



JOINT ALTERNATIVE REPORT

Somalia: Patterns of unlawful killings, torture and other ill-treatment

Submitted in application to Article 19 of the UN Committee Against Torture and Cruel Inhumane and Degrading Treatment

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CIVIL SOCIETY ORGANISATIONS PRESENTING THE REPORT

Submitted by :

The Coalition of Somali Human Rights Defenders CSHRDS



The Coalition of Somalia Human Rights Defenders (CSHRDs) is a non-governmental, non-partisan and human rights organization which is registered under the Non-Governmental Act. CSHRDS is composed of members with notable experience in the field of human rights.

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And

Horn Afrik News Agency for Human Rights (HANAHR)



Horn Afrik News Agency for Human Rights (HANAHR) was established in late 2011, due to the necessity of a better and robust human rights advocacy, and the dire need to unify human rights defenders' voices in the horn of Africa region and beyond.

With the support of: **The World Organisation against torture (OMCT)**

OMCT is the main coalition of NGOs fighting against torture and ill-treatment. Its movement has more than 200 local organizations, members of the SOS-Torture Network and active in more than 90 countries around the world. Motivated by the needs of its members, OMCT works in all areas of work against torture - prevention, fight against impunity, direct assistance, rehabilitation, reparation and protection - for victims and their families, for human rights defenders so that everyone can live in a world free from torture. OMCT is an independent, non-political and non-denominational international NGO, founded in Geneva in 1985. Its international secretariat is based in Switzerland, and it has offices in Tunisia and Belgium. OMCT is also a member of the European Mechanism for the Protection of Human Rights Defenders at Risk and enjoys consultative status with the United Nations Economic and Social Council (ECOSOC) and the African Commission on human and people's rights (ACHPR).

Methodology

This report is the result of a joint efforts of society organizations (referred here as local rights group) working throughout the country and committed to the protection of human rights and the fight against torture, the fight against violence against women and the protection of children and the monitoring of detention facilities.

The local rights groups conducted series of visits to different prisons in Somalia and held meetings with Government officials from various institutions within the criminal justice sector, including representatives from the Ministry of Justice, Religious Affairs and Endowment, Custodial Corps, and the Judiciary.

The data contained in this report come from primary sources like visiting detention facilities and interviewing victims and their families as well as secondary sources taken from other existing reports.

The verification of the information shared was made by the drafting committee and field officers of the different NGOs.

The report was finalized with the support of the World organisation against torture that helped the analysis of cases.

Overview of Torture and Ill Treatment in Somalia

This report recommends that Somalia increases its efforts to comply with international human rights law and to protect civilians against torture and inhumane treatment and to fulfil its domestic and international obligations. Coincidentally, it recommends amending the Penal Code and Civil Status Code provisions to abolish in both law and practice criminal prosecutions that use torture as a tool to coerce prisoners and detainees to confess uncommitted crimes under duress. Lastly, it recommends continuing efforts to better detention conditions and implement monitoring mechanisms of ill-treatment in prisons, while uncovering its secret prisons run by the NISA (National Intelligence and Security Agency) to ensure those detained in cases of terrorism have equal access to legal safeguards and Somalia must also take full responsibility for the torture and enforced disappearances perpetrated by the army unit so-called Danab that is trained and funded by the United States, stationed in Balidoogle Airbase in Leego District that falls between Hirashabelle and South West state borders. The locals in the areas of Leego accuse Danab forces to have abducted and tortured hundred young in the period between 2018 and 2022, where Danab army unit have extra judicially executed more 25 young men in the area under the pretext of fighting alshabab terrorists and detained scores of young men in secret prisons without charges and trial without the knowledge of their respective families of their whereabouts.

1. Definition and criminalisation of torture in Somalia (Article 1 and 4)

Article 15 (2) of the Constitution's Bill of Rights stipulates that: "Every person has the right to personal security, and this includes: the prohibition of illegal detention, all forms of violence, including any form of violence against women, torture, or inhumane treatment." Article 15 (4) prohibits traditional practices that amount to torture. Unfortunately, the Somali Penal Code that is over 60 years old does not include the definition of torture neither does it criminalise it. The Somali Penal Code, promulgated in early 1962, became effective on April 3, 1964. It was Somalia's first codification of laws designed to protect the individual and to ensure the equitable administration of justice

Although the Government announced the reform of this old criminal Code, the practice of torture has therefore remained rampant in the country in the absence of a specific legislation. Judicial authorities do not punish acts that could amount to torture on the basis of the Constitution and international treaties.

