

The Communiqué of the National Dialogue on Justice Reform Conference

Mogadishu, Somalia

April 1 to 5 2013

Preamble

1. *Whereas* the Somali National Dialogue on Justice Reform Conference (hereinafter referred to as The Conference) was inspired by the call made by the President of the Federal Republic of Somalia, His Excellency, Hassan Sheikh Mohamud on February 11, 2013 in which His Excellency called for a National Dialogue on Justice Reform, one of the pillars of the six pillar policy that underpins the president's political objectives which he announced on September 16 2012;
2. *Whereas* the conference objective was to advance the aspirations of the Somali people and the wishes of the various Rule of Law institutions in addressing the gaps in the justice system to ensure a justice system the average Somali citizen has confidence in;
3. *Whereas* more than 200 delegates from inside the country as well as from Diaspora- comprising representative from various government ministries and members of parliament, members of the judiciary including the Chief Justice, Somali legal experts inside the country and the Diaspora, and the auxiliary agencies, the Somali police force, custodial corps, members of the civil society, women's organization, Academia, Religious scholars and traditional elders- convened in the Somali National Dialogue on Judicial Reform on April 1st 2013;
4. *Whereas* the conference was officially opened by the president of the Federal Republic of Somalia HE Hassan Sheikh Mohamud who welcomed the conference delegates, thanked them for responding to his Excellency's call for national dialogue on judicial reform and impressed upon them to come up with concrete proposals and recommendations that can be translated into policies that can lay the foundations for a reformed judiciary and Rule of Law institutions resulting in a quality judiciary that is compatible with the new Provisional Constitution and the new political dispensation;
5. *Whereas* the conference delegates deliberated from April 1 to April 5, 2013 and discussed the current status and the existing gaps within the judiciary and Rule of Law institutions, and whereas the conference delegates proposed the recommendations herein that can serve as the catalyst in building solid foundations for a capacitated and reliable judiciary and Rule of Law institutions;
6. *Whereas* the Somali legal experts and other diverse intellectuals from various fields, through plenary and working groups discussed and analyzed the current dismal status of the judiciary and Rule of Law institutions and deliberated the proper mechanisms to create a capable and reliable judiciary that serves the Somali public;

7. *Bearing* in mind the collapse of the judiciary and Rule of Law institutions during the civil war which necessitates the need for carrying out the judicial reform and create independent courts as stipulated in the Provisional Constitution;
8. *Whereas* some conference delegates toured various courts and the central prison of the Benadir region in order to ascertain the current status of the said institutions.

Conference Recommendations

Whereas the Conference gathered the recommendations and proposals for reform of judiciary and Rule of Law institutions presented by the various thematic workshops;

Whereas the Conference delegates and experts who participated in the Somali National Dialogue on Justice Reform Conference made the recommendations set out below as a matter of priority and have also stressed the speedy implementation of the said recommendations;

The Conference proposes the following recommendations:

1. To immediately start reforming the judiciary and Rule of Law institutions in accordance with the Provisional Constitution whilst bearing in mind the current situation of the country;
2. To establish the Judicial Service Commission as soon as practicably possible and in accordance with the Provisional Constitution;
3. To establish the Constitutional Court as soon as practicably possible and in accordance with the Provisional Constitution;
4. To establish the Federal Court system as soon as is practicably possible and in accordance with the Provisional Constitution and also to expand them to all regions of the country as soon as is reasonably practicable and in accordance with the Provisional Constitution;
5. To enhance the quality of the military courts so that they can function properly and also to review their jurisprudence and to renovate, maintain and adequately equip court infrastructures on par with international standards;
6. To ensure that the judiciary is independent from the executive as stipulated in the Provisional Constitution;

7. To provide adequate remunerations and resources to the employees of the judiciary to meet their obligations;
8. To provide capacity building to the members of the judiciary;
9. To elevate the quality of the judiciary and Rule of Law institutions;
10. To reform the Office of the Attorney General in accordance with the Provisional Constitution and also to enhance the capacity of the staff members at the Office;
11. To reform all laws and establish a commission which shall review and reform all existing laws in a manner consistent with the Provisional Constitution and *Shariah* law;
12. The parliament shall expedite the passage of all relevant legislations that will lay the foundations for a reformed judicial system in accordance with the Provisional Constitution;
13. To incorporate human rights education into the training curriculum of the police, custodial corps and national security services;
14. To rebuild the prisons and enhance the capacity of the penal system on par with international standards including human rights standards;
15. To pass legislations that can properly protect the rights of women, children and the disabled; further, the government must build courts that have exclusive competence over juvenile justice and must prevent violations against the rights of women;
16. To ensure that women are fully represented in all justice and rule of law institutions in accordance with the Provisional Constitution;
17. To encourage the role of the civil society in awareness raising in law making and the development of the justice institutions;
18. To establish an effective Legal Aid system in order to enhance Access to Justice for the low income people ;
19. To establish anti-corruption commission and strengthen its enforcement reach.

