages, abuse of children, and one case in which a man poured gasoline on his wife and children and threatened to set them on fire.⁹⁴ In these reports, police have consistently dismissed the women, told them to reconcile with their husbands, or let their abusers out of custody due to bribes, pressure, or because the perpetrator tells the

⁸⁷ Tait et al (November 2019) 'Community-Police Dialogue and Cooperation in Somalia' DDG, DfID and UNOPS

⁸⁸ HRW (February 2014) "'Here, Rape is Normal': A Five-Point Plan to Curtail Sexual Violence in Somalia", available at www.hrw.org/report/2014/02/13/here-rape-normal/five-point-plan-curtail-sexual-violence-somalia

⁸⁹ EAJ (2019) 'Gender Equality and Social Inclusion Analysis'

⁹⁰ S. A. Koshin and M. A. Botan (November 2017) 'Assessment Study On Female Police Officers In Police Forces In Somalia', UN Women and Sidra Institute, p 17; LAW (2014) Legal Aid Providers Supporting GBV Survivors in Somalia, p 33.

⁹¹ DFID (2019) 'Gender Issues Briefing Note'; CISP (2015) 'The Complexity of Sexual and Gender-Based Violence: Insights from Mogadishu and South Central Somalia'; HRW (February 2014) "'Here, Rape is Normal'"; Amnesty International (August 2013) 'Rape and Sexual Violence a Constant Threat for Displaced Women', available at www.amnesty.org/en/press-releases/2013/08/somalia-rape-and-sexual-violence-constant-threat-displaced-women/

⁹² EAJ (2020) 'Access to Justice Assessment Tool: Baseline Study', p 33, HRW (February 2014) "'Here, Rape is Normal'"; Amnesty International (August 2013) 'Rape and Sexual Violence a Constant Threat for Displaced Women'; LAW (2014) 'Legal Aid Providers Supporting GBV Survivors in Somalia.'

⁹³ LAW (2014) 'Legal Aid Providers Supporting GBV Survivors in Somalia,' p 33.

⁹⁴ EAJ (2020) 'Access to Justice Assessment Tool: Somaliland Baseline Study: Research Report' Expanding Access to Justice Program. pp 22- 23; EAJ (2020) 'Access to Justice Assessment Tool: Baseline Study', Pact and the American Bar Association Rule of Law Initiative. 80; CISP (October 2015) 'The Complexity of Sexual and Gender-Based Violence: Insights from Mogadishu and South Central Somalia October 2015', available at https://www.international-alert.org/sites/default/files/Somalia_ComplexitySexualViolence_EN_2015.pdf

police he will not do it again.⁹⁵ A news article released in 2014 describes a woman who attempted to report her abusive husband to the police, and was instead arrested, detained, and frequently raped by the officers.⁹⁶ This news article indicates that trends relevant to the handling of GBV generally apply to IPV cases specifically.

Legislative gaps. Recognising that the existing Penal Code is inadequate for protecting survivors, concerted efforts from civil society have been made all over the country since 2013 to pass and implement a comprehensive Sexual Offences Bill. In Somaliland, a Rape Sexual Offences Bill was passed in 2018, but shortly after its adopted it was suspended by a direction of the Ministry of Religious Affairs, which has since proposed a new law that introduces provisions based on a conservative reading of Shariah law, including an evidentiary requirement of four male eyewitnesses in cases of rape, punishments of lashing and stoning to death, and a reduction of the age of consent to 14 years old.⁹⁷

In Puntland, a 'Rape Act' was passed in 2016. The Act broadens the definition of rape towards a lack of consent, rather than the presence of threats or force. It also, however, specifically states that 'marriage between the couples shall constitute defense to a charge of rape.'⁹⁸ The literature also indicates that the Act has not been implemented comprehensively.⁹⁹ For example, when a 14 year old girl reported being raped by a 35 year old man in Puntland in January 2020, resulting in her impregnation – a crime which was later proven by a DNA test – the man was sentenced to two years in prison, in contrast to the 20-year-sentence mandated for the rape of a child under the Bill.¹⁰⁰ Puntland's Attorney General has said the failure to implement the Bill is due in part to lack of sensitisation with legal actors about both the contents of the Bill and the importance of implementing it.¹⁰¹ UN Women indicates that additional challenges with implementation of the Bill include poor tracking and data analysis, ineffective women and children's desks, absence of a 24/7 hotline and poor public sensitisation.¹⁰²

In south central Somalia, a Bill was drafted over five years of consultations with civil society and other stakeholders and approved by the FGS Cabinet in 2018. In 2019, the Bill was returned to Cabinet by the Speaker of the House of the People requesting Cabinet to make substantive amendments, and in 2020 a new Sexual Intercourse Related Crimes Bill was introduced, which substantially reduces protections for survivors, including by allowing child and forced marriage in

⁹⁵ Ibid.

⁹⁶ SIHA (6 February 2014) 'Mogadishu: Urgent action needed for Somali woman denied justice in Court and subjected to rape at the hands of Somali police', available at <https://sihanet.org/mogadishu-urgent-action-needed-for-somali-woman-denied-justice-in-court-and-subjected-to-rape-at-the-hands-of-somali-police/>

⁹⁷ EAJ (2020) 'Access to Justice Assessment Tool: Baseline Study in Somaliland 2020', available at https://www.eajprogram.org/research/AJAT_SL_Report.pdf, p 15.

⁹⁸ Puntland Rape Act (2015), Art 6.

⁹⁹ S. A. Koshin and M. A. Botan (November 2017) 'Assessment Study On Female Police Officers In Police Forces In Somalia', UN Women and Sidra Institute, p 17.

¹⁰⁰ UNFPA (23 September 2020) 'Enforcing the Sexual Offences Law in Puntland', available at <https://reliefweb.int/report/somalia/enforcing-sexual-offences-law-puntland>

¹⁰¹ Ibid.

¹⁰² Above n 43.

certain circumstances.¹⁰³ The Bill has been widely condemned by civil society, including in a statement released by the 105 NGOs represented by the Somalia NGO Consortium (SNC) in August 2020.¹⁰⁴

Lack of skills and training. It is reported in the literature that justice actors including police, prosecutors and judges are inadequately trained – both in general, and in the specific skillset needed to investigate, prosecute and hear sexual offences.¹⁰⁵ Reports note that many judges are ill-equipped to hear cases based on statutory law.¹⁰⁶ They are generally either trained in Sharia law in jurisdictions abroad, lack training, or have received limited training from international institutions.¹⁰⁷

Few and inaccessible courts. There are no functioning policing system or courts in most rural areas of Somalia.¹⁰⁸ Where they do exist, they are too costly for the average Somali.¹⁰⁹ There is a lack of awareness about how to access the formal system, legal aid and assistance services are not sufficient to meet the needs of the population. The UNDP had a strong focus on increasing access to courts in the years following the formation of the federal government, through training judges and judicial officers, funding legal aid providers, establishing mobile courts, and supporting law schools and legal aid clinics for students, including curricula development.¹¹⁰ While in recent years, the UNDP has acknowledged that its past monitoring often focused on indicators, such as number of people trained, rather than overall impact,¹¹¹ there is documentation from the 2012 and 2013 UNDP projects indicating the number of cases heard at the formal courts, including numbers of rape cases disaggregated by dismissals and convictions.¹¹² Later reports indicate the number of cases heard through UN-supported mobile courts, but not the district and regional courts.

¹⁰³ UNICEF (2020) 'Somalia: Draft law a 'major setback' for victims of sexual violence' available at <https://news.un.org/en/story/2020/08/1070022>

¹⁰⁴ Plan International (13 August 2020) 'Concern over Bill Normalising Violence Against Girls and Women in Somalia' available at <https://plan-international.org/news/2020-08-13-concern-bill-normalises-violence-against-girls-women-somalia>

¹⁰⁵ Eg, Sidra Institute (June 2019) 'Policy Brief- Rape: A Rising Crisis and Reality for the WOmEn in Somalia', available at https://media.africaportal.org/documents/Sidra_Abuse.pdf; EAJ (2019) 'Gender Equality and Social Inclusion Analysis Expanding Access to Justice (EAJ) Program in Somalia', accessible at www.pactworld.org/library/gender-equality-and-social-inclusion-analysis-expanding-access-justice-program-somalia, p 21

¹⁰⁶ Ibid; BTI Transformation Index (2020) 'Somalia Country Report 2020' available at <https://www.bti-project.org/en/reports/country-report-SOM-2020.html>

¹⁰⁷ EAJ (March 2020) 'The Shari'ah in Somalia', p 20; uly (2017) 'UN unveils nationwide judicial training curriculum for Somalia', available at <https://reliefweb.int/report/somalia/un-unveils-nationwide-judicial-training-curriculum-somalia>

¹⁰⁸ EAJ (2019) 'Gender Equality and Social Inclusion Analysis Expanding Access to Justice (EAJ) Program in Somalia', accessible at www.pactworld.org/library/gender-equality-and-social-inclusion-analysis-expanding-access-justice-program-somalia, p 19

¹⁰⁹ Ibid.

