

# Access to Justice Challenges: Cross-Country Comparison

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*Across 36 countries, a slim majority (53 percent) of Africans express confidence in the courts, but in 10 countries, 40 percent or fewer trust the courts. One in three believe that "most" or "all" judges and magistrates engage in corruption. Afrobarometer, 2017.*

## Introduction

Whatever the degree of differences in the delivery of services in the formal justice systems of Cameroon, Ethiopia, Sierra Leone, and Zanzibar, the challenges trend around common themes. These include excessive delays in handling both civil and criminal cases, corruption through political interference, influence-peddling, or the soliciting of bribes by low-level court administrative staff.

Limited access to services for much of the population, particularly legal assistance, is also a typical experience across the continent, with the absence of remedies for handling common disputes, and the likelihood that judgments are of poor quality.

These shortcomings are a function of stretched national budgets, which are usually small even as the wage bill for civil servants may take a notable slice. They usually reflect:

- A shortage of judges, prosecutors, public defenders, and police and their lack of presence outside of urban centers
- Poor training of judges, clerical staff and lack of coordination with other sector actors, as well as inadequate compensation for all
- Shortage of lawyers—in both the public and private sectors
- Inadequate equipment and infrastructure, and lack of basic materials (such as paper, ink, and office equipment)
- Inadequate and often inconsistent legal frameworks (including failure to define the

jurisdictions in countries with plural legal systems)

- Judges lack of access to information on laws and higher court decisions and their incomplete understanding of alternative systems and
- Complex court proceedings, whether written or oral, and their conduct in languages not understood by many African citizens.

In Cameroon, general impediments include low salaries and nonpayment to judicial authorities and lawyers, inaccessible services, and delays in the delivery of rulings. Some specific barriers to women and children are socio-economic, but institutional discrimination also still exists.

In Ethiopia, they include weak public perception and practice of courts and judicial processes, lack of courtroom facilities and limited human resources. Gaps in institutionalizing alternative dispute resolution are also prevalent, along with limitations in the provision and coordination of legal aid and legal literacy services.

People in Sierra Leone report especially frustrating experiences with the formal legal system and women in particular face high barriers in both customary and common law systems, including inability to afford legal representation, little knowledge of their rights or understanding of legal procedures.

In Zanzibar, leading grievances with the system that respondents to the survey expressed were

issues related to divorce and domestic disputes, property issues, labor issues, and others. Domestic

and sexual violence, though reported less as a source of community trauma, were still important.

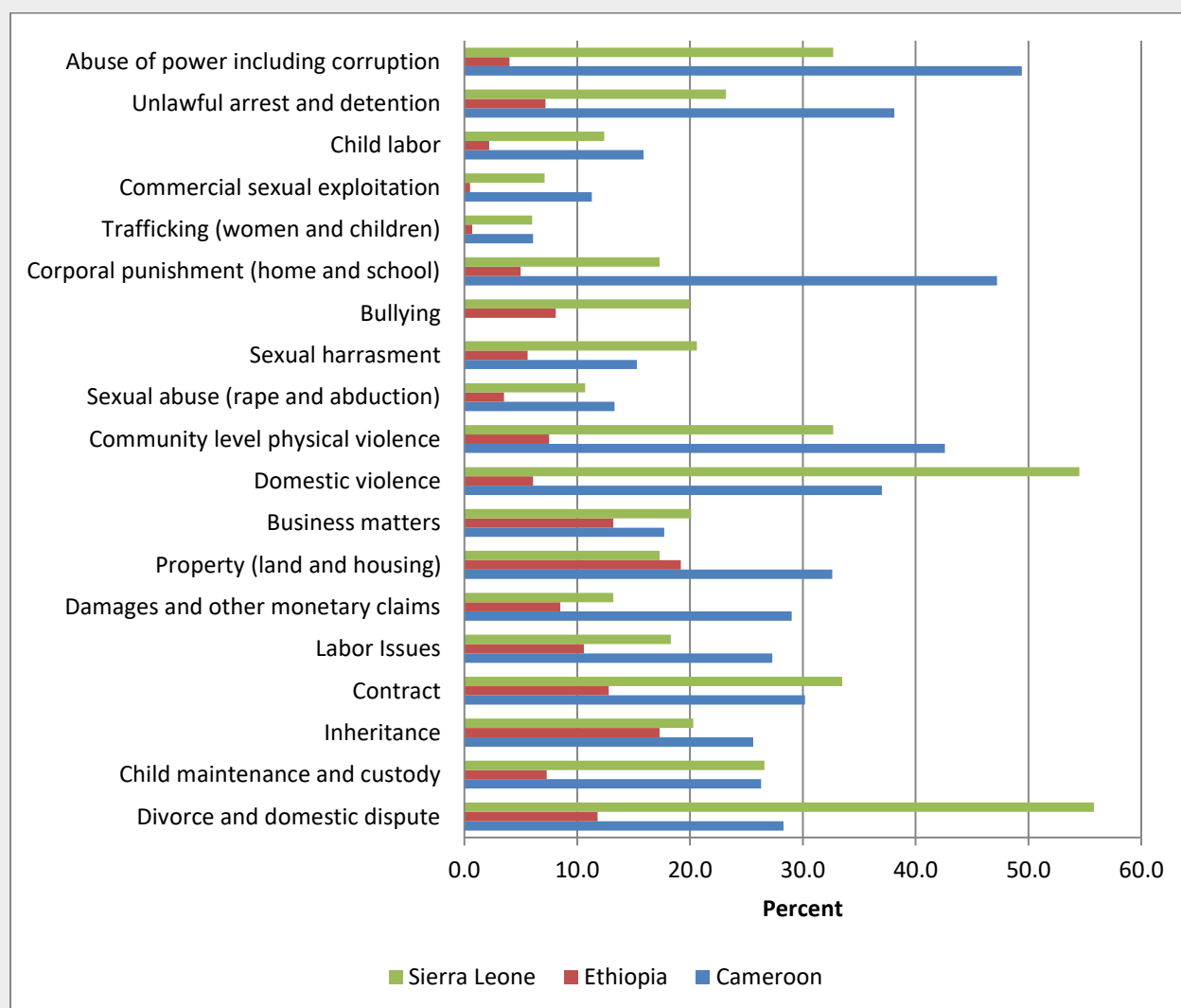
## Cross-Country Comparison on Barriers to Access Justice

