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## **National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21\***

### **Somalia**

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\* The present document is being issued without formal editing.



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## I. Introduction

1. The Federal Government of Somalia (FGS) ascribes the highest priority to the promotion and protection of human rights. Somalia is firmly committed to preserving the human rights principles and standards and addressing challenges as they occur throughout the country. The Bill of Rights contained in Chapter two of the Somali Provisional Constitution's (Constitution), enshrines fundamental human rights principles for all people in Somalia. The FGS acknowledges the need to unceasingly enhance the capacity of national institutions mandated to protect and promote human rights in the country.

2. This report offers updates on the implementation of the Universal Periodic Review (UPR) recommendations that Somalia accepted, and the progress achieved since the submission of the 2015 national report. Somalia has registered significant progress in the realization of the 2016 UPR recommendations, including reporting and implementation of ratified treaties and the development of national policies and legislative measures to further strengthen the capacity of institutions and the respect for and protection of human rights in Somalia. The achievements of Somalia in this area also include the ratification of the International Convention on the Rights of Persons with Disabilities, the establishment of the National Disability Agency, the development and endorsement of the human rights priorities incorporated 9<sup>th</sup> National Development Plan and Somalia's recommitment to the National Action Plan to End Sexual Violence in Conflict as well as the Action Plan on Children and Armed Conflict and the relevant roadmap. These achievements demonstrate the FGS' commitment to human rights' promotion and protection in the country. The report also touches on the challenges faced by Somalia in the implementation of the 2016 UPR recommendations, which the Federal Government continues to address.

3. During the reporting period, Somalia underwent different processes and developments. The FGS, together with the African Union Mission in Somalia (AMISOM), initiated the withdrawal of the African Peacekeeping Forces, gradually transferring the security responsibility to the Government of Somalia in the context of the broader security transition. The impact of COVID-19 on Somalia and the work of the FGS, with delayed development of important legislation, has substantial policies and the delivery of vital services to the general population. Also, the capacities and capabilities of the Federal Member States' (FMS) institutions have been enhanced with a positive impact on human rights. The Somalia National Army (SNA) and AMISOM have made some progress in the fight against terrorist groups throughout Somalia, facilitating improved humanitarian access to liberated areas.

4. In February 2017, Parliament elected the President of Somalia, representing the second peaceful transition of power since Somalia's emergence from the Transitional Federal Government in 2012. Since then, the FGS has renewed its commitment towards democracy and human rights, conducting the inclusive elections in 2016/17, ratified the 7<sup>th</sup> core international human rights treaty and cultivated an environment where the public discourse on important human rights topics has become more familiar and accepted by the Somali people. The FGS has not been able to achieve universal suffrage for the 2020/21 election, however, progress to widen and enhance the electoral process and participation has improved compared to the 2016/7 elections. Somalia has undertaken these efforts as the fight against terrorism is ongoing. Also, the government worked on strengthening its rule of law institutions in parallel with the efforts to recapture areas under the control of terrorism. With the support of its international partners, the Somali Police continues to be strengthened to play its role effectively.

## II. Methodology used for preparation of the report

5. This report was developed through consultations and collaboration with the relevant line ministries, Federal Member States and civil society organizations, among other stakeholders, under the leadership of the Ministry of Women and Human Rights Development (MoWHRD). The Inter-Ministerial Task Force played a key role in providing information on the implementation of different recommendations falling in the mandate of

their relevant ministries. The MoWHRD held (virtual) consultations with the relevant stakeholders at the different FMS and this provided the stakeholders the opportunity to share their views on the progress achieved with regards to the accepted recommendations and the challenges in the protection of human rights in Somalia. In addition, written submissions were received and incorporated into the report. The MoWHRD also reviewed various government reports and documents on the different thematic areas. Subsequently, the MoWHRD convened a national validation conference for the 3<sup>rd</sup> cycle's national report on 15 February 2021, which allowed all the relevant stakeholders to provide their final comments and input to the near-final report before submission to the Human Rights Council's UPR Working Group.

6. This national report was developed and drafted in compliance with the general guidelines for the preparation of national reports submitted under the Universal Periodic Review (UPR) mechanism. Taking into consideration Resolution No. 16/21 of 25 March 2011 of the Human Rights Council, which stipulates that the second and subsequent cycles of the review should focus, *inter alia*, on the implementation of the accepted recommendations and the development of the human rights situation in the State under Review. It is important to note that Somalia has, for the first time, successfully submitted the UPR mid-term review report in January 2019, providing an update on the implementation of Somalia's accepted UPR recommendations during the second cycle review. The mid-term report also enumerated the challenges and opportunities in the implementation of national human rights commitments.

