



**HUMAN RIGHTS CENTER**

*Speaking for those who are not heard*

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# ANNUAL REVIEW OF HUMAN RIGHTS CENTRE

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# 2018

**16** PEACE, JUSTICE  
AND STRONG  
INSTITUTIONS



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## Foreword

Human Rights Centre (HRC) was founded six years ago for the purpose of defending human rights in Somaliland. Looking it back, I see progress made by HRC as an institution. It was an institution created by young lawyers who were new to the field. HRC volunteers are now based in all the six regions of the country. They help many people who seek support when they are in a predicament. And above all, it is a platform to train young human rights defenders who want to contribute to improving the human rights situation of the country.

This is the last report of the Human Rights Centre in which I will be writing the Foreword. I am leaving after six years as the head of the organization I founded. I am stepping down very confident that the Centre will continue to grow and will stay strong to speak the truth when those in power do not want to hear it.

Human Rights Centre is unapologetic about speaking up for those whose voices are not heard. The people of Somaliland clearly expressed their will by ascribing in the Constitution fundamental freedoms and rights which the “legislative, executive and judicial branches of the state and the local government of the regions and the districts of the Republic of Somaliland, of all levels, shall be bound by the provisions” of the Bill of Rights in the Constitution. The interpretation of the fundamental rights and freedoms “shall be interpreted in a manner consistent with the international conventions on human rights,” the constitution emphasises. Human Rights Centre stands for human rights as protected by the Constitution and international human rights law.

I commend the heroic work of the Human Rights Centre’s volunteers who, despite the challenges of intimidation and pressure, remained strong and committed.

The irreconcilable mixing of a progressive constitution and authoritarian laws and practices are the main obstacle holding back improvement of human rights in Somaliland. Laws that predate and

contradict the Constitution are still applicable in Somaliland and deprive people of their fundamental freedoms and rights.

The annual report is a vital aspect of the work of the Human Rights Centre. The report aims to show the gaps that exist, areas that need improvements, abuses that occurred throughout the year, and provides recommendations. Based on carefully conducted data collection and documentation, the report is founded on facts. Hence it can help anyone who desires to improve the human rights situation of Somaliland

**Guleid Ahmed Jama**

Acting Executive Director of Human Rights Centre

December 2018

## Acknowledgments

Human Rights Centre thanks the dedicated volunteers, members and staff of Human Rights Centre who made possible this report to be published. We are very grateful to all of them and appreciate their helpful contributions and support.

HRC is also grateful to the individuals and organizations who shared their experience and stories to include in this report. Thank you very much. Thank you also to all the people and organizations that have helped us in any way during the course of this report or the activities of HRC in genera

## Executive summary

This is the annual report accounts and documentations made by Human Rights Centre between 10 December 2017 to 30<sup>th</sup> December 2018 in Somaliland. Somaliland, located in the Horn of Africa, declared restoration of independence from Somalia on 1991 after the central government of Somalia led by Dictator Mohamed Siad Barre collapsed. It is not recognized internationally as an independent country. Somaliland has a relative peace and holds elections. The Constitution of Somaliland approved in a referendum in 2001 contains a Bill of Rights and recognizes the Universal Declaration of Human Rights.

Every year, the Human Rights Centre issues an annual report to inform the government and the people of Somaliland human rights issues that need improvement. In this year the previously banned prominent newspaper, Haatuf, was informed by the court that it can resume work. The paper was shut down in 2014 after reporting allegations of corruption. Furthermore, journalist Mohamed Adan Dirir who was serving an 18 months jail term for criminal defamation and publication of false news was released by a presidential pardon. At the backdrop of these developments, this report provides accounts of violations of freedom of expression, assembly and rights to fair trial.

The areas the report covers include:

- In the period covered by this report, the Human Rights Centre documented 35 people who were arrested for cases related to freedom of expression. This includes 28 journalists and 7 people who are not journalists. Media houses were shut down or suspended. Increasing restrictions of freedom of media and expression have been recorded. Many journalists were held for Facebook posts. This shows government's focus on social media activities.
- The Rape and Sexual Offences Act signed by the president of Somaliland Muse Behi Abdi on August 2018 has been suspended as being contrary to the Constitution. The Act, which criminalizes interventions of clan elders in rape cases, was opposed by religious and traditional leaders. It was aimed to tackle rape cases, help victims and hold perpetrators accountable. The rejection of the law happens while rape cases are increasing. In December 2018, the Ministry of Employment and Social Affairs stated that they have recorded 520 rape cases.<sup>1</sup>
- Internally Displaced Persons (IDPs) suffer continuous displacements, forced evictions, and lack of basic government services such as health, shelter, education, security and food.

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<sup>1</sup><https://www.youtube.com/watch?v=IWpVT6DrtX4&t=6s&fbclid=IwAR23GiPyULkpdF2rgiUVEhXFkzTdUOyXKPOki236oa5lksFrIWvMAvPV07Y>

The people who came from Somalia (South Central Somalia) are not recognized by the Somaliland government as IDPs and international organizations do recognize them as IDPs. The difference leaves vulnerable people in a legal vacuum. This affects their access to services, land ownership as well as documentation and legal papers.

- A Police Act widely praised for providing accountability framework and protection of civilians was amended by the House of Representatives at the request of the government. The amendment suggested by the government removes accountability for the Police and enables the Police to work without oversight;
- Interclan wars in Sool and Sanaag regions caused the deaths of more than 100 people, wounded more and have displaced many people. Among those killed were civilians.

## Recommendations

### **To the government of Somaliland:**

- Implement the Rape and Sexual Offences Act; and adopt an implementation strategy to ensure the law is fully enforced;
- Respect the freedom of expression enshrined in the Constitution of Somaliland and accept the decriminalization of the media and halt the detentions and prosecutions of journalists. Halt the restrictive orders intervening editorial decisions imposed on independent media houses;
- Withdraw the amendment of the Police Act. Reform the police and implement the Police Act and establish the independent police complaint body enshrined in the Act;
- Carry out comprehensive criminal justice sector reform to comply with the fair trial standards required by the Constitution of Somaliland and international human rights law. These reforms should include Police and judicial reforms to permit accused persons to exercise their rights without restrictions, and treat individuals with dignity and respect.
- Provide necessary services to people at IDPs centres in Somaliland. These services include health, education, security, legal, protection, sanitation etc. Re-locate those who live on land owned by private individuals and locate to land to live with a registration; facilitate and coordinate to build shelters

that are in conformity with standards. Carry out urgently a wide-ranging assessment that covers all areas and sectors and be capable of identifying the assistance and protection of all vulnerable groups; and implement national policies relating to IDPs and also clarify the legal position of the people from Somalia (South Central Somalia).

