

# Access To Justice Project



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**PROJECT:**  
Access To Justice Project

**PREPARED BY:**  
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**PROGRAMME:**  
Governance and Rule of Law

**REPORT PERIOD:**  
Q3 - 1 July to 30 September 2012

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## CONTEXTUAL ANALYSIS

### FEDERAL LEVEL

Reform of the justice sector has been identified as a priority by the new President of the Federal Republic of Somalia. On 26 Sept on the sidelines of the 67th session of the UN General Assembly, the President stated that it is the government priority to create an enabling environment for stability, rule of law & good governance, with a credible justice system. The President spelled out a series of priorities ("pillars of the new beginning"), including an independent efficient & effective judiciary system which ensures justice for all. In the September JCWG, the President of the Appeal Court highlighted priorities for strengthening the judiciary, including judicial independence. We are expecting appointment of the new MOJ and members of the JSC including Chief Justice shortly. Also envisaged in the new constitution is drafting of an Act which will govern the JSC as stipulated in the Constitution. Concerns have been raised on the JSC & the level of independence provided therein.

### PUNTLAND

The term of the current government is coming to an end at the end of 2012 but there are plans for a 1 year extension. Political tensions have been reported in the regions since the government announced its intention to postpone the elections. For the justice sector, the assassination of a prosecutor highlighted the issue of safety & security of the judiciary. This brings the total assassinated to 8 (10% of the judiciary). Responsibility has been attributed to clan issues, piracy and Al Shabaab. UNDP has experienced issues with reform progression. It has been difficult to employ newly qualified graduates in justice institutions due to limited budgets, and consequently the judiciary is under qualified (only 16 lawyers in PL). Government commitment has been found wanting with judges from Garowe refusing to attend trainings demanding payment to do so whilst the judicial inspection scheme has been suspended due to a systematic failure by the inspectors to carry out their mandates.

### SOMALILAND

The government has continued to give priority to justice reform through appointment of new graduates; planned recruitment of further graduates; approval of the first code of conduct in Somaliland as well as indications that the courts will be allocated an additional budget to allow it to progress on reform. The cabinet also ordered an investigation into complaints raised by the public of court corruption and inefficiencies and prioritizing their improvement. This was highlighted by the actions of the Chief Justice in pushing for expansion of court & case management measures throughout the region (he has been observed frequently inspecting the courts in Hargeisa to ensure they are implementing these reforms) including issuing of a circular on the same. Despite these gains, there are frustrating perceptions there is limited interest by the international community and limited additional funds to support the 5 year judicial strategy approved by the government.

## RESULTS

SL	Indicator	2.1.1.1 Number of required laws, disaggregated by draft by the legislative or executive branch, enacted by Parliament, and implemented by the executive	Y
	Result	Draft revised law on the organization of the judiciary completed and passed to Cabinet	
	Comment	SL cabinet was expected to approve and submit this draft to the legislative for approval. This is currently in cabinet awaiting their approval	
SL	Indicator	2.2.1.1 Number of public servants that participated in organized trainings	G
	Result	270	
	Comment	45 trained on case management and mobile court issues; 51 attended judicial trainings; 50 were interns; 35 on the judicial reform strategy: cluster teams; 89 scholarships	
SL	Indicator	2.2.2.3 Code of conduct and other necessary supportive and legally binding rules and regulations developed	G
	Result	Comprehensive judicial code of conduct and disciplinary rules for judges and prosecutors adopted	
	Comment	For the 1st time in SL, HJC adopted judicial code of conduct and disciplinary rules. Training of judges on this to start in Q4 coupled with a public information campaign.	
SL	Indicator	2.2.1.2 Number of policies / reforms designed, enacted, and implemented	G
	Result	Year one priority activities of the Judiciary reform strategic work plan identified and consolidated	
	Comment	MOJ formed 5 thematic clusters from justice actors involving in Judiciary reform process. 35 Cluster members trained. informational materials developed & launched to publicize strategy	
SL	Indicator	2.4.2.2 Number of citizens receiving legal aid, disaggregated by gender	G
	Result	2,556: 279 children, 472 women, 454 IDPs, 109 minority, 86 refugee, 34 asylum seeker and 1293 poor	
	Comment	906 released from custody and prison. CJ issued a directive exempting legal aid cases from payment of court fees. Public legal aid unit established & draft legal aid policy handed to MOJ	
SL	Indicator	2.4.2.3 Number of legal aid centre's supported	G
	Result	21 legal aid centers in 6 regions in SL including SL Lawyers Association's office(SOLLA) at Las Anod	
	Comment	Sool legal aid office established. Legal aid offices running in all 5 regions in SL including 2 in Boromo, 3 in Hargeisa, 2 in Gabilay, 2 in Burao and 1 in Berbera	
SL	Indicator	2.4.2.5 Number of rape and SGBV cases, disaggregated by dismissals and convictions	G
	Result	12 cases were prosecuted and heard by court: 1 conviction, 5 dismissal and 6 pending for trial.	
	Comment	47 cases reported to Baahikoob: Social worker hired & activity to support Safe House & livelihoods to commence in Q4. Awareness identified as a priority. Information materials to launch in Q4	

