

For consideration at the 24th Session to be held in October/November 2015

Universal Periodic Review for Somalia

21 June 2015

I. EXECUTIVE SUMMARY

1. The National Union of Somali Journalists (NUSOJ) is the voice of journalists and journalism in Somalia, defending the rights and interests of journalists and the Somali media community in general. NUSOJ is a full member of the International Federation of Journalists (IFJ) and International Freedom of Expression eXchange (IFEX).
2. In this submission, prepared for the Universal Periodic Review (UPR) of Somalia, NUSOJ assesses the implementation of recommendations made to Somalia during its previous UPR.
3. While accepting some recommendations, including protection of freedom of expression and media freedom, arbitrary arrest, detention, murder and other ill-treatments of journalists continued.
4. The freedom of expression situation on the ground continues to be of grave concern. Somalia failed to implement several of the key recommendations accepted during its first UPR.
5. Although there has been a marked reduction in the number of instances of attacks on journalists, the Federal Government of Somalia failed to fully protect journalists & other media workers, and to end impunity for violations against them. Authorities continued use of the legal framework to harass and intimidate journalists and media houses.
6. The federal government has proposed several bills to the Federal Parliament including draft media law and draft counter---terrorism law which impose several restrictions on media freedoms and freedom of expression. The draft media law, for instance, imposes heavy fines on journalists and media houses, also seeks to punish journalists and curtail independent media. These bills are not in conformity with international standards on freedom of expression.
7. The submission of this UPR submission for Somalia by NUSOJ is supported by the International Federation of Journalists (IFJ).

II. FOLLOW UP TO THE PREVIOUS REVIEW

8. Since Somalia's first UPR in 2011, the country has made no tangible progress in many of the critical areas of media rights and freedom of expression highlighted in the previous review. On the positive side, freedom of expression is guaranteed under the provisional constitution of Somalia, adopted in August 2012. Somali government adopted a human rights roadmap, which makes the right to freedom of expression a priority. A national

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human rights day was declared. But when you look at the 10 recommendations that specifically talk about freedom of expression, nothing had been implemented.

9. Since 21 September 2011, when the UN Human Rights Council adopted UPR report of Somalia, some 32 journalists were killed in Somalia with 2012 being the deadliest year ever where 18 journalists murdered. The attacks ranged from shooting, physical attack, unlawful arrest and detention/ incarceration of journalists, denying access to news scenes, confiscation of equipment, defective and trumped up charges, to verbal threats. There have been frequent attacks on media houses.
10. Freedom of expression has greatly and continuously been hindered by laws and policies that are maintained on the different statute books. Bills, which are not inline with provisional constitution of Somalia and international freedom of expression standards, were by the government.

III. FAILURE TO FULLY PROTECT AND RESPECT FREEDOM OF EXPRESSION

11. During its first UPR in 2011, Somalia accepted recommendations to ensure the security of journalists, to protect freedom of expression and by extension to effectively investigate such violations and bring those responsible to justice. With the adoption of the report of the working group on the review of Somalia in September 2011, it had been expected that the horrific plight of journalists and the general situation of freedom of expression would improve, but to the contrary.
12. However, violations remain serious, and include death threats, murder, serious injury, obstruction to gathering information, harassment, closure of media houses and destruction of equipment and property. These incidents directly restrict journalists' right to free and independent reporting, depriving individuals of enjoying the right to freedom of expression and access to information.
13. *In 2011, NUSOJ made systematic documentation of violations of Freedom of Expression and Media Rights: NUSOJ recorded that 4 journalists were murdered, 7 journalists wounded, 19 journalists arbitrarily arrested, 7 media houses attacked, and at least 5 newspapers faced criminal defamations. The targeting of journalists was not only politically motivated and systemic but also institutionalised, and more journalists were victimized, through arrests, beatings, harassment, trumped-up criminal proceedings, and even killing.*
14. *In 2012, NUSOJ documented cases of violations of freedom of expression and media rights: 2012 saw deliberate violence, impunity and injustice against journalists and media in Somalia which were widespread, systematic and involved a variety of perpetrators. The union confirmed through regular and systematic documentation of attacks on journalists that 2012 was the deadliest year for Somali media in history with 18 media workers murdered. Five journalists were wounded in the period under review. More than 30*

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journalists were imprisoned in 2012 for carrying out their work. Somaliland surfaced as worst jailer of journalists in the year 2012 with 28 of them arrested in Hargeisa, Borame and Las Anod by Somaliland police.

15. *In 2013, NUSOJ recorded cases of attacks on freedom of the press: 7 media workers, including 6 journalists were cold-bloodedly murdered from 18 January to 26 October 2013. All media victims were working for broadcast media. Mogadishu still lingered to be the deadliest place to a journalist in the country with 6 media workers killed in 2013 alone while Galkayo still continued to be dangerous town for journalists. 4 journalists were injured; 6 journalists were arrested; ten media houses were attacked; and a repressive draft media law introduced in 2013.*

16. *In 2014, NUSOJ documented cases of attacks on media freedom to bring into sharp focus the diverse attacks against journalists and media houses in Somalia: although deadly violence against journalists eased during 2014, due to widespread self-censorship that had made media less of a target, the media freedom landscape remains in turmoil. The grim toll for 2014 was: five media workers murdered in Mogadishu, Galkayo and Baidoa; seven journalists injured; 47 journalists arrested; five media houses attacked; and a repressive legislations enacted by the federal government and Puntland.*

IV. PASSAGE OF REPRESSIVE MEDIA LEGISLATIONS

17. On 1 September 2014, Somalia's Council of Ministers passed a draft media law in an attempt to control the independent media under the guise of regulation. Many of the broad restrictions laid out by this legislation could be used by Somali authorities to silence their critics, control independent media, disproportionately punish journalists and result in self-censorship on the part of journalists and media houses.

