

Ururka Qaranka Suxufiyiinta Soomaaliyeed
National Union of Somali Journalists

NUSOJ

UNSEATING IMPUNITY
JUSTICE FOR SOMALI JOURNALISTS

**UNSEATING
IMPUNITY**
JUSTICE FOR SOMALI JOURNALISTS



International Freedom of Expression Exchange (IFEX)



International Federation of Journalists (IFJ)



Table of Contents

EXECUTIVE SUMMARY	5
PREVAILING IMPUNITY	6
SELF-CENSORSHIP AS A RESULT OF IMPUNITY	8
CAUSES OF IMPUNITY	9
MEDIA WORKERS KILLED IN SOMALIA (2012–2016)	10
IMPUNITY AND INTERNATIONAL LAW	12
CONCLUSIONS	13
RECOMMENDATIONS	14
About National Union of Somali Journalists (NUSOJ)	15

EXECUTIVE SUMMARY

The report is based on incidents of crimes committed against journalists recorded by the National Union of Somali Journalists (NUSOJ) during the period 2012 to 2016. Most of the incidents of crimes against journalists, particularly killings, reported during this period are related to acts of politically motivated violence. This underlines the endemic culture of impunity which currently subsists in Somalia.

From 2012 to 2016, thirty-eight (38) Somali journalists have been killed and many more continue to work in a climate of fear and self-censorship. More than 20 journalists were wounded. The sources of the violence against journalists are varied. The pervasive culture of impunity has seen perpetrators of crimes committed against journalists remaining unaccountable for their crimes and the victims and their families having no access to justice.

Existing impunity enables more rights violations against journalists to be committed. It has become the central problem in Somalia where State and non-state actors perpetuate rights violations without being brought to justice.

Somalia's judiciary faces significant challenges in establishing an independent legal culture capable of ensuring accountability for human rights abuses. Legal safeguards have proved inadequate to protect victim journalists who are frequently targeted because of their media work. While there were a limited number of prosecutions for killers of journalists, there is lack of effective investigations and prosecutions for 92% of the cases.

Somalia has not undertaken the substantive legislative and institutional reforms needed to provide adequate safeguards against killings of journalists and to make antidotes effective in case of a breach. This situation reinforces widespread perceptions of the general lack of re-establishment of the rule of law in Somalia.

Unless efforts were undertaken on a national and international level, impunity will prevail over accountability of suspects and justice for victim journalists and their families. Currently avenues for victim journalists and their families to access to justice are very limited.

This report will explore current situation which aids and abets the perpetuation of the culture of impunity. The report will also depict how the past crimes against journalists have continued, and how the government failed to conduct immediate, credible, impartial, and transparent investigations into serious rights abuses against journalists.

In its conclusion, this report will suggest recommendations in order to combat the culture of impunity in Somalia, by employing various mechanisms to ensure that, the plight of the victim journalists does not go unnoticed but instead justice is made accessible to all and perpetrators are punished.

Omar Faruk Osman

SECRETARY GENERAL

National Union of Somali Journalists (NUSOJ)

PREVAILING IMPUNITY

For the past four years, from 2012 up to 2016, Somali journalists have continued to suffer brutal oppression at the hands of powerful politicians and gun-toting men who have been responsible for many murders, arrests, intimidations and death threats.

Thirty-eight journalists have been murdered in Somalia since 2012, in near-total impunity. 24 journalists were wounded in this four years. The month of September 2012, when the country's last Federal Government was formed and President Hassan Sheikh Mohamud elected, saw the killings of seven journalists, and became the single deadliest month for journalists in the history of Somalia. The year 2012 was also the deadliest with 18 journalists murdered.

There is ample evidence to show that the killings of journalists are well planned, politically-motivated and, in most cases, punish journalists for their media work. While Al-Shabaab is responsible for some of these crimes, there are other forces at work trying to eliminate journalists.

The country's Federal and regional governments have often been accused of carrying out gross and systematic human rights violations against journalists. They have also been blamed for their proven failures in upholding the right of victims to normative justice.