### **III. Normative and institutional framework**

7. The consultations in the Somali Constitutional Review process have been ongoing and have made significant progress in the past five years. This process has engaged all stakeholders and equity seeking groups to ensure that the opinion of all citizens of Somalia is included in the review process. The Somali Ministry of Constitution is leading the process to prepare the new draft constitution, which is scheduled to be ready by early 2022, depending on the electoral process that is ongoing at the time of writing this report, after which the parliamentary process and public referendum can be organized. The FGS is aiming to ensure that the Bill of Rights (Chapter 2) in the draft Somali Provisional Constitution is strengthened. The universal right to freedom of expression and media are entrenched in the Somali Provisional Constitution and the aim is to guarantee and safeguard these rights in the new draft of the Constitution. During 2019 and 2020, the constitutional review process included civic and public education campaigns, which highlight Chapter Two of the Provisional Federal Constitution to raise public understanding with regards to these fundamental rights.

8. Somalia has made substantial progress in the development of human rights related legislation, from civil and political rights to economic, social and cultural rights. The following is an overview of the legislation passed by the Somali Parliament:

- National Independent Electoral Commission Law;
- Somalia Political Parties Law;
- Federal Electoral Law;
- National Disability Agency Establishment Law;
- Independent Human Rights Commission Law;
- Amendment to the Media Law;
- Anti-Money Laundering and Terrorist Financing Act;
- National Refugees and Internally Displaced Persons Law;
- National Bureau of Statistics Law;
- Independent Anti-corruption Commission Law;

- African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention);
- National Education Law;
- Somali and India prisoners exchange agreement;
- Convention on the Protection of Cultural and Natural Heritage Law.

#### **IV. Engagement with international human rights mechanisms (Treaty bodies)**

9. The civil war that has lasted for more than two decades has negatively impacted on Somalia's ability to meet its international and regional human rights treaty body reporting obligations. However, Somalia has successfully managed to accelerate the submission of overdue treaty body reports, demonstrating its commitment to upholding its international human rights obligations. In this context, since 2015, Somalia has developed and submitted three core human rights treaties' State Party reports; (i) the first State Party report of the Convention Against Torture; (ii) The Convention on the Rights of the Child and; (iii) the International Covenant on Civil and Political Rights (ICCPR) submitted in October 2020. For these processes, the MoWHRD conducted interviews and broad consultations throughout Somalia to gather the information and data used for these State Party reports. At the time of submitting the UPR's third cycle national report, Somalia has only two overdue State Party reports, namely, the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), which will be the next reports prioritised for submission by the Federal Government.

10. Following extensive consultations and advocacy for the ratification of the Convention on the Rights of the Persons with Disabilities (CRPD), the FGS signed the convention on 2 October 2018 and ratified it on 6 August 2019. The advocacy and ratification generated momentum on the implementation of the rights of persons with disabilities and has reinforced the promotion and protection of the rights of persons with disabilities, their participation in public life including the political and electoral process. In parallel to this process, Somalia has developed an inclusive disability rights law in partnership with stakeholders in the Somalia disability community, which is now about to be finalised. Prior to this, the MoWHRD had facilitated and coordinated the enactment of a law establishing the Somali National Disability Agency in December 2018. This national agency is mandated to address the challenges faced by persons with disabilities, hold the government accountable on the protection of the rights of persons with disabilities and ensure their effective participation in all aspects of society, including the governance and development sectors.

#### **Convention on the elimination of discrimination against women**

11. Somalia has intensified its engagement and cooperation with international human rights treaty bodies and mechanisms since the last UPR cycle. The MoWHRD has led consultations with diverse groups of stakeholders on the path to ratification of the Convention on the Elimination of Discrimination against Women (CEDAW). This consultation focused on familiarizing the stakeholders with this core human rights convention and Somalia's respective rights and obligations therein. Moreover, in 2017 the Minister of Women and Human Rights Development held consultations with the CEDAW Chairperson in New York, in the margins of the UN General Assembly, to discuss Somalia's potential ratification as well as broad-based advocacy efforts to ensure the public understands the need for Somalia to ratify this core human rights convention. Correspondingly, the MoWHRD has led a CEDAW benchmarking study tour in 2019 to Egypt for the purposes of understanding, from a comparative perspective, other countries' experiences with the ratification processes to inform Somalia's own ratification process.

12. Throughout the UPR's 3<sup>rd</sup> cycle review period, the FGS has engaged with two Independent Experts (IE) on the Human Rights situation in Somalia and granted access and support to the conduct of their visits to Somalia, including in different regions and states. The IE's mandate has been instrumental in highlighting the human rights situation in the country and contributed to the advocacy for the enhanced respect, promotion, and protection of human rights in Somalia. In 2016, Somalia has extended an open invitation to all the UN human rights thematic special procedures and experts to visit Somalia. In 2018, the FGS voluntarily invited the Special Rapporteur on the situation of human rights defenders, also in that same year, Somalia invited the Independent expert on the enjoyment of human rights by persons with Albinism. Furthermore, Somalia welcomes visits and will provide support to the appropriate international human rights thematic experts to contribute to the reconstruction of its human rights frameworks and systems.

