



# SOMALIA

## AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC REVIEW 24<sup>TH</sup> SESSION OF THE UPR WORKING GROUP, JANUARY-FEBRUARY 2016

### FOLLOW UP TO THE PREVIOUS REVIEW

Somalia accepted fully or in part all 155 recommendations made during its 2011 review. However, while some positive steps have been taken, such as the ratification of the Convention on the Rights of the Child and the inclusion of provisions guaranteeing fundamental rights and freedoms in the provisional Constitution adopted in 2012, little overall progress has been made towards the implementation of the UPR recommendations.<sup>1</sup>

### THE NATIONAL HUMAN RIGHTS FRAMEWORK

A provisional Constitution was adopted in August 2012, as part of the political transition that saw the end of the mandate of the Transitional Federal Government (TFG), the selection of a new Parliament and appointment of a new President and Prime Minister.<sup>2</sup>

The Constitution guarantees fundamental rights and freedoms; notably equal rights for all citizens regardless of sex, religion, social or economic status, political opinion, clan, disability, occupation, birth or dialect. The Constitution also provides for a yet to be established national human rights commission.<sup>3</sup>

The Federal Government of Somalia that replaced the TFG established the Ministry of Human Rights in August 2013, which was later merged with the Ministry of Women and Family Affairs, and renamed the Ministry of Women's Affairs and Human Rights. In February 2013, a Human Rights Task Force was also established to investigate allegations of human rights abuses, including the intimidation of journalists, and to strengthen the protection of human rights. The Task Force operated for three months and was seen as a precursor to the creation of a national human rights commission.<sup>4</sup> At the time of writing, a bill to establish the commission was on parliament's agenda.

### THE HUMAN RIGHTS SITUATION ON THE GROUND

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<sup>1</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review of Somalia*, 11 July 2011, A/HRC/18/6, recommendations 98.3 (France), 98.4 (Spain), 98.5 (Japan), 98.6 (Indonesia), 98.7 (Germany), 98.8 (Australia), 98.9 (Costa Rica), 98.10 (Philippines), 98.11 (Portugal), 98.12 (Norway), 98.13 (Chile), 98.14 (Uruguay); 98.18 (Islamic Republic of Iran), 98.19 (Canada), 98.20 (Switzerland).

<sup>2</sup> The Federal Republic of Somalia, Provisional Constitution, 1 August 2012.

<sup>3</sup> The Federal Republic of Somalia, Provisional Constitution, 1 August 2012.

<sup>4</sup> Horseed Media, *Somali PM launches Human Rights Task Force and attacks "culture of impunity"*, 5 February 2013, available at: <http://horseedmedia.net/2013/02/05/somalia-somali-pm-launches-human-rights-task-force-and-attacks-culture-of-impunity/>, accessed 25 May 2015.

### **Indiscriminate attacks**

All parties to the ongoing non-international armed conflict, including the forces of the African Union Mission in Somalia (AMISOM), have violated international human rights and humanitarian law.<sup>5</sup> Throughout the period since the last review, civilians have continued to be killed and wounded indiscriminately in crossfire during armed clashes. The exact numbers are unknown given the continued failure to establish a civilian casualty tracking system, despite numerous recommendations by the UN Security Council, including specific calls to AMISOM to establish such a mechanism.<sup>6</sup>

While reported civilian casualties declined in 2012, insecurity remains high and civilians continue to be at risk of indiscriminate fire, direct targeting and suicide attacks. In 2014, there was an increase in the number of civilians killed indiscriminately as a result of being caught in cross fire, during suicide attacks and attacks resulting from grenades and improvised explosive devices (IEDs). There has also been a number of attacks aimed at high profile targets such as *Villa Somalia*, the presidential palace, which was attacked twice in 2014 and also in 2013. The Parliament was attacked in May 2014 resulting in the death of at least 10 people.

Al-Shabaab claimed responsibility for the above attacks and retained the capacity to undertake numerous attacks into 2015, carrying out on average one complex attack a month.

### **Direct targeting of civilians**

Since the last review in 2011, civilians have remained at risk of targeted attacks and killings in Mogadishu. Despite Al-Shabaab's withdrawal of fighters and equipment from the city in August 2011, the group has increasingly resorted to directly targeting civilians.<sup>7</sup> During Ramadan in July 2014, recorded assassination attempts reached their highest level since Al-Shabaab lost control of most parts of the capital.

