



HUMAN RIGHTS CENTRE

Annual Review of

Human Rights Centre

SOMALILAND

2 0 1 5





Human Rights Centre Annual Review

Somaliland

2015

Copyrights © 2015 Human Rights Centre

All rights reserved

Printed in the Republic of Somaliland

Human Rights Centre

Maansoor road, Jigjigayar

Hargeisa Somaliland

www.hrcsomaliland.org

Phone: +252 (0)63 410 2244/572602

Email: hrcsomaliland@gmail.com

Contents

Forward.....iv

Acknowledgment.....v

Executive summary.....1

Recommendations4

Methodology.....6

Background7

Freedom of expression public protests and right to assembly.....8

Somaliland police: unchecked and unaccountable.....14

Women: victimized and marginalized by clan based patriarchy.....19

Death penalty.....22

Conditions of work place23

Desperate Yemeni refugees fleeing to Somaliland.....24

Forward

Human Rights Centre (HRC) is a voluntary nongovernmental organization devoted to defending human rights in Somaliland. HRC was launched in February 2013 in an initiative of local lawyers who were convinced by the Bill of Rights enshrined in the constitution and committed to stand for these rights as part of the long held vision of a society ruled by law based on human rights in accordance with the international standards.

The first annual report was issued in December 2013. Since then HRC produces Annual Review covering the situation of human rights in Somaliland. Reporting is a very important part of the tasks of Human Rights Centre. This annual report is produced taking into account suggestions and feedbacks given after the publication of 2014 report.

The report is founded on hard evidence accumulated by dedicated volunteers and staff and is subjected reviews and checks. HRC Annual Review is not long and extensively detailed that focuses one major issue, but it is a report produced to cover wide range of issues to turn the attention the human rights problems in that given year, and to provide information on different and diverse issues. Having said so, unlike the previous one, this Review addresses less topics, and as such is shorter.

Many of last year recommendations included HRC 2014 Annual Review have not been implemented meaning many issues are still in persistent and are acknowledged in this year as well.¹ However, others are unmentioned in this report and we are reiterating the necessity of implementing 2014 Annual Review recommendations.

This year was not an easy going for Human Rights Centre. I acknowledge and thank committed and passionate HRC members who stood in a difficult time to uphold their beliefs.

I am delighted to see the publication of the third Human Rights Centre Annual Report. Report writing is not an easy work. The expected backlash and reaction are also painful. But, HRC is committed to continue its work despite pertinent challenges.

Guleid Ahmed Jama

Chairperson of Human Rights Centre

¹ <http://www.hrcsomaliland.org/images/HRC%20report%202014>

Acknowledgment

Human Rights Centre is very grateful to the individuals and organizations who shared their experience and stories. Without helpful contributions and dedications of many people who we cannot list their names, this report would not have been possible.

This report is based on research conducted by Human Rights Centre volunteers who undertook risky and tough work for the sole purpose of helping others. Thank you very much.

We are especially indebted to Laetitia Bader who provided advice and suggestions. Thank you very much.

Executive summary

This report is based on one year long research and documentations carried out by Human Rights Centre in all regions of Somaliland. Researchers gathered information at the regions between April and October 2015. The documentation department of Human Rights Centre also takes regular monitoring and documentation of human rights abuses in Somaliland.

Somaliland declared independence from Somali Republic on 18th May 1991 to annul union between Somaliland and Somalia which on 1st July 1960 formed Somali Republic after gaining independence from Britain and Italy, respectively.² In 9 years (from 1960 to 1969) civilian government ruled the country. On October 1969 the military came into power and stayed until rebel groups toppled them in 1991. Since declaration of independence in 1991 Somaliland succeeded building peace and founding functioning government.

On 2001 constitution was approved by the people in referendum. Subsequently, elections of local councillors, president and parliamentarians were held from 2002 to 2012. The constitution establishes three state branches, namely the executive, judiciary and legislature. The tripartite system enshrined in the constitution was intended to provide proper functioning check and balances and separation of powers that prevent abuse of power, and to establish accountability.

Despite these successes, there are challenges and hurdles. In 2015, five civilian people died in the hands of the police force. There has not been any independent investigations on these actions. Human Rights Centre found arrests without due process of law and prolonged pre-trial detentions. The situation of detention centres is alarming and lack

² Ibid.

necessary human needs such food and sanitation. Police force is not subject to the oversight and jurisdiction of the civilian courts.

Journalists, human rights activists and members of the political opposition have faced harassment or arbitrary arrest by the authorities. In this year, nineteen (19) journalists were detained in Somaliland.

The publication of *Hubsad* newspaper is suspended by the authorities, and Cabdirashiid Nuur Wacays, chairman of *Hubsad* newspaper and Siciid Khadar Cabdilaahi, editor-in-chief of *Hubsad* newspaper, were arrested on 30th November 2015 in Hargeisa. The authorities accused the journalists of running unlicensed newspaper. They were released 3rd December on bail. The journalists were arrested from the Office of the Attorney General while they were filling to register the names of new leadership and ownership of *Hubsad* newspaper. Furthermore, Haatuf Media Group shut down by the government in April 2014 is still on closure.

Guleid Ahmed Jama, the chairperson of Human Rights Centre, was arrested in 18th April 2015 for an interview he gave to BBC Somali Service where he raised concerns on due process of law on death penalty cases. He was charged of instigation to disobey the laws, subversive or anti-national propaganda, and publication or circulation of false and exaggerated or tendentious news capable of disturbing public order. He was released on bail on 6th May. On 26th August Hargeisa Regional Court issued decree closing the criminal case against Guleid.

