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PROTECTION OF CIVILIANS REPORT

Building the Foundation for Peace, Security and Human Rights in Somalia

1 JANUARY 2017 – 31 DECEMBER 2019

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Executive summary

This report is jointly published by the United Nations Assistance Mission in Somalia (UNSOM) and the Office of the United Nations High Commissioner for Human Rights (OHCHR). It was prepared by the Human Rights and Protection Group (HRPG) of UNSOM and covers the period from 1 January 2017 to 31 December 2019. Incidents attributed in 2017 captured in this report, which were partly reported in the previous report of UNSOM/OHCHR on the Protection of Civilians issued in December 2017,¹ are included to provide a comparative analysis with 2018 and 2019.

The report is pursuant to the mandate of UNSOM under United Nations Security Council resolution 2158 (2014),² which requires it “to monitor, help investigate and report to the Council on, and help prevent any abuses or violations of human rights or violations of international humanitarian law committed in Somalia”. Additionally, Security Council resolution 2461 (2019) underscores the need to “respect, protect and promote human rights, end impunity, and hold accountable those responsible for violations or abuses of human rights and violations of international humanitarian law by all state and non-state actors in Somalia”.³ The 2017 UNSOM/OHCHR report on the Protection of Civilians in Somalia was referred to in United Nations Security Council resolutions 2408 (2018)⁴ and 2461 (2019).⁵

More specifically, UNSOM/OHCHR conducts initiatives to promote compliance of all State and non-State actors with international humanitarian and human rights law; monitors and reports incidents involving loss of life or injury to civilians; carries out advocacy and capacity-building to strengthen the protection of civilians affected by the armed conflict; provides technical assistance to the Government of Somalia to enable it to fulfil its human rights obligations; and works with the Government, civil society, and other stakeholders to strengthen accountability for violations of international humanitarian and human rights law.

From 1 January 2017 to 31 December 2019, UNSOM/OHCHR documented a total of 5,133 civilians killed and injured in the context of the conflict (2,338 killed and 2,795 injured).⁶ In 2017, 2,156 civilian casualties were documented (1,096 killed and 1,060 injured). The number decreased

¹ UNSOM/OHCHR, “Protection of Civilians: Building the Foundation for Peace, Security and Human Rights in Somalia”, (December 2017).

² Successively renewed by United Nations Security Council resolutions 2221 (2015), 2232 (2015), 2275 (2016), 2358 (2017), 2408 (2018) and 2461 (2019).

³ UNSOM/OHCHR takes cognizance of United Nations Security Council resolutions 2286 (2016) on the prohibition of attacks on health care workers and facilities in armed conflict, 2417 (2018) on the link between armed conflict and food insecurity, 2474 (2019) on persons reported missing during armed conflict, and 2475 (2019) on the disproportionate impact of armed conflict and related humanitarian crises on persons with disabilities.

⁴ Security Council resolution 2408 (2018), S/RES/2408 (2018) (27 March 2018), <[https://undocs.org/S/RES/2408\(2018\)](https://undocs.org/S/RES/2408(2018))>.

⁵ Security Council resolution 2461 (2019), S/RES/2461 (2019) (27 March 2019), <[https://undocs.org/S/RES/2461\(2019\)](https://undocs.org/S/RES/2461(2019))>.

⁶ The total number of civilian casualties may be higher than what UNSOM/OHCHR recorded, as some incidents occurred in Al Shabaab-controlled areas, to which the United Nations and other international actors have limited or no access.

to 1,518 civilian casualties (651 killed and 867 injured) in 2018, and to 1,459 (591 killed and 868 injured) in 2019.

UNSOM/OHCHR notes the limited accountability for civilian casualties, as investigations into such incidents and prosecutions of individuals responsible for violations resulting in civilian casualties are rare.

UNSOM/OHCHR remains concerned about the continued application of the death penalty and related executions without legally required due process.

UNSOM/OHCHR welcomes the initiation by the Federal Ministry of Women and Human Rights Development of a process to develop a Protection of Civilians Policy, to be supported by the Joint Programme on Human Rights⁷ in follow-up to the commitments of the Government of Somalia under the Universal Periodic Review process and Somalia's Human Rights Roadmap.⁸

Attribution of civilian casualties

UNSOM/OHCHR attributed the responsibility of 69 per cent of the civilian casualties to Al Shabaab recorded during the reporting period. In most of the incidents, civilians were the targets of armed attacks as a tactic to terrorize the population, mainly through the use of improvised explosive devices (IEDs), or were executed upon the order of self-appointed Al Shabaab 'courts'.⁹ Al Shabaab also carried out targeted killings of individuals who participated in the 2016/2017 electoral process and abducted aid workers. It was also responsible for 1,745 incidents of arbitrary deprivation of liberty, with most victims suspected of spying for the Government of Somalia or foreign forces, or for otherwise cooperating with the Somali authorities.

UNSOM/OHCHR attributed 13 per cent of civilian casualties to unidentified or undetermined perpetrators;¹⁰ eight per cent to clan militias; four per cent to SNA; three per cent to the Somali Police Force (SPF), two per cent to AMISOM; one per cent to air forces of some international military forces; 0.4 per cent to Islamic State Affiliated Groups; 0.4 per cent to the National Intelligence and Security Agency (NISA); and 0.1 per cent to Ahlu Sunna Wal Jama'a (ASWJ).¹¹

UNSOM/OHCHR welcomes the significant reduction in civilian casualties attributed to SNA and AMISOM in 2019. There was a 71 per cent decrease in civilian casualties due to incidents involving SNA in 2019 (37) compared to 2018 (128). This could be due to more precise and

⁷ The Joint Programme on Human Rights is a three-year programme developed with the Federal Government of Somalia jointly by UNSOM, UNDP and UNICEF in 2018 to support the Federal Government of Somalia and Federal Member States to strengthen the human rights protection and promotion framework through the implementation of Somalia's human rights commitments under the Universal Periodic Review, the Human Rights Roadmap, and the Action Plans on Children Associated with Armed Conflict and Conflict Related Sexual Violence.

⁸ The Human Rights Roadmap was adopted in August 2013.

⁹ Al Shabaab has put in place a parallel justice system named "the Al Shabaab courts", which *inter alia* orders amputations and executions, UNSOM/OHCHR, "Protection of Civilians: Building the Foundation for Peace, Security, and Human Rights in Somalia", (December 2017), p. 14.

¹⁰ UNSOM/OHCHR is unable to ascertain the specific alleged perpetrator for 13 per cent of the total number of civilian casualties as their identity could not be determined with specificity or more than one alleged perpetrators were involved in the incidents, blurring the lines of responsibility.

¹¹ The percentages do not add to 100 because of rounding error.

targeted SNA operations in 2019 and increased stabilization activities, such as distribution of food and non-food items and public relations activities in the recovered areas,¹² which led to a reduction of hostilities in these areas. For example, on 30 June 2019, a high-level inter-ministerial team visited Bariire town, Lower Shabelle Region, to deliver critical support (both food and non-food items) and engaged with the community as they deployed local administrators to enhance governance.¹³

UNSOM/OHCHR observed a 25 per cent increase in the number of civilian casualties attributed to the Somali Police Force (SPF) (55 in 2019 compared to 44 in 2017 and in 2018). It is expected that the implementation of the New Policing Model will improve the conduct of the police throughout Somalia.¹⁴

AMISOM was responsible for seven casualties in 2019, compared to 21 in 2018 and 94 in 2017. The significant decrease in the number of casualties attributed to AMISOM could partly be attributed to the implementation of the mitigation measures recommended under the Human Rights Due Diligence Policy (HRDDP) mechanisms¹⁵ and to a more robust engagement in implementing this policy between the United Nations and AMISOM. Additionally, the AMISOM Civilian Casualty Tracking, Analysis, and Response Cell (CCTARC) continued to record and analyze information on civilian casualties and facilitate some ex-gratia payments to victims or their families. In spite of these positive measures, AMISOM still faces capacity challenges, including in investigating allegations of international human rights law and international humanitarian law violations committed by its troops. It is particularly important and urgent to address these challenges in view of the transfer of lead responsibility for security from AMISOM to Somali security forces foreseen for 2021.

Civilian casualties by region

Between early 2017 and the end of 2019, the region most affected by the armed conflict was Banadir Region, which includes Mogadishu, where UNSOM/OHCHR documented 2,985 civilian casualties, representing 58 per cent of the total number of civilian casualties. This may be due to various factors, notably the high population density, Al Shabaab's tactic of high profile mass casualty attacks, and the fact that Al Shabaab mainly targets entities and individuals located in

¹² "Somali Army Distributes Food Aid To Residents In Lower Shabelle Region", *Shabelle Media Network*, 1 May 2019, <<https://www.radioshabelle.com/somali-army-distributes-food-aid-to-residents-in-lower-shabelle-region/>>.

¹³ <<https://twitter.com/MoIFARSomalia/status/1145317394581196802>>.

¹⁴ The Federal Government and Federal Member States developed Police Plans that were endorsed by the National Security Council in December 2017. These plans articulate the policing priorities until 2021 and then until 2027. Launched in June 2018, the Joint Police Programme aims at improving the professionalism of the police, which should contribute to reduce incidents of civilian casualties attributed to the police. As of September 2019, approximately US\$15 million had been released to implement various activities that focus on infrastructure, stipends, training, legal framework development and police accountability.

¹⁵ The Human Rights Due Diligence Policy on United Nations support to non-United Nations security forces (HRDDP), issued by the Secretary-General in 2011 sets out principles and measures to mainstream human rights in support provided by the United Nations entities to non-United Nations security forces, and to ensure that such support is consistent with obligations under international humanitarian, human rights, and refugee law. In line with the Standard Operating Procedures, the UN-HRDDP Task Force, the UN-AMISOM Joint Working Group, and technical teams are the existing mechanisms that recommend and support implementation of mitigation measures against violations.

Mogadishu (the Federal Parliament, federal ministries and individual government officials) as the seat of the Federal Government. The presence of the international community in the capital provides additional publicity to attacks.¹⁶

Methods of attack

From 2017 to 2019, the use of IEDs¹⁷ caused the highest number of civilian casualties - 59 per cent of the total number of civilian casualties, with 3,005 victims (1,219 killed and 1,786 injured). The number of civilian casualties attributed to IED attacks in 2019 (950 civilian casualties—295 killed and 655 injured) increased by 39 per cent compared to 2018 (684 civilian casualties—224 killed and 460 injured) but decreased by 31 per cent compared to 2017 (1,371 civilian casualties—700 killed and 671 injured).¹⁸

For the period under review, UNSOM/OHCHR documented 148 airstrikes, mostly in Lower Shabelle, Lower Juba, and Middle Juba regions. In 2019, 60 airstrikes were documented compared to 48 in 2018 and 40 in 2017. United States (U.S.) forces operating in support of the Federal Government of Somalia carried out 83 per cent (123 airstrikes) of the total documented number of airstrikes,¹⁹ unidentified forces carried out 14 per cent (21 airstrikes), and the Kenya Defence Forces (KDF) carried out three per cent of airstrikes (four). The number of civilian casualties attributed to airstrikes in 2019 (nine) decreased by 40 per cent compared to 2018 (15) and 70 per cent compared to 2017 (30).

Conflict-Related Sexual Violence

Conflict-related sexual violence remained pervasive during the period under review, with dominant patterns being abductions of women and girls for forced marriage and rape, perpetrated primarily by non-state armed groups, and incidents of rape and gang rape committed by State agents, clan militias and unidentified armed men. Most incidents documented in 2017 and 2018 involved women and girls living in internally displaced persons (IDP) camps and from minority clans and marginalized communities.

Children and Armed Conflict

¹⁶ For instance, see the interview of Al Shabaab spokesman to Aljazeera English, in January 2017, in which he justifies attacks on hotels in Mogadishu and calls them ‘army bases’ which serve as “ministry offices for infidels and apostates”, <<https://www.youtube.com/watch?v=BJwuw-H0mgs>>.

¹⁷ An improvised explosive device (IED) is defined as an explosive device that is fabricated or placed in an improvised manner; incorporates destructive, lethal, noxious, pyrotechnic, or incendiary chemicals; and is designed to destroy, incapacitate, harass, or distract. IEDs may incorporate military stores, but they are normally devised from non-military components. They are as varied as “command-detonated” pipe bombs, “booby-trapped” military ordnance, and car bombs. They always contain explosive materials, detonators, and triggering mechanisms; they are often cased and may use shrapnel. The term improvised may apply either to the construction of the device or to its use by irregular forces. Thus, a mine produced for regular forces may be considered an IED if it is used by irregular forces, but an unmodified mine placed by regular forces is not considered an IED, <<https://www.nap.edu/read/11953/chapter/2>>.

¹⁸ On 14 October 2017, two VBIEDs exploded in a populated and urban area of Hodan and Wadajir Districts, in Mogadishu, causing at least 512 dead and 316 injured.

¹⁹ The United States Africa Command (AFRICOM) regularly releases related press statements on their website—<<https://www.africom.mil/media-room/press-releases>>.

The high number of children affected by grave violations in the context of armed conflict remained worrisome. During the reporting period, the Country Task Force on Monitoring and Reporting (CTFMR) mechanism documented 10,654 grave violations affecting 13,857 children (11,708 boys and 2,149 girls).

Children continued to be disproportionately affected by suicide attacks, vehicle-borne improvised explosive device (VBIED) complex attacks, crossfire incidents, land mines and airstrikes that resulted in death and injuries. A total of 4,371 children (4,020 boys, 351 girls) were verified as victims of abduction, with Al Shabaab being responsible for 98 per cent of all cases.

Key recommendations

The Federal Government of Somalia, the Federal Member States, and international forces should develop, implement, and share operational policies and practical measures to enhance respect for international human rights law and international humanitarian law and avoid harm to civilians, with particular attention to the conduct of military operations in urban areas.

UNSOM/OHCHR takes note that in August 2019, the Federal Government began consultations to develop a Protection of Civilians Policy, which should take forward recommendations from the 2016 Universal Periodic Review of Somalia, Somalia's Human Rights Roadmap and the 2017 UNSOM/OHCHR report on Protection of Civilians, and is in line with the measures recommended in the HRDDP framework.

- All parties to the conflict should take all possible precautions to protect the civilian population generally, individual civilians, and civilian objects against the dangers resulting from military operations;
- All parties to the conflict should comply with and ensure respect for international human rights and humanitarian law, including in and through orders or directives, and hold accountable those responsible for targeting civilians, or killing or injuring them in breach of those standards;
- Non-state actors must immediately end the indiscriminate and disproportionate use of IEDs and attacks in areas populated by civilians, and should refrain from firing explosive weapons causing wide-area effects, from and into civilian-populated areas;
- The Federal Government and Federal Member States should investigate, in an independent, impartial, prompt, thorough, effective, credible and transparent manner, incidents resulting in casualties and any allegations of violations of international humanitarian law and international human rights law involving security forces and armed groups and, where appropriate, prosecute the alleged perpetrators;
- The Federal Government of Somalia and Federal Member States should support the systematic collection and analysis of information on the protection of civilians, including data disaggregated by sex, age and cause of death/injury and ensure that it feeds into conflict analysis, prevention, and response mechanisms in the context of the conflict;
- The Federal Government of Somalia and Federal Member States should ensure that victims, including of sexual and gender-based violence, receive comprehensive support and assistance, including medical and social support; and access to remedies and full reparations;

- AMISOM should strengthen its support to internal oversight and compliance mechanisms by Somali security forces, both in the process of the transfer of security responsibilities and in the framework of joint operations with Somali security forces;
- AMISOM should take into consideration protection risks, including gender dimensions, and the ability of the Somali security forces to hold recovered territory as it transfers security responsibility to Somali security forces;
- The international community should continue to encourage and strengthen support to the Federal Government of Somalia and Federal Member States to implement the Security Pact, and ensure that the implementation of the National Security Architecture guarantees full respect for international human rights and humanitarian law.

Methodology

The UNSOM/OHCHR protection mandate involves monitoring, investigating, and reporting any abuses or violations of international humanitarian law and human rights law committed, and helping prevent violations by advocating with and supporting the Somali authorities to meet their international human rights and humanitarian obligations.

