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Somalia/Kenya: Protect Civilians in Kismayo

Three Dead, Two Wounded in Kenyan Naval Shelling

The Kenyan government should promptly investigate civilian casualties during fighting between a Kenyan naval ship and al-Shabaab forces in the Somali port town of Kismayo on August 11, 2012. Three civilians – boys aged 11 and 15, and a pregnant woman – are known to have died and two others were wounded, apparently from shells fired by the Kenyan vessel. The Kenyan military confirmed that a naval vessel fired four shells on August 11.

Kenyan armed forces and other parties to the conflict in [Somalia](#) should make every effort to minimize civilian harm during military operations, Human Rights Watch said. Witnesses described shells striking the marina area of Kismayo, where a pregnant woman was killed when a shell hit her home. A witness described her body parts spread across the walls of her house. Another witness also saw a shell go through the roof of a house, killing two boys inside and seriously wounding their 13-year-old brother and their father, who were sitting outside.

“Kenyan, al-Shabaab and all other forces in this conflict need to act to minimize civilian harm,” said [Leslie Lefkow](#), deputy Africa director at Human Rights Watch. “While the details of this incident remain murky, it was the civilians who paid the price.”

Kenya has publicly indicated it intends to capture Kismayo, which is controlled by the Islamist insurgent group al-Shabaab. The spokesman for the Kenyan armed forces told Human Rights Watch that on the evening of August 11, a Kenyan naval ship fired four shells at an al-Shabaab anti-aircraft emplacement and at the jetty in Kismayo. He said that the al-Shabaab forces then returned fire.

Human Rights Watch was not able to verify the spokesman’s description of events. Nor was it able to confirm whether al-Shabaab fighters were present in the residential areas hit by the shelling or where the anti-aircraft emplacement was reportedly located.

Kenyan armed forces have been conducting military operations against al-Shabaab in Somalia since October 16, 2011. On June 2, 2012, following the signing of an agreement with the African Union, Kenyan troops joined the African Union Mission in Somalia (AMISOM). However, the Kenyan navy does not form part of AMISOM.

“The Kenyan authorities need to ensure that measures to minimize civilian casualties are in place for all its military forces, including those outside of the AMISOM mandate,” Lefkow said. “All forces should respect the laws of war, regardless of their status.”

International humanitarian law, or the laws of war, obliges all parties to an armed conflict, including state armed forces and non-state armed groups, to take all feasible precautions to minimize harm to the civilian population. Attacks that target civilians or civilian objects are prohibited, as are attacks that do not discriminate between civilians and military objectives, or are expected to cause civilian harm greater than the anticipated military gain.

While the laws of war do not prohibit fighting in urban areas, the presence of many civilians places greater obligations on all warring parties to take steps to minimize civilian harm. Weapons, such as heavy artillery with a large blast radius may be considered indiscriminate when used in populated areas.

All forces must also avoid deploying near densely populated areas, and strive to remove civilians from the vicinity of their forces. At the same time, attacking forces are not relieved from their obligation to take into account the risk to civilians simply because they consider the defending forces responsible for locating military targets within populated areas.

Governments have an obligation to investigate allegations of serious laws-of-war violations by their military forces.

In recent weeks there have been reports of increased air and naval strikes on Kismayo, but credible information on the situation in the town is scarce, Human Rights Watch said.

“The military operations in south-central Somalia make accurate information and reporting on abuses against civilians even more urgent than before,” Lefkow said. “The United Nations and donor countries should make commitments for a major increase in UN human rights monitors in Somalia.”

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