13. Moreover, Somalia has initiated engagements with the African Union (AU) to facilitate accession and ratification of the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol) and other related treaties. The MoWHRD has developed measures to initiate the ratification processes, including preparation and transmission of a memoranda on this to the Council of Ministers. In March 2020, Somalia successfully ratified and deposited the ratification instruments to the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (also known as the Kampala Convention). In addition, in January 2021, Somalia has initiated the consultation process towards the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW).

14. To mitigate the dire situation of Internally Displaced Persons (IDPs), the FGS has formulated a sustainable multi-year policy framework. The Federal of Government of Somalia together with its Banadir Regional Administration (BRA), has conducted an IDP's profiling exercise in Banadir (greater Mogadishu area) to inform the establishment of an IDPs database. Some of the Federal Member States, such as South-West State and Puntland, have put in place mechanisms and infrastructure for accommodating IDP's. Nevertheless, guaranteeing that all stakeholders take part in these efforts remains a challenge. To address this challenge, the FGS has established a coordination mechanism with the FMS to discuss how to implement the proposed policy framework aimed at improving the situation of IDPs and mitigating the root causes of displacement in Somalia.

15. In the context of international treaties relating to cultural rights, Somalia has ratified the UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage (1972), as well as the Convention for the Safeguarding of the Intangible Cultural Heritage (2003), making Somalia these two Convention's 194<sup>th</sup> and 180<sup>th</sup> State Party respectively. This is an important step for Somalia towards the promotion and protection of the cultural and heritage rights of the Somali people.

## **V. Elections and political participation**

16. The FGS is committed to paving the way towards universal suffrage, active political participation and democratic elections in Somalia. Over the last five years, the Government has gradually advanced the legal framework for the conduct of national parliamentary elections based on the principles of universal suffrage. The following crucial laws have been put in place in the context of elections and political parties in Somalia:

- The enactment of the Establishment law of the National Independent Electoral Commission (NIEC) in 2015. This Commission has the mandate, among other, things to guide, coordinate and manage all the aspects of the electoral process. The NIEC is mandated to register political parties. To date, a total of 100 Political Parties have been formally registered by the NIEC.
- The enactment of the Political Parties law (2016). The adoption of the amendments to the Political Parties law is currently pending parliamentary approval.

- Draft Citizenship Amendment law, amending the provisions of the 1962 Citizenship law, which is pending approval by the Council of Ministers. One of the key improvements in the draft Citizenship Amendment law is the protection of equal nationality rights for women.
- The enactment of a Federal Electoral Law on 20 February 2020.

17. The 2016 indirect elections were held, following a political agreement on the electoral system, an agreed formula for safeguarding the participation of women, the election management body as well as putting in place an independent electoral dispute resolution mechanism. In comparison to the 2012 elections, the 2016 parliamentary indirect elections were relatively fairer, transparent and more inclusive. During the 2016 indirect elections, Somalia adopted a 30% quota mechanism for women's political representation. The 2016 women quota campaign successfully led to female parliamentary candidates winning 25% of the parliamentary seats (up from 11% in 2012) and the highest percentage of women in the Council of Ministers (23%). The FGS recognises the need to improve this representation of women to the required level and is striving to achieve this through a definitive electoral model.

18. The Federal Electoral law adopts a Single Member Plurality (SMP) electoral model and requires that political parties have at least 50% of the seats in both houses of the Federal Parliament. Further, in February 2020, the Federal Parliament appointed a joint ad-hoc committee to prepare the regulatory framework on the fair and equitable allocation of seats determining a women's quota and the elections of candidates from the Somaliland region and allocation of seats to representatives from Banadir. The NIEC is mandated with the implementation of the voter registration modality prescribed in the electoral law. This body has assessed the feasibility of having active biometric registration in time for the 2020/21 parliamentary elections. In their findings, the Commission stated that the elections can only take place using this modality at the earliest in July 2021.

19. Based on the outcome of NIEC's feasibility assessment, that the elections based on direct suffrage would not be concluded in time, the FGS and FMS leaders reached a political agreement on 17 September 2020 to ensure timely parliamentary elections. This agreement was endorsed by the Federal Parliament on 23 September 2020 and sets out the overall modality for the management of indirect elections and also includes a provision for the 30% women's quota. The FGS has announced a timetable for the different stages of the indirect elections, which should culminate into the Presidential elections in February or March 2021.

20. In December 2018, some of the Federal Member States started to pass legislation establishing independent electoral bodies, which are managing FMS elections at the State level. In spite of the progress made by Somalia in this context, facilitating effective public political participation continues to face challenges, mainly due to the fragile security situation in some parts of Somalia and the institutions that are in the process of strengthening their capacities.

