

**UN Contribution to the 2016 Universal Periodic Review (UPR)
For Somalia by the Human Rights Council**

June 2015

1. Introduction

In 2011, Somalia participated in the Universal Periodic Review by the Human Rights Council and presented a general overview of the human rights situation in the country since the Transitional Federal Government's relocation to Somalia in 2005. The Transitional Federal Government accepted 151 recommendations, covering a broad range of legislative, policy and implementation measures, including for a conflict setting.

Of the Federal Government's three political priorities, State Formation, Constitutional Review, and Elections, most of the progress made has been in the area of State Formation. The 2016 referendum and elections timeline is tight with the various technical, political, legal and security challenges. The constitutional review is also delayed. Participatory rights are therefore central to the human rights agenda, given the political processes, State formation and the preparation for elections. As emerging and new state administrations undertake reconciliation processes, issues of participation and inclusion are being raised by different sectors of society, with claims of human rights violations and abuses occurring with impunity. This is also impacting the enjoyment of other rights such as freedom of expression and association.

2. Key achievements since 2011

Constitutional and Legislative Reform

In 2012 the Transitional Federal Charter was replaced by the Provisional Constitution, which includes some strong human rights provisions. The Constitutional review process which is scheduled for completion in 2015 so that elections can take place as planned in 2016 is behind schedule, making the challenge of undertaking the necessary public consultations more daunting. Somalia is party to the following human rights instruments: International Covenant on Civil and Political Rights as well as its First Optional Protocol, the International Covenant on Economic, Social and Cultural Rights, and the Convention on Elimination of Racial Discrimination (CERD). However, none of the other Optional Protocols have been signed or ratified so far.

On 20 March 2014, the Federal Government deposited with the International Labor Office the instruments of ratification of three ILO conventions; Freedom of Association and Protection of the Right to organize Convention, 1948 (No. 87) , the Right to Organize and Collective Bargaining Convention, 1949 (No. 98), and the Worst Forms of Child Labor Convention, 1999

(No. 182). These three ratifications bring the total number of ILO Conventions ratified by Somalia up to 19 Conventions.¹

The Convention on the Rights of the Child (CRC) was ratified with reservations in January 2015. In these reservations the Government stated that it does not consider itself bound by Articles 14 (the right for children to choose their own religion), 20 (the right to special care and help if a child cannot live with his or her parents), and 21 (the right to care and protection for children adopted or in foster care). Though the instrument of ratification has been signed, the Government is in the process of signing and depositing the instrument of accession with the United Nations Secretary General. The Government has not ratified the Optional Protocols to the CRC though there is general agreement in the Ministries of Justice and of Women and Human Rights Development on the need to do so, and the Federal Government has indicated the need to further consult on this issue.

Since 2011, Somalia has not become party to other key human rights treaties, and no treaty body reports have been submitted so far. The Federal Parliament is now in its 6th Session, and key pieces of legislation to be approved during this session include: (a) the Counter-Terrorism Bill, passed by Cabinet on 14 May 2015 and is now before Parliament, having reached the fourth reading; (b) the National Human Rights Commission Bill; and (c) the Political Party Law. The early drafts of the National Human Rights Commission Bill have varied in terms of compliance with the Paris Principles and the latest draft to be subjected to regional consultation largely complies with the Paris principles. In addition, the Law on Citizenship, which is cited as one of the priority laws to be enacted in the first term of the Federal Parliament, has been amended. Under the leadership of the Ministry of Interior and Federal Affairs, the 1962 Citizenship law has been amended to ensure that it is in line with international standards, ensuring protection considerations. The amendment has been finalized and the Bill awaits pre-legislative consultations and tabling in parliament. The United Nations in Somalia provided comments on the above mentioned Bills throughout their development.

Government Machinery, including Gender Equality and Equity

Some progress has been made through the establishment of Ministries for Women and Human Rights Development, Gender and Family Affairs at federal and regional levels in Puntland, in Jubbaland with the Interim Jubba Administration (IJA) and in the South West region under the Interim South West Administration (ISWA). The Federal Ministry of Women and Human Rights Development has a very broad mandate to promote gender equality, women's empowerment and human rights. With respect to ISWA, there is no human rights strategy or policy, and the Afgooye Communique and Implementation Plan has only cursory mention of human rights

¹ ILO .org/global/standards/WCMS_238790/lang--en/index.

related issues.² The IJA Minister of Gender, Family Affairs and Human Rights is mainly focused on women's rights and her office lacks human resources capacity and a budget to function. In Puntland, the Ministry of Women Development and Family Affairs has two departments that deal with human rights, including the Child Protection Department and the Department of Gender and Women Development. The latter coordinates Government efforts to combat SGBV including FGM, and promotes women's empowerment. Other ministries have a human rights and gender component, such as the Puntland Ministry of Constitution, Democratization and Federal Affairs, and the Ministry of Security and DDR, which includes a Human Rights and Legal Aid Section.

To deliver on its mandate, the Federal Ministry of Women and Human Rights Development needs support to strengthen its capacity both in terms of general operation as well as technical capacity. It needs hands-on technical support to ensure the processes to achieve federal political priorities, notably state formation, constitutional review and elections, are fully informed by the principles of human rights and gender equality, and to secure concrete provisions such as quotas to enhance women's political representation and leadership. There is a need for extensive country-wide (regional) consultations on all issues related to gender equality and Women, Peace and Security. The formulation of a National Gender Policy (NGP) is long overdue, though the UN provided extensive support to translate the NGP Road Map into a workable Action Plan for the formulation of the policy.

