

**Flygtningenævnets baggrundsmateriale**

|                                 |                                                                                                                                                |
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| <b>Bilagsnr.:</b>               | <b>1236</b>                                                                                                                                    |
| Land:                           | Somalia                                                                                                                                        |
| Kilde:                          | United Nations Human Rights Council (HRC)                                                                                                      |
| Titel:                          | Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Saul |
| Udgivet:                        | 30. januar 2026                                                                                                                                |
| Optaget på baggrundsmaterialet: | 9. juni 2026                                                                                                                                   |
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## Advance edited version

Distr.: General  
30 January 2026

Original: English

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### Human Rights Council

#### Sixty-first session

23 February–2 April 2026

Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### Visit to Somalia

**Report of the Special Rapporteur on the promotion and protection of  
human rights and fundamental freedoms while countering terrorism,  
Ben Saul\*, \*\***

#### *Summary*

The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Saul, conducted a country visit to Somalia from 10 to 20 May 2025, in accordance with Human Rights Council resolution 58/14, to assess the consistency of its counter-terrorism laws and practices with international human rights law.

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\* The present report was submitted to the conference services for processing after the deadline so as to include the most recent information.

\*\* The summary of the report is being circulated in all official languages. The report itself, which is annexed to the summary, is being circulated in the language of submission only.

## Annex

### **Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Saul, on his visit to Somalia**

#### **I. Introduction**

1. At the invitation of the Government of Somalia, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Saul, visited Somalia from 10 to 20 May 2025 to assess the consistency of the country's counter-terrorism laws, policies and practices with international human rights law, humanitarian law and refugee law. He thanks the Government for inviting him and engaging in a constructive dialogue. He particularly thanks the Ministry of Foreign Affairs and International Cooperation and the Ministry of Family and Human Rights Development for facilitating the visit.

2. During the visit, he met with diverse stakeholders at the federal and state levels. At the federal level, he met with representatives of the Ministry of Family and Human Rights Development, the Inter-Ministerial Stabilization Task Force, the Office of National Security, the Office of the Attorney General, the Ministry of Defence, the Somali Disaster Management Agency, the Tubsan National Center for Preventing and Countering Violent Extremism, and the Somali Ulema Council, and the Special Envoy for Stabilization and Civilian Protection. In Puntland, he met with the Vice-President, representatives of the Ministry of Women, Development and Family Affairs, the Ministry of Interior, Federal Affairs and Democratization, the Ministry of Security, Disarmament, Demobilization and Reintegration and the Ministry of Justice, the Chief of the Military Court, the Head of the Counter-Terrorism Unit, the Deputy Commander of the Darwish force and the Deputy Police Commissioner. He also met with representatives of the Office of the Puntland Human Rights Defender. He visited Mogadishu and Garoowe, the capital of the federal member state of Puntland. In Mogadishu, he visited Mogadishu Central Prison. In Garoowe, he visited internally displaced persons sites, an interim care centre for children, a gender-based violence one-stop centre and a police detention facility. He held discussions with civil society organizations, journalists, internally displaced persons, persons with disabilities, minority groups, victims of terrorism and the Somali Media Council.

3. He also met representatives of the African Union Support and Stabilization Mission in Somalia (AUSSOM), diplomats and representatives of the United Nations. He expresses deep appreciation to the United Nations Transitional Assistance Mission in Somalia (UNTMIS), particularly its Human Rights and Protection Group.

#### **II. International and regional legal frameworks**

4. Somalia is a Party to many core international human rights, humanitarian and refugee law instruments and one individual complaints mechanism. Somalia values multilateralism, the United Nations, human rights and the international rule of law, reflected in its engagement with United Nations and African Union missions, progressive adoption of human rights instruments, standing invitation to special procedures, membership of the Human Rights Council for the period 2022–2024, election to the Security Council for the period 2025–2026 and invitations to the Special Rapporteur and to the Independent Expert on the situation of human rights in Somalia to visit. Somalia became a Party to the United Nations Convention against Corruption in 2021 and the United Nations Convention against Transnational Organized Crime in 2025.

### III. National legal context

5. The 2012 Provisional Federal Constitution of Somalia contains a comprehensive suite of human rights, which take precedence over incompatible national laws and must be respected by all State institutions and officials, individuals and private entities (art. 12). It does not address the status of treaties in domestic law but, in practice, treaties are not self-executing and require incorporation. Courts may “consider” international law when interpreting the fundamental rights under the Constitution (art. 40) and, although international law is not domestically binding, it reportedly enjoys “persuasive authority in national courts”.<sup>1</sup> Sharia law may, however, prevail over other inconsistent laws.<sup>2</sup> The Parliament recently passed controversial revisions to chapters 1–4 of the Constitution and revisions to other chapters are pending. Somalia has made strides in legislating and institutionalizing its human rights law obligations, although awareness among some justice actors remains limited. The Code of Criminal Procedure was amended in 2024, the Penal Code is under review and the Juvenile Justice Act awaits presidential assent.

### IV. Terrorist threats

6. The foremost terrorist threat in Somalia is Al-Shabaab, which has been sanctioned by the Security Council since 2010 and pledged allegiance to Al-Qaida in 2012. Al-Shabaab is engaged in a non-international armed conflict against central and federal member state security forces, civilian authorities, AUSSOM and other international forces supporting the Government. According to figures from the United Nations Assistance Mission in Somalia (UNSAM), between 2017 and 2024, it caused 60.7 per cent (7,304 individuals) of the 12,031 civilian casualties. Al-Shabaab continues to inflict violence and coercion, including suicide bombings, public executions, forced recruitment of children, abductions, forced marriage and sexual violence against women and girls. It poses considerable risks in terms of infiltrating Somali security forces and other institutions. It reportedly generated over \$150 million in 2023, including through extortion and illicit taxation of trade and road transport. Despite the Government recovering substantial areas since 2022, Al-Shabaab has regained territory and maintains substantial control in rural south-central Somalia. The conflict has had significant adverse effects on the economy, including agriculture.

7. Da’esh, also sanctioned by the Security Council, is present in the Bari region of Puntland. Many members are reportedly foreign nationals. An offensive against it since December 2024, led by the Puntland authorities, has had considerable success. Da’esh has used improvised explosive devices and drones. Terrorism in Somalia has occurred alongside interclan clashes and tensions between the Government and some federal member states.

### V. Response to terrorism

8. Somalia takes a holistic approach to security that is aimed at Somali ownership of a stronger, reformed security sector, improved coordination of security, stabilization and development and addressing the root causes of insecurity, including weak governance, poverty and marginalization. Somalia has adopted numerous legal and policy frameworks to prevent and counter terrorism, including the 2023 Counter-Terrorism Act and the 2023 National Intelligence and Security Agency Act, terrorist-financing laws and the Somalia National Strategy for Preventing and Countering Violent Extremism (2024–2027). A draft counter-terrorism strategy has been under consideration since 2022. Counter-terrorism laws and policies at the federal member state level are variable. Somalia is not a Party to the international counter-terrorism instruments.

9. Other laws, policies and programmes address the stabilization of recovered areas, the disarmament, demobilization and reintegration of defectors, children in armed conflict, internally displaced persons, and sexual and gender-based violence. Human rights are

<sup>1</sup> CCPR/C/SOM/1, para. 32.

<sup>2</sup> CCPR/C/SOM/CO/1, para. 5.

sometimes formally embedded in counter-terrorism initiatives, and the Government asserts that protecting them is a strategic necessity to build public trust, ensure legal legitimacy and promote operational effectiveness.

10. There have also been many initiatives on criminal justice, judicial, constitutional, political and electoral reform. Security sector reform has been pursued through the National Security Sector Development Plan, a national security architecture, a new policing model and community policing, although public distrust persists. Women remain substantially underrepresented in counter-terrorism bodies, despite recruitment efforts.

11. Authorities have often not consulted diverse civil society organizations and other stakeholders when designing counter-terrorism measures, including the Counter-Terrorism Act and the non-public draft counter-terrorism strategy. Concerns persist that the counter-terrorism strategy (which was not made available to the Special Rapporteur) reportedly contains an emphasis on the suppression of terrorism and does not adequately address human rights, oversight and accountability. The Somali Ulema Council has actively opposed the extreme religious views of Al-Shabaab, including by issuing fatwas.