## RESULTS

SL	Indicator	2.4.3.1 Level of sample judicial written decisions justifying outcomes based on legal reasoning in accordance with international and national rights frameworks, and other constitutional and legal reforms is "high", "medium", or "low"	G
	Result	Of 60 court case files reviewed : 38% low, 54% medium, and 8% high	
	Comment	As per impact assessment over 50% of files reviewed were poorly drafted with knowledge of court procedure highlighted as the key areas for training. Other areas better including law/applying of law	
SL	Indicator	4.3.1.3 Number of cases that women win in courts or traditional mechanisms to protect their economic assets	G
	Result	Legal aid partners filed 218 cases involving women economic assets or interests in courts	
	Comment	Among the cases filed in courts are 24 land dispute; 12 compensation; 7 inheritance; 52 divorce; 91 family/child maintenance and 7 contractual/property cases. Data on cases won not available currently.	
SL	Indicator	2.4.2.1 Number of legal professionals that have received training on sexual and gender-based violence	G
	Result	10 newly employed intern prosecutors of the AG were trained on legal procedures relating to SGBV	
	Comment	51 judiciary members (42 judges and 9 prosecutors) completed 3 month training and are expected to have sessions on GBV in Q4. 2 year training plan to be finished by end of Q4	
SL	Indicator	4.4.2.1 Number of reported incidences of sexual and gender-based violence	G
	Result	47 GBV clients (41 female and 6 male) reported to Baahikoob	
	Comment	All 47 reported clients received medical services. 33 received psychosocial and legal support. Awareness activities targeting IDPs to be prioritized. Almost all clients are from host community.	
SL	Indicator	2.4.2.4 Number of cases fully adjudicated in court, disaggregated by criminal and civil cases	G
	Result	Regional court rendered 620 (450 criminal and 170 civil) and disposed 470 (75.8%)	
	Comment	36 court staff trained. Preparatory work done for implementing the CMS reform methods in 14 courts in 5 SL main cities. Chief justice issued directive ordering implementation of reform.	
PL	Indicator	2.2.1.1 Number of public servants that participated in organized trainings	G
	Result	38 law students (20 female) provided with placements & 81 Scholarships provided	
	Comment	48% of PSU Law students are employed in legal or governmental positions; 31 are supported by UNDP through internship programme while only 21% are unemployed. 1st graduation for law students in 2012	
PL	Indicator	2.3.3.1 Level of progress on establishing human rights institutions, safeguards, and oversight arrangements with a focus on enhancing women's security is "high", "medium", or "low"	G
	Result	1st draft Policy on Legal Aid devised and currently under revision by justice stakeholders	
	Comment	1st draft Policy on Legal Aid - Guidelines on Access to Lawyers and Legal Services in Prisons, Police Stations and Courts produced and officially discussed with criminal justice stakeholders	

