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SOMALIA

AMNESTY INTERNATIONAL SUBMISSION TO THE UN UNIVERSAL PERIODIC REVIEW

38TH SESSION OF THE UPR WORKING GROUP, MAY 2021

FOLLOW UP TO THE PREVIOUS REVIEW

1. Somalia accepted numerous recommendations¹ made during its 2016 review including adopting necessary measures to prevent violations of human rights and international humanitarian law within the framework of military operations², enacting laws to address gender inequalities, sexual violence and women's rights³ protection and to take concrete measures ensuring freedom of expression, media independence, protection of journalists, and adoption of legislative and other measures to prevent censorship, among other issues.⁴
2. Some progress has been made in certain areas including signing of the African Union (AU) Convention for the Protection and Assistance of Internally Displaced People (IDPs) in Africa, known as the Kampala Convention⁵, the ratification of the UN Convention on the Rights of Persons with Disabilities⁶ and the production of its first report for the Committee on the Rights of the Child.⁷
3. However, little overall progress has been made towards the implementation of many of the 2016 UPR recommendations. For instance, all parties to the ongoing war against Al-Shabaab including Somali security forces and their international partners continue to commit serious violations of international humanitarian law with no accountability.⁸
4. Somalia security forces, including the Somalia National Army (SNA) and the Somali Police Force (SPF), continued causing civilian casualties across the country.⁹
5. US (AFRICOM) (the US military's Africa Command, responsible for military operations including those in Somalia) intensified their air war in Somalia since 2017 conducting at least 194 airstrikes some resulting in civilian casualties. Amnesty International found 21 civilians were killed and 11 others injured in just nine of those airstrikes. While AFRICOM has admitted causing 11 civilian casualties, none of the affected families and victims received justice or reparations from either AFRICOM or Somalia authorities. The Somalia government has not investigated any credible allegations of civilian casualties that resulted from US airstrikes.¹⁰
6. Al-Shabaab continues to regularly target civilians and civilian infrastructure, launching indiscriminate attacks, and carrying out summary killings with no accountability and justice for the victims.¹¹
7. Despite accepting recommendations to protect freedom of expression and journalists' rights, to amend problematic laws restricting the rights to freedom of expression and media freedom such as reviewing the 2015 media law, the new amendments to the 2020 media law still contain some problematic provisions including broad and vague definitions of offences and other administrative restrictions that impede freedom of expression

and media freedom and that require further and urgent review.¹² Authorities have also used heavy handed techniques to crackdown on journalists and other critics.¹³

8. Sexual violence against women and girls is pervasive. Despite Somalia accepting recommendations in the previous review to enact laws that will address gender inequalities and sexual violence, such laws have not been enacted. In August 2020, authorities introduced a “Sexual Intercourse Related Crimes Bill” containing disturbing provisions that breach international law and regional standards relating to rape and other forms of sexual violence including some that may allow child marriages.¹⁴
9. Despite Somalia’s acceptance of recommendations to take all necessary steps to halt forced evictions in all locations under government control,¹⁵ IDPs are grappling with forced evictions carried out by government security forces and private landowners. IDPs are also disproportionately impacted by the COVID-19 pandemic, by the lack of jobs and livelihood options and inadequate water and health services.¹⁶

THE NATIONAL HUMAN RIGHTS FRAMEWORK

10. Since 2018, Somalia has experienced another period of heightened political tension. Much of the attention of the federal and regional authorities, as well as their international partners, has focused on regional and national electoral processes and fighting Al-Shabaab. This has slowed down much needed judicial and constitutional reforms. While significant progress has been made in reviewing the 2012 provisional constitution, the review process has not been completed.¹⁷
11. Somalia accepted recommendations to establish a National Human Rights Commission in 2016.¹⁸ While there has been some progress in identifying the Commission’s members, the government has yet to endorse the list of nominees to operationalize the commission. The non-operationalization of the commission greatly impacts human rights protection in Somalia.¹⁹
12. The review of the Penal Code has stagnated under the current administration.²⁰ Authorities in south central Somalia and in Somaliland continue to use vaguely worded and outdated criminal offences in the Penal Code to crack down on freedom of expression and media freedom.²¹

