



EAST AND
HORN OF
AFRICA
HUMAN RIGHTS
DEFENDERS
PROJECT
(EHAHRDP)

“BETWEEN A ROCK AND A HARD PLACE”

HUMAN RIGHTS DEFENDERS UNDER ATTACK
IN SOMALIA AND SOMALILAND



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©AU UN IST PHOTO / Tobin Jones. Prison guards stand outside of a prison cell in Mogadishu Central Prison on Human Rights Day in Somalia on December 10.



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HUMAN RIGHTS
DEFEND DEFENDERS
PROJECT
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“Between a Rock and a Hard Place”

Human Rights Defenders Under Attack in Somalia and
Somaliland

“I received messages stating ‘you’re helping westerners,’ ‘we know your name, where you live, where you work.’”

Human Rights Defender, Kenya, June 2015

“With Al Shabaab, you risk death when you work.”

Human Rights Defender, Somalia, June 2015

“I was detained and given no access to visits. I was not charged with any offence.”

Journalist, Somalia, June 2015

“You have to balance what you do. The challenges include the fear itself. You have to consider what could happen.”

Journalist, Somalia, August 2015

“There are certain cultural taboos. People see human right education as trying to change the culture.”

Lawyer, Somaliland, August 2015

“Many organisations have constraints with their projects being cut off, but communities are relying on them to continue the work they do. It is very difficult.”

Human Rights Defender, Somaliland, August 2015

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© United Nations - UN map of Somalia no 3690, Rev.10, December 2011

ACRONYMS

ACHPR	African Commission on Human and People's Rights
AMISOM	African Union Mission in Somalia
CPJ	Committee to Protect Journalists
DefendDefenders	East and Horn of Africa Human Rights Defenders Project (DefendDefenders)
FGM	Female Genital Mutilation
GBV	Gender Based Violence
HRD	Human Rights Defenders
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IE	Independent Expert
NGO	Non-governmental organizations
NISA	National Intelligence Security Agency
RSF	Reporters without Borders
SFG	Somali Federal Government
UDHR	Universal Declaration of Human Rights
UN	United Nations
UPR	Universal Periodic Review

FOREWORD

My homeland Somalia has one of the most committed communities of human rights defenders in the East and Horn of Africa sub region. However, over the course of extensive research undertaken throughout 2015, the East and Horn of Africa Human Rights Defenders Project (DefendDefenders) has documented extremely concerning and worsening patterns of attacks against human rights defenders (HRDs) in both Somalia and the autonomous region of Somaliland, marking a narrowing of civil society space.

As this report shows, Somali human rights defenders, including media practitioners, have had infringements on their rights to life, security of person, and freedom from arbitrary arrests and detention. The authorities have subjected HRDs to harassment and arrests placing unacceptable restrictions on the right to freedom of expression while non-state actors such as Al Shabaab have threatened HRDs and carried out a number of killings to target those exposing human rights violations taking place across the country.

In preparing this report, DefendDefenders seeks not only to provide an accurate description of the current situation, but just as importantly provide concrete recommendations to civil society, the authorities and the international community on how the operating environment for human rights defenders can be strengthened.

DefendDefenders has been working extensively with Somali HRDs ever since its inception in 2005. In 2012, we deemed it necessary to establish a ‘Special Program’ cross cutting through Advocacy, Capacity Building and Protection programs and committing more resources to the work on Somalia (together with Somaliland). Since the creation of Special Programs, nearly 200 HRDs have benefitted from capacity building on protection, risk assessment and security management tools, as well as monitoring, documenting and reporting human rights violations. Moreover, we have trained HRDs on advocacy strategies and they have taken part in advocacy at the sessions of the United Nations Human Rights Council and the African Commission on Human and People’s Rights (ACHPR).

In January 2015, Honorary Commissioner Reine Alapini-Gansou, the Special Rapporteur on Human Rights Defenders in Africa for the ACHPR joined our DefendDefenders delegation in chairing an interactive dialogue with HRDs from across Somalia. This high level mission to Mogadishu marked the first visit to Somalia of a Special Mechanism of the ACHPR in the country’s history. More than 80 HRDs working on the promotion and protection of human rights in the southern part of Somalia, Puntland and Somaliland regions attended the event to discuss human rights protection, share personal experiences and testimonies on the situation of HRDs, and engage in dialogue with Hon. Commissioner Gansou and ministers from the Somali Federal Government.

In August 2015, nearly thirty human rights defenders formed the Somalia/Somaliland Human Rights Defenders Coalition. This Coalition will encourage cooperation and collaboration between members with similar mandates and relevant stakeholders to better share and leverage resources, encourage regular documentation and sharing of information amongst human rights defenders, and promote strategies and quick responses to situations in which human rights defenders are at risk.

DefendDefenders continues to work with human rights organisations across the region to empower and support them to lead the efforts to address their concerns at the national level. DefendDefenders has helped establish similar national coalitions and networks of human rights defenders in Burundi,

Kenya, Rwanda, South Sudan, Tanzania and Uganda.

We reiterate our commitment to standing alongside civil society in Somalia and Somaliland in their efforts to achieve full respect for human rights.

I wish to take this opportunity to thank all of the individuals and human rights organisations that contributed to these research findings and told their stories to our research team. Without their assistance, this report would not have been possible.

Hassan Shire



**Executive Director, East and Horn of Africa Human Rights Defenders Project
Chairperson, Pan-African Human Rights Defenders Network**

February 2016

About the East and Horn of Africa Human Rights Defenders Project

Established in 2005, the East and Horn of Africa Human Rights Defenders Project (DefendDefenders) seeks to strengthen the work of HRDs throughout the region by reducing their vulnerability to the risk of persecution and by enhancing their capacity to effectively defend human rights. DefendDefenders focuses its work on Burundi, Djibouti, Eritrea, Ethiopia, Kenya, Rwanda, Somalia (together with Somaliland), South Sudan, Sudan, Tanzania and Uganda.

DefendDefenders acts as the secretariat of the East and Horn of Africa Human Rights Defenders Network, which represents more than 75 members across the sub-region, and envisions a region in which the human rights of every citizen as stipulated in the Universal Declaration of Human Rights are respected and upheld.

DefendDefenders also serves as the secretariat of the Pan-African Human Rights Defenders Network (PAHRDN). PAHRDN was formed as a result of deliberations at the All African Human Rights Defenders Conference ('Johannesburg +10') hosted in April 2009 in Kampala, Uganda. The five functioning sub-regional networks forming the PAHRDN are: the North Africa Human Rights Defenders Network (hosted by the Cairo Institute for Human Rights Studies in Tunis, Tunisia), the West African Human Rights Defenders Network (Lome, Togo), the Southern Africa Human Rights Defenders Network (hosted by Zimbabwe Lawyers for Human Rights (Harare, Zimbabwe), the Central Africa Human Rights Defenders Network (Douala, Cameroon), and East and Horn of Africa Human Rights Defenders Network (hosted by East and Horn of Africa Human Rights Defenders Project, Kampala, Uganda).

PAHRDN aims to coordinate sub-regional networks activities in the areas of protection, capacity building and advocacy across the African continent.

EXECUTIVE SUMMARY

In August 2012, Somalia's first formal parliament in more than 20 years was sworn in. The new government subsequently put forward an ambitious reform agenda to address human rights abuses but has partially failed to protect these rights in areas under its control, including those of human rights defenders (HRDs). Although Somaliland escaped much of the chaos and violence that plagued Somalia, HRDs are often targeted once they criticise the authorities.

This report examines the situation for HRDs in Somalia and the *de facto* autonomous region of Somaliland and is the result of three extensive research trips to Mogadishu, Garowe (in the semi-autonomous region of Puntland) and Hargeisa conducted in 2015, as well as DefendDefenders work over the years. Over seventy (70) HRDs were interviewed during the course of this research as well as other members of civil society.

