

Access To Justice Project



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PROJECT:
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PREPARED BY:
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PROGRAMME:
Governance and Rule of Law

REPORT PERIOD:
Q4 - 1 October to 31 December 2012

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CONTEXTUAL ANALYSIS

FEDERAL LEVEL

The new constitution provides for formation of additional Judiciary structures including a constitutional court and formation of anti-corruption commission, truth and reconciliation commission and national human rights institute . A new Minister of Justice and a female deputy Minister (who is a jurist) were appointed. The Piracy trust fund approved a 2 year counter piracy programme for South Central to support the Somali justice system to deliver trials & enhance the capacity to prosecute suspects of serious crimes, including piracy. Activities include technical and material capacity building, judicial and court reform, legislative reform, legal defense, prosecution, protection of judiciary personnel & monitoring to improve efficiency of justice delivery in whole justice chain. The reach of Mobile Courts was expanded by an additional 2 courts & provide appellate functions, however security concerns still prohibit expansion of the courts to further areas outside Mogadishu.

PUNTLAND

Key justice and law enforcement stakeholders, including the Ministry of Justice, State Ministry of Security, Police Commissioner, Custodial Corps, AG as well as Director of Puntland Bar Association have approved and signed the Puntland Policy on Legal Aid-Guidelines on Access to Lawyers and Legal Services In Prisons, Police Stations and Courts. The Guidelines provide for legal aid as an essential element of a functioning criminal justice system that is based on the rule of law including the right to a fair trial, and an important safeguard that ensures fundamental fairness and public trust in the criminal justice process. Government stakeholders have agreed to guarantee the right to legal aid in every police stations, place of detention and prisons in Puntland at all stages of the criminal justice process, including pre and post-trial proceedings, immediately from the time of arrest. 23 Law students including 7 women will be graduating for the first time from PSU in February 2013.

SOMALILAND

The Minister of Justice and Chief justice agreed to the appointment of 33 law graduates who had completed UNDP internships to be appointed as judges and chief registrars including 7 women. This was confirmed at a ceremony attended by the Vice President, Ministers of Planning and Justice as well as the Chief Justice & AG. This is in addition to 10 staff who were appointed as Deputy Attorney General's earlier in 2012. A further 50 law graduates are undertaking internship programmes currently and are expected to be appointed in 2013 to positions in the public sector. The Attorney General's Office commenced prison inspections for the first time in this quarter in collaboration with the Custodial Corps which is a welcome move. Incidents relating to the local election reduced the performance of courts and all other Project partners during the reporting period.

RESULTS

SL	Indicator	2.2.1.1 Number of public servants that participated in organized trainings	G
	Result	120 judiciary members, 7 HJC/SC staff and 25 justice officers trained. 100 interns on job training	
	Comment	76 members of judiciary including 8 female trained on judicial code of conduct. Upon successful completion of 1st phase of judicial internship program, HJC appointed 27 law graduates as judges	
SL	Indicator	2.4.2.1 Number of legal professionals that have received training on sexual and gender-based violence	Y
	Result	25 legal professionals and 44 judiciary members received SGBV and gender training	
	Comment	44 judiciary members trained on legal rules of evidence and skills for rendering rape/SGBV cases. Law instructors got TOT on Gender/SGBV, and are now in a position to train more others in 2013.	
SL	Indicator	2.4.2.2 Number of citizens receiving legal aid, disaggregated by gender	G
	Result	2,909 persons (724 Fem,331 Juv,103 Minority,410 IDPs,74 Ref and....) had legal aid. 928 released	
	Comment	31 lawyers and 40 paralegals provide legal aid services and awareness in SL. Hargeisa legal Clinic provided legal awareness to 526 members inclining 363 women in IDP centers in Hargeisa	
SL	Indicator	2.4.2.3 Number of legal aid centre's supported	G
	Result	22 legal aid centers are currently operating in 9 main towns and villages in all 6 regions of SL	
	Comment	Amoud Legal Clinic established legal center in BOON District of Boorama Region, and this expected to improve access to legal aid services for inhabitants in and surrounding villages of such District	
SL	Indicator	2.4.2.5 Number of rape and SGBV cases, disaggregated by dismissals and convictions	G
	Result	W&C Units prosecuted 41rape/GBV cases:(11 convicted) (7 acquitted) (9 closed on agreement) (14 pend	
	Comment	Operating W&C units in Buroa&Boorama increased court judgment/conviction &improved availability of data outside Hargeisa. 19 Rape cases in Buroa ended: (7convictions) (6acquit) (4 outcourt settlement)	
SL	Indicator	2.4.2.4 Number of cases fully adjudicated in court, disaggregated by criminal and civil cases	Y
	Result	Harg regional Court disposed 1307 (998 criminal & 309 Civil) cases out of 1506 cases filed in 2013.	
	Comment	Case management improved court performance. Harg Regional Court disposed 432(54%) out of 805 cases filed in 1st half of 2013 while in the 2nd half it disposed 709 (78%) out of 912 cases. 24% improved	
PL	Indicator	2.2.1.1 Number of public servants that participated in organized trainings	G
	Result	163 students, including 35 females, are attending PSU Faculty of Law; 107 scholarships provided	
	Comment	52 PSU students, including 7 female, are already employed in legal or governmental positions; additional 72 judicial or law enforcement personnel sponsored by UNDP scholarship; 34 are interns	

