



**The Federal Government of Somalia's Compliance with the International Covenant on Civil and Politics Rights: Torture, Inhuman Treatment, and Freedom of Expression**

**Submitted by The Advocates for Human Rights**

a non-governmental organization in special consultative status with ECOSOC since 1996

**The Coalition of Somali Human Rights Defenders**

a non-governmental organization in special consultative status with ECOSOC since 2023

and

**Horn Afrik News Agency for Human Rights**

for the

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**The Advocates for Human Rights** (The Advocates) is a volunteer-based nongovernmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications.

**The Coalition of Somali Human Rights Defenders** (CSHRDs) is a non-governmental, non-partisan and human rights organization which is registered under the Non-Governmental Act. CSHRDs is composed of members with notable experience in the field of human rights and has consultative status with the United Nations Economic and Social Council (ECOSOC) since August 2023.

**Horn Afrik News Agency for Human Rights** (HANAHR) Horn Afrik News Agency for Human Rights was established in late 2011, due to the necessity for a better and robust human rights advocacy, and the dire need to unify human rights defenders' voices in the horn of Africa region and beyond.

## EXECUTIVE SUMMARY

1. Since the Federal Government of Somalia (FGS) submitted its initial report under the Covenant in 2020, Somali authorities have substantially neglected their obligations to implement the Covenant's prohibitions against torture and other forms of cruel, inhuman or degrading treatment or punishment and have not fulfilled their obligation to protect and promote the rights to freedom of expression and assembly and the rights of journalists.

### **The Federal Republic of Somalia fails to uphold its obligations under the International Covenant on Civil and Political Rights**

#### **I. The Federal Government of Somalia violates the prohibition against torture and other cruel, inhuman, or degrading treatment or punishment (arts. 6 and 7, List of Issues Prior to Reporting para. 19).**

2. In its List of Issues Prior to Reporting, the Committee asked the FGS to provide information on the legislative framework to prevent and combat torture, including the legal definition of torture and a list of mechanisms in place to allow for prompt, thorough, and impartial investigations into allegations of torture and ill-treatment.<sup>1</sup> The Committee also for data related to investigations, prosecutions, convictions or acquittals, and punishments.<sup>2</sup>
3. In its reply to the List of Issues Prior to Reporting, the FGS states that the Somali Penal Code does not yet have a specifically defined crime of "torture" nor an express definition. The FGS argues that Article 1 of the Penal Code criminalizes acts that *de facto* amount to torture, such as Hurt, Reduction to Slavery, Compelling, and other acts including murder, kidnapping, and carnal violence.<sup>3</sup>
4. The FGS further states that the mechanisms in place for investigations include the Attorney General's Office, which "conducts investigations into all allegations of misconduct by private persons, and state officials in and outside of their professional capacity constituting acts of torture, cruel, and inhuman and degrading treatment."<sup>4</sup> The reply adds that once fully established, the Human Rights Commission will also have the authority to investigate allegations of torture committed by police, security forces, and detention staff.<sup>5</sup> The reply also adds that under article 14 of the Prison Law, the Attorney General's Office is empowered to supervise prisons and penal institutions to ensure that detainees are treated "as individuals with human rights, and hence are treated with respect and dignity."<sup>6</sup>

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<sup>1</sup> Human Rights Committee, *List of issues prior to the submission of the initial periodic report of Somalia*, (May 5, 2020), U.N. Doc. CCPR/C/SOM/QPR/1, ¶ 19.

<sup>2</sup> *Ibid.*

<sup>3</sup> Human Rights Committee, *Initial report submitted by Somalia under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2021*, (October 18, 2020), U.N. Doc. CCPR/C/SOM/1, ¶ 151, 157.

<sup>4</sup> Human Rights Committee, *Initial report submitted by Somalia under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2021*, (October 18, 2020), U.N. Doc. CCPR/C/SOM/1, ¶ 160.

<sup>5</sup> Human Rights Committee, *Initial report submitted by Somalia under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2021*, (October 18, 2020), U.N. Doc. CCPR/C/SOM/1, ¶ 161.

<sup>6</sup> Human Rights Committee, *Initial report submitted by Somalia under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2021*, (October 18, 2020), U.N. Doc. CCPR/C/SOM/1, ¶ 162.

