CHILD RIGHTS PROTECTION IN CONFLICT SITUATIONS:
CONTEXTUALIZING THE RELEVANCE OF CHILD PROTECTION LAWS IN SOMALIA

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UNITED STATES INTERNATIONAL UNIVERSITY – AFRICA (USIU-A)

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STUDENT DECLARATION

I, the undersigned declare that the thesis embodies the results of my own work and has been composed by myself and meets the University policies on plagiarism and ethical research. Where appropriate within the thesis I have made full acknowledgement to the work and ideas of others or have made reference to work carried out in collaboration with other persons.

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DEDICATION

It is with great humility that I dedicate this work to my family without whose support I would not have made it this far.
ABSTRACT

Since the collapse the government in 1991, Somalia has witnessed prevalent violence and the creation of the Federal Government of Somalia (FGS) in 2012 has not abated the situation as the FGS remains largely ineffective in protecting the population including children against human rights violation and abuse. Furthermore, Somalia law is based on traditional and Shari’a law, Xeer, which gives little room for children rights protection in the county. The purpose of this study was to examine the relevance of the child protection laws in Somalia. It aimed to achieve three objectives; to examine trends in child rights protection in Somalia between 2012 and 2018, to investigate how the government of Somalia has mediated between culture, Shari’a laws and the CRC to enhance child rights, and to examine how non-governmental organizations have participated in enhancement and violation of child rights in Somalia. To achieve these objectives, this study used a case study research design. It applied a mixed method approach. Specifically, it used both qualitative approaches (interpretivism) and quantitative approaches (positivism). As per the interpretivist approach, the researcher used background study and content analysis and in line with positivist approach, the researcher sampled respondents and used semi-structured interview schedules and participant observation to collect the necessary data. This study found that trends in children rights protection in Somalia show that the rights of the children in the country continues to be violated by various actors including the FGS, the insurgent groups and the terrorist organizations. Children in Somalia continue to fall victim of acts that are contrary to children rights as entailed in the CRC, such acts include torture, forced conscription into armed and criminal groups, rape, abduction, forced marriages, sex slaves and other forms of physical and sexual abuse. It has found that while the violation of children rights is recognized by key stakeholders including government officials, religious leaders and NGOs incidences of children rights violation continue to occur. This study has found that the violation of children rights in Somalia can be attributed to several factors including the ambiguity in who a child is with the Shari’a which is the basis upon which the legal system in Somalia is based as well as the perception of a child within Xeer, which is traditional and cultural system which is at the basis of Somalia social structure. It has established that while the government of Somalia has attempted to mediate between Shari’a law and CRC, the laws relating to the protection of children rights in Somalia remain largely irrelevant.
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LIST OF ABBREVIATIONS

ACRWC African Charter on the Rights and Welfare of the Child
ACtHPR African Court of Human and People’s Rights
CAT Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment
BSFP Blanket Supplementary Feeding Program
CAAC Children Affected by Armed Conflict
CEDAW International Convention on the Elimination of All Forms of Discrimination against Women
CEFM Child Early and Forced Marriages
CRC United Nations Convention on the Rights of the Child
FGM/C Female Genital Mutilation/Cutting
FGS Federal Government of Somalia
HOA Horn of Africa
ICCPR International Covenant on Civil and Political Rights
ICESCR International Covenant on Economic Social and Cultural Rights
MCHN Mothers and Children Attending Mother-And-Child Health Nutrition
MICS Multi-indicator Cluster Survey
NGO Non-Governmental Organizations
OP-CRC-AC Optional Protocol to the CRC on the Involvement of Children in Armed Conflict
OP-CRC-SC Optional Protocol to the CRC on Child Prostitution and Child Pornography
OVP Orphans and Other Vulnerable Children
SAM Severe Risk of Acute Malnutrition
SGBV Sexual and Gender-Based Violence
SPSS Statistical Package for Social Scientists
TSFP Targeted Supplementary Feeding Program
UDHR Universal Declaration of Human Rights
UNDP United Nations Development Program
UNFPA United Nations Population Fund
UNGA United Nations General Assembly
UNHCR United Nations High Commissioner for Refugees
UNICEF  United Nations International Children's Emergency Fund
WFP     World Food Program
DEFINITION OF TERMS

Child

This study adopts the CRC definition and conceives a child as being a person under the age of 18 years unless under laws applicable to a child (Ekundayo, 2015:148).

Rights of Children

Within this study, children’s rights are conceptualized as special personal and social entitlements and protections reserved of human beings that are considered as children (Milissa, 2019:4).

Shari’a

As used within this study, Shari’a is the Islamic law, which is a religious law integral to the Islamic tradition and which founded on the teachings of the Quran, Prophet Muhammed and the teachings of Islamic scholars (Ibrahim, Hussain & Aziz, 2010:52).

Xeer

As used within this study, Xeer is the customary or clan law upon which the social existence of a Somali is centered (Lifos, 2018:1).
CHAPTER ONE

1.0 INTRODUCTION

1.1 Background of the Study

In about five thousand years of human civilization, over five thousand wars have been fought and recorded and more than 4 million people have died since the fall of the Berlin wall (Kibret, 2015:1). The present cycle of violence, being experienced globally, has resulted in a kind of social order termed as a “violent social order” (Kibret, 2015:1). Throughout the known history of man and in the dispensation of this ‘violent social order’, children have been involved in or have been affected either through their forced recruitment and use in armed hostilities or as victims of armed conflicts (Wessells, 2016:198).

The United Nations High Commissioner for Refugees (UNHCR) reported that by 2016 about 65 million people had been forcibly displaced, of which 50% (more than 33 million) were children (Mikavica & Monaghan, 2016:126). This is an increase considering that in 2014 about half of the 19.5 million people that had been displaced in that year were children (Butta, Keenan, Bennett, 2016:1275). According to a report released by United Nations International Children's Emergency Fund (UNICEF) in 2015, one in every 10 children globally; that is, 230 million children, were living in countries and territories vastly affected by violent conflicts in that year alone (Wayoro, 2017:2). Butta, et al., (2016: 1275) reported that despite the fact that statistics on effect of conflict on children is hard to find, more than 1 billion children aged less than 18 years live in conflict-affected countries.

Children involvement in and suffering in situations of armed conflict is not only increasing but is intermixed with other problems such as terrorism, criminal acts, child trafficking and forced labor (Wessells, 2016:198). According to Machel (1996:2) armed conflicts disproportionately affect children not merely as bystanders but as targets. In conflicts
situations children fall or become victims of torture, forced conscription into armed and
criminal groups, rape, abduction, forced marriages, sex slaves and other forms of physical
and sexual abuse (Muriuki, 2008:55).

In situations of armed conflict there is also the disruption of school routines and community
life (Ekundayo, 2015:143). In such contexts, children also suffer as part of the affected
community and experience physical and psychological consequences of wars (Butta, et al.,
2016:1275). These instances point to the persistent violation of child rights and applicable
humanitarian laws within the context of armed conflict (Muriuki, 2008:52). This has been
happening despite the existence of a robust international legal framework that addresses
the violation of the rights of the child in both times of war and of peace. The international
community has established a legal framework for the rights of the child.

In 1924, states adopted the Declaration of the Rights of the Child (also known as the
Declaration of Geneva or simply as the Declaration) (Kiame, 2011:41). This document,
drafted by Save the Children Fund and submitted to the League of Nations in 1924, was
the first directed international attention to addressing the rights of the child (Ekundayo,
2015: 145). The recognition of the rights of the child was further taken up by the adoption,
by the United Nations General Assembly (UNGA), of the Universal Declaration of Human
Rights (UDHR) in 1948. The UDHR proclaimed a catalogue of human rights that implicitly
apply to children as part of the human society. While not mentioning children directly, the
UDHR reiterates the rights of the children to special care within the context of the family,
which it perceives as the ‘natural and fundamental unit of society’ (MacDonald, 2011:18).
In 1989 The UNGA unanimously adopted the United Nations Convention on the Rights of
the Child (CRC), a document which has become the most ratified human rights treaty
globally. The only countries which have not ratified the CRC are the United States and South Sudan (Ekundayo, 2015: 147).

Apart from these international legal provisions on the right, there are also region specific and country specific provisions that countries have adopted to address the issue of the rights of the child. One such region where the issue of child rights has been contextualized is Africa. The African Charter on the Rights and Welfare of the Child (ACRWC) was adopted to enhance the reach of the CRC but with an African twist. According to Ekundayo (2015:5) the unique factors in Africa that pertain to its socio-economic, traditional, cultural, natural disasters, hunger and development circumstances have necessitated the adoption of the ACRWC, which is the only region-specific instrument on child’s right.

Both the CRC and the ACRWC are at variance with the cultural and religious conceptions of a child within specific states. Nonetheless, it should be noted that while both CRC and the ACRWC provide age-based definitions of a child; that is, age being the sole dominant factor for being a child, there are technically at variance. Ekundayo (2015:148) notes that while the ACRWC is explicit and has no limitations or exceptions on who a child is, the CRC considers a child as being a person under the age of 18 years unless under laws applicable to a child. The implications of the CRC’s conception of a child is that it permits certain acts against the child, child as lower marriages for people aged below 18 years (Ekundayo, 2015:148).

Concerning the variance in the conceptions of who is child, it is noted that certain cultures and religions are at loggerheads with the both the CRC and the ACRWC definitions. Regarding cultures, the plurality of African legal systems possesses challenges in applying the CRC and the ACRWC definitions. African customary law, which is recognized as law in all African states provides a different understanding of who a child is and what a child
is able to do. The CRC and the ACRWC consider a child as a person aged below eighteen years, this is at variance with the conception of the child within the African traditional or cultural setting in which attainment of a given age is not the only means of measuring the duration of childhood (Ekundayo, 2015: 147).

This instance is most evident in the case of Somalia. In Somalia, there are three sources of law, the national law explicit in the Federal Constitution, *Shari’a* law and the cultural of customary law, *Xeer* (Landinfo, 2015:3). The *Shari’a* and customary law are considered the basis for settling civil legal matters (Landinfo, 2015:9). But the three sources are often contradictory among themselves and with the international legal framework on the rights of the child including the CRC and the ACRWC. The Federal Constitution of the Republic of Somalia defines a child as a person aged below 18 years under Article 29(8) (Asylum Research Consultancy, 2018:389). In this sense, the Federal Constitution is in line with the CRC and the ACRWC definitions.

However, the Islamic or *Shari’a* law, provides a different understanding of the child. In Islamic or *Shari’a* law, the accepted method for determining adult age of a person is a gendered one focused on the girl and according to which a girl is legally considered an adult upon commencement of menstrual cycle (Ibrahim, Hussain & Aziz, 2010:52). The problem is that some girls being menstruating as early as the age of nine (Ibrahim, *et al.*, 2010:52). This creates a problem for both the national conception of a child in Somalia as well as the international legal instruments which consider 18 years as the end of childhood. In customary law, age is not the signifier of childhood as culturally prescribed gender roles often place duties on young girls and boys, responsibilities that are generally considered the preserve of adults. For instance, according to a report by Yvonne Tagwireyi of the Save
the Children, in Somalia *Xeer* by the age of 10 a female child is considered ripe for marriage within (Tagwireyi, 2016:1).

It is upon the context of armed conflict and conceptualization of what constitutes a child that creates the necessity to examine the relevance of the international legal framework on the rights of the child in armed conflict in Somalia in particular. In Africa in general, there has been a variety of conflict and incidences of general insecurity over the past fifty years (Kibret, 2015:1). Instances of conflict in various African countries including the Democratic Republic of Congo, Rwanda, Sierra Leone, Angola, Burundi, Uganda, Kenya, Ethiopia, Sudan, Chad, Namibia, Somalia, South Sudan and the Central African Republic are well documented. Nonetheless, the Horn of Africa (HOA), comprising of Sudan, South Sudan, Ethiopia, Djibouti, Eritrea and Somalia have been distinguished as the bedrock of violent extremism and failed states in Africa (Luengo-Cabrera & Pauwels, 2016:1).

Perhaps the most problematic country in the HOA is Somalia. Since the 1970s the country has experienced state collapse and following the civil war that toppled the dictatorial regime of General Said Barre, the conflict has only grown in intensity as the central state has remained virtually non-existent since the 1990s. In the context of the prevalent violence and weak government control, the rights of children have not been sufficiently protected in Somalia (UNICEF, 2016:5). The intermittent conflict in Somalia has affected the children perhaps more than any other age group since about 44% of its population is under the age of 14 years (Landinfo, 2015:3).

According to UNICEF (2016:4) more than 300,000 children under the age of five in Somalia suffer acute malnutrition and the country’s under-five mortality rate is among the highest globally and about one in every seven children die before the age of five in Somalia. Only 4 in 10 children were attending school in 2015 and virtually every girl in the country
undergoes Female Genital Mutilation (FGM) (UNICEF, 2016:4). As such UNICEF (2016:4) reports the excess of 2,000 grave violations recorded in 2015, Somalia remains one of the least protective context for children worldwide.

1.2 Problem Statement

Since 1991, the foundation of law and order in Somalia has been traditional and Shari’a law, Xeer (Landinfo, 2015:3). The new Constitution that was promulgated by the Federal Government of Somalia (FGS) held, in the second paragraph, that no law not in accordance with the general principle of Shari’a can be adopted. In a separate paragraph the constitution state that children have the right to protection from abuse and mistreatment, and in paragraph 30 it provides for the right to education (Constitution, 2012). In fact, the existing rules have barely been enforced.

The FGS, created in August 2012, has only had limited impact with regards to safeguarding the rights of the child, as neither the local nor the central authorities have the capacity to prioritize and attend to the needs of the children (Landinfo, 2015:3). The FGS lacks the institutional and resource capability to apply these rules especially those pertaining to the right of children including the right to free education. There is also the legal hurdle as most Somalis consider Shari’a and traditional law as the basis for settling civil legal matters. In effect, jurisprudence varies in different territories such as Somaliland and Puntland. For instance, while Somalia has a national legislation centered on modern principles of law, Somaliland and Puntland follow only laws that are in conformity with Shari’a (Landinfo, 2015:9).

