



NO END IN SIGHT: THE ONGOING SUFFERING OF SOMALIA'S CIVILIANS

INTRODUCTION

The appointment of Sheikh Sharif Sheikh Ahmed as President of the Transitional Federal Government (TFG) of



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Protesters carry banners which reads "Down with those who carried out the killings" in Mogadishu, Somalia, Monday, Dec. 7, 2009 as they chant slogans against the bomb attack in Mogadishu's Shamo hotel.

Somalia and the withdrawal of Ethiopian troops from the country in January 2009 brought hope that fewer human rights abuses would be committed against the civilian population. Some 60,000 people displaced by armed conflict returned to the capital Mogadishu following the appointment of the new President.¹ Upon his return to Mogadishu, President Sheikh Sharif Sheikh Ahmed initially asked the African Union Mission in Somalia (AMISOM) not to respond to attacks by armed groups firing on the Presidential Palace, in order to avoid civilian casualties.² Civilians in Mogadishu had previously been particularly affected by indiscriminate and disproportionate shelling with heavy artillery and mortars in densely-populated areas by the Ethiopian armed forces, TFG forces and armed opposition groups.³

However, hopes of an improvement in the lives of civilians proved short-lived. On 7 May 2009, armed opposition groups al-Shabab and Hizbul Islam launched a major offensive against the TFG in Mogadishu. Since the beginning of this offensive, Mogadishu has been the scene of some of the most intense fighting and the security situation in the city has deteriorated significantly as a result. Some 255,000 people were forced to flee the city because of the May 2009 offensive, which also disrupted humanitarian operations in the city and overwhelmed the few functioning hospitals. Many people were displaced within the capital, unable to flee because of the fighting or to pay for transport to move outside the city.

Civilians in Mogadishu and other cities, including Dhusamareb in central Somalia and Beletweyne in the Hiran region, have continued to be killed and seriously injured due to the fighting between armed opposition groups and pro-TFG forces. No party to the conflict appears to take the necessary precautions to avoid loss of civilian life and injury, despite their obligations to do so under international humanitarian law. Civilians are often caught up in shelling and cross-fire by all parties to the conflict, resulting in death and injury to thousands. The fighting has provoked massive displacement within and outside cities in south and central Somalia and disruption of access to humanitarian aid, which are already curtailed by insecurity and the targeting of aid workers. Civilians living in areas controlled by armed opposition groups are also increasingly subject to abduction, torture and unlawful killings.

Many journalists and civil society activists fled the country in 2008 and 2009 for fear of being targeted for their work by parties to the conflict, in particular by armed opposition groups. Those who remain continue to be at risk of deliberate attacks. Somali journalists face increasing unlawful restrictions on their freedom of expression by armed opposition groups, while insecurity and the threat of kidnappings prevent foreign journalists and observers from visiting zones of conflict. As a result, independent information reaching the international community about the humanitarian and human rights situation has drastically reduced and the right of every Somali to freedom of expression, including the right to receive information, continues to be violated. Threats against journalists and civil society activists and restrictions on freedom of expression seem not only designed to control information for purposes of war propaganda, but also to ensure that human rights abuses are not exposed.

The humanitarian crisis provoked by the conflict has been exacerbated by drought across the country and lack of access for international humanitarian organisations to many parts of south and central Somalia, because of insecurity or the refusal by armed groups to allow them to operate unhindered. At least ten aid workers were killed in 2009.

Total impunity for those who violate international humanitarian law continues to prevail, despite the commitment of the new TFG to address justice and reconciliation issues under the 2008 Djibouti peace agreement.

Parties to the conflict include armed opposition groups al-Shabab and Hizbul Islam, groups which are allied against the TFG but have also engaged in fighting against each other, especially for the control of Kismayo and parts of Lower Juba since September 2009. Pro-government forces include the TFG military and police, composed of previous TFG armed and police forces and members of Sheikh Sharif Sheikh Ahmed's armed group formerly in opposition, and Ahlu Sunna Wal Jamaa, a Sufi group which took up arms against al-Shabab in late 2008 following al-Shabab's desecration of Sufi graves in central Somalia.⁴ On 15 March 2010, the TFG and Ahlu Sunna Wal Jamaa signed a "Framework for Cooperation" agreement, formalising a military alliance and recognising the armed group's de facto authority in parts of central Somalia. The agreement gives Ahlu Sunna Wal Jamaa posts within the government and envisages the integration of its forces in the TFG security forces. A small peace support operation, the African Union Mission in Somalia (AMISOM) comprising of around 5,200 troops from Uganda and Burundi, is also present in Mogadishu. It is tasked with providing protection to the Transitional Federal Institutions to help them carry out their functions, and security for key infrastructure.

This document reports violations of international humanitarian law and human rights abuses suffered by civilians, including incidents which may constitute indiscriminate and disproportionate attacks, unlawful restrictions imposed on journalists and aid workers, torture and other ill-treatment and unlawful killings since September 2009. This document does not present an exhaustive account of the human rights situation in Somalia, but only contains information that Amnesty International has been able to gather from local sources. Amnesty International believes that this information represents only a small part of what is really happening in the conflict areas of south and central Somalia, because insecurity and threats on civil society have effectively hampered adequate monitoring of the situation. Nevertheless, the number of incidents reported here point to patterns of serious abuses and violations of human rights and international humanitarian law, some of which amount to crimes under international law. While some of the actors and the dynamics in the Somalia internal armed conflict may have changed, the nature of abuses affecting civilians remains largely similar to those which were committed between early 2007 and January 2009, when the Ethiopian army was present in the country. The information below also describes some particular types of serious human rights abuses and violations of international humanitarian law currently committed by armed opposition groups, including al-Shabab and Hizbul Islam, who control today most of south and central Somalia. There are also persistent allegations that TFG forces and AMISOM continue to use mortars and heavy artillery in Mogadishu, taking inadequate precautions to ensure that these shells do not fall on public places or zones densely populated by civilians.