1.1. Somalia's Police Torture and Detain 4 Journalists:

February 16, 2022, After the Heavy Explosives attacked by Alshabab militants in Kahda Police station compound. The local journalists visited to observe and report on the loss of lives of the people living there and covering the aftermath of an overnight Al-Shabaab attack that had razed to the ground a police station in the capital Mogadishu, Somalia's police captured, tortured and detained four journalists Photos circulated on social media (Attached) the journalists blind and forced to lie on the ground with their hands and legs tied on the backs under the sweltering heat of the sun. The reason they were tortured was the journalists who told the truth about how many soldiers died and were wounded.

SOHRA has verified Names of the reporters detained by police as Follows: Ismael Muse, Mohamed Hassan, Aweys Mohamud and Mohamud Bari.

On 17 July 2022, Banadir region policeman attacks and tortures two journalists (Maxamed Nuur aka Faransa - Reporter, & Munasar Cabdiraxman – Camera mand) from the Arlaadi TV based in Baidoa while reporting rain caused Sewage problems in Buulo Huubey & Ceelqalow areas in Mogadishu¹.

1.2. Torture by National Intelligence and Security Agency (NISA)

The security forces of the NISA are also involved in torture acts. When they arrest people who are being investigated for crimes, they use torture methods such as electrocution. They also expose them on the shores of the cold sea at midnight to confess the crime and many other Torture methods in Somalia.

On 28 April 2019 security forces of NISA illegally detained and tortured a civilian person named Libyan Mohamed Sidow who was accused of being members of Alshabab spy.

He was captured from his place of small business located at Madina Market Mogadishu. They tied his eyes and detained him in the compound of NISA investigation Room. While interrogating him, security forces hit

¹ see the video in the link <https://fb.watch/et4WLxQSZ0/> and [Journalists Attacked, Arrested and Tortured while reporting. @Hanahr News - YouTube](#) as reported by HANAHR

his head with Pistols and his chest by kicking several times in order to confess the crime. He was detained for 14 days and then released².

1.3. Somali National Army's Special Forces

In April, Somali National Army's Special Forces known as Gorgor reportedly killed a man by suffocating him after putting a plastic bag on his head inside 21 Sector Camp outside Dhuusamareeb district, Galgaguud. The man was arrested by SNA in a military operation conducted on 5 April and was accused of driving a vehicle full of explosives outside Guriceel district, Galgaduud region. He was transferred to Dhuusamraeeb for trial but was not brought to police station, instead he was kept in a military base camp where he was interrogated.

2. Monitoring and preventive measures: (Article 2)

2.1. Legal Safeguards

NISA agents routinely conducted mass security sweeps against al-Shabaab and terrorist cells, as well as against criminal groups. The organization held detainees for prolonged periods without following due process and mistreated suspects during interrogations³. « The federal government made arrests without warrants and arbitrarily detained individuals. The government sometimes kept high-profile prisoners associated with al-Shabaab in safe houses before officially charging them. The law provides for bail, although citizens were rarely aware of this right, authorities did not always respect this provision, and judicial personnel lacked adequate training in criminal procedures⁴.

2.1.1. Widespread Arbitrary Detention

2.1.2. Detention and harassment of opposition politicians

Somaliland went to the poll stations on May 31, 2021, to elect local and parliamentary candidates. Prior to election and during the election campaigns, Somaliland government has taken election-related actions against opposition candidates.

Human Rights Centre recorded the detention of seven opposition politicians who were declared willing to compete in the elections. Additionally, three more opposition candidates are wanted by the Police at the time according to a statement issued by the Police and other sources.

The arrest of the opposition politicians contradicts the Constitution of Somaliland and the Elections Act, which both provide politicians with the right to participate in politics without fear of reprisal and to join the party of their choosing. Article 22(1) of Somaliland constitutions says, "Every citizen shall have the right to

² This consent information had been given by Tortured survivor Liban Mohamed Sidow.

³ <https://www.state.gov/wp-content/uploads/2021/03/SOMALIA-2020-HUMAN-RIGHTS-REPORT.pdf>

⁴ <https://www.state.gov/wp-content/uploads/2021/03/SOMALIA-2020-HUMAN-RIGHTS-REPORT.pdf>

participate in the political, economic social and cultural affairs." The Elections Act stipulates that a candidate has immunity from arrest unless they are caught in the act of committing a crime. In all the cases investigated by Human Rights Centre, the arrests were carried out in contrary to the Elections Law.

The government has not officially charged any of the arrested candidates and politicians. The National Electoral Commission issued a statement on 26 April 2021 informing government authorities that candidates have immunity and shall not be arrested unless caught in the act of committing a crime. The statement further provided that it is prohibited to arrest a candidate during the election period. The National Human Rights Commission also supported the electoral body's decision and called on the immediate release of detained candidates.

In a press release, the Police defended the detention of the candidates and said they are investigating other candidates for the following counts:

- False certification by a person performing a service of public necessity (art. 371 of the Penal Code);
- False certification of a public document by a private individual (art. 373 of the Penal Code);
- Falsification of private deeds (art. 375 of the Penal Code).