## **VI. Justice and prevention of impunity**

### **Reconciliation**

21. With regards to the reconciliation efforts, Somalia recognises the importance of addressing past human rights violations that took place during the civil war and putting in place a redress instrument for survivors. In this context, in February 2019, the President of Somalia publicly acknowledged Somalia's past human rights violations committed by the Somali Government in the 1980s in the northern provinces of Somalia. This demonstrates the FGS' commitment to authentic reconciliation. In addition, the FGS has developed the National Reconciliation Framework (NRF) in March 2019, which has been developed through several National Reconciliation Consultative consultations in 2017. These consultations were organized by the Ministry of Interior, Federal Affairs and Reconciliation. The NRF is a strategic policy describing the requirements to progress a

convincing national reconciliation process in Somalia. Through this process, the FGS will aim to ensure real accountability for the most heinous crimes. Also, the FGS is developing a Somali Amnesty Law to regulate the conduct of amnesties.

## **Somali Penal Code**

22. The Somali Penal Code, which has been under review in the past five years, was first approved by Legislative Decree No. 5 on 16 December 1962, and came into force on April 2, 1964. The review process has resulted in an amended draft of the Code. This amended draft code is aimed to include fundamental principles on the protection of individual liberty as protected in the Universal Declaration of Human Rights. Once finalized, the new penal code will be in line with international standards, protect fundamental rights and include provisions to combat all forms of crimes, especially against vulnerable groups, such as children, minorities and displaced persons. Moreover, the current Somalia Penal Code stipulates that cases governed by more than one criminal legislation, that the special legislation supersedes the general one, and that the Penal Code shall nevertheless apply to cases governed by other special legislation, unless the latter specifies otherwise. Therefore, the draft laws developed by the MoWHRD, such as the Sexual Offences Bill, the Child Rights Bill, the Anti-FGM Bill and the Disability Rights Bill, will provide significant (additional) legal protection as special legislation taking precedence over the articles of the Somali Penal Code.

## **Sexual offences**

23. In 2017, the Somali Office of the Attorney General (AG) established a Sexual and Gender-Based Violence unit, with trained special prosecutors, half of which are women. The AG's office is working to expand the SGBV unit and build better case monitoring systems. Also, the AG's office is combatting traditional settlements of criminal cases between police, perpetrators and victim's family (often represented by elder). Considering the existing gaps between traditional justice mechanisms and the formal justice system, efforts have been made to raise awareness among traditional elders on women's rights at the FGS and FMS level.

24. To supplement the provisions of the new Penal Code, especially on sexual crimes, the MoWHRD has, following wide consultations with stakeholders, developed a Sexual Offences Bill (SOB), which is intended to address sexual crimes, improve SGBV victims' access to justice and ensure perpetrators do not enjoy impunity. Once the drafting of the new Penal Code is concluded, the MoWHRD will conduct the human rights review of the code. The draft of the new Penal Code is expected to be ready by 2022.

## **Reform of justice institutions**

25. Further, a significant impediment to the protection of human rights has been the limited institutional capacity of the judiciary, which continues to impact the delivery and access to justice. The FGS, conscious of this challenge, has gradually reformed the formal justice institutions and prioritized the strengthening of the capacity of the judiciary officials. In 2017, the Ministry of Justice launched a wide-ranging national programme to train over 350 judicial officers throughout Somalia, which supported the capacity enhancement of these officers. The training benefited judges, prosecutors, and registrars. Also, the training covered priority areas, including court management and leadership; civil trial procedure; criminal trial procedures; general principles of the Somali criminal law; and rights of the accused and the victims, improving the capacity and skills of the participants, to the benefit of their daily work.

26. The FGS has managed to decrease the number of civilian criminal cases adjudicated in the military courts, following efforts to reform and strengthen the justice system, which ensured that cases are categorized and tried in their appropriate jurisdictions. The FGS has opened a new facility, the Mogadishu Prison and Courts Complex, which was operational

from early 2019. This facility houses judges, prosecutors and prison accommodation. It is better equipped to deal with high security cases.

### **Legal aid**

27. The current Somali Criminal Procedure Code requires under article 15 the right to free legal counsel. Further, the Somali Provisional Constitution under article 34(4) states that the “state shall provide free legal defence to people who do not have the means of doing so themselves”. The constitutional right to legal aid is also guaranteed to every child who “might suffer otherwise from injustice”, as stated in article 29(5) Somali Provisional Constitution, and to every arrested or detained person who cannot afford legal counsel, which is the majority in Somalia. In this context, the Somali Ministry of Justice (MoJ) has developed the National Legal Aid Policy, which was endorsed by the Council of Ministers in June 2016. The policy promotes a mixed model where legal aid is provided by Civil Society Organizations, pro bono law firms and paralegals. The Somalia legal aid policy is aimed at addressing prolonged lack of access to justice for the most vulnerable and justice inequalities that have existed for the past three decades, while facilitating and enhancing the active participation of governmental agencies and civil society organizations, especially those providing legal aid. Furthermore, the MoJ has initiated the implementation process of the Legal Aid Policy and the opening of legal aid clinics in all the regions of Somalia. This will complement other strategies such as mobile courts that are active in different FMS and is in line with the Governments’ justice reform priorities under the National Development Plan 2020-2024.

