

Title: 30 Years of the UN Human Rights Council in Somalia: Opportunities and Challenges

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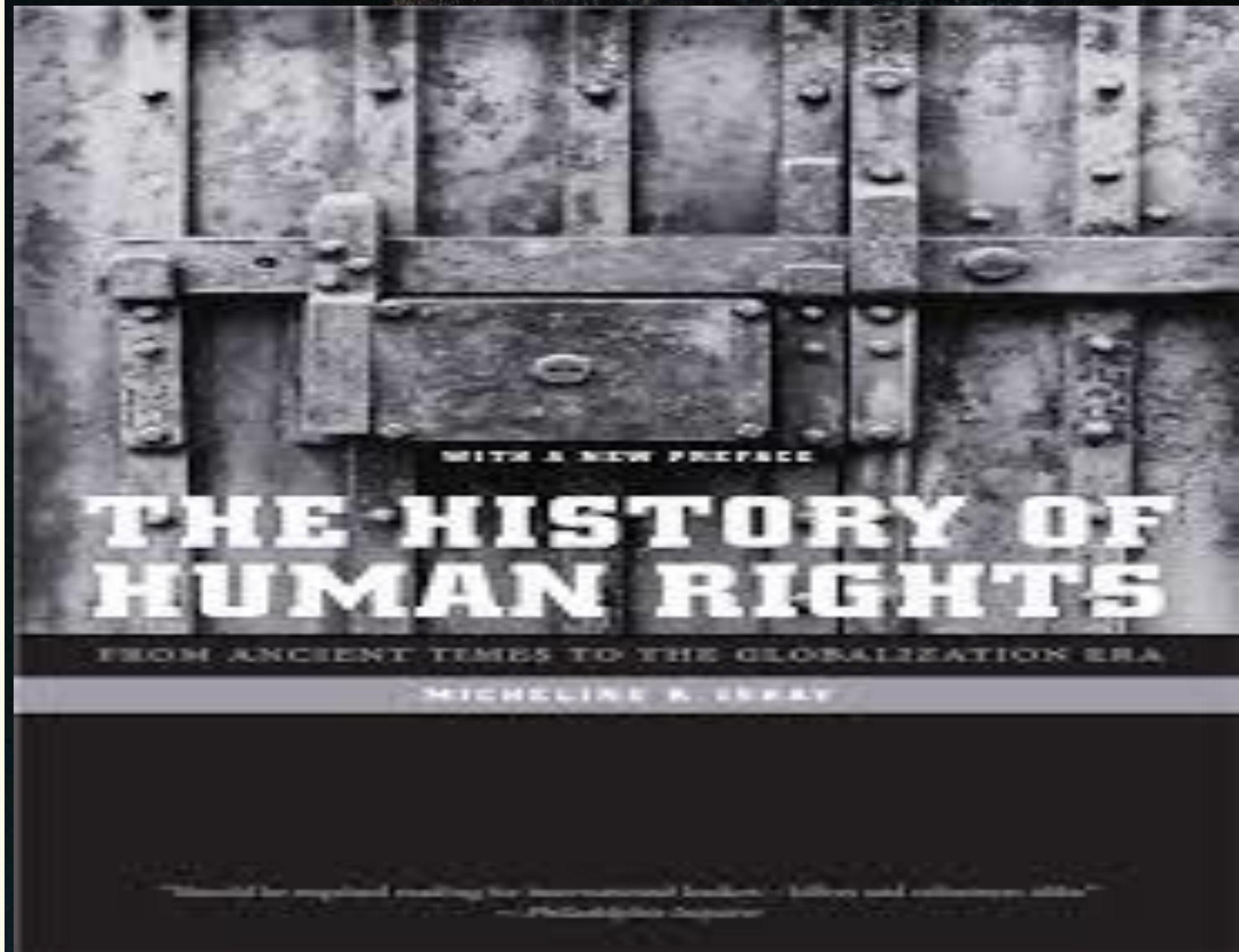
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WELCOME

Somalia's Human Rights Crisis (1960s–Present)

- Somalia's protracted challenges in developing a coherent human rights protection regime are attributable to entrenched **historical and institutional factors**. The legacy of **colonial** repression and subsequent authoritarian governance fostered systemic political exclusion and abuse of power.
- These conditions culminated in the **1991** collapse of the central government, resulting in the disintegration of constitutional authority, the paralysis of judicial and law enforcement institutions, and the proliferation of gross and widespread violations of fundamental human rights throughout the State.



