

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	1078
Land:	Somalia
Kilde:	United Nations Assistance Mission in Somalia (UNSOM), Office of the United Nations High Commissioner for Human Rights (OHCHR HCDH)
Titel:	Tackling Sexual Violence in Somalia: Prevention and Protection
Udgivet:	7. maj 2024
Optaget på baggrundsmaterialet:	2. september 2024



TACKLING SEXUAL VIOLENCE IN SOMALIA:

PREVENTION AND PROTECTION



UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER



**TACKLING
SEXUAL
VIOLENCE IN
SOMALIA:
PREVENTION
AND PROTECTION**

Contents

List of acronyms	4
Executive summary	5
I. Introduction	6
II. Mandate	7
III. Methodology	8
IV. Trends and patterns of sexual violence in Somalia – an overview 2017 to 2022	9
a. Situations that negatively impact women and girls’ protection	14
b. Service provision	16
c. Assistance provided to women disengaging from Al-Shabaab	17
d. The situation of people on the move: IDPs, returnees and refugees	19
V. The protection framework for women’s and girls’ rights in Somalia	21
i. International human rights law and international humanitarian law	21
ii. Legal framework and challenges for the protection of women’s and girls’ rights	21
iii. The Somali Penal Code	23
VI. Measures and steps adopted by the Federal Government of Somalia and the Federal Member States of Somalia	23
a. Objective	23
b. Initiative	23
c. Process	24
d. Implementation	25
i. The Somalia National Action Plan for the Implementation of the Somali Women’s Charter and UNSCR 1325 on Women, Peace and Security 2021-2025	25
ii. 2019 Road Map to Implement the 2012 Action Plans on Recruitment and Use and Killing and Maiming of Children by Somali Security Forces	25
iii. The Sexual Offences Bill	26
iv. The Puntland Bureau of Forensic Science	27
VII. Good practices	27
i. National Programme for the Treatment and Handling of Disengaged Combatants (female)	28
ii. Acceleration in the planning and setting up of one-stop centres to support GBV survivors	28
iii. Baahi-Koob One-Stop Centre for GBV survivors – Hargeisa	29
VIII. Conclusions and recommendations	30
a. For the Federal Government of Somalia and Federal Member States	30
b. For the International Community	32
Annexes	33
Annex 1. Update on the Sexual Offences Bill that occurred after the end of the reporting period – the Offences of Rape and Indecency Bill	33
Annex 2. Joint Communiqué on Ending Sexual Violence in Conflict 2013	34

List of acronyms

ATMIS	African Union Transition Mission in Somalia
CID	Criminal Investigation Department
CTFMR	Country Task Force on Monitoring and Reporting
CRSV	Conflict-related sexual violence
GBV	Gender-based violence
GBV-IMS	Gender-based Violence Information Management System
HRPG	Human Rights and Protection Group
IOM	International Organization for Migration
MWHRD	Ministry of Women, Human Rights and Development
MICT	Ministry of Information, Culture and Tourism
MARA	Monitoring Analysis and Reporting Arrangements
MRM	Monitoring and Reporting Mechanism
NGO	Non-governmental organization
NISA	National Intelligence and Security Agency
OHCHR	Office of the United Nations High Commissioner for Human Rights
PRMN	Protection and Return Monitoring Network
SGBV	Sexual and Gender-Based Violence
SNA	Somali National Army
SPF	Somali Police Force
SWSPF	South West Special Police Force
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNPOS	United Nations Political Office for Somalia
UNSOM	United Nations Assistance Mission in Somalia

Executive summary

This report is jointly published by the United Nations Assistance Mission in Somalia (UNSOM) and the Office of the United Nations High Commissioner for Human Rights (OHCHR). The report provides a fact-based analysis of progress and obstacles in the prevention and response to conflict-related sexual violence (CRSV) between 1 January 2017 and 31 December 2022.

The report covers eight areas. The first is the context in which the violations reported occurred, which is one of a non-international armed conflict and a protracted humanitarian crisis. The second area covers the trends and patterns of CRSV. Alleged perpetrators are covered in the third section, while the fourth identifies the types of incidents and violations reported and the profile of the survivors. The fifth section covers service provision and the challenges that survivors face. This is followed by a discussion of Somalia's legal framework on the protection of women and girls as well as legal reform efforts. The seventh area examines good practices for addressing the consequences of sexual violence and the lessons that can be drawn from there. The report concludes with recommendations to the Somali national authorities and the international community.

The context in which the violations described in the report occur is a non-international armed conflict that opposes the Federal Government of Somalia, supported by the African Union Transition Mission in Somalia (ATMIS) and other international forces and pro-government militias, on the one side and Al-Shabaab on the other. The armed conflict continues in the context of the worst drought recorded in the past 40 years. This has compounded the already dire humanitarian situation faced by the people in Somalia, who are also victims of violations and abuses of their human rights and violations of international humanitarian law that continue to be perpetrated by all parties to the conflict, with Al-Shabaab being the identified single perpetrator responsible for the highest number of violations.

The trends and patterns highlighted in the report show that several factors work as drivers for sexual violence with displaced women and girls being the most exposed. These include structural gender inequalities, insecurity, and cyclical humanitarian crises caused by climate shocks. UNSOM data, mainly gathered through human rights officers deployed in some areas of the country, are reinforced by information gathered through other data collection mechanisms implemented by United Nations agencies, funds and programmes working alongside service providers operating in areas of displacement and conflict.

The report identifies unidentified armed men as the main perpetrator of CRSV with Al-Shabaab as the second main perpetrator. Unidentified armed men are a category of perpetrators who either have a weapon, a gun or a knife or machete, who sometimes will be wearing military-type attire. Survivors cannot identify which party to the conflict these perpetrators belong to. This is due to several factors, which include the failure to recognize the military-type attire, the failure to recall what the perpetrator was wearing at the time of the attack or fear of naming a perpetrator, resulting in the perpetrator falling into this category. Other perpetrators are the Somali National Army (and its allied clan militia), the Somali Police Force (and its allied clan militia) and the Puntland Forces.

The most frequent CRSV incidents are rape, attempted rape and gang rape (rape committed by two or more men). The third highest category is incidents attributed to state security forces¹ which are often perpetrated in the context of their deployment to counter Al-Shabaab or during military operations to eradicate the group.

Service provision for CRSV survivors remains low, with limited specialized services available for timely, confidential and quality assistance. Security concerns and accessibility to areas under the control of Al-Shabaab is a significant hindrance to support for survivors.

The report finds that Somalia's legal framework does not provide sufficient protection for all persons against sexual violence. The report identifies the three sources of domestic law: customary, Sharia Law and statute law, and analyzes their compatibility with Somalia's international human rights obligations, including the way they are implemented.

I. Introduction

Somalia is affected by a non-international armed conflict between the Somali government, supported previously by the African Union Mission in Somalia and since 1 April 2022 by ATMIS,² other international forces and pro-government militias, on the one hand, and Al-Shabaab and affiliated groups, on the other. Since the election of President Hassan Sheikh Mohamud in May 2022, the Federal Government of Somalia has taken a multi-pronged approach in its fight against Al-Shabaab, including by intensifying military operations against the group. In this context, the worst recorded drought in 40 years has compounded a dire humanitarian situation. People in Somalia continue to be victims of violations and abuses of international human rights law and violations of international humanitarian law by all parties to the conflict, including different forms of CRSV.

This report presents an overview of trends and patterns of CRSV in Somalia between 1 January 2017 and 31 December 2022 as reported through the Monitoring Analysis and Reporting Arrangements (MARA)³ on CRSV and the Monitoring and Reporting Mechanism (MRM)⁴ on Children and Armed Conflict. MRM and MARA data show that certain groups of individuals such as internally displaced persons (IDPs), are especially vulnerable to CRSV, while the main identified perpetrators are unidentified armed men, Al-Shabaab, the Somalia National Army, the Somalia Police Force, and clan militia. The overall majority of CRSV perpetrators are unidentified armed men which makes reporting, and therefore accountability, challenging. Service providers

1 These refer to the Somali National Army and Somali Police Force at the Federal level. When they also include the "regional" forces at Federal Member States' level, this is specifically indicated.

2 The African Union Mission in Somalia (AMISOM) was a regional peacekeeping mission operated by the African Union with the approval of the United Nations. It was created by the African Union's Peace and Security Council on 19 January 2007 with an initial six-month mandate. The United Nations Security Council Resolution 2628 (2022) authorised the African Union Peace and Security Council to reconfigure AMISOM and replace it with the African Union Transition Mission in Somalia (ATMIS), effective from 1 April 2022.

3 Monitoring, Analysis and Reporting Arrangements (MARA) on conflict-related sexual violence established by UNSC resolution 1960 (2010).

4 Monitoring and Reporting Mechanism on six grave violations against children in situations or armed conflict established by UNSC resolution 1612 (2005).

and other information-gathering mechanisms are key sources of information which assist in determining the trends and patterns of CRSV. Some emblematic cases⁵ of CRSV are highlighted in the present report and represent some of the most egregious CRSV incidents that occurred during the reporting period.

The report makes recommendations to key stakeholders on how to improve the protection of women and girls in Somalia.

Through the adoption in May 2013 of the Joint Communiqué on the Prevention of Sexual Violence, the Federal Government of Somalia, with support from the United Nations, committed to lead and undertake, among others, the following measures:

- ▶ Issuing through the respective chains of command of the army and police command orders prohibiting sexual violence and a zero-tolerance of such violations in the army and police codes of conduct.
- ▶ Addressing impunity for sexual violence by investigating alleged violations and ensuring punishment of perpetrators through the criminal justice system.
- ▶ Developing and implementing a comprehensive strategy to prevent and respond to sexual violence and supporting the work of service providers.
- ▶ Strengthening the protection of victims, witnesses, journalists and others who report on sexual violence.
- ▶ Strengthening the legal framework on sexual violence through the enactment, review or harmonization of relevant legislation.
- ▶ Ensuring access to services including medical, psychosocial and legal aid to survivors of sexual violence, including in newly accessible areas.

II. Mandate

UNSOM was established by Security Council Resolution 2102 (2013) and started operating on 3 June 2013. The subsequent mandate renewals, including 2657 (2022), provide UNSOM's Human Rights and Protection Group (HRPG) with a mandate to conduct capacity building for the Federal Government and monitoring and reporting on violations and abuses of international human rights law and violations of international humanitarian law.