### **Addressing piracy**

28. The Ministry of Justice also developed the National Piracy and Kidnapping Bill. This legislation criminalizes the act of piracy and kidnapping committed by Somali pirates, it also guarantees the administration of justice in these cases and the fundamental right of due process for piracy suspects. The preparation of the Bill was done through inclusive public consultation prior to its being presented to the Council of Ministers. The Council of Ministers is due to table this bill for discussion, adoption and onward transmission to Parliament by mid-2021.

### **Freedom of expression**

29. The Government has taken steps to gradually improve the legal framework governing the right of freedom of expression. The relevant legislation includes the National Communications law, Law No. 5 of 2 October 2017 and the National Media amendment law of August 2020. The National Communications Law provides the regulatory framework for access to voice, broadband and postal communication in the country without causing infringement on the fundamental rights to freedom of express, information and privacy. The Government has considered the feedback on improving the Federal Media Law, Law No. 11 of 9 January 2016, through extensive dialogue with journalists, media workers and freedom of expression civil society organizations. The amendment of the Media law was the outcome of a wide-ranging constructive consultative process and advocacy involving a variety of stakeholders. The revised law provides for a Press Council tasked with developing ethical standards and processing and conducting disciplinary action. It also prohibits public broadcast monopoly and establishes a Government Communication Centre to provide access to information relating to the government.

30. The FGS is determined to address the challenge of targeting of journalists and other human rights defenders by terrorists or criminal elements and considers this as a serious matter to be addressed. As such the Somali Ministry of Information (MoI) has engaged the AG’s office to establish a cooperation regarding detained human rights defenders and journalists; this engagement will allow rapid action to be taken in cases where a journalist is (arbitrarily) detained because of their work. Also, the MoI is planning to draft a policy to address attacks on and arbitrary detention of journalists. Some FMS have avowed their

commitment to enforce Article 20 of Somali Provisional Constitution, which safeguards the right to freedom of expression. The Government is working to enhance the identification and reporting of violations, including training of Journalists on human rights-based reporting which began in June 2018.

### **National Human Rights Commission**

31. With regards to the National Human Rights Commission (Commission), the law establishing the Commission was enacted in June 2016. The MoWHRD had led the implementation of an extensive selection process, in line with the National Human Rights Establishment Law. This process was concluded in December 2017, with the selection of nine candidate commissioners recommended to the Council of Ministers for consideration. As part of the preparations to operationalise the commission, the MoWHRD, with support from UNSOM/OHCHR, UNDP and UNICEF, included support to the human rights commission in the Somalia Joint Programme on Human Rights (JPHR) which started to be implemented in 2018.

### **Somalia Joint Programme on Human Rights**

32. The JPHR, a six-million-dollar human rights programme, has a significant output and budget to implement and advance the different human rights priorities of Somalia, and the main aim of this programme is to strengthen the human rights promotion and protection framework through the implementation of Somalia's commitments on human rights and the National Development Plan (NDP) priorities, the Universal Periodic Review and the Human Rights Roadmap, the Action Plan on CAAC, ensuring that human rights are central to the security architecture. Also, the JPHR includes capacity building on human rights for civil servants, workers in the legal sector and those working in the area of human rights generally across Somalia. As the first phase of the JPHR will be concluded in the first quarter of 2021, a second phase of the JPHR has been conceptualised and is expected to commence by April 2021. It will build on the achievements so far made and consolidate the gains made in advancing human rights in Somalia.

### **FGS and FMS cooperation**

33. The Federal Government of Somalia, in close cooperation with the Federal Member States, has facilitated numerous platforms to encourage and enable dialogue on a wide range of thematic areas in the development and security sectors, inter-FMS cooperation, the federalization process, and military integration of the FMS led regional military. Also, in the area of education there has been a more cohesive policy that is being implemented to ensure that the quality of education is equally strengthened throughout the country. The FGS and FMS have initiated discussions with AMISOM to examine ways to collaborate on the protection of human rights generally and during military operations.

