

THE REPUBLIC OF SOMALILAND THE HOUSE OF REPRESENTATIVES

Committee of Judiciary, Constitution, Justice and Human Rights

Report Of The Committee's Observation And Assessment Of Prisons, Police Stations And Courts Of The Four Main Cities “ Borama, Hargeisa, Berbera, Burao & Mandhera's Prison



Introduction

The committee by fulfilling their obligations of the constitution and regulations of the House of Representatives, and striving to find the right information of the Country's Prisons, Judicial sector, and Police stations, in order to stabilize the conditions of prisoners to find trial, and violations and wrongful-doings against their rights. What we also intended to know was the nutrition they get and if the prisons were hygienically friendly.

The committee in order to fulfill these obligations decided planning-out the Implementation to observe and assess all prisons, police stations, and Judicial Sectors (Courts and Prosecution) of the main cities of four regions like Borama, Hargeisa, Berbera, Burao and the Main Prison in Mandhera.

To achieve this, the plan was lead by a Questionnaire that was fairly asked by each officer of Prisons, Judicial Sectors and Police stations of each Region mentioned above, and the assessment took us 14 days starting from 13.07.2011 to 27.07.2011, and all these activities was supported by the **UNDP**. The Questionnaire was prepared in this order shown below:

1. Prisons

We wanted to fully find out:-

- The total number of prisoners
- The number of prisoners detained for Security, Piracy and Politics.
- Our efforts were focused on finding out the number of remanded prisoners or those that are waiting for trial that lapsed their due periods.
- The preventive measures used to separate sick prisoners from the Healthy ones.
- If Prisons had a Juvenile section, or a section to detain females.
- If medicine were available to them and if they had Medical Examiners.

2. Police Stations

- We wanted to actually find out the total number of prisoners that have passed their time.
- The quality and competency of Criminal Investigators.
- And the role criminal investigators play on remanded prisoners that are locked up and passed their time.

3. Prosecution

- We likewise wanted to find out the competency and quality of the prosecutors.
- And the role play on remanded prisoners that lapsed their time.

4. Judicial sectors

- We wanted to find out also the diverse judiciary sections that function in each region (Criminal, Civil, Juvenile sections etc.)
- Who the citizens in the regions refer to within the Judiciary when complaining from lack of justice. (Courts and Prosecutors).
- If the Courts and Prosecution have any interventions from the government, whether it is from the District, Regional, and National level Authorities.
- Under what jurisdictions do lower courts falls under, the judicial code of conduct that functions, how the mobile court functions their efficiency in fulfilling the Region's requirements.
- The role courts have on Prisoners on remand that passed their due time.
- The type of functions that the Judicial Council (which is the highest authority in the Judiciary) has on the judicial activities of those Regions.
- Cases that have an Advisory Panel (Assessors) and cases that are held by one Judge, which of them is practically closer to justice.

5. Honorables it was also in our plans to overlook the diverse needs of these institutions that we assessed, which is the courts, the Prisons, the prosecution, and as well as the police stations of those regions.

When we started these activities, we started from Borama and these were our findings shown below:-

1. The prisoners on remand that are waiting for trial:

A. *Borama Prison* the prisoners on remand were as below;

- Regional Court (37) and among them is *Mohamed Ibrahim Saeed* who was detained till *11.01.2011*
- District Court (4) and among them is *Dawlad Baaruud Ducaale* who was detained till *01.06.2011*

B. *Hargeisa Prison* the Prisoners waiting for trial.

- Regional Court (110) and among them is *Mohamed Nour Hirsi* who was detained till *17.01.2010*
- District Court (27) and among them is *Mowlid Hasan Jama* who was detained till *13.04.2011*
- Marshall Court (10) prisoners were waiting for trial, and were detained till *31.05.2011*
- Appellate court amongst it is *Mohamed Ali Jama* who was detained till *27.03.2005*

- Supreme Court amongst it is *Bare Ahmed Shirwa* who was detained till 27.03.2006
- Police Stations in Hargeisa have (18) prisoners waiting for trial and as they informed amongst these prisoners were two **females**, that were part of the Female Shares , that were detained for 8 months in the New Hargeisa Police Station, and were before detained in the prison in Gebilay for a whole year. These prisoners were detained by district and regional court judges.