As the parties to the conflict build up their forces in Mogadishu for further fighting, Amnesty International calls on them to immediately cease indiscriminate and disproportionate attacks and direct attacks on civilians, including journalists and humanitarian workers. All sides must immediately allow safe and unimpeded access to aid agencies that seek to alleviate the suffering of civilians.

INDISCRIMINATE ATTACKS RESULTING IN CIVILIAN DEATHS AND INJURIES

Since early 2007, shelling and other heavy bombardment has caused massive damage to residential areas across Mogadishu, killing and injuring thousands of civilians, destroying infrastructure and causing many residents to flee

areas, leaving them virtually uninhabited. Other cities in contested territory have also been affected by shelling, although the fighting has been most intense in the capital.

There are near weekly incidents of fighting and shelling between armed opposition groups on one side and TFG forces and AMISOM troops on the other side, and near weekly reports of civilian deaths and injuries as a result. Armed opposition groups continue to launch attacks from areas inhabited or frequented by civilians in Mogadishu, endangering the lives of civilians. They fire mortars and heavy artillery in the direction of TFG and AMISOM bases, near which civilians live. TFG and AMISOM forces are repeatedly accused of responding by firing mortars and using other artillery weapons in the direction of the attackers. All sides to the conflict use mortars and other heavy artillery, weapons which are inherently indiscriminate when used in densely populated urban areas. Some sources have even alleged to Amnesty International that AMISOM is firing BM or “Katyusha” rockets when responding to attacks by armed opposition groups.⁵ These attacks and counter-attacks invariably result in civilian deaths and injuries.

AMISOM has told Amnesty International that it does not respond to attacks by armed groups by shelling indiscriminately civilian areas, and that it exercises maximum restraint and caution when acting in defence against attacks by armed opposition groups. Amnesty International provided to AMISOM a list of incidents where indiscriminate shelling of residential areas is alleged to have occurred and invited it to respond to such allegations. Amnesty International has yet to receive a response from AMISOM on some of the specific incidents detailed below.

Although Amnesty International does not have sufficient information to make a determination that each of the attacks described in this chapter was indiscriminate, the use of mortars and other weapons that are inappropriate for fighting in densely populated civilian areas demonstrate a persistent failure by all parties to the conflict to comply with their legal obligation to take necessary precautions to protect civilians and civilian objects, and are likely to have resulted in indiscriminate attacks.

A. ATTACKS IN SEPTEMBER AND OCTOBER 2009

On 17 September, two UN-marked vehicles⁶ were driven into the main AMISOM base in Mogadishu. Once inside, the bombs inside the vehicles were detonated in a twin suicide attack that killed at least seventeen AU soldiers, including the Deputy Force Commander of AMISOM, and reportedly several civilians. Al-Shabaab claimed responsibility for the attack telling media reporters “[w]e took revenge on the enemy and avenged for our brother Saleh Ali Nabhan who was killed by infidels”⁷ Saleh Ali S aleh Nabhan had been killed three days earlier on 14 September by US special forces near Roobow village, 150 miles south of Mogadishu. Nabhan was alleged to have been involved in the 1998 bombings of US embassies in Kenya and Tanzania.

The use of UN-marked vehicles to gain entry to the AMISOM base constitutes an act of deception under customary international humanitarian law, which prohibits the unauthorised use of the UN emblem and uniform⁸ and may amount to a war crime. In the increasingly difficult context of humanitarian access to Somalia, the use of UN marked vehicles and equipment undermines the ability of the UN and its humanitarian agencies to continue their work inside Somalia, and put their staff at risk of being attacked.

The September suicide attack underlines the challenges AMISOM faces in defending itself and TFG installations against attacks. Armed opposition groups often use the cover of civilian areas to launch attacks, and it is sometimes difficult to differentiate members of armed groups from armed civilians, according to AMISOM.

The Bakara market area is known to be an al-Shabab stronghold, from which they launch attacks and mortars. However, Bakara is also a residential district and remains the largest functioning market in Mogadishu, which shops are used by civilians on a daily basis. People are said to come to Bakara market to buy food from as far as the Afgoye corridor,⁹ some 30 km outside of Mogadishu, where hundreds of thousands of persons displaced by the fighting in Mogadishu live in overcrowded settlements with little or no access to humanitarian aid. Bakara market is said to be most busy between the early morning hours and mid-afternoon.

