

COVER PAGE

**ACCESS TO JUSTICE AND HUMAN RIGHTS: BRIDGING THE JUSTICE GAP:
ENSURING ACCESS TO JUSTICE AND HUMAN RIGHTS PROTECTION IN
CONFLICT-AFFECTED AND ECONOMICALLY VULNERABLE COMMUNITIES IN
AFRICA**

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ABSTRACT

Across many African contexts, access to justice is increasingly constrained by the combined pressures of violent conflict, insecurity, and economic instability. Civilians are often caught between armed groups, counterterrorism operations, political instability, and fragile or collapsing justice systems. In these environments, constitutional guarantees and international human rights protections though widely adopted under domestic law, the African Charter on Human and Peoples' Rights, and international legal frameworks remain difficult to enforce. In addition, insecurity, institutional weakness, and economic hardship converge to limit individuals' ability to seek remedies, enforce rights, and hold both state and non-state actors accountable.

This paper examines the legal mechanisms necessary to ensure meaningful access to justice under these conditions. It argues that the primary challenge lies not in the absence of legal frameworks, but in the inability of justice systems to function effectively amid disruption. Courts frequently become inaccessible or inoperative, legal processes prohibitively expensive, and oversight institutions too weak to ensure accountability. Displacement further disrupts legal identity systems, while fear of retaliation discourages victims from reporting abuses, thereby deepening exclusion from justice processes.

The paper further explores the dual role of military actors. While military interventions have sometimes restored territorial control and supported civilian protection, they have also, in certain instances, contributed to human rights violations, including excessive use of force, attacks on civilian infrastructure, shrinking humanitarian space, and weakened public trust. These dynamics illustrate that the core challenge is not simply the absence of legal frameworks, but the conditions such as insecurity, institutional fragility, and economic hardship that inhibit their effective implementation. The paper highlights the role of mobile and localized justice delivery, strengthened legal aid systems, and independent oversight of security actors. It also underscores the importance of integrating informal and customary justice systems within human rights standards, protecting legal identity systems, and embedding enforceable human rights and humanitarian law obligations within security operations.

Ultimately, the paper contends that effective access to justice requires context-sensitive solutions that reflect the lived realities of affected populations. By prioritizing accessibility, resilience, and accountability, legal mechanisms can bridge the gap between formal rights and practical access, ensuring that justice remains attainable even within the most fragile and economically vulnerable settings. Emphasis will be made on the need for stronger oversight of security operations, improved legal aid systems, and more accessible, community-based justice mechanisms for vulnerable populations. To this end, it proposes a Community-Centered Justice Framework aimed at strengthening accountability, enhancing civilian protection, and bridging the gap between legal guarantees and real access to justice in fragile and conflict-affected settings.

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1. INTRODUCTION

1.1 Context and Rationale

Access to justice is widely recognized as a cornerstone of the rule of law and an essential element in the protection of human rights. It enables individuals to seek remedies where their rights have been violated and ensures that governments and other actors remain accountable under the law. In many African countries, however, access to justice is increasingly threatened by persistent security challenges and economic instability. Armed conflicts, terrorism, violent extremism, communal violence, and widespread poverty have created conditions in which many individuals, particularly those in vulnerable communities, struggle to obtain legal protection or effective remedies.

In Nigeria, especially in the North-East, prolonged counter-insurgency operations against Boko Haram and the Islamic State West Africa Province (ISWAP) have highlighted the difficult balance between maintaining national security and protecting fundamental human rights. While states have a legitimate duty to safeguard public safety, security operations must be conducted in accordance with constitutional guarantees, regional human rights obligations, and international humanitarian law. Similar challenges have emerged in other conflict-affected parts of Africa, where insecurity, displacement, and weak institutions continue to undermine public confidence in justice systems.

Beyond security concerns, economic hardship presents another significant obstacle to justice. High levels of poverty, limited legal aid services, displacement, inadequate judicial infrastructure, and the high cost of litigation often prevent vulnerable individuals from seeking legal redress. As a result, the existence of legal rights alone is insufficient if those rights cannot be effectively enforced. These realities raise important questions about the effectiveness of existing legal mechanisms in protecting human rights and ensuring meaningful access to justice for communities affected by conflict and economic vulnerability.

