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CAPACITY MAPPING OF CRIMINAL REHABILITATION SYSTEMS TARGETING SHORT TERM PRISONERS IN PUNTLAND



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Finally, I thank all those who in one way or another have contributed to the success of the study.



ACRONYMS

AGO	Attorney General Office
FGD	Focus Group Discussion
ICCPR	International Covenant for Civil and Political Rights
ILO	International Labour Organization
IRP	Individualized Rehabilitation Plans
VET	Vocational Education Training
UNDP	United nations development programme
UNODC	United Nations Office for Crimes and Drugs

I. INTRODUCTION

1.1 Background

International law stipulates that imprisonment should not be limited to the deprivation of liberty alone. Rather, it should include opportunities for prisoners to obtain knowledge and skills that can assist them in their successful reintegration upon release, with a view to avoiding future offending. As imprisonment is incapable of addressing prisoners' social reintegration issues, the International Covenant for Civil and Political Rights (ICCPR) requires that "the penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation". While such treatment should be provided for all sentenced prisoners, pre-trial detainees should equally be offered opportunities for purposeful activity. In many countries, pre-trial detainees comprise a large part of the prison population but are excluded from rehabilitation activities¹.

The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) are the single most important set of international standards that "set out what is generally accepted as being good principles and practice in the treatment of prisoners and prison management". Following an extensive intergovernmental review process of the original version, approved back in 1957, the revised rules were adopted by the United Nations General Assembly in December 2015, thereby constituting a truly updated blueprint for prison management in the twenty-first century.

In its basic principles, these rules very clearly establish that the provision of rehabilitation programmes in prisons which foster the willingness and ability of prisoners to lead a law-abiding and self-supporting life upon release, are crucial to reduce recidivism and to improve public safety—the ultimate objective of any sentence of imprisonment².

“... should include opportunities for prisoners to obtain knowledge and skills that can assist them in their successful reintegration upon release”

1 - UNODC (2017). The Roadmap for the Development of Prison-based Rehabilitation Programmes. Available online at https://www.unodc.org/documents/justice-and-prison-reform/17-05452_ebook.pdf.

2 -Ibid

“... Effective criminal rehabilitation in Puntland is thus in critical need of sustainable prisoner rehabilitation systems with a view to capacity investments”

Therefore, post-trial detention of convicted criminals is a key criminal rehabilitation mechanism that is integrated into the justice system in any country or state with a view to not only isolating criminal elements from the general population but as a sanction for encouraging behavioral change. The case of Puntland is no different in terms of the objectives of the prison system but has a significant difference from other countries.

Further, they are often illiterate with no economic skills that they can utilize for post detention livelihoods thus posing a risk of return to crime upon their release. Effective criminal rehabilitation in Puntland is thus in critical need of sustainable prisoner rehabilitation systems with a view to capacity investments with basic numeracy and entrepreneurship.

Against this background, a team composed of the general secretary of Puntland prison system, a lead consultant and a research assistant under the present assessment through a filed visit to the main four prisons in Puntland State of Somalia; Garowe, Bossaso, Gardo and Galka'ayo. The overall purpose of the assessment was to assess the available mechanisms and pathways for rehabilitation and reintegration of prisoners in four prisons in Puntland State of Somalia.

The assessment is part of a two year project entitled “Enhancing the Role of Non-State Actors in Monitoring Human Rights Delivery within the Criminal Justice System Value Chain in Puntland” which is funded European Union and implemented by Kaalo Aid and Development together with Puntland State University.

1.2 Purpose and Objectives

The overall objective of the study was to assess the available mechanisms and pathways for rehabilitation and reintegration of prisoners in four prisons in Puntland State of Somalia.

While the specific objectives of the study includes;

1. To assess the legal and institutional underpinnings for criminal rehabilitation system.
2. To explore the existing treatment rehabilitation and reintegration programs for prisoners.
3. To identify alternatives for imprisonment in the penal system.
4. To identify challenges facing rehabilitation programs of prisoners.
5. To propose alternative pathways for rehabilitation of prisoners.

1.3 Methodology

For the purposes of this study in depth interviews were used (see Annex II). In depth interviews are personal and unstructured interviews, whose aim is to identify participant's emotions, feelings, and opinions regarding the rehabilitation pathway of prisoners. The interview targeted the prison managers, commanders, officers, doctors, teachers and other supporting staff of the prison.

A focus group discussion was also used to gather information from the prisoners in the assessed prisons. This method was used to know the perceptions attitudes, beliefs, opinion or ideas of prisoners. The participants in each FGD were from 6- 12 in each prison (See annex III).

In addition, desk review analysis was employed by the consultant as he reviewed available data, reports, laws and documents regarding prison rehabilitation. The information gathered from these documents were both quantitative and qualitative in nature.

“. . .it was to assess the available mechanisms and pathways for rehabilitation and reintegration of prisoners in four prisons in Puntland State of Somalia.”

