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Report of the Independent Expert on the situation of human rights in Somalia, Isha Dyfan

Comments by the State*

* The present document is being issued without formal editing.



1. Summary

1. The Federal Government of Somalia acknowledges with appreciation the exceptional dedication of the Independent Expert in fulfilling the mandate both in spirit and action, as demonstrated through constructive engagements during the two country visits in this reporting period. We also take this opportunity to express our gratitude once again to the United Nations human rights mechanisms for their unwavering collaboration and support in improving the human rights situation in Somalia.
2. Building on the commendable work of the Independent Expert in compiling the report, the Federal Government of Somalia wishes to highlight that while the report is comprehensive, the factual verification of some specific data requires further examination. This is not only to ensure accuracy but also to reflect the most current and contextual realities on the ground. The government is committed to collaborating closely with the Independent Expert to correct and update parts of the report, ensuring that it accurately represents the progress and challenges in Somalia's human rights landscape. This collaborative approach underscores our dedication to transparency and continuous improvement in addressing human rights issues.
3. To that end, we wish to bring to your attention the following parts of the report that we found worth further clarification and update. These areas are essential for ensuring a precise and constructive understanding of the current human rights landscape in Somalia.

2. Specific comments

4. **Regarding paragraph 3 of the report “a self-declared nation-state”:** Somaliland is an integral part of the Federal Republic of Somalia. Consequently, the report should refrain from including any content that challenges or undermines the sovereignty and territorial integrity of the Federal Republic of Somalia.
5. **Regarding paragraph 9 “Jubaland, Southwest, and the international community on the amendments to the first four chapters of the constitution”:** Both Jubaland and Southwest have made significant contributions to the successful amendments of the first four chapters of the Provisional Federal Constitution. They achieved this by encouraging Members of Parliament and Senators elected from their constituencies to vote in favour of the amendments. In recognition of this achievement, the international community has issued a press release congratulating Somalia on reaching this important milestone. The two Federal Member States played a crucial role in the political accords reached by the National Consultative Council (NCC) forum in Baidoa and Mogadishu. Their involvement was instrumental in facilitating the drafting and ratification of these four chapters of the constitution, marking a significant step forward in Somalia's constitutional development process. Additionally, Somalia's international partners, in their joint press release issued on May 31, 2024, commend the Federal Government and Parliament for their efforts in aligning with international and regional human rights obligations, including children's rights.¹
6. **Regarding paragraph 13 “age maturity”:** Following the recommendations of the Independent Commission and the Oversight Committee, it has been recognized that further action is necessary due to disagreements among members of parliament, which have hindered progress. As a result, this initiative has been temporarily deferred, with plans to incorporate it into the subsequent phases of the constitutional amendments. Therefore, we do not believe this situation warrants undue suspicion or special attention.
7. **Regarding paragraph 13 “footnote”:** The correct text for Footnote 10 should read: "as shall be defined in the laws of the Federal Republic of Somalia," according to **Article 27 (2) of the amended Provisional Federal Constitution**. This corrects the previous wording, which inaccurately stated: "*as defined in the law of the Federal Republic of Somalia.*"

¹ <https://unsom.unmissions.org/somalia%E2%80%99s-international-partners-statement-constitutional-review>.

8. **Regarding paragraph 18 “ENDF withdrawal from Bay and Bakool regions in Southwest State”:** Somalia has been working with all stakeholders to implement the Somali Transition Plan (STP), which is contextually relevant and time-bound, involving all Troop Contributing Countries (TCC), including the Ethiopian National Defense Forces (ENDF). We support the calls from the United Nations Security Council (UNSC), African Union (AU), Organization of Islamic Cooperation (OIC), Arab League, and other international partners for the absolute respect of Somalia’s sovereignty, territorial integrity, and independence. Bilateral engagements should comply with international law. The withdrawal of the African Union Transition Mission in Somalia (ATMIS) from Bay and Bakool, or any other region, was part of the Somali Transition Plan. We see no reason for the report to prioritize the ENDF over other ATMIS forces stationed in Jubaland or Hirshabelle, where the threat from Al-Shabaab is even more significant due to these regions' strategic importance.