RESULTS

PL	Indicator	2.3.3.1 Level of progress on establishing human rights institutions, safeguards, and oversight arrangements with a focus on enhancing women's security is "high", "medium", or "low"	G
	Result	Policy on Legal Aid approved by the Ministry of Justice and under Parliament endorsement	
	Comment	Policy on Legal Aid - Guidelines on Access to Lawyers and Legal Services in Prisons, Police Stations and Courts, approved and signed off by relevant justice and law enforcement stakeholders	
PL	Indicator	2.4.2.1 Number of legal professionals that have received training on sexual and gender-based violence	G
	Result	4th batch six months induction training ongoing for 9 judges, 1 prosecutors and 8 registrars	
	Comment	After 1 term session exams, 3 trainees have scored above 90%; 6 above 80%; 4 above 70% and the rest below 65%. 90% of all Puntland judges and prosecutors to complete induction training by Q1 2013	
PL	Indicator	2.4.2.4 Number of cases fully adjudicated in court, disaggregated by criminal and civil cases	G
	Result	Ministry of Justice has collected last 3 years court statistics, including 1st semester 2012	
	Comment	In Q1 and 2 of 2012, Puntland courts adjudicated 1594 cases, including 674 criminal and 920 civil. 254 adjudicated by mobile courts. 2nd semester 2012 court statistics to be provided in Q1 2013	
PL	Indicator	2.4.2.2 Number of citizens receiving legal aid, disaggregated by gender	G
	Result	260 clients provided with legal assistance and representation; additional 267 assisted by paralegals	
	Comment	Legal aid provided for 260 clients, including 77 IDPs, 117 women, 6 minority group members, 1 refugee, 38 economically deprived, 3 juveniles, 14 on remand; 61 clients were released from prison	
PL	Indicator	2.4.2.3 Number of legal aid centre's supported	G
	Result	4 legal aid offices currently established in Garowe, Bossaso, Gardo and Galkaio	
	Comment	8 lawyers (1 female), 9 interns (4 female) and 25 paralegals (12 female) providing legal aid and counseling with focus on detainees and IDPs camps	
PL	Indicator	4.3.1.3 Number of cases that women win in courts or traditional mechanisms to protect their economic assets	G
	Result	Legal aid provided in courts to assist 117 women particularly on family and civil cases	
	Comment	Legal assistance and representation provided to 117 women, particularly on family issues, including divorce, alimony, inheritance. Out of additional 267 cases referred by paralegals, 160 were women	
FL	Indicator	2.2.1.1 Number of public servants that participated in organized trainings	G
	Result	38 judges and prosecutors, 47 court support staff and 5 MOJ staff trained. 10 interns on job	
	Comment	90 members of judiciary, including 13 female, completed 4 weeks module Human Rights in the Administration of Justice which is the conclusion of 9 months induction training with Mogadishu University	