The Declaration on Human Rights Defenders¹ provides formal recognition to those individuals and groups who work to promote and protect recognised human rights. It recognises fundamental rights and freedoms including freedom of expression and opinion and freedom of peaceful assembly. The Declaration also acknowledges that HRDs have the right to “*effective remedy and to be protected in the event of the violation of [these] rights,*” and that the responsibility for ensuring the protection of these rights, the prevention of abuses and the remedy for violations lies with the State.²

In its research, DefendDefenders has found that Somali HRDs, including media workers, have faced an onslaught on their rights to life, security of individuals, and freedom from arbitrary detention.³ The federal government and regional administrations have subjected HRDs to harassment and arrests and attempts by media

houses to publish reports that are critical of the government have been met with crackdowns.

Furthermore, non-state actors such as Al Shabaab⁴ have threatened HRDs and carried out a number of killings targeting them for denouncing the widespread and brutal human rights abuses taking place across the country. A number of HRDs have also been subjected to hostility from members of the community for allegedly ‘*pushing a western agenda*’ and ‘*questioning cultural and religious values.*’⁵

The primary responsibility for the protection of HRDs rests with states however DefendDefenders’ research reveals a pattern of inadequate criminal investigations into violations committed against HRDs. Somalia topped 2015 Global Impunity Index for the first time due to the government’s unwillingness and/or inability to carry out investigations.⁶

This report aims to provide insight into the challenges faced by human rights defenders and offer recommendations to strengthen the work and protection of human rights defenders.

1. Declaration on Human Rights Defenders, A/RES/53/144, 8 March 1999

2. Article 5-15, Declaration on Human Rights Defenders.

3. Guaranteed under articles 6 and 9 of the ICCPR

4. Al Shabaab (full name: Harakat al-Shabab al – Mujahideen) currently exercises varying degrees of control of influence over a number of rural areas in Somalia and continues to launch attacks against the Somali Federal Government, the African Union Mission in Somalia (AMISOM) and other human targets.

5. DefendDefenders interview June 2015

6. Ibid

SUMMARY OF KEY RECOMMENDATIONS

Human Rights Defenders including media workers

- *Utilise* the mandate of the United Nations Human Rights Council and African Commission on Human and Peoples' Rights special mechanisms by submitting complaints and sending communications on rights violations;
- *Request* urgent action when threatened or arrested;
- *Monitor* implementation of the recommendations accepted by Somalia under Universal Periodic Review.

Women Human Rights Defenders

- *Continue* to develop strategies to sensitise the broader population, including the communities, traditional and religious leaders on specific human rights areas.

To the Governments of Somalia, Puntland and Somaliland

- *Immediately* and unconditionally release all human rights defenders and media workers arrested and detained on the basis of their legitimate human rights work;
- *Demonstrate* its commitment to respect freedom of expression by taking positive measures to improve relations with media and promote an independent media sector;
- *Ensure* that the draft media law conforms to international human rights standards relating to freedom of expression and that directives that restrict freedom of expression are repealed;
- *Ensure* that thorough and lawful investigations are carried out into all allegations of threats or attacks against human rights defenders and journalists and perpetrators are held to account;

- *Consult* with civil society and all interested stakeholders during the development of new legislation;
- *Establish* the national human rights commission in Somalia to monitor violations against human rights defenders; providing temporary shelter; and assisting with temporary or permanent relocation to another part of the country;
- *Enact* a specific law for the protection of human rights defenders giving full force and effect to the UN Declaration on HRDs at the national law level; and
- *Ensure* governments fulfill the commitments they made under the Universal Periodic Review.

Al Shabaab and other armed groups

- *Immediately* cease the deliberate targeting and violence perpetrated against human rights defenders and withdraw orders that authorise attacks on them;
- *Respect* the rights of all human rights defenders and protect civilians in accordance with international humanitarian law.

Donors

- *Fund* opportunities for human rights defenders to learn about strategies and tools to assess and mitigate against the risks that they face as well as continue to support the work of civil society actors;
- *Continue* to support the dependent human rights defenders with adequate financial resources and technical assistance.

Countries in the sub region

- *Offer* short-term safe havens for human rights defenders at risk, including expediting visas where appropriate.

METHODOLOGY

DefendDefenders staff undertook three extensive research trips between June and September 2015. The missions were carried out in Mogadishu, Garowe (Puntland) and Hargeisa (Somaliland). DefendDefenders met with human rights defenders focusing on a range of different human rights issues, including lawyers and journalists. DefendDefenders also met with INGOs and diplomatic missions. In total over seventy (70) interviews were conducted.

DefendDefenders is grateful to all interviewees for their time in meeting with us and for sharing their experiences. Many of the HRDs interviewed asked not to be identified for security reasons. Names and affiliations of all these individuals have been withheld and pseudonyms have been used.

During the same period of this extensive research, DefendDefenders helped to facilitate the establishment of the Somalia/Somaliland Human Rights Defenders Coalition in August 2015. This Coalition aims to ensure that the rights of human rights defenders are respected and upheld. As part of its mandate, DefendDefenders has coordinated numerous trainings and capacity building initiatives as well as provision for emergency protection for Somali human rights defenders over the past decade.

I. BACKGROUND

“Security – there is a lot you can’t say – due to both sides [the government and Al Shabaab]. You have to balance what you do. The challenges include the fear itself...you have to consider what could happen. There are constant threats from Al Shabaab meanwhile the government is carrying out arrests...”

Mohamed⁷ is a 26 year old journalist based in Mogadishu who has received text messages from Al Shabaab - threatening his life - due to his coverage of the ongoing armed conflict in south central Somalia. Several of his colleagues have received similar threats, whilst others have been arrested and detained by security agencies. Unfortunately, these experiences are not unique in Somalia. DefendDefenders has found that countless human rights defenders (HRDs) have suffered, and continue to suffer, attacks from both the government and non-state actors as a result of their work.

The adoption of the Declaration on Human Rights Defenders⁸ by the UN General Assembly in December 1998 provided formal recognition to those individuals and groups who, often placing themselves at great risk, work to promote and protect internationally and nationally recognised human rights. The International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) – both signed and ratified by Somalia – provide human rights defenders with protection against threats, attacks and other abuses such as the criminalisation of their activities and arbitrary arrests.⁹

Despite this, DefendDefenders’ research findings show that Somali human rights defenders, including media workers, have faced an onslaught on their rights to life, security of person, and freedom from arbitrary detention.¹⁰ The federal government and regional administrations have subjected HRDs

to harassment and arrests. Attempts by media houses to publish reports that are critical of the government have been met with crackdowns. Al Shabaab¹¹ has threatened HRDs and carried out a number of killings to target those denouncing the widespread and brutal human rights abuses taking place across the country.

HISTORY

Somalia’s president was overthrown in 1991, leaving the country without an effective central government and various armed factions competing for influence. After several US and UN missions failed to restore stability, Somalia dropped from wider international attention. However the situation in certain areas began to improve slowly, most notably the now autonomous region of Somaliland and semi-autonomous region of Puntland. In 2004, a deal was signed by the main warlords and politicians to set up a new government but its authority was compromised in 2006 by the rise of Islamist Court Union who gained control of much of the south, including the capital Mogadishu.¹²

With the backing of Ethiopian troops, the interim administration seized back control from the Islamists at the end of 2006. The Islamic insurgents, including Al-Shabaab continued its fighting against the government and Ethiopian troops.

In August 2012, Somalia’s first formal parliament in more than 20 years was sworn in, marking the end of an 8-year transitional period. In January 2013, the United States government recognised Somalia’s government for the first time since 1991.¹³ The new government put forward an ambitious reform agenda to address human rights abuses but has partly failed to protect rights in areas under its control. Al-Shabaab continues to carry out large-scale attacks, particularly in Mogadishu.¹⁴

7 A pseudonym has been used.

8 Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, A/RES/53/144, 8 March 1999, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N99/770/89/PDF/N9977089.pdf?OpenElement>>

9 ODIHR, Guidelines on the Protection of Human Rights Defenders, Organization for Security and Cooperation in Europe (OSCE), 2014, <<http://www.osce.org/odhr/119633?download=true>>

10 Guaranteed under articles 6 and 9 of the ICCPR

11 Al Shabab (full name: Harakat al-Shabab al – Mujahideen) currently exercises varying degrees of control of influence over a number of rural areas in Somalia and continues to launch attacks against the Somali Federal Government, the African Union Mission in Somalia (AMISOM) and other human targets.