UNSOM is further mandated to support national efforts “to ensure that sexual offences legislation is compatible with the Government’s obligations under international law and commitments on the protection of children and women” and to “accelerate the implementation of the Joint Communiqué and the adoption and implementation of

⁵ For the purpose of this report, for a case to be considered “emblematic” at least one of the following criteria need to apply: amounts to a CRSV crime; confirms a trend or pattern with impact on peace and security; profile of the perpetrator (warlord/armed group or state official); number of victims (mass rape).

the new National Action Plan to Combat Sexual Violence in Conflict.”⁶ The Joint Communiqué on the Prevention of Sexual Violence (the Joint Communiqué) was signed between the Federal Government of Somalia and the United Nations on 7 May 2013.

Additionally, the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, established by Security Council resolution (SCR) 1888 (2009), one in a series of resolutions which recognized the detrimental impact that sexual violence in conflict, has been engaging in Somalia since 2013 through the above-mentioned Joint Communiqué.⁷

III. Methodology

UNSOM documents cases of CRSV through its five field offices and headquarters in Mogadishu. The information contained in this report has been drawn from various credible sources, which include individual testimonies from primary and secondary sources (such as survivors’ families), human rights defenders, media rights organizations, government authorities at all levels, community leaders, and local and international non-government organizations (NGOs).

The OHCHR human rights monitoring and reporting methodology requires three independent and credible sources to verify human rights violations and abuses. For sexual violence cases, the OHCHR methodology states that where this is not possible - given the nature of sexual violence and cultural and security reasons - a primary source (survivor or witness) with a corroborating pattern surrounding the case, can be considered a verified CRSV case.⁸ The MARA, which will be explained in detail below, uses the OHCHR human rights monitoring and reporting methodology.

This report is based on data reported through the MARA and MRM as per their respective United Nations Security Council mandates. The MARA was created by the United Nations Security Council Resolution (SCR) 1960 (2010), which mandated the United Nations Secretary-General to establish it. The MARA collects information on CRSV, including rape in situations of armed conflict, post-conflict and other situations of concern.

The purpose of MARA is to ensure the systematic gathering of timely, accurate, reliable and objective information on CRSV. MARA draws on information gathered from various sources, including local government authorities and institutions, health and psychosocial service providers, United Nations agencies, funds and programmes, local and international non-governmental organisations, civil society organisations, religious institutions and faith-based networks.

Information from MARA is used to promote appropriate and timely action to prevent and respond to CRSV, inform strategic advocacy, enhance prevention and program-

6 See S/RES/2657 (2022).

7 https://www.un.org/sexualviolenceinconflict/wp-content/uploads/joint-communicue/joint-communicue-of-the-republic-of-somalia-and-the-united-nations-on-the-prevention-of-sexual-violence/Somalia_Joint_Communique_SVC_May_2013.pdf (last accessed on 7 June 2023).

8 See Integrating a gender perspective into human rights investigations https://www.ohchr.org/sites/default/files/Documents/Publications/IntegratingGenderPerspective_EN.pdf (last accessed on 7 June 2023).

matic responses for survivors, and contribute to the development of comprehensive strategies to combat sexual violence at the country level.

In 2005, the United Nations Security Council adopted SCR 1612 and, through it, established the MRM on grave violations committed against children in times of armed conflict. The purpose of the MRM is to provide for the systematic gathering of accurate, timely, objective and reliable information on six grave violations committed against children in situations of armed conflict. The six grave violations are:

- ▶ Killing and maiming of children;
- ▶ Recruitment and use of children by armed forces and armed groups;
- ▶ Sexual violence against children;
- ▶ Attacks against schools or hospitals;
- ▶ Abduction of children and
- ▶ Denial of humanitarian access for children.

The MRM is established in country-situations where parties to the conflict have been listed in the annexes of the Secretary-General's annual report on children and armed conflict. The Country Task Force on Monitoring and Reporting (CTFMR), co-chaired by the Special Representative of the Secretary-General in Somalia and UNICEF are mandated to manage the MRM. Monitors on the ground collect information, respond to grave violations and engage in advocacy, notably to negotiate and implement Action Plans. This report uses the MRM information on sexual violence against children.

Data from other reporting mechanisms such as the Gender-Based Violence Information Management System (GBVIMS)⁹ and the Protection and Return Monitoring Network (PRMN)¹⁰ has been used to triangulate information and confirm the trends and patterns of violations.¹¹

IV. Trends and patterns of sexual violence in Somalia – an overview 2017 to 2022

The term “sexual violence” is an all-encompassing, non-legal term, that refers to all crimes of a sexual nature. It includes crimes like sexual assault, rape and sexual

9 The Gender-Based Violence Information Management System (GBVIMS) is a multi-faceted reporting mechanism composed of UN entities with protection mandates in Somalia and operates as a sub-component of the Protection Cluster. It enables humanitarian actors responding to incidents of GBV to effectively and safely collect, store, analyse and share data reported by GBV survivors. It collects information to protect women and girls in humanitarian contexts from over 70 data gathering organizations working on GBV issues.

10 The Protection and Return Monitoring Network (PRMN) is a UNHCR-led platform for identifying and reporting on displacements and returns in Somalia, as well as on protection incidents triggering such movements. Information provided by the PRMN refers to gender-based violence reported by the UNHCR through its partners while providing services to people on the move.

11 The differences in the figures between MARA, the PRMN, GBVIMS and the MRM is due to the different methodologies each monitoring system uses. Information captured by the MRM is obtained from a network of monitors deployed in conflict areas. They have a much larger reach and are within the communities, which allows for more information to be collected. Figures should not be considered cumulative and should always be considered separate because of the different methodologies applied for the collection of information.

abuse. The sub-category of sexual violence in conflict are acts of violence against women and children which occur in the context of conflict. The United Nations Security Council defines CRSV as “rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage, and any other form of sexual violence of comparable gravity perpetrated against women, men, girls or boys that is directly or indirectly linked to a conflict.”¹² It also recognizes CRSV as a peace and security concern as per United Nations Security Council resolutions on women, peace and security.¹³ While many of the documented cases of CRSV are reportedly committed by unidentified armed actors, Al-Shabaab is one of the main perpetrators, using it as a tactic of domination in areas under its control.

Accordingly, Al-Shabaab is listed in the Secretary-General’s annual report on CRSV¹⁴ as a non-State actor credibly suspected of committing or being responsible for patterns of rape and other forms of sexual violence in situations of armed conflict. The Somali National Army, the Somali Police Force (and its allied militia), and the Puntland forces are the State actors listed in the Secretary-General’s report. The United Nations Secretary-General’s report on children and armed conflict¹⁵ lists the following parties to the conflict as having committed acts of sexual violence in Somalia: Al-Shabaab, Ahl al-Sunna wal-Jama’aa, the Somali Federal Defence Forces and the Somali Police Force. Parties to conflict can be removed from the list if they implement measures to address CRSV. These measures include adopting a zero tolerance policy on sexual violence and codes of conduct which prohibit sexual violence and have mechanisms through which perpetrators can be held to account.

Between 1 January 2019 to 31 December 2022¹⁶ the GBVIMS data gathering organizations reached 1,606,105 with gender-based violence (GBV) prevention, response, and capacity-building services mainly required by women who reported some form of violence against them. While the data available from the GBVIMS covers a four-year period only (instead of the six years covered by the report), service providers reached a significant number of individuals requiring GBV services in this timeframe, thereby illustrating the context is one in which there is systematic violence against women, including in areas where the MARA and the MRM cannot access.

Between 2017 and 2022, the MARA verified cases of CRSV perpetrated against 105 women, 37 girls, two boys and one man. For the same reporting period, the Country Task Force on Monitoring and Reporting (CTFMR) through the MRM verified incidents of sexual violence against 1,810 girls and 13 boys.¹⁷

12 According to SCR 2022/272 this direct link to the conflict “may be evident in the profile of the perpetrator, who is often affiliated with a State or non-State armed group, including those designated as terrorist groups by the United Nations; the profile of the victim, who is frequently an actual or perceived member of a persecuted political, ethnic or religious minority, or targeted on the basis of actual or perceived sexual orientation or gender identity; a climate of impunity, which is generally associated with State collapse; cross-border consequences, such as displacement or trafficking; and/or violations of the provisions of a ceasefire agreement”.

13 See United Nations Security Council Resolutions 1325 (2000), 1820 (2008), 1888 (2009), 1889 (2009), 1960 (2010), 2106 (2013), 2242, (2015), 2331 (2016), 2467 (2019), and 2493 (2019).

14 Conflict-related sexual violence Report of the Secretary-General S/2023/413, 22 June 2023.

15 Children and armed conflict Report of the Secretary-General A/77/895-S/2023/363, 5 June 2023.

16 The GBVIMS has limitations in sharing data for 2017 and 2018 for the purpose of this exercise due to the use of new data tools in 2019 that may alter the comparisons with previous years. Data provided for this report therefore covers the years 2019-2022.

17 The difference in figures is because of the different reporting methodologies mentioned in footnote 11 above.

Yearly figures show that for the MRM the number of verified violations ranged between 331 in 2017 to 221 in 2022 with 2020 having the highest number of 406 as follows: 331 in 2017, 331 in 2018, 227 in 2019, 406 in 2020, 307 in 2021 and 221 in 2022. These numbers give an average number of violations of 303.

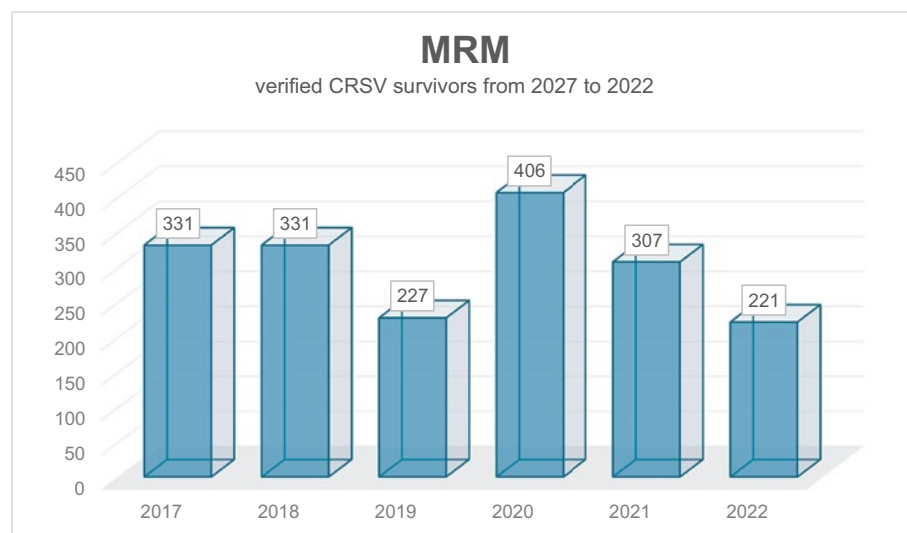


Figure 1: MRM number of verified CRSV survivors from 2017 to 2022

For the MARA, the number of verified violations ranged between 22 survivors in 2017 to 19 survivors in 2022, with 2021 having the highest number of 31 as follows: 22 in 2017, 22 in 2018, 28 in 2019, 23 in 2020, 31 in 2021 and 19 in 2022. These numbers give an average of 24 survivors.