### Examination of legal issues

From the household surveys it is evident that respondents from all four jurisdictions have encountered the entire range of legal issues and grievances identified in the desk review. Figure 5 shows the prevalence of each issue within each country, as well as providing cross-country comparisons.

It is clear that Cameroon and Sierra Leone reported higher volumes of legal issues than Ethiopia. This could be attributed to the Ethiopian government's commitment to harmonize basic laws with international standards. It reinforces that Ethiopia's legal and policy framework is conducive to protecting the rights of the vulnerable.

Figure 5 | Legal Issues Reported by Households

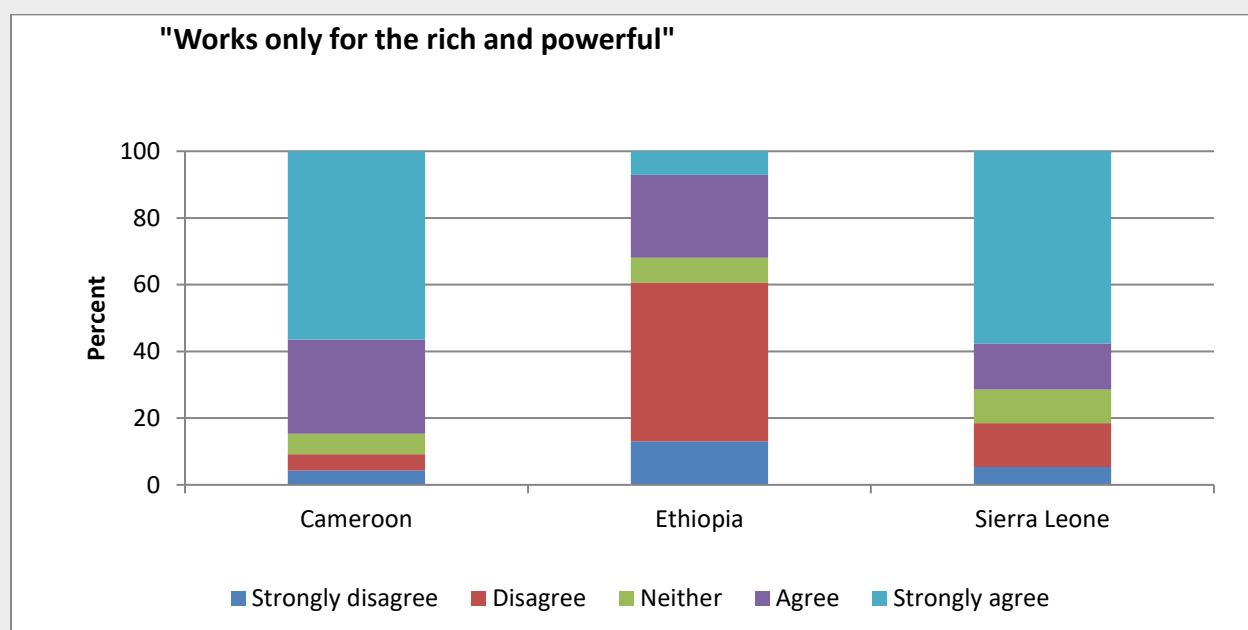


Furthermore, there is greater similarity between Cameroon and Sierra Leone on the frequency of the type of legal issues reported. In both countries, a high percentage of respondents cited abuse of power (corruption), domestic violence, and community level physical violence as legal issues. For Sierra Leone a high percentage also reported issues with contract and divorce/domestic disputes. In Cameroon, a high percentage cited issues such as unlawful arrest and detention, corporal punishment (home and school), and property as legal issues encountered. Again, an important factor here is that Cameroon and Sierra Leone continue to face certain obstacles, particularly political instability, that it is preventing

them from transitioning to a fully democratic country, and thus constitutional rights are not being entrenched into society's regular practices.