Traditional leaders who were critical to the government were arrested. Sultan Mohamed Muse (aka Cune) was arrested in Buroa, east of Somaliland, by Somaliland police on 6th July 2015 after he opposed extension of presidential term in a media interview.³ He was released on 18th July. Sultan Mowlid Ali Sabayste, traditional elder, was arrested on 17th September. The Sultan was arrested after he opposed and criticized government's

³ <https://www.youtube.com/watch?v=VktNenbGssw>

transfer of Berbera Petroleum Terminals to private business. He was released on 5th October.

Unsanctioned public demonstrations are prohibited in Somaliland. Number of protests organized by the opposition parties have been halted by the government which refused to provide permission on the basis of “national security”. In these public protests total number of thirty two (32) members of Waddani opposition party were arrested in different occasions. They were all released.

In this year seven people are known to be executed in Somaliland after years of de facto moratorium. Both the constitution of Somaliland and the Penal Code allows death penalty. This report raises serious concerns on the due process of law of death penalty cases.

Women and girls suffer sexual and gender based violence. They face challenges in accessing to justice. Interventions from customary law and legal gaps in the formal system weaken women’s legal protection. For instance, genital female mutilating and early/forced marriage are not prohibited by law. The constitution guarantees rights and freedoms for women. However, women are least represented in the political level, limiting their right to participate in politics. There is only one female member in the two houses of the Parliament (164 members in the Lower and Upper House), and three ministers in 55 cabinet members. There is no single female judge or director general.

Recommendations

To the government

- Reform the police in accordance of Somaliland constitution and the international standards of good practices;
- Subject the police under the jurisdiction of the civilian courts;
- Carry out independent investigation to examine incidents of death and injury involved by police;
- Police use of force shall be regulated, proportional, and shall strictly follow the legal limitations imposed by Somaliland laws and international standard practices;
- The police shall respect and apply the constitution and the Criminal Procedure Code in making arrests, searches and seizures;
- Decriminalize media and stop applying the Penal Code in media cases;
- Drop all charges against Cabdirashiid Nuur Wacays and Siciid Khadar Cabdilaahi;
- Lift the suspension of *Haatuf* newspaper and allow reopening of *Haatuf*;
- Allow the functioning of *Hubsad* newspaper;
- Stop arrests and harassment of journalists;
- Allow opening of independent radios;
- Halt crackdowns of public demonstrations and allow demonstrations so that people are able to exercise constitutionally guaranteed freedom;
- Apply the National Gender Policy;
- Enact Family Law, Gender Based Violence Act and create environment that protect women and girls from gender based violence and reform law enforcement agencies so that victims of gender based violence are able to report and seek justice;

- Amend the outdated Somali Penal Code and enact penal law that is updated and is in accordance of Somaliland constitution;
- Regulate workplaces to enable employees exercising their rights stipulated in the Labour Law;
- Register refugees and provide protection and assistance.

To the Parliament

- Approve Police Act compatible with the constitution, and the international standards;
- Approve quota for women and minority clans.

To the donors

- Press Somaliland government to implement the recommendations stated in this report, and ensure donor projects are human rights sensitized;
- Support reforming the judiciary and law enforcement agencies;
- Support decriminalization of media and raise closure and suspension of *Haatuf Hubsad* newspapers with Somaliland government.

Methodology

This report is a result of one year long data gathering conducted by Human Rights Centre throughout the country. The Monitoring and Documentation Department of Human Rights Centre carries out regular documentation of human rights issues in Somaliland. Furthermore, visits for researching for this report was lodged in the six regions of Somaliland. Hence this report is based on both the documentations and data gatherings HRC researchers conducted in the country.

Interviewees were carried out in Hargeisa, Buroa, Borama, Gabiley, Berbera, Buroa Laasaanood and Erigavo.⁴ Majority of interviewees were based in Hargeisa. HRC visited police stations and courts. Detainees, former convicts who served prison terms, lawyers, prosecutors, judges, clerks, health workers, legal aid providers, local nongovernmental organizations and people who had cases at courts were interviewed. Police officers who wanted anonymity were interviewed. HRC was able to check police and court documents to cross check information.

However, due to restrictions HRC was not able to have full access to all police stations and prisons, particularly at the regions outside of Hargeisa. Furthermore, because of financial constraints, large and needed data gatherings were not made at the rural areas which have special and peculiar human rights problems particularly access to services and justice. Despite visits of some rural areas, HRC was not fully able to research in these areas.

⁴ Interviewees were promised by HRC that their identity will not be disclosed. Therefore, this report does not use the names of interviewees.

Background

Twenty four years ago (1991) clan elders, politicians and leaders of Somali National Movement (SNM) declared independence in Buroa city⁵. The declaration annulled union between Somaliland and Somalia which on 1st July 1960 formed Somali Republic after gaining independence from Britain and Italy, respectively.⁶ Somali Republic maintained democratic civilian government from 1960 to 1969⁷. On 21st October 1969 military junta took over the power and overthrew the civilian administration. The military imposed authoritarian regime that has lived up to 1991 when rebel groups doomed the military into death.

Since it announced unilaterally its independence Somaliland has achieved to establish functioning government and peaceful environment unlike Somalia where civil war, piracy and terrorism destabilize. However, Somaliland has not yet received recognition from any other state.