Impunity arises where those responsible for serious human rights violations are not brought to account. As duty bearer, the Federal Government of Somalia is expected to combat impunity as a matter of basic justice and also as a deterrent and their duty to uphold the rule of law and public trust in the justice system and other State institutions.

The current state of impunity continues to intensify thanks to the Federal Government's lack of consistent response to all serious crimes committed against journalists, although some effort is made to prosecute Al-Shabaab members who were accused of killings journalists, some sentenced to death and executed by firing squad.

When a journalist is killed, leaders in government are always quick in issuing statements condemning the killings and offering condolences. However, this is not followed by effective and credible investigations. Usually there is no information made available about ongoing investigations, let alone about anyone arrested and charged, except if it is an Al-Shabaab fighter caught by security forces.

In some cases, prosecuted Al-Shabaab fighters accused of killing journalists are tried in martial courts. This process is handled by the National Intelligence and Security Agency (NISA) and any confessions obtained were broadcasted through State-controlled media.

Somalia's legal system rarely promotes justice for victims of these attacks and has in place no known measures to protect journalists—something that demotivates victims of rights abuses from coming forward to assert their rights against the known perpetrators. No attempt is made to pursue complaints and assert rights because journalists know very well that no action will be taken against a perpetrator unless he is an Al-Shabaab fighter, and on the whole, keep silent.

Fear prevails over collection of evidence because the alleged perpetrators are perceived to be always in a powerful position to do more harm. With no evidence gathered, courts either do not take up cases or dismiss the charges against the accused. As a result, the perpetrators of unpunished crimes against journalists routinely escape justice with impunity.

Some police officers, judges and prosecutors continue to see their role primarily as a means to make a living. They operate not by rule of law but largely through political influence and intervention or by orders and executive decisions. Their aim is often to extract confessions and convictions in order



Ambulance Carrying
Murdered Journalist



Murdered journalist body in
ambulance



Body of Murdered journalist

to formally fulfill their duties, rather than to collect evidence, conduct proper investigations, or hold independent trials.

The problem stems not from deliberate efforts to thwart the rule of law for political ends but from the low level of professional skills. Impunity is attributable in part there is no clear division of responsibility among NISA and the police forces in terms of who is responsible to pursue crimes committed against journalists.

Unless the well-documented culture of impunity is resolutely challenged, the abuses will continue to be repeated. All injustices, past and present, need to be squarely confronted by the new government if the battle against impunity is to be won and perpetrators of crimes against journalists held accountable for their actions.

SELF-CENSORSHIP AS A RESULT OF IMPUNITY

There is a strong connection between impunity, coercion and the self-censorship that follows. When murderers of journalists go scot-free, the arena of viewpoints grows smaller. When a killing against a member of the media is not met with justice, then journalists are likely to refrain from covering topics that put them at risk of retaliations.

One of the results of the existing impunity is self-censorship. Often invisible, self-censorship constrains and decreases the free flow of information and opinion. This rising trend is an understated, incipient force that suffocates the work of journalists who operate under the constant stress of knowing that publishing or broadcasting a story may place them in very serious danger.

Many politicians who hold public offices have been known to make some favors or have been allocating funds to like-minded media. Similarly, these politicians can use the threat of removing funds as a tool of intimidation.

The growing influence of Al-Shabaab poses another substantial threat to journalists. Local journalists often find themselves in the untenable position of covering stories that implicate Al-Shabaab—without protection or sufficient resources to handle the high personal risk involved. Not surprisingly, media reports often trigger violent reprisals from members of Al-Shabaab. Fearing reprisals, some journalists refuse to cover stories that might irritate Al-Shabaab.

Mogadishu journalists know very well the multiple forms self-censorship can take. Self-censorship can emerge from an overall adverse context where insecurity, violence and impunity lead journalists to conclude that it is best to keep quiet.

A second form of self-censorship arises from direct intimidation. Sadly, intimidation is becoming an increasingly popular way to influence the media. Journalists receive regularly death threats after they report on unpleasant issues. A final form of self-censorship is when journalists recognize that certain issues are off bounds for reasons that are best not discussed but which are very clear to them.