- Stop arresting people for alleged crimes purportedly committed by family members, and arresting for civil cases. Generally, arbitrary arrests should be stopped and arrests should be conducted in accordance with the Constitution of Somaliland.

## Methodology

The report is a result of research conducted in all regions of Somaliland. HRC regularly monitors and documents human rights issues in Somaliland by using monitors based in regions and verifying and recording information. HRC conducted interviews and focus group discussions in Buraoa and Hargeisa. Three IDPs centres in Burao were visited on November 2018 and 10 IDPs centres in Hargeisa were visited in March, April and November 2018. Monitors interviewed 130 residents of IDPs centres and conducted 10 focus group discussions for mixed groups.

Lawyers, judges, court clerks, police officers, detainees and family members were interviewed. HRC has observed 41 randomly selected cases in Hargeisa Regional Court. A prepared checklist was used to record the observation of the case. Each case was followed from the beginning to the end to evaluate and record progress made. Interviews with lawyers, judges and prosecutors were also made.

Reports of civil society organizations were reviewed as well as court documents such as judgments and charge sheets.

HRC is not allowed to access police stations. Therefore, detainees were interviewed at the court premises and released detainees were also interviewed.

## Background

Somaliland, located in the Horn of Africa, declared restoration of independence from Somalia on 1991 after the central government of Somalia led by Dictator Mohamed Siad Barre collapsed. Upon gaining independence from the British on 26th June 1960, Somaliland joined a union with Somalia, a formerly Italian colony. Somaliland has a constitution approved in a referendum held in 2001. The constitution has a Bill of Rights and creates a bicameral legislative organ, judiciary and executive organ of a presidential system. Elections were held for local councils (2002 and 2012), House of Representatives (2005), and presidential elections (2003, 2010 and 2017).

President Muse Behi Abdi was inaugurated on 14th December 2017 after he was declared a winner in a presidential election conducted in 13th November 2017. Behi, running for the ruling Kulmiye party, competed with two opposition candidates; Abdirahman Mohamed Abdilaahi of Waddani party, and Faisal Ali Warabe of UCID.

## Positive Developments

On 8th July 2018, an appeal court in Hargeisa issued a decision lifting a suspension imposed on Haatuf Media Group on 7th April 2014 after police raided its office in Hargeisa.<sup>2</sup> On the 25th June 2014, Hargeisa Regional Court sentenced two journalists from Haatuf Media Group to between three and four years of imprisonment and a fine of fifty million Somaliland Shillings. They were accused of defamation and false news in relation to news reports about alleged corruption by government officials. The Court also ruled the revocation of the license of Haatuf Media Group.

Haatuf has not yet resumed publication. A civil suit initiated by Haatuf against the government of Somaliland demanding compensation is ongoing at Hargeisa Regional Court.

Journalist Mohamed Adan Dirir was released on 18th June 2018 on a presidential pardon. Dirir was sentenced, in a one-day trial on 8th October, to 18 months in prison for charges of criminal defamation and publishing false news.<sup>3</sup>

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<sup>2</sup> <https://cpj.org/2014/04/somaliland-authorities-shut-down-independent-paper.php>

<sup>3</sup> <https://cpj.org/data/people/mohamed-adan-dirir/>

## Rape and Sexual Offences Act "suspended"

On 28th August 2018, the President of Somaliland signed the Rape and Sexual Offences Act into a law after it was passed in an overwhelming majority by the House of Representatives. Immediately after signature, members of the Upper House (Guurti) and religious leaders opposed the law which criminalizes interventions of clan elders in rape cases. The outcry spearheaded by Imams of mosques accused the government of enacting a law that contradicts "Sharia." The Minister of Religious Affairs in response said the Act will be reviewed.<sup>4</sup>

According to the Constitution of Somaliland laws "shall come into force within thirty (30) days beginning from the date of their publication." The prosecution office continues applying the repealed Penal Code articles and does use the new law.<sup>5</sup> The Act criminalizes rape and other sexual offences. It also has procedural provisions related to the investigation and prosecution of rape and other sexual offences.

The Act was aimed to tackle rape cases, help victims and hold perpetrators accountable. In December 2018, the Ministry of Employment and Social Affairs stated that they have recorded this

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<sup>4</sup> <https://www.youtube.com/watch?v=WHD3V-l1nNs>

<sup>5</sup> HRC has seen charge sheets, and court records as well as talked to prosecutors

year 520 rape cases.<sup>6</sup> But the police stated in their annual report in November 2018 that they have received 101 cases of rape.<sup>7</sup> The Police report stated that only 78 perpetrators were apprehended and charged. The rest were not found, according to the report. The difference shows that many rape cases do not go to court at all. Additionally, rape is commonly one of the least reported crimes. In rural areas, where government presence is limited, reporting is very rare. In some cases, victims are pressured to marry the perpetrators while others are resolved by clan elders outside of court system and blood compensation is paid instead.<sup>8</sup>

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<sup>6</sup><https://www.youtube.com/watch?v=IWpVT6DrtX4&t=6s&fbclid=IwAR23GiPyULkpdF2rgiUVEhXFkzTdUOyXKPOki236oa5IkSFriWvMAvPV07Y>

<sup>7</sup>[https://www.youtube.com/watch?v=ZO6arJvWcdw&fbclid=IwAR1m\\_BV1ZbNCZwuM6Dc9VyIYtrdU39Izj0tvr\\_ewjHe-hUuCG3wz\\_37Hlo](https://www.youtube.com/watch?v=ZO6arJvWcdw&fbclid=IwAR1m_BV1ZbNCZwuM6Dc9VyIYtrdU39Izj0tvr_ewjHe-hUuCG3wz_37Hlo)

<sup>8</sup> HRC Interviewing a victims on 11 December 2018 Burco-Somaliland

## Predicament of IDPs in Somaliland

Prior droughts and clan conflicts in Sool and Sanaag regions displaced many people in 2018.<sup>9</sup> Internally Displaced Persons (IDPs) suffer continuous displacements, forced evictions, abuses and deprivation of their basic human rights. IDPs are often not provided protection by the state because of the absence of a functioning legal system and ineffective implementation and enforcement of international laws.