The problem with Shari’a and traditional law is that they do not specify the age at which one is deemed an adult (Ekundayo, 2015:5-6). This further creates a challenge for the applicability of various international legal frameworks for the right of the child such as the
CRC, the Geneva Declaration and the ACRWC. This is despite the fact that the FGS has made steps towards the mainstreaming of rights of the child in Somalia as was demonstrated by its ratification of the CRC in 2015 (Ekundayo, 2015: 147; UNICEF, 2016:4).

1.3 The Purpose of the Study

The purpose of this study was to examine the relevance of the child protection laws in Somalia.

1.4 Research Objectives


1.4.2 To investigate how the government of Somalia has mediated between culture, Shari’a laws and the CRC to enhance child rights.

1.4.3 To examine how non-governmental organizations have participated in enhancement and violation of child rights in Somalia.
1.5 Research Questions

1.5.1 What trends underpin child rights protection in Somalia between 2012 and 2018?

1.5.2 In what ways has the government of Somalia mediated between culture, Shari’a laws and the CRC to enhance child rights?

1.5.3 How do NGOs support or undermine the protection of Child rights in Somalia?

1.6 Significance of the Study

This study may be of significant beneficial value in the following ways.

1.6.1 Epistemological significance

This study will analyze child protection and child protection laws in Somalia, as such it will be of great epistemological relevant to the study of the pragmatic value of child protection laws. It will help in the conceptualization of child protection, the attendant issues in child protection in Somalia and their implications for both national child protection laws in Somalia and for international child protection laws. It will contribute to the limited literature that has examined child protection and child protection laws in Somalia and in so doing it stands to facilitate the understanding of the practical relevance of international child protection regime in Somalia. Hence, this study may help inspire further research into the relevance of the extant child protection laws – both international child protection laws and child protection laws in Somalia.
1.6.2 to the Government of Somalia

This study may benefit the government of Somalia. It will add to the existing knowledge held by key policymakers in Somalia government about the trends in child protection issues and the applicable laws. It will add to the information held by key authorities in Somalia concerning the progress and impact of the implementation of child protection laws in the country. In so doing, this study may facilitate improvements in the formulation and implementation of national child protection laws that are more efficacious and which are in line with the international framework on child rights protection laws.

1.6.3 to the Citizens and Children of Somalia

The information that this study will generate and report may not only allow citizens to understand the significance of child protection rights and applicable laws, but may provide them with information with which they can agitate for policy improvements by lobbying political leaders and the government. This study will allow the citizens to monitor trends in child protection and assess whether progress is being made or whether there is deterioration, this will allow them to effectively hold the government accountable.

1.6.3 to NGOs and IGOs

This study may be important to non-governmental and governmental organizations present in Somalia. It will add to the internal knowledge held by these organizations concerning the trends on children rights in Somalia including the role that the government of Somalia and other actors are playing in the enhancement and violation of child rights in Somalia. Organizations such as the UNICEF and AMISOM will gain information that may help them improve their role in enhancing child rights in Somalia.
1.7 Hypothesis

Null Hypothesis: Child protection laws have no significant relevance in Somalia.

Alternative Hypothesis: Child protection laws have significant relevance in Somalia.

1.8 Scope of the Study

This study focused on the analysis of child protection laws in Somalia between 2012 and 2018. The study deployed a mixed method approach, which integrated the use of both interpretive and positivist attributes of research. The interpretive bit comprised of the use of qualitative methods of analysis while the positivist approach involved the application of statistical methods. The site of study was Somalia. The researcher collected data from research respondents using semi-structured interview schedules. The study was conducted over a period of two months.

1.9 Chapter Outline

Chapter one of has provided the introduction of this study. It has highlighted the background of the study and provided the broader context of child protection and child protection laws. This chapter has also state the problem that this study sought to address. It has further stated and listed the research objectives and the research questions. The chapter has also clarified the significance of the study in which the manner in which this study may benefit the academic field and the relevant stakeholder has been highlighted. The hypothesis and the scope of this study have also been stated and clarified respectively.

Chapter two of this study provides the review of extant literature on the research problem and sought to examine what previous researchers have said about child protection rights in general and also about the trends in child protection in Somalia. Chapter three highlights
the research methodology that this study utilized including the research design and describes data collection and analysis methods. Chapter four provides the results and findings of this study. Chapter five provides the summary of the key findings, conclusion and the recommendations.
CHAPTER TWO

2.0 LITERATURE REVIEW

2.1 Introduction

This chapter provides a review of the extant literature relating to the research problem. Specifically, it examines existing literature that appertains to the three research objectives. As such, it examines the extant literature on the trends in child rights protection in general and also in Somalia, it examines literature relating to the conceptual challenges of child and child rights with a particular focus on how the government of Somalia has attempted to mediate between culture, Shari’a laws and the CRC to enhance child rights, this review also examines literature on how non-governmental organizations have participated in enhancement and violation of child rights with specific interest their role in Somalia. The review commences with examining the concept of children’s rights as a backdrop. The aim of the literature review is three fold; that is, to establish a deeper understanding of the attendant concepts and theories, to assess the extant congruence or incongruence in the previous studies and in scholarship on issues pertaining to child right protection, and to identify gaps in literature that this study seeks to fill.

2.2 Empirical Review

2.2.1 Children’s Rights and the Core Principles

According to Milissa (2019:4), children’s rights can be conceptualized as special personal and social entitlements and protections reserved of human beings that are considered as children. Children’s rights are therefore a subset of a broader body of human rights. According to Donnelly (2008:1) human rights are rights which people possess because they are humans. As such, these rights are both universal and inalienable (Chenoweth, Hunter, Moore, Olsen & Pinkney, 2017:3). The universal and the inalienable rights that people have because they are human are implicit in the UDHR which holds that all human beings are equal regardless of
sex, race, language, nationality, religion, ethnicity or any other status (including age) (Chenoweth, et al., 2017:3). According to the United States Assistance in International Development (USAID, 2016:6), human rights are intrinsic to every human being irrespective of any other status and are generally articulated as universal legal guarantees.

Several human rights instruments have been adopted by the international community and ratified by a significant number of states in their attempt to uphold these universal and the inalienable rights. Some of the most common instruments that address the issue of human rights include the UDHR, the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic Social and Cultural Rights (ICESCR), the Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment (CAT), the International Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the African Charter on Human and People’s Rights as well as various UN non-treaty mechanisms that address issue of human rights (Byrne, 1998: 27 – 43; Chenoweth, et al., 2017:3).

According to Jarso (2012:675), children have been accorded special attention in various international and regional human rights. Nonetheless, these documents do not explicitly take cognizance of the inherent vulnerability of children to malnutrition, hunger, physical and emotional abuse, traumatization and exploitation (Jarso, 2012:675). Nthiwa (1999:32) asserts that it was when it became apparent that the international legal framework did not explicitly address the susceptibility of the child to violation that children’s right emerged as a special category within the broader international human rights legal framework (Nthiwa, 1999: 32).

This was especially articulated by the adoption in 1989 of the CRC which entered into force in September 1990 (Jarso, 2012:675). It is the first international human rights treaty to directly address the children’s rights (Ekundayo, 2015: 147). The CRC comprises of 41 substantive
articles that state the rights of ‘the child’ and 13 procedural and implementation articles which specifically identify the responsibilities of ‘States Parties’ to guarantee that children are able to enjoy the rights it articulates (Ruck, Saewyc, Keating, Earls, Ben-Arieh, 2014:16). In Article 1 of the CRC, a child is conceiving as a “every human being below the age of eighteen, unless under the law applicable to the child, majority is attained earlier” (Rehman, 2010:559).

Nonetheless, Article 1 is a compromise owing to discrepancies in view of age of majesty among States Parties. Furthermore, the phrase ‘unless, under the applicable to the child, a majority is attained earlier’ places doubt on the usefulness of the article since it permits national law of a given state to provide a majority which is attained at an age less than eighteen (Rehman, 2010:559).

Since its entry into force, the CRC has been ratified by virtually all the countries of the world except South Sudan and the United States. The ratification of the CRC meant that States Parties are obligated under the principle of *pacta sunt servanda* to abide by the responsibilities and obligations contained in it (Ruck, *et al.*, 2014:16). The overarching theme of the CRC of reverence for dignity of the child is explicit in the comprehensive nature of the provisions and articles relating to children’s development and well-being. The rights and obligations attendant in the CRC are rooted in the Geneva Declaration of the Rights of the Child, which the League of Nations adopted in 1924 as well as the UDHR (Ruck, *et al.*, 2014:16).

The CRC’s importance as an imperative instrument for international children rights protection is underscored by its articulation of the four core principles. The cardinal principles of children reflected in the CRC are: *freedom from discrimination* (Article 2), *the best interest of the child* (Article 3), *right to life, survival and development* (Article 6), and *the right to participate and respect for views of the child* (Article 12) (Jarso, 2012:692 – 93; Ruck, *et al.*, 2014:17). These
are the fundamental principles in addition to those addressed in the first, second and third ‘optional protocols to the CRC’ constitute what every aspect of the rights of the child.

The freedom from discrimination contained in Article 2 of the CRC prohibits any kind of discrimination against any child notwithstanding of the child or his parent’s or legal guardian’s color, creed, race, language, national, ethnic, religion, social origin, political or other opinion, disability, property, birth or any other status (Ruck, et al., 2014:17; Jarso, 2012:692). The terminology used “other status” implies that the CRC is not exhaustive and takes into account other latent bases for discrimination (Rehma, 2010:562). The CRC however does not define ‘discrimination’ but the principle echoes the doctrine implicit in the 1965 Convention on the Elimination of Racial Discrimination and the CEDAW (Byrne, 1998: 27 – 43; Ruck, et al., 2014:17; Chenoweth, et al., 2017:3; Rehman, 2010:561).

It also echoes the non-discrimination provisions entailed in the ICCPR and the ICESCR (Byrne, 1998: 32 – 36). According to Jarso (2012:692), this principle further implies that all rights apply to all children universally and obliges the States Parties to protect children from any and all forms of discrimination and to guarantee the protection of the rights.

Gender discrimination including against girl-children is impermissible as per Article 2 of the CRC and this is in line with both international human rights treaty law (such as the CEDAW) and customary international law (Rehman, 2010:562). Further implicit in the provision for freedom from discrimination is that children should be accorded equality, they are entitled to registration, and acquisition of nationality, and should be protected from all forms of exploitation, degradation, abuse and violence and from any harmful practices regardless of their status (Ruck, et al., 2014:17; Jarso, 2012:692).

The right to registration after birth, name and nationality and the right of a child to have knowledge of his or her parents are expressly articulate in Article 7 (Rehman, 2010:567). Thus,
in line Article 2 of the CRC, States Parties should take measures to prevent discrimination against certain groups of children such as girls and children in rural areas. In this sense, States Parties are required to address the gaps in school enrolment for girls and children in rural places and eliminate obstacles that children especially girls face (Rehman, 2010:567).

The ‘best interest of the child’ (BIC) articulated in Article 3 of the CRC stipulates that State authorities and generally everyone should consider the best interest of the child as a basic or principal consideration in all activities and measures that relate to or are directed at the child (Jarso, 2012:692). This means that whether the measures and actions are taken publicly or privately such as is done by social welfare institutions, courts, public policies, administrative and legislative bodies, due considerations must be accorded to the best interest of the child (Ruck, et al., 2014:17). The judicial bodies and institutions are required to apply this principle by systematically bearing in mind how children’s interests and rights are or will shape their decisions and actions (Rehman, 2010:564).

The obligation explicit under Article 3 (1) relates to all children that are living within a State’s jurisdiction. In sub-articles 2 and 3, the CRC calls upon States Parties to guarantee the child such rights that are vital for his or her well-being by taking all the necessary measures, administrative and legislative and by considering the rights and duties of the child’s parents or legal guardians (Pobjoy, 2015:327). Thus, this principle applies not only to when a decision has a direct effect on a child but also when the decision is likely to affect the child (Pobjoy, 2015:330). The fact that the provisions on children’s rights cannot be subjected to reservation underlies Article 3 of the CRC (Rehman, 2010:565).

The right to life, survival and development provided for under Article 6 of the CRC recognizes that every child is entitled to the right to life and that States Parties must safeguard maximum possible survival and development of every child (Ruck, et al., 2014:17; Jarso, 2012:693). This
principle upholds children’s right to both mental and physical development and implicitly calls upon States Parties to protect children from external threats and danger including from armed conflict, health risks, severe deprivation and challenges States Parties to provide the necessities for children healthy development, survival and general well-being (Rehman, 2010:566 – 67).

The gist of this right is broad including pre-natal and post-natal care, nourishment or nutrition and proper development. Rehman (2010:566) explains that the wording of Article 6(2) compels States Parties to conceive development in the widest sense encompassing the child’s physical, spiritual, mental, moral, social and psychological development. The right to life also includes freedom from malnutrition, disease and starvation, rest, leisure and play (Rehman, 2010:566 – 67). The right for development can also be considered to be in line with Article 13 of the CRC which upholds the right of the child to education (Grover, 2014:581).

The right to participate and respect for views of the child is upheld in Article 12 of the CRC (Jarso, 2012:692 – 93; Ruck, et al., 2014:17). More specifically, this is the child’s right to be heard especially on matters that effect their person and interest (Rehman, 2010:569). In Article 2(1) the CRC accord a child, who has the capacity to affirm his or her own views the right to express those views freely in matters that affect them (Grover, 2014:579).

A number of values are implicit in the reading of Article 12; first, this article affirms that children are not passive but active subjects of rights and their views and involvement are not only to be recognized but to be given due weight and it is this right that is the basis of the right to freedom, and the right to thought conscience and religion articulated in articles 13 and 14 respectively (Rehman, 2010:569). Second, Article 12 recognizes children rights to take part in decision-making as opposed to have complete autonomous power in decision-making. And third, because their CRC does not set lower age limit on the rights of the child to express free
views, it is inimical to the CRC if an artificial age is set for considering views of the child (Rehman, 2010:569).

