



## Country session: Somalia CRC

Date of session: 9th and 10th of May (90<sup>th</sup> session)

### Context

The review was delayed due to the Covid-19 pandemic, which disrupted the normal planning of the CRC Sessions. The country delegation participated in the dialogue in Palais Wilson.

**This was the first time that Somalia was reviewed**, after having ratified the Convention on the Rights of the Child in 2015.

### Background information

[OHCHR press release](#)

Webcast: [first part](#) and [second part](#)

[Audio file](#)

### Reporting

#### Reporting methodology

Standard reporting procedure

Simplified reporting procedure

Concluding Observations with urgent measures

#### State report

<a href="#">CRC</a>	
No. of report	Initial
Due date	31 October 2017
Submission	16 September 2019

  

<a href="#">Written replies</a>	
Due date	15 June 2020
Submission	14 October 2020

### State delegation

The [State delegation](#) was quite small, only 4 persons came to Geneva for the Session. They were supposed to be six persons, originally. The Head of Delegation, Mr. Isak Hashi Jimake, is also the general director of the **Ministry of Women and Human Rights Development**. The majority of the Delegation came from this ministry as well. Only one other member, Mr. Hussen Abdi Musa, is part of the Permanent Mission of the Federal Republic of Somalia as the First Counsellor and Chargé d'Affaires.

The State's opening statement is available [here](#)

## Committee's Task Force members

Name & Last Name	Country
<b>Hynd Ayoubi-Idrissi (coordinator)</b>	<b>Morocco</b>
Philip Jaffé	Switzerland
José Rodriguez Reyes	Venezuela
Zara Ratou	Chad

## Dialogue description

### i. Character of the dialogue

The dialogue held with the delegation of Somalia was cooperative and fluid. The delegation answered to the majority of questions asked by the Committee and tried to explain with details the measures they are taking. They also recognized the issues they are facing and the remaining gaps in the country. However, for some questions, the Committee had to insist various times during the Session to have more detailed answers. Also, the delegation insisted various times on their lack of resources, that seems to be one of the major issues.

### ii. General assessment made by the Committee

The Committee commended the efforts made by Somalia, first of all for ratifying the Convention in the hard and complex context in their country. They thanked the delegation of Somalia for answering all the questions, but also for recognizing all the issues in the Country. For them, even though there are still a lot of issues, the dialogue was really encouraging as Somalia is leading a lot of projects for the rights of children. However, the Committee insisted on the fact that the measures must be taken fast.

### iii. Main issues discussed:

#### General Measures of Implementation:

- **Reservations:** The Committee commended Somalia's efforts to ratify the Convention besides the tough context they are going through, but remains concerned about the reservations on articles 14, 20 and 21. The delegation of Somalia answered that the main reason of these reservations is the functioning of the *Kafalah* system, but they are working on this question, and they hope that by 2023, they will have withdrawn their reservations. They want to partner with stakeholders such as UNICEF, and they plan to go to other Muslim countries as visitors to see how they were able to ratify the CRC without these reservations.
- **Data collection:** The Committee was concerned about the lack of data collection in Somalia and asked about measures taken to implement a system about it to have more information on the situation of child rights. To that question, the delegation gave several answers. First, they said that the National Statistic Bureau was rehabilitated, and that the ministry of women and human rights were working closely with this entity. However, they reckoned that the data collection system was not efficient enough, and that they are lacking data on a lot of issues (which is why they couldn't

provide answers for some subjects). They have planned to include a data collection system in their National Action Plan, with the creation of mediators and Ombudsmen. They also said that they succeeded in implementing coordination between district, federal and State level, with the aim of improving the data collection.

### Definition of the child

The Committee asked the delegation about the definition of a child. Indeed, the drafting of the Provisional Constitution fixes the age of a child at anyone below 18, but there is no harmonization of this, as marriage is considered legal when two people have reached maturity, considered being between 12 and 15 years old. The delegation answered that there is a constant dialogue between federal Member States to harmonize the legal age of a child. There is a review process in the Constitution that they want to be concluded next year, with the aim of ensuring that the legal age of a child is below 18 including for marriage.

