

**Puntland Non-State
Actors' Association**



**Dallada Daneeyayaasha aan
Dawlga Ahayn ee Puntland**

Research on Human Rights' Situation in Puntland

2015

PUNTLAND NON-STATE ACTORS' ASSOCIATION

1. Executive Summary

Puntland State is geographically located in the North Eastern portion of Somalia. It borders with northwest regions of Somalia known as Somaliland in the North West, Gulf of Aden in the north, and Indian Ocean in the southeast, central regions of Somalia in the south and Ethiopia in the southwest. The Puntland State occupies a total land area of 212,510 square kilometres, roughly one third of Somalia's land surface, with a population estimate of 3.8 million. And it became a semi-autonomous state within the Somali federal structure in 1998.

The Puntland Non-State Actors' Association (PUNSAA) Executive Office in Garowe, in early May 2015, summoned to Capacity Somalia Institute—a consulting and research firm specializing in capacity training and field research in Somalia—to conduct a research on human rights situation in Puntland as part of the Human Rights Council's Universal Periodic Review for Somalia. The findings in this research and its report, funded by the Human Rights Unit of the United Nations' Assistant Mission in Somalia (Puntland Office), will be consolidated with the findings of a similar effort conducted in the South Central Somalia later in June. The areas of concern picked for their relevance and importance to the UPR on human rights situation in Puntland were: the creation and function of an independent human rights office in November 2014, freedom of expression, gender-based violence, children's rights, internally displaced persons, health and education as basic social services, and death penalty.

With the aforementioned constraints in mind, the researchers undertook short, but extensive background research on the prevailing socioeconomic, political, security, humanitarian and human rights situation in Puntland. This included reviewing by the Report of the Working Group on the Universal Periodic Review for Somalia, the translated Somali version (Dib U Eegis Xilliyeedka Caalimiga ah), reports by independent experts, key Security Council resolutions, Human Rights Council resolutions, in particular Human Rights Council resolution 24/30 on assistance to Somalia in the field of human rights, the reports of the High Commissioner on high-level dialogues on assistance to Somalia in the field of human rights, as well as other reports by various international non-governmental organizations (NGOs) on basic social services, the human rights situation in Somalia, and Puntland in particular.

After receiving much criticism from the international community for its low record on human rights, especially for the failed multi-part election process in 2012 and the suppression of media outlets, the Parliament of Puntland passed a bill to create a constitutionally independent human rights defenders office, accountable to the Parliament of Puntland only, and complying with the National Human Rights Institutions (or the Paris Principles). The Parliament passed the Human Rights Defender Act of 2011, but the office was established in November 2014 after the President signed it into the Law.

Incidents of five journalist killings were recorded since 2012, while two were injured during the same period, and twenty-seven fled their locations in search for a safe place to operate. Over sixty-five life threats, about fifty harassments including detention lasting up to two days and sometimes over a month, and the closure of thirteen broadcasting stations—of which five were radios, three TVs (one television encountering two closing incidents), and six websites—were recorded since 2013. Five of

the six websites remain closed as of now, June 9, 2015. A media law that caused controversy was approved by the cabinet in 2012, and passed by the parliament in 21 July 2014, though the minister of Information, Telecommunication, Culture and Heritage, Hon. Minister, Abdiweli Mohmoud Hersi, has recently stated that the ministry will repeal and will consider the clauses that caused the controversy.

The justice system remains loose with the customary law (locally known as Xeer) remaining in full control over Sharia and secular laws. The fact that government jobs, including judges and police positions, are paid less can be attributed as the most outstanding factor keeping the justice system dysfunctional since qualified professionals would seek opportunities in the relatively higher paying industries—the international and national NGOs, the United Nations, and the private sector. This made the judges and police officers, who aren't considered to be qualified for the jobs they held in the eyes of public, a reason to avoid their interventions.

Puntland, like the other parts of Somalia, has some of the worst human development indicators in Africa. The provision of social services such as health, education, water, sanitation, food and nutrition has considerably deteriorated. According to the African Development Bank, the majority of the population survives at a basic subsistence level. The 2012 UN Human Development Index of Somalia stood at 0.285 and the country ranked 165 out of 170 countries.

