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paragraph 15 (b) of the annex to Human Rights Council  
resolution 5/1**

## **Somalia**

The present report is a compilation of the information contained in the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant official United Nations documents. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), other than those contained in public reports issued by OHCHR. It follows the structure of the general guidelines adopted by the Human Rights Council. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review. In the absence of recent information, the latest available reports and documents have been taken into consideration, unless they are outdated. Since this report only compiles information contained in official United Nations documents, lack of information or focus on specific issues may be due to non-ratification of a treaty and/or to a low level of interaction or cooperation with international human rights mechanisms.

## I. Background and framework

### A. Scope of international obligations<sup>1</sup>

<i>Universal human rights treaties<sup>2</sup></i>	<i>Date of ratification, accession or succession</i>	<i>Declarations/reservations</i>	<i>Recognition of specific competences of treaty bodies</i>
ICERD	26 Aug. 1975	None	Individual complaints (art. 14): No
ICESCR	24 Jan. 1990	None	–
ICCPR	24 Jan. 1990	None	Inter-State complaints (art. 41): No
ICCPR-OP 1	24 Jan. 1990	None	–
CAT	24 Jan. 1990	None	Inter-State complaints (art. 21): No Individual complaints (art. 22): No Inquiry procedure (art. 20): Yes

*Treaties to which Somalia is not a party:* OP-ICESCR<sup>3</sup>, ICCPR-OP 2, CEDAW, OP-CEDAW, OP-CAT, CRC (signature only, 2002), OP-CRC-AC (signature only, 2005), OP-CRC-SC, ICRMW, CRPD, OP-CRPD and CED.

<i>Other main relevant international instruments</i>	<i>Ratification, accession or succession</i>
Convention on the Prevention and Punishment of the Crime of Genocide	No
Rome Statute of the International Criminal Court	No
Palermo Protocol <sup>4</sup>	No
Refugees and stateless persons <sup>5</sup>	Yes, except 1954 and 1961 Conventions
Geneva Conventions of 12 August 1949 and Additional Protocols thereto <sup>6</sup>	Yes, except all Additional Protocols
ILO fundamental conventions <sup>7</sup>	Yes, except Nos. 87, 98, 100, 138 and 182
UNESCO Convention against Discrimination in Education	No

1. In 2009, the United Nations High Commissioner for Human Rights welcomed the commitment made by the Transitional Federal Government (TFG) to ratify the Convention on the Rights of the Child (CRC) and encouraged the Government and Parliament of Somalia to give effect to the pledge.<sup>8</sup> The United Nations Development Programme

(UNDP) indicated that the Council of Ministers of the TFG had announced its intention to ratify CRC and had agreed to set up a committee to look into harmonizing its provisions with national legislation and sharia law.<sup>9</sup>

2. In 2010, the Office of the United Nations High Commissioner for Refugees (UNHCR) recommended that the TFG ratify the Convention on the Elimination of All Forms of Discrimination against Women and CRC.<sup>10</sup>

3. The Representative of the Secretary-General on the human rights of internally displaced persons<sup>11</sup> and UNHCR<sup>12</sup> recommended that the TFG ratify the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa.

## **B. Constitutional and legislative framework**

4. UNHCR indicated that Somalia has had no functioning government since January 1991.<sup>13</sup> The territory of Somalia is de facto divided into three distinct administrative areas: “Somaliland”, “Puntland” and southern and central Somalia. Each area was characterized by distinct political, human rights and security situations. UNHCR indicated that southern and central Somalia was governed by the TFG, which controlled 6 districts in Mogadishu with the aid of the African Union peacekeeping force (the African Union Mission in Somalia, or AMISOM), the other 39 districts being controlled by Al-Shabaab and other Islamist militia. Puntland State, a semi-autonomous administration in the north-east of the country, had declared itself part of a federal Somalia, and the self-declared Republic of Somaliland in the north-west described itself as a separate nation.<sup>14</sup> The Secretary-General reported that, following peaceful elections, Puntland had elected a new president in January 2009. International observers had declared the Somaliland elections in June 2010 free, fair and transparent.<sup>15</sup>

5. In 2010, the Secretary-General noted that the Independent Federal Constitution Commission of Somalia continued to work on the draft constitution, which was expected to be finalized by December 2010.<sup>16</sup> The independent expert on the situation of human rights in Somalia (independent expert) noted that in regard to the drafting of the Federal Constitution, significant progress appeared to have been made, and added that this could become a milestone on the path to recovery, if the views of the Somali people were taken into account before a final version was put up for a referendum.<sup>17</sup>

6. The Security Council, in 2009, called on the TFG to develop, in the context of the national security strategy, the legal and policy framework for the operation of its security forces including governance, vetting and oversight mechanisms, ensuring respect for the rule of law and the protection of human rights.<sup>18</sup>

## **C. Institutional and human rights infrastructure**

7. As of 31 December 2010, Somalia did not have a national human rights institution accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC).<sup>19</sup> The independent expert recommended that the assurances given by the Prime Minister with regard to setting up an independent national human rights commission be followed up in the shortest possible time.<sup>20</sup>

8. In 2010, UNDP indicated that the capacity-building efforts of the transitional federal institutions remained weak and dysfunctional. In particular, the TFG faced extremely serious institutional and operational challenges. Most employees continued to work on a voluntary basis and were sustained only with stipend support through the UNDP Start-up Package.<sup>21</sup>

9. UNDP stated that the Police Advisory Committee (PAC) continued to monitor police performance at eight police stations under TFG control in Mogadishu. The PAC had made regular visits to the Mogadishu Central Prison.<sup>22</sup>