UNSOM/OHCHR exercises due diligence to gather and assess information from a wide range of primary or secondary sources, including victims, witnesses, and family members, government and local officials, community leaders, police, military, journalists, service providers and United Nations entities, local, national, and international civil society organizations. UNSOM/OHCHR ensures that each source of information is assessed for its credibility and reliability. UNSOM/OHCHR also reviewed official documents, records kept by government entities and other institutions, photographs, videos, and open source material including media, internet, social media, and reports from non-governmental organizations (NGOs).

UNSOM/OHCHR has developed a range of methodologies, including building the capacity of its sources to monitor and report on human rights. In some incidents, the civilian status of the reported victims may not have been conclusively established. In such instances, in case of doubt whether a person is a civilian, that person is considered to be a civilian.²⁰ For the purposes of this report, UNSOM/OHCHR applies a definition of civilian that reflects international humanitarian law.

UNSOM/OHCHR documents reports of civilian casualties based on OHCHR's human rights monitoring methodology,²¹ which requires at least three different and independent sources to verify a civilian casualty. Wherever possible, information is obtained from the primary accounts of victims and/or witnesses, although the prevailing insecurity significantly restricts UNSOM/OHCHR access. As regards grave violations against children and armed conflict and conflict-related sexual violence, UNSOM/OHCHR is guided by the United Nations Monitoring and Reporting Mechanism (MRM) guidelines, and the United Nations field manual on grave violations against children in armed conflict.²² However, there may be instances where it is not possible to obtain concurring information from three independent and reliable sources.²³

UNSOM/OHCHR conducts interviews, on-site visits, and other means of information collection, following strict rules to ensure confidentiality of sources to avoid doing harm and ensure the credibility of the United Nations. UNSOM/OHCHR has not included information that it has not been cross-checked or verify. Disaggregated data remains largely unavailable, but where possible, verified information includes data by sex, age, and cause of death.

²⁰ See for example article 50(1) of the Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), and ICRC Interpretative Guidance on the notion of direct participation in hostilities, pp. 74-75.

²¹ United Nations Human Rights Office of the High Commissioner, "Manual on Human Rights Monitoring", (2011), p. 22.

²² <https://childrenandarmedconflict.un.org/wp-content/uploads/2016/04/MRM_Field_5_June_2014.pdf>.

²³ United Nations Human Rights Office of the High Commissioner, "Integrating A Gender Perspective into Human Rights Investigations Guidance and Practice", (2018), <<https://www.ohchr.org/Documents/Issues/Women/Publications/GenderIntegrationintoHRInvestigations.pdf>>, p. 18.

UNSOM/OHCHR makes every effort to identify as precisely as possible the party responsible for a particular civilian casualty. Due to security constraints and the complex operating environment, such as blurred identities between AMISOM and non-AMISOM forces when troops of the same country operate in the same locations, the inability of sources consistently to clearly identify or distinguish between actors, and/or the absence of claim of responsibility, it is not always possible for UNSOM/OHCHR to attribute responsibility for civilian casualties.

Allegations received by UNSOM/OHCHR against AMISOM are routinely transmitted to the latter within the HRDDP framework. Through this engagement, UNSOM/OHCHR seeks information on the alleged incidents, actions taken to investigate and, as relevant, to hold perpetrators to account. Engagement with AMISOM takes place through written exchange and different forums, including the United Nations-AMISOM Joint Working Group on HRDDP, which advises AMISOM and the joint AMISOM-United Nations technical teams on investigations and accountability measures. Regarding incidents related to airstrikes, UNSOM/OHCHR reviews reports on the use of AMISOM air assets to determine whether such assets have flown in the area of the incident on the date of the incidents.

Incidents attributed in 2017 captured in this report, which were partly reported in the previous report of UNSOM/OHCHR on the Protection of Civilians issued in December 2017, are included to provide a comparative analysis with 2018 and 2019.

UNSOM/OHCHR provided advance copies of this report for factual verification. The responses received are attached as annex 3. As relevant, other comments have been addressed directly in the report.

I. Civilian Casualties Attributed to non-State Actors

A. Al Shabaab

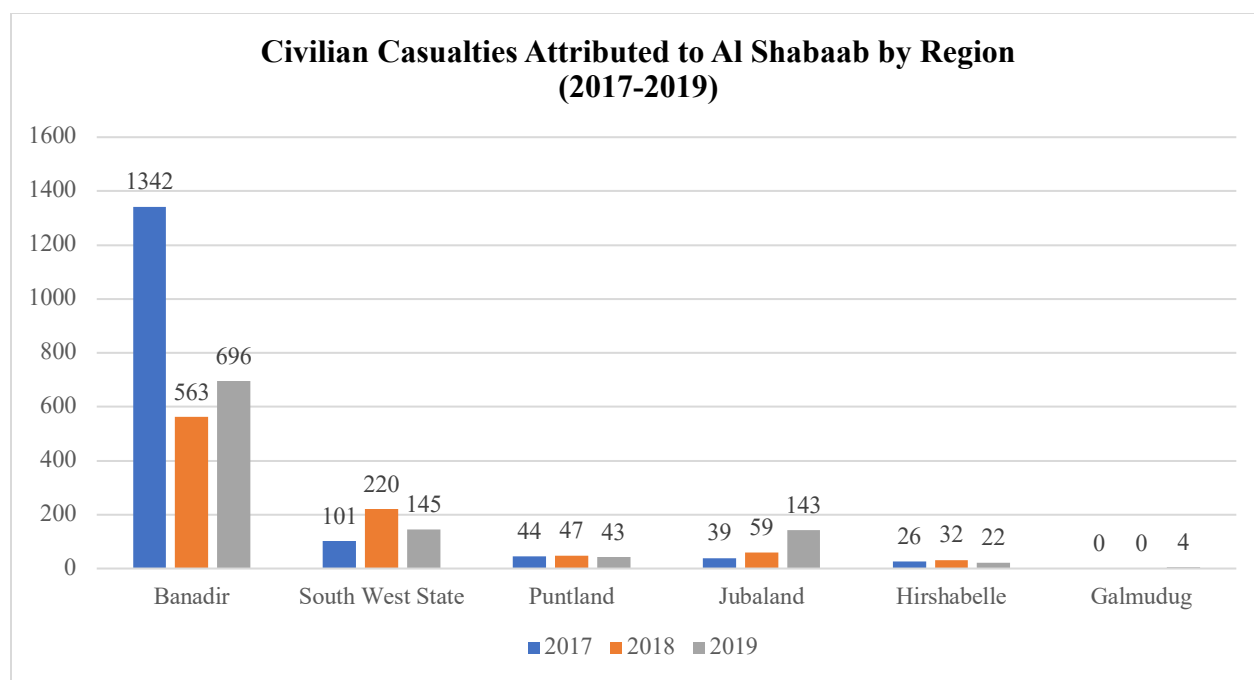
1. For the period under review, Al Shabaab caused 69 per cent of the civilian casualties documented by UNSOM/OHCHR, with 3,526 civilian casualties (1,563 killed and 1,963 injured). Al Shabaab was responsible for 1,552 civilian casualties in 2017 (801 killed and 751 injured), 921 in 2018 (369 killed and 552 injured), and 1,053 civilian casualties in 2019 (393 killed and 660 injured).

(i) Civilian casualties attributed to Al Shabaab by region

2. During the period under review, the region most heavily affected by Al Shabaab attacks was Banadir, where Al Shabaab caused 1,342 civilian casualties in 2017 (708 killed and 634 injured), 563 in 2018 (194 killed and 369), and 696 in 2019 (231 killed and 465 injured). Jubaland recorded the highest variation over the three-year period (see paragraph 5 below for more details) with a 142 per cent increase in the number of civilian casualties in 2019 (143) compared to 59 in 2018.
3. The high number of civilian casualties recorded in Banadir Region during the period under review may be attributed to several factors, including: the documented pattern of Al Shabaab causing civilian casualties in highly populated areas;²⁴ the fact that their main targets (government officials, including from federal ministries, and the Parliament and members of the international community, including the United Nations and foreign embassies) are located in Banadir; and the fact that they have been pushed out from their strongholds into urban areas following military operations conducted by SNA and their partners on the east bank of the Shabelle river and in Lower Shabelle from 2017 to 2019.²⁵

²⁴ According to the United Nations Population Estimation Survey 2014 for the 18 pre-war regions of Somalia, UNFPA (October 2014), the estimated population of Banadir was 1,650,227 people, which makes the region the most densely populated in Somalia.

²⁵ U.S. Africa Command Public Affairs, AFRICOM, Mission Somalia leaders discuss progress and partnership with Somali leadership, Mogadishu, Somalia, 13 June 2019, <<https://www.africom.mil/media-room/article/31945/africom-mission-somalia-leaders-discuss-progress-and-partnership-with-somali-leadership>>; see also Paul D. Williams, “In Somalia, al-Shabab targeted U.S. and E.U. forces this week. Here’s what these troops are doing there”, 3 October 2019, *The Washington Post*, <<https://www.washingtonpost.com/politics/2019/10/03/somalia-al-shabaab-targeted-us-eu-forces-this-week-heres-what-these-troops-are-doing-there/>>.



4. On 28 December 2019, in Mogadishu, at least 76 civilians were killed and 128 injured when a vehicle borne-improvised explosive device (VBIED) was detonated at the Afgooye junction. Al Shabaab claimed responsibility for this attack, while apologizing for killing Somalis. This appeared to be the first public apology by Al Shabaab for civilian casualties although they justified the attack by claiming they attacked a Turkish military convoy as a necessary fight against agents of infidels.
5. Jubaland recorded a significant increase of civilian casualties perpetrated by Al Shabaab in 2019 compared to 2018, likely due to continuous movements of the group within that state, their cross-border activities and the state elections held on 22 August 2019. Moreover, Jilib town, the stronghold of Al Shabaab, is in the Middle Juba Region of Jubaland. Additionally, on 12 July 2019, a coordinated attack by Al Shabaab at the Madina Hotel, in the city of Kismayo, resulted in 82 civilian casualties (26 killed and 56 injured).²⁶

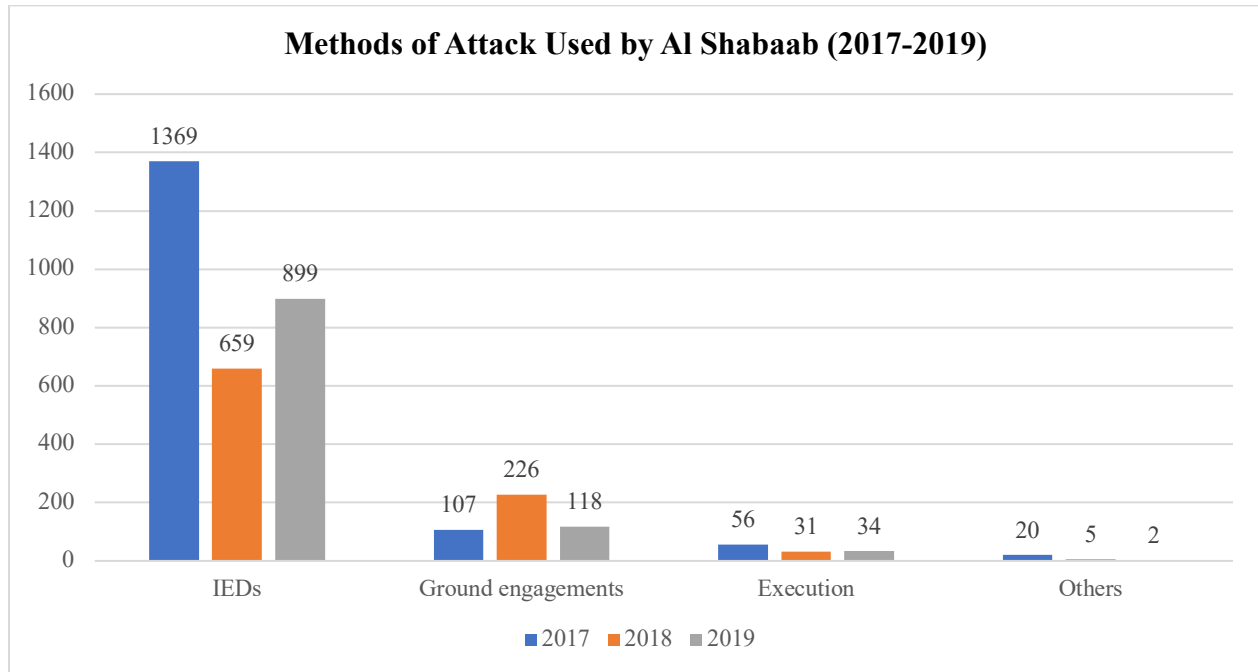
(ii) Civilian casualties attributed to Al Shabaab by methods of attack

6. During the reporting period, indiscriminate use of IEDs²⁷ by Al Shabaab caused the highest number of civilian casualties (2,927, with 1,197 killed and 1,730 injured), representing 83 per cent of civilian casualties attributed to Al Shabaab). The second main cause of

²⁶ Al Shabaab had previously conducted other major attacks in Kismayo. For example, on 12 September 2013, a member of Al Shabaab carried out an attack targeting President Ahmed Madobe's convoy, injuring him and killing more than 10 people, <<http://halgan.net/2013/09/madaxweynaha-maamulka-kmg-jubba-axmed-madoobe-oo-kabadbaaday-isku-lagu-khaarajin-lahaa/>>; on 18 July 2014, Al Shabaab carried out an attack on the house of a key leader from the Kismayo local administration killing five people and injuring six, <https://www.bbc.com/somali/war/2014/07/140718_weerar_kismaayo>.

²⁷ According to article 51(4) (a) of Protocols Additional to the Geneva Conventions of 12 August 1949, attacks "which are not directed at a specific military objective" and consequently "are of a nature to strike military objectives and civilians or civilian objects without distinction" are indiscriminate.

casualties by Al Shabaab, which resulted in 451 victims (243 killed and 208 injured), was the use of small arms and light weapons in the context of ground engagement.



7. In 2019, Al Shabaab continued to use **female suicide bombers**,²⁸ although the practice has been comparatively rare in Somalia. For instance, on 24 July, in Mogadishu, a female suicide bomber attacked the Banadir Regional Administration offices, in Hamarweyne District, during a meeting of senior municipal officials. The attack caused 16 civilian casualties (10 killed and six injured), including the Mayor of Mogadishu.²⁹ Al Shabaab claimed responsibility for the attack, stating that the intended target had been Special Representative of the Secretary-General in Somalia.

(iii) Arbitrary deprivation of life attributed to Al Shabaab

8. Al Shabaab used methods such as executions, armed attacks, and targeted killings as punishment in areas under its control. For example, on 3 December 2017, in Maykarebi, Garbahaarey, Gedo Region, Al Shabaab reportedly shot at a civilian passenger vehicle on the grounds that it was transporting *khat*,³⁰ injuring a civilian man.³¹ On 17 April 2018, in Berhani, Kismayo District, Lower Juba Region, three civilian men from the Galje'el clan

²⁸ Prior to the 24 July 2019 attack, the most high-profile attacks involving female suicide bombers were: the assassination of a Somali minister, Abdi Shakur Sheikh Hassan Farah, on 9 June 2011; the attack on the national theatre in Mogadishu, on 4 April 2012; and the assassination attempt on the Deputy Prime Minister of the Federal Government of Somalia on 20 February 2015.

²⁹ Ministry of Internal Security Federal Government of Somalia, Press Release, 8 August 2019, <https://twitter.com/MoIS_FGS/status/1159627277728133121/photo/1>; see also, "Somalia says blind female suicide bomber killed Mogadishu mayor", *Reuters*, 9 August 2019, <<https://www.reuters.com/article/us-somalia-security-bomber/somalia-says-blind-female-suicide-bomber-killed-mogadishu-mayor-idUSKCN1UZ1D0>>.

³⁰ *Khat* is a plant whose leaves and stem tips are chewed for their stimulating effect.

³¹ Al Shabaab banned trade in *khat* and the group routinely targets civilians suspected of trading in it.

were reportedly shot and injured by Al Shabaab militants apparently because they were burning charcoal.³² On 18 February 2019, in Qumbi area, Kismayo District, Lower Juba Region, Al Shabaab reportedly shot and killed a civilian man because he refused to pay them a tax.

