



**FEDERAL REPUBLIC OF SOMALIA**

**UNIVERSAL PERIODIC REVIEW**

**[SECOND CYCLE 2016]**

**MID-TERM REVIEW REPORT ON PROGRESS MADE BY SOMALIA ON THE  
IMPLEMENTATION OF ACCEPTED RECOMMENDATIONS FROM THE  
SECOND CYCLE REVIEW IN JANUARY 2016 UNDER THE UNIVERSAL  
PERIODIC REVIEW (UPR) MECHANISM OF THE UNITED NATIONS  
HUMAN RIGHTS COUNCIL**

**JANUARY 2019**

## **1. Introduction**

This is a Voluntary Mid-Term Review Report by the Federal Republic of Somalia. It captures and elaborates on progress made in the mid-term towards implementation of accepted recommendations subsequent to the Second Cycle of the Universal Periodic Review (UPR). It has three main components and six recommendation sub-themes:

1. Introduction
2. Methodology
3. Recommendations' Progress Tracking Matrix on:
  - 3.1 Engagement with International Human Rights Mechanisms (Treaty bodies)
  - 3.2 Elections and Political Participation
  - 3.3 Justice System and Preventing Impunity
  - 3.4 Human Rights Protection
  - 3.5 International Humanitarian Law (IHL), Peace and Security; and
  - 3.6 Child Protection

Somalia was reviewed during the Second Cycle UPR mechanism at the Human Rights Council Working Group's 24<sup>th</sup> Session between 22 and 23 January 2016. This was Somalia's second participation in the review process in her history since independence. The first was in 2011. The limited number of times Somalia has participated in the UPR process is informed by the reality of Somalia's difficult past; which is characterised by close to three decades of debilitating conflict. The conflict resulted in the collapse of State institutions, mechanisms and systems responsible for the protection and promotion of human rights as well as fulfilling reporting obligations under regional and international human rights treaties and conventions to which Somalia is a State Party. It is only in 2011 when Somalia was able to participate in the First Cycle of the UPR process. The Federal Government of Somalia (FGS) and the Federal Member States (FMS) are cognisant of the fragile human rights protection environment in Somalia on account of the progressive emergence from conflict and fragility. Somalia's engagement with the UPR Mechanism contributes towards her return to normalcy and restoration of respect for, promotion and protection of human rights.

Thus, in the course of emergence from conflict in the framework of engagement with the UPR process, Somalia is prioritizing two broad policy interventions on human rights protection namely; 1) developing a human rights-based legislation framework and 2) raising awareness of the public

regarding respect for, promotion and protection of human rights. This is vital as the FGS is obligated under regional and international human rights treaties and conventions to which it is a State Party to ensure that human rights are enjoyed in practice and not only captured in legislation and policies. Towards this end in 2015, Somalia developed and endorsed the National Human Rights Roadmap and Action Plan. The Roadmap is an inter-agency framework involving 11-line ministries, with the Ministry of Women and Human Rights Development (MoWHRD) as the lead agency. The Human Rights Roadmap and Action Plan set out the ways in which the FGS executes its mandate as a duty bearer to protect and promote human rights in Somalia and actualize the specific objectives and priorities it defines in the context of post-conflict reconstruction. The Action Plan focuses on different thematic areas relevant to the context of Somalia; taking into account the available capacity and resources. The Roadmap is being implemented within the framework of the Somalia Joint Human Rights Programme (SJHRP). The SJHRP is a partnership arrangement between the FGS, UNSOM, UNDP, and UNICEF. It is being implemented by the FGS through the MoWHRD as the Lead Agency.

The overarching objective of the SJHRP is to entrench human rights in Somalia, including the rights of women and children, in national processes, especially the National Development Plan and the Comprehensive Approach to Security (CAS), through enhanced capacity and delivery of Somalia's key ministries, institutions, and mechanisms on human rights protection and accountability, and enable Somali civil society and communities to understand and appreciate human rights-based security and justice institutions, use them, monitor them, and hold them accountable through well-functioning civil society networks. Its other objective, with support of UNSOM, UNICEF and UNDP, is to strengthen the nexus between human rights, children's rights and women's rights on one hand and Human Rights, security and justice institutions on the other hand through the implementation of Somalia's commitments on the Somalia National Development Plan (NDP) priorities and Somalia's commitments on the Universal Periodic Review and Human Rights Roadmap, UN Security Council Resolution 1325 and the National Action Plan on Ending Sexual Violence in Conflict, Action Plan on Children in Armed Conflict and the and Women, Peace and Security issues.

Somalia's engagement with the UPR process has since been adopted as integral to her peace and State building processes. This policy decision has informed the preparation and submission of this voluntary mid-term review report. The review was premised on the national report submitted by Somalia highlighting the progress made in the implementation of the 155 recommendations<sup>1</sup> made by the Working Group in the Second Cycle. In this mid-term review report, Somalia is transmitting an update on the achievements made so far in the implementation of the previous cycle's accepted recommendations. It is further used as an instrument by which the FGS undertakes self-assessment with a view to determining areas where most progress have been made and those that require additional attention.

The submission of the mid-term review report demonstrates Somalia's commitment to the UPR process which she firmly believes contributes both to her embracing of regional and international human rights systems as well as highlighting the work the FGS is doing in the area of human rights protection and promotion and in inculcating a culture of respect for and promotion of human rights among the Somali citizenry.

Somalia is currently emerging from a protracted conflict. In such contexts there is always a tendency of prioritizing security, stability and reconstruction over governance issues including human rights and accountability. Somalia's embracing of the UPR mechanism ensures that human rights and related governance issues are not casualties of development and economic recovery. Somalia has opted to submit this voluntary Mid-Term Review Report as a best practice in its engagement with the UPR Mechanism and demonstration of commitment to promotion and protection of human rights.