Effective national laws or policies on internal displacement people can be promoted to address the challenges of displacement in a planned manner and to improve short-term and long-term responses.<sup>10</sup> Lack of effective legal frameworks for a vulnerable community leads to an increase in the abuses and violations in Somaliland, especially the absence of clear guidelines with respect to the social and legal status of people from Somalia (south-central Somalia). The state has the major responsibility towards IDPs. There is a need for instruments that serve to clarify how to identify IDPs, determine their entitlements for protection and also allows responsibility, budgets and administrative structures to be created.

According to the Constitution of Somaliland, IDPs have the same rights as other citizens but that tends to be impractical; the basic necessities such as food, water, security, shelter and education are the

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<sup>9</sup> Eastern Somaliland Protection Briefing Note, December 2018

<sup>10</sup> UN Special Rapporteur on the Human Rights of Internally Displaced Persons Dr. Chaloka Beyan

bare minimum. Ineffective implementation of an IDP policy and Land Law pose difficulties for them to obtain secure f land tenure.

Forced evictions have increased by the last four months of 2018<sup>11</sup>. The causes of eviction include construction of new buildings, rent increase, uncertainty of land prices, and widespread tenure insecurity, mostly private individuals using documents claiming the ownership of temporary land inhabited by IDPs. Legally, the land belongs to the State.<sup>12</sup> However, the land is largely in the hands of private citizens. Lack of or gaps of implementation of existing policies and legal frameworks worsen the situation of IDP's in relation to land ownership.

Most of the camps are located in far places and residents are distant from governmental services.<sup>13</sup> The camps are distant from water sources, access to communal services, recreation facilities, waste management, etc. Some sites have inadequate road infrastructure.

The camps are mostly far from the cities, and residents are forced to come to the city to seek jobs or beg on the streets.<sup>14</sup> Those who work complain of harsh working conditions with very minimum wages, the majority of them work as cleaners, carriers and casual labourers. They

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<sup>11</sup> NRC advocacy meeting; forced eviction trend in 2018

<sup>12</sup> Article 12 of the Constitution

<sup>13</sup> Interview, 14 November 2018, 15 May IDPs camp resident in Buroa

<sup>14</sup> Interview, 14 November 2018, 15 May IDPs camp resident in Buroa

are engaged in a self-perpetuating cycle of labour-intensive, low-skill, low-income employment.

Water and sanitation are critical elements for IDPs. The main obligations of states with respect to the right to adequate water includes ensuring secure access to safe water that is sufficient for personal and domestic uses to prevent disease through at a reasonable distance from each household.<sup>15</sup> Somaliland's IDP centres do not have access to water. Private vendors charge 2,000 Somaliland Shillings, per jerrycan.<sup>16</sup> Most of them cannot afford such costs.<sup>17</sup>

Some camps lack toilets.<sup>18</sup> The land is owned by a private citizen who prohibits digging toilets in many IDPs camps. Therefore, residents use open places which poses health hazards and security threats. Due to insufficient privacy or the long distances to sanitation exposes women and girls to a risk of violence.

Access to food is a fundamental right under international human rights law. The right to adequate food is realized when every man, woman and child, alone or in community with others, has the physical and economic access at all times to adequate food or means for its procurement".<sup>19</sup> Food insecurity has affected IDPs as the increasing

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<sup>15</sup> UNCESCR, General Comment paragraphs 37 (a) and (c).

<sup>16</sup> Interview, 10 May 2018 Istanbul IDPs Camp residents, Hargeisa

Interview, 14 November 2018, October IDPs camp resident in Buroa

<sup>17</sup> Interview, 3 November 2018 Istanbul IDPs camp resident in Hargeisa.

<sup>18</sup> Interview, 14 November 2018 October Camp residents, Burao

<sup>19</sup> General Comment 12 (CESCR) The right to adequate food (art. 11)

price of food, market disruption and lack of employment opportunities led families to economic hardships.

The majority of IDPs are located in areas outside of the cities. There are no police stations in IDPs centres. Residents reported a prevalence of crimes, particularly rape and other sexual and gender-based violence<sup>20</sup> In the absence of a nearby police station, victims do not get justice.

## **CASE STUDY**

Halima (not her real name) from Istanbul IDP camp suffers from mental health issues. She has no one to take care of her due to the fact she lost both her parents years ago. She was raped and did not report it to the authorities. Her case is not rare, according to the interviewees. Victims do not report, particularly if the perpetrator is from the IDPs camp. In the absence of any government presence, the people in the IDPs camp are not protected by law. Women, children, people with disabilities and those who came from outside of Somaliland are more vulnerable to abuse<sup>21</sup>.

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Shelter is one of the fundamental and immediate needs of IDPs, especially those who are in temporary camps and lack secure tenure.

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<sup>20</sup> Interview, 10 May 2018 Istanbul IDPs Camp residents

<sup>21</sup> Interview, 14 November 2018 October IDPs Camp residents

In many IDPs centres land is owned by private individuals. IDPs are at high risk of forced eviction and continually face threats by private owners. Vulnerabilities are also associated with a number of other risks and abuses; like fire burns, thefts and separation of families. The camps use Somali traditional houses (*aqalsomaali buul /*) which are not adequate to sustain all types of weather conditions, and the camps are not allowed to build anything permanent or adequate.<sup>22</sup> In the absence of proper shelter, the residents are also exposed to crimes and abuses. Land policies and Land Law do not take into account the special circumstances of IDPs.<sup>23</sup>

Children have difficulty accessing schools as most of IDPs camps do not have schools<sup>24</sup>. There are no any effective health facilities in the IDPs camps.<sup>25</sup> Interviewees told HRC that some of them have to go to the city to seek health services, which they cannot afford.