Executions

9. Al Shabaab uses public executions as one of its methods to punish acts it considers as crimes and in many instances forces the civilian population to attend and watch them carried out. Public executions are also intended to intimidate populations under their control and to send a clear message of what would happen to anyone not complying with their rules. With the same aim, Al Shabaab described publicly accusations of spying for the Government or for international forces as the main reason for the executions.³³ Executions are reportedly based on decisions by self-appointed Al Shabaab ‘courts’. UNSOM/OHCHR was able to verify that Al Shabaab carried out at least 56 executions in 2017, 31 in 2018, and 34 in 2019, either by firing squad or beheading. These executions occurred mostly in Middle and Lower Juba, Lower Shabelle, and Bay regions, in areas under Al Shabaab’s control.
10. On 25 January 2017, in Yaaq Barawe village, in Baidoa District, Bay Region, Al Shabaab publicly executed by firing squad three men accused of spying for foreign intelligence agencies and NISA. On 28 December 2018, south of Jowhar town, Middle Shabelle Region, Al Shabaab abducted and executed a man they accused of spying and working for the Federal Government. On 9 October 2018, in Jilib, Middle Juba Region, Al Shabaab publicly executed by firing squad five men it had accused of spying for foreign and Somali intelligence agencies.³⁴
11. On 26 October 2017, in Saakow town, Middle Juba Region, a civilian woman was publicly stoned to death by Al Shabaab for allegedly having a relationship with a man outside marriage. An Al Shabaab self-appointed ‘court’ had found her guilty after her husband

³² The charcoal trade has been a significant source of revenue for Al Shabaab, generating at least \$7.5 million from checkpoint taxation in Middle Juba and Lower Juba Regions—United Nations Security Council, *Letter dated 7 November 2018 from the Chair of the Security Council Committee pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea addressed to the President of the Security Council*, 9 November 2018, S/2018/1002, <https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2018_1002.pdf>.

³³ By way of example, in an audio message released by Al Shabaab on 13 May 2019, the deputy leader of the group preached “the Sanctity of Muslim Blood” while justifying the attacks on civilians. He listed the target of Al Shabaab operations and included “... the Christian invaders, the apostate regime, foremost among being the apostate leaders, soldiers, army officials, members of parliament, ministers, members of so-called judicial system, apostate spies, and all those who work in the different sectors of the apostate regime”.

<http://sitemultimedia.org/video/SITE_Shabaab_Warsame_Sanctity_Blood.mp4>.

³⁴ “Cod+Warbixin: Al-Shabaab oo Fagaare ku Yaalla Degmada Jilib ku toogatay jawaasiis u shaqeynayey Mareykanka iyo Ingiriiska (Dhageyso)”, *Somali Memo*, 9 October 2019, <<https://somalimemo.net/articles/9847/CodWarbixin-Al-Shabaab-oo-Fagaare-ku-Yaalla-Degmada-Jilib-ku-toogatay-jawaasiis-u-shaqeynayey-Mareykanka-iyo-IngiriiskaDhageyso>>; see also, Harun Maruf, “Al-Shabab Executes 5 Accused of Spying”, *Voice of America News*, 10 October 2019, <<https://www.voanews.com/africa/al-shabab-executes-5-accused-spying>>.

filed a complaint that she had travelled to another town and became involved in a relationship with another man. On 11 November 2018, in Shaw village, Hiraan Region, a self-appointed Al Shabaab ‘court’ executed a 15-year old boy accused of raping a six-year old boy. On 5 July 2019, in Bu’ale, Middle Juba Region, Al Shabaab reportedly executed a civilian man accused of practicing witchcraft.

Targeted attacks

12. Government offices and/or government officials have been the target of attacks by Al Shabaab.³⁵ On 20 September 2017, in Mogadishu, Al Shabaab killed a member of the Hodan District Administration. On 7 July 2018, in Mogadishu, seven civilians (including three civil servants) were killed and 27 others were injured in a coordinated attack by Al Shabaab against the Ministries of Interior and Internal Security at the Otto-Otto Building, in Waaberi District. On 10 September 2018, Al Shabaab attacked the headquarters of the Hodan District Administration in Mogadishu, killing six civilians and injuring 18 others. The attack was carried out by an individual driving a vehicle laden with explosives. On 26 February 2019, in Mogadishu, Al Shabaab reportedly shot and killed a civilian man, an aid worker employed by a local NGO. Al Shabaab claimed responsibility for the killing on its affiliated media, stating that the victim was a NISA member. On 20 February 2019, a prosecutor with the Federal Government’s Attorney-General’s Office was shot and killed in Hodan District, Mogadishu. Al Shabaab claimed responsibility for the shooting through its affiliated media.³⁶
13. Civilians have also been injured and killed when Al Shabaab used small arms to attack Somali security forces at checkpoints, in private homes, and on the streets. For example, on 23 December 2017, Al Shabaab shot and killed a civilian man in Hamarweyne District, Mogadishu. The victim was reportedly among a group of newly recruited members of the Banadir Regional Authority youth employment initiative. Al Shabaab claimed responsibility for the attack. On 27 January 2018, a civilian man was killed when Al Shabaab militants threw a hand grenade at a security checkpoint at Fagah junction area, Yaaqshid District, Mogadishu. On 28 February 2019, at least 33 civilians were killed and 127 injured in a coordinated attack in the vicinity of the Maka Almukarama Hotel in Mogadishu. Al Shabaab claimed responsibility, stating that the targets were senior government officials and diplomats frequenting Maka Almukaram Hotel.
14. Al Shabaab carried out **targeted killings of individuals who participated in the 2016/2017 electoral process**.³⁷ Out of the 257 civilians shot dead by Al Shabaab during the period under review, 69 were electoral delegates or persons who were involved in the

³⁵ See footnote 35.

³⁶ “Faah Faahin: Al Shabaab Oo Muqdisho ku Dishay Ku xigeenkii Xeer ilaaliyaha Dowladda Federaalka”, *Somali Memo*, 20 February 2019, <<https://somalimemo.net/articles/10539/Faah-Faahin-Al-Shabaab-Oo-Muqdisho-ku-Dishay-Ku-xigeenkii-Xeer-ilaaliyaha-Dowladda-Federaalka>>.

³⁷ The 2016/2017 electoral process was a system of indirect elections whereby 275 electoral colleges, each consisting of 51 delegates, elected the 275 members of the Lower House. The newly-elected Parliament elected the President on 8 February 2017. See United Nations Human Rights Office, “Securing Political Participation: Human Rights in Somalia’s Electoral Processes”, (August 2018), p. 4.

2016/2017 electoral process. These targeted killings, for which Al Shabaab claimed responsibility, occurred in various parts of Somalia, as illustrated by the incidents below:

- On 31 May 2017, unidentified armed men shot and killed two civilian men at the Bakaro market, Howlwadaag District, and in Waaberi District, Mogadishu. The victims were reportedly members of the Electoral College who participated in the 2016 electoral process in Baidoa.
 - On 7 September 2017, unidentified armed men killed a civilian man in Hodan District, Mogadishu. The victim was reportedly a member of the Electoral College during the 2016 elections in Adaado, Galmudug.
 - On 24 September 2018, Al Shabaab reportedly shot and killed two civilian men in Afgooye, Lower Shabelle Region. The victims were reportedly electoral delegates who participated in the elections for the Federal Members of Parliament held in Baidoa in 2016.
 - On 16 October 2018, unidentified gunmen shot and killed a civilian man in Dharkenlay District, Mogadishu. Al Shabaab claimed responsibility for the attack on its affiliated website, stating that the victim was among the clan elders who participated in the 2016 electoral process in Adaado, Galmudug.
 - On 30 January 2019, Al Shabaab shot and killed a civilian man in Afgooye, Lower Shabelle Region. The victim was among the delegates who elected the South West State Parliamentary representatives in Afgooye town in 2016.
 - On 26 May 2019, unidentified armed men shot and killed two civilian men in two separate incidents in Yakshid and Dharkenlay Districts, in Mogadishu. The victims were reported to be delegate members who attended both the Federal and State election processes. One of the victims was reported to be a prominent clan elder. Al Shabaab claimed responsibility for both attacks on its affiliated online media, stating that the victims participated in the 2016 electoral process.
15. On 15 July 2019—possibly as part of its continuous propaganda campaign in the lead-up to the 2020/21 elections—Al Shabaab released a public statement entitled, “A Call to Repentance to the So-Called Apostate Somali Tribal Elders”.³⁸ The statement called upon elders who elected the Federal Parliament’s House of the People in 2016 to repent their participation in this process within a 45-day window (15 July to 1 September 2019) to safeguard their lives. The deadline was subsequently extended to 10 September 2019. Al Shabaab further demanded that the elders openly disavow their participation in the electoral process, register with Al Shabaab to confirm their repentance, and accept Shariah law above all forms of legislation.
16. When announcing the extension of the ultimatum on 2 September 2019, Al Shabaab indicated that it aimed at accommodating some 200 clan elders who had declared their intent to register but were allegedly facing challenges to reach the territory under the group’s control. According to Al Shabaab, 635 Somali electoral delegates who participated

³⁸ <<http://somalimemo24.com/Docs/Baaq%20Towbad-keen.pdf>>.

in the 2016 electoral process had so far complied with their directive to “repent” and register with the group.³⁹

(iv) Arbitrary deprivation of liberty attributed to Al Shabaab

17. A total of 1,745 incidents of arbitrary deprivation of liberty by Al Shabaab were recorded during the reporting period. Al Shabaab detained civilians it suspected of **spying for the Somali Government or foreign forces or for otherwise cooperating with the Somali authorities**. In particular, after the Federal Government and AMISOM forces conduct clear and hold operations to liberate areas from Al Shabaab, but leave the area without establishing any security presence, the return of Al Shabaab to these areas can result in reprisals against the local communities. For example, on 13 February 2018, in Mubarak village, Awdheegle District, Lower Shabelle Region, Al Shabaab held more than 76 civilians for approximately one week, including women and children. They accused them of showing support to the Federal Government and AMISOM forces during their operation in the village the day before. On 4 November 2018, Al Shabaab reportedly held 10 civilian community elders from Abayow village, Walanwen District, Lower Shabelle, accusing them of spying for foreign forces and the Government. The incident reportedly occurred after an unidentified airstrike in support of Somali Special Forces hit a target in Abayow village earlier that day, killing 11 Al Shabaab militants.
18. Al Shabaab has deprived individuals of their liberty as part of what it defines as its law enforcement methods in areas under their control. For example, on 23 October 2017, in Afgooye District, Lower Shabelle Region, Al Shabaab held two civilian men from the Habar Gidir clan, reportedly for diverting water from the river to their farms in defiance of an order by Al Shabaab. They were released after two weeks, with a warning not to do this again. On 3 September 2018, in Galqoryaale and Ceelbaxay villages, Ceelbuur District, Galgudud Region, Al Shabaab held 34 civilian men from the Cayr sub-clan of Hawiye for 25 days because they had not paid *diya*⁴⁰ to the Murusade clan. On 3 June 2019, between Baidoa and Daynuunay towns, Al Shabaab reportedly held two civilian women for transporting *khat* to Daynuunay. They were released after six days in captivity and after paying USD 500.

Abductions

19. Al Shabaab has abducted **aid workers**. For instance, on 30 April 2017, between Buulo Mareer and Golweyn road, Lower Shabelle Region the group abducted two Somali men and one woman working for an international NGO. The victims were released after negotiations by their relatives. On 8 November 2018, in Tuulo Jibril village, Gedo Region, Al Shabaab abducted two Somali staff members of an international NGO. They were reportedly taken to Cel Cade town, Gedo Region, which is controlled by Al Shabaab, and were released 20 days later after paying a sum of money. On 27 February 2019, Al Shabaab reportedly abducted five local staff members working for an NGO in Gura area, Garbaarrey District, Gedo Region, and took them to El-Adde, an area under their control. The victims were held for 15 days and reportedly released after paying USD 3,000 each.

³⁹ This reported information cannot be independently confirmed.

⁴⁰ Compensation paid by perpetrators to their victims or their relatives.

B. Ahlu Sunna Wal Jama'a

20. Ahlu Sunna Wal Jama'a (ASWJ)⁴¹ is a Sufi armed group in Somalia that became stronger after Al Shabaab's rise in the late 2000s. It has been acting as a de facto administration in Dhusamareb District and Guriceel town, in the Galgaduud Region. In December 2017, ASWJ signed a power-sharing agreement with the Galmudug State, which paved the way for the establishment of a unified Galmudug administration.⁴² Following lengthy negotiations between the Federal Government and ASWJ, led by the Prime Minister of the Federal Government, the integration process of ASWJ forces into the Somali security forces started in Dhusamareb town in July 2019.⁴³ However, in August 2019, the agreement between the Federal Government and ASWJ began to fracture, particularly over the electoral process in Galmudug and the power-sharing arrangement. Furthermore, the Federal Government deployed additional military, police, and NISA to Dhusamareb to protect the town from Al Shabaab. In November 2019, the Federal Government security forces took full control of three ASWJ strongholds—Dhusamareb, Guriceel, and Matabaan.⁴⁴
21. Until 2018, ASWJ was engaged in armed conflict with Al Shabaab and was also involved in clan conflicts in the Galgaduud Region, which caused civilian casualties and mass displacement. No civilian casualties were attributed to ASWJ in 2017, but one was attributed to it in 2018 and four in 2019. On 17 January 2018, a civilian driver who was trying to cross a blocked road in Dhusamareb during the visit of the President of the Federal Government was injured by a member of ASWJ who was securing the roadblock. The security forces arrested the latter but later released him after negotiations by elders. On 17 March 2019, two children were killed and two civilian women were injured in a crossfire between clan militias from Dir clan reportedly affiliated with ASWJ.

C. Clan Militias⁴⁵

22. Clan militias continued to operate in Somalia, particularly in regions where State presence is weak, namely Lower Shabelle, Mudug, Lower Juba, and Hiran regions. They have scant formal structure and are related to conflicts among clans, which mainly derive from

⁴¹ ASWJ was ostensibly formed in 1991 to protect Sufi Muslims in Somalia, in response to anti-Sufi groups like Al Ittihad Al Islamiya, whose radical Islamist ideology violently opposed Sufism. Initially, ASWJ opposition to these groups relied on non-violent tactics, such as clerical preaching for the revitalization of Sufi sects and the unification of Sufi religious orders. The group was not a primarily militant organization prior to 2008, instead engaging in community religious affairs—"Mapping Militant Organizations: ASWJ", *Stanford University*, 18 June 2018. <<https://web.stanford.edu/group/mappingmilitants/cgi-bin/groups/view/109>>.

⁴² See the press Statement by UNSOM on the signing of power-sharing agreement between Galmudug and Ahlu Sunna Wal Jama, <<https://unsom.unmissions.org/un-envoy-somalia-welcomes-signing-power-sharing-agreement-between-galmudug-and-ahlu-sunna-wal-jama%E2%80%99>>.

⁴³ See <<http://amisom-au.org/2019/07/somalia-starts-process-to-integrate-ahlu-sunna-forces-into-the-somali-security-forces/>>.

⁴⁴ "Somalia: Somali Govt Says Ready to Negotiate With Ahlu Sunna", *Shabelle Media Network*, 3 November 2019, <<https://allafrica.com/stories/201911040595.html>>.

⁴⁵ Conflicts between clans are widespread and relate to the broader non-international armed conflict. They are particularly dominant in regions where the Federal Government or State authorities are not present or weak.

disputes related to land and access to resources and historical grievances. Conflicts among clans tend to amplify in situations of crisis, when resources are reduced, such as during droughts. Some clans have allegiances to and alliances with SNA, which can affect the chain of command within the latter or amplify clan-related conflicts.⁴⁶ There have also been opportunistic and fluid alliances between some clan militias and Al Shabaab.

23. During the period under review, UNSOM/OHCHR recorded 386 civilian casualties attributed to clan militias (209 killed and 177 injured), representing eight per cent of the total number of civilian casualties. In most cases, the civilians were targeted in acts of retaliation by warring clans. Shooting in the context of ground engagement was the main method employed by clan militias. The highest number of casualties caused by clan militias from 2017 to 2019 occurred in Hirshabelle (101 – 51 killed and 50 injured), followed by Galmudug (83 – 44 killed and 39 injured), Somaliland (68 – 35 killed and 33 injured), and South West State (60 – 41 killed and 19 injured).

