

Somalia

Mid-term Implementation Assessment



Promoting and strengthening
the Universal Periodic Review
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Introduction

1. Purpose of the follow-up programme

The second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the development of the human rights situation in the State under review.

A/HRC/RES/16/21, 12 April 2011 (Annex I C § 6)

The Universal Periodic Review (UPR) process takes place every four and half years; however, some recommendations can be implemented immediately. In order to reduce this interval, we have created an update process to evaluate the human rights situation two years after the examination at the UPR.

Broadly speaking, *UPR Info* seeks to ensure the respect of commitments made in the UPR, but also, more specifically, to give stakeholders the opportunity to share their opinion on the commitments. To this end, about two years after the review, *UPR Info* invites States, NGOs, and National Institutions for Human Rights (NHRI) to share their comments on the implementation (or lack thereof) of recommendations adopted at the Human Rights Council (HRC) plenary session.

For this purpose, *UPR Info* publishes a Mid-term Implementation Assessment (MIA) including responses from each stakeholder. The MIA is meant to show how all stakeholders are disposed to follow through on, and implement their commitments. States should implement the recommendations that they have accepted, and civil society should monitor that implementation.

While the follow-up's importance has been highlighted by the HRC, no precise directives regarding the follow-up procedure have been set until now. Therefore, *UPR Info* is willing to share good practices as soon as possible, and to strengthen the collaboration pattern between States and stakeholders. Unless the UPR's follow-up is seriously considered, the UPR mechanism as a whole could be adversely affected.

The methodology used by UPR Info to collect data and to calculate index is described at the end of this document.

Geneva, 18 March 2014

Follow-up Outcomes

1. Sources and results

All data are available at the following address:

<http://followup.upr-info.org/index/country/somalia>

We invite the reader to consult that webpage since all recommendations, all stakeholders' reports, as well as the unedited comments can be found at the same internet address.

25 stakeholders' reports were submitted for the UPR. 18 NGOs were contacted. 2 UN agencies were contacted. The Permanent Mission to the UN was contacted. No National Human Rights Institution (NHRI) does exist.

2 NGOs responded to our enquiry. 1 UN agency responded. The State under Review did not respond to our enquiry.

The following stakeholders took part in the report:

1. **UN Agency:** (1) United Nations High Commissioner for Refugees (UNHCR)
2. **NGOs:** (1) National Union of Somali Journalists (NUSOJ) (2) South West Relief and Development Agency (SWRDA)

IRI: 24 recommendations are not implemented, 14 recommendations are partially implemented, and 2 recommendations are fully implemented. No answer was received for 106 out of 157 recommendations and voluntary pledges.



2. Index

Hereby the issues which the MIA deals with:

rec. n°	Rec. State	Issue	IRI	page
80	Argentina	Rights of the Child,Torture and other CID treatment,Women's rights	not impl.	page 13
43	Argentina	International humanitarian law	partially impl.	page 15
116	Australia	Human rights education and training,International humanitarian law	fully impl.	page 9
26	Australia	Rights of the Child,Torture and other CID treatment,Women's rights	partially impl.	page 11
35	Australia	NHRI	partially impl.	page 15
72	Austria	Extrajudicial executions,Freedom of the press	not impl.	page 6
119	Austria	Freedom of opinion and expression,Freedom of the press	not impl.	page 7
136	Azerbaijan	Right to education	-	page 9
145	Bangladesh	Technical assistance	fully impl.	page 18
28	Belgium	Rights of the Child,Torture and other CID treatment,Women's rights	partially impl.	page 11
79	Brazil	Women's rights	partially impl.	page 12
23	Canada	Rights of the Child,Torture and other CID treatment,Women's rights	-	page 11
81	Canada	Human rights education and training,Rights of the Child,Torture and other CID treatment,Women's rights	-	page 9
19	Canada	Other	not impl.	page 15
70	Canada	Extrajudicial executions,Freedom of the press,Human rights defenders	not impl.	page 6
29	Costa Rica	Rights of the Child,Torture and other CID treatment,Women's rights	-	page 12
45	Costa Rica	International humanitarian law	not impl.	page 16
75	Denmark	International humanitarian law	not impl.	page 16
109	Denmark	Civil society,Extrajudicial executions,Freedom of the press	not impl.	page 7
31	Indonesia	Women's rights	not impl.	page 12
122	Indonesia	Freedom of opinion and expression,Freedom of the press	not impl.	page 7
36	Indonesia	NHRI	partially impl.	page 15
27	Iran	Rights of the Child,Torture and other CID treatment,Women's rights	-	page 11
21	Italy	Rights of the Child,Torture and other CID treatment,Women's rights	not impl.	page 11
52	Kuwait	Human rights education and training	partially impl.	page 8
153	Kuwait	Disabilities,Internally displaced persons,Justice,Public security,Right to education,Technical assistance	partially impl.	page 20
82	Mexico	Rights of the Child,Torture and other CID treatment,Women's rights	not impl.	page 12
24	Netherlands	Rights of the Child,Torture and other CID treatment,Women's rights	-	page 11
15	Netherlands	International instruments,Women's rights	not impl.	page 10
123	Netherlands	Freedom of the press,Human rights violations by state agents	not impl.	page 7