The press release has not detailed the facts concerning the articles allegedly violated. Additionally, the Police have not stated which candidate is accused of which count. According to court records, no candidate or detained opposition politicians has been charged by the Office of the Attorney General.

On August 28, 2021, the UCID Deputy Secretary of Information in Awdal region Saleeban Awale Good was detained for 28 days, he was arrested on the premise of criticizing the job performance of the Governor of Awdal region, following his critique in the media. He has a right to express his concerns and challenge any official in their job capacity.

His arrest challenges and contradicts article 25(1) and article 32(1). Article 25(1) states that "No one shall be deprived of his liberty except in accordance with the law." Article 32(1) states "Every citizen shall have the right to express her or his opinion in writing, orally." or any other form of media. HRC is also concerned that this case is another issue of abuse of power by an elected official on a citizen.

On September 16, 2021, the Deputy Governor of Maroodijex, Wali Abdi Jama, from the Wadani Party was arrested after he criticized the President, Muse Bihi Abdi, through a media conference. Wali was sentenced up to 2 years and half in prison on November 23, 2021. On October 5, 2021, the chairperson of Berbera city council of UCID party Khalil Hussein Musa was arrested for criticizing the governor and mayor of Berbera City on his personal Facebook account.

He is currently still held in detention and awaiting trial in December 2021. Mohamoud Mohammed Haji Ibrahim was arrested in Burco on 6/12/2021 for a Facebook post criticizing the Minister of the Ministry of the Interior.

He was held for 10 days prior to being sentenced for one year in prison. In other violations of freedom of expression, Idiris Said Mohammed, also known as Sayidka Barakaysan was arrested for the mock portrayal of the president, violating his constitutional right to express his opinion in any medium. He is a Youtuber and comedian. He was arrested on 2/12/2021, currently held in detention without trial.

Arbitrary arrests have steadily been increasing in Somaliland for free speech and freedom of expression and Human Rights Center is concerned that this rapid increase is deteriorating the strength of democracy in the country, thereby weakening the processes in which the country stands on.

Another cruel and unusual punishment experienced by detainees is arrests based on compensation fee. There are detainees that are held in police stations who have not committed a major crime but because there is administration fee that they cannot pay, they are held indefinitely until that administrative fee is paid.

What is even more troubling with the police and court system in Somaliland is the transferring of crime from the accused to family members. Due to lack of procedural rights and due diligence on the part of the investigative team, should the police not find the individual accused of the crime, they will arrest a family member in their place, mostly these individuals are women, whether it is a mother, grandmother, or wife, reflecting poorly on the implementation of the constitution of Somaliland as article 26 (2) prohibits that action.

Silencing the citizens through detention and not giving them the chance to express their opinion on the matters that affects them is another form of oppression. Most of the cases that are related to freedom of expression take their grounds from being a national security matter or defamation.

The detained individuals faced illegal detentions with almost every arrested individual was taken to custody without warrant and not being brought into court within the assigned time of 48 hours. In the period covered by this report Human Rights Centre has recorded 114 people arrested for cases related to freedom of expression, including journalists. In April 2021, two women were detained for allegedly supporting Somaliland's reunification with Somalia. Sabah Abdi Ibrahim was detained after she dressed in Somalia's flag. She was released without charges after spending six days in a police station in Hargeisa.

On 23 April 2021 Degan Omar Dahir Miiraash was arrested in Borama for allegedly dressing in clothes with the Somalia flag. She was released on the same day without charges. Dagan has already served six months of imprisonment for similar allegations. The detention of individuals for purportedly showing support for "unity" is not new. Human Rights Centre has, in earlier reports, documented several activists, singers and other people who were detained and prosecuted in Somaliland for allegations of being against the independence of Somaliland.

2.1.3. Human rights commission and National Preventive Mechanisms (NPMs)

The provisional federal constitution called for the formation of an independent national human rights commission within 45 days and 30 days of the formation of the Council of Ministers in 2012, but these provisions have not been implemented. Every new Somali government that was elected by Somali Parliament

did not respect this constitutional obligation. The main reason is that The Somali government is acting as a clan-based system

They are not willing to establish an institution that will focus on the Protection and Promotion of Human Rights like equality between citizens. Every elected president had to refuse signing and establishment of National Human Rights Commission. Similarly, no institution has been established for the monitoring of detention facilities. Up to date, no independent state institution is mandated with visiting prisons, police stations at domestic level.

Prison monitoring by independent Human Rights organisations including non-governmental organisations is very limited and mostly not allowed in Somalia. Children are detained with adults in same cells as well as women and girls. This increases the risk of being abused by prison staff and guards etc.

