



Somaliland Non-State Actors Forum
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Briefing Paper 1:

Somaliland Police Force

Introduction

Somaliland National Constitution 31st May (2001) stipulates in Article 124: The Police and the Corrections Forces and in paragraph (1) is providing; The Police Force shall be responsible for protecting the peace and for enforcing the law, and its structure and duties shall be set out by law.” The Government of Somaliland reinstated National Police Force.

Somaliland Police has various divisions operate under the Ministry of Interior and with their structures and functions defined by the police law No. 63/2013 and Somaliland Constitution article 124 (1). Both the Somaliland constitution and police law indicated the objectives which the police was established mainly to safeguard and protect the life and property of the citizens.

The law enforcement and compliance national constitution are central pillars of Police roles and responsibilities. As Somaliland constitution has defined, the police have mandated the law enforcement and maintaining peace and security of the country. Police divisions play the very vital role in the country political stability, justice and defending the rights of the citizens.

Furthermore, Somaliland police force was established in 1993-4 and it is apparent that the Somaliland police has made a lot of progress both physical infrastructures, improving police facilities and human development. But the rapid urbanization and sophistication of the crimes at present time, the police has limited capacity to prevent such high rate crimes most notably in the urban cities of Somaliland and controlling some periodically armed clashes between rural communities.

In the meantime, the surrounding challenges that police has experienced require more political commitment and strategic reform that enable police divisions to be competent in all manner. At moment the crimes are complex and very sophisticated. Therefore, the police reform is indispensable at all levels in order to safeguard the nation. Reforming the Police Force will also contribute to uphold the law and order and to ensure the citizens’ safety and security to be granted and regularized in a democratic manner.

Hence, it is indisputable that police have mandated the law enforcement and safeguarding citizens but there are low accountability measures and absence of the independent oversight if the police use excessive forces to the civilians as in many occasions of peaceful demonstrations people had experienced such undesirable police behavior.

In this regard, Somaliland civil society is concern about the accountability of the Police divisions as intelligence services dealing with criminal investigations, arbitrary detentions and making the law to be enforced. The most police stations are very much occupied with poor sanitation and not progressing regarding the accessibility, infrastructure development, and operating systems.

On the other hand, many unlawful acts take place in the urban areas due to the limited capacity of the police, for instance, around 1.5million people were estimated to live in the capital city of Hargeisa which is also a city that is rapidly growing but the police presence and their operational police stations are very few in

number and have limited facilities to prevent such anticipated widespread crimes. From this level of limited police presence in the capital city across, the youth crime rate is high and the theft is uncountable.

Moreover, during this study of the briefing paper, SONSAF has found that most international support given to the police of Somaliland was particularly channeled to the police special units that fight against the terrorism as RRU and this is an indicative the low scale of the police capacity regarding its traditional operations with crimes and arrests.

In the meantime, the police conduct must be regularly monitored for instance, terrifying the people while arresting has become a widespread phenomenon and this is unlawful because this police behavior is contrary to the constitution, while Somaliland is a democratic country and citizens have the right to be protected and live with the safer environment at all times.

The legacy and attitude of the Siyad Barre regime are many times repeated with incoherent manner believing that state practices can be realized using more forces dismaying people. Thus, Somaliland civil society and human rights defenders have been loudly talking in the recent past years that police reform is necessary otherwise this may jeopardize the democratic aspirations of the people of Somaliland.

Indeed, it is disgraceful and impractical Somaliland Police Force to use only live bullets with the people who are peacefully demonstrating and it is inconceivable Somaliland Police Force is always fully armed which is unnecessary since Somaliland is very peaceful. The police shortcomings in which this briefing paper depicted and analyzed have profoundly denounced the security sector reform (SSR) which was launched in 2011, in this reform, the police force was needed to be a fundamental pillar and it is where access to justice can be instigated.

Background

Somaliland police force has had different historical evolutions commencing from the Somaliland British Protectorate Government to post-independence of the state of Somaliland, and period of a merger between Somaliland and Somalia. First, the British government had established Somaliland Police Marine Force in 1910, second, Somaliland Camel Corps was created in 1912, third, Somaliland Police Force had been established in 1926 and finally, Somaliland Scouts were formed in 1941.

The merger of Somaliland and Somalia was established by law no.5 of 31st January 1961, Article 10 of this law has made the formation of the Somali Republic retroactive from 1st July 1960. Paragraph (2) of Article 6 of law no.5 is providing; “The Police Forces of Somaliland and Somalia shall constitute the Police Force of the Somali Republic and shall be under the authority of the Minister of Interior.” The people interviewed during the preparation of this briefing paper told that the Somaliland Police Force requires to be transformed into the more civilian police force, not alike military armed forces but well trained civilian police forces and civilian control police force.