### Civil rights and freedoms

- **Birth registration and nationality:** The Committee was concerned about the lack of birth registration, as only 4% of births are registered. Which led them to another concern about children's citizenship. Moreover, about this issue, the law about nationality doesn't guarantee it for all. Indeed, only the father can transmit the Somali nationality to a child. To that, the delegation reckoned the gaps on this issue, and the problems it could lead to for the children (lack of access to services for example). They affirmed their will to change the law on nationality attribution, but because of the link between this practice and traditions and culture, it is a tough thing to change. They also reckoned that this was a huge problem for the 7 million Somali people living in diasporas in the world.

### Violence against children

- **Corporal punishment:** The Committee was concerned with the issue of corporal punishment, as 75% of children from 2 to 14 years old suffer from this form of discipline. Also, they were concerned about articles 4.3.9 and 4.4.2 of the Constitution, that reduce the sentence in case of corporal punishment if the author is the genitor of the child. The delegation answered saying that the legal framework in drafting wants to prohibit this kind of discipline. For example, the article 20 sub-2 of the Child Rights Bill affirms that no child shall be sentenced to corporal punishment, and article 20 sub-3 affirms that no parent, guardian, institution or school shall use it.
- **Child sexual abuse and gender-based violence:** The Committee was concerned about sexual violence against children, and asked if any legislative measures were on progress, such as reporting, sentences. They were concerned, for example, by marital rape, that was not mentioned in the Constitution, but also sexual exploitation, and asked if any trainings were done with the police. The delegation answered that they were drafting a Sexual Offense Bill, and that they started training their police officers to have sexual violence desks and units. However, they reckoned that there was a "culture of impunity" in the Country and that the reporting of cases was still not happening enough.
- **Harmful practices:** The Committee emphasized various times on female genital mutilation as being a major problem in Somalia, and they were concerned about it not being mentioned in the

Constitution. They asked for implementation measures to end female genital mutilation and if progress was made. The delegation answered that they wanted to draft a female genital mutilation bill, as it is a major problem in the country (90% of girls and women suffered from female genital mutilation), to reach zero tolerance about this kind of violence. They also want to visit other countries that had to deal with the same issue (they went to Egypt to see how they were dealing with the problem).

### **Family environment and alternative care**

- ***Children deprived of a family environment:*** The Committee raised the issue of children in broken households and asked the delegation about the number of children that are separated from their parents. To that, the delegation answered that they don't have a data system on that issue, but from what they know, around 30-35% of children in Somalia are separated from their parents. In their National Plan of Action, they want to implement measures on trackability, but there is an uncertainty on finances for this issue.

### **Children with disabilities**

The Committee raised concerns about the law on children with disabilities and asked to what point was this law useful. They also asked if there were measures taken to prevent discriminations against children with disabilities, and measures taken to overcome the stigma for children with disabilities in poverty and guarantee their access to medical assistance and inclusive education. To these concerns, the delegation answered that there are discriminatory practices and tremendous stigmas, as it is difficult to have a full inclusion in Somalia, but they are trying to achieve it. They are having some school facilities designed to accommodate children with disabilities, and they are also trying to implement community-based organizations to help children with disabilities to be a part of a group instead of being excluded. They are also working on a legal framework on children with disabilities, to promote non-discrimination and have a specific protection for them. Finally, their key recommendation is to collaborate with stakeholders: for example, Civil Society Organizations (CSO) partners, UN agencies.

