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## Human Rights Council

### Forty-second session

9–27 September 2019

Agenda item 10

### Technical assistance and capacity-building

## Situation of human rights in Somalia

### Report of the Independent Expert on the situation of human rights in Somalia\*

#### *Summary*

In the present report, the Independent Expert on the situation of human rights in Somalia, Bahame Tom Nyanduga, highlights the situation of human rights during the past year and traces the challenges and achievements as regards their enjoyment and the measures adopted to address the challenges since the establishment of the mandate more than 25 years ago.

The Independent Expert argues that Somalia has recorded considerable progress in establishing conditions for the enjoyment of human rights with the support of the international community.

Notwithstanding the challenges, including terror attacks, insecurity, human rights violations, poverty and inter-clan conflicts, the country's transition to a democratic State is advancing.

The Independent Expert urges the international community to continue to support Somalia at this critical stage and proposes a set of recommendations for lasting peace and reconciliation.

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\* The present report was submitted late to reflect the most recent developments.

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## I. Introduction

1. The report of the Independent Expert on the situation of human rights in Somalia, Bahame Tom Nyanduga, is submitted pursuant to Human Rights Council resolution 39/23. The Council requested him to work closely with the Federal Government of Somalia at the national and subnational levels, as well as with all United Nations bodies, including the United Nations Assistance Mission in Somalia (UNSOM), the African Union, the Intergovernmental Authority on Development (IGAD), other relevant international organizations, civil society and all relevant human rights mechanisms, and to assist Somalia, *inter alia*, in the implementation of its national and international human rights obligations. The Council also requested the Independent Expert to report to it at its forty-second session and to the General Assembly at its seventy-fourth session.

2. In the present report, the Independent Expert assesses the human rights situation in Somalia over the past year and reviews the achievements and challenges since the establishment of the mandate more than 25 years ago.

### A. Establishment of the mandate

3. The mandate of the Independent Expert on the situation of human rights in Somalia was established pursuant to resolution 1993/86 of the Commission on Human Rights (see E/CN.4/1993/122).

4. The resolution requested the Secretary-General to appoint an independent expert to assist the Special Representative of the Secretary-General for Somalia in developing a long-term programme of advisory services for re-establishing human rights and the rule of law in Somalia, including a democratic constitution, as well as the holding of periodic and genuine elections by universal suffrage and secret ballot (see E/CN.4/1993/122).

5. In March 1995, the Commission on Human Rights adopted resolution 1995/56, which called upon all parties to the conflict in Somalia to work towards a peaceful solution to the crisis. It requested the Independent Expert to study ways to re-establish respect for human rights and the rule of law, strengthening the police and the judicial and prison systems in Somalia, and how best to implement a programme of advisory services for Somalia.

6. The mandate of the Independent Expert was extended by the Human Rights Council in 2007<sup>1</sup> and the reports of the mandate have been considered under agenda item 10 on technical assistance and capacity-building since 2008 (see A/HRC/7/26).

### B. Human rights challenges identified by previous mandate holders

7. The current report is submitted to the Council 25 years after the initial report of the first Independent Expert (see E/CN.4/1994/77). There have been six Independent Experts to date.

8. Fanuel Jariretundu Kozonguizi (1993–1994) noted that the absence of an accountable government and lack of infrastructure were impediments to justice and accountability for human rights violations. He called for the establishment of independent human rights monitors to receive complaints and investigate reports of violations of human rights and humanitarian law (E/CN.4/1994/77, paras. 6 and 27).

9. Mohamed Charfi (1995–1996) highlighted challenges related to the administration of justice and fair trial guarantees, extrajudicial killings and arbitrary executions of unarmed civilians, including the deliberate targeting of clan elders involved in moves towards reconciliation, the treatment of minorities, attacks against humanitarian personnel, and rape and sexual abuse of women, particularly the displaced, by members of militia, or

<sup>1</sup> See Human Rights Council resolution 5/1.

*moryan* bandit raiders and the forced marriage of young girls to members of the opposing militia (E/CN.4/1996/14, para. 17). He called for the establishment of an international criminal tribunal to deal with the crimes perpetrated and encouraged the international community to assist the Government of Somalia to rebuild the State. He also called for the elaboration and implementation of a human rights programme (E/CN.4/1996/14/Add.1, paras. 33 (i), 36 and 38 (in French only)).

10. Mona Rishmawi (1996–2000) expressed concern about the grave acts of violence against life, intentional attacks against the civilian population and civilian objects, pillage, the conscription of children under 15, rape and other forms of sexual violence, the persecution of minorities, the illegal ordering of the displacement of civilians and the denial of due process (E/CN.4/2000/110, paras. 40–64). She proposed areas for technical cooperation to promote human rights work in Somalia and to advance peace and stability. Those included support for Somali human rights defenders, integrating human rights into the work of the United Nations agencies and programmes for women and law enforcement agencies (E/CN.4/1998/96, paras. 89–95).

11. Ghanim Alnajjar (2001–2008) raised concerns about violations of the right to life, arbitrary arrest and detention, disappearances and summary executions, intentional attacks on humanitarian personnel, violations of the right to freedom of opinion and expression, discrimination and abuse of marginalized groups and minorities, massive internal displacement, sexual and gender-based violence, the recruitment of children by armed groups and the practice of *asi walid*, whereby parents enforced disciplinary action on their children by sending them to prison without due process. He called for support by the international community to build State institutions for the rule of law and human rights, and recommended the drafting of a national constitution as an important step in building a legal framework for the protection of human rights (A/HRC/7/26, paras. 18–53).

12. Shamsul Bari (2008–2014) proposed a human rights road map on the following thematic areas (A/HRC/24/40, paras. 13–39):

(a) Protection of civilians: through, inter alia: opening/strengthening police stations; training police and security forces on human rights and international humanitarian law; strengthening monitoring and investigation mechanisms; establishing a mechanism for monitoring the situation of civilians in areas of armed conflict and a civilian casualty tracking mechanism; and raising the awareness of citizens regarding their rights;

(b) Right to justice: training of justice personnel in the administration of justice and human rights; harmonization of informal and customary practices with the formal State justice system and sharia law; and development of a justice/legal reform strategy and action plan focusing on the primacy and independence of the judiciary and clarifying the scope of the jurisdiction of the civilian and military courts;

(c) Other thematic areas, such as: women's rights; children's rights; freedom of expression; minority rights; rights of returning refugees and internally displaced persons; rights of prisoners and detainees; the right to food; the right to health; the right to education; the right to work and livelihood; access to clean water and sanitation; and addressing impunity for serious crimes.

13. He also recommended the preparation of a truth, justice and reconciliation conference and the establishment of a commission of inquiry, tribunal or any other appropriate mechanism to punish past crimes and ongoing targeted killings (A/HRC/24/40, para. 101).