This article examines the legal mechanisms available for protecting access to justice and human rights in regions affected by security threats and economic instability. It argues that although Africa has developed a comprehensive legal framework at the international, regional, and domestic levels, significant gaps remain between legal guarantees and their practical implementation. Addressing these gaps is essential to strengthening the rule of law, promoting accountability, and protecting vulnerable populations.

1.2 Research Problem and Objectives

Despite the existence of constitutional protections, regional human rights instruments, and international legal obligations, many people living in conflict-affected and economically disadvantaged communities continue to face serious barriers in accessing justice. Weak institutions, insecurity, inadequate legal aid, prolonged judicial processes, and limited accountability during military operations often prevent victims of human rights violations from obtaining effective remedies. Consequently, the effectiveness of legal frameworks should not be

measured solely by the rights they guarantee, but by their ability to provide practical and timely access to justice.

While considerable scholarly attention has been devoted to human rights protection and security governance in Africa, relatively less emphasis has been placed on how security threats and economic instability interact to restrict access to justice. This article addresses that gap by critically examining whether existing legal mechanisms are capable of protecting human rights while ensuring access to justice in fragile and conflict-affected settings.

Accordingly, the objectives of this article are to:

1. examine the relationship between security threats, economic instability, and access to justice in Africa;
2. evaluate the effectiveness of international, regional, and domestic legal mechanisms for protecting human rights during military operations;
3. identify the institutional and socio-economic barriers limiting access to justice in conflict-affected communities; and
4. propose practical legal and policy measures for strengthening accountability and improving access to justice across affected regions.

1.3 Methodological Note

This article adopts a doctrinal legal research methodology, relying primarily on the analysis of constitutions, legislation, international and regional human rights instruments, judicial decisions, and relevant legal principles governing access to justice and the protection of human rights. The study also employs a comparative analytical approach by drawing examples from selected African jurisdictions, with particular emphasis on Nigeria's North-East, while referring to broader continental experiences where relevant.

In addition to primary legal sources, the article draws on academic literature, reports published by international and regional organizations, and publications from recognized human rights institutions to evaluate the effectiveness of existing legal mechanisms. The analysis is intended to assess not only the adequacy of the legal framework but also the practical challenges affecting its implementation in regions experiencing insecurity and economic hardship.

Access to Justice and Human Rights: Conceptual and Legal Framework

2.1 Understanding Access to Justice in Conflict and Economically Vulnerable Contexts

Access to justice has evolved beyond the traditional understanding of access to courts into a broader legal principle that guarantees individuals the ability to obtain effective remedies where their rights have been violated. Contemporary legal scholarship recognizes that justice is

meaningful only when legal institutions are accessible, impartial, affordable, and capable of delivering timely and effective remedies. Consequently, access to justice is increasingly viewed as both a procedural safeguard and a substantive human right that underpins the enjoyment of all other fundamental rights.¹

In conflict-affected and economically vulnerable contexts, however, access to justice extends beyond the formal existence of courts or legal institutions. Armed conflict, insecurity, forced displacement, poverty, and the destruction of public infrastructure often prevent affected populations from seeking legal remedies even where legal protections formally exist. As Francioni observes, the effectiveness of rights depends not merely on their legal recognition but on the practical ability of individuals to invoke and enforce them.² This distinction is particularly relevant across many African jurisdictions, where constitutional guarantees coexist with significant institutional and socio-economic barriers that impede access to justice.

The challenge is especially pronounced for vulnerable populations, including internally displaced persons, women, children, persons with disabilities, and rural communities, whose ability to access legal institutions is frequently constrained by insecurity, financial hardship, and limited legal assistance. Studies on justice systems in conflict-affected societies further demonstrate that people often resort to informal or community-based dispute resolution mechanisms when formal institutions become inaccessible or ineffective.³ While such mechanisms may improve local accessibility, they do not always provide adequate protection for internationally recognised human rights, particularly where due process and judicial independence are lacking.⁴

Accordingly, access to justice in conflict and economically vulnerable settings should be understood not merely as physical access to courts, but as the availability of effective legal mechanisms capable of protecting rights, ensuring accountability, and providing meaningful remedies irrespective of prevailing security or economic conditions.

2.2 Human Rights Protection During Military Operations

Military operations remain a legitimate means through which states protect territorial integrity and public security. Nevertheless, international law requires that such operations be conducted within the limits imposed by international human rights law and, where applicable, international humanitarian law. The existence of armed conflict or a declared state of emergency does not

¹ Francesco Francioni (ed), *Access to Justice as a Human Right* (Oxford University Press 2007).