#### **D. Policy measures**

10. UNDP noted that, over the last 20 years of conflict, Somalia had experienced the destruction of institutions, infrastructure and human and social capital. There were still serious capacity gaps in terms of policymaking, programming and implementation. There was a lack of awareness of rights amongst Government and the wider population, civil society was underdeveloped and infrastructure was weak.<sup>23</sup>

11. The United Nations Political Office for Somalia (UNPOS) raised concerns that restrictions on access to Somalia seriously constrained the development of human rights work in the country, including monitoring. Local partners were unable to conduct in-depth monitoring because of the danger of reprisals; verification was extremely difficult, particularly in the south-central part of the country.<sup>24</sup> The Security Council, in 2009, underlined the crucial importance of all parties taking appropriate measures to ensure, without delay, unhindered humanitarian access and assistance to the Somali people.<sup>25</sup>

12. The independent expert stated that the Government must, inter alia, fight corruption, tribalism and nepotism, and establish the rule of law.<sup>26</sup> He called for the Government to ensure training for all concerned on basic standards of international humanitarian and human rights laws.<sup>27</sup>

13. The High Commissioner identified as key issues the establishment of accountable and well-trained security forces; the question of justice and reconciliation; and the constitution-making process.<sup>28</sup> The Secretary-General called on the TFG to focus on delivering basic services to the Somali people, to pay salaries to the security forces and to continue efforts to build up the security sector.<sup>29</sup>

## **II. Promotion and protection of human rights on the ground**

### **A. Cooperation with human rights mechanisms**

14. The Security Council, in its resolution 1863 (2009), revised the mandate of UNPOS, first established by the Secretary-General in 1995.<sup>30</sup> In its resolution 1744 (2007), the Security Council welcomed the African Union's intention to establish a mission (AMISOM) in Somalia and authorized the mission.<sup>31</sup> The mandate of the independent expert on the situation of human rights in Somalia was set up by the Commission on Human Rights in its resolution 1993/86 and subsequently endorsed by the Human Rights Council in its resolution 5/1 (appendix I). The Human Rights Council, in accordance with its decision 14/119, held a stand-alone interactive dialogue on Somalia at its fifteenth session.<sup>32</sup>

## 1. Cooperation with treaty bodies

<i>Treaty body<sup>33</sup></i>	<i>Latest report submitted and considered</i>	<i>Latest concluding observations</i>	<i>Follow-up response</i>	<i>Reporting status</i>
CERD	1984	August 1996	–	Combined fifth to sixteenth report overdue since 2006.
CESCR	–	–	–	Initial report overdue since 1992.
HR Committee	–	–	–	Initial report overdue since 1991.
CAT	–	–	–	Initial report overdue since 1991.

15. In 1996, the Committee on the Elimination of Racial Discrimination (CERD) noted that there was a complete breakdown of law and order and no effective government in Somalia, and accordingly decided to review the country's implementation of the Convention once political stability has been re-established.<sup>34</sup>

## 2. Cooperation with special procedures

<i>Standing invitation issued</i>	No
<i>Latest visits or mission reports</i>	Independent expert on the situation of human rights in Somalia (26 July–6 August 2010)
<i>Visits agreed upon in principle</i>	
<i>Visits requested and not yet agreed upon</i>	Special Rapporteur on violence against women, its causes and consequences (2009)
<i>Facilitation/cooperation during missions</i>	
<i>Follow-up to visits</i>	
<i>Responses to letters of allegations and urgent appeals</i>	During the period under review, 21 communications were sent. The Government replied to no communications.
<i>Responses to questionnaires on thematic issues</i>	Somalia responded to none of the 26 questionnaires sent by special procedures mandate holders. <sup>35</sup>

## 3. Cooperation with the Office of the High Commissioner for Human Rights

16. In 2008, UNPOS reported that the human rights situation had deteriorated, prompting the re-establishment of an integrated United Nations Human Rights Unit within UNPOS.<sup>36</sup> In 2009, this Unit worked with the TFG and other authorities to develop a framework for technical cooperation on human rights.<sup>37</sup> The Deputy High Commissioner for Human Rights visited the country in 2010.<sup>38</sup>

## **B. Implementation of international human rights obligations, taking into account applicable international humanitarian law**

### **1. Equality and non-discrimination**

17. The High Commissioner for Human Rights, in 2008, stated that women continued to face discrimination in the context of traditional and customary laws. She added that the participation of women in government and the judiciary was lagging behind.<sup>39</sup>

18. UNHCR noted limited access to justice, particularly for women, the lack of capacity of the judiciary and the discriminatory application of traditional conflict resolution mechanisms as issues of concern.<sup>40</sup>

19. The High Commissioner for Human Rights also noted that discrimination against minorities and persons with disabilities had been consistently reported.<sup>41</sup> The independent expert stated that a culture of impunity, although not new, prevailed, especially in those cases where the traditional clan structure did not provide adequate protection, and most acutely in cases where the victims belonged to a minority.<sup>42</sup>

### **2. Right to life, liberty and security of the person**

20. In 2010, the Human Rights Council expressed its deep concern at the significant civilian casualties caused by ongoing hostilities and the recruitment, training and use of children in the conflict and urged all parties to refrain from all forms of violence against the civilian population.<sup>43</sup> The Secretary-General noted that the intense fighting in Mogadishu in June and July heightened the suffering of the civilian population, highlighting the need for all parties to pay greater attention to the principles of international human rights and humanitarian law relating to the protection of civilians.<sup>44</sup> He stated that, compared to southern and central Somalia, Puntland and Somaliland have remained relatively stable despite growing insecurity.<sup>45</sup> The Secretary-General also stated that continuing insecurity and conflict in parts of the country were attracting foreign extremist elements.<sup>46</sup>