There are groups in the IDPs camps who are discriminated against. They are the individuals living with HIV/AIDS, persons with mental or physical disabilities, minority people, and people from Somalia<sup>26</sup>. The people who came from Somalia (South Central Somalia) are not recognized by the Somaliland government as IDPs. International

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<sup>22</sup> Interview, 10 May 2018 Istanbul IDPs Camp residents

<sup>23</sup> Interview, 14 November 2018, 15 May IDPs camp resident in Buroa

<sup>24</sup> Interview, 14 November 2018, Barwaqo iyo Boqol IDPs camp resident in Buroa

Interview, 14 November 2018, 15 May IDPs camp resident in Buroa

<sup>25</sup> Interview, 10 May 2018 Istanbul IDPs Camp resident in Hargeisa.

Interview, 14 November 2018, 15 May IDPs camp resident in Buroa

<sup>26</sup> Interview, 10 May 2018 Istanbul IDPs Camp resident in Hargeisa

organizations for their part, do recognize them as IDPs. The difference put a vulnerable people in a legal vacuum. This affects their access to services, land ownership as well as documentation and legal papers.

## Right to Liberty and Fair trial rights

During research for the report, HRC has found that the basic fair trial-related rights are not respected, depriving basic rights from many accused persons. This is based on HRC observation of 41 randomly selected cases in Hargeisa Regional Court and interviews with lawyers, and other legal practitioners. A prepared checklist was used to record during observation of the case. Each case was followed from the beginning to the end to evaluate and record progress made. Interviews with lawyers, judges and prosecutors were also made. The observations and interviews show that there are important areas affecting fair trial rights which need advancement.

Lawyers are not officially allowed to access clients in Police stations.<sup>27</sup> Hence detained people go through the investigation stage without the legal advice and assistance guaranteed by the Constitution as stipulated in article 27 of the Constitution. It is not compulsory for a person to be legally represented in Somaliland. A lack of legal representation at pre-trial may: (a) disadvantage the accused; (b) impact on counsel's ability to negotiate and prepare the case, and (c) hinder resolution attempts (plea negotiations and guilty pleas) at an early stage.<sup>28</sup>

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<sup>27</sup> Interviews in Hargeisa, Burao, Laascaanod and Boorama.

<sup>28</sup> LEGAL AID AND ACCESS TO LEGAL REPRESENTATION: REDEFINING THE RIGHT TO A FAIR TRIAL, ASHER FLYNN, \* JACQUELINE HODGSON, JUDE MCCULLOCH AND BRONWYN NAYLOR‡

Detainees in police stations complain about police beatings. The violence of the police is not investigated or recorded as the institution is lacking any oversight body.<sup>29</sup> The victims interviewed by HRC include children under the age of 18 who are prosecuted as adults. Police stations do not have separate facilities or sections for children. Juveniles are arrested with adults, contrary to the Juvenile Justice Law.

Cases take a very long time to be brought to court, which makes it even worse because the person will still be in detention if the case is ongoing. Defendants are held in police stations at the trial stage. The police stations are not built or intended to hold a person for more than 48 hours. Thus, they lack food and are overcrowded with poor sanitation. Inmates in police stations depend on family members for food. The government does not provide food.

According to the annual Police report released on 3<sup>rd</sup> November 2018, 19,664 criminal cases were reported to the police between January 2018 to November 2018.<sup>30</sup> Only 28% of these cases were brought to court. More than half of those brought to court are still pending. According to the report, 44% were resolved outside of the court system.

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<sup>29</sup> Victims of a police beating in Ibrahim Koodbuur and New Hargeisa Police stations in Hargeisa were interviewed by HRC. HRC interviewed people who were held in the Police station but was later released, family members and lawyers.

<sup>30</sup>[https://www.youtube.com/watch?v=ZO6arJvWcdw&fbclid=IwAR1m\\_BV1ZbNCZwuM6Dc9VyIYtrdU39Izj0tvr\\_ewjHe-hUuCG3wz\\_37Hlo](https://www.youtube.com/watch?v=ZO6arJvWcdw&fbclid=IwAR1m_BV1ZbNCZwuM6Dc9VyIYtrdU39Izj0tvr_ewjHe-hUuCG3wz_37Hlo)

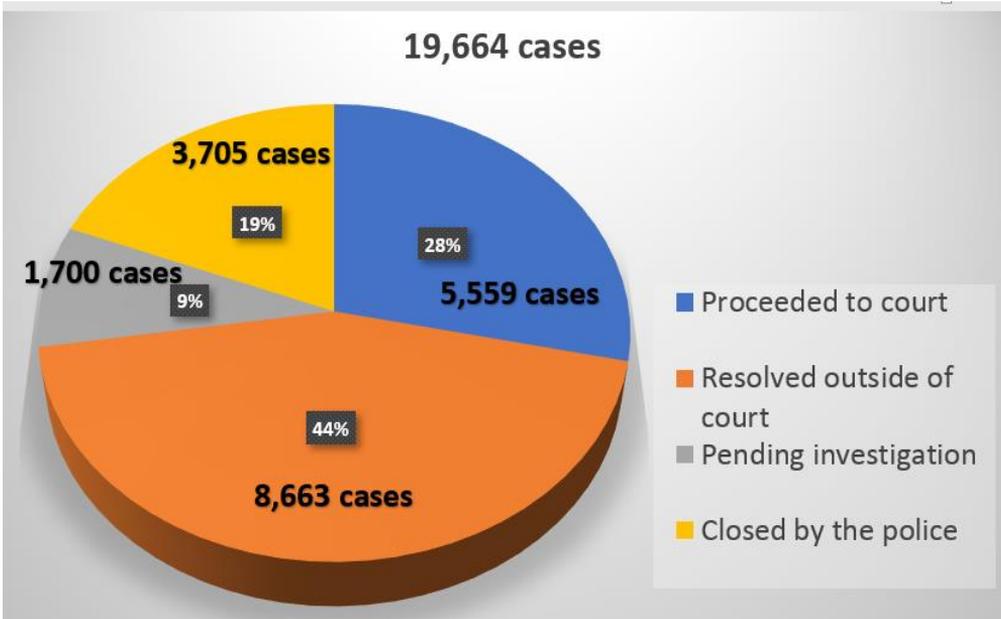


Figure: Disaggregation of November 2018 police report.