12. The effectiveness of the counter-terrorism response of Somalia is impeded by political and constitutional instability, fragmentation between central and federal member state authorities and clan divisions, resulting in a lack of security coordination.

13. Member States have not agreed on the continued financing of AUSSOM, which plays essential stabilizing and capacity-building roles. The devastating reduction in humanitarian assistance to Somalia in 2025 is alarming. The world must not abandon Somalia at a time of security and humanitarian crisis, when Al-Shabaab and Da'esh are regarded as international terrorist groups and Somalia, as one of the world's least developed countries, has limited resources and capacities to confront terrorism.

## VI. Victims of terrorism

14. Somalia lacks specific laws or policies on victims of terrorism, although some may benefit from humanitarian assistance and support for internally displaced persons, persons with disabilities, children in armed conflict and women who are survivors of conflict-related sexual and gender-based violence, and from general social services.

### A. Forced displacement

15. There are about 3.5 million internally displaced persons<sup>3</sup> at 3,700 mostly informal sites, due to terrorist and clan conflicts and disasters. Many are acutely vulnerable, lack adequate access to basic services and have suffered displacement multiple times. About 80 per cent are women and children, who face grave risks of sexual violence and exploitation. Discrimination and stigmatization against them and members of marginalized clans are common. About 250,000 internally displaced persons were forcibly evicted in 2024.<sup>4</sup>

16. Guidance is provided by the 2019 National Policy on Refugee-Returnees and Internally Displaced Persons, which addresses protection, assistance, durable solutions and human rights, the 2019 National Eviction Guidelines and the Interim Protocol on Land Distribution for Housing to Eligible Refugee-Returnees and Internally Displaced Persons. Somalia should consider adopting a law on internally displaced persons. The Somali Disaster Management Agency coordinates assistance but response is impeded by security, resource, logistical, funding and capacity constraints.

<sup>3</sup> See <https://www.unocha.org/somalia>.

<sup>4</sup> See <https://reliefweb.int/report/somalia/somalia-eviction-analysis-assessment-august-2025>.

## B. Children and armed conflict

17. There are persistent and widespread violations of children's rights by non-State actors and, to a lesser extent, by State actors, with 2,568 grave violations recorded in 2024.<sup>5</sup> Equally concerning are gaps in protection for displaced children, children who are orphans and unaccompanied minors, and those informally disengaging from terrorist groups. Minors associated with terrorist groups must not be prosecuted in military courts, and it is deplorable that four individuals were executed in Puntland in 2024 despite being children at the time of their offences, contravening the prohibition in the Puntland Juvenile Justice Act on the death penalty for persons under 18 years and article 37 (a) of the Convention on the Rights of the Child. Since 2016, Puntland has released for reintegration 75 children who were sentenced to death or long-term imprisonment for associating with Al-Shabaab.

18. Article 29 of the Constitution protects children in armed conflict. Somalia has undertaken considerable legal, policy and programmatic efforts to strengthen that protection. Positively, in 2025, the Secretary-General delisted Somali security forces concerning the recruitment and use of children.<sup>6</sup> In 2023, Somalia endorsed age-verification guidelines; however, significant practical challenges remain in age verification, hampered by the absence of birth registration or identity documents, the inaccessibility of areas of origin and a lack of expertise and resources. Inconsistencies in domestic legal frameworks on the age of majority and maturity (18 years under international law) and the age of criminal responsibility remain of concern.

## C. Women and girls affected by conflict

19. Reports indicate that women and girls are frequently kidnapped and forcibly married to Al-Shabaab fighters, forced into sexual slavery and domestic servitude and trained as fighters. Displaced persons and those from minority groups and marginalized clans are disproportionately affected. Protecting victims of sexual and gender-based violence perpetrated by terrorist groups and other armed actors is addressed in the joint communiqué of Somalia and the United Nations on the prevention of sexual violence, of 2013,<sup>7</sup> which has been implemented through successive national action plans that have lacked adequate funding. Sexual offences have not been criminalized in line with international law. Public mistrust of the police in rural areas and newly recovered areas, and fear of reprisals, can inhibit the reporting of crimes and result in recourse to traditional justice practices, which can require perpetrators to marry victims and compensate male relatives. Police can be reluctant to investigate, investigations are often not gender-sensitive and fees may be demanded to register or investigate cases. Access to legal representation and legal aid is inadequate in practice, and accountability is limited. Further concerns include the vulnerability of displaced women and girls, the closure and lack of shelters and the lack of emergency healthcare, medicines and support for victims, due to donor funding cuts, and the stigmatization of victims.

## VII. Conditions conducive to terrorism

20. In the United Nations Global Counter-Terrorism Strategy, Member States identified conditions conducive to terrorism as including prolonged unresolved conflicts, lack of the rule of law and violations of human rights, discrimination, political exclusion, socioeconomic marginalization and lack of good governance, while recognizing that none of those could excuse or justify terrorism. In the Somalia National Strategy for Preventing and Countering Violent Extremism, the relevance of such conditions is recognized and it is noted that economic incentives are compelling reasons for supporting Al-Shabaab.

<sup>5</sup> A/79/878-S/2025/247, para. 159.

<sup>6</sup> See A/79/878-S/2025/247.

<sup>7</sup> See [https://www.un.org/sexualviolenceinconflict/wp-content/uploads/joint-communique/joint-communique-of-the-republic-of-somalia-and-the-united-nations-on-the-prevention-of-sexual-violence/Somalia\\_Joint\\_Communique\\_SVC\\_May\\_2013.pdf](https://www.un.org/sexualviolenceinconflict/wp-content/uploads/joint-communique/joint-communique-of-the-republic-of-somalia-and-the-united-nations-on-the-prevention-of-sexual-violence/Somalia_Joint_Communique_SVC_May_2013.pdf)

21. The Government has a sophisticated understanding of the imperative of complementing hard security responses with holistic measures to address the conditions conducive to terrorism and prevent local support for terrorism. Challenges in implementation remain. The Government's ambitious reform agenda, shaped in part by donor priorities, often exceeds its operational expertise and resource capacities. Progress is also undermined by political tensions and tensions between the federal and state levels, clan politics, aid dependency, constraints on local ownership, the distortions of a "war economy" and corruption. Deep and rapid cuts to humanitarian and peacekeeping funding by donors also contribute to destabilizing governance, human rights and security. There has also been recent foreign interference in Somali sovereignty over "Somaliland".

## **A. Conflict resolution**

22. In relation to conflict resolution, the heavily militarized response to Al-Shabaab in recent years has not only overshadowed other elements of a comprehensive counter-terrorism response but has dampened peacemaking. A conclusive military solution remains unlikely. It is welcome that the Government has encouraged high-level defections. Exploring further engagement with Al-Shabaab to broaden defections could be fruitful.

## **B. Governance and anti-corruption**

23. Somalia has pursued profound and difficult State-building, political and constitutional reforms since 2000, attempting to regenerate statehood within a clan-based, nomadic social structure after decades of warlord, terrorist, military and colonial rule. Its commitment to a national reconciliation framework is welcome, although the truth and reconciliation commission is yet to be established. Efforts to stabilize recovered areas through local governance, basic services and security are still nascent.

24. Effective efforts to counter terrorism are impeded by tendencies to centralize power; irregular and contested processes of constitutional reform, and political rivalries, which have alienated some federal member states; the political influence of major clans, including an unrepresentative "4.5" power-sharing formula that appears to give a "0.5" share to the reported 30 per cent of the population who may be minorities or belong to marginalized clans; the lack of "one person, one vote" in direct elections, despite recent progress; limits on the number of political parties; the lack of an independent judiciary; and the chronic underrepresentation of women in public life. Corruption also drains the Government and the economy and depletes public trust, yet the Independent Anti-Corruption Commission was dissolved in 2022.