### C. Implementation of recommendations by mandate holders

14. Numerous recommendations made by mandate holders since 1994 have been acted upon, including:

(a) The 2012 Provisional Constitution, which led to the establishment of the Federal Government, the Federal Member States and their institutions, the parliaments, the judiciary, the Somali National Army, the police force and the correctional services;<sup>2</sup>

(b) Ratification of the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities;

(c) The human rights road map, which is being implemented by the Federal Government;

(d) A Human Rights Component within UNSOM;

(e) Programmes for strengthening the justice and security sectors, such as through the vetting of army and police recruitment, and training in human rights and international humanitarian law.

15. The process of State formation and institution-building at the federal and State levels have strengthened governance, indicating the progress that underpins the enjoyment of human rights in Somalia in conformity with many recommendations made by the Human Rights Council. The Independent Expert has witnessed considerable progress since his first mission in December 2014. Insecurity and violence have decreased in many parts of the country due to the efforts of Somali security institutions supported by the African Union Mission in Somalia (AMISOM), and the international community, in spite of targeted and complex attacks against civilian and military targets by Al-Shabaab. Federal Government troops have recovered territory and continue to diminish the capability of Al-Shabaab. However, terrorist attacks continue to claim lives, increase the displacement of the civilian population, cause life-long physical injuries and trauma, destroy property and livelihoods, and place heavy burdens on the health system.

16. Somalia conducted successful indirect electoral processes in 2016/2017 for the Federal President and the two Houses of Parliament involving thousands of delegates across the country, in spite of intimidation and threats by Al-Shabaab. This was in contrast to the elections by the Council of Elders in 2012. Subsequently, 34 clan elders and other people were killed for participating in the electoral process. This is a reminder that security and other necessary arrangements must be in place to guarantee credible elections in 2020/2021.

17. Following the 2016 electoral process, the number of women in Parliament and the Cabinet increased. The appointment of women as Ministers for Women and Human Rights Development, Energy and Water Resources, Ports and Marine Transport, Health, and Youth and Sports, and the Deputy Commissioner General of Police highlight the importance of the participation of women in public affairs, peace and reconciliation and decision-making processes.

18. An assessment of the Federal Government's mid-term report on the implementation of recommendations from the second cycle of the universal periodic review reveals that laws, plans, policies and programmes adopted are in the process of being implemented.<sup>3</sup>

19. Before the crisis in 1991, Somalia had ratified four of the nine core human rights treaties, namely the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Somalia ratified the Convention on the Rights of the Child in 2015. On 2 October 2018, Somalia acceded to the Convention on the Rights of Persons with Disabilities and ratified it on 6 August 2019. In 2016, Somalia also extended a standing invitation to the special procedure mandate holders.

<sup>2</sup> Reforms accepted at the London Conference of 11 May 2017. See A/HRC/36/62, paras. 13–16.

<sup>3</sup> See Somalia, "Mid-term review report on progress made by Somalia on the implementation of accepted recommendations from the second cycle review in January 2016 under the universal periodic review (UPR) mechanism of the United Nations Human Rights Council" (January 2019). Available at <https://lib.ohchr.org/HRBodies/UPR/Documents/Session24/SO/Somalia.pdf>.

## II. Visit to Somalia

20. In preparation for his sixth and final visit to Somalia between 15 and 25 July 2019, the Independent Expert held consultations with the Permanent Representative of Turkey to the United Nations and other international organizations in Geneva, the Special Representative of the Secretary-General on Sexual Violence in Conflict and the Special Representative of the Secretary-General for Children and Armed Conflict, in New York, and representatives of the donor community, the International Committee of the Red Cross, Amnesty International, Human Rights Watch, the International Development Law Organization (IDLO) and the Panel of Experts on Somalia, in Nairobi.

### A. Mogadishu

21. During the visit, the Independent Expert did not visit the Federal Member States due to logistical and time constraints. However, he visited Jubbaland, South-West State and Puntland between December 2014 and May 2018. In May 2018, he met the Ministers for Human Rights from Hirshabelle and Galmudug.

22. In Mogadishu, he met the Speaker of the Federal Parliament and members of its Human Rights Committee, and Federal Ministers for Constitutional Affairs, Energy and Water Resources, Health, Justice, and Women and Human Rights Development. He also met representatives of AMISOM, UNSOM, United Nations agencies, civil society organizations, humanitarian organizations and trade unions.

#### 1. Political, constitutional and security developments

23. The visit was conducted in the wake of numerous developments. On 12 October 2018, the General Assembly elected Somalia to the Human Rights Council.

24. At the national level, elections for the Federal Member States were taking place despite the absence of an agreed federal electoral law. Puntland held elections in January 2019 with Said Abdullahi Mohamed Deni being elected President, replacing Abdiweli Mohamed Ali Gaas. At the time of the visit, Prime Minister Hassan Ali Khayre was fully engaged with the leadership of Galmudug in consolidating peace.

25. During the December 2018 South-West State presidential elections, demonstrations were forcefully suppressed following the arrest of Mukhtar Robow, a former Al-Shabaab deputy commander, reportedly for not complying with the terms agreed with the Federal Government regarding the sanctions against him upon his defection. Subsequently, Abdiyaziz Hassan Mohamed was elected President of South-West State on 19 December 2018. The violent suppression of the demonstrations raised human rights concerns. It was alleged that 15 civilians were killed and 254 were arrested, but later released without any charges. The intervention by the United Nations regarding human rights concerns arising from the South-West State elections, compounded by the volatile political climate, was met with a strong reaction from the Federal Government, leading to the replacement of the then Special Representative of the Secretary-General and head of UNSOM. The new Special Representative was appointed on 30 May 2019.

26. On 12 July 2019, Al-Shabaab attacked a hotel in Kismaayo, Jubbaland, which was hosting a pre-election conference, killing 26 people, among them a presidential candidate and foreign nationals. Some 56 people were injured. The presidential elections were held on 22 August amidst a climate of tension. The process administered by the Jubbaland Independent Electoral and Boundaries Commission was perceived by some as being biased and lacking inclusivity, leading to three separate electoral processes being held simultaneously: one led by the Commission and two parallel processes by the non-registered opposition candidates. This resulted in three people being declared President, including the incumbent, Ahmed Mohamed Islam Madobe.

27. The Independent Expert heard concerns that Somalia might miss the election time frame unless the new constitution were adopted in time. He raised this matter with the

Speaker of the Federal Parliament, who stated that all 15 chapters of the constitution had been reviewed and should be adopted by December 2019.

28. A 15-member ad hoc committee has been constituted by Parliament to review the electoral law. The Speaker noted that Somalia had decided to adopt a multiparty, closed-list proportional representation model for its 2020/2021 elections, instead of the 4.5 clan-based elections. The proportional representation model was agreed upon by the Federal Government and Federal Member States in Baidoa. While the 4.5 clan system enabled minority clans and women to be elected in 2016, it remains contentious.

29. The Speaker explained that the political parties bill and electoral law would ensure that political parties were not formed on the basis of clan affiliation and would provide criteria for the representation of women, young persons, persons with disabilities, internally displaced persons, members of minority clans, and other marginalized groups. He noted that Parliament had not established a mechanism within the constitution to guarantee the representation of women, minority clans and other disadvantaged groups. He also acknowledged the need to codify the 30 per cent quota for women.

