



The Federal Republic of Somalia
Joint NGO Submission to the United Nations Universal
Periodic Review
24th Session of the UPR Working Group
22 June 2015

Submission by CIVICUS: World Alliance for Citizen Participation, NGO in
General Consultative Status with ECOSOC

And

National Union of Somali Journalists (NUSOJ)

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1. (A) Introduction

- 1.1** CIVICUS: World Alliance for Citizen Participation is an international movement with members in more than 100 countries worldwide. Established in 1993, CIVICUS nurtures the foundation, growth and protection of citizen action throughout the world, especially in areas where participatory democracy and citizens' freedom of association are threatened.
- 1.2** National Union of Somali Journalists (NUSOJ) is an independent national journalists' trade union representing over 500 of Somalia's practicing journalists, who established or joined the union in order to uphold and defend their interests, needs and rights cooperatively and deal with employers, authorities and other sectors in the society collectively.
- 1.3** In this document, CIVICUS and NUSOJ present concerns related to the environment in which civil society activists and human rights defenders operate in Somalia and examine threats faced by them in the exercise of freedoms of expression, association and assembly.
- In section B, CIVICUS and NUSOJ highlight concerns related to the freedom of association and restrictions on civil society activities.
 - In section C, CIVICUS and NUSOJ highlight concerns involving harassment and arbitrary detention of human rights defenders.
 - In section D, CIVICUS and NUSOJ highlight concerns relating to the freedom of expression.
 - In section E, CIVICUS and NUSOJ make a number of recommendations to address the concerns listed.

2. (B) Restrictions on freedom of association and impediments to civil society activities

- 2.1** Article 16 of the Provisional Constitution of The Federal Republic of Somalia guarantees freedom of association.¹ Furthermore, article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Somalia is a party, guarantees the right to freedom of association. Despite such safeguards, civil society organizations in Somalia continue to face arbitrary and unwarranted challenges in continuing their operations.

¹ The Constitution of the Federal Republic of Somalia,
<http://unpos.unmissions.org/LinkClick.aspx?fileticket=RkJTOSpoMME>

- 2.2** Armed conflict between pro-government forces, the African Union Mission in Somalia (AMISOM) and the Islamist armed group Al-Shabaab in southern and central Somalia continue to create a detrimental environment for civil society operations, as thousands of citizens were arbitrarily killed and displaced since Somalia's initial UPR review. Whilst all parties to the conflict continue to violate human rights norms, civil society organizations (CSOs) strive to continue their operations under a hostile environment.
- 2.3** In autonomous Somaliland the primary law governing CSOs, Presidential Decree No. 82/112010, was signed into law by President Sharif Sheikh Ahmed on 10 November 2010. The law imposes a number of debilitating requirements on CSOs which contravene international standards protecting the right to freedom of association. Under article 8 of the Decree, CSOs must register with the Ministry of National Planning and Development in order to carry out their operations. Article 10 of the Decree further forces CSOs to "ensure their development programs are aligned with Somaliland's national development plan." Such restrictions severely undermine the independence of CSOs and endow the government with broad discretion to determine their mandate and activities in accordance with its political priorities.

3. (C) Concerns involving harassment, intimidation and attacks against human rights defenders and civil society activists

- 3.1** Article 12 of the UN Declaration on Human Rights Defenders mandates States to take all necessary measures to guarantee protection to human rights defenders. The ICCPR further assures freedoms of expression, association and assembly. In Somalia, it is a matter of deep concern that human rights defenders involved in legitimate human rights advocacy continue to be subjected to reprisals by state officials and violence by non-state actors such as Al-Shabaab.
- 3.2** Despite well-articulated protections under the Constitution, the authorities continue to invoke provisions of the Penal Code of 1962 to judicially harass human rights defenders working on contentious issues. Several provisions including article 215 "subversive or anti national- propaganda"; article 321 "instigation to disobey the laws"; article 326 "intimidation of the public" and article 328 "publication or circulation of false, exaggerated and tendentious news capable of disturbing public order" create an atmosphere where broad and vague prohibitions can be imposed on the legitimate activities of human rights defenders.
- 3.3** For example, the chair of civil society organization, Somaliland's Human Rights Centre, Guleid Ahmed Jama, was arbitrarily arrested by the police on 18 April 2015 and taken to in Hargeisa's Central Prison. Jama's arrest followed an

interview he delivered to the BBC during which he emphasized the need for judicial reform in Somaliland. Jama is currently charged under the above-mentioned articles of the Penal Code of 1962.²

4. (D) Concerns regarding freedom of expression and access to information

4.1 Article 18 of the provisional Constitution of the Federal Republic of Somalia guarantees freedom of expression. Article 19 of the ICCPR further provides that everyone shall have the right to hold opinions, freely express ideas and exchange information. However, despite these safeguards, the vast majority of parties to the conflict in Somalia have actively sought to undermine the right to freedom of expression under specious claims of protecting national interests, state security and public morality. In such a repressive environment, journalists were exposed to harassment, intimidation and unlawful or arbitrary arrest and detention at the hands of both government authorities and militia groups.

4.2 In 2014 a number of media workers associated with the following media outlets were targeted. On 15 August 2014, Abdimalik Yusuf, chairman of the Shabelle Media Network, Mohamud Mohamed Dahir, Director of SkyFM and Ahmed Abdi Hassan, deputy editor of Radio Shabelle, were arbitrarily arrested by security forces.³ Among other charges, the journalists were charged under article 184, of the Penal Code “attack on the integrity, independence or the unity of the Somali state”, an offence punishable by death. Furthermore, the journalists were accused of an offending the honor and prestige of the Head of State (article 220), public incitement (article 231), incitement to commit a crime (article 320), incitement to disobey the law (article 321), publication or dissemination of false, exaggerated or misleading information and likely to disturb public order (article 328). The charges brought against the above-mentioned journalists are symptomatic of the government’s routine attempts to silence journalists who express dissenting views.