On 29 September 2009, opposition groups launched mortar attacks at government and AMISOM bases, who reportedly responded to the attack with mortars and heavy artillery. At least eleven people, believed to be civilians, were killed and thirty others wounded as a result of the shelling. Some were killed when shells fell into a packed

section of the Bakara market, according to the media.¹⁰

At a press conference on 30 September, the TFG Information Minister, Dahir Mohamud Ghelle, denounced the shelling of civilian areas. He told journalists that the Somali government had asked AMISOM to investigate the shelling. He stated, "We do not approve and we will never approve that markets or other civilian areas be shelled, even though we know mortars targeting AMISOM and Somali forces originate there."¹¹

On 22 October 2009, armed opposition groups reportedly launched several mortar rounds at the airport as the President of the TFG prepared to leave Mogadishu to attend an African Union summit on internally displaced persons in Uganda. AMISOM forces allegedly fired back with heavy artillery. According to local sources, three persons were injured by one of the mortars fired by the armed opposition. The three were among a group of civilians displaced by previous fighting and living near the Polytechnic School next to the airport. Local sources also reported around 30 civilian deaths, including at least seven women and four children, and between 60 and 72 injured by shells that fell in and around the Bakara market area.¹² Witnesses described it as some of the worse violence the city had seen.

In response to the shelling, al Shabab threatened to attack the capital cities of Uganda and Burundi, the two countries which make up the AMISOM force. An al Shabab commander said "We shall make their people cry...We will move our fighting to those two cities and destroy them."¹³ Hizbul Islam also blamed AMISOM for the attack.

AMISOM spokesman Major Barigye Bahoku denied that the force had fired any artillery into the area, blaming armed opposition groups' bombs for the deaths. He stated, "We did not shell any place...We are investigating and the Somali government is investigating too."¹⁴ Somali Prime Minister Omar Abdirashid Sharmarke denounced the armed groups: "They are firing from Bakara and even mosques. They are using people there as human shields...We regret what happened. It is never our intention to hurt our own people."¹⁵

According to Amnesty International's information, no impartial and independent investigations were carried out into these incidents.

An investigation announced by AMISOM into allegations that its forces may have fired on civilians in February 2009 has still not reported its findings publicly.¹⁶ AMISOM told Amnesty International that it had given the results of its investigations to the UN. Amnesty International is calling on AMISOM to make the findings of their investigation public, including to the Somali population.

B. MARTINI HOSPITAL

On 11 September 2009, armed opposition groups were reported to have launched mortar attacks in the direction of the Mogadishu seaport, which is protected by TFG and AMISOM forces. Residents in the neighbourhood reported that a number of mortars had been fired into districts of the city next to government-controlled buildings and that nearby civilian areas had been hit. On the evening of 11 September, a mortar hit Martini hospital, killing at least thirteen civilians, including three children, and injuring another seventeen. The hospital, located in an area of Mogadishu controlled by the TFG, between the Presidential Palace and Mogadishu port, was home to 97 disabled military veterans and their families, who were gathering to break their dawn-to-dusk fast during the month of Ramadan.



© AP Photo/Mohamed Sheikh Nor

People gather around the bodies of those killed at Martini hospital

All parties to the conflict distanced themselves from the attack. Mogadishu's deputy major, Abdifatah Shaweye, said that "the Islamists are behind the mortar attack...The mortar shells were targeted at the sea port and everyone understands where they were fired from."¹⁷ Hizbul Islam distanced itself from the attack, blaming AMISOM troops for the attack; "It is saddening that the people who fought for the country have been killed. We had nothing to do with the killing and we believe it is these foreign forces who are in the country that are responsible for it."

Local human rights groups called for an investigation into the incident, but according to Amnesty International's information, none seems to have been carried out.

C. ATTACKS IN JANUARY AND FEBRUARY 2010

In January 2010, the cities of Dhusamareb and Beletweyne in central Somalia were the scene of intense fighting between al-Shabab and Hizbul Islam on the one hand, and Alhu Sunna Waal Jamaa, an armed group allied with the TFG, on the other side. 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. Médecins sans Frontières reported that in its hospitals in the two regions, 111 wounded people were admitted between 10 and 12 January 2010. On 12 January, a mortar hit the hospital in Beletweyne, injuring two medical staff.¹⁸ According to local sources, in just one day, on 26 January, at least seven civilians were killed and at least 12 injured by blasts and gunfire in Beletweyne. On 27 January, some 13 civilians were killed and 34 injured as a result of fighting between armed groups and Alhu Sunna Waal Jamaa, in the Elbur district and in El Deer district in Galgadud.

On 26 January, a mortar fell inside the AMISOM base at the airport in Mogadishu, reportedly injuring civilians queuing outside an AMISOM field hospital situated within the base. The AMISOM hospital has provided medical treatment to many civilians in Mogadishu. al-Shabab claimed responsibility for the attack. Ali Mohamoud Rage, an al-Shabab spokesman was quoted as saying: "The attack on the compound of the African infidels was carried out by our mujahedins (holy warriors). It was a successful attack which left many of the enemy doctors dead".¹⁹ al-Shabab's statement that it considers AMISOM doctors as "enemy doctors" is representative of the group's practice to consider anyone they perceive as having links with the TFG as a legitimate target. International humanitarian law provides that medical personnel exclusively assigned to medical duties must be respected and protected in all circumstances.

On 29 January 2010, armed opposition groups and the TFG and AMISOM fought each other in Mogadishu during the night, exchanging fire using mortars and other weapons. According to local sources, at least 19 civilians were killed and more than a hundred injured as a result of the fighting. Shelling with mortars by both sides was reported in the following days, with more civilian deaths and injuries as a result. The organisation Médecins sans Frontières, which supports a hospital in the Daynile district in Mogadishu, stated that they had admitted 89 people injured from the shelling between 29 January and 2 February 2010. Of these, 52 were women and children.²⁰

Local sources reported that on 10 February, armed opposition groups shelled mortars in the direction of the government and AMISOM bases in Mogadishu. The TFG and AMISOM were reported to have responded with retaliatory fire and mortars. The Mogadishu districts of Hodan, Halwadag, Huriwa, Yaqshid, Wardhigly and Daynile were hit by shells. Between 16 and 32 civilians were reported to have been killed and at least 47 injured by the fighting on 10 February.