## **C. Socioeconomic rights**

25. Somalia faces extraordinary challenges of poverty and socioeconomic marginalization, being ranked 192nd of the 193 countries listed in the *2025 Human Development Report*. The impacts of terrorist conflict are exacerbated by interclan violence, the dispossession of the Bantu people and other minorities of their traditional lands, natural disasters and the effects of climate change, when Somalia bears little historical responsibility for carbon emissions. An estimated 6 million people of its population of 19.3 million need humanitarian assistance. Of the \$1.4 billion required for the Humanitarian Response Plan for Somalia, only 22 per cent is funded.<sup>8</sup> Deep cuts by donors in 2025 left about 2 million people without assistance, and threaten stabilization and political reform, which could fuel terrorism.

26. Somalia has made many efforts to ensure socioeconomic rights, including through the National Development Plan and the National Transformation Plan, achieving 4 per cent gross domestic product growth in 2024. The Government is aware of its obligations under the International Covenant on Economic, Social and Cultural Rights to progressively realize economic, social and cultural rights to the maximum of its available resources and to fulfil

<sup>8</sup> See <https://www.unocha.org/somalia>.

the minimum content of rights. It has not, however, taken all steps necessary to mobilize its resources. While the revenue base remains low in a largely informal economy, the gradual expansion of domestic revenues and economic growth driven by agriculture, investment and remittances are encouraging.

## VIII. Criminal justice

27. The adoption of the Counter-Terrorism Act is welcome to clarify the law applicable to terrorism.

### A. Definitions of terrorism

28. The Counter-Terrorism Act contains a complicated list of terrorism definitions and offences in articles 3 and 4, including cumulative and overlapping terrorist “purpose” elements. These unnecessarily complex and uncertain definitions are likely to confuse the public about the scope of liability and lead to interpretive difficulties. The principle of legality under article 15 of the International Covenant on Civil and Political Rights requires that definitions and offences be defined in a precise and narrow manner to ensure certainty and avoid arbitrary interpretation. Further, the terrorist “purpose” elements in articles 2 (4) (d) and 3 (2) of the Act are vague and overly broad and prone to abuse. To conform with the principle of legality, terrorist offences should be defined in accordance with Security Council resolution 1566 (2004) and the revised model definition of terrorism.<sup>9</sup> Terrorism involves serious criminal acts that intentionally cause death or serious injury, which are intended to both provoke a state of terror in the public or unduly compel a Government or international organization and advance a political or ideological purpose.

29. Somalia should exclude the following acts from the definition of terrorism: acts of protest that do not cause death or serious injury; the provision of impartial humanitarian assistance; and conduct in armed conflict that does not violate international humanitarian law.

### B. Terrorist acts and offences

30. Article 4 of the Counter-Terrorism Act extends beyond the international best practice definition of terrorism by encompassing acts that are not offences under the counter-terrorism conventions or are not intended to cause death or serious personal injury (in particular, art. 4 (3), (8), (9) and (13)). Some acts or offences conflate other threats with terrorism (e.g. art. 4 (9)) or would be better located in other legislation (e.g. arts. 15 (2) and 20). One offence is overly broad in not requiring any terrorist purpose (art. 8). There is confusing overlap between certain acts, offences and modalities of participation, as between leading or organizing (art. 4 (4)) and managing or leading a terrorist group (art. 6 (1)); participating (art. 18) and engaging (art. 28) in terrorist acts or a terrorist group (art. 4 (4)); training in relation to terrorist groups (arts. 6 (3)) and 10; and expression-related offences (arts. 12, 13 and 19) and the incitement elements of terrorist acts under article 4 (3), (9) and (10).

31. While the Counter-Terrorism Act contains a definition of “terrorist organization or group”, it does not contain a definition of “membership” of such organizations or groups in its article 6 (2)–(4), risking overly broad application. Expression-related offences in the Act are overly broad, including promoting the ideologies of a terrorist organization or group (art. 12) and spreading false information about terrorism (art. 13). Such vagueness infringes legality and enables misuse of the law to curtail legitimate freedom of expression. The offences also do not require any objective risk or likelihood that they will provoke the commission of terrorist acts.

<sup>9</sup> See [A/HRC/61/52](#).

## C. Penalties

32. Numerous offences in the Counter-Terrorism Act (arts. 5–9, 15–17, 21, 22 and 26) are subject to the death penalty if the crime “results in death”. Such offences do not meet the threshold of “most serious crimes” under article 6 (2) of the International Covenant on Civil and Political Rights, which mean crimes of “extreme gravity involving intentional killing”,<sup>10</sup> not merely acts (including unintentional ones) that result in death. Moreover, article 6 (1) of the Counter-Terrorism Act mandates the death penalty for creating, establishing, managing or leading a terrorist organization, even in the absence of any death or injury. Mandating the death penalty is also contrary to the principles of proportionality and judicial discretion in sentencing, which require the punishment to fit the crime. It is deeply concerning that the death penalty has been imposed on civilians for terrorism after often rapid military trials that do not satisfy fair trial standards under the Covenant.

## IX. Arrest, detention and investigation

33. It is welcome that Somalia prosecutes terrorist suspects rather than administratively detaining them under humanitarian law. It is nonetheless concerning that most terrorist suspects are investigated by an intelligence agency, the National Intelligence and Security Agency, with policing functions, rather than by the police, and that prosecutions are conducted in military courts. Only terrorist-financing offences are handled by the police and prosecuted in civilian courts.

34. The Constitution protects the right to liberty (art. 15), access to courts and the rights to legal defence (art. 34) and the rights of the accused (art. 35), supplemented by the Code of Criminal Procedure. It is concerning that, while countering terrorism, security forces, particularly the National Intelligence and Security Agency, have reportedly made arbitrary arrests (including without warrants); failed to promptly inform detainees of the reasons for the arrest and the charges; not brought them promptly before a court; detained people for protracted periods without charge; not always informed suspects of their rights; restricted access to lawyers, legal aid and family visits; and mistreated some detainees.

35. Article 35 (11) of the Constitution and article 49 of the National Intelligence and Security Agency Act prohibit illegal detention centres, but reports were received of alleged detention in informal facilities, including “safe houses” for high-level Al-Shabaab prisoners. Such cases, along with detention in authorized facilities without access to a lawyer or the notification of family members, may constitute enforced disappearance. It is best practice to prohibit intelligence agencies from operating their own detention facilities and for all suspects to be held in police facilities.<sup>11</sup>

36. Law enforcement authorities face considerable capacity constraints in effectively investigating terrorism cases, including in intelligence, forensics, data management, communications and transport.

### A. National Intelligence and Security Agency

37. It is welcome that the National Intelligence and Security Agency Act 2023 brings the Agency within a legal framework, commits it to respecting constitutional rights and treaties (art. 3) and safeguards various rights. However, the Act gives the Agency excessively broad functions, including intelligence collection, arrest, detention, investigation and use of force (arts. 8 (13), 24 (2) and 27 (3)), when it is good practice for such functions to be performed by distinct entities with specialized competencies. The Agency’s mandate problematically covers vague security-related concepts (art. 7).

<sup>10</sup> Human Rights Committee, general comment No. 36 (2018), para. 35.

<sup>11</sup> A/HRC/14/46, practice 30.

38. Certain powers may infringe on basic rights, including powers of arrest and property seizure without a warrant on the overbroad grounds of “threat to security and stability” (art. 8 (6) and (8)); warrantless interventions in unspecified emergencies (art. 36); the exclusion of certain rights of detainees held for less than 48 hours (art. 37); a direction that certain evidence must be considered in judicial proceedings (art. 38 (2)); blanket prohibitions on National Intelligence and Security Agency members exercising (even in a personal capacity) civil, political, labour and religious rights (art. 31 (2)); limits on National Audit Office supervision (art. 45); and excessive immunities of Agency members (art. 26). Powers to carry and use weapons (art. 24 (2)) should also be constrained by international standards on the lawful use of force. Obedience to superior orders (arts. 21 and 22) should be conditioned on lawful orders. Personal data and privacy protections should also be included.

