



Legal Aid Providers Supporting Gender Based
Violence Survivors in Somalia:
Report and Recommendations

Legal Aid Providers Supporting Gender Based Violence Survivors in Somalia

October 2014

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- ❖ Increasing Legal Responsibility and Accountability
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Glossary

360 response providers: All actors involved in responding to gender-based violence (GBV) offences. This includes the entire 360 circle of responders, including the officers at the police station who initially respond to the complaint, hospital workers, the Criminal Investigations Department (CID), the Attorney General's office, the judiciary and the legal aid providers.

AG: Attorney General

AMISOM: African Union Mission in Somalia

ASWL: Association of Somali Women Lawyers

CID: Criminal Investigations Department

CFPs: Community Focal Points

Circular: Instructions or information issued by a government body that has the effect of altering law or policy.

COGWO: Coalition of Grassroots Women Organisations

CCBRS: Comprehensive Community Based Rehabilitation in Somaliland

FGM: Female Genital Mutilation

GBVIMS: Gender-Based Violence Information Management System

Gender based violence (GBV): Violence that is directed against a person on the basis of gender, including sexual violence.

GRT: Gruppo per le Relazioni Transculturali, an Italian NGO

Legal aid providers: Organisations that offer legal aid services.

NAPs: National Action Plans on preventing sexual violence in conflict, adopted by seven Ministries of the Federal Government of Somalia.

NGO: Non-governmental organisation

Referral pathways: The manner in which the different 360 response providers to GBV offences transfer the case between them, moving it from the initial report to the police or hospital to the hearing of the case in court, if the survivor so chooses.

SCS: South-Central Somalia

SOLA: Somaliland Lawyers Association

SOPs: Standard Operating Procedures

SVOC: Sexual Violence Oversight Committee, an as yet unestablished body committed to in the National Action Plans

SSWC: Save Somali Women and Children

SWDC: Somali Women Development Centre

SWLA: Somaliland Women Lawyers Association

TASS: Tadamun Social

TOT: Training of trainers

PAC: Police Advisory Committee

PLAC: Puntland Legal Aid Centre

PSU: Puntland State University

PUWLA: Puntland Women Lawyers Association

SANE: Sexual Assault Nurse Examiner

Service providers: Organisations that provide services to GBV survivors, including legal, medical, psycho-social and livelihood support.

Sexual Exploitation and Abuse (SEA): Sexual exploitation means any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another and **sexual abuse** means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

UNDP: United Nations Development Programme

UNFPA: United Nations Population Fund

UNHCR: UN High Commissioner for Refugees

UNICEF: United Nations Children's Fund

WAAPO: Women's Action for Advocacy and Progress Organization

Xeer: Somali customary law, dispensed by customary elders

Foreword

This is the first comprehensive report about legal aid services for survivors of gender based violence (GBV) in Somalia. The report identifies who is doing what, where and how. It provides an overview of the legal frameworks in place, key successes that can be replicated and recommendations on how immense challenges can be overcome.

Somalia is a very difficult environment for providing legal aid services to survivors of GBV. There are security challenges that affect legal services across Somalia, but particularly in South Central Somalia, where survivors, lawyers, witnesses, journalists and family members have been threatened, harassed and arrested for reporting GBV offences. Legal aid providers regularly receive death threats towards their staff and offer rewards for the murder of their clients. Fear of reprisals to staff, survivors, witnesses and medical personnel rise if perpetrators are from the security forces. It is not surprising that survivors are hesitant to report cases of GBV.

The lack of women in the justice sector is also detrimental to survivors reporting cases or pursuing prosecution. In Somalia there is a clear link between the number of women in senior positions in the Criminal Investigation Department (CID) of the police, and the Attorney General's office and the increase in reporting, investigations, prosecutions and convictions of perpetrators.

Many negative practices have developed within the legal systems of each region which adversely affect the ability of survivors of GBV to access the formal legal system. In many cases, these negative practices have become accepted as policy, though in reality this is not the case. These practices and a lack of understanding amongst legal aid providers and other justice actors about what law and policy provides represents a major challenge in all regions.

There are also enormous social, cultural and religious barriers in reporting GBV cases. Survivors are often reluctant to pursue prosecution or civil cases against the perpetrator due to the social stigma associated with rape. In rural and remote areas across Somalia the customary law (*Xeer*) is used to resolve the majority of disputes. In GBV cases, these decisions are rarely survivor-centred.

Despite this bleak picture there are thirteen NGO legal aid providers across Somalia who provide four key services to GBV survivors. Firstly, providing criminal defence or civil representation to clients who cannot afford to represent themselves in court; secondly, representing and assisting victims of crime to participate in prosecutions against the accused; thirdly, providing general legal information and advice; and fourthly, providing representation and assistance in alternative dispute resolution through the customary system.

These legal aid providers have had significant successes in providing needed services for GBV survivors. Survivors are better served through 'one stop' medico-legal response centres, in which they can receive medical treatment, legal assistance, and report an offence to the CID all in one place. This results in an increase in GBV prosecutions and convictions. In 2013, 326 rapes were reported to the 'one-stop' centre in Hargeisa, Somaliland; the Attorney General's office proceeded with 171 cases and 54 people were convicted. Where legal aid providers and the police, including the CID, have a good relationship, this results in more comprehensive, impartial and survivor-centred investigations.

In regions where there are higher number of women lawyers there is an increase in the number of reports, prosecutions and convictions for GBV offences. In Somaliland, there are 10 female Deputy Prosecutors and 75 women working in the legal, compared to only five women in 2008. In Puntland there are now 21 women lawyers, compared to one before 2012.

Engagement by legal aid providers with customary and religious leaders through regular consultations and workshops can result in an increase in their support for the provider's activities. The significant support for Female Genital Mutilation (FGM) Bill in Puntland and the fatwa prohibiting FGM is an example of effective engagement.

Survivors are better protected where safe houses are established, particularly in South Central Somalia. The use of mobile phones, hotlines and radio programmes have improved survivors and community understanding of GBV and how to obtain legal services.

The recognition by the Somali government(s) through pledges, action plans and communiques that GBV is a real problem which needs to be addressed has also had an impact. Advocacy undertaken by legal aid providers and women's groups has contributed to this step forward.

The achievements by legal aid providers are remarkable. However, there is more to be done if the system and practices are to be changed to provide legal redress, safety and security for survivors of GBV. The successes need to be replicated and expanded across Somalia and lawyers must be empowered to take proactive action to instigate or advocate for transformations.

It is critical that the international community provide long term and strategic support to develop legal aid providers' capacity to push for systemic change. It is also essential that the international community does not reinforce negative and discriminatory practices relating to GBV in Somalia or allow them to turn into policies. There is no policy that only Madina Hospital in Mogadishu can issue medical certificates for evidence of rape in courts – it is practice. In the absence of effective civilian/administrative courts we should not strengthen military courts to hear cases of sexual violence. It is unconstitutional, not in the best interests of survivors and it is not international best practice.

Supporting the establishment of transparent and fair government institutions to address GBV offences is crucial and we see from the experience of Somaliland that this will ultimately effect long term change. However, this must not be at the expense of legal aid providers. The answer lies in a dual track process. If this is undertaken effectively, it could have a real impact on survivors of GBV and could prevent the commission of GBV offences.

Now is the time to capitalise on the commitment and enthusiasm of the legal community to address the impunity for perpetrators of GBV and to provide a system that promotes the best interest of the survivor. We hope that we can all work together to achieve this change.

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Key Recommendations

Please find below a brief summary of key recommendations to improve access to justice for the survivor, increase security and protection for lawyers, witnesses and survivors and reduce impunity for perpetrators. A full set of recommendations can be found in Section 12, on page 63.

Improve Co-ordination by:

- *Strengthening of oversight bodies*, including the development of a Terms of Reference for the Sexual Violence Oversight Committee (SVOC) in South-Central Somalia.
- *Establishing a Somalia-wide legal aid network* to strengthen the capacity of all legal aid providers to overcome and address challenges. This network should meet periodically outside of Somalia.

Adopt a '360' legal-medical-psycho-social approach by undertaking:

- *Joint '360' trainings of all response providers to GBV offences* including legal aid providers, medical practitioners, desk police, Criminal Investigations Department staff, Attorney General's office staff and judges. This will strengthen the relationships between 360 response providers, develop their capacity to respond to reports of GBV and increase the likelihood of cases proceeding to prosecution stage.

Improve Investigations and prosecutions through:

- *Appointing special judges and prosecutors* for GBV cases. This will ensure survivors are given a fair trial in accordance with the applicable laws and best practice standards.
- *Sending forensic evidence to another state for analysis and storage*, while at the same time building the capacity of local actors to collect, store and analyse this evidence. This arrangement would be maintained until capacity to collect and analyse forensic evidence is developed in Somalia. This will reduce the number of cases dropped due to lack of evidence.
- *Developing and implementing a policy on criminal prosecution of GBV*, which: authorises all hospitals to provide a medical certificate evidencing GBV; specifies medical certificates are not required to prosecute; allows legal aid providers to give evidence to investigators; and stipulates that legal aid providers be given access to court documents relating to their clients. It will overturn negative policies and specify that negative practices that have developed over time are not mandated in law or policy and should not be followed.
- *Attorney General and Police Commissioner to issue circular* stating that no person or group can intervene in court proceedings and that officials who release prisoners will be charged with Abuse of Office. This will reduce the number of cases in which elders intervene to prevent the formal case reaching its conclusion.

- *Establish/ re-establish and expand the mandate of the Police Advisory Committee (PAC).* This will increase oversight of the investigation process and lead to more successful investigations and prosecutions of GBV offences.

Changing Policy and Practice by:

- *Conducting trainings with the judiciary on how to hear public interest cases,* including constitutional petitions and civil cases taken in the public interest. This will give the judiciary the tools to develop and shape the law in accordance with the Constitution(s) and international standards.
- *Training legal aid providers on proactive legal strategies,* including advocacy and public interest litigation, to challenge existing law and policy. This will give lawyers the tools to be proactive rather than purely reactive in their response to the current system by challenging unfair law, policy and practice.

Engage with elders and rural communities by:

- *Identifying one person from the elder community and one person from the religious community to champion GBV projects* to increase community support for projects aiming to reduce GBV. This will reduce opposition to such projects within the elder community and increase the number of cases referred from the elders to the courts.
- *Establishing Community Oversight Boards (COBs) and community-based paralegals* in rural and remote areas. This model is taken from a successful project in Sierra Leone and would improve access to the formal legal system within rural and remote communities.

Improve safety and security by:

- *Adopting a protocol for protection of survivors, witnesses and lawyers in court in GBV cases* to improve protection of survivors, witnesses and lawyers. This will decrease the number of survivors exposed to risk during court procedures and the number of survivors who choose to proceed with prosecution.
- *Providing technical assistance to improve legal aid providers' safety and security protocols.* This will prevent staff and clients at legal aid providers from being harassed and threatened and enable them to more easily
- *Expanding and establishing safe houses* to improve safety and security of witnesses and survivors. This will also encourage more survivors to proceed with prosecution.

Increase reporting and improve quality of information by:

- *Recording and releasing statistics relating to reported offences, prosecutions and successful cases relating to GBV.* This information should be collected by the Sexual Violence Oversight Committee (in South Central) or the GBV Oversight Officer (in Somaliland and Puntland). This will increase availability of accurate information from which government and civil society may assess challenges and identify possible

solutions. It should not include information that would lead to identification of the survivors.

- *Establishing GBV hotlines and community phones.* Phones should be distributed to women focal points within the community. These phones should call both GBV hotlines operated by legal aid providers and the police, who should also be provided with phones. This programme will allow survivors to be better informed about how to seek justice and other services.

Support internal management and provide resources by:

- *Supporting the drafting of protocols* on working with GBV survivors and children, sexual exploitations and abuse and safety and security. This will also increase general capacity to draft relevant policies.
- *Supporting and improving monitoring and evaluation mechanisms through the drafting of policies to ensure* that all staff members record successes and failures and that these are compiled into reports that are presented at staff meetings and made available to external sources. This will ensure that providers learn from past experiences and employ strategies that have proven to be successful.

Methodology

The information gathered for this report has been obtained by LAW's national and international legal team through:

- Two formal interviews with all legal aid providers in Somalia followed up with detailed questions and discussions with each organisation;
- Completion of a detailed questionnaire, the full version of which can be found in Annex I. The questionnaire was sent to the legal aid providers prior to the initial meeting between each legal aid centre and LAW. It covered the following areas: general information, employees, services provided, links to other 360 response providers, client procedures, protocols in place, training, general caseload, SGBV caseload, collection of evidence, police procedures, customary system, training, security and threats, funding, government assistance and legislative framework and co-ordination;
- A desk review of all relevant information, including previous assessments of legal clinics, the judiciary and legal profession;
- Discussions with national and international actors, listed on 87.

The Somali Lawyers Association in Mogadishu met with LAW, however, they have not returned the questionnaire. LAW obtained some information about the Somali Lawyers Association from available reports and from speaking with people working in the access to justice sector in South Central Somalia.

In gathering this information, the principles below were followed:

- **Openness and transparency** – the purpose of the interviews and how information received will be used was made clear to all interviewees;
- **Reliability and independence** – LAW made every effort to verify information collected and conclusions arrived at and seek to confirm its findings with a variety of sources;
- **Publicity/public access** – Legal aid providers, partners and other stakeholders were made aware of the report's preliminary findings and invited to incorporate comments and revisions as appropriate;
- **Broad participation** – The report sought to interview as wide as possible a range of relevant stakeholders and beneficiaries, in addition to the legal aid providers.

This report reflects the comments of all Somali legal aid providers who were interviewed. All legal aid providers have reviewed and agreed with the contents of this report and the recommendations. Their comments and amendments were sought through bi-lateral meetings and workshops.

Legal Aid in Somalia

1. Overview

1.1 Legal aid providers in Somalia

List of Legal Aid Providers for GBV in all regions

South Central

- Association of Somali Women Lawyers (ASWL)
- Somali Bar Association
- Somali Women Development Centre (SWDC)
- Somali Save Women and Children (SSWC)
- The Elman Peace and Human Rights Centre (Elman Centre)
- Coalition of Grassroots Women Organisations (COGWO)

Puntland

- Puntland Women Lawyers Association (PUWLA)
- Puntland Legal Aid Centre (PLAC)
- Puntland State University (PSU) Legal Aid Clinic

Somaliland

- Somaliland Women Lawyers Association (SWLA)
- Somaliland Lawyers Association (SOLA)
- University of Hargeisa Legal Aid Clinic
- Amoud University Legal Aid Clinic

In undertaking this assessment, the Human Rights Commission and the Human Rights Centre in Somaliland and Maato-Kaal in Puntland were also considered. The Human Rights Commission is a government body that plays an important role in monitoring the legal and judicial system and reporting on human rights abuses that may occur throughout the legal process. However, it currently does not provide legal aid to individuals and therefore is not included in this assessment. The Human Rights Centre is a recently established body that intends to provide legal aid as part of its mandate but does not yet do so. It may be that support should be given to the Human Rights Centre to increase its capacity to provide legal aid, as well as other needed services. However, analysis of this is outside the scope of this report and the Centre has not been included in this assessment.

Maato-Kaal in Puntland has a legal advisor on duty who provides basic legal advice to survivors. However, this is not the main role of Maato-Kaal, which is described in detail on page 44, and it refers clients to legal aid providers for comprehensive legal support. It is therefore not included as a legal aid provider in this report.

1.2 Legal aid: Definition and international guidelines

‘Legal aid’ means the provision of legal services to those who cannot otherwise afford to access the court system or obtain legal information. Under international law, indigent persons accused of serious crimes have a right to free legal representation before the courts. While all states have an obligation to provide legal aid in these circumstances, in practice these services are often provided by private organisations or NGOs in fragile or conflict affected states.

- **State-sponsored legal aid** is often limited to criminal defence for indigent clients;
- **Non-governmental organisations** usually offer a broader spectrum of services, including representation in civil matters, assisting and representing survivors of crime in the prosecution process, assisting and representing clients in mediation processes and providing legal information and advice.

There are currently no binding international instruments governing legal aid delivery. However, the provision of government-sponsored legal aid is a part of the duty incumbent on all states to protect and uphold human rights such as equality before the law, the right to legal representation and the right to a fair trial. In April 2012, the United Nations General Assembly adopted the *United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems*. Principle 2 stipulates that, “States should consider the provision of legal aid as their duty and responsibility. To that end, they should consider, where appropriate, enacting specific legislation and regulations and ensure that a comprehensive legal aid system is in place that is accessible, effective, sustainable and credible. States should allocate the necessary human and financial resources to the legal aid system.”

The provision of legal representation in civil cases is currently considered a ‘best practice’ recommendation. The Human Rights Committee has stated that “[w]hile article 14 explicitly addresses the guarantee of legal assistance in criminal proceedings in paragraph 3 (d), States are encouraged to provide free legal aid in other cases, for individuals who do not have sufficient means to pay for it.”ⁱ

1.3 State sponsored legal aid

The Federal Government of Somalia, including Puntland State and Somaliland, has the obligation to provide legal aid in certain circumstances. This obligation is contained in the domestic *Criminal Procedure Code* and the *Law on the Organization of the Judiciary*,ⁱⁱ applicable in all regions of Somalia, and within the Constitutions of each region.ⁱⁱⁱ A law concerning the right to free legal aid for defendants in criminal cases is included in the list of priority laws which are to be drafted by the Drafting Commission and enacted by the Federal Parliament listed in Schedule D of the Somali Constitution in South Central Somalia. In 2013, Somaliland adopted a Legal Aid Policy, in which the first stated principle of legal aid is that its provision is the responsibility of the state.^{iv}

The governments in all three regions have indicated political willingness to provide legal aid to those who cannot afford representation.

- The **Federal Government of Somalia** has committed itself to establishing a Legal Aid Unit within the Ministry of Justice and to developing a public defender scheme. A Legal Aid policy is being drafted, but it is unclear what progress has been made in terms of its development.

- **Puntland** has a Legal Aid Unit and a public defender office, but neither are presently functioning. Strengthening these offices is listed as a priority in the ‘Puntland Priorities 2014-2016’ document put together by the Puntland government and taken from its Five Year Development Plan.
- In **Somaliland**, a Legal Aid Coordination Unit was established in the Ministry of Justice in 2011 and a legal aid policy was completed in 2013.^v The Legal Aid Unit has also developed guidelines for police on access to justice, including provisions on the right to legal aid, and a Legal Aid Code of Conduct for providers. The Legal Aid Coordination Unit currently has four employees. A Legal Aid Act has been drafted but not passed. Legal aid is an identified priority within the Somaliland National Justice Reform Strategy.

By contract, no government has committed to providing legal aid in civil cases. The Somali Provisional Constitution provides for free legal defence ‘to individuals or communities if they are legally pursuing the public interest.’ Article 109(1)(d) allows an application directly to the Constitutional Court on matters concerning the public interest.^{vi} However, the Constitutional Court is not currently functional and the government has not committed to providing legal aid in public interest cases. In Somaliland, the Presidential Decree establishing office of Attorney General allows for the Attorney General’s office to represent indigent persons in civil cases. In practice, this does not happen.^{vii}

2. Legal framework

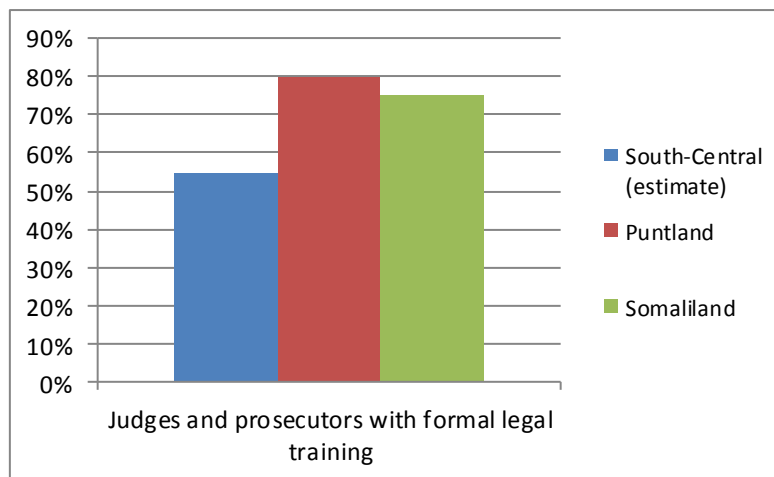
2.1 Legal structure in all regions

Somalia’s legal system is a combination of formal law, customary law (*Xeer*) and Sharia law. The overlap between these codes has the potential to create significant confusion for practitioners. The court system in all regions has limited capacity to administer the formal law, and *Xeer* is used to resolve the majority of disputes. Sharia influences all systems of law, although there are few instances of Sharia law being directly administered by Islamic courts.

Formal law

The codified law is an amalgamation of British common law and Italian civil law. The court systems in South Central, Puntland and Somaliland include a Supreme Court, regional courts, district courts and courts of appeal.^{viii} These courts are operational in all regions, though the functionality of the Main Court Complex in Benadir remains reduced following a suicide bombing of April 2013 that killed 30 people. A factsheet released by UNDP Somalia in January 2013 asserts that 80% of all Somali judges and prosecutors had completed UNDP certified trainings by that date.^{ix} However, it is considered that this number would have been significantly reduced in South-Central Somalia following the court bombing. UNDP representatives and legal aid providers confirm that in Puntland, around 95% of judges and 80% of judges and prosecutors have received formal legal education. Service providers state that this is in a large part due to advice given by the High Judicial Council to the President to dismiss unqualified judges in 2012.^x In Somaliland, UNDP representatives estimate that around 75% of judges and prosecutors have received formal training.

Judges and Prosecutors with Formal Legal Training

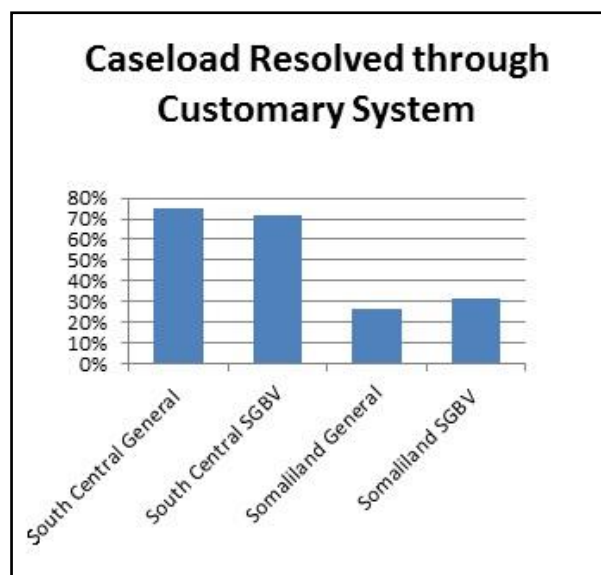


In general, efforts to develop the formal legal system have had the most success in Somaliland, where the security situation is stable and the law faculties and legal clinics are well-established. There are also numerous successes in Puntland, where the legal profession is less developed but where capacity is steadily increasing.

Customary law

In practice, a large percentage of both civil and criminal cases are resolved through the customary system. Legal aid providers estimate 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%)



The customary system emphasises consensus, compromise and reduction of social shame. In some cases, the customary system responds to allegations of rape by requiring the survivor to marry her rapist. While the customary system is of vital importance to Somali society and is often better equipped than the legal system to effectively and sustainably resolve conflict, it is

ill-equipped to respond to GBV cases. Further, as it is administered exclusively by men and relies on the strength of clans and sub-clans for its enforcement, it is unable to offer effective protection for women, IDPs, refugees and other minority groups.^{xi}

The Penal and Criminal Procedure Codes disallow out of court settlement of criminal cases prosecutable by the initiation of the State, which includes sexual offences. In practice, these provisions are not implemented and the elders intervene to resolve many sexual offences cases outside of the formal courts.