According to the UN, fighting and indiscriminate shelling and counter-shelling in Mogadishu killed at least 80 civilians and forced more than 22,000 others to flee their homes in February 2010. Some 16,000 of them were reported to have fled outside the capital, while some 6,000 have moved to other districts within the capital.²¹

DIRECT ATTACKS ON CIVILIANS: ATTACK ON SHAMO HOTEL

On 3 December 2009, during a graduation ceremony for medical students of Banadir University, explosives ripped through the Shamo hotel, situated in a district of Mogadishu under the control of the government, hosting the ceremony. At least 23 people died in the attack including students, lecturers, three journalists and three TFG ministers, the Ministers of Higher Education, Education and Health. Some 60 persons were injured.²² Local sources reported the names of some of those killed from the University as: Professor Mohamed Adem Warsame, Hussein Mo'alim Hassan, Mohamed Abdikadir Mohamed, Ahmed Hassan Hussein, Muhayadin Aweys Ahmed, Mohamed Abdullahi Ali, Jamal Luqman Osmail, Adam Muqtar Hassan, Abubakar Hussein Farah and Abubakar

Ibrahim Hassan. Journalists Hassan Zubeyr, a cameraman for Al-Arabiya television, Mohamed Amin, a Radio Shabelle reporter, and Abdulkhafar Abdulkadir, a freelancer, died during or just after the attack. Local sources reported that a suicide bomber caused the attack.

President Sheikh Sharif Sheikh Ahmed denounced the attack, calling it an outrage to kill those “whose only aim in life was to help those most in need in our stricken country.”²³

Both al-Shabab and Hizbul Islam distanced themselves from the attack. An al-Shabab spokesman said the following day: “We have heard about the tragedy from the media. On behalf of the Shabab, we are not in any way involved in that incident.”²⁴ al-Shabab reportedly insinuated that the attack was a result of rifts in the TFG. Sheikh Hassan Dahir Aweys, leader of Hizbu Islam stated, “I condemn this attack, which is the work of the enemy...this was the work of enemies who want to destroy Somalia’s intelligentsia and create a hostile environment in which Somalis cannot reconcile”.²⁵

Many Mogadishu residents demonstrated against the attack and al-Shabab on 7 December. Although the group denied being behind the attack, it had claimed responsibility for three large-scale suicide bombings in 2009, including two targeting AMISOM in Mogadishu, and one targeting the then TFG Minister of Security in Beletweyne. The attack in Beletweyne targeted the hotel where the TFG Minister of Security was staying, and killed many civilians, including an aid worker.

THREATS TO JOURNALISTS

Space for journalists, humanitarian and human rights workers continues to diminish across Somalia. Nine journalists were killed in 2009; at least three of them were deliberately shot dead. In a positive development, two foreign journalists, Amanda Lindhout and Nigel Brennan, were released on 25 November 2009 after fifteen months in captivity following their abduction by an unknown group on 21 August 2008.

Armed opposition groups have targeted media houses and radio stations by imposing strict rules on those operating in areas under their control, arbitrarily closing radio stations and intimidating journalists. This is part of a systematic attempt by armed groups to suffocate freedom of expression in areas under their control and to strictly control the information that civilians receive in and from those areas.

- On 15 September 2009, al-Shabab local leaders in Belet-Hawo town, Gedo region, called journalists for a meeting where they reportedly announced new rules which journalists in the town were required to adhere to in order to continue working in the town. These rules banned the playing of music on the station, banned journalists and stations from interviewing members of the TFG and allowed al-Shabab’s information officer to order journalists to report stories. The al-Shabab leadership also reportedly announced that any journalist or media house which aired information against al-Shabab would be killed. Similar rules were reportedly imposed on a radio station in Bardhere town, also in Gedo region, two weeks previously.
- During fighting between al-Shabab and Hizbul Islam for control of Kismayo in September and October 2009, al-Shabab local leaders in the town announced to journalists at a meeting that only those journalists who support al-Shabab would be allowed to stay and work in the town. At least six journalists fled Kismayo following the announcement.
- On 21 October, two radio stations in Baidoa, Radio Warsan and Radio Jubba, were closed under an al-Shabab “decree”, which ordered the stations to cease transmission until further notice. The decree warned that “failing to comply with this order will result in severe punishment, as set out by the law”.²⁶ Al Shabaab forces entered the premises of Radio Warsan on 31 October and held Muhyadin Husni, a reporter for the radio and correspondent for Shabelle Media Network. He was released days later. Radio Warsan reportedly resumed broadcasting later, airing al-Shabab reports while Radio Jubba stopped operating.
- On 24 October, Hizbul Islam’s information secretary reportedly threatened journalists at a press conference in Mogadishu, saying “We will know what you are in the coming days”. He accused the journalists of reporting news “against the jihad” , stating “you are not nationalists willing to defend your people and your country” and urged them to “defend your country by using your voice”.²⁷
- On 24 November, al-Shabab closed Maandeeq Radio in Belet-Hawo, the second time the station had been

closed in 2009.