In 2000, two ‘Optional Protocols’ to the CRC were adopted by the United Nations General Assembly (UNGA). These are the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography (OP-CRC-SC) and the Optional Protocol to the CRC on the Involvement of Children in Armed Conflict (OP-CRC-AC) (Rehman, 2010:589; UNICEF, 2008:51). As indicated, the ‘optional protocols’ pertained to; (1) children’s engagement in armed conflict, and (2) child prostitution, sale of children and child pornography (Ruck, et al., 2014:16).

The OP-CRC-SC, in its preamble recognizes the emergent concerns from influx in trafficking of children for the purposes of prostitution, sale and pornography and the growing trends in sexual exploitation of children and sex tourism (Rehman, 2010:589; UNICEF, 2008:51). In its preamble OP-CRC-AC takes cognizance of the global concerns in increasing child engagement in armed conflict and the targeting of children in armed conflict. The OP-CRC-AC prohibits conscription of children in armed conflict and in Article 1, requires States Parties to take all the necessary measures to ensure members of their forces below the age of 18 do not participate in armed hostilities (Rehman, 2010:589).

According to Okwiri (2013:9) in 2000, the Optional Protocol to the CRC stipulated that people under the age of 18 should not be recruited into armed forces. In 2014, the third ‘optional protocol’ to the CRC was added, which introduced a communication procedure that permit children to submit issue complaints and procedures about States Parties’ violations of their rights to the UN Committee in the Rights of the Child directly (Grover, 2014:579).
The CRC has inspired other international instruments, which are relevant to children’s rights agenda especially in Africa include the Organization of African Union Refugee Convention, the Banjul Charter, the Protocol establishing the African Court of Human and People’s Rights (ACtHPR) and the African Charter on the Rights and Welfare of the Child (ACRWC) or simply the Children’s Charter (Jarso, 2012:695). However, the African Charter on the Rights and Welfare of the Child (ACRWC) is especially important international human rights instrument specifically addressing the issue of children’s right.

According to Davel (2008:259) the ACRWC was adopted in 1990 owing to the need to address issues pertinent to children in Africa - issues which were considered to not have been addressed by the CRC. Among the key issues in the CRC, which necessitated the adoption of the ACRWC pertains to CRC’s negation of the role of the family (especially the extended family) in the upbringing of the child and on matters relating to adoption (Davel., 2008:259). Article 24 of the ACRWC addresses the issue of adoption within the framework of African extended family (Sloth-Nielsen, 2008:259).

It however follows the ‘best interest of the child articulated in Article 3 of the CRC this is expressed in Article 4 (Jarso, 2012:694). The ACRWC identifies states that ‘recognize’ a system of adoption while the CRC addresses states that ‘that recognize or permit adoption’ (Gose, 2002:107). Article 11 of the ACRWC ensures children’s right to education as a way of promoting children’s potential and calls upon States Parties to provide free and compulsory basic education, promote secondary education and take special recognition of children groups including gifted, disadvantaged and females (Jarso, 2012:286).

Under Article 12(2), the ACRWC calls upon African states to respect children’s right to participate in artistic and cultural life and to provide opportunities for recreation and leisure for children. According to Jarso (2012:694) the ACRWC upholds the right of children to
freedom of expression in Article 7. In essence, the ACRWC is not very much in contrast with the CRC as it only contextualizes the children’s rights protection agenda within Africa. Article 9 of the CRC mandates states to take every measure necessary to protect children against all forms of violence (both mental and physical), neglect or negligent treatment, exploitation or maltreatment including sexual abuse while in the care of parent(s) and legal guardians or any person upon whom the care of a child falls (Better Care Network, 2017:16). This provision is also upheld in the ACRWC which, in Article 16 places the responsibility to protect a child from violence on the state. (Better Care Network, 2017:16).

The rights of the child need protecting because as Chenoweth, et al., (2017:3) observe despite appealing to indivisibility, universality and inalienability of human rights, the articulation of the specific human rights are rife with subjective, cultural, religious, political and scholarly contention (Ruck, et al., 2014:16). The fundamental question which has clouded the treatment of human rights and therefore children’s rights is whether such rights should apply to groups or individuals in the same way. Nonetheless, it is within this understanding of children’s rights as expressed and conceptualized within international human rights law that one can have a comprehensive understanding of the issue within the Somalia context.

2.2.2 Trends in Child Right Protection

In a report issued by the Secretary-General of the Africa Committee of Experts on the Rights and Welfare of the Child in 2013, violence against children in Africa was unprecedented and included widespread abductions, killings, recruitment, maiming, and denial of education, inadequate nutrition and sexual abuse (ACERWC, 2016:24). Better Care Network (2017:10) reported that at least 50% of children in Africa who are aged between 2 and 17 years experienced at least one form of violence, not including slapping, spanking and shaking across the African continent in 2016.
Eighty-Seven percent of younger children aged between 2 and 14 years were subjected to significantly higher rates of all forms of violence than those aged between 15 and 17 years who were estimate at 51 percent. The incidences of mass kidnapping of school girls in northern Nigeria, forced recruitment of children by the Al-Shabaab in Somalia and 1.2 million children in need of humanitarian assistance in Central African Republic, added to the growing trends in the violation of children rights in the continent (ACERWC, 2016:24).

Nowhere in Africa is the violation of children right has been as pervasive as it has been in Somalia. According to a research report conducted by Nicholson, et al., (2012:3) on behalf of the World Food Program (WFP), social indicators for Somalia are alarming. According to the report issues in 2012, out of the 7.5 million Somali population, more than 43% live under the international poverty line of less than US$1 per day (even though this has been revised to less than US$2), the mortality rate for under-five is 146 per 1000, the under-five acute malnutrition is above 19% and the maternal mortality is at 850 per 100,000 (WFP, 2016:3). The maternal mortality rate is however an improvement as earlier reports had placed it at 1,400 per 100,000 live births (Nicholson, et al., 2012:3). The majority of children in Somalia do not enjoy the right to go to school. More than half of the school-aged children do not attend school. Out of the 4.9 million children of school age, over 60% or about three million are out of school (Somalia Education Cluster, 2017:5).

UNICEF (2019:1) reports further that there continues to be a widespread violation of against children. The key problem areas of child protections are children affected by armed conflict (CAAC), sexual and gender-based violence (SGBV), female genital mutilation/cutting (FGM/C) and orphans and other vulnerable children (OVC) (UNICEF, 2016:3). These violations are also attributed to the effects of impunity in children include forced recruitment, indiscriminate arrests and confinement of children (UNICEF, 2016:3).
2.2.3 Areas of Divergence in Child Rights Protection

Culture is an important factor in understanding Somalia’s legal system especially in regards to child rights protection. Historically, social relations in Somalia are founded on the traditional clan-based legal system commonly referred to as Xeer (Landinfo, 2015:3). According to Lifos (2018:1), the Xeer is the customary or clan law upon which the social existence of a Somali is centered. Ibrahim (2018:6) explain that Xeer comprises of a set of unwritten rules and conventions, procedures and legal framework that regulate social interactions within and between Somali clans and communities. The origins of the Xeer is rooted on a mythical belief system by which a large proportion of Somali’s are considered to have a common kinship to the brothers Sab and Samaale (Lifos, 2018:1).

The genealogy of the brothers is often traced to the Prophet Muhammad, and Samaale is seen as the spiritual ancestor of the nomadic clans, and Sab as the spiritual ancestor of the agricultural clans. As such, there is an extant implicit link between Xeer (customary law) and religion Islam (Lifos, 2018:1). It is from Samaale and Sab, the Somalia community is further divided into various minority groups or sub-clans. The Xeer and Shari’a (or Islamic) occasionally overlap to provide the basic legal system for arbitrating practically all issues within the Somalia community (Gundel, 2006: ii).

This is due to historical, political and religious reasons including the enduring state collapse that lasted between 1991 and 2012, and owing to the lack of capacity by the Federal Government to establish effective control of the country, the clan is the basic support and protection structure for most Somalis. Lifos (2018:1) argues that the Xeer and the Shari’a provide security, the basic rights and protection for community members. Gundel (2006: ii) argues that between 80 and 90% of all criminal cases and disputes are solved through the Xeer.
The challenge for international children rights protection in Somalia emerges from the fact that in Somalia different legal tools and principles apply depending on where an individual is at any given time. The clan protection system is greater where there is less state presence and weak where the authority of the government is felt more. As such, *Xeer*, *Shari’a* and national laws apply interchangeably not only depending on where a person is but whether the person is a female, a male or a child. The relationship between *Shari’a* and *Xeer* is especially important.

Gent (2013:48) asserts that as a Muslim nation, Somalis are obliged to base their legal system on *Shari’a*, the legal system of Islam. Because of this, *Shari’a* is considered the inspiration underpinning the draft legal norms, while customary law and even state law are only applicable in as much as they do not contradict *Shari’a* (Ibrahim, et al., 2010:52). Nonetheless, *Shari’a* is used as a complementary source of law and does not supplant *Xeer*.

Gent (2013:48) explains further that whenever an irreconcilable issue emerges with respect to the application of the *Xeer* and the *Shari’a*, the general practice in Somalia is to give credence to local customary law. However, if the case before hand is one in which *Shari’a* rule will be more in agreement with the habitual customs of the local community, then that *Shari’a* will apply. On several occasions, the elders affirm that a *Xeer* rule is in line with *Shari’a* (Schlee, 2001:259).

A few points can be made about the infringement of the system of *Xeer* in rights protection. In the former, as a cultural dictate, FGM/C is a common practice in Somalia. In a report issued by the United Nations Development Program (UNDP), it was indicated that nearly 98% of Somali girls undergo FGM/C (Lifos, 2018:14). Gent (2013:53) reports that FGM/C is normally carried out among girls who are around the age of seven. Furthermore, it is a cultural expectation of girls to marry young (Ibrahim, et al., 2010:52).
Under *Xeer* women and girls have no mandate whatsoever to take part in decision making (Farah, 2017:7). The father, the brothers, uncle or male relatives decide for the unmarried women or girl and the husband will decide on all matters pertaining to his wife (Lifos, 2018:15). According to Gundel (2006:50), the forced *Godobitr*, or the coaxed marriage of a young girl into an aggrieved clan in line with a *mag* payment to secure a peace-deal with another clan is still widely practiced in Somalia. Gent (2013:53) argues that in some *Xeer* practices, girls and women who fall victim of rape are forced to marry their attackers. He observes further that even though *Xeer* recommends punishment for rape perpetrators such rules are seldom enforced thanks to the overlap between Islamic and *Shari’a* principles in *Xeer*.

These practices are in stack divergence with the standards international and federal framework. The divergence between the *Xeer* and *Shari’a* law on the one hand and federal and international law on the other is with reference to conceptualizing who a child is. According to Lifos (2018:14) the provisional federal law constitutions defines children as those below the age of 18. The setting of the age of the termination of childhood at 18 years in Somalia was not new as it had been stipulated in the amendment to the Family Law by the Siad Barre government in 1975 (International Alert, 2015:28).

Both the federal provision and the Family Law (1975) permit the marriage of children as below 18 years depending on consent and approval of the child’s parents (International Alert, 2015:28). Article 29, Section 8 of the Provisional Constitution conceives a child as being below 18 but places no restriction on child marriage as it explicitly fails to define age of maturity, which creates space for subjective interpretations (International Alert, 2015:28).
In the Shari’a law, there is no definition of the age of end of childhood, but girls and boys are considered adults and are allowed to marry once they reach the age of baaluq or ‘maturity’ (International Alert, 2015:28; Ibrahim, et al., 2010:52). The qualification as an adult is based on the child’s physical development and pays no attention to variances how children can present different physical traits at different ages. According to International Alert (2015:35), for boys the maturity age is deemed to be about 15 years and over while for girls it is tied to the onset of the menstrual cycles, which may start at between 9 years and 15 years. According to Tagwireyi (2016:1) a girl is not child by the age of 10 and can be married. However, a few educated people consider maturity to be more than just the commencement of menstruation and include development of pelvic bones or hips, or the psychological development to adulthood (International Alert, 2015:28).

Another point of divergence in the conceptualization of the child pertains to the rights of the children to participation that is explicit in the CRC. Chenoweth, et al., (2017:13) explain that within the understanding of the CRC, children’s right to participation include freedom of expression, association and thought. Nonetheless, within the Xeer and Shari’a, and even within the federal law in Somalia children are perceived as lacking the capacity to participate.

According to Ibrahim, et al., (2010:52) a child in the Xeer and Shari’a perspective is deemed as lacking the capacity to participate in matters relating to their welfare. Therefore, it can be argued, as Gent (2013:41) observes that no children rights can be effectively guaranteed in Somalia since it is not certain what law will apply in a given situation.
2.2.4 Mediating Between Culture, Shari’a Laws and the CRC in Child Rights Protection

After over two decades of state collapse in Somalia, four different judicial systems are evident in Somalia; the formal judiciary structures in central and regional governments, the Xeer (customary law), the Shari’a, and ad hoc mechanism used by Somali militia factions (Le Sage, 2005:7). The first three are however especially entrenched as the mechanisms used by the militia are a hybrid of the Xeer and Shari’a. Le Sage (2005:7) asserts that multiple, contradictory and often overlapping sources of law in Somalia make determination and primacy highly contentious.

Thus, the choice of the applicable law in a given case depends on two factors which have nothing to do with justice: one, whether the self-interest of the stronger party in the dispute is served; and two, whether the decision will preserve political, security and peaceful inter-clan relations (Le Sage, 2005:7). The implication for this state of justice in Somalia for the protection of children rights is dire. Therefore, addressing the incongruence between international standards, national laws, cultural and religious conceptions of child rights law and protection seem to be one of the issues in the agenda of the Federal Government of Somalia (Okwir, 2013:12).

Upon ascending power in 2012, the President of Somalia, Hassan Sheikh Mohamud, issued a Six Pillar Policy which spelled out priorities for mitigating the suffering of Somalis and for establishing effective and responsive state institutions (Okwir, 2013:12). Of the six pillars, Pillar 3 is especially imperative as far as child rights protection in Somalia is concerned. Among other things, this pillar in relation to its addressing of the reintegration of refugees and internally displaced persons (IDPs), establishing the rule of law and good governance and service delivery, it also contains elements which are conducive to
realization of enduring child protection system. The framework outlines community-based child protection including community perception of issues relevant in child protection (Okwir, 2013:12).