## **B. Powers under the Counter-Terrorism Act**

39. Various rights are protected under the Counter-Terrorism Act, including judicial review of detention within 48 hours (art. 38) and safeguards on interceptions of communications (art. 47). However, some provisions may infringe human rights. The power to deport foreigners convicted of terrorism (art. 29 (1)) does not require any analysis of whether the seriousness of the offence justifies deportation and does not appear to expressly safeguard due process or prohibit refoulement. Administrative restrictions on rights (art. 29 (2)–(4)) should assess necessity and proportionality and be imposed for renewable periods of one, not five years.

40. The procedures for designating individuals or groups as terrorists and for removing that designation (arts. 33 and 34) lack adequate due process due to no standard of proof, lack of publication, limited disclosure, a short appeal time frame and the absence of administrative review. Powers of arrest, entry and search without a warrant (art. 37) and emergency interception of communications without a warrant (art. 47 (2)) may risk abuse in practice because judicial review is post facto and a very excessive period of up to 180 days (six months) of pre-charge detention may be authorized (art. 39). The duty to bring a suspect before a court within 48 hours excludes transfer time (art. 38), which does not have a maximum limit, and the authority to stop and search vehicles and passengers (art. 41) does not require reasonable suspicion. The standard of proof for issuing a warrant for the interception of communications is imprecise (art. 47) and safeguards on the retention of forensic samples are insufficient (art. 48). The grounds for refusing mutual assistance and extradition requests (arts. 53 and 56) should be based on the full scope of non-refoulement under international law.

## **C. Counter-Terrorism Act of Puntland**

41. Act No. 03 of 25 September 2025 amends the Counter-Terrorism Act of Puntland and contains important safeguards. Nonetheless, some elements of the definitions of terrorism and terrorist acts, including references to instability, creating disorder, disrupting services, undermining social cohesion and damaging infrastructure, are vague and overly broad, do not satisfy the principle of legality, risk abuse in practice and are not consistent with international best practice standards. Certain terrorism offences, such as membership of a terrorist organization, do not require that the person made any meaningful contribution to the commission of terrorist acts. The expression-related offences addressing propaganda, glorification and incitement are particularly broad, risking unjustified restrictions on freedom of expression and falling short of international standards on incitement to terrorism.

42. Particular concern arises from the extensive use of mandatory minimum sentences, including the death penalty, which do not satisfy the criminal law principles of proportionality and judicial discretion in sentencing and thus risk imposing excessive punishment and arbitrary detention. The death penalty is also applied to certain offences that are not most serious crimes, in the absence of any possibility of commutation or pardon, thus breaching the duty to protect the right to life.

43. The trial of civilians by military courts does not meet international requirements of fair trial by an independent and impartial tribunal. Concerns further arise from: rights-restricting administrative measures imposed post-conviction without clear due process safeguards or effective judicial review; expanded powers of security forces to search without a warrant; broad surveillance authority; terrorist designations based on an inadequate standard of proof and insufficient procedural safeguards; and extradition rules that do not adequately protect against refoulement.

## **X. Use of force**

44. Reports of occasional excessive use of force and unlawful killings by security forces in counter-terrorism operations and of the lack of accountability and remedies are of great concern. The laws of Somalia on the use of force and firearms are also not fully consistent with international standards. The duty to protect the right to life also has a preventive aspect, which requires Somalia to take all reasonable measures in response to reasonably foreseeable threats to life originating from terrorist groups,<sup>12</sup> including to prevent terrorist attacks and summary executions by Al-Shabaab. Somalia must ensure that procedures are in place to investigate State failures to exercise due diligence. Efforts to engage Al-Shabaab on human rights and humanitarian law protection issues are encouraged.

## **XI. Torture and ill-treatment**

45. Allegations persist of torture and cruel, inhuman or degrading treatment or punishment in counter-terrorism operations, including resulting in death, particularly by the National Intelligence and Security Agency but also by the Somali National Army, the police and allied clan militias. While article 15 (2) of the Constitution prohibits torture and inhumane treatment, torture is not defined or criminalized in the Penal Code and reporting and accountability mechanisms remain inadequate.

## **XII. Military trials of civilians**

46. It is concerning that armed forces courts have exercised jurisdiction to prosecute terrorist crimes by civilians under a lapsed 2011 presidential decree on a state of emergency (for criminal offences) and article 35 of the Counter-Terrorism Act (for terrorism offences). From 2017 to 2021, the military courts reportedly tried 659 alleged terrorists, with 455 convictions and 17 executions. In 2024, 17 Al-Shabaab and Da'esh prisoners were reportedly sentenced to death. International humanitarian law and human rights law do not prohibit military trials but require such courts to be independent and impartial and meet fair trial standards. Under human rights law, military trials should be limited to exceptional situations where they are necessary and justified by objective and serious reasons and where the regular civilian courts are unable to undertake the trials.<sup>13</sup> Notably, African regional human rights law prohibits military trials of civilians in all circumstances. While acknowledging the security risks to the administration of justice in Somalia, it would be possible to protect the civilian courts to enable them to securely prosecute terrorism. Military courts may not be sufficiently independent from the military chain of command and trials held in them do not appear to meet fair trial standards. In many cases, no written reasons for judgments are given, accounting in part for why appeals are rare.

## **XIII. Prisons**

47. Many Al-Shabaab suspects and convicted terrorists are held in Mogadishu, while Da'esh suspects are mostly held in Puntland. Somalia has committed to international standards, including the United Nations Standard Minimum Rules for the Treatment of

<sup>12</sup> Human Rights Committee, general comment No. 36 (2018), para. 21.

<sup>13</sup> Human Rights Committee, general comment No. 32 (2007), para. 22.

Prisoners (the Nelson Mandela Rules) and to improved conditions, including by constructing new facilities. Conditions in prisons and detention facilities do not satisfy international standards, including as a result of inhumane overcrowding (for example, 1,700 prisoners are held in Mogadishu Central Prison, which has a capacity of 500–700), antiquated infrastructure and pretrial detainees being held with convicted persons. There is also a lack of deradicalization, rehabilitation and reintegration programmes for convicted terrorists and few educational, counselling or work opportunities, which may render them vulnerable to recidivism. Terrorist threats against prisons remain a significant concern.

#### **XIV. Military activities**

48. Non-international armed conflicts to which international humanitarian law applies exist between the federal Government and Al-Shabaab and between Puntland-based forces and Da'esh. The African Union and its troop-contributing countries, as well as some foreign States, are also involved. Somali military forces include the Somali National Army, the police, clan militias, on an ad hoc basis, and some federal member state forces. The Somali national armed forces have undergone significant reform since 2012, with heavy international assistance. The 2023 National Security Sector Development Plan of Somalia is aimed at enhancing the security forces. The Security Council lifted the 31-year arms embargo in 2023. The Somali National Army still faces substantial limitations in personnel, equipment, training and funding, in the face of ambitious reforms and force generation, active hostilities, donor fatigue, constitutional reform and political tensions. Efforts to unify federal, Puntland and “Somaliland” forces have not succeeded, impeding counter-terrorism effectiveness. A defence bill was pending in 2025.

49. Under the Military Behaviour Regulation Code of Conduct 2018, Somali national armed forces are required to act in accordance with the Constitution, international humanitarian law, international human rights law and all laws and regulations (art. 1) and are subject to accountability (art. 4). However, the code of conduct does not spell out rules on the conduct of hostilities or the treatment of prisoners. Somali forces also use a 2012 International Committee of the Red Cross (ICRC) code of conduct for combatants.<sup>14</sup> The protection of children from armed conflict and sexual violence is covered in orders and policies, and a civil-military cooperation unit exists. The stabilization by the Somali National Army of areas recovered from Al-Shabaab has also entailed humanitarian components, raising concerns about aid instrumentalization.

50. Somalia has not yet established regulatory and institutional frameworks to fully ensure respect for humanitarian and human rights law and protect civilians. Efforts to adopt a national civilian protection policy are welcome. In recent years, about one third of civilian casualties were caused by State forces, clan militias and international and regional forces. Investigations into and accountability and remedies for State violations remain inadequate.

