



**ANNUAL HUMAN RIGHTS REPORT
AGAINST MARGINALIZED GROUPS**



**CONDUCTED BY NAGAAD UMBRELLA
ORGANIZATION IN 2010**

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ACRONYMS

| | |
|--------------|--|
| GBV | Gender Based Violence |
| FGM | Female Genital Mutilation |
| UDHR | Universal Declaration of Human Rights |
| ICCPR | International Covenant on Civil and Political Rights |
| CEDAW | Convention on the Elimination of all forms of Discrimination against Women |
| SYS | Somaliland Youth Society |
| CCBRIS | Comprehensive Community Based Rehabilitation in Somaliland |
| SOYVO | Solidarity Youth Voluntary Organization |
| SEEYO | Somaliland Environmental & Education Youth Organization |
| Legal clinic | University of Hargeisa Faculty of Law & Legal Clinic |
| SWLA | Somaliland Women Lawyers Association |
| SLNHRC | Somaliland National Human Rights Commission |
| SOYDA | Somaliland Youth Development Association |
| VOSOMWO | Voice of Somaliland Minority Women Organization |
| USWO | Ubah Social Welfare Organization |
| SONYO | Somaliland National Youth Organization |
| HAN | Somaliland Women and Children in Disability Organization |

Acknowledgement

Nagaad Women Network is indebted to countless individuals and organizations, who made the publication of this Annual Report possible during this year.

We wish to acknowledge in a special way the Consultant Nafisa Mohamoud Shirwac for her technical support in compiling this report through regional monitoring visits to various places and legal research conducted.

Special thanks go to Progressio/EC for the financial support that made the monitoring and documentation of the Human rights violations of the marginalized groups in Somaliland possible.

To the many individuals and CSO's that supported us in enhancing a culture of respect for rights of the marginalized groups (youth, women, minorities and people with disabilities), we say thank you.

The following category of respondents who willingly provided us with the necessary data and information, we thank you for the trust in our work: Police Officers, Judges, Prosecutors, Women's Associations and Organizations, Youth Associations, Disabled People's Organizations, NGOs working on violence against women (VAW), gender based violence (GBV), Minority rights working organizations, Victims of human rights & abuses, Female and Male Minority individuals, Female and Male Youths, Female and Male Disabled Persons, Prisoners (both Male and Female) and Witnesses.

Last but not least, special thanks to Kinzi Hussein Kowden the **Gender Coordinator of Nagaad** and Cissy Nalusiba **Women Human Rights advisor of Nagaad** for their inputs and editing of this report.

Mrs. Nafisa Yussuf Mohamed
Executive Director
Nagaad Network

MESSAGE FROM THE CHAIRPERSON

It is indeed with great honour that I present to you the Annual Human Rights Report of Nagaad Women Network for the period ended 31st December 2010. Nagaad views this tool as an opportunity to take stock of the Human rights situation in Somaliland.

Nagaad would like to applaud Somaliland for the substantial progress it has made in promoting good governance at the political front, and now it is time to strengthen 'recovery and reconstruction as we move towards sustainable growth and poverty reduction.'

Notwithstanding this progress, significant challenges still persist, as even revealed by the Somaliland's Police Enforcement Chief, Mr. Abdullahi Fadal Ahman during a ceremony commemorating the 17th anniversary since the creation of the national force. [See Annex II: Somaliland Annual Crime Statistics Released - 2010](#)

In 2010, Nagaad's focus has been to ensure that we effectively respond to these challenges through interventions that provide independent action and amplify the voices of the most vulnerable groups. Nagaad therefore continued to monitor the state of human rights in the country, undertook legislative advocacy, community awareness and also provided support to CSO's of marginalized groups through training.

In addition to our members, our constituency for engagement now includes: legislature, judiciary, prisons, police stations, national and community based human rights associations, media, victims of human rights abuse and the community at large.

At the institutional level, we convened the 3rd Women Conference from the 4th – 6th October 2010 that gave an opportunity to women in Somaliland to discuss issues which in our view are critical to women's involvement in the Somaliland's National Development Plan. The solidarity expressed by each of them to the growth of a National Women Movement was very re-assuring and we would like to thank each one of them for this show of commitment to women's rights.

Like in the previous Annual Human Rights Reports, we have documented several cases of human rights violations that have been revealed either by the victims, witnesses or duty bearers and where possible, insights of the impact of other CSO's work on the human

rights situation in Somaliland. The report also points out a number of recommendations which must be undertaken to prevent more violations and redress those that have already occurred.

I would like to thank in a very special way our New Government for having availed a conducive environment that enabled Nagaad to visit police stations and prisons during this monitoring and documentation of human rights violations. I would also like to thank Progressio, Civil Society Organizations and all those countless individuals who have supported us and in one way or another contributed to the development of this Annual Human Rights Report, 2010.

In a special way, I am dedicating this report to the marginalized groups in Somaliland (i.e. women, youth, persons with disabilities and minorities) and human rights defenders throughout the country for their priceless struggle for justice.

Mrs. Kaltun Sheikh Hassan
Chairperson, Nagaad Board of Directors

Executive Summary

This report relates to a field mission of human rights monitoring and legal research conducted in Hargeisa, Burao, Erigavo and Borama in Somaliland from the 28th August to 30th September 2010.

It consists of an overall monitoring and evaluation of human rights violations against marginalized groups as they exist in the above regions; assessing how men and women from marginalized groups are suffering from human rights violations. The findings are to be utilized to design relevant future advocacy programs that will address the revealed violations and abuses against marginalized groups including women, youth, disability, minority, IDPs and prisoners. In addition, this report consist of a legal research that focused on reviewing laws and policies pertaining to the rights of marginalized groups in Somaliland - especially women and children who are the most vulnerable groups.

Therefore, this research looked at the nature and forms of violations against the marginalized groups and the most affected victims of the human rights violations and abuses. The findings revealed that the most common form of violation was Gender Based Violence and majority of the victims were women and children including the disabled and minorities.

The revealed findings and facts were found to be the following:

Nature and forms of GBV:

- **Rape:** “the term rape is often applied to a wide variety of sexual attacks, as provided by article **398 Somaliland Penal Code** which stipulates that:
 - Rape includes sex between a male and female that is committed with violence or threat. It is having carnal intercourse or penetration with a person of the other sex against his or her will. It usually occurs when one of the persons do not desire to do so. This crime can be victimized by him or her but not with the same sex.
 - Whoever, with violence or threats, has carnal intercourse with a person of the other sex shall be punished with imprisonment for five to fifteen years.

- **Domestic violence:** is also known as domestic abuse, spousal abuse, child abuse or intimate partner violence (IPV) perpetrated by spouses. Domestic violence is used where a person:
 - Willfully or knowingly places or attempts to place the victim in fearing or physical injury.
 - Causes physical injury to the victim by an act which he/she knew or ought to have known would result in physical injury.
 - Causes mischief, destruction to property with the intention of causing or knowing that it is like to cause distress or annoyance to the victim.

- **Physical Assault:** is defined (Criminal law) as a threat of attack to another person followed by actual attack, which need to amount only to touching with hostile intent. Assault is an act that creates a harmful situation (i.e. the act consists of a threat of harm).

- **Female Genital Mutilation (FGM):** is any procedure involving the partial or total removal of the external female genital or other injury to the female genital organs, whether for cultural or other non-therapeutic reasons.

- **Forced marriage:** This occurs when parents or others force a girl to marry a man against her will - sometimes including getting married to a rapist. Forced marriage also includes exerting pressure or ordering a minor to get married for dowry related reasons or any other purposes.

- **Sexual Exploitation:** A statutory offence or a crime to knowingly and willfully cause to another person to engage in an unwanted sexual act by force or threat. It is also the involvement of a child in sexual activity gratification of a financial benefit to the perpetrator, including contract for sexual purposes.

| Sexual Violence | | |
|-----------------------|--|--|
| Type of act | Description/examples | Perpetrated by |
| a) Rape | Forcing a woman/girl into sex with another person/persons of opposite sex (Male) | Relatives, (group of teenage boys i.e. group rape) |
| b) Child sexual abuse | Any sexual relations/interaction with a child. | Relatives and neighbors |

| Physical Violence | | |
|--|---|--|
| a) Physical assault | Most female interviewees in the IDP camps complained of battering by their husbands. | Spouses/husbands |
| b) Murder | Women are killed after rape Domestic Violence some times causes death to women | Spouses/husbands |
| Emotional and Psychological Violence | | |
| a) Emotional abuse / humiliation | Verbal abuses that are degrading demeaning and insulting. | Spouses, family members |
| Harmful Traditional Practices | | |
| a) Forced Marriage | Parents forces their daughters to marry a trader in exchange for money Rape victims are some times forced to marry the rapists in order to minimize the punishment for the perpetrator | Parents/family members Parents, Family members, Traditional leaders |
| b) Wife inheritance | A widow is forced to marry the brother of the deceased because of the bride price that was earlier on paid to her parents, although the main purpose behind it is depriving the wife of the property of her late husband. | Family members |
| Socio Economic Violence | | |
| a) Discrimination against dividend shares of inheritance | Refusal of women to take the dividend shares they inherit from their deceased parents, children or husbands. | Family members |

Majority of the victims of the above forms of violations were women and children. However, other forms of violations the victims had suffered from included murder, education inequality, limited access to justice, human trafficking, neglect with children and deprivation of inheritance rights.