Upon restoration of Somaliland in 1991, Somaliland Police Force was again re-established in 1993-4 after two years from the collapse of Somali Republic in 1991. Somaliland Police Force was established by law N.54GW 3, Nov 1994 and this law was amended in 1995 and Somaliland parliament recently approved Somaliland Police Force new Law no.63/2013, the President of Somaliland enacted through presidential decree Sum: JSL/XM/WM/222-06/122017 on 26 December 2017 and Solicitor General Office published 06/01/2018.

However, the attributes of the Police Force is kind of military and the signs of totalitarianism is observed and this culture can endanger the cooperation between the Police Force and the general public. There are legal ambiguities, an example in Article 21 Ranks and Uniform, the law says specific rules will establish Ranks, with which the establishment of Police Ranks should be separate Act.

Furthermore, the Somaliland Police Force has made a number of achievements first the quantity and quality of the Police Force was tremendously increasing from time to time most notably the Police Force training and equipment increased in some extent, providing ranks for the Police Force personnel for the first time in 2013 and it was historical after 20 years from the re-establishment of Somaliland Police Force Law No.63/2013.

Nevertheless, the Somaliland Police Force lacks many facilities and training which are necessary for the Police Force to obtain constantly in order to provide quality services to the citizens. Regarding theoretical settings, Somaliland security is attributed as “hybrid security” and this was meant as people’s centric security approach. In addition, there are no other standards for Police Accountability, Integrity, Oversight, Inspection and Code of Conduct for public officials. The role of Police in democracy and election is not in the law.

In Somaliland, this pattern of cooperation and trust between security institutions and general public contributed Somaliland to be an oasis of peace in the Horn of Africa. Nonetheless, many of the people conducted interviewed in between May – July 2018 signaled out that sustaining this cooperation between Police Force and the general public needs more strategic development and regular evaluation.

In fact, this is a high risk if the confidence of the general public to be lost or not maintained at all while the Republic of Somaliland is relied on this hybrid security more than decades- long. Hence, the earlier voluntary disarmament, demobilization, and reintegration in 1993-4 had contributed the reduction of arms and curbed the larger ammunition that was in the hands of the civilians, which civilians had possessed during liberation movement from 1981-1991. Though Somaliland has made the initiative of small arms registration in 2009-2010, small arms are still remaining in the hands of the civilians.

Despite Somaliland is peaceful and proved to resolve its social and political conflicts mainly through a mix of constitutional democracy, customary and homegrown approaches. However, many people are questioning how long this customary conflict resolution will be pursued because Somaliland has experienced several clans armed clashes in the rural area due to rule of law institutions not decentralized yet in many rural areas and this is a serious threat to the national security at all times.

Thus, in this briefing paper, the main aim is to examine the challenges that Somaliland Police Force encounters and public perceptions of Police Force services of safeguarding the citizens and preventing crimes. Eventually, the Police five years strategic plan 2017-2021 and its national priorities require more analytical and conceptual explorations considering the multiple challenges that Somaliland Police Force faces on daily basis and the Police Force strategic plan must also address all Police divisions needs and strategic matters both short and long-term.

Police Compliance in the Police Law and the National Constitution

To ensure that the rights of the citizens to be protected, the Police law and the national constitution must be central to administering all Police activities presumably the arbitrary detention and the behavior of the Police when they are in duty. The Somaliland Police law No.63/2013 has outlined a number of provisions explaining how the Police should operate under the oversight of the law. Article 3 of this law illustrated the objectives of the Police law and subclause (4) discusses the Somaliland Police Force to be trained in accordance with national laws and universal human rights declarations.

In this regard, the Somaliland Police force alleged that they don’t comply with both the national constitution and the police law and the police behavior to some extent is not welcomed by the citizens. Many citizens were anticipating that new Police law will be a breakthrough and initiative to accelerate the Police reform and changing current police structural challenges both policing process and overall institutionalization of the police force.

Moreover, if Police behavior does not comply in conformity of the police law and the constitution, it should be unpredictable what could happen and this anarchic situation is where the violation of human rights takes place because there is no oversight of the parliament to monitor the behavior of the Police and no independent police oversight body internally and externally at present time.