II. CURRENT PRISON CONDITIONS SYSTEMS

The existing prison population could be divided as follows:

- In Garowe, the total population of the prison are 269 inmates (174 are convicted and 95 are detained on remand with only 1 female inmate).
- In Bosaso, the total population of the prison are 355 inmates (268 are convicted and 87 are detailed on remand with only 5 female inmates).
- In Gardo, the total population of the prison are 95 inmates (73 are convicted and 22 are detained on remand with only 2 female inmates).
- In Galka'ayo, the total population of the prison are 73 inmates (41 are detained on remand while 32 are convicted).

The issue of prisoners detained on remand raises concern in Puntland prisons as 245 out of 792 are detained on remand. This violates the rights of accused ones due to the process. The ICCPR obligates governments to ensure that persons in custody are brought promptly before a judge or other judicial officer and are able to challenge the lawfulness of their detention³. Criminal suspects are to be "tried without undue delay."⁴

Similarly the Many of the rights of accused for due process are also recognized in Somalia's provisional constitution⁵ and the Puntland State constitution⁶. In addition, the Somali criminal procedure of 1963 obligates government to bring the accused promptly and within 48 hours and in case of remand, the maximum should not go beyond 90 days in case of investigation of the most serious crimes. According to the Code of

Military Criminal Procedure, persons can be held for up to 180 days in remand (pretrial) detention⁷, While the military code does not clarify procedures for judicial review, the Somalia criminal procedure code states that an individual in custody must be brought before court every seven

3 - ICCPR, art. 9(3)&(4).

4 - Ibid., art. 14(3)(c); see also Banjul Charter, art. 7(d). According to the UN Human Rights Committee, "The right of the accused to be tried without undue delay, ... is not only designed to avoid keeping persons too long in a state of uncertainty about their fate and, if held in detention during the period of the trial, to ensure that such deprivation of liberty does not last longer than necessary in the circumstances of the specific case, but also to serve the interests of justice." UN Human Rights Committee, General Comment No. 32, para. 35.

5 - See articles 34 and 35 of the Provisional Constitution.

6 - See article 27 of Puntland State of Somalia Constitution .

7 - The Code of Military Criminal Law in Peace and War, No. 2 of 1963, article 34.

days. It was reported lack of judicial review on the remand cases, especially terrorism related cases and therefore many are detained on remand for months and in some cases for years amid lack of judicial review.

With regard to the prevalence of sentences that being served in the prisons, the table below elaborates the typology of crimes and offenses for which currently serving sentence in the four prisons.

Crime	Frequency	Percentage
Murder	92	11.6%
Terrorism	88	11.1%
Piracy	35	4.4%
Rape	60	7.6%
Less heavy crimes	507	64%
Women convicted/Remand	10	1.3%
Total	792	100%

As illustrated in the table, majority of prisoners serve simple crimes constituting 64% of the prison population, followed by prisoners serving murder at 11.6%, prisoners serving terrorism are 11.1%, and prisoners serving rape are 7.6%, while prisoners serving piracy sentences represent 4.4% of the prison population.

Summary of the general conditions of the Prison System

Capacity Issue	Garowe Prison	Bosaso Prison	Qardho Prison	Galkacayo Prison
Staff	140 duty staff, including the professionals, management and security.	200 duty staff, including the professionals, management and security.	140 duty staff, including the professionals, management and security.	50 duty staff, including the professionals, management and security.
Admission and Registration	Prisoners are manually documented; specifying gender, reasons of arrest, the day and hour of arrest and release.	Prisoners are manually documented; specifying gender, reasons of arrest, the day and hour of arrest and release.	Prisoners are manually documented; specifying gender, reasons of arrest, the day and hour of arrest and release.	Prisoners are manually documented; specifying gender, reasons of arrest, the day and hour of arrest and release.
Mechanism of classification	Prisoners are classified based on crime and sex as female have separate quarter/cells.	Prisoners are classified based on crime and sex as female have separate quarter/cells.	Prisoners are classified based on crime and sex as female have separate quarter/cells.	Prisoners are classified based on sex only as there is cells limitation in the prison.
Accommodation	Each cell accommodates 8-10 prisoners or inmates.	Each cell accommodates 8 prisoners or inmates.	Each cell accommodates 8 prisoners or inmates.	Unlike the other prisons, Galka'ayo prison has only three cells and no-limit in accommodation; Sometime 100 prisoners accommodate in one cell as reported.

