

**ROEA Newsletter – 2nd edition
2016**

Regional Initiatives

UN Secretary General Ban Ki-moon Visits UNODC-Built Courtroom in Seychelles



During a two-day mission to the Seychelles, Secretary-General Ban Ki-moon visited the Supreme Court Annex- an infrastructure project constructed by UNODC under the Office's Global Maritime Crime Programme (GMCP) which aims to carry out maritime piracy trials in the East Africa archipelago. The Head of the GMCP, Alan Cole, briefed the visiting delegation on the use of the facility as an extension of the Palais de Justice-which houses the Supreme Court and the Court of Appeal-and provides case management equipment, video link technology and legal research resources for the Supreme Court. Mr. Cole further demonstrated the video link technology in

Court 10 and gave accounts of the cases heard in this court since it was built.

UNODC's Programme has supported the development of the piracy prosecution model in the Seychelles over the last five years, resulting in the country's judicial system trying 142 suspected pirates and convicting 138 of them, with five on remand awaiting trial. While the Appeal Court of Seychelles acquitted 17 of the convicted persons, UNODC has so far transferred 96 convicted pirates back to the Somali regions of Puntland and Somaliland to serve the rest of their sentences. UNODC also repatriated 29 Somalis after completing their sentences or getting an acquittal.

PUBLIC PROSECUTORS TRAINING REPORT



Background and Rationale

In the aftermath of Somalia's more than two decades of protracted social conflict, national institutions delivering security and justice were destroyed which contributed to the prolongation and the intricacy of the conflict. The success of any plan to restore peace and stability depends on the ability of

the state “to establish and maintain a competent, fair and effective system of justice”. On the basis of this concern, the Federal Government of Somalia (FGS) endorsed with the European Union a New

Deal Compact that consists of five peace-building and state-building goals (PSG). Establishing “independent and accountable justice institutions capable of addressing the justice needs of the people of Somalia by delivering justice for all” is the strategic objective of one of its five goals. One of the three priorities under this strategic objective is “justice institutions start to address the key grievances and injustices of Somalis”: understandably, an unachievable task without public prosecutors playing a key role.

Nevertheless, the number of challenges are affecting public prosecutors to discharge their responsibilities. Challenges, though non-exhaustive, include the followings:

1. Almost all public prosecutors are recruited to an institution - i.e. the office of the general attorney - that is in its formation stage similar to any other national institution. Due to financial, structural and manpower constraints the office’s ability to deliver responsive training to its prosecutors is seemingly unmet.
2. Though prosecutors are law graduates, their respective universities rarely taught Somali Laws. Moreover, court/legal practice course that is vital to legal practitioners was unthinkable in Southern Somalia few years back as there was no court. Absence of court deprived graduates not only of the

Regional Office in Eastern Africa

chances of putting theoretical university lessons to practical test but also to experience court proceedings as member of the public.

3. Scarcity of legal literature/books suitable to their work also restricts prosecutor’s options to help themselves. Even the penal code (PC) and criminal procedure code (CPC) of Somalia are scantily available to prosecutors regardless of its likelihood to misled readers due to mistranslations. The 1962 law of the organization of the judiciary and one commentary of the penal code are also rarely available with some individuals.
4. Majority of the laws that prosecutors rely on are enacted under the unitary government 30 years ago of which many are in conflict with the constitution. For instance, federal structures created by the constitution is jumbled up in a unitary reflecting law. Because of this, it is not easy for prosecutors to comprehend even basic questions about jurisdiction and the applicable laws

To undertake broader needs assessment for future planning and to ease the above mentioned predicaments we piloted short training designed in a way meant to leave immense impact among prosecutors.

Objectives and Goals of the Training

The overall objective of this training is to assess prosecutors’ needs for future intervention and to induce them to discharge their justice delivery responsibility by helping them to comprehend legal rules, align them with the cases in hand and present it articulately and professionally.