5. The FGS also attempts to provide a definition of torture pulled from a draft Sexual Offences Law (2017). This draft law defines torture to include the unlawful infliction of severe mental, emotional, or physical pain on a person as a means of control, coercion, or punishment.<sup>7</sup>
6. The FGS concedes that Somalia does not have an express definition of torture consistent with the Covenant or the Torture Convention.<sup>8</sup> The FGS also fails to provide the requested data on the number of investigations, prosecutions, convictions/acquittals, and punishments imposed for acts of torture.<sup>9</sup> Without government-collected and universally recognized data, it is difficult to assess the nature and breadth of the practice of torture in Somalia, a human rights violation that is exacerbated by the FGS's failure to clearly define it.
7. The reply also adds that the FGS is in the process of improving its "inspection and recording mechanism."<sup>10</sup>
8. A bill passed by the Somali Senate and signed into law by President Hassan Sheikh Mohamud on March 8, 2023, granted the FGS's intelligence arm, the National Security and Intelligence Agency (NISA), sweeping powers of detention, arrest, and surveillance with minimal oversight.<sup>11</sup> Observers from the Coalition of Somali Human Rights Defenders (CSHRD) on the ground in Somalia report that NISA continues to operate secret prisons and perpetrates systematic torture against people in its custody and subjects women and children in its custody to inhuman and degrading treatment.<sup>12</sup> CSHRD also notes that the Somali Judiciary does "not punish acts that could amount to torture on the basis of the Constitution and international treaties."<sup>13</sup>
9. The Mogadishu Central Prison Commander asserts that prison officials do not subject any person in detention to corporal punishment as a penalty for a minor or aggravated offense.<sup>14</sup> Yet family members of people in detention report that while in custody their relatives have disappeared or have been killed as a result of torture.<sup>15</sup> Without government-collected data, it

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<sup>7</sup> Human Rights Committee, *Initial report submitted by Somalia under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2021*, (October 18, 2020), U.N. Doc. CCPR/C/SOM/1, ¶ 158.

<sup>8</sup> Human Rights Committee, *Initial report submitted by Somalia under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2021*, (October 18, 2020), U.N. Doc. CCPR/C/SOM/1, ¶ 151.

<sup>9</sup> Human Rights Committee, *List of issues prior to the submission of the initial periodic report of Somalia*, (May 5, 2020), U.N. Doc. CCPR/C/SOM/QPR/1, ¶ 19; Human Rights Committee, *Initial report submitted by Somalia under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2021*, (October 18, 2020), U.N. Doc. CCPR/C/SOM/1, ¶ 164.

<sup>10</sup> Human Rights Committee, *List of issues prior to the submission of the initial periodic report of Somalia*, (May 5, 2020), U.N. Doc. CCPR/C/SOM/QPR/1, ¶ 163.

<sup>11</sup> Mohamed Olad Hassan, *Somalia's Lower House Passes Historic Anti-Terrorism Law*, Voice of America News, March 8, 2023, <https://www.voanews.com/a/somalia-s-lower-house-passes-historic-anti-terrorism-law/6996295.html>

<sup>12</sup> Coalition of Somalia Human Rights Defenders, *Somalia: International Covenant on Civil and Political Rights March 2024 Report*, Published January 15, 2024, Page 2, ¶ 2.

<sup>13</sup> Coalition of Somalia Human Rights Defenders, *Somalia: International Covenant on Civil and Political Rights March 2024 Report*, Published January 15, 2024, Page 2, ¶ 3.

<sup>14</sup> Coalition of Somalia Human Rights Defenders, *Somalia: International Covenant on Civil and Political Rights March 2024 Report*, Published January 15, 2024, Page 40, ¶ 6.

<sup>15</sup> *Ibid.*

is difficult to assess whether the Attorney General’s Office is exercising its supervisory authority to ensure prisons afford detainees with “basic human rights.”<sup>16</sup>

10. Moreover, Somali law does not specifically allow people in detention to submit complaints to judicial authorities without censorship.<sup>17</sup> The Garowe Central Prison has a system in place for people in detention to submit complaints through officers and the prison commander, but there is no evidence demonstrating whether the Attorney General’s Office or any judicial authority investigates these complaints.<sup>18</sup>

## **II. The Federal Government of Somalia fails to respect and protect freedom of expression and assembly and fails to protect journalists (List of Issues Prior to Reporting para. 26).**