1.0 Background

The human rights monitoring for marginalized groups in Somaliland is an initiative of Nagaad umbrella organization in compliance with its mandate of protecting and promoting the rights of marginalized groups.

Human rights are defined as the basic rights and freedoms to which all humans are entitled such as civil and political rights; the right to life and liberty; freedom of thought and expression; equality before the law; social, cultural, and economic rights including the right to participate in culture, the right to food, the right to work, and the right to education. Human rights are those rights that every human being possesses and is entitled to. Human rights are based on the fundamental principle that all persons possess an inherent human dignity and that regardless of sex, race, colour, language, nationality origin, age, class, religion, status or political beliefs; they are equally entitled to enjoy their rights.

Women's rights refer to freedoms and entitlements of women and girls of all ages. These liberties are grouped together and differentiated from broader notions of human rights because they often differ from the freedoms inherently possessed by or recognized for men and boys and because activists for this issue claim an inherent historical and traditional bias against the exercise of rights by women and girls.

Rights of Women in Islam:

In a truly Islamic society, a woman has the following rights in Islam:

- The right and duty to obtain education.
- The right to have her own independent property.
- The right to work and earn money if she needs it or wants it.
- Equality of reward for equal deeds.
- The right to express her opinion and be heard.
- The right to provisions from the husband for all her needs and more.
- The right to negotiate marriage terms of her choice.
- The right to obtain divorce from her husband, even on the grounds that she simply can't stand him. (Note that Allah deeply frowns upon divorce as a solution unless there is hardly any other alternative but it does not mean that men have more right to divorce their wives than women do.)

- The right to keep all her own money (she is not responsible to maintain any relations).
- The right to get sexual satisfaction from her husband.
- Custody of her children after divorce.
- The right to refuse any marriage that does not please her.

Human Rights of Persons with Disabilities

Persons with disabilities are entitled to exercise their civil, political, social, economic and cultural rights on an equal basis with others. Disability summarizes a great number of different functional limitations occurring in any population in any country of the world. People may be disabled by physical, intellectual or sensory impairment, medical conditions or mental illness. Such impairments, conditions or illnesses may be permanent or transitory in nature.

Persons with disabilities suffer from discrimination based on society's prejudice and ignorance. In addition, they often do not enjoy the same opportunities as other people because of lack of access to essential services.

International human rights law determines that every person has:

1. The right of equality before law
2. The right to non discrimination
3. The right to equal opportunity for employment
4. The right to independent living
5. The right to full integration
6. The right to security

Policies regarding disabilities are often dominated by the notion of "equalization of opportunities", which means that society must employ its resources in such a way that every individual, including persons with disabilities, has an equal opportunity to participate in society.

Minority rights

The first minority rights were created by the revolutionary Parliament of Hungary in 1849. Minority rights, as applying to ethnic, religious or linguistic minorities and indigenous peoples, are an integral part of international human rights. Like children's rights, women's rights and refugee rights; minority rights are a legal framework designed to

ensure that a specific group in a vulnerable, disadvantaged or marginalized position in society, is able to achieve equality and is protected from persecution.

Prisoner's rights

The movement for prisoners' rights is based on the principle that prisoners, even though they are deprived of liberty, are still entitled to basic human rights. Advocates for prisoners' rights argue that they are often deprived of very basic human rights, with the cooperation of the prison authorities. Alleged violations often include:

- Prison authorities turning a blind eye to assault of prisoners, failing to take sufficient steps to protect prisoners from assault, or even allegedly arranging for prisoners to be assaulted by other inmates as a form of punishment.
- Providing insufficient treatment for serious medical conditions.
- Refusing freedom of expression, to read materials, and communicate (particularly in cases of foreign languages in prisons.
- Punishing prisoners who raise complaints about bad conditions.
- Taking away prisoners' rights to sue Prison officials or governments for maltreatment, or to receive compensation for injuries caused by the negligence of prison authorities.
- Blocking inmates' rights to legal materials and access to the courts.
- Not properly feeding and clothing the prisoners.

The following list represents some of the prisoner's rights:

- Right to be protected by authorities in the case of assault or rape
- Right to Medical Treatment
- Right to freedom of expression, reading materials, and communication
- Right to express concern with the prison's standard of living
- Right to a court of law with regards to prison authorities
- Right to access to a court of law (mentioned above)
- Right to drink safe water
- Right to food and clothing
- Right to equal and fair treatment

All these rights are granted by the international human rights instruments such as **UDHR**, **ICCPR**, **CEDAW** as well as the **Somaliland Constitution**.

However, marginalized groups (i.e. women, youth, disabled, and minority) do not exercise and enjoy their rights and it is even worse when they become prisoners because of reasons like gender based power imbalances, traditional practices and economic reasons.

2.0 Introduction

Human Rights Monitoring is the active collection, verification and immediate use of information to improve human rights protection. On 20th August 2010, Nagaad hired a local consultant for human rights monitoring through field visits in four regions of Somaliland (Marodijeh, Togdher, Awdal, & Sanaag) to obtain, gather and document the existing human rights violations against marginalized groups. The monitoring commenced in Burao on the 28th August and on the 1st day the Consultant visited police stations, the Prison, & IDP/refugee settlements to interview male and female prisoners, police officers & detained/arrested persons in the police stations, and other victims accordingly.

On the 2nd day (29th August), the Consultant visited women organizations (Family Welfare Organization and Kulmis Organization), youth organizations (Somaliland Youth Society and Solidarity Youth Voluntary Organization), and Comprehensive Community Based Rehabilitation in Somaliland (CCBRS) in Burao - where she organized meetings and interviewed women's rights activists, victims, male and female youth, disabled persons, GBV case workers, victims of GBV and witnesses.

On the 3rd day (30th August), she visited Ministry of Labor & Social Development, Burao District court, legal clinic, and minority settlements, and interviewed judges, prosecutors, lawyers, & women/men minority.

In the district court, she interviewed the chairman of the District court regarding women issues and cases like inheritance, family/children maintenance, divorce, and marital gifts after divorce. In the ministry of Labor and social development, she interviewed the Program Officer of the Ministry.

On the 31st August, the consultant traveled to Erigavo, and commenced the monitoring the following day (1st September 2010). Here she visited Erigavo prison; police stations; youth organizations [Somaliland Environmental and Education Youth Organization (SEEYO)]; women organizations [Displaced Refugee Returnees Voluntary Organization (DRRVO), Orientation Community Civilian Development Organization (OCCD), Erigavo Women's Caucus Group]; and Erigavo Regional court. The interviewees in Erigavo comprised of disabled persons (men/boys and women/girls), minorities (men/boys and women/girls), victims of GBV, witnesses, police officers, detained persons and prisoners.

On 6th September, the Consultant commenced her monitoring in Borama and visited two police stations, Borama Regional court, Attorney office, two IDP settlements; minority, prison and Amoud legal clinic. She interviewed police officers, witnesses, lawyers, judges, prosecutors, prisoners and victims respectively.

On the other hand, after the Eid ceremony, she visited Gabiley and Mandhera prisons on the 14th and 15th of September respectively. And on the 16th of September, the monitoring commenced in Hargeisa and different areas were visited including police stations, courts, IDPs, Somaliland National Human Right Commission, youth organizations like (Somaliland National Youth Organization SONYO & Somaliland Youth Development Association SOYDA), Comprehensive Community Based Rehabilitation in Somaliland (CCBRS), women organizations and associations like Gaashaan Women Development Organization & Somaliland Women Lawyers Association, disability organizations such as HAN and Somaliland National Disability Forum (SNDF) and organizations working with minority rights such as Voice of Somaliland Women Minority organization (VOSOMWO) & Ubah Social Welfare Organization (USWO).

The purpose of visiting all the above mentioned four regions/cities of Somaliland was to identify and assess the existing human rights violations against marginalized groups, the forms of violations and the most vulnerable groups; in order to devise ways of preventing more violations and seeking redress of the violations and abuses that had already occurred.

3.0 Objectives

The overall objectives of this research were to:

- Assess how marginalized groups suffer from human rights violations and abuses.
- Facilitate Nagaad and other CSOs for marginalized groups' capacity to undertake successful advocacy initiatives on key issues and to develop long term advocacy initiatives and a comprehensive advocacy strategy.
- Generate data that would be compiled in the annual Somaliland Human Rights Status Report of 2010.

4.0 Methodology

The methodology that the Consultant employed comprised of:

- Self-administrated questionnaires in which respondents themselves completed the questionnaires
- Face to face interviews
- Review of documented references for human right violations and incidents against marginalized groups.
- Literature review of relevant laws, and policies pertaining to the rights of marginalized groups in Somaliland.