More precisely, goals include, inter alia, trainees to have better understanding of:

- The general principles of the criminal law, how specific rules emanate from such principles and how to read the two together.
- The general part of the Somali Penal Code and how it is useful to understand and apply the specific rules of the penal code.
- Purpose/s of punishment, how the administration of criminal justice system works in Somalia and the role/s it can play to ensure peace and stability
- Fundamental rights and freedoms that the criminal justice system has to safeguard
- The lynchpin articles of the criminal procedure code and the constitution that are designed to ensure procedural justice in the administration of the criminal justice

Summary Description of the Course, Duration and Beneficiaries

Course	Topics Covered	Location	Beneficiaries			Dates
			Male	Female	Total	
Penal Code	<ul style="list-style-type: none"> • General principles; • Offenses and responsibility; • Defences; and • Circumstances of the Offences 	Mogadishu				5, 11 and 19 th of May
			20	06	26	
		Garowe	24	09	34	29 – 03 of May & June
Criminal Procedure Code	<ul style="list-style-type: none"> • Criminal Justice System: Overview • The Pre-trial stage and the particular role of the police in investigation, search/seizure, arrest etc. • The rights of the accused and detainees • Duties and responsibilities of prosecutors • Criminal Prosecution • Evidence including examinations 	Mogadishu	18	08	26	27, 04, 11 th of June and July
		Garowe	24	09	34	1, 2, 3 rd of August

	<ul style="list-style-type: none"> • Judgement and its revision • Appeal • Ethics 					
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Mechanism of Implementation

The program is implemented in two phases by UNODC consultant in collaboration with the Federal Attorney General Office (AGO) and Puntland AGO.

Phase One: From 14th – 29th of April, the consultant revised and adapted Somaliland Prosecutors Training Manual to fit Somalia. Then the consultant prepared bespoke lessons about the penal code and the criminal procedure code in Somali language to be used by prosecutors. The revised prosecutors training manual, the criminal procedure code, the penal code, the constitution of Somalia, the 1962 law on the organization of judiciary among other laws and the available literature were eclectically resorted to. Having shared it with the AG and with some colleagues for feedback, the material was circulated to the prospective trainees to prepare themselves in advance for fruitful discussion and to ensure efficient utilization of class hours.

Phase Two: Consultant, with the help of the AG and voluntary facilitators from his office, implemented the actual training in three rounds. The first round, which focused on the PC, was held in Mogadishu for three days spread over three weeks – i.e. one day in each week (5, 12th and 19th of May). Similarly, the second round, which focused on the CPC, was held in Mogadishu on the

27th of June and the 4th and 11th of July. The timing is designed to allow prosecutors to continue their job as usual while taking the training. It is also to give prosecutors space for reflection and discussion of the issues they encountered the rest of the week. The training was implemented at the Attorney General (AG) office to help prosecutors with easier access and to feel business as usual.

The third round, which focused on the topics was, consecutively, held in Garowe from 30th of July to 3rd of August. Prosecutors in this training came from the nine regions of Puntland some of them traveling as far as 800 KM to the venue; as a result, it was not practical to spread the training days over weeks. Similarly, due to lack of facilities in Puntland AG office training could not be held at the AGO.

At the end of each round, a certificate was given to each of the 60 participants in Mogaishu and Garowe for his/her participation.

The Method

In an attempt to respond to the objectives of the training - i.e. to assess needs for intervention and to address the peculiar training needs of the beneficiaries - consultant relied on diversified methods of teaching taking into account the available resources and time constraints.

Iterative

Consultant used this approach to mind any shortcomings in the plan. Accordingly, he re-adjusted several times both the lessons prepared and the ways they were passed to students. For instance, direct lecturing was more in the first lesson though questions were part of it and students were invited to interrupt at any point for questions and comments. Having dissatisfied with students' interaction, subsequent lessons were re-adjusted by enriching with curiosity and debate sparking questions, group works etc.

Group Discussions

To help more interaction among the trainees, to stimulate team work spirit, to encourage experience sharing and to precipitate confidence in presenting cases every lesson included more than two group discussions followed by presentations.



Heuristic

This approach was adopted after it emerged from the first lesson that trainees' participation was not satisfactory. It also

emerged that trainees' capability to independently comprehend and deduct ruling from the articles was not impressive. Thus, the approach is meant to push them towards more reading and to induce them to critical thinking. Above all, it was meant to inspire with a sense of self-reliance by digging their strength through the heuristic approach.



Role Play/Mock Trials

Most of the lessons included role play where trainees were grouped into different roles of mock trials. Understandably, it was more in the criminal procedure code training. For instance, shortly after finalizing the discussion about the examination of witness trainees were grouped into four groups each acting a separate role – i.e. the role of the AG, accused and his legal representative, the judges and the public attendants - in a mock criminal proceeding. After the conclusion of the mock trial each was invited to present their observation of the other groups and its own feeling about its role.