Arrests without due process of law are common.<sup>31</sup> In contrary to the Constitution, any police officer can arrest and detain a person without need of a court warrant even when such person was not in the act of committing a crime. Article 25 of Somaliland Constitution says “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.” This creates an environment in which the police can abuse the population. Journalists and government critics are arrested by the police on the order and request of politicians. The judicial oversight to hold the police accountable does not work as mandated by the law.

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<sup>31</sup> Interviews with detainees, lawyers and judges. HRC was able to look court document showing when people were arrested and how they were arrested. Majority of cases are done contrary to the constitution.

Parents are arrested for alleged crimes committed by their adult sons. Many of these parents are not brought to court, but there are many more who are remanded by courts. Detained people await trial without access to information. Written notice of the date of hearing is not handed over to defendants. Defendants are informed by holding police officers. They are most of the time informed the same day as the hearing date or a day before the hearing.<sup>32</sup> Lawyers are not also given written notice in the majority of cases. They are informed through mobile phone calls made by court clerks.<sup>33</sup>

Accused persons are not properly explained the nature of the charges against them.<sup>34</sup> This is a problem, particularly in cases where defendants do not have lawyers. Judges do read the charge sheet submitted by the Office of the Attorney General, but they do not explain the case, the nature of the case or the relevant laws or articles. Most of the charge sheets are included in the date and the place of alleged offence as well as the parties involved. However, if the accused does not have a lawyer and a charge sheet is lacking information, judges do not demand submission of a corrected charge sheet. A copy of the charge sheet is not given to defendants who do

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<sup>32</sup> Observations of cases; interviews with lawyers and detainees.

<sup>33</sup> In civil cases, most of the time written summons are served, but in criminal cases, lawyers are not given written notices in the majority of cases as proven by interviews with lawyers, judges, and court clerks.

<sup>34</sup> Observed cases.

not have lawyers.<sup>35</sup> Lawyers are given a copy of the charge sheet only when they produce power of attorney.<sup>36</sup>

On 1st December 2018, the House of Representatives approved a government-proposed amendment of the Police Act. The amendments subject the police to the military courts and remove an independent oversight body. These changes contradict article 25 and article 104 of the constitution of Somaliland. Article 104(2) of the Constitution says: "the courts of the National Army shall have special jurisdiction in hearing criminal charges brought against the members of the National Army in peace or war." Article 25(2) states "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."

The Act was first signed into a law on 26th December 2017 by the President after the House of Representatives approved on 3rd December 2017, overriding a veto of the President who returned the Bill to the House. On 3rd February 2014, the vice-president who was acting as President, returned the Bill to the House of Representatives. The approval of the Act was a positive step forward. The original version of the Act created an oversight body independent from the Police and subjected the police to the jurisdiction of civilian courts.

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<sup>35</sup> Interviews of detainees. Observation of cases in Hargeisa.

<sup>36</sup> Interviews with lawyers in Hargeisa.

## Freedom of expression and protests challenged by prosecutions

Article 32 of the constitution of Somaliland protects freedom of expression. The constitution upholds the Universal Declaration of Human Rights and in article 10(2) says “the Republic of Somaliland recognises and shall act in conformity with the United Nations Charter and with international law, and shall respect the Universal Declaration of Human Rights.” Despite the constitutional guarantees, the Somaliland government has arrested and prosecuted people for statements they said or posted on social media.

In the period covered by this report, the Human Rights Centre has recorded 35 people arrested for cases related to freedom of opinion. This includes 28 journalists and 7 people who are not journalists. The Penal Code which outdates the Constitution is used against those prosecuted.

Naema Ahmed Ibrahim, a poet and writer, was arrested on 27th January 2018 from Hargeisa Egal International Airport while she was travelling to Mogadishu, the capital of Somalia. On 15th April 2018, the regional court in Hargeisa sentenced Naema to three years in prison over charges related to statements she allegedly made in Mogadishu. According to the charge sheet, these statements were “insult and defamation against the state.” The prosecution charged Naema of two accounts: Anti-national Activity of a citizen abroad

(article 212 of the Penal Code) and Bringing the Nation or the State into Contempt (article 219(2) of the Penal Code). The court said it found Naema of Bringing the Nation or the State into Contempt (article 219(2) of the Penal Code).” The charge is related to statements which the prosecution said is against ‘the separation of the Republic of Somaliland,’ and calling Somaliland a “region”. Naema was released on 7<sup>th</sup> May on a presidential pardon.

On 16th April 2018, a judge at Hargeisa regional court sentenced Mohamed Kayse Mohamoud to 18 months in prison over “offending the honour of the President,” according to the presiding judge who declared his verdict. Mohamed Kayse was arrested on 7th February. The charge is related to a Facebook post saying the “president is a local,” according to the charge sheet seen by the Human Rights Centre.<sup>37</sup> The judge said the post is offending the president by calling him a “local” while “the president is a national president,” the judge said in his judgment. Human Rights Centre attended the hearing in which the judgment was pronounced. Mohamed was released on 19th June on a presidential pardon.

Boqor Osman Aw Muhumed (known as Buurmadow) is a traditional leader. On 26th April 2018, the region court of Hargeisa gave the elder five years jail in a one-day trial.<sup>38</sup> He was accused of “bringing

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<sup>37</sup> The Charge Sheet Submitted by the Office of Attorney General dated 25/03/2018

<sup>38</sup> <https://www.hrw.org/news/2018/05/08/somaliland-prosecutions-threaten-freeexpression>

the State into Contempt (article 219(2) of the Penal Code), and “circulation of false news (article 328),” according to the presiding judge. The judge also said he found Boqor Osman guilty of “insult to a judge during a hearing “(article 270). The charges were related to a traditional event held in Armo, a town located in the Puntland region of Somalia, where the elder attended an inauguration of another traditional leader. There he made a statement which “weakens the existence of the sovereignty of Somaliland and denouncing the national army who are performing their constitutional duties,” the judge said.