51. The Somali Federal Police should be fully legally separated from the armed forces.<sup>15</sup> Somalia has also drawn upon politicized clan militias in hostilities against Al-Shabaab, even though this is not authorized by law, the militias are not integrated into the armed forces, their functions are not limited to self-defence and they are not trained in or required to follow international humanitarian law. The Somali authorities have provided weapons and ammunition to clan militias without providing for tracing and disarmament, and the supply of arms has fuelled interclan conflicts. The unstructured use of clan militias heightens the risk of violations of international humanitarian and human rights law, with serious violations reported (including beheadings of Al-Shabaab captives, sexual violence and the recruitment of children). It is rightly highlighted in the Security Sector Development Plan that any such forces should be under the command and control of Somalia. Clan militias should only be used where their members are formally incorporated by law into the armed forces and are subject to the same legal and accountability requirements. Clan affiliations within the armed forces have also undermined the chain of command and allegiance to the State.

<sup>14</sup> See <https://blogs.icrc.org/app/uploads/sites/99/2015/06/EngSomali-Code-of-Conduct.pdf>.

<sup>15</sup> CCPR/C/SOM/1, paras. 125–131.

52. Somalia recently finalized a national strategy to prevent and counter the threat of improvised explosive devices, including to civilians, but it must be implemented. It falls short of international standards on the safe and secure management of weapons and ammunition to address weapons trafficking and diversion, particularly given the challenges following the lifting of the arms embargo, Al-Shabaab's overrunning of military bases, the lack of accountability for clan militia violence and limited analysis and tracing capability.<sup>16</sup>

### A. International partners

53. International partners have influenced a positive culture of humanitarian and human rights law compliance among Somali security forces, including through United Nations support under the human rights due diligence policy on United Nations support to non-United Nations security forces, albeit with risks of fragmentation and inconsistency due to the plurality of actors involved, and a lack of materials in Somali. The Special Rapporteur reiterates the recommendations contained in his 2025 report on the protection of human rights by regional organizations while countering terrorism and compliance with international humanitarian law in Somalia.<sup>17</sup> He warns that the failure of Member States to adequately fund AUSSOM (including United Nations Support Office in Somalia support for it) under the more predictable and sustainable formula contained in Security Council resolution 2719 (2023) could compromise the transfer of security responsibility to Somalia and undermine security and human rights. The reduction in the number of AUSSOM forces also brings security risks. Recent cuts in bilateral military assistance have reduced the training of Somali forces, particularly special forces, in international human rights and humanitarian law.

54. Counter-terrorism airstrikes by foreign partners or Somalia must be conducted with the Somali authorities' informed consent, comply with international humanitarian law, be subject to accountability mechanisms and be publicly reported, including information on civilian casualties. An airstrike on 18 March 2024 in Shabelle Hoose reportedly killed 21 civilians and injured 19, without independent investigation or remedies.

## XV. Disarmament, demobilization and reintegration

55. It is welcome that Somalia has pursued disarmament, demobilization and reintegration to rehabilitate and reintegrate Al-Shabaab associates who voluntarily defect, although those who are captured are ineligible. The National Programme for the Treatment and Handling of Disengaged Combatants, which commenced for men in 2012 and included women from around 2017–2019, has reportedly rehabilitated 9,000 individuals (including over 1,300 women) in non-residential, community-based programmes. Recidivism is reportedly low. Disarmament, demobilization and reintegration is focused on "low-risk" defectors, who are screened by the National Intelligence and Security Agency. "High-risk" defectors may be detained and prosecuted in military courts. Since 2015, "high-value" individuals may negotiate leniency prior to defection, with some assuming senior roles in the Government, raising concerns about transparency and political and clan influence. Two of five centres for defectors, both for women, were closed in 2024 due to a lack of funding. Centres for men recently transitioned from a residential to a community-based model. Currently, 300 defectors are in the programme, with reportedly unmet demand.

56. It is concerning that disarmament, demobilization and reintegration lacks a clear framework, transparent and non-politicized criteria and procedures for the screening of candidates and for referrals to military courts, and sufficient legal guarantees, including to attract donor support. It appears premised on a succession of vague, ad hoc presidential amnesties since 2012. An amnesty bill has not been adopted. The Special Rapporteur is alarmed that defectors suspected of international crimes may be eligible for disarmament, demobilization and reintegration, contrary to the right to effective remedy and the duty to hold perpetrators accountable. Victims of terrorism and affected communities have generally not been consulted and there can be resentment that defectors receive assistance when victims

<sup>16</sup> See S/2024/748.

<sup>17</sup> A/HRC/58/47, paras. 53–66 and 72.

may not. There is also a lack of independent oversight. There appears to be an insufficient number of centres and inadequate services and staffing. Al-Shabaab associates may lack awareness of the availability of disarmament, demobilization and reintegration, and coordination between Somali security forces and the National Intelligence and Security Agency is inadequate. Surrender of arms should be encouraged. More effort is needed to reach and rehabilitate those who informally disengage from terrorism.

57. Gender-responsive disarmament, demobilization and reintegration is urgent to address the needs of women and girls, particularly victims of sexual and gender-based violence (including children born of rape or in forced marriages), widows and single heads of households, and to combat social stigma for perceived terrorist association. Screening and reception for women should be improved, including by female National Intelligence and Security Agency personnel.

58. Defecting children are screened but not channelled into disarmament, demobilization and reintegration and are sent to reintegration centres under child protection authorities and the United Nations Children's Fund, or placed in the community, following the 2014 standard operating procedures for the reception and handover of children separated from armed groups. Funding shortfalls have led to the closure of some reintegration programmes and safehouses for children, including victims of sexual violence. Captured children, also victims, do not benefit from the same treatment. Some reportedly face lengthy detention, including irregularly, and some have been prosecuted in military courts. Most children who informally disengage cannot access reintegration services.

## **XVI. Countering terrorist financing**

59. Al-Shabaab's considerable financial activities sustain its violence. Three Somali laws counter terrorist financing: the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2016; the 2023 Specified Financial Sanctions Act; and the Counter-Terrorism Act (arts. 23, 31 and 32). Hundreds of terrorist-financing cases have been prosecuted in civilian courts. There is duplication between the laws, particularly regarding offences, designations and asset-freezing, bringing risks of overregulation and unjustified interference in rights. Moreover, the 2016 Act and the Counter-Terrorism Act contain contradictory definitions of financing offences. Articles 3 (9) and 23 of the latter are also overly broad in that funds are not limited to financial assets but include weapons, equipment, explosives and inflammable substances or "any other item".

### **A. Impact on humanitarian assistance**

60. The terrorist-financing laws of Somalia and recent strong public statements from senior officials warning against engagement with terrorist groups and aid diversion could impede or chill the essential and legitimate provision of humanitarian assistance to vulnerable populations living in areas controlled by Al-Shabaab, which are already difficult to reach due to Al-Shabaab's restrictions. Other offences in the Counter-Terrorism Act could also pose risks to humanitarians, including "cooperation" with a terrorist group (art. 6 (2)) and failing to report information on terrorist activities (art. 14). To date, no humanitarian actors have reportedly been prosecuted.

61. International humanitarian law requires the parties to a conflict to allow and facilitate rapid and unimpeded passage of impartial and non-discriminatory humanitarian relief for civilians, subject to control measures that do not impede its delivery.<sup>18</sup> The Security Council excluded humanitarian assistance from Somalia sanctions (resolution 2551 (2020), para. 22) and excluded the provision by specified United Nations and related actors of humanitarian assistance or other activities that support basic human needs from all Security Council

<sup>18</sup> See <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule55>.

counter-terrorism sanctions (resolutions 2662 (2022) and 2761 (2024)). States should exclude independent and impartial humanitarian action from sanctions and terrorist-financing offences.

62. Exemptions would provide certainty for humanitarian actors, financial institutions and donors, and ensure that counter-terrorism financing imperatives do not disproportionately interfere in the right to life and other fundamental rights ensured by humanitarian relief. More proportionate measures are available to address aid diversion, including recent Somali laws, without impeding assistance to vulnerable populations, and humanitarian actors have strong due diligence controls in place. Facilitating aid also prevents displacement to urban areas under stress, prevents grievances that may stimulate terrorism and does not legitimize Al-Shabaab territorial control.