30. The Minister for Constitutional Affairs stated that the experience of countries in a post-conflict situation and with diverse political interests proved that proportional representation was the ideal model for Somalia.

31. The Independent Expert urges the Federal Parliament to adopt an electoral law to clearly guarantee the quota for women, and the representation of minority clans, marginalized communities, persons with disabilities, internally displaced persons and young persons, thereby protecting the gains of the 2016/2017 elections. He stressed that Parliament should not delegate its legislative authority for determining the quota for women and representation of marginalized groups to the electoral commission.

## 2. Humanitarian situation

32. The Independent Expert acknowledges the good work done by the humanitarian community to sustain the livelihoods of the civilian population. Somalia experienced poor rains in October and November 2018 (*deyr* rainy season) and between April and June 2019 (*gu* rainy season). Because of the poor rains, Somalia is expected to harvest between 50 and 80 per cent less food than normal. Somalia usually grows 30 per cent of its food requirements. Humanitarian support in some areas consisted of providing a water supply for the civilian population and livestock, by drilling and rehabilitating boreholes, collecting rainwater, repairing generators and pumps and distributing cash payments to the population to buy water and food. Local farming communities were provided with seed and fertilizer. Cooperatives in Bay and Lower Shabelle were provided with nine tractors. Other services included vaccinating livestock and training veterinary support staff. Livelihood support benefited about 7,000 households in Jubbaland, 9,000 in Bay and Bakool, 7,000 in Galmudug and 7,000 in Sool. The humanitarian community shares information and collaborates in addressing challenges.

33. Other humanitarian services include the provision of health services, which reach many people across Somalia through 30 health clinics, four hospitals, two of which are in Mogadishu and the other two in Kismaayo and Baidoa, and nutrition stabilization centres for returning migrants and internally displaced persons.

34. The Office for the Coordination of Humanitarian Affairs developed a response plan and launched an international appeal in April 2019, which has secured \$230 million and is expecting to receive \$500 million.

35. The National Policy on Refugee-Returnees and Internally Displaced Persons was adopted by the Federal Government in July 2019. The Federal Government and Federal Member States have adopted institutional mechanisms to address humanitarian and disaster management issues. Along with other national and international actors, the International Organization for Migration (IOM) and the Office of the United Nations High Commissioner for Refugees have continued to provide protection and assistance to persons of concern, including refugees, asylum seekers, returnees and internally displaced persons, under the leadership of the Federal Government.

36. The IOM Migrant Response Centres in Hargeysa and Boosaaso assist returnees from Yemen with transport, cash assistance, medical emergencies and referrals during relocation. IOM plans to open another centre in Mogadishu. In 2018, it assisted 2,591 returnees from Yemen and 269 from Libya to integrate into their communities and 1,000 households, consisting of internally displaced persons, to relocate from a congested settlement in Baidoa. Following the failure of the *gu* rains, IOM expects to implement its activities with an estimated budget of \$299 million for the period between 2019 and 2021.<sup>4</sup>

### 3. National Human Rights Commission

37. In his 2018 report, the Independent Expert reported that the names of prospective members of the National Human Rights Commission had been submitted to Cabinet (A/HRC/39/72, paras. 21–22). During the visit, the Independent Expert learned that the names had not been sent to Parliament for approval. The non-operationalization of the Commission greatly impacts the protection of human rights. It has also delayed the establishment and operationalization of the Judicial Services Commission, because its chair becomes a member. The establishment of the Judicial Services Commission is necessary for the appointment of judges, and their independence and accountability. The continued delay and failure to submit the names amounts to a waste of public funds.

### 4. Somalia Joint Human Rights Programme

38. The Independent Expert had previously raised concerns about the capacity constraints facing Somalia, in particular those facing the Ministry of Women and Human Rights Development, and institutions in the justice and security sectors. The lack of capacity has had an impact on their ability to implement numerous recommendations and other human rights obligations.<sup>5</sup> The Somalia Joint Human Rights Programme is a partnership between the Federal Government, UNSOM, the United Nations Development Programme and the United Nations Children’s Fund. It has a budget of \$5.6 million over three years. The Programme is supported by Sweden, Denmark and Norway and implemented by the Ministry of Women and Human Rights Development as the lead agency. Although not fully funded, additional donors have expressed a willingness to contribute. The Independent Expert urged representatives from donor countries to do so during his meeting in Nairobi.

39. The Somalia Joint Human Rights Programme has enhanced the capacity of the Ministry of Women and Human Rights Development and other institutions at the federal and State levels to address human rights issues. The disbursements to Federal Member States has addressed previous complaints of a lack of support from the Federal Government. The Programme serves as a strategic platform to deliver on key human rights and gender commitments and priorities, advocacy, and convening and building partnerships. This included the ratification of the Convention on the Rights of Persons with Disabilities and the passing of legislation to establish a national disability agency. Somalia also submitted its first mid-term report under the universal periodic review in January 2019 and began preparing its reports to the Committee against Torture and the Committee on the Rights of the Child. Specialized training on children in armed conflict and conflict-related sexual violence has been carried out, as well as on advocacy on the rights of persons with disabilities. The “scorecard” on the promotion and protection of human rights between 2017 and 2019, released by the Ministry of Women and Human Rights Development in June 2019, highlighted major achievements. Support for civil society organizations has enabled them to deliver training and advocacy programmes.

### 5. Justice and security sector reforms

40. Military courts continue to exercise sweeping powers that, in some cases, violate fair trial principles and due process rights. It was alleged that young persons transiting Puntland

<sup>4</sup> IOM, “IOM Somalia Strategic Plan 2019–2021” (2018).

<sup>5</sup> A/HRC/30/57, paras. 52 and 78; A/HRC/36/62, paras. 69 and 93 (j); A/HRC/33/64, para. 94 (k); and A/HRC/39/72, paras. 27, 90 and 92 (a) and (e).



to the Gulf States were regularly arrested on suspicion of belonging to Al-Shabaab. They are tortured, executed and their whereabouts remain unknown. The application of exceptional laws to combat terrorism, such as Law No. 2 of 2019 in Puntland, is concerning. Counter-terrorism cases are still tried by military courts and have not been transferred to the civilian court complex built in Mogadishu.

41. The Ministry of Justice, in collaboration with the United Nations Development Programme and the International Development Law Organization, is establishing 16 alternative dispute resolution centres across several Federal Member States. The centre's committees, comprising, among others, young persons, women and elders, adjudicate cases using simplified legal procedures. The committees handle land disputes and other civil cases, but not criminal cases. Sexual offences or criminal offences are referred to the police for further investigation. At present, 3 centres have been established in Puntland and 3 in Mogadishu, while 10 are due to be established in South-West State, Hirshabelle, Galmudug and Jubbaland towards the end of 2019.