C. In *Mandhera's Prison* there were no prisoners on remand that were waiting for trial.

D. *Berbera's Prison*

- Regional Court (10)
- District Court (4)
- Appellate Court (3)

E. *Burco Prison* the prisoners waiting for trial were:

- Regional Court (57) and among them was *Abdulrahman Shide Mire* who was detained till 12.07.2008
- District Court (6) and among them was *Khadar Mohamed Qule* who was detained till 21.09.2008
- Laas'anod (2) and were *Faarah Muse Jama* and *Abdi Qasim Bare* who were detained till 26.12.2011
- Burco's Prison has a detainee called *Abdi Qasim Mohamed* whose sentence ended in 2010 and is still locked up because his Blood compasation wasn't paid up.
- We also saw in Burco's prison a detainee locked up for minor injuries till 11.05.2011.

1. Hence, when we assessed, and individually interviewed police officials, criminal investigators, judges, and prosecutors on the issue relating to the prisoners on remand detained in prison and waiting for trial, the conclusion was that they all share that responsibility. This is a clear violation of the law and a violation of the rights of the citizens waiting to be trialed, and must not occur again.
2. Honorables, we also came to find another issue that is common in all the regions which is the issue of civil cases that are pending for execution in which their executions are being waited in front of the courts whether it is the district court, regional court, appellate court, or supreme court and there is no one to execute it, and although it's said that some of these executions is held back for security reasons, most of them are not known why they are not.

3. Dear Honorables, while we were on our mission of observation we have not come across prisoners that were detained by the security council rather than (1) prisoner that was detained in Borama prison who's called *Abas Mohamoud Hasan*. The period he got locked up was *14.04.2010*, and we were informed there were no accusations against him whether from the prosecution, court and police, and advised that he was given back his freedom and set free. Likewise we didn't come across any prisoner that was detained for political reasons at all.
4. During our observation of the prisoners we've seen in prisons of Hargeisa, Mandhera and Berbera amongst them were (26) prisoners of piracy which were all non-Somaliland citizens except for (1) prisoner that's was a Somaliland citizen and locked up in Berbera, the crimes accused by all of them and were punished for were not crimes committed in Somaliland Waters, and Act that they were punished by was not the Piracy Act but was Somaliland's Penal Code.
5. The other thing that prisons had in common that we observed were that they had detainees that were mental and not on their sound mind, some of them committed murders and some of them being Hardcore and were not confined in a separate area, not having proper eating nor medical treatments, and is difficult to hold them along with the other normal prisoners.
6. All of these prisons we observed were all old prisons that were in the first place built for district levels, and changed into being prisons for one regions or regions, their size being small and their sanitation or hygiene being very low.
7. All the prisons did not have a Juvenile unit or a unit for Females, except for Mandhera's prison that had one cell for Juveniles, and Burco that had one small cell for the females. Even the Main new prison in Hargeisa does not have a juvenile or a female unit, likewise the prison of Hargeisa's top building has no water being reached to it at all. All these prisons rather had in common that there is no units were the Prison guards resided that they sleep in.

Dear Honorables, we were also fully informed and have clear findings from our observation that we are presenting to you:

- The lower courts consisting of (District, Regional, and Appellate) that there finance administration falls under the Ministry of Justice which is lawfully affecting the independence of the Judiciary.

