

2nd draft
International Contact Group – Kampala Meeting
Human Rights Update
June 2011

Universal Periodic Review Process

On 3 May 2011, the Somali Government presented its first Universal Periodic Review (UPR) report for consideration by the Human Rights Council (HRC), in Geneva, a major achievement in terms of the TFG's engagement with international human rights mechanisms, particularly given the backdrop of on-going armed conflict. The last time Somalia submitted a report to an international treaty body was in 1984. International support for this engagement was reflected in the high number of presentations by member states. 155 recommendations were made to the TFG, UN and international community for follow-up. These included: strengthening national protection systems, in particular finalization of the Consultation Draft Constitution (CDC) and ratification of key human rights instruments; addressing impunity; improving the protection of civilians in the context of the armed conflict and preventing child recruitment; respecting freedom of opinion and expression; overall improvement in enjoyment of basic human rights with particular reference to marginalized groups such as internally displaced persons, women, children, older persons and persons with disabilities. Delegations also called for the Office of the High Commissioner for Human Rights (OHCHR) and the international community to step up technical and financial assistance to Somalia. Once the TFG has informed the HRC which of the recommendations it is intending to implement, these will be incorporated into a final report to be endorsed by the HRC in September. The UN, which supported the TFG in preparation of the report, welcomes the TFG's commitment to implementing the recommendations including through the formation of an Ad Hoc Committee. International support for the implementation of the recommendations will be essential.

Human rights, Gender and the Constitution-making process

In the context of the transition, the Constitution-making process provides one of the most important opportunities for strengthening human rights protection by enshrining fundamental rights as principles underpinning all provisions, including in the creation of institutions and political processes. In order to promote the full integration of human rights, preparations for a Human Rights Audit of the Consultative Draft of the Constitution (CDC) began in Nairobi on 4 May with a sensitization workshop comprising an intensive two-day session of human rights analysis and dialogue on the CDC for the IFCC and Civil Society Organisation (CSO) representatives. Dialogue will be continued through a larger meeting of human rights organisations, CSOs, IFCC and Government in Mogadishu in the coming months. The Human Rights Audit is jointly supported by UNPOS, UNDP and OHCHR Geneva with technical assistance provided in the areas of human rights and comparative constitutional frameworks but aims a strengthening national ownership by ensuring that the process is planned, executed and owned by Somalis. The findings of the Gender Audit which was carried out in 2010 are to be distributed shortly.

Other Gender-related issues

Following the appointment of a new TFG Minister for Women's Development, discussions have been underway with UNPOS, UNDP and other UN entities as well as donors as to how so strengthen and support the Ministry, including through capacity-building. This is important including with regard to the implementation of SCR 1325 and other SC resolutions which emphasise women's participation in mediation and peace-building. With regard to SGBV, especially sexual violence in conflict, a coordination mechanism is in the process of being established by the Protection Cluster Sub-working Group on GBV (which brings together UN, international community and NGOs). The aim is to strengthen data collection on GBV, monitoring and reporting on such cases and to build up support services such as referral centres for survivors. A joint proposal for an assessment of gender institutions in Somaliland, Puntland and South/Central Somalia has been put together by the UNCT Gender Theme Group, the aim of which will be to determine capacity and other needs.

Protection of Civilians and related issues

Civilians have continued to be deeply affected, including through displacement, by the on-going conflict both in Mogadishu and also in border areas where new offensives have been launched. Since the human rights briefing at the last ICG in September 2010, the human rights situation in Mogadishu and surrounding areas has seen no significant improvement, in spite of military gains. Reports indicated that parties to the

conflict were not taking the necessary precautions to avoid loss of civilian life and injury, in violation of international humanitarian law. WHO reported that during the first two weeks of May, 43 per cent of the 933 weapon-related injuries reported by the three main Mogadishu hospitals were to children under five, compared to 3.5 per cent in April. Al-Shabaab in particular continues to use unlawful means and methods of warfare in Mogadishu that include suicide attacks and improved explosive devices (IED). Important steps are being taken to put in place a civilian casualty tracking system and also a force fire direction centre within AMISOM but require rapid funding so that these mechanisms can be set up as soon as possible. Accountability for civilian casualties in the context of the armed conflict as well as for loss of life resulting from excessive use of force is critical. While ad hoc investigations have been undertaken, it is necessary to establish mechanisms which strengthen the credibility, transparency and impartiality of such investigations, in accordance with applicable international law.