9. **Regarding paragraph 21 “civilian casualties”:** While we condemn the loss of civilian life due to conflict, we find that the reported number of casualties appears to be significantly exaggerated. We request that the supporting evidence for the specific casualty figures mentioned in any report be shared with relevant government institutions in advance for factual verification and necessary responses before being published.

10. **Regarding paragraph 25 “Galmudug tension”:** It is noteworthy that the tensions have been effectively resolved, as the clans have reached a harmonious agreement by addressing their differences through established dialogue and dispute resolution mechanisms. This reconciliation was facilitated with the support of the Federal and State Inter-Governmental Committee, comprising Ministers, Members of Parliament, and District and Regional Authorities.

11. **Regarding paragraph 26 “protection of civilians”:** The Federal Government of Somalia underscores the critical importance of protecting civilians during military operations. These operations are conducted by professional and highly trained officers who are dedicated to maintaining oversight and accountability. It is important to highlight that civilian government authority is either established upon liberation or already exists in all operational areas. This effectively addresses and mitigates concerns about clan militias operating without oversight. The presence of a functioning government ensures that any potential violations are managed and controlled effectively.

12. **Regarding paragraph 32 “freedom of expression”:** We remain steadfast in our commitment to protecting and promoting freedom of expression. However, we are shocked that the report includes the alleged arrest and overnight detention of a journalist on April 17 without providing context regarding the nature of the case and its outcome. Such incomplete information can hinder the government's efforts to investigate genuine violations and hold perpetrators accountable. It is crucial for reports to present a comprehensive view to support transparency and justice effectively.

13. **Regarding paragraph 36 “SGBV”:** The Federal Government of Somalia has made substantial efforts to address Sexual and Gender-Based Violence (SGBV) by actively investigating cases and ensuring accountability for perpetrators. A notable example is the ongoing case of Sayid Ali, who was arrested, investigated, and prosecuted for the violent killing of his pregnant wife during the reporting period. This demonstrates the government's commitment to tackling SGBV and upholding justice for victims.

14. **Regarding paragraph 43 “Dhaqan Celis Centres”:** Following the enactment of the National Health Professional Council Act No. 31 on November 16, 2020, and the subsequent formation of the National Health Professional Council, the government has required all formal and informal healthcare services, including traditional healers, religious centers, and rehabilitation centers, to register with the council and obtain an operating license. Regarding the re-education centers (Dhaqan-celis), no allegations or concerns of criminal activities have been reported based on available information. These centers are primarily established to serve the community's needs, with any incidents of misconduct quickly and appropriately addressed by the government. We remain steadfast in our commitment to ensuring the safety and well-being of our children at all stages.

15. **Regarding paragraph 44 “National Disability Bill”:** The Federal Government of Somalia is pleased to inform the Independent Expert and include in the report that the National Disability Bill has been passed by the House of the People of the Federal Parliament. The bill is now on its way to the Senate for deliberations and is on track to be enacted before the end of 2024.

16. **Regarding paragraph 49 “Health spending”:** The Federal Government of Somalia wishes to clarify that the current investment in the health sector is inaccurately represented in the report shared with the Independent Expert during her third country visit. Contrary to the quoted figure of 1.3 percent of the total FGS expenditure, the actual spending on the health sector is 4.9 percent, as detailed in the Appropriation Act for the 2024 Budget. This information is officially available on the Ministry of Finance’s website. We trust this correction will be duly noted and reflected in the report before it is published.²

17. **Regarding paragraph 54 “Humanitarian situation”:** We emphasize the following information for inclusion in the report, which aligns with data from OCHA for the same period. *(The Federal Government of Somalia, along with state and local governments, provided essential humanitarian aid to flood-affected areas. From May 5 to 11, they distributed 350 metric tons of wheat, donated by Russia, to over 7,000 households, including 3,000 displaced families in Kismayo. SoDMA further supported 1,200 households with 50 kg of wheat and 15 kg of dates and supplied 200 tents to families in the Ceel Baraf area of Middle Shabelle. Humanitarian partners reached approximately 157,000 individuals (26,166 households) with various forms of aid, such as cash transfers, essentials, and health and sanitation services. Critical nutrition supplies were also prepositioned in 22 priority districts.)*

18. **Regarding paragraph 59 “forced evictions”:** The report points to a considerable number of forced evictions in Somalia, with 207,851 instances in 2023, marking a ten percent increase from 2022. It is crucial to emphasize that the root causes of these figures extend beyond systematic evictions. Factors such as the actions of the violent extremist group Al-Shabaab, along with recurring droughts and floods induced by climate change, significantly contribute to these numbers. Consequently, these elements necessitate targeted interventions rather than broad, generalized strategies. Therefore, conducting a more nuanced investigation into the specific causes of evictions, coupled with focused strategies, is what one might expect the report to emphasize as a more effective approach to addressing this complex issue.