rec. n°	Rec. State	Issue	IRI	page
125	Netherlands	Freedom of opinion and expression, Freedom of the press, Human rights defenders	not impl.	page 8
22	Norway	Rights of the Child, Torture and other CID treatment, Women's rights	not impl.	page 11
127	Norway	Freedom of opinion and expression, Freedom of the press	not impl.	page 8
41	Oman	General	partially impl.	page 16
25	Portugal	Rights of the Child, Torture and other CID treatment, Women's rights	-	page 11
139	Saudi Arabia	Right to education, Rights of the Child, Women's rights	-	page 9
150	Saudi Arabia	Technical assistance	partially impl.	page 19
141	Slovakia	Internally displaced persons, Women's rights	not impl.	page 17
92	Slovenia	International humanitarian law, Labour, Rights of the Child	not impl.	page 14
156	Somalia	Civil society	partially impl.	page 8
56	Spain	Rights of the Child, Torture and other CID treatment, Women's rights	-	page 12
126	Spain	Freedom of opinion and expression, Freedom of the press	not impl.	page 8
34	Sweden	NHRI	partially impl.	page 15
96	Sweden	Other	partially impl.	page 17
20	Switzerland	Elections	not impl.	page 6
59	Thailand	Disabilities, Rights of the Child, Women's rights	not impl.	page 10
142	Turkey	Internally displaced persons, Rights of the Child, Women's rights	not impl.	page 14
93	United States	Labour, Rights of the Child	-	page 14
124	United States	Freedom of opinion and expression	not impl.	page 7
55	Uruguay	Rights of the Child, Technical assistance, Torture and other CID treatment, Women's rights	partially impl.	page 12
53	Yemen	International instruments	-	page 10

3. Feedbacks on recommendations

CP Rights

Recommendation n°20: *Proactively sustain the constitutional federal process in order to reinforce the long-term protection and respect for human rights and to establish the basis for future democratic elections* (Recommended by Switzerland)

IRI: *not implemented*

South West Relief and Development Agency (SWRDA) response:

No mechanisms/institutions put in place to implement on the ground

Recommendation n°70: *Conduct timely and impartial investigations into the killings of Somali civil society actors and journalists and ensure that threats of violence against these individuals are investigated, and, where there is credible evidence of threats, take the necessary measures to ensure their personal security* (Recommended by Canada)

IRI: *not implemented*

SWRDA response:

There is need to establish laws and institutions to provide security and investigate the killings of civilians and journalists is still a mirage. The Central government needs to do more on this and establish institutions in areas that have been liberated from Al Shabaab.

National Union of Somali Journalists (NUSOJ) response:

Carry out exhaustive investigations into each case of attacks against journalists and to prosecute those responsible and, if found guilty, to receive appropriate punishment, irrespective of who they are and their relations with political leaders. For instance, 18 journalists and media workers have been killed in Somalia in 2012, only one out of eighteen cases has been resolved.

Recommendation n°72: *Undertake prompt, effective and impartial investigations in the killings of all journalists in the territory under control of the Transitional Federal Government, and investigate threats of violence against them* (Recommended by Austria)

IRI: *not implemented*

SWRDA response:

There is need to establish laws and institutions to provide security and investigate the killings of civilians and journalists is still a mirage. The Central government needs to do more on this and establish institutions in areas that have been liberated from Al Shabaab.

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Recommendation n°109: *Take steps to ensure that prompt, effective and impartial investigations are carried out into the killings of all Somali civil-society actors and journalists* (Recommended by Denmark)

IRI: *not implemented*

NUSOJ response:

It seems that the government has not done enough to carry out such investigations and [we] call upon UN Human Rights Council to pressure the government to take urgent investigations in order to ensure the safety of the working journalists and civil society actors.

Recommendation n°119: *Respect and protect freedom of expression and end all practices that threaten the right to freedom of expression, including threats against journalists and media outlets* (Recommended by Austria)

IRI: *not implemented*

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Recommendation n°122: *Step up its efforts to guarantee freedom of expression as well as the safety of journalists in the country* (Recommended by Indonesia)

IRI: *not implemented*

SWRDA response:

This is guaranteed in the Constitution, but implementation even by the government is very difficult.