Civilians have been targeted by armed actors for a variety of reasons. For example, three men accused of spying for the CIA and UK intelligence were reportedly shot and killed in public by Al-Shabaab members in Merka in July 2012.<sup>8</sup> On 27 September 2014, a woman was allegedly stoned to death by hooded men in Barawe, a town in Lower Shabelle, on suspicion of bigamy.<sup>9</sup>

### **Child soldiers**

In 2012, the government signed two action plans to prevent and halt the recruitment of children as soldiers, as well as to prevent the killing and maiming of children by parties to the conflict. However, despite the Minister of Defence and the Minister of National Security signing standard operating procedures for handling children formerly associated with armed groups, the action plans are yet to be implemented.

Children continue to be recruited by Al-Shabaab and targeted by the group for forced marriage. Government-affiliated militias are also accused of recruiting and using child soldiers. In 2011, at least 46 recruits below the age of 18 were enrolled into the national army and sent abroad to undergo military training.<sup>10</sup>

### **Internally displaced persons, asylum-seekers and refugees**

More than two decades of protracted armed conflict, natural disasters and human rights violations have displaced more than a million Somalis across the country. In July 2014, UNHCR reported that 1.13 million Somalis were internally displaced, mostly from southern and central Somalia, and that there were around 1.12 million refugees and asylum-seekers originating from Somalia.<sup>11</sup> Figures from OCHA show that more than 80,000 Somalis were displaced by the

<sup>5</sup> Amnesty International, *Amnesty International Report 2012: the state of the world's human rights* (Index: POL 10/001/2012).

<sup>6</sup> See United Nations Security Council resolution (UNSC), S/RES/2036 (2012), Art 17. See also UNSC resolutions S/RES/2093 (2013) and S/RES/2124 (2013), S/RES/2158 (2014) and S/RES/2182 (2014).

<sup>7</sup> Amnesty International Report 2012 (Index: POL 10/001/2012).

<sup>8</sup> Amnesty International, *Amnesty International Report 2013: the state of the world's human rights* (Index: POL 10/001/2013).

<sup>9</sup> Amnesty International, *Amnesty International Report 2014/15: the state of the world's human rights* (Index: POL 10/001/2015).

<sup>10</sup> Amnesty International Report 2013 (Index: POL 10/001/2013).

<sup>11</sup> United Nations High Commissioner for Refugees, *2015 UNHCR country operations profile – Somalia*, available at <http://www.unhcr.org/pages/49e483ad6.html#>, accessed 15 June 2015.

military offensive against Al-Shabaab in 2014, alone in southern and central Somalia.<sup>12</sup>

The famine that afflicted Somalia in 2011 led to massive displacement. In July 2011, at least 35,000 people escaping the effects of famine arrived in Mogadishu to seek humanitarian aid.<sup>13</sup> As of September 2014, due to the ongoing conflict, drought and reduced humanitarian access, the humanitarian situation deteriorated to a level as bad as or worse than the period preceding the 2011 famine, with 42 percent of the population in crisis or in need of assistance.<sup>14</sup>

Internally displaced persons (IDPs) continue to face forced evictions, discrimination, gender based violence, and the diversion of food aid intended for them. Cases of forced eviction of IDPs are on the increase. In 2014, 32,500 IDPs were evicted in Mogadishu, while in the first three months of 2015 those figures rose to 46,000 after an estimated 21,000 IDPs were reported to have been evicted in Mogadishu in March alone.<sup>15</sup>

A number of countries, including Saudi Arabia, Kenya, Sweden, the Netherlands, Norway, the United Kingdom and Denmark, have deported or attempted to deport Somalis to southern and central Somalia during this period.<sup>16</sup> Such forced returns to south and central Somalia, where Al-Shabaab still controls vast swathes of territory, amount to a violation of States' *non-refoulement* obligations under international law.