² *ibid.*

³ Carolien Jacobs, *Justice Needs, Strategies, and Mechanisms for the Displaced: Reviewing the Evidence* (Social Science Research Council 2017).

⁴ John Mukum Mbaku, 'The Right to a Fair Trial in International Law and African Experiences' (2025) *Georgia Journal of International and Comparative Law*.

extinguish fundamental rights; rather, it places greater responsibility on states to ensure that security measures remain lawful, necessary, proportionate, and subject to effective oversight.⁵

One of the most persistent challenges in conflict settings is ensuring accountability for alleged violations committed during military operations. Investigations conducted solely within military structures often raise concerns regarding independence, impartiality, and public confidence. Claire Simmons argues that effective accountability depends not only on compliance with legal standards but also on the perception that justice is independent and credible to affected communities.⁶ In Africa, the African Commission on Human and Peoples' Rights has similarly emphasized that military courts should not undermine the right to a fair trial and should operate consistently with internationally recognised judicial guarantees.⁷

For countries confronting insurgency, including Nigeria, the challenge therefore lies in maintaining an appropriate balance between legitimate security objectives and the protection of fundamental rights. Effective human rights protection during military operations requires transparent investigations, independent judicial oversight, access to remedies for victims, and adherence to both constitutional and international legal obligations.

2.3 International Legal Framework Governing Access to Justice and Human Rights

The international legal framework protecting access to justice is founded on the principle that every individual is entitled to an effective remedy where fundamental rights have been violated. This principle is reflected in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR), and the Geneva Conventions, which collectively require states to respect due process, fair trial guarantees, and the protection of civilians during armed conflict. These instruments recognise that access to justice is indispensable to the enforcement of all other human rights and remains applicable even during periods of insecurity, subject only to narrowly defined limitations permitted under international law.

Beyond establishing substantive rights, international law imposes positive obligations on states to investigate alleged violations, prosecute perpetrators where appropriate, and provide effective remedies for victims. These obligations reinforce the principle that military necessity cannot justify impunity for serious human rights abuses or violations of international humanitarian law.

⁵ John Cerone, 'Human Dignity in the Line of Fire: The Application of International Human Rights Law During Armed Conflict, Occupation, and Peace Operations' (2006) 39 *Vanderbilt Journal of Transnational Law*.

⁶ Claire Simmons, 'Whose Perception of Justice? Real and Perceived Challenges to Military Investigations in Armed Conflict' (2021) *International Review of the Red Cross*.

⁷ Ronald Naluwairo, 'Improving the Administration of Justice by Military Courts in Africa: An Appraisal of the Jurisprudence of the African Commission on Human and Peoples' Rights' (2019) 19 *African Human Rights Law Journal* 43.

2.4 Regional and Domestic Legal Frameworks in Africa

Africa has developed one of the world's most comprehensive regional human rights systems through the African Charter on Human and Peoples' Rights and the institutions established for its implementation. The African Commission on Human and Peoples' Rights, the African Court on Human and Peoples' Rights, and sub-regional courts, particularly the ECOWAS Court of Justice, have contributed significantly to the development of jurisprudence on fair trial rights, accountability, and access to justice.⁸

At the domestic level, most African constitution guarantees fundamental rights, judicial protection, and access to courts. In Nigeria, these protections are reinforced by the Constitution of the Federal Republic of Nigeria 1999 (as amended), the Administration of Criminal Justice Act 2015, the Legal Aid Act 2011, and the National Human Rights Commission Act. Despite these legal guarantees, implementation remains inconsistent, particularly in conflict-affected and economically disadvantaged communities where insecurity, institutional weaknesses, and financial constraints continue to impede effective access to justice. The continuing challenge for African legal systems is therefore not the absence of legal norms but ensuring that existing protections are translated into meaningful remedies for those most in need.