- The Judicial code of Conduct which is the code that administers the country's Judiciary, we found that the judges of the different levels of the regions all had different copies that is not the finalized copy that was ratified by this Parliament, and this is something common in all the Regions.
- What we also have with their fact that is common in all the four regions that there are direct interventions to the court judges of these regions by Regional and National Authorities that really affected their functions and decision-making.
- The sections of courts of these regions that function besides Hargeisa are the criminal and civil sections. Hargeisa additionally has Tax, Administration, and Juvenile sections that are not fully built. Etc
- All the court of the Regions has in common that the implemented Acts ratified by the Parliament did not reach them. Even the Juvenile Act and that there were no Juvenile courts or Juvenile Police in these regions.
- Similarly, we found from the interviews we made that if the citizens living in these regions, had a claim of an unjust act committed against them by the judges or prosecutors they do not have anywhere to take their claims or no one to complain to. If the individual could come to Hargeisa he could not find a Judicial Council that will consider his/her claims.
- What also came to our knowledge that were informed to us by the Judicial Officials, that cases that are trialed by a panel of advisors (Assessors) are more likely close to justice than cases trialed by a single Judge.
- Your Honorables, in addition all the four region's prisons we came across a number of minors (juveniles) that were confined, that did not have their own facility but the Prison and Police officials tend to eagerly to make their own place.
- In Berbera and its Prison they have (25) minors /Juveniles that were not Somaliland Citizens and came from our neighbouring countries and were confined for highly immoral acts and the others from the city with them, these immoral activities are of a big concern to the Officials of the region.

Dear Honorables, it is well to be mentioned and could not be forgotten the harsh circumstances circling these institutions that we assessed like the courts, police and prisons, that could not be simply described. Especially these two places (Berbera and Mandhera).

1. Berbera which is a coast and sometimes, especially the times we were there which was during summer and generally is a time where work and living is really hard for the employee, the prisoners, and the ones working there, which you could see the way they are living and most of them being married and having children mostly do not have any alternatives, as well as other things to aid them, and they have to fulfill the National Duties in that harsh environment.
 - We found from reports that the British protectorate colony and Egal's Administration use to look over the workers in Berbera (especially police

officers and Prison officers of Mandhera) and were given extra stipend from other officers.

- We came across in the Berbera courts whether the district, regional and appellate court that the judges there are only the Chairmen only, they are the judges of the court, and there is a total lack of cases to be taken by Assessors.
2. Additionally there are two other problems in Mandhera's prison which are:
 - a) That the waters being drunk from the prison are sour waters, and were before being mixed with normal waters, but now there are no normal waters they could mix with, and they only now have them sour waters which is highly unhealthy to the prisoners and Prison officers.
 - b) The other problem Mandhera prison faces is that the electricity cuts-off when its 10:00 pm, after these times the prison is guarded by torches, this prison that is guarded by torches has the most prisoners confined in its facility that are sentenced to death, and is a constant danger for the guards of the prison's security.
 3. Similarly in Burao's prisons and police stations, in Riyale's Administration the electric bill was paid off by privately owned electrical companies, and the water bill was paid off by the local government of Burao. Now what happened was when the new administration of Kulmiye was handed the country's leadership, the local government stopped paying the water bills, because the Ministry of water and natural resources took over the administration of the water municipality, and it's the only city we have seen that water municipality comes under the administration of the Ministry of water and natural resources, and then the electrical companies stopped paying the electrical bills of the police stations of Burao.

Dear Honorables, moving forward as we mentioned before one of the goals of our assessment was to know about the general requirements of Police stations, judicial sectors and prisons of those cities we visited.

Nevertheless, the general requirements of these institutions are as shown below:

1. Prisons

All prisons of the four regions had common requirements:

- All waste dumps and toilets are very low and are always flooding and it's needed to make more and bigger waste dumps, or they must have access for constant vehicles to take these dumps.
- Lack of vehicles, poor vehicles, or shortage of vehicles.

- In some places Prison guards do not have a uniform.
- Prisons are complaining of a shortage of prison guards except for Hargeisa's prison.
- Lack of Utilities except for Hargeisa's Prison.
- Lack of Medicine and Medical examiners is another thing all prison has in common.



