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Somalia*

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I. Methodology and preparation of the report

1. The Transitional Federal Government (TFG) of the Republic of Somalia has prepared the present Universal Periodic Review (UPR) report in line with the General Assembly resolution 60/251, adopted on 15 March 2006, and in accordance with the general guidelines for the preparation of information provided under the Universal Periodic Review (Human Rights Council decision 6/102 of 27 September 2007).
2. Following the UPR workshop held in Djibouti from 15–17 February 2011, organised by Office of the High Commissioner for Human Rights (OHCHR) and the United Nations Political Office for Somalia (UNPOS), in collaboration with the Republic of Djibouti and Italy, the TFG established a UPR Task Force consisting of the Office of the Prime Minister and the Ministries of Interior; Justice; Women and Family Affairs; Religious Affairs; Health; Education; Social Affairs and Labour, Sports, Youth and Culture; and defence, under the direction of the Deputy Prime Minister and Minister for Planning and International Cooperation, Prof. Abdiweli Mohamed Ali. From the Task Force a technical team tasked with drafting the report was drawn.
3. The drafting team was greatly assisted in this task by Dr. Omar Abdulle Alasow, an independent expert on Somalia and international human rights consultant, funded by the Office of the United Nations High Commissioner for Human Rights (OHCHR) given the limited reporting capacity and experience in the TFG.
4. The UPR Task Force held consultations in Mogadishu with civil society organisations working in the area of human rights on 6 March, 2010. Much as the TFG wanted to, it was not possible to extend the consultations and include in the drafting of the report other stakeholders, including the regional administrations of Somaliland and Puntland, because of time and logistic constraints and, in the case of Somaliland reluctance to participate in this exercise.
5. The Government of Somalia would like to express its utmost gratitude to the Independent Expert on the situation of human rights in Somalia, Dr. Shamsul Bari for his fairness and tireless efforts to enhance the protection and promotion of human rights in Somalia.
6. The TFG welcomes the outcome of the mission conducted in Somalia by the Representative of the United Nations Secretary-General on the human rights of internally displaced persons (IDPs), Prof. Walter Kälin. The TFG also welcomes the visit in Somalia of the Special Representative of the United Nations Secretary-General for Children and Armed Conflict, Madame Radhika Coomaraswamy.
7. This report would not have been possible without the extraordinary effort of the Ambassador of the Republic of Somalia, His Excellency Mr. Yusuf Mohamed Ismail Bari-Bari. The Government would like to deeply thank him for all hard work, exemplarily dedication and outstanding commitment to serving the country.

II. Background and normative and institutional human rights framework

A. Background

8. An understanding of the Somali situation and the political impasse in which it has been trapped for more than two decades is a pre-requisite to any meaningful discussion on the human rights situation in Somalia and the challenges that it faces.

9. Somalia is strategically located in Eastern Africa, bordering the Indian Ocean to its east and sharing international boundaries with Kenya, Ethiopia, and Djibouti and faces the Republic of Yemen. Somalia occupies a land area of approximately 637,657 square kilometres. In addition to ties with other African countries, it has close historical links with the Arab world and has a population of 10,112,453 according to the U.S. Census Bureau estimates for 2010. While Somalia is generally recognised as a culturally, linguistically, and religiously homogenous society, ethnic and other minorities do exist, the size of which cannot be determined due to lack of census.

10. Somalia achieved independence on 1st July 1960, as the Republic of Somalia, after the union of two regions, the British Somaliland Protectorate and the Italian-administered Trusteeship Territory of Somalia. At independence, the Republic of Somalia was a constitutional democracy with an enshrined bill of rights and a civilian government based on separation of powers among the legislative, executive, and judicial branches.

11. Between 1960 and 1969, Somalia was ruled by democratically elected civilian governments. Two successive democratically elected governments ruled Somalia between 1960 and 1968. In fact, on 10th June 1967 the late President of the Republic of Somalia, Dr. Adan Abdulle Osman became the first leader in Africa to peacefully hand over power to a democratically elected successor. The second President of the Republic of Somalia, His Excellency Dr. Abdirashid Ali Sharmarke was assassinated on 15 October 1969.

12. The democratic process was halted in 1969 when Major-General Mohamed Siyad Barre seized power in a military coup on 21 October 1969 and established a socialist political system under military rule which collapsed in 1991 after 21 years.