RESULTS

FL	Indicator	2.2.2.3 Code of conduct and other necessary supportive and legally binding rules and regulations developed	R
	Result	Code of conduct for judiciary and legal professionals not yet drafted	
	Comment	Judicial Service Council has re-appointed members after long time but needs to be fully operational before discussing the code of conduct. This activity will be implemented from Q3 2013	
FL	Indicator	2.4.2.1 Number of legal professionals that have received training on sexual and gender-based violence	Y
	Result	90 members of judiciary have completed 9 months induction training, including modules on gender	
	Comment	2nd batch judicial training completed, including modules on gender and human rights in the administration of justice. Advanced training on SGBV to be provided in 2013	
FL	Indicator	2.4.2.2 Number of citizens receiving legal aid, disaggregated by gender	G
	Result	Legal aid provided to 323 clients; 545 survivors of SGBV referred to proper service providers	
	Comment	Legal aid provided to 323 clients detained at Central Prison in Mogadishu, police and at IDPs camps level, including 126 IDPs, 142 members of minority groups, 19 women, 36 economically deprived.	
FL	Indicator	2.4.2.3 Number of legal aid centre's supported	G
	Result	3 legal aid offices, including 12 lawyers, 45 paralegals and 10 interns, established in Mogadishu	
	Comment	Legal aid staff provided legal aid for 323 clients. 128 were acquitted and released. 545 women, female adolescents and children survivors of SGBV referred to proper service providers	
SL	Indicator	number of courts rehabilitated	R
	Result	Construction of Amoud legal Clinic and Additional working space for the National AG office started	
	Comment	Targeted construction for Buroa Regional Office of MOJ and rehabilitation of Odweyne District Court are pending for bidding. This and other pending construction works will be done in Q 1 and 2 of 2013	
SL	Indicator	Performance of the AG office enhanced	Y
	Result	AG established prison inspection units. Improved working relation among AG, and the Police & prisons	
	Comment	AG offices started to inspect prisons. As reported, AG in Berbera conducted 1st prison inspection; caused release of 2 prisoners found served longer period than the court ordered imprisonment terms	
SL	Indicator	Number of cases heard by mobile courts disaggregated by gender, offence, & region	Y
	Result	Mobile courts in SL rendered 134 (87 crime and 47 civil) cases with 199 clients including 49 female	
	Comment	Lower performance of mobile courts is due to Local Council Elections held on Nov 2012 which affected the daily operations and activities of the mobile court teams.	

RESULTS

SL	Indicator	performance of Higher Judicial Council enhanced	R
	Result	60 Court judgments (21 Civil & 39 Crimes) of Brebera & Hargeisa Regional & District courts inspected	
	Comment	Inspectors observed trial process, case filing practice and functions of registrars and clerks in Hargeisa Courts; a report reinforcing the case management & Judiciary training expected in Q1 2013	
PL	Indicator	Number of cases heard by mobile courts disaggregated by gender, offence & region	G
	Result	130 cases adjudicated by 4 mobile courts established in 4 Puntland regions	
	Comment	Mobile courts travelled to rural areas and dealt with 130 cases in Nugal (32), Bari (36), Mudug (27) and Karkaar (35), these include 52 penal and 78 civil cases. 42 female clients assisted	
PL	Indicator	Number of courts rehabilitated	G
	Result	Construction of Attorney General and Higher Judicial Council Secretariat offices started in Garowe	
	Comment	Construction of Attorney General and Higher Judicial Council Secretariat offices, including also a library, has started; works to be completed by end of Q1 2013. 50% of equipment already handed over	
PL	Indicator	Performance of Higher Judicial Council improved	R
	Result	HJC inspector conducted monitoring visits to Mudug and Bari 1st instance courts and courts of appeal	
	Comment	Activity delayed due to suspension of legal inspection project. This is due to poor performance of inspection team, including few field visits to courts out of Nugal area and poor skills of inspectors	
PL	Indicator	Completion of Gardo Prison	G
	Result	Gardo prison completed and handed over to the Government	
	Comment	Gardo prison completed, handed over to the Government and officially opened at the end of November 2012. 87 prisoners are currently detained, including 8 on remand, particularly for minor offences	
FL	Indicator	Number of cases heard by mobile courts disaggregated by gender, offence & region	Y
	Result	In Q 3, 190 cases adjudicated by mobile courts, including 50 criminal, 98 family, 76 civil: 89 women	
	Comment	Mobile courts pilot project completed in September 2012. New project currently under revision and to re-start in January 2013 to expand the courts in new liberated districts of Mogadishu	
FL	Indicator	Number of courts rehabilitated	Y
	Result	Phase 1 - Rehabilitation of 2nd floor Benadir Court Compound in Mogadishu completed	
	Comment	Rehabilitation of Benadir Court Compound, including underground, ground and 1st floor postponed to Q1 and 2 of 2013. BOQs finalized and drawings approved by Ministry of Public Works	