The prisons located in Jubaland are the worst in Somalia since they are destined to host mainly arbitrarily arrested and kept in prison without any charges for long and without access to fair process while their families believe that they disappeared or got killed in unknown locations etc.

3. The situation of Human Rights Defenders

In Somalia, violations of freedom of expression and censorship increased. The misuse of judicial and executive powers granted to officials persists in Somalia. A rise in al-Shabaab's egregious suicide bombings targeted journalists, lawyers, and other human rights defenders.

Somalia's presidential elections were scheduled to take place on 8 February 2021, allowing for the nomination of a new president before the current president's term ends. However, the vote never took place after a disagreement among the country's leaders on how to hold the election. President Mohamed Abdullahi Mohamed ended his term on 8 February 2021 with no elected successor, leaving a power vacuum.⁵

Meanwhile, 2021 was marred by egregious human rights violations against journalists, lawyers, and other human rights defenders. Some of them were unlawfully arrested by both the government and its warlords as well as al-Shabaab militias. Civic space has been dramatically reduced and extremely limited in Somalia. Civil society in Somalia is passing through one of its most dangerous and turbulent climates. The government and some organizations created a clan-based civil society, making a polarized civil society divided along clan lines. The principal notion of such a plan is to systematically weaken the civic space and create a civil society that works on behalf of its oppressor.

On 1 March 2021, an independent Somali journalist Jamal Farah Adan was shot dead by gunmen. Subsequently, the extremist group Al-Shabaab later claimed responsibility for the assassination.⁶

⁵ CSHRDS ANNUAL REPORT 2021 (OUR ANNUAL REVIEW OF HUMAN RIGHTS AROUND SOMALIA). (2022, January 16). CSHRDS.ORG – Coalition of Somali Human Rights Defenders. <https://cshrds.org/2022/01/16/somalia-cshrds-annual-human-rights-report/>

⁶ Reported by the Forum member ins Somalia.

On 23 June 2021- four unidentified men attacked Hanad Guled, the chief editor of the privately-owned broadcaster Goobjoog Television. They stole two mobile phones. Hanad is an active member of the Coalition of Somali Human Rights Defenders CSHRDs.⁷

On 20 November 2021, the Somali journalist Abdiaziz Mohamud Guled was killed in a suicide attack. He is a prominent Somali journalist who was a critic of the Islamist militant group al-Shabaab, who was killed in a suicide bomb attack in the capital, Mogadishu. Abdiaziz Mohamud Guled, also known as Abdiaziz Afrika, was targeted as he was leaving a restaurant in the city shortly after midday. Two other people nearby were injured in the blast and taken to hospital. Al-Shabaab said it was behind the attack and had targeted the journalist who worked for Radio Mogadishu.⁸ Government authorities and police repeatedly failed to investigate these incidents, particularly suicide attacks, due to prevalent impunity, weak governmental institutions, and a lack of the rule of law.

3.1. Detention of journalists

Detention and prosecution cases of journalists have been part of annual reports of Human Rights Centre since its establishment. The incidents of detentions, media house suspensions and intimidation from government is real concern when it comes to freedom of media even though the constitution of Somaliland guarantees the freedom of the media as stated in article 32, coupled with 2004 press law which also guarantees the protection of journalists. However, the penal code of Somalia which was ratified back in the 1960 is still used for media cases, which in contrast contradicts the Somaliland Constitution and criminalizes media issues such as defamation, most of which cannot be applicable to the journalists in the current time. Misinterpretation and plurality of the legal system utilised in Somaliland leads to confusion in the ways that people are arrested and charged, in effect the Penal Code. In this reporting period Human Rights Centre documented the detention of 13 journalists for work-related activities. On 5 January 2021, Abdihakim Mohamed Ali, a freelancer journalist, was arrested in Erigavo for a Facebook post. He was released on 18 January 2021 without charges.

On 16 January 2021, Hussein Ateeye Gaafane, a reporter of Universal TV, Abdilaahi Dahir Ways of Saab TV, Ahmed Dirie Iltire, a reporter of SBC TV and Shuaib Mohamed Kahin of Bulsho TV, was arrested in Borama on the order of the mayor of Borama. They were released on 20 January 2021 without any charge. On 16 March 2021, Mustafe Abdirahman Mohamed Araale, a reporter from Eryal TV was arrested in Borama after he videotaped a garbage dumpster in the middle of the city, his arrest was ordered by governor of Borama and he was released on the same date. On 13 April 2021, Adan Abdi Idle, a freelancer journalist was arrested for Facebook posts for being critical about the Central Bank governor on corruption issues. Hargeisa Regional Court remanded him into prison for further investigations. No official charges were currently filed with the court. He was released on 29 April 2021 without charges. On 23 April 2021, Abdiqadir Mohamed Abdilahi (Aka Ishqi), a reporter of MM TV was arrested in Borama by the Somaliland police after he interviewed Hassan Dehehe, a sheikh based in Borama who allegedly supported the President of Somalia. On 13 September 2021, Mohammed Abdi Omar a reporter from SBCTV was arrested in Gebilay after he filmed a documentary of kalabaydh hospital in Gebilay. On 02 October 2021, Mawliid Ismacil Haredigeed a