For instance, the results produce telling differences in how households perceive fairness in the justice system—specifically that it works for the rich and powerful. For both Cameroon and Sierra Leone, the dominant light blue represents a strong agreement with the perception that the justice system works only for the rich and powerful. Whereas the dominant red in Ethiopia's bar represents disagreement with this statement. Overwhelmingly Ethiopians' overall perception of their justice system is positive.

**Figure 6 | Perception of Fairness of the Judicial System—Households**



Looking at reported legal issues in Ethiopia, less than 20 percent of households cited encountering the legal issues identified by the desk review. The most common one encountered by Ethiopians was

property (land/housing) and inheritance. Less than 10 percent of respondents reported encountering corruption and community level violence.

### Evaluation of the Court System

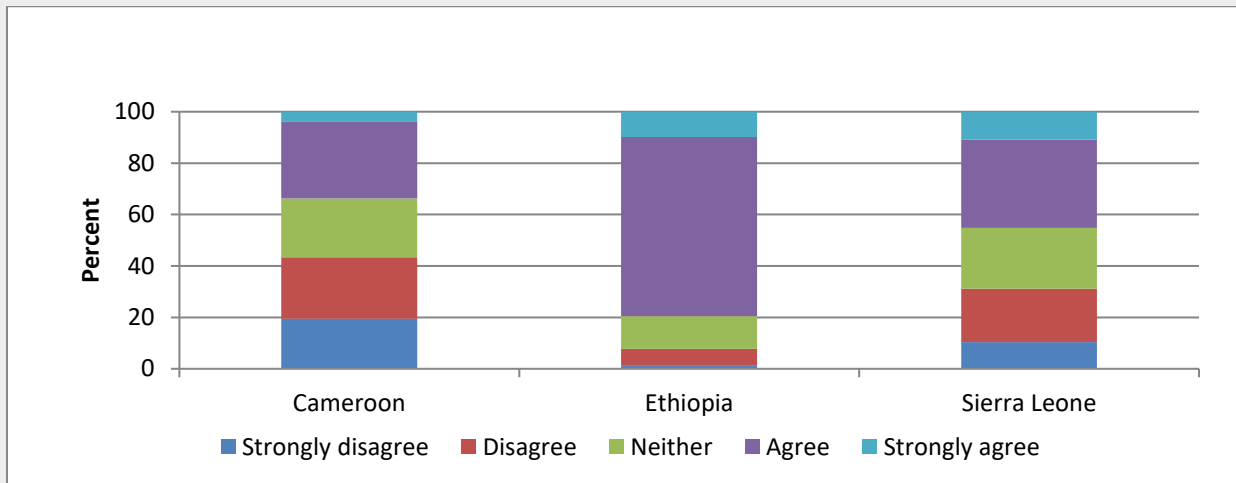
Also examined is the household perception of respondents across the three countries on improvements on the court system. As demonstrated in the graph below, most Ethiopians

agree (69.7 percent) their court system has improved. In Sierra Leone, respondents lean more toward agreeing (34.4 percent), but a substantial number are indifferent (23.7 percent). As for

Cameroon, just over 40 percent strongly disagree or disagree that the court system has improved, while 22.9 percent are indifferent. Given that a

majority of Cameroonians distrust the justice system as a result of corruption and discrimination, that result is unsurprising.

