

Universal Periodic Review
(24th session, January-February 2016)
Contribution of UNESCO to Compilation of UN information
(to Part I. A. and to Part III - F, J, K, and P)

Somalia

I. BACKGROUND AND FRAMEWORK

Scope of international obligations: Human rights treaties which fall within the competence of UNESCO and international instruments adopted by UNESCO

I.1. Table:

<i>Title</i>	<i>Date of ratification, accession or succession</i>	<i>Declarations /reservations</i>	<i>Recognition of specific competences of treaty bodies</i>	<i>Reference to the rights within UNESCO's fields of competence</i>
Convention against Discrimination in Education (1960)	State party to this Convention	<i>Reservations to this Convention shall not be permitted</i>		Right to education
Convention on Technical and Vocational Education (1989)	Not state party to this Convention			Right to education
Convention concerning the Protection of the World Cultural and Natural Heritage (1972)			<i>N/A</i>	Right to take part in cultural life
Convention for the Safeguarding of the Intangible Cultural Heritage (2003)			<i>N/A</i>	Right to take part in cultural life
Convention on the			<i>N/A</i>	Right to take part in

Protection and Promotion of the Diversity of Cultural Expressions (2005)				cultural life
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II. Input to Part III. Implementation of international human rights obligations, taking into account applicable international humanitarian law to items F, J, K, and P

Right to education

1. NORMATIVE FRAMEWORK

1.1. Constitutional Framework:

1. The **Provisional Constitution of the Federal Republic of Somalia of 2012**¹ provides in **Article 30** on Education:²

“(1) Education is a **basic right** for all Somali citizens.

(2) Every citizen shall have **the right to free education up to secondary school**.

(3) The State shall give priority to the development, expansion and extension of public education.

(4) Private schools, institutes and universities shall be established according to law and in line with the educational program and academic curricula of the country.

(5) The State shall encourage the promotion of research, creativity, and arts, and the advancement of cultural and traditional dances and sports and shall promote the positive customs and traditions of the Somali people.

(6) The State shall adopt a standardized curriculum across all schools of the country, and shall ensure its implementation.

(7) The State shall promote higher education, technical institutes, and technology and research institutions.

(8) The teaching of Islam shall be compulsory for pupils in both public and private schools. Schools owned by non-Muslims shall be exempted from these measures.”

2. **Article 28 (3)** on Family Care states:³ “Every child has the right to care from their parents, including education and instruction. In instances where this care is not available from the family,

¹ <http://www.unesco.org/education/edurights/media/docs/c444a148648c5e85d98eba299bead1f3c421667f.pdf>, http://www.wipo.int/wipolex/en/text.jsp?file_id=324354, Accessed on 16/03/2015

² Unofficial translation

³ Unofficial translation

it must be provided by others. This right applies to street children and children of unknown parents, the rights of whom the state has a particular duty to fulfill and protect.”

3. **Article 29** on Children adds:⁴

“[...] (3) No child may perform work or provide services that are not suitable for the child’s age or create a risk to the child’s health or development in any way.

[...]

(5) Every child shall have the right to legal aid paid for by the State if the child might otherwise suffer injustice.

(6) Every child has the right to be protected from armed conflict, and not to be used in armed conflict.

(7) In every matter concerning a child, the child’s best interests are of paramount importance. [...].”

4. Regarding the principle of equality, **Article 11** states:⁵

“(1) All citizens, regardless of sex, religion, social or economic status, political opinion, clan, disability, occupation, birth or dialect shall have equal rights and duties before the law.

(2) Discrimination is deemed to occur if the effect of an action impairs or restricts a person’s rights, even if the actor did not intend this effect.

(3) The State must not discriminate against any person on the basis of age, race, colour, tribe, ethnicity, culture, dialect, gender, birth, disability, religion, political opinion, occupation, or wealth.

(4) All State programs, such as laws, or political and administrative actions that are designed to achieve full equality for individuals or groups who are disadvantaged, or who have suffered from discrimination in the past, shall be deemed to be not discriminatory.”

5. **Article 27 (5)** adds:⁶ “It shall be ensured that women, the aged, the disabled and minorities who have long suffered discrimination get the necessary support to realize their socio-economic rights”.

6. **Article 3 (4)** provides:⁷ “The Constitution of the Federal Republic of Somalia promotes **human rights, the rule of law, general standards of international law, justice**, participatory consultative and inclusive government, and the separation of powers between the legislature, executive and an independent judiciary, in order to ensure accountability, efficiency and responsiveness to the interests of the people.”