With regards to addressing Gender Based Violence, on 7 May 2013, a Joint Communiqué between the Federal Government of Somalia and the United Nations on addressing sexual violence was signed. This process resulted in the development of a National Action Plan. One of the key recommendations was to develop specific legislation to address sexual violence. Under the leadership of the Ministry of Women and Human Rights Development, the Sexual Offences Bill, the first of its kind in Somalia, has been developed. The bill awaits pre-legislative advocacy and tabling in parliament. There have been efforts to address accountability and legal responsibility on sexual violence and Sexual Exploitation and Abuse allegedly perpetrated by security forces in Somalia. Roundtables which brought together domestic, regional and international legal experts as well as local actors to review the frameworks applicable to commission of sexual violence, as well as to identify practical legal steps to address sexual violence/sexual exploitation and abuse were held. Position papers have been drafted on accountability and legal responsibility of the Somali Government, AMISOM, and Donors. A three-year strategy to combat gender-based violence – “Somalia Gender-Based Violence Working Group Strategy 2014 – 2016 was developed and is being implemented mainly within

² The Afgoye Communique dated 27 January 2015 and Implementation Plan on Peace and Reconciliation of South West State does not make deliberate and clear reference to human rights.

the humanitarian context.³ Systematic data collection on GBV remains a challenge. Despite this, there has been significant effort in establishing a functional GBV reporting mechanism in Southern and Central regions in Somalia.

Inclusive political participation

Some limited progress with respect to women's representation and inclusion of non-majority groups in Regional Assemblies has been made. For example, the 75 member IJA Regional Assembly, includes three women only. Members of minority clans in Lower & Middle Jubbas and in Gedo continue to complain about under-representation in the IJA Regional Assembly and in mid-May 2015 the Federal Parliament tabled a motion challenging its composition. In the neighbouring Interim South West Administration (ISWA). The 64 member cabinet also has only three female members but its minority clan representation is seen as more balanced. In May, ISWA publicly regretted the lack of inclusiveness in the formation of IJA parliamentary assembly and raised concerns about equitable distribution of resources.

The National Independent Electoral Commission law requires a minimum two of the nine members to be women and the National Boundaries and Federation Commission includes one woman instead of the mandatory two out of nine. There are concerns of inclusion by some minority communities. In Puntland, the Vice President indicated that the establishment of the National Independent Electoral Commission, National Judicial Service Commission and the Boundaries and Federation Commission was unconstitutional, as the Federal Government did not consult the regional administrations as required by the Provisional Constitution. It is imperative that any further processes to establish similar institution should ensure effective consultation with regional administrations.

Reform of the Justice Sector

According to the 2012 Provisional Constitution, the judicial system is composed of Federal Government level courts and Federal Member States courts. The Constitution also provides for the establishment of independent Attorney General Offices at both levels of Government. There has been some progress regarding the expansion of judicial services in the Benadir region as well as in some emerging States. While in 2011 only five out of 17 district courts were functioning in the Benadir Region, today all district courts are working. Additionally, the number of prosecutors within the Attorney General's Office at the Federal level, which also covers this region, increased from 12 to 17 including six women prosecutors.

³https://unsom.unmissions.org/Portals/UNSOM/GBV%20WG%20Strategy%20final%20Jan%2029%202014_new.pdf

In Jubbaland, the IJA Judiciary was established in November 2014 comprising the District, Regional, and Appellate Courts of Jubbaland, and the Office of the Attorney General. For the Afmadow and Badade districts, judges have been identified but not yet nominated. However, some regions still have very few functioning courts. For example, the IJA Ministry of Justice stated that Gedo region is mostly controlled by Al Shabaab and the courts are barely functioning. Middle Shabelle is controlled by Al-Shabaab, so no formal law courts are operating. The IJA Ministry of Justice has also indicated that the process of establishing a judiciary in recovered territories is still in the preparatory stage. In ISWA, five of the region's eight district courts (under Government control) are not functioning. The ISWA Ministry of Justice has proposed the establishment of a mobile court system, in which functioning courts from neighboring districts could be transported temporarily, until a permanent court is established.

A Policy and Legislative Drafting Unit has been established within the Federal Government of Somalia's (FGS) Ministry of Justice and has started drafting key laws. In August 2014, the Judicial Commission Establishment Act was passed by parliament and promulgated by the President in the same month. Other important laws, such as the draft law establishing the Constitutional Court and the Law on Judicial Organization, have been submitted to the Council of Ministers for approval. The Ministry of Justice is currently drafting the Attorney General's Office establishment Act. To improve the compliance of traditional justice mechanisms with human rights standards, a national policy on traditional dispute resolution is currently being finalized.

Many initiatives have been undertaken to improve the capacities of judges, prosecutors and court registrars in Puntland and Benadir region as well as access to justice through the organization of mobile courts and the provision of legal services. The FGS, with the assistance of the international community, is now seeking to step up support to the justice system in the sub-federal entities, particularly IJA and ISWA.