## RESULTS

PL	Indicator	2.4.2.1 Number of legal professionals that have received training on sexual and gender-based violence	G
	Result	4th batch six months foundation judicial training for 25 members of judiciary started in Garowe	
	Comment	53 judges and 10 prosecutors currently working in Puntland: since 2010, 43 out of 62 judges and prosecutors have completed the 6 months induction judicial training (69%) supported by UNDP	
PL	Indicator	2.4.2.4 Number of cases fully adjudicated in court, disaggregated by criminal and civil cases	G
	Result	PL courts adjudicated 1594 cases, including 674 criminal and 920 civil	
	Comment	254 were adjudicated by the PL mobile courts. NB: Jan-June 2012 courts statistics collected and compiled by the MOJ	
PL	Indicator	2.4.2.2 Number of citizens receiving legal aid, disaggregated by gender	G
	Result	243 clients provided with legal aid; 289 additional IDPs clients referred by paralegals (183 women)	
	Comment	243 clients (114 IDPs, 60 women, 9 minority, 12 refugees, 65 economically deprived, 4 children) provided with legal representation. 69 were acquitted and released. 298 IDPs referred by paralegals	
PL	Indicator	2.4.2.3 Number of legal aid centre's supported	G
	Result	4 legal aid offices currently established in Garowe, Bossaso, Galkaio and Gardo	
	Comment	8 lawyers (1 female), 9 interns (4 female) and 25 paralegals (12 female) providing legal assistance, representation and counselling with focus on detainees and IDPs camps	
PL	Indicator	4.3.1.3 Number of cases that women win in courts or traditional mechanisms to protect their economic assets	G
	Result	Legal aid provided in courts to 243 clients, these include 60 women. 220 IDPs assisted (183 female)	
	Comment	Out of 243 cases, 115 concerned family and civil disputes, including alimony, divorce, inheritance as well as family and child maintenance. 183 female IDPs were also assisted in solving their disputes	
FL	Indicator	2.2.1.1 Number of public servants that participated in organized trainings	G
	Result	38 judges and prosecutors, 47 court support staff and 5 MOJ staff trained. 10 interns on job	
	Comment	90 members of the judiciary (13 female) successfully completed the 2nd batch 9 months judicial training conducted in partnership with Mogadishu University. Final tests report considerable improvements	
FL	Indicator	2.2.2.3 Code of conduct and other necessary supportive and legally binding rules and regulations developed	R
	Result	Code of conduct not yet drafted since JSC to be appointed after end of transitional perio	
	Comment	Judicial Service Council (JSC) reform is new Somali Government priority, including re-appointment of members. Code of conduct will be discussed as soon as new members of judiciary will be appointed	

## RESULTS

FL	Indicator	2.4.2.1 Number of legal professionals that have received training on sexual and gender-based violence	Y
	Result	90 members of the judiciary have completed foundation training, including modules on gender	
	Comment	90 members of the judiciary have completed judicial training with Mogadishu university, including also modules on gender and human rights. Advanced training on SGBV still to be provided	
FL	Indicator	2.4.2.2 Number of citizens receiving legal aid, disaggregated by gender	G
	Result	Legal aid provided for 265 clients; 589 survivors of SGBV referred to proper service providers	
	Comment	Legal aid provided to 265 clients detained at Central Prison in Mogadishu, police custody and at IDPs camps level, including 130 IDPs and 124 members of minority groups. 96 were acquitted and released	
FL	Indicator	2.4.2.3 Number of legal aid centre's supported	G
	Result	3 legal aid partners supported in Mogadishu, including 12 lawyers, 45 paralegals and 10 interns	
	Comment	3 legal aid offices, including 12 lawyers, 45 paralegals and 10 interns provided legal aid for 265 clients detained in prison and police stations and referral for 589 survivors of SGBV in IDPs camps	
SL	Indicator	# of courts rehabilitated	Y
	Result	Bidding for constructions of AG offices in Hargeisa/Boorama, and Amoud Legal Clinic in process	
	Comment	BOQ and drawing for planed rehabilitation for Odweyne District court, Baahi koob Center and MOJ Regional office of Buroa were not done and delayed	
SL	Indicator	# of women & child sections established in SL at AG office	G
	Result	2 women and child prosecution sections established in Buroa and Borama offices of the AG	
	Comment	Reports on the performance of these sections not yet received. However, these sections will contribute to not only access to justice for women, but also to implementation of the juvenile justice ACT	
SL	Indicator	# of cases heard by mobile courts disaggregated by gender, offence & region	R
	Result	70 cases	
	Comment	Low number of cases due to 1 month suspension of activities due to Ramadan. The project was also delayed for a further month after that due to changes in management of the courts	
PL	Indicator	Completion of Gardo Prison	R
	Result	Construction, training and procurement completed by mid October	
	Comment	First block to open by end of October with prison fully commissioned by end of Q4. Impediments preventing this due to agreement being reached on running costs which must be assumed by the government	

