



## UPR Submission Somalia June 2015

Somalia's long-running armed conflict continues to take a heavy toll on civilians in much of south-central Somalia. The warring parties continue to kill, wound and forcibly displace civilians. Restrictions on humanitarian access exacerbate the human rights and humanitarian crises.

In September 2012, a new Somali president was selected, and shortly after, a new cabinet, prime minister, and speaker of parliament inaugurated. The new government put forward an ambitious reform agenda, prioritizing justice and security sector reform, essential to stemming ongoing human rights abuses. However, since taking office the new government has largely failed to provide security and protect rights in areas under its control. Ongoing political infighting and government reshuffles detracted from progress on justice and security sector reform. Political efforts to establish federal states led to open conflict between clan militias and government forces, resulting in abuses against the civilian population. Journalists in particular have been subject to physical attacks, including targeted killings, throughout Somalia.

Since 2011, the Somali National Armed Forces and African Union Mission in Somalia (AMISOM) have carried out a series of military offensives against the armed Islamist group Al-Shabaab, reducing its control over key towns in south-central Somalia. However, Al-Shabaab maintains control of large areas of south-central Somalia, where it carries out public executions and beatings, and severely restricts basic rights. Somali government security forces, AMISOM troops, and allied militias were responsible for indiscriminate attacks, sexual violence, and arbitrary arrests and detention to varying degrees.

### **Abuses by Government Forces**

During the previous UPR on Somalia in 2011, the Transitional Federal Government (TFG) of Somalia accepted recommendations to "issue clear, public orders and take clear steps to ensure that its security forces comply with international human rights law and with international humanitarian law." However, warring parties have targeted civilians, who also end up trapped between government forces and Al-Shabaab, skirmishes between government forces over control of checkpoints, and in clashes with clan militia over land and resources in the controversial drive to establish federal states.

In 2012, the situation in the capital, Mogadishu, improved somewhat, with less open armed conflict than in previous years. However the security situation has deteriorated since then as Al-Shabaab regularly targets civilians and civilian structures, particularly in Mogadishu, with a significant increase during Ramadan. Targeted killings of civilians, including journalists, clan elders, lawmakers and other officials also continue.

Under the new federal government, Somalia's national intelligence agency, NISA, routinely conducts mass security sweeps, despite having no legal mandate to arrest and detain suspects. NISA has occasionally held detainees for prolonged periods without judicial review and mistreated suspects during interrogations.

All Somali parties to the conflict continue to commit serious abuses against children, including recruitment into armed forces and arbitrary detentions. Government authorities committed to implementing a July 2012 action plan against child recruitment but implementation has been slow. In January 2015, Somalia ratified the Convention on the Rights of the Child.

Government forces and clan militias regularly clashed, causing civilian deaths, injuries and destruction of property. In December 2013, government forces attacked KM-50 village, where they fought a local militia. Consequently, several civilians were reportedly killed and many civilians fled the area. In February 2015, fighting between government forces and the Ahlu Sunna Wal Jama'a (ASWJ) militia, a Sufi Islamist group, in the central Somali town of Guri'el resulted in civilian casualties and massive displacement. According to the UN, around 90 percent of the town's estimated population of over 65,000 temporarily fled as a result of the fighting.

The commitments taken during Somalia's previous UPR in 2011 to set up "an independent international commission of inquiry or any other similar mechanism enabled to deal with human rights violations and international humanitarian law violations committed by all parties" and to "investigate all allegations of violation of human rights and humanitarian law in a prompt, transparent and impartial manner" have also not been implemented.

Despite commitments by the federal government to move forward with justice system reforms, it has failed to provide civilian courts with basic security and continues to rely on the military court system to administer justice for a broad range of crimes. Often crimes tried before the military court are not legally within its jurisdiction and proceedings fall short of international fair trial standards. Despite pledges by Somalia during its first UPR to implement a moratorium on the death penalty, the government has executed at least 28 people, the majority of whom were not members of the Somali armed forces, in 2013 and 2014.

### **Abuses by Al-Shabaab**

Al-Shabaab has continued to commit serious human rights abuses and violations of international humanitarian law. It continues to target children for recruitment and forced marriage, and attack schools. In 2014, the United Nations documented 819 cases of recruitment and use of children by al-Shabaab and other armed groups, including from schools and mosques. Credible reports indicate that in areas under its control, Al-Shabaab administers arbitrary justice and severely restricts basic rights through targeted killings, including extrajudicial executions. For example, on February 7, two young women accused of working for Somalia's intelligence agency were publicly executed in the town of Jilib in Middle Juba. Al-Shabaab has used its control of supply routes to impose blockades on towns taken over by AMISOM and Somali government forces, severely restricting the movement of goods and assistance.

