

UNIVERSAL PERIODIC REVIEW

Submission on Journalism and Freedom of Expression

SOMALIA

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Introduction

- 1) The National Union of Somali Journalists (NUSOJ) is a national labour union representing over 450 of Somalia's 600 journalists. NUSOJ members congregate under the union to uphold and defend their interests, needs and rights and to engage with employers, authorities and other sectors in the society collectively. NUSOJ, which was established in August 2002 as an association and became a trade union in 2005, promotes media freedom, journalists' and workers' rights and social justice in Somalia. Member journalists work across the whole industry as reporters, editors, sub-editors and photographers in all sectors of the media. The Union is a full affiliate of the International Federation of Journalists (IFJ), the International Freedom of Expression eXchange (IFEX) and is the Somali partner organization of Reporters without Borders (RSF), Freedom House and Human Rights House Foundation. NUSOJ works mutually with the Somaliland Journalists Association (SOLJA) for the defence of freedom of expression and rights of journalists in Somaliland. The Media Association of Puntland (MAP) is affiliated to NUSOJ in Puntland areas. NUSOJ jointly with SOLJA and MAP collected the information on freedom of expression in greater Somalia to make the submission.
- 2) The Transitional Federal Government (TFG) is the current internationally recognized government of Somalia. Somaliland is an unrecognized state. The government of Somaliland, however, regards itself as the successor state to British Somaliland, which was independent for a few days in 1960 as the State of Somaliland and re-asserted its independence on May 18, 1991. Puntland is a regional administration in north-eastern Somalia, whose leaders declared it an autonomous regional state of Somalia in 1998.

- 3) This submission highlights the grave concerns over the state of freedom of expression, assassinations, arrests and detention of journalists, harassment of media professionals, unfair trial and impediments to justice, and the pervasive impunity that have made Somalia the most dangerous country for journalists in Africa for the past three years, since 2007, according to the International Federation of Journalists. This submission also highlights the failure of the TFG, Puntland and Somaliland and warring sides to comply with their moral and international obligations in respect of human rights, and to create an environment conducive to free expression. Issues particularly focused on here are: **Killing of Journalists; Violence, Arrests and Threats against Media Professionals; Restrictions of Free Expression in the Pretext of Defamation, Terrorism or National Security; Lack of Justice System or Independent Court of Justice; and Crimes Committed Against Journalists: a Pervasive Culture of Impunity**

Killing of Journalists Continues

- 4) In 2007, the freedom of the press situation in Somalia deteriorated considerably as violence against journalists such as killings, detention, harassment and other forms of attacks escalated in comparison to previous years. Freedom of expression has become a victim of the incapacity of the TFG to enforce rule of law, Islamic insurgents, the Puntland Administration and Somaliland authorities who have frequently shown their antagonism to independent journalism¹. During the period under review, all parties to the conflict also continued to commit serious violations of freedom of expression.
- 5) In 2007, 8 media professionals were killed. Dual killings happened on 15 May 2007, when Abshir Ali Gabre and Ahmed Hassan Mahad of Radio Jowhar were murdered in Middle Shabelle region in central Somalia. Ali Iman Sharmarke and Mahad Ahmed Elmi, Director of HornAfrik Radio and Director of Capital Voice Radio respectively, were killed in Mogadishu on 11 August 2007.
- 6) In 2008, 2 journalists were murdered in Kismayo, in southern Somalia. While Hassan Kafi Hared was killed on 28 January, Nasteh Dahir Farah, Vice President of the National Union of Somali Journalists and BBC correspondent, was killed on 7 June.
- 7) In 2009, 9 journalists were killed. On 1 January, Hassan Mayow Hassan, a radio Shabelle journalist, became the first journalist murdered in the world that year.
- 8) At the time of writing this report, 3 journalists have been killed in 2010. Abdullahi Omar Gedi was stabbed to death in Galkayo district of Puntland, on 31 August. SheikNur Mohamed Abkey and Barkhad Awale Adan, both veteran journalists, were also killed in Mogadishu, earlier in the year.
- 9) All the 22 journalists killed in the period under review were targeted because of their journalistic work. They were defenders of freedom of expression or facilitators of exchange of information between the citizens of Somalia. As such, they were upholding the citizens' right to know.