In line with this broad-based policy agenda, the government signed two action plans to halt and prevent the recruitment of children into armed groups and to prevent the maiming and killing of children by parties to the conflict (Amnesty International, 2016:4). Nonetheless, this action plan has not been implemented and as a consequence, children are still being recruited Al-Shabaab as fighters and young girls are being targeted for forced marriage by the group. Amnesty International (2016:4) reports that the government of Somalia had itself recruited, into the national army some 46 children below the age of 18 and sent to undergo military training. According to UNICEF (2016:1), impunity that is rife in Somalia has had a devastating effect on child rights violation.

In the subsequent years the Federal Government took decisive steps to ensure the protection of the rights of the child in the country. The adoption of the Provisional Constitution by the government of Somalia on August 1, 2012 was one of the most significant steps that through which the government aimed to mediate among the existing sources of law and in so doing create legitimate point for legal reference that was in line with the international standards for children’s rights protection agenda (Landinfo, 2015:3). The Provisional Constitution of the Federal Republic of Somalia provides for the fundamental rights and duties for all citizens including children and guarantees equality and non-discrimination for citizens of Somalia (Mohammed, 2015:465).

Under Article 29(8), it defines a child as a person aged below 18 years under Article 29(8) (Asylum Research Consultancy, 2018:389). In so doing, the Constitution sort to address the ambiguity implicit in both the Xeer and the Shari’a understanding of who can be considered a
child. The *Xeer* and *Shari’a* do not define a child in terms of years but in terms of physical and social development (Ibrahim, *et al.*, 2010:52). However, the Constitution uses the phrase ‘age of maturity’ which leaves the matter open to interpretation and overlap with both the *Xeer* and the *Shari’a* (International Alert, 2015:28; Ibrahim, *et al.*, 2010:52). In Article 15 of the Constitution, FGM/C is prohibited on the basis of the right to liberty and security of every individual and freedom from violence (Mohammed, 2015:465). Article 31 (1) addresses the issue of cultural practices (such as FGM, *Godobitr*) that have negative impacts on girls and in particular.

The government of Somalia also made a landmark move pertaining to the child by its ratification, in 2015, of the CRC; a move which created an opportunity for the streamlining of extant child related legislation and harmonization with international legal standards (Asylum Research Consultancy, 2018:389). By ratifying the CRC, the government of Somalia demonstrated that the rights implicit in the CRC were to be protected within Somalia. This was followed by the adoption of the numerous policy and legal instrument aimed at protecting the welfare and rights of children in 2017.

For instance, in Somaliland and Puntland, laws were adopted which outlawed Female Genital Mutilation/Cutting (FGM/C) and in Somaliland, the Sexual Offenses Bill was passed, which paved the way for protecting sexual abuse victims and punishing perpetrators in the region (Sulaiman, *et al.*, 2017:1). In actual reality, there are problems that have been noted in government’s effort to mediate between the contrasts among the several legal frameworks that apply in Somalia and which affect the protection of children’s rights.

Gent (2013:41) and Le Sage (2005:7) observe that the interrelation among Somali customary law, *Shari’a* law and the official judicial system has not been traced formally in a distinct manner. The Provisional Law of the Somali Federal Republic has been weakly implemented
and this has given space for the dominance of the *Xeer* and *Shari’a* especially in rural areas (Okwir, 2013:28; Gent, 2013:43). The implications of this reality are apparent because *Xeer*, *Shari’a* and national laws (which are centered on international standards) have different understandings of issues pertaining to these social differences including on issues that are at the core of children rights protection.

Also in attempting to bring a compromise between *Xeer*, *Shari’a* and formal national laws, the government of Somalia has made a precedence that is inherently problematic as far as protecting the rights of children in the country is concerned (Okwir, 2013:28; Gent, 2013:43). For instance, in addressing the issue of child marriage for example, the federal laws provide that consent be attained and the girl is of ‘mature’ age for marriage (Lifos, 2018:14). Nonetheless, the ambiguities of these laws have permitted childhood marriages to continue unabated.

There are several instances that point to the weak implementation. For instance, as Lifos (2018:15) reports, while the federal law prohibits rape and favors incarceration of convicted offenders, but people are rarely imprisoned for rape. But even more importantly, no law forbids domestic violence. Due to the pervasive use of the *Xeer*, incidences of rape are settled through customary negotiations in which compensatory fines is paid by the *diya*-painng sub-clan to the further of the child or to the child’s male relatives (Lifos, 2018:15). Gent (2013:41) argues that in some instances judges often base their verdicts especially those relating to children on beliefs and assumptions that underlie the customary law and *Shari’a* law and not on the provisions of the formal judicial system. For these reasons, the rights of children continue to be violated and girls in particular get raped and sexually abused.
2.2.5 Non-Governmental Organizations and Child Rights Protection

Enduring periods of conflict and instability that have continued in Somalia have diminished the governmental authority and weakened the responsiveness of state institutions. This has led to the limited mechanisms for child protection in Somalia being not only enormously limited but also further stretched in the wake of the creation of the Federal Member States (UNICEF, 2016:1). Thus, the international body through the various non-governmental organizations has become overly imperative in the discourse of child rights protection in Somalia.

Indeed, several NGOs are currently operating in Somalia in various capacities in peace and reconstruction efforts including the protection of human rights and children rights. According to Okwir (2013:9), the international actors that were mandated by the UN to protect civilian and children rights in Somalia include; UNICEF, Save the Children, UNHCR, WHO, OCHA and World Food Program (WFP). Other important organizations include International Rescue Committee (IRC), CARE International (Sulaiman, Magan & Elijah, 2017:2).

UNICEF has been one of the NGOs operating in Somalia which have had the greatest impact on child rights protection. UNICEF has maintained an extensive operational reach and delivered important results for Somalia children. In 2018 UNICEF partnered with other NGOS such as the WFP to meet the critical needs including SAM treatment and cash transfers that benefited more than 100,000 families in Somalia (UNICEF, 2019:1).

Hence, the organization helped over 740, women and children to have access the much needed life-saving emergency health services. It also contributed to the vaccination of more than 4.4 children against measles and facilitated the access to education of over 78,000 children and adolescents of which 42% were girls (UNICEF, 2019:1). Table 2.2 shows some of the achievements of UNICEF in child protection in Somalia. As can be deduced from the table,
UNICEF surpassed its target for assisting children aged between 6 and 59 months get admitted for treatment, the target achieved was 102% (UNICEF, 2018:1).

UNICEF is currently collaborating with the religious leaders, civil society organizations (CSOs), other UN agencies and state institutions both at federal and regional administrative levels (UNICEF, 2016:2). UNICEF is an active partner in the Humanitarian County Team (HCT) and takes part in the Inter-Cluster Working Group that spearheads strategic and cross-sectional coordination of humanitarian activities. It is also an active member of the HCT Access Task Force and the Civil-Military Working Group and of the inter-agency Disaster Operations Coordination Center (DOCC) in Mogadishu (UNICEF, 2018:2). Therefore, UNICEF is a crucial player in facilitating the welfare of the civilian population in Somalia including that of children.

Table 2.2: UNICEF’s Achievements in Child Protection as of October 2018

<table>
<thead>
<tr>
<th>Appeal Sector</th>
<th>UNICEF TARGET</th>
<th>UNICEF RESULTS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. NUTRITION</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Children under 5 yrs with SAM admitted for treatment</td>
<td>173,000</td>
<td>177,174</td>
</tr>
<tr>
<td>Caregivers of children reached with infant and young child feeding counsel</td>
<td>350,000</td>
<td>267,927</td>
</tr>
<tr>
<td><strong>2. HEALTH</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Crisis-affected people with adequate access to primary health care services provided with emergency life-saving health services in risk areas</td>
<td>1,400,000</td>
<td>740,042</td>
</tr>
<tr>
<td>Children aged 0 to 59 months with acute watery diarrhea treated</td>
<td>44,000</td>
<td>22,803</td>
</tr>
<tr>
<td><strong>3. WATER, SANITATION &amp; HYGIENE</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Emergency-affected people with temporary access to adequate safe water through chlorination, water trucking, vouchers and household water treatment</td>
<td>2,000,000</td>
<td>1,091,708</td>
</tr>
<tr>
<td>People accessing appropriate sanitation facilities</td>
<td>750,000</td>
<td>149,598</td>
</tr>
<tr>
<td><strong>4. CHILD PROTECTION</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Children reached with psychosocial support 50,000 29,559
Women and children reached with GBV prevention and response intervention 4,000 9,138

5. EDUCATION

Children affected by crisis accessing formal or non-formal early learning, pre-primary or primary education 120,000 78,044
Children who received individual education/early learning material 100,000 59,252.

Source: https://www.unicef.org/appeals/somalia.html

Nonetheless, UNICEF’s potential to facilitate the protection of children rights is limited by funding constraints, insecurity and the lack of political will. In terms of funding the organization has funding gaps in its key appeal sectors. For instance, it has a 43% funding gap in health sector, 64% in education sector, 46% in WASH and a 23% gap in child protection appeal sector (UNICEF, 2018:5). The funding gaps that UNICEF is experiencing are shown more clearly in Table 2.3. What should be noted is the fact that these funding constraints undercut the ability of UNICEF to effectively address children rights violations.

**Table 2.3: UNICEF Funding Requirements as of 2018**

<table>
<thead>
<tr>
<th>Appeal Sector</th>
<th>Requirements</th>
<th>Funds available</th>
<th>Funding Gap</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Funds Received 20</td>
<td>Carry-over</td>
<td>USS</td>
</tr>
<tr>
<td>Health</td>
<td>34,279,200</td>
<td>15,773,676</td>
<td>3,823,630</td>
</tr>
<tr>
<td>Nutrition</td>
<td>32,200,000</td>
<td>24,568,636</td>
<td>9,026,406</td>
</tr>
<tr>
<td>Education</td>
<td>19,000,000</td>
<td>5,622,587</td>
<td>1,215,650</td>
</tr>
<tr>
<td>WASH</td>
<td>43,006,883</td>
<td>17,285,896</td>
<td>5,739,480</td>
</tr>
<tr>
<td>Child Protection</td>
<td>11,446,491</td>
<td>8,358,275</td>
<td>511,740</td>
</tr>
<tr>
<td>Cash-based response</td>
<td>15,000,000</td>
<td>4,507,728</td>
<td>-</td>
</tr>
<tr>
<td>---------------------</td>
<td>------------</td>
<td>-----------</td>
<td>---</td>
</tr>
<tr>
<td>Total</td>
<td>US$ 154,932,57</td>
<td>76,116,798</td>
<td>20,316,906</td>
</tr>
</tbody>
</table>


Another organization that has served a key role as far as children rights protection is concerned in Somalia is Save the Children (Okwir, 2013:9). At the beginning of 2017, Somalia was in a dire humanitarian crisis and thousands of children were facing risks of acute malnutrition and water shortage. Save the Children was one of the organizations that responded to this humanitarian situation reaching about 2.5 million people of which 1,638,362 were children in dire need of assistance (Save the Children, 2018b:9).

Save the Children launched the Going against the Grain initiative in 2013, which was a one-year program that was aimed at addressing child marriage in Somaliland (Freccero & Whiting, 2018:30). This initiative which ran between 2013 and 2014 was intended at addressing the issue of child marriage through a social-ecological model with a strong advocacy to augment local community and officer’s capacity protect young girls from marriage.

It also sought to enhance the capacity of Somali girls to protect themselves from harm, exploitation and abuse through marriage (Freccero & Whiting, 2018:30). Nonetheless, despite reports indicating that the program was effective in establishing dialogue at all level on a matter hitherto considered a taboo in Somaliland, the efficacy of the program is not certain as it was not officially evaluated (Freccero & Whiting, 2018:30).

In 2016, Save the Children in conjunction with the IRC and CARE International launched “Challenging Harmful Attitudes and Norms for Gender Equality and Empowerment in Somalia, or simply CHANGES or SNaP, which was a Britain and Norad-funded program aimed
at realizing a wider social norms change with a special focus on child early and forced marriages (CEFM). Also within the agenda of the SNaP is engaging men and boys, economic empowerment of families and engaging community on cultural practices including FGM/C (Sulaiman, et al., 2017:1).

The programs were to be rolled out at the macro level and the micro level. At the macro-level the program involves collaboration with and support of civil society and women advocacy groups to influence policy and legal frameworks while at the micro or community level three sets of intervention models were rolled out. These intervention models include; community mobilization for community dialogue, establishment of village saving and lending associations (VSLA) and adopting Economic Empowerment (EASE model, and gender training of young adolescent through CHOICEs curricula (Sulaiman, et al., 2017:1). The last models are especially important because unlike the other two models, which are focused on adults, the focus of CHOICES is on the young adolescents between the ages of 10 and 14 years.

The SNaP is an ongoing program that was scheduled to run from 2016 through to 2020. According to Freccero and Whiting (2018:32), in line with the broader objective of CHANGES, Save the Children has made gains in training religious leaders who officiate over child marriages to recognize child marriages as a violation of children rights and to oppose it.

Save the Children has closely collaborated with local agencies to lobby and advocate for the banning of FGM/C in Somaliland and Puntland and the enactment of the Sexual Offenses Bill in Somaliland in 2017 (Save the Children, 2018a:6). The organizations efforts in this regard is imperative and necessary as available national statistics indicate the share of girls aged between 97% of young girls undergo FGM/C (Sulaiman, et al., 2017:1).

In 2017, Save the Children (2018b:4) reports to have treated more than 156,000 cases of pneumonia and diarrhea in Somalia. Save the Children is a key partner in the Education Cluster
response in Somalia (Save the Children, 2018b:9). In Somaliland, Save the Children has provided payments for young girls with pregnancy complications to seek medical attention (Freccero & Whiting, 2018:37).

According to Freccero and Whiting (2018:44), Save the Children is in the process piloting unconditional cash transfers to augment a child sensitive social protection strategy, which incorporates education, nutrition and discussion sessions for parents on various matters relating to the protection of children rights. However, Save the Children seems to pay more attention to the girl child than to the boy child as most of its interventions are mostly particularly directed at the girl child.