The Prison Law and Prison Regulations have been drafted to enshrine international standards into domestic law. Training delivered by the UN to Senior Managers in the Custodial Corps incorporates human rights and emphasizes the vulnerability of specific groups in prison. A new 500 bed prison has been built in Garowe, relieving overcrowding and facilitating the transfer of prisoners to be closer to their communities. In Mogadishu, the rehabilitation of the female section of the prison through the provision of kitchens, as well as proper water supply and sewerage system has improved conditions. Work is ongoing in the male section to construct cell blocks to enable the separation of pre-trial and convicted prisoners. Mandera prison in Somaliland is the only corrections facility with a separate wing for children.

Outside of a small pilot project in Somaliland in 2015, no governmental birth registration has taken place in Somalia since the collapse of the Siad Barre Government. As a result, children are not able to prove their age and access protections provided by law. Children are regularly

charged with criminal offenses as adults, and incarcerated with them. At present there is no legislation pertaining specifically to Juvenile Justice or Child Rights to domesticate the principles of the Convention on the Rights of the Child. However, good progress has been made in Puntland with the drafting of the Juvenile Justice Act, which is compliant with international standards and is currently awaiting approval of the Puntland Parliament.

National Human Rights Institutions

As of early July 2015, the Human Rights Commission Bill was being revised by the Parliamentary Committee. UNSOM has strongly advocated for the Bill to be grounded in the Paris Principles and offered to facilitate wider consultations with Regional Administrations before submission to Parliament for approval. Both Puntland and Somaliland have established human rights institutions. The Office of the Human Rights Defender in Puntland was established in December 2014 and officially inaugurated on 12 March 2015. It quickly started making a positive contribution, receiving complaints, engaging with the authorities and raising awareness, and has just launched its 2015-17 Strategic Plan on 14 June 2015. However, the Office is grappling with resource challenges. The staff have not received salaries since its establishment, which has resulted in the loss of two of the nine staff in May. The Defender has acknowledged that his office will eventually be transformed into a regional institution and this has to be envisaged by the Human Rights Commission Bill, which will largely depend on the level of consultation with Puntland on the process of enactment of the National Human Rights Commission bill. The Somaliland National Human Rights Commission has been functioning since 2010 pursuant to the Somaliland Human Rights Commission Act, but its capacity and compliance with the Paris Principles needs to be strengthened.

Human Rights Mainstreaming

Following an extensive consultation since August 2014, UNSOM supported the Ministry of Women and Human Rights Development on 9 May to validate the draft Action Plan for the implementation of the 2013 Human Rights Roadmap, which was developed by an inter-ministerial team comprising 13 ministries. Fifty-three participants, including Ministers, Directors, senior representatives of Federal and Regional Administrations, and CSOs, examined proposed actions and outputs, recommending a stronger role for regional administrations, alignment of national and regional structures, particularly human rights institutions; and broadening human rights capacity building to include emerging administrations. The consultations on the Action Plan aimed at aligning implementation with the Somali New Deal Compact, the UN Integrated Strategic Framework, and Vision 2016, thereby supporting integration of human rights into the Peace and State-Building Goals (PSGs). The Ministry of

Women and Human Rights Development is currently in the process of requesting final inputs from regional administrations that were unable to participate, and present the Action Plan to development partners. The Roadmap also seeks to implement the 2011 UPR recommendations on Somalia. CSOs nation-wide have been deeply engaged in the development of their UPR report as part of the stakeholder and the Government also started the process of the developing a National report. UNSOM supported an orientation workshop of an inter-ministerial focal points who will support the national report consultations led by the Ministry of Women and Human Rights.

3. Challenges in the Implementation of UPR recommendations

Civil and Political Rights

Non-Discrimination

Somalia lacks a strong national legal framework and has not yet ratified the Convention on Elimination of Discrimination against Women (CEDAW). Therefore the protection of women and girls rights remains a challenge and practices which violate the rights of women and girls, continue to be experienced. Gender- based violence including rape, psychological abuse, physical assault, FGM, forced marriage and denial of resources, opportunities and services continues to be perpetrated with impunity in Somalia.

Death Penalty

In 2014, 22 individuals were executed. Since January 2015, 16 individuals have already been executed: six in Somaliland, four in Puntland, and six in Mogadishu. Five of them were members of the Armed Forces, four civilians, and six Al-Shabaab. There is persistent public pressure to apply “justice” whenever negotiations on compensation is not successful. This often affects the speed of trial and conviction, with the rights of the defendants being compromised. Somaliland authorities are reportedly currently reviewing further warrants of execution for 42 death row inmates to be submitted to the President for signature. This trend is contrary to Somalia’s commitment to a moratorium, made in the 2011 UPR process. While it is understood that Sharia law allows the death penalty under certain circumstances, some Islamic countries are abolitionist and there are guarantees that could be put in place, including (a) ensuring that fair trial rights are observed; (b) ensuring that the military courts are not trying civilians, and (c) allowing the death penalty only for serious crimes. Much of this is linked to reforms in the judiciary, in which commitments were also made during the in 2011 UPR.