13. In the early years of the military regime, positive and progressive policies that brought several transformations in the society were implemented. It built public institutions such as schools, health clinics, roads and carried out national urban and rural literacy campaigns after creating a written Somali language script. It also carried out positive legal reforms and improved the status of women and minorities. However, the military rule was partly characterized by serious violations of human rights and international humanitarian law against members of the opposition clans.

14. The denial of fundamental human rights and clan-based persecutions created deplorable conditions that made armed conflict inevitable. The military regime culminated in civil strife which engulfed the whole country leading to the collapse of the state in January 1991. Since then Somalia has been the scene of protracted civil wars of varying magnitude and intensity, characterized by extreme brutality against civilians.

15. Central state authority disintegrated resulting in the emergence of clan-based administrations controlling limited territories and often in dispute over such territories. In 1991 the northwest part of Somalia has established Somaliland state and in 1998 the northeast an autonomous federal regional administration of Puntland was created. While Somaliland has declared an intention to secede, the rest of Somalia including some regions in Somaliland and Puntland do not consent to the separation but support the unity, integrity and sovereignty of Somalia.

16. For the past two decades, Somalia has been classified in its entirety as a failed state, characterized by the total breakdown of all basic service delivery and systems of governance, including rule of law institutions (police, judiciary and custodial). In reality the human rights situation is far more complex and diverse.

17. A degree of stability continues in Somaliland as well as in Puntland, which has permitted certain progress in human rights enjoyment. This was mainly due to locally dominant clans using the influence of respected traditional leaders as facilitators of reconciliation while in the south and central regions warlords have used clan elders as a means to stay in power.

18. Hence, the continuing armed conflict has resulted in the total destruction of assets and infrastructure in south and central Somalia. As a result, any progress made since independence to form a unified national entity has been lost, the rule of law collapsed and people have had to go back to the traditional system and seek protection from their clans.

19. At the same time, however, the traditional structures and institutions that for many generations functioned through kinship, marriage, and the social codes of conduct, “*Xeer*,” (Somali customary law) to maintain social cohesion have been weakened by the introduction of a centralised modern system of governance. Hence, when the modern state institutions fell apart, the traditional institutions were no longer able to resume their earlier role.

20. This means that the entire state system without which the protection of human rights and human dignity will not be viable has to be rebuilt. Indeed, protection of human rights is linked to the rule of law, ensuring transparent and accountable government and building the social fabric of the country, educational system, public institutions, police, armed forces, judiciary and correctional institutions. The implementation of a suitable and lasting state-building process for peace is crucial. In fact the main challenge ahead of the Somali Government is the harmonization between the traditional setting and the modern statehood of which the harmonization between the genuine Islamic Sharia law, the Somali customary law and the modern law is one of the main pillars.

21. Since 1991, several attempts to restore stability and central authority have failed. In 2004, Somalis agreed on the Transitional Federal Charter (TFC) which resulted from the 2002–2004 Intergovernmental Authority on Development (IGAD) sponsored peace talks in Kenya. Since its relocation to Somalia in 2005, the TFG has faced opposition from armed groups.

22. On 29 December 2008, President Abdullahi Yusuf elected in Kenya on 10 October 2004 resigned. Following this, the Transitional Federal Parliament (TFP), which initially had 275 MPs representing Somalia’s four major clans each with 61 seats in the parliament while minority clans were awarded 31 seats, was increased to 550 seats with the addition of 200 for the opposition Alliance for the Re-liberation of Somalia (ARS) at a United Nations sponsored talks between the TFG and ARS. His Excellency Mr. Sheikh Sharif Sheikh Ahmed was elected as the President of the Transitional Federal Government of Somalia.

23. The situation in Somalia does not fit the general approach of the Universal Periodic Review (UPR) because the UPR process generally involves a review of the human rights record of a government in a normal situation. This is not the case in Somalia. The TFG has to deal with human rights violations which are not of its own making on a daily basis. This is because the TFG’s control is not yet extended to areas in which the abuses take place and abusers use extreme tactics to disrupt any formation of a central authority.

24. The capacity of the TFG to protect its citizens particularly in areas outside its direct authority is very limited. For example, people in Al-Shabaab controlled territories face

gross human rights violations such as summary and extra-judicial executions, torture and other inhuman and degrading punishment such as amputations and floggings.

25. In the areas under its control, the Government is committed to meeting its obligations but faces significant challenges because of continuous bombardments and suicide attacks from the insurgents. For this reason, this report will focus on the challenges that the TFG faces, its efforts in addressing the challenges, and areas where it needs support from the international community.