21. UNHCR indicated that areas of Mogadishu under Al-Shabaab control were characterized by widespread human rights violations and disregard for fundamental rights. The ongoing conflict between the TFG (supported by AMISOM) and Al-Shabaab demonstrated blatant disregard for the tenets of international humanitarian law in relation to the protection of civilians.<sup>47</sup> UNHCR recommended that the TFG take steps to ensure that all military engagement was undertaken in a manner consistent with international humanitarian law, to minimize the devastation to civilians.<sup>48</sup>

22. The independent expert stated that heavy fighting in Mogadishu in August 2010 was again taking its toll on the civilian population.<sup>49</sup> He called for the protection of civilians to be a matter of constant focus for all the parties concerned, particularly the TFG.<sup>50</sup> Reports of killing, maiming, sexual and gender-based violence in the context of the conflict were rife.<sup>51</sup>

23. The independent expert urged the international community to explore all possible means to stop summary executions, including beheadings of innocent people, amputations; floggings, forcible marriages of young girls to militiamen, the use of civilians as human shields, the imposition of the strictest dress code for women, the prohibition of public mass media and bans imposed on listening to music and public gathering.<sup>52</sup> The High Commissioner for Human Rights made similar remarks.<sup>53</sup>

24. The High Commissioner also stated that 2008 had seen an unprecedented increase in abductions and killings of aid workers.<sup>54</sup> The independent expert noted that attacks on humanitarian aid workers and civil society continued unabated, citing targeted killings of dozens of humanitarian workers and civil society activists.<sup>55</sup>

25. The Secretary-General stated that in Puntland, some suspects allegedly involved in a spate of killings and attempted killings of prominent figures were tried in local courts and three were reportedly sentenced to death.<sup>56</sup>
26. The independent expert noted that arbitrary arrests and detentions, including prolonged detention before the initial court appearance, and executions following proceedings by Islamic courts had been documented in some parts of the country.<sup>57</sup>
27. The independent expert raised concerns that there were no credible statistics on violence against women. Women were often victims of rape by warlords,<sup>58</sup> and reportedly continued to face cruel, inhuman and degrading treatment on a daily basis, particularly in Al-Shabaab-controlled areas.<sup>59</sup> The independent expert stated that no amnesty should be granted for violence against women that qualified as crimes against humanity, in line with Security Council resolutions 1325 and 1820.<sup>60</sup> The Secretary-General also noted that gender-based violence remained grossly underreported, particularly in southern and central Somalia.<sup>61</sup>
28. The independent expert cited domestic violence which victimized women as a major problem throughout Somalia. Because of the destruction of formerly functioning clan structures, in many places women had no access to any formal or traditional protection.<sup>62</sup>
29. UNDP noted that survivors of sexual and gender-based violence had faced considerable difficulties in accessing after-care services such as medical assistance, psychosocial support and legal assistance. In addition, the majority of cases of sexual violence had been settled through traditional dispute-resolution mechanisms.<sup>63</sup> UNDP indicated that the Sexual Assault Referral Centre had been established as a pilot project in Hargeisa in October 2008.<sup>64</sup>
30. The independent expert, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on violence against women, its causes and consequences sent, on 6 November 2008, an allegation letter to the Government concerning the death by stoning of a 13-year-old girl, found guilty of adultery by the Kismayo Sharia Court. The accusation of adultery had been made as the girl attempted to report to the Al-Shabaab militia controlling Kismayo that three men had raped her.<sup>65</sup> The Secretary-General<sup>66</sup> and his Special Representative for children and armed conflict<sup>67</sup> raised concerns about the same case.
31. The independent expert noted that the Somali Constitution of 1991 criminalized female genital mutilations.<sup>68</sup> He also noted that in Somalia, the prevalence of female genital mutilation and cutting was about 98 per cent and was primarily performed on girls aged from 4 to 12 years. The practice was especially widespread in rural communities.<sup>69</sup>
32. The independent expert stated that rape and other grave sexual violence against children continued to be a major protection concern. Impunity for the perpetrators of crimes against children, including sexual violence, remained common in all parts of Somalia.<sup>70</sup>
33. The independent expert reported that human trafficking, especially for the purposes of sexual exploitation and domestic servitude, both inside and outside the country, remained of serious concern.<sup>71</sup> The Secretary-General raised similar concerns.<sup>72</sup>
34. The Secretary-General noted that assessments revealed a high prevalence of sexual violence in settlements of internally displaced persons (IDPs), mainly in Somaliland, where victims were generally of minority clan origin and bereft of clan protection.<sup>73</sup> The independent expert made similar remarks.<sup>74</sup>
35. The Secretary-General, in 2010, raised concerns that the recruitment and use of children by various parties had increased in 2009.<sup>75</sup> He pointed out that children continued

to be affected by the conflict in southern and central Somalia, citing estimates that thousands of children were associated with Al-Shabaab and Hizbul Islam groups.<sup>76</sup> The independent expert similarly noted that children continued to be disproportionately affected by the conflict in southern and central Somalia. Recruitment of children to be put on the front line remained an issue of major concern.<sup>77</sup> The Secretary-General urged the TFG to stop all recruitment of children and called upon it to actively seek the unconditional release of all children associated with its armed forces and those of its allies.<sup>78</sup>

36. ILO noted that child labour is a key concern in Somalia, with cases of child soldiers, domestic child labour and street begging. Studies indicated that at least 45 per cent of male and 54 per cent of female children, between the ages of 5 and 14 years, were considered to be involved in child labour.<sup>79</sup>