Freedom of Expression

The enjoyment of this right continued to be challenged due to threats and intimidation of media

workers, political opposition parties, and human rights defenders. In 2015, three radio stations were shut down, but eventually re-opened. Four websites banned in 2014, are still not operating in Puntland, and one media house in Somaliland was shut down in 2014. In Baidoa, three media workers were attacked (two injured and one killed). In Puntland and Somaliland, over 25 cases of illegal arrest, detentions and general harassment have been reported. Impunity for attacks continues, with only three trials for the killings of three journalists since 2013. In both cases, the death penalty was handed down. Despite lack of evidence in establishing charges of “spreading false information”, defendants have often been fined. In January, political opponents were charged with treason for reported participation in the Central regions’ state formation process in Cadaado, Galgadug region. In Puntland, the Court of First Instance sentenced *in absentia* three citizens to life and 11 others to 10 years imprisonment for treason under the Somali Penal Code, as well as under the provisions of Puntland’s Constitution on acts that threaten “national unity”. However, the defendants succeeded in their appeal against the decision of the First Instance Court due to lack of evidence. In Somaliland, a prominent lawyer and Chair of the NGO Human Rights Centre, Guleid Ahmed Jama, was charged with *inter alia* disseminating false information, for criticizing the otherwise widely welcomed executions of six individuals and highlighting weaknesses of the judicial system.

The Media Law remains in draft. Concerns raised by stakeholders, include the broad censorship powers given to the State and the rules governing licensing of journalists. There is a trend of arrests and detention (and sometimes prosecution and punishment) of journalists for the crime of publication of false news merely on the ground, without more, that the news was false. This particular tactic is used by National Intelligence and Security Agency (NISA). The draft law would allow for such a trend to continue and contains vague prohibitions on types of information that can be disseminated, such as “harming the country, the people or the religion”, rather than having restrictions which serve a legitimate aim and which are necessary in a democratic society.

In Puntland, the Media Bill was officially signed by the President in July 2014 despite concerns raised by MAP after over a year of broad consultations by media stakeholders. MAP’s main proposals are: (a) censorship can only be done by a court order; (b) classified information needs to be clearly defined; (c) MAP and not the Ministry of Information, should be responsible for accreditation of journalists; and (d) some of the punishments should not be criminalized. These concerns need to be addressed.

Protection of Civilians

In July 2011 the UN Security Council expanded the criteria for designation under the Somalia sanctions regime to include, *inter alia*, violations of international humanitarian and human rights law: “violations of applicable international law in Somalia involving the targeting of civilians including children and women in situations of armed conflict, killing and maiming, sexual and gender-based violence, attacks on schools and hospitals and abduction and forced displacement”; in addition to recruiting or using children in armed conflicts in Somalia in violation of applicable

international law⁴. Individuals responsible for these violations may now be investigated and designated for sanction by the UN Security Council, including through the imposition of asset freezes and travel bans. However, the legislative framework still needs to be developed. For example, the National Defense Bill addressing democratic control of the armed forces, including civilian oversight and accountability measures, remains in draft. A planned protection of civilian's policy has not been developed. As required by SCR 2124 in line with for UN support, 10,900 members of the Somali National Army have undergone or will undergo in this year, human rights and humanitarian law training.

Child Recruitment in to the national Armed Forces

In 2011, General Order No. 1 signed by the then Commander of the Somali National Armed Forces, General Abdulkadir Sheikh Ali Dini, requires all Somali military personnel to: prevent recruitment, training and deployment of minors, defined as under 18 years of age; to protect non-combatants and members of enemy forces that have surrendered from any act of violence, including torture, cruel, inhuman, degrading or disrespectful treatment. Unit commanders are to ensure that all personnel are briefed in line with the General Order. However, the effectiveness of the General Order has been limited. Currently, the UN is supporting the review of the General Order No. 1 to align provisions with commitments expressed in the two Action Plans⁵ signed by the Government. The revised draft Command Order has been finalized for endorsement by the SNA Chief of Defense Forces. The SNA has approved a Code of Conduct, developed with support of International Committee of the Red Cross (ICRC), which highlights, inter alia, the rules of combat and respect for civilians, in line with international humanitarian law. Nevertheless, the framework for accountability for violations remains weak, particularly in light of a fragile command and control, and notably in the sectors where the bulk of operations now take place.

The Transitional Federal Government signed two Action Plans in 2012; the first to end grave child rights violations on 3 July on “Ending Recruitment and Use of Children” and the second on 6 August on “Ending Killing and Maiming of Children”. There has been notable progress towards implementation of the action plans: establishment of a Children and Armed Conflict Working Group (CAAC WG) in 2012 as the forum to coordinate action plan implementation activities and which is co-chaired by government and the Country Task Force on Monitoring and Reporting (CTFMR). The Government's endorsement of Standard Operating Procedures on Handling Children Associated with Armed Forces/groups (2014); development of mechanisms and structures including age screening guidelines as well as a mobile screening team (2014); and the establishment of a Child Protection Unit within the SNA (2014). The CAAC WG meets periodically and was instrumental in development of age screening guidelines and the mobile screening units. To-date, the screening team has conducted several missions: In June and July

⁴ See UNSC Resolution 2002 (2011).

2014, the mobile screening inspected a total of 1,150 soldiers including 900 new recruits of whom no minor was found; and on 17 March 2015, the screening of 329 soldiers resulted in the identification of one child aged 16. He was later separated and handed over to UN- supported NGO for reintegration. In efforts to build the capacity of National Armed Forces, the UN Country Task Force supported a study tour to Uganda for Government officials (Child Protection Unit and Ministry of Defense) to learn about principles of care and protection of children affected by armed conflict, which includes implementation of the Action Plan to stop recruitment and use of children. The UN also initiated dialogue in 2014 as a newly listed Alasuna Wa Jama (ASWJ) as a party which recruits and uses children in its ranks.