2. Mandate of the Researchers

Guided by the recommendations published in the Report of the Working Group on the Universal Periodic Review (UPR 2011) for Somalia by the Human Rights Council resolution 5/1 of 18 June 2007, the researchers started their research on background literature review, of which the aforementioned report played the most important role. The researchers, being Somalis with full exposure to the complexity of the human rights situation in Puntland (and the greater Somalia in general) acknowledged the importance of delivering well-researched, facts-based research on the matter in the cold light of the recommendations.

3. Methodology

Given the breadth of the scope of the research coupled with the limitations of the time and the capacity constraints of the field data enumerators, the researchers suggested to adapt a checklist questions conducted in the field by the data enumerators, and a focus group discussion conducted in the Puntland Non-State Actors' Association premises in Garowe facilitated by the researchers themselves.

After agreeing terms with the Puntland Non-State Actors' Association on the scope of the research, methodologies, training, and how the findings will be reported, the researchers went on carrying out their plan: They conducted the suggested two-days training to twenty-one trainees comprising seven teams of three persons—one supervisor and subordinates—each on how to do field research with emphasis on interviews on 13-14 May; sent the field teams to their respective areas; and sifted

through the field data, focus group discussions that has been made and key informants interview, to report the following findings.

4. Areas of Concern: Findings, Analysis and Recommendations

A. Human Rights Institutions:

1. Articles 12-47 of Puntland Constitution guarantees basic rights—freedom of expression, freedom of association, political freedom, etc.—to Puntland citizens. These Articles, however, do not make specifications or mechanisms that ensure that every citizen to have these rights. Articles 116-119 of the Puntland Constitution, however, spell out the need for mechanisms that ensure that these rights be enjoyed by the citizens. And that led the creation for Independent Office for the Human Rights Defender. In response to that, the Parliament of Puntland passed a bill to create a constitutionally independent human rights office, accountable to the Parliament of Puntland only, and complying with the National Human Rights Institutions (or the Paris Principle). The Parliament passed the Human Rights Defender Act of 2011, and the office was established in November 2014 after the President signed it into the Law.ⁱ
2. In accordance with Article 118 of the Constitution of Puntland State of Somalia and Article 12 of the Human Rights Defender Act of 2011, The Human Right Defender plays key broad mandates including promoting, representing, defending and reporting all concerns of human rights
3. Since the inception of Human rights defenders office, it uses a rented office and established the systematic operational frameworks, but faces limitations to the operational capacity and financial constraints
4. Currently there are no human rights awareness and education programs to the citizens provided by the governmental institutions but NGOs and CSOs provide project based human rights awareness and education programs to both ordinary citizens in the main towns, and men and women in the government services i.e. Judiciary and Security forces in the main cities of Puntland.
5. There are no clear public orders to all security forces to comply with human rights principles and international humanitarian law, not to commit any violations, and minimize the suffering of the civilian.
6. Human rights violations of all kinds are investigated, if victims and their family members are willing, mainly, through customary/Sharia laws and often the civil law
7. Almost all of the civil society actors are aware of the existence of Independent office human rights Defenders office in Puntland but the awareness of ordinary citizens in Puntland is limited
8. Role of Puntland legal aid center – As Human rights protection Institution – it was established in 2007 with the support of UNDP, with the objective of to provide legal assistance to the vulnerable groups in the courts, as long as, the government is unable to hire a lawyer to those defendants that cannot get lawyers
9. Puntland Legal Aid Center provided legal assistance to 1,074 in 2014 and 1,205 in 2013 defendants, and it composed both civil and criminal (terrorism and piracy included) cases