Sharia law

Many Somali lawyers and judges who practiced before the breakdown of the state have been trained in the administration of Sharia law. In South Central, the Islamic Court Union established Sharia courts throughout the region which administered pure Islamic law. The spread and influence of these courts has since decreased significantly, and almost all cases are now resolved through the customary system. In Puntland and Somaliland, some judges are former mosque Imams and Koranic school teachers, who rely heavily on Sharia law. These judges may apply incorrect laws or standards, such as the requirement for two male witnesses in a rape case. Some legal aid providers and the UNDP carry out trainings with judges to sensitise them to the formal law.

2.2 Applicable legislation in all regions

The legislation in place to address GBV consists primarily of the Italian Penal Code and the Criminal Procedure Code.

The Penal Code (1962)

Under the Penal Code some forms of GBV are criminalised, including under:

- **Article 298**, which criminalises sexual intercourse committed through the use of threats or violence or where the second person is ‘incapable of giving consent’;
- **Article 399**, which further criminalises ‘acts of lust other than carnal intercourse’ committed through the use of threats or against a person who is incapable of giving consent;
- **Article 409**, which prohibits the instigation, facilitation or aiding of prostitution, as well as the ‘exploitation’ of its proceeds;
- **Article 408**, which prohibits compelling prostitution through violence or threats. These provisions stipulate that punishment for these crimes should be 5- 15 years for rape, 1- 5 years for other forms of sexual abuse, 2 months- 2 years for facilitating prostitution and 2-6 years for doing so using threats or violence.

These provisions are based on the Italian Penal Code of 1930. All sexual crimes are criminalised under the section on ‘Crimes Against Morals and Decency.’ This is separate to the section on ‘Crimes Against the Person.’ Distinguishing crimes committed against persons from crimes against morality is contrary to international best practice guidelines.

The Criminal Procedure Code (1963)

The Criminal Procedure Code provides further guidance on the correct procedure for the prosecution and sentencing of GBV offences. The Criminal Procedure Code is based on Indian legislation from the 1800s and is outdated. In practice, the length of sentences given to and served by perpetrators of GBV is significantly lower than those stipulated in the legislation.

Laws dealing with the prosecution of GBV are distributed between the Penal Code and the Criminal Procedure Code. There is no single piece of legislation comprehensively criminalising GBV, and no laws aiming to protect the rights of the survivor or to ensure that such cases are resolved in accordance with international law and policy.

2.3 South-Central Somalia

Somali Provisional Constitution (2012)

The Provisional Constitution contains the following relevant articles:

- **Article 10:** protects human dignity
- **Article 11:** protects equality between the sexes
- **Article 15:** protects liberty and security of the person, including freedom from all forms of violence against women
- **Article 34:** guarantees access to the courts
- **Article 39:** guarantees redress for violations of human rights

Article 109(2)(d) allows individuals or groups to submit an application to the Constitutional Court on matters concerning the public interest. However, there is some ambiguity relating to this provision, as Article 109C, which lists the powers of the constitutional court, does not include the power to decide on such matters.

2.4 Puntland

Puntland Constitution (2012)

The Puntland Constitution confers certain rights on all Puntland citizens, including:

- **Article 17:** right to protection of ‘his/her body’
- **Article 17:** right against torture
- **Article 24:** right to accuse/ to institute legal proceedings
- **Article 24:** right to free access to justice

The constitution specifies that it is the duty of the government to protect and promote the rights of women.^{xii} In terms of protection of these rights, the constitution provides in Article 133 that the Constitutional Court ‘shall protect any individual whose constitutional rights are violated’ and that ‘a special procedure will be established by Law in order to ensure an immediate protection.’ It appears that such a law has not yet been developed.

The constitution also provides:

- **Article 101(5):** The decision for reconciliation, mediation or agreement in solving disputes, which traditional leaders achieve using traditional norms and methods, shall be

recognized as valid by all authorities and the authorities should offer their help to traditional leaders in the implementation of their decisions.

It also requires that such decisions then be registered in a Magistrates Court. This effectively means that the courts and state authorities are under an obligation to enforce decisions of the elders. However, it is unclear from the Puntland constitution whether these decisions by the elders can be challenged in the formal courts.

Female Genital Mutilation Bill

In 2011 the Puntland Parliament considered a law criminalising female genital mutilation (FGM).^{xiii} Extensive consultations with political, traditional and religious leaders and international experts were undertaken during the process of developing the Bill.^{xiv} The Bill has not yet passed but enjoys significant support, including from influential customary elders.

Review of laws

In June 2014, the Puntland government appointed several legal experts within Puntland to review Puntland's existing legislation in order to ensure it is in conformity with the constitution and contemporary realities of life and legal structures within Puntland. Those invited to participate in the review include representatives from the Puntland Legal Aid Clinic and Puntland State University. No female lawyers have been invited to participate in the review. It is understood that the lawyers in the Puntland Women Lawyers Association are all new graduates, and may not be best placed to undertake this review. However, there is one female lawyer in Puntland who has been practicing since before the central government collapsed in 1991, who may have provided valuable input, but was not invited to participate.

2.5 Somaliland

Somaliland Constitution (2001)

Article 130(5) of the Constitution provides that 'all the laws which were current and which did not conflict with the Islamic Sharia, individual rights and fundamental freedoms shall remain in force in the country of the Republic of Somaliland until the promulgation of laws which are in accord with the Constitution of the Republic of Somaliland.'

The Somaliland Constitution confers certain rights on all citizens, including:

- **Article 8:** Equality of citizens, regardless of gender
- **Article 24:** Right to security of the person and rights against injury
- **Article 28:** Right to institute proceedings in a competent court in accordance with the law.

The Somaliland Constitution also enshrines rights for women in Article 36. These rights concentrate predominantly on economic, social and cultural rights but the Article also specifies that 'the Government shall encourage, and shall legislate for, the right of women to be free of practices which are contrary to Sharia and which are injurious to their person and dignity.' To date, there is no such law outside of the provisions already existing within the criminal legislation which has been passed.

In terms of enforcement of rights, the Constitution provides that the judiciary shall have the power to adjudicate on disputes:

- between the governmental bodies and the public; and
- which relate to compliance with the provisions of the Constitution

This provision allows for the taking of public interest cases. However, legal aid providers report that while several constitutional petitions have been taken the courts, judges in Somaliland have not received training in hearing these cases and have taken no action to hear the petitions.

Legal Aid Policy and Legal Aid Act

Somaliland is the only region with a functioning legal aid scheme. Under this scheme, private lawyers are contracted by the Legal Aid Coordination Unit in the Ministry of Justice on a case-by-case basis to provide legal aid where the defendant is indigent and accused of a serious crime. The presiding judge of the relevant court should appoint the lawyer for defence. According to the Minister of Justice, the annual budget for the court-appointed lawyers scheme in 2012 was approximately 5,000 USD, which would cover 1000 court hearings. According to a study conducted by the UNDP in 2012, three lawyers working under the court-appointed lawyers scheme provided legal representation in 107 serious crimes cases in Hargeisa during 2011. During the same study, only 20% of the 39 judges and registrars interviewed said they would use the court-appointed lawyers scheme. The rest said that they would refer an indigent defendant to a legal aid provider.^{xv}

The draft Legal Aid Act provides for several other bodies which have not yet been established, including a Legal Aid Oversight Committee, a Public Defender Scheme and a Public Defender Council. The Somaliland government has indicated that it has identified funds to pay the salaries of six public defenders once the Act has passed.^{xvi}

3. Activities of and challenges for legal aid providers

3.1 Services provided

Legal aid providers undertake four main legal services:

1. **Providing criminal defence or civil representation** to clients who cannot afford to represent themselves in court;
2. **Representing and assisting victims of crime** to participate in prosecutions against the accused;
3. **Providing general legal information** and advice;
4. **Providing representation and assistance in alternative dispute resolution** through the customary system.

Criminal defence or civil representation in court for indigent clients

All legal aid providers offer representation in court to indigent clients in civil matters, and most, though not all, offer criminal defence. However, not all organisations who provide criminal defence do so for perpetrators accused of committing sexual violence. For those that do offer representation to people accused of sexual violence, this does not comprise a large percentage of their workload.

Assistance to the prosecution

Private prosecutions are not permissible for sexual offences under Somali law. However, legal aid providers can assist with preparation of documentation, accompany the survivor to

court, provide transportation and provide other services to make the formal justice system more accessible to survivors.

Legal information and rights protection

This service is the one given the most focus and resources by all legal aid providers in relation to GBV crimes. Most legal aid providers do outreach and sensitisation in order to inform the community of their legal rights and the procedure to follow if they suffer GBV, as well as informing survivors about their legal rights and options following the commission of an offence. Providers may also accompany survivors to the police station and the hospital to reduce the chances of the survivor being ignored, harassed and arrested.

Mediation

Under the formal law, mediation is not permitted for criminal offences, though in practice many crimes are resolved in this way. Most legal aid providers offer assistance and representation throughout the customary dispute resolution system, though most do not provide such services for GBV cases. Providers report facing significant difficulties in securing justice for their clients through this system. This is particularly true for legal aid providers comprising solely or predominantly of women, who stated that they are less able to influence the outcome of customary legal procedures.

3.2 Case management

In all regions, survivors of GBV are offered a variety of services including medical facilities, psycho-social and counselling support, safety and security services and livelihood support. In South Central, there are many multi-service organisations that provide all of these services together. In Somaliland and Puntland, legal aid providers focus more exclusively on legal aid and advocacy measures, while referring clients for services such as medical treatment and psychosocial support.

Best practice standards mandate that sexual violence responses should use a case management-based referral system, both where a provider offers all of these services themselves and they refer to other organisations for services they do not provide.

What is case management-based referral system?

A case management based referral system is where a survivor visits one legal aid or other service provider who determines all the needs and preferences of the survivor on their initial visit and then:

1. **Provides them with any services** they are equipped to offer themselves;
2. **Refers them to service providers** who are equipped to offer the remainder of needed services;
3. **Comprehensively informs the survivor about the process** involved and the options available to them.

If the survivor wishes to pursue legal action, the initial service provider should undertake the above process without requiring the survivor to explain their experience, which they will do when being interviewed by the police. This process can be put in place either through a **common Standard Operating Procedures (SOP)** document and a **common referral form** to be used by all actors, or by individual SOPs and referral forms used separately by each legal aid/ service provider.

- The former is preferable to prevent overlap and to ensure best practice standards are enforced across all providers.
- The GBV Working Group has developed a standardised SOPs and referral form to be used across Somalia. The referral form is included in Annex VIII.
- Knowledge about and use of these SOPs and referral form is extremely limited. It appears that very few if any service providers use these materials.

3.3 Reactive and proactive service provision

The services described in this report are mainly reactive, rather than proactive. Legal aid providers are frequently proactive in that they advocate for legal change. However, in terms of the provision of legal aid itself, providers currently focus on responding to the system that currently exists, rather than trying to change it.

Examples of reactive legal services	Examples of proactive legal services
<ul style="list-style-type: none"> • Defence in criminal cases • Representation in civil cases • Legal information and advice • Assistance to the prosecution • Representation in mediation 	<ul style="list-style-type: none"> • Public interest litigation and test cases • Class actions • Private prosecutions • Bringing complaints to regional/ UN bodies

There are a number of reasons for this, including:

- Extremely high demand for reactive legal services;
- No history or legal culture of public interest litigation or class action cases in Somalia;
- Private prosecutions not permitted for sexual offences under Somali law.

It is important that legal aid providers are empowered to take proactive action to instigate or advocate for change.

3.4 Major challenges

Major challenges shared between the regions include:

1. Gaps and deficiencies in law, policy and practice
2. Limited availability and low quality of information relating to GBV offences
3. Limited cooperation between the actors responding to GBV
4. Influence of customary and Sharia law
5. Insecurity
6. Inaccessibility of rural and remote areas
7. Clan influence
8. Social and cultural barriers
9. Limited capacity of Bar Associations
10. Shortage of female lawyers

Gaps and deficiencies in law, policy and practice

Certain laws, policies and practices have an adverse effect on survivors seeking redress in all regions of Somalia. Some of these policies are written in laws or guidelines, whilst others are practices that have developed over time. For example, the National Action Plans on

preventing sexual violence in conflict adopted by the Federal Government of Somalia describe the reality that only Madina Hospital issues medical certificates as a ‘policy’. This is in fact not written in any law or policy and is simply a practice that has developed over time. These practices, along with discriminatory laws and policies, must be changed to facilitate access to justice for survivors of GBV.

Limited availability and low quality of information relating to offences

It is very difficult to determine with accuracy how many people have experienced or reported sexual violence and how many of these cases have been investigated, prosecuted or convicted because the governments in each region do not record or release such figures. In Somaliland, Baahi-Koob collects statistics on the number of cases reported, prosecuted and convicted, but this does not take into account reports made outside of the Baahi-Koob system. (Baahi-Koob is described in detail on page 61).

Some, but not all, legal aid providers are trained in the Gender-Based Violence Information Management System (GBVIMS) used by the UN, but:

- This system does not contain details about the legal process following a report of GBV;
- Not all legal aid providers are trained on using the GBVIMS, although this training is ongoing and has been largely successful; and
- GBVIMS information is only released internally to the GBV Working Group on Somalia.

What is the GBV IMS?

The Gender-Based Violence Information Management System (GBVIMS) is a system developed by the Inter-Agency Standing Committee (IASC) and used by UN agencies working with GBV and their partners to collect, manage and share data on GBV offences, survivors and trends. It describes and provides materials to assist in the maintenance of a certain system of breaking down and storing information, including through charts and tables that aim to clearly represent correlations and trends.

Limited cooperation between the actors responding to GBV

The following actors respond to GBV cases: legal aid providers, the police receiving the complaint, medical practitioners, the CID, the Attorney General’s office and the courts. To ensure cases are referred between the actors effectively and with the least risk of re-traumatisation of the survivor, the connections between these institutions must be strengthened and the referral process should be subject to external oversight. At present, despite some successes, there is very little oversight and these linkages are weak.

Influence of customary and Sharia law

Most cases and legal grievances in Somalia are resolved through customary law, or *Xeer*, dispensed by clan elders. For GBV cases, these cases are often not resolved in a survivor-centred way. For example, legal aid providers from all regions report that sexual violence cases may be resolved through a ruling that the survivor must marry her attacker. Both *Xeer* and the formal legal system are influenced by Sharia law, which has not been adequately codified and may be interpreted in a manner that is not survivor-centred.

Insecurity

There are difficulties with security in all regions, though this is a particular challenge in South Central Somalia.

Inaccessibility of rural and remote areas

The provision of legal aid is largely confined to urban areas due to insecurity, poor road infrastructure and lack of resources. The UNDP has established mobile courts in Somaliland and Puntland which have had significant success in bringing the formal justice system to people in remote areas. However, the coverage achieved by these courts is still comparatively low. Paralegals are less prevalent in rural areas and seemingly do not have strong connections with customary elders in places where the formal courts are inaccessible.

Clan influence

Some judges and lawyers are reluctant to pursue certain cases for fear of clan retribution.^{xvii} In other cases, clan elders intervene during or following the prosecution of a case to remove the accused from custody in order to resolve the matter through the customary system. These actions undermine the rights of the survivor and efforts to build a culture and respect for the rule of law.^{xviii}

Social and cultural barriers

Legal aid providers report that most survivors are reluctant to pursue prosecution or civil cases against their attacker due to the social stigma associated with rape and survivors' fear of reprisals against themselves and their families. It is generally agreed that sexual crimes are severely under-reported for these reasons.

Limited capacity of formal Bar Associations

A formal Bar Association exists in each state. These Associations are limited to admitting lawyers to practice and do not have the authority or capacity to play a disciplinary role, conduct trainings or issue general rules or directives. It is therefore difficult to achieve uniformity in practice or to maintain meaningful oversight of the profession and upkeep of professional standards.

Shortage of female lawyers

There is a shortage of female lawyers and paralegals in all regions. Female legal actors are best placed to assist female survivors of GBV. This can be seen clearly in Puntland, where the Puntland Lawyers Association receives a large number of cases despite only being in its second year of existence. Female survivors feel more comfortable approaching female lawyers. The Puntland Legal Aid Clinic also reports an increase in female clients after employing a former female judge and a female law graduate.

However, while the number of female legal aid employees is increasing, this must be matched by increases in female lawyers in the Attorney General's office and judiciary to have an impact on the way cases are prosecuted and adjudicated. According to women legal aid staff interviewed, there is an overall lack of gender sensitivity amongst justice sector actors in all three regions.

3.5 Coordination bodies

There are many organisations that focus on responding to GBV in Somalia. These bodies are coordinated through the UN. The most relevant bodies in terms of coordination between all response providers are the GBV Working Group and the Protection Cluster.

GBV Working Group

The GBV Working Group, co-chaired by the UNFPA and Intersos, is the primary body for coordination, policy development, technical advice and oversight of prevention and response to GBV in Somalia. It has regional and field level working groups which reports back to the main Working Group. GBV Working Group partners use the Gender-Based Violence Information Management System (GBVIMS) to track trends and patterns of different forms of GBV. The GBVIMS information is released internally to the Working Group but is not made externally available. The Working Group reports to the Protection Cluster.

Protection Cluster

The Protection Cluster, chaired by the UNHCR, is comprised of roughly 130 protection and human rights focused organisations. The Cluster aims to provide a forum for these groups to discuss and coordinate their activities, as well as to identify means of support for local NGOs.

4. Key issues to be addressed in all areas

Based on the challenges described above, there are five key issues to be addressed in all regions:

1. **Referral pathways:** This describes the ‘pathway’ a case moves through from the time at which it is initially reported to the police, a hospital or a legal aid provider until such a time as it is heard in court. The actors that respond to the complaint or case at each of these points have been termed ‘360 response providers’ in this report. Most cases are dropped somewhere within the referral process because of poor links between response providers, lack of capacity within each group and little oversight over the referral pathway.
2. **Technical capacity of legal aid providers:** Legal aid require technical assistance in a number of areas. These areas vary throughout the regions and are discussed in detail in this report.
3. **Engagement with customary system:** Legal aid providers in all regions engage with the customary system in some way. The success of these programs should be analysed and creative thinking is needed to identify strategies that may allow legal aid providers to work with elders in a manner that is productive and survivor-centred.
4. **Collection of evidence:** This includes collection of general and forensic evidence and storage of forensic evidence.
5. **Safety and security:** This includes protocols, strategies and programs such as GBV hotlines and safehouses.

The first three of these vary between regions and are discussed in detail in the sections below on South Central Somalia, Puntland and Somaliland. The final two are discussed below.

4.1 Collection of evidence

There are three areas of evidence collection that are important for prosecution of GBV cases:

- Collection of general evidence
- Collection of forensic evidence
- Storage of forensic evidence

Collecting general and forensic evidence

There are no laboratories with the capacity to analyse forensic evidence in any region of Somalia and the capacity of legal aid providers to collect, analyse and store such material is extremely low. All legal aid providers state that they have received no training in the collection of forensic evidence. In terms of documentary evidence, there is currently low awareness amongst legal aid providers, the CID and the medical community in all regions about which medical facilities will provide documentation evidencing GBV.

The collection of forensic evidence is particularly important, because it is normally vital in bringing a successful GBV case. It is presumed that training in the collection of forensic evidence has not been given priority because there is no capacity within Somalia to effectively analyse such evidence.

It is important that the capacity of Somali institutions to collect, store and analyse forensic evidence is increased. A best practices guide to the collection of forensic evidence is included in Annex VI and summarised below:

- Services should include treatment of injuries, **preservation of evidence**, prevention of unwanted pregnancies and sexually transmitted infections, and psychosocial support.
- **Forensic services should have minimal wait times.**
- Medical examinations should be conducted by trained and accredited providers, and whenever possible, **by a woman.**
- Forensic exams should be made available with the **option of keeping forensic evidence on file** should a woman decide to press charges at a later date.
- Medical certificates should be made available free of charge and **be valid for up to 20 years.** The doctor should not state his or her own opinion on the certificate about whether rape has occurred.
- Confidentiality surrounding forensic exams should be of paramount concern.
- Testing for virginity should never be a part of the forensic examination.
- **Survivors should also be provided with written information** in order to reinforce information given to them during their medical exam.

Storing forensic evidence

Somali legal aid providers do not have the capacity to store forensic evidence. It is particularly important to store forensic evidence to enable the future investigation or prosecution of crimes, once the legal system becomes more functional. Collecting information at the time of the offence also prevents further psychological trauma. The legal

aid providers interviewed indicated that there is no facility in Somalia with the technical capabilities to effectively store forensic evidence.

4.2 Safety and security

There is general resistance to the work of GBV legal aid providers in all regions which exposes these organisations to safety and security risks. Most legal aid providers report having experience with perpetrators or ex-partners or families of clients threatening to harm the survivor if they do not drop the case. These threats are sometimes extended to legal aid workers. In both South Central and Puntland, outreach to rural and remote areas is dangerous due to Al-Shabaab influence. This effectively cuts off populations living in rural areas from both the formal courts and the legal aid providers.

Security risks are highest in South Central Somalia, where all providers stated that both their employees and their clients regularly receive threats. One provider specified that threats to employees of the organisation were usually received by phone or SMS from either people they believed to be Al Shabaab or from members of law enforcement bodies such as the police or the district authorities. Two other providers spoke about employees being followed in the street by armed men. In terms of threats to clients, one provider specified that these usually came from the alleged perpetrator's clan or family. The GBV hotline run by the Elman Centre had to be shut down because of threatening calls frequently being made to the line. Risks and threats cited by the providers in South Central Somalia include:

- Death threats directed towards clients and employees
- Acts of violence towards employee causing disfigurement
- Threats of violence directed towards clients and employees
- Rewards offered for murder of clients
- Armed men threatening clients outside the clinics
- In one case, police visited the centre and attempted to physically remove a GBV survivor

Court hearings relating to sensitive issues such as those involving children and those involving sexual violence can legally be closed to the public. This is not implemented in practice in South Central Somalia or Puntland. It is implemented for sensitive cases in Somaliland, but providers report that the identities of the survivors are not adequately protected and the community is usually still aware that the case is ongoing and of who is making the allegation. Legal aid providers in South Central Somalia report that there have been instances of people in the courtroom taking photos of witnesses testifying in sexual violence cases.

STRATEGY FROM A COMPARABLE JURISDICTION

In the Democratic Republic of Congo, following mass rapes by the state military, a special court was set up and sent to the village in which the women lived to allow them to testify. Numerous measures were put in place to ensure the protection of their identity: disguises; staff to accompany the women to and from the courtroom; the ability to testify from another room and behind screens; and pseudonyms.^{xix}



Impact: The case had mixed results; though an unprecedentedly high number of soldiers were tried (39), only 2 were convicted of rape, with 24 convicted of lesser charges. However, it appears from the information available that the identities of the survivors were kept confidential and that this had a significant impact on both their safety and their willingness to testify.

In South Central Somalia, one legal aid provider has three safehouses, in Mogadishu and Lower Shabelle. The other legal aid providers do not have such facilities. In Puntland, there are no safehouses. In Somaliland, the Women's Action for Advocacy and Progress Organization (WAAPO) runs a safehouse for at-risk survivors of sexual violence. The majority of the survivors who access the centre are from Hargeisa, but there are a small percentage who come from outside, including a handful of Ethiopian refugees. It is possible that survivors from South Central Somalia and Puntland who are severely at risk could be relocated to that safehouse if they are in significant danger and cannot be resettled.

In South Central Somalia, most legal aid providers have safety and security protocols in place, but have not received training in this area. Only one provider in Puntland and one in Somaliland reported having safety and security protocols in place.

South Central Somalia

Overview of Challenges

- **Formal legal system functioning at minimal capacity;**
- **Approximately 1,600 rapes reported in 2013;** of these, information available indicates that only **two resulted in a successful conviction;**
- **Survivors normally have to report their case to male police officers and medical staff;**
- **No female judges or prosecutors;**
- **Only Madina hospital** issues medical certificates admissible in court proceedings;
- **No capacity to collect, store or analyse forensic evidence;**
- **Minimal or no access to GBV survivors in rural areas;**
- **Referral pathway** is complicated, is not survivor-centred and there is no coordination between each response provider;
- Extremely high **safety and security risks to survivors, lawyers and witnesses;**
- Where **perpetrators are from the security forces**, survivors do not wish to pursue justice, witnesses will not testify and medical facilities may refuse to issue medical certificates due to fear of reprisals;
- Legal aid providers name **low likelihood of successful prosecution, limited access to survivors, security concerns and lack of funding and resources** as their major challenges.