37. In August 2010, the Secretary-General raised concern that in the preceding seven months, there had been 139 piracy-related incidents off the coast of Somalia. Thirty ships had been hijacked while 17 ships and 450 seafarers were being held for ransom.<sup>80</sup> The Secretary-General also identified possible options to further the aim of prosecuting persons responsible for acts of piracy and armed robbery at sea off the coast of Somalia.<sup>81</sup>

### **3. Administration of justice, including impunity and the rule of law**

38. In 2010, UNODC indicated that many areas of Somalia had no functioning criminal justice system, that there was an almost total absence of law reform, and that existing codes were barely sufficient to support the operation of the criminal justice system.<sup>82</sup>

39. The independent expert remained concerned about the conflicting Somali laws in the judicial system and the urgent need for harmonization between customary law, sharia law and the formal modern law, in conformity with international human rights standards.<sup>83</sup>

40. UNDP indicated that a majority of the personnel in the judiciary had no legal qualifications. There were a lack of persons with law degrees and a severe under-representation of women at all levels of the law profession, including the police, the judiciary and the prosecution.<sup>84</sup> The Secretary-General noted that in 2009 more than 10 judges in southern and central Somalia were either killed or forced to leave their functions.<sup>85</sup>

41. According to the independent expert, there was no mechanism to bring justice to the victims or any measure of accountability for perpetrators of crimes, leading to the prevalence of a culture of impunity, a question at the core of the ongoing conflict in Somalia.<sup>86</sup> Addressing impunity should remain a key human rights concern of the Government.<sup>87</sup> The High Commissioner for Human Rights made similar remarks.<sup>88</sup> She also noted that while the involvement of the International Criminal Court would play a significant role, additional mechanisms of accountability and transitional justice were likely to be needed to address the climate of impunity.<sup>89</sup> The Secretary-General expressed support for the documentation of the most serious violations committed, as an essential step in the fight against impunity and for the creation of justice and reconciliation mechanisms. He reminded that those found responsible for war crimes would face justice.<sup>90</sup> The independent expert called on all States and intergovernmental organizations providing assistance to the TFG to support measures to end impunity in Somalia, including the establishment of an independent and impartial commission of inquiry or similar mechanism.<sup>91</sup>

42. UNDP noted that the lack of State-funded legal aid was a major impediment to providing legal representation for vulnerable persons.<sup>92</sup> The independent expert stated that women victims of sexual and gender-based violence had no functioning judicial system to which they could turn. Rape and other forms of sexual and gender-based violence were dealt with by clans as a civil dispute, not involving the victim, and were often solved by



either the payment of blood money or a forced marriage between the victim and the perpetrator.<sup>93</sup>

43. The High Commissioner for Human Rights raised concerns that prison conditions in Puntland and Somaliland remained poor and life threatening, and detention centres lacked basic health care and water supplies.<sup>94</sup> The Secretary-General stated that the Puntland prison population had grown by approximately 10 per cent per month, and that the majority of prisoners were detained without due process.<sup>95</sup>

44. According to the independent expert, in all parts of Somalia there were no adequate detention facilities for women, who were thus extremely vulnerable to violence by fellow male detainees or male wardens.<sup>96</sup> Young adolescent girls were often brought by their families to detention centres for “misbehaving” and held in custody until the family requested their release.<sup>97</sup> Juveniles not accused of anything amounting to a criminal offence under the law were sent to jail by the regional security committees who took decisions based on traditional Somali law, or *Xeer*.<sup>98</sup>

45. UNDP noted that land-based projects to tackle issues around piracy had increasingly dominated rule of law efforts in Somalia in 2009 and 2010.<sup>99</sup>

#### **4. Freedom of religion or belief, expression, and right to participate in public and political life**

46. UNHCR recommended that the TFG take concrete steps to resolve the current dissonance between the Transitional Federal Charter (art. 8) and its obligations in respect of religious freedom under ICCPR, to which it was a signatory, in order to curb discrimination against Somalis, migrants, refugees and asylum-seekers of Christian or other faiths, and “apostates”.<sup>100</sup>

47. The Secretary-General stated that the right to freedom of expression remained frequently curtailed.<sup>101</sup> The independent expert reported that journalists in all parts of Somalia continued to face severe threats and intimidation by the authorities and by armed opposition groups.<sup>102</sup> Large numbers of journalists had also been wounded and arrested.<sup>103</sup> ILO indicated that Somalia remained one of the most dangerous places for journalists’ safety.<sup>104</sup>

48. The independent expert stated that people had not been significantly involved in the peace/reconciliation process.<sup>105</sup> With support from the international community, the TFG should build capacity in the Ministry of Information so that it is able to keep the Somali people properly informed about matters of concern to them.<sup>106</sup>

49. The independent expert also stated that the postponement of elections in Somaliland in March 2009 had provoked protests, and that the authorities had responded with arbitrary arrests and the banning of demonstrations.<sup>107</sup> Journalists in Somaliland were often targets of intimidation and abuse and authorities had ordered, on occasion, arrests of journalists in response simply to critical reporting, or to pre-empt such reporting.<sup>108</sup>

50. The Deputy High Commissioner for Human Rights commended efforts by Puntland and Somaliland authorities to increase the participation of women in all aspects of Somali society which, along with guarantees of freedom of expression and protection of journalists and human rights defenders, was a key element in making progress.<sup>109</sup>

#### **5. Right to work and to just and favourable conditions of work**

51. The independent expert stated that a harmonized arrangement should be made to ensure that stipends/salaries were also guaranteed for all members of the police, correction services and the judiciary, noting that it is unrealistic to expect public employees to serve without a salary, which appeared to have long been the case in Somalia.<sup>110</sup>