Summary of the general conditions of the Prison System

Capacity Issue	Garowe Prison	Bosaso Prison	Qardho Prison	Galkacayo Prison
Medical service	There is no clinic service in the prison does not function due lack of medicine stocks and inmate-sare responsible for their medication in case of illness.	There is partially equipped clinic center and store for drugs with support from ICRC. In cases of referral is needed, it is the responsibility of the inmates to cover for their medical cases.	The clinic in the prison does not function due shortages in medicine stocks and inmates are responsible for their medication in case of illness.	No functional clinic in the prison and prisoners are sent to the Galka'ayo public hospital which provides prisoners free medication.
Personal hygiene	Generally the personal hygiene is good but the challenge is shortage of water as the main well of the well has broken.	The assessment team considered the hygiene of the detention facility as Satisfactory.	Generally the personal hygiene is good but the challenge is shortage of water as the main well of the well has broken.	The assessment team considered the hygiene of the detention facility as Satisfactory.
Food	3 meals per day. Breakfast, lunch and dinner. There is kitchen available to prepare food. Each inmate receives his own plate of meal.	3 meals per day. Breakfast, lunch and dinner. There is kitchen available in the prison facility. Each prisoners receives his own plate of meal.	3 meals per day. Breakfast, lunch and dinner. There is kitchen available to prepare food. Each inmate receives his own plate of meal.	3 meals per day. Breakfast, lunch and dinner. Each prisoner receives his own plate of meal.
Restraint /handcuffing in the cell	Not documented.	Not documented.	Not documented.	Yes. Due to security threats for some gangs in the custody
Family contact/visits	Families are allowed to visit prisoners in every Friday while those whose families are not in the city are given phones to call.	Family Visits had been suspended due to security concerns. Prisoners can only call their families.	Families are allowed to visit prisoners in every Friday while those whose families are not in the region are given phones to call.	Families are allowed to visit prisoners in every Friday while those whose families are not in the city are given phones to call.

Summary of the general conditions of the Prison System

Capacity Issue	Garowe Prison	Bosaso Prison	Qardho Prison	Galkacayo Prison
Prisoner belongings	<p>There is store for prisoner's properties available at the prison. It's kept in there and it's returned upon their release.</p> <p>At the request of the prisoners, the property is transferred to their families if needed.</p>	<p>There is store for prisoner's properties available at the prison. It's kept in there and it's returned upon their release.</p> <p>At the request of the prisoners, the property is transferred to their families if needed.</p>	<p>There is store for prisoner's properties available at the prison. It's kept in there and it's returned upon their release.</p> <p>At the request of the prisoners, the property is transferred to their families if needed.</p>	<p>There is store for prisoner's properties available at the prison. It's kept in there and it's returned upon their release.</p> <p>At the request of the prisoners, the property is transferred to their families</p>
Complaint mechanism	<p>In every cell, there is chief of the prisoner. That chief files compliant and share with the duty officer and then to the prison commander who take necessary measures to address the complaint.</p>	<p>In every cell, there is chief of the prisoner. That chief files compliant and share with the duty officer and then to the prison commander who take necessary measures to address the matter.</p>	<p>In every cell, there is chief of the prisoner. That chief files compliant and share with the duty officer and then to the prison commander who take necessary measures to address the complaint.</p>	<p>In every cell, there is chief of the prisoner. That chief files compliant and share with the duty officer and then to the prison commander who take necessary measures to address the complaint.</p>
Inspection mechanism	<p>There is an International monitoring committee to inspect the prison twice each year.</p>	<p>Puntland human rights defender officer sometimes inspects the prison.</p>	<p>There is prison based committee that does prison inspection for health, hygiene and complaint of the prison.</p>	<p>Regional office of the attorney general usually inspects and monitors the prison facility.</p>
Exercise and sports Food	<p>Prisoners are allowed to play football and sun patting.</p>	<p>Prisoners are allowed to play football and sun patting.</p>	<p>Prisoners are allowed to play football and sun patting.</p>	<p>Prisoners are allowed to play football and sun patting.</p>

III. PRISON BASED REHABILITATION PROGRAMMES

Article 48 of the Puntland State prison law of the 2012 which is based on the Somali prison law of the 1971 regulates the right of prisoners to rehabilitation and states that a “Commanding Officer shall take necessary steps to arrange rehabilitation and wellbeing of prisoners”. The law stipulates that education, vocational training programs and civic and religious programs should be providing for prisoners to facilitate their reintegration within society upon release.

While rehabilitation covers a wide variety of activities as provided in the law, this study assesses the three core areas of education, vocational training and work in the assessed four prisons.

3.1 Educational Trainings at the Prisons

Education in prison should give individuals the skills they need to unlock their potential, gain employment, and become assets to their communities. It is one of the pillars of effective rehabilitation. Education should build social capital and improve the well-being of prisoners during their sentence. Therefore, rule 104 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) states that:

1. Provision shall be made for the further education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible. The education of illiterate and of young prisoners shall be compulsory and special attention shall be paid to it by the prison administration.
2. So far as practicable, the education of prisoners shall be integrated with the educational system of the country as that after their release they may be continue their education without difficulty.

“Commanding Officer shall take necessary steps to arrange rehabilitation and wellbeing of prisoners”.

“ Education for people in detention should be guaranteed in constitutional and/or other legislative instruments”.

In 2009, the United Nations Special Rapporteur on the Right to Education made a series of important recommendations about education in prisons, including to the effect that:

a) Education for people in detention should be guaranteed in constitutional and/or other legislative instruments, and should be adequately resourced from public funds.

b) Systematic screening of all prisoners should become the norm, resulting in individual education plans developed with the full participation of the detainee. These should be monitored, evaluated and updated from entry to release.

c) Teachers in places of detention should be offered approved training and ongoing professional development, a safe working environment and appropriate recognition in terms of working conditions and remuneration.

d) Evaluation and monitoring of all education programmes in detention should become the norm and a responsibility of the Ministry of Education⁸.