The impact of violence is clearly reflected in the stories journalists cover—and, concurrently, the stories they choose to avoid. Journalists fearing a violent reaction to their coverage will steer clear of sensitive issues, and some will even switch professions altogether. These decisions inhibit the free flow of information, and exchange of ideas and opinions—a crucial requirement of any democratic society.



CAUSES OF IMPUNITY

Despite the growing number of journalists who face attacks for carrying out their professional duties, Somali authorities have failed to successfully prosecute 92 percent of the cases. Despite committing to investigations into murders of journalists, authorities consistently fail to clarify the facts, identify the perpetrators, make arrests, and bring perpetrators to trial.

Impunity of crimes committed against journalists is largely the result of corruption and collusion. Whenever a government official is involved, directly or indirectly, in an attack on a journalist, relevant authorities are naturally unwilling to investigate the crimes. Unavoidably, there is delay and inaction, when it falls to the same authority to investigate and prosecute the crime against journalist.

Lack of expertise, professionalism, and autonomy are among major issues facing law enforcement authorities. There is a serious lack of institutional autonomy, at both federal and state levels, which leaves investigations and the decision to pursue a crime committed against a journalist vulnerable to external influences.

The current state of impunity is maintained, at least in part, by a lack of motivation and incentives to reform security sector or judiciary. Journalists, lawyers and other human rights defenders believe that the key issue was not the causes of impunity per se, but the absence of incentives for accountability.

No real motivation exists to correct impunity and punish those who are complicit. For example, those in power may use their influence to obtain their own ends, for example by bribing a judicial official or hiring private security to protect them.

MEDIA WORKERS KILLED IN SOMALIA (2012–2016)

No.	Name	Gender	Date of Murder	Media Institution	Place	Status
1.	Hassan Osman Abdi	Male	Saturday, January 28, 2012	Radio Shabelle	Mogadishu	Unresolved
2.	Abukar Hassan Mohamud	Male	Tuesday, February 28, 2012	Radio Somaliweyn	Mogadishu	Unresolved
3.	Ali Ahmed Abdi	Male	Sunday, March 4, 2012	Radio Galkayo	Galkayo	Unresolved
4.	Mahad Salad Adan	Male	Thursday, April 5, 2012	Radio Shabelle	Beledweyn	Unresolved
5.	Farhan James Abdulle	Male	Wednesday, May 2, 2012	Radio Daljir	Galkayo	Unresolved
6.	Ahmed Adow Anshur	Male	Thursday, May 24, 2012	Radio Shabelle	Mogadishu	Unresolved
7.	Abdi Jeylani Malaq	Male	Tuesday, July 31, 2012	Universal TV	Mogadishu	Unresolved
8.	Mohamud Ali Keyre	Male	Sunday, August 12, 2012	Horyaalmedia. Com	Mogadishu	Unresolved
9.	Zakariye Mohamed Mohamud	Male	Sunday, September 16, 2012	Freelance Journalist	Mogadishu	Unresolved
10.	Abdirahman Yasin Ali	Male	Thursday, September 20, 2012	Radio Hamar	Mogadishu	Unresolved
11.	Abdisatar Daher Sabriye	Male	Thursday, September 20, 2012	Radio Mogadishu	Mogadishu	Unresolved
12.	Liban Ali Nur	Male	Thursday, September 20, 2012	Somali National TV	Mogadishu	Unresolved
13.	Hassan Yusuf Absuge	Male	Friday, September 21, 2012	Radio Maanta	Mogadishu	Resolved
14.	Abdirahman Mohamed Ali	Male	Wednesday, September 26, 2012	Ciyaarahamaanta	Mogadishu	Unresolved
15.	Ahmed Abdullahi Farah	Male	Friday, September 28, 2012	SABA	Mogadishu	Unresolved
16.	Ahmed Farah Ilyas (Saakin)	Male	Monday, October 22, 2012	Universal TV	Las Anod	Unresolved
17.	Mohamed Mohamud Turyare	Male	Sunday, October 28, 2012	Radio Shabelle	Mogadishu	Resolved
18.	Warsame Shire Awale	Male	Monday, October 29, 2012	Radio Kulmiye	Mogadishu	Unresolved
19.	Abdihared Osman Adan	Male	Friday, January 18, 2013	Radio Shabelle	Mogadishu	Unresolved
20.	Mohamed Ali Nuhurkey	Male	Monday, March 18, 2013	Radio Mustaqbal	Mogadishu	Unresolved
21.	Rahmo Abdulkadir	Female	Saturday, March 23, 2013	Radio Abudwaq	Mogadishu	Unresolved
22.	Mohamed Ibrahim Rageh	Male	Sunday, April 21, 2013	Somali National TV	Mogadishu	Unresolved