On 27 May 2014, the Ministry of Defense and the SNA established a Child Protection Unit at SNA headquarters composed of six members: three were military officers and three civilians. In 2015, the Ministry appointed an additional six military focal points with regional responsibilities. However, implementation of standard operating procedures has stalled. This should be implemented in order to address the concerns on the handling of children disengaging from armed conflict. The Country Task Force (CTF) through the CAAC WG has engaged the government on this issue with a view on getting clear commitment on implementation of SOPs. From 2011, the United Nations supported the reintegration of 2,904 children (3,746 boys, 842 girls) through community based inclusive programs for children formerly associated with armed groups, as well as other vulnerable children. Reintegration activities included provision of psychosocial support, support to “back-to-school” programmes and vocational training.

Sexual and Gender Based Violence

The FGS expressed its commitment to ensure that legislation, policies and frameworks are developed to support the abolition of FGM. The Government of Puntland has developed a policy banning the practice of FGMC and upholding total abolition of the practice. The FGS has committed to work towards ending GBV and ensuring justice for survivors, however no practical action has been seen by the FGS towards ensuring survivors access to services or justice. The FGS has drafted a sexual violence bill, however no efforts have yet been seen to ensure survivors have safe access to justice, to ensure confidentiality of survivors or other protections which the FGS could enforce in the current climate. Sexual violence remained widespread across Somalia, particularly in the South-Central regions. The violence spiked consistently during military offensives, particularly at checkpoints and during displacements. The survivors are mostly women and girls who were displaced from their areas of origin. Generally, members of minority clans are exposed to the greatest risk. The main perpetrators of sexual violence in Somalia are unidentified armed men. There are also reports implicating the SNA, the SPF, Al-Shabaab and some allegations against AMISOM contingents. The Federal Government, with the support of the UN, has developed a National Action Plan to End Sexual Violence in Conflict (NAP/SVC) in May 2015. The National Action plan to end sexual violence in conflict is a nationally owned and widely consulted plan that addresses all aspects of the issue. However, its implementation is

challenged by the political crisis and the government reshuffle, the limited capacity of the Ministry of Human Rights and Women's Development to deliver and to engage the regions, and the very limited resources that allocated to support the implementation.

Civil Registration and Documentation

Somalia has ratified international human rights instruments such as the International Convention on Civil and Political Rights (ICCPR) and the International Convention on Economic Social and Cultural Rights (ICESCR), which explicitly and/or implicitly, refer to registration and documentation of civil status without discrimination. Civil status documents are an essential protection measure and provide a means for accessing a wide range of human rights. Currently, there is a lack of an effective Civil Registration and Documentation system in Somalia. The absence of a legal framework on Civil Registration and Documentation, which defines objectives, functions, structure, organization, method of operation and collaboration/linkages with other agencies, is identified to be one of the biggest challenges to the establishment of a functional system. While there are attempts to conduct civil status registration and documentation in certain regions, there are glaring gaps in these processes. There is no institution/department tasked with the responsibility of Civil Registration and Documentation. There is no civil registry with vital statistics. The specific roles of the different ministries in this regard are unclear. Inconsistent practices and lack of procedures with regards to registration and issuance of civil status documents as well as issuance of identity documents were highlighted. Inaccessibility of civil status documents to refugees and asylum seekers was noted. The costs associated with obtaining civil status documents as well as identity documents is reported to be prohibitive. Fraudulent practices with regards to obtaining documents have also been identified as a challenge. Against this background, the FGS needs to prioritize the establishment of a functional civil registration and documentation system

Economic, Social and Cultural Rights

Right to Health

As health indicators continue to be among the highest in the world, strong commitment and accountability from the Government is required to bridge the gap between access to proper public health and human rights of the community recipients. There are considerable unmet needs including in the field of reproductive health. One out of every 10 women die due to pregnancy related causes as a result of limited access to quality and basic maternal services; only nine percent of births are attended by skilled birth attendants and one out of four pregnant women attend anti natal care; Maternal mortality rate is as high as 1044 -1400/100,000 coupled with high a fertility rate of 6.2- 6.7; Perinatal mortality rate is estimated at 81/1000; modern contraceptive rate is around one percent and morbidities around child birth especially with the low access to proper health services, primary health services including family planning are

high⁶. Two thirds of children are not immunized and child mortality rates for Somalia are unacceptably high; one out of every ten Somali children dies before seeing their first birthday. It is critically important that the FGS and stakeholders address these very concrete problems that thousands of women and children face in Somalia face every day. At least 20 percent of disease in children below the age of 5 is related to poor maternal health and nutrition, as well as quality of child care at delivery and during the first few weeks of life. Thousands of babies die before or during delivery or in the first week of life every year.