**Figure 7 |** Perception of Improvements in the Court System—Households

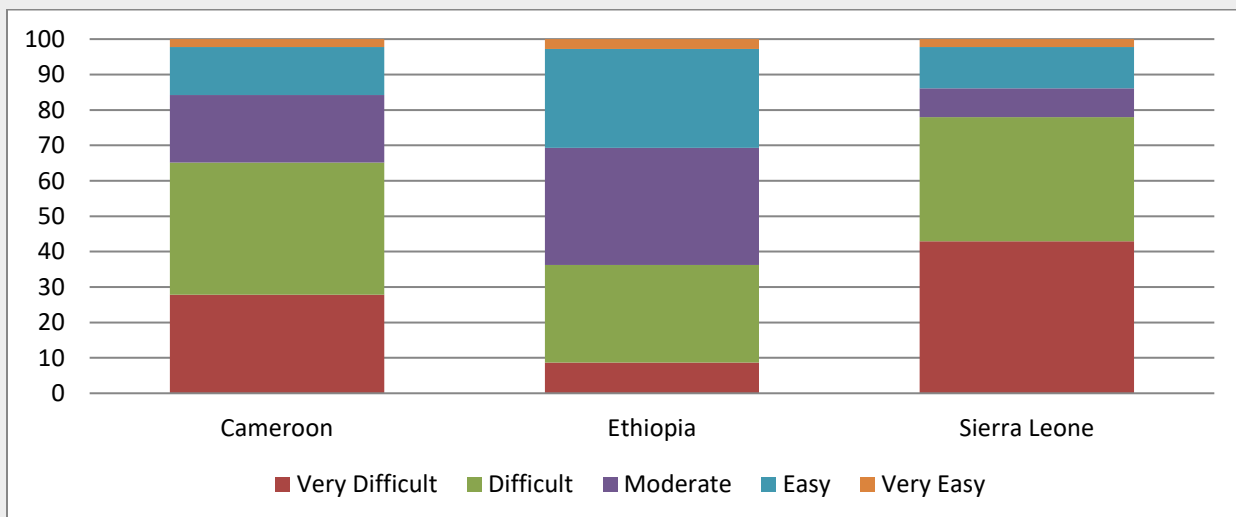


Next, views were analyzed on the degree of accessibility to formal courts, social/local courts, and law enforcement agencies. The results from the household perceptions questions align with those of accessibility.

In Ethiopia, respondents responded favorably on the perception of fairness in the justice system and court system overall. Most households found access to the formal courts moderate (33.1

percent), while 27.9 percent found it easy, and 27.5 percent said it was difficult. However, in social and local courts, accessibility was easy for 52.1 percent of households, moderate for 28.8 percent, and difficult for 11.5 percent. Half of the household respondents felt accessibility to law enforcement agencies was easy, while 22.3 percent found accessibility moderate, and 17.6 percent said it was difficult.

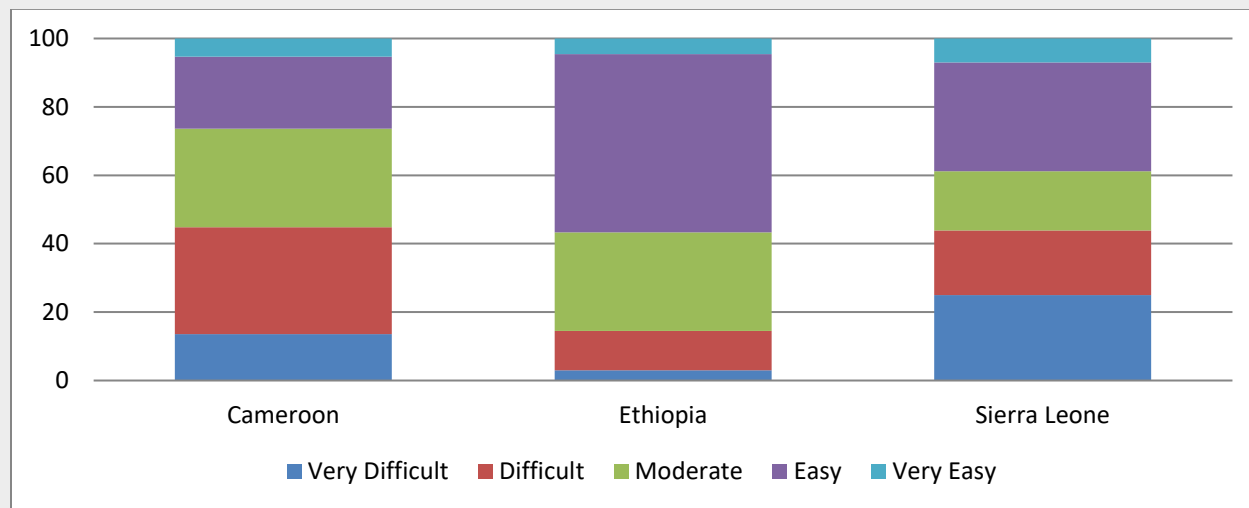
**Figure 8 |** Degree of Accessibility to Formal Courts—Households



In Cameroon, households were much more divided about accessibility to courts and law enforcement. Most respondents found access to formal courts either very difficult (27.8 percent) or difficult (37.3) percent. They were much more divided on accessibility to social/local courts, with 13.6

percent describing it as very difficult, 31.2 percent difficult, 28.8 percent moderate and 21.1 percent easy. Similarly, 18.7 percent found accessibility to law enforcement to be difficult, 21.6 percent moderate, 32.6 percent easy, and 17.6 percent very easy.