2. Police Stations

Requirements of police stations of four regions:

All police stations of the four regions had common requirements

- Facility wise they are small in size, they are neglected, and cannot have detainees in them.
 - They also complained that there is a big shortage of police personnel compared to the work they have.
 - Lack of utilities like cuffs, stationery and computers.
 - They all have a common problem too which is a shortage in fuel or lack of fuel access, some of the police stations are given a small amount of fuel by local governments.
 - The waste dumps and toilets are disregarded, and as they said that could cause sicknesses, even the sanitation and hygiene of these stations are very poor and need to be constantly maintained and sprayed off from pesticides caused by this poor sanitation.
 - Dear Honorables, it's a true fact that criminal investigators and their investigations are a main part of these problems, poor inventories, fuel shortage and lack of fuel access.
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3. Courts

Generally the courts of these regions have these requirements in common

- Buildings of courts are poor of its four sections.
- There is a lack of utilities that affects their day to day activities and is a common thing in all courts.
- The archives and databases of all courts are annually piled up in sacks and files are put together in it and are thrown away.
- They all have in common a shortage in vehicles and transportations except for Hargeisa.
- There is always a constant threat to the security of the judges that we have observed in these four regions.
- There is also a problem in courts in the Awdal region that there registrars do not get wages like:
 - **The Regional Court (1) Registrar**
 - **Boorama's district court (1) registrar**
 - **Baki's district court (1) registrar**
 - **Zeyla's district court (1) registrar**

Togdheer Region

- **Appellate court (1) registrar**
- **Regional court (1) registrar**
- **Burcao's district court (1) registrar**
- **Aynabo's Court (1) registrar**

Dear Honorables, along to our work that we completed in our assessment of the four regions was that when we were visiting prisons, police stations of the cities and the courts, we planned to

fulfill a dinner or lunch gathering that was suitable in those places that we were in so we could bring together the prison, police, and court officials, as well as the Mayors and Governors of the Region, and also other officials that we deemed necessary to our inquiry, and were limited to atleast **25** officials. The objective behind this was, that we presented to these officials the findings and facts we found in prisons, police stations and courts.



- That we present what advise we had for these officials of the Region
- That we inquire further questions that we needed from them
- And most importantly that the minimum yet necessary requirements that we have seen in our observation of these institutions to be quickly dealt with, which could not wait for our National calling. Including also that all four region's officials especially the Mayors and Governors warmly and respectively accepted from us, firstly our summoning that we summoned them, and secondly to have quickly and actively accepted that they will do something about the requirements that we presented to them that concerned their Region.

Dear Honorables due to our report consisting of all this information we also want to bring to your attention another mission that is planned to be implemented in the coming future.

That we are going to conduct three workshops that one of them is a review that will be made on the judicial code of conduct, in order to take into consideration the comments and suggestions and add what we gather to this Act. The other two workshops will be more of a National level, as we brought together each region internally; we also want to call up and bring together all officials of these institutions of all regions of the country so we could present our findings and details we piled up and to correct whatever mistakes there are. As we before mentioned the UNDP supported our mission to all of these four regions. We also have in plan to go to the other

two remaining Regions as soon as possible, and AWEPA will be supporting us in this mission.

Acknowledgment

- We would like to thank all the Officials individually of each region who welcomed us, the Governors, Vice-governors, Mayors and Vice Mayors of all of these four regions
- Judicial Officers (Judges, Prosecutors, Prison and Police Officials).
- UNDP for their support and without their support this mission would not have been accomplished.
- Lastly to the Members of the committee that played a major role and a great effort in fulfilling this mission.