After the collapse of the central government of Somalia in 1991, Somaliland peacebuilding and state building initiatives based on traditional mechanism⁸ lifted Somaliland from chaos and anarchy into a peace and tranquillity. Series of peacebuilding conferences were held in Somaliland from 1991 to 1997 to reconcile warring sides and put foundations of statehood. Lastly, Somaliland moved from clan led conferences to popular elections on 2001 when constitution was approved by the people in referendum. Subsequently, elections of local councillors, president and parliamentarians were held from 2002 to 2012.

Somaliland covers an area of 68, 000 sq miles with about 3.5 million citizens whom majority are in the rural areas.⁹ The life expectancy is estimated by UNDP in 2008 as 50 years old for males and 55 for females.¹⁰ The country is poor and its main source of income is livestock exportation.¹¹

⁵ Hussein Adam, "Formation and Recognition of New States: Somaliland in Contrasts with Eritrea," *ROAPE Publications Ltd, Review of African Political Economy* 59 (1994):21–38.

⁶ Ibid.

⁷ Lewis I M, *A Modern History of the Somali*, 4th ed. (Eastern African Studies, 2002).

⁸ Michael Walls, *A Somali Nation-State: History, Culture and Somaliland's Political Transition*, 1st ed. (Pisa: Ponte Invisibile (redsea-online), 2014).

⁹ <http://unpo.org/members/7916> last retrieved 6th November 2015

¹⁰ <http://unpo.org/members/7916>

¹¹ <http://www.doingbusiness.org/Reports/Subnational-Reports/hargeisa>

Freedom of expression and public protests

Freedom of expression confronted with many backlashes in this year where political tensions resulted from election postponement created critical voices. Journalists in particular experienced detentions, beating and harassments. In 2015, Human Rights Centre documented arrests of nineteen (19) journalists¹². Many journalists were arrested in the port city of Berbera. Berbera is the main source of income¹³ for the government, and the journalists were arrested for stories related to financial matters for instance transfer of government owned petroleum terminals to private businesses. Journalists were arrested in Berbera in 8 different times. Mohamed Abdilahi Soo-fadhiiste was arrested twice, Ahmed Saed Mohamed was arrested twice, Abdirahman Mohamed Egeh was arrested three times and Mubarig Osman Saed was arrested once.

The following are the list of the journalists arrested in 2015.

1. **Mohamed Abdilahi Soo-fadhiiste**, editor-in-chief of Berberatoday, was arrested twice in Berbera.
 - a. He was arrested on 6th February and released on 11th February.
 - b. On 24th September he was arrested again and released on 26th September.
2. **Ahmed Saed Mohamed** was arrested twice in Berbera:
 - a. He was arrested on 5th October and was released on 7th October.
 - b. He was arrested on 1st April and was released on 6th April.
3. **Abdirahman Mohamed Egeh** was arrested three times in Berbera:
 - a. He was arrested on 8th March 2015, and was released on the same day.
 - b. He was arrested on 20th September and was released on 21st September.
 - c. He was arrested on 5th October and was released on 7th October.
4. **Mubarig Osman Saed**, Star TV, was arrested in Berbera on 8th March 2015, and was released on the same day.
5. **Jama Hussein Jama** of Space Channel was arrested in Boorama on 4th September and he was released on the same day.
6. **Ahmed Mouse Sakaaro** was arrested twice in Buroa:
 - a. He was arrested on 11th February 2015 and released on the same day; and

¹² Human Rights Centre documented arrested journalists throughout the country

¹³ Somaliland 2015 annual budget

- b. He was arrested on 5th April 2015 and released on the same day.
7. **Barkhad Mohamoud Geedi** was arrested in Erigavo two times:
 - a. He was arrested on 12th February and was released on the same day;
 - b. He was arrested on 29th November and was released on 30th November.
 8. **Saleebaan Abdi Ali**, editor of Gobanimonews, was arrested in Hargeisa on 11th May and was released on the same day.
 9. **Abdirahman Arab Duale**, Somalilandlive website, was arrested in Hargeisa on 11th May and was released on the same day.
 10. **Hamse Ali Bulbul**, Star Tv, was arrested on 23rd July and was released on the same day.
 11. **Khadar Moalim Deeq**, Bulsho TV was arrested on 23rd July and was released on the same day.
 12. **Mustafe Adam**, Star TV was arrested on 23rd July, and was released on the same day.
 13. **Abdiqadir Adam Arab**, then editor-in-chief of Somaliland Today, was arrested on 23rd July and was released on the same day.
 14. **Najib Dalmar**, Bulsho TV was arrested on 23rd July and was released on the same day.
 15. **Abdirahmaan Adam Bidar**, Togaherer website was arrested on 23rd July and was released on the same day.
 16. **Mohamed Amiin Jibriil**, Saxafi newspaper, was arrested in Hargeisa on 18th April and was released in the same day.
 17. **Khadar Cabdirisaaq** was arrested on 28th November in Buroa and was released on the same day:
 18. **Cabdirashiid Nuur Wacays** was arrested on 30th November 2015 in Hargeisa and was release on bail on 3rd December 2015.¹⁴
 19. **Siciid Khadar Cabdilaahi** was arrested on 30th November 2015 in Hargeisa and was release on bail on 3rd December 2015.

Ahmed Mouse Sakaaro was beaten up by two unknown assailants in Buroa on 21st October in a broad light day. He sustained injuries and was hospitalized. The assailants have taken away his laptop and mobile phone. Before the attack Ahmed received numerous phone calls threatening him and demanding him to refrain writing stories about the mayor of Buroa. The assailants were not arrested.¹⁵

¹⁴ At the time of the publication of this report, Cabdirashiid Nuur Wacays and Siciid Khadar Cabdilaahi are facing criminal charges.