## **2. Methodology**

The data and information collection regarding the UPR Mid-Term Review are a continuous process that started after the adoption of the UPR Working Group report on Somalia in June 2016. The Ministry of Women and Human Rights Development conducted consultations and interviews with the relevant technical officers from the different government institutions to ascertain the

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<sup>1</sup> UN document: A/HRC/32/12

progress and challenges encountered in the implementation of the accepted UPR recommendations. In addition to retrieval of government information, the ministry also conducted desk research on the available public information from Somalia's international partners. Individual interviews and Focused Group Discussion methods were also used. The following FGS institutions took part in the preparation of this report:

- Ministry of Women and Human Rights Development (MoWHRD)
- Ministry of Defence (MoD)
- Ministry of Justice (MoJ)
- Ministry of Internal Security (MoIS)
- Ministry of Religious Affairs (MoRA)
- Ministry of Interior Affairs (MoIA)
- Ministry of Constitution Affairs (MoCA)
- Ministry of Information (MoI)
- Ministry of Planning (MoP)
- Ministry of Education (MoE)
- Ministry of Health (MoH)
- Office of the Attorney General (OAG)

### *Annex*

This document contains the following annexes:

- 1.1** Selection Process National Human Rights Commission
- 1.2** Functions of the National Human Rights Commission
- 2** Somali Sexual Offences Bill

### 3. Somalia's UPR 2<sup>nd</sup> cycle recommendations progress tracking matrix

Recommendations (clustered per sub-topic)	Progress status
<b>3.1 Engagement with International Human Rights Mechanisms (Treaty bodies)</b>	
<p><b>3.1.1 Intensify its effort in the promotion and protection of the rights of women by, inter alia, ratifying the CEDAW, revising discriminatory legal provisions and effectively enforcing its law to fight against gender-based violence</b></p>	<p>In 2015 and 2016 the Ministry of Women and Human Rights (MoWHRD) conducted consultations with stakeholders on CEDAW to familiarize them with the convention and their respective rights and obligations therein. These consultations have set the stage for local initiation of the process of accession to CEDAW by the time of making the full report. This process has already commenced.</p> <p>Subsequent to the foregoing consultations, in 2016 the Minister for Women and Human Rights Development held consultations with the Chairperson of CEDAW to discuss the work of the committee and Somalia's steps towards ratification as well as advocacy efforts and preparatory work towards ratification of the Convention. A CEDAW benchmarking study tour of Egypt is planned for the first quarter of 2019 for purposes of understanding, from a comparative perspective, of other countries' experiences with the accession and ratification processes so as to inform Somalia's own process.</p> <p>The Sexual Offenses Bill (SOB) (SOB Infographic has been formulated, passed by the Council of Ministers and is undergoing parliamentary approval process. The MoWHRD has initiated the process of drafting Somalia's first zero tolerance Anti-FGM Bill that will criminalize all types of FGM as well as focusing on educating the community on its harmful effects. The MoWHRD is in the process of reviewing the Anti-FGM Zero Tolerance policy to give effect to and operationalize implementation of the Anti-FGM Law, once approved by parliament. The National Gender Policy is under review and is due to be completed by the time of making the full report.</p>
<p><b>3.1.2 Ratify the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa and enact and enforce laws and regulations that prohibit all forms of violence against women</b></p>	<p>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 have not been ratified. However, the MoWHRD has initiated and is furthering engagements with the AU to facilitate accession and ratification of these regional treaties. The FGS has put in place measures to initiate the ratification process, including preparation and transmission of memoranda to the Council of Ministers on the same.</p>
<p><b>3.1.3 Deposit ratification instruments of the Kampala Convention on the Protection and Assistance of IDPs with the African Union and initiate a profiling exercise</b></p>	<p>Deposition of ratification instruments to the Kampala Convention has not been done. However, to mitigate the plight of IDPs pending the deposition, the FGS has formulated a sustainable multi-year policy framework to address the IDPs' issue. The FGS, together with the Banadir Regional Administration, have conducted an IDP's profiling exercise in Mogadishu to inform establishment of a data base. Some of the Federal Member States (FMS) have put in place</p>

<b>of the IDPs in Mogadishu to assess protection needs and define “durable solutions”</b>	mechanisms and infrastructure for accommodating IDP’s. However, ensuring that all stakeholders are on board remains a challenge. To mitigate this, the FGS is in discussions with the FMS on how to implement the proposed policy framework.
<b>3.1.4 Submit overdue reports to the relevant UN treaty bodies</b>	There is need to appreciate in the first instance that for close to three decades, Somalia had no functional State institutions due to conflict. This negatively impacted on Somalia’s ability to meet its reporting obligations under regional and international treaties and conventions to which it is a State Party. Somalia remains committed to expediting submission of outstanding reports.
<b>3.1.5 Utilize international financial and technical assistance to discharge its human rights reporting obligations.</b>	The FGS, Federal Parliament, FMS, the National Human Rights Commission (currently in the process of being established with the nomination of 9 members pending vetting and approval by Parliament) and Civil Society Organizations have been provided with international financial and technical assistance under the Somalia Joint Human Rights Programme (SJHRP). The implementation of this programme commenced September 2018. However, the implementation of the Somalia Joint Human Rights Programme faces the challenge of inadequate financial resources. Although a number of countries and international agencies pledged financial resources, it is only Sweden, Norway and Denmark that have put money into the kitty. A recent report by the FGS Ministry of Planning on ‘2018 <i>Aid Flows in Somalia</i> ’ indicates that disbursement dedicated to gender equality and human rights have been on the decline since 2016 and that only 1 % of gender and human rights projects are currently implemented by the government with support from international development partners. This has impacted negatively on the efforts by the FGS to drive change in this area. It would be appropriate if countries making recommendations followed the same with technical and financial support where required.
<b>3.1.6 Extend a standing invitation to special procedures</b>	The government has allowed the Independent Expert (IE) on the Human Rights situation in Somalia to conduct the yearly visits to the country. In 2018 the FGS voluntarily invited the Special Rapporteur on the situation of human rights defenders. In the same year Somalia invited the Independent expert on the enjoyment of human rights by persons with Albinism.
<b>3.1.7 Consider ratification of CRPD</b>	The Federal Government has acceded to the CRPD on October 2, 2018. Consequently, the ratification process has been initiated and it is expected that the President will sign the ratification before the end of 2019. Towards this end, Ratification Instruments have been prepared and submitted to the Foreign Relations Committee of the House of the People for approval and transmission to the President for ratifying signature. In tandem with the CRPD ratification process, the FGS formulated a Bill for the establishment of a Somalia National Disability Agency. This Bill has been approved by both houses of Parliament and signed into Law by the President on 31 <sup>st</sup> December 2018.
<b>3.1.8 Consider ratification of ICRMW</b>	The accession/ratification process of the ICRMW has not been initiated yet.