The World Food Program (WFP) is also an important actor as far as the protection of children rights in Somalia is concerned (Okwir, 2013:9). WFP has been important in enhancing the state of food security in Somalia and in so doing has both directly and indirectly contributed to the protection of children right to food. The portfolio of WFP in Somalia for 2012-2017 period consisted of three operations; the emergency operation (EMOP) 200281 (2011 – 2012), the Protracted Relief Recovery Operation (PRRO) 200443 (2012 – 2015) and the PRRO 200844 (2016 – 2018) (WFP, 2018:5).

The organization has demonstrated a remarkable ability to respond to the emergency needs in Somalia including a timely contribution to famine prevention in 2017. According to the organization, in 2018 2.7 million people were in indeed of food including some 300,000 children aged less than 5 years and 48,000 who were severely malnourished (WFP, 2018:1-2). According to Nicholson, et al., (2012: ix) WFP initiated the blanket supplementary feeding program (BSFP) and the targeted supplementary feeding program (TSFP). The BSFP was intended at children living in vulnerable situations while the TSFP was focused on the lactating
women (PLWG), the acutely malnourished children and take-home rations for all mothers and children attending mother-and-child health nutrition (MCHN) centers (WFP, 2018:5).

Between 2013 and 2016, the WFP had increased number of MCHN centers by 48, rising from 138 to 186 and increased the coverage of MCHN from two regions to five (WFP, 2016:8). The WFP’s response was lauded by Somalia authorities as an effective response in averting malnutrition and advancing MCH care (Nicholson, et al., 2012: ix). Table 2.4 shows the how the Somali population including children has benefited from the activities of the WFP.

Table 2.4: Beneficiaries of WFP Programs

<table>
<thead>
<tr>
<th>Program</th>
<th>Beneficiary Category</th>
<th>Boys and Men 2018</th>
<th>Girls and Women 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Relief</td>
<td>Household rations</td>
<td>71,400</td>
<td>68,600</td>
</tr>
<tr>
<td>MCHN</td>
<td>Children aged 6-36 months and PLWG</td>
<td>62,400</td>
<td>132,600</td>
</tr>
<tr>
<td>MCHN</td>
<td>Children aged 6–23 months and PLWG</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>BSFP</td>
<td>Children aged 6–59 months</td>
<td>48,000</td>
<td>52,000</td>
</tr>
<tr>
<td>TSFP</td>
<td>Children aged 6–59 months and PLWG</td>
<td>187,200</td>
<td>202,800</td>
</tr>
<tr>
<td>Delivery incentive for MCHN program</td>
<td>Household rations</td>
<td>29,400</td>
<td>30,600</td>
</tr>
<tr>
<td>School meals</td>
<td>Children</td>
<td>104,000</td>
<td>96,000</td>
</tr>
<tr>
<td>Take-home rations</td>
<td>Household rations</td>
<td>269,500</td>
<td>280,500</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>771,900</strong></td>
<td><strong>863,100</strong></td>
</tr>
</tbody>
</table>

Source: https://docs.wfp.org/api/documents/417b2d53-5a50-45b4-b702-c62f2b1fb770/download/

WFP country office for Somalia has established close relationship with partner organization of the UN including UNICEF and the Food Security and Nutrition Analysis Unit (FSNAU), which is an affiliate body of the Food and Agriculture Organization (FAO) (WFP, 2018:9). It has further partnered with Save the Children on child nutrition, Danish Refugee Council on issues relating to gender, age, diversity and protection, and with World Vision on issues relating to HIV/TB treatment and care (WFP, 2018:9).
2.3 Summary and Gaps to Fill

The review of existing literature has revealed that while several studies have examined the issue of child rights protection few have focused on examining child rights protection within the context of Somalia. Even fewer studies have examined the interplay between conceptual issues, the legal framework, and culture and religion in child rights protection. No specific studies have focused on the government of Somalia mediates between the divergence between international child rights law and local culture and religion. There are limited literature sources on how non-governmental organizations have participated in enhancement and violation of child rights in Somalia. This are the issues that this study seeks to address.

2.4 Theoretical Framework

This part of the review provides the theoretical framework for this study. It explains some of the fundamental theoretical perspectives which underpin child rights protection and which are both implicitly and explicitly adopted by the extant legal framework for child rights protection. Within the context of this study, a theory is conceived as a general speculation or an organized system of thoughts and ideas devised to explicate a given phenomenon (Lawson, 2015:24). Three theoretical perspectives can help locate this study in child rights scholarship, namely; critical realism, interest theory and will theory.

2.4.1 Critical Realism

Critical realism is conceived of as a philosophy of social and natural science and its application to research about children is extensive (Alderson, 2016a:3). Critical realism is considered to have three layers of reality; the empirical, actual and real causal forces. The first layer, empirical, involves human perception and responses; that is, rights endorsed and those that are seen with indifference. The actual layer relates to what really occurs; that is, honoring or
violation of children’s rights and the third, real causal forces are the aspects that are mostly unseen but which are only seen in their effects and are crucial in enabling the society understand and explain the world (Alderson, 2016a:3). There are four key planes of social being according to the critical theory upon which rights exist: bodies in material relations with nature, social structures, interpersonal relations and social beings (Harwig, 2007:16).

Almost all rights are embodied within the first physical plane of social wellbeing (Alderson, 2016b: 6 - 7). With reference to child protection rights, the rights violated on the physical plane include, denial of food and shelter, physical abuse of the child including rape and torture, forced displacement and any other physical harm (Houston, 2001:226). The physical plane also entails the right to clean sanitation and air, protection against the impacts of natural and man-made disasters. The second plane of social being according to critical realism, interpersonal relationships, manifestly shows rights in verbal and non-verbal communication, when each person disrespects or respects the other (Harwig, 2007:16).

The third plane, which appertains to social structures imply the national and international statutory and common law, the numerous United Nations (UN) international rights treaties that are being enforced by the courts and governments (Alderson, 2016:4). This plane also incorporates rights that accrue to children and the citizens in general such as entitlements to public services including education, health, child protection, systems of law and order, and child protection (Murphy, 2015:1-3).

Inner being, the fourth social plane, relates to the personal-political self and the motivating force in human impulses for justice and freedom (Norrie, 2010; Houston, 2001:226). The inner being dives the agency to promote child rights protection. Thus, in essence, critical realism provides a crucial fulcrum for understanding and investigating the child rights are that are absent, those which are ignored and those which are out rightly denied (Alderson, 2016a:6).
2.4.2 The Interest Theory

The Interest theory owes its origins to the works of Jeremy Bentham (1748 – 1832) in his critics of the idea of moral rights. More recent philosophers such as Joseph Raz view basic moral duties to respect others’ essential interests to be at the root of moral rights. According to Tobin (2013:397) there are two aspects to the interest theory; the descriptive and the substantive aspects. The descriptive dimension implies the deliberative process of interest elevation to the status of rights while the substantive dimension requires the process of interest evaluation to incorporate both duty-bearers and rights-holders (Tobin, 2013:397). At the core of the interest theory is that a right serve to further the interests of the right-holder (Cowden, 2012:370).

Hence, rather than constrain the function of rights to the protection of an agent’s free will or choice, this theory tries to incorporate a wide domain (Cowden, 2012:370). According to the interest theory, the rights serve to protect those goods, services and things that are inherently imperative to humans that it is in the interest of the society to honor such rights. There exists a normative constraint implicit in the interest theory perspective; that is; interest theory implies that rights underscore requirements for action in other people which could be in the form of the government, agencies, the non-governmental actors or the international community (Cowden, 2012:374).

According to Cowden (2012:374) three issues are implicit in determining the extent to which a person holds a right as per the interest theory, issues which require balancing between; (a) the interest of the claim holder, (b) the competence of the claim holder, and (c) the cost to others of bearing the duty of protecting the right. Nonetheless, the second issue which pertains to claim-holder’s competence has been refuted when it comes to children rights as the interest theory suggests that there is no need for competence of one to meet the threshold or a right
holder (Cowden, 2012:375). Lopez-Guerra (2010:21) implies that this interest theory however requires the right holder to have the *competence* or ability to realize the right so that the interest to be of adequate importance. Tobin (2013) argues that while children may lack the capacity to realize their rights they have interests which form the core of the rights under the interest theory.

There are certain problems implicit in the interest theory. First, it is infeasible to specify a set of interests that are sufficient for rights. It fails to appreciate the reality of the proliferation of interest based rights such as healthcare rights, welfare rights and the expanse of what is conceived as children rights. Second problem pertains to third-party interests. If the care of the child is entrusted upon a third party, the third party has a duty to take care of the child and the child expects the third-party to do his or her duty. In this sense, the interest theory dictates that the child has a right to the care of the third party but only the person who entrusts the care of the child on the third party has the right.

### 2.4.3 Will Theory

The Will theory or the Choice theory of rights was advanced by a British legal scholar, Herbet L. A. Hart. The Will theory holds that freedom is the most fundamental right; that is, that freedom is both a natural and moral right as upon which the legal and moral rights are rooted. The Will theory conceives rights as a normative distribution of freedom. According to Steiner (1998:238), it identifies spheres or domains of practical choice in which people are not subject to interference. Cowden (2012:365) observes that the Will theory tries to accord the right-holder duty over another’s duty. Hence, Will Theory right = Hohfeldian claim + Hohfeldian power. According to Hohfeldian rights framework, a person must possess factual competence in order to wield a power (Cowden, 2012:365).
In this sense, and as Kramer (1998:6) notes, for a child to be able to enjoy a Will theory right he or she must have the factual competence of the rational choice to waive or enforce his or her right. Nonetheless, fundamental to the Will theory is the assumption that children cannot be rights-holders owing to their lack of capacity to take rational or logical choices (Cowden, 2012:365). There are two problems with the Will theory which must be stated though. First, the will theory does not incorporate the inalienable rights; that is, the rights-holders can bargain away their rights at will since the freedom protected by the rights permits waiver of any right. Second, the Will theory does not take into account the cognitive capacities of young children. Having a right requires children to understand how to demand, claim or waive it; children do not have the cognitive capacity to fully understand rights (Kramer, 1998:6).

2.6 Chapter Summary

This chapter has reviewed literature on child rights protection. Specifically, it has examined the trends in child rights protection and examined literature pertaining to the four principles of child rights protection. It has also examined the areas of divergence in child rights protection laws and examined the attendant issues in conceptualizing child protection within the Somalia culture, society and Shari’a law and how these complement or contradict national and international application of child protection laws in Somalia. It has examined literature on how non-governmental organizations have participated in enhancement and violation of child rights in Somalia. The gaps in literature have been identified and the theoretical framework for this study has been discussed in this chapter. The next chapter discusses the research methodology that will be deployed in this study.
CHAPTER THREE

3.0 RESEARCH METHODOLOGY

3.1 Introduction

This chapter discusses the research methodology, which was utilized in this study to meet the stated objectives. It highlights the research design and describes data collection methods. This chapter also identifies the target population of this study. This is followed by a discussion of the ethical considerations and the limitations and delimitations of this study.

3.2 General Research Method

This study used a mixed method approach to realize the objectives of this study. Specifically, it used qualitative approaches (interpretivism) and quantitative approaches (positivism). As per the interpretivist approach, the researcher used background study and content analysis and in line with positivist approach, the researcher included sampling, semi-structured interview schedules and participant observation to collect the data. In essence it assumed a measured and structural approach involving the identification of and use of a mix of interpretivist and statistical techniques aimed at arriving at a more comprehensive generalization.

Hence, for research question 1; what trends underpin child rights protection in Somalia between 2012 and 2018? the researcher used qualitative approaches that involved background study and content analysis of publications and reports on the developments in child protection rights in Somalia. Special focus was accorded to reports and publications issued by the different credible international organizations working in child-related issues in Somalia issued between 2012 and 2018.

For research question 2 and 3, namely; in what ways has the government of Somalia mediated between culture, Shari’a laws and the CRC to enhance child rights? And, how
have the non-governmental organizations in Somalia participated in the enhancement and violation of child rights in Somalia? The researcher used a mixed methods approach.

The answers to the research question 2 and 3 were based on the results of the background study and content analysis of publications and reports. The researcher also used a mix of semi-structured interview schedules and participant observation to collect the data from government departments and the NGOs operating in Somalia. The researcher used her position as a staff with the Save the Children organization to personally participate in the collection of the relevant data.

3.3 Research Design

A case study research design was used. A case study research design was chosen because Nicholson, et al., (2012:3) children’s rights violation in Somalia is alarming and the UNICEF (2019:1) reports further that there continues to be a widespread violation of against children. The interest of this study was to detail trends in children’s rights protection in Somalia and to document the role that the government of Somalia as well as NGOs working in child-related issues were doing that protect or violate children’s rights in Somalia.

3.5 Data Collection Methods

Given that the study used a mixed method approach, the data collection methods comprised of a combination of historical study approach and integrated content analysis to review publications and reports for relevant information. This study also used interviews and participant observation to collect the primary data. The researcher interviewed Somalia government officials and religious leaders that work in issues that affect children right. The researcher also interviewed staff of selected NGOs working in Somalia. Specifically, the researcher interviewed staff of various NGOs operating in Somalia including staff at the Save the Children, UNICEF, Oxfam, HRDs Coalition Somalia, Somalia NGO Consortium,
Health Poverty Action and Care International whose activities touch in issues at the core of children rights protection in Somalia.

3.6 Ethical Issues

3.6.1 Ethical Issues Regarding the Research Process

Plagiarism and fraud are vital issues in the research process and the researcher recognizes that these are legally punishable offenses and took every precaution to avoid plagiarism and fraud. The researcher also ensured proper citation of all the sources of unoriginal material, information and ideas used and will take every effort to avoid abuse of personal privileges that may accrue to her in the cause of this study.

3.6.2 Ethical Issues Regarding the Researcher

The researcher ensured that this study was taken only with two principal goals in mind. The first goal was to meet the academic requirements for the award of the master’s degree in International Relations. The second goal was to ensure that the results of this study provide a social value to the society by delivering credible information that may help in the enhancement of extant trends and policy on children rights protection in Somalia. Additionally, the researcher sought to provide information that may add to the extant body of literature on children rights protection.