Institutional Evolution

- When Somalia attained independence in 1960, its Constitution enshrined Mission rights and freedoms, including the rights to life, personal liberty, and equality before the law (see, *article 7 of 1960 Con.*)
- However, it did not create any **dedicated ministry or institution** specifically mandated to promote or safeguard human rights not until 2013.

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Post-State Collapse (1993)

- After all national institutions ceased their functions, the United Nations Commission on Human Rights (UNCHR), *through Resolution 1993/86, established in 1993* the first international mechanism to address Somalia's grave human rights situation.
- The HRC-2006 renewed the mandate regularly through **successive resolutions**, maintaining it as an *“Independent Expert on the situation of human rights in Somalia*

05 The Independent Expert's work was guided by three main functions



- Monitoring and documenting human rights violations;
- Advising the Somali authorities and international community; and
- Reporting **annually** to the UN Commission on Human Rights (until 2006) and later to the UN Human Rights Council.

United Nations Human Rights Mechanisms

The UN human rights mechanisms are the official systems, procedures, and institutions created by the United Nations to promote, protect, and monitor human rights globally.

They derive their authority from the **UN Charter (Articles 1 clause 3, article 55 and article 56)**, the Universal Declaration of Human Rights (1948), and subsequent international human rights treaties.

There are two mechanisms of UN

1. Charter-based mechanisms

- ✓ These mechanisms are established directly under the **UN Charter** and are **open to all 193 UN Member States**, regardless of treaty ratification.

A. Human Rights Council (HRC):

Comprises 47 Member States elected by the UN General Assembly

- ✓ Based on equitable **geographical distribution** across **five regional groups**
- ✓ **Africa, Asia-Pacific, Eastern and Western Europe, Latin America and the Caribbean and other States**, Serving three years.

Somalia's First Term on the United Nations Human Rights Council (2022–2024)

- Somalia was served to the UN Human Rights Council on 1 January 2022, marked the first time Somalia has held a seat among the Council's 47 members. Represented by **Ambassador Fathia Abdullahi Mohamed**

B. Office of the High Commissioner for Human Rights

Established by UNGA Resolution 48/141 (1993), it serves as the secretariat and operational arm of the UN human rights system, providing technical assistance, capacity building, research, and field support.