NUSOJ response:

Prioritise the eradication of the continuing impunity against freedom of expression and other human rights violations, especially among law enforcement agents and the armed forces such as the recent arrest of two radio directors in Mogadishu by the National Intelligence Agency. Strenuous efforts need to be made to put to an end to these extremely serious crimes against journalists

Recommendation n°123: *Undertake an independent investigation into allegations of journalists in all parts of Somalia facing severe threats and intimidations by authorities and armed opposition groups alike* (Recommended by Netherlands)

IRI: *not implemented*

SWRDA response:

This is guaranteed in the Constitution, but implementation even by the government is very difficult.

NUSOJ response:

Only [one] case has been resolved out of 25 cases in 2012 - 2013. There is a need for the government to do more. [...]

Recommendation n°124: *Uphold freedom of expression in all cases* (Recommended by United States)

IRI: *not implemented*

SWRDA response:

This is guaranteed in the Constitution, but implementation even by the government is very difficult.

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NUSOJ response:

Urge the federal government and the regional federal states to uphold the freedom of expression and stop continuing harassment and threats and arbitrary arrests against the journalists and the media at large in Northern regions of Somalia - Somaliland and Southern regions of Jubbaland state. The latest episode is the ban against the Universal Television in Somaliland.

Recommendation n^o125: *Guarantee freedom of expression and protection of journalists and human rights defenders* (Recommended by Netherlands)

IRI: *not implemented*

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Recommendation n^o126: *Guarantee the practice of freedom of expression and of the press* (Recommended by Spain)

IRI: *not implemented*

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Recommendation n^o127: *Unequivocally express itself and act in support of freedom of speech for journalists, in accordance with the transitional federal charter* (Recommended by Norway)

IRI: *not implemented*

SWRDA response:

This is guaranteed in the Constitution, but implementation even by the government is very difficult.

Recommendation n^o156: *The Government of Somalia reiterated its commitment to engaging proactively with civil society and encouraged civil society to continue to work with the Government to support the national agenda for change.* (Recommended by Somalia)

IRI: *partially implemented*

United Nations High Commissioner for Refugees (UNHCR) response:

On 4 December, an instruction was issued to humanitarian organizations in Afmadow by a Juba Interim Administration-appointed Humanitarian Agency Officer to seek approval for humanitarian work, including recruitment, renting of premises etc. Humanitarian actors and authorities need to collaborate closely, but humanitarian workers need to preserve the non-political and independent character for accountability and integrity purposes.

ESC Rights

Recommendation n^o52: *Continue efforts to raise awareness concerning human rights by all means at its disposal* (Recommended by Kuwait)

IRI: *partially implemented*

SWRDA response:

Article 111B of the new Constitution adopted on August 1, 2012 establishes the Human Rights Commission. But implementation on the ground is not effectively put in place to cover the whole country.

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Recommendation n°81: *Implement an awareness and education campaign, in cooperation with community and religious leaders, aimed at ending the practice of female genital mutilation and other forms of violence against women* (Recommended by Canada)

IRI: -

SWRDA response:

Women in Somalia face considerable discrimination. Although outlawed under the new constitution, female genital mutilation is still practiced in some form on nearly all Somali girls.

Recommendation n°116: *Provide training in human rights and international humanitarian law to TFG and AMISOM security and law enforcement forces* (Recommended by Australia)

IRI: *fully implemented*

UNHCR response:

A handful of training sessions for SNAF and AMISOM, mainly, high ranking officers were organised by humanitarian agencies in 2013. Training sessions, including refreshers, need to be more systematic and target as many elements of the said forces as possible. A joint humanitarian team currently works on a training module.

Recommendation n°136: *Continue its efforts for educational opportunities, vocational training and income-generating opportunities* (Recommended by Azerbaijan)

IRI: -

UNHCR response:

Specific provisions for displaced youth and children, especially, those in Mogadishu and other urban centres need to be made. These two groups risk otherwise to be marginalized.

Recommendation n°139: *Strengthen efforts to spread education, especially for women and children* (Recommended by Saudi Arabia)

IRI: -

SWRDA response:

The environment to provide education to children and women is not conducive, because of several conflicts. These conflicts include Al Shabaab controlled areas, IDPs, weather issues, setting up of institutions and infrastructure to carry out government policy.

