**BRIFING ON SOMALIA FOR THE HUMAN RIGHTS COMMITTEE, LIST OF ISSUES PRIOR TO REPORTING,128th SESSION (2 to 27 March 2020)**

**Submitted by:**

International Alliance for peace and development



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**Summary**

The situation of human rights in Somalia has been deteriorating over the last 10 years, as the successive governments of Somalia and practiced violent repression and persecution, including but not restricted to the emergency situations imposed on the country, systematic impunity and lack of accountability, hence the need for establishing mechanisms and national institutions capable of responding properly to the various human rights challenges in the country.

Somalia has ratified the International Covenant on Civil and Political Rights (ICCPR) on January 24, 1990, but has not yet ratified the first and second Optional Protocols to the Covenant. Also, since joining the Convention, Somalia did not participate in the review process before the Human Rights Committee, as the initial national report of Somalia that was due on 23 April 1991, has not submitted yet.

In this context, the International Alliance for Peace and Development (Geneva) submits this report to highlight on violations committed by the Somali authorities against citizens, and suggest a number of recommendations to the State party in order to adopt an alternative, more humane and suitable approach for dealing with the human rights situation.

**Restrictions on Freedom of Opinion and Expression**

Although the Constitution of Somalia in 2012 provided for freedom of opinion and expression in its article (18), which states that "everyone has the right to express his views, and that freedom of expression includes freedom of the media, including the internet media."[[1]](#footnote-1) However, the authorities are still using intolerable repressive practices against journalists and bloggers. In July 2017, the government passed a repressive law establishing a legal regulatory body, whose members are appointed by the Minister of Information, to monitor the content of print and broadcast media. The law imposed a comprehensive ban on information considered false and to publish “promotional” material. It also gives the authorities broad discretion to prosecute media professionals and human rights defenders.[[2]](#footnote-2) Somali law also imposes fines of up to $ 3000 under the name of defamation crimes.[[3]](#footnote-3)

The Somali government interferes in the work of the Media Council,[[4]](#footnote-4) and the Draft Media Law of Somalia, was not implemented despite being approved by the Cabinet of Ministers. This law, regardless of having some positive points, has consolidated the government’s control over media, and also imposed a number of difficult measures on media licensing and registration procedures, to be operated under the supervision of the Ministry of Information.[[5]](#footnote-5)

Government officials also did not escape from restrictions imposed on freedom of opinion and expression, as the Somali Prime Minister issued a decision on 26 August 2017, prohibiting federal government ministers from posting political tweets on social media.

Although the Somali government allowed the establishment of an independent press committee, it made the committee, in return, under the control of the Ministry of Information. In addition to the restrictions imposed by Somali authorities on publishing, it continues crackdown on the independent press and the work of journalists, as 30 journalists were arrested during 2019 for criticizing the government. The authorities have also widened its crackdown on the work of human rights activists alongside journalists through what is called "security exceptions", often used as a cover to suppress human rights,[[6]](#footnote-6) which is contrary to Article 19 of the International Covenant on Civil and Political Rights, which stipulates that everyone has the right to hold opinions without interference or harassment, and everyone has the right to freedom of opinion and expression ; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers, in a written or printed form.

**Restrictions on the Work of Human Rights Defenders**

The Somali authorities continued widening its crackdown on the work of journalists and human rights activists, by targeting, killing, arresting and harassing them. The prominent rights activist “Almaas Elman” who was shot dead in Somalia's capital Mogadishu airport after attending a meeting at the Elman Peace Centre working to end violence in Somalia[[7]](#footnote-7).

In addition to the acts of intimidation practiced by the Somali authorities to suppress any role played by political and human rights activists, the Somali authorities, in particular, the Minister of Security Muhammad Abu Bakr, has withdrew the passport of the British-Somali journalist, Said Fadhaye, without providing any reasons for doing so, unlawfully detained him and banned his travel outside Somalia.[[8]](#footnote-8)

Also, in November 2019, the Somali police forces carried out a number of attacks on political activists and opposition party leaders, Khadar Hussein Abdi and Barkhad Jama Batun, for calling for demonstrations against the situation in the country.[[9]](#footnote-9)

Hence, the Somali authorities violate the second article of the International Covenant on Civil and Political Rights, in its first paragraph which stipulates that  each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. They also violate **Article 9**, which stipulates in its first paragraph that everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. The second paragraph, however, stipulates that Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

**The Death Penalty**

The death penalty is the ultimate cruel, inhuman and degrading punishment that unacceptably denies human dignity and safety. In Somalia, there are more than 17 articles in national acts providing for the death penalty,[[10]](#footnote-10) the most prominent of which are the following articles. The first Article of the penal law, which stipulates the death penalty for various crimes, such as in the event of committing crimes against the independence, unity and security of the Somali state, which yet to be identified by the Somali legislator, the 2nd Article of that law that referred to the use of weapons against the state in case of war. Article 3 concerning the establishment of anti-state organizations, and Article 4 concerning conspiracy with foreign forces, article 16, concerning the engagement in commercial relations with a hostile state, and article 18 concerning the presentation or publication of information aimed at damaging the sovereignty of the Somali nation.