RESULTS

ALL	Indicator	Number of project boards facilitated	Y
	Result	Work-plan and review meetings held in Somaliland and Puntland to discuss and approve work-plan 2013	
	Comment	Work-plan meetings conducted in Somaliland and Puntland with all Access to Justice partners to discuss work-plan and priority activities for 2013. Meeting to be organized in Mogadishu in early Q1 2013	
ALL	Indicator	Number of site visits by Project Managers & Project Officers	G
	Result	Permanent national/international presence in Somaliland and Puntland; regular missions to Mogadishu	
	Comment	7 national officers and two internationals based in Puntland and Somaliland. Regular monitoring missions to South-Central. National and international permanent presence in Mogadishu from Q1 2013	



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ACTIVITY HIGHLIGHTS

FEDERAL LEVEL

UNDP has entered into an agreement with Mogadishu University Law Faculty to support 12 months internships for 30 undergraduate law students as well as 37 scholarships, including 12 females, for poor students. The University is also expected to monitor the impact of judicial trainings provided by UNDP in the last two years, including conducting case file reviews of the cases handled by judiciary.

PUNTLAND

UNDP has handed over Gardo prison to the Puntland Government. Gardo is the first detention facility constructed in Puntland in the last 40 years which will hold 264 inmates and be staffed by more than 100 Custodial Corps Officers. 87 prisoners, including 8 on remand, who have been transferred from Bossaso and Galkaio in order to alleviate the plight of detainees, are currently detained in Gardo.

SOMALILAND

33 including 7 females successfully completed a 1 year internship; 26 of them were appointed as judges by the HJC. The remaining 7 who are all female were appointed as chief registrars of Regional courts. This is the first time in the SL history that such a large number of trained law graduates joined the judiciary at the same time. The appointment of female chief registrars is also a first.

PARTNERSHIPS

Under the Piracy Trials Programme 2011-2014, UNDP Access to Justice Project is supporting the Somali justice system to deliver trials and enhance the capacity to prosecute suspects of serious crimes, including piracy, in accordance with due process and international standards, particularly the right to a fair trial. Priority of the project is put on the enhancement of capacity of the Judiciary and the Attorney General Office, on the immediate training of key justice sector staff as well as on sustainable long-term legal and judicial education in order to build the capacities of Somali judicial institutions to adjudicate serious crimes according to international norms. UNDP Access to Justice Project, in partnership with the French Ecole Nationale de la Magistrature (ENM) and the United Arab Emirates Institute of Training and Judicial Studies of Sharjah, have devised and organized a 4 weeks modules legal training programme on "Combating Organized Crime and Maritime Piracy". The 1st week module "Judicial Authority: Judicial Intervention, Institutional Background and General Principles", which was hosted by the UAE Ministry of Foreign Affairs, was successfully conducted from the 25th to the 29th of November 2012. The training brought together 27 legal practitioners, including judges, prosecutors, lawyers, senior police officers and legal academics from Somaliland, Puntland and South-Central Somalia as well as members of the UAE judiciary, including the UAE Minister of Justice.

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PEACE AND CONFLICT

UNDP Access to Justice Project and the Peace & Development Unit are developing synergies in order to incorporate and mainstream conflict sensitivity and peace building into the 2013 work plan, adjust the project so it is conflict sensitive, contributes to address underlying causes of violent conflict as well as build national capacities to handle conflict and build peace. UNDP is expected to support justice actors, including project legal aid lawyers and prosecutors, to develop skills for effective conflict management, including training on peace issues, conflict sensitivity, mediation and resolution to prevent the exacerbation of current and additional conflicts at local level, including IDP camps. The project is also expected to integrate peace building priorities into justice sector development plans and strategies bearing in mind that in 2013 Access to Justice will support Puntland and South-Central justice and civil society stakeholders to develop a 5 year strategic work-plan.