- Qadar Mahamour Hared, a reporter for ETN Television and Radio Voice of Peace, and Mohamed Abdi Olow, a reporter for Radio Banadir were reportedly captured by al-Shabab in Kismayo on 25 December 2009. They were ordered to report to the police station in the town where they were told that they were “under arrest”. They were reportedly ordered to deny reports which they had sent to their media houses regarding violence and attacks along the Somalia-Kenya border and for their respective stations to broadcast apologies on air for the reports. They were both released on 26 December.

- Ali Yusuf Adan, a correspondent for Radio Somaliweyn, was captured by al-Shabab on 21 February 2010 in Wanleweyn, apparently after a report was broadcast alleging the group had killed a man in the Wanleweyn district.²⁸ He was released on 2 March. He was not ill-treated while he was held, according to local sources.

There have been fewer reports of harassment of journalists by TFG and pro-TFG forces in 2009, compared to previous years, when Amnesty International stated that the then TFG’s National Security Agency was responsible for arresting and harassing journalists.²⁹ However, a few incidents were recorded in the past year, including the following ones:

- On 28 October 2009, Mohamed Dahir, an AFP stringer, and Mohamoud Muktar Koofi, a Universal TV cameraman, were reportedly arrested by TFG soldiers stationed at KM4 junction, apparently because they were entering a zone of military activity. However, photographs they had taken, including of African Union tanks apparently firing at Bakara market, were confiscated. They were reportedly held for 48 hours at a detention centre at the presidential palace, Villa Somalia, before being released after the intervention of a member of the Transitional Federal Parliament.

- Ahlu Sunna Wal Jamma, the pro-TFG armed movement in central Somalia, reportedly accused Radio Voice of Peace of broadcasting reports opposing the group on 19 November. The group banned residents in areas of Galgudud region under their control from listening to the radio station, and announced that any radio station found to be engaged in inappropriate activities would be banned from broadcasting further.

In addition to threats, harassment and other restrictions imposed on them by parties to the conflict, journalists continued to be victims, like many civilians, of the often indiscriminate fighting in Mogadishu. The insecurity further contributed to limit the ability of Somali journalists to cover and report on events in Somalia.

- Abdirahman Warsame, a correspondent for Xinhua news, the official news agency of China, was shot and wounded close to Banadir hospital in Mogadishu on 18 November, during fighting, reportedly between armed opposition groups and TFG forces, supported by AMISOM.

- Three journalists were killed and at least seven others wounded in the attack on Shamo hotel in Mogadishu on 3 December (see above). Hassan Zubeyr Haji “Fantastic”, a cameraman for Al Arabia and Mohamed Amin Aden Abdulle, a reporter for Shabelle were killed instantly in the suicide attack. Yaasir Mario, a freelance reporter and fixer, died in Martini hospital from wounds sustained in the attack. Mohamed Dahir, a reporter for AFP, Abdulkadir Omar Abdulle, a reporter for Universal TV, Mohamed Abdi Hussein, of Hurmo Radio, Khalid Maki Banadir of Universal TV, Omar Faruk of Reuters and Mohamed Aweys Mudey of Somaliweyn Radio were also injured in the attack.

- On 20 December, a mortar hit the building of Shabelle Media Network. No one was injured in the attack, however, a satellite dish and antenna of the network’s television station were destroyed.

- A mortar shell landed on the building of Hamar Radio (also known as Voice of Democracy) on 21 December in Suq Ba’ad market in Mogadishu. Three civilians were killed, including Amal Abukar Mohammed, the wife of the station Director, Abdirahman Yasin Ali. Three station employees were also injured in the attack including the station Director and Programme Director. The radio station was apparently hit as armed opposition groups shelled in the direction of the Presidential Palace while a session of Parliament was being held and TFG and AMISOM troops fired retaliatory mortars. Mortars destroyed the radio studios and damaged the station’s transmitters.

AID WORKERS, HUMAN RIGHTS WORKERS AND HUMANITARIAN ACCESS

The delivery of emergency humanitarian aid in Somalia is shrinking. At least ten aid workers were killed in the country in 2009 and ten others remained abducted by unknown groups. Armed groups continue to impose stringent movement and security restrictions on UN and international agencies working in areas under their control, and national organisations are sometimes subject to arbitrary closure and threatened with accusations that they are spying for the international community. A UNICEF compound in Jowhar, which was attacked and looted by al-



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Displaced children eating meals in a camp outside Mogadishu, Somalia

Shabab in May 2009, continues to be occupied by them.

On 11 October 2009, Hizbul Islam in the Banadir region asked all humanitarian organisations operating in areas under their control to register within 15 days and pay a registration fee by 25 October, whilst al-Shabab in the Juba region renewed their ban against any agency wishing to operate in the region, stating "We want our people to work for their life rather than depending on food aid."

In November, al- Shabab in Bay and Bakool regions issued a list of 11 conditions which humanitarian organisations were required to adhere to in order to continue their work in the regions. These conditions reportedly included replacing all female staff members with men within three months, an agreement not to encourage secularism or democracy in their work and a payment of \$20,000 US dollars every six months to the al-Shabab administration. This was followed on 25 November by an al-Shabab statement ordering the World Food Programme (WFP) to immediately cease the import of relief food to the country, accusing the organisation of acting as a barrier to self-sufficiency. All local businesspeople were ordered to terminate their contracts with the WFP and the organisation was ordered to empty their warehouses and food-stocks by 1 January 2010.