3.7 Study Limitation

The value and effectiveness of this study was to meet the stated objectives may be limited by certain constrains. First, owing to long duration of Somalia state collapse, not a lot of information exists concerning children rights protection in Somalia. To overcome this challenge of limited literature sources, the researcher not only consulted reports and publications issued by NGOs in Somalia but also used a mixed methods approach that
helped complement the information obtained through secondary sources with those obtained through primary research.

Second, the study ventured into a sensitive matter. Therefore, it ran the risk of making potential respondents in relevant government departments provide misleading information. To counter this, the researcher deployed a mixed methods approach which involved consulting primary and secondary sources of information and hence realizing a more comprehensive picture of the situation.

3.8 Chapter Summary

Chapter Three has described the research methodology that was employed in the study. The chapter has outlined the methodology that was used to realize the study’s objectives, presented a description of the research design, the sources of data and the techniques for data collection and analysis. The chapter has also highlighted the ethical considerations that underlined this study. The next chapter provides the results and findings of this study.
CHAPTER FOUR

4.0 FINDINGS OF THE STUDY

4.1 Introduction

Chapter four provides the results and findings of this study. It is organized into different parts according to the research objectives. The researcher deploys the use of background and content analysis, and statistical or positivist methods, specifically descriptive and inferential statistics to make sense of the data. Quantitative analyses of the interview results were conducted using the Statistical Package for Social Scientists (SPSS).

4.2 Trends Underpinning Child Rights Protection in Somalia

Trends in Somalia show a continued precedence failure to protect the rights of children. Under Article 6 of the CRC, every child is entitled to the right to life and that states parties must safeguard maximum possible survival and development of every child (Ruck, et al., 2014:17; Jarso, 2012:693). In 2016, Monitoring and Reporting Mechanisms (MRM) documented some 988 incidences of children rights violations (UNICEF, 2016:3). These violations included torture, forced conscription into armed and criminal groups, rape, abduction, forced marriages, denial of basic education, sex slaves and other forms of physical and sexual abuse, and the denial of the right to basic or primary education.

(i) Malnutrition

Implicit in the CRC provision is the right to nutrition and nourishment, nonetheless, the trends in Somalia show that this right is not effectively safeguarded in Somalia. According to the World Food Program (2018:4), Somalia suffers from chronic food and nutrition insecurity and the country occasionally gets hit by acute food insecurity crises. Between 2010 and 2011, an approximated 258,000 people including children died from famine (WFP, 2018:4). The trends relating to child
marriages are equally alarming. According to the United Nations Population Fund (UNFPA, 2016:16) young girls, who are still legally children according to the definition of a child by the CRC are forced to marry by their relatives including family members.

A report released by the WFP in 2012 showed that Somalia under-five acute malnutrition was more than 19% and under-five mortality was 146 per 1000 (WFP, 2016). It was reported that more than 954,000 children aged below 5 years needed nutrition intervention at the beginning of 2012 with 173,000 being at severe risk of acute malnutrition (UNICEF, 2019:1). According to the Food Security and Nutrition Unit (FSNAU) in a report released in February 2019, more than 903,100 children in Somalia aged below five years were likely to be malnourished in 2019.

UNICEF (2019:1) reports that 3 million people in Somalia are in need of emergency health services and that recurrent outbreak of diseases including acute watery diarrhea or cholera and measles pose a major threat to children.

(ii) Conscription (Army and Terrorist Groups)

According to Nicholson, et al., (2012:3) and Gent (2013:68), virtually all the parties engaged to the conflict in Somalia are guilty of violating children rights by recruiting them in their respective forces, child labor and exposing children to landmines.

It is estimated that about 5,000 children in Somalia run a great risk of being recruited or used by the Somalia National Army (SNA), armed groups, terrorist organizations and allied militia (UNICEF, 2016:3). These reports portray a precedence that has traversed the recent history of Somalia. A dated report by the Save the Children organization (cited in Okwir, 2013:9) indicated that between 2002 and 2006, between 15,000 and 20,000 children some as young as 9 years and one third of which were girls, were recruited by armed groups in Somalia.
(iii) Forced marriage, FGM and sexual abuse

Similarly, children in Somalia continue to be at the risk of forced marriage and other forms of sexual abuse. A 2016 report by the United Nations Population Fund (UNFPA) established that one in every 10 girls in the country below the age of eighteen had been married at least once in their live. The majority of these girls are forced to marry when they are still legally children as per the CRC by their families and close relatives (UNFPA, 2016:16). The Multi-Indicator Cluster Survey (MICS) issued by UNICEF in 2006 indicate that at least 46% of girls in Somalia get married before they turn 18 years.

According to a report released by UNICEF in early 2019, there continues to be pervasive violation of children rights by parties to the conflict in Somalia (UNICEF, 2019:1). UNICEF (2019:1) reported that out of a survey that sampled some 3,566 children, 569 girls reported that there had been sexually assaulted in some way by parties to the conflict. It found that these trends indicted a 44% increase in the violation of children rights in just one year, between 2017 and 2018.

(iv) School Enrolment

The trends relating to school enrolment by school-aged children in Somalia indicate that they do not enjoy this right, which is fully articulated in the CRC and the ACRWC both to which, Somalia is a signatory. This statistic is supported by the UNFPA released in 2016 which suggested that the out-of-school children and young youths in Somalia aged between 6 and 18 years stands at 3 million (UNFPA, 2016:16). Additionally, the gender disparity in school enrolment for boys and girls is one of the highest as it is estimated that 62% of students enrolled in primary schools are boys compared to girls who stand at 38% (Nicholson, et al., 2012:3). The child school enrolment in Somalia has been drastically affected by multiple crises.
especially lack of incentives and armed conflict as was by the report by the Humanitarian Response and as shown in Table 4.1.

### Table 4.1: Effect of Violations of Children Rights to Education in Somalia in 2016

<table>
<thead>
<tr>
<th>Region</th>
<th>Type of Crisis</th>
<th>Month of Data Collection</th>
<th>No. of School Children Affected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bakool</td>
<td>Armed conflict</td>
<td>December</td>
<td>8,580</td>
</tr>
<tr>
<td>Banadir</td>
<td>Lack of incentives</td>
<td>May</td>
<td>18,244</td>
</tr>
<tr>
<td>Bari</td>
<td>Armed conflict</td>
<td>December</td>
<td>929</td>
</tr>
<tr>
<td>Bay</td>
<td>Lack of incentives</td>
<td>May</td>
<td>2,154</td>
</tr>
<tr>
<td>Gaalgaduud</td>
<td>Armed conflict and Lack of incentives</td>
<td>May &amp; December</td>
<td>2,444</td>
</tr>
<tr>
<td>Hiran</td>
<td>Armed conflict</td>
<td>December</td>
<td>1,330</td>
</tr>
<tr>
<td>Lower Shabelle</td>
<td>Armed conflict and lack of incentives</td>
<td>May &amp; December</td>
<td>4,266</td>
</tr>
<tr>
<td>Middle Shabelle</td>
<td>Lack of incentives</td>
<td>May</td>
<td>1,484</td>
</tr>
<tr>
<td>Muduug (Gaalkay)</td>
<td>Armed conflict</td>
<td>October</td>
<td>20,000</td>
</tr>
</tbody>
</table>


The persistence of trends of the violation of children rights in Somalia can be attributed to several factors including but not limited to the lack of capacity of the FGS to exercise full authority over the whole of Somalia especially in rural areas. The other contributing factor is the manner in which a child is considered within the Somalia society, the integration of *Xeer* world view and *Shari’aa* has continued to create loopholes that permit the violation of rights of the child that are upheld in international children rights law that Somalia is a party to.
4.3 Government and NGO’s Participation in Children Rights Protection in Somalia

Several stakeholders are involved in children rights protection activities. These stakeholders include NGOs, government ministries and religious leaders. Table 4.1 shows a cross-tabulation of organization involvement in children rights protection and perception of organization’s level of involvement in children rights protection. As shown, the majority of the respondents from all the sampled organizations indicated that their respective organization was not only involved in the protection of children rights but considered children rights violation as a serious problem in Somalia.

Out of the 18 respondents from Save the Children, 15 considered the violation of children rights as a serious problem. The respondents from Oxfam, HRDs Coalition Somalia, Somalia NGO Consortium, Health Poverty Action, and Care International all indicated that their organization was not involved in but perceived children rights violation as a serious problem in Somalia. More results of the cross-tabulation are as shown in Table 4.2.

Table 4.2: Cross-Tabulation of Involvement in and Perception of Children Rights Protection

<table>
<thead>
<tr>
<th>Respondents' NGOs</th>
<th>NGOs' of Level of Children Rights Violation</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Not at all a problem</td>
<td>Not sure</td>
</tr>
<tr>
<td>Save the Children</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>UNICEF</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Oxfam</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>HRDs Coalition Somalia</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Somalia NGO Consortium</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Health Poverty Action</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Care International</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>

The sampled government officials were also asked to indicate whether their ministry was involved in children rights protection and the level of priority that their ministry accorded to the protection of children rights. Table 4.3 show the results of the cross-tabulation Ministry's Involvement in Children Rights Protection Issues and the level of priority accorded children rights protection by ministry. As shown, just 2 out of 10 respondents indicated that their ministry was not at all involved.
in the protection of children rights. Two out of 5 respondents who answered that their ministry was intensely involved the protection of child indicated that their ministry considered children rights protection as the most important priority.

Table 4.3: Cross-Tabulation of Ministry's Involvement in and Level of Priority It Accords Children Rights Protection

<table>
<thead>
<tr>
<th>Ministry's Involvement in Children Rights Protection Issues</th>
<th>Level of Priority Accorded Children Rights Protection</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not at all involved</td>
<td>Not a priority</td>
<td></td>
</tr>
<tr>
<td>Somewhat involved</td>
<td>Not at all involved</td>
<td></td>
</tr>
<tr>
<td>Moderately involved</td>
<td>Not at all involved</td>
<td></td>
</tr>
<tr>
<td>Intensely involved</td>
<td>Not at all involved</td>
<td>2</td>
</tr>
<tr>
<td>Total</td>
<td>Total</td>
<td>10</td>
</tr>
</tbody>
</table>

The study also sought to establish which areas of children rights protection specific ministries were involved in. Table 4.4 shows areas of child protection in which different ministries were involved.

The Ministry of Women & Human Rights Development was involved in the fight against early and forced child marriage and the fight against child sexual abuse/rape/exploitation, the Ministry of Religious Affairs was only involved in fight against child sexual abuse/rape/exploitation, the ministry of labor was fight against early and forced child marriage, Ministry of Health in fight against (forced) FGM/C, Ministry of Planning in fight against child malnutrition and hunger, while the Ministry of Presidency was not involved in any area of children rights protection.
Table 4.4: Areas of Ministry's Involvement in Children Rights Protection

<table>
<thead>
<tr>
<th>Areas of Children Rights Protection the Ministry has Participated in</th>
<th>Fight against early and forced child marriage</th>
<th>Fight against FGM/C</th>
<th>Fight against child malnutrition and hunger</th>
<th>Fight against child sexual abuse/rape/exploitation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry of Women &amp; Human Rights Development</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Ministry of Religious Affairs</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Ministry of Labor</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Ministry of Health</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Ministry of Planning</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Ministry of Presidency</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

The sampled government officials were asked to indicate their level of agreement on whether the new Constitution of Somalia had facilitated the implementation of the CRC, Table 4.5 shows the results which were obtained. The 2 respondents from the Ministry of Women & Human Rights Development, the respondents from Ministry of Religious Affairs, of the 2 respondents from the Ministry of Labor one agreed and one disagreed, the respondent from the Ministry of Health Agreed and out of the 3 respondents from the Ministry of Planning one agreed and two disagreed. The respondent from the Ministry of the Presidency agreed that the new Constitution of Somalia had facilitated the implementation of the CRC.

Table 4.5: Whether the New Constitution of Somalia Had Helped Implementation of CRC

<table>
<thead>
<tr>
<th>The Constitutions Has Enhanced the Implementation of CRC</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Agree</td>
</tr>
<tr>
<td>Ministry of Women &amp; Human Rights Development</td>
<td>0</td>
</tr>
<tr>
<td>Ministry of Religious Affairs</td>
<td>1</td>
</tr>
<tr>
<td>Ministry of Labor</td>
<td>1</td>
</tr>
<tr>
<td>Ministry of Health</td>
<td>1</td>
</tr>
<tr>
<td>Ministry of Planning</td>
<td>1</td>
</tr>
<tr>
<td>Ministry of Presidency</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>5</strong></td>
</tr>
</tbody>
</table>
4.4 Mediating Between Culture, Shari’a and the CRC in Child Rights Protection

The continued trends in the violation of children rights in Somalia can be partly attributed to the ambiguity concerning who a child is within Somalia society and the mismatch between this understanding and the provision of the international child protection law especially those of the CRC. At the root of this problem is the Xeer, the customary law of Somalia which is based on the integration of Somali cultural traditions and Shari’a. It is found that Xeer and Shari’a (or Islamic) occasionally overlap to provide the basic legal system for arbitrating practically all issues within the Somalia community (Gundel, 2006:ii).

It is on Xeer, that certain practices that violate the rights of the child are based. Such practices include FGM. According to a report by the United Nations Development Program (UNDP), 98% of young girls in Somalia have undergone FGM. The preferred age of performing FGM is when the girls are seven years old. Xeer also conditions marriage in FGM, meaning that girls who do not undergo the FGM find it hard to get married (Ibrahim, et al., 2010:52). From the survey, 20% of the staff working with NGOs in Somalia indicated that the fight against FGM should be given special attention.

