

**UNIVERSAL PERIODIC REVIEW (UPR) STAKEHOLDER
SUBMISSIONS**

**MINORITY RIGHTS GROUP INTERNATIONAL and IIDA Women's Development
Organisation**

Submission to the United Nations

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The situation of ethnic minorities in Somalia has been largely overlooked so far. In the first UPR review of Somalia that took place in May 2011, only one recommendation addressed the situation of minorities.

However, in the period since May 2011 when the UPR review of Somalia took place, the submitting NGOs have documented comprehensively and reported on the issue of discrimination experienced by members of Somalia's minority clans¹.

Background: Minorities in Somalia

Ethnic minorities in Somalia include Bantu, Benadiri, Asharaf and the Bravanese. In addition, there are occupational minority groups: Gaboye, Tuman and Yibir. (Occupational groups are those who traditionally were associated with one occupation (e.g. leatherwork, metalwork or ritual). Members of the occupational group are assigned membership by birth or descent regardless of their actual occupation. Members of all of these groups face widespread exclusion, marginalisation and discrimination. These occur in all sectors e.g. access to aid, education, health services, access to employment, in daily social interactions and in political life. The economic, social and political life in Somalia is structured around the clan system. As these groups fall outside all of the major arms-bearing clans in Somalia, they have all been extremely vulnerable to physical violent attacks, threatening their right to life. Women in particular have been vulnerable to rape and sexual violence. When attacked members of minority communities have almost no recourse to justice whether through traditional customary (Xeer) mechanisms or through the police and security forces. Gathering data in Somalia is challenging. National level statistics are almost completely lacking. Members of minority communities who raise complaints have faced threats, reprisals or arrest and detention and so many are unwilling to speak in public about their experiences.

1) Participation in political life

In the first UPR review of Somalia that took place in May 2011, the only recommendation to the Government of Somalia on minorities was that of the United Kingdom (98.62) "Take concrete measures to ensure governing authorities are representative of all Somalis including women and minority groups." This recommendation was accepted by the Government of Somalia. Somalia's political representation has been run following a "4.5" formula whereby each body reserves 2/9ths of its seats, jobs or posts for each of the four major (arms-bearing) clans and 1/9th for members of other clans or groups. The proportion of seats is widely accepted to relate only to the power of the group and not to their proportion of the Somali population. It is widely considered that members of minorities or other communities make up considerably more than 1/9th of the current population of Somalia. Although discussions about ending Somalia's 4.5 formula have been ongoing, it is still the case that members of minority communities are very under-represented in political life, in parliaments and in cabinets². The lack of any census data, even in zones of the country where security has improved makes comparisons between representatives and population difficult. But little has changed since 2011 (although there have been some high profile appointments in some

¹ http://www.minorityrights.org/13017/reports/mrg_report_somalia_jan2015.pdf

² Ibid page 17

areas) and representation of minorities in political and public life still falls greatly below their estimated proportion of the population. Whilst discussions have focused on moving from a 4.5 to perhaps a 5 system, if UN OCHA 2002 estimates that members of minority clans form one third of the population of Somalia³ remain correct, only a move to representation based on actual population numbers seems likely to fundamentally improve the situation.

- The Government of Somalia (with the support of international organisations) should ensure that minority community leaders and members (including women) are fully involved in and participate fully in ongoing discussions about changes to the Somali Constitution and governance processes
- The Government of Somalia (with the support of international organisations) should ensure that minority communities are represented in parliamentary, federal and local structures and decision making processes and that their numbers are broadly in line with their proportion of the population
- The Government of Somalia should work towards carrying out censuses as soon as security permits. Census questions should include those about ethnicity and occupational groups.

2) Camp security and aid disbursement.

Members of minority communities continue to report being asked for money for aid which should be free, being discriminated against in aid allocations (e.g. told to wait until last or given nothing at all) or being at risk in IDP camps. Furthermore they report that camp residents who complain have been threatened or attacked.