12 Stuart Casey-Maslen, The War Report: Armed Conflict in 2013, <<https://books.google.co.uk/books>>

13 Somalia profile: Timeline, BBC, 5 May 2015 <<http://www.bbc.com/news/world-africa-14094632>>

14 See Chapter III

SOMALILAND

Somaliland is a breakaway territory that declared independence after the overthrow of Somali military dictator Siad Barre in 1991. The move followed a secessionist struggle during which Siad Barre's forces brutally repressed rebel guerrillas fighting for independence in the territory. Tens of thousands of people were killed.

Though not internationally recognised, Somaliland has its own government institution, a police force and currency. The territory has lobbied hard to win support for its claim to be a sovereign state and to maintain both security and stability. Although Somaliland escaped much of the chaos and violence that has plagued Somalia,¹ HRDs often lack the ability to criticise authorities without reprisal.

PUNTLAND

Following the outbreak of civil war in Somalia, Puntland (a region in the north-east) declared itself an autonomous state in August 1998. Unlike Somaliland, Puntland says it does not seek recognition as an independent entity, wishing instead to be part of federal Somalia.² The move to establish a Puntland State of Somalia was in part an attempt to avoid the clan warfare engulfing the rest of the country.

Puntland has its own judiciary, legislative and executive branches of government. Although the region has enjoyed relative peace and stability, testimonies collected show that HRDs and media workers are also suffering from targeted attacks and arbitrary arrests and detentions.

IMPUNITY

DefendDefenders' research reveals a pattern of inadequate criminal investigations into violations committed against HRDs, which raises serious concerns about the government's will to combat violations. This is despite the fact that the government committed to ensure that it would eradicate the continued impunity for perpetrators of crimes against freedom of expression and conduct investigations in its Universal Periodic Review in 2011.¹⁵

According to the Committee to Protect Journalists, at least 30 journalists have been killed in the last decade without any consequences for perpetrators.¹⁶ Somalia topped 2015's Global Impunity Index for the first time due to the government's unwillingness and/or inability to carry out investigations.¹⁷

SOMALIA'S OBLIGATIONS

The primary responsibility for the protection of human rights defenders rests with states. States have both positive and negative obligations with regard to the rights of HRDs. In line with their duties under international law – according to which they must respect, protect and fulfil human rights – they have an obligation to:

- a) refrain from any acts that violate the rights of human rights defenders because of their human rights work;
- b) protect human rights defenders from abuses by third parties on account of their human rights work and to exercise due diligence in doing so; and
- c) take proactive steps to promote the full realization of the rights of human rights defenders, including their right to defend human rights.³

15 Report of the Working Group on the Universal Periodic Review, 11 July 2011, A/HRC/18/6, < <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/145/90/PDF/G1114590.pdf?OpenElement>>

16 Getting away with murder, CPJ, 8 October 2015, <<https://cpj.org/reports/2015/10/impunity-index-getting-away-with-murder.php>>

17 Ibid

LEGAL SYSTEMS

Three different justice systems can currently be identified in Somalia: the criminal justice system, sharia law and customary law more commonly known as 'xeer'.

- **Sharia** is Islamic law, which has existed in Somalia in one form or another for centuries. It is usually incorporated within the traditional xeer system, though some independent shari'a courts have emerged in various parts of Somalia in recent years.¹⁸
- **Xeer** has been defined as an unwritten agreement that has evolved within and between Somali clan communities over generations. Although it bears no formal institutional structure, the implementation of xeer is overseen by traditional elders. In spite of a growing body of statutory law, customary laws continue to be widely applied across large parts of the country. According to a number of HRDs interviewed, xeer¹⁹ continues to be the predominant justice system.²⁰

Despite xeer's numerous contributions as a judicial system²¹, HRDs have found substantive shortcomings that lead to discrimination against certain groups. For example in cases where a rape has been reported, a woman is often forced to marry her attacker and the intervention of HRDs in these cases often lead to hostility from traditional elders and members of the community.²² Similarly HRDs in Somaliland reported that they exercise self-censorship on cases concerning early marriages, worrying that their interference will be seen as attacking Somali cultural and religious sentiments.²³

18 DefendDefenders will limit the scope of its analysis to highlighting the elements of xeer that adversely affect the work of human rights defenders.

19 a set of rules and obligations developed between traditional elders to mediate peaceful relations between Somalia's competitive clans and sub-clans.

20 DefendDefenders interviews June – November 2015

21 DefendDefenders interview August 2015

22 Le Sage, A, *Stateless Justice in Somalia, Formal and Informal Rule of Law Initiatives*, July 2005, <http://www.hdcentre.org/uploads/tw_news/166StatelessJusticeinSomalia.pdf>

23 Under human rights law, a child under the age of 18 is considered not to be capable of giving their valid consent to enter into marriage so early marriages are considered forced. The Convention on Consent to Marriage, Minimum Age for Marriage, and Registration of Marriages, 7 November 1962 <<http://www.unhcr.ch/html/menu3/b/63.htm>>

II. LEGAL FRAMEWORK

RIGHTS AND FREEDOMS PROVIDED TO HUMAN RIGHTS DEFENDERS

The Declaration on Human Rights Defenders²⁴ provides formal recognition to those individuals and groups who work to promote and protect recognised human rights. Article 1 of the Declaration defines a human rights defender in the following manner: *“Everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels.”*

The other fundamental rights and freedoms the Declaration recognises include freedom of expression and opinion; freedom of peaceful assembly; freedom of association, including the right to form, join and participate in non-governmental organisations and the right to access and communicate with international bodies. The Declaration also acknowledges that HRDs have the right to *“effective remedy and to be protected in the event of the violation of [these] rights,”* and that the responsibility for ensuring the protection of these rights, the prevention of abuses and the remedy for violations lies with the State.²⁵

Since the Declaration’s adoption there has been significant progress in developing international standards and institutions to support and sustain the work of human rights defenders. In March 2013, the UN Human Rights Council adopted Resolution 22/6 on protecting HRDs rights defenders which urges States to create a safe and enabling environment in which HRDs can operate free from hindrance and insecurity.²⁶

PROTECTION MECHANISMS

Protection mechanisms for HRDs exist at both the international and regional level. At the UN, there is a Special Rapporteur mandated to seek, receive, examine and respond to information on

the situation of HRDs.

In 2004, the African Commission on Human and People’s Rights (ACHPR) also created the mandate of the Special Rapporteur on the situation of Human Rights Defenders in Africa with the aim of promoting the implementation of the Declaration.²⁷ The ACHPR has passed a number of resolutions concerning HRDs calling on States to recognise their role in the promotion and protection of rights and freedoms and to adopt specific legislation on the protection of HRDs.²⁸

LAWS ON HUMAN RIGHTS DEFENDERS

Laws relating to the work of HRDs can be found in national and international legal frameworks but to date no single document of a legally binding nature – specifically on HRDs – has been created. However, States are expected to take measures to ensure that the provisions of the Declaration are domesticated in national legislation and policy.

NATIONAL OBLIGATIONS

The Provisional Constitution²⁹ of Somalia guarantees the right to freedom of expression. Article 18 of Somalia’s Constitution states that every person has the right to have and express their opinions and to receive and impart their opinion, information, and ideas in any way. Freedom of expression includes freedom of speech and freedom of the media, including all forms of electronic and web based media.³⁰ Yet a media law and general practices have seriously endangered these rights, and have had a chilling effect on media workers across Somalia.

24 Declaration on Human Rights Defenders, A/RES/53/144, 8 March 1999

25 Article 5-15, Declaration on Human Rights Defenders.

26 Protecting human rights defenders, A/HRC/22/L.13, 15 March 2013 <<http://daccess-dds-ny.un.org/doc/RESOLUTION/LTD/G13/120/26/PDF/G1312026.pdf?OpenElement>>

27 The Special Rapporteur on Human Rights Defenders was established by the African Commission on Human and Peoples’ Rights with the adoption of Resolution 69 at the 35th Ordinary Session held in Banjul, The Gambia from 21st May to 4th June 2004.