26. In general, an important area where the Government feels that it can meet some of the general requirements of the UPR would be in the field of the legal framework for the protection of human rights.

B. Legal framework within which human rights are protected

1. The Transitional Federal Charter (TFC)

27. Chapter 5 of the TFC, which resulted from the 2002–2004 Intergovernmental Authority on Development (IGAD) peace conference facilitated by Kenya, provides for the protection of the fundamental rights and freedoms of the people of Somalia. Article 14 states the Somali Republic shall recognize and enforce all international human rights conventions and treaties to which the Republic is a party.¹

28. The TFC guarantees the rights to: reside, work and travel freely in any part of the country; organise, form or take part in political, labour, professional or social entities according to law; vote upon attainment of 18 years of age; and contest for any vacant seat.² It also prohibits interference with personal communication,³ and guarantees *inter alia*, equality before the law,⁴ the right to life, personal liberty, and security,⁵ rights relating to legal proceedings,⁶ labour⁷, the right to assemble and freedom to strike,⁸ freedom of information and media,⁹ the right to establish political parties,¹⁰ and the right to establish social organizations,¹¹ political asylum,¹² education,¹³ protection of family,¹⁴ and social welfare.¹⁵

2. The Judiciary

29. Chapter 9 of the TFC defines the scope and powers of the federal judiciary. The TFC recognises the independence of the judiciary in the exercise of its functions and the separation of powers between it, the legislature and the executive branch of Government. Members of the judiciary shall be subject only to the law.¹⁶ A Judicial Service Council is to direct the policy and administration of the judiciary.¹⁷

3. Legislative authority

30. The Transitional Federal Parliament (TFP) is vested with legislative powers. It has 550 members representing Somalia's clans. In the field of human rights, the Parliament has established *inter alia*, the following commissions: federal constitutional commission; national commission for reconciliation; national commission for the recovery and registration of public and private property; disarmament and demobilization commission; economic recovery commission; land and property disputes commission; national resettlement commission; and the Somalia Olympic commission.

31. Article 71 of the TFC states that the Charter shall have legal effect pending the eventual enforcement of the National Federal Constitution and that the 1960 Somalia Constitution and other national laws shall apply in respect of all matters not covered and not inconsistent with this Charter.

32. While these institutions are in existence, they are still weak and not fully functional largely as a result of the conflict. The Government is making efforts in terms of rebuilding its institutions, capacity, governance and infrastructure. For example, it has drastically increased revenue collection and established an anti-corruption task force.

33. It has expanded public service delivery including improved public safety, built new and improved health services, schools, street lighting and refuse collection. Commanders accused of corruption were also dismissed from the security forces.

34. The United Nations is also providing technical expertise, financial support to some TFG ministries including the Ministries of Finance, Public Works, Interior as well as the Benadir Administration. United Nations Agencies are also physically rehabilitating and equipping the Ministry of Justice and the Ministry of Finance.

4. Constitution-making process

35. Article 71 (7) of the TFC provides that a new Federal Constitution is to be drafted within two and half years of the formation of an Independent Federal Constitutional Commission (IFCC) and to be adopted by popular referendum during the final years of the transitional period. This Federal Constitution is to be based on the TFC and ensure that federalism is achieved within the same time frame.

36. Somalia started its constitution-making process in extremely difficult circumstances. The Government is aware that the country urgently needs a democratic constitution based on Islamic values.

37. The IFCC, established in June 2006, was given the challenging task of drafting a constitution for Somalia. The Commission completed this task on 30 June 2010 when it published the Consultation Draft Constitution (CDC) but was unable to consult with the people as required before producing the CDC. The CDC was therefore not presented as the final draft on which the people must decide.

38. Despite the massive amount of money spent by the international community, the CDC had many gaps. It did not address the critical components of the transitional process such as federalism, system of government, structure of state and post-transitional political arrangement. The Government is fully committed to the constitution-making process. However, ownership of the process by the people of Somalia is of paramount importance in achieving success.

39. In finalising the Constitution, the Government is committed to ensure that the fundamental principles of human rights are fully enshrined in the Constitution.

C. International and regional human rights instruments

1. Human rights

40. Somalia is a signatory to the following international human rights instruments:

- The International Covenant on Economic, Social and Cultural Rights;
- The International Covenant on Civil and Political Rights;
- 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 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

41. Somalia signed the Convention of the Rights of the Child in May 2002 and its Optional Protocol on the involvement of children in armed conflict in September 2005.