### **Sexual violence**

During its previous UPR in 2010, Somalia accepted recommendations to take measures to "prevent, penalize and eliminate all forms of violence against women, including stoning, rape, marital rape, sexual violence of all kinds in the framework of armed conflict" and to ensure that "no amnesty should be granted for violence against women that qualifies as crimes against humanity." In 2014, the government pledged to tackle the alarming levels of sexual violence by endorsing an action plan. However as in other prioritized reform areas, implementation has been slow and protection of the most vulnerable communities non-existent. While the full scope of sexual violence in Somalia remains unknown due to underreporting and absence of data, it is clear that internally displaced women and girls are particularly vulnerable to rape by armed men, including Somali government soldiers and militia members.

On several occasions, government authorities and members of the security forces intimidated or threatened service providers and people reporting rape, seriously undermining efforts at accountability. In January 2013, a displaced woman, who alleged that she was raped by government soldiers, and a journalist who interviewed her were prosecuted for “tarnishing state institutions,” among other crimes, in a deeply flawed and politicized judicial process, merely for having reported the rape. Similarly, in August 2013, a woman alleged that she was abducted by soldiers and then transferred to AMISOM soldiers who raped her. A joint Somali and AMISOM high-level task force was established to investigate, during which AMISOM publicly denied the allegations. The alleged victim and witnesses were intimidated by government intelligence agents during the investigations. Both of the women who reported rape have since fled Somalia given protection concerns.

Some soldiers from Uganda and Burundi deployed as part of AMISOM sexually exploited and assaulted women and girls on their bases in Mogadishu. In some cases women and girls were offered humanitarian assistance, medicine and food in exchange for sex. Few women filed complaints due to the fear of reprisals and the absence of effective and safe complaints mechanisms.

### **Displaced Persons and Access to Humanitarian Assistance**

During its previous UPR in 2011, Somalia had pledged to “improve the living conditions and safety situation of IDPs in settlements, to strengthen their protection ... including granting IDPs unhindered access to humanitarian assistance.” In the course of the reporting period Somalia faced a devastating famine that claimed at least 260 000 lives, half of whom were children, according to the UN and led to massive displacement within the Somali borders and into neighboring countries. The country continues to face a serious humanitarian situation. Over 700,000 people are in urgent need of humanitarian assistance, and over two million people face threats to their food security. Humanitarian agencies face challenges accessing populations in need due to ongoing attacks and restrictions imposed by parties to the conflict.

During the course of the 2011 famine, tens of thousands of people fled to Mogadishu. Many remain in dire conditions in the capital and are subjected to forced evictions, sexual violence and clan-based discrimination at the hands of government forces, allied militia, and private individuals including camp managers known as “gatekeepers.” In January 2013, the government announced plans to relocate within Mogadishu tens of thousands of internally displaced people. These plans stalled due to the government's inability to provide basic protection in the planned relocation sites.

In December 2014 the government passed a displacement policy that requires the authorities to protect affected communities during evictions and lays out procedures largely in line with international law; yet large-scale forced evictions including by government forces in Mogadishu and other government controlled towns have increased. In March 2015, Somali state security forces forcibly evicted about 21,000 displaced people in Mogadishu. The authorities beat some of those evicted, destroyed their shelters, and left them without water, food, or other assistance.

### **Attacks on Media and Human Rights Defenders**

Somalia remains one of the most dangerous countries in the world to work as a journalist. Fifteen journalists were killed in 2012, one of the worst years on record. Since then targeted killings and attempted assassinations have continued in government-controlled areas, particularly Mogadishu and Puntland. Despite the federal government's initial

commitments, as well as commitments made by the TFG during Somalia's previous UPR in 2011, to hold those responsible for the killings of journalists to account, impunity prevails, with only a handful of cases appearing before the military court. One individual was sentenced to death in March 2013 for the September 2012 killing of journalist Hassan Yusuf Absuge, and then executed in August 2013 after a trial that did not meet international due process standards.

Government harassment and intimidation of journalists in Mogadishu, particularly by NISA, and threats against media outlets have increased since 2014; intimidation by regional authorities is also common.

Similarly, Puntland authorities have temporarily arrested journalists, closed media outlets and banned rebroadcasting of certain international programs. In April 2014, the Ministry of Information banned Radio Daljir, One Nation, and Codka Nabada (Voice of Peace).

### **Somaliland**

The Somaliland government arbitrarily detained journalists, mainly those reporting on sensitive political issues, and harassed popular newspapers. On June 2014, a regional court in Hargeisa charged and sentenced Yusuf Abdi Gabobe, chairman of the Haatuf Media Network, and Ahmed Ali, chief editor of the network, for libel, false publication, and anti-state propaganda. Haatuf's license was also revoked. The authorities have also arbitrarily arrested and detained critics of the government without adequate judicial oversight and respect for due process. In April 2015, the government charged prominent human rights lawyer Guleid Ahmed Jama with "anti-national" propaganda and other crimes, after raising due process concerns in death penalty cases. On occasion the government arbitrarily arrested opposition leaders and protesters and stopped opposition protests.