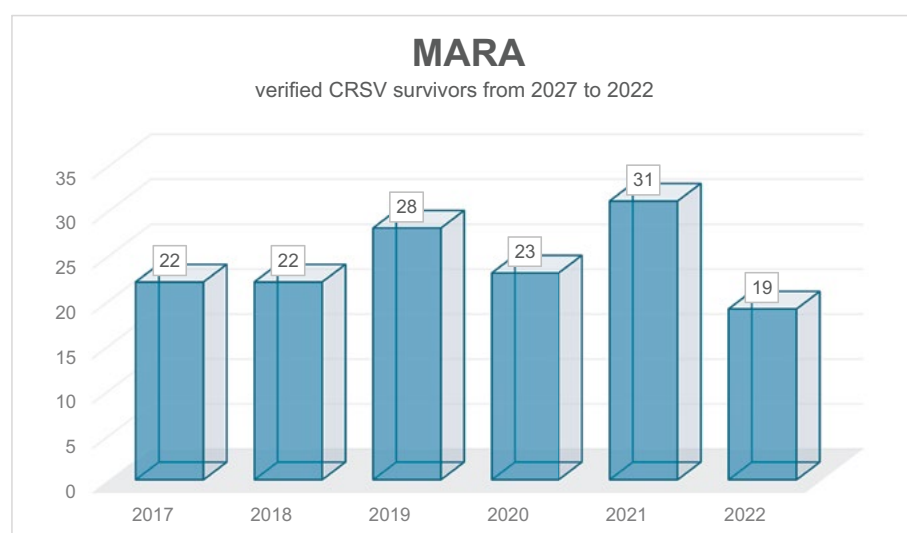


Figure 2: MARA number of verified CRSV survivors from 2017 to 2022

It should be noted that sexual violence is severely underreported in Somalia. Under-reporting is a result of several factors such as insecurity with survivors not wanting to report for fear of reprisals, survivors living in territories where they cannot report

sexual violence, the inaccessibility of large parts of the territory under the control of Al-Shabaab and the stigma associated with reporting sexual violence. The numbers cited above do not reflect the reality of sexual violence in Somalia for the aforementioned reasons. CRSV incidents are therefore believed to be much higher than those reported.

All reporting mechanisms reported an increase of protection incidents in 2020, particularly against children (79 per cent increase compared to 2019 according to the MRM) who were abused by actors in positions of authority following forced recruitment and/or abduction by armed groups. Women and girls also suffered the effects of measures taken to counter the spread of COVID-19 that greatly exposed them to sexual violence: school closures, disruption of essential services, movement restrictions. For the GBVIMS the year 2020, alongside 2022, was marked by an increase of responses to rape and forced marriage-related incidents (see Figure 3).

Types of violations and locations

The most frequent types of CRSV incidents reported were rape and attempted rape (75 per cent for the MARA and 80 per cent for the MRM), followed by gang rape. For both reporting mechanisms, over 50 per cent of the cases were committed by unknown armed actors (57 per cent for the MARA and 51 per cent for the MRM), highlighting the difficulty of monitoring CRSV cases in a conflict context, due to limited access to large parts of the territory and the challenges faced by survivors in reporting cases and accessing services.

Al-Shabaab, as a single actor, was responsible for three per cent of the CRSV cases reported by the MARA and 16 per cent for those reported by the MRM, giving a total of 19 per cent.

Different groups of clan militia were responsible for 11 per cent of the cases reported by the MARA and eight per cent of those reported under the MRM, giving also a total of 19 per cent. Somali security and defence forces, including Federal and State Police, the Somali National Army and regional forces, were responsible for 23 per cent of cases under both reporting mechanisms.

Given these figures, Al-Shabaab is the second single largest perpetrator. Monitoring and reporting sexual violence in areas under Al-Shabaab control is exceptionally challenging due to security issues. The areas are inaccessible for outsiders and persons living in those areas are unlikely to share information for fear of repercussions. Additionally, a large number of sexual violence crimes are allegedly committed by unknown armed perpetrators which means that such incidents are not investigated nor prosecuted.

Rape and attempted rape often occur in or around camps for IDPs. CRSV trends and patterns, as reported by OHCHR/UNSOM do not reveal a geographic pattern. Rather, they reveal that incidents depend on the perpetrator, the survivor's vulnerabilities, and the opportunities to commit the crimes. However, a Report of the Panel of Experts on Somalia highlighted that particularly affected areas are Jamame district in Lower Juba, Jilib, Bu'aale and Saakow districts in Middle Juba, parts of Baardheere in Gedo region, Jubbaland state; towns located in southern Dinsoor and Buurhakaba districts in Bay

Region, South West state; Cadale and Adan Yabaal districts in Middle Shabelle, Hirshabelle state; and Ceel Dheere, Ceel Buur and Xardheere districts in Galmudug state.¹⁸

The percentage of IDP women and girls affected by CRSV remained of concern during the reporting period. Still, it showed a decrease during the period 2020-2022 (29 per cent of the cases reported through the MARA involved IDP survivors) compared to the previous three years (52 per cent). Of note, data from the GBVIMS, which has a broader scope of sexual and gender-based violence (SGBV)¹⁹ which is obtained from service providers, shows that the GBV incidents that affect female IDPs have remained above 70 per cent of the total number of protection incidents. The high number of female survivors is often linked to the gender roles that women and girls have in Somalia. CRSV survivors are often intercepted and assaulted/raped when in remote and/or isolated areas collecting firewood or water or when looking after animals. In situations of displacement, the protection framework from the clans and communities is also fragmented and fails to protect women and girls from violence.

Perpetrators of CRSV

Al-Shabaab uses sexual violence as part of a strategy to control the communities in areas under its control. Women and girls were systematically abducted and forced to marry fighters as a reward and an incentive for new recruits. This practice permitted recruits to enhance their social status by marrying women from more prominent clans.

While the trends above vary throughout the reporting period, CRSV incidents are most commonly attributed to Al-Shabaab activities as well as the displacements caused by the climate of insecurity and the humanitarian situation. Cases attributed to state security forces are often perpetrated in the context of their deployment to counter Al-Shabaab or during military operations to eradicate the group. State security forces also perpetrate sexual violence in displacement contexts where protection mechanisms for women and girls from the community are weakened by the dire humanitarian situation. CRSV increases in areas where clan conflicts occur which are triggered by prolonged land-based disputes. As explained below, the impact of COVID-19 and humanitarian crises caused by climate-related shocks, including floods and droughts, have also resulted in increased CRSV incidents. Of note, data reported through the MRM and MARA is consistent and reinforced by data gathered through the work of service providers who have reported an increase of SGBV incidents in the years 2020 and 2022 compared to 2019 and 2021 referring to the same triggering/aggravating factors for women's protection.²⁰

18 Report of the Panel of Experts on Somalia, Letter dated 16 September 2021 from the Panel of Experts on Somalia addressed to the Chair of the Security Council Committee pursuant to resolution 751 (1992) concerning Somalia, S/2021/949 (16 September 2021), para. 11.

19 The term sexual and gender-based violence is used to differentiate sexual violence from acts that are not of sexual nature, which are included in the broader term gender-based violence (GBV). GBV is any type of violence directed towards, or disproportionately affecting an individual because of his/her gender or sex. GBV is strictly related to the socially ascribed gender roles imposed by society which discriminate between men and women. It happens all over the Somali territory regardless of location, existence of conflict, economic development status or any other factor. Women, men, girls and boys can all be victims of GBV but due to the prevalent unequal balance of power and the deeply rooted biased gender norms, women and girls are disproportionately subjected to such violence. GBV has different forms and manifestations, including sexual violence, SGBV, but also economic, emotional and physical violence.

20 See figure 3, "GBVIMS data on types of GBV responses given from 2019 to 2022" and section b. Service Provision.

Between 2019 and 2022, alleged perpetrators were arrested in 97 of the cases reported through the MRM focusing on girls and boys and in 42 reported through the MARA focusing on adults. Often, perpetrators who had been identified and arrested were released when communities opted to use local dispute resolution mechanisms instead of the formal justice system. In cases reported through the MRM, between 2019 and 2022, traditional resolution was used in 49 cases. In 23 of those cases (46 per cent), traditional resolution took place after the perpetrator(s) had been arrested and then negotiations followed. As illustrated in the emblematic case below (see case 3), interference of clan elders in sexual violence cases perpetuates impunity often by providing men-led clan protection for perpetrators and denying survivors access to formal justice.

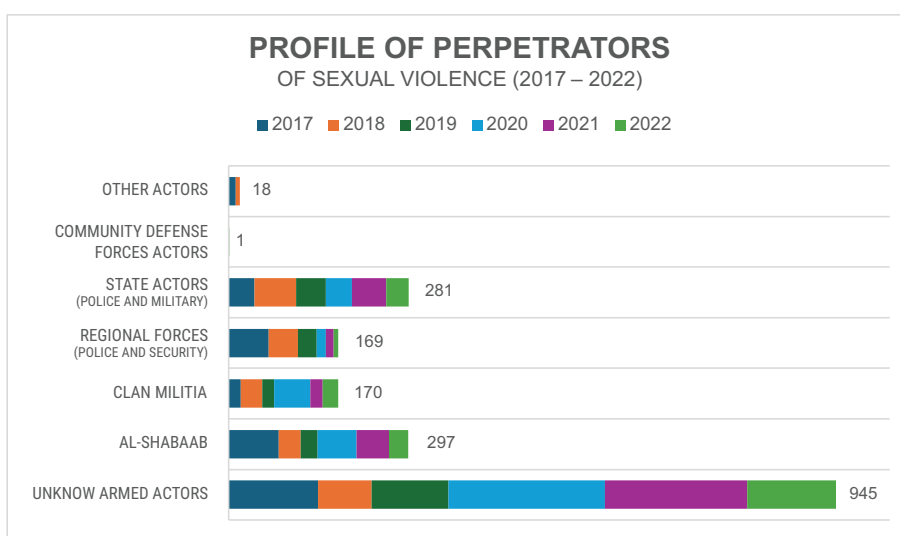


Figure 3: UNSOM/OHCHR verified data on perpetrators of CRSV

a. Situations that negatively impact women and girls' protection

Drought-induced displacement

In 2022, over 725,000 new displacements and 1.5 million IDPs were registered in Somalia.²¹ Reports of unaccompanied and separated children were consistently high. These children have heightened vulnerability to protection risks and rights violations - including child abuse, labour and marriage. Additionally, they are at increased risk of being recruited by armed groups and armed forces and being subjected to sexual abuse. In line with trends that had emerged during the 2017 drought, in 2022 there were reports of the prevalence of sexual violence due to makeshift shelters, distance to water and firewood collection points and a lack of lighting in IDP camps. Inadequate shelter and WASH facilities or lack of it and long distances to water collection points expose girls and women to harassment and risk of sexual violence. Women and children looking after livestock and seeking water and pasture over long distances, are exposed to protection concerns.

