



Somalia

Amnesty International submission to the UN Universal Periodic Review 11th session of the UPR Working Group, May 2011

In this submission, Amnesty International focuses on the situation in southern and central Somalia, where violations of international human rights and humanitarian law are most acute in the context of the armed conflict.

C. Promotion and protection of human rights on the ground

Internal armed conflict: civilians lack protection

Amnesty International is concerned at the widespread violations of international humanitarian law and human rights law, including war crimes, and the dire humanitarian situation that civilians continue to face in southern and central Somalia. Civilians, specifically in and around the capital Mogadishu, face a considerable risk of being killed and injured in indiscriminate attacks by all parties to the internal armed conflict, and as a result of the situation of generalized violence and collapse of the rule of law.

Since 2007, Mogadishu has been the epicentre of armed conflict between the internationally-recognized Transitional Federal Government (TFG) of Somalia and its allies, and armed groups opposed to it. Since late 2008, the armed Islamist groups al-Shabab and Hizbul Islam have emerged as the main opponents to the TFG and al-Shabab has extended its control to most of the territory in southern and central Somalia, including major towns. Heavy fighting and attacks continue in Mogadishu, where the TFG controls several districts, with the support of African Union Mission In Somalia (AMISOM).¹

None of the parties to the conflict appears to take the necessary precautions to avoid loss of civilian life and injury, in violation of their obligations to do so under international humanitarian law. Armed opposition groups continue to launch attacks from areas inhabited or frequented by civilians in Mogadishu, thereby endangering their lives. They fire mortars and heavy artillery in the direction of TFG and AMISOM bases, near which civilians live. AMISOM forces and to some extent TFG forces are repeatedly accused of responding by firing mortars and using other artillery weapons in the direction of the attackers. These weapons are inherently indiscriminate when used in densely populated urban areas. In addition, several suicide attacks, for which al-Shabab claimed responsibility, have directly targeted civilians or disproportionately affected civilians.

¹ Parties to the conflict include the armed opposition groups al-Shabab and Hizbul Islam, both of which are allied against the TFG but have also engaged in fighting against each other. Pro-government forces currently include the TFG military and police, including members of TFG President Sheikh Sharif Sheikh Ahmed's armed group formerly in opposition, and Ahlu Sunna Wal Jamaa. A peace support operation, the AMISOM currently comprised of around 7,000 troops from Uganda and Burundi, is also present in Mogadishu. It is tasked with providing protection to the Transitional Federal Institutions to enable them carry out their functions, and security for key infrastructure.

Armed Islamist groups, and particularly al-Shabab, are responsible for widespread recruitment of children into their forces, and for forced recruitment of young men. Amnesty International has collected testimonies from Somali refugees in March and June 2010 that show that children as young as 10 years-old are recruited by al-Shabab. Some girls and young women are also reported to be forcibly married to members of armed groups.

TFG security forces continue to receive international support and military and security supplies. However, there are no adequate safeguards in place to ensure that weapons supplied to the TFG will not be used to commit human rights violations. TFG and pro-TFG forces are not subjected to adequate vetting and oversight procedures, including to ensure that children are not recruited in these forces, and there are no investigations taking place into allegations of past abuses by TFG forces.

Internal displacement as a consequence of serious human rights abuses

Armed conflict and associated human rights abuses continue to cause massive displacement in Somalia. According to UNHCR, over 200,000 civilians are estimated to have fled their homes in Somalia between January and early September 2010; at the end of October 2010, some 1.46 million were displaced within the country and some 614,000 were refugees, mainly in neighbouring countries.² The Afgoye corridor, a stretch of land north-west of Mogadishu under the control of Hizbul Islam and al-Shabab, currently hosts 410,000 displaced persons, with minimal or no access to humanitarian aid.³

In January 2010, the city of Dhusamareb in central Somalia and the city of Beletweyne in the Hiran region were the scenes of intense fighting between al-Shabab and Hizbul Islam on the one hand, and Alhu Sunna Waal Jamaa on the other. Armed groups on both sides used mortars and heavy artillery in the cities, causing the displacement of some 29,000 civilians from Dhusamareb, in the Galgadud region, and some 25,000 civilians from Beletweyne, in the Hiran region. At the end of October 2010, fighting between pro-TFG forces and al-Shabab in Belet Hawo, a city in Somalia near the border with Kenya, displaced some 60,000.⁴

Somaliland and Puntland host tens of thousands of internally displaced persons from southern and central Somalia. Internally displaced persons in Somaliland and Puntland have limited access to health services and education and are vulnerable to evictions. Women are particularly vulnerable to sexual abuse and minority groups are subjected to discrimination. In July 2010, the Puntland authorities forcibly removed 900 internally displaced persons back to southern and central Somalia; they were suspected of having connections with the insurgency or of being potential targets for recruitment by the insurgents.