THE HUMAN RIGHTS SITUATION ON THE GROUND

Civilian protection and violations and abuses in conflict

13. The ongoing conflict between the government, its regional and international partners and Al-Shabaab continues to have devastating impact on the civilian population. All parties to the conflict continue to commit serious violations of international humanitarian law with no accountability.²²
14. Between January 2017 and December 2019, the UN documented 5133 civilian casualties in the context of the conflict in Somalia. Seven percent of these are attributed to (SNA) and (SPF).²³ These include eight casualties resulting from SNA forces opening fire on a busy road at a market area in Mogadishu in July 2018²⁴, and the killing of nine-year-old pupil Deqa Dahir Moalim who was shot and killed on 28 September 2018 by members of the SNA who opened fire at her school bus at the Banadir junction in Mogadishu.²⁵
15. Al-Shabaab regularly targets civilians and civilian infrastructure, launching indiscriminate attacks, and carrying out summary killings of those it perceives to be linked to the government, as well as other civilians.²⁶ The group claimed responsibility for a series of attacks including a truck bombing in December 2019 which killed nearly 100 people and wounded 78 others at the ex-control junction in Mogadishu.²⁷

16. US AFRICOM continued to use drones and manned aircraft to carry out at least 194 attacks in Somalia since 2017. Some of these attacks resulted in civilian casualties. In just nine of those airstrikes, Amnesty International found 21 civilians were killed and 11 others injured. Due to pressure and demands for transparency and accountability by the US Congress and various organizations, including Amnesty International, AFRICOM has since April 2019 admitted to killing five Somali civilians and injuring six others in three separate airstrikes. However, none of those families or victims have received justice or any form of reparation by the US or by the Somalia government.²⁸

Violations against internally displaced people (IDPs)

17. The conflict in Somalia, compounded by recurrent droughts and floods, barriers to accessing humanitarian aid and the worst locust invasion in 25 years, created more IDPs. Over 700,000 of them were displaced in 2019,²⁹ and close to 900,000 have been displaced as of August 2020.³⁰ The IDP population, as a result of the displacement and dispossession is at risk of exploitation and abuse including forced evictions. Women and children in IDP camps and settlements are particularly vulnerable to abuse, marginalization, exclusion and sexual violence. Due to their pre-existing vulnerability, IDPs are disproportionately impacted by the COVID-19 pandemic and are faced with lack of jobs, inadequate water and sanitation, and health services. They are also grappling with forced evictions carried out by government security forces and private landowners. According to the UN, over 100,000 IDPs were evicted from their homes in 2020, most of them forcibly.³¹ Furthermore, new arrivals to IDP camps are facing housing challenges with some of them living in the open exposing them to additional health risks.³²

Sexual violence

18. Sexual violence against women and girls is widespread. In 2019, the UN documented over 100 incidents of sexual violence against girls.³³ Attacks often go unreported due to a climate of impunity, as well as the stigma and fear associated with the crime which prevents many survivors from speaking out. A young girl, Aisha Ilyas Adan, aged 12 years, was gang raped and killed in February 2019 in North Galkayo, Puntland. After a huge public outcry, several suspects were arrested and prosecuted. In February 2020, two men were executed by a Puntland firing squad in Bosaso town for their alleged involvement in Aisha's rape and subsequent killing.³⁴ Despite pledges by the Somalia authorities to strengthen laws on sexual violence, in August 2020, the federal parliament introduced a "Sexual Intercourse Related Crimes Bill" that contains disturbing provisions breaching international law and regional standards relating to rape and other forms of sexual violence including some provisions that may allow child marriages. It also contains flawed definitions of offences. If this proposed bill is passed in its current form, it will be a major blow to the rights of victims of rape and other forms of sexual violence.³⁵