An estimated 900,000 Somali refugees are in neighbouring countries, such as Kenya and Ethiopia. Somali refugees in Kenya have suffered harassment, extortion and arbitrary arrest by Kenyan security forces, a lack of sufficient protection and hostility from the government and the host community. Amnesty International has documented scores of human rights violations during *Operation Usalama Watch*, a counter-terror operation in 2014 that disproportionately affected the Somali refugee community in Kenya.<sup>17</sup> Members of the security forces went door-to-door, sometimes in the middle of the night, forcing entry, intimidating, harassing and at times beating people while demanding identification.

### **Sexual and gender-based violence**

Sexual and gender-based violence has continued to be carried out during this period by members of the Somali National Armed Forces (SNAF), armed opposition and militia groups, and AMISOM troops.

In 2012, the United Nations reported that 1,700 people were affected by sexual violence in Somalia, with at least 70 percent of these incidents being carried out by armed men wearing government uniforms. Thirty per cent of survivors are reported to be under the age of 18.<sup>18</sup>

Most rape survivors who spoke to Amnesty International during this period had not reported their attacks to the police, often because they feared stigmatisation, had little confidence in the ability or will of the authorities to either investigate or protect them from retaliation, or had no family support. Rape survivors who had gone to the police said that their complaints had not been investigated.

### **Persons with disabilities**

Persons with disabilities in Somalia are subject to discrimination from their families, members of the public, and the state, and do not receive sufficient protection from the government. During a fact-finding mission in early 2015, Amnesty International spoke to people with disabilities who had been subjected to forced marriage, violence, rape and

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<sup>12</sup> OCHA, *2015 Humanitarian Needs Overview – Somalia*, November 2014,

<https://docs.unocha.org/sites/dms/Somalia/Somalia%202015%20Humanitarian%20Needs%20Overview%20-%20FINAL.pdf>

<sup>13</sup> Amnesty International Report 2013 (Index: POL 10/001/2013).

<sup>14</sup> Amnesty International Report 2014/15 (Index: POL 10/001/2015).

<sup>15</sup> OCHA, *Humanitarian Bulletin Somalia*, February 2015, available at

<http://reliefweb.int/sites/reliefweb.int/files/resources/OCHA%20Somalia%20Humanitarian%20Bulletin%20February%202015.pdf>, accessed 17 May 2015; Human Rights Watch, *Somalia: Forced Evictions of Displaced People*, 20 April 2015; Interagency Rapid Assessment Report, *Dharkenley Evictions*, March 2015.

<sup>16</sup> Amnesty International, *Somalis are scapegoats in Kenya's counter-terror crackdown* (Index: AFR 52/003/2014).

<sup>17</sup> Amnesty International Report 2014/15 (Index: POL 10/001/2015).

<sup>18</sup> Amnesty International, *Somalia: Rape and sexual violence in Somalia - An ongoing epidemic* (Index: AFR 52/009/2013).

other forms of sexual violence, forced evictions and lack of assistance and access to essential services.<sup>19</sup> While often seen as a burden by their families and subject to discrimination, Amnesty International documented how groups of people with disabilities have organised themselves for protection in numbers. Others have mobilised to demonstrate for their rights.

### **Freedom of expression**

Somali journalists and media workers have continued to be attacked and harassed throughout the period under review. At least 18 media practitioners were killed in 2012 alone.

In May 2015, journalist Daud Ali Omar and his wife Hawo Abdi Aden were killed while asleep in their house in the Bardaale neighbourhood in the south-central city of Baidoa.<sup>20</sup>

Journalists have been killed, not only through targeted assassinations, but also through Al-Shabaab suicide attacks targeting crowded areas. On 20 September 2012, journalists Abdirahman Yasin Ali, director of *Radio Hamar*, Abdisatar Daher Sabriye, head of news at *Radio Mogadishu*, and Liban Ali Nur, head of news for *Somali National TV*, were all killed during a suicide attack at a popular restaurant in Mogadishu.<sup>21</sup>

Other parties to the conflict have also been responsible for attacks on journalists. On 2 September 2011, Noramfaizul Mohd, a Malaysian cameraman for *Bernama TV*, was shot dead in Mogadishu and his colleague Aji Saregar injured. On 26 September 2011, AMISOM announced that four Burundian soldiers were responsible for the attack and should be tried in their own country.<sup>22</sup>