42. Somalia has also ratified the following International Labour Organisation Conventions:

- Discrimination (Employment and Occupation) Convention;
- Medical Examination of Young Persons (Sea) Convention;
- Workmen's Compensation (Accidents) Convention;
- Equality of Treatment (Accident Compensation) Convention;
- Seamen's Articles of Agreement Convention;
- Repatriation of Seamen Convention;
- Forced Labour Convention;
- Underground Work (Women) Convention;
- Recruiting of Indigenous Workers Convention;
- Contracts of Employment (Indigenous Workers) Convention;
- Penal Sanctions (Indigenous Workers) Convention;
- Labour Clauses (Public Contracts) Convention;
- Protection of Wages Convention;
- Abolition of Forced Labour Convention.

2. International humanitarian law

43. Somalia is also party to the four Geneva Conventions of 12 August 1949 namely:

- Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field;
- Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea. Geneva, 12 August 1949;
- Convention (III) relative to the Treatment of Prisoners of War;
- Convention (IV) relative to the Protection of Civilian Persons in Time of War.

3. Regional instruments

44. Somalia is a state party to the African Charter on Human and Peoples' Rights. It is also bound by other human rights commitments in the framework of the Intergovernmental Authority on Development (IGAD).

45. By becoming party to international treaties, the Government agrees to be legally bound by such treaties. The Government is aware that the people of Somalia have suffered for more than two decades of human rights and International humanitarian law violations. The Government would like to pledge to the people of Somalia and to the international community at large that when Somalia re-emerges as a full-fledged and functional state, it will rebuild on a solid foundation of human rights and IHL.

46. In order to enhance the protection of the human rights of all people under its jurisdiction, the Government proposes its intention to ratify not only the treaties that it has signed but also the following international instruments:

- Convention on the Elimination of Discrimination of All Forms of Discrimination against Women;
- Convention on the Rights of Persons with Disabilities;
- The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
- The United Nations Convention against Transnational Organized Crime and its three Additional Protocols aiming to Prevent, Suppress and Punish Trafficking in Persons, especially women and children, the smuggling of migrants, and the illicit manufacturing of and trafficking in firearms and ammunition;
- The Convention on the Rights of Persons with Disabilities and its Optional Protocol;
- Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977;
- Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977.

47. The Government seeks the assistance of the international community in taking appropriate measures in order to ratify the above conventions.

III. Promotion and protection of human rights

A. Civil and political rights

1. The rights to life, personal liberty and security

48. Article 16 of the TFC recognizes the right to life and provides that no person shall be deprived of his/her life. However, the right to life is often violated through deliberate and indiscriminate attacks causing civilian casualties and suicide bombings and attacks by Al-Shabaab. While the TFC recognize the right to life as a fundamental right, the protracted internal armed conflict has destroyed state structures and security institutions, thereby making it extremely difficult for the state to fulfil its responsibility to protect the right to life of its citizens.

49. The Government urgently requires the additional forces as authorised by the United Nations Security Council Resolution 1964, adopted unanimously on 22 December 2010. The TFG urgently requires the deployment of the military engineering corps in order to create and maintain humanitarian corridors, to deliver basic social services and to establish the new Somali Civil and Environmental Protection Corps at national and sub-national level.

50. Despite this impossible situation, the Government is committed to take all necessary measures to ensure the right to life for its citizens. Keeping in mind that it requires others to cooperate, the TFG is in constant cooperation with AMISOM and its security forces to make sure that collateral damage is minimised.

2. Death penalty

51. The death penalty is still applicable legally in Somalia. The TFG does not want this practice to add to more loss of life. The Government is considering putting a moratorium on the death penalty.

3. Female Genital Mutilation (FGM)

52. There has been a trend lately in many countries to end this harmful practice. The Somali Penal Code covers "hurt", "grievous hurt" and "very grievous hurt" and Islam also prohibits this harmful practice. However, FGM is very widespread in Somalia and almost all Somali women and girls are subjected to this damaging practice. Since this practice is a widespread phenomenon in the society, a large number of people make their living on it and the Government has to find alternative sources of income for practitioners of it.

53. The TFG is committed to total elimination of this harmful practice. It is willing to amend its penal code with provisions to specifically prohibit this practice. We call upon the international community to share with us good practices that could be applied to our case.