Minorities

Recommendation n°59: *Take into account, in its efforts to promote and protect human rights, the specific needs of such vulnerable groups as children, women, persons with disabilities and the elderly* (Recommended by Thailand)

IRI: *not implemented*

SWRDA response:

Discrimination against ethnic and religious minorities is a problem. Gunmen coerce minorities into forced labor, while intermarriage between minority groups and the ethnic Somali majority are outlawed, and they generally have restricted access to health care and education on nearly all Somali girls.

International Instruments

Recommendation n°15: *Ratify CEDAW and its Optional Protocol* (Recommended by Netherlands)

IRI: *not implemented*

SWRDA response:

Not Yet Ratified.

Recommendation n°53: *Increase efforts in the process of establishing peace and building a strong nation State, and enter into a true commitment to fulfilling national and international human rights obligations* (Recommended by Yemen)

IRI: -

SWRDA response:

Article 111B of the new Constitution adopted on August1, 2012 establishes the Human Rights Commission. But implementation on the ground is not effectively put in place to cover the whole country.

UNHCR response:

UNHCR advocates for a strong State institution attached to a Ministry that will be the focal point for Somali IDPs and Somali refugees in line with international law. This is a State responsibility that cannot be outsourced to an independent body. The initial draft Bill on a national commission for IDPs and refugees made provisions for a State institution. However, while the process was pending, a group of stakeholders changed the draft Bill in view of setting –up an 'independent commission'. UNHCR has cautioned against the adoption of the draft Bill and the creation of an independent commission for Somali IDPs and refugees. Though it is very likely that the draft Bill is rejected by the Parliament, it is crucial that the Somali Federal Government assumes its full responsibility vis-à-vis the millions of displaced Somali

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and make provisions for the setting up of a state body attached to the Ministry of Interior and Federalism that would be responsible for the protection of Somali IDPs and refugees/returnees. The Deputy SRSG also supports the UNHCR position.

Women & Children

Recommendation n°21: *Ban FGM by amending the penal code and implement a total elimination of such practice* (Recommended by Italy)

IRI: *not implemented*

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Recommendation n°22: *Follow through on its stated intent to amend its penal code with provisions to prohibit the harmful practice of female genital mutilation* (Recommended by Norway)

IRI: *not implemented*

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Recommendation n°23: *Amend the Penal Code to prohibit the practice of female genital mutilation* (Recommended by Canada)

IRI: -

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Recommendation n°24: *Amend the Penal Code with provisions to prohibit FGM as soon as possible* (Recommended by Netherlands)

IRI: -

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Recommendation n°25: *Introduce amendments in Somalia's Penal Code on widespread practice of FGM* (Recommended by Portugal)

IRI: -

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Recommendation n°26: *Criminalize the practice of female genital mutilation* (Recommended by Australia)

IRI: *partially implemented*

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Recommendation n°27: *Take all necessary legal and practical measures to eliminate FGM, including considering amendments to the penal code with provisions to specifically prohibit this practice* (Recommended by Iran)

IRI: -

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Recommendation n°28: *Take all legal measures available to prohibit FGM and ensure effective implementation, particularly in terms of prevention, awareness-raising, monitoring and sanctions* (Recommended by Belgium)

IRI: *partially implemented*

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Recommendation n°29: *Reform its Penal Code to criminalize FGM and approach all this process in an integral manner* (Recommended by *Costa Rica*)

IRI: -

Recommendation n°55: *Develop an integrated national plan of gender equality that criminalizes FGM and take practical measures to eradicate it, requesting the necessary assistance* (Recommended by *Uruguay*)

IRI: *partially implemented*

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Recommendation n°56: *Put in place a Comprehensive Plan on Gender Equality that criminalizes FGM* (Recommended by *Spain*)

IRI: -

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Recommendation n°82: *Redouble efforts to end traditional practices against human rights of women such as FGM* (Recommended by *Mexico*)

IRI: *not implemented*

SWRDA response:

Women in Somalia face considerable discrimination. Although outlawed under the new constitution, female genital mutilation is still practiced in some form on nearly all Somali girls.

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No enforcement on the ground as this report shows: Approximately 6.5 million Somali girls and women have undergone female genital mutilation/cutting (FGM/C) -- otherwise known as female circumcision -- according to a new report by the United Nations Children's Fund (UNICEF). Deeply rooted Somali traditions and customs means "Women in Somalia often cannot get married without undergoing the practice, and the beliefs that FGM/C is a religious requirement, makes women pure, and reduces sexual libido remain widespread."