No.	Name	Gender	Date of Murder	Media Institution	Place	Status
23.	Liban Abdullahi Farah	Male	Sunday, July 7, 2013	Somali Broadcasting Corporation (SBC)	Galkayo	Unresolved
24.	Ahmed Sharif Ahmed	Male	Saturday, August 17, 2013	Radio Mogadishu	Mogadishu	Unresolved
25.	Mohamed Mohamud Tima'de	Male	Saturday, October 26, 2013	Universal TV	Mogadishu	Unresolved
26.	Mohamed Omar Mohamed	Male	Monday, April 21, 2014	Radio Dalsan	Mogadishu	Unresolved
27.	Yusuf Ahmed Abukar Keynan	Male	Saturday, June 21, 2014	Radio Mustaqbal	Mogadishu	Unresolved
28.	Abdirisq Ali Abdi	Male	Tuesday, November 18, 2014	HornCable TV	Galkayo	Unresolved
29.	Mohamed Isaq Mogow Bariyow	Male	Friday, December 5, 2014	Kalsan TV and baidoanews.com	Baidoa	Unresolved
30.	Abdulkadir Ahmed Mayow	Male	Friday, December 5, 2014	Radio Baidoa, Somali Channel TV	Baidoa	Unresolved
31.	Daud Ali Omar	Male	Thursday, April 30, 2015	Radio Baidoa	Baidoa	Unresolved
32.	Abdihakim Mohamed Omar	Male	Sunday, July 26, 2015	Somali Broadcasting Corporation (SBC)	Mogadishu	Unresolved
33.	Mohamed Abdikarim Moallim Adam	Male	Sunday, July 26, 2015	Universal TV	Mogadishu	Unresolved
34.	Abdullahi Ali Hussein	Male	Tuesday, September 8, 2015	Waagacusub.com	Mogadishu	Unresolved
35.	Mustaf Abdi Nur	Male	Sunday, November 1, 2015	Radio Shabelle	Mogadishu	Unresolved
36.	Hindiyo Haji Mohamed	Female	Thursday, December 3, 2015	Radio Mogadishu	Mogadishu	Resolved
37.	Sagal Salad Osman	Female	Sunday, June 5, 2016	Somali National TV	Mogadishu	Unresolved
38.	Abdiasis Mohamed Ali	Male	Tuesday, September 27, 2016	Radio Shabelle	Mogadishu	Unresolved

IMPUNITY AND INTERNATIONAL LAW

The Federal Government’s repeated failure to act against crimes committed against journalists has created a crisis of impunity. International human rights law places obligations on Governments to end impunity for serious human rights violations by undertaking prompt, thorough, and impartial investigations of violations of human rights law, ensuring that those responsible for serious crimes are prosecuted, tried and duly punished, and providing an effective remedy for victims.

By permitting a climate of impunity, Somalia has failed to meet its obligations under international human rights law. International treaties impose on Somalia and its federal government the obligation to deter and prevent gross violations of human rights such killings of journalists, and to investigate, prosecute, and remedy abuses. This also entails addressing the victim’s rights to justice, knowledge, and reparations.

The International Covenant on Civil and Political Rights (ICCPR), to which Somalia is party, requires that states adopt measures, including through the legal system, to protect fundamental rights. According to the UN Human Rights Committee, the independent expert body that monitors compliance with the ICCPR, a state’s failure to investigate and bring perpetrators to justice, particularly with respect to crimes such as killings, torture and other ill-treatment, could in itself be a violation of the Covenant. Similarly, the African Charter on Human and Peoples’ Rights places obligations on governments to ensure protection of charter rights, and for individuals to have rights violations against them heard by competent national institutions.