Category of Respondents

- Police Officers
- Judges
- Prosecutors
- Women's Associations and Organizations
- Youth Associations
- Disabled People's Organizations
- NGOs working on violence against women (VAW), gender based violence (GBV), and minority rights working organizations.
- Victims of human rights & abuses
- Female and Male Minority individuals
- Female and Male Youths
- Female and Male Disabled Persons

- Prisoners (both Male and Female)

The monitoring covered a total of 102 respondents selected from different areas categorized as follows: Key informants comprising of 10 police officers, 50 prisoners, 10 NGOs personnel, 5 judges and prosecutors, and 27 persons including victims, witnesses, male/females youth, women, disabled persons, and persons from minority groups.

Regional monitoring Sites (Geographical Area)

- Burao in Togdheer Region.
- Erigavo in Sanaag Region.
- Hargeisa in Maroodi jeex Region.
- Borama in Awdal Region

5.0 FINDINGS FROM THE MONITORING

5.1. Desk Review

In order to effectively identify and assess the human right violations in the field, the Consultant conducted a gender analysis of the following documents:

- The Constitution of the Republic of Somaliland
- Sharia Law
- Somaliland Penal Code
- Somaliland Customary Law (Xeer)

a) The Constitution of the Republic of Somaliland

- Recognizes and guarantees all the fundamental human rights and freedoms of the individuals.
- Articles 8 – 20 contains provisions guaranteeing certain rights including among others socio-economic and cultural rights and the individual's right to equality and non-discrimination on grounds of gender, colour, ethnicity, culture, political opinion, language and other social status.
- Article 36 (2) of the Constitution obliges the government to promote and enact laws on the rights of women free of customs and practices that are not in harmony with Islamic

Sharia and which are prejudicial to the personal and dignity of women.

- Article 36(3) of the Constitution stipulates that the Somaliland women have the right to own and control property.

b) Sharia Law on Women Rights and their Property

- Women are entitled to receive marital gifts, to keep present and future properties and income for their own security.
- A Muslim woman is guaranteed support during all the stages of her life, as a daughter, wife, mother or sister.
- The Islamic Sharia recognizes property rights of women before and after marriage. To men is allotted what they earn and to women is allotted what they earn (Qur'an: 4:32).
- Many respectable scholars e.g. Imam Shafi'i notes that it is obligatory for a husband to provide a gift to his divorced wife in accordance with the size of his wealth.

c) Somali Customary Law

- Somali customary laws are not written but have been transmitted orally generation after generation.
- These rules were developed by the community elders and leaders and were enacted at a General Assembly.
- The Somali customary law introduced some special laws concerning female survivors of violence such as the law of rape, the law of inheritance and the law of property ownership.
- Somali customary laws never contradicted the Sharia law

d) The Law of Rape under Somali Customary Law

- Somali definition of rape - when a man encountered a woman or a girl in an isolated area and forced her to have sex with him.
- The law was harsh for those found guilty of rape. A crime of rape was punished with the payment of ten camels for a raped virgin girl or five camels for a divorced or married woman. The reasons why the law punished rape so harshly according to the traditional system were two - fold:
 - i) To avoid or minimize the re-occurrence of rape

- ii) To avoid a major violent conflict between the two concerned groups or clans by ensuring that the punishment was sufficiently severe.
- In some parts of Somaliland, men who were found guilty of rape were forced to marry the girls or the women they raped after they paid the appropriate compensation or reparation.
- However, during the 2006 Elders' Declaration, it was agreed that this should stop although it is still happening in some areas.

e) Equality before the Law of Sharia

- In Islam everybody is entitled to equality before the law and courts of law. Both men and women are accountable for their deeds before the law. Like men, women are entitled to seek justice.

f) Statutory / Formal Law and Violations against Women

The Somaliland penal code defines violence as follows:

- i) Crimes of sexual violence
- ii) Crimes against the person
- iii) Crimes against property

i) Crimes of Sexual Violence in Formal Law

- The term rape is often applied to a wide variety of sexual attacks, as provided in Article 398 of the Somaliland Penal Code.
- This Article defines rape as an act by one sex (male or female) committed with violence or threat and which involves carnal intercourse with a person of the other sex.
- Rape is against the will of the person.
- This crime is not recognised if done to someone of the same sex.
- The punishment of this crime/violence shall be from five to fifteen years of imprisonment as per the Somaliland Penal Code.
- Article 399 recognizes the act of lust committed with violence. This crime is committed by a person of the other sex in a manner other than carnal intercourse. The

offender of this crime is punished with imprisonment from one to five years.

- Article 400 recognizes unnatural offences committed with violence such as crimes committed against a person of the same sex or a person of different sex against nature. The offender of this crime is punished with exceeding imprisonment as per article 398.
- Article 401 recognizes abduction for purposes of lust or marriage by violent means, threat or deceit as a crime. The offender of this crime is punished with imprisonment of two to five years under Article 401.
- Article 401 (2), states that whoever, with violence, threat or deceit, abducts or detains for purposes of marriage to an unmarried person, shall be punished with imprisonment from one to three years.

ii) Crimes against the Person

- Criminal law prohibits crimes against the person – crimes against the life and safety of individuals.
- The Penal Code recognizes violence against the person including women e.g. murder, assault and hurt.
- The Somaliland Penal Code has defined these crimes as against “general persons” (men and women), where there is no specific provision relating to violation against women.

Murder

- Both men and women are equal in terms of capital and corporal punishment.
- Where the Somaliland Penal Code stipulates in Article 434 that whoever commits murder shall be punished with death.
- A man could receive a death penalty for killing a woman and this is the same if a woman kills a man.

Hurt

- Article 440 of the Somaliland Penal Code states that whoever hurts another person, from which physical or mental illness results, he or she shall be punished with imprisonment of three months to three years.

- The violation of "hurt" in the Somaliland Penal Code is categorized into three parts:
 - 'Simple hurt' for which the punishment is from 3 months to 3 years
 - 'Grievous hurt' for which the punishment is from 3 years to 7 years
 - If the act results into a 'Very Serious Injury' the punishment will be from 6 years to 12 years.

Assault

- Article 439 states that whoever strikes another and no physical or mental illness results will be punished with an imprisonment of up to six months or with a fine upon the complaint of the injured party.

iii) Crimes against Property

- Criminal law gives legal protection against a crime on personal property whether belonging to a man or a woman.
- Somaliland women are entitled to keep present and future properties and income for their own security.
- There are no specific provisions relating to a crime against women's property.

g) National Gender Policy 2009 – 2012

The National Gender Policy of the Republic of Somaliland recommends an inter-agency and multi-sectoral approach to its implementation including responses to gender based violence as outlined below:

- All forms of violence against women, physical and/or mental, whether at domestic or societal levels, including those arising from customs, traditions or accepted practices shall be dealt with effectively with a view to eliminate their incidence.
- Sensitization of the public about the eradication of Female Genital Mutilation (FGM) and advocating for laws prohibiting it fully.

- Sensitization of legal practitioners, administrators and other law enforcement officials in the handling of cases of violence.
- Strengthening of existing institutions: for assistance to victims of GBV and enhance the prevention of violence, including sexual harassment at work place; for rehabilitation of the victims of violence; and for taking effective action against the perpetrators of such violence.
- Organizing, supporting and funding community-based education and training campaigns to raise awareness about violence against women as a violation of women's enjoyment of their human rights, and mobilizing local communities to use appropriate gender-sensitive traditional and innovative methods of conflict resolution.
- Taking special measures to eliminate violence against women, particularly violence against those in vulnerable situations such as young women, refugees and internally displaced women, and women with disabilities.
- Undertaking multi-media advocacy campaigns aimed at changing social attitudes and customary practices that continue to bar women and girls from the benefits of existing laws and protect victims.

5.2 Nature and forms of violations of human rights against marginalized groups.

While it can be generally stated that marginalized groups are the usual victims of violations and abuses, the most vulnerable victims of violations are children (both female & male); women including women and girls with disabilities; minority women and girls; and Female IDPs/Refugee women. Interviewees indicated that the most common forms of violations against women and children are in the form of Gender Based Violence (GBV) like rape and domestic violence despite the fact that they are often dismissed as family affairs rather than criminal offences. Usually women are also denied their civil rights after the occurrence of gender based violence.

It should not go without mentioning that the males from the marginalized groups (disabled and youth) also usually incur several

violations and abuses and deprivation of their rights; but the most common form of violation they had suffered was lack of access of employment opportunities.

The data collected on violence against marginalized groups was categorized as: violence against women and girls; sexual crimes; crimes/violations against the person; harmful traditional practices; and crimes/violations against the property.

5.2.1 Violations Against Women/Girls

Interviewees including victims, police officers, judges and clan leaders such as minority clan leaders; reported that violations and abuses against women and girls were the most human right violations occurring in all the four regions in which the monitoring was conducted.