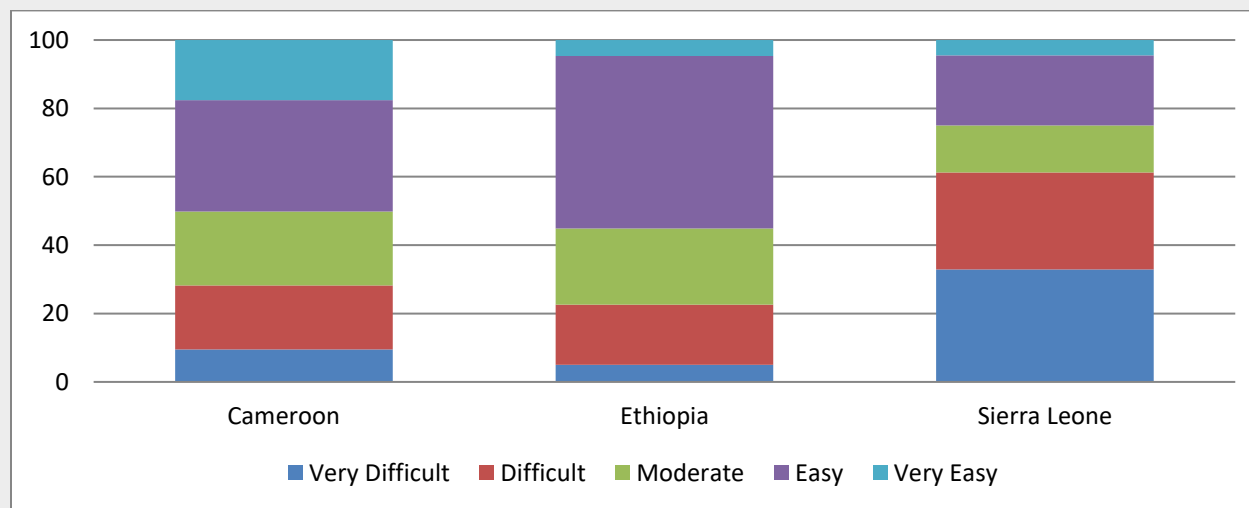
**Figure 9 | Degree of Accessibility to Social/Local Courts—Households**



In Sierra Leone, perceptions of accessibility between the formal courts and social/local courts vary greatly. Access to formal courts was seen as very difficult or difficult by 78 percent of households found access to formal courts either very difficult (42.9 percent) or difficult (35.1 percent). Views were split on the accessibility of

social/local courts: 25 percent found it very difficult, 18.9 percent difficult, 17.3 percent moderate, and 31.8 percent easy. On access to law enforcement agencies, 32.9 percent of households found it very difficult 28.4 percent difficult. However, 13.7 percent were indifferent, and 20.5 percent regarded accessibility as easy.