Achievements

Needs assessment for intervention and improved understanding of the PC and the CPC are the major achievements of the training. From trainees' increased enthusiasm as evidenced by their active participation and from evaluations after lessons it was clear that prosecutors are in a better position to comprehend legal rules, align them with the cases in hand and present it articulately and professionally. Needless to say, this will enliven prosecutors' contribution to justice delivery. More specifically:

- Lessons enlightening the way forward were learned from this training through participatory observation and direct enquiries;
- 60 prosecutors, of which women were 17, are trained to the PC and CPC
- due to group discussions, heuristic approach and the mock trials trainees' confidence is, seemingly, increased;

- new skills in reading between the lines, framing issues, deciphering messages implied in-between articles and in undertaking critical thinking is developed;
- recognition of UNODC is increased which, in turn, will improve its relation with local partners
- Prosecutors from various locations new each other

Lessons Learned

Learning lessons from the training was taken into account in the planning stage as one of its goals was to undertake needs assessment for future intervention. The heuristic, group discussions and iterative approaches used in the workshop complemented by participatory observation and direct questioning helped the consultant to draw the following lessons from the workshop.

Firstly, material, manpower and financial constraints are vital among the obstacles that restrict prosecutors to, properly, discharge their duties.

Materially, prosecutors do not even have sufficient codes without which they cannot work. More surprisingly, the scantily available ones are poorly translated and at some points likely to mislead the reader. This is exacerbated by the absence of commentaries to resort to when there is a confusion about the message of the text. Moreover, prosecutors do not have enough facilities in terms of office equipment and IT staff. Appallingly, 51 prosecutors over the nine regions of Puntland have only three computers, one scanner and one photo-copy. They also have two vehicles to cover more than 4 million population scattered

throughout a region of hundreds of thousand KM². Conference room and separate rooms for pre-examination screening of witnesses are also missing both in Mogadishu and Puntland.

In addition to that, there is shortage of manpower mainly due to financial limitations. With the exception of Somaliland, there are 79 dully employed prosecutors in Somalia of which 27 are based in Mogadishu, one is based in Baydhabo and 51 over the nine regions of Puntland. In other areas regional governments temporarily assign informal prosecutors of which many are unpaid.

Secondly, though incredibly useful the training was not sufficient to meet prosecutors' needs for effective capacity building. It was evident from the training that participants need more help on number of topics to be capable of comprehending and interpreting articles of the code which is very crucial for the basics of their work. More precisely, I spotted that prosecutors need, urgently, more help/training on:

- ✓ Techniques of reading articles, spotting elements of the crime and allocation of various article to the appropriate facts;
- ✓ The interpretation of law. Of course, there is no legislation dealing with the interpretation of law in Somalia. But still trainees can be taught general principles of interpretation;
- ✓ Framing issues from obfuscated facts, identifying facts in issues and relevant facts, allocating the right evidence to the right fact and framing charges professionally.
- ✓ Examination of witnesses

Thirdly, more sustainable approach of training is needed. Though significant number of prosecutors benefited from the training it was one-off. There is a need to perpetuate what the training has kick-started so as to cover new beneficiaries and also to perpetuate the journey of those who already did the training.

Fourthly, disharmony and even contradictions between the PC and CPC on one hand, and the constitution and the contemporary socio-political atmosphere on the other hand creates confusion among prosecutors. Insufficient skills in interpreting laws further exacerbate their situation

Conclusion and Recommendations

Training prosecutors to the PC and the CPC was a brilliant way of kick-starting an exigent task that is indispensable for prosecutors to achieve their goals towards ensuring respect for the law and contributing to justice delivery for all. Apart from training prosecutors, the training was also an important step towards setting the bedrocks of effective collaboration between the AGO and UNODC as it nourished mutual confidence. In line with this sprit and based on lessons learned from the training I would recommend the following steps to be taken urgently.

Preparing Self-study Training Material

As mentioned above, shortage of material is a major obstacle. The only staff we came across so far is the prosecutors' training manual prepared for Somaliland and adapted to Somalia. Though useful it does not fairly cover some of the topics that need urgent

attention such as the interpretation of the law, examination of witnesses, framing charges and detecting facts in issues and relevant facts. Moreover, the manual does not deal with penal code despite the need for it. Furthermore, it is not enriched with exercises, hypnotizing questions that push readers to think critically; nor does it provide lively examples which are very crucial for self-study.