18. Article 6 of the draft media law establishes National Media Council, which consists of thirteen (13) members. Six of the thirteen members will be appointed from the Ministry of Information while four will be appointed from independent media. The remaining three members will be appointed from civil society, particularly from the National Human Rights Commission, the National Women's Organisation, the Solicitor General or the Somali Bar Association. The National Media Council shall be appointed by the Ministry of Information, according to article 6, provision 6.2 of the bill. This article clearly establishes a media regulatory body which is dominated by the Ministry of Information with most of its members appointed by the same ministry, and lacks independence & credibility.

19. All media houses including newspapers must register at the Ministry of Information and pay an unspecified annual license fee to get a licence from the ministry, according to article 7, provision 7.3. This opens the door for the ministry to politicise the issuance of licenses and deny any media house that they may deem to be critical of them.

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20. The draft media law further states that a journalist or media house shall pay a fine of between US \$5,000 to \$10,000 for breach of the “code of ethics”, according to article 3, provision 3.4. As stated by article 21, any media house, which is found guilty by the National Media Council and penalised to pay a fine or compensation, must publish or broadcast the judgment of the council, and upon failure to do so, the media house shall pay US \$20,000 for penalty.
21. Article 15 specifies that the Ministry of Information and the National Media Council shall set code of ethics based on respect for the “Islamic religion” and “Somalia’s good tradition”. It is deplorable that people other than journalists can set a code of ethics for journalism. Article 19 prohibits the dissemination of “false news” or “propaganda” against the dignity of citizen, individuals, organisations or government.
22. According to article 25, provision 25.7, the media house must record and keep the voice of the “confidential source” or the voice of its unidentified reporter to disclose before a court of law. This provision orders that the court can compel the media house to disclose the “confidential source” or name its unidentified journalist. According to article 24, any Somali who has journalism knowledge or has been working in the media for at least three years can be a journalist.
23. The draft media law foresees “criminal offences” by journalists and media houses, which will be handled by the “Attorney General and competent court of law”. This insertion was repeatedly affirmed in the draft media law and shows a “criminal offence” is being sought for journalists and media.
24. On 21 July 2014, Puntland’s parliament passed the draft media law, which was resubmitted to the parliament on 19 July 2014 after the parliament returned the same text to the Ministry of Information on 16 July. This media law specifies penalties, fines, and suspension of journalists from their work. It legalizes the closure of media houses and restrains editorial independence of media outlets. The ministry will have the authority to issue and withdraw journalists’ identification cards, according to this law.

V. IMPUNITY FUELS VIOLENCE AGAINST JOURNALISTS’ RIGHT TO LIFE

25. Unabated human rights abuses and violations have made Somalia a lawless country as victims endure injustice. The enjoyment of media freedom and freedom of expression in Somalia continue to be a far cry for journalists. Journalists and media practitioners are attacked, murdered, threatened, forced to leave their jobs, exiled and their media houses arbitrarily closed without any action taken. And the perpetrators continue to walk scot-free, leaving journalists more vulnerable and resigned to their fate.
26. Fifty-Seven media practitioners, all male and most of whom working with broadcast media were killed in Somalia between 2006 and 2015. Eighteen media workers were killed in the

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first 10 months of 2012; making this deadliest year to practice journalism in Somalia. It goes without saying that Mogadishu is the deadliest place to practice journalism in the country, while Galkayo, Mudug region, is the second deadliest place.

27. Being a journalist in Somalia is always a dangerous, often fatal, profession. Somali journalists – be they reporter, producer, editor or newscaster – face organised crimes of death threats, pressure on their media houses, and threats against their families, because of the nature of their work. Telephone and face-to-face death threats are widespread throughout Somalia as part of the violent attempt to intimidate journalists. Known as “mouth-murdering” acts, these threats have driven around 250 journalists out of the country since 2006.
28. Victimization of journalists and the accompanying impunity of the perpetrators are being fostered because journalists and media houses are the tool that reveals the truth, that encourages the tackling of the rampant culture of impunity, and that promotes accountability, the rule of law, and the judicial protection of those who fight for accountability and justice.

RECOMMENDATIONS

29. In light of these concerns, NUSOJ call upon Member States to put forward clear and strong recommendations to the Government of the Federal Republic of Somalia:
 1. Since provisional constitution of Somalia is reviewed, adopt a new national Constitution that fully protects the right to freedom of expression in line with international standards, in particular by defining restrictions and limitations as provided in Article 19(3) of the ICCPR.
 2. Take serious judicial reforms that will aid free and fair trial as well as judiciary protection for the media, and de-criminalise defamation.
 3. Expeditiously create a special mechanism for the protection of journalists and other media workers, and immediately institute independent & trustable investigations and inquiries into the deaths of more than 50 journalists in order to bring all the perpetrators to justice.
 4. Enact legislative reforms to bring domestic legislations, including current draft media law, in line with international standards on freedom of expression.
 5. Make penal code reforms and include a special section punishing crimes against journalists and freedom of expression.
 6. Pass strong Freedom of Information Law, in line with regional & international standards, as dictated by article 32 of provisional constitution of Somalia.
 7. Establish a functional and independent Human Rights Commission to effectively monitor the government’s human rights compliance, to promote human rights and as an alternative mechanism for redress on issues of human rights abuse.