52. ILO noted that policies and practices which reflected fundamental principles and rights at work (FPRW) were close to non-existent in Somalia. That could be attributed to the weak or absent governing structures, which lacked capacity to develop and implement standards promoting rights at work.<sup>111</sup> ILO noted that full attainment of FPRW remained a distant goal since the mechanisms for people to have a voice were inchoate. A war economy, or absence of strong governance, remained an obstacle.<sup>112</sup> ILO indicated that a general economy based on simply finding work at a living wage remained an issue for the majority, thus creating a setting, with societal norms having been severely tested if not completely broken, where FPRW are being widely abused.<sup>113</sup>

#### **6. Right to social security and to an adequate standard of living**

53. The Secretary-General stated that the forced movement of people, combined with the rains, had limited people's access to clean water and basic health services.<sup>114</sup> He called on the donor community to continue its critical support to the people of Somalia.<sup>115</sup> The independent expert added that a "public health crisis" persisted in southern and central Somalia.<sup>116</sup> The outbreaks of communicable diseases, including cholera, meningitis and measles, were recurrent due to unhygienic conditions, limited access to safe drinking water, weakened immune systems due to poor nutrition, and general livelihood distress.<sup>117</sup>

54. The independent expert reported that many other economic, social and cultural rights had been badly affected by almost two decades of armed conflict, most particularly the rights to work, to food, to clothing, to housing, to medical care and to necessary social services, as well as the right to culture.<sup>118</sup>

55. The independent expert stated that the suspension of humanitarian assistance, the discontinuation of food distribution, and the targeting of aid workers by armed groups violate rights to protection, adequate food, medical care and shelter.<sup>119</sup> The Secretary-General called on all the parties to the conflict to respect humanitarian principles and allow the delivery of assistance to populations most in need.<sup>120</sup>

56. UNDP noted that, with respect to the Millennium Development Goals, Somalia needed to make significant investments in human resources capacity-building, infrastructure, institutions and growth, based on systematic and long-term planning and implementation of short- to medium-term strategies.<sup>121</sup>

#### **7. Right to education**

57. The independent expert indicated that, after two decades of conflict, almost two generations of young Somali boys and girls had been denied the benefit of a full education. Existing education systems, already limited in their scope, had been badly affected by the conflict.<sup>122</sup> Women's literacy was around 12 to 14 percent.<sup>123</sup> He also noted that innovative thinking might also lead to the productive engagement of youths trained for income-generation activities.<sup>124</sup>

58. The Secretary-General stated that schools had been damaged or destroyed, and teachers and students killed or injured, during exchanges of fire or shelling by parties to conflict.<sup>125</sup> Late in 2008 and in 2009, there had been an upsurge in attacks on schools, fuelled in part by the perception that children, particularly those studying in Koranic schools, were being mobilized to join insurgent groups, and were therefore "legitimate" military targets.<sup>126</sup>

#### **8. Minorities and indigenous peoples**

59. UNHCR stated that clan identity continued to permeate Somali culture and often resulted in extreme social, economic, political and cultural discrimination for minority clans. Most IDPs were of minority clan extraction and therefore faced a barrage of

discriminatory indignities and generally suffered human rights violations perpetrated with impunity by host communities.<sup>127</sup> The independent expert made similar remarks.<sup>128</sup>

60. The independent expert stated that discrimination and abuses against minorities and vulnerable groups continued unabated. Somali minorities such as the Benadir/Rer Hamar, Midgan (Gadoye) and Tomal, in particular the African Bantu/Jarir population, who had been traditionally discriminated against in Somali society, continued to face abuses and human rights violations.<sup>129</sup>

#### **9. Migrants, refugees and asylum-seekers**

61. UNHCR noted that Somalia hosted some 1,866 refugees, most of whom were Ethiopian and were based in Puntland and Somaliland, regions also hosting about 20,000 asylum-seekers out of an estimated total of 24,916 asylum-seekers.<sup>130</sup>

62. The independent expert recommended that the Government focus on three key issues which had emerged from his talks with the refugees: creation of livelihood opportunities; reopening of schools and support to education institutions; and strengthening medical services.<sup>131</sup>

#### **10. Internally displaced persons**

63. In 2010, the Human Rights Council expressed its deep concern at the plight of IDPs and refugees and at the vast scale of displacement as a direct consequence of the conflict in Somalia and of violations of human rights and humanitarian law.<sup>132</sup>

64. UNHCR indicated that the conflict continued to engender repeated and massive displacements, which led to outflows into central Somalia, Puntland, and Somaliland, and to neighbouring countries.<sup>133</sup> The current conflict in southern and central Somalia had engendered more than 1.46 million IDPs, of whom more than 1,110,000 were in Mogadishu and southern and central Somalia. Since 2007, approximately 91,960 Somalis had left Somalia, mainly undertaking a hazardous journey across the Gulf of Aden, which had left thousands dead.<sup>134</sup>

65. The Secretary-General stated that the Puntland authorities had also forcibly evicted 900 IDPs and deported foreigners suspected of having connections with the insurgency or of being potential targets for recruitment by the insurgents.<sup>135</sup>

66. The Representative of the Secretary-General on the human rights of internally displaced persons recommended that the authorities concerned, working together with humanitarian and development actors, inter alia, improve the living conditions and safety situation of IDPs in settlements, and strengthen the protection of women and girls from rape and domestic violence, by providing protective shelter.<sup>136</sup>

67. The same Representative of the Secretary-General stressed that IDPs should retain all their rights and freedoms and should not be discriminated against, irrespective of where they came from,<sup>137</sup> and recalled that national authorities had the primary duty and responsibility to provide protection and assistance to IDPs.<sup>138</sup> He recommended granting safe, timely and unconditional humanitarian access, including for delivering of humanitarian goods, to all IDPs.<sup>139</sup>

