



# General Assembly

Distr.: Limited  
2 October 2020

Original: English

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## Human Rights Council

### Forty-fifth session

14 September–7 October 2020

Agenda item 10

### Technical assistance and capacity-building

**Albania,\* Australia, Austria, Belgium,\* Bulgaria, Canada,\* Croatia,\* Finland,\* Germany, Greece,\* Iceland,\* Italy, Lithuania,\* Luxembourg,\* Montenegro,\* Netherlands, North Macedonia,\* Norway,\* Qatar, Romania,\* Slovakia, Somalia, Spain, Sudan, Turkey,\* Ukraine, United Kingdom of Great Britain and Northern Ireland\* and Yemen\*: draft resolution**

## 45/... Assistance to Somalia in the field of human rights

*The Human Rights Council,*

*Guided by the Charter of the United Nations,*

*Reaffirming the Universal Declaration of Human Rights,*

*Acknowledging that peace and security, development and human rights are the pillars of the United Nations system,*

*Reaffirming its respect for the sovereignty, territorial integrity, political independence and unity of Somalia,*

*Reaffirming also its previous resolutions on Somalia,*

*Recalling its resolutions 5/1 and 5/2 of 18 June 2007,*

*Recognizing that the primary responsibility for promoting and protecting human rights in Somalia rests with the Federal Government of Somalia and that enhancing the legal framework, human rights protection systems and the capacity and legitimacy of institutions is essential to help to combat impunity and to improve accountability for human rights violations and to encourage reconciliation,*

*Recognizing also the need for all authorities engaged in security to uphold their international human rights commitments and obligations and to address abuse and the excessive use of force against civilians,*

*Recognizing further the importance and effectiveness of international assistance to Somalia and the continued need to step up the scale, coordination, coherence and quality of all capacity development and technical assistance to Somalia in the field of human rights at the national and Federal Member State levels, and in that regard welcoming the Somalia Partnership Forum held in Mogadishu in October 2019, at which Somali stakeholders made a commitment to implement the 2019 Mutual Accountability Framework with the aim of*

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\* State not a member of the Human Rights Council.



accelerating reforms regarding human rights, as well as reforms regarding security, economic and political institutions and elections,

*Reaffirming* the need for continued regular Somalia Partnership Forum meetings to hold all parties to account for progress and agree on shared future priorities,

*Recognizing* the sustained and vital commitment of the African Union Mission in Somalia and the loss and sacrifice of personnel killed in action, and recognizing also that the Mission is creating the conditions for Somalia to establish political institutions and to extend State authority, which are key to laying the foundations for a staged transfer of security responsibility to Somali security forces,

*Recognizing also* the role that women have played and will continue to play in community mobilization and peacebuilding in Somali society, the need to take special measures to end gender-based violence and all other forms of violence in situations of armed conflict, to end impunity and to prosecute those responsible for violence against women and girls, and the importance of promoting their economic empowerment and participation in political and public decision-making processes, including within Parliament and at all levels of government, in accordance with Security Council resolution 1325 (2000) of 31 October 2000 on women and peace and security,

*Recognizing further* the increased proactiveness of the Federal Government of Somalia in strengthening the promotion and protection of human rights at the federal and federal Member State levels through its Ministry for Women and Human Rights Development, including its advocacy and implementation of human rights commitments in Somalia and its engagement with the international human rights system,

*Recognizing* that the coronavirus disease (COVID-19) pandemic represents an additional and profound challenge to the difficulties already presented by natural disasters to the health system and the socioeconomic and humanitarian situation in Somalia, as well as to social cohesion owing to increased stigma experienced by those affected, and recognizing also that the secondary effects of the pandemic have disproportionately affected those in vulnerable situations and women and girls,

*Noting* the important role played by women as first responders to the COVID-19 pandemic and the importance of women's meaningful participation in recovery and relief,

1. *Welcomes* the commitment of the Federal Government of Somalia to improve the situation of human rights in Somalia, and in that regard also welcomes:

(a) The enactment in February 2020 of the Electoral Law, which represents a significant step forward, and the resolution of key outstanding issues by the Federal Parliament, in collaboration with the National Independent Electoral Commission, including the definition of constituencies, the allocation of seats to constituencies, the implementation of a quota of 30 per cent of seats for women, to which Somalia has committed, and the representation of Banadir and Somaliland;