The findings categorized violence against women and girls as physical violence, sexual violence and deprivation of civil rights such as educational rights and inheritance rights through harmful traditional practices) were in the form of:

- Rape
- Domestic violence /wife battering
- Murder
- Assault (physical Assault)
- Forced Marriage/Early marriage
- Sexual exploitation
- Refuse of inheritance
- Education inequality for girls and boys
- FGM
- Human Trafficking
- Discrimination against political participation and decision making
- Refuse dowry related payments or pride price
- Neglect with children
- Lack of access to justice/ inequality before the courts of law
- Wife inheritance

a) Sexual violence/crimes:

i) Rape

Women and girls are raped including pregnant women. The findings revealed that the age group of rape victims is from one to fifty five years of age, and their cases are always solved through traditional ways without the victim's consultation. It was further reported that in such cases 50 camels are paid as blood compensation depending on the clan rules in the case of death after rape. However, it should be noted that such a solution is not only violating the victim's civil rights but also covering the perpetrator from the state punishment. Rape victims and their families always keep silent and hide their problems because of the shame and stigma attached to rape, fear of family reputation loss and fear of injustice from courts and the formal justice system. This fearing always makes most of them prefer to solve their cases through traditional justice systems.

Interviewees identified two practical rape cases that occurred in Burao and Erigavo in this year – 2010, whereby the victims were pregnant women. One was killed by the perpetrator after rape, and the other one had her eye removed by the perpetrator after rape. They further revealed that both cases were solved through traditional justice systems without adequate punishment of perpetrators who committed the crime.

The findings revealed some of the contributing factors of rape as:

- Weak sanctions against perpetrators.
- Traditional interventions within the courts of law.
- Traditional ways of solving rape cases.
- Lack of government awareness programs for such crimes/violations.
- Lack of community sanctions against the perpetrators.

ii) Perpetrators

The findings revealed that perpetrators of rape are mostly teenagers who are uneducated and unemployed, as well as relatives who live with the families of the victims. In addition, it was reported that of recent, in Burao and Hargeisa, there were cases of group rape whereby more than 5 perpetrators (rapists) would rape one victim. In these two areas, the occurrence of group rape was found to be higher than the individual rape cases.

However, it was reported that in Erigavo there were just a few individual rape cases occurring occasionally, no raping of infants and no group rape; to which interviewees attributed to the remoteness of the area.

It has been noted that occurrence of crimes and violations in a particular place usually depend on the population of that place. The higher the population numbers, the higher the rate of violations and crimes' occurrence. Therefore, the respondents from the monitoring sites revealed that in Hargeisa, Burao, and Borama; the rate of rape cases was increasing day by day and the rape victims were women/girls, including minority, disabled and children.

The perpetuation of this evil action (rape) was attributed to the community's denial of rape occurrence; the unfair courts' trials of rape cases, in which respondents reported that some traditional and clan elders do influence the judges in their proceedings for clan purposes or other interests; and the traditional ways of solving such cases.

Effects of Rape

The respondents categorized the effects of rape as:

- Physical problems (e.g. hurts/injuries, broken bones and teeth)
- Psychological problems (e.g. suicidal attempt, isolation and trauma)
- Social problems (e.g. stigma)
- Unwanted babies

Solutions of Rape Cases

The findings revealed that the majority of rape cases were being solved by the traditional leaders and not court settlements despite the fact that such cases were sometimes reported to the police stations. It was further reported that even when courts went an extra mile to try and solve such cases, traditional elders would always intervene in the court proceedings.

Interviewees reported that the courts sometimes refer such cases to be solved in traditional ways and in this way failing to fulfill their obligations and responsibility of enforcing the laws. Also sometimes parents of the victims prefer to solve their cases through traditional ways. It was reported that usually because perpetrators are not punished and are just released by the police, courts or the Attorney;

families of the rape victims prefer the traditional justice system instead of the formal justice system.

b) Domestic violence/wife battering:

It was found out that domestic violence is a major problem against women in Somaliland and children, and this was proved in the regions in which the monitoring was conducted. However, the mostly affected victims of domestic violence were women from IDP camps and refugee women from South Somalia and sometimes local women within the communities. Battering of wives by husbands was seen as normal and considered a disciplinary measure even if it was severe.

These women always face constant assault and harm/injuries from their husbands as they are always beaten. Whereas the major injuries reported included broken bones, broken teeth and in some cases death or becoming disabled, the simple ones included constant humiliation and threats as well as not obtaining maintenance of the family and welfare of children from husbands.

Forms of Domestic Violence faced by women and children:

Domestic violence was grouped into physical violence and violence against children.

- **Physical violence** - is the intentional use of physical force with the potential for causing injury, harm, disability or death. (E.g. hitting, beating, kicking, use of weapons, etc.).
- **Domestic Violence against children** – mostly occurs at homes and it includes: Physical abuse, Neglect, Sexual abuse, Emotional abuse and Abandonment

Solutions of Domestic Violence

The findings revealed that domestic violence problems are deeply considered as family issues but not offences, and usually when domestic violence occurs, the case is rather referred to the traditional elders specifically the head of the husband's clan.

The elders of both parties (spouse/husband and wife) usually talk of settlement and neither consults nor considers the injured party (the wife). In addition, the settling party do not either consider the crime as stipulated by the state law. The wife is always just forced to stay

with her husband in harmony and ordered to obey him without any compensation.

It was further reported that usually if the wife insists on being compensated, the elders on the husband's side advises the husband to divorce the wife. This is always so because they keep on reasoning that previously women were being beaten and not demanding for compensation from their husbands, and therefore a woman doing so now was not only stupid but also not a real wife. Even if the wife tried to report to the police, she would immediately be advised by the police to take her case to the elders. Such situations discouraged women from either seeking their rights or taking measures to address their problems.

5.2.2 Crimes against Person

a) Murder

Murder is a criminal act which is defined by article 434 of the Somaliland Penal Code as the unlawful act of killing someone by another or causing the death of another person and it states that 'whoever commits murder shall be punished with death'. However, women are killed willfully and intentionally using weapons like guns and through stabbing with machetes and burning all over their body (this crime is known in criminal law as crime of arson). Respondents reported that four women were killed in the years of 2008-2009 in Hargeisa by their husbands; one was burnt using petrol and fire by her husband, another was stabbed by her husband, and the other two were killed with guns by their husbands.

Offenders

The offenders of such crimes or murder cases were the husbands of the above mentioned victims.

Solutions for murder cases

The findings revealed that murder cases against women by their husbands are always solved with traditional justice system that considers them as family issues and not criminal offences. It was reported that whenever such a crime was committed by a husband to his wife, the clan leaders would solve the case through the traditional justice system and the clan of the offender made to pay 50 she-camels of blood compensation.

b) Human Trafficking and Sexual Exploitation

Human Trafficking is the illegal trade in human beings for purposes of commercial, sexual exploitation or forced labor. The existence of the human trafficking was revealed by the interviewees who reported that it occurs to both female and male children and youth. They revealed that usually the victims are deceived to get well paid employment and in the end forced to work. There are cases of human trafficking which were reported and documented by SYS, a youth organization in Burao [see Annex II](#)

On the other hand, **Sexual Exploitation** is a kind of sexual crimes in which the victims are usually young girls from economically low class families, internally displaced persons, house maids, street children, or mentally unfit minors who are incapacitated to take care of themselves or refuse any violation from anyone who have more power than them (e.g. economic power

Such female victims are always deceived and entered into a contract of payment because of their poor status. In most cases they end up with unwanted pregnancies that finally result into abandoned children. It was further revealed that sexual exploitation is one of the major causes of the increased rate of abandoned children and infanticide. The monitoring finally identified some of the effects of sexual exploitation as: education drop out, abandoned children, infanticide, suicide and suicidal attempts.

5.2.3 Harmful Traditional Practices

a) Forced marriage/Early marriage:

There are three types of forced marriages that exist in Somaliland:

- i) Forced marriage for purposes of dowry related payment
- ii) Forced marriage after rape
- iii) Forced marriage after a conflict between two clans named (*Godob reeb*)

The existence of forced marriages was reported by mostly women and youth respondents. They narrated that usually young girls are forced to marry men without their consent for purposes of dowry payment. They further added that always the raped young girls are forced to marry the rapists in order to minimize the reputation loss of the victims' families. On the contrary, it was revealed that rapists always

accept such marriages just to avoid the punishments of the crime they have committed and after a short while just divorce the victims without even taking care of the children that resulted from the rape. It was largely emphasized that marrying off a victim to the rapist is often perpetuated by the parents of the victims and the elders of their clans.

