UNSOM

THE PRECARIOUS ENJOYMENT OF FREEDOM OF EXPRESSION IN SOMALIA

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List of Acronyms

ASWJ	Ahlu Sunna Wal Jama
FGS	Federal Government of Somalia
HRPG	Human Rights and Protection Group
HRC	Human Rights Centre
IED	Improvised Explosive Device
ILO	International Labour Organization
MAP	Media Association of Puntland
MOICT	Ministry of Information, Communication and Technology
NGO	Non-governmental organization
NISA	National Intelligence and Security Agency
NUSOJ	National Union of Somali Journalists
OHCHR	Office of the United Nations High Commissioner for Human Rights
SBC TV	Somali Broadcasting Corporation Television
SBS TV	Somali Broadcasting Service Television
UNSOM	United Nations Assistance Mission in Somalia
UPR	Universal Periodic Review
VBIED	Vehicle Borne Improvised Explosive Device
WIPO	World Intellectual Property Organization

Executive Summary

This report is released by the United Nations Assistance Mission in Somalia (UNSOM) based on UNSOM's mandate, under United Nations Security Council Resolution 2158 (2014), "to monitor, help investigate and report to the Council on, and help prevent any abuses or violations of human rights or violations of international humanitarian law committed in Somalia."

The report assesses the progress made and challenges encountered since the release, in August 2016, of the UNSOM/OHCHR report on Freedom of Expression in Somalia (2016 UNSOM/OHCHR Report). It analyzes the violations and abuses related to and/or affecting the right to freedom of expression which the Human Rights and Protection Group (HRPG) of UNSOM documented from 1 August 2016 until 31 July 2018, including killings, beatings, harassment, arbitrary arrests and illegal detention, lack of due process or fair trial guarantees, and closure of media outlets. The report assesses the implementation of the recommendations of the 2016 UNSOM/OHCHR Report and of the Universal Periodic Review (UPR) of Somalia related to freedom of expression, the protection of journalists and other media workers, and the prosecution of perpetrators of violations and abuses against the journalists, other media workers and political actors.

Some developments occurred during the period under review, in particular with amendments to media legislation. The Federal Government of Somalia (FGS) endorsed amendments to the Federal Media Law which, as of August 2018, was before the Federal Parliament for further consultation and approval. However, the text includes articles considered problematic by media practitioners. If the Parliament does not address these concerns, the enjoyment of freedom of expression will continue to be impeded. In Puntland, Parliament approved amendments to the Media Law on 6 December 2016, while Jubbaland authorities conducted consultations on a Media Bill in November 2017.

Despite some efforts in the legislative field, violations and abuses concerning the right to freedom of expression continued to be recorded during the period under review, with eight journalists and media workers killed and 32 injured. Al Shabaab remained the main perpetrator of killings and injuries against journalists and other media workers. During the reporting period, it was responsible for the killing of three journalists and media workers and the injury of another 30.

While the number of journalists and other media workers killed decreased by 27 per cent compared to January 2014-August 2016, the number of people arrested and detained on charges related to the exercise of freedom of expression increased by 70 per cent and included people having participated in demonstrations, politicians and supporters of political parties, bloggers, human rights defenders, politicians, poets, civil society activists, elders or citizens demonstrating in favour of Somali unity, besides journalist and other media workers. This trend mostly concerned Somaliland in the context of the presidential elections of November 2017, expressions of support for Somali unity, and the May 2018 Tukaraq conflict between Somaliland and Puntland.

Somali security forces were responsible for injuring one journalist and arbitrarily arresting and/or detaining 206 individuals in relation to the exercise of their right to freedom of expression,

including 94 journalists and other media workers (including three women), and 112 politicians, human rights defenders, civil society activists, poets and demonstrators.

Moreover, during the period under review, 19 media outlets (seven TV stations, five radio stations, five websites and two newspapers) were either closed by national and/or Federal Member State authorities, suspended or blocked for broadcasting news, for allegedly threatening stability, alleged affiliation with Al Shabaab, or dissemination of "false news" considered to be endangering national security.

This report reiterates some recommendations made in the 2016 UNSOM/OHCHR Report, notably to guarantee the independence of the media, bring media legislation in line with the Provisional Federal Constitution and regional and international human rights norms and standards, and repeal laws criminalizing the dissemination of "false news". The report includes new recommendations to ensure the protection of freedom of expression for all individuals. It also recommends that the Government of Somalia swiftly implement the recommendations of the UPR related to freedom of expression and the media, the protection of journalists and other media workers, prosecution of alleged perpetrators of violations against media workers and political actors, and to expedite the establishment of the Independent National Human Rights Commission.

I. Introduction

1. In August 2016, UNSOM and OHCHR issued their first public report on the right to freedom of opinion and expression in Somalia[1] which assessed progress in and identified challenges to the creation of democratic space in Somalia in relation to key processes that occurred between 2012 and July 2016, such as the constitutional review and state formation. The current report evaluates the progress made since August 2016, including with regard to the implementation of recommendations issued in the 2016 UNSOM/OHCHR Report and following the UPR of Somalia in 2016.

2. The focus of this report is twofold: it considers the steps taken by the Government to address violations and abuses of the right to freedom of expression presented in the 2016 UNSOM/OHCHR Report, and presents the violations of freedom of expression that continue to occur throughout Somalia. The report also makes recommendations for corrective measures.

II. Methodology

3. The information presented in this report is the result of human rights monitoring conducted by UNSOM HRPG throughout Somalia and of its documentation of alleged human rights violations and abuses related to the right to freedom of opinion and expression. UNSOM HRPG also assessed the implementation of recommendations made in the 2016 UNSOM/OHCHR Report and of UPR recommendations through desk research and follow-up with authorities, journalists and civil society organizations.

4. UNSOM HRPG was guided by the OHCHR human rights monitoring methodology. In the documentation of cases of human rights violations and abuses, UNSOM HRPG requires at least three independent sources to verify human rights violations and abuses. Although the prevailing insecurity due to the ongoing conflict significantly restricts UNSOM's access, HRPG collected information from victims or their relatives, clan elders, police, local authorities, and/or witnesses. It also consulted secondary sources such as local, national and international non-governmental organizations (NGOs), journalists, networks of human rights defenders, and other United Nations entities.

5. UNSOM HRPG has not included information on allegations that it could not verify according to the OHCHR monitoring methodology. Therefore, the actual number of violations affecting the right to freedom of expression is likely to be higher than that documented by HRPG.[2]

[1] http://www.ohchr.org/Documents/Countries/SO/UNSOM_FreedomExpressionReport_Aug312016.pdf.
[2] The list of incident and cases presented in this report is not exhaustive, whereas the aggregate numbers provided reflect the total number of cases verified by UNSOM HRPG.