4.3 Since Somalia’s initial UPR review, several journalists continued to receive death threats while others were assassinated indicating a systemic failure by the state to ensure their protection. On 21 April 2015, Mohamed Omar Mohamed, also known as Amaar, a youth activist and a staff of Radio Dalsan, was murdered in the Bakara

² “Somaliland: Release Human Rights Defender Guleid Ahmed Jama”, 21. 04.2015, East and Horn of Africa Human Rights Defenders Project, <http://www.defenddefenders.org/2015/04/somaliland-release-human-rights-defender-guleid-ahmed-jama/>

³ “Somalia: Government Clampdown on Independent Media Houses and Freedom of Expression”, 09.09.2014, East and Horn of Africa Human Rights Defenders Project, <http://www.defenddefenders.org/2014/09/somalia-government-clampdown-independent-media-houses-freedom-expression/>

Market in Mogadishu.⁴ Just a few months later on 21 June 2014, Yusuf Ahmed Abukar Keynan, working for Radio Mustaqbal, was assassinated in Mogadishu by an explosive device attached to his car.⁵ On 18 November 2014, Abdirisq Ali Abdi, who worked for Radio Daljir, was shot multiple times by unknown gunmen at a restaurant in Puntland. Abdi was also working as a stringer for Hargeisa-based HornCable TV.⁶

4.4 On 19 April 2015, Daud Ali Omar, a journalist for Radio Baidoa, and his wife were murdered inside their home in Berdale village, Baidoa by unidentified men.⁷ Farhan Suleiman Dahir, a freelance photographer for Radio Mogadishu and the state-run Somali National Television was shot and severely wounded on 10 April 2015 in Mogadishu's Hodan district. Dahir covered clashes between government troops and Al-Shabaab militants and may have been attacked by the group for collaborating with the state-run media.⁸ Somali authorities failed to take all necessary measures to apprehend Daud Ali Omar's death and put in place safety measures to protect journalists.

4.5 On 3 May 2015, one day after World Press Freedom Day, the Somali Government banned the use of Al-Shabaab's name from all media and ordered media workers to refer to them as "the group that massacres the Somali people."⁹ The banning of Al Shabaab's name will have adverse affects on conducting journalism in a conducive manner, and will negatively impact public debates about matters of genuine national concern.

5 (E) Recommendations to the Government of the Federal Republic of Somalia

CIVICUS and NUSOJ call on the Federal Republic of Somalia to create an enabling environment for civil society to operate, in accordance with the rights ensured by the ICCPR and the UN Declaration on Human Rights Defenders. At a minimum, the

⁴ The National Union of Somali Journalists (NUSOJ) condemns the assassination of media worker in Mogadishu, 21. 04.2015, Raxanreeb, <http://www.raxanreeb.com/2014/04/somalia-nusoj-condemns-the-assassination-of-somali-media-worker-in-mogadishu/>

⁵ "NUSOJ condemns assassination of radio journalist", <http://somalireporter.com/index.php/english-news/393-nusoj-condemns-assassination-of-radio-journalist>

⁶ Somalia: Minister for Information Mustafa Duhulow Condemns the Killing of Journalist Silver, 20 November 2015, AllAfrica, <http://allafrica.com/view/group/main/main/id/00034062.html>

⁷ Journalist and his wife killed in Baidoa, 30 April 2015, Somali Current, <http://www.somalicurrent.com/2015/04/30/journalist-and-his-wife-killed-in-baidoa/>

⁸ Somalia: Freedom of Expression Under Attack, 05.05.2015, East and Horn of Africa Human Rights Defenders Project <http://www.defenddefenders.org/2015/05/somalia-freedom-of-expression-under-attack/>

⁹ Somali government bans use of Al-Shabaab name from media, CCTV Africa, <http://cctv-africa.com/2015/05/04/somali-government-has-banned-al-shabaab-name-from-media/>

following conditions should be safeguarded: freedom of association, freedom of expression, the right to operate free from unwarranted state interference, the right to seek and secure funding and the state's duty to protect. In light of this, the following specific recommendations are made.

5.1 Regarding restrictions on freedom of association

- National legislation should be amended to enable the establishment of civil society organizations through transparent, accessible, non-discriminatory, expeditious and inexpensive means set forth in Human Rights Council resolution 22/6.

5.2 Regarding the arbitrary detention and harassment of civil society activists

- A national policy on the protection of CSOs and human rights defenders should be adopted to provide a safe and enabling environment;
- All human rights defenders and civil society activists detained for exercising their rights to freedom of assembly, association, or expression should be unconditionally and immediately released. Their cases should be reviewed to prevent further harassment.

5.3 Regarding restrictions on freedom of expression and access to information, and intimidation, harassment and attacks on journalists

- National legislation should be revised to ensure freedom of expression and access to information is guaranteed in accordance with the ICCPR.
- Articles 215 “subversive or anti national- propaganda”, 321 “instigation to Disobey the Laws”, 326 “intimidation of the public” and 328 “publication or circulation of false, exaggerated and tendentious news capable of disturbing public order ”of the Penal Code of Somali should be suitably amended or repealed to ensure that they don't impede freedom of expression.

5.4 Regarding access to UN Special Procedures mandate holders

- A standing invitation should be extended to all UN Special Procedures, particularly to the Special Rapporteur on Freedom of Expression and the Special Rapporteur on the Situation of Human Rights Defenders.