RECOMMENDATIONS

- The Government of Somalia with support from international aid organizations, should ensure that minority groups are fully involved in implementing measures to monitor camp security, aid diversion, gate keepers and preferential allocation of aid.
- The Government of Somalia should also adopt a tougher stance on gatekeepers and criminalizing individuals and groups profiting from humanitarian assistance.
- The Government of Somalia (with the support of the international community) should ensure that all IDP camps have effective means of allowing any resident to raise a complaint about discrimination, aid diversion or corruption linked to aid disbursement.
- The Government of Somalia (with the support of the international community) should establish a witness protection programme for anyone threatened or harmed as a result of raising a complaint of discrimination, aid diversion or corruption linked to aid disbursement.
- Allegations of complicity of gatekeepers, police and other security personnel in attacks on women in or around camps must be independently investigated and perpetrators prosecuted.

3) Employment and training opportunities for minority groups:

³ UN OCHA, A study on Minorities in Somalia, 2002,
<http://www.reliefweb.int/rw/rwb.nsf/AllDocsByUNID/7d1fc87ed568612dc1256c0c004a2463>

Minorities remain under-represented in professional jobs and in the formal employment sector. Whilst low access to education and low attainment of educational qualifications is a contributory factor, into this, it is also the case that overt discrimination is a barrier to minority participation in the paid workforce.

RECOMMENDATIONS:

- The Government of Somalia should adopt 'positive action' employment policies to increase the proportion of minority communities employed by the state and to offer minority groups access to training.
- The Government of Somalia should require all staff, civil servants, police, military and the judiciary to undergo training programmes on equality, diversity and minority communities.
- Action should be taken against those who continue to discriminate against minorities in the distribution of aid, in employment, education, award of contracts or in giving access to development programmes and opportunities.
- The Government of Somalia should investigate allegations of discrimination against minority communities by those carrying out state functions and discipline or prosecute those involved.

4) Ending the impunity around sexual and gender-based violence and ensuring access to justice.

Minorities face additional barriers in accessing justice, as customary law processes are dominated by (male) elders from majority clans. Minority women who report violence are unable to access justice as their clan elders are not seen as equals of majority clan elders nor do they have any locus to exact compensation (as they do not bear arms). Minority women who prefer to use the formal justice system often find that the alleged perpetrator succeeds in getting the case moved to the customary law system where the minority women's relatives have very low negotiating power as described above which results in the case being dropped and/or no compensation paid. Minority women have reported additional threats to their safety when they have sought justice. Minority women have told us that cases go unreported as a result.

RECOMMENDATIONS:

- The government should, with support from the international community, put in place a mechanism to investigate, monitor, and document violations of minority women's rights. After initial investigations, the cases should be referred by the mechanism to the formal justice system with a view to holding perpetrators to account. Progress of these cases through the formal justice system and outcomes should be monitored by the mechanism and statistics should be reported regularly and publically.
- The Somali police, military, prosecutors, lawyers and the judiciary should receive training on anti-discrimination, ethnicity and equality.
- An independent unit should be established to investigate and prosecute any violations of Somali law by police force and military personnel.
- The proposed specialist police unit on GBV and rape should be supported and strengthened, and should include women police officers as well as members of minority communities among its staff.

- The government should act to ensure that victims of sexual and gender- based violence who wish to use formal and not customary justice systems are able to choose to do so.
- The Government of Somalia should establish justice systems capable of enforcing the law, deterring crimes, and protecting all citizens equally, and a judicial system capable of holding perpetrators accountable without prejudice. Minority community leaders should be closely involved with planned reform of the customary justice system as well as input into improvements to the formal justice system.

5) Discrimination in Education.

Recent research (sample 69 minority women) suggests that over half of minority adult women in Somalia have never attended school. Of those who had attended formal schooling most had attended only primary school (approximately one in five minority women). Around 2-4% of minority women have ever attended secondary school. No minority women interviewed for the research had attended higher education. The location of schools, costs of fees and/or uniforms and materials, the fact that children work to gain income for the family, racism and discrimination encountered in school from staff and discrimination in employment meaning that educated minorities cannot find work were all cited as barriers to minority education. The researchers were also told that minority girls were significantly more likely to be out of school than minority boys.

