



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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**Committee against Torture**

**Initial report submitted by Somalia under article  
19 of the Convention pursuant to the simplified  
reporting procedure, due in 1991\***

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

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## List of acronyms

AMISOM	African Union Mission in Somalia
AU	African Union
CAT	UN Convention Against Torture
CEDAW	Convention on the Elimination of Discrimination against Women
DNS	Directorate of Statistics
FGM	Female Genital Mutilation
FGS	Federal Government of Somalia
GBV	Gender Based Violence
ICCPR	International Covenant on Civil and Political Rights
IDLO	International Development Law Organization
MoWHRD	Ministry of Women and Human Rights Development
MPCC	Mogadishu Prison and Court Complex
NAP/SVC	National Action Plan on Ending Sexual Violence in Conflict
NCRI	National Commission for Refugees and Internally Displaced Persons
NHRC	National Human Rights Commission Law
NHRI	National Human Rights Institution
Serendi	Rehabilitation Center
SGBV	Sexual and Gender Based Violence
SOB	Sexual Offences Bill
SPF	Somali Police Force
UDHR	Universal Declaration of Human Rights
UNHRC	United Nations High Commissioner for Refugees
UPR	Universal Periodic Review

## I. Introduction

1. The Federal Republic of Somalia expresses its support to the international human rights system and mechanisms and reaffirms its strong commitment to the protection and promotion of human rights for all Somalis. The Bill of Rights contained in the Somali Provisional Constitution (Constitution), Chapter Two, enshrines fundamental human rights principles, including specific prohibitions against torture and inhuman treatment in Article 15. The Federal Government recognizes the need to continuously improve the capacity of national institutions responsible for the protection and promotion of human rights, and whose work has significant impact on human rights of citizens. These institutions include, but not limited to, the Ministry of Women and Human Rights Development, Ministry of Justice, the Attorney General's Office, the Judiciary, Correctional Services and other security institutions, such as the National Intelligence and Security Agency, Police and the National Army. This has been done by providing an appropriate and conducive environment that enables all persons to enjoy their human rights without impediment and exercise those rights in a manner that encourages the promotion of respect for human dignity.

2. Somalia's two decades of armed conflict, breakdown of State and governance structures, institutions, the rule of law and political instability created a complex political, socio-economic and security environment. The eight-year political transition was concluded on 1st August 2012 with the end of the Transitional Federal Government. The Federal Parliament elected a new President in October 2012. In 2013, the Federal Government of Somalia (FGS) adopted the Vision 2016 document, with the objective of finalizing the constitutional review process, the forming of Federal Member States and to holding elections in 2016. Since 2012, Somalia has made significant progress in rebuilding State and government institutions, including an active and functioning legislature, executive branch and an increasingly improving judiciary. The Federal Parliament has passed several laws, including the Somalia Independent Human Rights Commission Law, Political Parties Law, the National Disability Agency Law and the Media Law. Currently, Parliament is discussing the Sexual Offences Bill that will deal with the challenge of sexual and gender-based violence (SGBV) in Somalia. The Child Rights Bill and the Female Genital Mutilation (FGM) Bill are due to be introduced in Parliament for debate while the process of developing a substantive Disability Law is in progress. The Provisional Federal Constitution and these pieces of legislation, taken together, constitute enabling and facilitative infrastructure for the promotion and protection of human rights in Somalia. Further, they have an interpretative understanding of torture in the context of Somalia, which is in line with the CAT interpretation.

3. The progressive re-establishment of the State with corresponding governance institutions in tandem with the improvement of security has contributed to significant gains in the promotion and protection of human rights. The political and electoral processes initiated in August 2016 led to the democratic transfer of power to the current Federal Government of Somalia in February 2017. This has generated domestic political momentum towards peace and state-building and triggered Somalia's international re-engagement. The FGS is determined to consolidate peace, security and development, which are critical in the promotion and protection of human rights. The FGS has a range of key priorities and has sought to sequence efforts as efficiently as possible: a key priority has been to establish strong citizen responsive and accountable governance structures, including institution-building, legislative frameworks and transparent and accountable financial systems being prioritized. Due to the ongoing threat of Al Shabaab, an acceptable and accountable set of security institutions have been accorded priority support by the international community. These priorities are being underpinned by the human rights approach and compliance with established international norms and standards of security imperatives in conflict and humanitarian situations.

