

## **UNDP inputs to the Universal Periodic Review – Somalia**

### **I. Background and framework**

1. Somalia's Human Development Report 2001 indicates that the country remains one of the least developed countries ranked 161 with a HDI of 0.384 (data from Human Development report 2001). Somalia continues to be unstable especially in South Central, although some semblance of stability continued in Somaliland in the north and to a limited extent in Puntland in the north east.
2. The enlargement of Transitional Federal Parliament (TFP), the election of a new President followed by the appointment of a new Prime Minister, culminated in the signing of a UN-brokered peace agreement among moderate factions (the Djibouti Agreement). This ushered in a new period of hope towards reconciliation and peace building. At state levels Puntland went peacefully through elections in 2009 (selection through the traditional clan system) of a new parliament and President, who in turn appointed a new Cabinet. Somaliland held peaceful elections in 2010 which ushered in a new government.
3. The Transitional Federal Government (TFG) continued to lack the political, economic and military capacity to sustain itself without external support. From the signing of the Djibouti Agreement, the Transitional Federal Institutions' (TFIs) state and capacity building efforts have remained weak and dysfunctional. In particular, the TFG faced extremely serious institutional and operational challenges. Most employees continued to work on voluntary basis and were only sustained with stipend support through the UNDP Start-up Package that started in April 2008.
4. Somalia is a party to most major international human rights treaties including the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights. It has not ratified the Convention on the Rights of the Child (CRC). The Council of Ministers of the Transitional Federal Government *has "announced its intention to ratify the Convention on the Rights of the Child and agreed to set up a committee to look into harmonizing its provisions with national legislation and sharia law."* (Report of the Secretary General, 31 December 2009). Somalia is not a signatory to the UN Convention on the Elimination of all forms of discrimination against women (CEDAW). Somalia is a member of the Arab League having joined in 1974.
5. The Transitional Federal Charter came into force in February 2004 and states: "The Charter shall have legal effect pending the eventual enforcement of the National Federal Constitution...The 1960 Somalia Constitution and other national laws shall apply in respect of all matters not covered and not inconsistent with this Charter...The present Charter shall be the basis for the federal constitution whose draft shall be completed within two and half (2 1/2) years and be adopted by popular referendum during the final year of the transitional period." UNDP operates the Somalia Constitution Making Support Project which is working towards development of a National Federal Constitution.
6. The Somaliland Constitution was adopted by the Parliament of Somaliland on 30 April 2000 and approved by referendum on May 31 2001 with 97% of respondents voted in its favor. The Constitution of Puntland was passed by the Parliament in April 2009.

### **ii. Promotion and protection of human rights on the ground**

7. The lack of state funded legal aid in Somalia is a major impediment to providing legal representation for vulnerable persons. Since 2005 UNDP has been supporting the development of legal aid services in Somalia. Legal Clinics have been established at the Universities of Amoud (Boromo) and Hargeisa in Somaliland; women bar associations established in Mogadishu and Somaliland and development of lawyers associations. Legal aid providers are now visible throughout Puntland, Somaliland and in TFG controlled areas of Mogadishu, The expansion of legal aid partners has led to a significant increase in the caseload from 500 completed cases in 2008; 1061 in 2009 and approximately 3000 to date in 2010
8. Survivors of Sexual and Gender Based violence have faced considerable difficulties in accessing after care services such as medical assistance, psychosocial support and legal assistance. In addition to that the

majority of cases of sexual violence have been settled through traditional dispute resolution mechanisms. *The Report of the independent expert on the situation of human rights in Somalia*, Shamsul Bari, (advanced unedited edition), dated 8 March 2010, (UNIE Report March 2009) observed that: "... the situation of women and children had turned more precarious as they bore the plight of the Somali conflict". A number of initiatives have been started to address this phenomenon including development of referral pathways by the Ministry of Family and Social Affairs in collaboration with UNDP, UNICEF and UNFPA in Somaliland; provision of psychosocial assistance provided by UNICEF partners and the establishment of the Sexual Assault Referral Centre in Hargeisa.