¹¹⁰ UN Somalia (2014) 'The UN in Somalia: Yearbook', pp 65- 70.

¹¹¹ UNDP (1 August 2018) 'Somalia Joint Justice Programme', available at <https://info.undp.org/docs/pdc/Documents/SOM/SOMALIA%20JOINT%20JUSTICE%20AGREEMENT%20WITH%20SIG NATURE%20AND%20STAMP.PDF>

¹¹² Eg UNDP (2012) Access to Justice Project, C2 Project Quarterly Results; UNDP (2015), Somalia UN MPTF Programme Quarterly Progress Report, Quarter 1- 2015

Information about GBV cases heard through the formal courts is otherwise unavailable – although the Attorney General occasionally makes statements on the number of cases prosecuted, these have not been independently verified.¹¹³ The UNDP reported in 2017 that its support to the judiciary and Attorney General's offices had been inconsistent and needed to be increased and more strategic.¹¹⁴

Capacity gaps within law schools. While schools at universities in Somaliland and Puntland have received support from UNDP and other actors over the years that have helped them become trusted institutions capable of producing lawyers trained in Somali law and the consistent application of judicial principles – a significant achievement when considering the low numbers of lawyers trained in a variety of contradicting legal systems just 10 years ago – law school curriculums are still not consistent, and examinations are not yet standardised.¹¹⁵ The EAJ Program is currently working with two Mogadishu-based universities to develop a coherent curriculum to be taught to lawyers and other jurists in training.¹¹⁶

Low numbers of women in the justice chain. There are inadequate numbers of female police, women-staffed police help desks or specialist GBV prosecuting units, and EAJ reports that where there are specifically trained personnel, they are not well aligned or coordinated. The literature consistently assumes that increased numbers of female police officers and justice actors will better facilitate access to justice for women.¹¹⁷ However, it is not yet possible to determine the impact of an increased number of female police officers in Somalia, where as of November 2017, only 1.5% of police officers were women,¹¹⁸ and where there is only one female judge, in the Afgooye district.¹¹⁹

Lack of coordination. There is a lack of a streamlined process of referrals and coordination between 'justice chain' actors. Justice chain actors are any actors a survivor comes into contact with in the purpose of referring a case to the justice system, and may include informal justice providers, police, prosecutors investigators, judges and legal aid providers. In most cases in Somalia, as described by LAW,¹²⁰ CISP¹²¹ and the Horizon Institute,¹²² survivors often have to

¹¹³ Internal LAW report, 2017.

¹¹⁴ Francesca Del Mese (November 2017) 'Joint Rule of Law Programme Evaluation', UNDP Somalia, p 25.

¹¹⁵ EAJ (2020) 'Access to Justice Assessment Tool: Baseline Study in Somaliland.'

¹¹⁶ EAJ (2020) 'Access to Justice Assessment Tool: Baseline Study Somalia.'

¹¹⁷ See eg, S. A. Koshin and M. A. Botan (November 2017) 'Assessment Study On Female Police Officers In Police Forces In Somalia', UN Women and Sidra Institute; EU (2020) 'In Somalia women are joining a special police unit to fight for peace and security' available at www.eucap-som.eu/in-somalia-women-are-joining-a-special-police-unit-to-fight-for-peace-and-security/

¹¹⁸ S. A. Koshin and M. A. Botan (November 2017) 'Assessment Study On Female Police Officers In Police Forces In Somalia', p 16

¹¹⁹ EAJ (January 2020) 'Pathways and Institutions for Resolving Land Disputes in Mogadishu'

¹²⁰ Above n 57 (LAW)

¹²¹ CISP (October 2015) 'The Complexity of Sexual and Gender-Based Violence'

¹²² Horizon Institute (March 2018) 'Seeking Justice for Rape in Somaliland.'

repeat their stories to each of these actors at different stages of the justice cycle, risking both further re-traumatisation and compounded risks of cases being lost, dismissed, mishandled or negotiated away from formal justice actors at each step.

Reliance on xeer. Customary law (xeer) is the most used, the most dynamic, the most easily accessible form of justice across Somalia – but, as described by EAJ, it is also ‘the most rights-abrogating justice pathway, because it is geared towards the avoidance of communal conflict and the conservation of a patriarchal society, presided over by clan elders, instead of promoting individual rights norms.’¹²³ Xeer is not a static legal code. It is an oral traditional peacebuilding framework, based on precedent, which differs significantly across regions of Somalia.

Xeer’s focus on advancing the communal rights and interests of the clan negatively impact women and marginalised groups, in ways including resolving land disputes in favour of more powerful clans; responding to GBV cases by ensuring unity between clans is preserved, rather than by ensuring justice for survivors; and reserving decision-making processes to powerful, male clan elders, to the exclusion of women and marginalised groups.¹²⁴ A Somali saying, ‘the xeer can only be changed in peace time’, reflects the current reality: while customary laws are theoretically flexible and dynamic according to changing circumstances, this flexibility freezes in times of insecurity, meaning that xeer in many places in Somalia has been relatively unchanged for decades.¹²⁵

Although some reports state that women and marginalised groups prefer to use the formal courts for cases relating to women and minority rights, most research indicates that the majority of cases relating to GBV and land rights are resolved through the customary system.¹²⁶ A survey conducted with legal aid providers supporting GBV survivors in 2014 found that the percentage of GBV cases resolved through the customary system is as follows:

- In South Central: 60-95% of cases (average 72%)
- In Puntland: more than 50% of cases
- In Somaliland: 12-50% of cases (average 32%)¹²⁷

Entrenched social norms and beliefs. The clan system sits in stark contradiction to GESI approaches. The patriarchy and deeply unequal structures are built into the clan system and into xeer law: as discussed elsewhere in this review, women, in general, cannot inherit land.¹²⁸ They generally require a male guardian to represent them in customary decision-making processes. FGM and forced and early marriage have widespread acceptance. The ways in which xeer

¹²³ EAJ (2020) ‘Access to Justice Assessment Tool: Baseline Study in Somaliland’

¹²⁴ EAJ (2019) ‘Gender Equality and Social Inclusion Analysis’

¹²⁵ EAJ (June 2020) ‘Alternative Dispute Resolution Initiatives in Somalia’ available at <https://www.usaid.gov/sites/default/files/documents/1860/ADRReport.pdf>

¹²⁶ *Ibid*, above n 118; above n 101.

¹²⁷ LAW (2014) ‘Legal Aid Providers Supporting Gender Based Violence Survivors in Somalia’, available at legalactionworldwide.org/wp-content/uploads/2014/10/GBV-Legal-Aid-Report-final-29.10.pdf

¹²⁸ NRC (2016) ‘Housing, Land and Property rights for Somalia’s urban displaced women’

discriminate against women are outlined in more detail below. These practices cannot be separated from deeply held social beliefs about women's role and social value. These entrenched cultural beliefs have always rendered Somali women vulnerable to GBV – but decades of conflict have meant that even rape, which was historically considered an acceptable violation of clan honor- may be tolerated or blamed on the conduct of the survivor.¹²⁹

Social and cultural norms with a negative impact on women's ability to access justice are also relevant in terms of attitudes towards women's involvement in law enforcement. A study conducted by Sidra in November 2017 found that female police officers were considered physically and emotionally weak and unfit for the high-risk conditions of police work, and that people generally believed that religion and Somali culture and tradition were generally opposed to women working in the police force.¹³⁰

Certain research projects demonstrate that many people, particularly men, deny the existence of discrimination against women or their exclusion from justice processes. For example, in research conducted by EAJ, numerous male respondents said that there was no stigma for women in accessing justice processes, and that they did not do so simply because they were shy.¹³¹ Similarly, when asked about access to justice for members of minority groups through customary systems, non-minority respondents generally said that they thought the process treated them fairly and without discrimination.¹³²

Weak governance and accountability and the dominance of the clan system. Like all formal institutions in Somalia, statutory justice mechanisms are characterised by weak governance, oversight and accountability.¹³³ Many justice users across Somalia consider the formal system to be the most susceptible to corruption and outside influences. Powerful clans and individuals are able to influence justice processes at each stage of the procedure.¹³⁴ Clan elders and families routinely lobby to have cases dismissed, an alleged perpetrator released or for the matter to be adjudicated at the community-level. This is particular common for cases that are perceived to be disruptive to inter or intra clan unity and security, which includes both GBV and land dispute cases.¹³⁵ Evidence from the literature confirms that that the negative impact of the governance and accountability deficit is experienced most acutely by marginalised groups.¹³⁶

Pluralism. All areas of Somalia have a pluralistic legal system that includes statutory, Shariah and customary law. The literature note that though the federal, Puntland and Somaliland constitutions recognise these plural systems of law, they lack the tools to reconcile the different provisions of

¹²⁹ EAJ (January 2020) 'Pathways and Institutions for Resolving Land Disputes in Mogadishu'

¹³⁰ S. A. Koshin and M. A. Botan (November 2017) 'Assessment Study On Female Police Officers In Police Forces In Somalia' p 17.