## **VII. International humanitarian affairs, peace and security**

### **Human rights legislation**

34. Furthermore, the FGS has developed legislations to reinforce human rights protection. These include the draft legislation on Anti-Female Genital Mutilation Bill (FGM), Sexual Offences Bill, Child Rights Bill, Juvenile Justice Bill, Education Law, and the National Disability Rights Law, which will domesticate Somalia's obligations under the international instruments it has ratified. In this context, the implementation of policies and legislations are delayed by the challenges that are inherent to Somalia being a country emerging from conflict with cross-cutting reform priorities that build on the promotion of an inclusive environment.

35. The Somalia Ministry of Internal Security (MoIS) and the Ministry of Defence (MoD) have been providing International Humanitarian Law (IHL) and human rights training to security forces. Also, the Somali National Army and the Somali Police Force have been receiving training from donor countries and AMISOM in the framework of the Joint Operations against Al Shabab. Moreover, the MoJ, together with MoIS and MoD, have conducted ministerial investigations into violations by security forces through ad hoc inquiries established to address concerns of violations. The FGS is planning to increase the ministerial investigations into serious crimes conducted by security forces.

### **National Citizenship Bill**

36. The Somali Ministry of Interior has developed the amended Somali Citizenship Bill, which was originally enacted in 1962. The amended bill is currently at the level of Council of Ministers, where it will be tabled for discussed and endorsement. A significantly positive amendment in the draft Bill is the safeguard for equal nationality rights for Somali women.

### **National Disability Agency**

37. Also, on 31 December 2018, the President of Somalia has signed the Disability Agency Bill into law, which was signed into law. In January 2021, the Council of Ministers have approved the five (5) proposed commissioners to lead this agency. It is important to note that three out of the five commissioners are women. In addition to the Disability Agency Law, the MoWHRD, during the writing of this report, is conducting the final rounds of consultations in the development process of the National Disability Rights Bill, which will address numerous of the challenges faced by persons with disabilities in the enjoyment of their rights.

### **Anti-Terrorism Bill**

38. Moreover, the MoIS has developed a National Anti-Terrorism Law with provisions to legitimately combat terrorist acts and to legally check the power of security agencies. This draft bill has been subject to several amendments to ensure compliance with international human rights standards. The Council of Ministers endorsed this bill in 2017. In 2019, the Federal Parliament, after the first reading, returned the bill to the Government, where it is under review. The review process will take consider the concerns raised by Parliament, including the definition of terrorism, terrorism finance and terrorism training. Moreover, the MoWHRD has provided substantial technical human rights input to the anti-terrorism legislations to ensure its compliance with human rights standards and principles. It is expected that these will be considered in the final draft. The MoWHRD will engage the MoIS to review this law and to ensure that its human rights compliant. Also, legislation combatting money laundering has been developed and adopted for implementation.

### **Economic recovery and poverty reduction**

39. The FGS' Ministry of Planning, Investment and Economic Development has developed the Somalia Recovery and Resilience Framework (RRF), which supports the country's progress from drought recovery, disaster preparedness to longer-term sustainable resilience. This national framework is envisioned to allow Somalia to break the cycle of humanitarian crisis to which it has been subject for three decades now. Moreover, the FGS together with the Federal Member States has developed a comprehensive strategy to address the risk of famine and drought, among which the Drought Impact Needs Assessment (DINA), a programme to identify, prioritize and address the needs caused by drought. In addition, the Ministry of Agriculture has established different programmes to sustainably support small farmers and agricultural businesses to produce enough food to achieve sustainable food security.

40. In the context of Somalia's economic recovery, the Federal Government reached the decision point under the Highly Indebted Poor Countries Initiative (HIPC) in March 2020. This was a culmination of spirited advocacy by the Federal Government to secure debt relief to enable it to focus on key reforms and reconstruction of the country. The Federal Government is determined to leverage the opportunities afforded by the HIPC initiative to advance key reforms including in the security sector and also strengthen protection of human rights in the country.

### **Internally displaced persons**

41. The issue of forced evictions has been a challenge for Somalia. The land occupied by Internally Displaced Persons (IDPs) the property of private citizens and public institutions. The FGS has been working on a system, within the framework of transitional justice and land policy reforms, to sustainably tackle the IDPs and eviction issue. The FGS has developed the National Evictions Guidelines to proscribe forced evictions and sets out protections and procedures to follow prior to evictions to ensure that the rights, including the right to adequate housing of people are protected. The Banadir Regional Administrations' Durable Solutions Unit has conducted the first comprehensive forced evictions' risk assessment in Mogadishu. This Unit has successfully prevented the forced eviction of 8000 households and 58 settlements of IDPs.