4. The Federal Republic of Somalia is a State Party to six international human rights treaties and conventions, two of which have been ratified in the last four years.<sup>1</sup> In addition, Somalia is also in inclusive and participatory consultations towards the ratification of the Convention on the Elimination of Discrimination against Women (CEDAW). Similarly, the Federal Government continues to take measures to rebuild its security institutions in light of the envisaged transfer of security responsibilities from the African Union Mission in Somalia (AMISOM) forces to Somali security forces within the framework of the National Security Architecture, the Somali Transition Plan and the Comprehensive Approach to Security.

5. The Ministry of Women and Human Rights Development (MOWHRD), established in 2013, is the Federal Government of Somalia's lead entity on human rights. It has initiated a comprehensive process that will see Somalia reduce its backlog of overdue international human rights treaty body reports occasioned by the prolonged civil war in the country. The ministry is also working with other line ministries, including Ministry of Justice and Judiciary Affairs, Ministry of Internal Security, Ministry of Interior, Federal Affairs and Reconciliation, Ministry of Finance, Ministry of Defense, Ministry of Labour and Social Affairs, Ministry of Health and Human Services, Ministry of Education, Culture and Higher Education, Ministry of Constitutional Affairs, Ministry of Planning, Investment and Economic Development and Ministry of Information, Culture and Tourism. They periodically come together under the Human Rights Inter-Ministerial Task Force, to ensure that human rights are mainstreamed in the legislation and policies.

6. The MOWHRD also spearheads the implementation of Somalia's Joint Programme on Human Rights, with support from the UN. An important objective of this Joint Programme is to ensure that Somalia is able to meet its international human rights treaty body reporting obligations and intensify its engagement with the treaty bodies. This is in recognition of the fact that Somalia was unable to meet these obligations in the past two decades due to the internal conflict in the country. Indeed, with the submission of the Convention on the Rights of the Child (CRC) initial State Party report to the Committee on the Rights of the Child on 16 August 2019, Somalia submitted its first treaty body report in 35 years.

7. The foregoing notwithstanding, Somalia has actively engaged with the Human Rights Council's Universal Periodic Review (UPR) process, taking part in all the review cycles since the UPR's establishment in 2006. To this end, in January 2019, Somalia submitted its voluntary UPR mid-term review report updating on the status of the implementation of the second cycle UPR recommendations that Somalia received; demonstrating its commitment to the implementation of the accepted recommendations.<sup>2</sup>

8. The Federal Government has begun the process of establishing the National Human Rights Commission, one of the constitutionally mandated commissions, following the adoption of the 2016 National Human Rights Commission Law. The Commission has a broad mandate, including monitoring of the human rights situation in Somalia; conducting investigations into human rights violations, such as torture, inhuman or degrading treatment and punishment; and is responsible for the provision of advisory services to the government regarding incorporation of human rights in legislation and policies.<sup>3</sup>

9. During the compilation of this report, the Parliamentary Upper House (Senate) Committee on Human Rights conducted several visits to prisons in Somalia to see, first-hand, the conditions of prisons and detainees, demonstrating the enhanced legislative oversight and monitoring role of parliament on human rights issues. The initiative will result in parliamentary committee reports and recommendations that will inform further improvement in correctional facilities' conditions.

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<sup>1</sup> Ratified on 1 October 2015: Convention on the Rights of the Child 2015. Ratified on 6 August 2019: Convention on the Rights of Persons with Disabilities.

<sup>2</sup> Somalia's UPR Second Cycle Mid-Term Report – <https://lib.ohchr.org/HRBodies/UPR/Documents/Session24/SO/Somalia.pdf>.

<sup>3</sup> The status of the establishment process of this institution is explained in the response to the list of issues regarding implementation of article two of the Convention.

## II. Legal status of the Convention Against Torture under the Somali law

10. Somalia has a Council of Ministers as part of the Executive branch headed by a Prime Minister. Article 90, paragraph 1 (q) of the Constitution, mandates the Council of Ministers to propose international treaties to the Federal Parliament's House of the People (Parliament) for their approval. Under the same article of the Constitution, the President of the Federal Republic of Somalia is empowered to ratify international treaties and agreements after they have been adopted by the Council of Ministers and approved by the Parliament.