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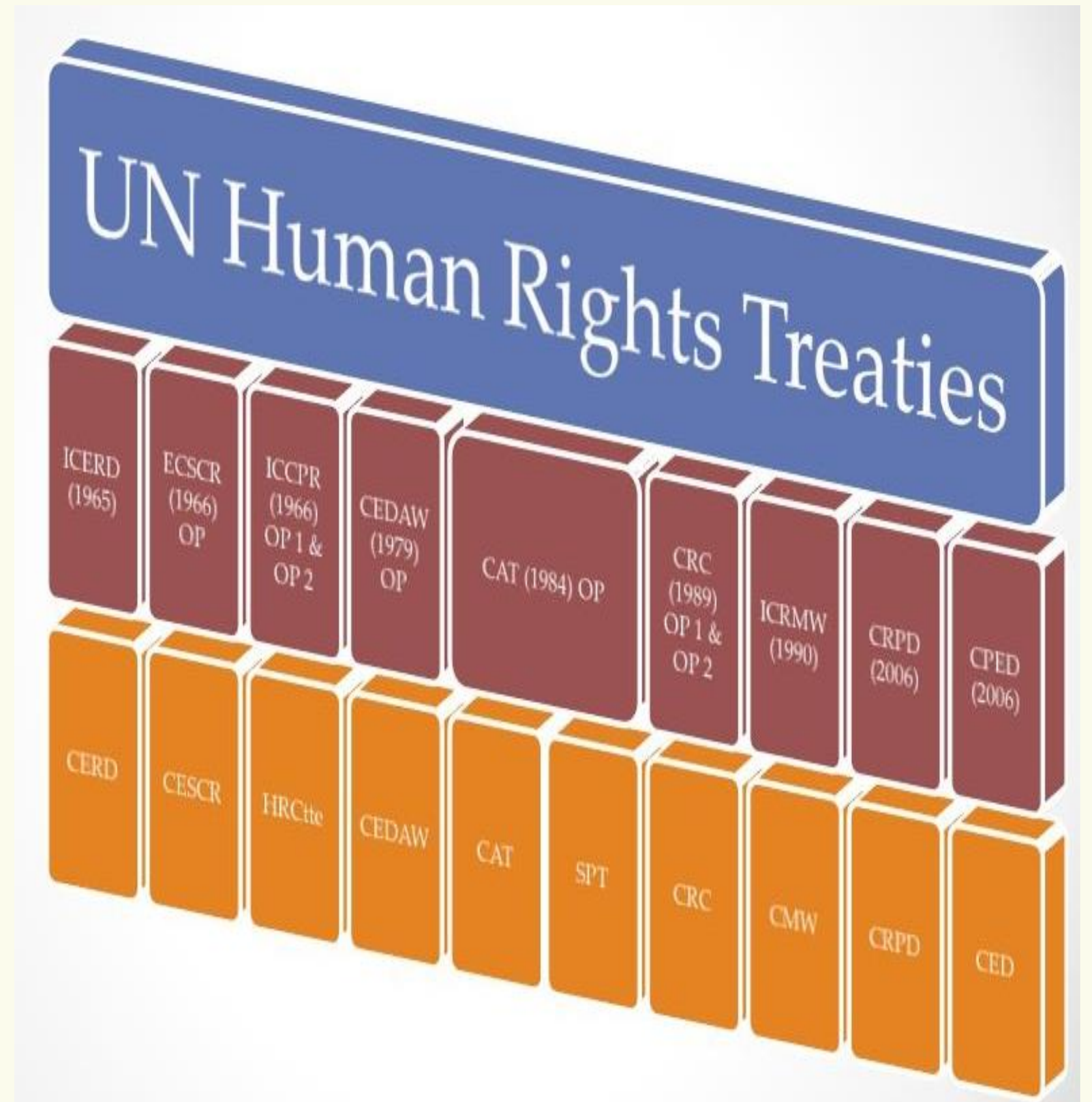
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2. Treaty-Based Mechanisms

Treaty Bodies are independent expert committees established under core human rights treaties to monitor States' compliance. **Somalia** has ratified **six of the nine** UN core human rights treaties.

- I. The **International Covenant on Civil and Political Rights (ICCPR)**, ratified on 24 January 1990 and reaffirmed by the Federal Government in 2012;
- II. The **International Covenant on Economic, Social and Cultural Rights (ICESCR)**, ratified on 24 January 1990 and reaffirmed in 2012;
- III. The **Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)**, ratified on 24 January 1990 and reaffirmed in 2012;
- IV. The **Convention on the Rights of the Child (CRC)**, ratified on 1 October 2015;
- V. The **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**, ratified on 27 January 2020; and
- VI. The **Convention on the Rights of Persons with Disabilities (CRPD)**, ratified on 6 August 2019.