### **Basic health and welfare**

- ***Health and health services:*** The Committee asked the delegation about the social coverage and the medical assistance, as approximately 20% of the population does not have access to health because of the costs. They then asked about the measures taken, including a Strategic Plan for Health. The delegation expressed its concerns as well, as, according to a survey, 15.1% of children lack from health care. They answered that before, Somalia had a great health system, but it was closed and now they are facing a lack of resources. So now they are trying to advocate on this, do some fundraising, and they hope to have a better health system by the end of 2022. They emphasized on the fact their main problem for health was the lack of resources.
- ***Adolescent health:*** The Committee raised concerns about sexual and reproductive health. They asked if there was an integral policy on sexual and reproductive education, as well as information on the use of contraception and formations to prevent STD/STI, and to reinforce the National Commission on AIDS and combat the stigmas around it. In addition, the Committee asked various times about abortion, but the delegation did not give a clear answer on that issue. They answered that women were not used to going to centres when they are pregnant from violence, and that they

prefer to find other ways to deal with the issue. The Committee was also concerned about the use of drugs, tobacco and alcohol by children in Somalia. They wanted to know if measures were taken to prevent it. To that, the delegation replied that they were drafting a Drug Substance Abuse Policy, and that they have led an assessment on the use of drugs in Somalia. Their drafted Child Rights Bill also prevents the use of drugs, and they reckoned that they need more rehabilitation centres for victims of drug abuses, for example.

### **Education, leisure and cultural activities**

The Committee was concerned about the low school enrolment rate (30% in primary schools, 20-25% in secondary) the inequalities between rural and urban areas, but also the threat to schools. The problem is also deep for children in the street, or children who have been separated from their parents. To that, the delegation answered that indeed, it was a major problem (according to a survey that they conducted, 9% of children lack from a good education). They want to provide every child with a free and compulsory education, at all levels (books, material, education fees...), with a National Education Plan. Also, the article 28 of the draft Provisional Constitution affirms, in article 28, that every child has the right to care for their balance, including education and instruction. In 2018, they have also implemented a program with UNICEF, that permitted to sponsor 1800 students in Somalia, and for them to receive degrees, diplomas, and certificates.

### **Special protection measures**

- ***Asylum-seeking, refugee, migrant and internally displaced children:*** The Committee asked the delegation if there were measures taken to facilitate the asylum seeking and enjoyment of their rights for children part of indigenous peoples. They were also concerned by the weak capacity of the State to take care of displaced children and asked if they had measures to take care of this. They also raised the question of corruption in refugees' and displaced people's camps and asked if it was taken into consideration. To these questions, the State delegation answered saying that the article 70.37 of the Provisional Constitution claims that each person who is a refugee has the right to not return to the country they come from if they are victims of persecution for example. There is also a migration policy framework, with an internal displacement policy and a refugee policy being drafted, and the government has achieved to establish the national commission on refugees and IDPs. The commission includes stakeholders, who mostly advocate.
- ***Economic exploitation, including child labour and children in street situations:*** Considered as a great issue in Somalia, the Committee was concerned about children being swept off the streets by security forces and asked if the practice had diminished. The delegation said that the Country wanted to implement a legal framework to protect these children at all levels. This includes the article 29 of the Provisional Constitution to prevent child labour and exploitation, and also a plan to provide enforcement officers to deal with cases of child labour (hence children who are living on the streets, because the majority of children living in the streets must work).
- ***Administration of child justice:*** The Committee commended the efforts of Somalia to set the criminal legal age at 14, but they remain concerned about the protection of children at the federal level. Even though Somalia has created child courthouses, they are still concerned about the lack of formal justice system, the measures for a repairing justice and the lack of lawyers. The delegation answered that they were currently drafting a Juvenile Justice Bill. However, they don't have any data

system for juvenile justice (for example, for the length of detention of children), even though they plan to implement one.

- **Children in armed conflicts:** The Committee raised the issue of children involved in armed conflicts, asking the delegation what was planned for the ratification of the Optional Protocol on the involvement of children in armed conflicts (OPAC) and to incriminate the recruitment of children and the violation of Resolution 1612 of the Security Council. They also wanted to know if there was a special program to evacuate involved children. To these questions, the delegation answered that they have developed Children Affected by Armed Conflict (CAAC) meetings with the minister of human rights and development. They also told the Committee that some articles in their Provisional Constitution prevent the recruitment of children. They plan to rehabilitate and reintegrate these children to society, with a great collaboration with civil society in Somalia. In collaboration with international and national partners, the government has implemented missions for their rehabilitation. As a general rule, Somalia does not punish children, including in armed conflicts, because they think that they are victims. Instead, there are ongoing awareness raising campaigns with the collaboration of stakeholders and ministers.