Security Threats, Economic Instability and the Justice Gap in Africa

3.1 Security Threats and Their Impact on Access to Justice

Security threats have become one of the greatest obstacles to the administration of justice across many African states. Armed conflicts, terrorism, violent extremism, communal violence, and transnational organised crime frequently disrupt judicial institutions, restrict access to courts, and weaken public confidence in the legal system. In many conflict-affected regions, courts are destroyed or rendered inaccessible, judicial officers are displaced, and witnesses are often unwilling to testify due to fear of reprisals. Consequently, victims of human rights violations are unable to obtain effective remedies, while perpetrators frequently evade accountability.⁹

The justice deficit created by insecurity extends beyond physical destruction. Prolonged states of emergency and counter-terrorism measures may result in prolonged detention, restrictions on fair trial guarantees, and limited judicial oversight. Although international law permits certain emergency measures during periods of national crisis, such measures must remain necessary,

⁸ Ronald Naluwairo (n 7); African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) OAU Doc CAB/LEG/67/3 Rev 5

⁹ Francesco Francioni (ed), *Access to Justice as a Human Right* (Oxford University Press 2007).

proportionate, and consistent with fundamental human rights obligations. Where these safeguards are absent, insecurity not only threatens public safety but also weakens the rule of law itself.¹⁰

3.2 Economic Vulnerability as a Barrier to Justice

Economic instability significantly undermines access to justice by limiting the ability of individuals to pursue legal remedies. Poverty, unemployment, inflation, displacement, and inadequate public investment in judicial institutions often prevent vulnerable populations from accessing legal representation or navigating formal justice systems. These barriers are particularly evident in conflict-affected communities, where livelihoods have been disrupted and public services weakened.¹¹

The relationship between economic vulnerability and justice is mutually reinforcing. Communities affected by conflict often experience declining investment, reduced agricultural productivity, and deteriorating infrastructure, all of which deepen poverty while simultaneously reducing the capacity of justice institutions to function effectively. Studies on North-East Nigeria demonstrate that prolonged insurgency has generated substantial economic losses, displaced millions of people, and weakened local governance structures, thereby limiting both the supply and demand for justice services.¹² In such circumstances, access to justice becomes not merely a legal issue but also a development concern requiring coordinated institutional and socio-economic interventions.

3.3 Protecting Human Rights During Military Operations: Law and Practice

States possess the sovereign responsibility to protect their populations against terrorism, insurgency, and other security threats. However, military operations must always be conducted within the framework of international human rights law and, where applicable, international humanitarian law. Principles such as legality, necessity, proportionality, distinction, and accountability impose clear obligations on state authorities to minimise civilian harm and ensure that security measures do not undermine fundamental rights.¹³

¹⁰ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 arts 4, 9 and 14.

¹¹ United Nations Development Programme, *Strengthening the Rule of Law and Human Rights for Sustaining Peace and Fostering Development* (UNDP 2019).

¹² Eka Ikpe, 'Counting the Development Costs of the Conflict in North-Eastern Nigeria: The Economic Impact of the Boko Haram-Led Insurgency' (2017) 17 *Conflict, Security & Development* 381–409.

¹³ Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287; John Cerone, 'Human Dignity in the Line of Fire: The Application of International Human Rights Law During Armed Conflict, Occupation, and Peace Operations' (2006) 39 *Vanderbilt Journal of Transnational Law* 1447.

In practice, however, the implementation of these principles remains uneven across several African jurisdictions. Reports by international and regional human rights bodies have documented allegations of arbitrary detention, excessive use of force, enforced disappearances, and unlawful killings during counter-insurgency operations. Such violations undermine public confidence in state institutions and weaken the legitimacy of security responses. Effective protection of human rights therefore requires independent investigations, civilian oversight, judicial accountability, and accessible remedies for victims. Military effectiveness and human rights protection should be regarded as complementary rather than competing objectives, since respect for the rule of law ultimately strengthens public trust and long-term security.¹⁴

3.4 Nigeria's North-East as a Case Study

Nigeria's North-East provides a compelling illustration of the complex relationship between insecurity, economic vulnerability, and access to justice. Since the emergence of Boko Haram in 2009, the region has experienced widespread violence, mass displacement, destruction of infrastructure, and significant humanitarian challenges. Beyond the immediate human cost, the insurgency has severely disrupted judicial institutions, reduced access to legal services, and weakened public confidence in state institutions. The conflict has also imposed substantial economic costs through the destruction of livelihoods, reduced agricultural production, disrupted trade, and increased public expenditure on security.¹⁵

The Nigerian government has undertaken extensive military operations to restore security, achieving important territorial gains against insurgent groups. Nevertheless, reports of arbitrary detention, civilian casualties, prolonged detention without trial, and limited access to effective remedies have continued to generate legal and human rights concerns. At the same time, humanitarian conditions, particularly among internally displaced persons, have created additional barriers to accessing justice due to poverty, displacement, and inadequate legal assistance.¹⁶

The experience of North-East Nigeria demonstrates that restoring security alone is insufficient to guarantee justice. Sustainable peace requires justice institutions capable of operating effectively

¹⁴ Ronald Naluwairo, 'Improving the Administration of Justice by Military Courts in Africa: An Appraisal of the Jurisprudence of the African Commission on Human and Peoples' Rights' (2019) 19 *African Human Rights Law Journal* 43; Claire Simmons, 'Whose Perception of Justice? Real and Perceived Challenges to Military Investigations in Armed Conflict' (2021) *International Review of the Red Cross*.