D. The Islamic State Affiliated Group

24. The Islamic State Affiliated Group (ISAG)⁴⁷ continued to operate on a small scale in the north of Puntland, predominantly in Bari Region, in the Galgala mountains. It has tried to expand its presence in the south, mainly in Mogadishu, but has faced resistance from Al Shabaab, which still engages sporadically in Bari Region. It was estimated that ISAG had between 100 and 200 fighters in 2017⁴⁸ and up to 340 in November 2018.⁴⁹ UNSOM/OHCHR found that ISAG was responsible for at least 20 civilian casualties (seven killed and 13 injured) during the period under review, with all cases recorded in Puntland—10 civilian casualties were recorded in 2017, six in 2018, and four in 2019. With the exception of two small-scale IED attacks, the most used tactic by ISAG was targeted killing by shooting.
25. ISAG thus continued to conduct attacks against police or government officials in different parts of Bari Region. It also targeted businessmen as well as Ethiopian migrants, which reportedly resulted in nine civilian casualties during the reporting period (five killed and four injured) especially in the aftermath of Ethiopian forces operating in the Somali Region

⁴⁶ UNSOM, *Protection of Civilians: Building the Foundation for Peace, Security and Human Rights in Somalia* (December 2017), para. 52.

⁴⁷ ISAG is a rival group of Al Shabaab. It is reportedly led by Abdul Qadir Mumin, a former senior member of Al Shabaab. It established a first base in April 2016, in the Bari region, in the north of Puntland, where it has since been operating, UNSOM, *Protection of Civilians: Building the Foundation for Peace, Security and Human Rights in Somalia*, para. 48.

⁴⁸ UNSOM, *Protection of Civilians: Building the Foundation for Peace, Security and Human Rights in Somalia*, para. 48.

⁴⁹ According to an internal assessment by the United States-trained Puntland Security Force, cited by the Panel of Experts in their 2019 report to the Security Council S/2019/858, para 56.

in Ethiopia.⁵⁰ To sustain its presence in the Bari Region, ISAG is reportedly imposing taxes and has looted food and supplies from civilian trucks.⁵¹

II. Civilian Casualties Attributed to State Actors and other Actors

A. Somali National Army

26. The Somali National Army (SNA), which falls under the Federal Government of Somalia's Ministry of Defence, is present in Banadir Region (Mogadishu and surrounding areas), South West State, Jubaland, Hirshabelle, and Galmudug. A number of Puntland security forces were integrated into SNA in November 2017.⁵²
27. Civilian casualties attributed to SNA decreased by 71 per cent in 2019 (37) compared to 128 in 2018, and 43 in 2017. This decrease could be due to more precise and targeted operations by SNA in 2019 and their increased involvement in stabilization activities, such as distribution of food and non-food items and public relations activities in the recovered areas,⁵³ which has led to a reduction in hostilities in these areas. For example, on 30 June 2019, a high-level inter-ministerial team visited Bariire town, Lower Shabelle Region, to deliver critical support, including food and non-food items, and engaged with the community as they deployed local administrators to enhance governance.⁵⁴
28. From 2017 to 2019, the highest number of civilians killed or injured by SNA occurred in Banadir Region (80 casualties, with 41 killed and 39 injured), followed by South West State (68 casualties, with 33 killed and 35 injured), and Hirshabelle (37 casualties, with 15 killed and 22 injured). South West State recorded the highest number of civilian casualties attributed to SNA in 2017 and 2019, possibly because it conducted most of its ground engagements with Al Shabaab in that area (Lower Shabelle Region).

Deprivation of the right to life and acts contrary to the right of physical integrity attributed to the Somali National Army

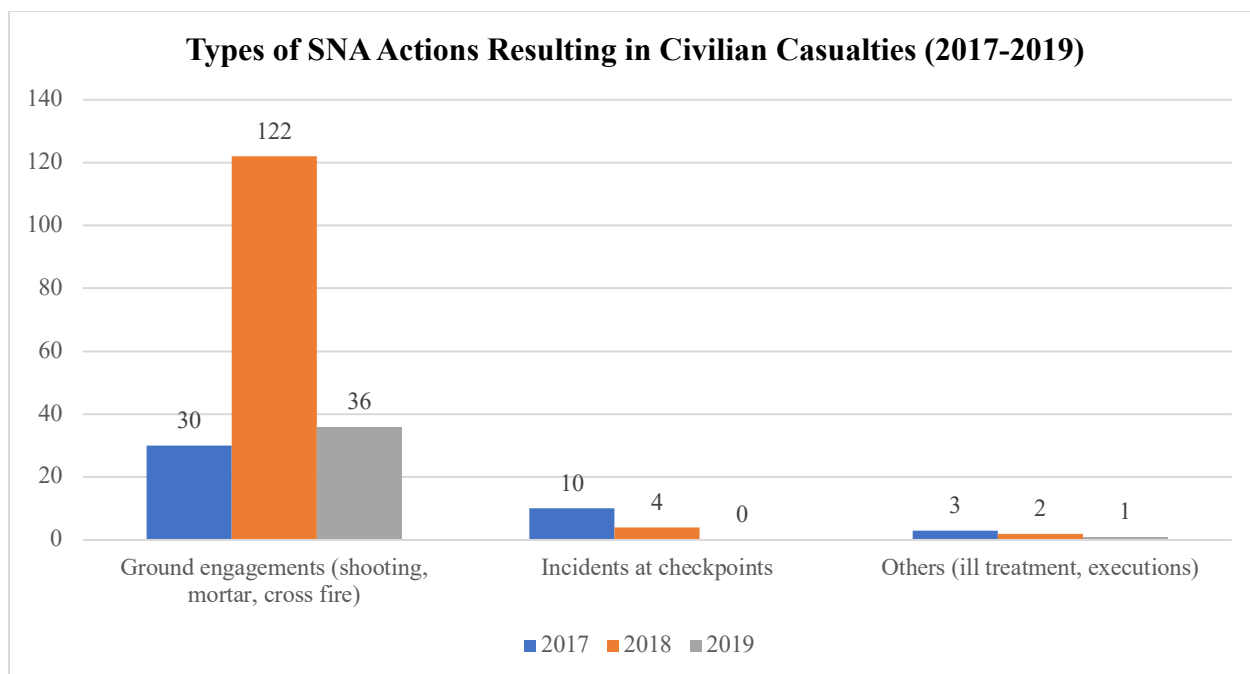
⁵⁰ On 1 October 2018, four male Ethiopian migrants were shot and killed while another was injured by unidentified gunmen in Bossaso, Bari Region. The gunmen opened fire at a restaurant in an area inhabited by Ethiopian migrants. ISAG reportedly claimed responsibility for the attack online. On 24 January 2019, a male Ethiopian national was reportedly shot and killed and three others were injured by unidentified armed men in the proximity of Bossaso Port, Bari Region. The assailants, believed to be ISAG elements, opened fire in a restaurant predominately frequented by Ethiopian migrants.

⁵¹ On 29 June 2018, UNSOM received information that on 25 and 26 June 2018 respectively, ISAG and Al Shabaab militants had looted food items from civilian trucks in Qandala District and Yalho village, Bari Region. Reportedly, armed militants from the two groups forcefully stopped the trucks, pillaged unspecified food items, and returned to their hideouts. No immediate casualties were reported, and no investigations have been conducted into the incidents.

⁵² United Nations, *Report of the Secretary-General on Somalia*, (26 December 2017), para. 42, <https://www.un.org/ga/search/view_doc.asp?symbol=S/2017/1109>.

⁵³ "Somali Army Distributes Food Aid To Residents In Lower Shabelle Region", *Shabelle Media Network*, 1 May 2019, <<https://www.radioshabelle.com/somali-army-distributes-food-aid-to-residents-in-lower-shabelle-region/>>.

⁵⁴ <<https://twitter.com/MoIFARSomalia/status/1145317394581196802>>.



29. During the period under review, shootings accounted for the highest number of civilian casualties—58 per cent—attributed to SNA (121, with 63 killed and 58 injured). This includes eight casualties as a result of SNA opening fire on a busy road at a market area at Huriwa District, Mogadishu, on 12 July 2018, and four civilian casualties caused by SNA during a pursuit of Al Shabaab militants in Bocorey village, Walewyn district, Lower Shabelle Region, on 30 July 2019.

Accountability measures by the Somali National Army

30. For the reporting period, according to information received by UNSOM/OHCHR, SNA arrested and/or investigated less than half of the incidents of allegations of human rights violations attributed to it. In 2019, out of the 21 incidents attributed to SNA, it reportedly conducted arrests and/or initiated investigations in five incidents involving its members (24 per cent). In three of the five incidents, arrests were carried out, but there were no subsequent investigations and in the remaining two incidents SNA carried out arrests and investigations. In 2018, only seven out of 50 incidents involving SNA (14 per cent) resulted in arrest and/or investigations. In three of the seven incidents, arrests were carried out, but there were no subsequent investigations and in the remaining four incidents SNA carried out arrests and initiated investigations. Finally, in 2017, SNA took action in 38 per cent of incidents attributed to SNA, namely 10 out of 26 incidents. In two of the 10 incidents, arrests were carried out, but there were no subsequent investigations and in the remaining eight incidents SNA carried out arrests and initiated investigations.
31. UNSOM/OHCHR was unable to confirm whether all allegations of human rights violations attributed to SNA were referred to the Mogadishu-based Military Court of Armed Forces, which has jurisdiction over members of SNA. In an example of adjudication by the Military Court of Armed Forces on 12 January 2019, UNSOM/OHCHR documented the case of

one SNA soldier sentenced to death by the First Instance of the Military Court of Armed Forces, for killing a civilian man in Mogadishu on 21 September 2018, despite the Government's commitment to adopt a moratorium on capital punishment during its Universal Periodic Review in 2011.⁵⁵

Human Rights Due Diligence Policy and the Somali National Army

32. Between 2017 and 2019, UNSOM/OHCHR provided technical advice and training on international human rights and humanitarian law to 10,900 SNA troops designated to receive United Nations support. UNSOM/OHCHR also supported the development of the Code of Conduct of SNA, mainstreamed human rights criteria in the integration and assessment of troops, and continued to emphasize the importance of compliance with the Human Rights Due Diligence Policy (HRDDP) through the Military Coordination Group and Training Working Group. UNSOM/OHCHR also continued to monitor and support the implementation of prevention and response measures for violations that were recommended in the 2016 SNA Risk Assessment, and in the context of integration of regional forces into Somali security forces, such as the Puntland Defence Forces.
33. In 2019, UNSOM/OHCHR conducted two visits to military training centres in Mogadishu to assess the impact of human rights and humanitarian law trainings for 600 SNA troops ahead of their deployment for Lower Shabelle operations against Al Shabaab. UNSOM/OHCHR, in collaboration with the United Nations Mine Action Service (UNMAS), also provided human rights and humanitarian law trainings to the Puntland Defense Forces. The continued training of the SNA and the issuance of command guidelines have contributed to the reduction in civilian casualties.

B. The Somali Police Force⁵⁶

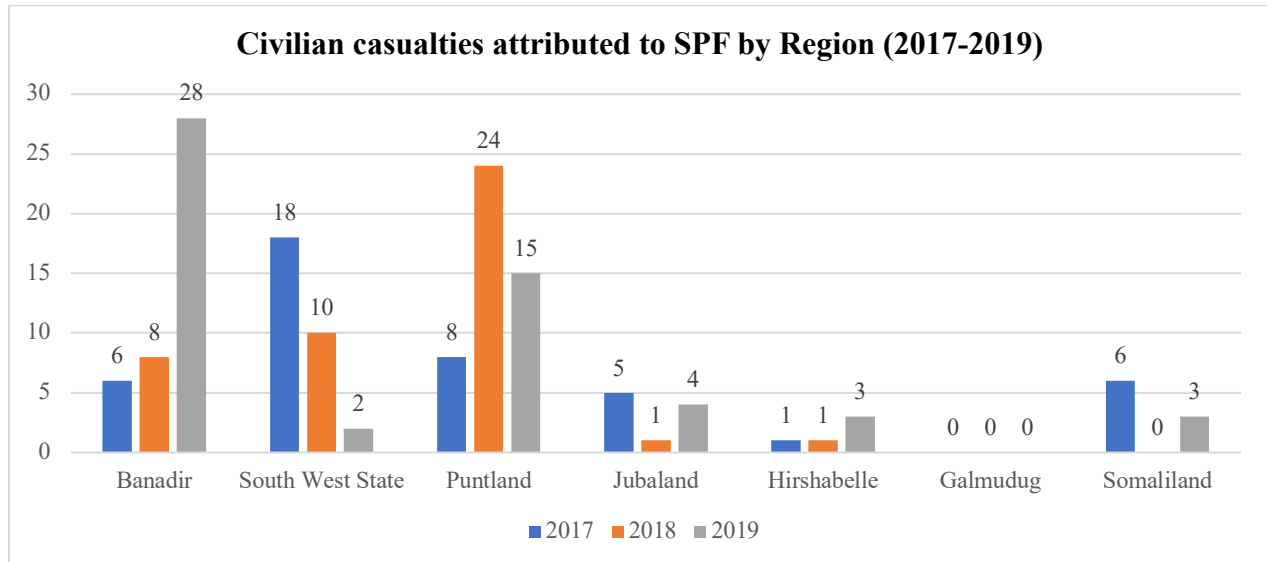
34. The Somali Police Force (SPF)⁵⁷ provides policing services in Mogadishu, Banadir Region, while its presence remains relatively low in Hirshabelle, Galmudug, South West State, and Jubaland. UNSOM/OHCHR observed a 25 per cent increase in the number of civilian casualties attributed to SPF in 2019 (55) compared to 2017 (44) and 2018 (44).
35. For the reporting period, Banadir recorded the highest number of civilian casualties attributed to SPF (42). The increase could be linked to security operations launched by the (then) mayor of Mogadishu and the Governor of the Banadir Regional Administration, on 30 March 2019. These included an increase of police checkpoints, road closures, and house-to-house search operations⁵⁸ and the transfer of more than 1,700 NISA officers to

⁵⁵ United Nations, *Report of the Independent Expert on the situation of human rights in Somalia*, (19 July 2018), <https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_hrc_39_72.pdf>.

⁵⁶ SPF refers to both federal and state-level police forces.

⁵⁷ Article 126(4) of the 2012 Provisional Constitution of the Federal Republic of Somalia provides that SPF is under the authority of the Federal Ministry of Internal Security and represents the main law enforcement authority at the federal level mandated “to protect the lives and property, the peace and security of the citizens and other residents of the Federal Republic of Somalia”.

SPF in September 2019,⁵⁹ who may not have been trained in the use of necessary and proportional force when carrying out security operations.⁶⁰



Deprivation of the right to life and acts contrary to the right of physical integrity attributed to Somali Police Force

36. In 2019, shootings accounted for the highest number of civilian casualties attributed to SPF, with 50 victims. A similar trend had been observed in 2018 when UNSOM/OHCHR documented 35 casualties resulting from SPF shooting compared to 14 in 2017.
37. Incidents at police checkpoints resulted in two casualties in 2017, seven in 2018, and three in 2019.⁶¹ Other causes of casualties, such as arbitrary killing and beating dropped, from 11 civilian casualties documented by UNSOM/OHCHR in 2017 to two in 2018 and two in 2019.

⁵⁹ Alice Hills, “Somalia’s Security Challenges Complicate Transfer of Responsibility to Government”, 11 March 2019, <<https://theglobalobservatory.org/2019/03/somalia-security-challenges-complicate-transfer-government/>>.

⁶⁰ For example, on 4 November 2019, in Hodan District, Mogadishu, police officers, including former members of NISA, under the command of General Sadik John, the Commander of police in Banadir Region - also former commander of NISA in Banadir region - assaulted four journalists, including three working for Aljazeera and a Reuters’ photojournalist. The officers also confiscated two cameras after accusing the journalists of filming the police. A traffic police officer negotiated the release of the journalists while the two cameras were eventually returned to them.