⁴ Unofficial translation

⁵ Unofficial translation

⁶ Unofficial translation

⁷ Unofficial translation

7. Furthermore, **Article 41** establishes a Human Rights Commission:⁸ “(1) The Federal Parliament shall establish a Human Rights Commission that is independent of State control, and has adequate resources to carry out its functions effectively.

(2) The functions of the Human Rights Commission shall include the promotion of knowledge of human rights, and specifically Shari’ah, setting implementation standards and parameters for the fulfillment of human rights obligations, monitoring human rights within the country, and investigating allegations of human rights violations.”

1.2. Legislative Framework:

8. Non-official sources

1.3. Policy Framework:

i) General information

9. “A handful of training sessions for SNAF and AMISOM, mainly, high ranking officers were organised by humanitarian agencies in 2013. Training sessions, including refreshers, need to be more systematic and target as many elements of the said forces as possible. A joint humanitarian team currently works on a training module.”⁹

2. COOPERATION:

10. Somalia is **party** to the 1960 UNESCO Convention against Discrimination in Education.

11. Somalia did **not report** to UNESCO on the measures taken for the implementation of the 1960 UNESCO Convention against Discrimination in Education within the framework of the:

- **Sixth Consultation** of Member States (covering the period 1994-1999)
- **Seventh Consultation** of Member States (covering the period 2000-2005)
- **Eighth Consultation** of Member States (covering the period 2006-2011)

12. Somalia did **not report** to UNESCO on the measures taken for the implementation of the 1974 UNESCO Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms within the framework of the:

- **Fourth Consultation** of Member States (covering the period 2005-2008)
- **Fifth Consultation** of Member States (covering the period 2009-2012)

⁸ Unofficial translation

⁹ UPR info, Somalia – Mid-term Implementation Assessment, p. 9, http://www.upr-info.org/sites/default/files/document/somalia/session_11_-_may_2011/mia-somalia.pdf, Accessed on 16/03/2015

13. Somalia did **not report** to UNESCO on the measures taken for the implementation of the 1976 UNESCO Recommendation on the Development of Adult Education within the framework of the:

- **First Consultation** of Member States (1993)
- **Second Consultation** of Member States (2011)

14. Somalia is **not party** to the 1989 UNESCO Convention on Technical and Vocational Education.

Freedom of opinion and expression

1. CONSTITUTIONAL AND LEGISLATIVE FRAMEWORK

15. The provisional constitution of the Federal Republic of Somalia guarantees freedom of expression in article 18. The right of access to public information is enshrined in article 32.¹⁰

16. There is no media law in the Federal Republic of Somalia though in September 2014 a new draft law to regulate media has been approved by the Council of Ministers. Various organizations have expressed concern about it.¹¹

17. Defamation is regarded as a criminal offense in the Federal Republic of Somalia.¹²

18. There is no freedom of information law in the Federal Republic of Somalia.¹³

19. The situation of press freedom is different in the regions of Puntland and Somaliland. Puntland is a self-declared semi-autonomous region that does recognize the Government of the Federal Republic of Somalia, but has its own interim constitution. This constitution provides for

¹⁰ See the Provisional Constitution from August 2012:

<http://unpos.unmissions.org/LinkClick.aspx?fileticket=RkJTOSpoMME=>.

¹¹ See for example the reaction from the Media Institute of Southern Africa: <http://www.misa.org/our-work/item/2873-afex-condemns-endorsement-of-a-draconian-media-law>, or from the UN:

<http://www.aljazeera.com/news/africa/2013/07/2013721144559477920.html>, or

<http://www.ipsnews.net/2013/08/media-law-hits-somali-journalists/> or IFEX:

https://www.ifex.org/somalia/2014/06/25/dangerous_draft/.

¹² See the 2014 report from Freedomhouse.org: https://freedomhouse.org/report/freedom-press/2014/somalia#.VQ_h4-G3HZ0, as well as the joint annual report on Somalia from IFEX and the National Union of Somali Journalists from 2014: http://www.ifex.org/somalia/2015/01/13/somalia_annualreport_2014.pdf.

¹³ See the 2014 report from Freedomhouse.org: https://freedomhouse.org/report/freedom-press/2014/somalia#.VQ_h4-G3HZ0.

press freedom as long as journalists demonstrate “respect for the law”. It is unclear how the draft media law in Puntland relates to the draft media law of the Federal Republic of Somalia.¹⁴

20. Somaliland presents itself as independent from the Federal Republic of Somalia. Its Constitution guarantees freedom of speech and press under Article 32.¹⁵ The Press Law from 2004 decriminalizes defamation and guarantees the right to access to information.