Freedom of expression and media freedom in south central Somalia and Puntland

19. Freedom of expression and media freedom has been severely suppressed since 2017. Journalists were beaten, harassed, threatened, subjected to arbitrary arrests and intimidation by the authorities, including the police, military and other government officials throughout south central Somalia and in Puntland. Authorities also restricted access to information and used new techniques to suppress media freedom including by bribing media outlets to self-censor and by harassing journalists and other critics both online and offline. In June 2019, the Facebook accounts of 10 journalists were permanently disabled without warning by the platform. At least nine journalists fled the country since late 2018 following threats against their lives and are now in exile.
20. At least 10 journalists have been killed since 2017 when President Mohamed Abdullahi Mohamed "Farmajo" took office. Five of the journalists died as a result of Al-Shabaab attacks, four were targeted and killed by unidentified attackers and one was shot dead by a federal police officer in Mogadishu. Apart from two cases, including one in which a policeman who killed a journalist in Mogadishu in 2018 was convicted in absentia but remains at large, no one has been held accountable for killings of the other journalists. Somalia authorities rarely investigate cases of killings or attacks on journalists and for the fifth year in a row in 2019, Somalia topped the Committee to Protect Journalists' (CPJ) Global Impunity Index on countries where those who kill journalists routinely escape prosecution.³⁶

21. Authorities in Mogadishu and in Puntland have also raided and temporarily closed media outlets to prevent or discourage coverage of news events and as retaliation. For example, in 2019, Universal TV in Mogadishu, Radio Daljir and RTN TV in Puntland regional state were raided by security forces and their operations halted.³⁷
22. In January 2019, authorities expelled the UN Special Representative to Somalia Nicholas Haysom after he raised concerns about the killing, by security forces, of protestors in Baidoa town following the South West regional state's presidential elections. After his expulsion, the UN suspended its monthly human rights reports on the country.³⁸

Freedom of expression in Somaliland

23. Censorship, harassment and prosecution of government critics increased in Somaliland since the election of President Muse Bihi Abdi in November 2017. Authorities have raided and shut down media houses, and arbitrarily arrested and prosecuted individuals perceived to be critical of government policies, including poets, journalists and opposition politicians. In 2019, senior opposition politicians, including Wadani Party members Khadar Hussein Abdi (the Secretary General), Barkhad Jama Batun (the spokesperson) and Mohamed Sidiq Dhame (the youth wing leader), were arbitrarily arrested for criticizing government policies. They were later released but Mohamed Sidiq Dhame faced trumped-up charges and prosecution.³⁹ Mohamed Sidiq Dhame was arrested in May 2019 over a Facebook post criticizing the state of emergency imposed by the government on three districts of Sanaag region in Somaliland. He was charged for "offending the honour and prestige of the president" and "incitement to violence". On 27 June 2019, he was found guilty on the first charge and was sentenced to six months in prison. He was later freed after paying a fine.⁴⁰
24. The prominent freelance journalist, Abdimalik Muse Oldon, was arrested in April 2019 for criticizing President Muse Bihi Abdi on Facebook. He faced trumped-up charges and was sentenced to three-and-a-half years in prison. He was later released in June 2020 following a presidential pardon after spending more than a year in prison.⁴¹

The death penalty

25. Despite its consistent support for the UN General Assembly resolution on the moratorium of the death penalty, Somalia still retains the death penalty. At least 12 executions were carried out in 2019 alone. Most death sentences have been imposed by the military court for various offences in proceedings that fall short of international fair trial standards.⁴²

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the Government of Somalia to:

National Human Rights Framework

- Finalize the establishment and operationalization of the Somalia National Human Rights Commission and ensure it is independent, effective and in full compliance with the Paris Principles.
- Hasten the reform process of the Penal Code to bring it in line with international human rights standards including on freedom of expression. In the meantime, put a moratorium on the prosecution of journalists under the problematic provisions of the Penal Code.