## RESULTS

PL	Indicator	# of cases heard by mobile courts disaggregated by gender, offence, & region	G
	Result	119 cases - 52 penal and 67 civil cases. 37 female clients	
	Comment	4 mobile courts established in Bari, Nugal, Karkar and Bari regions	
PL	Indicator	# of courts rehabilitated	G
	Result	Contracts awarded for construction of Attorney General + Higher Judicial Council Secretariat offices	
	Comment	Construction of AG and HJC offices in Garowe will be completed by the end of Q4. Equipment for courts handed over to Chief Justice	
PL	Indicator	Performance of HJC is improved	Y
	Result	HJC inspector conducted monitoring visit to Garowe 1st instance court, Nugal region Court of Appeal	
	Comment	Activity is not on track due to poor skills and performance by HJC legal inspection unit. Project implementation needs to be revised and new inspector appointed by HJC	
FL	Indicator	# of cases heard by mobile courts disaggregated by gender, offence & region	G
	Result	190 cases (Q3: 167) - 50 penal, 98 family, and 76 civil cases. 89 female clients	
	Comment	4 mobile courts established in Wadajir, Hodan, Hamarjajab and Hawlwadag districts	
FL	Indicator	# of courts rehabilitated	Y
	Result	Phase 1 - Rehabilitation of 2nd floor Banadir Court Compound in Mogadishu completed	
	Comment	Rehabilitation of Banadir Court Compound, including underground, ground and 1st floor as well as MOJ building to start in Q4. BOQs done and drawing approved by Ministry of Public works	
ALL	Indicator	# of project boards facilitated	G
	Result	Project Boards meeting conducted to discuss 1st semester project activities and results	
	Comment	Project Boards meeting conducted in Somaliland and Puntland in July and August; formal discussions conducted with partners in Mogadishu	
ALL	Indicator	# of site visits by Project Managers & Project Officers	G
	Result	Permanent national/international presence in Somaliland and Puntland; regular missions to Mogadishu	
	Comment	Regular A2J monitoring mission conducted in Mogadishu; assessment mission conducted in Baidoa and Dollow to devise project support and expansion in new liberated regions;	



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## ACTIVITY HIGHLIGHTS

### FEDERAL LEVEL

Mogadishu University has started a 4 weeks training on “Human Rights related to the Administration of Justice” for 38 judges and prosecutors, 47 court support staff and 5 staff members of the MOJ, including 13 female; ongoing support to the Judicial Service Council and 4 mobile courts to cover the jurisdiction of 4 districts and hear cases free of charge in newly liberated areas.

### PUNTLAND

1st draft Policy on Legal Aid - 'Guidelines on Access to Lawyers and Legal Services in Prisons, Police Stations and Courts' produced and officially discussed with relevant justice and law enforcement stakeholders. The draft is under revision for upcoming presentation, validation and approval. A final examination for the academic year 2011/2012 was held at PSU faculty of law.

### SOMALILAND

1st judicial code of conduct for judges, prosecutors and supporting staff adopted. HJC planned to train over 270 judiciary member on the code of conduct. Chief Justice has also issued directive on management of court related fees. These developments will enhance accountability of the judicial system, and facilitate implementation of other planned judicial reform including the CMS reform process.

## PARTNERSHIPS

In Puntland and Somaliland, UNDP is collaborating with the Ministries of Justice to address the issue of lack of access of lawyers particularly to police stations (lawyers have no access at this time). A Legal Aid Unit has been established within the SL Ministry of Justice as well as a draft policy. In PL, meetings with key justice stakeholders were conducted under the Ministry of Justice leadership to discuss adoption of a legal aid policy as well as guidelines for lawyers' access to prisons and police stations. A 2nd draft PL Legal Aid Policy was produced and translated into Somali for presentation to justice stakeholders. The final document will be approved by the end of 2012. The document reasserts domestic and international standards on legal aid, recognizes that legal aid is an essential element of a functioning criminal justice system and commits the PL Law Enforcement Agencies, including police and custodial corps as well as judicial authorities to guarantee the right to legal aid in every police station, place of detention, and prisons in PL from the time of apprehension to the completion of the criminal proceedings. Capacities particularly in Puntland where there are only 16 lawyers have been one of the reasons stalling reform in the judiciary. Coupled with a weak and indecisive JSC this has led to suspension of the inspection scheme and stalled capacity building efforts including case management reforms and wider training.

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## PEACE AND CONFLICT

Communities outside of the regional capitals have little or no access to the formal justice system. The importance of Xeer is indisputable, as customary law rules are applied in solving around 80% of all disputes and criminal cases. Particularly in rural areas, Xeer continues to be the predominant justice system. However, traditional elders often make decisions on serious criminal cases that adversely affect vulnerable groups such as women, children and minorities as well as they may be the reason for exacerbating local conflicts. Instrumental in addressing some of these challenges as well as contributing to solve local disputes and promoting peace solutions at rural areas level, mobile courts in Somaliland, Puntland, and Mogadishu travel to districts as well as IDPs camps, taking on serious criminal cases as well as civil and family cases. In Mogadishu in only 4 months mobile courts dealt with approx 390 cases.