¹⁵ Human Rights Centre interviewed Ahmed Mouse via telephone on 22nd and 24th and 25th October, and interviewed on 16th November at Buroa three journalists based in Buroa.

Cabdirashiid Nuur Wacays, chairman of *Hubsad* newspaper and Siciid Khadar Cabdilaahi, editor-in-chief of *Hubsad* newspaper, were arrested on 30th November 2015 in Hargeisa. The authorities claim that the journalists were running unlicensed newspaper. Cabdirashid and Siciid also work for critical local television station called *Bulsho Television*. They were released 3rd December on bail. The journalists were arrested from the Office of the attorney General while they were filling to register the names of new leadership and ownership of *Hubsad*.¹⁶ The publication of *Hubsad* newspaper is suspended by the authorities.

Haatuf Media Group shut down by the government in April 2014 is still on closure. The cracking down of Haatuf sent negative message to the rest of media houses whom many subsequently adopted self-censorship.¹⁷ Another media house, Hubaal, closed by the authorities in December 2013 was allowed to reopen on 23rd July 2015 after settlement was reached.

It is not only the government which suppresses the media. In 20th July 2015, Hubaal website was blocked by private internet provider, Somtel, making the website of the newspaper inaccessible to the users of Somtel internet. Somtel is a private telecommunication company.¹⁸

Hubaal website was blocked after it reported Wikileaks¹⁹ revelations which exposed alleged email communications between hacking company and Somtel which sought to buy hacking technology from the HackingTeam,²⁰ emails disclosed by Wikileaks claim. Human Rights Centre cannot confirm the allegations in the Wikileaks disclosure. Hubaal was the only newspaper that published the story.²¹

¹⁶ <http://hargeisatimes.com/xeer-ilaaliyaha-guud-ee-qaranka-somaliland-oo-jabiyay-amar-ka-soo-baxay-maxkamada-sare-ee-somaliland/>

¹⁷ Human Rights Centre interviews of three editors of newspapers.

¹⁸ <http://sometelnetwork.net/>

¹⁹ <https://wikileaks.org/hackingteam/emails/emailid/435037>

²⁰ <http://www.hackingteam.com/>

²¹ Websites also published, but Hubaal was the only newspaper that published the story.

Somtel management accused Hubaal of damaging its reputation by publishing “false and defamatory information”²², Somtel officers told Human Rights Centre. Access to Hubaal website was later allowed.

Because of economic difficulties, media houses rely on advertisement as a source of income. Human Rights Centre research found that in many instances, companies advertising in the media agree with the media houses not to publish and report on issues that are incompatible with the interest of the company.²³ Such agreements restrict freedom of media by encouraging self-censorship. For instance media houses who are in such agreement cannot publish news or story that may include any remarks that state any default or weakness in the services or products of the company.

Private radios continue to be banned in Somaliland which severely limits access to information in rural areas and among nomadic communities. The only local radio that operates in Somaliland is the government owned *Radio Hargeisa*. International radios of BBC Somali Service and VOA Somali Service are also listened to by many people.²⁴

Human rights activists and members of the political opposition have also faced harassment or arbitrary arrest by the authorities. Guleid Ahmed Jama, the chairperson of Human Rights Centre, was arrested on 18th April 2015 after he gave an interview raising concerns on death penalty and urged judicial and legal reforms.²⁵ He was charged on three accounts: 1. instigation to disobey the laws, 2. subversive or anti-national propaganda, 3. publication or circulation of false and exaggerated or tendentious news capable of disturbing public order.²⁶ He was released on bail on 6th May. On 26th August, Hargeisa Regional Court issued decree closing the criminal case against Guleid.

²² Human Rights Centre interviews on 21st July 2015 the manager of Somtel and head of public relations y

²³ Human Rights Centre Interviewed editors, media owners and company workers.

²⁴ BBC Somali Service and VOA are two international radios based London and Washington respectively.

²⁵ http://www.bbc.com/somali/maqal_iyo_muuqaal/2015/04/150416_hargeysa_xuquug

²⁶ Charge Sheet of the Attorney General

Sultan Mohmed Muse (aka Cune) was arrested in Buroa, east of Somaliland, by Somaliland police on 6th July 2015. He was arrested after he opposed extension of presidential term in a media interview.²⁷ He was brought to court on the second day of his arrest (7th July) and remanded in prison. He was not brought to court again within seven days legally required²⁸. He was released on 18th July. He claimed that he was beaten when he was in the custody of the police.²⁹

Sultan Mowlid Ali Sabayste, traditional elder, was arrested on 17th September. The Sultan was arrested after he opposed and criticized the government's transfer of Berbera Petroleum Terminals to private business. He was released on 5th October.

Unsanctioned public demonstrations are prohibited in Somaliland. The constitution provides unconditional freedom of public demonstration.³⁰ However, the government requires permission to be sought from the Ministry of Interior or the district or regional administrations as pre-requirement to hold demonstration. Such prerequisite is used by the authorities as a mechanism to refuse demonstrations. The police prevent and disperse unsanctioned demonstrations by using excessive force.

A number of protests organized by the opposition parties have been halted by the government which refused to provide permission on the basis of "national security". In these protests a total number of thirty two (32) of Waddani opposition party members were arrested in different occasions.