11. Accordingly, all conventions and treaties that Somalia becomes party to, came into force after their adoption by the Council of Ministers, approval by the Parliament, and ratification by the President. After this, the treaty, convention or agreement is published through a Presidential decree. It is from that moment that Somalia is obligated to apply and enforce the provisions of that treaty, convention or agreement.

12. Specific information on the implementation of articles 1–16 of the Convention – Response to the List of Issues prior to the submission of the initial report

### A. Articles 1 and 4

13. The Federal Republic of Somalia is determined to protect and promote human rights and human dignity. This determination encompasses the genuine desire to prevent and combat all forms of torture. Also, Somalia reaffirms its commitment to the international human rights mechanisms and instruments prohibiting torture of which the Convention Against Torture (CAT) is the principal convention. Other specific provisions against torture include: Article 5 of the Universal Declaration of Human Rights (UDHR) and Article 7 of the International Covenant on Civil and Political Rights (ICCPR) which proscribe torture or subjecting any person to cruel, inhuman or degrading treatment.

14. Somalia is a constitutional democracy whose founding principles are set out and anchored in Article 3 of the Provisional Federal Constitution. Clause (4) of Article 3 of the Constitution states as follows: “The Constitution of the Federal Republic of Somalia promotes human rights, the rule of law, general standards of international law, justice, participatory, consultative and inclusive government, and the separation of powers between the legislature, executive and an independent judiciary, in order to ensure accountability, efficiency and responsiveness to the interests of the people”. Recognition of “general standards of international law” is anchored and elaborated in Article 140 of the Constitution which provides that: “until the treaty imposing a treaty obligation in effect on the date that this Constitution comes into force expires or is amended, that treaty obligations remains in effect”. This means that conventions, such as the Convention Against Torture, are in full effect under the Constitution. However, the provisions of the treaty, convention or international agreement that enter into force must first be incorporated in national law through the development of new, or the amendment of existing laws to ensure these are consistent with the principles of the Constitution.

15. Further, Article 15 (2) of the Constitution's Bill of Rights stipulates that: “Every person has the right to personal security, and this includes: the prohibition of illegal detention, all forms of violence, including any form of violence against women, torture, or inhumane treatment.” Article 15 (4) prohibits traditional practices that amount to torture.<sup>4</sup>

16. These constitutional principles underpin and inform formulation and enactment of all legislation in Somalia. Article 4 (2) on Supremacy of the Constitution provides that: “Any law, or administrative action that is contrary to the Constitution may be invalidated by the Constitutional Court, which has the authority to do so in accordance with this

<sup>4</sup> In addition to general protection of human dignity under Article 10 among others, prohibitions of torture, inhuman and degrading treatment are stipulated under Article 15 (2) and (4) of the Provisional constitution.

Constitution.” Thus, any law that goes against these constitutional principles can be declared null and void. Somalia is currently in the process of reviewing all legislation enacted before the coming into force of the Provisional Federal Constitution so as to align them with the Constitution and relevant regional and international human rights laws to which Somalia is a State party, including CAT.

17. An important piece of legislation, which is currently in review, is the 1962 Somali Penal Code (Legislative Decree No. 5), which does not include a definition of torture. The Government is expecting to finalize a comprehensive review of the Somali Penal Code in 2020, which will include several definitions, among them the definition of torture consistent with the Convention. New progressive pieces of legislation, which are consistent with CAT, are also *being* developed. To this end, the Council of Ministers, through the Ministry of Women and Human Rights Development, submitted the Sexual Offences Bill (SOB) to Parliament in June 2018 and is awaiting its first reading. The SOB is developed to complement the Somali Penal Code that, in some areas, lacks provisions addressing sexual based violence. This Draft Bill defines torture as:

“[...] any act of unlawfully inflicting severe mental, emotional, or physical pain or suffering on a person as a means of intimidation, control, coercion, or punishment for any reason based on discrimination of any kind; or for the purpose of obtaining information or a confession during an interrogation or investigation. Torture also means the use of methods to obliterate the victim’s personality or to diminish their physical or mental capacities, even if this does not cause the victim mental pain or anguish.”

## **B. Article 2**

18. The Constitution provides for legal safeguards for suspects and detainees that can be invoked on the outset of the deprivation of their liberty. With regards to a detainee having a fair public hearing and for their case to be (timely) brought before a competent judge, Article 34 (2) of the Constitution stipulates: “Every person has the right to a fair public hearing by an independent and impartial court or tribunal, to be held within a reasonable time, and to determine: (a) Any question of civil rights and obligations; or (b) Any criminal charge.”