⁶¹ For example, on 4 March 2019, a police officer shot and killed a civilian male driver at the Siinka Dheer checkpoint, in the outskirts of Mogadishu, after he refused to pay the extortion money he had demanded. The perpetrator was reportedly arrested and investigations launched but the outcome of the investigations had not been made public at the time of writing this report.

38. In 2017 and 2018, UNSOM/OHCHR documented six casualties (four deaths and two injuries) caused in the context of SPF operations against protests against forced evictions,⁶² on 16 July 2018, in the Siinka Dheer area of Mogadishu-Afgoye Road.

Accountability measures by the Somali Police Force

39. UNSOM/OHCHR documented a decrease in the rate of arrests and/or investigations into alleged human rights violations perpetrated by members of SPF in 2019 compared to 2017 and 2018. In 2017, SPF carried out arrests and investigated five out of six incidents. Of the 10 incidents in 2018, SPF investigated two without arrests, one with an arrest only, and carried out arrests and investigations in two incidents. In 2019, out of 19 incidents, SPF carried out an arrest in one incident, investigated one with arrests, and initiated investigations and arrests in five incidents.
40. UNSOM/OHCHR is aware of examples of prosecutions which in some cases led to the issuance of death sentences.⁶³ For instance, on 22 April 2017, a police officer was executed by firing squad after the Military Court of Armed Forces convicted him of murdering a civilian. In 2019, the Military Court of Armed Forces sentenced to death a police officer for killing a rickshaw driver on 8 May 2019; and sentenced another police officer (in absentia) to five years of imprisonment and the payment of 100 camels to the family of a journalist, for aiding in his killing in July 2018.
41. It is encouraging that on 16 April 2019, in a meeting with SPF senior commanders in Mogadishu, the President of Somalia, Mohamed Abdullahi Mohamed ‘Farmaajo’, urged SPF to respect human rights and improve their relationship with the public.⁶⁴
42. UNSOM/OHCHR hopes that the implementation of the New Policing Model will increase basic policing services throughout Somalia through a coordinated approach to police recruitment, training, equipment, infrastructure, stipends, and operational mentoring.⁶⁵ The New Policing Model is a key political agreement reached between the Federal Government and Federal Member States in 2016 and has been reinforced by its inclusion in the National Security Architecture (2017) and the Somali Security Pact (2017). The New Policing Model outlines the principles for a federated policing system that includes the transition of SPF to the Federal Police, the development of new State police in Jubaland, South West, Hirshabelle, and Galmudug, and the reform of the Puntland and Somaliland Police. The

⁶² UNSOM/OHCHR did not receive any information of civilian casualties linked to forced evictions caused by SPF in 2019.

⁶³ On the question of the death penalty see the Human Rights Committee’s General Comment No. 36, CCPR/C/GC/36, in particular paras. 32-51.

⁶⁴“Somali President urges police to uphold human rights”, *Halbeeg*, 16 April 2019, <<https://en.halbeeg.com/2019/04/16/somali-president-urges-police-to-uphold-human-rights/>>.

⁶⁵ The Federal Government and Federal Member States developed Police Plans that were endorsed by the National Security Council in December 2017. These plans articulate the policing priorities until 2021 and then until 2027. Launched in June 2018, the Joint Police Programme aims at improving the professionalism of the police, which should contribute to reduce incidents of civilian casualties attributed to the police. As of September 2019, approximately US\$15 million had been released to implement various activities that focus on infrastructure, stipends, training, legal framework development and police accountability.

National Security Architecture sets the number of 32,000 police in total (by 2027) while there is agreement of dividing this number equally between all five Federal Member States, Banadir (currently policed by SPF) and the Federal Police. In July 2018, the Federal Government transferred the responsibility for the management of the security of Mogadishu city from NISA to SPF.⁶⁶

Human Rights Due Diligence Policy and the Somali Police Force

43. In 2017, UNSOM/OHCHR developed the SPF Risk Assessment and continued to monitor the implementation of recommended HRDDP mitigation measures. It supported United Nations entities, including UNMAS, the United Nations Office for Project Services (UNOPS), and UNSOM-Police, to mainstream these measures in the Joint Police Programme (JPP),⁶⁷ which continued to implement prevention measures and advocate for accountability for violations of human rights, as outlined in the call for action following the 2018 South West State electoral violence.⁶⁸ Through United Nations support to prevention measures for violations, the police initiated human rights strategic plans in three Federal Member States of Jubaland, South West, and Galmudug. In 2019, UNSOM/OHCHR, in collaboration with UNMAS, provided human rights and humanitarian law trainings to three Explosive Ordnance Disposal (EOD) teams of SPF. The continued efforts to professionalise the SPF, including through training on human rights and international humanitarian law, the development of internal procedures and of biometric registration, are key steps that will contribute to the reduction of civilian casualties.

C. The National Intelligence Security Agency

44. The National Intelligence Security Agency (NISA) was created by the Federal Government of Somalia in January 2013 to replace the National Security Service. However, it was not established by law or Presidential decree and its powers and obligations are not defined;⁶⁹ it therefore continued to operate without clear oversight.
45. NISA is present in Mogadishu, Banadir Region, South West State, Hirshabelle, and Galmudug. In July 2018, the operations and management of NISA were restructured,

⁶⁶ Abdirahman Gacaltooyo, “Shirka Golaha Wasiiradda oo looga hadlay qodobu Muhiim u ah Amniga Magaalada Muqdisho”, *Radio Muqdisho*, 26 July 2018, <<https://www.radiomuqdisho.net/shirka-golaha-wasiiradda-oo-looga-hadlay-qodobu-muhiim-u-ah-amniga-magaalada-muqdisho/>>.

⁶⁷ The Somali Joint Police Programme (JPP) is an integrated support package/approach to ensure that support to the police in Somalia uses the evolving Somali Federal and State Police Plan as a basis for developing the Federal Member State and the Somali Police Force and to build a federal coordination mechanism through existing institutional mechanism, including technical committees and the Comprehensive Approach to Security. The JPP is supported by various donors led by Germany and includes the implementation of mitigation measures recommended under the human rights due diligence policy mechanism as an important consideration.

⁶⁸ In 2019, the United Nations and the donors supporting the Joint Police Programme temporarily suspended the support to the South West State (SWS) police after violence during the 2018 election which involved the police. The support was resumed after FGS agreed to implement crucial mitigation measures, including investigations into the circumstances of the SWS election violence.

⁶⁹ On 8 December 2019, the federal Minister of Internal Security informed the Lower House of the federal Parliament that a bill on NISA would be submitted to the cabinet in early 2020. The Minister did not give a definitive timeframe.

resulting in particular in limiting its role to intelligence gathering.⁷⁰ Additionally, the management of the security of Mogadishu city was transferred from NISA to SPF.⁷¹

Deprivation of the right to life and acts contrary to the right of physical integrity attributed to NISA

46. From 2017 to 2019, UNSOM/OHCHR documented 14 incidents which resulted in 21 civilian casualties (13 deaths and eight injuries) attributed to NISA. Most of these incidents occurred in 2017 in Mogadishu (11 casualties, with eight killed and three injured), when NISA was the lead counter-terrorism agency.
47. NISA was responsible for eight casualties in 2018 and two in 2019. For example, on 16 September 2018, NISA agents shot at a vehicle passing a NISA checkpoint, killing one civilians and injuring four. On 23 September 2019, a NISA officer reportedly shot a civilian man with mental impairment in Marka town, Lower Shabelle Region during a security operation.

Other actions by NISA resulting in human rights violations

48. Other alleged human rights violations committed by NISA include the arbitrary arrest and detention of 14 civilians, including four journalists and 10 Al Shabaab suspects⁷² and a night raid carried out without warrant on 17 December 2017 on the house of a politician who has been critical of the Government.⁷³

Accountability measures by NISA

49. In 2019, NISA did not investigate or carry out arrests in relation to the alleged human rights violation documented by UNSOM/OHCHR. In 2018, of the four incidents, it investigated one and carried out an arrest and investigation in another. In 2017, out of eight incidents, NISA investigated one and carried out an arrest and investigation in another.
50. For example, on 22 November 2017, the police arrested and investigated a NISA officer suspected of killing a member of the Galmudug State Assembly. In 2018, two NISA officers were found guilty and sentenced to death for killing civilians in two separate

⁷⁰ Prior to this, the role of SPF was limited to carrying out duties at police stations and Government buildings. NISA was responsible for management of the security in Mogadishu, Lower Shabelle, Hirshabelle, and Galmudug including operating checkpoints, conducting search operations, and carrying arrest of Al Shabaab suspects.

⁷¹ Abdirahman Gacaltooyo, “Shirka Golaha Wasiiradda oo looga hadlay qodob Muhiim u ah Amniga Magaalada Muqdisho”, *Radio Muqdisho*, 26 July 2018, <<https://www.radiomuqdisho.net/shirka-golaha-wasiiradda-oo-looga-hadlay-qodob-muhiim-u-ah-amniga-magaalada-muqdisho/>>.

⁷² On 22 September 2018, NISA arrested a journalist working for a private Somali television and a local radio in Dhusamareb in Galgudud Region, reportedly accusing him of airing “fake news” following his report on Al Shabaab military movements in Dhusamareb District. NISA allegedly conditioned his release on his retraction of the story. As the journalist refused to comply, the Military Court in Dhuusamarreb town sentenced him to six months of imprisonment. He was later released following negotiations between elders from his clan and the Galmudug administration.

⁷³ On 17 December 2017, the attack on the house of the politician resulted in the killing of six SNA soldiers who were his security guards. They were reportedly buried immediately, without the consent of their relatives.

incidents in Mogadishu (in December 2018) and in Baidoa (in May 2018). UNSOM/OHCHR has not received any information regarding investigations or prosecutions of alleged perpetrators in any other alleged human rights violations attributed to NISA during the period under review.

51. On 16 December 2018, the Federal Government announced the closure of the Godka Jiliaw Detention Centre in Mogadishu where, without any judicial oversight, NISA used to detain and interrogate Al Shabaab suspects, political opponents and other activists, journalists and other media personnel. According to the Federal Ministers of Internal Security and Justice, the closure of the centre was the result of complaints of arbitrary detention from the general public.⁷⁴ However, NISA reportedly still runs at least two detention facilities in Mogadishu (Baarista Hisbiga and Habar-Khadija) where it reportedly arbitrarily detains persons suspected of terrorist-related offences.

D. African Union Mission in Somalia⁷⁵

52. As regards documenting and attributing responsibility for violations of human rights and international humanitarian law allegedly committed by AMISOM, UNSOM finds that the blurring of identities between AMISOM and non-AMISOM forces remains challenging where troops of a same country, particularly the Kenya Defence Forces (KDF) and the Ethiopian National Defense Force (ENDF) continue to operate in the same locations.

Civilian casualties attributed to the African Union Mission in Somalia

53. In 2019, UNSOM/OHCHR documented seven civilian casualties (five killed and two injured) attributed to AMISOM compared to 21 (11 killed and 10 injured) in 2018 and 94 (34 killed and 60 injured) in 2017. This is a significant reduction in civilian casualties attributed to AMISOM over the last two years.
54. In 2017, the Ugandan contingent, representing the largest contingent in AMISOM was reportedly responsible for 33 civilian casualties, representing 35 per cent of a total of 94 casualties attributed to AMISOM; followed by the Burundian contingent (15 casualties/16 per cent); the Ethiopian contingent (14 casualties/15 per cent); the Kenyan contingent (10 casualties /11 per cent); and the Djiboutian contingent (six casualties / six per cent).⁷⁶ In

⁷⁴ The Minister of Security indicated that the detention facility would be converted into a training academy for NISA officers where human rights would be one of the subjects taught, “Somalia converts high security prison to intelligence training facility”, *YouTube*, 18 December 2018, <<https://www.youtube.com/watch?v=bdA33zGeVIE>>.

⁷⁵ Created by the African Union’s Peace and Security Council and authorized by the United Nations Security Council Resolution 1744 (2007), AMISOM has been operating in Somalia since January 2007. It comprises troops drawn from Burundi, Djibouti, Ethiopia, Kenya and Uganda while Ghana, Kenya, Nigeria, Sierra Leone and Uganda contribute police personnel. In 2017, after more than 10 years of active operations in support of the Federal Government against Al Shabaab, discussions began with regard to planning for AMISOM to transition security responsibilities to the Somali security forces in the framework of the envisaged AMISOM drawdown and the Somali Transition Plan. Security Council Resolution 2408 welcomed the Federal Government of Somalia’s development of a Transition Plan with clear target dates, geographical priorities, and the operational readiness assessment, with a view to conducting a conditions-based, gradual handover of security from AMISOM to the Somali security forces.

⁷⁶ Sixteen casualties (two killed, 14 injured) representing 17 per cent of the total number of casualties (94), were attributed to AMISOM but not to a specific troop-contributing country.

2018, the Ugandan contingent (28 per cent of the troops) was reportedly responsible for 43 per cent of the casualties (nine – one killed and eight injured); the Kenyan contingent for 29 per cent (six, with four killed and two injured); the Burundian contingent for 24 per cent (five killed); and the Djiboutian contingent five per cent (one killed). In 2019, AMISOM caused seven civilian casualties, with the Ethiopian contingent responsible for three (one killed and two injured); the Burundian contingent responsible for the killing of two; and the Ugandan and Kenyan contingents reportedly responsible for one civilian casualty each, both killed. UNSOM/OHCHR did not register any civilian casualties attributed to the Djiboutian contingent in 2019.⁷⁷ The details of these incidents were shared with AMISOM in the agreed modalities within the HRDDP framework.

55. Reportedly, most of the casualties caused by AMISOM in 2018 and 2019 resulted from retaliatory or indiscriminate fire from AMISOM troops when their convoys were attacked by IEDs, landmines, or grenades. For example, on 6 November 2018, the Burundian contingent reportedly fired at civilians following an attack on their convoy, killing four. In this incident, AMISOM demonstrated its ability to respond appropriately in line with its rules of engagement by conducting appropriate investigations and taking corrective measures through its boards of inquiry and additional training.

Prevention and response mechanisms

56. The significant reduction in incidents involving civilian casualties between 2017 and 2019 can partly be attributed to the implementation of the prevention and response measures identified by the UN-HRDDP Task Force and a more robust advocacy and engagement between the United Nations and AMISOM during the reporting period. The various Security Council resolutions establishing or renewing the mandate of AMISOM have called for the conduct of its operations to be in strict compliance with international human rights and humanitarian law, in line with the requirements of HRDDP⁷⁸ In the framework of the HRDDP mechanism and the risk assessments developed for AMISOM, and following the recommendations of the 2017 UNSOM/OHCHR Protection of Civilians Report,⁷⁹ the United Nations and AMISOM continued to work together in support of the implementation of the measures to prevent and respond to violations of international human rights law and international humanitarian law.

⁷⁷ AMISOM comprises contingents from Uganda Peoples' Defence Forces (5,759 troops, representing 30 per cent), Burundi National Defence Force (3,920 troops, representing 20 per cent), Kenya Defence Force (3,856 troops, representing 20 per cent), Ethiopian National Defense Force (4,123 troops representing 21 per cent), and DNDF (1,784 troops representing nine per cent).

⁷⁸ The United Nations Security Council Resolutions 2036 (2012), 2093 (2013), 2102 (2013), 2124 (2013), 2232 (2015), 2245 (2015), 2372 (2017) provide that United Nations support to AMISOM forces shall be in full compliance with HRDDP. Letters of the Secretary-General to the Security Council dated 14 October 2013 (S/2013/606) and 7 October 2015 regarding the review of United Nations Support Office for the African Union Mission in Somalia (UNSOA) and subsequently to the United Nations Support Office in Somalia (UNSOS) also provided that any support provided by the United Nations to non-United Nations security forces in Somalia shall be in full compliance with HRDDP.