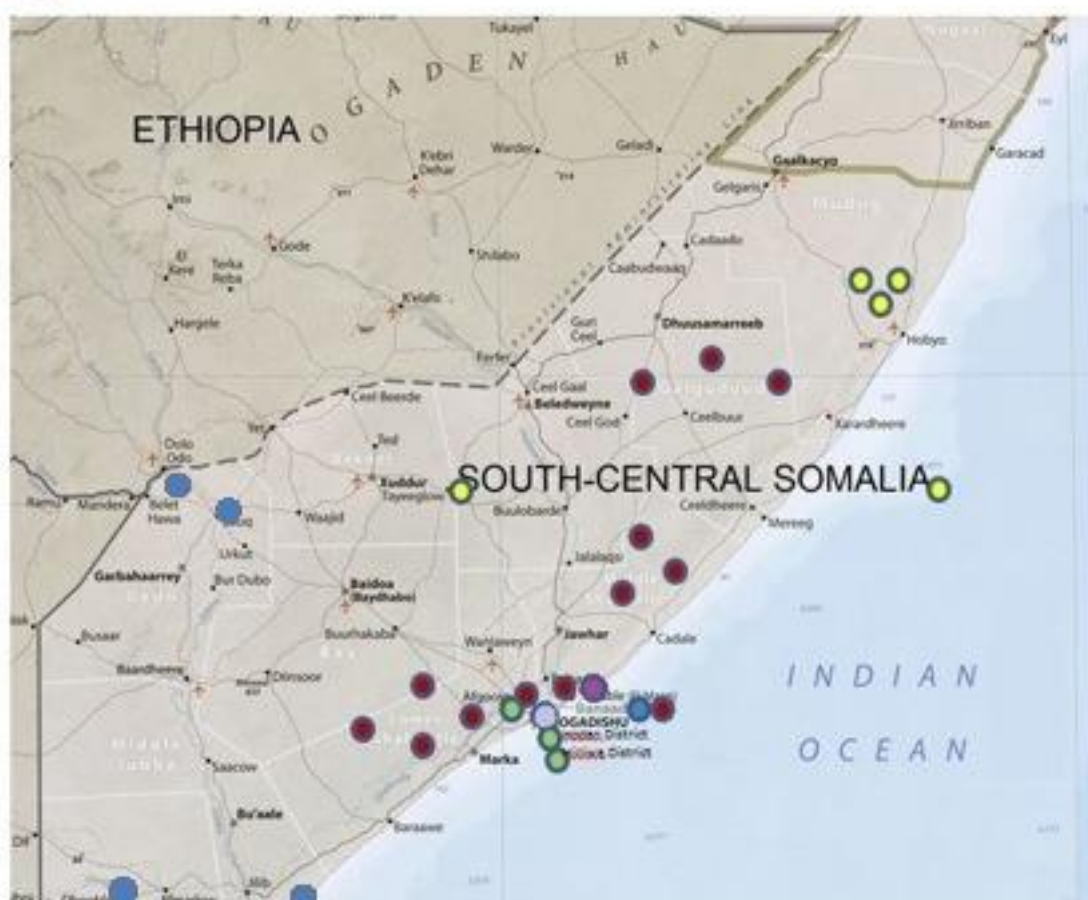
Overview of Successes

- Three legal providers have established **‘one stop’ centres** for GBV response, which provide medical services, legal aid, psycho-social support and livelihood support for survivors of GBV;
- Legal aid providers in Mogadishu have **advanced systems of case management and referral** through which case managers refer survivors’ cases either between internal staff or with other service providers in a manner that comprehensively addresses the needs of the survivor while exposing them to the least possible psychological distress;
- Legal aid providers offer legal aid and assistance to many survivors of GBV who would otherwise not have access to such services **despite enormous risk to their own safety;**
- **Practical training** provided to over 40 law students since 2011; many are now employed in law firms and in government;
- **Community forums** bringing together religious leaders, elders and leaders of women’s rights groups;
- **Safehouses** established providing secure and safe space for GBV survivors.

5. Overview

South Central Somalia Coverage of Legal Aid Providers

-  Women Lawyers Association
-  Elman Centre
-  Save Somali Women and Children
-  Somali Women Development Centre
-  Coalition of Grassroots Women Organisations
-  Somali Bar Association



5.1 Legal aid providers

There are six legal aid providers in South-Central Somalia. There is a high demand for legal advice and representation as police custody and prisons are overpopulated and the government does not have sufficient capacity to ensure all detainees receive legal assistance. According to a report compiled by the Somali Women Development Centre in March 2013, 239 inmates were detained on remand at the time the report was written in the Central Prison in Mogadishu.^{xx} Four of the six legal aid providers offer free defence to indigent clients. All providers offer assistance and support to survivors of GBV. From available reports, demand for organisations providing legal, medical and psychosocial support for GBV survivors is

high. Three out of the six legal aid providers- Somali Women Development Centre, Save Somali Women and Children and the Elman Centre- offer medical and psychosocial services as well as legal support.

General information						
	Association of Somali Women Lawyers (ASWL)	Somali Bar Association	The Elman Centre	Save Somali Women and Children (SSWC)	Somali Women Development Centre (SWDC)	Coalition for Grassroots Women Organisations (COGWO)
Organisation established	2008	The Association could not be contacted.	1991	1992	2000	1996
Geographical areas covered	Mogadishu, Kismayo, Baydhaba, Luq, Dolow Lower Jubba		Throughout SCS (Mogadishu, Lower/ Middle Shabelle, Afguin, Galgadug, Kismayo, Benadir)	All South Central	South Central, South Mudug	South Central Somalia
Mode of service provision	Walk in clinics		Walk in clinics, safe houses, mobile clinics, outreach.	Walk in clinics, outreach	Outreach	Walk in clinics, outreach
Number of physical centres and locations	1		3: Galgadug, Lower Shabelle, & Benadir	3: Hodan District; Afgoye Corridor; Hilliwa District)	2: Mogadishu; Nairobi	2
Plans to expand	Yes – Establishment of sub offices throughout SCS		Yes- Hire more staff to do gender mainstreaming in schools, advocacy work as well as greater involvement in government draft policies.	Have presence/ offices in other regions of Somalia; more outreach		

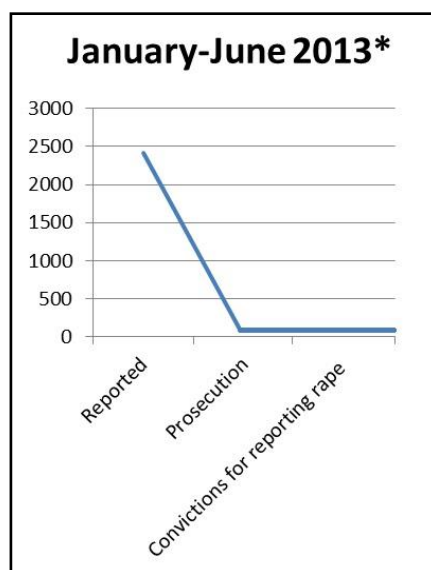
5.2 Gender-based violence

GBV is pervasive throughout South Central Somalia and obtaining access to legal redress for the commission of such offences is extremely difficult. The Report of the UN Secretary General on Somalia released in January 2013 stated that 800 rapes were reported between September and late November 2012 in the region.^{xxi} The UN Special Representative on GBV

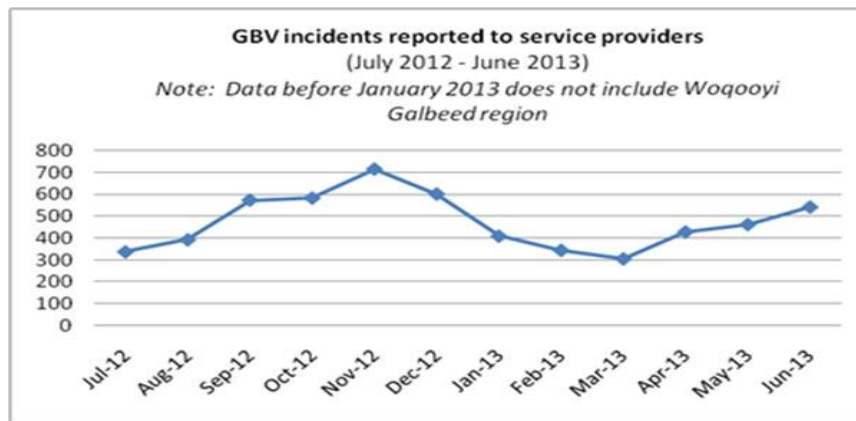
in Conflict Zainab Hawa Bangura has stated that the UN has evidence of over 1,700 cases of GBV committed against women in IDPs camps in the Mogadishu area between January and November 2012 and ‘that seventy per cent of the GBV that is taking place is actually done by men in armed uniform’.^{xxii} In August 2013, a representative for UN OCHA stated that these trends are continuing, with 800 rapes reported in Mogadishu in the first six months of 2013.^{xxiii} According to the US State Department Report of 2012, abuse by police officers is rarely investigated, contributing to a “culture of impunity” within the institution.^{xxiv} Organisations working in rape response in South-Central Somalia, further stated there is little cooperation by the police with GBV response legal aid providers.^{xxv}

Statistics collected by the UN and other bodies indicate that GBV in Somalia is primarily committed by two groups of people: those known to the woman affected, and armed men in uniform.^{xxvi} The second category includes the Somali police, military, militias and members of AMISOM. Human Rights Watch recently released a report entitled ‘The Power These Men Have Over Us’, which documented 10 separate incidents of sexual abuse and 14 of sexual exploitation perpetrated by AMISOM personnel in the AMISOM base camp and the Burundian National Defence Forces camp in Mogadishu.^{xxvii}

Legal aid providers interviewed were generally unaware of how many perpetrators for sexual crimes were found guilty, with some indicating that they had no knowledge of any successful prosecutions.^{xxviii} Information available indicates that there have been a handful of convictions for rape in civil courts since the appointment of the new government in 2012. There is information that a court convicted a man for raping a 15 year old girl with disabilities in an IDP camp in Hodan and sentenced him to 10 years imprisonment in July 2013.^{xxix} There have also been at least five prosecutions which resulted in convictions by military tribunals since August 2012. Four of these occurred in November 2012 and resulted in five year jail sentences,^{xxx} and one occurred in January 2013, and resulted in the execution of the perpetrator.^{xxxi}



* This graph is based on information available, rather than specific statistics



Source: GBV Working Group

5.3 Government action to address sexual violence and accountability

National Action Plans on Sexual Violence in Conflict

In June 2014, the Ministries of Justice; Women, Human Rights and Development; Security and Somali Police Force; Health; Defence and Somali National Army; Education and Religious Endowments each adopted comprehensive National Action Plans on Sexual Violence in Conflict (NAPs). These Action Plans contain numerous commitments to government oversight bodies to coordinate efforts related to prevention and response to sexual violence, including:

- An **Inter-Ministerial Coordination Mechanism** comprised of representatives from the seven Ministries who released NAPs, to monitor their implementation and to coordinate sexual violence efforts.
- A **Sexual Violence Oversight Committee (SVOC)** to monitor investigations of present and future cases of sexual violence.

The composition, mode of operation and terms of reference for the SVOC are yet to be established. The NAPs also commit to the establishment of certain bodies and policies relating to sexual violence and accountability for each Ministry, the most relevant for this report being the Ministries for Justice, National Security, Health and Women and Human Rights Development. These bodies and policies are illustrated in Annex V.

These Action Plans are comprehensive and their full implementation could have a significant effect on improving access to justice for GBV survivors and accountability for perpetrators. However, there are some significant challenges. Firstly, most of the bodies and policies promised by the action plans are yet to be implemented. Secondly, their implementation alone will not comprehensively address sexual violence in Somalia. To do this, the involvement and increased capacity of legal aid providers is essential. For example, it is unclear whether the Ministry of Women and Human Rights Action Plan envisages that the safe-houses, hotlines and relocation schemes it references will be facilitated by the Ministry itself. It is important that these services and facilities are provided by non-government organisations in order to be independent and secure.

Police Accountability

In recent years, the Federal Government of Somalia has worked closely with the UNDP to implement policies and mechanisms to improve police capacity, transparency and accountability. These efforts include the development of a Justice Sector Action Plan for 2013 to 2015,^{xxxii} the creation of a Police Working Group and ongoing trainings for the police.

One of the most successful initiatives to ensure police accountability in Somalia was the Police Advisory Committee (PAC), which was established by the UNDP in 2007 but is currently not functional. This is allegedly due to mismanagement by some actors. PAC consisted of two groups, each overseeing four police stations in Mogadishu. The groups consisted of a lawyer, human rights activist, women's activist, an elder and a former police officer. The mandate of each group was to visit prisons and police stations to meet with detainees and make determinations about the legality of their detainment and the adequacy of the conditions. The PACs could then make recommendations to the Attorney General's office and the Police Commissioner. In this way, the PAC secured the release of over 5,000 detainees in South Central Somalia in its first two years of operation.^{xxxiii}

The PAC was also trained on international and regional standards for human rights based policing, and would then dispense lessons learnt to the police stations they oversaw.^{xxxiv} Though the PAC is no longer functional, its model was effective and could be expanded to oversee police investigations of GBV crimes.

5.4 Bar Association

The Somali Bar Association is an officially constituted, government-registered Association with the capacity to admit lawyers into practice. However, it does not have the capacity to discipline lawyers for misconduct or issue guidelines or policies for the profession. One of the objectives listed in the National Action Plans is to build the capacity of the Bar Association to fulfil these functions. All legal aid providers consulted agreed that this was the best way forward.

5.5 Women lawyers, police and judges

There are no female judges or prosecutors in South Central Somalia. It appears that focus has not been placed on attracting and supporting female law students. It is difficult to clearly understand the exact numbers of lawyers currently practicing in South Central, though it is evident that female lawyers and paralegals practice in at least five of the six legal aid providers. There are very few female police officers in South-Central Somalia. Usually, survivors complaining of sexual violence will have to report to a male officer. There are numerous reports of harassment of women who make such claims. This environment would also make it extremely difficult for male survivors to report sexual offences committed against them.

5.6 Process of reporting, investigating and prosecuting GBV

The table below outlines the process of reporting and investigating GBV, as well as the usual outcome in GBV cases that proceed to prosecution in the formal legal system.

	Law/policy	Practice
Stage	Description	
1. Initial report	Internal police guidelines stipulate that people complaining of an offence requiring medical attention should be given a form referring them to the hospital. However, the guidelines do not state that this form is a requirement for opening an investigation. For serious crimes, including rape, the Criminal Procedure Code states that the police should inform the Attorney General's office of the complaint.	In order to successfully begin a criminal proceeding for a GBV offence, survivors must obtain a form from the police referring them to the hospital for examination. This referral form has two pages; one which will be filled by the police, and another which must be taken to the hospital for the doctor there to complete. In practice, both pages must be complete to open an investigation. The police receiving the complaint do not notify the Attorney General's office.
2. Report to the hospital	Survivor attends the hospital to obtain a medical certificate. It appears that any hospital is authorised to provide such documentation.	Only Madina Hospital in Mogadishu provides medical certificates. The doctor specifies on the certificate whether or not the person has been raped. The hospital charges the survivor for the certificate.
3. Report to the police to begin investigation	A survivor may make a complaint to the police without having a medical certificate. When the survivor visits the police station to make a complaint, the police should refer the matter to the CID, the Office of the Attorney General and the competent court.	The survivor must then return to the police with the referral form/ medical certificate. Sometimes the police refer the matter to the CID for investigation, and sometimes the police receiving the complaint investigate the claim.
4. Opening an investigation	For serious cases, including those involving sexual violence, the CID will conduct preliminary investigations and send a report to the Attorney General's office, which will decide whether to prosecute the case.	The Attorney General's office has no capacity to oversee cases. Reports from legal aid providers indicate that the perpetrator's family often pays money to the police for their release at this stage. Police sometimes require the survivor's family to pay for the alleged perpetrator's stay in custody.
5. Prosecution	If the CID and the Attorney General's office consider that there is enough evidence, the Attorney General should open prosecution of the case.	Legal aid providers estimate that the CID and the Attorney General's office decide not to proceed with prosecution in up to 85% of cases. ^{xxxv}
6. Hearing	The case should be heard before Regional Court.	The case will be heard before Regional Court. It is a \$30 fee to open a civil case.
7. Sentencing	Under Articles 398 -400 of the Penal Code, if convicted, the law stipulates that a perpetrator should be imprisoned for 5- 15 years for rape and 1- 5 years for other sexual offences. If an aggravating circumstance is proven, the imprisonment term may be increased up to thirty years.	There are no official records of perpetrators for sexual crimes being convicted, and it is therefore unclear how long the sentences are in practice. At times, the families of the survivor and the perpetrator come to an arrangement in the presence of the Attorney General ^{xxxvi} to settle for a certain payment and to cease ongoing court proceedings. This payment is given to the family of the survivor, rather than to them directly.

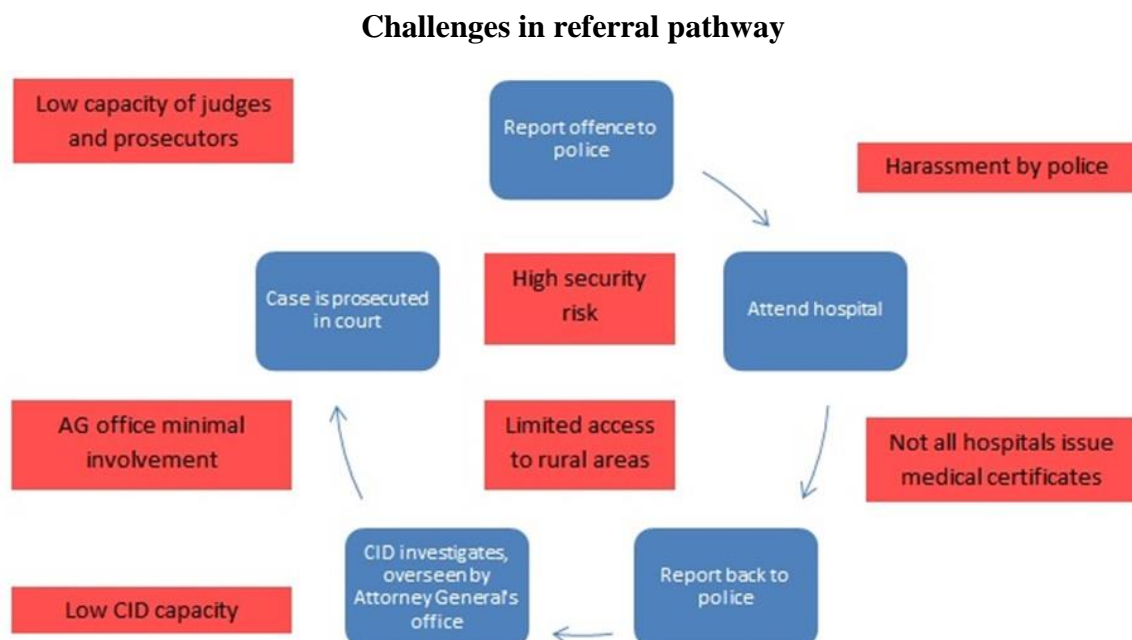
Likely point of breakdown of case

Reports from legal aid providers on the ground suggest that most survivors of GBV who have this process explained to them choose not to proceed with prosecution. Of those who do proceed, the number of cases that actually go to court is an even smaller percentage still. In some cases, the CID will refuse to open an investigation because the survivor does not have the right documentation or they consider there is not enough evidence. If investigation is undertaken, the capacity to collect and analyse forensic evidence is extremely low. The CID and Attorney General's office decide against prosecution in the vast majority of cases. If cases do go to court, judges and prosecutors tend to lack training in the area of GBV and to be unsympathetic to the survivor. There is therefore a high likelihood of the case breaking down at each step of the referral and investigation process.

6.0 Key issues to be addressed in South-Central Somalia

6.1 Referral pathways

A 'referral pathway' is the term used to describe the manner in which the different 360 response providers to GBV offences transfer a case between them, moving it from the initial report to the police or hospital to the hearing of the case in court, if the survivor so chooses. Weak linkages between the different actors along the referral pathway increase the chances that the case will be dropped, ignored or lost at some stage in the process and that the survivor will be denied access to justice, as well as potentially access to needed services such as psychological care. It is very challenging to establish referral pathways in South-Central Somalia. Each response provider faces their own capacity challenges, and there is limited coordination between the different actors.



Links to other response providers						
		ASWL	The Elman Centre	SSWC	SWDC	COGWO
Links to medical/ psychosocial service providers		No	Provide services themselves	Provide services themselves	Provide services themselves	Yes
Links to hospitals	<i>Link to a hospital</i>		Yes, Madina, Waha & Benadir	SOS hospital	Yes, Madina, Benadir, Keydsaney, Alfurqan.	Madina
	<i>Specific contact point</i>		Doctor- but primarily deal with support staff and nurses at the hospital	Specific doctor	Dr Buurane at Burane Clinic Centre	No
	<i>Does the lawyer attend hospital?</i>	No	No; counselling staff	Yes	Yes	
Links to police station		Yes	Yes –contacts within CID & some police district offices	No	Yes- with 16 stations; strong links with 8	Yes
Links to police/ prosecutors conducting investigations		Yes	Yes-contacts with CID as well as some police district offices	No	Yes- CID	Yes
Can the organisation provide evidence to investigators?						Yes

Legal aid providers indicate that the most significant gaps in co-operation and GBV service provision are as follows:

1. **Harassment by police:** Police officers taking the initial complaint frequently harass the survivors, creating a deterrent to proceed with the claim.
2. **No clear first point of contact:** The medical examiner, legal aid provider and police receiving the report could each be the first point of contact for the survivor. If the survivor goes to a medical examiner or the police they often do not provide the survivor with information on their rights and the processes available to them.
3. **Survivors must obtain referral form from police:** Madina Hospital currently only issues medical certificates to survivors who bring a referral form from the police, with the certificate template attached. Police may not issue the form to survivors if they do not believe they have been raped. Women are often also reluctant to report to a police station first, where they will most likely have to tell their story to a male officer. Many survivors may also require immediate medical attention.
4. **Only Madina hospital provides documentation** admissible in court confirming that a survivor has suffered from GBV, and the survivor must pay for this certificate. The doctor indicates on the form whether or not a rape has occurred, and the CID will not commence investigations unless the survivor brings them a form affirming that their injuries amount to rape. Doctors will generally only issue this if they find semen and physical signs of a struggle. There is no law or policy in place stipulating that such documentation must be provided by Madina; rather, this practice has developed over

time. According to information gathered, there is only one male doctor who signs off on the certificate of injury the hospital provides. It is understood that while the hospital may refer patients to legal aid providers, there is no formal relationship between those providers and the section of the hospital dealing with GBV cases. Some legal aid providers report having contacts with hospital support staff and nurses. However, none report having contact with the doctor responsible for issuing the documentation.

5. **Legal aid providers cannot make complaint on behalf of survivor:** In other jurisdictions, including in the Democratic Republic of the Congo, the survivor can authorise their lawyer, as the first point of contact, to file a complaint with the police and to provide evidence, including statements and other documentation, to the CID. This is not possible in South-Central Somalia. Legal aid providers report that they can neither file the case themselves nor provide evidence to the CID, though in some instances they may go with the survivor to file the case.

STRATEGY FROM A COMPARABLE JURISDICTION

The **American Bar Association** funds and operates legal clinics in villages and small cities in the **Democratic Republic of the Congo** that:

1. Provide pro bono legal services to survivors of GBV;
2. Obtain medical documents and take victim and witness statements;
3. Transmit cases to the police;
4. Transports the case files to the local courthouse for filing once the police has finalised investigations.