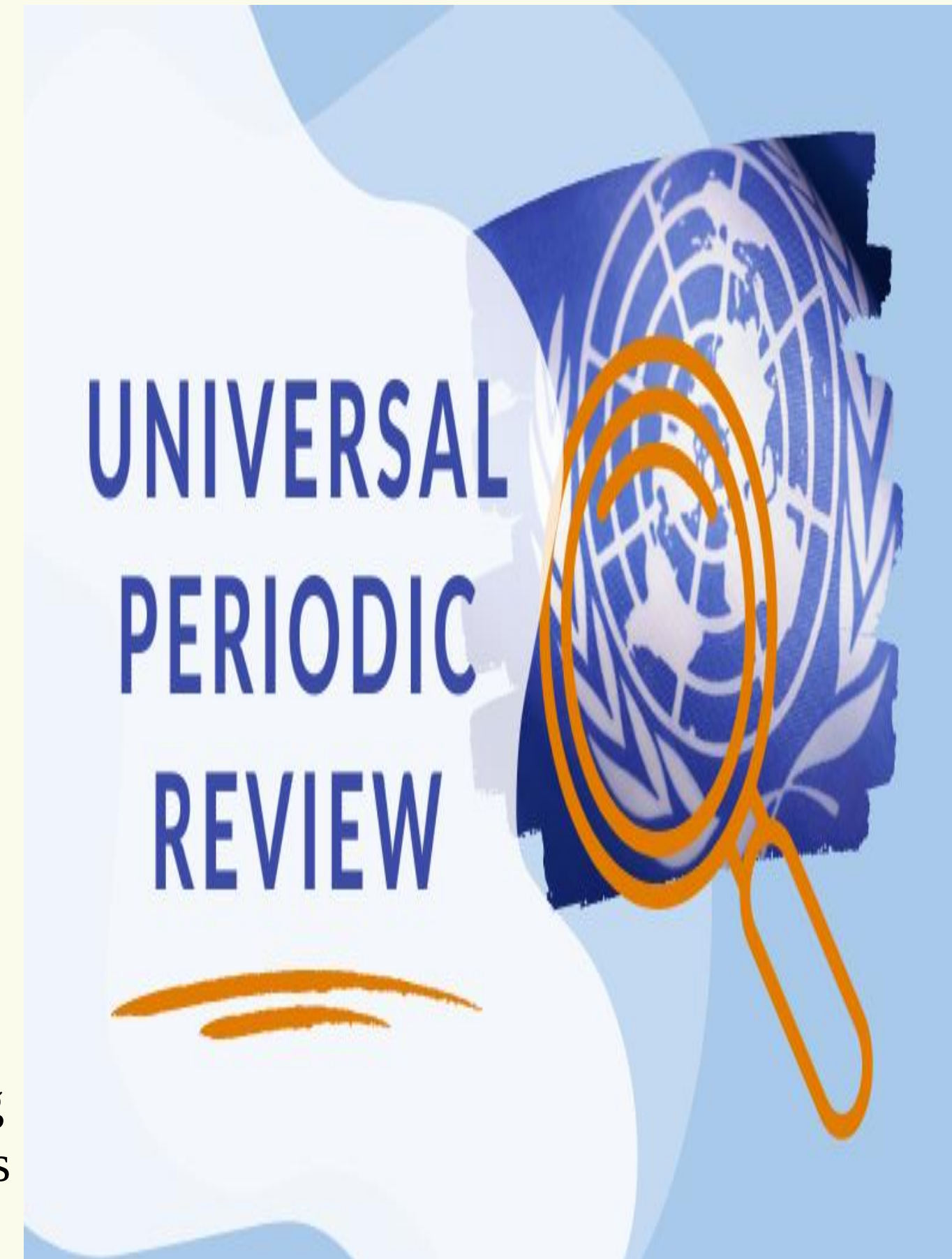


However, Somalia has not yet ratified the remaining three core treaties, namely:

- ✓ The International Convention on the Elimination of All Forms of Racial Discrimination (CERD),
- ✓ The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW), and
- ✓ The International Convention for the Protection of All Persons from Enforced Disappearance (CED).

Each State that ratifies these treaties must:

- Submit **periodic reports** to the relevant committee, usually **every 4 to 5 years**
- Attend **interactive dialogues**, and
- Implement **concluding observations** issued by the committee.
- The Federal Government of Somalia, with the **technical support of the Office of the United Nations High Commissioner for Human Rights (OHCHR)**, continues to cooperate with these treaty bodies by submitting reports, engaging in review sessions, and implementing recommendations to strengthen national human rights protection mechanisms



Jurisdictional Conflict: Somali Council of Ministers' Decision vs. Human Rights Council's Mandate Authority

- ❖ Under the HRC framework, only the **Council** has the legal authority to establish, renew, or terminate **Special Rapporteur** and **Independent Expert** mandates, as authorized by **UNGA Resolution 60/251 (2006)**.
- ❖ The **Independent Expert on Somalia**, established in 1993 and continued by the **HRC**, remains a **UN mandate** under the Council's authority; not unilateral withdrawal by a Member State or Hosting State.
- ❖ In practice, if the host State (Somalia) **refuses cooperation**, the mandate can still legally exist but its effectiveness may be sharply reduced (lack of access, data, cooperation). Thus, even if Somalia's Council of Ministers declared they would end cooperation or no longer recognize the mandate, the HRC could have chosen to renew it regardless but doing so might risk diplomatic friction or non-cooperation



QODOBKA 1AAD GO'AAN GOLE

- Go'aanka Shirka Golaha Wasiirrada ee 25 September 2025, kuna saabsan "Qaraarka Golaha Wasiirrada ee Gunaanadka Xilka Xeeldheeraha Madaxabannaan ee Xaalaadda Xuquuqul Insaanka Soomaaliya" oo uu Goluhu cod buuxa ku ansixiyay.