19. On the right to legal defence of a suspect and/or detainee and the right to free legal aid, paragraph three and four of the same article states: “(3) Every person is entitled to defend him or herself from the case he or she is party to, whatever the level or stage of the proceedings may be. (4) The state shall provide free legal defence to the people who do not have the means of doing so themselves. “The most recent data from 2017 from the Ministry of Justice shows that the provision of legal aid services significantly increased from 2,199 clients in 2016 to 22,391 in 2017. An important challenge in this context is the capacity limitations of judges, lawyers and paralegals, which the Ministry of Justice is addressing through training and capacity building.

20. The Federal Government of Somalia has taken deliberate steps to ensure that cases brought before courts proceed efficiently and in a timely manner. As such, the first phase of the implementation of the Case Management System in Somali Courts has improved case handling, record keeping, control over movement of case files and accelerated the process based on good practices. For example, the introduction of the case management system in regions such as the Federal Member State of Puntland is a positive sign for the expansion and roll out of the system to district courts. Data show that in the Federal Member state of Puntland between January and March 2017, two courts in Gardo and Garowe registered 86 new cases (59 criminal, 27 civil), 63 cases registered at first instance court and 23 in the appeal court. This data is only for two regions, Nugaal and Karkaar, where the case management is active.

21. There is no centralized detention and prison registers in Somalia. Instead, this is mostly organized at prison, district or city level. However, the Federal Government of Somalia, with the Custodial Corps as the lead institution, is working on establishing a

centralized detention and prison data management facility to ensure these data are properly managed and kept up to date.

22. The establishment of a National Human Rights Institution (NHRI) in Somalia is provided for in the Constitution. Article 41 (1), which states that: “*The Federal Parliament shall establish a Human Rights Commission that is independent of government control and has adequate resources to carry out its functions effectively*”, meaning that the NHRI envisaged by the Constitution has to meet the international standards, especially the Paris Principles of NHRIs. Somalia’s first and second cycle Universal Periodic Review (UPR) recommendations and related commitments as well as the National Human Rights Roadmap and the National Development Plan identified the independent NHRI establishment as a major priority.

23. As a result, the National Human Rights Commission Law (NHRC Law) was one of the pieces of legislation prioritized by the first Federal Government after the transition and was adopted in August 2016. Its enactment enabled the process of establishing the Human Rights Commission in line with the procedures set out in the NHRC law. This legislation provides timelines and defines the qualifications of members, requirements to advertise vacancies transparently, and the mode of appointment through a special inclusive selection panel. During the selection process, adherence to these provisions was key in ensuring an independent, credible and effective Human Rights Commission for Somalia. Considering the NHRI’s mandate and role in the protection and promotion of human rights, the establishment of this institution is a vital national endeavor for Somalia. At present, the list of nominee commissioners is before Cabinet for consideration before the end of 2019.

24. In Somalia, military courts have the power to try civilians, especially in terrorism related cases, such as suspects charged with conducting terrorist attacks or targeted killings. However, the Government of Somalia emphasizes that this only takes place in certain special cases, where concerns regarding national security, and the safety and security of judges and prosecutors outweigh the principle of trying civilians in civilian courts. The decision to try some civilian cases in military courts was taken after the coordinated and complex attack on the Banadir Regional Court on 15 May 2013. Moreover, the Government of Somalia has made sure that in cases where military courts are trying civilians, due process safeguards must be strictly adhered to. Since 2017, training for 50 military judges on due process rights has been conducted in Benadir Region, Federal Member States of Puntland and Jubaland. Furthermore, to ensure that future civilian cases are transferred from military to civilian courts, the Federal Government of Somalia inaugurated the new Mogadishu Prison and Court Complex (MPCC) on 23rd February 2019. The Chief Justice of the Supreme Court and the Chief Judge of the Military Court agreed on a gradual transfer of cases to civilian courts, starting with cases involving civilians and members of the security forces. This newly built complex, with high level security and facilities, will provide the judiciary with essential infrastructure to try criminal cases in a safe and secure location for court officials, prosecutors, prison staff as well as suspects and the general public visiting the courts.