III. Legal Framework

A. International Human Rights Law[3]

6. For the purpose of this report, journalism " (…) is a function shared by a wide range of actors, including professional full-time reporters and analysts, as well as bloggers and others who engage in forms of self-publication in print, on the internet or elsewhere (…)".[4]

7. International human rights law provides for the right to freedom of opinion without interference[5] and for the right to freedom of expression, which comprises the right to seek, receive and impart information and ideas of all kinds and includes political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching or religious discourse.[6] In this regard, it is considered that even expression that may be regarded as deeply offensive is permissible as long as it falls within the scope of article 19(2) of the International Covenant on Civil and Political Rights.[7]

8. While often framed together, the rights to freedom of opinion and expression are distinct. International human rights law protects all forms of opinion.[8] Harassment, intimidation or stigmatization of a person, including his or her arrest, detention, trial or imprisonment due to the opinions he or she may hold constitute violations of international human rights law. As such, the holding of an opinion shall not be criminalized.[9]

9. On the other hand, international law allows restrictions to the right to freedom of expression for specific purposes: to respect the rights or reputations of others, and to protect national security, public order, public health, or morals.[10] Nevertheless, these restrictions must not be construed in a way that puts the right in "jeopardy" or create a situation where the exception

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[3] As presented in the 2016 UNSOM/OHCHR Report on the Right to Freedom of Expression: Striving to Widen Democratic Space in Somalia's Political Transition, Somalia, August 2016, last accessed on 10 June 2018 at http://www.ohchr.org/Documents/Countries/SO/UNSOM_FreedomExpressionReport_Aug312016.pdf

[4] United Nations Human Rights Committee, General Comment No. 34, Article 19: Freedoms of opinion and expression, 12 September 2011, CCPR/C/GC/34, para. 44.

[5] International Covenant on Civil and Political Rights, article 19(1), providing that "everyone shall have the right to hold opinions without interference". Somalia became party to the Covenant in 1990.

[6] International Covenant on Civil and Political Rights, article 19 (2) and African Charter on Human and Peoples' Rights, article 9. The Declaration of Principles on Freedom of Expression in Africa also affirms that "the public service ambit of public broadcasters should be clearly defined and include an obligation to ensure that the public receive adequate, politically balanced information, particularly during election periods" (article 6).

[7] Human Rights Committee, General Comment No. 34, paras. 9 and 11 (citing article 19, paras. 2 and 3, and article 20).

[8] Ibid., para. 11.

[9] Ibid., para. 9.

[10] International Covenant on Civil and Political Rights, article 19(3), stating that the "exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputation of others; (b) For the protection of national security or of public order (*ordre public*), or of public health or morals."

becomes the rule.[11] The restrictions must also be "provided by law" and must "conform to the strict tests of necessity and proportionality."[12] Furthermore, "restrictions must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated."[13]

10. International human rights law requires that States take measures to eliminate the structural, legal and practical barriers to the enjoyment of the right to freedom of expression. In this regard, measures must be established "to protect against attacks aimed at silencing those exercising their right to freedom of expression". Moreover, no restrictions to freedom of expression can "be invoked as a justification for the muzzling of any advocacy of multi-party democracy, democratic tenets and human rights." Thus, arbitrary arrest and detention, threats to life, and killing of individuals in relation to the exercise of their freedom of expression are incompatible with that right.[14]

11. International law also requires that any restrictions provided by law "must be formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly and it must be made accessible to the public."[15] There are four types of expression or information that States are required to prohibit under international law: child pornography; incitement to genocide; advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence; and incitement to terrorism.[16] States are not required to prohibit other types of information or expression, although they can restrict freedom of expression as outlined above, for example to protect an individual from a false and malicious accusation, or while countering terrorism.[17] Nevertheless, these permissible restrictions cannot be used by authorities as a pretext "to unduly control and censor the media and to evade transparency or to silence criticism of public policies."[18] In case of violations of the right to freedom of expression, States shall make remedies available.

12. Thus, the limitations are not to be discretionary and should be narrowly interpreted given that the right to freedom of expression is a prerequisite for a free and democratic society informed by the principles of transparency and accountability.[19] More specifically, the right to freedom of expression contributes to ensuring transparency and accountability in the conduct of public

[11] Human Rights Committee, General Comment No. 34 (2011), para. 21.
[12] Ibid., para. 22.
[13] Ibid., para. 22.
[14] Ibid., para. 23. In May 2015, the Pan-African Commission on Human and Peoples' Rights adopted *Principles and Guidelines on Human and Peoples' Rights while Countering Terrorism in Africa.*
[15] Human Rights Committee, General Comment No. 34 (2011), paras. 24 and 25.
[16] United Nations General Assembly (A/HRC/20/17), para 80.
[17] States parties should ensure that counter-terrorism measures are compatible with article 19(3) of the International Covenant on Civil and Political Rights. Such offences as "encouragement of terrorism" and "extremist activity" as well as offences of "praising", "glorifying", or "justifying" terrorism, should be clearly defined to ensure that they do not lead to unnecessary or disproportionate interference with freedom of expression. Human Rights Committee, General Comment 34, para 46.
[18] United Nations General Assembly (A/HRC/20/17), para. 80.
[19] International Covenant on Civil and Political Rights, article 4, provides that freedom of thought cannot be derogated during a state of emergency.

affairs and other matters of public interest, enabling the population to participate fully, actively and meaningfully in all aspects of society.

B. National Law

13. Somalia's 2012 Provisional Federal Constitution ("Federal Constitution"), in its Article 18, guarantees the right to freedom of opinion and expression, including freedom of speech and the media. This provision is complemented by the state constitutions of Somaliland (2000), Puntland (2009), the South West State (2014), Jubbaland (2015),[20] the Galmudug Interim Administration (2015), and HirShabelle (2016), which all guarantee the right to freedom of expression.

14. While federal law applies in principle across Somalia, there is no uniform implementation or enforcement, particularly in Somaliland and Puntland which, following the collapse of the central state in 1991, established their own state structures, including the legislative frameworks that prevail today.

15. While the 2014 South West State (SWS) Provisional Constitution provides for the independence of the press and the right to freedom of opinion and expression,[21] its Article 24 limits activities deemed to be contrary to Islam, public safety, public order and stability. The Galmudug Interim Administration's (GIA) 2015 Charter provides for a wide range of rights and freedoms relating to thought, assembly and demonstrations.[22]

16. The 2009 Puntland Constitution guarantees the right to freedom of opinion and expression through speech, the media, writing, video, literature and by any other means consistent with the law.[23] Nevertheless, it contains broadly worded, undefined limitations which are arguably inconsistent with international human rights law and affect the right to freedom of expression.[24] For example, these rights are subject to limitations related to Sharia, by-laws, ethics, the stability of the country and the protection of rights of others.[25] The right to seek, impart and receive information is not included in the Puntland Constitution and Puntland does not have a Freedom of Information Act or equivalent.

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[20] Jubbaland Provisional Constitution, articles 14, 15 and 20. The Constitution also guarantees the rights to freedoms of assembly, demonstration and association.
[21] South West State Provisional Constitution, articles 12, 22 and 24, which cover political parties, groups and human rights defenders.
[22] The Charter of Galmudug, articles 20, 30 and 32.
[23] Puntland Constitution, article 14.
[24] See paragraph 6 of this report.
[25] The Puntland Constitution protects press and media freedoms, providing for an "independent press and media" that "shall be free from government intervention and shall be subject only to the law". However, it allows for derogation from the right to freedom of expression in times of war or other public emergency. Specific media laws at the federal level and at the regional level, in Puntland in 2014 and in Somaliland in 2004, complement this framework and are of similar scope. The Somaliland Press Law mostly regulates newspapers and does not cover web-based media. It recognizes freedom of the press and prohibits restrictions on the press. It also includes a code of conduct to govern media behaviour and regulates procedures for registration and operation of media outlets.