(b) The reaffirmation in September 2019 by the Federal Government of Somalia, through the Ministry of Labour and Social Affairs, of its commitment to fulfil its international obligations to promote universal respect for and the protection of all human rights and fundamental freedoms, including freedom of association and union rights, and, furthermore, the Ministry's willingness to engage and cooperate with the International Labour Organization to advance social and economic justice by adhering to international labour standards;

(c) The enforcement by the Attorney General's Office of an order of the Banadir Regional Court, following a petition submitted by the National Union of Somali Journalists, through the appointment on 8 September 2020 of a special prosecutor, to investigate and prosecute those responsible for killing journalists in Somalia as a step in the right direction to put an end to impunity for crimes committed against Somali journalists and to hold perpetrators accountable;

(d) The progressive improvement in the human rights context in Somalia, not least through progress towards the ambitious goals set out in the New Partnership for Somalia and the National Development Framework of Somalia to promote stability and development with

respect for human rights, as set out in the 2017–2019 human rights scorecard of the Federal Government of Somalia by, inter alia, strengthening the rule of law, promoting inclusivity in political decision-making, particularly for women and girls, young persons, minorities and persons with disabilities, delivering a constitutional settlement that guarantees freedoms of expression and association, and addressing security threats in a manner that respects human rights obligations and protects civilians;

(e) The advancement of the refreshed Somali-led Transition Plan, which should support the emergence of effective Somali security institutions and the progressive handover of responsibility from the African Union Mission in Somalia to increased Somali ownership, and appreciating, in particular, that this approach is underpinned by a focus on the rule of law, reconciliation, justice, respect for human rights, and the protection of women and children, and girls in particular;

(f) The continued commitment of the Federal Government, the federal Member States and the Banadir Regional Authority to improve representation, inclusion and the participation of women in public and political affairs and, in particular, in leadership roles;

(g) The Federal Government's ratification of the Convention on the Rights of Persons with Disabilities, in August 2019, the enactment of a law establishing a disability authority, and its commitment to entrenching the rights of persons with disabilities in social, educational, political and economic life through the first-ever national disability bill for Somalia and other legislative mechanisms, by improving the collection of data on persons with disabilities and by approving the creation of a national disability agency;

(h) The work undertaken by the Ministry for Women and Human Rights Development as the lead body of the Federal Government to advance the human rights agenda in Somalia, including through the implementation of the Somalia Joint Human Rights Programme, the establishment of the interministerial Human Rights Task Force, the capacity-building of interministerial focal points on human rights, the submission of the midterm review report on the implementation of the recommendations made in the context of its universal periodic review, and reporting under the Convention on the Rights of the Child and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(i) The continued cooperation with the Independent Expert on the situation of human rights in Somalia, the cooperation with the special representatives of the Secretary-General, including the Special Representative on Sexual Violence in Conflict and the Special Representative for Children and Armed Conflict, and the pledge by Somalia to develop a new national action plan to end sexual violence in conflict following the visit by the relevant Special Representative;

2. *Also welcomes* the continued commitment of the Federal Government to the universal periodic review process, and in this regard further welcomes its acceptance of the many recommendations made during the review, and encourages the Government to implement them;

3. *Expresses concern* at the reports of violations and abuses of human rights in Somalia, including by all armed actors, underscores the need to uphold respect for human rights for all and to hold accountable all those responsible for such violations and abuses and related crimes, including those committed against women and children, and girls in particular, such as the unlawful recruitment and use of child soldiers and children in armed conflict, killing and maiming, rape and other sexual and gender-based violence, child, early and forced marriage and all forms of female genital mutilation, and emphasizes the importance that recaptured child soldiers be recognized as victims and the need to establish and implement rehabilitation and reintegration programmes;

4. *Also expresses concern* that internally displaced persons, including those who may be vulnerable, who may include women, children, young persons, persons with disabilities and persons belonging to minority groups, are the most at risk of violence, abuse and violations;

5. *Further expresses concern* at the attacks against and harassment of human rights defenders and the media in Somalia, including journalists, especially in the form of

harassment, arbitrary arrest or prolonged detention, and emphasizes the need to promote respect for freedom of expression and opinion and to end impunity, holding accountable those who commit any such related crimes;