Further, many children are tragically left motherless each year. These children are 10 times more likely to die within two years of their mothers' death. Another risk to expectant women is malaria. It can lead to anemia, which increases the risk for maternal and infant mortality and developmental problems for babies. Nutritional deficiencies contribute to low birth weight and birth defects as well. Preliminary data from the 2014 Antenatal Care (ANC) sentinel survey indicates HIV prevalence of 0.67% in Somaliland, 0.49% in Puntland and 0.23% in South Central. HIV infection is becoming a public health threat and a cause of maternal death mainly due to insufficient care during pregnancy and delivery. About 15 per cent of pregnancies and childbirths need emergency obstetric care because of complications. Thereafter, strengthening the health system through increased access to skilled care during pregnancy, childbirth and the first month after delivery is key to saving Somali women's lives – and those of their children, hence fulfilling their health rights. The health system should be supported to adequately address the issue of shortage of drugs, supplies and equipment. Women empowerment and the intensification of community engagement can contribute to overcome the barriers linked to limited awareness on maternal health issues, low education attainment levels as well as the harmful social and cultural beliefs, traditions, attitudes and practices.

Insecurity, limited humanitarian access to affected populations and blockages of roads and supply routes remain major challenges for the provision of effective and timely humanitarian interventions. Besides the need for a fundamental shift in thinking and the application of robust accountability mechanisms, it is important to support the FGS in the planning of health interventions, monitoring and coordination, fostering capacity building efforts, greater community mobilization and participation for resilience.

Right to Education

In the past few years, the FGS has shown commitment and leadership in improving the education sector in Somalia to enhance children's ability to realize their education rights. In 2013, the FGS launched the flagship *Go-2-School* programme. This nationwide programme (2013-2016), which acts as an overarching policy framework for the education sector, aims to bring 1 million children back to school by building education systems that can provide quality formal education,

⁶ http://www.unicef.org/somalia/SOM_ReproductiveHealthReport-WEB.pdf

innovative solutions for marginalised out-of-school children and education opportunities for unemployed and vulnerable youth. In addition, Education Sector Strategies have been developed for Puntland, Somaliland and South Central regions of Somalia. Ministries of Education are engaged partners in building sustainable systems to improve educational opportunities for Somalia children. Government allocation to the Education Sector has shown generally positive trends since 2011, most notably in 2014, when Puntland doubled its allocation to the education sector (from 3.5% to 7%) and the FGS committed funds to the education sector for the first time (4.2%). These however fall short of the UNESCO-recommended benchmark of 26% of annual budget spent on education.

Despite these positive steps, the FGS and other education stakeholders urgently need to scale up their efforts and increase resources to address the barriers preventing children from accessing education. Somalia still records one of the world's lowest enrolment rates for primary school-aged children – between 22 percent to 40 percent. Women and girls are particularly disadvantaged in terms of education: only 36 percent of children enrolled in schools are female and only 15 percent of teachers are female. Currently, 1.7 million children in Somalia are out of school. Pastoralist children are especially marginalized, and though a few initiatives have been undertaken to adapt educational service-delivery to their needs, a more systematic approach should be adopted by the FGS, with an in-depth understanding of the systemic and structural barriers to education, and a comprehensive policy on non-formal education.

As the most significant determinant of quality education, a qualified and remunerated teaching force is a key driver to improve children's right to education. National budgets have not kept up with the demand for teachers' salaries. Support to teachers incentives by development partners in the past two years have resulted in the recruitment of nearly 1000 additional teachers throughout Somalia, however the burden of funding teachers' salaries in most cases remains with parents, the majority of whom are required to pay school fees in some form or other, and the school management bodies which have the responsibility of raising funds for basic running costs. The FGS should however allocate more resources to enable the recruitment, training, and management of a professional, qualified and salaried teaching force.

Right to Food and Water

Access to water and sanitation in Somalia remains a critical gap in the protection and promotion of children's rights. The human right to water and sanitation was explicitly recognized by the United Nations General Assembly and the Human Rights Council in 2010. Although Somalia has not incorporated this right into any legislation so far, Article 14 of CEDAW stipulates that States parties shall ensure to women the right to enjoy adequate living conditions, particularly in relation to water supply and nutrition. The CRC requires States parties to combat disease and malnutrition through the provision of adequate nutritious foods and clean drinking water. Despite improved food security following the 2015 harvest, improved livestock conditions, and

mostly stable staple food prices, a large number of people across Somalia will be acutely food insecure through 2015. An estimated 731,000 people will be in Crisis and Emergency in 2015. Internally displaced persons (IDPs) constitute 76 percent of the total number of people in Crisis and Emergency, with the remaining 24 percent divided equally between rural and urban poor populations (12% each). Acute Malnutrition (GAM, 12.0%) and median Severe Acute Malnutrition (SAM, 1.9%). An estimated 202,600 children under the age of five are acutely malnourished, including 38,200 who are severely malnourished and face a high risk of morbidity and death. Nearly 2.3 million additional people are classified as Stressed and require interventions to protect their livelihoods and build their resilience against future shocks.

Somalia has an infant mortality rate of 180, the fourth highest in the world. According to the 2006⁷ Multiple Indicator Cluster Survey (MICS) almost half of the deaths of children under-5 are attributed to diarrhoeal diseases and pneumonia, both of which can be significantly attributed to poor sanitation and contaminated water. Only 24 per cent of people have access to improved sanitation, in urban areas 30 per cent of people share a latrine and 15 per cent use unimproved sanitation. In rural areas 83 per cent of people practice open defecation, the third highest rate in the world.