Recommendation n°31: *Enact legislation designed to provide full legal protection for women against discrimination and to ensure equal opportunity for women to participate in public affairs* (Recommended by *Indonesia*)

IRI: *not implemented*

UNHCR response:

In Mogadishu (more than any other place) due to the « gate-keepers » phenomenon, female IDPs, including extremely vulnerable women with physical disabilities or impairment are unable to participate in public affairs. There are no legal or otherwise protective measures in place ensuring female IDP participation in public affairs, especially, in South-Central Somalia

Recommendation n°79: *Provide medical and psychological support, as well as legal assistance, to women victims of gender-based violence* (Recommended by *Brazil*)

IRI: *partially implemented*

UNHCR response:

With international support, national NGOs provide medical, psychological and legal assistance to victims or persons at risk; such assistance aims at supporting the persons concerned to pursue [Gender-Based Violence (GBV)] cases through formal justice system and coordination with the district police and local authority. Legal

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assistance programmes supported by agencies moreover assist victims to pursue GBV cases through the clan protection system, including mediation and guidance during proceedings. UNHCR's programme in this sector started in May 2013 and during its first two months of life, it organised three awareness raising sessions with 234 participants, mainly, religious and IDP camp leaders.

The main challenges include security and perceptions about GBV work in Mogadishu. For instance, there were security problems in Dayniille district (Mogadishu) which made it difficult for the field monitors to access some of the IDP settlements due to the presence of militia groups in these locations and some stakeholders' misperception about GBV work in the capital.

Recommendation n°80: Adopt measures to prevent, penalize and eliminate all forms of violence against women, including stoning, rape, marital rape, sexual violence of all kinds in the framework of armed conflict, domestic violence, forced marriage and FGM (Recommended by Argentina)

IRI: not implemented

SWRDA response:

Women in Somalia face considerable discrimination. Although outlawed under the new constitution, female genital mutilation is still practiced in some form on nearly all Somali girls.

UNHCR response:

Perpetrators of [Gender-Based Violence (GBV)] reportedly are from a wide range of backgrounds and include armed men in uniform; though in most cases, victims were unable or afraid to identify the perpetrator or link the perpetrator to a specific security and /or armed group. It should be noted that in regions with limited humanitarian access, nearly no data on GBV is available.

There is fear by survivors to report cases due to intimidation by various agents following the highly publicized case where a journalist and a rape survivor were arrested in Mogadishu on 10th January 2013. In this regard, the Federal Government of Somalia should work towards creating an environment where sexual violence can be reported and discussed free from intimidation and fear.

Whilst women and girls are at risk, displaced women and girls living in IDP settlements in Mogadishu are at heightened risk of sexual violence. Majority of the IDPs displaced during the famine in 2011 are from minority clans with limited clan protection support. This coupled with high levels of impunity make the IDPs and easy target for abuses. There is urgent need to strengthen the legal framework on sexual violence through developing national laws and policies as this will facilitate access to justice for all.

Women and girls are exposed to a myriad of protection risks including sexual violence in IDP settlements, as they travel through tough terrain and insecure environments to reach their places of origin or as they search for humanitarian assistance and livelihood opportunities. The perpetrators are reported to be "unknown armed men" as well as "armed men in uniform". In this regard, there is

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urgent need to improve security and access to other regions of South Central Somalia and prioritize the need to protect civilians from abuses as a result of lawlessness and impunity.

In 2013, media reports have raised the spectre of military forces particularly those from the Somalia National Armed Forces and soldiers from AMISOM of allegedly kidnapping and gang raping a Somali woman. Whilst circumstances surrounding this incident are currently being investigated, it is important that the investigations are carried out in a transparent manner and the perpetrators held accountable.

Recommendation n^o92: *Take all appropriate measures to eliminate these forms (child labour, child soldiers, and street begging) of exploitation of children (Recommended by Slovenia)*

IRI: *not implemented*

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Recommendation n^o93: *Address the prevalence of exploitative child labor by enforcing its labor laws (Recommended by United States)*

IRI: -

SWRDA response:

Child abuse, including child labor and human trafficking, is still a problem in many all parts of Somalia.

Recommendation n^o142: *Work together with humanitarian and development actors to improve the living conditions and safety of IDPs, and strengthen the protection of women and girls from rape and domestic violence (Recommended by Turkey)*

IRI: *not implemented*

UNHCR response:

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Other

Recommendation n^o19: *Finalize the Federal Constitution by the end of 2011* (Recommended by *Canada*)

IRI: *not implemented*

SWRDA response:

Ratified by parliament in 2013

UNHCR response:

A provisional Federal Constitution was adopted in August 2012

Recommendation n^o34: *Establish an independent Human Rights Commission to identify and denounce human rights violations* (Recommended by *Sweden*)

IRI: *partially implemented*

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Recommendation n^o35: *Establish a national human rights institution that is compliant with the Paris Principles* (Recommended by *Australia*)

IRI: *partially implemented*

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Recommendation n^o36: *Speed up the process to establish an independent and credible national human rights institution in accordance with the Paris Principles* (Recommended by *Indonesia*)

IRI: *partially implemented*

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Recommendation n^o43: *Redouble efforts to reinforce national institutions and create a proper framework for the full exercise of human rights and international humanitarian law* (Recommended by *Argentina*)

IRI: *partially implemented*

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SWRDA response:

Article 111B of the new Constitution adopted on August 1, 2012 establishes the Human Rights Commission. But implementation on the ground is not effectively put in place to cover the whole country.