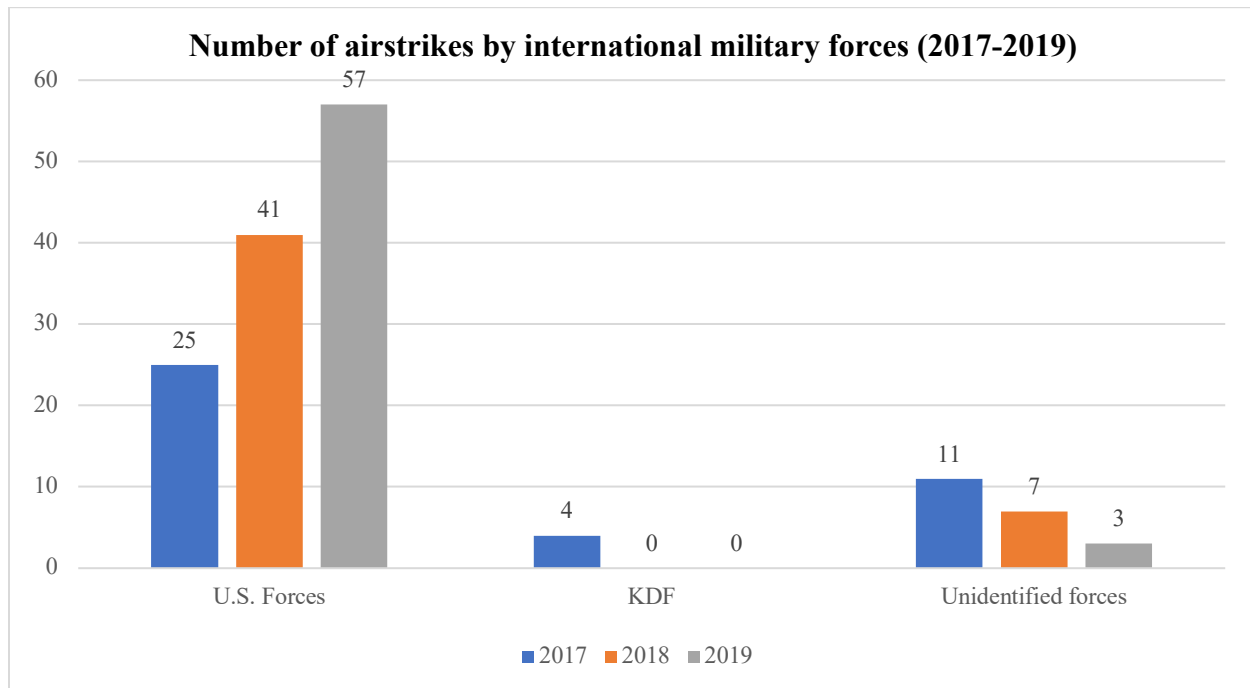
⁷⁹ UNSOM/OHCHR, "Protection of Civilians: Building the Foundation for Peace, Security, and Human Rights in Somalia", (December 2017).

57. Since January 2018, the joint United Nations-AMISOM HRDDP teams continued to meet regularly to review the status of allegations and discuss how to strengthen prevention and response measures to violations. Additionally, the AMISOM Civilian Casualty Tracking, Analysis, and Response Cell (CCTARC) continued to record and analyze information on civilian casualties and facilitate some ex-gratia payments to victims or their families.
58. According to information received by UNSOM/OHCHR, AMISOM conducted investigations and convened boards of inquiry on the incidents attributed to AMISOM reported by UNSOM/OHCHR. For example, regarding the incident involving Burundian troops referred to in paragraph 55, AMISOM convened a board of inquiry to investigate the matter and recommended ex-gratia payments for the victims and relatives as well as engagement with authorities and the affected communities. AMISOM also started reviewing its standard operating procedures (SOPs) for boards of inquiry to include international human rights law and international humanitarian law violations. The United Nations continued to provide technical support to AMISOM regarding the review of its SOPs.
59. AMISOM has also conducted training on international human rights law and international humanitarian law for its troops, including pre-deployment and in-mission training. Between 2017 and 2019, UNSOM/OHCHR conducted training for at least 100 AMISOM Police and Intelligence Surveillance and Reconnaissance teams. AMISOM translated its human rights compliant rules of engagement into languages used by Troop Contributing Countries and disseminated them to the troops on the ground.
60. In December 2018, AMISOM conducted a monitoring mission to Dhobley, Jubaland, to assess the status of the mitigation measures for its air assets. A follow-up mission was conducted jointly by UNSOM, UNSOS, and AMISOM in July 2019. In both these missions, UNSOM noted that AMISOM had put in place measures to prevent the impact of its air operations on civilians, although further training, enhanced incident reporting, and specific Rules of Engagement were recommended.
61. However, AMISOM still faces capacity challenges, including in investigating allegations of international human rights law and international humanitarian law violations committed by its troops. It is particularly important to address this challenge in view of the transfer of lead responsibility for security from AMISOM to the Somali security forces, which requires AMISOM to mentor and train the Somali security forces on international human rights and international humanitarian law issues.

III. Airstrikes by international forces

62. UNSOM/OHCHR recorded 148 airstrikes carried out between 1 January 2017 and 31 December 2019, with 60 conducted in 2019, compared to 40 in 2017 and 48 in 2018. According to AFRICOM press statements, 123 airstrikes (83 per cent) were carried out by

U.S. forces operating in support of the Federal Government of Somalia.⁸⁰ UNSOM/OHCHR documented 21 airstrikes (14 per cent) carried out by forces it was unable to identify and four airstrikes by KDF.



63. The region most affected by the airstrikes was Lower Shabelle Region. In 2017, 17 airstrikes were carried out in the region (43 per cent of all airstrikes in 2017); 18 in 2018 (38 per cent of all airstrikes in 2018); and 26 in 2019 (43 per cent of all airstrikes in 2019). The increase in 2019 was due to an intensification in armed operations against Al Shabaab conducted in Lower Shabelle.
64. The number of civilian casualties caused by airstrikes is difficult to verify as most were conducted in Al Shabaab-controlled areas, to which the United Nations and other international actors have limited or no access.⁸¹
65. UNSOM/OHCHR documented 54 civilian casualties resulting from approximately 17 airstrikes during the period under review (30 killed and 24 injured). While the number of airstrikes increased in 2019 compared to 2017 and 2018, the number of civilian casualties

⁸⁰ The U.S. AFRICOM regularly releases press statements on their website, <<https://www.africom.mil/media-room/press-releases>>; on 7 August 2019, General Stephen Townsend, the U.S. Africa Command stated that the U.S. will apply continued pressure on Al Shabaab, U.S. Africa Command Public Affairs, “New AFRICOM Commander Visits Somalia”, *United States Africa Command*, Stuttgart, Germany, 7 August 2019, <<https://www.africom.mil/media-room/pressrelease/32085/new-africom-commander-visits-somalia>>.

⁸¹ In a report published in March 2019, Amnesty International alleges that 14 civilians were killed and eight injured as a result of five airstrikes conducted by the U.S. in Lower Shabelle, between April 2017 and December 2018. It referred to “credible evidence that US air strikes were responsible for four of the incidents” and stated that the fifth one was most plausibly caused by a US air strike as well, Amnesty International, “The Hidden US War in Somalia: Civilian Casualties From Air Strikes in Lower Shabelle”, AFR 52/9952/2019, 2019, <<https://www.amnesty.org/download/Documents/AFR5299522019ENGLISH.PDF>>.

caused by airstrikes decreased by 40 per cent (nine casualties – four killed and five injured) compared to 2017 (30 casualties, with 21 killed and nine injured) and 2018 (15 civilian casualties, with five killed and 10 injured).⁸²

IV. Conflict-Related Sexual Violence

66. In 2019, through the Monitoring, Analysis and Reporting Arrangements (MARA) and the Country Task Force on Monitoring and Reporting (CTFMR) mechanism, UNSOM/OHCHR documented 241 cases of conflict-related sexual violence (CRSV) affecting 221 girls and 20 women. In 2018, UNSOM/OHCHR verified cases of CRSV against 271 persons - 250 girls, 20 girls and one boy.⁸³ In 2017, UNSOM/OHCHR documented CRSV cases perpetrated against 330 children (329 girls and one boy).⁸⁴

Types of conflict-related sexual violence cases

67. For the period under review, dominant patterns include the abduction of women and girls for forced marriage and rape, perpetrated primarily by non-state armed groups, and incidents of rape and gang rape committed by State agents, militias associated with clans and unidentified armed men.⁸⁵ Impunity for sexual violence crimes continued as most perpetrators are not arrested and those who are arrested are usually not convicted and not sentenced to prison terms.
68. The incidents documented in 2017 and 2018 indicate that most survivors were women and girls living in internally displaced persons (IDP) camps and from minority clans and marginalized groups. The data in 2019 indicates that among victims, there was a number of women and girls formerly associated with Al Shabaab, the majority of whom were victims of forced marriage.

Alleged perpetrators

69. For both 2018 and 2019, unidentified armed actors, followed by SNA elements, were allegedly responsible for the highest number of incidents of CRSV. Out of 202 incidents reported in 2018, 83 (41 per cent) were attributed to unknown perpetrators, and 83 out of

⁸² U.S. Africa Command claimed to have killed two civilians in an airstrike on 1 April 2018, U.S. Africa Command Public Affairs, “U.S. airstrike targets al-Shabaab in support of the Federal Government of Somalia”, *United States Africa Command*, Stuttgart, Germany, 5 April 2019, <<https://www.africom.mil/media-room/pressrelease/31697/u-s-africa-command-commander-directed-review-reveals-civilian-casualties>>.

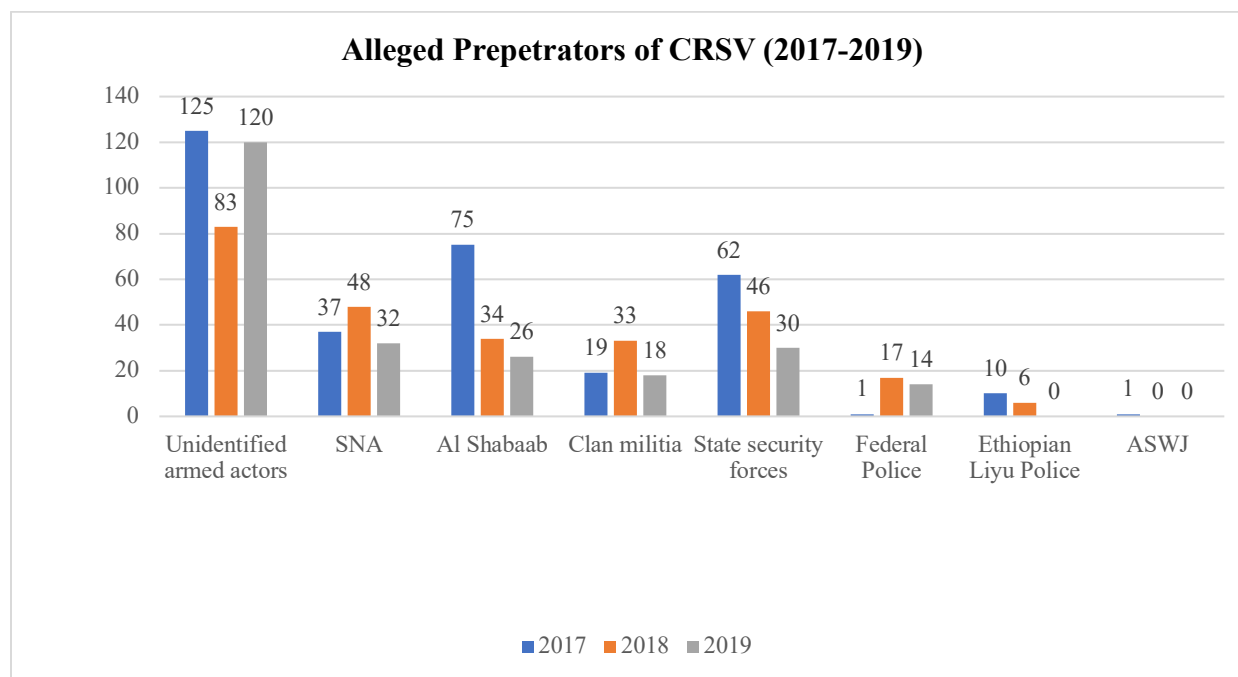
⁸³ United Nations, “Report of the Secretary-General on Conflict-Related Sexual Violence”, (29 March 2019), <<https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2019/04/report/s-2019-280/Annual-report-2018.pdf>>.

⁸⁴ United Nations, “Report of the Secretary-General on Conflict-Related Sexual Violence”, (16 April 2018), <<https://www.un.org/sexualviolenceinconflict/wp-content/uploads/report/s-2018-250/SG-REPORT-2017-CRSV-SPREAD.pdf>>.

⁸⁵ United Nations, “Report of the Secretary-General on Conflict-Related Sexual Violence” (29 March 2019); United Nations, “Report of the Secretary-General on Conflict-Related Sexual Violence”, (16 April 2018).

241 in 2019 (34 per cent). In 2019, no CRSV case was attributed to Ethiopian Liyu Police, compared to six incidents reported in 2018.

70. In two cases in 2019, six alleged perpetrators were sentenced to death by Garowe District Court and Mudug District Court in Puntland in relation to cases which occurred.

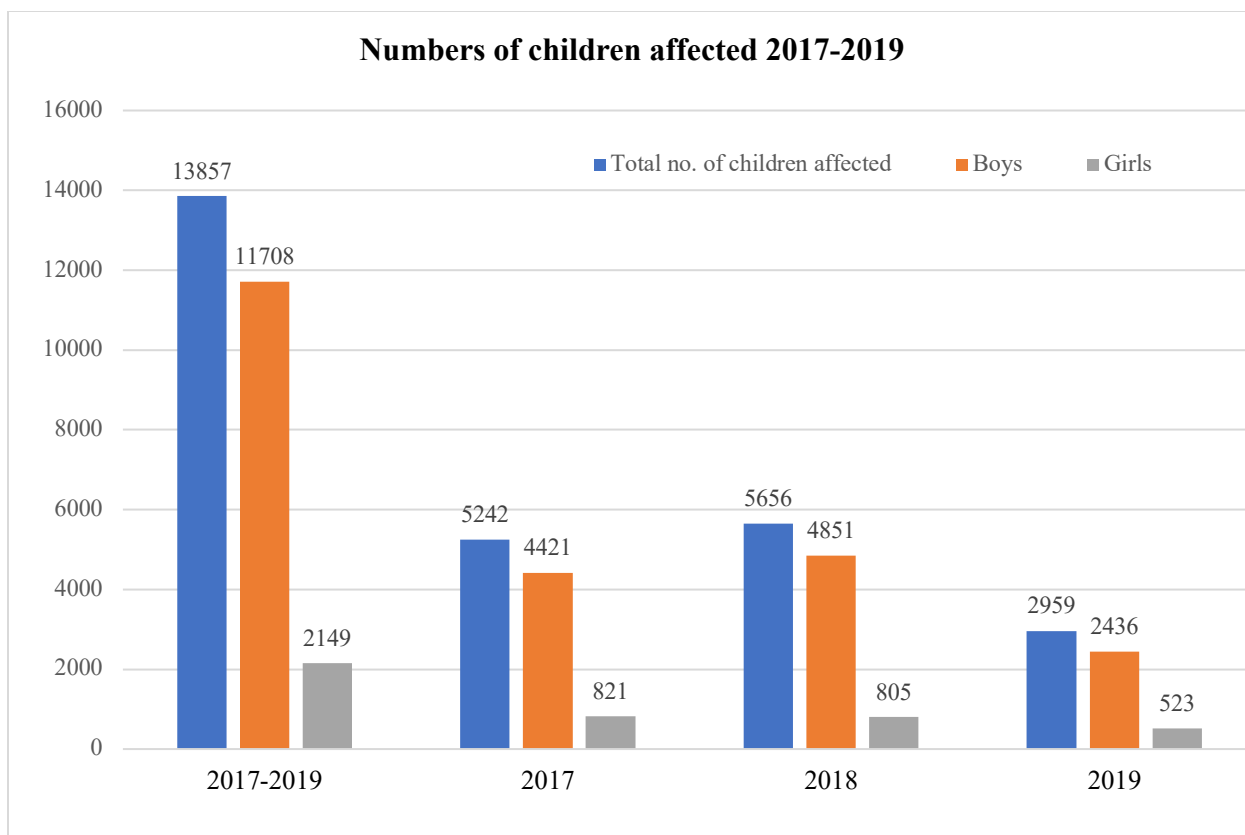


71. A study supported by the International Organization for Migration (IOM) to understand the drivers for men and women joining Al Shabaab, either voluntarily or forced,⁸⁶ revealed that the majority of women were wives who followed their husbands and left for security reasons. They face real threats when they leave Al Shabaab, especially when there is dispute over children. These women are vulnerable to re-joining Al Shabaab, being forced to conduct activities so that they can keep their children and maintain themselves.
72. The Federal Government has taken measures to address CRSV through the implementation of the Joint Communiqué signed by the Federal Government and the SRSB for Sexual Violence in Conflict, renewing its commitment during the visit of the SRSB to Somalia in July 2019 and requesting the support of the United Nations in the development of a new National Action Plan on Ending Sexual Violence in Conflict. The Ministry of Women and Human Rights Development has also carried out a number of awareness and community mobilization initiatives against sexual violence under the Joint Programme on Human Rights. Additionally, in collaboration with the Sexual and Gender-based Violence Unit established by the Office of the Attorney General, service providers continue to provide critical medical, socio-psychological support and legal aid to victims and survivors.