**Figure 10 | Accessibility to Law Enforcement Agencies—Households**



## Barriers to Justice

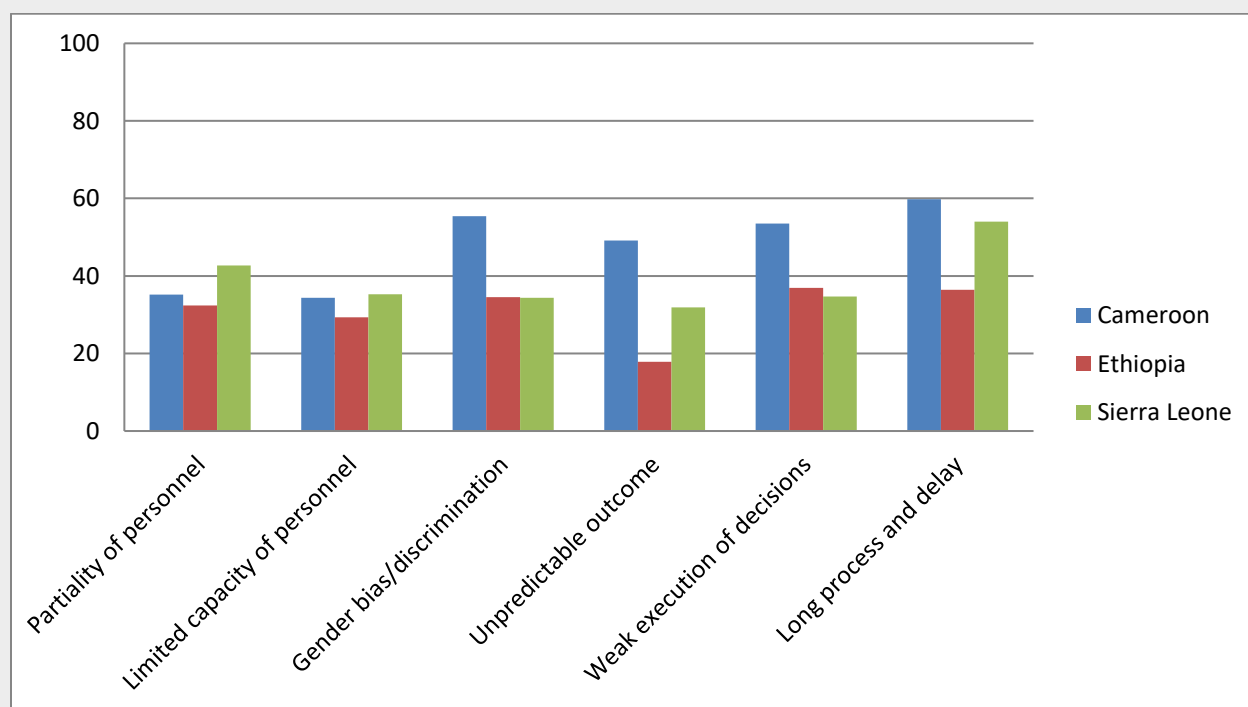
This section examines the various barriers to accessing justice that vulnerable groups face. Commonalities and differences across the three countries are identified, and the data is used to inform recommendations and policy directions.

As Table 1 in the introduction identified, there are numerous barriers vulnerable groups face when trying to access justice. The data revealed many commonalities across the three countries, but certain barriers are more widespread than others. The highlighted barriers in Table 1 are those that were identified by less than 50 percent of those surveyed. While not categorized as a “serious barrier” it should be noted that some were still considered a strong barrier to justice by just under

half of the households in Cameroon or Sierra Leone, such as the barriers of ‘complex of procedure’ and ‘incompetence.’ However, non-serious barriers are intrinsically related to the barriers ‘lack of information’ and ‘access to legal aid.’ Thus, all the barriers are interconnected and cannot be viewed or resolved in isolation.

As seen below, households in Ethiopia and Sierra Leone do not see serious barriers to access informal justice mechanisms. However, perceptions for some barriers are notably distinct in Cameroon. More than half the respondents in Cameroon regarded gender bias/discrimination, weak execution of decisions, and long process and delay as serious issues.

Figure 11 | Barriers to Informal Justice Mechanisms—Households



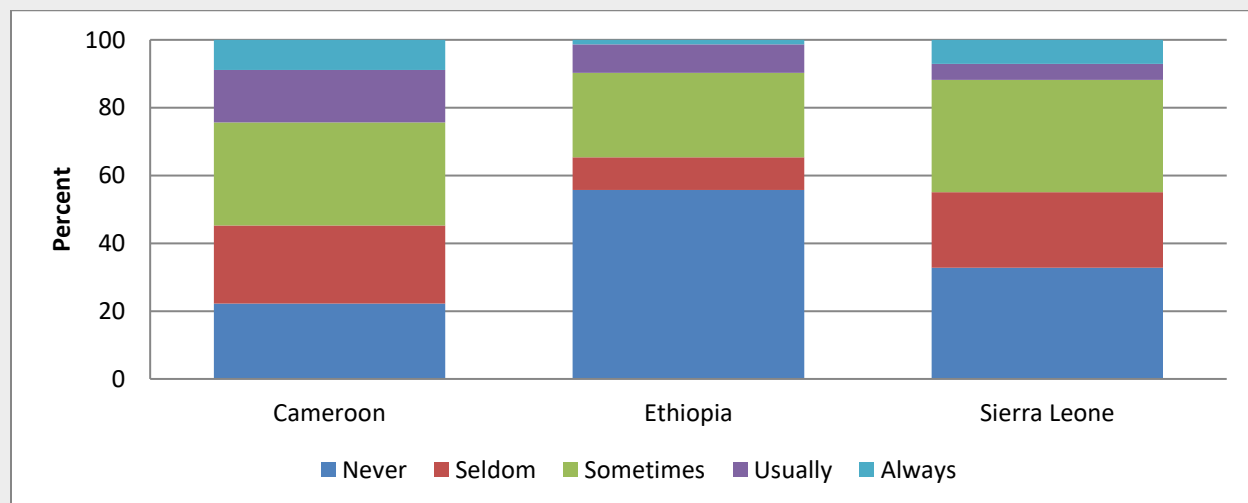
At first glance of data traditional/alternative justice mechanisms, it is apparent that these are much less used. More than half the respondents in Ethiopia and Sierra Leone had either never used or seldom use traditional/alternative justice mechanisms. Thus, while there may be fewer barriers to access, they likely are insufficient or lack the authority needed to resolve many legal issues.