## **VIII. Women's rights and women protection**

### **Ending sexual violence in conflict**

42. The MoWHRD convened a consultative forum to review Somalia's National Action Plan on Ending Sexual Violence. In 2017 the first meeting of the National Gender Based Violence Cluster Group for Somalia chaired by the FGS was held in Mogadishu. In addition, access to justice has increased through the use of legal aid providers and mobile courts which have benefitted SGBV survivors and to address impunity. The MoWHRD and MoJ advocated for the complete transfer of SGBV cases from the customary justice system to the formal justice system and commenced a capacity building programme for specialized sexual violence prosecutors throughout Somalia. Efforts to strengthen the provision of services to survivors of conflict related sexual violence included the establishment of the first forensic laboratory for analysis and evidence gathering in SGBV cases.

43. The signing of a Joint Communiqué by the FGS and the UN on the commitment to end sexual violence in conflict demonstrates Somalia's political will to the United Nation's Security Council Resolution 1325. In this context, the MoWHRD has initiated the development of an implementation plan for the National Action Plan on Ending Sexual Violence in Conflict. This is an overarching plan aimed to introduce measures to mitigate sexual violence in the conflict context of Somalia, with a special focus on vulnerable groups for sexual violence, such as internally displaced persons. The JPHR is one of the programmes that is taking forward the implementation of the National Action Plan to End Sexual Violence in Conflict. Also, the MoWHRD, together with FMS and CSO stakeholders, have conducted a joint review of the National Action Plan in 2017.

### **Somali Women Charter**

44. On 4 – 6 March 2019, Somalia organized one of the largest women gatherings in the Somali Women's Convention, which brought together over 350 women and girls, from Federal Member States, Civil Society Organizations and other stakeholders. The convention was a culmination of a rigorous and inclusive consultative process over several months led by the MoWHRD and the steering committee comprised of women with different backgrounds and from the different FMSs. The main aim of this convention was to deliberate and identify key obstacles faced by women in their participation in public affairs and how these obstacles could be overcome.

45. The outcome of the convention was the first-ever Somali Women's Charter, which codifies the demands of the Somali women in areas such as the constitution, addressing sexual violence, access to justice, female genital mutilation and women's political and governance participation at all levels of government. The Charter is ground-breaking in its reach, scope, inclusivity and ambition. It called for sustained advocacy and engagement on the obstacles facing women noting that the issues raised by women in the forum needed to be anchored in laws including the constitution that is currently under review. Somalia first unveiled the Charter during the 63rd Session of the Commission on the Status of Women held in New York in March 2019, highlighting the commitment of the Government to the implementation of the Charter. The Charter's outcome continues to influence the campaign for the participation of women in public affairs including the current electoral process.

### **National Gender Policy**

46. Furthermore, Somalia has reviewed the National Gender Policy (NGP) in order to align this policy to the National Development Plan-9 (NDP-9 / 2020 - 2025) as well as the Somali Women's Charter. This policy will provide substantial support to the platform for the promotion of equal rights in Somalia for men and women. The NGP was developed through a series of inclusive consultations with all the relevant stakeholders, such as women groups, youth, civil society organizations, traditional elders and local community leaders. In addition, the NGP creates an effective and actionable roadmap on addressing gender equality and women's empowerment. The key components of the NGP are anchored across the national processes focused on areas such as humanitarian affairs resilience and recovery. The NGP establishes the mainstreaming of gender equality priorities into the NDP-9 and advancement of civic social, economic, political, legal and socio-cultural circumstances of the different vulnerable groups and marginalized communities across Somalia.

## **IX. Child rights and child protection**

### **Recruitment and use of child soldiers**

47. Somalia has made substantial progress in addressing the recruitment of child soldiers. The FGS has put in place vetting mechanisms through the National Intelligence and Security Agency (NISA) for children that escaped terrorist captivity. The Ministry of Defence (MoD) has continued the implementation of the national action plan on the recruitment and use of children and the action plan on killing and maiming of children in armed conflict. The MoD has developed a comprehensive and effective vetting mechanism to ensure that individuals responsible for serious crimes are not allowed to enter or remain in the Somali security forces. Moreover, the FGS has supported the establishment of four committees to coordinate policies relating to children; domestication and implementation of the CRC; and coordination of various child rights NGOs. The MoWHRD is working with the different stakeholders to harmonize the committees to enhance effectiveness.

48. The FGS has established a programme aimed at handling of disengaged terrorist fighters, including former child soldiers. This programme is jointly managed and facilitated by the Government and international partners and is aimed at facilitating the reception and screening of the former child soldiers, reintegration of the former child soldiers into the communities and conducting continuous social outreach. Within this programme, the FGS has established several reintegration and rehabilitation centres throughout Somalia. Every year terrorist groups manage to recruit a significant number of children to become child soldiers, notwithstanding the government efforts to prevent children from being recruited and taken away from their families and communities. The FGS' Ministry of Internal Security has held roundtable technical meetings to review security procedures related to the screening of former child soldiers.