Thus, I am suggesting the preparation of more simplified and bespoke training material that emphasizes on the topics mentioned in the lessons learned section.

Training of Trainees

For the sake of sustainability, effectiveness, cost efficiency, practicality and local ownership I would recommend the launching of training of trainees. After preparing well sophisticated training material, training will be held for a number of prospective trainers selected among brilliant prosecutors from each region. They will be trained to the constitution, the PC, the CPC, basic human rights and fundamental freedoms and the basic tenets of sharia. More emphasis needs to be given the above mentioned topics. After completion, they will train prosecutors in their respective regions on job and on regular basis.

Recruiting liaison officer to coordinate, monitor and even mentor the trainers is also remarkable.

Revision of the Translated Codes and Compiling Useful References

Prosecutors are in scarcity of material that they can reference for their work. Some

important legislation are not available to them while those available to them such as the PC and CPC are poorly translated. Thus, I would suggest various legislations useful for the work of prosecutors to get compiled and the revision of the translation of the codes.

Revising the Criminal Procedure Code

To avoid inconsistency to curtail the right apprehension, I recommend the revision of the CPC. To be clearer, by revision I mean just updating it - i.e. adding what is missing, deleting what is superfluous, simplifying what is complicated and harmonizing it with other laws. Unlike the penal code, I am not suggesting, anyway, the un-necessary re-writing of the CPC.

Providing Material Support

Establishing law library, distribution of codes to prosecutors, supplying office equipment indispensable to prosecutors' work, providing transportation means and enabling the AGO to employ more prosecutors to regions where there is none will considerably help the office to overcome the various challenges it faces.



Development of the ‘Points to Prove’ Rapid Reference guide for Wildlife Crimes prosecutors and investigators in Tanzania and Uganda

The ‘Points to Prove’ Rapid Reference Guide was first developed and disseminated in Kenya in 2015. The Guide was disseminated and rolled out to various regions in Kenya, seeing over 300 public prosecutors, wildlife investigators and judicial officials trained and sensitized on the guide and its uses.

Following the success of the Kenya guide, UNODC, in partnership with the respective Office of the Director of Public Prosecutors of Tanzania and Uganda, as well as the State Wildlife Authorities, held 5 day workshops for the development of the ‘Points to Prove’ Rapid Reference Guide.

The Guide will assist Prosecutors and Investigators who are in the field and require a rapid response in developing charge sheets and building a case file.

The Guide assists the user in better case management, as well as ensuring appropriate charging is applied in various cases. The Guide provides ancillary legislation for the prosecutor/investigator to consider when building a case.



Strengthening police accountability in Kenya (May-July 2016)

UNODC intensified efforts to strengthen police oversight in Kenya, by supporting a series of initiatives with the Independent Policing Oversight Authority (IPOA).

IPOA's purpose, to hold the police accountable to the public in the performance of their functions, was better enabled through UNODC Basket Fund support at the strategic and technical levels: at the strategic level, UNODC supported the mid-term review of IPOA's Strategic Plan and facilitated a board member benchmarking tour of South Africa, one of very few civilian-led police oversight bodies on the African continent. At the technical level, UNODC supported training to IPOA's investigative and monitoring directorates.

'The recent package of support to our investigators and monitors will substantially enhance IPOA's ability to respond to complaints from the public of serious police misconduct', remarked Joel Mabonga, IPOA's Chief Executive.

In May 2016, 47 IPOA investigators received two 5-day trainings in forensic investigations. The training covered key technical areas including Forensic Criminal Law, Computer Forensics, Expert Cell Site Analysis and Forensic Ballistics. Subsequent to the trainings, IPOA will identify basic forensics equipment for purchase with support from the UNODC Basket Fund. This initiative builds on earlier UNODC Basket Fund support provided to IPOA, when technical advisors on Investigations and Forensics were embedded within the

institution, and an Investigations Unit Operations Manual and Field Manual on Incident Scene Investigation were developed.

The UNODC Basket Fund also developed a Manual on Evidence-Based Monitoring of Police Operations, further to which 25 IPOA staff drawn from the Monitoring and Inspections directorate were trained. The Manual will guide IPOA in undertaking independent investigations of policing operations and recommend remedial action, where necessary.

The ongoing technical support provided to IPOA through the UNODC Basket Fund has contributed to the quality of investigations undertaken by IPOA. As at June 2016, IPOA had presented 52 investigative files to the Office of the Director of Public Prosecution (ODPP) for prosecution.