In Somalia water scarcity is also a serious problem. Over 90 per cent of the land population area of Somalia has extremely limited access to water supplies. A significant proportion of the population are nomadic, who move around with their livestock in search of water and pasture. Reports of internal (clan) conflicts over water are common. Drought and internal displacement due to conflict severely constrain access to safe water, and supply needs are often met through costly water trucking.

Camps and settlements for internally displaced persons (IDPs) in urban areas (including Mogadishu) with inadequate WASH facilities also put vulnerable urban and peri-urban households at a high risk of disease outbreak. In addition WASH facilities in and around Mogadishu have been areas of increased sexual and physical violence against women and girls due to inadequate lighting and lockable doors.

Road blockage, access to the population, provision of services to those who are most in need and monitoring remains as major challenges for providing humanitarian interventions. The need for water and food is driving people to seek livelihood in IDP camps. The situation is much worse in the towns surrounded by Al-Shabaab and in the areas controlled by where controlled by Al-Shabaab. Targeting of aid workers by armed groups violate rights to water, food and medical Care, hinder the provision of emergency assistance to affected people and monitoring the situation.

⁷ A 2011 Multi Indicator Cluster Survey (MIICS), was also carried out but only for Somaliland and Puntland and therefore nation-wide figures may not be reflected.

Housing Land and Property (HLP)

Uncertainty of land tenure rights remains a primary concern vis-à-vis HLP rights violations. This situation is due to the complexity and the shortcomings of the formal and customary jurisdictions governing land, as well as to issues regarding their enforceability. In this regard, some general features that have emerged countrywide deal with: lack of standardisation of legal frameworks, lack of land policy, lack of bodies/entities in the Executive Branch institutionally mandated to coordinate land policy processes, confusion of roles and responsibilities between local and central government particularly glaring in the areas of creation of city master plans, as well as conflicting ministerial mandates regarding land access and use (commercial, residential, industrial, public etc.)

Across regions, with the exception of Somaliland, part of the legislation currently utilised by municipalities and courts for land dispute resolution, refers to constitutions that have been repealed. This is particularly true for South Central Somalia, where most of the legislation applied for the formal adjudication of land cases dates back to the Siad Barre era. In Puntland and Somaliland, laws that regulate ownership, access and use of the land, are in place, but the mandates conferred to different ministries are conflicting. These institutions may issue permits and, in some cases, titles, but in absence of adequate registries and record keeping systems, there is confusion, and speculation which results in increased land disputes and violations of housing, land and property rights. This situation is particularly detrimental for vulnerable groups, especially the ones affected by displacement. From a rights protection perspective, forced evictions are the major issue of concern. A Working Group sub cluster on Housing, Land and Property has been established in Somalia under the co leadership of Norwegian Refugee Council (NRC) and UN Habitat.

Forced Evictions

Persons affected by displacement are protected against forced evictions by international law which requires that in the case of evictions, substantive justifications, non-discrimination, consultation and due process is followed, while alternative accommodation is secured⁸. The IDP Policy was developed by the Federal Government in 2014 but the continued practice of forced evictions, particularly in Mogadishu, have not complied with the policy. The Puntland's IDP Policy requires the government to ensure that relocation of population (if unavoidable) is carried out with respect of human rights of IDPs⁹.

⁸General Comment No 7 of the International Covenant on Economic, Social and Cultural rights sets out a number of conditions under which eviction is acceptable. Most of the conditions have not been followed by the FGS as well Federated State and District authorities.

⁹Puntland IDP Policy provides for full information sharing on the reason and procedures for relocations, "Go-and-see" visits to sites of future settlement are facilitated, prior to relocation, site planning should be carried out and that relocation process should be monitored.

The major perpetrators of forced evictions include both authorities and private actors and the victims mainly belong to minority clans and vulnerable IDP communities residing in informal settlements. These groups are more vulnerable to forced evictions due to the power imbalance between them and the perpetrators, lack of secure land tenure documents and poor legal and policy frameworks for the protection of IDP rights. Authorities in Somalia remain reluctant to provide alternative land and often allocate land in insecure locations outside the main towns with little or no access to basic services and infrastructure. Disputes over land ownership and lack of clarity over what constitutes public land further complicates this concern. As a result, the affected communities forced into secondary displacement, often experience multiple evictions and are obliged to resort to often risky coping mechanisms for their survival.

Despite the fact that in certain instances authorities or private land owners have substantive justification for the eviction, the legal procedures and standards for evictions are not usually followed. Victims are provided with no or insufficient notice of evictions often ranging from 3 to 7 days without provision of alternative accommodation or without regard to due process. Evictions are often discriminatory mostly affecting settlements occupied by minority groups.

The Government has demonstrated reluctance to follow eviction guidelines including the national IDP policy provisions on relocation of IDPs and international legal and policy frameworks on evictions despite recognising the existence of these guidelines.