B. Freedom of Expression:

10. There is a media law formed by the Puntland Ministry of Information, culture and Heritage, in a broad-based consultation with Puntland Media Association (MAP) and other members of civil society, including PUNSAA. The drafted Media law was approved by the cabinet in 2012, and then passed by the parliament in 21st July 2014. The President made it into law in 29 July 2014.
11. Ministry of Information, culture and heritage, changed parts of the agreed policy after the consultations, and submitted to the Council of ministries and Parliament for endorsement, but MAP appealed to the parliament modifying and revising the Media Law.
12. The government of Puntland officials sometimes arrests and detains the journalists with the accusation of law violation and defamation, and most of the cases receive prompt interventions. While, as parts of the responses received from the respondents, some journalists are part of the problem and do not adhere to professionalism and media ethics
13. Since 2013, thirteen broadcasting stations were closed of which five were radios, three were TVs (one television encountering two closing incidents), and six are websites. Five of the six websites remain closed as of now, June 9, 2015.
14. Killing cases for journalists and civil society members occasionally occur in Puntland but unclear and impartial investigations are carried out while mostly the perpetrators are unknown
15. Since 2012, five journalists were killed, two injured, and seventeen arrested. Twenty-seven other journalists fled their homes due to insurgents suspected threats, and sixty-five threats were recorded. Other fifty harassments including taking off cameras, threatening to arrest if not leave the scene among others were recorded during that same period.
16. Generally, there are two types of detention. The most frequent one is that of detaining a journalist for one to two days and letting him or her go the next day. The other involved with cases where journalists were detained for one to four months without bringing them to court.
17. All journalists that have been killed (of which no murderer was brought to justice) took place in Galkayo, and Bosaso. Also, it has the most recorded arrest and detention cases.
18. The most common reason for arresting a journalist cites by the authorities is of defamation. No arrested journalists were, however, brought to court to formally accuse those committing the alleged defaming cases.
19. Efforts to guarantee protection to journalist and human rights defenders is very limited in Puntland, although the steps taken after detention and imprisoning a journalist or human rights defender are prompt and it is taken by the civil society actors including MAP and other members of the state authorities.

C. Death Penalty

20. In Puntland, as elsewhere in Somalia, three laws are used: customary (locally known as Xeer) law, Sharia law, and the secular law. The customary is the predominant than the other two with Sharia coming second.
21. Prosecution of death penalties continuously happen in Puntland and it is applied, most of death penalty cases are earthier related to terrorism, i.e. al Shabab members, or execution of killers after clan agreement. The exact figure of Death penalties occurred in Puntland is largely unknown.

22. Most of the cases with death penalties through courts –*Secular laws* - have independent lawyers appointed by their relatives and sometimes the government appoints with the support of the Legal Aid Centre.
23. All cases related to terrorism, only military courts have jurisdiction to prosecute death penalties but other cases, clans negotiate.
24. When a murder is committed by someone, clan elders of the victim and the murderer try to settle the case outside the court with, generally, two options: executing the perpetrator or taking compensation. There is a third option which is to forgive the murderer, but isn't a common exercise. If executing the murderer is agreed, then the victim's relatives take the gun and execute him. The Sharia and the customary laws flow closely when executing a murderer: the relatives have the authority to execute—or accept compensation or forgive.
25. As respondents replied, If death penalties are not applied, especially with the cases of killers in the community, Retaliation killings and capital offenses are the consequences, clan revenge killing is about to increase.