On the other hand, the findings revealed that the rate of early marriages for young girls who are under age was very high among those who are internally displaced persons. In the 15 May IDP camp in Burao, there were many under age girls who were married. Such girls are usually given out by their parents through exchange for money. It was found out that these young girls face serious problems from their husbands such as constant battering, psychosocial problems, and physical ones like broken bones and other injuries.

b) Women and inheritance

It was found out that women have no access to their inheritance rights and do not enjoy & exercise such rights. The findings revealed that violations of women's inheritance rights existed in the cities in which the monitoring was conducted. Some of the respondents reported that women were never ever given the dividend shares they were entitled to from the property left by their parents, husbands or children; and in addition the more valuable things (e.g. land, camels and *Beeyo*) were considered as properties that women had no right to inherit. Therefore, as some women came to learn that they will never get their share of inheritance; they stopped demanding for them at all.

However, denial of inheritance rights to women differs from region to region basically due to cultural differences of particular regions. For instance, in Erigavo it is forbidden for women to inherit a tree named 'Beeyada'. On the other hand, in some other regions women are forbidden to inherit land and camels. There were practical cases in which women victims revealed that they were denied their inheritance rights. Respondents further revealed that women were usually denied inheritance from their children, and that if a woman claimed for such a right the husband would always ask whether she wanted her marital gift – meaning that husbands always presume that their wives cannot share the inheritance of their children.

The findings further revealed that whenever a woman losses her husband, she is forced by the family of her late husband to marry the

deceased's brother. However, if she refuses to follow such an order, she is then forced out of the family home and also denied any property.

c) Female Genital Mutilation (FGM)

FGM still exists in Somaliland despite the fact that there are a number of NGOs implementing awareness raising programs on its harmful consequences. Responses from interviewees indicated that one of the major perpetuating factors of FGM is the men's preference to marry women who have undergone it. This was also noted as the major reason why parents are failing to stop it.

d) Dowry related payment/Bride price/neglect with children

Basing on the data collected, women are facing a number of challenges from both the formal and traditional justice systems in obtaining their civil and human rights in regard to their bride price once they are divorced. It was also reported that usually after divorce, men tend to neglect their children with their mothers. One respondent revealed that when divorced women try to claim for their rights in courts of law, they do not get fair treatment.

5.2.4 Discrimination against women/girls at Education, political participation, decision making & access to justice:

a) Women/girls and Education

The right to education is explicitly set out in a number of international human rights instruments, including the economic, social and cultural rights category. This category is made up of rights that the state has to fulfill and which can be realized over a period of time by the state, depending on the available resources.

Although, at this time girls' exclusion from education has been addressed in the big cities of Somaliland, it still exists in the IDPs and in the poor families that cannot afford to pay school fees for their girls. The findings revealed that parents prefer their daughters doing house chores than going to school and their sons going to school. It was found out that most of the IDP girls do not go to schools because of poverty which hinders them from even accessing basic needs like shelter, food, water etc.

b) Women and access to justice

According to the monitoring findings, women face a lot of challenges and are not always treated fairly before the courts of law. Analyzing responses from interviewees, 90% of women do not seek their rights because of the phobia of accessing justice whether as rape victims, domestic violence victims, or those who are deprived of their inheritance rights. The analysis goes on to reveal that usually judges do not consider women as clients whose rights have been infringed on and thus need to seek their rights basically because of cultural beliefs and negative attitudes.

Female respondents from Burao, Borama and Erigavo reported that women's phobia to access justice usually results from experiences of the few of them who claims their suits in the courts of law and fail to obtain fair trial. An example was cited whereby a woman sued her husband for family negligence in the district court targeting either family maintenance or divorce, but the biased judge could not listen to her claims. He instead gave all the attention to the husband's claims and finally ordered the woman to go back to her home without considering her concerns. Due to such experiences and in order to hide their problems and avoid more abuses from their husbands, women prefer to settle their cases through the traditional justice system although the traditional justice system do not treat them fairly either.

c) Women in political participation and decision making

The findings revealed that discrimination of women in political participation and decision making still exists due to the traditional norms and perceptions, although currently the number of women in decision making positions is increasing since the election of the new government in June 2010. However, it was also reported that some of the clans to which women holding decision-making positions belong, feel stigmatized and have lost reputation in the new government since to them women can not lead on their behalf. On the other hand, it was found out that women do not participate in the decisions that the traditional elders make even if such decisions are concerning them.

5.2.5 General Situation of Prisoners in Mandhera, Gabiley, Burao, Borama and Erigavo Prisons.

The general situation of the prisoners was observed to be quite fine with a good sanitation infrastructure. The only big challenge was that the prison cells were insufficient for prisoners.

They have access to basic needs like water, food and air. However, health care was insufficient for them. Despite the fact that doctors exist in the prisons to provide prisoners with medical treatment, they lack adequate drugs apart from pain killer tablets. Women prisoners reported that they do have access to washing facilities such as water, soap and washing utensils for their clothes.

In Mandhera prison, there were 18 insane prisoners (i.e. with mental illnesses) who were previously convicted with murder and sentenced to death. These prisoners are violent and constantly harm the other prisoners with whom they share the cells because of lack of separate cells to detain them alone. They have no access to drugs or any kind of treatment for the mental illness they have.

Most of the prisoners in these prisons reported suffering from injustices from courts of law. Some of them reported that they did not obtain their rights at all either during investigations, the prosecutions or court proceedings. There were prisoners who have suffered from violation of their trial/hearing rights, they claimed that their cases were not heard by the court and they were sentenced with imprisonment without hearing of their cases.

In all prisons visited, there were no prisoners imprisoned for purposes of freedom of expression and political opinion.

It was however observed that there were no rehabilitation centers in the prisons, meaning that prisoners had no access to rehabilitation programs such as psychosocial counseling, education/skills etc.

i) Treatment of Prisoners inside the Prison Cells

Both male and female prisoners reported that they were being treated well, equally and fairly. No single prisoner reported having suffered from torture, cruel, inhuman and degrading treatment and punishment. The findings revealed that male and female prisoners are fully protected from assault, rape, punishment, torture and cruel, inhuman and degrading treatment. The type of violation that was reported was the denial of fair trial which was among their

entitlements/rights as prisoners. Whereas prisoners on remand complained of due delay to access justice as they had stayed on remand for a very long time, the convicted ones complained of being denied their right to appeal.

ii) Police stations and the arrested persons

The arrested persons who are accused of crimes have 22 compound rights in three parts categorized as: 6 pretrial rights, 14 trial rights or hearing and 2 post trial rights (i.e. the right to appeal and right to compensation for misconduct of justice).

The general situation at the police stations was not good; sanitation was very poor in the cells although as with prison cells, the cells were insufficient for the detained persons. This was found to be a common problem for all the police stations throughout Somaliland. Some of the arrested persons that were interviewed reported that they access drinking water, among other things. As mentioned above the specific rights that the accused persons have are a total of six rights comprising of:

- (1) the prohibition on arbitrary arrest and detention
- (2) the right to know the reason of arrest
- (3) the right to legal council
- (4) the right to prompt appearance before judge
- (5) the prohibition of torture and the right to human conditions during the pre-trial detention
- (6) the prohibition on incommunicado detention

Detainees reported that they were enjoying some of their pretrial rights such as: allowing them to know the reason of their arrest, no torturing or inhuman conditions, the right to prompt appearance before judge, and arbitrary arrest and detention no longer existed since the Security Commission was dissolved by the current Hon. President.

The right to legal council was not accessed by all the accused persons because of the economic status and cultural and community perceptions and beliefs that Somaliland is an oral society where individuals can defend themselves. Finally they reported that the accused persons were deprived of the right to communicate with their families and relatives as soon as they were arrested and were not allowed to have communication tools like mobiles. This usually forces

their families to search for them in hospitals and some other areas not imagining that their relatives were arrested.

5.2.6 Human Rights Violations against Disabled Persons

Generally disabled persons suffered from several violations as per the interviewed men/boys and women/girls with disabilities. They reported violations such as discrimination at marriage, education, employment opportunities and access to justice. In addition, they reported that the deaf persons and other disabled house wives have no access to all services they needed like HIV/AIDS awareness programs.

The violations that were reported by persons with disabilities included: Lack of health care & welfare, rape, FGM and discrimination at education, employment opportunities, marriage and access to justice.

a) Rape and women/girls with disabilities

Girls and women with disabilities are raped as other women and girls. Though not even more they reported that after rape they do not get the appropriate services they needed like medical treatment, psychosocial support and legal redress. They further reported that because of stigma due to their disabled ness and lack of financial resources, they cannot afford to report their cases to the concerned authorities. However, if they reported their cases to the police stations and referred to courts of law, they were treated unfairly before the courts of law and thus denied access to justice. [See Annex II](#)

b) Education and persons with disabilities

Persons with disabilities reported having no access to education due to economic and financial reasons. Most of them are poor and cannot afford to pay school fees. In addition, it was reported that children with disabilities have no access to education due to several reasons that included not only lack of school fees, but also the discrimination and stigma that is attached to disability that results into their parents hiding them inside houses. Constant discrimination and insults from their fellow pupils or students was reported as one of the major causes of disabled children's drop out from schools.

c) Marriage and women with disabilities

The findings revealed that most disabled women and girls are not married and instead disabled men also prefer to marry non disabled

women. The major factors reported to hinder them from getting married were discrimination based on their disability. However, it was revealed that some men were likely to marry disabled women if such women were rich.

d) Women/Men with disabilities and employment opportunities

It was found out from the monitoring exercise that men and women with disabilities do not access employment opportunities mainly because of discrimination even if they have the necessary qualifications. At the same time, they are discriminated from participation in decision-making positions because of the requirement that usually states that 'the eligible candidate must be physically and mentally fit'. This is exactly what the Somaliland constitution as the supremacy law of the country stipulates for the positions of President and Parliamentarians. In some instances, when a disabled woman is lucky enough to get employed, members of society including her family members discourage her by questioning the relevance of her working when she is disabled.