42. The Ministry of Justice informed the Independent Expert that the committees heard 3,500 cases in 2018, of which 2,900 had been resolved. The Ministry trains the committees' members, paralegals and traditional elders on constitutional principles, human rights and criminal law.

43. The Minister of Justice confirmed that legislation to establish the independent anti-corruption commission had been approved by both Houses of Parliament and was awaiting assent. A bill to establish a land commission is being drafted in order to address the increasing number of land disputes and complaints. The Minister admitted that access to justice for many rural communities was a major challenge due to insecurity. However, he commended civil society organizations providing services in those areas, including for internally displaced persons. The Federal Government intends to introduce a legal aid scheme.

## **6. Protection of civilians during the conflict**

44. The Independent Expert received information about the killing of civilians during combat operations by the United States Africa Command forces. On 29 April 2019, the Independent Expert, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism addressed a joint communication<sup>6</sup> to the United States of America and Somalia following allegations of five airstrikes from drones and manned aircraft conducted on 16 October 2017 in Farah Waey's settlement, on 12 November 2017 in Daarusalaam, on 6 December 2017 in Illimey, on 2 August 2018 in Gobanle and on 9 December 2018 in Baladul-Rahma, which allegedly killed 14 civilians and injured 8 more. The communication expressed concern about civilian casualties resulting from more than 100 airstrikes by United States drones and manned aircraft since early 2017.

45. The mandate holders called on the two States to investigate the attacks, hold the perpetrators accountable, and pay compensation and reparations to the victims and their families. They reiterated the need to respect international humanitarian law and human rights during the conflict.

## **7. Rights of women**

### *Implementing the 2013 communiqué on the prevention of sexual violence*

46. At the time of the visit, the Special Representative of the Secretary-General on Sexual Violence in Conflict had just visited Somalia to gain first-hand information about the persistent problems of sexual violence and to support the effective implementation of

<sup>6</sup> Available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24518>.

the 2013 communiqué between the Federal Government and the United Nations to end sexual violence in Somalia.

47. The implementation of the communiqué depended on the enforcement of measures, inter alia, investigation, prosecution and punishment of the perpetrators of alleged violations, and the protection of victims, witnesses, journalists and others who report sexual violence. Other measures included strengthening the legal framework through the enactment, review or harmonization of the relevant legislation; reforming penal laws and ensuring specialized capacity for investigation, prosecution, training magistrates, raising the awareness of women about legal procedures, and their protection in the traditional justice system; and ensuring access to services, including in newly accessible areas. The Federal Government committed itself to implement the communiqué and develop a new national action plan to end sexual violence in situations of conflict.

#### *Sexual offences bill*

48. The prevalence of sexual and gender-based attacks against women and girls, in particular gang rapes, remains a major concern. The sexual offences bill, which contains several progressive provisions, was submitted to the Federal Parliament earlier this year, but it has not been tabled for first reading due to opposition on religious and cultural grounds. Puntland and Somaliland have not implemented their laws due to similar objections. The removal of key provisions will undermine the main objective of its adoption, and the protection for girls against forced marriages.

49. The Independent Expert urged the Speaker and the Human Rights Committee of the Federal Parliament to emulate Islamic States that have adopted similar laws and emphasized the need to carry out advocacy with parliamentarians, religious leaders and clan elders to garner support for the proposed legislation.

50. In 2016, the Independent Expert and the Federal Government agreed to convene a conference addressing sexual and gender-based violence, and the role of traditional dispute resolution (*xeer*) in fighting impunity based on comparative practices, experiences and the legislation of other Islamic countries (A/HRC/39/72, paras. 62–63). While the conference could not take place, the Independent Expert recommends that the Government convene a similar conference.

#### *Somali Women's Charter*

51. The Ministry of Women and Human Rights Development organized a convention on women in March 2019 to discuss the challenges affecting women in Somalia, and adopted the Somali Women's Charter. The Charter reaffirms the unity of Somali women and calls for unconditional gender equality, empowerment and human rights for women to be included in the proposed federal constitution. It proclaims that Somali women are equal partners in the processes concerning peace, politics and sustainable development in Somalia. It calls for equal participation of women in every aspect of institutional and national life, including during the ongoing constitutional review process.

52. The Charter reiterates the notion of zero tolerance for gender-based violence and harmful traditional practices, and commits the participants to eliminate all forms of gender-based violence, including female genital mutilation. The Charter demands that the constitution guarantee women's security and safety, and equal representation in public and private leadership roles in order to address structural and historical discrimination. It also demands the immediate adoption and enforcement of the sexual offences bill and legislation against female genital mutilation. It calls for solutions to address discrimination against women through such measures as access to education and technology.

53. The Independent Expert urges the Federal Government, Federal Member States and all stakeholders to embrace the Charter and address the concerns of women from minority clans and other marginalized groups, who suffer from a lack of protection due to the pervasive clan system or weak governance structures.

## 8. Rights of children

54. The Independent Expert prioritized the follow-up of children's rights after his report in 2018 (A/HRC/39/72, paras. 54–57). He met the Special Representative of the Secretary-General for Children and Armed Conflict in October 2018 and discussed violations of children rights in Somalia. Violations against children include the recruitment and use of children for military purposes, abductions and sexual violence. In the 2018 report, the Independent Expert identified protection gaps, including the absence of a government-run rehabilitation programme for children who had been captured or who had escaped, and the absence of an institutional arrangement for coordinating the rehabilitation of those children (ibid., paras. 54–57, 87 and 91 (m)).

55. The United Nations has identified challenges and the need for action, inter alia, to establish government-run juvenile detention and rehabilitation centres, to integrate the children into their families, and the need for legislation to protect children. The United Nations has intervened to ensure that death sentences pronounced against captured child soldiers were commuted to life sentences. The recruitment of child soldiers by government forces had decreased, but children were being used for non-combat activities, such as at checkpoints. While reducing exposure to direct attacks by Al-Shabaab, the use of children at checkpoints is equally prohibited. The predicament of children is exacerbated by the existence of many actors in the conflict, including foreign fighters.

56. The Independent Expert was informed that Ministries of Defence, Justice, Women and Human Rights Development and Internal Security and UNSOM had constituted a Child Protection Group, which met monthly to coordinate action to rehabilitate children. "Children's desks" have also been established at police stations. The Federal Government plans to enact legislation on juvenile justice to protect children's rights to due process. He was also informed that there were only three orphanages in Somalia run by civil society, one in Afgooye and two in Mogadishu.

## 9. Right to freedom of expression and opinion

57. The right to freedom of expression and opinion has been a major issue of concern for the Independent Expert throughout his tenure. He has continued to receive reports of attacks against journalists, and their intimidation, arrest and harassment throughout the period under review, and during the visit.

58. One of the attacks on journalists involved two soldiers who were arrested on 24 March 2019 and charged with torturing and intimidating two reporters on 18 February 2019, who were interviewing passers-by in the streets of Mogadishu. Journalists and editors are reportedly exercising self-censorship because of intimidation. Radio stations were pressured by Al-Shabaab to not report a bombing by United States forces. Journalists have lost confidence in the police and justice system because they do not investigate cases of police harassment, but rather extensively prosecute them for defamation.