28 196: Resolution on Human Rights Defenders in Africa

29 On 1 August 2012, Somalia adopted a Provisional Constitution marking the official end of transition and the establishment of the new Federal Government. A permanent constitution is set to be adopted – by public referendum - in 2016

30 The Federal Republic of Somalia, Provisional Constitution, August 2012 <<http://unpos.unmissions.org/LinkClick.aspx?fileticket=RkJTOSpoMME=>>>

MEDIA LAW

The Somali Federal Parliament passed a media law after its third reading on 29 December 2015. It was signed by the President on 9 January 2016 and declared as coming into force from that date.

A number of media practitioners have found the law to contain provisions that are problematic in terms of free media principles. Breaches to this law by journalists and media outlets could result in facing fines between \$500 to \$3000 – fines which most journalists cannot afford and consider to be disproportionate.⁴ Articles 18 and 35 of the law places restrictions on who can practice journalism by requiring the Media Council to examine a journalist before they can be registered as one with the Ministry of Information. Journalists have stated that the registration should be administered by an independent body in order to ensure impartiality and neutrality.⁵

Journalists have also expressed concern that the protection of confidential sources is not guaranteed under this law. According to article 25, courts have the power to order a confidential source to be revealed. Without this protection, journalists believe sources will be deterred from assisting the press due to the risk they could be subjected to reprisals from the government.

In Puntland, freedom of opinion is guaranteed under its own constitution (article 25).³¹ In July 2014, Puntland passed a law on the media. It has however raised concerns with media organizations that are currently working to amend several of its provisions. One journalist interviewed stated that *“it does not favor the media situation in Puntland.”*³²

SOMALILAND

Article 32 of Somaliland’s constitution similarly provides every citizen with the right to express opinions orally, visually, and artistically in writing or in any other way. Every citizen has the freedom to organise or participate in any peaceful assembly or demonstration and the media is independent. The constitution prohibits any subjugation of these rights.³³

In 2004, Somaliland introduced a media law for regulation purposes. Article 3 of media law 27/2004 recognises that freedom of the press is enshrined in the constitution and states that no restraints can be imposed on the press. Any acts that can be construed as amounting to censorship are prohibited.³⁴ The media law also provides that any infringements committed by

journalists are treated as civil issues.

INTERNATIONAL OBLIGATIONS

As already stated the ICCPR and ICESCR – both of which Somalia signed and ratified in January 1990 - also provide human rights defenders with rights and freedoms, including freedom of movement, freedom from discrimination and the right to a private life.³⁵ Somalia is also a state party to the African Charter on Human and Peoples Rights (ACHPR) which provides for similar rights.³⁶

Although Somaliland has declared its independence, in the eyes of the international community it is bound by the human rights treaties acceded to or ratified by the state of Somalia.

UNIVERSAL PERIODIC REVIEW

During its initial examination under the UPR in 2011, Somalia fully accepted 155 recommendations it received from other States. No recommendations were rejected.

Switzerland urged the Government of Somalia to respect, in close cooperation with Somaliland and Puntland, freedom of expression and

31 Transitional Constitution of Puntland <<http://www.refworld.org/pdfid/4bc589e92.pdf>>

32 DefendDefenders interview August 2015

33 Somaliland Constitution <http://www.somalilandlaw.com/Somaliland_Constitution/body_somaliland_constitution.htm>

34 Somaliland press law <http://www.somalilandlaw.com/press_media_law.htm#SF2004com>

35 ODIHR, Guidelines on the Protection of Human Rights Defenders, Organization for Security and Cooperation in Europe (OSCE), 2014, Pp. 8-18: <http://www.osce.org/odihr/119633?download=true> (accessed 30 March 2015). Ibid. Pp. 3- 8. 17 UN Human Rights Council Resolution, A/HRC/RES/22/6, Protecting human rights defenders, 21 March 2013, para 2.

36 Article 9 provides citizens the right to express and disseminate opinions and views within the law.

protect journalists and human rights defenders from abuses aimed at preventing them from exercising their legitimate activities.³⁷ Similarly, the Netherlands recommended that Somalia's government guarantees freedom of expression and protection of journalists and human rights defenders.³⁸

The government committed to ensure that it would eradicate the continued impunity for perpetrators of crimes against freedom of expression and conduct timely and impartial investigations into the killings of Somali civil society actors and, where there is credible evidence of threats, take the necessary measures to ensure their personal security.³⁹ The government also committed to put an end to all forms of media censorship.⁴⁰

As the findings of this report will show, the above rights guaranteed to HRDs under national and international law have not been upheld by the governments of Somalia, Puntland and Somaliland. The commitments made by Somalia at the UPR have also not been fulfilled. The work of HRDs and media workers continues to be severely restricted and impunity continues to prevail. Somalia will be peer reviewed at the UPR between January and February 2016.

OPERATIONAL CHALLENGES

In addition to the challenges faced by human rights defenders above, the overwhelming majority also made reference to operational challenges, more specifically funding and capacity.

Most human rights defenders mentioned the tendency by donors to provide funding for short-term funds as opposed to long-term funding. Another HRD made reference to the fact that national human rights institutions have limited financial resources.

HRDs also reported that there is increased com-

petition amongst themselves for donor funds. This was attributed to the duplication of activities by different HRDs as well as the fact that some organisations do not refer donors to peer organisations. One HRD admitted they did not know what other human rights organisations in their locality were working on the same issues given the lack of comprehensive mapping. Moving forward, a number of HRDs recommended setting up a network and information sharing so they are informed.

37 Report of the Working Group on the Universal Periodic Review, Recommendation 121

38 Report of the Working Group on the Universal Periodic Review, Recommendation 125

39 Report of the Working Group on the Universal Periodic Review, Recommendation 70

40 See footnote 12, Recommendation 129

III. VIOLATIONS COMMITTED BY STATE ACTORS

Radio reporter Hassan*

Hassan, was arrested by police in Mogadishu in early 2015 and was arbitrarily detained for a week without charge.

"I left work and went home, it was around 9:30pm. I heard noises coming from outside. When I asked people from the neighborhood what happened, they said there was a suspicious group lurking around. I went inside my home as this was an area where a few killings had taken place. I immediately made a phone call and alerted the authorities. A while later, I was informed a man had been killed by a soldier. This all happened a week before my arrest."

"I was later arrested. When I arrived at the station, I was accused of being an accomplice of the man shot by the soldier. I explained I did not know the man and was the one that alerted the authorities because I was concerned about my safety. They did not listen to me and I was detained and given no access to visits. I was not charged with any offence."

Hassan* was eventually released after the authorities admitted they made an error.

Somalia's obligations

With respect to the time of arrest and initial period thereafter, Article 9 of the ICCPR requires that all arrested persons should be informed immediately of the reasons for their arrest, promptly informed of the charges against them and brought before a judge. Principle 16(1) of the Body of Principles on Detention requires that notification of arrest and any transfer of a detainee be provided to the family or other appropriate persons. The UN Human Rights Committee has also reiterated the importance of such notification.⁹

While Al Shabaab has claimed responsibility for the majority of appalling human rights violations against human rights defenders, the authorities have also cracked down on activists and journalists. Unacceptable restrictions have been placed on the right to freedom of expression with closures of radio stations and numerous arrests of journalists.

On 3 September 2014, the National Intelligence and Security Agency (NISA) arrested and arbitrarily detained **Hassan Ali Gesey**, Director of **Radio Dalsan** for more than 24 hours after he criticised an order they gave calling on journalists to restrict reporting on a Somali-African Union military offensive against Al Shabaab. Three days later, **Mohamed Hashi**, editor of **Radio Shabelle** was sent to NISA prison in Godka Jilicow where he was detained without a formal charge before his eventual release.⁴¹ On that same evening,

41 Somalia: Government Clampdown on Independent Media Houses and Freedom of Expression, DefendDefenders, 9 September 2014, <<https://www.defenddefenders.org/2014/09/somalia-government-clampdown-independent-media-houses-freedom-expression/>>

NISA also shut down SIMBA Radio, arrested three journalists and seized their equipment.⁴²

In April 2015, twenty-five journalists were detained and two radio stations – **Radio Shabelle** and **Sky FM** - closed down, following their coverage of Al-Shabaab's attack in Garissa, Kenya. Shortly after, on 4 May the Somali government banned Al-Shabaab's name from all media and ordered media workers to refer to them as "*the group that massacres the Somali people*." Following this announcement an Al-Shabaab spokesman reportedly told Al-Jazeera news, "[a]nyone who calls us names we will respond appropriately."