Combating impunity requires the identification of the specific perpetrators of the violations. The doctrine of superior or command responsibility imposes liability on superiors for the

“to ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy.”



unlawful acts of their juniors, where the superior knew or had reason to know of the unlawful acts, and failed to prevent or punish those acts.

In addition to the obligation to investigate and prosecute crimes committed against journalists, Somali government has an obligation to provide victim journalists and their families with information about the investigation into the violations. Victim journalists should be entitled to seek and obtain information on the causes and conditions resulting to rights violations against them.

Under the ICCPR, Somali government also has an obligation “to ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy.” The ICCPR imposes on governments the duty to ensure that any person shall have their right to an effective remedy “determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the state, and to develop the possibilities of judicial remedy.”

The Somali government is under a continuing obligation to provide an effective remedy; there is no time limit on legal action and the right cannot be compromised even during transitional periods.

CONCLUSIONS

Freedom of expression in Somalia has continued to suffer serious restrictions in the past four years. Violence against journalists remained high, with almost complete impunity for perpetrators. Overall violence against the media has disproportionately targeted broadcast journalists. However, most of the lethal violence—which has claimed the lives of 38 journalists since beginning of 2012—has been directed at radio journalists.

Threats and attacks on journalists are rarely investigated and hardly ever punished. At best, only three of the 38 murders of media workers have been prosecuted. Convictions have been obtained in only the three cases.

Due to inadequate investigative work, little official information is available on the perpetrators of violence against journalists. Neither the extent to which such investigations have been conducted nor any meaningful results have ever been made public.

Lack of political will to combat impunity and institutional capacity challenges of the criminal justice system—from the judiciary and lawyers to the security forces hampers efforts to obtain justice for journalists who have been victims of violent crime.

RECOMMENDATIONS

To the Federal Government of Somalia:

- ✿ Institute proper investigative bodies for crimes committed against journalists, with adequate resourcing, and guarantee that all crimes against journalists are fully investigated.
- ✿ Make public the position of the formal investigations into journalist murders and all other violence committed against journalists.
- ✿ Ensure that all members of the media are afforded the full protection of the law and that an autonomous body explicitly protects their independence.
- ✿ Appoint and empower Special Prosecutor with an exclusive mandate to investigate and prosecute the murders of journalists and human rights defenders. He/She should receive sufficient financial, human and technical resources to carry out his/her work.

To the International Community:

- ✿ Press the Somali government through public and private diplomacy to implement the above recommendations.
- ✿ Call on the Somali government to institute human rights and rule of law reforms, including ending impunity and reforming the criminal justice system.

About National Union of Somali Journalists (NUSOJ)

The National Union of Somali Journalists (NUSOJ) is a fervent champion for media freedom, the rights of journalists, workers' rights and for social justice in Somalia. Member journalists work across the whole industry as reporters, editors and sub-editors and photographers. Members work in broadcasting, newspapers, magazines, and in the new media.

NUSOJ systematically monitors and conducts investigations into violations of press freedom and human rights of journalists. The union provides accurate, prompt and impartial information concerning attacks on journalists such as killings, arrests, death threats and harassments, as well as acts of aggression against media organizations.

NUSOJ is a member of the International Federation of Journalists (IFJ), Federation of African Journalists (FAJ), and Eastern Africa Journalists Association (EAJA). It is also a member of International Freedom of Expression eXchange (IFEX), African Freedom of Expression Exchange (AFEX) and Federation of Somali Trade Unions (FESTU).

NATIONAL SECRETARIAT

National Union of Somali Journalists (NUSOJ)

Mogadishu, Somalia

Email: nusoj@nusoj.org

Website: www.nusoj.org

Twitter: [@NUSOJofficial](https://twitter.com/NUSOJofficial)

Facebook: [Facebook.com/nusoj](https://www.facebook.com/nusoj)