### 3.2 Elections and Political Participation

<p><b>3.2.1 Promote equal participation of all citizens in political and public affairs and adopt legislation regulating the establishment and functioning of political parties</b></p>	<p>Somalia is committed to the facilitation of the full participation in politics and public affairs by its citizenry. Towards this end Article 3 of the Provisional Federal Constitution on ‘Founding Principles’ obligates the Somali State under Clause (4) to ensure participatory consultative and inclusive government and in Clause (5), the inclusion of women. There is also a fairly progressive Bill of Rights. The Provisional Federal Constitution is being reviewed to further strengthen political participation; especially creating a level playing field.</p> <p>On 6 June 2016, the Somalia Parliament passed the Political Party Law, which requires (aspiring) politicians to register with a political party by October 2018, in order to be able to participate in the universal suffrage elections planned for 2020. This is an important milestone as Somalia has been without de jure political parties since 1969. The draft electoral law is under public review and is expected to be tabled in the first sitting of Parliament in 2019.</p> <p>Some of the Federal Member States passed legislation establishing independent electoral bodies which are managing elections, which began in December 2018 at the State level. In spite of the stated commitment by Somalia, facilitating effective public political participation continue to face challenges mainly due to the fragile security situation in some parts of Somalia and the fact that the institutions are in the process of being strengthened.</p>
<p><b>3.2.2 Strengthen its efforts to increase women’s participation in elected and appointed bodies at all levels of government</b></p>	<p>In 2016 electoral cycle, Somalia adopted 30% Affirmative Action Quota System for women’s representation. The 2016 women quota campaign has led to female parliamentary candidates winning 25% of the parliamentary seats and to the highest percentage of women in the Council of Ministers (23%).</p> <p>During the writing of the mid-term report (November 2018) there were several initiatives, emphasis was laid on entrenching the quota system in the Constitution during the ongoing Constitutional Review Process. This will ensure that 2020 elections see an increase of the number of women in political and government positions. As part of advocacy on increasing the participation of Somali women in public affairs, a first Somali Women Convention will be held in February 2019. The Convention is aimed at strengthening women alliance to increase equality and women’s meaningful participation in all layers of society.</p>
<p><b>3.2.3 Finalize and adopt the Federal Constitution, without delay, in coordination with the Federal Government, regional administrations, civil society and the Somali public</b></p>	<p>There is a Constitutional Review Road Map in place and is being followed.</p> <p>The consultations in the constitutional review process are ongoing. This process engages all stakeholders and equity seeking groups to ensure that the opinion of as many as possible citizens of Somalia is heard and considered. The new draft constitution is scheduled to be ready by mid-2019, after which the parliamentary voting and public referendum will be organized by the Ministry of Constitution.</p>

<p><b>3.2.4 Ensure the right to freedom of expression in the soon to be reviewed provisional constitution and in its federal and regional media legislation</b></p>	<p>The new constitution will include an enhanced Bill of Rights (Chapter 2). The review process will also determine which expanded rights will be part of the new Bill of Rights. The universal right to freedom of expression and media are already entrenched in the Constitution. To give effect to these rights, the Somali Media Law is under review in parliament for improvement so as to meet international standards and best practice. During 2019 and 2020, the constitutional review process will include civic and public education which highlight Chapter Two of the Provisional Federal Constitution which contains the Bill of Rights so that the public understands the rights contained in there.</p>
<p><b>3.2.5 Hold an on-time electoral process in 2016 that is fair, transparent, and inclusive</b></p>	<p>The 2016 Electoral Process was held, following broad agreement on the electoral system, formula for ensuring inclusion of women, the election management body as well as putting in place an independent electoral dispute resolution mechanism and developing guidelines for election observation. As compared to the 2012 elections, the 2016 parliamentary elections were relatively fairer, transparent and inclusive. It further marked a milestone in Somalia's electoral system and process. Unlike in 2012 where Clan Elders had the sole mandate of electing parliamentarians and the elections themselves were restricted to the Capital Mogadishu and saw only 14% of women elected to the 275-member House of the People. In 2016 there were gender sensitive electoral colleges comprising of 51 delegates of which 30% were women electors; casting votes for each of the 275 seats. Further, the 2016 electoral process took place in Mogadishu, Garowe, Kismayo, Beidoa, Jowhar and Cadado. There were also elections for the Upper House of Somali Parliament which was not in existence in 2012. The combined representation of women in the House of the People and the Upper House is 25% up from 14% in 2012.</p>
<p><b>3.3 Justice System and Preventing Impunity</b></p>	
<p><b>3.3.1 Give high priority to the drafting and implementation of a new Penal Code and a new Penal Procedural Code which would include provisions to prohibit discrimination against women, minorities and displaced persons in all its forms; provisions to facilitate access to justice for all citizens; and which excludes the death penalty</b></p>	<p>The drafting of the Penal Code and Penal Procedural Code have not been finalized for public review. 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. To augment the provisions of the envisaged Penal Code, especially on Sexual Offenses, the MoWHRD has, following wide consultations with stakeholders, formulated a Sexual Offenses Bill (SOB) which is currently with parliament for review and public consultations as required by parliamentary rules and procedures. This legislation is intended to address sexual crimes, improve SGBV victims' access to justice and ensure perpetrators do not enjoy impunity. Once the Ministry of Justice (MoJA) concludes the drafting of the new Penal Code, the MoWHRD will conduct the human rights review of the code, and ensure, among others, that gender is mainstreamed in the code. The draft of the new Penal Code is expected to be ready in early 2020.</p>