Somaliland Constitution has sufficiently described the rights of the citizens in terms of their security, life, and dignity. Article 24: The Right to Life, Security of the Person, Respect for Reputation and Crimes against Human Rights. The subclauses of 2 and 3 have all adequately touched the fundamental issues which the constitution particularly enlightened to all state actors and citizens.

2. “Every person shall have the right to security of his person. Physical punishment and any other injury to the person are prohibited. 3. Every person shall have the right to have his dignity, reputation and private

life respected.” Indeed, these provisions have clearly indicated how the person (s) shall be treated in a manner that the law dictated and anchored.

Somaliland constitution has also clarified the conditions in which the person (s) can be detained or in custody. Article 25: The Right to Liberty, Guarantees and the Conditions of Rights and Freedoms. This article, the sub-provisions 1, elucidated the legal arrangement that constitution legitimized when an arrest is ordered. 1. No person shall be deprived of his liberty except in accordance with the law. 2. No person may be arrested, searched, or detained, except when caught in flagrante delicto, or on the issue of a reasoned arrest warrant by a competent judge.

However, considering these above constitutional provisions, the Police force is needed to respect when ordering arrest person or persons, the Police force has been continually blamed the arrest without following legal compliance and sufficient evidence of the accusation of the warrant.

The Police law is also more pragmatic that the roles and responsibilities of the Police are in the preservation of the national constitution and national laws compliance but the Police force is not cautioned about these legitimate guidance of the constitution and laws in place and this has created that the Police force actions and behaviors are frightening the citizens in many occasions.

Somaliland people are mostly nomadic pastoralists who are relied on their customary laws (Xeer) and they have less confidence in the formal laws. From this standpoint, the police force must create channels of awareness raising and guidance of the general public to adhere to the rule of law.

In addition, Somaliland security is based on negotiated paradigm between formal state institutions and customary institutions but this has weakened the security and rule of law institutions to overcome constraints which Somaliland had experienced many decades such as lack of adherence and implementation the rule of law. This negotiated security practice gives the customary system with more authority which many times contrary to the formal laws and decentralizing the police force operations across urban and rural areas.

As article 9 of the constitution stated the political system of the country is based on the multi-party political system. In this political context again the constitution granted the freedom of expression, public demonstrations, and free press so dealing with this situation, the Police force needs to be more firm in the practices of the law. But it is, unfortunately, the Police force uses live ammunition often to the civilians who are peacefully demonstrating in many times to exercise their democratic rights and this is a breach of the constitution.

Finally, there is a huge demand from the public, government to establish Riot Police unit, such unit will be well trained and equipped and the international community is also needed to support this special unit of the police intended to prevent demonstrations and keep citizens to exercise their rights peacefully. The Police Force must be sufficiently aware that Somaliland is first and foremost a democratic country where the rights and freedoms enjoyed by the citizens are legally binding and politically legitimate.

Establishment of Independent Police Complaint Commission

As Article 35 of the new Police law outlined there is a need to establish Independent Police Complaint Commission which is designated to handle the public complaints against the Police Force and as this article indicated this independent police oversight commission will be selected from the following institutions: two persons from the Houses of Parliament, one person from Ministry of Interior, one person from Police Force, one person from National Human Rights Commission, two persons from Lawyers Associations, in total seven members.

Furthermore, these seven persons will be intended to work as an independent police commission that should monitor the compliance of the Police law, constitution, and other relevant laws. Article 36 of the Police law discusses the roles and responsibilities of this commission and also gives the full authority the commission to develop and enact an internal code of conduct which will be illustrated further the work and scope of the commission.

Therefore, to establish this independent police oversight commission is necessary in order to respond to the longstanding concerns from the public. If this commission to be established and become a functioning entity, the integrity of the Somaliland Police Force will be restored through holding Police Force divisions accountable and subject for the law compliance.

In this respect, the Minister of Interior in collaboration with Police commissioner is required to commence the process of the selection of the members of the commission and their establishment in accordance with the Police law. Somaliland civil society remains very committed to support this commission and work with the Minister how this commission should be more functioning and competent to manage the police public complaints through lawful manner.

The Role of International Community in the Security Sector Reform (SSR)

The international community seems to be more supportive and committed to contribute the security sector reform (SSR) process in order to improve the institutional capacity development and effective governance in the sector. There is a number of institutions which the SSR focusing included Police Forces, intelligence service, justice sector institutions, judiciary reform, and defense forces. The security sector reform is needed to continue assistance from the international community financially and technically, whilst Somaliland is a post-conflict country, the security sector development is categorically a national priority.