In December 2009, al-Shabab raided the offices of the UN Mine Action (UNMAS) in Baidoa and reportedly issued a degree banning the organisation from the region, accusing it of spying.

On 22 December, Ali Jama'a Amay, the coordinator of a humanitarian organisation' security guards in Beled Weyne, controlled by Hizbul Islam, was shot dead by unknown gunmen.

On 4 January 2010, the WFP suspended its work in southern Somalia due to insecurity for its staff and the demands placed on them by parties to the conflict. A spokesman for the WFP stated that 95% of the areas from which the organisation had withdrawn from were controlled by al-Shabab. A spokesman for al-Shabab stated "It is our great pleasure to see WFP and the other spy agencies suspend their involvement in Somalia...We will never allow them to come here again." Over half of Somalia's population are dependent on food aid, many of whom are located in those areas of southern Somalia which the WFP has withdrawn from.³⁰

On 28 February, the WFP announced that trucks transporting food aid from Mogadishu to IDP settlements in Afgoye, some 30 km south of the capital, were stopped from moving by armed men. Some 360,000 persons displaced by the conflict are estimated to live in Afgoye, but humanitarian aid does not arrive to the area because of insecurity. The WFP stated that the last time they organised a general food distribution in Afgoye was in November 2009.

Local organisations have also been affected by orders from armed opposition groups, and remain at risk of targeted attack and arbitrary closure. Their staff members, like all civilians, remain at risk of being killed or injured in

deliberate or indiscriminate attacks.

- The Somali Help Aged Association in Belet Hawa town was reportedly banned from operating in al-Shabab areas on 2 October, after celebrating the International Day for the Elderly.
- On 28 October, al-Shabab shut down a local aid group, accusing them of spying for western governments. The group, ASEP, operated in Belet Hawa, a town on the border with Kenya. Al Shabab reportedly accused the group of providing information to its donors. On 30 October, the organisation reopened its office and resumed most of its activities, except projects working with women's organisations.
- Three grassroots women's organisations in Belet Hawa, the Halgan Business Women's Organisation, the Sed Huro Human Rights Organisation and Farhan Women for Peace, were reportedly closed by Al Shabab on 2 November. The local leader in Belet Hawa, Maalim Daud Mohmed, said "We have taken this step after we recognised that women need to stay in their homes and take care of their children...Islam does not allow women to go to offices."³¹
- On 28 December, Usman Maadey, head of a local NGO working in Belet Hawa for the relief and care of the elderly was shot dead in his home by unknown gunmen.

TORTURE AND UNLAWFUL KILLINGS

Throughout 2009, 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 and flogged on the orders of quasi-judicial bodies operated by local leaders linked to armed groups. There is little information about the way the "courts" of armed opposition groups operate, but individuals "tried" under these bodies do not appear to benefit from any due process guarantees, including legal representation or possibility of appeal. These acts blatantly violate international humanitarian law, which armed opposition groups are obliged to respect. 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).

Al-Shabab has claimed that some of these acts are committed in order to enforce their own interpretation of Islamic law, or are meant to punish individuals they accuse of spying for the TFG. Many of these acts are carried out in public. Amnesty International believes that armed groups aim, under the pretext of maintaining law and order, at intimidating and instilling fear in the civilian population, through public displays of cruelty and violence, in order to assert their control over territory.



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An Islamist fighter from Al-Shabaab whips a youth, Monday, March 9, 2009, after he was reportedly accused of gang rape in Mogadishu.

Reported incidents of unlawful killing and torture by armed opposition groups since September 2009 include the following:

- Al-Shabab amputated the right hands of two teenagers accused/suspected of theft on 9 September. A third teenager accused of rape was punished by 100 lashes, was fined \$150 and expelled from Mogadishu for one year.
- A man whose right hand and left foot were amputated by Al Shabab in Karan district of Mogadishu around 12 or 13 September reportedly died a few days

later.