⁷Goobjoog TV. (2021, June 24). GOOBJOOG TV EDITOR HANAD GULED STABBED, IN STABLE CONDITION. Goobjoog News English. <https://goobjoog.com/english/goobjoog-tv-editor-hanad-guled-stabbed-in-stable-condition/>

⁸ Reported by the Forum member in Somalia.

reporter of Halbeeg media was arrested in Lascaanood after he recorded a major humanitarian crisis against Somaliland government for the force eviction taken place in LasAnood, he was released at the same date. On 24 October 2021, Abdifatah Mohammed Abdi a reporter who works with Holhol media was arrested in LasAnood for videotaping four traditional elders who were supporting a parliamentary candidate in Somalia. He was released on 06 November 2021 without charge.

4. Training of security forces (article 10)

Although New Policing Model (NPM) The agreement was reinforced by its inclusion in the National Security Architecture in 2017 and endorsed by the Security Pact at the London Conference on Somalia in 2017. The New Policing Model provides the framework for a federal system of policing at the federal and state levels. However, there are many articles needing to be reformed from the old legal framework for Somali Police forces.

The most complicated challenge for the Somalia National Security Forces (SNSF)/ NISA is Somalia's multitude of militias which were transformed into official Security forces. NISA is the focal point for the counterterrorism and has no legal framework. Somalia has gone through a security system that has been held by different governments for nine years of civilian government and 21 years of military rule. The military government created a security force that has no law to act as security forces and Legal framework to be guided. From all the civilian governments that followed the military government, none of them tried to create a legal framework for the security forces. until now they are following the system established by the military governments.

We **recommend** that they must be given skills and training to increase their discipline and human rights compliance.

5. Prison Systems in and detention conditions

Deficiencies in the administration of justice system result in arbitrary and unlawful detention across all the country. The situation is aggravated by the lack of alternatives to detention and the recourse to detention also for minor offences. Once detained, the living conditions of prisoners and detainees fall below the standards identified in international human rights law as well as in the laws of Somalia.

In 2021, due to a severe explosion of covid 19 pandemic in all prisons, the local rights groups and experts made a request to assess the prisons sector in Somalia and monitored the detention conditions of inmates and their access to basic rights and services. Subsequently, recommendations and policy changes were communicated with the relevant authorities in order to improve.

For reasons of security and inaccessibility to most of the areas which are not under the influence of the Federal Government (FG) at the time of the completion of the present report, the members of the rights groups in Somalia could only visit prisons under government control and could not visit al-shabab run prisons due to well-funded fear of being killed.

The relevant custodial authorities have not yet developed a comprehensive strategy for prison reform in the country due to incomplete constitution draft and political and security crisis. A plan for strengthening the capacity of the prison system is urgently required as part of a broader plan to reform the whole of the justice sector.

Chapter V of the 1964 Penal Code regulates the execution of punishments, drawing a clear distinction of the applicable regime to various offenders. Article 136, paragraph (5) requires inter alia that female prisoners to be kept completely separately from male prisoners. The current Prison Law regulating the regime of detainees and prisoners in Somalia was drafted and adopted in 1972 (hereinafter referred to as the 1972 Prison Law).

The 1972 Prison Law contains 74 articles regulating the establishment and administration of prisons, treatment and general welfare of prisoners, disciplinary and penal provisions, discharge and assistance to prisoners, conditional release on license, prisons' visits, offences in relation to prisons and prisoners, and development of secondary legislation and administrative measures, including Regulations and standing orders.

5.1. Profile of the Prison Population

Today many prisons are run by the federal government of Somalia and its regional states. All prisons are characterised by overcrowding or epidemic diseases. In May 2021, an estimated total 12 000 persons, were detained by different prison regimes e.g. Alshabab terrorists, Somaliland, Southwest, Hirshabelle, and Juba-Land authorities. Women, girls and boys form 47 % of the prison population according to relevant authorities. 50% of all inmates were convicted by a military court, including all female prisoners.

Prisons are overcrowded due to mismanagement and more arbitrary arrests and politically motivated detentions. The existing prison population could be divided as follows: 3,000 women (convicted by different authorities); 3,500 juveniles (detained and convicted by different authorities in different regions including alshabab); 5,500 men (detained and convicted by different authorities in different regions including alshabab); 3,500 prisoners sentenced to imprisonment ranging from five years to life imprisonment (300 females, 700 juveniles and 2,500 males); 2,500 individuals detained on remand (1,500 males, 300 females and 700 juveniles).

