



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

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Committee against Torture Seventy-fifth session

Summary record of the 1952nd meeting

Held at the Palais Wilson, Geneva, on Wednesday, 9 November 2022, at 3 p.m.

Chair: Mr. Heller

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 19 of the Convention *(continued)*

Initial report of Somalia (continued) (CAT/C/SOM/1; CAT/C/SOM/QPR/1)

1. *At the invitation of the Chair, the delegation of Somalia joined the meeting.*
2. **A representative of Somalia**, replying to questions posed during the first half of the dialogue, said that the Government was working to reform the residential system for children, as well as the guardianship system, taking into account the concerns raised by the Committee on the Rights of the Child. It would be useful for that Committee and the Committee against Torture to adopt a joint general comment on the protection of children residing in different types of institutions. The final draft of a national action plan on corporal punishment had been completed and contained measures on prevention, legal reforms, access to justice, training for the judiciary, data collection and international cooperation. However, the change in mindset needed to fully abolish the practice would take longer and be more difficult to achieve. All aspects of the Convention that applied to children would be addressed in the national action plan on children.
3. Regarding trafficking in persons, prevention and response strategies were being developed, United Nations partners had provided support for capacity-building and the International Organization for Migration and the Office of the United Nations High Commissioner for Refugees were providing direct assistance to victims.
4. The Government had drawn up a plan to translate the concluding observations recently issued by the Committee on the Rights of the Child and to disseminate them widely, including at the village level; the same would be done for the forthcoming concluding observations of the Committee against Torture. The Government was holding discussions, including with United Nations agencies, about the possibility of ratifying the international human rights treaties to which Somalia was not yet a party. The first step, however, especially with regard to treaties that included an individual complaints mechanism, was to operationalize domestic mechanisms to ensure access to justice at the national level. The relevant legislative and administrative changes were expected to be made within the next five years.
5. **A representative of Somalia** said that, over the past ten years, Somalia had taken a number of legislative measures to strengthen the promotion and protection of human rights, including the drafting of bills on sexual offences, female genital mutilation, children's rights, juvenile justice and the rights of persons with disabilities. However, the timely implementation of the measures was hindered by the broader challenges inherent in being a country emerging from conflict, with cross-cutting reform priorities and a commitment to considering the views of a wide range of stakeholders.
6. Once overhauled, the Penal Code would take account of the fundamental principles of protecting the individual liberties enshrined in the Universal Declaration of Human Rights, among other instruments. Where a matter was governed by more than one law, the special law prevailed over general law; therefore, once enacted, the aforementioned reform bills would not only provide a legal framework in line with the Constitution and the country's human rights obligations under international treaties but would also constitute special laws that took precedence over the Penal Code. The Penal Code review process would also enable the Government to define the scope of protective measures and provisions.
7. **Mr. Liu** (Country Rapporteur) said that the Committee's review was timely because the State party was still in the process of building much of its legal and institutional framework. In addition to requiring political will, the process should be open and should involve joint efforts as well as a systematic approach. In situations where there were limited resources and many competing interests, establishing the rule of law could provide a basis for action and for connecting the various actors. It was important for the State party to ensure a positive interaction between sharia and its Constitution and human rights laws and to update and expand the definition of torture to match the contemporary understanding of the offence. The State party should also consider introducing structural reforms to reduce overlap among

the multitude of government departments and to enable it to assert effective control in all parts of the country.

8. **Ms. Maeda** (Country Rapporteur) said that she appreciated the delegation's frank exchange with the Committee and would encourage the State party to leverage its experience as an African Union member State to strengthen its implementation of the Convention.

9. She would be grateful if the delegation could provide responses to a number of unanswered questions, namely: what specific legal framework and infrastructure had been put in place to implement the Convention; what fundamental legal safeguards, beyond constitutional provisions, had been established to enshrine the principle of non-refoulement; how many refoulements, extraditions and expulsions had been carried out on the basis of diplomatic assurances; whether individuals facing expulsion, return or extradition were informed of their right to seek asylum and to appeal their deportation; and how many internally displaced persons had been evicted from their camps and whether they had been informed of their rights. In addition, she wished to know whether training on the protection of human rights and the detection of torture was provided for border officials, immigration personnel and those working in internal displacement and refugee camps and detention centres. She would also be grateful for answers to her questions on measures to reduce prison overcrowding and improve detention conditions.

10. With reference to paragraphs 35 to 39 of the State party's report (CAT/C/SOM/1), concerning the issue of extradition, she noted that the State party permitted treaty-based extraditions and that extradition requests were subject to basic controls. At the same time, the State party had stated that it did not have any such bilateral agreements in place. Clarification would therefore be welcome, in particular with regard to the reportedly illegal extradition of an individual to Ethiopia, a case which had apparently been reviewed by a parliamentary committee in Somalia and deemed unlawful.

