

Republic of Somaliland
Somaliland National Human
Rights Commission



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Somaliland National Human Rights Commission

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A BRIEF BACKGROUND OF SOMALILAND

Somaliland a former British Protectorate attained full independence from Britain on 26th June 1960. On 1st July 1960, the state of Somaliland united with Somalia a territory under Italian trusteeship thereby creating the Somali Republic. On 18th May 1991 Somaliland gained its independence after the total collapse of Somalia as a result of the civil war of the late eighties and early nineties. The decision was made by the Congress of Council of Clan Elders held in Burao from 27 April to 15 May 1991. The Republic of Somaliland is a democratic country with a multi-party system. Somaliland has held presidential, parliamentary and local authority elections under the supervision and management of an Independent Electoral Commission. Somaliland has been yet to gain international recognition as a sovereign state independent of Somalia.

Somaliland is bordered by Ethiopia in the south and west, Djibouti on the northwest, the Gulf of Aden in the north and the autonomous Puntland region of Somalia in the east.

INTRODUCTION OF THE SLNHRC

The Somaliland National Human Rights Commission (SLNHRC) is a statutory body established by an Act of Parliament No. 39/2010 entitled “The Somaliland National Human Rights Commission Act”. The Act, which entered into force on December 2010 saw the full establishment of the Commission, clarification of the mandate, functions and institutional structure of the Commission. The Commission had been put in place in 2005 by the former administration in Somaliland but had never been fully established, nor was its mandate, functions and institutional structure put in place by law as otherwise required by the Paris Principles. The election of a new Government in June 2010 and the subsequent appointment of a new cabinet saw the appointment of a new interim chair of the Commission and 7 members of the Commission. The Act in Article 2 and 33 (2) provides for the functional, operational and independence of the institution.

MANDATE AND FUNCTIONS OF THE SLNHRC

The SLNHRC draws its legal mandate, framework and functions from the Somaliland National Human Rights Commission Act. The Act provides for the functions of the Commission under Article 26 which include: investigating human rights violations,

visiting places of detention to inspect and assess the conditions of the inmates, to create awareness and research and educate the communities on human rights, give advice and make recommendations to cabinet ministers and members of parliament (MPs) on the protection of human rights and basic freedoms and monitoring the human rights situation in the country. The Act further gives powers to the Commission to perform its functions to mediate, investigate and make decisions on human rights and related matters. The Commission may also summon or require the attendance of any person before it as well as the production of any document or record relevant to its investigation.

SLNHRC works closely with the Government Ministries especially the ministries of Justice, Interior, Labour and Social Affairs, Health and Education. In order to promote and consolidate a culture of respect for human rights and the rule of law in Somaliland, the Commission additionally works with the immigration services, regional governments, local authorities, traditional and religious leaders, women's groups, minority groups and organizations supporting the disabled & children and other civil society organizations in Somaliland.

I. Human Rights Situation in Somaliland

1. *Freedom of Speech*: Killing towards journalists and media officials is very minimal in Somaliland, however arbitrary detention of journalist is still on going. As a commission, we are still attempting to build a dialogue between government and journalists. Our journalists are not educated or qualified journalist, therefore, there is still a lot of debate about the legitimacy of their work. The government continues to prosecute journalist under the penal code rather than under civic courts.

2. Women's Rights

The human right of women in Somaliland still remains challenging. Women carry the heaviest burden when it comes to caring for the family. In many cases, women here are more often than not the breadwinners of the family.

➤ *Political Participation*

The political participation of women in government is still abysmal, with there only being one woman in the two chambers of Parliament and only four women in the cabinet ministers.

Our political leaders and society as a whole is receptive to the women playing bigger role in the governance of the country. However, there are currently 10 females in the local councils, which is step towards more gender equality within government.

➤ *Illiteracy*

The overall illiteracy rate is still high amongst women and girls. This is due to lack of equal access to education, with boys being prioritized over girls to receive an education, but also lack of educational access to those living in rural areas.