59. On 8 July 2019, a Somali military court convicted a policeman, Abdullahi Ahmed Nur, for the murder of Abdirisak Qasim Iman, a Somali journalist who had been killed on 26 July 2018. He was sentenced to five years in prison and ordered to pay compensation of 100 camels. While the penalty remains inadequate, the conviction sent a signal that justice and accountability for attacks on journalists is possible. According to the Federal Government, many people have taken up journalism without proper training and therefore do not observe professional ethics. The Independent Expert emphasizes the importance of training to enhance their capacity.

60. The Independent Expert was informed about the review of the media law, which was awaiting the approval of the Senate. The revision was done through a consultative process involving media stakeholders. Among the concerns regarding the 2016 law were the heavy penalties on journalists, requirements concerning certification and the composition of the regulatory body, which were, for the most part, appointees from the executive branch. The new regulatory body will be composed of representatives from civil society, women's organizations and the National Human Rights Commission. Also, the exorbitant penalties have been reduced.

## 10. Labour reforms and workers' rights

61. Somalia finalized the revision of its labour law in February 2019. Once adopted, it will replace the 1972 Labour Code. The revised Labour Code reflects international labour standards, social justice and the principle of tripartite dialogue. It will govern trade union matters, employment and remuneration issues, occupational health hazards, industrial safety, labour relations and the other fundamental rights of workers. The revised Labour Code also includes provisions aimed at enhancing the rights of workers with disabilities.

62. The Independent Expert was informed by representatives of the Federation of Somali Trade Unions that 319 workers had been killed and more than 500 wounded in 2018–2019 due to bomb attacks on hotels and restaurants. The protection of workers' rights in both the private and public sectors remains weak. Workers are not given written contracts, they work overtime without pay, and are not paid adequate and regular wages. Female workers face additional challenges and discrimination, including unequal pay for equal work, a lack of promotion opportunities, sexual harassment and violence, and non-respect for maternity leave. Nurses working in government hospitals were adversely affected following the Federal Government's repossession of public hospitals, because they were forced to take a pay cut. Employees face reprisals for belonging to unions and they are paid less than non-union members.

63. The Federal Government revised its Civil Service Law in 2018, although it still prohibits public servants, including those not in emergency and security sectors, from striking.

## 11. Inter- and intra-clan conflicts

64. Inter- and intra-clan conflicts in Somalia remain a matter of concern. The population of Somalia is composed of major clans, which are subdivided into smaller clans. Inter-clan conflicts and retribution for the death of a clan member leads to a vicious circle of violence, which is endemic. Payments of *diya* – compensation of 100 camels for a loss of life – is unsustainable for many families or clans. The conflicts have become deadly because of the proliferation of small firearms.

65. Every aspect of life, culture, and politics in Somalia revolves around clans. The Federal Government is working to de-politicize clan relations. The Independent Expert learned that the major cause of intra-clan conflicts was competition for resources, namely access to land, water and pasture, which were becoming acute because of climate change.

66. He was informed that, in the 1990s, following the breakdown of government, members of large clans invaded lands belonging to smaller and weaker clans, particularly in Lower Shabelle. At the time of the visit, there was intra-clan fighting to the east of Somaliland, along the border with Puntland. The clan conflict in Galkayo was resolved through local peace committees, following the mediation of IGAD and UNSOM. Inter-clan conflicts also occur during floods and droughts when people from strong clans invade the land of less powerful clans.

### *Water – a cause of and solution to intra-clan conflicts*

67. Access to water is a basic necessity and a fundamental human right. Somalia is considered a water-stressed country, receiving less than 600 m<sup>3</sup> of rain each year. Water scarcity is a major cause of intra-clan clashes. Frequent drought has lowered the water table and boreholes and wells have dried up. The unique climatic conditions, climate change and the pastoralist lifestyle of the Somali people necessitate walking long distances in search of pasture and water for human and livestock use. This leads to encroachment on other clans' land and to intra-clan conflicts at the level of local communities. Addressing the question of water will contribute significantly to peace and reconciliation among clans.

68. The management of land and water utilization are among possible solutions to address inter- and intra-clan conflicts. Viable alternative supplies of water in rural communities could also be a solution to such conflicts. The Independent Expert was informed that during the dry season, rape cases against women increase, because they can walk as far as 20 km to fetch water. The Federal Government plans to drill 100 boreholes

each year, an average of 2 in each district. However, this number is inadequate because of the huge but sparsely populated territory. The internationally accepted standard of a maximum of 500 m to the nearest water point cannot be achieved. It is estimated that every family requires a minimum of 5 km<sup>2</sup> for their livestock. This would require numerous water points, such as boreholes and dams, to be built across the country within a reasonable distance of several families at a time. The establishment of peace committees, which have been tested in Galkayo, could be replicated in other places. The Independent Expert learned about the successful establishment of women's committees to manage access to water points, and their maintenance, in camps for internally displaced persons.

69. Due to insecurity, the Federal Government cannot rehabilitate wells, nor start new projects. The international community is urged to assist Somalia to build flood control systems and dams, drill boreholes and engage in other forms of water preservation, so that it can supply water to at least 65 per cent of the population, according to its planned target.

## 12. Health delivery

70. Health service delivery in Somalia was for a long time provided by humanitarian agencies and private hospitals. Recently, the Federal Government has repossessed public hospitals, which were operated by the private sector since the collapse of the Siad Barre regime. The Federal Government has upgraded two hospitals and received \$1.3 million in donor funding. The Federal Government will ensure that Federal Member States receive their fair share of resources, and that health services reach as many people as possible in spite of the security threats, particularly in Lower Shabelle. According to the Federal Government's five-year plan, it is committed to provide affordable primary health care, prevent diseases, provide nutrition education and health care at schools, and reduce maternal and child mortality. The 732 deaths per 100,000 live births is one of the highest maternal mortality rates in the world.

71. The Independent Expert was informed that the high maternal mortality rate was the result of the absence of a regulatory framework for safe delivery, and the limited capacity of medical services. Approximately, 60 per cent of deliveries occur at home and the majority of women are poor and live in the rural areas. The existing facilities and staff are neither adequate nor properly qualified. Other reasons include a refusal to grant consent to perform caesarean operations and to adopt family planning methods.

72. Other measures to address women rights in the health sector include providing girls with free access to social services and eradicating female genital mutilation through the adoption of an "anti-medicalization policy" to counter practitioners who carry out sterilizations and blood transfusions, use anaesthetics and supply antibiotics. The Federal Government believes that should the security situation improve, it will have the capacity and infrastructure to deliver affordable health services provided that resources are made available. Currently, it relies heavily on donor support. The Federal Government refuted allegations of discrimination against women in the health sector and stated that it was drafting a national health professional bill.