On April 13, 2015 the government executed six men convicted of murder, the first death sentences to be carried out in Somaliland since 2006. The military court in Hargeisa has also tried and sentenced civilians and non-military security personnel in trials that raise due process concerns.

The Somaliland authorities have failed to sufficiently control and regulate a plethora of private mental health centers that have involuntarily confined patients and subjected them to chaining, prolonged confinement and, on occasion, abusive punishment.

### **Recommendations to the Federal Government of Somalia:**

#### *General:*

- Request that the UN Secretary-General establish a commission of inquiry to investigate and map serious crimes and recommend measures to improve accountability for violations of international human rights and humanitarian law in Somalia, and fully cooperate with that commission once it is established;
- Call for an enlarged Office of the UN High Commissioner for Human Rights (OHCHR) presence in the UN Assistance Mission in Somalia (UNSOM) and ensure that this presence has sufficient resources, including staff with expertise on sexual violence, and capacity to conduct significantly increased human rights monitoring and public reporting;
- Ensure that the national human rights commission is set up and functions in accordance with the Paris Principles on National Human Rights Institutions;
- Ratify core human rights conventions, including the Convention on the Elimination of All Forms of Discrimination against Women and the three optional protocols of the Convention on the Rights of the Child and the Protocol to the African Charter

on Human and Peoples' Rights on the Rights of Women in Africa ("Maputo Protocol");

- Deposit without undue delay the ratification instruments of the African Union's Kampala Convention on the Protection and Assistance of Internally Displaced Persons with the African Union;
- Ratify the Rome Statute of the International Criminal Court (ICC) and implement the statute in national legislation, including by incorporating provisions to cooperate promptly and fully with the ICC and to investigate and prosecute genocide, crimes against humanity and war crimes before its national courts in accordance with international law.

#### *Violations and abuses in conflict:*

- Issue command orders through the army and police prohibiting recruitment of children and sexual violence and reinforcing the commitment for "zero tolerance" of such violations in the army and police codes of conduct;
- Appropriately discipline or prosecute members of the military, police, and government officials responsible for human rights violations, including torture, extrajudicial killings, recruitment of children and sexual violence;
- Establish clear vetting procedures to identify and remove individuals responsible for serious abuses during recruitment and integration of new forces into the SNAF;
- Prioritize the speedy implementation of the national action plan against the recruitment of children, signed with the UN;
- Establish rigorous and systematic screening procedures to ensure that no one under the age of 18 is conscripted into the armed forces and that all recruits, including those integrated from militia forces, are screened according to the same high-level standards;
- End trials of civilians in military courts, including non-military security personnel;
- Immediately impose a moratorium on executions as a first step towards abolishing the death penalty;
- Enact a rights-respecting national security law, as stipulated in the provisional constitution, which defines the different roles of national security agencies.

#### *On Sexual Violence*

- Enshrine guarantees of non-discrimination and equality in national legislation at the constitutional level;
- Enact and enforce laws and regulations that prohibit all forms of violence against women and encompass prevention, protection, care, treatment and support, and remedies for survivors, as well as adequate punishment of convicted perpetrators;
- Review existing provisions, particularly in the penal code, to eliminate gaps in the protection of women against acts of gender based violence; and to ensure that all forms of sexual violence can be appropriately prosecuted and that the punishment is proportionate to the crime;
- Ensure that sufficient numbers of competent, trained police, including female officers, are deployed in IDP camps to provide adequate protection for women and girls.

#### *On Internally Displaced Persons:*

- Immediately cease forcibly evicting displaced people in Mogadishu, and adequately provide assistance and protection;
- Ensure implementation of the December 2014 policy on displacement, in close consultation with displaced people, governmental, non-governmental, and inter-governmental organizations and in accordance with the UN Guiding Principles on Internal Displacement;

- Initiate without undue delay, with the assistance of relevant international agencies, a profiling exercise of the displaced population in Mogadishu to assess protection needs.

*On Freedom of Expression:*

- Rein in abusive security forces and initiate credible investigations into attacks on journalists, including allegations of mistreatment by the intelligence and fairly prosecute all those responsible;
- Ensure that new laws on the media across Somalia protect and promote free expression.

**Recommendations to the Government of Somaliland:**

- Hold to account members of the security services and other officials responsible for violations of the rights to freedom of expression and association and to due process;
- Allow opposition parties to carry out their activities, including the organization of peaceful political protests, without intimidation or hindrance;
- End the arbitrary arrest and detention of journalists and other critics of the government, and act to promptly pass the necessary legislation to ensure a conducive legal environment for the licensing of private radio broadcasters;
- Drop all charges against human rights lawyer Guleid Ahmed Jama;
- Ensure that the rights of all detainees are respected and that unlawful pre-trial detention ends;
- End trials of civilians in military courts; Immediately impose a moratorium on executions as a first step towards abolishing the death penalty;
- Implement the government's plan on mental health;
- Commit to a chain-free environment in public and private mental health care facilities;
- Improve oversight over private mental health care centers, notably by organizing regular unhindered monitoring visits to all centers.