On 11th May opposition political party, Waddani, organized public protests against the government. Security forces were deployed the offices of the party, and main roads were closed to prevent the protest. Furthermore twenty seven (27) members of Waddani including high ranking leaders (members of the executive committee) were arrested.³¹

²⁷ <https://www.youtube.com/watch?v=VktNenbGssw>

²⁸ Article 47(3) of the Criminal Procedure Code

²⁹ Human Rights Centre interviews Sultan Mohmed Muse in Hargeisa

³⁰ Article 32 of Somaliland constitution

³¹ 1. Cali Cilmi Geelle (Member of the Executive Committee of the Party) 2. Ifrax Cumar Xasan (Chairwomen of Women's Wing) 3. Xasan Xuseen Codyare (The Secretary of the Protection of the National Property) 4. Mustafe Maxamuud Qodax (The Secretary of Internal Affairs) 5. Mahad Xaaji Faarax (The secretary of Hargeisa Regional Office) 6. Hassan Ahmed Muuse

Most of them were released later at that day and the following days. Twenty two of them were arrested in Hargeisa, four in Berbera and one in Sool.

On 23 July 2015, five (5) members of Waddani party including deputy secretary on information, Abdirashid Mohamed Adam, were arrested. They were released after about five hours in detention at the compound of Criminal Investigation Department (CID) in Hargeisa.

The heavy handed response and intolerance towards demonstrations and critical voices are contrary to article 32 of Somaliland constitution which gives all citizens to freedom of expression and freedom to organize or participate in any peaceful assembly.³²

Goodaad (The Secretary of the welfare of the livestock) 7. Maryan Maxamuud Diriir (The secretary of Women's Wing) 8. Maxamed Sidiq Dhame ((Spokesperson of Youth Wing) 9. Amaal Yuusuf Cabdi indha-cad (Spokesperson of Women's Wing) 10. Jamaal Hure (Member of the Party, former governor) 11. Deeq Xirsi Canbuur (Member of the Executive Committee of the Party) 12. Amina jirde (Hargeisa Regional Office, awareness secretary) 13. Mawlid muuse (vice-chairman of Hargeisa Regional Office of the Party) 14. Ahmed Jaamac (member of the party) 15. Maxamed Foore (Maxamuud Haybe district (in Hargeisa) chairman) 16. Cabdirahmaan Maxamed Rooble (member of the party) 17. Hassan Ahmed Cabdillaahi Caateeye (member of the party) 18. Sulekha Xiia Cabdillahi (member of the party) 19. Sahra Salaax Cawad (member of the party) 20. Maryan Cismaan Faarax (member of the party) 21. Saynab Cawad Diiriye (member of the party) 22 Sahra Sakariye Cabdo Muuse (member of the party) 23. Cali Axmed Kooshin (Berbera) 24. Faysal Cumar ((Berbera)) 25. Cawil Birdaasar (Berbera), 26. Cabdillahi Saalah (Berbera) 27. Cabdi Yusuf Ismaaciil (Sool)

³² Article 32 of Somaliland constitution

Somaliland police: unchecked and unaccountable

The constitution establishes police force that is responsible for protecting the peace and enforcing the law. The constitution calls for the enactment of an act that sets out the structures and duties of the police.³³ During the 21 years of dictatorship rule (1969-1991) most of the government institutions were militarized, and police and other law enforcement agencies were structured in a manner compatible with the military regime.³⁴ Hence adaption of new law for Somaliland police to reform the institution in order to become compatible with the constitution of Somaliland is a necessary requirement. However, to date, no law has been enacted so far.³⁵ Therefore, the police structure, practices, and performance have not changed.

In 2015, Human Rights Centre documented five instances in which civilian people died in the hands of the police. Limited access to police detention facilities makes it hard to investigate these incidents in detail but the Human Rights Centre was able to corroborate the following:

On 9th August 2015 about 5:30 pm local time, Abdinajib Ahmed Mohamed, an unarmed 12 year old boy, was shot dead by Somaliland Police in Hargeisa. Mustafe Ahmed Mohamed, 22 years, Abdirahman Ahmed Mohamed, 15 years, and Mohamed Abdilahi Quule, 40 years, also sustained gunshot wounds while Abdirashid Mouse Mohamed, 27 years, was beaten. According to the medical reports, the gun shot hit Abdinajib on the head. Three of the victims including the dead belong to the same family.³⁶

The incident occurred at Jigjigayar area of Hargeisa when armed police officers were deployed to a construction site to stop ongoing building in a residential area. The Police

³³ Article 124 of Somaliland constitution

³⁴ MBUGUA, J *Drivers of Insecurity in Somalia: Mapping Contours of Violence*, 2013 IPSTC Peace and Security Research Department

³⁵ Police Bill was passed by the Parliament but was vetoed by the President.

³⁶ Human Rights Centre interviewed family members, eye witnesses and medical staff.

confronted members of a family who claim ownership of the land and run a shop and public notary at the place and other people who gathered at the place of the incident. The Police fired live ammunition into the crowd. In a press interview,³⁷ the then deputy minister in charge of internal security, Abdi Dahir Amuud, admitted the Police shooting and justified as a self-defence after stones were thrown to the Police.