## 13. Civil society

73. Civil society in Somalia continues to play a key role in the dissemination and awareness-raising of human rights. It contributed to the universal periodic review and follow-up on recommendations. Representatives of civil society informed the Independent Expert about the challenges facing internally displaced persons, women, young persons, persons with disabilities and members of minority clans. Such challenges include physical abuse and sexual offences, and a lack of access to basic services by marginalized groups. Young persons constitute the largest segment of the population; they are unemployed and denied their basic rights. They are concerned that they might be denied the right to participate in the 2020/2021 elections, because of the proposed electoral model.

74. Civil society organizations reported that persons with disabilities were neither represented nor involved in the development plans or political processes. The absence of a census means that their total number is not known. Many of them come from poor backgrounds and do not have access to education and other services.

75. As regards sexual violence, civil society organizations recommended the establishment of a forensic laboratory to strengthen investigations, and the training and employment of female police, prosecutors and judges. Currently, there are only six prosecutors and one judge who are women.

76. With respect to the establishment of the National Human Rights Commission, civil society organizations expressed concern that its non-operationalization was a major setback to the protection of human rights. As regards counter-terrorism, they noted that the law and enforcement measures were not subject to any human rights scrutiny, hence perpetuating impunity.

#### **14. African Union Mission in Somalia**

77. The Independent Expert met a representative of the African Union Mission in Somalia (AMISOM). The Independent Expert emphasized the need for AMISOM to comply with its obligations. The Independent Expert commended the contribution of AMISOM to the establishment of a conducive environment for the enjoyment of human rights. He inquired about the preparedness of AMISOM for the handover of security responsibilities and the drawing down of its forces. He emphasized the need to adopt realistic conditions and timelines for the drawdown and hand over of security arrangements, lest the drawdown of its forces negatively affect the security environment and the human rights situation in general.

78. The representative acknowledged the improved coordination with UNSOM during investigations of alleged violations committed by AMISOM forces. AMISOM shares the outcomes of their board of inquiries with UNSOM and has enhanced its Human Rights and Gender Unit, with officers deployed throughout its operational sectors. The number of violations declined from 94 in 2017 to 21 in 2018 due to the measures that had been implemented.

79. AMISOM troop contributing countries have been conducting pre-deployment training. Some 5,541 commanders have been trained since 2011 in human rights and international humanitarian law. AMISOM has trained 180 trainers of trainers in the Somalia National Army, 600 soldiers and officers and other security and government officials on international humanitarian law and human rights.

80. As regards the tracking of civilian casualties, thorough investigations of allegations are conducted and ex gratia payments made. However, only \$200,000 has been paid by the African Union and the UNSOM to the voluntary fund for ex gratia payments.

81. The challenges related to the drawdown of AMISOM forces were communicated to the joint review meeting of the African Union and the United Nations in March 2019. The drawdown has implications for the proposed 2020/2021 elections. The representative expected decision makers to consider the situation on the ground following the departure of troops from a number of forward-operating bases, which were in the front-line areas and thus important for the control of supply routes.

#### **B. Somaliland**

82. The Independent Expert visited Hargeysa, Somaliland, between 17 and 19 July 2019. He met the Speaker of the Somaliland Parliament, the Attorney General, the Minister of Justice, the Somaliland Human Rights Commission and representatives of civil society organizations. Somaliland held presidential elections in 2017 but has not elected members of Parliament for more than 15 years.

83. Somaliland has adopted a number of laws, policies and measures to enhance the protection of human rights, including a policy on the rights of internally displaced persons and a national disability policy in 2015. A 2014 presidential decree stipulated that all buildings in Somaliland, both public and private, were to provide access to all. The Juvenile Justice Law was adopted in 2007. A presidential adviser on disability was appointed during the Independent Expert's visit. However, such laws and policies have not been

implemented. The Government attributes it to the lack of institutional capacity resulting from the non-recognition of Somaliland.

### **1. Rights to freedom of expression and opinion**

84. The Independent Expert remains concerned at the failure to observe fair trial guarantees to protect journalists against police harassment. He was informed that 70 violations against media personnel had been recorded during the year, 28 journalists arrested and three media houses suspended in the first seven months of 2019, of which only four cases had been sent to court. A 2015 directive by the Chief Justice prohibiting the arrest of journalists without a warrant has not been implemented. The Government argues that arrests are made to protect an individual from public retaliation when information deemed to undermine the legitimacy of Somaliland is published. It was also stated that a member of parliament was detained for the same reasons, in spite of his parliamentary immunity.

### **2. Administration of justice and rule of law**

85. The police allegedly operate with high-handedness across Somaliland, notwithstanding the adoption of the Police Law, which protects the rights of those arrested. The Police Law does not include any oversight mechanism. According to the Speaker of Parliament, a select committee of Parliament can demand accountability for any police misconduct from the Minister of the Interior. This mechanism is inadequate. The Rapid Response Unit of the police force established to combat terrorism applies unnecessary and excessive force with grave consequences when deployed to quell civil unrest.

86. The police reportedly prohibit lawyers from representing their clients who have been arrested and refuse to disclose evidence until court. There is general agreement that legislation concerning the police should provide for oversight and accountability mechanisms and that training of police on human rights should be provided. Lawyers are intimidated and prosecuted before the military court. There is lack of respect for the independence of the judiciary.

87. The Attorney General requested support to equip a training centre, built with the assistance of the Government of the United Kingdom of Great Britain and Northern Ireland, to train law enforcement officials to deal with sexual and gender-based violence and piracy cases.

### **3. Sexual and gender-based violence**

88. The Independent Expert commended Somaliland for adopting the Rape and Sexual Offences Law. However, objections raised by religious leaders and other sections of society and the Government has delayed its implementation, indicating that it will likely be amended. Opponents of the law argue that it does not reflect Islamic principles and traditional culture. The Attorney General argued that his office was not involved in drafting the bill. The Independent Expert was also informed that civil society organizations that supported its adoption face intimidation. The Independent Expert urges Somaliland to ensure that the protection afforded to women is not undermined by the amendments.

89. The Independent Expert was informed about the continued application of customary law to resolve cases of rape and other sexual and gender-based violence in contravention of a directive issued by the Attorney General's office in 2014 prohibiting the use of *xeer* to deal with cases of sexual violence. He regretted the continued existence of gang rapes and other cases of sexual and gender-based violence. Among the factors contributing to the phenomenon of gang rapes was the high rate of youth unemployment, and the lack of social and recreational activities for young persons.

90. The Attorney General's office, with the assistance of the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and the United Nations Development Programme, has trained specialized units to prosecute sexual and gender-based violence in four of the six provinces of Somaliland. There are 20 female prosecutors within the Attorney General's office, which has increased the confidence of victims to report rape cases. In 2018, the Attorney General's office prosecuted 134 cases. Of those

cases, 58 perpetrators were convicted, 34 were acquitted and 42 are awaiting a final verdict. Joint training is undertaken among prosecutors, medical staff and the police to ensure that evidence is preserved so that it is admissible in court.