- On 9 October in Kismayo, al-Shabab publicly amputated a foot and hand from two men, and the foot of a third man, accusing them of robbery. Residents said the third man did not have his hand amputated after al-Shabab noticed one of his hands was disabled. Residents, including children, were reportedly forced to watch the amputations. A spokesman for al-Shabab said the three had admitted robbing passengers on a truck headed to Kismayo.
- al-Shabab reportedly arrested and flogged more than two hundred women in Suqa Holaha, Daynile and Bakara market areas of Mogadishu, for allegedly failing to wear veils on 13 and 14 October.
- A man named as Nur Hasan Huseyn, reportedly had his right hand and left foot amputated, after being accused of stealing by an al-Shabab court in Middle Shabelle. The “sentence” was carried out publicly on 16 October in the town of Jowhar.
- On 16 October, al Shabab forces in northern Mogadishu reportedly flogged women for wearing bras, which the group claimed violated Islam. On 24 October, two men were reportedly lashed 25 times in public and imprisoned for 15 days imprisonment after allegedly watching pornography on their mobile phones. They were whipped in front of a crowd of residents in Kismayo. An al-Shabab representative said “The two young men were caught watching porn movies on their mobile phones by [al-Shabab] security forces and after admitting their crimes they were punished according to the Islamic Shari’a.”³²
- On 7 November, Abas Hussein Abdirahman, aged 33, was stoned to death in front of a crowd in Merka. He was reportedly accused of rape.
- On 8 November, a soldier of Hizbul Islam was killed after he reportedly admitted killing a doctor in the town of Afgoye, 30 km south of Mogadishu. The soldier, Abdikadir Muhammed Abdi, was reportedly killed by the victim’s brother, after a process in a “court” in Afgoye.
- A woman was stoned to death and a man flogged 100 times on 17 November after being accused of “adultery”. The two, named as Haliimo Ibrahim Abdurrahman and Nanah Mohamed Maadey, were reportedly punished for sexual intercourse outside wedlock by an al- Shabab “court” after allegedly confessing to the act.
- On 20 November, al- Shabab reportedly “sentenced” two young men in Jowhar town to 100 lashes and one year’s imprisonment for allegedly having committed rape.
- Two men were reportedly killed and a woman subjected to one hundred lashes on 13 December in Afgoye by Hizbul Islam. Mohamed Abukar Ibrahim, aged 48, was stoned to death after allegedly confessing to adultery. Ahmed Mohamoud Awale was shot and killed after allegedly confessing to murder. He was killed by a relative of the man he was reported to have killed. The unknown woman was subjected to one hundred lashes for fornication. All three sentences were carried out in public, in a field in front of hundreds of residents. It was the first time Hizbul Islam was reported to have carried out such punishments.
- Following the withdrawal of Alhu Sunna Waal Jamaa forces from Beletweyne around 26 January, at least two persons are said to have been beheaded by al-Shabab forces and part of their bodies subsequently displayed in the city. It is unclear whether these people were already dead when they were beheaded, and whether they were civilians or members of Alhu Sunna Waal Jamaa forces. Amnesty International has not been able to obtain further details.

OTHER UNLAWFUL KILLINGS

Amnesty International has also received reports from local sources of opposition armed groups and militia allied to the TFG unlawfully killing persons suspected to be from the opposing side, or fighters. There are also increasing reports of dead bodies found in districts of Mogadishu, reportedly bearing marks of gunshots. It is difficult to establish the identities of these persons or the possible motives behind such killings.

- Mohamed Ali Salad and Hassan Moallim Abdullahi were publicly killed by an al-Shabab firing squad on 28 September in the Heliwa district of Mogadishu. The two were accused of spying for AMISOM and the US Central

Intelligence Agency (CIA). An al-Shabab representative told reporters that Mohamed Ali Salad was thought to be responsible for the information which led to the death of Saleh Ali Saleh Nabhan, a suspected al-Shabab and al-Qa'ida member, who was reportedly killed in a US Special Forces operation on 14 September 2009. A third man was given 29 lashes and imprisoned for six months for allegedly dealing in counterfeit money.

- On 25 October, Mohamed Hussein Ahmed (aged 20) and Hussein Abba Ali (aged 21) were publicly killed by an al-Shabab firing squad at the football stadium in Merka, 110 km south of Mogadishu. An al-Shabab official said the two had confessed to spying, and had been held for three months while investigations took place. One witness said to the media: "One of the boys did not die easily, so about eight masked al-Shabab men went close and opened fire on him."³³

- On 10 January 2010, Alhu Sunna Waal Jamaa was reported to have killed an al-Shabab commander whom they had captured in Dhusamareb. The killing was reported to have been done in public. A spokesman for the group, Sheikh Abdullahi Sheikh Abu Yusuf, was quoted as saying: "We don't normally kill al-Shabab members. We arrest them and make them understand that Islam means peace. We have detained and then released many of them. This commander insisted that all people were infidels except his group ... We will execute al-Shabab members who insist that it can be right to kill the innocent. What else are we supposed to do to those who believe they will go to paradise for killing us and the whole human race?"³⁴

APPLICABLE INTERNATIONAL HUMANITARIAN LAW

Several bodies of international law apply to the conflict in Somalia.

International humanitarian law governs the conduct of war and seeks to protect civilians, others not participating in hostilities and civilian objects during times of armed conflict. International humanitarian law binds all parties to an armed conflict, including non-state armed groups.

International human rights law, including civil, cultural, economic, political and social rights, applies both in peacetime and during armed conflict and is legally binding on states, their armed forces and other agents. It establishes the right of victims of serious human rights violations to remedy, including justice, truth and reparations.

International criminal law establishes individual criminal responsibility for certain violations and abuses of international human rights and international humanitarian law, such as war crimes, crimes against humanity and genocide, as well as torture, extrajudicial executions and enforced disappearance.

As a conflict taking place within the territory of a single state between one or more armed groups and the acting government, it is classified as an armed conflict of a non international character. Somalia is a party to the 1949 Geneva Conventions and all parties to the conflict in Somalia are obliged to apply, as a minimum, Common Article 3 of the four Geneva conventions. In addition, there are rules of customary international law, particularly on conduct of hostilities, included in treaties such as the First and Second Additional Protocols to the Geneva Conventions, which apply to the conduct of all parties to the armed conflict in Somalia.³⁵

Civilians are defined in IHL as those who are not combatants. In the context of the non-international armed conflict in Somalia, Amnesty International uses civilians to describe people who are taking no direct part in hostilities. Common Article 3 provides that persons taking no active parts in hostilities "shall in all circumstances be treated humanely", setting out a duty to care for the wounded and sick, prohibiting, inter alia, unlawful killings, torture, humiliating and degrading treatment and the taking of hostages.