QODOBKA 2AAD DHAMMAADKA WAAJIBAADKA XEELDHEERAHA MADAXABANNAAN (OCTOBER 2025)

- Wajibaadka iyo howsha Xeeldheeraha Madaxabannaan ee Xuquuqul Insaanka waxa si rasmi ah loo soo gebogebeyn doonaa marka uu dhammaado muddada xil-hayntiisa ee hadda jirta, taas oo ku eg bisha Oktoobar 2025, si waafaqsan go'aanka Golaha Xuquuqul Insaanka kalfadhigiisa 60aad ee 08 Siteembar — 08 Oktoobar 2025.
- Kaalinta isku-duwidda iyo hagidda hawlaha kala guurka ee ka dhashay dhammaadka wajibaadka Xeeldheeraha Madaxabannaan waxa si ku-meelgaar ah u maamuli doonta Wasaaradda Qoyska iyo Horumarinta Xuquuqul Insaanka, ilaa si buuxda loo dhammaystirayo dhismaha iyo howlgalinta Guddiga Madaxabannaan ee Xuquuqul Insaanka Qaranka (NIHRC).

QODOBKA 3AAD QORSHAHA KALA-GUURKA UNTMIS/HRPG (OKTOOBAR 2026)

- Si looga miradhaliyo Qorshaha Kala-guurka UNTMIS/HRPG ee Oktoobar 2026 waa in:
 - (a) dhammaan taageerada farsamo ee UNTMIS ee la xiriirta xuquuqul insaanka, ilaalinta dadka nugul, iyo barnaamijyada la-talin iyo dabagal, lagu soo afjaro bisha Juunyo 2026;
 - (b) mas'uuliyaddan si buuxda loogu wareejiyo hay'adaha qaran sida Wasaaradda Qoyska iyo Horumarinta Xuquuqul Insaanka, Guddiga (NIHRC), Hay'adda Naafada, iyo hay'adaha amniga;
 - (c) haddii ay timaaddo baahi dheeri ah ee la xiriirta hirgelinta HRDDP ee UNSOS in ay qabtaan shaqaalaha muwaaddiniinta Soomaaliya.

How the mechanism continues to work despite non-cooperation?

- ❖ The UN Commission on Human Rights established a country mandate on the human rights situation in Myanmar in 1992/1993.
- ❖ The Government of Myanmar refused to cooperate with the mandate-holder, Yanghee Lee.
- ❖ The government denied access and visas, preventing visits and field investigations.
- ❖ Despite this, the Commission continued to renew the mandate and issue resolutions and reports.
- ❖ This demonstrates that a mandate remains valid even when the host State refuses cooperation.



Continuation of Mandate Despite State Non-Cooperation

- ❖ The **UN Commission on Human Rights** established the **Special Rapporteur mandate on North Korea** in 2004 through *Resolution 2004/13*.
- ❖ The **first mandate-holder** was **Vitit Muntarbhorn** (Thailand), serving from **2004–2010**.
- ❖ The **North Korean government** has consistently **refused to cooperate** with the mandate.
- ❖ Despite this, the mandate has remained **active under the Human Rights Council's authority**.
- ❖ **Successive Rapporteurs** have been appointed to **continue monitoring and reporting**.
- ❖ **Annual reports** have been regularly submitted to both the **Human Rights Council** and the **UN General Assembly**, ensuring **continued oversight despite non-cooperation**.



Normative Challenges in Somalia's Human Rights Framework

1. Limited Cooperation, Security Constraints, and Restricted Access: The Independent Expert's fieldwork was hampered by insecurity, insurgency, and territorial fragmentation. **Al-Shabaab's control**, clan conflicts, and fragile ceasefires restricted mobility and monitoring. Although the Federal Government cooperated nominally, access to **Puntland, Jubaland, and Somaliland** remained limited.