In 2021, 21 persons were sentenced to death and according to authorities most of those executed belong to alshabab terrorists. In 2021 three females were executed for different reasons, mainly by alshabab.

Separation between women and men was confirmed during the assessment at the targeted prisons in Somalia. However, such separation de facto does not exist between adults and juveniles in detention, despite this being expressly required by Law. Adults on remand are usually kept separate from those who are serving a sentence. However, the same is not the case for women and juveniles as both remanded and sentenced are not kept separated in their respective wings.

In addition, there is no clear separation between individuals sentenced by military courts and those convicted by a decision of a civilian court; same applies for those sentenced or tried on charges of national security offences and common crimes. This situation obviously poses a serious concern in terms of both internal security and rehabilitation of prisoners.

5.1.1. Living Conditions

In the Somali Prison Law, the issue of living conditions of prisoners and detainees is regulated by Article 27 (“food for prisoners”), Article 28 (“Clothing of prisoners”) and Article 29 (“bedding of prisoners”).

Prisoners’ living conditions are mostly inhumane and violates international human rights laws, as most prisons are overcrowded. Access to clean drinking water is among the most pressing needs. In addition, each dormitory is provided with a washing corner and one toilet to be shared by all inmates. Water for both is taken directly from the borehole. However, as the sewer system also discharges directly into the sea, this creates a serious problem in term of hygiene and transmittable diseases. Inmates are dressed in personal clothes, some of which are provided by family members or relatives of fellow inmates. Electricity is not available in most dormitories.

Prison activities e.g. Work, visit, shopping and having regular meals start at 6 am up to 5pm. Food is usually prepared outdoor by a selected team of prisoners. There is no specific rotation for this assignment and every day the same prisoners end up preparing food for all inmates.

5.1.2. Medical Care

Articles 30 and 31 of the 1971 Prison Law regulate general access to health care prisoners and detainees. Article 30 requires the establishment of “infirmary or proper place for the medical care of prisoners in every prison and other penal institution”. Article 31 states that a medical officer, responsible for the health and medical care of every prisoner, “shall be provided in every prison and other penal institution”.

Overall medical services require significant improvement. Sanitation is a problem in all prisons and efforts to prevent communicable diseases are very often hampered by a lack of resources. Shortage of the required equipment and the shortage of trained and qualified staff to operate these facilities is one the main issues of concern. Prison officials said that there are medical records kept and updated for each inmate. Apparently, prison administration doesn’t give data on health issues inside prisons and prisons don’t have medical doctors working inside prison facilities.

5.1.3. Communication with Outside World

Contact with the outside world does not appear to be taking place on regular basis and sufficiently. Very little information about this aspect of the prison regime exists. Recommending and facilitating contacts between family members and prisoners is expressly required by Law, including through personal visits and communication by phones run by the prison.

5.1.4. Rehabilitation Programs and Preparation for Release

Article 32 of the 1971 Prison Law regulates the right of education of prisoners and states that a “Commanding Officer shall take necessary steps to arrange educational classes for prisoners and shall permit them in their leisure time to study and to practice handcrafts”.

Education and vocational training programs are undoubtedly one of the most pressing needs that the Somali authorities and the international community should provide to inmates to facilitate their reintegration within society upon release.

Currently no education programmes are provided to inmates at the Prison and there are no teachers made available to the Custodial Corps from the Ministry of Education. During the Siad Barre's regime there used to be a regular education programme provided to prisoners which mirrored a similar programme available at schools in the previously existing ones and the outside world.

5.1.5. Deaths in Custody

The monitoring team was not given access to data on the number (and causes) of death in custody. The administration of some prison facilities mentioned that some prisoners died because of illnesses e.g., cholera, Covid-19 etc. But family members who spoke to us told us that their detained family members, disappeared in unknown prisons, and they believe that their family members were killed under torture or disappeared.

Articles 47 and 48 provide a comprehensive list of minor and aggravated offences respectively, which may lead to the establishment of an inquiry into the alleged offence and applicability of the appropriate punishment. Disobedience of orders or instructions provided by a prison official, violence among inmates, fights and or general physical interaction are among the most common offences being committed within Mogadishu Central Prison. The Prison Commander reported that no corporal punishment is imposed on any prisoner found guilty of having committed a minor or aggravated offence. The typical disciplinary measures ordered in the Prison are the following: Rationing food; Losing "good conduct" points; Staying in an isolation room.

5.1.6. Women

Female inmates, both remand and convicted are accommodated in a single room in a separate wing of the prison, secured by female prison officers. Inmates' age ranges from 14 to 55, with some inmates stated to be below 17 years of age. The room is vast and allows air circulation and light from the sun. While the female section is not overcrowded as the rest of the facility, due to the low number of inmates on average held (12 at the time of the visit) conditions are not otherwise better than the ones enjoyed by the rest of the prison population.