### **III. Achievements, best practices, challenges and constraints**

68. The Secretary-General stated that, as Somalia's transition period approached its end, he was concerned that the transitional agenda remained largely unfulfilled. Unity with the transitional federal institutions remained critical for confidence-building among Somalis

and the international community.<sup>140</sup> He appealed to the Government and the Parliament to resolve political disputes and to take concrete steps towards the fulfilment of commitments on the basis of clear benchmarks and through a genuine process of consultation.<sup>141</sup>

69. The Secretary-General noted that African leaders had expressed a strong sense of urgency for the TFG to do more to enhance its governance structures and to resolve internal disputes within its leadership structures.<sup>142</sup> The Istanbul Declaration adopted at the Istanbul Conference on Somalia in May 2010 reflected a consensus within the international community on, inter alia, the need for more effective action from the TFG; encouragement for groups outside the Djibouti Agreement to join the peace process and the necessity of strengthening the capacity of AMISOM to secure key strategic areas in Mogadishu.<sup>143</sup>

70. The Secretary-General stated that piracy attacks continued to have a negative impact on maritime safety and navigation off the coast of Somalia, constraining economic prospects, compromising business confidence and worsening security in the area.<sup>144</sup>

71. The Secretary-General noted that 2 million people needed emergency aid, including 1.4 million who had been displaced internally since 2007<sup>145</sup> and that only \$151 million in new funding had been received in 2010 for the consolidated appeals process, compared to \$237 million in new funding during the same period in 2009.<sup>146</sup> The Special Representative of the Secretary-General for children and armed conflict stated that the amount of humanitarian funding received for Somalia has continuously declined.<sup>147</sup> The independent expert stated that the international community must commit to funding all relevant United Nations activities at this critical juncture of the implementation of an international strategy for Somalia.<sup>148</sup>

#### **IV. Key national priorities, initiatives and commitments**

N/A

#### **V. Capacity-building and technical assistance**

72. In 2010, the Human Rights Council requested Member States, relevant United Nations agencies and stakeholders to provide the much-needed technical assistance to the Government of Somalia to boost its effective participation in the various United Nations processes. It also urged the Office of the High Commissioner to provide the necessary technical support and training.<sup>149</sup>

73. The Secretary-General appealed to the international community to provide the TFG with urgent military and financial support and other resources.<sup>150</sup> The independent expert made a similar appeal.<sup>151</sup>

74. ILO technical assistance focused on the creation of decent work opportunities through employment-intensive infrastructure projects providing immediate short-term employment.<sup>152</sup>

75. UNDP, through its civilian police projects, sought to develop an accountable and efficient police service to ensure that there was compliance with and adherence to human rights standards.<sup>153</sup>

76. UNDP indicated that the Access to Justice Project supported the expansion of legal aid services through agreements with legal aid providers and Bar Associations,<sup>154</sup> and had involved national authorities in improving the effectiveness and responsiveness of the Courts.<sup>155</sup>

## Notes

<sup>1</sup> Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 1 April 2009* (ST/LEG/SER.E/26), supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>.

<sup>2</sup> The following abbreviations have been used for this document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to CRPD
CED	International Convention for the Protection of All Persons from Enforced Disappearance

<sup>3</sup> Adopted by the General Assembly in its resolution 63/117 of 10 December 2008. Article 17, paragraph 1, of OP-ICESCR states that “The present Protocol is open for signature by any State that has signed, ratified or acceded to the Covenant”.

<sup>4</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

<sup>5</sup> 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.

<sup>6</sup> Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Convention); Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at [www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html](http://www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html).

<sup>7</sup> International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour; Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise; Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child