11. In its List of Issues Prior to Reporting, the Committee asked Somalia to “indicate the measures taken to ensure the protection of human rights defenders, journalists and media workers; to respond to allegations that, between September 2016 and July 2018, 8 journalists and media workers were killed; 32 journalists and media workers were injured; and 206 individuals were arbitrarily arrested and/or subjected to prolonged detention charges related to the exercise of freedom of expression, in particular in Somaliland . . . .”<sup>19</sup>
12. In its reply to the List of Issues Prior to Reporting, the FGS states that “[t]he prevention of killings of journalist and human rights defenders remains a high priority for the government. The Attorney General’s Office is committed to tackling impunity and has instituted several investigations into these killings,” including “appointing a Special Prosecutor dedicated to the investigation and prosecution of crimes against journalists.”<sup>20</sup>
13. Not only has Somalia failed to respond to the Committee’s specific concerns, but the FGS’s reply, which emphasizes a commitment to the protection of journalists, contrasts with multiple reports of journalists facing violence, arbitrary detention, and harassment. In 2023, the Federation of Somali Journalists and the Somalia Media Association documented various such incidents in Somalia, including killings, injuries, arrests, and threats.<sup>21</sup> For example, on 16 October 2023, a suicide bomb explosion at Blue Sky restaurant in Mogadishu killed journalist and director of Somali Cable Television Abdifitah Maallin Nur Qeys.<sup>22</sup> In 2023 alone,

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<sup>16</sup> Human Rights Committee, *List of issues prior to the submission of the initial periodic report of Somalia*, (May 5, 2020), U.N. Doc. CCPR/C/SOM/QPR/1, ¶ 162.

<sup>17</sup> State Department, *Somalia 2022 Human Rights Report (Feb. 2023)*, [https://www.state.gov/wp-content/uploads/2023/02/415610\\_SOMALIA-2022-HUMAN-RIGHTS-REPORT.pdf](https://www.state.gov/wp-content/uploads/2023/02/415610_SOMALIA-2022-HUMAN-RIGHTS-REPORT.pdf), Page 5.

<sup>18</sup> *Ibid.*

<sup>19</sup> Human Rights Committee, *List of issues prior to submission of the initial report of Somalia*, UN Doc. CCPR/C/KOR/QPR/1 (5 May 2020), ¶ 26.

<sup>20</sup> Human Rights Committee, *Initial report submitted by Somalia under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2021*, (October 18, 2020), U.N. Doc. CCPR/C/SOM/1, ¶ 230.

<sup>21</sup> Federation of Somali Journalists (FESJ), *Somalia Annual Press Freedom Report 2022/2023*, at 6, available at <https://fesoj.org/wp-content/uploads/2023/05/ANNUAL-REPORT-PRESS-FREEDOM-IN-SOMALIA-2022-2023.pdf>; see also Somalia Media Association, *Violence Against Journalists in Somalia in the Year 2023* (13 Jan. 2024), available at <https://soma.org.so/violence-against-journalists-in-somalia-in-the-year-2023/>.

<sup>22</sup> Wycliffe Muia, *Somali Cable Television's Director Nur Killed in Suicide Blast*, BBC News (17 October 2023), available at <https://www.bbc.com/news/world-africa-67131315>.

authorities arrested more than 39 journalists, subjected 16 journalists to beatings or harassment, and raided 4 media centers, while 34 journalists reported direct threats to their lives.<sup>23</sup>

14. While some of the threats and harassment targeting journalists are rooted in the attitudes of public authorities and law enforcement, the law itself places journalists at risk. The Somali Media Law includes provisions that do not adequately safeguard human rights like freedom of expression while potentially criminalizing essential reporting. The law grants the government extensive powers over media organizations and contains vaguely worded criminal penalties. These provisions have a chilling effect on journalists, leading to self-censorship.
15. The Committee also requested that Somalia respond to allegations that security forces harassed and intimidated journalists and media workers and that authorities forcibly closed media houses temporarily.<sup>24</sup>
16. Without specific details or evidentiary support, the FGS replies only that the Somali Police Force has conducted investigations resulting in the imprisonment of law enforcement officials responsible for violence against media personnel and journalists, and that “the Government is committed to ensuring that any arrests should be conducted in line with due process procedures enshrined in the Constitution and Criminal Procedure Code.”<sup>25</sup>
17. Again, recent events belie the FGS’s asserted commitments to the protection of journalists. On 11 October 2022, government forces arrested Abdalle Ahmed Mumin, co-founder and general secretary of the Somali Journalists Syndicate, at Aden Adde International Airport when he was en route to Nairobi.<sup>26</sup> Mumin had previously criticized government directives banning news coverage of Al Shabaab. Authorities imprisoned him at Mogadishu Central Prison on 23 February, where he stayed for 33 days, during which time he continued his work as a journalist documenting human rights violations.<sup>27</sup>
18. More recently, on 17 August 2023, law enforcement officers arrested Mohamed Ibrahim Osman Bulbul, Editor in Chief of Kaab Somali TV and staff member of the Somali Journalists Syndicate.<sup>28</sup> The arrest occurred a day after the publication of a story about corruption within police force ranks, describing misappropriation of European Union funds meant for officer training.<sup>29</sup> On 25 September, authorities charged Bulbul with “bringing the State into contempt” and with “circulating false and tendentious news.”<sup>30</sup> Officials transferred him to the

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<sup>23</sup> Federation of Somali Journalists (FESOJ), *Somalia Annual Press Freedom Report 2022/2023* (2023), at 6, available at <https://fesoj.org/wp-content/uploads/2023/05/ANNUAL-REPORT-PRESS-FREEDOM-IN-SOMALIA-2022-2023.pdf>.