5.1.7. Children (Boys)

Boys are not treated well as women and girls in most prisons and they are arrested together with adults in the same wing and rooms, which contributes more to their vulnerability and makes them to be target for many violations and abuses including physical and sexual violence. In Alshabab run prisons the case is different where each group is treated different where children are recruited as soldiers and women forcefully married and men are shackled and tortured to death and kept in complete dark rooms.

Currently the legal framework governing children in conflict with the law is out-dated and is not in line with the Convention on the Rights of the Child and/or any other applicable international instruments. The 1970 Juvenile Justice Act is the only special provision within the Somali legislative framework that regulates the treatment, administration and detention of children within the criminal justice.

The age of criminal responsibility therefore starts at 14. In addition, there are no special provisions governing the treatment for children in prison or special regimes for children in detention. However, Article 60 of same Code provides that children between the age of 14 years and under the age of 18 years– maybe sent to prison if they have been arrested and/or sentenced for having committed a serious offence. However, during the assessment, the Somali authorities did not provide any clarification as to what constitutes a serious offence.

Overall, it is clear the conditions for children in prison are inhumane and in breach of the conventions and at times the laws which the government has passed/ratified and is not in conformity with the minimum international standards regarding the detention of children and the treatment of children.

5.1.8. Budget, procurement, human resources management

Custodial Corps have limited budget which is annually allocated for their running costs. The budget is prepared based on the existing number of prisoners jailed in the target prisons at the time the budget is prepared. Usually, Custodial Corps allocate one dollar per day per prisoner while the salary of a prison official corresponds to the equivalent of one hundred dollars (100 USD) per month.

5.1.9. Prisons Al Shabaab controlled areas

Al-Shabaab operates dilapidated detention centres in areas under its control in the southern and central regions. The exact figure of their prisoners is unknown. AlShabaab regularly capture and imprison people suspected of activities against their rule. It is regularly reported by people living under Alshabab control areas that thousands are imprisoned for “minor offenses” such as smoking, listening to music and engaging in other leisure activities.

Torture and other ill-treatment such as stoning, public whipping and amputation are used as ‘punishment’ if these rules are not adhered to. Reports state there have been increases in beheadings, torture and other ill-treatment and abductions since 2016.

Due to well fear of being executed by alshaban terrorists, independent local human rights defenders and humanitarian aid workers can't access prisons in regions under Alshabab control in South and central Somalia, therefore; there is no exact data, and the little information that exists about their prison system is collected from families living in their areas of control who travel rarely to government-controlled areas/regions.

5.2. Somaliland and Puntland

Independent local human researchers visited several detention facilities in Puntland and Somaliland regions of (Somalia) and witnessed widespread unlawful or arbitrary detentions. Authorities detained journalists and critics for simply expressing their views or practising their press freedom, and independent 15

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local rights groups described detention conditions as close to inhumane and catastrophic, stating they were overcrowded and frequently lacked water, sanitation, and ventilation.’

5.2.1. The Conditions of Jail Stations in Somaliland

Somaliland Police do not adhere to the laws in the constitution or international human rights laws, depriving one of his or her liberty, as stipulated by article 9(1) of the International Covenant on Civil and Political Rights,

There are no medical services obtained or provided by the stations for detainees while they are in these correctional facilities, leading to many serious issues or death in the case for some. They aren’t allowed to be outside as some have reported back, nor do any of the stations and prisons provide food and good accommodations for the detainees.

Food is usually sent from their families from outside or delivered from a restaurant on behalf of their families. Families are also not provided adequately with information about their detained relative in these cases, nor are they given ample time to solve the issue of medical attention, thereby leading to severe consequences, sometimes the untimely death of the detainee. Desperate conditions await the detainees in these stations, as evidenced by the extreme actions taken by prisoners in Berbera when they could not handle the extreme heat as they were not.

As such, it is noted that provided with air conditioner or fans humane treatment of detainees is seldom granted to them. Recognizing that inhumane treatment is a problem with the Somaliland Police force, attention to training and capacity building for police force has fallen on the hands of civil society organizations.

The living conditions of the jail and prisons stations in the different regions all echo the same dilemma. Poor sanitation, poor health screening issues, lack of humane treatment of detainees and lack of proper infrastructure, and lack of reading materials apart from the Qur’a n, violating declarations from international laws.

5.3. Covid-19 and detention

The pandemic poses another serious challenge to an already existing health challenges due to overcrowded and lack of decent medical care inside prisons in Somalia. Awareness is very limited and health care is totally absent. Inmates rely on their luck to see where their fate takes them.