¹⁵ William Avis, *War Economy in North East Nigeria* (K4D Helpdesk Report 734, Institute of Development Studies 2020); Eka Ikpe (n 4).

¹⁶ World Bank, *North-East Nigeria Recovery and Peace Building Assessment* (World Bank 2016); Human Rights Watch, *World Report* (Human Rights Watch, annual editions).

during conflict, protecting fundamental rights, investigating alleged abuses, and providing meaningful remedies for affected communities. It is only through this integrated approach that security objectives and human rights obligations can be reconciled within the framework of the rule of law.

Strengthening Legal Mechanisms for Access to Justice and Human Rights Protection

4.1 Domestic Justice Institutions and Their Effectiveness

Domestic justice institutions remain the primary mechanism through which states fulfil their obligation to protect human rights and provide remedies for violations. Courts, human rights commissions, legal aid institutions, and accountability bodies serve as the first line of protection for individuals seeking justice. However, in regions affected by insecurity and economic instability, the effectiveness of these institutions is often undermined by structural weaknesses, limited resources, and operational challenges.

An effective justice system requires more than the formal existence of courts and legal procedures. It requires judicial independence, accessibility, timely resolution of disputes, adequate funding, and the ability to enforce decisions. According to Cappelletti and Garth, access to justice involves not only the right to approach legal institutions but also the practical ability of individuals to obtain fair and effective remedies.¹⁷ This distinction is particularly important in conflict-affected communities where legal institutions may exist in theory but remain inaccessible in practice due to insecurity, displacement, poverty, and inadequate infrastructure.

In Nigeria, the judiciary remains constitutionally recognized as an independent institution responsible for interpreting laws and protecting fundamental rights. The Constitution of the Federal Republic of Nigeria 1999 (as amended) guarantees access to courts and fair hearing rights under sections 6 and 36. Similarly, the Legal Aid Council of Nigeria was established to provide legal assistance to indigent persons who may otherwise be unable to access justice because of financial constraints.¹⁸ However, significant gaps remain between these legal guarantees and their practical implementation, particularly in rural and conflict-affected areas.

The National Human Rights Commission (NHRC) represents another important domestic mechanism for addressing human rights violations. Through investigation, monitoring, and advocacy functions, the Commission plays a significant role in promoting accountability. Nevertheless, scholars have noted that national human rights institutions across Africa often face

¹⁷ Mauro Cappelletti and Bryant Garth (eds), *Access to Justice: A World Survey* (Sijthoff and Noordhoff 1978).

¹⁸ Legal Aid Council of Nigeria Act 2011.

challenges relating to funding, political independence, and enforcement capacity, which may limit their ability to provide effective remedies.¹⁹

The situation is more complex in areas affected by insurgency and military operations, such as Nigeria's North-East. In these environments, courts may struggle to operate effectively because of insecurity, while victims of alleged human rights violations may face difficulties reporting abuses or participating in legal proceedings. The result is a justice gap where violations may occur without adequate investigation, prosecution, or compensation.

Therefore, strengthening domestic justice institutions requires more than establishing additional legal frameworks. It requires investment in judicial capacity, improved protection for justice actors, expanded legal aid services, and mechanisms that allow institutions to operate effectively even during periods of insecurity. Domestic institutions remain central to ensuring accountability; however, their legitimacy depends on their ability to deliver justice not only in stable environments but also in communities where protection is most urgently needed.

4.2 The Role of Regional and International Human Rights Mechanisms

Regional and international human rights mechanisms play an important complementary role in strengthening access to justice, particularly where domestic institutions are unable or unwilling to provide effective remedies. In conflict-affected and economically vulnerable communities, these mechanisms provide alternative avenues for accountability, establish legal standards for state conduct, and reinforce the obligation of states to protect human rights. However, their effectiveness depends largely on issues of accessibility, enforcement, and state compliance.