### **Ratification of the Optional Protocols to the Convention**

The Committee asked about the ratification of the optional protocols to the Convention, the Optional Protocol on the involvement of children in armed conflict (OPAC) and the Optional Protocol on the sale of children, child prostitution and child pornography (OPSC). The State delegation didn't say anything about these Protocols during the Session.

### **Recommendations of the Committee**

In its [Concluding Observations](#), the Committee drew the State party's attention to the following areas:

#### **Definition of a child**

The Committee recommends that the State party: (a) Amend and harmonize its legislation with article 29 (8) of the Provisional Constitution in order to ensure that all laws and regulations, without any exception, define a child as a person under the age of 18 years; (b) Amend its legislation to ensure the explicit prohibition of a marriage with a person below the age of 18 years for both girls and boys; (c) Undertake awareness-raising programmes to increase support for and understanding of the definition of the child as every human being below the age of 18 years.

#### **Birth registration and nationality**

Taking note of target 16.9 of the Sustainable Development Goals, the Committee strongly urges the State party to:

- (a) Enact a civil registration legislation and policies and provide the necessary resources to establish free of charge registration of all children born in its territory;
- (b) Raise awareness of the public on the importance of and promote the registration of children;



(c) Step up and accelerate the adoption of the Citizenship Amendment Bill (2016) and other legislative measures to ensure non-discriminatory access to nationality for all children, including children born to Somali mothers and foreign fathers;

(d) Consider ratifying the Convention relating to the Status of Stateless Persons of 1954 and the Convention on the Reduction of Statelessness of 1961

### **Corporal punishment**

Recalling its general comment No. 8 (2006) on the right of the child to protection from corporal punishment, the Committee urges the State party to:

(a) Explicitly prohibit corporal punishment in law in all settings, including in the home, schools, alternative care settings and in the administration of justice, including as a sentence for crime under Sharia law, and introduce penalties commensurate to the gravity of the offence;

(b) Promote positive, non-violent and participatory forms of child-rearing and discipline;

(c) Conduct awareness-raising campaigns for parents and professionals working with and for children to promote attitudinal change, within the family and the community, with regard to corporal punishment

### **Child sexual abuse and gender-based violence**

Recalling its general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, and taking note of targets 5.2, 16.1 and 16.2 of the Sustainable Development Goals, the Committee urges the State party to:

(a) Accelerate the adoption of 2018 Sexual Offences Bill and ensure that is in line with the Convention and other international norms and standards and establish mechanisms for its implementation throughout the country;

(b) Ensure that allegations of sexual abuse and gender-based violence are promptly reported and independently and thoroughly investigated, applying a child- friendly and multisectoral approach to avoid the re-traumatization of children;

(c) Ensure that appropriate remedies, treatment and support are provided to victims and that perpetrators are duly sanctioned and deterred from having contact with children, including in the context of customary systems of justice;

(d) Raise awareness of the public, religious and traditional leaders to combat the stigmatization of victims of sexual exploitation and abuse, as well as keep children safe online.

### **Harmful practices**

Recalling joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2019) on harmful practices, and taking note of target 5.3 of the Sustainable Development Goals, the Committee urges the State party to take immediate active measures to:

(a) Put an end to female genital mutilation and child marriage, including by accelerating the adoption of the bill against female genital mutilation and by eliminating the practice of child marriage;

(b) Develop awareness-raising campaigns and programmes on the harmful effects of female genital mutilation and child marriage on the physical and mental health and well-being of girls, targeting



households, local authorities, religious and traditional leaders and judges and prosecutors, and bring those who carry out such harmful practices to justice, ensuring commensurate sanctions;