Similarly, a significant proportion of government officials, 30% considered the fight against FGM as requiring special attention. These findings attest to the extent to which this act is considered among government officials and the NGOs community as an issue hindering the protection of children rights in Somalia. The results are as shown in Table 4.1 and Table 4.2. The results also imply that there is need to mediate between the protection of children rights and Xeer which is at the basis of these violations.
Table 4.6: NGO Staff’s Perception of Area of Child Protection Considered Needing Special Attention

<table>
<thead>
<tr>
<th>Area of Child Protection</th>
<th>Frequency (n)</th>
<th>Percent (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fight against forced child recruitment</td>
<td>3</td>
<td>12.0</td>
</tr>
<tr>
<td>Fight against early and forced child marriage</td>
<td>1</td>
<td>4.0</td>
</tr>
<tr>
<td>Fight against (forced) FGM/C</td>
<td>5</td>
<td>20.0</td>
</tr>
<tr>
<td>Fight against child malnutrition and hunger</td>
<td>3</td>
<td>12.0</td>
</tr>
<tr>
<td>Fight for child primary education</td>
<td>3</td>
<td>12.0</td>
</tr>
<tr>
<td>Fight against child sexual abuse/exploitation/rape</td>
<td>6</td>
<td>24.0</td>
</tr>
<tr>
<td>All areas of children rights</td>
<td>3</td>
<td>12.0</td>
</tr>
<tr>
<td>Not sure</td>
<td>1</td>
<td>4.0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>25</strong></td>
<td><strong>100.0</strong></td>
</tr>
</tbody>
</table>

Table 4.7: Government Official’s Perception of Area of Child Protection Considered Needing Special Attention

<table>
<thead>
<tr>
<th>Area of Child Protection</th>
<th>Frequency (n)</th>
<th>Percent (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fight against (forced) FGM/C</td>
<td>3</td>
<td>30.0</td>
</tr>
<tr>
<td>Fight against child malnutrition and hunger</td>
<td>2</td>
<td>20.0</td>
</tr>
<tr>
<td>Fight for child primary education</td>
<td>1</td>
<td>10.0</td>
</tr>
<tr>
<td>Child sexual abuse/rape/exploitation</td>
<td>3</td>
<td>30.0</td>
</tr>
<tr>
<td>All areas of children rights protection</td>
<td>1</td>
<td>10.0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>10</strong></td>
<td><strong>100.0</strong></td>
</tr>
</tbody>
</table>

The interview results showed that even among the religious leaders in Somalia, there is no universal acceptance of who a child is. As shown in Figure 4.2, 36.4% of the religious leaders considered a child to be a person who has not attained maturity/reached puberty, 27.3% thought of a child as person aged less than 15 years old, 18% thought a child was a person aged under 14 years and 9.1% deemed a child as a person less than 10 years old. It is this understanding that has created a moral and legal gap that permits persons considered as children under international legal documents to have their rights violated. The fact that Shari’a is only a complementary law and does not supplant the influence of the Xeer means that the protection of children rights in Somalia will continue to be elusive.
4.5 Chapter Summary

This chapter has presented the results and findings of this study. The results and findings have been provided in line with the three research objectives, which this study sought to realize. It has used a mixed method approach including qualitative and quantitative approaches to present this study’s results and findings. The qualitative approach involved the use of content analysis while the quantitative approach as involved the use of descriptive and inferential statistics. The next chapter, Chapter five provides the conclusion and recommendations of this study.
CHAPTER FIVE

5.0 CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

The conclusion and the recommendations of this study are provided in this chapter. It begins by providing the summary of this study reiterating the purpose and the objectives it sought to realize and the research methodology that it used. It also provides a summary of the major findings and reflects on the appropriateness of the attendant theories.

5.2 Summary of Study and Major Findings

The purpose of this study was to examine the relevance of the child protection laws in Somalia. It aimed to achieve three objectives; to examine trends in child rights protection in Somalia between 2012 and 2018, to investigate how the government of Somalia has mediated between culture, Shari’a laws and the CRC to enhance child rights, and to examine how non-governmental organizations have participated in enhancement and violation of child rights in Somalia.

To achieve these objectives, this study used a case study research design. It applied a mixed method approach. Specifically, it used both qualitative approaches (interpretivism) and quantitative approaches (positivism). As per the interpretivist approach, the researcher used background study and content analysis and in line with positivist approach, the researcher sampled respondents and used semi-structured interview schedules and participant observation to collect the necessary data. Participants in this study included government officials, religious leaders and people working on child related issues with NGOs in Somalia.
5.3 Conclusion

5.3.1 Trends Underpinning Child Rights Protection in Somalia

Trends in children rights protection in Somalia indicate that children in Somalia are not only vulnerable to their rights being violated but also to a persistent systemic problem that allow the violations to occur. Despite the presence of the new Constitution and the presence of the FGS, the violation of children rights in Somalia continues. Children in Somalia continues to fall victims of rights violations including torture, forced conscription into armed and criminal groups, rape, abduction, forced marriages, sex slaves and other forms of physical and sexual abuse. The existing laws have proved ineffective in addressing the issue and the Xeer tradition and the precedence of Shari’a as the bases of Somalia legal system has created loopholes which allow violations to continue.

The weak capacity of the FGS to implement both domestic and international laws safeguarding the rights of the child in Somalia has rendered the laws irrelevant as far as protecting the rights of the child in the country is concerned. As such, it can be said that Child protection laws have no significant relevance in Somalia. This is especially so because all the relevant stakeholders including government officials, NGOs working in child related issues and religious leaders accept that children rights violation is a serious problem in Somalia. The implication of therefore is that the negative trends in the violation of children rights persist not because of stakeholder’s failure to acknowledge its magnitude but perhaps because the relevant legal mechanisms, especially the existing law and the enforcement mechanism are irrelevant in directly and effectively addressing the issue. Therefore, not unless the CRC and other international laws are effectively implemented the negative trends will continue to be observed.
5.3.2 Government and NGO’s Participation in Children Rights Protection in Somalia

The FGS and the NGO’s as well as the religious leaders are very much involved in activities associated with children rights protection. Nonetheless, the NGOs are especially actively involved as compared to the other two stakeholders. The key areas of involvement include; the fight against forced child recruitment, the fight against early and forced child marriage, the fight against forced FGM/C, the fight against child sexual abuse/exploitation/rape, fight against child malnutrition and hunger and the fight for child primary education.

Nonetheless, the key stakeholders have especially focused on certain areas; especially the fight for child primary education, the fight against forced FGM/C, and the fight against child sexual abuse/exploitation/rape. However, there is need for the co-ordination of the activities of these stakeholders to ensure that all children rights are effectively safeguarded. The lack of a framework of co-ordination of activities among the key means that a lot of resources and time is wasted at the expense of other areas of children rights protection.

5.3.3 Mediating Between Culture, Shari’a and the CRC in Child Rights Protection in Somalia

There is a disjoint between culture, Shari’a and the CRC’s understanding of children rights. This has negatively affected the efforts aimed at safeguarding the rights of the child in Somalia. The FGS’s attempts to mediate between Xeer, Shari’a and CRC have not been successful and this is attested to by the persistent negative trends in the violation of children rights in Somalia. The most important point of diversion relates to the understanding of who is a child; all three Xeer, Shari’a and CRC have different understanding of who a child is and thereby rights and privileges a person considered a child should have. Within the CRC, a child is a person aged more than 18, Xeer’s and Shari’a understanding is that a child is either a person who has not attained maturity. This problematic understanding of a child has created ambiguity in the laws
applicable to child protection in Somalia and has hindered the effective implementation of the CRC.

5.4 Recommendation

Based on information gathered and the study findings, the study makes the following recommendations for improvement and for further research concerning the findings made.

5.4.1 Recommendations for Improvement

5.4.1.1 Trends Underpinning Child Rights Protection in Somalia

There is need for the key stakeholders, particularly the FGS, the NGOs and the religious leaders to go beyond acknowledging the rampant violation of children rights in Somalia and to coordinate their activities to halt and reverse the trends. The FGS need to acknowledge the loopholes in the existing laws relating to the protection of the rights of the child. As such, it needs to work with the Parliament of Somalia and amend parts of the Constitution to allow for greater protection of the children. The FGS should establish a child rights enforcement taskforce that integrates the various relevant ministries to spearhead the full implementation of the rights of the children as entailed in the Constitution and the relevant international legal instrument to which Somalia is a party. The NGOs and religious leaders should implement ways of sensitizing communities and cultural leaders about the plight of children in Somalia and inform them on how they should ensure that the rights of the children are safeguarded.

5.4.1.2 Government and NGO’s Participation in Children Rights Protection in Somalia

The FGS, the NGOs and the religious leaders should co-ordinate their activities to avoid task duplication and in so doing enhance the protection of the rights of children in Somalia. The NGOs and religious leaders must establish effective presence in all parts of Somalia including Somaliland and Puntland which are under other ‘governments’ to help protect the rights of the children in such regions. There is need for the FGS to ensure that it effectively addresses the
issue of child malnutrition and hunger, child primary education and child sexual abuse and rape.

5.4.1.3 Mediating Between Culture, Shari’a and the CRC in Child Rights Protection in Somalia

The key stakeholders including the FGS, the NGOs and the religious leaders should consult with political and community leaders to make sure that they arrive at way in which they can address the issues pertaining to culture and religion that hinder the protection of the rights of the children. The FGS should consult with religious leaders and establish a proper integration of rights of the child as entailed within the reading of the CRC and in a way that does to interfere of the underpinning teachings of Islam. The FGS should ensure that the religious leaders reconsider how they define a child and sensitize them on the implications of their understanding of children rights in the protection or violation of children rights.

5.4.1.4 Suggestions for Future Research

Researchers should conduct more studies about the protection or violation of children rights in fragile and collapsed states and provide policy recommendations that can facilitate the improvement of the protection of children rights in such contexts. Researchers and scholars should conduct studies that sample Somalia’s children and contribute to the limited information concerning child rights protection in Somalia. In so doing, the researchers should do a cross-sectional study of children in urban and rural Somalia and provide a basis upon which the protection children rights in Somalia can be improved.
REFERENCES


APPENDICES

INTERVIEW SCHEDULE (For Govt. Officials)
CHILD PROTECTION IN CONFLICT SITUATIONS: CONTEXTUALIZING THE RELEVANCE OF CHILD PROTECTION LAWS IN SOMALIA

Date ______________________

Kindly read each question and respond to it the best of your ability and where necessary mark with a tick [√] in the boxes provided.

There are no accurate or inaccurate responses; your answers are crucial to the study. All replies to this survey are completely confidential. All identifying information if any will be removed during the data entry and analysis; however, you are requested to respond anonymously. The questionnaire will take an average of 20 minutes to fill. Thank you for participating in this study.

1. Please indicate which ministry you work for

<table>
<thead>
<tr>
<th>Ministry of Human Rights</th>
<th>Ministry of Labor, Youth and Sports</th>
<th>Ministry of Justice and Religious Affairs</th>
<th>Ministry of Interior and National Security</th>
<th>Min. of Social Services &amp; Development</th>
</tr>
</thead>
</table>

2. Please indicate how long you have worked with the NGO

<table>
<thead>
<tr>
<th>Less than 1 yr.</th>
<th>Less than 5 years</th>
<th>5 to 10 yrs.</th>
<th>Less than 15 yrs.</th>
<th>15 yrs. and over.</th>
</tr>
</thead>
</table>

3. How would you rate your ministry/departments involvement in issues of child protection?

<table>
<thead>
<tr>
<th>Not at all involved</th>
<th>Somewhat involved</th>
<th>Not sure</th>
<th>Moderately involved</th>
<th>Intensely involved</th>
</tr>
</thead>
</table>

4. How frequently has your ministry directly participated in any issue that directly affects the child in Somalia

<table>
<thead>
<tr>
<th>Never</th>
<th>Rarely</th>
<th>Not sure</th>
<th>Frequently</th>
<th>Very frequently</th>
</tr>
</thead>
</table>

5. How would you say that children rights protection is a priority for your ministry?

<table>
<thead>
<tr>
<th>Not a priority</th>
<th>Low priority</th>
<th>Not sure</th>
<th>Moderate priority</th>
<th>High priority</th>
</tr>
</thead>
</table>

6. Which of the following areas of children rights protection has your ministry participated in Somalia?

[ ] Fight against forced child recruitment

[ ] Fight against early and forced child marriage

[ ] Fight against forced FGM/C
[ ] Fight against child sexual abuse/exploitation/rape
[ ] Fight against child malnutrition and hunger
[ ] Fight for child primary education
[ ] Other, specify ____________________________________________________________

7. In your own opinion, what level of importance would you say the government of Somalia has given to child rights protection in Somalia since it came to power in 2012?
   [ ] No importance at all
   [ ] Low importance
   [ ] Not sure
   [ ] Slight importance
   [ ] Moderate importance
   [ ] Extreme importance

Please state a reason for your answers
_____________________________________________________________________________
_____________________________________________________________________________
_____________________________________________________________________________

8. To what extent would you say the local culture has interfered with the efforts of the religious actors to ensure child protection in Somalia?
   [ ] To no extent at all
   [ ] To a moderate extent
   [ ] Not sure
   [ ] To a large extent
   [ ] Extensively

Please state a reason for your answers
_____________________________________________________________________________
_____________________________________________________________________________
_____________________________________________________________________________

9. Which of the areas of child protection identified in question 6, would you say is the most important and should be given special attention and why?
_____________________________________________________________________________
_____________________________________________________________________________
_____________________________________________________________________________


10. Briefly state what you think your ministry should do to help promote children rights protection in Somalia?

______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________

11. Briefly explain what you think religious leaders and community leaders should do to enhance the protection of the rights of the child in Somalia?

a) Religious leaders
______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________

b) Community leaders
______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________

12. Do you agree or disagrees that Sharia law has enhance the implementation of the Convention on the Rights of the Child (CRC)? Give a reason for your answer_____________________

______________________________________________________________________________
______________________________________________________________________________

13. Briefly state what you think the government of Somalia should do to help promote children rights protection in Somalia?

______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________

END
 Thanks for Your Participation in this Study
INTERVIEW SCHEDULE (For Religious Leaders)

CHILD PROTECTION IN CONFLICT SITUATIONS: CONTEXTUALIZING THE RELEVANCE OF CHILD PROTECTION LAWS IN SOMALIA

Date __________________________

Kindly read each question and respond to it the best of your ability and where necessary mark with a tick [✓] in the boxes provided.