21. The Press Law contains a Press Code of Conduct as one of the chapters of the law.¹⁶

2. MEDIA SELF-REGULATION

22. Since 2007 the National Media Council in Somalia is functioning as an independent and voluntary body with the objective to promote press freedom and ethical standards of journalism.¹⁷

23. New draft media law regulates that the members of the National Media Council are to be elected partly by the Government and partly by media and civil society.¹⁸ Article 15 calls on the National Media Council to set a code of ethics (based on the “Islamic religion” and “Somalia’s good tradition”), which will be binding for all journalists and media workers. Breaches will be punished by fines.¹⁹

24. The National Union of Somali Journalists (NUSOJ), which was set up in August 2002, is the major journalists’ union in Somalia serving the interests of media and journalists.²⁰

3. SAFETY OF JOURNALISTS

25. UNESCO recorded the killing of 38 journalists since 2008.²¹

¹⁴ See the 2014 report from Freedomhouse.org: https://freedomhouse.org/report/freedom-press/2014/somalia#.VQ_h4-G3HZ0.

¹⁵ See the Constitution of Somaliland: http://www.somalilandlaw.com/Somaliland_Constitution/body_somaliland_constitution.htm/.

¹⁶ See the Press Law: http://www.somalilandlaw.com/Press__Media__Law/body_press__media__law.htm.

¹⁷ <http://nmcsomalia.blogspot.fr/>

¹⁸ See the joint annual report on Somalia from IFEX and the National Union of Somali Journalists from 2014, page 7: http://www.ifex.org/somalia/2015/01/13/somalia_annualreport_2014.pdf

¹⁹ See the joint annual report on Somalia from IFEX and the National Union of Somali Journalists from 2014, page 7: http://www.ifex.org/somalia/2015/01/13/somalia_annualreport_2014.pdf

²⁰ See their website: <http://www.nusoj.org/about-us/>.

²¹ <http://www.unesco.org/new/en/communication-and-information/freedom-of-expression/press-freedom/unesco-condemns-killing-of-journalists/countries/somalia/>.

III. RECOMMENDATIONS

26. Recommendations made within the framework of the first cycle of the Working Group on the Universal Periodic Review, considered on (please check the date on the following web site: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx>)

27. In the Report of the Working Group on the Universal Periodic Review of 11 July 2011, various recommendations were made to Somalia.

28. The response of Somalia to the recommendations made during the interactive dialogue will be included in the outcome report adopted by the Human Rights Council at its eighteenth session in September 2011. The participants to the interactive dialogue recommended that Somalia:

- i. **98.30. Ensure that human rights are built into Somalia's legal framework and as a start ensure that members of the judiciary receive human rights training (United Kingdom);**
- ii. **98.42. Further enhance provisions of human rights education and training to its citizens (Philippines);**
- iii. **98.54. Implement a comprehensive national policy to prevent the use or recruitment of child soldiers and undertake all efforts to provide opportunities, especially educational ones, for children (Uruguay);**
- iv. **98.61. Utmost efforts should be made to address issues affecting children, including poverty, the recruitment of under-age soldiers, and a lack of access to education (Japan);**
- v. **98.81. Implement an awareness and education campaign, in cooperation with community and religious leaders, aimed at ending the practice of female genital mutilation and other forms of violence against women (Canada);**
- vi. **98.116. Provide training in human rights and international humanitarian law to TFG and AMISOM security and law enforcement forces (Australia);**
- vii. **98.134. Continue implementing programmes and measures to improve the enjoyment of the rights to food, education and health, including in the search for the promotion of these rights in the areas that are not under control of the TFG (Cuba);**
- viii. **98.135. Establish free and compulsory primary education and ratify the Convention on the Rights of the Child and its Optional Protocols (Hungary);**

- ix. **98.136. Continue its efforts for educational opportunities, vocational training and income-generating opportunities (Azerbaijan);**
- x. **98.137. Strengthen capacities and skills of educational institutions with a view to their rehabilitation (Oman);**
- xi. **98.138. Develop a national action plan with a view to ensure free and compulsory education (Uruguay);**
- xii. **98.139. Strengthen efforts to spread education, especially for women and children (Saudi Arabia);**
- xiii. **98.153. Seek assistance from the international community to take efforts to provide technical assistance and training necessary to build capacities in the areas of legislative work, the judiciary, security, education, and care for IDPs and persons with disabilities (Kuwait);**

29. Analysis:

Somalia has deployed efforts to further provide human rights training and education by organising training sessions for SNAF and AMISOM. However, according to available information, Somalia did not take specific measures and programmes to address main issues affecting children (poverty, recruitment of under-age soldiers, lack of access to education, etc.). In addition, no additional measures were adopted to end violence against woman and girls as well as to spread education for woman and children.