Implementation

Now therefore, in order to implement the aforementioned recommendations, the Conference recommends the following specific steps that are necessary to reform and build a quality judiciary and rule of law institutions:

1. The Judiciary

Part I

Pursuant to Articles 109A, 109B, 111C, 111J, 112, 114 and 135 of the Provisional Constitution, the Conference urges the government to table the following legislations before the parliament within three (3) months:

1. The Judicial Services Act;
2. The Constitutional Court Act;
3. The Human Rights Commission Act;
4. The Law Reform Commission Act;
5. The Attorney General's Act;
6. The Anti-corruption Act;
7. The Ombudsman's Act.

In addition, the Conference further urges the government to, within five (5) months;

1. Establish the Constitutional Court;
2. Appoint members of the Judicial Services Commission;
3. Appoint members of the Independent Human Rights Commission;
4. Appoint members of the Anti-corruption Commission;
5. Appoint the National Ombudsman.

Part II

The Conference urges the Judicial Services Commission to appoint, within three (3) months, a Judicial Vetting Committee whose mandate is to expeditiously vet and assess the education, experience, performance, dedication and integrity of the current personnel of the judiciary which includes:

1. The judges
2. Staff of the courts
3. Office of the Attorney General and the prosecutors

Part III

The Conference recommends the establishment, under the ministry of justice, of a National Judicial Training Institute that would conduct continued legal education to the members of the judiciary and rule of law institutions.

Part IV

The Conference recommends the commissioning of experts to conduct an inventory of the physical infrastructures of the court buildings to determine which buildings require refurbishment so as to bring them in conformity with the international standards for court houses. Furthermore, the Conference recommends the building of new court houses in the densely populated areas.

Part V

The Conference recommends the establishment of a court administration system, under the judicial services commission, which will be responsible for the administration and finances of the judiciary.

2. Laws

Part II

The Conference urges the government to, within one month, establish a National Law Reform Commission whose mandate is to review and update all the existing laws and make them consistent with the Provisional Constitution.

In addition, the Conference recommends the membership of the Law Reform Commission to include prominent Islamic scholars with experience and reputation to enable the Commission to harmonize the existing laws with *Shariah* law.

In its review, the Commission shall accord priority to the following:

1. The Law of the Organization of the Judiciary
2. The Penal Code
3. The Criminal Procedure
4. The Civil Procedure
5. The Anti-piracy laws & Anti-terrorism laws

And such other laws as the commission may deem it necessary.

Part II

The Conference recommends the reorganization of the official gazette in order to disseminate the laws and all other official acts and enhance the public awareness of the laws and legislations.

3. The Police

The Conference underlines the important role of the police in the implementation of a fair justice system and therefore urges the government;

1. To incorporate the human rights education into the curriculum of the police academies that is consistent with the Provisional Constitution;
2. To educate and train the police on the fundamental rights of the citizens as guaranteed under the Provisional Constitution;
3. To provide training to the police on the modern investigative techniques and equip the Criminal Investigation Departments with modern technology that can assist them in investigating crimes;
4. To establish a Civilian Oversight Committee that can review the actions of the police and ensure that they are consistent with the Provisional Constitution.

4. Prisons

The Conference recommends;

1. The establishment of prisons that have all the basic amenities of a modern prison, and also recommend the incorporation of the human rights education, consistent with the Provisional Constitution and *Shariah*, into training curriculum of the custodial corps.
2. To immediately review the existing prison laws and implement procedures that can guarantee the protection of the rights of prisoners that is in line with the Provisional Constitution, the international law and the *Shariah* and to rebuild the rehabilitation centers.

5. The Government

The Conference urges the government to nominate members of the Review and Implementation Commission pursuant to Article 134B, as soon as practicably possible.

6. Conclusion & Gratitude

In conclusion, the Conference is confident that, following the implementation of the above mentioned recommendations, the expected outcome will result in a robust justice system which has the following features:

1. A justice system that can hold the governments accountable;
2. A reliable justice system that the public has confidence in and renders all citizens equal before the law;
3. A justice system that upholds the supremacy of the law and can bring about law and order;
4. An efficient justice system that protects the fundamental rights of citizens and that also provides access to justice for all.

The Conference reminds the government and relevant stakeholders that the implementation of the recommendations of the conference, the preparation of the recommended legislations and the establishment of the resulting institutions, would require financial resources, skilled personnel, physical buildings /equipment all of which are essential for the implementation of the Conference recommendations.

Finally, the Conference expresses its gratitude to all the conference participants, specially the large delegation from Puntland comprising ministers, judges and intellectuals who shared their experiences with the justice system. In addition, the conference expresses its gratitude to the Somali intellectuals from Diaspora who participated in the conference.

Lastly, the Conference extends special gratitude to the president of the Federal Republic of Somalia, His Excellency Hassan Sheikh Mohamud.

All thanks to Allah!

National Dialogue on Justice Reform Conference
Mogadishu April 5, 2013