The regional court, which is the first instance court, heard the case without the presence of his lawyer. The judge, Ahmed Dalmar Ismail, pronounced the judgment on the same day. Boqor Osman repeatedly asked the presiding judge for a lawyer and time to prepare a defence. The prosecution was heard and then the verdict was made by the court. The traditional elder was denied the basic fair trial rights enshrined in the Constitution of Somaliland and the Criminal Procedure Code. He had a right to legal representation and defence according to articles 27 and 28 of the Constitution. Additionally, he was not given time to defend himself.

On 20th May 2018, the appeal court in Hargeisa sentenced Boqor Osman aw Muhumed Mohamed to three years in prison, reducing the five-year jail term of the regional court. On 20th June 2018, the elder was released after the president extended a pardon.

Abdiasis Adan Jallow was arrested on 6th February 2018 after he held a press conference criticizing the government over “lack of power sharing” in Sanaag region, east of Somaliland.<sup>39</sup> He was released on 3 March 2018 without charges.

Licensed lawyer Abdirisq Ismail Hassan was arrested on 17th February 2018. He was brought before a military court on the same day. The court remanded him into custody. The head of the Fire-fighters told the media that Abdirisq works for them.<sup>40</sup> He stated that the reason for his arrest relates to statements published on the online media which harm the reputation of the firefighters. According to him, Abdirisq’s membership of the fire-fighters justifies his appearance before the military court. Abdirisq has a license from the Lawyers Licensing and Disciplining Commission. As stated in article 104 of the Constitution of Somaliland, the military courts have no jurisdiction over a civilian person. He was released on 26th February 2018 after the Somaliland Lawyers Association negotiated with the head of the fire-fighters, who then withdraw his complaints.

Iman Mohamed Jama and Abdisamad Saed Ali, comedians based in Las Anod, were arrested on 29th March 2018. The two comedians were arrested for a video clip published in the YouTube.<sup>41</sup> The clip was a drama acted by the comedians and depicts alleged poor

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<sup>39</sup> <https://www.youtube.com/watch?v=tONBfdvSAIU&feature=youtu.be>

<sup>40</sup> [https://www.youtube.com/watch?v=VTa\\_gCSWrqw&t=297s](https://www.youtube.com/watch?v=VTa_gCSWrqw&t=297s)

<sup>41</sup> <https://www.youtube.com/watch?v=ZjVzdw-UIUM>

performance of local government administrations in relation to land management. The drama angered the local government which ordered their arrest.<sup>42</sup> They were released on 8 April 2018 without any charges.<sup>43</sup>

## **Public protests and right to assembly**

Unsanctioned protests are not allowed in Somaliland. On 28th May 2018 protesters were arrested in Las Anood, the administrative capital of Sool region. The Police Commissioner of the region, Abdirisak Mohamed Faarah, said in a press conference that the demonstrators "misled children and women made stone-throwing and disturbances in the city."<sup>44</sup> He confirmed that 57 protestors were arrested. The regional authorities called the protest illegal and destabilizing security.

On 23rd May, a committee chaired by the speaker of the Lower House of the Parliament who was leading a delegation of Somaliland in Las Anood issued a decision banning unauthorized press conferences and meetings being held in Sool.<sup>45</sup> The decision has not provided a timeframe for the ban. On 5th February 2018, three people with disabilities were given 18-month jail for "defamation and circulation of false news."<sup>46</sup> They were arrested after protesting at the

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<sup>42</sup> HRC talked to local authorities and families of the two

<sup>43</sup> HRC talked to the families of the two comedians.

<sup>44</sup> <http://boramanews.com/index.php/somali-news/item/17477-deg-deg-taliyaha-booliiskaee-gobolka-sool-oo-ka-warbixiyay-mudaharaad-ka-dhacday-maanta-laascaanood-iyokacdoon-ka-jira-deegaankaasi-video>

<sup>45</sup> Decree whose reference number is WGQ/01/2018 dated 23rd May 2018.

<sup>46</sup> Somaliland-Hargeisa, District court judgment issued: 5 February 2018.

International Day of People with Disabilities to show their discontent with the Somaliland National Disability Forum (SNDF). SNDF filed a case against the three people. The case attracted public attention and people took to social media to show their dissatisfaction at the judgment. The appeal court released them on bail. Their case was later dropped by the appeal court and the charges were dropped.

## **Detention and prosecution of journalists**

Like any other year since Human Rights Centre was established in the year 2013, the incidence of detention of journalists remains worryingly high. The constitution guarantees freedom of media as stated in article 32 of the Constitution. The 2004 Press Law as well provides protection to journalists. Nevertheless, media in Somaliland works in a hard and intimidating environment. Critical journalists are detained, and media houses are shut down as this report shows. The Penal Code of Somalia enacted in the early 1960s is used over media cases. The Code which predates the Constitution criminalizes defamation and contains vaguely worded articles that are often charge of journalists.

In the reporting period, 28 journalists were arrested in Somaliland, 10 of them were prosecuted and all of them were later released.