<p><b>3.3.2 Continue to take actions to improve the capacity of the judiciary, including by sensitizing officials working in the judicial branch on issues concerning vulnerable groups such as women, children and persons with disabilities</b></p>	<p>In 2017 the FGS, led by the MoJA, launched an extensive national programme to train over 350 judicial officers nationally. The training will benefit judges, prosecutors, and registrars. The training will cover 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. This national programme has been expanded to train judicial personnel from the Federal Member States. The Somalia Joint Human Rights Programme, that is being implemented currently, is expected to take forward some of the commitments on enhancing capacity of the Judiciary on human rights in administration of Justice, especially for vulnerable groups. Under this JP, judicial, prosecutorial and law enforcement personnel will be trained on human rights and due process. Also, the Rule of Law Programme will support human rights compliance.</p>
<p><b>3.3.3 Prohibit all forms of violence against women by passing and enforcing legislation providing for prevention, the adequate punishment of perpetrators, protection and support for victims, including legal remedies and paying special attention to the protection of minority women</b></p>	<p>In 2016 the Office of the Attorney General established a SGBV unit, with 4 trained specially prosecutors (2 female). From Jan-Sep 2017 they have handled 42 cases, of which 20 have been dismissed due to lack of evidence and 22 cases were brought before a judge. 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 made between police, perpetrators and victim's family. In this context, the Sexual Offenses Law, once approved, will provide the AG with improved legal tools to deal with sexual offenses and the issue of impunity.</p> <p>Considering the existing link between traditional justice mechanisms and the formal justice system, efforts have been made in raising awareness among traditional elders on women's rights at the Federal and Member States' level. In April 2018 at the Federal member state of Jubbaland, 21 members of the Elders' Council were trained in the city of Kismayo in collaboration with Ministry of Justice, Ministry of Gender, Family Affairs and Human Rights. This process will be up scaled prior to the next cycle of review.</p>
<p><b>3.3.4 Ensure that the perpetrators of all terrorist attacks are brought to justice</b></p>	<p>Through existing investigation and security agencies, perpetrators of terrorist attacks are arrested and processed through the justice system with due regard to universal human rights principles.</p>
<p><b>3.3.5 Combat piracy by enacting a legislation prohibiting ransoms to pirates for releasing hostages</b></p>	<p>The Ministry of Justice (MOJA) drafted Piracy and Kidnapping Bill. The preparation of the Bill was done through inclusive and wide public consultation prior to its being presented to the Council of Ministers Sub-committee of Security and incorporated in the Justice Roadmap. The Sub-committee is due to submit the Bill to the full Council of Ministers for adoption and onward transmission to Parliament for debate and approval.</p>
<p><b>3.3.6 Continue strengthening the legal framework and building institutions in the area of security, law enforcement, and judiciary, in accordance with the</b></p>	<p>The FGS is facilitating re-establishment and strengthening of the justice system which will ensure that cases are categorized into civilian and military and tried in appropriate jurisdictions. Any progress will also depend on the level of capacity of the civil courts which is being strengthened under the Somalia Rule of Law programme. A new facility, the Mogadishu Prison and Courts Complex, has been constructed and will be operational by early 2019. This facility</p>

<p><b>rights-based approach and not bringing civilians before military courts</b></p>	<p>will house judges, prosecutors and prison accommodation. It will be better equipped to deal with high security cases. This will mean the end of trying civilian cases in military courts.</p>
<p><b>3.3.7 Develop a legal aid policy for indigent Somalis</b></p>	<p>National Legal Aid Policy was developed by the Ministry of Justice (MoJ) and approved by the Cabinet. The MoJ has initiated the implementation process and will open legal aid clinics in all the regions of Somalia. This will improve access to justice and will complement other strategies such as mobile courts that are already active in different locations.</p> <p>The MoJA has opened a compliance office in Mogadishu and has completed the drafting of a National Legal Aid Bill. The formulation of the Bill was done through an inclusive and consultative process before being presented to the FGS's Council of Ministers' Sub-Committee on Security and Justice for fine tuning before being submitted to the whole Cabinet for adoption and onward transmission to Parliament. The formulation of the Bill is a component of the Justice Road Map.</p>
<p><b>3.3.8 Establish clear vetting procedures to identify and prosecute individuals responsible for serious abuses of human rights such as torture, extrajudicial killings, recruitment of children and sexual violence, including during recruitment and integration of new forces into the SNAF</b></p>	<p>There is progress with regard to addressing the recruitment of child soldiers. The government has a vetting mechanism in place through the National Intelligence and Security Agency (NISA) for children that escaped terrorist groups. The MoD has been continuing 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 Action Plan on ending the recruitment and use of children, was signed in 2012. A Standard Operating Procedure is being developed in this regard. Clan elders and community leaders are also engaged to vouch that the recruits are not persons that have committed serious crimes in the past.</p> <p>The MoD is establishing a broad, comprehensive and effective vetting mechanism to ensure that individuals responsible for serious abuses do not enter or remain in the security forces. A Defectors Rehabilitation Program under the MoIS has been established and is operational. It is working with civil society organizations on providing shelter to minors withdrawn from terrorist groups. Thus, Former child fighters have been disengaged and handed over for rehabilitation and reintegration to communities. On children associated with armed groups or terrorist groups, the MoWHRD in cooperation with other line ministries and in partnership with UN agencies is finalizing a strategy and operational framework on the prevention of child recruitment, release and reintegration of children associated with armed forces and groups.</p> <p>The FGS has facilitated establishment of four committees to coordinate policies relating to children; domestication and implementation of the CRC; and coordination of various child rights NGOs. These include: - A National Child Rights Committee; Inter-Ministerial Committee on Children's Rights coordinated by MoWHRD; National Coordination Working Group for Children Associated with Armed Groups (CAAG) coordinated by Ministry of Defense, UNICEF and Child Protection Working Group. MoWHRD is in the process of harmonizing the committees for enhance efficiency and effectiveness.</p>