Humanitarian aid obstructed

The fighting has dire consequences for the provision of medical and humanitarian aid. Insecurity and indiscriminate violence put both humanitarian operations and infrastructure at risk. For instance, on 29 June 2010, a shell hit the Keysaney hospital in northern Mogadishu, killing a patient; two more shells hit the same hospital in the following days, despite the International Committee of the Red Cross

² UNHCR Briefing notes, Fresh fighting displaces some 60,000 in Somalia, 26 October 2010, <http://www.unhcr.org/4cc6f48a9.html>.

³ UNHCR Briefing notes, Afgoye corridor fast becoming the capital of Somalia's displaced, 1 October 2010, <http://www.unhcr.org/4ca5d91f9.html>.

⁴ UNHCR Briefing notes, Fresh fighting displaces some 60,000 in Somalia, 26 October 2010, <http://www.unhcr.org/4cc6f48a9.html>

(ICRC) publicly reminding parties to the conflict to spare medical facilities.⁵ Fighting and insecurity also hamper the movement of humanitarian staff within the capital, and the high number of casualties resulting from the fighting overwhelms the capacity of medical facilities in Mogadishu to treat patients.⁶

Al-Shabab has severely restricted humanitarian access in most of southern and central Somalia. UN and international agencies, including the World Food Programme, were banned in early 2010 from working in areas under al-Shaba's control, and national organizations, which the group sometimes accuses of "spying" for the international community, have been arbitrarily closed down by the armed group. According to OCHA, humanitarian access in southern Somalia is at its lowest since the end of 2006.⁷ In August 2010, al-Shabab banned three humanitarian organizations from areas under its control, claiming that they were spreading Christianity. In September 2010, three more aid organizations were banned after al-Shabab accused them of having links with the United States of America.

Attacks against and deliberate killings of journalists and civil society actors

Parties to the conflict have systematically prevented journalists from carrying out their work and providing information to the public. Faced with the threat of human rights abuses including violations of their rights to life, security of person and freedom from arbitrary detention, many have been forced into exile. Armed opposition groups control many towns, restricting what local media can report on, closing down radio stations, abducting and threatening journalists into supporting them or leaving the area. Until early 2009, the TFG also repeatedly harassed and attacked journalists. There have been fewer reports of harassment of journalists by the TFG in the past year, although some incidents were recorded.

Since February 2007, at least 20 journalists have been killed in Somalia.⁸ In 2009 alone, nine journalists were killed; three of them were deliberately targeted and shot dead. In most cases the killers wore masks or were not identified, however, they were believed to be linked to the parties to the conflict. The apparent motivation behind most of the killings was to suppress independent reporting or to punish those seen as critical of one of the warring sides. In May 2010, Nur Mohamed Akbey, a veteran journalist working at TFG-owned *Radio Mogadishu*, was deliberately shot dead. He was reportedly abducted by gunmen near his home in southern Mogadishu and shot repeatedly in the head. It is believed he was killed because he was working for a TFG-owned radio station.

Other civil society actors, including human rights defenders, those involved in peace initiatives and aid workers have also been targeted by parties to the conflict. At least 40 civil society activists were killed between 1 January and 10 September 2008 alone.⁹ As a result of direct threats to their life, many civil society actors have been forced to flee the country or stop their activities. In 2009 and 2010, armed

⁵ ICRC, Somalia: shelling of Mogadishu's Keysaney Hospital continues despite ICRC pleas, 1 July 2010.

⁶ OCHA, Somalia, Humanitarian access August 2010, <http://ochaonline.un.org/OchaLinkClick.aspx?link=ocha&docId=1175515>, MSF, Casualties overwhelming medical capacity, 24 September 2010, <http://www.somali.msf.org/2010/09/muqdishu-mass-casualties/>

⁷ OCHA, Somalia, Monthly humanitarian overview, September 2010.

⁸ Amnesty International documented some of these killings in a briefing issued in March 2008: *Somalia: Journalists under attack*, Index: AFR 52/001/2008. See also, *Amnesty International, Hard news – Journalists' lives in danger in Somalia*, 22 July 2010, Index: AFR 52/009/2010.