Although DefendDefenders has not documented any cases arising from the directive, it shares the concern expressed by media workers that this directive could endanger the lives of journalists and will further restrict the right to freedom of expression.

42 Ibid

DRAFT ANTI - TERRORISM BILL

In May 2013, an anti-terrorism bill was adopted by the Somali Federal Government. Since then, the bill has undergone several revisions.

Critical human rights concerns in respect to some of the provisions of the bill currently before Parliament remain. The UN Independent Expert on Somalia, in his report dated September 2015, expressed concern that public agencies enjoy a wide range of discretionary powers with no oversight in the use of such powers.¹⁰ Despite this there are calls in some quarters to quickly pass this legislation so as to enable government to crackdown on groups such as Al Shabaab.¹¹

Human rights defenders have stated their concern that this law, if passed, could be used to target them and criminalise their work. One human rights defender referred to Ethiopia as an example where the government has used legal measures to restrict and control the work of human rights defenders. *“This is a trend happening all over the East Africa region.”*¹² A journalist also feared that reporting on terrorist acts could be seen as inciting or promoting terrorism.

The ACHPR’s resolution on the *Protection of Human Rights and the Rule of Law in the Fight against Terrorism* reaffirms that African States should ensure that the measures taken to combat terrorism fully comply with their obligations under the African Charter and other international human rights treaties, including the right to life, the prohibition of arbitrary arrests and detention, the right to a fair hearing, the prohibition of torture and other cruel, inhuman and degrading penalties and treatment.¹³

In October 2015, the Somali NISA raided the offices of privately owned **Universal TV** in Mogadishu and arrested **Abdullahi Hersi**, the station’s East Africa director, and **Awil Dahir Salad**, a producer. The arrests and raid of the station took place after the broadcast of a show called *Doodwadaag*, where two elected members of parliament discuss the presence of foreign troops in Somalia as part of the African Union Mission in Somalia (AMISOM), as well as the motion of no confidence against the Somali government. The two journalists were not charged and denied access to a lawyer. They were arbitrarily detained for six days before their release.

More recently, in December 2015, **Abdirisak Ahmed**, a freelance journalist, was arrested by the Somali National Intelligence Security Agency along with Star FM reporter **Abukar Mohamed** in Mogadishu. Abukar Mohamed was released without charge after one day, however Abdirisak Ahmed was detained for a further three weeks at Godka Jilacow. He has now been released.

PUNTLAND

Similar cases of arbitrary arrests and detentions of journalists have emerged from Puntland. In May 2015, two journalists working for **Radio**

Daljir - Abdirahman Gardi and Jamal Farah Aden - were arrested after police raided their work headquarters in Garowe while airing live programs. They were detained overnight and subsequently released. This followed the arrest of another journalist a few days earlier and the shutdown of the Somali National Television station office in Bosaso. The journalist was later freed and the TV ban lifted.⁴³

In November 2015, **Jama Deperani**, a reporter and presenter with Somali Channel TV, was summoned by the police in Garowe and arrested without being informed of the reason. Jama presented and produced a critical talk show consisting of interviews with politicians and had interviewed the Minister of Information just weeks before his arrest. Somali Channel TV, a privately owned broadcaster based in London, also received a letter from the Ministry ordering the temporary suspension of Jama from his journalistic duties.

He was detained in Garowe’s central police station and on 21 November, moved to the central prison after Garowe’s District Court decided to detain him for an additional 15 days to further investigate the case. In a solidarity

⁴³ DefendDefenders interview August 2015

call for Jama, Puntland media workers organised a march holding banners that read ‘free Jama Deperani’ and repeatedly called for his release through regional press conferences held in Mudug, Nugaal, Bari and the Cayn regions of Puntland. He was eventually released on 29 November 2015.

SOMALILAND

The Somaliland government has also been responsible for arbitrarily detaining human rights defenders and journalists in particular those reporting on sensitive political issues without respect for due process.

RADIO SAHAN TAKEN TO COURT – A FIRST FOR PUNTLAND

In August 2015, Puntland’s Ministry of Information filed a case against Sahan Radio, a community radio station based in Garowe for defamation. The radio was accused of being anti-government following its coverage of Puntland’s anniversary celebrations. The authorities alleged the radio should be fined heavily and closed down. On 17 August 2015, the case was dismissed in court in favour of the media.

Both the decision and the steps taken by government have been welcomed by media workers. However, many expressed fear that baseless charges will now be issued against those media outlets perceived as critical by the government.⁴⁴

On 30 November 2015 **Abdirashid Nur**, chairman of Hubsad newspaper and **Said Khadar**, the editor-in-chief of **Hubsad newspaper**, were arrested in Hargeisa. Prior to their arrest, the two journalists had visited the Office of the Attorney General to register the names of new leadership and ownership of their newspaper but were sent to the police station and on the Attorney General’s orders, arrested.

On 1 December, Abdirashid and Said appeared in court but the case was adjourned to give the prosecution more time to prepare their case. On 3 December, they were released but later charged with *publication or circulation of false, exaggerated or tendencious news capable of disturbing public order and unauthorised or prohibited business agencies and public trading*

concerns. If convicted, the journalists could face one year of imprisonment or more and revocation of the license of the newspaper.

According to Abdirashid and Said’s lawyers, Hubsad is a registered newspaper. Although the ownership and leadership had transferred from previous management to Abdirashid and Said, Somaliland’s press law does not require re-registration of a media house if the ownership and staff change.

CLOSURES OF NEWSPAPERS

In addition to arrests and detentions, Somaliland authorities have also shut down a number of privately owned newspapers in recent years. In April 2014, Somaliland police officers entered the premises of **Haatuf**, an independent Somali language newspaper, and its English language sister publication the Somaliland Times. Police officers ordered the newspaper’s immediate closure on the basis of articles deemed ‘insulting’ to members of parliament.

The following month, a regional court in Somaliland remanded **Yusuf Abdi Gabobe**, Chairman of the Haatuf Media Network, and **Ahmed Ali**, Chief Editor of the network into custody after charging them with libel, false publication, and anti-state propaganda. Both were eventually released but the newspaper remains closed at the time of writing.

In this case, the charges brought were under the penal code and no reference was made to the media law. Although passed in 2004, the law has never been applied. Media workers spoken to all agree that the media law should be used as it states all infringements should be treated as a civil issue, not criminal.⁴⁴

⁴⁴ DefendDefenders interview August 2015

Guleid Ahmed Jama, a respected lawyer and the Chairperson for Somaliland's Human Rights Centre, gave an interview to the BBC on 16 April 2015 during which he discussed recent executions by Somaliland authorities, and the need for judicial reforms.

On 18 April 2015, Guleid was arrested while representing a client at Hargeisa Regional Court on the instructions of the court judge. Following his arrest, Guleid was detained at the Criminal Investigation Division for 24 hours. The following day, on 19 April 2015, he was moved to Hargeisa's Central Police Station, where he was initially informed he was being held for 'condemnation of the judiciary'. His bail hearing took place later the same day, which was presided by the same judge who ordered his arrest.

The bail application was granted, but police officers at the station refused to release Guleid. This decision was made on the basis that an appeal had been filed by the Attorney General's Office against the court's decision to grant bail. On 20 April, Guleid was transferred to Hargeisa Central Prison, where he was detained for more than a week before having access to a court.

Guleid commenced a hunger strike on 28 April after a delay in issuing court proceedings by the Somaliland government protesting against his imprisonment, the baseless charges being levelled against him, and his lack of access to a court or any mechanism for judicial review. He was informed he was eventually charged under the following articles of Somalia's Penal Code of 1962: 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 tendencious news capable of disturbing public order'). The charge papers cited his BBC interview and an annual human rights report issued by his organisation as evidence.