- Labour.
- <sup>8</sup> See [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10394&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10394&LangID=E). See also A/HRC/13/65, para. 88.
- <sup>9</sup> Report of the Secretary General, 31 December 2009, in UNDP submission to the UPR on Somalia para. 4.
- <sup>10</sup> UNHCR submission to the UPR on Somalia, p. 1.
- <sup>11</sup> A/HRC/13/21/Add.2, para. 67 (c).
- <sup>12</sup> UNHCR submission to the UPR on Somalia, p. 3.
- <sup>13</sup> *Ibid.*, p. 1.
- <sup>14</sup> *Ibid.*, pp. 1 and 2.
- <sup>15</sup> S/2010/577, para. 17.
- <sup>16</sup> S/2010/447, para. 9.
- <sup>17</sup> A/HRC/15/48, para. 62.
- <sup>18</sup> Security Council resolution 1872 (2009), para. 10.
- <sup>19</sup> For the list of national human rights institutions with accreditation status granted by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), see A/65/340, annex.
- <sup>20</sup> A/HRC/12/44, para. 90.
- <sup>21</sup> UNDP submission to the UPR on Somalia, para. 3.
- <sup>22</sup> *Ibid.*, para. 12.
- <sup>23</sup> *Ibid.*, para. 16.
- <sup>24</sup> OHCHR, *2009 Report: Activities and Results*, p. 99.
- <sup>25</sup> Security Council resolution 1872 (2009), para. 4.
- <sup>26</sup> A/HRC/15/48, para. 70.
- <sup>27</sup> A/HRC/12/44, para. 88.
- <sup>28</sup> Opening remarks of the High Commissioner for Human Rights at the stand-alone interactive dialogue on Somalia, held 29 September 2010. Available from [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10394&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10394&LangID=E).
- <sup>29</sup> Remarks of the Secretary-General to the mini-summit on Somalia. Available from [www.un.org/News/Press/docs/2010/sgsm13137.doc.htm](http://www.un.org/News/Press/docs/2010/sgsm13137.doc.htm).
- <sup>30</sup> See <http://unpos.unmissions.org/Default.aspx?tabid=1912>.
- <sup>31</sup> See also [www.amisom-au.org/](http://www.amisom-au.org/).
- <sup>32</sup> OHCHR, "Human Rights Council focuses on Somalia as it takes up the issue of technical assistance and capacity building", press release, 29 September 2010. Available from [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10392&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10392&LangID=E).
- <sup>33</sup> The following abbreviations have been used for this document:
- |              |   |
|--------------|---|
| CERD         | Committee on the Elimination of Racial Discrimination |
| CESCR        | Committee on Economic, Social and Cultural Rights     |
| HR Committee | Human Rights Committee                                |
| CAT          | Committee against Torture                             |
- <sup>34</sup> A/51/18, para. 435.
- <sup>35</sup> The questionnaires referred to are those reflected in an official report by a special procedure mandate holder issued between 1 January 2006 and 31 October 2010. Responses counted for the purposes of this section are those received within the relevant deadlines, and referred to in the following documents: (a) E/CN.4/2006/62, para. 24, and E/CN.4/2006/67, para. 22; (b) A/HRC/4/23, para. 14; (c) A/HRC/4/24, para. 9; (d) A/HRC/4/29, para. 47; (e) A/HRC/4/31, para. 24; (f) A/HRC/4/35/Add.3, para. 7; (g) A/HRC/6/15, para. 7; (h) A/HRC/7/6, annex; (i) A/HRC/7/8, para. 35; (j) A/HRC/8/10, para. 120, footnote 48; (k) A/62/301, paras. 27, 32, 38, 44 and 51; (l) A/HRC/10/16 and Corr.1, footnote 29; (m) A/HRC/11/6, annex; (n) A/HRC/11/8, para. 56; (o) A/HRC/11/9, para. 8, footnote 1; (p) A/HRC/12/21, para. 2, footnote 1; (q) A/HRC/12/23, para. 12; (r) A/HRC/12/31, para. 1, footnote 2; (s) A/HRC/13/22/Add.4; (t) A/HRC/13/30, para. 49; (u) A/HRC/13/42, annex I; (v) A/HRC/14/25, para. 6, footnote 1; (w) A/HRC/14/31, para. 5, footnote 2; (x) A/HRC/14/46/Add.1; (y) A/HRC/15/31/Add.1, para. 6 – for list of responding States, see [http://www2.ohchr.org/english/issues/water/ixpert/written\\_contributions.htm](http://www2.ohchr.org/english/issues/water/ixpert/written_contributions.htm); (z) A/HRC/15/32, para. 5.

- <sup>36</sup> OHCHR, *2008 Report: Activities and Results*, p. 92.
- <sup>37</sup> OHCHR, *2009 Report: Activities and Results*, p. 99.
- <sup>38</sup> OHCHR, “Senior UN human rights official condemns ‘ruthless attacks’ on civilians in Somalia, calls for concerted effort to tackle decades of impunity”, press release, 15 September 2010. Available from [www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10330&LangID=E](http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10330&LangID=E).
- <sup>39</sup> OHCHR, “Preliminary human rights assessment on Somalia – mission report, 19 July to 2 August 2008”, para. 22. Available from [www.ohchr.org/Documents/Countries/somalia\\_assessment\\_mission\\_report.pdf](http://www.ohchr.org/Documents/Countries/somalia_assessment_mission_report.pdf).
- <sup>40</sup> UNHCR submission to the UPR on Somalia, p. 4.
- <sup>41</sup> OHCHR, “Preliminary human rights assessment on Somalia (note 39 above), para. 24.
- <sup>42</sup> A/HRC/10/85, p. 2.
- <sup>43</sup> Human Rights Council resolution 15/28, paras. 2 and 4.
- <sup>44</sup> S/2010/447, para. 29.
- <sup>45</sup> S/2010/577, para. 17.
- <sup>46</sup> Remarks of the Secretary-General to the Security Council on Somalia, 21 October 2010.
- <sup>47</sup> UNHCR submission to the UPR on Somalia, p. 2.
- <sup>48</sup> *Ibid.*
- <sup>49</sup> A/HRC/15/48, para. 14.
- <sup>50</sup> *Ibid.*, para. 66.
- <sup>51</sup> A/HRC/13/65, p. 2.
- <sup>52</sup> A/HRC/15/48, para. 22.
- <sup>53</sup> OHCHR, “Human Rights Council focuses on Somalia” (note 32 above).
- <sup>54</sup> OHCHR, “Preliminary human rights assessment on Somalia” (note 39 above), para. 28.
- <sup>55</sup> A/HRC/10/85, p. 3.
- <sup>56</sup> S/2010/234, para. 22.
- <sup>57</sup> A/HRC/12/44, para. 45.
- <sup>58</sup> A/HRC/13/65, para. 21.
- <sup>59</sup> *Ibid.*, para. 54.
- <sup>60</sup> *Ibid.*, para. 22.
- <sup>61</sup> S/2010/447, para. 34.
- <sup>62</sup> A/HRC/12/44, para. 55.
- <sup>63</sup> UNDP submission to the UPR on Somalia, para. 8.
- <sup>64</sup> *Ibid.*, para. 9.
- <sup>65</sup> A/HRC/11/2/Add.1, pp. 362–363.
- <sup>66</sup> S/2010/577, para. 41.
- <sup>67</sup> “Somalia: Unacceptable killing of a girl child”, press release, 7 November 2009. Available from [www.un.org/children/conflict/english/pr/2008-11-07192.html](http://www.un.org/children/conflict/english/pr/2008-11-07192.html).
- <sup>68</sup> A/HRC/13/65, para. 20.
- <sup>69</sup> A/HRC/12/44, para. 54.
- <sup>70</sup> A/HRC/15/48, para. 30.
- <sup>71</sup> *Ibid.*, para. 26.
- <sup>72</sup> S/2010/447, para. 35.
- <sup>73</sup> *Ibid.*, para. 34.
- <sup>74</sup> A/HRC/12/44, para. 70.
- <sup>75</sup> S/2010/234, para. 24.
- <sup>76</sup> S/2010/447, para. 36.
- <sup>77</sup> A/HRC/15/48, para. 28.
- <sup>78</sup> S/2010/577, para. 68.
- <sup>79</sup> ILO submission to the UPR on Somalia, para. 5.
- <sup>80</sup> Secretary-General’s remarks to Security Council open debate on Somalia piracy, 25 August 2010. Available from [www.un.org/apps/sg/sgstats.asp?nid=4738](http://www.un.org/apps/sg/sgstats.asp?nid=4738). See also S/2010/394.
- <sup>81</sup> S/2010/394.
- <sup>82</sup> UNODC submission to the UPR on Somalia, p. 3.
- <sup>83</sup> OHCHR, “UN expert seriously concerned about violence and rights abuses in Somalia”, press release, 18 June 2009. Available from [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=8546&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=8546&LangID=E).