⁹ See *Amnesty International, Fatal insecurity: attacks on aid workers and rights defenders in Somalia*, October 2008, Index: AFR 52/016/2008.

groups closed down some local organizations working on women's rights issues, claiming that Islam does not allow women to work.

Torture and unlawful killings

Throughout 2009 and 2010, reports of incidents of torture and unlawful killings carried out by armed opposition groups have increased. There is a worrying trend of individuals stoned to death, publicly shot dead, amputated or flogged on the orders of quasi-judicial bodies operated by local leaders linked to armed groups. Individuals "tried" under these bodies do not appear to benefit from any due process guarantees, including legal representation or possibility of appeal. These acts violate international humanitarian law, which armed opposition groups are obliged to respect.¹⁰

Al-Shabab has claimed that some of these acts are committed to enforce its interpretation of Islamic law, to take action against those accused of criminal activities, or to punish individuals accused of spying for the TFG. Many of these acts are carried out in public. Amnesty International believes that, under the pretext of maintaining law and order, the armed groups aim at intimidating and instilling fear in the civilian population in order to assert their control over territory.

Impunity

Impunity continues to prevail in Somalia for serious human rights abuses, some of which constitute war crimes. No one has been held accountable for the massive human rights abuses committed in Somalia over the past two decades of armed conflict. Little progress has been made by the TFG in fulfilling its commitment to address justice and reconciliation under the 2008 Djibouti Peace Agreement.

Amnesty International is concerned that without any measure taken to address accountability for war crimes and other human rights abuses in Somalia, the protection of civilians and the human rights situation in Somalia will not improve. The establishment of an independent and impartial Commission of Inquiry, or similar mechanism, to investigate crimes under international law committed in Somalia and to make recommendations to address impunity in the country is therefore essential.

Amnesty International has welcomed statements by the Independent Expert on the situation of human rights in Somalia and the Deputy High Commissioner for Human Rights in favour of systematically documenting the most serious abuses in the country.¹¹

D. Recommendations for action by the State under review

Amnesty International recognizes that many of the serious violations of international humanitarian law and human rights abuses are committed by armed opposition groups, in areas that are not under the control of the TFG. Amnesty International has repeatedly called on all parties to the conflict to respect international humanitarian law.

¹⁰ International humanitarian law prohibits, inter alia, "violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture" and the passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court" (Common Article 3 to the Geneva Conventions).

¹¹ OHCHR, Senior UN human rights official condemns "ruthless attacks" on civilians in Somalia, calls for concerted effort to tackle decades of impunity, 15 September 2010 ; Somalia: UN expert calls on international community to protect civilians and pursue rights violators, 10 August 2010.

Amnesty International calls on the Transitional Federal Government of Somalia:

Protection of civilians

- To publicly order its security forces, and all militia and forces affiliated to it, not to commit unlawful attacks, including those targeting civilians, those which do not attempt to distinguish between military targets and civilians or civilian objects, and those which, although aimed at a legitimate military target, have a disproportionate impact on civilians or civilian objects;
- To seek international assistance to ensure that all TFG security forces, including troop commanders, are rigorously trained with operational rules to carry out their duties in conformity with international human rights and humanitarian law principles and international best practice standards;
- To establish effective and impartial vetting procedures to ensure that TFG armed forces and police do not include persons under the age of 18.

Humanitarian aid

- To allow safe, timely, unconditional and unimpeded access by aid agencies to all internally displaced persons and civilians in need of assistance in areas under its control in Somalia.

Impunity

- To support the establishment of an independent and impartial Commission of Inquiry, or similar mechanism, to investigate and map violations of international human rights and humanitarian law committed in the conflict of Somalia, as part of its commitment to address justice and reconciliation under the 2008 Djibouti Peace Agreement;
- To immediately suspend from duty any member of its security forces reasonably suspected of serious violations of international and human rights law, pending independent and effective investigations;
- To ensure prompt, independent and impartial investigation into all serious violations of international humanitarian and human rights law, including unlawful killings, torture and other ill-treatment and unlawful attacks, and to bring those responsible to justice in fair trials without application of the death penalty.

Attacks against and deliberate killings of civil society actors and journalists

- To ensure that prompt, effective and impartial investigations are carried out into the killings of all Somali civil society actors and journalists, and to investigate all threats of violence against them;
- To respect and protect freedom of expression and to end all practices that threaten the right to freedom of expression, including threats against journalists and media outlets by the TFG authorities and armed groups associated with the government.