Recommendations and Suggestions of the Judiciary, Constitution, Justice and Human Rights Committee of the House of Representatives

1. We are recommending that cases that delayed in remand, affect the nature of justice and in order for this not to occur Criminal Investigators, Prosecutors, and Court Judges must cooperate and work together.
2. Judgments waiting for execution and passed all levels of the Court are mandatory and their executions is an obligation, their non executions will be bring people to take the law in their own hands, and have no hope from courts, which will bring chaos and threats to the security and peace, and all institutions that are liable for the executions of these judgments must cooperate together in executing them.
3. It is also important for Judiciary, Constitution, Justice & Human Rights Committee of the House of Representatives and the Judicial Branch of the State Cooperate in reviewing the Judicial Code of conduct, which was not properly implemented, in order to add vital details that came from our findings.
4. We are also suggesting the President that he implements the prosecutor General's Office in order to fulfill his duty in printing out in the official Gazette and making access all the laws that were passed by the Parliament, and make it access to all Regions.
5. It's a National duty that we are recommending that the Government immediately prepares regulations against Piracy and Terrorism; these regulations that are indeed need to be made now, and present it to the parliament to be passed.
6. There is another issue in all the regions which is Judicial Interventions by Government Authorities, whether district, regional, appellate and supreme courts. These interventions

which have major side effects on the justice of the judiciary that judges hold. Therefore we suggest that the government at once stops these kinds of acts, and upholds the Independence of the Judiciary.

7. It is a Constitutional matter that the financial administration of the Judiciary falls under the Ministry of Justice which lawfully has the power to do so, therefore we are recommending to the President that he suggests that it be complied by law that the Ministry of justice being an Institution of the Executive has no authority in regulating the Financial matters of the Judiciary.
8. It is the duty of State's judicial council responsibly fulfills their duties that the Constitution gave them; in order solve all the mistakes in their hand.
9. It is a duty on the Ministry of Justice, and we are recommending that they implement the Juvenile Justice Code, in order to prepare the Juvenile Police force, Juvenile Courts, and generally work on preparing what is needed for Juveniles by cooperating with International Entities that have this role.
10. We are recommending to the Government and its Institutions, that they work on upgrading the Police especially Criminal Investigators, prosecutors, court judges, in order to eliminate the injustice that exists in courts, whether it's the utilities, building their capacity and their cooperation which is essential to the National duty they possess.
11. We are recommending to the Supreme court and Judicial council which is a National Obligation that they reform the mobile courts for them to be efficient in fulfilling their duties and the needs of the Regions of the country.
12. We are also suggesting that the Government prepares a clear Policy on people that are of an unsound mind and disregarded all across the country, especially those neglected in prison confinements and building the capacity of their institutions or making their own confinement facility, in order for them to be treated and well maintained.
13. Dear Honourables as we mentioned before the prisons of the country are prisons built by the Colony and their purpose were to confine prisoners from the district level except for Mandhera's prison which half of the facility is ruined, and later these prisons as they where were made to confine prisoners from the region or regions.
After we assessed these prisons they turned out to be old ones that are ruining, secondly being very small in size, thirdly their whole administration does no longer exist.
Therefore we are recommending the government that they build whatever is possible to build new facilities, those which should be made to confine juveniles, females and units for the prison guard force to dwell. Hargeisa's main prison is needed to be built in it units for juveniles, females and units for the prison guards could dwell that is not built, and to fix its non functional systems like the sewers and water systems.

We are suggesting to the Government and its Justice sectors that immediate action should be taken on the issues mentioned in this report, which some of necessary issues are mentioned below:

1. The issue of water and electricity of the prisons and police stations of Burao should be given back to the local government the authority to pay its bills, likewise give back to the electric companies the authority to pay the electric bills.
2. To take action issues that separately regarding Berbera and Mandhera in the most quickest and most possible way which is the issue of electricity, water the general harsh circumstances circling prison guards in Mandhera, Berbera's prison and the Police stations, as mentioned and detailed in the report.
3. And finally we are Suggesting to the Government to take immediate action in paying the unpaid wages to the registrars of the regional courts of Awdal and Togdheer.

THANK YOU ALL