⁸⁶ International Organization for Migration (IOM), “Pilot Project to support women formally associated with Al Shabaab”, (unpublished, November 2019).

V. Children and Armed Conflict

73. Children continued to endure grave violations in the context of armed conflict in Somalia. Between 1 January 2017 and 31 December 2019, CTFMR documented 10,654 grave violations affecting 13,857 children (11,708 boys, 2,149 girls). The number of children affected by grave violations increased from 5,242 in 2017 to 5,656 in 2018 and decreased to 2,959 in 2019. The increase in 2018 could be attributed in part to Al Shabaab's recruitment drive. The decrease could also be linked to the movement of children and their families from Al Shabaab-controlled areas to government-controlled areas to avoid forced child recruitment by Al Shabaab, coupled with large-scale operations by AMISOM and the SNA targeting Al Shabaab.
74. Despite a decrease in 2019, children remained the victims of recruitment and use (1,495), abduction (1,158), killing and maiming (703) as well as rape and other sexual violence such as forced marriage and attempted rape (227). The perpetrators of such violations were mainly members of Al Shabaab. The majority of the violations were committed in Banadir (17 per cent) followed by Middle Juba (15 per cent), Galgadud (13 per cent), Bay (12 per cent), Lower Juba (nine per cent), Middle Shabelle (nine per cent), Lower Shabelle (seven per cent), Gedo (five per cent), Bakool (five per cent), Hiraaan (three per cent), Mudug (two per cent), Nugal (one per cent), Sool (one per cent), and (0.4 per cent) in Bari, Sanaag, and Togdheer regions.
75. CTFMR also verified and documented 204 cases of attacks against schools and 34 attacks on hospitals, mostly in Galgadud, Middle Shabelle, Lower Shabelle, Middle Juba, Bay, Hiraaan, Lower Juba, Banadir, Togdheer, and Gedo regions. It also verified 153 incidents of denial of humanitarian access across south and central Somalia.



76. Of the violations documented from 2017 to 2019, the majority (75 per cent) were attributed to Al Shabaab, followed by unknown armed elements (11 per cent), SNA (six per cent), and other Somali security forces, regional security forces, and clan militia (eight per cent).
77. Al Shabaab continued to carry out abductions for the purpose of recruitment and use of children, forcing community elders and parents to provide children for recruitment. During the reporting period, CTFMR documented the recruitment and use of 5,775 children (5,634 boys; 141 girls) by different parties to the conflict. Al Shabaab was responsible for the recruitment of 4,707 children (82 per cent); SNA for 343 (six per cent); SPF for 201 (three per cent); Galmudug forces for 128 (two per cent), Jubaland forces for 115 (two per cent); Puntland forces for 60 (one per cent); clan militia for 90 (two per cent); ASWJ for 80; while two recruitments were attributed to Westland armed elements,⁸⁷ and 21 to South West State forces.
78. CTFMR verified cases of 853 children deprived of their liberty (837 boys, 16 girls) during military operations, mainly in Banadir, Lower Juba, Lower Shabelle, Galgaduud, Middle Shabelle, and Hirshabelle regions. These children are recruited or used by parties to the conflict or they are arrested and deprived of their liberty for their alleged association with parties to the conflict. Most of the cases, namely 361, were attributed to SNA (42 per cent); 346 to SPF (41 per cent); 54 to Jubaland forces (six per cent); 50 to NISA (six per cent);

⁸⁷ Westland armed elements is one of the militia groups aligned with different clans in Somalia. Until 2019, violations attributed to this group were reported under “clan militia”.

14 to Al Shabaab (two per cent); 10 to AMISOM (one per cent); seven to South West State forces (less than one per cent); six to Galmudug forces; four to clan militias; and one to ASWJ.

79. The arrest and detention of children for association with armed groups contravenes the SOP for the Receptions and Handover of Children Associated with Armed Groups endorsed by the Federal Government in 2014, which provides that all children separated from armed groups in Somalia, regardless of the means of separation, shall be handed over to UNICEF or its partners within a period of 72 hours.
80. Children continued to be disproportionately affected by suicide attacks, VBIED complex attacks, crossfire, land mines and airstrikes that resulted in death and injuries. CTFMR documented the killing and/or maiming of 2,657 children (1,967 boys, 690 girls) during the reporting period. Both non-state and State armed actors were responsible for these casualties, with 1,078 cases attributed to unidentified armed elements (41 per cent); 894 to Al Shabaab (34 per cent); 241 to SNA (nine per cent); 127 to clan militias (five per cent); 68 to SPF (three per cent); 63 to Jubaland forces (two per cent); 42 to AMISOM (two per cent); 37 to South West State forces (two per cent); 34 to Galmudug forces (one per cent); 18 to Puntland forces (0.7 per cent); seven to KDF (0.3 per cent); two to Ethiopian Liyu Police and ENDF.
81. During the reporting period, CTFMR verified 885 incidents of rape and other forms of sexual violence, affecting 881 girls and four boys, with 354 cases attributed to unknown armed elements (40 per cent); 147 to Al Shabaab (17 per cent); 111 to SNA (13 per cent); 78 to clan militias (nine per cent); 75 to Jubaland forces (eight per cent); 39 to South West State forces (four per cent); 24 to Galmudug forces (three per cent); 28 to SPF (three per cent); 16 to Ethiopian Liyu Police; seven to Puntland forces; four to ENDF bilateral forces; one to ASWJ; and one to Westland militia.
82. A total of 4,371 children (4,020 boys, 351 girls) were verified as victims of abduction in the period under review. Al Shabaab was responsible for 98 per cent of the cases, namely 4,305; while 32 were attributed to clan militias; 30 to unidentified armed elements; and four to Westland forces. Children were abducted mainly for the purpose of indoctrination and subsequent recruitment and use as child soldiers.
83. A total of 204 schools and 34 hospitals or medical facilities were attacked during the reporting period. The majority of the attacks (80 per cent) were attributed to Al-Shabaab (174 schools; 17 hospitals or medical facilities); 10 per cent to unidentified armed elements (18 schools, four hospitals); four per cent to Galmudug forces (two schools; five hospitals or medical facilities); four per cent to clan militia (two schools; five hospitals or medical facilities); three per cent to SNA (five schools; three hospitals). The attack on two schools were attributed to SPF and one to AMISOM.
84. CTFMR verified 153 incidents of denial of humanitarian access during the period under review, with the majority (58 per cent) attributed to Al Shabaab, with 85 incidents; 25 incidents were attributed to clan militia; 14 incidents to NISA; 10 to unidentified armed

elements; nine to Galmudug forces; four to SNA; two to ASWJ; and one to Jubaland forces, South West State forces, and Puntland forces.

85. Further to its commitments made under the 2012 Children and Armed Conflict Action Plans, the Federal Government of Somalia took steps to implement measures aimed at strengthening the protection of children affected by armed conflict through the Children and Armed Conflict Working Group coordinated by the Ministry of Defence. On 21 August 2017, the SNA Chief of Defence Forces issued a General Command Order to stop recruitment and use of children and other grave violations against children by the army and prohibited the perpetration of sexual violence by SNA. Training and awareness-raising on child protection has been conducted by the Children and Armed Conflict Working Group for SNA, SPF, regional forces, and Government officials involved in child protection. The Children and Armed Conflict Working Group elaborated a Children and Armed Conflict roadmap in 2018 to accelerate the implementation of the Action Plans. The roadmap was adopted on 28 October 2019 by the Federal Government. The Federal Government has also taken steps towards legislation aimed at enhancing child protection, including the Children Bill and Sexual Offences Bill.

VI. Recommendations

86. The Federal Government of Somalia, the Federal Member States, and international forces should develop, implement, and share operational policies and practical measures to enhance respect for international human rights law and international humanitarian law and avoid harm to civilians, with particular attention to the conduct of military operations in urban areas.
87. UNSOM/OHCHR takes note that in August 2019, the Federal Government began consultations to develop a Protection of Civilians Policy, which should take forward recommendations from the 2016 Universal Periodic Review of Somalia, Somalia's Human Rights Roadmap and the 2017 UNSOM/OHCHR report on Protection of Civilians, and is in line with the measures recommended in the HRDDP framework.
88. Specifically, **all parties to the conflict** should:
 - a) Take all possible precautions to protect the civilian population generally, individual civilians, and civilian objects against the dangers resulting from military operations;
 - b) Comply with and ensure respect for international human rights and humanitarian law, including in and through clear orders or directives; and hold accountable those responsible for targeting civilians, or killing or injuring them in breach of those standards;
 - c) Adequately support the systematic collection and analysis of information on the protection of civilians including data disaggregated by sex and age and gender analysis and cause of death/injury, and ensure that it feeds into a conflict analysis, prevention, and response mechanism.

State actors should:

- a) Ensure, independent, impartial, prompt, thorough, effective, credible and transparent investigations and judicial proceedings into allegations of serious violations attributed to troops and, where appropriate, prosecute the alleged perpetrators to hold them accountable, and provide adequate and holistic support and assistance and effective remedies for victims, while applying a victim-centered approach.

Non-state actors should also:

- a) End the indiscriminate and disproportionate attacks and use of IEDs in areas populated by civilians, and should refrain from firing explosive weapons causing wide-area effects from and into civilian-populated areas;
- b) Immediately cease targeted attacks on civilians (including Government officials, civil servants, civil society actors, journalists, clan elders, and aid workers) and civilian objects;
- c) Immediately end any form of conflict-related sexual violence.

The Federal Government and Federal Member States should:

- a) Support the systematic collection and analysis of information on the protection of civilians, including data disaggregated by sex and age and cause of death/injury and ensure that it feeds into a conflict analysis, prevention, and response mechanism;
- b) Accelerate the adoption of legislative, policy and law enforcement measures necessary to ensure independent, impartial, prompt, thorough, effective, credible and transparent investigations into, and prosecutions of, violations of international humanitarian law and international human rights law, including those amounting to serious crimes;
- c) Take the necessary measures to ensure that their security forces implement a zero tolerance policy for sexual violence within its ranks and that perpetrators are brought to justice;
- d) The Federal Government to ratify international instruments aimed at protecting civilians, including the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children and Armed Conflict, and other international and regional human rights instruments, such as the African Charter on the Rights and Welfare of the Child, and the Arms Trade Treaty and similar regional instruments, and ensure that national legislation and policies are in line with international obligations;
- e) Step up the process of establishing the National Human Rights Commission, which should act as an independent body that would, inter alia, investigate human rights violations committed in the context of the conflict;
- f) Develop SOPs for security actors to ensure that security operations and evictions conducted in civilian settlements such as IDP camps comply with human rights principles and is in line with the National Eviction Guidelines;
- g) Step up efforts to implement the two Action Plans of 2012 on Children and Armed Conflict, using the Children and Armed Conflict Roadmap signed in October 2019 as a basis, including through the criminalization of child recruitment and use, the systematization of troops screening and the implementation of the SNA Chief of Defence's Force Command Order 1 prohibiting and sanctioning child recruitment and other grave violations against children;
- h) Ensure that victims, including of sexual and gender-based violence, receive holistic support and assistance, including medical and social support, and access to remedies and full reparations;

- i) Ensure effective implementation of the 2013 Joint Communiqué on the Prevention of Sexual Violence signed between the Federal Government and the United Nations;
- j) Take into account protection risks, including their gender dimensions, faced by the civilian population in areas recovered from non-state armed groups.

AMISOM should:

- a) Strengthen its support to internal oversight and compliance mechanisms by Somali security forces in the process of the transfer of security responsibilities and in the framework of joint operations with Somali security forces;
- b) Take forward its initiative to develop AMISOM-specific SOPs for air assets in the light of acquisition of air assets and the possible implications of increased air operations on civilians;
- c) Continue to streamline mechanisms for accountability, including investigations into incidents resulting in casualties and allegations of violations of international human rights and humanitarian law, including sexual and gender-based violence, board of inquiry initiated by AMISOM and the African Union, and reporting and information sharing;
- d) Strengthen CCTARC to ensure accurate tracking and documentation of civilian casualties; further create awareness about its mandate, using appropriate forms of communication; and continue cooperation with partners to mobilize resources for the CCTARC ex-gratia/amends mechanism;
- e) Take into consideration the protection risks and the ability of the Somali security forces to hold recovered territory as it transfers security responsibility to Somali security forces;
- f) Ensure clear and tightened command and control by AMISOM and improved identification between AMISOM and non-AMISOM forces.

The African Union should:

- a) Ensure that accountability for international humanitarian law and human rights law violations and liability is clearly defined, including with respect to sharing of information on the outcome of investigations and disciplinary measures carried out by troop contributing countries;
- b) Continue to support TCC's pre-deployment training on international human rights law and international humanitarian law, and ensure monitoring and evaluation of the delivery and impact of such training;
- c) Continue to mobilize funding for the ex-gratia payment fund, in collaboration with the United Nations in order to enable effective implementation of its amends policy.

The international community should:

- a) Continue to encourage and strengthen support to the Federal Government and Federal Member States on the implementation of the Security Pact, and ensure that the implementation of the National Security Architecture guarantees respect for international human rights law and international humanitarian law;
- b) Support the Federal Government and Federal Member States to strengthen the police and other rule of law institutions to guarantee the protection of civilians, including by sensitizing them to gender concerns and impacts, and increasing the number of women in the police forces and other institutions;

- c) Support the Federal Government and Federal Member States in the provision of holistic protection to victims/survivors, including of conflict-related sexual violence;
- d) Support the Federal Government and Federal Member States to improve the accountability mechanism of security forces, in particular building the investigation skills of security forces.

ANNEX 1: LEGAL FRAMEWORK

The situation in Somalia is characterized by a number of armed conflicts. UNSOM/OHCHR considers that the main armed conflict in Somalia is a non-international armed conflict, between the Government of Somalia, with the support of international military forces and Al Shabaab, a non-state organized armed group. All actors involved in the non-international armed conflict in Somalia are bound by international humanitarian law, customary international humanitarian law; as well as obliged to respect international human rights law.

Definition of civilians for the purpose of this report

While this report attempts to capture the total number of civilian casualties recorded by UNSOM/OHCHR from 2017 to the end of 2019, it should be noted that not all casualties constitute violations of international humanitarian law and international human rights law. While under international humanitarian law, parties to a conflict must at all times distinguish between civilians and combatants or those taking direct participation in hostilities and civilian objects and military objectives, and must take all feasible measures to avoid civilian casualties, the incidental death or injury of civilians or destruction of civilian objects resulting from an attack that has been directed towards a legitimate military objective does not necessarily amount to a violation of international humanitarian law.

Under customary international humanitarian law, civilians are defined as persons who are not members of the armed forces or otherwise combatants. The report refers to civilian casualties where there are reasonable grounds to believe that the victims were civilians as defined above and were killed or injured as a direct result of war operations and the acts, decisions, and/or purposes causing them were closely related to the conflict.

Obligations under international humanitarian law

All parties to the conflict have clear obligations under article 3 common to all four Geneva Conventions⁸⁸ (Common Article 3) and customary international humanitarian law. Common Article 3 requires all parties to the conflict to treat all persons humanely, it prohibits murder and torture, and the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples. International humanitarian law also regulates the conduct of hostilities and imposes to the parties the following obligations: to distinguish between combatants and civilians and civilian objects and military objects at all times; to ensure that attacks adhere to the principle of proportionality, and to take all feasible precautions to avoid and minimize incidental loss of civilian life, injury to civilians, and damage to civilian objects.