17. The right to freedom of expression is linked to the rights to freedoms of association and peaceful assembly, which the Federal Constitution of Somalia guarantees: every person has "the right to organize and participate in meetings, and to demonstrate and protest peacefully, without prior authorization".[26] The HirShabelle, Jubbaland, Puntland, Somaliland and SWS Constitutions also guarantee these rights. The Puntland Constitution further recognizes the right to participate in political parties, the freedom of association, and the right to demonstrate.[27] The Jubbaland Constitution recognizes the rights to freedom of assembly, to demonstrate, and the freedom of association.[28]

18. Many of the cases documented in this report are based on the accusation of spreading "false information," which is frequently the basis used by authorities across the country to forcibly close media houses, or arrest and detain journalists and other media workers.[29] The Somali Penal Code criminalizes the spreading of "false news", which it does not define, with penalties including imprisonment of up to six months. General prohibitions on the dissemination of information based on vague and ambiguous terms, including "false news", are incompatible with international standards for restrictions on the right to freedom of expression.[30]

19. Regarding convictions on the grounds of spreading "false news", Somaliland courts and law enforcement agencies typically cite article 328 of the Penal Code (on publication or circulation of false, exaggerated or tendentious news capable of disturbing public order) to justify their actions. However, in such cases, the courts do not follow a strict set of criteria to determine if the acts constitute "false news". There are potentially and seemingly subjective criteria elements of this offence, and in the absence of further definitions on "false", "exaggerated", "tendentious or a threshold for "capable of disturbing" element, these vague provisions are used by the government to restrict the freedom of expression, and the Penal Code is used as a vehicle to target journalists and media workers who express opinions that the authorities wish to silence.[31]

20. As part of his role in providing guidance to States on applying the right to freedom of expression, the United Nations Special Rapporteur on the promotion and protection of the right

[26] Federal Constitution, article 20.
[27] Puntland Constitution, article 41(b) on establishing and joining a political party; article 15 on formation and membership in social organisations.
[28] Jubbaland Constitution, article 14, guaranteeing the right to freedom of association, and article 15, protecting the right to freedom of assembly and demonstration, and providing for complaints and petition.
[29] Somali Penal Code, article 328, provides that "[w]hoever publishes or circulates false, exaggerated or tendentious news so as to disturb the public order shall be punished, where the act does not constitute a more serious offense (Somali Penal Code, article 15) with imprisonment of up to six months (Somali Penal Code, article 96) or with fine (Somali Penal Code, article 97).
[30] Joint statement issued by several international and regional mechanisms, including the United Nations Special Rapporteur on Freedom of Expression, stating that "General prohibitions on the dissemination of information based on vague and ambiguous ideas, including "false news" or "non-objective information", are incompatible with international standards for restrictions on freedom of expression, as set out in paragraph 1(a) of the International Covenant on Civil and Political Rights and should be abolished" (see, paragraph 2(a) of the statement available at: https://www.osce.org/fom/302796.
[31] Under the auspices of the Ministry of Justice, and with the support of by the International Development Law Organisation (IDLO), the Penal Code has been under review since 2016. No draft of the revisions is publicly available.

to freedom of opinion and expression has addressed the use of allegations of "false information."[32] During the 2016 UPR process,[33] Somalia received and accepted 16 recommendations related to the right to freedom of expression. Besides general calls for respect for the right to freedom of expression, there were recommendations for the prompt, impartial and effective investigation of all attacks against journalists and other media workers, and the adoption of measures to ensure that journalists are able to freely exercise their profession. In that regard, it was also recommended that Somalia ensure that security forces do not arbitrarily harass, arrest and detain journalists, and that it should adopt legislative and other measures to prevent censorship.[34]

21. Several developments have taken place since the release of the 2016 UNSOM/OHCHR Report, including the adoption of amendments to the Federal Media Law in July 2017. At the state level, the 2014 Puntland Media Bill was revised to address concerns on censorship and accreditation of journalists, which was welcomed by the media community in Puntland, and there was advocacy for the review of Somaliland's media law and for the formulation of human rights-compliant media legislation in Jubbaland.

a. Federal Government of Somalia

22. Although Somalia accepted a 2016 UPR recommendation to amend the Media Law, there is very little difference between the 2016 Media Law and the amended one as the latter has retained provisions that were considered contentious in the 2016 law.[35] While the amendments contain some positive changes, others were considered by Somali media organizations to

[32] Report of the United Nations Special Rapporteur on the promotion and protection of the right to freedom of expression (E/CN.4/2000/63, para. 2015).

[33] Universal Periodic Review Examination of Somalia, January 2016, last accessed at http://www.ohchr.org/EN/HRBodies/UPR/Pages/SOindex.aspx on 5 June 2018.

[34] The UPR recommendations related to freedom of expression accepted by the Government of Somalia in 2016 included the following: Ensure that security forces do not arbitrarily harass and arrest journalists or otherwise prevent the exercise of freedom of expression; Provide greater freedom to journalism; Ensure the right to freedom of expression in the soon to be reviewed provisional constitution and in its federal and regional media legislation; Take concrete measures ensuring the freedom of expression, independence of the media, protection of journalists, and adopt legislative and other measures to prevent censorship; Ensure that the new Media Law is in line with international standards; Review the media law of 28 December 2015 to ensure compliance with international standards on freedom of expression; Adopt clear by-laws and regulations to the new Media Law clarifying the general clauses for the benefit of the journalists instead of further reducing the space of free media; Implement legislative instruments in a manner that ensures full freedom of expression, leading to active and genuine civil society participation in the electoral and state-building processes; Fully guarantee freedom of expression and the press, in particular by conducting credible and effective investigations into allegations of detentions, harassment and abuses against journalists in Somalia. See Human Rights Council, "Report of the Working Group on the Universal Periodic Review. Somalia. Addendum: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, A/HRC/32/12/Add.1 (7 June 2016).

[35] These recommendations include the following: Take concrete measures to ensure the freedom of expression, independence of the media, protection of journalists, and adopt legislative and other measures to prevent censorship; Ensure that the new Media Law is in line with international standards; Adopt clear by-laws and regulations to the new Media Law clarifying the general clauses for the benefit of journalists instead of further reducing the space of free media; Implement legislative instruments in a manner that ensures full freedom of expression, leading to active and genuine civil society participation in the electoral and state-building processes.

restrict the enjoyment of freedom of expression. On the positive side, monetary fines for journalists and media outlets violating the law were reduced.[36]

23. However, vague provisions that could be misused to restrict freedom of expression are included in the revisions. For example, the Ministry of Information and the Media Council, in consultation with journalists' organizations, are to set regulations on journalistic ethics and are required to include, *inter alia,* "respect for a sound Somali culture" and avoiding dissemination or publication of videos and photos that are against "the sound conduct of the society".[37]

24. Somalia's Council of Ministers adopted the amended Federal Media Law on 13 July 2017 with the above noted amendments, prompting outrage among journalists and media organizations in Somalia. On 16 July, the National Union of Somali Journalists (NUSOJ) and its affiliates, including the Somali Media Association (SOMA), the Media Association of Puntland (MAP), the Somali Independent Media Houses (SIMHA), and the Somali Women Journalists (SWJ), issued a press release describing the amendments as "flawed" and deploring that most of recommendations proposed by the independent media organizations were not considered.[38] On 18 July, SOMA released a widely circulated press release expressing their "disappointment and discontent" over the Council of Minister's endorsement of the amendments, noting that recommendations from media practitioners had been disregarded.

25. In response, on 18 July 2017, the Ministry of Information issued a press statement to address the concerns expressed by media organisations. The Ministry stated that the proposals put forward during the consultations in May 2017 were considered and when the amended draft of the media law had been finalized, it was then shared with the media.

26. The concerns invoked by media practitioners included the composition of the Somalia Media Council registration of media outlets, fines for media outlets and journalists, the role of the Federal Minister of Information in the implementation of the Media Law, and the requirement that individuals have two or more years of relevant experience to qualify as journalists.