Eight executions were reported to have been carried out during only the second half of 2019; however, there are many other execution cases still unreported, hence no one can tell the exact number of executions. Moreover, in some cases, extrajudicial executions are committed, by army members, in public places in violation of fair trial standards,[[11]](#footnote-11) and Article (6) of the International Covenant on Civil and Political Rights, the first paragraph which stipulates every human being has the inherent right to life. This right shall be protected by law, no one shall be arbitrarily deprived of his life. Whereas the second paragraph of which stipulates that in countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant

**The Absence of Justice System**

The justice system in Somalia suffers from lack of independence; this is due to a set of factors, the most important of which is the corruption spreading in state institutions, as well as the lack of clear separation of powers, allowing the judicial authority to perform its role independently, as well as the weakness of federal and regional courts, and their conformity with custom and traditions more than constitutional laws. Add to this its lack of logistics qualifying it to play its role effectively. This made citizens turn to courts in areas affiliated with the Mujahideen Youth Movement. Also, the Somali government lacks the means to ensure the judgements of its affiliated courts, and too often, people turn to Al-Shabaab courts instead of the federal government's courts.[[12]](#footnote-12)

**Recommendations**

* The necessity of reviewing the laws related to freedom of opinion and expression, especially media law, which limits the formation of independent civil society organizations.
* The need to join the second protocol to the International Covenant on Civil and Political Rights, aimed at abolishing the death penalty.
* The need to pressure the Somali government to lift the restrictions imposed on the work of political activists and human rights defenders.
* The necessity to comply with article 40 of the International Covenant on Civil and Political Rights, relating to The States Parties to the present Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and, on the progress, made in the enjoyment of these rights
1. THE Federal Republic of Somalia provisional constitution adopted 1,August.2012 , Mogadishu, Somalia <http://hrlibrary.umn.edu/research/Somalia-Constitution2012.pdf> [↑](#footnote-ref-1)
2. **The Amnesty International Annual Report 2017/2018**, for more details, follow this link: <https://bit.ly/2Sokoir> [↑](#footnote-ref-2)
3. Freedom house /Somalia/**Legal Environment 2016** <https://freedomhouse.org/report/freedom-press/2016/somalia> [↑](#footnote-ref-3)
4. The mid-year figures report 2018, by Internal Displacement Monitoring Centre, 2018, <https://bit.ly/2OczCAT> [↑](#footnote-ref-4)
5. Freedom of Expression in Somalia: Still Not a given." UNSOM. September 06, 2018. Accessed August 04, 2019 <https://unsom.unmissions.org/freedom-expression-somalia-still-not-given>. [↑](#footnote-ref-5)
6. Somalia: Draft Media Law." ARTICLE 19. Accessed August 04, 2019.<https://www.article19.org/resources/somalia-draft-media-law/> [↑](#footnote-ref-6)
7. The Guardian : Right activist ALmaas elman shot dead in Mogadishu , NOV 21, ,2019<https://www.theguardian.com/global-development/2019/nov/21/rights-activist-almaas-elman-shot-dead-in-mogadishu> and more info in this link : <https://bit.ly/2tHDdSf> [↑](#footnote-ref-7)
8. according to : Hamza Mohamed , senior producer AJ English NOV29 <https://twitter.com/Hamza_Africa/status/1200330691961147393> [↑](#footnote-ref-8)
9. Somail dispatch :Somaliland :human right center condemns arrest of opposition politicians and journalist , NOV 18 , 2019 <http://www.somalidispatch.com/featured/somaliland-human-rights-center-condemns-arrest-of-opposition-politicians-and-journalists/> and more info in this link : <https://www.halqaran.com/index.php/2019/11/18/drama-in-somaliland-as-police-detain-key-opposition-party-members/> [↑](#footnote-ref-9)
10. Project Gutenberg self-publishing press: capital punishment in Somalia <http://www.gutenberg.cc/articles/eng/Capital_punishment_in_Somalia> [↑](#footnote-ref-10)
11. Cornell law school: Cornell center on the death penalty world wide, death penalty database Somalia 2019 <https://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Somalia> [↑](#footnote-ref-11)
12. Security Council, 8352ND Meeting (PM), “**The situation in Somalia Report**”, page 3, 13 September 2018, on this link: <https://bit.ly/2U10H0d> [↑](#footnote-ref-12)