25. Somalia adopted the National Action Plan on Ending Sexual Violence in Conflict (NAP/SVC) in 2014 through the signing of a Joint Communiqué by the FGS and the UN in May 2013. The NAP/SVC enables the FGS to use a comprehensive multi-sectoral approach towards the elimination of sexual violence in Somalia and fostering an environment of zero tolerance for gender-based violence (GBV). After three years of implementation, which has delivered on capacity building of relevant stakeholders, such as line ministries, judiciary and health workers, the Action Plan was reviewed to take stock of what has been implemented, identify the gaps and the way forward. The implementation of the NAP/SVC continued in 2019 under the Somalia Human Rights Joint Programme, which allowed for a comprehensive capacity building and mapping of services and resource for survivors of GBV in Somalia. In addition, the MoWHRD organized and guided the first National Women’s Convention in Mogadishu in March 2019. The Convention produced the Somali Women’s Charter that strongly emphasized the demand on the Government to increase the efforts to end sexual violence in Somalia. The minister in charge of the MoWHRD reiterated this commitment of the FGS at the “Oslo Conference on Ending Sexual and

Gender-based Violence in Humanitarian Crises” in May 2019 through the establishment of comprehensive legislation and policies.

26. The Somali Government extended an invitation to the United Nations Secretary General’s Special Representative on Sexual Violence in Conflict (SRSG SVC), Pramila Patten, who undertook a mission to Somalia in July 2019. The minister in charge of the MoWHRD, Ms. Deqa Yasin briefed the SRSG SVC on the positive steps taken by Somalia to strengthen the compliance and accountability of its security institutions through internal oversight and development of legal frameworks, such as the Sexual Offenses Bill and the Child Rights Bill, as well as the efforts under the National Action Plan on Ending Sexual Violence in Conflict (NAP/SVC).

27. In September 2014, Human Rights Watch published a report containing allegations of sexual exploitation and abuse by African Union Mission to Somalia (AMISOM) personnel. Following this report and earlier engagements by the Federal Government of Somalia and the United Nations, the African Union (AU) initiated an investigation and released its findings and recommendations on 21st April 2015. According to the AU report’s findings, the absence of a complaints mechanism for survivors within AMISOM and lack of military police capacity were identified as challenges in handling cases of sexual violence. The Federal Government of Somalia takes all sexual violence and abuse cases, regardless whether its committed by AMISOM or other entities, both foreign or national, very seriously and continues to strengthen the capacity of government institutions that are mandated to address such heinous acts.

28. With regard to harmful traditional practices, Somalia’s Attorney General announced on 25th July 2018 the first ever possible prosecution against female genital mutilation (FGM). By the time of writing this report, the investigation into the case had not yet reach the prosecution stage. To increase the number of prosecutions of the harmful FGM practice, the Federal Government, led by the Ministry of Women and Human Rights Development, is currently developing a Female Genital Mutilation Bill that will criminalize FGM in Somalia and ensure that perpetrators do not enjoy impunity, effectively safeguarding women and girls in Somalia from FGM. This bill will be discussed at Cabinet level before the end of 2019, where it is expected to be endorsed and forwarded to Parliament. Apart from developing curriculum content for schools that condemns FGM, the Ministry is working with communities to come up with home grown solutions for FGM that are palatable to all stakeholders.

### **C. Article 3**

29. The Federal Government of Somalia is currently conducting consultations on the draft National Policy on Refugee-Returnees and Internally Displaced Persons. The main objective of this policy is to ensure that all refugee-returnees and internally displaced persons in Somalia are supported adequately and are able to fully enjoy their human rights. This policy outlines the guiding principles, roles and responsibilities of government institutions, international agencies, and civil society organizations assisting refugee-returnees and internally displaced persons in Somalia.

30. To coordinate the government work around refugees and internally displaced persons, the President of Somalia established the National Commission for Refugees and Internally Displaced Persons (NCRI) in accordance with Article 111 of the Constitution and under the policy directive of the Ministry of Interior. The NCRI is, among other things, mandated to work with refugees coming to Somalia, who require support to return to their countries of origin, if that is possible, and without danger for their lives or family’s lives. The NCRI works closely with international agencies, such as United Nations High Commissioner for Refugees (UNHRC), to put procedures in place for refugees and asylum seekers.