6. *Expresses concern* that members of minority clans, including women and girls, continue to be at the periphery of economic and political opportunities and decision-making in Somalia, and encourages the Federal Government of Somalia to increase its efforts to widen opportunities for their participation in public affairs, recognizing that women and girls belonging to minorities continue to be more vulnerable to sexual and gender-based violence due to poverty, marginalization and discriminatory attitudes;

7. *Also expresses concern* about the failure of the Lower House of Parliament to hold a first reading of the Sexual Offences Bill endorsed by the Cabinet in May 2018 and about its decision to instead table a bill on “sexual intercourse-related crimes” in August 2020, which is incompatible with the obligations of Somalia under international human rights law, and encourages the Lower House of Parliament to reconsider its decision and table the Sexual Offences Bill endorsed by the Cabinet in 2018;

8. *Further expresses concern* about the proposal made in August 2018 by the Somaliland House of Representatives to replace the 2018 law on rape and sexual offences with a new bill on “rape, fornication and related offences”, which would affect the response to serious offences such as rape, the due process rights of those accused of sexual offences and the protection of the rights of women, children and persons with disabilities, and encourages Somaliland lawmakers to reconsider their decision on the new bill, noting that the 2018 law on rape and sexual offences is in line with international human rights standards;

9. *Further expresses concern* about the signing into law in August 2020 of the amended 2016 media law, which retains several provisions that do not comply with international standards on freedom of expression, such as those providing for imprisonment as a punishment for media-related offences, and encourages the Federal Government of Somalia to consider repealing such provisions;

10. *Recognizes* that the exposure and sensitivity of Somalia to climate change and environmental degradation is vast and structural, and that this vulnerability is a driver of fragility, conflict and humanitarian need;

11. *Also recognizes* the efforts of those States hosting Somali refugees, urges all host States to meet their obligations under international law relating to refugees, and urges the international community to continue to provide financial support to enable host States to meet the humanitarian needs of Somali refugees in the region, to support the reintegration of those returning to Somalia when conditions are suitable, and to support internally displaced persons in Somalia;

12. *Further recognizes* the efforts of Somalia, despite its own struggles, to accept and not turn its back on refugees from other countries in the region;

13. *Calls upon* the Federal Government of Somalia, with the support of the international community:

(a) To make urgent progress towards settling outstanding constitutional issues and completing the constitutional review process in an inclusive manner that promotes the building of peace and the rule of law, protects the freedoms of expression and association, and includes targeted provisions that enable and facilitate the advancement of women, children, young persons, persons with disabilities, minorities and all members of disadvantaged groups in the areas of access to justice, education, health, water, security and economic recovery, including representation and the right to participate in the 2020 and 2021 elections;

(b) To expedite the establishment of a national human rights commission in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), providing it with adequate resources, to monitor and ensure accountability for violations and abuses, including a recruitment process that guarantees the representation of women, members of marginalized groups and persons with disabilities;

(c) To accelerate the Government-led inclusive political settlement and to reach political agreement among the Federal Government, all Federal Member States and the Federal Parliament in order to deliver shared political and security commitments through inclusive and regular high-level dialogue at all levels;

(d) To make efforts to implement elections in a manner agreed upon by all stakeholders and that are free, fair, timely, peaceful, transparent, credible and inclusive, incorporating a direct voting component enabling as many citizens as possible to vote in 2020/2021, in accordance with the Provisional Federal Constitution of Somalia, and underscores the importance of cooperation and consensus for making further progress on key national priorities, including the implementation of the national security architecture, reaching agreement on a federated justice system, power- and resource-sharing, the constitutional review, fiscal federalism and the planning and holding of national elections, all of which require political agreements that can form the basis for legislation in the Federal Parliament;

(e) To continue its cooperation with the Special Representative of the Secretary-General for Somalia;

(f) To secure constitutional provisions for the equal representation, full, effective and meaningful participation and inclusion of women and members of minority clans, particularly in leadership and decision-making roles in public and elected offices and the civil service through the constitutional review and other ongoing political and legislative processes;