4. Freedom of the press and expression

54. Article 20 of the TFC guarantees the freedom of press and independent media and the right of every person to freely express his/her own opinion in any manner subject to limitations prescribed by law for the purpose of safeguarding morals and public security.

55. The Government is aware of the importance of a free and independent press in the promotion of stable society, peace and respect for human rights. The TFG is aware of the risks and challenges that journalists face in doing their work throughout the country. It has given strict instructions to its security forces to ensure that journalists are protected, though under the current circumstances this is not always the case.

56. However, the Government is committed to strengthening the protection and safety of journalists in the context of its efforts to strengthen the administration of justice, police and judiciary. It is willing to revise the draft media law to bring it in line with international standards and also to create an environment conducive to freedom of expression.

57. Since 1991, the media, particularly radio stations, have contributed significantly to the public availability of information. It also serves as a link between Somalis inside and outside the country.

B. Economic, social and cultural rights

1. Right to food

58. While food has always been scarce in Somalia, the current droughts have aggravated the situation. Lack of water in most parts of Somalia is threatening the lives of millions of people. The need for food is driving people to seek livelihood in overcrowded IDP camps. While IDPs need food, those helpless people left behind are not getting the assistance they require. The situation is much worse in Al-Shabaab held areas where Al-Shabaab denies the needy people access to food aid. Assistance in distributing food in Al-Shabaab held areas is crucial.

59. The only way that this situation can be mitigated is to end the conflict. The Government must be helped to end this conflict in order for rights to be protected and needs met.

2. The right to health

60. Access to health for citizens of Somalia is guaranteed under the Article 26 of the TFC. The Government has the responsibility to protect and provide public health. The Ministry of Health is responsible for the organisation and administration of health services. The Government's achievements so far include the opening of Martini hospital, health surveillance office at Adan Adde International Airport, the opening of First Aid centres at

Digfer and Sayidka all in Mogadishu. The Government also supplied medicines to hospitals, MCHs and health centers in Galmudug and Puntland.

61. These, however, are very insignificant compared with the needs of the people who live outside of Government controlled areas.

62. The continuing violence has affected the lives and health of the citizens increasing their health needs while health resources are non-existent. The Somali health system is facing huge challenges, including the shortage of qualified professional health workers and lack of financing for health services.

3. The right to education

63. According to the TFC, education shall be recognized as a basic right for all Somali citizens,¹⁸ and all citizens shall have a right to free primary and secondary education.¹⁹ The TFC also requires the Government not only to give priority to the promotion, expansion and propagation of public education,²⁰ but also for education to be extended throughout the whole country.²¹

64. On 24 March 2011, the Government has, for the first time since 1991, opened a primary and intermediate school to offer free education in Mogadishu. The realisation of the first free-of-charge school was part of the new government's commitment to improve the socio-economic status of the people in its first 100 days in office.

65. Nevertheless, the protracted armed conflict in Somalia has left a whole generation of youth without formal education. They have no possibility of earning livelihood, as a result of which some join the extremist groups. The situation can only improve if the conflict is ended and the Government extends its authority to areas not under its control.

66. While the TFG keeps education high on its agenda because it is key to Somalia's development, destruction of schools and the shortage of qualified teachers as well as resources remains a serious challenge.

4. Rights of the disabled

67. Under Article 26 of the TFC, the Government has responsibility to protect the welfare of persons with disabilities. Due to the prolonged conflict, many people are physically or mentally disabled in Somalia. Most, if not all, of the disabled are faced with grave problems of life. For instance, the physically disabled mainly beg while the mentally ill are usually chained or imprisoned.

68. The Government is not in a position to extend any meaningful assistance to its disabled citizens so as to alleviate their problems because of the lack of needed financial resources. However, it is committed to take measures including the adoption of appropriate legislative, administrative and other measures. It is the intention of the Government to ratify the Convention on the Rights of Persons with Disabilities.

5. Internally displaced persons

69. The war in Somalia has created the largest ever number of IDPs. An estimated 1.5 millions are currently IDPs in the country. With all problems in the country, there is not that much attention that can be given the IDPs.

70. Although Puntland authorities have their own problems, they are hosting a very large number of IDPs. The international community should support the Puntland administration.

6. Minorities

71. In Somalia, minorities have historically suffered discrimination. They are in an unprivileged situation as they continue to suffer more in the conflict. The Government is aware of its responsibilities towards minorities and will look into their situation in due course.