Impact: As of August 2012, the American Bar Association clinics provided legal aid to 16,646 sexual and gender-based violence survivors and helped file 9,586 cases. This resulted in 1,593 trials and 1106 convictions.^{xxxvii}

6. **No clear body responsible for investigation and no oversight of the investigation:** According to the Criminal Procedure Code, investigations of serious crimes should be undertaken by the CID and overseen by the office of the Attorney General. According to legal aid providers, investigations are sometimes undertaken by the district police that the survivor first reports to. There is no oversight of either these investigations or those undertaken by the CID, due to extremely limited capacity of the Attorney General's office.
7. **Limited involvement of survivor in investigation process:** The police or CID staff investigating the complaint will undertake an initial interview with the survivor but

generally will not provide them with information about or involve them in the investigation process.

8. **No oversight of CID/Attorney General decisions on whether to prosecute:** The CID and the Attorney General's office decide between them whether to investigate the case. It is estimated by legal aid providers that in more than 85% of cases they will decide not to open investigations. There is no oversight over these decisions.
9. **Re-traumatisation of the survivor:** the survivor must repeat his or her story at least twice- to the police and to the medical examiner- but usually several more times.

6.2 Technical capacity of legal aid providers

All legal aid providers have received training on issues relating to GBV cases, including the domestic and international legal framework, interview techniques and the collection of evidence. However, most organisations specified that they had not received safety and security training and that this was necessary given the hostile environment in which they operate. Legal aid providers combining legal, medical and psychosocial support had a broad range of protocols and policies in place and were trained and experienced in dealing with GBV cases. However, psychosocial support staff are not familiar with international standards on dealing with and collecting of evidence from patients who have undergone torture or trauma.

Client procedures						
		ASWL	The Elman Centre	SSWC	SWDC	COGWO
Interviews	<i>Separate room?</i>	Yes	Yes	Yes	Yes	Yes
	<i>Interviews conducted by?</i>	Lawyers and paralegals	Lawyers	Lawyers	Lawyers	Lawyers and paralegals
	<i>Ratio of M:F conducting interviews</i>	1:4	All full time lawyers are female	2:1	1:5	70% women
	<i>Staff trained in GBV response</i>	Yes	Yes	Yes	Yes	Yes
	<i>Staff trained interviewing GBV survivors</i>	Yes	Yes	Yes	Yes	Yes
Records	<i>Client records kept?</i>	Yes	Yes	Yes	Yes	Yes
	<i>Interviews recorded and kept?</i>	2000	Yes	Yes	Yes	Yes
	<i>Records kept in hard or soft copy</i>	Both	Both	Both	Both	Both
	<i>Client's real name used in records?</i>	Yes	Yes	Yes	Depends on client's willingness	Yes

Coordination of trainings

Trainings are run periodically and usually by external bodies. To date, trainings have been held separately for actors involved in the formal legal process for GBV offences. It would be beneficial if all actors such as the legal aid providers, police, prosecutors, Attorney General's office and judges were trained together to promote coordination and cooperation between the actors. It has been established that when legal aid providers and the police are trained together, for example, cooperation between them is significantly increased. COGWO, who run trainings for the police, report that some stations provide their legal aid providers with updates on progress of complaints, while stations that have not undergone training do not cooperate and are more likely to ignore or harass their staff.^{xxxviii}

One legal aid provider named training fatigue and lack of follow up as significant challenges, indicating that legal aid providers would benefit more from targeted, comprehensive training with continuous follow up than from periodic *ad hoc* trainings on discreet issues.

SWDC has recently established an association of youth lawyers to increase and strengthen the capacity of young professionals and graduate students in Mogadishu, with a specific focus on female lawyers. This is a good initiative which could provide a vehicle through which to provide new lawyers with training while ensuring that more experienced lawyers do not attend the same workshops multiple times.

Responding to needs of GBV survivors

All legal aid providers

The Istanbul Protocol is a very comprehensive Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and can be highly useful for practitioners. From information received none of the legal aid providers have knowledge of this instrument. Most providers stated that they had protocols in place to deal with GBV survivors. However, most organisations would benefit from having expanded and comprehensive protocols in areas such as working with children and the prevention of sexual exploitation and abuse.

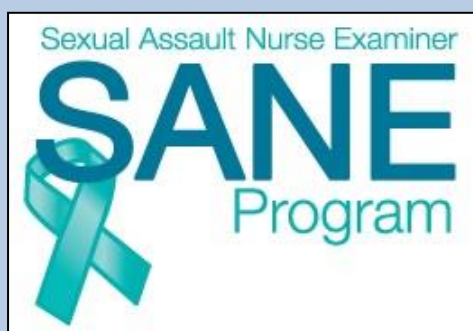
One-stop centres

SWDC, SSWC and the Elman centre all provide 'one-stop-services' to survivors of sexual violence, including legal, medical and psycho-social care. The Association of Women Lawyers does not yet provide such services but indicated that it plans to do so in the future. UN Women has compiled best-practice guidelines on how to best facilitate such centres, attached in Annex VII. While the three organisations that currently offer these services fulfil some of these, all should receive support to ensure that they can meet the following standards. Consideration should be given to what is practical in the present circumstances.

UN Women Requirements for One-Stop Centres

- All centres should employ:
 - A site coordinator;
 - Female medical professionals;
 - Female psychosocial support staff;
 - Lawyers.
- Centres should also provide follow-up care including:
 - Lawyers and paralegals who offer free legal representation;
 - Referrals to health professionals, employment services, and housing.
- All areas must be physically accessible for survivors with disabilities.
- Centres should have shower/ bath facilities and clothes for after the examination and a small kitchen to provide hot meals.
- Centres should provide for child survivors, including by having child-sized beds and examination equipment, anatomically correct dolls, comfort toys and snacks.

STRATEGY FROM A COMPARABLE JURISDICTION



In some countries, one-stop centres also host Sexual Assault Nurse Examiners (SANEs). A SANE is a forensic nurse who has received special training to conduct medical exams for survivors of sexual violence. In countries such as South Africa and the United States and in Latin America, SANEs are on call 24-hours a day and arrive at the crisis centre or hospital as soon as possible after a person reports having been sexually assaulted. As well as collecting

forensic evidence, SANEs often also provide survivors with post-rape ‘dignity kits’. There are no SANEs as yet in Somalia, as the government does not provide such a qualification.

Impact: SANE programs have been assessed in various jurisdictions in accordance with their contribution to five domains: psychological recovery of survivors, comprehensive post-rape medical care, documentation of forensic evidence, providing better forensics and expert testimony in court, and bringing multiple service providers. Evidence suggests that in most jurisdictions, the introduction of SANEs has resulted in improvements in each of these domains.^{xxxix}

Monitoring and Evaluation

SSWC, SWDC, the Elman Centre and COGWO all have data available on the progress and successes of their programs. These organisations have less information available on programmes that were attempted but did not succeed. Retaining such information is important to avoid future repetition of strategies that have proven ineffective.

6.3 Engagement with customary system

From information collected, it appears that efforts to engage the elders on GBV prevention are more effective in rural areas, as poverty levels are higher and the obligation to pay

compensation placed on the clan group of the perpetrator had a greater deterrent effect. To date, however, attempts to engage the elders have had limited success in terms of improving the way in which the customary system responds to GBV.

Engagement with customary system						
		ASWL	The Elman Centre	SSWC	SWDC	COGWO
Undertakes alternative dispute resolution through customary system		Yes	Yes- usually the family of the client initiate the process.	Yes- lawyers represent survivors when elders request case	Yes –not sexual violence	Yes
Engagement with elders through consultations		No	Yes	Yes	Yes	Yes
Cases resolved through customary system		80%		70%	80%	70%
GBV cases	%	60%	95%	70%	85%	50%
	Usual outcome		Monetary compensation		Bias, unfair judgement	Compensation

Puntland

Key Challenges

- There are **no women judges, deputy Attorney Generals**, prosecutors, court registrars or clerks;
- **No figures on GBV cases which have been** reported, prosecuted or convicted in Puntland are available;
- All legal aid providers are relatively young and **require significant training, capacity building and development**;
- **Limited engagement with elders** and paralegals in rural areas;
- The formal legal system is only functioning well in **urban areas**;
- Legal aid providers list **limited skills of the lawyers and paralegals, insufficient space, limited supplies and equipment and lack of transport for outreach activities** as their major challenges.

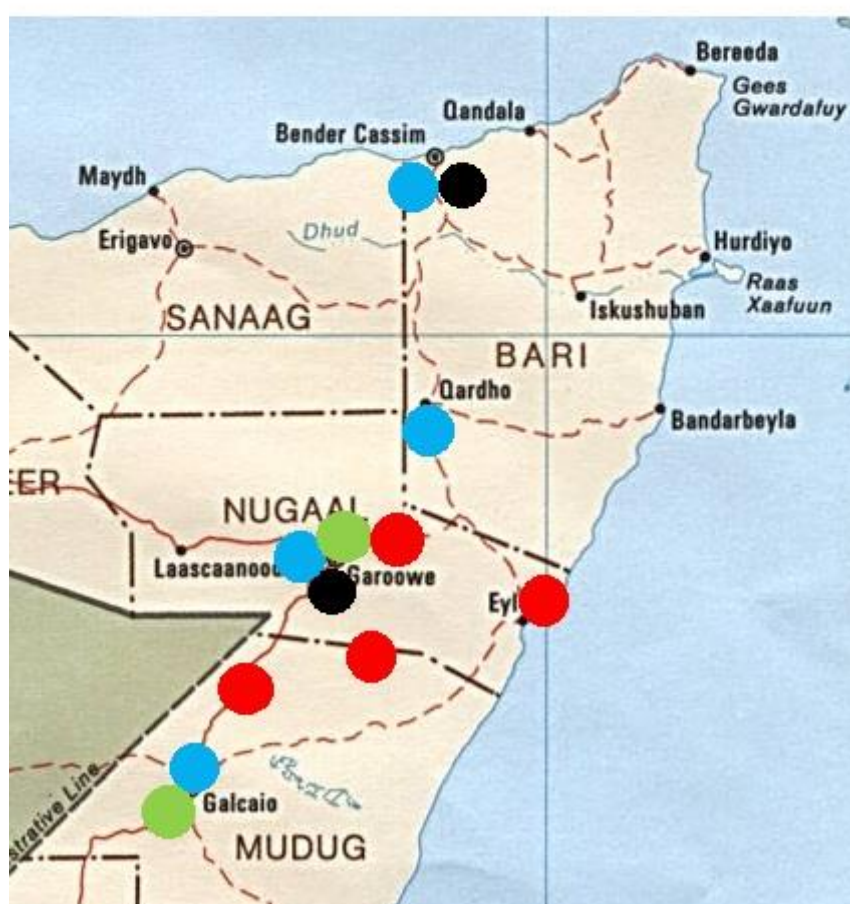
Key Successes

- All organisations have **successfully taken cases in court**;
- All organisations **conduct outreach** with IDP women;
- 80% of judges and prosecutors are **legally qualified**;
- Between 2012 to 2014 the **number of female lawyers has risen** from 1 to 21;
- Increase in number of female lawyers has encouraged **more female GBV survivors to seek access to justice** through the formal system;
- A **radio program** on domestic laws and procedures and human rights principles reaches areas the legal aid providers cannot physically access;
- Notable success in conducting **meetings and negotiations with religious leaders** on GBV issues;
- A Bill **criminalising female genital mutilation (FGM) has advanced significantly** through the Parliamentary process and enjoys significant support from the community. Religious elders have issued a **fatwa prohibiting FGM**.

7. Overview

Puntland Coverage of Legal Aid Providers

- Puntland women Lawyers Association
- Puntland Legal Aid Centre
- Puntland State University
- Maato Kaal



7.1 Legal aid providers

There are three legal aid providers in Puntland offering services to survivors of GBV: the Puntland Legal Aid Centre, Puntland Women Lawyers Association and Puntland State University legal clinic. The Puntland Women Lawyers Association is not a government Association but rather functions as an NGO. At present, all its employees work on a volunteer basis, though the organisation received its first funding stream in July 2014. The Puntland Legal Aid Clinic is the oldest legal aid provider in Puntland and its director is also the President of the Bar Association, which has been established but is not currently functional. Puntland State University clinic is attached to the law faculty and the university and plays a role in running trainings for other legal aid providers and legal actors. General information about each of these organisations is displayed in the table below.

General information			
	Puntland Women Lawyers Association	Puntland Legal Aid Centre	Puntland State University Law Clinic
Organisation established	April 2012	November 2011	September 2013
Geographical areas covered	Garowe, Bosaso	Garowe, Gardo, Galkayo and Bosaso	Nugal Region including all Nugal regions such as Garowe, Burtinle, Eyl
Mode of service provision	Walk-in and outreach	Walk-in and outreach	Walk in clinic, mobile court, outreach, clinical legal education, legal representation, legal advice and counselling, Alternative Dispute Resolution(ADR), legal awareness, referrals
Number of physical centres and locations	2; Garowe, Bosaso	4; Garowe, Galkayo, Gardo and Bosaso	1
Plans to expand	Yes- to expand centres throughout Puntland		2 Centres in Bosaso and Galkayo. More Gender Units and Human Rights and territorial expansion, Bari and Mudug

7.2 Gender-based violence

There are no statistics available on the number of reported GBV offences or prosecutions in Puntland. Most legal aid providers have not been trained in using the GBVIMS. Further, the GBVIMS does not track the number of cases prosecuted or convicted. However, it is known that levels of GBV are high, particularly in the Internally Displaced Person (IDP) camps.^{xi} Though the capacity of law enforcement authorities and the judiciary have been strengthened in recent years, they have been unable to curb the high prevalence of GBV, with only a handful of prosecutions recorded.^{xii}

In September 2014, a man was convicted and sentenced to 20 years imprisonment for raping three women. Although a positive outcome, it is notable that the successful conviction of this man was seen within Puntland as an anomaly.^{xlii}

7.3 Bar Association

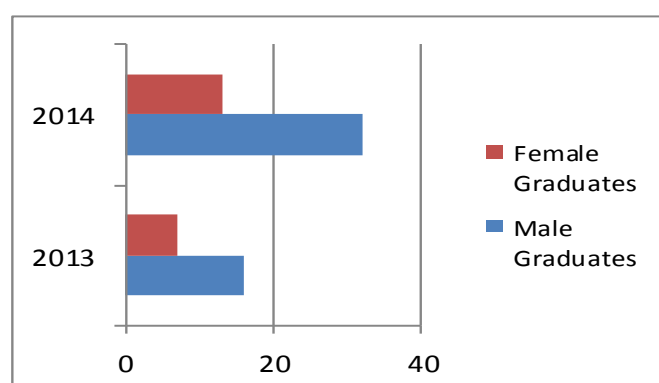
At present, the High Judiciary Council within the Ministry of Justice, which consists of two Supreme Court Judges and two outside lawyers, admit lawyers into practice. The Council also has the power to dismiss lawyers from the profession. However, legal aid providers assert that this body is more political than legal. It does not set exams for people to be admitted as lawyers, does not hold disciplinary hearings and has no capacity to run trainings or release policies or guidelines. There have been numerous attempts to establish a Bar Association. At present, an Association has been established in theory, but is not functional. Legal aid providers all indicated a preference for the capacity of this Association to be increased, rather than leaving the authority to appoint and dismiss lawyers with the High Judicial Council, whose role they considered should be limited to oversight of the judiciary.

7.4 Women lawyers, police and judges

Legal aid providers state that it is very difficult to be a female member of the legal community in Puntland, and that there are no women judges, deputy Attorney Generals, prosecutors, court registrars or clerks. There are some female police officers, but none in investigative roles.

PSU University and the UNDP currently have projects in place to encourage women to become lawyers. The first class from the law faculty of PSU graduated in February 2013 and comprised 23 students, including seven females. Each year, the UNDP awards a certain number of scholarships to female students to study law at the university, and by January 2013 the UNDP had provided scholarships to 49 female students.^{xliii} The most recent graduation cohort graduated in March 2014 comprising 45 students, which included 13 women.^{xliv}

Law Graduates from Puntland State University 2013-2014



In 2012, there was only one female lawyer in Puntland. There are now 21 female lawyers,^{xlv} and the Puntland Women Lawyers Association was established in April 2012.

7.5 Process of reporting, investigating and prosecuting GBV

The table below outlines the process of reporting and investigating GBV. In 2013, the Ministry of Security appointed a GBV Oversight Officer to oversee the investigation process.^{xlvi} None of the legal aid providers were aware that this position existed or had any information about its effectiveness.

	Law/Policy	Practice
Stage	Description	
1. Initial report	Internal police guidelines stipulate that people complaining of an offence requiring medical attention should be given a form referring them to the hospital. However, the guidelines do not state that this form is a requirement for opening an investigation. For serious crimes, including rape, the Criminal Procedure Code states that the police should inform the Attorney General's office of the complaint.	Legal aid providers in Puntland report that residents of Puntland usually attend a police station first following incidents of GBV, to report the offence. In contrast, one legal aid provider specified that IDPs will usually first attend the hospital.

<i>2. Report to the hospital</i>	Survivor attends the hospital to obtain a medical certificate. It appears that any hospital is authorised to provide such documentation.	According to a member of the Puntland judiciary, any government hospital will provide a medical certificate. However, most lawyers consulted were not aware of this and thought that the number of hospitals that could provide certificates was more limited.
<i>3. Report to the police to begin investigation</i>	A survivor may make a complaint to the police without having a medical certificate. When the survivor visits the police station to make a complaint, the police should refer the matter to the CID, the Office of the Attorney General and the competent court.	After receiving the medical certificate, the survivor must return to the police centre to open the case. In practice, there is no working relationship between the CID of the police and the Attorney General's office at investigation stage.
<i>4. Opening an investigation</i>	For serious cases, including those involving sexual violence, the CID will conduct preliminary investigations and send a report to the Attorney General's office, which will decide whether to prosecute the case.	The police will then conduct preliminary investigations and send a report to the Attorney General's office, which will decide whether to prosecute the case. The capacity of the CID to conduct investigations is extremely low.
<i>5. Prosecution</i>	If the CID and the Attorney General's office consider that there is enough evidence, the Attorney General should open prosecution of the case.	Legal aid providers were unsure of how often the Attorney General's office would open the case.
<i>6. Hearing</i>	The case should be heard before Regional Court.	The case will be heard before Regional Court.
<i>7. Sentencing</i>	Under Articles 398 -400 of the Penal Code, if convicted, the law stipulates that a perpetrator should be imprisoned for 5- 15 years for rape and 1- 5 years for other sexual offences. If an aggravating circumstance is proven, the imprisonment term may be increased up to thirty years.	Legal aid providers were unsure of how long a sentence perpetrators usually received, but thought that they usually remained in jail for the duration of the sentence.

Likely points for breakdown of case

Each of the providers stated that the case was most likely to break down at the following stages:

1. The investigation stage, due to lack of capacity to collect forensic evidence.
2. After the case had been filed in court, at which point the elders often intervene to prevent the case reaching a conclusion.
3. Occasionally, the police require that the survivor or the survivor's family pay money in order to ensure the continued incarceration of the alleged perpetrator. If the survivor or his or her family cannot provide this, the police may release the alleged perpetrator from custody.

Maato-Kaal

In 2013, Muslim Aid and the UN Population Fund (UNFPA) established Maato-Kaal, a sexual assault referral centre attached to Garowe General Hospital, adjacent to the Maternal Health Unit. In 2014, another Maato-Kaal was opened in Galkayo Hospital. Maato Kaal offers clinical management, psycho-social support, legal advice and referrals. The UNFPA reports that Maato-Kaal currently provides 'GBV related services' to 25-30 survivors of domestic violence, rape, physical assault and severe genital cutting per month. A legal advisor is based within the centres at all times. At present, CID staff are not based within Maato-Kaal, though this has been discussed as a possible future development. Maato-Kaal has also run trainings for the CID on the investigation of GBV offences. Knowledge about Maato-Kaal within the public and even within the legal community remains limited.

8. Key issues to be addressed in Puntland

8.1 Referral pathways

Referral pathways between actors responding to and investigating GBV are weak. From discussions with the legal aid providers, the most significant gaps in cooperation and GBV service provision are:

1. **Harassment by police:** Police officers taking the initial complaint frequently harass the survivors.
2. **Confusion regarding process and first point of contact:** Ideally, survivors would first attend the Maato-Kaal, which would ensure they received medical, psycho-social and legal support. However, there are only two centres at present and the community lacks information about their role. A medical examiner, legal aid provider or police officer could be the first point of contact for the survivor. Many medical practitioners and police officers have not been trained to refer the survivor to a legal aid provider.
3. **Not all hospitals provide documentation:** At present, there is confusion as to whether all medical facilities can provide documentation evidencing GBV. Legal aid providers agree that in practice the number of hospitals that consider themselves authorised to do this is limited, though reports vary as to the exact number. One provider considered that only Maato-Kaal could provide such documentation. One member of the judiciary who was consulted stated that any government hospital can provide such documentation. There appears to be no official policy on this issue.
4. **Limited community awareness and accessibility of Maato-Kaal:** Most people within the community are unaware of the existence and functions of Maato-Kaal. At present, Maato-Kaal exists only within Garowe and Galkayo General Hospitals and is inaccessible to people outside of these regions.
5. **No involvement of survivor in investigation process:** The police investigating the complaint will undertake an initial interview with the survivor but generally will not provide them information about or involve them in the investigation process.
6. **Re-traumatisation of the survivor:** The survivor must repeat his or her story at least twice- to the police and to the medical examiner.

7. **Limited role and effectiveness of the GBV Criminal Investigation Officer:** A GBV Criminal Investigation Officer has been appointed by the Ministry of Security to oversee this process, but legal aid providers were unclear about the officer's role and effectiveness.

In 2013, Italian NGO Gruppo per le Relazioni Transculturali (GRT) launched an **SMS Awareness Campaign to promote GBV services and established telephone hotlines** in Bosaso, Garowe and Galkayo **providing information about the response services available** and the process to follow after experiencing sexual violence. In the three months following the establishment of the hotlines, the number of self-referrals to GRT's medical and counselling services doubled. Several requests came from rural areas, which GRT did not have the capacity to cover.

Coordination between legal aid providers and Community Focal Points

An NGO called Tadamun Social (TASS) operates in four areas of Puntland and conducts extensive outreach to IDP camps within the region. TASS appoints Community Focal Points (CFPs) from amongst IDP community leaders. CFPs are women in the community who sexual violence survivors will feel comfortable going to for support. The mandate of CFPs is to seek out and encourage survivors to approach them, and to refer those survivors to the services available. TASS also conducts awareness raising activities within the camps so that its members know what their rights are and who they may approach to get help. CFPs are linked to TASS caseworkers, who then approach the survivors to refer them to the necessary service providers, including legal aid providers. CFPs have proven effective in bridging the gap between sexual violence survivors and available services in a manner that is non-intrusive and survivor-centred. All Puntland legal aid providers had connections with TASS, who are funded by UNICEF.

8.2 Technical capacity of legal aid providers

The first legal aid clinic in Puntland was established in 2007. While these clinics have achieved significant successes in the last seven years, they are still in their initial stages of development and require significant capacity building and support to be able to effectively meet the demand for legal aid within Puntland and to comply with best practice guidelines for responding to the needs of survivors of GBV.

There is an extremely low level of support given to the Puntland Women Lawyers Association (PUWLA). Until July 2014, the organisation was run on a purely voluntary basis. All lawyers interviewed from the organisation stated that they had attended only one two-day training on the provision of legal aid, and that this was not enough to build the institutional knowledge or capacity of the organisation.

Protocols and codes of conduct

There is a Legal Aid Code of Conduct for all of Puntland. No legal aid provider has received training on this policy.

No organisations have guidelines in place governing specific areas, such as client protection or working with children.