¹³¹ EAJ (June 2020) 'Alternative Dispute Resolution Initiatives in Somalia'

¹³² Ibid.

¹³³ E. Grant, E. Haegeman and A. Parke (2018) IAAAP, 'Pathways to accountability for women and marginalised groups in the Somali context: The role of non-state actors'

¹³⁴ EAJ (2020) 'Access to Justice Assessment Tool: Baseline Study in Somaliland'

¹³⁵ EAJ (2019) 'Gender Equality and Social Inclusion Analysis'

¹³⁶ Ibid.

each. The EAJ Programme notes that this vests judges with broad liberty when resolving cases, creating opportunities for corruption and loopholes for clans and individuals with influence, power and resources. It also incentivises forum shopping, where aggrieved parties are able to choose a forum for the resolution of their dispute that is most likely to advantage them. The same EAJ report notes that this creates uncertainty in the application of the law, and has the effect of disadvantaging those who are not protected by clan structures, including women and other marginalised groups.¹³⁷ According to reports describing the situation in both Somaliland and southern Somalia, the combination of the plural legal system and the power of clan elders means that police are routinely approached to transfer cases- including GBV and land cases- to the customary system.¹³⁸

For example: as noted by the EAJ Program, as a body of law, xeer is more patriarchal and more disadvantageous to women and minority clans than both Shariah law and statutory law.¹³⁹ Shariah law is in substance more discriminatory against women than Somali statutory law. However, women are often pressured not to access formal justice mechanisms, and minority clans are often forced to resolve their issues with majority clans through the clan system. Even when they do successfully access the formal system, formal judges often employ laws and reasoning based on xeer and shariah law, rather than statutory law – due to both lack of training and because of a cultural tendency to rely on the long-standing systems and traditions. Women deciding whether to pursue justice for a claim relating to sexual violence or the denial of their inheritance, for example, may therefore expect in most cases not to be able to access it – either because they are forced to go through the customary system, or because the other system they do access makes a decision based on xeer principles.¹⁴⁰

Additional barriers for reporting IPV

As described above, most of the literature on barriers to accessing justice for GBV is focused on non-IPV acts of sexual violence. However, several of the reports reviewed reference barriers being even more impervious in cases of IPV.¹⁴¹ Where the research references the reasons that IPV is even less commonly reported than other types of GBV, these fit within one of three intrinsically linked categories: first, that IPV is more socially accepted than other forms of GBV; second, that IPV is not generally categorised as a violation under xeer; and third, that many types of IPV are not criminalised under the formal law, meaning that reporting such acts to the police would be a futile exercise even if they did have the right training and resources.

Social acceptance of IPV: Reports indicate that socially constructed understandings of IPV as a family or personal issue contribute to the perception that acts of IPV are not crimes for which justice should be sought. Several quantitative and qualitative observational studies also indicate that substantial portions of society believe that certain acts of IPV are justified in certain

¹³⁷ *Ibid*, p iii.

¹³⁸ *Ibid*; Horizon Institute (March 2018) 'Seeking Justice for Rape in Somaliland'

¹³⁹ EAJ (2020) 'Access to Justice Assessment Tool: Baseline Study in Somaliland'

¹⁴⁰ EAJ (March 2020) 'The Shari'ah in Somalia', p 222; Above n 92 EAJ, p iii.

¹⁴¹ CISP (October 2015) 'The Complexity of Sexual and Gender-Based Violence'; EAJ (2018) 'Gender Equality and Social Inclusion Analysis'; EAJ (2020) 'Access to Justice Assessment Tool: Baseline Study'; Home Office, p 13

circumstances.¹⁴² A systematic review into gender equality in Somalia conducted in 2017 found that widespread acceptance of IPV and the (incorrect) use of religious principles to justify practices were major barriers for programmers attempting to address it.¹⁴³ UNICEF reported in 2017 that 76% of women 15–49 years old consider a husband to be justified in hitting or beating his wife if his wife burns the food, argues with him, goes out without telling him, neglects the children or refuses sexual relations.¹⁴⁴ Studies by CISP and Save the Children in 2015 and 2017 respectively had similar findings.¹⁴⁵

IPV is not a violation under Xeer: Acceptance of IPV is not only a social norm, but is woven into xeer – the most respected framework of laws in Somalia and the system which governs all aspects of Somali life.¹⁴⁶ As noted by the Expanding Access to Justice Program in 2018:

It should be noted that xeer usually permits some forms of violence and disciplinary measures by men to women. A xeer resolution will usually only be called for if the violence is either very serious or leads to permanent impairment (disability, miscarriage etc.). In such cases the outcomes might be compensation (xaal marin) in the form of an apology and financial remuneration and/or maslaxo (restoring the survivor to their previous state).¹⁴⁷

According to CISP, IPV is seen by clan elders as an intra-family matter, unless it results in a miscarriage of pregnancy or severe physical injuries that impair or disable women, in which case the clan will step in to resolve the issue using the mediation tactics described above.¹⁴⁸

Some IPV is not a crime under the formal law: This review could not find any literature which discusses the extent to which IPV in general is prohibited under Somalia's statutory law. This is an important consideration, however; when interrogating the reasons survivors do not report IPV to the formal justice system, a starting consideration must be that the act needs to constitute a crime to be relevant to the police. This review therefore discusses legal frameworks relevant to IPV and some of the commentary around them.

As described above, the Somali Penal Code is the relevant piece of legislation for all acts of GBV in most of Somalia, with the exception of acts of sexual violence committed in Puntland. The Penal Code criminalises rape only when it is committed through force, threat of force, or against someone who is incapable of consenting, such as a child or a mentally incapacitated person.

¹⁴² UK Home Office (2018) 'Country Policy and Information Note Somalia: Women fearing gender- based violence' Version 4.0, p 13; CISP (October 2015) 'The Complexity of Sexual and Gender-Based Violence,' 45.

¹⁴³ EAJ (2018) 'Gender Equality and Social Inclusion Analysis,' p 14.

¹⁴⁴ UK Home Office (2018) 'Country Policy and Information Note Somalia: Women fearing gender- based violence' Version 4.0, p 13

¹⁴⁵ CISP (October 2015) 'The Complexity of Sexual and Gender-Based Violence,' p. 45.

¹⁴⁶ Natasha Leite (2017) Reinivigation of Somali Traditional Justice through Inclusive Conflict Resolution Approaches, ACCORD; EAJ (2018) 'Gender Equality and Social Inclusion Analysis: Research Report', Expanding Access to Justice Program., p 17

¹⁴⁷ EAJ (2018) 'Gender Equality and Social Inclusion Analysis,' p 25.

¹⁴⁸ CISP (October 2015) 'The Complexity of Sexual and Gender-Based Violence,' p 33; Horizon Institution (2015) 'Consultation Paper on Sexual Offences in the Somaliland Penal Code'

While the law is silent on rape within a marriage, Somali legal practitioners generally agree it does not criminalise this practice.¹⁴⁹

The Penal Code also criminalises 'assault', defined as striking a person in a way that does not lead to 'physical or mental illness', and 'hurt', defined as striking a person in a way that does lead to such results.¹⁵⁰ The inclusion of reduced sentences if crimes of 'hurt' or 'homicide' were committed against a 'spouse, a daughter, or a sister' for reasons of honour, while at odds with international human rights standards, appear to confirm that the crime of 'hurt' is punishable when committed within an intimate partnership.¹⁵¹ It is unclear whether the exclusion of 'assault' from this provision is because there are no reduced sentences for assaults committed for reasons of honour, or because assault of an intimate partner is not considered a crime. In practice, it is reported that police do not consider assault within a marriage which does not lead to serious injury or death to be a criminal offence.¹⁵² It is also well reported that psychological abuse is not covered by the Penal Code.¹⁵³

Even under the most generous interpretation of the law, therefore, only rape committed through force or threat of force within a marriage, and physical assault within a marriage, are defined as crimes throughout most of Somalia, and only physical assault within a marriage is defined as a crime in Puntland. A more mainstream interpretation of the law is that only serious assault is a crime within a marriage in any jurisdiction.¹⁵⁴ This interpretation dovetails with, and is hard to separate from, the social and cultural norms influencing how police officers and other justice actors view IPV.¹⁵⁵ It seems obvious but important to note that the role of the formal legal sector is to respond to and investigate acts that are legally defined as crimes. Survivors of acts of IPV that do not constitute crimes, or only arguably constitute crimes by applying a progressive interpretation of the law, are unlikely to obtain any redress or benefit from engaging with the formal system.