On 6 May 2015, Guleid was released on bail.¹⁵ Over four months later, on 26 August 2015, the charges were finally dropped by the Attorney General's office.

IV. VIOLATIONS COMMITTED BY NON STATE ACTORS

AL SHABAAB¹⁶

Al Shabaab – meaning the youth in Arabic - is an al-Qaeda-affiliated organisation that emerged from the Union of Islamic Courts which ruled Somalia in 2006. The group has been fighting Somalia's western backed government and its allies to impose a strict interpretation of Islamic law. Its control has reduced considerably with African Union Mission in Somalia (AMISOM) forces winning back large areas of land. Al Shabaab is banned as a terrorist group by both the US and the UK, and is believed to have between 7,000 and 9,000 fighters.¹⁷

In addition to carrying out regular attacks inside Somalia, the group has carried out attacks in neighbouring countries, namely Kenya. On 2 April 2015, the group carried out an attack at Garissa University, near the border with Somalia. At least 147 people died when they stormed the university at dawn and targeted Christian students. In 2013, at least 68 people were killed in an attack on Nairobi's Westgate shopping centre. Many of Al Shabaab's top commanders have been killed. Ahmed Godane, their leader, was killed in September 2014 in a drone strike and another member was killed in February 2015.

There has been a significant increase in intimidation and attacks against human rights defenders at the forefront of promoting and protecting human rights from non-state actors. Many have been threatened, some have been killed for their activities, while others have had to flee the country fearing that they will be next. A number of human rights defenders have also been subjected to hostility from members of the community for allegedly 'pushing a western agenda' and 'questioning cultural and religious values.'⁴⁵ This backlash has had a significant impact on defenders, forcing some to engage in rigorous self-censorship to avoid being targeted.

SOUTH CENTRAL

In south central Somalia, the main perpetrator of violence against human rights defenders is Al Shabaab. As one defender explained: "Al-Shabaab believes HRDs or human rights organisations are western spies, so you cannot say or publicly declare 'I am a human rights defender'"⁴⁶

Ahmed,^{*47} director of a human rights organisation, was detained by the group following the set up of a centre in south central

⁴⁵ DefendDefenders interview June 2015

⁴⁶ DefendDefenders interview June 2015

⁴⁷ Pseudonym used

late 2011. The alleged reason was that Ahmed was implementing a programme supported by Churches and western organisations. "The group has common agenda of intimidating anyone whom they believe are supporters or affiliates. I am sure that the messages, anonymous phone calls and text messages I received before being taken were from Al Shabaab. In one text they swore to kill me."⁴⁸

Ahmed was released after being detained for one day. Elders from his clan stepped in to negotiate with the group by paying a ransom. "I was told to stop what I was doing or they would come after me. Immediately I left Beledweyne and fled to Mogadishu, because I did not feel safe at all". Ahmed was eventually able to relocate outside the country due to the threats and risks he faced.

Abdalle⁴⁹, a journalist and human rights defender, also described his experience of being targeted by the group for reporting the ongoing conflict situation to international outlets. "In October 2014, I started to be harassed. I started receiving threats saying that I was a non-Muslim and would be killed. In November, the calls and messages increased so I decided to move away leaving my entire family behind. I was advised

⁴⁸ DefendDefenders interview July 2015

⁴⁹ DefendDefenders interview June 2015

to leave and went to Nairobi. I stayed there until money ran out. When the money ran out, I was forced to come back mid-December..."

Upon his return, Abdalle continued with his work. In early January he had reported on the bombing of a hotel as it prepared to host Turkish President Recep Tayyip Erdogan. On 26 January 2015, while out on errands, Abdalle noticed he was being followed. *"I was driving. In my rear-view mirror were two men in a white car, with their eyes locked on me. So I turned, I took the left turn, they did the same. And again I changed my way, another turn on the right. They did the same. They were all the time following me. And I was alone. As the two cars closed in on me near my neighbourhood, they suddenly veered down a road to the right. I realised they knew where I was going and were trying to cut me off. I took a left instead. But they spotted my car and opened fire. One bullet hit the backlight of my car. I decided to leave my car at a mechanics I knew and escape on foot. I managed to get away and arrange a flight back to Nairobi the following morning."*

At the time of writing, Abdalle is still in hiding. In early February, two men with weapons went to his home in Mogadishu and demanded that his wife tell them where he was. She said she didn't know. On 13 May, another gunman wearing a mask knocked. *"That time he threatened that if he can't find me they will do something to my children."* Abdalle arranged for his family to relocate.

Mohamed,^{*50} a human rights defender based in south central Somalia reported a similar experience. *"In 2013, I received threatening messages – I think around 23. At the time my organisation was carrying out advocacy on women's issues. There were a lot of different activists present and I was very visible. I received messages stating 'you're helping westerners,' 'we know your name, where you live, where you work.' I switched my phone off but would receive many more messages."*

Mohamed contacted a non-governmental

50 DefendDefenders interview March 2015

organisation for assistance and was able to relocate temporarily to a neighboring country. *"I was there for two months. When I came back, I relocated, changed my phone numbers."* Fortunately Mohamed has not received any more threats. *"I'm very careful when it comes to my movements now"*

Jama^{*51} also received threats after his organisation held trainings for the public. He told DefendDefenders *"Al Shabaab don't allow protection work. We receive warnings all the time...I've lost count. I last received one this February. We were providing training to the children in Lower Juba. They are between the ages 5 to 13. We created football teams at our school and initiated other fun after school activities. We were sent messages to the effect that 'you are trying to westernize the children and not teaching them about their religion.' Subsequently we stopped our work temporarily and kept a low profile. We did not inform the authorities about the issue because we couldn't take the risk that they would be alerted."*

According to another defender, **Abdinur**,^{*52} *"people see human right education as trying to change the culture. Personally I have received phone calls, messages. That's from the people we are exposing."*⁵³

KILLINGS

On 13 July 2013, in the Puntland region of Somalia, **Abdi Farah Dhere** was gunned down by two unidentified men as he left a mosque in the northern part of Galkayo town. Abdi Farah Dhere was the Deputy Chairperson of the Peace and Human Rights Network and the head of its sub-office in Puntland.⁵⁴ In spite of calls on the authorities to ensure that a prompt, thorough and impartial investigation was carried out and the perpetrators brought to justice, no one has yet been held to account for his murder.

51 DefendDefenders interview August 2015

52 pseudonym

53 DefendDefenders interview June 2015

54 Somalia: Investigate Killing of Puntland Human Rights Defender, DefendDefenders, 17 July 2013, <https://www.defenddefenders.org/2013/07/somalia-investigate-killing-of-puntland-human-rights-defender-2/>

On 23 July 2013, **Adan Salah Abdallah**, a human rights monitor in the southwest region of Somalia, was arrested by Al Shabaab fighters after they raided his house. In mid-August, his family and co-workers were informed he was being transferred to another sub region to be interrogated by the group. His family worked to gather more information and involved clan elders to secure his release but did not receive further updates. On 18 November 2013, they received the news he had been killed. To date, no action has been taken by the authorities on this case.⁵⁵

Another human rights defender, **Hussein^{56*}**, told DefendDefenders about the killing of his friend, which he believes happened ‘to send him a message.’ *“He was killed right outside my house soon after I engaged in public advocacy. I was in the public eye. As soon as it happened, I decided to relocate – I feared they would come after me next.”*

TARGETING OF JOURNALISTS

Somalia continues to be one of the most dangerous places to work as a journalist. 2012 was considered the deadliest year for Somali journalists to date with the International Press Institute registering 16 deaths.⁵⁷ Since then killings and attempted assassinations have continued, particularly in the capital Mogadishu and Galkayo (situated in Puntland).

