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**United Nations Human Rights Council
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38TH SESSION OF THE UPR WORKING GROUP (3 – 14 MAY 2021)**

**Contribution by Reporters Without Borders (RSF),
an NGO with special consultative status,
on press freedom and the freedom to inform in Somalia**

Reporters Without Borders (RSF), which has consultative status with the United Nations, is a Paris-based NGO that has been defending press freedom internationally since 1985. Its foreign sections, its bureaux in 13 cities worldwide and its network of correspondents in 130 countries enable it to closely follow developments affecting the freedom to inform and freedom of expression throughout the world.

During its second review in 2016, Somalia accepted a dozen recommendations related to freedom of expression and the safety of journalists¹, which i.a. included : putting and end to the arbitrary arrests and harassment of journalists, securing the defence of journalists and tackling the issue of widespread impunity by conducting credible and effective investigations into allegations of detentions, harassment and other crimes and abuses against journalists, and preventing the National Intelligence and Security Agency to detain journalists, closing media outlets and confiscating media equipment.

RSF met with Hassan Ali Khayre, then Prime minister of Somalia, at the Paris peace forum in November 2019. Since then RSF has engaged along with its local partner the National Union of Somali Journalists (Nusoj) a constructive and open dialogue with the highest Somali authorities, including President Mohamed Abdullahi Mohamed, also known as Farmaajo to whom RSF addressed a letter following the release of the World Press Freedom Index in April 2020. RSF is strongly committed to bring long lasting changes for media freedom in Somalia through direct advocacy with key stakeholders and implementation of institutionalized mechanism and reforms aiming at improving journalists's safety, fighting impunity for crimes committed against journalists, reducing exactions against media practitioners and ensuring an enabling environment for those seeking to collect and disseminate information in the country.

¹ 135.70 ; 136.106 ; 136.111 ; 136.107 ; 136.104 ; 136.114 ; 135.67 ; 135.68 ; 135.69 ; 136.93 ; 136.108 ; 136.96 ; 136.95

1/ Half of the assassinated African journalists were killed in Somalia over the last decade

Somalia is ranked 163 out of 180 in the 2020 RSF World Press Freedom Index and remains African most dangerous country for journalists. Somalia is African deadliest country for journalists, with 50 journalists killed over the last 10 years, mainly as a result of attacks or assassinations carried out by terrorists. 3 journalists have been killed in attacks by Al-Shabaab in 2019 and already two in 2020.

Said Yusuf Ali, a reporter for privately-owned Kalsan TV, was stabbed to death on May 4th 2020 in Mogadishu. The initial evidence suggested it was a premeditated murder. RSF has learned from people close to Ali and from local sources that he recently covered an Islamic school teacher's murder by suspected members of the Islamist rebel group Al-Shabaab. He had also covered Al-Shabaab's recent military defeats.

Ali is the second Somali journalist to be murdered in 2020. Abdulwali "Online" Ali Hassan, a reporter for Mogadishu-based Kulmiye Radio and for Universal TV, a Somali TV channel based in London, was gunned down in February, shortly after covering Somali army operations against Al-Shabaab.

Journalists are assailed on both sides : those who refuse to censor themselves are the targets of bombings or shootings by Al-Shabaab militants or they are exposed to arbitrary detention. Journalists who raise their voice also risk torture or the closure of their media by the authorities.

2/ Encouraging steps in combating impunity to be continued

For decades, cases of assassinated journalists have remained unsolved if not completely neglected by the authorities. The family were left with no investigation and no answer. Justice and successive governments have failed them. Impunity for crimes committed against journalists was not just an issue. It became a pattern.

In this gloomy picture, RSF has observed a few positive and encouraging steps undertaken at the initiative of the President and the federal government. The policeman who shot journalist Abdirisak Qasim Iman in cold blood in July 2018 has been identified and condemned by a military court but he is yet to be arrested. RSF also welcomed the unprecedented arrest of two Somali soldiers for mistreating journalists². These reporters were forced to lie face down on the sidewalk with their feet tied up to their hands.

In September 2020, RSF welcomed the nomination of a special prosecutor to investigate about 50 cases of assassinated journalists in Somalia. This follows a Court order after RSF's partner Nusoj lodged a complaint.

² <https://rsf.org/en/news/unprecedented-arrest-two-somali-soldiers-mistreating-journalists>

3/ A legal framework unfit to provide a safe and enabling environment for journalists

Despite active advocacy to amend and improve the draft Media Law adopted by the Parliament, the text was promulgated by the President in August. Even if the long-awaited package of amendments to the controversial 2016 Media Law provides for public service broadcasting, thereby helping to promote editorial independence and public accountability, it has not, as many had hoped, eliminated the possibility of journalists being jailed in connection with their work.

On the whole, there are major concerns about the new law's criminalization of journalistic activities. Article 3 makes it illegal for journalists to be compelled by threat or force – for example, by political or armed actors – to publish “information which conflicts with the interests of the country, security, the economy, politics and society.” The new law does not protect the confidentiality of sources and makes it possible for journalists to be held responsible for the consequences of disclosing confidential information. It allows journalists to be fined for violations without limiting the size of the fines. And it says that verdicts and sentences can be appealed before unspecified “competent jurisdictions,” opening the way to prison sentences.

4/ Journalists frequently arrested or detained to silence them

The lack of a protective legal framework for Somali media practitioners is all the more concerning that arbitrary arrests of journalists continue to take place at an alarming level, one of the highest in Africa. In September, *Radio Daljir* director Khadar Awl Ismail and his reporter Abdiqani Ahmed Mohamed were lured by their own authorities in Garowe. The journalists were promised an interview by the judicial authorities about a controversial murder case and got arrested at their arrival. As we speak, 2020's tally will very likely exceed the 25 arbitrary arrests recorded last year.

This means of intimidation is far too common in Somaliland and Puntland. RSF is particularly concerned about the speedy deterioration of press freedom in both federal states.

RSF is strongly advocating for the implementation of a moratorium on arbitrary arrests of journalists. This should be addressed by the President, at the highest level of the executive federal power, to make sure no other existing repressive legislation such as the 2020 recently amended Media Law and the 1964 Penal Code are used to arrest or detain journalists for press-related offenses.

5/ Recommendations

- Declare a moratorium on the arrests and detentions of journalists in the course of their duty until the Media Law is amended to decriminalize press offences.



- Repeal the old laws criminalizing the exercise of journalism, including the 1964 penal code, in accordance with international standards on freedom of expression and information and the newly enacted Media Law. RSF legal committee has thoroughly reviewed this text and remains available to provide guidance to the authorities on how to establish the structure of a legal framework that would be as close as possible to international standards on freedom of expression and information.
- Prevent any proceedings before special jurisdiction like Military Court from being undertaken so that journalists are not treated as criminals, terrorists or army members in the course of their duty.
- Fight against the impunity for crimes against journalists by institutionalizing a response mechanism that would associate both the civil society and the political authorities. RSF is advocating for the implementation of a national safety and security mechanism for journalists, whose first step would be to establish a network of focal points within various relevant ministries and administrative bodies.
- Make sure crimes committed against journalists are no longer neglected by ensuring the newly nominated prosecutor enjoys the resources and the intelligence that he needs to carry out his investigations.

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