D. Gender rights

26. Puntland Ministry of Women Development and Family Affairs (MOWDFA) currently is finalizing the state policy for women and child protection, and in general, Somali customary/Islamic sharia law are providing protection to women and child in the society.
27. There are some improvements to Somali culture's treatment to women rights in some areas i.e. the "*Dumaal – marrying the widowed women against her will*" – the rate of this action is getting abolished within the communities in urban areas.
28. There are ongoing efforts to promote and protect the rights of vulnerable groups and persons with special needs such as children, women, , poor families, persons with disabilities and the elderly led by MOWDFA together with humanitarian and development actors i.e. Civil society organizations, NGOs and UN agencies.
29. Both state and non-state actors have taken some steps forward and measures to reduce the occurrences of Gender based violence (GBV) including FMG/C and support the victims related to this. MOWDFA, CSOs, NGOs and UN agencies provide ongoing programs and projects to prevent GBV through awareness and education, and to support the victims through providing GBV Dignity kits, composing of; medical, psychosocial, financial and legal assistances.
30. In 2011, Puntland government took stand against Female genital mutilation/cutting (FGM/C) and enacted laws. This was a development that has been welcomed by human rights activists across Puntland. The new law came into effect after long discussions and eventual support by the traditional and religious leaders in addition to various scholarsⁱⁱ. But, the practice is ongoing in almost all the rural areas of Puntland and some parts of urban areas and yet there is no one imprisoned and/or prosecuted due to their ill actions.
31. With regard to GBV crimes investigations and prosecutions; sometimes courts and elders consider violence against women and children as minor cases or elders give amnesty to perpetrators because of clan considerations or *Xeer*. – However, mostly, crimes related to SGBV (Sexually gender based violence) such as rape are dealt with the elders and in a few cases, if the victim reaches the case to the legal aid institutions, civil courts deal with it with the support of clan elders.

32. All cases related to SGBV with the need of medical investigations, female investigators are involved in both urban and rural areas, and in the major towns, female police officers and investigators are deployed in Police departments.
33. Rape and other forms of sexual assault to women and children are considered as civil crime in both customary laws – *Xeer*– and civil penal law.

E. Child rights

34. Puntland Ministry of Women Development and Family Affairs (MOWDFA) currently is finalizing the state policy for women and child protection. Also, Puntland has a labour code for private and business organizations preventing child labour “Article 10 - It is unlawful to employ children under the age of 18 years”.
35. To the level of ordinary citizen, mostly, are unaware of the existence of labour code preventing child labour, but, civil society organizations and non-state actors are aware of, and complain from that law enforcement is limited.
36. In Bari region, some respondents from the non-state actors and civil society members reported child soldering at Bosaso entrance check points and police stations but evidences are not available due to the limitations of the research. And there are no vetting procedures in Puntland to ensure that armed forces do not recruit or exploit person under the age of 18.
37. There are several efforts to address child rights and protection participated by the civil society members, NGOs, UN agencies and government institutions i.e. MOWDFA, such as child protection working groups limited to the major towns in Puntland.
38. Opportunities to the children, especially education ones, is limited to the family financial capacity index due to the lack of free and compulsory primary education program from the Puntland government – Ministry of Education, except small opportunities given to the children of Internally displaced and girls from poor families with the support of NGOs and UN agencies.

F. Internally Displaced Persons (IDPs)

39. About 129,000 in Puntland – *according to* Internal Displacement Monitoring Centre (*IDMC*) “Based on interviews with UNHCR staff in Galkayo, Puntland, in June 2013, 70 – 80 per cent of IDP households in the region are headed by women. In 2013, UNICEF estimated that children make up nearly 60 per cent of the total IDP population (UNICEF, January 2013)”. And most of them, their villages of origin are in South Central Somalia.
40. There are some improvements expectations related to the funds, to the living conditions of IDPs in Puntland due to the efforts of NGOs, UN agencies and Governmental institutions i.e. Ministry of Interior (MOI) and Humanitarian and Disaster Management Agency (HADMA); and undertake efforts of implementing Durable solution programs. Although the number of IDPs are large, but, IDPs receive permanent shelter, livelihoods and food security, protection and advocacy, education and health services, and legal aid assistances from NGOs and UN agencies according to the capacity and donor funding while the government of Puntland advocates for them continuously.
41. In Puntland, there are several coordination structures and mechanisms with the aim of information sharing and adding value to the ongoing humanitarian interventions, such structures are; (1)Protection cluster; this cluster has different working groups such, GBV working group and Child protection working; the cluster is led by UNHCR, and MOWDFA leads the two sub-

working groups. Also, the protection cluster is only active in Garowe, Galkayo and Bosaso, while all other areas of Puntland are not benefiting. (2) Food Security cluster, the same with the Protection cluster according to its regional accessibility, (3) Health Cluster, the same according to regional accessibility and (4) Education cluster.