49. The FGS's Ministry of Women and Human Rights Development, in cooperation with the Ministry of Defence has worked on establishing a policy framework to support the reintegration and protection of child soldiers. This is done in parallel with policies linked to ensuring that children are not part of the Somali National Forces or the FMS forces. In this context, the FGS is implementing a biometric and verification registration programme to support the national army in their endeavour to prevent the recruitment of children. A Standard Operating Procedure has been developed in this regard. Community leaders and clan elders have been engaged in the vetting process to assure/vouch that the recruits are not persons that have committed serious crimes in the past.

### **Six grave violations against children**

50. Furthermore, the Somalia National Army Commander issued a Command Order prohibiting the six grave violations against children during military operations, including recruitment, association and use of persons under the age of 18. In addition, in October 2019, the FGS has put in place a plan to accelerate the implementation of the national action plan to end and prevent the recruitment and use of children in the army and an Action Plan to stop the killing and maiming of children. The Ministry of Internal Security is committed to vet, screen and identify all children that were previously associated with armed groups and to initiate their reintegration. These children as designated as survivors and victims and are, therefore, not prosecuted by the Attorney General.

### **Domestication of the Convention on the Rights of the Child**

51. Somalia is in the process to roll-out the CRC implementation plan developed by the MoWHRD, in coordination with the FMS and other key stakeholders. This comes after Somalia has submitted the CRC initial State Party report in September 2019 and responded comprehensively to the CRC List of Issues from the CRC Committee on February 2020. To ensure effective domestication of the CRC in Somalia, the MoWHRD has developed the Child Rights Bill to strengthen the existing national child protection frameworks. Somalia has signed the CRC's Optional Protocol on the involvement of Children in Armed Conflict and there is national dialogue taking place, during the writing of this report, discussing the ratification of this important international human rights instrument. In addition, the FGS is working on the implementation of the Children and Armed Conflict (CAAC) action plan, supported by the relevant line ministries, such as MoD and MoWHRD, but also the FMS institutions.

### **Social protection**

52. The Somali Ministry of Labour and Social Affairs has developed the first-ever National Social Protection Policy, which was presented in March 2019. Somalia's social protection framework is aimed at mitigating vulnerability, enhance alignment of humanitarian and developmental priorities, and addressing the reliance on humanitarian aid. This is a top priority for Somalia, considering the recurrent nature of natural disasters impacting the different Somali communities. This will also enable Somalis to become more resilient and be able to mitigate disasters and pursue poverty reduction. Furthermore, this policy will facilitate improved access to social services and assistance through initiatives that service the most vulnerable communities, including women, children, persons with disabilities, Internally Displaced Persons, the elderly and other vulnerable groups.

53. The MoWHRD, in partnership with Somali universities and UNICEF, has established a Social Work degree programme in 2020 to mitigate the impact of COVID-19 on children and their families in Somalia. The aim of this programme is to bolster government and CSO partners' capacity, through seconding advanced social work students, in their response to Child Protection and Gender-Based Violence related issues. The COVID-19 specific programme focuses on building capacities and capabilities of the Social Worker students to detect and contain the spread of COVID-19 promptly. The primary interventions of this programme are, among others, (i) awareness-raising, prevention &

mitigation activities on COVID-19, (ii) mitigating and responding to child protection and SGBV risks emerging as a consequence of a potential COVID-19 epidemic in Somalia, (iii) behavioral change at the community level, which will then lead to containing the increase in the numbers of COVID-19 infected persons, and (iv) registering a decrease in the number of SGBV and Child Protection related cases and an increase in the referral of cases to the appropriate institutions.

### **Birth registration**

54. Somalia's legal framework for the establishment of a birth registration system will be included in the Child Rights Bill, that is currently being discussed with different stakeholders. The Government authorities in charge of birth registration, as per Article 12 Child Rights Bill, are the Health Office in the district where the child is born, the City Council's Health Office or the Mayor's office of the small town or village without a Government Health Office. This system is envisioned to be decentralized, and registration of birth is mandatory within 30 days from the day of the birth of the child.

### **Street children**

55. The Ministry of Women and Human Rights Development has conducted a Rapid Assessment of the Status of Children with Disabilities in Somalia. This assessment reviews the current situation of children with disabilities in the four cities of Mogadishu, Galkayo, Baidoa, and Kismayo in Somalia. In conducting this assessment, the Ministry sought to understand the key barriers to the participation of children with disabilities in society, including their access to the services they are entitled to enjoy. In addition, this assessment sought to understand the prevalence of disability through anecdotal discussions. The children that took part in this assessment provided various reasons to explain why they ended-up living on the streets. This enables the Somali Government to design appropriate policies and subsequent programming that addresses prevention and mitigation of this issue. One of the key recommendations of this assessment report is to develop a policy framework to allow for appropriate and contextual programmatic responses as well as an intense and sustained engagement with the children, authorities, communities and parents/guardians.

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