Members of IPOA's Investigations & Forensics Directorate during the Forensics I training held on 9-13 May 2016 at the Lukenya Gate-away



IPOA's Monitoring and Inspections Directorate at a training on Evidence-based Monitoring

Training of Trainers Course on Comprehensive Education Programme for Somaliland Police Force

From 19 July to 1 August 2016, UNODC Criminal Justice Programme delivered a train the trainers' course to 20 police officers on the Comprehensive Education Programme (CEP) for Somaliland Police Force. The training took place at Ambassador Hotel in Hargeisa, Somaliland.

The training was conducted with the aim of building capacity of additional trainers that would work alongside the existing experienced trainers in the Training Department of Somaliland Police Force in delivering training to other Police Officers including new recruits based on the CEP. This particular training course was designed to equip the selected 20 Officers with overall knowledge and to embed training capacity sufficient for delivery of the CEP. 19 trainers were successfully trained out of which six were women police officers. As a result 10 out of 19 trainers were identified to

proceed to mentorship stage to ensure their skills are well strengthened specifically for the future delivery of the CEP to Somaliland Police Officers. Among the ten selected Policer Officers, three were women. The names of the 10 selected Police Officers will be officially communicated to the Somaliland Police Force Management through the training report that will be translated in Somali Language. Furthermore, a general review of the modules and content was conducted during the training and it was found out that some modules contain content that is duplicated across some of the framework and needs to be merged.

The Somaliland National Police Force Comprehensive Education Programme (CEP) was jointly developed by UNODC and the Somaliland Police Force Training Department to improve the capacity of police officers to efficiently and effectively perform their functions in accordance with applicable national legislation and international best practices and standards.

This training falls under the Crime Prevention and Criminal Justice objective to assist Member States to in building capacity of justice and law enforcement institutions to fulfill their functions efficiently and effectively in accordance with United Nations standards and norms and other relevant international instruments, through development of training material, training delivery, and provision of mentorship and technical advice.

This activity was funded by the European Union through the UN Joint Rule of Law Programme for Somaliland.



Development of Crime Prevention Strategy kicks off in Ethiopia

Many people still believe that it is only through the police and the courts that crime in our communities can be reduced. But the criminal justice system alone has proved insufficient to prevent and control crime. And consequently, most countries have in recent years launched efforts to tackle crime in a more sustainable and effective way. In Ethiopia, for instance, UNODC and the Federal Government kick started the development of a National Crime Prevention Strategy on 1 July precisely with the goal of tackling the conditions allowing crime to flourish, supporting groups that are at-risk of committing crimes and victims of crime alike, as well as promoting the reintegration of offenders so as to keep them from reoffending.

The General Attorney's Office will be leading this initiative working hand in hand with the Federal Police. UNODC has in turn supported the process from the outset, coming up with a roadmap that should guide the development of the strategy in addition

to assisting the taskforce that is moving forward the strategy development process throughout 2016.

Ms. Belen Teferi Taye of the General Attorney's Office and a member of the taskforce, said that "in order to prevent crime, prosecution is not enough. Before you need prevention mechanisms ranging from economic integration measures aimed at creating jobs and start-up businesses to technology systems to detect and curb terrorism, among other components." Such an ambitious endeavor requires expert advice from a variety of actors. For this reason, in the course of developing the strategy, the taskforce will consult different institutions with a distinct expertise - rather than only the justice sector - with a view to make the document "inclusive and truly useful."

Comander Dawit Afework of the Federal Police and a member of the taskforce, casted a spotlight on community policing practices underway in Ethiopia. These practices play a significant role in any crime prevention strategy. "Community policing," he pointed out, "is conceived to prevent crime through the participation of the local communities for good reason: Local people know the causes of local problems, and are best suited to assess the situations in their communities and to point to the solutions."

Community police has in fact been introduced around the country. And a handful of successful experiences stand out when it comes to preventing early marriage and domestic violence, Commander Afework highlighted.

Mr. Gebremeskel Gebrewahed, taskforce member and senior researcher at the Justice and Legal Research System Institute, under the General Attorney's Office, stressed that a fruitful crime prevention strategy should be "time-bounded and cost-effective." And added that after completing the strategy, "It will be implemented and used all over Ethiopia to tackle the country's most important challenges."



Contact us:

José Vila del Castillo, Regional Representative
jose.villa@unodc.org
www.unodc.org/easternafrika |
Twitter: @UNODC_EA