9. The Sexual Assault Referral Centre was established as a pilot project in Hargeisa in October 2008. The SARC operates as a 'one-stop' location where victims of SGBV can receive medical care and counseling. Victims also have the opportunity to report the assault to the police for investigation and have access to free legal advice and representation. In 2009, the SARC dealt with 129 cases involving sexual violence against women and men, of whom 47 were under 15 years of age & in the first half of 2010 dealt with 70 cases of whom 49 were underage. This has led to increase in number of rape cases being reported and although the prevalence of cases being dealt with by traditional means is still high has also led to an increase in the number of cases being brought to the Courts. Significant additional funding is required in order to expand its services to other areas in Somalia.
10. In order that gender is effectively mainstreamed into all areas of public life, the Ministries of Family Affairs were assisted by UNDP in Somaliland and Puntland to develop a National Gender Policy and plan of action. This process was completed in 2009. The document recognizes the need to deal with the deeper questions of women's emancipation, empowerment and involvement in decision making in all aspects of governance. The focus is now on implementation of these policies throughout government institutions.
11. In May 2005 a symposium was held establishing the Somaliland National Human Rights Commission. UNDP assisted in drafting of a law establishing the Commission which was presented to the Council of Ministers in December 2005. At the time of writing the law is now before the Parliament awaiting final amendments before it is expected to be approved. This Independent Commission will have a number of key responsibilities including inspection of police and prison facilities as well as investigation of human rights complaints. There are currently no Human Rights Commissions functional in South Central or Puntland.
12. The Police Advisory Committee (PAC) continued to monitor police performance at eight police stations under TFG control in Mogadishu. The PAC has made regular visits to the Mogadishu Central Prison and CID detention centre. In May the PAC participated in the refresher training at the Mogadishu Academy and delivered human rights and prisoners rights training to the officers there. The Police reform initiatives which culminated in Somaliland in April 2010 with the National Convention on Police Reform provides for changes to institutional and legal structures, particularly as regards accountability, to ensure that policing is based on democratically endorsed laws and upon mutual respect and assistance. These changes in behaviour help to ensure that initiatives as are supported and reinforced. In Puntland a similar police reform process to that in Somaliland has just begun, following productive meetings with the State President and other senior counterparts
13. Land based projects to tackle issues around piracy have increasingly dominated rule of law efforts in Somalia in 2009 and 2010. In Puntland alone 76% of inhabitants of the main Prison in Bosasso are either convicted or awaiting trial for piracy related offences putting an enormous strain on the capacities of the criminal justice system there. In Somaliland where the issue has been less prevalent, 78 persons have either been convicted or are awaiting trial for piracy or piracy related crimes. Issues of concern in Puntland particularly concern access by legal counsel to suspects as well as fair trial issues. UNDP and UNODC have with delegates from Somaliland, Puntland the TFG assisted in the drafting of legislation to criminalize piracy and related offences. UNDP's position has been to advocate for a holistic approach to land based responses to piracy encompassing not just support for prisons but also police, prosecution and judicial capacities as well as initiatives which provide livelihood opportunities.