## **XVII. Media and civil society**

63. Reports were received of arbitrary arrests, assault and intimidation of journalists reporting on terrorism and counter-terrorism – involving at least 46 journalists between January and April 2025 alone – and threats and attacks from Al-Shabaab, all contributing to chilling and self-censoring effects on media freedom. While most people arrested were released without charge, some were prosecuted for overly broad expression-related offences such as disseminating false information. Moreover, media outlets have been suspended and their accounts frozen, and websites and social media have been suspended or shut down. State authorities have also issued numerous vaguely worded directives prohibiting the dissemination of terrorist or extremist messages. The National Intelligence and Security Agency Act excessively prohibits “anyone” from disseminating information belonging to the Agency (art. 42 (3)).

64. The Media Code Amending Law vaguely prohibits the dissemination of “false” information and “propaganda against the dignity of an individual, institution or government” (art. 29), and media ethics requirements concerning religion, culture and morality (art. 25), risking arbitrary interpretation and abuse. It also imposes licensing and regulatory controls that may constrain media independence. The official information bill proposes broad exemptions for national security and public order and grants wide discretion to security actors. A 2025 Council of Ministers resolution regulates the misuse of social media but includes vague terms that may infringe on or chill media freedoms. Stakeholders expressed concerns about the independence of the National Media Council and its proposal to accredit journalists, which could limit media freedom. The Council has also faced pressure from the authorities and lacks resources. The above measures, including overly broad provisions in the Counter-Terrorism Act, the Penal Code and the Somali Media Law, may unjustifiably interfere with freedoms of expression, association and information.

65. Intimidation and violence against journalists, human rights defenders and members of civil society organizations have also been reported. Counter-terrorism measures must not restrict legitimate civil society activities through arbitrary arrests, abuse of overly broad terrorism charges (including expression-related offences) and terrorist-financing measures, and overregulation of non-governmental organizations. Also of concern is the broad power of the National Intelligence and Security Agency to monitor the work and staff of foreign agencies and companies that work in humanitarian, charitable and development activities (National Intelligence and Security Agency Act, art. 8 (11)) and the obligation on all citizens and foreigners to assist the Agency in its broadly conceived “national work”, in accordance with the law (art. 48).

66. The Financial Action Task Force emphasizes a risk-based approach to the terrorist-financing risks of non-profit organizations, recognizing that most do not present any risk or require regulation.<sup>19</sup> Terrorist-financing measures could also adversely affect the large number of people and businesses who live in areas controlled by Al-Shabaab or who are otherwise extorted or coerced by Al-Shabaab to pay illegal taxes.

<sup>19</sup> *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation* (2012–2025, Paris), revised recommendation 8.

## XVIII. Oversight and accountability

67. It is inadequate that most Somali institutions involved in countering terrorism, including the police, the National Intelligence and Security Agency and the military, are primarily subject to internal oversight and other executive scrutiny (e.g. Attorney General's Office, Ministry of Justice, Ministry of Internal Security and Ministry of Defence). Some Darwish forces and clan militias supporting the authorities appear to be outside oversight mechanisms. Article 128 of the Constitution requires human rights abuses by armed forces against civilians to be brought before a civilian court, yet the police and the military still fall under military court jurisdiction.

68. It is welcome that Somalia finally appointed the commissioners of the Independent National Human Rights Commission in December 2025, pursuant to the Constitution (art. 41) and a 2016 law, and that the Puntland Human Rights Defender has been independent and effective. It is regrettable that other key bodies have not been established in the 13 years since they were provided for under the Constitution, including the ombudsman to investigate violations of basic rights, abuse of power, illegality or corruption by officials, and violations by security forces (Constitution, arts. 111J and 129) and the constitutional court (Constitution, art. 109B).

69. Counter-terrorism bodies should be overseen by a combination of internal, executive, parliamentary, judicial and specialized institutions whose mandates and powers are based on law, and should include civilian institutions that are independent of the executive.<sup>20</sup> Oversight mechanisms should also be adequately resourced, independent and impartial, effective and capable of ensuring transparency and accountability. They must have sufficient powers and expertise to investigate violations, unimpeded access to information, officials and facilities, and full cooperation by the authorities in obtaining evidence. The effectiveness of oversight and accountability also depends on ensuring access to justice, including legal aid.

### A. National Intelligence and Security Agency

70. It is welcome that the National Intelligence and Security Agency Act requires the Ministry of Internal Security to monitor the Agency's activities (art. 47 (3)), the prosecutor assigned to the Agency's investigation centres must monitor conditions and rights in detention (art. 37 (8)), judicial warrants are required for certain powers (arts. 8, 24 and 34) and Agency members can file complaints for violation of their rights (art. 30). The Attorney General's Office reported that it monitored the compliance of the Agency with the 48-hour period of detention before judicial review.

71. However, the National Intelligence and Security Agency Act does not provide for any complaints mechanism for individuals affected by the Agency's activities. Effective intelligence oversight should include at least one independent civilian institution. Somalia should consider the good practices on legal and institutional frameworks and measures that ensure respect for human rights by intelligence agencies while countering terrorism, including on their oversight.<sup>21</sup> It is deeply concerning that Agency members cannot be investigated, sued or prosecuted without the permission of the Agency's Director General, who also enjoys immunity (National Intelligence and Security Agency Act, art. 26). Such immunities are contrary to the duty to provide effective remedies and accountability (International Covenant on Civil and Political Rights, art. 2). It is also concerning that Agency members are subject to military not civilian courts (art. 32) and that oversight by the National Audit Office is limited (art. 45).

<sup>20</sup> A/HRC/14/46, practice 6.

<sup>21</sup> A/HRC/14/46. See also Global Counterterrorism Forum, "Brussels memorandum on good practices on oversight and accountability mechanisms in counterterrorism" (2024).

## **B. Armed forces**

72. Article 32 of the 1963 Code of Military Criminal Law precludes a subordinate's responsibility where an act is done "by an order of the superior or by a competent authority", unless the act is clearly an offence. Article 33 of the Code precludes punishment if an official uses force in specified exceptional circumstances. Such exceptions are inconsistent with the right to an effective remedy, which requires the punishment of perpetrators.

## **C. Prisons and detention facilities**

73. The Attorney General's Office supervises and inspects prisons under article 14 of the Prison Law 1971. The Commanding Officer of the Custodial Corps must act on concerns raised and the Corps has internal oversight and human rights units. Monitoring is also carried out by the Parliamentary Upper House Committee on Human Rights, civilian inspection committees and the Puntland Human Rights Defender. ICRC regularly visits prisons and National Intelligence and Security Agency detention facilities. The United Nations Office on Drugs and Crime periodically visits prisons at the Government's discretion, and UNTMIS also has occasional access. Civil society organizations have little access.

74. Prisoners may petition "higher authorities" (such as the Attorney General's Office and the Ministry of Justice) but these petitions must be channelled through the prison commandant (Prison Law, art. 36) and the procedures lack standardization. Complaints can also be made to the courts. Most monitoring procedures remain, however, part of the executive branch.

## **D. Combating impunity**

75. Article 30 of the Counter-Terrorism Act concerningly allows judicial pardons for terrorist offences even where international crimes or serious violations of human rights were committed, undermining the right to effective remedy and accountability. It remains unclear whether the drafting of a wider amnesty bill, ongoing since 2016, will enable impunity. No comprehensive truth and accountability process for past conflict-related rights violations has been pursued, including due to the failure to establish the independent and impartial truth and reconciliation commission (Constitution, art. 111I). It is also concerning that clan affiliations and informal justice by non-State actors can reportedly interfere with efforts by State institutions to bring perpetrators to justice.

## **E. Access to information and transparency**

76. Stakeholders reported difficulties accessing information about terrorism and counter-terrorism, including arrests, detainee transfers, court hearings, military operations and complaints and accountability, even where no exceptional security reasons justify secrecy.

## **F. Periodic review**

77. Counter-terrorism laws and policies and oversight and accountability mechanisms are not subject to comprehensive periodic review to ensure that they remain necessary and proportionate in the light of changing circumstances and compliant with international law.

