



# General Assembly

Distr.: Limited  
24 September 2019

Original: English

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## Human Rights Council

### Forty-second session

9–27 September 2019

Agenda item 10

### Technical assistance and capacity-building

**Albania,\* Australia, Austria, Belgium,\* Bulgaria, Croatia, Finland,\* Germany,\* Greece,\* Hungary, Italy, Lithuania,\* Qatar, Somalia, Spain, Sweden,\* Turkey\* and United Kingdom of Great Britain and Northern Ireland: draft resolution**

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

*The Human Rights Council,*

*Guided by the Charter of the United Nations,*

*Reaffirming the Universal Declaration of Human Rights,*

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

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

*Reaffirming also its previous resolutions on Somalia,*

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

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

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

*Recognizing further the importance and effectiveness of international assistance to Somalia and the continued need to step up the scale, coordination, coherence and quality of all capacity development and technical assistance to Somalia in the field of human rights at the national and federal Member State levels, and in that regard welcoming the Somalia Partnership Forums held in Mogadishu and Brussels in July 2018 at which Somalia and international partners reaffirmed their commitment to the New Partnership for Somalia, which sets out the terms of international support for Somali priorities, including on human rights, and the Security Pact to provide Somali-led security and protection in accordance with international humanitarian law and international human rights law, as appropriate,*

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



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

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

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

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

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

(a) The progressive improvement in the human rights context in Somalia, not least through progress towards the ambitious goals set out in the New Partnership for Somalia and the National Development Framework of Somalia to promote stability and development with respect for human rights as set out in 2017–2019 human rights scorecard of the Federal Government of Somalia by, inter alia, strengthening the rule of law, promoting inclusivity in political decision-making, particularly for women and girls, young persons, minorities and persons with disabilities, delivering a constitutional settlement that guarantees freedoms of expression and association, and addressing security threats in a manner that respects human rights obligations and protects civilians;

(b) The formulation of the Transition Plan, which defines transition as the emergence of effective Somali security institutions and the progressive handover of responsibility from the African Union Mission in Somalia towards increased Somali ownership for its citizens' security, appreciating, in particular, that this approach is underpinned by a focus on the rule of law, reconciliation, justice, respect for human rights, and the protection of women and girls, and children;

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

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

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

Child and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(f) The development of and agreement on key policies and plans, including a post-transition human rights road map, a national gender policy and a national plan of action on eradicating sexual violence in conflict;

(g) Progress on key legislation, such as the enactment of the child protection bill, the female genital mutilation bill and the disability bill, progress towards the adoption of a bill on sexual offences, and the implementation of a media law, through consultation with media organizations and civil society organizations, to provide a framework for upholding freedom of expression;

(h) The continued cooperation with the Independent Expert on the situation of human rights in Somalia, the cooperation with the special representatives of the Secretary-General, including the Special Representative of the Secretary-General on Sexual Violence in Conflict and the Special Representative of the Secretary-General for Children and Armed Conflict, and the pledge by Somalia to develop a new national action plan to end sexual violence in conflict following the visit by the relevant Special Representative, and the upcoming attendance of the Minister for Women and Human Rights Development at the conference of the Preventing Sexual Violence in Conflict Initiative in November 2019 in London;

(i) The arrest of soldiers over the past year for allegedly torturing and threatening journalists as well as the arrest of soldiers accused of sexual exploitation and abuse, which sends a strong message from the Federal Government for accountability, and is hopeful that these actions foster further efforts to combat impunity;

(j) The Government's recent launch of a social work programme with human rights as a key curriculum learning area at several Somali universities, which seeks to build a social welfare workforce that is capable of enhancing the resilience of communities as well as ensuring enjoyment of human rights, and to promote gender equality-based responses to individuals and families who have experienced violence and abuse;

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

3. *Expresses concern* at reports of violations and abuses of human rights in Somalia, including by all armed actors, and underscores the need to end impunity, to uphold respect for human rights for all and to hold accountable all those responsible for such violations and abuses and related crimes;

4. *Expresses particular concern* at the abuses and violations perpetrated against girls and women, including sexual and gender-based violence, child, early and forced marriage and all forms of female genital mutilation;