²¹ See <https://ochasomalia.org/hpc/drought.html> (last accessed on 6 June 2023).

Emblematic case I (2020)

*Alleged perpetrators: nine unknown individuals including four uniformed men
Number of victims: one IDP woman. Twin boys were born as a result of rape*

Anab (not her real name), is a mother of two boys, she resides in an IDP camp. During 2020, while fetching firewood, Anab was attacked and raped by four uniformed and five non-uniformed men. She became pregnant as a result of the rape and gave birth to twin boys. She decided to keep her children, rather than abandon them. Most of her relatives and community members blamed her for the incident and have rejected her and her children. She is now stigmatized and isolated which has resulted in economic insecurity, an inability to access services and an overall loss of coping mechanisms. Anab has depression and her physical health has also deteriorated, including from a lack of health care required for the multiple injuries she incurred during the rape. The alleged perpetrators have not been brought to justice.

Trafficking of women and girls by Al-Shabaab

In 2017, it was reported in the media that Al-Shabaab was trafficking Somali women and girls from the coastal regions of Kenya to Somalia. Reportedly, the women and girls were forced into sexual slavery after having been deceived by false promises of employment outside Kenya. Similar reports also surfaced in 2018 and 2022. The reports alleged that some of those women were held as sex slaves, while others were forced to become the “wives” of insurgents.

According to a 2021 report by a Somali civil society organization, Al-Shabaab continued to facilitate “human trafficking crimes, using deception, infiltration of madrassas and mosques, coercion or harassment of clan elders or family members, school raids, and abductions to recruit and subsequently force victims—including children from south-central Somalia and Kenya—into sex trafficking, military support roles, direct combat, and marriages to Al-Shabaab militants.”²² Forced marriages and sexual servitude of women and young girls are generally reported among crimes committed by Al-Shabaab. IDPs, members of minority clans and marginalized communities found in Al-Shabaab territory, are the most vulnerable to sex trafficking and forced labor.

In addition, Al-Shabaab wives were also targeted by Government actions, as reported in the 2018 United Nations Secretary-General’s Report on CRSV:

“On 9 May, police in Baidoa, Southwest State, registered the wives of Al-Shabaab militants and asked them to leave the camp where they lived. On 10 May of the same year, the District Police Commissioner confirmed that a group of wives of Al-Shabaab had been summoned

²² See Human Trafficking and risky migration routes: Data insights from Somali civil society organizations, https://static1.squarespace.com/static/5bd9f8a7710699aaf0e28fc6/t/6188dc8cc3ee107f47eb3cb6/1636359337172/Data+insights+on+human+trafficking+and+risky+migration+routes+from+Somali+CSOs_FINAL.pdf (last accessed on 6 June 2023).

by the police and told to either persuade their husbands to surrender or to leave the area. On 29 July, the Security Minister of Jubbaland, on national television, threatened to expel “Al-Shabaab wives and children” from Government-controlled towns, describing them as “enemies of the State” for allegedly providing intelligence to the insurgency.”²³

The COVID-19 pandemic

The COVID-19 pandemic and measures to contain its spread exacerbated gender-based protection risks. Disruptions to essential services, school closures, movements restrictions, loss of income, and increased political tensions resulting from COVID-19-related restrictive measures and insecurity led to the increase of such risks. This is not only valid for CRSV related trends (see reference above to 79 per cent increase of incidents reported through the MRM between 2019 and 2020), but also reported and reinforced through the GBVIMS and its service providers which collect data not only in conflict-specific settings.

b. Service provision

The GBV service provision across Somalia remains low as compared to the assumed needs. Limited specialized services,²⁴ such as treatment for rape survivors, case management, psychosocial support, and higher levels of mental health care for traumatized women and girls are major hindrances to expanding provision of timely, confidential and quality GBV services. In terms of reach, insecure areas, particularly those under the control of armed groups and/or affected by ongoing armed operations are less equipped with clinics and services. Of the 1,606,105 persons reached by the service providers under the GBVIMS between 2019 and 2022, 93 per cent were

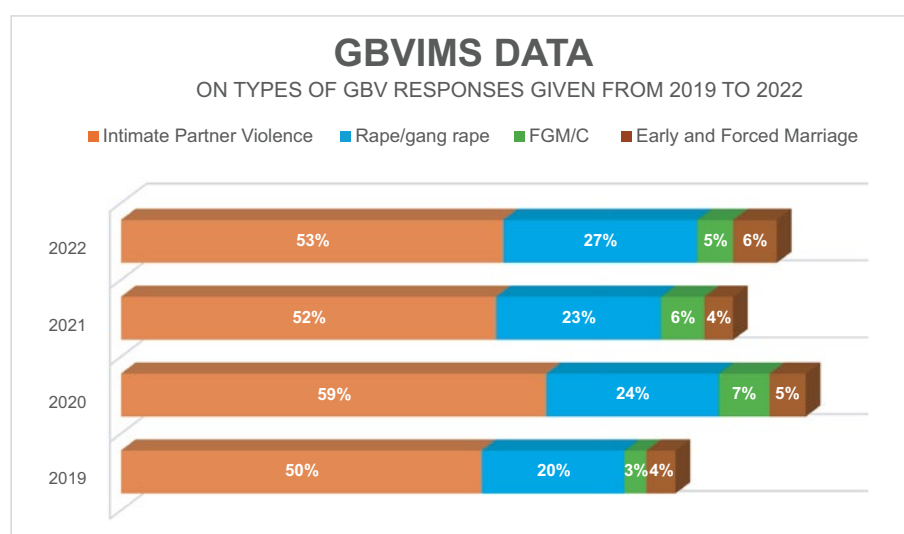


Figure 4: GBVIMS data on types of GBV responses given from 2019 to 2022

²³ Report of the Secretary-General on conflict-related sexual violence S/2018/250, 23 March 2018, paragraph 62.

²⁴ See footnote 8.

women and girls who reported GBV related incidents. It must be noted that these cases are not “verified” using OHCHR methodology (see chapter III Methodology) and refer to information provided uniquely by beneficiary of assistance and is based on the type of support provided. However, they provide key contextual information that is also used to triangulate and confirm trends and patterns of sexual violence reported by OHCHR.

An analysis of the available GBVIMS data²⁵ shows an increase of rape and forced marriages incidents reported during the years 2020 and 2022 compared to 2019 and 2021 (see Figure 3). This is attributed to the persistent severe drought, communal and armed conflict in Somalia, and Al-Shabaab activities which worsened the situation of women and resulted in multiple displacements and forced evictions. Seven million eight hundred thousand (7.8 million) people are currently displaced and in need of humanitarian assistance, and about 82 per cent of those affected are women and girls of reproductive age. GBVIMS data also shows that intimate partner violence incidents peaked in 2020 with 59 per cent of all protection incidents reported being registered in the context of violent households and in the context of confinements of women and girls during the COVID-19 pandemic. The closure of schools and the reduced small scale economic activities are believed to have exposed women and girls to higher protection risks within the households.

c. Assistance provided to women disengaging from Al-Shabaab

Historically, programmes targeting former fighters have almost exclusively supported male disengaged fighters through rehabilitation centres. Organizations and institutions, including government offices have little access and knowledge of what women disengaging from armed groups endure. There is little available information on children born as a result of rape perpetrated in the context of forced marriages and programmes do not include support to forced wives’ dependents. In 2019, an IOM rapid assessment leveraging the women’s networks in Mogadishu, Kismayo and Baidoa towns estimated that there were over 2,600 women across the three locations who had escaped, were rescued, or defected from armed groups, bringing many dependents with them. In 2020, following a brief pilot exercise based on such findings the National Programme for the Treatment and Handling of Disengaged Combatants supported by IOM, through the United Nations Action against Sexual Violence in Conflict²⁶ and the UN Peace Building Fund²⁷ established two female centres in Baidoa and Kismayo. In Mogadishu, a local NGO implemented the rehabilitation

25 The data referred to in the chart refers to the percentages of GBV-related incidents out of the overall protection incidents registered by the GBVIMS.

26 The United Nations Action Against Sexual Violence in Conflict (UN Action) (STOP RAPE NOW), comprising 13 United Nations entities, aims to end sexual violence during and in the wake of conflict and is chaired by the Special Representative of the Secretary-General on Sexual Violence in Conflict.

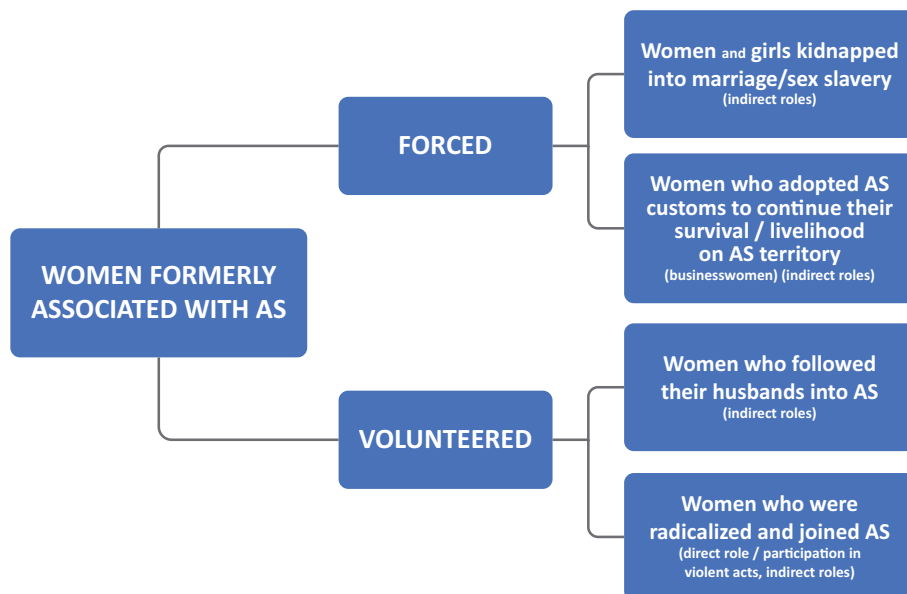
27 The United Nations Peace and Development Trust Fund was established in 2016. The Fund aims to achieve the Charter of the United Nations’ goals by implementing innovative, forward-looking and proactive projects and activities. It has two sub-Funds. The Secretary-General’s Peace and Security Sub-Fund aims to finance projects and activities related to maintaining international peace and security. And the 2030 Agenda for Sustainable Development Sub-Fund, is intended to finance activities supporting the 2030 Agenda and the Sustainable Development Goals adopted by Member States in September 2015.

programme in 2019 and 2020, but the Mogadishu female rehabilitation centre did not continue beyond 2020 due to funding issues.