The government is also increasingly clamping down on the media. In August 2014, 19 journalists from Mogadishu-based broadcasters, *Shabelle Media Network* and *Sky FM*, were arrested and the stations shut down. The broadcasters resumed operations in March 2015 after a regional court imposed fines of \$10,000 on *Shabelle* owner Abdimalik Yusuf Mohamed, \$2000 on Mohamed Dahir, director of *Sky FM*, and \$500 on *Shabelle* presenter Ahmed Abdi.<sup>23</sup>

In May 2015, in a move that places disproportionate restrictions on freedom of expression for journalists operating in an already challenging environment, the government ordered Somali media houses to use the acronym 'UGUS', which in Somali stands for "the group that massacres Somali people" when referring to Al-Shabaab.

### **The death penalty**

Somalia retains the death penalty, despite its consistent support for the UN General Assembly resolution on the moratorium of the death penalty. Most death sentences are passed and executed by military courts, often following proceedings that fall short of international fair trial standards.<sup>24</sup>

Executions were often carried out rapidly, such as in Kismayo in April 2014 when a man was executed nine days after he allegedly murdered an elder. It was unclear which court, if any, had found him guilty.

### **Somaliland**

The self-declared Republic of Somaliland hosts tens of thousands of IDPs, mostly in its capital city Hargeisa, many of whom are fleeing the conflict in Somalia. It also hosts tens of thousands of Ethiopian refugees, mostly of Oromo descent. In September 2011, the Somaliland government through its Interior Ministry ordered an estimated 80,000 "illegal immigrants" from Ethiopia to leave within a month.<sup>25</sup> While the order was not implemented, thousands left the country

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<sup>19</sup> Amnesty International Report 2014/15 (Index: POL 10/001/2015).

<sup>20</sup> IFEX, *Murder of Somali radio journalist latest in series of attacks in Baidoa*. 7 May 2015, available at [https://www.ifex.org/somalia/2015/05/07/producer\\_killed/](https://www.ifex.org/somalia/2015/05/07/producer_killed/), accessed 25 May 2015.

<sup>21</sup> Amnesty International Report 2012 (Index: POL 10/001/2012).

<sup>22</sup> Amnesty International Report 2012 (Index: POL 10/001/2012).

<sup>23</sup> Committee to Protect Journalists, *Radio journalists given hefty fines in Somalia, one still detained*, 3 March 2015, available at: <https://cpj.org/2015/03/radio-journalists-given-hefty-fines-in-somalia-one.php>

<sup>24</sup> Amnesty International Report 2014/2015 (Index: POL 10/001/2015).

<sup>25</sup> Amnesty International Report 2012 (Index: POL 10/001/2012).

as a result. On 24 May 2015, Somaliland's Interior Minister Ali Waaran Ade stated that Somaliland would no longer accept refugees fleeing the ongoing fighting in Yemen.<sup>26</sup>

The Somaliland authorities have repeatedly cracked down on members of the political opposition, media and civil society groups. In May 2011, a new NGO Act was signed into law to regulate civil society organizations, which raised concerns about restrictions on the work of NGOs and about the Somaliland authorities' control over international and national organizations in Somaliland. *Haatuf* newspaper was shut down in April 2014 after publishing articles implicating the Energy Minister Hussein Duale and the President's son-in-law in corrupt dealings. The *Haatuf* offices were raided and its founder Yusuf Abid Gaboobe was arrested and detained for several months. *Haatuf* remains closed and its online edition is not accessible in Somaliland.

On 11 May 2015, the main opposition party *WADANI* was denied permission to hold a demonstration protesting the extension of the presidential term. Its members and leaders were arrested and detained for several hours after participating in demonstrations in the cities of Hargeisa, Berbera and Burao. The *WADANI* offices were temporarily closed and taken over by government security forces.

On 12 April 2015, Somaliland lifted a nine year moratorium on the death penalty and executed six death row inmates held at Mandheera prison. A prominent human rights activist and lawyer, Guleid Ahmed Jama, was arrested following the executions after calling for judicial reform in an interview with the BBC Somali Service. After being held for several weeks Jama was released on bail.<sup>27</sup> The BBC interview and the 2014 Somaliland Human Rights Centre annual report "condemning the work of the police claiming corruption, torture, bribes and wrongful arrests" were both cited as evidence in the charge sheet.

## RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International recognizes that many crimes under international law, including serious violations of international humanitarian law are committed by armed opposition groups, in areas that are not under the control of the Federal Government. Amnesty International has repeatedly called on all parties to the conflict to respect international humanitarian law.

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<sup>26</sup> Anadolu Agency, *Somaliland says will not receive more Yemen refugees*, 24 May 2015, <http://www.aa.com.tr/en/politics/515777--somaliland-says-will-not-receive-more-yemen-refugees>, accessed 6 July 2015.

<sup>27</sup> Horseed Media, *Somaliland executes six convicted for murder*, 14 April 2015, available at <http://horseedmedia.net/2015/04/14/somalia-somaliland-executes-six-convicted-for-murder/>, accessed 19 May 2015.

## **Amnesty International calls on the Federal Government of Somalia to:**

### *Protection of civilians*

- Take concrete measures to exercise greater control over the actions of its armed forces and any associated forces, through clearly upholding the principle of command responsibility, in order to improve the protection of civilians;
- Ensure that all investigation or prosecution of those suspected of criminal responsibility for crimes under international law, including serious violations of international humanitarian law, and human rights violations or abuses are held before ordinary civilian authorities and courts;
- Immediately halt all forced evictions within Mogadishu and other locations under its control and consult with relevant national and international organizations, such as UNHCR, to ensure that any evictions take place within the legal and procedural safeguards required under international human rights law;
- Ensure that the rights of people with disabilities are protected in law and in practice, including within the Constitution, through the adoption of relevant legislation and policy documents and the ratification of the Convention on the Rights of Persons with Disabilities and its Optional Protocol.

### *Child soldiers*

- Establish effective and impartial vetting procedures to ensure that the Somali national armed forces and police do not include persons under the age of 18;
- Implement the two action plans signed in 2012 to halt and prevent the recruitment of children as soldiers;
- Finalize the ratification of the Convention on the Rights of the Child by depositing the instruments of ratification, and ratify its Optional Protocol on the involvement of children in armed conflict without making any reservation or declaration amounting to a reservation and implement them into national law.

### *Sexual and gender-based violence*

- Conduct full and impartial investigations into international humanitarian and human rights violations, and deliver on its commitments in November 2012 to investigate and prosecute those suspected of criminal responsibility for rape and other crimes of sexual violence;
- Ensure the draft action plan for tackling sexual violence is fully implemented by 2016 as per the agreement between the government and the UN and initiate reforms within the police force that will ensure sexual violence is addressed, capacity is enhanced to prosecute those suspected of criminal responsibility for crimes of sexual violence, and appropriate services provided to victims and survivors.

### *Freedom of expression*

- Immediately halt intimidation, arrest and detention of journalists and provide protection to journalists working in areas under its control;
- Carry out prompt, effective and impartial investigations into the killings of media workers and ensure those involved are held accountable in accordance with fair trial standards;
- Remove disproportionate restrictions on freedom of expression, such as by overturning the ban on the use of the term 'Al-Shabaab' in media reports.

### *The death penalty*

- Immediately initiate a moratorium on the death penalty while working towards enacting and adopting appropriate legislation to abolish the death penalty altogether.

### *International justice*

- Promptly adhere to the Rome Statute of the International Criminal Court, the Agreement on the Privileges and Immunities of the International Criminal Court and the Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity and implement them in national law;

- Promptly ratify the International Convention for the Protection of All Persons from Enforced Disappearance, without making any reservation or declaration amounting to a reservation, and also recognise the competence of the Committee on Enforced Disappearance to receive and consider communications from or on behalf of victims or other states parties.

**Amnesty International calls on the Somaliland authorities to:**

- Allow opposition party members and leaders to exercise their right to peaceful assembly and release those still in detention;
- Provide an enabling environment for journalists and media organisations to operate, including by lifting the ban imposed on Haatuf media network;
- Immediately halt executions of inmates on death row and re-institute the moratorium on the death penalty while working towards enacting and adopting appropriate legislation to abolish the death penalty altogether;
- Continue to receive refugees arriving in Somaliland, including those fleeing the conflict in Yemen.