The expectation of increased security in the TFG areas, as well as the impact of drought, has resulted in displacement and population movement into TFG-controlled areas, where basic services remain scarce. Urgent assistance is required to ensure that key rights are enjoyed in Mogadishu and elsewhere, including in the priority areas of health, water and sanitation, and education. Enjoyment of the right to food continues to be deeply affected by diminished funding by the international community. In addition, a number of individuals have been killed or injured in the context of clashes related to access to water since the beginning of the year.

Recruitment and use of children by armed forces and groups

Since the last ICG meeting in September 2010, there have been a number of developments, including the visit of the SRSG-CAAC to Mogadishu and the appointment of State Minister Ali Samantar as TFG Focal Point for child rights and human rights. The TFG has reiterated its policy of not recruiting children into the Somali national forces and emphasizes the need to take measures to prevent such recruitment. There is still a need to establish a mechanism to ensure that children are not recruited, and that the age of entry requirement is fully respected through strengthened vetting processes. In April, for example, 49 underage new recruits to the TFG forces who had been identified in Uganda's Bihanga military training camp were sent back to Mogadishu where they are currently being accommodated by AMISOM pending their release and reintegration into civilian life. UNICEF is supporting the TFG through its protection partners with the reintegration process.

It is estimated that a significant portion of around 135 persons including families who have fled from Al-Shabaab to the TFG are children. Responding to a call for support to address this issue by the Joint Security Committee, UNICEF offered to assist in responding to the caseload of children. In this regard, in April it met with the TFG, AMISOM and partners in Mogadishu to put forward provisional emergency measures. UNICEF has since been working with the TFG and other UN agencies to seek to operationalize the proposals in line with international standards. Additionally, UNICEF, through its partners, continues to support the implementation of programmes aimed at preventing the recruitment of children by armed groups and forces as well as the reintegration of children previously associated with armed groups and forces with a focus on the South Central Zone.

Freedom of opinion and expression

The challenges faced by journalists were extensively covered in the UNPOS' briefing submitted at the September 2010 ICG. Albeit no journalist was killed in the period covered by this briefing, journalists have continued to suffer injuries in the context of the armed conflict, and arbitrary or unlawful arrests, as well as threats and other forms of intimidation have been documented in all regions. Al-Shabaab continues to place unlawful and arbitrary limits to freedom of opinion and expression, including blocking radio signals and prohibiting the listening of certain radio stations and news. Failure to obey these orders has been met with physical punishments both to media houses and also to individuals caught listening to banned stations. A significant concern continues to be the pervasive recourse to criminal prosecution and detention on charges ranging from defamation and slander, to false accusations and even treason. Two journalists sentenced to heavy custodial sentences in Puntland and Somaliland were subsequently pardoned by the respective Presidents, but the pattern of criminalization needs to be addressed through awareness-raising and legislative reform.

Human rights issues in Puntland and Somaliland

A degree of relative stability and functioning institutions have permitted some advances in human rights in Somaliland and Puntland. In Somaliland, in January 2011, the Act establishing the Somaliland National Human Rights Commission was promulgated by the President after being passed by Parliament and the appointment of the seven Commissioners is now under way. The fact that steps have been taken to establish a Somaliland human rights institution which meets certain international standards should be recognized as a very positive development. In coordination with other UN agencies, UNPOS/HRU is engaged in a technical cooperation project in support of the Commission to identify the longer term support needs of the Commission. With regard to justice, the UN is liaising with the Justice Ministry on the development of its five-year Justice Sector plan, including incorporating a human rights perspective. This notwithstanding, several challenges exist in all areas of human rights, including freedom of expression, economic and social rights.

In Puntland, there have been positive developments in that the numbers of forcible transfers of IDP males from Puntland towards the Galkayo area seem to have decreased. Engagement with the Government on the development of an IDP policy seems to have acquired new vigour. Nevertheless, the past few months have been characterized by a concerning spate of targeted killings that included elders, retired government administrators, tribal leaders, businessmen, clerics, local NGO officials, judges, prosecutors and police officials. In April, in the course of two different attacks, at least eight persons were killed during prayer in Galkayo mosques. In the course of his visit to Puntland in February, the Independent Expert on the Human Rights Situation in Somalia raised with Puntland Authorities his concerns at the phenomenon of sexual violence that appears to disproportionately affect IDP women and received the assurances of their commitment to more effectively engage in preventing and responding to this pattern, including through addressing impunity.