There has never been ownership case or other case initiated against the family residing the place.³⁸ After the occurrence, authorities failed to state the grounds of police raid and identity of any claimant has not be revealed. The family was not told the reason of attack.³⁹

The force employed by the police was disproportionate, unjustified, not strictly necessary and non-violent methods were not used in contrary to the international standards which ban use of lethal force against unarmed civilians.⁴⁰ Witnesses confirmed that some of the injured were running away when shot whereas the killed 12 years old boy was cycling.⁴¹ There was no independent investigation into the incident and police has not given any report. No police officer was arrested or disciplined for the case. ⁴²

In another incident, Ahmed Dayib Abdi, 22, died for gun wounds inflicted by police guard at a police station. On 14th August 2015, about 6:00 to 6:30 am local time, Ahmed Dayib Abdi sustained six gunshot injuries after police officer fired on inmates in a locked cell at Ibrahim Koodbuur police station in Hargeisa.⁴³ According to medical report and

³⁷ http://www.bbc.com/somali/war/2015/08/150810_somaliland_police_inv?ocid=socialflow_facebook

³⁸ Human Rights Centre interviewed the family and checked the court records.

³⁹ Human Rights Centre interviews on August the family

⁴⁰ United Nations Code of Conduct for Law Enforcement Officials (1978) and UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

⁴¹ Human Rights Centre interviewed on August eye witness who were at the site.

⁴² Interviewed police officers confirmed for Human Rights Centre and government minister told to the press in an interview that the police has not made mistake:

http://www.bbc.com/somali/war/2015/08/150810_somaliland_police_inv?ocid=socialflow_facebook

⁴³ Human Rights Centre interviewed one detainee who was in the cell and one detainee who was in another cell next to the one the killed detainee was held.

eye witnesses, six gunshots hit Ahmed. Ahmed was sleeping when police guard fired to a cell holding 8 detainees.

According to witnesses, two inmates got into a fight in their cell. One of them knocked the door and cried for help. Guard approached and ordered the detainees to stop fighting and retrieved back without opening the door. After a few minutes, the same detainee cried for help. A guard stood in front of a window of the cell, pointed his gun to room and opened fire. About 8 detainees were in the room. Ahmed was sleeping and was covered by blanket, witnesses told Human Rights Centre. The unexpected gun fire echoed the room and frightened the detainees. Few minutes later the inmates discovered that Ahmed was shot. The guard who fired the gun was arrested.

Ahmed had been arrested by the police from his family house on 10th August 2015, about 10:30 to 10:45 pm.⁴⁴ He was taken to Ibrahim Koodbuur police station where he was held in custody. The police arrived at the family's dwelling house without warrant of arrest or search in violation of article 25 of Somaliland constitution.

Along with other five suspects, Ahmed was brought to court on 13th August. They were remanded on request of the chief investigator of Ibrahim Koodbuur police station who demanded more days to investigate them. There were no charges submitted to the court. However, the detainees were told by the police that they are arrested for allegedly participating in a public protest purportedly happened on the morning of 10th August to complain another police shooting that resulted the death of 12 years old boy and injury of other three people on 9th August 2015.

After the death of Ahmed, the rest of the suspects were released by court on 16th August without any charges. Investigation was not carried out to examine responsibility and accountability and to envisage plans to avoid future similar catastrophes.⁴⁵

⁴⁴ Human Rights Centre interviewed Ahmed's mother and father

⁴⁵ Human Rights Centre interviewed police officers and the lawyer of the policeguard who fired the gun. They told that the case was initiated only against the policeguard and no other investigation was carried out.

On 7 and 11 October 2015 two teenagers were killed by police fire in Boorama, west of Hargeisa, during a regional football tournament held in the city. The police fired on crowds sparked by football match competitions. The crowds were not armed and non-violent methods have not been tried by the police.⁴⁶

On 22nd March 2015, prominent businessman, Xuseen Maxamuud Gacmo-dheere, was shot dead by police man at a check point in Oodweyne district of Togdheer region, east from Hargeisa. The police man was arrested, convicted by military court and was executed on 13th April 2015.

On 2nd July 2015, bleeding detainee⁴⁷ was brought to the regional court of Hargeisa to remand. The detainee who was beaten up by police guards in Sheikh Nour police station while he was in detention.⁴⁸ The appearance of the detainee who was covered by blood particularly on his face shocked the court which ordered his immediate release. But, investigation has not been carried out, and those who committed the act were not prosecuted or disciplined. Police beating is not rare and absence of judicial oversight discourages people to report or pursue justice.⁴⁹

Police arrests without due process of law are very common.⁵⁰ The majority of police detainees interviewed by Human Rights Centre were arrested in contravention of article 25 of the constitution which stipulates that “no person may be arrested, searched, or detained, except when caught in flagrante delicto {in the act of committing the crime} or on the issue of a reasoned arrest warrant by a competent judge.” Most of the time the police does not seek warrant of arrests from court to conduct arrest or detention.

⁴⁶ Eye witnesses told Human Rights Centre that the police used only fire ammunitions to disperse the crowd.

⁴⁷ Human Rights Centre met the detainee at the court

⁴⁸ Human Rights Centre interviewed the detainee, police officers at the police station, court officials and legal aid lawyers who assisted him.

⁴⁹ Human Rights Centre interviewed released detainees in Hargeisa.

⁵⁰ Human Rights Centre (HRC) interviewed 106 detainees, 13 police officers, 6 paralegals, 8 lawyers, 11 judges, 9 court clerks and 6 prosecutors in Hargeisa, Boorama, Berbera, Erigavo, Laasanod, Buroa and Gabiley. Documents and other evidences were reviewed by HRC.