However, in Cameroon, more than half report having turned to these alternatives to the court system. Of them, 30.3 percent reported doing so sometimes, 15.5 percent usually, and 8.9 percent said they always seek out traditional/alternative justice mechanisms to resolve legal issues. A significant factor in this is that most respondents in Cameroon said they no longer have sufficient confidence in the ability of the judiciary to deliver justice fairly and in an independent way. Informal

and traditional justice mechanisms benefit from greater public trust. That contrasts with Ethiopia, where recent judicial reforms clearly have improved public perception: the household survey

found 59.2 percent of men and 68 percent of women were not frequent users of informal justice mechanisms.

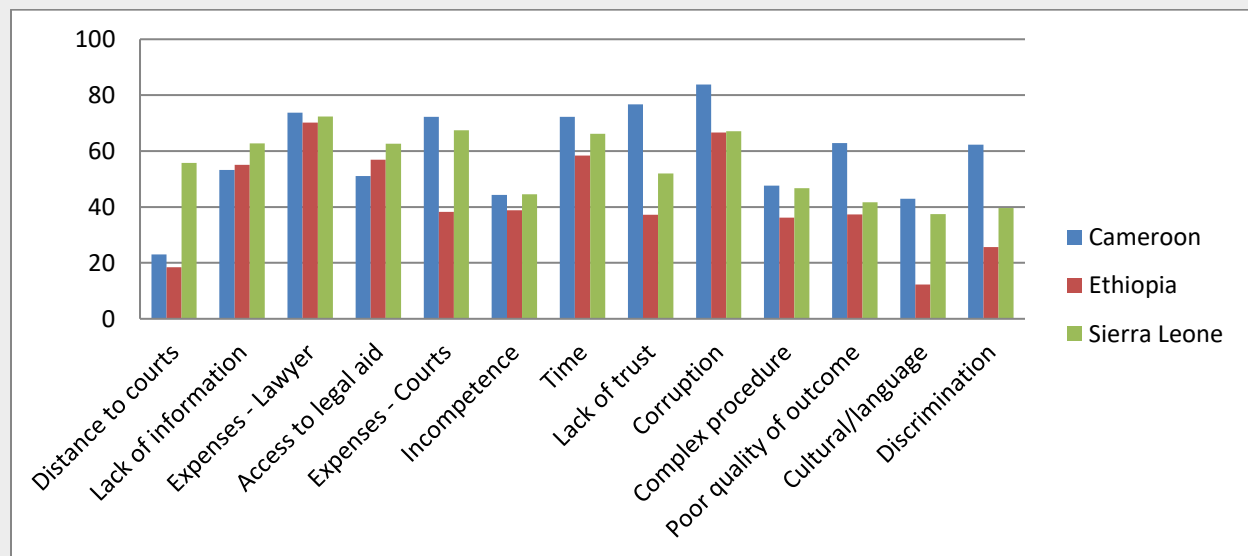
**Figure 12 |** Households Using Traditional/Alternative Justice Mechanisms



The figure below shows household perception of the 13 identified barriers to access formal justice mechanisms. Analysis of survey data from each country confirms that people in vulnerable groups have experienced them all, but with variable degree of seriousness in each country. Clearly, the households in all three countries regard formal justice mechanisms as burdensome than non-

formal/traditional and social justice mechanisms. Therefore, since over half the surveyed households from each country regard most of the 13 barriers as serious, significant failures exist in the capability of the formal justice system to meet the needs of the population for legal services. The core barriers that SSA faces are examined in greater detail in the next section.