In Southern and Central Somalia, Mogadishu and Kismayo have been the most affected with forced evictions conducted with impunity. The most affected districts in Mogadishu include Hodan, Dharkenley and Daynille. In Kismayo, most forced evictions have been conducted in the main town. Between January and June 2015, approximately 65,000 individuals have been forcibly evicted in South and Central Somalia. Forced evictions continue despite a 2014 agreement between the humanitarian community and the Federal Government on protocols to follow during evictions. As recently as 13 May 2015, the Governor of Middle Shebelle region reportedly ordered the eviction of IDPs, mainly of the Somali Bantu origin, who were relocated to an IDP Camp at the Jowhar Airstrip, 90 km away from Mogadishu since November 2013. According to the Walamow elders (members of Somali Bantu), the Governor gave them a three days' notice to vacate, starting 12 May, otherwise they would be forcibly evicted. An earlier three days warning had been issued on 7 March 2015. This eviction has added protection issues, given the vulnerability of the Bantu community. This particular group had been displaced in 2013 by militias from Mohamed Muse clan (Hawiye sub clan). According to ICRC figures, around 369,000 IDPs live in settlements in the Mogadishu area between January and March 2015.

In Somaliland, between January and June 2015, 4 cases of forceful evictions were recorded, two incidents in Hargeisa (where the government evicted five Households residing at the 'statehouse' IDP settlement based on claims that the makeshift shelters were located too close to the main roads, and the other two were in Togdheer region. In Puntland, an eviction case was reported at

Enji IDP settlement which is situated at the center of Bosasso town in February 2015. The settlement had been hosting a significant number of poor households for over 20 years. On 2 February 2015, at around 06:00 armed police entered the settlement with a tractor and ordered people to collect their belongings immediately and leave the area. Approximately, 147 houses were demolished as well as a number of business building around the settlement. IDPs affected by this eviction also reported loss of property. The affected households are now scattered within the town and surrounding settlements, the majority in the Old-bank area, 100 Bush, Bariga Bossaso, whereas some were left in demolished houses.

Refugees

Voluntary return of Somali refugees continues to be regulated by the Tripartite Agreement between the Governments of Somalia and Kenya, and UNHCR, while the medium/longer term reintegration interventions will be linked to the Somali Compact, the IPRS and the Somali National Development Plan. United Nations development actors will play an important role in establishing these linkages and must be involved in the planning process from the onset. Large voluntary return and repatriation continues to be overshadowed by continuing insecurity and control of territory by Al Shabaab in many parts of the country, limited presence and capacities of government institutions in many areas, limited access by humanitarian and development actors, lack of clear multiyear national or regional development framework within which sustained investment in economic recovery can take place. There are also limited livelihood opportunities and lack of basic services as well as poor infrastructure which continue to impede voluntary return. However, the Federal Government of Somalia is now beginning to address this problem, inter alia, through the progressive implementation of the Somali Compact and strengthening the solutions component therein. The government is also becoming more aware that finding solutions to population displacement will also require the engagement of refugees and IDPs in the political and social debate at national and regional levels.

4. Conclusions

The majority of the 2011 UPR recommendations could not be implemented as a result of political instability and lack of capacity including financial and human resources within Government. The adoption of the Human Rights Roadmap in August 2013, and the consultations that followed, leading to the formulation of the Action Plan to implement the Human Rights Roadmap in 2014 and 2015, have laid a foundation to further implement many of the recommendations advanced in 2011 review, some of which are likely to be reiterated in the second UPR review cycle. Progress was made with regard to development of the Federal Provincial Constitutions and steps to move forward the constitutional review process, including the establishment of the Independent Constitutions Review and Integration Commission (ICRIC). However, progress on key legislative, judicial and security sector reforms has been slow. The implementation of the Peace and state building Goals of the Somali Compact will

remain critical in implementing the rest of the recommendation in Political, social, economic, judicial and security reforms.

5. Recommendations

- (a) Issue a Standing Invitation to the Special Procedures.**
- (b) Ratify the Convention on the Rights of Persons with Disabilities, Convention on Elimination of Discrimination against Women (CEDAW), and the Optional Protocols of the treaties already ratified.**
- (c) Implement the Action Plan for the Human Rights Roadmap for Somalia, including in allocating the necessary resources.**
- (d) Ensure independence of the future National Human Rights Commission by ensuring that the law and the establishment process comply with international standards and the Paris principles.**
- (e) Strengthen the capacity of other existing human rights institutions, including the Ministries of Women and Human Rights Development, Human Rights Defender of Puntland and the Somaliland Human Rights Commission.**
- (f) Ensure freedom of expression and protection of Journalists and Media Workers.**
- (g) Ensure implementation of constitutional guarantees, in particular due process of law and fair trial, particularly with regard to the death penalty.**
- (h) Expedite Ratification process of the Optional Protocols of the CRC and develop Implementation plan in line with Ratification process of CRC – measures taken for protection and promotion of child rights should be included as many of the recommendations of 2011 are around the ratification, harmonization of laws, and empowering the justice system.**

- (i) Adopt and effect the national IDP policy throughout Somalia.**
- (j) Strengthen the existing legal framework on land to promote access to justice for HLP cases.**
- (k) Domesticate the international legal and policy frameworks on housing, land and property rights for the protection of these rights;**
- (l) Security of land tenure through legal land tenure documents (title deeds and communal land agreements).**
- (m) Develop legislation on Civil Registration and Documentation and support its implementation across Somalia.**
- (n) The FGS to implement the National Action Plan for Ending Sexual Violence in Conflict. The donor community to allocate adequate resources to the Ministry of Women and Human Rights Development to coordinate efforts and for line ministers and security sector to deliver in improving response and enhance access to justice for survivors.**