

Somaliland Perspective on Rights of Children in Armed Conflict

Background

In Somaliland, the devastating civil conflict has had detrimental consequences on children. The breakdown of social services, of government institutions and, in law and order has seriously affected the political and social structures of much of Somaliland. However, over the past decade Somaliland has been undergoing a consistent reconstruction process through the establishment of its administrative structures. As a result, there have been significant improvements towards peace and stability within the law in Somaliland. The international community, particularly the United Nations Children's Fund (UNICEF) and Save the Children Alliance, is providing assistance on an ongoing basis to various social organisations working on protecting children's rights. Significant achievements include highly technical situational analyses on children's rights. Local NGOs have built up the capacity to develop voluntary child protection. A law concerning children has been developed but not implemented for lack of funding from abroad.

We have three different systems of justice in Somaliland: Islamic (Sharia) law, traditional (tribal) law, and legacy laws from the former State of Somalia. When the laws contradict each other, priority is given to Islamic law.

All three different juridical systems incorporate the principles of children's rights, such as the right to survival, to development, to protection, and are in the best interests of the child, without discrimination. There are differences according to geography. For example, in the courts we practice the former State law or apply the new juvenile code; in rural areas we use the traditional law, which is harmful to children in some areas.

Somaliland policy

In the last decade Somaliland has undertaken two studies on child protection supported by the international community, both in 2003. One was called the Child Rights Situational Analyses and was led by Save the Children UK; the other was called The Perception to Reality and was done by UNICEF. The outcome of these two studies has shown us the need to upgrade the knowledge base on the protection of children in our communities; so we initiated different child protection training for the community and stakeholders.

The Ministry of Justice has established a Children's Rights Unit, which coordinates all child rights' activities in the country in order to avoid duplication. Additionally, the Ministry of Justice strives to facilitate knowledge of the law, including human rights law, to create awareness of the laws and to implement them by means of legal mechanisms, with a special focus on restorative justice for children. The approach of the Children's Right Unit is four-pronged: drafting a national strategic action plan; establishing and running a documentation system on child protection, with a special focus on children in armed conflict; developing policies with protective, preventive and reintegration provisions; and ensuring action over the long term through ongoing advocacy and capacity building.

At this moment we have distributed a Somali version of (the UN) Convention on the Rights of the Child (CRC) to the government of Somaliland (a non-recognized State) in order to approve and submit it to the elected parliament. We are just preparing to have a Child Rights Act consistent with the CRC.

Now we have only one chapter on the juvenile code, drafted and consistent with the CRC norms, which the president signed in 2008. Since then, we have been seeking funding from foreign organizations to implement the law.

A child between 15 and 18 is juvenile, and the juvenile code gives them special respect. Although children do have the capacity for criminal acts, it gives them special consideration, since poverty for example leads many children to be in child labour problems.

Recruitment into the Armed Forces

Children may join the Armed Forces at 18 and they have the right to vote at 15 years of age. Traditionally, children under 18 are forbidden to participate in armed conflict, heavy armed military tasks are forbidden to children under 18 years.

We still haven't sorted out what is eligible for children under 18 or what isn't, but not to recruit into the Armed Forces is the common concept of our laws. Children are not trained in self-defense.

Activities such as education, recreation and health care are mainly organized by local government, and international organizations are involved to support this through different activities. Children have the same right to protection, development, education, health and basic principles of their rights whether they are a boy or a girl.

Challenges

The challenges met with respect to the protection of children are a lack of proper policy (formulation of policies and laws) and case documentation support, as well as the establishment of district committees in charge of child protection.

One of the core tasks to be undertaken by local partners is the review of the three systems of justice in Somaliland. Therefore the only manner to protect children from the effect of armed conflict and other abuses, violence and exploitation against their rights are capacity building and trainings directed at law-enforcement officials, the judiciary, NGOs, prominent religious sheiks, and traditional elders.

International standards and cooperation

We cooperate with UNICEF, UNDP, ICRC, the Save the Children Alliance, and World Vision, which support us to enhance children's protection.

A suggestion to improve the cooperation with UNICEF: first we need them to meet the children who need their support, such as children who end up in prison, children living with

disabilities, and children in difficult circumstances. Secondly, they should encourage our legislature to draft the Child Right Act in Somaliland. And to conclude, we need to have a special policy and regulations towards the victims of mines. Many adults were injured during their childhood, in aftermath to the conflict between Somalia and Ethiopia. Many children are now victims of mines. In addition I suggest that the UNDP/RoLS (Rule of Law and Security) program “Justice for Children” work with the implementation action plan of the Somaliland Juvenile Justice Law, as mentioned above.

We are familiar with ARC’s (Action for the Rights of the Child) international material, including that on the protection of children from the effects of armed conflict. We trained Members of Parliament on the ARC concepts including the rights of children in situations of armed conflict. We are familiar with those international standards; our opinion of them is that we have to respect the best interests of the child. I don't consider to bound these standards, it bases on the best interest of the child. We respect and develop the international human right legal instruments

No allegations have been reported against our authority, and we plan the adoption of the CRC as soon as possible.