Somaliland government has launched a security sector assessment (SSA) on December 2011 in collaboration with United Nations Political Office for Somalia/Somaliland UNPOS and the United Kingdom. In addition, the international community and Somaliland civil society discussed many occasions the challenges surrounding the Police reform and the urgent need to establish independent police complaint commission that should undertake the oversight of the laws compliance and international instruments as Universal Declaration of Human Rights 1948.

Somaliland Civil Society Engagement in the Police Sector

Somaliland civil society is very much concerned about the Police behavior when dealing with civilians with a certain period of demonstrations, arrests and in the absence of police independent oversight commission are in dilemma and the path of uncertainty. Somaliland CSOs are willing to work with the police on matters of information dissemination, community policing programs, supporting police regulatory framework and reform strategies.

Somaliland CSOs believe that cooperation between civil societies or non- state actors and police can contribute a better understanding between police and the general public and ensuring that the rights of the citizens should be protected and regularly monitored. Civil society is promoting a greater partnership and collaboration between civil society and the police and this can enhance the public engagement and community policing activities and confidence-building measures.

Nonetheless, it is unfortunate that at moment the cooperation between civil society and the police is not existing at all. Civil society is committed to advocating issues included the good governance, human rights, women's rights, child rights and rights of press freedom. Civil society also is advocating upholding state institutions to be more democratic, open, accountable and credible.

Consequently, CSOs are keen to know how the police force is working in order to prevent the possibilities to breach the law and violate the rights of the citizens. In this respect, CSOs are demanding to work with police divisions so as to share their human rights concerns and recommendations towards police approaches of arbitrary detention and criminal investigations.

Conclusion

Despite the enormous challenges, the Somaliland police Force has made a lot of progress in a context which is recovering the ashes of civil wars and difficult circumstances that Somaliland has been pursuing over the past decades. In addition, the initiative of the security sector reform is generally more beneficial to strengthen state institutions to deliver effective and accountable manner through maintaining rule of law, equity, safety and security of the citizens and to pursue Somaliland Constitution and the universal declaration of human rights.

In the meantime, investing the Police Force will have a greater impact on the country's future stability and security sector development and if Somaliland Police Force allows public police dialogue, this can amplify the trust and working patterns between police and the general public. Ultimately, Somaliland civil society is willing to support the security sector reform particularly the police sector believing that Police Force is a central pillar to the peace, security, and stability of the nation and where the Police force is also the entrance of the justice and a good brand of any democratic nation.

Policy Recommendations

- Establish Independent Police Complaint Commission that police law enacted in order to create a regular independent oversight body that monitors the police interventions and obtains the complaint from the public, this commission will play vital role holding the police force more accountable and transparent. This will also pave the way that the constant reflections of the police work to be evaluated on the daily basis and to ensure the full compliance of the new police law and the constitution.
- In order to implement the police law No.63/2013, there is a number of code of conducts, procedures and regulations which are all needed to develop so unless these code of conducts are completed the police law implementation is impractical and will not be effective, these code of conducts will help the police and its stakeholders to get more clarity and genuine understanding about the police law and its implementation framework.
- The security sector reform (SSR) is instrumental in any post-conflict country aimed at strengthening security and rule of law institutions to deliver effective and accountable way. Since its inauguration of 2011, the security sector reform (SSR) was not evaluated and there was no any strategic plan in place for the implementation of the SSR and less political commitment was observed.
- So this briefing paper is recommending security sector reform national review to be conducted and this review process needs international community support, specifically the police sector is more substantial and it is necessary to enhance the interactions between security sector institutions and non- state actors, whilst the non- state actors have major role both maintaining peace, security, and justice.
- Increase police training, and quality of the police training, police services, police facilities on demonstrations, criminal investigations, and police stations. Improving police operational capability will have an impact on the country's ambition of democratization, decentralization, peace and effective rule of law. The government of Somaliland and the international community must give more emphasis building on the police capacity, knowledge, and proper physical service delivery and enhance their presence of public in both urban and rural areas.
- Improving policing methods as criteria of recruitment, police information dissemination, awareness raising and police cooperation with civil society and the general public, creating police public dialogue (PPD) will save more resources and energy that police consumes on the daily basis with some unorganized violence. Somaliland needs more technical experts in the police sector reforms and police sector development in general.
- Opening the dialogue of the security sector reform (SSR) will be more helpful for changing the current misperceptions and may also accelerate the process of reshaping and reconstructing the sector, Somaliland at moment is aspiring to undertake mega projects by attracting more investors and this will require more capable and effective rule of law institutions.