27. The House of the People's Telecommunication and Media Committee submitted the Media Law amendments to the Federal Parliament after the first reading, on 23 September 2017.[39] On the same day, a dialogue forum between the Parliamentarians and Somalia media stakeholders took place in Mogadishu to identify and address the contentious issues in the Media Law and to discuss the amendments proposed by media practitioners.[40] The media stakeholders, represented by NUSOJ and regional associations of journalists, raised their concerns over the

[36] Article 5.1 (T).
[37] Article 25, paras. 1 and 2.
[38] https://nusoj.org.so/blog/2017/07/16/somali-cabinet-passes-flawed-media-bill-after-so-called-review/.
[39] On 25 September 2017, the Special Representative of the United Nations Secretary-General (SRSG) in Somalia, Michael Keating, released a press statement welcoming the review of the 2016 Media Law by the Federal Parliament: https://unsom.unmissions.org/srsg-keating-welcomes-parliamentary-review-2016-media-law.
[40] http://hornobserver.com/articles/608/Somalia-Media-Stakeholders-Discuss-Somali-Media-Bill-in-Mogadishu-Forum.

Media Law during the forum. The members of the House of the People's Telecommunication and Media Committee promised to raise these concerns with the Parliament.[41] As of August 2018, it was not known when the Federal Parliament would approve the amended text. If approved in its latest version, the amended Media Law will not resolve the concerns that journalists and other media workers have been raising with respect to the 2016 Media Law.[42]

b. Puntland

28. On 6 December 2016, the Puntland Parliament amended the Puntland Media Law, stating the objective was to strengthen the protection of freedom of the media.[43] The amendments specify that censorship can only be imposed by a court order, amending the provision that allowed censorship by unspecified relevant government institutions. Moreover, the amended law grants the Media Council the power to accredit journalists while this was previously the responsibility of the Ministry of Information. The members of the Council are now responsible for the selection of the chairperson of the Media Council instead of the Ministry of Information. The Chairperson of the Media Association of Puntland (MAP) welcomed the amendments, stating that their implementation would represent a step forward towards the protection of the right to freedom of expression in Puntland.

29. The other notable progress was the appointment, on 26 March 2018, of the Puntland Media Council, which consists of seven members. It held its inaugural meeting in Garoowe on 26 March 2017. Its members were tasked with the accreditation of journalists, setting media standards, evaluating and promoting ethics among journalists, and handling public complaints against the Puntland media. They were appointed by MAP, the Puntland Non-State Actors' Association, the Puntland Bar Association, the Puntland Ministry of Information, and the Ministry of Education.

c. Somaliland

30. Since 2017, there have been efforts by local and international actors to advocate with the then government and parliamentarians to amend the Somaliland Press Law.[44] Journalists and independent media proposed a comprehensive media law, arguing that the existing legislation only regulated print media and was not applicable to broadcast and online media. Somaliland Government authorities consider that the law should be reviewed to incorporate penalty provisions for violations by the media.

[41] According to the Secretary General of NUSOJ, the Parliamentary Committee accepted some changes proposed by NUSOJ but informed it that they would seek legal advice as to whether to include other the revisions suggested. The Committee added that changes would be further discussed and decided by the Parliament.
[42] According to information received by UNSOM HRPG, the amended version might be discussed by the Federal Parliament in its fourth session, which will start in September 2018.
[43] Adopted on 29 July 2014.
[44] The United Nations and other international partners, civil society representatives and the Somaliland National Human Rights Commission were involved in such efforts.

d. Jubbaland

31. The Ministry of Information, Communication and Technology of Jubbaland has committed to formulating a Media Bill. In September 2017, they shared a proposal with UNSOM HRPG, which supported the Ministry in conducting a consultative forum on the Bill in late December 2017. The participants agreed on the need for a legal framework that conforms to international standards on the freedom of expression. On 26 April 2018, the Ministry shared the first draft of the Media Bill with UNSOM HRPG for review and technical inputs, which was provided. This process was ongoing as of August 2018.

e. Media Council

32. The 2016 Media Law foresaw the creation of a National Media Council mandated to promote ethics, mediate disputes, and discipline journalists, media workers and officials. While this body was established by the Federal Ministry of Information in June 2016, it was never approved by the Council of Ministers. As highlighted in the 2016 UNSOM/OHCHR Report, Somali media organizations denounced the lack of a consultative process[45] for the appointment of members of the Council by the Federal Ministry of Information.[46] The pending Federal Media Law calls for the establishment of a new Council.

f. Independent National Human Rights Commission

33. When established, the Independent National Human Rights Commission could play a positive role in the promotion and protection of freedom of expression. Indeed, the National Human Rights Commission Law (article 6) grants it a broad mandate, which includes ensuring that government policies are consistent with human rights principles, investigating abuses against vulnerable groups, and writing public reports to address critical human rights issues.

34. The National Human Rights Commission Law, enacted in August 2016,[47] provides the timelines and defines the qualifications of commissioners, the requirements to advertise the vacancies transparently, and the appointment procedure through a special inclusive selection panel. The strict adherence to these provisions will be key in ensuring an independent, credible and effective Commission to protect human rights, including the right to freedom of expression.

35. However, the establishment of the Independent National Human Rights Commission has been delayed. On 17 January 2018, the Ministry of Women and Human Rights Development

[45] Media organizations complained that the process lacked consultation and was not transparent. See 2016 OHCHR/UNSOM Report, para. 27.
[46] Including the National Union of Somali Journalists (NUSOJ), the Somali Independent Media Houses Association (SIMHA), and the Media Association of Puntland (MAP).
[47] The Paris Principles are the international minimum standards for national human rights institutions. Compliance with the Paris Principles enables national human rights institutions to work independently and professionally in promoting and protecting human rights*: http://www.asiapacificforum.net/media/resource_file/A_Manual_on_NHRIs_97IhU4q.pdf.*

presented a list of recommended Commissioners to the Council of Ministers for approval, but the latter had not taken action as at August 2018. The parliamentary endorsement and the formal appointment by the President are the remaining steps that will set the stage for the establishment of the Commission.

IV. Main findings concerning violations of the right to freedom of expression

36. Serious violations and abuses affecting the right to freedom of expression continued to be recorded throughout Somali between September 2016 and July 2018.

37. UNSOM HRPG documented the killing of eight journalists and media workers during the period under review while 32 were injured. Moreover, 93 individuals were arbitrarily arrested and/or subjected to prolonged detention charges related to the exercise of freedom of expression, and 19 media houses were forcibly closed temporarily.

38. While the overall number of journalists and other media workers killed decreased by 27 per cent compared to 2014-2016, the number of people arrested and detained in relation to exercising their freedom of expression increased by 70 per cent and included people having participated in demonstrations, politicians and supporters of political parties, poets, bloggers and human rights defenders (112). The increase mostly concerned Somaliland, in the context of the November 2017 presidential elections, expressions of support for Somali unity, and the May 2018 Tukaraq conflict between Somaliland and Puntland.

A. Killings and other attacks against journalists and media workers

39. In accordance with its international human rights obligations, Somalia has a responsibility to protect journalists and media workers against violations of their right to life and physical integrity by its security forces. Somalia should also exercise due diligence in preventing abuses committed by non-state actors such as Al Shabaab.

40. According to information gathered by UNSOM HRPG, eight journalists and media workers (all men) were killed while performing their duties between August 2016 to July 2018, compared to 11 between January 2014 and June 2016. Three of the victims were killed by Al Shabaab in Mogadishu and Beledweyne, Hiraan region - two by unidentified perpetrators;[48] and one by the police in Mogadishu.