Violence, Arrests and Threats against Media Professionals

- 10) In addition to the journalists murdered during the period under review, 32 journalists were injured or wounded during the course of conducting their journalistic work. The majority of

¹ See Somalia page of IFEX: <http://www.ifex.org/somalia/>

these journalists were wounded by bullets and shrapnel during live fire exchanges between the TFG and Al-Shabaab.

- 11) In the period under review, more than 200 journalists received death threats in messages to their mobile phones (SMS), anonymous telephone calls, and envelopes with bullets or in emails in the past 3 years. More than 250 journalists have fled into exile in different parts of Africa, Europe and North America, according to NUSOJ research.
- 12) In 2007, the TFG closed some of the leading independent media houses in Mogadishu, including Radio Shabelle, HornAfrik Radio, Somaliweyn radio, Radio Simba and other local radio stations serving Mogadishu, claiming the broadcasts incited violence or were giving “terrorism” a voice.
- 13) In 2007 and 2008, such interferences were orchestrated by the National Security Agency (NSA) of the TFG which was using the Emergency Decree imposed by the National Security Council led by the then President Abdullahi Yusuf Ahmed.
- 14) On 16 September 2007, TFG forces besieged the headquarters of Radio Shabelle for more than 24 hours, firing at the building of the Radio station while journalists were locked inside the building. In an effort to force the staff of the radio to surrender, all windows to the building were broken. One staff member was injured by TFG live fire, transmission and production equipment was damaged and 16 staff members were briefly detained after TFG troops forced their way into the building. Shabelle radio was consequently closed for two weeks and only returned to the air on 2 October 2007, after TFG troops had withdrawn from the building.
- 15) On 19 February 2008, TFG armed forces carried out an attack on Waayaha Press in Mogadishu. The soldiers reportedly took five digital cameras and three mobile phones.
- 16) On 23 August 2008 Canadian journalist Amanda Lindhout, Australian photojournalist Nigel Brennan and Somali journalist, Abdifatah Mohammed Elmi, at KM13, were kidnapped in the western suburb of Mogadishu between Afgoye district and the capital city. The three journalists were freed after several months in captivity.
- 17) On 16 November 2008, Puntland police in the Mudug region raided Radio Galkayo and ordered the staff to shut down the station. In an action representative of the general attitude of the Puntland authorities to critical reporting, the station was off air for 2 days.
- 18) On 23 August 2010, the Al-Shabaab extremist Islamic group officially took over Radio Holy Quran (IQK). On 19 September 2010, Al-Shabaab and Hizbul Islam extremists forcibly took over HornAfrik radio and Global Broadcasting Corporation (GBC), in Mogadishu. The three radio stations were independent. The stations have lost its independence and professionalism.
- 19) 108 journalists (53 in 2007, 19 in 2008, 15 in 2009, and 21 in 2010) were imprisoned for varying periods by the TFG, Somaliland, Puntland, Al-Shabaab and Hisbul Islam. The latter group recently started detaining journalists after expanding its control of the south-central regions.
- 20) The government of Somaliland has become increasingly intolerant of independent journalists, making several arrests of journalists for slander, defamation and “false news” in the run-up to the recent elections. During Somaliland elections, Hadis Mohamed Hadis, editor of baadiyenews.com, was arrested and detained without charges.
- 21) The Somaliland government has refused to allow the legal establishment and operation of private and independent radio stations in Somaliland. According to the same authorities, Radio Hargeisa, which is under strict government control, is to be the only Radio station. Horyaal Radio, a privately owned radio station established outside of Somaliland, is not registered in the country and is therefore regarded as a prohibited station by the authorities.

Horyaal journalists and a director have been arrested on several occasions and excluded from press conferences by previous Somaliland authorities of the UDUB party (in Somali: Ururka Dimuqraadiga Ummadda Bahawday - UDUB; in English: the United Peoples' Democratic Party)

Restrictions of Free Expression in the pretext of Defamation, Terrorism or National Security