<sup>24</sup> Human Rights Committee, *List of issues prior to the submission of the initial periodic report of Somalia*, (May 5, 2020), U.N. Doc. CCPR/C/SOM/QPR/1, ¶ 26.

<sup>25</sup> Human Rights Committee, *Initial report submitted by Somalia under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2021*, (October 18, 2020), U.N. Doc. CCPR/C/SOM/1, ¶ 231.

<sup>26</sup> Amnesty International, *Abdalle Mumin: A human rights activist and giant of Somali journalism* (March 3, 2023), available at <https://www.amnesty.org/en/latest/news/2023/05/abdalle-mumin-a-human-rights-activist-and-giant-of-somali-journalism/>.

<sup>27</sup> *Ibid.*

<sup>28</sup> Amnesty International, *Somalia: Free journalist jailed for investigative report: Mohamed Ibrahim Osman Bulbul* (6 October 2023), available at <https://www.amnesty.org/en/documents/afr52/7279/2023/en/>.

<sup>29</sup> *Ibid.*

<sup>30</sup> *Ibid.*

Mogadishu Central Prison and released him on 16 October, after a court dismissed the criminal charges against him.<sup>31</sup>

19. The Committee also requested that Somalia clarify the application of articles 208, 212, and 328 of the Penal Code and comment on information received that most of the individuals arrested under those provisions had been accused of “broadcasting inflammatory news that threatens stability,” based on allegations of affiliation with Al-Shabaab and dissemination of “false news” and propaganda.<sup>32</sup>
20. In its response, the FGS states that authorities use articles 208, 212, and 328 of the Penal Code, which are under review, in the “most serious cases.”<sup>33</sup> According to the State Party, these articles all target the spread of “false” information with the intent to cause public disorder. Yet in the examples outlined in paragraphs 13, 17, and 18 above, the FGS generally has not asserted that any reported information was “false.”
21. Further, even if the State Party had proper cause to detain journalists in those cases, its methods violate rights recognized in the Covenant. For example, authorities blindfolded journalist Mohamed Abdi Abdullahi (Andar), forcefully placed him into an unmarked vehicle, and detained him at a location known only to security forces. There are multiple reports that authorities have subjected journalists to torture while in detention.<sup>34</sup>

### **III. Suggested recommendations for the Federal Government of Somalia**

22. The coauthors suggest the following recommendations for the Federal Government of Somalia:
  - Amend problematic provisions of the Somali Media Law to eliminate criminal penalties for journalists’ exercise of their rights under the Covenant and minimize government oversight over media organizations.
  - Strengthen the justice system to protect journalists and media workers and to ensure accountability for violations of the human rights of journalists and other media workers.
  - In collaboration with civil society organizations, enhance training and sensitization of law enforcement agencies, particularly with respect to the rights of media organizations, including during public assemblies and elections, so that law enforcement officers prioritize facilitating the work of journalists by identifying safe areas for coverage while recognizing that journalists are free to be in other public spaces to carry out their work.
  - Adopt a new federal Constitution that absolutely prohibits torture under all circumstances and enact revisions to the Penal Code implementing that prohibition and holding perpetrators accountable.

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<sup>31</sup> Ibid.

<sup>32</sup> Human Rights Committee, *List of issues prior to the submission of the initial periodic report of Somalia*, (May 5, 2020), U.N. Doc. CCPR/C/SOM/QPR/1, ¶ 26.

<sup>33</sup> Human Rights Committee, *Initial report submitted by Somalia under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2021*, (October 18, 2020), U.N. Doc. CCPR/C/SOM/1, ¶ 233.

<sup>34</sup> *Penal Code* [Somalia], 3 April 1964, available at: <https://www.refworld.org/docid/4bc5906e2.html> [accessed 22 January 2024]

- Collect and on at least an annual basis publish comprehensive data on allegations of torture perpetrated by law enforcement and other government officials, as well as the results of any subsequent investigations and prosecutions, consistent with the Covenant and the Torture Convention.