- 84 UNDP submission to the UPR on Somalia, para. 25.  
85 S/2010/234, para. 63.  
86 A/HRC/15/48, para. 36.  
87 Ibid., para. 66.  
88 OHCHR, “Human Rights Council focuses on Somalia” (note 32 above).  
89 OHCHR, “Preliminary human rights assessment on Somalia” (note 39 above), para. 32.  
90 S/2010/447, para. 83.  
91 A/HRC/15/48, para. 97.  
92 UNDP submission to the UPR on Somalia, para. 7.  
93 A/HRC/13/65, para. 53  
94 OHCHR, “Preliminary human rights assessment on Somalia” (note 39 above), para. 30.  
95 S/2010/447, para. 66.  
96 A/HRC/12/44, para. 51.  
97 Ibid., para. 55.  
98 A/HRC/13/65, para. 73.  
99 UNDP submission to the UPR on Somalia, para. 13.  
100 UNHCR submission to the UPR on Somalia, p. 4.  
101 S/2010/234, para. 21.  
102 A/HRC/10/85, para. 47.  
103 A/HRC/13/65, para. 51.  
104 ILO submission to the UPR on Somalia, para. 11.  
105 A/HRC/13/65, para. 82.  
106 A/HRC/15/48, para. 74.  
107 A/HRC/12/44, para. 69.  
108 A/HRC/13/65, para. 70.  
109 OHCHR, press release, “Senior UN human rights official”, (note 38 above).  
110 A/HRC/15/48, para. 95.  
111 ILO submission to the UPR on Somalia, para. 7.  
112 Ibid., para. 12.  
113 Ibid., para. 8.  
114 S/2010/447, para. 25.  
115 Ibid., para. 82.  
116 A/HRC/15/48, para. 32.  
117 A/HRC/10/85, para. 52.  
118 A/HRC/12/44, para. 61.  
119 OHCHR, “The UN independent expert on Somalia, Dr. Shamsul Bari, issues a strong warning on the security, human rights and humanitarian situation in the country”, 28 January 2010. Available from [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=9790&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=9790&LangID=E).  
120 S/2010/447, para. 82.  
121 UNDP submission to the UPR on Somalia, para. 14.  
122 A/HRC/12/44, para. 60.  
123 A/HRC/13/65, para. 20.  
124 A/HRC/12/44, para. 83.  
125 S/2010/577, para. 47.  
126 Ibid., para. 45.  
127 UNHCR submission to the UPR on Somalia, p. 2.  
128 A/HRC/15/48, para. 27.  
129 A/HRC/10/85, para. 53.  
130 UNHCR submission to the UPR on Somalia, p. 2.  
131 A/HRC/13/65, para. 95.  
132 Human Rights Council resolution 15/28, para. 3.  
133 UNHCR submission to the UPR on Somalia, p. 2.  
134 Ibid.  
135 S/2010/447, para. 24.  
136 A/HRC/13/21/Add.2, para. 62 (a) and (f).  
137 Ibid., para. 63.



- <sup>138</sup> Ibid., para. 67.
- <sup>139</sup> Ibid., para. 61 (a).
- <sup>140</sup> S/2010/447, para. 77. See also S/2010/234, para. 78.
- <sup>141</sup> S/2010/447, para. 75.
- <sup>142</sup> Ibid., para. 7.
- <sup>143</sup> Ibid., para. 4.
- <sup>144</sup> Ibid., para. 18.
- <sup>145</sup> Remarks of the Secretary-General to the Security Council on Somalia, 21 October 2010.
- <sup>146</sup> S/2010/447, para. 27.
- <sup>147</sup> “New Somali Prime Minister pledges to work towards ‘action plan’ to end recruitment and use of child soldiers”, press release, 3 November 2010. Available from <http://www.un.org/children/conflict/english/pr/2010-11-03247.html>.
- <sup>148</sup> A/HRC/15/48, para. 94.
- <sup>149</sup> Human Rights Council resolution 15/28, paras. 11 and 16. See also Council resolution 10/32, para. 4.
- <sup>150</sup> S/2010/447, para. 76.
- <sup>151</sup> OHCHR, “The UN Independent Expert on Somalia calls for nation-wide, grassroots action to prevent further bloodshed”, press release, 26 August 2010. Available from [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10290&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10290&LangID=E).
- <sup>152</sup> ILO submission to the UPR on Somalia, para. 9.
- <sup>153</sup> UNDP submission to the UPR on Somalia, para. 20.
- <sup>154</sup> Ibid., para. 23.
- <sup>155</sup> Ibid., para. 24.
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