5.2.7 Human Rights Violations against Minority

Based on data gathered from both organizations of minority groups as well as from individual interviews with men/boys and women/girls from minority groups from all the monitoring sites, the top most violations suffered by the minorities was discrimination in society, education and employment opportunities.

The findings revealed that children from minority groups, who chance on having access to education, are often abused by the non-minority children. They are nicknamed '*midgaan*' which is an insult that forces them to drop out schools forever.

Minority women reported that they also suffer from domestic violence and other violations including rape and FGM. They particularly reported that their daughters are often blamed by other girls from the majority groups for having been the cause of FGM pain since it is widely believed that the practice was initiated by the minority groups. In addition, minority victims of rape met further problems after rape, from perpetrators when they are released by the court as indicated in [Annex II](#)

5.2.8 Human Rights Violations against Youth

Youths' civil and human rights are often violated as reported by both female and male youths. However, it was clearly brought out that although male and female youths may face the same violations, sometimes their violations are very different. For instance, whereas both sexes suffer from discrimination from employment opportunities, girls solely suffer from rape, FGM and exclusion from education.

The findings revealed that there wasn't a single youth that have suffered from illegal arrest since the election of the new government. However, youths reported that previously illegal arrest and detention was a major violation that they suffered.

6. Challenges faced during the Monitoring of Civic and Human Rights of the Marginalized Groups

- ❖ Limited time
- ❖ Distant locations for data collection
- ❖ Most of the interviewee were not available because it was a holly Ramadan month, (e.g. most of the courts were not functioning, and the judges were in Ramadan leave. Only one or two judges were working in every court) at the same time no trial observation was possible to be made.
- ❖ Victims as well as witnesses of violations especially rape were always sensitive to interviewing.
- ❖ Inadequate data was obtained from Borama in Awdal region because the monitoring was conducted when Eidul Odha festival was nearing and most needed organizations and interviewees were not available. Additionally, it was in Borama prison that only two women prisoners were met and interviewed, because of an order from the Prison Commander not to see any other prisoner.

7. Recommendations

- Specific government programs must be put in place to address civil and human rights of marginalized groups, in addition to the government plan awareness programmes for the violations against marginalized groups.
- Parliament should design laws protecting the rights of the marginalized groups such as domestic violence law and child rape law.
- The traditional justice system for rape cases and domestic violence should be eliminated; and a punishment be imposed for traditional elders whenever they tried to solve such cases through traditional ways of solving.
- Implement and enforce Sharia Law punishment/sanctions to the rape perpetrators.
- Establish free education centers for people with disabilities.
- Create and establish rehabilitation centers in the prisons to enable prisoners acquire skills.
- Establish separate cells for prisoners who are mentally sick and provide them with medical treatment.

Recommendations for Advocacy

- Massive awareness of women on their legal rights pertaining to violations against them.
- Establish and strengthen women's community monitoring groups
- Strengthen the local women's coalitions with governance skills and knowledge on women's rights to property and security.

Legal Aspects

- Establish strategic partnerships to streamline the traditional justice system to eliminate any gender based discrimination

- Advocate for the appointment of female officers in police stations and the judiciary.
- Train and engage paralegals on women's rights violations in hard to reach areas; they can identify and record cases in villages that need critical intervention and link them to mobile courts.
- Implement and monitor provisions pertaining to women's rights in the 2006 Somaliland Elders' declaration
- Campaign for women's inheritance rights to be implemented as stipulated by the Sharia law
- Train the police, judiciary and elders on the nature and consequences of violence against marginalized groups as well as on prevention and redress measures.

Medical Aspects

- Train medical officers in post rape care services and evidence collection in the context of available resources in Somaliland. This will provide a link between the medical and legal aspects in the chain of evidence in cases of sexual violence.
- Incorporate both short-term and long-term psychosocial services at police stations, hospitals and in communities for survivors of violence.

Community Engagement

- Organize and conduct community campaigns targeting youth and the larger community against sexual violence
- Work with community male advocates in campaigns against violence against women.
- Organize and conduct community campaigns targeting education and awareness programs for disabled women and children.

Annex I: Key Informants

Key Informants:

- Police personnel
- Prosecutors
- Judges
- Lawyers
- Victims
- Persons with disabilities
- Prisoners
- Minority
- Youth
- Witnesses

Table one: Government Authority Personnel

| Personnel | Region | No. |
|---|---------------|------------------|
| <ul style="list-style-type: none">• Police Commanders• Police women• Judges• Prosecutors | Hargeisa | 3 2 3 3 |
| <ul style="list-style-type: none">• Police Commanders• Judges | Burao | 2 1 |
| <ul style="list-style-type: none">• Police Commanders• Judges | Erigavo | 2 1 |
| <ul style="list-style-type: none">• Police Commanders• Prosecutors | Borama | 1 1 |
| Total | | 19 |

Annex II : Documented References and case studies

HUMAN TRAFFICKING REPORT

SOMALILAND YOUTH SOCIETY (SYS-BURAO)

HUMAN TRAFFICKING SITUATION REPORT IN TOGDHEER REGION SUB-GEOGRAPHICAL AREAS

Date: 24/02/2010

Submitted by: SYS Organization

2. PURPOSE AND OBJECTIVES OF THE SURVEY

The main purpose of the survey is to obtain baseline information and collect and analyse relevant data in order to measure the current levels of human trafficking that exist in the region. The objective of this research is to find out whether or not human trafficking exists in and around the neighborhood of the Togdheer region.

3. RESEARCH METHODOLOGY

During the planning stage, the research team developed research methodologies and tools based on key points as stated in the TOR. Methods applied have been based on holding focus group discussion, meetings through interviews, questionnaires, and set of guideline questions. The research team also developed a questionnaire and visual audio-recorded to guide their discussion and collect information in a systematic manner. After collecting the data the team shared their findings to identify trends across different situations in the targeted areas. This analysis was done through group discussions and plenary sessions. The results of each area were further analyzed and compared with other areas to come up with a general report covering the trend in the area covered by the research.

8.2. Case studies of research

Few respondents reported different cases on human trafficking; these cases can be divided into two types. First, there were attempts, or try out to do trafficking actions but were not successful. Second, there were some incidents that resulted to trafficking victims. On the other hand, NGOs and other members of the society that were interviewed reported that human trafficking existed in Togdher region as they narrated detailed cases. The following are the cases and stories about human trafficking in persons that occurred in Togdheer region;

Case study one

A child trafficking case happened in 2008 in Burao district. The father of the victim child called Abdinaasir came from South Somalia. The victim child was a boy of 12 years old. One day, the young boy left his home to the town of Burao and while he was wandering around with his friends in the town, the trafficker named Jama (Somali Lander) saw the young boy. He called and talked something about illusions. The trafficker told the young boy that if he went somewhere in the nearby rural areas of Burao and did easy jobs with the nomadic families living there, he was to get more money and his family was to earn much more economy as well. Finally, the trafficker influenced the young boy with this false story. Meanwhile, the trafficker contacted a nomadic man situated at the nearby village called Qori-lugud about the young boy. The boy was later sent to the Qori-lugud village after the nomadic paid some money to the trafficker. The young boy became an animal herder from then and suffered from trafficking actions concerning labor force exploitation. Mr. Abdinasir (Father of young boy) failed to find his young boy and he was convinced that his boy was not around in the town. He searched in many different places in the city of Burao, but unfortunately he did not find him. Few days later, he heard information about his boy from another young boy who lived in town. This young boy was a shoe shiner and a friend of Abdinasir's lost boy. The young boy said to him; "I was moving around town with your son and a man called him. They left me there and I do not know where they went." With that information, he intensified the search for his son. Finally, he found out that the trafficker (Jama) took his boy and sent him to the Qori-lugud village. Meanwhile, a strong argument arose between Abdinasir and the trafficker, but because the father of victim was a Southerner, he did not report the case to the police station because of fear from the trafficker. However, other community members told the trafficker to return the young boy to his family; otherwise they were going to report him to the police. The trafficker was threatened by the people's demand and decided to bring back the young boy to his family after three months. Now, the young boy lives with his parents in the city of Burao.