Arrest of judgement debtors for civil cases is a tool that is routinely applied in Somaliland contrary to the laws of Somaliland and international human rights instruments.⁵¹ Prisoners sentenced into prison by court with civil liabilities (for instance compensation or restitution) are not released from prison upon expire of their prison terms unless the civil liabilities are satisfied.⁵²

Male clan elders and parents of suspects are also arrested for crimes allegedly committed by clan members (specifically in cases of murder) and parents of missing suspects.⁵³ Hence people who have not committed a crime or not even suspected of committing one are held in detention for crimes allegedly committed by others.

Remand periods are constantly renewed in a procedure famously called “Xalaalayn” (literally meaning legitimizing) where suspects are brought to court and police ask longer remand periods which prolongs pre-trial detention. Remanded detainees are held in overcrowded police stations that lack all necessary requirements such as food, health and sanitation.⁵⁴ The detainees at police stations rely on family for food provision and those without family support are not given food at all.⁵⁵ Detainees from poor families suffer most.

The lawyers, including legal aid providers, are not given access to police stations to meet clients.⁵⁶ This makes hard detainees to accessible legal services contrary to the constitution which requires detainees to meet lawyers and family members whenever they wish so.

⁵¹ Human Rights Centre interviewed detainees arrested for civil cases in Hargeisa.

⁵² Human Rights Centre interviewed prison officers and prisoners.

⁵³ Human Rights Centre interviewed in Hargeisa a mother arrested for her son, and elders in Erigavo arrested for escaped clan member who was alleged for murder.

⁵⁴ Human Rights Centre visited five police stations.

⁵⁵ Human Rights Centre interviewed detainees, family members, lawyers and police officers who confirmed that there is no budget allocated for food and other support for detainees in police stations.

⁵⁶ Human Rights Centre interviewed lawyers and paralegals from University of Hargeisa Legal Aid and Somaliland Women Lawyers Association.

Women: victimized and marginalized by clan based patriarchy

The constitution of Somaliland grants to all human beings same rights and freedoms, and protections regardless of gender.⁵⁷ It further requires women to be freed from practices that are injurious to their person and dignity.⁵⁸

Although women's participation in social and economic life has increased over the last twenty years, particularly at the small businesses, women are facing challenges in accessing to justice, protection from abuse and violence and exercise of their constitutionally guaranteed rights and freedoms.⁵⁹

Women and girls in Somaliland suffer sexual and gender based violence⁶⁰ including domestic violence, female genital mutilation, rape,⁶¹ sexual assault and sexual harassment, early and forced marriage. The outdated Penal Code applicable in Somaliland recognizes very few sexual offences which it narrowly defines.⁶² Gender based violence including female genital mutilation/cutting, early and forced marriage and domestic violence are not prohibited by law.⁶³

Cadar (not the real name)⁶⁴ was raped, at the age of 21, in a remote rural area by five men whom she does not recognize their identities. Because there are no police stations nearby,

⁵⁷ Article 8 of Somaliland constitution

⁵⁸ Article 36 of Somaliland constitution

⁵⁹ Ministry of Justice, *National Survey on Women Access to Justice in Somaliland*, 2013

⁶⁰ Ministry of Planning: Multiple Indicator Cluster Survey 2011: "The percentage of women age 20-49 years who were first married or in union (living together with a man as if married) before age 18 is 31 percent. Differences by wealth quintiles exist; 41 percent of women from the poorest households were married before age 18, while 18 percent from the richest households were married at this age. Ninety-nine percent of women age 15-49 years report to have undergone some form of female genital mutilation/cutting (FGM/C). Among girls age 0-14 years, 22 percent have undergone some form of FGM/C, as reported by their mothers. About 29 percent women age 15-49 years are in favour of continuing the practice of FGM/C. More than half of women approve of at least one form of wife beating by the husband"

⁶¹ November 2015 Police report states that 80 rape cases have been received by Somaliland Police

⁶² Part IX of Somali Penal Code

⁶³ The Penal Code does not cover female genital mutilation, domestic violence, and early and forced marriage.

⁶⁴ To protect her, HRC does not use her real name.

she could not report to authorities. Moreover, she was stigmatized by her family and the community and could not stay with her community and family. Therefore, she ran away from them and entered Hargeisa where she now works as a domestic worker in a very low wage, suffering painful feelings and economic exploitation.

Another gang rape victim, Dhool (not her real name)⁶⁵ interviewed by Human Rights Centre reported her case and police decided to pursue the case to court. Unfortunately, the case was dropped after clan elders of the victim and the perpetrators reached an agreement involving payment to the clan of Dhool. Dhool was neither consulted nor has she accepted such an arrangement. The perpetrators were released and Dhool was left to live with pain and victimization.

Sahra (not her real name)⁶⁶ is a 38-year-old mother of 7 children. She has been suffering abuse from her husband. She told HRC that she reported to the police who declined to investigate because they do not recognize domestic violence as a crime. She has been living with such abuse in many years and despite being in Hargeisa (where government institutions are all located), she is not getting access to justice and legal protection.

Clan laws (which are men's laws) are applicable to women and girls in all levels, meaning women and girls are victims of the formal law, public institutions and traditional authority and customary law.

Recently civil society organizations in Somaliland submitted to the Lower House of the Parliament, Sexual Offences Bill. Although the Bill is not presented to the House, it is a positive step forward in criminalizing sexual offences that are not covered by the current criminal law. However, the bill does not address gender-based violence.