11. Regarding the death penalty, it would be helpful if the delegation could indicate which offences were punishable by death, whether the imposition of the death sentence was limited to the most serious crimes and whether persons subject to the death penalty were informed in advance of the time and date of their execution. She also invited the delegation to comment on reports that executions were carried out rapidly, publicly and following proceedings that fell short of international standards.

12. Lastly, the Committee was concerned at reports of the arbitrary arrest and detention of journalists and human rights defenders. Information would be welcome in that regard and, in particular, on the cases of up to 30 journalists who had reportedly been forcibly detained between January and April 2021.

13. **Mr. Tuzmukhamedov** said that he, too, wished to reiterate his questions on the issue of the death penalty, including whether the death sentence could be imposed on persons under the age of 18 and whether up-to-date information and statistical data could be provided on the number of persons who had been sentenced to death and executed during the reporting period and on the number of persons who were currently on death row.

14. **The Chair** emphasized that the dialogue with the Committee served as an opportunity for the State party to not only provide updated information to the Committee but also to highlight the obstacles it faced in implementing the Convention and to seek support from the international community.

The meeting was suspended at 3.55 p.m. and resumed at 4.30 p.m.

15. **A representative of Somalia** said that he recognized the concerns of Committee members, but it was important to bear in mind the context in Somalia, which was one of ongoing conflict. The parliamentary processes currently under way required serious deliberations and dialogue between the Federal Government, the federal member states and all other stakeholders. At the same time, it should be remembered that the Somali legal system was based on sharia, which included respect for human rights. The State party was willing to listen to the recommendations of the Committee and was open to receiving technical and capacity-building help from the international community.

16. Mechanisms were in place to monitor and prevent cases of trafficking in persons. Awareness-raising campaigns had been launched but no statistics were available in that connection. Likewise, there were no statistics available on internally displaced persons.

17. With regard to the principle of non-refoulement, Somalia did not forcibly return refugees or asylum-seekers. It had signed a bilateral agreement on piracy with India. Although there had been one case of unlawful extradition to Ethiopia, it had taken place under the previous Government; there had been no other cases of forced extradition.

18. The Government was discussing a potential moratorium on the death penalty; however, the discussions would take time and public consultations would be needed. The Government was considering stopping the practice of public executions in the near future. Prisoners on death row and their families were informed in advance of the date of execution. The death penalty did not apply to minors and no executions were carried out for political reasons. Unfortunately, no statistics were available on the time between sentencing and execution.

19. Journalists and human rights defenders were protected under article 18 of the Constitution of Somalia, which safeguarded the right to freedom of expression. All citizens, including journalists, human rights defenders, government officials and members of the security forces, were equal before the law.

20. The various statistics requested by the Committee were not currently available but could be provided in writing later on.

21. **Mr. Liu** said that there were high expectations for the National Human Rights Commission, which could play a crucial role in the defence of human rights by coordinating its work with the newly established Ministry of Women and Human Rights Development. The Human Rights Inter-Ministerial Task Force would also have an important role to play in future efforts in that area.

22. While noting that strategies and mechanisms were in place to address the problem of trafficking in persons, he wondered what the legal definition of trafficking was and who was protected by those mechanisms. Referring to the reports of forced marriage, child marriage and forced or compulsory labour, he noted that criminal law focused on the prosecution of the perpetrators, whereas the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, prioritized the protection of victims: more attention should be paid to victims to help them return to normal life. In that connection, he wondered whether women prostitutes, many of whom were victims of trafficking in persons and enforced prostitution, were perceived as survivors, not criminals, and as such received legal aid and medical treatment. In the light of the above, he recommended that, as part of the legal reforms under way, the latest definitions of trafficking, torture and other ill-treatment should be incorporated in domestic law. The State party needed to unite the country legally, morally and culturally: one way to help achieve that was to ensure that the law was applied in the same way in rural and urban areas throughout the country.

23. **Ms. Maeda** said that the State party could respond to the remaining questions in writing. The dialogue was not intended to be a forum for accusation or criticism, but a space for sharing achievements and future challenges.

24. **A representative of Somalia** said that the issue of trafficking in persons had only arisen in Somalia at the start of the civil war: before then, people had generally not tried to emigrate. It would be helpful if the Committee could provide the delegation with copies of the reports submitted to the Committee by civil society organizations.

25. **A representative of Somalia** said that Somalia was in the process of rebuilding its infrastructure for the collection of statistics, which were currently compiled by different international partners and civil society organizations and often contained conflicting information. A national statistics office had been established to standardize the collection of data on crime, women and human rights, among other things. Somalia required additional capacity-building in that area, as ensuring reliable data was key to the promotion and protection of human rights. In conclusion, he hoped that the Committee would take note of the context in Somalia, where the coronavirus disease (COVID-19) pandemic and ongoing drought had hindered the country's progress in a number of areas.

The meeting rose at 5 p.m.