At the regional level, the African human rights system provides one of the most significant frameworks for addressing human rights violations across the continent. The African Charter on Human and Peoples' Rights establishes a broad range of civil, political, economic, and social rights, while also recognising obligations relating to fair hearing, protection of property, and the right to have rights determined by competent institutions.²⁰ The African Commission on Human and Peoples' Rights and the African Court on Human and Peoples' Rights were created to monitor compliance with these obligations and provide mechanisms through which individuals and communities may seek redress.

The African Commission has played a particularly important role in developing human rights jurisprudence in situations involving conflict, displacement, and state responsibility. For example, in *Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights v Nigeria*, the Commission held that Nigeria had violated several provisions of the African Charter

¹⁹ Rachel Murray, *The African Commission on Human and Peoples' Rights and International Law* (Hart Publishing 2000).

²⁰ African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) OAU Doc CAB/LEG/67/3 Rev 5.

by failing to protect communities affected by environmental and human rights abuses.²¹ The decision demonstrated that states may be held responsible not only for direct violations but also for failing to protect individuals from harm caused by non-state actors. This principle is highly relevant to conflict-affected communities where insecurity often creates conditions in which rights violations occur without effective state intervention.

The African Court on Human and Peoples' Rights has further expanded access to justice by providing binding judgments against states that have accepted its jurisdiction. However, its effectiveness remains limited by challenges relating to state cooperation, enforcement of judgments, and restricted access for individuals. Viljoen argues that while African regional institutions have developed important legal standards, the impact of these mechanisms is constrained by political considerations and weak implementation at the domestic level.²²

Sub-regional mechanisms have also contributed significantly to human rights protection. The ECOWAS Community Court of Justice, particularly within West Africa, has emerged as an important avenue for individuals seeking remedies where domestic systems have failed. Unlike many international courts, the ECOWAS Court allows individuals to bring human rights claims directly against member states without requiring exhaustion of domestic remedies.²³ This has made it particularly relevant for victims seeking justice in countries where domestic institutions may be ineffective or inaccessible.

At the international level, mechanisms established under the United Nations human rights system, including treaty bodies, special rapporteurs, and investigative mechanisms, provide additional oversight and accountability. These bodies help document violations, clarify legal obligations, and pressure states to comply with international standards. However, similar to regional mechanisms, their effectiveness is often limited by the absence of direct enforcement powers and reliance on state cooperation.

Therefore, while regional and international human rights mechanisms provide essential safeguards for communities affected by insecurity and economic instability, they should not be viewed as replacements for domestic justice institutions. Their greatest value lies in strengthening accountability, developing human rights standards, and providing remedies where national systems fail. For these mechanisms to achieve greater impact, African states must improve compliance with

²¹ *Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights v Nigeria* Communication No 155/96 (African Commission on Human and Peoples' Rights, 2001).

²² Frans Viljoen, *International Human Rights Law in Africa* (2nd edn, Oxford University Press 2012).

²³ Amos O Enabulele, 'Sailing Against the Tide: Exhaustion of Domestic Remedies and the ECOWAS Community Court of Justice' (2012) 56 *Journal of African Law* 268.

decisions, strengthen cooperation with regional bodies, and integrate international human rights obligations into domestic legal systems.

4.3 Legal Aid, Accountability and Protection of Vulnerable Communities

The effectiveness of justice systems cannot be measured solely by the availability of courts or legal institutions; it must also be assessed by whether vulnerable populations can realistically access those institutions. In conflict-affected and economically unstable communities, poverty, displacement, insecurity, and limited legal awareness frequently prevent individuals from seeking remedies for violations of their rights. Consequently, legal aid and accountability mechanisms are essential tools for transforming formal legal rights into meaningful access to justice.

Legal aid represents one of the most important mechanisms for addressing inequality within justice systems. The principle underlying legal aid is that justice should not become a privilege available only to individuals with sufficient financial resources. The United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems recognize legal aid as an essential component of a fair, humane, and effective criminal justice system, particularly for persons who cannot afford legal representation.²⁴ In conflict-affected environments, legal aid serves an even broader function by assisting victims of human rights violations, internally displaced persons, and marginalized communities seeking protection or remedies.