¹⁴⁹ Maat for Peace, Development and Human Rights (2020) Submission to the UN Special Rapporteur on Violence against Women (SRVAW); Horizon Institution (2015) Consultation Paper on Sexual Offences in the Somaliland Penal Code; UK Home Office (2018) 'Country Policy and Information Note Somalia: Women fearing gender- based violence' Version 4.0

¹⁵⁰ Somali Penal Code (1962), Art 439 and 440.

¹⁵¹ *Ibid*, Art 441.

¹⁵² EAJ (2020). Access to Justice Assessment Tool: Baseline Study in Somaliland.; EAJ (2020) 'Access to Justice Assessment Tool: Baseline Study Somalia,' pp 23, 25.

¹⁵³ Wirtz AL, Perrin NA, Desgroppes A, et al (2018) 'Lifetime prevalence, correlates and health consequences of gender-based violence'; CISP (October 2015) 'The Complexity of Sexual and Gender-Based Violence'

¹⁵⁴ UK Home Office (2018) 'Country Policy and Information Note Somalia: Women fearing gender- based violence' Version 4.0, p 12, CISP (October 2015) 'The Complexity of Sexual and Gender-Based Violence: Insights from Mogadishu and South Central Somalia October 2015', available at https://www.international-alert.org/sites/default/files/Somalia_ComplexitySexualViolence_EN_2015.pdf

¹⁵⁵ *Ibid*.

4. Evidence from interventions

The evidence base for ‘what works’ in increasing access to justice for women and marginalised groups in Somalia is extremely limited. All of the evidence considered in this review takes one of three forms: a small number of observational studies, most of which have been conducted by either the organisation conducting the intervention, an external monitoring and evaluation expert hired by them, or their donor; a small number of secondary review studies, including systematic and non-systematic reviews and several theoretical research pieces; and one-off anecdotal examples of success.

Most of the observational studies come from two documents compiled by the Implementation and Analysis in Action of Accountability Programme (IAAAP), who systematically gather evidence of successful approaches on justice and security.¹⁵⁶ A limited number of observational studies completed by IAAAP partners include quantitative data- but with extremely modest sample sizes, and without comparative intervention and control groups.

The research conducted as part of this review found very little information about programmes designed to increase access to justice for IPV specifically. Programmes focused on IPV tended to concentrate on direct service provision for survivors, the economic empowerment of girls and women, or the transformation of social norms that justify and sustain acceptance of IPV.¹⁵⁷ As with interventions aimed at increasing access to justice, the evidence base for ‘what works’ with each of these programme types is extremely limited. An example of unclear impact in this area is provided by a programme implemented by the Women’s Refugee Commission between 2016 and 2018, in which cash-based interventions were accompanied by a focus on IPV prevention. In the monitoring and assessment phase, participants reported that they perceived both increased and decreased risks of IPV as a result of the programme.¹⁵⁸

An example of a clearer outcome is a programme implemented by CISP and John Hopkins University, involving weekly discussion groups engaging religious leaders, healthcare providers, police, teachers, youth and displaced communities to expedite social norm change around IPV. That project reported a significant reduction in male and female participants strongly agreeing with the statement “a husband has the right to demand/force sex from his wife”: from 88% to 14% in four months. However, this result is self-reported, and comprehensive empirical data from the project does not appear to be available.¹⁵⁹ As programmes on IPV specifically do not appear to be related to increasing access to justice, they have not been included in the discussion below.

A consistent feature of assessments of justice and security interventions in Somalia is the absence of discussions on what does not work. While it is occasionally acknowledged that past designs of particular programmes had not achieved their intended results, the literature reviewed did not include quality research to justify assessments about why they failed. The authors of

¹⁵⁶ E. Grant, E. Haegeman and A. Parke (2018) IAAAP, ‘Pathways to accountability for women and marginalised groups in the Somali context: The role of non-state actors’ and E. Haegeman & E. Grant (September 2017) ‘Gender Equality and Social Inclusion Learning Brief’, Social Development Direct.

¹⁵⁷ Perrin et al. (2019) Social norms and beliefs about gender based violence scale: a measure for use with gender based violence prevention programs in low-resource and humanitarian settings, *Conflict and Health* 13; WRC and Adeso (2018) ‘Mainstreaming gender-based violence considerations in cash-based interventions: A case study from Lower Juba, Somalia’; CISP (October 2015) ‘The Complexity of Sexual and Gender-Based Violence.’

¹⁵⁸ WRC & Adeso (2018) ‘Mainstreaming gender-based violence’, p. 5.

¹⁵⁹ C. Cahalane (5 May 2016) ‘Can an app tackle domestic violence in Somalia?’ available at <https://www.theguardian.com/global-development-professionals-network/2016/may/05/can-an-app-tackle-domestic-violence-in-somalia>

reports that reference unsuccessful past assessments are usually themselves practitioners or experts in the field, so their conclusion about why a strategy failed carries weight- but thorough research around these issues is conspicuously absent. Further, the literature reviewed, while often noting the importance of sustainability, contained very little research on interventions capable of sustainability in practice. Finally, where the literature did summarise evidence of successful strategies, these successes were at the output and/or outcome level, rather than the overall impact level. It has therefore not been possible to extract key findings as to interventions with the overall impact of increasing security and access to justice in Somalia.

The following table outlines both overall approaches to programming that have been identified in the literature as having some success, and examples of types of programmes that have either been described as having impact, or for which it has been speculated that they may have impact in the future.

Category of intervention	Strength of evidence	Examples from (location)	Examples from (source)
Intersectional	Limited	Across Somalia: listed examples in Mogadishu	<ul style="list-style-type: none"> • IAAAP (2017) 'Gender Equality and Social Inclusion Learning Brief': theoretical research, including one practical example of this working effectively • IAAAP (2018) 'Pathways to accountability for women and marginalised groups in the Somali context: The role of non-state actors': theoretical research • EAJ (2019) 'Gender Equality and Social Inclusion Analysis: theoretical research • EAJ (January 2020) 'Pathways and Institutions for Resolving Land Disputes in Mogadishu': theoretical research • Life & Peace Institute (2018) 'Learning From Kismayo': theoretical
Broad consultations	Limited	Across Somalia: listed examples across south central and Puntland	<ul style="list-style-type: none"> • EAJ (June 2020) 'Alternative Dispute Resolution Initiatives in Somalia': systematic review of evidence • IAAAP (2017) 'Gender Equality and Social Inclusion Learning Brief': theoretical research, including two practical examples, one of which included an observational study • Several NGO reports described one other practical example.
Stakeholder mapping and identifying champions	Limited	Across Somalia: listed examples in Afmadow District, Hargeisa, and Mogadishu	<ul style="list-style-type: none"> • IAAAP (2018) 'Pathways to accountability for women and marginalised groups in the Somali context: The role of non-state actors': theoretical research and non-systematic review, including five examples of this working effectively and one observational study on the perceptions community members have of certain champions • SDD EARF: theoretical research

			<ul style="list-style-type: none"> • IAAAP (2017) 'Gender Equality and Social Inclusion Learning Brief': theoretical research • NGO reports described other practical examples.
Facilitating collective action of marginalized groups	None	Across Somalia	<ul style="list-style-type: none"> • IAAAP (2017) 'Gender Equality and Social Inclusion Learning Brief': theoretical research • Life & Peace Institute (2018) 'Learning From Kismayo': theoretical research
Police-community dialogue	Limited	Mogadishu	<ul style="list-style-type: none"> • DDG (2019) 'Community-Police Dialogue and Cooperation: Lessons Learnt': theoretical research and observational studies • UN Women and Sidra Institute (November 2017) 'Assessment Study on Female Police Officers in Police Forces in Somalia',; theoretical research
Police oversight mechanisms	Limited	Mogadishu IDP camps, Banadir, Jubaland State and South West State	<ul style="list-style-type: none"> • NGO reports and news articles
Increase women in the justice sector	Limited	Somaliland, Puntland and South Central police/prosecutors; one female judge in Afgooye district	<ul style="list-style-type: none"> • UN Women and Sidra Institute (November 2017) 'Assessment Study on Female Police Officers in Police Forces in Somalia',; theoretical research • NGO reports and news articles
Mobile courts servicing IDP and remote communities	Limited (for IDP/ rural communities);	Across south central, Puntland and Somaliland	<ul style="list-style-type: none"> • UNDP report: theoretical research and an observational study on perceptions of mobile courts • NGO reports