# **XIX. Conclusion**

78. **Somalia has already undertaken considerable reform to improve compliance with its international human rights obligations while countering terrorism, recognizing that protecting human rights enhances security. The Special Rapporteur welcomes the Government's positive cooperation with his visit and its genuine commitment to further**

aligning its national frameworks with human rights. He emphasizes the importance for foreign States, the United Nations and other international organizations to strengthen their support for the Government's efforts to enhance security in conformity with human rights, including by providing the necessary resources and technical assistance and adequately supporting humanitarian and development needs. He stands ready to advise and assist the Government in its reform efforts.

## **XX. Recommendations**

### **A. Somalia**

#### **1. Normative frameworks**

79. The Special Rapporteur recommends that Somalia:

(a) Become a Party to the core international human rights instruments on the rights of women, enforced disappearances, the involvement of children in armed conflict and the abolition of the death penalty and accept individual complaints mechanisms and inquiry procedures under international human rights instruments, as well as the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, establishing inspections and preventive mechanisms;

(b) Become a Party to the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights and declare under article 34 (6) thereof the acceptance of the right of individuals and non-governmental organizations to submit complaints to the African Court;

(c) Ratify the Protocols Additional to the Geneva Conventions of 1949 and the Rome Statute of the International Criminal Court and enact international crimes into domestic law;

(d) Accede to the 19 international counter-terrorism instruments to help define terrorist offences in a human rights-compliant manner, maximize justice for victims of terrorism and make counter-terrorism more effective;

(e) Consult widely on and finalize the draft counter-terrorism strategy, ensuring consistency with international human rights law, and publish the strategy in order to build public trust, legitimacy and cooperation;

(f) Accelerate efforts to increase the recruitment and promotion of women and minorities within the security forces and raise the awareness of security forces of the gendered dimensions of terrorism and counter-terrorism;

(g) More actively involve communities and civil society in the design, implementation, monitoring and evaluation of counter-terrorism laws and measures, including from a human rights protection perspective;

(h) Adopt further laws, policies and institutional frameworks to reflect the needs and vulnerabilities of victims of terrorism and better assist and protect them, based on the Model Legislative Provisions to Support the Needs and Protect the Rights of Victims of Terrorism and adopt and implement the draft disability law.

#### **2. Conditions conducive to terrorism**

80. The Special Rapporteur recommends that Somalia:

(a) Embark upon an inclusive, "bottom-up", transparent and meaningful national political dialogue with all stakeholders, including all federal member states, about the political and constitutional future and ensure that power is distributed fairly and includes minorities and marginalized communities;

(b) Redouble efforts to combat corruption, including by re-establishing an independent anti-corruption body;

(c) Establish an effective universal taxation system, better harness diaspora remittances and create an investment-friendly climate by reducing corruption and bureaucratic arbitrariness, to mobilize resources and reduce donor dependency;

(d) Effectively regulate the private sector provision of basic services and fill the many gaps with adequate, accessible and affordable public services;

(e) Expand inclusive and participatory engagement with local communities and civil society, including marginalized groups, in development;

(f) Intensify efforts to negotiate with receptive elements of Al-Shabaab and to seek political accommodations and reconciliation, where this is feasible, rooted in Somali customs of dialogue and consistent with international law.

### **3. Human displacement**

81. The Special Rapporteur recommends that Somalia:

(a) Fund and enhance the implementation of the National Policy on Refugee-Returnees and Internally Displaced Persons and the National Eviction Guidelines, with an emphasis on vulnerable groups and durable solutions, including secure resettlement, access to adequate services and livelihood opportunities;

(b) Combat State and private stigmatization of refugees, asylum-seekers and migrants as terrorists.

### **4. Rights of the child**

82. The Special Rapporteur recommends that Somalia:

(a) Harmonize inconsistencies in legal frameworks on the ages of majority (18 years under international law) and of criminal responsibility;

(b) Adopt the federal juvenile justice bill;

(c) Align the Counter-Terrorism Act of Puntland with the Juvenile Justice Act;

(d) Ensure that the federal member states adopt and implement age-verification guidelines;

(e) Increase efforts to register births and provide free birth certificates.

### **5. Sexual and gender-based violence**

83. The Special Rapporteur recommends that Somalia:

(a) Criminalize sexual offences in line with international law;

(b) In relation to all conflict-related sexual and gender-based violence: (i) prohibit, investigate, prosecute, punish and remedy such conduct; (ii) establish accessible, effective and gender-sensitive reporting mechanisms; (iii) raise public awareness and train responsible officials, including judges, on gender-sensitive approaches; and (iv) adequately resource victims' shelters and services;

(c) Ensure that disarmament, demobilization and reintegration programmes recognize the special needs of women formerly associated with Al-Shabaab and of children born of rape and provide protection and assistance and ensure their rights.

### **6. Criminal justice and law enforcement**

84. The Special Rapporteur recommends that Somalia:

(a) Review the Counter-Terrorism Act to narrow and amend the definitions of terrorism and terrorist offences in line with international best practice standards and to ensure compliance with international law in relation to deportation, mutual assistance and extradition, administrative restrictions, terrorist listings, powers without warrant and the duration of detention;

(b) Review and amend the terrorism definition and offences and the powers, procedures and safeguards under the Counter-Terrorism Act of Puntland;

(c) Abolish the death penalty as incompatible with the right to life, acknowledging the international trend towards abolition<sup>22</sup> and that sharia law encourages forgiveness;

(d) Pending abolition, ensure that the death penalty is not mandatory and that judicial discretion in sentencing is preserved, and guarantee robust age-verification mechanisms to ensure that children are never exposed to the death penalty, particularly as many Al-Shabaab associates are children;

(e) Strengthen operational safeguards against arbitrary detention and ensure due process and judicial review in relation to detention, pass the legal aid bill and enhance investigative capacities to prevent arbitrary arrests;

(f) Declare all places of detention, ensure that they are authorized, promptly transmit details of all detainees to the Attorney General and prohibit the National Intelligence and Security Agency from operating its own detention facilities;

(g) Review and amend the National Intelligence and Security Agency Act to narrow the Agency's powers in relation to intelligence collection, arrest, detention, criminal investigation and use of military force and ensure that they are in line with international law;

(h) To protect the right to life, review laws, policies and procedures to ensure that international standards on the use of force and firearms are implemented in the planning and conduct of operations, enhance training of security forces, investigate and prosecute perpetrators and ensure effective remedies and compensation for victims;

(i) Criminalize torture, enhance the accessibility and responsiveness of complaint mechanisms concerning torture and other forms of ill-treatment, ensure independent and effective investigations of allegations, prosecutions of alleged perpetrators and effective remedies for victims, including compensation and rehabilitation, publish data on incidents and train justice sector officials;

(j) Promptly transition from military to civilian trials of terrorism offences, ensure the security of civilian terrorism trials and justice personnel, ensure that the civilian judiciary is independent and impartial and respects fair trial rights, including through training, capacity-building, resourcing, anti-corruption measures and independent trial monitoring, and operationalize an independent judicial service commission for the merit-based appointment of judges;

(k) Implement the UNSOM recommendations,<sup>23</sup> including to ensure that infrastructure and conditions meet international standards, reduce overcrowding through diversion and non-custodial alternatives, reform the Prison Law, restructure the Custodial Corps from a security force to a civilian institution, harmonize and coordinate federal and state systems and enhance oversight;

(l) Establish disengagement, rehabilitation and reintegration programmes for convicted terrorists in prison.

## **7. Military activities**

85. To strengthen compliance with international law, the Special Rapporteur recommends that the Somali national armed forces:

(a) Adopt default rules of engagement for the conduct of military hostilities;

(b) Establish adequate procedures and tools to ensure that the planning of military operations fulfils the legal requirements to take all feasible precautions to

<sup>22</sup> Human Rights Committee, general comment No. 36 (2018), para. 50.