SOUTH CENTRAL

Mohamed Mohamud Tima’adde, a reporter affiliated with Universal TV, was shot six times on his way to work by unidentified gunmen in Mogadishu on the morning of 22 October 2013. On 26 October, he died in hospital where he was being treated. According to Frontline Defenders, Mohamed had been investigating a range of human rights issues including forced evictions, gender-based violence, and displacement of civilian populations for Universal TV.⁵⁸ On 21 June 2014, **Yusuf Ahmed Abukar** popularly known as “Yusuf Keynan”, the editor of Mogadishu-

based Mustaqbal Radio and correspondent for the Nairobi-based humanitarian news Radio Ergo was killed in Mogadishu. According to local journalists, Yusuf had received anonymous death threats via his cell phone in the weeks prior to the attack.⁵⁹

Daud Ali Omar aged 35, a journalist for Radio Baidoa, and his wife Hawo Abdi Aden were sleeping inside their home when unidentified armed men raided their house in Berdale village, Baidoa. Both were shot and killed inside their home. The perpetrators managed to escape before the police arrived. Daud was a producer for the privately owned radio station covering regional violence and local politics.⁶⁰

In December 2015, **Hindiya Mohamed**, a producer and reporter with the state-run outlets Radio Mogadishu and Somali National TV, was killed. She was badly wounded by a bomb planted in her car and died later from her injuries in hospital. She was the widow of another journalist who, along with three others, was killed in a suicide bomb attack in Mogadishu in September 2012.

PUNTLAND

In Galkayo, **Farhan Jeemis Abdulle** was killed by two gunmen on his way home in May 2012. He was shot three times in the back and once in the hand. Farhan’s colleagues told DefendDefenders the journalist had received threats from an anonymous caller a few days before the attack and they suspected Al-Shabaab were responsible for the attack.⁶¹

In July 2013, **Liban Abdullahi Farah**, was shot by two unidentified gunmen near his home in northern Galkayo. The gunmen fled before police arrived. Local journalists said they suspected Liban had been targeted for his reporting on the council elections.⁶²

55 DefendDefenders interview September 2015

56 Pseudonym used

57 IPI, 2012 deadliest year for journalists, 31 December 2012, <http://www.freemedia.at/newssview/article/2012-deadliest-year-for-journalists.html>

58 Frontline Defenders, Death of Journalist, 29 October 2013, <<https://www.frontlinedefenders.org/node/24105>>

59 DefendDefenders interview June 2015

60 Somalia: Freedom of Expression under attack, 5 May 2015, <<https://www.defenddefenders.org/2015/05/somalia-freedom-of-expression-under-attack/>>

61 DefendDefenders interview August 2015

62 DefendDefenders interview August 2015

IMPUNITY

The Somali government expressed commitment to eradicate impunity for perpetrators of crimes against freedom of expression and conduct investigations at its last Universal Periodic Review. To date, however, impunity prevails for those violations with only a few cases being brought to court.⁶³ Of more than twenty journalists murdered since 2005, only two prosecutions resulted in convictions. In March 2013, a military court convicted Adan Sheikh Abdi for the murder of **Hassan Yusuf Absuge**⁶⁴ and sentenced him to death in a rushed and inadequate trial, according to a number of human rights organisations. He was executed the following year.⁶⁵

Repeated failures by the Somali government to investigate and prosecute has created a climate of impunity in which those who commit such violations can continue to do so without fear of being held accountable.

ASSASSINATION ATTEMPTS

During the course of this research, DefendDefenders documented two failed targeted assassination attempts against journalists.

Ali*, who worked as a freelancer for various media outlets in Mogadishu, was seriously wounded following an explosion that went off in his car in 2014. As a result, Ali was hospitalised for three months. He continued to receive threatening messages after the incident and was forced to relocate for his safety.⁶⁶

Former **Radio** reporter **Amina*** also narrowly escaped death when two gunmen armed with pistols attacked the tuk-tuk she was travelling in 2015. She was forced to go into hiding to avoid further attacks. The radio station she worked, prior to its closure, regularly reported on incidents involving Al-Shabaab. *“As a result AMISOM and our radio were seen as one... I received messages prior to the attack saying*

what happened to a number of AMISOM officers would happen to me too.”⁶⁷

63 DefendDefenders interview June 2015

64 a reporter and producer for the private Radio Maanta killed 21 September 2012

65 Amnesty International Report 2014/15, <<https://www.amnesty.org/en/countries/africa/somalia/report-somalia/>>

66 DefendDefenders interview June 2015

67 DefendDefenders interview June 2015

LARGE SCALE ATTACKS CARRIED OUT BY AL SHABAAB IN SOMALIA

Al-Shabaab has claimed responsibility for many bombings in Mogadishu and in central and northern Somalia usually targeting Somali government officials, AMISOM, and perceived allies of the Somali Federal Government (SFG). A number of journalists have lost their lives in such attacks.

On 26 July 2015 **Abdihakin Mohamed Omar**, producer for the Somali Broadcasting Corporation (SBC), and **Mohamed Abdikarim Moallim**, a reporter for Universal TV, were killed in an explosion at a hotel in Mogadishu. Another Universal TV reporter, **Salman Jamal**, was seriously injured. Thirteen people in total died in this car bomb attack carried out by Al-Shabaab.¹⁹

Freelance cameraman, **Mustaf Abdinur**, became the third journalist to be killed in Mogadishu in 2015. He died following a car explosion at the Sahafi hotel on 1 November 2015. A photographer who works for Reuters, **Feisal Omar**, was also wounded in the attack.²⁰

V. HUMAN RIGHTS DEFENDERS WORKING ON GENDER BASED VIOLENCE

Somali women human rights defenders⁶⁸ tackle human rights issues related to sexual and gender-based violence, sexual reproductive health and rights as well as harmful traditional practices. Unfortunately, similar to the situation of media workers, many are also victims of intimidation and attacks.

HRDs interviewed over the course of this research found that speaking out on issues such as female genital mutilation⁶⁹ has led to some members of the community to not engage with them or recognise their work due to their work being perceived as interfering with cultural and religious norms. Although Somalia has committed to outlaw FGM, it is still being practiced in most parts of the country.

Similarly when intervening in rape cases, HRDs have reported they face hostility from members of the community. They try to encourage victims of rape to report cases and seek justice using the formal judicial system but have found many victims resorting to customary law, which operates in the context of the clan system and is still widely respected by many.⁷⁰ This system however is male dominated and in many cases, rape victims are given money or forced to marry their perpetrators.⁷¹

One activist working on this area stated *“sexual violence remains a ‘taboo’ subject within Somali culture so many feel using the customary law*

68 The former Special Rapporteur on the situation of human rights defenders defines women human rights defenders as female human rights defenders but also other human rights defenders working on women’s rights as well as on gender issues. A/HRC/16/44 <<http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A-HRC-16-44.pdf>>

69 UNICEF indicates that Somalia has one of the highest rates of FGM in the world, with more than 98 percent of girls between the ages of 7 to 12 experiencing some form of cutting. UNICEF indicates that Somalia has one of the highest rates of FGM in the world, with more than 98 percent of girls between the ages of 7 to 12 experiencing some form of cutting.

70 United Nations support to end human rights abuses and combat impunity in Somalia Report of the Secretary-General, 21 September 2012, A/HRC/21/36, <http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session21/A.HRC.21.36_en_only.pdf>

71 DefendDefenders interview August 2015

*system will stop their case being discussed publicly.”*⁷² According to another human rights defender, *“the customary law system is seen as being faster and stronger than other justice institutions...a number of victims that have brought their case using criminal law feel they have not gotten justice entirely since the perpetrators have only received one year sentences despite the law stating a minimum of 5 years.”*⁷³

There was disagreement amongst human rights defenders on how to resolve the issue of three legal systems with some advocating for customary law not to be used and others for harmonisation of the laws.

EARLY MARRIAGE

A number of human rights defenders reported that they are harassed and have been verbally threatened when they intervene in cases that concern early marriages. This has had a negative impact on their work and as a result many HRDs are practicing self-censorship. Some of them, as a matter of precaution, have chosen to no longer undertake public advocacy and concentrate on community dialogue and direct lobbying.⁷⁴

ARRESTS

In May 2015, three field staff from the same organisation were detained by the district authorities after they filed a rape case. When the staff took the victim to the police station with the medical report, the Police Commander confiscated the report, accused the staff of creating false rape cases and detained them for several hours. The human rights defenders were subjected to verbal harassment before their eventual release.⁷⁵

The following month, a paralegal for a women’s

72 DefendDefenders August 2015

73 DefendDefenders interview August 2015. Somalia’s 1962 Penal Code, although outdated, is still current law and criminalizes rape and other forms of sexual violence. Articles 398-9 provides that rape is punishable with 5-15 years.