41. On 27 September 2016, one male journalist working for Shabelle Media Network was shot and killed by unidentified armed men in Mogadishu. On 6 November 2016, in South Gaalkayo, a journalist working for Voice of Mudug radio was killed in crossfire between the Puntland and Galmudug forces, while he was covering the fighting. On 14 October 2017, two journalists were killed in a vehicle-borne improvised explosive device (VBIED) attack in Mogadishu. One was working for Maandeeq Education Radio and the other was a freelance journalist. On 25 October 2017, near Afgooye town, a journalist working for Dayah FM radio was killed by crossfire during an Al Shabaab engagement with security forces. On 11

December 2017, in Wadajir District, Mogadishu, a journalist working for the UK-based Somali Kalsan TV was killed by a remotely detonated improvised explosive device attached to his vehicle. On 26 July 2018, also in Mogadishu, a cameraman working for the London-based Somali SBS TV was shot and killed by a police officer near a checkpoint. As of August 2018, no arrests had been made in connection with any of these killings.

Table 1: Journalists and media workers (all males) killed in Somalia between August 2016 and July 2018

Method of attack/killing	Number of killings	Alleged Perpetrator
Targeted Assassination/Killing	2	Unknown
Targeted Assassination/Killing	1	Somali Police Officer
Crossfire	1	Puntland/Galmudug Security Forces
Crossfire	1	AS/Unknown Security Forces
Explosions (VBIED and suicide attacks)	3	Al Shabaab
Total	**8**	

42. Thirty-two journalists and media workers, all men, were injured during the reporting period: 30 in Mogadishu and two in Beledweyne. Al Shabaab was responsible for 30 of these casualties; one victim was injured in crossfire between Somali security forces; and in one case, the perpetrators could not be identified.

43. Twenty-nine of the 32 victims were injured as a result of five major suicide and complex attacks conducted by Al Shabaab in Mogadishu and Beledweyne. Al Shabaab has claimed responsibility for the incidents, with the exception of the 14 October 2017 attack, which occurred at Zoobe junction in Mogadishu. On 30 August 2016, in Mogadishu, 15 journalists and media workers working for state-owned media and private media outlets sustained injuries when a VBIED was detonated at the Somali Youth League (SYL) hotel, where journalists were attending a meeting. On 15 December 2016, in Mogadishu, a journalist working for Kulmiye FM radio was injured in a VBIED incident near the Somali National theatre. On 25 January 2017, also in Mogadishu, seven journalists working for different media organizations were wounded when Al Shabaad attacked the Dayax Hotel. The journalists had arrived at the hotel to report on a VBIED attack when a VBIED exploded. Two similar IED attacks in Mogadishu caused serious injuries to a well-known media worker and a veteran journalist (the former Director of the Ministry of Information), on 12 March and 4 July 2017, respectively. Al Shabaab claimed responsibility for the latter. Again, in Mogadishu, a photographer working for the Reuters news agency survived an attempted assassination when an IED attached to his vehicle exploded on 22 April. On 10 September 2017, two journalists were injured in a suicide attack in Beledweyne; while on 14 October 2017, four journalists were injured in a VBIED attack in Mogadishu. In June 2017, a journalist escaped from an

attempted assassination from suspected Al Shabaab members in Mogadishu and fled to a neighbouring country in search of protection.

44. On 19 March 2017, a journalist working for Shabelle Media Network was injured by crossfire between Somali National Army (SNA) and Banadir security forces in Mogadishu.

45. In all these incidents, the Federal Government and the Federal Member states failed to take appropriate action to investigate or to prosecute the alleged perpetrators. The inaction is indicative of a lack of political will, capacity, and capability of the State to protect journalists and media workers.[49]

Table 2: Journalists and media workers (all males) injured in Somalia between August 2016 and July 2018

Method of attack	Injured	Alleged Perpetrator
Explosions (VBIED and suicide attacks)	29	Al Shabaab
Attempted Assassination	1	Al Shabaab
Attempted Assassination	1	Unknown
Cross-fire	1	Somali Security Forces
Total	**32**	

B. Harassment and intimidation of journalists

46. Journalists and media workers continued to be harassed and intimidated by security forces, including members of the police and the intelligence apparatus. From August 2016 to July 2018, UNSOM HRPG thus recorded threats and attacks against seven journalists, including a woman.

47. On 2 October 2016, the District Commissioner of Afgooye town, Lower Shabelle, and his bodyguards threatened the staff of Afgooye radio station, and reportedly assaulted the director of the station and one journalist. The District Commissioner accused the radio station of contributing to the insecurity in Afgooye district. On 28 November 2016, in Puntland, a journalist from Horseed Media was assaulted and threatened by the managers of a private company in Garoowe. Although the journalist filed a complaint with the police on 6 December, the authorities had taken no action as of August 2018. In February 2017, two media workers in North Gaalkacyo were allegedly beaten with guns and batons by a mixed team of military and police Puntland security forces patrolling the town. On 13 January 2018, two journalists, including a woman, were harassed and beaten by National Intelligence Service Agency (NISA) officers at the Gaalkayo airport during the visit of the President of the Federal

[49] In the 2016 UPR recommendations, Somalia was called upon to secure the defense of journalists, media personnel and owners of media company against attacks, to prosecute those responsible for such attempts, and to adopt an information law.

Government of Somalia. No investigations were conducted by the police despite requests by the Puntland Media Association.

Table 3. Violations of the rights to life and to physical integrity

Type of violation	Total	Method	Male	Female	Alleged Perpetrator
Killing	8	Explosions (VBIED and suicide attacks)	3	0	Al Shabaab
		Targeted Assassination/Killing	2	0	Unknown
		Targeted Assassination/Killing	1	0	Somali Police Officer
		Crossfire	1	0	Puntland/Galmudug Security Forces
		Crossfire	1	0	Al Shabaab/Unknown Security Forces
Injury	32	Explosions (VBIED and suicide attacks)	29	0	Al Shabaab
		Attempted Assassination (IED)	1	0	Al Shabaab
		Attempted Assassination (IED)	1	0	Unknown
		Cross-fire	1	0	Somali Security Forces
Threats and attacks	7	Threat and assault	0	1	NISA
		Threat and assault	1	0	NISA
		Assault	3	0	Puntland Security Forces
		Assault	2	0	District Commissioner of Afgooye District

C. Arbitrary arrests and/or illegal detention, and closure of media outlets

48. Arbitrary arrests and/or illegal detentions of journalists and other media workers continued during the reporting period. UNSOM HRPG has identified NISA and other intelligence services, police, District Commissioners, Regional Governors, and Anti-Terrorism Forces as the perpetrators of arbitrary deprivations of liberty in connection with the exercise of the right to freedom of expression. The victims were mostly accused by Somali authorities of