31. With regard to statistics, the structures that the NCRI is building are still in the development phase. There are limited data available regarding the scale of the refugees within Somalia’s borders or the number of applications received by Somalia. Nevertheless, the latest known figures from the NCRI (annual report 2015) indicate that Somalia



managed to grant at least 4,314 Yemenis with *prima facie* status since 27th March 2015. An important bill, currently undergoing the first reading in the Parliament's House of the People, is the National Statistics Bill, which will set-up a legal framework allowing for improved data collection and the development of statistics in Somalia.

32. The principle of non-refoulement is enshrined in the Constitution. Article 37 (1) of the Constitution stipulates that: "Every person who has sought refuge in the Federal Republic of Somalia has the right not to be returned or taken to any country in which that person has a well-founded fear of persecution." Paragraph 2 of the same article states: "The Federal Parliament shall enact legislation in compliance with international law, regulating refugees and asylum seekers."

33. Reciprocity is invocable by a declaration promising to the other country willingness to consider future extradition requests, despite the absence of any international agreement. However, the promise of the Somali authorities would not be accepted by the other country as Somalia is still in the process of putting up legal infrastructure to implement such an agreement.

34. In the case of dual criminality, the offence for which extradition is being requested shall be a crime both under the law of Somalia as the requesting country and the requested country. Somali domestic law requires the same; otherwise, no extradition is possible. As per Article 11.2 (b) of the Constitution, "Extradition shall not be granted unless the act committed is a criminal offence under Somali law and the foreign law".

#### **D. Article 5–9**

35. It is important to note that during the writing of this report, Somalia was not a party to any extradition agreements. The guiding rules for extradition in Somalia are stipulated under the Article 275 (1) and Articles 278–280 of the Somali Criminal Procedure Code. The Somali international extraditions consist of the extradition agreements signed by Somalia. An example of such an international agreement is the Riyadh Arab Agreement for Judicial Cooperation (the Riyadh Convention), which was ratified by the Democratic Republic of Somalia on 21st October 1985.

36. The law in Somalia only allows treaty-based extradition as per the Articles 36 (2) and Article 11.1 (b) of the Constitution which state that a fugitive "may be extradited ... on the basis of an international treaty or convention, which the Federal Republic of Somalia is a party to". The rules and principles stated in such agreements take precedence over Somali extradition law. Somali extradition law only applies in such agreements unless specific rules and principles are stipulated in the agreements.

37. Somalia's Criminal Procedure Code does not outline the legal prerequisites for extradition. Therefore, treaty-based extradition by Somalia would not be possible in the situation that the requesting country and Somalia are parties to a convention which allows extradition but refers to the matter of the pre-requisites regarding the requesting country's law. In the Somalia context, the two common conditions that are considered in an extradition is the relations between the two countries and the principles of dual criminality. Regarding the relationship of the two countries, Somalia would consider an incoming extradition request only if it has an extradition agreement with the requesting country; the agreement may regulate extradition and other related issues.

38. Although as a civil law country, Somalia does not recognize any extra-agreement condition for extradition, including reciprocity. Somalia, having almost no extradition agreements with other countries, can extradite only from those very few countries, such as Portugal and Romania, which do not require reciprocity as a condition to consider incoming extradition requests. Nevertheless, in turn, Somalia cannot extradite even to these countries as it has no treaty on extradition with any of them.

39. In the case of Dual Criminality, the offence for which extradition is being requested shall be a crime both under the law of Somalia as the requesting country and the requested country. Somali domestic law requires the same; otherwise, no extradition is possible. As

per Article 11.2 (b) of the Constitution, “Extradition shall not be granted unless the act ... is a criminal offence under Somali law and the foreign law”.

## **E. Article 10**

40. The Somali Police Force (SPF) personnel and custodial corps, as well as the Somali National Army Forces and other security sector officials involved in the custody or treatment of detained persons, receive regular human rights training. In this context, the officers of the SPF receive a three-months basic recruit training. Module 35 of this training is on “International Rule of Law and Human Rights in Policing”. A component in this module is the training on the “United Nations Universal Declaration on Human Rights 1948” and the “Cairo Declaration on Human Rights in Islam from 1990”. This training programme, which includes the required information regarding the provisions of the Convention Against Torture, is organized by several government institutions, such as the Ministry of Women and Human Rights Development, Ministry of Defense, Ministry of Internal Security and Ministry of Justice. The following are some of the objectives of the training programmes:

41. Promote increased awareness on human rights principles and achieve a significant decrease in torture cases;

42. Emphasize the importance of accountability and investigation of torture cases to ensure survivors are adequately compensated and perpetrators are punished. Achieve improved monitoring and reporting of such cases throughout Somalia;

43. Teach law enforcement personnel about international best practices on how to establish a working environment conducive to the prevention of torture and harnessing a culture of accountability.