	None (for women/ other marginalised groups)		
One-stop centres for responding to rape cases	Limited	Mogadishu, Lower/ Middle Shabelle, Afguin, Galgaduug, Kismayo, South Mudug, Hodan District; Afgooye; Hilliwa District, Garowe, Hargeisa	<ul style="list-style-type: none"> • S. A. Koshin and M. A. Botan (November 2017) 'Assessment Study on Female Police Officers in Police Forces in Somalia', UN Women and Sidra Institute: theoretical research • NGO reports and news articles
Increasing inclusivity of ADR	None	Across Somalia	<ul style="list-style-type: none"> • EAJ (June 2020) 'Alternative Dispute Resolution Initiatives in Somalia': systematic review of evidence • NGO reports and news articles

Broad overall approaches that have shown promising results

Intersectionalism. A number of the studies reviewed emphasised the need for interventions to be carefully tailored to the different beneficiary groups they aim to serve. Several reports note that programmes designed to increase access to justice for ‘women’, ‘IDPs’, ‘minority groups’ or ‘people with disabilities’ should further sub-divide these groups based on geographic area, age, wealth, clan, displacement status, marriage status, and any other factors that are relevant to the disadvantages experienced by this group and the way these could be most effectively addressed.¹⁶⁰ These reports comprise conceptual research on successful strategies, and collections of observational studies carried out for the purposes of assessing particular projects.¹⁶¹

One report, which summarises best practices across different IAAAP partner projects, notes that the design of these interventions, and the way they are communicated, should come from the communities themselves.¹⁶² An example of this is the work undertaken in IDP camps by Tana on increasing accountability of camp managers. Tana trained camp managers in the substantive human rights issues, as well as supporting them to conduct consultations with camp communities to determine the priorities of each. The camp managers then agreed on commitments to the camps they managed, and communicated these through community conversations and in large signboards erected in each area. These messages were community-owned and driven, and specific to the needs and priorities of each camp.¹⁶³ According to IAAAP, this decreased stigma around these topics in each community and made it more difficult for the harmful practices that were the subject of the commitments to be carried out in the camps.¹⁶⁴

Broad consultations. Interventions aiming to increase access to justice in line with GESI principles will by definition seek to mold or reform traditional ways of doing justice in Somalia – longstanding processes and traditions that have supported Somali communities through long periods of conflict and statelessness. The literature acknowledges that these programmes often challenge norms that are at the core of Somali customs and belief systems.¹⁶⁵ Several reports note that without sustained engagement and discussions amongst all relevant sections of Somali society, the

¹⁶⁰ EAJ (2019) ‘Gender Equality and Social Inclusion Analysis Expanding Access to Justice (EAJ) Program in Somalia’, accessible at www.pactworld.org/library/gender-equality-and-social-inclusion-analysis-expanding-access-justice-program-somalia; EAJ (January 2020) ‘Pathways and Institutions for Resolving Land Disputes in Mogadishu’, available at www.usaid.gov/sites/default/files/documents/1860/Access-to-land-rights-in-Somalia-research-report-March-20.pdf; E. Haegeman & E. Grant (September 2017) ‘Gender Equality and Social Inclusion Learning Brief’, Social Development Direct.

¹⁶¹ Ibid.

¹⁶² E. Haegeman & E. Grant (September 2017) ‘Gender Equality and Social Inclusion Learning Brief’, Social Development Direct;

¹⁶³ Ibid.

¹⁶⁴ Ibid.

¹⁶⁵ EAJ (2019) ‘Gender Equality and Social Inclusion Analysis Expanding Access to Justice (EAJ) Program in Somalia’, accessible at www.pactworld.org/library/gender-equality-and-social-inclusion-analysis-expanding-access-justice-program-somalia, p 1

introduction of new justice processes and approaches will be unsuccessful.¹⁶⁶ An example of a potentially more effective approach is the engagement with elders and communities on review of xeer norms in Somaliland by DRC from the early 2000s onwards.¹⁶⁷ The difference in outcome between processes that involve widespread consultations and those that do not may be seen in the difference between the sexual offences bills in Puntland and South-Central Somalia: in South Central Somalia, the bill was agreed on following five years of consultations with all sections of Somalia society. Thought it has not been passed, and a rival bill has been introduced, strong contingents of the Parliament and Somali civil society continue to insist on the passage of the original bill. They are intimately aware of its contents and have long been involved in advocating for its passage.¹⁶⁸ In Puntland, by contrast, the sexual offences act was passed with very minimal consultations or awareness, and is now technically in force, but generally ignored.¹⁶⁹

The literature also suggests, however, that women and minority groups often do not feel comfortable participating meaningfully in broader consultations, even if they are included in sufficient numbers. Several organisations cite successful examples of conducting pre-trainings and briefings to support these groups to participate effectively. For example, BBC Media Action describes a project in which an audience of 40 people from different backgrounds was selected to participate in a political TV show in which panelists answered questions from the audience. Recognising that women and people from lower educational backgrounds may face barriers to participation, BBC Media Action carried out a two-day training with the group to develop their skills in asking appropriate and effective questions. This approach led to some research participants observing that 'the women who were in the audience of the debate show seemed more engaged and interested than the men.'¹⁷⁰

¹⁶⁶ E. Haegeman & E. Grant (September 2017) 'Gender Equality and Social Inclusion Learning Brief', Social Development Direct; EAJ (June 2020) 'Alternative Dispute Resolution Initiatives in Somalia' available at <https://www.usaid.gov/sites/default/files/documents/1860/ADRRReport.pdf>

¹⁶⁷ EAJ (June 2020) 'Alternative Dispute Resolution Initiatives in Somalia' available at <https://www.usaid.gov/sites/default/files/documents/1860/ADRRReport.pdf>

¹⁶⁸ Plan International (13 August 2020) 'Concern over Bill Normalising Violence Against Girls and Women in Somalia' available at <https://plan-international.org/news/2020-08-13-concern-bill-normalises-violence-against-girls-women-somalia>

¹⁶⁹ UNFPA (23 September 2020) 'Enforcing the Sexual Offences Law in Puntland', available at <https://reliefweb.int/report/somalia/enforcing-sexual-offences-law-puntland>

¹⁷⁰ E. Haegeman & E. Grant (September 2017) 'Gender Equality and Social Inclusion Learning Brief', Social Development Direct, p 10.

Stakeholder mapping and identification of champions. The complexities of the dynamics between different social groups in Somalia is such that interventions that do not specifically take these into account may have unintended negative consequences. Several organisations describe the necessity of undertaking stakeholder mapping before implementing justice interventions to identify both possible spoilers and champions.¹⁷¹ Champions are members of the community who are perceived as genuine representatives of certain groups, have the skills, knowledge or experience to play a facilitative role, and who believe in the change the project is aiming to achieve.¹⁷²

There are numerous examples where identifying local champions has shown encouraging results. In Afmadow District, Katuni worked with local elders who led a movement to include minority clans in consultations with the district administration, to ensure representation of minority groups in these engagements. In Mogadishu, Tana worked with religious leaders who joined gender equality groups to explain that FGM/C, GBV and child marriage are not endorsed by the Quran. In Hargeisa, the inclusion of three former mayors in the municipal accountability forum was crucial in pushing for greater inclusion of minority clans and gender budgeting.¹⁷³ In two IDP camps in Mogadishu, LAW worked with three GBV survivors and three community leaders to raise awareness of the benefits of the formal system for GBV cases amongst IDPs, and to encourage them to utilise the services of the community oversight board and independent complaints mechanism established to receive and follow up on GBV cases in the camps.¹⁷⁴ In general, the successes experienced by community champions in terms of advancing women and minority rights have been modest and anecdotal, but indicative of incremental changes and the creation of entry points in specific communities. However, lessons may be learned from one of the most successful examples of this approach, though it is unrelated to the GESI agenda: the nationwide campaign by religious leaders, elders and policy-makers to dissuade youth from getting involved in piracy, which experienced widespread success.¹⁷⁵

Facilitating the collective action of marginalised groups. Some studies suggest that while individuals are generally unlikely to take action to demand justice on their own, due to the communal nature of the way Somali society is organised, they may be more likely to do so if they are supported to organise into collective groups. The literature suggests that international partners could look to identify opportunities for supporting and providing a platform for these groups to

¹⁷¹ E. Grant, E. Haegeman and A. Parke (2018) IAAAP, 'Pathways to accountability for women and marginalised groups in the Somali context: The role of non-state actors'; E. Haegeman & E. Grant (September 2017) 'Gender Equality and Social Inclusion Learning Brief', Social Development Direct.