### **III. Achievements, best practices, challenges and constraints**

14. With respect to MDG goals Somalia needs to make significant investments in human resources capacity building, infrastructure, institutions and growth based on systematic and long-term planning and implementation of short to medium-term strategies that encompass its long-term goals. In this regard, the UNDP Somalia is providing support to the government in MDG advocacy that includes radio messages, sensitization workshops and MDG progress report among others and in MDG aligned development planning that starts with a needs assessment. In terms of the targets UNDP's Human Development and Economic Unit have noted the following:
- i. MDG 1: during the period 2000-2 almost half(43%) of the population lived in extreme poverty
  - ii. MDG2: 2003/4 Somalia had a gross enrolment rate of 18% in primary education which increased to 31% in 2006
  - iii. MDG3: girls are poorly represented in enrolment rates. In In 2004, only 31% of pupils in upper primary education and another 37% in lower primary education were females. In 2003/4, the ratio of girls to boys in primary education was 54%
  - iv. MDG4: Somalia has seen a gradual improvement in under-five and infant mortality rates. The country's under-five mortality rates plummeted from 211 (per 1,000 live births) in 1995 to 135 in 2006. The infant mortality rate showed significant improvement by dropping from 125 (per 1,000 live births) in 1995 to 86 in 2006.
  - v. MDG5: The reduction in maternal mortality has been very encouraging for Somalia. The sub-Saharan country's maternal mortality ratio per 100,000 live births reduced from 1,600 during 1987-1990 to 1,044 in 2006. By 2015, these figures should reach at least 400 for Somalia to achieve this goal
  - vi. MDG6: Somalia had a mean HIV prevalence of 0.9% in all zones of the country, according to a HIV and Sexually Transmitted Infections (STI) sero-surveillance survey conducted by WHO in 2004. The HIV prevalence among STI and tuberculosis (TB) patients was recorded at 4.3% and 4.5% respectively in 2004. A total of 205 clinical cases per 100,000 of malaria were reported from 2000-2002. During this period, 16% of under-fives were reported to be sleeping under untreated bed nets. A slight improvement can be seen in these numbers; in 2006, 18% of under-fives were reported to be sleeping under mosquito nets. Eleven percent of under-fives were using insecticide-treated nets in 2006. From 2000-2002, the prevalence rate associated with TB stood at 107
  - vii. MDG7: Somalia's forest cover has reduced over the last few years; as indicated by the decrease of proportion of land area covered by forest from 13% from 1985-1990 to 12% from 1999-2003. Unfortunately, almost 99% of the country's population were reported to be using solid fuel from 1999-2003. Access to safe drinking water was limited to an average 23% of Somalia's population in 2002. In 2006, about 29% of Somalis were reported to use improved drinking water sources. From 2000-2002, a mere 24% of the general population was reported to be living in permanent structures (60% in urban and 6% in rural areas).
  - viii. MDG8: The private sector in Somalia has played a major role in sustaining the economy and providing essential services to Somalis. In addition, the Diaspora contribute to the tune of about USD1 million every year. In 2004, Somalia's total Official Development Assistance (ODA) amounted to USD222 million, of which USD142 million came from bilateral donors, a steady increase from USD99.2 million in 2001.
15. The Somaliland Juvenile Justice Law was enacted in 2007. The law establishes a child to be any person below the age of 15(partial criminal responsibility is established for those between 15-18) and provides for establishment of Children's Courts, dedicated police officers, juvenile facilities for those in conflict of the law and an absolute prohibition on detention and incarceration of children below the age of 15 years old. To date UNDP has assisted in establishment of dedicated women and child desks in two pilot police stations in Hargeisa; conducted communication campaigns through the Ministry of Justice and has developed training programmes for the Judiciary, Prosecution Services and Police. Assistance is being provided to establish a dedicated juvenile unit in the Prosecution Service as well as establishment of Children's Courts. UNDP has also through its legal aid initiatives developed specific services for Children. Lawyers conduct weekly monitoring visits of police detention facilities and prisons in order to reduce incarceration of children and reduce the overall length of incarceration. Currently there are no dedicated juvenile rehabilitation centres in Somalia. The overall number of children in custody has declined since the

passing of the law and following the decision of the Somaliland Government to outlaw the Public Order Laws which in the past were responsible for the majority of those juveniles (15-18) in detention/prison. The rest of Somalia continues to follow the Juvenile Courts and Reformatories law no 13 March 1970.

#### **IV. Capacity-building and technical assistance**

16. Over the last 20 years of conflict Somalia has experienced destruction of institutions, infrastructure and human and social capital. There are still serious capacity gaps in terms of policy making, programming and implementation. There is a lack of awareness of rights amongst government and the wider population, underdeveloped civil society and weak infrastructure. UNDP's Programmes are seeking to address this.

#### **Governance Programme**

17. UNDP's Governance Programme is working in all 3 regions of Somalia and focused on increasing the capacities of the government both at a national and local level to undertake the following: Capacity building strategy designed; Policy and legislative processes and systems developed; Human resources developed; Public Finance Management improved; Infrastructure development and operational support provided; Aid Management streamlined; Cross-cutting issues addressed
18. To date the programme has focused on improving efficient mobilization of resources through improved revenue and tax systems, and improving systems to engender transparency and accountability, and strengthening parliamentary oversight of public institutions. The support provided under the project differed by zone, although there were significant similarities with respect to Puntland and Somaliland due to their relative stability compared to South Central. Support was provided through technical experts for the Central Bank and some support towards equipment to the Offices of the Presidency, Prime Minister, Parliamentary Committees and the Offices of the Accountant General and Auditor General
19. In Puntland and Somaliland, the project supported the Ministries of Finance & Planning to set up economic management units with the function of establishing systems for carrying out economic analysis, developing key economic indicators and improving capacity for economic & fiscal policy formulation. The units are fully operational and are providing technical support to the Ministries of Finance and Planning, and Cabinet, on the formulation of fiscal policy; and to the Budget Department of the Ministry of Finance on provision of credible revenue forecasts and expenditure plans in budget preparation. The units established inter-ministerial communication mechanisms on planning and budgeting, gender budgeting, and linkages between the executive, the legislative and integrity institutions on issues relating to planning and budgeting; and are also offering technical support to civil service commissions and civil service institutes. The project provided support to the Puntland Parliament and Somaliland House of Representatives to strengthen their capacity to oversee and scrutinize the work of the executive; they also provided support to Somaliland with respect to aid coordination and management