5. *Also expresses particular concern* at the abuses and violations committed against children, emphasizes the need for accountability and justice for all such violations and abuses, including the unlawful recruitment and use of child soldiers and children in armed conflict, killing and maiming, rape and other sexual and gender-based violence, and abductions, and in the treatment of children recaptured from non-State armed groups, and also emphasizes the importance of such children being recognized as victims and the need to establish and implement rehabilitation and reintegration programmes, including by taking into account the specific needs of girls;

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

7. *Also expresses concern* at the attacks against and harassment of human rights defenders and the media in Somalia, including journalists, especially in the form of harassment, arbitrary arrest or prolonged detention, and emphasizes the need to promote

respect for freedom of expression and opinion and to end impunity, holding accountable those who commit any such related crimes;

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

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

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

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

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

(b) To expedite the establishment of a national human rights commission, providing it with adequate resources, to monitor and provide accountability for violations and abuses, including a recruitment process that guarantees the representation of women, marginalized groups and persons with disabilities;

(c) To accelerate the Government-led inclusive political settlement by reengaging in regular high-level dialogue between the Federal Government of Somalia and the federal Member States, with Parliament;

(d) To make efforts to finalize the electoral law, and underscores the importance of progress on key priorities, including power- and resource-sharing, the constitutional review, fiscal federalism, and the development and implementation of a legal framework for the elections, all of which require political agreements that can form the basis for legislation in the Federal Parliament;

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

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

(g) To adopt the Electoral Law and the amendments to legislation on political parties before the 2020 and 2021 elections, and to ensure that these and other measures promote the inclusivity of elections, particularly by ensuring the equal participation and representation of women in decision-making and in leadership positions, as well as of internally displaced persons, young persons, persons with disabilities, minorities and all members of disadvantaged groups at all stages of the electoral cycle;

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

extrajudicial killings, and the strengthening of internal and external accountability of all relevant security forces and institutions;

(i) To continue measures to implement the plans of action to prevent the unlawful recruitment and use of children in the national armed forces, and to work with specialist agencies, such as the United Nations Children's Fund, to ensure that former child soldiers and children under 18 years of age used in armed conflict are treated as victims and rehabilitated in accordance with international standards;

(j) To realize commitments to ending the prevailing culture of impunity, to hold accountable those who commit human rights violations and abuses, ensuring prompt, independent, impartial, thorough and effective investigations into human rights violations by urgently concluding the establishment of a resourced and independent national human rights commission and by reforming State and traditional justice mechanisms to increase the representation of women in the judiciary, and to improve access to justice for women and children;

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

(l) To pursue reconciliation talks at the local, regional and national levels, acknowledges progress made towards the finalization of the National Reconciliation Framework, and urges resumption of the dialogue between the Federal Government and the authorities of Somaliland; emphasizing the need for reconciliation, including inter- and intra-clan reconciliation, across the country as the basis of a long-term approach to stability;

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

(n) To implement fully the media protection law, to protect and uphold freedom of expression and a free media, to create a safe and enabling environment in which journalists and human rights defenders can operate free from hindrance and insecurity, to continue ongoing efforts to prohibit, prevent and protect against all kidnappings, killings, attacks, acts of intimidation and harassment of journalists, to initiate timely, effective, impartial and transparent investigations into the killings of journalists, and to prosecute all those responsible for unlawful acts in a manner that is in accordance with the provisions in the media protection law and is consistent with other applicable national and international legal obligations;

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

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

(q) To finalize the review of and raise awareness about the new sexual offences bill, to ensure that any bill passed into law reflects international obligations and commitments on the protection of children, women and girls, and to implement it and other laws as necessary to prevent sexual and gender-based violence;

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

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

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

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

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

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

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

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

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

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

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

(a) Its national and international human rights obligations;

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<sup>1</sup> See A/HRC/39/72.

(b) Human Rights Council resolutions and other human rights instruments, including associated routine reporting;

(c) Recommendations accepted in the context of the universal periodic review;

(d) Other human rights commitments, policies and legislation to promote the empowerment of women, young people and marginalized groups, freedom of expression and assembly, the protection of the media, access to justice for women, and increasing the capacity of ministries and institutions responsible for the administration of justice and the protection of human rights;

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

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

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

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