The current level of schooling which is being received by the prisoners in the four assessed prisons varied considerably, but a substantial number have been befitting from only educational programmes. Specific classes included literacy, math, English, Arabic and religion .The educational training is run by the department of training which is dedicated for the overall management of prison rehabilitation activities including educational and vocational activities for the prisoners.

However, these educational programs have lack funding following the phase out of the support previously from the International funders such as UNDP and UNODC. However, it was found that all current educational classes which are mostly on religion and literacy are peer -led learning facilitated by peer mentors voluntarily. It was reported that all prisoners are eligible to benefit from the educational trainings on voluntary basis and that the enrollment to such classes is voluntary.

⁸ - Report of the Special Rapporteur on the right to education, Vernor Muñoz, A/HRC/11/8 (2009), quoted above, paras. 90(a), 92, 96-97.

It was reported that except Galka'ayo prison, all other prisons have adequate psychical space for learning such as classes equipped with blackboards.

In Garowe and Gardo prisons, there are mini-libraries with some basic books, like novels, language, science and religion and prisoners are allowed to get access to library. Some prisoners expressed in the FGD that they appreciate the training which they have undergone including literacy programmes. One of them said: *"...I was arrested while I was an illiterate, but now, I have learnt the basic literacy, some of the Quran and basics of math. I appreciate that the detention has become a learning opportunity for me"*.

The prison management in the four prisons reported that all prisoners are eligible to the attending of the educational programs and that no prisoners are excluded. However, the peer led learning has been found to be attended by few prisoners who are self-driven and classes are not regular as the prison based education.

Key challenges identified to be facing educational programmes of the assessed prisons are:

- ◆ No screening of prisoners prior to their placement in education: as prisoners might have different preferences, training and experience. One prisoner told during the FDG said that *"literacy, Qur'anic and language trainings are only available in the prison. I learnt the basic literacy but could not receive higher education and the only available option is to ask some prisoners who have educational background to voluntarily teach me further"*. Some prisoners stated that they have a diploma level or secondary and they need an opportunity to attend higher education institutions of which are not currently provided in the prison facility.

- ◆ Limited funding: all education programs including basic language and literacy programs were being funded primarily by the international NGOs

" I was arrested while I was an illiterate, but now, I have learnt the basic literacy, some of the Quran and basics of math."

“ Only Garowe and Gardo prisons were found having mini-libraries”

in major prisons of Puntland. However, such initiatives are not usually sustained and currently such projects have stopped following phase out of the projects. In general, there is no dedicated government funding in prison education and external funding is not adequate and sustainable.

- ◆ Lack of quality assurance: it was found that the personnel involving in teaching in the prisoners are not seconded from the ministry of education and that the curriculum is not also been reviewed by the ministry and learners do not receive accredited qualifications for their learning. Therefore, prison training and education programs are conducted without the evaluation and monitoring of the Ministry of Education and this raises concerns about the quality of the prison education programs in Puntland.

- ◆ Insufficient teaching resources: Only Garowe and Gardo prisons were found having mini-libraries. But these ones are not adequately stocked with sufficient quality and diversity of reading materials in the Somalia language. Most of the available books are written in either Arabic or English language and only few ones are available in Somali language.

- ◆ Lack of motivational mechanisms for participation in education programs: the prisons have a regulations system which would allow prisoners to reduce their sentence by any per cent if they successfully pass a school year, or a training courses. For example if a prisoner memorize all the holy Quran in the prison, there is no a formal system in the prison that suggest sentence reduction for such a person and this has demotivated the inmates to attend training or education sessions.

3.2 Vocational Education Training (VET) at the Prisons

Vocational training or career technical education programmes in prison are designed to teach prisoners about general employment skills, or skills needed for specific professions and industries. The overall goal of vocational training is to reduce prisoners' risk of committing further offences by teaching them marketable skills which they can use to find and retain employment upon release.

Vocational and technical training programmes can also benefit the overall atmosphere in prisons by replacing idle time with constructive work. In addition, some vocational training programmes can assist in the operation of prisons by having prisoners assist in institutional maintenance tasks.

Therefore, rule 98 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) states that;

2. *Vocational training in useful trades shall be provided for prisoners able to profit thereby and especially for young prisoners.*
3. *Within the limits compatible with proper vocational selection and with the requirements of institutional administration and discipline, prisoners shall be able to choose the type of work they wish to perform.*

In terms of potential VET options for prisoners in the four assessed prisons, it was reported that carpentry and furniture making, brick making, tailoring, Agriculture and electrical technician as the available VET options for prisoners during availability of funding. However, none of those VET programs are now in progress in major detention centers of Puntland due to lack of funding except the farming skill training which is run by the prisons management in Garowe, Gardo and Bossaso and being benefitted by few prisoners with the middle and light sentences .These prisoners reported that they have learnt skills relating to farming and they are now professional farmers.