**Figure 13 |** Household Perception of Barriers to Formal Justice Mechanisms



## Core Barriers for Sub-Saharan Africa

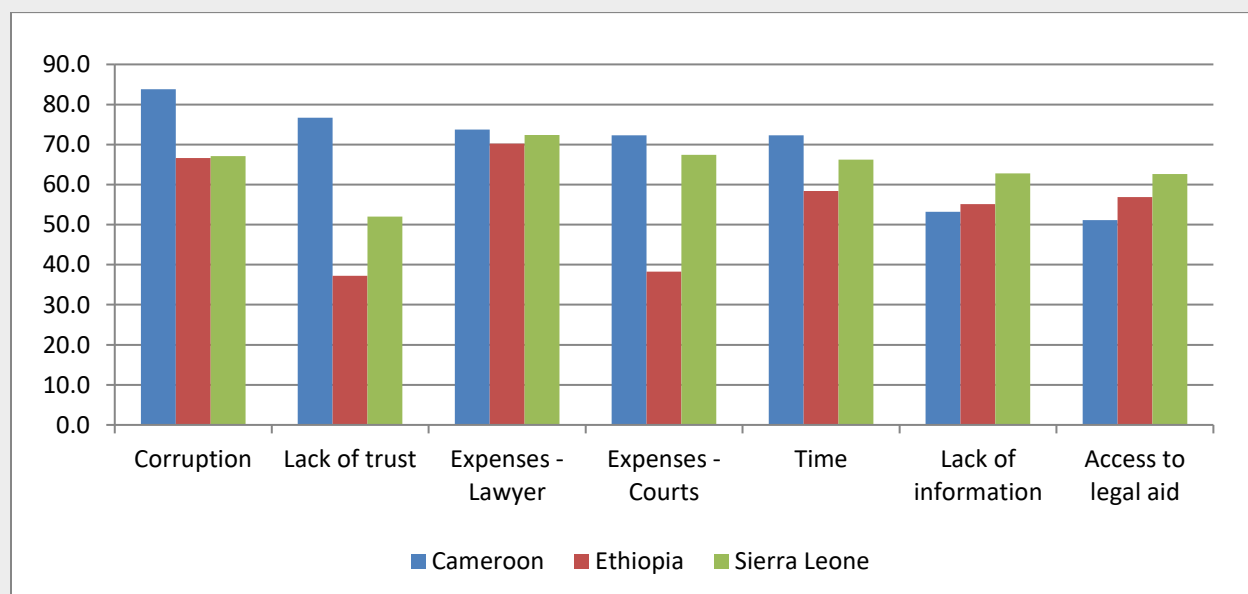
Table 2 in the introduction, as noted, isolates the serious barriers identified by households from the three countries. The barriers are categorized as serious, moderate and non-serious barriers. Serious barriers are those that 50 percent or more of those surveyed in each country see as significant. The highlighted data illustrates that in many cases respondents in one country (usually Ethiopia) ranked these barriers much lower than in the others. In this case, those with at least two highlights were not identified as serious but as moderate barriers.

Significant gains have been made in Ethiopia in ensuring access to justice of vulnerable groups, due to successive multifaceted reform programs implemented by the government. In particular, Ethiopians acknowledge the improvements in accessing the court system, and see courts as fair and efficient.

It is interesting to note the three countries all share similar serious barriers. These are: lawyer expenses, corruption, and time/delay in the delivery of justice. This is followed by absence or limited accessibility of legal aid services and court expenses in all except Ethiopia. Left unchecked, serious barriers can result in vulnerable groups feeling they are experiencing more barriers. For instance, the behavior of judicial staff evidently points to a high level of corruption (alleged or real), which has the effect of causing discrimination and poor-quality decisions, all of which may dent the confidence of users in the system. All these barriers are interdependent.

The data showed vulnerable groups of the three countries encountered the same serious barriers when attempting to access justice. The seven serious barriers that will be examined in greater detail include: corruption, lack of trust, expenses (lawyer/courts), time, lack of information, and access to legal aid.

Figure 14 | Cross-Country Analysis of Barriers



Source: NTF surveys

One prominent barrier in Figure 14 above is lawyer expenses. In all three countries around 70 percent of respondents viewed this as a serious barrier. While Ethiopia's justice system has evidently made

much progress, it seems that most of the population feel the costs of hiring a lawyer are too high. While general costs of justice—such as court expenses—are seen as affordable, lawyer



expenses along with the near absence of *pro bono* services are regarded as a downside.

With 83.8 percent of households ranking corruption as a serious barrier in Cameroon, it is clear that its real or perceived effects are a significant obstacle for the vulnerable seeking to access the justice system. Yet, corruption is still ranked as serious by households in Sierra Leone (67.1 percent) and Ethiopia (66.6 percent). For a justice system to succeed, its users must believe it can and will administer justice fairly and independently.

The fundamental challenge of institutional strengthening in Africa is how to help organizations resolve service deficiencies without substantial increases in their budgetary base and sustaining reform efforts. Core public sector reforms within formal justice institutions are a critical necessity. These include introducing performance or results-based budgeting including the monitoring of funds, human resources reform (for example selection and promotion of personnel) and automation of court administration and case management (which may often include information technology systems and training).