74 DefendDefenders interview June – September 2015

75 DefendDefenders interview June 2015

organisation filed a case of rape at the police station for investigation. The police officer in charge of the station refused to write the complaint. The police ordered the arrest of the paralegal. Another staff member of the human rights organisation reached the station and negotiated their release.⁷⁶

76 DefendDefenders interview July 2015

VI. CONCLUSION

Despite Somalia's national and international obligations to protect human rights defenders, DefendDefenders' research has shown a pattern of intensified harassment and intimidation of HRDs with both the authorities and non-state actors responsible.

The authorities have used a variety of methods to deter HRDs and silence criticism, from proposing legislation to restrict freedom of expression, using their security services to arbitrarily detain HRDs and closing down media outlets. The arrests of prominent human rights defenders for their professional activities have attempted to seriously undermine the ability of HRDs to express their concerns and call on the support of the international community.

There has been a significant increase in threats, intimidation and attacks against HRDs from non-state actors including Al Shabaab. The Islamist militant group have threatened HRDs and carried out a number of killings to target those denouncing the brutal abuses taking place across the country. A number of human rights defenders have also been subjected to hostility from other groups for allegedly 'pushing a western agenda.' This backlash has had a significant impact on defenders, with many admitting they exercise self-censorship to avoid any attacks.

As the cases highlighted in this report show, countless HRDs have suffered, and continue to suffer, human rights violations with inadequate or no proper criminal investigations. This raises serious concerns about the government's will to combat violations.

The primary responsibility for the protection of HRDs rests with the State and DefendDefenders calls on the governments of Somalia, Puntland and Somaliland to take concrete and immediate action to safeguard human rights.

VII. RECOMMENDATIONS

Human Rights Defenders including media workers

- *Set up* effective networks so HRDs can gain greater access to funding opportunities, cover a wider geographical area, better protect each other, form better lobbying coalitions and build each other's capacities;
- *Utilise* the mandate of the United Nations Human Rights Council and African Commission on Human and Peoples' Rights special mechanisms by submitting complaints and sending communications on rights violations;
- *Request* urgent action when threatened or arrested.

Women Human Rights Defenders

- *Continue* to develop strategies to sensitise the broader population, including the communities, traditional and religious leaders on specific human rights areas.

To the Governments of Somalia, Puntland and Somaliland

- *Immediately* and unconditionally release all human rights defenders and media workers arrested and detained on the basis of their legitimate human rights activities;
- *End* all practices that threaten the right to freedom of expression, including threats against journalists and media outlets by both authorities and non-state actors;
- *Ensure* swift, thorough and lawful investigations are carried out into all allegations of threats or attacks against human rights defenders and journalists and perpetrators are held to account;
- *Make* public all reports of investigations involving HRDs and prosecute all those implicated;
- *Ensure* that all prosecutions of perpetrators of

violence against human rights defenders use appropriate legislation in fair trials and without recourse to the death penalty;

- *Demonstrate* commitment to respect freedom of expression by taking positive measures to improve relations with media and promote an independent media sector;
 - *Ensure* that the draft media law conforms to international human rights standards relating to freedom of expression and that directives that restrict freedom of expression are repealed;;
 - *Consult* with civil society and all interested stakeholders during the development of new legislation;
 - *Establish* a mechanism to monitor violence against human rights defenders; providing temporary shelter; and assisting with temporary or permanent relocation to another part of the country;
 - *Enact* a specific law for the protection of human rights defenders giving full force and effect to the UN Declaration on HRDs at the national law.
 - *Extend* an invitation to the UN's Special Rapporteur on the Situation of Human Rights Defenders and the Special Rapporteur on the Rights to Freedom of Expression and Opinion;
 - *Continue* to seek international assistance in order to enhance the capacity to protect human rights in the country;
 - *Initiate* the internal process for ratifying the Protocol to the African Charter on the Rights of Women (Maputo Protocol) as well as other resolutions passed by the ACHPR on Somalia.
- ### ***Al Shabaab and other armed groups***
- *Immediately* cease the deliberate targeting and violence perpetrated against human rights defenders and withdraw orders that authorize attacks on them;

- *Respect* the rights of all human rights defenders and protect civilians in accordance with international humanitarian law.

Donors

- *Fund* training opportunities for human rights defenders to learn about strategies and tools to assess and mitigate against the risks that they face;
- *Continue* to support the dependent human rights defenders with adequate financial resources and technical assistance;
- *Provide* longer-term funding for projects to be implemented by human rights defenders.

Countries in the sub region

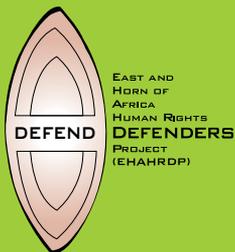
- *Offer* short-term safe havens for human rights defenders at risk, including expediting visas where appropriate.

Endnotes of the highlighted text

- 1 Somaliland profile, BBC, 19 January 2015 <<http://www.bbc.com/news/world-africa-14115069>>
- 2 Puntland Profile, BBC, 20 April 2015, <<http://www.bbc.com/news/world-africa-14114727>>
- 3 Ibid
- 4 DefendDefenders interview January 2016
- 5 DefendDefenders interview January 2016
- 6 DefendDefenders interview August 2015
- 7 DefendDefenders interview August 2015
- 8 In November 2014, the Puntland Office of the Human Rights Defender was established. As a young human rights institution, the office currently lacks resources and requires support to deliver on its mandate. The equivalent in Somaliland - the Somaliland National Human Rights Commission - also reported that it requires assistance to build its capacity to carry out their mandate effectively
- 9 UN Human Rights Committee, CCPR General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment), March 10, 1992
- 10 Bahame TT, Report of the Independent Expert on the situation of human rights in Somalia, A/HRC/30/57, <<http://reliefweb.int/report/somalia/report-independent-expert-situation-human-rights-somalia-bahame-tom-nyanduga-ahrc3057>>
- 11 CCTV, Somalia's President wants parliament to approve anti-terror bill, 27 October 2015 - <http://cctv-africa.com/2015/10/27/somalias-president-wants-parliamentary-to-approve-anti-terror-bill/>
- 12 DefendDefenders interview June 2015
- 13 88: Resolution on the Protection of Human Rights and the Rule of Law in the Fight against Terrorism
- 14 DefendDefenders interview August 2015
- 15 Somaliland: Release Human Rights Defender Guleid Ahmed Jama, DefendDefenders, 21 April 2015, <https://www.defenddefenders.org/2015/04/somaliland-release-human-rights-defender-guleid-ahmed-jama/>. Also see <<https://www.defenddefenders.org/2015/04/somaliland-human-rights-defender-begins-hunger-strike-protesting-imprisonment/>>
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- 17 according to BBC News Africa
- 18 Al Shabab's profile, The Telegraph, 3 April 2015, <<http://www.telegraph.co.uk/news/worldnews/africaandindianocean/somalia/11513886/Al-Shabaab-profile-A-history-of-Somalias-insurgent-movement.html>>
- 19 Two journalists killed in Somalia suicide car bomb attack, the Guardian, 28 July 2015, <<http://www.theguardian.com/media/greenslade/2015/jul/28/two-journalists-killed-in-somalia-suicide-car-bomb-attack>>
- 20 Journalist killed in Somalia hotel attack, 2 November 2015, <http://www.dc4mf.org/en/content/journalist-killed-somalia-hotel-attack-6927>
- 21 DefendDefenders interview October 2015

The East and Horn of Africa Human Rights Defenders Project (EHAHRDP) seeks to strengthen the work of human rights defenders (HRDs) throughout the sub-region by reducing their vulnerability to the risk of persecution and by enhancing their capacity to effectively defend human rights.

EHAHRDP is the secretariat of EHAHRD-Net, a network of over 75 human rights organizations in the eleven countries of the sub-region: Burundi, Djibouti, Eritrea, Ethiopia, Kenya, Rwanda, Somalia (together with Somaliland), South Sudan, Sudan, Tanzania and Uganda.



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