## GENDER

UNDP renewed, until August 2013, partnership with the Somali Women Development Center and the Coalition of Grassroots Women Organization to expand legal aid initiatives in SC Somalia and increase preventive and responsive services for survivors of SGBV. During the project period, 589 women and children survivors of SGBV living in IDPs camps were provided with psychosocial and legal counseling and/or referred to Mogadishu hospitals. 93 women, female adolescents and children were admitted at the Centre for Health Dialogue and Development which provides medical referral, psychosocial and legal counseling to women, adolescents and children survivors of SGBV and/or referred to Medina Hospital. In Somaliland, Baahi-Koob have assisted 47 survivors of SGBV. Among them, 33 cases have been filed to be prosecuted by the Hargeisa courts. Awareness campaigns are underway given lack of knowledge of its services were highlighted in our recent justice impact study.

## UPCOMING QUARTER

An International Legal Education Adviser has finalized preliminary assessments of training needs of justice professionals in preparation for the broader implementation plans and curricular development activities planned for Q4 including establishment of judicial training units. Law professors, legal aid center lawyers, court staff including from the AG Office and courts have been selected for a ToT which will be held in Q4 in Abu Dhabi in partnership with the French National School for the Judiciary to focus on pre-trial, trial, and post trial procedures and practices, including serious crimes, particularly piracy and organized crimes. Expansion of activities in South Central is a key priority. A judicial assessment is underway to be completed by the end of November. Priority areas are also being developed including the mobile courts; JSC; Human Rights Commission and judicial training as well as expansion of court services to newly liberated areas.





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## REFLECTIONS / LESSONS

Investments in legal education have been shown to deliver long-term development to the justice sector in Somalia particularly when coupled with political commitment. In Somaliland, 10 years ago there were only 17 law graduates in Somalia, now there are over 400 with over 100 having benefited from scholarships who have now graduated. UNDP established Hargeisa Law Faculty including building its premises & curriculum as well as sponsoring scholarships. Two years ago, UNDP also commenced an intern programme in Somaliland after positive indications from the government that graduate recruitment would be prioritized in future. In the last 12 months we have seen the recruitment of 10 graduates into the AG with a further 30 + to be recruited into the Judiciary before the close of 2012. We have seen this in the judiciary with less than 5% with legal qualifications in 2008 with approximately 25% today (this will increase again with expected recruitment of interns before the end of 2012). Aside from that there are individuals who are now working in the public and NGO sector who would not have had that opportunity but for the scholarship programme. One such individual is now the Somaliland Police Legal Adviser. He is from a minority clan and as such was a recipient of UNDP's scholarship programme. Another individual from a minority clan who was also a recipient of a UNDP scholarship now heads Somaliland's largest minorities NGO. This long-term commitment by UNDP, with the support of the international community, has made real development gains as illustrated. Conversely in Puntland, the justice sector is characterized by developing formal institutions and a limited number of legal professionals few of whom have any formal legal qualifications. Happily for the first time in Puntland's history, there will be law students graduating from both PSU & Mogadishu University's Bosasso campus. This is welcomed given Puntland faces a similar situation to Somaliland 10 years ago with only 16 legally qualified persons throughout the regions. UNDP is in discussions with the government on supporting internships there but only if there is commitment from them to be hired into the public sector on successful completion. Happily a number of law students currently at PSU have already secured employment given the shortage of legally qualified persons. 48% of Puntland State University Faculty of Law students are already employed in legal positions. UNDP is looking to replicate this in South Central Somalia in 2013. The Chief Justice and JSC have already requested support from UNDP to prioritize internships in the short-term to allow absorption of law graduates into the court system. There are law faculties in Mogadishu including Mogadishu University who is an established partner of UNDP. The Chief Justice has also highlighted the need to prioritize scholarships to ensure women and minorities are brought into the justice sector.

### CUMULATIVE PROJECT FINANCIAL SUMMARY

APPROVED BUDGET	5,137,981
TOTAL (DISBURSEMENTS + COMMITMENTS)	3,592,942
BALANCE OF FUNDS	1,545,039
% DELIVERY (AGAINST APPROVED BUDGET)	70

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