“... none of those VET programs are now in progress in major detention centers of Puntland due to lack of funding except the farming skill training ”

“The prison management should come a clear mechanism which helps prisoners continue their VET after release as some of us were released while they have been still attending VET”.

None of the assessed prisons has a workshop center (VET center) except Garowe prisons which has recently established a workshop center for VET in the city. This workshop center mainly focuses on providing furniture making trainings as well serving a selling point of their products and it is established by the Save Children. However, the workshop center ceased its work after the phase out of the project and only low-risk prisoners are allowed to benefit from the workshop center VET training.

In light of discussions with the prisoners through the FGD, the tailoring and carpentry skills were reported as the main skills gained by some prisoners during the past project in Bossaso and Garowe prisons. However, inmates indicated during the FGD that VET programs in the prison were useful but the continuity and sustainability presented a huge challenge. One prisoner stated that:

“I acquired tailoring skills, but the training I had was very basic and it would be very nice to receive higher training to be able to acquire professional training in different styles of sewing and even the complex ones. Unfortunately, what we have acquired from here may not provide us enough competent for employment opportunities upon release”.

Another prisoner added that:

“The prison management should come a clear mechanism which helps prisoners continue their VET after release as some of us were released while they have been still attending VET”.

It was clear that vocational skills training programmes are preferred by the prisoners, But it was found that the VET itself all prisoners was not designed in a way which lends itself to assist prisoners in obtaining jobs upon release, namely in line with actual market needs as mentioned by the prisoners. The only VET program which was properly designed was the one in Bossaso prison as prisoners were training in furniture making

in a month and they were able to produce office furniture which some of them were equipped in the prison offices as observed. However, this program stopped due to lack of funding.

On the other hand, in all prisons assessed, inmates did not report any problems associated with the work in the prison or any exploitative situations in which the rights of prisoners are compromised. On the contrary, they reported that they are very interested to work in the prison firm and as they benefit and are remunerated by the prison. Like the education programs, it was found that the VET programs are designed without collaboration with the line government institutions such as the Ministry of Education, the Ministry of Labour and other related entities and thus learners receive no accredited qualifications for their learning and this may complicate their access to employment upon release as the private sector and other employment providers do not recognize skills and training gained by inmates in the prisons.

“...VET programs are designed without collaboration with the line government institutions such as the Ministry of Education, the Ministry of Labour and other related entities.”

3.3 Work Programms for prisoners at the prisons

The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) provides guidelines and frame for prion work. Rule 96 states that:

“Sentenced prisoners shall have the opportunity to work and/or to actively participate in their rehabilitation, subject to a determination of physical and mantel fitness by a physician or other qualified health-care professionals. Sufficient work of a useful nature shall be provided to keep prisoners actively employed for a normal working day.”

While rule 97 stipulates that:

“Prison labour must not be of an afflictive nature. Prisoners shall not be held in slavery or servitude. No prisoner shall be required to work for the personal or private benefit of any prison staff”.

In addition, rule 98 states that:

“So far as possible the work provided shall be such as will maintain or increase the prisoners’ ability to earn an honest living after release. Within the limits compatible with proper vocational selection and with the requirements of institutional administration and discipline, prisoners shall be able to choose the type of work they wish to perform”.

The ILO Forced Labour Convention excludes from the definition of “forced or compulsory labor” any compulsory work of prisoners under the three following conditions:

- i. The person must be convicted by a judicial body.*
- ii. The work or service must be carried out under the supervision and control of a public authority.*
- iii. The person should not be hired or placed at the disposal of private individuals, companies and associations⁹.*

Therefore, work in prisons should be of a kind which will maintain or increase the prisoners’ ability to earn an honest living after release and, within limits, prisoners should have some choice over what work they do.

9 - Art. 2(2)(c) of the Convention concerning Forced or Compulsory Labour, 1930 (No. 29); similarly, the International Covenant on Civil and Political Rights excludes from its definition of forced or compulsory labour, “(i) [a]ny work or service ... normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention” (Art. 8(3)(i)).

Furthermore, work should be organized, as far as possible, as it is in the community so that prisoners are prepared for normal occupational life. Accordingly, the Nelson Mandela Rules makes clear that the protections afforded to free worker; that their working hours should be regulated in line with the local rules and customs that apply to free workers; and that working hours should leave one rest day a week plus sufficient time for education and other rehabilitation activities to take places in terms of health and safety and insurance should also apply to prisoners¹⁰.

It was reported during the assessment that the prisoners with low risk who are selected for working in the prison farm and furniture making in Garowe, Bosaso and Gardo with incentives. But it was difficulty to calculate such incentives as remuneration as no standard of minimum wage in Puntland exists. However, the remuneration they have reported was not in cash in some cases, rather they are in kind like allocation of special food including meat for workers and therefore the way the remuneration is executed or managed in the prisoners is not clear.