A total of 1,327 women disengaged from armed groups since then received support through the programme (between 2019 and 2022). Of those at least five per cent reported that they had been forcibly married. Unlike male former fighters, the women at the centre spend the day engaged in rehabilitation activities but stay overnight with host families as there are no facilities for them and their dependents. The centres offer medical, psycho-social check-ups as well as educational and vocational training that lasts from 6 to 12 months. Regardless of their roles in and experience with the group, most of the women who left the armed groups live in extreme poverty and remain extremely vulnerable to stigmatization and exclusion. Estimates from 2019 – 2022,²⁸ IOM data show consistent patterns: 10-15 per cent of them earning less than 40 dollars per month, while 50-60 per cent of them are the head of their household and 60-70 per cent of the households have more than six individuals.

ENTRY TO AL-SHABAAB (AS)

- **Direct role/participation** in the AS acts of violent extremism as perpetrator
i.e. spies, recruiters, transport of weapons planting of explosive items, fundraising for AS activities
- **Indirect role/non-combative** i.e. as cooks, cleaners, wives of AS fighters etc.



EXIT FROM AL-SHABAAB



* wives of active AS who did not follow their husbands into the group are not included

Figure 5: IOM table on the path followed by women that disengaged from Al-Shabaab

28 Internal Report from IOM shared with OHCHR/UNSOM on 22 November 2022.

Women are often forcibly married to the Al-Shabaab fighters and subjected to CRSV. While in the group, they are believed to play active roles serving as informants, fighters and cooks, gathering and sharing intelligence, providing logistical support and filling other support roles. Forced marriages often result in children born as a result of rape, with stigma impacting youth generations. Furthermore, women are perceived as playing a key role in encouraging men's defection not only in terms of motivations, but also by providing logistical and practical assistance to facilitate defection.

Emblematic case II (2020)

*Alleged perpetrator: a 70-year-old Al-Shabaab member
Number of victims: one 13-year-old girl*

A person reported that a 13-year-old girl was abducted and forced to marry a 70-year-old foreign fighter. She attempted to escape by walking 500 miles through the bush on foot back home and was attacked by wild animals resulting in life threatening injuries. Within the day of her return, her parents received Al-Shabaab calls demanding them to send the girl back via the next bus out of town. Her father accordingly walked her to the bus and sent her back. Al-Shabaab later presented five human heads in front of her house, warning her that if she tried to escape again, her head would be sent to her parents. The girl eventually escaped to a friend's place, whose husband is a government soldier. The friend and a woman village head swiftly booked a flight ticket for the girl, sending her to Mogadishu. Her current whereabouts in Mogadishu remain unknown.

d. The situation of people on the move: IDPs, returnees and refugees

During the reporting period, the UNHCR-led PRMN reported 20,746 GBV incidents, with 75 per cent being classified as domestic violence, which includes sexual violence. It must be noted that information gathered through the PRMN is provided by service providers working to track and address protection incidents among the populations on the move (see footnote 11). It does not, therefore, take into account situations which affect non-IDP populations.

COVID-19 exacerbated such violence, with incidents reported in 2020 being the highest number registered throughout the reporting periods (14% of all incidents compared to 7 and 8% registered in 2017 and 2022, respectively). Similar to trends reported by the MRM, the MARA and the GBVIMS, restrictions of movement and confinement of several family members in temporary and inadequate shelters during the COVID-19 pandemic are believed to have contributed to such increase. In particular, measures restricting women's ability to engage in income-generating activities, thereby reducing family incomes and contributing to rising tensions and intimate partner violence within households and families. During the reporting period, the

majority (97.48 per cent) of the incidents that were reported involved females or female-identifying individuals. However, about 2.5 per cent of cases refer to incidents involving male survivors.

Multiple displacements, including forced evictions, inadequate shelter quality, overcrowding, poor lighting, and insufficient and non-disaggregated sanitary facilities in IDP camps are major contributors to the risk of GBV for women and girls in the southern and central regions. Some risks associated with gender roles are also reported: distances walked by women and girls to fetch firewood, reach water points and markets make them vulnerable to GBV in environments where the presence of law enforcement agents is often weak or lacking. With respect to IDP service provision, access to safe shelter, health services, including sexual and reproductive health (PEP kits including exposure prophylaxis, and emergency contraception), and livelihood opportunities for survivors remain challenges. Legal assistance and safety and protection services were often declined by survivors during the reporting period. This could be due to accessibility barriers, lack of trust in the efficiency of the formal justice system, fear of reprisals and stigmatization of survivors, among other factors.

Consistent with information gathered through service providers and other data streams above, many incidents of sexual violence among the displaced populations continue to be addressed through the traditional mechanisms for resolving cases (xeer). While gender-based violence reportedly affects IDPs, refugees, asylum seekers and returnees; women and children IDPs remain the groups most at risk of violence, exploitation, abuse and neglect, exclusion and discrimination.

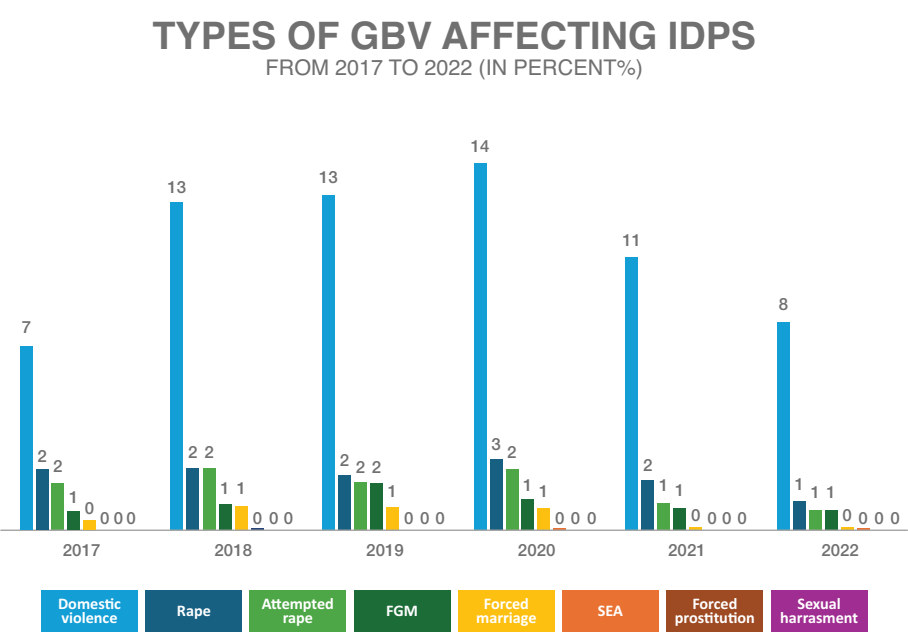


Figure 6: UNHCR/PRMN data on the types of GBV affecting IDPs from 2017 to 2022

V. The protection framework for women's and girls' rights in Somalia

i. International human rights law and international humanitarian law

Somalia is a state party to several human rights treaties relevant to the protection of women's and girls' rights, namely the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Rights of the Child (CRC).

Somalia, however, has not acceded to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Somalia has signed but not ratified the Protocol to the African Charter on Human Rights and the Rights of Women in Africa (the Maputo Protocol).

With regards to international humanitarian law, Somalia is also a state party to all four Geneva Conventions of 1949 but not the Additional Protocols. Parties to the conflict in Somalia are bound by Article 3, common to the four Geneva Conventions, as well as customary international humanitarian law. Rape and other forms of sexual violence are forbidden by customary international humanitarian law in the context of both international and non-international armed conflicts.²⁹

ii. Legal framework and challenges for the protection of women's and girls' rights

The Somali legal system is pluralist and consists of three main sources of law: customary, Sharia Law and statute law. The legal system and methods for enforcement of laws differ between the Federal Member States. "Somaliland" and Puntland State each have their constitutions. However, when it comes to criminal cases, both "Somaliland" and Puntland apply the 1962 Somali Penal Code. Most cases are currently resolved through the customary system.³⁰ In August 2016, Puntland enacted the Puntland Sexual Offences Act (2016), which criminalizes sexual crimes, including gang rape, sexual exploitation and abuse, sexual harassment, sexual offences involving the internet and indecent exposure of genital organs in public places. The definition of rape includes consent a key element in sexual crimes. For the crime of sexual assault, including rape to occur, the prosecution must prove that the victim did not consent to the sexual act. The law also strengthens support for survivors and enhances their protection. This act strengthens the legal protection of women and girls provided by the Penal Code. A consistent challenge is the failure by Puntland to fully implement this law.

The three sources of law are often used interchangeably and in an inconsistent manner and it is commonly known that the *xeer* is applied in most cases of sexual

²⁹ See ICRC Database of customary international humanitarian law (CIHL), Rule 93, <https://ihl-databases.icrc.org/en/customary-ihl> (last accessed on 8 June 2023).

³⁰ Legal Action Worldwide, Legal Aid Providers Supporting Gender Based Violence Survivors in Somalia, (October 2014).

violence. The use of xeer is focused on clans and the justice delivery is for the clan rather than for the survivor of the sexual violence and therefore such practice raises concerns of its compatibility with international human rights obligations. Compensation is paid to the clan and not to the survivor. Once this is paid, the perpetrator is free from further punishment and the case is considered closed. Sometimes, the woman or girl is forced to marry the perpetrator. Thus, these practices often result in the double victimization of women and girls, no justice for survivors and impunity for perpetrators. The use of xeer is widespread. Many families choose it over the formal justice system, which is still out of the reach of many Somalis. Clan elders, in some cases, sentence alleged perpetrators to death without due process.

The many years of conflict which led to the breakdown of state institutions contributed to a formal justice system that cannot adequately protect women and girls from sexual violence. Accordingly, xeer is the most widely used system, and it functions parallel to state law across Somalia. The impact of xeer on the respect for women's rights and women protection has been explained as follows:³¹

A number of xeer customary law practices contravene basic human rights and standards of gender equality. Crimes of rape are commonly resolved through the marriage of the victim and the perpetrator. Although the xeer customary law of many groups protects the right of a victim to refuse marriage in case of rape, the victims face enormous societal pressure to do so; marriage is widely deemed the best option in such situations to protect the victim from a life of shame and as a means of stemming future retaliatory violence. Xeer customary law also tolerates revenge and honor killings, denies women inheritance rights, and views domestic violence as a personal rather than a legal matter.