5.4. Statistics

Maintaining accurate data both in the number and status of the country’s prisons and comprehensive records on all prisoners is an essential pre-requisite to the process of prison reform where alshabab controlled areas remain as exceptional.

The capacity of the Custodial Corps to generate data and statistics on the prison population and on prison operations is quite limited or inexistent. The Custodial Corps should be able to develop periodic reports and

statistics regarding the general conditions of prisoners. For the time being, there is no capacity to do so in a systematic and professional style.

6. Investigations and access to justice (article 12)

Even though the international community are supporting the activities of various national justice institutions, proper administration / good governance of justice is still lacking. Respect of law and order is often undermined, and the overall capacity of members of the justice sector is too weak to ensure that the justice system is accessible to the population is very limited or often non-existent.

No doubt, that there is an urgent need to reform the courts system, prosecutions services and policing in southern and central regions of Somalia in general, the situation of prisoners and detainees must also be taken into account without further delay.

The Office of the Attorney General has limited power and capacity and lacks independence to monitor the prisons and detention facilities and address problems/complaints.

In Somalia attorney General is appointed by President and also, he/she has been working under the direction of Government's suggestion. Overall, judiciary in Somalia is weak and members of the judiciary are appointed by the government and lack independence.

7. Violence and discrimination against women

Somaliland police will often arrest mothers and relatives of the accused. As such, we found a case in Gabiley station where men and women were locked up and not charged with a crime but are related to the accused person and are associated as complicit to the crime. There are eight women reported who were in the jail station because of a neighborhood dispute with their children: Sahra Abdi Elmi, Faysa Yusuf Ali, Fahima Abdi Abdillahi, Luul Ibrahim Osman, Muna Abdi Dawoud, Habiba Hasan Cige, Sacida Ahmed Aare, Nimco Abdillahi- breastfeeding mom.

7.1. Female Genital Mutilation FGM in Somalia

FGM is one of the worst forms of violence faced by women and girls in Somalia. FGM is widely practiced in Somalia against baby girls at very early age of infancy. CSHRDs members reported an increased number of FGM victims in Somalia. Only in the first quarter of 2022, more 12000 girls underwent FGM in Somalia. This is underestimated as many cases as possible of FGM undocumented. This is due to the strong traditional forms about FGM. The government lack strong policies to end FGM.

7.2. Forced Marriage and Systematic Rape

CSHRDs data shows that in first quarter of 2022, 5,000 girls were forcefully married by al-shababa fighters in their controlled territories in southern Somalia. Some families were coerced by their economic situation to marry of their daughters and other families were just forced to do so, where their daughters were forcefully married by al-shabab militias. Government forces e.g. Danab (US trained and funded forces in Somalia) rape girls and women during raids of civilian residential areas in and around Leego District, as part

of the so-called war on terror to contain al-shabab terrorists. Some girls are kidnapped by DANAB forces and just disappear like that. The federal government in Somalia is fully aware of that and does not act to protect civilians e.g. women and girls during raids in a blatant violation of international human rights and humanitarian laws.

The same case in Jubaland region of Somalia where Sheikh Ahmed Madoobe's militias and the Kenyan defense force KDF perpetrate systematic rape against girls and women from the nomad communities in Kismayo and its surroundings. Often such violence ends up in extra judicial & summary killings as it happened in March 2022 outside Kismayo where KDF massacred young boys from the nomad communities⁹.

Impunity and lack of adhoc strategic litigation are to blame for the sustained violence against women and girls, so apparently Somalia needs to immediately ratify the Rome Statue in order to join the ICC and establish independent human rights commission and constitutional court as well as strong ombudsman that can act officials involved in rape.

8. Recommendations

The Federal Government of Somalia FGS needs to

- Immediately finalize and adopt its new federal constitution which should include the absolute prohibition of torture and other forms of ill-treatment.
- Adopts a new criminal law which clearly complies with the Convention against torture and provides the absolute prohibition of torture in all circumstances
- The new criminal Code should adopt a definition of torture that is compliant with article of the Convention against torture
- Adopts a new Criminal Procedure Code that guarantees the pretrial detainees to a lawyer and protection from torture
- Establishes an independent human rights commission that is selected purely from the civil society

⁹ [Press Release \(immediate press release\) KDF Massacres unarmed Civilians in Raaskambooni, Somalia. – CSHRDS.ORG](#)

- Ends torture practices in detention facilities and initiates investigations to identify all the authors and prosecute them
- Initiate investigations and establish a vetting system in the NISA to ensure that authors of torture hold accountable
- Give access to independent rights groups and CSOs to all detention facilities including secret and non-official detention centres
- End all forms of violence against women and including Female Genital Mutilations and early and forced marriages and establish laws and institutions to monitor and protect women against traditional practices

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