44. Moreover, a pocket handbook was drafted and endorsed by the SPF Commissioner. This booklet is to be given to every SPF officer, to serve as guidelines for the performance of their police duties in accordance with international standards, and to understand the basic human rights principles for effective service delivery. The booklet is mentioned as a guideline of the SPF in observing and promoting fundamental human rights for citizens. In the chapters on police investigations, arrest and detentions, it is clearly described how police officers should investigate and treat any suspect as an innocent person, respectfully and professionally and to keep a detailed record of all interviews conducted. Furthermore, it is mentioned that torture and other inhumane or degrading treatment is absolutely prohibited. Specifically, in the chapter of detention, it is stated that all detainees shall be kept in only recognized detention facilities and there should be separate cells for juvenile, women and men.

45. The Ministry of Women and Human Rights Development is preparing training programmes to build the capacity of law enforcement officials in human rights protection, international human rights treaties and conventions and how these are linked to Somali laws. This will guarantee significant improvements to the human rights awareness raising of Somali law enforcement officials.

46. Furthermore, the Ministry of Justice and the Attorney General’s Office, together with international institutions such as the UN and IDLO, regularly conduct training programmes for judges and prosecutors on how to deal with detained persons, interrogation techniques and detecting torture cases.

## **F. Article 11**

47. There are no specific measures to ensure compliance with Article 11 of the Convention against Torture. However, the Attorney General’s Office conducts regular visits to prison and detention facilities to interview prisoners regarding their prison conditions. Despite the lack of data, the Attorney General’s Office has investigated several cases where prisoners were tortured, which have led to disciplinary measures against the perpetrators. Moreover, the Somali Police Force has established a Police Oversight

Committee to investigate violations, such as torture, committed by police officers and investigators. Also, the Attorney General's has conducted training programs for the Criminal Investigation Department on investigations and suspect/witness interrogation best practices.

48. The Federal Government has taken note of the Human Rights Watch report of February 2018, *Detained Children Face Abuse*, which makes allegations that "officials and guards have subjected children to coercive treatment and interrogations including cutting them off from their relatives and legal counsel, threatening them, and, on occasions, beating and torturing them primarily to obtain confessions or as punishment for speaking out or disorder in the cells." Following its publication, the Somali Custodial Corps initiated an investigation into these allegations, which the Somali Government has taken seriously and took concrete action to address when the issues are properly understood, and recommendations made.

49. In July 2015, the Federal Ministry of Internal Security released a human rights report on the Serendi Rehabilitation Center (Serendi). This center, which was established in 2012 and managed by the Ministry of Internal Security, supports reintegration of 'low-risk' former members of terrorist group Al-Shabaab into the community. The report found several human rights violations, including inhumane and degrading treatment, arbitrary detention, lack of due process rights and detention of children. The report provided recommendations to address the violations at Serendi, which included, the release of defectors who had stayed beyond mandatory period at the center, the need to establish a transparent exit strategy with release dates, investigation of those responsible for the inhuman and degrading treatment, and the release of all children to UNICEF for proper reintegration and rehabilitation. The Government has been able to implement the recommendations made by the inter-ministerial investigation panel.

## **G. Articles 12–13**

50. The Government of Somalia enacted a law on establishment of a National Human Rights Commission in 2016 and is in the process of setting up an independent and impartial National Human Rights Commission to, among other things, investigate human rights violations, including torture and ill-treatment allegations by members of the police, the security forces and prison personnel. The Commission will provide individuals and groups with a comprehensive complaints mechanism to address human rights violations, provide recommendations and possible compensation to survivors.

## **H. Article 14**

51. The Constitution's Article 111-i provides for the establishment of a National Truth and Reconciliation Commission, with the mandate to "foster national healing, reconciliation and unity and to ensure that matters relating to impunity, revenge and other triggers of violence are addressed through a legal and state directed process." Furthermore, the mandate of this Commission includes: "(a) bearing witness to, record, and in some cases, grant amnesty to the perpetrators of crimes relating to human rights violations, and rehabilitation of the criminals` and (b) promoting forgiveness, reconciliation and national unity". The Government is in the process of establishing this commission.