¹⁷² EAJ (January 2020) 'Pathways and Institutions for Resolving Land Disputes in Mogadishu', available at www.usaid.gov/sites/default/files/documents/1860/Access-to-land-rights-in-Somalia-research-report-March-20.pdf, p 6.

¹⁷³ E. Grant, E. Haegeman and A. Parke (2018) IAAAP, 'Pathways to accountability for women and marginalised groups in the Somali context: The role of non-state actors', p 9.

¹⁷⁴ LAW (15 June 2020) 'End of Project Evaluation: Strengthening CSO's Role to Increase Access to Justice and Monitor Human Rights Project' (internal report)

¹⁷⁵ EAJ (2019) 'Gender Equality and Social Inclusion Analysis Expanding Access to Justice (EAJ) Program in Somalia', accessible at www.pactworld.org/library/gender-equality-and-social-inclusion-analysis-expanding-access-justice-program-somalia USAID

mobilise and galvanise. Women and people from marginalised communities will organise into different types of groups depending on the area and context, but these may include women's associations, business associations, credit groups, self-help groups and youth forums.¹⁷⁶ While the utility and potential of these groups is mentioned in at least two reports,¹⁷⁷ they do not include concrete examples of the impacts such groups have had, so the overall strength of the evidence has been rated as 'no evidence'. The literature also suggests that collective groups may be motivated into taking action if they are able to access examples of success stories from similar groups and associations, but does not provide concrete examples.¹⁷⁸

Evidence of the effectiveness of particular types of programmes

Police-community dialogue. Danish Demining Group's (DDG) 'The Time is Now' project focused on building a culture of community and human rights policing in Somalia, primarily through the establishment of Community-Police Dialogue Committees (CPDCs). As described in a separate paper within the overall literature review, DDG noted improvements in police–community relations, which appear to be related to regular community-policy dialogue; increased awareness of police functions within communities due to improved information sharing; and the existence of mechanisms through which the community can channel grievances about the police and other security issues. The project noted specific benefits for women, including female study participants who made unprompted statements about how they now would feel more comfortable making a report to the police.¹⁷⁹ However, these observations have not been empirically tested.¹⁸⁰ The assessment report carried out one year into the project found that in Jowhar, advocacy by the CPDC for more female police officers in the prison resulted in the appointment of six female police officers to work in the police cells.¹⁸¹

¹⁷⁶ Above n 94.

¹⁷⁷ EAJ (2019) 'Gender Equality and Social Inclusion Analysis, and Life & Peace Institute (2018) 'Learning From Kismayo'

¹⁷⁸ Ibid.

¹⁷⁹ DDG (2019) Perceptions Assessment/ Mid-Term Evaluation for "The Time is Now-Strengthening Police Accountability and Access to justice in Somalia"

¹⁸⁰ Ibid.

¹⁸¹ S. Tait et al (2018) 'Community-Police Dialogue and Cooperation in Somalia: Lessons Learnt', DDG, available at apcof.org/wp-content/uploads/community-policedialogueandcooperationinsomalia-lessonslearnt-seantaitthomasprobertabdirahmanmaalimgossar.pdf

Increasing women in the justice sector. While the evidence for the impact of this strategy is limited due to the extremely low number of women in the police, prosecution authority and judiciary, there are some indications that increased numbers of women with specific training in responding to gendered violations would increase women's access to justice. For example, the inclusion of female police officers in the Baahi-Koob, a quasi-governmental one-stop rape crisis centre, appears to have encouraged women in Somaliland to report rape to the authorities.¹⁸² The Baahi-Koob provides counselling, legal advice, medical referrals and the ability to report the case through female police officers through a one-stop rape crisis centre. The Baahi-Koob is discussed further in the section on coordination, below. As noted in that section, the information available indicates declining successes of the Baahi-Koob over several years, possibly due to reductions in external support. In terms of the women police officers working with the institution, this was recorded to be 18 in 2014,¹⁸³ and only four (along with four male police officers) by November 2017.¹⁸⁴

In Puntland, news articles have reported on one female police officer whose commitment to tackling rape cases appears to have made some women more comfortable accessing the formal system.¹⁸⁵ In South Central Somalia, the Somali Women's Development Centre, which runs a rape crisis centre and legal aid programme, reports that women who approach it for assistance tell them that they do not want to report the rape if they have to speak to a male police officer.¹⁸⁶ According to the UNDP, the training of female prosecutors in Puntland has had a positive impact on increasing access to justice for GBV cases, though it does not provide details of how this is measured in practice.¹⁸⁷ The impact of an SGBV Unit established in the Attorney General's office in FGS is yet to be demonstrated.

Mobile courts servicing IDP and remote communities. Challenges relating to the inaccessibility of courts to people living in rural areas have been overcome in some parts of Somalia through the introduction of mobile courts. The UNDP supports mobile courts in South Central Somalia,

¹⁸² See eg: LAW (2015) Legal Aid Providers Supporting GBV Survivors in Somalia, p 56; S. A. Koshin and M. A. Botan (November 2017) 'Assessment Study on Female Police Officers in Police Forces in Somalia', UN Women and Sidra Institute Horizon Institute (March 2018) 'Seeking Justice for Rape in Somaliland: The Role and Limitations of the Criminal Justice System'; and J. Kushner (1 May 2015) 'The surprising city where rape victims are finding justice', available at <https://solutions.solutionsjournalism.org/stories/the-surprising-city-where-rape-victims-are-finding-justice>

¹⁸³ LAW (March 2015) 'Legal Aid Providers Supporting Gender Based Violence Survivors in Somalia: Report and Recommendations' available at <https://reliefweb.int/report/somalia/legal-aid-providers-supporting-gender-based-violence-survivors-somalia-report-and>

¹⁸⁴ Above n 56 (Sidra)

¹⁸⁵ N. Wadekar (29 May 2018) 'Meet Shamis Abdi Bile, The Female Police Officer Single-Handedly Fighting Rape In Somalia', available at <https://www.elle.com/uk/life-and-culture/a20949942/shamis-abdi-bile-police-officer-fighting-rape/>

¹⁸⁶ SWDC (2015) 'IDPS face increasing sexual violence in Mogadishu', available at <https://www.swdc.org/2015/06/29/idps-face-increasing-sexual-violence-in-mogadishu/>

¹⁸⁷ UNDP (1 August 2018) 'Somalia Joint Justice Programme', available at <https://info.undp.org/docs/pdc/Documents/SOM/SOMALIA%20JOINT%20JUSTICE%20AGREEMENT%20WITH%20SIG NATURE%20AND%20STAMP.PDF>

Puntland and Somaliland. Mobile courts may be requested by justice actors or members of the community to resolve a particular dispute. GBV cases are rarely referred to these courts. The UNDP reports that the increased presence of female staff at the mobile courts, including lawyers, registrars, prosecutors and paralegals, appears to be slowly changing cultural norms discouraging Somali women from public life and decision-making that are particularly prevalent in rural and remote areas. It does not, however, cite any data to support this claim, indicating that this is an area in which significant future research is required. Mobile courts are also effective in providing a justice forum in IDP communities and remote communities which otherwise would not have access to one.¹⁸⁸

¹⁸⁸ Ibid.

Gender Desks. NGO reports and news articles describe attempts to establish both gender units and women and children protection desks, including in police stations in Mogadishu, Garowe, Bosaaso, Qardho, Hargeisa, Bura, Borama, Baydhabo and Kismayo.¹⁸⁹ Gender desks are intended to respond to the challenge of police officers who do not take reports of GBV seriously, or consider it to be a personal or family issue rather than a crime. AMISOM describes its gender desk programme as involving training for officers on how to respond to GBV complaints, followed by the establishment of special desks in police stations where such complaints can be made.¹⁹⁰ Sidra reports that police gender units are relatively new, have limited capacity to fully address GBV cases, and in general do not have a direct link to legal aid and service providing organisations responding to GBV cases.¹⁹¹ It also reports that police stations in Abdiasii, HamarJajab and Hodan have the financial resources required for the extra office space, information systems and record keeping facilities needed to respond to GBV cases, but does not provide details about the impact these increased financial resources have had on the resolution of GBV cases.¹⁹² While women and children protection desks are frequently mentioned in the plans and strategies of the FGS, UNDP and AMISOM, which support their policing programme,¹⁹³ this review found no study or assessment that indicated they had any impact on rates of referrals or access to the justice system.