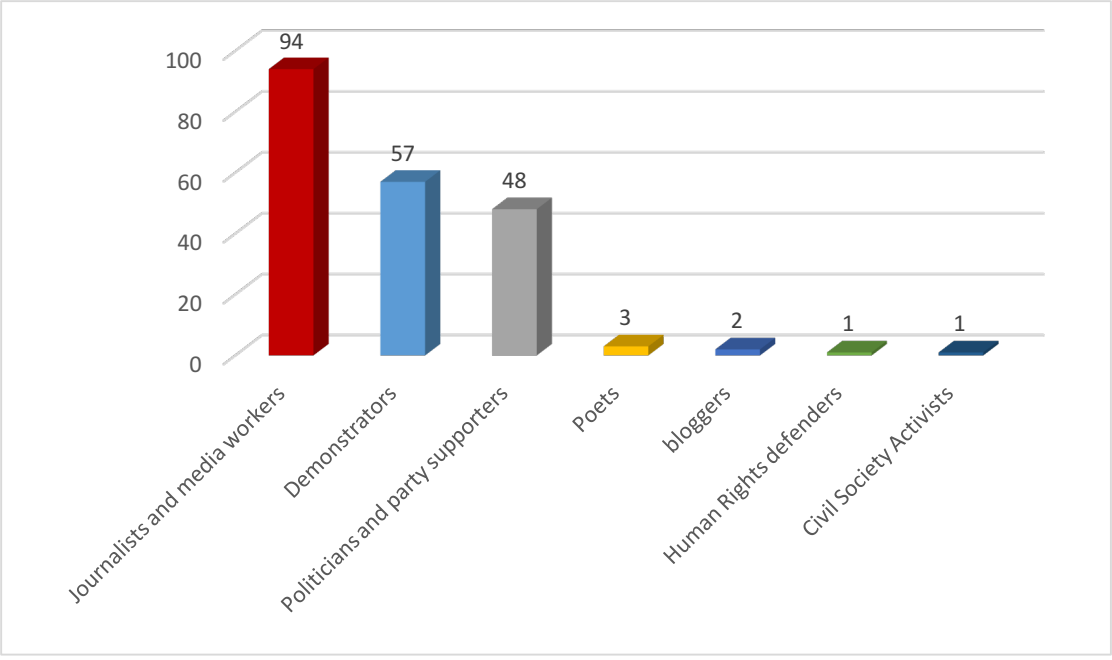
publishing and disseminating false information, and this accusation has recurrently justified politically motivated arrests, detentions and convictions.[50]

49. UNSOM HRPG noted that the number of arrests linked to the exercise of freedom of expression decreased by 22 per cent for journalists and other media workers (from 120 reported in 2016 to 94 in 2018, including three women). However, a range of other actors were arbitrarily arrested and/or illegally detained in relation to the exercise of freedom of expression, including people having participated in demonstrations, politicians and supporters of political parties, poets, bloggers and human rights defenders (112).

50. During the reporting period, 206 individuals were arbitrarily arrested and/or illegally detained by Somali security forces in relation to the exercise of their right to freedom of expression, including journalists, other media workers, politicians, poets, human rights defenders. Journalists and media workers were mainly accused of "broadcasting inflammatory news that threatens stability", allegations of affiliation with Al Shabaab, and dissemination of false news and propaganda endangering national security and peaceful coexistence of clans.

51. Of the 206 arrests, 154 took place in Somaliland, 15 in SWS, 10 in Mogadishu, nine in Puntland, six in Jubbaland, eight in HirShabelle and four in Galmudug. Most victims were released without charge or, when the defendants were charged, the charges were dropped for lack of evidence.

Chart one: Individuals deprived of their liberty in relation to the exercise of freedom of expression



[50] Article 328 of the Somali Penal Code defines the publication or circulation of false news as a crime.

a) Somaliland

52. Somaliland police have been particularly restrictive with respect to the right to freedom of expression. UNSOM HRPG documented 154 instances of arbitrary arrest and illegal detention by the Somaliland police, including of 99 politicians, supporters of opposition parties, and people involved in demonstrations, 51 journalists and other media workers, three poets, and one human rights defender. Most of the journalists and other media workers were released without charges before they appeared in court, or the charges were dismissed by the courts for lack of evidence; a few were convicted and sentenced to various terms of imprisonment between 18 months and five years.

53. Following the election of President Farmajo in February 2017, several journalists and other media workers, bloggers, and poets were arrested for showing support to the new President and expressing support for Somali Unity, mainly on social media. On 14 and 15 February 2017, the police thus arrested two young poets in Burrao, Togdheer region of Somaliland, and one freelance journalist, for their support to the newly elected President of Somalia. The two poets were released several days later without having been charged or appearing before a court. The journalist was sentenced to two years of imprisonment under Article 212 of the Penal Code for attending the public celebrations for the election of the President of Somalia in Mogadishu.[51] He was released on 25 May 2017 following an amnesty order by the Somaliland President. On 29 January 2018, Somaliland police arrested a female poet and activist at Hargeisa airport, North West region, while she was travelling to Mogadishu. She was charged with "anti-national" activity and sentenced to three years of imprisonment for composing a poem expressing support for the unity of Somalia while she was visiting Mogadishu.[52] On 7 May, the Somaliland President pardoned her and she was subsequently released.

54. Bloggers and citizens active on social media expressing views diverging from the position of the Somaliland administration have been arbitrarily arrested and/or illegally detained by the Somaliland police. One blogger accused of distributing false news and disturbing public order was arrested and detained from 20 August to 14 November 2016. He was released by the court after police failed to bring evidence against him and following intensive negotiations between his clan and the government. Another blogger was arrested on 7 February 2018, charged with anti-national propaganda for demonstrating support for Somali unity, and sentenced to 18 months of imprisonment on 16 April 2018. He was released on 19 June following a presidential pardon.

55. The spokesperson of the Human Rights Centre, a Somaliland NGO, was arrested and detained for eight days by the police after the NGO issued a petition, on 15 January 2017, requesting reform of the Somaliland police. He was released following the intervention of the Minister of Justice and the Somaliland Human Rights Commission. The chairperson of the NGO was charged, but the charges were later dropped.

[51] Somali Penal Code Article 212 (Anti-national activity of a citizen Abroad).
[52] Articles 212 (Anti-National Activity of a citizen Abroad) and 219 (Bringing the Nation or the State into Contempt) of the Somali Penal Code.

56. Tensions and the conflict that developed in May 2018 within the disputed territories between Somaliland and Puntland, mainly in Sool, led to the arrest of several individuals in Somaliland in relation to the expression of their opinion on the situation. On 20 April 2018, Somaliland police arrested a prominent traditional leader and detained him in Hargeisa after he stated that Somaliland should withdraw its troops from Tukaraq during the inauguration of a traditional clan elder in Armo, Bari region of Puntland. He was convicted of treason and sentenced to five years of imprisonment, which the Appeals Court reduced to three years. He was released on 20 June following a presidential pardon. On 27 and 28 May 2018, 57 people, mostly youth and women, were arrested by Somaliland police during a protest in support of Somalia unity in Laascaanood town. All were released without being charged. On 14, 27 and 28 May 2018, three journalists were arrested in Laascaanood of Sool region, two of them for posting messages on the future of Sool region on social media, while the third journalist was arrested while asking opinions of the local residents of Laascaanood on Tukaraq conflict between Somaliland and Puntland. All three were released without charges.

57. The arrest and detention of the editor of the online news site Horseed Media, on 16 September 2017, and his sentencing, on 8 October 2017, to 18 months of imprisonment for defamation and false news,[53] led to a joint communication from the Special Procedures of the Human Rights Council,[54] which was sent on 17 November to Somaliland authorities. The Somaliland government never responded on the concerns raised in the communication. The editor was released on 18 June following a presidential pardon.

58. Journalists were also arrested for asking what were considered to be "sensitive" questions in the course of their work. For instance, on 3 July 2018, Somaliland police arrested and detained a journalist from Horn Cable TV in Borama, Awdal region, on the order of the Governor of Awdal region. Earlier that same day, in a meeting attended by various stakeholders and chaired by the Governor, the journalist had asked a question regarding Sultan Wabar, the leader of the Awdal People's Liberation Front, who had previously fought the Somaliland administration for the liberation of the Awdal region before ending the insurgency in November 2015. The journalist was released on 6 July without charges.