<p><b>3.3.9 Ensure the protection of the human rights of journalists and human rights defenders and guarantee that perpetrators of violations against human rights defenders be brought to justice</b></p>	<p>The Ministry of Information (MoI) firmly believes that targeting journalists and other human rights defenders is a serious crime. As such the MoI has engaged the AG’s office to open a line of communication regarding detained human rights defenders and journalists; this will allow swift action to be taken in cases where there is suspicion that a journalist is detained because of their work. Advocacy from civil society organizations and Media Associations have played a key role and continues to do so as this is encouraged by the FGS and FMSs. The MoI is planning to draft a policy to address attacks on and arbitrary detention of journalists. The Somali Media Law is currently under review in the Federal Parliament. The MoI has also given a policy undertaking that killings of journalists will be seriously investigated by the government.</p> <p>Some Federal Member States have affirmed their commitment to enforce Article 20 of Provisional Federal Constitution -which guarantees the right to freedom of expression. There are coordinated efforts towards identification and reporting of violations, including training of Journalists on human rights-based reporting which began in June 2018.</p>
<p><b>3.4 Human Rights Protection</b></p>	
<p><b>3.4.1 Enact legislation on human rights, including Citizenship Act, Persons with Disabilities Act, and the National Human Rights Commission Act</b></p>	<p>The Ministry of Interior is working on the draft Citizenship Bill, which will have to go through a process of consultations. The Council of Ministers and Parliament have passed the Disability Agency Bill, which was signed into law by the President on 31<sup>st</sup> December 2018. In addition, the MoWHRD has initiated the development process of the Somalia Disability Bill, which will address many of the challenges faced by persons with disabilities.</p> <p>The Law on establishment of a National Human Rights Commission was enacted in 2015 and the appointment of members of the Commission is in advanced stages of finalization. Somalia has a National Human Rights Roadmap in place. This has informed the development of the first ever comprehensive Somalia Joint Human Rights Programme. The MoWHRD has developed this Joint Programme (JP). The overall aim of the Joint Programme is to strengthen the human rights protection and promotion framework through the implementation of Somalia’s commitments on human rights and the 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. The NDP has included implementation of Human Rights Roadmap and the UPR as one of its priorities in the coming three years which include establishment of the Human Rights Commission and support to other oversight mechanisms in Government. The JP was launched in September 2018 with the MoWHRD as the Lead Agency and other stakeholders including, the National Human Rights Commission (once established), the Parliamentary Committee on Human Rights Civil, Society Organizations and other Non-State-Actors.</p> <p>On 17 November 2018, the Somalia Parliament approved a draft law establishing a National Disability Agency and was signed into law by the Federal President on 31<sup>st</sup> December 2018. The law was formulated by the Ministry of Women and Human Rights Development. The FGS is in the process of establishing the Agency and is committed to facilitating its operations.</p>

	<p>Somalia participated at the First Global Disability Summit in London on 24<sup>th</sup> July 2018 and made commitments towards ending stigmatization of persons with disabilities. These commitments are in various stages of being actualized.</p>
<p><b>3.4.2 Continue with awareness-raising and trainings for workers in the legal sector and those working in the area of human rights</b></p>	<p>The Somalia Joint Human Rights Programme includes training on human rights for civil servants, workers in the legal sector and those working in the area of human rights generally. A project aimed at strengthening capacity of Federal Member State of Jubbaland Police Force to enforce Rule of Law and accountability for Human Rights Violations was implemented. Between 8 August and 12 September 2018, a total of 100 Police Officers including 32 females were trained on international human rights standards, investigating Conflict Related Sexual Violence (CRSV) and Gender-Based Violence (GBV) cases.</p>
<p><b>3.4.3 Take measures to ensure that journalists exercise their profession freely and fight against impunity of the perpetrators of violence against them</b></p>	<p>As part of efforts to enhance protection of the right to freedom of expression, Federal Member State of Jubbaland has drafted a Media Bill through its Ministry of Information, Communication and Technology (MoICT).</p>
<p><b>3.4.4 Continue to strengthen the national dialogue through an inclusive and collaborative process</b></p>	<p>The FGS and the FMS have together facilitated several platforms to enable dialogue on different thematic areas, such as development, security, inter-FMS cooperation 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.</p>
<p><b>3.4.5 Ensure that the establishment of the Independent Human Rights Commission Bill is Paris Principle compliant and that the establishment is in line with a transparent and inclusive nomination and appointment process</b></p>	<p>The National Human Rights Commission Law was enacted in compliant with the Paris Principles, and its implementation is ongoing with the selection of the HR Commissioners concluded. The Cabinet endorsement of the selected candidates is expected soon before the list is sent to parliament for approval and final appointment. The credibility of the process was assured through an inclusive and transparent process as illustrated in the <i>annexed</i> infographics. The establishment of the Human Rights Commission is being supported under the Somalia Joint Human Rights Programme.</p>
<p><b>3.4.6 Take all necessary steps to halt all forced evictions in all locations under its control and particularly in Mogadishu</b></p>	<p>Forced evictions remain a challenge as the land occupied by IDPs belongs to public and private citizens. In the longer term, a mechanism is being thought out by the FGS within the framework of transitional justice and land policy reforms to address the IDP question. In the interim period, the FGS is sensitive to the plight of IDPs and is working to limit the frequency of forced evictions. A case in point is the most recent forced evictions which the FGS and the Benaadir Administrations responded to by appointing an independent committee to investigate the circumstances under which the evictions were carried out. The committee investigating evictions is expected to present findings and also recommendations on measures to be put in place to avoid forced evictions and mitigate the adverse consequences on the IDP communities.</p>