(g) To promote the inclusivity of the 2020/2021 elections, particularly by ensuring the equal participation and representation of women in decision-making and in leadership positions, as well as of internally displaced persons, young persons, persons with disabilities, members of minorities and all members of disadvantaged groups at all stages of the electoral cycle, noting that in future elections the Federal Government of Somalia should ensure the representation of all Somalis, in accordance with long-standing commitments to conduct one person, one vote elections;

(h) To realize its commitments to security sector reform, including by ensuring the active participation of women in the implementation of the national security architecture, to ensure that Somali security forces and institutions comply with applicable national and international law, together with international human rights law, including on the protection of individuals from, inter alia, sexual and gender-based violence, and on the prevention of extrajudicial killings, and the strengthening of internal and external accountability of all relevant security forces and institutions;

(i) To continue measures to implement the action plans to prevent the unlawful recruitment and use of children in armed forces of all types, including forces operating at the national, federal and local levels and groups such as Al-Shabaab, and to work with specialized agencies, such as the United Nations Children's Fund, to ensure that former child soldiers and children under 18 years of age used in armed conflict are treated as victims and rehabilitated in accordance with international standards;

(j) To accelerate the implementation of the joint communiqué and the adoption and implementation of the new national action plan against sexual violence in conflict;

(k) To continue the process towards the development of a national action plan to implement the women and peace and security agenda, including Security Council resolution 1325 (2000) and the Council's subsequent resolutions on that issue, noting that the Cabinet endorsed a Somali women's charter to strengthen women's participation in peacebuilding and socio-economic progress in the stabilization and rebuilding efforts for Somalia;

(l) To review the amended media law signed in August 2020 and to ensure its compliance with international human rights law;

(m) To realize its commitments to ending the prevailing culture of impunity, to hold accountable those who commit human rights violations and abuses by ensuring prompt, independent, impartial, thorough and effective investigations into human rights violations, by urgently concluding the establishment of an adequately resourced and independent

national human rights commission, and by reforming State and traditional justice mechanisms to increase the representation of women in the judiciary, and to improve access to justice for women and children;

(n) To prioritize the enactment of legislation and undertake reforms that respect, protect and fulfil women's and girls' full enjoyment of all human rights, and to allow for response to and the prevention and elimination of all forms of violence and discrimination against all women and girls, including by adopting a zero-tolerance approach to sexual and gender-based violence, child, early and forced marriage and all forms of female genital mutilation, while ensuring that those responsible for sexual and gender-based violence, exploitation and abuse are held to account, regardless of their status or rank;

(o) To continue to acknowledge the importance of inclusive dialogue and local reconciliation processes for stability in Somalia, and calls upon the Federal Government and the Federal Member States to increase leadership and engagement in de-escalating tensions and engage in constructive dialogue;

(p) To increase the support and resources allocated to the ministries and institutions responsible for the administration of justice and the protection of human rights, particularly the Ministry for Women and Human Rights Development at the federal and State levels, including by fully funding the Joint Programme on Human Rights, which is a key vehicle for fulfilling the human rights commitments of Somalia, as well as the judiciary, the police and correctional services;

(q) To consider acceding to and ratifying the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Prevention and Punishment of the Crime of Genocide;

(r) To realize the commitments it made at the Global Disability Summit, particularly by enacting a national disability bill in accordance with the Convention on the Rights of Persons with Disabilities and in consultation with organizations of persons with disabilities, and by finalizing the establishment of a national disability agency;

(s) To encourage Parliament to hold a first reading of the original Sexual Offences Bill approved by the Cabinet and to ensure that any bill passed into law reflects international obligations and commitments on the protection of all women and children, girls in particular, and to implement it and other laws as necessary to prevent sexual and gender-based violence;

(t) To harmonize national and federal Member State-level political policies and legal frameworks with applicable human rights obligations and other commitments;

(u) To treat former combatants in accordance with applicable obligations under national and international law, in particular international human rights law and international humanitarian law;

(v) To implement the Declaration on Durable Solutions for Somali Refugees and the Reintegration of Returnees in Somalia, adopted in Nairobi on 25 March 2017;