Source: Meeting members from south Somalia

Case study 2:

During the assessment survey, the research team came across a case that concerned human trafficking. This case had occurred in 2008 in Burao district and was about the Southern man who was working in a shop that belonged to a Somali Lander. The man

had worked in the shop for a long time. The payment for the work done did not satisfy the Southern man and one day, he told the owner of the shop that he was about to leave work. Indeed, after some few days, the man left the shop to look for another job. From then, the owner of the shop complained that the Southern man had stolen much money and goods from his shop. He was taken to the police station where he stayed in prison for several weeks. After that, the case was transferred to the court of Burao and the Oromo man remained in the central Jail in Burao. After more investigation had been done by the Criminal Investigation Department (CID), it was found out that there was no money stolen from the owner's shop. The Oromo man was found an innocent person and released from the jail, but he refused to leave the jail due to much fear and dread from the owner of the shop. He argued that if he went out of jail, the owner would kill him with a gun. The man remained in jail for a very long time and he even became a psychiatric or mad man. He remained in that condition for a certain period, but finally left jail and no body knows knew he was.

Source: Vice-commander of Central Jail of Burao

This incident occurred on 15th January 2010 at Akara IDP camp in sheikh Bashiir Village Burao. A child 5-year old female child, who had leaved with her Ethiopian mother at Akara IDPs settlements for nine months, was claimed by a woman from Puntland that she was her daughter and stolen by the current caretaker. The case happened while the Ethiopian mother was not at home. The perpetrator (Halimo) came and took the girl-child to another place and even reported to the police. The mother and her daughter were arrested at the police station. SYS visited the police station and met the victim and the mother on 15th January 2010. SYS requested police to refer the case to to court with the help of the legal clinic and Ministry of Family Affairs and Social Development in Burao district. In the sequence to this assistance, the governor of Togdheer region had sponsored to take the girl-child in his home to avoid child imprisonment. Soon after the governor took the girl, the mother began to tear her dresses and seriously cried. So, the court sent back the girl to the central police station for security purposes. In addition to that, the mother became confused and developed symptoms of psychosocial problems. By the time of this reporting, the young girl and her mother were living in the house of the Governor, and they were waiting for the court judgment.

Source: SYS met this case during the research and Regional coordinator of Ministry of Family affairs and social development tried to help this Victim.

Rape cases:

Case study one

The incident occurred in September 2010 at Hargeisa and the victim was a four year old baby girl raped by two teenage boys aged 14 and 16. The perpetrators were neighbors to

the mother of the victim and who was a bread winner of the family that had to the down town everyday to earn an income for her family. After the rape, the victim experienced both physically and psychologically problems and she became paralyzed due to damaged spinal nerves. She was admitted in Hargeisa Group Hospital for treatment and also referred to a physiotherapist doctor; but the family of the victim was a very poor family that could not afford to pay for the medical treatment and check up for their daughter. Additionally, they faced the perpetrators' family's prejudice. As a result, the perpetrators were released by the court after police referred their case, reasoning that they were under age and therefore could not be punished and sentenced. This was a very weak reasoning because the Somali Penal Code states that 'if a person has reached the age of 14, he or she has the capacity of responsibility for his/her acts and can be punished but the punishment is reduced for him/her. Unfortunately, the court failed to fulfill its obligation of enforcement of the law.

Source: CCBRS Hargeisa

Case two

On September 2010, a rape case occurred in Borama. The victim was a 12-year old girl who was from a minority clan. She was raped by two perpetrators who were both 17 years old. They were arrested by the police after the occurrence of the rape but unfortunately, they were released after a short while. The parents of the victim reported that they had suffered from double prejudice after rape – they identified insult and nicknaming them (midgaan). As a result, the victim neither enjoyed her civil rights nor received any compensation.

Source: CCBRS Borama

Case three

In 2009, a rape case occurred in Hargeisa and the victim was a 15 year old disabled girl. She was raped by three perpetrators who were her family's neighbors. The case was referred to the court, but when it had reached the stage of the accusers presenting their defence, the perpetrators were released by the police station. The victim experienced serious psychosocial problems from the rape and also became pregnant. She tried very many times to kill her self but was saved by her family.

Source: CCBRS Hargeisa

Domestic violence case:

A mother of six children claimed that her husband used to beat her with a budh (a big Somali stick). She had injuries on the head, left hand, left leg and the back. She requested for compensation, but the clan elders from her husband's side argued that it was a taboo for a wife to take compensation from her husband. They added that it was a long standing culture for a husband to beat his wife and argued that it was a normal thing. Instead they

suggested that the husband divorces his wife since she had sued him in the court. Although the court ruled the case in favor of her; the case took 8 months and she didn't get any compensation from the court. She then transferred her case to Somaliland Women's Lawyers Association (SWLA) which had been working only for 4 months at that time. SWLA offered her free-of-charge legal representation, and the husband was charged and ordered to compensate her. Finally, she received her compensation and was thankful to SWLA.

Source: SWLA

Inheritance case:

The plaintiff was a widowed woman who had no children and lived in Hargeisa. After the death of her husband, the family of her husband told her to go out of the family since their brother was dead and she had no children. In addition, they told her that she had no right to inherit any of the properties left by her deceased husband including her marital or wedlock gift. She referred her case to SWLA and SWLA provided her with a free lawyer who represented her before the court. The proceeding of the case was still ongoing in the district court by the time of this reporting.

Source: SWLA

Somaliland Annual Crime Statistics Released – 2010:

The latest figures comparing a 12 month period from November 2009 to November 2010 show surge in crimes in Somaliland's urban towns. There have been significant rise in the number of reported sexual offences and murder. There has been 5.2 per cent increase in murder from last year's figures: 64 people were arrested for the 81 cases reported for murder, 17 cases have not been solved. 186 rape cases were reported as rape cases, an increase of 19.24 per cent from last year's figures. About 206 people were accused and 162 arrests made. The police also recorded 8 cases of border – infants abandoned by their mothers and in total two have died while the remaining six are in foster care and receiving medical care. In total, Mr Aman revealed in the past year the police handled 18,343 cases; 5015 of them brought in front of a court, while 8584 cases were resolved through mediation, further 1788 cases were judged or imprisoned. He added that 351 cases were dismissed or lacked insufficient evidence while 1223 cases were under investigation by the time of the statistics release.

Source: <http://somalilandpress.com/somaliland-police-reveal-2010-annual-crimes-surge-in-rape-....>

Annex III: Questionnaires

**HUMAN RIGHTS MONITORING FOR MARGINALIZED GROUPS IN
SOMALILAND**

QUESTIONNAIRE FOR POLICE PERSONNEL

Region: _____ District: _____ Police Station _____

Date of Visit: _____ Time of Interview: _____

Name of Respondent: _____ Gender: M F

Duty station Title _____

Questions:

1. How long you have been working in this position?

2. Have you attended any training related to Human rights? If yes, please specify the type of topics covered, when it was and who organized it.

3. What are the most frequently crimes/violations reported in this police station?

4. Who are the most victims of such crimes? -----

i) Who are the most offenders of these crimes?

ii) Do you always notice the arrested persons the reason of arrest?

iii) What is the nature of crimes against marginalized groups reported?

| Crimes against the person | Crimes against property | Sexual Crimes | Other Crimes |
|----------------------------------|--------------------------------|--------------------------|---------------------|
| Article and Crime | Article and Crime | Article and Crime | |
| | | | |
| | | | |
| | | | |
| | | | |

| Between Age group of victims | Most # Individual or group rape perpetrators | Perpetrators age group |
|-------------------------------------|---|-------------------------------|
| | | |
| | | |
| | | |
| | | |

5. Number of cases resolved through traditional system

6. How many cells are there in this police station?-----

7. How many are for women? -----

8. How many are for men? -----

9. How many are for children? -----

HUMAN RIGHT MONITORING FOR MARGINALIZED GROUPS IN SOMALILAND

QUESTIONNAIRE FOR COURTS/PROSECUTORS

Region: _____ District: _____ Attorney office/court _____

Date of Visit: _____ Time of Interview: _____

Name of Respondent: _____ Gender: M F

Duty station Title _____

Questions:

1. How long you have been working in this position?

2. Have you attended any training related to Human rights? If yes, please specify the type of topics covered, when it was and who organized it.