There are no accurate or inaccurate responses; your answers are crucial to the study. All replies to this survey are completely confidential. All identifying information if any will be removed during the data entry and analysis; however, you are requested to respond anonymously. The questionnaire will take an average of 20 minutes to fill. Thank you for participating in this study.

1. **Please indicate how long you have been a leader in your respective faith**

<table>
<thead>
<tr>
<th>Less than 1 yr.</th>
<th>Less than 5 years</th>
<th>5 to 10 yrs.</th>
<th>Less than 15 yrs.</th>
<th>15 yrs. and over.</th>
</tr>
</thead>
</table>

2. **How would you rate your religion’s perception of the level children rights violation problem in Somalia?**

<table>
<thead>
<tr>
<th>Not at all a problem</th>
<th>A minor problem</th>
<th>Not sure</th>
<th>Moderate problem</th>
<th>Serious problem</th>
</tr>
</thead>
</table>

3. **How frequent has your religion directly participated in any issue that directly affects the child in Somalia?**

<table>
<thead>
<tr>
<th>Never</th>
<th>Rarely</th>
<th>Not sure</th>
<th>Frequently</th>
<th>Very frequently</th>
</tr>
</thead>
</table>

4. **How would you say that children rights protection is a priority within Islam?**

<table>
<thead>
<tr>
<th>Not a priority</th>
<th>Low priority</th>
<th>Not sure</th>
<th>Moderate priority</th>
<th>High priority</th>
</tr>
</thead>
</table>

5. **Who is a child to you? Briefly explain your answer______________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

6. **Which of the following areas of children rights protection have Islamic leaders participated in Somalia?**

   [ ] Fight against forced child recruitment
   
   [ ] Fight against early and forced child marriage
   
   [ ] Fight against forced FGM/C
7. In your own opinion, what level of importance would you say your religion has given to child rights protection in Somalia since it came to power in 2012?

[ ] No importance at all
[ ] Low importance
[ ] Not sure
[ ] Slight importance
[ ] Moderate importance
[ ] Extreme importance

Please state a reason for your answers

______________________________________________________________________________

______________________________________________________________________________

______________________________________________________________________________

8. To what extent would you say the local culture has interfered with the efforts of the religious actors to ensure child protection in Somalia?

[ ] To no extent at all
[ ] To a moderate extent
[ ] Not sure
[ ] To a large extent
[ ] Extensively

Please state a reason for your answers

______________________________________________________________________________

______________________________________________________________________________

______________________________________________________________________________

9. Which of the areas of child protection identified in question 6, would you say is the most important and should be given special attention and why?

______________________________________________________________________________

______________________________________________________________________________

______________________________________________________________________________

______________________________________________________________________________
10. Briefly explain how you think sharia laws have influenced the implementation of the Convention on the Rights of the Child?

______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________

11. Briefly highlight what you think your religious leaders should do to help promote children rights protection in Somalia?

______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________

12. Briefly explain what you think the government of Somalia should do to help promote children rights protection in Somalia?

______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________

END
Thanks for Your Participation in this Study
INTERVIEW SCHEDULE (For Ngo staff)
CHILD PROTECTION IN CONFLICT SITUATIONS: CONTEXTUALIZING THE RELEVANCE OF CHILD PROTECTON LAWS IN SOMALIA

Date________________________

Kindly read each question and respond to it the best of your ability and where necessary mark with a tick [✓] in the boxes provided.

There are no accurate or inaccurate responses; your answers are crucial to the study. All replies to this survey are completely confidential. All identifying information if any will be removed during the data entry and analysis; however, you are requested to respond anonymously. The questionnaire will take an average of 20 minutes to fill. Thank you for participating in this study.

14. Please indicate which NGO you work for

<table>
<thead>
<tr>
<th>Save the Children</th>
<th>UNICEF</th>
<th>WFP</th>
<th>WHO</th>
<th>Other, specify</th>
</tr>
</thead>
</table>

15. Please indicate how long you have worked with the NGO

<table>
<thead>
<tr>
<th>Less than 1 yr.</th>
<th>Less than 5 years</th>
<th>5 to 10 yrs.</th>
<th>Less than 15 yrs.</th>
<th>15 yrs. and over</th>
</tr>
</thead>
</table>

16. How would you rate your NGO’s perception of the level children rights violation problem in Somalia?

<table>
<thead>
<tr>
<th>Not at all a problem</th>
<th>A minor problem</th>
<th>Not sure</th>
<th>Moderate problem</th>
<th>Serious problem</th>
</tr>
</thead>
</table>

17. How frequent has your NGO directly participated in any issue that directly affects the child in Somalia?

<table>
<thead>
<tr>
<th>Never</th>
<th>Rarely</th>
<th>Not sure</th>
<th>Frequently</th>
<th>Very frequently</th>
</tr>
</thead>
</table>

18. How would you say that children rights protection is a priority for your NGO?

<table>
<thead>
<tr>
<th>Not a priority</th>
<th>Low priority</th>
<th>Not sure</th>
<th>Moderate priority</th>
<th>High priority</th>
</tr>
</thead>
</table>

19. Which of the following areas of children rights protection has your NGOs participated in Somalia?

- [ ] Fight against forced child recruitment
- [ ] Fight against early and forced child marriage
- [ ] Fight against forced FGM/C
- [ ] Fight against child sexual abuse/exploitation/rape
- [ ] Fight against child malnutrition and hunger
- [ ] Fight for child primary education
- [ ] Other, specify___________________________________________________

20. In your own opinion, what level of importance would you say the government of Somalia has given to child rights protection in Somalia since it came to power in 2012?

- [ ] No importance at all
- [ ] Low importance
- [ ] Not sure
Questions:

[ ] Slight importance  
[ ] Moderate importance  
[ ] Extreme importance

Please state a reason for your answers:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

21. Which of the areas of child protection identified in question 6, would you say is the most important and should be given special attention and why?

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

22. Briefly state what you think your NGOs should do to help promote children rights protection in Somalia?

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

23. Briefly state what you think the government of Somalia should do to help promote children rights protection in Somalia?

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

End

Thanks for Your Participation in this Study
CONSENT FORM

This informed consent form is for government officials in Somalia and staff working for NGOs based in Somalia who I am inviting to participate in a research titled Child Rights Protection in Conflict Situations: Contextualizing the Relevance of Child Protection Laws in Somalia.

Name of Principle Investigator – Zamzam Idris Mohamed

Name of Organization – United States International University, Africa (USIU)

Name of Project– Child Rights Protection in Conflict Situations: Contextualizing the Relevance of Child Protection Laws in Somalia

This Informed Consent Form has two parts:
• Information Sheet (to share information about the study with you)
• Certificate of Consent (for signatures if you choose to participate)

You will be given a copy of the full Informed Consent Form

Part I: Information Sheet

Introduction

I am Zamzam Idris, a student at United States International University, Africa. I am doing research on Child Rights protection in conflict situations and will be examining the relevance of Child Protection Laws in the case of Somalia. I am going to give you information and invite you to be part of this research. You do not have to decide today whether or not you will participate in the research. Before you decide, you can talk to anyone you feel comfortable with about the research.

This consent form may contain words that you do not understand. Please ask me to stop as we go through the information and I will take time to explain. If you have questions later, you can ask them of me or of anyone else you feel comfortable asking.

Purpose of the research

Throughout history, children have been involved and have suffered due to the consequences of armed conflict. They continue to experience both the physical and psychological consequences of war. As conflict continued to be more widespread, states came together and decided to adopt the Declaration of the Rights of the Child in an attempt to address the violations suffered by children. Implementation of child rights has become highly intertwined with other elements such as socio-economic factors, religion and culture. The general purpose of this study is to examine child rights protection in the case of Somalia. The study seeks to identify the key trends in child rights violation in Somalia and how the government mediates between culture and sharia laws in the enhancement of child protection. It also seeks to identify how non-governmental organizations are participating in enhancing child rights.

Type of Research Intervention

This research will involve your participation in in filling a questionnaire and will take about twenty minutes.

Participant Selection

You are being invited to take part in this research because you work for an organization that deals directly with protecting the rights of children in Somalia and are involved with campaigning for policies that promote child rights and hence can contribute to our knowledge of child protection laws in Somalia.

Voluntary Participation

Your participation in this research is entirely voluntary. The choice that you make will have no bearing on your job or on any work-related evaluations or reports. You may change your mind later and stop...
participating even if you agreed earlier.

**Procedures**
I am asking you to help me learn more about the relevance of Child Protection Laws in the case of Somalia. If you accept to take part in this research, you will be asked to fill out a survey which will be provided by Zamzam Idris (me). You may answer the questionnaire yourself, or it can be read to you and you can say out loud the answer you want to be written down. If you do not wish to answer any of the questions included in the survey, you may skip them and move on to the next question. The information recorded is confidential, your name is not being included on the forms, only a number will identify you, and no one else except me, the principal investigator will have access to your survey.

**Duration**
The research takes place over two months in total. During that time, I will visit you to share the questionnaire. In the event that I cannot visit you I will instead share a link with the questionnaire which you will submit online once you are done. It will take about twenty minutes for you to fill the questionnaire.

**Risks**
There is a risk that you may share some personal or confidential information by chance, or that you may feel uncomfortable talking about some of the topics. However, I do not wish for this to happen. You do not have to answer any question or take part in the survey if you feel the question(s) are too personal or if talking about them makes you uncomfortable.

**Benefits**
There will be no direct benefit to you, but your participation is likely to help us find out more about how to protect the rights of children in Somalia.

**Reimbursements**
You will not be provided any incentive to take part in the research.

**Confidentiality**
The research being done is for academic purposes. I will not be sharing information about you to anyone outside. The information that I collect from this research project will be kept private. Any information about you will have a number on it instead of your name. Only I will know what your number is and I will lock that information up with a lock and key. It will not be shared with or given to anyone except the university.

**Sharing the Results**
Nothing that you share will be shared with anybody outside the University, and nothing will be attributed to you by name. The knowledge that I get from this research will be shared with you at the end of the study.

**Right to Refuse or Withdraw**
This is a reconfirmation that participation is voluntary and includes the right to withdraw. You do not have to take part in this research if you do not wish to do so, and choosing to participate will not affect your job or job-related evaluations in any way. You may stop participating in the survey at any time that you wish without your job being affected.

**Who to Contact**
If you have any questions, you can ask them now or later. If you wish to ask questions later, you may contact:

Name: Zamzam Idris  
Telephone: +254702009824  
Email: idriszamu@gmail.com

This proposal has been reviewed and approved by IRB USIU- A, which is tasked to make sure that research participants are protected from harm. If you wish to find out more about the IRB, contact irb@usiu.ac.ke
You can ask me any more questions about any part of the research study, if you wish to. Do you have any questions?

**Part II: Certificate of Consent**

(This section is mandatory)
I have read the foregoing information, or it has been read to me. I have had the opportunity to ask questions about it and any questions I have been asked have been answered to my satisfaction. I consent voluntarily to be a participant in this study.

Name of Participant__________________
Signature of Participant__________________
Date ___________________________

Day/month/year

**Statement by the researcher/person taking consent**

I have accurately read out the information sheet to the potential participant, and to the best of my ability made sure that the participant understands that the following will be done:

1. The research is purely for academic purposes.
2. My identity will not be disclosed to anyone else outside of the principal researcher.
3. I can withdraw from the research at any point during the duration of the research.

I confirm that the participant was given an opportunity to ask questions about the study, and all the questions asked by the participant have been answered correctly and to the best of my ability. I confirm that the individual has not been coerced into giving consent, and the consent has been given freely and voluntarily.

A copy of this Informed Consent Form has been provided to the participant.

Name of Researcher/person taking the consent________________________

Signature of Researcher/person taking the consent________________________

Date ___________________________

Day/month/year
DEBRIEF FORM

Thank you for participating in this study! We hope you enjoyed the experience. This form provides background about our research to help you learn more about why we are doing this study. Please feel free to ask any questions or to comment on any aspect of the study.

You have just participated in a research study conducted by Zamzam Idris from United States International University, Africa (USIU-A).

As you know, your participation in this study is voluntary. If you so wish, you may withdraw after reading this debriefing form, at which point all records of your participation will be destroyed. You will not be penalized if you withdraw.

I do not expect to do follow-up surveys during future semesters. However, it is important that you do NOT talk (or write or e-mail, etc.) about this project with your colleagues and the questions contained in the survey. The main reason for this is that YOUR COMMENTS could influence the expectations, and therefore, performance of a future participant, which would bias our data. We hope you will support our research by keeping your knowledge of this study confidential.

You may keep a copy of this debriefing for your records. OR Please return this debriefing form to the researcher. Contact information for the researcher and/or contact person and the IRB is on your copy of the consent form which you may keep for your records.

If you have questions now about the research, please ask. If you have questions later, please contact:
Name: Zamzam Idris
Telephone: +254702009824
Email: idriszamu@gmail.com

If as a result of your participation in this study, you experienced any adverse reaction, please contact irb@usiu.ac.ke
15th August, 2019

ZAMZAM IDRIS MOHAMED
United States International University – Africa
School of Humanities and Social Sciences
idriszamu@gmail.com
USIU-A/IRB/78-15

Dear Ms. Mohamed,

IRB-Research Approval

The USIU-A IRB has reviewed and granted an ethical approval for the research proposal titled “Child Rights Protection in Conflict Situations: Contextualizing the Relevance of Child Protection Laws in Somalia.”

The approval is for twelve months from the date of IRB. A Continuing Review application must be approved within this interval to avoid expiration of IRB approval and cessation of all research activities. A mid-term report and a final report must be provided to the IRB within the twelve months’ approval period. All records relating to the research (including signed consent forms) must be retained and available for audit for at least 3 years after the research has ended.

You are advised to follow the approved methodology and report to the IRB any serious, unexpected and related adverse events and potential unanticipated problems involving risks to subjects or others.

Should you or study participants have any queries regarding IRB’s consideration of this project, please contact irb@usi.ac.ke.

Sincerely,

Prof. Amos Njuguna,
IRB chair
Tel: +254 730 116 442
Email: amosnjuguna@usi.ac.ke