(c) Establish protection schemes for victims of female genital mutilation and child marriage, encourage them to report such instances to relevant authorities, and ensure their access to social, medical, psychological and rehabilitative services free of charge, and to legal redress, including through international cooperation and assistance

### **Children with disabilities**

Recalling its general comment No. 9 (2006) on the rights of children with disabilities, the Committee urges the State party to adopt a human rights-based approach to disability, set up a comprehensive strategy for the inclusion of children with disabilities and:

(a) Accelerate the adoption of the Disability Bill and ensure that it is in line with international standards and encompasses the human rights model of disability;

(b) Expand the assessment of children living with disabilities to the entirety of the country and develop an efficient system for diagnosing disability, which is necessary for putting in place appropriate policies and programmes for children with disabilities;

(c) Set up comprehensive measures to develop inclusive education, including by operationalizing and providing adequate resources to the implementation of the National Special Educational Needs Disability and Inclusive Education Policy, including through international cooperation and assistance;

(d) Undertake awareness-raising campaigns aimed at government officials, the public and families to combat the stigmatization of, and prejudice against, children with disabilities and promote a positive image of children with disabilities as rights- holders.

### **Administration of child justice**

Recalling its general comment No. 24 (2019) on children's rights in the child justice system and with reference to the United Nations Global Study on Children Deprived of Liberty, the Committee urges the State party to bring its child justice system fully into line with the Convention and other relevant standards. In particular, the Committee urges the State party to:

(a) Enact the Juvenile Justice Bill in line with the Convention, harmonize the Federal Member States laws with the provisions of the Bill, and expeditiously establish a specialized child justice system throughout the country, that is equipped with adequate resources and specialized judges for children, who have received appropriate training;

(b) Ensure that the age of criminal responsibility is at least 14 years at the federal and Members States levels and put measures in place to ensure that children are not presented as adults in judicial proceedings, particularly in cases where they cannot present identity documents;

(c) Ensure that children are not tried in military courts, treat children associated with armed groups primarily as victims and not perpetrators, and review cases of children deprived of liberty and prisoners who are young adults – given erroneous age determination practices - currently serving prison sentences for their alleged association with Al-Shabaab to ascertain whether the punishment for criminal offences was appropriate to their age and consider non-custodial measures;





(d) Ensure that detention is used as a measure of last resort and for the shortest possible period of time and is reviewed on a regular basis with a view to its withdrawal;

(e) For the few situations where deprivation of liberty is justified as a measure of last resort, ensure that children are not detained together with adults or in solitary confinement and that detention conditions are compliant with international standards, including with regard to access to education, vocational training and health services, and ensure independent monitoring mechanisms for places where children are deprived of their liberty

### **Children in armed conflicts**

The Committee strongly urges the State party to:

(a) Cease immediately all violations against children, in line with obligations and responsibilities under international humanitarian and human rights law;

(b) Criminalize the recruitment of children into armed forces, regularly monitor recruitment processes to prevent children from enlisting in the army or other armed groups and take prompt measures to investigate, prosecute and sanction the perpetrators in cases of child recruitment;

(c) Strengthen the mechanisms in place for hand-over of children identified in the Somali Armed Forces, including through the Standard Operating Procedures for the Reception and Hand-over of Children Separated from Armed Groups in Somalia (2014), and establish referral pathways for children of former Al-Shabaab fighters and children formerly associated with Al-Shabaab;

(d) Launch programs that embrace community-based approaches aimed at preventing and addressing the root causes of child association with armed groups and sensitize and educate parents on the long-term and short-term negative impact of children's engagement with armed groups;

(e) Ensure children's access to education and health care, facilitate humanitarian access and ensure that children have adequate access to food and basic services;

(f) Provide rehabilitation and psychological and medical health care to children impacted by armed conflict, including children recruited by armed forces and victims of sexual violence, and strengthen measures to address trauma experienced by children as a result of armed conflict and violence and its harmful impact into adulthood.