In Nigeria, the Legal Aid Council provides institutional support for indigent persons who require legal representation. However, its effectiveness remains challenged by limited funding, inadequate personnel, and difficulties reaching remote communities affected by insecurity. Similar challenges exist across Africa, where legal aid systems frequently operate below the level required to meet the needs of vulnerable populations. McQuoid-Mason argues that although many African states recognize legal aid as an important component of justice, implementation remains inconsistent because of resource limitations and weak institutional commitment.²⁵

Beyond legal representation, accountability mechanisms are necessary to ensure that violations committed during security operations do not remain unaddressed. Effective accountability requires independent investigations, transparent judicial processes, and access to remedies such as compensation, rehabilitation, and guarantees of non-repetition. This is particularly important in military operations, where the possibility of human rights violations may increase due to the concentration of state power and the use of force.

Protection of vulnerable communities must therefore extend beyond responding to violations after they occur. Preventive measures, including human rights training for security personnel, community engagement, victim protection mechanisms, and improved reporting systems, are

²⁴ United Nations Office on Drugs and Crime, *United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems* (United Nations 2013).

²⁵ David McQuoid-Mason, 'The State of Legal Aid in Africa: A Comparative Perspective' (2018) 18 *African Human Rights Law Journal*.

necessary to strengthen trust between communities and state institutions. For internally displaced persons and rural populations, justice mechanisms must also consider practical barriers such as geographical isolation, lack of documentation, and fear of retaliation.

Therefore, legal aid and accountability mechanisms serve as the critical connection between legal institutions and the communities they are designed to protect. Without these mechanisms, constitutional rights and international obligations risk remaining theoretical guarantees rather than practical protections.

4.4 Emerging Strategies for Strengthening Access to Justice in Africa

Strengthening access to justice in Africa requires moving beyond the establishment of legal frameworks towards developing justice systems capable of functioning effectively under conditions of insecurity and economic vulnerability. The analysis of domestic, regional, and international mechanisms demonstrates that the continent does not lack legal standards; rather, the central challenge lies in implementation, accessibility, and institutional capacity. Addressing this justice gap requires strategies that combine legal reform, institutional strengthening, and community-centered approaches.

First, African states must strengthen domestic justice institutions by improving judicial independence, increasing funding for courts, and expanding justice services beyond urban centers. In conflict-affected areas, traditional court structures may become inaccessible due to insecurity, making alternative approaches such as mobile courts, remote legal services, and community-based legal assistance increasingly important. Such mechanisms should complement rather than replace formal justice institutions, ensuring that accessibility does not come at the expense of due process and human rights protections.

Second, stronger accountability mechanisms are required to regulate military and security operations. While states have legitimate security responsibilities, counter-terrorism measures must remain subject to legal oversight. Independent investigation mechanisms, effective civilian complaints procedures, and stronger parliamentary and judicial supervision of security agencies can help prevent abuses and strengthen public confidence in state institutions. As the African Commission has repeatedly emphasised, security objectives cannot justify violations of fundamental rights guaranteed under the African Charter.²⁶

Third, improving access to justice requires greater investment in legal empowerment. Communities affected by conflict often lack awareness of their rights and available remedies. Legal literacy programmes, partnerships with civil society organisations, and increased support for public interest litigation can enable individuals and communities to participate more effectively in

²⁶ *Zimbabwe Human Rights NGO Forum v Zimbabwe* Communication No 245/02 (African Commission on Human and Peoples' Rights, 2006).

justice processes. This approach recognizes that justice is not only delivered through courts but also through empowering individuals to understand and claim their rights.

Finally, African regional institutions must strengthen compliance mechanisms for human rights decisions. Although the African Commission, African Court, and ECOWAS Court have developed significant jurisprudence, limited enforcement remains a major challenge. Improving state compliance with regional decisions is essential for ensuring that human rights protection extends beyond legal declarations into practical outcomes.

Ultimately, strengthening access to justice in Africa requires a shift from a purely reactive model of justice towards a preventive and resilient approach. Justice systems must be designed not only for periods of stability but also for communities experiencing conflict, displacement, and economic hardship. By combining institutional reform, accountability measures, legal empowerment, and regional cooperation, African states can move closer towards ensuring that human rights protections are accessible to all individuals, including those living in the most vulnerable conditions.

Closing the Justice Gap: Strengthening Access to Justice and Human Rights Protection in Africa

5.1 Summary of Key Findings and Lessons from the Study

This article has examined the relationship between access to justice, human rights protection, security threats, and economic instability in Africa. The analysis demonstrates that although African states have developed comprehensive legal frameworks for protecting fundamental rights, significant challenges remain in ensuring that these protections are effectively implemented, particularly in conflict-affected and economically vulnerable communities.