59. The Somaliland authorities suspended the activities of several media outlets during the reporting period, with two suspensions occurring in May 2018. On 29 May 2018, the Somaliland Minister of Information banned two privately-owned television stations (Somnews and SBS, Somali Broadcasting Service) from operating in Somaliland, allegedly for broadcasting propaganda and false news since the clashes between Somaliland and Puntland erupted in Tukaraq, Sool region. Representatives of both TV stations in Hargeisa refuted the allegations and stated that the decision was illegal. On 11 June, the Somaliland

[53] He was charged under Articles 254 (Incitement to disparage or bring into contempt public institutions or orders from authorities) and 328 (publication or circulation of false, exaggerated or tendentious news capable of disturbing public order) of the Somali Penal Code.

[54] The Special Procedures included the United Nations Working Group on Arbitrary Detention, the Special Rapporteur on Promotion and Protection of the Right to Freedom of Opinion, and the Independent Expert on the Human Rights Situation in Somalia.

Minister of Information lifted the suspension on Somnews. SBS remained suspended as at August 2018.

60. On 8 July, the Hargeisa Regional Appeal Court reversed the verdict of the first instance court and decided to reinstitute the Haatuf Media Group, whose license had been revoked, following a court ruling in April 2014, for its critical reports of the government's management of public affairs.[55] On 22 July, the Hargeisa Regional Appeals Court reinstated the license of the Waaberi newspaper, which had been suspended for allegedly not being properly registered on 19 June 2018. The court concluded that Waaberi owners were in possession of legal documents that gave them the right to operate the newspaper.

b) Arrests and detention by Intelligence Service Agencies

61. During the period under review, 14 journalists and other media workers were arrested and detained by NISA and other intelligence services at federal level – which is similar to 2016.

62. NISA still operates outside a legal framework despite being bound by the Federal Constitution and the Criminal Procedure Code.[56] Vested with unregulated and undefined powers and operating outside any judicial oversight, it has continued to carry out arrests and detentions that routinely disregard Somalia's international human rights obligations and the guarantees enshrined in the Federal Constitution and the laws of Somalia.

63. Between August 2016 and July 2018, NISA arrested 10 journalists and other media workers and suspended the work of two media outlets because of reporting on Al Shabaab attacks. Thus, on 18 August 2016, NISA raided the Radio Shabelle station in Mogadishu after it reported on an Al Shabaab attack in Lower Shabelle. During that operation, NISA arrested two journalists and subsequently detained them for 24 hours. It also briefly shut down the radio station. On 15 October 2016, NISA raided the office of Xog Ogaal Newspaper, in Mogadishu, arrested the editor, and confiscated equipment. NISA accused the newspaper of publishing pictures of the executions carried out by Al Shabaab in Hiraan region, which it considered as "immoral." The editor was released three days later. On 18 October 2016, three journalists and other media workers (including a journalist from Al-Jazeera English) were arrested by NISA for visiting an area controlled by Al Shabaab in Middle Shabelle and Galgaduud regions and for interviewing an Al Shabaab leader. The journalists and media workers were released on 20 October 2016, with no charges filed against them.[57] On 9 July

[55] See UNSOM/OHCHR, Report on the Right to Freedom of Expression: Striving to Widen Democratic Space in Somalia's Political Transition, August 2016, para. 128.

[56] While NISA was created by FGS in January 2013,[56] it was not established by law or Presidential decree and its powers and obligations are therefore not defined. Nevertheless, as a security institution, NISA is bound by the Federal Constitution, which provides that the security services must be accountable, comply with the rule of law, and are subject to civilian control. However, arrests and detentions conducted by NISA routinely disregard these protections as well as guarantees under international human rights law, including access to legal representation and to family visits, and the right to be presented before judicial authorities. It is of particular concern that political leaders, activists, journalists, media workers and media owners arrested by NISA are detained in the NISA *Godka Jiliow* detention centre, where Al Shabaab suspects are also detained, and with no judicial oversight.

[57] In the video, the Al Shabaab leader made threats of violence against the Government and anyone who would participate in the electoral process. https://www.youtube.com/watch?v=BJwuw-H0mgs.

2018, NISA arrested a journalist working with the Voice of America in South Gaalkayo of Mudug region and held him until 12 July.

64. On 9 July 2018, in Beletweyne town, NISA arrested a journalist working for a private Somali TV (SAAB). The journalist was detained following an interview with the Hiraan deputy governor and was released the same day following negotiations between journalists and authorities. The reason for the arrest remains unknown.

65. On 17 December 2017, NISA detained a politician critical of the FGS, following a warrantless midnight raid at his residence during which five bodyguards were shot and killed. On 27 January 2018, two politicians, also known for criticizing the Government, were briefly arrested by the Mogadishu Stabilization Forces and immediately released. On 18 December 2017, likely responding to the rising tension and meetings in the city following the above-mentioned raid, the FGS Minister of Internal Security issued an order prohibiting the hosting of meetings without prior permission from both the FGS Ministry of Internal Security and Banaadir Regional Administration. The FGS Minister of Constitution commented that this order was against articles 16 and 20 of the Federal Constitution of Somalia, which guarantee freedoms of association and assembly, demonstration, protest and petition.[58] On 16 January 2018, the spokesperson for the FGS Ministry of Internal Security warned independent media not to publish or air "Al Shabaab propaganda."

66. In Jubbaland, the Jubbaland Intelligence Security Agency (JISA) arrested and detained five journalists and one politician during the reporting period. The journalists were detained by NISA for one to four days without warrants without charge. The operation of one FM radio in Belet-Hawo town of Gedo region and of RTN Somali speaking-TV were suspended.

c) Police and Other Security Forces

67. Police and other security forces arrested 192 journalists, other media workers and other individuals for freedom of expression-related reasons and closed media outlets, often at the request of local and central authorities.

68. On 31 March 2017, in Dhusamareeb town, Galmudug, a journalist working for the Galgaduud and Kulmiye FM radio stations was arrested by local security forces loyal to Ahlu Sunna Wal Jama (ASWJ) for reporting false information.[59] He was released after two days without charge. On 14 November 2016, ASWJ had shut down the Galgaduud FM radio station in Guriceeland confiscated its equipment. The radio station remained closed for 44 days.[60] Also in Galmudug, security forces arrested and detained the Director of Codka Mudug Radio in south Gaalkayo, on 12 January 2018, for airing a protest in Gaalkayo against the Federal Government President's visit of Galmudug. He was later released without charge.

[58] http://goobjoog.com/wasiirka-dastuurka-cabdiraxmaan-xoosh-jibriil-ayaa-qalad-ku-tilmaamay-in-la-diido-bannaabax-iyo-shirar/ accessed on 18 December 2017.

[59] ASWJ group entered into a power-sharing agreement with the Galmudug Interim Administration on 6 December 2017 to form a united Galmudug administration.

[60] Although there were no charges raised against the radio station, there were accusations that it had disseminated programmes by State-owned Radio Mogadishu at a time when ASWJ and FGS were in political disagreement.

69. In Puntland, a journalist who is also a member of the Executive Board of MAP, was arrested on 26 November 2017 by the Puntland Police in Bossaso, Bari region, after the Governor accused him of spreading defamatory information. The Bossaso District Court released the journalist on 28 November 2017 after the Governor withdrew his petition following mediation with local journalists. On 4 May 2018, a journalist was arrested by Puntland police in Garoowe, Nugaaal region, for criticizing the Puntland government. He was released on bail on 20 May without being charged.

70. On 28 December 2017, the Director of City FM - who is also a reporter for RTN TV - was arrested by HirShabelle security forces in Jowhar town, Middle Shabelle region, reportedly for releasing false reports against the local administration. He was released on 10 January 2018 after a court dismissed the charges due to insufficient evidence.

d) Administration in Federal Member States

71. At times, local authorities have ordered the closure of media outlets and arrests of journalists and other media workers, in an apparent attempt to silence critical voices. These acts have impeded the free flow of information, undermining the ability of citizens to benefit from receiving information. Cases were documented in SWS, HirShabelle and Puntland States.