- 22) On 4 January 2008, journalist Mohammed Shidane Daban was arrested at Mogadishu's Aden Adde International Airport by TFG security forces. Shidane, who worked for privately-owned Banadir Radio, had his documents and baggage seized by security forces. He was held at a detention centre run by the NSA. Shidane, who was accused by NSA of cooperating with "terrorists", was released after 115 days in detention without trial.
- 23) The harshest punishment against journalists in recent years was handed down on 14 August 2010 to Abdifatah Jama Mire, director of Horseed Media, by the Puntland authorities. Abdifatah was brought before the First-Level Court of Bossasso without prior notice. The Puntland prosecutor charged him with "interviewing and broadcasting views of people who are fighting the government" and asked the court to sentence the director to three years in jail. The Chairperson of the first level court, Judge Farah Hassan Ismail, sentenced Abdifatah to six years in jail plus a US\$ 500 fine.
- 24) The TFG and Puntland use Somalia's 1960 Penal code whenever it suits them as well as the terrorism law adopted by transitional federal parliament in 2006 to curtail media freedom and justify attacks on the media. Somaliland used criminal code against journalists. Equally, Islamists also do the same by labelling impartial journalists as traitors of the region and the country.
- 25) The former President of Somaliland and his wife used to sue Haatuf journalists for defamation, false information and protection of dignity of the Presidential family over stories related to the First Lady's involvement in the use of Public Property as it was personal property.

Lack of Justice System or Independent Court of Justice

- 26) Despite the appointment of a Supreme Court bench by the Transitional Federal Institutions (TFIs), there is no functioning justice system in South-Central Somalia. Al-Shabaab uses its own "Sharia" based courts which are always a rubberstamp with very predictable verdicts that are in sharp variance with Article 14 of the ICCPR (ratified by Somalia on 24 January 1990).
- 27) Puntland has a justice system that lacks independence from the executive and other branches of the government and its decisions are mainly predetermined by the government of the day.
- 28) The Justice system in Somaliland is unjust when dealing with cases between journalists and the political class. Almost invariably, the Courts side with mayors, governors, ministers or the presidential family in cases where the latter accuse the journalists of infractions.

Crimes Committed Against Journalists: a Pervasive Culture of Impunity

- 29) While impunity is widespread, it has reached different levels in south-central, Puntland and Somaliland. Even tribal mechanisms for dealing with murder of ordinary folk do not apply

- to killings of journalists, since these crimes are usually committed on request by a politician or armed group who have been reported on by the journalist or his / her media house.
- 30) In most cases of violations against media professionals, the perpetrators are known. For fear of reprisals, however, neither the victims nor their families dare point them out. The impunity is also fuelled by the lack of protection for witnesses. Also contributing to the impunity, mainly in Puntland and Somaliland, is the corruption among attorneys, judges, police, and other security agents.
 - 31) Killings of journalists and other attacks against the media are politically motivated in a direct attempt to muzzle freedom of expression and to obstruct the public's right to know and to force self censorship upon media practitioners.
 - 32) Journalists are denied their human rights in conflict areas and are regarded as legitimate targets since militias are persuaded that journalists are "spies".

Recommendations

The National Union of Somali Journalists believes that these serious crimes committed against freedom of expression and the human rights of journalists are mostly deliberate acts representing the broader attack against human rights in Somalia. We call upon the Human Rights Council to urge the TFG, Somaliland authorities, Puntland Regional State and Other Armed Groups to:

1. Take the necessary, practical and prompt actions to guarantee the protection and safety of journalists and other media workers.
2. Carry out exhaustive investigations into each case of attacks against journalists and to prosecute those responsible and, if found guilty, to receive appropriate punishment, irrespective of who they are and their relations with political leaders, in accordance with UN Security Council resolution 1739 and their obligations under international humanitarian and human rights law.
3. Prioritise the eradication of the continuing impunity against freedom of expression and other human rights violations, especially among law enforcement agents and the armed forces. Strenuous efforts need to be made to put to an end to these extremely serious crimes against journalists.
4. Bolster the rule of law, strengthen the justice system and put an end to the violence against and exploitation of journalists committed by their security forces as well as political figures and bureaucrats in their administrations.
5. Guarantee and bolster the independence of the judiciary and serve as an ally in the fight against impunity and respect and protection of human rights of the people. Take all necessary measures to fully implement in facts all judicial guarantees provided by article 14 of the International Covenant on Civil and Political Rights.
6. End random use of the Penal Code and Terrorism laws to stifle the right to freedom of expression and of the press, decriminalise media offenses, and review media laws in line with international standards of freedom of expression.
7. The TFG should finalise the review of the December 2007 media law to bring it in line with international standards. Somaliland should open for a review of the media bill in the parliament, and Puntland should refrain from developing repressive media laws.