The Committee also drew the State party's attention to the recommendations concerning the following areas:

General Measures of implementation: **reservations; legislation; comprehensive policy and strategy; coordination; allocation of resources; data collection; independent monitoring; dissemination awareness-raising and training;**

General principles: **non-discrimination; best interests of the child; right to life, survival and development; respect for the views of the child**

Violence against children: **torture and other cruel, inhuman or degrading treatment or punishment; abuse and neglect**

Family environment and alternative care: **family environment; children deprived of a family environment;**

Basic health and welfare: **health and health services; adolescent health; impact of climate change on the rights of the child; nutrition and standard of living**

Education, leisure and cultural activities: **education, including vocational training and guidance**



Special protection measures: **asylum-seeking, refugee, migrant and internally displaced children; children belonging to minority/indigenous groups**

Ratification of the Optional Protocols to the Convention

Ratification of international human rights instruments

### **Sustainable Development Goals**

The Committee recommended the realization of children's rights in accordance with the Convention and the Optional Protocols thereto throughout the process of implementing the 2030 Agenda for Sustainable Development and urged the State to ensure the meaningful participation of children in achieving all 17 Sustainable Development Goals.

Throughout its Concluding Observations, the Committee referred to the following targets:

- **Target 16.5:** Substantially reduce corruption and bribery in all their forms
- **Target 5.1 and 10.3:** End all forms of discrimination against all women and girls everywhere; Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard
- **Target 16.9:** By 2030, provide legal identity for all, including birth registration
- **Target 16.2:** End abuse, exploitation, trafficking and all forms of violence against and torture of children
- **Target 5.2, Target 16.1, Target 16.2:** Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation; Significantly reduce all forms of violence and related death rates everywhere; End abuse, exploitation, trafficking and all forms of violence against and torture of children
- **Target 5.3:** Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation
- **Target 3.1, Target 3.2, Target 3.8:** By 2030, reduce the global maternal mortality ratio to less than 70 per 100,000 live births; By 2030, end preventable deaths of newborns and children under 5 years of age, with all countries aiming to reduce neonatal mortality to at least as low as 12 per 1,000 live births and under-5 mortality to at least as low as 25 per 1,000 live births; Achieve universal health coverage, including financial risk protection, access to quality essential health-care services and access to safe, effective, quality and affordable essential medicines and vaccines for all
- **Target 3.7, Target 5.6:** By 2030, ensure universal access to sexual and reproductive health-care services, including for family planning, information and education, and the integration of reproductive health into national strategies and programmes; Ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the International Conference on Population and Development and the Beijing Platform for Action and the outcome documents of their review conferences
- **Target 1.5, Target 15:** By 2030, build the resilience of the poor and those in vulnerable situations and reduce their exposure and vulnerability to climate-related extreme events and other economic, social and environmental shocks and disasters; Take urgent action to combat climate change and its impacts[b]



- **Target 1.1, Target 1.2, Target 1.3:** By 2030, eradicate extreme poverty for all people everywhere, currently measured as people living on less than \$1.25 a day; By 2030, reduce at least by half the proportion of men, women and children of all ages living in poverty in all its dimensions according to national definitions; Implement nationally appropriate social protection systems and measures for all, including floors, and by 2030 achieve substantial coverage of the poor and the vulnerable
- **Target 4.1, Target 4.4, Target 4.5, Target 4.6, Target 4.a, Target 4.c:** By 2030, ensure that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes; By 2030, substantially increase the number of youth and adults who have relevant skills, including technical and vocational skills, for employment, decent jobs and entrepreneurship; By 2030, eliminate gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities, indigenous peoples and children in vulnerable situations; By 2030, ensure that all youth and a substantial proportion of adults, both men and women, achieve literacy and numeracy; Build and upgrade education facilities that are child, disability and gender sensitive and provide safe, non-violent, inclusive and effective learning environments for all; By 2030, substantially increase the supply of qualified teachers, including through international cooperation for teacher training in developing countries, especially least developed countries and small island developing States
- **Target 8.7:** Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms

### Next State report

CRC	
No. of report	II-III
Due date	31 October 2027

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