2. Fragile Human Rights Institutional Framework: The **2016 National Human Rights Commission Law** required each Federal Member State to appoint two commissioners. By **2025**, several states **Puntland, Jubaland, and Somaliland** had yet to comply, leaving the Commission incomplete despite parliamentary approval.

3. Resource and Logistical Constraints: The **National Human Rights Commission (NHRC)** lacks dedicated national funding. The **Ministry of Women and Human Rights Development**, acting as both policy-maker and enforcer, operates on an annual budget of **about USD 1 million**.

The **Programme Budget Implication (PBI)** for **HRC Resolution A/HRC/60/L.14** allocated **USD 1,520,800** through **OHCHR** down from **USD 1,997,000** after ending the Independent Expert mandate.

NAMES OF CANDIDATES APPROVED BY THE COUNCIL OF MINISTERS FOR APPOINTMENT TO THE NATIONAL INDEPENDENT HUMAN RIGHTS COMMISSION (NIHRC)

1 AHMED SHEIKH HAMZA ABSHIR | MEMBER

2 ALI MOHAMED ELMI | MEMBER

3 Dr. MARYAM QAASIM AHMED | MEMBER

4 FADUMO YUSSUF | MEMBER

5 FARHAN MOHAMED JIMALE | MEMBER

6 MOHAMED HARUN MOHAMOUD | MEMBER

7 Dr. MOHAMED OSMAN MOHAMOUD | MEMBER

8 MUMINA SHEIKH OMAR | MEMBER

9 Dr. OMAR ABDULLE ALASOW | MEMBER



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4. Constitutional and Judicial Gaps

The **absence of a fully implemented constitution** and **independent judiciary** weakens enforcement of human rights.

The NHRC's recommendations lack binding force without judicial or constitutional support (*Quasi-judicial powers, see article 53 Ug*).

5. Limited Capacity-Building

The NHRC suffers from a **lack of training, investigative, and educational capacity**, leaving it structurally weak and largely symbolic.

6. Institutional Conflicts Between Ministries and Oversight Commissions

Persistent tensions exist between ministries and their dependent commissions, undermining institutional independence.

Example: In **2022**, the **National Anti-Corruption Commission** clashed with the **Ministry of Justice and Constitutional Affairs**, despite shared governance mandates illustrating **overlapping roles and legal ambiguities** that hinder cooperation.



OPPORTUNITIES FOR ADVANCING HUMAN RIGHTS IN SOMALIA

1. Shift to National Ownership

- The non-renewal of the Independent Expert mandate marks a transition from a **UN-led** to a **nationally led** framework.
- Somalia gains the opportunity to **assume full ownership** of its human rights agenda, promoting **local accountability and sustainability**.
- Paragraphs 21–25 of the resolution call for a **nationally led transition process** in partnership with the **OHCHR** and other human rights mechanisms.

2. Enhanced Cooperation with the United Nations

- Strengthened collaboration with the **OHCHR**, **Universal Periodic Review (UPR)**, and other human rights mechanisms.
- Alignment of Somalia's national efforts with **international human rights standards**.
- Access to **technical and advisory support** from UN institutions.



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3. Technical Assistance and Capacity-Building

- The **OHCHR** is mandated to provide **technical assistance** under the resolution.
This includes:
- ❖ **Training and institutional capacity-building** in justice, policing, and human rights enforcement.
- ❖ **Support for international reporting**, including participation in the **UPR** and **treaty body** processes.
- ❖ **Guidance on drafting national legislation** aligned with international standards, particularly in **gender equality, child protection, and freedom of the press**.

4. Increased Responsibility for the Somali Government

- ❖ The resolution emphasizes that the **primary duty** to promote and protect human rights lies with the **Federal Government of Somalia**.