Client procedures				
		Puntland Women Lawyers Association	Puntland Legal Aid Centre	Puntland State University Law Clinic
Interviews	<i>Separate room?</i>	No	No	Yes
	<i>Interviews conducted by?</i>	Lawyers		Men and women
	<i>Ratio of M:W conducting interviews</i>	All women		Depends on the client
	<i>Staff trained GBV response</i>	Yes	No	Yes
	<i>Staff trained in interviewing GBV survivors</i>	Yes	No	Yes
Records	<i>Client records kept?</i>	Yes	Yes	Yes
	<i>Interviews recorded and kept?</i>	Yes	Yes	Yes
	<i>Records kept in hard or soft copy</i>	Computerised	Both	Both
	<i>Client's real name used in records?</i>		Yes	

Training

The majority of legal training within Puntland is generated by the PSU legal clinic, which has run trainings for the following actors:

- Judges, prosecutors and investigation officers
- New law graduates
- Puntland Women lawyers Association
- Elders and religious leaders

These trainings have been conducted on the following topics:

- Human rights, including protection of the rights of women and children
- Gender based violence
- Rights of refugees and IDPs
- Access to justice, protection of rights of women, children
- Trial advocacy, legal ethics, legal writing (for new law graduates)

Puntland Legal Aid Centre and Puntland Women Lawyers Association run their own internal trainings on issues relating to GBV. Many lawyers from the Puntland Legal Aid Centre are extremely experienced, including judges from the Supreme Court of Puntland and former judges from Somalia. These senior legal and judicial figures have played an important role in training young lawyers interning and the organisation.

Most of the legal education relating to legal practice and human rights standards is originating from one legal aid provider and flowing to other legal actors, which promotes coordination and consistency. However, it also promotes dependency amongst legal, judicial and security actors on one legal aid provider.

While PSU should be supported to continue running trainings, the senior lawyers from all three legal aid providers should receive joint trainings from an external body with the aim of gradually increasing the capacity of the other providers to run trainings themselves.

Trainings run by PSU must be comprehensive, ongoing, fully funded and subject to outside support and ongoing training for PSU legal clinic itself. Additionally, the female staff of one legal aid provider receiving training from PSU stated that the training on responding to the needs of GBV cases was administered by men, and that they would prefer for training relating to the commission of GBV to be led by women.

Case management and referral system

Legal aid providers reported that they have not been trained in and do not use the GBV Working Group Standard Operating Procedures or common referral form. Providers have not been trained in case management.

Monitoring and Evaluation

Puntland legal aid providers have very little capacity to monitor their work and assess which of their strategies are and are not effective. Gathering data to determine output and effect indicators can be done using a variety of methods, including incident tracking forms, client satisfaction surveys and staff reports.^{xlvii}

8.3 Engagement with customary system

All three legal aid providers engage in mediation through the customary system, though all stated they would generally not provide this service for GBV cases. Legal aid providers stated that between 10% and ‘most’ cases were resolved through the customary system, and that more than 50% of GBV cases were resolved this way.

No legal aid provider had guidelines in place to clearly stipulate the circumstances in which they could engage with the customary system.

All legal aid providers stated that the support of the elders was essential to any change in law, policy or practice. However, this cooperation needs to be shaped in a manner that is not detrimental to women and other vulnerable groups.

Relationships between legal aid providers and customary elders have been effectively forged and capitalised on in Sierra Leone, where four person Community Oversight Boards comprised of at least one elder, women’s group leader and youth group leader supervise community paralegals operating in rural areas and assist them when conflicts of interest arise between the rights of their clients and the customary system. This mode of operating requires the strengthening of relationships between elders and paralegals, as well as clear guidelines as to when cases should and should not be resolved using *Xeer*.

STRATEGY FROM A COMPARABLE JURISDICTION

Sierra Leone's Timap programme^{xlviii}

- Community Oversight Boards (COBs) are established in rural areas
- Each Board has four members, including an elder, a representative from a woman's group and a representative from a youth group
- The COBs supervise community-based paralegals
- The COB reports back to the director of the organisations employing the paralegals on whether they are (a) putting in the requisite time, (b) serving clients professionally, effectively, and ethically and (c) making sound efforts to address community-level problems
- The paralegals represent clients in the customary system
- The paralegals consult the COB if there is a conflict of interest between the client's rights and the customary system
- If the case is complicated or the clients risk their rights being violated, the paralegal refers the case to a lawyer
- The COB conducts needs assessments within the community and reports back to the service providers operating there.

Impact: Actors working on the ground report that the Timap programme has been extremely effective both in providing rural communities with legal redress and in taking on an advocacy role with the elders. Elders who work closely with paralegals and legal aid providers have proven to be significantly more amenable to taking a human rights approach to issues such as GBV.^{xlix}

Two providers cited ongoing consultations with the elders along with support of religious leaders as vital to bolstering community support for the FGM Bill in 2011. Though the Bill has not yet been passed, it has advanced to the stage of being tabled in Parliament and has received significant support. A group of respected religious elders in Puntland have also issued a fatwa stating that FGM is prohibited in Islam. Legal aid providers consulted agreed that support of customary and religious elders on potentially controversial issues of law and policy is extremely important.

According to legal aid providers there have been two large-scale consultations led with the elders on GBV in Puntland, one of which was heavily supported by the international community. Several representatives from one provider stated that these consultations lasted only one day each and did not effectively engage the elders. However, given the experience with the FGM legislation, the legal aid provider employees stated that they believed it was possible to gain the support of the elders on passing GBV legislation and resolving cases through the formal system. They stated that doing so would require the support of the religious community, as was garnered in support of the FGM Bill. Employees from the Puntland Women Lawyers Association have already been in talks with religious leaders, who they say frequently speak out about GBV in the mosques. PUWLA intends to conduct a multi-day consultation with the elders on this issue.

Somaliland

Overview of Challenges

- Legal aid providers **require further training** in practical lawyering skills and criminal law and procedure;
- **Efforts to engage the customary elders have had limited success;**
- **Baahi-Koob has significantly improved the referral process** but not all Somaliland residents can access it and not all actors have been sensitised on its role and function;
- GBV convictions are more common in Somaliland than other regions but **legal aid providers do not have a comprehensive understanding of how to assist the survivor throughout the criminal process;**
- Safety and security issues are only a minor concern, but **accessibility to the entire region of Somaliland is still limited** due to lack of infrastructure and capacity;
- Legal aid providers name **inadequate material resources, lack of training and capacity, lack of experience in GBV cases, length of time of court proceedings and lack of technical investigation capacity in the CID** as major challenges.

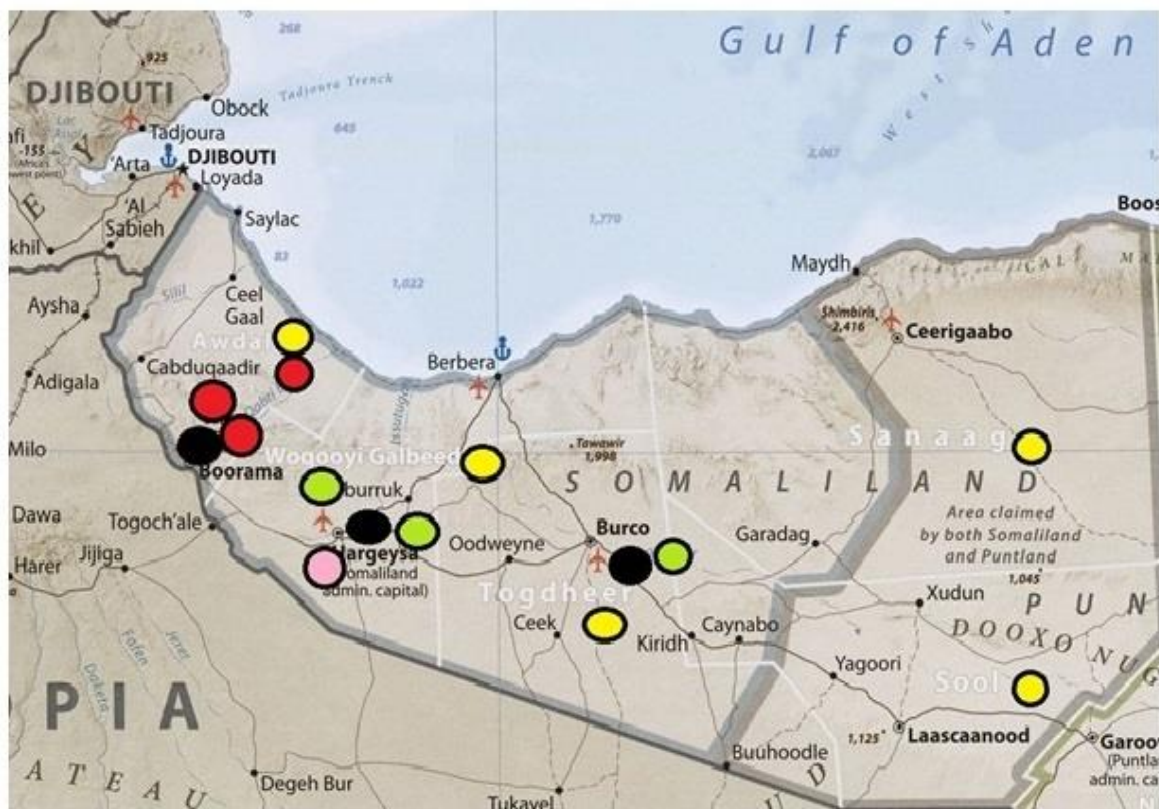
Overview of Successes

- **Capacity of** formal legal system is improving **and** representation of women lawyers is rising. In Somaliland, there are **10 female Deputy Prosecutors**, and there are now **75 women working in the legal sector in Somaliland**, compared to only five women in 2008;
- There are more **successful convictions** of GBV in Somaliland than in any other region;
- There are **three one-stop centres for GBV response** (Baahi-Koob centres), where survivors can receive medico-legal care and commence prosecution of the offence if they wish to do so. The UNDP reports that in Somaliland in 2013, 326 rapes were reported, the Attorney General's office proceeded with 171 cases and 54 people were convicted; all through Baahi-Koob;
- Somaliland has a **Legal Aid Policy and a Legal Aid Unit;**
- Legal aid providers consist of two Bar Associations and two Universities, all of which have the capacity to **train both their own staff and external actors;**
- All legal clinics **enjoy good relationships with the government** and formal justice institutions, which has allowed them to operate more effectively.

9. Overview

Somaliland Coverage of Legal Aid Providers

-  Somaliland Women Lawyers Association
-  Somaliland Bar Association
-  University of Hargeisa
-  Amoud Legal Clinic
-  Baahi Koob



9.1 Legal aid providers

There are four legal aid providers in Somaliland: the Somaliland Women Lawyers Association, Somaliland Bar Association, University of Hargeisa legal clinic and Amoud University Legal Clinic. All four organisations provide legal assistance to survivors of GBV.

The table below provides general information about each provider:

General information				
	Somaliland Women Lawyers Association	Somaliland Bar Association	University of Hargeisa	Amoud Legal Clinic
Organisation established	December 2007	June 2004	2002	September 2009
Geographical areas covered	Burao, Hargeisa, Gabiley.	All 6 regions of Somaliland	Marodijeh Region	Awdal Region of Somaliland
Mode of service provision	Walk-in and outreach	Walk-in and outreach	Walk-in and outreach	Mostly walk-in clinics; some outreach to remote areas
Number of physical centres and locations	4; 2 in Hargeisa (1 near the courts), 1 each in Burao and Gabiley.	8; all regions	2 in Marodijeh Region (Hargeisa)	2; Borama and Boon
Plans to expand	Yes	Yes; create specialised departments; equip HR department; connections with foreign Bars	Yes; regional expansion	Plans to open GBV department in the legal clinic

9.2 Gender-based violence

Access to justice for survivors of GBV has risen dramatically along with the strengthening of the formal justice sector. The UNDP reports that in 2013, 326 rapes were reported, the Attorney General's office proceeded with 171 cases and 54 people were convicted. Of those who were not convicted, 40 cases collapsed due to lack of evidence or following acquittals; 8 perpetrators were released on agreement by the elders and 73 remained pending at the year's end.¹ These statistics come exclusively from Baahi-Koob (described on page 56). It is unclear whether any additional reports, prosecutions or convictions have resulted from cases heard through police stations.

Elders in Somaliland issued a declaration in 2006 calling for elders to refer cases affecting the rights of women and children, including sexual violence cases, to the formal courts. A circular has also been issued by the Chief Justice of Somaliland prohibiting judges and courts from allowing elders to intervene in involvement in rape cases filed in the courts. This circular reinforces the provision in the Penal and Criminal Procedure Codes which disallow out of court settlement of criminal cases prosecutable by the initiation of the State, which includes sexual offences. The circular and elder's declaration have had some success in preventing clan elders from intervening to prevent the completion of the case.

While the numbers of successful prosecutions for GBV have risen, it appears that so have the number of reported rapes. The Ministry of Labour and Social Affairs estimated that the number of rapes in Somaliland increased from about 4,000 cases in 2011 to 5,000 cases in 2012.^{li} Several sources reported a dramatic rise in gang rapes in 2013.^{lii} It is unclear whether this is due to an actual increase in numbers or because of an increase in confidence in the formal system, leading to more complaints being made.

It is generally accepted that the majority of incidents of sexual violence in Somaliland are not reported. A draft manual of sexual violence for practitioners in Somaliland references an official from the Buroa Regional CID, who stated that while an estimated 40 rape incidences take place monthly in Buroa and districts under Buroa Regional administration, less than 4 cases on average are reported to the police.^{liii}

In 2012, 79% of all reported cases of GBV involved offences committed against children, although it is difficult to determine whether there were more children survivors or whether the stigma and discrimination faced by rape survivors prevented adults from reporting to the police.^{liv}

The Somaliland Ministry of Health has also stated that Somaliland hospitals “receive a raped child daily.”^{lv} Ninety per cent of reported rapes were reported to police stations in Hargeisa, indicating that GBV survivors in rural areas feel powerless to report these crimes or access formal legal system. Anecdotal evidence suggests that the majority of GBV offences in rural areas are dealt with through customary legal structures, and that there have been numerous instances of elders responding to accusations of rape by ordering the survivor to marry her attacker.^{lvi} Legal aid providers confirmed that, ‘if rape is taking place in the cities, rape can be prosecuted. Outside those areas, it is not’.^{lvii}

The strengthening of the formal justice system has led to an increase in the demand for quality legal aid providers. Although many people continue to approach elders for questions about legal issues (19%), the number of people approaching legal aid providers and other formal legal structures such as courts and Bar Associations for answers to such questions now forms the significant majority (44%).^{lviii}

9.3 Government action to address sexual violence and accountability

The Somaliland government adopted a comprehensive Justice and Judiciary Reform Workplan for 2012- 2017, which contains many commitments to strengthening the formal legal system in Somaliland, including in regards to GBV response. The Legal Aid Unit, Policy and draft Act are the results of this Workplan. The Workplan also contains commitments to increase the number of Baahi-Koob centres, expand access to justice initiatives to women in IDP camps and rural areas, establish a committee within the Ministry of Justice focusing on women’s issues, conduct trainings for justice actors on GBV and numerous other strategies. While many of these commitments have not yet been fulfilled, it appears that there is a genuine commitment within the Somaliland government to follow the terms of the Workplan.

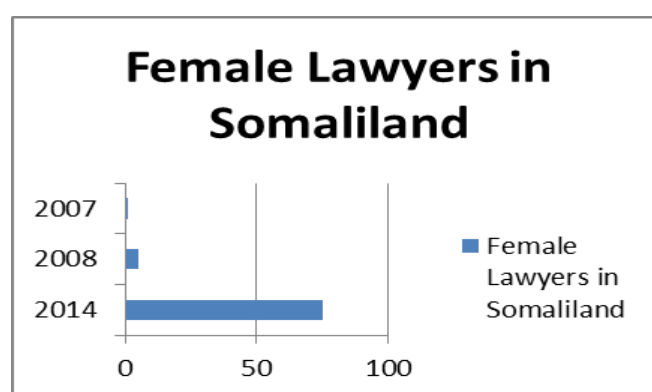
9.4 Bar Association

There have been numerous attempts to establish a Bar Association in Somaliland. All actors agree that the Association should comprise of some form of amalgamation between the

Somaliland Lawyers Association (SOLA) and the Somaliland Women Lawyers Association (SWLA). However, there are conflicting opinions between the two organisations on how this should be done in practice. SOLA representatives stated that they want the two organisations to merge into one, which would have one arm dedicated to women and children's issues. SWLA are reluctant to merge into SOLA. Rather, SWLA representatives stated that their preference would be for some members of each organisation to form the executive of the Bar Association, to which all lawyers would be members. SOLA and SWLA would continue to exist as separate bodies attached to the Association.

9.5 Women lawyers, police and judges

The training of female lawyers was been made a priority under the National Justice Reform Strategy and Action Plan, and has been central to the partnership between the Somaliland justice and security sector and the UNDP Rule of Law and Security programme.



There are now 75 women working in the legal sector in Somaliland, compared to only 1 in 2007 and 5 in 2008.^{lix} There are also now female prosecutors in the Attorney General's office and 10 female deputy prosecutors.^{lx}

9.6 Process of reporting, investigating and prosecuting GBV

The table below outlines the process of reporting and investigating GBV, as well as the usual outcome in GBV cases that proceed to prosecution.

Stage	Description
1. Initial report	<p>Internal police guidelines stipulate that people complaining of an offence requiring medical attention should be given a form referring them to the hospital. However, the guidelines do not state that this form is a requirement for opening an investigation. For serious crimes, including rape, the Criminal Procedure Code states that the police should inform the Attorney</p> <p>The first point of contact for survivors will usually be the police or the hospital. At Baahi-Koob, survivors can receive medical treatment while also reporting the offence to the CID. All police stations in Hargeisa know to immediately refer survivors to Baahi-Koob. In Burao and Boroma, not all police stations know, but sensitisation about this is underway.</p>

	General's office of the complaint.	
<i>2. Report to the hospital</i>	<p>Survivors attend the hospital to obtain a medical certificate. Any regional government hospital is authorised to provide such documentation.</p> <p>If survivors report to Baahi-Koob, they receive medical treatment and may access psychosocial support and/or submit a statement to the CID staff based at the centre. For evidence of rape to be traceable, women must report to a medical examiner within 72 hours.</p>	In practice, most medical documentation for sexual violence is issued by Baahi-Koob centres. There are two main difficulties with this. First, the medical practitioners providing the documentation usually do not know how to do so using legal language, so the medical certificate is often unusable in court. Second, deficiencies in the hospitals' technical capabilities mean that they often cannot effectively collect evidence of rape after the first 24 hours. Many survivors are unaware of this requirement and report to the centre many days after the incident, precluding the option of pursuing criminal prosecution.
<i>3. Report to the police to begin investigation</i>	If the survivor attends Baahi-Koob, the CID officers based at the centre interview the survivor and begin criminal investigations immediately. In areas where there is no Baahi-Koob, women should be interviewed by staff from women and children desks at the police station, who should then refer the matter to prosecutors at Baahi-Koob.	If the survivor attends Baahi-Koob, female CID officers based at the centre interview the survivor. If the survivor attends a police station, many know to then refer the case to Baahi-Koob. However, some police stations in rural areas do not know to do this and conduct the investigation themselves. In practice, a handful of stations have women and children desks that are operational. Most stations do not have separate rooms in which to interview sexual violence survivors.
<i>4. Investigation</i>	For serious cases, including those involving sexual violence, the CID will conduct preliminary investigations and send a report to the Attorney General's office, which will decide whether to prosecute the case.	The police or the CID based at Baahi-Koob then investigate the case. All legal aid providers report that outside of Baahi-Koob-based investigators, the quality of the investigation is very poor. Female CID officers from Baahi-Koob report that while they are tasked with conducting the initial interviews, the case is usually then taken over by male officers who 'close' the investigation. In practice, there is no working relationship between the CID and the Attorney General's office.
<i>5. Prosecution</i>	If the CID and the Attorney General's office consider that there is enough evidence, the Attorney General should open prosecution of the case.	The Attorney General will often decide against opening the case due to lack of evidence.
<i>6. Hearing</i>	The case should be heard before Regional Court.	The case will be heard before Regional Court.
<i>7. Sentencing</i>	Under Articles 398 -400 of the Penal Code, if convicted, the law stipulates that a perpetrator should be imprisoned for 5- 15 years for rape	A CID officer at Baah-Koob stated that the usual sentence was four years imprisonment-one year less than the minimum specified under the Penal Code- and that is was generally

	and 1- 5 years for other sexual offences. If an aggravating circumstance is proven, the imprisonment term may be increased up to thirty years as per Article 118 of the Penal code.	expected that all those sentenced to prison would serve 75% of their sentence. Statements by government officials also indicate it is commonplace for perpetrators to spend less time in prison than that sentenced by the judge. ^{lxi}
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Likely points for breakdown of case

Most cases fail at the investigation and evidence gathering stage, a significant amount fail at the prosecution stage and a handful fail due to intervention from elders. The major issues at the evidence collection stage are:

- Lack of capacity to collect and analyse forensic evidence; and
- Challenges relating to medical certificates, described below.

As there are usually no eyewitnesses to sexual violence crimes, the Attorney General's Office generally will not proceed with prosecution without a medical certificate. These medical certificates contain a description of the symptoms observed by the doctor treating the survivor. According to some actors, there is a standardised certificate produced by the Ministry of Health for doctors to fill in, but this is not widely distributed or known about.

All government hospitals can legally provide medical certificates. In practice, almost all medical certificates are provided by Baahi-Koob.

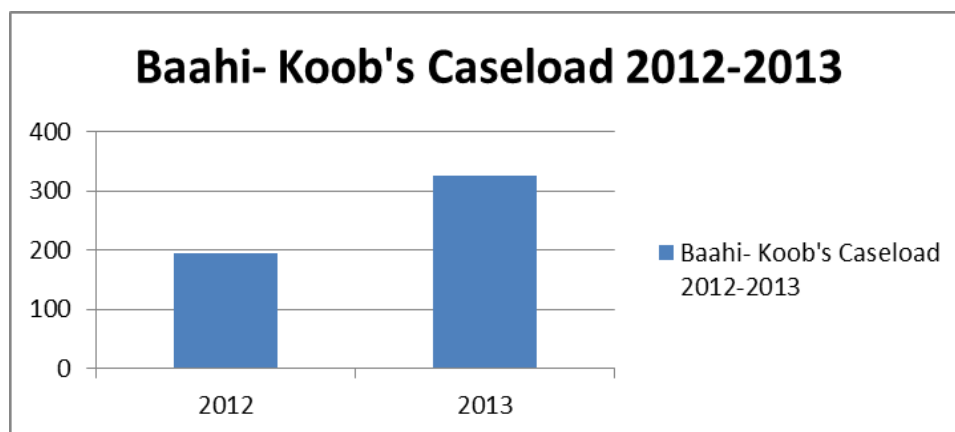
- One legal aid provider reports that in other hospitals, doctors and nurses purposely avoid providing documentation that may be admissible in court proceedings or which may be traced to them individually to avoid having to appear in court.
- Another reports that only forensic doctors and gynaecologists can provide medical documentation, and that these specialists are available in very few hospitals.

Prosecutors report that the medical certificates produced by Baahi-Koob often are not useable in court. Doctors do not know how to fill in the certificate so that it corresponds with the elements of the offence and are not trained in the rules of what is admissible as evidence. According to Baahi-Koob staff and other lawyers, many cases fail either because the survivor does not have a medical certificate or because it is not filled in a way that is admissible or persuasive in court.

Baahi-Koob

In 2008, the Hargeisa Group of Hospitals established the Sexual Assault Referral Centre, with UNDP support. The Centre has since been renamed Baahi-Koob. The purpose of the Baahi-Koob centres is to be 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. Baahi-Koob is situated in the maternity section of the Hargeisa Group of Hospital, so survivors of GBV attending the section cannot be distinguished from those going for general obstetric/ gynaecological reasons. Two additional Baahi-Koob centres were established in Boroma and Burao in 2014. The centres comprise of medical and psychosocial staff and 18 CID investigators across all three regions. In Hargeisa, there is no medical practitioner qualified to do medical examinations within the centre, so survivors are referred to the Hargeisa Group of Hospitals, which Baahi-Koob is attached to. The Boroma and Burao centres have qualified medical practitioners based within them. Initial interviews are held at Baahi-Koob between survivors who wish to pursue legal action and female CID staff. SWLA sends paralegals to Baahi-Koob to provide survivors with legal information, but do not currently have the funds to ensure a legal aid staff is on duty at all times.