91. There is a need to establish specialized sexual and gender-based violence units within police stations, hire additional female police officers and establish a juvenile court. The need to train police officers, prosecutors and judges was also emphasized.

92. Female genital mutilation remains prevalent. The Independent Expert was informed that female genital mutilation was practised in certain forms designed to meet *sunna*, a perceived obligation under Islam. The Independent Expert was informed that female genital mutilation was performed by health workers. The Somaliland National Human Rights Commission and other actors have conducted sensitization campaigns about the health implications of female genital mutilation and the fact that the practice has no basis in religion. A draft law against female genital mutilation has been developed by civil society organizations with the support of United Nations Population Fund since 2015, but there is a lack of political will in the Government and Parliament to pass it.

93. Women experience subjugation from the clan patriarchy and the religious system, but play a key role in the informal sector, even though they lack protection and cannot access credit. A study by a research institution<sup>7</sup> reveals that Somaliland women occupy a key place in the informal sector as street vendors and shopkeepers and hence sustain the community and family economies. They fight for the protection and recognition of their economic contribution that would place them on an equal footing with men.

94. Notwithstanding these challenges, there are also modest achievements as regards women's rights. The enrolment of girls in schools is reported by the Human Rights Commission to be on the increase. However, the dropout rates for girls remains high compared with boys, and they are less likely to reach higher education. The number of women lecturers at the University of Hargeysa has increased from 1 lecturer in 2012 to 10 lecturers and one Dean at present. Out of 23 ministers, only 2 are women, namely the Minister for the Environment and the Minister for Social Affairs and Employment. There is also one Deputy Minister (Livestock and Fisheries) and one Director General (Ministry of Investment).

#### **4. Rights of children**

95. The Independent Expert was informed about the problems facing children in conflict with the law. Among them are the fact that a juvenile court has not been established and children are not segregated while in detention, except in the new prison. The Ministry of Justice is considering alternative sentencing programmes for minors.

#### **5. Rights of minorities**

96. The minority clans continue to be marginalized. Inter-marriage between members of minority and majority clans is treated with disdain. The minority clans are squatters, with no land rights or shelter; they cannot even build toilets on the land they occupy. School dropout rates for children of minority clans is high, particularly for girls. Children from minorities and marginalized communities are allegedly bullied and often end up in schools for minorities.

97. The Chair of the Somaliland National Human Rights Commission stated that education was the only way to eliminate the marginalization of, and discrimination against, minorities. Minority clans are not represented in decision-making bodies. The Independent Expert urged the Commission to adopt concrete solutions and other deliberate measures to integrate minorities. The Independent Expert was informed that a subcommittee on minorities and disability, involving the Attorney General, Chief Justice and Minister of the Interior, meets once a month to address the concerns of the minority clans regarding their rights.

<sup>7</sup> Strategic Initiative for Women in the Horn of Africa Network, "Women do not belong under the acacia tree: the conditions experienced by women street vendors in Somaliland" (Kampala, 2018).



98. The Independent Expert was informed by representatives of the Gaboye minority clan that their land and businesses had been taken over or sold to people from larger clans. A communication to that effect had been sent to the Government.

#### 6. Access to education, health and water

99. On 13 July 2019, the Government and the United Nations Children's Fund launched a multi-year programme (2019–2022) with a budget of \$64 million to increase access to quality education for more than 54,000 children and young persons affected by the ongoing crises in Somaliland.<sup>8</sup> Although access to education has improved, the quality of education remains a challenge. While primary education is supposed to be free, parents are still charged hidden fees.

100. The Independent Expert was informed that access to health care in Somaliland was expensive and scarce. While there have been some improvements regarding access to water and sanitation, water scarcity is also a major concern due to climate change and drought. Hargeysa does not have adequate clean water, because of the city's expansion.

#### 7. Rights of internally displaced persons and refugees

101. There is a vacuum in the legal framework to protect internally displaced persons in Somaliland. They lack access to basic health services, education, land, shelter and employment. They face eviction from the land upon which they are squatters. Women and girls face multiple violations of their rights and are subjected to sexual and gender-based violence.

### III. Recent developments

102. On 27 February 2019 and 19 June 2019, the IGAD Council of Ministers and representatives of the African Union, the European Union, China, Egypt, France, Japan, the Russian Federation, Turkey and the United States agreed to adopt a collective approach to strengthen regional cooperation so as to harmonize and develop a common position to protect security and economic interests, including maritime security, migration, the fight against terrorism, the prevention of illegal, unreported and unregulated fishing, pollution and the dumping of toxic waste in certain waters of the IGAD region, in the context of the geopolitical and security dynamic of the Red Sea and Gulf of Aden area.

103. This initiative deserves the practical support of the international community. Somalia has a long coastline, which provides plenty of opportunities to exploit its maritime resources through investment under the envisioned regional cooperation. Besides consolidating peace, it would contribute to the economic development of Somalia.

104. Once peace is achieved, businesses currently operating and investing in Somalia will be able to benefit from the newly acquired peaceful atmosphere. However, the Independent Expert is concerned that the present lack of economic opportunities for young persons breeds marginalization and forces them to migrate out of the country, or into violent extremism. Somalia needs support and investments for its nascent economy, particularly in agriculture, livestock farming and fishing.

### IV. Conclusion

**105. Notwithstanding the significant progress in the security, political and human rights landscape, many human rights challenges remain. Insecurity remains the main problem. The Somali people have endured conflict for almost three decades, which has exacerbated vulnerabilities and eroded social values and institutions. The support**

<sup>8</sup> See [www.educationcannotwait.org/somaliland-education-cannot-wait-and-unesf-launch-multi-year-programme-to-provide-education-to-more-than-54000-children-affected-by-crises](http://www.educationcannotwait.org/somaliland-education-cannot-wait-and-unesf-launch-multi-year-programme-to-provide-education-to-more-than-54000-children-affected-by-crises).

of the international community is crucial to rebuild and consolidate federal and State institutions, the rule of law, and the justice and security sectors.

106. Although the clan system has positive aspects, it perpetuates discrimination against women, members of minority clans and internally displaced persons across the country. It is necessary for the Federal Government to adopt legislation, and implement that which is already in place, to eliminate sexual and gender-based violence and human rights abuses against internally displaced persons, members of minority clans, persons with disabilities and marginalized people. The Federal Government must ensure the implementation of the human rights obligations assumed by Somalia, which are also enshrined in the subnational constitutions.

107. Inter- and intra-clan conflicts are caused by competition for resources and the lack of protection afforded to weaker clans. Part of the solution to the intra-clan conflicts is the establishment of structures and mechanisms for the management and the utilization of resources, such as land and water. The traditional customary system (*xeer*) should be revitalized as part of a reconciliation process to address the root causes of the conflicts.

108. The Independent Expert commends the Somali people for their resilience. They have endured terrible human rights violations over the last three decades and deserve accountability and an apology from those who committed these crimes.