In addition to the xeer, in areas under the control of Al-Shabaab, communities are forced to submit to self-appointed Al-Shabaab "courts."

Emblematic case III (5 September 2022)

Alleged perpetrators: Civilian

Number of victims: one woman (raped and killed) and perpetrator executed by clan elders

On 5 September 2022, Aisha, mother of 11 children was abducted, raped, and killed in Taleex district, Sool region, Puntland State. The Office of the Puntland Human Rights Defender (OPHRD) advocated for the case to be investigated and dealt with through the formal justice system rather than the informal xeer system. The alleged perpetrator was arrested and held in a detention centre in Garowe. While investigations were ongoing, clan elders intervened in the case and secured the release of the alleged perpetrator. Following a so-called hearing held by clan elders, the man was found guilty and executed.

³¹ Maria Vargas Simojoki, *Unlikely Allies: Working with Traditional Leaders to Reform Customary Law in Somalia*, (2011, Rome: International Development Law Organization), Section 2.4. Available from <http://www.idlo.org/publications/WP1Somalia.pdf> (last accessed on 8 June 2023).

iii. The Somali Penal Code

The 1962 Penal Code criminalizes rape and other forms of sexual violence. Article 398 (1) of the Somali Penal Code provides: “Whoever with violence or threats has carnal intercourse with a person of the other sex shall be punished with imprisonment for five to fifteen years.” Article 398 (3) further provides: “For purposes of penal law, penetration of the male sexual organ shall constitute carnal intercourse” (sic). However, the definition of rape does not include the lack of consent, it does not provide a minimum age under which sexual consent cannot be inferred, and relies on a very narrow definition of crimes which are defined from the basis of morals.³² In addition, it restricts penetration to a “male sexual organ” excluding instruments or other parts of the body that a perpetrator can use to commit a sexual offence. The need to strengthen the legal framework necessitated drafting the Sexual Offences Bill, which was approved by the then Cabinet in 2018. Its enactment is still pending (see section below).

VI. Measures and steps adopted by the Federal Government of Somalia and the Federal Member States of Somalia

a. Objective

The Federal Government of Somalia has taken concrete steps to address CRSV and strengthen mechanisms to address sexual violence. These measures include adopting policy measures aimed at ensuring that state institutions have the capacity to prevent and respond to sexual violence and CRSV in particular.

b. Initiative

Joint Communiqué on Ending Sexual Violence in Conflict 2013

Following a high-level panel discussion on sexual violence in Somalia, on 7 May 2013, the Federal Government of Somalia and the United Nations signed the Joint Communiqué on the Prevention of Sexual Violence. The Joint Communiqué provides a roadmap for Somalia to follow in implementing policy and legislative measures to prevent and respond to CRSV.³³ It includes specific actions to be taken by the security forces, line ministries and the need for public outreach campaigns to ensure that members of the public are aware of the negative consequences of CRSV.

³² Under the Penal Code the following offences constitute acts of rape or sexual violence: Violent Carnal Offences, Acts of Lust Committed with Violence, Unnatural Offences Committed with Violence, Abduction for Purposes of Lust or Marriage.

³³ See text box on page 5 on the Joint Communiqué.

c. Process

National Action Plan on Ending Sexual Violence 2014

In May 2014, the Federal Government of Somalia signed the National Action Plan on Ending Sexual Violence in Conflict (NAP/SVC). The process of developing and adopting the NAP/SVC was led by the Ministry of Human Rights and Women's Development and with the support of the United Nations³⁴ and the United Kingdom primarily. The signing of the NAP/SVC was a landmark development for Somali women and girls as it set out for the first time a comprehensive national strategy and key priorities to support the Federal Government of Somalia to prevent and fight against sexual violence in general - and CRSV in particular.

The development of the NAP/SVC involved stakeholders such as the Ministries of Defense, Justice, Women, Human Rights and Development, Religious Affairs, Education, National Security, and state institutions such as the Somalia Police Force, the Somalia National Army and civil society organizations. Initiatives that were implemented as part of the NAP/SVC included the finalization of a draft Sexual Offences Bill approved by cabinet in 2018, the establishment of family centres and safe houses to provide support services for survivors of sexual violence, a Clinical Management of Rape Protocol adopted by the Ministry of Health, and a Pilot Forensic Laboratory for documenting, investigating and prosecuting sexual violence. These initiatives also included the establishment of Women and Child Protection Units under the Somali National Police with the aim of providing a coordinated multi-sectorial approach in investigating and preventing sexual and gender-based violence, conflict-related sexual violence, and violence against children. While purportedly functional, the Women and Child Protection Units are facing operational challenges, and it remains unclear where they are located, how many exist, what they consist of and who they report to.

Emblematic case IV (March 2021)

*Alleged perpetrators: four members of the Puntland Police Force
Number of victims: one female police officer (assault, arbitrary arrest,
rape and obstruction to officer investigating sexual violence)*

In March 2021, a female police officer from the gender desk of the police was reportedly beaten, sexually assaulted and arbitrarily arrested by four police officers of the same unit. She sustained injuries on her face and body. She was released after seven hours following advocacy by human rights actors. Reports indicate that her intimidation and harassment started in September 2020 when the responsibility to investigate SGBV cases was taken away from her, and all suspects she had investigated were released without charges. At least four police officers were reportedly briefly arrested but later released, and the investigation was suspended. Harassment and sexual assault resulted in the survivor leaving the country for her safety.

³⁴ The UN in Somalia supported the development of the (NAP/SVC) through the United Nations Team of Experts on the Rule of Law and Sexual Violence in Conflict - created by Security Council resolution 1888 (2009).

d. Implementation

The implementation of the NAP/SVC faced several challenges. Its goals would require addressing existing structural constraints and weak institutional capacity in the Federal Government of Somalia and the then regional administrations. Additionally, the NAP/SVC was underfunded with many of the proposed activities not implemented as a result. Despite the initial support and momentum, these challenges made the full implementation of the NAP/SVC difficult and it expired on 31 December 2018.

In July 2019, the Special Representative of the Secretary-General on Sexual Violence in Conflict conducted a mission to Somalia following an invitation from the Federal Government. The primary purpose of the visit was to engage with the Government, which requested the Special Representative of the Secretary-General on Sexual Violence in Conflict, to among other things, support the drafting of a new national action plan on CRSV.

i. The Somalia National Action Plan for the Implementation of the Somali Women's Charter and UNSCR 1325 on Women, Peace and Security 2021-2025

On 5 September 2022 the Federal Government of Somalia launched the Somalia Action Plan for the Implementation of the Somali Women's Charter and the National Action Plan on Security Council Resolution 1325 on Women, Peace and Security 2021-2025. This action plan incorporates the Joint Communique and identifies priority areas for the prevention and response to CRSV thereby addressing elements from the earlier NAP/SVC. At the launch of the national action plan, the Ministry of Women, Human Rights and Development reaffirmed the important role of Somali women in conflict prevention and resolution, and emphasized the need to address marginalization, the lack of representation of women, and protection of women and girls.

ii. 2019 Road Map to Implement the 2012 Action Plans on Recruitment and Use and Killing and Maiming of Children by Somali Security Forces

The 2019 Road Map to expedite the implementation of the 2012 action plans on recruitment and use and killing and maiming signed by the Federal Government of Somalia and the United Nations provides a dedicated action point for the establishment of mechanisms for the prevention and response to sexual violence against children. Activities to be implemented include (a) enhance protection mechanisms for children including in the home, communities, and schools, (b) establish accountability measures for perpetrators of sexual violence against children and, (c) take measures to strengthen justice and access to justice for children. The lead ministries for implementation of activities are the Ministry of Women, Human Rights and Development, Ministry of Defense and Ministry of Justice.

While the Government has taken several steps to effectively address recruitment and use of children under the CAAC framework, efforts to address sexual violence against

children have been challenging, and the Somali Defence Forces and the Somali Police Force remain listed in the United Nations Secretary General's report on children and armed conflict.³⁵

iii. The Sexual Offences Bill

In 2013, the Ministry of Women, Human Rights and Development commenced drafting the Sexual Offences Bill with strong support and advocacy from civil society leaders. An international technical review unit was established to support the drafting of the Sexual Offences Bill, comprising expert judges, prosecutors, investigators, police officers and drafters. In 2015, after a process that included consultations at the national and Federal Member State-level, the first comprehensive draft Sexual Offences Bill was produced and presented to the Somali Cabinet on 31 December 2015. The Sexual Offences Bill remained with the Cabinet for the next two years. In May 2017 the then Prime Minister stated in his address before the UN General Assembly noting that the Sexual Offences Bill was a government priority.³⁶ The Special Representative of the Secretary-General on Sexual Violence in Conflict engaged with the Government since 2017 and in 2019 during her visit to the country on the adoption and enactment of the Sexual Offences Bill, ensuring that this remained part of the Government agenda. The need to enact the Sexual Offences Bill has been a constant call in the reports of the Independent Expert on the situation of human rights in Somalia to the UN Human Rights Council³⁷ and has been reinforced by the United Nations High Commissioner for Human Rights in 2020.³⁸

On 30 May 2018, the Somali Cabinet unanimously adopted the Sexual Offences Bill, and it was referred to the House of the People. However, the Sexual Offences Bill was never tabled in the Parliament. The approval of the Sexual Offences Bill by the Cabinet in 2018 prompted an uproar from some religious scholars who accused the Minister of violating Sharia law. For example, on 18 October 2018, some Somali religious leaders held a press conference in Mogadishu during which they criticized the Sexual Offences Bill and the age of maturity/adulthood and stated that a girl reaches maturity whenever she goes on her first menstrual cycle or at the latest when she is fifteen.³⁹ They went further to say the Sexual Offences Bill paves the way for acts of fornication and other evils and would destroy the Somali family as was based on cultures and values of other nations with whom Somalia does not share religion and culture.

This narrative deeply damaged efforts to enact the Sexual Offences Bill and facilitated misinformation about it. In November and December 2022, during the 16 Days of Activism Against Gender-Based Violence Campaign, references to the need for stronger

35 Listing means having the name of a party to the conflict put in the annex of the United Nations Secretary-General's Report on Children and Armed Conflict where such party is credibly suspected of committing or being responsible for patterns of rape or other forms of sexual violence in situations of armed conflict on the agenda of the Security Council.

36 <https://media.un.org/en/asset/k1b/k1bsrqj2ub>, (last accessed on 6 June 2023).

37 <https://www.ohchr.org/en/special-procedures/ie-somalia> (last accessed on 25 June 2023).