<p><b>3.4.7 Strengthen the dialogue with AMISOM with a view to adopting special measures to protect Somali women and girls against sexual exploitation and abuse</b></p>	<p>The MoWHRD and AMISOM have initiated discussions to examine ways to collaborate on the protection of human rights generally and during military operation. This invitation has been embraced by the FGS and FMS.</p>
<p><b>3.4.8 Work towards strengthening the national reconciliation in order to bring the country out of the cycle of violence</b></p>	<p>The Ministry of Interior has been conducting reconciliation talks between different clans. Most of these conflicts have been around scarce resources such as water and fertile land. The most notable reconciliation rounds have been conducted in Galkacyo and Dhusamareeb. It is expected that these efforts will continue. The FGS is pushing for a broad reconciliation rounds. This is awaiting some agreement on resource sharing and other crucial items on the priority list of the government.</p>
<p><b>3.5 IHL, Peace and Security</b></p>	
<p><b>3.5.1 Take clear steps to ensure that Somali security forces (and militias under its purview) comply with international human rights law and international humanitarian law, including by integrating human rights training into security sector reform programmes</b></p>	<p>The MoD and the Ministry of Internal Security have been providing International Humanitarian Law (IHL) and human rights training to security forces. SNA and Police Trainings have been provided and also by donor countries and AMISOM in the framework of its Joint Operations against Al Shabab. Moreover, the MoJ, together with MoIS and MoD, have conducted ministerial investigations into violations by security agencies through ad hoc inquiries established to address concerns of violations. Under the JP the MoWHRD will collaborate with the MoD and MoIS to take these trainings forward and to establish clear protocols to address violations committed by security forces, this includes compensations to victims and their families. The FGS is planning to increase the ministerial investigations into serious crimes conducted by security forces.</p>
<p><b>3.5.2 Accelerate the adoption of the pending bills, particularly those related to fight against the phenomenon of money laundering and terrorism in order to establish an appropriate legal framework for combating terrorism</b></p>	<p>The MoIS has developed a National Anti-Terrorism Law with tools to legitimately combat terrorism and to check the power of security agencies. Substantial technical human right input has been provided to the anti-terrorism legislations to ensure its compliance with human rights standards. It is hoped 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.</p>
<p><b>3.5.3 Ensure effective implementation of the National Action Plan to End Sexual Violence in Conflict</b></p>	<p>The MoWHRD convened a consultative forum to review Somalia's National Action Plan on Ending Sexual Violence in CIn 2017 the first meeting of the National Gender Based Violence Sub-Cluster Group for Somalia chaired by the FGS was held in Mogadishu. Access to justice has increased through the use of legal aid providers and mobile courts which have benefitted SGBThe 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 40 specialized SGBV prosecutors in Somaliland and Puntland. Efforts to strengthen the provision of services to CRSV</p>

	<p>survivors included the establishment in Garowe, Puntland, of the first forensic laboratory for analysis and evidence gathering in GBV cases.</p>
<p><b>3.5.4 Step up efforts to prevent all forms of violence against women, including sexual abuse and domestic violence by finally adopting a comprehensive National Action Plan to punish perpetrators and provide assistance and recovery for victims as well as eradicate harmful traditions such as FGM</b></p>	<p>The MoWHRD is working to develop an FGM eradication bill to combat all forms of FGM. The MoWHRD is engaging the Minister of Constitution to work on constitutional prohibition of FGM.</p>
<p><b>3.5.5 Enact laws to implement the constitutional prohibition on FGM</b></p>	<p>The MoWHRD commenced the process of drafting the Anti-FGM Bill in late 2018, which once passed into law will provide the framework for combatting FGM in Somalia.</p>
<p><b>3.5.6 Further promote the country’s economic recovery, through reducing poverty and considerably improving infrastructure in service delivery</b></p>	<p>The FGS together with the FMS and with the support from international partners has taken significant steps in developing comprehensive strategies for addressing risk of famine risk. There is a Drought Impact Needs Assessment (DINA) which is a programme to identify and prioritize needs caused by drought.</p> <p>There is a Roadmap and principles for a Recovery and Resilience Framework (RRF) process in place. It was announced by the FGS, in cooperation with the FMS. The objective of the RRF is “to promote a sustainable recovery while addressing the underlying drivers of drought vulnerability”. The key RRF aspects are: Development of a recovery and resilience vision, guiding principles, and policy-setting for recovery; Cross-sector prioritization of recovery, durable solutions to displacement, and resilience strengthening and resilience needs; Definition of institutional arrangements and capacity requirements across government and its partners; Comprehensive frameworks for recovery and resilience financing; and Monitoring and evaluation systems.”</p>
<p><b>3.5.7 Step up collaboration with regional and international actors to improve food security by working towards achieving sustainable production and distribution of food</b></p>	<p>The Ministry of Agriculture and Irrigation continues to support the small farmers to produce enough food to find sustainable food security.</p>
<p><b>3.5.8 Reinforce government control over the activities and personnel of private military and/or security companies, in order to strengthen the rule of law and respect for human rights by all relevant actors</b></p>	<p>The Ministry of Internal Security has a policy framework and procedures of profiling and accrediting security companies: the security companies and their staff have to go through a vetting process. They go through the Criminal Investigations Department for approval. All approved security personnel are issued with special IDs and their guns</p>