19. **Regarding paragraph 65 “correction”:** The intended wording should be “the Independent Expert **commends**” rather than “the Independent Expert commands” as it is currently stated in the report.

20. **Regarding paragraph 68 “Media Council”:** In response to concerns about the formation of the Somali Media Council, we emphasize that no evidence-based concerns or supporting information from the involved parties have been received. Nonetheless, we reaffirm our commitment to ensuring that the Federal Government of Somalia (FGS) is prepared to address this issue or any similar non-compliance issues. Our readiness to engage underscores our dedication to transparency and fairness in accordance with legal frameworks.

21. **Regarding paragraph 72 “Women’s representation at the NCC”:** The Federal Government of Somalia seeks to clarify the report by highlighting the official composition of the committee appointed through the ministerial decree Ref: WHHX/XW/200/2023³, dated October 5th, 2023, which includes Zahra Mohamed Ahmad, a prominent Somali human rights activist and lawyer, founder of the Somali Women Development Center, and current chairperson of the AWLN Somali chapter; Batulo Sheikh Ahmed, chairperson of the Somali National Women’s Association; Jawahir Mohamud Jama, associated with the Benadir Women’s Association; and Duniya Fu’aad Mohamud, representing minority clans. This carefully selected committee underscores the government’s dedication to fostering inclusive representation and diversity at the NCC.

² <https://mof.gov.so/sites/default/files/Publications/Xeerka%20Qoondada%20Miisaaniyadda%202024.pdf>.

³ See attached MoWHRD letter of appointment Ref: WHHX/XW/200/2023³, dated October 5th, 2023.

22. **Regarding paragraph 73 “Rape and Indecency Offences Bill”:** Normally, there is a defined process that all bills initiated by any government entity must follow, ensuring checks and balances. This process includes review by the Ministry of Justice and Constitutional Affairs, the Solicitor General, and the Cabinet Sub-Committee before the bills are presented to the council. However, we acknowledge the concerns raised by the Independent Expert and assure that the bill will undergo the necessary rectifications before being passed by the House of the People of the Federal Parliament. The government is steadfast in its commitment to ensuring that the bill aligns with both the national constitution and the international instruments to which Somalia is a signatory.

23. **Regarding paragraphs 84 and 89 “update on National Disability Bill”:** Please refer to paragraph 15 of this document regarding the National Disability Bill and update the report accordingly.

24. **Regarding paragraph 90 “NAP 1325 on WPP”:** The Independent Expert's report expresses concerns about implementing the Joint Communique's activities, yet notable strides have been made through the National Action Plan on Ending Sexual Violence in Conflict (NAP/SVC). Since 2014, this plan has been aligned with national strategies like the Somali Compact and the National Development Plan, establishing a robust framework to address sexual violence, including the development of a national Early Warning System focused on Women, Peace, and Security, which has been instrumental in providing gender-specific data and analysis, facilitating risk assessments. In 2022, these efforts were further integrated by the Ministry of Women and Human Rights Development into the Somalia National Action Plan⁴ for the Implementation of the Somali Women's Charter and UNSCR 1325. Importantly, the NAP 1325 on Women, Peace, and Security (WPS) has been localized across all Federal Member States, underscoring a strong and widespread commitment to advancing the women protection agenda.

25. **Regarding paragraph 96 “National Consultative Council”:** It is important to note that while one state has expressed differing views regarding the review of the constitution, the Federal Government of Somalia remains open and prepared to engage in discussions at any time. This willingness to engage reflects a commitment to understanding and addressing the state's concerns promptly, with the ultimate goal of reaching a resolution that aligns with the broader national interests and frameworks.

⁴ See attached National Action Plan for the implementation of the Somali Women's Charter and UNSCR 1325 on Women, Peace and Security (WPP) 2021-2025.