Some sources report that the centre has played role in stimulating public debate about GBV, and that since its establishment there has been an increase in the extent to which the media and religious leaders speak out against it.^{lxii} Though Baahi-Koob is gaining increasing acceptance, it is not without detractors. Some actors report that some influential members of Somaliland society have claimed that Baahi-Koob is a Western invention unsuitable for Somaliland society. However, many of the Somalis interviewed for this report stated that Baahi-Koob has received wide acceptance and that the establishment of new centres were welcomed by the community in those areas, including by the traditional elders.

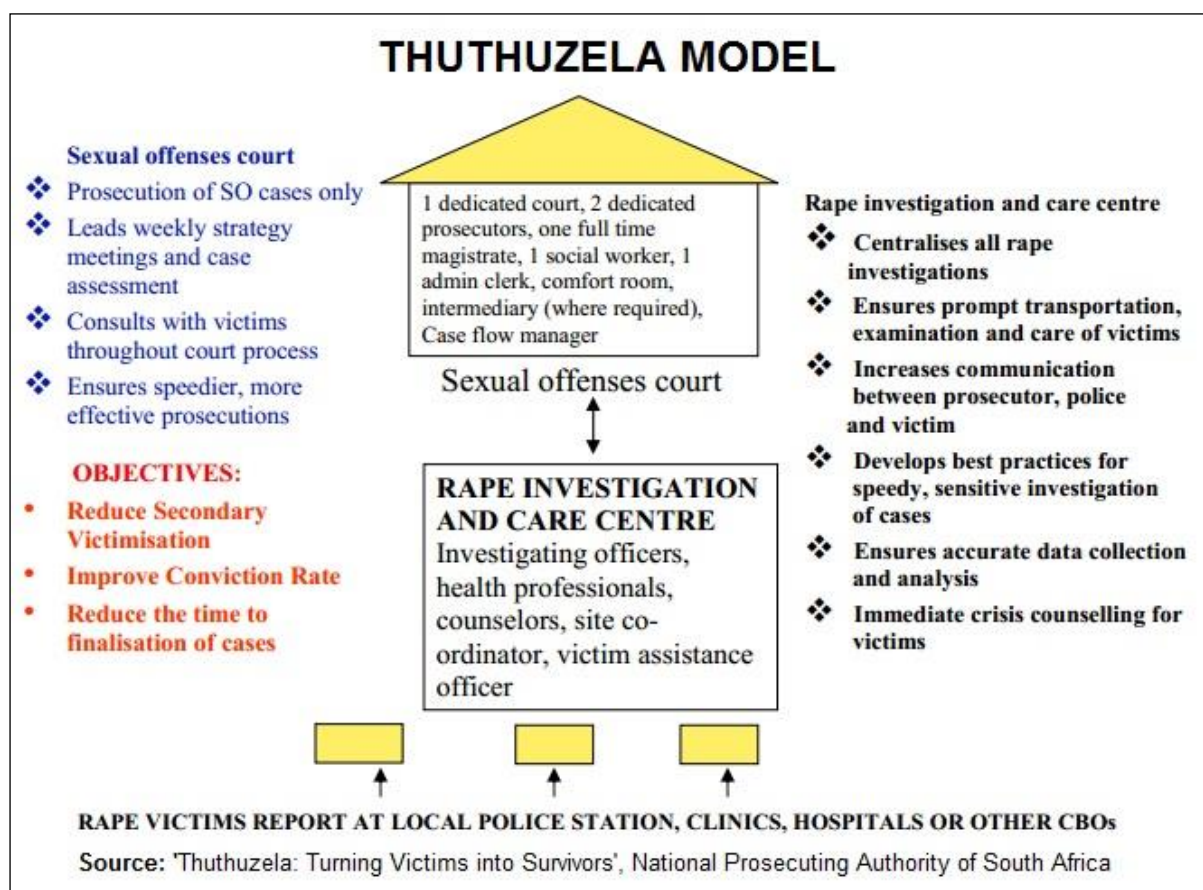


The Hargeisa Baahi-Koob's caseload increased from 195 in 2012 to 326 in 2013.

STRATEGY FROM A COMPARABLE JURISDICTION

Baahi-Koob represents a best practice approach in terms of strengthening the referral pathway and preventing the re-traumatisation of survivors in the Somali context. However, there is still space for further improvements in this process, and in this respect it is relevant to consider successes made in South Africa through their Thuthuzela Care Centres, which are located in public hospitals, have gynaecologists qualified to provide medical certificates on duty at all times and have trained investigators on staff. They are directly linked to specialised Sexual Offences Courts, staffed by a specially trained prosecutors, social workers, investigating officers, magistrates, health professionals and police, and located in close proximity to the Thuthuzela Centre.

Impact: According to UNICEF, conviction rates have increased following the establishment of Thuthuzela centres, and the time taken to prosecute and convict perpetrators has decreased from 3 to 5 years to less than 6 months.^{lxiii}



14. Key issues to be addressed in Somaliland

14.1 Referral pathway

The referral process between the different GBV 360 response providers in Somaliland has greatly improved since the establishment of Baahi-Koob in 2008, and the links between some of the actors are currently quite strong.

Four significant successes with regards to the referral process are:

1. **The survivor only needs to attend one facility** to access medical, legal and psychosocial assistance;
2. **CID investigators are permanently based at Baahi-Koob** and are therefore able to refer the incident for investigation following the first visit of the survivor to this facility;
3. **Some police and investigators obtain scholarships at Hargeisa and Amoud Universities** and are therefore well-trained on the applicable law and cooperative with the legal aid providers based at those institutions;
4. **Baahi-Koob has increasing recognition and acceptance** within the community and police and legal aid providers know to immediately refer GBV survivors to the centres in Hargeisa, Boroma and Burao.

These successes are significant and have led to an increase of people reporting to Baahi-Koob, an increase in the numbers of GBV cases that proceed to investigation stage and the expansion of the centre to two other regions of Somaliland. These positive developments notwithstanding, there are still several weaknesses in the referral process which need to be addressed. Legal aid providers identify the main weaknesses in the process as being the following:

1. **Harassment by police:** Police officers taking the initial complaint frequently harass the survivors.
2. **Lack of gender desks:** legal aid providers report that there are two gender desks in Hargeisa but that only one is functional.
3. **Weak link between police stations, Baahi-Koob and legal aid providers:** Police stations have extremely low capacity and are not well connected with Baahi-Koob or legal aid providers.
4. **Limited awareness and accessibility of Baahi-Koob centres:** Though there is increasing awareness of Baahi-Koob and its functions within the community and most if not all police stations in Hargeisa now immediately refer sexual violence survivors to Baahi-Koob centres, 68% of people within the community surveyed in a recent UNDP assessment still did not know what it was or what services it provided. Baahi-Koob also only exists in three regions of Somaliland and is not accessible to all survivors. Further, Prosecutors from the Attorney General's office do not always know that Baahi-Koob is authorised to provide evidence and may therefore set it aside.
5. **GBV services difficult to access in rural areas:** Most legal aid providers still do not reach rural and remote areas in Somaliland.
6. **Very difficult to obtain medical certificate:** Most hospitals outside of Baahi-Koob do not provide documentation that can be admitted in court. At Baahi-Koob, the doctors who can and do provide medical certificates are not trained in using the legal language necessary to provide the elements of sexual violence crimes in court, and many prosecutors report that they are unable to use these documents.
7. **Survivors report too late to Baahi-Koob:** Baahi-Koob can only provide medical documentation of sexual violence within the first 72 hours, if not less. Understanding of what procedure to follow after exposure to GBV is limited, and many women do not realise that to pursue criminal prosecution they must report to the centre within three days of the offence.

8. **Restricted access to investigation by legal providers:** Legal aid providers are not given access to court documentation until the trial begins.
9. **Limited understanding of sexual violence offences and consequences by prosecutors and judges:** legal aid providers and other actors report that while prosecutors and judges have received some training on the legal framework pertaining to sexual violence, they have limited understanding of its medical and psychological consequences and limited understanding of the human rights framework that applies to such crimes.

Coordination between legal aid providers and Community Focal Points

An organisation called Comprehensive Community Based Rehabilitation in Somaliland (CCBRS) has Community Focal Points (CFPs) in 16 settlements in Somaliland. SWLA reports that it has a strong relationship with CCBRS. However, other providers report that they do not have such a relationship. Some actors also report that CFPs occasionally refer cases to the police without the consent of the survivor. Despite these challenges, the CFP model is important in facilitating access by IDP women to the formal legal system. CCBRS is funded by UNICEF.

14.2 Technical capacity of legal aid providers

Somaliland legal aid clinics have been established for up to 12 years, and lawyers working at these centres have had significant practical legal experience as the formal legal system in Somaliland has been functional since the early 1990s. Further, as GBV offences are prosecuted more in Somaliland than in any other region, lawyers are more likely to have experience with clients who are survivors of GBV. Most providers have received *ad hoc* training from external bodies, and some run trainings themselves for police and prosecutors, including classes run through the law faculties of the universities. In general, the legal aid providers interviewed had an impressive range of protocols and policies in place and were upholding best practice guidelines for dealing with GBV survivors to the best of their ability. However, gaps in capacity and institutional knowledge remain.

Client procedures and protocols

Guidelines for legal aid providers exist in Somaliland and have been signed by the directors of all legal aid providers. However, no provider has received comprehensive training on these guidelines. Further, while centres were generally aware of best practice standards for legal aid providers, many do not have the capacity to implement these in practice.

All centres were aware of the desirability of interviewing GBV clients in a separate room, for example, but only the two had the physical capability to do so.

All centres had at least one staff trained in responding to the needs of GBV survivors, and most had a majority of female staff interviewing female clients.

Client procedures					
		Somaliland Women Lawyers Association	Somaliland Bar Association	University of Hargeisa	Amoud Legal Clinic
Interviews	<i>Separate room?</i>	Yes	No	Yes	No
	<i>Interviews conducted by?</i>	Paralegals and lawyers	Paralegals	Client care office, paralegals, trainee students	Usually female lawyers
	<i>Ratio of men: women conducting interviews</i>	All women	1:5		1:5
	<i>Staff trained in dealing with GBV survivors</i>	All ('experience or training')	All	Some	1
	<i>Staff trained in interviewing GBV survivors</i>	All ('experience or training')	All	Some	None
Records	<i>Client records kept?</i>	Yes	Yes	Yes	Yes
	<i>Interviews recorded and kept?</i>	Yes	Yes	Yes	Yes
	<i>Records kept in hard /soft copy</i>	Both	Both	Both	Both
	<i>Client's real name used in records?</i>	Yes	Yes	Yes (in the register- in the database use number)	Yes

Training

All providers state that they have received training in international human rights and humanitarian law, and almost all say they have received training in the legal framework pertaining to GBV offences and interview techniques. However, the legal aid providers stated that these trainings were facilitated by the UNDP Rule of Law programme, which was aimed primarily at training judges and prosecutors, rather than legal aid providers. The lawyers therefore have received training in the legal framework but have not received training in practical legal skills such as legal writing, case management, interview techniques and so forth. Providers have not been trained on the provision of criminal defence, a service which each of them offers. There has also been no Training of Trainers (TOT) for the directors of the clinics on these issues.

Collecting and recording data

There is a need for a joint training on how to collect and share data between service providers. The GBVIMS provides such a system but training on how this should be used is extremely limited. At present, information on sexual offences is collected by providers through their own systems and is difficult to share between them.

Monitoring and Evaluation

The legal aid providers in Somaliland are mature institutions and it is evident speaking to their employees that there is an institutional understanding of what has and has not succeeded in past legal aid programmes and endeavours. Some of this information is recorded in the organisations' reports and promotional material. However, it is unclear whether these organisations have a clear monitoring and evaluation programme in place to track successes and failures. Such a programme is essential to all organisations.

14.3 Engagement with the customary system

Most legal aid providers agreed that it was necessary to engage with the elders on issues of GBV. However, the providers all stated that this engagement should be limited to attempts to prevent the elders from resolving GBV cases through the customary system.

Trainings attempting to sensitise clan elders to gender crimes and human rights have had little effect in securing access to justice for survivors.

An increasing number of survivors are turning to the formal system for redress in urban areas. However, this is sometimes undermined by the interference of elders in the court process.

In response to ongoing interference in court cases by customary elders, acting Attorney General Aden Ahmed Muse released a circular in 2013 providing that outside interference in rape cases may be considered an offence.

The Circular is commendable but unfortunately has not prevented GBV cases being resolved through the customary system from beginning to end, and the legal aid providers interviewed indicated that between 12% and 50%, with the average estimate being 31%, of GBV cases were resolved in this way.

Most legal aid providers engage with the customary system through mediation on issues other than GBV cases and through community awareness, mobilisation and training programs aiming to involve elders either as participants or leaders. Amoud Legal Clinic stated that by inviting elders to meetings and workshops and by referring certain issues to them, a relationship of mutual respect was created and rendered the elders more likely to refer GBV cases to the legal clinic or the formal courts.

For women living in rural areas with no access to the formal courts or who are unable to pursue prosecution due to being unable to obtain medical documentation, the customary system may provide the only option for potential redress. It is necessary to better utilise paralegals to forge relationships with elders and to bridge the divide between the formal and customary legal system in these regions.

11. Conclusion

All thirteen legal aid providers in Somalia have overcome numerous and significant challenges to provide needed services to survivors of GBV. These range from the provision of legal education and rights awareness projects in all regions to providing assistance to the prosecution in criminal GBV cases. These successes are remarkable given the difficult political, cultural and security environment in which these organisations operate. Many legal aid providers provide services to GBV survivors at significant risk to their own safety. All providers offer these services despite serious systemic difficulties with the Somali legal system.

The international community must support Somali legal aid providers to build on current successes and ensure effective strategies are expanded throughout the country, as well as identifying and addressing ongoing needs and capacity gaps within these organisations. It must also support the governments and justice institutions in each region to develop the capacity of the formal legal system to better respond to the needs of GBV survivors and ensure accountability for perpetrators. Providing simultaneous assistance to legal aid providers and governments is the only way to facilitate access of all Somalis to the formal justice system and to increase criminal convictions and successful legal civil cases related to GBV.

Internal challenges faced by legal aid providers include limited experience and capacity in relation to coordinating and receiving trainings, drafting protocols and procedures and practical lawyering skills, as well as deficiencies in office space, equipment and facilities. External challenges presented by the formal and customary legal systems include a lack of coordination and oversight of the bodies responsible for investigating and prosecuting sexual violence, low capacity of the police, no facilities capable of collecting and analysing forensic evidence, lack of training and experience of prosecutors and judges with GBV cases and intervention in legal cases by customary elders.

Numerous strategies can be implemented to empower legal aid providers to provide meaningful assistance to GBV survivors and those at risk of GBV in Somalia, many of which have experienced significant success in comparable jurisdictions. This report provides a comprehensive list of such recommendations. Now is the time to capitalise on the commitment and enthusiasm of the legal community to address the impunity for perpetrators of GBV and to provide a system that promotes the best interest of the survivor. We hope that we can all work together to achieve this change.

12. Recommendations

The recommendations in the following section do not repeat what has been stated in the National Action Plans adopted by the Federal Government of Somalia, but may expand upon them. They also highlight new priorities not included in the National Action Plans.

12.1 All regions of Somalia

Recommendations to be implemented in all regions of Somalia are as follows:

Coordination

- *Establish a Somalia-wide legal aid network* to strengthen the capacity of all legal aid providers to overcome and address challenges. This network should meet periodically outside of Somalia.

'360' approach

- *Undertake joint training for all '360' medico-legal response providers*, including legal aid providers, medical practitioners, desk police, Criminal Investigations Department staff, Attorney General's office staff and judges. This will strengthen the relationships between 360 response providers, develop their capacity to respond to reports of GBV and increase the likelihood of cases proceeding to prosecution stage.
- *Establish a GBV Medico-Legal Unit* linking all actors to strengthen the relationship between all 360 response providers. This will consist of the people who attended the training described and should include specially appointed judges, prosecutors and CID staff. This will ensure a high degree of cooperation between the survivor and service providers from reporting through investigation and prosecution of the crime, leading to an increase in convictions of perpetrators.

Investigations and prosecutions

- *Establish/ re-establish and expand the mandate of the Police Advisory Committee (PAC)*. The PAC should regularly visit police stations, courts and prisons with a focus on the following: conditions of detention; whether complaints are being properly investigated; and treatment of witnesses and complainants. This will increase oversight of the investigation process and lead to more successful investigations and prosecutions of GBV offences.
- *Week-long training on practical legal skills followed by a week-long training of trainers (TOT)*, with at least one day in each week dedicated to GBV offences, to be conducted by international lawyers. This will increase the capacity of legal aid providers to provide practical legal services to clients and to ensure this increase in capacity is sustained.
- *Appoint special judges and prosecutors* for GBV cases. This will ensure survivors are given a fair trial in accordance with the applicable laws and best practice standards.
- *Send forensic evidence to another state for analysis and storage*, while at the same time building the capacity of local actors to collect, store and analyse this evidence. The analysis of the evidence would then be sent back to investigators in Somalia to assist in the prosecution of sexual crimes. This arrangement would be maintained

until capacity to collect and analyse forensic evidence is developed in Somalia. This will reduce the number of cases dropped due to lack of evidence.

- *Develop and implement policy on criminal prosecution of GBV*, which: authorises all hospitals and other identified medical practitioners to provide a medical certificate evidencing GBV; specifies that medical certificates are not required to prosecute; allows appointed representatives of survivors to file cases with the police; allows legal aid providers to give evidence to investigators; and stipulates that legal aid providers be given access to court documents relating to their clients. This policy build upon provisions contained in the new Sexual Offences Bill. It will overturn negative policies and specify that negative practices that have developed over time are not mandated in law or policy and should not be followed.
- *Attorney General and Police Commissioner to issue circular* stating that no person or group can intervene in court proceedings and that officials who release prisoners will be charged with Abuse of Office. This will reduce the number of cases in which elders intervene to prevent the formal case reaching its conclusion.
- *The Ministry of Health to develop a qualification for Sexual Assault Nurse Examiners*, along with guidelines on what the course should include and who it can be run by. Universities and hospitals should be supported to offer this course. This will increase the number of people qualified to provide medical certificates evidencing sexual violence, which will result in increased prosecutions.

Changing Policy and Practice

- *Conduct trainings with the judiciary on how to hear public interest cases*, including constitutional petitions and civil cases taken in the public interest. This will give the judiciary the tools to develop and shape the law in accordance with the Constitution(s) and international standards.
- *Train legal aid providers on proactive legal strategies*, including advocacy and public interest litigation, to challenge existing law and policy. This will give lawyers the tools to be proactive rather than purely reactive in their response to the current system by challenging unfair law, policy and practice.

Engagement with elders and rural communities

- *Identify one person from the elder community and one person from the religious community to champion GBV projects* to increase community support for projects aiming to reduce GBV. This will reduce opposition to such projects within the elder community and increase the number of cases referred from the elders to the courts.
- *Establish Community Oversight Boards (COBs) and community-based paralegals* in rural and remote areas comprised of two elders, a women's leader and another community leader (e.g. a youth leader or leader from the IDP community). The COBs would oversee community-based paralegals and report on their progress to the legal aid providers. This model is taken from a successful project in Sierra Leone and would improve access to the formal legal system within rural and remote communities.
- *Multi-day consultation with elders* on GBV and access to justice should be hosted by legal aid providers with the assistance of the champion elder and religious leader. It should take place after the passage of the Sexual Offences Bill and the circular

preventing interference in court cases and include information about these new laws. This will decrease the number of cases in which elders intervene.

Safety and Security

- *Protocol for protection of survivors, witnesses and lawyers in court in GBV cases* to improve protection of survivors, witnesses and lawyers. This will decrease the number of survivors exposed to risk during court procedures and the number of survivors who choose to proceed with prosecution.
- *Technical assistance to improve safety and security protocols* to increase safety of clients and employees. This will prevent staff and clients at legal aid providers from being harassed and threatened and enable them to more easily
- *Expand and establish safe houses* to improve safety and security of witnesses and survivors. This will also encourage more survivors to proceed with prosecution.

Reporting and information

- *Record and release statistics relating to reported offences, prosecutions and successful cases relating to GBV.* This information should be collected by the Sexual Violence Oversight Committee (in South Central) or the GBV Oversight Officer (in Somaliland and Puntland). This will increase availability of accurate information from which government and civil society may assess challenges and identify possible solutions. It should not include information that would lead to identification of the survivors.
- *Establish GBV hotlines and community phones.* Phones should be distributed to women focal points within the community. These phones should call both GBV hotlines operated by legal aid providers and the police, who should also be provided with phones. This programme will allow survivors to be better informed about how to seek justice and other services.

Internal management and resources

- *Support in drafting protocols* on working with GBV survivors and children, sexual exploitations and abuse and safety and security. This will also increase general capacity to draft relevant policies.
- *Support in improving monitoring and evaluation mechanisms through the drafting of policies* to ensure that all staff members record successes and failures and that these are compiled into reports that are presented at staff meetings and made available to external sources. This will ensure that providers learn from past experiences and employ strategies that have proven to be successful.

12.2 South Central Somalia

Recommendations to be implemented in South Central Somalia are as follows:

Coordination

- *Support the Somali Bar Association to become an official Bar Association* with ability to discipline and pass regulations and guidelines. This will ensure regulation of the legal profession and improve services provided to GBV survivors and other clients.
- *Develop a Terms of Reference for the Sexual Violence Oversight Committee (SVOC).* This should include that legal providers and other actors can refer complaints of sexual violence, including sexual exploitation and abuse (SEA), committed by security actors to SVOC. SVOC will refer and follow up with the relevant security body. This will ensure investigations are subjected to oversight and are conducted effectively. It will also provide a mechanism through which survivors of sexual violence committed by security forces, who currently have very little means of redress, can access the justice system without fear of retribution. Finally, it will contribute towards ending impunity for security personnel.
- *Establish a relationship between legal aid providers and University of Mogadishu* which will increase the human capacity of legal aid providers and provide practical experience for new graduates and ongoing training for legal aid staff.
- *Support the youth lawyer network created by SWDC* for information sharing between and increased capacity of new graduates and young professionals. This will ensure that the capacity of the legal profession in Somalia is increased and sustained.

‘360’ approach

- *Establish a Family Centre in Madina Hospital,* in which a CID officer, legal aid staff and psychosocial support staff are on duty. Investigations initiated at the Family Centre should be forwarded to the special prosecutor and judge for hearing. This expands on the commitment to establish Family Centres in the National Action Plan and will result in more cases proceeding to the stage of prosecution and conviction.
- *The capacity of SSWC, SWDC and the Elman Centre should be developed to allow them to run one-stop centres in accordance with UN Women Guidelines.* An external body should audit all three centres for their current capacity to implement these standards and should create a capacity building package for each organisation. This will improve the quality of legal, medical and psychosocial services provided to survivors.
- *Establish a clear point of contact for all legal aid providers within hospitals,* with priority given to the hospitals that issue medical certificates evidencing sexual violence. This will improve the relationship between legal aid providers and hospitals and increase the likelihood that hospital staff will provide medical certificates to survivors.

Changing policy and practice

- *Amend the provisional constitution* to allow the constitutional court to decide on the legality of state action in public interest cases. This will ensure that negative policies and practices inconsistent with the Constitution can be challenged and overturned.

Engaging with elders and rural communities

- *Increase outreach activities to rural and remote areas* to increase access to the formal legal system by survivors in those areas.

