

# Do our children have rights?

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## Summary of the Dissertation

This research studies children's rights in Somaliland, an unrecognised State located in the Horn of Africa. Using a legal doctrinal methodology that is a combination of descriptive and evaluative approaches, it studies the applicability of international child (human) rights laws on the unrecognised State of Somaliland and evaluates how the domestic laws of Somaliland protect or do not protect children's rights. Currently, the prevailing narrative concerning child (human) rights is centred on (recognised) States, the implementation of human rights obligations, and the role of non-State actors. Activists and researchers often examine if a particular State has signed a particular treaty and, if the answer is yes, whether the obligations therein have been fulfilled. This research aims to fill the gap by focusing on an unrecognised State from the perspective of international law, in particular international human rights law, in relation to the unrecognised State and the recognised State as well as from the perspective of national law.

To this purpose, chapters 2 to 4 examine the international human rights law aspect of the dissertation by looking at the legal obligation of the relevant actors: Somaliland and Somalia. Chapters 5 to 7 study the national laws of Somaliland vis-à-vis children's rights, and chapter 8 concludes with findings and recommendations.

More specifically, chapter 2 studies the status of Somaliland in the context of international legal personality, statehood and recognition. It aims to situate Somaliland in the international arena where the dichotomy of State and non-State actors dominates. Somaliland has a population, a territory and a government and its capacity to enter into international relations is contested due to the lack of recognition. Somaliland has the attributes of statehood and acts and looks like a State, but internationally, it is considered part of Somalia. Authors employ different terms such as *de facto* State, contested State, breakaway region, self-declared republic, territorial non-State actor, etc. Chapter 2 defines and adopts the term unrecognised State to refer to Somaliland and explains why this term is used.

Chapter 3 focuses on Somaliland's legal obligations under international human rights law and in relation to children's rights. Treaty law, international customary law and norms of *jus cogens* are studied. The chapter examines Somaliland from different scenarios to investigate if there is a human rights obligation on Somaliland as an entity with effective control of a territory internationally recognised to constitute part of Somalia, a Member State of the African Union and the United Nations.

Chapter 4 examines whether Somalia has a legal obligation under the UN Convention on the Rights of the Child (CRC) and general international human rights law in relation to the children in the territory under the control of the government of Somaliland. Somalia has *de jure* recognition yet lacks effective control. The chapter examines the interrelated notions of jurisdiction (*de facto* and *de jure* jurisdiction), territorial sovereignty, and State obligations. It also investigates Somalia's actions under the implementation obligations required by the CRC to understand if Somalia has assumed obligation over the territory.

Chapter 5 concerns the formal national law of Somaliland regarding children's rights. It examines the interactions between the *Xeer*, Sharia and the formal law and examines how formal laws define children's rights. Formal national laws are identified and analysed. Chapter 6 and Chapter 7 are two case studies that focus on the child's right to nationality (chapter 6) and their right to protection from sexual abuse (chapter 7). The domestic laws concerning these two subjects are identified and legally analysed.

Chapter 8 concludes the findings of the research and provides recommendations to stakeholders and the actors at national and international levels. It is in this chapter that the main research question and sub-questions are answered.