Obligations under international human rights law

International human rights law applies both in peace time and during armed conflict. In the latter case, international human rights law and international humanitarian law afford protection in a

⁸⁸ Somalia acceded to the four Geneva Conventions on 12 July 1962.

complementary and mutually reinforcing manner. Somalia is a party to various international and regional human rights treaties, including the International Covenant on Civil and Political Rights; the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the Convention on the Rights of Persons with Disabilities; and the African Charter on Human and Peoples' Rights. All these instruments notably protect the right to life and obligate the State to provide *inter alia* basic human rights protections to all persons within the territory or subject to its jurisdiction.

While they cannot become parties to international human rights treaties, non-state actors, including non-state armed groups and *de facto* authorities, exercising government-like functions and control over a territory, such as Al Shabaab, must respect international human rights norms when their conduct affects the human rights of the individuals under their control.

The human rights responsibilities of non-state armed groups operating in Somalia however does not affect the obligation of Somalia to uphold international human rights law in relation to its territory and other places under its jurisdiction. The State is obliged to exercise due diligence and take all measures available to it to protect all persons within its territory and all persons subject to its jurisdiction against threats to the enjoyment of human rights posed by non-state actors, including *de facto* authorities and armed groups. Somalia must seek to hold perpetrators of human rights violations accountable and guarantee the rights of victims, including their right to an effective remedy and reparation.

Obligations under international criminal law

Although Somalia is not a party to the Rome Statute of the International Criminal Court (Rome Statute), it has expressed its full support for the principles enshrined in the Rome Statute and its commitment to “ending the persisting culture of impunity and ensuring that perpetrators of violations of human rights and international humanitarian law are held accountable for their actions and that justice is done”.⁸⁹ In any event, customary international law requires all States to effectively investigate and prosecute serious violations of international humanitarian law.⁹⁰ As for international military forces of States which are party to the Rome Statute, articles 6 to 8 of the latter give the International Criminal Court the jurisdiction to prosecute individuals for the crime of genocide, crimes against humanity and war crimes.

National Legal Framework, Institutions and Action Plans

The Provisional Constitution of Somalia obliges the Government of Somalia to guarantee, amongst others, the rights to life, personal liberty and security, freedoms of association, religion and belief, expression and opinion, and peaceful assembly, of all persons in Somalia.

The legal system in Somalia is a mixed system of the common law, Sharia law, and customary law practices (Xeer in Somali).

⁸⁹ The consideration by the Government of Somalia of the 155 recommendations, 21 September 2011, SPR/UNOG/000431/11, 98.1, <<https://www.ohchr.org/EN/HRBodies/UPR/Pages/SOindex.aspx>>.

⁹⁰ See generally, Rules 139-143, 151-161, ICRC Study of Customary IHL.

The capacity of the formal justice system to process cases is yet to be fully restored after collapsing during the civil war that began in 1991. New Federal Member States are beginning to establish their own justice institutions, although most justice personnel lack formal training. There are no oversight mechanisms and courts lack the ability to enforce decisions. Combined with a deep-rooted perception of corruption, this undermines public confidence in the formal justice system. Many communities do not have access to the formal system and take their disputes to traditional justice mechanisms, including ‘courts’ operated by Al Shabaab in some areas.

National Framework to Address Sexual Violence

The Somali legal system addressing sexual violence comprises the Sharia, the traditional justice system (Xeer), and the formal justice system, although most cases are dealt with under Xeer and Sharia law. As currently practiced, these systems often result in further victimization of women and girls, with no justice for survivors and impunity for perpetrators.

The National Action Plan on Ending Sexual Violence and Conflict provides a framework to tackle the issue of conflict-related sexual violence in Somalia. A Sexual Offences Bill has been drawn up, although it remains to be passed by the Federal Parliament. Puntland promulgated the Puntland Sexual Offences Act 2016 and the Parliament of Somaliland passed the Sexual Offences Act in August 2018.

National Framework to Address Child Protection

Somalia’s 2012 Provisional Federal Constitution provides specific provisions that protect children’s rights in the context of the ongoing armed conflict, in particular article 29, which states that ‘every child has the right to be protected from armed conflict, and not to be used in armed conflict’. Article 29 also defines a child as ‘a person under 18 years of age’. Concurrent to the adoption of the Provisional Constitution, in 2012, the Federal Government and the United Nations signed two Action Plans aimed at ending the recruitment and use and killing of children by Somalia’s forces in military operations. The Federal Government is achieving progress in implementing both Action Plans and, through the support of UNSOM Child Protection and CTFMR, it has adopted specific policies and established structures and mechanisms to build capacity, create awareness and support efforts of the authorities. In addition, support has been provided for the sensitization and screening of troops to ensure SNA units are child-free. This includes monitoring integration of regional forces into SNA as well as work with the yet to be integrated regional forces.

ANNEX 2: MAP OF SOMALIA



Response from the Federal Government of Somalia on the draft Protection of Civilians report developed by UNSOM/OHCHR.

1. The report notes that from 1 January 2017 to 31 December 2019, a total of 5,133 recorded civilian casualties were caused by all parties to the conflict; with Al-Shabaab being responsible for nearly three-quarters of the casualties. We also take note of the incidents attributed to the Somali Security forces (SNA, Somali Police, and NISA). While we appreciate the report's acknowledgment of the reducing trend of civilian casualties, a stronger elaboration of the measures that have been taken by the Federal Government contributing to this positive trend needs to be highlighted. These include the FGS's deliberate efforts to professionalize its forces through extensive trainings on human rights and international humanitarian law, the development of internal procedures, biometric registration, issuance of command orders to guide the battalions, and the military protection measures against Al-Shabaab, to prevent their continued killing of innocent civilians.
2. With regards to the verification of incidents, we would also encourage a joint formal approach or mechanism of follow-up of incidents with the Federal Government institutions on the civilian casualties documented by the United Nations. This will not only enable accurate recording and facilitate action where there are indications of alleged culpability for the Somali security forces, but it will also strengthen the credibility of the documented incidents and ensure prompt action. We would welcome the United Nations suggestions in this regard.
3. Regarding civilian casualties caused by AMISOM, the reduction with seven in 2019, compared to 21 in 2018, and 94 in 2017, is welcome. Given that this is a period of transition of security responsibilities from AMISOM to Somali Security Forces (SSF), the report should emphasize the role of AMISOM to strengthen compliance and prevention through robust measures. The need for AMISOM to transfer civilian casualty prevention and response measures to SSF, such as the Civilian Casualty Tracking, Analysis, and Response Cell (CCTARC), as part of their contribution to the professionalization of SSF should also be highlighted in the report.
4. With regard to the conflict-related Sexual violence, the Federal Government of Somalia notes that the figures mentioned in the report are alarming (76 incidents in 2019; 111 in 2018 and 100 in 2017) and the institutions named in the report have expressed skepticism on the sources of this data. In addition, the report does not mention the steps taken by the Federal Government to address conflict-related sexual violence. Thus, the report creates the impression that the Federal Government has not acted against these violations. It should be noted that the Federal Government has taken several measures to address conflict-related sexual violence which include policy and legislative measures. For example, through the implementation of the National Action Plan on Ending Sexual Violence in Conflict,

awareness and community mobilization initiatives against sexual violence under the Joint Programme on Human Rights, the legislative process of the Sexual Offenses Bill has been supported, despite the delay of the Parliamentary process to pass the SOB. The Ministry of Women and Human Rights Development continues to engage the Parliament to urge for the passage of the SOB. In addition, the Women and Child Protection Units of the SNA and the Police have also been established.

5. With regard to Children and Armed conflict, the report provides the figures said to have been verified by the Country Task Force on Monitoring and Reporting (CTFMR) mechanism with the data said to be normally consulted with the Ministry of Defense. It notes that 10,654 grave violations were committed by all parties to the conflict, affecting 13,857 children (11,708 boys and 2,149 girls) and Al-Shabaab being the main perpetrator. Somali security forces are mentioned as accounting for about 14 percent of grave violations. While we would appreciate more substantiation on the figures mentioned in the report, we welcome that the various measures taken by the Federal Government have been noted in paragraph 85 of the report. Moreover, it is significant to note that the National Child Rights Bill will address most of the six grave violations and ensure adequate protection for children in Somalia. Also, the Ministry of Women and Human Rights Development has organized and led awareness raising campaigns on the situation of children and armed conflict and how all key stakeholders can play a role to address this crucial issue. The report should have strongly underlined these key efforts as measures being taken by the Federal Government of Somalia to address the situation of children in armed conflict.

6. The Federal Government of Somalia remains committed to ensure that the protection of civilians remains an important government priority and all the relevant line institutions will work with all relevant stakeholders towards the further enhancement of their policies, systems and mechanisms relating to effective protection of civilians.



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REF: AMISOM/HOM/22/853.20
Mogadishu, 21st August

**AMISOM RESPONSE TO THE UNSOM/OHCHR PROTECTION OF CIVILIAN REPORT FOR
SOMALIA- 1 JANUARY 2017 – 31 DECEMBER**

Excellency,

1. I write in response to the above-mentioned report as it relates to AMISOM activities during the period under consideration. We welcome the report's nuanced appraisal of the human rights and protection of civilian (PoC) situation in a complex, asymmetric theatre of Somalia and the report's acknowledgement of the various preventions and response mechanisms put in place by the Mission over the years. We also acknowledge the various recommendations made by the report, all of which are already being undertaken by the Mission even when the demands of mandate compliance take some of the matter beyond the control of AMISOM, i.e. AMISOM mandatory requirement to handover recovered territories to the SSF and potential adverse PoC consequences. Despite this challenges, AMISOM continues to take all feasible precautions to protect civilians in its operations in Somalia.
2. Although AMISOM sees the report in positive light, nevertheless, it behoves us to point out that the report is lacking in sufficient details with regards to the allegations against AMISOM. Permit me to quote paragraphs 53 and 54 of the report which state that:

"53. In 2019, UNSOM/OHCR documented seven civilian casualties (five killed and two injured) attributed to AMISOM compared to 21 (11 killed and 10 injured) in 2018 and 94 (34 killed and 60 injured) in 2017. This is a significant reduction in civilian casualties attributed to AMISOM over the last two years.

54. In 2017, the Ugandan contingent, representing the largest contingent in AMISOM was reportedly responsible for 33 civilian casualties, representing 35 percent of a total of 94





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casualties attributed to AMISOM; followed by Burundian contingent (15 casualties/16 percent); the Ethiopian contingent (14 casualties/ 15 percent), the Kenyan contingent (10 casualties/11 percent; and the Djiboutian contingent (six casualties/ 6 percent....

Reportedly, most of the casualties caused by AMISOM in 2018 and 2019 resulted from retaliatory or indiscriminate fire from AMISOM troops when their convoys were attacked by IEDs, landmines or grenades. For example, on 6 November 2018, the Burundian contingent reportedly fired at civilians following an attack on their convoy, killing four”.

As can be seen from the above, the report is very short on requisite details with regards to the incidents attributed to AMISOM. Whilst we recognise that it might be impractically difficult for the report to avail us full details of all the allegations against AMISOM, nevertheless, it would have been helpful, from our point of view, to be provided with at least dates and venues of incidents attributed to AMISOM which would have allowed us to provide informed responses to the allegations. The report’s lack of details in cases attributed to AMISOM starkly contrasts with the report’s provision of finicky details with regards to the cases attributed to other stakeholders. For example, in paragraphs 10, 11, 13, 14, 15, the report provides ample details, including dates and venues, of allegations it attributes to *Al-Shabaab* (AS). By the same token, the report, at paragraph 21, provide clear details of the incidents attributed to the *Ahlu Sunna Wal Jam’a* (ASWJ). This lack of details makes it difficult for us in AMISOM to compare the allegations with facts known to us and provide informed responses on the allegations.

3. As a result of this lack of critical details, we can only respond in general term to the report and where the report contains sufficient details that allow us to cross-check with our own record, we shall provide direct response to that. The report, at paragraph 54 states that:

‘Reportedly, most of the casualties caused by AMISOM in 2018 and 2019 resulted from retaliatory or indiscriminate fire from AMISOM troops when their convoys were attacked by IEDs, landmines or grenades. For example, on 6 November 2018, the Burundian contingent



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reportedly fired at civilians following an attack on their convoy, killing four''

This assertion does not represent the facts across AMISOM area of operations in Somalia. As the report itself indicates, AS intentionally attack AMISOM troops in populated, built-up, urban areas with the knowledge that such attacks would invariably lead to civilian casualties. AMISOM commanders and their troops are trained to exercise all feasible restraints in the face of such attacks and ensure their responses are measured and proportionate to avoid or minimise civilian casualties, as per the provisions of the AMISOM Rules of Engagement (RoE). Our troops have generally complied with the requirements of the AMISOM RoE in this regard. On the occasion where any AMISOM convoy has contravened AMISOM's RoE, as in the incident of 6 November 2018 mentioned in the report, appropriate investigations were conducted and the outcome of the investigations sent to Addis Ababa for further action.

4. The Suuqa Hoolaha Incident of November 2018.

The incident referred to in the report dated 6 November 2018, did take place in a place called Suuqa Hoolaha. Briefly, the facts of the incidents were that on that date, two IEDs exploded on the BNDF convoy moving from Maslah to Academy. This resulted in the damage to the BNDF water truck and injuring the driver of the said vehicle. The BNDF troops disembarked and fired their weapons in all directions, killing four (04) civilians.

5. When this allegation was brought to the attention of AMISOM, the Head of Mission convened a Bol which thoroughly investigated the allegations. The Bol After meeting with several witnesses, including members of families of the deceased, made the following findings and recommendations:
 - a. The convoy of the BNDF troop was on an authorised assignment from Maslah to Academy on the 6 November 2018, when it ran into an IED explosions. The BNDF soldiers fired their weapons in response to the IED attack, leading to the death of four (04) civilians.
 - b. The evidence received by the Board does not support the fact that the soldiers only fired into the air (as they claimed) and the overall response of the operation



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- commander to the incident was inconsistent with the AMISOM RoE.
- c. The Convoy Commander who ordered the shooting should be reported to his country for disciplinary actions.
 - d. The deceased families should be considered for AMISOM ex-gratia payment.
 - e. AMISOM leadership should engage the Somali authorities to improve security within Suuqa Hoolaha area and SNA should establish an FOB within the area.
 - f. AMISOM Civil Affairs office should engage leaders of the community, identify projects to be operationalized within Suuqa Hoolaha area as a means of winning the hearts and minds of the people.

6. Blurring of Lines Between AMISOM and Non-AMISOM Troops in Somalia.

The report also states that:

'As regards documenting and attributing responsibility for violation of human rights and international humanitarian law allegedly committed by AMISOM, the blurring of identities between AMISOM and non-AMISOM forces remains challenging where troops of the same country, particularly the Kenyan Defence Forces (KDF) and the Ethiopian National Defence Force (ENDF) continue to operate in the same locations'.

Whilst it is true that in some cases, some non-AMISOM troops, under bilateral agreement with the FGS operate within the AMISOM AoR alongside the mandated AMISOM troop and whilst acknowledging that this can lead to issue of identification, the fortunate reality is that this has not happened. When allegations have been made against AMISOM troops in locations containing both AMISOM and non-AMISOM troops and investigations have been conducted, the identity of the troops that might have been responsible for such occurrence has not been an issue of contention. In situations when the incident did occur and it was carried out by AMISOM troops, that fact had been acknowledged and where the incident was carried out by non-AMISOM troops, this has also been acknowledged.

7. In conclusion, we in AMISOM are committed to discharging our mandates in compliance with all applicable international legal instruments that our T/PCC are



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signatories and obliged to. We will continue to collaborate with the UN in the context of the Secretary General's HRDDP and with the FGS, FMS and other stakeholders to protect civilians in the course of our operations and bring sustainable peace to Somalia.

Accept, Excellency, the assurances of my highest consideration

Amb. Francisco C. J. Madeira

**Special Representative of the Chairperson of the
African Union Commission (SRCC) for Somalia and Head of AMISOM**

H.E. Amb. James Swan

Special Representative of the UN Secretary General (SRSG)

United Nations Assistance Mission in Somalia (UNSOM)