12.3 Puntland

Recommendations to be implemented in Puntland are as follows:

Coordination

- *Support the Bar Association* to develop the capacity to discipline and pass regulations and guidelines. All lawyers should be registered with the Association and should then vote for an Executive. This will ensure regulation of the legal profession and improve services provided to GBV survivors and other clients.
- *Increase the capacity and expand the role of the GBV Oversight Officer.* Legal providers and other actors should be able to refer complaints of sexual violence, including SEA, committed by security actors to the Officer. The Officer will refer and follow up with the relevant security body. This will improve the quality of investigations of sexual offences, provide a mechanism through which survivors of violence committed by the security forces may seek redress and contribute towards ending impunity.
- *Develop Puntland State University (PSU) trainings* to involve senior lawyers from other legal aid providers and to follow certain guidelines. This will ensure that these trainings reach the widest possible recipients and decrease dependency by legal actors on one organisation. It will also ensure trainings are targeted, effective and culturally sensitive.

‘360’ approach

- *Expand Maato-Kaal to four major hospitals* to increase accessibility of one-stop centres for medico-legal assistance and psychosocial support across Puntland. This will increase the number of women seeking legal and other services as well as increasing the number of sexual violence cases that proceed to prosecution stage.
- *Base CID officers within Maato-Kaal and link investigations to special judges and prosecutors* so that survivors do not have to report to multiple actors. Investigations initiated at the Maato-Kaal should be forwarded to the special prosecutor and judge for hearing. This will increase the numbers of prosecutions and convictions in Puntland.

Changing policy and practice

- *Invite female lawyers to participate in the review of Puntland legislation.* At least two female lawyers should be invited to participate in the legislative review process begun by the government in June 2014.
- *Make recommendations for progressive legislation.* When the legal aid providers involved in the review of Puntland legislation return their recommendations, these should include recommendations for legislation which give jurisdiction to courts to decide on human rights issues; clearly allow for private prosecutions for sexual

offences and provide that decisions by the elders are reviewable in court. This will increase the avenues through which legal action can be taken to address sexual violence.

Internal management and resources

- *Training, funding and capacity building for Puntland Women Lawyers Association (PUWLA).* Increased capacity and sustainable funding for PUWLA is necessary if they are to operate effectively as the only female legal association in Puntland.
- *Separate rooms in legal aid offices* to provide privacy and confidentiality for GBV clients. This will increase the number of survivors who feel comfortable proceeding to trial.
- *Vehicles for increased mobility* and ability to conduct outreach activities. This will increase the number of people in rural and remote communities who are able to access the formal justice system.

12.4 Somaliland

Recommendations to be implemented in all regions of Somaliland are as follows:

Coordination

- *SWLA and SOLA should come together to elect an Executive of the Bar Association.* The Executive should oversee two wings: a Somaliland Women Lawyers wing and a Somaliland Lawyers wing. These organisations should continue to operate as they currently do but should receive capacity building to conduct joint activities such as conducting disciplinary procedures, trainings and issuing policies. This will allow for regulation of the legal profession and improvement of services while not detracting from the important work of either organisation.
- *Appoint a GBV Oversight Officer* to have oversight of investigation process. Legal providers and other actors should be able to refer complaints of sexual violence, including SEA, committed by security actors to the Officer. The Officer will refer and follow up with the relevant security body. This will improve the quality of investigations of sexual offences, provide a mechanism through which survivors of violence committed by the security forces may seek redress and contribute towards ending impunity.
- *Facilitate relationships between all legal aid providers and CCBRS,* so that IDP survivors can more easily access legal services. This will increase the number of IDPs who are able to access the formal justice system.

'360' approach

- *Establish a fourth Baahi-Koob in the east of Somaliland.* Baahi-Koob has proven to be enormously effective in increasing the number of survivors who are willing to seek formal justice, and subsequently, the number of prosecutions and convictions for sexual violence.
- *Link Baahi-Koob to the special court* described below. This will increase the number of convictions for sexual offences.

- *One female legal aid staff on duty at all times at Baahi-Koob.* This bulk of this role should be undertaken by SWLA, who have the most female lawyers, but other legal aid providers should also be supported to send female staff to the Centre if they wish to do so. This ensures survivors are informed of their rights and give them the opportunity to access the formal justice system, which will increase the number of prosecutions and convictions.

Investigations and prosecutions

- *Establish a special court for the hearing of GBV cases.* The court should comprise of a specialised judge, prosecutors and defence lawyers and implement the courtroom safety and security protocol for survivors, lawyers and witnesses described above. This will ensure that all court staff involved in sexual violence cases are adequately trained, the procedure is survivor centred and will result in an increased number of convictions.
- *Establish one model police station to handle GBV offences in Hargeisa,* to increase the capacity of the police and to ensure that survivors can report offences without being ignored, intimidated or harassed.
- *The Police Commissioner should issue an instruction that one female CID officer should be involved in all investigations* until the point at which they are closed, and trainings should be run for male and female Baahi-Koob CID officers on undertaking an investigation from beginning until end. This will ensure the investigation process is survivor-centred and is likely to increase the number of cases that proceed to prosecution stage.

Internal management and resources

- *Larger rooms at Hargeisa University* for trainings run for police and other justice actors. This will ensure that trainings run by the university reach the widest range of recipients possible and will increase cooperation between the Hargeisa University legal clinic and the police, which has been proven to be effective in improving the quality of police response and investigations.
- *Vehicles for increased mobility* and ability to conduct outreach activities. This will increase access to the formal legal system within rural and remote communities.

ANNEX I Questionnaire for legal aid providers

Somali Legal Aid Providers Capacity Assessment

Questionnaire for Service Providers

This questionnaire has been prepared for the purposes of a mapping and capacity assessment of legal aid providers in Somalia. The purpose of the survey is to identify gaps and needs in the capacity of legal aid providers to effectively provide pro bono legal services to vulnerable populations. Its focus will be on the response to allegations of sexual and gender-based crimes, including rape and sexual exploitation and abuse. This capacity assessment is part of a wider project funded by the United Nations Development Fund and the United Nations Population Fund that aims to improve access to justice for the survivors of these crimes.

Questions

General information

1. What is the contact information for the head of your organisation?
2. When was your organisation established?
3. What geographic areas does your organisation cover?
4. What is the mode of service provision in these areas (eg, walk-in clinic, outreach etc)?
5. How many physical centres do you have?

Employees

6. How many employees does your organisation have?
 - i. How many are legal staff?
 - ii. How many lawyers?
 - iii. How many paralegals?
 - iv. Any other paid legal staff?
 - v. What is the percentage of men: women for each of above?
7. How many volunteers does your organisation have?
 - a. How many are legal staff?
 - i. In what capacity do they volunteer (eg paralegal, internship?)
8. How many paid or unpaid staff have law degrees?
 - a. How many have an undergraduate?
 - b. How many have a post graduate?
 - c. Where did they get their qualifications?
9. Do you have any consultants who are private lawyers?

Services provided

10. Does your organisation provide legal aid on a pro bono basis?
11. Do you provide medical services?
 - a. Do you provide these for free?
 - b. When a patient comes in for medical services and it appears that sexual violence has occurred, what protocol do you follow?
12. Do you provide psychosocial support?
 - a. Do you provide these for free?
13. Do you provide any other services?
 - a. Do you provide these for free?
14. Do staff members who provide each of these services coordinate with each other? If so, how?

Links to other response providers

15. If the organisation does not provide medical or psychosocial services, does it have links to organisations that do?
16. If it does provide those services, are there any circumstances in which it refers to other organisations?
17. Do you have links to any hospital?
 - a. Which one?
 - b. Is there a specific doctor that you deal with?
18. (Somaliland only) Do your clients use the Sexual Assault Referral Centre/ Baahi Koob?
(South-Central only) Can survivors access legal advice or psycho-social support at the same time as getting the medical certificates that are admissible in court?
 - a. If not, do you see a need for a facility where survivors can access all of these services (including getting admissible documentation) at the same time?
19. Do you have links to any police station?
20. Do you have links to police/ prosecutors conducting investigations?

Legal services

21. Do you provide:
 - a. Legal information?
 - i. Do you provide this for free?
 - b. Legal advice?
 - i. Do you provide this for free?
 - c. Representation in court?
 - i. Do you provide this for free?
22. Do you provide defence to perpetrators as well as representation to survivors?
23. Do have separate interview rooms to interview your clients?
24. Who are the interviews conducted by?
 - a. What is the ratio of men to women?
25. Have any legal staff had specific training in dealing with SGBV survivors?
 - a. Have they had training in how to interview these clients?
26. If the survivor is treated by your own medical facilities, how do the medical staff share information with the legal staff?
27. If the survivor goes to different medical facilities, how does the legal staff get necessary information from those facilities?
 - a. Does the lawyer attend the hospital?
28. What is was your caseload (whether or not taken to court):
 - a. In the last month?
 - b. In the last year?

Client procedures

29. Do you keep client records?
 - a. If so, what is kept in the client records?
30. Are your client databases in hard copy, or are they computerised?
31. When a client is interviewed, is this recorded/ does the interviewer take notes?
 - a. Are these records kept?
32. Do you have a protocol on client protection?
 - a. If so, what is involved in this protocol?
33. Do you use your client's real name in records?
34. Do you have safehouses?
35. Does your organisation have a Code of Conduct in place for working with survivors of SGBV?
 - a. Does it include a definition and prohibition of sexual exploitation and abuse?

36. Does your organisation have a Code of Conduct in place for working with children?
37. Does your organisation have protocols in place to address threats to security of survivors, witnesses and those working on the case?
38. What other Codes of Conduct or organisation protocols does your organisation have?
39. Can you share these Protocols?

Going to court

*Please note that the below questions below to your **general caseload**, not specifically to your SGBV caseload.*

40. If a client goes to court:
 - a. What court fees have to be paid, if any? How much are these and what are they for?
 - b. Who pays these fees?
 - c. What is the average cost of going to court to prosecute a sexual offence?
41. What types of cases usually go to court?
42. How many cases has your organisation taken to court:
 - a. In the last month?
 - b. In the last year?
43. How many cases have resulted in a successful prosecution:
 - a. In the last month?
 - b. In the last year?
44. How long do investigations in criminal cases usually take?

Sexual violence cases

*Please note that the below questions specifically and exclusively relate to your **SGBV caseload**.*

45. If a client wishes to take a sexual violence case to court:
 - a. Which court will they take it in?
 - b. What kind of judge will hear the case?
46. When clients report sexual violence, what percentage of the time is the alleged perpetrator:
 - a. A man known to them?
 - b. A member of the security forces?
 - c. Unknown?
47. What percentage of the survivors are:
 - a. IDPs?
 - b. Refugees?
 - c. Children (below age of 18)? Boys or Girls ?
 - d. Men?
 - e. Women?
48. Are the prosecutors who prosecute sexual violence claims:
 - a. Trained in prosecuting sexual violence?
 - b. Experienced?
 - c. Sympathetic to the survivor in your opinion?
49. Are the judges on sexual violence cases:
 - a. Trained in hearing sexual violence cases?
 - b. Experienced?
 - c. Sympathetic to the survivor in your opinion?
50. How many sexual violence cases has your organisation taken to court:
 - a. In the last month?
 - b. In the last year?
51. How many of these have resulted in a successful prosecution?
 - a. In cases where the perpetrator is convicted, what has been the range of sentences for the perpetrator?
 - b. Does the perpetrator stay in jail after being sentenced?
 - i. If so, for how long?

- ii. If not, why not?
- 52. Are the trials closed or open to the public?
- 53. Does the survivor have to face their perpetrator in the court room?
- 54. Have any of your clients had their alleged attacker tried by a military tribunal? If so:
 - a. Were you allowed access to the trial?
 - b. Was the survivor allowed access to the trial?
 - c. Do you know what happened to the alleged perpetrator?
- 55. Have any of your clients ever faced repercussions for taking a case to court?
 - a. If so, what were they?

Investigation

- 56. How long does investigation of sexual violence crimes usually take?
- 57. Who undertakes the investigation?
- 58. Is the survivor involved in the investigation process?
- 59. Can your organisation provide investigators with information or evidence?
- 60. Are there any improvements you could suggest for the investigation process?

Collection of evidence

- 61. Who collects the evidence?
 - a. Are they trained in evidence collection?
- 62. How is general evidence collected?
 - a. How is it stored?
 - b. Where is it stored?
 - c. Who stores it?
- 63. How is forensic evidence collected?
 - a. How is it stored?
 - b. Where is it stored?
 - c. Who stores it?
- 64. Is the evidence stored for a possible future case?
- 65. Does your organisation collect and preserve evidence from clients?
- 66. How do your clients get medical documentation evidencing sexual violence?
- 67. Is a medical facility authorised to provide this type of documentation accessible in each of the areas you work?
 - a. If not, in how many areas is such a facility not accessible?
- 65. Do you have any suggestions for better evidence collection and storage?

Police

- 68. Do you take the cases to the police or does the client?
- 69. Which police station do you/ the client take the case to?
- 70. Is there are a women's and children unit at the police station?
- 71. Which unit of the police are sexual violence cases referred to?
- 72. Have the police been trained on investigation of sexual violence?
- 73. Of the cases taken to the police, what percentage of the time does:
 - a. No investigation happen?
 - b. An investigation happen but the offence is not prosecuted?
- 74. Have you clients ever been harassed by the police for reporting rape?
 - a. How often does this happen?
 - b. What form of harassment do they face?
- 75. When the clients are interviewed at the police station:
 - a. Is it in a separate room?
 - b. How many police are present?
 - c. Are the police interviewing the client from a specific unit?
 - d. Are the officer specially trained in interviewing sexual violence survivors?

- e. Are they usually male or female?
 - f. Is a lawyer present?
 - g. Can the lawyer intervene?
76. What improvements could there be in the way the police responds to sexual violence?

Customary system

77. Do you undertake alternative dispute resolution through the customary system?
78. Do you engage with the elders?
- a. If so, how?
79. What percentage of cases are resolved through the customary system?
80. What percentage of sexual violence cases are resolved through the customary system?
- a. What is the usual result of these cases?
 - b. Do you have experience of survivors having to pay to keep the perpetrator in the police station or prison?
81. What is the usual attitude of customary elders towards sexual violence cases?
- a. Are they sympathetic to the survivor?
82. Does the survivor ever face repercussions for bringing a sexual violence case to the customary system?
- a. If so, what?
83. Is customary law incorporated into the legislation?
84. In your opinion, should legal aid providers be engaging more or less with the traditional system to respond to sexual violence?
85. What improvements could there be in the way the customary system responds to sexual violence?

Training

86. Does your organisation provide staff training?
87. Has your staff received training from an external body?
- a. If so, on what?
88. Has your staff received training whether by yourselves or an external body on:
- a. The legal framework governing SGBV offences?
 - b. International human rights, humanitarian or criminal law?
 - c. Sexual exploitation and abuse?
 - d. Interview techniques for SGBV survivors?
 - e. Collection of evidence for SGBV cases:
 - i. For general evidence?
 - ii. For forensic evidence?
 - f. Storage of evidence for SGBV cases?
89. Does your organisation provide legal training for medical, psychosocial and other non-legal staff?
90. Has your organisation ever conducted a training needs assessment?

Security and threats

91. Does your organisation and/ or clients face security threats or concern?
92. Have you or any of your colleagues received threats to your security?
93. How could the security of your clients be improved?

Funding

94. Which donors fund your organisation?
95. What programs do each of these donors fund?
96. What is the approximate annual budget of your organisation?
- a. What is the approximate annual budget of your organisation for legal services?

Government assistance and legislative framework

97. What legislative framework is in place to address SGBV?
98. Do you think it is necessary for Somalia to pass a new Sexual Offences Bill that comprehensively criminalises sexual crimes?
99. Can there be a private prosecution?
100. Is there a legal aid unit within the government (eg in the Attorney General's Office?)
101. Does the government provide funding for legal aid?
 - a. If so, through what program?
 - b. Is this provided for under the law? If so, which law?

Coordination

102. What other organisations are providing legal aid?
103. Are you a member of any Working Group on SGBV?
 - a. If so, which one?
104. Are you aware of the GBV Working Group (if not a member)?
 - a. If you are aware of the Working Group but are not part of it, why not?
105. How could coordination between legal aid providers be improved?
106. Are your lawyers part of the Bar Association?
 - a. Is there a fee to join?
 - b. What services does it provide?
 - c. Is it a formal (government) or informal (NGO) structure?
- d. Is there a Women's Bar Association?
 - a. If so, are your women lawyers members?
 - b. If not, why not?
 - c. Is there a fee to join?

Final questions

107. Does your organisation have plans to expand?
108. If so, in what way?
109. What are the major challenges facing your organisation?
110. Any final comments?

Thank you very much for taking the time to complete this questionnaire and for talking with us. We will be providing you with a copy of the report when it is finalised. We expect this to be in September 2014.

ANNEX II Legal aid providers in South Central Somalia

Association of Somali Women Lawyers

The Association of Somali Women Lawyers (ASWL) was established in 2008. It provides pro bono legal aid and assistance to vulnerable people who cannot afford advice or representation. From January to July 2013, it provided legal assistance and representation for 225 clients from IDPs communities as well as vulnerable groups detained in Mogadishu Central Prison or police custody without trial, including 707 IDPs. It also provided legal aid for 14 survivors of GBV. ASWL currently plans to work with a foreign Bar Association to develop its fundraising capacity and in the long term to begin charging for its membership. The ASWL is yet to develop operating instruments such as a constitution, appropriate by-laws, financial policy, operating procedures or a legal referral system. UNDP has committed to assist ASWL with developing these documents as well as on continued training and capacity building endeavours. However, assessments completed by the UNDP indicate that additional funding and support is needed to ensure the organisation's sustainability.

The Elman Centre

The Elman Centre was founded in 1991 and opened its rape crisis centre in 2011. It currently has three walk-in clinics in Benadir, Galgaduud and Lower Shabelle. It provides legal aid, medical services and psychosocial support to survivors of GBV, as well as mobile clinics, livelihood training and advocacy on women's rights issues within the community. The Centre employs lawyers on a consultative basis, who in turn employ their own team of paralegals. It also has three safe houses for women who face threats to their safety and security as a result of making complaints about sexual offences. The Centre is funded by Sister Somalia, UNICEF, Oxfam and TIDES Foundation. It aims to begin introducing education on GBV in school curriculums, expand its advocacy work and have greater involvement in government draft policies over the next year.

Somali Women's Development Centre

Somali Women Development Centre (SWDC) is a non-government organization established in 2000. SWDC has been providing free legal aid services to vulnerable groups and economically deprived individuals in Benadir region and surrounding areas since 2011. SWDC provides victims of GBV with legal advice, medical assistance and psychosocial support. It has conducted several workshops on raising legal aid awareness, accepts and trains legal interns from Mogadishu University and Benadir University and runs capacity building trainings for paralegals, including on the legal framework applicable to cases of GBV. SWDC is planning to establish an association of young lawyers in Mogadishu to strengthen the capacity of young professionals and graduate students with a specific focus on female lawyers. It is funded by UNDP, UNICEF and the International Organisation for Migration (IOM).

Save Somali Women and Children

Save Somali Women and Children (SSWC) is a national non-governmental humanitarian organisation founded by a group of Somali women in 1992. It runs three one-stop gender-based violence response centres in Somalia in Hodan District, Hiliwa District and along Afgoye corridor. These centres provide legal aid, medical care and psychosocial support in

the same facility. Each centre manages clients through a case management system in which legal, medical and psychosocial support staff coordinate responses for each client. It also refers clients to external service providers where necessary. In terms of legal aid and assistance, SSWC offers clients legal counseling and supports them through court processes, including by giving advice on making legal statements, preservation of evidence and facilitation of transport for survivors and witnesses. In cases including GBV cases where the issue is resolved through customary mediation processes, SSWC provides legal representation to the survivor in an attempt to ensure their rights and interests are effectively taken into account. It is funded by Catholic Relief Services, UNHCR, Medico international, the uk Foreign and Commonwealth Office and Norwegian Church Aid.

Coalition for Grassroots Women Organisation

COGWO is an umbrella organization composed of around 30 grassroots women NGOs, drawn from a cross-section of Somali society. It was established in 1996 and is headquartered in Mogadishu. The coalition members work in different social areas like education, agriculture, relief, HIV awareness, peacebuilding programmes; capacity building, health care, development, child care and psychosocial support. COGWO began providing legal aid to women and children with the support of the UNDP initiated Legal Aid Provision project in 2008. The project seeks to provide free of charge legal aid to deprived and economically poor families and vulnerable groups in the community, raise awareness among key criminal justice stakeholders and civil society on legal aid and access to justice. More broadly, the project aims to lay down the foundation for the development and maintenance of a just and fair criminal justice system. The legal team conducts its work through walk in clinics and outreach visits to Banadir regional court and the central prison. COGWO also runs a Human Rights and Access to Justice Awareness Programme, under which it has run workshops for law enforcement officials on human rights standards applicable to law enforcement and police management, and engaged in a media campaign on human rights values and principles conducted through a popular radio station, also aimed at law enforcement personnel. It is funded by the UNDP.

ANNEX III Legal aid providers in Puntland

Puntland Women Lawyers Association

The Puntland Women Lawyers Association (PUWLA) was established in 2012 and has two offices; one in Garowe and one in Bosaso. It has recently received a 30,000USD support package from the UNDP for July 2014- December 2014. Prior to this funding injection, each member of the organisation contributed funds to a central pool, from which they took to rent office space, buy equipment and supplies and pay court fees. All lawyers within the Association work for free. At present, the Association does only legal aid cases; it does not take private clients. All of the women lawyers interviewed said they had attended only one two-day training session run by the University of Puntland, which covered collecting evidence from and interviewing survivors of GBV, as well as the legal framework applicable to sexual offences. All women claimed that this brief overview was not enough to improve their skills and performance. They indicated that the law school, while effective at teaching them the theoretical aspects of legal practice, had little focus on practical techniques and that these were missing amongst the woman.

Puntland Legal Aid Centre

The Puntland Legal Aid Centre (PLAC) was established in 2011 and operates in Garowe, Gardo, Galkaio and Bosaso. PLAC undertakes outreach visits to prisons and IDP camps to find aggrieved individuals who wish to access justice or redress but have no means to do so or lack understanding of the legal system, and then provides pro bono representation for such clients where appropriate. PLAC provided legal aid to 2,422 people from 2010 to mid-2012, leading to 904 acquittals and releases. This figure includes 1,575 internally displaced people (IDPs), 272 women, 88 refugees, 54 people from minority clans, 37 children and youth and 410 indigent clients. In the same period, PLAC paralegals settled by 2,244 cases mediation and arbitration within the community and IDPs camps, in which the majority of clients (1,385) were women.^{lxiv} PLAC also coordinates workshops for vulnerable and indigent persons on human rights laws and basic laws, including civil, criminal and labour law. PLAC does not have a sustainable donor arrangement. Since its establishment, it has entered into short contracts with the UNDP, the current contract being for a duration of eight months.

Puntland State University Law Clinic

Puntland State University (PSU) Law Clinic was established in 2013 and operates in the Nugal region. It provides legal advice, counselling and representation on a pro bono basis for clients who cannot afford such services. It also engages in mediation through the customary system, is involved in the mobile courts funded to go into rural areas and IDP camps by the UNDP, undertakes outreach and legal awareness campaigns and makes referrals to other legal aid providers where necessary. Its sole funder is the UNDP.

ANNEX IV Legal aid providers in Somaliland

Somaliland Women Lawyers Association

The Somaliland Women Lawyers Association (SWLA), established in 2007, was the first female lawyers association in all of Somalia. It is a formal Bar Association, registered with the Ministry of Justice. It is a membership organisation, created to offer support to female lawyers working in Somaliland and to harness their skills and experience for legal aid, education advocacy endeavours. Currently, the Association has 105 members. It has three offices in Hargeisa and one in Burao and Gabiley, each of which have a legal aid program along with a human rights program (focusing predominantly on mobile education) and an advocacy program. The SWLA is largely responsible for the advocacy efforts with the Somaliland government that lead to the appointment of the first female prosecutors. It offers legal assistance and advice to GBV survivors, and wants to establish a hotline for survivors to call for information and support, though it does not yet have the funding to do so. SWLA also has plans to advocate for legislation outlining victim rights for survivors of sexual and other crimes, but does not yet have the resources or technical capacity.