One stop centres for responding to rape cases. Reports indicate that women are reluctant to report instances of GBV to this police. This is due both to the barriers to reporting described in the section above, and due to the lack of coordination between justice chain actors, which mean that those who have experienced sexual violence often must tell their story numerous times, and risk being ignored or having their case dropped or mishandled at multiple stages of the justice process. The Baahi-Koob in Somaliland was established in 2008 with the purpose of being 'a one-stop crisis centre in which survivors of GBV may obtain medical, legal and psycho-social assistance while at the same time opening an investigation.'¹⁹⁴ It is located within the women's ward of the hospital so that it is able to be accessed by women and girls without attracting attention and stigma. According to the Horizon Institute, the Baahi-Koob consistently reports a significantly higher number of reported cases than the Attorney General's office, indicating that it has experienced successes in removing some of the barriers to reporting faced by survivors.¹⁹⁵ Early reports on the Baahi-Koob indicated significant tangible successes: it almost doubled its caseload between 2012 and 2013; it resulted in high numbers of cases followed through to prosecutions and convictions; and in 2014 it expanded from Hargeisa to Burao and Buroma, where forensic doctors were stationed within the centres themselves.¹⁹⁶ Despite this, the Baahi-Koob model appears to have lost support or funding in Somaliland, seemingly reducing from these three centres back to only one in Hargeisa by 2018.¹⁹⁷ A 2020 baseline study on access to justice in Somaliland, which refers to the need to refer GBV survivors to medico-legal-psychosocial services, did not mention the Baahi-Koob at all, leaving questions about its continued functionality.¹⁹⁸ The Baahi Koob is a separate entity to the gender desks set up in police stations in Somaliland; it is a multi-sectoral one-stop centre located in the Hargeisa Group Hospital.

In South Central Somalia, the Elman Centre, Somali Women's Development Centre (SWDC) and Save Somali Women and Children (SSWC) also run rape crisis centres.¹⁹⁹ These rape crisis centres function differently to the Baahi-Koob, which is quasi-governmental, and has a formal referral mechanism to the police built in, where female police officers sit within the office itself and receive cases when survivors want to refer them. The civil society-run rape crisis centres in South Central Somalia may refer women to the police, and accompany them to stations to make complaints. The groups report that this service makes survivors feel more comfortable accessing

the formal system, but it does not prevent them from needing to tell their story multiple times, as is the case in the Baahi-Koob, where all services providers are physically based in the same space.²⁰⁰ The fact that allegations of sexual violence in South Central Somalia often name police officers as perpetrators, a phenomenon which is seemingly less common in Somaliland and Puntland²⁰¹, may provide a barrier to the effective replication of the Baahi-Koob model in the south.

There are anecdotal stories and evidence from some reports of survivors having positive experiences in being able to access medical referrals, counselling, livelihood support and legal

¹⁸⁹ Eg, UN Women and Sidra Institute (November 2017) 'Assessment Study on Female Police Officers in Police Forces in Somalia'; UNDP Somalia (2011) 'Gender Equality and Women's Empowerment Strategy' available at https://www.humanitarianlibrary.org/sites/default/files/2013/07/Gender_Strategy_for_Somalia_Final.pdf; UNDP, UN Women, UNFP & ESWA (2018) 'Somalia Gender Justice & The Law' available at <https://www.unescwa.org/sites/www.unescwa.org/files/events/files/somalia-adjusted.pdf> AMISOM, 'Somali Police Force to introduce Gender Desks to cater for cases of sexual abuse', available at amisom-au.org/2015/11/somali-police-force-to-introduce-gender-desks-to-cater-for-cases-of-sexual-abuse/

¹⁹⁰ AMISOM, 'Somali Police Force to introduce Gender Desks to cater for cases of sexual abuse', available at amisom-au.org/2015/11/somali-police-force-to-introduce-gender-desks-to-cater-for-cases-of-sexual-abuse/

¹⁹¹ UN Women and Sidra Institute (November 2017) 'Assessment Study on Female Police Officers in Police Forces in Somalia'

¹⁹² Ibid, p 30.

¹⁹³ Eg, UNDP Somalia (2011) 'Gender Equality and Women's Empowerment Strategy' available at https://www.humanitarianlibrary.org/sites/default/files/2013/07/Gender_Strategy_for_Somalia_Final.pdf; UNDP, UN Women, UNFP & ESWA (2018) 'Somalia Gender Justice & The Law' available at <https://www.unescwa.org/sites/www.unescwa.org/files/events/files/somalia-adjusted.pdf>; AMISOM, 'Somali Police Force to introduce Gender Desks to cater for cases of sexual abuse', available at amisom-au.org/2015/11/somali-police-force-to-introduce-gender-desks-to-cater-for-cases-of-sexual-abuse/

¹⁹⁴ LAW (2015) Legal Aid Providers Supporting GBV Survivors in Somalia, p 56.

¹⁹⁵ Horizon Institute (March 2018) 'Seeking Justice for Rape in Somaliland: The Role and Limitations of the Criminal Justice System', available at https://www.thehorizoninstitute.org/usr/documents/publications/document_url/15/horizon-institute-s-report-on-prosecution-of-rape-cases-in-somaliland-march-2018.pdf

¹⁹⁶ LAW (2015) Legal Aid Providers Supporting GBV Survivors in Somalia, p 56; S. A. Koshin and M. A. Botan (November 2017) 'Assessment Study on Female Police Officers in Police Forces in Somalia', UN Women and Sidra Institute

¹⁹⁷ Horizon Institute (March 2018) 'Seeking Justice for Rape in Somaliland: The Role and Limitations of the Criminal Justice System', available at https://www.thehorizoninstitute.org/usr/documents/publications/document_url/15/horizon-institute-s-report-on-prosecution-of-rape-cases-in-somaliland-march-2018.pdf

¹⁹⁸ EAJ (2020) 'Access to Justice Assessment Tool: Baseline Study in Somaliland 2020', available at https://www.eajprogram.org/research/AJAT_SL_Report.pdf.

¹⁹⁹ Immigration and Refugee Board of Canada (2019) 'Responses to Information Requests: Situation of women without a support network in Mogadishu', available at <https://www.justice.gov/file/1159156/download>; LAW (2015) Legal Aid Providers Supporting GBV Survivors in Somalia; SaferWorld (June 2020) 'Gender and COVID-19: responding to violence against women and children in Somalia', available at <https://www.saferworld.org.uk/resources/news-and-analysis/post/884-gender-and-covid-19-responding-to-violence-against-women-and-children-in-somalia>

²⁰⁰ LAW (2015) Legal Aid Providers Supporting GBV Survivors in Somalia.

²⁰¹ EAJ (2019) 'Gender Equality and Social Inclusion Analysis Expanding Access to Justice (EAJ) Program in Somalia', accessible at www.pactworld.org/library/gender-equality-and-social-inclusion-analysis-expanding-access-justice-program-somalia

aid through the Elman Centre, SSWC and SWDC in South Central Somalia, and some examples where these cases were referred to the police for investigation. However, each of these organisations report that successfully referring rape cases to the formal system, avoiding the interference of elders, is a rare occurrence.²⁰² There may be potential for these multi-sectoral rape crisis centres to work together with the accountability mechanisms described below, so that organisations are still able to exercise some control over the follow up to the case once it has been referred to the formal system.