72. In SWS, 15 journalists and media workers (including two female journalists associated with Afgooye FM Radio Station) were arrested on 2 October 2016 on the orders of the District Commissioner of Afgooye town, Lower Shabelle, while the Afgooye FM radio station was closed. The journalists and other media workers were released after three hours without charges, and the radio station was allowed to resume work on 4 October. The District Commissioner accused the radio station of contributing to insecurity in Afgooye district. On 30 September 2016, the District Commissioner of Belet-Hawo, Gedo region, Jubbaland, closed Bayaan FM Radio station in Belet-Hawo without a court order for alleged affiliation with Al Shabaab. The radio station was allowed to resume its operations on 16 October 2016.

73. In HirShabelle, three journalists were arrested on orders of local authorities. Two journalists (one working for Kalsan TV and Radio GooGoobjog and the other for Voice of America) were arrested by NISA on orders from the Hiraan Governor and the Beletweyne District Commissioner in January and February 2017. They were both released on the same day.[61] A journalist was arrested by police on orders by the District Commissioner of Bulo Burto in January 2017. He was released after one day.

74. On 13 June 2018, the Puntland Ministry of Information instructed the administration of DSAT, an internet provider, to immediately remove the channel of Somaliland TV from its list of channels and services, which was done. On 19 July, Puntland police arrested a prominent civil society activist in Garoowe, Nugaal region, reportedly on orders from the

[61] These two arrests are also included in the 14 noted in para. 61. They are presented here because they had been ordered by local authorities.

Ministry of Information following a post on Facebook in which he criticized the Puntland government for its tax collection policy. The man was released on bail on 24 July.

e) Puntland Anti-Terrorist Forces

75. Two cases of arbitrary arrest are attributed to the Puntland Anti-Terrorist forces: a freelance journalist was arrested on 2 July 2017 and detained at the Kontrolo checkpoint in Garoowe, Nugaal region.[62] He was released on 16 July without charge. In August 2017, a journalist, also the Head of Communication Department in the Executive Board of MAP, was arrested by Puntland Anti-Terrorism forces in Garoowe, likely for his posts on social media regarding the rise in inflation due to the devaluation of the Somali Shilling. He was released on bail by the Garoowe District Court after six days in detention, without being charged or informed of the reason for his arrest.

V. Conclusion and Recommendations

76. During the 2016 UPR process, Somalia committed to implementing a range of recommendations related to the promotion and protection of the right to freedom of expression, including to take measures to ensure that journalists and other media professionals exercise their profession freely, to fight against impunity for acts of harassment and violence against them, to ensure that security forces do not harass and arbitrarily arrest them or otherwise prevent the exercise of the right to freedom of expression.[63]

77. Persisting violations of the rights to life and to physical integrity, the harassment and intimidation, arbitrary arrests and detentions of journalists and media workers by State authorities documented in this report run counter to the commitment made by the Government of Somalia during the 2016 UPR. The lack of legislative revisions to address shortcomings in relevant laws is also inconsistent with this commitment.

78. The 2016 UNSOM/OHCHR Report on Freedom of Expression made recommendations to the Federal Government and Federal Member States to be implemented with the support of the international community. While modest progress has been made, as outlined in this report, a significant number of recommendations remain unimplemented. This report reemphasizes those recommendations and makes new recommendations based on the gaps identified through the monitoring of UNSOM HRPG.

79. Ensuring accountability for all forms of attacks against journalists and other media workers is key to prevent the perpetuation of such acts. However, to date, law enforcement institutions have not properly investigated attacks against journalists and other media workers in Somalia for incidents that occurred since August 2016. Moreover, elements of law enforcement bodies have been directly involved in violations and have not been held accountable.

[62] The journalist was arrested for his posts on social media on the rise in inflation due to the devaluation of the Somali Shilling in Puntland.

[63] See Human Rights Council, "Report of the Working Group on the Universal Periodic Review: Somalia", A/HRC/32/12 (13 April 2016) paragraphs 135. 67; 135.68; 135.19; 135.70.

a) To the Federal Government of Somalia

80. Ensure that prompt, independent, impartial and thorough investigations be conducted into human rights violations and abuses affecting freedom of expression, and that the perpetrators be held accountable, as well as guarantee the victims' right to reparation.

81. Ensure that media legislation is in line with the Federal Constitution, regional and international norms and standards, including the Media Law, as well as Somalia's Penal Code with regard to the provisions dealing with "false news" and "rumours" (in particular articles 208, 212, 328).

82. Encourage and create the conditions for the development of independent and diverse media; encourage pluralistic media services and ensures the safety of journalists and other media workers, both offline and online.

83. Ensure that private media and civil society groups are allowed to select members of the Independent Media Council; refrain from interfering with the selection process; and ensure that the Media Council is able to operate in line with international human rights norms and standards.

84. Expedite the process of approval of the Commissioners of the Independent National Human Rights Commission, given the critical role it is to play in safeguarding human rights; ensure that the Commission operates in full compliance with the Paris Principles relating to the Status of National Institutions.

85. Ensure that the role of the National Intelligence Security Agency is provided for in the law and regulated with effective oversight mechanisms to prevent violations by its agents and to ensure accountability with regard to allegations of human rights violations.

b) To Federal Member States

86. Review relevant legislation and/or enact new legislation to ensure and reinforce the protection of the rights to freedom of expression and freedom of media, in compliance with international human rights standards; ensure that new legislation is developed in consultation with relevant stakeholders, including journalists and other media actors, and civil society actors.

87. Foster an enabling environment for safe, free and independent media practice, including by refraining from any interference with media and putting an end to the arbitrary arrests and detentions of journalists and other media workers.

88. Establish protection mechanisms to prevent and address all forms of threats and attacks against political actors, journalists and other media workers and civil society actors and ensure accountability when such acts occur.

89. Strengthen the Federal members states' Human Rights Commissions, the Puntland Human Rights Defender's Offices and the National Independent Human Rights Commission - once established - by providing adequate resources to enable them to function effectively and independently, including to conduct human rights monitoring.

c) To Somali Journalists and Media Organizations

90. Adopt and promote a formal code of conduct to encourage self-regulation and abide by the highest ethical standards for journalists and other media workers, including while acquiring and disseminating news.

91. Use objective and impartial language to report, including on the political processes, to pave the way on the envisaged "one person, one vote" elections in 2020/2021, avoid wording that can incite violence or amounts to hate speech, and avoid unbalanced coverage of political parties.

To the International Community

92. Advocate for the promotion and protection of the right to freedom of expression when engaging with the Somali federal and regional authorities and at relevant high-level events and fora, including the Human Rights Council, General Assembly and Security Council.

93. When supporting legislative review initiatives, including the review of laws that violate the right to freedom of expression, ensure that international human rights standards inform the debate.

94. Advocate for the protection of, journalists and media workers and other civil society actors, and for the release of those arbitrarily detained in relation to the peaceful and legitimate exercise of their activities.

95. Support capacity building and public awareness campaigns for law enforcement and judicial officers, and provide technical assistance to ensure effective criminal investigations, including into attacks against journalists and other media workers.

96. Further support journalists and other media workers on initiatives to enhance self-protection.

97. Support the establishment of the Independent National Human Rights Commission and the strengthening of the Office of Puntland Human Rights Defender and the Somaliland Human Rights Commission to engage effectively on the right to freedom of expression.

UNSOM