42. Coordination structures have 4WMatrix and MIS (management Information system) systems to collect the data of the regions and ongoing interventions which makes decision makers to have enough information, but, those regions and villages that do not benefit from the coordination structures is a challenge to evaluate their status.

Returnees and Refugees from Yamani crises:

43. Since April 2015, more than 7,000 Somali returnees and Yamani refugees that have managed to flee from the conflict in Yemen arrived in the port town of Bosaso.
44. Somali returnees from Yemen, which mostly are women, children and elderly people. At the port, are given cold drinks and food by local residents who were present there to warmly receive them, welcome them in to the temporarily shelter and support with transport and food allowance to those who wants to travel to their villages of origin, mostly South Central Somalia.
45. Also, recently, the state government started to relocate temporarily hundreds of Yemeni refugees in the first major resettlement program, with about 200 refugees transferred from an overcrowded makeshift settlement to apartments in Qardho town.

G. Basic Social Services – Education and Health

46. Puntland people in all regions do not receive enough basic social services i.e. education and health; and the government is unable to do so
47. There are some major towns that benefit from NGOs and UN funded programs/projects with pre-determined durations and funds that provide or support some of the basic social services i.e. Girls education project, Essential package for health services (EPHS) project and construction of boreholes. Mostly, these projects target IDPs and limited populations in the areas along the main tarmac road (*Bosaso – Galkayo*)
48. Basic social services funded by the donors are implemented through Puntland line ministries and authorities have no say to the planning stages or to extend projects to the remote areas due to the NGOs and UN agencies claim of inaccessibility. But, authorities and Civil society organizations are able to have wide access
49. The government, civil society organizations and non-state actors are undertaking efforts to advocate provision of enough opportunities; social services ones, to the communities in all regions of Puntland and yet the support of the international community is below the line

Education:

50. The formal **education** system in Somalia, including Puntland, collapsed in 1991. Since then, education has been reorganized through private means, including the proliferation of Madrasah (Koranic schools). With an estimated adult literacy rate of 24%
51. The Ministry of Education and Higher Education in Puntland has made great efforts to strengthen the public education system as well as proactively coordinating the work of non-governmental organizations (NGOs).

52. The Education is based on 2-4-4-4-4(2 years *Early Childhood*, 4 years *lower primary*, 4 years *upper primary*, 4 years *secondary* and 4 years *university*) education system
53. The lack of adequate financing to the Ministry of Education and Higher Education occasioned by inadequate resources from the Puntland (autonomous central) government has contributed to the weak capacity of the Ministry of Education and higher education, in addressing critical regular costs such as teachers' salaries, training of teachers, developing of teacher training institutions/colleges and infrastructure development in the schools and supervision/monitoring of schools
54. In 2014 the government planned 7% of its budget on education and it is envisioned that this will increase in subsequent years at least by 1% annually, yet it is not visible and enough
55. There is also weak governmental oversight in supporting Higher Education Institutions and there is a general concern amongst the community and the institutions on the quality of education that is offered at the Higher Education Institutions.
56. There are currently about 15 Higher education institutions in Puntland with a total population of 9841(Male" 6013(61%): Female: 3828(39%) students. A major obstacle hindering quality access to education is also the lack of access to contemporary information technology.

Health:

57. Somalia's **health** care (including Puntland) is mainly limited to the urban centres and is run by private providers or international organizations. Health indicators are also among the worst in Africa, with life expectancy estimated at 49.7 years. Infant and child mortality rates stand at 108.4 and 178 per 1,000 live births, respectively, *according to African development bank*.
58. According to the joint health and nutrition program (2012 – 2016) managed by Somalia authorities (Puntland, Somaliland and Federal governments) UNICEF, UNFPA and WHO, 2013 annual progress report, published in May 2014, the key challenges to health sector in Somalia, including Puntland, are
59. Every two hours, a Somali mother dies due to pregnancy complications (3,900 Somali mothers die per year, which is nearly more than double the conflict related deaths in Somalia – 2,158 in 2010).
60. For every 1,000 Somali children born, 180 will not live to see their fifth birthday (70,000 Somali children die every year).
61. Every fourth Somali child (approximately 348,000 children) suffers from chronic under-nourishment, whereas every sixth child (more than 240,000 children) suffers from severe acute malnutrition (SAM), leading to poor learning, growth retardation, increased health care costs and lower economic productivity.
62. High maternal, new-born and child mortality are attributed to high fertility rates, inadequate access to quality maternal and child health and nutrition services, low skilled birth attendance rate, inadequate emergency obstetric and new-born care (EmONC), low female literacy, poverty, social barriers, urban-rural disparities, under-nutrition and a heavy burden of communicable diseases primarily as a result of poor water, sanitation and hygiene (WASH) services.
63. Most deaths and diseases occur among the poor and the disadvantaged segments of the population.
64. Beside these challenges, there are some achievements made in Puntland in the areas of health leadership and governance, work force policy, essential package for health services,

Reproductive, Maternal, New-born and Child Health, and Nutritional service delivery, health financing; only from the international community, essential medicines, vaccines, commodities and supplies, and health information management.

H. Constraints to the improvement of Human rights situations in Puntland

65. The geographical areas of interventions are limited to the major cities/towns and villages along the tarmac road (*Galkayo – Bosaso*). However; remote areas, villages in Sool and Sanaag regions and villages along the coastal line do not benefit from these efforts of improving human rights, mostly.
66. Public awareness to the status, type and level of human rights violation is very limited, also, ordinary citizens knowledge to human rights is below the expectations, while citizens at all levels except members of civil society organizations are not aware of ongoing effort of improving human rights situations in Puntland.
67. The effectiveness of the courts and the entire justice system in Puntland is limited by the fact that the justice system is very loose: the law enforcement and courts work hand-in-hand and both are very weak. The reasons for their weakness are many, but the two most dominant factors are paying and status. Due to a meagre payment system, courts find it difficult to hire qualified judges. So do the police and other law enforcement institutions.
68. Security: judges have difficulties to exercise the law due to security. They get threats most of the cases from those thinking the result didn't favour them—be it clans or insurgents or piracies (though its trend faded away gradually).
69. Justice Service is concentrated in main towns alone. People in the rural and distant villages don't have police and courts to handle their civil and criminal cases.
70. Human resource and facilities: While the primary objective of the government is to protect its citizens, than, government officials interactions with the community are not based human rights approach in the areas of community policing and judiciary due to their (1) lack of human rights knowledge and technical capacity, (1) poor police and judiciary infrastructure facilities, (3) corruption and (4) government officers intervention to the judiciary system or independent judiciary unit.

I. Recommendations

71. Support be extended to the State Government of Puntland, and the Federal Government of Somalia as well, in their efforts to create a respectable human rights environment.
72. Technical assistance—systems, staff trainings, and facilitations for remote areas to access assistance—be afforded to the government to support for service delivery systems—education, health, disabilities persons, etc.—afforded.
73. Help improve the collaborations between the Independent Office for the Human Rights and the civil society and higher education institutions to create sustainable growth in human rights education and awareness programs.
74. The only solution that would help both the media stations and the government is to enact a comprehensive media law that would make boundaries clear. For instance, the government's demand that information deemed to be confidential should be made clear in the media law. So should libel and other related acts.

75. Capacitating Puntland police departments in all regions to prevent human rights violation and bring to justice to the perpetrators of human rights abuses and supporting independent and free from corruption Judiciary system in Puntland and capacitating them to fulfil their duties and responsibilities is necessary.
76. International community to acknowledge that Somalia is more than Mogadishu, and state governments like Puntland, Somaliland, Juba Land, and other forming states should be considered when allocating assistance resources.

ⁱⁱ First independent human rights office opened in Somalia: <http://horseedmedia.net/2015/03/13/first-independent-human-rights-office-opened-in-somalia/>

ⁱⁱ Puntland Takes Stand Against Female Genital Mutilation: <http://www.interpeace.org/2011-08-08-15-19-20/latest-news/253-puntland-takes-stand-against-female-genital-mutilation>