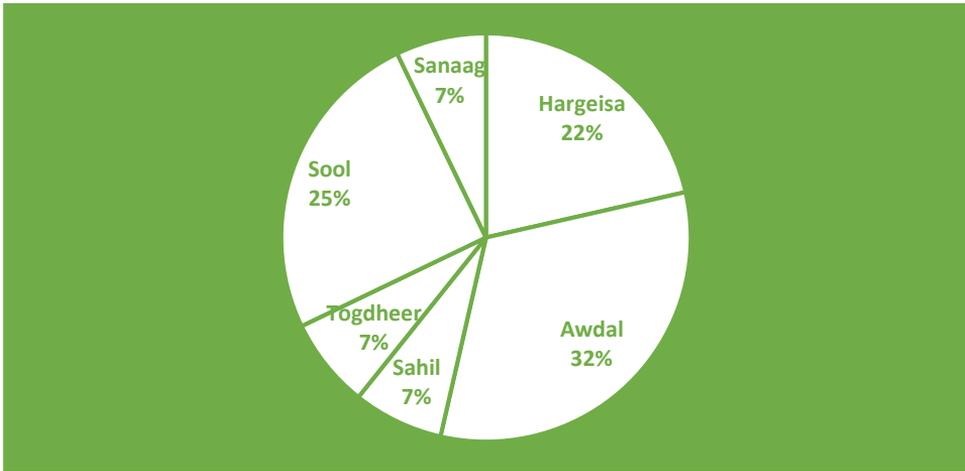
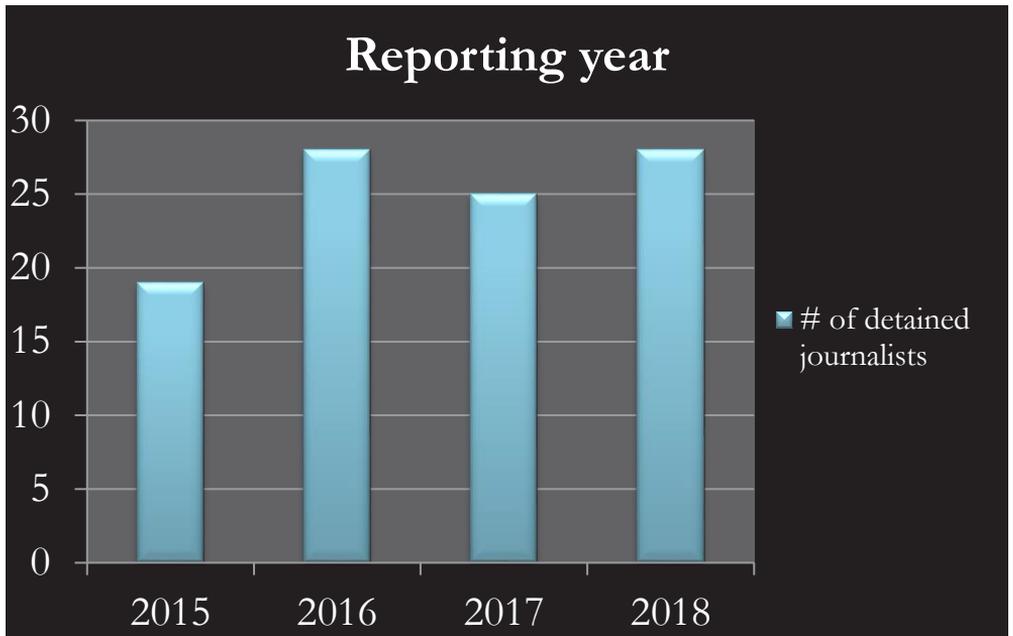


Figure: journalists' detentions per region

The prosecuted journalists were accused of the following criminal offences:

- Defamation;
- subversive and anti-national propaganda,
- bringing the Nation or the State into contempt,
- bringing into contempt the flag or national emblem of a foreign state.



**Figure:** Total number of the journalist arrested since 2015

## Case Study

Abdirahman Mohamed Egeh, Saab TV, and Ahmed Saed Mohamed, Eryal TV, were arrested on 18<sup>th</sup> December 2017 in Berbera, Sahil region. They were released on bail on 23<sup>rd</sup> December 2017. The prosecution accused them of defamation, publication of false news, and instigation to disobey the laws. According to the charge sheet, they were accused of two different stories related to land owned by the government which was purportedly transferred to private people by the mayor of the city.

The court convicted them on 15<sup>th</sup> January and found them guilty of defamation, but cleared them the other charges. The court has given each seven months jail. The presiding judge accepted a proposal to convert the imprisonment into fines, which they paid.

In this year, an increasing number of journalists were detained for Facebook posts. For instance, Hamse Abdirahman Ahmed was arrested in Las Anod of Sool region on 14<sup>th</sup> February 2018. He was

arrested for Facebook posts critical of the governor of Sool region, according to journalists. He was released on 18th February 2018 and was not charged with any crime.

There are occasions journalists were arrested on the request of a government official who was infuriated by a report made by the journalist in question. For example, on 12 March 2018, journalists Mohamed Ali Bakeeri and Mohamed Aydhaf of Bulsho TV and Karinnews website were arrested in Hargeisa. They were released on 14 March on bail. According to the Somaliland Journalists Association, they were arrested on the complaint of the then Director General of the Ministry of Environment. The complaint of the director is linked to articles published in Karinnews website.

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On 5th December 2017 Abdirisak Dayib Ali, a journalist with Haldoornews website was arrested in Gabiley. He was accused of taking an interview published in Gabliyenevents.net in which a lady made allegations against the mayor of Gabiley, according to the charge sheet. Abdirisak argues that he did not take the interview and that he does not write anything on Gabilyenevents.net website. According to Abdrisak, he designed the website and handed over its owner in 2015. Abdirisak is a journalist and a web designer. On 28th December the court released him on bail. On 1st April 2018, the court arrested him again. The court later dropped the case after the mayor withdrew the case.

## Suspension of Media Houses

On 29th May 2018, the Ministry of Information issued a statement stating that it has banned two television channels, SBS and SOMNEWS, from operating in Somaliland. The Ministry ordered the Police to shut down their offices in Somaliland. The statement said that the two televisions “committed acts of political campaigns and clear propaganda war against the Republic of Somaliland.”<sup>47</sup>

The management of the televisions learnt the decision from the media and was not informed of any complaint or pending procedure taken against them.<sup>48</sup> On 11<sup>th</sup> June 2018, The Minister of Information withdrew the suspension of SOMNEWS after the Ministry became convinced of the argument of the management of SOMNEWS television, the Minister said in a letter.<sup>49</sup> Since then SOMNEWS has restarted its operations in Somaliland, but SBS is still banned.