International humanitarian law places an absolute duty on all parties to the conflict to distinguish between civilians and combatants.³⁶ Civilians may not be directly attacked. Nor should attacks be directed on civilian objects (defined, in IHL, as objects which are not military objectives), including, in most circumstances, homes, mosques and hospitals.³⁷ Indiscriminate attacks; those which fail to distinguish between military objectives and civilians or civilian objectives are also prohibited, as are disproportionate attacks, in which the "collateral damage" is regarded as excessive in relation to the direct military advantage gained.

All parties to the conflict must take "constant care...to spare the civilian population, civilians and civilian objects."

All feasible precautionary measures must be taken to avoid, and in any event minimize, incidental loss of civilian life and injury to civilians, including doing everything feasibly to verify that the prospective targets of an attack are military objectives, and not civilians or civilian objects; where possible, giving effective advance warning of attacks which may affect the civilian population; refraining from deciding to launch any attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects or a combination of these, which would be excessive in relation to direct military advantages anticipated. Parties to a conflict must also take all necessary precautions to protect civilians under their control against the dangers resulting from military operations including by removing civilians from the vicinity of military objective and avoiding locating military objectives near or within densely populated areas.³⁸

Journalists, aid workers, civil society activists and medical workers are civilians (unless they take a direct part in hostilities) and as such, benefit from the protections afforded under Common Article 3 and customary international law.

Common Article 3 prohibits the passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognised as indispensable.

Individuals, whether civilians or military, can be held criminally responsible for certain violations of international human rights law and international humanitarian law.

Serious violations of international humanitarian law, including wilful killings, torture and other ill-treatment, direct attacks against civilians or indiscriminate or disproportionate attacks, may amount to war crimes. Individuals may be held liable for attempting, committing, planning or instigating the commission of a war crime. Responsibility for war crimes may also fall upon commanders or non-combatant leaders under the principle of command responsibility where they knew or should have known about the commission of a war crime and failed to take sufficient measures to prevent the carrying out of a war crime or failing to punish those responsible.

RECOMMENDATIONS

To The Transitional Federal Government

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

To armed opposition groups:

- immediately stop launching attacks from heavily-populated areas or public spaces and ensure that all fighters fully comply with the need to take precautionary measures in attacks and defence, including the need to distinguish themselves from non-combatants to the maximum extent feasible;
- immediately stop indiscriminate and disproportionate attacks and direct attacks on civilians;
- immediately stop threatening civilians, including journalists and aid workers;
- end all unlawful killings and torture, including public killings, stoning to death, amputations and floggings;
- suspend from their forces any member suspected of having committed violations of international humanitarian law;
- immediately instruct their forces to take all feasible precautions to avoid loss of civilian life and injury;
- allow impartial humanitarian organisations to operate freely and unconditionally, including by providing them full freedom of movement and ending the imposition of conditions on aid operations.

To the African Union:

- ensure that the rules of engagement of AMISOM are fully consistent with international human rights and humanitarian law in all its operations in Somalia;
- establish an investigation mechanism to conduct prompt, independent and impartial investigations into all credible allegations of serious violations of international human rights and humanitarian law by AMISOM personnel, including allegations of indiscriminate or disproportionate attacks, such as mortar firing or shelling in densely populated areas; such a mechanism should ensure the confidentiality and the security of potential complainants and witnesses, should report its findings publicly and should recommend disciplinary measures and the initiation of criminal proceedings against any personnel found to have been responsible for such violations;
- guarantee that any training and other security assistance provided by African Union member states to TFG security forces requires rigorous practical exercises and operating standards designed to ensure full respect for international human rights and humanitarian law and that all training personnel is vetted to ensure that they have not themselves been implicated in human rights abuses.

To the International Community:

- publicly condemn all violations of international human rights and humanitarian law committed in Somalia, including those committed by the TFG and press for accountability for these and past violations;
- press the TFG to immediately suspend from the TFG forces any personnel who are reasonably suspected of committing or ordering serious violations of international human rights and humanitarian law, pending credible investigations, and to bring to justice anyone found responsible for such violations, in fair trials and without the application of the death penalty;
- support concrete measures to end impunity in Somalia, including the establishment of an independent and impartial Commission of Inquiry, or similar mechanism, to investigate and map crimes under international law and recommend further measures for accountability.
- ensure that training to the TFG forces fully respects international human rights and humanitarian law and that training personnel are vetted to ensure that they are not themselves implicated in human rights abuses;
- provide comprehensive practical training to TFG armed forces in the application of international human rights and humanitarian

law principles, including the obligation to distinguish at all times between military targets and civilians, and the obligation to take all necessary precautions to protect civilians and civilian objects;

- press for and provide technical and financial assistance for the establishment of effective, independent and impartial accountability and oversight mechanisms for all TFG military, security and police forces and affiliated militia; such mechanisms should include enhanced monitoring, documenting and public reporting of alleged serious violations of international human rights and humanitarian law by TFG security forces and or pro-TFG forces, and capacity-building for the TFG to establish independent investigations into such violations;
- end all supplies of weapons, military and security equipment and financial assistance for the purchase of weapons to the TFG until effective mechanisms are in place to prevent such material assistance from being used in committing serious violations of international humanitarian law;
- respect the UN arms embargo on Somalia, including the obligation to make prior requests to the Sanctions Committee on Somalia for exemptions to provide any proposed security sector assistance to the TFG.

ENDNOTES

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