



Alone, Poor and Bewildered

The Women Struggling for Justice in Somaliland's Courts

8 March 2021

8 March, International Women's Day, is a reminder of what every society must do, collectively, to reflect on the impediments which hold women back from full enjoyment of the rights and opportunities afforded them in law and policy statements. Wherever in the world they live, the roadblocks women and girls face are the same, to varying degrees — economic and political powerlessness, legal barriers, unequal educational prospects, discrimination and prejudice based on interpretations of cultural or religious beliefs. The cumulative impact destroys, or at best, undermines women's self-confidence, which in turn makes it that much more difficult for them to challenge what they can only regard as insurmountable obstacles.

For thousands of uneducated and poor women in Somaliland, going to court to register a complaint about domestic violence, to seek a divorce, to claim custody of children and ask for alimony involve prolonged, demoralizing and expensive processes. Most of these women place their faith in the courts — the formal justice system — after the intervention of their families and the elders in the customary system have let them down. To encourage a compromise solution and to respect the path recommended by *Sharia*, the courts, before taking other action or reaching a decision send them back to the same elders and customary system which had already failed them. When the elders cannot reach an amicable agreement, the case then comes back to court.

From its research and legal assistance work over the past seven years, *Horizon* found women in Somaliland overwhelmingly prefer the courts to the customary system¹, if only because the courts represent a forum in which they have a voice and can defend themselves. The harsh reality, however, is that speaking up for yourself in a court of law dominated entirely by men, when you are a woman with no resources, no education, no knowledge of how the courts work and no legal assistance, is a daunting task. It is all too easy to feel defeated and to give up, as many women do after a few court appearances.

¹ See Horizon Institute's *Baseline Study Report*, 31 July 2017.

The difficulties poor women encounter when they look to the courts for help are many and varied. Based on *Horizon's* work, the core concerns include the following:

- Most cannot afford to pay the minimum fees, 30,000 Somaliland shillings/\$3.5 for filing the application to initiate a lawsuit, the 57,000 shillings/\$6.5 to cover the government tax to open a case and the 40,000 shillings /\$4.5 to have one court summons to be delivered to their husband, with the prospect of more than one summons.
- They are not aware they can request the Chairman of the Court to waive the 57,000 shillings for the government tax.
- Unless they are exceptionally fortunate to come across a legal aid organization, which only exist in Hargeisa, Borama and more recently in Burao, the women have no legal representation since they cannot meet the expenses of hiring a lawyer. Even in Hargeisa, Borama and Burao, the legal aid organizations are entirely dependent on donor funding, and when that funding is no longer available, their services also come to an end.
- Many male judges do not take a woman's complaints about family disputes seriously, even in the face of physical injuries and threats of further violence. When they pay little attention to the substance of the case, the evident lack of interest makes it hard for the woman to spell out the details of her grievance and to convince a court that she has legitimate grounds to seek redress.
- Relatives on both sides undertake, in front of the court, a commitment to look into, and address, the woman's plight, but subsequently do little, at best, and more commonly do nothing.
- The fact that all the judges are men affects a woman's willingness to speak openly about family private matters, especially in a conservative society that already questions the very presence of a woman in a court of law. Doing so will also alienate further the relatives, on both sides, who are key to the outcome of the case. Many women say they feel "shame and humiliation" when they confront male judges in an open court. Cases are discussed in the presence of many other people who are awaiting their own hearing, adding to a woman's reluctance to give a detailed account of her misfortunes. The fact that some judges say openly that a woman should not bring family quarrels to a court and tell him, or others, what is taking place in their home does nothing to encourage women who see courts as a potential ally.
- Cases can take an inordinate amount of time, with the constant back and forth between the court and the elders, and waiting for summons to be delivered and given a response. The long wait understandably frustrates the women and many simply give up on the court system altogether.

Changing the experiences of women in the formal justice system for the better is a responsibility incumbent on both the men and women of Somaliland, with constructive contributions from donor agencies, international and local organizations working in the justice sector and on women's rights. It is unreasonable, and unrealistic, to expect the very women who endure the powerlessness and prejudice highlighted above to become the vehicle through which change must come. Change can, however, come when the

focus is placed firmly on the practical measures that can transform the courts into institutions welcoming and supportive of women's rights to oppose the violence, injustice and discrimination at the heart of many family disputes.

Coming to an unfamiliar court alone and distraught, without any idea of what to expect, will disorient the strongest person and damage their self-confidence. There are a number of significant steps which will boost the morale of women who come to court for family cases, including:

- The appointment of female judges would make a huge difference to the willingness of women to engage with the formal court system, especially in talking about sensitive subjects;
- Courts should set aside an office, staffed by women, to interview women so they can express themselves freely and the judges can make informed recommendations and decisions;
- Where this option is not feasible, judges should give women the opportunity to be interviewed separately, in the company of a female court employee, and give her adequate time to explain her situation;
- Lawyers' organizations, legal aid groups and human rights organizations need to work together to enhance free legal representation for women who cannot afford lawyers;
- The government should establish family counselling centres staffed by both men and women to give families the opportunity to discuss problems before resorting to courts.

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