38 <https://www.ohchr.org/en/statements/2020/08/comment-un-high-commissioner-human-rights-michelle-bachelet-draft-sexual> (last accessed on 25 June 2023).

39 <https://www.facebook.com/watch/?v=170997300493523> (last accessed on 4 July 2023).

legislation to address sexual violence led to a social media storm, which particularly targeted the First Deputy Speaker and fueled the already negative narrative against the draft Sexual Offences Bill. On 27 December 2022, the Ministry of Women, Human Rights and Development informed UNSOM that a new version of the Sexual Offences Bill had been developed. At the end of the reporting period, the National Ulema Council was revising the new version.

iv. The Puntland Bureau of Forensic Science

In September 2017, Somalia established its first forensic laboratory, an important step in developing an effective investigation, prosecution and adjudication process, given that many rape cases are dropped or referred to traditional justice mechanisms due to lack of evidence. The laboratory was established with donor funding following the passing of the Sexual Offence Act in 2016 to assist the implementation of the law. It currently consists of 19 staff members, including seven women. DNA evidence alone does not prove a crime was committed and needs to be seen as part of a larger prosecution process where other forms of evidence can be used to collaborate the case against accused or to eliminate suspects.

In 2021, out of the 68 DNA samples analyzed by the laboratory, 54 were criminal cases (all sexual assault related) and 14 samples were civil cases (to establish paternity, identity or persons for immigration purposes). In 2022, 31 samples were analyzed by the laboratory following submission by the Criminal Investigation Department (CID) and used for prosecution. The work of the laboratory has supported the judiciary in concluding some cases of sexual violence, and the public has accepted sentences pronounced by the courts with the support of DNA test results. Very few of the sentences are appealed.

The absence of a legal framework that guides how this evidence is collected, analysed and brought before the courts remains an area of concern. Additionally, there are concerns regarding the chain of custody of the evidence as there are insufficient safeguards to protect such evidence from contamination before being presented in court. It can also negatively impact the rights of victims and accused persons. The risk of courts relying on contaminated evidence could result in wrongful prosecutions and/or acquittal of suspects. While the laboratory has state-of-the-art equipment and trained scientists, it is underfunded. The regular and sustainable provision of chemical reagents required to analyse DNA samples and the regular payment of staff salaries remains challenging and is dependent on external funding.

VII. Good practices

The United Nations Women, Peace and Security Agenda is based on four pillars of participation, protection, prevention and relief and recovery. The Federal Government of Somalia and the Federal Member States have made significant efforts to address the pillar of prevention, where issues of sexual violence come under. During the reporting period, some good practices, as explained below, have been identified in some parts of the country that, if multiplied and encouraged further, could pave

the way for tangible improvements in Somalia's compliance with its international obligations. This will require the Federal Government's commitment and sustained support from the United Nations and international partners, in consultations with the women and girls who benefit from the services provided through the good practices.

i. National Programme for the Treatment and Handling of Disengaged Combatants (female)

The Federal Government of Somalia is implementing a programme for treating and handling women who have disengaged from Al-Shabaab, supported by IOM and women's associations. Some of the women who left Al-Shabaab are currently supporting the centres and helping other women in their journey to reintegration into civilian life. Statistical evidence shows that overall access to basic social services has been reported to have remarkably improved for women formerly associated with Al-Shabaab. In particular, the project improved access to healthcare and education and for the beneficiaries and their families.

As an illustration, 89 per cent of beneficiaries reported improved access to health and medical services, 90 per cent indicating better education access and 87 per cent reported better access to shelter by the end of the project. Of those reporting better access to medical care, 68 per cent credited a better understanding of where to access services as a result of the project as the reason for the increase. In addition, beneficiaries exhibited a change in the kind of medical service they accessed by the end of the project with a lower 27 per cent accessing private clinics compared to 34 per cent using them at the beginning of the project and 67 per cent using NGO/charity clinics and hospitals compared to 51 per cent of users registered at the beginning of the project. These figures indicate a higher awareness among beneficiaries of more cost-effective care in their communities.

While 78 per cent of beneficiaries said some or all of their children attended schools, 60 per cent of indicated that they had enrolled their children in schools in the last six months, indicating that the project significantly impacted school enrolment. Moreover, more beneficiaries (52 per cent) were able to access private schools for their children by the end of the project compared to 41 per cent at baseline.

ii. Acceleration in the planning and setting up of one-stop centres to support GBV survivors

The reporting period was marked by an acceleration in the planning and setting up of three one-stop centres in the conflict-stricken towns of Baidoa, Dhusamareb and Kismayo under the Women, Peace and Protection (WPP) joint programme led by the Federal Ministry of Women, Human Rights and Development supported by UN imple-

menting entities.⁴⁰ The joint program recognized the importance of enhanced security for women if they are to become drivers for change in peacebuilding processes.

As part of the response to survivors of CRSV, the one-stop centres envisaged by the WPP Joint Programme will provide comprehensive services to include medical, legal, and psychosocial support. The services will also include psychosocial support, case management and will refer survivors of SGBV to legal and social services, support groups, and shelters where required.⁴¹

iii. Baahi-Koob One-Stop Centre for GBV survivors – Hargeisa

Similar to what envisaged through the WPP joint programme above, since 2008, Hargeisa's Baahi-Koob one-stop centre has been providing holistic support to GBV/SGBV survivors through centralized specialized services all available at free cost at the Hargeisa General hospital. The one-stop centre, that was initially set up through UNDP funding, was later extended to two more centres in Borama and Burao in 2014. When faced with critical funding gaps the same year, UNFPA, UNICEF and the German project Kinder Not Hilfe (KNH) started funding the centres, including paying salaries to the staff, case managers and allowances to the CID officers working with the centre in Hargeisa. In addition to service provision, three times a year the centre conducts awareness raising on how to address and report rape cases in IDP camps, where women are at high risk. Baahi-Koob works hand in hand with key government institutions including the Attorney General's office, the Ministry of Health. The Ministry of Justice, the Ministry of Employment Social Affairs and Family (MESAF), and the Ministry of Interior through the CID. It has eight staff from CID (including four female investigators) permanently assigned to the centre and support the investigations and legal part of SGBV cases.

Several factors make the centre a success and a solid reference for survivors and families: first, the availability of all the required services within the same location makes it less cumbersome for the survivor to reach out to the relevant services, which also encourages them to go beyond "medical" attention. Second, the specialized CID officers assigned to the centre are trained in investigating GBV/SGBV cases and ensure the survivor-centered approach is maintained throughout the investigation/prosecution phases; the location within the General Hospital helps dissimulate the type of medical attention sought and it is perceived as ensuring the "neutrality" of the assistance. The centre can also refer survivors to safe havens which proved critical in addressing cases involving IDP survivors. Centre representatives indicated to HRPG in June 2022 that 40 per cent of the cases that reach the centre are investigated by the CID and reach prosecution stage.

40 The Women Peace and Protection Joint Programme is co-implemented by UNDP and UN Women with support from UNSOM with the Federal Ministry of Women, Human Rights and Development as a partner. It aims to promote women's meaningful participation in peacebuilding processes, particularly in decision-making and leadership roles as well as strengthen the protection of women and girls from sexual and gender-based violence including conflict-related sexual violence.

41 At the end of the reporting period, the Ministry of Women, Human Right and Development was planning the inauguration and launch of the three centres in 2023.

VIII. Conclusions and recommendations

Trends and analysis of this report indicate that the key drivers of sexual violence in Somalia remain the armed conflict and the humanitarian crisis, which have increased women's and girls' vulnerability to sexual violence. With respect to the latter, the humanitarian crisis has exacerbated the impact of conflict, with two major droughts affecting the country in 2016-2017 and 2021-2022. This report also notes that while these vulnerabilities and risks have a significant impact on women's protection, the context in Somalia makes reporting CRSV challenging, resulting in underreporting due to security issues and inaccessibility to large parts of the country, particularly those affected by the armed conflict and the humanitarian crisis.

The fact-based analysis of trends and patterns from the United Nations entities is complemented by data gathered through service providers and civil society, with greater access to communities and survivors. While acknowledging that challenges still persist in securing large parts of the territory, in tackling the humanitarian crisis which is a result of climate change and in enacting or implementing legislation for the protection of all persons against sexual violence, the report encourages some of the good practices that were part of the research – the National Programme for the Treatment and Handling of Disengaged Combatants, the setting up and operationalization of one-stop centres for GBV survivors in several Federal Member States, including in areas stricken by the armed conflict.

a. For the Federal Government of Somalia and Federal Member States

- ▶ Carry out public awareness raising to address issues of stigma for sexual violence.
- ▶ Ensure that national legislation, policy and any practices related to the protection of all persons from sexual violence – particularly the age of the child - is compliant with international human rights law and standards, including the definition of rape and other sexual offences and is implemented in compliance with international human rights law and standards.
- ▶ Ensure that Somalia ratifies without delay the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Protocol to the African Charter on Human Rights and the Rights of Women in Africa (the Maputo Protocol).
- ▶ Ensure that prompt, independent, impartial investigations are conducted into all sexual and gender-based violence incidents affecting all persons, including women and girls by the competent judicial authorities; that the investigations are victim-centered, and conducted taking into consideration the gender and age of the victims and further ensure that perpetrators are held to account and that victims receive redress, including access to justice and full reparation.