On a similar note, It was found that no workshop center are located in the prisons and no private companies are involved in providing work for prisoners and this minimizes chances for providing remunerated work or employment opportunities in the four assessed prisoners. The assessed prisons lack a probation and aftercare service mechanism which if it is well placed could assist to use any vocational training they have received to obtain suitable work. This an indication that no reintegration guarantee exists in Puntland prisons.

10 - UNODC (2017). The Roadmap for the Development of Prison-based Rehabilitation Programmes. Available online at https://www.unodc.org/documents/justice-and-prison-reform/17-05452_ebook.pdf.

IV. ALTERNATIVE SENTENCES FOR PRISONERS

“ The aim of punishment is to prevent the dangerous activity of the offender, and to improve his/her education and positive educational impact to other people who may be contingent on committing offenses in the future/”

Through the Penal Code of Somalia in 1993, there is a special provisions on alternative given to the person who did the criminal act, also the human character of the sentence. Usually these alternative sentences of imprisonment are awarded by the Court which estimates that the prisoner's social dangerousness is small, and when the court considers that the implementation of such measures is achieved with the best of intentions of the sentence. Sentencing alternatives are not specific types of penalties available but are a way of their execution. In this case, the court first determines the amount of punishment against the offender, and if it sees that he meets the relevant conditions, it decided to implement one of the alternatives to punishment.

In modern theory and practice, criminal conviction offense, has some features to fulfill the goals aimed. Firstly, any person who commits an offense will be punished for it, with a corresponding penalty law violation that he has done. For some, prison is inevitable, to ensure the protection of society and public safety. Penal punishment aims to achieve rehabilitation of the offender, and to prevent him/her from committing further criminal acts, as well as for other persons in society safety.

The aim of punishment is to prevent the dangerous activity of the offender, and to improve his/her education and positive educational impact to other people who may be contingent on committing offenses in the future. The damage caused from the offender to the victim can “be repaired ” and so the crime can be reduced by turning again the person in the community but in this case rehabilitated.

Therefore, alternatives for imprisonment and having pathway for prison rehabilitation are interconnected and none could exist in isolation as any alternative for imprisonment is contingent upon good of conduct that must be shown by the prisoner .

4.1 Conditional Release

Article 150 of the penal code of 1963 provides for conditional release for prisoners who have been convicted and have already served part of their terms of imprisonment. It is a kind of reward for those prisoners who have behaved well during their stay in the prison and who thus are eligible to have their sentence decreased. The conditional release is done when certain conditions are met by the prisoner or the inmate. For a person imprisoned for life, no conditional release is granted unless he served 25 years. For the all other imprisonments, the prison must have served one-half of his imprisonment.

However, it was reported that; in all the four assessed prisons the conditional release has been inactive in Puntland due to fears of manipulation and alleged discrimination of the prisoners. There is fear that the criterion in the penal code may not be executed correctly and the mechanism is misused as claimed by the interviewed commanders. Another problem is that even the prisoners are not aware that they have the right to apply for conditional release in Puntland prisons and this due to of having no substantial legal aid or counselling.

4.2 Rehabilitation

Another alternative for imprisonment is the rehabilitation of the prisoner as provided in article 152 of the penal code. Rehabilitation extinguishes all the penal effects of the punishment .this means that in the case of person who is still serving a term in prison, if he is deemed to be rehabilitated, he/she is released and the remainder of his term is extinguished at the time of release.

During the assessment, it was reported that those prisoners proven to be rehabilitated and are not convicted on serious crimes like murder, rape and piracy and released through the president's amnesty during the Holy month of Ramadan and Festivals like Eids (Muslim Festivals) .

“ Another alternative for imprisonment is the rehabilitation of the prisoner as provided in article 152 of the penal code. Rehabilitation extinguishes all the penal effects of the punishment ”

“ We have served more than five years of imprisonment with proving a good conduct. The sad thing is that we can get parole release or release based on rehabilitation. If we would have remained in the foreign prisons we would have been better as we were given many alternatives for imprisonment”.

However, it is not clear why those inmates with convicted on long sentences could not benefit from the rehabilitation as long as they meet conditions provided in the law. The law clearly states that Rehabilitation shall be granted where five years have elapsed from the day on which the principal punishment was executed or was in any other way extinguished, and the convicted person has given real and continuous proof of good conduct.

Those prisoners participated in the FGD, especially those convicted on piracy acts, had strong argument during the assessment for their qualification to be released as they have proven a good conduct during their imprisonment. One prisoner quitted saying:

“We are group of pirates whom were convicted on piracy in abroad and transferred to Puntland to serve our sentence. We have served more than five years of imprisonment with proving a good conduct. The sad thing is that we can get parole release or release based on rehabilitation. If we would have remained in the foreign prisons we would have been better as we were given many alternatives for imprisonment”.

4.3 Prison Term Reduction

Article 18 of the Puntland State prison law of the 2012 which is based on the Somali prison law of the 1971 provides for decrease of imprisonment up to one-fourth (1/4) for each prisoner. This mechanism was found during the assessment to be employed by all prisons in Puntland and benefitted by all prisoners and no conditions are attached to benefit from this scheme.