On 19th June 2018, a judge at Hargeisa Regional Court issued a decision shutting down Waaberi newspaper upon a request made by the Office of the Attorney General, according to the decision seen by Human Rights Centre. The decision said Waaberi is not properly registered. The Attorney General argued that the current owner of the paper, Hassan Omar Hassan, is not the rightful owner. The court

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<sup>47</sup> <https://warfaafintajsl.com/Solna/2018/05/29/xukuumadda-somaliland-oo-dalka-kamamnuucday-sbs-tv-somnews-tv/>

<sup>48</sup> TV managers talked to HRC

<sup>49</sup> Ministry of Information later dated 11th June 2018

made the decision without hearing Waaberi's owner and editor. The owner appealed to the appeal court. In July the Appeal Court quashed the regional court suspension and allowed the newspaper to resume activities. Currently, the paper has resumed publication. However, the Attorney General has appealed to the Supreme Court

## **Administrative Intimidations**

The ministry of information imposed restrictive decisions over the media. On 1<sup>st</sup> November 2018, the Minister of Information, Abdirahman Abdilahi Farah, wrote a letter to the Attorney General asking to take “a legal action” against two privately owned televisions, Saab and Star. The Minister accused the two television stations of violating a previous order banning Somaliland media “of making any communications with a robbery group led by Caare,” says the Minister's letter seen by Human Rights Centre. The letter refers to a former military officer who left the Somaliland National Army and formed what he called “an armed opposition group.”

The dispatch of the Minister states that the televisions aired “on 27th October 2018 news detrimental to the sovereignty” of Somaliland, and asked the Attorney General to take an action against Saab and Star televisions “to prevent the media to report news destabilizing the peace and security of the country.’ The management of one of the televisions named by the Minister told the Human Rights Centre that they have not violated the laws of Somaliland, but aired statement

made by a “dissident colonel.” The Criminal Investigation Department summoned and interrogated Saab and Star.

On 27<sup>th</sup> October 2018, the governor of Sool region instructed all journalists based in Sool not to provide any news coverage to other “administration” or talk about anything related to other “administration”. Since January 2018, clashes between Somaliland and the Puntland State of Somalia happened in Sool region.<sup>50</sup> The decision of the governor puts Sool journalists in a difficult position. It attempts to stop journalists do their work in a conflict area.

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<sup>50</sup> <https://www.reuters.com/article/us-somalia-conflict/dozens-killed-in-clashes-between-two-somali-regions-in-land-dispute-idUSKCN1IQ0T9>

## Inter-clan conflicts in Sool and Sanaag

According to the Police annual report of 2018, interclan wars in Sool and Sanaag regions caused deaths of 112 people<sup>51</sup>, wounded more and have displaced many people.<sup>52</sup> Among those killed were civilians.

### **Sool fighting**

In early September 2018, and on 22<sup>nd</sup> October, tribal clan fighting occurred between two sub-clans who reside together in rural areas of Sool. The last conflict occurred in Dhumay and Dabataag villages which are approximately 42 and 45 kilometres away from Las Anood town. In total 91 people died in 2018 in Sool. As numerous sources confirmed 21 died in September fighting and 70 died in 22<sup>nd</sup> October deadly clan war which erupted in Dhummay village of Las Anood District. Thousands of families were displaced, according to reports of humanitarian organizations.

### **Sanaag fighting**

In Eil-afwayn, a district located in Sanaag, repeated interclan wars between two communities in the area caused in 2018 the deaths 21

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<sup>51</sup>[https://www.youtube.com/watch?v=ZO6arJvWcdw&fbclid=IwAR1m\\_BV1ZbNCZwum6Dc9VyIYtrdU39jlzj0tvr\\_ewjHe-hUuCG3wz\\_37Hlo](https://www.youtube.com/watch?v=ZO6arJvWcdw&fbclid=IwAR1m_BV1ZbNCZwum6Dc9VyIYtrdU39jlzj0tvr_ewjHe-hUuCG3wz_37Hlo)

<sup>52</sup> The numbers of the deaths are based on announcements made by government authorities and interviews with local community members, and health officers.

people and wounded 22, according to the Police report.<sup>53</sup> Thousands of people were displaced. The clashes between the two clans who live in Eil-afwayn is recurrent and has been happening sporadically since 2016.

Conferences convened to resolve clan wars in Sool and Sanaag disregard justice dimension, human rights abuses and inclusiveness, particularly women participation. The lack of justice mechanism is a hindrance to a durable solution, and gives impunity to perpetrators. The justice and security institutions are not effectively present in these areas. In majority of rural areas, there are no police stations and nearest courts are very far.

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<sup>53</sup>[https://www.youtube.com/watch?v=ZO6arJvWcdw&fbclid=IwAR1m\\_BV1ZbNCZwuM6Dc9VyIYtrdU39jIzj0tvr\\_ewjHe-hUuCG3wz\\_37HIo](https://www.youtube.com/watch?v=ZO6arJvWcdw&fbclid=IwAR1m_BV1ZbNCZwuM6Dc9VyIYtrdU39jIzj0tvr_ewjHe-hUuCG3wz_37HIo)

# About Human Rights Centre

## **Background**

The Human Rights Centre (HRC) is a non-profit organization established in January 2013 with the aim of contributing to the protection and promotion of human rights in Somaliland. HRC was founded by lawyers who are inspired by the Bill of Rights in the Somaliland Constitution and the Universal Declaration of Human Rights. It is registered with the Somaliland government as a non-profit-making and non-governmental organization. HRC was formed to cover the need for documentation and advocacy on human rights to help maintain the gains made by Somaliland's nascent democracy. The central policy of the Human Rights Centre is to create and foster a culture of voluntary human rights activism where committed human rights defenders with passion contribute to the protection, promotion and realization of human rights.

## **Vision**

For Somaliland, place where human rights are protected, promoted, respected and fulfilled.

## **Mission**

Human Rights Centre exists to defend and protect the rights of human beings in Somaliland.

## **Our Values**

We uphold the values of honesty, justice, and integrity for all. We aim to work with transparency and accountability, commitment and discipline. We encourage creative participation in understanding the need for sustainability and respect for all. We will continue to strive for impartially and independence while placing great value on confidentiality. We also appreciate the importance of volunteering which forms the foundations of our organization.

## **Areas of Operation**

HRC helps and works for the people of Somaliland. It focuses on vulnerable people, women, the poor, minority clans and victims of human rights abuses. HRC directs most of its attention to abuses committed by the state. The areas HRC works on include, but are not limited to, police brutality, freedom of media and expression, sexual and gender-based violence, illegal detentions, the death penalty, and freedom of assembly.

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