On civilian protection and violations and abuses in conflict

- Ensure members of the military, police, and other government officials allegedly responsible for human rights violations, including killings of civilians, attacks on journalists, evictions of IDPs and sexual violence are brought to justice in fair proceedings in civilian courts, without recourse to the death penalty.
- Conduct independent and impartial investigations into all credible allegations of civilian casualties resulting from US air strikes or other military operations conducted by the US, Somali forces or other states, and non-state actors including Al-Shabaab.
- Ensure that all air strikes carried out in Somalia are in line with international humanitarian law and that all reasonable steps are taken to ensure the protection of civilian life.
- Implement an effective mechanism to ensure safe and accessible means for families and communities to self-report civilian casualties arising from US air strikes and other military operations. The mechanisms should include reporting through members of parliament, clan representatives, or to an identified government office.
- Seek reparations from the US government for survivors and families of victims of US air strikes. Also ensure reparations for victims of violations by all state and non-state actors of the conflict including Al-Shabaab.

On internally displaced persons (IDPs)

- Immediately stop forced evictions including of displaced people across the country and ensure that anyone rendered homeless as a result of forced evictions is immediately provided with alternative safe housing.
- Ensure that the rights to water, sanitation, health and adequate housing for IDPs are fulfilled, in line with international human rights standards including when responding to COVID-19.
- Consider ways of safely scaling up operations to provide IDPs with access to essential services and financial and material support including emergency relief or direct cash transfers to reduce their susceptibility to the impacts of the COVID-19 pandemic and uphold their right to an adequate standard of living. If unable to do this, consider seeking international assistance and support.

On sexual violence

- Enact laws and regulations that prohibit all forms of violence against women and girls. Any proposed laws should include prevention, protection, care, treatment, support mechanisms and remedies for survivors of sexual violence, as well as adequate punishment of convicted perpetrators without resorting to the death penalty.
- Immediately scrap the proposed “Sexual Intercourse Related Crimes Bill” and ensure that any law that is reintroduced is in conformity with international law and regional standards relating to rape and other forms of sexual violence.

On freedom of expression and media freedom in south central Somalia and Puntland

- Issue clear instructions to all government officials and security forces to stop harassing, threatening or physically attacking journalists and media organizations and ensure that all government institutions including the security forces respect, protect and promote the right to freedom of expression of everyone and media freedom.
- Make sure the newly established prosecutor for crimes against journalists carries out prompt, thorough, independent and effective investigation of abuses and attacks, including killings and threats against journalists, and addresses the failure to adequately investigate and prosecute suspected perpetrators of such abuses and attacks including government officials and members of the security forces.

- Take urgent steps to review the problematic provisions in the new media law, the Penal Code, and all other laws that impede freedom of expression and media freedom and bring the laws in line with Somalia's constitution and international human rights obligations.

To the Government of Somaliland

- Immediately cease arbitrary arrests, intimidation and prosecution of journalists, poets, opposition politicians and other individuals who freely and peacefully exercise their rights to freedom of expression and media freedom.
- Promptly review the problematic provisions in the Penal Code and align them with the Somaliland constitution and international human rights standards.
- Initiate a moratorium on the death penalty while working towards enacting and adopting appropriate legislation to abolish the death penalty altogether.

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² *Report of the Working Group on the Universal Periodic Review – Somalia*, A/HRC/32/12/Add.1, Recommendation 135.39 (Costa Rica)

³ A/HRC/32/12/Add.1, Recommendations 135.9 (Sweden), 135.62 (Austria), 135.66 (Lithuania) and 136.59 (Nigeria)

⁴ A/HRC/32/12/Add.1, Recommendations 135.66-70 (Belgium, France, Greece, USA), 136.93 (Latvia), 136.103-4 (Iraq, Portugal), 136.44 (Finland), 136.106-12 (Czech Republic, Spain, Estonia, Luxembourg, Denmark, Germany, United Kingdom of Great Britain and Northern Ireland), 136.114 (Netherlands)

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¹² Amnesty International, "We Live in Perpetual Fear: Abuses and Violations Against Freedom of Expression in Somalia", February 2020,

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¹³ Amnesty International, "We Live in Perpetual Fear: Abuses and Violations Against Freedom of Expression in Somalia", February 2020,

<https://www.amnesty.org/en/documents/afr52/1442/2020/en/>

¹⁴ Amnesty International 2019 Somalia annual report, April 2020, <https://www.amnesty.org/en/countries/africa/somalia/report-somalia/>. The Sexual Intercourse Related Bill on file with Amnesty International.

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