<sup>23</sup> "Prison conditions in Somalia" (2024).

verify military targets, spare civilians, assess the proportionality of attacks, estimate incidental damage and warn civilians in advance of attacks;

(c) Develop standard operating procedures in relevant areas, such as detention, protection of civilians, displacement and evictions, and investigation of alleged violations;

(d) Adopt orders or directives in relation to means or methods of war that pose particular risks to civilians, such as indirect-fire weapons, and consider establishing “no-fire” zones;

(e) Adopt and publicize an interpretation of international humanitarian law on the targeting of members of armed groups that is consistent with the ICRC guidance on direct participation in hostilities, including as regards the “continuous combat function”;

(f) Clarify the circumstances in which armed forces and other security actors will apply a humanitarian law approach over a law enforcement approach, including in different areas of the country;

(g) Promptly finalize and effectively implement the draft national protection of civilians policy;

(h) Deploy legal advisers at relevant command levels;

(i) Require after-action review reporting, to facilitate investigations and lessons learned;

(j) Empower military police to investigate military violations, in coordination with relevant civilian prosecutorial authorities;

(k) Operationalize a civilian casualty tracking, analysis and response cell, as envisaged by the Security Council (resolution 2628 (2022) (para. 11)), and adopt a national policy on the protection of civilians.

86. The Special Rapporteur recommends that Somalia:

(a) Separate the Somali Federal Police from the Somali national armed forces and codify their powers and lines of command and accountability;

(b) Only use clan militias where their members are formally incorporated by law into the armed forces and are thereby subject to the same legal and accountability requirements as regular forces;

(c) Effectively implement the national improvised explosive device strategy, with adequate resources, training and equipment, and increase efforts to meet international standards on the safe and secure management of weapons and ammunition.

## 8. Disarmament, demobilization and reintegration

87. The Special Rapporteur recommends that Somalia:

(a) Adopt a clear disarmament, demobilization and reintegration legal framework with transparent and non-politicized criteria and procedures for the screening of candidates and referrals to military courts, and sufficient legal guarantees, ensure that amnesties or pardons, from any source, exclude from disarmament, demobilization and reintegration all individuals suspected of committing international crimes or serious human rights violations and encourage the surrender of arms as part of the disarmament, demobilization and reintegration process;

(b) Improve coordination between Somali security forces and the National Intelligence and Security Agency on transferring individuals into disarmament, demobilization and reintegration and publicize the availability of disarmament, demobilization and reintegration to Al-Shabaab;

(c) Adequately resource disarmament, demobilization and reintegration so that more centres can become operational, and provide sufficient services and staffing;

(d) Ensure that disarmament, demobilization and reintegration is responsive to the needs of women and girls and victims of sexual and gender-based violence;

(e) Ensure that children who are captured or who informally disengage from terrorist groups are also eligible for rehabilitation and reintegration, including in adequately funded safehouses, recognize that children associated with armed groups are victims, ensure that children are detained only as a last resort and do not prosecute children in military courts.

## **9. Terrorist financing and humanitarian action**

88. The Special Rapporteur recommends that Somalia:

(a) Revise, narrow and consolidate the financing offences and other measures under the Anti-Money Laundering and Countering the Financing of Terrorism Act, the Specified Financial Sanctions Act and the Counter-Terrorism Act, based on the International Convention for the Suppression of the Financing of Terrorism and Security Council resolutions;

(b) Legislate to exclude the provision of independent and impartial humanitarian assistance from counter-terrorism sanctions (both unilateral and Security Council lists) and terrorist-financing and other terrorism offences that impinge on independent and impartial humanitarian action.

## **10. Media and civic space**

89. The Special Rapporteur recommends that Somalia:

(a) Revise or repeal expression-related offences in the Counter-Terrorism Act, the National Intelligence and Security Agency Act, the Penal Code and the National Media Law, and redraft the official information bill, to conform with the restrictions permitted under article 19 (3) of the International Covenant on Civil and Political Rights and ensure freedom of information, and consider alternatives to combat disinformation, including enhancing transparency, media freedom, and media and digital literacy;

(b) Ensure that counter-terrorism measures do not restrict legitimate civil society activities through arbitrary arrests, abuse of overly broad terrorism charges (including expression-related offences) and terrorist-financing measures, and non-risk-based, excessive regulation of non-governmental organizations;

(c) Review and amend the power of the National Intelligence and Security Agency to monitor the work and staff of foreign agencies and companies that work in humanitarian, charitable and development activities, and the obligation on citizens and foreigners to assist the Agency in its “national work”;

(d) Pursue a strictly risk-based approach to the terrorist-financing risks of non-profit organizations;

(e) Prevent, investigate and punish all acts of intimidation, violence and arbitrary detention against journalists, human rights defenders and members of civil society organizations, and provide effective remedies to victims.

## **11. Oversight and accountability**

90. The Special Rapporteur recommends that Somalia:

(a) Create a comprehensive system of independent external oversight of counter-terrorism bodies, including the police, the National Intelligence and Security Agency, the military and prisons, including effective and accessible complaints mechanisms, establish the ombudsman, constitutional court and independent anti-corruption commission and ensure that oversight bodies are sufficiently empowered and resourced;

- (b) Abolish the immunity of the Director General of the National Intelligence and Security Agency and the requirement of permission from the Director General to investigate, prosecute or sue Agency personnel;
- (c) Abolish the limitations on criminal responsibility under articles 32 and 33 of the Code of Military Criminal Law;
- (d) Ensure the regular and unhindered monitoring of all places of detention by an independent oversight mechanism, without prior notice and on an unsupervised basis, and publicly report the number of complaints received from prisoners and how they were resolved;
- (e) Preclude pardons under article 30 of the Counter-Terrorism Act and any future amnesty bill where the person is suspected of an international crime or serious violation of human rights;
- (f) Establish the truth and reconciliation commission;
- (g) Publish as much information about counter-terrorism activities as possible, to ensure the right to information of the public, improve transparency and public confidence in counter-terrorism and enable accountability and remedies;
- (h) Periodically review counter-terrorism laws and policies, and oversight and accountability mechanisms, to ensure that they remain necessary and proportionate in the light of changing circumstances and compliant with international law and establish an independent reviewer of counter-terrorism laws, policies and institutions, reporting publicly to the Government and Parliament, with a requirement for the Government to consider recommendations made.

## **B. International community**

91. The Special Rapporteur recommends that the international community:

- (a) Urgently mobilize sufficient resources to support the interrelated humanitarian, protection, development, climate change-related and security needs in Somalia;
- (b) Fund and enhance the implementation of the National Policy on Refugee-Returnees and Internally Displaced Persons and the National Eviction Guidelines;
- (c) Provide, at the request of Somalia, good offices to assist Somalia in engaging with Al-Shabaab;
- (d) Adequately fund AUSSOM under the predictable and sustainable formula contained in Security Council resolution 2719 (2023);
- (e) Share intelligence with Somalia to counter the threat of terrorism, consistent with international human rights law;
- (f) Ensure that military operations, including air strikes, by foreign State partners comply with international humanitarian law and international human rights law, have the consent of the Somali authorities, are subject to accountability mechanisms and are publicly reported, including the number of civilian casualties;
- (g) Exclude the provision of independent and impartial humanitarian assistance from counter-terrorism sanctions (both unilateral and Security Council lists) and terrorist-financing and other terrorism offences applicable to Somalia that impinge on independent and impartial humanitarian action;
- (h) Advocate to protect media freedoms and civic space and to prevent reprisals in Somalia.

92. The Special Rapporteur recommends that the States hosting approximately 764,000 Somali refugees (particularly Ethiopia, Kenya and Yemen) protect their rights in accordance with international refugee and human rights law and cooperate with

**Somalia to facilitate voluntary returns when conditions allow. The Special Rapporteur also recommends that third States fairly share the responsibility for assisting Somali refugees.**

### **C. United Nations**

**93. The Special Rapporteur recommends that the United Nations:**

**(a) Ensure there is a coherent, robust and adequately resourced plan for a United Nations human rights presence in Somalia after UNTMIS terminates, in October 2026, as requested in the Human Rights Transition Plan of the Government of Somalia;**

**(b) Maintain an effective capacity to provide political good offices to assist Somali stakeholders on request.**

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