30. Specific Recommendations:

1. Somalia should be strongly encouraged to further submit state reports for the periodic consultations of UNESCO's education related standard-setting instruments.
2. Somalia could be encouraged to further address main issues affecting children and ensure their access to education by adopting specific programmes.
3. Somalia could be encouraged to take further measures to end the practice of female genital mutilation and other forms of violence against women and girls by adopting for instance education campaign.
4. Somalia could be encouraged to further promote education for all, particularly education for women and children.

5. Somalia could be encouraged to further provide education and training in Human Rights and international humanitarian law for its security and law enforcement officers.

Cultural rights

31. Somalia is encouraged to ratify the Convention concerning the Protection of the World Cultural and Natural Heritage (1972), the Convention for the Safeguarding of the Intangible Cultural Heritage (2003) and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005). UNESCO's cultural conventions promote access to and participation in cultural heritage and creative expressions and, as such, are conducive to implementing the right to take part in cultural life as defined in article 27 of the Universal Declaration of Human Rights and article 15 of the International Covenant on Economic, Social and Cultural Rights. In doing so, Somalia is encouraged to facilitate the participation of communities, practitioners, cultural actors and NGOs from the civil society as well as vulnerable groups (minorities, indigenous peoples, migrants, refugees, young peoples and peoples with disabilities), and to ensure that equal opportunities are given to women and girls to address gender disparities.

Freedom of opinion and expression

32. Somalia is recommended to pass a freedom of information law as part of a comprehensive media legislation that is in line with the constitution and international standards.²²

33. The country should facilitate independent and transparent self-regulatory mechanisms for its media.

34. The Government is urged to investigate the cases of killed journalists, and to voluntarily report on the status of judicial follow-up to UNESCO. The Government may wish to consider taking advantage of the UN Plan of Action on the Safety of Journalists and the Issue of Impunity as a means to strengthen protection of journalists and freedom of expression.

²² See for example, General Comments No 34. of the International Covenant on Civil and Political Rights (ICCPR), 2006 Recommendation of the 87th Session Human Rights Committee, the recommendations of the UN Special Rapporteurs on the Right to Freedom of Opinion and Expression, and Resolution 1577 (2007) of the Parliamentary Assembly of the Council of Europe.

Freedom of scientific research and the right to benefit from scientific progress and its applications

35. **Somalia**, in the framework of the 2015-2017 consultations related to the revision and monitoring of the Recommendation on the Status of Scientific Researchers is encouraged to report to UNESCO on any legislative or other steps undertaken by it with the aim to implement this international standard-setting instrument, adopted by UNESCO in 1974. The 1974 Recommendation on the Status of Scientific Researchers sets forth the principles and norms of conducting scientific research and experimental development and applying its results and technological innovations in the best interests of pursuing scientific truth and contributing to the enhancement of their fellow citizens' well-being and the benefit of mankind and peace. The Recommendation also provides the guidelines for formulating and executing adequate science and technology policies, based on these principles and designed to avoid the possible dangers and fully realize and exploit the positive prospects inherent in such scientific discoveries, technological developments and applications. **Somalia** did not submit its 2011-2012 report on the implementation of the 1974 Recommendation. In providing its report in 2015-2017 on this matter, **Somalia** is kindly invited to pay a particular attention to the legal provisions and regulatory frameworks which ensure that scientific researchers have the responsibility and the right to work in the spirit of the principles enshrined in the 1974 Recommendation, such as: i) intellectual freedom to pursue, expound and defend the scientific truth as they see it, and autonomy and freedom of research, and academic freedom to openly communicate on research results, hypotheses and opinions in the best interests of accuracy and objectivity of scientific results; ii) participation of scientific researchers in definition of the aims and objectives of the programmes in which they are engaged and to the determination of the methods to be adopted which should be compatible with respect for universal human rights and fundamental freedoms, as well as ecological and social responsibility; iii) freedom of expression relating to the human, social or ecological value of certain projects and in the last resort withdraw from those projects if their conscience so dictates ; iv) freedom of movement, in particular for participation in international scientific and technological gatherings for furtherance of international peace, cooperation and understanding; v) guarantees of non-discrimination in application of rights to satisfactory and safe working conditions and avoidance of hardship; to access to educational facilities, occupational mobility, career development, participation in public life, and vi) right of association, etc.