109. The Independent Expert commends donor countries, the United Nations, the African Union, IGAD and international humanitarian agencies for their continued support for Somalia. He specifically commends the troop and police contributing countries to the AMISOM forces, all the international and African Union civilian personnel and other bilateral donors for their sacrifices and commitment to supporting Somalia as it transitions to peace and reconciliation.

110. The Independent Expert pays special tribute to the civil society in Somalia for its steadfastness and consistent promotion of human rights awareness in Somalia in the face of grave risks to their own safety and welfare.

111. The Independent Expert expresses appreciation to the President of Somalia, Mohamed Abdullahi Mohamed Farmajo, and the Federal Government for the opportunity to be of service to Somalia. He also extends his sincere gratitude to the international community, including to the Office of the High Commissioner for Human Rights and UNSOM, for supporting the mandate throughout the 25 years of its existence.

## V. Recommendations

112. In the light of the foregoing, the Independent Expert makes the following recommendations to the Federal Government:

(a) Hasten the adoption of the new constitution to provide a permanent framework for federalism, governance, reconciliation and the protection of human rights of women, minority clans, persons with disabilities and all marginalized and vulnerable sections of the population, including representation and the right to participate in the 2020/2021 elections;

(b) Adopt the electoral law and the amendments to the legislation on political parties before the 2020/2021 elections;

(c) Investigate the election-related violence in South-West State and hold the perpetrators of civilian casualties accountable;

(d) Address the structural discrimination within the clan system against minority clans, and adopt measures to address such structural discrimination, including by ensuring equal access and participation in all such measures;

- (e) Encourage dialogue at different levels and with different sections of society to enhance reconciliation as it strengthens federalism and governance at the local level;
- (f) Strengthen the justice and security sectors to guarantee the security and safety of all citizens, in particular women, children, young persons, internally displaced persons, persons with disabilities and persons belonging to minority clans;
- (g) Expedite the establishment of the National Human Rights Commission;
- (h) Expedite the establishment of the Judicial Services Commission;
- (i) Implement the 2013 communiqué on the prevention of sexual violence in Somalia, including through the adoption of the sexual offences bill;
- (j) Adopt the amended media bill and prohibit the arbitrary arrest and intimidation of journalists by police and other security forces;
- (k) Adopt the revised Labour Code and ensure respect for workers' rights in the public and private sectors;
- (l) Operationalize the Mogadishu Prison and Court Complex and transfer civilian cases from the military court;
- (m) Adopt legislation for a transitional justice mechanism to address the massive human rights violations that have occurred;
- (n) Ensure that any reconciliation mechanisms and processes guarantee reparations for victims and the non-repetition of the armed conflict, and commit all armed combatants to disarmament, demobilization, rehabilitation and reintegration into society;
- (o) Ensure that traditional customary law system (*xeer*) is administered subject to the federal constitution and human rights law;
- (p) Establish peace committees at the local level to include traditional elders, women and young persons as members in order to address the constraints on water and pasture and their utilization;
- (q) Finalize legislation to establish the land commission, the independent anti-corruption commission and the legal aid system to enhance access to justice and good governance generally;
- (r) Provide adequate resources to the health, education and water services, including those in rural areas, to ensure that the majority of people have access to such services;
- (s) Build infrastructure for water collection and storage so that they can be used to sustain the pastoral lifestyles of people and livestock and alleviate the effects of climate change, thus eliminating one of the causes of inter-clan conflicts;
- (t) Encourage the diaspora and foreign investors to invest in the economy, in particular in the agricultural, livestock and fisheries sectors, to generate employment for young persons;
- (u) Implement the outstanding recommendations of the Human Rights Council, including accession to international and regional instruments, in particular the Convention on the Elimination of All Forms of Discrimination against Women, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa and the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa.

113. The Independent Expert also makes the following recommendations to the authorities in Somaliland:

- (a) Conduct parliamentary elections;
- (b) Ensure the implementation of the Rape and Sexual Offences Law, and address the opposition to the legislation instead of undermining women's rights;

(c) Consider establishing committees under the alternative dispute resolution centre model to address complaints at the community level, and pass legislation to prohibit traditional elders from mediating in rape cases;

(d) Reform the police force and ensure compliance with its constitution and other legislation when engaging with the civilian population, including journalists;

(e) Protect the rights of the minority clans to security, dignity and property, by ensuring their inclusion in the political, economic and social fabric of society, including by access to education and other social services;

(f) Adopt specific legislative measures prohibiting the discrimination of women, members of minority clans and internally displaced persons;

(g) Adopt legislation prohibiting all types of female genital mutilation and promote awareness about the negative health consequences of such a practice;

(h) Find durable solutions to resolve the clan conflicts in its eastern region.

114. The Independent Expert also makes the following recommendations to the international community:

(a) Continue its assistance to Somalia as peace and stability increasingly become a reality in the country:

(b) Critically assess the requisite security conditions when the Security Council adopts its drawdown plans to ensure that the human rights situation is not negatively affected;

(c) Assist Somalia through technical and financial support to strengthen federal and State institutions, and the justice and security sectors ahead of the 2020/2021 elections;

(d) Support the Somalia Joint Human Rights Programme to enhance protection for the civilian population, in particular women, children, young persons, internally displaced persons, persons from minority clans and persons with disabilities;

(e) Address the negative effects of climate change on the population, by assisting Somalia to build water management infrastructure across the country for pastoralist communities for human and livestock use, in particular during the drought, as part of a solution to intra-clan conflicts.

(f) Assist Somalia to ensure access to basic social services, such as health delivery and education for all children, in particular girls;

(g) Support IGAD and the African Union-led Red Sea and Gulf of Aden regional economic cooperation initiative;

(h) Respond adequately to the humanitarian appeals to ensure that Somalia does not suffer famine due to the failure of the rains during the 2018/2019 season;

(i) Ensure that all bilateral forces fighting in Somalia are held accountable for civilian casualties, by conducting appropriate investigations and paying reparations for the deaths and injuries caused to the civilian population;

(j) Support AMISOM with the requisite funds to enable it to make ex gratia payments to compensate for civilian injuries;

(k) Assist Somaliland to ensure compliance with its human rights obligations, by training the police force, in particular its rapid response unit, to abide by human rights principles, and standard operating procedures for police.

115. The Independent Expert also makes the following recommendations to AMISOM:

(a) Enhance the protection of the civilian population during its operations, both on land and when deploying its air assets, to minimize civilian casualties;

(b) **Conduct investigations through the board of inquiries when allegations of violations occur to ensure compliance with its obligations concerning international humanitarian law and human rights.**

116. **The Independent Expert also makes the following recommendations to civil society:**

(a) **Work for the adoption of a transitional justice framework for reconciliation;**

(b) **Follow up with the Federal Government to monitor implementation of the country's human rights obligations;**

(c) **Continue with awareness-raising and promote the human rights of marginalized populations in society;**

(d) **Continue to advocate for the representation and participation of marginalized populations in the governance of the State and in public affairs generally.**

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