#### **Civilian Police Project**

20. UNDP's Civilian police project seeks to develop an accountable and efficient police service to ensure that there is compliance with and adherence to human rights standards. They seek to develop a vision of a professional service that will be responsive to civilian needs and be accountable for its actions to civil authority. To date they have trained 4553 officers in South Central, 2000 in Somaliland and 500 in Puntland through 3 dedicated Police training centers.
21. UNDP has launched a Police Reform Programme in April 2010 in Somaliland, based on international human rights standards, including the provisions of the 1990 Cairo Declaration of Human Rights in Islam, initiating modernization and essential changes in the Somaliland Police as well as securing governmental and societal support for police reform. UNDP has launched competency based Criminal Investigation Training (August/September 2010) for the Somaliland Police, to be followed up by in depth case study training. The training is focused on the investigation of cases as murder, theft, assault, robbery, rape and human trafficking, making use of the current legal provisions in the Criminal Procedure Code and the Police law. The Somaliland Police Reform Programme foresees the drafting of new legislation (Criminal Procedure Code and Police Act) in 2011.

22. In Puntland UNDP supports a Capacity Assessment Training (fall 2010), which is targeting the indexing of all Puntland police personnel and redeployment in line with capacities and competencies. In parallel, police literacy training is conducted, targeting 500 illiterate police officers. Management training for police cadre is under way (25 selected senior officers trained in principles of police management, with 75 to go in 2010)

### **Access to Justice Project**

23. The Access to Justice Project has utilized a multi- pronged approach in its implementation of activities which has emphasized strengthening the judiciary and the prison system. This is part of a wider strategy to support all aspects of the ‘criminal justice chain’ from effective policing to efficient judicial processes and prisons. The current phase of the project focuses on ensuring that the Somali population has access to justice throughout the regions and assisting with the establishment of a judicial system (both formal and non-formal) that is fair and transparent; complies with international human rights standards and is accountable to the people. A priority of the project has been to increase access to justice for vulnerable populations, as well as supporting the expansion of legal aid services inside and outside regional capitals through agreements with legal aid providers and Bar Associations.
24. The Project has been working with the national authorities in improving the effectiveness and responsiveness of the Courts including construction and rehabilitation of Courts & Prosecution Offices; provision of furniture, equipment and copies of laws; a 9 month training programme in Puntland and Somaliland through the local University law faculties as well as development of codes of conduct and improving the effectiveness of the High Judicial Council to monitor and oversee the effectiveness of the Courts. UNDP has also commenced a pilot project in Somaliland and Puntland to initiate case management systems in the Courts to improve efficiencies and reduce the time taken to effectively render decisions.
25. Currently in Somalia the majority of the Judiciary have no legal qualifications. There are a lack of persons with law degrees and a severe under-representation of women at all levels of the law profession including Police, Judiciary and prosecution. UNDP assisted in the establishment of law faculties in Somaliland and Puntland as well as provision of support to Mogadishu University Law Faculty. UNDP has also assisted in provision of law scholarships to women & those from minority groups and is now providing internships.
26. UNDP has also worked extensively with the Custodial Corps in Puntland and Somaliland in rehabilitating prison facilities, constructing 2 new prisons, establishment of a headquarters in Puntland, development of standing and operational orders on minimum standards of treatment for prisoners and an aggressive programme of training for Custodial Corps Staff on implementation of standing orders as well as techniques for keeping of registers & the proper recording of prisoners etc. At the time of writing UNODC has assumed responsibility for activities in Somalia.