GENDER

Increasing women participation in the judiciary as well as legal professions in general is a key target of the Access to Justice Project. In Somaliland, 5 female graduates were appointed officially as public prosecutors; 10 prosecutor interns are expected to be officially appointed as public prosecutors in the 3rd quarter of 2013. In this Q4, 7 female completed 1 year judicial internship, and were appointed as court chief registrars in early January 2013. In addition to that, there are 40 law graduate interns, including 17 female, hired through MOJ. UNDP is also supporting 43 scholarships for female law students: 19 of whom have graduated in the reporting period. Since the commencement of the scholarship scheme, 93 female students have graduated from Somaliland Law Universities: 62 have already been employed in government institutions as well as I/NGOs. In Puntland, UNDP have supported 20 female interns and 42 scholarships for female students: 7 will graduate in January 2013.

UPCOMING QUARTER

ToT in partnership with French School of Magistrate completed for 30 Jurists in UAE on organized crime and key judicial skills. Technical expertise provided to support the Puntland and Somaliland Judiciary to devise plans for introduction of a case tracking system in Garowe and Hargeisa as well as to mentor court staff on implementation of case management systems. Construction of HJC and AG Office as well as regional MOJ office will be completed respectively in Garowe and Boroma. Continued support will be provided to Gardo prison, including 2 international prison experts to deliver mentoring and training to senior and mid-rank prison officers. Technical support will be provided to the High Judicial Council to commission a study on the Somaliland Court Fee System leading to agreement on court fee policy. Expansion of activities in South-Central is ongoing, including completion of justice sector assessment in Mogadishu and establishment of 6 mobile courts in Mogadishu in Q1 2013.



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REFLECTIONS / LESSONS

Investment in the legal sector by UN and International Donors will not necessarily produce the planned long term development goals if not accompanied by political commitment as well as a prioritization of the justice sector by the regional Governments, particularly the Federal Government and the Government of Puntland State of Somalia, including proper budget allocation to the justice sector and "valorization" of judicial professions. Particularly, increasing efficiency and operations of the judiciary as well as promoting integrity of the judges and the judicial process in South Central will not succeed in a vacuum if there is no comprehensive plan to ensure that the judges, prosecutors and court support staff but also custodial corps receive adequate and regular remuneration both through increasing the allocation of the national budget as well as donor support to provide incentives to operate professionally and curb corruption, which is rife on the pretext of 'facilitation fees' because the personnel rarely receive salaries. There is also a need to support the FNG and Puntland (possibly jointly) to develop a long term strategic work-plan and judicial reform strategy. In addition to that, security concerns continue to act as a great hindrance for the judiciary to dispense justice in most districts within Mogadishu and the rest of the South Central Region but also in Puntland, particularly in Mudug and Bari regions. Out of 16 district courts in Mogadishu, only few have got sufficient infrastructure and personnel to avail a reasonable security environment for the courts and judges to operate. During the reporting period, again a judge of the local court of appeal has been killed in Baidoa in Bay region. Similarly, in the last 2 years, Puntland has witnessed an increased number of assassinations of judicial personnel which account by now for over 10 % of the judiciary and it is evidence of a pervasive and serious problem regarding protection of judiciary personnel, particularly of those prosecuting and judging serious crimes. Moreover, low salaries and security issues are working as deterrent and currently discouraging new graduates in law to join the judiciary, the Attorney General Office and the legal profession in general, particularly in Mogadishu and Puntland. This can be detrimental and affect all the investments done by UN and donors to increase long -term legal education and support to law faculties and legal trainings. In the upcoming quarter, UNDP will partner with an international security company to provide basic security and risk mitigation training to the judiciary and its security personnel, and further plans to provide basic equipment at the court compounds to improve security scanning and access facilities to improve the status. However, this needs to be coupled with more investments, particularly by the Somali government and Donors in the justice sector, including increasing the protection of the same judiciary personnel.

CUMULATIVE PROJECT FINANCIAL SUMMARY

APPROVED BUDGET	5,667,982
TOTAL (DISBURSEMENTS + COMMITMENTS)	5,320,839.59
BALANCE OF FUNDS	347,142.41
% DELIVERY (AGAINST APPROVED BUDGET)	94%