are assigned and engraved with serial numbers which are matched with ID number issued to individual security personnel. The ministry also carries out periodic inspections at the private security company HQ.

### 1.6 Child Protection

**3.6.1 Develop a birth registration system**

The legal framework for Somalia's birth registration system will be the Child Rights Bill that is currently being formulated. The FGS authorities in charge of birth registration are the Civil Registration Authority, Ministry of the Interior, the Department of Statistics' Birth and Death Registrar, Ministry of Health and the Central Bureau of Statistics. This system is decentralized, and registration of birth is mandatory.

**3.6.2 Continue its efforts in the provision of social care for children at risk and poor families**

National Social Protection Policy for Somalia is in its final stages of formulation and will be presented by Ministry of Labor and Social Affairs to the Council of Ministers in the first quarter of 2019. In Order to serve the most vulnerable children, coordinated effort is vital, a technical working group (TWG) was formed, the TWG consisted of members from Office of the President, office of the Prime Minister, Social and Productive line Ministries and the Federal Member States representatives.

The Policy aims to progressively expand access to social care and social assistance through National Programs that support the poorest and most vulnerable people, especially but not limited to children, women, disabled orphans, IDP, people with mental health needs, and the elderly but also taking into account needs of those with Labor capacity to improve their standard of living in line with minimum social protection floor, and to contribute to human capital development and build resilience to shocks.

**3.6.3 Continue and strengthen measures to fight against malnutrition, both chronic and acute**

The Ministry of Health continues to implement programmes to eradicate malnutrition, in all its forms. The enduring challenge to this commitment is security concerns which negatively impact the by both the FGS and FMS.

**3.6.4 Take further steps to protect children, including by implementing the 2014 Child Protection Act and finalizing the ratification of the Convention on the Rights of the Child, taking steps to ratify its Optional Protocol on the involvement of Children in Armed Conflict, and by implementing the 2012 action plans to prevent the recruitment and use of child soldiers by the Somali National Army and allied militias**

Somalia ratified the CRC in January 2015 and its domestication process is ongoing. The MoWHRD has developed an implementation plan for the CRC at federal and FMS levels. The FGS is currently finalizing the CRC Initial State Party Report for submission. The FGS MoWHRD is drafting the Child Rights Bill to add to the legal framework protecting children in Somalia. The Optional Protocol on the involvement of Children in Armed Conflict has been signed but not yet ratified by Somalia. Discussion on this matter is ongoing. The implementation of the CAAC action plan is also ongoing, with several FGS ministries involved in this work. The MoWHRD is finalizing a National Strategy and Operational Framework for the prevention of child recruitment, release and reintegration.

## Annex 1.1 – Selection Process National Human Rights Commission



### Ministry of Women and Human Rights Development

## OVERVIEW OF THE SELECTION PROCESS FOR THE NATIONAL HUMAN RIGHTS COMMISSION

### Mandate:

#### **Art. 41 of the Federal Republic of Somalia Provisional Constitution:**

- (01)** The Federal Parliament shall establish a Human Rights Commission that is independent of State control, and has adequate resources to carry out its functions effectively.
- (02)** The functions of the Human Rights Commission shall include the promotion of knowledge of human rights, and specifically Shari'ah, setting implementation standards and parameters for the fulfillment of human rights obligations, monitoring human rights within the country, and investigating allegations of human rights violations.

#### **Art. 111B**

- (04)** The Human Rights Commission shall be independent, impartial, and inclusive and shall have not more than nine members.

### Role:

#### **Ministry of Women and Human Rights Development:**

Facilitate, guide and advise on the implementation of the Law.