Police oversight mechanisms. Since 2018, Saferworld has been working with partners in three regions of Somalia – Banadir, Jubaland State and South West State – to establish state-level Police Advisory Committees (PACs) overseeing the police force.²⁰³ Legal Action Worldwide (LAW) has been working with local organisation Witness Somalia to establish similar committees in Mogadishu over the same time period, which it calls Civilian Oversight Boards (COBs). In both LAW and Saferworld iterations of this approach, the committees are made up of civil society representatives, former police officers, lawyers and government officials, and regularly visit police stations to assess their work and to feedback ideas for improvement.²⁰⁴

These entities also collect direct feedback from the communities about safety and security concerns, with a focus on GBV. Saferworld facilitates communication between the PACs and community safety groups, which it helped establish to identify security concerns affecting their communities.²⁰⁵ LAW facilitates communication between the committees it supports and Independent Complaints Mechanisms (ICMs), through which paralegals based in two Mogadishu IDP camps receive complaints of GBV. Internal evaluation reports from LAW include anecdotal reports of GBV survivors who were able to refer cases to the ICM in their community, who were then assigned a COB member to accompany them to the police station to file a complaint. The complaint was then overseen by the COB members, who monitor and report back on the process of the investigation. According to LAW's report, GBV survivors reporting complaints in the Deynille area were then assisted by female police officers designated for responding to GBV cases. Though none of the examples given in the report appeared to lead to a successful conviction, due predominantly to interference by elders, other positive impacts were recorded, including higher

²⁰² UNSOM (19 June 2019) 'Women's Rights Activists Adopt New Approach to Help Sexual Violence Survivors', available at <https://unsom.unmissions.org/women-rights-activists-adopt-new-approach-help-sexual-violence-survivors>; LAW (March 2015) 'Legal Aid Providers Supporting Gender Based Violence Survivors in Somalia: Report and Recommendations' available at <https://reliefweb.int/report/somalia/legal-aid-providers-supporting-gender-based-violence-survivors-somalia-report-and>

²⁰³ Saferworld 'Community security', available at <https://www.saferworld.org.uk/somalia-somaliland/community-security->

²⁰⁴ H. Maten (24 October 2019) 'Overcoming tensions between communities and the police in Somalia', available at <https://www.saferworld.org.uk/resources/news-and-analysis/post/845-challenging-tensions-between-communities-and-the-police-in-somalia>

²⁰⁵ Saferworld 'Community security', available at <https://www.saferworld.org.uk/somalia-somaliland/community-security->

visibility of the formal system in the IDP camps and feelings of empowerment amongst survivors who were supported to demand their rights.²⁰⁶

In 2019, Saferworld reported that the chairman of the Baidoa PAC began advocating with the Baidoa police commissioner, the heads of stations and district commissioners to set up gender desks that provide safe spaces for survivors to report GBV.²⁰⁷ While it is not clear at the time of writing whether this advocacy has been effective, it does seem that these accountability bodies have had some impact on increasing police accountability in GBV cases.

Increasing GESI within ADR. There have been numerous interventions aimed at improving inclusivity and respect for human rights principles within the customary system over the past two decades. These interventions began in Somaliland in 2013, spearheaded by the the Danish Refugee Council (DRC) and a group of elders, and involved holding a series of peacetime meetings in which variations to xeer norms were debated and accepted by elders and their communities.²⁰⁸ While the DRC reported at the time that these developments did not involve changes to social norms and customary beliefs around women and minority rights, they did institute a process of review which included support from the international community. This created entry points for a more sustained engagement over time, which could theoretically eventually include the introduction of more inclusive and rights-based approaches.

In 2010, supported by complementary projects undertaken by the DRC and IDLO, elders in Somaliland adopted a declaration in which they committed themselves to referring serious criminal matters, including rape, to the formal courts.²⁰⁹ An assessment by DRC in 2011 found that while there had been some increase in elders referring cases of murder to the formal courts, rape and gender-based violence cases continued to be resolved through the customary system.²¹⁰ A 2018 report by Horizon Institute found the same.²¹¹

In South Central Somalia, interventions have centred around recording xeer decisions and establishing more formal alternative dispute resolution (ADR) centres, a process which was initiated by the Ministry of Justice in 2014 and supported by various international organisations, including the DRC and more recently DDG, which has reported that these initiatives 'have not

²⁰⁶ Internal LAW report (2020)

²⁰⁷ H. Maten (24 October 2019) 'Overcoming tensions between communities and the police in Somalia', available at <https://www.saferworld.org.uk/resources/news-and-analysis/post/845-challenging-tensions-between-communities-and-the-police-in-somalia>

²⁰⁸ EAJ (June 2020) 'Alternative Dispute Resolution Initiatives in Somalia' available at <https://www.usaid.gov/sites/default/files/documents/1860/ADRRReport.pdf>, p 3.

²⁰⁹ M. Simojoki (2010) 'Enhancing Legal Empowerment Through Engagement with Customary Justice Systems', IDLO, p

²¹⁰ M. Simojoki (2011) 'Enhancing legal empowerment Working with Customary Justice Systems: Post-Conflict and Fragile States' available at <https://www.files.ethz.ch/isn/137064/WP1Somalia.pdf>

²¹¹ Horizon Institute (March 2018) 'Seeking Justice for Rape in Somaliland: The Role and Limitations of the Criminal Justice System', available at https://www.thehorizoninstitute.org/usr/documents/publications/document_url/15/horizon-institute-s-report-on-prosecution-of-rape-cases-in-somaliland-march-2018.pdf

been able to further access to rights-based justice' in cases of GBV or the handling of land disputes.²¹² Additionally, where formal systems have aimed to supplement customary decision-making, for example by providing legal ownership documents in the case of land disputes, the literature indicates that this has had some traction in urban areas but almost none in rural areas. One expert explained this by saying that the rural inhabitants "will never accept that with small paper [document] you can own a land. You can own land with clan power."²¹³

As described in this review, organisations including DRC, DDG and the EAJ have had some successes in engaging with ADR and customary decision-makers. Research conducted by IDLO found that some progress had been made in engaging women at the output level in ADR activities. According to a press release from March 2020, 50% of ADR users and 24% of adjudicators across South Central Somalia and Puntland are women.²¹⁴ However, a systematic review of the literature undertaken by EAJ found that these interventions have not yet been able to make an impact at the outcome level, in terms of increased access to justice for women and marginalised groups.

5. Limitations of the research and gaps in the evidence base

This area of research is characterised by a near total lack of evidence of the effectiveness of any intervention. The literature available is largely theoretical, and often reports containing examples of successful strategies are written by the organisation that is implementing the project, an external assessor employed by them, or their donor. While conclusions have been made in this literature review about what does not work, these conclusions are presumed from the evidence available; almost no reports include a discussion of failures or ineffective strategies. The evidence that is available tends to focus on the output and outcome level impact of project objectives, rather than the overall goals.

Limitations in the evidence on effective overall approaches

There is slightly more evidence of 'what works' in terms of effective overall approaches than there is for what types of programming have a tangible impact. However, even this evidence is extremely limited. The evidence for the importance of an intersectional approach is contained primarily in theoretical research reports, with one example of an effective strategy at the output and outcome level. The evidence that broad consultations are able to increase participation of women and marginalised groups in justice interventions is limited to one systematic review of evidence on ADR, theoretical research, including two practical examples, and several NGO reports describing one other practical example. The evidence for using stakeholder mappings to

²¹² Ibid.

²¹³ EAJ (January 2020) 'Pathways and Institutions for Resolving Land Disputes in Mogadishu' available at <https://www.usaid.gov/sites/default/files/documents/1860/Access-to-land-rights-in-Somalia-research-report-March-20.pdf>

²¹⁴ IDLO (24 March 2020) 'Justice for the Vulnerable: ADR in Somalia' available at <https://www.idlo.int/news/story/justice-vulnerable-alternative-dispute-resolution-somalia>

identify champions who may then be able to advance certain causes is limited to one non-systematic review (including five examples of this working effectively and one observational study on the perceptions community members have of certain champions), as well as theoretical research and anecdotal reports from NGOs demonstrating successes at the output and outcome level. Finally, the evidence for the benefits of facilitating the collective action of marginalised groups is limited to low quality theoretical research.

Limitations in the evidence of types of programming

Most of the evidence of the types of security and justice programming employed in Somalia is either theoretical research, or anecdotal reports of success from NGO reports and news articles. Some of the few exceptions to this is the evidence available on ADR interventions, a programming type that has been in place in Somalia since 2003. The EAJ programme produced a systematic review of ADR interventions in 2020.²¹⁵ Though the review is comprehensive, it did not find that interventions designed to introduce GESI approaches into ADR programmes had any impact.

6. Conclusion

The findings of this literature review in terms of clearly impactful strategies for increasing access to justice for women and minority groups are limited. The literature reviewed does not provide overall guidance on the types of programming or approaches likely to strengthen the social contract, increase access to justice and ensure security for women, and marginalised groups. However, the anecdotal evidence and overall approaches implemented by numerous organisations over years of engagement in Somalia provide important lessons about how to ensure interventions are inclusive and do no harm. Many of these programmes have also identified entry points for engagement which are yet to be fully capitalised on. These may be used in future programming, guided by the overall strategies and approaches identified in this review.

²¹⁵ Ibid.