The Somaliland Lawyers Association initially faced significant challenges and resistance from the male legal and political community. However, it now enjoys good relations with both the relevant Ministries within the government and the Somaliland Bar Association. Its primary challenges are extending its services throughout Somalia and gaining the funding and capacity necessary to sustain its legal aid and advocacy work. The Somaliland Lawyers Association is currently funded by the UNDP, UNFPA, Caritas, UNODC and Progresio. Its legal aid work is funded by the UNDP.

Somaliland Bar Association

Somaliland Bar Association/ Somaliland Lawyers Association (SOLA) was established in 2004. It is a professional association mandated to bring together Somaliland lawyers to improve the quality of their performance, build the capacity of the legal sector to uphold human rights, protect the rights of lawyers against outside interference and promote a fair and independent judiciary. SOLA in practice functions as an NGO rather than as a formal association. It brought together 60 lawyers upon its establishment and currently claims to count over 90% of Somaliland lawyers amongst its membership. It operates throughout Somaliland, with eight offices spread over all six regions (Hargeisa, Togdher, Sanag, Sool, Awdal and Sahil) as well as outreach to rural areas, IDP camps and prisons.

SOLA provides legal aid, assistance and representation in court to those who cannot afford a lawyer. It concentrates on vulnerable groups within the Somaliland community, including women, children, the poor, people from minority clans and prisoners. SOLA plans to create specialised partners in each of these fields, so that lawyers may narrow and better direct their area of operation and expertise, but at present lacks the funds to do so. SOLA reports that its staff currently experience very heavy workloads due to the high demand for legal representation and lack of human and financial capital. SOLA also reports that its lawyers have received only limited training in interview techniques and evidence collection. Such trainings could benefit not only its employees but the whole of its membership base. Finally, though SOLA's geographical presence is the most extensive of all the legal aid providers, it does not own most of its offices in these areas and therefore cannot ensure the sustainability of its presence throughout the region. SOLA is currently solely by the UNDP.

University of Hargeisa Legal Clinic

The University of Hargeisa's school of law was established in 2003. Since that time it has produced numerous high profile legal professionals; most of the judges in the judiciary, for example, along with the Minister of Justice and about five Members of Parliament are graduates of the school. The faculty currently consists of 260 students throughout the four years of the degree. It also runs a one-year programme for the training and education of the police in the law. After graduating, law students have the opportunity to apply for a one year internship programme within different government departments, such as the Attorney General's office or as legal advisors in the different Ministries. The programme is supported by the Ministry of Justice and the UNDP. Most of the student graduates either obtain this internship or join or begin their own law firms. The school also sends some of its students to the SWLA as paralegals.

The Legal Aid Clinic at the University of Hargeisa was also established in 2003. Is the biggest legal aid provider in Somaliland and has five departments, including one focusing on human rights (relating mainly to IDPs and refugees) and one on women and children, as well as departments relating to access to justice, civil cases and criminal prosecutions. Legal services are free for those who cannot afford to pay. As well as an instructor in charge of each unit and 7 lawyers, the clinic currently has 14 paralegals, 11 of whom are female. When meeting with the clinic, employees claimed that it focuses predominantly on Hargeisa rather than outreach to other areas, as Hargeisa has functioning courts and people within the city recognise and respect the formal law. Hargeisa's geographical focus, capacity and operating budget are large in comparison to other legal aid providers operating in the area. It is funded by the UNDP, UNHCR and the Danish Refugee Council.

Amoud University Legal Aid Clinic

The faculty of law at Amoud University, based in Boroma was established in 2006. At that time, it was difficult to find teachers for the faculty as there were so few lawyers in Boroma. The University of Amoud worked with the University of Hargeisa to establish a programme whereby the top law graduates could become teachers at Amoud. The first qualified teachers at the faculty began teaching in around 2008. The legal clinic was established in 2009.

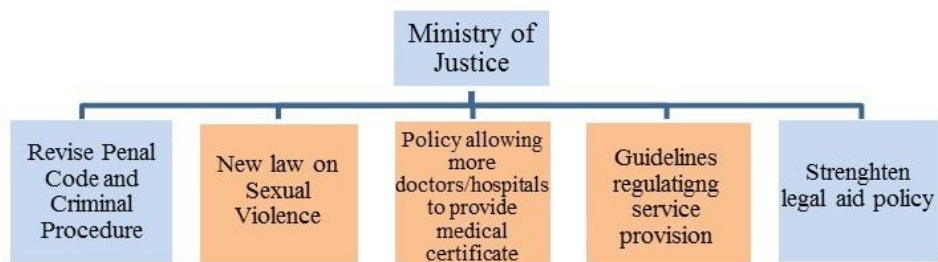
One of Amoud Legal Clinic's most significant successes is establishing a mutually respectful and constructive relationship with the police in Boroma. This has allowed the clinic to access prisons and speak to prisoners. This access prompted the establishment of a prisoner right programme funded by the UNDP and carried out by one lawyer and two paralegals from Amoud. However, this programme was discontinued at the beginning of 2014 due to funding cuts. The clinic currently comprises of two lawyers and three paralegals. Previously, the clinic had four lawyers and around ten paralegals, but most of these staff had to be let go, also following funding cuts by the UNDP. These funding cuts have affected the productivity of the clinic. Further, as the clinic is the only one based outside of Hargeisa, there are significant challenges involved in continuously needing to travel into the city to attend court, file documents and meet with line Ministries, donors, other lawyers and so on. At present, the UNDP is the centre's only donor.

Annex V Bodies and Policies established by the National Action Plans to Prevent Sexual Violence in Conflict by the Federal Government of Somalia

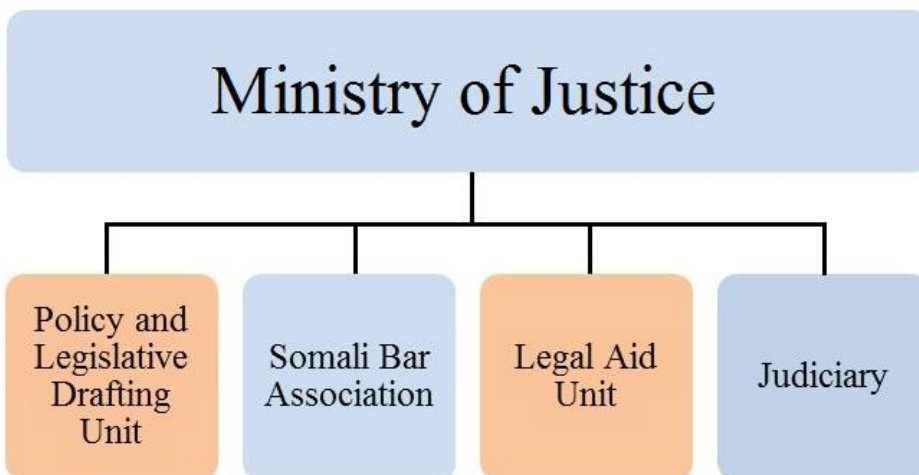
Key

Already established Not yet established

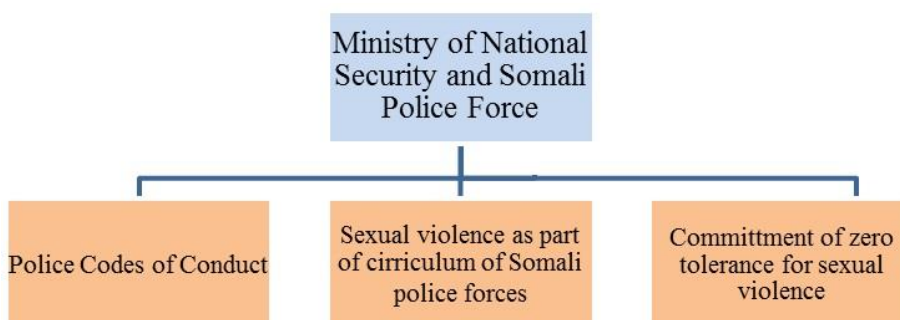
Ministry of Justice policies:



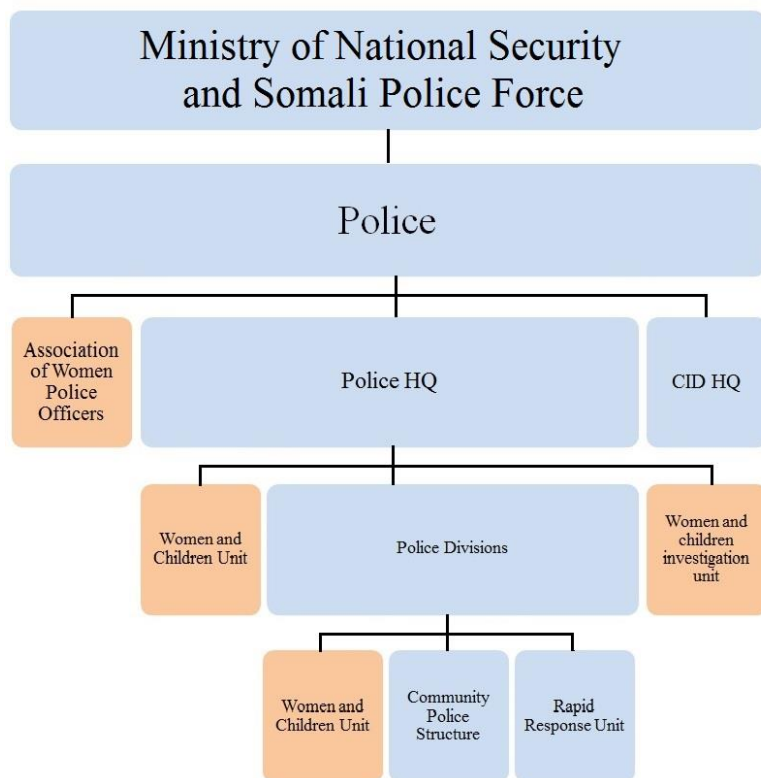
Ministry of Justice bodies:



Ministry of National Security policies:



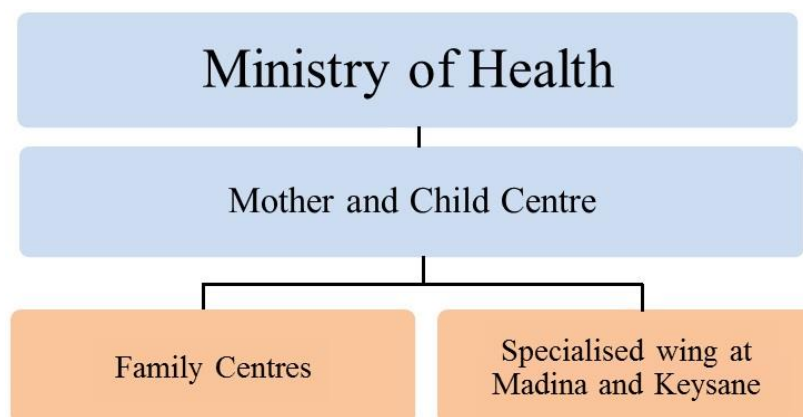
Ministry of National Security bodies:



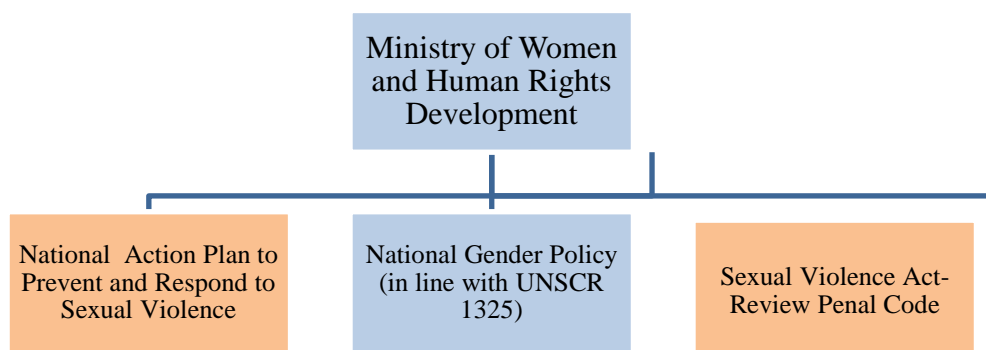
Ministry of Health policies:



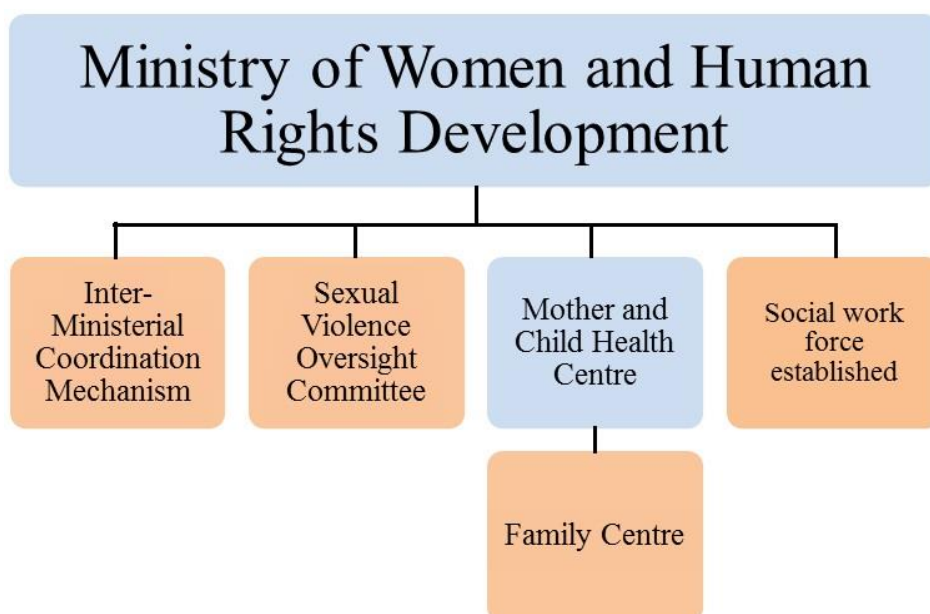
Ministry of Health bodies:



Ministry of Women policies:



Ministry of Women bodies:



Annex VI Best practices for the collection of forensic evidence from GBV survivors

Taken from: UN Women, excerpted/adapted from: Jewkes, R., 2006. “Paper for Policy Guidance: Strengthening the Health Sector Response to Sexual Violence”, Unpublished.

- Facility protocols should specify what medical forensic services are provided. Key services following a sexual assault include: treatment of injuries, **preservation of evidence**, prevention of unwanted pregnancies and sexually transmitted infections, and psychosocial support (Welch and Mason, 2007).
- **Forensic services should have minimal wait times**, be given priority services, have trained and accredited providers with a sufficient number of exams to maintain their level of proficiency in collecting evidence, documenting the assault, and addressing survivors’ emotional needs (Ledray, 1999). Whenever possible, the **exam should be conducted by a woman**, as most survivors prefer to be examined by a woman (Welch and Mason, 2007).
- Women may not choose to enter into a legal process right away, therefore, forensic exams should be made available with the **option to keep forensic evidence on file** in a sealed envelope should a woman decide to press charges at a later date.
- Medical certificates should be made available free of charge. The WHO Guidelines recommend that **medical certificates should be valid for up to 20 years**, should a woman decide to claim compensation or make a criminal complaint at a later date.
- Forensic examinations should follow guiding principles in providing health services to survivors. In particular, women may fear reprisals if entering a legal process, therefore confidentiality surrounding forensic exams should be the paramount concern. In the United States, anonymous rape tests are available nationwide to address this issue. Testing for virginity should never be a part of the forensic examination, as it violates survivor’s rights and autonomy.
- Studies done in the US showed that **watching a video** describing the forensic sexual assault exam may reduce survivors’ stress during the exam (Martin, 2007).
- **Survivors should also be provided written information** in order to reinforce information given to them during their medical exam. Some survivors may be in shock at the time of initial treatment and therefore may not fully absorb all the information shared orally by a forensic examiner. Written information may include:
 - What is involved in a physical examination process;
 - Health risks after sexual assault and the need for testing and treatment;
 - HIV risks;
 - Treatment regimens and any side effects;
 - Prevention of pregnancy;
 - Psychological impact and coping strategies;
 - Further support after sexual assault through community services and/or telephone helplines

ANNEX VII Sexual violence service providers 'one stop centre' best practice guidelines

Source: UN Women, 'Establish dedicated court-affiliated service centres for women and girl survivors of violence', <http://www.endvawnow.org/en/articles/1008-establish-dedicated-court-affiliated-service-centres-for-women-and-girl-survivors-of-violence.html?next=1009>, (accessed 24 July 2014).

Well-equipped and competently-staffed sexual violence response centres (see indicators for both descriptors below) will increase reporting of acts of violence, improve safety and conviction rates, and increase timely resolution of cases. Centres should:

- Be located in or near court buildings.
- Ensure that entrances/exits and all floors and restrooms are physically accessible for women and girls with disabilities.
- Be designed to provide comfort and assistance to victims of all ages, with:
 - Private rooms for reporting, treatment, and counselling.
 - Shower or bath facilities and clothes for after the examination.
 - A small kitchen to provide hot meals for victims.
 - Child-sized beds, chairs, and examination equipment.
 - Special equipment for child victims of sexual violence, including anatomically correct dolls and drawings, two-way mirrors, comfort toys such as teddy bears, and child-appropriate snacks and clothes.
- Designate specially-trained centre staff to provide immediate care, including:
 - A site coordinator to oversee victim treatment, to explain that treatment is in no way conditional on reporting the violence and to explain any exceptions to that policy, such as when children or vulnerable adults are victims. Site coordinators should work to ensure that re-traumatization of the victim does not occur and that victim safety and confidentiality are highest priorities. See interviewing and counselling guidelines.
 - Female medical professionals trained in efficient and compassionate collection of forensic evidence.
 - Female medical professionals to provide information and counselling on treatment for sexually-transmitted infections and HIV/AIDS.
 - Advocates who will explain the court process and the process for obtaining an order for protection.
 - Advocates who are trained to perform a danger assessment in a confidential setting with victims.
 - Law enforcement staff trained to make effective police reports and provide sensitive and thorough case investigation. *(Not necessary for community-based legal aid centres)*
 - Social service professionals trained in counselling victims of all ages.
 - Government staff to help victims apply for restitution or damages (a payment from the offender for damages related to the violence). *(This service could be provided by the legal aid provider in Somalia.)*
 - Staff who are specially trained to provide sensitive treatment of child victims of sexual violence.
- Centres should also provide follow-up care including:
 - Lawyers and paralegals who offer free legal assistance in all court proceedings.
 - Interpreters who are free of charge and who offer free translation of legal documents.
 - Victim advocates who can make informed referrals to health professionals, employment services, and housing services such as emergency shelters, transitional housing, and long-term housing and who can provide support by accompanying survivors to appointments and judicial hearings.

Annex VIII GBV Working Group Standard Referral Form

REFERRAL FORM

1	ORGANISATION FILE NUMBER	<input type="text"/>
2	LOCATION (OFFICE & CENTRE)	<input type="text"/>
3	DATE OF REFERRAL	<input type="text"/>
4	SUMMARY	OF
		CASE
	<div style="border: 1px solid black; height: 150px; width: 100%;"></div>	
5	REFERRAL TO WHICH PERSON, INSTITUTION OR ORGANISATION?	
	<div style="border: 1px solid black; height: 40px; width: 100%;"></div>	
6	PLANNED FOLLOW-UP	
	<div style="border: 1px solid black; height: 40px; width: 100%;"></div>	
7	STAFF INTERVIEWER	CONTACT NUMBER OF INTERVIEWER
	<div style="border: 1px solid black; height: 20px; width: 100%;"></div>	<div style="border: 1px solid black; height: 20px; width: 100%;"></div>

SIGN: _____

Consent given by survivor before making a referral? ☐ YES ☐ NO

Acknowledgements

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- Association of Somali Women Lawyers (ASWL)
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- The Elman Centre
- Coalition of Grassroots Women Organisations (COGWO)
- Puntland Women Lawyers Association (PUWLA)
- Puntland Legal Aid Centre (PLAC)
- Puntland State University legal aid clinic
- Somaliland Women Lawyers Association (SWLA)
- Somaliland Bar Association
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- Amoud University Legal Clinic
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- Muhiyadiin Mohamed, Somaliland Legal Aid Coordination Unit
- Simon Ridley, former UNDP Somalia Access to Justice
- Victoria Nwogu, UNDP Somalia Access to Justice
- Werner Krull, UNODC consultant and drafter of Legal Aid Bill for Somaliland

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- ^{lix} Interview with former UNFPA Sierra Leone staff, 1 October 2014.
- ⁱ UNDP Somalia, 'C2 Annual Progress Report, 2013, p 2.
- ^{li} Irin News, 'Stiffer penalties, formal justice to curb rape in Somaliland', 28 May 2013, <http://www.irinnews.org/printreport.aspx?reportid=98116>, (accessed 27 June 2014)
- ^{lii} Eg, B. Dahir, 'Rape on the rise in Somaliland region as perpetrators receive leniency', Sabahi, 21 August 2013, http://sabahionline.com/en_GB/articles/hoa/articles/features/2013/08/21/feature-02, (accessed 4 January 2014); A. Guled, 'Rapes On Rise In Somaliland, Activists Say', Huffington Post, 5 December 2013, http://www.huffingtonpost.com/2013/05/12/rapes-on-rise-in-somalila_0_n_3262633.html, (accessed 5 February 2014).
- ^{liii} 'Prosecution of Rape in Somaliland', provided by local partners- origin unclear, p 14.
- ^{liv} Ibtisam, 'Baahi-Koob Centre; formally Sexual Assault Referral Centre', 14 September 2-12, <http://ibtisam.wordpress.com/2012/09/14/baah-koob-centre-formally-sexual-assault-referral-centre/>, (accessed 5 February 2014)
- ^{lv} Irin News, 'Stiffer penalties, formal justice to curb rape in Somaliland', 28 May 2013, <http://www.irinnews.org/printreport.aspx?reportid=98116>, (accessed 27 June 2014)
- ^{lvi} Above n 13
- ^{lvii} Interview with member of the Somaliland Bar Association, 9 June 2014.
- ^{lviii} These figures are taken from a baseline assessment of the Somaliland judiciary conducted by the UNDP in 2012.
- ^{lix} UN News Centre, Somaliland: First Women Lawyers Association Opens With UN Help, 24 July 2008, <http://www.unpo.org/article/8436> (accessed 5 January 2014); UNDP, 'Somaliland's first female National Deputy Prosecutor', <http://www.so.undp.org/content/somalia/en/home/ourwork/democraticgovernance/successstories/Somaliland/>
- ^{lx} UNDP, 'Somaliland's first female National Deputy Prosecutor', May 2014, <http://www.so.undp.org/content/somalia/en/home/ourwork/democraticgovernance/successstories/Somaliland/>
- ^{lxi} As explained by the then acting Attorney General, 'A perpetrator may be sentenced to five years. He may stay in prison for two-and-a-half years and later he may apply to buy the remaining [time]...'; however he stated that

the practice of ‘buying’ time ended in 2013: Y. Hasan, ‘Somaliland: “Interference of Traditional Law in Rape Cases now Illegal”’, Somaliland Sun, 30 September 2013, <http://www.somalilandsun.com/index.php/component/content/article/3870-somaliland-interference-of-traditional-law-in-rape-cases-now-illegal-> (accessed 27 June 2014).

^{lxii} This was stated by a Somali blogger and commentator with the avatar ‘Ibtisam’, writing an article with the claimed permission of Baahi-Koob: ‘Baahi-Koob Centre; formally Sexual Assault Referral Centre’, 14 September 2012, <http://ibtisam.wordpress.com/2013/08/26/hibf-sexual-violence-and-rape-somaliland/>, (accessed 27 June 2014)

^{lxiii} UNICEF South Africa, ‘Thuthuzela Care Centres’, http://www.unicef.org/southafrica/hiv_aids_998.html.

^{lxiv} UNDP, Assessment of Development Results: Evaluation of UNDP Contribution’.