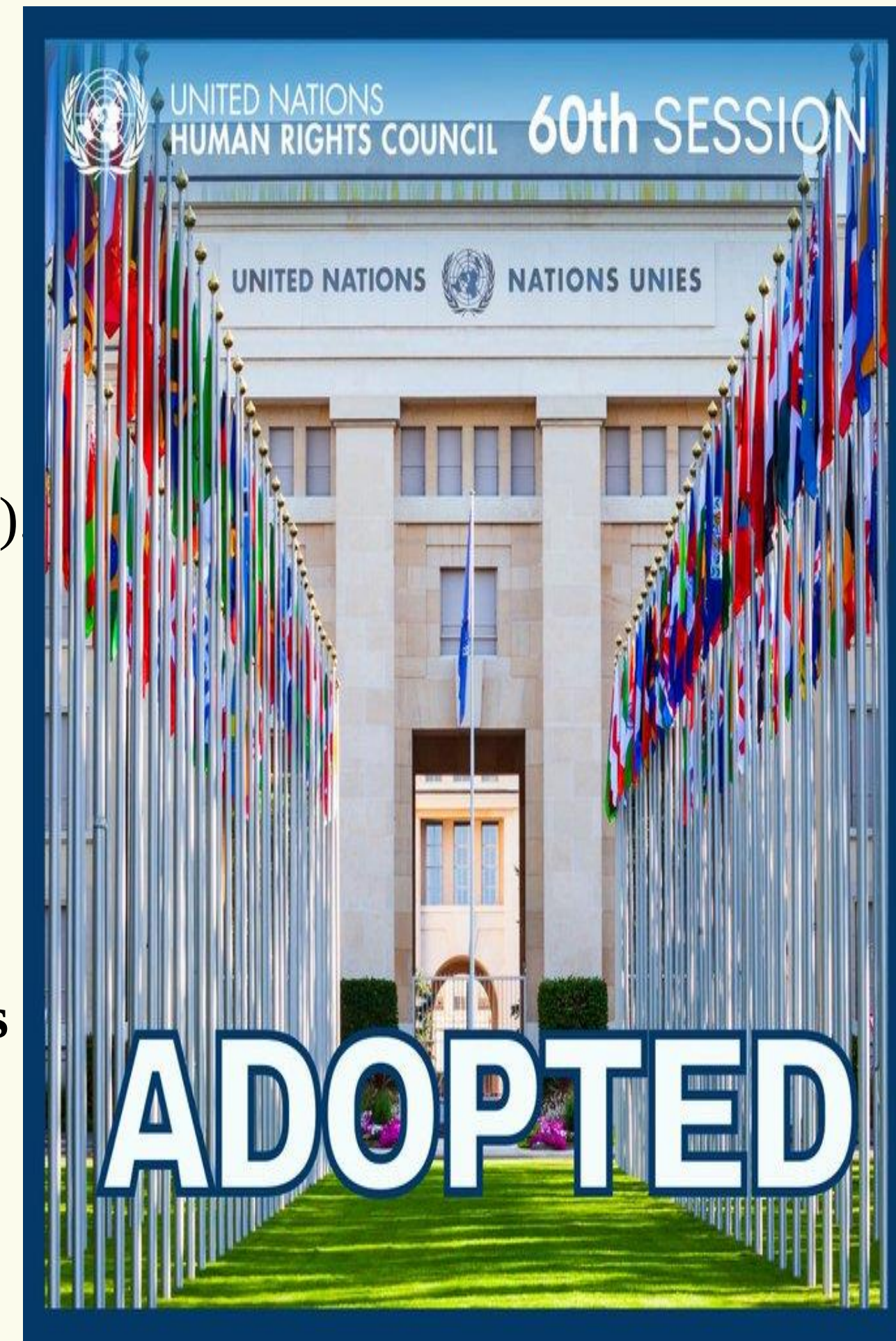
Accordingly, Somalia must:

- ❖ Strengthen its **domestic legal and institutional framework**, especially the **justice system, police accountability, and constitutional review**.
- ❖ Ensure **inclusive participation** of **women, minority groups, and persons with disabilities** in political and public life.



What Happens Next (Post-Mandate Phase under Resolution A/HRC/60/L.14)

- ❖ The **post-mandate phase** shifts from **special-procedure monitoring** to **technical cooperation**.
- ❖ The **Office of the High Commissioner for Human Rights (OHCHR)** will lead implementation through:
 - ✓ **Capacity-building and advisory programs** (paragraphs 25–27)
Support for **strengthening national institutions**.
 - ✓ Assistance in **aligning domestic laws** with **international human rights standards**.
 - ✓ Enhancement of **human-rights protection mechanisms** within Somalia.
- ❖ The **OHCHR** will present **progress reports** to the **Human Rights Council** at its **63rd and 66th sessions** (2026 and 2027)
- ❖ These reports ensure **continued international oversight, accountability, and transparency**.



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