RECOMMENDATIONS:

- The Ministry of Education should monitor attendance rates of minority and majority clan girls and boys in all educational institutions nationally.
- The Ministry of Education should require all teachers to attend training concerning equality, diversity and non-discrimination. Cases where teaching staff discriminate against or racially denigrate minority pupils should be investigated and disciplinary measures against staff should be taken.
- The Ministry of Education should act to remove barriers to minority girls and boys completing education by establishing a scholarship fund for disadvantaged groups, and particularly minority girls, as a way to encourage higher enrolment and retention rates.
- Where minority children (and in particular girls) are disproportionately out of school, the authorities should investigate why this is the case and address the barriers that limit their educational opportunities and take up.
- The Ministry of Education should immediately review curricula to ensure that anti-discrimination and equality are covered in meaningful ways.

6) Local and Provincial Government

- The Government of Somalia should support and encourage all those in positions of responsibility at the local or provincial or city level to contribute to, support and comply with all of the above recommendations in their sphere of operation or influence.

7) CERD:

Somalia has not submitted a report under its obligations to comply with the Convention on the Elimination of All Forms of Racism since 1984.

RECOMMENDATION:

- The Government of Somalia should undertake to compile and submit a report no CERD later than 2019 to enable deeper review of its progress and improvements still needed in this area.

COMPILED RECOMMENDATIONS:

1. The Government of Somalia (with the support of international organisations) should ensure that minority community leaders and members (including women) are fully involved in and participate fully in ongoing discussions about changes to the Somali Constitution and governance processes
2. The Government of Somalia (with the support of international organisations) should ensure that minority communities are represented in parliamentary, federal and local structures and decision making processes and that their numbers are broadly in line with their proportion of the population
3. The Government of Somalia should work towards carrying out censuses as soon as security permits. Census questions should include those about ethnicity and occupational groups.
4. The Government of Somalia with support from international aid organizations, should ensure that minority groups are fully involved in implementing measures to monitor camp security, aid diversion, gate keepers and preferential allocation of aid.
5. The Government of Somalia should also adopt a tougher stance on gatekeepers and criminalizing individuals and groups profiting from humanitarian assistance.
6. The Government of Somalia (with the support of the international community) should ensure that all IDP camps have effective means of allowing any resident to raise a complaint about discrimination, aid diversion or corruption linked to aid disbursement.
7. The Government of Somalia (with the support of the international community) should establish a witness protection programme for anyone threatened or harmed as a result of raising a complaint of discrimination, aid diversion or corruption linked to aid disbursement.
8. Allegations of complicity of gatekeepers, police and other security personnel in attacks on women in or around camps must be independently investigated and perpetrators prosecuted.
9. The Government of Somalia should adopt 'positive action' employment policies to increase the proportion of minority communities employed by the state and to offer minority groups access to training.
10. The Government of Somalia should require all staff, civil servants, police, military and the judiciary to undergo training programmes on equality, diversity and minority communities.
11. Action should be taken against those who continue to discriminate against minorities in the distribution of aid, in employment, education, award of contracts or in giving access to development programmes and opportunities.

12. The Government of Somalia should investigate allegations of discrimination against minority communities by those carrying out state functions and discipline or prosecute those involved.
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15. An independent unit should be established to investigate and prosecute any violations of Somali law by police force and military personnel.
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17. The government should act to ensure that victims of sexual and gender-based violence who wish to use formal and not customary justice systems are able to choose to do so.
18. The Government of Somalia should establish justice systems capable of enforcing the law, deterring crimes, and protecting all citizens equally, and a judicial system capable of holding perpetrators accountable without prejudice. Minority community leaders should be closely involved with planned reform of the customary justice system as well as input into improvements to the formal justice system.
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21. The Ministry of Education should act to remove barriers to minority girls and boys completing education by establishing a scholarship fund for disadvantaged groups, and particularly minority girls, as a way to encourage higher enrolment and retention rates.
22. Where minority children (and in particular girls) are disproportionately out of school, the authorities should investigate why this is the case and address the barriers that limit their educational opportunities and take up.
23. The Ministry of Education should immediately review curricula to ensure that anti-discrimination and equality are covered in meaningful ways.
24. The Government of Somalia should undertake to compile and submit a report no CERD later than 2019 to enable deeper review of its progress and improvements still needed in this area.