## **I. Article 15**

52. The provisions in the Criminal Procedure Code regarding obtained confessions are Articles 68, 150 and 151. Article 68 (2) states: "A Judge shall not receive a confession unless he or she is convinced, by examination of the person making it, that the confession is being made voluntarily. (3)The confession shall be: recorded in writing in full by the judge, read over by the judge to the person making the statement, signed by the person making the confession and the judge and certified by the judge, before he/she signs it, to have been recorded strictly in compliance with the provisions of this Article." The obligation that the

confession has to be made/recorded in writing before a judge is included to ensure that the suspect is not being coerced or tortured to make that confession.

53. Article 150 of the Criminal Procedure Code stipulates that “a confession made by an accused person is irrelevant in a criminal proceeding, if the making of the confession appears to the court to have been caused by inducement, threat or promise”, which is a strong provision that is aimed at protecting a suspect from coercion, threats and/or torture to get their confession. With regards to the admissibility of confessions used as evidence, Article 151 of the Criminal Procedure Code stipulates that “no confession made by any person shall be proved as against such person, unless the confession is made before a judge, as provided in Article 68.”

## **J. Article 16**

54. The Government of Somalia is aware of reports of allegations of ill-treatment and abuse against people with mental and/or physical health conditions in mental health institutions. It is important to note that these institutions are privately managed. However, the Federal Government of Somalia is primarily obligated to address this issue and ensure respect for people with disabilities, including mental health conditions. In this context, the Government of Somalia has prioritized the ratification of the Convention on the Rights of Persons with Disabilities. The ratification process of this Convention was concluded in August 2019. Moreover, the Government, led by the Ministry of Women and Human Rights Development, is in the process of establishing the National Disability Agency, mandated to work on implementing the government’s duty to protect the rights of people with disabilities, including persons with mental health conditions. The drafting of a Disability Bill is underway.

55. In addition, the government is working through the Ministry of Women and Human Rights Development and other line ministries to develop holistic legislation and policies to protect persons with mental disability. This ministry will work closely with the mental and physical health institutions in the country to ensure that their staff are trained to adhere to the protocols in place.

56. Like all crimes, the Government of Somalia takes crimes against journalists, civil society organizations and human rights defenders very seriously. Many of these cases are directly brought to the attention of the Attorney General and he personally works on them to hold the perpetrators accountable. Although there is no exact information regarding the number of cases in this category, several cases have been successfully prosecuted and perpetrators punished.

57. With regard to preventing corporal punishment for children, the Ministry of Women and Human Rights has initiated a broad campaign to raise awareness on the protections guaranteed to children. This campaign has utilized materials such as booklets, billboards, radio and television messages. Part of the messages was the prevention of cruel treatment and corporal punishment of children.

## **K. Other issues**

58. The Somali Government has developed legislation, policies and specific targeted measures to curb the violence from terror groups that affects all people in Somalia. In the development of these measures, Somalia considers the proportionality of the measures put in place and works on finding a balance between human rights and legitimate security concerns. This remains a challenge and it is work progress that involves many government institutions. An additional endeavor is building the capacity of law enforcement officers working with all security agencies. These officers receive a series of training on human rights and treatment of civilians. To help legislate this balance, the Ministry of Internal Security has initiated the development of the first-ever National Counter Terrorism Bill in 2016, which has been passed by the Council of Ministers and submitted to Parliament’s House of the People on 30 August 2017, where it is currently undergoing its first reading. As there has been some delay in moving forward the process of this bill, the Parliament is

now seeking to expedite the parliamentary process and vote on this bill in the first quarter of 2020.

59. It remains difficult to attain the exact numbers whether there are people that have complained of non-observance of international standards and the outcome of such complaints. The government is gradually intensifying their re-engagement with international human rights mechanisms and is working on raising the awareness of people in Somalia regarding these mechanisms and their benefits to the country and to individuals.

**L. General information on other measures and developments relating to the implementation of the Convention by Somalia**

60. The Ministry of Planning, Investment and Economic Development has set up the Directorate of Statistics (DNS). This department has had significant resources allocated in the last four years to increase the collection of data. This directorate aims to “produce reliable data for evidence-based policies and decisions through integrated system of statistical information. In addition, it seeks to “promote organizational culture of positive personality and statistical innovation for economic growth and sustainable development” in Somalia.

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