## PROCESS

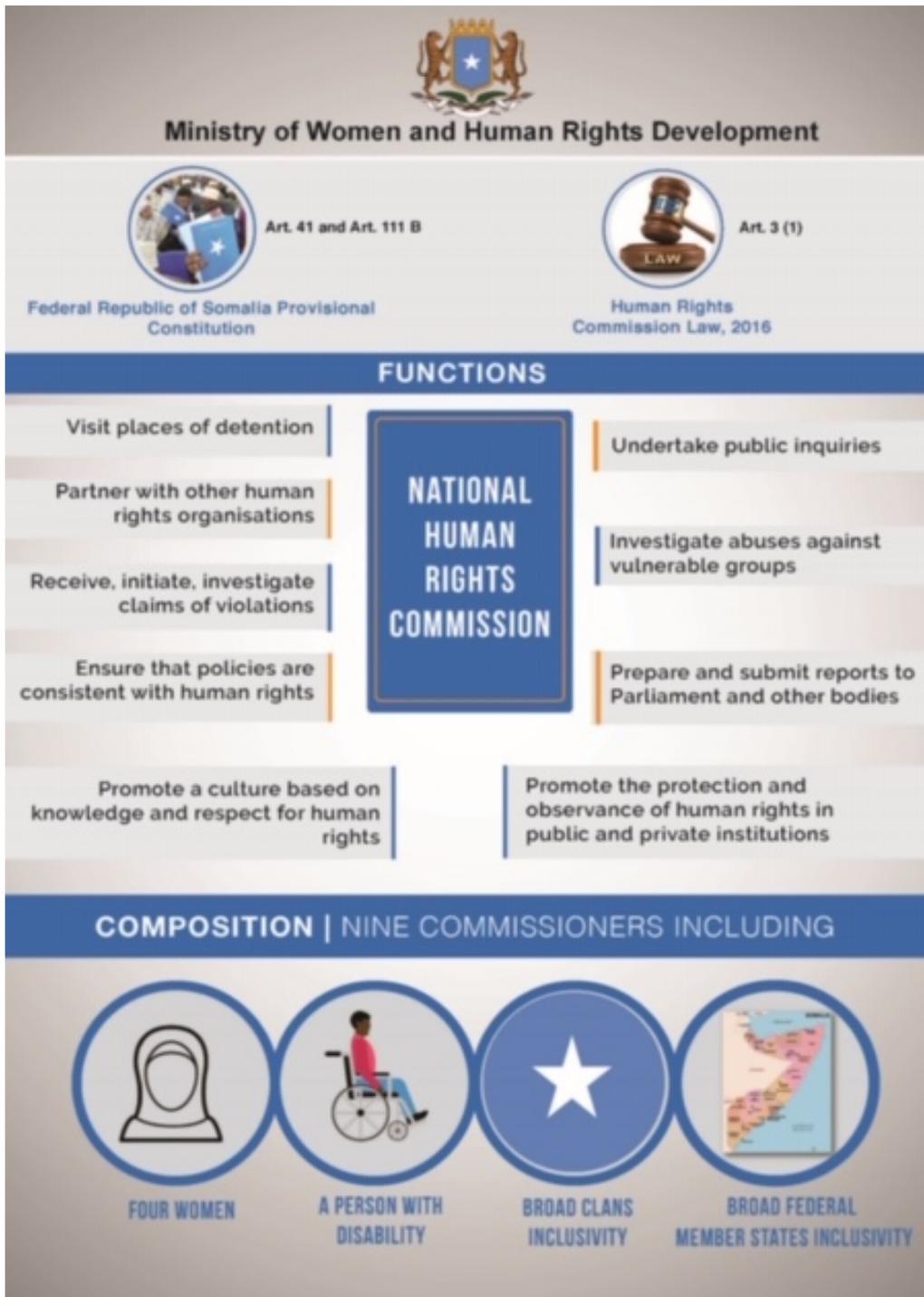
### PHASE 1

#### PREPARATION OF THE TEMPORARY SELECTION PANEL (9-19 JULY 2017)

##### Human Rights Commission (HRC) Law Requirements

- 01** Allocate 3 out of 9 seats to women - *HRC Law Art.7 (2)*  
The TSP took a significant decision by allocating an additional seat to women.
- 02** On the mandatory seat for the persons with disabilities (PwD), consider merit over clan and shortlisted first - *HRC Law Art. 7 (1)*
- 03** PwD candidates were provided with a special facility, allowed to use special equipment when necessary and provided with additional time to complete the written test
- 04** Consider CVs that show at least 10 years of experience (with university degree) or at least 15 years of experience (without a university degree) - *HRC Law Art. 8 (a) & (b)*
- 05** Overall prioritize merit, unless would jeopardize inclusivity

## Annex 1.2 – Functions of the National Human Rights Commission



## Annex 2 – Somali Sexual Offences Bill



**Federal Republic of Somalia**  
Ministry of Women and Human Rights Development



10

# things you need to know about the **Somali Sexual Offences Bill**

### THE SEXUAL OFFENCES BILL PROCESS

In 2014, the Ministry of Women and Human Rights Development (MoWHRD) launched the process to draft Somalia's dedicated legislation on sexual and gender-based violence, the Sexual Offences Bill (the Bill). It was finalised following wide consultations with key actors, and approved by the Cabinet of Ministers on 30 May 2018. The Bill has since been submitted to Parliament and currently awaiting to be tabled for discussion.



### HOW WILL THE BILL STRENGTHEN RESPONSES TO SEXUAL AND GENDER-BASED VIOLENCE?

The Bill is the first piece of legislation specifically addressing SGBV throughout Somalia. The Bill builds upon existing legislation by exhaustively criminalising all forms of sexual offences including rape, gang rape, sexual assault, trafficking and child marriage, and providing appropriate sentencing guidelines. The Bill reinforces rights already guaranteed under the Somali Provisional Constitution (2012) and provides increased measures that will strengthen the Somali legal system's capacity to effectively prosecute sexual offence crimes. The Bill is survivor-centred, prioritising the rights and needs of the survivor during court proceedings and out-of-court mechanisms to protect their identity and welfare.

<p><b>01</b> It's the first ever sexual offences legislation in Somalia</p>	<p><b>06</b> Provides special protection to children and vulnerable groups from sexual abuse and exploitation</p>
<p><b>02</b> The Sexual Offences Bill provides a detailed definition of consent</p>	<p><b>07</b> Provides broad and impartial access to justice for sexual violence survivors in accordance with human rights treaties</p>
<p><b>03</b> Provides minimum sentencing for all sexual offences</p>	<p><b>08</b> Provides special protection for sexual violence survivors living with a disability</p>
<p><b>04</b> Provides protection against forced marriage</p>	<p><b>09</b> Free medical treatment for survivors</p>
<p><b>05</b> Protection of the identities of survivors and witnesses</p>	<p><b>10</b> Provides extraterritorial jurisdiction and criminalises obstruction of justice in sexual offences cases</p>