7. Public awareness of human rights

72. The Government is committed to creating a culture of human rights awareness. To this end, the Government will take appropriate measures including training, human rights education and awareness-raising campaigns in order to raise the human rights awareness of its citizens.

IV. International humanitarian law

73. As a state party to the Geneva Conventions of 12 August 1949, the Government of Somalia is bound by the rules of international humanitarian law (IHL) applicable to non-international armed conflicts. IHL rules applicable to the conflict in Somalia are found in both treaty law and customary IHL.

74. As regards treaty law, Common Article 3 of the 1949 Geneva Conventions which requires humane treatment and minimum procedural guarantees for armed groups not actively taking part in hostilities or who, after taking part, have laid down their arms or have been rendered *hors de combat* “out of combat” by sickness, wounds, detention or by any other causes and Additional Protocol II (AP II) to the Geneva Conventions governs conflict in Somalia.

75. Somalia has not ratified AP II and it is therefore not directly applicable to Somalia as a matter of treaty law. The Government is aware that many provisions of AP II represent customary IHL rules and therefore apply to the situation in Somalia. Such provisions include Article 4 providing guarantees to persons taking no active part in hostilities, Article 5 prescribing humane treatment of persons whose liberty have been restricted and Article 6 providing the rule on penal prosecutions due to the fact that these norms are reflected in Common Article 3 of the Geneva Conventions.

76. The Government forces are also bound to respect customary IHL rules relating to the prohibited methods and means of warfare including the principles of distinction, the prohibition of intentional and indiscriminate attacks against civilians, attacks against civilian objects, the principle of proportionality, precautions in attack, precautions against the effects of attacks, denial of quarter, pillage, perfidy and the use of starvation as a method of warfare.

77. The TFG is aware that violations of IHL took place in the course of its armed conflict with the armed extremist groups. The Government is taking all measures to ensure that violations are not committed and IHL rules are respected.

78. The African Union has also taken measures to ensure that its forces also respect IHL. However, in areas under the control of Al-Shabaab, the Government is not able to do much. Al-Shabaab forces engage in serious violations of IHL, including deliberate and indiscriminate shelling against civilians.

79. The Government has an obligation to “respect and ensure respect” for IHL. It is therefore proposing IHL training to be integrated into the training scheme of its armed and security forces at all levels.

80. In order to better compliance with IHL, the Government requires the assistance of IHL legal experts to train and advise its armed forces. Likewise, the Government seeks assistance in reforming its military penal codes: (*Codice Penale Militare di Guerra*) the Military Penal Code of War and (*Codice Penale Militare di Pace*) the Military Penal Code of Peace both of which predate the 1949 Geneva Conventions and are therefore incomplete.

V. Child soldiers

81. The fighting in Somalia has been marked by widespread and systematic use of children as soldiers. The Government is aware of its international obligations prohibiting the use children in hostilities. It therefore does not, as a policy, recruit children or allow the recruitment of children into its security forces and is committed to eradicating the practice of child soldiering in Somalia.

82. After a meeting with the Special Representative of the Secretary-General for Children and Armed Conflict Radhika Coomaraswamy on 3 November 2010, Prime Minister Mohamed Abdullahi Mohamed appointed the State Minister at the Office of the Prime Minister, Madame Zahra Mohamed Ali Samantar as focal point for child protection and human rights and issued strict guidelines prohibiting the recruitment of children into the armed forces.

83. The Government is committed to implementing a comprehensive policy to prevent the use of children as soldiers. However, in areas held by Al-Shabaab, children are currently forcefully recruited. This is because they are losing the war. The Government is in contact with traditional and religious leaders to see how the matter can be addressed.

84. However, it is worth noting that some children are joining Al-Shabaab voluntarily for a number of reasons. Poverty and survival, particularly children orphaned by the war, is one of the primary reasons for them into joining Al-Shabaab. Parents because of poverty and lack of livelihood allow their children to join Al-Shabaab.

85. The only way to stop this is ensuring other opportunities such as access to educational opportunities, vocational training and income generating opportunities.

VI. Past atrocities, justice and reconciliation

86. The civil war in Somalia has been devastating in both human and material terms. It has been characterized by serious violations of human rights and international humanitarian law. With this in mind, the Government is aware that it is not only a political imperative but also a social necessity to deal with the legacies of past atrocities, justice and reconciliation. The Government is taking important steps towards building stable Somalia at the same time as it is facing daily bombardments and suicide bombings from the extremist elements.

