



# General Assembly

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## Human Rights Council

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Agenda item 10

Technical assistance and capacity-building

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

Comments by the State\*

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\* The present document is being issued without formal editing.



## 1. **Comments from Somalia on report of the Independent Expert on the situation of human rights in Somalia**

1. The Federal Republic of Somalia would like to thank the Independent Expert for the report on the situation of human rights in Somalia and for her unwavering commitment and recommendations relating to the improvement of the situation of human rights in Somalia. We also would like to thank the United Nations Human Rights Council for its attention to Somalia over the years.
2. Somalia has some reservations about the report. The government has identified discrepancies in the report, including inconsistencies with the nation's official name. The report also does not holistically reflect enough the Somali government's progress and commitments. There are concerns regarding the portrayal of the gallant government security forces and the Al-Shabaab terrorist group. Furthermore, various claims lack adequate references or present a biased viewpoint.
3. Certain government actions and commitments have been overlooked or underrepresented including its proactive efforts in engaging diverse stakeholders on crucial matters and strengthening the promotion and protection of human rights in Somalia.

## 2. **Comments on the report**

4. **Regarding paragraph 67**, the document at several junctures refers to the Federal Republic of Somalia as "Somalia and Somaliland". This terminology stands in direct contradiction to the official name of Somalia as the Federal Republic of Somalia. This is a significant concern, as it pertains directly to the sovereignty and representation of our nation. To ensure clarity and respect for the sovereign identity of Somalia, it is paramount that these references undergo revision before the report is published.
5. **Regarding paragraph 72**, the report, in line with its defined objectives, is intended to cover events and developments occurring between 1 July 2022 and 30 June 2023. Despite this clear timeline, there are several instances in the report where events or data from outside this timeframe have been incorporated. Such inclusions not only risk confusion but can potentially lead to misinterpretation of the report's overarching goals and its focus. A meticulous review is essential to rectify these inconsistencies.
6. There is also a disproportionate emphasis on the UN's commitments and objectives to the detriment of the extensive work and progress made by the government. The government has been involved in numerous initiatives aimed at national development and the promotion and protection of human rights and fundamental freedoms. The underrepresentation of these efforts paints an incomplete picture, and as such, we strongly advocate for a more balanced inclusion of government actions and milestones.
7. **Regarding paragraphs 52, 55, and 70**, a grave concern arises from the report's practice of conflating government forces with the al-Shabaab terrorist group, treating them under a single thematic umbrella. Such a portrayal not only misrepresents the distinct roles and objectives of these entities but also inadvertently undermines the legitimate efforts of our national forces.
8. It is important that this classification be reconsidered and appropriately amended. The government took measurable steps to ensure the prevention of any violations of human rights against children and women, the government also placed the legal frameworks ensuring that children and women are safeguarded from violations, have access to justice, and receive the necessary support for their well-being and development, these include:
  - The launching of Human Rights Coordination Unit (HRCU) during the reporting period, the HRCU is established within the MoWHRD to strengthen the government's capacity to assess and report human rights violations, leading to improved accountability, protection of human rights, and progress.

- Developing and implementing Children Associated with Armed Forces and Armed Groups (CAAFAG) strategy both at Federal and State levels to prevent violence against children.
- Introducing Child Rights Bill, to demonstrate the government's commitment to protecting and promoting the rights of children. During the reporting period, Child Rights Bill was passed by Cabinet and has been tabled with the House of People.
- The formulation of Safe School Declaration by Ministry of Education, Culture, and Higher Education.

9. **Regarding paragraphs 73, 81, 95, and 110**, there are multiple portions of the report where claims are made without the requisite backing of credible references or where the sources consulted appear to be one-sided. This approach detracts from the report's overall credibility and opens the door to potential biases. The accuracy of the report is comprised leading to impartiality and lack of thoroughness. The government requests a comprehensive review of these points to align them with the following:

- During the reporting period, MoD established internal and external complaints procedures within SNA, to ensure allegations of killing, maiming, recruitment/use, sexual violence, and other grave child rights violations are addressed.
- The domestication of the African Charter African Charter on the Rights and Welfare of the Child (ACRWC) is in the final stages.
- Introduction of a revised Juvenile Justice Law for improved protection of children in the criminal justice system currently in parliament after being reviewed and approved by the Cabinet, and State Attorney.
- According to Art. 3 of NISA Act, its guiding principles clearly state that the agency members shall operate with the highest integrity and good ethics and respect for human rights and freedoms as enshrined in the Constitution and other national laws. NISA and its members should comply and operate in conformity with the Constitution.

10. **Regarding paragraph 57 on civilian protection**, Somalia remains unwavering in its commitment to the protection of civilians in military operations and enforcing accountability. This commitment was recently reaffirmed with the esteemed appointment of a Special Envoy for Stabilization and Civilian Protection on by President H.E President Hassan Sheikh Mohamud March 1st, 2023.

11. **Regarding paragraph 62**, Somalia respects the freedom of expression and the rights of journalists to practice their profession freely. The report's treatment of the arrest of Mr. Abdalla Ahmed Mumin primarily channels the perspective of the Somali Journalists Syndicate, seemingly sidelining official correspondences from the Government and the facts for his arrest. The case followed standard legal procedures outlined in FRS law, ensuring the protection of individuals' rights to freedom of expression and a fair trial. Mr. Abdall Ahmed Mumin was not on trial for his profession as a journalist. Instead, the case pertained to his alleged violation of specific government directives and laws aimed at preventing the dissemination of Al-Shabaab terrorist propaganda through mainstream media channels.

12. To ensure transparency, the case was televised, and comprehensive human rights safeguards were implemented. Throughout the trial, the key principles and practices of independence and impartiality, due process, presumption of innocence, access to legal counsel, transparency and publicity, timely and efficient proceedings, right to appeal, and right to be heard were meticulously upheld.

13. **Regarding paragraph 106**, we are pleased to convey that significant strides that have been made in the areas addressed by Benchmark 3 in the report. Somalia is in the process of reviewing its Penal Code and the Criminal Procedure Code with judicial intuitions and international partners to enable justice institutions to address crime more effectively.

14. Ministry of Justice and Constitutional Affairs (MoJCA) has initiated the process of establishing a Law Reform Commission within the Ministry of Justice and Constitutional

Affairs. This Commission's primary mandate is to review, update, and harmonize national legislations with the country's Constitution.

15. **Regarding paragraph 104**, the Federal Republic of Somalia is considering the ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

16. **Regarding paragraph 114**, the Ministry of Education, Culture, and Higher Education (MoECHE) conducted a resource mobilization campaign to secure more emergency education funding to accommodate the internally displaced children. A total of 81 million USD was raised as part of the funding from Global Partnership for Education (GPE), Education Cannot Wait (ECW) and Educate a Child (EAC). The funds are currently being used to provide formal education and accelerated basic education to vulnerable internally displaced children.

17. **Regarding paragraph 139**, Somalia wishes to emphasize the proactive steps taken following NCC meetings. This includes follow-up consultations and meetings in alignment with the NCC directives. H.E the President Hassan Sheikh Mohamud has actively engaged the academic community, initiated discussions on the outcomes of the recent NCC meetings. In the same vein, a dedicated forum was organized, inviting the esteemed opinions of former national leaders, including past Presidents, Prime Ministers, and Speakers of Parliament. These efforts epitomize our commitment to inclusive decision-making and broad-based feedback. The report should be updated considering these developments.

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