➤ *Rape and Domestic Violence*

Rape is the one of the most predominant forms of sexual gender based violence in Somaliland. Survivors of rape and domestic violence are reluctant to report any incidents for they have low confidence in the justice system and they have a fear of retaliation. The SLNHRC notes that the majority of these cases end up in mediation and result in compensation rather than in court. Many parents make backdoor deals of compensation not considering the social ramifications or the best interest of the child. Rape victims rarely get justice because of the mediation that takes place outside of the courts. According to the Baahiikoob, many cases are settled outside of court rather than in court. The Attorney General released a statement in a circular directing that all rape cases should not be decided by the traditional elders but rather by the courts

➤ *Inaccessibility to Legal Services/Access to Justice*

Women's human rights are constrained by inadequate legal literacy amongst women as the existing legal system does not reach the majority of women who live in rural areas, though there is a notable increase of women enrolling at all levels of education. This is attributed to the fact that the Ministry of Education sensitizing communities to eradicate gender inequality in education.

3. Justice for Children

Justice for children includes juvenile justice which deals with children in conflict with the law as well as children who are witnesses to crime or victims of crime. Children in conflict with the law face some challenges for instance being detained with adults. In some detention centres, the Commission noted that juveniles did not have separate cells from adults. In Berbera prison office it was observed that there is a separate for juveniles from adults. Few state prosecutors in the Attorney General's office to effectively handle cases, lack of trained prosecutors in the Women & Child Prosecution Unit to deal with SGBV and juvenile cases and to manage cases. Police Officers are not well trained and skilled in the protection of the rights of the children. They have limited knowledge about juvenile justice law of the country.

4. Right to Land

There is the Land Act Policy, which vast majority of the public is unaware of its existence. The government needs to address the rural and urban land with

consideration of pastoral, agricultural, and urban needs. The courts need to be strengthened to enforce the legislation.

II. Major government's achievements

1. Somaliland has successfully maintained peaceful and stable governance for the past 24 years.
2. Somaliland government has established a democratic government within the Horn of Africa.
3. Successful establish electoral procedures.
4. The establishment and drafting of FGM Act, Child Act, and sexual abuses Act are a step towards a more democratic and just society for all. However, those laws are still pending parliament's approval.
5. All elections since 1993 have been peaceful, transparent and demonstrated successful transfer of power.
6. Institutions required for an effective government and societies have been established.
7. Human Rights awareness and training is now taking a focal place within the political and social arenas.
8. Education and Healthcare are playing a much larger part in society. There are more children attending schools and universities than ever before. Medical care and assistance is more readily available to all.
9. The Somaliland government has established the SLNHRD and the Human Rights Act to contribute to the advancement of human rights in Somaliland.
10. The Government has supported the human rights commission in providing training for correctional officers on the importance of human rights and the rule of law. The training was extended to inmates.
11. The government has established Legal Aid Act, which re-enforces the importance of human rights.
12. FGM – in reference to Somaliland government, CSO and the House of Parliament have conducted a lot of meetings regarding FGM. They have accepted that there needs to be an Act, which covers the topic and bans it under the law. This is a good step towards fulfilling the recommendations of 2011. It is still under review the act, but there is still an ongoing debate on how best to tackle the topic, whether there be zero tolerance or a Suna.

Important recommendations that the Government should prioritize

- Reforming and strengthening of the justice system
- FGM and Sexual Abuses Acts to be approved, hopefully with zero tolerance with regard to FGM. And an implementation of these Acts.
- To develop and construct adequate detention center, including prisons and police stations.
- Mental illness facilities to be developed and under the control of government.
- Funding of human rights awareness campaigns across the country.
- To provide civic education within the education curriculum.
- To improve the disability policies and laws.

- IDP shelters and settlements to be secured so that they are protected. Better education and medical assistance to IDP.
- Youth – we recommend that government provides internships, apprenticeships and work placements for young people.
- Land disputes – government should provide appropriate solutions to disputes under the law rather than culture.
- Accountability and corruption within government to be monitored by an independent body.
- Freedom of expression to be openly practiced and protected.
- The Comprehensive Child Right Act should be drafted and implemented.

Key challenges facing the Government to implement these recommendations

- The government in its establishment is lacking in its commitment to human rights provisions protected within the Constitution.
- Traditional and religious barriers in the way of government moving forward with human rights processes.
- Traditional use of tribal affiliation dominant in government.
- Insufficient funding and resources to implement adequate training of human rights within public sectors.
- Lack of human rights awareness and training within government.