V. RECOMMENDATIONS

5.1. Specific Recommended Pathway for Puntland prison System

Recommended Pathway for the Prison Based on the study the following pathway is proposed for the prison rehabilitation in Puntland State of Somalia.



STAGE 1 : Screening /Assessment & Orientation phase (may not more than one month)

This stage may require duration of four weeks or one month in which :

i. All offenders sentenced to the prison would be screened and a mental status examination will be carried out by the physician, at the time of entry to the prison.

ii. The psychological profile of the offender would be prepared by a clinical psychologist if recommended by the physician. The main objective of this profile would be to support the prisoner with procedures mentioned in the following point:

- Inform the prisoners of their sentence , assist with appeals , and familiarize them with rules and regulations of the prison .

The stage entails three key activities:

1- Initial Screening

An initial screening of the offender would be made using an assessment booklet 1: This booklet would assess the following.

- ◆ Demographics
- ◆ Family history
- ◆ Academic history/screening
- ◆ Employment history/screening

- ◆ Developmental history
- ◆ Skills assessment
- ◆ Hobbies/interests/sports/recreational activities
- ◆ Criminal history (with offenders perspective)
- ◆ Religious orientation/assessment
- ◆ Psychological profiling with mental status examination
- ◆ Physical assessment and screening

2. Specialist Assessments

All the specialist screenings would be completed, necessary reports would be obtained from the specialists and booklet 2 would be completed.

3. Sharing of the Individual Rehabilitation Plan with the Offender

Formulating the individual pathway for the offender based on the assessment and sharing this information with the offender/s.

STAGE 2: Institutional Rehabilitation Phase

A. The Rehabilitation Unit

This Unit will be responsible for making Individualized Rehabilitation Plans (IRP) for all incarcerated offenders are offered/assigned proper rehabilitation programs according to the needs of the prisoner. This Unit will offer the following rehabilitation programs:

1. Education: This will depend on level of schooling received by the prisoners before their incarceration. Specific classes would include literacy, math, English, Arabic, computer literacy and so on. In response to requests from the prisoners, higher level education programs could be sponsored through sponsorship with the secondary schools, institutes and universities.

2. Vocational Education Training (VET) the potential VET options could be carpentry, metal fabrications, paint making, tailoring, farming and furniture making, printing, bread making, soap making, building trades, electronics, shoe-making, hairdressing, painting and car mechanics.

3. Civic and Religious Education: This activity could include modules on the basics of Islam, citizen rights and responsibilities, state institutions and consequences of crime.

4. Personal Development Training: This element may be taken to include, for instance, entrepreneurship skills, careers guidance, cognitive training, health and safety, first aid, personal hygiene, and so on.

5. Sports and reactional activities: these activities would be used to organize outdoor sports activities (such as football, volleyball basketball etc.).

6. Other activities: Other activities may also be worth considering, such as arts, theatre and poetry. The contribution of such elements to the outcome of rehabilitating prisoners may arguably be less direct than the above activities.

B. Behavioural and Psychological Services Unit

This unit is responsible for carrying out several behavior modification activities. The main objective of the services would be to address the psychological needs of all offenders who are undergoing prison based rehabilitation during their incarceration. The programs carried out by the unit would be as follows:

Behavioral, Psychiatric and psychological screening and risk assessment of all the offenders

- ◆ Counselling Therapies
- ◆ Life Skills
- ◆ Narcotics Anonymous
- ◆ Health Awareness Programs
- ◆ Family Counselling
- ◆ SMART Prisons Program
- ◆ Group Counselling (Thematic)
- ◆ Self-Development

STAGE 3: Reintegration Support phase

The activities of this phase would include:

1- Community outreach: the intention is to inform the community about the reintegration process and to obtain their 'buy-in'. This process should be considered beneficial, particularly given that various prisoners are concerned about community acceptance.

2- Employment opportunities and placements: the intention is to establish connection between the private sector and the prisoners so that inmates could be employed by the private sector upon their release.

3- Financial Support: many prisoners are from poor backgrounds and lack available economic resources after their release, therefore an amount of financial assistance in the form of grants or loans would be beneficial on release. For instance, this may be used to provide start-up capital for businesses.

4- Additional Education / Vocational Education Training (VET): this is visible as some trained inmates in the prison may need further training and study upon release and through prison and university or institute partnerships this could be facilitated.

5.2 General recommendations for improving rehabilitation system in the prisons

♦ **Development of Rehabilitation and Vocational Training Programs:** The Government or the international community should provide necessary support to the Custodial Corps to develop within the prisons system an effective rehabilitation programme/s for prisoners and detainees. Emphasis should be placed providing basic and more advanced education programmes specifically tailored around the needs of each inmate. In addition, vocational training programmes should be established and/or expanded along with the provision of training equipment.

In this respect, it's recommended to develop viable and sustainable prison industry (and farming) programs along with a comprehensive strategy (clearly outlining the necessary technical and financial requirements) and market studies. The Ministry of Justice, Religious Affairs and Rehabilitation, the Ministry of Labour and the Ministry of Education should consider signing a Memorandum of Understanding to facilitate the provision of educational and vocational courses and programmes in prisons.