87. The Government has established a Ministry that deals with National Federal Constitution and Reconciliation and also a National Commission for Reconciliation the later in accordance with Article 68 (b) of the TFC. The Reconciliation Commission is mandated to conduct public consultations and propose a strategy for addressing past abuses and reconciliation.

88. While the challenges facing the Government include insecurity, the breakdown of the entire apparatus of the rule of law, it should be noted that Somali culture is rich in traditional "*Xeer*", *mechanism* of conflict resolution.

89. Disputes and conflicts were traditionally resolved through recourse of Somali "*Xeer*", applies by well-respected traditional and religious leaders. The TFG is pursuing

this path and is strongly convinced that this is the only way that sustainable peace and stability can be achieved.

VII. Challenges and constrains

90. Somalia is currently facing tough and complex challenges *inter alia*, poverty, and droughts, insecurity aggravated by the lack of fully functional institutions including the institutions of rule of law (addressing police, judiciary, and corrections). While the challenges are huge, the following should be mentioned:

- IDPs and refugees;
- Insecurity;
- Weakness of State institutions;
- Existence of corruption;
- Poverty and unemployment;
- Critical status of detention centers;
- Lack of juvenile correction centers;
- Child soldiers (and “defector”);
- Weakness of the civil society;
- Low capacity of rule of law enforcement institution of the country.

91. The Government is gaining grounds in Mogadishu and areas in south central Somalia against Al-Shabaab. It is the hope of the Government to bring essential public services that are badly needed to areas liberated.

VIII. Priorities, initiatives and commitments

92. In order to address these challenges and constraints, the government has initiated appropriate action in the following areas:

- Health;
- Education;
- Water;
- Institutions of rule of law;
- Police;
- Judiciary;
- Custodial services;
- Making human rights as the foundation of the transition for a new Somalia;
- Action plan for human rights;
- Appropriate Human Rights and IHL training for Somali security institutions;
- Human rights awareness raising and education campaign;
- The deliverance of basic social services is of a paramount importance;

- The TFG through a broad based political dialogue with all the national stakeholders is committed to create a viable and sustainable state;
- The TFG is committed to rebuilding institutions that are effective, efficient and accountable, and that deliver for the people of Somalia while working towards peace, justice and reconciliation;
- The TFG is committed to promote and protect HR and we hope that the world and in particular all the brotherly and friendly countries support us;
- The TFG sees the UPR process as an important turning point to redirect our collective efforts to address the immense HR challenges that Somalia faces.

IX. Technical assistance and requirements

93. The Government is fully aware of all recommendation made by the Independent Expert on the situation of human rights in Somalia. However, in the light of the difficulties and constrains above, a joint international assessment mission including the Government of Somalia at national and sub-national level is required to evaluate Somalia's technical assistance and capacity building needs in the following areas:

- Legislative;
- Judiciary;
- Law enforcement;
- Education;
- Public awareness campaign and human rights and humanitarian law training;
- IDPs;
- Minorities and persons with disabilities.

94. The slowness of the decision making process of the United Nations has meant that, progress is yet to be made, despite four important Human Rights Council's resolutions and the outcome of the innovative stand-alone interactive dialogue for Somalia held in Geneva on 29 September 2010. The OHCHR should make sure that all roadblocks are removed for the implementation of the various proposals it has made in the past regarding assistance to Somalia in the field of human rights. The Transitional Federal Government of Somalia calls upon the brotherly, friendly and any willing country to implement a timely and tangible bilateral cooperation for the promotion and protection of human rights in Somalia within the legal framework of the resolutions adopted by an unprecedented level of consensus by the United Nations Human Rights Council.

Notes

¹ Article 14, para. 1.

² Ibid. para. 2.

³ Ibid. para. 3.

⁴ Article 15.

⁵ Article 16.

⁶ Article 17.

⁷ Article 18.

⁸ Article 19.

⁹ Article 20.

- ¹⁰ Article 21.
- ¹¹ Article 22.
- ¹² Article 23.
- ¹³ Article 24.
- ¹⁴ Article 25.
- ¹⁵ Article 26.
- ¹⁶ Article 55.
- ¹⁷ Article 63 para. 1.
- ¹⁸ Article 24 (1).
- ¹⁹ Ibid. (2).
- ²⁰ Ibid. (3).
- ²¹ Ibid. (4).