(w) To promote the well-being and protection of all internally displaced persons, including from sexual and gender-based violence, and also from exploitation and abuse committed by State or international military or civilian personnel, to facilitate the voluntary reintegration or return of all internally displaced persons, including the most vulnerable, in safety and with dignity, to ensure a fully consultative process and best practices for relocations, and to provide sites that afford safe access to essential food and potable water, basic shelter and housing, appropriate clothing and essential medical services and sanitation;

(x) To ensure safe, timely, sustained and unhindered access for humanitarian organizations, to recognize the acute vulnerability of internally displaced persons, to facilitate safe, timely, sustained and unimpeded humanitarian access to people in need, wherever they are in Somalia, and to safeguard the neutrality, impartiality and independence of humanitarian actors from political, economic and military interference, while remaining sensitive to the needs of persons belonging to ethnic minorities requiring humanitarian assistance;

(y) To consider primarily as victims those children who have been released or otherwise separated from armed forces and armed groups in accordance with the Principles and Guidelines on Children Associated with Armed Forces or Armed Groups, which have been endorsed by the Federal Government of Somalia, and to cease detaining all children on national security charges whenever doing so would be in violation of applicable international law;

(z) To implement fully the Convention on the Rights of the Child, the two action plans signed by the Federal Government of Somalia in 2012 to end and prevent the recruitment and use of child soldiers and the killing and maiming of children, the Somali National Army command order on the protection of children's rights before, during and after operations, the road map signed in 2019 and the standard operating procedures on the handover of children;

(aa) To strengthen the legal and operational framework for the protection of children in Somalia, including by becoming a party to the Optional Protocols to the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child;

14. *Stresses* the important role of joint monitoring and reporting on the situation of human rights in Somalia by national and international experts and the Federal Government, and the vital role that those monitoring human rights can play in evaluating and ensuring the success of technical assistance projects, which in turn must be for the benefit of all Somalis;

15. *Underlines* the importance of the realization by the United Nations Assistance Mission in Somalia of its mandate throughout Somalia and the need to strengthen synergy with the work of the Office of the United Nations High Commissioner for Human Rights;

16. *Commends* the engagement of the Independent Expert on the situation of human rights in Somalia;<sup>1</sup>

17. *Decides* to renew the mandate of the Independent Expert on the situation of human rights in Somalia, under agenda item 10, for a period of one year to assess, monitor and report on the situation of human rights in Somalia with a view to making recommendations on technical assistance and capacity-building in the field of human rights;

18. *Acknowledges* the progress that Somalia has made and its cooperation with United Nations bodies, the Office of the High Commissioner and the mandate of the Independent Expert since its creation in 1993, and that the situation of human rights in Somalia determines the action most appropriate for the Council to take, and in this regard requests the Independent Expert, in cooperation with the Federal Government of Somalia, to propose a transition plan towards deeper thematic engagement with the special procedures and other experts, including the Office of the High Commissioner, with clear steps and benchmarks to inform the appropriate follow-up actions of the Human Rights Council, considering the recommendations of the Independent Expert and the human rights commitments of Somalia;

19. *Requests* the Independent Expert to continue to work closely with the Federal Government and other relevant authorities at the national and subnational levels, with all United Nations bodies, including the United Nations Assistance Mission in Somalia, the African Union, the Intergovernmental Authority on Development and other relevant international organizations, civil society and all relevant human rights mechanisms, and to assist Somalia in the implementation of:

- (a) Its national and international human rights obligations;
- (b) Human Rights Council resolutions and other human rights instruments, including associated routine reporting;
- (c) Recommendations accepted in the context of the universal periodic review;
- (d) Other human rights commitments, policies and legislation to promote the empowerment of women, young people and members of marginalized groups such as

<sup>1</sup> See A/HRC/42/62.

minority clans, freedom of expression and assembly, the protection of the media and civil society, including women peacebuilders, access to justice for women and minorities, and increasing the capacity of ministries and institutions responsible for the administration of justice and the protection of human rights;

20. *Also requests* the Independent Expert to report to the Human Rights Council at its forty-eighth session and to the General Assembly at its seventy-sixth session;

21. *Requests* the Office of the High Commissioner and other relevant United Nations agencies to provide the Independent Expert with all the human, technical and financial assistance necessary to carry out the mandate fully;

22. *Decides* to remain actively seized of the matter.

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