The study has shown that security threats create serious barriers to justice by weakening judicial institutions, restricting access to courts, displacing communities, and limiting opportunities for victims to seek remedies. Military operations undertaken to address insecurity may also create additional human rights concerns where adequate accountability mechanisms and legal oversight are absent. The experience of Nigeria's North-East illustrates the difficulty of balancing legitimate security objectives with the obligation to respect human rights and maintain the rule of law.

The research further highlights that economic vulnerability remains a major obstacle to justice. Poverty, displacement, limited legal awareness, and inadequate access to legal representation prevent many individuals from effectively pursuing legal remedies. Therefore, the existence of legal rights alone does not guarantee justice unless individuals have the practical ability to enforce those rights.

The article also finds that Africa does not lack legal mechanisms for protecting human rights and promoting access to justice. Domestic courts, national human rights institutions, regional bodies

such as the African Commission on Human and Peoples' Rights and the African Court on Human and Peoples' Rights, as well as international mechanisms, provide important avenues for accountability. However, their effectiveness is often limited by weak implementation, insufficient resources, institutional challenges, and limited compliance with decisions.

The central conclusion of this study is that the major challenge facing access to justice in Africa is not the absence of legal protections, but the persistent gap between legal guarantees and their practical application. Bridging this gap requires strengthening institutions, improving accessibility, and ensuring that justice systems can function effectively even in difficult security and economic environments.

5.2 Legal and Institutional Reforms for Improving Access to Justice

Closing the justice gap requires reforms that address both institutional weaknesses and the practical barriers faced by vulnerable communities. First, domestic justice institutions must be strengthened through improved funding, judicial independence, and increased capacity to operate in conflict-affected areas. Courts and justice institutions must remain functional during periods of insecurity because the absence of effective judicial oversight can increase the risk of human rights violations and impunity.

Legal aid services also require greater attention. For many economically disadvantaged individuals, the cost of legal representation remains a major barrier to accessing justice. Expanding legal aid programmes, supporting public interest litigation, and increasing community-based legal assistance can improve access for vulnerable groups. The United Nations Principles and Guidelines on Access to Legal Aid recognize legal aid as a fundamental component of fair and effective justice systems.²⁷

Accountability mechanisms during military operations must equally be strengthened. While states have a legitimate responsibility to protect national security, security measures must operate within the limits established by human rights law and international humanitarian law. Independent investigations, civilian oversight mechanisms, and effective remedies for victims are essential to ensuring that security operations do not undermine the very rights they seek to protect.

At the regional level, African human rights institutions require stronger support and improved compliance mechanisms. Although regional bodies have developed important human rights standards, their impact depends on the willingness of states to implement decisions and cooperate with accountability processes. Strengthening compliance with regional human rights decisions would enhance public confidence in these institutions and provide more effective protection for victims.

²⁷ United Nations Office on Drugs and Crime, *United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems* (United Nations 2013).

5.3 Recommendations for Stronger Domestic Commitment and Regional Cooperation

Sustainable access to justice requires a long-term commitment to building institutions that are resilient, inclusive, and capable of protecting rights during both periods of stability and crisis. African governments must take primary responsibility for strengthening justice systems through investment in judicial institutions, improved accountability structures, and policies that address the needs of vulnerable communities.

Regional cooperation also remains essential, particularly because many security challenges transcend national borders. The African Union, regional courts, and human rights institutions have an important role in promoting common standards, supporting accountability, and encouraging stronger protection of human rights across the continent.

International partners may continue to provide technical assistance and resources, but sustainable justice systems must ultimately be built through African-led solutions. External support should complement, rather than replace, domestic responsibility for protecting rights and ensuring accountability.

Ultimately, access to justice and human rights protection should not be viewed as obstacles to security. Rather, respect for the rule of law strengthens public trust, improves institutional legitimacy, and contributes to lasting peace. The true measure of a justice system is not whether it functions only during periods of stability, but whether it remains accessible to individuals and communities facing conflict, displacement, and economic hardship.

Closing Africa's justice gap therefore requires moving beyond the recognition of rights towards the creation of systems capable of delivering those rights in practice. Only through stronger institutions, effective accountability mechanisms, and sustained commitment to vulnerable communities can access to justice become a reality for all.

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