Recommendation n°41: *Strengthen the institutional framework for human rights* (Recommended by *Oman*)

IRI: *partially implemented*

SWRDA response:

Article 111B of the new Constitution adopted on August 1, 2012 establishes the Human Rights Commission. But implementation on the ground is not effectively put in place to cover the whole country.

Recommendation n°45: *Involve itself in a dialogue process with the different agencies of the United Nations system with a view to constructing permanent institutions and to safeguard civilians and population at risk* (Recommended by *Costa Rica*)

IRI: *not implemented*

UNHCR response:

We wish to point out that there can be no sustainable peace in the country without seeking and implementing comprehensive and durable solutions for those displaced, internally and externally. Finding durable solutions for IDPs is extremely difficult where recovery/development agreements disregard issues that are specific to displacement. The exclusion or marginalisation of IDPs could undermine the entire process. In contrast, resolution of such issues can be a positive force for social rehabilitation, re-integration and hence, lasting peace. This relationship between peace and durable solutions for IDPs requires a focus on IDPs' rights and needs. We must recognize that failure to consider IDP concerns may jeopardize the sustainability of peace in the country of origin. In South-Central Somalia, there have been timid efforts for dialogue with IDPs but in most cases, IDP, including some of the most vulnerable (e.g. blind IDPs) remain exposed to exploitation and other protection risks, such as evictions.

Recommendation n°75: *Publicly order its security forces and all militia and forces affiliated with it not to commit unlawful attacks, including targeting civilians* (Recommended by *Denmark*)

IRI: *not implemented*

SWRDA response:

Enforcement is the problem. There are still cases where Government soldiers and militias violate human rights laws.

UNHCR response:

There are credible reports that, because of different clan affiliations and a culture of impunity, SNAF soldiers stationed in Afgoye misconduct themselves and commit unlawful attacks (e.g. extortion, GBV) on civilians.

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Recommendation n^o96: *Take further actions to ensure free humanitarian access and to engage the regional administrations and armed groups to work towards this end (Recommended by Sweden)*

IRI: *partially implemented*

UNHCR response:

Humanitarian access to a number of settlements in Mogadishu is challenged because of the ‘gate-keepers’ phenomenon.

[...]

It should also be noted that on 4 December 2013, an instruction was issued to humanitarian organizations in Afmadow by a Juba Interim Administration-appointed Humanitarian Agency Officer to seek approval for humanitarian work, including recruitment, renting of premises etc. Humanitarian actors and authorities need to collaborate closely, but humanitarian workers need to preserve the non-political and independent character for accountability and integrity purposes.

Recommendation n^o141: *Improve the living conditions and safety situation of IDPs in settlements, to strengthen their protection, particularly of women and girls from sexual violence, including granting IDPs unhindered access to humanitarian assistance (Recommended by Slovakia)*

IRI: *not implemented*

UNHCR response:

Forced evictions and displacement remain among the main protection threats against IDPs and other vulnerable groups during the reporting period. Tens of thousands of IDPs were evicted by the Somali Federal Police in Mogadishu alongside hundreds of other poor locals. Evicted IDPs are pushed to the outskirts of Mogadishu at the hands of gatekeepers. In December 2013, after an IDP eviction, Members of Parliament intervened and the IDPs were invited to return to their settlements; however by the time they returned, most of their shelters had already been destroyed by bulldozers. The fate of thousands of other IDPs living in Mogadishu remains uncertain, and the government has yet to facilitate a durable solution. While the in last Report, it was stated that the Government successfully forestalled the eviction of visually impaired IDPs from Mogadishu, the threat of eviction remains real with “landlords” having renewed their threat of eviction.