- ▶ Ensure that referral pathways across the country function in an efficient and effective manner, so that victims can receive prompt, adequate and holistic services, including medical support, sexual health and reproductive services, psycho-social support and legal representation.
- ▶ Ensure a prompt and lasting solution is found for the sourcing of chemicals required for the Forensic Lab in Garowe to carry out DNA testing in support of sexual offences criminal cases; also ensure that the work of the laboratory is sustained through a) the introduction of a specific DNA legal framework and b) the systematic and specialized training of judicial personnel involved in the collection, conservation and transport of DNA samples as safeguards for the rights of the victims and of the accused persons.
- ▶ Ensure that the Federal Government of Somalia and the Federal Member States promptly implement and complete the provisions in the national action plan on ending sexual violence in conflict and the 2019 road map on CAAC to address sexual violence by Somali security forces as concrete measures to support the de-listing of state actors listed in the Secretary-General's reports on CRSV and Children and Armed Conflict.
 - Address the gaps and obstacles identified under the "good practices" section. Specifically, the government should:
 - Ensure the full establishment and operationalization of one-stop centres in all Federal Member States that can provide prompt holistic support to survivors of sexual violence through close collaboration between civil society actors and state services, replicating the good practice observed in other Federal Member States;
 - Re-open the female disarmament, demobilization, and reintegration centre in Mogadishu to cater for women formerly associated with Al-Shabaab with sustainable funding.
- ▶ Ensure the establishment of women and Child Protection Units of the Somali National Police in the Banadir Regional Administration and in all the Federal Member States ensuring that deployed personnel is well equipped and trained to discharge its mandated functions.
- ▶ Recognize the special needs of mothers and their children born of rape and sexual violence in conflict and afford them protection, rights, and benefits.
- ▶ Earmark, develop and monitor budgets to ensure that additional resources are gender-sensitive taking into account the different requirements of men, women, boys and girls with a special focus on strengthening the protection of women and girls.

b. For the International Community

- ▶ Prioritize addressing CRSV through supporting programmes that address underreporting - which limits survivors' access to justice and essential services - and cultural stigma and discrimination that victimizes the survivors and protects the perpetrators.
- ▶ Provide resources to support the establishment and implementation of programs that tackle the root causes of CRSV, in particular the pre-existing forms of discrimination and violence against women that are exacerbated by the conflict.
- ▶ Ensure prevention and protection programs in Somalia include the protection of women and girls from trafficking in persons by Al-Shabaab, including through specific monitoring to address the identified trend.
- ▶ Humanitarian responses to continue to systematically ensure GBV mainstreaming at all levels of the response. This approach should ensure that integrated referral pathways to address the multi-dimensional needs of GBV survivors are strengthened to guarantee timely, quality, comprehensive, safe, and confidential services for GBV survivors in the letter and spirit of the survivor-centered approach.
- ▶ Support the Federal Government of Somalia to put in place legislation that complies with international human rights standards to strengthen the protection of all persons against sexual violence. Such legislation, as part of a public policy, shall also include comprehensive and transformative reparation measures for survivors, in accordance with international standards.
- ▶ Support efforts that aim at expanding the geographical coverage and quality of GBV specialized services, including case management and psychosocial support, and implement targeted GBV prevention interventions in an effort that also aims at triggering a change in negative social norms that perpetuate GBV.
- ▶ Support the designing and implementation of projects that involve representatives of the traditional and religious elders as a way to strengthen community support for the protection and prevention of sexual violence.
- ▶ Foster coordinated, multisector support to survivors and children born out of conflict-related rape, particularly through the United Nations Action against Sexual Violence in Conflict network, chaired by the Special Representative, and allocate sustained and predictable funding for interventions in this area through the conflict-related sexual violence multi-partner trust fund.

Annexes

Annex 1.

Update on the Sexual Offences Bill that occurred after the end of the reporting period – the Offences of Rape and Indecency Bill

In December 2023, the Federal Ministry of Women, Human Rights and Development sent to the Federal Government of Somalia's Cabinet a new draft law to address sexual violence, the Offences of Rape and Indecency Bill. On 16 December, the Ministry shared a version of this Bill with UNSOM. The Bill defines a child as a person above the age of 18. It, however, defines rape as "sexual intercourse that takes place by force and refers to the insertion of the male genital organ into the female genital organ or the anus of the human, which is committed by force and at the same time takes place between two people who are not legally married to each other." This definition does not meet the international standards of the crime of definition as it does not include the element of consent.⁴²

Rape is defined as unlawful sexual activity, most often involving sexual intercourse, against the will of the victim through force of the threat of force or with an individual who is incapable of giving legal consent because of minor status, mental illness, mental disability, intoxication, unconsciousness, or deception. Accordingly, rape should be defined in terms of non-consensual sexual relations. A consent-based approach would allow for victim-centred legislation that would account for other types of coercive circumstances. Additionally, the crime of rape should encompass any form of penetration, including by objects or other body parts.

The Bill also includes provisions on indecency. Indecency is defined as actions, sayings and anything contrary to the Shariah and the sound morals of the society. This definition is not specific and is open to interpretation. It is vague as it could be difficult to agree on what the phrase "sound morals of society" means. This vagueness could lead to arbitrary application of the law and potential discrimination on how the law will be applied between men and women.

The draft law provides for the "sin of adultery." Individuals found guilty of adultery will be tried in accordance with the Sharia Law. The potential punishment under Sharia Law for adultery ranges from 100 lashes to stoning to death.

UNSOM continues to advocate for Somalia to enact legislation that strengthens the protection of women and girls from sexual violence.

⁴² The CEDAW Committee in its General recommendation 35 (2017) on gender-based violence against women, updating general recommendation No 19 (1992) stated that states should "ensure that sexual assault, including rape, is characterized as a crime against the right to personal security and physical, sexual and psychological integrity and that the definition of sexual crimes, including marital and acquaintance or date rape, is based on the lack of freely given consent and takes into account coercive circumstances." (para.29(e)).

Annex 2.



Joint Communiqué of the Federal Republic of Somalia and the United Nations on the Prevention of Sexual Violence 7 May 2013

The Special Representative of the Secretary-General on Sexual Violence in Conflict (SRSG-SVC) visited Somalia from 2 to 6 April 2013, within the framework of United Nations Security Council resolutions 1820 (2008), 1888 (2009) and 1960 (2010). She met with national authorities including leadership of the national Army and Police, the Chief Justice, the Minister for Human Development and Public Services as well as women's groups, non-governmental organisations and civil society partners, journalists and survivors of sexual violence.

The objective of the visit was to gain first-hand knowledge of conflict-related sexual violence trends as well as challenges and ongoing efforts to address conflict-related sexual violence in Somalia. The Special Representative seeks to deepen dialogue and cooperation with the Government of Somalia and to agree on a framework of cooperation whereby the United Nations may further strengthen its support to national institutions and initiatives on issues related to sexual violence in conflict, in support of the President's Six Pillar Policy of September 2012: *"Foundations of a New Beginning"*.

The appointment of the Somalia National Government is considered the most significant political development in over twenty years in Somalia and the security gains in south central Somalia including in newly recovered areas presents an opportunity for a new phase of stabilization, state-building and peace-building. However, very high numbers of incidents of sexual violence have been reported consistently particularly in internally displaced camps and settlements in Mogadishu and surrounding areas. Women and girls are also targeted by bandits and militias while in transit, and upon arrival in refugee camps. There exists a deep culture of silence and fear regarding crimes of sexual violence, which significantly impacts on reporting and response. The Government of Somalia and the United Nations call on all parties to immediately cease such violations and put in place preventive measures.

The Government at the level of the President and the cabinet is committed to address this problem in a comprehensive manner and as a matter of priority. This includes holding all perpetrators to account. The Government also reiterates its commitment to cooperate with the United Nations in strengthening the capacity of the Police and Judiciary on investigating and prosecution of sexual violence crimes, as well as improving service delivery.

Furthermore, as a signal of commitment, and in accordance to United Nations Security Council resolution 2093 (2013), 1960 (2010) and other national and international obligations, the Federal Republic of Somalia, with support from the United Nations, is committed to own, lead and undertake the following measures:

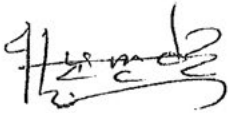
- Issuing through the respective chains of command of the Army and Police, command orders prohibiting sexual violence, and reinforcing the commitment for zero-tolerance of such violations in Army and Police Codes of Conduct.
- Reiterating the clear signal that impunity will not be tolerated by undertaking investigations of alleged violations and ensuring punishment of perpetrators, through the criminal justice system.
- Developing and implementing a comprehensive strategy to prevent and respond to sexual violence, as well as encouraging and supporting the work of service providers.
- Implementing procedures/protocols to ensure the protection of victims, witnesses, journalists and others who report on sexual violence.
- Strengthening the protection of internally displaced camps and establishing measures to protect women and girls in the camps from sexual violence.
- In line with the National Security and Stabilization Plan, establish and professionalize the unit of the Somali Police Force tasked to address the needs of women, ensure training for Somali Security forces on prevention of sexual violence, recruit and train female officers, and undertake efforts to vet all elements being integrated into the national security forces and institutions to ensure that those who have committed grave human rights violations, including sexual violence, are excluded from positions of leadership and responsibility.
- Strengthening the legal framework on sexual violence through enactment, review or harmonisation of relevant legislation.
- In line with strengthening the rule of law, reform the Penal Code on the crime of rape, support the Office of the Attorney General to develop specialized investigation capacity for sexual violence crimes, train magistrates (including women magistrates and other women in the justice sector), build capacity for justice mechanisms at local level, raise awareness for women on legal procedures, and address protection of women in traditional justice systems.
- Ensuring access to services including medical, psychosocial and legal aid to survivors of sexual violence, including in newly accessible areas.

The Government of Somalia designates the National Human Rights Commission as the focal point institution to work with the United Nations on Sexual Violence and the implementation of the commitments outlined above. The Deputy Prime Minister, Minister of Foreign Affairs and International Cooperation will continue to be the point of contact for the SRSG-SVC.

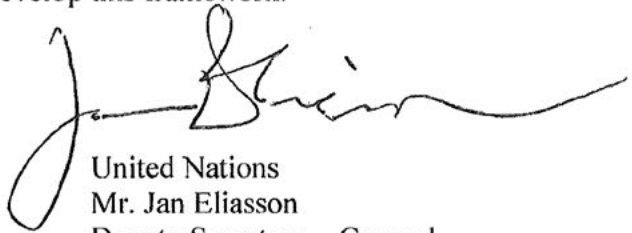
The Government of Somalia and the United Nations will work with AMISOM to strengthen its prevention efforts and response on sexual violence in its activities and operations.

The Government of Somalia together with partners will commit resources for the implementation of the priorities outlined above, and calls on donors to provide additional support as appropriate.

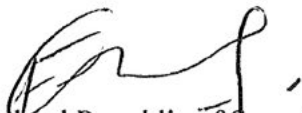
The United Nations will continue to support the Federal Republic of Somalia through the United Nations Assistance Mission in Somalia (UNSOM) and the UN Country Team, as well as the Office of the Special Representative on Sexual Violence in Conflict, and the UN Action Network Against Sexual Violence in Conflict. The UN Team of Experts on Rule of Law/Sexual Violence in Conflict, in cooperation with the United Kingdom's Prevention on Sexual Violence Initiative and other relevant partners, will also support the implementation of a framework of cooperation in line with the priorities expressed in this Communiqué. In this regard, the Federal Republic of Somalia will facilitate a follow up technical visit to Somalia by the TOE, to help develop this framework.



Federal Republic of Somalia
Mr. Hassan Sheikh Mohamud
President



United Nations
Mr. Jan Eliasson
Deputy Secretary – General



Federal Republic of Somalia
Ms. Fawzia Yusuf H. Adam
Deputy Prime Minister, Minister of Foreign
Affairs & International Cooperation



United Nations
Ms. Zainab Hawa Bangura
Special Representative of the
Secretary-General on Sexual Violence in
Conflict