Establishment of Baahi-koob Centre (a sexual assault referral centre) in Hargeisa, Borama and Buroa was a helpful mechanism that encouraged victims of rape to report while receiving medical attention. Baahi-koob which is the only centre of its kind in

⁶⁵ To protect her, HRC does not use her real name.

⁶⁶ To protect her, HRC does not use her real name.

Somaliland was used by the nongovernmental organisations (NGOs) to receive reliable data on reported rape cases. Unfortunately, the Ministry of Health banned Baahi-koob to share any data or information with the NGOs. This has complicated referral mechanism and weakened assistances other NGOs may have given to the victims of rape. It also damaged generation of reliable report on level of rape which is one of the least reported crimes.

Women are not represented in the political level, limiting their right to participate in politics. There is only one female member in the two houses of the Parliament (164 members in the Lower and Upper House), and three ministers in 55 cabinet members. There is no single female judge or director general.

Death penalty

Seven people are known to be executed in this year in Somaliland after years of de facto moratorium. Both the constitution of Somaliland and the Penal Code allows death penalty. The outdated Penal Code which predates the constitution have many provisions that carry death penalty.⁶⁷ Although the constitution requires amendment or repealing of laws that predate the constitution, the Penal Code, enacted in 1964 and taken from 1930 Italy ruled by Benito Mussolini, is still applicable.

Death penalty is given religious meaning, despite being stated by manmade law, and questioning even the procedural defaults is dangerous endeavour. This has left death penalty cases unmonitored and taboo subject avoided by even the civil society to talk about.

The Penal Code itself is not even properly and rightly followed in administering death penalty cases.⁶⁸ The clan implications of killing also provide clan laws influence in these cases. In Somali customary law, killing however it happened, intentional or not, and whoever committed, child or mentally ill, is deemed same. Clan pressure based on customary law is integrated in the formal system which derails the whole fair trial structures in place.

Abdilahi Ali, 39, was prosecuted and convicted for murder in Sool region, east of Somaliland, in this year. The defence submitted to court argument stating that Abdilahi was mentally ill when the act occurred. The argument of the defence was not taken into consideration at all and Abdilahi's mental illness was not assessed. The presiding judge of the regional court who issued the verdict acknowledged in the judgment the absence of medical assessment.⁶⁹

⁶⁷ The articles that carry death penalty include: Art. 184. (Attempts Against the Integrity, Independence or Unity of the Somali State; high treason), Art. 185. (Citizen Who Bears Arms Against the Somali State). Art. 222. (Devastation, Pillage and Slaughter). Art. 223. (Civil War). Art. 434 (Murder)

⁶⁸ Human Rights Centre interviewed lawyers who represented suspects accused of murder.

⁶⁹ Sool Regional Court Judgement: reference number MGS/DDL/39/14 dated 6/8/2015, page 6.

Conditions of work place

The labour situation in Somaliland private sector employment is vastly unregulated and not in line with the Labour Law. Workplace regulations in the law are not complied by the employers. Interviewed⁷⁰ employees of private businesses complain unpaid overtime, unfixed working hours, poor sanitation and unhealthy workplaces, unfair dismissal, and absence of minimum wage which makes many employees to receive low salary incomparable to work done. Many employees interviewed by Human Rights Centre do not get annual and statutory holidays, and are not paid bonuses granted by the Law.

Foreign employees are exploited and suffer most. Increasing number of people from the troubled countries of the Middle East, specifically Syria and Yemen⁷¹, are given false promises which induce them to Somaliland hoping jobs and safety. These people are sent by recruitment agencies who receive the first months of their salaries. When they arrive in Somaliland the promises fade away and they are forced to work unwanted working conditions. The employers give sponsorship to get visas from Somaliland government, therefore they cannot leave the country or seek another job without the permission of the employer.

⁷⁰ Human Rights Centre interviewed in Hargeisa employees for private sector business

⁷¹ Human Rights Centre interviewed in Hargeisa Syrian and Yemeni nationals.

Desperate Yemeni refugees fleeing to Somaliland

In 2015, Yemeni refugees escaping from the conflict between the Houthi rebels and coalition forces led by Saudi Arabia are arriving in Somaliland looking for peace and stability.

Despite the fact that majority of families arrived in Somaliland are ethnic Somalis who fled their war torn country in 1990s and are returning back, many others are Yemeni nationals.

In May and June 2015, Human Rights Centre (HRC) visited Yemenis in Berbera and Hargeisa whom their situation was alarming. The Yemenis visited by HRC live in a small rented and overcrowded rooms each shared by three to four families. There were limited health facilities, food, and education available for these people who escaped from conflict-ridden Yemen. The majority were poor people who cannot afford paying rents, food and water. Yemeni asylum seekers have no access to money allowances, food, health and education services during the process of asylum.

On 6th October 2015, 31 years old Yemeni refugee man set himself on fire in Hargeisa in front of United Nations High Commissioner of Refugees (UNHCR) sub-office Hargeisa protesting for his hard life. He sustained injuries. Many other refugees returned back to Yemen in the battle as a better solution, as reliable sources told to HRC⁷².

On May 2015 Minister of Interior of Somaliland declared that Somaliland has stopped receiving refugees fleeing from Yemen.⁷³ The Minister argued that Somaliland does not have capacity to deal with the refugee. However, after local and international calls, the government withdrew its decision.

⁷² Human Rights Centre interviewed Yemenis in Hargeisa

⁷³ <http://www.voasomali.com/content/article/2787623.html>



HUMAN RIGHTS CENTRE