On 20 November, the President of the Juba Interim Administration issued an instruction stating that all public buildings and public land in Kismayo must be vacated within two months (by 20 January 2014). Information as to the number of people affected, or the location of these public buildings is not available. It is known that many of them are presently occupied not only by IDPs but also by the local community, militia, and the military. It is estimated that over 20,000 IDPs live in Kismayo, many of whom have lived there for over two decades and originated from coastal and riverside areas in south/central. Even though the eviction order had not yet expired, in mid-December, UNHCR received reports that the over 450 people from an IDP settlement had already been evicted. Unconfirmed reports suggest that the Juba Interim Administration gave evicted families financial assistance as a means of redress.

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In September 2013, UNHCR shared a “Protection Compact on the Protection of IDPs against Forced Evictions in Mogadishu” with the Ministry of Interior and National Security. The document has not yet been adopted by the Ministry (that in the meantime has been divided into two ministries) or the Cabinet but it is crucial that the SFG adopts a framework for the protection of IDPs against forced evictions, especially, those with acute vulnerabilities.

During the first half of the year, together with strategic partners, UNHCR Somalia explored possibilities and where conducive, advocated in favor of local integration. Opportunities for local integration of large numbers of IDPs in their present places of residence have also been identified in various regions. Puntland, for instance, represents a unique opportunity for local integration, mainly, given a) strong clan affiliations between IDPs and host communities, b) the local authorities’ consistent commitment to support projects with a potential of sustainable local integration and c) the number of permanent and semi-permanent shelter projects in Puntland’s main urban settings (Garowe, Bossaso and Galkacyoo) that target IDPs and host communities

Recommendation n°145: Continue its efforts with the technical and financial assistances from the internal community and with the help of the relevant United Nations agencies and bodies for institution-building required for promoting and protecting human rights in the country (Recommended by Bangladesh)

IRI: fully implemented

UNHCR response:

With UNHCR support, an IDP policy was adopted by the Puntland authorities in 2012. During the first half of 2013, UNHCR together with the Office of the Special Rapporteur for the human rights of IDPs launched a capacity-building project for the Somali Federal Government, through the drafting and adoption of an IDP policy (the process is ongoing and is expected to be completed in the coming months). Somaliland is also in the process of drafting an IDP policy.

As far as the Mogadishu process is concerned, the policy on internal displacement will become a critical roadmap towards solutions for the displaced and therefore need to be developed at a fast pace. There are a number of good reasons for this policy: (1) it demonstrates the primary responsibility of the Government; (2) it provides a common policy basis for action to achieve the common vision of solutions for displaced Somali; (3) it sends out positive signals to the displaced Somali population that the Government has not forgotten them; (4) it demonstrates to the international community that the Government is ready to accept and commit to its primary responsibility by establishing an accountability framework; (5) it sends out positive signals to neighboring states hosting large numbers of Somali refugees, that steps towards solutions are undertaken internally; and (6) demonstrates to important institutions, such as the African Union, the relevant political will to attend to the situation of internally displaced Somali. During the reporting period, a series of consultations with relevant stakeholders was held, while a first draft has already been shared with relevant key players from the side of the Somalia Federal Government, including the Speaker of the Parliament. The Parliament can become a driving force towards adoption of the policy on internal displacement.

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The Parliament can moreover encourage the Government of Somalia to deposit the ratification notice for the AU Convention on the Protection and Assistance of Internally Displaced Persons in Africa with the Secretariat of the African Union to become Member State to this Convention. The Convention was signed by the Transitional Federal Government at the AU Summit in Kampala, Uganda, in 2009 and the ratification approved by Parliament on 5 March 2011 (see attached ratification notice). The ratification of the Convention is supported by pillar five of the Presidential Six Pillar Policy.

The main challenge in this area is the draft Bill on the setting up of an ‘independent’ commission for Somali IDPs and returnees/refugees. Such an arrangement would be against international law and the 2012 Federal Constitution. UNHCR advocates for the setting up of a state body that would be attached to the Somali Federal Government, e.g. the Ministry of Interior and Federalism, and would be the focal point for issues relating to displaced Somali citizens (IDPs and returnees).

Recommendation n°150: Engage in technical cooperation with the international human rights mechanisms with a view to the revival of the Government institutions in Somalia (Recommended by Saudi Arabia)

IRI: partially implemented

UNHCR response:

At present, there is a draft Bill at the Federal Parliament (in Mogadishu) on the setting up of an independent national commission for IDPs, Returnees and Refugees. Article 110 of the Constitution of the Federal Republic of Somalia states that “(1) An Independent Commission is a body that is independent of government or political control, (...)”. It also states that “(3) An Independent Commission must not be subject to the direction or control of any person or institution” (emphasis added). Hence, according to the Constitution, an independent commission is independent from the Government and does not receive instructions from any State or other body. This cannot work for Somali IDPs and returnees who are citizens of the Somali and fall under the responsibility of the Federal Government.