♦ **Establishment of a Prison Workshop center:** Prison industry or a workshop center could be either owned and operated by the government or could be owned as a private non-for-profit company. The industry could be linked with the private or public institutions.

♦ **Support the Development and Implementation of Alternatives to Imprisonment:** Technical assistance should be provided, as a matter of priority, to the development of a national sentencing policy (and related guidelines).

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In addition, capacity to supervise offenders in the community needs to be developed, perhaps at first on a limited demonstration basis. This would allow the proper supervision of offenders sentenced by the courts to provide community services. That capacity would also allow the justice system to put into effect other important dispositions of the country's Criminal Code concerning conditional releases, suspended sentences and probation.

Finally, a community supervision capacity could also help alleviate some of the misgivings which currently exist within the population about the pardon system.

Strengthen the database and documentation of records to keep adequate data on arrests and releases, re-offenders and the escaped and escapees in a properly managed database.

♦ **Improve Prison's Health Care:** Prisoners' right to health is an on-going issue. Prisoners are entitled to receive a standard of health care that is reasonably equivalent to that available to the general public. The development of healthcare facilities and of the disease prevention capacity of the prison system is a necessary requirement. The Ministry of Justice, Religious Affairs and Rehabilitation and the Ministry of Health should consider signing a Memorandum of Understanding to enhance the provision of healthcare in prisons.

♦ **Facilitate Reintegration of Prisoners within Society:** The establishment and implementation of a system to facilitate the integration of inmates released after their term of imprisonment shall become a government priority. This should include a program to support the implementation of the conditional release provision.

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ANNEX I : Key Informants

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ANNEX II: Key Informant Interview Questions

Section One: Institutional assessment

1. Is there written structure for the prison management/custodial corps? What is the mandate of the custodial corps?
2. How many custodial corps and supporting staff in the prison offices? What are the qualifications, level of training, salary and procedure of their recruitment?
3. Does the prison have guiding documents for its operation? Probe if there are strategic plan, operation manual etc.
4. Which legal documents, codes and procedures are important for the work of the custodial corps?

Section Two: Profiles of Prisoners

1. Is the three mechanism for classification or categorization of prisoners? If yes, probe on which basis.
2. What is the typology of offences for which currently serving a sentence?
3. Are there remand prisoners? Probe the grounds for their remand.

Section Three: Prison Services & Support

1. How many prisoners accommodate in the average cell?
2. Is there kitchen or dormitory in the prison? If yes, how many meals for prisoners per day?
3. Are there medical facilities in the prison? If yes, what kind of cases they deal with.
4. Are there recreational and exercise facilities for prisoners? Probe whether all prisoners are privileged for it or certain categories of them.
5. How the prison treat the insane and mentally abnormal prisoners?
6. What kind of instruments if restraint used by the prison?
7. Do prisoners can contact outside world? Probe whether they are allowed internet and smart phones.
8. How the prison retain property of the prisoners? Probe whether the property is returned upon release.
9. Is there mechanism for complaint in the prison? If yes, probe the mechanism is it available in written or oral?
10. Is there inspection mechanism at the prison? Probe whether it is internal or external and who conducts it.

Section Four: Available Rehabilitation Pathway For Prisoners

1. Are there security and medical assessment of the prisoners coming to the prison? Probe the process and who does what?
2. Is there case management in the prison? If yes, who does it and for what purpose?
3. What are the available types of prison-based rehabilitation programmes? Probe each type, its process, purpose, beneficiaries and funding source.
4. What is known about prisoners' existing skills and aspirations, their typical education level, whether they have any professional skills and can contribute to learning and training?
5. What is the current level of enrolment of prisoners in rehabilitation programmes?
6. How are prisoners assigned to the various programme categories, and do these programmes lend themselves to continuation upon release?
7. How, and in cooperation with which other (non-)governmental stakeholders, are existing activities organized, supervised and funded?
8. Are there opportunities for apprenticeships in the prison?
9. Is there prison industry which enable prisoners gain vocational trainings?
10. Is there remuneration scheme in the prison in cases of placing prisoners in productive assignments?
11. Is there sentence reduction for successful completion of education programme or vocational course? Probe which percent.
12. What are the key obstacles for effective prison rehabilitation programme in the prison?
13. Are early release mechanisms for prisoners such as parole and probation or pardon? Probe on which grounds these mechanisms are done, who and how?

ANNEX III: FOCUS GROUP DISCUSSION QUESTIONS

- 1- How can you explain the prison conditions
- 2- What kind of pathways available for rehabilitation in the prison?
- 3- What kind of obstacles facing prison based rehabilitation programs?
- 4- Is there early release mechanisms in the prison?
- 5- Are there high chances for redevise after release



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CAPACITY MAPPING OF CRIMINAL REHABILITATION SYSTEMS TARGETING SHORT TERM PRISONERS IN PUNTLAND

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