3. What are the most frequently crimes/violations reported in this police station? _____

i) Who are the most victims of such crimes? _____

ii) Who are the most offenders of these crimes? _____

iii) What is the nature of crimes reported against marginalized groups?

| Crimes against the person | | Crimes against property | | Sexual Crimes | | Other Crimes | |
|---------------------------|----|-------------------------|----|-------------------|----|-------------------|----|
| Article and Crime | No | Article and Crime | No | Article and Crime | No | Article and Crime | No |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

| Between Age group of women | Most # Individual or group rape perpetrators | Perpetrators age group |
|----------------------------|--|------------------------|
| | | |
| | | |
| | | |
| | | |

4. Number of the cases terminated by the decision of the Court and why?

5. Number of the cases awaiting trial?

6. Number of the cases where the offenders were imprisoned? And how many years for each offender?

7. Number of the cases that released the offender by the court? And why?

8. Number of cases resolved through traditional system

HUMAN RIGHT MONITORING FOR MARGINALIZED GROUPS IN SOMALILAND

QUESTIONNAIRE FOR PRISONERS

Region: _____ District: _____

Date of Visit: _____ Time of Interview: _____

Name of Prisoner: _____ Gender: M F

- 1 Age: -----
- 2. Place of residence: -----Occupation: -----
- 3. Date of arrest: ----- type of offence: -----
- 4. General situation-----

Status: Remand Convicted

5. Did you have access to a lawyer? Yes No

6. Do you have access to basic needs?

- a. Food Yes No
- b. Water
- c. Shelter
- d. Air
- e. Health care Yes No

7. Do you have access to rehabilitation skills? Yes No

8. Do you have any complain related to how you are treated in the prison? If
yes please specify: -----

9. How many prisoners do you share with the cell?

10. Do you know the name of the prison/detention center you are in?

Yes No

Victims and witnesses interview form

(Please leave blank)

File # 1

File name: _____

Received on: _____

**HUMAN RIGHTS / PROTECTION MONITORING FORM
(Version A-3)**

1. Monitoring information submitted by:

| Name of monitoring organization: | Name of monitor: | Date: |
|----------------------------------|------------------|-------|
| | | |

2. Source of Information / Informant (person giving information)

| Source's relation to event: (e.g. victim/survivor; witness) | Name of Informant: <i>Note: Must ASK informant whether s/he agrees to his/her name being noted.</i> |
|---|--|
| | |

3. Incident / event Information

| WHEN did the incident occur? | |
|-------------------------------------|--------------------------|
| Date (day, month, year): | Approximate time of day: |

| WHERE did the incident / event occur? | | |
|---|--|-------------------------------------|
| Location Name: | <input type="checkbox"/> City | <input type="checkbox"/> Village |
| | <input type="checkbox"/> Town | <input type="checkbox"/> Settlement |
| | <input type="checkbox"/> Other, specify: | |
| Region: | District: | Map Grid Reference (see map): |
| Any other details about the location of event? (e.g. on a road (give road name), near a mosque (give name)) | | |

WHO did WHAT to WHOM? Briefly describe what happened (if required, attach additional page).

Include information on: circumstances of event, number of people affected (age and sex), current situation of victim(s).

TYPE OF HUMAN RIGHTS VIOLATION / ABUSE

Note: The victim(s) / survivor(s) may have been subject to more than one type of violation. Tick (✓) all that apply. Details should be provided in the summary given on page 1. If more than one victim, indicate how many (age and sex) were affected by each violation.

| Forced evictions | VIOLATION / ABUSE | Ti ck ✓ | Date of | Number of victim(s), age and sex |
|---|--------------------------|---------------|-----------------|---|
| Forced return | | | Incident | |
| | | | | |
| Killing | | | | |
| Physical assault / physical attack | | | | |
| Rape | | | | |
| Sexual assault (other than rape) | | | | |
| Domestic violence | | | | |
| Torture | | | | |
| Unlawful arrest / detention | | | | |
| Kidnapping / Abduction | | | | |
| Child military recruitment / involvement in armed forces | | | | |
| Child labor | | | | |
| Forced labor / slavery | | | | |
| Human Trafficking | | | | |
| Forced Prostitution | | | | |
| Sexual exploitation | | | | |
| Children in conflict with the law (UNICEF to provide definition) | | | | |
| Child abandonment / neglect | | | | |
| Attack on school or health facility | | | | |
| Prevention of access to humanitarian assistance / diversion of aid Other (specify) | | | | |
| Forced displacement | | | | |

4. INFORMATION ON VICTIM(S) / SURVIVOR(S) OF VIOLATION / ABUSE

Note: If **one (1) victim / survivor**, complete section **4A**. If the incident concerns a **group**, complete section **4B**.

4A. Individual Victim

| | | | |
|--|--------------------------|----------------------------------|--|
| Name of victim (include nickname if available): <u>Note:</u> Victim <u>must be asked</u> whether he/she agrees for his/her name to be recorded. | | Age: | Sex: |
| | | | <input type="checkbox"/> Male <input type="checkbox"/> Female |
| If child, Name of father/ mother / guardian: | | | |
| | | | |
| Place of residence: | | | |
| City/Town/Village/Settlement: | | | |
| Region (see list): | District (see list): | Country (if other than Somalia): | |
| Clan / Sub-clan: | | | |
| | | | |
| Other relevant identity information: tick (✓) all that apply | | | |
| IDP | <input type="checkbox"/> | ethnic minority | <input type="checkbox"/> |
| refugee | <input type="checkbox"/> | disabled | <input type="checkbox"/> |
| migrant | <input type="checkbox"/> | prisoner | <input type="checkbox"/> |
| female head of household | <input type="checkbox"/> | unaccompanied child | <input checked="" type="checkbox"/> |
| journalist / media | <input type="checkbox"/> | human rights defender | <input type="checkbox"/> |
| humanitarian worker | <input type="checkbox"/> | political activist | <input type="checkbox"/> |
| Other: | | | |

4B. Group of victims

| | | | |
|---|----------------|----------------------------------|--------------|
| Description of group (Number or persons in the group? Any relevant identity information, e.g. clan?): | | | |
| | | | |
| Number of: | | | |
| Female children: | Male children: | Female adults: | Male adults: |
| | | | |
| Place of residence: | | | |
| City/Town/Village/Settlement: | | | |
| Region: | District: | Country (if other than Somalia): | |
| | | | |

| Do group members fall into any of these categories? If yes, indicate approximate number of persons in the category. | | | | | |
|---|--|---------------------|--|-----------------------|--|
| IDP | | ethnic minority | | journalist / media | |
| refugee | | disabled | | human rights defender | |
| migrant | | prisoner | | humanitarian worker | |
| female head of household | | unaccompanied child | | political activist | |

5. Information on alleged perpetrator(s)

Note: If one (1) perpetrator, complete section 5A. If a group, complete section 5B.

5.A Individual Alleged Perpetrator

| | | | |
|--|--|--|--|
| Name of alleged perpetrator: (if known, including nickname) | | Sex: | |
| | | <input type="checkbox"/> Male <input type="checkbox"/> Female | |
| Identity information: (e.g. any descriptive features, such as place of residence, clothing, clan, sub-clan, etc) (Provide as much detail as possible. Indicate level of certainty of information) | | | |
| | | | |
| Relation between alleged perpetrator and victim(s): | | | |
| no known link | | Employer | |
| Government official | | Village authority | |
| Police | | Judicial official | |
| Military/Paramilitary | | Warlord / private army | |
| Parent/Guardian | | Spouse (husband/ wife) | |
| Community member | | Teacher | |
| Landlord | | Religious leader | |
| Prison official | | Organized criminal group | |
| Other family member | | health worker | |
| Other: | | | |

5.B Group of Alleged Perpetrators

| | | | |
|---|--------------------|--------------------------|-------------------|
| Number of perpetrators: | Sex: | | Names (if known): |
| | Number of males: | | |
| | Number of females: | | |
| Are the alleged perpetrator(s) associated with a particular group or authority? | | | |
| military | | police | |
| judicial official | | organized criminal group | |
| paramilitary | | warlord / private army | |
| prison official | | vigilante group | |
| Government official | | | |
| Other: | | | |
| Does this group have a name? Any other identifying features (e.g. colour of uniform)? | | | |

| |
|---|
| |
| Other relevant information (e.g. clan, sub-clan)? |
| |

6. Possible reasons:

| |
|--|
| Possible reasons for incident: (e.g. inter-clan conflict, political differences, gender based, etc.) |
| |
| Is type of event likely to happen again? Why? |
| |

7. Actions Taken on Violation(s):

| |
|--|
| By the VICTIM: (e.g. reporting the case to the authorities, seeking medical help / legal assistance, etc.) |
| |
| By AUTHORITIES: (e.g. police, religious/traditional leaders). What was their response to the incident? |
| |
| By the MONITOR'S ORGANIZATION? |
| |
| By OTHERS? (e.g. other human rights / humanitarian organizations, medical services, legal clinics) |
| |

8. Recommendations and Next Steps:

| |
|--|
| What actions should be taken <u>for this case</u> ? <u>By who</u> ? Does the <u>victim/survivor agree</u> to the proposed actions? |
| |

| |
|--|
| What actions should be taken to PREVENT <u>other cases</u> ? |
| |

9. Evidence

| Evidence (where possible). Please tick (√) evidence attached | | | | | |
|--|--|-------------------------------------|--|--|--|
| Signed statement of survivor or guardian | | Signed statement of the witness(es) | | Signed statement of the alleged perpetrator(s) | |
| Court records/police | | Medical Evidence | | Newspaper clippings | |
| Other, specify: | | | | | |
| <p><u>Note:</u> photos should NOT be taken of victims / survivors.</p> | | | | | |
| Include a reference number for each piece of evidence (e.g. Event-Place-Month-Year-Evidence Number (1, 2 etc)) | | | | | |
| | | | | | |