This primary responsibility of a Government towards all citizens, irrespective of whether or not they are displaced, is derived from the State’s sovereignty. International law moreover dictates that Governments bear the primary responsibility for the protection of IDPs and refugees. To create an “independent of the government” commission mandated with the protection and durable solutions of IDPs and returning refugees would de facto amount to outsourcing the SFG’s primary responsibility to protect particular groups of Somali citizens, namely IDPs and returning refugees. This would moreover amount to discrimination in violation of the Constitution and international law.

The complexity of the matter require a strong institution and such an institution can only be attached to Ministry of Interior and Federalism as in other countries dealing with such issues. To that effect, UNHCR has submitted a draft regulation on the establishment of a body for Somali IDPs and refugees within a Ministry, as the most appropriate option.

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Recommendation n°153: *Seek assistance from the international community to take efforts to provide technical assistance and training necessary to build capacities in the areas of legislative work, the judiciary, security, education, and care for IDPs and persons with disabilities (Recommended by Kuwait)*

IRI: *partially implemented*

UNHCR response:

We wish to note that in March/April 2013 in cooperation with the Office of the UN Special Rapporteur for the Human Rights of IDPs and UNHCR, the Somali Federal Government embarked on the drafting of a policy framework for internal displacement in Somalia (see also comments under para. 145). The current lack of clarity with regards to the institutional framework for Somali refugees and IDPs constitutes the main hurdle (see also comments under 150).

Methodology

A. First contact

Although the methodology has to consider the specificities of each country, we applied the same procedure for data collection about all States:

1. We contacted the Permanent Mission to the UN either in Geneva (when it does exist) or New York;
2. We contacted all NGOs which took part in the process. Whenever NGOs were part of coalitions, each NGO was individually contacted;
3. The National Institution for Human Rights was contacted whenever one existed.
4. UN Agencies which sent information for the UPR were contacted.

We posted our requests to the States and NHRI, and sent emails to NGOs and UN Agencies.

The purpose of the UPR is to discuss issues and share concrete suggestions to improve human rights on the ground. Therefore, stakeholders whose objective is not to improve the human rights situation were not contacted, and those stakeholders' submissions were not taken into account.

However, since the UPR is meant to be a process which aims at sharing best practices among States and stakeholders, we take into account positive feedbacks from the latter.

B. Processing recommendations and voluntary pledges

Stakeholders we contact are encouraged to use an Excel sheet we provide which includes all recommendations received and voluntary pledges taken by the State reviewed.

Each submission is processed, whether the stakeholder has or has not used the Excel sheet. In the latter case, the submission is split up among recommendations we think it belongs to. Since such a task is more prone to misinterpretation, we strongly encourage stakeholders to use the Excel sheet.

If the stakeholder does not clearly mention neither that the recommendation was “fully implemented” nor that it was “not implemented”, UPR Info usually considers the recommendation as “partially implemented”, unless the implementation level is obvious.

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UPR Info retains the right to edit comments that are considered not to directly address the recommendation in question, when comments are too lengthy or when comments are defamatory or inappropriate. While we do not mention the recommendations which were not addressed, they can be accessed unedited on the follow-up webpage.

C. Implementation Recommendation Index (IRI)

UPR Info developed an index showing the implementation level achieved by the State for both recommendations received and voluntary pledges taken at the UPR.

The **Implementation Recommendation Index (IRI)** is an individual recommendation index. Its purpose is to show an average of stakeholders' responses.

The *IRI* is meant to take into account stakeholders disputing the implementation of a recommendation. Whenever a stakeholder claims nothing has been implemented at all, the index score is 0. At the opposite, whenever a stakeholder claims a recommendation has been fully implemented, the *IRI* score is 1.

An average is calculated to fully reflect the many sources of information. If the State under Review claims that the recommendation has been fully implemented, and a stakeholder says it has been partially implemented, the score is 0.75.

Then the score is transformed into an implementation level, according to the table below:

Percentage:	Implementation level:
0 – 0.32	Not implemented
0.33 – 0.65	Partially implemented
0.66 – 1	Fully implemented

Example: On one side, a stakeholder comments on a recommendation requesting the establishment of a National Human Rights Institute (NHRI). On the other side, the State under review claims having partially set up the NHRI. As a result of this, the recommendation will be given an *IRI* score of 0.25, and thus the recommendation is considered as “not implemented”.

Disclaimer

The comments made by the authors (stakeholders) are theirs alone, and do not necessarily reflect the views, and opinions at UPR Info. Every attempt has been made to ensure that information provided on this page is accurate and not abusive. UPR Info cannot be held responsible for information provided in this document.

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